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

IN THE SUPREME COURT OF OHIO

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

STIPULATION OF EVIDENCE

(deposition transcript and exhibits)

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STIPULATION OF EVIDENCE

(deposition transcript and exhibits)

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Transcript of Senator Vernon Sykes

Date: October 19, 2021
Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

LEAGUE OF WOMEN VOTERS
OF OHIO, et al.,
Relators,
vs. Case No. 2021-1193
2021-1198
2021-1210
OHIO REDISTRICTING COMMISSION, et al.,
Respondents.

Remote Videotaped Deposition of
SENATOR VERNON SYKES
Tuesday, October 19, 2021
6:02 p.m.

Job No. 406563
Pages 1 - 110
Before Renee J. Ogden, CSR-3455, RPR.

1 Videoconference Deposition of
2 Senator Vernon Sykes, held remotely pursuant to
3 notice, before Renee J. Ogden, Certified Shorthand
4 Reporter, Registered Professional Reporter,
5 CSR-3455.
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12 ALSO PRESENT:
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14 Michael Walton
15 Nate Riveness - Planet Depos Technician
16 Daniel Long - Video Technician
17
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1 Tuesday, October 19, 2021
2 6:02 p.m.
3
4 PLANET DEPOS TECH: Thank you to 11:19:16
5 everyone for attending this proceeding remotely,
6 which we anticipate will run smoothly. Please
7 remember to speak slowly and do your best not to
8 talk over one another.
9 Please be aware that we are recording
10 the proceeding for backup. Any off-the-record
11 discussion should be had away from the computer.
12 Please remember to mute your mic for those
13 conversations.
14 Please have your video enabled to help
15 the reporter identify who is speaking. If you are
16 unable to connect with video and are connecting by
17 phone, please identify yourself each time.
18 Apologies in advance for any
19 technical-related interruptions. Thank you. 06:01:46
20 VIDEO TECHNICIAN: Here begins the 06:01:46
21 remote video deposition of Senator Vernon Sykes in
22 the matter of League of Women Voters of Ohio, et
23 al., vs. Ohio Redistricting Comm., et al., in the
24 Superior Court of Ohio, case number 2021-1193.
25 Today's date is October 19th, 2021. The

1 time on the video monitor is 6:02 p.m.
2 Remote videographer today is Danny Long,
3 representing Planet Depos. All parties of this
4 video deposition are attending remotely.
5 Will counsel please voice-identify
6 themselves and state whom they represent. 06:02:43
7 MR. BRANCH: John Branch and Alyssa 06:02:43
8 Riggins for Speaker Cupp and President Huffman. 06:02:45
9 MS. MENASHE: Diane Menashe here on 06:02:50
10 behalf of the respondent, Senator Vernon Sykes. 06:02:52
11 MS. LEVENSON: Freda Levenson for 06:02:55
12 Relators League of Women Voters. 06:03:01
13 MR. CAREY: David Carey, also for 06:03:03
14 Relators League of Women Voters. 06:03:03
15 MS. COONTZ: This is Bridget Coontz on 06:03:05
16 behalf of Governor DeWine, Secretary of State 06:03:05
17 LaRose, and Auditor Faber. 06:03:12
18 MR. CLARK: Erik Clark on behalf of the 06:03:14
19 Ohio Redistricting Commission. 06:03:19
20 MS. JASRASARIA: Jyoti Jasrasaria on 06:03:19
21 behalf of Bennett Relators. 06:03:19
22 VIDEO TECHNICIAN: Okay. The court 06:03:26
23 reporter today is Renee Ogden, representing Planet
24 Depos. Would the reporter please swear in the
25 witness.

1 SENATOR VERNON SYKES,
2 was thereupon called as a witness herein, and after
3 having first been duly sworn or affirmed to testify
4 to the truth, the whole truth and nothing but the
5 truth, was examined and testified as follows: 06:03:45
6 EXAMINATION 06:03:45
7 BY MR. BRANCH: 06:03:45
8 Q. Good evening, Senator Sykes. Again, my name is 06:03:47
9 John Branch. I'm a lawyer with Nelson Mullins and 06:03:47
10 I represent Speaker Cupp and President Huffman in 06:03:53
11 the three apportionment cases that are at issue 06:03:54
12 today. 06:03:57
13 Have you ever testified at a deposition 06:03:58
14 before? 06:04:00
15 A. Not that I recall. 06:04:00
16 Q. All right. Do you understand that you are under 06:04:02
17 oath and sworn to tell the truth as though you were 06:04:06
18 testifying in open court? 06:04:08
19 A. Yes. 06:04:09
20 Q. If there is a question that I ask that you don't 06:04:11
21 understand, please let me know, and I will rephrase 06:04:20
22 it. But if you answer a question that I pose, I 06:04:24
23 will assume that you will have understood it. 06:04:27
24 Also, please make sure you give verbal 06:04:30
25 answers in lieu of nodding, just so that there is 06:04:31

1 an accurate record of your response to the 06:04:33
2 questions. 06:04:36
3 Is that -- any issues with that? 06:04:36
4 A. No. 06:04:39
5 Q. All right. If you need a break, just ask for one. 06:04:40
6 All I would ask is that you answer a question that 06:04:43
7 has already been posed prior to taking the break. 06:04:47
8 Can you state your full name for the 06:04:51
9 record. 06:04:53
10 A. Vernon Lee Sykes. 06:04:53
11 Q. And are you an elected official, sir? 06:04:57
12 A. Yes. 06:05:00
13 Q. And to what office are you -- have you most 06:05:00
14 recently been elected? 06:05:05
15 A. The Ohio Senate. 06:05:06
16 Q. And what district do you represent? 06:05:08
17 A. The 28th District. 06:05:11
18 Q. And are you a member of the Ohio Redistricting 06:05:14
19 Commission? 06:05:19
20 A. Yes. 06:05:19
21 Q. And who appointed you to the Ohio Redistricting 06:05:20
22 Commission? 06:05:22
23 A. Senator Kenny Yuko. 06:05:22
24 Q. What is your understanding of your duties and 06:05:29
25 responsibilities as a member of the commission? 06:05:31

1 A. First of all, to -- the responsibility of drawing 06:05:38
2 districts, 99 for the House and 33 for the Senate, 06:05:42
3 to attempt to correspond closely to voter 06:05:46
4 preferences. It's a fairness issue. 06:05:50
5 Make sure that the districts do not 06:05:56
6 favor or disfavor a political party. 06:05:59
7 To participate in voting and debates. 06:06:01
8 And particularly, as co-chair, to 06:06:05
9 designate the staff to maintain minutes -- notice 06:06:08
10 and the calls of minutes of meetings; to designate 06:06:14
11 staff when that's needed; to preside over meetings; 06:06:18
12 and to expend funds; and to offer maps that will 06:06:22
13 meet all the Constitutional requirements, including 06:06:28
14 the deadlines, the technical aspects, and the 06:06:31
15 fairness issue. 06:06:36
16 Q. And, Senator, let me ask you a question. Are you 06:06:40
17 reading something from your computer screen or some 06:06:43
18 notes you have in front of you? 06:06:45
19 A. I have some notes. 06:06:47
20 Q. All right. And can you identify what those notes 06:06:48
21 are? 06:06:50
22 A. Two pages of notes in preparation for this. 06:06:56
23 Q. All right. And what did you do to prepare for 06:07:01
24 today's deposition? 06:07:08
25 A. I talked with legal counsel that's been assigned. 06:07:09

1 I talked with our counsel in-house, 06:07:22
2 which would include Scott Stockman and Kristin 06:07:28
3 Rothey. 06:07:38
4 I talked with Sarah Cherry, legal 06:07:38
5 counsel in the House Democratic Caucus. 06:07:45
6 George Boas with the Senate policy 06:07:50
7 staff; and Mike Rowe. 06:08:00
8 I got input also from Randall Routt and 06:08:02
9 Chris Glassburn. 06:08:05
10 Q. All right. And I don't want to know about any of 06:08:11
11 the conversations you had with your lawyer. You 06:08:17
12 mentioned Mr. Scott Stockman; is that right? 06:08:22
13 A. Yes. 06:08:25
14 Q. And who does Mr. Stockman represent? 06:08:27
15 A. He is our legal counsel for the Senate Democratic 06:08:33
16 Caucus. 06:08:39
17 Q. Is he representing you for purposes of any of the 06:08:39
18 three apportionment cases? 06:08:42
19 A. No, he is not. 06:08:44
20 Q. What about Kristin Rothey -- and I probably have 06:08:44
21 that wrong. I apologize. Does she represent you 06:08:48
22 for purposes of the apportionment cases? 06:08:56
23 A. No, she does not. 06:08:59
24 Q. What about Ms. Cherry? Does she represent you for 06:09:00
25 purposes of the apportionment cases? 06:09:02

1 A. No, she does not. 06:09:05
2 Q. All right. Did you speak to each of the 06:09:06
3 individuals you listed in your answer a moment ago 06:09:11
4 today about your deposition? 06:09:14
5 A. No. 06:09:16
6 Q. When was the last time you spoke with Scott 06:09:22
7 Stockman? 06:09:30
8 A. I spoke with him today. 06:09:30
9 Q. All right -- 06:09:40
10 PLANET DEPOS TECHNICIAN: Sorry. This 06:09:40
11 is the tech. I don't mean to interrupt. 06:09:42
12 Apologies. Apparently the real time is not 06:09:45
13 working. 06:09:46
14 MR. BRANCH: Let's -- given the time 06:09:46
15 limit, can we please go off the record while we 06:09:48
16 address the technical issue? 06:09:48
17 VIDEO TECHNICIAN: Off the record at 06:09:48
18 6:10. 06:09:48
19 (Off the record at 6:10 p.m.) 06:09:48
20 (Back on the record at 6:12 p.m.) 06:11:55
21 VIDEO TECHNICIAN: We're now back on 06:11:55
22 record. The time on the video monitor is 6:12 p.m. 06:12:02
23 MR. BRANCH: Thank you very much. 06:12:02
24 BY MR. BRANCH: 06:12:08
25 Q. Senator Sykes, what I would like to do is -- given 06:12:08

1 that you brought notes to the actual deposition 06:12:18
2 itself, I would like go ahead and mark that as 06:12:20
3 Exhibit 1 to the deposition, and I would like you 06:12:25
4 to begin reading the content of the notes into the 06:12:27
5 record, please. 06:12:32
6 MARKED FOR IDENTIFICATION: 06:12:32
7 DEPOSITION EXHIBIT 1 06:12:34
8 Notes 06:12:34
9 6:12 p.m. 06:12:43
10 A. Okay. 06:12:43
11 BY MR. BRANCH: 06:12:44
12 Q. And you said that it was approximately two pages 06:12:44
13 worth of notes? 06:12:45
14 A. Yes. 06:12:47
15 Q. All right. 06:12:47
16 A. First part; and it says: 06:12:52
17 "Gerrymander. It's a definition that I 06:12:57
18 like to use. In analyzing voter history, you will 06:13:00
19 notice that voters are predisposed to support 06:13:04
20 political parties. This information allows you to 06:13:08
21 construct districts by putting voters together in a 06:13:13
22 configuration to maximize your political interest 06:13:15
23 to favor or disfavor a political party. 06:13:19
24 "Similar to putting pieces of a puzzle 06:13:23
25 together, the smaller the pieces, the more 06:13:27

1 inventive you can be in packing or cracking 06:13:30
2 like-minded folks. [As read]" 06:13:34
3 Next section deals with just some dates, 06:13:37
4 some dates for when plans were introduced to the 06:13:42
5 commission. And 8/31, that's the plan introduced 06:13:48
6 that had 14 Senate seats and Democratic seats and 06:13:52
7 44 House Democratic seats. 06:13:59
8 There is also, in September the 1st, a 06:14:04
9 map with the same proportions. 06:14:10
10 In September the 9th, there was a map 06:14:17
11 with proportions of 8 and 31. 06:14:21
12 September the 13th, a map with 06:14:28
13 proportions 13 and 42. 06:14:31
14 And September the 15th, a map with 06:14:35
15 proportions of 9 and 35. 06:14:38
16 Next section deals with why I voted 06:14:44
17 against the map. 06:14:48
18 One, it violates Constitutional -- the 06:14:49
19 Constitution in that -- particularly, the 06:14:54
20 representation of fairness components. 06:14:56
21 Two, it excluded -- I was excluded from 06:14:58
22 the map drawing process. 06:15:01
23 Three, it failed to adhere to the 06:15:03
24 deadlines that were prescribed in the Constitution. 06:15:07
25 Four, it did not hold the requisite 06:15:11

1 meetings that it was supposed to hold. 06:15:15
2 Next, it did not adequately explain how 06:15:20
3 the maps were proposed to conform with the 06:15:24
4 Constitution, particularly the technical aspects of 06:15:28
5 it and the fairness aspects of it. 06:15:30
6 Next, it did not attempt to comply with 06:15:32
7 the representational fairness issue. 06:15:35
8 Next section deals with duties. That's 06:15:42
9 the 99 -- draw a map, 99 House and 33 Senate 06:15:44
10 districts. Attempt to correspond closely to voter 06:15:53
11 preferences. Does not favor or disfavor a 06:15:56
12 political party. Participate in voting and 06:16:03
13 debates. And as co-chair, designate staff to 06:16:07
14 maintain minutes. Call -- the notice and the 06:16:10
15 calling of meetings. Designate staff. Preside 06:16:14
16 over meetings. Expending funds. And offer maps 06:16:17
17 that meet all the Constitutional requirements. 06:16:22
18 Data. People that -- and organizations 06:16:26
19 I got data from: Ohio University; Randall Routt; 06:16:31
20 Michael Rowe; George Boas; Project Govern; Chris 06:16:38
21 Glassburn; Traevon Leak; All On The Line; Heather 06:16:45
22 Blessing; Ohio Legislative Service Commission; Ohio 06:16:51
23 Citizens' Redistricting Commission; House and 06:16:56
24 Senate Democratic Caucus members. 06:16:59
25 Q. Senator Sykes, I apologize for interrupting. Can 06:17:02

1 you please go back through that list? You were 06:17:05
2 going a little fast for me to take notes. 06:17:07
3 A. Okay. Ohio University -- 06:17:11
4 Q. Yes, sir. 06:17:11
5 A. -- Randall Routt; Michael Rowe; George Boas; 06:17:17
6 Project Govern; Chris Glassburn; Traevon Leak. 06:17:31
7 Q. I think you're muted, sir. 06:18:02
8 A. Sorry about that. 06:18:07
9 Q. That's all right. The last -- the last I heard was 06:18:08
10 Traevon Leak. 06:18:11
11 A. All On The Line. 06:18:13
12 Q. All right. 06:18:16
13 A. Heather Blessing; Ohio Legislative Service 06:18:17
14 Commission; Ohio Citizens' Redistricting 06:18:29
15 Commission; House and Senate Democratic Caucus 06:18:34
16 members. 06:18:39
17 Next section deals with drafting input 06:18:43
18 for amended map. 06:18:50
19 Randall Routt; Mike Rowe; George Boas; 06:18:52
20 Auditor of State Keith Faber; Secretary of State 06:19:01
21 Frank LaRose; Project Govern; and Chris Glassburn. 06:19:07
22 I put some other names that I wanted to 06:19:24
23 remember on here: David Horn; Shawn Busken; Eric 06:19:26
24 Holder. 06:19:58
25 I made a note for myself: Frank LaRose 06:20:00

1 pledge. 06:20:03
2 Another note of people's interest in 06:20:19
3 education and environment; and the arrogance of the 06:20:27
4 super majority, callous disregard for those 06:20:32
5 people -- persons with less, people who are 06:20:37
6 marginalized. 06:20:44
7 Q. All right. Are there any other notes on the two 06:20:55
8 pages that you have in front of you that you 06:20:59
9 haven't described in your testimony? 06:21:01
10 A. "Co-chairs and staff interaction" is a note to 06:21:02
11 myself. 06:21:11
12 Q. Anything else? 06:21:17
13 A. "Sykes amendment. DiRossi map. Trumbull County 06:21:18
14 fix." 06:21:28
15 Q. All right. Anything else on there that you haven't 06:21:42
16 testified to? 06:21:45
17 A. I don't believe so. 06:21:45
18 Q. And we will -- we're asking for a copy of that -- 06:21:47
19 verbatim copy of those notes to be produced to us 06:21:48
20 after the deposition. 06:21:53
21 All right. Well, I appreciate you going 06:21:57
22 through that exercise and describing for me -- I 06:21:58
23 got a couple of questions about the notes. 06:22:02
24 You had a category of names, and you 06:22:04
25 said, "Drafting input for the amended map." What 06:22:08

1 date did the amended map that you referred to in 06:22:13
2 that category get submitted to the commission? 06:22:20
3 A. I believe that date was 9/13. 06:22:26
4 Q. All right. Let's see. So going to -- for some of 06:22:30
5 the individuals that you have listed here -- 06:22:49
6 actually, back up. 06:22:52
7 One name or entity that I did not hear 06:22:53
8 from you is a group called "HaystaqDNA." Have you 06:22:56
9 heard of that entity or group before? 06:23:06
10 A. I don't recall ever hearing that before. 06:23:09
11 Q. All right. Who did the Senate Democratic Caucus 06:23:11
12 contract with to provide redistricting services in 06:23:25
13 connection with the 2021 redistricting of the 06:23:30
14 General Assembly? 06:23:33
15 MS. MENASHE: Objection as to 06:23:33
16 speculation; but if he knows, he can answer. 06:23:34
17 A. Chris Glassburn. 06:23:40
18 BY MR. BRANCH: 06:23:42
19 Q. And did -- are you aware of whether the 06:23:44
20 relationship was with Mr. Glassburn individually or 06:23:48
21 with his business? 06:23:51
22 A. I'm assuming it's with both. 06:24:00
23 Q. And is Project Govern his business? 06:24:01
24 A. That is his business. 06:24:09
25 Q. And does he provide redistricting services through 06:24:10

