

**IN THE SUPREME COURT OF OHIO**

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**Regina C. Adams, *et al.*,**

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

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**Case No. 2021-1428**

**Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)**

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**League of Women Voters of Ohio, *et al.*,**

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

---

**Case No. 2021-1449**

**Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)**

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EXHIBITS APPENDIX E -  
A. PHILIP RANDOLPH INSTITUTE V. SMITH DEPOSITIONS  
Volume 1 of 3**

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO

OHIO A. PHILLIP RANDOLPH )  
INSTITUTE, et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
RYAN SMITH, Speaker of the )  
Ohio House of Representatives, )  
et al., )  
 )  
Defendants. )  
-----)

- - -  
Friday, December 7, 2018  
- - -

Deposition of CLARK BENSEN, taken at the offices  
of Covington & Burling, 850 Tenth Street N.W.,  
Washington, D.C., beginning at 9:01 a.m., before  
Nancy J. Martin, a Registered Merit Reporter,  
Certified Shorthand Reporter.

Job No. 151503

CLARK BENSEN

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1 CLARK BENSEN

2 WASHINGTON, D.C., FRIDAY, DECEMBER 7, 2018; 9:01 A.M.

3 - - -

4  
5 CLARK BENSEN,

6 having been first duly sworn,

7 was examined and testified as follows:

8  
9 EXAMINATION

10 BY MR. FRAM:

11 Q. Would you please state your full name for the  
12 record.

13 A. Clark Bensen, C-l-a-r-k, B-e-n-s-e-n.

14 Q. Do you have a middle initial?

15 A. H.

16 Q. It turns out to be relevant on some  
17 documents. That's the only reason why I'm being picky  
18 there.

19 My name is Robert Fram. My middle initial is  
20 D, but I don't know if that matters. I represent the  
21 plaintiffs.

22 MR. FRAM: And do the other folks want to say  
23 who they are?

24 MS. McKNIGHT: Good morning. Kate McKnight  
25 from Baker Hostetler on behalf of Mr. Bensen.

1 CLARK BENSEN

2 MS. RIGGINS: Alyssa Riggins from Ogletree  
3 Deakins on behalf of the legislative defendants.

4 MR. RECHTER: Peter Rechter, Covington &  
5 Burling for plaintiffs.

6  
7 EXAMINATION

8 BY MR. FRAM:

9 Q. Mr. Bensen, have you been deposed before?

10 A. Yes.

11 Q. That will help move things along a little  
12 bit. We won't have to go through some of the litany  
13 of how depositions work with you. About how many  
14 times?

15 A. A dozen either way.

16 Q. And any of them concern redistricting?

17 A. Yes.

18 Q. And any concern Congressional redistricting?

19 A. It's hard for me to say. It's kind of a mix  
20 of legislative or Congressional.

21 Q. Fair enough.

22 Can you please tell us the depositions that  
23 you gave regarding redistricting?

24 A. It would be much easier to read through my  
25 CV, but they started in the '90's. So I must have

1 CLARK BENSEN

2 done three or four in the '90's and five or six in the  
3 2000s. I think in the 2010 cycle I've only done two  
4 depositions. One was Congressional, and one was a  
5 local election.

6 Q. So I'm just going to focus on the 2010, 2011  
7 cycle.

8 A. Yeah.

9 Q. I'm sorry. Did one of those concern  
10 Congressional?

11 A. Well, this.

12 Q. Just this one. Besides this one?

13 A. I'm pretty sure -- it's been a long decade.  
14 I think the only deposition after 2010 was a local  
15 legislative.

16 Q. Have any of the other depositions concerned  
17 Ohio?

18 A. I was deposed in the 1990 cycle in Ohio,  
19 which was, I believe, legislative. And I think --  
20 yeah, I was deposed in 2000, which was Ohio, which I  
21 believe was legislative also. I don't think I was in  
22 2000.

23 Q. Do you remember was -- do you remember  
24 anything about the claim in that case, whether it was  
25 a Voting Rights Act or a racial discrimination case or

1 CLARK BENSEN

2 a parse gerrymander or anything about it?

3 A. Well, not through a partisan gerrymander.

4 The 2000 case was a racial case, Voter Rights Act, and  
5 '90 cycle -- I think actually that was mostly a Voting  
6 Rights Act too.

7 REPORTER MARTIN: A what?

8 THE WITNESS: Voting Rights Act, VRA, we'll  
9 be saying that several times.

10 BY MR. FRAM:

11 Q. Sure. Any reason you can't give complete and  
12 truthful testimony today, such as medication?

13 A. No.

14 Q. Now, I know -- well, let me back up. You  
15 were served with a document subpoena in this case; is  
16 that right?

17 A. Yes.

18 Q. What did you do to comply with it?

19 A. I looked at -- I have multiple computers.  
20 Three basic computers that were running at the time.  
21 I have only one that was around during the 2010 cycle.  
22 So I looked through that for documents and E-mail on  
23 that machine.

24 Q. Okay. What E-mail addresses did you look at,  
25 please?

1 CLARK BENSEN

2 A. The only one I would have used at the time, I  
3 think was my normal one. It was just  
4 CLARK@POLIDATA.ORG. P-o-l-i-d-a-t-a. That's on my  
5 card there (indicating).

6 Q. Do you have a Gmail account?

7 A. I do now, but I didn't then.

8 Q. Did you have any other E-mail accounts back  
9 in 2010, 2011?

10 A. I might have. I mean they were involved in  
11 POLIDATA.ORG. I don't like have a data at  
12 POLIDATA.ORG, but I suspect almost everything I did  
13 would have just been the CLARK@POLYDATA.ORG. It's all  
14 on the same Outlook system.

15 Q. And you looked at that E-mail account?

16 A. Yes.

17 Q. Did you find some E-mail from that in the  
18 2010, 2011 time frame?

19 A. Yes.

20 Q. Okay. You provide those to counsel?

21 A. Yes.

22 Q. Okay. Let's back up for a minute.

23 For a while you were in some direct  
24 communication. You were responding to subpoenas, it  
25 seemed like, on your own and not through counsel, and

1 CLARK BENSEN

2 I can't -- I don't know whether the documents, were  
3 they produced through counsel, or did you produce them  
4 directly yourself?

5 A. The documents were -- I sent the documents  
6 originally to the AG's office so they could figure out  
7 what was privileged since they were the ultimate  
8 client. So they're the ones that wrote up the  
9 privilege log that we discussed.

10 Q. Got it. And the actual documents themselves,  
11 did you ship them out on your own, or was that sent by  
12 the AG's office?

13 A. No, I did that.

14 Q. Do you know if the AG's office withheld  
15 documents on the basis of anything other than  
16 privilege?

17 A. I don't know.

18 Q. What did you do, if anything, to prepare for  
19 today's deposition?

20 A. I glanced at the subpoena.

21 Q. Anything else?

22 A. I looked up on the Internet who pays for  
23 depositions in such cases, who was going to pay me.  
24 And I -- oh, I gave a quick review to the calculation  
25 of the PVI. That's P-V-I.

1 CLARK BENSEN

2 Q. Why don't we say for the record what those  
3 letters stand for, please.

4 A. Partisan voting index.

5 Q. And what did you do to look up the meaning of  
6 PVI?

7 A. I just wanted to remind myself as to whether  
8 if a plus was AD plus or an R plus. It's just a  
9 technical thing, which I always get confused.

10 Q. And what did you find?

11 A. I think I found that fact contrary to normal  
12 situation. If it was a plus 1, that would be in favor  
13 of the Democrats. If it was a minus 1, that would be  
14 in favor of the Republicans.

15 Q. Got it. And while we're on the subject,  
16 because we'll come back to it later just to keep it  
17 simple, what does -- do you have an understanding of  
18 how a PVI number is calculated?

19 A. Yes.

20 Q. How is it calculated?

21 A. We'd just compare the district -- see, the  
22 glare is already hitting. You just compare two  
23 numbers. It's the district percentage of the Democrat  
24 two-party vote, Democrat portion of the two-party vote  
25 to the nationwide Democrat two-party vote, and you



1 CLARK BENSEN

2 take that difference, and it's a question of whether  
3 it's a plus or minus as to whether -- like, again,  
4 minus 1 would have been a D plus 1, but a plus 1 would  
5 have been R plus 1.

6 Q. So if you're looking at a particular  
7 Congressional district, let's say it has a -- we'll  
8 say D plus 1 scoring to it, what would that tell us  
9 about that district?

10 A. It would say that on average -- an average of  
11 the previous two Presidential elections, that district  
12 was 1 point higher than the nationwide Democratic  
13 percentage. So it's an Obama election. So it would  
14 be that Obama ran 1 point higher in that district than  
15 he did nationwide.

16 Q. Right. So it's one point higher for the  
17 Presidential elections in that district the last two  
18 averages; is that right?

19 A. Yes. Well, yeah. Whether it's average or  
20 calculated, but yes, it's the last two.

21 Q. Let's break that down a little bit.

22 Is it your understanding that PVI looks at  
23 the preceding two Presidential elections?

24 A. Yes, that's correct.

25 Q. Okay. And now the question of what they do

1 CLARK BENSEN

2 with those two. Do they average them or do they have  
3 some other way of using those two election results?

4 A. There are several ways to calculate it, but  
5 in essence, they're the same number. It's just a  
6 question of concept. To some people it makes more  
7 sense to say, "We averaged the two," but in some  
8 places they just actually aggregate them all together  
9 and then just do one division. It doesn't really  
10 matter.

11 Q. In either event, it's a two-party -- is it a  
12 two-party total only? Is that right?

13 A. Yes.

14 Q. So one thing they do, which however they do  
15 the math, they filter out third-party vote; is that  
16 right?

17 A. Yes. That's just not considered.

18 Q. Okay. By the way, did you meet with counsel  
19 in preparation for your deposition?

20 A. Did I meet with counsel? Yes.

21 Q. I'm not going to ask you what you talked  
22 about, but did you review any documents when you met?

23 A. No.

24 Q. Okay.

25 A. Well, I briefly reviewed the subpoena, but

1 CLARK BENSEN

2 yes.

3 Q. That aside, you --

4 A. No.

5 Q. Okay. And have you looked at any documents  
6 recently that helped you remember events back from  
7 2011 that you'd forgotten?

8 A. Only when I was looking for documents.

9 Q. Do you recall which documents helped you  
10 remember some things you'd forgotten?

11 A. Just in general sense, which is because I had  
12 no recollection of what I actually done. So it kind  
13 of helped refresh that I hadn't done much.

14 Q. When did you do that, looking for the  
15 documents? Around what time this past few months?

16 A. When did I do it?

17 Q. Yeah.

18 A. I did it -- I don't know -- probably two  
19 months ago.

20 MR. FRAM: Okay. Why don't we have marked as  
21 our first exhibit the curriculum vitae of Clark  
22 Hamilton Bensen.

23 (Deposition Exhibit 1 was marked for  
24 identification.)

25 BY MR. FRAM:

1 CLARK BENSEN

2 Q. And I should state for the record this is not  
3 a document you actually produced. This is a document  
4 we found, and we found it in -- my understanding is  
5 the case of Shickel v. Dilger, which is an Eastern  
6 District of Kentucky case. It was filed July 23,  
7 2016. So it might be out of date. This is the most  
8 recent one we could find.

9 A. I doubt it's out of date much.

10 Q. Why don't you take a quick look at it and  
11 tell us if there's anything in the last two years that  
12 you've added to your CV. It's a very comprehensive  
13 CV.

14 A. I think the only thing since then would have  
15 been the -- there was a case in Georgia and a case in  
16 Virginia -- two cases in Virginia. So one would have  
17 been the Sumter County case, which was a local school  
18 board election.

19 And the Virginia cases were both legislative  
20 cases over the House -- well, one was over the House  
21 delegates, and one was over the state Senate and the  
22 House delegates. The first one would have been  
23 Bethune-Hill --

24 REPORTER MARTIN: What Hill?

25 THE WITNESS: B-e-t-h-u-n-e, -Hill.

1 CLARK BENSEN

2 And the other was -- it will come to me.  
3 Vesilind, V-e-s-i-l-i-n-d.

4 BY MR. FRAM:

5 Q. Now, were you an expert witness in any of  
6 these cases?

7 A. Like I said, I believe in this time frame I  
8 probably did -- I did at least one voter rights case  
9 in California, which was city of San Jose. I can't  
10 remember the title of the case. Possibly one more in  
11 California, but it was local.

12 Q. Was that under state law?

13 A. Yes. Those are both state. California has  
14 its own Voting Rights Act.

15 Q. So for any of these cases were you an expert  
16 witness?

17 A. Well, this Kentucky case I was. No, none of  
18 the others.

19 Q. Okay. And were you a fact -- what was the  
20 subject of your fact witness testimony in  
21 Bethune-Hill?

22 A. I didn't testify. I worked -- I provided  
23 data for experts. In fact, in each of those cases, I  
24 didn't testify. It was all working from the  
25 standpoint of providing data for experts.

1 CLARK BENSEN

2 Q. Did you provide data for experts after the  
3 litigation started or part of the actual map drawing  
4 before the litigation happened?

5 A. In each -- well, in Virginia I did work  
6 originally on preparing data for the people who drew  
7 the plan in 2011, but I didn't participate in the  
8 actual line drawing.

9 Q. Uh-huh.

10 A. So aside from that, everything was just after  
11 the fact, preparing data for experts for litigation.

12 Q. So you gave them -- you gave the people  
13 generating the maps, you gave them some data, and then  
14 they used that to draw the maps in Virginia; is that  
15 right?

16 A. Yes.

17 Q. Okay.

18 A. Well, let me rephrase that. I provided  
19 the -- what had been the House Republican caucus, I  
20 provided them data. They had, basically, a separate  
21 system. There wasn't an official legislative drawing  
22 system. So my point is the caucus had them. Whether  
23 they used that to actually draw the map, I don't know.

24 Q. Right. Do you know the software they used  
25 when they got your data to help make use of it for

1 CLARK BENSEN

2 generating maps?

3 A. Well, someone used maps. I do know that  
4 much. The legislative thing did not.

5 Q. You've done that in other cases, I take it,  
6 provided data that others have used in Maptitude; is  
7 that right?

8 A. Yes, frequently.

9 Q. So we're on the same page as we talk about it  
10 today, do you refer to that as a layer of data that's  
11 used in Maptitude or a data set? I just want to make  
12 sure I'm using words that are easy for you -- for us  
13 to communicate.

14 A. First, Maptitude is M-a-p-t-i-t-u-d-e. What  
15 I do is I provide the data that the end user will put  
16 into their Maptitude files. So layers are distinct  
17 levels of geography, and in general, each of those  
18 layers will have the same information, the same  
19 columns in a sense in the spreadsheet. They would be  
20 just different rows.

21 Q. I understand. I think I'm understanding what  
22 you're saying. Let's see if I got it right. So you  
23 provide some political data, and that might, say,  
24 concern past election results within that state; is  
25 that right?

