

EXHIBIT 2

Soto Palmer, et al.
v.
Hobbs, et al.

* * * * *

Video-recorded Deposition Upon Oral
Examination of
April Sims
October 24, 2022

* * * * *

REPORTED BY:
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SUSAN SOTO PALMER, et al.,

Plaintiffs,

v.

STEVEN HOBBS, in his official
capacity as Secretary of State
of Washington, and the STATE OF
WASHINGTON,

Defendants,

and

JOSE TREVINO, ISMAEL G. CAMPOS,
and State Representative
ALEX YBARRA,

Intervenor-Defendants.

No. 3:22-cv-05035-RSL

VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION OF
APRIL SIMS

Monday, October 24, 2022
9:10 a.m. to 6:41 p.m.

Lowe Graham Jones, PLLC
1325 Fourth Avenue, Suite 1130
Seattle, Washington

VIDEOGRAPHER: MATT WOLCOTT, CLVS
LAKESIDE REPORTING

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33 (Continued on next page)

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1 October 24, 2022, Seattle, Washington:

2 PROCEEDINGS: 9:10 a.m.

3 THE VIDEOGRAPHER: And we are on the
4 record. Here marks the beginning of file one of Volume I
5 in the deposition of April Sims in the matter of
6 Soto Palmer, et al. versus Hobbs, et al., Cause
7 No. 3:22-cv-05035-RSL in the United States District Court,
8 Western District of Washington, and was noticed by
9 plaintiffs.

10 The time is approximately 9:10 a.m. on this 24th day
11 of October, 2022, and we are convening at 1325 Fourth
12 Avenue, Suite 1130, Seattle, Washington, 98101.

13 My name is Matthew Wolcott from Lakeside Reporting
14 in Kirkland, Washington.

15 Will counsel please introduce yourselves and state
16 whom you represent.

17 MR. HERRERA: Ernest Herrera for the
18 plaintiffs.

19 MR. MILLSTEIN: Aaron Millstein
20 representing Ms. Sims.

21 MR. HUGHES: Andrew Hughes with the State
22 of Washington Attorney General's Office.

23 THE VIDEOGRAPHER: And now the attorneys on
24 the Zoom.

25 MR. SMITH: Good morning. Karl Smith on

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1 behalf of the Secretary of State. Joining me is Assistant
2 Attorney General Kate Worthington.

3 MR. HOLT: I'm Dallin Holt on behalf of the
4 intervenor-defendants. Right now it's just me. There's a
5 possibility another one will be joining later on in the
6 afternoon, Drew Stokesbary, but for now it's just me.

7 THE VIDEOGRAPHER: Jeanne, is that
8 everybody?

9 THE REPORTER: No, there's a lot from
10 Campaign Legal.

11 MR. HERRERA: Oh, and for plaintiffs we
12 also have Mark Gaber, Sonni Waknin, Simone Leeper, Deylin
13 Thrift-Viveros, Aseem Mulji, Annabelle Harless, and
14 Ben Philliips.

15 THE VIDEOGRAPHER: And --

16 MR. HERRERA: And I'm sorry, and Chris
17 Moses. Sorry.

18 THE VIDEOGRAPHER: And will the court
19 reporter now please swear in the witness.

20 THE REPORTER: Ms. Sims, if you will raise
21 your right hand.

22 APRIL SIMS,
23 having been sworn/affirmed on oath to tell the truth, the
24 whole truth, and nothing but the truth, testified as
25 follows:

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1 THE REPORTER: Thank you.

2 E X A M I N A T I O N

3 BY MR. HERRERA:

4 Q Good morning. My name is Ernest Herrera, and I'm an
5 attorney at the Mexican American Legal Defense and
6 Educational Fund. I represent a group of parties known as
7 the Soto Palmer plaintiffs in this case.

8 Can you please state and spell your name?

9 A April Sims, A-P-R-I-L, last name Sims, S-I-M-S.

10 Q And have you been known by any other names?

11 A Yes.

12 Q Okay. And what are those?

13 A Last name Turner, T-U-R-N-E-R, as well as Lesane,
14 L-E-S-A-N-E.

15 Q And are you represented by an attorney today?

16 A I am.

17 Q Okay. And who is your attorney today?

18 A Aaron.

19 Q And have you ever had your deposition taken before?

20 A Yes.

21 Q And how many times have you had your deposition
22 taken before?

23 A One other time.

24 Q Okay. And do you recall what case that was in?

25 A It was the OPMA lawsuit against the Commission.

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1 Q Okay. And can you explain what OPMA is?

2 A The Open Public Meetings Act.

3 Q Okay. And do you recall approximately when that
4 deposition was?

5 A End of last year, beginning of this year.

6 Q Okay. So fairly recent --

7 A I don't recall the exact date.

8 Q Fairly recent, but I'll go over some ground rules
9 for us today for the deposition.

10 So the court reporter has put you under oath, which
11 means that you are under an obligation to tell the truth.

12 Do you understand that?

13 A I do.

14 Q And even though we are not in a court and we're
15 doing this over Zoom partially, that oath has the same
16 force and effect as if you were testifying in a court of
17 law in front of a judge or a jury.

18 Do you understand that?

19 A I do.

20 Q The court reporter will take down everything you say
21 and anything that anyone else says, unless we go off the
22 record.

23 Do you understand that?

24 A I do.

25 Q During the course of this deposition I'm going to

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1 ask you some questions, and you are going to give me your
2 answers to those questions. Because the court reporter
3 will be typing everything that we say here today, it is
4 very important that you give audible answers to my
5 questions, no um-hmms or nodding your head. Okay?

6 A Understood.

7 Q Okay. It is also very important that we don't talk
8 over each other. It's normal in natural conversation, but
9 in this case the court reporter can only write down what
10 one person is saying at a time.

11 So let's try to help her out. Okay?

12 A Okay.

13 Q If you do not understand a question, please tell me
14 that you don't understand and I will rephrase the
15 question. Okay?

16 A Okay.

17 Q If you answer the question, I'm going to assume that
18 you understood my question and your answer is to the
19 question I asked. Okay?

20 A Okay.

21 Q I don't want you to guess. If you don't know the
22 answer to a question, simply state that you don't know.
23 However, I am entitled to your best estimate.

24 So, for example, if I ask you if you know the date
25 that something occurred, you may not know the exact date,

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1 but if you can estimate that it happened after Christmas
2 but before Valentine's Day, I'm entitled to know your
3 estimate.

4 Do you understand that?

5 A I do.

6 Q Okay. Throughout the course of the deposition your
7 attorney may make objections. Even if your attorney
8 objects, unless he specifically instructs you not to
9 answer the question you must still answer the question. He
10 is simply preserving his right to object to the question.

11 Do you understand that?

12 A I do.

13 Q Okay. And I'll state here on the record I spoke
14 with Mr. Holt before we started, but we have an agreement
15 that one -- an objection by one of the parties will also
16 be -- stand for the others.

17 MR. MILLSTEIN: (Nodded.)

18 MR. HUGHES: (Nodded.)

19 Q (By Mr. Herrera) Sometime after we complete your
20 deposition you will receive a typed transcript of this
21 deposition. You'll have an opportunity to review the
22 transcript and correct any errors that you see, and then
23 you will sign it under penalty of perjury.

24 However, I will warn you that if you make anything
25 more than clerical changes like correcting typos,

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1 attorneys in this case will be able to comment on those
2 changes at trial, which could affect your credibility
3 before the judge or jury in the future. So please try to
4 give the best testimony you can here today.

5 Do you understand that?

6 A I do.

7 Q If you need to take a break for any reason, please
8 just let me know and we can take a break. However, if
9 there is a question pending that you have not answered, I
10 will ask that you answer it before we go on a break.

11 Is that okay?

12 A Yes.

13 Q Is there any reason that you cannot give your best
14 testimony here today?

15 A No.

16 Q And this is a standard question, but have you
17 consumed any medications or alcohol in the past 24 hours
18 that would prevent you from giving your best testimony
19 here today?

20 A No.

21 Q I'm going to hand you -- The court reporter is going
22 to hand you an exhibit that I'd like to mark as Exhibit 1.

23 (Sims Exhibit No. 1 marked.)

24 MR. HERRERA: I'll share that here.

25 Q And so this exhibit, do you recognize this document?

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1 A I do.

2 Q Okay. And what is this document?

3 A A subpoena to testify.

4 Q And do you see the date?

5 A Yes.

6 Q Okay. And do you see the case name?

7 A I do.

8 Q And do you understand that plaintiffs subpoenaed you
9 for a deposition in this case?

10 A Yes.

11 Q Okay. I'll represent to you that your counsel
12 agreed to accept it.

13 Are you aware of the subject matter of this lawsuit?

14 A I am.

15 Q Okay. And are you aware that this lawsuit involves
16 claims surrounding the Voting Rights Act?

17 A I am.

18 Q Now what, if anything, did you do to prepare for
19 your deposition today?

20 A I talked with my attorney. I reviewed some notes.
21 I read a memo prepared by my attorney, and I believe
22 that's it.

23 Q And did you talk with any other members of the
24 Washington State Redistricting Commission, current or
25 former?

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1 MR. HUGHES: Object to form, vague.

2 Q (By Mr. Herrera) I'm sorry. In preparation for your
3 deposition did you speak with any Commissioners, current
4 or former?

5 A Not in preparation for the deposition, no.

6 Q Okay. Did you speak with any members of the
7 Washington State Legislature in preparation for your
8 deposition today, not counting attorneys?

9 A No.

10 Q Did you review any documents in preparation for your
11 deposition?

12 A Yes.

13 Q Okay. And what documents did you review?

14 A I reviewed a memo prepared by my attorney and my
15 notes.

16 Q And when you say your notes, what notes are you
17 referring to?

18 A Notes that I -- Notes that I prepared when I was
19 preparing for the OPMA lawsuit.

20 Q Okay. And -- Okay. And you prepared those -- Would
21 you say you prepared those all at once in preparation for
22 that lawsuit?

23 A I'm not sure I understand what you mean by all at
24 once.

25 Q Are those -- What are those notes in reference to is

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1 what I'm asking.

2 A A timeline of events for our negotiations.

3 MR. MILLSTEIN: And Counsel, I'll just go
4 ahead and let you know that the notes that Ms. Sims is
5 speaking about are notes prepared in conjunction with the
6 attorneys for the OPMA lawsuit; and so it would be work
7 product underneath, and so it would be protected from
8 production.

9 MR. HERRERA: Okay.

10 Q (By Mr. Herrera) Did you review any material, any
11 documents that pertained to the Washington Redistricting
12 Commission's work in preparation for your deposition
13 today?

14 A Other than the documents I mentioned, my notes, no.

15 Q Did you review Plaintiffs' Complaint in this case in
16 preparation for your deposition today?

17 A No. I don't believe so.

18 Q Have you reviewed any -- Besides your subpoena, have
19 you reviewed any of the filings in this case?

20 A Yes.

21 Q Okay. And which ones are those?

22 A I reviewed the request for documents. I'm sure
23 that's not the right name for the actual form, but the
24 list of documents, and then the followup letter that we
25 received asking members of the Commission to produce

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1 additional documents.

2 Q And you don't have to tell me the contents of that
3 letter, but was that a letter from your attorneys?

4 A No.

5 Q Okay. Can you tell me who that letter was from?

6 A I feel like I should be able to tell you that. Just
7 from the attorneys.

8 Q Okay. I'm sure you've had many letters and many
9 documents --

10 A It feels like it.

11 Q -- going back and forth.

12 MR. MILLSTEIN: Counsel, just to assist,
13 this is the letter from Plaintiffs' counsel.

14 MR. HERRERA: Okay. Okay.

15 Q (By Mr. Herrera) And did you bring any documents
16 with you today?

17 A No.

18 Q Have you spoken to any current or former Washington
19 State Redistricting Commission staff members about your
20 deposition?

21 A Yes.

22 Q Okay. And with whom did you speak?

23 A Lisa McLean.

24 Q Is she an attorney?

25 A Not that I know of.

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1 Q And what did you speak with Ms. McLean about?

2 A I just casually mentioned that it was coming up. We
3 had lunch a few weeks ago.

4 Q Okay. And did she talk about your deposition at
5 all?

6 A No.

7 Q So are those -- Besides the conversations with your
8 attorneys and the conversation with Ms. McLean, are those
9 the extent of the conversation that you've had about your
10 deposition?

11 A No.

12 Q Okay. With whom -- With who else did you speak
13 about your deposition?

14 A My husband and my family. So my husband and my
15 daughters know, and then some members of my staff team.

16 Q And who are the members of your staff team with whom
17 you spoke?

18 A Our President Larry Brown, our Political and
19 Strategic Campaign Director Cherika Carter, and our
20 Government Affairs Director Joe Kendo.

21 Q And are those the Washington State Labor Council
22 staff, staff members?

23 A They are.

24 Q Okay. And what did you discuss with them regarding
25 your deposition?

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1 A Just that I was going to be out all day and
2 unavailable.

3 Q Now, besides -- And this is not just in preparation
4 for your deposition. Besides your discussions with
5 attorneys, with your attorneys, have you ever discussed
6 this lawsuit with anyone?

7 A Besides -- I'm sorry. I just want to --

8 Q Sure.

9 A Could you ask me the question?

10 Q Sure.

11 A Besides my attorneys?

12 Q Right. So besides your attorneys and besides the
13 conversations you had specifically about this deposition,
14 have you ever discussed this lawsuit with anyone?

15 A I believe so.

16 Q Okay. And I'll get more specific, but -- So the
17 same question. So not just in preparation for your
18 deposition, but have you ever spoken with Washington State
19 Redistricting commissioners about this case?

20 A Yes.

21 Q Okay. And with whom did you speak?

22 A I spoke with all of the other commissioners about
23 this lawsuit.

24 Q Okay. And would that be -- Do you know when you
25 spoke with them about it?

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1 A It -- Yes. It would have been shortly after the
2 lawsuit was filed.

3 Q Okay. And were attorneys present at that
4 discussion?

5 A Yes.

6 Q Were the attorneys, were they attorneys from the
7 Attorney General's Office or Mr. Millstein?

8 A Yes.

9 Q Okay. Now, outside of conversations -- Oh, sorry.
10 Go ahead.

11 A I'm sorry. Can we go back to the question that you
12 asked about who else knows about this deposition?

13 Q Oh, sure.

14 A I also had a conversation with my personal attorney,
15 Dmitri Iglitzin, about this, so --

16 Q Okay.

17 A Yeah, I just wanted to make sure I --

18 Q I appreciate that.

19 A -- didn't forget that.

20 Q So besides that conversation you had with the other
21 commissioners where attorneys were present, did you ever
22 have -- discuss the lawsuit with the other commissioners
23 besides that?

24 A Yes.

25 Q Okay. And when were those -- Was it just one

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1 instance, or were there other instances in which you spoke
2 with the other commissioners?

3 A I don't recall how many conversations we had.

4 Q Okay. But more than one would you say?

5 A It's likely we had more than one.

6 Q Okay. With whom have you spoken the most about this
7 lawsuit outside of the presence of the attorneys, in terms
8 of this lawsuit?

9 (Lights turned off.)

10 MR. HERRERA: Oh, we're too still.

11 MR. MILLSTEIN: It's because the green
12 screen is there in front of the motion sensor.

13 A I mean, I'm guessing here, but I -- probably
14 Commissioner Augustine.

15 Q (By Mr. Herrera) Okay. And did you speak with any
16 members of your staff regarding this lawsuit -- not in
17 preparation for the deposition, but just generally -- your
18 staff from the Washington State Redistricting Commission?

19 A Yes.

20 Q Okay. And with whom did you speak?

21 A Osta Davis, who was my main staff person. And I
22 believe Dominique Meyers, because she was also staffing
23 me, so it seems like I probably would have had a
24 conversation with her, but for sure Osta Davis.

25 Q And in your conversation with Ms. Davis outside

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1 of -- or regarding this lawsuit, what did you discuss?

2 A I'm sorry. Ask the question again.

3 Q So outside of -- This is excluding conversations
4 where attorneys were present, --

5 A Okay.

6 Q -- but what did you discuss with Ms. Davis regarding
7 this lawsuit?

8 A Well, we talked about the fact that the lawsuit had
9 been filed, the difficult position I felt like I was in,
10 and I think we discussed the likelihood of other lawsuits
11 and how those would impact the maps.

12 Q And that was -- That was after the -- Would you say
13 that was after the case was filed or soon after the case
14 was filed?

15 A Yes.

16 Q Okay. And besides -- Well, when you say difficult
17 position, can you explain a little bit more about what you
18 meant by that?

19 A Yeah. I mean -- I'm trying to remember all the
20 intersections here, so --

21 I think it was questions around whether or not the
22 Commission would intervene or defend the maps and whether
23 or not I felt like I could vote in favor of that, and what
24 that would mean to the communities of color in the Yakima
25 area.

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1 Q And when it came to -- Was there actually a vote
2 after all on whether or not to intervene?

3 And I'm sorry. Let me back -- Let me start again.

4 So as long as there was -- this was not part of a
5 meeting with attorneys, can you tell me if there was a
6 vote on whether or not to intervene in this lawsuit?

7 A Yeah, there was a -- I'm trying to remember the
8 exact process. There was a public meeting, and I don't
9 remember if we had an actual vote or if we just talked
10 about it and no motion was made.

11 The end result being the same, that we took no
12 action; but I don't remember if it was someone actually
13 made a motion and we had to vote on the motion, or if we
14 just discussed it and decided to take no action.

15 Q I see. And in the public meeting were you speaking
16 in favor of intervening?

17 A No.

18 Q And can you explain why that is?

19 A I mean, you know, I -- I didn't feel like it was my
20 job to tell the communities in Yakima what they needed. I
21 felt if the communities in Yakima felt like our district,
22 the districts that we drew, rather, didn't meet the needs
23 of the community, then I didn't want to be the voice to
24 interrupt or to hinder what it was that the communities on
25 the ground wanted.

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1 Q And do you recall if anyone was in favor of
2 intervening?

3 MR. MILLSTEIN: Objection to form.

4 A I'm just trying to remember which conversations we
5 had in executive session and which ones we had publicly.

6 I believe the Commission was split on whether or not
7 to intervene.

8 Q (By Mr. Herrera) From what you recall were there
9 commissioners who were in favor of intervening in this
10 lawsuit?

11 A Yes.

12 Q Okay. And can you -- Do you remember who they were?

13 A Well, it seemed that both Commissioners Fain and
14 Graves were in favor of intervening, and I believe
15 Commissioner Augustine, though she didn't have a vote,
16 also.

17 And I think I wouldn't say intervene. I would say in
18 defending the maps, which may be the same as -- might be
19 the legal term for intervention, but I think Commissioner
20 Augustine was in favor of defending the maps.

21 Q Now, besides the Commissioners and your staff, did
22 you discuss this lawsuit -- Well, let me be more specific.
23 Sorry, because there's probably a few people, but --

24 Did you ever discuss this lawsuit with any members
25 of the Washington State Legislature?

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1 A I believe I had a conversation with Laurie Jenkins,
2 the Speaker of the House, about the lawsuit.

3 Q And what do you recall about that -- What do you
4 recall about that conversation?

5 A I believe -- I believe the Speaker of the House and
6 the Senate Majority Leader were both named in the lawsuit.
7 I think I -- I think I was asking whether or not the
8 legislature would defend the maps and intervene. I was
9 trying to understand the landscape.

10 Q And -- Well, let's get into a little bit -- shift
11 gears and get just a little bit of background.

12 In which part of Washington do you currently live?

13 A Tacoma.

14 Q And how long have you lived in Tacoma?

15 A I was born in Tacoma.

16 Q Okay. And were you born and raised in Tacoma?

17 A Yes.

18 Q Tell me a little bit about your educational
19 background.

20 A Um-hmm. What specifically would you --

21 Q I guess did you -- I'm assuming you went to high
22 school in Tacoma.

23 A I did.

24 Q Okay. And did you -- Any secondary education --

25 A Yes.

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1 Q -- or post -- post high school?

2 A Some, yes.

3 Q Okay. And what did you attend?

4 A So I went to Bates Technical College as a Running
5 Start student. I went to Pierce College for -- Pierce
6 Community College for a couple of years. And I went to
7 Southern Illinois University, Carbondale, for a little
8 over a year.

9 Q Okay. And we'll mark -- The court reporter is going
10 to hand you another exhibit.

11 (Sims Exhibit No. 2 introduced.)

12 A I just cut my hair, just this weekend, too, so I'm
13 still getting used to it. Okay.

14 Q Do you recognize this document?

15 A I do.

16 Q Okay. And what is this document?

17 A This is my bio on the Washington State Labor Council
18 website.

19 Q Okay. And what is the Washington State Labor
20 Council?

21 A It is the umbrella labor organization in Washington
22 state.

23 Q Okay. And is that the WSLC for short?

24 A Correct.

25 Q And what is your -- What is your position with the

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1 WSLC?

2 A I am currently the secretary-treasurer and the
3 president-elect.

4 Q And what is involved in being the president-elect?
5 Sorry. Let me ask -- Sorry. Let me back up a second.

6 So does that mean you were just elected --

7 A Yes.

8 Q -- for president?

9 A (Nodded.)

10 Q And what are your duties as secretary-treasurer?

11 A My primary responsibilities are ensuring the
12 financial health of our organization and constitutional
13 compliance. So the secretary-treasurer of the Washington
14 State Labor Council acts as the CFO.

15 Q Okay. And congratulations, by the way.

16 A Thank you.

17 Q I'm sorry. How long have you held the position of
18 secretary-treasurer?

19 A I was sworn into office January 5th of 2019.

20 Q And is that a full-time position?

21 A It is.

22 Q And it says here that you were -- On your bio it
23 says that you were the first woman of color and the first
24 Black person to be elected as a WSLC executive officer; is
25 that correct?

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1 A It is.

2 Q And this document says that you were WSLC's
3 Political and Strategic Campaign Director since November,
4 2017, before being elected as secretary-treasurer; is that
5 right?

6 A That's correct.

7 Q Okay. And what did being the Political and
8 Strategic Campaign Director involve?

9 A Mostly -- Well, it would depend on various
10 campaigns, but the Political and Strategic Campaigns
11 Director's primary responsibilities are managing and
12 directing our political activities and political
13 engagement programs. Strategic campaigns would include
14 directing our union summer program, our candidate
15 recruitment and training program.

16 Strategic campaigns is kind of other duties as
17 assigned, so depending on the needs of the organization.

18 Q And when you say selecting candidates, what are
19 those candidates for?

20 A Oh. Candidates to run for office, so recruiting
21 union members and community partners to run for office.

22 Q Okay. And have you ever -- Have you ever worked on
23 the campaigns of any of those candidates that the WSLC
24 recruited?

25 A Yes.

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1 Q Okay. And have any of those candidates run in the
2 Yakima -- in Yakima County?

3 A Yes.

4 Q Okay. And do you recall which candidate that was?

5 A Oh. I'm terrible with names.

6 Before I joined the staff team she was one of three
7 Latinas in the City of Yakima. She served a term, and now
8 I can't remember her name.

9 Q Could it be Dulce Gutierrez?

10 A It was not Dulce. She wasn't part of the Path to
11 Power candidate training program.

12 Avina.

13 Q Okay. And what did Avina run for?

14 A She ran for Yakima City Council.

15 Q Okay. And did you work on that campaign?

16 A Yes. When I was field director we did a number of
17 phone banks in Yakima City for Dulce, Avina, and there was
18 a third candidate -- and I can't remember her name,
19 either -- but yes.

20 Q Do you recall if the third candidate for whom the
21 WSLC was campaigning was also Latina or Latino?

22 A I think she was not. I'm not sure.

23 I know for sure Dulce and Avina. And I'm trying to
24 remember the third candidate on our scripts. If you said
25 her name I would remember it, but --

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1 Q Well, from what you recall about the campaigns for
2 Dulce and Avina -- You said there was phone banking;
3 right?

4 A Correct.

5 Q Okay. And what do you recall about the phone
6 banking?

7 A Can you be more specific?

8 Q Sure. Do you -- Did you ever participate in any of
9 the phone banking yourself?

10 A I did.

11 Q Okay. And do any of the calls with voters stick out
12 in your mind?

13 A No.

14 Q Did you ever do any canvassing for those candidates
15 in their campaigns?

16 A No.

17 Q And were Dulce and Avina successful in their
18 campaigns?

19 A They were.

20 Q Okay. Do you ever recall in the phone banking for
21 Dulce and Avina any negative feedback from voters on the
22 phone?

23 MR. HUGHES: Objection, vague.

24 A Not that I can recall. I mean, it's phone banking,
25 so I'm sure there were some, "I'm not supporting your

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1 candidate," but I don't -- Nothing that --

2 I don't recall the actual numbers at the end of the
3 phone bank in terms of who we ID'd as being for our
4 candidates and what percentage were against.

5 Q (By Mr. Herrera) Okay. Now, were you also a --

6 Well, did being the Political and Strategic Campaign
7 Director involve any work in the Washington State
8 Legislature?

9 A Minimum work.

10 Q Okay. And was that -- What kind of work was that?

11 A Attending Working Family Caucus meetings. Running
12 our legislative conference. Making sure that our
13 participants had appointments to meet with legislators,
14 that they were prepared to -- that they were prepared to,
15 you know, discuss our Working Families agenda. That every
16 district had a team lead, other logistical stuff.

17 Q And before that position, Political and Strategic
18 Campaign Director, you were a Field Mobilization Director;
19 correct?

20 A Correct.

21 Q And that was some of the work you discussed with the
22 campaigns; right?

23 A Yes.

24 Q Okay.

25 A Similar work.

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1 Q In your work as a Field Mobilization Director you --
2 did you work on -- Well, it sounds like you worked on
3 campaigns for candidates for office; is that right?

4 A Correct.

5 Q Okay.

6 A And I should clarify, the work I did in Yakima in
7 2015 was in my capacity as Field Mobilization Director,
8 not Political Director.

9 Q Okay. Great. Thank you for that clarification.

10 Now, generally speaking -- Well, in your time as a
11 Field Mobilization Director I'm sure you get to meet and
12 talk with a lot of different people.

13 Do you ever recall any racist statements made when
14 you were working on a campaign by individuals you
15 encountered?

16 MR. HOLT: Objection, form.

17 A Could you ask me the question again?

18 Q (By Mr. Herrera) Sure.

19 A If I recall --

20 Q Sure. So in your time as Field Mobilization
21 Director, from working on political campaigns do you
22 recall racist statements made by any individuals you
23 encountered?

24 A I don't have anything on immediate recall, but -- I
25 mean, I have canvassed some very conservative areas, so

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1 I'm sure there were times I got back to my car and, you
2 know, debriefed an encounter, but nothing is coming
3 immediately to mind.

4 Q Okay. And before Field Mobilization Director you
5 were a Legislative and Political Action Field Coordinator
6 for the AFSCME Council 28; right?

7 A It's a fancy title, huh?

8 Q Yeah. What did that involve, that position?

9 A Legislative and Political Action Field Coordinator,
10 I was responsible for member education, communication and
11 mobilization around legislative issues and in support of
12 endorsed political candidates.

13 Q And was that -- Was that a full-time position?

14 A It was.

15 Q And before being the Legislative and Political
16 Action Field Coordinator you were a WFSE member; right?

17 A Correct.

18 Q Okay. And which union is that? I'm sorry.

19 A I should just add between being a member and the
20 Legislative and Political Action Field Coordinator I was a
21 union rep. It's not reflected in my bio, but --

22 Q Okay. Thank you. And what was -- Which union was
23 that?

24 A WFSE, the Washington Federation of State Employees.

25 Q And did that -- Were you a state employee at some

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1 point to be a part of that union?

2 A I was.

3 Q Okay. And where were you working?

4 A Division of Child Support.

5 Q Okay. Now -- Sorry. Just to go back really quickly
6 to those campaigns for Dulce and Avina in Yakima, what do
7 you recall the support for those candidates being when you
8 spoke with White voters?

9 MR. MILLSTEIN: Objection --

10 MR. HUGHES: Objection.

11 MR. MILLSTEIN: -- to form, vague.

12 A Well, all of our phone banks -- I don't recall doing
13 any door-to-door canvasses. Our phone banks were -- It
14 was all member-to-member communications. It was union
15 members.

16 We don't have in our system the ability to identify
17 race. We were --

18 So ask me the question again. I'm sorry.

19 Q (By Mr. Herrera) Sure. I think -- I think you got
20 it.

21 From your conversations with people, did you -- What
22 was the general level of support for those candidates
23 among White individuals with whom you spoke?

24 MR. MILLSTEIN: Same objection.

25 MR. HUGHES: And calls for speculation.

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1 A Yeah, and I'm not sure we were ever able to pull
2 that data. I mean, it's not data we had.

3 So I remember there being a lot of excitement and
4 support for Dulce and Avina and our other endorsed
5 candidate. They were pretty easy phone banks by
6 comparison.

7 Q (By Mr. Herrera) Okay.

8 A But it's union members talking to union members, so
9 it's a different target.

10 Q Understood. Understood. Thank you.

11 A Um-hmm.

12 Q And do you have -- Besides your position as
13 secretary-treasurer, do you have any other employment
14 currently?

15 A No.

16 Q And how did you -- Well, did you serve on the 2021
17 Washington State Redistricting Commission?

18 A I did.

19 Q Okay. And when were you appointed?

20 A I think January of '21, December of 2020, somewhere
21 in there.

22 Q And who appointed you to the Washington State
23 Redistricting Commission?

24 A Representative or Speaker Laurie Jenkins.

25 Q And so as Speaker of the House, Representative

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1 Jenkins, was she able to appoint you herself, or did it
2 have to go to some kind of vote?

3 A I'm not sure of the internal process.

4 Q Okay. Prior to your appointment to the 2021
5 Washington State Redistricting Commission had you ever
6 been involved in redistricting in any capacity?

7 A No.

8 Q And do you have any -- Did you have any involvement
9 in the 2011 Washington State Legislative redistricting
10 process?

11 A I did not.

12 Q Have your duties as a Redistricting Commissioner
13 ended?

14 A I'm here today, so it doesn't feel like it. I think
15 the Commission technically no longer exists.

16 Q Okay. I realized that as I asked the question that
17 of course you'd be here.

18 As a -- I think you mentioned one person, but as a
19 2021 Washington State Redistricting Commissioner did you
20 have any staff?

21 A Yes.

22 Q Okay. And who were those staff?

23 A Osta Davis was my primary staff, and Dominique
24 Meyers was assisting.

25 Q Okay. And what was -- Did Ms. Meyers have a title?

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1 A I don't believe she had an official title as my
2 staffer, but I believe she does have an official title
3 with the caucus.

4 Q And what were -- What were Ms. Meyers' -- I'm sorry,
5 I presumed is it Ms. -- Was it Ms. Meyers?

6 A Um-hmm.

7 Q Okay. That were her duties on your staff?

8 A She backfilled for Osta Davis when Osta was out on
9 medical leave.

10 Q So besides Ms. Davis and Ms. Meyers did you have any
11 other staff members?

12 A No.

13 Q Okay.

14 A I didn't have any other individual staff member.
15 There were other staff members working for the Commission
16 that because they were working for the Commission arguably
17 were staff that I could access, I guess.

18 Q Understood.

19 A Okay.

20 Q On approximately what date did you begin working on
21 2021 redistricting?

22 A End of January, I believe. I feel like I should
23 remember the date because it was clearly so impactful, but
24 I don't remember.

25 Q Okay. And that's January, 2021; right?

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1 A Um-hmm. Sometime after New Year's and before
2 Valentine's Day.

3 Q Okay. I'm glad you remembered that one.
4 Did you receive -- Well, let me skip ahead here.
5 Okay. I want to go over a few terms and acronyms
6 that we may be using today.

7 A Okay.

8 Q Are you familiar with the term total population?

9 A Yes.

10 Q Okay. And do you know what that term means?

11 A Yes.

12 Q Okay. And what does --

13 A I believe so.

14 Q Okay. And what is your understanding of it?

15 A Just the total number of people in any given area.

16 Q And are you familiar with the term voting age
17 population?

18 A I am.

19 Q Okay. And do you understand what that term means?

20 A I believe it to mean the total number of people of
21 voting age in a specific area.

22 Q Okay. And if I say VAP, spelled V-A-P, do you
23 understand that to be voting age population?

24 A I do.

25 Q Okay. And do you know what citizen voting age

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1 population means?

2 A I believe I do.

3 Q Okay. And is that U.S. citizens who are of voting
4 age in a given area?

5 A That's my understanding.

6 Q Okay. And if I say CVAP, spelled C-V-A-P, do you
7 understand that to be citizen voting age population?

8 A I do.

9 Q I'll be referring to Latino and Hispanic
10 interchangeably during this deposition. If I refer to
11 White residents I'm referring to White residents who do
12 not identify as Hispanic or Latino.

13 Do you understand that?

14 A Yes.

15 Q Okay. And what is your understanding -- or do you
16 understand Hispanic and Latino to be interchangeable in
17 some ways?

18 A In this context, yes.

19 Q Okay. And in the context of redistricting did you
20 understand those terms to be -- Hispanic and Latino to be
21 interchangeable?

22 A Yes.

23 Q In the redistricting process did the Commission have
24 a discussion on how they would use the terms Latino or
25 Hispanic?

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1 A Not that I recall.

2 Q And for your -- For your staff did -- Oh, sorry.

3 A Can you go back to that question?

4 Q Please. Please.

5 A Can you ask me the question again? Did we --

6 Q Sure. In the redistricting process did the
7 Commission have a discussion on how it would use the terms
8 Latino or Hispanic?

9 A Okay. Yeah, I get it. Not that I recall.

10 Q Okay. And as far as your staff for the
11 Redistricting Commission, did they use the terms Latino
12 and Hispanic interchangeably?

13 A Likely, yeah.

14 Q Now, what was your day-to-day work schedule like
15 when you began working on the Washington State
16 Redistricting Commission?

17 A So I mean it ramped up considerably, but when I
18 began at the end of January there were many days when I
19 didn't do Commission work at all. And then it ramped up
20 as I would prepare for our Commission meetings.

21 I mean, actually early on it was a little more
22 intense, just the work of standing up the Commission and
23 wrapping my mind around the work itself. And then there
24 were periods of time where there wasn't a lot of
25 Commission work to do, so --

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1 I don't know if that answers the question you're
2 asking.

3 Q That helps, yes.

4 A Okay.

5 MR. HERRERA: Can we mark this.

6 (Sims Exhibit No. 3 marked.)

7 Q The court reporter has handed you what she has
8 marked as Exhibit 3, and I want to ask do you recognize
9 this document?

10 A I do.

11 Q Bear with me one moment while I give this to our
12 folks watching at home.

13 And what do you recall -- or what is this document?

14 A These are the meeting minutes from the January 27,
15 '21 meeting.

16 Q And if you recall, was this the first meeting of the
17 Washington State Redistricting Commission?

18 A I believe it was.

19 Q And if you would, could we look at item four on the
20 first page?

21 A Um-hmm.

22 Q Do you see that there was a briefing on the Open
23 Public Meetings Act and the Public Disclosure Act?

24 A I do.

25 Q Okay. And were you present for those briefings?

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1 A I was.

2 Q Please bear with me one moment. I'm going to grab
3 another document here.

4 (Sims Exhibit No. 4 introduced.)

5 Q The court reporter has handed you what she marked as
6 Exhibit 4, and do you recognize this document?

7 A I do.

8 Q And what is this document?

9 A Meeting minutes from the May 17, '21 meeting.

10 Q And do you recall generally what the Commission was
11 doing between January, 2021 and May, 2021?

12 MR. HUGHES: Objection, vague.

13 A We would have been -- Yes, somewhat.

14 Q (By Mr. Herrera) Okay. And what do you recall about
15 that time period?

16 MR. MILLSTEIN: Objection, vague.

17 A I believe we were standing up the Commission
18 itself -- staffing up, you know, putting the pieces in
19 place so we could do our work.

20 Q (By Mr. Herrera) And could we go to page 2 of those,
21 the document that you have in front of you, Exhibit 4.

22 And do you see the second paragraph where it says,
23 "There was a recommendation that the Commission purchase
24 software that will enable a large variety of citizens to
25 participate in the drawing of maps"?

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1 A I don't see where you're -- Page 2 of Exhibit 4?

2 Q Yes. So page 2 of --

3 And are those the May 17 minutes, Exhibit 4?

4 A Yes.

5 Q Okay. So on page 2 in the second paragraph, in the
6 middle of the paragraph do you see a sentence that says,
7 "There was a recommendation that the Commission purchase
8 software"?

9 A I do.

10 Q Okay. And do you know if the Commission
11 accomplished purchase of software that enabled a large
12 variety of citizens to participate in the drawing of maps?

13 A Yes.

14 Q And do you recall what that software was?

15 A I don't.

16 Q And do you recall during the whole process reviewing
17 maps that citizens or residents drew in using that
18 software?