1 Project Govern? 06:24:14
2 A. I believe so. 06:24:15
3 Q. And does that include actually composing the lines 06:24:16
4 of state legislative districts for purposes of 06:24:24
5 redistricting? 06:24:32
6 A. Yes. 06:24:32
7 Q. Did he actually perform those services for you and 06:24:33
8 the Senate Democratic Caucus? 06:24:36
9 A. Yes. 06:24:39
10 Q. Are you aware of -- are you aware of whether in 06:24:39
11 your document production any contract with 06:24:47
12 Mr. Glassburn or Project Govern was produced? 06:24:54
13 A. The staff worked on all of the documentation. I 06:25:01
14 assume that that was one of the documents that they 06:25:03
15 produced. 06:25:05
16 Q. Are you aware of how many documents you produced to 06:25:06
17 us? 06:25:11
18 A. I heard it was in the thousands, but I don't recall 06:25:12
19 the exact number. 06:25:15
20 Q. I will represent to you that it was more than 06:25:17
21 31,000 pages of documents that we got yesterday 06:25:21
22 afternoon. So... 06:25:24
23 How much was the Senate Democratic 06:25:29
24 Caucus allocated from the Legislative Task Force on 06:25:33
25 Redistricting, Reapportionment, and Demographic 06:25:33

1 Research to spend on redistricting efforts? 06:25:44
2 A. I don't recall the total amount. I believe it was 06:25:44
3 over $100,000. 06:25:48
4 Q. Got you. 06:25:51
5 MS. MENASHE: Let's go ahead and mark 06:25:52
6 as -- I believe this would be Exhibit 2 -- VSYKES 06:26:02
7 0013942 and -13943. 06:26:05
8 MARKED FOR IDENTIFICATION: 06:26:05
9 DEPOSITION EXHIBIT 2 06:26:05
10 VSYKES 0013942-13943 06:26:05
11 6:26 p.m. 06:26:05
12 MR. BRANCH: Like we did in 06:26:14
13 Leader Sykes' deposition, the link to the documents 06:26:16
14 is going to be shared in the chat. 06:26:18
15 MS. MENASHE: Is it a single click? 06:26:42
16 MR. BRANCH: That's a double click. 06:26:44
17 MS. MENASHE: It makes me save it then. 06:26:45
18 MR. BRANCH: It makes you save it? 06:26:49
19 MS. MENASHE: Yep. 06:26:52
20 MS. RIGGINS: When I double-click, it 06:26:56
21 opens. 06:27:01
22 MR. BRANCH: Okay. Well, I don't know 06:27:01
23 what to tell you, but when I double-click, it makes 06:27:01
24 me save it. 06:27:10
25 MS. RIGGINS: Ms. Court Reporter, as we 06:27:10

1 did yesterday, can you please open and display the 06:27:14
2 exhibit? 06:27:16
3 PLANET DEPOS TECHNICIAN: Yes. One 06:27:18
4 moment, please. 06:27:20
5 MR. BRANCH: Thank you. 06:27:20
6 When I click on it, it says, "This file 06:27:28
7 does not exist. File path errors." Is anyone else 06:27:30
8 able to open it? 06:27:34
9 MS. MENASHE: Okay. Then can we go off 06:27:42
10 the record so that someone from Planet Depos can 06:27:44
11 provide respondents with the ability to do their 06:27:47
12 exhibits in a timely fashion, as was given the 06:27:49
13 opportunity to relators? This is why we tried to 06:27:52
14 use our own system, so that we could have these 06:27:55
15 issues resolved. But it was important to relators 06:27:59
16 that this be used. So -- 06:28:03
17 MR. BRANCH: Let's go off the record, 06:28:09
18 please, so we can figure this out. 06:28:10
19 VIDEO TECHNICIAN: Off the record, 06:28:12
20 6:28 p.m. 06:28:15
21 (Off the record at 6:28 p.m.) 06:28:17
22 (Back on the record at 6:30 p.m.) 06:30:02
23 VIDEO TECHNICIAN: Now back on the 06:30:07
24 record. The time on the video monitor is 6:30 p.m. 06:30:09
25 MR. BRANCH: Thank you. Can we display 06:30:12

1 the Exhibit 2 -- the first page, please? 06:30:14
2 BY MR. BRANCH: 06:30:19
3 Q. All right. Senator Sykes, I will represent to you 06:30:20
4 that this is a document that you produced to us in 06:30:22
5 discovery. And it has VSYKES_0013942 and -13943 as 06:30:24
6 the Bates numbers for it. 06:30:31
7 Can you read the document and identify 06:30:35
8 for me what you believe it is? 06:30:37
9 A. "Wendy, see the supplemental allocation signed by 06:30:45
10 Senator McColley and Leader Sykes today. 06:30:49
11 "Let us know if you have any questions." 06:30:52
12 Looks like a cover for some documents. 06:30:54
13 Q. All right. Let's look at the -- let's go to the 06:30:57
14 second page. All right. 06:31:13
15 And, Senator Sykes, I'd like to direct 06:31:16
16 you to the paragraph under "Allocation of Funds." 06:31:18
17 Can you read the two paragraphs under "Allocation 06:31:23
18 of Funds" and let me know whether this refreshes 06:31:28
19 your recollection about the amount of money that 06:31:31
20 was allocated to the Democratic Caucus for 06:31:32
21 redistricting purposes? 06:31:36
22 MS. MENASHE: I'm not sure a foundation 06:31:50
23 has been laid that he has ever seen this before, 06:31:52
24 and it wasn't addressed to him; nor did you ask, 06:31:55
25 "Would it help to refresh your recollection if I 06:31:58

1 showed you anything?" 06:31:59
2 But with that said, if my client 06:32:00
3 remembers the amount that was allocated, he can 06:32:04
4 answer. 06:32:06
5 A. I was not involved in this transaction. I was not 06:32:13
6 involved at all. The commission had not been put 06:32:16
7 in place, and it wasn't even determined who the 06:32:19
8 commissioners were going to be at that particular 06:32:22
9 time. So this is prior to my involvement with the 06:32:25
10 commission. 06:32:30
11 BY MR. BRANCH: 06:32:35
12 Q. Were you involved with the Senate Democratic Caucus 06:32:35
13 as of August 11, 2021? 06:32:39
14 A. Yes. I have been a member, yes. I was a member of 06:32:45
15 the Democratic Caucus. 06:32:49
16 Q. All right. And have you seen this -- the August 06:32:52
17 11th Legislative Task Force memo that is in front 06:32:58
18 of you today before? 06:33:05
19 A. I don't believe that I have. It could have come 06:33:14
20 into my inbox; but it doesn't necessarily mean that 06:33:16
21 I paid particular attention to it. 06:33:19
22 Q. Do you have any reason to believe that any 06:33:21
23 information contained in this memo is not accurate? 06:33:27
24 A. No, I do not. 06:33:29
25 Q. All right. And the memo provides that the -- 06:33:30

1 quote: 06:33:30
2 "The Democratic legislative caucuses in 06:33:36
3 the House and the Senate are jointly allocated an 06:33:39
4 additional $200,000 to purchase, lease or rent 06:33:41
5 hardware, software, physical space and/or supplies 06:33:44
6 and contract for technical and legal services 06:33:48
7 related to the 2021 redistricting process of this 06:33:50
8 state. [As read]" 06:33:54
9 Do you see where I read from, just under 06:33:55
10 "Allocation of Funds"? 06:33:57
11 A. Yes. 06:33:58
12 Q. Are you aware of whether the Senate Democratic 06:34:00
13 Caucus received any of the $200,000 referenced in 06:34:06
14 this paragraph? 06:34:09
15 A. I believe so, yes. 06:34:10
16 Q. Do you have any belief as to how much of the 06:34:13
17 $200,000 the Senate Democratic Caucus received? 06:34:19
18 A. As I stated before, I thought it was $100,000. And 06:34:24
19 it looks like that's consistent with this letter, 06:34:27
20 because there's jointly allocated an additional 06:34:29
21 $200,000 to the caucuses. 06:34:34
22 So the caucus -- the House caucus and 06:34:37
23 the Senate caucus would get 200,000. So each 06:34:39
24 caucus, the House and the Senate Democrats, would 06:34:44
25 receive 100,000. 06:34:50

1 Q. I guess the question I have got here is, the way 06:34:51
2 that this first sentence reads is it describes the 06:34:54
3 $200,000 as, quote, "an additional $200,000." 06:34:56
4 Are you aware of whether the Senate 06:35:02
5 Democratic Caucus and the House Democratic Caucus 06:35:06
6 had been allotted any money prior to this 06:35:11
7 allocation of the additional $200,000? 06:35:18
8 A. I believe some amount, but I'm not sure what that 06:35:21
9 amount was or when it was -- may have been funded. 06:35:23
10 Q. Okay. Fair enough. 06:35:28
11 How do you know Chris Glassburn? 06:35:33
12 A. Chris Glassburn was a staff member in the House 06:35:49
13 when I was a member of the Ohio House of 06:35:55
14 Representatives over a decade ago. 06:35:58
15 Q. Did you work on redistricting a decade ago while 06:36:04
16 Mr. Glassburn was in the House? 06:36:08
17 A. I was on one of the committees, so I participated. 06:36:12
18 [Simultaneous speaking.] 06:36:12
19 BY MR. BRANCH: 06:36:20
20 Q. And I apologize. I didn't mean to talk over you. 06:36:20
21 Did Mr. Glassburn assist you in your 06:36:24
22 participation in the redistricting process? 06:36:27
23 A. Well, you know, it's difficult to say that he 06:36:28
24 assisted me because I wasn't involved in drawing 06:36:36
25 it, drawing the maps. I was just on the committee 06:36:39

1 listening to testimony, and he was involved with 06:36:42
2 the map drawing process. 06:36:47
3 Q. Okay. I appreciate that. That answers what I was 06:36:55
4 asking. 06:36:58
5 Did you consider -- did you or the 06:36:58
6 Senate Democratic Caucus consider engaging anyone 06:36:59
7 other than Mr. Glassburn to assist you with the 06:37:03
8 2021 redistricting efforts? 06:37:07
9 A. I'm not sure, because I wasn't involved in that. 06:37:09
10 That was the leader of the caucus that made the 06:37:15
11 decision of who to contract with and what the 06:37:19
12 contract would involve. 06:37:21
13 Q. And was that prior to when the leader selected you 06:37:23
14 as the minority party Senator who was the member of 06:37:32
15 the redistricting commission? 06:37:38
16 A. I believe so, but that can be verified. 06:37:40
17 Q. All right. Do you have any idea about when 06:37:45
18 Mr. Glassburn and Project Govern started performing 06:37:52
19 work for the Senate Democratic Caucus related to 06:37:55
20 the 2021 redistricting efforts? 06:37:57
21 A. I believe it was sometime in mid-August. 06:38:03
22 Q. Got you. 06:38:05
23 Did -- who were the primary people that 06:38:06
24 worked with Mr. Glassburn? 06:38:13
25 A. We have an additional staff person that's on our 06:38:15

1 staff, Randall Routt, who is a technical staff 06:38:25
2 person; and he was also involved in drawing maps 06:38:28
3 ten years ago. And so he and Chris Glassburn 06:38:32
4 worked as a team to produce our maps. 06:38:41
5 Q. Got you. Where would Mr. Routt and Mr. Glassburn 06:38:43
6 go to work on the maps? 06:38:53
7 A. Software was purchased, and they were given access 06:39:02
8 to the software and license. Randall Routt had a 06:39:06
9 computer in his Senate policy office, where he 06:39:20
10 would have access to the software. And I believe 06:39:23
11 Chris Glassburn had the software put on a computer 06:39:25
12 of his own. And I don't know where he conducted 06:39:28
13 it. 06:39:39
14 Q. That's fair enough. 06:39:39
15 And the software you're referring to, is 06:39:44
16 that the Maptitude program, to the best of your 06:39:47
17 knowledge? 06:39:51
18 A. I have heard that phrase before, so maybe that's 06:39:51
19 it. 06:39:54
20 Q. And are you aware of whether Mr. Routt's computer 06:39:59
21 has any sort of log-in or password protection to 06:40:04
22 ensure that he is the only person that has access 06:40:07
23 to what's on there? 06:40:10
24 A. Yes. Double-protected from the standpoint of all 06:40:17
25 of our computers -- that's the Senate employees and 06:40:21

1 members -- have password protection on access to 06:40:25
2 their computers. But also with this particular 06:40:29
3 software, you have to have sign-on information for 06:40:32
4 it too, as well. And so there's double protection. 06:40:35
5 Q. All right. That's helpful. 06:40:39
6 And did Mr. Routt -- did you instruct 06:40:43
7 Mr. Routt to make his computer and email available 06:40:53
8 for review as part of the discovery that's been 06:40:56
9 conducted in this case? 06:41:00
10 A. I did not. He does not work for me, and I can't 06:41:00
11 give him orders or direction. And staff were 06:41:04
12 involved with making sure that we complied with the 06:41:12
13 request. 06:41:15
14 Q. Excuse me. Who does he report to? 06:41:15
15 A. The chief of staff, Mike Rowe. 06:41:20
16 Q. And is that the chief of staff for the Senate 06:41:29
17 Democratic Caucus? 06:41:35
18 A. Yes. 06:41:35
19 Q. And so you're not aware of whether Mr. Routt has 06:41:35
20 searched or allowed his computer and emails to be 06:41:42
21 searched for responsive documents in this case? 06:41:47
22 A. I believe he has. I know the staff had indicated 06:41:48
23 that they were working really hard, all of them, to 06:41:56
24 produce all of those 31,000 documents. And I'm 06:41:58
25 sure he was involved with that. I have no reason 06:42:04

1 to believe that he did not participate. 06:42:06
2 Q. Got you. All right. 06:42:14
3 Would members of the Senate Democratic 06:42:25
4 Caucus go into Mr. Routt's office and review the 06:42:31
5 maps that he was working on? 06:42:35
6 A. Yes. 06:42:38
7 Q. All right. So am I correct that you submitted maps 06:42:38
8 to the commission or its members on August 31, 06:42:49
9 September 1, September 13, and September 15th? 06:42:55
10 A. Yes. 06:43:06
11 Q. And did anybody compose the lines on those maps 06:43:07
12 other than Mr. Routt and Mr. Glassburn? 06:43:22
13 A. No. We took -- no. 06:43:23
14 Q. You said earlier you have never heard of the firm 06:43:26
15 HaystaqDNA. So I take it you are not aware of any 06:43:35
16 role that HaystaqDNA played with regard to the 06:43:39
17 preparation of any of the maps that I just listed? 06:43:46
18 A. That's correct. 06:43:51
19 Q. All right. Who provided guidance to Mr. Glassburn 06:43:51
20 and Mr. Routt on what the maps were supposed to 06:43:59
21 look like? 06:44:03
22 MS. MENASHE: Objection, calls for 06:44:03
23 speculation. 06:44:05
24 He can answer as to whether he provided. 06:44:05
25 Senator, go ahead. Did you provide? 06:44:07

1 A. Well, my understanding is part of his contract, 06:44:13
2 Chris Glassburn, is that he is the expert. 06:44:19
3 And so one of the key things that we 06:44:22
4 wanted to do is to make sure that we comply with 06:44:25
5 the Constitution. And so we asked him to construct 06:44:27
6 maps that complied with the Constitution. And he 06:44:43
7 then produced maps to do that. 06:44:52
8 BY MR. BRANCH: 06:44:54
9 Q. And is it your understanding that each of the maps 06:44:57
10 that Mr. Glassburn produced did, in fact, comply 06:45:01
11 with the Constitution? 06:45:04
12 A. No. I didn't say that. He was directed to do 06:45:05
13 that. But in the process of producing maps, there 06:45:11
14 were mistakes made; there were misjudgments made. 06:45:20
15 But I believe he did attempt, in all cases, to 06:45:28
16 produce maps that were Constitutional. 06:45:30
17 Q. Got you. 06:45:33
18 Well, let me ask you this: You 06:45:36
19 mentioned that sometimes mistakes and misjudgments 06:45:38
20 were made. Can you tell me about any mistakes or 06:45:42
21 misjudgments that were made with regard to 06:45:48
22 preparation of the August 31st map that was 06:45:51
23 submitted to the commission? 06:45:53
24 A. The assignment of numbers on the map, district 06:46:01
25 numbers, was not done in the appropriate manner. 06:46:10

1 And the map on the 31st was put together as a 06:46:15
2 starting place for us to work from and to try to 06:46:22
3 keep us on schedule. 06:46:28
4 Q. All right. Were there any other mistakes or 06:46:37
5 misjudgments that you're aware of that were made in 06:46:41
6 the August 31 plan? 06:46:46
7 A. There was an adjustment that was made later to a 06:46:48
8 district in the Cincinnati area, and there was a 06:46:55
9 change in the map that was made in Trumbull County. 06:47:03
10 Q. All right. And were there any other mistakes or 06:47:14
11 misjudgments in the August 31st map -- 06:47:23
12 A. Not that I'm aware of. 06:47:28
13 Q. All right. And I believe I saw a press release 06:47:29
14 from your office that described the September 1st 06:47:32
15 map as a technical correction to the August 31st 06:47:34
16 map. Do you recall that? 06:47:38
17 A. Yes. 06:47:41
18 Q. Was the purpose of the September 1st map that you 06:47:41
19 submitted to the redistricting commission to 06:47:48
20 correct the mistakes and misjudgments you have just 06:47:53
21 listed that were in the August 31st map? 06:47:57
22 A. It was to make the correction for the number 06:47:58
23 assignments. 06:48:05
24 Q. All right. But it didn't -- it didn't fix the 06:48:08
25 issue with regard to the Cincinnati area or 06:48:12

