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

IN THE SUPREME COURT OF OHIO

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

STIPULATION OF EVIDENCE

(deposition transcript and exhibits)

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STIPULATION OF EVIDENCE

(deposition transcript and exhibits)

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	Exhibits to DeWine deposition transcript	DEPO_00291-314

Transcript of Secretary of State Frank LaRose

Date: October 14, 2021
Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

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LEAGUE OF WOMEN VOTERS :

OF OHIO, et al., :

Relators, :

v. : Case NOS. 2021-1193

OHIO REDISTRICTING : 2021-1198

COMMISSION, et al., : 2021-1210

Respondents. :

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Remote Videotaped Deposition of

SECRETARY OF STATE FRANK LAROSE

Thursday, October 14, 2021

9:40 a.m.

Job No.: 405254

Pages: 1 - 105

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

CA CSR NO. 11648

1 Videoconference Deposition of Secretary of
2 State Frank LaRose, held remotely:
3
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5 Witness Location:
6 REMOTE
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9
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11 Pursuant to notice, before Debra Bollman
12 Farfan, Registered Diplomate Reporter,
13 Registered Merit Reporter, Certified Realtime
14 Reporter, and Certified Shorthand Reporter No.
15 11648, in and for the State of California.
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9 Counsel at Ohio Secretary of State
10 JARED BENNETT, The VideoTech
11 STEPHEN ANDREYCHUK, The Videographer
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1
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17 EXHIBIT 2 GOV2062, TEXT EXCHANGES 59
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1 P R O C E E D I N G S
2 * * * * * 09:39:58
3 THE VIDEOGRAPHER: Here begins Disk 09:39:58
4 Number 1 in the videotaped deposition of Ohio 09:40:00
5 Secretary of State Frank LaRose in the matter 09:40:04
6 of League of Women Voters of Ohio, et al., 09:40:08
7 versus Ohio Redistricting Commission, et al., 09:40:13
8 in the Superior Court of Ohio. The case number 09:40:24
9 is 2021-1193. 09:40:26
10 Today's date is October 14th, 2021, and 09:40:31
11 the time is 9:40 a.m. Eastern time. 09:40:36
12 The videographer today is Stephen 09:40:42
13 Andreychuk, representing Planet Depos. 09:40:46
14 This video deposition is taking place 09:40:49
15 via Zoom with all participants attending 09:40:52
16 remotely. 09:40:55
17 The court reporter today is Debra 09:40:56
18 Bollman, also representing Planet Depos. Would 09:40:59
19 the reporter please swear in the witness. 09:41:04
20 Whereupon, 09:41:29
21 SECRETARY OF STATE
22 FRANK LAROSE
23 was called as a witness, was duly sworn
24 and testified under penalty of perjury as
25 follows:

1 EXAMINATION 09:41:32
2 BY MR. STAFFORD: 09:41:32
3 Q. Good morning, Secretary. My name is Ben 09:41:32
4 Stafford. I'm an attorney with the Elias Law 09:41:34
5 Group, and I represent the Bennett Group of 09:41:37
6 Relators in this set of lawsuits. 09:41:39
7 The videographer and court reporter have 09:41:41
8 covered some of this, but just a few basics 09:41:44
9 before we get underway. 09:41:46
10 If you need a break at any time today, 09:41:48
11 please let me know. If there is a question 09:41:51
12 pending, I'll ask that you complete your answer 09:41:54
13 to that question before we take a break, but 09:41:57
14 then we can find a good time to take a break 09:41:59
15 after that. Fair? 09:42:01
16 A. Yes, sir. 09:42:02
17 Q. Okay. Please make sure that you give 09:42:03
18 verbal answers rather than nodding or shaking 09:42:06
19 your head so that we've got a clear record of 09:42:09
20 the proceedings. 09:42:12
21 Then, finally, please make sure to 09:42:13
22 listen to each question that I ask without 09:42:15
23 interrupting with your answer before I finish 09:42:18
24 speaking, and I will try to make sure that I do 09:42:20
25 the same when you're answering. 09:42:22

That's particularly important, of 09:42:24
course, when we're here on video to make sure 09:42:26
we're not talking over each other. Okay? 09:42:29
A. Sounds good. 09:42:30
Q. All right. And then, finally, if you 09:42:36
answer a question, I will assume that you 09:42:38
understood my question. I am not trying to 09:42:39
trick you in any questions that I ask. So if 09:42:41
you do not understand or hear a question, 09:42:43
please just let me know. 09:42:45
A. Understood. 09:42:47
Q. What is your role on the Ohio 09:42:51
Redistricting Commission? 09:42:53
A. My role on the Ohio Redistricting 09:42:56
Commission is as a commissioner, one of seven 09:42:59
members of the Ohio Redistricting Commission. 09:43:01
Q. And as a commissioner, what did you 09:43:03
understand your responsibilities to be with 09:43:06
regard to the development of the General 09:43:08
Assembly Plan? 09:43:11
A. I guess my understanding is that -- to 09:43:11
follow the Ohio Constitution to the best of my 09:43:22
abilities, to participate in public hearings 09:43:24
when possible, and to participate as a voting 09:43:29
member of the commission. 09:43:32

1 Q. And, again, with regard to the 09:43:35
2 development of a General Assembly Plan -- and 09:43:41
3 just for the sake of clarity, I understand 09:43:43
4 there is a Congressional plan that's being 09:43:45
5 developed -- my questions today are really just 09:43:48
6 focused on the General Assembly plan unless I 09:43:50
7 note otherwise. 09:43:52
8 So with regard to the development of a 09:43:53
9 General Assembly plan, what was your role, if 09:43:55
10 any, in developing the procedures that the 09:43:57
11 commission would follow in considering and 09:44:01
12 adopting a plan? 09:44:03
13 A. Ask for clarification. Are you talking 09:44:04
14 about my role in drafting the original 09:44:09
15 constitutional amendment that went before the 09:44:11
16 voters in 2015, or are you talking about my 09:44:13
17 role in developing the rules of the commission? 09:44:16
18 Q. The rules of the commission that were 09:44:19
19 followed in 2021 with regard to such issues as 09:44:22
20 the public hearing schedule, internal meeting 09:44:26
21 schedules of the commission. 09:44:30
22 A. Okay. Again, to the best of my 09:44:31
23 recollection, the rules were proposed by the 09:44:34
24 co-chairs. I reviewed them a day or two before 09:44:39
25 they were adopted. I recommended some changes, 09:44:42

a few of those changes were accepted, a few 09:44:47
were not, and then we voted on them. 09:44:49
Q. And then, to your knowledge, then, which 09:44:56
other commissioners, for the record, were 09:44:59
responsible for developing, in the first 09:45:01
instance, those procedures you were talking 09:45:03
about? 09:45:06
A. If I recall correctly, they were sent to 09:45:06
me by the co-chairs. I don't know who else was 09:45:12
involved in developing those rules. 09:45:14
Q. Okay. Could you just, for the sake of 09:45:19
the record, say who the co-chairs were? 09:45:21
A. The co-chairs are Speaker of the Ohio 09:45:23
House of Representatives, Bob Cupp, and member 09:45:27
of the Ohio Senate, Vernon Sykes. 09:45:31
Q. What was your role, if any, in drafting 09:45:40
the General Assembly plan that was eventually 09:45:41
introduced by Senator Huffman on September 9th? 09:45:44
A. I had no role in that. 09:45:48
MR. STAFFORD: I'm sorry. Could we go 09:45:54
off the record for just a moment. 09:45:56
THE VIDEOGRAPHER: Going off the record. 09:45:58
The time is 9:45. 09:45:59
(Recess ensued 9:45 a.m. to 9:48 a.m.) 09:45:59
THE VIDEOGRAPHER: Going back on the 09:48:55

record. The time is 9:48. 09:48:56
BY MR. STAFFORD: 09:48:59
Q. Secretary, you said earlier that you 09:48:59
understood one of your responsibilities as the 09:49:02
Commissioner was to follow the Ohio 09:49:04
Constitution. So are you specifically familiar 09:49:06
with Article XI of the Constitution? 09:49:09
A. I have not committed that to memory. If 09:49:14
you'd like to point out -- I mean, I'm happy to 09:49:16
talk about a specific part of it, if you want 09:49:20
to point that part out to me. 09:49:22
Q. My question is are you generally 09:49:24
familiar with it, not whether you've committed 09:49:27
the entire Constitution to memory. 09:49:29
A. I'm not familiar with the specific 09:49:30
contents of XI. 09:49:32
Q. Okay. Did you provide any guidance to 09:49:34
any person in preparing the September 9th plan 09:49:38
that was introduced by Senator Huffman with 09:49:43
respect to characteristics of the plan that you 09:49:45
believed were necessary to comply with the 09:49:47
Constitution? 09:49:50
A. No, I did not. The plan was developed 09:49:50
without my input. 09:49:59
Q. To your knowledge, did the commission 09:50:00

1 provide criteria to the persons drafting the 09:50:12
2 map that was introduced by Senator Huffman on 09:50:16
3 September 9th that should be followed in 09:50:19
4 preparing the map? 09:50:20
5 A. I mean, obviously, we did dozens of 09:50:22
6 hours of public testimony where commission 09:50:32
7 members asked questions, took testimony, heard 09:50:35
8 from the public. There were times when 09:50:41
9 commission members stated things that they 09:50:44
10 thought should be included in a plan, myself 09:50:47
11 included. 09:50:50
12 Whether the map drawers that completed 09:50:51
13 the plan that was adopted on the 15th took that 09:50:54
14 into consideration or not, I do not know. 09:50:56
15 Q. And other than statements that 09:51:00
16 commissioners made on the public record in the 09:51:03
17 hearings that you were describing, are you 09:51:06
18 aware of any commissioner providing particular 09:51:07
19 feedback to the persons who drew the map? 09:51:11
20 A. My understanding is that the people that 09:51:14
21 drew the maps worked for commission members 09:51:22
22 Huffman and Cupp. 09:51:25
23 Don't want to make assumptions, but my 09:51:27
24 guess would be that they were the ones 09:51:30
25 directing the map drawers in their actions. I 09:51:32

1 certainly didn't have any authority over the 09:51:34
2 people that were drawing the maps. That were 09:51:39
3 adopted, that is. 09:51:41
4 Q. And are you aware of any criteria that 09:51:43
5 those commission members provided to the 09:51:47
6 persons drafting the General Assembly plan? 09:51:51
7 A. None whatsoever. 09:51:53
8 Q. Okay. Other than the public hearings, 09:51:55
9 how often did you communicate with Senator 09:52:00
10 Huffman, Speaker Cupp, or their staff members 09:52:03
11 about the map that was introduced on 09:52:07
12 September 9th prior to its introduction? 09:52:10
13 A. I'd ask for clarification on the 09:52:11
14 question. So you're asking how often did I 09:52:19
15 communicate with commission members Cupp and 09:52:21
16 Huffman about the September 9th map prior to 09:52:23
17 its introduction? 09:52:27
18 Q. That's correct. 09:52:32
19 A. I did not communicate with them about 09:52:33
20 the September 9th map prior to its 09:52:34
21 introduction. 09:52:36
22 Q. Did you communicate with any staff 09:52:41
23 members working with Senator Huffman or Speaker 09:52:43
24 Cupp about the map prior to its introduction on 09:52:48
25 September 9th? 09:52:51

A. No, I did not. 09:52:51
Q. Did you personally review any draft maps 09:52:53
prior to September 9th? 09:52:57
A. Yeah, to my recollection, one day before 09:52:58
that, I was shown a copy of the map. But it 09:53:05
was not a particularly detailed copy. It was 09:53:11
sort of a printout of it, and it was just kind 09:53:13
of a briefing of, here's the map we've 09:53:16
developed. 09:53:19
Q. And when you say you were provided a 09:53:20
copy of the map, do you mean a visual map? 09:53:23
A. Yeah, again, this is, to the best of my 09:53:30
recollection, prior to the introduction of that 09:53:35
map, I was invited to come over to the offices 09:53:39
of the Ohio Senate where I was shown -- it was 09:53:41
actually the Majority conference room 09:53:45
specifically, where they showed me a printed 09:53:47
version of the map and just sort of gave a 09:53:50
briefing of what they had drawn. 09:53:52
I think that was before the 9th. I know 09:53:55
that happened before the introduction of one of 09:53:57
the maps. 09:53:59
Q. Were you provided with any data or 09:54:04
related documents regarding the printout of the 09:54:06
map during that briefing? 09:54:08

1 A. None. 09:54:09
2 Q. And who was present during that 09:54:13
3 briefing? 09:54:14
4 A. Again, to the best of my recollection, 09:54:14
5 President Huffman was there; Senate staff 09:54:24
6 member Ray DiRossi was there; Mike Grodhaus, my 09:54:28
7 chief legal counsel, was there in the Senate 09:54:33
8 majority conference room. There may have been 09:54:37
9 a house staffer, but I don't recall 09:54:41
10 specifically. 09:54:43
11 Q. Were any other commission members there? 09:54:45
12 A. At the conclusion of that meeting, 09:54:49
13 Speaker Cupp came in at the conclusion of that 09:54:54
14 meeting. And then, of course, at that point 09:55:00
15 that meant there were three commission members 09:55:02
16 in there, so there couldn't be any more. 09:55:04
17 Q. I'm sorry, what do you mean "there 09:55:09
18 couldn't be any more"? 09:55:12
19 A. Well, of course, we couldn't have more 09:55:13
20 than three commission members in a room without 09:55:17
21 having a public meeting. 09:55:20
22 Q. Do you have any knowledge of whether 09:55:22
23 briefings were provided to other commission 09:55:31
24 members, beyond yourself, before the 09:55:33
25 introduction of the September 9th map? 09:55:36

A. I do not. 09:55:38
Q. Okay. Who provided information about 09:55:39
the map during that briefing? 09:55:44
A. The briefing was conducted by Senate 09:55:46
staff member Ray DiRossi. 09:55:50
Q. Okay. And to the best of your 09:55:52
recollection, what did Mr. DiRossi share with 09:55:57
you about the map? 09:56:01
A. Again, he sort of moved through the 09:56:03
state geographically. Most of what he conveyed 09:56:08
was the complexity and difficulty of drawing 09:56:11
the map, keeping, of course, three House 09:56:15
districts nested within one Senate district. 09:56:18
He communicated the challenges of 09:56:22
complying with all of the constitutional 09:56:26
provisions regarding splits that they were very 09:56:28
careful to abide by. 09:56:30
That was really the nature of the 09:56:32
briefing. It wasn't -- it was maybe a 09:56:34
ten-minute conversation about here's what the 09:56:37
map looks like. And, again, given that it was 09:56:40
my first time seeing it, it was just sort of a 09:56:42
cursory overview. 09:56:45
Q. Did Mr. DiRossi share with you any 09:56:50
information about the expected partisan 09:56:54

1 performance of the map? 09:56:57
2 A. Yeah, I asked that question, and he 09:56:58
3 conveyed to me that he wasn't aware of that; 09:57:02
4 that those were not numbers that he had 09:57:07
5 available or that they hadn't done those 09:57:09
6 calculations. 09:57:10
7 Q. Okay. So Mr. DiRossi conveyed that in 09:57:14
8 preparing the map he had not reviewed or 09:57:17
9 considered partisan performance information? 09:57:19
10 A. To answer your specific question, he 09:57:21
11 didn't relay to me whether he had considered 09:57:27
12 that when I asked him what the basic partisan 09:57:30
13 breakdown of this map would be, he claimed that 09:57:34
14 he did not have that knowledge. Or that it 09:57:37
15 wasn't something that he was sort of prepared 09:57:42
16 to brief on, at least. 09:57:45
17 Q. Okay. Why did you ask Mr. DiRossi about 09:57:46
18 the expected partisan breakdown of the map? 09:57:50
19 A. I mean, I think it's a basic curiosity 09:57:53
20 that any commission member would have about a 09:57:57
21 map that they're considering. 09:57:59
22 Q. Any other reason beyond curiosity you 09:58:00
23 would ask that particular question? 09:58:04
24 A. One of the factors to take into 09:58:07
25 consideration, that was really the only reason. 09:58:12

1 Q. And when you say "one of the factors to 09:58:14
2 take into consideration," what do you mean? 09:58:17
3 A. I mean, among the many factors that 09:58:19
4 commission members should take into 09:58:25
5 consideration when determining how much they 09:58:26
6 like or dislike any particular map presented to 09:58:28
7 them, it's one of the things to be 09:58:31
8 knowledgeable of. 09:58:33
9 Q. Okay. And do you have any understanding 09:58:34
10 of whether it is required for the commission to 09:58:37
11 consider that particular factor? 09:58:43
12 A. Again, I'm not a lawyer or a 09:58:45
13 constitutional scholar, but my understanding of 09:58:50
14 the Ohio Constitution is that there is a 09:58:52
15 secondary consideration for proportionality, 09:58:56
16 but that it is not one of the hard requirements 09:59:00
17 that's laid out. 09:59:03
18 Q. Did you ask Mr. DiRossi, or Senator 09:59:05
19 Huffman, for that matter, any other questions 09:59:12
20 regarding the map during that presentation? 09:59:15
21 A. Yeah, I recall asking about 09:59:17
22 considerations for minority opportunity 09:59:22
23 districts. They told me that racial data was 09:59:25
24 not taken into consideration, so that wasn't 09:59:30
25 something that they knew. 09:59:32

1 I asked them about incumbents being 09:59:35
2 drawn together, whether, you know, certain 09:59:39
3 incumbent members had been sort of put into the 09:59:41
4 same district. And they said that they didn't 09:59:44
5 have specific knowledge on that, but there were 09:59:48
6 a couple cases where that may be the case. 09:59:51
7 And they reiterated that this was the 09:59:54
8 first draft map, and so those are things that 09:59:56
9 can be worked on going forward. 09:59:58
10 Q. Do you know whether any changes were 10:00:00
11 made to the map that you were briefed on, I 10:00:09
12 think you said it was the day before 10:00:14
13 September 9th, before it was introduced on 10:00:16
14 September 9th? 10:00:19
15 A. Not to my knowledge. 10:00:20
16 Q. Was it your impression that Senator 10:00:22
17 Huffman had taken the lead on the map process 10:00:34
18 for the General Assembly plans? 10:00:38
19 A. Yes, that was my impression. 10:00:41
20 Q. And what was your understanding of 10:00:43
21 Speaker Cupp's role, if any, in the preparation 10:00:47
22 of the maps? 10:00:51
23 A. Well, certainly Speaker Cupp served as 10:00:52
24 the co-chair of the commission. 10:00:59
25 And my understanding is that the two 10:01:00

1 staffers who were primarily collaborating on 10:01:04
2 doing the mapmaking, the actual sort of 10:01:07
3 cartography, if you will, of drawing the maps, 10:01:12
4 were a House staff member named Blake 10:01:15
5 Springhetti, and a Senate staff member named, 10:01:18
6 Ray DiRossi. 10:01:21
7 One would assume, then, that the Speaker 10:01:22
8 and the President were working as partners in 10:01:24
9 the drafting process. 10:01:28
10 Q. Other than the briefing that you 10:01:30
11 described or any public hearings, did you ever 10:01:35
12 communicate with Mr. DiRossi about the 10:01:40
13 redistricting process in 2021? 10:01:43
14 A. You mean prior to the beginning of the 10:01:45
15 process? Or I guess clarify when you asked did 10:01:52
16 I communicate with DiRossi. 10:01:57
17 Q. Prior to the briefing that we were just 10:02:00
18 talking about, did you ever communicate with 10:02:03
19 Mr. DiRossi about the process of redistricting 10:02:05
20 in 2021? 10:02:09
21 A. In 2021, I did not communicate with 10:02:10
22 Mr. DiRossi prior to the introduction of the 10:02:15
23 map. 10:02:17
24 To be clear, Mr. DiRossi is a known 10:02:18
25 expert on redistricting. We had served -- when 10:02:22

1 I was a member of the Senate and he was a 10:02:27
2 Senate staffer, we had had conversations about 10:02:28
3 redistricting reform and that kind of thing. 10:02:32
4 But in the year 2021, and certainly once 10:02:34
5 the work of map drawing had begun, I did not 10:02:37
6 have any communication with Mr. DiRossi as he 10:02:39
7 was working on the maps, no. 10:02:43
8 Q. And then how about after the briefing 10:02:50
9 that you talked about, which occurred on or 10:02:52
10 about September 8th, as I understand? Did you 10:02:54
11 speak with Mr. DiRossi about the 2021 10:02:59
12 redistricting process other than at public 10:03:02
13 hearings? 10:03:04
14 A. In the briefing, I expressed some 10:03:04
15 concern that that map needed a lot of work. 10:03:07
16 I also stated that publicly in that 10:03:10
17 first briefing, in fact -- or in the first 10:03:13
18 commission meeting -- or not the first 10:03:16
19 commission meeting, rather the commission 10:03:18
20 meeting on the 9th, when that map was accepted 10:03:20
21 as the work product of the commission, I stated 10:03:23
22 publicly that this is, in my mind, a first 10:03:24
23 draft and needs substantial work. 10:03:27
24 Other than that, I did not communicate 10:03:29
25 with Mr. DiRossi. 10:03:31

1 Q. Did you have anyone communicate with 10:03:34
2 Mr. DiRossi on your behalf? 10:03:39
3 A. I know that there were a few times that 10:03:41
4 my chief legal counsel sent emails, but mostly 10:03:51
5 about commission meeting schedules, my desire 10:03:54
6 to -- my desire to get the opportunity to 10:03:59
7 collaborate on amendments to the map. 10:04:03
8 I expressed through my staff that I 10:04:07
9 wanted to work with those that were working on 10:04:09
10 the map to make amendments to it, but that was 10:04:15
11 the extent of our communication. 10:04:18
12 Q. What concerns about the map did you 10:04:20
13 express to Mr. DiRossi during the briefing on 10:04:24
14 September 8th? 10:04:28
15 A. My prime concern was that -- I mean, 10:04:29
16 again, the objective I had from the very 10:04:34
17 beginning was a sincere desire to work with the 10:04:37
18 other six members of the commission to reach a 10:04:42
19 ten-year consensus, bipartisan consensus map. 10:04:44
20 And my concerns that I expressed to 10:04:50
21 Mr. DiRossi were that the first draft of the 10:04:52
22 map that he had drawn I didn't think moved us 10:04:54
23 in the direction of finding that middle-ground 10:05:02
24 consensus significantly. 10:05:04
25 Q. What about the map you reviewed on 10:05:06

1 September 8th gave you concern in that regard? 10:05:09
2 A. First, when he told me that they had not 10:05:12
3 taken race data into account, that gave me 10:05:18
4 concerns because I knew that that was something 10:05:23
5 that our Democratic partners, and myself 10:05:26
6 included, would want to make sure that minority 10:05:29
7 opportunity districts were created. That gave 10:05:32
8 me concern. 10:05:35
9 And then also, although when he told me 10:05:35
10 that they didn't have sort of a partisan data 10:05:39
11 breakdown, by looking at the map, it concerned 10:05:44
12 me that perhaps, you know, the way that it had 10:05:48
13 been drawn would not be acceptable to our 10:05:53
14 minority counterparts. 10:05:57
15 And, again, my goal was that we worked 10:05:58
16 together in good faith to find that middle 10:06:01
17 ground that both the Democrats and the 10:06:03
18 Republicans can accept. 10:06:05
19 Q. Okay. And so as a long-term politician 10:06:08
20 in Ohio, by looking at the map, you could make 10:06:13
21 some assumptions about how it would perform 10:06:17
22 politically, even if you didn't have the data? 10:06:20
23 Is that fair to say? 10:06:23
24 A. I don't know if I consider myself a 10:06:24
25 long-term politician. Twelve years ago I was a 10:06:27

1 full-time student at Ohio State and a reservist 10:06:30
2 in the military. 10:06:33
3 But, yeah, given my knowledge of the 10:06:34
4 state of Ohio, I looked at it, and it seemed to 10:06:35
5 me that we had significant work to do before we 10:06:38
6 could reach a bipartisan consensus, based on 10:06:43
7 the first draft that was presented. 10:06:47
8 Q. You said that you spoke with Mr. DiRossi 10:06:48
9 about, I believe, constitutional reforms prior 10:06:54
10 to the beginning of the 2021 redistricting 10:06:58
11 process specifically. What did you and 10:07:02
12 Mr. DiRossi speak about? 10:07:04
13 A. Well, numerous conversations. And quite 10:07:06
14 honestly, I was one of the prime advocates for 10:07:09
15 redistricting reform. 10:07:16
16 It was something I worked on as a 10:07:18
17 freshman state senator and, in fact, had worked 10:07:20
18 with my Democratic counterparts to introduce a 10:07:25
19 bipartisan redistricting reform proposal in my 10:07:29
20 first General Assembly, worked consistently as 10:07:33
21 an advocate for redistricting reform throughout 10:07:39
22 my years in the Senate, and was instrumental in 10:07:42
23 the adoption and eventual passage of the 10:07:43
24 constitutional amendment that is now a part of 10:07:46
25 the Constitution. 10:07:49

1 So I have been extensively involved in 10:07:50
2 conversations about redistricting reform, 10:07:58
3 various iterations of redistricting reform, and 10:07:59
4 I've been a longtime proponent of reforming the 10:08:03
5 process. 10:08:07
6 Q. Why was redistricting reform so 10:08:08
7 important to you even from the beginning of 10:08:11
8 your more recent start, 12 years ago, in 10:08:13
9 politics? 10:08:16
10 A. I think it starts from my first race for 10:08:17
11 the Senate. I come from the Akron area in 10:08:26
12 Summit County, and I ran in a district that was 10:08:28
13 highly competitive. 10:08:31
14 I saw that many of my colleagues did not 10:08:32
15 have competitive districts. And I, for one, am 10:08:35
16 a believer in the power of competition to make 10:08:38
17 us all better. 10:08:42
18 I think competition works in the free 10:08:44
19 market, I think competition works on the 10:08:48
20 athletic field, and I think competition works 10:08:50
21 in politics to make us stronger. And so I 10:08:52
22 wanted to see a more competitive set of 10:08:55
23 districts. 10:08:58
24 I also didn't like the fact that it had 10:08:58
25 been throughout the decades sort of a one-party 10:09:04

1 exercise. I wanted to see a process that was 10:09:07
2 more consensus based. 10:09:12
3 I think throughout history, either party 10:09:14
4 that's had control of the process has, you 10:09:16
5 know -- has used that process to their 10:09:19
6 advantage, and one would suspect that that's 10:09:21
7 kind of the way the system had been set up 10:09:23
8 previously. 10:09:26
9 I wanted to see a new system created 10:09:27
10 that compelled Republicans and Democrats to sit 10:09:30
11 at the table as statesmen and women and to 10:09:33
12 reach compromise. That had been the spirit 10:09:36
13 that I brought to it from the very beginning, 10:09:38
14 and right up through the very eleventh hour, in 10:09:40
15 fact, eleventh-and-a-half hour, of this 10:09:43
16 process. 10:09:46
17 I had been working to try to reach that 10:09:46
18 consensus, to try to create opportunity for 10:09:49
19 that compromise, with the goal of reaching a 10:09:51
20 ten-year commission map with both Republican 10:09:55
21 and Democratic support. 10:09:58
22 Q. And as a proponent of the constitutional 10:10:00
23 amendments mid-decade, last decade, do you 10:10:03
24 understand that the intended effect of those 10:10:10
25 amendments on Ohio's redistricting process to 10:10:12

1 be the outcomes that you just talked about? 10:10:16
2 A. I know that what we wrote created a 10:10:19
3 multi-step process, where there was the best 10:10:25
4 outcome of a ten-year bipartisan consensus, but 10:10:34
5 also a constitutional process for a four-year 10:10:40
6 map without bipartisan support, because, 10:10:46
7 certainly, at some point there needs to be that 10:10:50
8 sort of finality. 10:10:52
9 Again, putting on my other hat as the 10:10:54
10 person in charge of running elections in Ohio 10:10:56
11 and working with all 88 of our county Boards of 10:10:58
12 Elections, there is a very real concern about 10:11:01
13 logistics and timing of getting new maps 10:11:04
14 approved and finalized so that the boards are 10:11:06
15 ready next spring to conduct primary elections. 10:11:09
16 And so there needs to be a finality to 10:11:12
17 this process. That finality exists in the 10:11:14
18 four-year map opportunity. I was very clear 10:11:18
19 when we did the constitutional amendment in the 10:11:21
20 middle of the last decade that that was not a 10:11:25
21 preferred outcome, but it was one of the 10:11:28
22 constitutional options available. 10:11:30
23 Q. It's fair to say that the amendments 10:11:32
24 were intended to prevent partisan 10:11:35
25 gerrymandering; isn't it? 10:11:39

1 MS. PFEIFFER: Objection. Calls for 10:11:47
2 speculation. 10:11:49
3 You can answer if you know. 10:11:49
4 THE WITNESS: Yeah, I think that the 10:11:51
5 goal of the redistricting amendment that was 10:11:51
6 put on the ballot was to create an opportunity 10:11:54
7 for bipartisan compromise. 10:11:56
8 And, again, I, for one, as a member of 10:11:58
9 the commission, was working very hard to try to 10:12:01
10 create that opportunity for bipartisan 10:12:03
11 compromise, consistent with my understanding of 10:12:05
12 what we passed last decade. 10:12:07
13 BY MR. STAFFORD: 10:12:07
14 Q. Secretary, to the best of your 10:12:16
15 knowledge, which individuals were involved in 10:12:17
16 preparing the General Assembly Plan introduced 10:12:19
17 by Senator Huffman? 10:12:22
18 A. To the best of my knowledge, it was the 10:12:29
19 four individuals I already named. It was 10:12:30
20 Speaker Cupp and his staff member, Blake 10:12:32
21 Springhetti, and it was President Huffman and 10:12:35
22 his staff member, Ray DiRossi. 10:12:38
23 Q. Do you have an understanding of the term 10:12:40
24 "mapper"? 10:12:42
25 A. Other than the common usage, one who 10:12:42

1 makes maps, I suppose I don't know of any other 10:12:48
2 meaning. 10:12:51
3 Q. To your knowledge, who were the mappers 10:12:52
4 for the Huffman plan, for the sake of clarity? 10:12:54
5 A. I guess I've never used the term 10:12:58
6 "mapper." I've used the term "mapmaker" or 10:13:04
7 "cartographers." But the people drawing the 10:13:07
8 map, doing the actual technical work of sitting 10:13:10
9 at a computer and GIS shapefile building, my 10:13:13
10 understanding is that those individuals were 10:13:19
11 Blake Springhetti and Ray DiRossi. 10:13:21
12 Q. Did you work with any mappers yourself? 10:13:24
13 A. Throughout the process, I had wanted to 10:13:26
14 be part of collaborating with those that were 10:13:37
15 making the maps. I was not given the 10:13:39
16 opportunity to do so. That is, with the two 10:13:42
17 mapmakers working on behalf of the Speaker and 10:13:48
18 the President. 10:13:50
19 Although repeatedly I had asked to be 10:13:51
20 part of that process and asked to collaborate 10:13:54
21 with them, I was not given the ability to do 10:13:57
22 so. 10:14:00
23 In the later days of the process, once 10:14:01
24 it became clear that they were going to exclude 10:14:03
25 me from the mapmaking, and because at that time 10:14:06

1 it was too late for my staff to set up their 10:14:12
2 own sort of mapmaking process and training and 10:14:13
3 expertise, would have been -- you know, it 10:14:18
4 would have been logistically impossible to put 10:14:20
5 that together at the last minute, I started 10:14:22
6 working with the members of the Minority 10:14:25
7 caucus, the Senate Democrats and House 10:14:30
8 Democrats and their mapmakers, in several 10:14:32
9 meetings that I had with them to at least try 10:14:37
10 to put some drafts down. 10:14:39
11 There was never a full plan completed as 10:14:41
12 a result of our work, but at least I was sort 10:14:43
13 of trying to collaborate with them and work 10:14:45
14 with them to see if there was an opportunity to 10:14:47
15 draft some things that could reach that 10:14:49
16 middle-ground compromise. 10:14:53
17 Q. And when you say that they prevented you 10:14:57
18 from participating or they excluded you from 10:14:59
19 the map drawing process, were you referring to 10:15:01
20 the Speaker and Senator Huffman? 10:15:04
21 A. Yes. 10:15:06
22 Q. Okay. When the map was introduced on 10:15:07
23 September 9th, did you believe that it still 10:15:13
24 required a lot of work, I think you put it? 10:15:16
25 A. I said that quite publicly in the 10:15:18

1 commission. In fact, when we voted to accept 10:15:26
2 that as the work product for the commission, I 10:15:28
3 stated very clearly on the record that this map 10:15:31
4 is very much a first draft, in my mind, and 10:15:35
5 needs substantial work. 10:15:38
6 Q. So once the map was adopted that you 10:15:48
7 thought needed substantial work on 10:15:50
8 September 9th, as you put it on the record, I 10:15:52
9 think you said, did you meet with any 10:15:54
10 commissioners to discuss the adopted map or 10:15:56
11 alternative proposals? 10:15:59
12 A. Yes, numerous times. 10:16:00
13 Q. Okay. Who did you meet with? 10:16:02
14 A. In the ensuing week and a half, I met 10:16:05
15 with every member of the commission at one 10:16:11
16 point or another, and in many cases on multiple 10:16:14
17 times. 10:16:17
18 There were a few days there where I was 10:16:19
19 basically at the statehouse all day, sort of 10:16:21
20 shuttling between offices, trying to find 10:16:24
21 opportunities for bringing the two parties 10:16:28
22 together on a -- on a -- again, on a consensus. 10:16:31
23 My goal was simply to try to find that 10:16:34
24 opportunity for some middle-ground compromise 10:16:37
25 to find a way to create a ten-year map. 10:16:47