19 A I do.

20 Q And let's go to the bottom of this document in
21 Section IV, so actually it would be on the next page.

22 So do you see Section IV, Executive Director Update?

23 A I do.

24 Q Okay. And do you see in the first bullet point
25 there is a discussion of ordering laptops?

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1 A Yes.

2 Q Okay. And it says, "Ten standard laptops and four
3 engineering laptops were ordered;" right?

4 A Correct.

5 Q Okay. So did you have a laptop to work on
6 redistricting?

7 A I did receive a laptop, yes.

8 Q Okay. And was it a standard or an engineering one?

9 A I believe it was a standard.

10 Q Okay. And did your staff have an engineering laptop
11 for redistricting?

12 A I believe that was the intent.

13 Q You said you believe that was the intent, but did
14 you all actually have one?

15 MR. MILLSTEIN: Objection to form, vague.

16 A I don't know that I ever confirmed with Osta or Dom
17 that they had one, so I don't know.

18 Q (By Mr. Herrera) Were you -- During the
19 Redistricting Commission process did you actually use
20 computers to draw maps, draft maps?

21 A Did we use -- I'm sorry. Ask me the question.

22 Q I'm sorry. Did you personally during the
23 Redistricting Commission use laptops to draw maps?

24 A Yes.

25 Q Okay. And what software did you use to draw maps

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1 during the Redistricting Commission process?

2 A I used Dave's Redistricting website, and I would use
3 the term that I drew maps very loosely.

4 Q Okay.

5 A I played around but was not the primary map drawer.

6 Q Okay. And can you describe what your -- What you
7 would actually do in Dave's Redistricting during the
8 redistricting process?

9 MR. HUGHES: Objection, vague.

10 A I could move lines on the map and look at the impact
11 of how those lines would change a district.

12 Q (By Mr. Herrera) And when you say you could look at
13 the impact that those changes had on a district, could you
14 explain what you mean by that?

15 A Sure. How it would change the population, how it
16 would change the shape, how it would change the Democratic
17 performance. You know, whether or not those changes would
18 result in the district not being contiguous, things of
19 that nature.

20 I'm sure there are more things that I looked at, but
21 that's what's coming up right now.

22 Q Okay. And were -- When you say that you could see
23 how changes in the map would change the population in
24 Dave's Redistricting, how would you -- Let me strike that
25 and start again.

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1 So when you worked in Dave's Redistricting during
2 the redistricting process and you would move lines in
3 Dave's on different maps, would you look at changes in
4 demographic data?

5 A Yes.

6 Q Okay. And how would you do that?

7 A There was criteria that you could select, I believe,
8 and a link that you could click on that would give you
9 some of the analytics of any district or map. And you
10 could determine, you know, whether or not it was a
11 majority-minority district or what percentage of that
12 district was majority minority. And I believe --

13 Yeah. So there were analytics available through
14 Dave's Redistricting that would give demographic
15 information that you could look at.

16 Q Okay. And you mentioned majority minority. What
17 does -- When you use that term in the redistricting
18 context, what do you mean by that?

19 A Just that the majority -- Based on the data in the
20 system, the majority of the population in that district
21 was non-White.

22 Q And when you say the population, do you mean -- When
23 you say the population was non-White, are you talking
24 about the total population?

25 A You could look at yes, that was one criteria.

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1 Q And what are some other criteria?

2 A I believe voting age population was available. I
3 believe citizen voting age population was available.

4 Q Do you recall seeing citizen voting age population
5 data in the -- in Dave's Redistricting?

6 A I feel like I do but would need to double check that
7 that's accurate.

8 Q Now, were you ever -- When you would change lines on
9 a map, would you watch those changes in total population
10 or VAP in realtime?

11 A Yes. Total population for sure. I believe VAP only
12 if you selected that as the criteria, but I believe it was
13 available.

14 Q Okay. And sorry, my question was a little broad,
15 but when you would change lines in Dave's Redistricting
16 during the redistricting process and you were looking at
17 the changes in these different measures of population,
18 were you also looking at the ethnic percentage under
19 those?

20 MR. MILLSTEIN: Objection, vague.

21 A I think to the extent that the data was available in
22 Dave's Redistricting.

23 Q (By Mr. Herrera) Well, let me ask this. When you
24 were looking to see if a district might be majority
25 minority, using these different measures were you looking

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1 at the racial percentages under those different datasets?

2 A Yes. I just don't remember which races were
3 available in Dave's, --

4 Q Okay.

5 A -- like the -- But yes. Yes, I think I understand
6 the question.

7 Q Okay. And by races you mean which racial categories
8 or groups?

9 A Um-hmm.

10 THE REPORTER: Could you answer yes or no,
11 please.

12 THE WITNESS: Yes.

13 THE REPORTER: Thank you.

14 MR. HERRERA: Sorry.

15 THE WITNESS: Thank you.

16 Q (By Mr. Herrera) I'm going to pull up Dave's a little
17 bit later so we can actually see it, and then you can tell
18 me if that -- if that looks --

19 A It will be like a test then --

20 Q -- correct, yes.

21 A -- to see if I remembered right. Okay.

22 MR. HERRERA: And would you -- I think now
23 would be okay for a break. Are you --

24 MR. MILLSTEIN: That's okay.

25 MR. HERRERA: Do you need a break, or do

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1 you want to keep going?

2 THE WITNESS: Sure. Whatever.

3 MR. HERRERA: Yeah, let's take a
4 five-minute break.

5 THE WITNESS: Okay.

6 MR. HERRERA: All right.

7 THE VIDEOGRAPHER: And this marks the end
8 of file one in the deposition of April Sims. The time is
9 10:21, and we're off the record.

10 (Break 10:21 a.m. to 10:31 a.m.)

11 THE VIDEOGRAPHER: And we are back on the
12 record. Here marks the beginning of file two in the
13 deposition of April Sims. The time is 10:31.

14 Q (By Mr. Herrera) And I think you mentioned earlier
15 that you would -- There were different definitions of
16 majority and minority based on which measures of
17 population you were looking at; is that right?

18 I could ask it more directly. Sorry.

19 Would you consider some districts to be majority
20 minority based on VAP?

21 A Yes.

22 Q Okay. And would you ever consider a district to be
23 majority minority based on CVAP?

24 A Yes.

25 Q Okay. And would you ever consider a district to be

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1 a majority minority based on total population?

2 A That is not the definition for majority minority
3 that I wanted to use.

4 Q Okay. And what was the one that you wanted to use?

5 A VAP and CVAP.

6 Q Okay. And can you explain in which instances you
7 would use VAP for majority minority?

8 A I think we used VAP for majority minority for all of
9 the majority-minority districts. That's what we were
10 looking at, to get the districts to majority minority,
11 with the exception of the 14th.

12 Q And in the case of the 14th, what would you -- what
13 measure of population would you use to make it a majority
14 minority, or when you were looking at whether or not it
15 would be majority minority?

16 A We were looking at CVAP.

17 Q Okay. And -- Go ahead.

18 A Just to clarify, we were looking at VAP for majority
19 minority. We were looking at CVAP for any VRA-compliant
20 district.

21 Q Okay. And where did you get the definition of
22 majority minority from?

23 A I don't recall if it was census data or census
24 definition, or if we assumed that everyone was working off
25 of the same definition. I don't recall.

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1 Q Did the Commission ever come to common ground on a
2 definition of majority minority districts in terms of what
3 measure of population to use?

4 MR. MILLSTEIN: Objection to form.

5 A You asked if we ever came to an agreement?

6 Q (By Mr. Herrera) Right.

7 A I'm just trying to remember the sequencing.

8 I don't know that we ever -- I don't know that we
9 ever came to a formal agreement. I think we came to an
10 understanding, a shared understanding maybe I would say.

11 Q Okay. And what was that shared understanding?

12 A There's -- There was some question as to whether or
13 not we should include a group of -- There was a category
14 in the census this year, but -- I'd have to see the
15 language to remember it, but I think it was non-White?
16 No, White Hispanics? I don't know if that sounds right.

17 There was a category that we had some argument and
18 some disagreement around, whether or not those would be
19 considered a majority minority, and finally came to a
20 shared understanding that this category would not be
21 included; but I don't remember the specific category.

22 Q Okay. Well, were -- Maybe this will help jog your
23 memory, but were there any -- So putting aside for now the
24 District, 14th and 15th, were you -- were there any
25 districts that you were considering potentially as turning

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1 out to be a majority minority in the redistricting
2 process?

3 A That I was considering?

4 Q Yes.

5 A Yes.

6 Q Okay. And do you recall which ones those were?

7 A The 16th -- This is to the best of my recollection.
8 It feels a little bit like a test because it's been a long
9 time since I thought about it.

10 The 16th, the 29th, the 30th, the 33rd, the 37th,
11 the 43rd, 44th, 47th, 48th, I believe. I -- Yeah.

12 Q And those are all -- Are those all legislative
13 districts that you just listed?

14 A They are.

15 Q Okay. And when you were looking to see if those
16 might be majority-minority districts, what were -- Were
17 those including different minority groups put together to
18 be the majority?

19 MR. MILLSTEIN: Objection, form, vague.

20 A Yes.

21 Q (By Mr. Herrera) Okay. So were there any cases of
22 those districts where there was just one minority group
23 that would be the majority potentially in that district?

24 A Of the districts I mentioned?

25 Q Yes.

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1 A Not that I recall.

2 Q Okay. So all of those that you just -- Well, you
3 said you don't recall.

4 Do you recall if all of those districts that you
5 just listed -- the 16th, 29th, 30th, 33rd, 37th, 43rd,
6 44th, 47th and 48th -- if those were all potentially going
7 to be majority minority based on combining different
8 minority groups?

9 A Sorry. I got distracted because you said -- Did I
10 say the 43rd is one of the districts? I meant --

11 Q Yes.

12 A -- the 41st.

13 Q The 41st?

14 A Yes.

15 Q So take 41st -- Take 43rd out and put the 41st.

16 A Thank you.

17 Q Sure.

18 A And can you ask me the question again? I'm sorry.

19 Q Sure. Sorry. I'll -- So I'll start like this.

20 There was a list of districts that you gave -- 16th,
21 29th, 30th, 33rd, 37th, 41st replacing the 43rd, 44th,
22 47th and 48th -- those are all districts that you were
23 considering as potentially being majority minority in the
24 redistricting process; right?

25 A Correct.

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1 Q Okay. And for those districts were they all, if
2 they were going to be majority minority, combining more
3 than one minority group?

4 A I believe so.

5 Q Okay. And we'll start with the -- Well, were there
6 any districts that combined Hispanic or Latinos with other
7 minority groups to form a majority-minority district?

8 A Yes.

9 Q Okay. And do you recall which ones those were?

10 A I mean, I believe all of them.

11 Q Okay. Now, I want to -- I'll come back to this with
12 specific examples so it's easier to look at, but I want to
13 go back to a comment you had about potentially one group
14 that you would not count --

15 A Um-hmm.

16 Q -- when considering if a district would be majority
17 minority. And do you recall if it was some subset of
18 Hispanic voters?

19 A I recall that being part of the conversation, but I
20 don't have it all -- I can't -- Yeah, I don't know.

21 Q Okay. Could it possibly have been non-Hispanic
22 White voters?

23 A I mean, I suppose. It seems too easy, though, --

24 Q Yeah.

25 A -- to be this complicated in my mind, so --

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1 I would have to -- I suppose if folks were able to
2 check that box and it somehow made its way into our total
3 calculation. I just don't remember the -- I don't
4 remember clearly enough to be able to answer the question
5 around it.

6 Q Could it have been people who marked Hispanic but
7 then put other for race?

8 A Maybe, if that was one of the options.

9 I feel like I can see it on the screen in front of
10 me. I just can't recall the specifics around the
11 argument, like why we would include it versus, you know,
12 why we wouldn't.

13 Q Do you recall with whom you were having that
14 conversation?

15 A I think -- I think I had the conversation with
16 either Osta or Dom, --

17 Q Okay.

18 A -- my team. They may have alerted me to the issue.

19 And I just remembered that there was a category
20 included in there that didn't make sense to include --

21 Q Okay.

22 A -- to get to majority-minority populations. It
23 didn't feel like a true representation of
24 majority-minority population.

25 Q But from what you can recall, Hispanics were

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1 generally included when looking at whether a group -- a
2 district was majority minority?

3 A Yeah, I believe so.

4 Q And those Hispanics -- The Hispanic percentage, that
5 would be counted in the minority column?

6 A Yes.

7 Q Okay. I'm going to give you another exhibit.

8 (Sims Exhibit No. 5 introduced.)

9 Q So you have in front of you what has been marked as
10 Exhibit 5. Do you recognize this document from the first
11 page?

12 A I do.

13 Q And are these the minutes from June 21st, 2021?

14 A They are.

15 Q Okay. Sorry, the meeting minutes for the Washington
16 State Redistricting Commission for June 21st, 2021; right?

17 A Yes.

18 Q Okay. And do you see where it says under Commission
19 members present, it says that you were present; right?

20 A Correct.

21 Q And is that correct, were you at the -- this
22 meeting?

23 A I was.

24 Q And do you see under the agenda items that there is
25 an item for a Federal Voting Rights Act presentation?

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1 A Yes.

2 Q Do you recall that presentation?

3 A I do.

4 Q Okay. And what do you recall about that
5 presentation?

6 A Specifically what do I recall?

7 Q Yes.

8 A That it seemed really complicated.

9 Q Okay.

10 A I remember packing, stacking, cracking, and there
11 were two other ings that the Attorney General lifted up.

12 What I remember is there were a lot of it depends,
13 is what the presentation -- how it landed with me at the
14 end of the presentation. Like everything was just it just
15 depends. I didn't --

16 What I remember is not feeling like I had a lot of
17 clarity.

18 Q Okay. It sounds like there were lawyers there.

19 So this was a -- Do you recall -- Well, let's go to
20 page 2 of this document, and there is a heading that says
21 III, Federal Voting Rights Act presentation.

22 Do you see that?

23 A I do.

24 Q Do you see at the bottom there's a bullet point that
25 says, "AS asked about coalition districts and whether

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1 there is a legal protection." Do you see that?

2 A I do.

3 Q And do you recall asking that question?

4 A I do.

5 Q And what do -- What was your understanding of the
6 answer that you got?

7 A I took that to mean that we could draw
8 majority-minority districts.

9 Q And when you say majority minority, what measure of
10 population were you thinking about?

11 A Voting age population.

12 Q Did you understand that the other Section 2
13 principles would also apply in the case of a coalition
14 district if you were -- even if you were drawing a
15 majority-minority district?

16 MR. MILLSTEIN: Objection, form.

17 A I'm not sure I know what you mean by Section 2.

18 Q (By Mr. Herrera) Oh, sorry. So going back, going
19 up here, this presentation, was this presentation as far
20 as you recall about Section 2 of the Voting Rights Act?

21 A Yes.

22 Q Okay. Yeah. So let me go back to my other
23 question, which -- and I'll try to ask it a little more
24 clearly.

25 When it came to coalition districts did you

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1 understand that the other pre conditions would apply to
2 that kind of district even if it was a coalition district
3 versus a single minority district?

4 MR. MILLSTEIN: Objection, calls for a
5 legal conclusion.

6 A Yeah, I don't think that my understanding was that
7 sophisticated. I think I just wanted to make sure that if
8 I -- if I drew majority-minority districts, that I wasn't
9 going to violate or be accused of racial gerrymandering.

10 Q (By Mr. Herrera) Understood. And what did you
11 understand racial gerrymandering to mean?

12 A You know, I'm not sure that I did understand it. I
13 think it was that I was inappropriately -- You know, I
14 think I didn't want to --

15 I wanted to make sure that if I was drawing
16 majority-minority districts that I wasn't going to be one
17 of the ings -- stacking, cracking, packing. Are there two
18 more? Stacking, cracking, packing. For some reason I had
19 five in my mind.

20 Ask me the question one more time.

21 Q Sure. You know, I think you got all the ings. My
22 question was --

23 A So there was three? Only three?

24 Q My question was just did you understand -- What was
25 your understanding of racial gerrymanders?

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1 A Yeah, that I was doing it wrong, I guess. That by
2 drawing these majority-minority districts, I would somehow
3 be doing it wrong -- just to simplify what I was thinking.

4 Q Okay. Now, I want to pivot to the process of
5 drawing maps that were presented to the public. So
6 were -- Did the Commission, the Washington State
7 Redistricting Commission, make any draft maps available to
8 the public as the process proceeded?

9 A The individual commissioners made draft maps
10 available to the public.

11 Q Okay. And so how would -- How would individual
12 commissioners make draft maps available to the public
13 during the Redistricting Commission process?

14 A We submitted them to Commission staff, and
15 Commission staff would load them to the public website.

16 Q And when was the -- Do you recall about when was the
17 first public -- or the first time that individual
18 commissioners released public maps?

19 A I think we released public maps on September 15.
20 Legislative maps were released first. It may have been
21 the 25th of September, end of -- middle to the end of
22 September.

23 Q Did you release a public map in September of 2021?

24 A I did.

25 Q As you -- Now, heading into September, in your role

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1 as a Washington State Redistricting -- Redistricting
2 Commissioner, what were your goals?

3 A I wanted to draw maps that reflected the political
4 reality of our state. I wanted to have an open,
5 transparent process that centered the voices and the
6 experiences of the communities that would be impacted by
7 our maps. I wanted to represent my community and other
8 underrepresented communities in the process.

9 You know, and I wanted to negotiate maps by our
10 November 15 deadline. I wanted to get our work done.

11 Q And when you mentioned that one of your goals was
12 that the maps reflect the political reality of the state,
13 can you explain what you meant by that?

14 A Sure. Washington is a state that has historically
15 elected Democratic majorities, and I wanted our map to
16 reflect that continued tradition.

17 And I want to go back to my priorities. I also
18 wanted to be really intentional about engaging our tribal
19 communities and respecting Tribal Sovereignty.

20 Q And when you say -- Well, in terms of
21 underrepresented communities, were there specific
22 communities that you considered underrepresented when you
23 were setting your goals and priorities for the
24 redistricting process?

25 A Um-hmm. Yeah, Black, indigenous, people of color.

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1 Black, indigenous, and people of color.

2 Q And whom do you include in your definition of people
3 of color?

4 A Minorities, but mostly Black and Brown folks.

5 Q Do you consider Latinos to be under the category of
6 people of color?

7 A I do.

8 Q You mentioned that you wanted to, among your
9 priorities, respect Tribal Sovereignty. Now, how in terms
10 of practical effect or -- Well, in terms of considering
11 interaction with the actual district lines, what did you
12 consider to be respecting Tribal Sovereignty in
13 redistricting?

14 A I think creating a transparent process that included
15 tribal consultation with the tribes who requested it, as
16 well as proactive outreach to tribes that had not
17 requested formal consultation, to make sure that I had a
18 clear understanding of what they were asking for in the
19 redistricting process; and to the extent that I could draw
20 maps with their interests in mind, I did.

21 Q Would it be fair to say then that respecting Tribal
22 Sovereignty in redistricting involved specific concerns
23 expressed by different tribes?

24 MR. HUGHES: Objection, vague.

25 A Yeah, can you ask the question again?

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1 Q (By Mr. Herrera) Sure. That's not very clear. So
2 I'm trying to ask would it be fair to say that there's not
3 a one-size-fits-all when it comes to things that different
4 tribes would want in redistricting?

5 MR. HUGHES: Same objection.

6 A I mean, it's fair to say there's not a
7 one-size-fits-all to any community of color.

8 Q (By Mr. Herrera) Okay.

9 A Yeah.

10 Q And so different tribes may have different requests
11 or concerns when it came to redistricting; right?

12 A Yes.

13 Q Okay. And was that actually the case in
14 redistricting that you found?

15 A Yes.

16 Q Now, in setting your goals and priorities for
17 redistricting, with whom did you consult about those goals
18 and priorities?

19 A My staff, Osta Davis and Dominique Meyers. The
20 Speaker Laurie Jenkins, and Representative Joe Fitzgibbon,
21 as well as Kurt Fritts. That's all I can remember.

22 Q Okay. And who is Representative Fitzgibbon?

23 A Joe Fitzgibbon is a representative from the 34th
24 District, and I believe he is -- He's in leadership in the
25 House.

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1 Q And where is that district?

2 A The 34th District is West Seattle. And if you
3 would have asked me a year ago, I could tell you exactly
4 where every other district is.

5 Q Yeah, in redistricting you get to kind of know down
6 to streets and neighborhoods.

7 A Um-hmm.

8 Q And who is Kurt Fritts?

9 A Kurt Fritts served on -- as staff to a redistricting
10 commissioner in 2001, I believe. He does some political
11 consulting and, you know, was a sounding board for me.

12 Q Okay. And when it came to Laurie Jenkins and
13 Joe Fitzgibbon, what was their input in terms of
14 priorities and goals for redistricting?

15 A What was their input? Can you be more specific?

16 Q Sure. So did they have any priorities or goals that
17 they wanted you to consider in redistricting?

18 A I'm sure they did. I mean, we were always really
19 clear that I was -- while I was appointed by the House, I
20 was an independent commissioner. And so I'm sure that
21 they did have some, you know, desired outcomes. I'm
22 thinking about how much input --

23 I'll have to think about that.

24 Q Would they ever give -- Would Speaker Jenkins and
25 Representative Fitzgibbon ever give you feedback on

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1 specific draft maps that you were working on?

2 A I'm sure they did.

3 Q And what was the feedback that Kurt Fritts gave to
4 you when you were setting your priorities and goals for
5 redistricting?

6 MR. MILLSTEIN: Objection to form.

7 A I think it was more, you know, "Yeah, those -- the
8 way that you've laid out your priorities makes a lot of
9 sense."

10 Q (By Mr. Herrera) Now, when the commissioners --
11 Well, let me just ask.

12 When you began actual drafting of maps did you begin
13 with the maps that had been used in the past decade, i.e.,
14 the ones that were currently -- that were then in place?

15 A Yes.

16 Q Okay. And was there a term that you all used
17 collectively as the commissioners to refer to the maps
18 that were then in place in '21?

19 A I don't know that there was a term. It would be the
20 current maps, existing maps, maybe.

21 Q Okay. So you might -- You might have used different
22 terms to refer to the --

23 A Um-hmm.

24 Q -- current or existing?

25 A Maybe that's just what I used. I don't recall the

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1 Commission, you know, agreeing to what we would -- or even
2 having a conversation about how we would refer to the
3 existing maps.

4 Q Okay. So if I refer to the maps that were in place
5 before redistricting was completed in 2021 as the existing
6 maps, you'll understand what I mean?

7 A Yes.

8 Q Okay. And I'll try to clarify when I can, but just
9 for the sake of brevity.

10 A As long as you're not referring to the 2022 maps --

11 Q Right.

12 A -- as the existing maps, then I think we're good.

13 Q Okay.

14 (Sims Exhibit No. 6 introduced.)

15 THE WITNESS: Thank you.

16 Q The court reporter has handed you what is marked as
17 Exhibit 6, and I'm going to put this -- put it in the chat
18 for the people on Zoom.

19 And do you recognize this document?

20 A I do.

21 Q Okay. And what is this document, based on the first
22 page?

23 A A summary of the 2020 census data.

24 Q And do you see at the bottom there's a stamp
25 called -- We call it a Bates stamp, MEYERS_000364?

Soto Palmer, et al. v. Hobbs, et al.
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1 A I do.

2 Q And I'll represent to you that that -- that was
3 added after the fact by -- or after the fact by attorneys
4 for this case.

5 A Okay.

6 Q And so they're kind of page numbers. So they're not
7 on all the documents we'll see today, but some of them
8 have that.

9 So when did you -- or where did this 2020 Census
10 Summary come from?

11 A I believe from the Commission.

12 Q And was it produced by staff on the Commission, if
13 you recall?

14 A I believe so.

15 Q Do you recall about when in the redistricting
16 process you saw this summary of 2020 census data?

17 A Mid August, mid to the end of August.

18 Q Okay. Would it -- Would it have been after the
19 census released the 2020 census data?

20 A Yes.

21 Q So would it be fair to say that it was in August but
22 after the release of the 2020 census data that you
23 received this presentation, or --

24 A That sounds right.

25 Q -- this document?

Soto Palmer, et al. v. Hobbs, et al.
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1 Was this document discussed in a meeting of the
2 Commission?

3 A I don't recall.

4 Q Now, do you see on the first page in the third
5 bullet point it says, "Yakima area continues to have the
6 state's majority of Hispanic populations"?

7 A I do.

8 Q Okay. And what do you recall about that bullet
9 point?

10 A I don't recall anything.

11 Q Okay. And what is your understanding of what
12 that -- what was meant by that in this document?

13 MR. MILLSTEIN: Objection to form.

14 Q (By Mr. Herrera) Well, let me ask again.

15 What was your understanding of, "Yakima area
16 continues to have the state's majority of Hispanic
17 populations"?

18 A I'm sorry, what is the -- What's my understanding of
19 the bullet?

20 Q Of that statement, yes.

21 A Just that it was a data point.

22 Q Let's go to the sixth page in this document, and it
23 will have the stamp on the bottom MEYERS_369.

24 Do you see that?

25 A I do.

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1 Q Okay. And so in the middle of the page do you see
2 that it says Washington Legislative Districts 2020 Report?

3 A I do.

4 Q And then underneath that heading there was a one and
5 then a table with data?

6 A Yes.

7 Q Okay. And do you understand in this specific
8 instance, that instance, that that table is for
9 Legislative District 1 in the then existing redistricting
10 or district maps?

11 A Yes.

12 Q Okay. Now, let's scroll. Or let's go down to
13 page -- the next page. Actually, 375, MEYERS_375. So it
14 will be several pages down.

15 And do you see the 15 at the top of the page?

16 A I do.

17 Q Okay. And do you understand that to be the entry in
18 this Census Summary Report for Legislative District 15 as
19 it existed prior to the 2021 redistricting?

20 A I do.

21 Q And the major cities there are the eastern half of
22 Yakima, Toppenish, and Sunnyside?

23 A Yes.

24 Q Okay. And what was the Hispanic population in last
25 decade's District 15 as of the 2020 census?

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1 A According to this document?

2 Q Yes.

3 A 60.2 percent.

4 Q And do you recall reviewing this part of the census
5 summary?

6 A Not specifically.

7 Q And then going down to the next district there,
8 District 16, do you see that one underneath?

9 A I do.

10 Q Okay. And under District 16 do you see it says
11 Walla Walla as a major city?

12 A I do.

13 Q And then do you see where it says at the bottom,
14 "Public comments suggest to keep Pasco, Kennewick and
15 Richland as one district"?

16 A I do.

17 Q Okay. Do you know if Pasco was in the District 16
18 in the then existing plan?

19 A I don't recall.

20 Q Okay. That's okay.

21 A I feel like I should, but I don't.

22 Q And do you see that the Hispanic population is
23 60.2 percent in that district?

24 A I do.

25 Q Okay. And looking back at District 15, when you

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1 were reviewing census data in conjunction with this report
2 or soon after the data was released, do you recall
3 learning anything else about that decade -- that
4 district's demographics for District 15?

5 MR. MILLSTEIN: Objection to form, vague.

6 A Do I -- Ask me the question again. I'm sorry.

7 Q (By Mr. Herrera) Sure. Do you recall learning
8 anything else about the demographics of Legislative
9 District 15 in regard -- with regard to the census, the
10 2020 census?

11 MR. MILLSTEIN: Same objection.

12 A Do I recall --

13 I recall -- Yes, in reviewing this and other census
14 data.

15 Q (By Mr. Herrera) Okay.

16 A Is that what you're asking?

17 Q Yes, that's fine.

18 A Yes.

19 Q And what did you recall learning?

20 A I recalled learning about the CVAP and the VAP for
21 this district.

22 Q Okay. And what is it that you learned about the
23 CVAP and VAP of the then existing Legislative District 15?

24 A That the CVAP data was not current. It was based on
25 ACS, an ACS survey, I think, from 2017 or five years

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1 earlier, and that the voting age population just wasn't
2 the same, as it was lower than the total population.

3 Q Okay. So the VAP, the VAP population percentage,
4 the percentage for different groups would be lower than
5 the percentage shown --

6 A Yes.

7 Q -- in this table?

8 And for Hispanic, the category of Hispanic in
9 Legislative District 15, you understood that the VAP was
10 lower than 60.2 percent?

11 A Yes.

12 Q Okay. And you mentioned the ACS. Is that the
13 American Community Survey?

14 A Yes.

15 Q Okay. And when you said that the data wasn't
16 current, do you mean that at that time what you had
17 available to you in redistricting were the 2015 to 2019
18 ACS CVAP figures?

19 A Yes.

20 Q Okay. And what did you -- What do you recall
21 learning about Hispanic CVAP in then existing
22 Legislative District 15 in your review of census and other
23 data?

24 A What do I recall? Just that the CVAP was lower than
25 the total population as well, and that the CVAP data that

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1 we had wasn't current. It wasn't super reliable.

2 Q Okay.

3 MR. HERRERA: Sorry. Could we go off the
4 record for one moment? Sorry for you guys.

5 THE VIDEOGRAPHER: Let's go off the record.

6 And this marks the end of file two in the deposition
7 of April Sims. The time is 11:17, and we're off the
8 record.

9 (Discussion off the record.)

10 (Break 11:19 a.m. to 11:24 a.m.)

11 (Sims Exhibits Nos. 7, 8 and 9 designated.)

12 THE VIDEOGRAPHER: And we are back on the
13 record. Here marks the beginning of file three in the
14 deposition of April Sims. The time is 11:24 a.m.

15 MR. HERRERA: And while we were off the
16 record I just ask the record to reflect that we marked
17 three Exhibits 7, 8 and 9. And Exhibit 7 has the file
18 name as I uploaded it on Zoom Sep -- S-E-P Meyers Draft
19 15th Competitive.

20 Q (By Mr. Herrera) So let's look at Exhibit 7,
21 Ms. Sims, and do you see --

22 Do you recognize this document?

23 A I do.

24 (Sims Exhibit No. 7 introduced.)

25 Q Okay. And do you see that it is a -- In the subject

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1 it says Draft Map?

2 A Yes.

3 Q Okay. And do you recognize this as an email from
4 Dominique Meyers?

5 A I do.

6 Q And is that the Dominique Meyers who is on your
7 staff for Redistricting Commission?

8 A Yes.

9 Q Okay. And it says it was sent on September 8th,
10 2021; right?

11 A Correct.

12 Q Okay. And do you recall Dominique Meyers sending
13 you a draft map that includes -- a draft map on this date?

14 A Because I see the email here, yes.

15 Q Okay. And do you recall what Ms. Meyers meant when
16 she writes, "This map has the 15th competitive"?

17 A I don't recall the specifics around this map, but I
18 think -- I think I understand this to be one of the
19 scenarios we were playing around with different map
20 possibilities.

21 Q And when -- When you -- With your staff did you all
22 have a common definition of what was meant by competitive?

23 A Yes.

24 Q Okay. And what was that definition?

25 A We had agreed just for the purposes of definition,

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1 competitive was 53 to 54 percent Democratic party
2 performance -- either Republican or Democratic.

3 I'm not sure that we had that shared definition on
4 September 8th, but at one point in time during
5 negotiations we had actually defined competitive.

6 Q So a district -- And when you say 53 to 54 percent
7 party performance Dem or Republican, were you looking at a
8 specific election contest that had happened in the past?

9 A Yes. For that definition we were using the 2020
10 treasurer's race.

11 But again, I'm not sure that we were using that
12 definition in that race on September 8th, but at some
13 point that was -- that became the --

14 Q Okay. And so outside of --

15 A -- the criteria.

16 (Court reporter request for clarification.)

17 MR. HERRERA: Oh, sorry.

18 THE WITNESS: That became the criteria or
19 the definition.

20 THE REPORTER: Thank you.

21 MR. HERRERA: I'm sorry for interrupting
22 you.

23 Q (By Mr. Herrera) What is the -- Now, outside of this
24 specific use of the 2020 treasurer's race, competitive was
25 meant to refer to partisan performance in a specific area;

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1 right?

2 A Correct.

3 Q Okay. And so here going back to this exhibit, when
4 Ms. Meyers was referring to a draft map in the 15th, do
5 you see where it says, "And also majority Hispanic"?

6 A Yes.

7 Q Okay. And do you recall whether that was majority
8 Hispanic total population?

9 A I don't.

10 Q And do you know -- Do you know why she would have
11 been trying to achieve a majority Hispanic district in the
12 15th?

13 A Probably because I asked her to.

14 Q Okay. Well, sorry. That was -- Let me ask another
15 question. Why would --

16 Is there some reason you think that Ms. Meyers would
17 have been noting that the 15th in a certain draft was
18 majority Hispanic?

19 MR. MILLSTEIN: Objection, calls for
20 speculation.

21 A Yeah, ask me the question again. Do I know why she
22 would?

23 Q (By Mr. Herrera) Yeah. Why would she have noted
24 specifically that a district had a certain percentage
25 Hispanic --

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1 MR. MILLSTEIN: Same objection.

2 Q (By Mr. Herrera) -- for the 15th?

3 MR. MILLSTEIN: Sorry. Same objection.

4 A Yeah, other than that I asked her to pull the
5 numbers and draw the maps, I'm not sure.

6 Q (By Mr. Herrera) Okay. Were you -- At this point
7 were you instructing Ms. Meyers to draw a majority
8 Hispanic district in the 15th Legislative District?

9 A Yes.

10 Q And do you recall at this point in September what
11 measure of Hispanic population you were instructing
12 Ms. Meyers to use, total population, VAP or CVAP?

13 A I don't recall. I want to guess, but that wouldn't
14 be right. So I don't recall what we were looking at at
15 this time.

16 Q Okay. And here it says in the next sentence, "It
17 can easily be changed back to the 14th being majority
18 Hispanic."

19 Do you recall -- Do you know what Ms. Meyers meant
20 by that?

21 A I think we were just playing around with different
22 mapping scenarios, trying to be responsive to what we had
23 heard from community partners in terms of how we drew maps
24 in the Yakima area, both coalition partners and tribal
25 partners, and trying to draw maps that made sense in

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1 context of the overall work of the Commission, and just
2 trying to --

3 We were just playing around with different
4 scenarios.

5 Q Okay. And so was there a reason at that point you
6 were thinking of the district numbering in that area of
7 the state?

8 A Yeah. I mean, there was some conversation about
9 whether or not we should do the 14th or the 15th, I
10 believe -- Yep.

11 Q And what was the content of that conversation around
12 the numbering of the districts in that area of the state?

13 A The thought around the 15th was that the Senate seat
14 would be up in a presidential year and make it more
15 competitive, and that the 14th would be up this year at a
16 time when arguably there would be a lot of organizing on
17 the ground in the area because of the change in the county
18 elections.

19 Q And when you say the change in the county elections,
20 can you explain what you mean by that?

21 A Yeah, the settlement that resulted in redistricting
22 in the County of Yakima.

23 Q And why -- What was your reasoning for thinking that
24 there would be more organizing because of that change in
25 the county elections in Yakima?

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1 A Because the new makeup of the County Council I
2 believe resulted in a majority Hispanic council district,
3 and that there would already be on-the-ground organizing
4 in an effort to impact the outcome of that election.

5 Q So would it be fair to say that there might be more
6 organizing of Latino voters this year -- or rather in 2022
7 if for the -- if that district that was majority Hispanic
8 was given the number 14?

9 MR. MILLSTEIN: Objection to form.

10 A Can you ask it again?

11 Q (By Mr. Herrera) Well, can you explain -- Can you
12 explain what your thinking was in terms of if you were to
13 make that district that is majority Hispanic the 14th, how
14 that would interact with the organizing around the change
15 in county elections in Yakima?

16 A Just that there would be arguably more effort to
17 turn out voters, both Latino and voters in support of
18 Latino candidates or Latinx candidates, in the county
19 districts, and that could impact turnout in the state
20 legislative district race as well.

21 Q And I'm going to -- So I'm going to click on this
22 link.

23 A Okay.

24 Q And I think it might on your screen pop up a
25 browser, but if not I will share. Well, I'm going to

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1 share my screen here in a sec.

2 So I have clicked -- Actually, I'm going to share my
3 screen before I click the link.

4 A I'm --

5 Q So if you will watch the Zoom screen.

6 A Oh, okay. Hold on. Because I'm able to get in
7 here, but -- Oh, maybe I'm not. Okay. Back to Zoom.

8 I do not see this on my screen.

9 MR. MILLSTEIN: Are you sharing? You're
10 not sharing your screen currently?

11 MR. HERRERA: Oh, no.

12 MR. MILLSTEIN: No.

13 MR. HERRERA: I'm about to, yeah.

14 MR. MILLSTEIN: Okay.

15 MR. HERRERA: Sorry about that. Can --

16 MR. MILLSTEIN: Um-hmm.

17 MR. HERRERA: Now you can see that I'm
18 sharing my screen?

19 Q (By Mr. Herrera) Okay. So I'm going to click on
20 the link that is in Exhibit 7 from the September 8th
21 email.

22 A Okay.

23 Q And what do you see on the screen now?

24 A I still see the email.

25 Q We have lost the map? Okay.

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1 MR. MILLSTEIN: Yeah, it's still the email.