1 Trumbull County? 06:48:14
2 A. I'm not sure. I don't recall exactly when the 06:48:15
3 Cincinnati -- it did not fix the Trumbull County 06:48:24
4 area issue. The Cincinnati may have been included 06:48:27
5 in the September 1st. 06:48:35
6 Q. Okay. Were there -- with the exception of the 06:48:37
7 Trumbull County issue and the Cincinnati area issue 06:48:44
8 that may or may not have been in there, were there 06:48:47
9 any other mistakes or misjudgments that were 06:48:51
10 contained in the September 1st map? 06:48:54
11 A. Not that I'm aware of. 06:49:05
12 Q. All right. What about the September 13th map? 06:49:05
13 Were there any mistakes or misjudgments in the 06:49:11
14 September 13th map? 06:49:18
15 A. The Trumbull County issue was addressed in that 06:49:19
16 map. 06:49:23
17 Q. Okay. So that's no longer an issue. 06:49:23
18 Were there any other mistakes or 06:49:28
19 misjudgments that existed in the September 13th 06:49:30
20 map? 06:49:34
21 A. Not that I'm aware of. 06:49:35
22 Q. All right. What about the September 15th map? Did 06:49:37
23 the Trumbull County issue get fixed in the 06:49:44
24 September 15th map? 06:49:49
25 A. It was fixed, yes. 06:49:50

1 Q. All right. Were there any other -- I'm sorry. I 06:49:55
2 didn't mean to interrupt. I apologize. I thought 06:50:00
3 you were trying to speak. 06:50:05
4 A. No. Go ahead. I'm sorry. 06:50:06
5 Q. Were there any other mistakes or misjudgments that 06:50:07
6 existed in the September 15 map? 06:50:12
7 A. Not that I'm aware of. 06:50:19
8 Q. Okay. I apologize if I'm retreading over some 06:50:22
9 ground. But other than the instructions to 06:50:35
10 Mr. Glassburn and Mr. Routt about following the 06:50:46
11 Ohio Constitution, what instructions were given to 06:50:50
12 them on how to draw the August 31st map -- and that 06:50:55
13 you are aware of? 06:51:00
14 A. I'm not aware of it. 06:51:16
15 Q. You were not aware of any instructions given to 06:51:17
16 Mr. Glassburn or Mr. Routt with regard to the 06:51:20
17 August 31st map, other than to follow the 06:51:22
18 Constitution? 06:51:24
19 A. Yeah. And that -- "the Constitution" would mean 06:51:29
20 making sure that you follow the technical 06:51:35
21 requirements as well as you do the best to attempt 06:51:37
22 to also comply with the fairness guidelines. So 06:51:41
23 that was the basic instruction. 06:51:49
24 Q. Gotcha. 06:51:55
25 And can you describe for me your 06:51:56

1 understanding of the distinction between the 06:51:58
2 technical requirements of Article XI of the Ohio 06:52:02
3 Constitution and the fairness requirements of 06:52:06
4 Article XI of the Ohio Constitution? 06:52:09
5 A. They are requirements, technical, that deal with 06:52:11
6 how you draw maps. Compactness is an issue. The 06:52:22
7 number of splits is important, to try to keep 06:52:31
8 communities of interest together, to keep units of 06:52:36
9 government together. And so those kinds of 06:52:43
10 requirements we consider more technical. 06:52:47
11 The fairness requirement deals with the 06:52:49
12 attempt you must make to comply with the voter 06:52:51
13 preferences that have been expressed over the last 06:52:58
14 ten years. 06:53:01
15 Q. Gotcha. 06:53:04
16 And do you describe the -- let me back 06:53:05
17 up. 06:53:09
18 And I would imagine that you consider 06:53:10
19 the substantial -- the requirement that districts' 06:53:13
20 populations be substantially equal as a technical 06:53:18
21 requirement as well? 06:53:20
22 A. Yes. 06:53:21
23 Q. And do you under- -- strike that. 06:53:21
24 Do you believe that those technical 06:53:26
25 requirements are technical because they are more 06:53:29

1 formulaic in their application in the redistricting 06:53:32
2 process? 06:53:39
3 A. I don't understand the question, because there is 06:53:39
4 also a formula for the fairness provision. 06:53:50
5 Q. Then -- and my question is really trying to 06:54:00
6 understand the distinction between -- you have 06:54:01
7 described contiguous territory, the equal 06:54:05
8 population requirements, the -- keeping, you know, 06:54:11
9 counties whole and municipalities whole as a 06:54:14
10 technical requirement, as compared to the fairness 06:54:18
11 requirement in the Constitution. So I'm trying to 06:54:22
12 understand why you place those in the different 06:54:24
13 categories. 06:54:26
14 A. Well, we could just eliminate the concept of 06:54:29
15 technical and just call them what they are so we 06:54:32
16 won't be confused. 06:54:38
17 Q. As part of Mr. Glassburn's responsibility for 06:54:40
18 drafting the redistricting maps for you and the 06:54:44
19 Senate Democratic Caucus, was he responsible for 06:54:53
20 making sure that each of the maps complied with the 06:54:54
21 equal population requirement of the Constitution? 06:54:58
22 A. Yes. 06:55:00
23 Q. And was Mr. Routt also responsible for that? 06:55:01
24 A. Yes. 06:55:05
25 Q. Were Mr. Glassburn and Mr. Routt responsible for 06:55:06

1 ensuring that each district was composed of 06:55:14
2 contiguous territory? 06:55:17
3 A. Yes. 06:55:19
4 Q. And that's for each of the maps that you proposed? 06:55:19
5 A. Yes. 06:55:22
6 Q. And Mr. Glassburn and Mr. Routt were responsible 06:55:23
7 for ensuring that the maps that you proposed 06:55:30
8 complied with the Constitution's requirements with 06:55:33
9 regard to county splits? 06:55:35
10 A. Yes. 06:55:38
11 Q. And Mr. Routt and Mr. Glassburn were responsible 06:55:38
12 for ensuring that the maps that you proposed 06:55:41
13 complied with the Constitution's requirements with 06:55:44
14 regard to the splits of municipalities and 06:55:47
15 townships, right? 06:55:51
16 A. Yes. 06:55:52
17 Q. Are you aware of any instructions at all given to 06:55:52
18 Mr. Glassburn or Mr. Routt with respect to equal 06:55:59
19 population, contiguous territory, or splitting 06:56:04
20 counties or municipalities, other than just, "Go 06:56:08
21 and follow the Constitution"? 06:56:12
22 A. No. 06:56:22
23 Q. Okay. 06:56:22
24 A. No, not at all. 06:56:23
25 Q. In the preparation of the August 31st map, were you 06:56:23

1 aware of any district-specific issues that came up 06:56:32
2 in the preparation of the map? 06:56:34
3 A. The map drawer was instructed to meet with each of 06:56:54
4 the members of our caucus to get input from them; 06:56:58
5 to give them information; and share with them the 06:57:06
6 new data from the census and how that would affect 06:57:08
7 what we're doing; and to get their input. I didn't 06:57:16
8 sit in on those meetings, so I don't really know to 06:57:22
9 what extent they talked about whatever. 06:57:30
10 Q. Is it your understanding that both Mr. Glassburn 06:57:31
11 and Mr. Routt sat in on the meetings with the 06:57:35
12 members of the caucus? Or was it just one of them? 06:57:38
13 Do you know? 06:57:45
14 A. I believe that, whenever possible, it was both of 06:57:45
15 them. 06:57:50
16 Q. Fair enough. 06:57:50
17 Other than meet with each member of the 06:57:57
18 caucus to get their input into the August 31st map, 06:58:00
19 what other preparation or research are you aware of 06:58:06
20 Mr. Routt or Mr. Glassburn doing? 06:58:11
21 A. I'm not aware of any; but I assume that they are 06:58:15
22 professionals, and that they would have access to 06:58:30
23 information that I just wouldn't be aware of or 06:58:33
24 knowledgeable about at all. 06:58:37
25 Q. And that's why you hire experts, right? 06:58:37

1 A. Yeah. Absolutely. 06:58:41
2 Q. All right. Are you aware of anybody outside of the 06:58:41
3 Senate Democratic Caucus who gave direction to 06:58:48
4 Mr. Glassburn or Mr. Routt -- strike that, because 06:58:51
5 that's not clear. 06:58:54
6 Are you aware of anybody outside of the 06:58:54
7 Senate Democratic Caucus or their staff who gave 06:58:56
8 guidance to Mr. Glassburn or Mr. Routt on how to 06:58:59
9 compose the lines in any of the maps that they drew 06:59:04
10 for you? 06:59:07
11 A. I'm not aware. Mr. Glassburn was instructed not to 06:59:08
12 talk to -- not to be involved with other people. 06:59:22
13 Q. And who do you mean by "other people"? 06:59:31
14 A. Any other person. 06:59:41
15 Q. So he was -- I want to make sure I'm understanding 06:59:42
16 this right. Who instructed Mr. Glassburn not to 06:59:46
17 talk with any other person? 06:59:54
18 A. It was a caucus decision to not involve other 06:59:55
19 parties in that map. We are talking about the map 07:00:05
20 on August the 31st; and that map, that -- we did 07:00:11
21 that, basically, in-house. 07:00:15
22 Q. And by "other parties," does that specifically 07:00:19
23 include the Ohio House Democratic Caucus? 07:00:24
24 A. Glad you asked that. Because Chris Glassburn asked 07:00:30
25 me -- he had been approached by House members to 07:00:36

1 give input or ask him questions, and what was he to 07:00:39
2 do when they approach him? And my instruction to 07:00:44
3 him was that he is to have no contact with them 07:00:48
4 about -- or communications with them about the 07:00:51
5 maps. 07:00:56
6 Q. And did your instruction to Mr. Glassburn to not 07:00:56
7 communicate with members of the Ohio House 07:01:05
8 Democratic Caucus about the redistricting maps 07:01:08
9 continue to be in effect through September 16, 07:01:11
10 2021? 07:01:15
11 MS. MENASHE: Counsel, I believe you are 07:01:21
12 misstating. He said that that was the 07:01:22
13 communication about the 8/31 map, singular. 07:01:25
14 MR. BRANCH: I may have misheard him. 07:01:29
15 BY MR. BRANCH: 07:01:35
16 Q. Senator Sykes, can you just clarify whether the 07:01:35
17 instruction applied only to the 8/31 map, or if you 07:01:37
18 instructed him not to communicate with the House 07:01:40
19 members for all of the maps? 07:01:42
20 A. It was just the 8/31. 07:01:44
21 Q. Okay. Are you aware of whether Mr. Glassburn had 07:01:45
22 communications with the House Democratic Caucus 07:01:58
23 about the 9/1 map, the September 1st map? 07:02:01
24 A. That was such a quick turnaround, I'm not sure if 07:02:10
25 he had time to; but I don't know. I don't know if 07:02:14

1 he did or not. 07:02:19
2 Q. Did Mr. Glassburn work with the members of the Ohio 07:02:20
3 House Democratic Caucus or their expert to analyze 07:02:31
4 the September 9th map that was introduced? 07:02:35
5 A. I'm not sure about that. 07:02:39
6 Q. You don't have a belief as to whether or not 07:02:40
7 Mr. Glassburn was working with the House Democratic 07:02:46
8 Caucus' expert to look at the -- or analyze the 07:02:52
9 September 9th map? 07:02:57
10 A. I'm not sure. 07:02:59
11 Q. All right. Do you know whether Mr. Glassburn 07:02:59
12 worked with the House Democratic Caucus in 07:03:04
13 developing the district lines for the 07:03:07
14 September 13th map? 07:03:12
15 A. I believe there was communication. I don't know to 07:03:13
16 what extent the information was exchanged or used. 07:03:21
17 Q. All right. And are you aware of what the subject 07:03:24
18 of the communication between Mr. Glassburn and the 07:03:29
19 House Democratic Caucus or their agents was? 07:03:33
20 A. No. 07:03:35
21 Q. All right. Do you know whether Mr. Glassburn did 07:03:37
22 any work or communicated with the House Democratic 07:03:46
23 Caucus or their agents in regard to the 07:03:48
24 September 14th map that was proposed by the -- I 07:03:50
25 believe, the Republican members of the commission? 07:03:54

1 A. At that point, we were open and communicating with 07:04:00
2 a lot of different folks, yes. I don't think there 07:04:01
3 was any issue about communicating and exchanging 07:04:04
4 information. 07:04:15
5 Q. Okay. And in reference to the September 14th map, 07:04:15
6 you said, "At that point, we were open and 07:04:20
7 communicating with a lot of different folks..." 07:04:22
8 Who else besides the House Democratic 07:04:25
9 Caucus and the Senate Democratic Caucus did you 07:04:29
10 have conversations with about the September 14th 07:04:32
11 map? 07:04:38
12 A. I think we just read through a list of the folks 07:04:38
13 that... 07:04:51
14 Q. All right. And for the record, you are referring 07:05:04
15 to notes that you brought and read into the record 07:05:06
16 earlier? 07:05:10
17 A. Yes. 07:05:10
18 Q. All right. 07:05:11
19 MS. MENASHE: Counsel, could I pause and 07:05:13
20 just clarify? When you are saying "9/14," which 07:05:15
21 map are you referring to? I'm not sure your date 07:05:21
22 is correct. And then I just want to make sure that 07:05:24
23 my client's answers are responsive to your 07:05:26
24 question. 07:05:28
25 MR. BRANCH: It was the map introduced 07:05:29

1 by Senator Huffman. In my understanding, there was 07:05:31
2 one that was introduced by him in response to the 07:05:36
3 September 13th map, late on September 14th. 07:05:40
4 MS. MENASHE: Okay. 07:05:52
5 MR. BRANCH: I mean, let me do this. 07:05:52
6 BY MR. BRANCH: 07:05:55
7 Q. Senator Sykes, did you see a map from the 07:05:56
8 Republican members of the commission in response to 07:06:03
9 your September 13th map? 07:06:05
10 A. Did I see them with it? No. No, I don't believe I 07:06:07
11 did. 07:06:07
12 Q. Was a counterproposal made to you in response to 07:06:20
13 the September 13th proposal that you made to the 07:06:24
14 commission? 07:06:26
15 A. Not that I recall. 07:06:26
16 Q. So was the September 13th map introduced by you to 07:06:34
17 the commission the last map that was considered by 07:06:53
18 any of the members of the commission? 07:06:56
19 A. Well, I have to say that I'm not clear on how to 07:06:59
20 respond. I believe on the 9/13, we submitted a map 07:07:35
21 that amended the majority map, the commission map 07:07:42
22 that had been presented. 07:07:49
23 Q. Yes, sir. 07:07:51
24 Then what happened? 07:08:03
25 A. There may have been another map maybe; but I'm not 07:08:04

1 clear on it. 07:08:33
2 Q. Okay. So as you are testifying today, you are not 07:08:34
3 clear as to whether there was a map -- a response 07:08:41
4 by the Republican members of the commission to your 07:08:49
5 September 13th map? 07:08:56
6 A. Yeah, that's correct. 07:08:59
7 Q. All right. Well, can you do this for me: After 07:09:05
8 you introduced your September 13th map to the 07:09:09
9 commission, can you describe for me any 07:09:13
10 negotiations you had with the various Republican 07:09:17
11 members of the commission to try and reach a 07:09:22
12 compromise ten-year map? I'd be happy if you start 07:09:25
13 with when you introduced the September 13th map, 07:09:33
14 and then, to the best of your recollection, just 07:09:36
15 tell me what negotiations you had until the adopted 07:09:37
16 map ended up getting passed. 07:09:42
17 A. We had ongoing communications with Auditor Faber 07:09:54
18 and Secretary of State LaRose. 07:10:01
19 We also had our staffs to work -- all of 07:10:13
20 our staffs to work -- we delegated the authority to 07:10:17
21 them to try to come together to put together a 07:10:20
22 compromise to recommend to us. So the staff did 07:10:24
23 work over a weekend to try to come up with a 07:10:34
24 recommendation, but they could not. They did not. 07:10:43
25 And all of the staffs did not participate at the 07:10:57

1 same level. 07:11:04
2 Q. So -- and just to unpack this a little bit. When 07:11:05
3 you instructed your staff to work with the staff 07:11:09
4 members of the other commissioners, was that prior 07:11:11
5 to or after the introduction of the September 13th 07:11:15
6 plan? 07:11:21
7 A. I don't recall. 07:11:30
8 Q. All right. And you said you had all of our staffs 07:11:31
9 work on trying to put together a compromise. Did 07:11:35
10 that include every member of the commission? 07:11:40
11 A. Yes. They were all invited to participate, yes. 07:11:41
12 Q. All right. And you said a moment ago that some 07:11:44
13 members' staffs participated at different levels 07:11:50
14 than others. Can you describe for me what you mean 07:11:53
15 by that? 07:11:56
16 A. The Senate majority staff map drawer and the House 07:12:06
17 staff person did not participate as much as the 07:12:11
18 others. 07:12:18
19 Q. What do you mean by they didn't "participate as 07:12:18
20 much"? 07:12:24
21 A. They did not attend very many of the meetings. 07:12:24
22 Q. Do you have any recollection of approximately how 07:12:28
23 many meetings they did attend and how many meetings 07:12:31
24 they missed? 07:12:34
25 A. No. 07:12:34

