

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE  
3

4 SUSAN SOTO PALMER, et al., ) C22-5035-RSL  
5 )

6 Plaintiffs, )  
7 )

8 v. )

9 Seattle, WA  
10 )

11 STEVEN HOBBS, in his )  
12 official capacity as )  
13 Secretary of State of )  
14 Washington, et al., )

15 June 5, 2023  
16 )

17 8:30 a.m.  
18 )

19 TRIAL - Day 2  
20 )

21 Defendants, )  
22 )

23 and )  
24 )

25 JOSE TREVINO, et al., )  
26 )

27 Intervenor-Defendants, )  
28 )

29 BENANCIO GARCIA III, )  
30 )

31 C22-5152-RSL-DGE-  
32 LJCV  
33 )

34 Plaintiff, )  
35 )

36 v. )  
37 )

38 STEVEN HOBBS, in his )  
39 official capacity as )  
40 Secretary of State of )  
41 Washington, et al., )

42 Defendants. )  
43 )

44 VERBATIM REPORT OF PROCEEDINGS  
45 BEFORE THE HONORABLE ROBERT S. LASNIK  
46 HONORABLE DAVID G. ESTUDILLO  
47 UNITED STATES DISTRICT JUDGES  
48 WESTERN DISTRICT OF WASHINGTON  
49 HONORABLE LAWRENCE J.C. VANDYKE  
50 UNITED STATES NINTH CIRCUIT JUDGE  
51

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1	EXAMINATION INDEX		
2	EXAMINATION OF:		PAGE
3	APRIL SIMS	DIRECT EXAMINATION	218
4		BY MR. HERRERA	
5		CROSS EXAMINATION	245
6		BY MR. HOLT	
7		CROSS EXAMINATION	255
8		BY MR. HUGHES	
9		RE CROSS EXAMINATION	285
10		BY MR. HOLT	
11	SUSAN SOTO PALMER	DIRECT EXAMINATION	287
12		BY MR. PHILLIPS	
13		CROSS EXAMINATION	298
14		BY MR. STOKESBARY	
15	BRADY WALKINSHAW	DIRECT EXAMINATION	311
16		BY MR. GABER	
17		CROSS EXAMINATION	336
18		BY MS. SEPE	
19	ANTON GROSE	DIRECT EXAMINATION	347
20		BY MR. STOKESBARY	
21		CROSS EXAMINATION	367
22		BY MR. GABER	
23		CROSS EXAMINATION	407
24		BY MR. HUGHES	
25			

18	EXHIBIT INDEX		
19	EXHIBITS ADMITTED		PAGE
20	Exhibit 611		423
21			
22			
23			
24			
25			

1 THE CLERK: We are here in the matters of Garcia  
2 versus Hobbs, et al., Cause No. C22-5152, assigned to Judge  
3 Lasnik, Chief Judge Estudillo and Circuit Judge Lawrence  
4 VanDyke.

5 And we're also here in the matter of Soto Palmer, et al.  
6 versus Hobbs, et al., and Trevino, et al., C22-5035, assigned  
7 to Judge Lasnik.

8 If counsel could please rise and make your appearances for  
9 the record.

10 MR. HERRERA: Good morning, Your Honors. My name is  
11 Ernest Herrera, for the plaintiffs. And with us today I also  
12 have Vivian Alejandro and Paula Turnbull.

13 MR. DUNN: Good morning, Your Honor, Chad Dunn on  
14 behalf of the plaintiffs.

15 MR. GABER: Good morning, Mark Gaber on behalf of the  
16 Soto Palmer plaintiffs.

17 MS. LEEPER: Good morning, Your Honor, Simone Leeper  
18 on behalf of Soto Palmer plaintiffs.

19 MS. HARLESS: Annabelle Harless for the Soto Palmer  
20 plaintiffs.

21 MR. PHILLIPS: Benjamin Phillips on behalf of the  
22 Soto Palmer plaintiffs.

23 MR. MORFIN: Eduardo Morfin on behalf of the Soto  
24 Palmer plaintiffs.

25 MS. WAKNIN: Sonni Waknin on behalf of the Soto

1 Palmer plaintiffs.

2 THE COURT: Why are you sitting on that side?

3 MS. WAKNIN: There's only one outlet over here.

4 THE COURT: Aww, we thought it was a defection.

5 MS. WAKNIN: And with us is one of our students,  
6 Isaac Santos, who's going to be helping today.

7 THE COURT: Great. Thank you.

8 MR. STOKESBARY: Good morning, Your Honor. Andrew  
9 Stokesbary, on behalf of the intervenor-defendants in the  
10 Palmer matter, and on behalf of the plaintiff in the Garcia  
11 matter.

12 MR. TORCHINSKY: Jason Torchinsky, with  
13 Mr. Stokesbary for the Garcia plaintiffs, and  
14 intervenor-defendants in the Soto Palmer matter.

15 MR. HOLT: And Dallin Holt for the  
16 intervenor-defendants and the Garcia plaintiffs. We're also  
17 joined by David Brown, a law student from GW.

18 MR. ACKER: Caleb Acker on behalf of the Soto Palmer  
19 intervenor-defendants, and Garcia plaintiff.

20 MR. SMITH: Good morning. Karl Smith on behalf of  
21 the Secretary of State, Steve Hobbs.

22 MR. HUGHES: Good morning, Your Honors. Andrew  
23 Hughes on behalf of the State of Washington. With us we have  
24 Robin Ramirez, Marisa Pasinick, my law clerk, and my boss,  
25 Jeffrey Rupert.

1 MS. SEPE: Good morning. Cristina Sepe on behalf of  
2 the State of Washington in both cases.

3 MS. FRANKLIN: Good morning, Erica Franklin on behalf  
4 of the State of Washington.

5 THE COURT: Thank you very much. I thought your boss  
6 was Bob Ferguson.

7 MR. HUGHES: Your Honor, I have so many bosses it  
8 would take a while to list them all.

9 THE COURT: Sometimes I sit on the Ninth Circuit  
10 Court of Appeals, and I'm the one on the fringe, who is  
11 profusely thanked by the circuit judge. I just sat with  
12 Judge VanDyke in April, and he was so gracious to welcome me  
13 and thank me for my helping out his court. And now I get to  
14 thank Judge VanDyke for helping us out on our court.

15 And, you know, I've been here for 25 years, 1998, and I  
16 know we have never done a three-judge case like this before,  
17 in my time. And I've checked with the other judges, and I  
18 don't think this has ever happened in the Western District of  
19 Washington before, that we had a constitutional challenge to  
20 a redistricting plan, that necessitated the three-judge  
21 panel.

22 But -- so we're on totally new ground. Our Chief Judge,  
23 David Estudillo, has joined us, and I called the Chief Judge  
24 of the Ninth Circuit, Mary Murguia, and said: Can you send  
25 us a circuit judge? And she said: Yes, we will send the

1 next on the list. And the next on the list was Judge  
2 VanDyke. So we're very happy to have Judge VanDyke and his  
3 law clerks here. You still outnumber us, but we do have four  
4 law clerks in the courtroom, and we can summon more if we  
5 need them. Right, David?

6 All right. So I'm still going to be the presiding judge  
7 to help move things along, and to rule on objections. But  
8 you may get questions from any of the three of us, both for  
9 the witnesses and for the lawyers.

10 So, Victoria, our wonderful courtroom deputy, has provided  
11 a list that says that Commissioner April Sims will be the  
12 first witness; is that correct; and that, Mr. Herrera, you're  
13 going to be doing that direct?

14 MR. HERRERA: Yes, Your Honor.

15 THE COURT: All right. Do you want to call her to  
16 the stand?

17 MR. HERRERA: Soto Palmer plaintiffs call April Sims  
18 to the stand.

19 APRIL SIMS

20 Having been sworn under oath, testified as follows:

21 THE CLERK: Okay. Please have a seat.

22 If could you please state your first and last names, and  
23 spell your last name for the record.

24 THE WITNESS: April Sims, S-I-M-S.

25 THE COURT: Thank you, Ms. Sims. Go ahead, counsel.



1 DIRECT EXAMINATION

2 BY MR. HERRERA:

3 Q Good morning, Ms. Sims.

4 A Good morning.

5 Q What is your occupation?

6 A I serve as the President of the Washington State Labor  
7 Council AFL-CIO.

8 Q How long have you held that position?

9 A I was sworn into office on January 6th, I believe -- maybe  
10 the 5th.

11 Q And congratulations.

12 A Thank you.

13 Q In what city do you usually work?

14 A Our main office is in Seattle, but I often work from home,  
15 and sometimes from our Olympia office.

16 Q In what city do you reside?

17 A In Tacoma.

18 Q In the last two years, what other jobs have you held?

19 A I served as redistricting commissioner on the state's  
20 Redistricting Commission.

21 Q And how did you become a commissioner on the Washington  
22 State Redistricting Commission?

23 A I was appointed.

24 Q When were you appointed?

25 A January of '21, I believe.

1 Q And who appointed you?

2 A Speaker Laurie Jenkins.

3 Q And which -- do you know which caucus appointed you?

4 A The House Democratic Caucus.

5 Q Now, as a commissioner, what was your overall task or  
6 mission?

7 THE COURT: Ms. Sims, could you get a little bit  
8 closer to the microphone? Great. Thank you.

9 A I was tasked with redrawing the legislative and  
10 congressional district for our state.

11 Q And who were the other members of the Washington State  
12 Redistricting Commission?

13 A Sarah Augustine served as chair, and Joe Fain, Paul  
14 Graves, and Brady Walkinshaw were the other voting members of  
15 the Commission.

16 Q And to clarify, Ms. Augustine, was she a voting  
17 commissioner?

18 A She was not.

19 Q Okay. Now, who appointed Mr. Walkinshaw Pinero, if you  
20 know?

21 A I believe it was the Senate Majority Leader.

22 Q And who appointed Mr. Fain?

23 A I believe it was the Senate Minority Leader.

24 Q And would that be the -- do you know which caucus that  
25 was?

1 A The Senate -- the Republican Senate.

2 Q Who appointed Mr. Graves?

3 A I believe it was the ranking member, Republican member for  
4 the House.

5 Q And is that the ranking -- you said Republican member for  
6 the House?

7 A Um-hum. Yes.

8 Q What was the deadline for the Washington State  
9 Redistricting Commission to draw legislative and  
10 congressional maps?

11 A November 15th of '21.

12 Q And did the Commission meet that deadline for the  
13 Washington State legislative map?

14 THE COURT: Don't you have to give her her rights  
15 before you ask that question?

16 A I am thinking about the question. We did vote on the  
17 framework for the maps, before the deadline.

18 MR. HERRERA: Your Honors, Ms. Sims served as a  
19 commissioner on the 2021 Washington State Redistricting  
20 Commission, which acted as an agent of the state. Because  
21 defendant, State of Washington, is defending against  
22 plaintiffs' intent claim in this case, regarding the 2021  
23 Washington legislative redistricting plan, Ms. Sims is a  
24 witness identified with an adverse party. I request  
25 permission to ask leading questions of the witness at this

1 time, Your Honors.

2 THE COURT: You can ask leading questions, in  
3 general, any time. It's only if it becomes obnoxious that I  
4 would step in. So I don't think you have an obnoxious  
5 question in you, Mr. Herrera.

6 MR. HERRERA: Noted, Your Honor.

7 Q Now, you just mentioned your vote. Do you recall what was  
8 said during the final vote on the final plans?

9 A I do not.

10 Q And did this vote take place during a commission meeting?

11 A Yes, it did.

12 Q Well, to refresh your recollection, let's go to the video  
13 of that meeting, on November 15, 2021.

14 MR. HERRERA: And, for the record, this is admitted  
15 Exhibit 100.

16 THE COURT: Okay.

17 MR. HERRERA: From our minute/second marker 45630, to  
18 45910.

19 (Video clip played.)

20 THE COURT: It's like I'm in a Judge's meeting.  
21 Right, Dave?

22 JUDGE ESTUDILLO: Exactly.

23 Q Ms. Sims, you seconded a motion to approve a final  
24 legislative plan, right?

25 A Yes.

1 Q And you voted to approve the final legislative plan,  
2 correct?

3 A Yes.

4 Q You also voted in favor of approving a transmittal letter,  
5 correct?

6 A Correct.

7 Q What was that transmittal letter?

8 A I believe it was transmitting -- it was to transmit our  
9 work to the legislature.

10 Q And by "our work," what do you mean?

11 A I mean, our agreed-to maps, and our framework.

12 Q So what was being transmitted was an actual plan?

13 A Yes. The transmittal letter was to accompany the actual  
14 maps.

15 Q Okay. And when you say "the actual maps," meaning the  
16 finalized maps?

17 A That was my understanding.

18 Q Okay. Now, also you said the framework was being  
19 transmitted with that transmittal letter?

20 A Is that what I said?

21 Q I believe you mentioned framework, yes.

22 A Well, we agreed to a framework. That was then articulated  
23 into our final maps.

24 Q And do you recall when that was articulated into final  
25 maps?

1 A I think we finished drawing our maps about 6:00 a.m. that  
2 day. But the final maps, in their final format, I believe  
3 was transmitted later that day, in the evening.

4 Q And by "that day," are you referring to November 15th or  
5 November 16th?

6 A November 16th.

7 Q Okay. And so there was a final map -- I'm sorry. Just to  
8 clarify, on November 16th at 6:00 a.m., what was it that was  
9 done?

10 A We had finished drawing our map, using the Dave's  
11 Redistricting tool.

12 Q And was it your view that the Commission ceased to exist  
13 after midnight on November 15, 2021?

14 A No.

15 Q Ms. Sims, do you recall a press conference at which you  
16 and the other commissioners spoke on November 18, 2021?

17 A Vaguely.

18 Q Do you recall exactly what you said at that press  
19 conference, regarding what you voted for on November 15,  
20 2021?

21 A I don't recall.

22 MR. HERRERA: Ms. Alejandro, can we bring up admitted  
23 Exhibit 101?

24 For the record, Your Honors, this is to refresh the  
25 recollection of the witness. This is a video of the press

1 conference. Admitted Exhibit 101. And this clip is from  
2 marker 8 minutes 53 seconds to 1015.

3 THE COURT: Okay.

4 (Video clip played.)

5 Q Now, Ms. Sims, what did you mean when you say you voted on  
6 an agreement on November 15, 2021?

7 A That we had reached agreement around how the districts  
8 would be drawn, but we hadn't -- yeah. That we had reached  
9 agreement around how specific districts would be drawn.

10 Q And does that mean that you did not vote on a final  
11 legislative district map, on November 15, 2021?

12 A Well, it means we voted on what we had agreed to, but we  
13 didn't have a final map drawn at the time.

14 Q And you also mentioned something about various maps  
15 needing to be reconciled. Does that mean that there were  
16 various versions of the legislative map, at midnight on  
17 November 15, 2021?

18 A Yes.

19 Q Okay. And do you recall how many versions of the  
20 legislative map existed at that point?

21 A I don't. Over the course of several months, there were a  
22 number of draft legislative maps.

23 Q However, the ones that you were trying to reconcile, how  
24 many different maps were there of the legislative district  
25 plan?

1 A There were at least two.

2 Q At least two.

3 And do you remember -- well, I'll withdraw that  
4 question.

5 Now, if it was an agreement that you were voting on, on  
6 November 15th, was that agreement written down anywhere?

7 A No, I don't believe so.

8 Q How is the agreement memorialized?

9 A Verbally. And through our draft maps.

10 Q Now, what were the details of that agreement that you  
11 voted on, on November 15, 2021, with regard to the  
12 legislative map?

13 A I don't remember all of the specifics. There were  
14 agreements made around where we would pull population, from  
15 the west side of the state, agreements made around how the  
16 45th and the 47th would be drawn. How the 3rd and the 15th  
17 would be drawn. Agreements around the 42nd. Agreements  
18 around how we would honor tribal requests. I don't remember  
19 all of the specifics today.

20 Q Do you recall the specifics about the 15th Legislative  
21 District, in the agreement you voted on?

22 A Not all of the specifics.

23 Q What specifics do you recall about the 15th?

24 A I recall that it was a CVAP, majority CVAP Hispanic  
25 district, that did not include Yakima Nation, and moved east



1 instead of north, or grabbed population moving east and not  
2 grabbing population moving north.

3 Q And when you -- just to clarify for the court, what do you  
4 mean when you say "CVAP"?

5 A Citizen voting age population.

6 Q And so if you say Hispanic or Latino CVAP, does that mean  
7 the percentage of U.S. citizens of voting age who are  
8 Hispanic or Latino?

9 A Yes.

10 Q Now, when you say that the agreement was going to be CVAP  
11 or Latino CVAP majority, do you mean -- do you recall which  
12 year of ACS data you were referring to?

13 A I believe it was the data from 2019, which I understood to  
14 be an average of the 2015 through 2019.

15 Q Do you recall anything else about the agreement with  
16 regard to the 15th Legislative District, in what you voted  
17 on, on November 15th?

18 A That it was to be a true swing district.

19 Q And can you tell the court what you mean by a "true swing  
20 district"?

21 A That the Democratic performance in the district was right  
22 around 50 percent.

23 Q And do you know what you used to measure Democratic  
24 performance in that district?

25 A In general, for our negotiations, we were using 2020

1 Treasurer election results. But I don't remember if, for  
2 that district, we were looking at the composite data or if we  
3 were looking at Biden 2020 results.

4 Q Do you know for which other districts you might have been  
5 using the Biden results?

6 A Internally we used the Biden results for all of the  
7 districts. And we also compared that against the composite  
8 data, and against the 2020 Treasurer's race. So we were  
9 looking at all of the data sets throughout the process.

10 Q By "internally," do you mean within the commission or  
11 within your team?

12 A Within my team.

13 Q However, as you said, you don't recall which of those you  
14 agreed to at 50 percent for the 15th Legislative District?

15 A Correct.

16 Q And you said a majority, that the agreement entailed a  
17 majority Latino CVAP district in the 15th Legislative  
18 District. Did you specify a percentage?

19 A I may have. I just know that it was over 50 percent.  
20 Well, let me back up. I think we anticipated that it would  
21 be over 50 percent, because the ACS data was not current.

22 Q Right, okay. So just -- let's just focus on the  
23 agreement. And I asked that question a little confusingly.

24 In the agreement, what was the specific percentage for  
25 2019 Latino CVAP, for the 15th Legislative District?

1 A I don't remember the specific percentage.

2 Q Now, when you say that you were thinking of numbers being  
3 higher, what do you mean by that?

4 A In what regard?

5 Q I think you mentioned something about the CVAP numbers  
6 being different, or higher.

7 A Yeah. Well, we were told that the CVAP, because it was  
8 based on old data, was likely higher in the district in 2021  
9 than the ACS data showed.

10 Q And by the data seeming old, you're referring to the 2019  
11 ACS data, right?

12 A Yes.

13 Q Okay.

14 A Which, like I said, I understood to be an average of 2015  
15 through 2019.

16 Q Now, do you recall, in the agreement, what the  
17 specifications were for the 26th Legislative District?

18 A I believe we consolidated Bremerton, or most of Bremerton.  
19 I don't remember the specifics.

20 Q Do you recall if there was a certain Democratic  
21 performance number that you specified, for the 26th  
22 Legislative District, in the agreement?

23 A I believe it was status quo.

24 Q And what was the status quo?

25 A I don't remember the specific Democratic performance of

1 the 26th District.

2 Q Now, in the agreement, what was the -- what were the  
3 specific details for the 44th Legislative District?

4 A We increased the performance, the Democratic performance  
5 some. I believe we took out Marysville, added more of  
6 Everett. I remember I was trying to draw a majority-minority  
7 district, but I wasn't able to. But that I thought we were  
8 drawing the district in a way that it would trend to be  
9 majority-minority, over the next decade.

10 Q Now, when you say "majority-minority," what do you mean?

11 A That the majority of the -- I believe we were using voting  
12 age population identified as minority, using the census data.

13 THE COURT: When you say "identified as minority," do  
14 you mean a specific minority, like with the 15th, Latino or  
15 Hispanic, or just any combination of minorities?

16 THE WITNESS: Any combination.

17 THE COURT: Okay. Thanks.

18 Q Were there any other districts, besides the 44th and the  
19 15th, that you were specifying -- well, let me withdraw that  
20 question.

21 Were there any other districts, besides the 44th, that  
22 you and the commissioners agreed to be majority-minority, in  
23 the legislative plan?

24 A Well, we didn't agree that the 44th would be  
25 majority-minority, which is why it wasn't. There were a

1 number of districts that I wanted drawn as majority-minority.  
2 I think we ended up with -- it seems like a lifetime ago -- I  
3 thought I knew all this on total recall. But I think it was  
4 the -- I'd have to look at a map, or look at the actual  
5 districts, to recall. But there were a number of districts  
6 that were drawn as majority-minority. I think eight.

7 Q Now, you said that -- well, also the -- I don't know if I  
8 asked you this one yet. In the agreement, what were the  
9 specifications that you recall for the 47th Legislative  
10 District?

11 A For the 47th Legislative District, I also attempted to  
12 draw that as a majority-minority. We agreed that it would be  
13 a lean-Democratic district, using the 2020 Pellicciotti  
14 numbers. And there were other, I think consolidations,  
15 around what cities would be included.

16 Q Do you recall what those were?

17 A Not off the top of my head, no.

18 Q Now, to back up a little bit in time. As a commissioner,  
19 did you have any staff working with you?

20 A Yes.

21 Q And who were those staff?

22 A Osta Davis was my primary redistricting support person. I  
23 don't really recall what her actual title was. Dom Meyers  
24 assisted. And Melissa -- I don't remember Melissa's last  
25 name -- but we had someone doing some map-drawing work for

1 us, as well.

2 Q Would that be Vanderwerf?

3 A Yes. Thank you.

4 Q Or Vanderwerf.

5 Was there anyone else that you recall?

6 A On my staff team?

7 Q Correct.

8 A Not that I recall.

9 Q When you say that Ms. Davis was your main person assisting  
10 you, was she the primary map drawer on your team?

11 A Near the end of our negotiations, she was. She was out on  
12 medical leave for a significant period of time. So Dominique  
13 Meyers was my main map drawer, while she was out.

14 Q And who were the main map drawers, working with the other  
15 three commissioners?

16 A I know who their staff were, but I'm not sure that I know  
17 the names of the other -- I know who their primary staff  
18 were, but I'm not sure that I know that I have firsthand  
19 knowledge of who was actually drafting their maps.

20 Q And you used computers to draw maps, right?

21 A Correct.

22 Q And is it true that you used an online application called  
23 "Dave's Redistricting" to draw maps?

24 A That's correct.

25 Q This also applied to your other staff members, right?

1 A Correct.

2 Q It is true that when you say "draw maps," you mean that  
3 you played around with maps on Dave's, but you, yourself,  
4 were not the primary map drawer, right?

5 A That's correct.

6 Q Did any other of your staff members draw maps, besides  
7 Ms. Davis?

8 A Dominique Meyers, and Melissa Vanderwerf.

9 Q Was there anyone named Curt Fritz involved?

10 A Curt Fritz assisted, but he wasn't on my staff.

11 Q When you and your staff changed district lines, in Dave's,  
12 you could see the impact that those changes had on a  
13 district, in terms of population, right?

14 A Correct.

15 Q You could also see, in Dave's Redistricting, how changing  
16 the lines of a district, had an impact on the partisan  
17 performance in a district, correct?

18 A Correct.

19 Q When you used Dave's Redistricting during the  
20 redistricting process, and moved district lines in different  
21 maps, you would look at changes in demographic data, right?

22 A Yes.

23 Q And the way you would look at such data would be by  
24 clicking on a link, I believe you said, that would give you  
25 the analytics of any district or map, right?

1 A Correct.

2 Q Now, in terms of demographic data in Dave's, you could  
3 look at total population, voting age population, or citizen  
4 age voting population data, right?

5 A Correct.

6 Q And you believe that all of those were available in  
7 Dave's?

8 A I believe so, yes.

9 Q Now, to go a few months earlier in time. You were in  
10 attendance at the June 21, 2021, meeting of the Washington  
11 State Redistricting Commission, right?

12 A If that's what the minutes say.

13 Q Okay.

14 A I know I missed a meeting in June, but I don't know what  
15 date that was. I believe it was in June.

16 Q During that meeting, if you recall, was there a  
17 representative from the Washington State Attorney General's  
18 office giving a presentation on compliance with the Voting  
19 Rights Act?

20 A Yes.

21 Q So were you, in fact, in attendance for that presentation?

22 A I was.

23 Q And do you understand VRA to be a common acronym for the  
24 Federal Voting Rights Act?

25 A I do.



1 MR. HERRERA: Now, Ms. Alejandro, can we pull up  
2 admitted Exhibit 139?

3 Q Do you recall a discussion of cracking, in relation to the  
4 minority population's ability to elect their candidate of  
5 choice?

6 A I do.

7 Q And do you recall what was being -- what was said about  
8 not being able to elect -- do you recall what was said about  
9 a minority community not being able to elect their candidate  
10 of choice?

11 A I don't recall, specifically.

12 Q Okay.

13 I'm going to show you another exhibit. This is  
14 admitted Exhibit 131.

15 And, Ms. Davis, do you recall this e-mail exchange --  
16 I'm sorry, Ms. Sims, do you recall an e-mail exchange with  
17 Osta Davis?

18 A I do.

19 Q And that e-mail exchange is reflected in this Exhibit 131.  
20 Do you see that the date of it is March 25, 2021?

21 A I do.

22 Q And do you recall Ms. Davis writing to you that OneAmerica  
23 had, in 2020, commissioned a study of racially polarized  
24 voting in the Yakima City Council races?

25 A Yes.

1 Q And do you recall Ms. Davis writing to you that Dr. Matt  
2 Barreto had looked at racially polarized voting in the State  
3 of Washington?

4 A I do.

5 Q Do you recall Ms. Davis writing to you that Dr. Baretto  
6 had also been retained by the California Redistricting  
7 Commission, to do a voting rights district analysis?

8 A I do.

9 Q And then do you recall responding to Ms. Davis's e-mail,  
10 that you loved the idea of Dr. Baretto's analysis for the  
11 Commission?

12 A I do.

13 Q Did the Commission ever hire a statistician or consultant,  
14 for analyzing any district in the Legislative District map,  
15 with regard to Voting Act map compliance?

16 A No.

17 Q Do you recall attending a presentation by Dr. Matt  
18 Baretto, to the commissioners, regarding redistricting in the  
19 Yakima Valley area?

20 A To any of the commissioners?

21 Q To any of you?

22 A I recall a presentation, yes.

23 Q Which commissioners attended that presentation?

24 A I believe it was Commissioner Walkinshaw.

25 Q Just Commissioner Walkinshaw?

1 A And me. I believe so, yeah.

2 Q And that presentation was on October 19, 2021, right?

3 A I don't remember the exact date, but if that's what the  
4 records show.

5 Q Do you recall the details of that presentation?

6 A Some of the details. Yes.

7 Q And do you recall that one of your takeaways from  
8 Dr. Barreto's presentation was that your original public  
9 draft of the 14th or 15th District map, was not good enough  
10 to satisfy the Federal Voting Rights Act?

11 A I do.

12 Q And by "the 14th or 15th," would it be fair to say that  
13 we're talking about the district in the Yakima Valley area?

14 A Yes.

15 Q And you thought, after Dr. Barreto's presentation, that  
16 your 14th or 15th District in the Yakima Valley area, should  
17 be above 50 percent Latino voting age population, in order to  
18 comply with the Voting Rights Act, right?

19 A Correct.

20 Q Now, after Dr. Barreto's presentation, and in late October  
21 of 2021, you publicly released a second, draft legislative  
22 map, right?

23 A I did.

24 Q Do you know which, if any other commissioners, also  
25 released a second public map proposal?

1 A Yes.

2 Q And which ones were those?

3 A Commissioner Walkinshaw.

4 Q For your second public map proposal, one of the  
5 differences between this second proposal, and your first  
6 legislative public map, was that this second map had a Latino  
7 CVAP percentage higher than 50 percent, using 2019 ACS data,  
8 right?

9 A Correct.

10 Q Do you recall some posts that you made on Twitter,  
11 regarding your second public map?

12 A Yes.

13 Q And do you recall exactly what you said in those tweets?

14 A I don't.

15 MR. HERRERA: Ms. Alejandro, can we show Exhibit 200?  
16 And for the court, these are -- this is admitted Exhibit 200  
17 that we're going to show here in a second.

18 Q Ms. Sims, these were your tweets about the second public  
19 map, right?

20 A Yes.

21 Q You say that the Voting Rights Act gave you a clear  
22 directive in the Yakima Valley, right? If you look on that  
23 third tweet in the thread.

24 A Yes.

25 Q And that clear directive was to draw a district that

1 allows the Latino community in the Yakima Valley to elect  
2 their candidate of choice, right?

3 A Correct.

4 Q Now, let's go forward in time, again, to November 15,  
5 2021, just after that near-midnight vote. What happened  
6 after the vote?

7 A Can you be more specific?

8 Q Sure. You mentioned earlier that there was an agreement  
9 that you all voted on, right?

10 A Yes.

11 THE COURT: Are you talking about the 15th now? What  
12 date?

13 MR. HERRERA: Yes, Your Honor. November 15th, right.

14 THE COURT: Great.

15 A Okay.

16 Q So you mentioned earlier that there was going to need to  
17 be some reconciliation of at least two different legislative  
18 maps, right?