2 When you hit share screen are you sharing just the
3 email?

4 MR. HERRERA: I think I might be. Sorry.

5 MR. MILLSTEIN: That's the problem. If
6 you'll share the --

7 MR. HERRERA: Okay. I'm going to try the
8 share again. Sorry about that. I'm going to have to do
9 the whole window.

10 MR. MILLSTEIN: And just assuming you'll
11 represent that that is the map pulled up from clicking on
12 the link.

13 MR. HERRERA: Okay. Yes.

14 MR. MILLSTEIN: Right?

15 LINK: <https://davesredistricting.org/join/>

16 0c62e2ef-441a-43d1-b801-1561ec1d90ef

17 Q (By Mr. Herrera) So I'm pulling up the map that
18 was -- that was brought up using the link.

19 And do you see my screen now?

20 A I do.

21 (Dave's Redistricting Website displayed.)

22 Q Okay. And do you see at the top of the window that
23 I have pulled up within the browser window that it says
24 LD Draft - 9/8?

25 A Yes.

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1 Q Okay. Now, do you recall this draft map from
2 "November" 8th?

3 A Looking at it, I do recall it.

4 Q Okay. So I'm going to zoom into the area around
5 Yakima County.

6 A Um-hmm.

7 Q And do you see in the middle there, Yakima County,
8 that my cursor is in the 15th District?

9 A Yes.

10 Q Okay. Now, do you see on the side panel there are
11 district details on the right?

12 A I do.

13 Q Okay. And in this draft map from September 8th,
14 2021 by Dominique Meyers, what was the -- what was the
15 total Hispanic population percentage in that district?

16 A Total Hispanic?

17 Q Yes.

18 A 65 percent.

19 Q Okay. And what was the 2020 voting age population
20 percentage for Hispanic in the 15th in this map?

21 A 59.7.

22 Q Now I'm going to scroll down here. So I'm going to
23 pull up another -- Do you recall -- Let me ask you first
24 from --

25 If you can recall, when you were looking at this

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1 draft map were you and Ms. Meyers reviewing citizen voting
2 age population of the district in this draft?

3 A I believe so.

4 Q And at this time you had available to you the 2015
5 through 2019 ACS CVAP data; right?

6 A Correct.

7 Q Okay. So I'm going to pull up on the screen -- I'll
8 represent that I'm pulling up, adding the CVAP data from
9 2019 and adding that to the list here.

10 So I'm going to scroll down to citizen VAP 2019, and
11 I'm going back to the 15th.

12 On the district details panel on the right do you
13 see that the citizen VAP 2019 is 44.9 percent?

14 A I do.

15 Q And for the 15th District that's 44.9 percent;
16 right?

17 A Correct.

18 Q Okay. So in Ms. Meyers's email on September 8th do
19 you recall if -- when she said majority Hispanic if she
20 was referring to total population Hispanic or VAP
21 majority Hispanic?

22 A I believe she would have been referring to VAP.

23 Q Okay. And is there a reason you're using VAP at
24 that time when looking at whether the 15th was majority
25 Hispanic?

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1 A I think at that time, because we knew the CVAP data
2 was unreliable, that's -- Let me rephrase that.

3 The CVAP data was old, and so it just didn't seem
4 like an appropriate measurement.

5 MR. HERRERA: And can we -- Let's see here.
6 So at the -- Could we take a screen shot and add this to
7 the record of the -- a screen shot now of the screen and
8 add this to the record?

9 THE REPORTER: Can I --

10 MR. HERRERA: Oh, I'm sorry. Let me -- I'm
11 sorry. Go ahead.

12 THE REPORTER: Can I --

13 MR. HERRERA: Yes, please. Thank you.

14 (Court reporter attempted to take screen shot.)

15 MR. HERRERA: I might have gotten some of
16 my bookmarks in there, but -- All right.

17 Q Okay. So I'm going to stop sharing my screen now,
18 and I'm going to ask if we can look at Exhibit 8, which is
19 the file name Sims Legislative Draft 9/10/2021 Map.

20 A Okay.

21 (Sims Exhibit No. 8 introduced.)

22 Q And do you -- From the first page of this document
23 do you recognize this document?

24 A I do.

25 Q Okay. And feel free to scroll to the second page

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Lakeside Reporting (833) 365-3376

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1 to -- or second and third pages to see that it is an email
2 chain, but do you recognize this email from --

3 Do you recognize this as an email from Melissa
4 Vanderwerf to you and others?

5 A Yes.

6 And just going back to the question you asked me
7 about folks on my staff, I completely forgot about
8 Melissa. I mean her no disrespect. But she was helping
9 to do some of the technical importing and exporting of map
10 stuff --

11 Q Okay.

12 A -- and worked on the team for a couple of months.

13 Q Okay. And so that was going to be my next question.
14 So Melissa Vanderwerf, how long was she -- or for what
15 time period was she on your staff?

16 Well, let me ask first -- Let me start again.

17 Melissa Vanderwerf, was she on your staff
18 individually, or was she on the Commission's staff as a
19 whole?

20 A She was on my staff individually. Jeez, I can't
21 believe I forgot about her.

22 Q Yeah, it happens with our technical people who we
23 all love, but sometimes we forget about them.

24 A Behind the scenes work.

25 Q So this email is on September 10th, 2021; right?

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1 A Correct.

2 Q Okay. And do you see that it says, "Attached is the
3 shapefile map from Edge for April"?

4 A Yes.

5 Q And do you -- Do you see underneath Melissa's email
6 there is an email from Dominique Meyers also on
7 September 10th, and it includes you as a recipient?

8 A Yes.

9 Q Okay. And it says, "Deviations are all under 50,
10 some at zero, but about five to six between 40 to 49."

11 Do you see that?

12 A I do.

13 Q Okay. And then do you see there's more discussion,
14 and then there's a link underneath. Do you see that?

15 A I do.

16 Q Okay. And do you recall if this was your first map
17 that you made public?

18 A I believe, yes.

19 Q Okay. And so this was your -- This was the first
20 April Sims legislative draft map made public?

21 A Correct.

22 Q Okay.

23 A If -- This would have been -- That's what we're
24 talking about in this email. This link from Dave's
25 Redistricting was then put into Edge software, so it may

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1 have been -- Looking at what Dom is saying here about
2 tweaking it, cleaning it up, what is reflected in Dave's
3 Redistricting may not be exact to the file that was on the
4 Commission's website.

5 Q Okay. And do you know if those changes -- Do you
6 recall when you saw -- when the map -- when your first map
7 from September 10th went public, were there any changes
8 that came as a result of the tweaking by Melissa?

9 A I don't think there would have been any significant
10 changes, but just wanted to lift up that they may not have
11 been exact.

12 Q Okay. Now, before -- and I'm going to do the same
13 thing and open up that link, but I want to ask you first
14 what do you recall about this, the highlights of this
15 first public draft map?

16 A There were a lot of majority-minority districts -- I
17 think eight majority-minority districts. I think --

18 I think I did some questionable things by moving the
19 San Juans out of the 40th and into the 42nd. I'm really
20 thinking about things I got feedback on.

21 I drew the 14th. It wrapped around the 15th, I
22 believe, and was -- I affectionately referred to it as the
23 doughnut. I think -- and I got a lot of feedback around
24 that, just physically the way that it looked.

25 It was -- You know, I remember being really proud of

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1 the map. I wanted to draw a map that was serious and
2 realistic and wasn't just something to be -- You know, it
3 wasn't just for negotiation purposes, but it was a map
4 that I was proud of.

5 Oh, and I drew Hobbs out of the 44th. I remember
6 that.

7 Q And is there a reason why you remember that?

8 A Well, it became a -- Hobbs being drawn out of the
9 44th -- Hobbs no longer being in the 44th, rather, became
10 an issue in our negotiations.

11 Q And when you say that, do you mean the negotiations
12 among the commissioners?

13 A Yes.

14 Q What do you recall about the district configuration
15 in the area of Yakima in this first draft map?

16 A I just recall it was incredibly difficult to draw
17 the 14th and the 15th in a way that protected and
18 represented all the communities of interest and was
19 compact, contiguous and convenient -- hence the doughnut
20 hole.

21 Q And do you recall what the -- Do you recall anything
22 significant in this first draft map about the Latino
23 percentage in the districts around Yakima?

24 A Ask me the question again.

25 Q Sure. So what do you recall about the Hispanic

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1 percentages in the area of Yakima in this first draft map?
2 A I believe it was high -- high Latino CVAP, maybe
3 VAP. I don't remember if it was VAP or CVAP at that point
4 in time -- and high Democratic performance -- high for the
5 area.

6 Q Let's open it up. Now I'm going to open the link in
7 Exhibit 8, so that's the --

8 MR. HERRERA: For the record that's the
9 link that is under the email from Dominique Meyers on
10 September 10th, 2021 at 4:58 p.m.

11 LINK: [https://Davesredistricting.org/join/](https://Davesredistricting.org/join/caf5d14c-6d71-4a27-a51a-e8e44008af95)
12 [caf5d14c-6d71-4a27-a51a-e8e44008af95](https://Davesredistricting.org/join/caf5d14c-6d71-4a27-a51a-e8e44008af95)

13 MR. HUGHES: Sorry to interrupt. Is the
14 screen --

15 MR. HERRERA: Oh, sorry.

16 MR. HUGHES: Is the screen shot an exhibit
17 now, too?

18 MR. HERRERA: Yes. So I guess that would
19 be Exhibit 11.

20 THE REPORTER: That was 10.

21 MR. HERRERA: Or part of -- Oh, 10. Okay.
22 Thanks.

23 (Sims Exhibit No. 10 designated.)

24 THE WITNESS: And are you sharing this?

25 MR. HERRERA: I'll remember to do that from

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1 now on.

2 THE WITNESS: Are you sharing this on the
3 Zoom screen again?

4 MR. HERRERA: Yes, I'm going to -- Let's
5 see here.

6 (Dave's Redistricting Website displayed.)

7 Q Okay. So this is -- I'll represent to you that I
8 clicked the link from the email I was just mentioning, and
9 this is -- At the top do you see that it says within this
10 Dave's Redistricting window Final Sims Map 9/13/21?

11 A Yes.

12 Q Okay. And do you recognize -- and please, if I can
13 zoom into any area to help you remember -- do you remember
14 if this was your first public draft map, save the
15 adjustments by Melissa?

16 A This looks right.

17 Q Okay. So I'm going to zoom into the area of Yakima
18 County.

19 A There's my doughnut hole.

20 Q All right. And what was the feedback that you got
21 on the doughnut hole?

22 A I -- I think some folks were critical of the way it
23 looked, but I did get feedback from the Redistricting
24 Coalition that this was close to what they had hoped for
25 in their draft mapping.

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1 Q I'm sorry. Who was that that --

2 A The Redistricting Coalition.

3 Q I see. Which -- Do you -- Can you -- Can you
4 mention, or can you discuss what you mean by their
5 feedback? Was there a meeting, or --

6 A Yes. Commissioner Walkinshaw and I met with them,
7 and I believe they gave public testimony.

8 I mean, there were lots of other things they didn't
9 like, but this they seemed to like.

10 Q And was that the -- Was it Redistricting Coalition,
11 or was there some other word in there for that?

12 A Again, I mean no disrespect. There may have been
13 another word in there. Redistricting Fairness Coalition?
14 I just -- I'm going to say the Redistricting Coalition --

15 Q Okay.

16 A -- so that I'm not guessing.

17 Q Okay. Could it have been the Redistricting Justice
18 Coalition?

19 A Yes.

20 Q That's it?

21 A That sounds right.

22 Q Okay. And what was their feedback with regard to
23 the 15th in this first public draft map?

24 A I'm not sure that I recall whether or not the
25 feedback was specific to the 15th or the 14th.

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1 What I remember is this is still not perfect, but of
2 the four districts -- Of the four draft maps from the
3 individual commissioners, this was the one that was more
4 nearly right from their point of view.

5 Q Okay. And now I'm going to show you on the side
6 panel here, so far on the side, the details under district
7 details on the right, we have total pop 2020 and voting
8 age pop 2020 available; correct?

9 A Correct.

10 Q Okay. And so do you see for the 15th District in
11 your first public draft map that Hispanic is at
12 65.9 percent?

13 A Yes.

14 Q Okay. And for -- In total population?

15 A Yes.

16 Q Okay. And for the voting age population from 2020
17 in Legislative District 15 in this first public draft map
18 the Hispanic percentage is 60.6; right?

19 A Correct.

20 Q 60.6. Okay. Do you recall whether the citizen
21 voting age population for Hispanics was under 50 percent?

22 A I don't recall.

23 Q Okay. So I'm going to add that here to our details.

24 And on the right for district details for the 15th
25 do you see citizen VAP 2019, and it says Hispanic

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1 46 percent?

2 A That's what I see, correct.

3 Q Okay. And do you recall that being the Hispanic
4 CVAP 2019 percentage in your first draft map for
5 District 15?

6 A If this is -- If what I'm looking at is my final
7 map, then that's accurate, yes.

8 Q Okay.

9 A Or rather my final draft one map.

10 Q Okay.

11 MR. HERRERA: And can we take a -- Can we
12 please do a screen shot and mark it as Exhibit --

13 THE REPORTER: Eleven.

14 MR. HERRERA: -- 11.

15 (Court reporter attempted to take a screen shot.)

16 (Sims Exhibit No. 11 designated.)

17 Q Now I'm going to stop sharing this. What --
18 With regard to this first draft map in district --
19 Well, strike that. Let me go to another --

20 So in your first public draft map why was it that --
21 Well, in your first public draft map were you trying to
22 achieve a Hispanic majority in the 15th District?

23 A Was I trying to?

24 Q Yes.

25 A Yes.

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1 Q Okay. And were you trying to do so in terms of
2 voting age population for Hispanics?

3 A Yes.

4 Q Okay. And why was that?

5 A Well, to be responsive to requests from communities
6 on the ground.

7 Q Any other reasons?

8 A Not at that time. That, and it seemed like the
9 right thing to do. I just want to say that, right. At
10 that time those were the two things, the two factors I
11 recall.

12 Q And can you explain why you thought it was the right
13 thing to do at that point?

14 A Um-hmm. I mean, I thought that we were required to
15 do it, and it's what communities were asking for, hence it
16 being the right thing to do, that if there was a way to
17 draw it in a way that made sense, then we should just do
18 it if we could.

19 Q And what was the basis of you thinking that it was
20 required?

21 A I think it was based on the VRA presentation -- my
22 understanding of the VRA presentation at the time and
23 based on feedback that I had gotten from my staff team.

24 Q Now, the -- this first draft map, that is not what
25 the Washington State Redistricting Commission ultimately

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1 approved; right?

2 A Sadly, no.

3 Q Let's go to Exhibit -- I think it was Exhibit 9,
4 the -- It's the one that says 2022 District Map Book
5 Excerpts.

6 (Sims Exhibit No. 9 introduced.)

7 Q Is that one pulled up in front of you?

8 A Yes.

9 Q Okay. And do you see that it says 2022 Washington
10 State Map Book on Congressional and Legislative Districts?

11 A I do.

12 Q And then underneath it says Washington State
13 Redistricting Commission.

14 A Yes.

15 Q Now, I will represent to you that this -- I pulled
16 this and then cut some pages out from the Washington State
17 Redistricting Commission's website, but do you recall from
18 the first two pages what this document was?

19 A Yes.

20 Q Okay. And what was it?

21 A I believe it was our final report or production of
22 the work of the Redistricting Commission.

23 Q And that report was -- To whom did you send this
24 report as the Commission?

25 A Well, we sent a report to the Legislature. I'm not

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1 sure that they got this glossy production.

2 Q Okay.

3 A So I'm not sure who got the final, you know, for
4 public consumption document.

5 Q Well, at least I got it.

6 A The general public.

7 Q Right.

8 A Yes. But I don't recall if this was also sent to
9 the Legislature as a part of the report or if it was just
10 the report that the Commission approved.

11 Q Okay. And let's go to -- There's the fourth page in
12 my kind of editing of this document, there's a picture of
13 a map, and it says Legislative District Maps.

14 Do you see that yet?

15 A Yes.

16 Q Okay. And it has the page number, although it's
17 very tiny, on the bottom right, page 28.

18 A Yes.

19 Q Okay. Now, I know it's oriented sideways or the
20 wrong way, but is that the map that the Washington State
21 Redistricting Commission ultimately approved?

22 A It is.

23 Q Okay. Now, if we scroll down a few more pages, and
24 I have on page 32, or page 6 in this exhibit, I have
25 Legislative District 1 just as an example of one of the

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1 pages here; but it skips on the next page to 13.

2 Do you see that, on page 7 or labeled page 56 in
3 this book?

4 A Yes.

5 Q Okay. And then it goes -- It keeps going to the
6 14th, and then the 15th is after that.

7 A Yes.

8 Q Okay. So on Legislative District -- Let's look at
9 the page with Legislative District 15. Do you see that?

10 A I do.

11 Q And does that reflect the final shape of Legislative
12 District 15 in the map that the Washington State
13 Redistricting Commission approved?

14 A I believe so.

15 Q So let's look at the demographic table next to LD 15
16 in this exhibit. So there's the -- Next to the picture of
17 the map there's a table. Do you see that?

18 A I do.

19 Q Okay.

20 A I don't know what I did. I shrunk it down
21 accidentally.

22 (Court reporter request for clarification.)

23 A I had technical difficulties. I figured it out.

24 Q Okay. And sorry, it's kind of tiny, but can you see
25 that there's some columns underneath --

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1 MR. MILLSTEIN: I'll help you zoom in.

2 MR. HERRERA: Sure. Yes.

3 MR. MILLSTEIN: Counsel, I'll help her zoom
4 in.

5 THE WITNESS: It's a little embarrassing.

6 MR. MILLSTEIN: I can't read this, either,
7 so -- I'll zoom out one more so it's a little more
8 fulsome. Is that okay for you?

9 THE WITNESS: Perfect.

10 Q (By Mr. Herrera) Now, these are not percentages but
11 numbers, but do you see reflected anywhere here citizen
12 voting age population figures for the Legislative
13 District 15?

14 A I don't -- Wait. I don't see CVAP --

15 Q Okay.

16 A -- identified here.

17 Q Okay. And do you know if the Washington State
18 Redistricting Commission produced to the public citizen
19 voting age population data for its final redistricting
20 map?

21 A I don't recall.

22 Q Okay. Do you recall in the final map if according
23 to the 2015 through 2019 ACS CVAP data if Latinos were a
24 majority of CVAP in the final Legislative District 15?

25 A Yes.

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1 Q Okay. And I'm not -- This is not a test, but I just
2 want to see if you remember.

3 A Yeah.

4 Q Was it -- Do you remember the percentage?

5 A It was over 50 percent, I believe, using the ACS
6 data, --

7 Q Okay.

8 A -- not -- It was over 50 percent, but I don't
9 remember the exact percentage.

10 Q Okay. And did the final map that the Commission
11 approved meet your goals for redistricting regarding
12 Legislative District 15?

13 A That's such a good question.

14 Yes.

15 Q We could break here. I think this would be a
16 good -- This is a really good stopping point for me, so I
17 don't know if we want to take lunch and then come back.

18 Would that work for you?

19 A Yeah, but before we do I just want to go back --

20 Q Oh, sure.

21 A -- to this question --

22 Q Please.

23 A -- about whether or not it met my goals.

24 Q Okay.

25 A Because I mean, it was a negotiation; right? So my

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1 draft maps met my goals.

2 I think the final map was a representation of what I
3 was able to negotiate with those priorities in mind or
4 with those goals in mind.

5 Q Okay. And with respect to --

6 MR. HERRERA: Well, okay. All right. I
7 think we can take a break now. Can we go off the record?

8 THE VIDEOGRAPHER: And this marks the end
9 of file three in the deposition of April Sims. The time
10 is 12:09 p.m., and we're off the record.

11 (Break 12:09 p.m. to 1:06 p.m.)

12 THE VIDEOGRAPHER: And we are back on the
13 record. Here marks the beginning of file four in the
14 deposition of April Sims. The time is 1:06 p.m.

15 Q (By Mr. Herrera) Do you have a -- Do you know how
16 many maps the Commission publicly released before the
17 final maps?

18 MR. HUGHES: Object to form.

19 A I don't -- The members -- The members of the
20 Commission, individual commissioners each released a draft
21 legislative map and a draft congressional map, and then
22 Brady Walkinshaw and I both released a second draft --
23 second draft legislative maps.

24 So a total of ten.

25 Q (By Mr. Herrera) Okay.

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1 A Did I do my math right? Four and four and two more
2 is ten. But they weren't Commission maps. They were
3 individual commissioners' maps.

4 Q Okay. That's helpful, and sorry for not being clear
5 or more specific.

6 So as far as the maps that were public in which you
7 were involved, there was your first draft map and then a
8 joint one with Commissioner Brady Walkinshaw?

9 A No.

10 MR. MILLSTEIN: Object to form.

11 Q (By Mr. Herrera) Okay. Sorry.

12 A That's okay.

13 No. I released two draft legislative maps, and
14 Brady Walkinshaw also released two draft legislative maps.
15 We never released a joint map.

16 Q Now, this -- I think we discussed your first public
17 draft map from September 10th or 13th; right? This
18 morning we discussed that.

19 A Yes.

20 Q Okay. Do you recall when your second draft map,
21 when you released that one for legislative districts?

22 A It would have been sometime the first two weeks in
23 October. I don't recall the exact date, but sometime in
24 early October.

25 Q Now, do you recall the specifics of the maps that

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1 Commissioner Walkinshaw released for the legislative
2 districts?

3 MR. MILLSTEIN: Object to the form.

4 A For which map?

5 Q (By Mr. Herrera) Okay. So for the -- For the
6 legislative districts do you recall the details of the two
7 public maps that Commissioner Walkinshaw released?

8 A I recall some of the details. There were -- So yes.

9 Q And did Commissioner Walkinshaw also release his
10 first map publicly in September?

11 A I believe so, yes. We all released our maps on the
12 same day in September.

13 Q And then your second maps that were released by the
14 commissioners publicly for legislative districts, were
15 those all on the same day as well?

16 MR. MILLSTEIN: Objection to form.

17 A Can you ask me the question again, --

18 Q (By Mr. Herrera) Sure.

19 A -- the second maps?

20 Q You said that for your September public maps that
21 each of the commissioners released for legislative
22 districts that they all went out -- they were all made
23 public on the same day; is that right?

24 A Correct.

25 Q Okay. There was a second draft map by each of the

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1 commissioners for the legislative districts released
2 publicly. Do you know when those were released?

3 A If -- If I remember right, the Republican
4 commissioners did not do a second legislative draft map.
5 Only Brady Walkinshaw and I did --

6 Q Okay.

7 A -- a second draft legislative district map. And I
8 believe we released those on the same day.

9 Q Do you recall the date of the second legislative
10 draft map that you released publicly?

11 A It would have been sometime in the first -- in the
12 beginning of October. I don't remember the exact date,
13 but sometime during the first probably two weeks of
14 October.

15 Q And for your maps that you released publicly,
16 thinking about the ones in September and October, what
17 were the major differences in those two legislative draft
18 maps?

19 A Well, the drawing of the 14th and 15th. And I put
20 the San Juans back in the 40th District.

21 There were a couple of other things. Those were the
22 two things that I remember the most. I think I made some
23 changes to southwest Washington.

24 I looked at the feedback that we got through the
25 public feedback process in September and used a lot of

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1 that feedback to inform the changes that I made in my
2 second draft map.

3 Q And sorry, just for clarification, the San Juans,
4 who are you referring to when you say the San Juans?

5 A Sorry. The San Juan Islands.

6 Q Okay.

7 A I drew them and put them in the 42nd District in my
8 first draft, and I put them back in the 40th District in
9 my second draft.

10 There was a lot of public testimony about moving the
11 San Juan Islands to another district.

12 Q And do you recall what the -- what feedback about
13 the San Juan Islands made you make that change in your
14 October public legislative draft map?

15 A It was feedback that we got from tribal communities
16 that they didn't -- about separating the San Juan Islands
17 and feedback that we got from other community partners
18 about the similarities -- the communities of interest that
19 the San Juan Islands represented in terms of them being
20 connected to Anacortes and other areas that were in the
21 40th District.

22 And moving the San Juans into the 42nd increased the
23 Democratic performance of that district considerably, and
24 it was a topic of negotiation -- or would have been a
25 topic of negotiation.

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1 Q So in your -- I'm sorry. I know you said this
2 partially already, but the October map, legislative draft
3 map, put the San Juan Islands in the 42nd or the 40th?

4 A Put the San Juan Islands in the 40th, --

5 Q Okay. So --

6 A -- where they were originally in the existing maps.

7 Q Okay. Now, you mentioned that there were
8 differences in the area of the 14th and 15th Legislative
9 Districts --

10 A Um-hmm.

11 Q -- between your September and October public
12 legislative draft maps.

13 What were those -- What was that major difference in
14 those areas?

15 A Oh, I'd have to look at the two maps, but I believe
16 that we were looking at CVAP at that time. And my
17 original 15th District based on analysis that the Senate
18 had received wasn't good enough.

19 And then I think -- I think there was part of my
20 14th, the doughnut, that was not contiguous because it cut
21 into a mountain pass that was closed for a few months out
22 of the year.

23 And I think in my second version I made -- that's
24 when I made the 44th a majority-minority district, and I
25 think I made the 16th majority minority in that map.

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1 I drew two more majority-minority districts in my
2 second draft. I know the 44th was one. So I wanted one
3 in Pierce and Snohomish County as well, so -- But I don't
4 remember what the second one was.

5 Q And the 44th in your second public legislative draft
6 map, what -- what groups did you combine to make it a
7 majority-minority district?

8 A I think all of the groups that we had census data on
9 that suggested that they fell into a minority category, so
10 whatever the compilation was.

11 Q Do you know what the -- Among the minority groups
12 that made it a minority-majority district, do you know
13 which group was the plurality group in that second
14 legislative district map?

15 A In the 44th?

16 Q Yes, in the 44th.

17 A I don't. I don't recall.

18 (Sims Exhibit No. 12 introduced.)

19 MR. HERRERA: Sorry. For the people on
20 Zoom, give me one sec to drop that for you.

21 MR. MILLSTEIN: What exhibit -- Sorry,
22 exhibit number?

23 THE REPORTER: Twelve.

24 MR. MILLSTEIN: Twelve. Thank you.

25 Q (By Mr. Herrera) So in front of you you have what

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1 has been marked as Exhibit 12, and do you recognize the
2 first page of this exhibit?

3 A I do.

4 Q Okay. And what do you recognize about this first
5 page?

6 A It looks like an email from Dominique Meyers to me
7 with some talking points, and I imagine that these are
8 talking points for my public map, for my first draft map
9 legislative map -- or maybe both, actually.

10 It's just some draft messaging and talking points.

11 Q Okay. And do you see in the subject or rather in
12 the attachment line it says Draft Messaging Doc
13 9-23-21.docx?

14 A Yes.

15 Q Okay. And then in the body of the email here do you
16 see that Ms. Meyers said, "I added talking points for the
17 shape of the 14th as well. This is at the end of the
18 doc."

19 Do you see that?

20 A I do.

21 Q And then in the first sentence it said, "Updated doc
22 with VRA talking points from Alec."

23 Do you see that?

24 A I do.

25 Q Who is Alec?

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1 A I think Alec is the House Caucus staff. I'm not sure
2 of his actual title. I believe that's the Alec that she's
3 referring to.

4 Q And is that the House Democratic Caucus?

5 A Yes.

6 Q And is Alec, was he an attorney for you in
7 redistricting at all?

8 A I think Alec is an attorney. He was never my
9 attorney.

10 Q Okay. Now, in the next three pages of this document
11 I will represent to you that this is the document that was
12 produced to us in discovery of the same file name that is
13 in the attachment line, Draft Messaging Doc 9-23-21.

14 So if we look on the second page of this exhibit
15 where it says top line, do you see that?

16 A Second page?

17 MR. MILLSTEIN: It's double sided for you.

18 THE WITNESS: Oh.

19 MR. HERRERA: Oh, sorry.

20 A I do see it. I was --

21 Q (By Mr. Herrera) Okay. Sorry about that.

22 A -- thinking the second page of the document. I
23 gotcha.

24 Yes, I do.

25 Q Sorry about that.

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1 Now, here do you see it says, "Top line: My map
2 does the following"?

3 A Yes.

4 Q Okay. And you can take a second to review those
5 three pages, but do you recognize these three pages as the
6 draft messaging for your first legislative -- or your
7 first maps that were released publicly?

8 A Yes.

9 MR. HUGHES: Sorry. Could I ask a quick
10 clarifying question?

11 MR. HERRERA: Sure.

12 MR. HUGHES: So could we get Alec's last
13 name for the record?

14 MR. HERRERA: Oh, sure.

15 Q (By Mr. Herrera) Do you recall Alec's last name?

16 A You're going to put me on the spot, Counsel.

17 MR. HUGHES: Sorry.

18 A I believe it's Bane.

19 MR. HERRERA: Okay. I actually don't
20 remember, either.

21 MR. HUGHES: Could it be Osenbach? Do you
22 mind me asking? I'm sorry.

23 MR. HERRERA: No, no. It could be. Go
24 ahead.

25 MR. HUGHES: Could it be Alec Osenbach, by

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1 chance?

2 THE WITNESS: It could be. There was a
3 couple Alecs, but I --

4 MR. MILLSTEIN: Okay.

5 THE WITNESS: So thank you. I'm not sure.

6 MR. HERRERA: Okay. I'm actually not sure,
7 either. Yes, I think it is Alec Osenbach.

8 Q (By Mr. Herrera) Okay. So looking at the messaging
9 document, did Ms. Meyers draft these, or --

10 A She sent them to me.

11 Q Okay. Now let's look at the second page of the
12 messaging document. So at the top the first sentence
13 would be, "Look the statute requires."

14 A Uh-hmm.

15 Q Do you see that page?

16 A I do.

17 Q Okay. Now, if you go to the bottom of that second
18 page of the messaging document do you see that it says
19 VRA Questions as one of the headings?

20 A Yes.

21 Q And then it describes a -- It says there's -- It
22 says, quote, "There's a two-step analysis under the VRA to
23 determine if a majority-minority district should be
24 drawn." End quote.

25 Is that right?

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1 A Yes.

2 Q Now, if we go to the next page there's a second --
3 There's another bullet point that begins with, quote,
4 "With both of these conditions satisfied," unquote.

5 Do you see that bullet point?

6 A I do.

7 Q Okay. I'd like you to take a second to review that
8 full bullet point.

9 A Okay.

10 Q Now, do you see the sentence that begins with,
11 "Experts will argue about whether the legal requirement is
12 50 percent plus one Latinx or some more substantial
13 majority."

14 Do you see that?

15 A I do.

16 Q Okay. And what is your recollection of your
17 thinking at the time of this messaging document as far as
18 it goes for what the legal requirement was?

19 MR. MILLSTEIN: Objection to form.

20 A Can you ask me the question again?

21 Q (By Mr. Herrera) Sure. Well, first of all I should
22 ask so looking at this quote, "Experts will argue about
23 whether the legal requirement is 50 percent plus one
24 Latinx or some more substantial majority," unquote, so
25 that part of it, do you recall what's being referred to

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1 there?

2 A If I remember right, these were top line talking
3 points for public interviews --

4 Q Okay.

5 A -- or press interviews. So if the press should
6 call, that I could be armed with some talking points.

7 Q Okay. And so looking at this whole section that's
8 called VRA Questions, why were you including these
9 messaging points in this -- or let me strike that.

10 In this section under VRA Questions in this
11 messaging document, were these points preparing you to
12 answer questions about a specific part of your first
13 public draft map for legislative districts?

14 MR. MILLSTEIN: Objection to form.

15 A Yes.

16 Q (By Mr. Herrera) Okay.

17 A These I believe were preparing me for public
18 dialogue on my original draft map.

19 Q Okay. And were they preparing you for dialogue
20 about a specific district within your first public draft
21 map?

22 A Yes.

23 Q Okay. And which district was that?

24 A Districts, really. I think it was the 14th and the
25 15th, and to answer the question about my doughnut.

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1 Q Okay. Now, focusing again on the line that says --
2 that begins with, "Experts will argue," at that time did
3 you have an understanding of what the legal requirement
4 was with regard to how -- what percentage Latino the
5 district had to be?

6 MR. HUGHES: Objection, calls for a
7 legal -- legal conclusion. Pardon me.

8 A Has it -- Okay. So did I -- I'm sorry. At the time
9 did I -- Can you just -- I want to make sure --

10 Q (By Mr. Herrera) Sure. I'll put it more simply. So
11 looking at this, mostly that paragraph, but if any of this
12 other stuff helps you remember, what was your thinking at
13 this time about what the Voting Rights Act required in the
14 14th and 15th Districts area?

15 MR. MILLSTEIN: Objection, calls for a
16 legal conclusion.

17 A So I -- My -- I thought that my first draft map was
18 a good -- that my first 14th and 15th were good. I
19 didn't --

20 I still don't understand VRA in terms of all of the
21 depends and the nuance of it, but that the district that I
22 had drawn as I had drawn it, because it was so close to
23 what the coalition had proposed, was good enough to
24 satisfy -- I don't know if I would say satisfy the
25 requirements of the VRA because that's a threshold I don't

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1 think -- I still don't think I understand, but --

2 I thought that my first map was good enough.

3 Q (By Mr. Herrera) And what -- So not just thinking
4 about the percentage, but what made you believe at that
5 time that your first draft map was good enough with regard
6 to compliance with the Voting Rights Act in the 14th and
7 15th Districts?

8 A That it was a majority Latino or Hispanic district
9 that we had by VAP, I think, and that we had kept
10 communities whole to the extent that we could.

11 Q At the time of your -- At the time of your first
12 draft map did you -- with regard to the 14th and 15th
13 Districts and complying with the Voting Rights Act, did
14 you conduct any analysis of racially polarized voting in
15 that area?

16 A I did not.

17 Q Okay.

18 A Well, let me -- Well, what do you mean by analysis?
19 Like --

20 Q Sure. So did you -- Did you --

21 First I'll ask did you conduct any racially
22 polarized voting analysis in the area of the 14th and 15th
23 Districts leading up to you releasing your first public
24 draft map?

25 A Well, again, I'm not sure what you mean by analysis.

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1 I was aware of the City of Yakima lawsuit and the city
2 of -- or the County of Yakima lawsuit, and so that was
3 information that I had that helped inform my decision.

4 Q And what about those two lawsuits that you just
5 mentioned informed your decision?

6 A Well, that the city -- or the voters won against the
7 city and that that was based on racialized voting. And
8 that the county settled the lawsuit, likely because they
9 knew they were going to lose on the grounds of racially
10 polarized voting.

11 Q And when you said that the voters wanted -- it was
12 based on racialized voting, did you mean racially
13 polarized voting?

14 A Yes. Thank you.

15 Q Okay. And so besides -- Besides being aware of
16 those two lawsuits and what they said about racially
17 polarized voting, did you know anything else about that
18 area in terms of racially polarized voting before the
19 release of your first public draft legislative map?

20 A Nothing that immediately comes to mind.

21 Q Leading up to that first public draft map, in the
22 areas of the 14th and 15th Legislative Districts did you
23 examine the levels at which Latinos were registered to
24 vote?

25 A I don't think I examined those levels. I think I

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1 may have been through a presentation where someone might
2 have provided some of that data, but I wouldn't say that I
3 examined --

4 Q Okay.

5 A -- the data in drawing my maps.

6 Q Now, if it's -- I'm going to ask you about that
7 presentation, but if it is a presentation by someone -- by
8 an attorney, you don't have to answer, or you may be
9 instructed not to answer; but I'm going to ask you who
10 made that presentation that from which you recall perhaps
11 content about the levels at which Latinos were registered
12 to vote in the areas of the 14th and 15th Legislative
13 Districts?

14 A I think it was the Redistricting Justice Coalition.

15 Q So besides that presentation did you or your staff
16 conduct any examination of the levels at which Latinos
17 were registered to vote in the areas of the 14th and 15th
18 Legislative Districts prior to the release of your first
19 map?

20 A Not that I'm aware of.

21 Q Were there any -- In the areas of the 14th and 15th
22 Legislative Districts leading up to the release of your
23 first public draft map, did you look at how -- how Latino
24 candidates of choice performed in elections?

25 A Prior to my first map? No.

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1 Q And I think you may have mentioned something earlier
2 today, but leading up to your first public draft map, in
3 the areas of the 14th and 15th Legislative Districts were
4 you looking at partisan performance in that area?