1 CLARK BENSEN

2 A. Yes.

3 Q. So statewide election results?

4 A. Generally, yes.

5 Q. Might I say for 2010, '11 cycling -- strike  
6 that.

7 For 2010 and '11 redistricting cycle, did you  
8 have a practice of using a certain set of elections?

9 A. Could be whatever the statewide elections  
10 were from as far back as we could go, at least through  
11 2004, 2002, or in Virginia's case, with odd elections,  
12 that -- in other words, what you want to do is pretty  
13 much take the previous decade entirety. Sometimes you  
14 don't go quite so far back.

15 Q. And did you tend to look only at the  
16 statewide elections?

17 A. Yes.

18 Q. Why was that?

19 A. Because it's similar to the whole concept  
20 behind PVI. It's a neutral indicator because it  
21 doesn't account for district specific or candidate  
22 specific factors. Plus it's the only thing that has  
23 fungibility because you can look at a statewide vote  
24 by any configuration of districts. But if you look at  
25 legislative vote or the Congressional vote, half the



1 CLARK BENSEN

2 precincts are in this district and half the precincts  
3 are in that district.

4 Q. And then once the people working on  
5 generating the maps have this data, if I understood  
6 you correctly, they can then see that election data  
7 for those previous elections for a variety of  
8 different jurisdictional -- geographic units; is that  
9 right?

10 A. Correct.

11 Q. And that can be down to census block unit; is  
12 that right?

13 A. That's the lowest level, yes.

14 Q. You understand, in generating maps in  
15 Maptitude, one draws district lines around different  
16 census blocks?

17 A. Well, ultimately, yes. You may pick a county  
18 subdivision or something and it takes off the blocks  
19 in there. You don't necessarily pick each of the  
20 census blocks. You pick the level of geography that's  
21 the most efficient.

22 Q. Okay.

23 A. But if you know you have to split a city,  
24 well, then you have to go down to some lower level.

25 Q. And then Maptitude has a way, then, of taking

1 CLARK BENSEN

2 the information and -- regarding the various  
3 geographies encompassed in a district and then showing  
4 you the election results data for the district that's  
5 been proposed; is that right?

6 A. Yes. It's basically just a computerized  
7 adding machine.

8 Q. Okay. Thank you very much. I hope that will  
9 be helpful as we go forward so we're using the same  
10 vocabulary.

11 Why don't we go back to your CV a little bit  
12 and just talk about your background. So you -- I take  
13 it you went to the University of Vermont?

14 A. Yes.

15 Q. And graduated in '74?

16 A. Yes.

17 Q. And then you went on to Vermont Law School?

18 A. Yes. I was in western New England for a  
19 year, and I transferred into Vermont when it became  
20 accredited. The new school didn't have ABA  
21 accreditation the first year. So that's why I went  
22 out of state.

23 Q. And you got your J.D. there in '78; is that  
24 right?

25 A. Yes.

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2 Q. And then what was your -- let me back up.

3 Before you graduated law school, did you run  
4 for the Vermont House of Representatives?

5 A. Yes.

6 Q. And you were elected?

7 A. Yes.

8 Q. And you were there for one term?

9 A. Yes.

10 Q. Okay. And then what was your first job after  
11 you graduated law school?

12 A. Well, I practiced quote/unquote "law" for --  
13 I did one or two cases, and then I said, "Boy, I  
14 really did want to do politics." So I actually ran  
15 the George Bush for president primary campaign in  
16 1979. Well, strike that.

17 I did have -- that was my second. I actually  
18 did have a research grant that I continued to work on  
19 some of the data I worked on while in college to help  
20 a professor do a project by Congressional committees.

21 Q. And after you campaigned for late  
22 President Bush, what did you do next?

23 A. I'm not sure exactly what I did for a few  
24 months there. I did some sort of political analysis  
25 in Vermont. A lot of my focus at that point was in

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2 Vermont. We had the legislative redistricting  
3 project. At that point the legislative -- I was a  
4 consultant to the legislative apportionment board  
5 in -- I guess that would have been the session of  
6 1981, and then the fall of '81 I came down to D.C.

7 Q. Okay. And what did you do when you came down  
8 to D.C.?

9 A. I worked at the Republican National Committee  
10 or RNC.

11 Q. And what did you do there, please?

12 A. I was hired as a programmer, as all lawyers  
13 should be, you know.

14 Q. I do. They throw you in the deep end of the  
15 pool and you learn on the job, or did you have a  
16 little programming experience before you got there?

17 A. I had done programming in high school, very  
18 early days of computers, late '60's.

19 Q. Computers changed a bit?

20 A. Yes. In that period of 10 years, there was a  
21 huge change, but this was still before PCs. So it  
22 wasn't really the deep end for me. It was the easy  
23 way to get in.

24 Q. I understand. How long did you do that work  
25 as a programmer?

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2 A. Well, I was at the committee from '81 to '89.  
3 Pretty much I always did that even though I moved up  
4 the chain and I was administrator, I was manager, and  
5 senior staff and I did many more things, but I  
6 eventually ended up running the computer programmers  
7 too. So my mix was kind of as an integrator.

8 Q. And for how many years were you there?

9 A. Eight.

10 Q. During those years did people use software  
11 draw districts for Congressional seats, or did they do  
12 it on magic markers on white boards?

13 A. Mostly the latter. The degree to which  
14 computers in the 1980 cycle -- and, again, the only  
15 state I was involved in redistricting the eighth cycle  
16 on my own was in Vermont. And I wrote programs for  
17 that, but it was Vermont, not a large amount of data,  
18 but we still had to do the programming as if it were.

19 When I got to the RNC, the process that had  
20 been used is -- again, I got there in '81. So the  
21 redistricting cycle was half done. Basically then  
22 computers were really just the adding machine. You'd  
23 have to basically go through and tag every piece of  
24 geography to a district, and that was tedious. And  
25 plus we didn't have census blocks. So it was still

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2 much more inchoate as a process.

3 Q. What were the units of an election -- well,  
4 did you have units for election results back then, you  
5 didn't have census blocks?

6 A. Well, yeah, I think they were called  
7 enumeration districts were the lowest level of which  
8 we had data. I'm not totally sure on that. But I  
9 think census blocks were really more en vogue in the  
10 '90's cycle. So it was just not as refined. For  
11 instance, you probably would have had political  
12 information by precinct, but that's probably about all  
13 you had.

14 Q. So what would you do if a district split a  
15 precinct?

16 A. Well, you'd probably just make an estimate of  
17 what it was, which depends on the state. Some states  
18 were more organized and had better information. So  
19 you could actually do something below the precinct.  
20 But in the '80's cycle, it was hard to do.

21 Q. So you were doing this, you said, for about  
22 seven or eight years, about '80's, late '80's?

23 A. I was there through '89.

24 Q. Then what happened?

25 A. Well, then I went to do consulting for

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2 redistricting for the '90's cycle on my own.

3 Q. Okay. And you said you were on your own.  
4 Did you form your own company at that time?

5 A. Well, it had always sort have been there. I  
6 mean I started Polidata in 1974 when I was in college,  
7 just sort of I didn't do very many projects while I  
8 was at the RNC.

9 Q. And so you were doing business under the name  
10 Polidata starting for the 1990 cycle?

11 A. Right.

12 Q. Okay. And now in the 1990 cycle, was there a  
13 particular piece of software that was being used?

14 A. That cycle was pretty much several customized  
15 programs were being developed. There wasn't a  
16 Maptitude until, I believe, sometime after that. We  
17 had Maptitude for the 2000 cycle. So sometime in that  
18 decade they developed it. In fact, the RNC worked  
19 with Maptitude a lot to develop it.

20 Q. I see. So they worked with Caliper? That's  
21 the company that developed Maptitude?

22 A. Yes. And I believe that's what it was called  
23 then too, yes.

24 Q. Were you part of the project of working with  
25 Caliper to develop Maptitude?

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2 A. Well, to some degree, but not very much. We  
3 had a person, Tom Hofeller, who was the director for  
4 redistricting either at the RNC or the NRCC at the  
5 time, and he was much more -- he was similar to me in  
6 a sense. He was a programmer but a political person.  
7 So he was actually more involved in the development of  
8 it.

9 Q. Okay. Then in the 1990's cycle, you also  
10 looked at election results data while you were --  
11 well, let me back up.

12 In the 1990 cycle were election results data  
13 also looked at in the generation of maps, whether you  
14 did or someone did?

15 A. Generally, yes.

16 Q. Did you also provide election results data to  
17 whoever was actually generating the maps at that time?

18 A. Yes.

19 Q. Let's go to -- what happened -- how long were  
20 you -- were you on your own consulting ever since  
21 then, or did you pick up another job after the 1990's  
22 cycle?

23 A. I was back at the RNC for the '94 election  
24 cycle. Other than that, no. I've been working on my  
25 own.



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2 Q. Were you working with the late Dr. Hofeller  
3 when you went back?

4 A. I don't think he was there by that time. I  
5 think he was out in California for a while. I've  
6 worked with Dr. Hofeller for -- on numerous projects  
7 over the decade, yes.

8 Q. Do you recall who you were working with in  
9 the 1990's at the RNC?

10 A. Well, largely, Tom Hofeller. David  
11 Winston -- again, I'm sketchy as to whether Hofeller  
12 was the NRCC or the RNC. That's H-o-f-e-l-l-e-r. Or  
13 David Winston, W-i-n-s-t-o-n. But basically I was  
14 working with the data people to get data for the  
15 redistricting office or department in whatever it was,  
16 RNC or NRCC.

17 And at that time we had a -- I forget the  
18 exact structure of it, but we were providing data to  
19 Republicans and states too, and some minority  
20 coalitions in states too.

21 Q. You said you were getting data for, let's  
22 just say Republicans. Let's start with that for a  
23 minute.

24 A. Uh-huh.

25 Q. Was this data election results data?

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2 A. Yes.

3 Q. Did you provide any other kinds of data?

4 A. Well, I would repackage census data, but I  
5 wouldn't develop it on my own. But it was almost all  
6 general election statewide results.

7 Q. Do you have an understanding as to why the  
8 folks working on the maps in either the '80's or '90's  
9 wanted to have election results data?

10 A. Well, I think I already answered that. My  
11 point is that's just a way to assess the political  
12 makeup of any district that they're looking at, or not  
13 just a district, but in the area. I mean a lot of  
14 times they just need -- there are a lot of units in a  
15 data set, and even though state political people  
16 sometimes know every nook and cranny of the district  
17 or the state, a lot of times they don't.

18 So they just got to look at the county or  
19 county subdivision or precinct or something and say,  
20 "Is that a Republican or a Democrat area?"

21 Q. And your experience in the '80's, the people  
22 working on the maps wanted to have that information;  
23 is that right?

24 A. Well, pretty much without exception, yeah.

25 Q. And also the '90s?

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2 A. Yes.

3 Q. And also the 2000s?

4 A. Yes.

5 Q. And also after the 2010 cycle?

6 A. Yes.

7 Q. And pretty much without exception, in your  
8 experience?

9 A. I believe the only difference was Florida  
10 because their state constitutional provision had a  
11 provision about no partisan bias or political  
12 favoritism or whatever. But, of course, my question  
13 was how are you going to measure that if you don't  
14 have the political data.

15 Q. So other than Florida, with that exception,  
16 any of the folks working on generating maps that  
17 you've worked with wanted to understand the political  
18 makeup of the district; is that right?

19 A. In my experience, yes. Well, if the client  
20 was a partisan client. If it was a voter rights case,  
21 that's not necessarily the issue.

22 Q. Whenever the client was Republican, that was  
23 the case?

24 A. In my experience, yes.

25 Q. Like you said, the census information was

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2 already in the census. You might have repackaged it.  
3 Over the years have you developed a methodology for  
4 collecting election results data?

5 A. A methodology?

6 Q. How do you go about doing it?

7 A. That's a pretty cumbersome process. You have  
8 to get -- you have to have a data system ready to  
9 input data that you get from states or counties, and  
10 you have to have all sorts of routines set up to input  
11 it, proof it, compare it with different levels of  
12 geography to make sure, in fact, it comports with what  
13 the canvas said, and then you basically just have to  
14 follow it all the way through, kind of like a chain of  
15 evidence thing.

16 So you know this is what you got from the  
17 secretary of state or the county board, and you just  
18 go all the way through to the point where you can  
19 finally play with it enough to get it into the  
20 redistricting system.

21 Q. And what's the form -- let me strike.

22 Starting in 2010, looking at that time period  
23 because I know software changes, what was the form in  
24 which you would provide this election result data to  
25 people working on maps?

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2 A. It would generally be a DBF database file  
3 because that can be easily imported into Maptitude --  
4 well, depending on who the client was. If the client  
5 wasn't very computer savvy, I would give it to them in  
6 a CDF format, which is a Maptitude kind of format. So  
7 it was basically just -- it's just a conversion  
8 routine. So they could just open it up instead of  
9 importing it.

10 Q. Okay. Do you remember in Ohio if you  
11 provided election results data to Republicans working  
12 on generating maps?

13 A. In Ohio --

14 Q. In 2010. In the 2010 -- strike that.

15 In 2011 did you provide election results data  
16 to Republicans in Ohio working on Congressional  
17 redistricting of maps?

18 A. I believe so, yes.

19 Q. Do you recall the form in which you provided  
20 it to them? Did you give it to them in DBF files or  
21 in CDF file?

22 A. I don't recall, actually. It could have been  
23 either one.

24 Q. Was that -- one of the individuals you  
25 provided information to Mr. Ray DiRossi?

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2 A. Well, to Ray or Heather. They were a tag  
3 team as far as I'm concerned. One would ask for  
4 something. I'd treated them as the same. So pretty  
5 much they both got whatever.

6 Q. At that time Heather's last name was Mann,  
7 M-a-n-n; is that right?

8 A. I've forgotten if it was Mann or was  
9 Blessing.

10 Q. Just for the record, I'll say it's Blessing  
11 now and it was Mann.

12 A. Yes. It was Mann.

13 Q. Just to make sure that's consistent with what  
14 you remember.

15 A. Right.

16 Q. Other than Mr. DiRossi and Ms. Mann, did you  
17 provide election results data to anyone else in Ohio  
18 in 2011?

19 A. I believe John Morgan, John B. Morgan was  
20 also working with Baker to assist Heather and Ray to  
21 understand the ins-and-outs of Maptitude, kind of just  
22 the operational aspects of it. So it may in fact be  
23 that I gave it to him. He actually helped them  
24 install it into their system.

25 Q. What about Mr. Adam Kincaid? Do you know

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2 him?

3 A. Yes.

4 Q. Did you do any work with him regarding Ohio  
5 redistricting in 2011?

6 A. No.

7 Q. Okay. Do you recall ever providing him with  
8 any Ohio election results data?

9 A. No. I recall never giving him any data  
10 results.

11 Q. Okay. By the way, you said that, without  
12 exception, when you worked for Republicans working on  
13 maps, they'd want to have election results data. I  
14 just want to get a sense of how many times we're  
15 talking about. More than 20 times?

16 A. You mean clients to whom I've provided data  
17 for redistricting?

18 Q. Yes. Election result data -- let me state  
19 the question more clearly.

20 The number of times you provided election  
21 results data to clients working on redistricting. I  
22 want to limit that to Republicans.