19 A Correct.

20 Q Who was working on that project of drawing the final map,  
21 at that point?

22 A At that point, Dominique Meyers, Osta Davis, and Anton --  
23 I'm drawing a blank on Anton's last name. Commissioner  
24 Graves' map drawer.

25 Q Is it Anton Grose?

1 A Yes. Thank you.

2 Q And what was your involvement in drawing the final  
3 legislative map, from midnight to 4:00 a.m., on November 16,  
4 2021?

5 A I was in the room, answering questions, and making sure  
6 that our agreement was articulated correctly.

7 Q And when you say you were in the room, can you clarify  
8 what you mean by "in the room"?

9 A I mean, I was physically in the room with Anton, Osta and  
10 Dom, as they were finalizing the map.

11 THE COURT: Where were you? Where was this room?

12 THE WITNESS: Oh, we were at a hotel in Federal Way.  
13 I can't remember -- Embassy Suites maybe.

14 THE COURT: Okay.

15 THE WITNESS: In a large ballroom.

16 THE COURT: Was it all the commissioners, or just you  
17 and the staffers?

18 THE WITNESS: It was for sure me and Commissioner  
19 Graves. And other commissioners were in and out of the room.  
20 At points in time all of us were in the room, and at points  
21 in time it was just me and Commissioner Graves.

22 Q You also said that you were making sure that the agreement  
23 was being articulated in that legislative map, on  
24 November 16th, right?

25 A Correct.

1 Q How long, on November 16th, after midnight, were you in  
2 that room that you mentioned; you personally?

3 A Approximately six hours, maybe six and a half.

4 Q So until -- would that be until 6:00 or 6:30 a.m.?

5 A Ish, yes, I don't remember exactly what time I left that  
6 day.

7 Q Okay. And after 6:00 or 6:30 a.m., on November 16th,  
8 where did you go?

9 A Home.

10 Q Okay. And by "home," you went back to Tacoma?

11 A Correct.

12 Q Did you ever return to the hotel, where the map was drawn  
13 -- drawing was being done, on November 16th?

14 A No.

15 Q Now, in your deposition, I believe -- or rather, I'll  
16 withdraw that.

17 So do you recall what you said, in the November 18th  
18 press conference, about seeing the final maps?

19 A I don't.

20 Q Okay.

21 MR. HERRERA: Ms. Alejandro, can we play a clip from  
22 admitted Exhibit 101, please? And this is --

23 (Video clip played.)

24 MR. HERRERA: For the record, that was 337 to 435 of  
25 Exhibit 101.

1 Q You said that you saw the final maps, early in the morning  
2 on Tuesday, right?

3 A Correct.

4 Q And by Tuesday, you meant November 16th, after the  
5 near-midnight vote?

6 A Correct.

7 Q However, were you -- however, you were aware at that time  
8 that there were changes to the map, after that early morning  
9 on November 16th, right?

10 A I believe there were some small shifts, because the Dave's  
11 Redistricting map had to be imported into the Edge software,  
12 which was the Commission's map-drawing software. So that  
13 created some small variations, that needed to be adjusted  
14 for.

15 Q Do you know what those small variations were?

16 A I don't.

17 Q Do you know who was involved in making those small changes  
18 to the map, after you left the hotel?

19 A I believe it was Anton and Osta.

20 Q Now, would it be fair to say that you never personally  
21 checked to see if the requirements of the agreement,  
22 regarding LD 15, were incorporated into the final map?

23 A I think it would be fair to say that I confirmed with Osta  
24 that our agreement was articulated in the map.

25 Q And so are you saying that Osta was there, to your



1 knowledge, checking if the final LD 15 map complied with the  
2 agreement?

3 A That's my understanding, yes.

4 Q Did Ms. Davis show you, via a Zoom call, or some other  
5 means, the final district, to make sure that it complied with  
6 the agreement?

7 A I believe she sent me a link to the final map.

8 Q Did you look at that?

9 A I did.

10 Q Did you check all of the numbers there at the end?

11 A No.

12 Q Now, later in the November 18th press conference, do you  
13 recall being asked about Voting Rights Act compliance, in the  
14 final legislative map?

15 A I do.

16 Q Do you recall your answer?

17 A I don't.

18 MR. HERRERA: Ms. Alejandro, can we play Exhibit 101  
19 at 4705?

20 (Video clip played.)

21 MR. HERRERA: Now, this is, for the court record,  
22 this is from admitted Exhibit 101, 4705 to 4734.

23 Q Ms. Sims, you said in the press conference, "I  
24 fundamentally believe that those that are closest to the  
25 problem are closest to the solution, and I will fully support

1 the community in Yakima in whatever steps they want to take  
2 moving forward." Right?

3 A I did.

4 Q Okay. What did you mean by that?

5 A I meant that it seemed that the communities in Yakima -- I  
6 meant that we didn't have clear guidance from the communities  
7 in Yakima regarding -- I'm sorry, cohesive guidance. There  
8 wasn't a unified voice in the Yakima community, regarding  
9 what that -- how that district should be drawn.

10 Q Now, you said that, in your press conference statement,  
11 you said that there was a -- you implied that there was a  
12 problem in Yakima. What was that problem?

13 A That those -- that Hispanic voters in the Yakima Valley  
14 didn't feel like they were able to choose their candidate of  
15 choice.

16 Q Did you believe that was a problem?

17 A I did.

18 Q Okay. And do you recall a motion of the Commission, in  
19 March of 2022, to intervene in this lawsuit, to defend the  
20 map?

21 A I do.

22 Q And you voted against that motion, for the commissioners  
23 to intervene in this lawsuit, to defend the legislative map,  
24 right?

25 A Correct.

1 Q So you did support the community in Yakima, in steps  
2 moving forward, to solve the problem, right?

3 MR. HUGHES: Objection.

4 THE COURT: The objection is sustained.

5 MR. HERRERA: I'll pass the witness, Your Honor.

6 THE COURT: Okay. Thank you. We'll start with  
7 Mr. Holt for the intervenors and cross plaintiffs.

8 JUDGE VANDYKE: Can I ask you, what is the difference  
9 between CVAP and VAP, those two concepts?

10 THE WITNESS: The way that I understand it is voting  
11 age population is just based on how many voters in that  
12 district are of the age to register, or how many people in  
13 that district are old enough to vote. So they're 18 and  
14 over, or maybe it's 17, based on whenever the election is.  
15 I'm not quite sure of the specifics there.

16 And that CVAP is based on, not total population, but based  
17 on the folks that are citizens in that district, that are  
18 eligible to vote.

19 JUDGE VANDYKE: That's the big question, and eligible  
20 to vote. So all of those people included in CVAP are  
21 supposedly -- the concept is they should be eligible to vote?

22 THE WITNESS: That's my understanding.

23 THE COURT: Yes. And there's a large portion of that  
24 Latino population, in this area, who are not citizens and not  
25 eligible to vote.

1 JUDGE VANDYKE: Thank you.

2 CROSS EXAMINATION

3 BY MR. HOLT:

4 Q Good morning, Commissioner Sims. How are you today?

5 A I'm doing well. Thank you.

6 Q Excellent. My name is Dallin Holt. I know we met several  
7 months ago during your deposition. It's great to meet you in  
8 person. I appreciate you being here today. I will try to be  
9 quick, so we can hopefully get your testimony taken care of  
10 before lunch today.

11 I just want to start off just by pulling up exhibit --  
12 what has been admitted as Exhibit 1046 in this case.

13 And I'll represent to you, Ms. Sims, that this is an  
14 order from the Washington State Supreme Court. Do you have  
15 anything on your screen right there?

16 THE COURT: Not yet, no.

17 MR. HOLT: Give us one second, here.

18 THE COURT: Sure.

19 Q It's your understanding that the question of whether or  
20 not the map that was voted on, on that night that was  
21 discussed by plaintiffs' counsel here, that issue was already  
22 before the Washington State Supreme Court, correct?

23 THE COURT: Yes. We can take judicial notice the  
24 Washington Supreme Court -- we're not dealing with the timing  
25 of it, in this lawsuit. There's nothing improper about that.

1 MR. HOLT: There is no issue regarding the legality  
2 of the map that was passed --

3 THE COURT: That's right. No doubt about that.

4 MR. HOLT: Excellent.

5 THE COURT: But you should bring in a 12-year-old boy  
6 tomorrow to run the tech.

7 MR. HOLT: I know. I'll bring my son here tomorrow.

8 THE COURT: And he can play a video game when he's  
9 not being used.

10 MR. HOLT: He'll enjoy that, too.

11 Q Would you agree, Commissioner Sims, that one of your  
12 priorities with the Redistricting Commission, was to create a  
13 majority-minority district for Hispanic and Latino voters in  
14 the Yakima Valley?

15 A Specifically to create a majority CVAP Hispanic district  
16 in the Yakima Valley.

17 Q When I say the words "majority-minority" I also mean a  
18 district that is majority CVAP, in a particular minority  
19 population. So I'm not referring to different things. I  
20 want to make sure we're on the same page.

21 A Okay.

22 Q Would you agree that yourself and Commissioner Graves were  
23 the primary negotiators for the legislative map?

24 A I would.

25 Q And that Commissioners Fain and Walkinshaw were the

1 primary negotiators for the congressional map?

2 A That's correct.

3 Q To your understanding, the lawsuits we're here focusing on  
4 today, focus only on the legislative map, correct?

5 A Yes.

6 Q So would you agree that yourself, Commissioner Graves,  
7 along with your respective staffs, would be the best sources  
8 of information regarding negotiations, pertaining to the  
9 state legislative map?

10 A Yes.

11 Q Now, would you agree that there was no majority consensus  
12 among the commissioners regarding whether the VRA mandated a  
13 majority-minority, or a majority Hispanic CVAP district in  
14 the Yakima Valley?

15 MR. HERRERA: Objection, vague.

16 THE COURT: Objection, what?

17 MR. HERRERA: Vague, Your Honor.

18 THE COURT: I don't think so. Go ahead, if you  
19 understand the question.

20 A Could you ask it again?

21 Q Would you agree there was no majority consensus, meaning  
22 there was not at least three commissioners that agreed that  
23 the VRA mandated a creation of a majority-minority district  
24 in the Yakima Valley, for Hispanic voters?

25 A I feel like -- I remember that we all knew we needed to do

1 something in that district. As to whether or not we had all  
2 verbally agreed that we needed to draw a specific district in  
3 the Yakima Valley, I don't know that we ever had verbal  
4 agreement around what was required.

5 Q Okay. You had an agreement that, in order to -- kind of a  
6 compromise agreement of, here is how the 15th will have to  
7 look, if we're going to pass something. Is that what you're  
8 referring to here?

9 A I'm not sure I understand, specifically.

10 Q I'll move on.

11 THE COURT: Commissioner Sims, I think we've had a  
12 lot of testimony, some of it before the other judges were  
13 here, about litigation with the City of Yakima, litigation  
14 with the County of Yakima, litigation in other towns over  
15 there.

16 So is that what you were referring to, when you said, "We  
17 all recognized something had to be done in that area"?

18 THE WITNESS: Yeah. I mean, I think that the  
19 Republican commissioners -- I don't recall them ever  
20 specifically saying they agreed that we had to draw a  
21 specific district in the 15th. And I don't know if that was  
22 part of their negotiation strategy, that they just didn't  
23 articulate that specifically, or if it's that they didn't  
24 believe it.

25 THE COURT: Okay. That's fine. Thank you. Go

1 ahead, counsel.

2 MR. HOLT: Thank you, Commissioner.

3 Q Would you agree that the Commission, as a whole, as an  
4 entity, did not retain a VRA expert to analyze the Yakima  
5 Valley?

6 A Correct.

7 Q Was there ever a discussion surrounding the possibility of  
8 doing that?

9 A Yes.

10 Q And the consensus was, there was no consensus regarding a  
11 VRA expert for the Commission as a whole; is that correct?

12 A Correct.

13 Q Now, would you agree that each partisan side of the  
14 Commission, the Republicans and the Democrats, each hired  
15 their own experts, who arrived at conflicting conclusions,  
16 regarding whether or not a VRA district was required in  
17 Yakima Valley?

18 A I don't know that the Republicans had an expert.

19 Q They hired a law firm that performed a legal analysis for  
20 them, that arrived at the conclusion that a VRA district was  
21 not required in Yakima Valley; is that a correct statement?

22 A Correct.

23 Q And you already discussed Dr. Barreto. This was the  
24 expert hired by the Senate Democratic Caucus; is that  
25 correct?



1 A Correct.

2 Q Aside from Dr. Barreto, do you recall any other experts  
3 advising the Commission, the Democratic members of the  
4 Commission, that it was -- under the VRA, you were required  
5 to draw a VRA district in Yakima Valley?

6 A I don't recall any other experts.

7 Q And so a presentation with the Attorney General was  
8 brought up by the Palmer plaintiffs' counsel. Do you recall  
9 that discussion?

10 A Some of it, yes.

11 Q Would you agree that discussion was more about the general  
12 parameters of what the VRA required, and what it did not  
13 require, as opposed to specific mandates of: Create a  
14 district, a VRA district here or there. It was a general  
15 presentation, correct?

16 A Correct.

17 Q Okay. So you never received any specific guidance, aside  
18 from Dr. Barreto, from any experts, telling you that a VRA  
19 district was required in Yakima Valley?

20 A Correct.

21 Q Okay. Now, I want to read briefly -- I won't pull it up  
22 here.

23 A Sorry, let me go back. Not that I recall. I don't recall  
24 any other experts.

25 Q Everything I ask you today is to the best of your

1 recollection. I understand this was a while ago, so all we  
2 can do is the best that we can. Thank you for correcting  
3 that.

4 Now, I previously referenced this order from the  
5 Washington State Supreme Court, and I'll represent it is  
6 Exhibit 1046. I just want to read a sentence from that  
7 order. If you recall, it's something that I read with you  
8 during your deposition. We're on Page 4 of 6 of this  
9 document. And it says, "Redistricting raises largely  
10 political questions, best addressed in the first instance by  
11 commissioners appointed by the legislative caucuses, where  
12 negotiation and compromise is necessary for agreement."

13 Do you agree with that statement?

14 A I'm visual, so without having it in front of me, I would  
15 say I agree with that.

16 Q Would you like to see it in front of you?

17 A I would, actually, yeah.

18 MR. HOLT: Could you pull it up, Caleb?

19 THE COURT: Victoria, do you have an exhibit book?

20 MR. HOLT: We're just having an issue with the  
21 connector here. My apologies.

22 MR. HUGHES: I can give you our copy.

23 THE COURT: Believe it or not, trials used to happen  
24 without technology.

25 Q So I specifically referred to just right in the middle of

1 that first paragraph, the sentence starting with  
2 "redistricting."

3 THE COURT: Judge Estudillo has a little bit of a  
4 back leg issue, so he may stand up and stretch.

5 JUDGE ESTUDILLO: Don't mind me.

6 JUDGE VANDYKE: He's not upset.

7 JUDGE ESTUDILLO: I am upset about my leg, but not  
8 this.

9 THE COURT: Have you had a chance to read that?

10 THE WITNESS: I have.

11 THE COURT: Anything change?

12 THE WITNESS: No.

13 Q Would you agree, the language the court uses regarding  
14 negotiation and compromise, is that what it took to get this  
15 final map approved amongst the four commissioners?

16 A Yes.

17 Q Because there are two Republicans and two Democrats?

18 A Correct.

19 Q And it takes a majority vote to enact a map, correct?

20 A Correct.

21 Q There is going to be some give and take from both sides,  
22 correct?

23 A Correct.

24 Q Now, again, after a lot of back-and-forth over the months  
25 of negotiating, you reached an agreement that included a

1     compromise position for LD 15, correct?

2     A     Correct.

3     Q     And I think you stated this earlier, to make sure I  
4     understood it correctly, it was a majority Hispanic or Latino  
5     citizen voting age population -- and a toss-up political  
6     district, or a district that slightly leans Republican, is  
7     the way I remember it from your deposition. Is that an  
8     accurate representation of the compromised position?

9     A     Yes. And how we would consolidate different cities in  
10    that map, was also part of the conversation.

11    Q     Understood.

12    A     Or part of the compromise.

13    Q     Now, for yourself and Commissioner Walkinshaw, you both  
14    stated that it was a priority for both -- well, you can only  
15    speak for yourself, so I'll just ask you about what you said.

16            You said earlier it was a priority for you to create a  
17    majority-minority district, a majority Hispanic Latino CVAP  
18    in LD 15, correct?

19    A     Correct.

20    Q     That was something that was -- you weren't going to reach  
21    an agreement on LD 15, unless that happened; is that a safe  
22    statement?

23    A     Yes.

24    Q     Okay.

25            Now, the 2019 ACS data, the American Community Survey

1 data, that's where we look and get this citizen voting age  
2 population number from. If I told you it was 50.04 percent  
3 Hispanic or Latino CVAP, does that sound accurate?

4 A Yes.

5 Q And in the months following the passage of the map, the  
6 2020 CVAP data became available, and it was not a change,  
7 per se, as in it still looked back at that exact point in  
8 time. And based on your assumption that you thought it was  
9 kind of depressed, this 50.04, you were correct in that it  
10 was actually 51.5, when the 2020 CVAP numbers came out; is  
11 that correct?

12 A That sounds right.

13 Q Okay. And you were referred to in your correspondence, or  
14 any of the negotiations, something called the Barreto  
15 algorithm; does that ring a bell?

16 A It does.

17 Q In the Barreto algorithm, this is something Dr. Barreto  
18 told you that if you added 2 percent, approximately, per  
19 year, from where you were at, it would bring you up to the  
20 realtime CVAP data, correct?

21 A Correct.

22 Q And so when you were looking at the 2019 Hispanic or  
23 Latino CVAP at 50.04, you actually believed you were voting  
24 for something based on Dr. Barreto's conversation with you,  
25 that was much higher than 50.04; is that correct?

1 A Correct.

2 Q Now -- and based upon the fact that you drew and passed a  
3 majority Hispanic CVAP district in the 15th District, you  
4 were of the belief that you had complied with any of the  
5 requirements of the Voting Rights Act, correct?

6 A Correct.

7 MR. HOLT: Thank you, Ms. Sims. I pass the witness.

8 THE COURT: Great. Okay. Mr. Hughes, for the state.

9 CROSS EXAMINATION

10 BY MR. HUGHES:

11 Q Good morning, Ms. Sims. Mr. Holt already asked how you  
12 are, I'm guessing nothing changed because of that exam?

13 A Correct.

14 Q I'm Andrew Hughes, from the Attorney General's office.  
15 I'm going to be asking you some questions on behalf of the  
16 state. Before I do, I want to get two very boring things out  
17 of the way.

18 The first is that, is it your understanding that the  
19 Attorney General's office, and me in particular, we don't  
20 represent you or the Commission, for purposes of this trial;  
21 is that right?

22 A Yes, that's my understanding.

23 Q And neither I, nor anyone in my office, prepared you for  
24 the testimony that you're providing today; is that right?

25 A That's correct.

1 Q So I want to go back to the beginning. You mentioned that  
2 you were President of the Washington State Labor Council; is  
3 that correct?

4 A That's correct.

5 Q Have you been a union organizer for a while?

6 A I have.

7 Q Why were you a union organizer?

8 A Because I believe in the power of collective action.

9 Q And through the course of your career, you worked yourself  
10 up to the President of WSLC?

11 A That's correct.

12 Q Does that keep you pretty busy?

13 A It does.

14 Q Why, then, did you agree to take on the additional  
15 responsibility of being a redistricting commissioner?

16 THE COURT: I bet you ask yourself that question  
17 quite a bit.

18 THE WITNESS: Most recently, yes.

19 A I saw an opportunity to represent my community, and other  
20 communities, that have historically been excluded from the  
21 process.

22 Q Why was that important to you?

23 A Because representation matters.

24 Q If you don't mind my asking, you refer to "my community,"  
25 what community is that?

1 A The black community.

2 Q Let's talk about your time on the Commission. So you were  
3 selected as a commissioner. While you were a commissioner,  
4 what were your goals as far as drawing or considering  
5 potential legislative maps?

6 A Well, to comply with the law, and the requirements under  
7 the Constitution regarding how districts were drawn, I wanted  
8 to draw maps that reflected the political realities of our  
9 state, that increased civic engagement and voter  
10 participation, that respected communities of interest, and  
11 tribal sovereignty. There's more. I had four specific  
12 points. That's all I got, off the top of my head today.

13 Q We maybe will get to those. And I don't want to make this  
14 too much of a quiz for you. You mentioned statutory and  
15 constitutional requirements. What statutory and  
16 constitutional requirements, in particular, were you trying  
17 to comply with?

18 A Well, first, that we completed our negotiations by our  
19 November 15th deadline. That we drew maps that were compact,  
20 convenient, contiguous, that didn't favor any person or  
21 party. I used to have these on total recall. I would have  
22 to look at something to -- but I wanted to make sure that our  
23 maps were constitutionally compliant, and that included a VRA  
24 district.

25 Q Understood. And as part of your work on the Commission,



1 and trying to put these goals into practice, did you receive  
2 public comments and feedback, from people on the ground,  
3 about what they wanted in their districts?

4 A I did.

5 Q Do you recall -- let me strike that. What was the form in  
6 which you received this feedback?

7 A Various forms. We had public hearings, where folks could  
8 submit public comment, they could submit comment online, they  
9 could submit draft maps. We went through a tribal  
10 consultation process with tribes. E-mail communication.  
11 There were very -- a variety of formats that the public used  
12 to provide us with feedback.

13 Q Do you recall how many public outreach meetings the  
14 Commission had?

15 A A lot. But I don't remember the actual number, no.

16 Q Do you know how the 2021 Commission's public outreach  
17 efforts compared with past Commission's?

18 A Not specifically. You know, it was a unique period of  
19 time. We were in the middle of COVID protocols. So I know  
20 that we -- it was a robust outreach plan, that included  
21 multiple languages, different times during the day, some on  
22 evenings, some on weekends. But I don't know how our process  
23 compared.

24 Q Fair.

25 Do you recall whether the Commission had a public

1 outreach meeting in the Yakima area?

2 A Virtually, yes.

3 Q Virtually. And did you attend that meeting?

4 A I don't believe I did.

5 Q Okay. I'm going to show you what's been admitted -- well,  
6 let me -- before I get to that, regardless of whether you  
7 attended, do you recall reviewing the transcripts?

8 A I do.

9 Q Okay. So I'm going to show you what's been marked as  
10 Exhibit 47, and admitted as Exhibit 47. My apologies. And  
11 it should be showing up -- the federal courthouse has  
12 everything. Okay.

13 Do you know what this exhibit is right here, Ms. Sims?

14 A It looks like the transcripts of the meeting.

15 Q Is this the Yakima meeting you referred to earlier?

16 A Yes, I believe so.

17 Q And it says here "appearances." Looks like maybe you were  
18 at this meeting.

19 A Oh, I know I missed a meeting in June, so I thought maybe  
20 this was it.

21 Q Okay. Okay. What sort of feedback do you remember  
22 getting in this meeting?

23 A I remember -- there must have been feedback around how the  
24 Yakima Nation -- how Yakima Nation would be drawn or included  
25 in what districts, feedback from folks around -- I believe

1 they wanted a VRA district, that's what was -- I'd have to  
2 reread the testimony to know specifically. There was a lot  
3 of feedback.

4 Q Fair. But, generally speaking, was this sort of feedback  
5 important to you as you were thinking about proposing and  
6 voting on maps?

7 A Yes. And despite my poor recollection, it was important  
8 at the time.

9 Q Fair.

10 Let's talk -- let's shift gears and talk about the VRA.  
11 So I'm quite sure you've already answered this, but was it  
12 your understanding, did you believe that the VRA required the  
13 Commission to create a majority Hispanic CVAP district, in  
14 the Yakima Valley?

15 A Yes.

16 Q And what did you base that understanding on?

17 A Presentations that we received from the Redistricting  
18 Justice Coalition, the AG's presentation, from the Barreto  
19 memo, from previous lawsuits around Voting Rights Act, and  
20 the Yakima Valley.

21 Q Did you believe, at the time, that the majority Hispanic  
22 CVAP district had to lean Democratic, in order to comply with  
23 the VRA?

24 A No, that was an outstanding question.

25 Q Okay. And we'll get a little more into that. But I want

1 to walk through some more of the things that you just said.  
2 You mentioned at the time you became commissioner, you were  
3 aware that there were lawsuits under the VRA, and the  
4 Washington VRA, about the Yakima area; is that right?

5 A Correct.

6 Q What do you remember about those lawsuits?

7 A I remember that the City of Yakima -- I remember the City  
8 of Yakima was redistricted, as a result of a VRA lawsuit. I  
9 remember that there was a settlement in the Yakima County  
10 lawsuit, that drew a majority Hispanic County Commission  
11 seat.

12 Q Do you recall whether there were findings of racially  
13 polarized voting, in those lawsuits?

14 A Yes.

15 Q And just so the record is clear, do you -- when I said "do  
16 you recall," were there findings of racially polarized voting  
17 in those lawsuits?

18 A Yes.

19 Q And just to clarify, for the record, I'm going to show you  
20 what's been marked Exhibit 602. And I understand you're not  
21 a lawyer; is that right?

22 A That's correct.

23 Q Does this look like the City of Yakima lawsuit you  
24 referred to?

25 A That's how it reads, yes.

1 Q And that's, again for the record, *Montes v. City of*  
2 *Yakima*. It's not going cleanly back in my binder. I  
3 apologize.

4 Then as far as the Yakima County case, does  
5 Exhibit 606, does this look like the Yakima County case to  
6 which you were referring, *Aguilar v. Yakima County*?

7 A Yes.

8 Q Do you remember, Ms. Sims, a case called Glatt v. City of  
9 Pasco, about redistricting in the Pasco area?

10 A Vaguely. I don't know the specifics around that case.

11 Q Do you have any general understanding of what that case  
12 was about?

13 A Just that there was another lawsuit filed around racially  
14 polarized voting.

15 Q Understood. Did these lawsuits influence your thinking  
16 about the need to create a majority Hispanic district, in the  
17 Yakima Valley?

18 A Yes.

19 Q How so?

20 A Well, there had already been lawsuits filed and won, that  
21 stated that there should be majority Latino districts created  
22 at the local level in Yakima Valley. So I believe that based  
23 on that, we needed to do the same thing at the state level.

24 Q And so coming into the process, this was something that  
25 you understood you might have to do?

1 A Yes.

2 Q I want to ask you about some other things you looked at,  
3 including an exhibit that you were shown earlier. It's  
4 Exhibit 1301. And it's an e-mail from Osta Davis. Do you  
5 recall taking a look at this earlier?

6 A I do.

7 Q And in Bullet 1, she talks about a report OneAmerica  
8 commissioned. Do you see that?

9 A Yes.

10 Q And she says in -- I guess it starts right at the end of  
11 the third line of that first bulleted paragraph, "I think  
12 that OneAmerica could build a pretty strong case for majority  
13 Latinx districts in Eastern Washington." Did I read that  
14 right?

15 A Yes.

16 Q What did you understand that to mean?

17 A That we could potentially work with OneAmerica, to provide  
18 us with some more analysis.

19 Q And, Ms. Sims, did you click on the link that Ms. Davis  
20 provided in this e-mail?

21 A Yes.

22 Q I'm showing you a report from MGG Redistricting Lab, and  
23 this is Exhibit 130. Do you understand this is what comes up  
24 when you click on the link that Ms. Davis provided you?

25 A Yes.

1 Q Was this something you reviewed, while you were a  
2 commissioner?

3 A I'm sorry, repeat that.

4 Q This was something you reviewed, while you were a  
5 commissioner?

6 A Yes.

7 Q And I want to highlight for you, right here, and ask if  
8 you could read that.

9 A "We find that Yakima has a clear pattern of racial  
10 polarization, with strong *Gingles* 2 and 3 findings. In  
11 particular, we find strong cohesion between Hispanic and  
12 native voters, in their support of Hispanic candidates, while  
13 white voters block these candidates of choice for the  
14 minority coalition from ever reaching office."

15 Q Do you recall reading this, when you were commissioner?

16 A I do.

17 Q Was this important to you?

18 A Yes.

19 Q Was this part of the total mix of information you  
20 considered, in determining whether the Commission needed to  
21 draw a majority Hispanic CVAP district in the Yakima area?

22 A Yes.

23 Q Let's go back to Ms. Davis's e-mail.

24 Incidentally, do you know why Ms. Davis sent you this  
25 e-mail?

1 A She was doing her job.

2 Q Part of her job was to make sure you understood what you  
3 had to do?

4 A Yes.

5 Q Perfect. So I want to go to the second bullet point.  
6 Bullet 2 mentions Dr. Matt Baretto; do you see that?

7 A Yes.

8 Q There's references in this bullet to racially polarized  
9 voting. Do you see those?

10 A Yes.

11 Q Was it your understanding, racially polarized voting was  
12 something that was important for VRA purposes?

13 A Yes.

14 Q Ms. Sims, did you click this link?

15 A I believe I did, yes.

16 Q I want to show you -- I apologize, I haven't been saying  
17 this for the record, but that MGG report we looked at earlier  
18 was Exhibit 130.

