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

IN THE SUPREME COURT OF OHIO

LEAGUE OF WOMEN VOTERS OF OHIO, *et al.*, *Relators*, *v.* OHIO REDISTRICTING COMMISSION, *et al.*, *Respondents*.	Case No. 2021-1193

OHIO APRI V. RYAN SMITH DEPOSITION TRANSCRIPTS - APPENDIX OF EXHIBITS
Volume 3 of 4 (pages 346-644)

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

Volume 3 of 4 (pages 346-644)

Index of Documents

ITEM	DESCRIPTION	BATES RANGE
3	Deposition of Raymond DiRossi (October 22, 2018) - Ohio A. Phillip Randolph Institute, et al., v. Ryan Smith, Case No. 1:18-cv-00357-TSB (SD Ohio)	DEPO_SDOH_0346 - DEPO_SDOH_0644

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

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

CASE NO.
1:18-cv-00357-TSB-KNM-MHW

* * *

Deposition of RAYMOND E. DiROSSI, Witness herein, called by the Plaintiffs for cross-examination pursuant to the Rules of Civil Procedure, taken before me, Christine Gallagher, a Notary Public in and for the State of Ohio, at the offices of the Ohio Attorney General, 30 East Broad Street, 14th Floor, Columbus, Ohio, on Monday, the 22nd day of October, 2018, at 9:20 a.m.

* * *

Job No. 149781

EXAMINATION CONDUCTED PAGE

BY MS. THOMAS-LUNDBORG..... 17

EXHIBITS MARKED

(Thereupon, Plaintiffs' Exhibit Number 1, Subpoena to Testify at a Deposition in a Civil Action, was marked for purposes of identification.) 20

(Thereupon, Plaintiffs' Exhibit Number 2, Subpoena to Produce Documents, Information, of Objects or to Permit Inspection of Premises in a Civil Action, was marked for purposes of identification.) 35

(Thereupon, Plaintiffs' Exhibit Number 3, Documents Bates Stamped LWVOH_00004033-4034, was marked for purposes of identification.) 40

(Thereupon, Plaintiffs' Exhibit Number 4, Document Bates Stamped LWVOH_00009711, was marked for purposes of identification.) 59

(Thereupon, Plaintiffs' Exhibit 59
Number 5, Document Bates Stamped
DIROSSI_0000017, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 63
Number 6, Document Bates Stamped
DIROSSI_0000018, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 67
Number 7, Document Bates Stamped
DIROSSI_0000019, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 71
Number 8, Document Bates Stamped
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purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 74
Number 9, Documents Bates Stamped
LWVOH_00005475-5477, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 90
Number 10, Document Bates Stamped
DIROSSI_0000527, was marked for
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 99
Number 11, Document Bates Stamped
DIROSSI_0000020, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit
Number 12, Document Bates Stamped 100
DIROSSI_0000021, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit
Number 13, Document Bates Stamped 101
LWVOH_00009706, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 117
Number 14, Document Entitled Keep it
Secret - Keep it Safe, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 121
Number 15, Document Bates Stamped
DIROSSI_0000038, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 145
Number 16, Document Bates Stamped
LWVOH_00018254, was marked for
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 149
Number 17, Document Bates Stamped
DIROSSI_0000051, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 151
Number 18, Document Bates Stamped
DIROSSI_0000051, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 169
Number 19, Documents Bates Stamped
DIROSSI_0000139-0000141, was marked
for purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 200
Number 20, File Produced in Native
Format Bates Stamped DIROSSI_0000526,
was marked for purposes of
identification.)
(Thereupon, Plaintiffs' Exhibit 219
Number 21, Documents Bates Stamped
DIROSSI_0000470-472, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 232
Number 22, Document Bates Stamped
DIROSSI_0000010, was marked for
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 244
Number 23, Document Bates Stamped
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(Thereupon, Plaintiffs' Exhibit 248
Number 24, Documents Bates Stamped
GOVPR_008278-8280, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 250
Number 25, Document Bates Stamped
DIROSSI_0000039, was marked for
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(Thereupon, Plaintiffs' Exhibit 253
Number 26, Documents Bates Stamped
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purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 258
Number 27, Document Bates Stamped
DIROSSI_0000040, was marked for
purposes of identification.)
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Number 28, Document Bates Stamped
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purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 260
Number 29, Document Bates Stamped
DIROSSI_0000044, was marked for
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(Thereupon, Plaintiffs' Exhibit 261
Number 30, Document Bates Stamped
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(Thereupon, Plaintiffs' Exhibit 263
Number 31, Document Bates Stamped
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(Thereupon, Plaintiffs' Exhibit 268
Number 32, Document Bates Stamped
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Number 33, Documents Bates Stamped
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(Thereupon, Plaintiffs' Exhibit 280
Number 34, Document Bates Stamped
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(Thereupon, Plaintiffs' Exhibit 288
Number 35, Documents Bates Stamped
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(Thereupon, Plaintiffs' Exhibit 296
Number 36, Document Bates Stamped
DIROSSI_0000046, was marked for
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(Thereupon, Plaintiffs' Exhibit 298
Number 37, Document Bates Stamped
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(Thereupon, Plaintiffs' Exhibit 310
Number 38, Documents Bates Stamped
SOS_001010-1011, was marked for
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(Thereupon, Plaintiffs' Exhibit 312
Number 39, Document Bates Stamped
DIROSSI_0000061, was marked for
purposes of identification.)
(Thereupon, Plaintiffs' Exhibit 314
Number 40, Document Bates Stamped
DIROSSI_0000499, was marked for
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 316
Number 41, File Produced in Native
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was marked for purposes of
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(Thereupon, Plaintiffs' Exhibit 323
Number 42, File Produced in Native
Format Bates Stamped DIROSSI_0000518,
was marked for purposes of
identification.)

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ALSO PRESENT:

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* * *

THE VIDEOGRAPHER: We're on the record.

MS. THOMAS-LUNDBORG: My name is Alora Thomas, I'm from ACLU National, representing the plaintiffs.

MR. FRAM: Robert Fram, Covington & Burling, representing the plaintiffs.

MS. LEVENSON: Freda Levenson, ACLU of Ohio, plaintiffs.

MR. STRACH: Phil Strach, Ogletree Deakins, representing the legislative defendants.

MR. VOIGT: Steve Voigt, the Ohio Attorney General's office, representing the defendants.

MR. TUCKER: Rob Tucker, Baker Hostetler, representing the intervenors.

MR. STRIGARI: Frank Strigari, legal counsel for the Senate, on behalf of the legislative defendants.

MR. VOIGT: Okay. And before we begin, counsel had -- we had some discussions about some logistical aspects, and I'm just going to articulate what I think we agreed to, and then Mr. Fram and Ms. Thomas can correct me or let me know if their understanding is different.

So for this deposition and all depositions going forward, the only objections that are waived at the deposition are -- well, actually, it would be different. Let's say for discovery depositions. We might have a different set of rules for a trial deposition. But the only -- actually, maybe for that, too, I don't know.

For discovery depositions, let's just focus on that, discovery depositions, the only objection that would be waived, if not made here, would be an objection to form, and so an example of that would be objection, compound question. Now, it is also acceptable under the rules of civil procedure to simply say objection, form, and then if the counsel asking questions wants further specification they're certainly welcome to ask for it.

Now, objections that are preserved and do not need to be made are objections to substance. So, for example, objection, relevance, we do not need to make relevance objections today. Those are preserved until trial.

What was the other point we were going to talk about?

MR. STRACH: Time.

MR. VOIGT: Oh, timing, okay, yes. And we've also agreed that objections do not count toward each side's allotted time, so each side in this case has been allotted a certain amount of time. If Mr. Strach makes an objection today, and let's say there's some discussion about that that lasts five minutes, that five-minute time does not count toward the plaintiffs' overall time. Same thing the other way around, when -- if we are on Cross-Examination and the plaintiffs' attorneys are making an objection, that objection does not count toward the defendants' allotted time.

Does that accurately --

MS. THOMAS-LUNDBORG: Yes, it does.

MR. FRAM: As far as there are two additions, though, that I wanted to throw in.

So Redirect by a party representing the witness or by an intervenor would not count against the party taking the deposition's time and be charged against the other side's time. That's the first thing.

And, second, I would ask that the rule on preserving objections apply to all depositions so that we don't disrupt the depositions. Even if someone is calling something

a trial deposition, I think we should just agree that there will be a time to submit relevance and hearsay objections after the fact. They're not particularly curable at the deposition anyway. They are what they are.

And that way, say, if Phil is asking a question of a witness, I don't have to sit there and object all day on relevance or hearsay. We can just put that on paper to the court down the road at a given time.

MR. VOIGT: Let's cross that bridge when we get --

MR. FRAM: Okay. It's coming up soon, though, because if I'm going to do it for next week's deposition of Ms. Blessing, it would be good to know in advance. My preference is not to be -- not to be objecting all the time like that.

MR. VOIGT: I understand, but Phil and I -- I would like to talk about that beforehand, but right now we have a discovery deposition.

MR. FRAM: I would appreciate it if you could let me know on Wednesday at the conclusion of the Blessing deposition so we can

plan in advance for Day 2.

MR. VOIGT: Understood, understood. And everything else that you said is accurate from my perspective.

MR. STRACH: All right. Let me make one more. So this is Phil Strach. The only other thing I wanted to put on the record is we have sent an email to the plaintiffs asking for their consent to amend the protective order to protect the videotape that's taken in these depositions from being used outside the case. The plaintiffs have not had a chance yet to get back to us on that, and so to err on the side of caution, we're designating this deposition as confidential under the protective order and we will do the same for Wednesday's deposition depending on the status of that discussion.

MS. THOMAS-LUNDBORG: I think we're ready to swear in the witness.

Can you please state your name for the -- just swear in the witness.

THE NOTARY: If you'll raise your right hand, please.

RAYMOND E. DiROSSI

of lawful age, Witness herein, having been first

RAYMOND E. DiROSSI

duly cautioned and sworn, as hereinafter certified, was examined and said as follows:

CROSS-EXAMINATION

BY MS. THOMAS-LUNDBORG:

Q. Good morning.

A. Good morning.

Q. Please state your name for the record.

A. Raymond Edward DiRossi.

Q. And what is your address?

A. 5732 Springburn Drive, Dublin, Ohio, 43017.

Q. And do you understand that you're under oath today?

A. I do.

Q. And you understand that's the same oath that you would take at a trial?

A. I do.

Q. Okay. We've already introduced ourselves for the record, so we'll skip over that part.

Have you been deposed before?

A. Yes.

Q. And when was that?

RAYMOND E. DiROSSI

A. 2012.

Q. And what case was that in?

A. I believe -- I'm not an attorney, but I believe it was Wilson v. Kasich.

Q. Okay. So let's go through -- you're probably aware of the rules of deposition from your prior deposition, but let's just go through some of the ground rules very quickly.

I need a verbal response from you for any question. Do you understand that?

A. Yes.

Q. Also, so the record is clear, let's not talk over one another. And if you don't understand a question of mine, just ask me to repeat it and I will repeat or rephrase the question.

A. Okay. Thank you.

Q. If you need to take a break, just tell me, and there may be certain questions that your counsel instructs you not to answer today. You should answer my question, if you can, unless it's a question of privilege.

A. Okay.

RAYMOND E. DiROSSI

Q. Okay. Throughout the deposition --

All right. Is there any reason why you can't testify today, anything that is hindering your ability to testify truthfully?

A. No.

Q. Are you on any medications, any medications that would affect your ability to testify?

A. No.

Q. Throughout the deposition I'll be referring to the Ohio redistricting. Unless I specify otherwise, I'm referring to the redistricting that happened in 2011. Do you understand that?

A. You're talking about congressional redistricting, not --

Q. Congressional redistricting, yes.

A. -- legislative, okay.

Q. Did you meet with your lawyers to prepare today?

A. Yes.

Q. Did you do anything else to prepare?

RAYMOND E. DiROSSI

A. I produced documents at the request of either you or the court. I reviewed some of those documents. I met with attorneys.

Q. Okay. Great. Do you understand that you're here pursuant to a subpoena?

A. Yes.

(Thereupon, Plaintiffs' Exhibit Number 1, Subpoena to Testify at a Deposition in a Civil Action, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. If we could turn to Number 1 in your exhibit book. I'm having this document marked as Exhibit 1. It is the subpoena for the testimony of Raymond DiRossi. If you take a quick moment to review, is this subpoena the one that you understand that you're here for?

A. Is this the one that I signed?

MR. STRACH: No, this is different.

BY MS. THOMAS-LUNDBORG:

Q. This is just a subpoena for your testimony. Did you see it before today?

A. I mean, I was delivered one --

Q. Okay.

RAYMOND E. DiROSSI

A. -- and I signed it. This doesn't have a signature on it, so I don't know if this is exactly the one I signed.

Q. Okay. Fair enough. We'll move on. It's already been marked for the record.

So let's just go a little bit into your background. I know you've been deposed before, so you should be used to this question. Could you give us a brief summary of your educational background?

A. I went to Firestone High School in Akron, Ohio, where I was born and raised, four years in high school. Left Akron to go to Ohio State University, pursued degrees in finance and marketing in the business college, and graduated in '94 with a double major in finance and marketing.

Q. Did you do any education after your degrees that you just mentioned in finance and marketing?

A. No.

Q. Do you hold any special certifications?

A. Such as like --

RAYMOND E. DiROSSI

Q. Such as an accounting certification, a certification for like a CPA, anything that would be a special designation.

A. Do not.

Q. What jobs have you held since graduating from Ohio State?

A. Well, at the time of graduating and during school I was employed in the legislature in a number of capacities, so following graduation I was employed as a legislative aide in the Ohio Senate for a senator from the Dayton area, Montgomery County.

Q. And who was that senator?

A. Senator Charles Horn.

Q. And which party is Charles Horn from?

A. He is a -- he was a member of the Republican party.

Q. Okay. And after working for Senator Horn, what did you do next?

A. I was promoted, I guess you would say, and moved to the caucus staff where I worked on tax policy and economic development

policy. Then I became the deputy finance director in the Ohio Senate working on, again, tax policy, budget policy and economic development policy.

I left the Ohio Senate in 2005 --

Q. May I interrupt you for a second?

A. Sure.

Q. Before leaving the Ohio Senate, during those two jobs that you just mentioned at the Senate, which party were you working for?

A. I was working for the majority caucus.

Q. And the majority caucus at the time was?

A. Republican caucus.

Q. Okay. You may proceed.

A. I went to work -- there was an opportunity to be a budget director in the House of Representatives and so I took that position for four years from 2005 through 2000 and -- 5, 6, 7 and 8.

Q. And who were you working for at the time?

RAYMOND E. DiROSSI

A. That would have been the Speaker of the Ohio House.

Q. And who was that at the time?

A. Jon Husted.

Q. And which party is Mr. Husted from?

A. Republican.

Q. And after working for the speaker, what did you do next?

A. Well, the -- the legislature changed hands after the 2008 elections and the Democrats took control of the Ohio House, so my services were no longer needed and so I left and formed my own LLC.

Q. And what is the name of that LLC?

A. Capital Advantage, LLC.

Q. And what did you do as Capital Advantage, LLC?

A. I engaged in consulting -- consulting business in and around Capitol Square.

Q. Okay. And what type of consulting did you do?

A. I was initially hired to be a

fundraiser for the campaign arm of the Senate.
Q. And what did you do as a fundraiser for the campaign arm of the Senate? And by --
A. Raising dollars for the campaign committee to run elections.
Q. And which campaign committee is this?
A. Would have been the Republican Senate Campaign Committee.
Q. And how long did you do that?
A. Well, so it's kind of some starts and stops, so it's kind of hard to say exactly.
Q. To the best of your recollection.
A. The question was how long did I do that for? What was your question? Sorry.
Q. How long did you work for the fundraising arm as a consultant?
A. Let's see --
Q. You said you started in 2008.
A. I had starts and stops where I wasn't doing that anymore, but I stopped doing that in 2015, in December of '14.
Q. Okay.

RAYMOND E. DiROSSI

A. And then in January of '15 I resumed my -- or started my current position with the Ohio Senate.

Q. So let me ask you a question about these starts and stops. When you would stop working for the campaign arm, what did you do during those periods?

A. That was when the -- well, the State of Ohio was going through its apportionment and redistricting processes that it goes through once every decade.

Q. Is that the only time that you stopped?

A. Yes.

Q. And then after you stopped to do apportionment and redistricting, at what point did you start your campaign finance work again?

A. I don't recall the specific date of when I started up. It was a very atypical process that didn't have really a defined stopping point.

Q. In your recollection did you start immediately after the campaign redistricting and apportionment work was done going back to

RAYMOND E. DiROSSI

finance, or was there a break in between those two periods?

A. I don't remember the specific dates. Sorry.

Q. Okay. And you said since 2015 you've been in the Senate; is that correct?

A. Yes.

Q. And what have you been doing there?

A. The position was open to be the budget director in charge of the finance tax policy and budgets with the --

Q. And who do you work -- I'm so sorry.

A. With the Ohio Senate.

Q. And is that a job with a particular caucus or is that for the Senate in general?

A. It's a job with the Senate majority caucus.

Q. And who is that --

A. Who is --

Q. -- for the record, please?

A. Who is?

RAYMOND E. DiROSSI

Q. Who is the Senate majority caucus currently that you're working for?

A. The president is Larry Obhof.

Q. Larry Obhof. And which party is that?

A. I believe he's -- he's a Republican.

Q. Thank you.

Have you ever worked for a Democrat?

A. Yeah, so I -- at one point when I was between everything we just talked about, I was appointed to work for the -- as a board and commission member for the Department of Transportation.

Q. And when was that?

A. Sitting here, I don't recall the specific dates. It was over four years and the director was Director Janet Molitoris, who was appointed by the -- by Governor Strickland, a Democrat.

Q. And so you said you had that position for four years?

A. More or less. Not specifically

four years, but more or less four years.

Q. Was that before or after you did apportionment and redistricting?

A. I think technically it was before, during and after.

Q. Before, during and after?

A. Yes.

Q. Okay. And were you appointed to this position or did you apply and then were -- gained the position that way?

A. I was appointed.

Q. And who were you appointed by?

A. The Senate president.

Q. And who was the Senate president at the time?

A. President Bill Harris.

Q. And which party is Bill Harris from?

A. He was a member of the Republican party, now deceased.

Q. Thank you.

So we've talked a little bit about the jobs that you had and we've talked about the break that you took from consulting.

RAYMOND E. DiROSSI

Actually, strike that.

Going back to this Department of Transportation position that you had, did you work on consulting while you were in that position or did you take a break from consulting during it?

A. While.

Q. You were consulting while you were in that position, okay.

So we've talked about the break that you took from consulting when you were working on redistricting and apportionment in 2011. Did you work on redistricting and apportionment at any other period?

A. In the previous decade I worked on both.

Q. Okay. And so is that the 2001 redistricting effort?

A. Yes.

Q. And can you describe some of the work that you did as part of that effort?

A. Sure. I mean, very, very similar effort against -- I'm trying not to mix, as you said, the apportionment and the redistricting

because they're kind of intertwined. Constitutional restrictions that applied to the apportionment, very specific, so in order to produce all of the necessary documentation for the apportionment board to consider to complete its constitutional obligations, and then also preparing proposals for the districts for the legislature to consider in the redistricting.

Q. And while you were doing that work, were you working on behalf of a particular party or were you working on a bipartisan basis in 2001?

A. I was a member of -- I was a member of the Senate staff, so I was a state employee at the time.

Q. And you were a member of the Senate staff. Which position was that that you held at the time? You held several positions.

A. Yeah, I don't recall my specific title at the time.

Q. Do you recall -- and I believe your Senate work was for the majority caucus, though; is that correct, in 2001?

A. Yes.

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Q. And that was the Republican caucus at the time?

A. (Witness nodded head up and down.)

Q. Did you receive any training prior to the 2001 redistricting effort regarding redistricting or apportionment?

A. I attended a two- or three-day seminar to learn about GIS software and how we would be using GIS software for the coming decennial processes.

Q. Did you have any other training? And again, I'm just talking about the 2001 period.

A. No.

Q. For the 2011 period did you receive any additional training in redistricting and apportionment?

A. No.

Q. Do you recall that you attended an NCSL training at some point?

A. Which decade are you talking about?

Q. I believe, and this is just based on prior testimony that you've given, that you

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attended a training in 1998. Is that the training, the two- or three-day training?

A. 1998, I believe, was when I was trained on the GIS software.

Q. Okay.

A. That was not NCSL.

Q. That was not NCSL. Who gave that training?

A. I don't recall. Boy, that's a long time ago, 20 years ago.

Q. Did you ever attend an NCSL training?

A. Yeah. Well, I've attended NCSL conferences, but I guess I wouldn't call them training.

Q. And have any of those conferences been on redistricting and apportionment?

A. Yes.

Q. Do you recall which ones?

A. I remember attending -- going to Vermont during the '01 process for seminars and speeches and presentations, and that's the only specific one I remember the location of.

Q. But there are others that you're

just not recalling today or do you believe that was the only one that you've attended?

A. There are others I cannot recall the locations of.

Q. Do you have an idea of roughly how many other NCSL conferences related to redistricting and apportionment that you attended?

A. Three, four.

Q. And when do you think the latest one of those was?

A. Would have been sometime prior to the 2011 process.

Q. Do you think it was in 2011 or earlier?

A. I couldn't say.

Q. And on those NCLS (sic) conferences, were there subjects other than GIS that you learned about or was it just GIS?

A. There were other -- other subject matters.

Q. Do you recall what they would have been?

A. Presentations by the Census Bureau

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on how various states were getting ready for the census, if there were any changes that were happening at the federal level on how census data was being collected or disseminated to the states. Endless presentations on what the current legal cases might be that would affect the various states, whether it was their apportionment or redistricting processes.

Q. Okay. Were there any other conferences or trainings that you attended where you learned about apportionment or redistricting?

A. None that I recall.

Q. At any of these trainings did you discuss Ohio constitutional issues or were they only federal in nature?

A. I mean, I can't -- I can't recall specifically if any of the presentations were specific -- mentioned Ohio.

Q. Okay.

A. I don't recall.

Q. At any of these trainings did you discuss gerrymandering that you recall?

A. No.

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(Thereupon, Plaintiffs' Exhibit Number 2, Subpoena to Produce Documents, Information, of Objects or to Permit Inspection of Premises in a Civil Action, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to show you a document that I'm having marked as Exhibit 2 for the record. It is a subpoena for documents dated July 13th, 2018. Do you recall having received this subpoena?

A. This one looks a little more familiar because I recognize that my address is incorrect.

Q. Okay. Did you provide documents in response to this subpoena?

A. Yes.

Q. Now, the subpoena specifically requested documents relating to the 2011 redistricting. Did you provide documents related to the 2011 redistricting?

A. Yes.

Q. Did you retain any emails from that period?

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A. Any that I had in the various electronic and hard copy resources that I searched to be responsive, I turned over.

Q. And what email addresses did you search?

A. The only one that I would have had at the time, which would be my Gmail, my personal Gmail account.

Q. And can you state what that address is for the record, please?

A. Sure. RayDiRossi@Gmail.com.

Q. As you sit here today do you recall having retained any emails from that period?

A. So you're talking from, seven, eight years ago?

Q. That's correct.

A. That decade?

Q. Everyone has different email policies. I just want to know what yours are.

A. Yeah, and I searched and any documents that I had I turned over, but --

Q. So my question was, do you recall having had any emails from that period?

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A. When I was complying with the subpoena?

Q. Yes, that's correct.

A. I don't believe so, no.

Q. Okay. Did you retain any notes from that period?

A. I don't know what you mean by notes.

Q. However you would define notes.

A. Anything that I had --

Q. Collections of your thoughts.

A. Anything that I had from the various sources that I reviewed, I turned over.

Q. My question is, do you recall having in your possession notes from that period?

MR. STRACH: Objection to form.

Go ahead.

THE WITNESS: What I think of as notes is like handwritten notes. I didn't have anything like that.

BY MS. THOMAS-LUNDBORG:

Q. Did you have any notes on your computer from that period?

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MR. STRACH: Objection. Form.

THE WITNESS: I mean, if I had it, I turned it over.

BY MS. THOMAS-LUNDBORG:

Q. Again, do you recall having notes on your computer?

MR. STRACH: Objection to form.

THE WITNESS: Yeah, I mean, what I think of notes, I did not have notes on my computer.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Did you retain any draft maps from that period?

A. Yes.

Q. Do you recall how many draft maps you had?

A. I don't recall the number. They were turned over.

Q. Did you retain any political indices from that period?

A. Any documents that I had that related to redistricting, if they included any aspect of redistricting, including any historical election data that I had, I turned

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over.

Q. So my question is, do you recall having in your possession when you received the subpoena indices?

A. I believe so, yes.

Q. Did you retain any other documentation related to redistricting, and if you did, can you describe it?

MR. STRACH: Objection to form.

THE WITNESS: Can you restate your question? I'm sorry.

BY MS. THOMAS-LUNDBORG:

Q. So did you have any other documentation that I haven't already listed related to redistricting in your possession when you received the subpoena?

A. I mean, I had some calendars, calendar items which were produced, I had a number of copies of historical maps and current maps that were produced. Some spreadsheets and Word documents that I had created that I used to help me understand and retain information, those were produced.