23 A. Certainly more than 20, yes.

24 Q. More than 50?

25 A. It's hard to say. In several cycles I've

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2 worked on, projects that were nationwide. So whether  
3 I actually gave it to them or they ended up getting  
4 what I had worked on, I couldn't tell you.

5 Q. In terms of the number of projects that  
6 you've actually given Republicans working on  
7 redistricting election results data, can you give me a  
8 number ballpark?

9 A. Probably closer to 20 to 50.

10 Q. Or 30?

11 A. Could be.

12 Q. Okay. Since the 2000 cycle, have you -- has  
13 Maptitude been the redistricting software of choice in  
14 the redistricting projects you've been involved in?

15 A. Well, most of my clients have used Maptitude,  
16 but not all.

17 Q. Okay. About how many times have you been  
18 involved in projects where Maptitude was the software  
19 used?

20 A. Again, a couple dozen maybe. My role differs  
21 by the client stuff too. So, in other words, I may  
22 have been involved in a project where they were using  
23 Maptitude, but I didn't provide them data. I was just  
24 helping them review the information or something like  
25 that, or I was helping them run reports. But in



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2 general, it would have been -- most of my clients  
3 would have used Maptitude.

4 Q. How would you describe your role in Ohio in  
5 2011? I'm going to focus on Congressional  
6 redistricting.

7 A. My recollection is I really did two things.  
8 One was kind of a follow-up to what we had done for --  
9 what I had done for the legislative redistricting,  
10 which was to provide Ray and Heather with the basic  
11 information they needed so as we discussed political  
12 data and such like that. And then I helped them on  
13 technical things because they were still -- the  
14 Congressional operational aspects in Ohio were much  
15 easier than the operational aspects of the legislative  
16 plans because through legislation we did an entirely  
17 separate data set because of geography.

18 Congressional in Ohio was just like in any  
19 other state. So it was much easier. But there's  
20 still technical questions because they had done it the  
21 legislative way, which was convoluted, and that was  
22 actually easier. So I helped them on some technical  
23 things there. Then that's pretty much all -- again, I  
24 may have given some stuff to John Morgan, although I  
25 think my recollection was he was much more involved in

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2 the legislative thing too.

3 Then I worked with Mark Braden as the counsel  
4 to give him information on plans and such that he was  
5 having looked at.

6 Q. You said that you gave Mr. DiRossi and  
7 Ms. Mann the data they needed. Just so our record is  
8 clear, that included election results data; correct?

9 A. I'm pretty sure. Well, that's my  
10 recollection.

11 Q. That's all I can ask for.

12 A. Yeah.

13 Q. And do you recall any other data other than  
14 election results data that you provided to Mr. DiRossi  
15 or Ms. Mann in the 2011 Ohio Congressional  
16 redistricting work?

17 A. Only to the extent that I might have also  
18 repackaged the census data. Census data is hundreds  
19 of fields, and when I say, "repackage," I basically  
20 just narrow it down to like 20 fields, and normally I  
21 would have that as part of the record to which I would  
22 append the political data.

23 Q. By the way, as a mechanical matter, when you  
24 provided data to them, did you have a shared FTP site?  
25 Did you send them a zip file? The nuts and bolts of

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2 how you actually transmit the information.

3 A. Well, I'm pretty sure by 2011 it was not via  
4 FedEx. So it would have been if a file was small  
5 enough, I would have just E-mailed it as an  
6 attachment. If it was 5 or 10 megs, I would have sent  
7 them a link to a public -- not a public, but it's  
8 called Sendspace and it's like Dropbox. So I would  
9 just send them a link. They could just get it  
10 downloaded from there.

11 Q. Did you set up that Dropbox account, or did  
12 they set it up and ask you to send it? Do you recall  
13 how that got set up?

14 A. It's just a default that I use for all my  
15 clients.

16 Q. Is that Dropbox account available today?

17 A. Well, yes.

18 Q. And does it have information from the 2011 --  
19 is information from the 2011 cycle still in it?

20 A. No. It has a limit of 1,000 files. So after  
21 you get 1,000 files, you just have to delete it. So  
22 it never has -- hardly even has a year's worth of  
23 files in it. It's strictly a temporary kind of flow  
24 basis.

25 Q. Sure. Thanks.

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2 Do you recall providing election results data  
3 from 2002 to 2010 to Mr. DiRossi and Ms. Mann?

4 A. I'm not sure 2002. Probably did. I'm pretty  
5 sure it went from '04 on, anyway.

6 Q. Do you recall any discussions as to what the  
7 parameters of the election results data sets should  
8 be?

9 A. No. I think it's probably, basically, I  
10 said, "Here's all your statewide races, and you can  
11 pick and choose." I think the only option would have  
12 been the judicial races in Ohio, I think, have changed  
13 over time. My recollection is that now they still  
14 have a partisan primary, but it's a nonpartisan  
15 election, general election.

16 But I think in the -- possibly -- at some  
17 point in the last 20 years it's changed. So the ones  
18 from the '02 to '10 may have been a mix of -- they  
19 were actually partisan election. So, frankly, I don't  
20 recall if I included them or not, but that would have  
21 been about the only discussion.

22 Q. As to whether or not to include the judicial  
23 elections?

24 A. Right. I think probably I would have  
25 processed them anyway, but I just don't recall

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2 whether -- yeah.

3 Q. Okay. Did you ever provide block equivalency  
4 files to Mr. Mann or -- excuse me, Ms. Mann or  
5 Mr. DiRossi?

6 A. I could have.

7 Q. Just for the record, if you could please  
8 explain what a block equivalency file is.

9 A. A block equivalency file or a so-called block  
10 assignment file, which could be a BAF or a BEQ, in  
11 jargon, it's just one record for each census block in  
12 the jurisdiction, and it has only two pieces of  
13 information; the block number, which is a long  
14 geographic identifier, and then the district to which  
15 it's assigned. It's the normal way plan geography is  
16 transferred from one system to another.

17 (Deposition Exhibit 2 was marked for  
18 identification.)

19 MR. FRAM: I'm going to mark next as  
20 Exhibit 2 a document that's got a Bates number on it.  
21 LENZO-, L-E-N-Z-O, -\_004434 through -440. And for  
22 the record, it's a PowerPoint. The first slide  
23 appears to have been entitled "Election Data for  
24 Redistricting," got a "Copyright 2010 POLIDATA on it.  
25 The slides are in thumbnail form. That's how we

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2 received them. I didn't want to alter that, but I  
3 apologize. They're a little smaller than one might  
4 like.

5 I'd ask you to take a look at this document,  
6 Exhibit 2, please.

7 (The witness reviewed Exhibit 2.)

8 THE WITNESS: Okay.

9 BY MR. FRAM:

10 Q. Is this a document that you've seen before?

11 A. Well, yes.

12 Q. Is this a PowerPoint you created?

13 A. Yes.

14 Q. And you used this in giving one or more  
15 presentations?

16 A. Yes.

17 Q. Do you recall which presentations where you  
18 may have used this PowerPoint?

19 A. I know there's a Republican seminar at some  
20 point in 2010 or 2011. I'm pretty sure it was in  
21 there. I probably would have sent it to some of my  
22 clients or something, but it was probably -- as you  
23 said, it says, "2010." So that's probably where this  
24 iteration came. It's pretty much a standard thing. I  
25 could have used it at NCSL conferences as well.

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2 Q. Why don't we say for the record what NCLS is.

3 A. National Conference of State Legislatures.

4 Q. Did you also present at any time at an RNC  
5 conference?

6 A. I just said that.

7 Q. Not the Republican Congressional committee  
8 but the national committee, or it might have been  
9 either one?

10 A. Yeah. I couldn't limit it to that. It could  
11 have been a combined one. I think it was probably an  
12 RNC. So it was basically for umbrella groups. The  
13 problem with NRCC is they have a specific pretty  
14 narrow focus.

15 Q. You see this was produced by Mr. Lenzo. Is  
16 that a name with which you're familiar?

17 A. Yes.

18 Q. Who is Mr. Lenzo, please?

19 A. Well, I view him as -- I can't remember  
20 exactly what his title was in 2011, but he works for  
21 the House Republicans. Whether he was chief of staff  
22 or he was counsel, I don't remember.

23 Q. Do you recall whether he attended any  
24 presentation where you used this PowerPoint?

25 A. I don't, but it seems like he must have.

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2 Q. Did you see him -- did you have a chance to  
3 talk with Mr. Lenzo at the RNC -- we'll call it the  
4 "RNC conference."

5 A. I don't recall specifically. I know I've  
6 seen him at one or two, but I couldn't tell you  
7 whether it was an RNC one or an NCSL one.

8 Q. Did you ever talk to Mr. Ray DiRossi at  
9 either one of those conferences?

10 A. I don't remember if Ray went. It's more  
11 likely I would have -- the reason I'm confused is  
12 because there was so many -- there was only one RNC  
13 conference. There are multiple NCSL conferences. The  
14 NCSL had a set of redistricting seminars leading up to  
15 the process. So it's much more likely I saw him at  
16 one of the NCSL conferences.

17 Q. Do you recall just talking to anybody at any  
18 of these conferences about the potential of doing work  
19 for Ohio Congressional redistricting in the 2010, 2011  
20 cycle?

21 A. Well, not specifically Congressional. We  
22 talked about possibly doing -- well, actually, at that  
23 time not really because it would have been pretty much  
24 a general conversation. My involvement only came once  
25 whoever in Ohio decided to have the project, and they



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2 contacted Mr. Braden, and then that's how I got  
3 involved in the case. So I don't remember any  
4 specific discussions about that part of it at a  
5 conference.

6 Q. Do you recall the first time you were  
7 contacted regarding doing work for the Ohio  
8 Congressional redistricting?

9 A. No, I really don't.

10 Q. Was it in 2011?

11 A. Could be. I really don't know.

12 Q. Was it after the 2010 mid-terms or before?  
13 I'm sorry. Yeah. 2010 mid-terms or before.

14 A. I'm pretty sure it was afterward because the  
15 problem is nothing is really happening in Ohio until  
16 the 2010 mid-terms because they couldn't decide who  
17 the actual board members were going to be.

18 Q. Or who would be controlling the legislature  
19 in the case of the Congressional redistricting; is  
20 that right?

21 A. Well, that's true but -- well, that's a good  
22 point. The apportionment board was really just for  
23 the legislature, but the problem was none of the  
24 infrastructure could get going until the 2010  
25 elections could decide who was on the apportionment

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2 board, and then the Congressional was sort of tagging  
3 along to some degree.

4 Q. Okay. Now, so our record is clear, I'm going  
5 to be asking -- I have been asking and will be asking  
6 about Ohio Congressional redistricting. I take it,  
7 did you do work also on the state legislative  
8 redistricting as well?

9 A. Yes.

10 Q. Okay. So I might be very specific and  
11 explicit about questions regarding the state  
12 legislative process, but if I'm not, when I'm just  
13 talking about redistricting, I'm asking questions  
14 about the Ohio Congressional redistricting. Do you  
15 understand that?

16 A. Yes.

17 Q. Okay. Would you change any of your answers  
18 that you can think of now in the testimony you've  
19 given so far based on that clarification?

20 A. No.

21 MS. McKNIGHT: Objection.

22 You can answer.

23 BY MR. FRAM:

24 Q. If it comes to mind that oh, no, that was  
25 only about the state apportionment process, then

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2 please feel free to let me know.

3 A. Well, as I said, that's what's kind of  
4 confused in my mind because at the time, it was very  
5 discreet, but now it's, like years later, fuzzy.

6 Q. That's why I'm reinforcing the point. I want  
7 to turn to the first substantive slide on -4434 right  
8 after the title slide, the one under the heading  
9 "Introduction." Do you see that?

10 A. Yes.

11 Q. Could you please take a look at that.

12 (The witness reviewed Exhibit 2.)

13 THE WITNESS: Yeah. Yes.

14 BY MR. FRAM

15 Q. If I understand correctly, this was the first  
16 substantive slide of your slide set after the title  
17 slide; is that right?

18 A. It appears so, yes.

19 Q. So the first thing that you presented was  
20 to -- you said, "However, to estimate the election  
21 impact, you will need election data." Do you see  
22 that?

23 A. Yes.

24 Q. And you communicated that to the people at  
25 the RNC conference; is that right?

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2 MS. McKNIGHT: Objection.

3 You may answer.

4 THE WITNESS: I'm not sure that I actually  
5 presented this or this was just part of a handout that  
6 they provided. I don't have a recollection as to  
7 what -- I know I spoke at the conference, but I'm not  
8 sure where I spoke. If I spoke, this would have been  
9 the first thing I said, yes.

10 BY MR. FRAM:

11 Q. Okay. And you were a person who could  
12 provide election result data that could be used to  
13 estimate the election impact of a district; is that  
14 right?

15 A. Yes.

16 Q. Turning to the next page of the PowerPoint --  
17 of the exhibit, -4435, and to the slide entitled  
18 "Analytical Goals." Do you see that?

19 A. Yes.

20 Q. And there are four that are listed. Do you  
21 see that?

22 A. Yes.

23 Q. Do you see the fourth one is entitled  
24 "Partisan Fairness"? Do you see that?

25 A. Yes.

1 CLARK BENSEN

2 Q. What's your understanding of what the term  
3 "partisan fairness" means?

4 A. There are various metrics that analysts --  
5 mostly experts in litigation will use to assess the  
6 degree to which the votes break out, and they  
7 generally would look at it from a statewide  
8 perspective.

9 Q. And did you -- do you remember talking about  
10 partisan fairness in your presentation at the RNC?

11 A. Unless it's in here, I didn't really see it  
12 unless I glanced over it. Again, I don't remember  
13 what I talked about. I'm sure I had another thing on  
14 just partisan fairness. You can add that too.

15 Q. Do you have an understanding of the term  
16 "partisan fairness" as you used it, putting aside the  
17 various experts who have their own views?

18 A. Well, yes. There are different metrics that  
19 they use.

20 Q. Is there a metric that you prefer?

21 A. It depends on what the client is looking for.

22 Q. Do you recall working with the RNC, is there  
23 a metric the client preferred?

24 A. Well, the RNC did really do it per se.

25 Q. Fair enough. Working with any Republican

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2 state legislatures or their staff, was there a metric  
3 that they had preferred in terms of measuring partisan  
4 fairness?

5 A. It would depend on the decade.

6 Q. After 2010.

7 A. It was probably still partisan symmetry at  
8 the time as kind of the main focus because we hadn't  
9 really had much in the way of litigation. So there  
10 really hadn't been much change for the last 20 years.

11 Q. If you could explain for the record what you  
12 understand the term "partisan symmetry" to mean,  
13 please.

14 A. You basically -- you take the votes, say for  
15 a president or something, statewide race, and you  
16 reaggregate that from all the census blocks basically  
17 in each district, and you'd come up with how many  
18 districts were won by, say, Obama. And you'd say if  
19 Obama got 55 percent of the statewide vote but he won  
20 65 percent of the districts, that's A.

21 But then you look at the plan and say, "Well,  
22 if, in fact, McCain had gotten 65, 55 percent of the  
23 vote, would he have gotten 65 percent of the seats."  
24 And it's a question of the differential between that.