1 Q. I mean, are we talking about them attending three 07:12:35
2 meetings and missing ten? Or attending 10 meetings 07:12:38
3 and missing 30? I'm trying to get an idea of the 07:12:42
4 scope of this. 07:12:45
5 A. My understanding is they missed most of the 07:12:45
6 meetings. 07:12:50
7 Q. Okay. But not all? 07:12:50
8 A. But not all. 07:12:54
9 Q. Okay. What did your staff report to you that 07:12:54
10 happened in those meetings, to the best of your 07:13:08
11 recollection? 07:13:10
12 MS. MENASHE: Objection as to "staff." 07:13:10
13 If you want to ask specifically as to the person, 07:13:16
14 then I will determine whether there is an objection 07:13:19
15 with respect to privilege. 07:13:21
16 But go ahead. 07:13:22
17 MR. BRANCH: Well, the witness used the 07:13:24
18 term "staff." I'm using his language. 07:13:25
19 BY MR. BRANCH: 07:13:25
20 Q. I will clarify my question with, I'm not -- I'm not 07:13:27
21 asking any questions about attorneys giving you 07:13:31
22 legal advice, Senator Sykes. I don't ever want to 07:13:35
23 go there. 07:13:39
24 But what I would like to know is, you 07:13:40
25 have said "staff." You delegated authority to your 07:13:42

1 staff. Staff for -- all of our staffs met together 07:13:45
2 and then reported back to you. And I'm just asking 07:13:50
3 what the substance of the reports back to you were, 07:13:55
4 with the caveat that I'm not asking you to tell me 07:13:59
5 anything that your lawyers told you. 07:14:03
6 A. One of the problems we're dealing with in trying to 07:14:10
7 come up with a collaboration under agreement, a 07:14:17
8 bipartisan agreement, of the seven members of the 07:14:22
9 commission, two of them are legislative leaders in 07:14:25
10 the majority. And their colleagues, the other 07:14:36
11 Republican members, statewide officeholders, 07:14:42
12 basically, seemingly had some type of an agreement 07:14:49
13 that the three statewide would not take a position 07:14:52
14 contrary to the other two majority legislative 07:15:05
15 members. 07:15:08
16 And do the whole process was really led 07:15:13
17 by the Republican leaders, which became fairly 07:15:15
18 problematic because they would have to agree to 07:15:22
19 plans that, if they were fair, then the ones that 07:15:30
20 were -- that are in current existence would 07:15:34
21 possibly cause them to lose some members of their 07:15:38
22 caucus. 07:15:43
23 And so they were reluctant to 07:15:46
24 participate, comply, or draft plans in a 07:15:51
25 collaborative way, and their staffs represented 07:15:57

1 that. They did not participate as much. 07:16:01
2 The three statewide -- the staffs of the 07:16:05
3 three statewide participated wholeheartedly with 07:16:08
4 suggestions and ideas; and so did Auditor Faber and 07:16:12
5 Secretary of State LaRose themselves sit down with 07:16:24
6 us and go through maps and make suggestions and 07:16:28
7 recommendations; but not the Speaker of the House, 07:16:31
8 nor President of Senate. 07:16:37
9 And so that's the kind of report that we 07:16:40
10 received. 07:16:41
11 Q. So you said the -- Auditor Faber -- you said the 07:16:44
12 auditor and the secretary of state participated in 07:16:52
13 the negotiations -- excuse me, in the staff-level 07:16:55
14 meetings and sat down with you-all. What was the 07:16:57
15 level of participation of Governor DeWine? 07:17:00
16 A. Governor DeWine's staff. We're talking about staff 07:17:09
17 participation. Governor DeWine's staff 07:17:12
18 participated, yes, absolutely. 07:17:16
19 Q. Okay. And then at what point -- do you recall 07:17:17
20 approximately when your staff came to the 07:17:22
21 conclusion that they were unable to put together a 07:17:26
22 compromise to recommend to you? 07:17:31
23 A. After that weekend. It was a Friday, Saturday, 07:17:33
24 Sunday. After that weekend, when they weren't able 07:17:37
25 to make much progress. 07:17:43

1 Q. Okay. And then after -- after it was reported to 07:17:46
2 you that they weren't able to make progress -- 07:17:54
3 well, strike that. 07:17:58
4 Do you recall whether there were any 07:18:00
5 specific issues that the staff identified that they 07:18:06
6 weren't able to make progress on? 07:18:09
7 A. Representational fairness issues. 07:18:11
8 Q. And -- 07:18:17
9 A. The proportion of districts that were Democrats or 07:18:24
10 Republicans. The proportions. 07:18:32
11 Q. Gotcha. 07:18:33
12 And was that the primary issue that you 07:18:34
13 believe was holding up a compromise that might have 07:18:36
14 resulted in a ten-year redistricting plan for Ohio? 07:18:40
15 A. That is the issue. That's what fair districts is 07:18:44
16 all about. That's what we campaigned on. That's 07:18:55
17 what the whole change in the Constitution was 07:18:57
18 about, to have fair districts. 07:18:59
19 And the litmus test and the evaluation 07:19:01
20 of fair districts happens to be that 07:19:03
21 representational fairness concept. 07:19:08
22 Q. Gotcha. 07:19:12
23 And my question was just: Is it your 07:19:12
24 belief that the primary or perhaps only impediment 07:19:14
25 to the members of the commission reaching a 07:19:20

1 compromise on a ten-year map was agreement on the 07:19:25
2 partisan makeup of the redistricting map? 07:19:33
3 A. That was the major concern, yes. 07:19:36
4 Q. Okay. So after the -- after that weekend, when 07:19:45
5 staff reported back to you that they were unable to 07:19:50
6 put together a compromise, do you recall what the 07:19:54
7 next step you took was in the redistricting 07:20:01
8 process? 07:20:06
9 A. No, I don't. 07:20:07
10 Q. All right. Do you recall any negotiations with any 07:20:08
11 Republican members of the commission after the 07:20:16
12 staff negotiations that occurred during the 07:20:19
13 weekend? 07:20:22
14 MS. MENASHE: You could clarify the 07:20:26
15 question. That the Senator participated in? Is 07:20:27
16 that the question? 07:20:33
17 MR. BRANCH: Yes, ma'am. 07:20:35
18 BY MR. BRANCH: 07:20:37
19 Q. Do you recall any negotiations in which you 07:20:37
20 participated with the other Republican members of 07:20:39
21 the commission that took place after the staff 07:20:41
22 discussion's impasse, as you previously testified? 07:20:44
23 A. We reached out to all of the members to get -- to 07:20:52
24 try to come to an agreement, and we didn't get any 07:20:58
25 responses from, again, the speaker of the House or 07:21:04

1 the president of the Senate. 07:21:12
2 Q. All right. When you said -- when you say you 07:21:16
3 "reached out to all of the members," how did you do 07:21:20
4 that? 07:21:23
5 A. Either called or tried to work through their staffs 07:21:24
6 to make appointments or call them. 07:21:30
7 Q. And were you able to successfully connect with the 07:21:38
8 governor, the auditor, and the secretary of state? 07:21:41
9 A. We connected with the auditor, and he did meet with 07:21:50
10 us and staff and made some suggestions and 07:21:53
11 recommendations for changes. 07:21:55
12 The secretary of state, we did as well. 07:21:57
13 The governor indicated to us that he had 07:21:59
14 delegated this to the lieutenant governor, Husted, 07:22:05
15 and that we should talk with him because he had 07:22:15
16 been a past secretary of state. 07:22:19
17 And so we did have some conversations 07:22:20
18 with Husted. I did personally have conversations 07:22:23
19 with him on the phone. And he was encouraging us 07:22:25
20 to continue to work to try to come up with a 07:22:32
21 compromise, but not any specific ideas or plan or 07:22:33
22 strategy to do it. 07:22:40
23 Q. And do you remember about when the conversation 07:22:41
24 with the lieutenant governor took place? 07:22:50
25 A. No. 07:22:53

1 Q. But it was after the staff meeting over the weekend 07:22:54
2 that you previously testified to? 07:23:00
3 A. I believe. I believe. 07:23:01
4 Q. Do you believe -- 07:23:03
5 A. I would also make sure it's clear that I -- that we 07:23:05
6 have had some conversations. I just can't recall 07:23:10
7 exactly what -- to what extent, with the speaker of 07:23:13
8 the House and the president of the Senate. But 07:23:18
9 they were not forthcoming with any kind of 07:23:22
10 suggestions or input to make any changes. 07:23:27
11 Q. Okay. And just to make sure I'm understanding that 07:23:32
12 right, you are saying that you did have 07:23:35
13 conversations with the speaker and with the 07:23:38
14 president of the Senate, but -- 07:23:43
15 A. And/or their staff. 07:23:46
16 Q. And/or their staff. But you didn't feel like they 07:23:47
17 were productive. 07:23:53
18 Do you remember any of the specifics of 07:23:55
19 those conversations, besides what you just 07:23:57
20 testified to? 07:24:02
21 A. Senator Huffman was anxious on the final day to get 07:24:06
22 any kind of suggestions or recommendations that we 07:24:16
23 want to make because he was trying to prepare his 07:24:21
24 final map that they were going to offer that 07:24:25
25 evening. And so I had several telephone 07:24:30

1 conversations with him, giving him updates on where 07:24:33
2 we were, working with the other members, LaRose and 07:24:39
3 Faber in particular, to try to incorporate some of 07:24:42
4 their ideas. 07:24:48
5 Q. And do you remember making any asks to Senate 07:24:54
6 President Huffman in those calls on the final day 07:25:03
7 to -- that he changed the plans that he had 07:25:05
8 proposed? 07:25:14
9 A. He indicated that he would like to see what we 07:25:15
10 were -- what map we would come up with. And we had 07:25:18
11 a process with this map drawing, is that we tried 07:25:26
12 to make public, as much as possible, the process. 07:25:35
13 So we used the website of the commission to present 07:25:43
14 our position, our amendments, or our maps that we 07:25:48
15 want considered. 07:25:54
16 So we didn't have to talk about a lot of 07:26:00
17 the details about what we wanted. We had the offer 07:26:05
18 on the table. It was on the website. 07:26:11
19 Q. Okay. So -- and again, I'm trying to make sure I'm 07:26:13
20 understanding this right. You had phone calls with 07:26:15
21 Senator Huffman on the final day. You testified 07:26:18
22 that he was anxious; that he was -- I believe -- 07:26:22
23 and please correct me if I'm wrong -- that 07:26:25
24 Senator Huffman was trying to find out what your 07:26:28
25 position was with regard to any negotiation moves 07:26:31

1 on your final map? 07:26:37
2 A. Any changes -- 07:26:40
3 Q. Any changes. 07:26:41
4 A. -- that we wanted him to consider, yes. 07:26:42
5 Q. And your response to him was, we're just going to 07:26:47
6 upload our final map, and you can see the changes 07:26:51
7 there? 07:26:54
8 A. No. We -- we were working -- our map drawers -- 07:26:54
9 with any changes, when any changes are made, we are 07:27:03
10 trying to be careful to comply with all of the 07:27:06
11 requirements. And so when a suggestion is made, 07:27:08
12 they go through a process to evaluate everything to 07:27:11
13 make sure that it's -- so it took time before we 07:27:22
14 could commit to sharing any of that information 07:27:24
15 with anyone else, to make sure that it was pretty 07:27:30
16 much accurate. 07:27:34
17 Q. Gotcha. 07:27:34
18 And do you recall when you posted -- or 07:27:35
19 your staff posted the final map to the 07:27:41
20 redistricting website? 07:27:47
21 A. I don't recall exactly when that final map was. 07:27:49
22 Q. Was it -- do you think it was late on the final 07:28:02
23 day? 07:28:05
24 A. Yeah. I think it may have been. 07:28:06
25 Q. All right. Do you recall what the differences were 07:28:10

1 between the final map that you uploaded to the 07:28:16
2 redistricting website and the September 13th map 07:28:28
3 that you had proposed? 07:28:30
4 A. We made changes that were suggested by the 07:28:32
5 secretary of state and the state auditor. 07:28:37
6 Q. All right. 07:28:42
7 A. We -- it was an amendment also to their previous 07:28:46
8 map. So we tried to incorporate as much -- we 07:28:51
9 started from their map and made changes so that we 07:28:57
10 could incorporate as much of what they had designed 07:29:00
11 as possible. 07:29:06
12 Q. But with regard to the differences between the 07:29:06
13 September 13th map and the September 15th map, both 07:29:14
14 of which you proposed, other than making changes 07:29:17
15 that were suggested by the secretary of state and 07:29:20
16 the state auditor, did you make any additional 07:29:22
17 changes? 07:29:29
18 A. I don't believe so. None that would affect the 07:29:33
19 representational fairness proportions. 07:29:39
20 Q. Gotcha. 07:29:42
21 So the representational fairness 07:29:43
22 proportions stayed the same from the map you 07:29:46
23 proposed on September 13th through the map that you 07:29:50
24 proposed on the 15th, right? 07:29:54
25 A. Yes. 07:30:00

Q. And that was that -- both the September 13th and 07:30:00
the September 15th maps had partisan-leaning 07:30:02
districts of 13 Democratic districts in the Senate 07:30:13
and 42 Democratic districts in the House; is that 07:30:15
right? 07:30:21
A. Yes. 07:30:21
Q. Why didn't -- if the September 15th map was an 07:30:21
effort to compromise, why didn't the September 15th 07:30:28
map change the number of Democrat-leaning seats 07:30:35
from the number of Democrat-leaning seats in the 07:30:41
September 13th map? 07:30:46
A. It wouldn't have been Constitutional. 07:30:46
Q. Why is that? 07:30:59
A. Because you have to attempt to comply with the 07:31:00
Constitution. You have to attempt to come up with 07:31:02
that proportion of the preferences of the voters 07:31:08
that's been expressed over the last ten years. 07:31:12
And so we could -- the way that you show 07:31:22
you attempt to do it is you try to do it; but if 07:31:24
something prevents you from it, you were not able 07:31:28
to. But we were able to present maps -- produce 07:31:32
maps that complied as close as we could get to the 07:31:36
preferences of the voters and still comply with all 07:31:46
of the other restrictions and requirements. 07:31:50
Q. Gotcha. 07:31:52

1 So is it your belief as a member of the 07:31:54
2 redirecting commission that a map that contains a 07:31:57
3 partisan breakdown of 12 Democrat-leaning Senate 07:32:04
4 seats would violate Article XI, Section 6 of the 07:32:14
5 Ohio Constitution? 07:32:21
6 A. Yes. 07:32:22
7 Q. Is it your belief as a member of the redistricting 07:32:23
8 commission that a redistricting map that contained 07:32:25
9 41 Democrat-leaning House seats would likewise 07:32:29
10 violate Article XI, Section 6? 07:32:34
11 A. Yes. 07:32:39
12 Q. How do you draw the distinction between 12 and 13 07:32:39
13 Democrat-leaning Senate seats, one being violative 07:32:50
14 of the Constitution and the other not? 07:32:54
15 A. Because you have got the requirement that you 07:32:58
16 should comply with -- or shall comply with the 07:33:03
17 preferences of the voters, unless there is some 07:33:09
18 reason, some other violation that you have to 07:33:15
19 consider. And there is no violation or any other 07:33:20
20 impediment that would prevent you from complying 07:33:23
21 with the voters' preferences. 07:33:27
22 Q. Okay. But my question was: Why is 12 07:33:34
23 Democrat-leaning seats unconstitutional, but 13 07:33:42
24 Democrat-leaning seats not unconstitutional? 07:33:47
25 A. Because the 13 complies, and the 12 does not. 07:33:49

1 Q. And what is it about 13 Senate seats that makes it 07:33:57
2 compliant with the Constitution? 07:34:06
3 A. Because it's closer to the preferences of the 07:34:08
4 voters, the 54/46 percent breakdown. It's closest 07:34:13
5 to that. 07:34:20
6 Q. Okay. How do you measure just how close a 07:34:20
7 districting plan has to come to, for example, the 07:34:37
8 54/46 number that you just cited? 07:34:40
9 A. You do that by trying to get there. And if nothing 07:34:43
10 prevents you, if no other requirements prevent you 07:34:56
11 from getting there, then you have to -- you 07:35:01
12 shall -- it says "shall." You shall comply. 07:35:03
13 Q. I think that the Constitution says "shall 07:35:06
14 correspond closely," right? 07:35:16
15 A. Yes. 07:35:18
16 Q. Does the phrase "correspond closely" indicate that 07:35:18
17 a judgment call has to be made as to whether a 07:35:27
18 districting plan corresponds with the statewide 07:35:32
19 preferences of the voters of Ohio? 07:35:36
20 A. Yes. And I made -- I explained my judgment call. 07:35:40
21 Q. All right. And can you list all of the facts on 07:35:46
22 which you based your judgment call that 12 07:35:50
23 Democrat-leaning Senate seats violates Article XI, 07:36:02
24 Section 6 of the Ohio Constitution, but 13 07:36:08
25 Democrat-leaning seats do not violate Article XI, 07:36:10

1 Section 6 of the Ohio Constitution? 07:36:16
2 A. I don't know how to say it any clearer. If you can 07:36:17
3 do it, then -- if it's possible to be done, and you 07:36:33
4 attempt to do it, then you will accomplish it. But 07:36:35
5 if it's possible to be done and you don't attempt 07:36:39
6 to do it, then, of course, you won't. 07:36:41
7 Q. And what do you mean by "possible to be done"? 07:36:51
8 A. An example is in Trumbull County. The reason we 07:36:54
9 made that change in Trumbull County is because it 07:37:05
10 was a violation of the Constitution. It split 07:37:09
11 Trumbull County into two different Senate 07:37:15
12 districts. That's -- we considered a violation -- 07:37:18
13 would be considered a violation of the 07:37:21
14 Constitution. 07:37:23
15 So by making that correction, we were no 07:37:24
16 longer able to then be as -- closer to that 07:37:27
17 voter -- the voter preferences. And so we had to 07:37:35
18 make a change and reduce the number of districts 07:37:43
19 that leaned Democrat. 07:37:46
20 Q. Gotcha. 07:37:48
21 So I guess this goes back to the 07:37:49
22 technical requirements that you were talking about 07:37:54
23 earlier. The -- so if I'm understanding what you 07:37:56
24 are saying correctly, it's if a map can comply with 07:38:01
25 the technical requirements, it then has to -- the 07:38:09