(Thereupon, Plaintiffs' Exhibit

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Number 3, Documents Bates Stamped LWVOH_00004033-4034, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. All right. I'm going to show you an exhibit that I'm having marked as Exhibit 3 for the record. It bears Bates number LV -- or LWVOH-0004033. It is a letter from the Ohio Campaign for Accountable Redistricting. It's dated October 7th, 2011. It is from Jim Slagle.

So I would like to point you to the second paragraph. In it, Mr. Slagle says -- oh, and do you see that this letter is -- strike the last part.

Do you see at the top this letter is addressed to yourself and another person?

A. I do.

Q. Okay.

MR. STRACH: Can I interrupt for one second? Do you need time to look at this?

THE WITNESS: Yeah, I mean, if you're going to ask me any questions about it.

MS. THOMAS-LUNDBORG: Well, I will

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direct him to any portion that I'm going to ask. If you would like to quickly just flip to see that this is a document that is addressed to you and is signed at the back.

MR. STRACH: Yeah, I would like him -- if he needs it, I would like him to have a chance to review the exhibit before he answers questions about it, if he needs it.

MS. THOMAS-LUNDBORG: Okay. Again, I think anything that I'm going to have him answer to he'll be directed to specifically.

MR. STRACH: And that's fine, so long as he's had a chance to review it, and then you can direct him wherever you like.

Let her know when you're ready.

THE WITNESS: Okay. Depending on your question I might need a little more time, but I'm generally familiar with it now.

BY MS. THOMAS-LUNDBORG:

Q. Okay. You have all the time that you need.

So I would like to direct you to the second paragraph. In it, Mr. Slagle says, in preparation for this report I'm requesting

that you provide copies of the following public records which pertain to the recently completed redistricting or reapportionment process.

Do you recall having received a public records request back in October of 2011?

A. I do.

Q. Okay. Did you provide documents in response to this public records request?

A. I did.

Q. Did you provide emails in response to this public record request?

A. I did.

Q. And what email address did you use?

A. The only one I had, RayDiRossi@Gmail.com.

Q. And what method did you use to produce email at that time; do you recall?

A. I don't recall the specific method. I don't recall.

Q. Were you generally responsible for helping to coordinate documents related to the public records request, the production of documents?

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MR. STRACH: Objection to form. You can answer if you can.

THE WITNESS: Yeah, I don't know what you mean. I mean, I was asked to provide them so I obviously searched my records to be responsive, but I -- I don't know. I wasn't the coordinator.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Who was the coordinator?

A. I think the staff of the -- the staff of the Ohio House was serving as the coordinator for public records requests.

Q. Okay. So let's go over just the documents that were requested at the time. If you look at the second bullet - I'm just going to skip over the ones that deal with apportionment - it requests all written communication, including emails, with members of the apportionment board or their staffs relevant to redistricting or apportionment during the period from July 1st, 2011 to October 5th, 2011. Do you see that?

A. I do.

Q. Did you give documents responsive to this request? Just this bullet that we were

talking about.

A. Yeah, again, I don't -- I provided emails. I don't know if they were specifically because of this bullet or some of -- any of the other bullets on here.

Q. Well, did you provide emails with the apportionment board or their staff that related to redistricting?

A. So you're using the apportionment board or the redistricting, which I'm confused as to --

Q. I'm just going with the bullet because the bullet asks for communications with members of the apportionment board or their staffs, but related to redistricting and apportionment.

A. Okay. You're just tripping me up because you said you wanted to ignore the apportionment stuff.

Q. This particular bullet asked for documents relating to redistricting and apportionment, but it does mention the apportionment board. So did you provide emails that you had with any members of the

apportionment board related to redistricting?

A. I'm sorry. You're mixing the two. I do not believe the way you're asking the question I would have had any emails specifically to your question.

Q. Okay. I'm just asking the question just in the bullet.

A. I know there's a lot of common terms and they're used interchangeably, but they mean certain things obviously.

Q. Okay. Did you provide emails to the members of the governor's staff related to redistricting?

A. Can you ask that question again, state that again?

Q. Did you provide emails with the governor's staff related to redistricting?

A. I can't recall.

Q. Okay. Did you provide emails with the Secretary of State staff related to redistricting?

A. I can't recall. It was a long time ago.

Q. Did you provide emails with the

president of the Senate staff related to redistricting?

A. That I -- that I would have, yes.

Q. Okay. Did you provide emails with the Speaker of the House's staff related to redistricting?

A. Yes.

Q. Did you provide emails with the Senate minority leader related to redistricting?

A. You're asking specifically about emails?

Q. Yes.

A. No.

Q. Did you provide emails with the House minority leader related to redistricting?

A. No.

Q. Okay. The next bullet asks for - and I'm turning to the next page of the exhibit - all written communication, including emails, with members of the Ohio legislature or their staffs relevant to redistricting or apportionment during the period from July 1, 2011 to October 5th, 2011. Do you see that?

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A. I do.

Q. Did you provide emails responsive to this request?

A. Yes.

Q. The next bullet asks for all documentation, including letters, emails, memos and notes, of comments, suggestions, requests for changes or other input on proposed legislative districts, draft redistricting maps or final maps, other than which was provided during public hearings or meetings. Do you see that request?

A. I do.

Q. Did you provide documents responsive to this request?

MR. STRACH: Objection. Form.

THE WITNESS: Yes.

BY MS. THOMAS-LUNDBORG:

Q. Okay. I'm going to skip the next bullet because it's not relevant. Then the following bullet says copies of all draft maps and redistricting or apportionment plans, whether for the entire state, portions of the state or individual districts, which were

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prepared by you or others. Do you see that?

A. I do.

Q. Did you provide documents in response to this request?

A. Again, documents could mean many, many things.

Q. Just as it's defined in the bullet.

A. Well, that's not exactly precise. I did provide redistricting maps.

Q. Okay. The last bullet asks for all documentation pertaining to the dissemination of draft maps or plans and all documentation regarding any response to draft maps or plans. Do you see that?

A. I do.

Q. Did you provide documents in response to that request?

A. Again, at the time in 2011, anything that would have been responsive to any of these bullet points, the ones you mentioned or the ones you skipped, I turned over. I don't recall if I specifically turned anything over with regard to this last bullet.

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Q. Okay. At the time in 2011 did you retain more documents related to redistricting than you have now?

A. Can you say that again, please?

Q. Yes. When you received this request, did you have more documents in your possession related to redistricting than you do now?

A. Yes.

Q. Going back to the first page, the letter says the Ohio Campaign for Accountable Redistricting will be preparing a transparency report regarding the recently completed congressional and state legislative redistricting process.

At the time that you received this request did you understand that the documents you were providing might make it into a report?

A. I didn't even think about it. It was a public records request and so I provided whatever was responsive.

Q. Did you read the letter before providing the documents?

A. Yes.

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Q. And the letter states that the documents are for a transparency report, correct?

A. Yeah. I don't know what that means. At the time I didn't know what that meant.

Q. Okay. But you did read the letter?

A. Uh-huh.

Q. If you could turn the page, please, to the last page. The letter copies a Michael Lenzo. Do you know Michael Lenzo?

A. I do.

Q. Who is Michael Lenzo?

A. The majority legal counsel in the House.

Q. And what was Michael Lenzo's role in the redistricting process?

A. He was the majority legal counsel in the House.

Q. Okay. Did he have any specific job duties during the redistricting process?

A. Not that I could speak to that I would know.

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Q. Okay. You mentioned that you were deposed in the past and that that deposition was Wilson v. Kasich; is that right?

A. Yes.

Q. And did that deposition regard apportionment or redistricting?

A. It was apportionment.

Q. And were there any overlaps between apportionment and redistricting at the time?

A. Please clarify in which way overlaps.

Q. Did you use any of the same processes as part of apportionment and redistricting as far as drawing the map, for example?

MR. STRACH: Objection to form. Go ahead.

THE WITNESS: Yeah, you have to clarify a little more. Like I used the same computers.

BY MS. THOMAS-LUNDBORG:

Q. You used the same computers. Did you use the same software?

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A. You're talking about this current decade?

Q. I'm talking about 2011.

A. Yes.

Q. Did you use the same political indices?

MR. STRACH: Objection to form.

THE WITNESS: Yeah, that's -- we had historical election data that we had available to us.

BY MS. THOMAS-LUNDBORG:

Q. Okay. For both processes?

A. For both processes.

Q. Were --

A. But everybody used and everybody had their own opinion about what historical information was relevant, so it really was messy.

Q. Were the maps drawn in the same location, apportionment and redistricting?

A. Technically, no, because there were multiple maps.

Q. Okay. We'll get to that.

During the -- during the

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deposition, the prior deposition, were you represented by counsel?

A. I was.

Q. And were you shown documents at that deposition?

A. I was.

Q. And some of those documents were marked as exhibits?

A. I believe so.

Q. So kind of moving on from documents, I would like to go back to redistricting and talk a little bit in more detail about the 2011 redistricting. Okay?

When did you start working on redistricting in 2011?

A. What do you mean by working on?

Q. When did you start thinking about and doing things in preparation for the 2011 cycle?

MR. STRACH: Objection to form.

THE WITNESS: Yeah, so when did I start thinking about it? I mean, I --

BY MS. THOMAS-LUNDBORG:

Q. And doing things in preparation,

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so not just thinking in the abstract, but actually putting some of your thoughts into action.

MR. STRACH: Objection to form.

THE WITNESS: Yeah, there was a lot of logistical thought that went into the processes for both apportionment and redistricting that would be forthcoming that would have happened in 2011.

BY MS. THOMAS-LUNDBORG:

Q. And when did those start?

A. I don't recall specific dates, months, timelines.

Q. Okay. Do you recall whether it started in early 2011, let's say January and February of 2011?

MR. STRACH: Objection to form.

THE WITNESS: I couldn't be that specific.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Do you recall having attended an NCSL seminar in 2011?

A. I attended an NCSL, but I do not recall if it was in 2011 or earlier.

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Q. Okay. This is -- and I'm not putting this in the record. This is your prior deposition in Wilson v. Kasich. If you can turn to page 42 and I'm looking at lines 10 through 11.

A. You said page -- I'm sorry, which page?

Q. Page 42.

A. Okay.

Q. So you were asked a series of questions here and this is about apportionment, but as we said, there's been some overlap between the two, and so just read the question starting at 7 down through the answer on 12. If you want to read the full answer, you can.

A. Okay.

Q. Does this refresh your recollection about whether you attended an NCSL training in 2011?

A. Well, so obviously this was seven years ago, so I obviously had better recollection of when and where that NCSL was. So in 2011 when I gave this deposition, January of 2012, if I said it was in Washington D.C. in

January, then that's most likely when it was.

Q. Okay. Do you recall whether you were paid to go to the seminar?

MR. STRACH: And if you need to take time to read forward a little bit --

THE WITNESS: Yeah.

MR. STRACH: -- feel free to do that.

BY MS. THOMAS-LUNDBORG:

Q. You can start at page 43, line 12, and then I think the answer continues on page 44 up to line 2.

A. It sounds like that's your answer.

Q. Well, I need the answer for the record. Were you paid to go to the NCLS (sic) training?

MR. STRACH: Objection to form. Be sure and distinguish what you remember now versus what you remembered then, if there's any difference.

THE WITNESS: Yeah, I mean, I don't have a specific recollection of that now, but I'm obviously looking at a deposition that I gave seven years ago, so it's -- I mean, I don't recall right now how the -- sitting here without this aid

that you gave me, I don't recall how the travel was paid for, if I paid for it, if it was reimbursed or who did.

BY MS. THOMAS-LUNDBORG:

Q. So this does not refresh your recollection about whether you were paid to go to this training?

A. Well, now looking at the deposition, I said seven years ago I don't specifically recall if I paid for it and was reimbursed or if it was paid for on my behalf, so this does not help refresh my recollection.

Q. Well, you've read part of it for the record, so I'll go on and read the rest of it. Would it have been a representative organization or some other, is that fair to say, this is the bottom of page 43, and then on the following page, 44, yeah, I believe it was the Republican Senate Campaign Committee.

You said at the time that you were a consultant for the Republican Senate Campaign Committee?

A. When is this? This is 2000 and --

Q. '11.

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A. '11, yes.

Q. Okay.

A. I mean, I said -- seven years ago I said I believe, so that was the best recollection of that that I had then. I don't have any better recollection of it now.

Q. But you were working for the Republican Senate campaign at the time as a consultant, correct?

A. Yes.

(Thereupon, Plaintiffs' Exhibit Number 4, Document Bates Stamped LWVOH_00009711, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I'm having marked for the record a document that I'm having marked as Exhibit 4. It bears Bates numbers LWVOH-0008711, and at the top it says discussion points for Mark Braden meeting, Thursday, May 12th, 2011.

Do you recall attending a redistricting meeting in May 2011?

A. I do not.

(Thereupon, Plaintiffs' Exhibit Number 5, Document Bates Stamped DIROSSI_0000017,

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was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to move to the next exhibit that I'm having marked for the record. It bears Bates number DIROSSI-000017. It is what purports to be a calendar entry, subject, Redistricting: Software Demo - Maptitude. Do you see that?

A. I do see that.

Q. Is this Bates number the number convention, to your knowledge, for documents that you produced?

A. I don't know what Bates -- I don't know what that means.

Q. The number at the bottom. Does this look like a document that you produced to us?

MR. STRACH: I can tell you it was. He has no idea how we Bates numbered them.

MS. THOMAS-LUNDBORG: Okay. Thank you.

BY MS. THOMAS-LUNDBORG:

Q. So this purports to be a May 31st, 2011 calendar entry. Do you see that?

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A. Yes.

Q. Do you recall attending a redistricting software demo in May 2011?

A. I don't specifically remember for sure attending this.

Q. Okay. This is your calendar entry, correct?

A. It is.

Q. What is Maptitude?

A. It's a -- it's a GIS based software.

Q. And did you use Maptitude as part of the redistricting process?

A. In 2011, yes.

Q. Do you recall who would have given a training like this in May 2011?

MR. STRACH: Objection.

THE WITNESS: I don't recall.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Do you recall whether you were officially retained at this point to work on redistricting?

A. I was not.

Q. If you did attain -- did attend

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the training, was that something that you would have been paid for?

MR. STRACH: Objection.

THE WITNESS: You're asking me hypothetically if I had been retained? I don't understand your question.

BY MS. THOMAS-LUNDBORG:

Q. No, I'm asking you -- we have a calendar entry here from your calendar that says there was a training. If you attended the training as your calendar says, would you have been paid to attend that?

MR. STRACH: Objection.

THE WITNESS: Yeah, I mean, first of all, just because it was on my calendar doesn't mean it happened. There's plenty of things on my calendar that didn't happen.

BY MS. THOMAS-LUNDBORG:

Q. Right. And so my question is, if you attended a training, which you may or may not remember, would you have been paid to do it?

MR. STRACH: Objection.

THE WITNESS: Yeah, I mean, there's

like four different levels of hypothetical there. I can't answer that.

(Thereupon, Plaintiffs' Exhibit Number 6, Document Bates Stamped DIROSSI_0000018, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. Let's turn to the next exhibit that I'm having marked for the record. It is DIROSSI_000018. I'm having it marked as Exhibit 6. It is another calendar entry.

This one says Confirmed: Legislative Task Force on Redistricting, and the start date of this calendar entry is June 16, 2011. Do you see that?

A. I do.

Q. Now, this entry says confirmed. If an entry is confirmed in your calendar is it more likely that you actually attended it?

A. No.

Q. Okay. Do you know what the legislative -- legislative task force on redistricting was?

A. Absolutely.

Q. Okay. And what was that?

A. This is the bipartisan task force that was formed in Ohio law to prepare the State of Ohio for both the apportionment and the redistricting processes every decade.

Q. And who was a part of that task force?

A. There are six members by statute on the board. I don't recall at the times the names of the members who were members of it, but I do know the statute requires that legislative leaders of opposing political parties always are the bipartisan co-chairs of it so that any action the entity takes is bipartisan.

Q. And were you a member of the task force?

A. When I worked in the Ohio House I was a member of this task force for four years, but at the time of this I was not.

Q. You were not. Were you -- so at the time of this, just to be clear for the record, are you talking about in June or for the whole 2011 redistricting cycle?

A. That -- I'm sorry.

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Q. I just want to clarify. You said you were not a member of the task force. Are you talking about in June of 2011, which is the calendar entry, or for the whole 2011 cycle?

A. I was not a member during the whole 2011 cycle.

Q. Did you attend any meetings of the task force during the 2011 cycle?

A. Not that I recall.

Q. I'm not going to mark this yet for the record.

MR. STRACH: What exhibit number is this?

MS. THOMAS-LUNDBORG: It's not an exhibit. It's currently just a document to refresh his recollection.

MR. STRACH: Okay.

BY MS. THOMAS-LUNDBORG:

Q. Have you had a chance to review the document?

A. I am continuing to review it, but I still don't know what it is.

Q. So if you look at the block code, it says legislature task force on redistricting

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and then there are a number of names here, including your name. And my question to you is, does this document refresh your recollection about whether you attended any legislative task force and redistricting meetings?

A. So thank you for giving me this document. I think it's -- it's a little clearer, but I think you're confused. The legislative task force on redistricting is a public body made up of elected officials. It is the mechanism by which the state prepares for the process. It has money appropriated to it by the General Assembly.

One of the things that this is, is as people attended public hearings throughout the state on apportionment and redistricting, they were reimbursed for mileage. So if the apportionment board or a redistricting committee of the legislature had a regional hearing or a hearing outside of the Statehouse, those were meetings not of the task force, but they were reimbursed for mileage from the task force.

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Q. Okay.

A. So I think you're confusing the two.

Q. So you're saying that this document is just about reimbursement and not about --

A. Based on my review of the documents you've provided, that's -- that's my understanding.

(Thereupon, Plaintiffs' Exhibit Number 7, Document Bates Stamped DIROSSI_0000019, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to move to what I'm having marked as Exhibit 7. This document, for the record, has Bates number DIROSSI_000019, and the subject matter is Confirmed: President Niehaus call with Congressman LaTourette, and the date is July 7th, 2011. Do you see that?

MR. STRACH: Just one correction, it's July 5th.

MS. THOMAS-LUNDBORG: Oh, I'm sorry, July 5th. Thank you.

RAYMOND E. DiROSSI

THE WITNESS: I do see the document.

BY MS. THOMAS-LUNDBORG:

Q. Do you recall having calls with President Niehaus at this time in July, early July 2011?

A. That I had phone calls with him?

Q. Yes. Did you have phone calls with President Niehaus in July of 2011?

A. I mean, I spoke to him. I don't know if they were by phone or -- I mean, I can't recall a specific phone call.

Q. But did you have phone calls in general with the president at this time? Just in general in early July did you talk to the president on the phone?

MR. STRACH: Objection.

THE WITNESS: I don't -- I don't recall a specific thing, and if I did, it may not have had anything to do with redistricting.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Do you know who Congressman LaTourette is?

A. I do. He's now deceased.

Q. And who was Congressman

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LaTourette?

A. He was a congressman from Ohio.

Q. Did you have any conversations at any point with Congressman LaTourette about redistricting?

A. None that I can recall.

Q. Is it possible that you had any phone calls with him you're not remembering?

MR. STRACH: Objection.

THE WITNESS: I don't recall any specific ones.

BY MS. THOMAS-LUNDBORG:

Q. Do you recall if in early July there were -- there was a draft map for the Ohio's congressional districts?

A. I don't recall.

Q. At the time in early July of 2011 did you have phone calls with any sitting congresspeople that you recall?

A. I don't recall. I don't recall any specific ones in July.

Q. Is it possible that you had calls with sitting congresspeople at that time?

MR. STRACH: Objection.

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THE WITNESS: I don't recall any specific phone calls.

BY MS. THOMAS-LUNDBORG:

Q. Not any in particular, just in general, do you recall having any conversations with sitting congresspeople?

A. What time -- what time frame? I'm sorry.

Q. Early July.

A. I don't.

Q. At any point later in the redistricting cycle do you recall?

A. There were a few -- a few instances that I remember -- can remember that far back where I would have had phone calls with sitting congressmen.

Q. And what were those instances?

A. In House Bill 369, which was the congressional map that was adopted, I remember having a number of calls with Congressman Steve Austria telling him that the legislative leaders had decided that the request by the Democratic members of the legislature to have an amendment to the redistricting plan to unify

Montgomery County was happening. And I had a number of conversations with him about that, that the leaders had decided to go with what the Democrats and the legislature had asked for.

Q. Do you recall any other conversations?

A. With --

Q. Sitting congresspeople.

A. By congresspeople, you're saying the congressmen and women?

Q. Yes, I am.

A. Everybody is looking at me. None that I -- none that I recall.

Q. You're the witness.

A. I understand. None more that I can recall sitting here at this moment, no.

Q. Okay. Let's --

(Thereupon, Plaintiffs' Exhibit Number 8, Document Bates Stamped LWVOH_00010555, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. For completeness, let's look at what I'm having marked as Exhibit 8. It bears

Bates number LWVOH_00010555. It is a calendar entry with, it looks like, an email, from you to Heather N. Mann. Do you see that?

A. I do.

Q. Okay. If you just take a minute to look over the text. In it there's a discussion of a July 7th, 2011 meeting. Do you see that?

A. I see July 7th, 2011, but I don't know what it's -- I'm still trying to -- I see the words July 7th, 2011.

Q. Well, the subject says, Re: Hold for Redistricting Software Meeting and then that hold seems to be for a July 7th, 2011 meeting, if I'm looking at this correctly, which was sent to you by Heather Mann. You respond accepted, and then I am free from 10:30 for the Yost meeting and free the rest of the day as needed, Ray.

A. Okay. I see that.

Q. Do you recall there being a meeting in early July regarding redistricting?

A. I don't recall.

Q. Okay. When were you officially

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retained?

A. I believe my contract was signed the first few days of August.

MR. STRACH: Can we take a quick break? We've been going about an hour.

MS. THOMAS-LUNDBORG: Sure.

THE VIDEOGRAPHER: We're off the record.

(Recess taken.)

THE VIDEOGRAPHER: We're on the record.

MR. TUCKER: Before we get started again, I just want to memorialize the parties' agreement that an objection made by one attorney on one side is good for all parties on that side. So, example, if the intervenors object to a question, that objection is good for defendants, and vice-versa.

BY MS. THOMAS-LUNDBORG:

Q. All right. Mr. DiRossi, I would like to go back to something we talked about in the very beginning. You said you reviewed documents in preparation for the deposition. Which documents did you review?

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A. Any of the documents that I produced, so that would have been -- well, any documents that I produced.

Q. Okay. So you reviewed the whole production set?

A. Well, I mean, I looked through them. There's a lot.

(Thereupon, Plaintiffs' Exhibit Number 9, Documents Bates Stamped LWVOH_00005475-5477, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to now turn to a document that I'm having marked as Exhibit 9. It's 9 in your binder. For the record, this document begins with Bates number LWVOH_0005475. At the top it says Consulting Agreement. Can you turn to the last page, please?

A. (Witness complied.)

Q. Do you recognize this signature at the bottom as your signature?

A. I do.

Q. And if you take a moment to review

the document, is this the consulting agreement that you entered into when you began work on redistricting?

A. It is.

Q. Do you recall who retained you to work on redistricting?

A. I guess I don't understand the question. Do you mean like who I signed the contract with or what are you asking?

Q. Yes. Do you recall -- let me ask it more specifically. Do you recall being retained by the Republican caucus to work on redistricting?

A. Well, so this is another example -- we were talking about the legislative task force on redistricting and demographic research. So that is something that has been part of law for a number of decades and it's set up specifically so that each of the two caucuses, the Republican caucus and the Democratic caucus, are each able to make expenditures using the dollars attributed to them in equal amounts for anything necessary for them to go through this very unique

process.

Q. And were you paid by the Republican portion of that money?

A. Yes.

Q. So getting to the money part, if just give me one second. Sorry. Oh, yeah. So if you look at the contract in paragraph -- numbered paragraph 3 it says consulting payments, and then it says in consideration for the services performed by Capital Advantage pursuant to this agreement, the task force agrees to pay Capital Advantage the sum total of $75,000. Do you see that?

A. I do.

Q. And did you understand that that was half of the Republican money at the time?

A. I don't have that specific recollection. I don't think that's accurate.

Q. You don't think 75,000 is accurate?

A. It's definitely the number here, but you were asking whether it was half of something else and I --

Q. Yes, half of the money allocated

to the Republicans, as you explained.

A. I don't -- I can't speak to that.

Q. I'm not entering this at this time. I have put in front of you a document that you produced, and again it's not being entered for the record, but it is DIROSSI_000495.

If you look at the second paragraph, numbered paragraph here, does this refresh your recollection of whether you were, at least in this contract, allocated half of the Republican money?

A. Well, yeah, I just think you -- I just don't think that's --

Q. I believe it was later increased. I'm just talking about at the time that you signed the contract, was that half of the Republican bucket? Not what it eventually was.

A. Yeah, because this is dated June and the contract was in August, and there were changes that were agreed to by the minority leader of the Ohio Senate and the Speaker of the Ohio House that changed those allocations, so I don't --

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Q. Okay. So I think this is -- at least as far as the production, I'm going to show you another document to refresh your recollection. Now, this is the only change document I've seen and it's dated October and it is retroactive.