5 A Yes.

6 Q Okay. And can you -- What in particular were you
7 looking at in that area with regard to partisan
8 performance?

9 A I mean -- Well, okay. So specifically I was looking
10 at composite data in Dave's Redistricting that would
11 calculate or tell me what the Democratic performance was
12 in specific districts and in specific areas, composite
13 election data.

14 Q Okay.

15 A Well, both composite election data and targeted
16 election data.

17 Q Okay. And for the composite election data what --
18 what elections were you using for that composite election
19 data in looking at the 14th and 15th Legislative Districts
20 leading up to your first draft map or public draft map?

21 A I'm probably going to miss a couple or maybe get a
22 couple of these wrong.

23 I believe composite data was presidential 2020,
24 gubernatorial 2020, Secretary of State 2020. There might
25 have been -- Who was up in 2018, was it Cantwell?

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1 Cantwell in 2018.

2 It was a -- I feel like there were five races that
3 we pulled, and I don't remember them off the top of my
4 head.

5 I feel like Osta would know this, probably has this
6 on immediate recall. Presidential, gubernatorial, maybe
7 Secretary of State. AG? Maybe 2020 AG. And I think '18
8 Cantwell.

9 And then I looked at just straight Biden 2020 or
10 presidential 2020 as well, just to better understand the
11 landscape.

12 Q Now, moving on. So after your first public draft
13 map do you recall a presentation released or made by
14 Dr. Matt Barreto on October 19th, 2021?

15 A I do.

16 Q Okay.

17 A October 19th -- I recall a presentation. I don't
18 remember the date.

19 Q Okay. But you recall a presentation by Matt
20 Barreto?

21 A Yes.

22 Q Okay. And was that presentation by Matt Barreto in
23 October of 2021?

24 A Yes.

25 Q Okay. And what do you recall from that

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1 presentation?

2 A My big takeaway from that presentation is my
3 original draft map wasn't good enough to satisfy VRA --
4 that my original 14th and 15th.

5 And I want to go back. You were asking me about the
6 14th and 15th earlier in terms of which district. I might
7 have had those backwards, which one was up in a
8 presidential year. Now I can't remember if it was the
9 14th or the 15th that was up, but one was up.

10 One is up this year, and one isn't up until '22. I
11 just can't remember which one is which. I think I got it.

12 Sorry. It's -- I just want to make sure --

13 Q No problem at all.

14 A -- I'm being as accurate as possible and not giving
15 you wrong information.

16 Q What about Dr. Barreto's presentation in October of
17 2021 made you think that your first draft map was not good
18 enough?

19 A My CVAP wasn't high enough, and there was some
20 conversation about Democratic performance and whether or
21 not the Democratic performance of the district was high
22 enough.

23 And I remember being surprised by the variance in
24 the size of his draft map because I think it was 7,000 --
25 seven to ten thousand over the 157,000 target. They had

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1 to make the district bigger in order to draw it the way
2 that he wanted.

3 Q Oh, so it was -- You're remembering that it might
4 have been like 7,000 over the ideal population?

5 A Yeah.

6 Q Okay. Now, --

7 A Ish. Sorry. Seven thousand-ish. I just remember
8 it was quite larger than the variances that I was trying
9 to draw.

10 Q Okay. And in the -- When you say the CVAP was not
11 high enough in your first legislative draft map, can you
12 tell me what you mean by that?

13 A It wasn't over 50 percent.

14 Q Okay. And over 50 percent meaning the -- meaning
15 what?

16 A That the citizen voting age population for the
17 Hispanic or Latino community in that district was not over
18 50 percent.

19 Q Okay. And in your first --

20 A In my draft.

21 Q In your draft. And in that draft it was the 15th
22 where it was not over 50 percent Latino CVAP, but you
23 thought maybe it should have been?

24 A Correct.

25 Q Okay.

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1 (Sims Exhibit No. 13 introduced.)

2 MR. HERRERA: Andrew, I have one for you,
3 too.

4 Q And I'm handing what you has been marked as
5 Exhibit 13, and do you recognize this document?

6 A I do.

7 MR. HERRERA: And one moment for our Zoom
8 attendees. I just put it in the chat, so I'm going to
9 give you a second to open it up, Dallin. All right.

10 Q (By Mr. Herrera) Okay. So --

11 MR. HOLT: Sorry, what was that marked as
12 again?

13 MR. HERRERA: Thirteen.

14 MR. HOLT: Thirteen. Thanks.

15 Q (By Mr. Herrera) Okay. And what is this document
16 in front of you?

17 A It's a document from Osta Davis forwarding
18 Commissioner Walkinshaw's press release with a recommended
19 quote for my Twitter feed.

20 Q Okay. And this is on October 21st; correct?

21 A Yes, which means that when you asked me about when
22 we released our maps, it would have been after this press
23 release, so my timing is off. I told you we released maps
24 the first two weeks in October, so it must have been -- It
25 had to have been after this.

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1 Q Okay. And why do you say it was probably after
2 this?

3 A Because it was this analysis -- this analysis,
4 because we redrew -- I redrew my map of the 14th and the
5 15th based on this.

6 So I would have had to have had this information
7 when I released my second draft, so it had to have been
8 after the 21st of October.

9 Q Now, in this -- in this email from Osta Davis to you
10 this is a recommended quote; right?

11 A Correct.

12 Q Okay. So if you look at the first sentence in the
13 recommended quote, it says, quote, "The Voting Rights Act
14 represents hard fought protections to ensure that
15 discrimination has no place in our democracy", unquote;
16 right?

17 A Correct.

18 Q And then further into the recommended quote it says,
19 "This analysis provides the Commission with a clear
20 directive: Draw a district that allows the Latino
21 community in the Yakima Valley to elect their candidate of
22 choice," and it's end of quote.

23 So do you see that?

24 A I do.

25 Q Okay. Now, what is your understanding of the

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1 meaning of a district that allows the Latino community in
2 Yakima Valley to elect their candidate of choice?

3 A That it be a majority Latino CVAP district.

4 Q Are there any other -- Based on your understanding
5 are there any other things you should look at to see
6 whether a district would allow the Latino community in the
7 Yakima Valley to elect a candidate of choice?

8 A I think --

9 MR. HOLT: Objection, form.

10 A I think there were outstanding questions as to
11 whether or not we needed to draw a district that had a
12 high Democratic DPI, but I don't think there was clarity
13 around that question.

14 Q (By Mr. Herrera) Now, besides the -- Could you
15 explain what DPI means?

16 A Oh, Democratic performance.

17 Q Okay. And is DPI something that you and your staff
18 used to examine Democratic performance?

19 A Yes.

20 Q Okay. And how -- What -- What was DPI? I guess
21 what was contained in it?

22 A Well, it depends on what election results you're
23 looking at. So if you were looking at just presidential
24 elections, then the DPI would give you -- would be one
25 number. If you were looking at composite data, the DPI

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1 would be different.

2 The DPI changed for the 2020 treasurer's race. So
3 it really just depended on what datasets you were looking
4 at.

5 Q And were -- Was there a set of elections or contests
6 that you and your staff were using to examine Democratic
7 performance after looking at Dr Barreto's analysis?

8 A We looked at a lot of different datasets. The ones
9 I mentioned, 2020 treasurer's race, we compared that to
10 the composite data in Dave's. We compared that to Biden
11 or presidential 2020 performance.

12 And I believe in some cases we looked at individual
13 legislative performance in some districts.

14 Q Now, did you examine whether the treasurer's --
15 Did you and your team ever analyze whether one of
16 the candidates in the treasurer's race that you were
17 looking at was the Latino candidate of choice?

18 A I don't believe so.

19 Q Did you and your team ever examine whether within
20 the race that involved President Biden which candidate was
21 the Latino candidate of choice?

22 A I don't think it was that specific, but in Dave's
23 you can hover over an area, and you can see in that area
24 the demographic information, similar to what we looked at
25 earlier, which would show you what the DPI was.

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1 So you could -- You could see in a district -- So
2 you had enough data to make some assumptions that if this
3 district had a high Latino population and a high 2020
4 presidential DPI, you know, you could -- There was enough
5 data to make assumptions, but I think your question was
6 more pointed than that.

7 So ask me the question again. I'm sorry.

8 Q Sure. So -- Well, and if it's -- If there are
9 assumptions that you were working off of, you can describe
10 those, too; but I want to know whether you tried to
11 determine whether President Trump or President Biden were
12 the -- which one of those was the candidate -- the Latino
13 candidate of choice.

14 A I don't believe we did.

15 Q So the same -- a similar question for -- I think you
16 said you looked at the -- Well, you said you might have
17 looked in some cases at the performance in legislative
18 contests; is that right?

19 A Correct.

20 Q Okay. And do you recall which legislative contests
21 you might have looked at in the context of the 14th or
22 15th Legislative Districts after the Barreto presentation?

23 A I don't recall. I would just be guessing that
24 this -- I would just be guessing. I don't recall.

25 (Sims Exhibit No. 14 introduced.)

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1 MR. HERRERA: Sorry, I have demoted you
2 once again, Andrew. Sorry. That one is a short one.

3 Okay. I'm dropping it for our attorneys on the
4 Zoom.

5 Q (By Mr. Herrera) Okay. So you're now looking at
6 what was marked as Exhibit 14.

7 Do you recognize this document?

8 A I do.

9 Q Okay. And what is this document?

10 A It's an email string with me, Dominique Meyers and
11 Osta Davis where I am forwarding them an apology email I
12 received from Matt Bridges.

13 Q Okay. And this is on -- The email that is
14 forwarded, or the email from Dominique Meyers to you is on
15 October 22nd, and it's also --

16 What is the date of the apology email?

17 A Also October 22nd.

18 Q Okay. And -- Well, first of all, who is -- Who is
19 Matt Bridges?

20 A He's a staffer for the Senate Democrats, was the
21 primary map drawer for Brady Walkinshaw's team.

22 Map drawer is not the right word. Cartographer, I
23 guess is the correct word.

24 Q Now, do you know what he was apologizing -- what
25 Matt Bridges was apologizing for in this email?

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1 A Yes.

2 Q Okay. And can you explain what that was?

3 A He was apologizing for his behavior in our meeting
4 earlier that day.

5 Q And can you -- Can you explain what you experienced
6 in terms of his behavior?

7 A He was rude and condescending, out of line.

8 Q And what was he being rude and condescending about?

9 A So I had suggested a strategy conversation and a way
10 to engage communities in the Yakima area, and he proceeded
11 in interrupt me and lecture me on the harms that White
12 folks have committed against communities of color.

13 Q And do you -- What was he saying about what White
14 folks have done to communities of color?

15 A I don't remember the specifics now. I was pretty
16 angry at the time.

17 Just, you know, the historic wrongs that, you know,
18 White folks have committed against communities of color.
19 I'm trying to remember some of the specifics. I just
20 remember being really surprised and offended at being
21 lectured. I think -- I actually told him I didn't think
22 anyone on the call needed to lecture me on the histories
23 this country has.

24 Q And when you say that it concerned -- that before he
25 started talking about what he talked about, you were

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1 discussing outreach with regard to drawing districts.

2 Were you referring to drawing a legislative district
3 in a specific area?

4 A Yes.

5 Q Okay. And which area was that?

6 A In the Yakima area.

7 Q Okay. And why were you trying to -- or I guess what
8 were you trying to explain about your -- what you wanted
9 to do in terms of outreach in the Yakima Valley area?

10 A Well, we were having a lot of conversations about
11 how to draw districts that were going to impact folks on
12 the ground, and I --

13 I hadn't heard in any of our conversations that for
14 all of the analysis we had that we had actually had
15 conversations with communities in Yakima and wanted to
16 make sure that they were part of the conversation before
17 we moved further and that we engaged them as strategic
18 stakeholders in the process.

19 Q And what were some of the things that you wanted to
20 ask community members from the Yakima Valley area?

21 A What they wanted, what would be most helpful.

22 Q Okay. And what -- Were there specific questions
23 or -- Well, let me strike that.

24 Were there specific things you wanted to learn about
25 from people in the Yakima Valley area with regard to

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1 drawing of the legislative district lines?

2 A There was a lot I wanted to know. You know, whether
3 or not the proposed maps in Barreto's analysis were what
4 the folks on the ground wanted. You know, what would --
5 If we weren't able to negotiate maps that looked like the
6 maps in the Barreto memo, whether or not there were other
7 maps that would work, and what would happen if we weren't
8 able to successfully negotiate a VRA-compliant district.

9 Q And was there something about the drawing of a
10 district in the Yakima Valley area with regard to the
11 Voting Rights Act -- Let me strike that.

12 So with regard to -- Was there something that
13 Matt Bridges was saying with regard to the Voting Rights
14 Act in the Yakima Valley area when he had this -- when he
15 behaved rude and condescendingly?

16 A Say that --

17 MR. MILLSTEIN: Objection to form.

18 A Say that again one more time.

19 Q (By Mr. Herrera) So in this conversation, this
20 meeting where Matt Bridges was behaving rudely and
21 condescendingly, --

22 A That's on the record now, isn't it?

23 Q Yes.

24 -- was he discussing anything with regard to
25 compliance with the Voting Rights Act in that area?

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1 MR. MILLSTEIN: Objection to form.

2 A I mean, the whole conversation was about the Voting
3 Rights Act. Our whole strategy conversation was centered
4 around the Voting Rights Act and the Barreto memo and how
5 that would impact our work moving forward.

6 Q (By Mr. Herrera) And was there something when he
7 had -- when he started to speak rudely and condescendingly
8 that he was -- was there a point that he was making with
9 regard to specific strategy on the Voting Rights Act and
10 drawing of a district?

11 A Well, I mean, I think his point was that we needed
12 to negotiate a VRA-compliant district, and -- Yeah.

13 Q Did you and Mr. Bridges have a disagreement about
14 how a Voting Rights Act-compliant district should be drawn
15 in the Yakima Valley area?

16 A I wouldn't say that we had a disagreement. I mean,
17 he wasn't a commissioner; right? So I don't mean to be
18 disrespectful to his status, but I didn't see that as a
19 disagreement because I didn't see him -- He wasn't a
20 voting member of the Commission, so I didn't register his
21 comments -- I wouldn't have registered them as a
22 disagreement because I didn't see him as a decision-maker
23 in the process.

24 Q Was Commissioner Walkinshaw in that meeting?

25 A He was in the meeting. He left the meeting shortly

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1 before the exchange that I had with Matt, so he wasn't
2 there for this part of the meeting.

3 Q Now, in this meeting you said that the whole meeting
4 was about compliance with the Voting Rights Act, and your
5 strategy, as in you and Commissioner Walkinshaw's
6 strategy, with regard to the Yakima Valley area; is that
7 right?

8 A If I said the whole meeting, then I misspoke.

9 Q Okay.

10 A It was a strategy meeting. The VRA was a subject of
11 that. I think this meeting Brady and I were talking about
12 the differences between our two maps and trying to
13 reconcile them.

14 Q I see. Now, was there -- In that meeting did you --
15 on October 22nd did you discuss with Commissioner
16 Walkinshaw's staff what would be done if you could not
17 negotiate a Voting Rights Act-compliant district in the
18 Yakima Valley area?

19 A Ask the -- Did we discuss -- Could you ask me the
20 question again?

21 Q Well, let me ask it -- Let me step back.

22 In that meeting on October 22nd did you discuss with
23 Commissioner Walkinshaw's team how to go about negotiating
24 a Voting Rights Act-compliant district with the other two
25 commissioners?

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1 A I'm sure that we did.

2 Q Okay. And do you recall what the discussion was
3 about that negotiation on strategy with regards to a
4 Voting Rights Act-compliant district?

5 A I think we were still -- I think Brady and I still
6 had our districts flipped; so I think I drew 15 as the VRA
7 district, and he drew 14, or vice versa. I think we were
8 working off those pieces.

9 Specific to the VRA we were probably talking about
10 whether or not the district went north or further east.
11 We just had some different approaches to areas in our map
12 we were trying to reconcile.

13 Q In that October 22nd meeting did you -- do you
14 recall discussing with Commissioner Walkinshaw's staff
15 the idea of a watered down VRA district?

16 A A watered down VRA district?

17 Q Um-hmm.

18 MR. HUGHES: Object to form.

19 A I don't recall ever using that language.

20 Q (By Mr. Herrera) Okay. Do you ever -- Do you recall
21 from the October 22nd meeting discussing what kind of VRA
22 district -- Well, let me strike that.

23 In that meeting did you discuss with Commissioner
24 Walkinshaw's staff whether a district in the Yakima Valley
25 region that had higher -- that was a majority of Latino

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1 citizen voting age population would withstand a Voting
2 Rights Act lawsuit?

3 MR. MILLSTEIN: Objection to form.

4 A I remember -- I don't know that I would characterize
5 it that way. I remember asking if anyone had talked to
6 the communities on the ground about what they want and
7 wanting to make sure that we weren't doing harm to
8 communities in our negotiations.

9 Q (By Mr. Herrera) And to you was there -- Was there
10 something about the VR -- Well, strike that.

11 Was there something about the district proposals
12 that Dr. Barreto had shown the commissioners that you
13 thought could potentially hurt communities in the
14 Yakima Valley area?

15 MR. MILLSTEIN: Objection to form.

16 A Well, yes.

17 Q (By Mr. Herrera) And what were those?

18 A Well, I had heard from communities on the ground
19 that the Barreto district went north into Ybarra's
20 district, which I think is the 13th, and that that would
21 divide these communities; and that the communities in
22 Yakima wanted our map to go further east, and I think that
23 is what triggered my concern around whether or not we had
24 been engaging those communities in the conversation before
25 we just drew maps that were going to impact them for the

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1 next decade.

2 Q And when you say that there were communities telling
3 you to go east, can you explain which communities you're
4 talking about?

5 A There were -- There was public testimony. I think
6 there were folks that might have reached out. There
7 were --

8 There was the Redistricting Justice Coalition, which
9 was one organization, but there were other organizations
10 in the Yakima Valley that weren't engaged in that
11 commission and didn't feel like they were being treated as
12 stakeholders, from my understanding.

13 Q Do you recall what those other organizations in
14 Yakima were that felt like they weren't being treated like
15 stakeholders?

16 A I don't even know that they were organizations. I
17 know that there were redistricting forums happening in the
18 Yakima area that I don't believe were part of the
19 Redistricting Justice Coalition.

20 So it was like a statewide organization that's doing
21 great work and then local organizations that are also
22 doing great work, and my sense at the time was there was a
23 disconnect between those two groups.

24 Q And the local orgs that had forums, what were
25 their -- Well, first of all did you attend any of those

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1 forums by local organizations?

2 A I did not.

3 Q Okay. Do you -- How did you receive -- Well, if you
4 received at all, how did you receive feedback from those
5 local organizations about what they wanted in the Yakima
6 Valley region?

7 A Again, I'm using the term organizations loosely
8 because I don't know that there were any -- I don't know
9 of any specific organizations. I just know that there
10 were folks on the ground in the community, and they were
11 folks that were participating in some of the redistricting
12 forums that were happening in Yakima.

13 And I'm not even sure the name of the organization
14 that was putting on those listening sessions or those --
15 hosting those conversations.

16 Q Could it have been -- Well, first I'll ask do you
17 know who the folks were on the ground in the community?

18 A Dr. Vickie Ybarra was doing a lot of the organizing
19 around those listening sessions, and I don't know her
20 level of engagement with the Voting Justice Coalition.

21 Q Once you -- Well, what were the concerns that you
22 heard from folks on the ground in the community about
23 redistricting in the Yakima Valley area?

24 A Mostly what I mentioned, that the Barreto district
25 went north, and that wasn't the district that they wanted.

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1 They wanted a district that went east.

2 Q And by east do you mean -- What do you mean by going
3 east?

4 A Into Pasco and the Tri-Cities area, and I believe
5 southeast. I'd have to look at the maps again to refresh
6 my memory, but --

7 Q And so these local, the folks on the ground in the
8 community who said that they wanted to go east, were they
9 thinking of a district that would begin on the western end
10 in the City of Yakima and then go all the way to Pasco?

11 MR. MILLSTEIN: Objection to form.

12 A I believe so.

13 Q (By Mr. Herrera) Okay. And --

14 A But it would still include the Yakima -- some of the
15 City of Yakima and then just go further east.

16 Q Okay. And were they -- Were those local community
17 folks who were expressing concerns, were they wanting to
18 go also into the Yakima Valley, into the communities that
19 are south of the City of Yakima?

20 MR. MILLSTEIN: Objection to form.

21 A I'd have to look at a map.

22 Q (By Mr. Herrera) Okay.

23 A If you had asked me a year ago, I could -- All this
24 was on total recall.

25 Q Okay. Do you remember Othello factoring into any of

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1 the comments by local community people who wanted to go
2 east with the district?

3 A Yes. Yes.

4 Q And so did these local community folks from what you
5 recall, including Doctor or Vickie Ybarra, did they submit
6 a proposed map?

7 A I think so. And I want to clarify that I don't -- I
8 never had any direct engagement with Dr. Ybarra. I just
9 know that she was part of the groups that were meeting
10 locally.

11 Q Okay.

12 A I believe they submitted a map and/or provided
13 public testimony.

14 Q Okay. Did you ever remember expressing in this
15 October 22nd meeting or to anyone else the idea that it
16 might be more difficult to bring a Voting Rights Act
17 violation case against the Commission if they had a
18 majority CVAP Hispanic district, even if that district
19 didn't necessarily allow for the ability for that
20 community to elect their candidates of choice?

21 MR. MILLSTEIN: Objection to form.

22 A You're asking me if I said that?

23 Q (By Mr. Herrera) Yes.

24 A Can you read me the statement again?

25 Q Sure. So did you ever express anything in this

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1 meeting or with your staff that it might be more difficult
2 to bring a Voting Rights Act violation case against the
3 Commission if they had a majority CVAP Hispanic district,
4 even if that district didn't necessarily allow for the
5 ability for that community to elect their candidate of
6 choice?

7 MR. MILLSTEIN: Same objection.

8 MR. HUGHES: I'm going to object, also.
9 You appear to be reading a document to the witness without
10 showing her.

11 A Yeah, I wouldn't -- No.

12 MR. HERRERA: Okay. Well, I mean, I can
13 show it. It's marked up, but it's --

14 MR. HUGHES: It's your deposition.

15 MR. HERRERA: Huh?

16 MR. HUGHES: It's your deposition. I'm
17 just -- I lodged my objection.

18 Q (By Mr. Herrera) Okay. At this point on
19 October 22nd when you were having your meeting, we
20 discussed some of the things about what your understanding
21 of what would be required in order to comply with the
22 Voting Rights Act in the Yakima Valley area.

23 What was -- Did you express any of your
24 understanding of what would be required under the Voting
25 Rights Act in the Yakima Valley area to the attendees in

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1 that meeting?

2 MR. MILLSTEIN: Objection to form.

3 A No. Let me think about that. Ask me the question
4 one more time. I'm sorry.

5 Q (By Mr. Herrera) Sure. So we discussed a little bit
6 earlier you were talking about what you thought might
7 be -- what your understanding is of what might be required
8 --

9 A Um-hmm.

10 Q -- in a Voting Rights Act district -- or sorry, with
11 regard to the Voting Rights Act in the 14th and 15th
12 Districts.

13 Did you express what your understanding was of what
14 the Voting Rights Act required in the Yakima Valley
15 region?

16 MR. MILLSTEIN: Objection to form.

17 A No. I mean candidly, I still had outstanding
18 questions about what was required, and I think somewhere
19 around that time I asked the question of our AG.

20 MR. MILLSTEIN: Well, I'm going to go ahead
21 and object to the extent you're going to talk about -- and
22 instruct you not to talk about communications you had with
23 the AG's office or questions that you've raised with the
24 AG's office because it calls for attorney-client
25 privileged communications.

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1 To the extent you want to -- Just to clarify and not
2 make this more difficult than necessary, to the extent you
3 want to answer and provide context about statements you
4 might have raised with other people other than the AG's
5 office --

6 THE WITNESS: Um-hmm.

7 MR. MILLSTEIN: -- or questions you had
8 with your staff that are not about the AG's office, what
9 the AG's office told you, --

10 THE WITNESS: Um-hmm.

11 MR. MILLSTEIN: -- you can answer about
12 those, just not about your discussion with --

13 THE WITNESS: Fair enough.

14 MR. MILLSTEIN: -- the AG's office.

15 THE WITNESS: Fair enough.

16 MR. MILLSTEIN: If that makes sense.

17 THE WITNESS: Yes.

18 MR. MILLSTEIN: Great.

19 A So I think I had my mind wrapped around the
20 requirement that we have a CVAP Latino district in the
21 Yakima Valley and did not have my mind wrapped around the
22 outstanding question of what the DPI of that district
23 should be in order to be VRA compliant.

24 And since I was still wrapping my mind around those
25 things, I can't imagine a scenario in which I would make a

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1 statement that you just -- like what you just said.

2 (Sims Exhibit No. 15 introduced.

3 Q (By Mr. Herrera) You've been handed what's marked as
4 Exhibit 15. Do you recognize this document?

5 A I do.

6 Q Bear with me one moment. I'm sending it to the
7 Zoom.

8 And do you see this -- Do you recognize that this is
9 an email from Osta Davis to you on October 25th, and the
10 subject is Most Updated Map?

11 A Yes.

12 Q Okay. And do you recall receiving a draft map from
13 Ms. Davis on that date?

14 A Because it's here in email, then -- and this email
15 tells me she sent me one, then yes. I'm sure she was
16 sending me lots of versions by this time.

17 Q Okay. I'm going to go ahead and share my screen --

18 A Okay.

19 Q -- again.

20 A The questions -- Can I just go back?

21 Q Sure.

22 A The questions that you were asking me about the
23 VRA-compliant district is based on our meeting on
24 October 22nd that I had with Brady Walkinshaw's staff?

25 Q Right.

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1 A Okay.

2 Q Well, my question was what your understanding was at
3 the time of that meeting.

4 A My understanding of --

5 Q Of how to comply with the Voting Rights Act.

6 A Okay.

7 Q So I'm going to share my screen with you.

8 (Sims Exhibit No. 15 displayed.)

9 Q So I'm sharing -- You're looking at the email that
10 we're looking at. So I'm going to click -- It's going
11 to -- I'm going to have to re-share my screen, but I'm
12 clicking on it there; and I'm going to switch over to what
13 that click pulls up for us.

14 (Dave's Redistricting Website displayed.)

15 Q And this is what comes up when I click on that link.
16 And do you see a window from Dave's Redistricting here?

17 A I do.

18 Q And do you see that the map title in Dave's
19 Redistricting here is V5 10/22/21?

20 A I do.

21 Q Okay. And I'm going to zoom into the Yakima Valley
22 area, and I'm going to put my cursor on top of the kind of
23 brown-greenish district there in the middle.

24 A Um-hmm.

25 Q And it is the -- It comes up as the 14th.

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1 Do you see that district?

2 A I do.

3 Q Okay. And what do you recall about this draft map?

4 Well, I'm sorry. Let me strike that.

5 Do you recall this being the configuration of the

6 14th that Ms. Davis was sending you in October, on

7 October 25th?

8 A Yeah, to the best of my recollection.

9 But I think one of the things that I want to lift
10 up, if I remember right about Dave's Redistricting, every
11 time -- You have to save a copy and work from a copy. If
12 someone sends you a link and you make changes to that
13 link, I believe if I made changes to this right now and
14 then you clicked on this link tomorrow, you would see
15 those changes today.

16 So I don't know if this here is the exact same link
17 that she sent me on the 25th of October.

18 Does that make sense what I'm --

19 Q Yes. Yes.

20 A Okay.

21 Q So you're saying it might have changed after she
22 sent it?

23 A That you can overwrite -- Yeah. Yes. That if she
24 continued to tweak it, it could have changed.

25 Q Okay.

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1 A And you wouldn't need to send out a new link. Does
2 that make sense what I'm saying?

3 Q Yes.

4 A Okay.

5 Q Well, I'll ask you is there -- Do you recall any
6 characteristics about maps that -- draft maps that you
7 were discussing with Ms. Davis at this time?

8 A I really don't recall if this was -- This must have
9 been -- You know, this time is a little bit of a blur for
10 me in terms of all of the different maps that we were --
11 and versions that we were working with.

12 I don't know if this was leading up to my second
13 draft map or if this was negotiations scenarios, which
14 were very different things. So I don't recall the
15 specifics about this map on this day.

16 Q Okay. And I'm going to -- And obviously with the
17 understanding that this may not be the precise version
18 that Ms. Davis sent you -- I'll represent that I have not
19 altered it, but I'm going to -- I'm going to add 2019
20 citizen voting age population --

21 A Okay.

22 Q -- to the figures we're looking at, and I'm going to
23 scroll back to the 14th.

24 And do you see that the citizen voting age
25 population according to the 2019 CVAP figures is 51.64 --

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1 A I do.

2 Q -- for the 14th?

3 A Yes.

4 Q Okay. And does that sound like what you were trying
5 to draft at that time with Ms. Davis?

6 A Yes, in terms of a CVAP Yakima district. I think
7 what I want to offer is that there are and were several
8 versions of maps because of what I always referred to as
9 like the water balloon effect.

10 Q Um-hmm.

11 A Sometimes you make the smallest change in a district
12 on the east side, and it completely changes a district in
13 King County. And so I don't remember if in this map she
14 had told me this map does this here, but it has this
15 impact there. So I just wanted to lift that up and
16 provide that context.

17 Q Okay. A second ago you said that -- You mentioned
18 draft maps, and then you mentioned negotiation scenarios.

19 A Um-hmm.

20 Q What is the difference between those two in your
21 mind?

22 A Well, the draft map is a -- was my public-facing map
23 and another opportunity for me to identify and lift up my
24 priorities.

25 The negotiation scenario maps were really where we

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1 were playing around with what happens in -- what happens
2 if -- Let me give you an example, just looking at this.

3 If we agreed to certain DPI in the 17th, which is
4 down in Vancouver, how does that impact what happens in
5 Klickitat and Benton County. And does that mean that you
6 can no longer pull your population from Highway 2, and
7 that now you have to go over I-90. You know, like what is
8 the -- What is the ripple effect of these changes and
9 negotiations and what are the tradeoffs.

10 Q Now, you say that part of it is how when you make
11 one change in a map it can cause you called it a water
12 balloon effect elsewhere; right?

13 A Um-hmm.

14 Q In negotiation scenarios was it also possible that
15 if you wanted to change certain aspects of a draft map
16 that that would cause other commissioners to want changes
17 in other parts of the map?

18 MR. MILLSTEIN: Objection to form.

19 A Well, so the drafting of the maps, that was
20 internal.

21 Q (By Mr. Herrera) Um-hmm.

22 A It was what me and my team were doing and the
23 different decision points we were trying to reconcile. We
24 would do those draftings -- We would draft to prepare for
25 negotiations and to respond to negotiations.

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1 We weren't drafting maps as proposals, but in any
2 negotiation it is, you know, a meeting of two wills, I
3 suppose; right? In terms of -- So there was some -- Yeah,
4 there's negotiation, some back-and-forth.

5 Q And would that back-and-forth ever involve a
6 tradeoff in terms of partisan performance for one party or
7 the other if -- Well, let me strike that and start again.

8 So in negotiations did you ever run into the concern
9 or issue of proposing a change in a district with regard
10 to demographics that would cause other commissioners to
11 want changes in terms of partisan performance?

12 MR. MILLSTEIN: Objection to form.

13 A It's an interesting question.

14 So I'll take the 44th, for example. I really wanted
15 to draw that as a majority-minority district, and there
16 was no way to draw it as a majority-minority district
17 without increasing the DPI.

18 I don't -- But there was never a conversation of, "I
19 will give you more DPI if you give me this demographic
20 exchange," but the two -- There's correlation between the
21 two in most cases.

22 MR. HERRERA: I'm going to stop sharing the
23 screen now. I think I'm at a good point to take a five,
24 10-minute break to use the restroom.

25 THE WITNESS: Okay.

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1 THE VIDEOGRAPHER: And this marks the end
2 of file four in the deposition of April Sims. The time is
3 2:35, and we're off the record.

4 (Break 2:35 p.m. to 2:44 p.m.)

5 THE VIDEOGRAPHER: And we are back on the
6 record. Here marks the beginning of file five in the
7 deposition of April Sims. The time is 2:44.

8 Q (By Mr. Herrera) Okay. Ms. Sims, I'm going to show
9 you another exhibit.

10 (Sims Exhibit No. 16 introduced.)

11 MR. HERRERA: One moment. I'm sorry, I'm
12 looking for the correct thing to send.

13 Q (By Mr. Herrera) Okay. So you're looking at what
14 has been marked as Exhibit 16, and the first page is --
15 We'll focus on that first.

16 Do you recognize this document?

17 A I do.

18 Q Okay. And what is this first page?

19 A An email from Osta Davis to Dominique Meyers and me.

20 Q Okay. And the subject is New 14th; right?

21 A Correct.

22 Q Okay. And it says in the attachments 14th LD.PDF;
23 right?

24 A Correct.

25 Q Okay. And I'll represent to you that counsel in --

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1 that attorneys in this case turned over to us, the
2 plaintiffs, a document with that file name and that that
3 is what -- the page that follows this email.

4 So with that representation let's focus back on the
5 email. Do you recall receiving an image of a map on
6 November 4th from Ms. Davis?

7 A Yes. To the extent that it's represented here in an
8 email, I do.

9 Q Okay. So this looks like -- So looking at the --
10 Looking at the map image page 2 of this exhibit, does that
11 look like a map that Ms. Davis had sent you for a district
12 in the Yakima Valley region?

13 A Yes.

14 Q Okay. And here there's not a number label on the
15 map image, but is that the 14th in this map?

16 A It is.

17 Q Okay. Now, was this map -- When was this map
18 drafted?

19 A By looking at the email, I would guess Thursday,
20 November 4th.

21 Q And did -- Do you know who participated in drafting
22 this map?

23 A Since it's a PDF and not a link, I am going to guess
24 that Melissa from our team, the mapper, was involved, as
25 well as Dominique Meyers.

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1 Q Okay. Now, underneath the map image it says -- the
2 first line says, "Hispanic CVAP: 51.3 percent."

3 Do you see that?

4 A I do.

5 Q Okay. And do you remember reviewing a map, a draft
6 map from your staff at that time that had 51.3 percent
7 Hispanic CVAP?

8 A I do.

9 Q Okay. And then underneath that it says minority
10 CVAP 56.5. What is minority CVAP?

11 A I take that to mean it is the total minority citizen
12 voting age population in that district, as drafted.

13 Q Okay. And that -- Would that be similar to
14 majority-minority districts where it combines Latinos and
15 other racial minorities?

16 A That's my understanding, yes.

17 Q Okay. And then the third line under this map is
18 Pellicciotti or Pellicciotti performance; right? Sorry, I
19 don't know how it's pronounced.

20 A I get it wrong all the time. I think it's
21 Pellicciotti.

22 Q Pellicciotti. Okay. I had it right the first time.

23 A I could be wrong. As long as it's spelled right,
24 we're good.

25 Q I'm sorry. I like -- Yeah, people -- I like to try

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1 get the names right.

2 Okay. So that line that says Pellicciotti
3 Performance 50 percent, what is that in reference to?

4 A That is in reference to the 2020 treasurer's race
5 and the DPI of the draft district.

6 Q And was Pellicciotti one of the candidates?

7 A Yes.

8 Q And which candidate? Which --

9 Was he running as a Democrat or a Republican?

10 A Democrat.

11 Q Okay. Now, did you give Ms. Meyers or anyone else
12 on your staff any instructions on drafting this map?

13 A I'm sure I did.

14 Q Okay. Do you recall what any of those were?

15 A I think at this time we were looking at different
16 versions of the 14th District that we thought would be
17 VRA compliant and that we thought we could successfully
18 negotiate with the rest of the commissioners.

19 Q And why do you -- Or with those instructions in
20 mind, did this map accomplish what you had instructed?

21 A Yes.

22 Q Okay. Now, how would this map make -- enable you to
23 be able to negotiate with the other commissioners?

24 A Well, the DPI of the current -- So I have to see if
25 I remember this right. I'm going to get this wrong.

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1 The DPI using the -- was it the composite data? The
2 15th District I believe already had a slightly higher DPI
3 than the 14th, so I think we were trying to negotiate --
4 In changing this map and making it a majority Hispanic
5 CVAP district, we were increasing the Democratic
6 performance of the district, and that kind of change
7 requires negotiation.

8 So I was looking for a way to draw a district that
9 would increase the Democratic performance to at least
10 50 percent and maintain a Hispanic -- majority Hispanic
11 CVAP district to see if the Republican commissioners had
12 appetite for it.

13 Q Okay. And when you said appetite for it, do you
14 mean whether the Republican commissioners had an appetite
15 for a majority Hispanic CVAP district in that area?