1 Q. When you say you were looking for a 10:16:49
2 middle-ground compromise, what did you think 10:16:51
3 needed to be changed from the original version 10:16:54
4 of the map on September 9th that would 10:16:56
5 constitute a middle-ground compromise? 10:16:58
6 A. I identified three things that I thought 10:17:00
7 should be part of a basic framework, and what I 10:17:07
8 was initially trying to do was to get other 10:17:12
9 principals of the commission, other members of 10:17:14
10 the commission to have a conversation about 10:17:16
11 those three basic concepts. 10:17:20
12 And they are, in no particular order, 10:17:22
13 the concept of what the proportion of districts 10:17:24
14 are, one to another. 10:17:28
15 Meaning, I guess, what you would call -- 10:17:31
16 however you define them, and there are 10:17:34
17 different definitions of this -- a so-called 10:17:35
18 safe Republican district, a competitive 10:17:38
19 district, and a so-called safe Democratic 10:17:41
20 district. 10:17:44
21 So that was the first principle I wanted 10:17:45
22 people to sort of agree on and what that number 10:17:48
23 of proportionality might be. 10:17:50
24 The second one that I thought would be 10:17:52
25 an important topic for both sides to reach 10:17:53

1 agreement on is as it relates to minority 10:17:56
2 opportunity districts and creating those 10:17:59
3 minority opportunity districts. 10:18:01
4 And the third topic that I thought that 10:18:03
5 the commission members should be able to find 10:18:06
6 an agreement on related to not drawing 10:18:08
7 incumbents into the same district, at least 10:18:11
8 avoiding that where possible. 10:18:15
9 My mind was that if there could be a 10:18:17
10 basic agreement of certain numbers as it 10:18:20
11 relates to proportionality of a certain 10:18:23
12 handling of minority opportunity districts and 10:18:27
13 handling as it relates to drawing incumbents 10:18:30
14 together, that if we could reach an agreement 10:18:34
15 in principle on those three things, then maps 10:18:36
16 could be drawn that carry out that agreement. 10:18:39
17 So that was the framework of a basic 10:18:43
18 bipartisan agreement that I was trying to 10:18:46
19 encourage. I don't want to even say broker, 10:18:50
20 but trying to encourage. 10:18:53
21 Q. And you were trying to encourage a 10:18:59
22 conversation and ultimately an agreement around 10:19:01
23 those three principles because you believed 10:19:03
24 that the original map did not adequately embody 10:19:07
25 those three principles? 10:19:09

1 A. Well, no, it was because I had heard, 10:19:10
2 clearly, that the two Democratic members of the 10:19:13
3 commission were not willing to accept the 10:19:16
4 introduced map. And, again, the basic numbers 10:19:19
5 are that you have to reach a certain threshold 10:19:23
6 of votes, including two minority votes, to pass 10:19:26
7 a map. 10:19:29
8 So I was trying to get us to a place 10:19:29
9 where we could reach that threshold. 10:19:32
10 Q. And you believed yourself, personally, 10:19:35
11 that the map required a lot of work, correct? 10:19:37
12 A. As I stated. 10:19:39
13 (Deposition Exhibit No. 1 was marked for 10:19:39
14 identification.) 10:19:41
15 Q. Could we pull up the document marked 10:19:41
16 Huffman 3139 and mark it as Exhibit 1, please. 10:19:49
17 Secretary, could you review this and let 10:19:53
18 me know what it is. 10:20:51
19 A. Yeah, Mr. Stafford, I'm going to turn 10:20:52
20 around and use the screen behind me. 10:20:54
21 Q. Perfect, thank you. 10:20:56
22 And I'll direct your attention to the 10:21:25
23 email that starts this chain on the final page, 10:21:28
24 in particular. 10:21:30
25 A. Yes. Is there more? Okay. Give me a 10:21:40

1 second. 10:21:48
2 Yes. 10:22:12
3 Q. Okay. So what is this document? 10:22:13
4 A. This document is -- hold on. Now 10:22:14
5 there's a -- 10:22:19
6 Q. I'm sorry. Could you scroll back to the 10:22:19
7 second page. 10:22:21
8 A. Okay. 10:22:24
9 Q. Okay. So sorry. Go ahead and tell me. 10:22:25
10 What is this document? 10:22:27
11 A. This document is an email chain that, 10:22:28
12 based on what I just saw on the screen, was 10:22:32
13 initiated by my chief of staff -- at my 10:22:34
14 direction, I will add -- that was asking the 10:22:36
15 members of the commission for opportunities to 10:22:41
16 begin that collaboration that I thought was so 10:22:45
17 necessary, and I stated before. 10:22:47
18 So what you saw there was, again, my 10:22:49
19 chief of staff reaching out to the other 10:22:52
20 members of the commission, saying: Okay, now 10:22:54
21 there is this map that has been adopted as the 10:22:56
22 commission sort of work product. Now is when 10:22:59
23 the real roll-up-your-sleeves, 10:23:02
24 come-to-the-table, do-the-negotiating kind of 10:23:05
25 work needs to begin. 10:23:07

1 And I was trying to sort of spur that 10:23:08
2 along, and I was looking to create those 10:23:11
3 opportunities for members to start having those 10:23:15
4 very serious conversations about where we could 10:23:18
5 meet in the middle. 10:23:20
6 The response to that was from the 10:23:22
7 Senate, I believe, Democratic staff, who 10:23:26
8 invited us to come over, which we then did, to 10:23:28
9 start working on finding some of those areas of 10:23:33
10 agreement or work on areas where there were 10:23:37
11 disagreements. 10:23:39
12 Q. And for the sake of the record, Merle 10:23:44
13 Madrid is your chief of staff? 10:23:47
14 A. That's correct. 10:23:49
15 Q. Okay. And did I pronounce that 10:23:49
16 directly? 10:23:51
17 A. You did. 10:23:51
18 Q. Okay, perfect. 10:23:58
19 When you spoke with the Democratic 10:23:59
20 commissioners and their staff, was there 10:24:00
21 discussion of what proportionality meant? 10:24:03
22 A. I don't recall a specific conversation 10:24:08
23 about what proportionality meant. 10:24:18
24 I can tell you that I introduced the 10:24:21
25 idea and was trying to get a conversation going 10:24:23

1 among various commission members, including the 10:24:26
2 Democratic members, that for the purpose of a 10:24:28
3 proportionality conversation, that we should 10:24:32
4 consider sort of the following framework. 10:24:36
5 We should define what constitutes a 10:24:39
6 competitive district, and I was open to what 10:24:42
7 that might be. 10:24:45
8 Because, again, to start, I think it's 10:24:46
9 kind of a fiction or a fallacy that we assume 10:24:49
10 that we know how the voters are going to vote, 10:24:52
11 right? Candidates matter, campaigns matter, 10:24:55
12 the sort of prevailing mood of the state 10:24:58
13 matters in elections. 10:25:00
14 I, for one, am an example of this. I 10:25:02
15 won in a heavily Democratic district when I was 10:25:05
16 initially elected to the State Senate. 10:25:08
17 So I thought that we should, for the 10:25:09
18 purpose of any proportionality conversation, 10:25:11
19 define "competitive," 55/45, 46/52, whatever 10:25:14
20 that might be, or 46/50 -- you know, however -- 10:25:20
21 however we wanted to define "competitive," and 10:25:25
22 then take the number of seats that meet that 10:25:28
23 competitive definition sort of off the table. 10:25:32
24 These are simply competitive seats, so 10:25:36
25 go compete for them. And then restrain our 10:25:39

1 proportionality conversation to looking at 10:25:42
2 those that were outside of the competitive 10:25:44
3 range and then, by definition, become safe 10:25:47
4 Republican seats or safe Democratic seats. 10:25:50
5 So what I was trying to do, and I 10:25:52
6 thought this might be a way to create a 10:25:54
7 consensus on, you know, how we're going to 10:25:58
8 define this, define "competitive," put those 10:26:02
9 aside, and then constrain our conversation 10:26:04
10 about proportionality to those that meet the 10:26:07
11 definition of a safe seat. 10:26:09
12 Q. Did any commissioner prior to the 10:26:13
13 adoption of the General Assembly Plan tell you 10:26:15
14 that they agreed with that definition of 10:26:19
15 proportionality? 10:26:20
16 A. No, not specifically. When I brought 10:26:21
17 that up, there were head nods and, you know, 10:26:24
18 sort of, oh, that's a novel or interesting 10:26:27
19 idea. 10:26:30
20 But, no, that was never an agreed-to 10:26:30
21 sort of framework for defining proportionality. 10:26:33
22 Q. And prior to the adoption of the plan on 10:26:37
23 September 15th, did you conduct any analysis or 10:26:40
24 have your staff conduct any analysis of whether 10:26:45
25 the plan met that definition of proportionality 10:26:49

1 that you just laid out? 10:26:53
2 A. A lot of different analyses were 10:26:55
3 conducted. Some we were privileged to as a 10:26:59
4 result of the public hearings. There were 10:27:03
5 hundreds, I think, of members of the public 10:27:06
6 came up and offered their own analysis. 10:27:08
7 There was a question of sort of what 10:27:12
8 data do you consider as it relates to 10:27:15
9 proportionality, and there were some different 10:27:18
10 ways of approaching that as far as the ten-year 10:27:21
11 lookback or, you know, do you take out the 10:27:24
12 extremes on both ends when you average things 10:27:28
13 together. There were all those kind of 10:27:31
14 conversations. 10:27:34
15 But there was not a specific analysis 10:27:35
16 that I did of the September 9th map regarding 10:27:36
17 whether it meant that criteria that I've laid 10:27:40
18 out, no. 10:27:44
19 Q. And same question as to the 10:27:45
20 September 16th map, I think it was adopted 10:27:48
21 shortly after midnight, the final map. Did you 10:27:51
22 conduct any analysis of that? 10:27:54
23 A. My efforts at that point were dedicated 10:27:56
24 to trying to find opportunities for compromise. 10:28:02
25 And so what I had spent my time on, on 10:28:09

1 the 15th and the 14th and the 13th, was trying 10:28:12
2 to bring people together around common 10:28:15
3 principles and trying to find those 10:28:19
4 opportunities for compromise. 10:28:21
5 I had not conducted nor had my staff 10:28:23
6 conduct a detailed analysis of the map that was 10:28:26
7 passed on the 15th. 10:28:29
8 Q. And during those discussions and efforts 10:28:33
9 that you talked about, did any other commission 10:28:38
10 member share with you a proportionality 10:28:41
11 analysis before the final votes on the 15th and 10:28:44
12 the 16th? 10:28:50
13 A. A proportion -- I guess I'm going to ask 10:28:50
14 you the question, Mr. Stafford: Are you saying 10:28:58
15 a proportionality analysis of that map that was 10:28:59
16 finally adopted? 10:29:03
17 Q. That is correct. 10:29:04
18 A. I don't recall specifically. There have 10:29:04
19 been a lot of numbers thrown around, either 10:29:11
20 from members of the public or commission 10:29:13
21 members. I had taken a lot of those into 10:29:16
22 consideration. I don't think any of them was 10:29:19
23 viewed as the definitive number, though. So I 10:29:21
24 don't have a specific recollection of that 10:29:24
25 analysis. 10:29:25

1 Q. You're aware that Senator Sykes 10:29:26
2 introduced a General Assembly Plan on or about 10:29:32
3 the 1st of September? 10:29:36
4 A. I am aware. 10:29:38
5 Q. Okay. Did you speak with any 10:29:40
6 representatives of the Democratic caucus 10:29:42
7 regarding the Sykes plan? 10:29:45
8 A. I did. 10:29:47
9 Q. Did you provide any suggestions 10:29:50
10 regarding that initial plan on September 1st 10:29:51
11 that was introduced? 10:29:55
12 A. Again, during the various iterations of 10:29:55
13 trying to find space for compromise, right, 10:30:02
14 which is a very complex, sort of 10:30:05
15 multidimensional negotiation here, I looked at 10:30:08
16 and discussed the September 9th plan that had 10:30:14
17 been introduced by President Huffman and 10:30:17
18 opportunities to modify that to maybe reach 10:30:21
19 something that both sides could agree with. 10:30:25
20 And also had conversations about the 10:30:28
21 September 1st Sykes plan, which I think was 10:30:31
22 then subsequently amended a couple days later 10:30:33
23 to correct some mistakes that had been made in 10:30:35
24 it. So whether it was the 1st or the 3rd, but 10:30:37
25 the Sykes plan, and again to look at ideas, 10:30:42

1 iterations, move this line here, move this line 10:30:45
2 there, to see whether there was an opportunity 10:30:48
3 to use that map as the basis of finding that 10:30:50
4 compromise. 10:30:53
5 Ideas, brainstorming occurred with both 10:30:54
6 set of maps, again with the spirit of trying to 10:30:59
7 find that opportunity to reach a compromise. 10:31:02
8 Q. And you're aware that Senator Sykes 10:31:05
9 introduced an amended plan on or about 10:31:08
10 September 15th? 10:31:12
11 A. Yes. On the evening of the 15th, I 10:31:14
12 recall seeing an amended plan proposed by 10:31:26
13 Senator Sykes. 10:31:28
14 Q. And have you reviewed that amended plan? 10:31:30
15 A. Again, at this point, we're talking 10:31:32
16 about the evening of the 15th, we're talking 10:31:37
17 about a amended plan from Senator Sykes, and at 10:31:41
18 the same time we were getting an amended plan 10:31:47
19 from Senator Huffman. 10:31:49
20 There were very initial and sort of 10:31:52
21 quick reviews that I and my staff conducted of 10:31:55
22 those, as I was simultaneously shuttling 10:32:00
23 between offices at the statehouse, trying to 10:32:04
24 find, still, in that late hour, opportunities 10:32:08
25 for a compromise. 10:32:10

1 Q. And as you sit here today, are you aware 10:32:11
2 as to whether the amended plan included 10:32:17
3 suggestions that you had made? The Sykes plan. 10:32:19
4 A. Yeah, I was told that it included 10:32:22
5 suggestions that I had made. I don't know to 10:32:26
6 what extent, and certainly it wasn't sort of 10:32:29
7 "my plan." 10:32:33
8 In many hours of sort of brainstorming 10:32:35
9 with the mapmakers, there had been: Hey, if we 10:32:38
10 did this, I may be able to get my side to 10:32:42
11 accept it. Can your side accept it? 10:32:44
12 These kind of general conversations. 10:32:47
13 But, again, the specificity of going 10:32:49
14 down to sort of pinpoint, ground-level accuracy 10:32:53
15 and drawing lines and whatever else, that was 10:32:57
16 not my work product. 10:32:59
17 General concepts were, hey, if we 10:33:01
18 include this community, we may be able to sell 10:33:03
19 that to our side. Or, hey, if we keep these 10:33:06
20 communities of interest together, that may be 10:33:08
21 more acceptable to my side. Or, hey, if we 10:33:10
22 create a plan that doesn't draw these two 10:33:14
23 incumbents together, that may be seen as more 10:33:16
24 friendly by my side. 10:33:19
25 Those are some of the broad concepts 10:33:21

1 that were discussed. 10:33:23
2 I know that, again, it was said that 10:33:25
3 those ideas were included in the plan that 10:33:29
4 Senator Sykes introduced on the 15th. So what 10:33:34
5 level of detail, I don't know. 10:33:39
6 Q. At any point have you reviewed it to see 10:33:41
7 the answer to that question? 10:33:46
8 A. Yeah, I did that night, briefly. But it 10:33:48
9 was also clear to me at that point that that 10:33:52
10 plan was not acceptable to a majority of the 10:33:54
11 other members of the commission. 10:33:57
12 And so I focused my effort, because time 10:34:00
13 was precious at that point, on trying to find 10:34:04
14 opportunities to, you know, to reach a 10:34:07
15 consensus. 10:34:09
16 And at that point I was also pushing for 10:34:10
17 us to go past the deadline. Candidly, I had 10:34:14
18 made an effort to say, well, we still have work 10:34:18
19 to do here, and the clock is running out; so 10:34:21
20 let's get members of the commission to agree 10:34:23
21 that we'll table this tonight and that we'll 10:34:26
22 convene a meeting tomorrow morning to start, 10:34:29
23 you know, start again. 10:34:32
24 So, no, as far as a detailed analysis of 10:34:33
25 that, there was not time for that on the 10:34:37

1 evening of the 15th. And subsequent to that, I 10:34:39
2 have not engaged in such an effort because the 10:34:42
3 commission had already passed maps. 10:34:44
4 Q. Okay. I want to make sure we have an 10:34:50
5 understanding of the basic timeline of the 10:34:53
6 committee's actions in passing maps on the 15th 10:34:54
7 and 16th. 10:34:57
8 So as we discussed, the committee voted 10:35:00
9 to adopt an initial version of the General 10:35:02
10 Assembly Plan on September 9th; is that right? 10:35:05
11 A. That's correct. 10:35:07
12 And I know the word "adopt" is the word 10:35:09
13 that is used in the law, and I understand what 10:35:12
14 that means; but I've always said that this is 10:35:17
15 kind of like a bill being introduced with the 10:35:21
16 full knowledge that there is an amendment 10:35:23
17 process. 10:35:28
18 So I always considered that a work 10:35:28
19 product, the initial draft, the sort of first 10:35:30
20 draft. And that was, in fact, adopted by the 10:35:32
21 commission on the 9th. 10:35:34
22 Q. And then on September 15th, Speaker 10:35:36
23 Huffman presented a motion to amend that plan, 10:35:40
24 correct? 10:35:43
25 A. That is correct. 10:35:43

1 Q. And that motion passed by a 5-2 vote of 10:35:45
2 the commission along party lines; is that 10:35:50
3 right? 10:35:53
4 A. That is correct. 10:35:53
5 Q. There was a second vote on the 15th, and 10:35:54
6 that was whether to approve the amended General 10:35:58
7 Assembly Plan introduced by Speaker Huffman; is 10:36:02
8 that right? 10:36:07
9 I'm sorry, I didn't hear you. 10:36:11
10 A. Yes, that's correct. 10:36:13
11 Q. Okay. Thank you. 10:36:14
12 And you voted to adopt that amended 10:36:15
13 plan, correct? 10:36:18
14 A. Correct. 10:36:18
15 Q. And the commission voted to adopt that 10:36:19
16 amended plan on a, again, 5-2 party line vote, 10:36:23
17 correct? 10:36:27
18 A. Correct. 10:36:27
19 Q. The third and final vote was about 10:36:29
20 statements accompanying the adopted General 10:36:33
21 Assembly Plan; is that right? 10:36:37
22 A. That's correct. 10:36:38
23 And it's worth clarifying that those 10:36:41
24 were unanimous, and it was simply to accept 10:36:44
25 those as statements, not to approve the content 10:36:47

1 contained therein. 10:36:50
2 Q. And specifically to accept into the 10:36:52
3 record the commission statement and the 10:36:54
4 dissenting members' statement? 10:36:57
5 A. Correct. 10:37:01
6 Q. We've talked a bit about proportionality 10:37:02
7 under the Ohio Constitution. Was the 10:37:10
8 commission provided any guidance about the 10:37:14
9 standard of proportionality to be used? 10:37:20
10 A. We were not. 10:37:22
11 Q. Okay. You talked about some of the 10:37:23
12 principles that you tried to build consensus 10:37:30
13 around, including an understanding of 10:37:33
14 proportionality. 10:37:35
15 Did Senator Huffman or Speaker Cupp 10:37:37
16 provide any information to you about a standard 10:37:40
17 proportionality that they were using prior to 10:37:44
18 the final statement that you saw? 10:37:47
19 A. No, they did not. And I had asked for 10:37:48
20 that, candidly, and had not received it. 10:37:57
21 Q. When did you ask for that statement? 10:38:01
22 A. If I recall correctly, initially on -- I 10:38:03
23 believe it was the day before the map was 10:38:09
24 adopted on the 9th. So when that briefing had 10:38:11
25 occurred on the 8th. 10:38:15

1 And, again, throughout -- I don't have 10:38:18
2 specific recollection of the dates, but I had 10:38:21
3 asked sort of what criteria are you all using 10:38:23
4 to evaluate proportionality? What data are you 10:38:29
5 using to determine what the voting pattern of 10:38:33
6 the state of Ohio is? 10:38:38
7 I thought that we should be able to, at 10:38:40
8 least, sort of have a common framework of where 10:38:43
9 those numbers are, but those were not provided. 10:38:45
10 Q. So you were not provided a statement, as 10:38:48
11 you've testified to. Am I right in 10:38:52
12 understanding that you were not provided 10:38:54
13 information about the data that was being used 10:38:56
14 to assess that information? 10:38:59
15 A. I was provided no information about what 10:39:00
16 data or considerations were going into 10:39:06
17 proportionality considerations related to the 10:39:11
18 mapmaking work that was being done by President 10:39:14
19 Huffman or Speaker Cupp. 10:39:19
20 Q. So if you weren't provided any of the 10:39:20
21 information you were asking for, did you 10:39:22
22 receive any response in request to those 10:39:25
23 inquiries? 10:39:27
24 A. No. 10:39:28
25 Q. So were these in-person requests that 10:39:28

1 you were making? 10:39:33
2 A. Yeah, if I recall correctly, it had been 10:39:34
3 a couple times like, hey -- more of a -- not an 10:39:40
4 official communique, but more of a casual 10:39:43
5 conversation of, hey, I'd love to see the 10:39:46
6 numbers that you all are considering here 10:39:49
7 because we should have a common framework. 10:39:51
8 But, again, I think one or two times I 10:39:53
9 had asked for that and was told that "We're 10:39:55
10 still working on it" or "We're still 10:39:57
11 determining that," or what have you. 10:40:00
12 Q. Did you ever inquire to anyone whether 10:40:01
13 the map drawers were attempting to avoid 10:40:05
14 drawing maps that would advantage or 10:40:08
15 disadvantage a political party? 10:40:10
16 A. I didn't have that specific 10:40:12
17 conversation, no. 10:40:15
18 Q. Did you ever inquire to anybody how, if 10:40:16
19 at all, the map drawers were attempting to 10:40:19
20 avoid drawing maps that would advantage or 10:40:22
21 disadvantage a political party? 10:40:25
22 A. No, I didn't have that specific 10:40:26
23 conversation with anyone. 10:40:28
24 Q. Okay. Now you are, sitting here today, 10:40:29
25 familiar with the statement that was released 10:40:40

1 regarding how the commission measured partisan 10:40:44
2 proportionality? 10:40:49
3 A. I am now familiar with that statement, 10:40:50
4 yes. 10:40:51
5 Q. When did you first see that statement? 10:40:52
6 A. A minute before I voted on it. 10:40:57
7 Q. Okay. Did you have an opportunity to 10:41:03
8 read the statement before you voted? 10:41:06
9 A. I did, but only once. It was presented, 10:41:09
10 I reviewed it. And then, again, my 10:41:16
11 understanding is that we were accepting it into 10:41:22
12 the record as a statement, not voting to agree 10:41:24
13 that these are -- that I agree with this 10:41:29
14 statement. 10:41:32
15 So under that rationale, I accepted it, 10:41:32
16 which, again, unanimously the commission did, 10:41:36
17 accepted this as the statement. 10:41:39
18 Q. Okay. So fair to say you weren't 10:41:41
19 involved in the drafting of that statement that 10:41:44
20 you first saw a minute before you had to cast a 10:41:46
21 vote? 10:41:49
22 A. Hundred percent, not involved in the 10:41:50
23 drafting of that statement. 10:41:52
24 Q. Okay. And so probably also fair to say 10:41:53
25 that you had no opportunity to provide input 10:41:56

1 into that statement? 10:41:58
2 A. No opportunity to provide input into 10:42:00
3 that statement. 10:42:03
4 Q. Okay. Do you have any personal 10:42:04
5 knowledge about whether or how the persons who 10:42:07
6 drew the maps that were adopted on the evening 10:42:10
7 of September 15th, early morning of 10:42:14
8 September 16th, how, if at all, those people 10:42:17
9 were attempting to comply with the 10:42:19
10 proportionality standard? 10:42:21
11 A. No personal knowledge of that. 10:42:23
12 Q. In these circumstances, do you think 10:42:26
13 that you were provided a fair opportunity to 10:42:28
14 ensure that the commission was meeting the 10:42:30
15 proportionality standard? 10:42:34
16 A. Can I ask you to restate the question. 10:42:35
17 Q. In the circumstances that you've 10:42:41
18 described, where you weren't provided any 10:42:43
19 information about the data that was being used 10:42:46
20 to assess proportionality, and you weren't 10:42:50
21 provided the statement until shortly before the 10:42:54
22 vote, do you think that you were provided a 10:42:57
23 fair opportunity to ensure that the commission 10:42:59
24 was complying with the proportionality 10:43:02
25 standard? 10:43:06

1 MS. PFEIFFER: I'm going to object to 10:43:06
2 that question to the extent that it assumes 10:43:07
3 some kind of a proportionality requirement. 10:43:10
4 BY MR. STAFFORD: 10:43:16
5 Q. You can go ahead and answer. 10:43:16
6 A. My counsel has objected as to whether 10:43:18
7 there is a proportionality requirement, so I'm 10:43:27
8 not going to answer to the existence of a 10:43:30
9 proportionality requirement. 10:43:34
10 I'll answer the component of your 10:43:38
11 question about whether I received an 10:43:39
12 opportunity to collaborate on the mapmaking and 10:43:41
13 the statement making, and I had no opportunity 10:43:43
14 to collaborate on that, and that was something 10:43:45
15 that was disappointing to me. 10:43:47
16 Q. And you said that one of the principles 10:43:49
17 that you were trying to build consensus around 10:43:53
18 was a common understanding of proportionality. 10:43:55
19 And so do you think in the circumstances 10:43:58
20 that you were provided a fair opportunity to 10:44:01
21 assess whether the plan, as adopted, met your 10:44:04
22 understanding of a proportionality standard? 10:44:10
23 A. My work to try to define common 10:44:12
24 principles of proportionality were under the 10:44:18
25 assumption that that's something that both 10:44:24

1 sides might care about, and so I wanted to try 10:44:26
2 to reach a compromise and a consensus where 10:44:29
3 both sides could agree. 10:44:32
4 So because I knew that was something 10:44:33
5 both sides were going to potentially care 10:44:35
6 about, that's why that was something that I had 10:44:38
7 made part of the conversation. 10:44:40
8 Q. Is it something that you personally 10:44:42
9 cared about? 10:44:44
10 A. Of course, sure. 10:44:44
11 Q. Okay. 10:44:46
12 A. As my understanding of the 10:44:48
13 constitutional requirements for a four-year 10:44:52
14 map, make any of those considerations secondary 10:44:55
15 to the prime considerations that are laid out 10:44:59
16 in the other sections; and that because those 10:45:02
17 are secondary, they're not a hard requirement 10:45:06
18 for passage of a four-year map. 10:45:08
19 And so, you know, that was the 10:45:11
20 understanding which I had when I voted in favor 10:45:13
21 of that four-year map; that those secondary 10:45:16
22 standards were not requirements but secondary 10:45:21
23 standards, but that the sort of technical 10:45:23
24 standards had been met. 10:45:26
25 Q. So is it your understanding that if a 10:45:28

1 majority of the commission decides that it's 10:45:30
2 just not interested in attempting to achieve 10:45:33
3 any sort of partisan proportionality, it can 10:45:36
4 not implement those standards and pass a 10:45:42
5 four-year plan? 10:45:44
6 MS. PFEIFFER: Objection. Vague. 10:45:45
7 Speculative. He can answer to the extent that 10:45:46
8 he knows. 10:45:48
9 THE WITNESS: To the extent that I know, 10:45:49
10 my understanding is that the standards, as it 10:45:50
11 relates to proportionality, are secondary to 10:45:55
12 the primary concerns that are laid out in the 10:45:59
13 Constitution that have to do with splits, 10:46:04
14 contiguity, you know, requirements to not split 10:46:06
15 communities, all of those other sort of 10:46:12
16 mapmaking considerations that are set out as 10:46:18
17 primary in the constitution. 10:46:20
18 BY MS. PFEIFFER: 10:46:23
19 Q. Sitting here today, are you aware that 10:46:23
20 one of the metrics for partisan proportionality 10:46:25
21 that the commission statement utilizes is the 10:46:30
22 overall number of Republican candidates that 10:46:32
23 had won statewide office in the past ten years 10:46:35
24 as compared to the Democrats that had won? 10:46:38
25 A. I am aware. 10:46:40

1 Q. When did you first become aware that 10:46:41
2 this is a metric that might be used? 10:46:45
3 A. Moments before the vote to accept that 10:46:46
4 statement. 10:46:51
5 Q. Okay. When you first were handed a copy 10:46:52
6 of the statement, shortly before the vote, you 10:46:57
7 mean? 10:46:59
8 A. Correct, yeah. And if you review the 10:46:59
9 video of the commission meeting, we were handed 10:47:03
10 that, I reviewed it, I asked President Huffman 10:47:05
11 questions about it, because this sparked my 10:47:09
12 curiosity having sort of seen it for the first 10:47:13
13 time. So I asked President Huffman one or two 10:47:15
14 questions about it, and then we voted to accept 10:47:19
15 that statement. 10:47:22
16 (Deposition Exhibit No. 2 was marked for 10:47:22
17 identification.) 10:47:41
18 MR. STAFFORD: Could you please display 10:47:41
19 the document entitled GOV2066 and mark it as 10:47:44
20 Exhibit 2. 10:47:48
21 THE VIDEOTECH: I see a GOV2062. 10:48:16
22 MR. STAFFORD: Yes. Apologies. That's 10:48:20
23 correct. 10:48:21
24 THE VIDEOTECH: Thank you. 10:48:22
25 (Discussion with Videotech held off the 10:48:22

1 written record.) 10:48:22
2 MS. KEENAN: To the extent we're not off 10:50:06
3 the record, can we go off the record while 10:50:07
4 we're figuring out the technological snafu, 10:50:09
5 just to save the time? 10:50:12
6 MR. STAFFORD: Sure, let's go off the 10:50:13
7 record. 10:50:14
8 THE VIDEOGRAPHER: Going off the record. 10:50:17
9 The time is 10:50. 10:50:19
10 (Recess ensued from 10:50 a.m. 10:51:31
11 to 11:04 a.m.) 11:04:35
12 THE VIDEOGRAPHER: Going back on the 11:04:35
13 record. The time is 11:04. 11:04:43
14 BY MR. STAFFORD: 11:04:46
15 Q. Secretary, I believe you have on the 11:04:47
16 screen a document that has been marked as 11:04:49
17 Exhibit 2. And I'm not going to ask questions 11:04:52
18 about the substance of this document, I just 11:04:56
19 want to make sure I understand what it is. 11:04:59
20 So am I right that this document 11:05:01
21 consists of text exchanges between yourself and 11:05:03
22 others? 11:05:06
23 A. I see the names of -- hold on. Let me 11:05:07
24 read the content of this. 11:05:25
25 Okay. Well, I know this one between 11:05:27

1 Leader Sykes and myself is one that I sent, 11:05:31
2 yeah. 11:05:35
3 Q. And so if you go to page 2066, for 11:05:39
4 example. 11:05:43
5 A. Okay. I'm on it. 11:05:50
6 Q. Okay. So there is an exchange here 11:05:51
7 between yourself and Merle Madrid; is that 11:05:53
8 right? 11:05:57
9 A. That's what I see, yeah. 11:05:57
10 Q. Okay. And so when we're looking at 11:05:59
11 this, on the left side of the document are the 11:06:03
12 texts from the other individual? 11:06:07
13 A. Correct, yeah. On the left of what I'm 11:06:09
14 seeing shows from Merle Madrid in gray, and 11:06:12
15 from me in blue. 11:06:16
16 Q. And in the middle of the page, we see 11:06:17
17 the dates on which a text is exchanged; is that 11:06:21
18 right? 11:06:24
19 A. Correct. 11:06:24
20 Q. Okay. Okay. Just give me just a 11:06:26
21 moment. 11:06:31
22 A. Yeah, I can tell it's mine because it's 11:06:35
23 in military time. 11:06:37
24 Q. Okay. Mr. Secretary, on behalf of the 11:06:40
25 Bennett relators, I do not have any other 11:07:15