1 map drawers have to put their -- make their best 07:38:15
2 efforts to comply with the partisan -- the 54/46 07:38:23
3 partisan split that you-all cited in your minority 07:38:27
4 report. Is that a correct understanding? 07:38:31
5 A. I think you consider those at the same -- 07:38:35
6 simultaneously. I don't think it's just one or the 07:38:38
7 other. We could easily say comply with the voter 07:38:42
8 preferences and then see if you also comply with 07:38:47
9 the other technical requirements of the 07:38:51
10 Constitution. So I think it's really done 07:38:55
11 simultaneously. 07:39:00
12 Q. As a member of the commission, do you believe that 07:39:00
13 compliance with Article XI, Section 6 of the Ohio 07:39:07
14 Constitution is grounds for violating the 07:39:11
15 requirement that districts have substantially equal 07:39:13
16 population? 07:39:16
17 A. Say that again. 07:39:20
18 Q. Do you believe that compliance with Article XI, 07:39:21
19 Section 6 would be a basis for violating the 07:39:30
20 Constitution's requirement for substantially equal 07:39:35
21 population of districts? 07:39:38
22 A. No. 07:39:39
23 Q. Do you believe that complying with Article XI, 07:39:40
24 Section 6 would be a basis for drawing districts 07:39:48
25 that weren't contiguous? 07:39:50

1 A. No. 07:39:53
2 Q. Do you believe that compliance with Article XI, 07:39:53
3 Section 6 is a basis for violating the 07:40:00
4 Constitution's requirements with regard to county, 07:40:03
5 municipality, or township splitting? 07:40:05
6 A. No. 07:40:06
7 Q. So is it fair to say that the redistricting plans, 07:40:08
8 in order to be Constitutional, must comply with the 07:40:18
9 technical requirements first? 07:40:23
10 A. I'd say "simultaneously"; but you could say 07:40:25
11 "first." 07:40:31
12 Q. Okay. Fair enough. 07:40:39
13 You had testified earlier that you 07:40:42
14 received data from a number of different sources. 07:40:45
15 We're starting -- 07:40:51
16 A. Let me -- I do want to make a clarification. 07:40:52
17 Q. Yes, sir. 07:40:56
18 A. Just complying with the technical -- what we call, 07:40:56
19 quote-unquote, the technical requirements does not 07:41:05
20 address the issue of fairness. And this whole 07:41:11
21 concept, the whole reason we -- in part -- we are 07:41:15
22 taking part in this process is to promote fairness. 07:41:20
23 So within the compliance of all of the 07:41:24
24 other technical requirements, you still can 07:41:30
25 gerrymander districts almost as much as you like in 07:41:35

1 favor or disfavor of a political party. 07:41:37
2 The first map that the majority produced 07:41:42
3 was a map that provided fewer Democratic leaning 07:41:49
4 districts than what we have in existence now; and 07:41:57
5 it complied with all of the Constitutional 07:42:00
6 technical requirements, but did not comply with the 07:42:04
7 fairness component, which is, again, as I 07:42:08
8 indicated, the most significant part. 07:42:11
9 Q. I appreciate the clarification. 07:42:14
10 But I do want to run through some 07:42:29
11 questions about the data that you used. I would 07:42:31
12 like you just to identify in summary fashion who 07:42:33
13 some of these people are and what data you received 07:42:35
14 from them. 07:42:38
15 Who is Traevon Leak? 07:42:38
16 A. Traevon Leak is my senior aide. 07:42:46
17 Q. All right. Can you describe who All On The Line 07:42:49
18 is? 07:42:56
19 A. All On The Line is a nonprofit organization put 07:42:57
20 together to look at maps, get census input, and 07:43:05
21 make recommendations to the commission on maps for 07:43:12
22 this -- during this process. 07:43:18
23 Q. So you believe All On The Line's purpose during 07:43:19
24 this process was to assist you in submitting maps 07:43:31
25 to the commission? 07:43:34

1 A. Not to assist me, no. To make suggestions and 07:43:34
2 recommendations to the commission. 07:43:42
3 Q. Gotcha. 07:43:49
4 And you referred to them as a nonprofit 07:43:49
5 group. They're affiliated, though, with the 07:43:51
6 National Democratic Redistricting Committee, right? 07:43:55
7 A. I assume so, yes. 07:44:00
8 Q. Do you have any reason to believe that that's not 07:44:01
9 accurate? 07:44:05
10 A. No. 07:44:05
11 Q. And that's the group that's run by former Attorney 07:44:06
12 General Eric Holder? 07:44:09
13 A. I believe so, yes. 07:44:10
14 Q. Have you ever spoken with Eric Holder? 07:44:12
15 A. Have I spoken with Eric Holder? Yes. 07:44:15
16 Q. When was the last time you talked to Attorney 07:44:25
17 General Holder? 07:44:30
18 A. I believe it was sometime after we had the maps 07:44:30
19 for -- we had voted on the maps for the State House 07:44:39
20 districts, and there was a Zoom meeting with the 07:44:47
21 Ohio Legislative Black Caucus in which he 07:44:50
22 participated in and I participated in. So -- 07:44:59
23 Q. I didn't mean to interrupt. I apologize. 07:45:06
24 A. Basically, it's an update. 07:45:10
25 Q. And did you have any conversations directly with 07:45:13

1 Attorney General Holder about what had transpired 07:45:17
2 in redistricting in Ohio? 07:45:20
3 A. They were giving us updates and information about 07:45:32
4 all of it, the Congressional districts as well as 07:45:35
5 the state legislative districts. 07:45:39
6 Q. So were they providing, like, strategy and guidance 07:45:42
7 on how to implement redistricting in Ohio? 07:45:46
8 A. Yes. 07:45:59
9 Q. And prior to that Zoom -- and did you have any 07:46:00
10 one-on-one conversations with Attorney General 07:46:05
11 Holder? I apologize if I'm asking this again. 07:46:08
12 A. He was on the line. He made comments, and I made 07:46:21
13 comments. 07:46:24
14 Q. All right. And was this is one-on-one 07:46:24
15 conversation? Or in front of the entire 07:46:25
16 Legislative Black Caucus? Or something different? 07:46:31
17 A. Yes. Yes. It was with the -- all of the caucus 07:46:32
18 was listening and viewing the meeting. 07:46:40
19 Q. Fair enough. 07:46:46
20 Prior to the meeting between Attorney 07:46:46
21 General Holder and the Legislative Black Caucus, 07:46:48
22 did you have any other conversations with Attorney 07:46:51
23 General Holder? 07:46:54
24 A. Not that I recall, no. 07:46:54
25 Q. So that was the first time you recall speaking with 07:46:57

1 him? 07:47:00
2 A. As I recall, in a few years, yes. 07:47:00
3 Q. Okay. Who did you communicate with on behalf of 07:47:05
4 All On The Line? 07:47:18
5 A. A person named Katy Shanahan. Again, those were 07:47:19
6 meetings, Zoom meetings with the Legislative Black 07:47:34
7 Caucus. 07:47:45
8 Q. How often would you have Zoom meetings with All On 07:47:45
9 The Line or Ms. Shanahan? 07:47:49
10 A. I would say maybe every week or so. 07:48:01
11 Q. How far back would these weekly meetings occur? 07:48:04
12 A. I'm not sure. 07:48:17
13 Q. Are they still occurring on a weekly basis now? 07:48:18
14 A. Not as frequently, yes. 07:48:33
15 Q. Do you have another meeting with All On The Line 07:48:34
16 scheduled at any point in the next months? 07:48:41
17 A. Not that I know of. 07:48:43
18 Q. All right. When was the last meeting with All On 07:48:45
19 The Line you had? 07:48:48
20 A. I think it was about two weeks ago. 07:48:49
21 Q. All right. And do you recall when the first time 07:49:03
22 you met with someone from All On The Line was? 07:49:07
23 A. No. No. 07:49:12
24 Q. Do you have any idea if it was two months ago? A 07:49:12
25 year ago? Two years ago? Any idea? 07:49:17

1 A. Several months ago. 07:49:24
2 Q. Several months ago? 07:49:29
3 A. Yes. 07:49:30
4 Q. Okay. 07:49:31
5 MS. MENASHE: There was a trailing 07:49:45
6 comment that I want to make sure was on the record, 07:49:47
7 which is that the meetings were with the Black 07:49:50
8 Caucus. 07:49:57
9 BY MR. BRANCH: 07:49:58
10 Q. Who is Heather Blessing? 07:49:58
11 A. She is a staff person on the majority House caucus. 07:50:01
12 I think she may be legal counsel. 07:50:09
13 Q. And you listed -- this was under the "data" 07:50:13
14 category. Did you receive data from the majority 07:50:18
15 caucus? 07:50:21
16 A. Data from the majority caucus. I don't recall. 07:50:21
17 No. 07:50:36
18 MR. BRANCH: Let's do this. Let's go 07:50:39
19 off the record for about five minutes, and I will 07:50:40
20 hopefully wrap up relatively quickly. 07:50:44
21 VIDEO TECHNICIAN: Off the record. The 07:50:49
22 time on the video monitor is 7:51 p.m. 07:50:52
23 (Off the record at 7:51 p.m.) 07:51:00
24 (Back on the record at 7:57 p.m.) 07:57:22
25 VIDEO TECHNICIAN: We're now back on the 07:57:24

1 record. The time on the video monitor is 7:57 p.m. 07:57:30
2 This begins Disk No. 2. 07:57:36
3 BY MR. BRANCH: 07:57:36
4 Q. All right. Thank you, Senator Vernon Sykes. I 07:57:38
5 appreciate your time today. I have no further 07:57:42
6 questions. 07:57:44
7 MR. CLARK: This is Erik Clark on behalf 07:57:52
8 of the commission. I just have a couple questions, 07:57:54
9 if I may. 07:57:56
10 MS. MENASHE: Erik, can you speak up? 07:57:57
11 MR. CLARK: Sure. Can you hear me now? 07:58:01
12 MS. MENASHE: A little bit better. We 07:58:03
13 can turn it up. Give us a second. 07:58:04
14 MR. CLARK: Let me try one thing real 07:58:06
15 quick. I just switched my microphone. Does that 07:58:09
16 help at all?
17 MS. MENASHE: We can hear you now.
18 Thank you, Erik.
19 MR. CLARK: Okay. Thanks.
20 EXAMINATION
21 BY MR. CLARK:
22 Q. Good evening, Senator. The time is short, so I 07:58:22
23 hope you won't take as any disrespect me just 07:58:25
24 getting to my questions that I have and letting 07:58:27
25 everybody get home for the evening. 07:58:30

1 You were asked, quote, "Do you believe 07:58:34
2 that those technical requirements are technical 07:58:38
3 because they are more formulaic in their 07:58:42
4 application in the redistricting process?" 07:58:45
5 And you responded, "I don't understand 07:58:49
6 your question, because there is also a formula for 07:58:51
7 the fairness provision." 07:58:55
8 Do you recall that testimony, Senator? 07:58:57
9 A. Yes. 07:59:01
10 Q. And I assume you mean the fairness provision in 07:59:01
11 Article XI, Section 6 of the Ohio Constitution? 07:59:09
12 A. Yes. 07:59:14
13 Q. Thank you, Senator. 07:59:14
14 What exactly, in your view, is the 07:59:16
15 formula that measures compliance with Article XI, 07:59:17
16 Section 6? 07:59:25
17 A. I think take over the last ten years, the preceding 07:59:25
18 ten years, the statewide office -- the statewide 07:59:27
19 elections that are partisan; and you count all of 07:59:36
20 the votes cast for the Republican candidates in 07:59:39
21 those elections, and you count all of the votes 07:59:45
22 cast for the Democratic candidates; and you come up 07:59:49
23 with a percentage, a ratio. And that is the 07:59:56
24 express wishes of the voters over the last ten 08:00:05
25 years, dealing with statewide elections. 08:00:08

1 Q. And is that the entirety of the formula that you 08:00:14
2 would use to measure compliance with Article XI, 08:00:16
3 Section 6? 08:00:21
4 A. Yes. 08:00:21
5 Q. And so to the extent a new plan did not match the 08:00:25
6 measurement you just identified, it would violate 08:00:29
7 compliance with Article XI, Section 6, in your 08:00:35
8 view? 08:00:35
9 A. Unless you were prevented from doing it by having 08:00:38
10 to comply with other requirements. 08:00:45
11 Q. And if the new plan complied with all of the other 08:00:54
12 requirements and did not come as close as possible 08:00:59
13 to the measurements you just identified, it would, 08:01:05
14 per se, be unconstitutional under Article XI, 08:01:10
15 Section 6, in your view; is that correct? 08:01:17
16 A. Yes. 08:01:19
17 Q. Now Article XI, Section 6 states that "The Ohio 08:01:19
18 redistricting commission shall attempt to draw a 08:01:25
19 General Assembly district plan that meets all of 08:01:29
20 the following standards:" And then it lists 08:01:33
21 standards, including proportionality, as you have 08:01:35
22 talked about now. 08:01:39
23 Is that a fair summary of Article XI, 08:01:43
24 Section 6? 08:01:47
25 A. Yes. 08:01:47

1 Q. How does your formula account for the requirement 08:01:47
2 that the "redistricting commission shall attempt" 08:01:55
3 to do the things set forth in Article XI, 08:01:58
4 Section 6? 08:02:02
5 A. That you will do it unless you are prevented from 08:02:02
6 doing it -- accomplishing that because of some 08:02:14
7 other requirement. 08:02:15
8 Q. But the way you would measure "attempt" is by 08:02:16
9 measuring whether or not the final plan came as 08:02:20
10 close as possible to the proportionality 08:02:26
11 measurements you identified; and if it came 08:02:31
12 anything less than as close as possible to those 08:02:37
13 measurements, then, by definition, the 08:02:41
14 redistricting commission did not attempt to draw 08:02:45
15 those lines. Is my understanding of your 08:02:48
16 interpretation correct? 08:02:52
17 A. Yes. 08:02:53
18 MR. CLARK: Thank you very much, 08:02:59
19 Senator. That's all the questions I have. 08:03:01
20 MS. COONTZ: This is Bridget Coontz. I 08:03:01
21 have nothing on behalf of the statewide elected 08:03:09
22 officials. 08:03:10
23 MS. LEVENSON: This is Freda Levenson. 08:03:12
24 I believe that the relators are next, unless there 08:03:16
25 is any respondent still in line to ask questions. 08:03:19

1 Thank you very much. 08:03:34
2 EXAMINATION 08:03:35
3 BY MS. LEVENSON: 08:03:36
4 Q. Senator Sykes, I'm Freda Levenson from the ACLU of 08:03:38
5 Ohio. I'm representing Respondent League of Women 08:03:42
6 Voters and others. I want to thank you very much 08:03:45
7 for making yourself available so late in the 08:03:47
8 evening to accommodate the other depositions in 08:03:50
9 these cases that took place earlier today. I'm 08:03:52
10 going to try to go as quickly as I can in 08:03:56
11 recognition of the late hour. 08:03:59
12 First of all, I'd like to ask you some 08:04:03
13 questions about HJR12, which is the bill you 08:04:06
14 co-sponsored with Senate President Huffman -- then 08:04:09
15 he was Representative Huffman -- in late 2014 when 08:04:13
16 you were a member of the Ohio House. 08:04:19
17 As passed by the OGA, basically, what 08:04:21
18 was the purpose of that bill? 08:04:24
19 A. To place a provision on the ballot that would amend 08:04:25
20 the Constitution to prescribe procedures and 08:04:36
21 criteria where maps could be drawn for House and 08:04:42
22 Senate districts in a fair process. 08:04:48
23 Q. "In a fair process" or for any particular result? 08:04:51
24 A. For a fair process. 08:04:56
25 Q. The bill contains a number of very detailed 08:05:03

1 non-splitting rules. What's the purpose of those 08:05:07
2 rules? 08:05:10
3 A. The way gerrymandering takes place, basically, you 08:05:14
4 identify preferences of voters or voter behavior, 08:05:19
5 and you piece -- piece the puzzle together, so to 08:05:25
6 speak, by putting like voters together or 08:05:32
7 separating like voters in a way to gerrymander 08:05:35
8 districts in your favor. 08:05:41
9 I want to make sure I understand your 08:05:42
10 question. Can you repeat it and make sure I'm 08:05:44
11 addressing it correctly? 08:05:46
12 Q. Yes. You spoke about fairness as the basic purpose 08:05:48
13 of the bill, but the bill also includes a number of 08:05:52
14 very detailed, technical non-splitting rules. And 08:05:55
15 I was wondering what their purpose is in the bill. 08:05:59
16 A. The purpose is that those rules limit the way you 08:06:02
17 can gerrymander. It put limitations on how you can 08:06:11
18 gerrymander, so you are not able to gerrymander as 08:06:17
19 much. It doesn't prevent the gerrymandering, but 08:06:20
20 it's one way of trying to alleviate it or minimize 08:06:25
21 gerrymandering. 08:06:29
22 So for instance, splits of counties. We 08:06:31
23 try to keep counties whole as much as possible. By 08:06:36
24 splitting them, you can divide part of the county 08:06:42
25 up and put in a different district than the other 08:06:46