25 Q. Do you ever recall a conversation about

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2 partisan symmetry with anyone in Ohio in the 2010  
3 cycle?

4 A. No.

5 Q. Turning to Page -4436. Do you see the slide  
6 at the bottom of the page, "Keyline Dataset"?

7 A. Yes.

8 Q. Okay. Do you recall discussing that at the  
9 RNC conference?

10 A. As I said before, I don't know if I actually  
11 presented this or not, but I would have. If I would  
12 have presented this, I would have gone through each  
13 slide.

14 Q. Just so I understand, looking at this slide,  
15 what was -- what's the "Universe of reported units" or  
16 sub units refer to?

17 A. Basically, that would be precincts. Sub unit  
18 would be a split precinct.

19 Q. And when you said down further, "Establishes  
20 coding scheme," what does that refer to?

21 A. It just means taking -- it goes back to what  
22 I said about developing election scheme, election  
23 recording scheme. There's no standardization even  
24 amongst counties in one state, but computers, as we  
25 know, like zeros and ones. So you have to take

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2 whatever information they've given to you and come up  
3 with some sort of nomenclature where you would give it  
4 a code, which is basically just some series of numbers  
5 or letters so that you could have Precinct 1, I'll  
6 say, be identified as Precinct 1 each year even though  
7 they may call it Adams School one year, and then the  
8 next year they call it the Jefferson Firehouse or  
9 something like that.

10 Q. And you also developed codes for different  
11 elections?

12 A. I'm sorry?

13 Q. Did you also develop code -- did you ever  
14 develop codes for different elections? So, for  
15 example, GOAP, or the general election for 2008 for  
16 President?

17 A. I wouldn't call that a code, but yeah, it's  
18 the same kind of thing. You come up with a mnemonic,  
19 basically, that is generally no more than 10  
20 characters that just makes it easier to process  
21 because there's still -- certainly in the early days,  
22 there was a lot of hand work.

23 Q. Did you ever come up with any pneumonics for  
24 elections?

25 A. Well, yeah. When I was at the RNC, we spent



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2 time -- when I got there they had a very basic system,  
3 and I spent some time making it a little more  
4 extensive because when I was there, they didn't have  
5 to deal with redistricting before I got there. So we  
6 had to come up with all sorts of codes and look-up  
7 tables and nomenclature standards for the data that  
8 eventually went into any election system which  
9 eventually went into a redistricting system.

10 The redistricting system itself is very  
11 simple. It's like Maptitude. But getting the  
12 information so that you get it in there is much more  
13 complicated because there's just a lot of steps.

14 Q. What were some of the steps?

15 A. Well, that depends on each county and each  
16 state. When I say, "steps," the basic point is  
17 sometimes a state, even back then -- in fact, Ohio  
18 in -- I think in -- well, certainly '90 and 2000 -- I  
19 can't recall 2010. They had -- for a long period of  
20 time they had a very good data file for precinct level  
21 data, and it was pretty straightforward.

22 But a lot of states, even at that time, were  
23 not very organized, and even now when they're  
24 organized, every state has a different way of looking  
25 at it. So as part of the operational aspects, it's

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2 just sifting through all that to kind of come to the  
3 lowest common denominator so that you could actually  
4 process it efficiently in a computer system.

5 Q. So you say Ohio had a pretty good  
6 precinct-level election result data set; is that  
7 right?

8 A. Yes. For a long time. At least a decade or  
9 so.

10 Q. And is that also true in the 2011  
11 redistricting?

12 A. Ironically, I don't think that was the case,  
13 but then they had received a grant from the election  
14 administration commission to clean up their precinct  
15 data, which, in my mind, did nothing but kill off the  
16 good format that they had.

17 Q. So some problems developed in the 2011 work?

18 A. Yeah. It was much more work than it used to  
19 be for Ohio.

20 Q. What was some of the problems you recall?

21 A. Well, it wasn't done by data people. It was  
22 done by political people who wanted to get something.  
23 In other words, in the past it had been done by,  
24 basically, IT professionals, but by this time it was  
25 done by the Secretary of State's office, and their

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2 focus was not on doing it efficiently from a  
3 programmer standpoint.

4 So basically you had to re-engineer what they  
5 had thought and done.

6 Q. Do you recall some of the problems that were  
7 created by virtue of the fact that the Secretary of  
8 State with non-IT people had reconfigured the data?

9 A. There weren't any insurmountable things. It  
10 was just that it was so much easier to do it the old  
11 way because they thought the way we thought. But now  
12 it was in a different format and you had to re -- you  
13 had to go through everything.

14 I mean it just added a few days extra work.  
15 That's all.

16 Q. And you did those few days of extra work as  
17 regards Ohio in 2011?

18 A. Yes.

19 Q. For the Congressional redistricting work?

20 A. Yes.

21 Q. Okay. Did you also need to do some work so  
22 that the precinct data, election results data could be  
23 reflected at the census block level?

24 A. Well, work needed to be done to do that. I'm  
25 not sure I did that. We had a project in the 2011

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2 cycle that was doing it for all states -- well, not  
3 all states but including Ohio. And I think probably I  
4 got that block-level information from that project.

5 Q. You say, "we." Who is doing --

6 A. I don't remember. It was an outside group  
7 that the RNC was working with. I don't remember what  
8 the group was called, but they did basically, as every  
9 state, they didn't do the at-large states. So it was  
10 pretty much if it was more than one seat, then they  
11 did it. So in reality, I remember I had to convert  
12 the election data so I had it in my system, but I  
13 think by the time we got to the actual block-level  
14 data, I got it from the project.

15 Q. Okay. Now, the project, do you recall any of  
16 the persons working on what you described as "the  
17 project"?

18 A. Well, Tom Hofeller was involved in some  
19 degree. I can't remember what his role was at the  
20 time, whether he was still working at the RNC. He  
21 would have been the main contact. In other words, he  
22 would have known who was -- I was still at the time  
23 working with -- I was a consultant with the RNC to  
24 make sure that the data that went to and came back  
25 from the project was -- met certain qualifications.

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2 Q. So you received data at the census block  
3 level -- strike that.

4 You received election result data at the  
5 census block level from the RNC in 2011; is that  
6 right?

7 A. Or from the project that they were working  
8 with, yes.

9 Q. In the directive from the RNC or from what  
10 I'll call "the project"; is that right?

11 A. Yes.

12 Q. And then when you received that  
13 information -- let's just focus on Ohio Congressional  
14 redistricting -- what would you do with that  
15 information?

16 MS. McKNIGHT: Objection.

17 THE WITNESS: But I can still answer?

18 MS. McKNIGHT: Yes.

19 THE WITNESS: I would run it through my set  
20 of validations. I would look to see if it added up  
21 vertically to multiple levels of geography. Typical  
22 would have been by county and such to see if in fact  
23 the results that were given to me by block added up.  
24 And then horizontally I'd look and see if, in fact, a  
25 number of votes for President versus votes for U.S.

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2 senate, things like that, and run other validation  
3 checks just to make sure that it looked like a good  
4 data set to use.

5 BY MR. FRAM:

6 Q. Do you recall there being any issues  
7 regarding the data set in connection with your work in  
8 Ohio Congressional redistricting in 2011?

9 A. I don't recall any. It wasn't very often  
10 that I had problems with the data sets. I don't  
11 recall anything for Ohio.

12 Q. And then once you run your validation checks,  
13 what did you do next?

14 A. Then I would have converted it to get it into  
15 Maptitude, which would mean I took the block level  
16 data and I would aggregate it up for each of the  
17 layers, the geographic levels that would feed into  
18 Maptitude. So it would add it up to the precinct  
19 level. The precinct would have been the 2010 census  
20 VTDs, county subdivision, county and the other levels.  
21 I would just add it up from the block and then convert  
22 that into a DBF or a CDF so they could import it into  
23 Maptitude.

24 Q. Sure. We just entered a new acronym here.  
25 We should just say for the record, VTD?

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2 A. Voting district. V-T-D.

3 Q. And then Ohio is the precinct, the VTD?

4 A. Well, it may be. Generically, the VTD is  
5 supposed to be the census bureau's version of the  
6 state's precinct, but the VTD is frozen in time. It's  
7 really designed as a delivery mechanism for the census  
8 data. So, for instance, this time they would freeze  
9 the precincts as of the 2018 election, not literally,  
10 but they would freeze it.

11 That's the representation they would give to  
12 the census bureau. So when they got the data in 2021,  
13 it would be data for the 2018 VTDs or precincts. But  
14 there's not a perfect match.

15 Q. Okay. Turning to -4439, the slide at the  
16 top. It says, "Block to Precinct Equivalency." Do  
17 you see that?

18 A. Yes.

19 Q. It says there "Key to linking." Do you see  
20 that? Then under that there's sub bullets, "all  
21 election over time, election results with 2010  
22 census." Do you see that?

23 A. Yes.

24 Q. Do you recall what you meant when you wrote  
25 those words?

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2 A. Yes.

3 Q. What did you mean?

4 A. For instance, the file that I got from the  
5 project was at block level. So what the project would  
6 have done is with these precinct maps over time, they  
7 would have assigned each block to a precinct for, say,  
8 the 2002 election, 2004 election, and so on, and then  
9 they would distribute that information from the  
10 precinct level for that election for that precinct to  
11 the blocks, usually based upon voting age population,  
12 and then they'd do that for each county, for each  
13 election, for each VTD or precinct.

14 Q. "They" being the folks working on what you'd  
15 call "the project"; is that right?

16 A. Yes, they would have the geography for the  
17 precincts and the block, and then they'd assign each  
18 block to a precinct.

19 Q. Did you ever E-mail back and forth with  
20 anybody working on the project?

21 A. Well, I'm sure I did.

22 Q. Did you ever find any of those E-mails when  
23 you were looking through your files for this case for  
24 producing documents?

25 A. I'm sure I didn't keep those because the



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2 only -- the only reason I had any of the E-mails from  
3 Ray and Heather were because I had to segregate them  
4 off as -- they were in a client folder. But there  
5 would have been too many E-mails in the other project  
6 to keep that. That was just in my in box, and it just  
7 disappeared over time. Because that was much more of  
8 a day-to-day type of thing.

9 Q. Let me make sure I got the record right on  
10 this. Is there a record of when Dr. Hofeller was  
11 working on the project?

12 MS. McKNIGHT: Objection.

13 THE WITNESS: He was like a liaison. Again,  
14 I think he was at the RNC that cycle. I think that's  
15 right. So he would have been liaison between the  
16 people actually doing all the precinct matching and  
17 that kind of stuff, yes.

18 BY MR. FRAM:

19 Q. Do you recall when you first heard about the  
20 project?

21 MS. McKNIGHT: Objection.

22 THE WITNESS: 20- -- not really. Obviously,  
23 late in the decade.

24 BY MR. FRAM:

25 Q. Late in the decade, like between 2000 and

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2 2010?

3 A. Yeah. So like 2009, '10.

4 Q. The project was not up and running for the  
5 2000, 2001 redistricting work; is that right?

6 MS. McKNIGHT: Objection.

7 You can answer.

8 THE WITNESS: There were pretty much  
9 different projects in each cycle, but they were just  
10 like two-year projects, or it depended. In most cases  
11 I think they were pretty much two-year projects.

12 BY MR. FRAM:

13 Q. Do you know who Mr. Chris Jankowski is?

14 A. Yeah, I know who he is.

15 Q. Do you ever communicate with him about  
16 redistricting regarding the 2010 cycle?

17 A. No. I did work for him briefly before 2010.

18 Q. Do you ever communicate with Mr. Jankowski  
19 regarding the project?

20 MS. McKNIGHT: Objection.

21 THE WITNESS: I had no conversations with him  
22 after the 2010 election.

23 BY MR. FRAM:

24 Q. By the way, I'm just using your phrase, "the  
25 project." If there's something more specific. I'd be

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2 happy to use that.

3 A. I really can't remember. Again, I was trying  
4 to figure that out, and that's because I wasn't  
5 actually employed by the project. My client was the  
6 RNC. So....

7 Q. Did you ever tell Mr. DiRossi or Ms. Mann  
8 that you were receiving information from the project  
9 for RNC and then validating the data?

10 MS. McKNIGHT: Objection.

11 THE WITNESS: I'm sure I did.

12 MS. RIGGINS: If you're moving on to another  
13 exhibit, do you think this would be a good time for a  
14 quick break since we've been going a little over an  
15 hour?

16 MR. FRAM: It would be, but I'll have one  
17 more question for the witness.

18 Q. Having spent a little time with this  
19 PowerPoint now, do you have any doubt in your mind  
20 this is an authentic copy of the presentation that you  
21 either gave or was distributed at RNC conference in  
22 the 2010, 2011 time period?

23 MS. McKNIGHT: Objection.

24 THE WITNESS: I don't have any doubt as to  
25 its authenticity. I assume it was probably one of the

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2 things that was in the packet. I don't have any  
3 reason to believe it wasn't.

4 BY MR. FRAM:

5 Q. I'm sorry. The last --

6 A. I said I don't have any reason to believe it  
7 wasn't.

8 Q. There were a couple negatives in there. I  
9 just wanted to make sure I got it.

10 A. I'm sorry.

11 Q. That's okay. I do that.

12 MR. FRAM: Why don't we take that break.

13 (A recess was taken from 10:19 a.m.

14 to 10:33 a.m.)

15 BY MR. FRAM:

16 Q. Just so we're talking about this term "the  
17 project" before the break, and just so I understand  
18 how the information actually came to you. Was it  
19 your -- did you receive information from the RNC or  
20 from the separate entity or group called "the  
21 project"? You've been calling it "the project."

22 A. I received the precinct-level data from the  
23 RNC, and I would receive the block-level data from the  
24 project.

25 Q. Understood. Was the RNC copied on those

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2 communications when you received the block-level  
3 information?

4 A. Well, it's possible I received it directly  
5 from the RNC. It's a question of -- it really  
6 depended on what state they were working on.

7 Q. Okay. For Ohio, do you have a recollection  
8 as to whether or not you received information from the  
9 RNC, from the project, or from both?

10 A. I have no recollection.

11 Q. Okay. It was one or the other?

12 A. Yes.

13 Q. Okay. And was Dr. Hofeller in the loop when  
14 you received the information from the RNC or the  
15 project?

16 MS. McKNIGHT: Objection.

17 You can answer.

18 THE WITNESS: Well, I wouldn't have received  
19 it from Hofeller. I would have received it from  
20 someone at the RNC who was working with Hofeller.

21 BY MR. FRAM:

22 Q. I see. And what about similar to the  
23 project? Let me back up.

24 The project is staffed by outside consultants  
25 not RNC employees; is that right?

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2 A. Yes. It's outside consultants.

3 Q. You just don't remember who the consultants  
4 were; is that right?

5 A. Well, Magellan Strategies in Colorado was one  
6 of the consultants.

7 Q. Anybody else?

8 A. Well, there would have been other individual  
9 consultants working with them.

10 Q. Okay. Do you know the name of any of the  
11 principals at Magellan?

12 A. David Flaherty.

13 Q. Anybody else?

14 A. His wife, Jennifer.

15 Q. Okay. And their work was a nationwide data  
16 set regarding census block -- strike that.

17 Their work, "they" being the folks at  
18 Magellan, were concerned nationwide -- a nationwide  
19 data set for election results at the census block  
20 level; is that right?