Does this refresh your recollection of at the time that you signed your contract, were you going to be paid half of the Republican allotment?

A. I'm sorry. Is this the new one you gave me?

Q. I think the new one is dated October 12th, 2011.

A. Okay. Could you repeat what your specific question is?

Q. So the question is, at the time that you signed your consulting agreement were you being paid half of the Republican money?

A. I don't know the answer, but based on what I'm seeing here I do not believe that -- no.

Q. So even though this document -- the document that you've just looked at

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postdates your agreement, you believe that there was more money when you signed this contract in August 2011?

MR. STRACH: Objection to form.

THE WITNESS: Yeah, can you rephrase that, specifically what you're asking?

BY MS. THOMAS-LUNDBORG:

Q. My question is, there's -- you believe there was more money in August 2011 allocated to the Republican caucus?

A. Well, any allocation that would have been made to either caucus would have been made to both caucuses. It was always being done by a Republican and Democrat, which is the way that this entity is set up in the -- so it never would have been that one caucus got money that the other caucus didn't get money.

Q. That part is understood. My question is about your specific payment, whether it was half of the Republican caucus money or whether there was more money at the time allocated to the Republican caucus.

MR. STRACH: Objection to form.

THE WITNESS: Yeah, I mean, I've

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answered it a couple different times. Based on what I'm seeing here, I do not believe that to be the case. This is my contract, that is the amount that I was paid, but I mean, you're asking me to -- I don't believe that that's what this is.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Do you have an understanding of how much money was allocated to Republicans at the time that you signed your contract?

A. I do not. At the time I signed my contract, I do not.

Q. Do you have any documentation related to how much money was allotted to Republicans at the time that you signed your contract?

A. I mean, any -- you're handing me documents that I handed to you by preparing them. So, I mean, these are the documents that I have.

Q. Okay.

A. This is what I have.

Q. Do you have any other documents related to the money allocated to the

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Republicans at the time that you signed your contract?

A. Anything that I would have had I would have turned over.

Q. Okay. Going back to the end of the document where the signatures are --

A. Yes.

Q. -- we've already identified your signature. The top signature is a person by the name of Matthew T. Schuler. Do you know who that is?

A. I do.

Q. And who is that?

A. He at the time was the chief of staff of the Ohio Senate.

Q. Okay. And was he associated with any particular party?

A. He was a member of the Republican caucus.

Q. And the next name is Troy Judy. Do you know who Troy Judy is?

A. I do.

Q. And what was Troy Judy's position at the time?

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A. At the time he was the chief of staff of the House of Representatives.

Q. Okay. And was Troy Judy associated with any particular party?

A. Yes, so he was a member of the Republican caucus.

And, as I mentioned before in response to one of your questions, as was the way this was set up by the minority leader of the Ohio House Democrat, the Speaker of the Ohio House Republican, there would be equal amounts of money given to both caucuses, and any contracts, equipment, software, or anything that needed to be expended would be -- you would have to get the signatures of either the two Republican chiefs of staff or the two Democratic chiefs of staff. So that's what this is.

Q. What was your understanding of the role that you would play in redistricting when you signed this contract?

A. Well, for the redistricting, that we had to produce a constitutional map and that there were timelines associated with it and

that I was going to be working on providing that.

Q. And you said working on providing that. What specifically did you do to help work on providing the map?

A. So the -- the legislative congressional -- the redistricting, the congressional redistricting, excuse me, is a legislative bill that goes through the Ohio House and the Ohio Senate and is signed by the Governor. So we would be working to make suggestions on what that bill could be so that it could go through the traditional legislative process.

Q. And you said suggestions on what that bill could be. What do you mean by suggestions on what that bill could be?

A. Anything that affected the design of the map. The fact that the state -- the State of Ohio was losing two congressional districts was causing significant problems, population deviations of districts, districts were growing, districts were contracting. Anything to produce a map that was

constitutional.

Q. Did you work on drawing a map?

A. Yes.

Q. Okay. And how did you go about drawing the map?

A. Using the computers and software that we had and using the data that the legislative task force had contracted with Cleveland State to provide to everyone in the state, we produced boundaries of districts and what could be used.

Q. And the software that you used, was that Maptitude?

A. In the 2011 process it was Maptitude, yes.

Q. And you said we used the software. By we, who are you referring to?

A. Primarily Heather -- Heather and I, Heather Mann.

Q. Did anyone else --

A. Heather Mann at the time, Heather Blessing now.

Q. Thank you.

A. Sorry.

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Q. That's fine. Did anyone else work on the software with you in addition to Heather Mann, now Ms. Blessing?

A. I believe Troy Judy used the software as well.

Q. Did anyone else use the software?

A. I mean, a lot of -- those are the people that I have knowledge of that used the software that we purchased. Other people in the state may have been using it.

Q. Okay. Did you talk to anyone at the time who was inputting data in the software while you were using it?

A. Help me understand that question a little bit.

Q. So you said that Troy Judy, Heather Mann and yourself used the software. And so my question is, was anyone else working with you who was making inputs into the software?

A. And by inputs into the software, what do you mean?

Q. I mean making changes on maps in the Maptitude software.

A. Well, we were getting input from the legislative leaders.

Q. Okay.

A. But myself, Heather and Troy were really the only ones sitting at computers to my knowledge.

Q. And you said you were getting inputs from legislative leaders. By legislative leaders, who are you talking about specifically?

A. For me, I would say it was President Niehaus.

Q. Anyone else?

A. Well, I'm sure every legislator, both Republican and Democrat, had ideas, so at what level are you --

Q. I'm talking about people who gave you suggestions that then you inputted into the software.

A. Because there are plenty of instances where people gave suggestions that we did not do, so --

Q. I'm talking about people who gave you suggestions that then you took and put into

the software. Can you name those people?

A. Well, President Niehaus. I know that Speaker Batchelder had input. But in many cases they were reacting to suggestions that we were making, so it was more of a two-way street than them telling us what to do. It was more of an information exchange.

Q. Okay. So just to circle back to the contract, if you look at the numbered paragraph 1, during the term of this agreement Capital Advantage shall make available Raymond E. DiRossi to render such consulting services as may be needed or requested by the Republican members of the task force to carry out their duties, and then there is a code cited R.C. 10 -- 103.51. Do you see that?

A. I do.

Q. And so was your understanding that Capital Advantage was being retained on your behalf?

A. Yes, I'm the only -- I'm the owner and only employee of Capital Advantage at the time.

Q. Okay. And I think we've already

discussed this, but was your understanding that you were being retained by the Republican members of the task force as outlined here in this paragraph?

A. Well, again, as I mentioned before, it was a bipartisan process that was put in place for those contracts, but the legislative task force on redistricting and demographic research is the entity that is supposed to set the table for redistricting and apportionment in the state. They don't really have a role in the effectuation of districts or the adoption of districts. The apportionment board would adopt districts for the legislative districts. The state legislature and the Governor would adopt districts for the congressional districts.

So they don't really have a role in adopting districts. They do all the logistical stuff to prepare the state for it.

Q. Okay, understood. So you were, in fact, retained by the Republican members.

Going to the next paragraph, term, it says the term of this agreement will

commence on August 1st, 2011, and shall expire on December 31st, 2011, unless terminated in accordance with the provisions of Section 8 of this agreement or extended by the task force by agreement of Capital Advantage. Do you see that?

A. I do.

Q. Okay. Was it your understanding that your term would last from August to December?

A. Yeah, I mean, if that's what the contract says, yes, yes.

Q. Do you recall whether you, in fact, worked through December of 2011?

A. Well, again, so this contract -- so here's where we're mixing. This contract obviously is for apportionment and redistricting. So through December 2011, yes, I was still working, because within 30 days of the apportionment map being adopted there were lawsuits that were filed and depositions and document production that lasted through -- through that time, as well as, as we talked earlier, about there being two maps for the

congressional districts that extended into December as well.

(Thereupon, Plaintiffs' Exhibit Number 10, Document Bates Stamped DIROSSI_0000527, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to move to the next exhibit that I'm having marked as Exhibit 10. It is -- it has Bates number DIROSSI_0000527, and the top of the document says Termination Agreement. Do you see that?

And this agreement --

A. I do.

Q. This agreement says that it's pursuant to the termination provision of the contract entered into between the Republican Senate Campaign Committee, RSCC, and Capital Advantage. Do you see that?

A. I do.

Q. And what is the Republican campaign committee, Senate campaign committee?

A. That was the entity that I was engaged with prior to the redistricting and apportionment under my contract.

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Q. And what do they do?

A. They are -- they run elections.

Q. What do you mean, they run elections?

A. They run elections dealing with Republican Senate candidates.

Q. Do you mean that they do the physical logistics of running elections or are they actually campaigning for elections?

A. Well, I don't control what they do obviously, but --

Q. I'm just asking what they do.

A. Yeah.

Q. Because you said they run elections. I just want clarity on what you mean by they run elections. Are they doing the logistics; i.e., setting up polls, making elections run, or are they campaigning for elections?

A. Yeah, they are a legislative campaign fund under Ohio law and they raise money and engage in Republican Senate campaign campaigns.

Q. Okay. And what did you do for

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them specifically?

A. Prior to terminating pursuant to this, I raised money for the Republican Senate Campaign Committee.

Q. And how did you go about that?

A. Providing logistical support to the members and candidates of the Republican Senate Campaign Committee in setting up fundraising events in Columbus or in their districts.

Q. And I don't have the agreement that this is terminating. Do you still have that in your possession?

A. Sitting here, I don't know. I would have to look.

Q. Okay. I'm going to request on the record that you do look for that agreement, and if it's in your possession that it be produced.

Do you recall why your agreement with the RSCC was terminated on August 1st, 2011?

A. Yeah, this was -- this was after consulting with some of the ethics folks that operate in and around Capitol Square. It was

recommended that there be a termination of all contracts that I had in place and that I focus solely on the redistricting and apportionment. So this is the bright line of terminating everything and letting the new contracts take effect.

Q. And did you have an understanding of why it was -- why you should terminate all of your existing contracts?

A. I don't know. It was the recommendation of the joint legislative inspector general -- joint legislative ethics officer, apologies.

Q. And whose decision was it to ask the ethics individual about whether or not you should terminate your --

A. I sought -- I sought his guidance.

Q. And why did you do that?

A. I just wanted to make sure that I did this correctly. I had been through this in 2001, as we talked about, and there were immediately lawsuits after the 2001 process and I just wanted to make sure that I did everything correctly.

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Q. And staying on the contract that this is terminating, were you paid under your RSCC contract?

A. Yes.

Q. Do you have a recollection of how much you were paid?

A. I don't sitting here.

MR. STRACH: Insert an objection to that question.

BY MS. THOMAS-LUNDBORG:

Q. So we've seen a number of documents and we've already kind of talked about Heather Mann, also known as Heather Blessing. Who is Ms. Blessing?

A. Who is she now? Who was she then?

Q. Who was she during the redistricting process?

A. She was -- for the redistricting process, she was somebody that the -- I can't remember what her title was in the legislature, but she was somebody that was designated to work on the redistricting on behalf of the Speaker of the House.

Q. Okay. And did you work with

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Ms. Blessing directly?

A. Yes.

Q. And what was the nature of your working relationship together?

A. And what do you mean by that?

Q. Did you guys -- between the two of you did you have roles that were designated that you performed certain tasks and she performed other tasks?

A. No. I mean, we were working simultaneously on both the apportionment and the redistricting, and so we were sometimes working on the same concepts or the same processes and at other times different.

Q. Was there anything that you worked on specifically that she did not work on?

A. Not that I could recall specifically.

Q. Is there anything that she worked on specifically that you did not work on?

MR. STRACH: Objection to form.

THE WITNESS: You can ask her.

BY MS. THOMAS-LUNDBORG:

Q. To your recollection do you recall

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her doing something that you were not involved in?

MR. STRACH: Objection to form.

THE WITNESS: I do not recall specifics.

BY MS. THOMAS-LUNDBORG:

Q. Do you recall whether Ms. Blessing was paid $75,000 in her contract?

A. Her contract and mine were, I believe, identical.

Q. Do you recall whether the combination of your contract and Ms. Blessing's contract was the money that was allotted to the Republican caucus?

A. Can you say that again, please?

Q. Do you recall whether the money that you were paid and the money that she was paid was the sum total of the money that was allotted to the Republican caucus?

A. I don't think that's accurate.

Q. And what do you recall other money being allotted for?

A. Software, computers, office space, mileage reimbursements, toner, paper, ink, all

of those things necessary to produce the maps for the apportionment and the redistricting.

Q. Okay. Was money allotted to pay anyone else a salary?

A. I don't recall. I don't recall if that was true or if Heather and I were the only ones.

Q. All right. I would like to -- actually, before we get to the exhibit, do you recall there being any meetings in early July of 2011 related to redistricting?

A. Are you specifically asking meetings that I attended or just meetings that other people were having?

Q. Meetings that you would have attended.

A. In July?

Q. In July.

A. Yeah, as we just discussed, my contract wasn't in effect until -- and signed until August. I don't recall, sitting here, any meetings in July.

Q. Is your recollection that you did any work related to redistricting in July?

A. Well, I was definitely thinking about the logistics. Having been the one person who had been through this the previous decade, I was thinking a lot about the logistics of what we would do, but that was with myself.

Q. Did you attend any meetings in July related to redistricting?

A. None that I can specifically recall.

Q. Did you do anything else besides thinking to yourself about redistricting in July of 2011?

A. Yeah, I'm sure I had conversations with the president of the Senate, Matt Schuler, basically saying these processes are coming, these are once-a-decade processes, they have, especially for the apportionment, timelines that are imbedded in the Constitution that we have to adhere to, and we need to be thinking about all of the logistical things that need to be done to get ready for this. So I'm sure I would have been having conversations along those lines.

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Q. Would you have had conversations with anyone else in July?

A. With anyone else other than --

Q. Niehaus and Schuler you just mentioned.

MR. STRACH: Objection to form.

THE WITNESS: I would have talked to Heather about it, I'm sure.

BY MS. THOMAS-LUNDBORG:

Q. Anyone else?

A. I'm sorry. Who have we named so far?

Q. I believe, and your counsel can correct me, we've named President Niehaus and I believe you named Schuler and you just named Ms. Blessing.

A. Yeah, no other specific conversations that I can recall and give you names -- names of people right now.

Q. Okay. So let's look at some documents and they may or may not refresh your recollection.

(Thereupon, Plaintiffs' Exhibit Number 11, Document Bates Stamped DIROSSI_0000020,

was marked for purposes of identification.)
BY MS. THOMAS-LUNDBORG:
Q. Let's look at what I'm going to have marked as Exhibit 11. It bears DIROSSI -- I'll just say DIROSSI_20 for shorthand. This is an exhibit that you produced to us. The subject is, 2:45 p.m. Confirmed: Redistricting Training. Do you see that?
A. I do.
Q. And it looks like this event is scheduled to start on July 7th, 2011. Do you see that?
A. I do.
Q. Okay. I'm going to just move on to the next document to mark for the record to be efficient.
(Thereupon, Plaintiffs' Exhibit Number 12, Document Bates Stamped DIROSSI_0000021, was marked for purposes of identification.)
BY MS. THOMAS-LUNDBORG:
Q. This is DIROSSI_21 and the subject is Confirmed: Redistricting Training. Do you see that?
A. I do.

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Q. And its date is July 8th, 2011. Do you see that?

A. I do see that.

Q. All right. And as the kind of last --

A. Just if I could say, I mean, just because it says confirmed doesn't mean that I attended it. That's my way of saying that I believed it was confirmed and was going to happen. But whether or not I attended it, I can't say.

Q. Understood.

(Thereupon, Plaintiffs' Exhibit Number 13, Document Bates Stamped LWVOH_00008706, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. To finish out our trio, I would like to have marked as Exhibit 13 LWVOH_8706. And at the top it says Redistricting Meeting Agenda, Thursday, July 7th, 2011, and Friday, July 8th, 2011. Do you see that?

A. Yes.

Q. Okay. So just flipping back to Exhibit 11, it looks like there is a

redistricting training for 2:45 to 5:00 p.m. That seems to coincide with a 2:45 to 5:30 p.m. training on this agenda in Exhibit 13. Do you see that?

A. I'm sorry. Help me again. You're referring to Number 12?

Q. Number 11.

A. Number 11, I'm sorry.

Q. So there's a 2:45 to 5:00 p.m. training. Do you see that?

A. Number 11, yes.

Q. Yes. And then if you look at Number 13, the second to last meeting on the agenda is 2:45 to 5:30 p.m. Do you see that?

A. I do.

Q. Okay. And then on --

A. The times aren't exact, but I -- yeah.

Q. I think we're going to look at another one that's not quite exact. If you look at Exhibit 12, there is a Friday meeting from 8:00 a.m. to 10:30, and then it looks like on the agenda there's an 8:00 a.m. to 11:00 a.m. training. Do you see that?

A. Yes.
Q. Okay. As you look at this agenda -- I know you said when you looked at the calendar entries alone you have no recollection of going to the meetings. Looking at the agenda, do you have any recollection of attending any of these meetings?
A. I do have a recollection of attending something, but I can't say if it was one or -- one or something different.
Q. Okay. The agenda lists a number of people, including Mark Braden. Do you see that?
A. I do.
Q. Do you know who Mark Braden is?
A. I do.
Q. Who is Mark Braden?
A. He was the legal counsel that represented us in the apportionment lawsuit.
Q. By legal counsel that represented us in the apportionment lawsuit, who is us?
A. The apportionment board members.
Q. Okay. And was it your understanding that he represented all

apportionment board members?

A. I don't know that -- I wouldn't know the specifics of that. I don't know.

Q. Okay. This meeting, July 7th, predates the apportionment board lawsuit. Do you have any recollection of Mr. Braden doing any work prior to the lawsuit?

A. What do you mean by work that he did?

Q. I mean work related to redistricting.

MR. STRACH: Objection.

THE WITNESS: Yeah, we might have sought his -- his guidance on legal matters, but I --

BY MS. THOMAS-LUNDBORG:

Q. Do you have any recollection of speaking to Mr. Braden prior to the filing of the lawsuit?

A. Yes.

Q. And when was that?

A. When was the lawsuit filed?

Q. No. When did you speak to him prior to the filing of the lawsuit?

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A. Well, it would have been during the process, during the apportionment and redistricting process.

Q. So do you have a recollection of speaking to him during the redistricting and apportionment process?

A. Yes.

Q. Do you have any recollection of when those conversations would have taken place, in the summer, in the fall?

A. We inter -- or I interacted and sought his guidance numerous times through that process, but I can't -- I don't know a specific like date or time or general month or anything.

Q. Okay.

A. It was kind of throughout.

Q. And is it possible that you spoke to him in July of 2011?

MR. STRACH: Objection.

THE WITNESS: Yeah, I mean, I -- I can't speculate. I can't recall a specific July conversation that I had with him.

BY MS. THOMAS-LUNDBORG:

Q. All right. The other name listed

here is a John Morgan. Do you know who John Morgan is?

A. Generally, yes.

Q. And who is that?

A. He was somebody who -- who was a resource to us if we had questions specifically about software. As we talked about before, in 2001 we used AutoBound software. In 2011 we were switching and using Maptitude software, a software that I had not been trained on and was not familiar with, and there was a lot of things that I just could not understand how this new software ten years later worked.

John seemed to have an in-depth knowledge of how the software worked and so he was -- he was a resource to, at least me, on software issues.

Q. And do you recall when you were introduced to Mr. Morgan?

A. I don't recall.

Q. Do you recall how you were introduced to him?

A. I believe it was by email, email and phone.

Q. And who sent that email?
A. I can't recall.
Q. You said that he was a resource to you. By you, who do you mean?
A. I'm sorry, by who do I --
Q. Who was John Morgan a resource for?
A. Me.
Q. You specifically. Did he work with anyone else to your knowledge?
A. I had -- I did witness him talking to Heather and I jointly.
Q. Are you aware of him having conversations with anyone else related to redistricting in Ohio?
A. I am not, no.
Q. Were you aware of who was paying John Morgan to do his work?
A. I was not.
Q. Did John Morgan make any inputs into the Maptitude software?
MR. STRACH: Objection.
THE WITNESS: Yeah, so this is -- you kind of said inputs into the software and I guess

I'm struggling what that means. Like he would be the resource -- when I didn't know how to use the software to do things, he would help with that, but that's not inputs. So I don't know what you mean by inputs into the software again.

BY MS. THOMAS-LUNDBORG:

Q. Okay. My question is, did he make any substantive changes to the map while you were working with him?

A. None that I can recall.

Q. Did he make any technical changes to the map?

MR. STRACH: Objection.

THE WITNESS: Yeah, none that I can specifically recall.

BY MS. THOMAS-LUNDBORG:

Q. Mark Braden and John Morgan are listed on a number of these entries together. Did you understand that there was any relationship between the two?

A. I can't recall.

Q. During your time working on redistricting, did you ever talk to someone named Adam Kincaid?

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A. I -- excuse me, I exchanged emails with him.

Q. Okay. And who was Adam Kincaid?

A. I believe he was with the RNC, RNCC. I'm not exactly sure how many Cs.

Q. Fair enough. There are a lot of Cs around.

And what was your understanding of Adam Kincaid's job at the time?

A. I guess I don't know what his job was. I mean, I know that he was somebody that I could bounce ideas off of or exchange information with.

Q. And what kinds of ideas were you exchanging with Adam Kincaid?

A. Yeah, so as I mentioned in the congressional redistricting, we were losing two seats and we were having to significantly change a number of the districts in the state to accomplish those, and other -- other goals that had been kind of set out. And just we were dealing with a lot of people that had to be put into different districts and so it was just a resource for me on how that might work.

Q. Okay. Did you talk to him about substantive lines at any point, changing a line here or there?

A. I don't know if we -- I don't know about a line, but we talked about the configuration of some districts, the geographical configuration of the districts.

Q. Did you talk about anything else beyond geographical configuration of districts?

A. Well, again, at any -- at any point in any particular district there are a number of factors that you might be looking at. So in some instances there would have been minority populations of the district, whether those be African American populations or Hispanic populations, population -- population deviations, how many political subdivisions were being split, how many counties were being split, and, you know, all of those -- all of those types of things.

Q. Did you ever talk about partisan makeup of districts with Mr. Kincaid?

A. So now you're getting into where -- the historical election data that we had

available that I helped try to devise so that everybody would use one set of numbers. Everybody that we dealt with, especially when you're talking about the redistricting and not the apportionment, had their own methodology to how to look at the historical election data, and Adam was no different.

Q. So you said Adam was no different and everyone had a different kind of viewpoint. What was your understanding of Adam Kincaid's viewpoint at the time?

MR. STRACH: Objection.

THE WITNESS: With regards specifically to --

BY MS. THOMAS-LUNDBORG:

Q. With regards to your statement that everyone had a different opinion about the historical data and Adam was no different.

A. Yeah.

Q. What was your understanding of his opinion?

A. Yeah, so the one thing I learned from the history of this whole -- whole process from 2001 and through 2011 is that everybody

had their own ideas of how to look at historical political data or election data. And we had put in place, or I had worked to try to come up with a unified index, which were five historical statewide races that could be used to look at historical election results.

And Adam -- if you talk to any member of Congress, if you talk to any member of the press, if you talk to any member of the legislature, if you talk to anybody, everybody else seemed to have their own way of looking at election data. And so when I said Adam was no different, they had their own way of calculating historical election data that I wasn't familiar with and am still not really familiar with.

Q. Okay. So you mentioned this unified index of five historical state elections. Is that something that you came up with by yourself or did you come up with it in conjunction with Ms. Blessing?

A. Yeah, it was not something that I did myself, although it's the same exact process generally that we used in the previous

decade where we came up with five statewide nonjudicial races and we chose them to try to determine the historical election results of the state.

And so in 2011 we identified five races. There were two that the Democrats had won, statewide election results, there were two that the Republicans had won, and there was one that the Republicans won, but did not receive a plurality of the votes. And so we put them altogether in what I called the unified index and then we weighted it to 50/50. And that was -- that was my best guess of how to handle historical election results.

Q. So in your answer you've referenced we a few times. By we, who do you mean?

A. So it would have been Heather and I.

Q. Did anyone else help put together the index?

A. Yeah, we sought input from some people who had more knowledge of historical election results.

Q. And who were those people?
A. Well, it was Vaughn Flasher.
Q. And who is that?
A. He was somebody who had been involved in campaign activities in the state for a long period of time.
Q. And who did he work for at the time?
A. I think he had -- I think he had his own business. He had his own business.
Q. And you said he was involved in campaign activities in the state. Do you know if that was for Republicans or Democrats?
A. It would have been -- well, some of it was statewide campaigns that are nonpartisan, so, I mean, I guess it all depended on who at the time he was working for.
Q. Were you aware of him working for any Democrat at the time?
A. Not to my knowledge.
Q. Okay. So you mentioned Mr. Flasher, Ms. Mann -- Ms. Blessing, excuse me. Was there anyone else who helped work on the indices issue?

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A. There was also somebody in the House that had -- with similar background as Vaughn did in the Senate, and I sought his guidance was well.

Q. And who was that?

A. I knew you were going to ask that. I just had it. I'm sorry. The name escapes me.

Q. Okay. But you said similar background. Was that someone who also worked with Republicans?

A. Well, statewide campaigns, had a knowledge of the history of elections in the state, and if you were trying to come up with a -- some type of way to measure historical election results they would have good insight to say use this race in it and don't use that race.