1 part of the county. The smaller the pieces, the 08:06:49
2 more splits you have, the more ability you have to 08:06:52
3 put together the puzzle to configure districts in a 08:06:57
4 gerrymandering way, to favor or disfavor a 08:07:04
5 political party. 08:07:07
6 Q. To what extent did the bill also contain guardrails 08:07:09
7 that would prevent merely the use of non-splitting 08:07:13
8 rules to produce a fair process? 08:07:18
9 A. They should be contiguous. That concept is there. 08:07:20
10 As well, the number of voters in, or residents 08:07:31
11 within a district should be equal between the 08:07:42
12 districts. Those kinds of issues were included. 08:07:46
13 Q. Was any purpose of the bill aimed to prevent 08:07:48
14 gerrymandering? 08:07:53
15 A. I don't know if you can totally prevent 08:07:58
16 gerrymandering; to place limitations on it. But to 08:08:01
17 promote fairness so that you can, in fact, have 08:08:06
18 districts that represent the preferences of the 08:08:11
19 people. 08:08:14
20 Q. Four respondents in this lawsuit were members of 08:08:14
21 the General Assembly at the time the bill was 08:08:23
22 passed. I wonder which of the four, if you recall, 08:08:25
23 supported the bill. Obviously you and 08:08:30
24 Senator Huffman did, because you were cosponsors. 08:08:37
25 But what about Frank LaRose and what about Keith 08:08:39

1 Faber? 08:08:42
2 First Frank LaRose. He was in the Ohio 08:08:42
3 Senate at the time. Did he support the bill? 08:08:47
4 A. I'm not sure, but I would bet he did. 08:08:49
5 Q. What about Keith Faber? 08:08:52
6 A. Yes. 08:08:59
7 Q. "Yes," you are sure; or "yes," he did? 08:09:00
8 A. Yes, he did. 08:09:02
9 Q. Thank you. 08:09:03
10 Turning to the campaign that followed, 08:09:07
11 to pass that legislatively-referred Constitutional 08:09:12
12 amendment as Ballot Issue 1 in the November 2015 08:09:17
13 election, what role did you have in that campaign? 08:09:22
14 A. I was co-chair of the campaign. 08:09:24
15 Q. Who was the other co-chair? 08:09:26
16 A. Matt Huffman. 08:09:29
17 Q. What was Fair Districts for Ohio? 08:09:32
18 A. It was a campaign committee for the ballot 08:09:40
19 initiative; and that's the committee that we 08:09:46
20 co-chaired the campaign. 08:09:52
21 Q. You and Senator Huffman co-chaired Fair Districts 08:09:53
22 for Ohio. 08:10:00
23 A. Yes. 08:10:02
24 Q. How did the name of that campaign committee, Fair 08:10:02
25 Districts for Ohio, come about? 08:10:05

1 A. It was the growing momentum in the community over 08:10:05
2 the years to -- the concept of fairness was 08:10:12
3 extremely important. Not to have equal, but to 08:10:20
4 have fair, which meant that it should be reflective 08:10:22
5 of the preferences of the voters, as opposed to 08:10:26
6 gerrymandered in some other proportion. 08:10:32
7 Q. Thank you. 08:10:32
8 MS. LEVENSON: I would like to ask the 08:10:37
9 technician to please display and mark as Exhibit 1 08:10:39
10 the document labeled Fair Districts for Ohio. 08:10:42
11 MR. BRANCH: I think we're on Exhibit 3. 08:10:50
12 MS. LEVENSON: Exhibit 3. I'm so sorry. 08:10:53
13 PLANET DEPOS TECHNICIAN: One moment, 08:11:07
14 please. 08:11:10
15 MARKED FOR IDENTIFICATION: 08:11:10
16 DEPOSITION EXHIBIT 3 08:11:18
17 Fair Districts for Ohio 08:10:45
18 8:11 p.m. 08:11:30
19 PLANET DEPOS TECHNICIAN: Sorry. It's 08:11:30
20 corrupted as I try to open it. I'm going to 08:11:32
21 redownload again. Sorry for the delay. 08:11:39
22 And that was Fair Districts for Ohio? 08:12:02
23 MS. LEVENSON: Yes, please. 08:12:06
24 PLANET DEPOS TECHNICIAN: It's showing 08:13:08
25 as a zero-kilobytes file when I download it. So 08:13:09

1 that and the majority report, I'm unable to bring 08:13:27
2 up from the files uploaded to the ShareFile. 08:13:29
3 MS. MENASHE: We can stop the time while 08:13:47
4 you're working through this issue. 08:13:52
5 MS. LEVENSON: Thank you. Off the 08:13:54
6 record. 08:13:55
7 VIDEO TECHNICIAN: Off the record at 08:13:57
8 8:14 p.m. 08:14:00
9 (Off the record at 8:14 p.m.) 08:14:01
10 (Back on the record at 8:19 p.m.) 08:19:22
11 VIDEO TECHNICIAN: We're now back on the 08:19:24
12 record. The time on the video monitor is 8:19 p.m. 08:19:30
13 MS. LEVENSON: Thank you. 08:19:42
14 BY MS. LEVENSON: 08:19:42
15 Q. Senator Sykes, are you back? 08:19:48
16 A. Yes, I'm back. 08:19:48
17 Q. Thank you. I apologize for the delay. 08:19:48
18 Would you kindly look at this document 08:19:48
19 that's been displayed as Exhibit 3, titled Fair 08:19:48
20 Districts for Ohio. Can you identify what this 08:19:53
21 document is? 08:19:55
22 A. Looks like the website from our campaign when we 08:19:55
23 put it together to communicate to the public about 08:19:59
24 what the issue was all about. 08:20:05
25 Q. If you could take a closer look at it. It's 08:20:06

1 actually a document. It's not a screen. 08:20:14
2 MS. LEVENSON: Could the technician 08:20:20
3 please scroll it up and down so that the Senator 08:20:23
4 can, please, see what it actually is? It's 08:20:26
5 probably hard to tell. 08:20:28
6 BY MS. LEVENSON: 08:20:41
7 Q. So this is a document. It's a piece of paper. 08:20:42
8 It's a picture of a paper. So can you identify 08:20:48
9 what it is? 08:20:48
10 A. It's a one-pager that just describes what the issue 08:20:48
11 was all about, the ballot initiative, how we got 08:20:53
12 there, the legislative -- with overwhelming support 08:20:58
13 to put it on the ballot, and then what it would 08:21:03
14 mean once it was adopted. 08:21:06
15 Q. Thank you. 08:21:09
16 Have you seen this before? 08:21:10
17 A. Yes. 08:21:11
18 Q. Do you know who wrote it? 08:21:16
19 A. I don't recall. 08:21:22
20 Q. Would it have been written in connection with the 08:21:29
21 campaign, by someone affiliated with the campaign? 08:21:32
22 A. Most likely. 08:21:35
23 Q. And approximately when? 08:21:36
24 A. Sometime in 2015. 08:21:37
25 Q. I'm looking at the bottom line. 08:21:44

1 MS. LEVENSON: And if the technician 08:21:47
2 could please scroll down to the bottom. 08:21:48
3 BY MS. LEVENSON: 08:21:52
4 Q. It says "Paid for by Fair Districts for Ohio." Is 08:21:52
5 that accurate, to your knowledge, Senator? 08:22:00
6 A. Yes. 08:22:02
7 Q. What use was made of this flyer? 08:22:03
8 A. To disseminate information when we met with groups 08:22:04
9 and organizations. It was kind of a dog and pony 08:22:10
10 show. He and I, Senator Huffman and myself, we 08:22:14
11 would go around and meet with League of Women Voter 08:22:19
12 groups and community action groups and all types of 08:22:21
13 organizations all over the state. And this is a 08:22:29
14 flyer or leaflet we used to communicate what our 08:22:31
15 purpose was. 08:22:34
16 Q. Thank you. 08:22:34
17 Looking now at the content of the flyer 08:22:36
18 itself. First, under the rubric "Fairness," which 08:22:39
19 is -- it's at the top, actually, of the view that 08:22:43
20 we have here. Reading the bullet points under that 08:22:45
21 rubric, the first says, "Protects against 08:22:50
22 gerrymandering by prohibiting any district from 08:22:53
23 primarily favoring one political party." Is that 08:22:57
24 an accurate statement of what the ballot measure 08:23:02
25 was to do? 08:23:04

1 A. Yes, absolutely. 08:23:04
2 Q. Reading on, the next bullet point says, "Requires 08:23:05
3 districts to closely follow the statewide 08:23:10
4 preferences of the voters." Is that also an 08:23:12
5 accurate statement of what the ballot issue was 08:23:14
6 advertised to do? 08:23:17
7 A. Yes. 08:23:18
8 Q. And the next rubric, "Accountable." It says there, 08:23:18
9 "Creates a process for the Ohio Supreme Court to 08:23:25
10 order the commission to redraw the map if the plan 08:23:28
11 favors one political party." Is that an accurate 08:23:32
12 statement of what the ballot issue was said to do? 08:23:37
13 A. Yes, absolutely. 08:23:43
14 Q. It sounds like you were saying that Senator Huffman 08:23:44
15 would have participated in distributing this flyer. 08:23:51
16 So is it fair to say that he saw the flyer? 08:23:56
17 A. Yes. 08:23:58
18 Q. Did he ever dispute these characterizations of the 08:24:03
19 Constitutional amendment, to your knowledge? 08:24:07
20 A. Not that I'm aware of. 08:24:09
21 Q. During the campaign, did you ever hear anyone 08:24:09
22 dispute these characterizations of what the 08:24:12
23 Constitutional amendment would do? 08:24:16
24 A. No, I did not. 08:24:17
25 Q. Were these same points -- the bullet points that I 08:24:18

1 just read, were they conveyed in other campaign 08:24:25
2 messaging of Fair Districts for Ohio? 08:24:32
3 A. Yes. 08:24:34
4 Q. What would you say was the theme of your campaign? 08:24:35
5 A. Fair districts. 08:24:39
6 Q. To the extent the campaign messaged about the 08:24:41
7 ballot issues various regulations that govern 08:24:47
8 splits of counties and municipalities and 08:24:50
9 townships, did the campaign message about those 08:24:55
10 things? 08:25:01
11 A. When we -- when we were at meetings and in public 08:25:02
12 places, and we made speeches about it, we would 08:25:10
13 include comments like that in our speech. 08:25:14
14 Q. What was the most important theme of the speeches? 08:25:22
15 A. We wanted to make sure that the voters are picking 08:25:27
16 the politicians as opposed to politicians picking 08:25:41
17 the voters. And it was very important in that we 08:25:43
18 were opposed to gerrymandering districts in 08:25:57
19 favor -- or to favor or disfavor a political party. 08:26:00
20 But the litmus test of making sure that we comply 08:26:04
21 with that was the requirement that the districts 08:26:07
22 are -- closely follow the statewide preferences. 08:26:09
23 That's why those two bullets are together on 08:26:23
24 "Fairness." 08:26:26
25 Q. Thank you, Senator. 08:26:26

1 MS. LEVENSON: I would like the 08:26:31
2 technician now to display Exhibit, I guess, 4. 08:26:32
3 It's the file that is titled "photo." 08:26:34
4 Thank you. 08:26:34
5 MARKED FOR IDENTIFICATION: 08:26:34
6 DEPOSITION EXHIBIT 4 08:26:37
7 Photo 08:26:37
8 8:26 p.m. 08:26:37
9 BY MS. LEVENSON: 08:26:37
10 Q. Senator, what does this photo depict? 08:26:50
11 A. That's the -- Senator Huffman and myself standing 08:26:54
12 at some type of presentation dealing with Fair 08:27:00
13 Districts of Ohio. It may have been a press 08:27:03
14 conference. It looks like it's somewhere in the 08:27:06
15 State House. 08:27:10
16 Q. Do you have any reason to question the authenticity 08:27:16
17 of this photo? 08:27:20
18 A. No way. No way. 08:27:21
19 Q. Can you read -- 08:27:23
20 A. I look a little younger. 08:27:24
21 Q. So it would have been 2015? 08:27:30
22 A. Yes. 08:27:32
23 Q. Can you read aloud the sign that is in front of 08:27:33
24 Senator Huffman's podium? 08:27:40
25 A. Fair Districts for Ohio. 08:27:40

1 Q. You've mentioned Senator Huffman's role in the 08:27:42
2 campaign. Which other commission members, if any, 08:27:49
3 had roles in the campaign to pass Ballot Issue 1? 08:27:53
4 A. I'm not sure if any others had any role. 08:27:58
5 Q. I'd like to read you a statement that was 08:28:06
6 attributed to you in the transcript of the 08:28:08
7 September 15th redirecting commission meeting. And 08:28:11
8 we can leave the photo up for this and then take it 08:28:17
9 down. 08:28:20
10 You said, about 22 minutes into the 08:28:20
11 meeting, "And when we campaigned, Senator Huffman, 08:28:23
12 we campaigned -- we campaigned on the slogan for 08:28:27
13 the -- our campaign committee statewide. We raised 08:28:30
14 money and campaigned. Fair Districts was the name 08:28:34
15 of the committee. Fair Districts. Not 08:28:37
16 'technically complying districts,' but 'Fair 08:28:39
17 Districts.' [As read]" 08:28:43
18 Could you please explain how you and 08:28:44
19 Senator Huffman did not campaign for "technically 08:28:48
20 complying districts," but for fair districts? 08:28:51
21 A. Well, the whole momentum at the time was to make 08:28:54
22 sure that we had districts that represented the 08:29:02
23 preferences of the people. And so fair districts 08:29:06
24 was just something different than just complying. 08:29:11
25 So what we had in the existing 08:29:14

1 Constitution allowed -- it was just technical 08:29:17
2 requirements, and they allowed gerrymandering to a 08:29:21
3 great extent. And so we wanted to amend the 08:29:29
4 Constitution to disallow gerrymandering -- and to 08:29:32
5 the extent we wanted to make sure it complied with 08:29:43
6 the wishes of the people. 08:29:47
7 So fair districts was the main theme and 08:29:48
8 purpose and reason for the change. 08:29:50
9 Q. What was the new component to the Constitution that 08:29:52
10 would make districts fair? 08:29:56
11 A. The representational fairness provision that -- and 08:29:57
12 it was a debate. It was a new concept. And we 08:30:04
13 wanted to use the term "representational fairness"; 08:30:09
14 but it was debated as to how that might be defined. 08:30:14
15 And so we decided to just put the definition in and 08:30:19
16 leave it at that so it would be clear what we meant 08:30:24
17 by it and not to give a term that may be confusing. 08:30:31
18 Q. And where does this definition appear in the 08:30:34
19 Constitution? 08:30:38
20 A. In Article XI, Section 6(A) -- 6(B), excuse me. 08:30:39
21 (B), for sure. 08:31:08
22 Q. Thank you. 08:31:08
23 MS. LEVENSON: We can take down the 08:31:08
24 exhibit now. Thank you very much. 08:31:08
25 Turning now to the Ohio redistricting 08:31:08

1 commission, when did it become clear to you, 08:31:10
2 Senator, that the commission was not going to make 08:31:12
3 that September 1st deadline to produce a plan? 08:31:15
4 A. It became clear to me the night of the vote. Up 08:31:21
5 until that time, I was hopeful. We were being 08:31:31
6 approached by the governor, the auditor, the 08:31:34
7 secretary of state. I was still hopeful that we 08:31:39
8 could make -- 08:31:42
9 Q. Sorry to interrupt you. I'm so sorry. I think you 08:31:43
10 might have misheard the question. Because -- and 08:31:47
11 I'm interested in what you are saying, and we'll 08:31:49
12 get to that. 08:31:51
13 But I'd really like to ask you when it 08:31:53
14 became clear that you were not going to make the 08:31:55
15 September 1st deadline to produce all that. 08:31:59
16 Thank you. I'm sorry. 08:32:06
17 A. When we ended up introducing our map. We 08:32:07
18 introduced our map on the 31st. We were open up 08:32:12
19 until that point to try to embrace any 08:32:19
20 collaboration that we could get from any of the 08:32:23
21 other members; but we could not. And so that's why 08:32:26
22 we moved forward with it, to at least demonstrate 08:32:30
23 that a map could be produced in a timely manner, 08:32:34
24 and that we were willing to offer up our 08:32:39
25 suggestions and offer others -- to offer their 08:32:43

1 suggestions. 08:32:47
2 Q. How did it become clear to you that you would need 08:32:48
3 to introduce the first map prior to December 1st 08:32:50
4 [sic]? 08:32:56
5 A. We were on a very short time fuse because of the 08:32:56
6 census data. And we had map drawers on staff -- a 08:33:09
7 map drawer on staff, Randall Routt. And we had 08:33:14
8 Chris Glassburn, whom we had worked -- I had worked 08:33:18
9 with before in the redistricting process ten years 08:33:22
10 ago and also in drafting -- input and drafting the 08:33:27
11 amendment to the Constitution. And they were 08:33:32
12 knowledgeable and prepared to produce a map. 08:33:37
13 And so we thought that someone should 08:33:47
14 produce a map to demonstrate that it could be done 08:33:49
15 and also demonstrate our willingness to try to work 08:33:52
16 with -- and we wanted to disclose it. We posted it 08:33:54
17 on the website so that everyone could see it. It 08:33:59
18 was evaluated and so forth, but we wanted everybody 08:34:04
19 to see where we stood on this particular issue. 08:34:07
20 MS. LEVENSON: I need to clarify 08:34:15
21 something. On line 85/17, for the record, I said 08:34:17
22 "December 1st." I meant to say "September 1st." 08:34:19
23 And I think that the Senator answered as if I said 08:34:22
24 "September 1st." But I should make that 08:34:24
25 correction. 08:34:26