1 questions. I believe counsel for other 11:07:19
2 relators may have some questions. 11:07:21
3 A. Thank you, Mr. Stafford. 11:07:27
4 MR. STAFFORD: Thank you for your time. 11:07:28
5 THE WITNESS: You as well. 11:07:29
6 MS. KEENAN: This is Megan Keenan of 11:07:30
7 Covington & Burling. I know we're going to be 11:07:39
8 questioning next. But give me a quick second 11:07:41
9 with my team to confirm whether we want a break 11:07:44
10 between questioners. Can we go off the record 11:07:48
11 while I confirm with my team? 11:07:56
12 MS. PFEIFFER: We just got back from a 11:08:01
13 break. We're not interested in breaking again. 11:08:02
14 So we're not agreed to go off the record. The 11:08:05
15 time is still ticking. 11:08:07
16 MS. KEENAN: Okay. We'll start with our 11:08:09
17 questions, then. 11:08:24
18 11:08:24
19 EXAMINATION 11:08:27
20 BY MS. KEENAN: 11:08:27
21 Q. I want to keep this document in front of 11:08:27
22 us, first. Still, I just want to talk about 11:08:29
23 what the document is, not about any of the 11:08:31
24 content. But specifically I'd like you to 11:08:33
25 authenticate another one of the pages. Give me 11:08:35

one second to find it. 11:08:39
Could you go to the last page in the 11:08:46
document. Bates stamp ends with 2075. 11:08:47
A. We're there. 11:08:55
Q. Let me know when you're there. 11:08:56
You'd agree these are messages from you 11:08:58
on the right side in blue, right? 11:09:00
A. Yes. 11:09:01
Q. And to Merle Madrid, your chief of 11:09:07
staff? 11:09:10
A. Yes. 11:09:10
Q. His messages are the one in gray on the 11:09:15
left, right? 11:09:19
A. Correct. With the tap back of thumbs 11:09:19
up, indicating a response from me as well. 11:09:22
Q. Thank you. You'd agree these were sent 11:09:25
on Wednesday, September 15th, at military time 11:09:28
23 -- I believe that says 36; is that right? 11:09:32
A. Yes. 11:36 p.m. 11:09:35
Q. Right. So I'm okay to set this document 11:09:38
aside now. 11:09:44
I want to go back to a couple things 11:09:45
that Mr. Stafford asked you about earlier 11:09:47
today. 11:09:49
You said that you didn't personally 11:09:50

1 communicate with Huffman or Cupp or their staff 11:09:51
2 about that September 9th map before it was 11:09:54
3 introduced. 11:09:57
4 To your knowledge, did any of your staff 11:09:57
5 members communicate with their staff members 11:10:00
6 about that map prior to its introduction? 11:10:02
7 A. The only -- the only communication to my 11:10:04
8 knowledge was us expressing a desire to 11:10:11
9 collaborate with them on the drafting of that 11:10:13
10 map, but we were not given the opportunity to 11:10:15
11 do so. When we had reached out saying, hey, 11:10:18
12 we'd like to meet so we can give some input on 11:10:23
13 this, we were not given the opportunity to do 11:10:25
14 so. 11:10:27
15 Q. Okay. And relatedly, I want to talk a 11:10:28
16 bit about how your compromised efforts played 11:10:32
17 out in practice. 11:10:35
18 You talked a lot in hearings and today 11:10:36
19 about how you were hoping to compromise, and 11:10:38
20 you mentioned earlier that the Democrats at 11:10:40
21 least purported to revise their map in response 11:10:43
22 to your suggestions; is that right? 11:10:46
23 A. Yeah, my understanding is that they took 11:10:48
24 into consideration some of the suggestions that 11:10:52
25 I had made in the introduction of their final 11:10:54

1 map on the 15th. 11:10:59
2 Q. Right. And so I want to talk about the 11:11:01
3 Republican map. When you saw their map on 11:11:04
4 September 8th, and again on September 9th, you 11:11:07
5 said the map at that point needed a lot of 11:11:09
6 work; right? 11:11:11
7 A. That's correct. 11:11:14
8 Q. Did you still think that map needed a 11:11:15
9 lot of work when you saw it on September 15th? 11:11:18
10 A. Ms. Keenan, when I said on the 9th that 11:11:20
11 it needs a lot of work, what I meant was in 11:11:28
12 order to reach a bipartisan compromise, this 11:11:30
13 map will need a lot of work. 11:11:33
14 And the map that was adopted and passed 11:11:35
15 on the 15th, of course, did not pass with a 11:11:37
16 bipartisan majority. And so, were that map to 11:11:41
17 have reached that bipartisan majority, it would 11:11:46
18 have needed a lot more work, sure. 11:11:49
19 Q. Right. So that substantial work that 11:11:51
20 you thought needed to be done to get to a 11:11:54
21 bipartisan map never happened, right? 11:11:56
22 A. My objective from the beginning was 11:11:58
23 clear to work with my commission colleagues, in 11:12:00
24 good faith, to reach a ten-year bipartisan 11:12:04
25 consensus map. Evidently, the -- you know, the 11:12:08

1 efforts fell short. 11:12:12
2 Q. I see there are some papers on the desk 11:12:13
3 in front of you. Could you tell us what you 11:12:20
4 have in front of you? 11:12:22
5 A. Yeah. I've got a list of all of the 11:12:23
6 names, to the best of my knowledge, of who all 11:12:26
7 is participating today because I was trying to 11:12:28
8 keep track of all of that. And then I've got a 11:12:30
9 blank notepad and an unmarked manilla folder. 11:12:33
10 On the blank notepad, I wrote the name of the 11:12:38
11 videographer, and I've written the numbers of 11:12:41
12 the exhibits that were presented. 11:12:47
13 And I wrote your name, Ms. Keenan, so 11:12:49
14 that I could recall it as we were going through 11:12:51
15 these questions. 11:12:53
16 Q. Okay. And so we could see on the video, 11:12:55
17 but for the record, can you confirm you have 11:12:57
18 some notes on the paper in front of you that 11:12:59
19 you just discussed? 11:13:01
20 A. Yeah, but only the items that I just 11:13:02
21 discussed for you. Nothing that I walked into 11:13:04
22 the room with. 11:13:06
23 Q. Okay. 11:13:07
24 MS. KEENAN: Counsel, we would request 11:13:08
25 production of those notes just to confirm. 11:13:12

1 MS. PFEIFFER: That's fine. 11:13:15
2 MS. KEENAN: Give me one moment here. 11:13:16
3 Okay. I think that's all for the League 11:14:08
4 of Women Voters relators as well. We're ready 11:14:10
5 to go off the record to hand it over to 11:14:13
6 Mr. Funari. 11:14:18
7 MR. FUNARI: Thank you, Megan. Let me 11:14:21
8 give the videographer a minute to pan in. Let 11:14:23
9 me know when you're ready. 11:14:28
10 MS. PFEIFFER: We're ready. 11:14:37
11 11:14:37
12 EXAMINATION 11:08:27
13 BY MR. FUNARI: 11:08:27
14 Q. Good morning, Secretary LaRose. My name 11:14:39
15 is Brad Funari. I'm with the law firm of Reed 11:14:41
16 Smith. I represent the relators in the 1210 11:14:44
17 action brought by the Ohio Organizing 11:14:49
18 Collaborative. 11:14:52
19 I am sitting in Pittsburgh. So I hope 11:14:53
20 as an Akron resident and Cleveland Browns fan 11:14:55
21 you don't have any hostility towards me at the 11:15:01
22 onset, so... 11:15:03
23 A. Only the base level of hostility that 11:15:05
24 should exist between a Browns fan and a 11:15:08
25 Steelers fan. But for the purpose of today's 11:15:10

1 conversation, no additional hostility, 11:15:12
2 Mr. Funari. 11:15:14
3 Q. Fair enough, fair enough. 11:15:15
4 I'm not going to retread any of your 11:15:21
5 testimony so far. I do want to just dig into a 11:15:23
6 few topics a little deeper. 11:15:25
7 The first is I want to go back to your 11:15:27
8 discussion regarding your feelings that a lot 11:15:32
9 of work needed to be done on the map that was 11:15:37
10 presented by the Republican legislative members 11:15:39
11 of the commission on September 9th. 11:15:43
12 Did you have any discussions with any of 11:15:52
13 your fellow statewide elected officials who 11:15:53
14 were members of the commission, those being 11:15:56
15 Governor DeWine and Auditor Faber, regarding 11:15:58
16 your feelings that the map needed a lot of 11:16:01
17 work? 11:16:03
18 A. Yes, extensive conversations. 11:16:04
19 Q. Okay. When do you recall those 11:16:11
20 conversations starting? Were they 11:16:13
21 pre-September 8th when you had the meeting with 11:16:15
22 the -- with Huffman and Cupp and their two map 11:16:20
23 drawers, or were they post-September 8th when 11:16:25
24 you saw the first draft of the map? 11:16:28
25 A. To the extent that conversation began 11:16:30

1 pre-September 8th, I recall having just an 11:16:35
2 initial conversation at the first commission 11:16:39
3 meeting with the other two executive branch 11:16:42
4 members of the commission. 11:16:46
5 I remember saying to them something to 11:16:50
6 the effect of: I think that we, as the three 11:16:53
7 non-legislative members of this commission, 11:16:56
8 have an opportunity to try to be the convenors, 11:16:59
9 because this is, by definition, a challenging 11:17:04
10 prospect. This is a, you know, difficult task 11:17:07
11 laid before us by the Ohio Constitution to 11:17:11
12 reach that ten-year commission compromise. 11:17:13
13 So there was a sort of a statesman role 11:17:18
14 that the governor and the auditor and I could 11:17:22
15 play to try to bring everyone together to have 11:17:24
16 that conversation. 11:17:26
17 Q. What were the -- I'm sorry. Go ahead. 11:17:31
18 A. Regarding conversations after the 11:17:33
19 introduction of the map on the 9th, I remember 11:17:35
20 conversations between us that: Well, this is a 11:17:40
21 starting point, but just a starting point. And 11:17:42
22 clearly for this to be a good-faith effort, 11:17:45
23 it's going to have to move quite a bit from 11:17:48
24 that. 11:17:50
25 The auditor and I, in particular, 11:17:51

1 engaged extensively in many good faith efforts 11:17:53
2 throughout the days after the introduction of 11:18:00
3 the map on the 9th to try to find those 11:18:02
4 opportunities for compromise. 11:18:05
5 The auditor and I, in many cases, really 11:18:07
6 sort of set up camp together as kind of the 11:18:10
7 team trying to push the rest of the commission 11:18:13
8 to come to the table and reach compromise, even 11:18:17
9 sharing a ride together up to the Cleveland 11:18:21
10 meeting so that we could continue sort of 11:18:25
11 pushing for that and having those 11:18:27
12 conversations. 11:18:29
13 Q. So during that intervening time period 11:18:30
14 of about a week between September 9th and 15th 11:18:34
15 when you testified that you were meeting with 11:18:38
16 each member of the -- each legislative member 11:18:40
17 of the commission on multiple times to try to 11:18:44
18 find a middle ground or compromise -- 11:18:47
19 MS. PFEIFFER: I'm going to object. I'm 11:18:49
20 going to object. I don't believe that was his 11:18:51
21 testimony. 11:18:53
22 MR. FUNARI: Okay. Let me back up. 11:18:55
23 BY MR. FUNARI: 11:18:55
24 Q. I understood, Secretary, that you 11:19:02
25 testified that following the introduction of 11:19:04

1 the map on September 9th, where on the record 11:19:07
2 you pointed out in several instances that you 11:19:11
3 felt it was a draft and a work in progress and 11:19:17
4 that you expressed that the map needed a lot of 11:19:20
5 work, that following that public hearing and 11:19:23
6 prior to the September 15th public hearing, you 11:19:26
7 met on multiple occasions individually with the 11:19:32
8 legislative members, minority and majority 11:19:35
9 members, of the commission to discuss the map 11:19:39
10 and trying to reach a middle ground. 11:19:42
11 Is that your testimony? 11:19:45
12 A. If there's need for clarification, I met 11:19:47
13 throughout those intervening days with all 11:19:51
14 members of the commission, not exclusively the 11:19:53
15 legislative members. 11:19:57
16 Specific recollection of how many times 11:20:05
17 meeting with how many members is near 11:20:06
18 impossible because there was like a shuttling 11:20:08
19 back and forth between offices. 11:20:10
20 I can tell you that I met as often as I 11:20:11
21 could meet, right, with each member of the 11:20:14
22 commission, because I believe that there was a 11:20:16
23 need for a lot of conversation to try to reach 11:20:17
24 that compromise. So I was trying to encourage 11:20:22
25 that conversation. 11:20:24

1 The opportunities for those 11:20:26
2 conversations were more frequent with members 11:20:27
3 of the minority caucuses. They just presented 11:20:33
4 more opportunities to sit down and talk. 11:20:39
5 And, again, what was not provided to me 11:20:42
6 was any opportunity to meet with the mapmakers 11:20:45
7 that were working on behalf of the Senate, 11:20:50
8 President, and the House Speaker, the people 11:20:53
9 actually drawing the maps. 11:20:55
10 And I had asked repeatedly for the 11:20:56
11 chance to meet with them in the hope of working 11:20:59
12 to make amendments to the introduced map. 11:21:01
13 Q. Did either Governor DeWine or Auditor 11:21:07
14 Faber join you in any of those meetings with 11:21:10
15 the -- with either the majority legislative 11:21:15
16 members or the minority legislative members? 11:21:19
17 A. Frequently, the auditor and I met with 11:21:23
18 people together. I don't recall the meetings 11:21:28
19 that involved the Governor and minority members 11:21:33
20 of the commission, no. 11:21:36
21 Q. I have here in my notes a quote that you 11:21:37
22 said that you were "shut out of the process" or 11:21:43
23 you thought you were shut out of the mapmaking 11:21:46
24 process. Do you recall that testimony? 11:21:48
25 A. Is that testimony from today that 11:21:50

1 you're -- 11:21:53
2 Q. Yes, yes. 11:21:53
3 A. Yeah, no, that's a fair description of 11:21:55
4 it. I had come into this process with the -- 11:21:58
5 again, this is a new process. This is the 11:22:05
6 first time that the State of Ohio has conducted 11:22:07
7 this new constitutional process. 11:22:09
8 I came into this with the assumption, I 11:22:11
9 suppose, that the Republican members of the 11:22:14
10 commission would work with the Republican 11:22:20
11 mapmakers and the Democratic members of the 11:22:22
12 commission would work with the Democratic 11:22:25
13 mapmakers, and then subsequent to that we would 11:22:27
14 bring our ideas to the able, we would find 11:22:30
15 areas of compromise, go back, make another 11:22:33
16 draft, come back to the table. 11:22:35
17 It was a point of frustration for me 11:22:37
18 that I was never given that opportunity to work 11:22:38
19 with the mapmakers that worked on behalf of the 11:22:40
20 Republican caucuses for both the House and 11:22:43
21 Senate. 11:22:46
22 Q. So your expectation of how the process 11:22:47
23 would work was not, in fact, how the process 11:22:49
24 did work? 11:22:55
25 A. That's correct. 11:22:55

Q. Do you know if Auditor Faber was 11:22:56
included in any of those meetings where the map 11:23:01
was being drawn and you testified that you felt 11:23:07
you were shut out of? 11:23:11
Did he, I guess -- let me ask that 11:23:12
question, and then I'll ask a follow-up. 11:23:14
A. I'm not going to speculate about what 11:23:16
meetings the Auditor was part of or not, other 11:23:19
than I know he was part of meetings that we had 11:23:21
where the auditor and I would meet with one 11:23:23
other commission member on several occasions, 11:23:26
again, and the auditor and I were working very 11:23:31
clearly as a team to try to bring about that 11:23:34
bipartisan compromise. 11:23:38
As far as meetings he had when I wasn't 11:23:40
there, I won't speculate. 11:23:41
Q. Good. Fair point. 11:23:42
Let me ask it this way, then. Do you 11:23:44
have a belief that, one way or another, that 11:23:46
Auditor Faber shared your frustration of being 11:23:50
cut out of the process? 11:23:53
A. Yes. We expressed that opinion to one 11:23:54
another many times. 11:23:59
Q. And same question with respect to 11:24:00
Governor DeWine. Do you have a belief as to 11:24:03

1 whether he felt he was being shut out of the 11:24:06
2 process? 11:24:08
3 A. The governor and I did not have a 11:24:08
4 conversation regarding his feelings about the 11:24:11
5 process. 11:24:13
6 I can tell you that the governor was 11:24:13
7 engaging in a good faith effort, along with the 11:24:15
8 auditor and myself, to try to create 11:24:19
9 opportunities for compromise, even offering to 11:24:21
10 conduct a principals' meeting, where three 11:24:25
11 members of the commission would have the chance 11:24:28
12 to sit down and try to hammer out a compromise, 11:24:33
13 in principle, on those three topics I mentioned 11:24:35
14 earlier: proportionality, majority/minority or 11:24:38
15 minority opportunity districts, and minimizing 11:24:41
16 drawing incumbents together. 11:24:44
17 So the governor and the auditor and I 11:24:47
18 were all engaging in a good faith effort to try 11:24:50
19 to create that opportunity for bipartisan 11:24:52
20 compromise. 11:24:54
21 Q. Is it a correct statement that the 11:24:56
22 seven-member commission as a whole never 11:24:59
23 convened and drafted a map of its own? 11:25:03
24 A. I guess I don't know logistically how 11:25:06
25 the commission would do that. 11:25:11

1 When I say "logistically," the work of 11:25:13
2 drafting a map, as you know, and I don't want 11:25:16
3 to oversimplify it here for anybody on this, 11:25:19
4 but like it's not you put a state roadmap on 11:25:23
5 the table and start tracing. 11:25:26
6 It is GIS shapefiles constructed over 11:25:28
7 probably dozens of hours on a sophisticated GIS 11:25:33
8 computer system. So the actual work of making 11:25:37
9 a map takes a long, long time. 11:25:40
10 So for the commission to sit as a group 11:25:44
11 in a public forum and drag lines around on a 11:25:46
12 screen would not have been practical. 11:25:49
13 Q. I appreciate the logistical challenges, 11:25:52
14 but my question was just, "yes" or "no," did 11:25:55
15 the commission convene for the purposes of 11:25:57
16 drawing a map? 11:26:01
17 A. No. 11:26:02
18 Q. Okay. Do you recall suggestions being 11:26:03
19 made by the minority legislative members of the 11:26:08
20 commission, the Sykes, Leader Sykes and Senator 11:26:12
21 Sykes, whereby they were suggesting to the 11:26:17
22 Republican members of the commission, and 11:26:23
23 suggesting that the commission purchase 11:26:26
24 software, mapmaking software, so all of those 11:26:28
25 things that you just described that would go 11:26:31

1 into the process of drawing a map could be 11:26:34
2 done? 11:26:39
3 Do you recall receiving any 11:26:40
4 communications or having any discussions with 11:26:41
5 the Democratic members of the commission to 11:26:46
6 that effect? 11:26:48
7 A. Okay. So what I want to do here is just 11:26:49
8 kind of describe my understanding of how 11:26:54
9 resources were allocated for the licensing of 11:26:58
10 software and the hiring of personnel as it 11:27:03
11 relates to the technical work of map drawing. 11:27:05
12 My understanding is that in the state 11:27:08
13 budget a certain amount of money was allocated. 11:27:10
14 My understanding is that the Constitution 11:27:14
15 allows the co-chairs of the commission to 11:27:18
16 direct how that money is spent, because the 11:27:21
17 co-chairs are, of course, one Republican and 11:27:24
18 one Democrat. 11:27:27
19 So when that initial meeting was held, 11:27:30
20 the two co-chairs acknowledged that they were 11:27:33
21 using the funds that were allocated to them to 11:27:37
22 license software and hire staff or whatever 11:27:41
23 they were doing. 11:27:45
24 At that time, I asked President Huffman, 11:27:46
25 since I am a Republican member of the 11:27:51

1 commission, I am a Republican co-chair that's 11:27:54
2 been allocated money now for this work, you 11:27:56
3 know, will I have equal use and access to those 11:27:59
4 personnel and to that software? 11:28:02
5 I was told at the time I would. That 11:28:05
6 did not play out that way. I was not given 11:28:08
7 access to those personnel and to that software. 11:28:11
8 When it became clear that I was not 11:28:14
9 going to have access to the software and the 11:28:17
10 personnel for the purpose of map drawing, I 11:28:19
11 inquired as to the possibility of how I can 11:28:22
12 have my own mapmaking ability. 11:28:27
13 And I believe there was an email 11:28:30
14 exchange between a member of my staff and a 11:28:32
15 member of the -- some other staff member, I 11:28:35
16 think from the Senate Democrats, and at that 11:28:37
17 point it was, hey, here's how you get the 11:28:41
18 software or here's how you license the 11:28:43
19 software. 11:28:45
20 But at that point it was too late in the 11:28:45
21 process to sort of set up, train on the use of 11:28:48
22 that software and to sort of build my own 11:28:53
23 in-house mapmaking function; that it just 11:28:56
24 simply logistically would not have been 11:28:59
25 possible at that point. 11:29:02

1 Q. Right. And I understand and recall the 11:29:03
2 email exchange you're referring to. Had the 11:29:07
3 commission been convened earlier, do you 11:29:11
4 believe all of those steps that you just 11:29:16
5 testified you would have taken would have been 11:29:18
6 able to have been accomplished? 11:29:20
7 MS. PFEIFFER: Objection. Calls for 11:29:21
8 speculation. He can answer to the extent that 11:29:22
9 he can. 11:29:25
10 THE WITNESS: To the extent that, you 11:29:26
11 know, timing here was an issue, I wish, and I 11:29:31
12 expressed publicly a great level of frustration 11:29:34
13 that the U.S. Census Bureau was negligent or at 11:29:38
14 least was not accomplishing their duty as laid 11:29:42
15 out in law to get us the census data by the 1st 11:29:45
16 of April, I think is the date that they're 11:29:48
17 required to get it to us by. They were, what? 11:29:50
18 Almost five months later. 11:29:53
19 So, yes, that did create a time crunch 11:29:56
20 that was truly disadvantageous to the work of 11:29:59
21 the commission, and it's regrettable that the 11:30:03
22 Census Bureau put us in that situation. 11:30:04
23 BY MR. FUNARI: 11:30:04
24 Q. So being shut out of the process in 11:30:06
25 making the maps and not seeing them until 11:30:08

1 September 8th, you wouldn't have an 11:30:13
2 understanding how, if at all, that census data 11:30:16
3 was used in preparing the September 9th map; 11:30:19
4 isn't that correct? 11:30:23
5 A. I do not know how the census data was 11:30:24
6 used by the mapmakers who drew the map that was 11:30:30
7 introduced on the 9th. 11:30:32
8 I have a general -- 11:30:34
9 Q. And you don't -- oh, go ahead. 11:30:36
10 A. I have a general knowledge of how census 11:30:39
11 data is received and then processed and then 11:30:41
12 used in the mapmaking process. 11:30:43
13 Q. But it is a true statement that you 11:30:45
14 don't know whether the mapmakers, Mr. DiRossi 11:30:47
15 and his counterpart, in fact, used any of that 11:30:50
16 census data in the maps that they prepared? 11:30:53
17 A. Can't speak to that because I was not 11:30:56
18 part of their mapmaking process. 11:30:58
19 Q. Understood. At the beginning of your 11:31:01
20 deposition, Mr. Secretary, you pointed out that 11:31:04
21 you're neither a lawyer or constitutional 11:31:07
22 scholar. 11:31:09
23 And I understand that, but in your 11:31:09
24 position as a member of the constitutionally 11:31:13
25 required redistricting commission, do you 11:31:18

1 believe that the final adopted map meets the 11:31:21
2 requirements of the Ohio Constitution? 11:31:26
3 A. Yes, I believe it meets the basic 11:31:29
4 technical requirements of the Ohio 11:31:37
5 Constitution. 11:31:39
6 I guess I view this as the sort of floor 11:31:39
7 and ceiling analogy. It meets those basic 11:31:42
8 requirements that are laid out in the Ohio 11:31:46
9 Constitution for drawing districts. 11:31:48
10 Q. And it's my understanding from your 11:31:53
11 testimony you believe that the map as adopted 11:31:55
12 is somewhere near the floor or is the floor. 11:31:59
13 A. I made it clear from the beginning that 11:32:02
14 my objective is to reach a ten-year consensus, 11:32:04
15 bipartisan consensus that will result in 11:32:08
16 decade-long maps for the people of Ohio based 11:32:12
17 on the bipartisan collaboration and compromise. 11:32:14
18 That was not reached, despite my good 11:32:18
19 faith efforts to reach it, and some others' 11:32:22
20 good faith efforts to reach a bipartisan 11:32:25
21 compromise. 11:32:27
22 The maps that were passed meet the -- 11:32:28
23 again, the standards laid out for a four-year 11:32:32
24 map, but certainly not ideal, and not the maps 11:32:34
25 that I would want to have seen us pass by any 11:32:36

1 stretch. 11:32:39
2 Q. Understood. And just kind of to wrap 11:32:40
3 things up, your ability to reach that end point 11:32:46
4 that you would have liked to reach was the 11:32:53
5 result of being met with obstructionist tactics 11:32:58
6 by certain members of the commission -- namely, 11:33:05
7 Mr. Huffman and Mr. Cupp, I understand from 11:33:09
8 your testimony -- and in particular them not 11:33:13
9 allowing you to participate in any way, 11:33:20
10 whatsoever, in the Republican legislative 11:33:21
11 drawing of the map that was presented on 11:33:25
12 September 9th, right? 11:33:28
13 MR. MCGUIRE: Objection. That 11:33:30
14 mischaracterizes his prior testimony. 11:33:32
15 MS. PFEIFFER: I'm going to object to 11:33:35
16 the extent that -- I'm going to object to the 11:33:37
17 whole -- I don't even know if he can answer 11:33:39
18 that, if we even extract -- 11:33:41
19 MR. FUNARI: Let me break it down. I'll 11:33:44
20 break it down. Understood. 11:33:45
21 I'll withdraw the question. 11:33:46
22 MS. PFEIFFER: Thank you. 11:33:48
23 BY MR. FUNARI: 11:33:51
24 Q. The Republican legislative members of 11:33:51
25 the commission and their staff completely cut 11:33:53

1 you out from participating in a map that was 11:33:57
2 presented on September 9th, correct? 11:34:00
3 MS. PFEIFFER: I'm going to object to 11:34:02
4 the extent that we're getting into asked and 11:34:04
5 answered. I think he has answered that 11:34:06
6 question pretty appropriately and fully. 11:34:09
7 To the extent that there is more 11:34:12
8 testimony that needs to be elicited, we're fine 11:34:15
9 with that. We want to answer questions, but we 11:34:19
10 don't want to go over and over and over matters 11:34:22
11 that he's already testified to. 11:34:25
12 MR. FUNARI: Okay. Understood. 11:34:27
13 Understood. I would ask -- you objected to my 11:34:29
14 last question, so I withdrew that question, and 11:34:31
15 I would ask that you give me some leeway so 11:34:34
16 that we have a clear record and I understand 11:34:36
17 the chronology here. 11:34:39
18 MS. PFEIFFER: Right, right. 11:34:40
19 MR. FUNARI: So I've broken my compound 11:34:41
20 question down to a single question. This is 11:34:43
21 the first time I've offered that question. So 11:34:45
22 I would ask that the witness answer it. 11:34:48
23 MS. PFEIFFER: Can you read it back, 11:34:48
24 please. 11:35:08
25 (Testimony read back as follows: 11:35:08

1 Q. The Republican legislative members 11:35:08
2 of the commission and their staff completely 11:35:08
3 cut you out from participating in a map that 11:35:08
4 was presented on September 9th, correct?) 11:35:13
5 THE WITNESS: As I testified before, I 11:35:13
6 was excluded from the technical mapmaking 11:35:16
7 process that was carried out by Speaker Cupp 11:35:20
8 and President Huffman and their two staff 11:35:25
9 members who were doing the drawing. 11:35:29
10 I had attempted repeatedly to be a part 11:35:32
11 of that process because that was my 11:35:36
12 understanding of how this should work; that the 11:35:38
13 funds allocated to the commission should be 11:35:40
14 spent for the Republican members to have 11:35:42
15 map-drawing ability and for the Democratic 11:35:46
16 members to have map-drawing ability. 11:35:49
17 And as a Republican member, I thought I 11:35:51
18 should have had access to the Republican 11:35:54
19 staffers who were drawing maps. 11:35:56
20 And as I have expressed, it was a degree 11:35:59
21 of -- there was a great degree of frustration 11:36:02
22 that I was not given ability to work with those 11:36:04
23 individuals. And when, I mean, I had asked 11:36:08
24 repeatedly for the ability to do so. 11:36:14
25 BY MR. FUNARI: 11:36:17

1 Q. And then after September 9th, before 11:36:17
2 September 15th, when you were meeting with the 11:36:20
3 various other members of the commission, you 11:36:21
4 were asking for the raw data, the numbers that 11:36:25
5 were being used by the mapmakers or the map 11:36:28
6 drawers, and you were never getting answers. 11:36:32
7 That's how I understood your testimony. 11:36:34
8 Is that correct? You were getting responses 11:36:36
9 such as "Still working on it," things to that 11:36:39
10 nature? 11:36:42
11 A. Mr. Funari, when you say "raw data," 11:36:42
12 what I had been asking for were, first, 11:36:48
13 rationale for how we define competitive 11:36:49
14 districts. Wanted to, I think, have a common 11:36:54
15 frame of reference. 11:36:56
16 I'm not a trained mediator or 11:36:57
17 negotiator, but my understanding is that we all 11:37:00
18 have to be sort of on the same page as far as a 11:37:02
19 frame of reference for what we're even talking 11:37:04
20 about. 11:37:07
21 So I wanted there to be a consensus 11:37:07
22 among the commission members about what 11:37:10
23 constitutes a competitive district. 11:37:12
24 I also wanted there to be a consensus on 11:37:15
25 how are we defining that proportionality? Are 11:37:18

1 we -- I believe the plain language in the 11:37:21
2 Constitution talks about a ten-year, statewide 11:37:23
3 look at partisan races. 11:37:28
4 I know that some statistical techniques 11:37:31
5 would say, well, you should drop out the 11:37:34
6 outliers, the highest and the lowest, and then 11:37:37
7 get a sort of average or whatever else. 11:37:40
8 But I had asked for all of that, and, 11:37:43
9 again, was not presented with it. 11:37:46
10 Q. And that was by the Republican 11:37:48
11 legislative members of the commission? 11:37:55
12 A. Correct. 11:37:56
13 Q. And then you might say -- 11:37:57
14 A. Well, hold on, hold on. Let me further 11:37:58
15 answer that, because when I had been asked 11:38:00
16 that -- or when I asked for that same sort of 11:38:03
17 understanding from the Democratic members, they 11:38:06
18 gave me kind of a verbal understanding of how 11:38:09
19 they were using Dave's Redistricting to provide 11:38:12
20 that data. 11:38:18
21 So there was never a clear sort of set 11:38:19
22 of understandings of what constitutes 11:38:21
23 proportionality, what constitutes a competitive 11:38:25
24 district, et cetera. 11:38:28
25 Q. So, in your opinion, that definition was 11:38:30

1 never reached? There was never a consensus 11:38:34
2 reached by the commission as to what 11:38:38
3 proportionality meant? 11:38:44
4 A. That's correct. 11:38:45
5 Q. And I believe one of -- I believe 11:38:46
6 Mr. Stafford asked about your participation in 11:38:52
7 any -- in drafting the Section 8(C) statement, 11:38:54
8 and you said, no, you didn't see it until the 11:38:57
9 day -- few minutes, actually, before it was 11:39:01
10 presented to you. 11:39:03
11 Did you see any earlier drafts of the 11:39:05
12 Section 8(C) statement that was ultimately 11:39:09
13 presented? 11:39:11
14 A. I later found that my -- my team had 11:39:12
15 been emailed a copy just a few hours before. 11:39:19
16 But, again, in the busy kind of 11:39:23
17 negotiating and shuttle diplomacy between 11:39:26
18 different offices that I was doing, although 11:39:29
19 like in the mid-evening of the 15th a copy had 11:39:32
20 been emailed to us, I had not been given that. 11:39:36
21 So the first time I saw any version, 11:39:38
22 draft or otherwise, was when it was handed to 11:39:41
23 me by the clerk of the commission moments 11:39:44
24 before we voted to accept it. 11:39:46
25 Q. Understood. And I, again, know which 11:39:48

1 email you're referring to. 11:39:55
2 So that draft you never saw, it was 11:39:57
3 received by a staff member, but never 11:39:59
4 transmitted to you? 11:40:05
5 A. Correct. 11:40:07
6 Q. In talking about the map that was 11:40:07
7 presented on 9/9, on September 9th, was there a 11:40:08
8 specific part of that map that you were trying 11:40:16
9 to achieve a compromise on geographically, or 11:40:19
10 however else you want to think of that map? 11:40:23
11 A. No, and quite intentionally I was not 11:40:25
12 taking a -- sort of a parochial view of this. 11:40:29
13 I think that we all sort of come from a 11:40:34
14 different part of the state. I'm from the 11:40:37
15 Akron area, so I know the geography of that 11:40:38
16 area better. 11:40:41
17 But as a statewide candidate and 11:40:42
18 statewide officeholder for the last few years, 11:40:45
19 I know the geography of the whole of Ohio 11:40:47
20 reasonably well also. 11:40:50
21 So I didn't focus on one certain 11:40:51
22 geography of the map, nor did I have any 11:40:53
23 particular kind of targets in mind that I 11:40:56
24 wanted to hit. 11:40:58
25 My goal was consensus. My goal was 11:40:59