21 A. They developed block-level data sets for  
22 multiple states. It wasn't necessarily nationwide.

23 Q. Okay. Did that include Ohio in 2010?

24 A. Yes.

25 Q. I'm sorry. And 2011?

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2 A. Yes.

3 Q. Okay. And you used their information in your  
4 work at Ohio for Congressional redistricting in 2011?

5 A. That's my recollection, yes.

6 Q. By the way, I think you used the word  
7 "client" from time to time in connection with your  
8 redistricting work. You said it depends upon the  
9 client. Do you have an understanding of who your  
10 client was in Ohio in 2011 as regards Congressional  
11 redistricting?

12 A. Well, my client was Baker Hostetler.

13 Q. Did Baker Hostetler, did they make the first  
14 contact to you as regards to getting involved in Ohio  
15 Congressional redistricting in 2011?

16 A. Yes.

17 Q. And I think before you weren't sure when that  
18 was; is that right?

19 A. Yes.

20 Q. It was after the 2010 mid-terms as best you  
21 can recall; is that right?

22 A. Yes. I'm sure my invoices will refresh my  
23 recollection.

24 MR. FRAM: Let's work on that. Let's see  
25 here. We've got a few invoices.

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2 We'll start with this one as Exhibit 3. I  
3 should be clear. We talk about identifier numbers.  
4 In litigation they're called Bates numbers at the  
5 bottom of the page. These were not produced to us  
6 with numbers. I just want the record to be clear, we  
7 added these identifier numbers. We just added those  
8 Bensen numbers at the bottom of the page just so that  
9 we can identify the document.

10 So I'll just state for the record this is  
11 Bensen\_0000 -- five zeros. So -0000013.

12 (Deposition Exhibit 3 was marked for  
13 identification.)

14 BY MR. FRAM:

15 Q. For the record, this is an invoice from  
16 Polidata, LLC, and the date in the upper right-hand  
17 corner is 10-4-2011.

18 Mr. Bensen, is this an invoice you submitted  
19 to the Baker firm in October 2011?

20 A. It appears to be, yes.

21 Q. Okay. It says here -- there's a period, I  
22 see, where it says, "to September 30." Do you see  
23 that?

24 A. Yes.

25 Q. During your practice, your invoices would



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2 cover a month or more than that?

3 A. Just really depends on how busy I am at the  
4 time. There's not -- I work by myself. So there's no  
5 administrative person keeping me on tap. So I will  
6 sometimes -- I would usually do it, A, whenever I find  
7 the time to do it, or, B, when I've reached a plateau  
8 or something. But it's really -- at this period of  
9 time, it was just happenstance.

10 Q. Well, under you see Q-t-y. That means  
11 quantity. Do you see that?

12 A. Yes.

13 Q. And then it says, "174"?

14 A. Yes.

15 Q. That would be 174 hours?

16 A. Yes.

17 Q. And your rate over there is \$200. Do you see  
18 that over in the next column?

19 A. Yes.

20 Q. So the totals, if you multiply out the 174  
21 times the 200; is that right?

22 A. Hopefully.

23 Q. Okay. But do you recall whether or not you  
24 spent 174 hours on this project in September, or  
25 whether that went back to an earlier period of time?

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2 A. I don't know.

3 Q. Okay. Can you break apart that 174 hours for  
4 us in any way in terms of how like much was involved  
5 in which aspect of the redistricting work or which  
6 was -- well, let me back up a minute.

7 Of the 174 hours in the summer of 2011, do  
8 you have any sense of what percentage of your time was  
9 spent on Congressional redistricting as opposed to  
10 state?

11 A. For Ohio?

12 Q. Ohio.

13 A. Not from this one invoice, no.

14 Q. By the way, I'm assuming where it says,  
15 "Project, 2011-OHLEG-Re," that that covers both the  
16 Congressional and the state map work; is that right?

17 A. I can't tell from this invoice alone.

18 Q. Did you provide separate invoices for the  
19 Congressional work and the state reapportion work?

20 A. My recollection is there were four invoices,  
21 and the first two were mostly legislative, and the  
22 second two are mostly Congressional, but I can't tell  
23 from the invoice alone.

24 MR. FRAM: Okay.

25 (Deposition Exhibit 4 was marked for

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2 identification.)

3 MR. FRAM: I'll mark this next as 4,  
4 Bensen\_0000014, an invoice dated February 16, 2012.

5 Q. Does this appear to be an invoice that you  
6 submitted to the Baker firm?

7 A. That's one of them, yes.

8 Q. And the description here of the work is the  
9 same as in Exhibit 3, which is "Redistricting-General  
10 Data Development." Do you see that?

11 A. Yes.

12 Q. Does that refer to you providing election  
13 results data to the individuals working on the  
14 redistricting maps in Ohio in 2011?

15 A. Well, that would be -- that's my general rate  
16 for all those types of things. In other words, I  
17 would have a lower rate for strictly data and a higher  
18 rate for like reports or analysis or something like  
19 that. So just, in general, we cover most all kinds of  
20 data manipulation or Maptitude stuff.

21 Q. And you have a different rate for litigation,  
22 testifying work; is that right?

23 A. Yes.

24 Q. Now, just comparing the two invoices, there  
25 are 174 hours set forth in Exhibit 3 but only 8 hours

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2 in Exhibit 4. Do you have a recollection that the  
3 intensity of the project dropped off, say starting in  
4 October? Do you remember that?

5 A. Well, my recollection was that the first  
6 version of the Congressional plan was adopted in the  
7 middle of September, and then nothing happened for, I  
8 don't know, a month or something. And then there was  
9 another, I guess, bill. So yes, from my recollection,  
10 activity dropped off.

11 Q. Okay. Did your work pick up after -- for the  
12 second bill that was introduced? The second  
13 Congressional bill?

14 A. Well, I must have done some work during that  
15 time, yes.

16 Q. So you did some work -- you did some work on  
17 both bills; is that right?

18 A. Right. But my recollection is it would have  
19 been second -- the revision was just fairly isolated,  
20 or I don't exactly remember what the revision was, but  
21 I didn't have much to look at, as I recall.

22 Q. Other than Mr. DiRossi and Ms. Mann, and I  
23 think you mentioned Mr. Lenzo, did you have occasion  
24 to interact with any other individuals in Ohio  
25 regarding redistricting in 2011?

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2 A. I don't recall anyone, no.

3 Q. Did you ever travel to Ohio in 2011 in  
4 connection with any of the work you were doing on  
5 redistricting?

6 A. I don't think I did. This was my very busy  
7 period, and I rarely traveled because I had too much  
8 work in other states.

9 (Deposition Exhibit 5 was marked for  
10 identification.)

11 MR. FRAM: I'll mark next as Exhibit 5. It's  
12 a document with Bates No. BRADEN000657. It's an  
13 E-mail string earlier in time, seems to be Heather  
14 Mann to Mark Braden, May 25, 2011, 1:45 p.m. There's  
15 a subsequent E-mail from Mark Braden to you,  
16 Mr. Bensen, dated June 1, 2011 at what appears to be,  
17 I guess, 5:53 p.m.

18 Q. My first question is do you have any reason  
19 to believe you did not receive this E-mail back around  
20 June 1, 2011 from Mr. Braden?

21 A. All I have to go by is what's on the paper.

22 Q. Around June 1, 2011 do you recall whether you  
23 were already working on Ohio redistricting or not?

24 A. I have no recollection.

25 Q. Okay. Do you recall submitting any budget

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2 estimates or expenses to Mr. Braden as part of your  
3 work in the Ohio Congressional redistricting?

4 MS. RIGGINS: I'm going to object because  
5 since Mr. Bensen was an expert consultant on the  
6 project, we're going to consider a lot of his work and  
7 conversations with Mr. Braden covered under both  
8 attorney-client and work product privileges, but I'm  
9 going to instruct the witness that he can answer the  
10 specific question if he can do so without revealing  
11 the substance of the conversation.

12 MR. FRAM: Just so we're clear for the  
13 record, I had understood that, of course, Ms. McKnight  
14 is counsel for Mr. Braden and has played a role in our  
15 discovery issues regarding the contours of the  
16 privilege. I have yet to have the pleasure of acting  
17 with the Ogletree firm on those issues. So I didn't  
18 know that you're representing Mr. Braden or had any  
19 way, have any standing to assert the privilege on  
20 these issues.

21 Of course, if there's new information I don't  
22 have and you actually also are counsel for Mr. Braden  
23 and are asserting a privilege on his behalf, then  
24 please say so on the record so we're on the same page.

25 MS. RIGGINS: I'm asserting the privilege on

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2 behalf of the legislative defendants who Mr. Braden  
3 represented, including Mr. DiRossi and Ms. Mann.

4 MR. FRAM: My understanding is that the  
5 attorney general's office is representing Mr. Braden  
6 for that part of the project, and they've asserted  
7 privilege from time to time. And as is the Baker  
8 firm, Ms. McKnight, I just hadn't known that your firm  
9 is also now a third law firm representing Mr. Braden  
10 standing on the privilege.

11 I just want to note for the record we don't  
12 understand that. We're glad to work with a couple law  
13 firms we're already talking to about the privilege,  
14 but we didn't realize that you were also asserting the  
15 privilege for Mr. Braden.

16 MS. RIGGINS: Yes, on behalf of our client,  
17 the legislative defendants, who were his clients.

18 MS. MCKNIGHT: And for the record, Baker  
19 Hostetler is representing Mr. Braden insofar as there  
20 are any issues arising outside of his representation  
21 and work for Ohio in 2011. So just to be clear in how  
22 you were describing our role.

23 MR. FRAM: I don't think this will  
24 necessarily come to anything, but if it ever does, I  
25 just want to say that we don't agree that the Ogletree

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2 firm has standing to assert any privilege whatsoever  
3 on this issue. Just -- we'll just see where it goes.  
4 I just don't want not say anything to be taken to mean  
5 anything.

6 THE WITNESS: Can I have a moment with my  
7 attorneys here?

8 MR. FRAM: You want to talk to your  
9 attorneys?

10 THE WITNESS: Yeah.

11 MR. FRAM: Oh, sure. Talk to your attorneys.

12 THE WITNESS: It will be brief.

13 (A recess was taken from 10:52 a.m.  
14 to 10:55 a.m.)

15 MR. FRAM: After your legal conversations,  
16 anybody want to say anything?

17 MS. RIGGINS: Just for the record, to clear  
18 it up, Ogletree Deakins is special counsel to the  
19 attorney general's office as we represent the  
20 legislative defendants. So Mr. Fram was focusing on  
21 the representation of Mark Braden, and I want to make  
22 it very clear that Ogletree is here and I am here as  
23 special counsel to the attorney general's office  
24 representing our clients, the legislative defendants.  
25 The privilege is theirs to assert as they were the



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2 clients of Mr. Braden.

3 MR. FRAM: Okay. Well, I didn't see him  
4 showing up here today to assert it. So we'll keep  
5 going forward. Like I said, I don't know if this will  
6 come up or not.

7 Why don't we mark next as Exhibit 6 an  
8 E-mail, JUDY\_0001692 through -1696.

9 (Deposition Exhibit 6 was marked for  
10 identification.)

11 MR. FRAM: It's an E-mail string, the first  
12 page of which is an E-mail from Clark Bensen dated  
13 August 10, 2011, 1:50 p.m., to Heather Mann, Mike  
14 Lenzo, Miranda Thomas, with a "cc" to Mark Braden,  
15 Troy Judy and John Barron.

16 Mr. Bensen, please take a quick look at this  
17 one.

18 (The witness reviewed Exhibit 6.)

19 THE WITNESS: Okay.

20 BY MR. FRAM:

21 Q. Now, the Outlook E-mail string is in reverse  
22 chronological order. The very first page is not the  
23 earliest one that starts the string. So I just want  
24 to point that out and then say we're going to have to  
25 look at how this all gets started, but I guess I'd

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2 start with a question for you about the E-mail that  
3 you sent on August 10, 2011, 10:13 a.m.

4 A. What page is that?

5 Q. It's JUDY\_000163 -- excuse me. -0001694  
6 to -95. You'll see there's some other numbers on this  
7 based on how long the string was when it was printed  
8 out -- or the document was printed out, but this is an  
9 E-mail, one coherent E-mail string, as far as we can  
10 best tell. This document was part of a large  
11 collection of E-mails, multiple strings, some quite  
12 unrelated to each other. That's why you have two  
13 different kinds of numbers on it.

14 A. Yes.

15 Q. So in any event, you see that E-mail from you  
16 to Heather Mann, Miranda Thomas, Mike Lenzo, copy to  
17 Mr. Braden, and then also it looks like another copy  
18 to Ms. Mann dated August 10, 2011, time start  
19 10:13 a.m.

20 A. 10:13 a.m.?

21 Q. Down at the bottom of the page, -0001694 --

22 A. Yes.

23 Q. -- and it carries over to the top of the next  
24 page, -1695. Do you see that?

25 A. Yes.

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2 Q. Okay. Do you have any reason to doubt that  
3 you sent this E-mail to Ms. Mann and others on  
4 August 10, 2011?

5 A. No.

6 Q. Okay. Do you see there's a reference in the  
7 top of Page -1695 to you being in Cincinnati?

8 A. Yes.

9 Q. Is it your recollection you traveled to  
10 Cincinnati in the summer of 2011?

11 A. No, because I could have been at an NCSL  
12 conference or something else. This doesn't help me  
13 figure out that --

14 Q. I'm not asking whether you made a special  
15 trip just for the Ohio redistricting work. Just  
16 whether or not you were in Cincinnati that summer.

17 A. Well, it appears I would be, yeah.

18 Q. Do you recall any conversations with anybody  
19 in Cincinnati in the summer of 2011 regarding Ohio  
20 redistricting?

21 A. I believe this is actually to attend an RNLA  
22 conference in Cincinnati.

23 Q. What's RNLA?

24 A. Republican National Lawyers Association.

25 Q. Did you attend such a conference in

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2 Cincinnati?

3 A. Yes.

4 Q. Okay. Did you give a presentation at the  
5 conference?

6 A. I don't recall it. I think I did, yes.

7 Q. Okay. Do you recall the contents of the  
8 presentation?

9 A. I'm sure it had nothing to do with Ohio.

10 Q. Do you recall, while you were in Cincinnati,  
11 talking to anybody about any issue related to  
12 redistricting in Ohio?

13 A. No, because I was -- really, the RNLA  
14 conference is just a day of seminars, and my  
15 recollection is it was like a two-day seminar or two  
16 days of -- it was the annual meeting. So it was like  
17 probably Friday and Saturday. I remember I was really  
18 only there for like half a day. I think I came in the  
19 first night and spoke in the morning and flew out  
20 early afternoon.

21 Q. Okay. Do you recall whether Mr. -- well,  
22 were only lawyers in attendance?

23 A. Yes.

24 Q. Now, Ms. Mann is a lawyer. Are you aware of  
25 that?

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2 A. I wasn't.