16 A I mean more at this point the Democratic performance
17 of the district.

18 Q I see. And did you consider this draft to be
19 complying with the Voting Rights Act?

20 MR. MILLSTEIN: Objection to the extent it
21 calls for a legal conclusion.

22 A I mean I had hoped, right.

23 Q (By Mr. Herrera) And when you say you hoped, is
24 that -- is that because you weren't sure?

25 A Yeah. I mean, the -- Still the Voting Rights Act is

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1 really complicated. I'm not an attorney, and it seems
2 like the legal opinions that you get vary widely depending
3 on who you ask. And a lot of the advice that we got as
4 commissioners from our AG --

5 MR. MILLSTEIN: I'll just go ahead --

6 A -- without --

7 MR. MILLSTEIN: -- and object --

8 THE WITNESS: Yeah.

9 MR. MILLSTEIN: -- just so you don't answer
10 or provide what the advice was from the AG's office.

11 THE WITNESS: Thank you.

12 MR. MILLSTEIN: If you -- Just to clarify,

13 --

14 A It just seemed complicated, yeah.

15 Q (By Mr. Herrera) Okay.

16 A And I'm not an attorney. Did I already say that?

17 Q Yes. Do you -- Looking at the map, I know it
18 doesn't have the names of -- generally doesn't really have
19 the names of cities here, but can you tell whether this
20 map in Exhibit 16 that is titled 14th LD from
21 November 4th, whether this map goes into -- or rather the
22 14th District goes into Pasco?

23 A I believe -- I can't tell because I don't see it
24 written here, but I believe that it does. I see Richland
25 and Kennewick, but I don't see Pasco.

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1 And my memory is not sharp enough to tell without
2 the names on here. Yeah, I can't tell if that's Pasco or
3 not.

4 Q Okay. In any case, does the district here in this
5 exhibit from November 4th, does it go -- start -- Does it
6 begin in the City of Yakima and then go east?

7 A It does.

8 Q Okay. Were you in this -- Was there a reason that
9 you were going east in this map?

10 A Yeah. It was the feedback that we received that
11 east was better than north. I think we looked at what
12 would happen if we didn't include -- was that Royal City
13 north? I believe this does go -- I feel like it would
14 have to go into Pasco.

15 I think this was just one of the versions we played
16 around with.

17 Q Okay. Now, when you were drafting -- When this map
18 was drafted, this draft map from November 4th, did you
19 look into -- had you looked into whether Pellicciotti was
20 the Latino candidate of choice in this area?

21 A No.

22 Q And then looking in the -- looking back at the
23 map -- and again, without city labels in Exhibit 16 -- can
24 you tell whether this map includes -- Well, strike that.

25 I'm handing you another exhibit here.

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1 (Sims Exhibit No. 17 introduced.)

2 MR. MILLSTEIN: I'm sorry, did you say 17?

3 THE REPORTER: Seventeen.

4 Q (By Mr. Herrera) And do you recognize this email?

5 A I do.

6 Q Okay. And do you see at the very top of this
7 document the email -- the first email at the top says --
8 has a subject of FW: New Map Proposal?

9 A Yes.

10 Q And that the email is from Osta Davis to you and
11 Ms. Meyers?

12 A Correct. Yes.

13 Q And it says, "Here's the Dave's link."

14 A Yes.

15 Q Right? Okay.

16 And do you see -- I'm going to direct your attention
17 to right underneath the first email that this is
18 forwarding an email from Anton Grose. Do you see that?

19 A I do.

20 Q And who is Anton Grose?

21 A He was Commissioner Graves' staffer --

22 Q Okay.

23 A -- or redistricting analyst.

24 Q And do you recall Mr. Grose sending you a draft --
25 sending your team a draft map on November 11th?

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1 A I do.

2 Q Okay. Now, before we discuss the map I want to go
3 down to an email that's below Mr. Grose's email that
4 says -- that is from Paul Graves to you. Do you see that?

5 A I do.

6 Q Okay. And that's also on November 11th, 2021?

7 A Um-hmm.

8 Q Right? And under it says, "Subject: New Map
9 Proposal." Do you see that?

10 A I do.

11 Q Okay. And do you remember this email from
12 Mr. Graves?

13 A I do.

14 Q Okay. And do you see in the first kind of points in
15 this list from Mr. Graves, it says, "The 14th here is ever
16 so slightly more Republican here than your last proposal
17 but is still firmly swing. It is majority Hispanic CVAP."
18 And that's the end of that first point.

19 Do you recall that?

20 A I do.

21 Q Okay. And do you know what is meant by -- what
22 Mr. Graves meant by it is -- or, "is still firmly swing"?

23 MR. MILLSTEIN: Objection, calls for
24 speculation.

25 A I'm -- Without knowing for sure that this is what he

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1 was thinking, we had defined swing districts as 47 to 53
2 DPI. So I take this to mean the district was somewhere in
3 that performance range.

4 Q (By Mr. Herrera) I'm sorry, was that 47 to what?

5 A Forty-seven to 53.

6 Q So if something was a swing district at this point
7 in the negotiations it was because it would be between 47
8 and 53 percent DPI?

9 A (Nodded.) Using the 2020 treasurer's numbers.

10 Q Now, is there a reason that you all decided to use
11 the treasurer's 2020 election as the index for DPI?

12 A It was just what we negotiated. Probably a lot of
13 different reasons to use it.

14 Q Was there any reason that you recall for choosing
15 that specific election over other elections that you all
16 had been looking at?

17 A Well, I think on the one hand the treasurer's race
18 is typically a low information race, and so it gives
19 you -- You can argue that that is an accurate kind of
20 representation if folks are just voting party lines.

21 From my perspective, because the treasurer's race
22 underperformed for Democrats, the presidential performance
23 and the composite performance, it allowed -- it just
24 made -- It made sense for me in terms of how I was
25 negotiating, that I agree to that benchmark because I knew

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1 that the districts would over-perform that.

2 Q Now, going to the bottom of this exhibit in the
3 Paul Graves email from November 11th to you with the new
4 map proposal, so we're going to go back to that email.

5 It says in the second paragraph there at the end of
6 that second point, "My biggest question to you then, what
7 do you think a fair exchange is for this 14th?"

8 A Um-hmm.

9 Q Do you see that?

10 A I do.

11 Q Okay. And do you know what you meant by that?

12 MR. MILLSTEIN: Objection to form.

13 A I'm assuming, because I don't know, but based on
14 what he's listing here is where I was willing to give up
15 Democratic performance in other districts.

16 Q (By Mr. Herrera) Okay. The next paragraph there, it
17 says my -- Well, from Mr. Graves it says, quote, "My
18 proposal here for that 14th is Republican improvement in
19 47, 24, and 28," end of quote.

20 Do you see that?

21 A I do.

22 Q Okay. So did you understand Mr. Graves to be asking
23 for Republican partisan improvement in 47, 24 and 28 in
24 order to get a certain version of the 14th Legislative
25 District?

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1 A I understood this proposal to mean if I wanted
2 increased Democratic performance in the 14th, I was going
3 to have to increase Republican performance in other
4 districts, or agree to increased Republican performance in
5 other districts.

6 Q Did you understand Mr. Graves or Commissioner Graves
7 to be asking for Republican improvement in 47, 24 and 28
8 in exchange for a Voting Rights Act-compliant district?

9 MR. MILLSTEIN: Objection to form.

10 A Did I understand this proposal to be in exchange --
11 I don't -- I don't know if it was ever articulated
12 that way. I don't think we ever agreed to a definition of
13 a VRA-compliant district. So I wouldn't characterize the
14 negotiations that way, but more because the district as I
15 wanted to draw it, because you can't draw a CVAP majority
16 Hispanic district without increasing the Democratic
17 performance, and that increasing the Democratic
18 performance by that significant amount in that district
19 was going to require that I give some Democratic
20 performance someplace else.

21 Q (By Mr. Herrera) Now, was there something about --
22 So kind of independent of what Dr. Barreto had presented
23 to you, was there something in your mind at that time that
24 made you believe that increasing Democratic performance
25 would make a district more Voting Rights Act compliant?

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1 MR. MILLSTEIN: Objection to form.

2 A I think that was an outstanding question for me, was
3 increased Democratic performance a requirement, and I'm
4 still not sure that I know.

5 Let me say that a different way. Not so much was
6 increasing Democratic performance a requirement, but was
7 drawing a strong Democratic district a requirement; and
8 I'm not sure I ever got an answer that satisfied that
9 curiosity.

10 So I just -- Increasing Democratic performance is
11 different than a strong Democratic district, so I just
12 wanted to clarify that.

13 Q (By Mr. Herrera) Okay.

14 A In my mind.

15 Q What is the difference between those two?

16 A Well, I mean, I think we did increase the Democratic
17 performance. I think it was not drawn at 57 percent
18 Democratic or 58 percent, whatever the Barreto draft maps
19 were.

20 So a strong Democratic district in the way that we
21 defined it was a district that performed at over
22 55 percent for Democrats.

23 Q And then going back to this email from
24 Commissioner Graves on November 11th in the exhibit that
25 we've been looking at, Exhibit 17, at the bottom do you

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1 see -- the last paragraph, do you see that it begins,
2 quote, "Again, looking forward to talking at 1:00, and I
3 will be especially interested to hear from you what you
4 think a fair price is for the 14th," end quote.

5 A Um-hmm.

6 Q Do you remember that?

7 A I do.

8 Q Okay. And what did you think at that time about
9 that statement or question about "fair price is for this
10 14th"?

11 A I had been pretty consistent in negotiations with
12 Commissioner Graves that I wasn't negotiating away
13 Democratic performance in other districts for a
14 VRA-compliant district in eastern Washington if we were
15 legally required to draw it. And I'm not going to give
16 you points for something that we're required to do, so --

17 Q I see. So you did not think that -- You did not
18 think -- Okay. I see what you mean. Well, would it --

19 I'm going to show you another -- I'm going to show
20 on the Zoom screen -- I'm not going to mark it as an
21 exhibit because I didn't get to print that one out, but --

22 I'm not going to mark it, but here is the same
23 email; but it is Ms. Davis responding to herself with a
24 link. So I'll pull that up.

25 (Document displayed.)

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1 MR. HERRERA: So for counsel I'll -- For
2 the sake of counsel I'm just going to -- I can share this,
3 but I'm going to scroll through it so you can see it.

4 A So this is the same email that I have here, only it
5 has the Dave's link attached? Is that what you're -- Is
6 that what I'm looking at?

7 Q (By Mr. Herrera) Right. I mean, I'll ask you does
8 it look like the same email exchange from Exhibit 17 but
9 with Osta Davis having replied to herself with a Dave's
10 link?

11 A Well, it's Osta sending the email to me and Dom, or
12 Dominique Meyers, with a Dave's Redistricting link.

13 Q Okay. Yeah, that's -- Sorry. That's more precise.

14 A Is that what you mean by replying to herself?

15 Q Yeah, actually you're probably more precise about
16 it. Yeah, she's sending -- To keep it simpler, she's
17 sending you and -- you and Ms. Meyers an email on
18 November 11th --

19 A Okay.

20 Q -- with a Dave's link after she had said within the
21 same minute, "Here's the Dave's link;" right?

22 A (Nodded.)

23 Q So I'm going to click on that link, and I'm going to
24 restart my share so that we can see what pops up -- what
25 popped up.

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1 (Dave's Redistricting website displayed.)

2 Q Okay. And so I'll represent to you that this pulls
3 up a map in Dave's Redistricting when I clicked on the
4 link that Ms. Davis had sent, and do you see this map?

5 A I do.

6 Q And do you see that at the top it's titled "Graves
7 1110 LD."

8 A Yes.

9 Q Okay. And do you recall if -- Is this the draft map
10 that Commissioner Graves was sending to you when he was --
11 or rather -- Let me start that again.

12 Is this the map that Mr. Grose sent to you in
13 conjunction with the offer that Mr. Graves was discussing?

14 A I believe so, but with two caveats. Since it came
15 from Osta, I didn't receive it directly from Anton Grose.
16 And again, assuming that this link takes you to the map,
17 and the map was not edited after the link was sent.

18 Q Okay. Got it. Understood.

19 A Okay.

20 Q So I'm going to zoom in here to the Yakima Valley
21 area.

22 A Um-hmm.

23 Q And I don't know if you can see my hand hovering
24 over the 14th?

25 A Um-hmm.

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1 Q Okay. And looking at this Graves 1110LD in
2 District 14 on the side panel on the right we just have
3 voting age pop 2020, governor 2020, and total population
4 2020. I'm going to add 2019 CVAP to this.

5 And do you see that now showing the citizen voting
6 age population 2019 in District 14 that the percentage is
7 50.3 percent for Latinos?

8 A Yes.

9 Q Okay. And what were your impressions -- Now that
10 you've seen the CVAP numbers for this district, what do
11 you recall about your reaction at that time when you
12 received Mr. Graves's proposal for the 14th Legislative
13 District on November 11th?

14 A Well, I remember -- I remember thinking there was
15 some movement in terms of the way that he drew the 14th.
16 I can't remember what were some of the --

17 There was some things I didn't like about it, but
18 now I can't remember what I didn't like about it. It
19 might have been the way Yakima was divided.

20 Q I can zoom into Yakima.

21 A That's all the way in.

22 Q Yeah, sorry.

23 A This was on Thursday afternoon. I still just
24 remember thinking that the proposal that I increase
25 Republican performance in other districts in exchange for

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1 the 14th as he drew it was a nonstarter for me, so I
2 wasn't interested in negotiating it.

3 Q I see. Now I'm going to zoom into the eastern end
4 of the map, and I'm going to mark -- I'm going to turn on
5 the city boundaries.

6 A Okay.

7 Q Did Graves's map or version of the 14th on
8 November 11th include Pasco?

9 A It looks like it does.

10 Q Okay. And then it excludes Wapato and Toppenish; is
11 that right?

12 A That's correct.

13 MR. HERRERA: Would we be able to take a
14 screenshot of this and mark it as an exhibit?

15 THE REPORTER: Yes. And this will be
16 No. 18 then.

17 MR. HERRERA: Okay.

18 THE REPORTER: I know how to do it now.

19 (Sims Exhibit No. 18 designated.)

20 MR. HERRERA: Okay. I'm going to zoom into
21 one more thing before we go away.

22 And sorry, what was the last exhibit?

23 THE REPORTER: No. 18 will be the
24 screenshot, and 17 was the document, the email.

25 MR. HERRERA: Okay. I'm going to zoom into

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1 one more thing here.

2 Q (By Mr. Herrera) So in Graves's version of the
3 14th Legislative District on November 11th it includes
4 Grandview; right? I'm sorry.

5 A Um-hmm.

6 Q Well, it does include Grandview, but I meant a
7 different one. It includes Granger; right?

8 A Correct.

9 MR. HERRERA: Okay. I'm going to turn this
10 off.

11 (Sims Exhibit No. 19 introduced.)

12 THE WITNESS: Thank you.

13 THE REPORTER: You're welcome.

14 MR. HERRERA: Okay. So I've shared it in
15 the Zoom chat as well.

16 Q (By Mr. Herrera) So we're looking at Exhibit No. 19.
17 Ms. Sims, do you recognize the first page of this
18 exhibit?

19 A I do.

20 Q Okay. And actually, I only gave you one page;
21 right?

22 MR. MILLSTEIN: Um-hmm. Is there a second
23 page to the exhibit?

24 MR. HERRERA: No, it's actually a different
25 exhibit. So let me -- For the people at home or on Zoom

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1 I'm going to delete -- I'm going to resend it, Exhibit 19,
2 because I didn't mean to include a second page. One sec.
3 Sorry.

4 Q (By Mr. Herrera) So do you see -- Do you recognize
5 this email?

6 A Yes.

7 Q Okay. And it's one that you sent to Paul Graves;
8 right?

9 A Yes.

10 Q Okay. And it also -- You copied Paul Campos,
11 Anton Grose and Joe Fain; right?

12 A Correct.

13 Q Okay. And it's in the email on November 12th that
14 you wrote -- the subject is, "Updated Proposal Email;"
15 right?

16 A Correct.

17 Q Okay. And in the body of the email you say, "Hi,
18 Paul. Our latest proposal can be found here," and then
19 there's a Dave's link; is that right?

20 A Correct.

21 Q Okay. Now, what do you recall about this proposal
22 that you sent?

23 A Well, I recall that it was Friday the 12th, so
24 Saturday, Sunday, Monday -- We were approaching our Monday
25 midnight deadline, so I recall being very motivated by the

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1 impending deadline and sending him a proposal that had the
2 ACS at close to 50 percent.

3 Because I believe it was Barreto's team that told us
4 that the CVAP -- that we could estimate the CVAP would
5 increase by, if I remember right, 2 percent per year from
6 2019, so we felt confident that we could draw our CVAP at
7 just under 50 percent and still be over 50 percent by
8 current CVAP numbers.

9 And the performance in the 15th using the
10 Pellicciotti numbers was only at 45.7, but I remember that
11 he underperformed in that district. So the Democratic
12 composite performance in that district was over 50, so I
13 felt like I was offering a -- Well, I was proposing a
14 district that was over 50 percent CVAP and at about
15 50 percent Democratic performance, so a true swing
16 district.

17 And then some other -- I don't know how interested
18 you are in the changes that we made to the other
19 districts, but some other slight adjustments to my
20 original proposal, --

21 Q Okay.

22 A -- just to show some movement on my part.

23 Q Okay. And I think you just discussed it, but it
24 says in your email, quote, "Our analysis shows that the
25 ACS 2019 data significantly undercounts minority CVAP

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1 numbers, and we feel solid that a 2020 CVAP for this
2 district would likely still have the Hispanic CVAP over
3 50 percent."

4 A Um-hmm.

5 Q End quote; right?

6 A Correct.

7 Q Now, what -- What were you basing -- basing it on
8 when you say that the 2019 data significantly --
9 significantly undercounted minority CVAP numbers?

10 A Just what I mentioned, that I believe it was
11 conversations that we had with Barreto's team that
12 suggested since the ACS data was an average; right? So
13 likely based on 2015 since it was -- or 2017 -- Yeah,
14 2017, since it was '15 to '19; right, that block of time?

15 Q Okay.

16 A Sorry. Go ahead.

17 Q No, but please keep going. I'll tell you afterward.

18 A Thank you. I'm trying to remember the exact way,
19 but we were trying to draw a district that was a true
20 swing district that didn't really favor any one candidate,
21 so a true 50/50 district that was still a majority
22 Hispanic CVAP district.

23 So that's what we were attempting to accomplish
24 here, and that's what we were offering.

25 Q Now, if the district did not favor any one

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1 candidate, what was your assessment of whether such a
2 district would allow Latinos to elect their candidate of
3 choice?

4 A Well, I had hoped that with enough organizing --
5 Like I didn't think that the district would flip in 2022,
6 but thought that with a majority CVAP district that with
7 enough organizing in the community that -- Well, maybe
8 flip is not even the word I'm looking for. That if we did
9 enough organizing in the community, then the community
10 would really be able to pick their candidate of choice.

11 There were a lot of assumptions, I think, about --
12 There are a lot of assumptions in general about how
13 communities of color vote and engage in our Democratic
14 process, and a true 50/50 district where Hispanics have
15 the majority CVAP -- CVAP gives that community an
16 opportunity to pick.

17 Q Now, when you say -- I know you kind of added some
18 nuance to it, but when you say that the district may not
19 have -- may not flip, that you were thinking the district
20 may not flip in 2022, --

21 A Um-hmm.

22 Q -- can you explain what you meant -- like just
23 practically what you meant by flipping?

24 A I didn't think that the district would go from
25 being -- from electing Republicans to electing Democrats

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1 in the very first election cycle.

2 Q Okay. Oh, sorry, please continue.

3 A And -- But I think that that was true in terms of my
4 thinking no matter the Democratic performance, that it
5 would still take some organizing in those communities to
6 give them an opportunity to impact the outcome of the
7 election.

8 Q And when you say flip, do you mean electing -- Were
9 you thinking that it would flip to elect candidates to
10 office to the House and Senate from that district?

11 A Yes.

12 Q Okay. Were you -- At this time were you aware of
13 recent elections in the Yakima area for House and Senate
14 in which Latino candidates had run?

15 A Yes. Well, yes.

16 Q And what was your -- Did you consider the fact that
17 Latinos had run for the House and Senate in the Yakima
18 area in shaping a district here?

19 A I don't know that I did. I don't know that I
20 considered that specifically.

21 Q I ask mainly because you mentioned flipping the
22 district, so I was wondering if you had looked at any
23 recent examples of people running out of legislative
24 districts that were then existing in 2021.

25 A Then existing in 2021?

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1 Q Well, the previous decade's maps is what I mean.

2 A Sure.

3 Yeah, I can't -- I can't recall any specific races
4 that I looked at or considered. But I do think that some
5 of that was included in the Barreto memo, or at least in a
6 presentation.

7 Q I see. So you had seen it at some point?

8 A Yes.

9 Q Do you recall what --

10 A Some data.

11 Q Sorry. Do you recall what data you saw with regard
12 to those legislative contests in the Yakima area?

13 A I don't remember the specifics, no.

14 Q Now, --

15 A Only that there was a lot of data.

16 Q I see.

17 A Yeah.

18 Q Now, in going back to your email to Commissioner
19 Graves with the updated proposal email, on the second to
20 the last bullet point you say, "In King County we kept the
21 5th and 47th lean D while also ensuring that Senator
22 Fortunato stays in the 31st."

23 Do you see that?

24 A I do.

25 Q Okay. Did you at all -- What was the reason for

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1 keeping the 47th leaning D in this map?

2 A In our original negotiations Senator -- or
3 Senator -- Commissioner Graves and I agreed to 23 strong
4 Democratic districts, two lean D districts, lean -- two
5 lean districts, two lean Democratic, two lean Republican,
6 and I believe six swing districts.

7 So because we had agreed originally that the 5th and
8 the 47th would be lean D, I wanted to honor that
9 agreement.

10 Q Now, based on what you say in this email, it seems
11 as though your -- the percentage of Latino 2019 CVAP is
12 lower in your proposal than the one that Commissioner
13 Graves had sent to you the day before; is that right?

14 A I'd have to see it again, but if that's what's the
15 screenshot when we looked at the map showed.

16 Q Sure. So we can go back. We can go back to Dave's.

17 A It was at 50.3, wasn't it?

18 Q Yes.

19 A Yes.

20 Q But we can go back to the -- To be sure we can go
21 back to the --

22 I'm going to share that map again.

23 (Dave's Redistricting Website displayed.)

24 Q And so back to the Graves 1110LD.

25 A Um-hmm.

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1 Q And I'm going to zoom in again and bring up CVAP.

2 So do you see the 14th has --

3 A Yes.

4 Q -- Hispanic CVAP 2019 at 50.3 percent?

5 A I do.

6 Q Okay. And that was in Graves's November 11th offer;
7 right?

8 A Correct.

9 Q Okay. So I'm going to stop sharing there.

10 And then in your proposal the next day you lower
11 CVAP to below 50 percent; correct?

12 A Correct.

13 Q Okay. What was -- Was there a reason you went below
14 50 percent in your proposal that you sent to Mr. Graves
15 the day -- the next day?

16 A I'm sure. I don't remember the specifics.

17 My guess is, you know, however Commissioner Graves
18 drew his 14th was based on how he had drawn the rest of
19 his map, and it did not match the rest of my map. So I
20 was trying to -- I was trying to figure out a way to draw
21 a majority Hispanic CVAP district and keep the rest of the
22 maps intact.

23 Adopting his 15th would have impacted, I believe --
24 I believe his 15th -- Just for context, I believe his map
25 pulled population across I-90. My map pulled all the

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1 population across Highway 2, which is further north. And
2 so in order to adopt his 15 I would have had to redraw my
3 entire map, and that would have impacted all of the
4 other -- all of the other districts -- nearly all of them.
5 Maybe not all of them. That's too absolute, but nearly
6 all of the other districts.

7 And based on the feedback that we got from Barreto,
8 49.2 percent should have been enough based on 2019 data to
9 get us over the 50 percent mark CVAP in 2021.

10 Q Was -- In -- Do you recall in Commissioner Graves's
11 map from November 11th whether the 47th was leaning
12 Democrat?

13 A I don't recall, but it probably wasn't. I mean, I
14 don't -- It was -- I remember specifically. Yeah, I don't
15 remember.

16 Q Let's go back and -- I'm going to bring it up again.

17 A Sure.

18 Q All right. So back to Graves 1110LD, and I'm
19 showing the witness the Graves map from November 11th.
20 And the 47th is kind of --

21 A Can you remove the city --

22 Q Oh, sure. Let's see. Actually, I don't know if I
23 can. Let me -- Oh, wait. I might be able to.

24 A Oh, I thought you had added it, so that's why I --
25 But it's a lot of lines.

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1 Q The city names are not in there, but the --

2 A Oh, okay.

3 Q -- the colors are the district lines.

4 A Okay.

5 Q Yeah. The 47th is --

6 A The 47th is going to be the light purple, just --

7 Q There we go.

8 A Yeah.

9 Q Got it. So going into the 47th, this is in Graves's
10 map. Now, you were -- To determine which way it was
11 leaning in terms of partisan performance, you were looking
12 at the treasurer's race; right?

13 A Correct.

14 Q Let's see. I don't know if that's loaded in here.

15 A It is not.

16 Q Okay. So it wasn't in -- It was not in there. All
17 right. This is -- I'll pull this down then since we don't
18 have the treasurer's stuff in there.

19 But from what you recall, it may have been
20 leaning -- at least not leaning D in his proposal on
21 November 11th in the 47th?

22 A Let's see. Well, he said he improved the 47th for
23 Republicans. I just don't remember --

24 Q Okay.

25 A -- what that resulted in, whether or not that

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1 changed it from a lean to a swing, how much Republican
2 improvement it was.

3 Q Oh, I see. So does lean D mean that it's taking it
4 out of the swing category, so beyond the 47 and 53 margin
5 or threshold?

6 A Yes. We defined lean as 54 -- 54 to 55 swing -- no,
7 lean -- and anything over 55 as safe.

8 So I don't remember how many points he took from the
9 47th and whether or not he moved it from lean to swing or
10 if he made it swing Republican.

11 Q Okay. Well, going back to his email, so that would
12 be -- Let's see. Going back to Exhibit 17, and so going
13 to his email, the third to the last bullet point that
14 began with, "My proposal here."

15 So the second sentence there Mr. --

16 A Wait. Wait. Sorry.

17 Q Sorry. I'm --

18 A My proposal -- Am I looking at page 1 or page 2?

19 Q Two.

20 A Page 2. The third bullet?

21 Q Third to the last bullet.

22 A Okay.

23 Q Do you see that it says, "After my proposal here for
24 the 14th," do you see that?

25 A I do.

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1 Q Okay. In the next sentence it says, "That
2 improvement in 47, as I texted yesterday, necessarily eats
3 into Republican performance in 5."

4 Okay. So does that mean that he had improved
5 Republican performance in the 47th in his map?

6 A "Eats into Republican performance in 5." That's
7 what I -- That's how I understand that, yes.

8 Q Okay. And then going back to your proposal on
9 November 12, you make 47th leaning D, or you keep -- You
10 said you keep it leaning D; right?

11 A Yes.

12 Q So were you -- Were you hoping that you could keep
13 47th leaning D in your proposal if you in exchange lowered
14 the 15th Legislative District to below 50 percent 2019
15 CVAP for Latinos?

16 A No. Commissioner Graves and I had already
17 negotiated that the 5th and the 47th would be lean D
18 districts, so I was holding him to that agreement.

19 Q I see. Was there anything -- In exchange for
20 lowering the 15th Legislative District to below 50 percent
21 Hispanic CVAP according to the 2019 numbers, was there
22 anything that you were trying to get in exchange in your
23 proposal on the 12th, November 12th?

24 A Not that I recall. I recall being really unwilling
25 to negotiate anything in exchange for a VRA district, but

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1 was very interested in finding a solution so that we
2 could -- So I guess what I was offering here was a map we
3 could agree on.

4 Q I see. And what were you hoping he might budge on
5 if you put the 15th Legislative District below 50 percent
6 ACS 2019 Latino CVAP?

7 A I don't -- I don't know what you mean, what I was
8 hoping he would budge on.

9 Q Well, you said you were hoping to improve
10 negotiations, I think.

11 A Oh, to show some movement in some of the other
12 districts I think is what I said.

13 Q Okay. I'm sorry.

14 A Like in the 26th, I told him I aimed to adopt the
15 district as he drew it. You know, restating some of our
16 priorities. I kindly put some of his incumbents back in
17 their districts.

18 What I was really hoping for was to get to a place
19 where we could agree on a map.

20 Q Okay.

21 MR. HOLT: Counsel, I just want to jump in
22 here real fast. I'm showing that we have less than two
23 hours total time left. I have roughly 60 to 90 minutes of
24 questions that I'm hoping to ask Ms. Sims. The hope is we
25 don't need to notice a second deposition.

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1 So I didn't -- I just didn't know how much time you
2 have left. You said you were well over half way done when
3 we broke for lunch, and I think we've already passed that
4 point.

5 But I just kind of wanted to see if we're -- if you
6 think other counsel will have enough time to ask any
7 questions, if any.

8 MR. HERRERA: Yeah, I think --

9 (Zoom audio distortion.)

10 MR. HERRERA: I'm sorry.

11 MR. MILLSTEIN: Yeah, you don't need to
12 unmute.

13 MR. HERRERA: Yeah. Sorry. I think I have
14 a little bit --

15 THE WITNESS: Sorry. Are you still on mute
16 because --

17 MR. HOLT: Sorry, I can't hear you.

18 THE WITNESS: -- I muted myself when we got
19 the --

20 MR. HOLT: You guys are muted there.

21 MR. MILLSTEIN: Okay. You unmute.

22 THE VIDEOGRAPHER: Counsel, did you want to
23 go off the record for all this?

24 MR. HERRERA: Yeah, let's go off the record
25 for this.

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1 MR. HOLT: I can't -- I can't hear you
2 guys.

3 THE WITNESS: There we go.

4 MR. HOLT: There you go.

5 THE WITNESS: I got it.

6 MR. MILLSTEIN: So if she's unmuted --

7 MR. HERRERA: Sorry. We're off the record
8 for a sec.

9 THE VIDEOGRAPHER: And this marks the end
10 of file five in the deposition of April Sims. The time is
11 3:48, and we're off the record.

12 (Discussion off the record.)

13 (Break 3:50 p.m. to 4:02 p.m.)

14 THE VIDEOGRAPHER: And we are back on the
15 record. Here marks the beginning of file six in the
16 deposition of April Sims. The time is 4:02 p.m.

17 Q (By Mr. Herrera) I'm going to hand you another
18 exhibit here.

19 (Sims Exhibit No. 20 introduced.)

20 THE WITNESS: Thank you.

21 THE REPORTER: You're welcome.

22 Q (By Mr. Herrera) Okay. Now, I've handed you what
23 has been marked as Exhibit 20, and do you see there --
24 I'll represent to you that this is an assortment of text
25 messages that were disclosed to counsel for plaintiffs.

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1 So for the sake of time right now I'm just going to ask
2 you to go through this really quickly.

3 On the first page do you see that at the top -- Do
4 you see -- Do you recognize this as an iPhone text message
5 screenshot, essentially?

6 A Yes.

7 Q Okay. And all of the pages in this exhibit are
8 iPhone text screenshots; right?

9 A Yes.

10 Q Okay. And do you see at the top of each of these it
11 says AS, April?

12 A Yes.

13 Q Okay. And then usually if it's -- If you're looking
14 at an iPhone and if it has the name of the person on the
15 top, their messages are probably on the left in gray;
16 right? Or basically the -- They're the ones on the left;
17 right? Let's see. I'm trying to --

18 A Let me just --

19 MR. MILLSTEIN: I have to honestly look.

20 MR. HERRERA: We're all going to --

21 A Incoming messages on the left.

22 Q (By Mr. Herrera) Incoming messages on the left.

23 Thank you.

24 A Yes.

25 Q Thank you for checking on it. I also checked because

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1 I suddenly confused myself, but yes.

2 Okay. So if -- if these are from -- or if the
3 AS April at the top is indeed April Sims, then these
4 messages on the left-hand side are yours; right?

5 A Yes.

6 Q Okay. And -- All right. So I'm just going to go
7 through these in Exhibit 20. So the first one is it says,
8 "This is what I'm sharing," and there's a little partial
9 thumbnail on the top that says 14th LD.

10 A Um-hmm.

11 Q "I believe Osta sent it to Ali."

12 Sorry. Who is Ali?

13 A Ali is -- was Commission Walkinshaw's staffer.

14 Q Okay. So and then you have a text message that
15 says, "So I'll tell him I'm stroll discussing this
16 proposal with you and you still really want the VRA
17 district, so I'm working on a compromise for all of us."

18 Do you see that?

19 A Yes.

20 Q Do you know who you would have been sending that
21 message to?

22 A On this message string?

23 Q Yes.

24 A This looks to be communication between me and
25 Brady Walkinshaw.

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1 Q Okay. And now when you say, "And you still really
2 want the VRA district," at this point did you understand
3 that Brady wanted a different version of a --

4 Well, first of all when you say "the VRA district,"
5 what are you referring to?

6 A The 14th and/or 15th Districts in the Yakima area.

7 Q Okay. And --

8 MR. MILLSTEIN: Counsel, sorry to
9 interrupt, but are you saying that the text messages in
10 iPhone, that the ones on the right are the incoming?
11 Because I just -- On my iPhone the text messages on the
12 right are from the owner of the phone, and the text
13 messages --

14 MR. HERRERA: Yes.

15 MR. MILLSTEIN: -- on the left are from
16 someone else.

17 MR. HERRERA: Well, I'm saying on the left
18 is April Sims because this would be -- I believe these
19 are -- these screenshots are from Brady Walkinshaw's
20 phone.

21 MR. MILLSTEIN: Oh, right. Right. Okay.

22 MR. HERRERA: Yeah.

23 MR. MILLSTEIN: Thank you for that.

24 MR. HERRERA: Yeah. And that's the bubble
25 at the top says the person --

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1 MR. MILLSTEIN: Yes.

2 MR. HERRERA: -- who he's messaging, --

3 MR. MILLSTEIN: Yes.

4 MR. HERRERA: -- or who is sending him a
5 message.

6 MR. MILLSTEIN: I appreciate the
7 clarification.

8 MR. HERRERA: No, I had to think about it
9 actually a minute.

10 Q (By Mr. Herrera) Okay. So -- Okay. So what is
11 the -- So the VRA district is the 14th or 15th in the
12 Yakima Valley area; right?

13 A Yes.

14 Q Okay. So what do you -- Is when you say you're
15 going to tell -- I don't know who him is referring to, but
16 you're saying you, Brady Walkinshaw, still really want the
17 VRA district.

18 Did you and Mr. Walkinshaw at -- in the November
19 negotiations want different versions of a Yakima Valley
20 district?

21 A I believe we did.

22 Q Okay. And you wanted -- and by that I mean you
23 wanted different versions of a VRA district, or -- Sorry,
24 of a -- Let me strike that.

25 In the Yakima Valley region you wanted different

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1 configurations of legislative districts; right?

2 A Correct.

3 Q What was the difference between you and Commissioner
4 Walkinshaw in terms of what you wanted?

5 A I think we -- I think I was still drawing a CVAP
6 Hispanic -- majority CVAP Hispanic district in the 14th,
7 and he was still drawing his in the 15th.

8 And then I think some of the other nuances, his map
9 still crossed population around I-90, and my map crossed
10 population around Highway 2. And so because of those --
11 That was such a big impact to the entire map, that really
12 created challenges with how we each -- each approached
13 drawing the 14th and 15th.

14 Q Did you have different ideas of how high the
15 Hispanic citizen voting age percentage should be in a
16 district in that area, in the Yakima Valley?

17 A Ask the question again. Did we have --

18 Q Did you and Commissioner Walkinshaw in November have
19 different views on how high the Hispanic citizen voting
20 age percentage should be in a district in the Yakima
21 Valley region?

22 A I imagine we did.

23 Q Do you remember?

24 A I don't remember the specifics.

25 Q Okay.

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1 A I mean, I was at the table negotiating and trying to
2 capture Brady's -- I wanted to make sure I could negotiate
3 a map that, you know, he would support ultimately, so I
4 knew what his priorities were; but I think that there was
5 a difference of opinion in how we accomplished those
6 priorities and what those priorities looked like
7 ultimately.

8 Q Okay. And what were -- What was -- What were those
9 differences in accomplishing priorities between you and
10 Mr. Walkinshaw?

11 A Yeah, I mean, I don't remember it being around CVAP.
12 I remember it being more around Democratic performance of
13 the district. And I think Commissioner Walkinshaw really
14 wanted a map that was closer to the Barreto memo.

15 I don't remember the specifics, you know, what
16 the -- what the sticking points were around CVAP.

17 Q Okay. And when you say the Democratic performance,
18 do you mean the Democratic performance just in the Yakima
19 Valley districts or across the state?