BY MS. LEVENSON: 08:34:26
Q. How did you attempt to move things forward with the 08:34:31
other commission members to try to make the 08:34:35
September 1st deadline? 08:34:38
A. Well, I -- in a somewhat unique position as the 08:34:40
co-chair. And as co-chair, we had the 08:34:48
responsibility of identifying staff to help us in 08:34:51
this process. So the staff worked for us directly, 08:34:57
and the majority and the minority staffs were 08:35:00
assigned to work with us to deal with the website 08:35:07
and other kinds of issues: meeting notice, 08:35:09
scheduling, hearings, and so forth. 08:35:12
And so we had -- I had constant contact 08:35:15
with our staff on a daily basis, and they had 08:35:18
contact with all of the other staffs. And we were 08:35:21
constantly promoting the idea that we have got a 08:35:25
map; we have ideas; we want to work with you. So 08:35:29
we had an open door all along the way, in 08:35:37
negotiation of the rules or determining what the 08:35:40
website was going to include. It was -- we were 08:35:45
always collaborating with the staff to the members 08:35:51
to move this forward. 08:35:58
Q. Later on, when the process was over and you issued 08:36:03
the minority report pursuant to Article XI, 08:36:07
Section 8(C), you stated in the report that the 08:36:11

1 Republican commissioners purposely missed the 08:36:16
2 September 1st deadline for releasing a plan. Why 08:36:21
3 did you say they purposely missed it? 08:36:24
4 A. Because we felt that they had -- they're still in 08:36:33
5 the majority, and they had more resources, 08:36:37
6 staffing -- and more than we even knew. And so 08:36:43
7 they had the ability to move forward. But they 08:36:52
8 never showed any interest, any indication that they 08:36:54
9 wanted to collaborate with us, or to work out -- or 08:36:57
10 even to offer a map. They just wanted time to go 08:37:00
11 by, so they're going to the next phase. 08:37:05
12 Q. Now, I'm not asking you to speculate, but I would 08:37:09
13 like to ask you why, if you know, would they 08:37:14
14 purposely cause it to be missed? 08:37:16
15 A. I think it was not -- it would be -- up until that 08:37:31
16 point, it was supposed to -- we were supposed to 08:37:36
17 work together for a ten-year map. And so any 08:37:43
18 efforts up to that point should have been trying to 08:37:46
19 promote bipartisan compromise. And I don't believe 08:37:51
20 that they were interested in any kind of compromise 08:37:58
21 with Democrats. I don't believe it. So they 08:38:03
22 wanted that time to pass so no longer do we have to 08:38:07
23 even talk about a ten-year plan. 08:38:11
24 It can still be instituted, but they -- 08:38:14
25 simply only requirement is now that they have just 08:38:19

1 a few hearings at the end of the process. And the 08:38:23
2 leader, Matt Huffman, had already indicated in 08:38:28
3 previous communications that he didn't want to 08:38:34
4 submit a map until, you know, later in September. 08:38:38
5 So it was in compliance with that. 08:38:41
6 Q. Thank you. 08:38:43
7 You also said in that minority report 08:38:49
8 that the Republican commissioners, quote, "used as 08:38:52
9 much time as possible before deadlines." What were 08:38:57
10 you referring to? 08:38:59
11 A. Everything was delayed until the last minute. As 08:39:00
12 co-chair, I had the responsibility of calling 08:39:08
13 meetings, scheduling meetings; but that's in 08:39:15
14 conjunction with the other chair. So it's a 08:39:18
15 bipartisan process. And so we had to have 08:39:25
16 agreement before we could do anything. So all I 08:39:27
17 could do is make a request to the other co-chair -- 08:39:30
18 to make a request to do something. And as long as 08:39:33
19 he refused to, we could not move forward. So it's 08:39:38
20 problematic. 08:39:42
21 Q. Let's turn now to the last meeting of the 08:39:43
22 commission on September 15th. When the commission 08:39:51
23 met that day, it immediately went into recess, 08:39:55
24 which, at that point, was supposed to be until 08:39:58
25 3:00 p.m. 08:40:01

1 First of all, did you know that that 08:40:02
2 meeting would be immediately recessed? 08:40:04
3 A. I did not know. No, I did not know. 08:40:07
4 Q. Why did the meeting not reconvene until 8:00 p.m.? 08:40:15
5 A. I believe they were still putting together their 08:40:19
6 final map. And again, it's a lot of technical 08:40:26
7 requirements to try to make sure that the map 08:40:34
8 complies with the Constitution. And I think the 08:40:38
9 map drawers were just busy trying to put it 08:40:42
10 together, and it was taking longer and longer for 08:40:45
11 them -- longer than they had anticipated to put 08:40:48
12 that final map together. 08:40:54
13 Q. When you say "they had" and the map drawers, you 08:40:56
14 are referring to the Republican commissioners? 08:41:05
15 A. Yes. The majority, yes. 08:41:08
16 Q. What did you do during that long recess? 08:41:09
17 A. We were working with the auditor and the secretary 08:41:11
18 of state, trying to get their input; and trying to 08:41:25
19 assure them that we are open to their input; trying 08:41:29
20 to go find out whether or not we could come up with 08:41:37
21 some type of an agreement that we could all agree 08:41:41
22 with. 08:41:47
23 And I did have several telephone 08:41:47
24 conversations with Senator Huffman about what our 08:41:49
25 final map might be or include. And I was trying to 08:41:54

1 give him updates on the progress of that because we 08:41:58
2 were trying to incorporate Secretary of State 08:42:01
3 LaRose as well as the state auditor's suggestions 08:42:07
4 and recommendations. 08:42:12
5 Q. To make sure I understand, you said you were having 08:42:13
6 conversations with Auditor Faber, with Secretary 08:42:17
7 LaRose, and with Senator Huffman -- 08:42:21
8 A. Yes. 08:42:23
9 [Simultaneous speaking.] 08:42:25
10 Q. -- on recess? 08:42:25
11 And you were working on your maps, and 08:42:27
12 the Republicans were also working on their map; is 08:42:29
13 that correct? 08:42:35
14 A. Yes. 08:42:35
15 Q. Can you describe the discussions that you had with 08:42:35
16 Auditor Faber? 08:42:41
17 A. He mostly worked with our map drawers. But he had 08:42:41
18 suggestions of the configuration of districts in 08:42:54
19 mostly rural areas that did not affect the 08:43:04
20 proportional breakdown between Democrat-leaning and 08:43:06
21 Republican-leaning districts. But he had some 08:43:10
22 preferences on some issue that he wanted to be 08:43:16
23 addressed. And the same with Secretary of State 08:43:18
24 LaRose. And we were considering those and 08:43:22
25 incorporating as many of those as we could to 08:43:27

1 indicate to them that we're open to their 08:43:31
2 suggestions. 08:43:34
3 Q. Were they both concerned with the same districts, 08:43:35
4 or were they concerned with different districts? 08:43:40
5 A. They had different districts. Some of them were 08:43:43
6 the same, but some of them were different. 08:43:48
7 Q. Did you accept all of their suggestions? 08:43:50
8 A. I would say most of their suggestions we did 08:43:59
9 accept. 08:44:02
10 Q. Did any of the exceptions change the partisan 08:44:08
11 breakdown of the map? 08:44:12
12 A. No, it did not. 08:44:14
13 Q. Do you know the reason that they asked for those 08:44:15
14 particular changes? 08:44:21
15 A. I believe they were trying to show that they are 08:44:22
16 reasonable commissioners, and I believe that 08:44:28
17 through the hearing process, when you're traveling 08:44:35
18 around the state, that they heard -- they received 08:44:40
19 certain input from presenters, and they 08:44:42
20 incorporated some of the suggestions that we 08:44:46
21 received from the public into recommendations to 08:44:51
22 us. 08:44:59
23 Q. So is it fair to say that these were perhaps 08:44:59
24 improvements to the map responsive to public 08:45:01
25 criticism, but not improvements that repaired the 08:45:05

1 partisan leanings of the plan? 08:45:11
2 A. You are correct. 08:45:21
3 Q. Did Senator Huffman make any particular requests or 08:45:21
4 suggestions to you during that period when you were 08:45:29
5 in recess on September 15th? 08:45:31
6 A. No, not that I recall. His only request, you know, 08:45:35
7 what are your -- what would our suggestions or 08:45:41
8 recommendations -- our final suggestions or 08:45:46
9 recommendations, what would they be? He just 08:45:47
10 wanted to know, so he said that they could 08:45:49
11 consider. 08:45:52
12 Q. Did either Auditor Faber or Secretary LaRose ask 08:45:56
13 you for suggestions for the Republican map? 08:45:59
14 A. We did make the amendment -- the amendment on the 08:46:05
15 13th. We did amend their map so that we could 08:46:12
16 include their basic -- particularly, their basic 08:46:19
17 configurations in rural areas. 08:46:25
18 Q. And do I understand correctly that Senator Huffman 08:46:31
19 asked you for some additional input into the 08:46:35
20 Republican map? 08:46:42
21 A. I don't recall him, you know, asking me for 08:46:43
22 anything in particular, specific. He just wanted 08:46:47
23 to know what it is that you want. Let me know what 08:46:51
24 your last offer is -- and so we can, you know, do 08:46:55
25 our map. 08:46:58

1 It was similar in legislation. Let me 08:46:59
2 know what you want, and then I will let you know 08:47:03
3 what we're going to do. 08:47:07
4 Q. So on September 15th, what edits did you or 08:47:08
5 Representative Sykes request to the Republican map? 08:47:15
6 A. The main thing that we made change was the 08:47:25
7 proportionality, fairness component. We changed it 08:47:28
8 so it would comply with the Constitution. 08:47:31
9 We made the Trumbull County change split 08:47:36
10 to where Trumbull County was all in one Senate 08:47:39
11 district as opposed to being in two Senate 08:47:44
12 districts. 08:47:46
13 Q. I'm sorry to interrupt, but I think that I was 08:47:46
14 misunderstood. 08:47:50
15 I was asking -- or maybe I'm 08:47:51
16 misunderstanding your answer. 08:47:52
17 I was asking what edits either you or 08:47:53
18 Representative Sykes asked the Republicans to make 08:47:59
19 to their map, if any. 08:48:01
20 A. We offered up -- each of our suggestions or 08:48:05
21 recommendations offered up through the website -- 08:48:12
22 through maps that we presented to the commission 08:48:14
23 through the website. So if they ever wanted to 08:48:17
24 know -- and we reiterated over and over to them 08:48:22
25 where we stand. This is where we stood, and please 08:48:31

1 make any suggestions or recommendations so we could 08:48:35
2 consider it. 08:48:39
3 Q. I see. 08:48:39
4 Did you feel that evening or that night, 08:48:41
5 on the 15th, that you were ever close to reaching 08:48:45
6 an agreement on a plan? 08:48:49
7 A. There was a glimmer of hope when the governor 08:48:53
8 wanted a meeting -- private meeting with Leader 08:49:09
9 Sykes and myself and when Secretary of State LaRose 08:49:13
10 wanted to have a meeting. And they were indicating 08:49:16
11 they thought we were close. They were just making 08:49:18
12 those comments, implying that they were talking to 08:49:22
13 both sides and that they figured that we're within 08:49:26
14 striking distance. And they wanted more time. 08:49:33
15 They wanted us to take more time to try to work 08:49:36
16 something out. 08:49:39
17 Q. Do you recall approximately what time that was? 08:49:43
18 A. Evening. Evening. It was during the evening, 08:49:46
19 right before the vote. 08:49:54
20 Q. Okay. You came back into session around 8:00 p.m. 08:49:56
21 So it was sometime before 8:00 p.m.? 08:50:01
22 A. We talked to the governor before then and after. 08:50:03
23 Q. And what occurred at that meeting with the 08:50:09
24 governor? 08:50:17
25 A. The first meeting with the governor, the governor, 08:50:22

1 one of the things he asked was would we -- I think 08:50:27
2 it was 40/12. Would we be willing to accept that 08:50:31
3 for a ten-year plan? And we indicated we wouldn't. 08:50:39
4 But we also asked a question, would -- you know, 08:50:46
5 first, were they offering that. And he said, no, 08:50:48
6 he was just trying to get a feeler out for both 08:50:54
7 sides. 08:50:57
8 So we didn't want to, you know, 08:50:58
9 negotiate against ourselves. And I wanted to 08:50:59
10 know -- find out in particular, were they even 08:51:05
11 interested in trying to come our way. And he 08:51:10
12 didn't give any indication that they were 08:51:14
13 interested. He was just trying to feel us up. 08:51:16
14 Q. Did you have any similar questions from Faber, 08:51:21
15 LaRose, or Huffman, like a theoretical offer? 08:51:27
16 A. No. We didn't talk much with Faber that evening, 08:51:36
17 but LaRose, we had a couple meetings with him. And 08:51:41
18 he wanted us to support them on time, taking time, 08:51:51
19 to move it to the next day. 08:51:57
20 Q. What was your position as to taking more time, to 08:52:02
21 take another day? 08:52:08
22 A. The question was all centered around whether or not 08:52:09
23 there was any flexibility on the representational 08:52:12
24 fairness issue. Again, that was most important, 08:52:17
25 and it didn't seem to be any flexibility at all on 08:52:19

1 that. And so the things that they could offer 08:52:23
2 would be immaterial compared to the 08:52:29
3 representational fairness issue. 08:52:35
4 And I was particularly miffed by 08:52:41
5 Secretary of State LaRose because he admitted that 08:52:41
6 the plan that they submitted was not fair; but he 08:52:41
7 said unless we -- unless they, the majority, would 08:52:41
8 agree on a fair map, he was going to have to vote 08:52:41
9 with them. And at that point, I just saw it was no 08:53:20
10 reason to try to continue it because they were not 08:53:21
11 coming our way at all. 08:53:28
12 Q. Do you recall specifically what the secretary said 08:53:30
13 about the map not being fair? 08:53:32
14 A. Not specifically; just that, you know, to 08:53:33
15 paraphrase the map, he understands the map is not 08:53:41
16 fair. It can be a lot better. You know, he would 08:53:46
17 hate to have to vote for it, but he is not going to 08:53:52
18 go against his colleagues. So... 08:53:55
19 Q. When he said that to you, who else were you with? 08:54:02
20 A. Peter Sykes. 08:54:05
21 Q. So how did the impasse come about that the map 08:54:12
22 ended up being a four-year map? 08:54:31
23 A. Once it was clear that we were not going to be able 08:54:33
24 to come up with a ten-year map, the majority 08:54:39
25 introduced another map that had, I think, a 08:54:45

1 breakdown of maybe 10 Senate districts and 37 House 08:54:56
2 Democratic Caucus districts that leaned Democratic. 08:55:07
3 And that was the map that they ended up voting for 08:55:09
4 five to two. 08:55:13
5 Q. At what point in time did you know that an impasse 08:55:17
6 had been reached? 08:55:18
7 A. I didn't know until they introduced their map. 08:55:20
8 Q. So when the commission reconvened at 8:00 p.m., you 08:55:27
9 still held out hope that there could be further 08:55:32
10 discussion towards compromise? 08:55:36
11 A. Yes. We had discussions. Those discussions that I 08:55:37
12 told you -- just mentioned were conducted after 08:55:40
13 that -- we had gone back in session at 8:00 and 08:55:48
14 taken a recess. 08:55:53
15 Q. So when the commission reconvened, President 08:55:55
16 Huffman introduced an amendment to the plan. Were 08:56:06
17 you aware that he was going to do that? 08:56:12
18 A. I was not aware. I assumed that he was because he 08:56:13
19 was working on something; so I assumed that he 08:56:20
20 would. And I didn't think that they would actually 08:56:23
21 vote on the plan that they had presented so far in 08:56:30
22 as a four-year map. I think it was just too 08:56:33
23 egregious. 08:56:39
24 Q. In what way was that amendment egregious? 08:56:47
25 A. I was indicating that that first map was too 08:56:53

1 egregious, not the amendment. 08:56:56
2 Q. What, if any, changes did that amendment make to 08:56:59
3 the previous plan? 08:57:05
4 A. It changed the representational fairness ratios. 08:57:06
5 It was an improvement, I believe, with one district 08:57:14
6 for the Senate -- Democrat's Senate map. And I 08:57:19
7 believe it was two or three for the House 08:57:27
8 Democrats. 08:57:37
9 Q. Did those changes cause the map to correspond 08:57:38
10 closely to the statewide partisan preferences of 08:57:42
11 Ohio voters? 08:57:46
12 A. No. 08:57:47
13 Q. Was that map drawn to primarily favor the 08:57:47
14 Republican party? 08:57:54
15 A. Absolutely. 08:57:56
16 Q. So to what extent did those amendments fix the 08:57:56
17 Section 6 problems with the map? 08:58:04
18 A. They didn't fix it at all. 08:58:06
19 Q. And that introduced amendment was the map that was 08:58:09
20 subsequently voted on by the commission; is that 08:58:17
21 correct? 08:58:19
22 A. Yes. 08:58:19
23 Q. So specifically, how did that amended map, the map 08:58:19
24 that was enacted, violate the Constitution? 08:58:23
25 A. It did not correspond to the preferences of the 08:58:31

1 voters expressed in their vote over the last ten 08:58:34
2 years for -- in partisan, statewide elections. 08:58:39
3 Q. Would you say that it had a tendency to favor -- 08:58:55
4 primarily favor one political party over the other? 08:58:59
5 A. Absolutely. It favored the Republican party. 08:59:02
6 Q. You said that evening, on the 15th, that it was 08:59:05
7 proven by the map that you can comply with 08:59:10
8 technical compliance but still gerrymander 08:59:14
9 districts as much as you like. Specifically, what 08:59:17
10 did you mean by that? 08:59:21
11 A. The maps that they presented, the first map and the 08:59:21
12 second map, the final map, complied with the 08:59:28
13 technical requirements of the Constitution. 08:59:33
14 However, they gerrymandered those districts in 08:59:38
15 favor of the Republican party, and they nowhere 08:59:42
16 near came close to complying with Section 6(B). 08:59:45
17 Q. What about 6(A)? 08:59:55
18 A. Or 6(A). 08:59:58
19 Q. Was it ever your hope that the commission would 08:59:59
20 pass a ten-year map? 09:00:03
21 A. I was very hopeful. I had worked on this since the 09:00:04
22 '80s -- on fair districts for Ohio since the '80s, 09:00:15
23 and I was very hopeful, particularly to get passage 09:00:22
24 of the Constitutional provisions with about 72 and 09:00:27
25 75 percent of the votes cast in favor of it. That 09:00:31