1 compromise. My goal was trying to, as sort of 11:41:02
2 one of the executive branch members of the 11:41:04
3 commission who does not serve in the 11:41:07
4 legislature on a -- doesn't serve in the 11:41:09
5 legislature at all, and is not in that world on 11:41:11
6 a daily basis, I was trying to be a convenor. 11:41:14
7 And my objective was to try to find that 11:41:17
8 opportunity for middle-ground 11:41:20
9 consensus-building as it relates to how we can 11:41:23
10 bring Republicans and Democrats together for 11:41:26
11 the passage of a ten-year map. 11:41:28
12 Q. Just kind of wrapping up. Do you have 11:41:40
13 any knowledge of whether any other members of 11:41:42
14 the General Assembly were involved in preparing 11:41:44
15 the map that was drawn by DiRossi and produced 11:41:49
16 to the commission on September 9th? 11:41:53
17 A. I have no knowledge of who they 11:41:56
18 consulted with whatsoever, members of the 11:42:01
19 General Assembly or otherwise. 11:42:05
20 Q. Give me one moment; I think I might be 11:42:13
21 done. 11:42:15
22 I don't believe I asked you this, 11:43:00
23 Mr. Secretary, but did the commission itself 11:43:02
24 engage or hire its own map drawer? 11:43:06
25 A. No, the commission did not. Though that 11:43:09

had been a concept that I had shared publicly 11:43:15
in the past, including way back in 2015 and 11:43:18
'16. 11:43:21
I had even proposed, again, back as a 11:43:21
member of the State Senate, that the 11:43:24
Legislative Services Commission would be the 11:43:28
appropriate body to do the technical mapmaking 11:43:30
work. I believe I had actually drafted a piece 11:43:33
of legislation to do that in statute. It was 11:43:38
never enacted, obviously. 11:43:41
But we have a non-partisan bill drafting 11:43:42
service that works for the State General 11:43:45
Assembly and has a sterling reputation for 11:43:47
offering great support to both sides of the 11:43:50
aisle. 11:43:51
I thought they would have been perfectly 11:43:51
capable of doing the technical mapmaking work, 11:43:53
and that would have given each member of the 11:43:56
commission equal access to such services. 11:43:58
But, again, that did not come to pass. 11:44:03
Q. Understood. At the September 15th 11:44:06
meeting of the commission, you made the comment 11:44:09
or words to the effect that you believe that 11:44:15
the commission would be back in this very room 11:44:17
very soon. Do you recall making a statement to 11:44:19

1 that effect? 11:44:21
2 A. I do. 11:44:22
3 Q. What did you mean by that? 11:44:23
4 A. I guess there are multiple meanings. 11:44:30
5 First, that the commission will be back 11:44:33
6 together to draw congressional districts, 11:44:35
7 because at that point it didn't seem as though 11:44:38
8 the General Assembly was anywhere close to 11:44:41
9 reaching the super majority threshold, 11:44:44
10 including half the minority that is required to 11:44:47
11 pass maps in the General Assembly for 11:44:50
12 congressional redistricting. 11:44:53
13 So it appeared clear to me, and this has 11:44:54
14 now since come to pass, that we were heading 11:44:58
15 towards a scenario where it was going to be 11:45:00
16 back in our purview to meet as a seven-member 11:45:03
17 commission and draw Congressional maps. 11:45:07
18 The other meeting was a very 11:45:10
19 straightforward one, and that was what my hope 11:45:12
20 had been that if we could get a ten-year 11:45:15
21 consensus, that that would help us avoid the 11:45:17
22 very litigation that we're involved in right 11:45:21
23 now. 11:45:23
24 Of course, not a sure thing, but my hope 11:45:23
25 was that if we could reach a Republican and 11:45:26

1 Democratic bipartisan consensus and pass 11:45:29
2 ten-year maps, that it would help us avoid 11:45:32
3 litigation. 11:45:34
4 And of course one of the possible 11:45:34
5 outcomes of litigation, not the outcome I 11:45:36
6 believe will be reached, but one of the 11:45:39
7 possible outcomes is that the commission has to 11:45:40
8 reconvene and do its work again. 11:45:44
9 Q. Was another -- so you've offered two 11:45:46
10 potential meanings of that comment that you 11:45:49
11 made. Was another that the passage of the 11:45:53
12 four-year map wouldn't pass muster with the 11:45:56
13 Ohio Supreme Court and you would be back in the 11:45:58
14 room, taking another crack at it? 11:46:03
15 A. Yeah, not for me to define what the 11:46:04
16 Court's going to do or not going to do. In 11:46:08
17 many ways, as you all know, this is novel, it's 11:46:11
18 new, it's a new process that has not been 11:46:14
19 tested in the courts before; and I'm not an 11:46:16
20 expert in, as a non-lawyer, what the Court may 11:46:18
21 or may not do. 11:46:23
22 It struck me, though, as one of at least 11:46:24
23 two possible outcomes: That the Court could 11:46:27
24 either accept that these maps are 11:46:31
25 constitutional or the Court could decide that 11:46:33

1 these maps are not constitutional. 11:46:35
2 I didn't want to take that risk, which 11:46:37
3 was why I was pushing for a ten-year map. 11:46:39
4 Because, again, I wasn't willing to or I 11:46:42
5 didn't -- I wanted to try to avoid kicking this 11:46:44
6 to the judicial branch altogether. 11:46:47
7 Q. So that was one of your motivations in 11:46:50
8 making that comment that you would be back in 11:46:52
9 this room very soon? 11:46:54
10 A. Again, my prime motivation for that 11:46:55
11 comment was that -- and if you remember, I said 11:46:59
12 when we're drawing congressional districts, the 11:47:02
13 process will be very different. That was in 11:47:05
14 another portion of the same remarks that I 11:47:07
15 made. 11:47:09
16 So my prime thought, when I made those 11:47:09
17 remarks in the middle of the night on Wednesday 11:47:12
18 night, was that we would be back for drawing 11:47:14
19 congressional districts and that the process 11:47:18
20 should work differently as it relates to 11:47:20
21 drawing congressional districts. 11:47:23
22 In my mind was that there's basically a 11:47:25
23 binary outcome of two possible outcomes of this 11:47:28
24 going to the courts. One is that they accept, 11:47:32
25 and one is that they reject. And that is not a 11:47:35

1 chance I wanted to take. 11:47:37
2 I was hoping that a ten-year map could 11:47:39
3 prevent either of those two scenarios from 11:47:42
4 coming to pass. 11:47:45
5 Q. Was it your understanding that 11:47:48
6 partisanship -- partisanship was what was 11:47:51
7 preventing the compromise that you so hoped to 11:47:55
8 achieve with the maps? 11:47:58
9 A. I can't speculate on what the other 11:47:59
10 commission members' motivation was. 11:48:02
11 I can tell you that, as I expressed 11:48:05
12 publicly, I was working in good faith. 11:48:07
13 I didn't sense that there was the same 11:48:12
14 level of motivation from some others. And why, 11:48:15
15 whether it was simply a skepticism of whether 11:48:20
16 it was possible or whether they had given up on 11:48:22
17 the possibility of compromise, I can't 11:48:24
18 speculate. 11:48:27
19 But I know that, you know, I tried very 11:48:27
20 hard to find that bipartisan compromise, and I 11:48:32
21 did not have a sense that the same level of 11:48:35
22 effort was being made by other commission 11:48:37
23 members to find that bipartisan compromise. 11:48:40
24 Q. Did you have a sense of what their 11:48:43
25 motivation was? 11:48:44

1 A. No. Nor did they indicate that to me. 11:48:45
2 I mean, again, I was not able to determine what 11:48:50
3 their motivation was, only to see what their 11:48:53
4 actions were. 11:48:57
5 Q. Understood. Okay. I think those are 11:48:57
6 all the questions I have for you, 11:49:00
7 Mr. Secretary. 11:49:02
8 So I'm going to turn you over to your 11:49:03
9 lawyers and the respondents' lawyers. They'll 11:49:05
10 have an opportunity to ask you some questions. 11:49:08
11 And we'll see what happens on 11:49:13
12 October 31st. I think that's the 11:49:15
13 Browns-Steelers game. 11:49:18
14 A. Go Browns, Mr. Funari. 11:49:18
15 Q. I'm kind of with you this season, 11:49:21
16 Mr. Secretary. Not a lot to root for here in 11:49:23
17 Pittsburgh right now. 11:49:25
18 You can leave that on the record or 11:49:26
19 strike it. It depends on your... 11:49:28
20 All right. 11:49:31
21 MS. PFEIFFER: Would everyone like to 11:49:31
22 take a break? 11:49:33
23 THE VIDEOGRAPHER: Going off the record. 11:49:42
24 The time is 11:49. 11:49:45
25 (Recess ensued from 11:49 a.m. 11:49:47

1 to 11:57 a.m.) 11:57:13
2 THE VIDEOGRAPHER: Going back on the 11:57:14
3 record. The time is 11:57. 11:57:22
4 MS. PFEIFFER: This is the third hour of 11:57:32
5 the deposition. So I believe that the Ohio 11:57:34
6 Supreme Court provided this last hour for any 11:57:36
7 of the respondents to ask questions. 11:57:39
8 Will there be any questions from the 11:57:42
9 respondents? 11:57:43
10 MR. MCGUIRE: Not from the Speaker and 11:57:50
11 the President. 11:57:52
12 MS. MENASHE: Thank you, good morning. 11:57:54
13 Just a few questions on behalf of the Senator 11:57:55
14 Sykes and also Minority House Leader Sykes, if 11:57:59
15 I can. 11:58:01
16 MS. PFEIFFER: Thank you. Yes. 11:58:03
17 MS. MENASHE: Thank you. 11:58:05
18 EXAMINATION 11:58:05
19 BY MS. MENASHE: 11:58:05
20 Q. Again, Diane Menashe on behalf of the 11:58:07
21 Sykes, both respondents in this matter. Just a 11:58:10
22 couple of follow-up questions, if I could. 11:58:12
23 You mentioned that you were shown on 11:58:15
24 9/8 -- 9/8 of 2020 a printout of the map that 11:58:19
25 the Republicans had drawn in advance to it 11:58:26

1 being presented on 9/9. Can you describe the 11:58:29
2 printout? 11:58:32
3 A. Yeah, thank you, Ms. Menashe. 11:58:39
4 There were actually two printouts -- 11:58:42
5 well, three, I suppose, because one showed the 11:58:43
6 Senate districts, one showed the House 11:58:46
7 districts, and one showed counties that can't 11:58:47
8 be divided, if I recall correctly, or I think 11:58:50
9 they called it counties with rights. Counties 11:58:53
10 that have to be kept whole and that kind of 11:58:56
11 thing. 11:58:58
12 And it was printed on a color plotter, 11:59:04
13 like a plotting printer, wide format printer. 11:59:06
14 It was sort of stuck to a magnet board with 11:59:09
15 some magnets. And we sort of just -- you know, 11:59:12
16 I remember Mr. DiRossi kind of using a pen to 11:59:17
17 point to different parts of it. 11:59:20
18 Q. Was there anything interactive about 11:59:22
19 those printouts or magnetic boards? 11:59:24
20 A. No. 11:59:27
21 Q. And just so I'm clear, it's not like the 11:59:31
22 software was being projected on some kind of 11:59:34
23 screen? They were more like poster boards? 11:59:37
24 A. Wet ink on dead-tree paper, stuck to a 11:59:39
25 magnetic board. 11:59:44

1 Q. Thank you. Moving to something you said 11:59:45
2 about the proportionality, and forgive me if 11:59:52
3 I've written it down wrong. But you, when 11:59:57
4 asked, indicated that you felt the secondary 11:59:59
5 standards -- referring to proportionality -- 12:00:03
6 were not hard requirements. I was wondering if 12:00:06
7 you could define what you mean by "hard" in 12:00:10
8 that context. 12:00:13
9 A. Again, to just provide the background 12:00:14
10 that I'm not a lawyer. But my understanding is 12:00:19
11 that so long as the primary standards are met, 12:00:28
12 which are in Section 1 and 7 and a couple 12:00:31
13 others -- I forget which sections, but there 12:00:35
14 are some primary standards that are laid out. 12:00:37
15 And it has a lot to do with splits, for 12:00:39
16 example, and contiguity and that kind of thing. 12:00:44
17 As long as those standards, those 12:00:48
18 primary standards are met, then there's not a 12:00:50
19 consideration of the secondary standards that 12:00:57
20 are laid out, I believe, in Section 6 that have 12:00:59
21 to do with proportionality, compactness, and 12:01:01
22 not favoring or disfavoring. 12:01:04
23 Q. And so as long as the primary standards 12:01:14
24 are met, is it your belief that the secondary 12:01:16
25 standards do not have to be met? 12:01:20

A. Yeah, that's my understanding of the 12:01:21
plain black-and-white letter of the Ohio 12:01:26
constitutional law on this. 12:01:28
I came into this, though, with the 12:01:35
approach though that the Section 6 standards 12:01:36
are things that we should aspire to. And that 12:01:38
was the approach that I had taken all along; 12:01:41
that there are things that we should work to 12:01:43
include. 12:01:49
Again, that was the work that I had done 12:01:50
from the very beginning to try to reach a set 12:01:52
of maps that resulted in a ten-year compromise, 12:01:55
that made reasonable attempts to accomplish the 12:01:58
standards laid out in Section 6 as well. 12:02:01
Q. Moving now to the questions where you 12:02:04
were asked about being shut out from the 12:02:10
Republican mapmakers. I want to shift to the 12:02:12
mapmakers on the Democrat side. You had access 12:02:16
to those mapmakers? 12:02:21
A. I did. 12:02:23
Q. And were there meetings in which you 12:02:28
were in the room with the mapmakers on the 12:02:30
Democrat side and participating in live map 12:02:33
drawing, if you will? 12:02:39
A. Yes, there were on numerous occasions. 12:02:39

Q. And fair to say that one of those 12:02:43
occasions was as recent as the day before the 12:02:50
final vote? 12:02:53
A. I believe we met the day of the final 12:02:54
vote. 12:02:56
Q. On the 15th? 12:02:57
A. Correct. 12:02:58
Q. The vote was technically on the 16th, so 12:03:00
I -- so I think it was 12:01 a.m. 12:03:04
Okay. So on the 15th, you were 12:03:07
participating in one of those meetings. And 12:03:12
who were the map drawers, as you recall them to 12:03:14
be, on the Democratic side? 12:03:16
A. The primary work was being done by a 12:03:17
Mr. Glassburn, I believe. 12:03:24
Q. And who else was -- let's just focus on 12:03:30
the 9/15, the last live map drawing that you 12:03:34
participated in on the Democratic side. Who 12:03:37
was in that room? 12:03:40
A. Oh, goodness. Ms. Menashe, I don't 12:03:42
think I can recall with great specificity the 12:03:46
names of everyone. I can sort of recall by 12:03:49
title or position. 12:03:52
I know that at different points 12:03:55
throughout the day I had been in the room. I 12:03:57

1 know that the auditor had been into that room. 12:04:00
2 I know that at certain points Leader Sykes and 12:04:03
3 at certain points Senator Sykes. 12:04:07
4 But at no time were there greater than 12:04:09
5 three commission members in the room, or in any 12:04:11
6 room for that matter, other than the public 12:04:14
7 hearing. 12:04:16
8 I know that Mr. Glassburn was primarily 12:04:20
9 at the helm, so to speak. He had the controls 12:04:23
10 of the computer and was actually doing the 12:04:26
11 manipulation of maps. 12:04:28
12 There were several Democratic Senate 12:04:34
13 staff members and several Democratic House 12:04:36
14 staff members. At various points there were 12:04:38
15 members of the auditor's staff and/or members 12:04:42
16 of my staff that had cycled in and out of that 12:04:45
17 room. 12:04:48
18 That's as much sort of specificity as I 12:04:49
19 can recall about that. 12:04:52
20 Q. And those individuals that were in and 12:04:56
21 out of the room, either on 9/15 or in any of 12:05:00
22 those meetings where you were interacting with 12:05:03
23 the Democratic mapmakers, did you feel like 12:05:06
24 those individuals were putting forth a good 12:05:12
25 faith effort to reach a consensus? 12:05:14

A. Hmm, I can say that they expressed a 12:05:18
willingness. I can say that the staff members 12:05:25
were earnest and purposeful in the work that 12:05:31
they did. They put in some very long hours and 12:05:35
that kind of thing. 12:05:40
As it relates to the commission members 12:05:45
and what level of good faith they were 12:05:47
operating under, it's hard to judge. 12:05:49
But I certainly did appreciate the fact 12:05:53
that I had the opportunity to work with the 12:05:54
Democratic map drawers. 12:05:58
It was, again, frustrating to me that I 12:06:00
did not have the same opportunity to work with 12:06:03
the Republican map drawers. It struck me as a 12:06:05
little ironic, quite candidly. 12:06:07
But I was happy to work with whoever I 12:06:10
could work with at that point to try to bring 12:06:11
about that ten-year bipartisan compromise. 12:06:13
And so, you know, that's my level of 12:06:16
recollection as far as sort of the good 12:06:19
faithedness of the members. 12:06:22
I mean, ultimately, I think the four 12:06:25
members of the commission that were least open 12:06:30
to compromise were the four legislative 12:06:33
members, though, and that was frustrating to 12:06:35

me. 12:06:37
Q. But can we assume that it was the 12:06:37
Democratic members of the commission that gave 12:06:39
you access to their map drawers? 12:06:41
A. Oh, sure. No, that's beyond a doubt. 12:06:43
It was Senator Sykes and Leader Sykes who 12:06:47
allowed their staff to meet with us, and I do 12:06:49
appreciate that. 12:06:52
But, again, as far as how much good 12:06:53
faith or even just how optimistic people were, 12:06:56
right? And sorry to start ascribing emotions 12:07:02
here, but it was interesting to me that in one 12:07:06
of the public commission meetings, I said, "I 12:07:09
am not pessimistic," and I actually got booed 12:07:12
and heckled for expressing that I am not a 12:07:15
pessimist. 12:07:18
Which I think that was a public 12:07:18
sentiment. A lot of people had become 12:07:20
pessimistic. 12:07:23
I remained an optimist until the very 12:07:23
end. As a matter of fact, I told a reporter, 12:07:25
when he asked me is it possible for us to still 12:07:27
reach a compromise, I referred to our state 12:07:29
motto, "With God, all things are possible," as 12:07:31
a way to say, "Yes, it's hard, but we can do 12:07:34

it." 12:07:36
Listen, as far as what level of good 12:07:36
faith any member of the commission had, I can't 12:07:38
say for sure. 12:07:41
MS. MENASHE: Nothing further, thank 12:07:46
you. 12:07:47
THE WITNESS: Thank you, Ms. Menashe. 12:07:48
MS. PFEIFFER: Okay. Does anyone else 12:07:50
have anything? 12:07:52
Court reporter, I think we're done. 12:07:53
MR. STAFFORD: I'd just like to thank 12:08:06
again the Secretary for his time today. 12:08:07
THE WITNESS: Thank you. I do 12:08:08
appreciate it. 12:08:09
THE VIDEOGRAPHER: This concludes the 12:08:13
video deposition of Ohio Secretary of State 12:08:15
Frank LaRose. We are going off the record. 12:08:18
The time is 12:08. 12:08:21
(Deposition concluded at 12:08 p.m., 12:08:23
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Reporter's Certificate

State of California)
)
)

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

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

I further certify that I am not interested in the event of the action. Witness my hand this 15th day of October, 2021.

_____.

Debra Bollman Farfan, CA CSR No. 11648

RDR, RMR, CRR, CRC

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Exhibit #
LaRose 1
10/11/21 - JB
exhibitsticker.com

To: Rowe, Mike[Mike.Rowe@ohiosenate.gov]; Heather.Blessing@ohiohouse.gov[Heather.Blessing@ohiohouse.gov]; Christine.Morrison@ohiohouse.gov[Christine.Morrison@ohiohouse.gov]; Paul.Disantis@ohiohouse.gov[Paul.Disantis@ohiohouse.gov]; Will.Hinman@ohiohouse.gov[Will.Hinman@ohiohouse.gov]; Dauren.Mason@ohiohouse.gov[Dauren.Mason@ohiohouse.gov]; Samantha.Herd@ohiohouse.gov[Samantha.Herd@ohiohouse.gov]; Andy.DiPalma@ohiohouse.gov[Andy.DiPalma@ohiohouse.gov]; Mindy.Spain@ohiohouse.gov[Mindy.Spain@ohiohouse.gov]; Oliveti, Chris[coliveti@OhioSOS.Gov]; Oliveti, Chris[coliveti@OhioSOS.Gov]; Grodhaus, Michael[mgrodhaus@OhioSOS.Gov]; Sarah.Cherry@ohiohouse.gov[Sarah.Cherry@ohiohouse.gov]; Stockman, Scott[Scott.Stockman@ohiosenate.gov]; Boas, George[George.Boas@ohiosenate.gov]; Rothey, Kristin[Kristin.Rothey@ohiosenate.gov]; Routt, Randall[Randall.Routt@ohiosenate.gov]; Cambieri, Giulia[Giulia.Cambieri@ohiosenate.gov]; Osterback, Kate[Kate.Osterback@ohiosenate.gov]; Golski, Mallory[Mallory.Golski@ohiosenate.gov]; Barron, John[John.Barron@ohiosenate.gov]; Strigari, Frank[Frank.Strigari@ohiosenate.gov]; 'Matthew.Donahue@governor.ohio.gov'[Matthew.Donahue@governor.ohio.gov]; 'asbilchak@ohioauditor.gov'[asbilchak@ohioauditor.gov]; Sheila.Boehner@ohiohouse.gov[Sheila.Boehner@ohiohouse.gov]
From: Madrid, Merle
Sent: Thur 9/9/2021 9:36:52 PM
Subject: RE: [EXTERNAL] Re: Next steps

Thanks Mike. SOS staff will be there.

From: Rowe, Mike <Mike.Rowe@ohiosenate.gov>
Sent: Thursday, September 9, 2021 17:35
To: Madrid, Merle <mmadrid@OhioSOS.Gov>; Heather.Blessing@ohiohouse.gov; Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov; Will.Hinman@ohiohouse.gov; Dauren.Mason@ohiohouse.gov; Samantha.Herd@ohiohouse.gov; Andy.DiPalma@ohiohouse.gov; Mindy.Spain@ohiohouse.gov; Oliveti, Chris <coliveti@OhioSOS.Gov>; Oliveti, Chris <coliveti@OhioSOS.Gov>; Grodhaus, Michael <mgrodhaus@OhioSOS.Gov>; Sarah.Cherry@ohiohouse.gov; Stockman, Scott <Scott.Stockman@ohiosenate.gov>; Boas, George <George.Boas@ohiosenate.gov>; Rothey, Kristin <Kristin.Rothey@ohiosenate.gov>; Routt, Randall <Randall.Routt@ohiosenate.gov>; Cambieri, Giulia <Giulia.Cambieri@ohiosenate.gov>; Osterback, Kate <Kate.Osterback@ohiosenate.gov>; Golski, Mallory <Mallory.Golski@ohiosenate.gov>; Barron, John <John.Barron@ohiosenate.gov>; Strigari, Frank <Frank.Strigari@ohiosenate.gov>; 'Matthew.Donahue@governor.ohio.gov' <Matthew.Donahue@governor.ohio.gov>; 'asbilchak@ohioauditor.gov' <asbilchak@ohioauditor.gov>; Sheila.Boehner@ohiohouse.gov
Subject: [EXTERNAL] Re: Next steps

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Merle,

Thanks for your email. On behalf of Co-chair Sykes and Leader Sykes I would like to invite staff representatives for all the commission members to meet Friday morning at 10am in the Senate Minority conference room (2nd floor Senate building). This is the same room where we conducted briefings on our map earlier this week. We have a monitor set up there for viewing maps.

I look forward to your responses.

Mike Rowe
Chief of Staff
Ohio Senate Minority Caucus
614-466-4371

From: "Madrid, Merle" <mmadrid@OhioSOS.Gov>
Date: Thursday, September 9, 2021 at 3:31 PM
To: "Heather.Blessing@ohiohouse.gov" <Heather.Blessing@ohiohouse.gov>, "Christine.Morrison@ohiohouse.gov" <Christine.Morrison@ohiohouse.gov>, "Paul.Disantis@ohiohouse.gov" <Paul.Disantis@ohiohouse.gov>, "Will.Hinman@ohiohouse.gov" <Will.Hinman@ohiohouse.gov>, "Dauren.Mason@ohiohouse.gov" <Dauren.Mason@ohiohouse.gov>, "Samantha.Herd@ohiohouse.gov" <Samantha.Herd@ohiohouse.gov>, "Andy.DiPalma@ohiohouse.gov" <Andy.DiPalma@ohiohouse.gov>, "Mindy.Spain@ohiohouse.gov" <Mindy.Spain@ohiohouse.gov>, "Oliveti, Chris" <coliveti@OhioSOS.Gov>, "Oliveti, Chris" <coliveti@OhioSOS.Gov>, "Grodhaus, Michael" <mgrodhaus@OhioSOS.Gov>, "Sarah.Cherry@ohiohouse.gov" <Sarah.Cherry@ohiohouse.gov>, "Rowe, Mike" <Mike.Rowe@ohiosenate.gov>, "Stockman, Scott" <Scott.Stockman@ohiosenate.gov>, "Boas, George" <George.Boas@ohiosenate.gov>, "Rothey, Kristin" <Kristin.Rothey@ohiosenate.gov>, "Routt, Randall" <Randall.Routt@ohiosenate.gov>, "Cambieri, Giulia" <Giulia.Cambieri@ohiosenate.gov>, "Osterback, Kate" <Kate.Osterback@ohiosenate.gov>, "Golski, Mallory" <Mallory.Golski@ohiosenate.gov>, "Barron, John" <John.Barron@ohiosenate.gov>, "Strigari, Frank" <Frank.Strigari@ohiosenate.gov>, "'Matthew.Donahue@governor.ohio.gov'" <Matthew.Donahue@governor.ohio.gov>, "'asbilchak@ohioauditor.gov'" <asbilchak@ohioauditor.gov>, "Sheila.Boehner@ohiohouse.gov" <Sheila.Boehner@ohiohouse.gov>
Subject: Next steps

Now that the commission has accepted a map, and ahead of the hearings beginning Sunday afternoon, Secretary LaRose and our staff are available and desirous to meet, either in person, by phone, or virtually, to understand where there is an opportunity to build consensus among the commission members.

Ray, Blake and Randall, as the three staff who have presented maps, do you have thoughts on how we proceed?

Christine and Mike, representing the co-chairs, are the co-chairs themselves or staff available tomorrow or Saturday before the next meeting on Sunday?

Thanks all!

-Merle

Merle Madrid | Chief of Staff
Office of the Ohio Secretary of State

O: 614.728.9132
OhioSoS.gov

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From: Heather.Blessing@ohiohouse.gov <Heather.Blessing@ohiohouse.gov>
Sent: Wednesday, September 8, 2021 09:22
To: Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov; Will.Hinman@ohiohouse.gov; Dauren.Mason@ohiohouse.gov; Samantha.Herd@ohiohouse.gov; Andy.DiPalma@ohiohouse.gov; Mindy.Spain@ohiohouse.gov; Oliveti, Chris <coliveti@OhioSOS.Gov>; Oliveti, Chris <coliveti@OhioSOS.Gov>; Madrid, Merle <mmadrid@OhioSOS.Gov>; Grodhaus, Michael <mgrodhaus@OhioSOS.Gov>; Sarah.Cherry@ohiohouse.gov; Mike.Rowe@ohiosenate.gov; Scott.Stockman@ohiosenate.gov; George.Boas@ohiosenate.gov; kristin.rothey@ohiosenate.gov; Randall.Routt@ohiosenate.gov; 'Cambieri, Giulia' <Giulia.Cambieri@ohiosenate.gov>; Kate.Osterback@ohiosenate.gov; 'Golski, Mallory' <Mallory.Golski@ohiosenate.gov>; john.barron@ohiosenate.gov; Frank.Strigari@ohiosenate.gov; 'Matthew.Donahue@governor.ohio.gov' <Matthew.Donahue@governor.ohio.gov>; 'asbilchak@ohioauditor.gov' <asbilchak@ohioauditor.gov>; Sheila.Boehner@ohiohouse.gov
Subject: [EXTERNAL] Announcement of Commission Meetings on Thursday, September 9, 2021

******Secretary of State Security Notice******
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ANNOUNCEMENT OF COMMISSION MEETING – THURSDAY, SEPT. 9, 2021 @ 10AM

TO::	Members of the Ohio Redistricting Commission
FROM:	Speaker Robert Cupp, Co-Chair Senator Vernon Sykes, Co-Chair
DATE:	Thursday, September 9, 2021
TIME:	10:00 AM

LOCATION: Finan Hearing Room (Room 126)
Senate Building
Ohio Statehouse
1 Capitol Square
Columbus, Ohio 43215-4275

AGENDA
The Ohio Redistricting Commission will meet to hear testimony on state redistricting plans pursuant to Article XI of the Ohio Constitution and Commission rules. Please complete and submit a witness information form to testimony@redistricting.ohio.gov in advance of testifying.

ANNOUNCEMENT OF COMMISSION MEETING – THURSDAY, SEPT. 9, 2021 @ 2PM

TO:: Members of the Ohio Redistricting Commission

FROM: Speaker Robert Cupp, Co-Chair
Senator Vernon Sykes, Co-Chair

DATE: Thursday, September 9, 2021

TIME: 2:00 PM

LOCATION: Finan Hearing Room (Room 126)
Senate Building
Ohio Statehouse
1 Capitol Square
Columbus, Ohio 43215-4275

AGENDA

The Ohio Redistricting Commission will meet to hear testimony on state redistricting plans and conduct other business pursuant to Article XI of the Ohio Constitution and Commission rules. Please complete and submit a witness information form to testimony@redistricting.ohio.gov in advance of testifying.

Senate Contact: Giulia Cambieri, (614) 644-5533
House Contact: Aaron Mulvey, (614) 466-8759

***
Heather N. Blessing, Esq.
Deputy Chief Legal Counsel, Office of the Speaker
Ohio House of Representatives

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13:20

1

BC

Bob Cupp >

Sun, Sep 12, 16:01

Are you near the hearing site?

Text Message

Exhibit #

LaRose 2

10/11/21 - JB

exhibitsticker.com

To: Matt Huffman
iMessage
Wed, Aug 11, 17:44
Sorry, I'm on another call. Can I call you back when it's done?
Sat, Sep 11, 19:09
On another call, I'll call you right back
Delivered
iMessage

To: Emilia Sykes

Mon, Sep 13, 22:30

I am deeply sorry if I offended you just now please know it wasn't intentional and perhaps we're all just tired.

I was enthusiastic about the conversation we were all having and maybe that enthusiasm caused me to jump the gun

Delivered

Thank you.

And I apologize I'm a bit tense. I have a constituent who I've been trying to walk through a civil protection order all evening and I've been anxiously working to get to her.

We've got this.

iMessage

To: Mike DeWine

Thanks, understood. I will work with your team to set up a time for us to talk redistricting soon.

Wed, Jun 30, 19:33

Great

Wed, Sep 8, 12:33

Give me a call when you have a chance please

Delivered

iMessage

To: Merle Madrid

Wed, Sep 8, 14:50

Grodhaus Oliveti and I are headed down to the lobby of our building to meet you to walk to auditors office.

Perfect. Will be pulling into the garage momentarily.

Wed, Sep 8, 17:31

Ask: what time do the Sykes leave tomorrow?

Ask: what are the ramifications if we don't have the votes to intro a map tomorrow?

Wed, Sep 8, 21:09

[redacted]

Thu, Sep 9, 09:56

Just for your situational awareness I have parked at our office and I'm walking to the state house now

Census data 4 1/2 months late, per Ray's math.

Yep

Although common practice is frit to come from census bureau much earliertha April 1st

[redacted]

To: Merle Madrid

Thu, Sep 9, 14:17

Is she going to vote yes to accept to move it forward? Maybe

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Seriously we need to now force these meetings to happen. Between staffwith their computers starting tomorrow morin

[redacted]

[redacted]

[redacted]

[redacted]

Fri, Sep 10, 08:37

[redacted]

Or conference me in because what I wanted to talk to you about was a brainstorm I had overnight about his role at the redistricting working group today

Fri, Sep 10, 15:59

[redacted]

To: Merle Madrid

Mon, Sep 13, 14:23

Grodhaus has a timely update when you are KF are able to join the teams

yep. will teams to war room when we hang up with Huffman

[redacted]

To: Merle Madrid

Mon, Sep 13, 20:20

[redacted]

Mon, Sep 13, 21:49

[redacted]

The gang have moved into NE Ohio, which is a challenge of course. They are available on the teams link once you guys are in the car.

Faber and I will be in the car momentarily and will give you guys a call

The same teams link from earlier will connect

Mon, Sep 13, 23:50

we just cut the mapping team loose.

Faber and I get home around 1

we asked them to reconvene at 8:30 in the Auditors office

Keith and I will join them NLT 9 and then we'll head to the Statehouse at 9:50

To: Merle Madrid

Tue, Sep 14, 08:27

Did you copy all of this?

1 Reply

Leaving home now. Quick stop at the office just to drop off my car and grab a couple things and then heading over to Faber's office

Sorry, I'm on another call. Can I call you back when it's done?

Did you copy all of this?

Yes, I copied all of this.

Tue, Sep 14, 11:55

Feel free to use campaign funds to buy food for mappers

Also may get a pie or two for the crew working with KF and me over here.

Check with James from Keith's team for details. He was in the room but it sounds like we'll check back with them at 1

Copy

To: Merle Madrid

Tue, Sep 14, 13:04

Secretary of State Frank LaRose (R-Ohio) when asked if he could envision himself supporting the Democrat proposed Ohio House and Ohio Senate district maps

"Oh absolutely"

Andy Chow
twitter.com

^ Thanks for working on this.