20 A Across the state.

21 Q Okay. And what were the differences that between
22 you and Mr. Walkinshaw in terms of Democratic performance
23 across the state?

24 A Well, Commissioner Walkinshaw wanted significantly
25 increased performance in the 42nd and in the 10th and in

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1 the 26th. Those were true swing districts, and it just
2 wasn't possible to negotiate the kind of increased
3 Democratic performance in those districts that he wanted
4 to see and still keep other areas of the map intact.

5 Q Now, let's go to the third page of this set of text
6 messages, and there's one that at the top where the first
7 message on the left-hand side, which would be from you,
8 the first one says, "No, just thinking. Sorry, Sarah is
9 here." Do you see that?

10 A Um-hmm.

11 Q Okay. Underneath that text message do you see one
12 from Commissioner Walkinshaw that says, "Ah, okay. I
13 think the very best for us would be a less than 50 percent
14 CVAP in the 14th." Do you see that?

15 A I do.

16 Q Okay. Do you remember him saying that to you?

17 A No. I mean, reading these text messages it's clear
18 that he did, but I don't remember why he would.

19 So yeah, I don't remember the -- Let's see.

20 Q I'll represent to you that these pages are not in
21 order, but --

22 A Can I -- Can I look over these?

23 Q Sure. You can review the exhibit.

24 A Okay. Let's see here. Okay.

25 Q Okay. So let's go to the -- Do you have any -- Did

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1 you --

2 Were you done answering? I'm sorry.

3 A What was the question again? You wanted to know --

4 Q I think I wanted to know were --

5 Was Commissioner Walkinshaw saying that perhaps that

6 a Yakima Valley district in the 14th should be less than

7 50 percent Latino CVAP?

8 A You're asking me if that's what Commissioner

9 Walkinshaw is wanting?

10 Q Or -- Yeah, if at some point he wanted that in

11 November.

12 A I'm not sure if that's what he wanted or if he was

13 suggesting this as a tactic for negotiations.

14 Q Okay. So let's go to the third to the last page,

15 and --

16 A Mine are -- I'm sorry. Mine are slightly out of

17 order. If you could just --

18 Q No problem.

19 A -- tell me what it says at the top.

20 Q Sure. There's a page that says, "I've reflected

21 some and want to run some thoughts by you."

22 A Got it.

23 Q Do you see that one?

24 A (Nodded.)

25 Q So right under that on the left-hand side you texted

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1 Mr. Walkinshaw, "Sounds good! I'm working on the 14th,
2 think if we use Barreto's algorithm on CVAP or E can drop
3 the CVAP to 48 and still be over 50 in today's CVAP. That
4 will allow us to drop the D performance some. If we swap
5 14 for 15, then the performance change is lower."

6 So -- And then -- Do you see that?

7 A I do.

8 Q Okay. And then you said, "I have some ideas to get
9 what we want."

10 A Um-hmm.

11 Q Do you see that?

12 A I do.

13 Q Okay. Do you recall what your ideas were to get
14 what you wanted?

15 A Well, I mean, in this text message clearly one of
16 the things I was proposing is that we swap the 14th for
17 the 15th because then the shift in Democratic performance
18 is not as significant.

19 And so then you're asking, you know, the folks
20 you're negotiating with to change two points versus
21 changing seven points, which is what I thought might be a
22 little palatable, more palatable for my negotiations.

23 I'm not sure what I meant specifically when I said,
24 "I have some ideas to get what we want." It might have
25 just been some more negotiation strategy that I was

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1 considering.

2 Q Okay. And at that point when you were thinking
3 of -- When you said, "If we use Barreto's algorithm on
4 CVAP to drop it below 50 percent in today's CVAP," were --
5 did you -- did you consider at that point whether that
6 would affect the ability of Latinos to elect their
7 candidate of choice?

8 MR. MILLSTEIN: Objection to form.

9 A Well, and just to clarify what I said is it would be
10 over 50 in today's CVAP. I think you said under 50. So
11 my intent was always for the district to be drawn with
12 over 50 in CVAP.

13 And ask me the question again, though.

14 Q (By Mr. Herrera) Sure. So, well, I guess I can back
15 up and -- Okay. So I'll ask it again. The --

16 If you dropped it to below 50 percent in 2019 CVAP
17 in the 14th Legislative District, when you were thinking
18 of doing that were you considering how it would affect
19 Latino voters' ability to elect their candidate of choice
20 in such districts?

21 A Yes, in that I was considering if it was over
22 50 percent CVAP, that that would give Latino voters in
23 that district an opportunity to impact the outcome of the
24 elections.

25 Q Do you know using the algorithm how far over

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1 50 percent it would be in 2020 CVAP if you put it down to
2 48 in 2019 CVAP?

3 A I don't recall. I said earlier that I thought it
4 was two points each year; but looking at this text
5 message, it might have been a different algorithm.

6 I know that I didn't want to drop the CVAP, the ACS
7 2019 CVAP too low because I wanted to make sure that I had
8 significant cushion for today's CVAP numbers; but there
9 were outstanding questions as to what today's CVAP were,
10 '21's CVAP numbers were, so there was an algorithm that
11 suggested we could drop below a certain number and still
12 be at over 50 percent.

13 Q And I think you said that it would impact -- that
14 the change would impact elections.

15 Is that different than if it would impact the
16 ability of Latinos to elect their candidate of choice?

17 A I think I mean the same thing, that when I say that
18 they'd be able to impact the outcome of elections, that
19 they would be able to vote for the candidate of their
20 choice.

21 Q Okay.

22 A Elect the candidate of their choice.

23 Q So just for hypothetical's sake, if you -- This
24 time -- Well, if you dropped it to 48 and the CVAP for
25 Latinos in the 14th was just over 50 percent, how do you

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1 know that Latinos would be able to elect their candidate
2 of choice?

3 A I'm not sure that there's an instance where you know
4 for sure. I mean, citizen voting age population doesn't
5 mean registered voters. Registered voters doesn't mean
6 that those voters actually turn out to vote. Turning
7 voters out in an election doesn't mean that they
8 necessarily vote for a specific candidate.

9 So I don't know that -- I wouldn't consider my -- I
10 have some experience, but I'm not an expert. So I don't
11 know that I could say with certainty that there's anything
12 that you can do to ensure an election outcome.

13 Q Okay. Did you -- Did you consult with anyone
14 outside of your staff to see if there was a way that you
15 could determine if a district that was just over
16 50 percent Latino CVAP in 2019 terms would enable Latinos
17 to elect their candidate of choice?

18 A No. Outside of the Barreto briefing --

19 Q Okay. And --

20 A -- and these conversations.

21 Q Did you check back with Dr. Barreto about that
22 hypothetical at this point in November?

23 A No. I don't believe -- I don't believe so. This --
24 This appears to be on Tuesday, November 14th,
25 because we were in, you know, the final marathon that was

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1 our negotiations at this point. So we -- So no specific
2 advice from Dr. Barreto regarding this proposal.

3 Q Okay. And by this proposal you mean the one that
4 you had sent to Commissioner Walkinshaw about lowering the
5 2019 CVAP to 48?

6 A Correct.

7 Q Okay. What was the basis at this point for
8 believing that a district that was just over 50 percent
9 Latino CVAP would enable Latinos to elect their candidate
10 of choice?

11 MR. MILLSTEIN: I'm just going to object,
12 asked and answered.

13 A Well, and I don't think that -- I mean, I thought it
14 was not just -- Well, I mean, 50 -- In any election
15 50 percent plus one is all you need.

16 Q (By Mr. Herrera) Yes.

17 A But I don't -- I mean, I don't know what the CVAP is
18 today. The intent was for it to be over 50 percent. I
19 don't think the intent was ever to just get it barely over
20 50 percent, which I think was the question you asked.

21 Q Yes. Yes.

22 MR. HERRERA: I'm going to -- Can we mark
23 another exhibit.

24 (Sims Exhibit No. 21 introduced.)

25 THE WITNESS: Thank you.

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1 MR. HERRERA: Just give me one second for
2 the Zoom people. I want to make sure I get them the right
3 one.

4 Q (By Mr. Herrera) Okay. Do you recognize this
5 document?

6 A I do.

7 Q Okay. And what is this document?

8 A These are my -- These are notes from my negotiation
9 book.

10 Q Okay. And what is your negotiation book?

11 A Just a notebook where I make notes on, you know,
12 either my proposals or proposals I received from other
13 members of the Commission.

14 Q Okay. And on the top it says, "Thoughts on 14th
15 exchanged." Do you see that?

16 A Um-hmm.

17 Q Is that referring to an exchange with regard to the
18 14th Legislative District or the district in Yakima
19 Valley?

20 A Yes.

21 Q Okay. And at the top the first line, it says, "14
22 SR," and then there's an arrow. And then it says, "Swing
23 R for 10, 26." Do you see that?

24 A I do.

25 Q What does that mean?

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1 A Well, this -- These are my thoughts.

2 Q Okay.

3 A So these notes don't reflect any specific proposals,
4 but this is the process that I went through to work out or
5 work through different scenarios in my head. I could
6 offer this. We could do this. We could move this here.

7 So this doesn't reflect any actual proposals. I
8 want to be clear about that, because these are just things
9 that I was considering and different map versions that I
10 wanted to explore.

11 It looks like 14th strong Republican, moving it to
12 swing Republican, four points. What I'm thinking I meant
13 was points in the 10th or the 26th.

14 Q So basically you're saying you might make it lean
15 more Democratic in the 14th in order to -- and if you get
16 that, then you give Republicans more -- a better lean in
17 10 and 26?

18 A Right. Or that I wanted to -- I was going to do
19 some mapping versions of this.

20 Q Okay.

21 A Like what would it look like if I did these things.

22 Q Okay.

23 A So I -- Like some of the things in these notes were
24 just taking my thoughts from my head and putting them on
25 paper because that's how I process.

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1 Q Okay. And then in No. 1 it says, "Offer move 5th LD
2 to swing D in exchange for 15th to swing R."

3 Do you see that?

4 A Um-hmm.

5 MR. HUGHES: Object to form.

6 Q (By Mr. Herrera) What -- or I kind of -- I don't
7 know how to read some of it, but what does that mean to
8 you?

9 A That I could potentially offer to move some
10 Democratic performance from the 5th District in exchange
11 for increased Democratic performance in the 15th.

12 Q And was that something that you ever offered?

13 A I don't believe so.

14 Q Now, in the last -- the last or the one next to
15 No. 2, the bubble No. 2 toward the bottom, it says, "Offer
16 26th for 15th." Do you see that?

17 A I do.

18 Q What would that have involved?

19 A Just offering performance in the 26th for the 15th,
20 --

21 Q And by 15th, --

22 A -- performance in the 15th.

23 Q By 15th, which district would that have been at this
24 point?

25 A The 15th District?

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1 Q Yeah. Would that have been the 15th as it existed
2 in the last legislative map?

3 A Yes.

4 Q Okay. So it would be one of the districts anchored
5 in Yakima County?

6 A Yes.

7 Q Okay. All right. So I have one more exhibit to
8 show you, but I don't have this one in paper. I thought I
9 did, but I'm going to put it in Zoom, if that's okay.

10 MR. MILLSTEIN: That's fine.

11 MR. HERRERA: All right. So this will be a
12 new exhibit. So it will pop up on -- We can open it up on
13 your screen.

14 THE REPORTER: This will be No. 22.

15 (Sims Exhibit No. 22 introduced.)

16 MR. MILLSTEIN: Do you need help getting
17 this loaded?

18 THE WITNESS: Let me see what I can do
19 here.

20 MR. MILLSTEIN: Okay.

21 THE WITNESS: I'm going to try to impress
22 you. Is this Sims Note 14.jpg?

23 MR. HERRERA: No, not yet.

24 THE WITNESS: No? Okay.

25 MR. HERRERA: Okay. It's loading. There

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1 we go. The most recent one that says Notes Chart.

2 Do you see that?

3 THE WITNESS: Um-hmm. So I'm just going to
4 download this is what I'm doing?

5 MR. MILLSTEIN: Yes, and then the file
6 name. Tell me when you're going to download it. It's
7 easier if you put PDF, dot PDF in the file name.

8 THE WITNESS: Okay. I do need some help.

9 MR. MILLSTEIN: That's okay. Desktop.

10 THE WITNESS: Ah, gotcha. And then it
11 appears somewhere?

12 MR. MILLSTEIN: I'll just minimize this for
13 one second. Oh.

14 It's the New Map Proposal; is that right? Oh, no.

15 MR. HERRERA: No. It says Notes Chart.jpg.

16 MR. MILLSTEIN: Sorry. There you go. It
17 can't open. Hold on. Maybe it's downloading.

18 Is it a PDF?

19 MR. HERRERA: It's a jpg.

20 MR. MILLSTEIN: Oh, sorry.

21 MR. HERRERA: And I could also share the
22 screen. It's just a one-page exhibit.

23 MR. MILLSTEIN: The way they download, let
24 me just make it a jpg.

25 THE WITNESS: Here, do you want me to move

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1 --

2 MR. MILLSTEIN: Yeah.

3 THE WITNESS: -- so you can get to it
4 easier?

5 MR. MILLSTEIN: Yes. And is this --
6 Which exhibit number is this?

7 THE REPORTER: This will be No. 22.

8 MR. MILLSTEIN: I'm just going to
9 redownload this.

10 (Reporter request for clarification.)

11 MR. MILLSTEIN: Redownload this for her.

12 MR. HERRERA: I can share it if it saves
13 time.

14 MR. MILLSTEIN: Why don't you do that, too.

15 MR. HERRERA: All right.

16 (Sims Exhibit No. 22 displayed.)

17 Q (By Mr. Herrera) All right. So we're going to --
18 I'm sharing my screen, so in the Zoom screen you should be
19 able to see it now.

20 A Yes.

21 Q Okay. So it's -- Let me zoom out all the way.
22 And is this from your negotiation book?

23 A It is.

24 Q And so it's notes you made in your negotiation book;
25 right?

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1 A Correct.

2 Q I'm going to zoom into this set of squares here.

3 So do you see at the top left you wrote, "What we
4 need"?

5 A Yes.

6 Q And then on the top right it says, "What we want;"
7 right?

8 A Yes.

9 Q Under the what we need column do you see that you
10 wrote, "CVAP 14/15"?

11 A Yes.

12 Q What did you mean by that, CVAP 14/15?

13 A A majority Hispanic CVAP district in either the 14th
14 or the 15th.

15 Q Okay. And then on the right, "What we want," you
16 say VRA; right?

17 A Um-hmm.

18 THE REPORTER: Could you answer yes or no,
19 please.

20 THE WITNESS: Yes.

21 THE REPORTER: Thank you.

22 Q And so does this mean that you consider CVAP
23 majority -- a CVAP Hispanic majority district in the
24 Yakima Valley region to be something different than a VRA
25 district in the Yakima Valley region?

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1 MR. MILLSTEIN: Objection to form.

2 A No.

3 Q (By Mr. Herrera) Okay. So can you explain to me why
4 you put CVAP majority for Latinos in what we need and then
5 VRA in what we want?

6 A Yes. The VRA as it's written here was shorthand for
7 the district that Brady wanted.

8 Q Okay.

9 A In the same way that I didn't write majority
10 Hispanic CVAP under CVAP for 14 and 15. It's just my
11 shorthand.

12 Q Okay. And what -- What was the district in your
13 shorthand that you're referring to from Brady?

14 A If I remember right, it was the 15th as Brady drew
15 it. I believe it was the 15th. His was the 15th. Mine
16 was -- The two districts are -- I'm interchanging them in
17 my mind, but I believe his was the 15th. No, his was the
18 14th.

19 Which one is up in '24? His was the 14th.

20 Q In his map?

21 A It was the VRA district that he drew in his map, and
22 I can't remember which number it was now.

23 Q And why did you use VRA as the shorthand instead of
24 BW or something like that?

25 A I'm not sure.

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1 Q Did you -- Did you think that a district in the
2 Yakima Valley region that was majority Hispanic CVAP was
3 something different than a district that would comply with
4 the Voting Rights Act?

5 MR. HUGHES: Objection.

6 MR. MILLSTEIN: Objection.

7 MR. HUGHES: Asked and answered.

8 A I mean, I think that's what this is intended to find
9 out; right? So I'm not sure I know how to answer.

10 Can you ask me the question again?

11 Q (By Mr. Herrera) No. Well, let me -- Let me ask
12 you a different way.

13 So under the what we want category of VRA it says
14 underneath there you're, "Willing to give to get wants,
15 24;" right?

16 A Um-hmm.

17 Q And then under the what we need CVAP 14-15 you're
18 willing to give kind of a longer list of districts; right?

19 A Um-hmm. Correct.

20 Q So does that mean that you were considering some
21 kind of exchange in terms of performance in certain
22 districts elsewhere in the map for a VRA-compliant
23 district?

24 MR. MILLSTEIN: Objection, misstates prior
25 testimony.

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1 A Well, I mean, if you look at this, I think this was
2 like the -- I was wrapping my mind around all of the
3 moving parts in negotiation. So if you look at what we
4 want, you'll see the 24th reflected under what we want,
5 but you'll also see the 24th reflected under what we're
6 willing to give to get what we want.

7 The what we need versus what we're willing to give
8 to get what we need was more holistically I needed these
9 things. I wanted eight majority-minority districts, 26
10 safety districts using election data different than the
11 2020 Pellicciotti data, and I wanted a majority Hispanic
12 CVAP district in the 14th or the 15th, and for that I had
13 wrapped my mind around the fact that I was willing to give
14 in these other four districts.

15 Q (By Mr. Herrera) Were -- So under the what we need
16 category you have the eight minimum-majority districts;
17 right?

18 A Correct.

19 Q Why were those a need?

20 A Just based on my priorities.

21 Q I see. Were they -- Were they based on any kind of
22 legal requirements, as you understood them to be?

23 A I don't know. I don't know that I had applied any
24 legal analysis to my what I needed list.

25 Q Now, earlier you stated that -- Well, let me --

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1 Let's just focus on --

2 So you've explained that there was shorthand for --
3 CVAP 14/15, was kind of shorthand for what you had -- what
4 you were proposing in the Yakima Valley; is that right?

5 A A majority Hispanic CVAP district --

6 Q Okay.

7 A -- in the 14th and 15th.

8 Q Okay. sorry. I'm sorry. So I misstated that.

9 So the CVAP 14/15 is shorthand for simply a majority
10 Hispanic CVAP district in the Yakima Valley region?

11 A Yes.

12 Q Okay. And VRA is shorthand for the map that Brady
13 Walkinshaw wanted in the Yakima Valley region; right?

14 A Correct.

15 Q Was the CVAP that Brady Walkinshaw wanted in his
16 proposed map at that time when you use VRA higher than
17 simply 50 percent Hispanic CVAP?

18 A I don't remember. I remember the Democratic
19 performance was higher. I don't remember the CVAP,
20 because I don't recall there being a difference, a big
21 difference between our maps on that.

22 I don't recall. I don't recall.

23 Q But it was -- It was -- The Hispanic CVAP was higher
24 than 50 -- just simply being 50 percent; right?

25 A I don't recall.

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1 MR. MILLSTEIN: Objection.

2 A I'd have to look at his actual map.

3 I mean, the Democratic performance was higher. It
4 was based on the Barreto memo.

5 I mean, it's the map that he drew or released, his
6 second draft map.

7 Q (By Mr. Herrera) Okay. And his second draft map,
8 you don't recall what the Hispanic CVAP percentage using
9 2019 numbers was --

10 MR. MILLSTEIN: Object.

11 Q (By Mr. Herrera) -- for the Yakima Valley region?

12 MR. MILLSTEIN: Objection, asked and
13 answered.

14 A I don't recall.

15 Q (By Mr. Herrera) Hypothetically -- Well, not
16 hypothetically. So looking here at this chart, would a --
17 If a --

18 In your understanding at this time would a district
19 that had say a 53 percent Hispanic CVAP in the Yakima
20 Valley region better enable Latinos to elect their
21 candidate of choice versus a district that was simply
22 50 percent Latino CVAP?

23 MR. MILLSTEIN: Objection, calls for
24 speculation.

25 MR. HUGHES: And incomplete hypothetical.

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1 A Yeah, I don't remember what date it was that I was
2 making these notes, so I don't remember what my
3 understanding was at the time around CVAP percentages. I
4 just wanted a majority Hispanic CVAP district.

5 Q (By Mr. Herrera) And at this time when you just
6 wanted a Hispanic majority CVAP district, was there
7 anything -- were there other things you wanted in
8 conjunction with that, with that type of district?

9 A Specific to?

10 Q Specific to the Yakima Valley region, other things
11 that you thought were needed there.

12 A Yeah, I wanted a competitive district, a true swing
13 district.

14 Q Okay. And by true swing, you mean in using the
15 Pellicciotti index?

16 A No, because the Pellicciotti index performed lower
17 for Democrats statewide.

18 And so I should back up. The difference between on
19 this list what we want versus what we need, I was really
20 trying to wrap my mind around what I needed in order to
21 vote for a map at the end of the day and what I was
22 willing to negotiate. So this was really -- The need
23 versus want is really what am I willing to vote for, and
24 if it doesn't include these --

25 Like in my mind if the final map didn't include

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1 these three things, then I wasn't going to be able to vote
2 for them. There were other things that didn't have to be
3 included, but these were -- This was my bright line.

4 So again, this is a -- You know, this was just me
5 taking what was in my head and putting it down on paper so
6 I could wrap my mind around how to prioritize negotiations
7 moving forward.

8 Q Now, would it be fair to say, though, that if VRA,
9 meaning Brady Walkinshaw's district or proposal at this
10 time, was in the want category, that you did not need what
11 he wanted in order for you to be able to vote for it?

12 MR. MILLSTEIN: Objection. I'm sorry.

13 Objection to form.

14 A Yeah, I'm not sure I understand, that I --

15 Can you ask me that again?

16 Q (By Mr. Herrera) So you just said the difference
17 between your need and want category is helping -- well,
18 it's helping you think through what you would be able to
19 vote for; right?

20 A Correct.

21 Q So if something that you wanted did not end up in
22 the final proposal, could you still vote for it?

23 A Yes.

24 Q Okay. So if VRA, as you put shorthand here for
25 Brady Walkinshaw's proposal, was not ultimately what was

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1 in the final map, then your thinking at the time was, "I
2 can vote for that if we don't get it"?

3 A Provided it had the other things in the what I need
4 category.

5 Q Okay. I'm going to -- I mean, this is a shot in the
6 dark because I don't have a -- I'm not sure what, which
7 Brady Walkinshaw proposal you're referring to; but I do
8 have a Dave's link that I'm going to share with you, share
9 on the screen. And it is -- It says BW 1110 New VRA Block
10 Assignments.

11 A Okay.

12 (Dave's Redistricting Website displayed.)

13 Q And do you see the Yakima Valley region set of
14 districts here?

15 A I do.

16 Q And if I zoom into the 14th here, which is kind of
17 the bluish shape, do you see that district?

18 A I do.

19 Q And it's the 14th in this case; right?

20 A Correct.

21 Q Does this look like what you understood Brady
22 Walkinshaw's proposal to be in November of 2021 for the
23 Yakima Valley region?

24 MR. HUGHES: Objection, vague.

25 A To the extent that I remember the details, yes, and

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1 assuming that it hasn't been modified since, --

2 Q (By Mr. Herrera) Okay.

3 A -- since I saw it last, yes.

4 Q And down in Citizen VAP 2019, so I've added that to
5 the district details, do you see that the Hispanic CVAP
6 2019 is 52.6 percent?

7 A I do.

8 Q Okay. And then do you see -- I'm going to go up to
9 the 2020 -- that in CVAP 2020 for Latinos it is at
10 54 percent in the 14th District?

11 A I do.

12 Q So I'm going to --

13 A I also don't remember the treasurer 2020 results
14 being available, but I saw it on the side of your screen
15 here.

16 Q Yeah, I don't -- I don't --

17 A So --

18 Q I don't -- I think -- I don't know if that was made
19 available --

20 A Okay.

21 Q -- then or through an edit or something, but yeah.

22 A Okay. I just wanted to -- You asked me about that
23 --

24 Q Yeah.

25 A -- earlier, and I told you it wasn't available here;

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1 but I see that it is now.

2 Q Yeah.

3 A So if it was available, I didn't have access to it.

4 Q Okay. Good to know. Thank you.

5 A Um-hmm.

6 MR. HERRERA: So I'm going to ask that
7 we -- with my hand -- my cursor on the 14th, could we take
8 a screenshot of this and make it an exhibit?

9 THE WITNESS: I was going to do it for you,
10 but --

11 THE REPORTER: Okay. It's just this and
12 print screen.

13 THE WITNESS: -- I clearly cannot be
14 trusted.

15 THE REPORTER: So that will be Exhibit 23,
16 the screenshot.

17 (Sims Exhibit No. 23 designated.)

18 MR. MILLSTEIN: And Counsel, just being
19 mindful of the time, --

20 MR. HERRERA: Yeah.

21 MR. MILLSTEIN: -- are you -- How many more
22 minutes do you think you have so that other counsel can
23 ask questions?

24 MR. HERRERA: Yeah.

25 MR. MILLSTEIN: Because it's already been

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1 45 minutes.

2 MR. HERRERA: Can we --

3 MR. MILLSTEIN: I'd rather not take a break
4 if we can just go ahead and power through, I'm assuming,
5 just because we're --

6 MR. HERRERA: Yeah. So let me ask -- Okay.
7 Let me stop sharing here.

8 Q (By Mr. Herrera) So as we just saw, a proposal that
9 you think looked like one of Brady Walkinshaw's later
10 proposals in 2021 redistricting had a 2019 CVAP that was
11 higher than simply just a majority at 50 percent, or
12 barely above 50 percent; right?

13 A Yes.

14 Q For Hispanic CVAP; right?

15 A Yes.

16 Q Okay. So would it be fair to say that a VRA
17 district in your shorthand in the other chart we were
18 looking at in your notes was a higher CVAP district than
19 simply 50 percent?

20 MR. MILLSTEIN: Objection, calls for
21 speculation, lacks foundation.

22 A I would say no, it's not fair to say. I would say I
23 don't know that that's fair to say.

24 I believe the notes that we were just looking at
25 were probably early, fairly early in October when we

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1 started our negotiations. I don't remember the exact
2 date. I'm not sure that those notes reflect the Dave's
3 Redistricting district you just showed me based on timing.

4 Q (By Mr. Herrera) Okay.

5 A I don't know for sure that I had, because that was
6 dated November 11th, --

7 Q Um-hmm.

8 A -- and this, my notes around negotiations would have
9 been in October.

10 Q Okay. And -- Please go ahead.

11 A So the Brady Walkinshaw VRA district in my notes
12 would have been based on his first -- were likely based on
13 his first or his second draft map, --

14 Q Which would be --

15 A -- 14th and 15th.

16 Q So that would be -- So you're saying your notes with
17 the needs and wants chart was probably based on the draft
18 map that Brady Walkinshaw released publicly after the
19 Barreto presentation?

20 A Very likely, yes.

21 Q Okay. Okay. All right. So I just have, okay, a
22 quick --

23 Do you recall a memo that Ali -- that Ali O'Neil
24 wrote to the -- to Senator Billig about the final days of
25 negotiations?

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1 A I do.

2 Q Okay. Do you think that that document, that
3 memorandum, fairly reflects what happened in the final
4 days of negotiation?

5 A I do not.

6 Q Okay. And why not?

7 A I mean, I'd have to go through the memo line by
8 line.

9 Q Sure.

10 A It's been a long time since I've reviewed it.

11 I will say that Ali's position, both her physical
12 position and her position on the council or Commission
13 didn't -- I would say that her experience that evening was
14 different than my experience, --

15 Q Okay.

16 A -- both because her physical position in the room
17 was different than mine, and her position of authority on
18 the Commission was different than mine.

19 So her recollection of events doesn't match mine.

20 Q I see. And do you remember anything specific that
21 sticks out to you with regard to the 14th or 15th
22 Legislative District in the final map? Or let me strike
23 that.

24 With regard to negotiating the Yakima Valley
25 district configuration for the legislative map, do you

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1 recall there being a difference specifically in your mind
2 between your map -- your -- sorry, your recollection of
3 events and Ali O'Neil's?

4 A It's been so long since I've read the memo. I don't
5 remember anything specific to the 14th and 15th at all in
6 her memo, actually, so I'd have to read it again.

7 Q Okay. Now, in the end whose district -- Whose
8 version of a Yakima Valley -- Well, let me strike that.

9 In the final map that you -- that was agreed to,
10 whose version of Legislative District 15 was agreed to?

11 MR. MILLSTEIN: Objection to form.

12 A I mean, by way of agreement it was all of ours. I
13 mean, it was a negotiated district.

14 Q (By Mr. Herrera) Okay.

15 A So I don't --

16 Q And whose -- In terms of your publicly released
17 maps, which -- Well, let me just ask this.

18 Who drew the final district that went into the
19 approval process? Like which person drew the district?

20 A The final districts were drawn by Osta Davis and
21 Anton --

22 Q Grose?

23 A -- Grose.

24 Q Okay. And whose version or whose proposal in the
25 Yakima Valley region in terms of publicly released maps

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1 between the commissioners most closely reflected what was
2 ultimately chosen or voted on by the commissioners in the
3 final map?

4 MR. MILLSTEIN: Objection to form.

5 A I don't know. I'd have to see all four of them. I
6 don't think I've ever looked at the differences. Or I
7 won't say I don't think I ever have.

8 It's been a long time since I looked at the maps
9 that the Commission, individual commissioners released. I
10 mean, those maps were released September 15 of last year.

11 Q (By Mr. Herrera) And when was that final map drawn
12 by Ms. Davis and Mr. Grose?

13 A On November 15th.

14 Q Okay. And was that final map checked for compliance
15 with the Voting Rights Act?

16 MR. MILLSTEIN: I'm going to object to the
17 extent you're calling for a legal conclusion.

18 A I mean, we did not have legal advice on the final
19 map, if that's -- and on the final district.

20 Q (By Mr. Herrera) Did you observe the final version
21 of the map as -- Well, did you observe Mr. Grose and
22 Ms. Davis as they were drawing the final map?

23 A Some, yes.

24 Q Okay. And was anyone else observing it with you?

25 A Yeah, Commissioner Graves.

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1 Q Okay. Anyone else besides Commissioner Graves?

2 A I mean, at various points in the evening all of the
3 commissioners were in and out of the room.

4 Q Were they -- What application or software were
5 they -- Mr. Grose and Ms. Davis using to draw the final
6 map?

7 A I believe they were using Dave's Redistricting.

8 Q Okay.

9 A And then it had to be imported into the Edge
10 software, and then they spent sometime reconciling the
11 Dave's with the Edge before it was publicly released.

12 Q Did you or any other commissioners see -- Were you
13 and -- Let me just ask you.

14 Were you observing what was happening to the
15 Hispanic CVAP percentage in Legislative District 15 as
16 Mr. Grose and Ms. Davis finalized the map?

17 A I was not.

18 Q Was the final version of the map shared for public
19 comment before you -- the commissioners approved it?

20 A It was not.

21 Q Was the final version -- Were you looking at any
22 other data or indicators with regard to the 15th
23 Legislative District in Dave's Redistricting as Mr. Grose
24 and Ms. Davis drew the final map on the 15th --

25 MR. HUGHES: Objection, vague.

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1 Q (By Mr. Herrera) -- of November?

2 A Was I looking at any additional data? No.

3 Q Was the district shared -- or were the final
4 versions as Mr. Grose and Ms. Davis finalized it, were
5 those shared with the two other commissioners besides you
6 and Mr. Graves?

7 A I believe they were.

8 Q And how was that done?

9 A If I remember right, the final maps were sent to the
10 members of the Commission.

11 You know what, I don't know. I know that Osta sent
12 me the final map for review. I'm not sure about the other
13 members of the Commission. I assume that their staff sent
14 it to them as well.

15 Q Okay. Why were Osta and Anton drawing the final
16 version of the legislative district map?

17 A Because Commissioner Graves and I were the lead
18 negotiators on the legislative maps, and so our staff were
19 tasked with taking that agreement and articulating it into
20 our final maps.

21 Q Okay. And did Osta and Anton have final parameters
22 and instructions from you and Mr. Graves based on what you
23 had negotiated?

24 A Yes.

25 Q Okay. How did you tell Osta to draw the legislative

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1 district map in those final changes?

2 A If I remember right, we agreed to -- I don't
3 remember the exact percentages. I remember it was a map
4 that would get us to over 50 percent CVAP using today's
5 numbers and would be a true swing district at 50 percent
6 Democratic performance.

7 I can't remember if that was 50 percent Pellicciotti
8 or if it was lower for Pellicciotti but ultimately higher
9 using other election data.

10 Q So did the final map that was drawn have above
11 50 percent Pellicciotti for the 15th Legislative District?

12 A I would have to review the notes. I can't remember
13 if it was Pellicciotti or if it was over 50 percent based
14 on another qualifier.

15 Q Okay. Was -- What were --

16 Did you have any objections to the -- to the final
17 versions of the map as Mr. Grose was working on it with
18 Ms. Davis?

19 A While they were --

20 Q Finalizing it.

21 A -- articulating the agreement?

22 Q (Nodded.)

23 A Not that I recall.

24 Q How was it that you were communicating your
25 instructions to Ms. Davis about the final version of the

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1 map?

2 A Well, Osta had been assisting me on the
3 Redistricting Commission for months and had been my
4 strategic thought partner throughout negotiations, so she
5 knew where the sticking points were.

6 We had played around with different scenarios so
7 that we knew when we offered specific performance in a
8 district it was something that we could deliver. So
9 she -- I mean, I had been communicating throughout the
10 process, so she was clear at the time what the parameters
11 were.

12 Q Okay. And was that via different -- Was that via
13 text? Email?

14 A Orally. All of the above.

15 Q Okay. Now, about the final version of the map, is
16 there a -- do you know why it excludes the cities of
17 Wapato and Toppenish from the 15th Legislative District?

18 A I don't.

19 Q Okay. Do you recall examining whether -- why that
20 was the case before the map was finalized?

21 A Let me say it's not that I don't know. It's that I
22 don't remember. I don't remember the decision points
23 around Toppenish and -- What was the other?

24 Q Wapato.

25 A Wapato.

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1 Ask me your question again. I'm sorry.

2 Q No, that's fine. We can move on.

3 What is -- Did you get all of what you earlier -- or
4 the notes that we were looking at earlier that had a
5 column of wants, --

6 A Um-hmm.

7 Q -- did you get all of those wants in the final map?

8 A Yes.

9 Q Okay. Including --

10 A Wait.

11 Q -- the version of --

12 A I may not have gotten all of the majority-minority
13 districts.

14 MR. MILLSTEIN: Counsel, if I can assist.
15 I think she's misunderstanding. I think --

16 MR. HERRERA: Sure. Let's --

17 MR. MILLSTEIN: -- think she referred to
18 the needs.

19 A Oh, the needs. Oh, you're asking about the wants.

20 Q (By Mr. Herrera) Yeah.

21 A Thank you.

22 Q If we look -- We can look back at the chart. It's
23 Notes Chart.jpg on your screen. I don't know if you can
24 pull it up.

25 MR. MILLSTEIN: You'll need to share it.

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1 It didn't download appropriately.

2 MR. HERRERA: Oh, sorry. I'm going to
3 share it right now real quickly.

4 (Sims Exhibit No. 21 displayed.)

5 Q (By Mr. Herrera) All right. Do you see the want
6 column on the right?

7 A Um-hmm.

8 Q Okay. Did you get all of those things that are in
9 the want column?

10 A No.

11 Q Which ones did you not get?

12 A I didn't get any of them.

13 Q Oh, okay.

14 MR. HERRERA: Can I have one minute off the
15 record to confer with co-counsel?

16 A Sorry. Let me just back up.

17 We did -- We got small, very small improvement in
18 the 42nd District, I think a tenth of a point, but -- We
19 did get something, but by and large no. So I just wanted
20 to --

21 MR. MILLSTEIN: Could we tender the
22 witness? I don't know if you can exchange -- I mean, I
23 know you've been exchanging texts, I would assume. I
24 don't know.

25 MR. HERRERA: Right.

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1 MR. MILLSTEIN: I'm just trying to speed
2 this along because you had represented 45 minutes of
3 questioning. We're about an hour out. I know it's
4 been -- We're over six hours of total deposition time
5 today. It's 5:00. And given the other parties
6 questioning, I'm just trying to be really considerate of
7 Ms. Sims' time.

8 And I know you said you were going to try to move
9 faster than 45 minutes, but we're past that. So if
10 there's --

11 MR. HERRERA: Okay.

12 MR. MILLSTEIN: -- anything we can do to
13 expedite this, I'd greatly appreciate it on behalf of
14 Ms. Sims.

15 MR. HERRERA: Okay. I pass the witness.

16 MR. MILLSTEIN: Thank you.

17 THE VIDEOGRAPHER: Counsel, before we get
18 started, do you mind if we go off the record for just a
19 second? We'll go off and come right back on. It's just
20 the files get really big if we don't.