19 So I want to move on to Exhibit 132. Are you aware,  
20 Ms. Sims, that this is the report that comes up when you  
21 click on that link?

22 A Yes.

23 Q Was this something you reviewed while you were  
24 commissioner?

25 A Yes.



1 Q And I want to move to the third page. What do you  
2 understand about these slides? I can ask a better question  
3 if you don't like that one.

4 A Okay.

5 Q Okay.

6 Do you understand that in these slides, Dr. Barreto is  
7 laying out or previewing how he's going to demonstrate  
8 whether or not there is racially polarized voting in the  
9 Yakima area?

10 A Yes.

11 Q Okay. And then moving through these slides. As you  
12 understand it, does Dr. Barreto conclude that there is  
13 racially polarized voting in the election that he's --  
14 elections that he's looking at here?

15 A Yes.

16 Q Was this something that was important to you as a  
17 commissioner?

18 A Yes.

19 Q For the record, do you see the date of this?

20 A I do.

21 Q So it's February 6, 2013?

22 A Correct.

23 Q Was this report, from Dr. Barreto, part of the total mix  
24 of information you were considering, in determining whether  
25 the Commission had to draw a majority Hispanic CVAP district?

1 A Yes.

2 Q I'd like to move on to another exhibit. This is  
3 Exhibit 167. And this has been admitted as well.

4 It's an e-mail and attachments. I'll just keep my  
5 sticky tabs on for now.

6 Ms. Sims, what is this e-mail?

7 A It is an e-mail from Dominique Meyers, to me, regarding  
8 some talking points regarding VRA.

9 Q And those talking points come from Alec. Do you see that?

10 A I do.

11 Q Is that Alec Osenbach?

12 A That's right.

13 Q Do you recall that Mr. Osenbach is an attorney?

14 A I do.

15 Q Did he work for the House?

16 A I believe so, yes.

17 Q Is it your understanding, then, that he prepared some  
18 talking points for you on VRA compliance?

19 A Yes.

20 Q Did you review those talking points, Ms. Sims?

21 A I did.

22 Q Okay. Let's take a look at some of those. And they're  
23 towards the end.

24 So here, Mr. Osenbach writes that there's a two-step  
25 analysis, under the VRA, to determine if a majority-minority

1 district should be drawn. Do you see that?

2 A I do.

3 Q And I should put it on the camera.

4 He says, first -- he says, rather, "First, is there  
5 statistical evidence of racially polarized voting?" Do you  
6 see that?

7 A I do.

8 Q And what does he say about the answer to that question?  
9 It goes on to the second page.

10 A "You have to look at past elections to determine whether  
11 white people vote differently than Latinx people. And that  
12 had already been done in previous court cases. So the answer  
13 is definitely yes."

14 Q What previous court cases do you understand Mr. Osenbach  
15 to be referring to here?

16 A The City of Yakima court case, and the recently settled  
17 County of Yakima.

18 Q And was this guidance from Mr. Osenbach important to you?

19 A Yes.

20 Q Why is that?

21 A Well, I wanted to make sure I was doing the right thing.

22 Q Mr. Osenbach goes on to say, "Second, is it possible to  
23 draw a majority-minority district that could statistically  
24 elect a minority candidate?" Do you see that?

25 A I do.

1 Q Here again he says, "The answer is, yes."

2 A Correct.

3 Q And he further goes on to say, and this is right there, he  
4 says, "With both of these conditions satisfied, the VRA  
5 requires that we draw a majority Latinx district the way Sims  
6 and Walkinshaw did." Do you understand he's referring to the  
7 maps that you had released publicly?

8 A Yes.

9 Q And what does he then say, starting with, "experts will  
10 argue"? Can you read that for me, please?

11 A "Experts will argue about whether the legal requirement is  
12 50 percent, plus one Latinx, or some more substantial  
13 majority. But I don't think we need to wade into that  
14 debate, in our talking points, since the D commissioners drew  
15 compliant districts and the Rs did not."

16 Q Is it your understanding here that Mr. Osenbach was not  
17 able to provide you clarity on whether the VRA required a  
18 district to meet particular performance metrics?

19 A I'm sorry, is it my understanding --

20 THE COURT: That was a real lawyer question.

21 MR. HUGHES: It was, Your Honor. I'm trying to be a  
22 real lawyer up here.

23 Q So you previously said that you didn't get a whole lot of  
24 clarity about whether you had to create, to comply with the  
25 VRA, a district with a particular Democratic lean; is that

1 right?

2 A Correct.

3 Q Is it your understanding that here Mr. Osenbach is  
4 essentially saying the same thing?

5 A Yes.

6 THE COURT: Is this a good time to take the break?

7 MR. HUGHES: It's good with me if it's good with you,  
8 Your Honor.

9 THE COURT: Let's take about a 20-minute break. So  
10 we'll start up about 10:22, and with Commissioner Sims on the  
11 stand.

12 How much more do you have, counsel, about ten minutes?

13 MR. HUGHES: If only, Your Honor. Obviously no more  
14 time than you'll give me. But my notes reflect I'm about  
15 two-thirds of the way done.

16 THE COURT: Okay. That's good. And are you  
17 expecting any redirect, counsel?

18 MR. HERRERA: Not so far, Your Honor.

19 THE COURT: Great. Wonderful. We'll be adjourned.

20 (Recess.)

21 THE COURT: All right. Go ahead, counsel.

22 MR. HUGHES: I'm going to start by correcting what I  
23 said previously. Sorry about that. I said I was about  
24 two-thirds of the way done. I left some pages on the table.  
25 I'm about halfway done. I'll do my best to move briskly,

1     though.

2                 THE COURT:   Okay.

3     Q   Ms. Sims, welcome back.  I want to go back to your  
4     principles.  So the commissioners all released draft maps in  
5     September, correct?

6     A   Correct.

7     Q   I'll zoom out here.  Do you recall -- is this the draft  
8     map that you released?

9     A   It appears to be, yes.

10    Q   This is admitted Exhibit 155.

11                So just very briefly, Ms. Sims, how did this map  
12    reflect your stated principles?

13    A   A number of ways.  I believe this map had maybe nine  
14    majority-minority districts.  I drew what I thought to be a  
15    VRA district, the 14th, consolidated a lot of cities.  I  
16    consolidated Yakima Nation, and kept the tribes that wanted  
17    to be split, between different districts, split.

18                I was proud of this map.

19    Q   Is it fair to say that this map reflects your best efforts  
20    to put your principles into practice?

21    A   Yes.

22    Q   And after you released these maps -- there's been  
23    testimony already that you received a presentation from  
24    Dr. Matt Baretto; is that correct?

25    A   That's correct.

1 Q I won't go through that. But what did that presentation  
2 show, as far as you recall?

3 A What stood out to me in that presentation, my 14th  
4 District was not VRA-compliant, because it didn't have  
5 50 percent Hispanic CVAP.

6 Q And do you recall whether Dr. Barreto concluded whether  
7 there was racially polarized voting in the Yakima Valley?

8 A I do.

9 Q I won't pull this up, but for the record, this is --  
10 admitted as Exhibit 178 is Dr. Barreto's report. Was  
11 Dr. Barreto's analysis important to you, Ms. Sims?

12 A It was.

13 Q Why is that?

14 A He seemed to be respected in his field. It was a  
15 compelling argument that what I had attempted to do in my  
16 first map, didn't meet the VRA threshold.

17 Q So after you received the report from Dr. Barreto, what  
18 did you do?

19 A I redrew my maps.

20 Q And you publicly released the second map in October; is  
21 that right?

22 A That's correct.

23 Q And I'm going to show you that map, it's admitted  
24 Exhibit 197. And same question. Let's try and fit the whole  
25 thing --

1 MR. HUGHES: Thank you, Your Honor.

2 Q Same question as before. Very briefly, Ms. Sims, how did  
3 this map reflect your priorities?

4 A Well, in this map, I was able to keep Yakima Nation with  
5 the Hispanic community in the Yakima Valley. I was able to  
6 draw a majority CVAP district. There were some other changes  
7 that I made to the map, based on community feedback,  
8 specifically around the 40th and 42nd, and the placement of  
9 the San Juan Islands, and some other communities of interest  
10 that I was able to respond to.

11 Q So this map reflected your best efforts to incorporate  
12 community feedback you had received?

13 A Yes.

14 Q Okay. And you were asked previously about some tweets  
15 that you had tweeted. And that was Exhibit 200. Do you  
16 recall that?

17 A I do.

18 Q Let's put those back up on the document camera.

19 So you say right here, "The following values guided my  
20 decisions." Do you see that?

21 A I do.

22 Q And the values that you then go on to tweet -- it feels  
23 awkward to keep saying "tweet" -- but the values you then go  
24 on to write, are those the same values you've been telling me  
25 today guided your thinking process?



1 A Yes.

2 Q So moving to the next tweet. It says right here, "Recent  
3 analysis highlights the presence of racially polarized voting  
4 in the Yakima Valley region, and provides the Commission with  
5 a clear directive." Fair to assume that's Dr. Barreto's  
6 analysis?

7 A Yes.

8 Q Can you then read this next tweet for me, please?

9 A "Draw a district that allows Latino community in Yakima  
10 Valley to elect their candidate of choice. My map responds  
11 to this directive, by creating a majority Latino district  
12 based on citizen voting age population, and unites Yakima  
13 Nation."

14 Q So let's take that in two pieces, the directive you  
15 received from Dr. Barreto, as you understood it.

16 Let me reask the question. The directive you received,  
17 from your understanding of Dr. Barreto's report, is that you  
18 had to draw a district that would allow the Latino community  
19 to enact a district -- to elect a candidate of their choice?

20 A Yes.

21 Q Okay. And then you go on to say that your map proposal  
22 responds to this directive by creating a majority Latino  
23 district, based on citizen voting age population. So is that  
24 what you understood was required, to follow the directive you  
25 took from Dr. Barreto?

1 A Yes.

2 Q So in other words, to enable Latino voters?

3 A I want to add, and that the district needed to be  
4 competitive.

5 Q Fair. Fair.

6 So in other words, then, to elect -- to enable Latino  
7 voters to elect a candidate of their choice, had to be  
8 majority Latino by CVAP, didn't have to necessarily lean  
9 Democratic, as you understood it?

10 A Correct.

11 Q And that's consistent with the advice you received from  
12 Alec Osenbach, the House lawyer we mentioned earlier,  
13 correct?

14 A Correct. But I'm not sure that I understood that his  
15 advice was legal advice.

16 Q Okay. I'd like to move on to some more, definitely legal  
17 advice you got. This is Exhibit 508. And this is -- well,  
18 I'll ask you. What is this exhibit, Ms. Sims?

19 A An e-mail from the Attorney General, who was staffing the  
20 Commission, regarding questions that Commissioner Graves  
21 asked about the Voting Rights Act.

22 Q And I'd like to move -- there's a number of questions in  
23 here. I'd like to move to the fifth page of this exhibit.  
24 It's Question 3A. And here we have a question from  
25 Mr. Graves. And the question is, "Must a district favor one

1 party or the other to comply with the Voting Rights Act?

2 And can you please just read the first sentence of the  
3 response?

4 A "The VRA does not address or require favoring a particular  
5 party, as a stand-alone factor."

6 Q And then my colleague goes on to say that "The VRA inquiry  
7 focuses on vote dilution of minority voters," right?

8 A Yes.

9 Q So, again, the advice you're getting from the AGO here,  
10 was not that you needed necessarily to create a lean  
11 Democratic district to comply with the VRA, correct?

12 A Correct.

13 Q Let's look at the final maps, now. And while I pull those  
14 up, Commissioner Sims, earlier this morning we saw your vote  
15 on the plan that the Commission recommended to the  
16 legislature. If you can briefly summarize, what did you  
17 understand you were voting on?

18 THE COURT: Well, there were several votes in there.  
19 You're talking about the video of the morning of the 16th?

20 MR. HUGHES: The evening of the 15th, there was a  
21 vote on whether to enact a plan for legislative  
22 redistricting, as I understood it.

23 Q Is that your understanding?

24 A Yes.

25 Q You answered this in specificity. So just very generally,

1 to reorient us, what did you understand you were voting on  
2 there?

3 A A final map. A final legislative map that included a CVAP  
4 majority Hispanic district in the 15th, pulling population --  
5 bringing Legislative District 12 across Highway 2. Bringing  
6 the 44th further south. Making the 5th and the 47th swing  
7 districts. Making the 28th -- I believe we improved the 28th  
8 a little bit. Tried to consolidate all of Lakewood. 26th,  
9 status quo. Some changes around Shelton, I believe. And the  
10 24th and 35th -- I would -- it would take me a while to  
11 remember all of the specifics.

12 Q I'm impressed you remember that much.

13 I'm showing you now Exhibit 123. Do you understand  
14 this is an e-mail from Lisa McLean, to Chief Justice Gonzalez  
15 on the Washington Supreme Court, attaching the maps that the  
16 Commission ultimately recommended to the legislature?

17 A Yes.

18 Q And I will represent to you that if you click on the  
19 seventh link, "legislative map full," this is the map that  
20 comes up. Any reason to dispute that, Ms. Sims?

21 A No.

22 Q Do you understand that a version of this map was later  
23 amended and adopted by the legislature?

24 A Yes.

25 Q And the legislature's amended version became the enacted

1 map?

2 A Yes.

3 Q Do you believe that the plan the Commission ultimately  
4 recommended to the legislature, met your goals as a  
5 redistricting commissioner?

6 A I would agree that the plan the legislature adopted,  
7 reflected a negotiated agreement that included a number of my  
8 values.

9 Q I believe you told Mr. Holt earlier, that a negotiated  
10 agreement is really -- it's part of the process. It's baked  
11 in the process; is that correct?

12 A That's correct.

13 Q In light of the negotiated process, were you happy with  
14 the maps that the Commission ultimately recommended to the  
15 legislature?

16 A I was.

17 Q Wouldn't have been your first choice, but you were okay  
18 with them?

19 A Correct.

20 Q You mentioned previously that your intent was to make  
21 LD 15 -- I think your exact quote was, "A true swing  
22 district." Do you recall that?

23 A I do.

24 Q Why a swing district?

25 A Well, it seemed that if it was a true toss-up district,

1 and if -- and also majority CVAP Hispanic district, then that  
2 would give Hispanic voters the opportunity to choose their  
3 candidate of choice.

4 Q With enough organizing, they could have elected --

5 A Yes.

6 Q Was the version of LD 15 you ultimately voted on, a swing  
7 district?

8 A Yes.

9 Q It had a slight Republican lean, do you remember that?

10 A I think it depends on what data sets you're looking at.

11 Q But still well in the parameters of what you would  
12 consider a swing district, right?

13 A Yes.

14 Q Was it your understanding that Republicans would  
15 necessarily win LD 15?

16 A Sorry, ask me the question again.

17 Q Was it your understanding that Republicans would  
18 necessarily win the LD 15, that you voted on?

19 A No.

20 Q And why not?

21 A I just, again, with the majority CVAP district, and a true  
22 swing district, with enough organizing, I've seen districts  
23 flip in the past.

24 Q And you mentioned earlier that Hispanic CVAP numbers that  
25 you were using, actually undercounted the Hispanic CVAP in

1 the Yakima area; is that right?

2 A That was my understanding.

3 Q Did you have an understanding whether Hispanic CVAP was  
4 increasing?

5 A My understanding is that it was increasing by about 2  
6 percentage points per year.

7 Q So in other words, a district that was 50 percent CVAP in  
8 2019, would be 52 percent in 2020, on and on?

9 A If the algorithm that Mr. Barreto provided us was  
10 accurate.

11 Q So this came from Dr. Barreto, then?

12 A That's my recollection.

13 Q So it was your understanding, then, that trends in the  
14 district would lead to LD 15 becoming increasingly Hispanic;  
15 is that right?

16 A Yes.

17 Q So fair to say, then, that you understood that Hispanic  
18 voters would be allowed -- enabled, empowered -- let me start  
19 over again.

20 Fair to say that you believed Hispanic voters would be  
21 able to elect their candidates of choice by the next time  
22 redistricting came around?

23 A Yes.

24 Q So Ms. Sims, just a few final questions on the  
25 Commission's plan, then I'd like to move on to address some

1 final topics.

2 Did you believe the plan that you ultimately voted for,  
3 complied with the Voting Rights Act?

4 A I did.

5 Q And why?

6 A Because, based on all of the information I had at the  
7 time, I knew that we needed to draw a majority CVAP district  
8 in the 15th, and that we needed to make it competitive. And  
9 I think that's what we ultimately did.

10 Q And the information you had at the time, that was the  
11 *Montes* and the *Aguilar* cases we referred to, correct?

12 A Correct.

13 Q That was the two reports Ms. Davis sent you, correct?

14 A Correct.

15 Q That was Dr. Barreto's report, correct?

16 A Correct.

17 Q That was the advice you got from Mr. Osenbach, correct?

18 A Correct.

19 Q All of that together led you to the conclusion that the  
20 district that you voted on, complied with the Voting Rights  
21 Act, correct?

22 A Correct.

23 Q Do you believe that the plan that you voted for, racially  
24 gerrymandered Hispanic voters?

25 A No.



1 Q Why not?

2 A Because the way that I understand it, you're allowed to  
3 consider race as it relates to a VRA district.

4 Q And as you went through the process, you looked at racial  
5 or ethnic demographics, in drawing and evaluating maps; is  
6 that correct?

7 A That's right.

8 Q What else did you look at?

9 A Total population, geography, communities of interest,  
10 cities and towns, natural borders, highways. There's a lot  
11 of data points that went into determining how to draw the  
12 districts.

13 Q How about partisan lean. Was that something that you  
14 considered?

15 A Yes.

16 Q Did the final maps that you voted on, have a partisan  
17 target for LD 15?

18 A Yes.

19 Q So racial or ethnic demographics, was just one element you  
20 looked at; is that right?

21 A That's correct.

22 Q Was it the most important element you looked at?

23 A Specific to?

24 Q Let me move on.

25 Do you recall how many majority-minority districts the

1 2021 Commission created, ultimately?

2 A Seven or eight. I don't recall the total.

3 Q Do you recall how this compared with prior Commission  
4 maps?

5 A I believe the map in 2011 created two.

6 Q So was this -- did this, to you, reflect your broader  
7 goal, empowering historically marginalized communities to  
8 basically elect people who represented them?

9 A Yes.

10 Q I want to turn to just a few final issues, then I should  
11 be done.

12 I want to start with some questions about the numbering  
13 of the Yakima Valley district. Why was the district numbered  
14 15?

15 A I believe we landed on the 15th, because the Democratic  
16 performance in that district was higher. Let me say this  
17 another way -- or the Republican performance in that district  
18 was slightly lower than 15. So improving the Democratic  
19 performance was -- we didn't have to improve the Democratic  
20 performance in the 15th District as much. And the Republican  
21 commissioners found that, what I thought to be more  
22 palatable.

23 Q Was race or ethnicity a factor, in the decision to number  
24 the District 15 versus 14?

25 A I mean --

1 Q To be clear, I'm asking just about the number that was  
2 assigned to the district, whether this district that we're  
3 talking about was called 15 versus 14. Do you understand  
4 that?

5 A I do. But it's hard for me to parse out -- everything  
6 involving that district was through a VRA requirement lens,  
7 and race was a factor. So I don't -- I mean, I don't recall  
8 specific conversations.

9 Q Um-hum.

10 A Around race, as it relates to the numbering. But it was  
11 always a factor.

12 Q You said you don't recall specific conversations about  
13 this?

14 A Correct.

15 Q Do you recall specific conversations about how numbering  
16 it 14 versus 15 would affect Latino turnout in the district?

17 A Yes.

18 Q Can you tell me about those conversations?

19 Let me ask a better question. With whom do you recall  
20 those conversations?

21 A With Commissioner Walkinshaw.

22 Q Did you ever have conversations of that nature with  
23 Commissioner Graves?

24 A I don't recall if we talked about that, specifically.

25 Q How about Commissioner Fain?

1 A I don't recall if we talked about that specifically,  
2 either.

3 Q Okay. I'm going to move on to my final topic, Ms. Sims.

4 This has been awkward to get into. But are you aware  
5 that plaintiffs in Soto Palmer allege that the Commission  
6 intentionally discriminated against Hispanic voters, in  
7 drawing LD 15?

8 A Yes.

9 Q What's your response to that allegation, that you  
10 intentionally discriminated against Latino voters?

11 A That I did not intentionally discriminate against Latino  
12 voters.

13 Q What, in fact, did you do?

14 A I attempted to draw what I thought was a VRA-compliant  
15 district, to give Latino voters in the 15th an opportunity to  
16 choose their candidate of choice.

17 Q Thank you, Ms. Sims.

18 MR. HUGHES: No further questions from the state.

19 THE COURT: Any follow-up questions, Mr. Herrera?

20 MR. HERRERA: No, Your Honor. Thank you, Ms. Sims.

21 THE COURT: Any follow-up questions from Mr. Holt?

22 MR. HOLT: Yes, just one, briefly.

23 RECROSS EXAMINATION

24 BY MR. HOLT:

25 Q Thank you, Ms. Sims.

1           Now, Mr. Hughes had asked you a question regarding  
2   whether or not race was the most important factor for you, in  
3   drawing the map. And you kind of paused, then he moved on.  
4   Do you remember that line of questioning?

5   A    I do.

6   Q    So would you -- I just want to follow up with that point.  
7   Would you agree that -- and specifically looking at  
8   District 15, and the compromise you reached there, with that  
9   district, that race was the most important factor there,  
10   meaning that the CVAP number of Hispanic or Latino voters?

11   A    I would not agree that it was the most important factor.  
12   But that it was a factor.

13   Q    It was an equally important factor, aligned with the  
14   partisan leaning of the district; and that was the compromise  
15   you reached. On one side you had the CVAP majority for  
16   Hispanic and Latinos that was politically competitive; is  
17   that correct?

18   A    I would say it was part of the negotiation. I think I'm  
19   struggling with this idea of what was most important, because  
20   there were a number of priorities. Most important was  
21   drawing a legally compliant map; so given all of the  
22   requirements in the map, and making sure that we had a  
23   majority Hispanic CVAP district. So I think I'm struggling  
24   with where you would say I prioritized, and whether or not  
25   that's accurate.

1 Q Understood. I think I have what I need. Thank you.

2 THE COURT: Thanks very much. Do my colleagues have  
3 any questions for Commissioner Sims? Great. Thanks so much  
4 for coming in.

5 You are excused. You're welcome to stay and watch, if you  
6 want. Okay. Musical chairs. Mr. Phillips taking over now  
7 with Ms. Soto Palmer?

8 MR. PHILLIPS: Yes, Your Honor. Plaintiffs call  
9 Ms. Soto Palmer.

10 THE COURT: Great.

11 SUSAN SOTO PALMER

12 Having been sworn under oath, testified as follows:

13 THE CLERK: If you could please state your first and  
14 last names, and spell your last name for the record.

15 THE WITNESS: Susan Soto Palmer S-O-T-O, P-A-L-M-E-R.  
16 No hyphen.

17 THE COURT: Thanks, Ms. Soto Palmer. Go ahead  
18 counsel.

19 DIRECT EXAMINATION

20 BY MR. PHILLIPS:

21 Q Good morning, Ms. Soto Palmer.

22 A Good morning.

23 Q Where do you live?

24 A I live in the City of Yakima. In the County of Yakima.

25 Q And how long have you lived in Yakima?

1 A I've lived in Yakima since approximately June of 2011. So  
2 about 12 years.

3 Q And in the time that you've lived in Yakima, what  
4 Legislative District did you reside in?

5 A For most of my time in Yakima, I was in Legislative  
6 District 14. I now reside in Legislative District 15.

7 Q For the record, how do you identify your race?

8 A I identify as Latina or Hispanic; and I use those terms  
9 interchangeably.

10 Q Thank you. What is your occupation?

11 A I am a practice assistant. And what that is, is a legal  
12 assistant for litigation attorneys.

13 Q About how long have you been doing that?

14 A I've been in the legal field for almost 28, 29 years.

15 Q In addition to your work, have you been involved in any  
16 community organizations, in your time living in Yakima?

17 A In my time in Yakima, I've been involved in several  
18 community organizations. A few of the organizations I've  
19 been involved in are At Yakima (phonetic). And At Yakima,  
20 what I did was volunteer to promote voters' rights and get  
21 voters registered. We also were promoting a welcoming city  
22 resolution or inclusive policing ordinance at the city  
23 council level.

24 I worked for -- I volunteered with the Yakima County Dream  
25 team. And that was a group of young Dreamers who were

1 pushing for the Dream Act in the State of Washington, and for  
2 immigration reform.

3 I also spent time with the Latino Civic Alliance. And we  
4 would attend the legislative district -- or the Legislative  
5 Day in Olympia, to lobby our lawmakers for things that were  
6 important to the Latino and Hispanic communities.

7 Q And all of this work you did, was in addition to your  
8 full-time job?

9 A Correct. And many more organizations, other than those  
10 that I've listed.

11 Q How do you decide what organizations to get involved with?

12 A I decide what organizations to either become a part of, or  
13 spend time with, if they align with my values of what I  
14 believe are important to advocate for.

15 Q Can you tell the court, briefly, what are a few of your  
16 values?

17 A A few of my values are quality-of-life issues,  
18 transparency, access to government, especially for the Latino  
19 and Hispanic community, healthcare, and many, many more.  
20 Voter rights, of course. And voter education. And also  
21 registering people to vote, and educating voters.

22 Q I want to turn now to you as a voter. Are you registered  
23 to vote in the State of Washington?

24 A Yes. I became a registered voter in the State of  
25 Washington in 2012.



1 Q And since becoming registered in Washington, have you  
2 voted in every election for state representative and state  
3 senator?

4 A Yes. I believe I have voted in every election, since I  
5 became a registered voter in 2012.

6 Q Do you believe that the legislators from the Yakima Valley  
7 area are responsive to the needs of the Latino community?

8 A Personally, I do not believe that they are responsive.  
9 And one of the reasons I say that is back in -- before the  
10 Washington State Voting Rights Act was passed, I personally  
11 met with Senator Curtis King, from the Legislative  
12 District 14, and I was encouraging Curtis King to pass the  
13 Washington State Voting Rights Act. The community I had been  
14 involved with, particularly Latino and Hispanic community, we  
15 felt that that was an important law that should be passed.

16 When I met with Senator King, he was mostly dismissive.

17 MR. STOKESBARY: Objection, Your Honor. Hearsay  
18 grounds.

19 THE COURT: Overruled. Go ahead. You can finish  
20 your answer.

21 A He was mostly dismissive to me, in my concerns, and  
22 communicating what I felt. And ultimately he told me that  
23 the law was too litigious, like California, and he hadn't  
24 even read it, but that he would not be voting for that.

25 Q And so is it fair to say, you didn't feel that Senator

1 King was responsive to you?

2 A Correct.

3 Q In addition to meeting with Senator King, are there other  
4 legislators from the Yakima Valley area you have met with?

5 A Over the years, I have met with several representatives.  
6 For example, Representative McCabe, Representative Johnson,  
7 the city council, the mayor of Yakima City, Kathy Coffee,  
8 back then; she's former mayor. With Dan Newhouse. The  
9 sheriff and the police department officials.

10 Q You said you met with Representative McCabe, I believe  
11 she's now Representative Mosbrucker, and Representative  
12 Johnson. What did you meet with them about?

13 A I met with Senators -- or, pardon me, Representatives  
14 Mosbrucker and Johnson, particularly after the 2016 general  
15 election, where the Latino and Hispanic communities were  
16 fearful for their safety, after that election, and the  
17 rhetoric of that election.

18 And so I brought to the representatives, the concerns of  
19 the community that we would be facing.

20 Q Did you feel like they were responsive to the concerns you  
21 brought to them?

22 A I do not feel that they were responsive to our needs and  
23 our fear for safety.

24 Q Ms. Soto Palmer, are you a plaintiff in this case?

25 A Yes, I am a plaintiff in this case.

1 Q Why did you decide to become a plaintiff in this case?

2 A I've decided to become a plaintiff in this case, because I  
3 really want for the day to come where there is equitable and  
4 fair representation for Latino and Hispanic community members  
5 to be able to elect a candidate of their choice.

6 Q Is this the first time that you've had to sue to vindicate  
7 your voting rights?

8 A No, this is not the first time.

9 Q What other litigation were you a plaintiff in?

10 A I was a plaintiff in the lawsuit against the Yakima County  
11 Commissioners.

12 Q Was that *Aguilar v. Yakima County*?

13 A Yes.

14 Q And if you recall, at a high level, what was the outcome  
15 of that litigation?

16 A From my recollection, right before trial, the weekend we  
17 were preparing, the parties were able to compromise and agree  
18 to a map that would allow the Latino and Hispanic community a  
19 more fair opportunity to elect a preferred candidate.

20 It also ended the -- pardon me -- the at-large general  
21 election for the county commissioners, so that in the primary  
22 the commissioners had to run in a district, and then for the  
23 general, they had to run in the whole county.