It's absolutely a good faith proposal and it absolutely could form the basis for a compromise we all could vote for. Never would a serious person think that I'm ready to vote for it as is. If so why am I working so hard to edit it to get to a point we Rs can live with. This is silly.

Do you think it's smart for me to have a staffer with me for these negotiations? James is tagging along for all of these conversations and it may be smart for us to do likewise. You choose.

From our team it's just Mike in the hearing...and I see rob occasionally when I'm in the hearing because I think that's where he's staying

To: Merle Madrid

Tue, Sep 14, 20:45

They are moving farther away on Franklin County

Niraj: make my district more Dem, but not all of Dayton

You've got to get to: from the latest GOP map, what are the things we can go to the GOP legislators with that gets your votes? Not the wishlist. The things you must have.

Yup. Looking for the right time. Soon...

[redacted]

Tue, Sep 14, 23:41

[redacted]

To: Merle Madrid

Wed, Sep 15, 08:42

Let me know when you and the team are ready to strategize on this some more. I know one thing, they better not try to call a vote this morning because this thing still need some work before it's ready

Two parallel but separate conversations for this morning:

-is there any hope of getting to 7 but then, what changes do we try to get made and what can we get in exchange for my yes vote by way of moving it in a more positive direction and making it more reasonable/fair

[redacted]

To: Merle Madrid

Wed, Sep 15, 17:33

Since this is not our normal 866.SoS.Ohio number, I Just want to make sure that we are doing a good job staffing this line so that we can hear and address the concerns that Ohioans have when they call.

Dave and Dana have been talking to folks all day.

[redacted]

Wed, Sep 15, 22:34

Find a way out.

It's going to the courts anyway.

To: Merle Madrid

Wed, Sep 15, 23:36

[redacted]

[redacted]

I wanted more time to do this. I believed we were close. But I think all four legislative members of this committee had already decided where this would end tonight. We will be back in this room to do this again, and I can assure you the process will be different than what we've seen here.

You're going to be asked by the press for clarity on who wasn't operating in good faith. "This was a seven member committee, not just four legislators"

We received a proposed statement prior to receiving the map. Yet another failure of the process.

You're going to be asked by the press for clarity on who wasn't operating in good faith. "This was a seven member committee, not just four legislators"

I think when both the legislative D's and R's already had their statements written, it was pathetically clear that this ended where they all wanted it to.

This rationale is asinine

I should vote no

It will be cited in the court against the GOP

Probably not worth it

That was my intention

But yes. It's a temper trantrum vote for no reason

None the less it's asinine.

Second asinine thing I'm voting for tonight

Transcript of Governor Mike DeWine

Date: October 18, 2021
Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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Email: transcripts@planetdepos.com
www.planetdepos.com

SUPREME COURT OF OHIO

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

VIDEOTAPED DEPOSITION OF GOVERNOR MIKE DEWINE

October 18, 2021

6:34 a.m.

Conducted Virtually

REPORTED BY:

Tammy Moon, CSR No. 13184, RMR, CRR

Videotaped Deposition of GOVERNOR MIKE DEWINE, Conducted Virtually, beginning at 6:34 a.m. Pacific Standard Time, on October 18, 2021, before TAMMY MOON, Certified Shorthand Reporter No. 13184, RMR, CRR.

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13 FOR RESPONDENTS OHIO GOVERNOR DEWINE, OHIO
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ALSO PRESENT:

DANIEL MURRY, Deputy Legal Counsel, Office of the Governor

SLOAN SPALDING, Chief of Staff, Ohio Auditor of State

AMANDA FERGUSON, Deputy Chief Legal Counsel at Ohio Secretary of State

MICHAEL GRODHAUS, Chief Counsel, Ohio Secretary of State's office 06:36:16 06:36:21

RACHEL HERMAN, Governor's office 06:36:52

GABRIEL MARTIN, VIDEOGRAPHER

MICHAEL PIETANZA, THE REMOTE TECHNICIAN

INDEX TO EXAMINATION

GOVERNOR MIKE DEWINE

Monday, October 18, 2021

Tammy Moon CSR No. 13184, RPR, CRR

WITNESS: GOVERNOR MIKE DEWINE

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MS. BRADY	83

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GOVERNOR MIKE DEWINE

Monday, October 18, 2021

Tammy Moon CSR No. 13184, RPR, CRR

MARKED	DESCRIPTION	PAGE
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Exhibit 3	Constitution of the State of Ohio	65
Exhibit 4	Constitution of the State of Ohio	65
Exhibit 5	Article XI, Section 8(C)(2) Statement	83

QUESTIONS INSTRUCTED NOT TO ANSWER

PAGE LINE

INFORMATION REQUESTED

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1 Monday, October 18, 2021, 6:34 a.m.
2 THE VIDEOGRAPHER: Here begins Disk Number 1 in 06:33:24
3 the remote video deposition of Governor Mike DeWine 06:33:27
4 in the matter of consolidated cases 2021-1198, League 06:33:30
5 of Women Voters, et al., vs. Ohio Redistricting 06:33:38
6 Commission, et al.; 2021-1193, League of Women Voters 06:33:42
7 of Ohio, et al., vs. Ohio Redistricting Commission, 06:33:49
8 et al.; 2021-1210, Ohio Organization Collaborative, 06:33:54
9 et al., vs. Ohio Registration Commission, et al., in 06:34:01
10 the Ohio Supreme Court. 06:34:07
11 Today's date is October 18, 2021, and the time 06:34:09
12 on the video monitor is 6:34 Pacific Standard Time. 06:34:12
13 The remote videographer today is Gabriel Martin 06:34:18
14 representing Planet Depos. All the parties of this 06:34:21
15 video deposition are attending remotely. 06:34:25
16 Will the counsel please voice identify 06:34:27
17 themselves and state whom they represent. 06:34:30
18 MS. COONTZ: Bridget Coontz on behalf of 06:34:35
19 Ohio attorney -- governor -- excuse me. 06:34:38
20 Bridget Coontz on behalf of Ohio Governor Mike 06:34:39
21 DeWine. I'm with the Ohio Attorney General's Office. 06:34:42
22 MR. FUNARI: Brad Funari on behalf of the Ohio 06:34:46
23 Organizing Collaborative Relators with Reed Smith. 06:34:51
24 MR. RUDENSKY: Yurij Rudensky, Brennan Center 06:34:57
25 for Justice, on behalf of Ohio Organizing 06:35:01

1 Collaborative, et al. 06:35:04
2 MR. KLEIN: Spencer Klein, Elias Law Group on 06:35:06
3 behalf of defendant relators. 06:35:10
4 MS. JASRASARIA: I'm also -- 06:35:14
5 (Reporter clarification.) 06:35:19
6 MS. JASRASARIA: My name is Jyoti Jasrasaria, 06:35:20
7 and I'm here on behalf of Bennett Relators, and I'm 06:35:25
8 at the Elias Law Group. 06:35:32
9 MR. MCGUIRE: Greg McGuire, Nelson Mullins 06:35:34
10 firm, on behalf of President Huffman and 06:35:37
11 Speaker Cupp. 06:35:41
12 MR. CLARK: Erik Clark from the Organ Law Firm 06:35:42
13 representing Ohio Redistricting Commission. 06:35:45
14 MS. MENASHE: Diane Menashe on behalf of 06:35:50
15 respondents Vernon Sykes and Amelia Sykes. 06:35:54
16 MS. BENDER: This is Brady Bender of Covington 06:35:58
17 & Burling on behalf of the League of Women Voters, 06:36:01
18 Relators. 06:36:03
19 MS. LEVENSON: Freda Levenson, ACLU of Ohio, on 06:36:03
20 behalf of League of Women Voters, Relators. 06:36:07
21 MR. GRODHAUS: Michael Grodhaus, chief counsel, 06:36:12
22 Ohio Secretary of State's office. 06:36:20
23 (Reporter clarification.) 06:36:22
24 MS. FERGUSON: Amanda Ferguson, deputy chief 06:36:24
25 counsel, Secretary of State's office. 06:36:28

1 THE VIDEOGRAPHER: Do we have somebody else? 06:36:35
2 MR. FUNARI: With me is Danielle Stewart, also 06:36:38
3 with Reed Smith, on behalf of the LLC Relators. 06:36:41
4 MR. SPALDING: Sloan Spalding on behalf of Ohio 06:36:46
5 Auditor of State. 06:36:51
6 MS. HERMAN: Rachel Herman with the governor's 06:36:52
7 office. 06:36:55
8 MS. EBENSTEIN: Julie Ebenstein on behalf of 06:36:58
9 the League of Women Voters, Relators. 06:37:01
10 MR. CAREY: David Carey, ACLU of Ohio, on 06:37:02
11 behalf of League of Women Voters, Relators. 06:37:06
12 MR. MURRY: Daniel Murry, Ohio Governor's 06:37:09
13 Office. 06:37:12
14 MR. DENUYL: David Denuyl of Covington & 06:37:13
15 Burling on behalf of League of Women Voters, 06:37:22
16 Relators. 06:37:24
17 MS. KEENAN: Megan Keenan of Covington & 06:37:24
18 Burling on behalf of the League of Women of Ohio. 06:37:22
19 MS. GOLDROSEN: Juliana Goldrosen from 06:37:33
20 Covington on behalf of the League of Women Voters of 06:37:38
21 Ohio. 06:37:41
22 (Reporter clarification.) 06:37:42
23 MS. THOMAS: Alora Thomas, also on behalf of 06:37:44
24 the League of Women Voters of Ohio from ACLU. 06:37:47
25 THE VIDEOGRAPHER: Do we have somebody else? 06:37:56

1 The court reporter today is Tammy Moon 06:38:02
2 representing Planet Depos. 06:38:04
3 Will the reporter please swear in the witness. 06:38:05
4 GOVERNOR MIKE DEWINE,
5 called as a witness, having been duly
6 sworn, testified as follows: 06:38:18
7 THE WITNESS: I do. 06:38:18
8 MS. COONTZ: For purposes of the record, can 06:38:22
9 the State of Ohio just make clear that we consent to 06:38:24
10 the recording of this deposition for backup purposes 06:38:29
11 only. 06:38:32
12 MR. FUNARI: Yeah, I think that's what we did 06:38:33
13 with LaRose as well. 06:38:35
14 (Brief pause.) 06:38:41
15 MR. FUNARI: Let's get started. 06:38:41
16 EXAMINATION
17 MR. FUNARI: 06:38:43
18 Q. Governor, my name is Brad Funari. You heard me 06:38:43
19 introduce myself a short while ago when we were going 06:38:47
20 through what seemed like determining a quorum in a 06:38:50
21 legislative session. There's a lot of folks on the 06:38:53
22 line, a lot of lawyers. 06:38:55
23 We're here to take your deposition in the three 06:38:58
24 related cases pending before the Ohio Supreme Court. 06:39:00
25 Have you been deposed before, Governor? 06:39:06

A. I don't recall being deposed. 06:39:08
Q. Okay. Let me give you some brief ground rules 06:39:14
that I think following will get through this 06:39:17
morning's deposition as expeditiously as possible. 06:39:21
The first is, I'm going to be asking questions, 06:39:23
so -- as well as other members from the related 06:39:26
groups. 06:39:30
So if you don't hear my question or understand 06:39:30
my question, please let me know that, because once 06:39:33
you respond to the question, the record will reflect 06:39:37
that you understood and heard the question. 06:39:40
We have a little bit of a technical issue. 06:39:43
There's sometimes a delay over Zoom. So I would ask 06:39:47
that you allow me to get my question out in its 06:39:49
entirety before you respond, and I will -- I will 06:39:52
reciprocate that courtesy and to the best of my 06:39:56
ability allow you to offer your complete answer 06:40:02
before we move on. 06:40:05
You're going to anticipate where I'm going 06:40:06
probably with 90 percent of these questions. So I 06:40:07
just ask, as we get into kind of a conversational 06:40:11
dialogue, just allow me to get my question out so the 06:40:14
record is clear. Okay? 06:40:17
A. Okay. 06:40:20
Q. Did you prepare for this morning's deposition, 06:40:20

1 Governor? 06:40:27
2 A. Well, I had discussed -- yes. 06:40:27
3 Q. What did you do to prepare? 06:40:30
4 A. I had discussions with legal counsel, looked at 06:40:32
5 some papers that legal counsel had prepared in regard 06:40:40
6 to the deposition. 06:40:45
7 Q. Did you speak with anyone other than your legal 06:40:50
8 counsel about today's deposition? 06:40:53
9 A. Well, I'm sure I mentioned it to my wife. 06:40:56
10 Q. What about members of your staff, nonlegal 06:41:03
11 members of your staff? 06:41:07
12 A. Yes, I would have had discussions with members 06:41:09
13 of my staff who might have had knowledge of the 06:41:14
14 redistricting. 06:41:21
15 Q. And who were those staff members? 06:41:22
16 A. Well, let me think who I would have talked to. 06:41:25
17 I would have talked to Michael Hall. I would 06:41:32
18 have talked to Laurel Dawson. I would have talked to 06:41:38
19 Ann O'Donnell. I would have talked to the Lieutenant 06:41:47
20 Governor, John Houston. 06:42:00
21 As I said, all the different legal counsel, 06:42:04
22 lawyers on our team. Would have talked certainly to 06:42:08
23 the attorney general counsel who is representing us. 06:42:23
24 Would have talked to attorney -- personal attorney 06:42:26
25 John Zeiger. 06:42:32

1 Q. Does that exhaust the list of folks -- 06:42:43
2 A. Well, look, I could have talked -- certainly 06:42:45
3 could have talked to more. I'm trying to think who 06:42:48
4 in my -- these people would have been -- additional 06:42:50
5 people would have been on my staff. So I'm trying to 06:42:54
6 think who else I might have talked to who had 06:43:02
7 anything to do with the redistricting. 06:43:06
8 Q. So as we proceed with the deposition, if you 06:43:12
9 recall another name, please let me know, and we'll -- 06:43:16
10 A. Sure. 06:43:19
11 Q. You mentioned four people who were, as I 06:43:20
12 understand, non-lawyers or didn't function in a legal 06:43:25
13 capacity on your staff. Michael Hall, Laurel Dawson, 06:43:28
14 Ann O'Donnell, and the lieutenant governor. 06:43:42
15 (Reporter clarification.) 06:43:44
16 A. I'm sure there's more, you know, people who I 06:43:44
17 may have had discussion with on my staff. 06:43:50
18 Q. All right. We'll move on with the deposition. 06:43:54
19 If any come to mind, we'll come back to that. 06:43:56
20 Is it a correct statement that those four 06:44:00
21 individuals all played some role in your 06:44:02
22 redistricting work as part of the redistricting 06:44:08
23 commission this year? 06:44:12
24 A. Yes. 06:44:13
25 Q. Okay. What discussions did you have with 06:44:16

1 Mr. Hall with respect to this deposition? 06:44:19
2 MS. COONTZ: I'm going to object and instruct 06:44:24
3 the witness. 06:44:25
4 To the extent the discussion would call for any 06:44:26
5 communications that you had with counsel present or 06:44:28
6 discussing any legal advice given, I would instruct 06:44:31
7 the witness not to answer regarding any 06:44:34
8 attorney-client privileged communication. So to the 06:44:36
9 extent that you can answer without that caveat, you 06:44:39
10 may. 06:44:42
11 THE WITNESS: Yeah, let me maybe make it easy. 06:44:43
12 I would have had -- I had discussions with 06:44:47
13 these people every day about multiple items. So in 06:44:49
14 preparation for this deposition, I would have talked 06:44:55
15 -- I would have talked to anybody who had any 06:45:01
16 knowledge of what happened, and the nature of it was 06:45:06
17 just to go through their recollection of the events 06:45:09
18 that occurred. 06:45:14
19 MR. FUNARI:
20 Q. And so Ms. Coontz's point, were each of your 06:45:17
21 conversations with these individuals in preparation 06:45:22
22 for the deposition -- was there a lot of legal 06:45:24
23 counsel that you've mentioned present for those 06:45:28
24 conversations? 06:45:31
25 A. I think certainly any formal conversation we 06:45:32

1 had, Counsel was there, yes. 06:45:41
2 Q. Okay. 06:45:42
3 A. Is it possible that I had other conversations? 06:45:43
4 Yes, it's possible. But -- but the formal meetings 06:45:47
5 that we had to discuss what the facts were, we would 06:45:52
6 have always had legal counsel there. But certainly, 06:46:00
7 it's possible that I had other conversations without 06:46:02
8 legal counsel. 06:46:05
9 Q. Did you -- 06:46:06
10 A. Again, these are people that I talked to every 06:46:09
11 single day about numerous, numerous items. 06:46:12
12 Q. Understood. 06:46:15
13 Did you read Secretary of State LaRose's 06:46:17
14 deposition transcript before coming in this morning? 06:46:21
15 A. No. 06:46:24
16 Q. Did you discuss Secretary LaRose's testimony 06:46:25
17 with anyone before coming in this morning? 06:46:28
18 A. Legal counsel. 06:46:32
19 Q. So you did have conversations about 06:46:36
20 Mr. LaRose's -- his testimony that was taken last 06:46:40
21 week; is that correct? 06:46:43
22 A. With legal counsel. 06:46:44
23 Q. Okay. I want to turn your attention to your 06:46:46
24 work on the redistricting commission. 06:46:51
25 When did your office first begin planning for 06:46:56

1 redistricting? 06:46:59
2 A. I don't know the exact date, but we knew that 06:47:00
3 this was -- this was coming. I cannot tell you exact 06:47:07
4 date. 06:47:09
5 Q. Was it in the early part of this year; January, 06:47:09
6 February, March? 06:47:15
7 A. We -- we would have had discussions very early 06:47:17
8 on. The first discussions we had probably had to do 06:47:19
9 with the problem of the census information not 06:47:25
10 getting to us on time. 06:47:32
11 Q. Were those discussions with other members of 06:47:35
12 the commission? 06:47:39
13 A. Most of the discussions would have been with my 06:47:43
14 own staff. It's possible I had some discussions with 06:47:48
15 the speaker of the senate president in regard to that 06:47:52
16 fact that the census was being delayed. 06:47:58
17 Q. Okay. Let's start with the second group of 06:48:06
18 individuals you mentioned, the speaker and the senate 06:48:09
19 president. 06:48:15
20 What do you recall speaking to them about with 06:48:15
21 respect to convening the commission? 06:48:18
22 A. Nothing -- I don't recall anything other than 06:48:19
23 discussion in regard to timing and the fact that 06:48:24
24 there was a census problem. 06:48:28
25 Q. And you now have no recollection what time of 06:48:31

1 year that was this year? 06:48:36
2 A. No. 06:48:40
3 Q. Specifically with respect to those 06:48:40
4 conversations with the speaker, senate president, did 06:48:48
5 you discuss with them how the commission would 06:48:53
6 operate in terms of staffing, budgets, the hiring of 06:48:55
7 a map drawer, the acquisition and licensing of 06:49:00
8 software, anything like that prior to the commission 06:49:05
9 being convened? 06:49:09
10 A. Well, you just went through a long list. Do 06:49:11
11 you want to -- 06:49:14
12 (Simultaneous colloquy.) 06:49:15
13 Q. Those were examples. Those were examples. My 06:49:15
14 question is generally, in your conversations with the 06:49:18
15 speaker and the senate president sometime earlier 06:49:21
16 this year, the month you can't recall, did you have 06:49:31
17 any discussions with them about how the commission 06:49:33
18 would operate. I gave you some examples. 06:49:35
19 A. Give me the examples again. 06:49:39
20 Q. Sure. If I can remember. 06:49:41
21 The date in which -- let me give you a couple. 06:49:43
22 The date in which you would convene the first 06:49:46
23 meeting. 06:49:49
24 A. Well, we certainly had some discussions about 06:49:52
25 that. And many of these discussions would have been 06:49:58

1 from staff to staff. 06:50:00
2 Q. All right. 06:50:03
3 A. But -- 06:50:04
4 (Simultaneous colloquy.) 06:50:07
5 A. But again, the overriding concern was, when do 06:50:07
6 we get data from the census. 06:50:13
7 Q. Right. 06:50:17
8 A. So those early discussions would have been 06:50:18
9 focused on that and the timing and when could we 06:50:20
10 actually get moving. But it all depended upon the 06:50:24
11 flow in to us of census data. 06:50:28
12 Q. In fact, there was a lawsuit filed by the 06:50:32
13 attorney general to get a date certain by which the 06:50:35
14 census that would be delivered; isn't that correct? 06:50:39
15 A. That's correct. 06:50:42
16 Q. And there was a settlement, a date agreed upon 06:50:43
17 by which that census data was going to be delivered, 06:50:46
18 correct? 06:50:50
19 A. I believe that's correct. 06:50:50
20 Q. I believe that date was on or before August 15. 06:50:52
21 Does that sound correct? 06:50:56
22 A. I don't know. 06:50:57
23 Q. Okay. Using August 15th as a date certain, was 06:50:57
24 it prior to August 15th that you were having these 06:51:06
25 discussions with speaker and senate president about 06:51:10

1 the convening of the commission and how it would be 06:51:15
2 -- how it would operate? 06:51:18
3 A. Well, yes. It would be -- if your question is 06:51:20
4 prior to August 15th, did I have discussions with the 06:51:26
5 speaker and the senate president in regard to the 06:51:30
6 census data, the answer is certainly, correct, yes. 06:51:35
7 Q. When did you get the data? When did the state 06:51:40
8 get the data from the census bureau? 06:51:53
9 A. I don't know the exact date. 06:51:55
10 Q. What information contained in that data 06:51:57
11 received from the census bureau was used in preparing 06:52:03
12 the redistricting plan which was ultimately adopted 06:52:06
13 by the commission? 06:52:09
14 A. I don't know. 06:52:09
15 Q. Do you know if any data that was provided by 06:52:10
16 the census bureau was included in or incorporated in 06:52:17
17 the plan that was adopted by the redistricting 06:52:25
18 commission? 06:52:29
19 A. Well, I was not involved in the preparation of 06:52:30
20 the maps. 06:52:35
21 Q. I understand. 06:52:37
22 My question is, do you have knowledge, personal 06:52:38
23 knowledge, whether any information and data provided 06:52:40
24 by the census bureau was incorporated into or used in 06:52:44
25 the preparation of the final adopted redistricting 06:52:50

1 plan? 06:52:55
2 A. Well, because I didn't do the maps, I cannot 06:52:56
3 have any personal knowledge of them. 06:52:59
4 Q. But the answer is, you don't know, one way or 06:53:02
5 another, whether any data from the census bureau was 06:53:04
6 used in the final maps as adopted by the 06:53:08
7 redistricting? 06:53:10
8 A. I have no personal knowledge of that because I 06:53:11
9 did not do the maps. 06:53:15
10 Q. Do you know if any members of your staff 06:53:16
11 possess that knowledge? 06:53:19
12 A. I don't know. 06:53:20
13 Q. Who among your staff would be best positioned 06:53:21
14 to answer that question, if he or she had information 06:53:26
15 about whether or not the census data was used? 06:53:30
16 A. Well, Matt Donahue, legal counsel, was involved 06:53:34
17 in discussions in regard to redistricting. Whether 06:53:43
18 he has knowledge of that, I have no idea. 06:53:52
19 Q. Was the lieutenant governor or members of his 06:53:54
20 staff involved in the redistricting process in any 06:53:58
21 way? 06:54:02
22 A. Well, we had discussions with the lieutenant 06:54:02
23 governor. I had discussions with the lieutenant 06:54:05
24 governor. So from the perspective of my staff, he 06:54:09
25 certainly was involved. What his involvement was -- 06:54:14

1 why don't you -- give me the question again about the 06:54:22
2 lieutenant governor. 06:54:27
3 Q. My question was a yes, no. 06:54:27
4 Was the lieutenant governor or his staff 06:54:30
5 involved in the redistricting process? 06:54:32
6 A. Redistricting process. Yes, to the extent that 06:54:35
7 he was involved in internal discussions with the 06:54:43
8 governor's office. I consider him part of the 06:54:50
9 governor's office, so he was part of those internal 06:54:55
10 discussions, certainly. 06:54:59
11 Q. What discussion was he a party to? 06:55:00
12 A. I can't tell you every discussion he would have 06:55:04
13 been a party to. When we had general discussions 06:55:09
14 about the redistricting at different points in time, 06:55:13
15 he was certainly involved in some of those 06:55:18
16 discussions. 06:55:22
17 Q. Okay. Did you have any discussions with him 06:55:22
18 about the dates upon which you would convene the 06:55:28
19 commission? 06:55:31
20 A. Well, I'm sure he was involved in general 06:55:32
21 discussions about the problem with the census 06:55:35
22 information coming in. He would have been in some of 06:55:43
23 those -- some of those discussions, certainly. 06:55:48
24 Q. With all due respect, Governor, I understand 06:55:49
25 that. You said that three times now. 06:55:53

1 So I'd like you to just listen to my question 06:55:55
2 and do your best to answer the question that I ask so 06:55:59
3 we can move through this. 06:56:02
4 MS. COONTZ: Objection. I believe the witness 06:56:04
5 is. 06:56:06
6 MR. FUNARI: 06:56:07
7 Q. Okay. What were your discussions with the 06:56:08
8 lieutenant governor specifically? 06:56:14
9 A. I -- 06:56:16
10 Q. Other than the delay in the receipt of census 06:56:18
11 data? 06:56:22
12 A. I had discussions with the lieutenant governor 06:56:22
13 probably every day about things. 06:56:25
14 Q. Specific to the work of the redistricting 06:56:27
15 commission. 06:56:31
16 A. What time period? 06:56:31
17 Q. At any time. 06:56:34
18 A. I had discussions with the lieutenant governor 06:56:36
19 early on about the -- he was in -- he and I were in 06:56:47
20 meetings where we had a discussion about the failure 06:56:54
21 of the census bureau to get data to us. 06:56:58
22 Later on, when we were -- when I was trying to 06:57:06
23 see if we could get an agreement that the republican 06:57:09
24 legislative leaders, democrat legislative leaders 06:57:18
25 would agree to, I had discussions with him in regard 06:57:21

1 to that. 06:57:27
2 So as we got closer, you know, to the 15th of 06:57:28
3 September, we had, you know, discussions about, is 06:57:37
4 there a way we can put together -- can we get an 06:57:39
5 agreement between the republican legislative leaders 06:57:43
6 and the democrat legislative leaders. 06:57:46
7 So he and I would have had discussions -- he 06:57:49
8 and I did have discussions about that at different 06:57:52
9 points in the days leading up to the 15th. 06:57:55
10 Q. Did you have any discussions with him or anyone 06:57:59
11 else about whether your office would be proposing a 06:58:02
12 map? 06:58:07
13 A. We made a decision to -- my goal all along was 06:58:07
14 to try to get a ten-year map, to get a bipartisan 06:58:20
15 map, to get an agreement between the republican 06:58:27
16 leaders and the democrat leaders. 06:58:30
17 I felt that that would give the public 06:58:32
18 confidence that this was a fair map, and both 06:58:37
19 democrats and republicans agreed to it. 06:58:47
20 I also felt it was better to be able to go ten 06:58:50
21 years instead of having to go back and do this 06:58:53
22 process again in four years. So that was my -- you 06:58:57
23 know, what my goal was. 06:59:00
24 Democrats presented a map. Republicans 06:59:02
25 presented a map. I felt that it was possible to take 06:59:06

1 those two maps as beginning, but then end up with an 06:59:13
2 agreement between the parties. 06:59:18
3 That did not -- as you know, did not happen. 06:59:21
4 And I'm sorry that it did not happen. 06:59:25
5 Q. All right. Let me go back -- 06:59:27
6 (Simultaneous colloquy.) 06:59:29
7 A. So -- let me finish. 06:59:29
8 So we decided not to present our own map. And 06:59:31
9 I think the best way to try to get an agreement was 06:59:39
10 to let the parties start, see where they were, and 06:59:42
11 then try to see if we could put a compromise 06:59:46
12 together. 06:59:51
13 Q. So as I understand your answer, you were 06:59:52
14 delegating the map drawing to the legislative members 06:59:56
15 of the commission, both republican and -- 07:00:01
16 MS. COONTZ: Objection. Mischaracterizes the 07:00:04
17 testimony. 07:00:07
18 THE WITNESS: That's not what I said. 07:00:07
19 MR. FUNARI: Let me get a little further. 07:00:09
20 (Simultaneous colloquy.) 07:00:11
21 MS. COONTZ: I -- 07:00:11
22 THE WITNESS: Excuse me. 07:00:12
23 I never used the word "delegate." What I told 07:00:13
24 you was that I believed that the best way -- the best 07:00:16
25 shot that we had at getting a ten-year map and 07:00:20

1 getting a nonpartisan map was to let the democrats 07:00:24
2 come forward with a proposal and the republicans come 07:00:31
3 forward with a proposal and then see where everybody 07:00:35
4 was and then be a person that could try and pull this 07:00:39
5 together. 07:00:45
6 I felt all along that we had a decent shot of 07:00:45
7 being able to do that. It was not until the night of 07:00:50
8 the 15th that it became apparent to me that we could 07:00:53
9 not -- that that was simply not going to happen. 07:00:58
10 The statement I made on the night of the 15th 07:01:02
11 expresses, I think, exactly what -- you know, what I 07:01:05
12 felt that night. 07:01:11
13 MR. FUNARI: 07:01:13
14 Q. My question was -- let me ask it very directly. 07:01:14
15 Is it correct that your office never drafted or 07:01:18
16 proposed a map to the Ohio Redistricting Commission 07:01:24
17 for consideration? 07:01:28
18 A. We did not propose a formal map to the Ohio 07:01:29
19 Redistricting Commission, that is correct. 07:01:35
20 MR. FUNARI: Can we pull up the Constitution of 07:01:37
21 the State of Ohio, please, specifically Article XI. 07:01:39
22 While you're doing that, I'm going to -- well, 07:01:49
23 before you do that, if you could -- 07:01:50
24 MS. COONTZ: Is this an exhibit? 07:01:52
25 MR. FUNARI: You can queue that up. 07:01:54

1 MS. COONTZ: Counsel, is this an exhibit is 07:01:56
2 what I'm asking. 07:01:59
3 MR. FUNARI: It's marked in my exhibits. I 07:02:00
4 don't think it needs to be marked as an exhibit. 07:02:02
5 It's a legal document published. Assuming the 07:02:05
6 governor doesn't have a pocket constitution with him. 07:02:08
7 MS. COONTZ: That's my point. 07:02:12
8 MR. FUNARI: For his benefit. So I just want 07:02:13
9 them to queue it up. 07:02:16
10 Q. Moving on, Governor. 07:02:18
11 What was the deadline imposed, if any, for 07:02:20
12 introducing a proposed plan to the general public? 07:02:24
13 A. I don't understand the question. 07:02:33
14 Q. Well, let me ask it a different way. 07:02:34
15 Was there a deadline imposed by Ohio law by 07:02:36
16 which the redistricting commission must introduce to 07:02:41
17 the public a plan? 07:02:45
18 A. There were certain deadlines, as you know, 07:02:52
19 Counsel, set out in the constitution and the 07:02:55
20 statutes. 07:02:58
21 Q. Right. And my question is, do you know if 07:02:58
22 there was one set out for a deadline to introduce a 07:03:01
23 proposed plan for public consideration? 07:03:06
24 A. My answer is the same. Whatever the law is, it 07:03:07
25 speaks for itself. 07:03:11

1 Q. Okay. You are a member of the redistricting 07:03:12
2 commission -- 07:03:16
3 A. That is correct. 07:03:17
4 Q. -- is that correct? 07:03:18
5 A. That is correct. 07:03:19
6 Q. Do you have any recollection -- do you have any 07:03:19
7 recollection or knowledge as to whether there was a 07:03:22
8 deadline by which the redistricting commission must 07:03:25
9 introduce a proposed map for public consideration? 07:03:31
10 MS. COONTZ: Objection. Asked and answered. 07:03:36
11 As the witness already stated, the law speaks for 07:03:37
12 itself. 07:03:40
13 MR. FUNARI: I'm asking about this witness's 07:03:41
14 understanding. I'm not asking what the law says -- 07:03:43
15 THE WITNESS: Counsel -- 07:03:49
16 (Simultaneous colloquy.) 07:03:49
17 MR. FUNARI: You have to let me finish. 07:03:50
18 There's a delay with the speaker. 07:03:51
19 Q. I'm asking about your personal understanding of 07:03:53
20 whether or not there was a date certain by which the 07:03:56
21 redistricting commission must introduce a proposed 07:03:59
22 plan. 07:04:02
23 A. Yes, Counsel. 07:04:04
24 Q. And what is that date? 07:04:04
25 A. Counsel, I don't recall the exact date. Let me 07:04:07