3 Q. Do you recall if she was there?

4 A. No.

5 Q. Looking beyond just the issue of what was  
6 going on in Cincinnati, you'll see there's a reference  
7 to -- let me back up a minute.

8 Do you see there's an E-mail from Mr. Lenzo  
9 to you dated August 10, 2011 at 10:22 in the morning?  
10 Do you see that?

11 A. 10:22, yes.

12 Q. Do you have any reason to doubt you received  
13 this E-mail?

14 A. No.

15 Q. And he says, "To date no one has instructed  
16 how to proceed with respect to 'Version 3', so it has  
17 not been requested." Do you see that?

18 A. Yes.

19 Q. Is he referring to Version 3 of a database  
20 being developed by folks at Cleveland State  
21 University?

22 A. That's my understanding, which I believe is  
23 all legislative and not Congressional.

24 Q. Okay. But there was -- your understanding,  
25 there was a database. Did you use the Cleveland State

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2 University database in any way in working on the  
3 Congressional redistricting?

4 A. Not that I recall.

5 Q. Okay. Is it your understanding that this  
6 E-mail string only concerns legislative issues as  
7 regard to the legislative redistricting?

8 A. That's my recollection, yes.

9 Q. Is that true of all the other E-mails in the  
10 string as you recall?

11 A. Anything relating to the OCURD file would be,  
12 as far as I recall, relating to legislative plans.

13 (Deposition Exhibit 7 was marked for  
14 identification.)

15 MR. FRAM: I'm going to mark now Exhibit 7, a  
16 document Bates numbered BRADEN000782. It's another  
17 E-mail string. The top of the first page is from  
18 CLARK@POLIDATA.ORG to Heather Mann and then to Mark  
19 Braden dated August 11, 2011 around 5:14 p.m., and  
20 then there's an earlier-in-timing follow-down from  
21 Caliper Technical Support dated Wednesday, August 10,  
22 2011 at 1:57 p.m.

23 The first question is going to be whether you  
24 have any reason to doubt that you sent the August 11,  
25 2011, 5:14 p.m. E-mail to Ms. Mann and Mr. Braden.

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2 (The witness reviewed Exhibit 7.)

3 THE WITNESS: No.

4 BY MR. FRAM:

5 Q. Okay. That's your E-mail address; is that  
6 right?

7 A. Yes.

8 MS. McKNIGHT: Objection.

9 BY MR. FRAM:

10 Q. CLARK@POLIDATA.ORG, that's your -- that was  
11 your E-mail back in 2011?

12 A. Yes.

13 Q. Do you see where you say, "Heather, We can  
14 discuss this. It is painless for the Congressional  
15 plan." Do you see that?

16 A. Yes.

17 Q. So this is just released, in part, concerning  
18 questions as regard to the Congressional  
19 redistricting?

20 A. This is in preparation for when the plan has  
21 been approved in getting it ready for the Secretary of  
22 State and/or who is going to draft the final bill or  
23 the law. I think there were two levels. One was the  
24 bill, and then the law may have had a separate  
25 requirements. But it was how to transfer the plan

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2 geography when the plan was done into whatever  
3 requirements the -- whatever legal requirements were  
4 required for describing the geography.

5 Q. And the block equivalency files needed to be  
6 presented in a form that could be used to put the plan  
7 into a bill?

8 A. Well, that would be the starting point, yes.  
9 The question was whether they could just reference a  
10 block assignment file on file at the Secretary of  
11 State's office or if they had to have a listing of  
12 different geography within it.

13 Q. What do you recall about that?

14 A. Only what it says here, which is she's got --  
15 it has to be by census track. So a block equivalency  
16 file per se would not do it. They would have to have  
17 it broken down by different levels of geography.

18 Q. So it would have to be broken down by census  
19 track as well, not just census block; is that right?

20 A. Well, something along those lines. So in  
21 other words, some programming would have to be done to  
22 get it to the point where the bill drafters could  
23 incorporate it into the bill structure.

24 Q. Okay. Is it your understanding that the bill  
25 drafters needed to work with data at the census track



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2 level?

3 A. Only based upon what it says here.

4 Q. Do you have any recollection about that issue  
5 as you sit here?

6 A. No.

7 Q. Did you do anything to make the election  
8 result data usable at a census tracked level?

9 A. Can you rephrase the question?

10 Q. Did you do anything -- you said this is for  
11 the Congressional plan. You say that. Did you do any  
12 painless thing?

13 A. Well, obviously, once I got this, it wasn't  
14 painless. It was easy. Painless would be if you just  
15 exported a block assignment file. For the  
16 legislative, it was much more difficult. So I was  
17 just telling her this is not a difficult thing for the  
18 Congressional plan. I don't know if I did anything.  
19 I assume I probably wrote some program to allow the  
20 export of it into the fashion that the bill drafters  
21 needed.

22 Q. Okay. And just so I understand correctly,  
23 that would have included election result data?

24 A. No, just geography.

25 Q. So it would be correlating particular

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2 geography units with the district; is that right?

3 A. Yes.

4 Q. Okay. So, for example, correlating in the  
5 census tracked -- different census tracks with the  
6 district; is that right?

7 A. Yes. It would normally be arranged by  
8 district, and it would say, "These census tracks are  
9 in this district." Some of them may have been split.  
10 If the track was split, then it would list the blocks  
11 they were in.

12 MR. FRAM: Okay. So we have marked  
13 Exhibit 8, a document with Bensen\_0000033 through -37.

14 (Deposition Exhibit 8 was marked for  
15 identification.)

16 BY MR. FRAM:

17 Q. It's another E-mail string. However, this  
18 has got some -- what appear to be redactions.  
19 Somebody has blocked somebody's information.

20 So I'm going to start on Page 0000035.

21 A. Yes.

22 Q. E-mail from Heather Mann, Monday, August 15,  
23 2011, 7:03 p.m. to Clark Bensen, also Tracy Horgan and  
24 also Caliper Technical Support. Do you see that?  
25 There's several people cc'd, Ray DiRossi, Troy Judy,

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2 Mark Braden, Lynda Jacobsen, and Mark Lenzo. Do you  
3 see that?

4 A. Yes.

5 Q. Any reason to doubt you received this E-mail  
6 on or about August 15, 2011?

7 A. No.

8 Q. Okay. Now, this comes a few days after the  
9 previous E-mail we saw where you were saying it would  
10 be, your word, painless, to respond to the need to get  
11 the geography files at the track level for the  
12 Congressional plan. Is this dealing with the same  
13 issue or different issues, this E-mail in Exhibit 8?

14 MS. McKNIGHT: Objection.

15 THE WITNESS: It appears to be the same  
16 issue.

17 BY MR. FRAM:

18 Q. Okay. If you go back to the E-mail from  
19 Lynda Jacobsen back on August 15, 2011 at 9:38 a.m.  
20 at Bensen\_0000036, carrying over to the next page,  
21 -37. Do you see that E-mail?

22 A. Yes.

23 Q. See where she describes some of the issues  
24 that folks are running into because they're preparing  
25 a bill. Do you see that?

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2 A. Yes.

3 Q. Does this help refresh your recollection as  
4 to what some of the problems the folks were having as  
5 they were trying to create a final bill?

6 A. Yes.

7 Q. What were the problems that you remember?

8 A. They didn't understand what the codes were.

9 Q. What was the solution?

10 A. I don't know. I assume I translated it via a  
11 program so they could read 31 -- 3910796770011217 or  
12 some sort of set of numbers -- a string of numbers,  
13 let's say that, into county track block.

14 Q. Okay. Do you recall doing that?

15 A. I don't recall doing it.

16 Q. Do you recall if anybody else did that?

17 A. No.

18 Q. Now, Ms. Jacobson, she's with the Ohio  
19 legislative service commission. Do you see that?  
20 There's a signature block at the end of the E-mail.

21 A. Yes.

22 Q. Okay. Do you have any understanding what  
23 their function was in the Congressional map  
24 redistricting process in 2011?

25 A. I assume they were the ones that put it into

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2 bill format. I have no reason to believe I didn't  
3 provide them the translation of this into the format  
4 for them to do that. I have no recollection of  
5 specifically doing it.

6 MR. FRAM: Okay.

7 (Deposition Exhibit 9 was marked for  
8 identification.)

9 MR. FRAM: Exhibit 9 is a document with Bates  
10 No. Bensen\_0000044. It's an E-mail from Heather Mann  
11 to Clark Bensen, cc Ray DiRossi dated September 16,  
12 2011 at 10:48 p.m.

13 Q. Mr. Bensen, do you have any doubt that you  
14 received this E-mail on or about September 16, 2011?

15 A. No.

16 Q. Do you see there's a reference to importing  
17 "old maps/plans as SHPE files." Do you see that?

18 A. Yes.

19 Q. Do you recall providing that information to  
20 Ms. Mann in September 2011 in connection with  
21 Congressional redistricting?

22 A. I'm not sure that's what this infers. She's  
23 talking about importing maps that she has somehow that  
24 are SHPE files.

25 REPORTER MARTIN: What files?

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2 THE WITNESS: SHPE files, just S-H-P-E,  
3 files.

4 BY MR. FRAM:

5 Q. Why don't we say for the record what a SHPE  
6 file is, please.

7 A. It's just a computer file that has a  
8 representation of the outline of any piece of  
9 geography. One record, one file per shape.

10 Q. Did you have on your crew SHPE files for the  
11 Ohio Congressional district?

12 A. Not that I recall. Almost everything -- I  
13 may have if they sent it to me as a SHPE file, but the  
14 normal way would be that we were transferred geography  
15 via a block assignment file. They may have had a SHPE  
16 file that they got somewhere else. I think the  
17 question here was they were trying to deal with the  
18 Secretary of State in how to provide the information  
19 whenever the plans were done on Secretary of State's  
20 website. So they wanted to have both the block  
21 equivalency file and a SHPE file.

22 So this appears to be they were trying to  
23 play with both of them because importing them in  
24 Maptitude is different.

25 Q. I'm sorry.

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2 A. Importing a SHPE file into Maptitude is  
3 different than importing a block assignment file.

4 Q. Okay. So they didn't want to provide the  
5 SHPE files. They wanted some instruction to you as to  
6 how to do it; is that right?

7 A. That's my recollection. That's what it  
8 appears to be here. I don't have a recollection, but  
9 that's the kind of stuff -- they would have asked me  
10 questions like that fairly often. Well, not fairly  
11 often, but whenever they arose.

12 MR. FRAM: I understand.

13 (Deposition Exhibit 10 was marked for  
14 identification.)

15 MR. FRAM: We're going to look at next, I  
16 guess we'll mark it as Exhibit 10 in this deposition.  
17 It has a previous sticker on it, Exhibit 11. My  
18 understanding is this is -- it's 11 from a prior  
19 litigation. But in any event, it's an E-mail from  
20 Clark Bensen to Ray DiRossi, Heather Mann, Troy Judy,  
21 Matt Schuler, Benjamin Yoho, Vaughn Flasher, Mike  
22 Lenzo, with a "cc" to Mark Braden dated July 10, 2011.  
23 That's the -- physically the first one E-mail on the  
24 document that is not the earliest in time. It's  
25 another Outlook E-mail string that is the most recent

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2 in time.

3 There are other E-mail -- there's one other  
4 E-mail on the string immediately below and is from Ray  
5 DiRossi dated Sunday, July 10, 2011 at 4:22 p.m. And  
6 it's to Heather Mann, Troy Judy, Matt Schuler,  
7 Benjamin Yoho, Vaughn Flasher, Mike Lenzo. Also  
8 someone called JODY@CAPITALSTRATEGIESGROUP with a cc  
9 to Mark Bensen -- Mark Braden, I'm sorry, and a cc to  
10 you, Clark Bensen.

11 (The witness reviewed Exhibit 10.)

12 THE WITNESS: Okay.

13 BY MR. FRAM:

14 Q. Mr. Bensen, my first question is do you have  
15 any reason to doubt that you were copied on the E-mail  
16 from Ray DiRossi dated Sunday, July 10, 2011, at  
17 4:22 p.m.?

18 A. No.

19 Q. And do you have any reason to doubt that you  
20 in fact responded on Sunday July 10, 2011 at  
21 4:44 p.m.?

22 A. No.

23 Q. Now, you see in Mr. DiRossi's E-mail, do you  
24 see where he's referring to "using the 5 races listed  
25 below (equally weighted) to comprise our index number



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2 for apportionment and redistricting." Do you see  
3 that?

4 A. Yes.

5 Q. And then do you see it says that he's copying  
6 you to make sure that they have the races and the  
7 political data to be used in Maptitude? Do you see  
8 that?

9 A. Yes.

10 Q. Do you recall receiving a selection of  
11 elections to be used for index for Congressional  
12 redistricting in 2011?

13 A. I don't recall it, but I have no reason to  
14 think I didn't receive this.

15 Q. Do you see in the elections here he indicates  
16 that, in the 2004 Presidential election, the 2006  
17 auditor election, 2006 attorney general election, 2008  
18 Presidential election, and the 2010 governor election.  
19 Do you see those?

20 A. Yes.

21 Q. Do you have any recollection that those were  
22 elections that were selected by the map drawers in  
23 Ohio in 2011 for their index for scoring Congressional  
24 districts?

25 A. Do I have any recollection of that?

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2 Q. Right.

3 A. No more than this E-mail.

4 Q. You say at the top of the -- at the top of  
5 the page of the exhibit, in your response you say,  
6 "Ray, A good start...

7 "Thanks, Clark." Do you see that?

8 A. Yes.

9 Q. Did you provide any further information to  
10 further iterate the index?

11 A. Not that I recall. My only recollection was  
12 they were not specific to this. My general  
13 recollection was they were trying to integrate it into  
14 their Maptitude data files. In other words, I gave  
15 them the basic numbers. He's trying to figure out how  
16 to have that into the Maptitude side so they could  
17 have it calculated when they're doing their plans.

18 Q. When you said, "a good start," do you have  
19 any recollection of what you meant?

20 A. Well, he understood the basic concepts of  
21 what needed to be done.

22 Q. And what were the basic concepts, as far as  
23 you understood?

24 A. He picked races that appeared to be relevant  
25 to him and used the two major party vote.

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2 Q. Okay. Did you have any understanding as to  
3 whether or not the races he chose understated or  
4 overstated likely Republican strength?

5 A. What was the first part of the question?

6 Q. I'll say it again because I'm obviously not  
7 getting there.

8 Did you have any understanding as to whether  
9 the races he chose overstated or understated likely  
10 Republican strength in Ohio?

11 A. I didn't have any understanding. That isn't  
12 what I was asked.

13 (Deposition Exhibit 11 was marked for  
14 identification.)

15 MR. FRAM: Okay. Why don't we have marked  
16 next as Exhibit 11 to this deposition a document  
17 titled Bensen\_000- -- -000- -- six zeros -4, and it  
18 goes through No. 6.

19 (The witness reviewed Exhibit 11.)

20 BY MR. FRAM:

21 Q. I'll represent that we added the identifier  
22 number, but these came from your document production  
23 in this case.

24 A. Yes.

25 Q. Do you recall seeing this document that you

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2 pulled off your computer?