1 was a bipartisan effort and bipartisan legislature 09:00:37
2 and bipartisan campaign and winning every -- every 09:00:41
3 county in the state. I thought that it was a 09:00:46
4 groundswell there and a mandate that we should 09:00:50
5 comply with. 09:00:56
6 Q. Would it be possible to pass a ten-year map without 09:00:57
7 all seven members voting in favor of it? 09:01:04
8 A. Yes. Simply need four of them; but two of them 09:01:06
9 would have to be of the minority party. 09:01:14
10 Q. What efforts did you make to try to pass a ten-year 09:01:16
11 map? 09:01:24
12 A. Well, we -- again, as co-chair, the staff was 09:01:24
13 always working with -- our staff was always working 09:01:33
14 with the majority staff, trying to organize and 09:01:39
15 promote collaboration, cooperation, and 09:01:44
16 bipartisanship; but in most cases, it just was not 09:01:52
17 well-received. 09:01:54
18 Q. You said in your answer to the complaint that was 09:02:05
19 recently filed, in several places in the complaint, 09:02:07
20 that the plan was designed to preserve the 09:02:13
21 Republican super majority in the General Assembly. 09:02:16
22 How do you know that it was designed to do that? 09:02:23
23 A. I guess I don't understand the first part of your 09:02:26
24 question. What was designed...? 09:02:29
25 Q. You said in your answer to the complaint that the 09:02:29

1 plan was -- that was enacted was designed to 09:02:33
2 preserve the Republican super majority in the Ohio 09:02:38
3 General Assembly. What I'm asking you is how do 09:02:41
4 you know it was designed to do that? 09:02:45
5 A. I think it is a fault in the design -- fault in the 09:02:46
6 design to allow partisans still to make the 09:02:56
7 decision and to have an odd number on the 09:02:59
8 commission so the majority party would always have 09:03:04
9 the ability to go ahead and produce a four-year 09:03:09
10 map. And so it was kind of faulty in that the 09:03:14
11 design did not prevent that from taking place. 09:03:19
12 Q. Let me clarify my question. You said that the 09:03:24
13 plan, the maps themselves, were designed to 09:03:31
14 preserve the Republican super majority. How do you 09:03:37
15 know the maps were designed to do that? 09:03:43
16 A. We had, again -- you know, the litmus going back to 09:03:44
17 the -- was the representational fairness quotient. 09:03:58
18 And you would need to comply with that. We weren't 09:04:02
19 trying to promote equal proportion districts, but 09:04:10
20 one that reflects the wishes of the voters, the 09:04:16
21 preferences of the voters. 09:04:21
22 And so if you go beyond that, then we 09:04:25
23 considered it to be gerrymandering in favor of a 09:04:28
24 political party. We had to have some type of 09:04:32
25 standard to evaluate when you are not in compliance 09:04:42

1 or when you are, in fact, favoring or disfavoring a 09:04:44
2 political party. 09:04:48
3 Q. So you're saying the litmus test tells you how the 09:04:59
4 map was designed? 09:05:05
5 A. Yes. 09:05:05
6 Q. Do you believe the commission process was 09:05:06
7 transparent? 09:05:14
8 A. No. No, I don't. 09:05:15
9 Q. Why not? 09:05:23
10 A. Because, still -- much of the negotiations were 09:05:24
11 still behind the scenes. Much of the 09:05:29
12 conversation -- even the last night before the 09:05:34
13 vote, 8:00 going into session and go into recess, 09:05:36
14 and then different members of the caucus would go 09:05:40
15 into the back room and have conversations about the 09:05:44
16 map in the process, that would affect the outcome. 09:05:48
17 But it wasn't a majority of the members, so it was 09:05:53
18 allowable by law, but it was not a transparent 09:06:00
19 process. 09:06:03
20 Q. You stated at commission meetings and also in your 09:06:04
21 answer to the complaint that you and 09:06:09
22 Representative Sykes were cut out of the process. 09:06:12
23 In addition to the things you have already 09:06:16
24 described, is there anything else that makes you 09:06:19
25 say that you were cut out of the process? 09:06:22

1 A. Particularly, as co-chair, I was not able to 09:06:23
2 collaborate on making a lot of decisions because I 09:06:38
3 did not have the cooperation of the other co-chair. 09:06:43
4 And I just found out things that -- like we had ten 09:06:48
5 hearings held in different cities around the state 09:06:52
6 in a week's time. It was intense. The hearings 09:06:56
7 were three, four, five, six hours long. And I 09:07:00
8 found out that the -- that two of the members, 09:07:04
9 including the other co-chair, would not be present 09:07:08
10 at six of the meetings, the first six. So it means 09:07:13
11 I had to chair those hearings. You know, I didn't 09:07:17
12 mind chairing them, but I did -- we couldn't make 09:07:23
13 any other decisions like passing of the rules 09:07:29
14 because the members weren't there in person so we 09:07:33
15 could adopt the rules. 09:07:41
16 So, you know, we couldn't make decisions 09:07:43
17 about the website, on whether or not we should have 09:07:44
18 software that would enable people to actually draw 09:07:47
19 maps from our site. They had to find some other 09:07:52
20 mechanisms to do that. 09:07:57
21 So I didn't feel that it was a 09:08:02
22 partnership as I think it was intended to be to 09:08:04
23 allow us to work together and collaborate together 09:08:06
24 to make the determinations of how we move forward. 09:08:08
25 Q. I think you will be happy to hear I have just a 09:08:12

1 very few questions remaining. And I thank you 09:08:21
2 again for your time so late at night. 09:08:28
3 I'd like to talk to you briefly about 09:08:30
4 the majority report, the Article XI, 09:08:32
5 Section 8(C)(2) statement. Did you have any input 09:08:39
6 on it at all? 09:08:43
7 A. No, not at all. 09:08:44
8 Q. Do you have any idea when it was drafted? 09:08:47
9 A. I have no idea. 09:08:49
10 Q. Do you know who drafted it? 09:08:52
11 A. I believe it was Senator Huffman and/or his staff 09:08:55
12 assistants, but I'm not sure. 09:09:01
13 Q. Do you have any knowledge about who had input on 09:09:03
14 it? 09:09:10
15 A. No, I do not. 09:09:10
16 Q. When did you first lay eyes on it? 09:09:11
17 A. That evening when it was presented. 09:09:15
18 Q. When it was presented in the commission hearing? 09:09:16
19 A. Yes. 09:09:20
20 Q. Did you ever discuss that report, at any point -- I 09:09:21
21 guess later, because you'd never discussed it 09:09:30
22 before. Did you discuss it at any point later with 09:09:33
23 any Republican commission member? 09:09:36
24 A. I don't recall. I don't recall. 09:09:38
25 Q. I'd like to ask you about the minority report, just 09:09:44

1 a couple statements in it. It states that the 09:09:57
2 Republican members of the commission feigned 09:10:01
3 interest in a compromise. Could you please explain 09:10:07
4 how they feigned interest in a compromise? 09:10:10
5 A. I think they gave some inferences initially, at the 09:10:20
6 end, that they were open to trying to compromise; 09:10:26
7 but I think it just faded away at the end. It was 09:10:32
8 not serious. 09:10:35
9 Q. You also said in the minority report that the 09:10:36
10 Republicans made token changes that appeared 09:10:47
11 designed to protect their incumbents. What were 09:10:53
12 these token changes that they made? 09:10:56
13 A. I don't recall the exact -- what they may have 09:10:59
14 been. I don't recall. 09:11:15
15 Q. Why do you say that the changes appeared designed 09:11:16
16 to protect their incumbents? 09:11:21
17 A. Because they promote a partisan proportion that is 09:11:23
18 then greater than the representational fairness 09:11:33
19 quotient. 09:11:36
20 MS. LEVENSON: I'd like to ask for about 09:11:41
21 a three-minute break and go off the record just 09:11:44
22 briefly. 09:11:46
23 VIDEO TECHNICIAN: We're now going off 09:11:51
24 the record. Time on the video monitor is 9:12 p.m. 09:11:54
25 (Off the record at 9:12 p.m.) 09:12:09

(Back on the record at 9:13 p.m.) 09:13:10
VIDEO TECHNICIAN: We are now back on 09:13:11
the record. The time on the video monitor is 09:13:13
9:13 p.m. 09:13:22
MS. LEVENSON: I just want to conclude 09:13:24
by thanking the Senator for his time, for another 09:13:25
late night. I know that late nights are something 09:13:28
that he just does. And thank you for doing this 09:13:32
one. I really appreciate it. 09:13:34
And that concludes questioning for 09:13:37
League of Women Voters. 09:13:40
VIDEO TECHNICIAN: We are now going off 09:13:46
the record. This ends Disk No. 2 in the videotaped 09:13:50
deposition of Senator Vernon Sykes. The time on 09:13:53
the video monitor is 9:14 p.m. 09:13:53
MS. MENASHE: I think we need to make 09:14:01
sure there's no other questions from the relators 09:14:03
with the remaining time. I don't know if anyone 09:14:06
else is on. I just want to make sure we have 09:14:08
covered that. Erik's gone. We're good on the 09:14:10
relators? Freda, are you the only one on? 09:14:10
MR. CAREY: I'm on as well; but no other 09:14:24
questions. Freda asked all the questions that we 09:14:24
had. Thank you. 09:14:24
MS. JASRASARIA: Yes. And this is Jyoti 09:14:24

1 for the Bennett relators. No further questions on 09:14:28
2 our end either. 09:14:28
3 MR. BRANCH: Okay. Then great. All 09:14:29
4 right. Good night, everyone. 09:14:30
5 (The deposition was concluded at 9:14
6 p.m. Signature of the witness was not requested by
7 counsel for the respective parties hereto.)
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1 CERTIFICATE OF NOTARY
2 STATE OF MICHIGAN)
3) SS
4 COUNTY OF WAYNE)
5
6 I, RENEE J. OGDEN, certify that this
7 deposition was taken before me on the date
8 hereinbefore set forth; that the foregoing
9 questions and answers were recorded by me
10 stenographically and reduced to computer
11 transcription; that this is a true, full and
12 correct transcript of my stenographic notes so
13 taken; and that I am not related to, nor of counsel
14 to, either party nor interested in the event of
15 this cause.
16
17
18
19
20
21 RENEE J. OGDEN, CSR-3455
22 Notary Public,
23 Wayne County, Michigan
24 My Commission expires: June 21, 2025
25

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Exhibit #
SEN SYKES 1
10/19/2021 - NR

Co-chair & Staff interaction

Gerrymandering

In analyzing voter history, you'll notice that voters are predisposed to support political parties. This information allows you to construct districts by putting voters together in a configuration to maximize your political interest, to favor or disfavor a political party.

Similar to putting pieces of a puzzle together. The smaller the pieces the more inventive you can be in packing or cracking like-minded voters.

8/31 14/44

9/1 14/44

9/9 8/31

9/13 13/42 (Sykes-Sykes amended DiRossi map/Trumbull County fix)

9/15 ~~10~~/35 (current maps 10/37)

Why I voted against map

- Violates constitution (representational fairness)
- Excluded from map drawing process (staff delegation)
- Failed to adhere to deadlines
- Did not hold requisite meetings commission map
- Did not adequately explain how proposed map conformed with technical and fairness Illogical account for
- did not attempt to comply with representational fairness Demo/Rep

Duties

- Draw 99 House and 33 Senate districts
- Attempt to correspond closely to voter preference
- Does not favor or disfavor a political party
- Participate in voting and debates
- As Co-Chair:
- Designate staff to maintain minutes

- Notice and calling meetings
- Designate staff
- Preside over meetings
- Expending funds
- Offer maps that meet all constitutional requirements (deadlines, technical and fairness)

Data From
Ohio University
Randal Routt
Mike Rowe
George Boas
Project Govern
Chris Glassburn
Traevon Leak
All on the Line
Heather Blessing
Ohio Legislative Services Commission
Ohio Citizens Redistricting Commission
House and Senate Democratic Caucus members

Drafting Input for amended map
Randall Routt
Mike Rowe
George Boas
Auditor of State, Keith Faber
Secretary of State, Frank LaRose
Project Govern
Christ Glassburn

David Horn

Shawn Busken

Eric Holder
"LaRose Pledge"

Peoples Interest
Education
Environment

Arrogance of Super Majority
~~to~~ allow Disregard for ~~People~~
For Those with Less
People Interest Marginalized

Date: Thu, 12 Aug 2021 10:21:14 AM -0400
Sent: Thu, 12 Aug 2021 10:21:13 AM -0400
Subject: Supplemental Allocation of Funds - 8.11.2021
From: Boas, George
To: Routt, Randall <Randall.Routt@ohiosenate.gov>;
Attachments: Allocation of Funds - 8.11.21.pdf

Exhibit # SEN SYKES 2
10/19/2021 - NR
exhibitsticker.com

From: Strigari, Frank <Frank.Strigari@ohiosenate.gov>
Sent: Wednesday, August 11, 2021 5:08 PM
To: Wendy Zhan <Wendy.Zhan@lsc.ohio.gov>
Cc: Herd, Samantha <Samantha.Herd@ohiohouse.gov>
Subject: Supplemental Allocation of Funds - 8.11.2021

Wendy,

See the supplemental allocation signed by Senator McColley and Leader Sykes today.

Let us know if you have any questions.

Frank

FRANK M. STRIGARI
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Statehouse, 1 Capitol Square
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The Ohio Senate
Senator Rob McColley
Co-Chair

The Ohio House of Representatives
Minority Leader, Emilia Sykes
Co-Chair

LEGISLATIVE TASK FORCE ON REDISTRICTING, REAPPORTIONMENT
& DEMOGRAPHIC RESEARCH
ALLOCATIONS OF FUNDS
August 11, 2021

Pursuant to ORC 103.51(A), the Co-Chairs of the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research ("Task Force") "may enter into any agreements on behalf of the task force and perform any acts that may be necessary or proper for the task force to carry out its powers and duties under this section." As the Co-Chairs of the Task Force, we hereby authorize and direct the allocation of Task Force funds as follows:

Allocation of Funds

The democrat legislative caucuses in the House and the Senate are jointly allocated an additional $200,000 to purchase, lease or rent hardware, software, physical space and/or supplies, and contract for technical and legal services directly related to the 2021 redistricting processes of this state. This authority is limited to only those expenses incurred after April 23, 2021, but no later than January 1, 2022. The two caucuses may choose to split this additional $200,000 allotment.

The $150,000 allocation on April 23, 2021 to the republican legislative caucuses in the House and the Senate remains unchanged.

No such funds shall be used to pay for any legal services rendered for litigation related to the 2021 redistricting processes of this state. Further, any tangible goods purchased with these funds shall remain the property of the State of Ohio and in the possession of the caucus making the purchase.

Payment of Expenses

Any expense incurred by a caucus pursuant to this Allocation of Funds must be submitted for approval, along with supporting documentation of the expense, to the respective Task Force Co-Chair who is of the same political party as the caucus submitting the expense. The director of the Legislative Service Commission shall facilitate payment of any allowable expense approved by the Task Force Co-Chair to whom the expense was submitted.

The payment of any other expenses not covered in this Allocation of Funds requires documentation of the expense and approval of both Task Force Co-Chairs.

Rob McColley
State Senator, District 1
Co-Chair

Emilia Sykes
Minority Leader, Ohio House of Representatives
Co-Chair

Fair Districts For Ohio

www.fairdistrictsforohio.com

Exhibit #
SEN SYKES 3
10/19/2021 - NR
exhibitsticker.com

Who We Are

Fair Districts for Ohio is a bipartisan coalition seeking to improve the process of drawing state legislative districts in Ohio. Co-Chairmen Matt Huffman and Vernon Sykes began building the coalition after a near unanimous vote by state lawmakers from both parties to place a constitutional amendment before the voters of Ohio to reform the process of drawing districts. With overwhelming support from both Republican and Democratic lawmakers, the issue will appear on the ballot this November giving Ohioans the opportunity to ensure state legislative districts are fair for everyone.

About The Issue

The first major overhaul to Ohio's process of drawing state legislative districts in over 40 years, this measure brings reforms to several key areas:

Bipartisan

- ✓ Creates a new seven-member bipartisan panel called the "Ohio Redistricting Commission."
- ✓ The commission must have at least two members from the minority party.
- ✓ Requires the commission to be co-chaired by two members, one chosen by each party.
- ✓ Requires at least two votes from each party in order to approve a district plan, otherwise a temporary plan is put in place and the commission must reconvene to redraw it.

Transparent

- ✓ Requires all commission meetings be open to the public and broadcast by electronic means of transmission using a medium readily accessible by the general public.
- ✓ The commission must hold a minimum of three public hearings.
- ✓ Before voting on a district plan, the commission is required to present the proposal to the public and to seek public input.
- ✓ Requires the commission to submit a statement to the public explaining their process.

Fairness

- ✓ Protects against gerrymandering by prohibiting any district from primarily favoring one political party.
- ✓ Requires districts to closely follow the statewide preferences of the voters.

Accountable

- ✓ Creates a process for the Ohio Supreme court to order the commission to redraw the map if the plan favors one political party.

Protects Communities

- ✓ Keeps our communities together by requiring a district plan to split as few counties, municipal corporations, and townships as possible.

Exhibit #

SEN SYKES 4

10/19/2021 - NR

exhibitstricker.com

CERTIFICATE OF SERVICE

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

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

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