Q. And this person, to the extent that you recall their background, did this other person work for Democrats to your recollection?

A. I don't know.

Q. If you do recall the name at any

point --

A. Sure, yes.

Q. -- like if we go to lunch and we come back, tell me.

A. I'll blurt it out.

Q. So going back to this everyone had different opinions on how to put together the political data, you mentioned that Mr. Kincaid had a different opinion.

Do you recall anyone else having a different opinion on how to put together the historical data?

A. Every member of the press that we interacted with had their own ideas. You mentioned Mr. Slagle with OCAR, the Campaign for Accountable Redistricting. He had his own methodology that he wanted to use. Even some of the Democratic members of Congress that we were having conversations with, they had their own scoring system that they used. And, like I said, literally everybody we talked to seemed to have a different way of looking at historical election results.

Q. And so how did you ultimately

decide which way you were going to adopt?

MR. STRACH: Objection.

THE WITNESS: So help me understand which way we were going to adopt.

BY MS. THOMAS-LUNDBORG:

Q. Well, you said you came up with a unified historical index of five --

A. Correct.

Q. -- races and you've named some of the people involved. How did you determine which five races you were going to select?

A. We just decided that those were the five best.

Q. And what do you mean by best?

A. Those were the five that would represent historically statewide nonjudicial election results.

Q. Okay. We may come back to this subject a little bit later, but --

A. Sure.

Q. -- I would like to move on. I am -- if you could turn to the next exhibit.

(Thereupon, Plaintiffs' Exhibit Number 14, Document Entitled Keep it Secret - Keep

it Safe, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. This is an exhibit that I'm having marked as Exhibit 14. This may be slightly confusing in that it has an exhibit sticker on it already. It bears the number Exhibit 3 and this is from the deposition that you priorly took in Wilson v. Kasich.

A. Okay.

Q. At the top of the document it says Keep it Secret, Keep it Safe. Now, I've mentioned you were shown this at a prior deposition. But prior to that deposition do you recall having seen this document?

A. So prior to the deposition seven years ago had I -- do I recall having seen it?

Q. Yes.

MR. STRACH: Objection.

Go ahead and answer if you can.

THE WITNESS: Yeah, I mean, I think at my deposition I said that I did not recall this document and then when I was asked to provide records pursuant to the public records request I

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came across it and provided it.

BY MS. THOMAS-LUNDBORG:

Q. Okay.

A. And that was the first recollection of seeing it.

Q. And you said that you provided the document as part of the public records request?

A. Yes.

Q. How did the document come to be in your possession?

MR. STRACH: Objection to -- when you say document, it's my understanding this was part of a larger presentation. Are you referring simply to this slide or the entire presentation?

MS. THOMAS-LUNDBORG: I'm referring to the slide that we're currently looking at.

MR. STRACH: All right. Go ahead and answer it.

THE WITNESS: Could you restate that, please? I'm sorry.

BY MS. THOMAS-LUNDBORG:

Q. Yes. So you said that as part of the public records request you provided this document. How did the document come to be in

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your possession?

A. It was emailed to me.

Q. And do you recall who it was emailed by?

A. I do not recall.

Q. Do you recall when it was emailed to you?

A. I do not.

Q. Just going back to your question -- to my question about who sent you the document, if you could - and you can have this version - turn to page 21, and I'm looking at lines 4 through 6. And you can read around it if you want to just refresh your recollection with what's being asked here.

A. Okay.

Q. Looking at your prior testimony, does this refresh your recollection of who would have forwarded the document to you?

MR. STRACH: Objection to the document, but go ahead and answer it.

THE WITNESS: Yeah, I mean, I said seven years ago in this deposition that I believed the email was forwarded to me, and obviously I say

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by Heather, but sitting here today I don't have that specific recollection.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Going back to Exhibit 14, at the bottom of the exhibit it says presenter John Morgan. Do you see that?

A. I do.

Q. Is it your understanding that's the same John Morgan that we were previously discussing?

A. Yes, that would be my understanding.

(Thereupon, Plaintiffs' Exhibit Number 15, Document Bates Stamped DIROSSI_0000038, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. Moving on, I would like to look at an exhibit that I'm having marked as Exhibit 15. It's DIROSSI_38 for the record. It is a calendar entry from August 30, 2011, and the subject is Confirmed: Meet with Tom Whatman. Do you see that?

A. I do.

Q. Who is Tom Whatman?

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A. So he was - I don't know if he still is, I assume not - somebody that was close to the Speaker of the United States House of Representatives, John Boehner.

Q. And you said he was close to Speaker Boehner. Do you know what the relationship was between Mr. Whatman and Mr. Boehner?

A. I don't.

Q. And how did you know that -- or what was your understanding of -- strike that.

Why do you say that he was close to Speaker Boehner?

A. He was another person who was a resource or could -- you know, I could email ideas to or he might email me ideas about the congressional redistricting.

Q. My question is, why did you say he was close to Speaker Boehner?

A. Just because he was the person -- if we wanted feedback, that's who I would have emailed or --

Q. And feedback --

A. He either worked for him in his

congressional office or he worked for him in other capacities.

Q. Okay. And you said you would email ideas to Mr. Whatman. What type of ideas?

A. Again, so there were a lot of -- as we were going through this process, we were confronted with a lot of big issues that we had to work through. The loss of two seats was a significant challenge for us in reconfiguring the districts. We had a district in Northeast Ohio that was represented by Congresswoman Fudge who we wanted to make sure that the district was drawn to her liking, so we were, you know, communicating back and forth with her and people around her.

There was also an intention to -- since we were losing two districts, we thought -- or it was thought that we should absorb one Republican incumbent and one Democratic incumbent, and so there was a lot of conversation about how that would happen.

There was also the desire among some of the individuals, like Speaker

Batchelder, for the first time in the state to create a new district in Franklin County, as it turned out, that could elect a second minority member to Congress.

And so there were a lot of big, big issues -- those were big issues that kind of were the overarching concepts that we were working through. So I just said them in a couple of rambling sentences, but those were big deals, and so I was looking for a lot of interaction and feedback and ideas on how to achieve that.

Q. And you requested interaction on those ideas that you just listed from Mr. Whatman?

A. I don't recall if I specifically asked for that, but those were a number of the things we would have been talking about.

Q. And those are the types of conversations, to be clear for the record, that you would have had with Mr. Whatman?

A. I'm not saying exclusively, but yes, that would have been --

Q. And what was your understanding of

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why Mr. Whatman was involved in the redistricting process?

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

Q. Your understanding of why.

A. I mean, the Speaker of the United States House of Representatives was a congressman from Ohio, and so President Niehaus cared what his thoughts were.

Q. So you said there was a concern about what the speaker's thoughts were. Was there any concern about the thoughts of any other sitting congresspeople at the time?

MR. STRACH: Objection.

Answer if you know.

THE WITNESS: Yeah, so --

BY MS. THOMAS-LUNDBORG:

Q. You said that President Niehaus was concerned with the speaker's thoughts on redistricting, and my question is was there any concern about any of the other sitting congresspeople?

A. Well, as I said, we were losing two seats, so I think every member of Congress

was eagerly anticipating what the legislature was going to enact.

Q. And did you have any conversations with any of these people -- with any of the sitting congresspeople?

A. I would have talked to -- as we previously mentioned, I had talked on a number of occasions with Congressman Austria.

Q. Okay. Do you know who Steve Strivers is?

A. Yes.

Q. And who is that?

A. He is a former state senator and he -- I don't know if at the time he was a sitting member of Congress.

Q. Okay.

A. And he currently is a member of Congress.

Q. And which party is he from?

A. He's a Republican.

Q. And do you recall any conversations with Steve Strivers at the time?

A. In reviewing documents that I submitted, I think there was an email from me

to him, but I don't -- I don't recall specifically sitting here without looking at it what that was.

Q. Okay. Do you know who Jim Jordan is?

A. I do.

Q. Who is Jim Jordan?

A. He's a former state senator and a current member of the Ohio Congressional Delegation.

Q. Did you have any conversations with Jim Jordan?

A. I do not believe so, no.

Q. Okay. Did you have any conversations about Jim Jordan's district that you recall?

A. Well, I had -- as I said, we had 18, we were going to 16, so I would have had conversations about every district because every district had to change.

Q. What about Steve Chabot, do you know who that is?

A. I do.

Q. And who is that?

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A. He's a current member of the Ohio Congressional Delegation.

Q. And do you recall if he was a member then?

A. I don't recall. That's a district that had bounced back and forth between Republicans and Democrats and I can't recall at the time who was the sitting member.

Q. Do you recall having any conversations with Mr. Chabot about redistricting?

A. None that I recall.

Q. Do you recall having any conversations with anyone else that we haven't mentioned about redistricting?

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

Q. And by anyone else, I mean sitting congresspeople.

A. We had a lot of conversations with Congresswoman Fudge, Marcy Kaptur, Joyce Beatty, but --

Q. Was Joyce Beatty in Congress at that point?

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A. Yeah, she was not. She is now, but she was not at the time.

Q. And you had conversations with her?

A. Yeah, I'm trying to remember -- I'm trying to remember your previous question.

Q. My question is, at the time in 2011 do you recall having any conversations with sitting congresspeople?

A. No, none that I can recall right now, other than what we've spoken about.

Q. Okay. And I don't think this was clear on the record, so if we could just go back to Exhibit 7. This exhibit references a call with now departed Congressman LaTourette.

Do you recall having any conversations with Congressman LaTourette at the time?

A. No. As I mentioned, just because it says confirmed that means that I believe that the call happened, doesn't necessarily mean that I was part of it.

Q. That's fair. I'm asking a separate question, which is do you recall

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having any conversation? It doesn't have to be the one in the calendar entry.

A. Yeah, no, I do not.

Q. Okay. And then by conversation I'm also referring to email. If you could just turn to tab 27. I don't think I'm going to enter it yet, but I just want to know if this -- actually, it's not tab 27. Sorry. I will tell you in a minute which tab it is. Yeah, 37. If you could turn to tab 37 for a second.

A. Sure.

Q. We'll enter it later.

Does this document refresh your recollection of whether you had conversations, either on phone or by email, with any other sitting congresspeople?

A. Yeah, this email -- I am not the sender of this email so it does not -- it does not refresh my recollection.

Q. You were copied on this email, though, correct?

A. Yes.

Q. And your email appears at the top left corner, correct?

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A. Yeah, so you asked if I had conversations with other congress --

Q. Or were part of conversations in which they were involved.

A. Oh, I understood that you asked if I had conversations with them.

Q. Were you part of any conversations that we haven't discussed where you were involved and other people were involved with sitting congresspeople?

A. I mean, if you're including are there any instances where I was cc'd on an email and that satisfies it, obviously you're showing me an email that I assume is legitimate. So I was cc'd on this email. I don't recall it.

Q. Okay.

MR. STRACH: Can we take another break? We've been going another hour.

MS. THOMAS-LUNDBORG: Do we want to just break for lunch?

MR. STRACH: Can we go off the record and have that discussion?

THE VIDEOGRAPHER: We're off the

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record.

(Lunch recess taken.)

THE VIDEOGRAPHER: We're on the record.

MS. THOMAS-LUNDBORG: Thank you.

BY MS. THOMAS-LUNDBORG:

Q. Good afternoon.

A. Good afternoon.

Q. So I would like to follow up on some of the things that we spoke about earlier this morning.

A. Okay.

Q. You mentioned having conversations with Congressman Austria. Do you recall that?

A. I do.

Q. What were the nature of those conversations?

A. So in House Bill 319, which was the first map that was adopted by the General Assembly, Congressman Austria and Congressman Turner were put into one of -- the same district. As I had mentioned, the state was losing two congressional districts and so we needed to get rid of two, or absorb two -- not

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get rid of, but absorb two.

In the first map House Bill 319, Congressman Austria and Turner were both in a district where roughly 50 percent of their old district was in the new district, so basically it would be a fair fight for them as they -- if they both chose to run against each other. In House Bill 369 -- now, as you can imagine, Congressman Austria, nor Turner, were excited about that.

But in 369, in order to get the map through the legislative process, the Democrats in the legislature specifically made a number of requests to make changes to the map in order to provide votes to support the new map House Bill 369, and specifically the request of the Montgomery County Democrats was that all of Montgomery County be in the 10th district.

This obviously upset the geographical balance being 50 percent from Turner's old district and 50 percent of Austria's old district, and so I was conveying multiple times in multiple conversations with

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Congressman Austria that, in order to get votes from the legislative Democrats, that we were going to adopt this request and it was changing the district in a way that would not be beneficial to him for his previous district; and that that was a decision that the speaker and the president had made in order to secure votes from legislative Democrats, which we ultimately did get a number of from the Montgomery County delegation.

And so obviously I was relaying that to Congressman Austria, that that change had occurred and that decision had been made by the speaker and the president, and that it wouldn't be -- wouldn't be good for him.

Q. Now, when you refer to speaker, was that Speaker Batchelder?

A. Batchelder (pronouncing), yes.

Q. Batchelder, excuse me.

A. Thank you for clarifying, yes.

Q. Did you have any conversations with Tom Whatman about the changes to Congressman Austria's district?

A. I don't recall any specific

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conversations about that with Tom.

Q. Did you have any conversations with Adam Kincaid about changing Congressman Austria's district?

MR. STRACH: Objection. Do you mean throughout the entire process or as it relates to this House 369 change?

MS. THOMAS-LUNDBORG: Throughout the whole process.

THE WITNESS: Okay. Could you repeat it again?

BY MS. THOMAS-LUNDBORG:

Q. Did you have any discussions with Adam Kincaid about Congressman Austria's district?

A. None that I can specifically recall exact conversations with him.

Q. Did you have any emails, either where you sent it, received it or were copied, with Adam Kincaid about Congressman Austria's district?

A. None that I can recall specifically here.

Q. And did you have any emails where

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you either sent, received or were copied about Congressman Austria's district with Tom Whatman?

A. None that I can specifically recall sitting here.

Q. Going back to President Niehaus, you said that you received suggestions throughout the process, not just in 369, from him. What were the nature of those suggestions?

A. So it was -- as I mentioned before and mentioned the big -- the big pillars of what the districts were going to look like, losing two districts, trying to make sure the 11th congressional district of Northeast Ohio was proposed in a certain way, these were -- those were conversations that he and I were having about how -- what we were going to try to do to achieve those.

Q. And the same question for the Speaker of the Ohio House.

A. Yeah, I -- I worked more closely with the president and the Senate so I don't recall any specific conversations I had with

the Speaker of the Ohio House on those topics.

Q. And when the decision was made to change Congressman Austria's district, was anyone else involved in that decision besides the president and the speaker that you recall?

A. Well, the -- the genesis for the change came from the legislative Democrats that ultimately provided their votes to do it, so that's where it would have originated. So they would have been involved because they were the ones asking for the change.

Q. And outside of those individuals, the legislative Democrats, was anyone else involved in that decisionmaking process?

A. I can't recall the decisionmaking process of who else would have been involved other than the people I articulated.

Q. So going back, I would like to go to the kind of map drawing process --

A. Sure.

Q. -- and we've discussed a little bit Ms. Blessing. Do you recall when you first met Ms. Blessing?

A. I've known Heather a long time

before this process, but I cannot recall when I first met her.

Q. And then you said earlier this morning that prior to you being retained you had conversations with President Niehaus and that you were talking about what was needed to get redistricting done.

What were the types of things that needed to be done?

A. We needed to figure out who was going to be involved in the process, we needed to have hearings of the legislative task force on redistricting and demographic research, we needed to make sure that there was money available to both the Republican and Democratic caucuses so that they could hire consultants, buy equipment, purchase software.

We needed to make sure that Cleveland State University and Ohio University, the ones that were contracted with to provide the data to all of the State of Ohio, was happening -- was happening in a timely manner pursuant to that contract, and we had to start thinking about - specifically on the

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congressional redistricting, since it is a bill that the legislature would have to adopt - when the legislature would have hearings, when the legislature would have votes, and when they could actually pass a bill. Those types of logistical issues.

Q. Okay. Now, you listed a number of things. Did any of those things happen before August 1, 2011?

A. Are you referring to conversations about those or are you actually saying those -- did those specific things happen?

Q. Did any of those specific things happen before August of 2011? Would you like to take them in turn?

A. Sure, that would be helpful.

Q. Okay. A decision about who would be involved in redistricting?

A. Well, and you're asking if a decision on that happened before the contract was put in place?

Q. Yes.

A. Well, so the contract made that decision, so that kind of happened -- the

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contract kind of decided who were going to be the hired people to do that.

Q. Okay. A decision about hearing dates and when hearings would take place?

A. I can't recall if that was -- was finalized before or after.

Q. A decision about money to the caucuses?

A. I don't recall. You provided some documents that had dollar amounts and supplemental dollar amounts. I'm not sure I understand those timelines yet fully.

Q. Okay. A decision about Cleveland State's provision of data?

A. That, the decision to hire Cleveland State and OU, who also provided the data and were the contractors in '01, had been made prior to my contract being signed in August. Well before, years before.

Q. Okay. But you had decisions (sic) about that in 2011 with the president? You had conversations with the president about that in 2011?

A. Well, those conversations in 2011

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would have been about the ongoing whether or not they were going to meet their timelines and contractual obligations, but the decision to hire them had happened many years before.

Q. And those -- the conversations about whether they were going to meet their timeline, did that happen before August?

A. I couldn't say specifically. Those happened over a long period of time, maybe -- I can't recall the specific conversations.

Q. And then the decision about when the legislature -- the House and the Senate would actually have the map, did those conversations happen before August?

A. There were conversations about it, but I do not believe a decision would be made -- was finally made.

Q. Okay. Now, we discussed Maptitude earlier this morning. Did you get licenses to use Maptitude?

A. We did.

Q. Were there -- was there one license or was there more than one?

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A. I don't specifically recall. I don't specifically recall how the licenses were done. I don't recall.

Q. Okay. You mentioned that you worked in Maptitude, Ms. Blessing worked in Maptitude and you said Troy Judy also worked in Maptitude?

A. (Witness nodded head up and down.)

Q. And so to Troy Judy, was he actually in the software changing district lines or what was the nature of his involvement?

MR. STRACH: Objection.

THE WITNESS: Yeah, he would be better to answer that.

BY MS. THOMAS-LUNDBORG:

Q. Well, do you recall whether he was changing district lines or not?

A. I don't recall.

Q. When it came to the map, where was the map drawn? And let's first start with 319. Where was that drawn?

A. Well, the computers that we had purchased through the legislative task force

were the computers at which Heather and I spent our time. So on those computers would have been the -- where we were putting together the proposed districts.

Q. And where were those computers located?

A. In our office.

Q. And where was your office?

A. The office was at the DoubleTree hotel.

Q. Okay. And why did you decide to put your office in the DoubleTree hotel?

A. Yeah, it's actually the same place that the previous decade we had chosen. It came from my experience the previous decade, as we talked about, when I worked for the House. The redistricting and apportionment process is very unique to the State of Ohio, it's unique to every state, and it happens once every decade. And the amount of time and the hours that I knew that we would need to put into this process, I did not feel that in the Ohio House or in the Senate there was office space that would be conducive to that environment.

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Specifically having been the budget director in the House in the summer when we were doing budgets, I know that after about 6:00 every day the Ohio Building Authority turns off the air-conditioning, and if you want to run air-conditioning on a floor you have to pay about $300 an hour to run air-conditioning.

And so we looked at trying to find office space in the Riffe Center or in the Statehouse and we just did not feel that, either in 2001 or in 2010, that that was conducive to that -- the needs that we had. So we looked for office space on Capitol Square that we could use and that's how we made the decision both decades to use the DoubleTree.

Q. Okay. At different points in your answer you said you and we. Who participated in the decision to have the office at the DoubleTree?

A. In this decade, Heather and I were the ones that went and looked at -- those are the people that I remember, we went and looked at what the offices would look like and to see if it would be conducive to what our needs

were.

(Thereupon, Plaintiffs' Exhibit Number 16, Document Bates Stamped LWVOH_00018254, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to show you an exhibit that I'm having marked as Exhibit 16. It has Bates number LWVOH_18254. Do you see that?

A. I do.

Q. Okay. And at the top it says DoubleTree Suites and Invoice. Do you see that?

A. I do.

Q. And under the name of the customer, the name is Mr. DiRossi. Do you see that?

A. I do.

Q. Is that your name?

A. It is.

Q. Do you recall being the one who was responsible for getting the room at the DoubleTree?

A. I mean, my name is on the invoice.

I remember talking to Carrie, who was the coordinator for long-term stays, and I obviously was the one who signed the invoice.

Q. Okay. And here the date is under miscellaneous, 7/12/2001 (sic). Do you see that?

A. Yes.

Q. Do you recall getting the room, at least in place, for the DoubleTree in early July of 2011?

A. Yes.

Q. And then if we look at the first line of quantity, it says one room, guest room, July 17th through October 15th, 2011. Do you see that?

A. I do.

Q. Do you recall having the room from July 17th through October 15th, 2011?

A. I do.

Q. Do you recall who had keys to the hotel room?

A. I know for sure that I had a key and I know that Heather had a key, and beyond that, I do not recall.

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Q. If you could look at page 26 of your prior deposition, and I'm looking at the answer that starts at line 10. If you could read that and let me know if that refreshes your recollection regarding who had keys to the hotel room.

A. You want me to read it?

Q. You don't have to read it for the record. You can just read it to yourself and tell me if that refreshes --

A. I didn't know if you wanted me to read it out loud or -- thank you.

Okay, I've read it.

Q. Does that refresh your recollection regarding who had keys to the hotel room?

A. Well, yeah, it definitely confirms that Heather and I had swipe cards or keys and then I also say I think other -- a couple other people had keys as well.

Q. Okay. And who were the other people who had keys?

A. Yeah, so sitting here today I'm not sure I can remember specifically if they

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had keys or not.

Q. Okay.

A. So did that answer your question? I'm sorry.

Q. That answers it. Let me just ask some names.

At any point did -- at any point did the minority leader for the House have keys to the hotel room?

A. No.

Q. At any point did anyone on the minority leader's staff have keys -- and by minority leader I'm just talking about House, have keys to the hotel room?

A. No.

Q. At any point did the minority leader of the Senate have keys to the hotel room?

A. No.

Q. At any point did a member of the minority leader's staff have keys to the hotel room?

A. No. I should be saying not to my knowledge. I didn't -- I did not personally

give any of the people you named keys. But as I mentioned, there were a few other keys, so I mean, I guess I should be clear that somebody else could have given them one, but I did not.

Q. Did you ever see any of the individuals that we just named in the hotel room?

A. No.

Q. Did anyone who could be identified as a Democrat have a key to the hotel room?

MR. TUCKER: Objection to form.

THE WITNESS: Yeah, I mean, I've listed the two people that I know for sure had keys, in my previous deposition I mentioned two other people that might have. Other than that, I don't -- I don't know if they at any time would have given keys to other people. I don't know.

BY MS. THOMAS-LUNDBORG:

Q. Did you ever see anyone who could be identified as a Democrat in the hotel room?

A. I did not.

(Thereupon, Plaintiffs' Exhibit Number 17, Document Bates Stamped DIROSSI_0000051, was marked for purposes of identification.)

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BY MS. THOMAS-LUNDBORG:

Q. Okay. I'm going to have marked as Exhibit 17 DIROSSI_51, and the subject is Confirmed: Meet with Niehaus at the bunker, location is redistricting office, and it's September 15th, 2011. Do you see that?

A. I do.

Q. What is the bunker?

A. Well, that was just the name that I gave the redistricting office. As you just read in the email, I referred to the DoubleTree hotel by a number of names, including redistricting office and many other things.

Q. And so you were responsible for the name bunker?

A. Yes.

Q. And how did you come up with that name?

A. Sorry. The previous decade, 2001, that is actually where I was on September 11th working on the 2001 apportionment, and I referred to it, as -- as there was so much happening in the country and the state, as a bunker, and so I used that term again the next

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decade.

But as you can see, I referred to it as the hotel, I referred to it as the office, I referred to it as the redistricting office, I referred to it as off site, I referred to it as bunker on occasions. I mean, I referred to this physical place by a number of names.

Q. Understood.

(Thereupon, Plaintiffs' Exhibit Number 18, Document Bates Stamped DIROSSI_0000051, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to change to Exhibit 18. So this, again, it's going to be a little confusing because this already has an exhibit sticker 17. The exhibit sticker is from your prior deposition. It's also a number of documents put together that I did not disaggregate since they were put together in that deposition. And so let's start with the first document, but we'll go through all three hopefully very quickly.

Do you see that this first

document on -- I'll just say the first page of the exhibit since there are different page numbers at the bottom, an email that's from line is RayDiRossi@Gmail.com?

A. Yes.

Q. Is that your email address?

A. RayDiRossi@Gmail.com?

Q. Yes.

A. Yes, it is.

Q. Okay. And the email is to a Clinton Morefield. Do you see that?

A. I do.

Q. Who is that?

A. He at the time was the -- either the IT or the -- the IT person for the Ohio Senate.

Q. Okay. And then the other person that this is to is Heather Mann. We've discussed her, but do you recognize that email address, HeatherMann@Gmail.com?