1 just tell you what we were dealing with. What we're 07:04:10
2 dealing with is a -- 07:04:13
3 Q. With all -- 07:04:14
4 (Reporter admonition.) 07:04:21
5 Q. We're going to move slowly. We're going to 07:04:21
6 move quite slowly, Mr. Governor. And we will be 07:04:24
7 asking for additional time. 07:04:27
8 Your counsel will have the opportunity -- we've 07:04:29
9 made arrangements, and the Supreme Court has ruled, 07:04:32
10 that they will have the opportunity to ask you 07:04:36
11 questions. 07:04:38
12 A. I have the right -- 07:04:43
13 (Simultaneous colloquy.) 07:04:43
14 Q. You do not have the right to interrupt me, 07:04:43
15 Governor. Governor, you do not have the right to 07:04:47
16 interrupt me. So answer my questions. And then the 07:04:49
17 speaking responses that are not responsive to my 07:04:54
18 questions are inappropriate. 07:04:57
19 Your counsel will have the opportunity to give 07:04:58
20 you the opportunity to say whatever it is that you 07:05:00
21 would like to say to add to your deposition -- 07:05:04
22 (Simultaneous colloquy.) 07:05:07
23 MS. COONTZ: You are not in a position to 07:05:07
24 lecture the governor. If you have a question, ask 07:05:09
25 it. 07:05:12

1 MR. FUNARI: Counsel, I would ask that you 07:05:12
2 counsel your client to answer my questions and not 07:05:14
3 ramble on with a non-responsive narrative. 07:05:17
4 MS. COONTZ: Counsel, ask a question. If you 07:05:20
5 have a question, ask it. 07:05:22
6 MR. FUNARI: Please pull up the constitution of 07:05:25
7 Ohio, Article XI. 07:05:32
8 Q. Governor, while he's pulling that up, what is 07:05:40
9 the deadline imposed by the constitution for the 07:05:42
10 redistricting commission to adopt a plan? 07:05:46
11 A. Counsel, the constitution speaks for itself. 07:05:52
12 I'll look at it and just pull it up. 07:05:54
13 Q. Do you know -- do you know -- before we look at 07:05:58
14 the constitution, do you know the date -- 07:06:00
15 MS. COONTZ: Objection. 07:06:02
16 THE WITNESS: I know -- 07:06:03
17 (Simultaneous colloquy.) 07:06:12
18 (Reporter admonition.) 07:06:12
19 MR. FUNARI: Yes, I know. 07:06:12
20 Q. I cautioned in the beginning, Governor, there's 07:06:14
21 a little bit of a delay here with technology. Your 07:06:16
22 counsel requested a remote deposition, so I can't be 07:06:19
23 in the room with you, so we just have to bear with it 07:06:22
24 in this technological era. 07:06:26
25 Do you know whether the constitution imposes a 07:06:28

1 deadline by which the plan needs to be adopted? 07:06:31
2 A. Yes. 07:06:34
3 Q. What is that date? 07:06:34
4 A. I don't know the exact date. I know, Counsel, 07:06:35
5 that constantly, we were concerned all the way 07:06:39
6 through this process with lack of information coming 07:06:42
7 from census. I was advised by my counsel that 07:06:47
8 getting the data was a huge -- was a problem. And, 07:06:54
9 you know, it was difficult. It was going to be 07:06:59
10 impossible, really, to have an accurate map until we 07:07:01
11 had this data. 07:07:05
12 So I don't recall the exact date, but I knew -- 07:07:06
13 we knew all -- for some period of time that this was 07:07:09
14 a problem with the information not being available 07:07:12
15 from the census. 07:07:16
16 Q. But you've already testified you have no idea, 07:07:17
17 one way or another, if any of the census data made 07:07:19
18 its way into the adopted map, right? 07:07:22
19 A. I did not prepare -- I did not prepare the map, 07:07:25
20 so I obviously have no personal knowledge of that. 07:07:27
21 MR. FUNARI: Right. 07:07:30
22 So could we turn to Article XI, Section 1(C). 07:07:31
23 (Brief pause.)
24 MR. FUNARI: And maybe I'll give you -- okay. 07:07:42
25 There it is. Keep going. There it is. Down a 07:07:44

1 little bit. I'd like the governor to read it. 1C. 07:07:49
2 Down. Move the document down. It's page 98, I 07:07:53
3 believe. 07:08:01
4 Stop. Stop. 07:08:02
5 (Brief pause.)
6 THE WITNESS: Counsel, you were talking about 07:08:08
7 C? Counsel? 07:08:17
8 MR. FUNARI: Hold on for one second. That's 07:08:25
9 not the correct version. We'll get you the correct 07:08:42
10 version in a moment. We'll move on while we get the 07:08:46
11 correct version for you. 07:08:54
12 Q. Would it sound correct if I were to tell you 07:08:59
13 that the constitution, Section 1(C) of Article XI, 07:09:01
14 provides that the commission shall adopt a plan by 07:09:05
15 September 1st? 07:09:13
16 A. Yes. 07:09:13
17 Q. Did you make any effort to meet that 07:09:14
18 September 1st deadline for adoption of a plan? 07:09:22
19 A. I was advised, Counsel, that we did not have 07:09:27
20 the data from census to be able to prepare these 07:09:33
21 maps. 07:09:40
22 Q. Was it possible for you, as the convener -- can 07:09:40
23 we agree that it was your constitutional 07:09:46
24 responsibility to convene the redistricting 07:09:48
25 commission? 07:09:50

A. That's correct. 07:09:51
Q. Was it not possible that the work of the 07:09:51
commission could have started well before the receipt 07:09:56
of the census data? 07:10:00
MS. COONTZ: Objection. Calls for speculation. 07:10:03
You can answer if you know. 07:10:04
THE WITNESS: Counsel, the real work of the 07:10:11
commission could not really start until we had the 07:10:13
data. One of the things I saw, as different maps 07:10:19
were presented in discussions with people who were 07:10:29
making the maps, and it is common sense, that once 07:10:36
you change one part of the map, it changes 07:10:41
everything. 07:10:46
And so the idea that you could guess at these 07:10:48
numbers down to the small level into your villages 07:10:52
and your townships, and then try to come up with a 07:11:06
map, just made no sense to do that. 07:11:12
Q. Could you have -- 07:11:16
(Simultaneous colloquy.) 07:11:18
A. We would have been -- you would have been 07:11:19
putting maps out or putting maps together without the 07:11:22
data. 07:11:26
Q. Governor -- 07:11:28
A. You had no ability to guess those. So as a 07:11:29
practical matter, the real work of the commission was 07:11:35

1 based on maps, real maps with real data. And that 07:11:38
2 work could not start until you had real data. 07:11:44
3 Q. But Governor, you're just speculating. Because 07:11:49
4 you've told me now three times that you have no 07:11:52
5 knowledge, one way or another, if any census data 07:11:55
6 made its way into the final enacted map, correct? 07:12:00
7 A. Counsel, I told you I did not write the map. 07:12:04
8 But I would also tell you that I have been around in 07:12:08
9 politics long enough to know that if you don't have 07:12:13
10 the correct -- with all the qualifications that the 07:12:16
11 house -- excuse me -- that the constitution requires, 07:12:20
12 to start down the process of doing a map without the 07:12:24
13 data makes absolutely no sense. 07:12:28
14 Q. Do you know if any map was prepared prior to 07:12:32
15 the receipt of the census data? 07:12:36
16 A. I do not know that. 07:12:39
17 Q. You mentioned being a -- in politics for so 07:12:40
18 many years. 07:12:47
19 In those roles, do you care what the citizens 07:12:48
20 of Ohio have to say? 07:12:51
21 A. I care a lot about what the citizens of Ohio 07:12:53
22 have to say. 07:12:58
23 MS. COONTZ: Counsel, let him answer the 07:12:58
24 question. 07:13:00
25 (Simultaneous colloquy.) 07:13:01

MR. FUNARI: It's a yes-no question. He is 07:13:01
wasting time and running the clock. It is a yes-no 07:13:03
question. 07:13:06
MS. COONTZ: You asked the question -- 07:13:06
MR. FUNARI: I'm not done with my questioning. 07:13:08
All right? This is not appropriate in terms of 07:13:11
responses. These are yes-no questions. To the 07:13:13
extent he wants to elaborate, he can do that on 07:13:17
redirect when you get the opportunity. 07:13:19
MS. COONTZ: I'm going to object that if you 07:13:21
want to ask a question, ask a question. He's 07:13:23
entitled to explain his answer. 07:13:25
MR. FUNARI: 07:13:28
Q. Isn't it correct that you held no public 07:13:30
hearings in the first part of 2021 with respect to 07:13:32
what the public might think about the data, the 07:13:38
inputs, their preferences for a redistricting map? 07:13:41
A. Counsel, there was -- there was no public 07:13:46
hearings held early, but I would -- 07:13:49
Q. Next question. 07:13:52
A. I have -- 07:13:54
(Simultaneous colloquy.) 07:13:55
Q. Next question. 07:13:55
A. No. 07:13:56
Q. My questions are very -- 07:13:56

A. No. 07:13:58
Q. We're going to keep going. I'm going to take 07:13:59
longer than three hours. 07:14:01
MS. COONTZ: Counsel, stop interrupting. 07:14:02
THE WITNESS: I know you're not from Ohio, but 07:14:04
we voted in Ohio -- 07:14:06
MR. FUNARI: You don't know where I'm from, 07:14:09
Governor. We didn't talk about that. 07:14:11
THE WITNESS: We voted in Ohio, Counsel, and it 07:14:12
lays it out in the constitution, the people's vote 07:14:15
through the constitution. And it laid it out in very 07:14:18
specific things that needed to be met. 07:14:22
We've never done that in Ohio before. We've 07:14:25
never had that written in the constitution. We now 07:14:29
have it written into the constitution. It gave us 07:14:31
certainly -- the people spoke by a -- by a 07:14:34
significant margin when they voted for that and 07:14:37
passed it. 07:14:40
So we had many of these -- all the metrics that 07:14:41
were right, right there. And the people -- it was 07:14:47
clear what the people wanted. This is why I wanted a 07:14:50
ten-year map. This is why I wanted a bipartisan map. 07:14:53
This is why I wanted democrats and republicans to be 07:14:58
able to get together and agree on a map. 07:15:01
And so that's -- that's what we had going for 07:15:04

us. We had all of those things going. We did end up 07:15:08
having, as you know, many -- many public hearings 07:15:13
that took place. So that was part of -- 07:15:17
MR. FUNARI: 07:15:21
Q. SO let's talk about those public hearings. 07:15:21
How many public hearings does the constitution 07:15:32
of Ohio require with respect to the proposed plan? 07:15:36
(Reporter admonition.) 07:15:43
A. I don't know, but we had numerous public 07:15:43
hearing. 07:15:46
Q. So you don't know -- when was the last time you 07:15:46
read Article XI of the Ohio constitution? 07:15:48
A. I don't know, Counsel. 07:15:50
Q. Isn't it correct that there were no public 07:15:50
hearings to elicit public input prior to August -- 07:15:52
the week of August 25th? 07:15:56
A. That sounds about right. 07:15:59
Q. And you attended one of those public hearings, 07:16:01
correct? 07:16:07
A. Every -- every public hearing -- 07:16:07
Q. Your Honor -- 07:16:11
A. -- if I did not attend, my legal counsel 07:16:12
attended and -- 07:16:15
MR. FUNARI: I'm going to move to strike. It's 07:16:17
non-responsive. Non-responsive. I'm moving to 07:16:19

1 strike that answer. 07:16:23
2 Q. Your Honor, isn't it correct that you attended 07:16:24
3 only one of those public hearings? 07:16:27
4 MS. COONTZ: Objection just to the extent that 07:16:29
5 it -- 07:16:31
6 (Simultaneous colloquy.) 07:16:38
7 (Reporter admonition.) 07:16:39
8 MS. COONTZ: I would object to the 07:16:39
9 characterization that the members of the commission 07:16:40
10 are personally even required to attend and that 07:16:42
11 designees are not appropriate. 07:16:46
12 (Reporter admonition.) 07:17:02
13 MR. FUNARI: Sure, Tammy, we'll do our best. 07:17:02
14 Q. Governor, isn't it correct that you personally 07:17:05
15 attended only one of those public meetings prior to 07:17:11
16 the proposed map being published? 07:17:16
17 A. Well, I don't know about the timing, Counsel, 07:17:20
18 but I was at more than one meeting that I recall. 07:17:23
19 One that was at the state house where we had public 07:17:27
20 testimony. I certainly recall one in Dayton. But 07:17:30
21 the other ones, my legal counsel, Matt Donahue, was 07:17:34
22 there representing me. 07:17:38
23 Q. Okay. Did any of the public input that you 07:17:39
24 heard or received feedback from Mr. -- was it Hoffman 07:17:42
25 did you say? Donahue? 07:17:46

A. Donahue. 07:17:48
Q. -- Mr. Donahue conveyed to you -- did any of 07:17:49
that public feedback make its way into the process of 07:17:53
drawing the ultimately enacted map? 07:17:58
A. It made its way, Counsel, into my desire to -- 07:18:02
it reinforced my desire and my goal to have a 07:18:11
compromised map between republicans and democrats. 07:18:17
That testimony reinforced that conviction. 07:18:22
And I think it -- the people spoke through the 07:18:27
constitution. They then -- people came in and 07:18:30
testified. And that reinforced that desire. So it 07:18:33
reinforced my goal to try to be able to pull 07:18:37
republicans' legislators and democrat legislators 07:18:41
together. That was the function it had, for me at 07:18:46
least. I can't speak for other members. 07:18:49
Q. So prior to your convening the redistricting 07:18:51
commission -- I believe the first meeting was 07:18:53
August 6 -- did you have discussions earlier in the 07:18:55
year with members of the commission about hiring a 07:19:00
map drawer for the commission? 07:19:03
A. I had no discussions about hiring a map drawer. 07:19:04
Q. Did you have any discussions regarding the 07:19:10
licensing or purchasing of any analytical or 07:19:13
map-drawing software to assist you and your staff in 07:19:18
analyzing proposed maps? 07:19:20

1 (Reporter clarification.) 07:19:30
2 A. No. 07:19:30
3 Q. Do you recall a discussion -- strike that. 07:19:31
4 Who decided on the day upon which the 07:19:45
5 commission would be convened? 07:19:49
6 (Reporter clarification.) 07:19:57
7 A. Well, we made that -- we made that -- the 07:19:58
8 governor's office made that decision. 07:20:01
9 Q. Did you consult with other members of the 07:20:03
10 commission prior to selecting that date? 07:20:07
11 A. I'm sure my staff did. 07:20:08
12 Q. Do you recall personally having any discussions 07:20:10
13 with any members of the commission about when the 07:20:14
14 commission would be convened? 07:20:19
15 A. I -- the only discussion I recall is a 07:20:22
16 discussion with leaders -- Leader Sykes. She called 07:20:26
17 me about convening and wanted to know when the 07:20:30
18 commission would be convened. 07:20:40
19 Q. Do you recall -- 07:20:41
20 A. This was during -- excuse me. This was during 07:20:42
21 the summer. I don't recall the date, but it was 07:20:44
22 during the summer. 07:20:46
23 MR. FUNARI: Thank you. 07:20:47
24 Could we publish document GOV534, please. And 07:20:49
25 I believe we're going to mark this as DeWine 07:21:19

Exhibit 1. 07:21:24
(Exhibit 1 was marked for identification.)
MR. FUNARI: Could you scroll down, please, and 07:21:26
let the governor read the email from the bottom up. 07:21:27
Can you see that okay, Governor? 07:21:30
THE WITNESS: Counsel, they're pulling it up. 07:21:34
I don't quite have it yet. Let me see. 07:21:36
MR. FUNARI: Okay. Let us know when you're 07:21:39
ready. 07:21:40
Scroll down a little more, please. There we 07:21:44
go. 07:21:46
THE WITNESS: Okay. 07:21:47
MR. FUNARI: 07:21:50
Q. Okay. Email threads start at the bottom, so 07:21:50
that's where I'm going to start with this exhibit. 07:21:52
And this was produced by your office. Bates Number 07:21:55
534 and 535. 07:21:59
At the bottom, there is an email from yourself 07:22:01
to Mr. Donahue and LeeAnne Cornyn. No subject, but 07:22:04
you appear to be asking the question, "What is story 07:22:13
on letter we received saying we should start on 07:22:16
redistricting?" 07:22:19
Do you see that? 07:22:19
A. Yes, sir. 07:22:21
Q. Did that email come from you? Did you draft 07:22:21

1 it? 07:22:24
2 A. Well, I assume I did. It says "Mike DeWine" on 07:22:24
3 here, so I assume I did. 07:22:30
4 Q. Yeah. I notice that it's not a government 07:22:31
5 email address. Instead, it came from 07:22:38
6 mike@silverdollarbaseball.com. 07:22:41
7 Is that your personal email? 07:22:45
8 A. That's my personal email. 07:22:46
9 Q. Why do you use your personal email to 07:22:47
10 communicate with members of your staff regarding 07:22:52
11 commencing the redistricting process? 07:22:55
12 MS. COONTZ: Objection, relevance. 07:22:56
13 You can answer. 07:22:58
14 THE WITNESS: Counsel, I use that -- 07:23:01
15 MR. FUNARI: If I could just address the 07:23:03
16 objection first. 07:23:06
17 Bridget, was the governor's personal email 07:23:07
18 account, mike@silverdollarbaseball, collected, 07:23:12
19 reviewed, and produced -- 07:23:14
20 MS. COONTZ: Yeah. 07:23:15
21 MR. FUNARI: -- in response -- 07:23:16
22 MS. COONTZ: Yes. 07:23:18
23 (Simultaneous colloquy.) 07:23:19
24 MR. FUNARI: I'm talking to your lawyer for a 07:23:19
25 minute, Governor. She objected. 07:23:21

1 MS. COONTZ: I'm objecting. 07:23:23
2 MR. FUNARI: So you're representing on the 07:23:24
3 record that you -- your office did a review of Mr. -- 07:23:25
4 of Governor DeWine's personal email account for 07:23:32
5 responsive documents? 07:23:34
6 MS. COONTZ: Yes. But I'm objecting as to the 07:23:35
7 relevance of the question regarding the use. 07:23:37
8 THE WITNESS: Counsel, if I could answer the 07:23:39
9 question. 07:23:41
10 MR. FUNARI: 07:23:41
11 Q. Yes, please. 07:23:42
12 A. We have a very expansive public records law in 07:23:44
13 the state of Ohio, and I use my personal email with 07:23:51
14 full knowledge that if I am dealing with state 07:23:56
15 business, that that is subject to disclosure. 07:24:00
16 So I use it as a matter of convenience, but we 07:24:05
17 have -- in the past and will continue to do so when 07:24:11
18 it's official business. When we get a request that 07:24:15
19 is a proper request, we disclose that, just as we did 07:24:18
20 in this case. 07:24:21
21 Q. Okay. So my question, I guess, is, is it -- is 07:24:22
22 it official business that you're communicating with 07:24:28
23 your staff about a letter that was received inquiring 07:24:32
24 about the start of redistricting? 07:24:37
25 A. Yes. 07:24:40

1 Q. And you used your personal email account? 07:24:40
2 A. Yes. 07:24:43
3 Q. Okay. What letter are you referring to in this 07:24:44
4 email? 07:24:47
5 A. I don't know. 07:24:48
6 Q. Do you believe it to be a letter from a 07:24:48
7 constituent? 07:24:51
8 A. I don't know.
9 MR. FUNARI: Can you scroll down, please. Or 07:25:12
10 scroll up, I guess. Give you an opportunity to read 07:25:14
11 this. 07:25:17
12 (Brief pause.)
13 MR. FUNARI: 07:25:20
14 Q. Did you ever receive a link to the letter 07:25:20
15 that's referenced by Ms. Cornyn in her email? 07:25:24
16 A. I don't know, Counsel, but I would not have 07:25:30
17 written the first email you referenced a moment ago 07:25:33
18 unless I had a letter that I was, in all likelihood, 07:25:36
19 looking at, or there had either been a letter or a 07:25:41
20 text or something that caused me to ask the question. 07:25:49
21 So I had to have received something from somebody 07:25:52
22 inquiring about this. 07:25:56
23 Q. So it's fair to say that as early as April 6th 07:25:58
24 of this year, the thought of convening the 07:26:02
25 redistricting commission was at least brought to your 07:26:09

1 attention? 07:26:11
2 A. Well, certainly before that. We knew this was 07:26:11
3 something that was going to -- 07:26:19
4 (Reporter clarification.) 07:26:37
5 A. -- that we had an obligation to do. 07:26:38
6 Q. Governor, did you instruct your staff to not 07:26:44
7 comment on inquires your office received about when 07:26:49
8 the redistricting commission would be convened? 07:26:53
9 A. I don't recall that, Counsel. 07:26:56
10 MR. FUNARI: Could we pull up GOV638, please. 07:27:04
11 Scroll down. 07:27:51
12 We're going to mark this as DeWine Exhibit 2. 07:27:53
13 (Exhibit 2 was marked for identification.)
14 MR. FUNARI: Can you scroll down to the last 07:28:05
15 page, please. 07:28:07
16 MS. COONTZ: We're scrolling. 07:28:09
17 MR. FUNARI: Right there. I guess the email 07:28:11
18 begins on 6/29. 07:28:17
19 (Brief pause.)
20 THE WITNESS: I'm looking at a request from 07:28:47
21 NPR. Is that what you want me to look at? 07:28:49
22 MR. FUNARI: 07:28:51
23 Q. Yeah. So it looks to me that an email from -- 07:28:51
24 from Hansi Lo Wang from NPR emailed Daniel Tierney, 07:28:55
25 whom I believe to be your office's press secretary, 07:29:01

1 is that correct, or director of communications? 07:29:05
2 A. That's correct. 07:29:09
3 Q. On March 9, 2012. Do you see that? 07:29:10
4 A. Yes. 07:29:13
5 MR. FUNARI: Could you scroll up. 07:29:14
6 Q. Mr. Tierney then, in turn -- 07:29:18
7 Mr. Tierney then forwards the message to a 07:29:28
8 number of members of your staff, including Mr. Hall, 07:29:32
9 Mr. Dawson, Mr. Donahue, essentially those folks that 07:29:35
10 you identified as being involved from your staff in 07:29:39
11 the redistricting process. They have asked for any 07:29:42
12 advised responses. 07:29:45
13 Do you see that? 07:29:48
14 A. Yes, I see it. 07:29:50
15 "This came in as we wrapped our call. Any 07:29:51
16 advised responses?" By Dan Tierney. 07:29:56
17 Yes, I see that. 07:29:58
18 Q. Were you made aware of this inquiry from NPR 07:29:59
19 asking when the commission would be convened? 07:30:04
20 A. I don't recall. 07:30:08
21 MR. FUNARI: Okay. Could you scroll up, 07:30:10
22 please. 07:30:12
23 Q. This is the response from Michael's Hall, your 07:30:21
24 director of policy. I'll let you read it. 07:30:23
25 (Brief pause.) 07:30:31

1 Q. Second paragraph, he says, "I think the answer 07:30:31
2 should be that in the light of the Census delay, we 07:30:34
3 are evaluating the timing of when to call that 07:30:37
4 meeting." 07:30:40
5 Do you see that? 07:30:40
6 A. Yes. 07:30:41
7 Q. So is it fair to say that even earlier in March 07:30:41
8 of 2021, your office, including yourself, were 07:30:45
9 deliberating and talking about when to convene the 07:30:50
10 commission? 07:30:55
11 MS. COONTZ: I'm going to object. It 07:30:55
12 mischaracterizes the exhibit and the witness's 07:30:58
13 testimony. He's not on this email, so -- 07:31:02
14 MR. FUNARI: I didn't ask about this. I didn't 07:31:06
15 ask anything about the email. I'm asking if it's 07:31:06
16 correct -- let me ask it again, and then you can see 07:31:09
17 if it's objectionable. 07:31:12
18 Q. This email is offered as a point of reference, 07:31:13
19 Governor. March 9, 2012. Senior members of your 07:31:16
20 staff are instructing other members of your staff to 07:31:22
21 answer inquiries, in this case from the press, that 07:31:26
22 "in light of the Census delay, we are evaluating the 07:31:31
23 timing of when to call the meeting," is what is 07:31:34
24 written. 07:31:37
25 My question is, is it correct that your office 07:31:38

1 was evaluating when to call and convene the first 07:31:42
2 meeting of the redistricting commission as early as 07:31:47
3 March 2021? 07:31:51
4 A. Counsel, I don't know if I would use the term 07:31:52
5 "evaluate." What I would say is that we knew the 07:31:55
6 deadlines. We knew the dates. And our concern was 07:32:00
7 in regard to when the census data would come in. So, 07:32:05
8 you know, I don't know if that's an evaluation or 07:32:09
9 not. It's an awareness. And certainly, you know, we 07:32:12
10 would have had discussions about it. 07:32:18
11 Q. Okay. So you were having discussions as early 07:32:20
12 as March of 2021 when the commission would be 07:32:27
13 convened, correct? 07:32:29
14 MS. COONTZ: Objection. The governor 07:32:30
15 personally or the individuals on this email? 07:32:35
16 MR. FUNARI: 07:32:39
17 Q. You. You. You. 07:32:42
18 A. I don't recall a specific discussion I was in 07:32:42
19 at that point in time. My rationality, point, is 07:32:45
20 that we knew that this had to be done. We knew we 07:32:47
21 had to have the data from the census. We knew 07:32:51
22 there's a problem. So, you know, we certainly were 07:32:53
23 aware of the whole -- 07:33:00
24 (Simultaneous colloquy.) 07:33:02
25 Q. I'm sorry. I didn't mean to -- 07:33:02

1 A. Yeah. We were certainly aware of this. 07:33:04
2 Q. Okay. So it is a correct statement, though, 07:33:08
3 that at least your staff was discussing the timing of 07:33:10
4 when to convene the redistricting commission as early 07:33:14
5 as March 2021, correct? 07:33:17
6 A. I don't know if they got to -- you know, look, 07:33:20
7 I don't know what they were discussing among 07:33:26
8 themselves. I can't tell you that. 07:33:28
9 Q. Does Mr. Hall write emails to members of your 07:33:29
10 senior staff that are inaccurate or incorrect as a 07:33:34
11 regular practice? 07:33:37
12 A. No. Look, I think the email speaks for itself. 07:33:37
13 Q. Right. And in the email, he says, "we are 07:33:40
14 evaluating the timing of when to call that meeting." 07:33:44
15 So my question is, quite simply, was your 07:33:46
16 office and members of your staff evaluating the 07:33:49
17 timing of when to call that meeting? 07:33:52
18 MS. COONTZ: Objection. Asked and answered. 07:33:54
19 MR. FUNARI: 07:33:55
20 Q. Is that a correct statement, to your knowledge? 07:33:56
21 A. I think I've answered to the best of my 07:33:58
22 ability. I don't know what their discussion was. 07:34:01
23 But what is clear is we knew all along what -- 07:34:03
24 you know, what the law said. And we also knew at 07:34:08
25 some point -- I don't know what point, but at some 07:34:12

1 point, we knew there was a problem with the census. 07:34:14
2 Q. Okay. Let me try it again. 07:34:17
3 Point of reference of this email, March 9, 07:34:20
4 2012. Mr. Hall, the director of policy, communicated 07:34:24
5 with other members of your senior staff to 07:34:28
6 communicate to a member of the public, in this case 07:34:31
7 the press, that you are -- quote, "we are evaluating 07:34:34
8 the timing of when to call the meeting." That's what 07:34:36
9 the document says. 07:34:39
10 My question is quite simply: Is it a correct 07:34:40
11 statement that your staff was evaluating, as of 07:34:45
12 March 2021, when to convene the redistricting 07:34:51
13 commission? 07:34:55
14 A. Well, that's what he is saying in here to tell 07:34:55
15 the press. And -- 07:34:58
16 Q. If he -- 07:35:00
17 A. -- if that's what he says to tell the press, it 07:35:01
18 would be true. 07:35:04
19 Q. Okay. Thank you. 07:35:04
20 He then goes on to say, "Don't answer the 07:35:08
21 question of when we would have otherwise held the 07:35:11
22 meeting." That goes to my earlier question. 07:35:13
23 Did you ever instruct members of your staff to 07:35:17
24 not disclose any information about when the meeting 07:35:20
25 was to be convened? 07:35:27

A. I don't understand the question. I'm sorry. 07:35:29
Q. Sure. Sure. 07:35:36
One of Mr. -- let me find the right exhibit 07:35:37
here. 07:35:44
One of Hansi Lo Wang's questions is, does -- 07:35:49
two of them, actually. "When does Governor DeWine 07:35:54
plan on convening" -- 07:36:04
(Reporter clarification.) 07:36:04
(Reporter admonition.) 07:36:04
Q. "When does Governor DeWine currently plan on 07:36:04
convening the first meeting of the redistricting 07:36:07
commission?" 07:36:10
It then goes on to reference the census 07:36:14
bureau's April 13, 2020 announcement that it planned 07:36:21
to deliver redistricting data by July 31. 07:36:24
And the third question is, "If Governor DeWine 07:36:29
was aware of the census bureau's April 2020 07:36:32
announcement, when was the governor planning to 07:36:36
convene the commission's first meeting in order to 07:36:39
meet the September 1, 2021 deadline for the 07:36:42
commission to adopt a final general assembly district 07:36:46
plan?" 07:36:52
And it looks like Mr. Hall is instructing 07:36:53
Mr. Tierney and the rest of the senior staff, "Don't 07:36:57
answer the question of when we would have otherwise 07:37:01

1 held the meeting." 07:37:04
2 My question to you is, did you direct Mr. Hall 07:37:06
3 and members of your staff not to disclose information 07:37:09
4 with respect to the convening of the meeting? 07:37:15
5 A. I have no recollection of telling them that. 07:37:19
6 Q. Okay. Did you know that Mr. Hall was telling 07:37:24
7 members of your staff to convey to members of the 07:37:26
8 public not to answer that question? 07:37:31
9 MS. COONTZ: Objection. The witness is not on 07:37:32
10 this email. If you want to talk to -- he can't 07:37:36
11 answer -- 07:37:37
12 MR. FUNARI: Let's take -- 07:37:38
13 (Simultaneous colloquy.) 07:37:39
14 MS. COONTZ: Let me get my objection on the 07:37:39
15 record. 07:37:41
16 Mr. -- the governor is not on this email. He 07:37:42
17 cannot speculate as to what Mr. Hall was directing 07:37:45
18 people to do. 07:37:48
19 THE WITNESS: Counsel -- 07:37:49
20 MR. FUNARI: That wasn't my question. 07:37:50
21 Let's take the exhibit down. 07:37:51
22 You have to wait for a question, Governor. 07:37:53
23 Let's take this down. Let's close his laptop 07:37:57
24 so it's not in front of him. 07:37:59
25 Q. My question was, quite simply, did you know 07:38:00

1 that Mr. Hall was directing members of your staff to 07:38:03
2 communicate to the public, don't answer any -- we're 07:38:06
3 not going to answer any questions regarding the 07:38:10
4 convening of the redistricting commission? 07:38:13
5 A. I have no recollection of that, Counsel. 07:38:14
6 Q. Okay. That's all I wanted to know. Thank you. 07:38:17
7 Do you have any recollection of the budget 07:38:21
8 process as it related to the work of the 07:38:34
9 redistricting commission? 07:38:41
10 A. No. 07:38:42
11 (Reporter clarification.) 07:38:43
12 Q. Did you have any input into the budget? 07:38:44
13 A. No. 07:38:49
14 Q. Do you know whether the budget contemplated 07:38:50
15 entering into a contract with Ohio University, 07:38:56
16 Cleveland State, or some other entity to provide 07:39:00
17 support to the commission with respect to its 07:39:05
18 constitutional obligations of drawing a map? 07:39:07
19 A. No. 07:39:10
20 Q. Do you know whether the budget contemplated the 07:39:11
21 hiring of an independent map drawer that would report 07:39:15
22 to the commission? 07:39:19
23 A. No. 07:39:20
24 Q. Do you know whether the budget contemplated 07:39:21
25 licensing map-drawing or analytical software? 07:39:24

A. I'm sorry. Can you repeat that. I didn't hear 07:39:28
it. I'm sorry. 07:39:30
Q. Sure. My apologies. 07:39:31
Do you know if the budget contemplated the 07:39:33
licensing or purchasing of map-drawing or analytical 07:39:36
software for use by the commission? 07:39:41
A. I have no direct knowledge of that. 07:39:45
Q. Do you know whether that happened? Did the 07:39:48
commission, in fact, license or buy that drawing 07:39:51
software for its work on the redistricting 07:39:55
commission? 07:39:58
A. Well, what I do know is that the democrats and 07:39:58
the republicans each came up with their own map, and 07:40:02
you have to have some software to be able to do that 07:40:06
map. 07:40:09
Q. Right. I'm asking, did the commission -- the 07:40:09
commission had a budget. Did the commission use its 07:40:12
funds to purchase or license such software? 07:40:15
A. I don't know, Counsel. 07:40:17
MR. FUNARI: Okay. I think we have the correct 07:40:21
version of the Ohio constitution now. Can we please 07:40:59
pull up Article XI. 07:41:01
MS. COONTZ: The file is called Article 11 -- 07:41:07
(Simultaneous colloquy.) 07:41:11
MR. FUNARI: For Planet Depos, the file is 07:41:11

called, Article 11, Apportionment of Ohio 07:41:14
Constitution. 07:41:17
THE REMOTE TECHNICIAN: Give me just a moment 07:41:50
to download it, Counsel. 07:41:52
(Brief pause.) 07:41:57
MR. FUNARI: Okay. That's the correct one. 07:41:57
Thank you. 07:41:59
Can we all agree this is the correct version of 07:42:02
the -- current version of the Constitution of the 07:42:05
State of Ohio? 07:42:07
MS. COONTZ: I won't know until you get to the 07:42:09
correct amendment. 07:42:11
MR. FUNARI: Yeah. Fair enough. 07:42:12
Let's get to Article XI, please. Yeah. We'll 07:42:13
go down. There you go. Yeah. There we go. 07:42:21
And I'll give you and your counsel an 07:42:28
opportunity to review that. 07:42:30
And I'd like specifically to direct your 07:42:39
attention to Article XI, Section 1(C), which I 07:42:41
believe is on page 99. There we go. Right there. 07:42:50
Q. Are you with me, Governor? 07:43:03
A. No. I'm trying to find it on my screen. I 07:43:07
think counsel knows where you're referencing. I've 07:43:11
got a different screen in front of me. 07:43:14
Q. Okay. 07:43:16