21 MR. MILLSTEIN: That's fine. Do you need
22 to get that, or --

23 THE VIDEOGRAPHER: And this marks the end
24 of file six in the deposition of April Sims. The time is
25 5:03, and we're off the record.

Soto Palmer, et al. v. Hobbs, et al.
Lakeside Reporting (833) 365-3376

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1 (Break 5:03 p.m. to 5:05 p.m.)

2 THE VIDEOGRAPHER: And we are back on the
3 record. Here marks the beginning of file seven in the
4 deposition of April Sims. The time is 5:05.

5 E X A M I N A T I O N

6 BY MR. HUGHES:

7 Q Hi, Ms. Sims. My name is Andrew Hughes. I
8 represent the State of Washington.

9 I apologize in advance. I'm going to try to go as
10 fast as I can. If you need me to slow down, just let me
11 know. Okay?

12 A Okay.

13 Q So I want to pick up where we just left off. You
14 were asked about why Wapato and Toppenish weren't included
15 in the LV 15 the Commission passed.

16 Do you recall that?

17 A Yes.

18 Q Was one of the Commission's goals to keep the Yakama
19 Reservation together?

20 A Yes.

21 Q And that came from the Yakama Nation, that goal?

22 A Correct.

23 Q Do you know whether Wapato and Toppenish are in the
24 Yakama Reservation?

25 A I believe they are.

Soto Palmer, et al. v. Hobbs, et al.
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1 Q So are you aware, Ms. Sims, of a second lawsuit
2 challenging the Commission's redistricting plan called
3 Garcia versus Hobbs?

4 A Yes.

5 Q And as you understand it, what does that lawsuit
6 allege?

7 A Racial gerrymandering is my understanding.

8 Q So is it fair to say that that lawsuit then alleges
9 that the Commission inappropriately took race into
10 consideration when creating LD 15?

11 A That's my understanding.

12 Q Let me ask you, I think this is pretty clear from
13 the record, but just to get it absolutely clear.

14 Did you believe that the VRA required the Commission
15 to create a majority Hispanic district in the Yakima
16 Valley?

17 A I did.

18 Q When do you recall this issue first arising for you?

19 A I would say during the VRA presentation to the
20 Commission, which I believe was in May, and then again
21 with the release of the Barreto memo at the end of
22 September.

23 Q Okay. So then -- you can correct me -- the June
24 presentation from the Attorney General's Office, --

25 A Thank you.

Soto Palmer, et al. v. Hobbs, et al.
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1 Q -- was that the first time it crossed your mind that
2 you might need to create a majority Hispanic district in
3 the Yakima area?

4 A No.

5 Q Okay. So when was the first time that that issue
6 first arose for you, that you first thought you might have
7 to create a majority Hispanic district in the Yakima
8 Valley?

9 A I don't remember the date. There was a presentation
10 with the Redistricting Justice Coalition, but I bring up
11 the VRA presentation to the Commission because I think
12 that's the first time I started to really understand it in
13 a way that was not just theoretical, --

14 Q Okay.

15 A -- I guess.

16 Q And you say you don't remember the date for the
17 Redistricting Justice presentation or meeting. Do you
18 remember about when it was?

19 A I think it was sometime in the spring.

20 Q Okay. So this conclusion that you came to that the
21 VRA required the creation of a majority-minority district,
22 I think you mentioned AAG Sutherland's presentation. I
23 think you mentioned the Barreto report.

24 Was there anything else that that conclusion that
25 you reached was based on?

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1 A I mean, I think there were a number of lawsuits
2 during that time, a couple of lawsuits that had been filed
3 in other states.

4 Q In other states. You also mentioned lawsuits in
5 Yakima City and County.

6 A Yes.

7 Q Did those lawsuits feed into your thinking about
8 whether it was necessary to create a majority Hispanic
9 district?

10 A They did.

11 Q How so?

12 A Well, specifically the settlement for Yakima County
13 because it was fairly recent during the time of
14 redistricting, so that was top of mind. And then adding
15 to that the lawsuit for the City of Yakima.

16 Q Okay. And were you aware of a city that involved --
17 not city. Were you aware of a lawsuit that involved the
18 City of Pasco raising similar claims?

19 A Yes, vaguely.

20 Q And what do you remember about that lawsuit?

21 A Just that there was one. I don't remember much of
22 the details.

23 Q And just so the record is clear, do you remember
24 that it had to do with the Voting Rights Act?

25 A Yes.

Soto Palmer, et al. v. Hobbs, et al.
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1 Q Okay. And was that something that would have
2 contributed to your thinking?

3 A Yes.

4 Q Okay. You mentioned several times community
5 feedback. Did any community feedback you received play
6 into your -- your belief that the VRA required the
7 creation of a majority Hispanic district in the Yakima
8 area?

9 A Community feedback that led to my belief.
10 I'm sure there was. I'm trying to recall any
11 specifics off the top of my head now, but I'm sure there
12 was.

13 Q Okay. Did you have community listening sessions as
14 part of the Commission?

15 A Yes.

16 Q Did that include one in the Yakima area in June of
17 2021; do you recall?

18 A That sounds right.

19 Q Do you recall folks there speaking in support of a
20 majority Hispanic district in the Yakima area?

21 A I think I was absent for that meeting, but I recall
22 reading the feedback. I recall reading the community
23 comments that were provided by my staff after the fact, so
24 yes.

25 Q Okay. And what do you recall about those community

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1 comments?

2 A That communities wanted both a VRA-compliant
3 district or a majority CVAP district, and that Yakama
4 Nation wanted to be kept whole or wanted to be made whole
5 again.

6 Q Was this sort of community feedback important to
7 you?

8 A Absolutely.

9 Q And why is that?

10 A I mean, I think historically redistricting has been
11 a process that has excluded community feedback, and I
12 wanted to make sure that the Commission had a really
13 robust community engagement plan, and that if we were
14 going to go through all that work that we took that
15 feedback seriously.

16 Q That makes a lot of sense. Do you think the folks
17 on the ground are the best judges of their own interests?

18 A Absolutely I do.

19 Q So when you hear the phrase community of interest,
20 do you think it makes sense to ask folks in the
21 communities what are the communities of interest, what are
22 their interests?

23 A Yes.

24 Q In these community listening sessions, in reviewing
25 public comments do you recall any testimony or any

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1 comments in opposition to the creation of a majority
2 Hispanic district in the Yakima area?

3 A I'm just -- I'm thinking.

4 Q Um-hmm.

5 A The interesting thing about being a public figure is
6 you get lots of feedback, and folks will email some of the
7 most interesting comments.

8 So I don't remember any organized opposition to a
9 VRA district.

10 Q Okay. Do you remember anyone ever testifying or
11 sending a comment suggesting that the creation of a
12 majority Hispanic CVAP district would cause a problem for
13 them, would cause them some form of injury?

14 A Not that I recall.

15 Q I realize I skipped over a question. When I asked
16 you about the three lawsuits, the City of Yakima, Yakima
17 County and City of Pasco, do you remember about when you
18 learned about those lawsuits?

19 A I mean, I remember the Yakima City lawsuit when it
20 happened, so that would have been 2014-2015, somewhere in
21 there.

22 I remember the county lawsuit when the settlement
23 happened, so that would have been in 2021.

24 And I just remember hearing about the Pasco lawsuit
25 more peripherally, not being intimately familiar with it,

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1 --

2 Q Okay.

3 A -- but I -- It would have come up sometime in 2021
4 as part of the overall conversation.

5 Q Understood. So these were all things that you had
6 in mind as you were going into the redistricting process
7 then?

8 A Correct.

9 Q So is it fair to say then that this conclusion that
10 you reached that the VRA required the creation of a
11 majority Hispanic district, a lot went into that
12 conclusion?

13 A Yes.

14 Q Okay. And it wasn't just Matt Barreto give a
15 presentation and there was a lightbulb moment for you, was
16 it?

17 A No.

18 Q Why don't we -- Why don't we go to an exhibit.

19 MR. HUGHES: And Dallin, I think this is
20 for you, it's probably called 49461.

21 There you go.

22 MR. MILLSTEIN: We'll pass this to the
23 court reporter.

24 MR. HUGHES: Perfect.

25 (Sims Exhibit No. 24 introduced.)

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1 MR. MILLSTEIN: She'll hand it to you.

2 THE WITNESS: I figured these weren't mine
3 to keep.

4 Q (By Mr. Hughes) And Ms. Sims, let me know when you
5 have it in front of you.

6 A What's that?

7 Q Oh, let me know when you've had a chance to review
8 it.

9 A Okay. Thank you.

10 MR. HOLT: Remind me what we're going in at
11 on this exhibit, what number?

12 THE REPORTER: This is No. 24.

13 MR. HOLT: Twenty-four. Okay. Thanks.

14 A Okay.

15 Q (By Mr. Hughes) Ms. Sims, can you just tell me what
16 this is?

17 A This is an email from -- or an email chain between
18 me and Osta Davis regarding a potential VRA -- regarding
19 VRA work.

20 Q And this is from March of 2021; correct?

21 A Correct.

22 Q Did you ask Osta to research VRA-related issues?

23 A I don't -- I don't believe I did. She's just good
24 like that.

25 Q She's just -- Why -- Why was it good that she did

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1 this?

2 A Well, because if we're required to draw a
3 VRA-compliant district, I wanted to know as much as
4 possible about our requirements.

5 Q So in other words, complying with the VRA was
6 something that was very important to you as a
7 commissioner?

8 A Yes.

9 Q Okay. So I want to ask you about under bullet point
10 No. 1 there's a sentence that starts, "It was
11 interesting." And it says, "It was interesting that
12 Pramila" -- I think that's Pramila Jayapal -- "mentioned
13 that OneAmerica isn't engaging in redistricting this year
14 since I'd think that they could build a pretty strong case
15 for majority Latinx districts in eastern Washington, and
16 they've invested so much energy in this region."

17 Do you see that?

18 A I do.

19 Q And did I read that correctly?

20 A Yes.

21 Q What -- What was the basis for -- Strike that.

22 Do you know why Osta said that OneAmerica could make
23 a pretty strong case for majority Latinx districts in
24 eastern Washington?

25 A Because they had been -- I believe what she meant

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1 here is because they had been so deeply engaged in the
2 other VRA lawsuits in that region.

3 Q Okay. Did you click on either of these links; do
4 you recall?

5 A I believe I did. I'm sure I did.

6 Q Okay. So I'm going to show you what I will
7 represent to you is what happens when you click on the
8 first link.

9 MR. HUGHES: And that one is my copy, so
10 you don't get that. Here's one for you.

11 MR. MILLSTEIN: I'll hand this one to the
12 court reporter.

13 (Sims Exhibit No. 25 introduced.)

14 MR. HUGHES: You read my mind. Thank you
15 so much, Jeanne.

16 Q (By Mr. Hughes) So in the interest again of moving
17 quickly, I'm not going to ask you to read this whole
18 thing, but I do want to --

19 (Lights went out.)

20 MR. HUGHES: Oh, lights off.

21 MR. MILLSTEIN: Hold on here.

22 MR. HUGHES: Thank you very much, Aaron.

23 MR. MILLSTEIN: Oh, no. The building.

24 MR. HUGHES: Okay.

25 THE VIDEOGRAPHER: Should we go off the

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1 record for a second?

2 MR. MILLSTEIN: Yeah.

3 MR. HERRERA: Yeah, that's odd.

4 THE VIDEOGRAPHER: And this marks the end
5 of file seven in the deposition of April Sims. The time
6 is 5:18, and we're off the record.

7 (Discussion off the record.)

8 THE VIDEOGRAPHER: And we are back on the
9 record. Here marks the beginning of file eight in the
10 deposition of April Sims. The time is 5:19 p.m.

11 Q (By Mr. Hughes) So we were looking at Exhibit 25.
12 Ms. Sims, do you recognize this document?

13 A I do.

14 Q And what is it?

15 A It is an analysis of the County Commission elections
16 in Yakima as prepared by MGGG.

17 Q And it's dated January, 2020; correct?

18 A Correct.

19 Q And are you aware that this is the report that comes
20 up when you click the first link in Ms. Davis's email in
21 Exhibit 24?

22 A Yes.

23 Q Do you know why this report was done? That's not
24 important. Let's move on.

25 Let me move on to the third paragraph, and there's a

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1 sentence that starts on line four. It says, "We find that
2 Yakima" --

3 Do you see that?

4 A Yes.

5 Q Can you do me a favor and just read those two
6 sentences?

7 A "We find that Yakima has a clear pattern of racial
8 polarization with strong Gingles 2 and 3 findings. In
9 particular, we find strong cohesion between Hispanic and
10 Native voters in their support of Hispanic candidates,
11 while White voters block these candidates of choice for
12 the minority coalition from ever reaching office."

13 Q Do you recall reading this?

14 A I do.

15 Q And was this important to you?

16 A It was.

17 Q Why was this important to you?

18 A Because I wanted to keep communities together and
19 communities of interest together and wanted to draw a
20 district that was VRA compliant based on my understanding.

21 Q So was this then part of the total mix of
22 information that went into your decision making about the
23 need to create a majority Hispanic district in the Yakima
24 area?

25 A Yes.

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1 Q Okay. I want to go back to Exhibit 24, if we could.

2 And bullet two mentions Dr. Matt Barreto.

3 Do you see that?

4 A I do.

5 Q And in the second sentence it says that, "He" --

6 Dr. Barreto -- "has done some really interesting work on
7 racially polarized voting across the state."

8 Do you see that?

9 A I do.

10 Q And now I think we used this term before. What does
11 racially polarized voting mean to you?

12 A This feels like a legal question, but let me --

13 Q I'll represent it is a legal question, but I'm
14 trying to get your understanding --

15 A Okay.

16 Q -- of what it means.

17 A Just that folks are divided politically along racial
18 lines.

19 Q Do you understand racial polarization -- Based on
20 all the work you've done as a commissioner, do you
21 understand racial polarization to be an important
22 consideration under the Voting Rights Act?

23 A I do.

24 Q And why is that? Asking again for your lay
25 understanding or your expertise as a commissioner, --

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1 A You had it right.

2 Q -- but not as a lawyer.

3 A You had it right, but ask me the question again.

4 Q Yeah, let me ask it without all the caveats.

5 What is your understanding of why racially polarized
6 voting is an important consideration under the Voting
7 Rights Act?

8 MR. MILLSTEIN: And I'll just object to the
9 extent it calls for a legal conclusion.

10 A I'm not sure that I have a sophisticated
11 understanding of why.

12 Q (By Mr. Hughes) Okay. Do you have a -- pardon the
13 expression -- unsophisticated understanding as to why?

14 A Well, I mean it allows you --

15 (Lights went out.)

16 MR. HERRERA: There's a switch in the
17 front, by the front door. I'll get it.

18 Sorry, Ms. Sims. Keep going. Sorry.

19 THE WITNESS: Keep going?

20 MR. MILLSTEIN: If you're comfortable, I
21 think we should just keep going.

22 A I mean, because it allows entire racialized
23 populations to be excluded from selecting their candidate
24 of choice.

25 Q (By Mr. Hughes) Okay. So did you click on this

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1 link in bullet point two, do you recall?

2 A I'm sure I did.

3 Q Okay. And let me -- Sorry. Exhibits are a bit of a
4 mess here, but let me try and -- There's one, one for you.

5 THE WITNESS: Oh, I'm sorry, I'm not
6 supposed to take this?

7 MR. MILLSTEIN: Oh, it's okay if you want
8 to hand it to her. I'm sure she would appreciate the
9 assistance.

10 MR. HUGHES: Here's one for you.

11 MR. MILLSTEIN: Thank you.

12 (Sims Exhibit No. 26 introduced.)

13 MR. HUGHES: Ernest, will we ever see him
14 again?

15 Q (By Mr. Hughes) So Ms. Sims, do you recognize this
16 document?

17 A I do.

18 Q And what is it?

19 A This is some analysis done by Dr. Barreto.

20 Q Do you know why Dr. Barreto published this analysis?

21 A Do I know why he did?

22 Q Yeah.

23 A I don't.

24 Q Okay. I would like to ask you about some slides
25 starting on page 3.

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1 A Okay.

2 Q What I'd like you to do if you don't mind is just to
3 review these slides, and then I'm going to ask you very
4 generally what you understand them to mean.

5 MR. MILLSTEIN: Ernest, do you want to
6 twist those blinds? That will help with a little more
7 light. Thank you.

8 A Okay. I think I understand what I'm looking at.

9 Q (By Mr. Hughes) So do you understand that
10 Dr. Barreto is laying out or here previewing graphs that
11 will or will not demonstrate racial polarization in
12 elections in Washington?

13 A Yes.

14 Q So I want to ask you to move to the next page, and
15 do you see those two graphs, one labeled Yakima County
16 Commission 2008 and one labeled WA 14 LD 2008?

17 Based on these two graphs and your understanding of
18 how these graphs work, does Dr. Barreto find racially
19 polarized voting in these elections?

20 MR. MILLSTEIN: Object to form.

21 A Yes.

22 Q (By Mr. Hughes) And just flipping the page, you'll
23 see two more graphs, one for Washington 14th Legislative
24 District 2008. Wait, didn't we just do that one? Oh.
25 Well, not yet. One for Washington 14th Legislative

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1 District 2008 and one for Washington 15th Legislative
2 District 2012 General.

3 The same question: As you understand it, do these
4 graphs appear to show some form of racially polarized
5 voting?

6 A Yes.

7 Q And I should have asked this earlier. Do you see
8 the date on the top right of this document?

9 A I do.

10 Q And what's that date?

11 A February 6, 2013.

12 Q So very generally speaking, what do you understand
13 Dr. Barreto's conclusions to be here about racially
14 polarized voting in the Yakima area?

15 A That there is racially polarized voting in the
16 Yakima area.

17 Q At least as far as 2013?

18 A Right.

19 Q Okay. So was that something that was important for
20 you in your work as a commissioner?

21 A Yes.

22 Q And why is that? Let me ask a better question.

23 Was that part -- Was this part of the total mix of
24 information you considered in determining whether you were
25 required to create a majority Hispanic district in the

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1 Yakima area?

2 A Yes.

3 Q I'd like to take you back finally to Exhibit 24.

4 This is the email string between you and Ms. Davis.

5 So in response to Ms. Davis's email characterizing
6 these and passing along these two analyses, you respond,
7 "Thank you, Osta. Love the idea of Dr. Barreto doing an
8 analysis for the Commission."

9 Do you see that?

10 A I do.

11 Q And did you ultimately receive an analysis that
12 Dr. Barreto did?

13 A Yes.

14 Q Sorry. It was not meant to be a trick question.

15 A Well, it wasn't for the Commission.

16 Q Understood.

17 A Okay.

18 Q But you ultimately received an analysis that
19 Dr. Barreto did, the work of the Redistricting Commission
20 that you were on?

21 A Yes.

22 Q And that was shared with all the commissioners; is
23 that right?

24 A I believe so.

25 Q And do you remember very briefly what that analysis

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1 showed? I think you've alluded to it in prior testimony.

2 A Than we needed to draw a VRA-compliant district in
3 the Yakima area.

4 Q And you understood that to mean a majority Hispanic
5 CVAP district in the Yakima area?

6 A I did.

7 Q I'd like to go back to Exhibit 12. This was an
8 exhibit that Mr. Herrera showed you. And in particular
9 I'd like to --

10 We've already established what this is. This was a
11 memo that you received from Dominique Meyers; correct?

12 MR. MILLSTEIN: You'll need to give her
13 just a moment to find the exhibit.

14 MR. HUGHES: Sorry. I'm being too
15 respectful of her time now is the problem.

16 A Correct. I've got it.

17 Q (By Mr. Hughes) Okay. So when you say correct, this
18 is a memo that you received from Dominique Meyers?

19 A Yes.

20 Q Okay. So under VRA Questions it says, "There's a
21 two-step analysis under the VRA to determine if a
22 majority-minority district should be drawn."

23 Do you see that?

24 A I do.

25 Q And I'm not asking you about whether you agree with

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1 that or not, and I'm not asking for your legal opinion in
2 any of these questions. Understood?

3 A Yes.

4 Q Okay. So it says, "First, is there statistical
5 evidence of racially polarized voting?"

6 Do you see that?

7 A I do.

8 Q And what does it say in the talking points about
9 that prong?

10 A It says, "To answer this question we must look at
11 past elections to determine whether White people vote
12 differently than Latinx people. This has already been
13 done for us in previous court cases, and the answer is
14 definitely yes."

15 Q And do you understand previous court cases means the
16 three cases we previously mentioned involving Yakima City,
17 Yakima County and City of Pasco?

18 A I do.

19 Q So -- Sorry to -- So in other words, those three
20 cases were helpful in answering the question of whether
21 there was racially polarized voting to you?

22 A I would say that the two Yakima cases were helpful.
23 I wasn't super familiar with the Pasco case.

24 Q Understood. And moving on, the second, it says --
25 Under then it says, "Is it possible to draw a majority-

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1 minority district that could statistically --
2 statistically elect a minority candidate?"

3 Do you see that?

4 A I do.

5 Q And what was the -- What does it then go on to say
6 by way of answering that?

7 A "Obviously the answer here is yes, because both D
8 maps did so."

9 Q Did you agree with that?

10 A I did.

11 Q Moving on to -- Oh, no, sorry. Let me -- Let me go
12 back.

13 Based on your understanding of these VRA questions,
14 did this contribute to your understanding of whether it
15 was necessary to create a majority Hispanic district in
16 the Yakima Valley?

17 A Yes.

18 Q Okay. Moving on to the VRA talking points, which is
19 on the final page of the exhibit, do you have that in
20 front of you?

21 A I do.

22 Q It says in the first bullet point -- Well, can you
23 read the first bullet point for me, please?

24 A "Given the well-established history of racially
25 polarized voting in the Yakima Valley, the VRA requires

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1 that we give Latinx voters a meaningful voice in their
2 local elections."

3 Q And did you understand this to be true while you
4 were working on the Commission?

5 A Yes.

6 Q The third bullet point, it says, "Failure to comply
7 with the VRA will certainly result in a lawsuit, and the
8 remedy will likely involve the Court drawing a VRA-
9 compliant district in Yakima County."

10 Do you see that?

11 A I do.

12 Q Is litigation something that you were concerned
13 about as you were going through the redistricting process?

14 A Yes.

15 Q And why is that?

16 A Well, I mean, we wanted to do a good job. We wanted
17 to do the right thing. I wanted to do the right thing. I
18 wanted to do a good job, and I wanted to draw a map that
19 was legal and compliant.

20 Q Okay. Moving on to -- Sorry, it feels very awkward
21 to be shuffling you along, but I'm trying to move quickly.
22 I apologize.

23 There's two bullet points that begin option one and
24 option two. Do you see that?

25 A I do.

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1 Q What does this mean? Like literally options for
2 what?

3 A Options for drawing the 14th District.

4 Q Are these different potential talking points that
5 you could raise in response to concerns about the shape of
6 the 14th?

7 A Yes.

8 Q What are the two different options?

9 A I mean, option one was drawing the district where it
10 went around Yakima County over to Clark, but that would
11 exclude the Tribes. And then the other option was to draw
12 a really awkward looking 14th District.

13 Q So these two options for how to respond to concerns
14 about the shape of the district, did you -- Never mind.
15 Strike that.

16 This analysis that -- Just to go back to the lead
17 email, do you understand this analysis came from someone
18 named Alec?

19 A Yes.

20 Q And I think you testified earlier that you believe
21 Alec was an attorney?

22 A Yes.

23 Q Okay. Did you rely on this analysis in your
24 thinking about the requirement of creating a majority
25 Hispanic district in the Yakima area?

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1 A Yes.

2 Q Are you aware that at some point in I think it was
3 November Commissioners Fain and Graves got a legal opinion
4 about the necessity of creating a majority Hispanic
5 district?

6 A Yes.

7 Q Do you remember what law firm that came from, by
8 chance?

9 A I believe it was Davis Wright.

10 MR. HOLT: Objection, form.

11 Q (By Mr. Hughes) Do you recall what your thoughts
12 were on that opinion?

13 MR. MILLSTEIN: Objection to the extent it
14 calls for any legal conclusions.

15 MR. HUGHES: Fair.

16 A I mean, I thought it was indicative of the
17 ideological divide between members of the Commission. I
18 thought --

19 I thought that the argument that drawing a VRA
20 district, if I remember right, the argument in that
21 opinion -- Let me back up.

22 I thought it was unfortunate that we had an analysis
23 and not a legal opinion and that our Republican
24 counterparts had an opinion, and we didn't have an
25 opinion. I thought I needed clarification around the

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1 Democratic performance of the district and what was
2 required there under the VRA. And I thought they were
3 just releasing this memo to push back on the Barreto --
4 they were releasing this opinion to push back on the
5 Barreto memo.

6 Q (By Mr. Hughes) Did the Davis Wright opinion change
7 your thinking or affect your thinking about the necessity
8 of creating a majority Hispanic district in the Yakima
9 area?

10 A It didn't change, no.

11 Q And why not?

12 A Well, it was still clear that we needed to do it. I
13 think what it called into question was whether or not the
14 Democratic performance needed to be high in order to be
15 compliant.

16 Q What do you mean by that?

17 A Well, if I remember right -- If I remember right,
18 the memo talked about racial gerrymandering, --

19 Q Um-hmm.

20 A -- and the likelihood of litigation around that.
21 And I thought it included something about Democratic
22 performance, but that -- I may be -- It may have been
23 something else that came up at around the same time, so --

24 Q Okay. Do you know whether anyone on the D side,
25 Democratic side, ever got an analysis or a counter

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1 opinion -- Let me strike that. That's too many questions.

2 Do you know whether anyone on the D side ever
3 solicited any analysis of the Davis Wright memo?

4 A I don't believe so.

5 Q Okay. Did you discuss that Davis Wright memo with
6 folks on the Democratic side, --

7 A I did.

8 Q -- the staffers?

9 And what can you tell me about those discussions?

10 A Sorry. Let me make sure I understand your question.

11 Q Please.

12 A The question was did I discuss it with --

13 Q Did you discuss it with either Democratic staffers
14 or Commissioner Walkinshaw or Democratic legislators?

15 A Yes.

16 Q And what do you recall about those discussions?

17 A I recall generally that the consensus was this was
18 just pushback against the Barreto memo and that we still
19 had an obligation to draw a VRA district.

20 Q Okay.

21 A And that it was a little bit of showmanship from the
22 other side -- gamesmanship I guess is a better way to say
23 that.

24 Q Understood. Let me move on to another exhibit.

25 This will be --

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1 MR. HUGHES: Oh, and sorry, Dallin. I'm
2 not doing a good job of keeping you up to speed. This is
3 the 47956 is what it's going to be called in your -- in
4 the email I sent you. Here you go.

5 MR. HOLT: I appreciate it.

6 (Sims Exhibit No. 27 introduced.)

7 MR. HUGHES: Here you go.

8 THE WITNESS: Thank you.

9 Q (By Mr. Hughes) Do you recognize this, Ms. Sims?

10 A Yes.

11 Q What is this?

12 A This appears to be an email inviting what I think
13 are community members to a briefing regarding the Yakima
14 district.

15 Q And it starts with what appears to be an email from
16 Adam Hall. Do you see that?

17 A I do.

18 Q And he says, "At the request of Commissioners Brady
19 Walkinshaw and April Sims, I would like to invite you all
20 to participate in a call with Dr. Matt Barreto at
21 3:45 p.m. today."

22 Do you see that?

23 A I do.

24 Q Did you request this call with Dr. Barreto?

25 A I don't recall requesting this.

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1 Q Were you on a call with Dr. Barreto that you recall?

2 A I think, if I remember right, Osta flagged this for
3 me later in the afternoon, and I believe -- Sunday.

4 I don't believe I was in this. Sunday --

5 THE REPORTER: Please keep your voice up.

6 A Ask me the question again.

7 Q Let me ask this question. So the date of this is
8 November 14th. Was that the day before the deadline?

9 A Yes.

10 Q So on November 14th would you have been in
11 Federal Way working with the other commissioners?

12 A Yes.

13 Q Okay. Do you see it says in the second sentence of
14 the email, "Participants will be able to discuss
15 redistricting issues related to a majority-minority 14th
16 LD in the Yakima Valley that will elect candidates of
17 their choice for Latino/Hispanic voters."

18 Do you see that?

19 A I do.

20 Q And do you recall this discussion?

21 A I don't.

22 Q Okay. Let me -- Let me show you another exhibit.

23 MR. HUGHES: And Dallin, this is the one I
24 think it's like Davis-065 or something. There's probably
25 more zeros there.

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1 MR. HOLT: I don't think I have that one.

2 I have Davis texts. Is that what you're referring to?

3 MR. HUGHES: Yeah, Davis texts. Sorry.

4 MR. HOLT: Sound good.

5 (Sims Exhibit No. 28 introduced.)

6 MR. HUGHES: There you go, Ernest.

7 MR. HERRERA: Thank you.

8 Q (By Mr. Hughes) You're making a face.

9 A I'm just trying to remember -- I'm trying to
10 remember some sequencing.

11 I remember being on a call with Dr. Barreto, but I
12 thought it was a few days before this. I don't remember
13 this on a Sunday, so I'm just --

14 Q Do you mind if I ask you a few questions just to try
15 and set the scene then?

16 A Please do.

17 Q So do you recognize this document?

18 A I do.

19 Q It appears to be a text thread between DM Dominique
20 Meyers, and AS April Sims, and Osta Davis; is that
21 correct?

22 A That is.

23 Q And I started you with the top page here, it shows
24 the time, Sunday, November 14th, 8:19 a.m.

25 Do you see that?

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1 A I do.

2 Q And if you flip the pages -- and you can do this
3 yourself -- there's no new date stamp.

4 A Okay.

5 Q So from that do you understand that this all takes
6 place on November 14th?

7 A Yes.

8 Q So I want to direct your attention to the page that
9 has the Bates number Davis_000065 in the bottom right.

10 A Okay.

11 Q And the top is a text from Dominique Meyers that
12 says, "Also thinking . . ."

13 Do you see that?

14 A Yes.

15 Q So this, the text in the middle of the page, there's
16 a text from April Sims. Do you see that?

17 A Yes.

18 Q Probably you; right?

19 A That's me.

20 Q Can you -- Can you read, just read me that text?

21 A "On a call with Brady and Barreto and a UCLA lawyer
22 (Adam and Ali) regarding CVAP/VRA district. Now they're
23 suggesting we shouldn't have a CVAP or that Brady should
24 vote against our agreement, or at least dissent. The
25 attorney is suggesting the Supreme Court drawing this may

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1 be best. Just what the Senate wants to hear."

2 Q So -- Oh, go ahead. Does this refresh your
3 recollection as to whether you had a call with
4 Matt Barreto on November 14th, 2021?

5 A It does. I just didn't remember it being the Sunday
6 before.

7 Q Do you recall what was discussed in this
8 conversation?

9 A Pretty much what I sent in my text message.

10 Q Okay. And who -- Who was on this call? I guess --
11 I mean two things by that.

12 First of all, can you identify just for the record
13 the folks who you mentioned in your text, and second, do
14 you recall whether there were other folks on the call
15 aside from those you mentioned?

16 A Yeah. I mean, there were -- Well, it was Ali O'Neil
17 and Adam Bartz, Brady Walkinshaw, Dr. Barreto, and there
18 were a couple of UCLA lawyers on the call that I didn't
19 capture.

20 If I remember this right, I think it was a text
21 message that Brady sent me asking if I could hop on this
22 call real quick.

23 Q Um-hmm.

24 A And so it wasn't a strategy call that we had planned
25 together. And it was really around strategy. Should we

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1 negotiate a VRA district that it seemed like communities
2 might not want.

3 Q Sure. What do you mean by that, that communities
4 might not want?

5 A That if the -- if the Democratic performance wasn't
6 high enough, that communities wouldn't be happy with it.

7 Q Got it. Is that feedback you were getting at the
8 time?

9 A From some parties, yes.

10 Q Which parties?

11 A Well, the folks on the phone. If I remember right,
12 there wasn't even agreement from the folks on the phone.
13 There were some folks on the phone, they would like a
14 majority Hispanic CVAP district, negotiate that.

15 And there were other folks on the call who thought
16 if we couldn't negotiate a stronger Democratic-performing
17 district, then we shouldn't negotiate anything at all.

18 Q Okay. So you mentioned Adam Bartz. Is it possible
19 it was Adam Hall on the call?

20 A Oh, yeah, probably.

21 Q Okay. And why do you say that?

22 A Because Adam Hall was engaged in the redistricting.

23 Q Okay. You mentioned that there were a few UCLA
24 lawyers on the call. Do you --

25 A Um-hmm.

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1 Q Do you happen to remember who those were?

2 A I don't. My recollection of the details in those
3 final probably 48 hours of negotiations is not super
4 sharp.

5 Q Okay. Do you recall by chance if an attorney named
6 Chad Dunn was on that call?

7 A That could be right.

8 Q Okay. But you're not sure?

9 A (Shook head.)

10 THE REPORTER: Could you answer out loud,
11 please.

12 A Sorry. I'm not sure.

13 Q Okay. Were folks at the UCLA Voting Rights Project
14 advising you on how strategically to negotiate and vote
15 the day before the due date?

16 Is that a fair read of this text?

17 A I don't know that I would use the word advising me.
18 That may be how Brady would characterize his relationship
19 with these folks, but this was my first engagement with
20 the UCLA lawyers that were on the call, I think.

21 So I don't know that I would use the word advising.
22 I would say that it was a strategic conversation. It was
23 a -- It was a conversation around negotiation strategy.

24 Q Okay. And did you have a sense or was it ever
25 discussed why UCLA lawyers were discussing strategy with

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1 you the day before the vote?

2 A I think it was whether or not this would be a good
3 VRA lawsuit.

4 Q Was it your understanding that UCLA lawyers were
5 setting up a VRA lawsuit, potentially?

6 A It was.

7 Q Okay. Just a few more questions.

8 You were asked several questions in the earlier part
9 of your deposition about Latino candidates of choice.

10 Do you recall that?

11 A Say that again. I'm sorry.

12 Q Earlier in your deposition you were asked several
13 questions that included some variation of the phrase
14 Latino candidate of choice.

15 Do you recall that?

16 A I do.

17 Q What do you understand that term Latino candidate of
18 choice to mean?

19 A The candidate that the majority of the Latinos in
20 that district want as their representative.

21 Q And do you have an understanding of whether that --
22 what the characteristics of that candidate might be?

23 Let me ask a better question.

24 Do you understand that to mean Democratic
25 candidates?

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1 A I think I've heard it argued that way. I think
2 there are assumptions that that's the case.

3 Q Was it your understanding that Latino candidates of
4 choice -- When you were -- Let me step back.

5 When you were answering questions today about Latino
6 candidates of choice, was it your understanding that
7 Latino candidate of choice usually meant a Democratic
8 candidate?

9 A Usually, yes.

10 Q With that understanding, were you looking at
11 throughout the process whether Latinos would have an
12 opportunity to represent -- to elect, pardon -- I'll start
13 the whole question over again.

14 With that understanding, when you were testifying
15 today about whether you did or did not look at whether
16 Latinos could elect their candidates of choice, were you
17 looking at whether Democratic candidates were likely to be
18 elected or not in those districts?

19 A Yes.

20 Q You mentioned earlier that you were trying to draw
21 LD 15 to be a, quote, "true swing" district; do you recall
22 that?

23 A I do.

24 Q And you also mentioned that your understanding from
25 Dr. Barreto, I believe, was that Hispanic CVAP in this

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1 district was increasing by about 2 percent every year; is
2 that right?

3 A That's correct.

4 Q And again, that came from Dr. Barreto, this
5 2 percent per year?

6 A To my -- If I'm remembering that percentage, that
7 multiplier correctly.

8 Q Okay. But it was some, you know, annual increase of
9 the share of the Hispanic vote was expected in this
10 district; correct?

11 A Yes.

12 Q So is it fair to say then that when you created
13 LD 15 to be -- Well, let me strike that.

14 Do you believe that the LD 15 that the Commission
15 ultimately created and the Legislature adopted was a true
16 swing district?

17 A Yes.

18 Q So is it fair to say then that you anticipate and
19 you anticipated when you voted that LD 15 would lean
20 Democratic by the end of the decade?

21 A Yes.

22 Q And perhaps sooner?

23 A Yes.

24 MR. HUGHES: That's all I've got. Thank
25 you so much.

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1 MR. MILLSTEIN: Okay. Thank you, Counsel,
2 for moving quickly.

3 MR. HOLT: Aaron, how do you want to
4 proceed here? Again, I've probably got about 60 minutes
5 of questions. I'm aware you guys are sitting in darkness.