A. Yes.

Q. And was that Heather Mann's, now Heather Blessing's, Gmail address?

A. At least at the time it was one

that I used for her, yes.

Q. Okay. The email then copies a Jon Cook. Do you see that?

A. I do.

Q. Who is that?

A. He would be the IT director - I'm sure I'm getting his title right - him, along with Clint, of the Ohio House.

Q. Okay. And then in the text of the email you say, We're at the actual hearing at 2:30 in Senate finance. We'll be back at the bunker later today after the hearing is over. Do you see that?

A. I do.

Q. Let's turn to the next page. Again, this was put together by prior counsel, so you can't blame me for that. Do you see in the top right corner your email address?

A. We're looking at this one?

Q. Yes, we are.

A. Yes, I do.

Q. Okay. And then do you see in the -- what seems to be the from line your email address?

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A. Yes.

Q. And then the email to Matt Schuler, do you see that?

A. I do.

Q. And who was Matt Schuler?

A. He was the chief of staff in the Senate at the time.

Q. Okay. And then the text of the email says, I'm free all day today at the bunker. Do you see that?

A. I do.

Q. Moving to the next page --

A. This is the same email that refers to -- the headline and subject of the email is Meeting Tuesday at the Redistricting Office. So again, this is -- the meeting was at the redistricting office and it was me just calling it by another name in the body of the email.

Q. I see that.

Going to the next page, do you see your email in the top right corner of this document?

A. Yes.

Q. And then it looks like your email

is in the from line. Do you see that?

A. My email is in the from line. Okay. I see that.

Q. Okay. And this is to a Vaughn@CapitalStrategiesGroup.com. Do you see that?

A. I do.

Q. Who is Vaughn?

A. Vaughn Flasher, who we mentioned earlier.

Q. And Vaughn Flasher, you said, helped put together the indices?

A. He helped provide guidance on what statewide nonjudicial election races might be good to use for putting together historical election data.

Q. And did Vaughn Flasher have any other involvement in redistricting?

A. None that I recall. None that I recall here.

Q. Okay. And then Matt Schuler is copied here; is that correct?

A. That's true.

Q. And that's the same Matt Schuler

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we just referenced?

A. Yes.

Q. And then just going down -- so there's the top email and there's another email below it, so I'm going to focus on that, with all the same people involved. And then it says, I am meeting with Senator Manning at the bunker today at 3:30 p.m. today if the Senate session is over. Do you see that?

A. I do.

Q. So now we've looked at three different emails to various individuals where you've used the term bunker; is that correct?

A. Yes.

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

Q. Was the term bunker commonly used during that period?

A. I think, as I said, I referred to this office by a number of names. I just kind of used them interchangeably.

Q. Well, you didn't define the term bunker in any of the emails that we looked at, did you?

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A. I don't know what you mean by define it.

Q. Well, did you say in any of the emails I'm at the bunker, aka the redistricting office?

A. Well, I mean, like in the email we just looked at, the subject is Tuesday at Redistricting Office and then I say I'll be over in the bunker --

Q. Okay. What about the --

A. -- so I'm using them interchangeably.

Q. What about the first document, do you refer to the redistricting office here?

A. Are you looking at 18 or 17?

Q. 17. I mean, it is our Exhibit 18, but it has the 17 sticker on it. But I'm looking at this email to Clint Morefield, Heather Mann and Jon Cook. Do you refer to the redistricting office in this email?

A. I don't see that I did in this particular instance.

Q. Okay. Going to the last page of the exhibit, do you refer to the redistricting

office in this email? This is the email to Vaughn and Matt Schuler.

A. I did not.

Q. Okay. So we've talked about who had keys to the hotel room. Who actually visited the hotel room to your recollection?

A. You're specifically asking about the congressional redistricting process?

Q. Yes, or whoever visited the hotel room at the time.

A. Dave Yost, who was I believe the auditor, was there, President Niehaus was there, Speaker Batchelder, obviously Heather and I and Troy were there.

Q. What about Matt Schuler, was he there?

A. I don't recall if Matt was ever there. I can't recall.

Q. What about Tom Whatman?

A. I can't recall if Tom was ever there.

Q. What about Adam Kincaid?

A. I cannot recall if he was ever there.

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Q. Was anyone else on President Niehaus' staff at the hotel room?

A. Clarify for me what you mean by President Niehaus' staff.

Q. Anyone who worked with President Niehaus.

A. Okay. I do believe, from this previous email, that Clint Morefield came over to help us install the plotter so that we could print and he would have been a member of the Senate staff. Other than that, I cannot recall anybody specifically who would have been there.

Q. Okay. What about anyone on the Speaker of the Ohio's House staff?

A. I'm trying to remember - this was so long ago - of who was actually members of the staff at the time. Nobody comes to mind.

Q. Okay. What about anyone on the Governor's staff?

A. Beth Hansen was there at least on one occasion where I was present.

Q. What about anyone on the auditor's staff?

A. Other than I mentioned the auditor

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himself, I do not recall any members of his staff.

Q. What about the Secretary of State?

A. The Secretary of State was there once personally, but I cannot remember any members of his staff being present.

And again, I just would maybe point out, a lot of these -- I kind of fell into the trap. A lot of these are apportionment and are not redistricting, so I apologize if I jumped back and forth there. The Governor, the auditor, the Secretary of State are apportionment board members, and so in many instances when I was referring to them being there, they weren't there to have anything to do with redistricting, they were there for apportionment. Apologies.

Q. Okay. Fair enough.

What about Mark Huffman?

A. Mark Huffman?

Q. Do you know who Mark Huffman is?

A. That name does not sound familiar.

Q. Do you recall there was a Mark Huffman in the Ohio House at the time?

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A. As a state representative? That name is not familiar.

Q. Do you recall who the sponsor of 319 was?

A. I think I do, but it's not Mark Huffman, no.

Q. Who is the sponsor that you're thinking of?

A. I don't want to -- I don't want to guess. I don't want to guess.

Q. Okay. Oh, sorry. I've been corrected. Do you know a Matt Huffman?

A. Oh, state -- current state senator, former state representative, okay, yes, I do know Matt Huffman.

Q. Okay. And was Matt Huffman ever at the hotel room?

A. None that I can specifically -- not that I can specifically recall.

Q. And was Matt Huffman the sponsor of 319?

A. I believe he was, yes.

Q. And was Matt Huffman --

A. In fact, he was, he was.

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Q. And was Matt Huffman the sponsor of 369?

A. I don't know for sure. I can't speak to that.

Q. Okay. Do you know a Keith Faber?

A. I do.

Q. And who is Keith Faber?

A. He was a state senator at the time.

Q. And was Keith Faber ever at the hotel room?

A. Yes, he was.

Q. And how many times?

A. I couldn't tell you specifically how many times.

Q. Okay. Was it more than once?

A. Yes.

Q. And was Keith Faber the Senate sponsor of the bill?

A. I can't answer that. I don't know whether that senator sponsored the bill or not.

Q. Did he sponsor the bill in the Senate?

A. I can't answer that. I don't

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know. I don't know.

Q. Okay. Did you work on the Senate legislative process in your role?

A. Can you help me understand the Senate? You mean --

Q. Did you work on the bill, any of the processes or procedures of getting the bill moved through Senate?

A. Very -- very little. Like I said, my role was to work to get the districts put together in a legislative form so that it could go through the legislative process. Once that started with 319 and 369, I didn't have really much of a role.

Q. Okay. Was John Morgan ever at the hotel room?

A. I can't recall if he was ever physically there.

Q. Was Mark Braden ever in the hotel room?

A. Yes.

Q. And how many times?

A. I don't recall a specific number of times.

Q. More than once?
A. Yes.
Q. And then you mentioned that Troy Judy was there and working on the maps. Do you recall how many times he was at the hotel room?
A. In terms of a specific number, I do not.
Q. Was it more than once?
A. Yes.
Q. And in this hotel room, just so the record is clear, did you work on both the redistricting congressional map and the apportionment map for the Ohio legislature?
A. Yes.
Q. Okay.
A. But if I could clarify that --
Q. Sure.
A. -- as we talked about earlier, not exclusively, because there were two maps, 319 and 369, and by the time 369 was moving through the legislature we were no longer in the redistricting office.
Q. Okay. Where were you when 369 was being worked on?

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A. In the Statehouse.

Q. Okay. And where in the Statehouse?

A. In the Senate annex building.

Q. And was that room available when you were working on 319?

A. I don't -- no, it was not.

Q. And why wasn't it available?

A. It was housing all of the public records documents from the previous decades and they all had to be moved out to make room.

Q. And when were those moved?

A. I don't recall the specific timeline.

Q. Was it your understanding that those were moved specifically so you could use that room?

A. Yes.

Q. Okay. Regarding the hotel room, did you go to the hotel room every day when you were working on the map?

A. No.

Q. How often were you in the hotel room?

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A. Often.

Q. Was it a few times a week, once a week?

MR. STRACH: I'm just going to object and ask if you will clarify, when you say the map do you mean the legislative map or the congressional map?

MS. THOMAS-LUNDBORG: I'm talking about the congressional map.

THE WITNESS: And your question was how often did I --

BY MS. THOMAS-LUNDBORG:

Q. How often were you in the hotel room? During --

A. Often.

Q. During a given week, how many times were you in the hotel room?

MR. STRACH: Objection.

THE WITNESS: It would depend on the week. I mean, there were some weeks when we weren't there a lot and there were other weeks where we were there every day. It would vary depending on the --

BY MS. THOMAS-LUNDBORG:

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Q. And when you say we were there every day, who would be there if you were there every day?

A. I'm referring to Heather and I.

Q. Was anyone else in the hotel room as often as you were?

A. No, other than Heather.

Q. When you went to the hotel room, how long would you be in there typically?

A. Well, typically is -- nothing about this was typical, so it was very extended periods of time. I'm sorry, do you have -- what is the question?

Q. The question was how long would you be in the hotel room when you were there?

A. I mean, a long time.

Q. And what is your definition of a long time since everyone will define it differently?

A. Well, I'm sure there were times with -- other than going out for lunch or dinner, that I was there 24 hours straight, and I'm sure there were other times when I wasn't there for any time during a 24-hour period.

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Q. And other than Heather Mann, was anyone in the hotel room for an extended period of time, like 24 hours?

A. I would -- I would say Heather and I were the two -- the two people that were there the most --

Q. And how --

A. -- on that question.

Q. I'm sorry. How many computers did you have to work on while you were there?

A. Three.

Q. And how often were three people working on the computers at any given time?

A. How do you want me to quantify that? I mean --

Q. You could say once a week, twice a week, three times a week.

A. It varied so -- it varied so much, I mean, I don't know if I could pin that down specifically.

Q. Okay. Who else used the computers in the hotel room?

A. I had a computer that I used, Heather had a computer that she used, and then

there was another computer that was there as needed, that Troy probably -- Troy Judy would have used when he was there.

Q. Did anyone other than Troy Judy use the third computer?

A. Not to my knowledge.

Q. Other than the computer, did you have other equipment installed at the hotel room?

A. We had a plotter. We had a plotter so that we could print maps in color so that the legislative leaders could share those maps with who they wanted to share maps with. We had a network -- we had a networking switch that allowed the computers to be connected directly, and, you know, that was the extent of the equipment.

Q. Were the computers connected to the worldwide web?

A. They were not.

(Thereupon, Plaintiffs' Exhibit Number 19, Documents Bates Stamped DIROSSI_0000139-0000141, was marked for purposes of identification.)

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BY MS. THOMAS-LUNDBORG:

Q. I would like to show you a document that I'm having marked as Exhibit 19, and for identification the first page is DIROSSI_139. And I'm going to skip the first page, we'll come back to that. If you could move to the second page of the document, please.

And at the top of the second page it says Congressional Redistricting Timeline. Do you see that?

A. I do.

Q. The first entry is Wednesday, July 20th, 2011. Do you see that?

A. I do.

Q. And let me first ask you -- actually, let me strike the last question.

Do you recognize this document?

A. I do.

Q. Is this a document you created?

A. It is.

Q. Okay. And why did you put this document together?

A. Which piece of it are you

referring to?

Q. Well, let's deal with this second page. Why did you put the second page together?

A. As we had talked about, one of the things that I was concerned about were the logistical and the timelines for producing -- the legislature to produce a -- pass a bill that would become the congressional districts, and so this was just putting on paper some of those timelines, including some of the proposed dates where the legislators would be traveling the state to get public input.

Q. Okay. So the first entry, it looks like, was July 20th, 2011; is that correct?

A. It appears to be, yes.

Q. So does this document predate July 20th, 2011?

A. I don't recall specifically when I made it.

Q. Okay. The first entry is a series of two meetings, one is 9:00 a.m. to 12:00 p.m. in Columbus, and then 3:00 p.m. to 6:00 p.m. in

Zanesville. What were these meetings?

A. These were the five locations and dates for the public hearings that the Senate committee on redistricting was going to be having.

Q. Okay. The first meeting is July 20th, 2011. To your knowledge was there a draft map at that point?

A. So when you say -- help me understand a draft map. What does that mean?

Q. Had anyone started to put together a map at that point?

A. Well, I can't speak for did anyone. I did not.

Q. Okay. Had you seen a draft map at that point?

A. I don't recall if I had seen anybody else's ideas on July 20th.

Q. Do you know whether any maps were shared at this July 20th meeting?

A. I honestly can't tell you if I attended these. I don't recall.

Q. You don't recall whether you attended them?

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A. I don't recall.

Q. Okay. We'll start with this one. And we can go through a number of these, but I'll try to keep the number as low as possible. So I'm not entering it in the record. It's just to refresh your recollection. It's a document, DIROSSI_2225 that you produced to us.

Does this document refresh your recollection about whether you attended any of these hearings?

A. It does not.

Q. Okay. I'm showing you another document that is DIROSSI_147, again I'm not entering it, and it's the announcement of the committee hearings. Does this document refresh your recollection about whether you attended any of the hearings?

A. It does not.

Q. Okay. I'm showing you a document, it's marked DIROSSI_00020. It is a witness information form from 7-20-11, Jim Slagle. It appears to correspond with one of the hearings. Does this document refresh your recollection?

MR. STRACH: And just to be clear,

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it's actually DIROSSI_202.

MS. THOMAS-LUNDBORG: Oh, sorry, 202.

THE WITNESS: No, it does not.

BY MS. THOMAS-LUNDBORG:

Q. Okay. I think this will be the last. Sorry, I'm just looking for one other. I'll just add one more document, I think. So I'll just represent -- I have a number of these, but I'll just hand you one now.

This is a calendar entry and there are calendar entries corresponding with all of the hearings listed here. Does this document refresh your recollection about whether you attended the hearings?

A. No. As I said before, just because it says confirmed just meant that I -- the hearing was happening, not that I was necessarily attending.

Q. Okay. Were you aware of the hearings as they were happening?

A. I was -- I was aware that the hearings were going to be held.

Q. Okay. Did you get any feedback, if you didn't attend the hearings, about what

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happened at each hearing?

A. I don't -- I don't recall. I mean, Jim Slagle with the Ohio Campaign for Accountable Redistricting and I had a couple of conversations throughout this process and I'm sure he would have articulated his -- reiterated some of the points of his testimony. But other than that, I don't have any specific recollection.

Q. Okay. Do you recall why you held on to so many documents related to the hearing?

A. Because having been through this the decade before, I knew that lawsuits would be coming and they were public records, and so I kept a lot of this stuff.

Q. To your knowledge did any of the feedback from the hearings make it into anything that you worked on?

A. Well, and not to mix, but in the apportionment map, absolutely, and in the congressional map, I don't -- since I can't recall specifically if I got that feedback directly at the hearings, I mean, I couldn't recall a specific instance.

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A lot of the feedback that we were getting about -- again, apologies, we're dealing with the legislative process for the congressional map as opposed to the apportionment process with the apportionment board. A lot of the feedback that we were getting on the congressional map revolved around requests by Democrats in the Ohio House and the Ohio Senate that they wanted to see changes in order for the map to be approved by them, that they would support the map. So that's how we were primarily getting feedback from proposed changes, it was through the elected officials of the citizens.

Q. Okay. I just want to stick on the hearings, though, because there's a congressional hearing timeline and then the next page is an apportionment board timeline.

A. Yes.

Q. So for the congressional only hearings, did any of that feedback make it into your map?

A. I can't say because I don't recall if I attended and heard directly what that --

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what that testimony was.

Q. Okay. But to your knowledge did you, whether you were there or someone else told you, make changes based on public opinion to the map at these hearings?

A. Well, right, public feedback we were getting through a number of ways. I don't believe any of the legislative Democrats chose to testify at these hearings to make their requests known. Those were happening through legislative lines of communication through the minority leaders, the leaders of the chambers and other avenues. It wasn't happening through these hearings.

Q. Okay. You've said you were the author of this document. At the bottom of the document it says, and this is the third to last line, hold it in the can until the legislature comes -- comes back in September 13th, 14th.

What does hold it in the can mean?

A. Yeah, so it was my -- my words basically saying, as we talked about the process and the logistical problems involved in getting the legislature to produce a map, at

the time that I put this document together the legislature didn't have session dates scheduled in order that they would be here to vote to approve a map.

So as we were working simultaneously on the apportionment map, as well as the congressional redistricting, we might have to come up with a proposal that the legislature could consider, but wait until they came back so we could have sessions and hearings, and that's what I meant by hold it in the can.

Q. Okay. And the it referred to here a draft map?

A. Yes, the it here is the proposal of what the congressional redistricting could be.

MS. THOMAS-LUNDBORG: So I believe we need to take a break so the DVD can be changed, and we'll take a ten-minute break and come back?

MR. STRACH: Yeah, five or ten is fine.

THE VIDEOGRAPHER: We're off the record.

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(Recess taken.)

THE VIDEOGRAPHER: We're on the record.

MS. THOMAS-LUNDBORG: Okay. Thank you.

BY MS. THOMAS-LUNDBORG:

Q. Good afternoon.

A. Hello again.

Q. Hello again.

I would like to ask you a couple of follow-up questions regarding what we talked about earlier.

A. Sure.

Q. You said in our last session that Montgomery County was kept whole in 369 as a concession to the Democrats?

A. Yes.

Q. Were there any other concessions that were made?

A. Yeah, a number. As we discussed, in Montgomery County we were dealing with the loss of two congressional districts. This will take a little explaining. Apologies. We were dealing with the loss of two congressional

districts, and the decision was that we were going to pair two Republicans together and two Democrats together.

The two Republicans that ultimately were selected to be paired together were Turner and Austria, which had Montgomery County as its base. The two Democrats that were chosen to be paired together were Congresswoman Kaptur and Dennis Kucinich, which had a district that had a base in Toledo and in the west side of Cleveland.

And in 319 the 9th congressional district, which is the one up in the north along the lake, was designed so that there was roughly 50 percent of the territory of Congresswoman Kaptur's district in the new 9th and 50 percent of the home territory of Dennis Kucinich's old congressional district in the 9th, and there was some in the middle that neither of them had represented which was kind of viewed as neutral territory. So that was two big components of 319.

The Democrats, between the passage of 319 and the ultimate passage of 369,

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requested a number of changes that were coming from Congresswoman Kaptur through a number of channels to us. They wanted to tilt the favor so that more and more of the territory of Kaptur's old district would be in the new district, and that involved making the connecters between Cleveland and Toledo skinnier and moving more portions of Toledo into the district at Kaptur's request, and less of the population of Dennis Kucinich's area in the district. This was an effort so that -- they wanted to tip the scales so that the geography of the district at least favored Kaptur, and that was another major concession in 369.

In fact, that one I remember very vividly. That brought forward four votes, one in the Senate, Senator Brown then voted for 369 where she previously opposed the 319, and Representative Fedor, Representative Szollisi, who was the number two -- was the minority leader of the House of Representatives, and another Democrat, I believe Representative Ashford. All four people who had voted against

319 then were able to cast their vote for 369. So that was another major concession that was happening through the legislative process that brought Democratic votes to 369, the final map.

There were others throughout the district, specifically in Franklin County, if you want to go through those as well.

Q. I would like to hear what they all were. You can go ahead.

A. So in Franklin County in 319 there was the proposed creation of a new district, the hope of which was would elect for the first time a second minority member to Congress, whereas the state has historically had no minority representatives or, at the most, one.

And in 319 to 369 there were requests that were coming to us through a number of channels from Joyce Beatty. She specifically wanted geography that was in 319 out of 369 because one of her potential primary opponents resided in that district, a Franklin County Commissioner, Mary Jo Kilroy. There were also some other geography changes that she had asked for.

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She also wanted to make sure that we redrew the district so that the percentage of non-Hispanic African American -- voting age African American population was higher than it was in 319, and she also wanted to make sure -- and again, I'm going to use the word index, but this is her interpretation of what an index was, not mine. She wanted to make sure that the index was better for a Democrat, was more favorable for her.

Q. And what was her position at the time since she wasn't yet in --

A. She had a position at Ohio State. I do not recall the title of it. She was working for Ohio State, I believe, at the time, and I knew who she was.

Q. And who were those conversations with? Were you having conversations directly with Joyce Beatty or with intermediaries?

A. Well, they came through a number of sources. Again, as we talked about, we're dealing with a legislative process, so my -- I really had two primary ways that I was receiving feedback. One was through President

Niehaus as the leader of the chamber, but I was also working with Bob Bennett, who was the former chairman of the Republican party, who wasn't at the time, but had a number of longstanding relationships with people, Democratic members of the party infrastructure or Democratic elected officials.

And I was working extensively with him between 319 and 369 being adopted and we were -- he was giving me this feedback that he was getting directly from those congressmen, congresswomen or people around them in their campaign operations.

Q. Did you have conversations directly with anyone who could be termed a Democrat at this time?

A. In the congressional redistricting, you're asking?

Q. Yes, about 319 or 369.

A. Yeah, I was -- I was getting that information from other people, so I was -- I wasn't the one having those conversations. But that was the feedback that I was getting and so that's why I was making those proposals and

those changes and those recommendations for the map, which we ultimately did, and then we ultimately got -- I think at the end of the day we got -- I shouldn't say we got. There were, I think, 20 members of the Ohio House minority caucus that voted for the final map, which was -- of the members that were present from the Democratic caucus was more than half of them.

And in 319 I think there were four Democrats that voted for the map in the House and Senate combined. I think that number swelled to almost 25 votes after we made all of these changes, so --

Q. And were you getting any of this feedback when you were working on 319 or was this feedback just about 369?

A. Yeah, most of the feedback -- or everything that I just described was very inherent in 369. That was -- obviously the legislative Democrats approached the leadership and said this is what it's going to take for us to provide votes to approve this map, and so that was all post 319 and 369.

Q. Okay.

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A. There were -- in 319, as I mentioned, in the 9th congressional district, there were a lot of conversations that were happening. Congresswoman Fudge, as the map rolled out, was -- it had been relayed to me by a number of people that she did not want to be paired with Dennis Kucinich in a district. She did not want to run against him in a primary by drawing a district completely inside Cuyahoga County.

And so during 319's rollout and passage, there were conversations that were happening directly with her or with other people around her about what her preferences were for the 11th congressional district. And as I mentioned before, that's a very important district for the state because it's the only district we have in the entire state that has in recent memory elected a minority member to Congress.

Q. Now, you just said there were conversations directly with Congresswoman Fudge. Did you have those conversations with Congresswoman Fudge?

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A. I did not.

Q. Do you know who had those conversations?

A. I was working with Bob Bennett and I know that other members, I believe Speaker Batchelder -- or I know Speaker Batchelder was talking to a number of folks and contacts that he had in Northern Ohio about what Congresswoman Fudge wanted.

And I do specifically remember preparing two draft maps that we were sending to her through intermediaries that said we can draw the 11th district all in Cuyahoga County, but it will no longer be a majority/minority district, or we can bring the district down into Summit County and retain it as a majority/minority district. And if we kept it in Cuyahoga County she would be paired with Dennis Kucinich, and the feedback that came back down was she would prefer that the district go down into Summit County, which was done in 319 as it was introduced and retained in 369.

Q. Okay. You've mentioned Bob

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Bennett a couple of times.

A. Yes.

Q. What was his role in redistricting other than being an intermediary?

A. Well, he was not -- he was a former chairman of the Republican party and so he just had been involved in -- I have been now involved in two decennial redistricting and apportionments. Mr. Bennett, as we said now deceased, probably had been involved in four or five. He had great contacts throughout the state, both Republican and Democrat, some great relationships that he had, and he had the ability to reach across party lines and get feedback from both sides of the political spectrum about what people wanted to see in the legislative bill.

Q. Did he ever visit the hotel room that the map was drawn in?

A. To my knowledge, no.

Q. Other than talking to people, did he do anything else related to the map other than talking to all these people that you've mentioned?

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A. Can you say that again? I'm sorry, other than --

Q. So you've mentioned that he served as an intermediary.

A. Oh, that he did or that I did? I'm sorry.

Q. That he did. He was an intermediary to Democrats and Republicans all over the state.

A. And you're asking if he --

Q. Did anything else related to redistricting.

A. I mean, I worked directly with him on all the things I just articulated. What else he was doing, I couldn't say.

Q. Okay. I would like to just turn back to Exhibit 19 for a second. It should still be in front of you. You were on the right page.