24 Q So you can take a moment to breathe, if you need to.

25 I want to turn now to your experience with campaigns.

1 Have you ever volunteered for a state legislative race?

2 A Yes. I volunteered for several state representative and  
3 senator races, in my time.

4 Q Can you name one or two of those?

5 A Yes. I was a volunteer for Gabriel Munoz's race, in the  
6 15th Legislative District, when he ran for senator, in 2014;  
7 and Teodora Martinez Chavez, who ran in Legislative  
8 District 15 for state representative.

9 Q When you were volunteering for Gabriel Munoz's campaign,  
10 what areas did you campaign in, when you were doing that  
11 work?

12 A I campaigned in Union Gap. And I also campaigned in the  
13 lower valley, particularly the Wapato and Toppenish areas, of  
14 Legislative District 15, at that time.

15 Q What was your experience campaigning for Mr. Munoz in  
16 Union Gap?

17 A The best way that I can say is that it was shocking.

18 Q Why do you say that?

19 A There was a home that me and a volunteer had gone to.  
20 This particular volunteer was -- I think it was her first  
21 time canvassing; and she was also Latina. And this white  
22 gentleman, in front of his two small children, took the  
23 literature from my hand, looked at it, and it contained a  
24 picture of Mr. Munoz on his literature, and he told us, "I'm  
25 not voting for him, I'm racist."

1 Q How did that affect you?

2 A When I think about those things that I've encountered, if  
3 I really give it some thought, they're traumatizing. They're  
4 demeaning.

5 Q In addition to your work volunteering, have you ever run  
6 for office yourself?

7 A I've run for office twice. I ran in 2016 against Norm  
8 Johnson, for the state representative Position 1, in the 14th  
9 Legislative District. And I ran in 2018, for Yakima County  
10 Commissioner in then District 3.

11 Q So in 2016 when you decided to run for LD 14, why did you  
12 decide to run for office?

13 A That year was a presidential election, and there was a lot  
14 of excitement. We had been talking about a candidate who  
15 would represent the values that we wanted to see, which was  
16 transparency, infrastructure, access to government. And we  
17 felt, because of that particular election, the people that I  
18 consulted with, we felt that it would be a great time to run  
19 and have someone on the ballot that would give voters a  
20 choice in that election, particularly the Latino and Hispanic  
21 community.

22 Q What kind of activities did you do, as part of that  
23 campaign?

24 A I went door-to-door canvassing. I did phone banking. I  
25 did voicemails and text messages, attended parades, and went

1 to some events.

2 Q And what were some challenges that you faced in that  
3 campaign?

4 A Because of the prior experiences, it was hard for me to  
5 campaign in areas that were predominantly white, because I  
6 feared for my safety. And so I would try to send white  
7 surrogates to those areas.

8 Q You mentioned Norm Johnson was your opponent in that  
9 election. Do you happen to know Mr. Johnson's race?

10 A Mr. Johnson is white.

11 Q And did you win that election?

12 A No, I did not.

13 Q You said that you also ran in 2018, for the Yakima County  
14 Board of Commissioners. Why did you decide to enter that  
15 race?

16 A Again, a big issue for me that year was access to  
17 government, transparency, infrastructure, and just the needs  
18 of the community not being met. And also to provide the  
19 opportunity for the residents, voters of Yakima County, an  
20 opportunity to elect a Latino-preferred candidate.

21 Q And who was your opponent in the 2018 general election?

22 A Norm Childress.

23 Q What was Mr. Childress's race?

24 A White.

25 Q Did you win that race?

1 A No, I did not.

2 Q What are -- what did you learn about the Latino community,  
3 in your experience, running as a candidate in these  
4 elections?

5 A I learned that the Latino Hispanic community has felt that  
6 there has not been a person that they align with, to  
7 represent them on the ballot, for such a long time, that they  
8 just end up throwing away their ballots.

9 And I also learned, from several households, that for the  
10 Latino and Hispanic communities, that there are some that  
11 feel that their employers would -- their jobs would be in  
12 jeopardy, if they voted for a Latino-preferred candidate.  
13 They would lose benefits. A lot of the Latino Hispanic  
14 families work in the same industries together. And some of  
15 them told me that they felt that they would lose their jobs,  
16 and their family might also lose their jobs, so they don't  
17 vote.

18 Q Thank you.

19 I want to turn now to the 2021 redistricting process.  
20 Did you participate in any way in the 2021 redistricting  
21 process?

22 A Yes, I did participate.

23 Q How so?

24 A I attended meetings of the community, particularly  
25 concerned around drawing, or getting a map advocated for,

1 that would allow the Latino Hispanic community an opportunity  
2 to elect a candidate of choice.

3 Q In addition to participating in those meetings, were there  
4 other ways that you participated in the 2021 redistricting  
5 process?

6 A I also gave testimony at one hearing of the Redistricting  
7 Commission.

8 Q And at a high level, how would you describe what the  
9 Latino community wanted, from the Redistricting Commission?

10 A One of the things that we wanted was to keep the lower  
11 valley, with the portion of Eastern Yakima, together as much  
12 as possible, to allow the Latino and Hispanic community an  
13 opportunity to elect a candidate of choice.

14 Q And do you feel that the Commission listened to your  
15 concerns?

16 A I believe they were not responsive to my concerns, or to  
17 the concerns of the community, because the map that we see  
18 drawn today, does not allow us or give us a fair and  
19 equitable opportunity to elect a candidate of choice.

20 Q And what is your hope for the outcome of this litigation?

21 A It is my sincere hope that this is one step forward for  
22 Yakima County, and the legislative districts, to be allowed  
23 an equitable opportunity, and a fair opportunity, for Latinos  
24 and Hispanics to elect a candidate of choice.

25 MR. PHILLIPS: Thank you, Ms. Soto Palmer. Thank



1 you. I pass the witness.

2 THE COURT: Thank you very much.

3 So Mr. Stokesbary will do the cross examination first, and  
4 then Ms. Sepe.

5 MR. STOKESBARY: Your Honors, if I don't do this now,  
6 I'm going to have a Marco Rubio moment in a few minutes. So  
7 I apologize.

8 CROSS EXAMINATION

9 BY MR. STOKESBARY:

10 Q Ms. Soto Palmer, thank you for being here today. I  
11 appreciate hearing your voice.

12 My name is Drew Stokesbary. I'm an attorney for  
13 parties in each of the two cases involved here, so I'm going  
14 to ask you a few questions. A few of which I think will sort  
15 of overlap with what you were just asked by your attorney,  
16 but maybe a few new topics as well.

17 A Okay.

18 Q So you mentioned that you live in Yakima, and you live now  
19 in the 15th District. Did I get that right?

20 A Correct.

21 Q Okay. And do you consider yourself an active voter?

22 A Yes, I do.

23 Q Do you have any plans to move away from the 15th District,  
24 or Yakima, in the near future?

25 A Not at all.

1 Q They call it the Palm Springs of Washington. I assume you  
2 know that.

3 A Yes.

4 Q Do you know how many elections you voted on in the past  
5 four years?

6 A Every election that has been on my ballot.

7 Q Okay. Good for you.

8 And so you mentioned you used to live in the 14th  
9 District. You live in the 15th District now. How long ago  
10 did you move to what's now the 15th District?

11 A When I moved to the house I live in now, it was the 14th  
12 Legislative District. And due to redistricting, I'm now in  
13 the 15th Legislative District.

14 Q Do you remember about when you moved, last?

15 A It would have been at the start of COVID. So  
16 approximately June of 2020, I believe.

17 Q When you moved to that address, and I assume you changed  
18 your voter registration; did you have any issues changing  
19 your voter registration?

20 A No, I did not.

21 Q And you received your ballot by mail, I assume?

22 A That's correct.

23 Q Do you ever have any problems with that?

24 A I personally do not.

25 Q Do you get your ballot materials in English or Spanish?

1 A I believe it's both.

2 Q Okay. And did you have to request that, or does that just  
3 happen automatically?

4 A I believe it happens automatically.

5 Q So then once you vote in every election, like a good  
6 citizen, how do you return the ballot?

7 A Most of the time I return it to the ballot box, by the  
8 courthouse. But sometimes I mail it in.

9 Q When you mail it in, do you have to put a stamp on it, or  
10 anything like that?

11 A The times I had to mail it in, yes, I did.

12 Q But do you know if that's still required?

13 A It's my understanding that a stamp is no longer required,  
14 in the last few elections.

15 Q Okay.

16 I want to talk a minute about your experience as a  
17 candidate. And a few of the questions I was going to ask  
18 you, you were already asked, so I'm going to try to not ask  
19 those. But if I accidentally do, it's more just me not  
20 thinking quickly enough.

21 But you -- so you ran for the State House in the 14th  
22 District against Norm Johnson, and for County Commission, and  
23 your opponent in the general election that year was Norm  
24 Childress. Did I get that right?

25 A Yes.

1 Q And you told a story or two about some kind of racially  
2 charged, to put it mildly, interactions you had on -- in your  
3 work on campaigns. But did you ever hear Mr. Johnson or  
4 Mr. Childress ever say anything with racial undertones or  
5 overtones?

6 A I personally did not hear Mr. Johnson or Mr. Childress say  
7 anything like that, in my presence. But there were so many  
8 experiences that I had, throughout the community, that has  
9 been traumatizing.

10 Q Understood.

11 So talking about your 2016 race for the 14th District.  
12 It was in 2016?

13 A 2016, correct.

14 Q You kind of explained why you wanted to run, and I kind of  
15 wanted to focus on your answer. You said you wanted to give  
16 voters a choice, and I think that's really admirable. Do you  
17 think that was kind of your main motivation, or I don't mean  
18 to be sort of crass, but when you filed for office, were you  
19 legitimately hoping to win, or did you really just want to  
20 make sure there was an alternative choice for people on the  
21 ballot?

22 A I legitimately wanted to win. But I also wanted for  
23 voters to have a choice. So a combination.

24 Q Yeah, understood. Did you have, like, a campaign plan, or  
25 anything like that, where somebody sort of put together what

1 it would take to get 50 percent of the vote, plus one?

2 A I did a lot of that work by myself.

3 Q So did you sort of have a path of what you thought you  
4 could do to win?

5 A Yes.

6 Q So you mentioned a few things that you did do. You said  
7 you knocked on some doors. Do you remember how many doors  
8 you knocked on?

9 A I don't remember.

10 Q You said you walked in some parades. Do you happen to  
11 remember which parades those were?

12 A Some of the ones that I recall are in Wapato and in  
13 Toppenish, the Treaty Days. I may have also done a parade in  
14 the Union Gap area, but I'm not certain.

15 Q Okay. Do you remember how much money you either raised or  
16 spent in that campaign?

17 A I don't remember.

18 Q Did you air any television ads or anything like that?

19 A No, I did not.

20 Q Did you send out in flyers or postcards to voters?

21 A No. I left literature at the door.

22 Q But you don't remember how many doors you might have left  
23 that at?

24 A I don't remember.

25 Q I'm not sure I can remember things I did last month, so I

1 don't blame you. I just wanted to ask.

2 And then another question that I want to ask you about,  
3 circling back to your experience working with your elected  
4 officials. If I caught it right, you said that one of the  
5 earliest things you had worked on, when you moved to Yakima,  
6 was lobbying the legislature to pass the Dream Act. Did I  
7 catch that correctly?

8 A I was working with the Yakima County Dream team supporting  
9 them in their fight to pass the Dream Act.

10 Q And I think I know what that is, but just to make sure I  
11 know, and also to illuminate everybody else. Could you kind  
12 of briefly explain what the Dream Act was?

13 A I don't remember the specifics of the Dream Act, it was so  
14 long ago. And I've worked on a lot of different things. But  
15 it's basically a pathway for our young immigrant Latino and  
16 Hispanic, in particular, community.

17 Q So my understanding was that the bill would have allowed  
18 undocumented high school students, who lived in Washington,  
19 to receive in-state tuition at Washington's institutions of  
20 higher education. Does that align with your memory?

21 A That sounds familiar.

22 Q Okay. And you lived in the 14th District back then?

23 A Correct.

24 Q Do you happen to remember how the 14th District's senator  
25 and representatives voted on that legislation?

1 A I don't remember.

2 Q Would it surprise you at all, if you knew that Senator  
3 King, and then Representative Johnson, and Representative  
4 Ross, who represented the 14th District, voted in favor of  
5 that legislation?

6 A No, it wouldn't surprise me. I also know that it had been  
7 work that had been in the works for a long time, advocate  
8 work that had been in play for a long time.

9 Q So I know you mentioned a few other topics where you and  
10 Senator King did not agree. But do you think the fact that  
11 he was willing to vote for something like that on another  
12 bill you did support, is evidence that he is sort of  
13 listening to folks in his community, and taking various  
14 viewpoints into account?

15 A That could be so.

16 Q Okay.

17 Last topic, Ms. Soto Palmer, and Your Honors. I wanted  
18 to talk about something that I don't think came up yet, that  
19 is the most recent election in what is now your new  
20 Legislative District 15. So you mentioned a minute ago you  
21 voted in every election that's been on the ballot. So I  
22 assume you voted in the 2022 legislative elections?

23 A Yes, I did.

24 Q Do you happen to remember anything about any of those  
25 races?

1 A Nothing in particular comes to mind.

2 Q Okay. That was kind of a vague question, I'm sorry. I'll  
3 ask it a little bit more specifically. I think two of those,  
4 two of the races for the state House were not contested. But  
5 there was a contested race for the state Senate in the 15th  
6 District; does that sound right?

7 A Yes.

8 Q Do you remember who you voted for in that race?

9 A I do.

10 Q Do you mind sharing it with us?

11 A I voted for Ms. -- I think her name is Lindsey Keesling.

12 Q Did Ms. Keesling win?

13 A No, she did not.

14 Q Do you know who did win?

15 A I believe it was Nikki Torres.

16 Q So you did not vote for Nikki Torres, but do you know  
17 anybody in your community, or in your various circles, who  
18 did vote for Senator Torres?

19 A I don't know how people voted. And personal knowledge of  
20 people I know, would not have voted for her, if they were --  
21 if I knew them, and they lived in the Legislative District  
22 15.

23 Q Fair enough. I don't like talking about politics with  
24 anybody really either, but I know my in-laws sure do, so just  
25 wanted to ask.



1 Ms. Soto Palmer, if I caught some of your testimony  
2 earlier, right, you said one of the reasons -- I don't want  
3 to put words in your mouth -- but I thought you were saying  
4 one of the reasons you had run before and been involved in  
5 various ways, was to obtain more Latino and Latina  
6 representation in your community. Is that accurate at all?  
7 Is that something that's important to you?

8 A That's part of it, yes.

9 Q So even though you didn't vote for Senator Torres, do you  
10 think the fact that she is now in the legislature as a  
11 Latina, from the Yakima Valley region, do you think that,  
12 even if she doesn't agree with you, that's sort of a good  
13 thing in some ways?

14 A For anybody that is a minority to get in office can be a  
15 really good thing, depending on their values and the things  
16 that they work on while in office.

17 MR. STOKESBARY: Okay. Thank you very much for being  
18 here today, Ms. Palmer. No further questions.

19 THE COURT: Thanks, Mr. Stokesbary. Ms. Sepe?

20 MS. SEPE: No questions from the state, Your Honor.

21 THE COURT: Any redirect?

22 MR. PHILLIPS: No further questions.

23 THE COURT: Ms. Soto Palmer, let me ask you.

24 Obviously there's a long way to go, but look to my left,  
25 here's Judge Estudillo, who was elected in Eastern

1 Washington, and now is the chief judge of our district.  
2 Judge VanDyke recently added a new colleague, Salvador  
3 Mendoza, who was also a state court judge, elected, and now  
4 sits on the Ninth Circuit, which is chaired by a Latinx  
5 woman, Mary Murguia, from Arizona, whose sister was the head  
6 of a big organization of lobbying, and obviously there's  
7 progress being made. Not saying it's changed the dynamic  
8 completely. But are you still of the belief that the low  
9 turnout among the Latin community in this legislative  
10 district, can be explained by just saying, we don't feel  
11 represented so we don't vote, and I don't want to get fired?

12 THE WITNESS: I believe there are many reasons, Your  
13 Honor. But those are some of the things that I heard at the  
14 door, over many campaigns. Mr. Munoz's and Ms. Teodora  
15 Martinez Chavez's were not the only campaigns I went  
16 door-to-door for in the last 12 years. And so it just is a  
17 common continuing thing that we hear at the door, over and  
18 over.

19 So I agree with you, there is progress being made. But I  
20 believe that many in my community would like to get to a day  
21 where we don't have to advocate so hard for the Latino and  
22 Hispanic communities to be able to fairly and equitably elect  
23 someone of their preference, so that we can work on other  
24 things that will benefit all of us, such as healthcare for  
25 all, and other things that are really important, like income

1 inequality, and so forth.

2 So it is my hope that every little step of the way,  
3 anything I can do to help us get there, that is why I'm here.

4 THE COURT: Great. Thank you very much. Any other  
5 questions out there?

6 And, Ms. Soto Palmer, feel free to stay. You're a party  
7 here, you can stay as long as you want or as little as you  
8 want.

9 THE WITNESS: Thank you, Your Honors. I appreciate  
10 the time to be able to give my testimony to you.

11 THE COURT: I thought I saw you through the glass  
12 doors taking pictures out there. Was that true?

13 THE WITNESS: Yes, I was.

14 THE COURT: We're going to have to confiscate your  
15 phone. All right.

16 THE WITNESS: Thank you.

17 Are you ready with the next witness?

18 MR. GABER: My understanding is Commissioner  
19 Walkinshaw is the next witness. I believe he was told, I  
20 don't know -- I believe he was told to come at 1 o'clock, so  
21 perhaps we can take lunch.

22 THE COURT: Is anyone else ready to plug in?

23 MR. GABER: No. Mr. Grose is not here either.

24 THE COURT: Why don't we contact Mr. Walkinshaw and  
25 see if we can move him up to maybe 12:30 or 12:45, and we'll

1 take the lunch break now, and reconvene at 12:30. But this  
2 is a good lesson, because you guys were whining to me about,  
3 there's not enough time, there's not enough time. Well, have  
4 witnesses ready so that we can plug them in, just in case  
5 there is enough time. Okay?

6 MR. GABER: Thank you.

7 MR. HUGHES: Your Honor, just because we have some  
8 time, can I take up one administrative matter very quickly?

9 THE COURT: Sure.

10 MR. HUGHES: We added a new exhibit to our list  
11 yesterday, Exhibit 611. My understanding is there may be  
12 some objection to it being admitted. I'd like to move for  
13 admission of Exhibit 611. It's called Shifting Boundaries  
14 Redistricting in Washington State. It's a history of  
15 redistricting in Washington. It's written by the Washington  
16 State Oral History Project, under the ambit of the  
17 legislature.

18 THE COURT: Okay. Well, we haven't seen it, so leave  
19 it with Victoria. Do you have three copies?

20 MR. HUGHES: I have one copy here. I'd be happy to  
21 send an electronic copy over the break.

22 THE COURT: Send an electronic copy to my courtroom  
23 deputy, and then we'll print some out and hear the  
24 objections.

25 MR. HUGHES: Thank you so much, Your Honor.

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THE COURT: Great. Now we're adjourned.

(Recess.)

1 AFTERNOON SESSION

2 MR. GABER: Soto Palmer plaintiffs call Brady  
3 Walkinshaw.

4 BRADY WALKINSHAW

5 Having been sworn under oath, testified as follows:

6 THE CLERK: Please have a seat. If you could please  
7 state your first and last names, and spell your last name for  
8 the record.

9 THE WITNESS: Terrific. How's my audio?

10 THE COURT: Good.

11 THE WITNESS: Brady Walkinshaw. Brady is B-R-A-D-Y.  
12 And my surname, Walkinshaw, is W-A-L-K-I-N-S-H-A-W.

13 DIRECT EXAMINATION

14 BY MR. GABER:

15 Q Good afternoon, Mr. Walkinshaw. My name is Mark Gaber. I  
16 am an attorney with the Soto Palmer plaintiffs in this case.  
17 How are you this afternoon?

18 A Really well, thanks.

19 Q And thank you for coming in early. We appreciate your  
20 flexibility.

21 A My pleasure.

22 Q Could you please tell the court what your current  
23 employment is?

24 A I'm the CEO of an entity called Earth Alliance.

25 Q How long have you held that position?

1 A About 15 months, or so.

2 Q And that's a climate change organization?

3 A It's a foundation working on climate change, globally.

4 Q Prior to this position, where were you employed?

5 A I was employed by a publication that I ran, called Grist.  
6 It was an environmental publication.

7 Q While you were at Grist, you also served as a commissioner  
8 for the Washington Redistricting Commission; is that correct?

9 A Yes, that's right.

10 Q And how did you get that appointment?

11 A I was appointed by the state Senate Democratic Caucus.

12 Q Did you seek out that position?

13 A No. I was approached. I was approached for it.

14 Q And prior to that, you had run for office and been in  
15 politics a little bit. Could you tell the court about that  
16 experience?

17 A Yes. I was appointed to the state House of  
18 Representatives in December of 2013, by the King County  
19 Council. I was elected to a full term in 2014. And then my  
20 term ended in January of 2017. And I ran for U.S. Congress  
21 in the 2016 cycle, and lost in the general election.

22 Q What district was that in, the congressional race?

23 A The state legislative was the 43rd, and the congressional  
24 was the 7th.

25 Q And, Mr. Walkinshaw, you identify as Latino; is that

1 right?

2 A I do, indeed.

3 Q And is it the case that you were the first Latino to serve  
4 on the Washington Redistricting Commission?

5 A That's my understanding.

6 Q Now, what was your staffing for the Commission?

7 A The staffing was provided by -- I was supported by the  
8 state Senate Democratic Caucus staff. So I was supported by  
9 Ali O'Neil, primarily. And then also supported by a small  
10 team that was working for the Senate Democratic Caucus.

11 Q Ms. O'Neil is someone who you had worked with in the past?

12 A That's correct.

13 Q And was she working on your campaigns, for example?

14 A She did. She was a field organizer on my campaign for  
15 Congress, correct.

16 Q And is that what led you to seek her out as your primary  
17 staff member?

18 A Not particularly, no. We were good friends, and she's an  
19 extremely competent, smart, intelligent person.

20 Q She's someone who is a hard worker?

21 A Correct.

22 Q And do you trust her?

23 A I do.

24 Q Now, during the redistricting process, you released a  
25 public proposal sometime in or around September 2021; is that



1 right?

2 A That's correct.

3 Q Then there was public feedback on those. The other  
4 commissioners also released their own proposals, right?

5 A To my knowledge, that's correct. As far as I recall.

6 Q And then I'm not going to dwell a lot on the early stages  
7 of it, but I want to jump in to around the October timeframe.  
8 This is October 2021. There came a time when the Senate  
9 Democratic Caucus, who you were appointed by, commissioned a  
10 study on the Voting Rights Act applicability in the Yakima  
11 Valley; does that sound right?

12 A That sounds about right. I'd have to go back and check  
13 the specifics, but sometime around there, yes.

14 Q That was a report that was from Dr. Matt Baretto from the  
15 UCLA Voting Rights Act Project, right?

16 A That's my understanding.

17 Q The conclusion of that report is that the VRA was  
18 applicable to the Yakima Valley region for the state  
19 legislative plan; is that your recollection?

20 A It was along those lines. I actually don't remember that  
21 specific conclusion, but I know that was the gist of what was  
22 being studied.

23 Q Part of the study was the question of racially polarized  
24 voting, and looking at election results, and looking at how  
25 the different racial makeups of voters voted, and whether

1 they voted in opposition to one another; is that correct?

2 A I don't remember all the specifics of it, but it was --  
3 I'm sure some of those themes were in the report.

4 Q And was it your takeaway, that the conclusion of the  
5 report was that a district had to be drawn so that the Latino  
6 voters would have a clear opportunity to elect their  
7 preferred candidates?

8 A That applied in those -- in the Yakima Valley, the Voting  
9 Rights Act was applicable, and it had to deal with Latinos  
10 electing candidates of their preference, correct.

11 Q There was no confusion in your mind that the main  
12 conclusion was that there were preferred candidates of  
13 Latinos, and that the purpose of the act was to ensure that  
14 they could elect their preferred candidates, not the white  
15 preferred candidates?

16 A I'd have to go back and look, but I think it was along  
17 those lines.

18 Q Now, after -- and for the courts' -- I'm not going to go  
19 through the presentation with you and make you study it, but  
20 for the courts' reference, that is Exhibit 178.

21 After receiving Dr. Barreto's report, you put out some  
22 press statements about the report. Do you recall calling it  
23 "mission critical," that the plan that was adopted by the  
24 Commission eventually complied with the Voting Rights Act in  
25 the Yakima Valley?

1 A If that's what I put out, then that's correct.

2 Q In fact, you drew plans and proposed plans that in your  
3 view would do just that, correct?

4 A That is correct. And I believe I've stated that, too,  
5 that the plans that I did put out, I believe it was in  
6 September or October, I did believe were compliant with the  
7 Voting Rights Act, correct.

8 Q And the reason for that belief that they complied, is that  
9 based on the data, the electoral data that you had before  
10 you, it was clear that in a series of past elections, the  
11 candidates who were identified as preferred by the Latino  
12 community, would, in fact, have won that district; is that  
13 correct?

14 A I would have to go back and look, but it was informed by  
15 analysis. And I believe it was from the perspectives of a  
16 variety of sources. But it was along those lines. I'd have  
17 to go back and look at it again.

18 Q Now, none of those proposals that you put forward for the  
19 Yakima Valley Legislative District, were ultimately adopted  
20 by the Commission, correct?

21 A The plans that I put forward in October, were not what was  
22 reflected in the final maps, through a negotiation,  
23 bipartisan negotiation process, correct.

24 Q Principally, they were rejected by Commissioners Graves  
25 and Fain; is that fair?

1 A I would say that there was a negotiation process that  
2 ensued, as has happened in every Redistricting Commission  
3 over the last 40, 50 years, and the maps, the original maps I  
4 put out were not the final ones adopted, correct.

5 Q Commissioner Sims wasn't opposed to your plans, was she?

6 A I can't -- I don't believe so, but I can't recall  
7 specifics of those conversations, at that point.

8 Q In fact, both you and Commissioner Sims, after  
9 Dr. Barreto's report, you both put out plans that were  
10 similar in their electoral results for the Yakima Valley  
11 area?

12 A I actually don't recall the specifics of her plans.

13 Q She didn't suggest to you that she opposed your plan?

14 A Not to my recollection, no.

15 Q Now, I'm going to take you forward to -- and I promise I'm  
16 going to go fast with you today -- so I'm going to take you  
17 forward to November 15th, which you know is sort of the final  
18 -- well, was supposed to be the final day of the Commission.  
19 Does that sound right to you, in terms of the timeline?

20 A I believe that was the day, yeah, November 15th.

21 Q Do you recall that you had a meeting that morning -- an  
22 in-person meeting with Commissioner Graves at the hotel that  
23 you were all meeting at in Federal Way?

24 A At this point I don't actually remember the sequence of  
25 days and events and meetings. But I'd spoke with the

1 different commissioners over the course of those few days,  
2 for sure.

3 Q Okay. And do you recall that you were still, at that  
4 point, advocating for what you viewed to be a district in the  
5 Yakima Valley, that would perform to elect the Latino  
6 candidate of choice?

7 A I was -- I think at that stage in the process each  
8 commissioner, I think, was advocating for positions and maps  
9 that they had brought forward. So it would certainly make  
10 sense, I was probably advocating for that. I don't recall  
11 the specifics of it, but, yes.

12 Q That was throughout the process, after you got  
13 Dr. Barreto's report, from that point forward, that was a key  
14 important goal of yours, and you were sort of clear eyed  
15 about what that meant, in terms of the map that would result?

16 A I was anticipating a negotiation process. I will go back  
17 to what I said before, which was that I certainly believe  
18 that the maps that I put out in October were compliant. I  
19 wouldn't -- the analysis by Mr. Barreto is not kind of the  
20 exclusive source. I think I was informed by opinions of  
21 others as well.

22 Q Who were those other folks who bolstered that view?

23 A I think it was just generally perspectives that were  
24 shared from the Senate Democratic Caucus.

25 Q And you were aware, too, that there had been Voting Rights

1 Act and Washington Voting Rights Act lawsuits in the Yakima  
2 and Franklin County areas, right?

3 A Yes, aware. But I could not legally go into the specifics  
4 of them. But aware, yes.

5 Q And I am not going to ask you to tell me any of the  
6 specifics of it, but you and the other commissioners also  
7 received, in addition to sort of an early summer general  
8 overview of the Voting Rights Act from the Washington  
9 Attorney General's office, you also had the opportunity and  
10 commissioners did, in fact, send specific questions to the  
11 Washington Attorney General's office?

12 MR. HOLT: Objection, Your Honor.

13 THE COURT: Grounds?

14 MR. HOLT: He can only speak to what he received and  
15 what he knew, not what other commissioners --

16 THE COURT: Fair enough. Limit it to you, yourself.  
17 Did you ask questions and get answers?

18 THE WITNESS: I may have, or my staff may have.  
19 Whatever is in the public record would be the accurate -- you  
20 have those data, so whatever was written is accurate.

21 Q And so my understanding is that all the commissioners  
22 would receive the e-mails that were sent to the info box at  
23 the Washington Redistricting Commission. And so to the  
24 extent that advice that certain commissioners asked was  
25 forwarded on to that box, that would have gone to all of

(Video clip played.)