6 MR. HUGHES: Not me.

7 MR. HOLT: I can move through this as fast
8 as I can. Are we okay to move forward?

9 MR. MILLSTEIN: Are you okay?

10 THE WITNESS: Yes.

11 MR. MILLSTEIN: Yes.

12 MR. HERRERA: And I'm sorry about the
13 lights. I've tried to figure it out. That's what I'm
14 trying to figure out right now, but -- Yeah.

15 MR. MILLSTEIN: What I'll just say is in
16 the future if we need to do another deposition in person,
17 let me know. We can do it at my offices.

18 MR. HERRERA: Yeah.

19 MR. MILLSTEIN: Because I guarantee you the
20 lights will be on.

21 MR. HERRERA: Yeah. Sorry. I also have
22 a -- Yeah. Okay. Good to know. Thank you. Sorry about
23 that.

24 MR. MILLSTEIN: Go ahead.

25 MR. HOLT: Thank you.

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1 E X A M I N A T I O N

2 BY MR. HOLT:

3 Q Ms. "Davis," my name is Dallin Holt. I'm an attorney
4 for the intervenor defendants in this case, in the Palmer
5 litigation.

6 So I have some questions prepared, and I've tried to
7 scratch off a number of them. So I'm going to do my best
8 to work through them. I might jump around a little bit
9 just for efficiency's sake.

10 So if you don't understand what I'm asking, just
11 please clarify that I'm jumping too quick, and I'll make
12 sure to restate anything.

13 A Okay.

14 Q Is that okay?

15 A Yes.

16 Q Okay. So I want to just look real fast at
17 Exhibit 25 that counsel for the State just brought up.
18 This is the, if I understand correctly, the analysis of
19 the Yakima County Commission elections.

20 Is that what you're showing?

21 A Yes.

22 Q So when they use the term Yakima, quoting from
23 paragraph three that counsel for the State used, where it
24 says, "We find that Yakima has a clear pattern of racial
25 polarization," do you know what they're referring to as

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1 far as the geographical region for Yakima in this report?

2 A My assumption is Yakima County.

3 Q But you don't know for sure?

4 A I don't.

5 Q So for purposes of our -- of the current legislative
6 map, do you know if they're referring to District 14, 15,
7 both of them combined, some variation of them?

8 A And by current map you mean the current maps --

9 Q The map --

10 A -- that the Commission --

11 Q -- that was passed by the Commission.

12 A And your question is whether or not this document is
13 referring to our current map?

14 Q No. I'm trying to understand the -- how we can
15 connect the two, meaning how they refer to Yakima in this,
16 what their analysis is, and Legislative District 14, 15.

17 What is your understanding that this reference to
18 Yakima refers to, to District 14? Fifteen? Both of them?

19 A In this context and with your question in mind, I
20 would say the Yakima Valley, and I would include the 14th
21 and 15th in that.

22 Q Okay. Now, in looking at -- Again, we're going to
23 jump back to Exhibit 9, which I'll represent is the -- I
24 think the kind of selected excerpts of the district map
25 book that discussed different geographical makeups of the

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1 different makeup -- statistical categories of the
2 districts as enacted.

3 Is that what you agree that that is?

4 A I no longer have that link up on my -- Let me see if
5 I can access it. Hold on. It's still on my desktop,
6 isn't it?

7 Q Again, we don't need to belabor the point here. I
8 just --

9 MR. MILLSTEIN: Counsel, it might be
10 helpful if you share your screen for this.

11 MR. HOLT: Oh, okay.

12 MR. MILLSTEIN: Just because this is one of
13 the exhibits we don't have a paper copy of, and so
14 she's -- She's having to reopen exhibits.

15 THE WITNESS: I see eight and seven.

16 MR. HOLT: Yeah, let me see if I can figure
17 this out here. Give me a second.

18 MR. MILLSTEIN: It is the --

19 THE WITNESS: Notes? No.

20 MR. MILLSTEIN: No.

21 MR. HOLT: I've got no idea what it's
22 pulling in. Just give me one second here.

23 THE WITNESS: I see seven and eight.

24 MR. HOLT: Let me -- It might be easier --
25 The way it's showing my screen is complicated, so let me

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1 just drag it in the box here.

2 THE WITNESS: Okay.

3 MR. HOLT: Give me a second.

4 THE WITNESS: Well, it's already in the
5 box, I think, --

6 MR. MILLSTEIN: Yeah.

7 THE WITNESS: -- so I just have to download
8 it again.

9 MR. MILLSTEIN: Scroll back up a little
10 bit. It's towards the --

11 MR. HOLT: Well, just for ease, for the
12 sake of --

13 THE WITNESS: That's it?

14 MR. MILLSTEIN: No, this is it, 2022
15 District Map. All right. We've got it loading, loading.
16 I think I loaded it twice. Let's see here.

17 THE WITNESS: Three times you did.

18 MR. MILLSTEIN: Did I?

19 THE WITNESS: I did it, I think.

20 MR. MILLSTEIN: Here we go.

21 Q (By Mr. Holt) Okay. So you would agree that -- I'm
22 looking at page 8 and 9 of this, of the PDF. I think
23 on -- in terms of the actual document itself it's 58 and
24 60 referencing District 14 and 15.

25 A Yes.

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1 Q You would agree that for District 14 there's a
2 majority-minority population that was drawn into that
3 district; correct? 50.1 percent total population by city
4 and race, minority population by city and race?

5 A Correct.

6 Q And then on District 15 it shows a 77.4 percent
7 total population by city and race; is that correct?

8 A Yes, that's correct.

9 Q So is it your position that this analysis that
10 you've reviewed that required majority-minority districts
11 in the Yakima area required a majority-minority district
12 in 14 and 15, or just one or the other?

13 A My understanding was one or the other.

14 Q But according to these numbers you would agree that
15 both of them in total pop have a majority-minority
16 population in there; correct?

17 A Yes. And my understanding --

18 Q Okay.

19 A -- was we needed a CVAP majority Hispanic district,
20 which I think --

21 Q Okay.

22 A -- is not reflected in these charts.

23 Q Okay. We'll return in a little bit, not to this
24 chart here but just to the numbers in the districts to
25 kind of understand that a little bit better.

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1 But at the very beginning of your deposition today
2 plaintiffs' counsel spoke with you about the Commission's
3 decision to not intervene in the Palmer litigation.

4 Do you recall that conversation?

5 A I do.

6 Q And just so I understand correctly what your
7 testimony was, both yourself and Commissioner Walkinshaw,
8 while voting in favor of the map, also voted in favor of
9 not intervening; is that correct?

10 A That's correct. To the extent that -- We were in
11 agreement. I don't recall if we actually took a vote. I
12 don't --

13 Q Understood.

14 A I don't recall if there was a motion that we voted
15 against, or if it was -- So with that caveat, yes.

16 Q Thank you. And you were also with the understanding
17 that the Republican members of the Commission as well as
18 the nonvoting member, Commissioner Augustine, were all in
19 favor of intervention; correct?

20 A Correct.

21 Q Did you ever ask the Yakama Tribal Reservation what
22 their position was regarding intervening and defending the
23 enacted maps?

24 MR. HUGHES: Object to form.

25 A I don't recall ever reaching out to the Yakama

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1 Tribe.

2 Q (By Mr. Holt) So when you spoke about kind of the
3 communities of interest not wanting intervention, you
4 weren't referring -- you weren't categorizing the Yakama
5 Tribe as a community of interest in that understanding?

6 MR. HUGHES: Object to form.

7 A Yeah, I'm not sure I understand the question.

8 Q (By Mr. Holt) You had mentioned that there had been
9 community groups that had expressed a desire that you not
10 intervene and defend the map.

11 Do you recall that testimony?

12 A Yes. I -- I don't recall saying that there were
13 communities that didn't want us to intervene. I do recall
14 saying that I wasn't -- I didn't want to tell communities
15 what they needed. I'm not sure that I said that I recall
16 communities saying, "Don't intervene."

17 Q Understood.

18 A Okay.

19 Q What would you think -- Would you think that the
20 criticism that by failing to defend the map, that
21 Democratic members of the Redistricting Commission were
22 attempting to achieve through legal means what they could
23 not achieve through legislative means?

24 Do you think that's a fair criticism of yourself and
25 Commissioner Walkinshaw's decision not to intervene and

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1 defend the maps?

2 MR. MILLSTEIN: Objection to form.

3 A I don't think that's a fair criticism.

4 Q (By Mr. Holt) Why not?

5 A Because by not defending the maps, there were --
6 Well, by not defending the maps we were giving communities
7 in Yakima an opportunity to pursue whatever remedy they
8 determined they needed, and there were other
9 considerations around not defending the map outside of
10 protecting -- or not protecting, but there were other
11 considerations in not defending the map that extended
12 beyond the communities on the ground.

13 Q And what were those considerations?

14 A I mean, among them was our Commission requires three
15 out of four commissioners to agree, so three out of four
16 commissioners would have to agree to a legal strategy
17 where there was already some division.

18 The Commission ceases to exist or ceased to exist on
19 July 1 of '22, so figuring out our jurisdiction or whether
20 or not the Commission would need to be extended so that we
21 could continue to act as commissioners, to provide
22 direction for our legal counsel, that some of that seemed
23 very cumbersome and difficult to navigate.

24 Q Okay. Was there any partisan pressure coming from
25 Democratic legislative leadership for the Commission not

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1 to intervene?

2 MR. MILLSTEIN: Objection to form.

3 A I don't recall. I don't recall any specific party
4 pressure.

5 Q (By Mr. Holt) There was never any conversations you
6 had with Democratic leadership about whether or not you
7 should intervene as a Commission?

8 A I'm sure there were conversations.

9 Q Were they also opposed to intervention on the part
10 of the Commission?

11 A I don't recall if there was opposition. There were
12 outstanding questions around well, who is going to defend
13 the map, and who should defend the map, and whether or not
14 it should be the Commission.

15 Q Understood. Well, let's jump forward to exhibit --
16 what was admitted as Exhibit 6. Do you guys --

17 Do you have that exhibit before you?

18 MR. MILLSTEIN: Was that one of the
19 electronic ones?

20 THE WITNESS: No, I have it. It's the --

21 MR. HOLT: It is. It's the 2020 Census
22 Summary.

23 MR. MILLSTEIN: Oh, yeah, we have it.

24 A I have that.

25 Q (By Mr. Holt) So I'm looking at page 12 of the PDF

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1 or page 375 on the Bates numbering. Just let me know when
2 you're there.

3 A Okay.

4 Q Under District 15, the third kind of highlighted
5 phrase there, it says in reference to District 15, "Also
6 had a large growth of people identifying as more than one
7 race, 382 percent."

8 Do you agree that that's what it says there?

9 A Yes.

10 Q What does that mean to you?

11 A It just means that there were more folks in that
12 district that were -- that selected more than one race.

13 Q So in looking at these population numbers on, I
14 guess, Bates No. 375 of Exhibit 6, do you know if someone
15 identified as Black and Hispanic, do you know if they were
16 counted as both a tally in the Black and in the Hispanic
17 category, or if there was just one or the other?

18 A I don't know.

19 Q When you were negotiating majority-minority
20 population differences, do you -- how did you classify
21 that?

22 A How did I classify what?

23 Q If someone was both Black and Hispanic, would that
24 essentially be two minority tallies, or would you choose
25 one or the other to classify them as?

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1 MR. MILLSTEIN: Objection to form.

2 A I don't recall -- I don't recall having data on
3 whether or not a certain percentage of folks who
4 identified as Hispanic also identified as Black, and
5 vice versa. So I don't recall having that data or having
6 to consider that question.

7 Q (By Mr. Holt) Okay. So if someone classified
8 themselves as both Native and Hispanic, you don't know if
9 they were counted twice essentially or just once?

10 A I don't know for sure. Because there are
11 percentages and total numbers and we're looking at total
12 population, I -- Yeah, I don't know.

13 Q Do you believe that would be something important to
14 understand when it states that three hundred -- there was
15 a 382 percent increase in individuals who identified as
16 two races, of whether or not you were counting that person
17 twice or once when negotiating majority-minority
18 districts?

19 MR. MILLSTEIN: Objection to form.

20 A I don't remember this as sharply as I should, but it
21 seems I remember that this increase --

22 I'm sorry. Ask me the question one more time.

23 Q (By Mr. Holt) I'll rephrase it. Do you believe that
24 whether or not you decided to include someone who
25 identified as two races as each of those races, so they

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1 would count essentially as two tallies in the race in the
2 minority category or as one, if that would have an impact
3 in divying up minority population?

4 MR. HUGHES: Object to the form, vague.

5 MR. MILLSTEIN: Yeah, object to form.

6 A So I think we were looking at total population and
7 what percentage of the total population identified as
8 minority.

9 So if folks were double counted as minorities, that
10 would somehow make the total population higher because
11 they would be counted twice, and we were not looking at --
12 We were just looking at total population and the
13 percentage of that population that identified as minority
14 for the majority-minority districts.

15 Q (By Mr. Holt) So when you were negotiating a
16 majority Hispanic CVAP, if someone identified as both
17 Hispanic and Black, would that individual have been
18 included in the majority Hispanic CVAP tally, or would
19 they have been in the majority Black CVAP category, or
20 both?

21 MR. HUGHES: Object to form.

22 MR. MILLSTEIN: Object to form.

23 A Yeah, I mean, I would have to look at the census
24 questions again. I don't know.

25 Q (By Mr. Holt) Okay. It's a fair answer.

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1 You're not disputing that the Commission took into
2 consideration race when negotiating percentages between
3 legislative districts?

4 A I'm not sure I understand. Percentages of -- I
5 don't know --

6 Q You would agree --

7 A -- what percentages --

8 Q You would agree that Hispanic CVAP was a negotiating
9 point in relation to partisan performance?

10 MR. HERRERA: Objection.

11 Q (By Mr. Holt) There was a give-and-take. Those were
12 discussions that took place amongst the commissioners?

13 MR. MILLSTEIN: Objection to form.

14 A I would agree that CVAP and partisan performance
15 were all part of the negotiations.

16 Q (By Mr. Holt) And this is because you believed that
17 the VRA required majority-minority districts in the Yakima
18 Valley; is that correct?

19 A Correct.

20 Q And it was your position that it only required one
21 majority-minority district as opposed to two; correct?

22 MR. HUGHES: Object to form. Misstates the
23 prior testimony.

24 A Correct.

25 Q (By Mr. Holt) Now, what did you do as a commissioner

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1 or as a Commission to understand -- I'm referring to
2 District 15 here -- to understand the compactness levels
3 regarding minority populations in District 15?

4 MR. HERRERA: Objection, foundation.

5 MR. HUGHES: And compound.

6 A Specific to the 14th and 15th would be the Barreto
7 memo for at least -- I don't know what the other
8 commissioners did.

9 The Commission received the VRA briefing. My staff
10 team did a lot of research. And the Barreto memo was
11 specific to the 14th and 15th.

12 Q (By Mr. Holt) Did you do any -- As a Commission did
13 you do any analysis as a whole, or was it all done along
14 partisan -- in partisan groups?

15 MR. MILLSTEIN: Objection to form.

16 A We did not do anything as a whole.

17 Q (By Mr. Holt) Okay. Regarding the cohesiveness of
18 minority populations, what does that term -- What do you
19 understand that term to mean if I asked if a minority
20 community was cohesive for VRA purposes?

21 What does that mean to you?

22 MR. MILLSTEIN: Objection, calls for a
23 legal conclusion.

24 A Yeah, I'm not an attorney, but I would say, you
25 know, whether or not they had similar community interests,

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1 voted along similar lines.

2 Q (By Mr. Holt) Okay. And you stated earlier that --
3 in speaking with the attorney for the State that more or
4 less when referring to candidates of choice for Hispanic
5 minority populations in Washington, that you were
6 referring to Democratic candidates.

7 Do you recall that testimony?

8 A I don't recall saying more or less.

9 Q Okay. Do you understand when you state the term
10 candidate of choice for minority communities in the state
11 of Washington, for that to be analogous with Democratic
12 candidates?

13 MR. HERRERA: Objection, misstates
14 testimony.

15 A I think what I said is there is an assumption or
16 that there is an assumption that communities of color tend
17 to vote more Democratic. Is that what you --

18 Q (By Mr. Holt) Yeah, I guess I'm trying to understand
19 this term that is used often is this candidate of choice.

20 Did you ever understand it to mean anything other
21 than a Democratic candidate?

22 MR. MILLSTEIN: Objection to form.

23 A For the 14th and 15th, no.

24 Q (By Mr. Holt) Okay. You would agree that there are
25 White Democrats in these districts, in 14 and 15; correct?

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1 A Correct.

2 Q What percentage of those White Democrats would vote
3 for a Democratic candidate, in your opinion?

4 MR. HUGHES: Objection, lack of foundation.

5 A Yeah, I -- I couldn't even guess. I have not looked
6 at the numbers in the new district, and I'm not familiar
7 off the top of my head with the numbers in the old
8 district.

9 Q (By Mr. Holt) Okay. Let's hypothetically state
10 there is 1,000 Democratic White voters in a district, and
11 there are 500 Hispanic voters in a district; and you
12 needed 600 candidates -- 600 votes to elect somebody.

13 Would that group likely be able to field and elect a
14 Democratic candidate with 600 votes?

15 MR. HERRERA: Objection to form.

16 MR. MILLSTEIN: Objection, calls for
17 speculation.

18 A If the question is whether or not 1,500 Democratic
19 voters can elect a candidate that only needs 600 votes,
20 then mathematically I would say --

21 I'm trying to -- I'm trying to understand the
22 question. I think --

23 Q (By Mr. Holt) The question -- I can rephrase it.
24 The question was if there are twice as many White
25 Democratic voters, so a thousand to 500 -- there's 500

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1 minority Hispanic voters and a thousand White Democratic
2 voters, and a candidate needs 600 votes to be elected,
3 would that coalition of White Democratic voters and
4 Hispanic voters be able to likely elect a Democratic
5 candidate with 600 votes?

6 MR. HERRERA: Objection, calls for
7 speculation.

8 MR. MILLSTEIN: Same objection.

9 A Assuming they're all supporting the same candidate
10 and assuming they all turn out to vote -- I mean, there
11 are a lot of variables in any election; so with that
12 limited amount of data and with those assumptions, then I
13 would say yeah.

14 Q (By Mr. Holt) And this is despite there being twice
15 as many White voters than there are Hispanic voters, but
16 yet they were able to elect the Hispanic candidate of
17 choice; correct?

18 MR. HUGHES: Objection, calls for
19 speculation, incomplete hypothetical, argumentative.

20 A Yeah, I'm not sure I understand the question.

21 Q (By Mr. Holt) My question is it's possible to elect
22 candidates of choice for minority communities, meaning
23 Democratic candidates, without a majority-minority
24 population.

25 Would you agree with that statement?

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1 MR. MILLSTEIN: Objection, calls for
2 speculation.

3 A I would say assuming that there isn't racially
4 polarized voting, that would be fair.

5 Q (By Mr. Holt) If Democratic candidates are
6 synonymous with candidates of choice for Hispanic
7 communities in Districts 14 and 15, despite not having a
8 majority you would agree that those Hispanic Democratic
9 voters would be able to form a coalition with White
10 Democratic voters and still elect their candidate of
11 choice; correct?

12 MR. MILLSTEIN: Objection.

13 MR. HERRERA: Objection.

14 MR. MILLSTEIN: Calls for speculation.
15 Lacks foundation.

16 A Yeah, again, I think it -- If you're assuming that
17 all Democrats or all candidates are created equal and that
18 one Democrat is the same as another -- which I don't think
19 is accurate -- and I'm not and have never said that
20 Democrats are synonymous with candidate of choice because
21 I think it's about more than just party.

22 But assuming that this Democrat is a candidate that
23 represents the community -- and again, that there isn't
24 racially polarized voting -- that in this same scenario
25 with the 1,500 voters that you mentioned?

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1 Q (By Mr. Holt) Yes.

2 A Sorry. Ask me the question again. I want to make
3 sure I'm answering it. I don't know that I did.

4 Q It's possible for a minority community to still
5 elect their candidate of choice despite not having a
6 majority in the voting age population in a district
7 because they can form a coalition with White voters --

8 MR. MILLSTEIN: Objection.

9 Q -- to elect a candidate?

10 MR. MILLSTEIN: Sorry. Objection, calls
11 for speculation, lacks foundation.

12 A I mean, is it possible? In the realm of
13 possibility, if that's the question, then yes, it is
14 possible.

15 Q (By Mr. Holt) There's an opportunity for them to do
16 that; correct?

17 A I think that's the same -- It's the same answer. Is
18 there an opportunity? Is it possible? Yeah, sure.

19 Q Okay. Now, were you involved in any of the
20 settlement negotiations with the City or County of Yakima
21 litigation or the other litigation that was referenced
22 earlier?

23 A I was not.

24 Q So you don't exactly know what the negotiating
25 points were or why they decided to settle?

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1 A No.

2 MR. HOLT: Okay. I'm going to drag a new
3 exhibit in the chat.

4 (Sims Exhibit No. 29 introduced.)

5 MR. HOLT: Okay. Let me know when you guys
6 have that.

7 (Discussion between Ms. Sims and Mr. Millstein.)

8 Q (By Mr. Holt) I'll represent that this is
9 Article II, Section 43 of the Washington Constitution.
10 Is that what you're seeing, ma'am?

11 A Yes.

12 Q Have you ever reviewed this before?

13 A I have.

14 Q I want to draw your attention to subsection five in
15 the last sentence of that where they're discussing
16 different criteria that the Commission is to consider.

17 Could you please read the last sentence of
18 subsection five?

19 A "The Commission's plan shall not be drawn purposely
20 to favor or discriminate against any political party or
21 group."

22 Q Okay. And you had stated in your goals --

23 (Lights came on.)

24 MR. HOLT: Congratulations! Sorry. I'm
25 referring to the light that just turned on on the video.

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1 Q (By Mr. Holt) You had stated that one of your goals
2 was to draw the maps in a way to help maintain a
3 Democratic state legislative majority.

4 Did I understand that testimony correct?

5 A No.

6 Q Okay. What -- When you were referring to the
7 drawing maps that reflected the political realities of the
8 State of Washington, what -- can you please explain what
9 you meant by that?

10 A That I wanted maps that reflect the reality of this
11 being a majority Democrat -- Democratic state, and I
12 wanted to make sure our maps reflected that.

13 Q How does that goal coalesce with the phrase, "The
14 Commission's plan shall not be drawn purposefully to favor
15 or discriminate against any political party or group"?

16 MR. HUGHES: Objection, calls for a legal
17 conclusion, and argumentative.

18 MR. MILLSTEIN: Thank you.

19 A I mean, the reality is the Democratic population in
20 our state is the population that's growing, so there's no
21 way to draw a map that meets all of our other goals and
22 doesn't include a majority of Democratic or Democratic
23 leaning districts.

24 Q (By Mr. Holt) But you would agree that was one of
25 your goals in negotiating was to draw a map that would

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1 help elect more Democrats in the State of Washington?

2 MR. MILLSTEIN: Objection, misstates prior
3 testimony.

4 A Was it a question for me? I'm sorry.

5 Q (By Mr. Holt) Yes. Would you agree that one of your
6 goals then was to draw a map that would help reflect the
7 political reality that there are more Democrats in the
8 State of Washington than Republicans?

9 A Yes.

10 Q And you believe that to be in compliance with your
11 own understanding of the Washington State Constitution?

12 MR. MILLSTEIN: Objection, calls for a
13 legal conclusion.

14 MR. HUGHES: And argumentative.

15 A Yes.

16 Q (By Mr. Holt) Okay. I want to talk about Matt
17 Barreto for a moment.

18 How did Dr. Barreto come to be involved with the
19 State of Washington redistricting process?

20 A I believe he was hired by the Senate Democrats, or
21 the caucus. I'm not sure which.

22 Q He was not a paid expert for the Commission;
23 correct?

24 A That's correct.

25 Q He was hired by the Democrats to assist them in

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1 negotiating maps?

2 MR. MILLSTEIN: Objection, calls --

3 misstates prior testimony.

4 Q (By Mr. Holt) Let me rephrase. Why do you believe
5 Senate Democrats retained the services of Dr. Barreto?

6 A To provide analysis on a VRA district was my
7 understanding.

8 Q Do you believe that Dr. Barreto was a partisan
9 actor?

10 MR. MILLSTEIN: Objection to form.

11 MR. HERRERA: Objection to form.

12 A I don't know Dr. Barreto's political affiliation.

13 Q (By Mr. Holt) Are you aware of anytime he's ever
14 been retained by Republican leaning state legislatures or
15 organizations?

16 A I'm not aware of his professional work outside of
17 his work with the Senate Democrats on this redistricting
18 effort, and --

19 Q Okay.

20 A No, let me -- Sorry, that's not entirely accurate.

21 Osta Davis did tell me that he was retained by the
22 California State Redistricting Commission.

23 Q And do you know how the California State
24 Redistricting Commission is structured?

25 A I don't.

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1 Q You don't know if it's the same kind of equal
2 nonpartisan Commission that's in the State of Washington?

3 A I don't.

4 Q Okay. Does the State of Washington allow for
5 expansive mail-in voting?

6 MR. MILLSTEIN: Objection to form.

7 A I'm not sure what you mean by expansive.

8 Q (By Mr. Holt) What are the requirements to be able
9 to vote through the mail in the State of Washington?

10 MR. MILLSTEIN: Objection, calls for a
11 legal conclusion.

12 Q (By Mr. Holt) Would you agree that there's what's
13 classified as a no-excuse absentee ballot in the State of
14 Washington where anyone that wants to vote through the
15 mail can?

16 MR. MILLSTEIN: Objection, calls for a
17 legal conclusion.

18 A Yeah, I don't know what you mean by that phrase.
19 It's not a phrase that I'm familiar with.

20 I would agree that this is an all mail-in ballot
21 state.

22 Q (By Mr. Holt) Okay. And would you also agree that
23 since the expansion of Washington state becoming an all
24 mail-in voting state that voter turnout has increased?

25 MR. MILLSTEIN: Objection to form, lacks

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1 foundation.

2 A And I want to go back. I wouldn't say we're an all
3 mail-in state because you can go to the auditor and
4 request a paper copy of the ballot. You don't have to
5 have it mailed to you. So I just want to clarify that.

6 And I don't know. I haven't looked at voter turnout
7 since we moved to all mail-in. I know that I'm a Pierce
8 County voter. We were the last county to be able to go to
9 the polls, so I'm a long-time poll voter; but I don't know
10 about voter turnout since we moved to all mail-in ballots
11 in -- I don't know -- 2013, I think.

12 Q (By Mr. Holt) Understood. Was Commissioner
13 Walkinshaw, did he attend a conference in Scotland in
14 November of 2021?

15 MR. MILLSTEIN: Objection, lacks
16 foundation.

17 A I know that he was -- I know he traveled a lot. I
18 couldn't tell you for sure where he was in November.

19 Q (By Mr. Holt) Did you ever have trouble contacting
20 him or negotiating with him?

21 MR. MILLSTEIN: Objection to form, lacks
22 foundation.

23 MR. HUGHES: And compound.

24 A Ask me the question again. I'm sorry. Did I
25 ever --

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1 Q (By Mr. Holt) Did you ever -- Did you ever have
2 trouble contacting or attempting to negotiate with
3 Commissioner Walkinshaw during his travels in November of
4 2021?

5 MR. MILLSTEIN: Objection, vague, compound.

6 A I would say that I don't think any of the challenges
7 that I had were related to his travel schedule.

8 Q (By Mr. Holt) And what were those challenges that
9 you had?

10 A We were -- We didn't always see eye to eye. We were
11 not always in agreement around strategy and priorities.

12 Q Understood. Now, I'm just about done here, and I
13 thank you for your patience and time.

14 I want to go back to Exhibit 19, and there was a
15 link to a map that was referenced in Exhibit 19. It's
16 titled November 12 email from Sims to Graves.

17 Do you have that there?

18 A Yes, but I'm going to have to figure out how I --

19 MR. MILLSTEIN: It's actually -- Well, --

20 THE WITNESS: Do I do this as a PDF, or is
21 this a Word document?

22 MR. MILLSTEIN: If you have a -- No.

23 THE WITNESS: Exhibit 19.

24 MR. MILLSTEIN: You know, this is the --
25 Sorry to interrupt, Counsel. This is the Dave's

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1 Redistricting?

2 MR. HOLT: Yes.

3 MR. MILLSTEIN: To my knowledge it's not an
4 exhibit that Ms. Sims has available to her. It was saved
5 as a screenshot, I believe -- maybe. But I don't know.
6 You might have to pull it up again.

7 MR. HOLT: I'll drag it in real fast. I'm
8 just going to talk about the map real fast. I can
9 probably pull it up and share my screen. Just give me a
10 moment.

11 MR. MILLSTEIN: As long as you represent
12 that you're clicking on the link in Exhibit 19, and that's
13 what you're going to be showing.

14 MR. HOLT: I can make that representation.
15 I'm having trouble sharing this with my settings
16 here. My apologies. Give me a moment.

17 MR. HUGHES: No worries.

18 THE WITNESS: Can I -- May I take just a
19 quick stretch break?

20 MR. MILLSTEIN: Yep. Why don't we go
21 off --

22 THE WITNESS: Or are we almost done?

23 THE VIDEOGRAPHER: And this marks the
24 end --

25 MR. HOLT: If you just -- If you just give

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1 me two more minutes I can wrap up. Are we good?

2 THE WITNESS: We're good.

3 Q (By Mr. Holt) Just real fast, I'll represent that
4 this map -- and I just want to -- This is just more to
5 understand Hispanic voting age population. I will drag
6 this exhibit -- and I'm having trouble sharing it, and I
7 apologize. I've just shared that in the "exhibit."

8 I'm looking at District 15. I just have the cursor
9 hovered over that. Just let me know when you have that
10 up.

11 MR. MILLSTEIN: Well, Counsel, we have a
12 copy of Exhibit 19. We don't have a copy of the Dave's
13 Redistricting Map.

14 MR. HOLT: Are you able to pull it up --

15 MR. MILLSTEIN: Through the link.

16 MR. HOLT: -- on your computer?

17 THE WITNESS: It's not a link. It's the
18 document itself.

19 MR. MILLSTEIN: It's this is just the email
20 that you're already looking at.

21 THE WITNESS: Okay. So I just need to get
22 in the email?

23 MR. MILLSTEIN: Yeah.

24 (Court reporter request for confirmation.)

25 THE WITNESS: I was wondering if this is

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1 going to open.

2 MR. MILLSTEIN: So Counsel, we're clicking
3 on the link in Exhibit 19, accepting the terms, and a map
4 is loading. On the map that's showing, though -- Let's
5 see. It's loaded.

6 THE WITNESS: Thank you.

7 MR. HOLT: Okay. Thank you for your
8 patience. I don't know what's going on with my settings
9 here that's not allowing me to share.

10 Q (By Mr. Holt) So I have the map hovered over
11 District 15, and I'm looking at the district details on
12 the right of the page. Are you seeing that?

13 A Yes.

14 Q And so this is just as an example. I know this is
15 not the final map that was passed. It's just for
16 discussion purposes.

17 It shows that the voting age population for Hispanic
18 is 64.4 percent. Do you see that there?

19 A I do.

20 Q And then when you go down to the Dem pop percentage
21 under the presidential 2020 it shows 50.4 percent.

22 Do you see that there?

23 A Yes.

24 Q Can you help me account for that 14-point
25 differential between total Hispanic population and the

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1 support for the Democratic presidential candidate in 2020?

2 MR. MILLSTEIN: Objection to form.

3 A I mean, --

4 Q (By Mr. Holt) You would agree that this shows a
5 14-point differential between Hispanic voting age
6 population and Democratic support for the presidential
7 candidate in 2020?

8 MR. HERRERA: Objection, foundation.

9 Q (By Mr. Holt) At least for this map, you would
10 agree there's a 14-point differential between those two
11 numbers?

12 MR. HERRERA: Objection, foundation.

13 A Yes.

14 Q (By Mr. Holt) So help me understand what percentage
15 of Hispanic political cohesiveness you need to elect a
16 Democratic candidate.

17 MR. MILLSTEIN: Objection, foundation,
18 speculation.

19 MR. HUGHES: It also calls for expert
20 testimony.

21 Q (By Mr. Holt) I guess what I'm asking here, we have
22 64 percent Hispanic total pop but only barely above 50
23 percent support for the Democratic presidential candidate.

24 MR. MILLSTEIN: Same objections, and it
25 does call for expert testimony.

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1 MR. HERSCH: I'm going to add a relevance
2 objection here. I think this question is frankly
3 misleading and irrelevant, but go ahead.

4 MR. MILLSTEIN: I will agree with that,
5 Counsel.

6 MR. HOLT: A form objection is sufficient.

7 A I mean, to -- Without --

8 Q (By Mr. Holt) You would agree that not all Hispanic
9 votes in this iteration of the map went for the Democratic
10 presidential candidate?

11 MR. HERRERA: Objection.

12 MR. MILLSTEIN: Same.

13 MR. HERRERA: Foundation.

14 MR. MILLSTEIN: Speculation.

15 A I don't have that data because this data doesn't
16 tell me how many Hispanics of voting age population are
17 actually registered to vote and how many of them actually
18 turned out to vote in this election.

19 Q (By Mr. Holt) Okay. There's fair.

20 MR. HOLT: That wraps up my questions. I
21 appreciate your patience, everyone working with me, and I
22 hope you have a great night.

23 MR. MILLSTEIN: Thank you, Dallin.

24 MR. HERRERA: So are we good to go off the
25 record?

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1 MR. MILLSTEIN: Hold on.

2 MR. HUGHES: I sincerely apologize. I have
3 one question that I have to ask because of that.

4 MR. HOLT: Go ahead. Sorry.

5 MR. HUGHES: No, but Ernest, you go first.

6 MR. HERRERA: No further questions --

7 MR. HUGHES: Okay.

8 MR. HERRERA: -- at this time.

9 E X A M I N A T I O N

10 BY MR. HUGHES:

11 Q So Ms. Sims, when you and I were -- When you and I
12 were talking about your view that the Commission was
13 required to create a majority Hispanic district in the
14 Yakima area, did you understand us to mean -- us to be
15 talking about a majority Hispanic district by citizen
16 voting age population?

17 A Yes.

18 MR. HUGHES: No further questions.

19 THE VIDEOGRAPHER: And this marks the end
20 of file eight and concludes the deposition of April Sims.
21 The time is 6:41 p.m., and we've off the record.

22 (Discussion off the record.)

23 (Deposition concluded at 6:41 p.m.)

24 (Signature reserved.)

25

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1 C E R T I F I C A T E

2 STATE OF WASHINGTON)
) SS
 3 County of King)

4 I, the undersigned Washington Certified Court
 Reporter, pursuant to RCW 5.28.010 authorized to
 5 administer oaths and affirmations in and for the State of
 Washington, do hereby certify:

6 That the annexed and foregoing deposition of the
 witness named herein was taken stenographically before me
 7 and reduced to typewritten form under my direction.

I further certify that the witness examined will be
 8 given an opportunity to review and sign their deposition
 after the same is transcribed, unless indicated in the
 9 record that the parties and witness waived the signing.

I further certify that all objections made at the
 10 time of said examination to my qualifications or the
 manner of taking the deposition or to the conduct of any
 11 party have been noted by me upon the deposition.

I further certify that I am not a relative or an
 12 employee or attorney or counsel of any of the parties to
 said action, or a relative or employee of any such
 13 attorney or counsel, and that I am not financially
 interested in the said action or the outcome thereof.

I further certify that the witness before examination
 14 was by me duly sworn to testify the truth, the whole
 15 truth, and nothing but the truth.

I further certify that the deposition, as
 16 transcribed, is a full, true and correct transcript of the
 testimony, including questions and answers and all
 17 objections, motions and exceptions of counsel made and
 taken at the time of the foregoing examination and was
 18 prepared pursuant to Washington Administrative Code
 308-14-135, the transcript preparation format guideline.

19 IN WITNESS WHEREOF, I have hereunto set my hand this
 20 4th day of November, 2022.

21 

22 Jeanne M. Gersten, RDR, CCR
 Registered Diplomat Reporter
 23 Washington CCR No. 2711
 License effective until April 2, 2023
 24 Residing at Seattle, Washington
 25



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 Lakeside Reporting (833) 365-3376

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1 CHANGE/SIGNATURE SHEET

2 I, the undersigned, APRIL SIMS, hereby certify
 3 that I have read the foregoing deposition and that, to the
 4 best of my knowledge, said deposition is true and
 accurate, with the exception of the following corrections
 listed below:

5	PAGE	LINE	CHANGE	REASON
6				
7				
8				
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10				
11				
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16				
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18 _____
 Signature Date

19
 20 Witness: April Sims
 Soto Palmer, et al. v. Hobbs, et al.
 21 USDC Western District of Washington at Seattle
 Cause No. 3:22-cv-05035-RSL
 22 Date: October 24, 2022

23 Reported by: Jeanne M. Gersten, RDR, CCR No. 2711
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