A. I'm sorry.

Q. That's fine.

A. I had it. There we go.

Q. And there was a question I hadn't had a chance to ask you yet. So there is a

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reference here to August 19th. Do you see that?

A. Yes.

Q. And it says target date to get the bill equivalency file to the LSC. What is the LSC?

A. Okay. So that is the Legislative Service Commission. It is the entity that produces bills, proposed laws for the General Assembly. It's a nonpartisan entity. And as we had previously discussed, since the legislative congressional redistricting is a bill that goes through the legislature, we had to get to LSC what we wanted the congressional redistricting bill to look like and that's what that is a reference to.

Q. Okay. And what is a bill equivalency file?

A. So now you're getting down in the technical stuff, but it's basically --

Q. Yes.

A. It's basically the equivalency files that says what census blocks of counties and the geography of the state would be

assigned to which districts so that you could put that into a legal form.

Q. And you used census blocks to draw the district lines?

A. Well, we used a lot of units of geography, but I think that the common denominator was census blocks. The lowest common denominator was census blocks.

Q. In addition to census blocks, what did you use?

A. Yeah, so you had census blocks, census tracks, you had political subdivisions, whether it be a precinct of a city, a precinct of a township, whole townships, municipalities, wards, counties. All the units of geography that the Census Bureau tracks population data for.

Q. And was there any particular reason why you were using census blocks, which you said was the common denominator?

A. Yeah, the -- to the best of my knowledge, the court, the U.S. Supreme Court still said that you had to draw congressional districts down to zero population deviation.

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And obviously if you're trying to use a larger unit of geography, the chances that you could ever come up with 16 congressional districts that all had literally identical population or plus or minus one, depending on how many people there were, without going down to that lowest unit of geography you would never be able to achieve the required constitutional population deviations.

Q. Was there any other reason that you were using census blocks?

A. No, that's the -- no.

Q. Okay. Did you get any benefit other than the one person, one vote that you mentioned from using census blocks?

A. No, we got a lot of headaches because we got in -- there was a lot of -- when you get down to a unit that small, you run into a ton of inherent software issues with what is called split -- split blocks. And that is where you have a geography unit that maybe crosses the boundary of a census block, and if there are two people in that block you have to figure out, okay, are these two people both in

this part of the split block or in this part of the split block. So actually going down to that level caused a lot of headaches.

Q. Okay. And generally how were you able to resolve those headaches?

A. We relied on our Cleveland State and OU database and also the -- this probably would have been one instance or this was one instance where we would have used John Morgan's technical expertise on software and -- I'm sorry, I misspoke, I said the wrong name. It was Clark Benson who we used on these, not John Morgan.

Q. Did anyone else other than Clark Benson help you resolve these issues?

A. That's the name that I remember.

Q. Okay. So we've spent some time talking about Congresswoman Fudge's district and we've talked about majority/minority districts. Were you concerned about majority/minority districts because of the Voting Rights Act?

A. Yes.

Q. And what is your understanding of

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what the Voting Rights Act requires?

MR. STRACH: Objection.

THE WITNESS: Yeah, I'm obviously not an attorney, but in 2001 the district was drawn so that it was more than 50 percent voting age non-Hispanic African American population. And once we started to get up and running and look at some congressional redistricting ideas, one of the first things that I was looking at was, with the significant population loss that Cleveland was experiencing, when you reconfigured the 11th district was it possible to still draw a district that would be more than 50 percent non-Hispanic voting age African American population.

And I mentioned before the way that I had seen the data and was working with it, if the district had stayed in Cuyahoga County that would not have been obtainable. The district would have fallen to somewhere around 48 percent. So that was my understanding of the factors that we were dealing with with regards to the 11th.

BY MS. THOMAS-LUNDBORG:

Q. Okay. You said you're not an expert on VRA. Did you receive any -- and by

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VRA, I mean Voting Rights Act. Did you receive any training on what the VRA requires at any point?

MR. STRACH: And I'm going to object. If you had any training by non-lawyers, you can testify about that, but --

MS. THOMAS-LUNDBORG: I think he can testify to training by a lawyer, too. He doesn't have to say what it was, but he can say, yes, I met with lawyers and they told me what it requires.

MR. STRACH: No, no, he's not going to testify about that. I'm going to instruct him not to say anything about any training, meetings or otherwise, about the VRA with lawyers. If there was any training, meetings or otherwise about the VRA with non-lawyers, I'll allow him to answer that.

MS. THOMAS-LUNDBORG: I mean, the question is not to the substance of what he was told, lawyers said he had to do. The question is did a lawyer tell you there are VRA requirements and that is not a privileged question.

MR. STRACH: That is a substantive

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question about what he was being told by lawyers, so no, we're not going to answer that.

MS. THOMAS-LUNDBORG: I'm not asking what he was told by lawyers. I'm asking did he have conversations with his lawyers.

MR. STRACH: You can ask if he had a conversation with a lawyer, period, but not did he have a conversation with a lawyer about the VRA. We will not answer that question.

MS. THOMAS-LUNDBORG: All right.

BY MS. THOMAS-LUNDBORG:

Q. You can go ahead.

A. Can you ask the question again? I'm sorry.

Q. So there's two questions. One is did you have any non-lawyer trainings about VRA?

A. Did I have any non-lawyer training? Again, depending on what training means, other than attending those NCSL things we talked about where there might have been presentations about the Voting Rights Act, I did not have any training with non-lawyers.

Q. Okay. And then did you have any

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conversations with lawyers at this time?

A. Specifically about --

MS. THOMAS-LUNDBORG: Your attorney has instructed you not to answer about the specifics of did you have conversations with lawyers.

MR. STRACH: Did you have conversations with lawyers, as she said, at this time, period.

THE WITNESS: And, I'm sorry --

BY MS. THOMAS-LUNDBORG:

Q. At this time, we're talking about the 2011 redistricting period. We can break the question up into 319 and 369.

THE WITNESS: And I'm supposed to answer?

MR. STRACH: So the question is did you have conversations with lawyers at the time of the redistricting.

THE WITNESS: Yes.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Prior to the 2011 redistricting period did you have any experience drawing VRA compliant districts?

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A. In the 2001 apportionment, both in apportionment and redistricting, we were drawing a number of districts that were covered by the Voting Rights Act.

Q. Okay. Are you at all familiar with the requirements of what the -- of what a VRA compliant district -- sorry, let me strike that.

Are you familiar with determining the requirements of whether or not a VRA district should be drawn?

MR. STRACH: Objection.

MS. THOMAS-LUNDBORG: I'm asking about his own personal knowledge.

MR. STRACH: Well, he's not a lawyer, so it's not -- it's not that simple.

MS. THOMAS-LUNDBORG: Well, he did work on drawing the districts. He may or may not have personal knowledge to this, which he is free to answer that he does or does not.

MR. STRACH: But he doesn't have lawyer personal knowledge.

MS. THOMAS-LUNDBORG: I'm asking about his personal knowledge as the person drawing

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the district, how did he determine, and if he says I have no personal knowledge then that is his answer.

MR. STRACH: All right. If you have strictly personal knowledge you can answer that question, but if it requires you to act like a lawyer then you're not to act like a lawyer.

THE WITNESS: If we were drawing -- and again, I'm in apportionment mostly because in the congressional there's only one district, but in the apportionment there are dozens. If we were working in an area where there were Voting Rights Act impacted districts, I would have sought legal advice as to how to proceed.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Are you at all familiar with the term racially polarized voting?

MR. STRACH: Objection.

MS. THOMAS-LUNDBORG: I'm asking if he's familiar with it.

THE WITNESS: I've heard the term, but I am -- I'm not conversant in it in any way.

BY MS. THOMAS-LUNDBORG:

Q. Are you at all familiar --

actually, let's just go to a document.

(Thereupon, Plaintiffs' Exhibit Number 20, File Produced in Native Format Bates Stamped DIROSSI_0000526, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. This I'm having marked as Exhibit 20. This was produced in native format, which was an Excel file, so you'll see the first page is the produced in native cover sheet. It's DIROSSI_526. Do you see that?

A. Yes.

Q. And then the second page is a Excel spreadsheet. Do you see that?

A. Yes.

Q. Okay. Based on your recollection, are you the author of this document?

A. Yes.

Q. The first set of -- and this is an Excel spreadsheet, so in the left most column there is text that says comply with the Voting Rights Act CD 11. Do you see that?

A. I do.

Q. And then underneath the first kind

of populated percentage column it says 22.63 percent unified index is 50/50. Do you see that?

A. I do.

Q. And what does the 26.63 represent here?

MR. STRACH: 22.63.

MS. THOMAS-LUNDBORG: Yes, 22.63.

THE WITNESS: It would have been the -- based on the unified index that we spoke about earlier, the numerical representation of all of the historical election results for those five races that we talked about earlier.

BY MS. THOMAS-LUNDBORG:

Q. And is this the percentage of Republican or what is the 22 percent?

MR. STRACH: Objection. Asked and answered.

Answer it again.

MS. THOMAS-LUNDBORG: He didn't answer whether it was Republican or Democrat. I still don't know what 22.63 is.

MR. STRACH: He just said what 22.63 percent was and he'll say it again if you want him

to.

BY MS. THOMAS-LUNDBORG:

Q. Can you tell me, is this 22.63 Republican or Democrat winning the percentage of the election?

A. It would be Republican.

Q. Thank you.

And then I'm going to skip down, it says draw new minority opportunity district, Franklin County. Do you see that?

A. I do.

Q. And it's CD 03. What is -- and then the next line is 37.83 percent. Do you see that?

A. I do.

Q. And is that the Republican percentage in CD 03?

A. Using -- using that scoring of the unified index, yes.

Q. Then the last column, and it's not populated, is Slagle/OCAR, state is 52-48 in favor of R's. Do you see that?

A. Yes.

Q. What is the purpose of this column

here?

A. Yeah, so this document, I created this in response to a media inquiry. And again, it goes back to -- it goes back to everybody had their own way of looking at indexes or historical election results. I obviously was trying to use the unified index. A number of people were looking at presidential index. Mr. Slagle at OCAR had his own scoring methodology. And the question was being asked of once you draw these two districts, what does the rest of the state look like historically.

Q. And you said a number of people were using the presidential index. Do you recall who those people were?

A. Yeah, mostly people who cared about national elections or congressional elections, so Republican and Democratic congressmen and Republican and Democratic congresswomen, the NRCC, the DS -- or the DRCC or whatever their name is. The people who run national congressional and national elections tend to look at presidential results and their own scoring system and really kind of looked

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with this favor upon what I was using as the unified index.

Q. Okay. And why were you looking at these two districts in particular?

A. It was a media request so I was just trying to be responsive. As I mentioned, at any moment in time what somebody cares about, whether it's geography, how many incumbents are paired together, an election data number, how big a district was, you know, Heather and I were the ones that people were coming to to ask those questions, and so this is just one document I created. It doesn't even look like I finished it. So it was just --

Q. Okay. And do you recall which media entity you got the request from?

A. I don't. I don't.

Q. Do you recall any other specifics about the request?

A. I don't. Nope, I don't, sorry.

Q. Actually, don't flip it yet. During your various trainings, aside from trainings that you had with a lawyer, did any

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of your trainings talk about one person, one vote, also known as equal population?

A. I don't know what -- I mean, trainings, I was trained on software --

Q. Conferences.

A. -- two decades ago. Yeah, but I wouldn't call those trainings. I mean, they're just like listening to people pontificate about what they know, and most of it isn't even relevant to Ohio.

So can you restate the question, please?

Q. So conferences or trainings, did any of them deal with equal population, also known as one person, one vote?

A. Nothing specifically that I can recall.

Q. Okay. Did you take one person, one vote into consideration when you were drawing your map?

A. All of the districts that were drawn for the congressional redistricting were balanced to the person. I believe of the 16 districts, eight of them were plus one person

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above the ratio of representation and the others were right on the number. So, I mean, I took that into account that the districts had to be drawn with absolute population, zero deviation.

Q. Did equal population affect the substance of any lines that were drawn?

A. Help me understand what you mean by substance.

Q. Did you move a line from one location to another location because of equal population?

A. Absolutely.

Q. Okay. And do you recall as you sit here which lines were moved based on equal population?

A. I chuckle because it's -- if you've ever drawn a map like that, you may have a district in the northeast corner of the state of Ohio that is unfortunately three people too many and you have to balance it out, and because of the way the map is all interconnected you may end up having to move people in Southwest Ohio, two or three people

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to achieve that.

And so every district I would have made -- Heather and/or I would have made some change very small to the lines in order to achieve zero population deviation. Every single district we would have had to do that in.

Q. Beyond these small changes of two or three people, do you recall any large changes that were made based on equal population?

A. I mean, I recall like the 11th congressional district, it was after losing two seats and I think the districts had to grow by almost 72,000 people, more or less, and I remember that district having lost significant population, tens of thousands, maybe even approaching a hundred thousand, that significant population changes had to be made to bring that district in particular up to its target population.

I don't think I -- I don't think any other district was quite that extreme in how many people it needed to be adjusted.

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Q. Okay. So in addition to equal population and voting rights compliance, did you consider any other factors when you were drawing the map?

A. Well, as I mentioned before, there were some high-level points that Speaker Batchelder and President Niehaus wanted to achieve in this legislative map, and that was the elimination of two districts, the pairing of two Republican congressmen or women, the pairing of two Democratic congressmen or women, proposing an 11th congressional district that was to the satisfaction of Congresswoman Fudge, the creation of a new district in Franklin County that would give a minority candidate the ability to be elected. I mean, those were the big -- the big overarching goals. Then making sure the map was balanced and achieve zero population deviation. Those were the main -- main components.

Q. Okay. Did you consider communities of interest when you were drawing the map?

A. So that is a term -- obviously I

have heard that term for decades and I think it means a lot of different things to a lot of different people. So you'll have to help me -- tell me what you are suggesting it means so that I can try to answer your question.

Q. Well, I guess my question back to you is what would you suggest that it means? What is your understanding of what a community of interest is?

A. Well, it could be -- it could be a lot of things and in certain parts of the state we have a very diverse population. We have an extreme -- we have a large number of rural areas of the state. We have major water, Lake Erie and we also have the Ohio River. We have Southwest Ohio that has a lot of communities of interest. We have minority communities of interest in certain areas, mostly urban areas. We have at least eight major urban areas. I mean, so community of interest in any part of the state could mean a very different thing.

Q. Understood. Did any of those definitions make it into your considerations when you were drawing the map?

A. I was certainly aware of the ones that I was aware of as we were drawing the map.

Q. And what effect did that have on any of your map drawing?

A. Well, whenever we -- depending on if there were other goals that conflicted with it, we would try to preserve those communities as best possible to achieve the other stated goals that I mentioned.

Q. What about compactness, are you familiar with the term compactness?

A. I'm familiar with the term, I am unfamiliar with anybody's definition of what it -- what it means.

Q. What is your understanding of what compactness is?

A. That you have a district that is relatively compact. I'm sorry to use the word in the definition of the word, but that would be my understanding.

Q. Did your understanding of compactness affect your map drawing?

A. Again, Ohio is very diverse. Look at the 3rd congressional district that was

created in Franklin County. The footprint of that was 720 some odd thousand people, it's very compact, it is, you know, all within Franklin County; in Southeast Ohio where we have a tremendous number of mostly rural areas where we have entire counties that have a total of 12 or 13,000 people; we have another district that is the same exact population size, but it covers 14, 15 or 16 counties, and it is a very significant geographical area.

So, I mean, I would say they're both compact because that's where people in Ohio have chosen to live, but I didn't use any measure.

Q. Okay. So when you were drawing the map, though, were you thinking about compactness in drawing the lines?

A. I was aware of the concept, yes.

Q. Was it operationalized into your map drawing?

MR. STRACH: Objection.

THE WITNESS: Yeah, I need to understand what you mean by --

BY MS. THOMAS-LUNDBORG:

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Q. Did you have any system by which you were making sure districts were compact?

MR. STRACH: Objection.

THE WITNESS: No, other than visual.

BY MS. THOMAS-LUNDBORG:

Q. What about county splits, do you know what -- how would you define county splits? I think it's fairly self-evident, but I just want to understand your understanding.

A. Yeah, it gets a little tricky in the apportionment, but in the congressional redistricting if you have a district that crosses a county boundary and is not encompassing an entire county, I could understand why somebody would say a county is split.

Q. Okay. And did county splits -- what role, if any, did county splits play in your map drawing?

A. Well, we're certainly aware of where we were doing it. We had a few unique instances around the state where, due to the geography of the State of Ohio, we have some cities -- I'll use my home city as an example.

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I live in Dublin, Ohio, as I said earlier. The city of Dublin is actually a municipal corporation, but it is in three specific counties; it is in Union County, Franklin County and Delaware County. It's right where the three of them come together.

And this presents sometimes a challenge. You could try to keep the community of interest that is Dublin together, but you would be splitting three counties, or you could try to keep the three counties in three separate districts, but then you're splitting Dublin three different ways.

So I was always drawing -- that happens in Northern Ohio, too, with the city of, I believe, Fremont is in three, if not four, counties. I always kept that in mind when we were -- when I was drawing districts --

Q. Okay.

A. -- or proposing -- drawing proposals.

Q. And did you do anything in your map drawing to limit the number of county splits?

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A. Generally it was something we were trying to do, but as I mentioned before, eliminating two districts, the method by which we were absorbing two districts, trying to, you know, protect the 11th congressional district and create a new one in the third, and pairing incumbents together, those were more important to our goals than if we split a couple extra counties.

Obviously, as I said before, the Democrats in some of the areas made requests to unify a couple counties, in Montgomery County specifically. But to do that I think we had to unify Montgomery County to satisfy the request, but then we split another county because you had to have zero population deviation. So sometimes it was a mixed bag.

Q. Okay. What about municipal splits? What do you understand that term to mean?

A. Very similar to counties where you have a district that does not include all of the territory of a municipal corporation.

Q. And did municipal splits play any

role in your map drawing?

A. Well, again, all districts had to be balanced to either plus or minus one person or zero population deviation, so you were going to have to split counties, you were going to have to split cities, you were going to have to split townships and other units of geography to make those districts balance out. So that was done.

Q. Okay. Are you familiar with the term incumbency?

A. Yes.

Q. Are you familiar with the term incumbency protection?

A. I've heard the term, but it could be --

Q. What is your --

A. -- could mean different things.

Q. Oh, okay, sorry.

A. That's okay.

Q. I don't mean to speak over you. What does incumbency mean to you?

A. So at any point in time who is the incumbent of any particular district is what

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incumbency means to me.

Q. Okay. And an incumbent is?

A. The residing -- the residing office holder of a district.

Q. Okay. And did incumbency play any role in your map drawing?

A. As I mentioned, we were losing two congressional districts, so the decision was that we would pair two incumbent Democrats together and two incumbent Republicans together forcing them to have a primary and let the voters decide.

Q. Outside of this consideration to pair incumbents, did you look at incumbency in any other way?

A. Yes, we generally try to avoid pairing districts. I mentioned to you before that it had been sent -- or the information had gotten to me that Congresswoman Fudge did not want to be paired with Dennis Kucinich, then Congressman Dennis Kucinich, and so the district that we drew intentionally did not do that, so yes.

I also mentioned Joyce Beatty

where she specifically wanted to have somebody who she thought might run against her drawn out of the district, and so we also did that in order to get votes.

Q. But was she an incumbent?

A. She was not an incumbent at the time.

Q. Were there any other incumbents that you considered during this time?

A. Well, I was aware of where every incumbent, every Republican, every Democratic lived, so we intentionally -- or didn't unintentionally pair them together.

Q. And how did you do that?

A. I think either through -- well, let me -- I shouldn't say I think. We were able to obtain the home addresses of all 18 congressmen and women in the state, which we used.

Q. And how did you use them?

A. We used them with our software to do what is called geocoding so that you could put in their address into the software and it would put a marker on the map so you could mark

where specifically a member of Congress resided.

Q. Did partisan makeup of the districts play any role in your map drawing?

A. So the historical election information that we had talked about before was one of the things that was in the software just as the population variations, the Hispanic percentages of the district, the African American percentages of the district. We also had incorporated into that the historical election data. So it was one of the things we had.

Q. Okay. You had it. Did you use it?

A. Yes, it was one of the things that we would have looked at as we were proposing districts, along with all of the other things I just mentioned.

Q. Okay. So outside of VRA and equal population, were any of the other factors you considered legally required to your knowledge?

A. You said the VRA and what was the other one?

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Q. Equal population.

A. Equal population. The districts had to be contiguous. That would have been a requirement.

Q. Did you have any hierarchy to determine which factors were going to be more important or less important as you were drawing the map?

A. I did not.

Q. How did you determine which factors were going to play a role in any particular district?

A. Well, using those big pillars that we talked about and then interacting with, for me, President Niehaus, and making sure that he could get the votes of the Republicans and Democrats in the legislature, that was the process.

(Thereupon, Plaintiffs' Exhibit Number 21, Documents Bates Stamped DIROSSI_0000470-472, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Let's go to what I'm having marked

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as Exhibit 21. This is a document I actually put together, but it's consecutively Bates stamped, so hopefully it's not an issue and they all seem to be relatively the same. I'm having this marked as Exhibit 21. It's DIROSSI_470.

And this appears to be a series, three to be exact, of competition maps. Is that your understanding of what this exhibit is?

A. Yes.

MR. STRACH: Do you know if these came in color originally or if this is how they --

MS. THOMAS-LUNDBORG: This is how they were produced to us. I copied everything as produced.

MR. STRACH: Okay.

BY MS. THOMAS-LUNDBORG:

Q. So I'm not going to ask too many questions about this. My first question is, when did you -- when did you get these maps to your best recollection?

A. I don't recall when I would have first had these maps in my possession. I don't

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recall.

Q. Would it have been prior to the introduction of 319?

A. It was.

Q. Okay. And did anything from the competition maps make it into your map drawing? And it doesn't have to be these maps in particular. Just in general.

A. Yeah. Well, again, apologies for the long -- the long answer, but there's -- there are some things in here that did end up in the maps in concept, maybe not identical to the person.

Q. Okay.

A. But these maps also have some very significant structural problems that rendered them, unfortunately, almost useless to me.

Q. Which concepts made it into the 319 map?

A. So on the third map that says Tim Clark from Avon Lake, congressional - one of the winning maps, you notice you have generally this concept of a district in Northern Ohio, the 11th congressional district that comes down

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into Summit County like we've been talking about. So that is not identical, but that general concept is something that Congresswoman Fudge had indicated generally she was interested in.

If you note, the other two maps draw the district of the 11th completely in Cuyahoga County, which was something that I was being told she explicitly did not want. So that was one of the main pillars that these maps violated.

Same thing on the maps on the 3rd district. One of them, I think the first map in your series, has the general concept of a district inside Franklin County. I'm thinking it's -- it's somebody's attempt at getting to a second minority district. The map that was adopted is not identical to that, but it kind of refines that concept after we were having conversations with Joyce Beatty about how she would want the district to look.

Do you want me to keep going through it, or do you just want me to --

Q. I'll have questions, but if there

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are other things that you remember I would love to hear it.

A. Maybe more will come to me, but those are the two specific ones that jump out at me.

Q. Okay. Regarding the 11th congressional district, and you referenced Tim Clark's map --

A. Yes.

Q. -- is it your recollection that the idea came from this map or did the idea come from somewhere else?

A. I don't know. I can't specifically answer that. I don't specifically know the timelines, as I mentioned, of when I got these and the conversations that were already underway about -- I can't answer that.

Q. Okay. About the first map, which is the Mike Fortner map, you mentioned the 3rd district. Is your recollection that the idea came from this map or did the idea come from somewhere else?

A. For the 1st district, you said?

Q. 3rd.

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A. 3rd.

Q. I think this is the map you said that Franklin County --

A. I thought you said 1st. Apologies. Yeah, same question, I don't -- I can't recall the timelines of when I received these and when we were coming up with our own alternatives.

Q. Okay.

A. But it's worth noting that all three of these maps are drawn by taking the liberty of they're not to zero population deviation. Every one of these maps based on the data -- underlying data that was provided to me by Mr. Slagle, who I think was in charge of the contest, along with the League of Women Voters and other entities, people were drawing these maps that were plus or minus thousands of people, and obviously that's a no-no with respect to zero population deviation.

So that was something, just one thing which jumps out at me, my specific recollection of problems that all of these maps had. They took a lot of liberties that I

didn't have the luxury of taking.

Q. Okay. There are three maps here. Did you receive more than three maps or did you only receive three of the competition maps?

A. There were at least 50 maps that were part of the competition, but I believe these were the three winning maps that Slagle -- these were the three winning maps that Slagle provided me.

Q. Did you only -- so to clarify my question, did you only receive three maps or did you receive more than three?

A. I received three.

Q. And did you receive them directly from Mr. Slagle or did you get them from some other source?

A. I don't -- I don't recall.

Q. So going to the map drawing process, I think you mentioned that you used Maptitude, correct?

A. Correct.

Q. When did you start inputting data into Maptitude?

A. I don't recall the dates. I was

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not doing that. That was being done for us and so I do not recall the dates.

Q. Who was putting the data for you into Maptitude?

A. Clark Benson.

Q. When did you start working in Maptitude?

A. I don't recall a specific date when we started.

Q. We looked at the invoice for the bunker which started -- let me just go back to it so we're not both working off of our memories, it's Exhibit 16 -- which started on July 17th. Would you have been working in Maptitude on July 17th?