3 A. Yes.

4 Q. This is a document you created?

5 A. Yes.

6 MR. FRAM: The document had some meta data  
7 with it. We're going to mark it as Exhibit 12, the  
8 meta data we've generated.

9 (Deposition Exhibit 12 was marked for  
10 identification.)

11 BY MR. FRAM:

12 Q. We generated this meta data, but from the  
13 computer file you gave us. You'll see on Exhibit 12  
14 there's a reference to the "Date Created." Do you see  
15 that?

16 A. Yes.

17 Q. It's July 22, 2011?

18 A. Uh-huh.

19 Q. Is it consistent with your recollection that  
20 you created Exhibit 11 on or about July 22, 2011?

21 MS. McKNIGHT: Objection.

22 You may answer.

23 THE WITNESS: I assume so.

24 BY MR. FRAM:

25 Q. Do you recall creating Exhibit 11 as part of

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2 the work you were doing in Ohio redistricting?

3 A. I remember creating the document, yes.

4 Q. Do you see in the upper -- on Exhibit 11, the  
5 upper right corner you'll see -- do you see that?

6 A. Yes.

7 Q. That would be for Ohio; is that right?

8 A. Yes.

9 Q. And 2002 to 2010, that refers to the time  
10 period for the election results you were looking at;  
11 is that right?

12 A. Yes.

13 Q. And under where it says, "State," does that  
14 mean you were looking at statewide election results?

15 A. No. This is the result for the state totals.

16 Q. Okay. And then I promised you your initials  
17 would be important. Do you see where it says,  
18 "Author" and meta data 12 "chb" --

19 A. Yes.

20 Q. -- under "Author." That's your initials?

21 A. Yes.

22 Q. Now, turning to Exhibit 11, it says, "Example  
23 of Calculations for Election Averages." Do you see  
24 that, first page?

25 A. Yes.

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2 Q. Then it says, "EA11 to EA16."

3 A. Yes.

4 Q. Does "EA" stand for election averages?

5 A. Yes.

6 Q. Okay. Is that a nomenclature that you  
7 developed, or is it something that others developed,  
8 EA?

9 A. It's my nomenclature.

10 Q. All right. And do you recall if you shared  
11 this document, Exhibit 11, with anyone after you  
12 created it?

13 A. I don't recall. I assume the reason I did it  
14 in this format was so that I could send it to Ray or  
15 Heather so they could understand how the averages were  
16 calculated.

17 Q. Had they asked you to calculate different  
18 averages?

19 A. I don't know -- I don't recall that they did.  
20 Generally I would do it for my clients because these  
21 are generic averages, to get them kind of the flavor  
22 for what the range is in any piece of geography. So  
23 they could pick and choose from these if they thought  
24 that's useful. It's more just so they had something  
25 handy to work with until they decide what they want

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2 themselves to come up with.

3 Q. Okay. So that was your ordinary practice, to  
4 generate different EA scorings and then send it to the  
5 client?

6 A. Yes, generally.

7 Q. Do you have any reason to think you did not  
8 follow that practice in the case of Ohio Congressional  
9 redistricting in 2011?

10 A. No, I think I probably did include these in  
11 the data sets when I sent them, yes.

12 Q. Okay. If you look over EA12. Do you see  
13 that, the second set of scorings on the first page of  
14 Exhibit 11. Do you see that?

15 A. Yes.

16 Q. And do you see there are different elections  
17 listed in the -- well, far left column and the  
18 immediate to the left column. Do you see that?

19 A. Yes.

20 Q. There are five elections. Am I reading that  
21 correctly?

22 A. Yes.

23 Q. This, by the way, is described as an "(as  
24 selected by client)." Do you see that?

25 A. Yes.

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2 Q. Is it your recollection -- let's talk about  
3 what those elections were. The "2004 P," does that  
4 mean 2004 Presidential?

5 A. It would be the same five that are on that  
6 E-mail.

7 Q. That being Exhibit 10, the E-mail from  
8 Mr. DiRossi?

9 A. Yes.

10 Q. So, once again, you got 2004 Presidential,  
11 2006 auditor, 2006 attorney general, 2008  
12 Presidential, and 2010 governor. Do you see that?

13 A. Yes.

14 Q. Okay. So those are the five client selected  
15 elections for the EA12 index; is that right?

16 A. I'm not sure that my use of the term "(as  
17 selected by client)" here means this is what they  
18 selected as opposed to this is an example of what you  
19 could select. In other words, I went through and just  
20 picked out close races in the mix versus the following  
21 page where I've broken them out by on year and off  
22 year.

23 Q. Let's stick with EA 12.

24 A. I don't have a recollection to know whether  
25 this means I did this after they selected them or as a



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2 preparatory.

3 Q. Well, if we compare the date of Mr. DiRossi's  
4 E-mail, it's July 10. Do you see that on Exhibit 10?

5 A. Yeah.

6 Q. If you look at the meta data on Exhibit 12,  
7 and that has this document being created on July 22,  
8 about 12 days later. Do you see that?

9 A. Yes.

10 Q. Does that help refresh your recollection  
11 that, in fact, "as selected" here means this was the  
12 five elections that Mr. DiRossi had selected back on  
13 July 10?

14 MS. McKNIGHT: Objection.

15 THE WITNESS: It could well be. I mean I  
16 have no recollection per se of that.

17 BY MR. FRAM:

18 Q. Okay. But in any event, it's the same five  
19 elections in the E-mail as you testified and on  
20 Exhibit 11 for EA12; is that right?

21 A. Well, yes, because it's obvious that those  
22 are close races.

23 Q. I'm sorry?

24 A. It's obvious that the ones listed in 10 were  
25 close races.

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2 Q. Okay. Why don't we go across some of the  
3 columns on these because they seem to be the same  
4 across the different -- let me back up a minute.

5 They are EA scorings for five different  
6 averages; is that right? Excuse me. Six averages.  
7 Six different averages, EA11 through EA16; is that  
8 right?

9 A. Yes.

10 Q. And the columns appear to be the same in each  
11 of those tables; is that right?

12 A. Yes.

13 Q. Why don't we go through what the meanings are  
14 for each of the columns if we could. Just do it once  
15 for all. So for the far left is the "Year." That's  
16 the year of the election; is that right?

17 A. Yes.

18 Q. Okay. And then under the year, individual  
19 years there's a "Sum," S-u-m. Does that stand for  
20 adding up all the election results for all those  
21 years; is that right?

22 A. It's a total of the records above it, yes.

23 Q. And "Avg," what's that mean?

24 A. The average.

25 Q. And EA is election -- that stands for, you

1 CLARK BENSON

2 said, election average?

3 A. Right.

4 Q. Why is EA -- I'm noticing now that EA is not  
5 the same number as average; right?

6 A. Correct.

7 Q. What's the difference, please?

8 A. It doesn't include the other votes.

9 Q. The third-party votes?

10 A. Third minor parties.

11 Q. So EA would be the two-party only average; is  
12 that right?

13 A. Yes.

14 Q. Okay. Thank you.

15 And then "Dem," the next column over, that's  
16 the Democrat votes in that election; is that right?

17 A. Yes.

18 Q. And "Rep" is Republican?

19 A. Yes.

20 Q. And "Oth" would be the third party or minor  
21 party votes; is that right?

22 A. Whatever's left over.

23 Q. And "Tot," the next column over, that's total  
24 votes; is that right?

25 A. It's a total of the previous three columns.

1 CLARK BENSEN

2 Q. And Dem percentage, that's percentage of the  
3 two-party vote or of all the votes?

4 A. Total vote.

5 Q. Okay. And Rep percentage similarly is  
6 Republican percentage of the total vote, including  
7 third party?

8 A. Yes.

9 Q. And Oth percentage is the minor or  
10 third-party percentage; is that right?

11 A. Yes.

12 Q. What does "TotMPV" stand for?

13 A. The total of just Dem and the Rep.

14 Q. So just the two-party total, in other words?

15 A. "MPV" is major party vote.

16 Q. Major. Thank you.

17 And DMP percentage, is that the Democratic  
18 percentage of the two-party vote, the major party  
19 vote?

20 A. Right.

21 Q. That's the next column over.

22 And RMP percentage, is that the Republican  
23 percentage of the major party vote; is that right?

24 A. Yes.

25 Q. What does "MOV" stand for, the far right

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2 column?

3 A. Margin of victory. Just the difference  
4 between the Rep and the Dem percentage.

5 Q. Other percentage differences?

6 A. Yes.

7 Q. And is that the difference in their  
8 percentages in the major party vote?

9 A. Yes.

10 Q. Now I just want to go through the different  
11 options you presented here. EA11 is defined as  
12 "top-ticket races." Do you see that?

13 A. Yes.

14 Q. That's just President and governor only; is  
15 that right?

16 A. Yes.

17 Q. It says you provided that EA11 applied quota  
18 "for MIXED years." Do you see that?

19 A. Yes.

20 Q. What's "mixed year" mean?

21 A. Each election year. It's not broken out by  
22 on year or off year.

23 Q. Let's just define that for the record so that  
24 everyone understands. What's an on year?

25 A. A Presidential year.

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2 Q. Okay. And an off year would be a  
3 non-presidential year?

4 A. Yes. Or a mid-term year in this case.

5 Q. Did you ever -- you presented this EAll  
6 option. Is there any reason a client would prefer to  
7 use the EAll option? Any advantages?

8 A. Well, it just tells you what the high level  
9 is. Those are the races with the highest turnout.  
10 It's just -- the point here is just to give them some  
11 range of dynamics in any piece of geography.

12 Q. So EAll would be a high turnout year. That's  
13 the reason for considering it; is that right?

14 A. Well, not necessarily the high turnout year,  
15 a high turnout on the ballot. This is the top of the  
16 ballot regardless of year.

17 Q. I see. I see. Picking the top. Regardless  
18 of the year, it would be the highest turnout because  
19 those are the top of the tickets in that year?

20 A. Right. There wasn't as much roll-off --  
21 well, generally, there would be no roll-off from the  
22 top of the ticket.

23 Q. Right. Right. It's unusual to have more  
24 people vote for local assessor than it is for  
25 President. It goes the other way around. Isn't that

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2 right?

3 A. Well, there are far fewer people voting for  
4 assessor than there are President, yes.

5 Q. I understand. Like I said, for EA12, it's  
6 your understanding that, as you say, close races were  
7 chosen; is that right?

8 A. Yes.

9 Q. And where it says quota "adjusted to 50/50,  
10 does that mean -- well, what does that mean, "adjusted  
11 to 50/50"?

12 A. What I would do in some cases like this is  
13 these are close races, but they're not actually 50-50.  
14 So I would adjust them down a little bit one way or  
15 the other so that they were closer to actually 50-50.  
16 So, in other words, there was a 51 percent Democratic  
17 race. I would basically take a percent off so as to  
18 try to conflate them all into being even closer to  
19 50 percent each.

20 Q. Was there a certain amount by which you would  
21 bring them closer to 50-50, a certain number of  
22 percentage points?

23 A. It just depends on how far away from 50 they  
24 were.

25 Q. Would you try to make them all as close to

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2 50-50 as you could?

3 A. Yes. That was the theory here.

4 Q. But if you had a situation -- well, let's  
5 just take the top line. 2004 Presidential. Do you  
6 see that? Go over to the DMP percent and the RMP  
7 percent columns. Do you see that?

8 A. Yes.

9 Q. And the DMP is 48.63. Do you see that?

10 A. Yes.

11 Q. And the RMP percent is 51.37. Do you see  
12 that?

13 A. Yes.

14 Q. Does that reflect the numbers before or after  
15 you adjusted them to make them closer to 50-50?

16 A. Before.

17 Q. So the 50-50 it's just simply 50-50. There's  
18 nothing -- or is there some number between these  
19 values and 50-50 you would generate?

20 A. No. It would really just be basically, for  
21 instance, in that race, 2004 Presidential from a  
22 Democratic percentage, it was under 50. So I would  
23 raise it up like a point and a half. When you look at  
24 the actual numbers, it's not necessarily going to add  
25 up in the redistricting database. It may not actually



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2 add up to 50-50, but it would be closer to 50-50 than  
3 48-50 -- 49-51.

4 Q. And you said you would do that in the  
5 redistricting database?

6 A. I do it in the data before I put it into the  
7 redistrict database. But because of the multiple  
8 levels of geography, it wasn't going to give them an  
9 exact fact. It was just to give them some sense of if  
10 you had a close race but not just one close race, you  
11 looked at a mix of them, this is how it might come  
12 out.

13 Q. Did you provide the election results as  
14 adjusted to 50-50 to Ms. Mann or Mr. DiRossi in 2011?

15 A. My recollection is it was in the database,  
16 yes.

17 Q. Do you know if they used that information?

18 A. I have no idea.

19 Q. I want to understand, when I see an EA12  
20 scoring value, if I see it here, it's not yet adjusted  
21 to 50-50; is that right?

22 A. These numbers are the raw data numbers. They  
23 don't reflect the adjustment to 50-50. The difference  
24 here versus what was in here is I adjusted 50-50.  
25 When Ray in Exhibit 10 was talking about his five

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2 races, he wasn't adjusting them. He was just using  
3 them as they were.

4 Q. Okay. And so, similarly, here on Exhibit 11  
5 for EA12, these numbers are not adjusted. These are  
6 just the numbers as they are?

7 A. Everything else -- well, no. It says on the  
8 top of each of the sub tables whether they were  
9 adjusted or not. It would have basically been only  
10 the close races that I would adjust.

11 Q. That's why I'm asking because it says here,  
12 "adjusted to 50-50" for this table on the first page  
13 of Exhibit 11, and then we're looking over here at the  
14 Democrat and Republican percentages, before I believe  
15 you had said they had not been adjusted. So I'm  
16 trying to understand whether they were or they weren't  
17 just to know I'm reading the document correctly.

18 A. These are the raw numbers. I was trying to  
19 illustrate the difference between what the adjustment  
20 was, which was basically all 50-50 versus what I had  
21 to start before I did the adjustment. In other words,  
22 if one was 65 percent they would know that would be a  
23 huge adjustment. So what's the point of having it in  
24 there. So this is really just to say, "These are the  
25 races that were chosen to put into this." The end

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2 result was they were more or less 50-50.

3 Q. Okay. Turn to EA13. Top of it says, "close  
4 races (from EA12) for on years, adjusted to 50/50."  
5 Do you see that?

6 A. Yes.

7 Q. And on that one it says -- well, explain what  
8 you were doing here. These are close races from EA12  
9 for on years. What do you mean by that?

10 A. It's the same as the table for EA12, but it's  
11 only for the Presidential years. One each year.

12 Q. And EA14, similarly, is for the  
13 non-presidential years; is that right?

14 A. Just one in each year.

15 Q. Right. I got it. So you have -- for the A14  
16 you just got -- you have the attorney general and the  
17 governor race; is that right?

18 A. Yes.

19 Q. Okay. I understand. Then going over to  
20 EA15.

21 A. Yes.

22 Q. You've got "good/high GOP performance  
23 %btw" -- I assume is between "55-60 for mixed years,  
24 unadjusted." Do you see that?

25 A. Yes.

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2 Q. What are the elections that you included  
3 there?