A. Okay. And where am I looking, Counsel? 07:43:17
Q. Article XI. We're looking at Article XI, 07:43:20
Section 1(C). 07:43:24
A. Okay. 07:43:29
Q. And specifically that second paragraph of 07:43:29
Section 1(C) that reads, "The commission shall 07:43:36
release to the public a proposed general assembly 07:43:39
district plan for the boundaries of each of the 07:43:43
ninety-nine house of representatives districts and 07:43:45
the thirty-three Senate districts. The commission 07:43:48
shall draft the proposed plan in the manner 07:43:50
prescribed in this article." 07:43:54
Do you see where I am? 07:43:56
A. Yes, sir. 07:43:59
Q. What do you understand the phrase within the 07:43:59
constitution "draft the proposed plan" to mean? 07:44:02
A. Let me just -- hold on. Let me just read the 07:44:07
paragraph. 07:44:15
(Brief pause.) 07:44:19
A. If you're asking me what "proposed plan" means, 07:44:19
I -- 07:44:24
Q. Do you -- 07:44:24
MS. COONTZ: Let him finish. 07:44:27
MR. FUNARI: 07:44:28
Q. Yeah. I just want to clarify. 07:44:29

What do you understand -- 07:44:30
A. I understand this, Counsel, to mean a map. 07:44:31
Q. And what would be depicted on that map? 07:44:37
A. I'm sorry. What would be the what? 07:44:40
Q. What would be depicted on that map? 07:44:42
A. District lines. 07:44:46
Q. Same sentence, "The commission shall draft the 07:44:47
proposed plan in the manner prescribed in this 07:44:58
article." Did the commission -- strike that. 07:45:00
Is it correct that the commission itself never 07:45:04
drafted a proposed plan? 07:45:07
A. No. 07:45:10
Q. What is incorrect about my statement? 07:45:15
A. The commission did vote to consider a plan -- 07:45:18
to have a plan in front of it. And then it did vote 07:45:26
to adopt a plan. 07:45:30
MR. FUNARI: All right. I'm going to move to 07:45:33
strike as non-responsive. 07:45:35
Madame Court Reporter -- 07:45:36
MS. COONTZ: Counsel, that is not -- Counsel, 07:45:37
I'm just going to object. That is not 07:45:38
non-responsive. You asked -- 07:45:40
(Simultaneous colloquy.) 07:45:42
MR. FUNARI: It is non-responsive. 07:45:42
MS. COONTZ: And he answered the question. 07:45:43

1 MR. FUNARI: That is -- let me ask it again. 07:45:46
2 Could you read it back. I don't believe that 07:45:51
3 is responsive. 07:45:53
4 (Record read.) 07:46:05
5 MR. FUNARI: 07:46:05
6 Q. Just to clarify that, Governor, what I'm 07:46:06
7 referring to is the language, "The commission shall 07:46:08
8 draft the proposed plan." So let me -- that's what I 07:46:12
9 want you to focus on. 07:46:16
10 Is it correct that the commission never drafted 07:46:20
11 a proposed plan? 07:46:24
12 A. I don't know if that's correct, no. I mean, 07:46:28
13 the commission -- the commission -- Counsel, if I 07:46:33
14 could just explain this. 07:46:35
15 Q. I just need a yes or no. It's a yes or no 07:46:37
16 question, Governor. 07:46:41
17 A. Somebody has to sit in front of a computer and 07:46:42
18 put -- 07:46:46
19 Q. Right. 07:46:46
20 A. -- a map together. 07:46:47
21 Q. And that person -- and that person was not 07:46:48
22 in -- a member of the commission, correct? 07:46:52
23 A. Counsel, it's always going to be done by 07:46:54
24 someone who is more a technical expert at this. 07:46:58
25 Q. And who was the person who drafted the map that 07:47:03

1 was ultimately adopted as the plan? 07:47:08
2 A. Well, I believe -- I believe it was Ray, who 07:47:10
3 testified, and he is the person who did the 07:47:20
4 mechanical work on the republican proposed by -- 07:47:26
5 Q. Ray DiRossi? 07:47:34
6 A. Ray DiRossi, as you know, testified. 07:47:40
7 Q. He hasn't testified yet. 07:47:43
8 A. Well, he -- I'm sorry. He testified in front 07:47:44
9 of the commission at the time when that map was 07:47:46
10 presented to the commission. 07:47:50
11 Q. Did Mr. -- so who did -- strike that. 07:47:53
12 Who employed Mr. DiRossi in connection with his 07:47:57
13 drafting of the map that the republican legislative 07:48:02
14 members of the commission proposed to the commission? 07:48:07
15 A. My understanding would be, Counsel, that he 07:48:10
16 reported to the -- to republican legislative members 07:48:15
17 and that -- that -- they came up with a proposal, 07:48:23
18 just as the democrats came up with a map. 07:48:27
19 And again, my goal was to take those two, that 07:48:31
20 actually weren't very far apart, and see if we could 07:48:36
21 reach an agreement. And that was what I was trying 07:48:39
22 to do. 07:48:42
23 Q. I think that's how we started our conversation 07:48:43
24 this morning. We have two maps, one proposed by the 07:48:45
25 republicans, one proposed by the democratic 07:48:50

1 legislative members. 07:48:53
2 So my question is, there are two maps -- 07:48:56
3 (Reporter clarification.)
4 Q. There were two maps presented for 07:49:05
5 consideration, one by the republican majority of the 07:49:07
6 legislative members of the commission and one by the 07:49:12
7 minority members of the legislative members of the 07:49:15
8 commission, correct? 07:49:18
9 A. That's correct. 07:49:21
10 Q. And the commission itself did not draw its own 07:49:21
11 map, correct? 07:49:27
12 A. Well, the commission itself did not do the 07:49:29
13 mechanical work to draw -- draw that, that's correct. 07:49:34
14 Q. Okay. So -- and Mr. DiRossi did not report to 07:49:38
15 the commission as a whole, correct? 07:49:46
16 A. Well, he reported in the sense that when the 07:49:48
17 first map was presented, he gave what I described as 07:49:53
18 the testimony. So that was a report in that sense. 07:49:56
19 May not be how you meant the term, but... 07:50:02
20 Q. Did you, as a member of the commission, ever 07:50:05
21 direct Mr. DiRossi in any way with respect to this 07:50:08
22 preparation of the map? 07:50:12
23 A. No. 07:50:13
24 Q. Do you know if any other members of the 07:50:13
25 commission directed Mr. DiRossi in connection with 07:50:16

his drafting of the map? 07:50:19
A. Well, it was my understanding that he reported 07:50:21
to the speaker and the senate president. 07:50:32
Q. And who are those individuals? 07:50:34
A. Well, Speaker Cupp and Senate President 07:50:36
Huffman. 07:50:42
Q. Do you know if either Senator Sykes or Minority 07:50:43
Leader Sykes ever gave direction to Mr. DiRossi with 07:50:50
respect to the maps that he was working on were 07:50:54
proposed and ultimately adopted by the commission? 07:50:58
A. I don't have any knowledge of that, Counsel. 07:51:00
MR. FUNARI: Thank you. 07:51:06
While we have the constitution in front of us, 07:51:07
I'd like to turn to Article I. It's a separate 07:51:09
exhibit, whoever is doing the exhibits. 07:51:15
Q. Do you have it in front of you? 07:51:34
A. I'm getting it, Counsel. 07:51:35
Q. Okay. Let me know when you're ready, 07:51:37
Your Honor. 07:51:40
A. All right. 07:52:09
MR. FUNARI: We'll mark this as DeWine 5 just 07:52:10
because we used two different versions of the Ohio 07:52:13
constitution and we'll keep the record clear. The 07:52:17
last exhibit will be Exhibit 3, and this will be 07:52:19
Exhibit 4. 07:52:23

1 Could you scroll up, please. Okay. Right 07:52:24
2 there. Article I. Constitution of the State of Ohio. 07:52:26
3 (Exhibits 3-4 were marked for identification.) 07:52:31
4 MS. COONTZ: Article I, not Article XI, 07:52:31
5 Section 1? 07:52:34
6 MR. FUNARI: No. Article I. 07:52:35
7 Q. Article I, Section 2, I'd like you to read, 07:52:38
8 Your Honor -- Governor. 07:52:44
9 A. Counsel is pulling it up for me, Counsel. 07:52:48
10 Q. Sure. 07:52:51
11 A. I have what looks like Article 2 in front of 07:53:18
12 me. 07:53:21
13 Q. Article I, Section 2. 07:53:22
14 A. Oh, okay. Article I, Section 2. Yes, I have 07:53:23
15 it. 07:53:27
16 Q. Does the enacted -- 07:53:27
17 (Reporter clarification.) 07:53:37
18 Q. Does the enacted redistricting plan comply with 07:53:38
19 Article I, Section 2 of the Ohio constitution? 07:53:44
20 A. That's not what he's talking about. 07:53:48
21 MS. COONTZ: It is what he's talking about. 07:53:51
22 Objection. Calls for a legal conclusion. 07:53:53
23 Relevance. 07:53:55
24 THE WITNESS: You're talking -- 07:53:56
25 ///

1 MR. FUNARI: Let me just speak to the 07:53:57
2 objection. 07:53:59
3 MS. COONTZ: He has -- 07:54:00
4 MR. FUNARI: I understand -- I understand that 07:54:01
5 the witness is a lawyer, Bridget. But let me lay 07:54:04
6 some foundation, and that may help. 07:54:08
7 Q. Governor, on January 14th, 2019, when you were 07:54:10
8 sworn in as the 70th governor of the state of Ohio, 07:54:14
9 did you take an oath to uphold the laws, including 07:54:19
10 the Constitution of the State of Ohio? 07:54:23
11 A. Yes. 07:54:25
12 Q. And is it your job, as the governor of the 07:54:26
13 state, and your constitutional responsibility, as a 07:54:31
14 member of the redistricting commission, to uphold and 07:54:35
15 understand the requirements and obligations of those 07:54:39
16 positions? 07:54:44
17 A. Yes. 07:54:44
18 Q. Okay. So it is in that context, not the 07:54:45
19 context that you might be a lawyer, that I am asking 07:54:50
20 whether you personally have an understanding as to 07:54:53
21 whether the enacted redistricting plan complies with 07:54:58
22 Article I, Section 2 of the Ohio constitution? 07:55:03
23 A. Counsel, I think that's ultimately a decision 07:55:09
24 to be made by the Ohio State Supreme Court. 07:55:12
25 Q. Okay. I understand that. 07:55:17

1 But I'm asking you if -- what your current 07:55:18
2 belief is -- what your belief is, whether or not the 07:55:23
3 enacted redistricting plan that you voted to enact 07:55:27
4 complies with Article I, Section 2 of the Ohio 07:55:30
5 constitution? 07:55:35
6 MS. COONTZ: Objection. Relevance. 07:55:37
7 THE WITNESS: I'm reading it, Counsel. 07:55:41
8 MR. FUNARI: 07:55:44
9 Q. Okay. 07:55:44
10 A. What I'm reading says, "All political power is 07:55:45
11 inherent in the people." Is that what you're 07:55:50
12 referencing? 07:55:51
13 Q. Yes. Keep reading. 07:55:51
14 A. "Government is instituted for their equal 07:55:53
15 protection and benefit, and they have the right to 07:55:57
16 alter, reform, or abolish the same, whenever they may 07:55:59
17 deem it necessary; and no special privileges or 07:56:05
18 immunities shall ever be granted, that may not be 07:56:07
19 altered, revoked, or repealed by the General 07:56:11
20 Assembly." 07:56:14
21 Q. Do you believe that the enacted redistricting 07:56:15
22 plan complies with Article I, Section 2 of the Ohio 07:56:18
23 constitution? 07:56:22
24 A. Counsel, this is something that's going to have 07:56:22
25 to be decided by the Ohio Supreme Court. 07:56:25

Q. I understand. 07:56:27
(Simultaneous colloquy.) 07:56:29
Q. I'm asking about your opinion, your view, as a 07:56:29
member of the commission and the governor of the 07:56:32
state. 07:56:35
A. Yes. I thought that what we approved did 07:56:36
comply with the Ohio constitution. 07:56:40
Q. What are the reasons that led you to that 07:56:43
conclusion? 07:56:46
A. Counsel, the -- after consulting with my legal 07:56:49
counsel and -- it was my opinion that -- well, let me 07:56:58
go back. Let me go back. 07:57:11
And again, I'll reference the statement I made 07:57:12
on the night that the vote took place. And what I 07:57:17
said was that ultimately, this decision was going to 07:57:20
be decided in the courts. 07:57:24
Q. Correct. 07:57:27
A. What I -- 07:57:29
MS. COONTZ: Let him finish. 07:57:30
THE WITNESS: What I believe is that the 07:57:33
republican plan met the criteria, but I also said 07:57:34
that this would be decided by the courts, and it 07:57:40
would have been looking at the -- what I said was 07:57:45
that it would -- I was disappointed. 07:57:56
MR. FUNARI: 07:58:00

1 Q. Okay. What notes were you just referring to? 07:58:00
2 A. Please let me finish. 07:58:03
3 I said I was disappointed, and I felt that we 07:58:05
4 could have produced and voted upon a more clearly 07:58:09
5 constitutional map. 07:58:15
6 And the reason I said that was, I felt all 07:58:17
7 along that if we could get a map that the two 07:58:21
8 democrats and republican legislative leaders could 07:58:27
9 agree upon, that it would much more likely survive 07:58:32
10 any type of challenge in court. 07:58:38
11 We had both parties coming together and saying, 07:58:41
12 well, this is -- we agree with it. Because you have 07:58:44
13 two adversarial parties coming together and agreeing 07:58:46
14 on something. 07:58:50
15 When that happens, it seems to me that the odds 07:58:51
16 of the Supreme Court or any court looking at this and 07:58:54
17 saying it fits the constitution went up dramatically. 07:58:58
18 And our failure to get a ten-year plan, our 07:59:07
19 failure to get a bipartisan plan troubled me greatly. 07:59:11
20 And I expressed that that night. So those were the 07:59:15
21 concerns that I had. 07:59:20
22 And we failed to reach what I considered to be 07:59:21
23 the goal. We did not reach the goal of getting a 07:59:26
24 ten-year plan; we did not reach the goal of getting a 07:59:29
25 bipartisan plan; we did not reach the -- 07:59:34

1 (Reporter clarification.) 07:59:49
2 (Reporter admonition.) 07:59:53
3 A. -- the goal of having a plan that democrats and 07:59:53
4 republicans could agree upon. 08:00:04
5 Q. Okay. Your Honor -- I keep calling you 08:00:05
6 Your Honor. I'm used to appearing before judges, not 08:00:07
7 governors. 08:00:10
8 A. Counsel, thank you. 08:00:11
9 Q. With all due respect. 08:00:12
10 I thank you for that narrative response. I'm 08:00:15
11 going to come back to my original question in a few 08:00:18
12 moments. 08:00:22
13 But it sounds like, if I understand your 08:00:22
14 testimony, the standard for you, as a member of the 08:00:25
15 commission for the constitutionality of the plan, was 08:00:30
16 if the democrats and the republican legislative 08:00:35
17 members reached consensus or an agreement on a map, 08:00:40
18 your belief was it would, therefore, be 08:00:45
19 constitutional; is that correct? 08:00:48
20 MS. COONTZ: Objection. Mischaracterizes 08:00:50
21 testimony. 08:00:51
22 THE WITNESS: Not exactly what I said, Counsel. 08:00:52
23 I thought that the odds of surviving a challenging in 08:00:54
24 court went up dramatically if both sides agreed to 08:00:58
25 it. 08:01:01

1 MR. FUNARI: 08:01:07
2 Q. Would you have voted for a ten-year map if it 08:01:07
3 was agreed upon by both -- strike that. 08:01:10
4 If both -- if both delegations from the 08:01:17
5 legislative branch came to an agreement on a plan, 08:01:23
6 would you have voted for it? First question. 08:01:29
7 A. Well, I would have had to see the plan. I 08:01:35
8 would have had to make an independent judgment about 08:01:39
9 it. But I think, in all likelihood, if you have 08:01:42
10 democrats and republicans agreeing to a plan, it is a 08:01:47
11 bipartisan plan, it's a plan that probably, you know, 08:01:52
12 had a great deal of chance of surviving a court 08:01:54
13 challenge. 08:01:59
14 I can't say I would give up my right to have an 08:01:59
15 independent look at it or review of it. But in all 08:02:02
16 likelihood, I would have been able to vote for it, I 08:02:08
17 suspect. 08:02:12
18 Q. And what criteria would you use in reaching 08:02:12
19 your determination of whether or not you would vote 08:02:15
20 for the map? 08:02:20
21 A. Well, I would have gone back to the criteria 08:02:21
22 set forth in the constitution by the people of the 08:02:28
23 state of Ohio. And it's very -- as you know, this 08:02:33
24 constitutional amendment that was passed set forth 08:02:38
25 some very specific structural criteria or technical 08:02:41

1 criteria that had to be met. And it's fairly 08:02:45
2 prescriptive. 08:02:50
3 And so, you know, you have to be able to check 08:02:52
4 those boxes, you know, not -- not, unless it's 08:02:55
5 necessary, you know, dividing up political 08:03:02
6 subdivisions, for example, not dividing up counties. 08:03:12
7 I'm not doing a very good job of describing 08:03:15
8 what was in there. But those, you know, criteria 08:03:18
9 that were really laid out that you have to check the 08:03:20
10 box. And so I think -- you know, I felt that the 08:03:23
11 republican plan checked those boxes, and that's why I 08:03:27
12 was able to vote for it. But that would be -- you'd 08:03:32
13 have to be able to check those boxes. 08:03:35
14 But in addition to that, you know, what I 08:03:37
15 wanted to see was what I didn't see, and that is both 08:03:41
16 sides getting together and being able to reach an 08:03:45
17 agreement. The fact is that they were not that far 08:03:48
18 apart. 08:03:51
19 Q. I appreciate that, Governor. 08:03:55
20 Those were criteria -- when you said those 08:04:00
21 criterias identified, you're referring to the 08:04:02
22 criteria in Article XI of the constitution? 08:04:07
23 A. Correct. 08:04:09
24 Q. Did -- in fact, this part of your process in 08:04:10
25 approving the republican-drawn map, did you give any 08:04:17

1 consideration to this Article I, Section 2 of the 08:04:20
2 Ohio constitution? 08:04:23
3 A. Well, Counsel, I take an oath of office to 08:04:25
4 follow the constitution. It's something that's with 08:04:32
5 me every day, certainly. 08:04:34
6 Q. So -- 08:04:36
7 A. I wouldn't have been -- I wouldn't have 08:04:36
8 specifically said, I need to go look at that section. 08:04:38
9 But, you know, our whole goal here was to follow the 08:04:42
10 Ohio constitution and what the -- the people had said 08:04:46
11 about what was required to draw these maps. 08:04:51
12 Q. So it's fair to say that you did not consider 08:04:56
13 whether the map that you voted to approve offered 08:04:58
14 equal protection and benefit to all of the citizens 08:05:05
15 of Ohio -- 08:05:08
16 MS. COONTZ: Objection. 08:05:10
17 MR. FUNARI: 08:05:10
18 Q. -- as required by Article I, Section 2? 08:05:11
19 MS. COONTZ: Objection. Mischaracterizes the 08:05:13
20 testimony. 08:05:14
21 THE WITNESS: I did -- Counsel, I did not look 08:05:15
22 at that section before voting. But equal protection 08:05:17
23 is something that I think, you know, anybody who is 08:05:21
24 in public office needs to be cognizant of, needs to 08:05:25
25 be trying to comply with. 08:05:29

1 So that would be my answer. 08:05:32
2 MR. FUNARI: 08:05:34
3 Q. Right. So did you expressly contemplate this 08:05:35
4 provision of the constitution when you cast your vote 08:05:39
5 in favor of the republican map? 08:05:43
6 A. I did not look at that section before I cast my 08:05:44
7 vote. Equal protection, however, is something that 08:05:49
8 is so ingrained in our political system and in our 08:05:51
9 constitution that everyone -- that you have to 08:05:55
10 consider that. 08:05:58
11 Q. I understand your response. But again, I'm -- 08:06:00
12 I don't think it's responsive to my question. 08:06:03
13 A. Well, I'd like to answer. 08:06:05
14 Q. Well, you're not answering my question, 08:06:08
15 Governor. 08:06:10
16 MS. COONTZ: Objection. 08:06:10
17 THE WITNESS: I told you what I did and what I 08:06:12
18 didn't do, Counsel. 08:06:14
19 MS. COONTZ: The witness is answering. 08:06:14
20 MR. FUNARI: Okay. Then let's stick with that. 08:06:15
21 Let's stick with that. 08:06:18
22 Q. Did you consider -- expressly consider, in your 08:06:19
23 mind, as you are casting your vote in the early 08:06:22
24 morning hours of September 16 -- did you consider the 08:06:26
25 requirements of Article I, Section 2 of the Ohio 08:06:31

1 constitution? 08:06:34
2 MS. COONTZ: Objection. Asked and answered. 08:06:34
3 THE WITNESS: Equal protection is a part of 08:06:36
4 what we do every single day. It is always there. 08:06:39
5 MR. FUNARI: Article I, Section 3. You'll need 08:06:45
6 to scroll down a little bit. 08:06:51
7 (Brief pause.)
8 MR. FUNARI: Too far down. It was on the same 08:07:04
9 page at the top of the next column. 08:07:06
10 (Brief pause.)
11 MR. FUNARI: Right there. Up a little. Okay. 08:07:17
12 Q. Same question with respect to Article I, 08:07:23
13 Section 3 of the Ohio constitution, Governor. 08:07:28
14 Did you, in your mind, as you casted the vote 08:07:32
15 on the early morning hours of September 16 to pass 08:07:36
16 the plan, redistricting plan -- did you make a 08:07:39
17 conscious determination of whether the plan complied 08:07:45
18 with Section 3, Article I of the Ohio constitution? 08:07:50
19 A. Counsel, this is -- reads, "The people have a 08:07:54
20 right to assemble together." Is that what we're 08:07:56
21 talking about? 08:08:00
22 Q. Yes. 08:08:00
23 A. My answer would be the same as it was before. 08:08:01
24 This is ingrained in what we do. Certainly, anybody 08:08:03
25 who runs for public office understands the people's 08:08:06

1 right to assemble together, understands the people's 08:08:09
2 right to express their viewpoint. 08:08:12
3 Anybody who has gone through -- any governor 08:08:18
4 who has gone through the pandemic certainly 08:08:20
5 understands that. I've had picketers at my house. 08:08:23
6 I've had people express their points of view every 08:08:26
7 day. They have every right to do that. I've always 08:08:29
8 defended that, and I've always defended the right of 08:08:34
9 people to assemble together and to petition their 08:08:35
10 government. So this is just ingrained in who we are. 08:08:38
11 Q. I appreciate that general belief. I hope that 08:08:43
12 was -- 08:08:46
13 A. It's pretty specific, Counsel. It's not just a 08:08:47
14 general belief. It's a specific thing that we live 08:08:51
15 by every day. 08:08:55
16 Q. Okay. So is it something that you deliberately 08:08:56
17 considered as you were voting on the map? 08:08:59
18 A. Counsel, it did not flash into my mind, you 08:09:01
19 know, that specific section of the constitution. But 08:09:06
20 it is with me every single day. I live with it. I 08:09:10
21 respect it. So it certainly is always there in 08:09:15
22 anything I do. 08:09:21
23 Q. Last question on this article, Section 6. 08:09:23
24 A. Okay. Hold on, Counsel. We'll pull it up 08:09:29
25 here. 08:09:32

1 MS. COONTZ: Article I, Section 6? 08:09:32
2 MR. FUNARI: Yes. And then we'll take a break. 08:09:34
3 (Brief pause.) 08:09:51
4 MR. FUNARI: I may not have the right section. 08:09:51
5 Move up a little bit. Okay. 08:09:54
6 Let's take a break, and I'll find the section 08:09:56
7 that I want to ask you about, if that's okay. 08:09:58
8 MS. COONTZ: Five minutes. 08:10:00
9 THE WITNESS: Yeah. I can't -- I have -- 08:10:02
10 MS. COONTZ: He's got a tight schedule. 08:10:04
11 THE WITNESS: I have a big schedule today so, 08:10:05
12 Counsel, if we could keep it to five minutes, that 08:10:08
13 would be great. 08:10:10
14 MR. FUNARI: We'll do that. Thank you. 08:10:11
15 THE VIDEOGRAPHER: Going off the record at 08:10:13
16 8:10 a.m. 08:10:15
17 (Break taken.) 08:15:43
18 THE VIDEOGRAPHER: Back on the record at 08:15:43
19 8:15 a.m. 08:15:45
20 MR. FUNARI: Governor, we kept to the five 08:15:46
21 minutes. I appreciate it. 08:15:48
22 THE WITNESS: Thank you. 08:15:51
23 MR. FUNARI: I'm going to turn the questioning 08:15:51
24 over to my -- to counsel for the other relators and 08:15:55
25 reserve some additional time at the conclusion of 08:15:58

1 their remarks, if we can revisit. 08:16:02
2 So I'm not sure who is going next, but I'll put 08:16:06
3 myself on mute. 08:16:09
4 MR. KLEIN: Sure, Brad. Thanks. 08:16:11
5 EXAMINATION
6 MR. KLEIN:
7 Q. This is Spencer Klein representing the 08:16:13
8 defendant relators on behalf of Elias Law Group. 08:16:16
9 Good morning, Governor. 08:16:21
10 A. Good morning. 08:16:22
11 Q. So I want to change gears a little bit and 08:16:23
12 discuss the Article -- so I'd like to start by 08:16:26
13 discussing the Article XI, Section 8(C)(2) statement. 08:16:31
14 Are you familiar with the statement released by 08:16:37
15 the commission in the early hours of September 16, 08:16:39
16 2021, purporting to -- 08:16:45
17 (Reporter clarification.) 08:16:53
18 Q. I said, purporting to explain the enacted 08:16:54
19 plan's compliance with Article XI, section 6? 08:16:59
20 A. I am familiar with what you're talking about, 08:17:03
21 yes. 08:17:09
22 Q. Okay. And did you have any role in drafting 08:17:09
23 the article -- Section 8(C)(2) statement? 08:17:12
24 A. I did not. I felt that it represented what the 08:17:17
25 republican legislating members of the commission -- 08:17:25

1 what their rationale was. 08:17:30
2 Q. Okay. And did you have any discussions related 08:17:33
3 to the Section 8(C)(2) statement with any other 08:17:38
4 members of the commission? 08:17:41
5 A. Well, I'm trying to think. 08:17:47
6 I don't recall. I was not involved in drafting 08:17:52
7 it, as I said. Whether I had any discussion about 08:17:55
8 it, I don't recall whether I did or not. It would -- 08:17:58
9 you know, I did not draft it. 08:18:03
10 Q. Okay. When did you first learn about the 08:18:06
11 rationale set forth in the Section 8(C)(2) statement? 08:18:09
12 A. Well, I think the rationale had been 08:18:16
13 articulated for some time by the republican 08:18:20
14 legislative leaders. So the rationale is expressed 08:18:25
15 in there -- I think they had used publicly before, 08:18:27
16 and they had -- I have heard them use it. 08:18:34
17 Q. Okay. And do you recall precisely when you 08:18:40
18 heard this rationale publicly? 08:18:46
19 A. No. 08:18:48
20 Q. And when did you first view a draft of the 08:18:48
21 Section 8(C)(2) statement? 08:18:56
22 A. Well, it's possible that we had received a -- 08:18:58
23 the answer is, I don't know. I don't know. 08:19:00
24 Q. Okay. And were you aware of what the 08:19:05
25 Section 8(C)(2) statement said at the time you voted 08:19:13

1 on the enacted plan on September 15 or September 16? 08:19:16
2 A. I was aware of the general points made, yes. 08:19:21
3 Q. Okay. So what general points were you aware 08:19:24
4 of? 08:19:27
5 A. I'd have to look at the document. Can I look 08:19:27
6 at the document? 08:19:32
7 MR. KLEIN: Do we actually have that as an 08:19:35
8 exhibit that we can pull up here? 08:19:38
9 MR. FUNARI: I believe it was among those 08:19:50
10 exhibits, Spencer. So could you pull up the correct 08:19:57
11 LaRose exhibit. 08:19:59
12 THE REMOTE TECHNICIAN: Counsel, could you 08:20:08
13 please clarify the title of the document. 08:20:09
14 MR. KLEIN: This is the statement issued by the 08:20:11
15 commission purporting to explain the enacted plan's 08:20:13
16 compliance of Article XI, Section 6 required under 08:20:16
17 Article -- so it was as required under Article XI, 08:20:20
18 Section 8(C)(2). 08:20:25
19 THE REMOTE TECHNICIAN: Is this the document 08:20:30
20 titled LaRose 1? 08:20:31
21 MR. KLEIN: I couldn't say, but perhaps someone 08:20:33
22 else -- 08:20:37
23 THE REMOTE TECHNICIAN: I just need the title 08:20:39
24 of the actual PDF as listed in the folder of uploaded 08:20:40
25 documents. 08:20:46

1 MR. FUNARI: Why don't you show us. I don't 08:20:46
2 know which exhibit number it is, if it's not marked 08:20:49
3 8(2)(C) statement. 08:20:54
4 THE REMOTE TECHNICIAN: I just don't know what 08:21:01
5 document because there's nothing that matches what 08:21:02
6 you said to pull up. I just believe I heard you 08:21:05
7 mention a document titled LaRose. 08:21:08
8 MR. FUNARI: This is Brad. Why don't you send 08:21:18
9 me the two LaRose exhibits, and while we're on the 08:21:20
10 record, we'll let Spencer keep going. 08:21:24
11 MR. KLEIN: Sure. We'll circle back. 08:21:28
12 Q. So did the contents of this 8(C)(2) statement 08:21:31
13 play a role in your decision to vote yes on the 08:21:34
14 enacted plan? 08:21:38
15 MS. COONTZ: Counsel, I'd ask that you pull up 08:21:39
16 the document before you start asking questions about 08:21:42
17 the content. 08:21:45
18 MR. KLEIN: I think the Governor is able to 08:21:52
19 answer a question about -- 08:21:54
20 MS. COONTZ: I believe the governor said he 08:21:55
21 needs to see the document. 08:21:58
22 MR. KLEIN: All right. Can we -- 08:22:00
23 THE REMOTE TECHNICIAN: Want to go off the 08:22:05
24 record? 08:22:07
25 MS. COONTZ: We just took a break. We're 08:22:07

1 staying on the record. 08:22:10
2 THE WITNESS: Counsel, do you want to just ask 08:22:11
3 me again. Maybe I can speed this up for you. Ask me 08:22:13
4 the question again. I'm sorry. 08:22:16
5 MR. KLEIN: Sure thing. 08:22:18
6 Q. So did the content of the -- rather, let me 08:22:18
7 rephrase. 08:22:22
8 Did the 8(C)(2) statement issued by the 08:22:24
9 commission play a role in your decision to vote yes 08:22:26
10 on the enacted plan? 08:22:30
11 A. Well, the answer is no. We'd already voted at 08:22:34
12 the point, as you know. 08:22:38
13 Q. Right. Well, so -- 08:22:39
14 A. It was passed after the vote -- 08:22:40
15 Q. Right. 08:22:44
16 A. -- to fulfill an obligation to do that. 08:22:46
17 Q. Okay. So then you had testified earlier you 08:22:48
18 weren't sure when you first saw the Section 8(C)(2) 08:22:56
19 statement, correct? 08:22:59
20 A. Counsel, I heard the arguments before, at least 08:23:00
21 the essential arguments before. What I don't recall 08:23:04
22 is if I've seen this document before that night. 08:23:06
23 Q. Okay. And did that rationale play any role in 08:23:10
24 your decision to vote in favor of the enacted plan, 08:23:14
25 the rationale? 08:23:19

1 A. Well, the rationale in regard to -- the 08:23:21
2 rationale that was given -- again, I don't have it in 08:23:30
3 front of me. But one of the rationales, as I recall, 08:23:33
4 had to do with the percentage of statewide elections 08:23:38
5 that were won by republicans versus democrats over a 08:23:45
6 certain period of time. And I think it represented 08:23:54
7 82 percent. Again, I'm going from memory. And that 08:23:55
8 was given as a rationale. I think it -- 82 percent 08:24:00
9 would not have been a rationale for me. 08:24:12
10 Q. What exactly do you mean by that; that it would 08:24:15
11 not have been a rationale? 08:24:21
12 A. I've got to look at the document. 08:24:22
13 Q. Sure. And I think -- 08:24:24
14 A. I don't want to misquote it. 08:24:25
15 MR. KLEIN: You actually have it ready now -- 08:24:29
16 pull it up. 08:24:33
17 (Brief pause.)
18 THE WITNESS: All right. So let me look at it, 08:24:39
19 Counsel.
20 "The commission considered" -- 08:24:58
21 (Reporter clarification.) 08:25:09
22 (Reporter admonition.)
23 THE WITNESS: "The commission considered 08:25:11
24 statewide state and federal partisan general election 08:25:12
25 results during the last ten years." 08:25:19