A. No way.

Q. Would you have been working on Maptitude a few days after July 17th?

A. I don't recall when. It was a very -- first of all, it was a long time ago, it was very chaotic, and we had a ton of problems getting the software and the data to interact, and so I can't recall specific dates of when we started.

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Q. Okay. Do you have a sense of how long it took to have the data inputted? You said there were a ton of problems.

A. It was a lengthy time and it was an ongoing process. We would get -- we would get data that we thought was working and then we would be told, nope, those split blocks and some of the other things were still problematic, and we would have to wait and get another round of data. And so that happened over a significant period of time.

Q. Were you working in the data before all these problems were resolved or did you have to wait until after they were resolved?

A. We were able to turn the computers on, but then I think we had to start over. We had to start over. The data wasn't correct and wasn't working.

Q. But did you start the process of working on maps prior to the data being fixed?

A. We tried.

Q. And do you recall when that was happening?

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A. I don't.

Q. When you were working in the data, when did you finally have a kind of map that was ready to be shared; do you recall?

A. Again, I wasn't working in the data. That is not my background or expertise to understand how to make the data function. I'm an end user of the software, not the data person, so --

Q. Okay. Do you recall -- when the data was ready, how long did it take you to get a kind of final map?

A. I don't recall. We were working on the apportionment and redistricting simultaneously. I don't recall.

Q. Was it a matter of days or weeks?

A. I mean, it was not days. It took a while to have all of these conversations.

Q. Okay. And do you recall when the map was ready to be shared with anyone outside of you, Ms. Blessing and Troy Judy?

A. I don't recall when that was.

Q. Do you recall who you showed the map to first?

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MR. TUCKER: I'm just going to object to the phrase map.

THE WITNESS: I don't recall.

MR. STRACH: Is this a good time to take a quick break?

MS. THOMAS-LUNDBORG: Sure.

MR. STRACH: It's been about an hour. Thanks.

THE VIDEOGRAPHER: We're off the record.

(Recess taken.)

THE VIDEOGRAPHER: We're on the record.

MS. THOMAS-LUNDBORG: Great.

BY MS. THOMAS-LUNDBORG:

Q. I would like to go back to Exhibit 19, if you would. So the first time we went through this exhibit we skipped this first page, and I would like to take some time to look at it now.

You've testified before that you used the unified political index, correct?

A. Correct.

Q. Does this document represent the

unified political index that you used, the races?

A. Yes, it does.

Q. Okay. And where did you get the data to put together this political index?

A. These numbers are publicly available from the Secretary of State, on the Secretary of State's website about who -- what the vote totals were.

Q. And did you download the data from the Secretary of State's website?

A. Again, I didn't -- I didn't do the data.

Q. Okay. Who in your understanding was the person who downloaded the data from the Secretary of State's website?

A. Well, I -- I got the top line information from the Secretary of State's website. I believe -- or Clark Benson would have been the one who was doing the data, and whether or not he got it from the Secretary of State's website I couldn't speak to.

Q. Okay. And you said that you also had a contract with Cleveland State and OU.

Was there a reason that Clark Benson got this data for you instead of OU and Cleveland State?

A. So the contract with Cleveland State and OU was entered into by the legislative task force on redistricting that we talked about, that bipartisan entity. And so their job was to take the geography of the State of Ohio and, working with all of the ADA county boards of elections that maintain their precinct, ward and municipal boundaries, and putting together the census data and marrying those two pieces of data. That is the role of Cleveland State and OU.

Q. Did you specifically contract with Clark Benson or how did he come to work on the historical data?

A. I did not contract with him. I don't know how.

Q. How were you introduced to Clark Benson?

A. I had known Clark from the previous decade when he performed the same function.

Q. And how did he come to work in the

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2011 redistricting cycle?

A. I can't remember specifically how he was reintroduced to me as, hey, Clark is going to be available to help you again.

Q. Do you know how he was paid?

A. I do not.

Q. I would like to look at Exhibit 22 -- or it actually hasn't been introduced yet, but if you turn to tab 22.

(Thereupon, Plaintiffs' Exhibit Number 22, Document Bates Stamped DIROSSI_0000010, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I'm having marked for the record as Exhibit 22 DIROSSI_10. This is a series of charts here. Do you recognize this document?

A. I do.

Q. Are you the author of this document?

A. I am.

Q. Okay. And why did you create this document?

A. As we talked about before, from my historical interactions with the redistricting

and apportionment in the previous decade, I recalled that when you were doing redistricting and apportionment the first things that everybody wanted from you were maps and indexes, maps and indexes. It doesn't matter if you were talking to the press, if you were talking to legislative senators, state representatives, congressmen, people testifying, citizens, whoever, the first thing that people wanted were historical political indexes and maps.

And so this was a document I created trying to keep the -- the political indexes, the historical election stuff straight so that I could answer those questions.

Q. Okay. Am I correct that this top chart seems to show the 18 house districts as they existed from 2002 to 2012?

A. Right, so that's a very, very good point. These are the 18 congressional districts from the previous decade using the unified index and some other measures from 2011.

Q. Okay. So let's start with this

first column. It says current districts. Do the names here represent the congresspeople as they were at the time in those districts?

A. The vast majority of them I'm sure are the incumbents, but I can't speak to whether or not they all are. I can't say.

Q. Okay. And then the next column is McCain '08. Is it correct that this would be how much McCain would have gotten in those districts in 2008?

A. Yes.

Q. Okay. And then Bush '04, is that how much Bush would have gotten in 2004 in those districts?

A. Yes.

Q. And then Governor Kasich 2010, is that the percentage that Governor Kasich would have gotten in those districts?

A. Yes.

Q. And then DeWine 2010 AG, is that the number that DeWine would have gotten in each of those districts?

A. Yes.

Q. Then '06 AG Montgomery, is that

the number that Montgomery would have gotten in those districts in 2006?

A. Yes.

Q. And then 2006 AUD, I'm assuming that's auditor --

A. Correct.

Q. -- Taylor, is that the percentage that Taylor would have gotten in those districts?

A. Yes.

Q. Are all the individuals that we just named Republicans?

A. They are.

Q. Okay. Included in this chart is DeWine AG 2010. It doesn't appear in 19. You can look back if you would like to refresh your recollection.

A. Yeah, that's what I was looking for. Oh, there it is. Yes, I thank you for that. I would point out that on this document, 19, I had both the Republican and the Democratic people who participated in that election. But I remember that was too much information to get into those little cell

headers, so I chopped down and abbreviated the races. That's why those are all the Republican names.

Q. Okay. So my question for you is, do you recall why DeWine was part of this document and not part of 19?

A. Yeah, as I mentioned, everybody had their own way of looking at a political index or historical election data. I had said and come to the conclusion that these were the five races that we should be looking at. Other people wanted to look at pieces and parts of these five exclusively, specifically the '08 McCain numbers. Other people wanted to include the 2010 Attorney General race as a barometer of the historical election results.

And so this is me trying to put all of that information into one document so that I could answer all of those questions that I was being bombarded with after the districts were put out. This document was created after 319 was adopted by the legislature when we were getting media and member onslaughts of questions.

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Q. Okay. There is a column called unified average. Is that the unified index?

A. It is.

Q. And would the unified index be the five races or would it also include DeWine?

A. It would have been the five races and then weighted to 50/50 as Exhibit 19 had.

Q. Okay. The last column refers to PVI. What is PVI?

A. So this is how the national congressional Democrats and Republicans calculate indexes. They don't use numbers, they use R plus this and D plus this. So I don't know how those are calculated, but I wanted to try to have at my disposal the language that they were talking about so when I was asked about districts I could respond to -- in that language. So that is the congressional methodology, which I cannot explain what it is.

Q. Okay. Do you recall whether you got this information from the Cook's PVI or did you get it somewhere else?

A. I don't know what the Cook's PVI is.

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Q. Okay.

A. Yeah.

Q. Do you recall where you got the PVI from?

A. I don't -- I don't recall. I would be guessing.

Q. Okay. At the bottom of this first chart it says R plus 5 is likely Republican. Do you see that?

A. I do see that.

Q. And do you recall where this R plus 5 is likely Republican came from?

A. Yeah, again, so this deals with the R plus, D plus language, and so this would have come from somebody I was talking to at the national -- the national level of how they would look at districts.

And again, as you pointed out, everything on the top of this chart deals with districts that are -- they're the districts from 2001 with 2010 election data and 2001 population data. So they're not real, they're just -- they're this weird point in time that aren't really valid.

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As we've talked about, some of these districts were tens of thousands, if not hundreds of thousands of people away from the targets, so another reason why these indexes are just kind of almost meaningless. But again, that's what everybody asks for, so I was trying to have it.

Q. Well, just sticking on this first chart -- and this is the current districts as they stood at the time, right? This isn't a hypothetical district that you're looking at?

A. It's the districts from 2001 that over the decade from 2001 to 2011 had grown -- some had contracted and some had grown in population and so -- not to mention that we were losing two districts, and so the district targets of their population had to change by 70 some thousand people.

So yes, they are the district boundaries, but the underlying data that's generating these is not even really relevant to anything because they're just not legitimate.

Q. But the underlying data is for the districts as they stood at the time, correct?

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MR. STRACH: Objection.

(Witness nodded head up and down.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. Moving on, it says up to R plus 5 is swing. Do you see that?

A. I do.

Q. Where does that come from?

A. Same source as the language above it. This is -- everything that is R plus and D plus is the federal language of how you look at districts and their historical election returns, and so that would have come from the same source as the language above it.

Q. And was that source Adam Kincaid?

A. I can't say for sure. I can't remember.

Q. Okay. And then if you look over, there's R plus 5 is likely Republican. Number of districts R plus 5 is 7. Do you see that?

A. I do.

Q. Does that mean that there were 7 districts that were R plus 5?

A. Yes.

Q. And then it says up to R plus 5 is

swing, number of districts that are R plus 3 - I wonder if that's a typo - is 9.

A. Yeah, I see that and I see that discrepancy and I'm not sure why -- I don't know how I made -- I don't know why I made that error, if that's material to this whole thing or not.

Q. Okay.

A. But yeah, that does not seem to be consistent.

Q. But does it appear, just looking, eyeballing the chart, that there are 9 districts that are R plus 3?

A. Yeah, so there are only 8 districts that are R plus 5 and there are 9 districts that are R plus 3, so I'm not sure which one of those is correct.

Q. Okay. Going to the next chart, this appears to be the kind of pairing of incumbents that we talked about before. Is your understanding that this was 319?

A. Yes, that's my understanding. This is 319 as enacted.

Q. Okay. And so the first columns

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all seem to be the same as the top column. There is one new column here which is titled Delta. Do you see that?

A. I do.

Q. What is the Delta?

A. Well, this would have been information that was provided to me from that national source that uses that language. You know, I was -- I was going to say it's the difference between the PVI and the bottom chart to the top chart, but then as I did some spot checking it doesn't match up, so I --

Q. Which one doesn't match?

A. I just started at the bottom and the first one I looked at, the 18th district in the top chart Gibbs is R plus 7, whatever that means, and then this bottom -- oh, I see, 18 is not 18 at the bottom. No, there's not 18 in the bottom.

Q. What about starting from the top? It might be easier to match. I think there are more of them that --

A. It just goes to show, I don't know what -- I mean, I never really looked at this

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when I got it. I don't know.

Q. I thought you said you were the author of this document.

A. I am, but this information came to me from somebody else because I don't know what these scoring things, how you would calculate them, so I would have just got them and typed them into the cell in my spreadsheet to produce this document.

Q. Okay. Well, let's go through a few of them. So the first one is Chabot 1 and the top line it's D plus 1 and then in the following chart it's R plus 6, the Delta is plus 7. Does that look like it's Republicans have gone up plus 7?

MR. STRACH: Objection.

THE WITNESS: Yeah, I mean, I think you could -- R is Republican, but again, I don't know what 7 -- I don't know what that means. I don't know that scoring system.

BY MS. THOMAS-LUNDBORG:

Q. Okay. So R plus 13 on the top for Schmidt and then on the bottom it's R plus 8 and the Delta is negative 5. Do you see that?

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A. I do.

Q. And you have no understanding of whether the Delta negative 5 is R plus 13 minus R plus 8?

A. I mean, that would seem logical, but since I'm not the source of that information, I --

Q. Okay.

(Thereupon, Plaintiffs' Exhibit Number 23, Document Bates Stamped DIROSSI_0000142, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to move on to a document that I'm having marked as Exhibit 23, and for identification it's DIROSSI_142.

A. Yes.

Q. And it has HB 319 unified indexes, proposal unified indexes. Do you see that?

A. I do.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It's yet another document that I created so that I could be prepared when I

received inquiries about election results about districts from any source that I would be able to answer.

Q. Okay. And this document is a little hard to read. Excuse me. This is just the best copy that we received. The column that says HB 319 unified indexes, is that the unified index that we've been discussing?

A. It is.

Q. And what is the proposal unified indexes; do you know?

A. So this document is House Bill 369 as introduced.

Q. Okay. And at the bottom of the -- the last column in the first chart says assuming 52.5 percent and higher is a safe R. Do you see that?

A. I do.

Q. Where did the assumption come from that 52.5 is a safe R?

A. So there was a lot of debate, both in the press, the media and among legislators, about districts and historical political indexes. And specifically the -- Jim Slagle

and the Campaign for Accountable Redistricting was saying that using his own set of election data and his own scoring, that there were a lack of competitive districts. And so I was trying to use -- trying to show House Bill 319 versus House Bill 369 as introduced just generally what those indexes would be here.

Q. Okay. But where did the assumption come from that 52.5 percent was safe R?

A. I can't say for -- I can't say for certain.

Q. And then it goes on to say 47.5 percent and lower is safe D. Do you know where that assumption came from?

A. Yeah, that is Jim Slagle's -- I was restating what he had been saying in the press about districts.

Q. Now, you testified a minute ago that you created these, Exhibit 24 -- I mean, sorry, Exhibit 22 and Exhibit 23 for media. Did you use a political indices at all prior to the introduction of HB 319?

A. Well, it wasn't just for media.

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It was for anybody at any moment in time that might ask. As I pointed out, there were congressmen and women who had asked for that information, there were aspiring candidates to run for Congress in the future when we talked about now Congresswoman Joyce Beatty who specifically made a request about indexes of the 3rd congressional district. There were members of the Senate leadership team that were asking, members of the legislature that were asking, President Niehaus who was then asking me, and so all of these documents are me-created so that I could have them handy so that I could answer those questions.

Q. And did you create -- sorry, strike that.

Did you use any of the historical data prior to HB 319 being introduced?

A. I mean, I used it in the -- we had that same election data available to us for the apportionment.

Q. Did you use it in the drawing of your maps? Did you ever look at a map and see how -- its measurement on the unified index?

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A. Okay. You said -- okay, I thought you said before 319.

Q. Yes, before 319 was introduced, so while you were working on drawing the map did you look at the indices?

A. Well, the way that we were set up, whenever we would make a change to any district, whether we were working on the whole state or an individual district, the population would change, the African American population would change, the Hispanic population would change, the unified index would change.

All these other variables that people were interested changed simultaneously. So we never used any one exclusively, they were all just changing every time we made any type of change.

Q. Okay. So you did have the unified index to look at when you were drawing the maps?

A. Yeah, along with everything else that I articulated.

(Thereupon, Plaintiffs' Exhibit Number 24, Documents Bates Stamped

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GOVPR_008278-8280, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to mark for the record Exhibit 24. It's in tab 24. For identification, the Bates number is GOVPR_8278. This is something that was produced by the Governor. I'm just going to ask you a kind of quick question. It is the -- it purports to be the bill signing of HB 218 and HB 319. You'll see your name appears as a participant and next to your name it says Senate Redistricting Director. Do you see that?

A. I do.

Q. What was your role as the Senate Redistricting Director?

A. Yeah, so that's probably somebody preparing a document that really doesn't know what was happening. I did not hold such a title or role.

Q. Okay. In your work on redistricting you said you talked to President Niehaus. Between you and Ms. Blessing, was there a division of labor between the Senate

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and the House?

A. Nothing specific, no.

Q. Okay. Did you both equal -- have equal amounts of conversations with President Niehaus, for example?

A. I don't know what conversations she might have had with him, so I can't compare the two.

(Thereupon, Plaintiffs' Exhibit Number 25, Document Bates Stamped DIROSSI_0000039, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I'm having marked for the record Exhibit 25. It's DIROSSI_39 --

A. 39?

Q. I'm sorry, that's the name of the Bates. It's Exhibit 25.

A. Got you.

Q. And the subject is Confirmed: Meet with Leadership on Redistricting Bill from September 2nd, 2011. Do you see that?

A. I do.

Q. When here it refers to a meeting with the leadership, do you recall who would

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have been included in leadership meetings that you attended at the time?

A. Well, President Niehaus was the president of the Senate, so obviously he was a member of leadership, the president. I would be guessing at the other members of leadership specifically. I can't recall his other members of leadership.

Q. Okay. Would Democrats have been included in members of leadership?

A. The Democrats had the Democratic leadership, so --

Q. Would they have been included in meetings that you attended on redistricting?

A. If they had asked.

Q. Do you recall any specific meetings that you attended with Democrats?

A. I did attend a meeting at the request of the Democrats for the -- during one of their caucuses, but I can't say with certainty whether it was for the congressional redistricting bill or if it was when we were working with them to change the process by which we do apportionment districts in the

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state, the constitutional amendment that was just adopted. But I did attend one caucus at their invitation.

Q. Okay. Other than that one meeting that you just mentioned, do you recall attending other -- any other meetings with the Democratic caucus?

A. With the Democratic caucus?

Q. Or leadership.

A. Caucus, no other. Obviously, apologies, during the apportionment Leader Budish was a member of the apportionment board and I did attend all of the apportionment board meetings, and specifically spoke with him extensively about apportionment.

Q. If those meetings had been put in your calendar would they have been put in your calendar as apportionment board or meetings with leadership on redistricting bill?

A. Probably apportionment board. If it was an actual date that the apportionment board met, I would have -- I would have put it on my calendar as an apportionment board meeting.

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Q. Okay.

A. I know Leader Budish and I shared maybe a two-hour discussion during that apportionment board meeting about districting and some of the principles.

Q. Okay. Other than that conversation you had with Leader Budish during the apportionment board, do you recall any other conversations with Leader Budish regarding redistricting?

A. I do not.

(Thereupon, Plaintiffs' Exhibit Number 26, Documents Bates Stamped LWVOH_00018302-18308, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to show you a document that I'm having marked as Exhibit 26, and the first page has the Bates number of LWVOH_18302, and in the top left-hand -- sorry, right-hand corner is your email. Do you see that?

A. I do.

Q. And then the from line appears to

be from Adam Kincaid. Do you see that?

A. I do.

Q. Do you recognize the email address next to it as Adam Kincaid's email address?

A. I mean, sitting here that would be his email.

Q. Okay. And the to line is your email address, we've already established that, and Heather Mann's, we've established that. There's then an email address for Tom Whatman which is TWhatman@TeamBoehner.com. Do you see that?

A. Yes, Boehner.

Q. Sorry, Boehner. Do you recognize that as Tom Whatman's email address?

A. Looking at it on this piece of paper I would recognize it as his email address, but I --

Q. Okay. So the email from Adam Kincaid, as we were discussing, says revised attached, let me know your thoughts and I'll work on it some more in the morning if needed. Do you see that?

A. Yes.

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Q. And then there appears to be an attachment which says New Map Idea Redraft.zip. Do you see that?

A. I do.

Q. Did you receive from Adam Kincaid at this point ideas by email?

A. Do you know, is this all one email chain?

Q. It appears to be, only because it says Gmail New Idea Draft page 1 of 8, and then you have page 2 of 8, page 3 of 8, page 4 of 8, so on and so forth.

A. Yeah.

Q. And that's an internal pagination to the document.

A. Okay. And your specific question again? I'm sorry.

Q. It's a general question about whether you were receiving ideas from Adam Kincaid at this point.

A. Well, with this document in front of me, he sent me something called New Idea Redraft. I can't recall if it was at my request of him or he was sending it to me, but

obviously on September 2nd at the date and time here, he sent me that email, this email.

Q. Okay. Generally do you recall receiving feedback from Adam Kincaid on the draft map?

MR. STRACH: Objection.

THE WITNESS: Yeah, I recall sharing information and ideas with Adam, but I don't recall the specifics of them.

BY MS. THOMAS-LUNDBORG:

Q. Okay. What types of ideas would you be sharing with Mr. Kincaid at this point?

A. Well, again, I don't remember any specific ones, but if any member of the legislature, Republican or Democrat, was asking for something and I felt I wanted his opinion on it, I would have asked him for his opinion on it.

Q. If you turn to the third page of this document, and I'm in the middle of the page, there's an email from Tom Whatman. We've already established that email address. And in it he says, Adam, all looks good on the surface, key is whether we can improve CD 1 and

CD 14 at block level while keeping concepts intact. Do you see that?

A. I do.

Q. Do you recall whether at this point Tom Whatman was providing suggestions to the draft map?

A. Yeah, so this is an email from Tom to Adam that I'm cc'd on, I guess.

Q. I think it's to you, but obviously --

A. But it's from Tom to -- yeah, I don't recall. You can ask Tom what he meant by that. I don't know.

Q. I'm not asking what he meant in this email. I'm just asking you generally were you receiving feedback from Tom Whatman on the draft map?

A. Tom was another resource that we could -- I could have an information exchange with.

Q. And were you exchanging information at this point in the process?

A. I would -- yes, because the bill was within a couple of weeks of being

introduced and voted on, so yes.

(Thereupon, Plaintiffs' Exhibit Number 27, Document Bates Stamped DIROSSI_0000040, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to move on to an exhibit I'm having marked as Exhibit 27. For the record, it's DIROSSI_40, and the subject is Confirmed: Meet with Speaker and Others re: Redistricting, and it's from September 5th, 2011. Do you recall meeting with the speaker generally during this period?

A. I do remember a meeting, but I don't know if -- I don't know anything about this one. I can't remember what this one was --

Q. And if the meeting -- the meeting, just to be clear, would have been with Speaker Batchelder or would it have been with someone else?

MR. STRACH: Objection.

THE WITNESS: Which one, the one that I recall or this one?

BY MS. THOMAS-LUNDBORG:

Q. The one that you recall.

A. The one that I recall, which I don't know if it is this one, was with Speaker Batchelder.

Q. Okay. Do you recall anyone else being at that meeting?

A. President Niehaus.

Q. Anyone else?

A. Myself, Heather.

Q. Anyone else?

A. Those are the four that I remember, including myself.

Q. And what was the subject of that meeting that you recall?

A. Generally it was congressional redistricting and where we were in the process and how we were moving forward.

Q. Okay. And where were you at that point in the process?

A. Well, again, we're talking about a hypothetical meeting -- or a meeting that I don't remember when it was. So where we were in the process, I couldn't say.

(Thereupon, Plaintiffs' Exhibit

Number 28, Document Bates Stamped DIROSSI_0000043, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to turn to an exhibit I'm having marked as Exhibit 28. It's DIROSSI_43, for the record, and it says Confirmed: Meet with President Niehaus re: Apportionment and Redistricting, Tuesday, November -- sorry, September 6th. Do you see that?

A. I do.

Q. Do you recall having a meeting with President Niehaus around this time?

A. I mean, so September is right in the heart of the apportionment constitutional timeline that had to be done, the redistricting was also ongoing, so I -- I do remember meeting and talking to President Niehaus a lot.

(Thereupon, Plaintiffs' Exhibit Number 29, Document Bates Stamped DIROSSI_0000044, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to move to an exhibit I'm going to have marked as Exhibit 29.

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It is Confirmed: Senate Leadership Meeting, and it's DIROSSI_44, for the record.

And, to be efficient, I'm also marking for the record Exhibit 30. It's DIROSSI_45. It's another Confirmed: Senate Leadership Meeting from September 9th.

(Thereupon, Plaintiffs' Exhibit Number 30, Document Bates Stamped DIROSSI_0000045, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. As you sit here today, do you recall whether you had two separate meetings with the Senate leadership or if this is one meeting with multiple entries?

A. Okay. Apologies. You're looking at 30 and 31? I'm sorry.

Q. I'm looking at 29 and 30.

A. And your question is did these meetings happen?

Q. Do you recall whether there were two separate meetings with the Senate leadership or was there just one meeting?

A. I mean, I just don't -- I don't recall if these meetings happened, I don't

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recall if we did one and not the other. It's just too long ago. I don't recall.

Q. Okay. And we've already discussed a little bit about meetings with leadership. Do you recall whether these meetings would have been with Democrats or with Republicans?

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

Q. As planned, at the minimum there was a planned meeting?

A. Well, as I said, President Niehaus was having those conversations with the members of the Democratic Senate, and so there was really no need for me to have that level of interaction. Any information that was relevant, like the requests from the legislative Democrats that we did in 369, were being relayed to me through other -- other channels.

Q. If you received a meeting invitation, would that meeting have been for a meeting with Republicans and Democrats or just Republicans?

MR. STRACH: Objection.

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THE WITNESS: I mean, it could have been -- it could have been both.

(Thereupon, Plaintiffs' Exhibit Number 31, Document Bates Stamped LWVOH_00018310, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I'm moving to what I'm having marked as DiRossi 31. It has Bates stamp LWVOH and it's 18310. And do you see your email address at the top right corner?