1 Q So does that refresh your recollection, that the vote  
2 happened, and an agreement, at midnight, or right before  
3 midnight, and then the map drawing began thereafter?

4 A I look tired there. But, yes, that's all accurate.  
5 That's all accurate.

6 Q From reading through your text messages and e-mails, I  
7 gather you were not getting a lot of sleep at the time,  
8 including that night. Am I correct that then after that  
9 vote, you and the other commissioners, and a number of the  
10 staff members, were then in sort of a large conference room  
11 where the map drawing began; is that correct?

12 A Yes. And I think we've spoken about this before. But,  
13 yes, that work continued to go on.

14 Q And so you were present at various times overnight in that  
15 ballroom, as that map drawing was happening; is that right?

16 A That's how I would characterize it, yes, at various times  
17 overnight.

18 Q Where were you going back and forth to?

19 A To sleep.

20 Q So there were times, while the map drawing was happening,  
21 you were in bed sleeping?

22 A Yes. I believe that's the case.

23 Q Then you would come back -- did you take, like, short of  
24 naps, and come back and forth? Or kind of describe that  
25 night for me, if you would.



1 A Along those lines, yes.

2 Q And when you were in the conference room, where the map  
3 drawing was happening, the other commissioners were present  
4 as well; is that right?

5 A At various points.

6 Q So that would be Commissioner Sims, Commissioner Graves,  
7 Commissioner Fain; right?

8 A Correct.

9 Q And then there were times when all four of you were there  
10 together, along with the folks who were doing the mapping; is  
11 that right?

12 A In different parts of the room, correct.

13 Q And so the map drawers were over in one corner drawing it,  
14 then that would be -- was that primarily Anton Grose and Osta  
15 Davis at that point?

16 A You know, I think it depended. And I think we've  
17 commented on this before. But I was working primarily on the  
18 congressional maps, which I believe the two of them were  
19 working less on. So I was working primarily on finalizing  
20 the agreement that Commissioner Fain and I had worked  
21 through, related to the ten congressional districts.

22 Q But you and your staff, and Ms. O'Neil in particular, had  
23 -- were present there as well, and had input and saw what was  
24 happening with the legislative plan, too?

25 A Present. Present, yes.

1 Q Now, was this a public meeting?

2 A In what form?

3 Q Was it broadcast to the public?

4 A No, it was not broadcast to the public.

5 Q But yet in the space were a quorum of the commissioners,  
6 right?

7 A That's correct. This has been covered previously. It was  
8 also unclear the legal status of the Commission at that  
9 point, after midnight.

10 Q Describe that a little bit more. What do you mean by  
11 that?

12 A The deadline had passed, right? Which has been covered  
13 previously.

14 Q And so when you say it was unclear the legal status of the  
15 Commission, I gather what you're saying is that perhaps the  
16 Commission had ceased as a legal entity, and so therefore the  
17 Open Public Meetings Act requirements for a public meeting  
18 when there's a quorum, would not apply?

19 A No, that's not what I'm saying. I think we were going  
20 into the night to finish. What was being done in the room  
21 was the drawing of the maps, basically the agreement that had  
22 been voted on.

23 Q Okay. So then why did the Commission think that it was  
24 okay to not have this be occurring in a public setting?

25 MS. SEPE: Objection.

1 THE COURT: Overruled. You can answer.

2 A There was confusion around that point.

3 Q What did you think?

4 A I actually don't recall, at this point.

5 Q But in any event, when the map was being drawn, that was  
6 done in private?

7 A There were several variations of the maps drawn, over  
8 several months leading up to that. Many of the drafts, like  
9 the one that I drew in October, as well, were not -- those  
10 were ones that were drawn, then shared publicly. So that  
11 question doesn't completely make sense to me.

12 Q Now, can you describe what your understanding of the  
13 framework that was agreed to in the vote that you took? What  
14 was that?

15 A You know, that's been shared since. I can't recall the  
16 specifics. I believe what I said in my deposition was that  
17 it was a set of criteria that were around kind of geographic  
18 principles, like what I just stated in this press conference,  
19 around unifying things like the Lummi Nation, and the  
20 Nooksack Tribe, and the 42nd Legislative District. It was  
21 things like that. And it was agreements around different  
22 legislative districts around the state, and where those lines  
23 should be drawn, for different legislative districts around  
24 the state.

25 Q This was just an agreement? This was sort of a verbal

1 agreement?

2 A Yes, it was described.

3 Q Who was principally the person or people that articulated  
4 the agreement?

5 A Again, I was predominantly involved in the drawing of the  
6 agreement around the congressional maps, and it was basically  
7 an agreement around general geographic boundaries. It was  
8 looking at issues of competitiveness, and it was looking at  
9 issues of trying to keep communities of interest unified.

10 So those three criteria were the, I would say the basis.  
11 And then for the ten U.S. Congressional Districts,  
12 Commissioner Fain and I had reached a broad agreement around  
13 that, and were then translating that agreement into a  
14 physical map. And there had been various kind of iterations  
15 of this congressional map that are in public -- that are in  
16 kind of public view, that we also released throughout the  
17 process.

18 Q And so for the legislative plan, or the legislative  
19 agreement, rather, the framework as you described it, that  
20 was Commissioner Sims and Commissioner Graves who principally  
21 came to that agreement?

22 A Principally. But I was certainly aware, and I think the  
23 same thing that I brought up before, which are the criteria  
24 that are in the statute, community interest, competitiveness,  
25 thinking about unifying different tribal lands. Those sorts

1 of concepts were ones that were incorporated into the maps.

2 Q What about with respect to Legislative District 15, what  
3 was the agreement with respect to its boundaries or  
4 characteristics?

5 A My understanding was that there was -- I don't recall the  
6 specifics, but I would say that I had put forward -- I was  
7 not directly involved in those negotiations, but I put  
8 forward the idea that I put forward in October, around  
9 minority representation, Hispanic representation in the  
10 district. Maybe be more specific with your question.

11 Q I guess my question was whether you -- you know, what you  
12 recall about the specifics of the agreement that Commissioner  
13 Sims and Commissioner Graves principally came to, with  
14 respect to District 15?

15 A I don't recall all the specifics of it at this point. But  
16 there was -- there were a lot of discussions around unifying  
17 the Yakima Nation with Latino communities in the Yakima  
18 Valley. But I don't -- and there were other discussions  
19 around competitiveness. I don't remember the very, very  
20 specific, final criteria that was decided on. But it is what  
21 was agreed to and then drawn in the maps.

22 Q And that didn't reflect necessarily your proposals or any  
23 of your proposals from October onward?

24 A I think it reflected a bipartisan compromise.

25 Q Now, I want to pull up what's been marked or admitted as

1 Plaintiffs' Exhibit 369.

2 Now, this is a text message between you and Andy  
3 Billig. Who is Mr. Billig?

4 A He is the Senate Democratic Majority Leader.

5 Q Now, sometimes on iPhones it tells you on the screen what  
6 -- depending on how long it's been since you sent a text  
7 message, it will tell you the time and date. This is not on  
8 here. But I can represent to you, from the discovery of this  
9 file, that this is from the 16th, the day after the vote.

10 Do you recognize this exchange?

11 A I don't. I mean, I was party -- can you clarify for me,  
12 who is Andy Billig, and who I am?

13 Q Yes. You're in the blue. And you can tell that because  
14 it has Mr. Billig's name at the top, that's who you were  
15 texting. So he's in the kind of gray color, and you're in  
16 the blue here.

17 A Okay. Correct.

18 Q So does this sort of recall your -- or refresh your  
19 recollection about what sort of view you had, when you were  
20 talking with folks about on the 16th, that you certainly  
21 thought that there would be time, after the maps were drawn,  
22 to take a look at them and sort of state what your views  
23 were, or ensure that they reflected what you thought you had  
24 agreed to?

25 A Yeah. I mean, I don't remember the specifics at this

1 point, because there were a lot of texts and there was a lot  
2 happening at that time.

3 But it is -- there was confusion about the process, after  
4 midnight on the 15th. That is true.

5 Q And I gather, from your communications with Mr. Billig, or  
6 Senator Billig, I'm sorry, that the two of you were not clear  
7 on what you should be saying publicly, with respect to the  
8 VRA compliance of the Yakima Valley area district. Is that a  
9 fair assessment?

10 A I'm not going to imply what he was thinking. So I will  
11 just go back. There was confusion, after that period on the  
12 15th, which was later decided by the State Supreme Court.  
13 But there was confusion in that period.

14 Q Let's, if we could please, pull up Exhibit 374. And this  
15 has been admitted.

16 This is an exchange, again, between you and Ms. O'Neil,  
17 rather, and in this instance this was produced from  
18 Ms. O'Neil's text messages. It has your name at the top of  
19 the screen. So in this instance, Ms. O'Neil is in the blue,  
20 and you would be in the gray. And Tuesday on here, that's  
21 Tuesday, November 16, 2021.

22 A Okay.

23 Q Does that sort of orient you to what we're looking at?

24 A Yes.

25 Q And so you text at around 6:39 p.m. to Ms. O'Neil. "Do

1 you know anything about the map status?" Do you see that?

2 A I do, yes.

3 Q And what does Ms. O'Neil respond?

4 A That she does not.

5 Q And, in fact, that she hadn't heard anything from any of  
6 the folks working on the map, and didn't, in fact, even know  
7 that they were mapping at that point. Is that correct?

8 A I don't know all the context for it at this point, when  
9 it's just -- when I'm just looking at the text there. The  
10 status of the map could have meant a number of the things.

11 Q You didn't know what it was?

12 THE COURT: He might have known then, but he doesn't  
13 know now. So let's move on.

14 Q If we could please pull up Exhibit 123. And this has also  
15 been admitted.

16 Mr. Walkinshaw, this is an e-mail from Lisa McLean on  
17 November 16th at 8:34, to the chief justice of the State  
18 Supreme Court. Do you recognize -- do you recall receiving  
19 this e-mail?

20 A I recall seeing the e-mail. I don't recall receiving it.  
21 But I did receive it in my account.

22 Q Now, you were not aware that the map was being sent to the  
23 State Supreme Court, or the legislature, on the 16th,  
24 correct?

25 A As I stated publicly, and is in my, in my -- what I've



1 disclosed, I did not see this e-mail before it was sent;  
2 that's correct.

3 Q And, in fact, you hadn't seen the map before it was sent?

4 A Which map are you referring to?

5 Q The state legislative map. We're focused, in this case,  
6 on just the state legislative map.

7 A This final version, I was aware -- I had seen it in  
8 various states. But I had not seen this e-mail before it was  
9 sent.

10 Q Okay. And no one had told you that the map was going to  
11 be sent to the Supreme Court?

12 THE COURT: What difference does that make? I don't  
13 understand what this is about.

14 MR. GABER: Under the *Arlington Heights* framework,  
15 the specific sequence of events, and the departures from the  
16 procedural process, are two of the key factors, Your Honor.

17 THE COURT: You know, this is a situation that's  
18 never happened before, all right? It's during COVID. They  
19 moved the deadline up from December to November. They're  
20 late getting the census information. They're doing the best  
21 they can. And the State Supreme Court has already blessed  
22 it. I don't understand why we're spending so much time on  
23 this.

24 I'd much rather hear Commissioner Walkinshaw talk about  
25 the negotiation process, and, you know, how you ended up

1 where you did. Why don't you tell me about that. You know,  
2 you mentioned this -- of course you would have preferred your  
3 map, or Commissioner Sims' map, but you have to get a  
4 Republican on board, too. So you're a compromiser. We just  
5 saw this in the debt legislation. Nobody gets everything  
6 they want. So tell us about that.

7 THE WITNESS: I'd be happy to. Thank you, Your  
8 Honor.

9 I think that we followed a very similar process to several  
10 Redistricting Commissions over the last 40, 50 years, is each  
11 individual commissioner put out their maps, that reflected  
12 their own values and desires for the state, that I did in  
13 September and October, and I still believe in those maps and  
14 stand by those.

15 Then what ensued is a negotiation around the three  
16 principles, in particular, that I brought out in the  
17 legislative statute, which is thinking about competitiveness,  
18 uniting communities of interest, and then also -- actually,  
19 my mind is escaping me, but there was a third important  
20 criteria that we thought about as well. And those were what  
21 we negotiated around.

22 And each commissioner -- we negotiated primarily in diads.  
23 I was primarily negotiating with Commissioner Fain on the  
24 congressional maps. And we did run out of time. It was  
25 delayed because of census data. And it was also -- the

1 legislature moved the deadline up six weeks, prior to where  
2 it had previously been. So this Commission had a  
3 historically short period of time to do it, because the data  
4 was late. And it was the first time the Commission had to do  
5 it under the shortened timeline from the legislature, which  
6 moved it to November 15th, from January 1st.

7 So we were dealing in those circumstances. This was one  
8 of the few times we actually negotiated in person, because we  
9 thought that that would be helpful to see one another  
10 face-to-face.

11 THE COURT: That's when you were in Federal Way?

12 THE WITNESS: That's when we were in Federal Way,  
13 correct; which then became the subject of other discussions.

14 So that -- those negotiations were happening, as you just  
15 described, in Federal Way, for those few days prior to the  
16 evening of the 15th. We were primarily negotiating those in  
17 diads, again, along the lines of the congressional and state  
18 maps. But I'll pause there. I mean, I think that a lot of  
19 the debates and the disagreements were around the  
20 competitiveness of districts, around -- I was fighting,  
21 personally was arguing to keep a lot of the tribes together,  
22 which was a lot of the input that we had received from our  
23 consultations with the 28 sovereign tribes in the state. So  
24 that's the nature of it.

25 We did run out of time. And I think, as you know from all

1 the disclosures, the 14th and the 15th districts were a  
2 source of significant debate, which is why we're here.

3 THE COURT: Did that debate, for the most part, stay  
4 around competitiveness, or was there discussion about racial  
5 situations, too?

6 THE WITNESS: It had to deal with a lot of different  
7 pieces. But I would say none of those were predominant. But  
8 it had to deal with a lot of those pieces. And in addition  
9 to those factors you just raised, Your Honor, it also had to  
10 do with unifying -- we were trying to draw them so they  
11 unified city and county lines, unifying the Yakima  
12 Reservation that abuts those, all the way down -- the  
13 ancestral lands of the Yakima, all the way down to the  
14 Columbia River.

15 THE COURT: Were you in the legislature with  
16 Commissioner Fain when he was in the legislature?

17 THE WITNESS: I was. And also Commissioner Graves.

18 THE COURT: So you kind of knew them a little bit.

19 THE WITNESS: It's a good question. I knew  
20 Commissioner Fain better. I interacted very little with  
21 Commissioner Graves. I think he left the legislature the  
22 year I came in, so I don't believe we overlapped.

23 THE COURT: Go ahead, counsel.

24 Q (By Mr. Gaber) I guess I want to clarify that. For the  
25 most part, the negotiations, over what would actually happen

1 with District 15, that was principally between Ms. Sims,  
2 Commissioner Sims and Commissioner Graves, you were  
3 advocating strongly for that district that you thought would  
4 comply with the VRA; is that a correct characterization?

5 A I was advocating for the district that I put out in my  
6 October map, which I believed was VRA-compliant, correct.

7 Q And towards the end of the process, so the last sort of  
8 few days, say the 12th through the 15th, at that point was it  
9 your understanding that the -- sort of the pen for  
10 District 15 had largely been turned over to Commissioner  
11 Graves and his staff to do the drawing of that particular  
12 district?

13 A To an individual commissioner?

14 Q Well, that the maps, the proposals for District 15 were  
15 being generated at that point from Commissioner Graves'  
16 staff?

17 A That was not my understanding.

18 Q What was your understanding?

19 A I believe that several -- I believe two -- I believe  
20 Commissioner Sims and Commissioner Graves were both working  
21 on legislative maps, as I stated.

22 Q I'm talking specifically about District 15, that sort of  
23 the negotiations over that reached a point where Commissioner  
24 Graves was the primary drawer of that?

25 A I actually don't recall that.

1 MR. GABER: I'll pass the witness, Your Honor.

2 THE COURT: Let's see. Mr. Holt, then Ms. Sepe.

3 MR. HOLT: Your Honor, at this time, we have no  
4 questions. I would just reserve, perhaps, maybe after the  
5 state goes, to have a couple. But right now we have no  
6 questions of Mr. Walkinshaw.

7 THE COURT: Ms. Sepe?

8 MS. SEPE: Actually, Your Honor, may we have a few  
9 minutes?

10 THE COURT: Yeah, sure. Mr. Walkinshaw, you also  
11 worked at the Gates Foundation?

12 THE WITNESS: That's correct.

13 THE COURT: What did you do there?

14 THE WITNESS: I was on the international and global  
15 side, right after college. So I spent five years there.

16 THE COURT: Straight from Princeton?

17 THE WITNESS: I was on a fellowship for a year in  
18 Honduras.

19 THE COURT: When we opened this building in 2004,  
20 it's when the Gates Foundation was looking at their building,  
21 I got to give a tour to Melinda Gates, of our building,  
22 because they were thinking of hiring the same architects.  
23 And she was really sharp. And she had worked in juvenile  
24 court in Texas. And she was really an impressive person.

25 THE WITNESS: Very admirable. Very admirable.

1 THE COURT: The other guy, I'm not so sure. But just  
2 to tell you this, the Gates grew up next to the Fletchers in  
3 Laurelhurst. So Betty Fletcher, and Ninth Circuit Judge,  
4 Willy Fletcher, colleague of Judge VanDyke, and Willy tells  
5 the story of how they would say -- he and his brother Bob,  
6 would say, "We're going to the movies." And Betty Fletcher  
7 would say, "Are you taking Billy with you," meaning Billy  
8 Gates. And they were saying, "No, not that nerd, please."

9 Then the Fletchers also talk about the day that the Gates  
10 parents came over in tears, because Billy had dropped out of  
11 Harvard, and he was never going to amount to anything. So  
12 good family stories.

13 THE WITNESS: I knew of them. My grandfather was in  
14 law in Seattle, and I knew of them growing up.

15 THE COURT: Ms. Sepe, are you ready to rumble?

16 CROSS EXAMINATION

17 BY MS. SEPE:

18 Q Good afternoon, Commissioner Walkinshaw. I'm Cristina  
19 Sepe. I represent the defendants, State of Washington, in  
20 both of these cases.

21 And I just want to make clear, the Attorney General's  
22 office does not represent you, or the Commission, for  
23 purposes of these trials, correct?

24 A Correct.

25 Q And I, nor my colleagues in the Attorney General's office,

1 prepared you for your testimony this afternoon; is that  
2 correct?

3 A Not that I recall. That's correct.

4 Q You earlier testified that you were working at Grist while  
5 you were also serving as a commissioner. Why did you agree  
6 to be a commissioner?

7 A Because I thought it was a volunteer opportunity to have  
8 an impact on democracy.

9 Q And what did it mean to you to be the first Latino  
10 commissioner appointed?

11 A Just that. I think representation is extremely important.

12 Q And you reviewed the state statutes that govern the  
13 Redistricting Commission, before you started as a  
14 commissioner?

15 A Those were shared with me. I reviewed them, correct.

16 Q The same with the constitutional provision regarding the  
17 Redistricting Commission?

18 A Yes.

19 THE COURT: State Constitution?

20 MS. SEPE: Yes, State Constitution.

21 Q And you applied the principles of those statutes to your  
22 work?

23 A To the best of my ability.

24 Q I'd like to talk a little bit about the outreach process  
25 that the Commission undertook. Did the Commission hold many



1 public outreach meetings?

2 A Many, many, many.

3 Q Does over 15 sound about right to you?

4 A Whatever the number is, there were many of them.

5 Q And you also met with coalition groups about their  
6 interests in redistricting?

7 A We had a whole variety of meetings in the process,  
8 including the tribes, too.

9 Q Can you tell me about your consultation process with the  
10 tribes?

11 A We opened it up to try to engage all 28 sovereign nations  
12 in the state. And there were a number that -- there was a  
13 number that I participated in individually. But we sort of  
14 split them up. So there were diads of commissioners. Two of  
15 us would try to participate in each one. I remember I  
16 participated in one with the Colville, the Confederated  
17 Tribes of Colville. That was the only one I believe I did in  
18 person, outside Spokane.

19 Q To your knowledge, it was the first time the Commission  
20 had created a consultation policy?

21 A Yes.

22 Q Do you recall the nation requesting to be unified?

23 A Which?

24 Q The nation of Yakima, I'm sorry.

25 A No. I believe -- I believe so, yes. There were a number

1 of requests that came in. There were requests also about the  
2 ancestral lands. And there were a number of requests. But I  
3 believe so. I don't remember the specific requests, but you  
4 may have it on record.

5 MS. SEPE: It's my first time with this tech here,  
6 crossing my fingers. Give me one moment.

7 THE COURT: Sure.

8 Q So I have pulled up what's been preadmitted as  
9 Exhibit 156. Does this look like the first proposed map that  
10 you publicly proposed?

11 A I think that's right. I think there were two. I did one  
12 in September, and I believe I did the second one in October.

13 Q Leading up to the release of this first proposed map, what  
14 were your guiding ethos for what you wanted for this map?

15 A I believe it was really guided by one -- this initial one  
16 was really guided by a principle of keeping communities  
17 together. So it really tried to draw lines that were driven  
18 by communities of interest, which is in the state statute.

19 Q What does that mean to combine communities of interest?

20 A Our understanding of it was to try to draw lines that  
21 corresponded, as best we could, to counties, cities -- even  
22 school district lines were considered. Tribal, tribal lines.  
23 You know, tribal nations. So it was really trying to make it  
24 so you'd be dividing as few communities as possible. That  
25 was the goal.

1 Q I'm going to turn next to Exhibit 144, which has also been  
2 preadmitted. Do you recall this document?

3 A Yep. That's right. The Senate Democratic Caucus staff  
4 worked on this with me.

5 Q Could you please read the first paragraph?

6 A Sure. It's along the lines of what I just said.

7 "Commissioner Brady Pinero Walkinshaw, appointed to the  
8 Washington State Redistricting Commission by the Senate  
9 Democratic Caucus, released his proposed legislative map  
10 earlier today. Commissioner Walkinshaw's plan prioritizes  
11 community interest, minimizes city and county split, and  
12 creates the most opportunity for communities to have fair  
13 representation of their choosing. The plan also respects the  
14 needs of tribal nations, as well as transportation corridors  
15 in communities that are economically and geographically  
16 connected."

17 Q Is that an accurate summary of what you remember your  
18 ethos to be?

19 A Very much behind this. And this, again, was before the  
20 bipartisan negotiations, but, yes.

21 Q I'm going to turn next to what's been preadmitted as  
22 Exhibit 150. As you can see, this is an e-mail from Ali  
23 O'Neil to you. And I'm going to scroll down to the second  
24 page. Do you know what this document is?

25 A I recall it. I can't tell you all the specifics of it,

1 but I do know what it is, yes.

2 Q What is it?

3 A This is a presentation that -- along with Senator Billig,  
4 that we gave to the Senate Democratic Caucus, as an update on  
5 the redistricting process.

6 Q I'm going to scroll down to the 16th slide on this. Do  
7 you recall this slide of the presentation?

8 A I believe we did one of these for each one of the  
9 legislative -- for a number of the legislative districts. So  
10 this is the one about the 14th Legislative District, in our  
11 September draft map.

12 Q I'm going to read the first bullet underneath the map that  
13 says, "Creates a majority Hispanic district in 14th LD, which  
14 aligns this district's election with the presidential year,  
15 allowing for more fair and effective representation of the  
16 state's largest Hispanic community, by increasing voter  
17 participation." Did I read that correctly?

18 A You did.

19 Q You'd agree that presidential election years tend to have  
20 higher voter turnout?

21 A I do.

22 Q Do you recall looking at disaggregated data between Latino  
23 voter turnout and white voter turnout, during presidential  
24 election years?

25 A I actually don't recall that. But it is very possible

1 that I did look at that. I don't recall that, no.

2 Q You don't recall sharing those turnout differences with  
3 your commissioner colleagues?

4 A I don't. But it's very possible that it occurred. But I  
5 don't recall that, no.

6 Q Turning to the Voting Rights Act, which I might shorthand  
7 as the VRA. When do you recall the issue of the Federal  
8 Voting Rights Act coming first to your mind as a  
9 commissioner?

10 A I think from the beginning.

11 Q And how did that come from the beginning?

12 A Just that this was an important issue, that I wanted to  
13 bring into the maps that I was drawing.

14 Q And were you also apprised about the need for a  
15 VRA-compliant district, by the staffers that you worked with,  
16 with the Senate Democratic Caucus?

17 A It was discussed, you know, as you will see in -- yes, it  
18 was discussed.

19 Q And you previously testified you were aware of other  
20 lawsuits in the Yakima Valley area related to this issue?

21 A I had awareness of past -- I believe it was the city,  
22 though. But, yes.

23 Q Do you recall the county?

24 A I may have misspoken. I was aware they existed, but as  
25 you can see, I don't have the specificity.

1 Q And do you recall receiving any community feedback on this  
2 issue?

3 A We did consultations around the state, so I'm sure this  
4 came up.

5 Q And --

6 A I don't recall the specifics, though.

7 Q I'm sorry to cut you off.

8 A No, go ahead.

9 Q Would it be fair to say that it was a priority for you to  
10 create a VRA-compliant district in the Yakima Valley?

11 A Yes. I said that in public statements.

12 Q I'm going to turn next to what's been preadmitted as  
13 Plaintiffs' Exhibit 195. I'll scroll up for a second. Do  
14 you recall this document?

15 A I do.

16 Q And what is it?

17 A I believe it was -- was it a press release? I believe it  
18 was a press release, that my -- our team from the Senate  
19 Democratic Caucus put out. I believe it was -- you'd have to  
20 correct me if I'm wrong, but I believe it was released after  
21 our next set of maps, our October maps that we released.

22 Q And those October maps came after you received  
23 Dr. Baretto's analysis; is that correct?

24 A I believe that's the case, but I don't remember the  
25 specifics of the timing.

1 Q If you look at the title of the press release, it says,  
2 "Following new analysis, Commissioner Walkinshaw releases new  
3 legislative map, compliant with Voting Rights Act."

4 Do you understand that new analysis to be Dr. Baretto's  
5 analysis?

6 A Yes, I do.

7 Q And if I scroll down, there is bolded, two paragraphs,  
8 that appear attributed to you. Could you please read the  
9 first paragraph of this.

10 A What was written up was that:

11 "Last week's analysis revealing the impacts of the Voting  
12 Rights Act on our state legislative map, was eye-opening, and  
13 I'm proud to release a new map today, that follows our  
14 state's redistricting criteria, keeps communities together,  
15 responds to public feedback, and undoubtedly complies with  
16 federal law. This new map not only respects the will of the  
17 voters in Yakima Valley, but also will avoid a costly legal  
18 challenge.

19 "Now that we have this information, we as commissioners  
20 should not consider legislative district maps that don't  
21 comply with the VRA. It is irresponsible to the historically  
22 underrepresented communities in the Yakima Valley to  
23 entertain any proposals that undermine their rights under  
24 federal law, and irresponsible to people of Washington State  
25 to do anything that might leave the state so blatantly

1 vulnerable to litigation.

2 "I look forward to seeing new proposals from all  
3 commissioners, so negotiations can continue and progress can  
4 be made."

5 Q Was that an accurate recitation of your priorities for  
6 future negotiations on the map?

7 A Just to contextualize it, I think what was happening at  
8 this stage was that every commissioner, in a bipartisan  
9 negotiation, was coming forward with their perspectives.  
10 This was my perspective, which I knew would be negotiated.  
11 But this was my perspective, as if I was the only  
12 commissioner drawing the maps. But I was one of four.

13 Q Previously with Mr. Gaber, you talked a little bit about  
14 the Commission voting on a framework, and I just wanted to  
15 make sure that I understood what you recalled of that  
16 framework. So in that framework, you stated that you wanted  
17 to keep communities of interest together, and that was  
18 reflected in the framework?

19 A Correct. To the best of our ability, in the bipartisan  
20 process.

21 Q And same with performance?

22 A I believe I said competitiveness.

23 Q Competitiveness. Thank you.

24 A Which is the language in the statute.

25 Q And geography; is that correct?



1 A Sure.

2 Q Is there anything else?

3 A I may have said something else. I can't recall the  
4 specifics. But those criteria, I believe, are in the  
5 statute.

6 Q I just have a few last topics. Are you aware that the  
7 plaintiffs in this case, in the Soto Palmer matter, allege  
8 that the Commission intentionally discriminated against  
9 Hispanic voters, in drawing Legislative District 15?

10 A I am aware. And I did not.

11 Q My next question is, what is your response to that?

12 A The answer is, no.

13 MS. SEPE: No further questions.

14 THE COURT: Mr. Holt, did you have any follow-up?

15 MR. HOLT: Nothing.

16 THE COURT: Then Mr. Gaber, any?

17 MR. GABER: No, Your Honor.

18 THE COURT: Okay. Great. Thanks, Mr. Walkinshaw.

19 You're welcome to stay a little bit, if you want, or get back  
20 to work.

21 THE WITNESS: Thank you, all.

22 THE COURT: And are the plaintiffs prepared for their  
23 next witness?

24 MR. GABER: Your Honor, I believe the Garcia  
25 plaintiffs --

1 MR. STOKESBARY: Your Honor, we are calling the next  
2 witness.

3 THE COURT: Let's take about a five-minute break,  
4 because we're having a little technical issue up here. So go  
5 out -- bring your witness in, but we won't actually swear  
6 them in for about five minutes. Anyone who needs to use the  
7 restroom, go ahead, but we'll leave it right here.