1 I think that is certainly part of making that 08:25:25
2 correct determination of what is the statewide 08:25:32
3 preferences of people in the state of Ohio. I think 08:25:35
4 that's correct. 08:25:42
5 What I would not agree with is the reference to 08:25:43
6 81 percent. I don't think that could have -- that 08:25:50
7 81 percent is a -- any kind of mark that would 08:25:55
8 indicate statewide preferences. 08:26:01
9 MR. KLEIN: 08:26:05
10 Q. Okay. So -- 08:26:05
11 A. I think looking at the elections in general and 08:26:06
12 seeing how they came out, that is a very legitimate 08:26:09
13 part of making that determination as spelled out in 08:26:14
14 the constitution. Looking at who won statewide 08:26:22
15 elections is relevant. What I wouldn't agree with is 08:26:26
16 using an 81 percent as being at one end of a range. 08:26:31
17 Q. Right. So is it fair to say, then, that you 08:26:37
18 did not agree fully with -- sorry. Strike that. 08:26:43
19 Is it fair to say that you did not agree with 08:26:48
20 this rationale as a whole used to explain the plan's 08:26:52
21 compliance with Article XI, Section 6? 08:26:58
22 A. Did not wholly agree with the rationale in this 08:27:00
23 document. I voted for it because I felt it was the 08:27:04
24 rationale that had been put forward by republican 08:27:09
25 legislative leaders. And I agreed with most of it. 08:27:17

1 But what I tried to do is to clarify what I didn't 08:27:21
2 agree with. 08:27:25
3 Q. Yeah. And just -- 08:27:26
4 A. And that would be -- the 81 percent is the 08:27:27
5 only -- is the part that jumps out at me that I would 08:27:31
6 -- I agree with. Who won statewide office does make 08:27:34
7 sense to me in trying to figure out what is the 08:27:40
8 general feeling of the population. It's just tying 08:27:42
9 it to 81 percent, I had a hard time -- I could not 08:27:47
10 accept that part of it. 08:27:49
11 MR. KLEIN: Okay. All right. So I think on 08:27:51
12 that note -- first, I would like to have this exhibit 08:27:57
13 marked. And then I think with that, I will close and 08:28:00
14 turn it over to my co-counsel. Thank you. 08:28:05
15 (Exhibit 5 was marked for identification.)
16 EXAMINATION 08:28:17
17 MS. BENDER: 08:28:17
18 Q. Good morning, Governor. This is Brady Bender. 08:28:18
19 I am representing the League of Women Voters in this 08:28:20
20 case. And thank you for being here today. 08:28:23
21 Can you hear me? 08:28:29
22 A. I can, indeed. Thank you. 08:28:30
23 Q. Just making sure. Great. Thank you. 08:28:31
24 A. Sorry. Mumbling. Sorry. 08:28:33
25 Q. That's okay. That's all right. 08:28:35

1 Governor, you testified earlier about 08:28:37
2 Article I, Section 2 and whether you considered it 08:28:40
3 prior to adopting the map. 08:28:42
4 Can I ask, did you independently consider the 08:28:43
5 requirements of Article XI, Section 6? 08:28:46
6 A. I'd have to see that. 08:28:49
7 MS. BENDER: Can we pull back up the Ohio 08:28:54
8 constitution we were looking at earlier. 08:28:56
9 Thank you. Okay. If we could scroll down to 08:29:12
10 Article XI. 08:29:14
11 THE WITNESS: It was -- it's certainly 08:29:15
12 something that was part of the constitution. 08:29:17
13 Q. Yes. 08:29:20
14 A. And if I could explain -- 08:29:21
15 Q. Governor, would you please take a look at 08:29:28
16 Article -- 08:29:30
17 MS. BENDER: Scroll down, actually, to 08:29:31
18 Section 6 of this. 08:29:33
19 THE WITNESS: Okay. I'm looking at it. 08:29:35
20 MS. BENDER: One moment. Keep going. Okay. 08:29:37
21 There we are. 08:29:57
22 Q. So, Governor, did you independently consider 08:30:01
23 the requirements of Section 6 -- or excuse me -- the 08:30:03
24 statements of Section 6? 08:30:07
25 A. Yes. 08:30:08

1 Q. Okay. Governor, you testified earlier that the 08:30:08
2 commission members didn't sit in front of a computer 08:30:14
3 and do the mechanical work of drawing the map. 08:30:16
4 Setting aside the mechanical aspects of the 08:30:20
5 drawing a map, did you provide any input on the map 08:30:22
6 that was enacted? 08:30:25
7 A. Well, we had discussions all the way through. 08:30:27
8 Again, you know, part of the discussions involved the 08:30:35
9 use of a -- what's called, I think, Dave's 08:30:41
10 Redistricting. And so the numbers -- it's the 08:30:48
11 different maps that were proposed. 08:30:54
12 Running those maps through this Dave's 08:31:00
13 Redistricting came up with some numbers. And the 08:31:05
14 numbers, at one point, you had a republican map that 08:31:09
15 supposedly, according to this Dave's, would have 08:31:15
16 resulted in 62 republicans in the house. 08:31:21
17 The democrats at one point had a map -- and I 08:31:26
18 don't recall whether it was the first or the second 08:31:33
19 map -- that had republicans at 57. 08:31:35
20 So when I looked at that, I felt that that was 08:31:39
21 an area that we could seek -- seek an agreement. 08:31:44
22 There were only five. I said earlier in my 08:31:47
23 testimony. I thought they were a lot closer than 08:31:50
24 each side thought. There were only five apart. And 08:31:53
25 it just seemed to me that get -- split the 08:31:57

difference, come in there and come up with an 08:31:59
agreement. 08:32:05
So my discussions with the democrats and with 08:32:05
the republicans going back and forth, you know, we 08:32:09
never got down to a number that both parties could 08:32:13
agree on where each side was. And so it always 08:32:16
seemed to me that we would come up with an agreement. 08:32:23
And again, you know, that was based -- my 08:32:26
desire to do that was based upon my conviction that a 08:32:35
bipartisan agreement, and the bipartisan agreement 08:32:39
would give us a ten-year map. 08:32:44
There's a lot of advantages of a ten-year map, 08:32:46
but the most important one -- you know, one, we don't 08:32:49
have to go back and do it for a year. 08:32:52
Q. Governor -- 08:32:52
A. Most importantly, you get the public's 08:32:53
perception that this is right. 08:32:55
Q. Okay. If you don't mind, I'd like to go back 08:32:56
to my original question -- 08:32:58
A. Sure. 08:32:59
Q. -- which is, did you provide any -- did you 08:33:00
provide any input into the map that was -- 08:33:03
A. I would -- look, I would have given feedback 08:33:08
to -- there was discussions, I'm sure. There was 08:33:12
discussions with -- once the republican map was out, 08:33:16

about that map. And that would have been some 08:33:20
feedback. 08:33:22
Q. Okay. 08:33:24
A. I didn't -- you know, we didn't write -- 08:33:25
Q. Governor, I'm sorry. If I could continue my 08:33:28
question. 08:33:30
What feedback did you give? 08:33:31
A. You know, I don't recall specifically. But I 08:33:32
would have -- it was -- both maps were presented to 08:33:36
us, and I, you know, probably asked questions about 08:33:40
it, that kind of -- that kind of feedback, questions 08:33:43
-- 08:33:46
Q. Okay. And who were you communicating with when 08:33:46
you were providing this feedback? 08:33:48
A. Well, it would have been the two republican -- 08:33:50
the two republican leaders when their map was 08:33:55
presented. 08:33:57
Q. Okay. And did you think your feedback was 08:33:58
implemented? 08:34:01
A. Well, I don't recall, you know, if I had a 08:34:02
suggestion. If you're asking me did I have a 08:34:12
suggestion that was rejected, I don't know that. 08:34:14
Q. Okay. 08:34:17
A. I don't remember that. I mean, I don't 08:34:17
remember a specific suggestion I had. No, I don't 08:34:21

1 think I had a specific suggestion. We had a general 08:34:23
2 discussion. My discussion with republican leaders -- 08:34:25
3 Q. Okay. 08:34:30
4 A. If I can just finish. 08:34:30
5 -- with both of them always was, can't we find 08:34:32
6 a place to come together. And when you're only five 08:34:35
7 votes apart, seems to me -- always seemed to me that 08:34:38
8 we could have reached an agreement, and I was very 08:34:43
9 disappointed that -- 08:34:45
10 Q. Governor -- 08:34:46
11 A. -- on the night that this was voted on, it 08:34:47
12 became clear to me that we were never -- the sides 08:34:50
13 were never going to come together, and we could have 08:34:53
14 pushed this for days, and it would not have mattered. 08:34:56
15 They would not have gotten together. 08:34:59
16 Q. Okay. And what happened on that night to make 08:35:03
17 you realize that they were not going to come 08:35:05
18 together? 08:35:08
19 A. Final discussion with both Senator Sykes and 08:35:08
20 Leader Sykes and a separate discussion with the 08:35:15
21 speaker, separate discussion with the senate 08:35:17
22 president. And it was clear to me that no one was 08:35:20
23 moving. No one was going to move. 08:35:23
24 I suggested that, you know, we can go into 08:35:25
25 tomorrow, the next day, even though we had gone on 08:35:29

1 deadline. I didn't want to do that, but I thought if 08:35:33
2 we went into that next day, that the pressure would 08:35:36
3 really be on, and that when you're that close, we 08:35:38
4 would have been able to reach an agreement. 08:35:42
5 So that was what my hope was. But that 08:35:44
6 night -- I don't know exactly what time it was, but 08:35:48
7 it became -- it was 9:00 or 10:00 o'clock, I suspect, 08:35:51
8 that it became clear in those discussions that I had 08:35:55
9 that simply not happening, and we could push this 08:35:59
10 off, you know, for days, and it would not make a 08:36:05
11 difference. 08:36:07
12 Time -- 08:36:07
13 Q. Beyond your suggestion that you continue 08:36:08
14 conversations into the next day, what specifically 08:36:14
15 did you do to try to make compromise happen? 08:36:16
16 A. Well, I'd been going back and forth for some 08:36:20
17 time between the parties and having discussions. I 08:36:25
18 had discussion with Leader Sykes. I had discussions 08:36:29
19 with Senator Sykes, discussion in Senator Sykes' 08:36:31
20 office. 08:36:37
21 You know, the night itself, as I discussed, at 08:36:37
22 the podium, not -- excuse me -- but at the table, and 08:36:44
23 talked with Leader Sykes and talked with 08:36:50
24 Senator Sykes together -- 08:36:53
25 (Simultaneous colloquy.) 08:36:56

1 Q. Governor -- 08:36:56
2 A. -- discussions in other rooms with the two 08:36:57
3 republican leaders. And out of all of that, it was 08:37:02
4 clear, one was here, one was here. I thought it 08:37:04
5 could come together, but clearly, that was not going 08:37:08
6 to happen. Sometimes things don't happen the way you 08:37:12
7 want them to happen. 08:37:15
8 Q. Did you have any conversations with the 08:37:16
9 republican leaders at that time about the expected 08:37:17
10 partisan outcomes of the map? 08:37:20
11 A. I don't recall that. But understand that we 08:37:22
12 were operating under -- I think there's a common -- I 08:37:32
13 wouldn't say agreement, but the numbers that were 08:37:38
14 cited were cited from Dave's -- 08:37:40
15 Q. Okay. So -- 08:37:46
16 A. So -- 08:37:47
17 Q. If you do not have -- if you don't recall any 08:37:48
18 conversations about the expected partisan outcomes of 08:37:53
19 the maps -- 08:37:56
20 MS. COONTZ: Counsel, let him answer the 08:37:56
21 question. He's not finished answering the question. 08:37:59
22 THE WITNESS: I want to be clear that when you 08:38:00
23 say partisanship, no specific discussion about that. 08:38:03
24 But there was always an understanding that these 08:38:07
25 numbers were there. And if you call that 08:38:12

1 partisanship, then it would be partisanship. It was 08:38:14
2 understood what the breakout, you know, might be, 08:38:19
3 even though -- 08:38:23
4 (Reporter clarification.) 08:38:33
5 (Reporter admonition.) 08:38:35
6 THE WITNESS: It matters who, how much money, 08:38:35
7 all those things. So those are caveats to this 08:38:37
8 Dave's numbers. 08:38:41
9 MS. BRADY: 08:38:45
10 Q. Okay. And so if you weren't talking about the 08:38:46
11 expected partisan outcomes of the maps with specific 08:38:48
12 reference to these numbers, what specifically -- 08:38:51
13 (Simultaneous colloquy.) 08:38:53
14 A. No. I'm sorry. We were talking about the 08:38:55
15 numbers. 08:38:56
16 Q. Okay. 08:38:58
17 A. At least I was. I mean, I was referencing the 08:38:58
18 fact, hey, you guys are not that far apart. One is 08:39:01
19 at 62. One is at 57. That is not very far apart. 08:39:06
20 We ought to be able to strike a deal. 08:39:10
21 Q. Okay. I think -- Governor, returning to my 08:39:12
22 question from earlier about whether or not you 08:39:28
23 considered the requirements of Article XI, Section 6, 08:39:32
24 what was your conclusion when you considered the 08:39:38
25 article -- the requirements of Article XI, Section 6 08:39:40

with regard to the map that was ultimately enacted? 08:39:43
A. Well, the article speaks for itself. It tells 08:39:49
us what we are doing. 08:39:53
My feeling was expressed -- I expressed that 08:39:58
night, what we should have been trying to do is to 08:40:01
get a ten-year map. And to get a ten-year map, 08:40:06
you've got to get both sides to agree, and that gives 08:40:10
the public a lot more confidence. 08:40:13
So that was the goal in there. And I felt that 08:40:17
for this to be -- it had a better chance of being 08:40:19
held constitutional if we reached an agreement than 08:40:23
if we did not reach an agreement. 08:40:26
Q. And that night, you referred to -- let me 08:40:27
see -- you said that you were sure that the 08:40:33
commission could have reached an outcome that was 08:40:35
much more clearly constitutional. 08:40:37
Can you explain what you meant by that? 08:40:39
A. Yes. I think if we would have split the 08:40:42
difference -- if we'd had an agreement on numbers -- 08:40:46
and again, understanding that there's no guarantee in 08:40:49
politics. It depends who the candidate is, how much 08:40:54
money is raised, what the political climate is, how 08:40:57
these are going to turn out. 08:41:00
But if we were agreed that one map was at 62 08:41:01
and the other map was at 57 as far as republicans, 08:41:07

that was not very far apart. And so my goal was to 08:41:11
bring that compromise. So that's where I'm at. 08:41:17
Isn't there a place where we can come together. 08:41:20
Isn't there some place where you can accept it. 08:41:23
And that was always the discussion. You guys 08:41:26
are not -- at least from my point of view, you guys 08:41:29
are not very far apart. We ought to be able to reach 08:41:31
an agreement. We want to reach an agreement. 08:41:34
So you start looking at where would someone 08:41:36
move. And that was the nature of the -- you know, 08:41:39
where would you be willing to move to was always the 08:41:42
question in any kind of negotiations. 08:41:47
Q. And did they -- was there any indication that 08:41:50
the republican legislative leaders were willing to 08:41:55
move? 08:41:57
A. Well, I'm talking about it -- look, I always 08:41:58
thought that, yes. I had -- from both sides, I 08:42:02
thought there was a chance to get an agreement, up 08:42:06
until the last hour, the last moment when in my last 08:42:09
meetings with both sides, it became clear to me this 08:42:15
is not going to happen. And it doesn't matter how 08:42:22
long we go. You know, it's just not going to happen, 08:42:25
unfortunately. 08:42:29
But up until then, yes. I think from what 08:42:29
side -- at least the feedback that I was getting -- 08:42:33

1 or my perception, at least, was that there was a 08:42:36
2 chance that we could get an agreement up until that 08:42:40
3 time. 08:42:44
4 Now, we never -- to be clear, we never got into 08:42:45
5 any specific numbers, you know, where we put it down 08:42:48
6 where one side said, I'll do this, or I could go back 08:42:52
7 and forth between the parties. You know, we never 08:42:55
8 got that far. 08:42:58
9 But there was at least enough encouragement 08:42:59
10 that we could keep negotiating until we hit a wall 08:43:06
11 that night, and it was clear to me that we could not 08:43:10
12 do that. 08:43:13
13 Q. And was there a specific -- specific moment 08:43:14
14 that you're referring to or thinking of when you say 08:43:16
15 that "we hit a wall that night"? 08:43:20
16 A. Sure. Sure. I mean, I can -- you know, just 08:43:21
17 in the discussions with the -- the two democrat 08:43:25
18 leaders were right together. Leader Sykes, 08:43:28
19 Senator Sykes, they were together. I was leaning 08:43:32
20 over and talking with them. And it was clear that, 08:43:34
21 you know, they didn't see -- they were not willing to 08:43:38
22 move forward. 08:43:42
23 I had the same thing from the republicans. It 08:43:43
24 was just clear at that moment that they were both 08:43:47
25 just where they were, and we were not going to be 08:43:49

1 able to close that gap. 08:43:52
2 Q. Okay. 08:43:57
3 A. And I was disappointed. But that's -- you 08:43:57
4 know, that's life. That's where we were at that 08:43:59
5 moment. 08:44:02
6 MS. COONTZ: Counsel, just so I don't interrupt 08:44:03
7 a question, I would just note that we are at two 08:44:05
8 hours at this point. So that would conclude -- 08:44:08
9 MS. BENDER: Can I ask the reporter -- I'm 08:44:13
10 sorry. Is that the reporter speaking? I think 08:44:15
11 that's counsel for the governor? Excuse me. 08:44:18
12 MS. COONTZ: Yeah, this is counsel for the 08:44:20
13 governor. 08:44:22
14 If the court reporter can let us know time. 08:44:23
15 MS. BENDER: Yeah, that would be good. 08:44:27
16 THE VIDEOGRAPHER: This is the videographer 08:44:29
17 speaking. So yeah. I confirm we have two hours and 08:44:31
18 one minute since the witness was sworn in. 08:44:34
19 MS. BENDER: Okay. I just have -- I just have 08:44:38
20 one more question, if I could. 08:44:47
21 MS. COONTZ: We are finished with questioning 08:44:49
22 from the Relators' side.
23 (Simultaneous colloquy.) 08:44:51
24 MR. FUNARI: I'm going to state something on 08:44:51
25 the record. 08:44:52

1 MS. COONTZ: I need to finish my sentence. 08:44:53
2 The Supreme Court's order gave two hours for 08:44:55
3 the Relators' portion of the deposition and then 08:44:59
4 allowed time for respondents to ask additional 08:45:01
5 questions. 08:45:07
6 So at this point, we'll move into that portion 08:45:08
7 of the deposition. 08:45:10
8 MR. FUNARI: I'm going to ask on the record -- 08:45:11
9 this is Brad Funari -- that counsel agree to give us 08:45:13
10 approximately five additional minutes. 08:45:18
11 I think we've all witnessed a lot of technical 08:45:21
12 difficulties this morning. It was the government's 08:45:25
13 request to hold this deposition remotely. I think 08:45:28
14 there were probably three to five minutes' worth of 08:45:32
15 technical difficulties while we were on the record. 08:45:36
16 And I also believe that a lot of the responses 08:45:39
17 of the governor, with all due respect, were 08:45:44
18 meandering and non-responsive. 08:45:47
19 I would ask that counsel for the governor agree 08:45:49
20 to five additional minutes. 08:45:52
21 MS. COONTZ: I would just note that it's 08:45:54
22 entirely unprofessional to accuse the governor of 08:45:56
23 being meandering and unresponsive on the record. The 08:45:59
24 governor answered all questions asked. 08:46:03
25 Technical difficulties are not attributable to 08:46:05

1 the governor in this particular case. Remote 08:46:09
2 depositions are nothing new. It was clear that your 08:46:10
3 exhibits were not ready. I can't -- I can't help the 08:46:11
4 fact that, with as much notice as was given for this 08:46:15
5 deposition, the exhibits were not ready to be pulled 08:46:18
6 up. The incorrect exhibit was pulled up. 08:46:20
7 So at this time, we're going to proceed to 08:46:23
8 questioning from the respondents. 08:46:26
9 MR. FUNARI: So you're declining my request for 08:46:29
10 the professional courtesy of five additional minutes? 08:46:32
11 MS. COONTZ: That's correct. 08:46:35
12 MR. FUNARI: Governor, I'm going to ask you a 08:46:37
13 question. If -- 08:46:39
14 MS. COONTZ: No. No, you're not. 08:46:40
15 MR. FUNARI: If -- 08:46:41
16 (Simultaneous colloquy.) 08:46:42
17 MS. COONTZ: No, you are not going to ask my 08:46:42
18 client a question. 08:46:44
19 MR. FUNARI: Okay. Got it. 08:46:45
20 MS. COONTZ: So the respondents -- is there any 08:46:52
21 questioning from the respondents? 08:46:55
22 MR. CLARK: This is Erik Clark on behalf of the 08:46:58
23 commission. I have no questions at this time. 08:47:00
24 MR. MCGUIRE: Greg McGuire on behalf of the 08:47:08
25 speaker and the president. We have no questions. 08:47:10

1 MS. COONTZ: Ms. Menashe? 08:47:13
2 MS. MENASHE: I have no questions on behalf of 08:47:15
3 Senator Sykes and minority house leader Amelia Sykes. 08:47:23
4 No questions. Thank you. 08:47:30
5 (Reporter clarification.) 08:47:31
6 MS. COONTZ: Thanks, Diane. 08:47:32
7 So with that, I believe that concludes today's 08:47:37
8 deposition. 08:47:39
9 MR. FUNARI: We don't -- we're going to reserve 08:47:43
10 our right to -- to call Governor -- the governor 08:47:45
11 back. We're going to assess the time. We're going 08:47:48
12 to assess the technical difficulties that we've had. 08:47:51
13 We reserve the right to reconvene this deposition at 08:47:55
14 a later date. 08:47:58
15 MS. COONTZ: We understand that you'll move. 08:48:00
16 MR. FUNARI: I'm sorry. I didn't hear that. 08:48:05
17 MS. COONTZ: We understand that you may move 08:48:06
18 for that. 08:48:08
19 MR. FUNARI: Is the governor going to read 08:48:10
20 or -- 08:48:13
21 MS. COONTZ: Yes. 08:48:14
22 THE VIDEOGRAPHER: Can we go off the record? 08:48:16
23 MS. COONTZ: Yes. 08:48:17
24 THE VIDEOGRAPHER: We're going off the record 08:48:18
25 at 8:48 a.m. with the end of deposition of Governor 08:48:20

1 Mike DeWine. 08:48:25
2
3 (TIME NOTED: 8:48 a.m.)
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1 DECLARATION UNDER PENALTY OF PERJURY
2
3 I, GOVERNOR MIKE DEWINE, do hereby certify
4 under penalty of perjury that I have read the
5 foregoing transcript of my deposition taken on
6 October 18, 2021; that I have made such corrections
7 as appear noted on the Deposition Errata Page,
8 attached hereto, signed by me; that my testimony as
9 contained herein, as corrected, is true and accurate.
10
11 Dated this day of 2021 at
12 ,
13
14
15
16 GOVERNOR MIKE DEWINE
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UNITED STATES DISTRICT COURT)
)
THE CENTRAL DISTRICT OF NORTHERN CALIFORNIA)

I, TAMMY MOON, CSR No. 13184, Certified Shorthand Reporter, do hereby certify:

That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

That a review of the transcript by the deponent (x was/was not) requested;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am neither counsel for, nor related to, any party to said proceedings, nor in any way interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: 19th of October, 2021

Tammy Moon

Tammy Moon, CSR No. 13184

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From: "Hall, Michael" <Michael.Hall@governor.ohio.gov>
To: "Eck, Joshua" <Josh.Eck@governor.ohio.gov>, "Henson, Clayton" <Clayton.Henson@development.ohio.gov>
Cc: "Cornyn, LeeAnne" <Leeanne.Cornyn@governor.ohio.gov>
Subject: FW:
Date: Tue, 06 Apr 2021 21:16:27 -0000
Importance: Normal

Exhibit #
Gov. Mike Dewine 01
10/15/21 - MP
exhibitsticker.com

FYI

Michael Hall
Director of Policy
Ohio Governor Mike DeWine
michael.hall@governor.ohio.gov
w: (614) 629-8201
m: (937) 510-7017

-----Original Message-----
From: Cornyn, LeeAnne <Leeanne.Cornyn@governor.ohio.gov>
Sent: Tuesday, April 6, 2021 7:43 AM
To: Mike Dewine <Mike@silverdollarbaseball.com>; Donahue, Matthew <Matthew.Donahue@governor.ohio.gov>
Cc: Hall, Michael <Michael.Hall@governor.ohio.gov>
Subject: RE:

Governor,

The Constituent Services team is searching through the mail for your official copy. A link to the letter posted on their website is below:

https://f6e0c5a7-84af-4c92-8321-cdfb03bb14ff.filesusr.com/ugd/82d68a_566a2148256843eab10b570f3d8df051.pdf

Their recommendations include:
1. holding a June primary to make more time for redistricting; 2. send funding to House and Senate caucuses for planning; 3. create a public website on process, hearings, etc.; 4. finalize appointments to the commission; 5. better fund boards of elections to prepare for primary; 6. hold public meetings to get input, even before census data is received; 7. give Ohioans opportunity for public input through hearings; and 8. ensure opportunity for input after maps are drawn.

Let me know if you have any questions.

Best,

LeeAnne

-----Original Message-----
From: Mike Dewine <Mike@silverdollarbaseball.com>
Sent: Tuesday, April 6, 2021 6:30 AM
To: Donahue, Matthew <Matthew.Donahue@governor.ohio.gov>; Cornyn, LeeAnne <Leeanne.Cornyn@governor.ohio.gov>
Subject:

What is story on letter we received saying we should start on redistricting ..

Sent from my iPad

CAUTION: This is an external email and may not be safe. If the email looks suspicious, please do not click links or open attachments and forward the email to csc@ohio.gov <mailto:csc@ohio.gov> or click the Phish Alert Button if available.

Exhibit #
Gov. Mike Dewine 02
10/15/21 - MP
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From: "Hall, Michael" <Michael.Hall@governor.ohio.gov>
To: "Tierney, Daniel" <Dan.Tierney@governor.ohio.gov>, "Donahue, Matthew" <Matthew.Donahue@governor.ohio.gov>, "Dawson, Laurel" <Laurel.Dawson@governor.ohio.gov>, "McCarthy, Daniel" <Dan.McCarthy@governor.ohio.gov>, "Eck, Joshua" <Josh.Eck@governor.ohio.gov>
Subject: RE: From NPR's census reporter (Thursday, 3/11 deadline)
Date: Tue, 09 Mar 2021 17:40:47 -0000
Importance: Normal

You should check with Lydia. She would have been the person watching this in summer of 2020.

I think the answer should be that in light of the Census delay, we are evaluating the timing of when to call that meeting.

Don't answer the question of when we would have otherwise held the meeting.

Michael Hall

Director of Policy

Ohio Governor Mike DeWine

michael.hall@governor.ohio.gov

w: (614) 629-8201

m: (937) 510-7017

From: Tierney, Daniel <Dan.Tierney@governor.ohio.gov>
Sent: Tuesday, March 9, 2021 11:28 AM
To: Donahue, Matthew <Matthew.Donahue@governor.ohio.gov>; Dawson, Laurel <Laurel.Dawson@governor.ohio.gov>; Hall, Michael <Michael.Hall@governor.ohio.gov>; McCarthy, Daniel <Dan.McCarthy@governor.ohio.gov>; Eck, Joshua <Josh.Eck@governor.ohio.gov>
Subject: FW: From NPR's census reporter (Thursday, 3/11 deadline)

This came in as we wrapped our call. Any advised responses?

Dan Tierney

Press Secretary

Office of Ohio Governor Mike DeWine

Office number: 614-466-6242

Mobile number: 614-653-6676

Dan.Tierney@governor.ohio.gov

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From: Hansi Wang <HWang@npr.org>
Sent: Tuesday, March 9, 2021 11:10 AM
To: Tierney, Daniel <Dan.Tierney@governor.ohio.gov>
Subject: From NPR's census reporter (Thursday, 3/11 deadline)

Hi, Dan,

NPR's census reporter Hansi Lo Wang here.

I'm working on a radio report and web article about AG David Yost's lawsuit over the Census Bureau delaying the delivery of 2020 census redistricting data to the states.

Please let me know if any response to these three questions is available by this Thursday, March 11:

1. When does Governor DeWine currently plan on convening the first meeting of the Ohio redistricting commission?

2. Was Governor DeWine aware of the Census Bureau's April 13, 2020 announcement that it planned to deliver redistricting data by July 31? (Here's the link: https://2020census.gov/en/news-events/press-releases/statement-covid-19-2020.html?linkId=100000011751624)

3. If Gov. DeWine was aware of the Census Bureau's April 2020 announcement, when was the governor planning to convene the commission's first meeting in order to meet the Sept. 1, 2021 deadline for the commission to adopt a final general assembly district plan?

Thank you,

Hansi

Hansi Lo Wang (he/him)
National Correspondent
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FRANK LAROSE
Ohio Secretary of State

Constitution of the State of Ohio

Exhibit #
Gov. Mike Dewine 03
10/15/21 - MP
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REPEALED. County and township treasuries.

§5

(1851, rep. 1933)

REPEALED. What officers may be removed.

§6

(1851, rep. 1933)

REPEALED. Local taxation.

§7

(1851, rep. 1933)

Article XI: Apportionment

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

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

(1) The governor;

(2) The auditor of state;

(3) The secretary of state;

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

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

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

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

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

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

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

(i) Adopt rules of the commission;

(ii) Hire staff for the commission;

(iii) Expend funds.

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

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

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

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

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

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

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

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

(1967, am. 2015)

Ratio of representation in house and senate.

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

(1967, am. 2015)

Population of each House of Representatives district.

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

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

DEPO_00298

of division (B) of this section.

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

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

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

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

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

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

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

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

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

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

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

DEPO 00299

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

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

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

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

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

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

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

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

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

(1967, am. 2015)

Population of each Senate district.

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

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

DEPO_00300

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

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

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

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

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

(1967, am. 2015)

Representation for each house and senate district.

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

(1967, am. 2015)

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

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

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

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

DEPO 00301

(C) General assembly districts shall be compact.

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

(1967, am. 2015)

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

§6a

(1956, rep. 1967)

Boundary lines of House of Representatives districts.

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

(1967, am. 2015)

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

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

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

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

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

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

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

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

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

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

(1967, am. 2015)

When population of county is fraction of ratio of representation.

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

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

DEPO_00303

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

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

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

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

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

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

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

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

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

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

(1967, am. 2015)

Severability provision.

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

(1967, am. 2015)

REPEALED. Senate districts.

§11

(1967, rep. 2015)

DEPO 00304

REPEALED. Change of district boundaries of senate districts.

§12

(1967, rep. 2015)

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

§13

(1967, rep. 2015)

REPEALED. District boundaries until january 1, 1973.

§14

(1967, rep. 2015)

REPEALED. Severability provision.

§15

(1967, rep. 2015)

Article XII: Finance and Taxation

Poll taxes prohibited.

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

(1851, am. 1912)

Limitation on tax rate; exemption.

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

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

DEPO 00305

Frank LaRose

Ohio Secretary of State

CONSTITUTION OF THE STATE OF OHIO

DEPO_00306

Exhibit #

Gov. Mike Dewine 04

10/15/21 - MP

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Preamble

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

Article I: Bill of Rights

Inalienable rights.

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

(1851)

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

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

(1851)

Right to assemble.

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

(1851)

Bearing arms; standing armies; military power.

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

(1851)

Trial by jury.

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

(1851, am. 1912)

Slavery and involuntary servitude.

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

(1851)

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

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

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

(1851)

Writ of habeas corpus.

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

(1851)

Bail.

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

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

(1851, am. 1997)

Trial for crimes; witness.

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

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

(1851, am. 1912)

Rights of victims of crimes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1994, am. 2017)

Freedom of speech; of the press; of libels.

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

(1851)

Transportation, etc. for crime.

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

(1851)

Quartering troops.

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

(1851)

Search warrants and general warrants.

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

(1851)

No imprisonment for debt.

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

(1851)

Redress for injury; Due process.

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

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

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may be provided by law.

(1851, am. 1912)

No hereditary privileges.

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

(1851)

Suspension of laws.

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

(1851)

Eminent domain.

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

(1851)

Damages for wrongful death.

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

(1912)

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

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

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

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

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

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

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

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

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

(2008)

Powers reserved to the people.

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

(1851)

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

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

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

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

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

(E) As used in this Section,

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

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

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

(2011)

Article II: Legislative

In whom power vested.

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

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Exhibit #
Gov. Mike Dewine 05
10/15/21 - MP
exhibitsticker.com

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

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

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

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

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

CERTIFICATE OF SERVICE

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

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

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