A. I do.

Q. And then do you see your email address in the from line at the top of the email?

A. I do.

Q. In the to line it says Senator Keith Faber. Do you see that?

A. Yes.

Q. And who -- do you recognize this email address?

A. Yes.

Q. And whose email address is this?

A. I believe it is Senator Keith Faber's.

Q. And then in the cc line it is Matt Schuler. Do you recognize this as Matt Schuler's email address?

A. Yes.

Q. And in the email the top line says Senator Faber, here is your concept put into a map. Do you see that?

A. Yes.

Q. At any point in the redistricting process did you receive ideas from Senator Faber?

A. Verbally, yes.

Q. And what were the nature of his verbal ideas?

A. So he lives in -- resides in Mercer County and in House Bill 319 and 369 you have multiple congressional districts that were being proposed to come together and balance out on population in Mercer County.

And do you have copies of the maps that I can -- I can use? We keep referring to all these maps and I --

Q. You know, I have a copy of 369, I believe. Would this be helpful to you?

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A. Yes. So as I was saying -- thank you for that, that's very helpful. As I was saying, in Mercer County you have three congressional districts that are coming together and are really being balanced out down to that block level, and he, residing in Mercer County, was very interested about what geography was going to be in what district, and so those were the nature of the verbal interactions that I had with him.

Q. Okay. I'm going to skip a line. And then the email goes on to, if the other idea that Huffman worked on - we need to get something that you and Huffman agree to by tomorrow when Speaker Batchelder and President Niehaus get together. Do you see that?

A. I do.

Q. Do you recall there being a disagreement between Mr. Huffman and Mr. Faber?

A. I do not recall any disagreement between them.

Q. Okay. Do you recall a time where there were discussions between members of the House and members of the Senate about the

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redistricting bill?

A. So you're asking me if I was part of any conversations with -- I'm sorry.

Q. With members of the House and members of the Senate about the bill.

A. Well, this -- this would be one example where Senator Faber, senator, Matt Huffman, House member, and I were talking about, my recollection Mercer County, and how the map could be proposed.

Q. Okay. Do you recall if at this point in September -- on September 10th if the map had been introduced yet?

A. I should know that. I don't recall. I don't recall.

Q. The next line of the email says DC is increasingly -- is pushing to put the lid on this. Do you see that?

A. I do.

Q. Do you recall what the reference to DC is?

A. I don't -- I don't recall.

Q. What about put the lid on this, what does that mean?

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A. Well, it's to get a map proposed and enacted.

Q. Were you getting pressure from anyone to get a map proposed and enacted at this point?

A. Well, people were getting pressure from me because we were right in the heart of the constitutionally mandated timeline for the apportionment, which had to be done by September 31st, and I was personally very concerned that we were still working on the congressional redistricting at the same time we were trying to do the apportionment and that we were just -- it was too much.

Q. I understand that you were pressuring people, but this DC, at a minimum, is a reference to someone who is not you, correct?

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

Q. Do you refer to yourself in the third person?

A. Not usually, but I'm sure I have.

Q. Do you refer to yourself by DC?

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A. No.

Q. So, at a minimum, this was someone outside of you?

MR. STRACH: Objection.

THE WITNESS: Yeah, I don't remember the specifics of who I was referring to here in this -- you know, obviously an email from almost seven years ago.

(Thereupon, Plaintiffs' Exhibit Number 32, Document Bates Stamped LWVOH_00018297, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. All right. I'm going to move on to an exhibit I'm having marked as 32 and it is LWVOH_18297, and the subject line is Redistricting Tweaks. Do you see your email address in the top right corner?

A. I do.

Q. Then there is an email in the from line. Do you recognize this email address?

A. Are you referring to Senator Niehaus?

Q. Yes.

A. Yes, I do recognize that.

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Q. And whose email address is that?

A. Senator Niehaus'.

Q. And in the to line there is a Whatman@sppgrp.com. Do you see that?

A. I do.

Q. Do you recognize that email address?

A. You know, I really don't because we just looked at -- you asked me before about a Tom Whatman email and that was the one I recognized. This one is a different one. I don't recognize this one.

Q. Okay. Did you email any Whatmans at more than one email address?

A. Boy, I don't recall.

Q. Okay.

A. I don't recall.

Q. Do you recognize your email address in the other to line?

A. I do. That is mine.

Q. Okay. In the first line it says sorry about the last-minute tweaks from Faber and Widener. Do you see that?

A. I do.

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Q. Did you have an understanding or do you know of who Faber is?

A. I don't think I ever said I didn't know who Faber was.

Q. I'm asking who is Faber referenced here?

MR. STRACH: Objection.

You can answer that if you can.

THE WITNESS: It sounds like a simple question, but I didn't understand it. Apologies.

BY MS. THOMAS-LUNDBORG:

Q. Yeah. Who is the Faber referenced here?

A. Senator Faber.

Q. And who is the Widener referenced here?

A. Senator Widener.

Q. And I'm skipping to the next line. It says, I'm still committed to getting -- committed to ending up with a map that Speaker Boehner fully supports with or without the votes from two members in leadership. Do you see that?

A. Yes.

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Q. Do you recall at the time there being discussions about Speaker Boehner's support of the map?

A. Yeah, I mean, this -- obviously this is an email from Senator Niehaus that I may have received, but I didn't send, so I don't know what -- I mean --

Q. Again, I'm not asking you about this email specifically. I'm asking do you recall there being any discussions which you were a part of where there was talk about Speaker Boehner's support of the map?

A. Well, it was -- it was clear to me from conversations with President Niehaus that President Niehaus was interested in Speaker Boehner's input and thoughts on the map. But ultimately, as we've talked about, this was a bill that was going through the legislature, and anybody who had thoughts or ideas of the map, if we couldn't get -- I shouldn't say we, because I'm not a member of the legislature, if the president and the speaker of the Ohio House can't get the votes in the legislature, it's irrelevant.

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So yes, it was made clear to me that he was interested in feedback and what Speaker Boehner thought, but he still had the responsibility to work with the Democrats in the legislature and get a bill passed.

Q. Okay. At the time when 319 was passed did it have Democratic support?

A. I believe it did. It had much less support than 369, where, as I said, I think there were 25 members of the Democratic House and Senate that voted in support of it, but there were members of the Senate Democratic caucus who voted for 319. They spoke very passionately about the map on the floor of the Ohio Senate. And there were a handful of members of the Ohio House that voted in support of 319 on the Ohio House and who also spoke very eloquently about it on the floor of the House.

Q. So your recollection is that Democrats spoke in favor of the map, and by the map I mean 319, on the floor of the House?

A. The ones who voted for it, yes, some of them did speak to it on the floor of

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the House and Senate respectively.

Q. And when was that?

A. I don't recall the specific date that 319 was on the floor of the House and Senate, but whatever date it was.

Q. At the bottom of this email it says I spoke with Strivers Sunday morning and know he does not support the Widener changes putting him over to Wright-Patt. Do you see that?

A. I do.

Q. Do you recall there being discussions at the time with Congressman Strivers?

A. Again, this is not an email that I generated. I received it, but I didn't generate it, so I -- if there are conversations, I wasn't having them.

Q. Okay.

A. That's not what I was --

Q. So you did not have any conversations with Congressman Strivers at this time?

A. None that I can specifically

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recall.

Q. Okay.

A. I do remember in producing documents there was an email that I believe he and I exchanged, but I cannot recall the specifics of it.

Q. Do you recall at all there being a particular concern with Congressman Strivers at this time regarding the draft map?

A. You're talking about 319 or 369 or both?

Q. 319 because we're in early September.

A. 319. Your question again?

Q. Do you recall there being any concerns that Congressman Strivers had about 319?

A. None that I can articulate or recall.

(Thereupon, Plaintiffs' Exhibit Number 33, Documents Bates Stamped LVWOH_00018298-18301, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

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Q. Okay. I'm going to turn to a document I'm having marked as Exhibit 33 and it's LWVOH_18298. And do you see your email address in the top right corner?

A. I do.

Q. And then in the from line, is that your email address?

A. Yes, it is.

Q. And then in the to line, is that President Niehaus' email address?

A. You know, once again, the previous email that we looked at for his was at fuse dot net and this one is not. That is an email I am unfamiliar with.

Q. Okay.

A. I'm not sure why there's a different one there.

Q. And we've already talked about the other two email addresses. You recognize Keith Faber and Matt Schuler's email address, correct?

A. I do.

Q. The timestamp of this email is 1:00 a.m. on September 12th. Do you see that?

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A. I do.

Q. Do you recall working late during this period?

A. Yes.

Q. As part of your work during this period were you emailing with President Niehaus?

A. Well, this email was from me to him at 1:06 a.m.

Q. Okay. And were you -- we've seen other emails from Keith Faber. Were you emailing with him during this period?

A. This period being this time of night or this period meaning --

Q. Meaning we've seen a couple of emails starting with September 10th. This is September 12th. Do you recall in this period in September emailing with Keith Faber?

A. I recall mid September is the time where the first map House Bill 319 was close to being enacted and it was also the final two weeks of the apportionment, so we would be working around the clock on both -- both items simultaneously. So conversations with

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President Niehaus about apportionment and redistricting would be very commonplace.

Q. What about with Matt Schuler, were you emailing with him regularly during this period?

A. Not as regular. I enjoyed a luxury -- as I mentioned to you before, I had been a part of this process the decade before. I was really the only person that had some historical interaction with this process before. So I was largely, by Matt, who had not been through this process, by President Niehaus, to some extent as well, who had not been through this process, I was -- they knew that I understood the logistical and time frames and everything and so they -- I did not get a whole lot of direction from them.

Q. Do you recall if the map had been introduced yet at this point?

A. I don't recall.

Q. Now, looking at the text of the email, you state index for Latta fell two one-hundredth of a point to 51.33. Who is Latta?

A. He would have been a congressman, former state senator and congressman from the 5th congressional district.

Q. And which party was he part of?

A. He was a member of the Republican party.

Q. And then the next line says index for Jordan rose three one-hundredths of a point, 53.26. Do you see that?

A. I do.

Q. And who was Jordan?

A. He is a former state senator, current member of the Ohio Congressional Delegation.

Q. And is that Jim Jordan who we've referenced in the past?

A. It is.

Q. Okay. And is the index referred to here the same political index that we discussed earlier?

A. It's the unified index that I was using or I was trying to use, even though that others wanted to use other --

Q. Okay.

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A. -- other indexes.

Q. And was it your practice at the time that when you were making changes to the map that you would reference the index?

A. Well, as I've said, at any moment in time what people would ask about might be geography, might be indexes, might be incumbency, might be a number of things. The very next line in this email that you didn't mention yet, I'm sure you would have, is the geographical changes to the districts for those two things.

So I was mentioning the amount of people in Lucas County that each of these two congressional districts would contain in the 4th and 5th congressional district, and then I was also showing the effect on the historical political index simultaneously.

Q. Going to the next email in the chain, this one is 7:44 a.m., a more decent time of morning, from President Niehaus to you directly, and it says did Whatman sign off. Do you see that?

A. I do.

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Q. Did you have an understanding of who Whatman was?

A. Yes.

Q. Was that Tom Whatman?

A. Yes.

Q. And why was Whatman's sign-off discussed here?

MR. STRACH: Objection.

Go ahead and answer.

THE WITNESS: Yeah, I mean, this is an email from Niehaus, so you can ask him - I'm sure you will - of what he was looking for. But, as I said before, Tom was somebody that I was exchanging information on or with.

BY MS. THOMAS-LUNDBORG:

Q. Sorry, I'm just going to continue and we may get to --

A. That's fine.

Q. I'm just going to move on. I think the question my colleague has will be relevant. I'm moving on to exhibit -- what I'm going to have marked as Exhibit 34 and it's LWVOH_18320.

(Thereupon, Plaintiffs' Exhibit

Number 34, Document Bates Stamped LWVOH_00018320, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. And do you see your email address in the top right corner?

A. I do.

Q. And then do you see your email address in the to line?

A. I do.

Q. And the subject is Stivers Map and this is from that same date, Monday, the 12th, and this again is a -- a more natural time of morning, 11:22 a.m. Do you see that?

A. I do.

Q. And who is this email to?

A. To Tom Whatman.

Q. And this is the email address that you recognize as his email address?

A. Yes.

Q. And in the text of the email it says Strivers '08 Pres goes from 52.64 to 53.1. Do you see that?

A. I do.

Q. Is that another reference to the

unified index?

A. It is.

Q. And then it says Stivers --

A. I'm sorry. Did you say 52.64 to 53.31?

Q. Yes.

A. Okay. I misspoke. That is not the unified index.

Q. What is that?

A. 52.64 to 53.31 was the '08 presidential numbers. And again, this goes to the inherent conflict where I thought historically we should be looking at one number, and other people, federal folks, congressmen, congresswomen had different numbers they wanted to look at.

Q. Okay. And then this says Strivers unified index goes from 55.02 to 55.72. Is that a reference to the unified index?

A. It is.

Q. Okay. Thank you for that clarification.

The next line is Schmidt 08 Pres goes from 54.62 to 53.99. Who is Schmidt?

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A. Congresswoman Schmidt was a -- she is no longer, but she was an incumbent from one of the Southern Ohio congressional districts.

Q. And which party was she from?

A. Republican.

Q. And is this reference to the presidential '08 index that we discussed?

A. It is, yeah, the one that's going down, right. So this is -- this is a great example of any time you make these changes in the map, one index might be going up, another one might be going down. So, you know, in this case one set of numbers were going up, another one was going down.

Q. And the next line says Stivers unified index goes from 57.64 to 56.96. Is that a typo? Do you think that's Schmidt?

A. I think I probably made many typos in these emails. Yeah, that probably would have been Schmidt is what I would have meant there.

Q. And would this have been a reference to the unified index that we discussed?

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A. Yes.

Q. And then you say I can send the equivalency file if necessary. Do you see that?

A. I do.

Q. Did you have a practice of sending the equivalency files to Tom Whatman at this point?

A. I wouldn't call it a practice. Sometimes I did, sometimes I didn't.

MS. THOMAS-LUNDBORG: Okay. I think we have to go off the record to change the DVD.

THE VIDEOGRAPHER: We're off the record.

(Recess taken.)

THE VIDEOGRAPHER: We're on the record.

MS. THOMAS-LUNDBORG: Thank you.

BY MS. THOMAS-LUNDBORG:

Q. Good afternoon.

A. Hello again.

Q. We're almost there, I promise.

I would like to go back to the unified index. Did you share the unified index

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numbers with President Niehaus prior to the map being introduced?

A. You mean how I came to suggest the specific races that made -- did I talk to him about its composition or --

Q. I'm talking about the unified index numbers for districts. Did you share those numbers with President Niehaus prior to the introduction of HB 319?

A. I don't recall if I did.

Q. Let's look back at Exhibit 33. And this is an email, to refresh your recollection, from you to President Niehaus, and as we discussed, in the body of the email you reference Latta and Jordan numbers. Do you see that?

A. Yes.

Q. Does this refresh your recollection about whether you shared unified indices numbers with President Niehaus prior to the introduction of HB 319?

A. Well, with regards to this specific email, I mentioned the unified index, I mentioned the geography changes for that --

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those two specific districts. I thought you were asking about all of the districts.

Q. Is your recollection that you only shared the unified index number for Latta and Jordan?

A. Before you pointed me to this, I didn't recall -- I mean, I obviously sent him this email, but I don't recall any other instances when I would have -- specific instances where I would have shared that information.

Q. Would you have shared that information with anyone that you recall?

A. Well, again, primarily they were -- if anybody asked me, I would have shared them, but I don't recall.

Q. Okay. Do you recall anyone from the leadership, being the Republican leadership, asking for the unified index numbers prior to the introduction of HB 319?

MR. STRACH: Objection.

THE WITNESS: I don't recall. I think I had lost this battle in the index numbers, the historical election information that I wanted

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to look at, nobody else really seemed to want to look at. They wanted to look at their own -- their own numbers.

BY MS. THOMAS-LUNDBORG:

Q. Okay. So when you look at Exhibit 33, that's your index, correct?

A. I don't specifically reference that it's the unified index, I just refer to it as an index. So I don't recall if it was the unified index or it was one of the other components thereof or one of the other things that people had asked to look at.

Q. Okay. What were the other indices that this could have been in Exhibit 33?

A. Like we talked about in some of the other documents, it could have been the '08 presidential numbers that a lot of people wanted to use, because these were federal elections so they wanted to use presidential election results. It could have been any of the individual components of the unified index that somebody wanted to look at. We talked about a document where there were some people that said you should be looking at the 2010 AG

race, a race that I didn't want -- or didn't think we should include in the unified index. So unless I specified the unified index, I can't remember which one that is for.

Q. Okay. Looking at Exhibit 34, which we've already gone through, there is a reference to presidential index and unified index. Is the unified index discussed here the unified index --

A. Yes.

Q. -- that you created?

A. Yes, so this one I specifically said what the numbers came from.

Q. Okay.

(Thereupon, Plaintiffs' Exhibit Number 35, Documents Bates Stamped LWVOH_00018322-18325, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to mark what is going to be Exhibit 35 and it has LWVOH_18322. Do you see that?

A. 18 -- 18322?

Q. Yes, sorry, I'm just marking it

for the record.

A. Oh, yes, I see.

Q. And do you see your email address in the top right-hand corner?

A. I do.

Q. And then do you see your email address in the from line?

A. Yes.

Q. Okay. And the email is to Adam Kincaid. Do you recognize that address?

A. I do.

Q. And then it's copying the Heather Mann address that you recognize, correct?

A. Yes.

Q. And the Tom Whatman email address that you recognize?

A. Yes.

Q. Okay. In the text of the email it says we are working to get sign-off from Speaker Batchelder and President Niehaus on this Stivers edit and then we will be done. Do you see that?

A. I do.

Q. Do you recall there being a

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Stivers edit at the time?

A. I don't recall. I mean, the title of this email is Possible Stivers Addition. I can't recall what it was or if it was included or not.

Q. Okay. I would like to turn to the next page. I'm sorry, the next page in the same exhibit. This is an email from Tom Whatman at an address that we've already said for the record you recognize, to you, Adam Kincaid and Heather Mann, and the text of the Tom Whatman email says, guys, really sorry to ask, but can we do a small carveout of 77 in Canton and put Timken HQ in the 16th. Do you see that?

A. I do.

Q. Do you recall receiving a request from Tom Whatman at this time?

A. I do.

Q. And what was the nature of that request?

A. He was asking, very much as the text reads here, of whether or not we could make a geography change and include some

geography that wasn't currently proposed in the 16th into the 16th.

Q. And did you have an understanding of why that request was being made?

A. I mean, other than what I just said, he wanted to include this area in the 16th.

Q. And you had no understanding of why?

A. No.

Q. Did you make that change?

A. I believe later in the email I asked Adam Kincaid if he would make the change and send me an equivalency file so that I could review it to understand it a little better.

Q. Was it your practice to make changes to geography that you didn't understand?

MR. STRACH: Objection.

THE WITNESS: I mean, we didn't make the change. Based on this email, they -- I asked them to make the change and send it to me so that I could review it, and then with doing that we made the change.

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BY MS. THOMAS-LUNDBORG:

Q. Okay. And why did you make the change?

A. Well, this is not -- this was, again, not uncommon that we would make changes for geography at the request of either congressmen or congresswomen to add geography or add territory into the district. This was kind of a common request.

Q. Okay. And at any point when you received requests like this, did you question why you were receiving the request?

A. In some cases.

Q. Do you recall any specific cases?

A. I recall -- I recall that we had a specific request from Congresswoman Kaptur to include physical property in the 9th congressional district. She wanted specifically for the NASA Lewis Research Center in Cleveland and Brook Park, Ohio to be included in the district. She also wanted the Plum Brook Station that was in Sandusky, Ohio to be included in her district. And I did not understand the reason for that and so I asked,

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and I got an answer and then I recommended the change.

Q. Okay. Are there any other changes to geography that you recall making?

A. We may have talked about it before, but in the 3rd congressional district, not congresswoman at the time, but Joyce Beatty specifically asked for some territory to be excluded from 319 into what became 369. And I didn't really appreciate or understand the reason why, and after asking some questions it was relayed to me the reason why and then we made that change.

Q. Are there any other requests that you recall?

A. Those three are the three specific ones I recall about very specific geographical areas. There were generally people who said put this county in a district, take this county out of a district, but those were the three very, very specific geography ones that we received, and I think all three of them we did.

Q. Okay. You just mentioned there were requests about putting counties in certain

districts. Do you recall any of those?

A. There was -- Clark County, I remember there being a lot of conversations about making Clark County whole when it was proposed in 319 to be split between two districts, and 319 as it was adopted did not do that change. But later when we did 369, the map that we've talked a little bit about, Clark County was made whole in the 8th -- in the 8th congressional district.

Q. And who was the congressperson in the 8th?

A. That was Speaker Boehner.

Q. And did that request come directly from Speaker Boehner?

A. No, the request was from Senator Widener who wanted to see Clark County made whole in one district. He really didn't specify which, but he wanted Clark County to be whole, didn't want it to be split.

Q. And which party was Senator Widener part of?

A. Widener was a Republican member of the state Senate.

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Q. Do you recall any other requests related to counties?

A. Well, we've talked about -- you mean a whole county or just geography?

Q. I'm talking about geography.

A. So we talked a little bit about them, but the --

Q. Separate from what we've already discussed, any other ones that you recall.

A. Okay. Let's see, we talked about the Congresswoman Kaptur, changes for Lucas County and Cuyahoga County, we talked about Fudge changes for the 11th.

Oh, I do specifically remember Congresswoman Schmidt from Southern Ohio, she lived in Loveland, Ohio, which she lived in Clermont County in Loveland. And I think one of the earlier questions that you asked me was about communities of interest and I gave examples about political subdivisions like cities that cross -- cross county boundaries. This was one instance where she lived in Loveland in Clermont County, but Loveland also extended into Hamilton County, and so at her

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request she wanted Loveland to be whole in the congressional district. And so in -- I believe in 319 and 369 we unified the city of Loveland even though they were across political subdivision boundaries -- or across county boundaries, I apologize.

Q. Okay. Anything else that you recall separate from what we've already discussed?

A. Nothing -- nothing else that jumps out at me. Those were the big ones that were focused on geography. Some Republicans, some Democrat.

Q. Okay.

(Thereupon, Plaintiffs' Exhibit Number 36, Document Bates Stamped DIROSSI_0000046, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. I would like to mark what is going to be Exhibit 36. It's DIROSSI_46 for identification. The subject is Confirmed: Meet at the Bunker about Rollout, and it's from September 12th, 2011.

Do you recall whether the map was

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public in September -- on September 12th?

A. That is close to the date that I believe that the map was adopted, 319 was adopted. I don't know specifically if it was public by then, but it's close to that date.

Q. Do you recall whether the map was introduced on the 13th?

A. I don't recall.

Q. Okay.

A. And again, this email is funny because it's almost the opposite of a previous email that you asked me to look at where in this one I say the location of this meeting is in the redistricting office, but in the subject matter I say we're having a meeting at the bunker about the rollout. In the previous email the location was the bunker, but the subject matter was redistricting office. So I just used those interchangeably.

Q. Do you have any recollection of what rollout would have been referenced here?

A. Yeah, this may have been about the process -- it could have been -- well, I guess I should stop. This could have been about

apportionment or it could have been about redistricting, so I'm not totally sure which one it's about.

Q. Okay. During this time in the process were you working on the rollout for the apportionment map?

A. So the apportionment map constitutionally had to be adopted by the end of September. And so I can't remember the exact timelines of when the proposed maps rolled out, but they were in September.

Q. Okay.

A. They were around this time. So I'm not sure which one is which here.

(Thereupon, Plaintiffs' Exhibit Number 37, Document Bates Stamped LWVOH_00018321, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I'm going to move on to what I'm having marked as Exhibit 37. It's LWVOH and it's 18321 for the record. Do you see your email address in the top right corner?

A. I do.

Q. And then in the from line it

appears to be an email from Heather Mann at the email address that you recognize, correct?

A. Yes.

Q. And then who is in the to line? Do you recognize that email?

A. That was an email address for Jim Renacci.

Q. And who is that?

A. He was a congressman from Northern -- Northeast Ohio.

Q. And then your email address is copied; is that correct?

A. Yes, I am cc'd.

Q. And in the text of the email it says, per your request, here are the population numbers and percentages of Congresswoman Sutton's current district that would be contained in the proposed districts. Do you see that?

A. I do.

Q. Who is Congresswoman Sutton?

A. She is also a -- at the time was a sitting incumbent of a Northeast Ohio congressional district.

CERTIFICATE OF SERVICE

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

1. **Affidavit of Freda J. Levenson**
2. **Deposition Transcripts from APRI v. Smith , Appendix of Exhibits, Volume 1 of 4 (pages 1 - 163)**
3. **Deposition Transcripts from APRI v. Smith, Appendix of Exhibits, Volume 2 of 4 (pages 164 - 345)**
4. **Deposition Transcripts from APRI v. Smith, Appendix of Exhibits, Volume 3 of 4 (pages 346 - 644)**
5. **Deposition Transcripts from APRI v. Smith Appendix of Exhibits, Volume 4 of 4 (pages 645 - 694)**

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