8 (Recess.)

9 THE COURT: All right. Call your next witness,  
10 Mr. Stokesbary.

11 MR. STOKESBARY: Thank you, Your Honor. The  
12 intervenor-defendants in Palmer, and the plaintiff in Garcia,  
13 calls Mr. Anton Grose.

14 THE COURT: Come forward. And we'll swear you in.

15 ANTON GROSE

16 Having been sworn under oath, testified as follows:

17 THE CLERK: Have a seat. If you could please state  
18 your first and last names, and spell your last name for the  
19 record.

20 THE WITNESS: First and last name. Anton Grose, last  
21 name, G-R-O-S-E.

22 DIRECT EXAMINATION

23 BY MR. STOKESBARY:

24 Q Thank you, as well, Mr. Grose.

25 I'm going to try to call you Mr. Grose today. If I

1 accidentally call you Anton, I apologize in advance.

2 And, Mr. Grose, is it fair to say that we know each  
3 other?

4 A That is fair to say.

5 Q But other than the subpoena that you received, with my  
6 name on it, have we communicated about your testimony in any  
7 way today?

8 A We have not.

9 Q Do you know why you're here today?

10 A I have a good idea.

11 Q So I think you probably know, as well, but I'm going to  
12 ask you some questions about the 2021 Redistricting  
13 Commission, and their process, and your role in it. And I  
14 just want to be extra clear here, that I'm here solely in my  
15 capacity as an attorney for the intervenor-defendants in Soto  
16 Palmer v. Hobbs, and attorney for the plaintiff in Garcia; is  
17 that clear to you as well?

18 A Understood.

19 Q All right. Thank you, Mr. Grose.

20 So could you just really briefly describe kind of the  
21 role that you, yourself, played in the 2021 Redistricting  
22 Commission?

23 A That's right. So I served as House Republican Caucus  
24 staff for Commissioner Graves, on the Redistricting  
25 Commission. Largely my role was mostly technical, using GIS

1 programs, helping construct the maps, do some research on  
2 behalf of Commissioner Graves. As is noted, all the  
3 commissioners have day jobs, so largely they depend on staff  
4 for background help, essentially.

5 Q And fair to say you worked pretty closely with  
6 Commissioner Graves?

7 A Correct.

8 Q You two were a team?

9 A Correct.

10 Q And just to make sure you're remembering, because months  
11 are flying by -- but, you know, correct to say, there's four  
12 commissioners that have a vote, each one appointed by each of  
13 the four largest caucuses in the legislature?

14 A Correct.

15 Q Okay. So as you were doing this work for the Commission,  
16 did the Commission have a deadline by which it had to  
17 complete its work by?

18 A They did.

19 Q Do you remember when that was?

20 A November 15th.

21 Q Did the Commission come to an agreement well in advance of  
22 the deadline?

23 A Not well in advance, no.

24 Q So they barely approved a map in time, right?

25 A I suppose that is disputed. But right around that time.

1 THE COURT: There are lots of times in the  
2 legislature where we stop the clock, right? And the last  
3 day, and --

4 THE WITNESS: In my short time in the legislature,  
5 it's very common for -- we'll call them, "big, big policies,"  
6 to take to the very last second.

7 THE COURT: Yeah, okay.

8 Q Mr. Grose, do you recall what would have happened if the  
9 Commission had not reached an agreement in time?

10 A That's right. Per statute, I believe it is, they would  
11 have gone to the State Supreme Court for them to hire a  
12 demographer, or in some other way draw the map.

13 Q Jurisdiction would have been handed over to the State  
14 Supreme Court?

15 A Correct.

16 Q You mentioned you and Commissioner Graves were a team.  
17 How did you feel about the possibility of that happening, of  
18 the State Supreme Court taking over and drawing the map?

19 A I certainly don't think that was an outcome any of the  
20 commissioners would have wanted. On the likelihood of that  
21 happening, at certain points that afternoon, it certainly  
22 felt that way, that that might happen. From a staff's  
23 perspective, we weren't involved in all the conversations, so  
24 I can't attest as to how close it came to that, per se.  
25 Yeah.

1 Q But is it fair to say that that's a situation you and  
2 Commissioner Graves wanted to avoid, if possible?

3 A Correct.

4 Q So you certainly then had, at the end of the day, when  
5 push came to shove, would it be fair to say you probably had  
6 a strong incentive, you and Commissioner Graves, to reach a  
7 deal with the Democratic commissioners?

8 A I think all parties had a strong incentive for that. But  
9 for Commissioner Graves, I believe that's how he would have  
10 viewed that. Again, he can speak for himself on that.

11 Q So sort of, to that end, do you think there were some  
12 last-minute compromises that were made on that November 15th  
13 date, in order to make sure that there was an agreement,  
14 rather than something being sent to the State Supreme Court?

15 A Correct.

16 Q So before -- I'm going to talk in a minute about -- I'm  
17 going to ask you some questions about those final  
18 compromises. But before that, I just kind of want to  
19 understand kind of the ebb and flow of the work process, the  
20 Commission, and staff like you, undertook to sort of get from  
21 a starting point where you have four commissioners, with  
22 their own ideas, to one final map that all the commissioners  
23 voted on.

24 So I guess how I kind of imagine it -- and clarify, or  
25 correct me -- is that commissioners and their staff would

1 come up with map proposals, they would exchange them with  
2 other commissioners, who would give counterproposals. And  
3 you would be trading these ideas, and maps, and proposals and  
4 sub-maps back-and-forth, from the time the process started,  
5 until November 15th?

6 A Correct. The process demands a lot of back and forth, by  
7 nature of how our Commission is structured. It takes broad  
8 compromise to pass any maps. Correct. A lot of back and  
9 forth, exchanging different maps, different ideas, ways that  
10 we can go about solving some of the tougher problems on any  
11 given map.

12 Q Do you happen to remember how many maps or partial maps  
13 were sort of sent by you and Commissioner Graves, or received  
14 by you and Commissioner Graves, as counterproposals?

15 A I couldn't say. Quite a few.

16 Q But a lot?

17 A Um-hum.

18 Q I want you to think about all those maps exchanged,  
19 whether they came from your end, or were received from other  
20 commissioners and their staff. Did your Commissioner Graves  
21 ever assess any of those maps, for compliance with the Voting  
22 Rights Act?

23 A I certainly didn't. I do not know if Commissioner Graves  
24 did, or if he had anyone else do that. I don't know.

25 Q Are you aware of the Commission itself hiring anybody to

1 do that kind of work?

2 A I recall discussion, soon after the Barreto report came  
3 out, about that. Again, this is 18 months ago. I can't  
4 specifically recall anything coming to fruition on that. I  
5 don't think there was. I can't recall.

6 Q But you don't believe you ever saw or considered an  
7 analysis of VRA compliance, for any proposals sent back and  
8 forth?

9 A Other than the Barreto analysis, no.

10 Q I was actually speaking -- going to ask you about the  
11 Barreto report and analysis. So thank you for asking my own  
12 question for me.

13 So you mentioned that there's this Barreto report. Was  
14 it a written report? Was it a PowerPoint presentation? How  
15 would you sort of characterize whatever that was?

16 A If I recall, it was kind of a PowerPoint presentation,  
17 like you said. It detailed -- sorry. I'm just recalling it.  
18 I believe it recalled the commissioner proposals that came  
19 out soon after, I believe it was the release of the census  
20 data -- and again, I might have the timelines a little fuzzy,  
21 it was a while ago -- as was tradition, as I understood it,  
22 each of the four corners of each commissioner would release a  
23 proposed map for public consumption, to get public comment.  
24 You know, none of them really -- I think each commissioner  
25 would tell you, none of them they thought were going to be



1 lockstep in line with whatever the final map was passed. But  
2 I think they demonstrated priorities for each of the  
3 commissioners. Sorry. Did I answer your question?

4 Q A little bit. But I want to follow up and make sure you  
5 do. So you kind of described the contents of a slide deck.  
6 But do you recall seeing a written report, or, you know, a  
7 text, more than what would appear on a slide?

8 A Sorry. Now I'm recalling. Yeah. So it took those maps,  
9 it ran some analysis on those maps. The specific contents, I  
10 couldn't say. But I believe they came to the conclusion that  
11 none of those districts would have been VRA-compliant, if I  
12 recall correctly. And then it's -- I believe there were two  
13 different VRA-compliant versions, according to the report,  
14 that the Redistricting Commission could adopt in a final map.

15 I'm sure there was more to it, but that's what I can  
16 recall.

17 Q So one kind of question, if you recall some specifics, do  
18 you happen to recall how many historical races were analyzed,  
19 in the slide deck that you saw?

20 A I couldn't say how many. I knew -- I think there was one  
21 from 2016; I think a U.S. Senate race. I believe there were  
22 more, but I cannot recall.

23 Q So I ask, because I think -- I've seen two versions that  
24 have been included as exhibits at various points in these  
25 proceedings. One version included two races that were

1 analyzed. One version included 12 races that were analyzed.  
2 The 12-race version, I know is a plaintiffs' exhibit in the  
3 trial here. Do you happen to remember if it was more likely  
4 that was two races in the version you saw, or 12 races in the  
5 version you saw?

6 A I certainly don't recall 12. Conjecture, I would assume  
7 it would be a lower number. Two sounds about right. I can't  
8 say for sure.

9 Q And do you know who hired Dr. Barreto to produce the  
10 report?

11 A I would assume it would have been one of our Democratic  
12 colleagues that would have done so. But I don't know for  
13 sure.

14 Q So you weren't positive whether it was a commissioner  
15 themselves, or the Democratic Caucus?

16 A My assumption, it would have been the Senate Democratic  
17 Caucus that would have done so. But I can't say for sure.

18 Q The same organization that appointed one of the voting  
19 commissioners?

20 A Correct.

21 Q Did you know who Dr. Barreto was, before you saw his  
22 report?

23 A I did not.

24 Q After you saw the report, did you spend any time looking  
25 into his background?

1 A I happened to come across -- well, I did not, to answer  
2 your question. I did see, as I mentioned in my deposition, a  
3 tweet one day from him. That's about the extent that I had  
4 interacted with anything of Dr. Barreto's.

5 Q So did you draw any conclusions, sort of based on those  
6 other things you saw outside the report itself, conclusions  
7 about Dr. Barreto and his background?

8 A Right. It was only the one tweet that I saw. I think my  
9 concern with that, obviously, if his personal views impact  
10 his public work, then it seems like that could be  
11 particularly politically motivated, potentially. Not to  
12 certainly discredit him or any of the work that he does. It  
13 came off that way, is what I would say.

14 Q So between kind of who you thought was responsible for  
15 hiring him, the tweet that you mentioned seeing, did you sort  
16 of perceive him as acting more like a scholar, or advocate?

17 A Purely from the tweet alone, it seemed more advocacy  
18 based. But, again, just that one example.

19 Q Do you think it was advocacy for a particular partisan  
20 outcome?

21 A I believe so. To be clear, it wasn't in relation to any  
22 Washington-related redistricting, but completely different  
23 circumstance, as I recall it.

24 Q Do you remember what organization Dr. Barreto was part of?

25 A I believe UCLA Voting Rights Coalition Act. I don't know

1 for sure. It's been, again, a long time since I've had to  
2 think about these things.

3 Q So other than Dr. Barreto and the UCLA Voting Rights  
4 Project, to your knowledge, was there any other kind of  
5 organization advocating that the Commission draw a,  
6 quote-unquote, VRA-compliant district?

7 A I think there were some smaller local organizations. I  
8 maybe heard from many smaller organizations, at the  
9 Redistricting Commission. Redistricting Justice would have  
10 been another one. I could not recall -- I know there were  
11 others. I can't say off the top of my head what they were,  
12 but they were smaller organizations asking for the same  
13 thing.

14 Q And I sort of asked this a minute ago, but in a slightly  
15 different way. So other than the Dr. Barreto report, and  
16 maybe other advocates, did the Commission itself hire any  
17 consultant or expert to analyze whether a certain kind of  
18 district was required by the VRA?

19 A You asked if the Commission did so?

20 Q Yes.

21 A Not that I'm aware of.

22 Q I'm going to ask a few specific follow-up questions  
23 related to that, but ignore the Barreto report itself, and  
24 what it contained, and just sort of answer with respect to  
25 everything outside of the Barreto report.

1 JUDGE VANDYKE: Can I ask one question? So what  
2 would it have taken for the Commission to have hired  
3 somebody? Would that have required a vote of three or four  
4 commissioners to do that? I'm trying to figure out how the  
5 Commission worked with regard to something like hiring a VRA  
6 consultant.

7 THE WITNESS: That is foreign to me. So I'm caucus  
8 staff. I wasn't actually staff for the Commission itself.  
9 Those are independent, nonpartisan staff, hired by the Chief  
10 of Staff of the Commission. So, unfortunately, I don't know.

11 THE COURT: Sure. Maybe the Attorney General's  
12 office knows. Did they have a budget to do something like  
13 that?

14 MR. HUGHES: I don't know what the budget was.

15 JUDGE VANDYKE: I don't want you to speculate.

16 MR. HUGHES: I don't know what the process is.

17 THE COURT: Is Commissioner Walkinshaw gone? Okay.  
18 I bet they did, because they considered hiring, and they  
19 said, no, we have enough information. So I would imagine  
20 they did. But we'll hear from more commissioners tomorrow.  
21 Q So, Mr. Grose, you mentioned a minute ago that you were  
22 sort of involved in this negotiation process, which was -- in  
23 a very simplified version -- involved trading map proposals  
24 back and forth. Was there a division of labor amongst the  
25 Commission and staff, in terms of the legislative maps versus

1 the congressional maps?

2 A There was, correct.

3 Q Can you kind of describe what that looked like?

4 A The Senate Republican Caucus and the Senate Democratic  
5 Caucus, so Commissioners Fain and Walkinshaw, were largely  
6 focused on the congressional maps, while the house  
7 delegations were more focused on the legislative maps.

8 Q So as staff for Commissioner Graves, you probably had the  
9 closest look at how the legislative map negotiations were  
10 unfolding, sort of being part of that team with Commissioner  
11 Graves and you working with -- him working with Commissioner  
12 Sims and her staff.

13 A I think that's fair to say. The commissioners often,  
14 especially the night of, kind of in that reported frenzy  
15 there was on the last night, staff wasn't privy to all the  
16 conversations, certainly. But we had a good idea where those  
17 negotiations were going. Sure. Yep.

18 Q So in the course of those negotiations over the  
19 legislative map, between Commissioner Graves and you, and  
20 then Commissioner Sims and her staff, did you perform any  
21 analysis regarding the size or distribution of the Latino  
22 community in the Yakima Valley region?

23 A Are you asking about the Latino total population counts,  
24 or --

25 Q Just the size and distribution of the Latino community,

1 were you aware of how many Latino voters there were in the  
2 Yakima Valley region? Were you aware of how they were  
3 distributed?

4 A We were aware of where the larger portions of the Latino  
5 community resides, within the Yakima Valley, and then areas  
6 outside of the Yakima Valley, say, in neighboring counties as  
7 well. So we were pretty well aware of where those  
8 communities were.

9 Q Did you examine anything other than just whether or not a  
10 given population was Latino? And, for example, did you  
11 undertake any analysis to understand whether a Latino -- one  
12 Latino part of town, and another Latino part of town, had any  
13 connection beyond just high Latino percentages?

14 A No.

15 Q Did you perform any analysis regarding the political  
16 cohesion of Latino voters, in the Yakima Valley region?

17 A We had not, no.

18 Q Are you aware of anyone associated with the Commission who  
19 did?

20 A I could only make assumptions, again, similar to -- if the  
21 Senate Democrats had a relationship with the UCLA Voting  
22 Rights Project -- is that right? Other than that, I don't  
23 know for sure.

24 Q But you never saw or considered an analysis like that?

25 A Other than what was in the Baretto report, no.

1 Q What about an analysis of whether non-Hispanic white  
2 voters in the Yakima Valley region voted as a block? Did you  
3 undertake any analysis or review or consider any analysis in  
4 terms of that?

5 A Other than what was contained in the Barreto report, no.

6 Q What about the nature or degree to which Latino voters in  
7 the Yakima Valley region preferred certain candidates? Did  
8 you sort of analyze who the preferred candidates might be, or  
9 review or consider any type of analysis like that?

10 A Same answer. Other than what was in the Barreto report,  
11 no.

12 Q Okay. So thank you, once again, for bringing up the  
13 Barreto report, because I wanted to circle back for a couple  
14 more questions about that. Do you happen to remember around  
15 when that came out, or when you first saw that?

16 A I can't say specifically. My best guess would be it was  
17 not far from when the deadline was, maybe a few weeks, maybe  
18 a month, somewhere around that time.

19 Q So my recollection is October. Is that roughly your  
20 recollection?

21 A I would assume so.

22 Q Okay. So do you happen to remember, once the -- once that  
23 sort of Dr. Barreto slide deck came out, did Commissioner  
24 Graves do anything to alter what he was proposing be done  
25 with respect to Legislative District 15?



1 A It's a difficult question to answer. I mentioned this in  
2 my deposition as well. We knew the proposed 15th -- the 15th  
3 proposal that we had, as our kind of draft map that we  
4 released to the public, we certainly knew that wasn't going  
5 to be the final version.

6 Certainly after the Barreto report, we were aware, because  
7 what's important to our colleagues has to be important to us  
8 in this process, because it does require a three-fourths  
9 vote, at least a minimum, to pass a map. So this is to say  
10 that we knew compromise was going to be needed, especially in  
11 that area of the world. So there certainly was plenty of  
12 willingness to alter what we had originally proposed, and we  
13 knew that ultimately there would have to be some sort of  
14 compromise.

15 Q What sort of changes or compromises did you think would be  
16 necessary, for you and Commissioner Graves to make, at that  
17 point?

18 A As time went on, it became apparent that a Yakima Valley  
19 district that was majority Hispanic, by citizens of voting  
20 age population, that that would be a requirement to get  
21 support from both Republicans and Democrats.

22 Q And as you and Commissioner Graves were sort of  
23 negotiating this, with Commissioner Sims and her staff, I  
24 assume that means, then, that you were analyzing the Hispanic  
25 citizen voting age population of the various proposals that

1 were being traded back and forth for LD 15?

2 A Correct. As my memory serves me, correct.

3 Q Is that a metric you pay close attention to?

4 A Because for that district, in particular, that was very,  
5 very important to our kind of counterparts, and it was very  
6 important to us, then, in that case. That metric, as well as  
7 the 2019 ACS data, which there was some pretty large  
8 discrepancies between that and the census data that finally  
9 did come out, albeit late. The census data showed far more  
10 Hispanic populations in that region than the ACS data did,  
11 which we thought the ACS was undercounting pretty severely.  
12 So we felt that a majority CVAP, by the 2019 ACS estimates,  
13 that in reality the numbers on the ground, so to speak, would  
14 far overshoot that number.

15 Q But whether you were looking at -- whether the data source  
16 was the census or ACS, the actual data that was being  
17 examined was various ways to measure the Latino population in  
18 the area?

19 A Correct. Yes.

20 Q And this was, again, one of the significant metrics that  
21 you would consider?

22 A Correct.

23 Q Were there other metrics that were -- where you would  
24 consider at the same time that weren't race?

25 A Sure. With every district, you know, if it's holistic,

1 right, I think state statute spells out several different  
2 considerations for any given district. The 15th, in  
3 particular, certainly was far more race-focused than I think  
4 any other district on the map, it would be fair to say. So I  
5 think there were some other considerations neglected in the  
6 drawing of the 15th, race predominantly being I think the  
7 major focus of that district. Yeah.

8 Q So during your deposition, you used the phrase that, "At  
9 this point in time, it became increasingly inevitable that  
10 there was going to need to be a majority Hispanic CVAP  
11 district in the Yakima Valley." Do you recall saying that?

12 A Correct.

13 Q That's still kind of what you would say as well?

14 A I think that's a fair characterization.

15 Q Did you think that a majority Hispanic CVAP district was  
16 required by the Voting Rights Act?

17 A I'm not sure I'm qualified to say. But my own personal  
18 opinion, a crossover district may have been a better  
19 alternative. I think there were lots of different  
20 configurations to that area that could have achieved goals  
21 that in my opinion would be VRA-compliant. But, again, I'm  
22 not sure I'm qualified to say, exactly.

23 Q But in your opinion, you know, you're the one tasked with  
24 drawing these maps, based on your best knowledge, best advice  
25 you received at that point, you did not think that it was

1 necessary to create a majority Hispanic CVAP district in  
2 order to comply with the VRA?

3 A Personally, I didn't feel there was enough compactness of  
4 those populations between -- and, again, between just the  
5 Yakima Valley itself, I was not sure that there was enough  
6 population there.

7 Obviously, in the final 15th that was adopted by the  
8 Commission, and then ultimately by the legislature as well,  
9 it had to span far out of the Yakima Valley region to grab  
10 other Hispanic populations, both in Adams County, I believe  
11 the Othello area, and kind of snaking down to East Pasco as  
12 well, that I wouldn't consider within the Yakima Valley. It  
13 falls outside of there. So that being said, I just didn't  
14 see there was enough compactness to make that work.

15 Q So kind of moving on. Once the Commission enacted its  
16 map, do you recall what the Hispanic CVAP percentage was for  
17 Legislative District 15 that the Commission approved?

18 A By the 2019 ACS numbers, I know it was over 50 percent. I  
19 think it was reported to be just over 50 percent. That  
20 sounds right. I can't recall off the top of my head  
21 specifically, though.

22 Q But a very slight majority?

23 A A slight majority, yes; that's fair.

24 Q Based on your involvement in the Commission's  
25 negotiations, and working closely as a team with Commissioner

1 Graves, do you think that the Commission would have approved  
2 a version of Legislative District 15, that did not contain a  
3 majority Hispanic CVAP district?

4 MR. HUGHES: Objection, Your Honor.

5 THE COURT: It does call for speculation, but I'll  
6 allow it. But it's clearly speculation.

7 A I don't believe they would have.

8 Q And were you worried that a court might invalidate  
9 Legislative District 15, if it wasn't drawn to include a  
10 majority CVAP district?

11 A Truthfully, I was not sure. I think it was always  
12 somewhat inevitable that regardless of what district was  
13 ultimately drawn, even if the, I'll call it the "Barreto  
14 15th" was adopted, I still think we'd likely be sitting here  
15 today.

16 Q I just skipped over kind of two questions about the  
17 Barreto report, that I just want to briefly circle back to.  
18 Do you happen to recall how you first heard about it? How  
19 was it brought to your attention?

20 A I cannot recall, specifically. I really can't. I'm sure  
21 I saw it in an e-mail, maybe a news report. I cannot say.

22 Q Were you ever invited to an in-person or Zoom meeting or  
23 presentation, where it was actually presented?

24 A Not that I can recall. It's possible, but not that I  
25 recall. No.

1 Q Do you recall ever being in a meeting that would have been  
2 later presented by Dr. Baretto himself?

3 A I don't think so.

4 MR. STOKESBARY: No further questions, Your Honor.

5 THE COURT: Okay. Mr. Grose, you're still under  
6 oath. I'm going to ask you this question. What does the  
7 staff call State Representative Drew Stokesbary? What is his  
8 nickname among the staff members?

9 THE WITNESS: You're putting me in a tough position.

10 THE COURT: Yeah, you can take the Fifth. Okay.  
11 Good enough.

12 Mr. Gaber, you got this one?

13 MR. GABER: Yes, Your Honor.

14 THE COURT: Great.

15 CROSS EXAMINATION

16 BY MR. GABER:

17 Q Good afternoon, Mr. Grose. My name is Mark Gaber. I'm an  
18 attorney for the Soto Palmer plaintiffs in this case. Thank  
19 you for taking the time to be with us today.

20 So my understanding is that there were two mapping  
21 tools that you primarily used, one was the Autobound Edge  
22 software, that was sort of the official program that the  
23 Commission procured; is that right?

24 A That's correct.

25 Q Then there's also Dave's Redistricting App, which is a

1 public service, free thing, that is provided out of  
2 Washington State, by David Bradlee; is that what your  
3 understanding is as well?

4 A I did not know it was from Washington State. That's  
5 unique. But, correct, we did use that tool as well.

6 Q And as the process sort of moved towards the end, the  
7 Dave's Redistricting App became more of the sort of tool  
8 used, because it's significantly more user friendly. You can  
9 drag district lines easier than you can in Edge. Is that a  
10 fair assessment?

11 A I think so. When time was in a crunch, it was much faster  
12 to use. Our counterparts were using that. I don't think  
13 they used Edge at all, until the very end. But I couldn't  
14 blame them. We had a lot of technical issues with that  
15 program.

16 Q Have you used other redistricting programs, beyond Dave's  
17 and Edge, before?

18 A I had seen others. I did not really use them. For  
19 example, the tool that was on the redistricting website for  
20 people to give comments on maps, I played around with it, but  
21 not in any serious manner.

22 Q Okay. You spent, I assume, a lot of time in these mapping  
23 programs over the course of probably August through November  
24 of 2021; is that fair?

25 A That's fair to say.

1 Q And in particular, a lot of time in Dave's Redistricting  
2 App making maps, changing them, adjusting them, responding to  
3 them from your counterparts?

4 A Right. Both Dave's and Autobound, correct. Yeah.

5 Q I am going to, for the court's benefit, because I doubt  
6 the court has ever seen this before, I'm going to pull up  
7 Dave's Redistricting App, and sort of familiarize the court,  
8 with your assistance, with how this works, and what it looks  
9 like, to sort of draw a map and what the features are for it.

10 A Sure.

11 Q And I'm going to test whether I can do that with the mouse  
12 here, and the screen here, and the computer over there. So  
13 please bear with me, if that does not work.

14 Okay. Do you see, on your screen there, the website  
15 Dave's Redistricting dot org? And it goes on with a longer  
16 URL. But I have loaded up on here a map of sort of South  
17 Central Washington State. Does that look right to you?

18 A Correct.

19 Q And I know we have talked -- I'll zoom out a little bit so  
20 folks can see the statewide image -- but we've sort of jumped  
21 in, in talking in this case about Yakima, and the Yakima  
22 Valley. As folks can see on the map, we'll just highlight  
23 it, Yakima is in red, and the neighboring counties, Franklin,  
24 Grant, and Benton, you see they're in red on the screen?

25 A Correct.



1 Q Now, if you see on the -- you can kind of see what I've  
2 done there, you can select a county, you can select  
3 precincts, you can select census blocks within precincts,  
4 right?

5 A Correct.

6 Q That's all in the formation of a district.

7 Now, what sort of data does Dave's display, as you're  
8 drawing the map?

9 A You have choices between different data sets. I'm sure it  
10 has updated since November of 2021. At which point, you can  
11 imagine, I didn't want to see a mapping program ever again in  
12 my life, after spending a year looking at these. That being  
13 said, there are many different data sets, I think, dating  
14 back all the way to the 2011 census, that you can use on the  
15 map here.

16 Q And to change data sets, you would click on this in the  
17 upper-right corner, that little wheel, and then you can  
18 select which census data you want to see. And you see I've  
19 selected, under census, it has the adjusted 2020 total pop.  
20 Now, your understanding, that's the adjustments for the folks  
21 who are incarcerated, being readjusted back to their home  
22 precincts; is that your understanding?

23 A I would assume so, correct.

24 Q Then there's the total population from 2020. That's based  
25 on the actual census count, right?

1 A I believe so. Yeah. Again, I think this has probably  
2 been updated, or my memory is failing me here. I believe it  
3 used to specifically say it was the census, then had ACS on  
4 the 2019 numbers. But I'm assuming that's probably what that  
5 is.

6 Q If it's total pop for 2019, of course 2020 is like the  
7 only year which there would be real numbers, right?  
8 Everything else would be estimates?

9 A Correct.

10 Q And then you have the option to select the voting age  
11 population that you want to have displayed as well, correct?

12 A Correct.

13 Q And so I have selected here the citizen voting age  
14 population for 2019. Do you see that?

15 A Correct.

16 Q And that would have been the CVAP. If I say "CVAP,"  
17 you'll understand, that would have been the CVAP data  
18 available at the time that the mapping was happening back in  
19 2021, correct?

20 A Correct.

21 Q Since that time, there's a CVAP for 2020 that's in DRA.  
22 You see that?

23 A I do.

24 Q And then you can also select the voting age population,  
25 both from 2020 and 2010; is that right?

1 A Correct.

2 Q And that is actual census figures, a count of people who  
3 are of a voting age in the area, regardless of whether  
4 they're a citizen or not, right?

5 A Correct.

6 Q And then another feature in Dave's Redistricting, in terms  
7 of the data that's displayed, is that you can select to  
8 display various election results. Do you see that on the  
9 screen?

10 A I do.

11 Q And there's a number of races here. Most of the statewide  
12 races from 2020, the one Senate race from 2018, and then  
13 going back to 2016. Is that your recollection of what  
14 basically you had available at the time, as well?

15 A I don't believe this many political data sets were  
16 available at the time. Like I said, I know they update  
17 frequently. I definitely do not think this many statewide  
18 races were available, at least from the 2020 elections. But  
19 it's similar to this, yeah.

20 Q President was one that you had at the time?

21 A You may know more than I do. Yes, that sounds right.

22 Q Okay. So we'll leave that where that was.

23 But in terms of how you functionally go about drawing  
24 the map, then, you select a district number. And so this  
25 case, it was sort of toggling between 15 and 14, right?

1 A Can you say that one more time?

2 Q Sure. In terms of sort of drawing a district and  
3 assigning a territory, on the left side of Dave's, you would  
4 pick the district number, and then you would start drawing  
5 with your mouse, right?

6 A Correct.

7 Q And this case is about current District 15. There was a  
8 time in the negotiation process where it was numbered 14,  
9 back and forth; does that seem right to you?

10 A There was a period of time where that was a discussion. I  
11 don't recall it lasting very long. I don't know -- I can't  
12 recall off the top of my head what the distinction was at the  
13 time, and why that was going on. I know there was conjecture  
14 that it was about when the Senate race -- whether that would  
15 be on a midterm year, or presidential year. I know there was  
16 some discussion about that. I don't even recall how that was  
17 resolved. That was likely a conversation just between the  
18 commissioners themselves. But I know there was discussion of  
19 that at some point in time.

20 Q So in terms of a map that you're seeing, when you're  
21 drawing in Dave's right now, it's displayed with just the  
22 county borders, right?

23 A Correct.

24 Q And when you want to zoom in to actually start drawing the  
25 map, there are additional features that you can select. This

1 is on the sort of lower left-hand side of the screen under  
2 the overlays section. Does that look familiar to you?

3 A Correct.

4 Q And so one option is to put on city lines, and it will  
5 show you where the boundaries of particular cities in the  
6 county are?

7 A Correct.

8 Q And then you can also select to show the precinct lines as  
9 well. Do you recall that?

10 A I do.

11 Q And then another feature is that you can -- say you want  
12 to collect certain blocks within a precinct, up in the sort  
13 of middle-top of the screen, you're able to select for block.  
14 Then if you click on the precinct, it will take you in -- if  
15 the Internet is working, which it may not be -- and, in any  
16 event, if you had functioning Internet, what would happen is  
17 the census block lines, within that precinct, would show up.  
18 And you'd be able to select certain among them to be in the  
19 district?

20 A It starts getting tedious at that point. But, yes.

21 Q Right. Okay. And there's other features. I won't regale  
22 everyone with everything. But you can have the name of the  
23 precinct come up, so you know actually the county's numbering  
24 for it, as it's on the map. Does that seem right to you?

25 A Correct.

1 Q And then there's also, depending on what demographic data  
2 or what political data you have showing, the map will then  
3 show for you, those results, and the sort of -- this is the  
4 political data showing up now. This is the 2020 President  
5 result, by precinct. Do you see that?

6 A I do.

7 Q And it will show, in gradations of blue and red, the  
8 election results within a particular precinct, right?

9 A Correct.

10 Q And then by the same token, if you select -- you can  
11 select, for the minority population, and it will show you the  
12 -- by shades of sort of white to darker black, the minority  
13 population locations within the county. Do you recall that?

14 A Correct.

15 Q And both the political data and racial shading data are  
16 tools that you used during the process of drawing the maps?

17 A I think by the time we were actually at the process of  
18 putting final maps together, we had pretty well-known, pretty  
19 specific territories, dare I say, the precincts in the state,  
20 I pretty well know almost all of them. So at that point in  
21 time, we had a pretty good idea where the populations were.  
22 So the shading not so much, or even the political data, for  
23 that matter.

24 But at that point in time, through getting familiar with  
25 the map, itself, these tools were used, correct.

1 Q So -- and that was -- so earlier in the process from, say,  
2 August to November, earlier in that timeframe, you would have  
3 been using the shading tools to sort of acquaint yourself  
4 with where the minority population lived, and how that  
5 corresponded with political results?

6 A Not so much how it corresponded, but just where the  
7 density was. And, again, not just limited to -- today we're  
8 talking about the 14th and 15th, but there were 47 other  
9 districts that we were also concerned about. So it was a  
10 tool that we could use in all parts of the state.

11 Q And so you're not just limited to having the shading  
12 shown, right? Dave's actually will show you on the  
13 right-hand column, as you hover over a precinct, what the  
14 total population is; depending on which, VAP or CVAP you've  
15 selected, it will list that as well for that precinct, and at  
16 the same time it will show you the political results in a  
17 given precinct; is that right?

18 A Correct.

19 Q So right now I have the mouse over Precinct 126. You see  
20 that at the upper right-hand corner under "precinct details"?

21 A I do.

22 Q And we see there that the Hispanic CVAP is 65.6 percent of  
23 that precinct. And the Democratic candidate received  
24 78 percent of the vote for President. Does that look right  
25 to you?

1 A That's correct.

2 Q And so as you were drawing the map and selecting precincts  
3 to include within a district, or even just as if you were  
4 sort of familiarizing yourself with the map, before you  
5 started drawing, this was the type of information that you  
6 were seeing, right?

7 A Correct. Whether it was Dave's or Autobound, both in this  
8 regard, similar.

9 Q And so I've just pulled into -- we just went over a  
10 substantial majority Hispanic CVAP precinct, right?

11 A Correct.

12 Q By contrast, we can look north of Yakima here, I'm  
13 hovering over, I'll select it, so you can see it there,  
14 that's Precinct 4603, with a white CVAP of 87.9 percent, and  
15 a Republican performance or Republican vote total of  
16 68.9 percent, right?

17 A That is correct.

18 Q Okay. And so I gather, given the amount of time that you  
19 spent in Dave's, to the point where you said you didn't even  
20 really need to have the data showing, towards the end of it,  
21 you just knew, right, as you look at these communities, and  
22 as you were looking at them and drawing them into districts,  
23 this pattern of -- and I've just selected Wapato, for example  
24 -- this pattern of the substantially majority Hispanic  
25 communities, voting in near equal numbers to their population



1 for the Democratic candidates. That was a pattern that you  
2 saw, as you were mapping, correct?

3 A That held pretty tight. Obviously 2020 President is the  
4 most extreme example of that, certainly. But, correct.

5 Q And so we just looked at -- I've highlighted Wapato. And  
6 actually let me do this, sorry. So the City of Wapato.  
7 There's another thing you can do, you can select -- put the  
8 whole city into a district, or highlight the whole city and  
9 see its demographic details too, right?

10 A Yes.

11 Q And so Wapato, 79.9 percent for Biden, 63.6 percent  
12 Hispanic, with a sizeable Native American population, too.  
13 Do you see that?

14 A Correct.

15 Q That fits with what you understood Wapato to be like, when  
16 you were doing the mapping?

17 A Correct.

18 Q And that sort of holds true throughout the Yakima Valley  
19 and the City of Yakima. Toppenish, for example, with a --  
20 you're familiar with Toppenish?

21 A Correct.

22 Q And so I have the mouse over Toppenish right now. And you  
23 see that there's a 73.1 percent Hispanic CVAP, and the  
24 Democratic vote total of 75.7 percent, right?

25 A Correct.

1 Q And I'm not going to walk you through all of them. But  
2 you see Toppenish, Mabton, Sunnyside, Grandview, this same  
3 pattern was something you were aware of when you were drawing  
4 the map?

5 A Correct. Yeah. These communities were -- it's been a  
6 while since I've seen the boundaries. I believe these were  
7 within the Yakima Nation. So obviously that's probably a  
8 whole different conversation we'll get to today, at some  
9 point. But, correct.

10 Q And then if we look at Pasco -- you're familiar with  
11 Pasco, right?

12 A Correct.

13 Q That's in Franklin County?

14 A Correct.

15 Q And so you were familiar that the same sort of pattern was  
16 true there as well, that the substantially Hispanic precincts  
17 in Pasco, were just as heavily Democratic in their electoral  
18 choices as well, correct?

19 A Correct.

20 Q Now, and conversely, if during your mapping process, just  
21 as we saw north of Yakima where there was a substantial white  
22 precinct, that pattern was clear to you throughout the area,  
23 that the sort -- the more rural white-heavy precincts, were  
24 sort of equally heavy in their support for Republican  
25 candidates, based on the mapping that you were looking at as

1 you were working?

2 A Most of them. Not equally as heavy. But we were aware of  
3 that pattern, correct.

4 Q And just as an example, we're still in Franklin County  
5 here. And let's -- that's maybe not the best one. This is  
6 Precinct 71 that I've -- let me make it a color, so you can  
7 see it. This is a precinct that has an 87.3 percent white  
8 CVAP. Do you see that?

9 A Correct.

10 Q And then the performance is 81.5 percent for the  
11 Republican candidate?

12 A Correct.

13 Q And that sort of is the kind of pattern that you were  
14 aware of, just from using this tool. You were aware of that?

15 A Correct.

16 Q Now -- and this was sort of a, sort of unavoidable  
17 conclusion that one would draw from going into this, and from  
18 the beginning, August, from August onward, that this basic  
19 fact of strong Hispanic support for Democratic candidates,  
20 and strong white support for Republican candidates, that was  
21 clear to you?

22 A I was certainly aware of that. I don't know that the  
23 overarching goal was to use that, in one way or another.

24 Q Sure.

25 A I think at the time, especially coming toward the end of

1 it, we wanted to clearly find a compromise with our  
2 counterparts, on precisely what would make sense. It's  
3 candidly a difficult area of the world to map, for many  
4 reasons, with several different communities of interest. As  
5 I mentioned, Yakima Nation there. So certainly race, and I'm  
6 sure the political leanings played a role. But it wasn't the  
7 sort of consideration of the final version of the 15th.

8 Q And I guess my question is a little simpler than that.  
9 You would have had to have sort of closed your eyes to what  
10 you're seeing on the map, to not come away from this program  
11 knowing that the Latino voters in the area were strongly  
12 supporting the Democratic candidates, and the white voters  
13 were strongly supporting the Republican candidates. That's a  
14 fair assessment, right?

15 A Generally speaking, yes.

16 Q I gather when Dr. Barreto then came forward with his  
17 analysis, you were not surprised to learn that his conclusion  
18 was that the Latino voters were strongly supporting the  
19 Democratic candidates in the Yakima Valley, and the white  
20 voters were strongly supporting the Republican candidates?

21 A Historically speaking, yes.

22 Q Now, throughout the negotiations --

23 JUDGE VANDYKE: Why do you say "historically  
24 speaking"? Why do you qualify it like that?

25 THE WITNESS: Well, there was a recent election in

1 the 15th, that we're all discussing today, ironically, in  
2 which they did elect an Hispanic senator there, for the 15th,  
3 with a much higher than we would have expected margin. And I  
4 hadn't seen any precinct-level analysis on that, or any  
5 racial comparison to that.

6 So that kind of, what I would say, bucks the trend a  
7 little bit. Also in some ways -- and clearly, nationally,  
8 over the last several years, we've seen some pretty big  
9 realignments, not within say the Hispanic community, but  
10 large political realignments. So I thought it was important  
11 to qualify that, with -- this is always a changing landscape,  
12 so to speak.

13 JUDGE VANDYKE: Thank you.

14 Q In terms of the data that you had at the time, your  
15 conclusion was --

16 A Right. Historically, correct. Right.

17 Q And with respect -- and I'll talk briefly about the 2022  
18 election in this district, since you brought it up. At the  
19 time that Ms. -- Senator Torres, excuse me -- announced that  
20 she was going to run, it was still the case that Senator  
21 Honeyford, who was the longtime incumbent, he had not  
22 announced that he was retiring, right?

23 A I was not privy to any of those details. Once the map was  
24 passed, I checked back into my normal legislative duties.

25 Q But you worked in the legislature, right?

1 A Correct.

2 Q So I gather that you are aware, though, that there was  
3 actually no announced Democratic candidate for that seat,  
4 when the filing deadline happened?

5 A Correct. I was aware of that.

6 Q So Senator -- then candidate Torres, now Senator Torres,  
7 was at that point, she had the field to herself. There was  
8 no other name on the ballot, right?

9 A No other name on the ballot, correct.

10 Q And then in addition to that, the two state House  
11 Republican incumbents also ran unopposed?

12 MR. STOKESBARY: Objection, Your Honor. Misstates  
13 the evidence.

14 THE COURT: I don't think we should ask him about  
15 these kinds of things. If you want to bring in evidence  
16 about it, it shouldn't just be through him. So objection  
17 sustained.

18 Q Throughout the negotiation process, in addition -- so the  
19 documents can be confusing, because of the numbering of the  
20 districts. So sometimes they're referred to as District 14,  
21 sometimes 15. Is it your recollection that sort of calling  
22 it the "CVAP district," was something that started to happen?

23 A That sounds familiar. I believe that would be correct.

24 Q And then that was in reference to the fact that it was a  
25 Hispanic CVAP district?

1 A Correct.

2 Q I am going to take Dave's Redistricting off the screen for  
3 now. And if we could pull up, please, Exhibit 475.

4 So, Mr. Grose, after Dr. Barreto's analysis came out,  
5 there was a time in early November, where Mr. Graves directed  
6 you to draw plans that would be a majority Hispanic CVAP, and  
7 also would be districts that would lean towards the  
8 Democrats. Do you recall that?

9 A Specifically, no. But we went through many exercises such  
10 as that.

11 Q So I have one on the screen here. This is a proposal. So  
12 you drew all of Mr. Graves' or Commissioner Graves'  
13 proposals; is that fair?

14 A To the extent that I'm aware. He may have drawn some of  
15 his own.

16 Q And, generally, you were operating at his direction; is  
17 that right?

18 A Correct.

19 Q And so if this came from you, it would have been Mr. --  
20 Commissioner Graves, directing you to do that?

21 A Correct. Yeah.

22 Q Now, you may not recall the specific one -- or do you have  
23 any recollection of this particular --

24 A Not this specific one. But then, again, there were, I  
25 think, over 100 of these that were drafted. So apologies, I

1 can't say specifically about this one.

2 Q So this one, if you see on the right-hand side, the  
3 Hispanic CVAP, this proposed from Commissioner Graves was  
4 50.6 percent, and then displayed in the exhibit is the  
5 Governor 2020 results, that show that the Democratic  
6 candidate would have prevailed by about -- can I do math?  
7 Eight points; is that about right?

8 A That's correct.

9 Q So was there a point in time when -- I gather from this  
10 proposal, that Commissioner Graves was sort of expressing a  
11 willingness to his counterparts to draw a map that sort of  
12 fit what they were asking for as a result of Dr. Barreto's  
13 analysis?

14 A If I recall correctly, yeah. We knew that after the  
15 analysis came out, like I stated earlier, there would be a  
16 compromise. You know, we wanted to make sure the map didn't  
17 go to the State Supreme Court. That was kind of a bad  
18 situation for all commissioners. I can't speak to them, but  
19 I assume they would see it that way as well. So I'm  
20 assuming, by the look of it, and now that I can see the  
21 numbers here, this looks like this would be kind of a  
22 proposal to consider with our counterparts.

23 Q If we can pull up Exhibit 277, please.

24 And if we could zoom in to the -- can I zoom with my  
25 mouse? Oh, my goodness.



1           So this is an e-mail sent from Paul Graves to April  
2       Sims, copying you, in addition to Commissioner Sims's staff.  
3       Do you see that?

4       A    I do.

5       Q    Do you recall this e-mail?

6       A    Not vividly. But this would resemble one of many e-mails  
7       where I think we were trading back and forth, maps, as was  
8       brought up earlier. Yeah. There were a lot of those kind of  
9       e-mails.

10      Q    Now, this is -- and just to be clear, this is not an  
11      e-mail transmitting that last map we were just looking at. I  
12      just want to make sure the record is clear on that. But  
13      Commissioner Graves was sending a new proposal. And do you  
14      see, in the first sort of bullet, if we can call it that,  
15      that in this proposal he's saying to Commissioner Sims, "The  
16      14th is ever so slightly more Republican here, than your last  
17      proposal. Still firmly swing. And that it's a majority  
18      Hispanic CVAP." Do you see that?

19      A    I do.

20      Q    Then one of the things that he asks in the next bullet, at  
21      the bottom, last sentence is, "My biggest question to you,  
22      then, what do you think is a fair exchange for this 14th?"  
23      Do you see that there?

24      A    I do.

25      Q    And then I don't know how to un-zoom. And then can I

1 change to the second page?

2 MR. GABER: I need to stop being in control of the  
3 mouse. I did really well with the map, I thought. My  
4 apologies.

5 THE COURT: You did very well, then crashed and  
6 burned.

7 Q So first page. What is a fair exchange for this version  
8 of the 14th? Then again, if you see in the last paragraph  
9 there on the second line, "I'm interested in hearing what you  
10 think is a fair price for this 14th." Do you see that?

11 A I do.

12 Q Is that your recollection of the negotiation over the sort  
13 of configuration of this, we'll call it the CVAP district in  
14 the Yakima Valley, that there was sort of a price to be paid  
15 if the Democratic commissioners' preferred version of the map  
16 was what made it into the map?

17 A I'm sure he's using the term "price" a little  
18 off-the-cuff, so to speak. That being said, I think there  
19 were -- like I mentioned earlier today, we're pretty much  
20 talking about the 14th and 15th. But, again, there were 47  
21 other districts on the map, that both the Democratic Caucus  
22 and Republican Caucus were interested in. So I think at some  
23 level, even a discussion about the 14th or 15th, other  
24 districts come into play. This was a pretty similar pattern  
25 that we saw, from the other caucuses as well. Everything is

1 always a negotiation, all the time. So I think doing his due  
2 diligence to see if we could get some of the other priorities  
3 that we wanted elsewhere on the map, included, if we used  
4 this version of the 14th, that's how I would interpret this.  
5 Again, this was 18-plus months ago. But that's how I'd see  
6 this.

7 Q Now, in the latter part of that paragraph, there's some  
8 discussion from Commissioner Graves to Commissioner Sims,  
9 that Brady might not be agreeable to the proposal, that  
10 perhaps Ms. Sims would, but Brady, being Commissioner  
11 Walkinshaw, would not be agreeable.

12 What is your recollection or understanding of that  
13 dynamic?

14 MR. STOKESBARY: Objection, Your Honor.

15 THE COURT: It's all speculation at this point. So  
16 I'm going to sustain the objection.

17 Q If we could pull up Exhibit 281.

18 Now, this is, I believe, later that day, an e-mail from  
19 you to Paul Campos on November 11th at 4:08 p.m. Do you see  
20 that?

21 A Excuse me, can you say that one more time?

22 Q Sure. This is an e-mail on November 11th, which is the  
23 same day as that previous one that we were looking at, from  
24 you to Paul Campos. Who is Paul Campos?

25 A Paul Campos was essentially my counterpart. He staffed

1 for Commissioner Fain, for the Senate Republican Caucus.

2 Q And if you take just a chance to read the content of this  
3 e-mail here.

4 MR. HUGHES: Objection, Your Honor. Hearsay.

5 THE COURT: Just read it to himself. Just read it to  
6 yourself. Don't read it out loud yet.

7 A Okay.

8 Q Were you -- so "she" in this e-mail, is that referring to  
9 Commissioner Sims?

10 MR. HUGHES: Objection, Your Honor. Now we're  
11 getting into hearsay.

12 THE COURT: I think he can give the context of it.  
13 Go ahead.

14 A I would assume so. Again, it was sent a year and a half  
15 ago. I would imagine so.

16 Q Do you recall the sentiment, during your experience in the  
17 negotiations, do you recall the sentiment of Commissioner  
18 Sims suggesting that she didn't want to give up -- she didn't  
19 want to sort of trade anything for the 14th District, because  
20 the court could just end up drawing that district anyways, so  
21 why give away some Democratic performance, on the other part  
22 of the state?

23 MR. HUGHES: Objection, Your Honor. Hearsay.

24 THE COURT: I'll allow this one. If you know. Don't  
25 speculate, but only if you know.

1 A I can recall that much more so from Commissioner  
2 Walkinshaw. I don't recall this topic so much from  
3 Commissioner Sims. That's the best that I can recall.

4 Q The sort of positioning over litigation about this  
5 district, during the negotiation process that you observed,  
6 that sort of was a theme on both sides, wasn't it?

7 A Could you clarify?

8 Q I think we have an example here on the screen, that one  
9 idea was: Well, why would we negotiate over this, because  
10 the law, we think, requires it, so let's just let the court  
11 do it. That sort of -- the topic of litigation, at least was  
12 with respect to this district, in particular, was sort of at  
13 the forefront?

14 A Right. I think it was an unknown, from recalling at the  
15 time, we didn't have any idea necessarily how that would turn  
16 out, right? How litigation would turn out on this particular  
17 subject. But I think we felt confident that it almost  
18 certainly would go to court, as I alluded to earlier, one way  
19 or another, even if we adopted the Barreto district in its  
20 entirety.

21 Q Around November 12th, so just in the lead-up to the  
22 deadline on the 15th, was it your understanding that  
23 Commissioner Walkinshaw was still pretty firm, in his  
24 position of the type of configuration that would be strongly  
25 Democratic performing, with a Latino majority, that he was

1 still firm in that position?

2 MR. STOKESBARY: Objection. Calls for speculation.

3 THE COURT: I think we've covered this enough times.  
4 Let's move on, counsel.

5 Q Around that time, as between Commissioner Sims and  
6 Commissioner Graves, was it the case that Commissioner Graves  
7 was now taking sort of the lead, and drawing the various  
8 configurations of District 15?

9 A I can't recall there ever being a particular lead for  
10 that. I think it was -- as mentioned earlier, both the House  
11 Republicans and House Democrats, were largely working on the  
12 legislative map. But this area, in particular, was a concern  
13 to Commissioner Walkinshaw. So I think all parties were  
14 really at the table discussing that. I couldn't give you an  
15 exact, who carried what burden, at what point in time.

16 Q You certainly were drawing several versions of District  
17 15, in the days leading up to ultimate adoption?

18 A I'm sure I would have. I couldn't say what all those  
19 specifically looked like. But I'm sure I did.

20 Q If we could pull up Exhibit 304. And the bottom e-mail,  
21 please.

22 Now, this is an e-mail from your boss, Commissioner  
23 Graves, on the 13th of November, to Commissioner Sims, and  
24 copying, again, you and Commissioner Sims' staff. It's in  
25 response to a proposal that Commissioner Sims had sent. Do

1 you see that?

2 A I see the e-mail. Correct.

3 Q And do you see where Commissioner Graves says to  
4 Commissioner Sims, basically, I'm sending you a version of  
5 the CVAP district, the number has been changed from 14 to 15,  
6 and then, "It's not the just below 2019 CVAP you proposed,  
7 but instead it's at just over 50 percent CVAP." Do you see  
8 that there?

9 A I do.

10 Q Do you recall that Commissioner Sims was sending proposals  
11 at this date, two days before the adoption, that had a  
12 district, that was District 15, that was not majority Latino  
13 by CVAP?

14 A I do faintly recall something like that. I could not tell  
15 you what the map looked like. But I do recall that -- that  
16 coming up.

17 Q So during your direct examination, I recall that you  
18 testified that having a majority Hispanic by CVAP district,  
19 was a requirement to get the support from the Democrats and  
20 the Republicans. And I'm curious, because Commissioner Sims  
21 was sending proposals that were not majority CVAP. And as  
22 this reflects, Commissioner Graves was bumping them up to  
23 over majority. What did you mean when you said that it was a  
24 requirement for the Democrats and the Republicans?

25 A This was a good reminder. Actually, I had completely

1 forgotten that there had been a proposal like that. So as we  
2 see these e-mails, that does come back to me here.

3 My broad recollection was that the Senate Democrats and  
4 the House Democrats, although apparently this was a little  
5 contradictory, weren't going to vote for a map that did not  
6 have a majority Hispanic CVAP district, in the greater Yakima  
7 Valley region. That was the best of my recollection. But  
8 obviously this is reminding me of some new things, obviously.  
9 Like I said, there were hundreds of these proposals.

10 Q And I wouldn't hold you to remember all your e-mails. But  
11 certainly what this shows us is that, at least from  
12 Commissioner Sims' perspective, she was willing to -- she was  
13 proposing maps that were not a majority, right?

14 THE COURT: I don't know that he can say that. It  
15 says what it says. Right? Maybe Commissioner Graves said,  
16 "just below," when he meant, "just above," you know. It's  
17 just unclear.

18 JUDGE VANDYKE: Can I ask a question about this,  
19 before we move on?

20 You were working for Paul Graves.

21 THE WITNESS: That's correct.

22 THE COURT: Who is -- I'm sure he's not in there  
23 making the maps, using the software. Who is making these  
24 maps that he is circulating?

25 THE WITNESS: I think in this particular one -- so I



1 would often draft the maps that he requested. And you can  
2 see, say, Osta there. So Osta was in a similar position, as  
3 I was, for Commissioner Sims. She did, as far as I know, a  
4 lot of the drafting for April Sims. And I think the map that  
5 Paul would be talking about here, again, I don't have the  
6 e-mail and the attachments in front of me, it appears that  
7 that probably would have been a map that Osta would have  
8 drafted, for Commissioner Sims. I don't know if that answers  
9 your question.

10 JUDGE VANDYKE: But you're sending one. I assume  
11 there was a map attached to this e-mail, coming from -- it  
12 says, "Two corrections we made to CVAP." Does this e-mail  
13 reflect its own map, that's different than the --

14 THE WITNESS: I can't see if there's any attachments  
15 here.

16 Q (By Mr. Gaber) I think I can assist. The commissioner --  
17 the email below -- he sent two e-mails in a row. He is  
18 saying, "Anton is going to send an E-zip," which I believe is  
19 what was generated from Edge; is that right?

20 A Likely. I can't say for sure.

21 JUDGE VANDYKE: So kind of my question, in a  
22 circumstance where that happened, it was often you that was  
23 making -- that was actually making the maps, if Graves was  
24 sending a map over to Sims?

25 THE WITNESS: Right. Typically we'd have a meeting

1 with them, figure out something that Commissioner Graves  
2 would like to see on the next map. Maybe it's likely some  
3 compromise. He'd direct that to me. I'd help put that  
4 together. Give him the attachment. Then he can review it  
5 and send it.

6 JUDGE VANDYKE: Sometimes when you were making these  
7 maps, were you -- reading these e-mails, it's like you're  
8 very cognizant of the racial composition for the map you're  
9 making.

10 THE WITNESS: Correct.

11 JUDGE VANDYKE: So this is a good question to ask  
12 you, because you were making some of the maps. You were  
13 looking at and designing the map to hit a certain racial  
14 minimum number; is that correct?

15 THE WITNESS: Certainly not a set number,  
16 necessarily. But there would -- we'd be cognizant of that,  
17 especially considering that we thought that a Hispanic  
18 majority CVAP district would likely be necessary, to get  
19 votes of all four commissioners. So it was certainly  
20 something we were aware of.

21 JUDGE VANDYKE: To the extent you were taking that  
22 into consideration, what would be the reason you would be  
23 taking that into consideration?

24 THE WITNESS: Because that was something Commissioner  
25 Graves was looking for.

1 JUDGE VANDYKE: And do you know why he was looking  
2 for that? Did he tell you why?

3 THE WITNESS: I am thinking that he would have  
4 assumed that that would be a requirement, to get all four  
5 commissioners to vote on that final version of a map.  
6 Essentially that was needed to pass a final map.

7 THE COURT: You want to finish up, counsel?

8 MR. GABER: I have a bit more, Your Honor.

9 Q If we could please pull up Exhibit 487.

10 Now, Mr. Grose, this is -- this will not be something  
11 you've seen before, but it's an admitted exhibit in the case.  
12 It's a summary compilation of a number of maps that you drew  
13 for Commissioner Graves, starting on November 7th, and then  
14 November 11th, 12th, and then ultimately what became the  
15 enacted plan. And if we could turn to the last page, please.

16 So what you see here is sort of joining together the  
17 area of the map in gray, that did not change at all across  
18 those series of maps that you drew. And then in green, the  
19 territory that was added to the map. And in red, the  
20 territory that was removed, across that -- basically from  
21 November 7th, up to the enacted plan. Does that make sense  
22 to you?

23 A It does.

24 Q And as you can see -- and is this your recollection, that  
25 sort of with the exception of the boundary along the Yakima

1 River, there were a series of sort of territory put into the  
2 district, territory taken out of the district, as you worked  
3 towards that final map?

4 A Sorry. Could you say that one more time?

5 Q Sure. I guess my point is that, so the Yakima River  
6 boundary, that stayed pretty constant, right? You didn't  
7 change anything in that boundary, right?

8 A It doesn't appear so.

9 Q But for the rest of the district, there was areas where  
10 there's territory added and removed across the boundaries of  
11 -- if we think about it as a square, it would be the other  
12 three sides?

13 A It appears that way.

14 Q And if we can go to -- I want to go back to sort of the  
15 first sort of comparison from November 7th to November 11th.  
16 And this is Page 3. And this is the data chart that  
17 accompanies the areas that are added and removed. So do you  
18 see here that on November 7th, it was at 50.9 percent  
19 Hispanic CVAP. When we went to the next iteration on  
20 November 11th, it dropped to 50.3 percent?

21 A I see that.

22 Q Is that -- did Commissioner Graves -- because you were  
23 doing this at Commissioner Graves' direction, I think you  
24 testified about that, right?

25 A Correct.

1 Q Did he tell you that you should take the version of  
2 District 15 that had been drafted, and drop the Hispanic CVAP  
3 closer to a sort of exact?

4 MR. STOKESBARY: Objection, hearsay.

5 THE COURT: Overruled. You can answer.

6 A I cannot recall. As I had testified to, I suppose in my  
7 deposition, this was a really rapidly developing point in  
8 time, where we were putting these maps together. So I'm  
9 certain there were many, many small changes in all of the  
10 districts, you know, small populations. Clearly, one of the  
11 major purposes of redistricting, to make sure these are all  
12 equalized in total population. So I could not recall if this  
13 district -- specifically, if that was something he had asked  
14 me to do or not. I couldn't say.

15 Q Okay. Do you recall whether he told you that VRA  
16 compliance meant, like, a particular pinpointed number over a  
17 majority?

18 A I don't recall any conversations like that.

19 Q Now, to get from 50.9 to 50.3, you see that in the sort of  
20 middle of this chart, the added area was 81.7 percent white  
21 CVAP. By contrast, the removed area was 45.2 percent  
22 Hispanic. Do you see that?

23 A I do see that.

24 Q And this is, you know, moving a little under 6,000 people  
25 back and forth?

1 A Correct.

2 Q And does that sort of -- that like -- that number of  
3 people, this sort of small -- would you characterize it as  
4 kind of small tweaks, as you got closer to the 15th, that was  
5 the number of people you were moving in District 15?

6 A Are you asking if this number, the numbers that were added  
7 or removed, were small numbers in comparison to the district  
8 as a whole?

9 Q Right.

10 A Right. Over one and a half percent, likely.

11 Q If we can go to the next page, please. And this is now  
12 moving forward to the next iteration, from November 11th to  
13 November 12th. That was the very next day. Here, again,  
14 what this shows is, one, the renumbering from 15 to 14. Do  
15 you know why that happened?

16 A Like I said earlier, I can't recall. I mean, the e-mail  
17 that we looked at the most, that I knew about that change, I  
18 don't know if that was a decision that -- it sounds like it  
19 came from Commissioner Graves. I don't recall it  
20 specifically. To me that makes sense, to have it as the  
21 15th. And from a personal standpoint, that's where the  
22 majority of the population from the old 15th would still be,  
23 in this 15th.

24 So no other place on the map did arbitrarily change those  
25 numbers. If the majority of the population from the old

1 district was going to be in the new district, that wouldn't  
2 have made much sense. I don't know if that was his thinking  
3 as well. I can't testify to that.

4 Q That would change whether the Senate election occurred in  
5 the presidential year, or the midterm year, right?

6 A From a practical standpoint, that would have been the  
7 change. But, again, we did not do that exercise on any other  
8 district. I'd have to go look at a comparison. But I'm  
9 assuming the vast majority of the population of the old 15 to  
10 the new 15, I'd say in any other place in the state, we would  
11 not have made that change. Even districts that changed  
12 pretty drastically, we didn't switch numbers arbitrarily.

13 Q And 15 would mean it's in the midterm year -- 14 would be  
14 the presidential; 15 would be the midterm. Do you recall  
15 that?

16 THE COURT: We know that already. We don't have to  
17 ask that of every witness.

18 Q So if you could turn to the next page, please. And,  
19 again, the change here, between the 11th and 12th, this drops  
20 from 50.3 to 50.2. Was there a time when you recalled being  
21 told to increase the Hispanic population in the district,  
22 during this sort of last set of days?

23 A I can't recall specifically about -- again, this was a  
24 frenzied time. I'll put it that way. I cannot recall  
25 specifically.

1 Q Then if we could go to Page 7, please. This is the final  
2 change, I guess, between the 12th, and the enacted map. And  
3 one thing that happened here, was a precinct in Yakima was  
4 split. And this is an image of that precinct there. Do you  
5 recall splitting -- what was -- do you recall what the reason  
6 for splitting the precinct was?

7 A We would typically only split precincts, when we needed to  
8 get to that very finite differential. Off the top of my  
9 head, I believe 157,000 was roughly the number that we had to  
10 get to, to reapportion the districts correctly. That would  
11 typically be the only time we would split precincts.

12 Because, as I mentioned earlier, it's very tedious, building  
13 these maps by census blocks. I can't tell you precisely why  
14 we did that.

15 Q Ultimately, do you recall that 15 was at 50.02 percent,  
16 based on the 2019 numbers that you had?

17 A I knew it was close to 50. I didn't know the precise  
18 number.

19 Q Now, on the evening of the 15th of November, after the  
20 commissioners -- I think we haven't figured this out yet in  
21 this trial. Was it around 8:30 p.m. that there was sort of  
22 an agreement that the commissioners came to, of a framework  
23 of various kind of principles for the map? Does that seem  
24 right to you?

25 A It seemed to be later evening. I couldn't say



1 specifically what time it was. As I recall, they walked into  
2 the room and said, "We have an agreement. Get to work."  
3 Which then was a lot of work after that.

4 Q And was it the case that once the agreement was come to,  
5 that you started working on implementing what you thought  
6 that agreement to be, and that was separate from the  
7 Democratic staff working on what they thought that would be,  
8 up until the point of the vote. Do I have that right?

9 A Can you say that one more time? Maybe rephrase that.

10 Q Yeah.

11 What I understand is that after the vote, you worked  
12 together with Ms. Davis, who was Ms. Sims' staff?

13 A Correct.

14 Q Before the vote, you were separately working on creating  
15 maps that you both thought to be what the framework was; is  
16 that right?

17 A If it was before the vote, we wouldn't have had a final  
18 framework to work off of. I think we were still in the midst  
19 of putting proposals together. There was some, I'll call it,  
20 quiet time, between when we'd go into discussions, and not.  
21 And we wouldn't have much direction to work. And we were  
22 hours before the deadline, six hours at that point. We  
23 didn't know if there was going to be a final map, so we were  
24 the staff in the dark, at that point in time.

25 Q Overnight, you were with Ms. Davis, and you were merging

1 together sort of two versions of the framework, and making  
2 them fit. Is that correct?

3 A I couldn't recall if we were merging two. It seems like  
4 we were largely working from scratch, at that point in time.  
5 But we'd be there for -- we had been up for many, many days,  
6 at that point in time. So it's tough for me to recall  
7 specifically how that worked.

8 Q Did one of you primarily have your hand on the mouse, or  
9 was that you or Ms. Davis, or a combination?

10 A We would trade on and off at certain points, to make sure  
11 that, you know -- I think we both trusted each other. I have  
12 a lot of respect for Osta. Very smart. So we internally had  
13 that trust. But you kind of want to verify, also, whatever  
14 movements are being made. So we made a habit of trading on  
15 and off, of assigning precincts, or blocks, or things like  
16 that.

17 Q And there were times when the framework wasn't  
18 self-executing, right? You had to make decisions of how to  
19 accomplish the framework?

20 A I think we both had a very good idea on 99.9 percent.  
21 There might have been some small touches, you know, that the  
22 commissioners weren't privy to, necessarily, adding 50 people  
23 here, to get to our population deviation. But I think at  
24 that point in time, we were familiar enough with what the  
25 commissioners had intended, with what they were saying. So

1 we'd do our best to execute on that.

2 Q But there were times when you called over the  
3 commissioners to help make that call, right?

4 A I believe so. I believe there were multiple times we had  
5 spoken with commissioners about -- we're talking very, very  
6 small things, generally. But I do believe we had some  
7 questions for them, at times.

8 Q And that would just be Commissioner Graves or Commissioner  
9 Sims. It wasn't like you -- you didn't bring the whole  
10 Commission over?

11 A Not that I can recall. Again, it was very late in the  
12 evening, and we had been working for many days at the time.  
13 So all of that was very rushed.

14 Q And when you say, not that you recall, you don't recall  
15 the whole Commission coming over. You recall individual  
16 ones?

17 A Yeah. I just can't remember specific details about how  
18 all of that worked. But I do -- as I recall it, we had  
19 feedback from time to time, from them, if we had a question,  
20 you know, if we were concerned that we might be doing  
21 something incorrect, not to their vision; if that makes  
22 sense.

23 MR. GABER: And I am just about done, Your Honor. I  
24 have one small exercise. If I could have the mouse. That  
25 could be dangerous.

1           Actually, if we can first pull up Exhibit 486.

2       Q    So, Mr. Grose, one thing that has happened in this  
3       litigation is Dave's Redistricting App was sent a subpoena,  
4       and turned over various records. Among them are the sort of  
5       revision history of the final map that was drawn.

6       A    Um-hum.

7       Q    And so you see there, there's a map zero at 11:58 p.m., on  
8       the 15th. Then the next sort of saved change to that is at  
9       1:51 a.m. on the 16th. Do you see that?

10      A    I do.

11      Q    And what Dave's would do, the system would save, sort of  
12      freeze in time what happened. And then we'd have a  
13      freeze-frame, as time went on. And this goes on through all  
14      the changes, through the day. I want to draw your attention,  
15      though, to the first change that happened, saved at  
16      1:51 a.m., and I will show that on the screen.

17            So I have, on the screen, displayed now map zero. And  
18      this one is a little bit -- I'm going to try to make this  
19      less confusing. I'm going to take off the precinct lines.  
20      You see the old districts overlaid over that?

21      A    Correct.

22      Q    Did you have the old districts overlaid, as you were  
23      working on finalizing?

24      A    I knew we could use that, just to see just how different  
25      these final maps were going to be, making sure that we were

1 cohesive in areas that we didn't intend to change, right? It  
2 seems obvious. But at that block level, you want to make  
3 sure that you are being exactly correct. So this was helpful  
4 for that exercise.

5 Again, not just exclusively for the 14th or 15th, but the  
6 map holistically.

7 Q I've selected -- you see the district selector on the  
8 left, where you can choose which district you're going to  
9 work on, or look up?

10 A That's correct.

11 Q I've selected 15. Do you see under the CVAP, the citizen  
12 VAP, 2019 section of the district details, it lists the CVAP  
13 as 50.0 percent?

14 A I do see that.

15 Q How did you know that it was actually over a majority?

16 A I cannot recall at the time, if that was so. I suppose  
17 you could look at the specific population numbers, according  
18 to the estimate of 34,684, and multiply that by two. And if  
19 that's greater than the total population, you knew it was  
20 over the 50 percent threshold.

21 Q Since that was the directive, is that something you did?

22 A I cannot recall specifically at that point in time.

23 MR. GABER: No further questions, Your Honor.

24 THE COURT: Are you good to go, or do you need a  
25 break?

1 All right. Mr. Hughes, do you want to finish things up  
2 here?

3 MR. HUGHES: My pleasure, yeah. I am "pen  
4 Spartacus." You'll have to explain that to your colleagues,  
5 Your Honor.

6 THE COURT: Not worth my time.

7 CROSS EXAMINATION

8 BY MR. HUGHES:

9 Q I'm going to get plugged in now, so I don't disrupt my  
10 flow.

11 How are you doing this afternoon, Mr. Grose?

12 A Surprisingly good.

13 Q Most fun you can have under oath, right?

14 A Something like that.

15 Q All right. So this is why I do this first. All right.  
16 I'm ready, Mr. Grose, if you are.

17 I want to start by talking about the process you used  
18 in drawing maps, not perhaps in as much detail as Mr. Gaber.  
19 But when you drew a map, what guidelines would you be  
20 following, as far as statutory, constitutional guidelines?

21 A Well, certainly those were some of the guidelines, right?  
22 You have -- I'm trying to think of the easiest way to say  
23 this. There are many, many different ways you could draw  
24 maps that were compliant, both with state constitution and  
25 state statute as well, right? I think there's hundreds,

1 maybe thousands of different correct versions of a map that  
2 you could draw on specifics, on, say, when I'm drafting a  
3 map, right, that I'm taking direction from Commissioner  
4 Graves on specifically what areas to include and not include  
5 in a specific district, kind of inform him of the  
6 ramifications for doing so.

7 I think it's important to keep in mind, for anyone that  
8 hasn't drawn maps, you make one change to one district, that  
9 can impact all of the other 48 districts. So you have to  
10 figure out how to reconcile those, essentially.

11 Q And would the statutory and constitutional requirements,  
12 would those be first and foremost in drawing a map?

13 A Correct.

14 Q So you ensured the populations of a district were roughly  
15 equal?

16 A Correct.

17 Q You ensured that district boundaries followed local  
18 political subdivisions, as much as possible?

19 A Correct.

20 Q You would ensure that a community of interest be kept  
21 together, as much as possible?

22 A Correct.

23 Q That county and city splits were minimized?

24 A Correct.

25 Q That districts were compact and contiguous, as much as

1 possible?

2 A As much as possible, correct.

3 Q That's not always easy, in rural areas, I imagine.

4 A Well, rural areas. But we are also a very geographically  
5 diverse state; mountain ranges, islands, in particular, are  
6 challenging. I think I used a reference in my deposition,  
7 it's not like redistricting Oklahoma, it might be a lot more  
8 easy than Washington State.

9 Q Is it fair to say that as districts moved further away  
10 from Puget Sound, and further away from Spokane, they tended  
11 to get a little more sprawling?

12 A They do.

13 Q Back to the real considerations. Would you ensure that  
14 districts were contiguous?

15 A Legally, they had to be, correct.

16 Q I think you mentioned there's some exceptions to this, but  
17 as much as possible, that precincts are kept whole?

18 A As much as practical, correct, yeah.

19 Q And that prioritizing of statutory requirements, that  
20 didn't change throughout the process?

21 A No.

22 Q Fair to say that every map you drew for Commissioner  
23 Graves, as far as you understand it, complied with those  
24 statutory requirements?

25 A I think some were likely more -- some of these are



1 subjective, right? But to the extent that was possible, we  
2 did our best to try to comply with those.

3 Q Including in the final map that you drew?

4 A Correct.

5 Q And aside from the statutory requirements, were partisan  
6 concerns another thing that you would be thinking about, in  
7 drafting maps?

8 A It certainly was; as I mentioned several times earlier  
9 today, the process that we have requires lots of compromise  
10 and agreement. One could argue that it's the reason why this  
11 process works very well. You can't have a lot of political  
12 gamesmanship, when both sides have an equal seat at the  
13 table. They both can veto the process, or accept the  
14 process. And that typically leads to small, if any, real  
15 political changes on the map.

16 So we were aware of it to the extent that we knew the  
17 other side would be aware of it, and kind of watchdogged each  
18 other on that particular point.

19 Q Sure. But you worked through the House Republican Caucus,  
20 correct?

21 A Correct.

22 Q You worked for a Republican commissioner, who had  
23 previously been a Republican elected member of the state  
24 legislature?

25 A Correct.

1 Q You personally are Republican?

2 A Conservative, yes.

3 Q So naturally, you would try to draw maps that performed  
4 well for Republicans; is that right?

5 A Correct.

6 Q And presumably, folks on the other side would try to draw  
7 maps that performed well for Democrats, right?

8 A Correct. I think the draft maps, by all the  
9 commissioners, would all verify that.

10 Q And I believe you said this in your deposition, but you  
11 were also trying to draw, you and Commissioner Graves -- you,  
12 at Commissioner Graves' direction, were also trying to draw  
13 majority-minority districts where you could, correct?

14 A Correct.

15 Q And why was that?

16 A I think there was a lot of unanimous support for that,  
17 among the commissioners. Certainly there had been large  
18 minority population gains in the State of Washington, since  
19 2010. That was pretty obvious early on, just from both the  
20 ACS, the OFM data we had been working from, that seemed very  
21 obvious, the final census data really bore that out. So we  
22 felt that there were some communities in the kind of greater  
23 Puget Sound area, that had seen a lot of minority population  
24 growth as well. And it's -- you know, assuming that those  
25 can be compact, contiguous districts, that didn't disturb

1 communities of interest along the way, it seemed that was the  
2 right thing to do. I think that should be speaking for the  
3 sentiment of all the commissioners. It seemed like there was  
4 unanimous support for that.

5 Q Okay. Mr. Grose, I want to go back through a few things  
6 that were touched on in your prior examination, and then I'd  
7 like to move to look at the final map with you.

8 So let's talk about the Barreto report, first. I  
9 believe you said that you were unsure if you had seen the  
10 full version of the report, or the abridged version of the  
11 report. Did I recall that correctly?

12 A I did not know -- I thought there was only one version,  
13 until today.

14 Q Are you aware whether Commissioner Graves saw the full  
15 version?

16 A I don't know for sure.

17 Q Let's talk about Exhibit 304, which I'll pull up for you  
18 now. You mentioned in, I think -- in response to someone's  
19 questions, that you understood the 2019 ACS number  
20 undercounted Latino CVAP; is that right?

21 A As I recall, that's correct.

22 Q Do you know whether that view was shared by others?

23 A Now we're getting into real nitty-gritty. I don't know if  
24 it was or not. It seemed pretty obvious, from the data sets  
25 themselves, when comparing them, that the 2019 ACS had pretty

1 severely undercounted the minority populations, in comparison  
2 to the 2020 census. Obviously there's different methods for  
3 asking, I believe, both ethnicity and racial questions on  
4 that survey. So that may have something to do with it, as  
5 well. But it was pretty apparent there was some large  
6 discrepancies.

7 Q And fair to say -- you're not going to like that question,  
8 Your Honor, I'm going to skip it.

9 Let's move on. Mr. Grose, you were showed charts  
10 showing that Commissioner Graves' maps, in the past week or  
11 so, got slightly more Republican. Do you recall that?

12 A Correct.

13 Q This was Exhibit 487. And at the same time, they also got  
14 slightly whiter; is that right?

15 A Correct.

16 Q And Mr. Gaber made the point earlier in your testimony,  
17 that ethnicity correlates pretty strongly with partisan  
18 performance. Do you remember that?

19 A Historically speaking, correct.

20 Q And in the analyses that you -- in the data that you were  
21 looking at, ethnicity and partisan performance were pretty  
22 closely correlated?

23 A There was a correlation, correct.

24 Q So that any change, is it fair to say -- let me start  
25 over. Is it fair to say, then, that any change in the

1 partisan composition of a district, was likely to affect the  
2 ethnic composition of that district?

3 A In that area of the world in particular?

4 Q In that area of the world.

5 A Likely.

6 Q So let's talk about the final maps. You were one of the  
7 people drawing final maps to submit to the legislature. I  
8 think that's well established. When you were drawing the  
9 maps, in the early morning hours of November 16th, you were  
10 similarly prioritizing statutory factors, as you've done all  
11 along?

12 A Correct.

13 Q While also trying to meet the partisan metrics agreed to  
14 by the commissioners; is that right?

15 A Correct.

16 Q While also trying to ensure the district was majority  
17 Hispanic by CVAP?

18 A Correct.

19 Q So let's look at the map. And I'm showing you what's been  
20 marked as -- what's been admitted as Exhibit 520. There's a  
21 link there. And I have done you the kindness of already  
22 clicking on that link.

23 Oops, what's that district? Where was I? So this link  
24 pulls the maps up in Dave's Redistricting. Do you see that?

25 A I do.

1 Q And just to make this easier to view, I've turned off --  
2 what did I do here? I turned on the city lines, and I turned  
3 off the district lines, to make it easier to see. Do you see  
4 that?

5 A I do.

6 Q And here we have the -- 15 is this yellow district, right  
7 in the middle; is that right?

8 A Correct.

9 Q This cyan district, light blue district, is 14, right?

10 A Correct.

11 Q Orange is 13?

12 A Correct.

13 Q And then this sort of royal blue down at the bottom, that  
14 would be 16. Yeah?

15 A Correct.

16 Q So let's zoom in on the Yakima area, first. So there are  
17 a few city splits here, correct?

18 A There are.

19 Q So Yakima had to be split, for population purposes; is  
20 that right?

21 A Can you say that one more time?

22 Q Yakima had to be split, for population purposes, so the  
23 districts could have enough population?

24 A Mostly on a racial basis, Yakima was split. Obviously, if  
25 you put on the shading that was demonstrated earlier, you

1 would see that this portion of Yakima has very large Hispanic  
2 populations.

3 Q The City of Terrace Heights was also split. Do you see  
4 that?

5 A I do.

6 Q Moxee was split. But Selah is intact, within the 14th?

7 A It appears that way.

8 Q Gleed was intact, within the 14th?

9 A Correct.

10 Q Summitview?

11 A Correct.

12 Q Ahtanum?

13 A Correct.

14 Q Union Gap is intact in the 15th?

15 A Correct.

16 Q As we move on down Highway 82. Parker, Donald, both  
17 intact in the 14th and 15th, respectively?

18 A Correct.

19 Q And Wapato, Toppenish, Buena, Zillah, Granger, all intact,  
20 right?

21 A Correct.

22 Q And this line here between the two districts, is that also  
23 the line between the Yakima Nation and not the Yakima Nation?

24 A I believe it follows that line exactly.

25 Q And so the decision to draw the line here, preserves the

1 Yakima Nation intact; is that right?

2 A That was a big point of public input we had received  
3 throughout the process, and we wanted to -- in fact, I think  
4 on the overall final map, I don't think a single tribal  
5 reservation was split in any way. I think they're wholly  
6 within a district on this newly adopted map.

7 Q Wapato and Toppenish are both on the Yakima Reservation?

8 A Correct.

9 Q That explains why they're in 14, not 15, correct?

10 A Correct.

11 Q Moving down, Granger, Sunnyside, Mabton, Grandview, all  
12 intact in a single district?

13 A Correct.

14 Q To keep going, Prosser is intact in 16?

15 A Correct.

16 Q So cities are largely kept intact, in the lines that were  
17 drawn by the Commission. Fair to say?

18 A Correct.

19 Q And just for fun, let's move to another district, and  
20 let's pick my in-laws' district. This is the 31st.

21 Mr. Grose, do you know who represents the 31st?

22 A I do.

23 Q Are they in the courtroom right now?

24 A One of them is, correct.

25 Q You see here, Lake Holm is split?



1 A Say that one more time.

2 Q You see Lake Holm right here is split?

3 MR. STOKESBARY: Objection, Your Honor, assumes facts  
4 not in evidence. Lake Holm is not a city.

5 Q You see the community of Lake Holm is split?

6 A Correct. Not a formal incorporated.

7 Q Auburn is split?

8 A Correct.

9 Q Pacific is split?

10 A Correct. I believe that's along the Pierce/King County  
11 line.

12 Q Alderton is split?

13 A Not a city. But it's split. Correct. Yeah.

14 Q Tehaleh is split?

15 A Also not a city. A neighborhood, I believe.

16 Q Nonetheless, split?

17 A Split, yeah.

18 Q Crocker is split?

19 A Correct.

20 Q So the splits that we do see in the 15th, they're not  
21 necessarily anomalous, if you look at other districts, right?  
22 You can do this with other districts, but I picked this one.

23 A To the extent that we could not split cities -- granted,  
24 some cities are over 157,000 in population, 157,250, whatever  
25 it was, they are greater in population than that, thus they

1 had to be split. To the extent we could avoid splits, that  
2 was something I think that was unanimously supported by the  
3 commissioners, so we could stay true to what the statute  
4 required.

5 I'd say that's correct, it did happen in other places.  
6 But pretty rarely.

7 Q One final thing I want to ask you about -- I keep wanting  
8 to call you Commissioner Grose -- Mr. Grose, when you were  
9 drawing this final map, did you ever intend to dilute  
10 Hispanic voting power?

11 A Absolutely not.

12 Q What did you intend to do?

13 A On the final map?

14 Q Yes.

15 A In regards to District 15?

16 THE COURT: Yes.

17 Q Yes.

18 A We intended to draw a map that would get the votes of all  
19 four commissioners, that there would be a compromise on it.  
20 Especially nearing the end, the greater threat of the map  
21 going to the State Supreme Court, we wanted to find as much  
22 compromise as possible, and due diligence, to do the work of  
23 the people of the state. Our duty was to agree upon a final  
24 map that will hopefully last ten years.

25 Q Notwithstanding that you're sitting here testifying in a

1 lawsuit; do you feel good about the work you did?

2 A Despite the lawsuit, I think we're very proud of the work  
3 that we did.

4 Q You worked closely with Commissioner Graves throughout the  
5 redistricting process?

6 A Correct.

7 Q Got to know him pretty well?

8 A I'd like to think so.

9 Q I'm not asking you to speak for what's in his head, or  
10 heart, but based upon your interactions with Commissioner  
11 Graves, do you believe that he intentionally discriminated  
12 against Hispanic voters, in his work as a commissioner?

13 MR. GABER: Objection, Your Honor.

14 THE COURT: It's his opinion, but I'll allow it.

15 A Absolutely not. As I mentioned earlier, we had every  
16 intention of moving into this process, by ensuring we could  
17 draw as many majority-minority districts as possible; given  
18 the population changes and demographic changes that happened  
19 over the last ten years, I think that was really apparent.  
20 We did everything we possibly could, to that end, to make  
21 that happen. I think the other commissioners appreciated  
22 that fact. I think it made our working with them much, much  
23 easier. We could align those priorities, certainly.

24 Speaking, in my opinion, of Commissioner Graves and his  
25 political philosophy, I think he's very pragmatic, very

1 conscientious of these types of social issues. Again, you'd  
2 have to speak to him to ask him those things, but that would  
3 be my opinion of my time with him, and kind of what I  
4 gathered.

5 Q And just to respond to, I think Mr. Gaber's objections.  
6 Did Mr. Graves ever tell you, draw district thus in such a  
7 way to reduce the Hispanic population?

8 A Not that I can recall, no.

9 MR. HUGHES: No further questions. Thank you very  
10 much.

11 THE COURT: All right. Thanks very much, Mr. Grose.  
12 You are excused, and you can step down. Thank you.

13 All right. So I've taken a look at this proposed  
14 Exhibit 611, and it was very interesting to read. Apparently  
15 there was a three-judge panel in the early 1960s, here in the  
16 Western District of Washington in the case of *Thigpen v.*  
17 *Meyers*. And I had a chance to look at that case, which  
18 actually went up to the U.S. Supreme Court, and back, and  
19 back to the district court. It's kind of interesting. Have  
20 you looked at it yet, LB? Yeah. Very interesting stuff. So  
21 this is from the Secretary of State's office, the Oral  
22 History Project?

23 MR. HUGHES: My understanding is it comes from the  
24 legislature.

25 THE COURT: It's pretty well done, considering it

1 comes from the legislature.

2 MR. HUGHES: Mr. Millstein is not even here, Your  
3 Honor.

4 THE COURT: Obviously this is more like history  
5 background, not evidence in this case. But what is the  
6 objection to it?

7 MR. DUNN: We agreed yesterday, by e-mail, to its  
8 admissibility. We maintain objections that we don't have an  
9 author, or sources, but we don't have any reason, at this  
10 point, to challenge the exhibit.

11 THE COURT: How about intervenors?

12 MR. HOLT: No, Your Honor. We're okay with it.

13 MR. HUGHES: Let me make a finer point. There's  
14 three sentences in here that we wanted, and we believe  
15 they're appropriate for judicial notice. And we told the  
16 parties this the other day. I could point those out to you  
17 now, and you could take judicial notice.

18 THE COURT: Sure. Go ahead.

19 MR. HUGHES: They are on the last two pages. In  
20 1991, the Commission finally decided on a redistricting plan,  
21 just 44 minutes before their January 1st deadline. And we  
22 think that's appropriate for judicial notice.

23 JUDGE VANDYKE: What page is that?

24 THE COURT: Second to the last.

25 MR. HUGHES: It's not well numbered. Sorry, Your

1 Honor.

2 THE COURT: Got it. Okay. On the last page?

3 MR. HUGHES: On the following page, right about  
4 halfway through the first paragraph, it says -- they're  
5 talking about 2001. "The Commission missed its statutory  
6 deadline, but did pass a plan before the constitutional  
7 deadline. At the request of Attorney General Christine  
8 Gregoire, Governor Gary Locke signed legislation that amended  
9 the statutory deadline and allowed retroactive passage of the  
10 Commission's plan." Basic history we think is appropriate  
11 for judicial notice.

12 THE COURT: Those are facts. We can take judicial  
13 notice of that. I actually know a lot of these people, too.  
14 This is great. Kay Becker, Shelly Yapp, Bill Polk, Veda  
15 Jellen, John Giese, Dean Foster, Dick Derham. Davis Wright  
16 Tremaine, Dick Derham. Okay. We will do that.

17 And we admit 611 into evidence.

18 (Exhibit 611 was admitted.)

19 THE COURT: And we are adjourned for the day.  
20 Tomorrow morning we'll start again around 8:30, and plow  
21 through. And if you have any administrative matters, let's  
22 deal with them tomorrow morning. Okay. Great.

23 JUDGE ESTUDILLO: My only comment is, if we are going  
24 to be breaking at 3:30 tomorrow, let's not do that, let's  
25 bring in a witness so we can get done this week, because

1 otherwise I feel like we've just --

2 THE COURT: Wasted an hour.

3 JUDGE ESTUDILLO: Exactly.

4 THE COURT: All right. Thank you.

5 (Adjourned.)

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