4 A. "S" is the U.S. Senator, and "J" is the state  
5 treasurer.

6 Q. Those are stronger Republican years; is that  
7 right? Stronger as far as elections?

8 A. Yes.

9 Q. Republicans had better than 55 percent; is  
10 that right?

11 A. Yes.

12 Q. EA16, conversely, it says, "bad/low GOP  
13 performance." Do you see that?

14 A. Yes.

15 Q. Okay. Here you're looking at the 2006 senate  
16 and the 2006 treasurer; is that right?

17 A. Yes.

18 Q. Okay. And then the note at the bottom, you  
19 provide clarification as to what adjusted and  
20 unadjusted means; is that right?

21 A. Yes.

22 Q. And you make it clear that adjustments would  
23 mean different than those listed here?

24 A. Right, because when you actually implement it  
25 throughout the whole data set, they're -- first off,

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2 they're going to be adjusted, and they're still not  
3 going to add up.

4 Q. Do you know if Ms. Mann or Mr. DiRossi used  
5 the adjusted numbers in the generation of maps for  
6 Ohio in 2011?

7 A. I don't. It would appear from this,  
8 Exhibit 10, that they probably just used the basic raw  
9 data.

10 Q. Okay. Did you ever have a conversation with  
11 them as to whether they should be using a high GOP  
12 performance index?

13 MS. RIGGINS: Objection. Mr. Bensen's  
14 conversation and the substance of those conversations  
15 with Ms. Mann and Mr. DiRossi are covered under the  
16 attorney-client privilege. Mr. Bensen may answer the  
17 precise question asked but not revealing any --

18 MR. FRAM: Just for the record, we've had  
19 lots of testimony about their communications and we've  
20 also had plenty of documents. If that's your  
21 position, our position is that privilege is utterly  
22 and completely waived.

23 Q. You may answer the question.

24 A. Would you restate the question.

25 Q. Yeah. Did you talk to them at all about

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2 whether they should use a high GOP performance index?

3 MS. McKNIGHT: Just remember to answer the  
4 precise question.

5 THE WITNESS: Did I have a conversation --  
6 one more time.

7 BY MR. FRAM:

8 Q. Did you have any communications in any way  
9 about whether to use a high performance -- a high GOP  
10 performance index or not?

11 A. I had conversation with him about whether to  
12 use one. I merely explained what was there.

13 Q. What do you recall about that conversation?

14 MS. RIGGINS: Objection. Covered under the  
15 attorney-client privilege. This is substance of the  
16 conversation, and it's not just technical advice.  
17 You're asking about the substance of why one would do  
18 something over the other.

19 MR. FRAM: I'm just asking about facts.

20 Q. What do you recall about the conversation?

21 MS. RIGGINS: Objection. Covered under the  
22 attorney-client privilege.

23 MR. FRAM: I'm not sure you're Mr. Bensen's  
24 attorney. So are you instructing Mr. Bensen not to  
25 answer the question?

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2 MS. RIGGINS: Yes.

3 MR. FRAM: Okay.

4 Q. Are you following the lawyer from  
5 Ogletree's -- who's representing you here today?

6 A. That's a good question. She's representing  
7 the -- as far as I understand, the privileges of the  
8 actual client, being the legislature or the state or  
9 whomever, and Ms. McKnight more or less representing  
10 me.

11 Q. Are you following the instruction not to  
12 answer the question?

13 A. Well, generally, I will do that. My  
14 conversations here were totally technical. So that's  
15 all I can say. There's nothing, from what I recall  
16 about it, being privileged. In her defense, she's  
17 saying it could be privileged. My recollection is it  
18 wasn't a conversation that got to that level.

19 Q. So given that testimony, what can you tell me  
20 about the conversation since you don't recall anything  
21 about it being privileged?

22 A. It was pretty much the same as our colloquy  
23 about what was in it.

24 Q. I'm sorry. If you could state for the  
25 record -- we've covered a lot of territory. So I'm

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2 trying to focus on what we'd actually discussed with  
3 them.

4 A. Just what was in the averages.

5 Q. So you explained the averages to them. Is  
6 that what you recall?

7 A. Right.

8 Q. Okay. And was this on a telephone call or in  
9 person? Do you recall?

10 A. I hardly ever saw them in person. So I guess  
11 it was a telephone call.

12 Q. Okay. And do you recall any questions they  
13 asked you about different averages?

14 A. No.

15 Q. Do you recall any -- from a substantive,  
16 technical matter, the pros-and-cons of different  
17 averages with them?

18 A. I'm sure I did. Just, again, to the extent  
19 these were a range of offerings they could use. If  
20 they wanted to get a sense of the dynamics of any  
21 piece of geography without calculating it themselves,  
22 this gave us something to start with.

23 Q. Do you recall them saying they preferred to  
24 go the A12?

25 A. No. And my recollection is they were using



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2 their own version of it regardless of what I gave  
3 them, but that's all I can --

4 Q. But the one version they were talking about,  
5 would that reflect the elections -- the data set forth  
6 in Mr. DiRossi's E-mail that's been marked as  
7 Exhibit 10?

8 A. I have no recollection of it aside from that  
9 E-mail. My only recollection was I helped them to  
10 calculate something themselves, to calculate what it  
11 was. It could have been this. It could have been  
12 some other E-mails we haven't seen.

13 Q. Then did you give them EA data so that they  
14 could use in Maptitude?

15 A. Excuse me?

16 Q. Did you give them EA data that they could  
17 then use in Maptitude?

18 A. My recollection is it was included in the  
19 data set I sent them, yes.

20 Q. So the data set you sent them included  
21 various EA information; is that right?

22 A. That's my best recollection.

23 Q. And that could not be used to provide an  
24 index value for different Congressional districts as  
25 each district was drawn; is that right?

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2 A. It could, yes.

3 (Deposition Exhibits 13, 14 and 15 were  
4 marked for identification.)

5 MR. FRAM: I'm going to mark the next three  
6 exhibits; 13, 14, and 15.

7 Is that right?

8 REPORTER MARTIN: That's correct.

9 MR. FRAM: So 13 has got Bates  
10 No. BLESSING0013211, and it says,  
11 "Polidata\_2018.10.04." It's a screen shot of a zip  
12 file.

13 14 appears to be another screen shot of files  
14 that -- this one has the identifier at the top of  
15 "11274 > Document Production > Third Party > Mann,  
16 Heather2018.10.04 > BLESSING0013211 > Polidata >  
17 Clark07-24-11."

18 Exhibit 15 has also got No. BLESSING0013211  
19 Polidata\_Clark 07-24-11\_ccBlock.cdf. That's 15.  
20 We'll do those three together.

21 (The witness reviewed the documents.)

22 BY MR. FRAM:

23 Q. Okay. Now, these are documents that were  
24 produced by Heather Blessing, Mr. Bensen, not by you.  
25 The files are identified -- first one on Exhibit 13.

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2 See, it says, "Polidata." Then that zip file, it's a  
3 screen shot of a zip file. Do you see that?

4 A. Yes.

5 Q. It says, "Clark 07-24-11." Do you see that?  
6 Then "Clark 08-26-11, 09-05-11,"  
7 and then "Clark New Congressional Layers,"  
8 and then "Clark 1." Do you see that?

9 A. Yes.

10 Q. Followed by a DBF file which appears to have  
11 a lot of data in it. Do you see that?

12 A. Yes.

13 Q. Do you see they are modified dates on the far  
14 right column? Do you see those?

15 A. Yes.

16 Q. My question is do you recall, in fact,  
17 sending -- I think before you said election result  
18 data to Ms. Mann or Mr. DiRossi. Did you also send  
19 them DFF files?

20 MS. McKNIGHT: Objection.

21 THE WITNESS: It just depends on what format  
22 I send it to them.

23 BY MR. FRAM:

24 Q. Okay. Do you recall sending them -- do you  
25 recall creating files in late July 2011 for work on

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2 the Ohio redistricting?

3 A. I don't recall, but it seems within the time  
4 frame, yes.

5 Q. Let's turn to Exhibit 14, which I'll  
6 represent is what you see if you click on the  
7 Clark 24-11 folder that we see in Exhibit 13. Do you  
8 see there's a whole lot of files listed?

9 A. Yes.

10 Q. Do you have any understanding of what those  
11 files are? It's a long list.

12 A. Those are the files that you need for  
13 Maptitude.

14 Q. Do you recall generating those files?

15 A. These would have been ones I would have  
16 created. I don't know specifically if I did these,  
17 but yes.

18 Q. All right. And then if you go to Exhibit 15,  
19 which is what happens if you click on the cc block,  
20 that CDF file that's on Exhibit 14.

21 A. If you click on the what now?

22 Q. The third file down. "ccBlock.cdf." Do you  
23 see that? I'm just on Exhibit 14.

24 A. Yes.

25 Q. Do you understand what CcBlock.cdf stands

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2 for?

3 A. Yes.

4 Q. What is that?

5 A. This would be the Maptitude file that would  
6 have one record per block connected to a SHPE file.  
7 So, in other words, there would be like 350,000 or  
8 whatever shapes, one for each block, and each record  
9 would have the information that's listed on the side  
10 of the pages in Exhibit 15 corresponding to that  
11 block.

12 Q. Okay. So let's look at Exhibit 15 then.  
13 Let's look at, starting on that second page of  
14 Exhibit 15 where that information starts being listed.  
15 Do you see that?

16 A. Yes.

17 Q. So if you go down to -- there's an -- at the  
18 very top it says name. It says block 4015. Do you  
19 see that at the top?

20 A. Yes.

21 Q. Does all this information concern census  
22 block 4015?

23 A. Yes.

24 MS. McKNIGHT: Objection.

25 You can answer.

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2 MR. FRAM: I'm sorry. Is census block 4015  
3 attorney-client privilege?

4 MS. McKNIGHT: To be clear, my objection is  
5 to form. He may answer.

6 MR. FRAM: Okay.

7 Q. Does census block 4015 refer to census block?  
8 Does block 4015 refer to a census block?

9 A. It refers to a block in a census track.

10 Q. Right. But is that a census block?

11 A. Yes.

12 Q. Thank you. And so, in fact, did you generate  
13 a file for each census block that has the information  
14 set forth on Exhibit 15?

15 A. No, I generated a record for each.

16 Q. You generated a record for each census block  
17 that has the information set forth on Exhibit 15 for  
18 block 4015?

19 A. Well, actually, I didn't generate a record.  
20 I appended information to the records that Maptitude  
21 had already created.

22 Q. And you did that for every census block?

23 A. I did it for every census block and  
24 apparently other layers too.

25 Q. Now, you've used Maptitude a lot. Do you

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2 know how to generate the -- I don't know if you'd call  
3 the stuff on the right a window or a table. Whatever  
4 you're comfortable with in terms of how you'd describe  
5 it.

6 A. Table.

7 Q. Data?

8 A. No. "Table" is fine.

9 Q. Table?

10 A. Yeah.

11 Q. Do you know how you would view this table in  
12 Maptitude?

13 A. Actually, in this format, no, but the data  
14 view option, it says at the top -- at the very top of  
15 that, those two columns it says, "Data view, Census  
16 Block info."

17 Q. Uh-huh.

18 A. The data view option is a way to actually  
19 look at what the data are behind the screen, so to  
20 speak. Getting in this actual format, I'm not sure  
21 how they did that, but it's -- normally you look at it  
22 across the page. You would have one record and you  
23 would have cell after cell after cell, just like an  
24 Excel file. They just have somehow managed to do it  
25 this way.

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2 Q. This happens to be vertical, but you've seen  
3 it horizontal. Is that what you're saying?

4 A. I've just never seen it in this format.

5 Q. Look at the far left of the document. Do you  
6 see there's icons that go down the page. Do you see  
7 that?

8 A. Yes.

9 Q. Do you see there's a little "i"?

10 A. Yes.

11 Q. Do you see it's highlighted with blue around  
12 it?

13 A. Yes.

14 Q. Do you see in the middle of the map there's  
15 an "i"?

16 A. Yes.

17 Q. So you're saying that if you click on that  
18 "i" icon and then you hover over the particular census  
19 block and you click on that and you get your data view  
20 table?

21 A. Well, good point. That's probably why this  
22 is like this because normally when I would do that, I  
23 would only have a few variables showing up. So the  
24 table would be like 10 lines long. This is apparently  
25 just doing the entire thing and going through the



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2 entire record, basically.

3 Q. So you can customize how much you see in data  
4 view; is that right?

5 A. Yes.

6 Q. I understand. This is just all of it as far  
7 as you can tell?

8 A. Apparently, yes.

9 Q. Let's look at some of the documents. Why  
10 don't we start with the third page of the document,  
11 which is marked as 003 at the bottom.

12 A. Yes.

13 Q. You'll see it says G02G\_DV. Do you see that?

14 A. Yes.

15 Q. Let's just go through what the nomenclature  
16 is there. So G is general election; is that right?

17 A. The first G, yes.

18 Q. '02 is the year, 2002?

19 A. Yes.

20 Q. And the second "G" is the governor's race; is  
21 that right?

22 A. Yes.

23 Q. And between DV is the Democrat vote; is that  
24 right?

25 A. Yes.

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2 Q. Okay. And that then says -- if you go over  
3 to the far right, it's got 13,000. Do you see that?  
4 Am I reading that correctly, or is it 13?

5 A. 13.

6 Q. So what does 13 stand for there in that  
7 column?

8 A. That's the number of votes that we would  
9 estimate were cast in that block for the Democratic  
10 candidate.

11 Q. Okay. I got it. So 13 Democrat votes in  
12 that block. Then under the same election, RV got 4  
13 Republican votes; is that right?

14 A. Yes.

15 Q. And then if you go down to the total votes,  
16 TV is the next one. Is that total votes? Is that  
17 right?

18 A. Yes. That would include votes -- the other  
19 votes that aren't listed.

20 Q. In this case it just seems to be adding the  
21 13 Democrats and the 4 Republicans. That comes up to  
22 17; is that right?

23 A. Right.

24 Q. And then the next one down is G02G\_RP. Do  
25 you see that?

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2 A. Yes.

3 Q. Is that Republican percentage of the vote?

4 A. Yes.

5 Q. Looking over the far right column, 23.5, that  
6 was the percentage of the Republican vote in that  
7 census block; is that right?

8 A. Yes.

9 Q. By the way, did you come up with these  
10 nomenclatures for the elections, or was this something  
11 someone else did?

12 A. No. This is based upon my work at the RNC in  
13 the '80's.

14 Q. Okay. And then let's just go -- I'm not  
15 going to go through all the numbers, but just so we  
16 got a good record here. So the next is G02A, and  
17 that's -- is that the 2002 -- well, what is that?

18 A. "A" is for attorney general. I is for  
19 auditor. "T" is for Secretary of State. "J" is for  
20 state treasurer. "H" is for U.S. House. "Y" is state  
21 senate, and "X" is state house.

22 Q. Okay.

23 A. So apparently I did include the legislative  
24 races, state house and state senate and Congress.

25 Q. I see here you've got RP values, but I'm not

1 CLARK BENSEN

2 seeing DP values. You just gave the Republican  
3 percentage; is that right?

4 A. Well, yes, but that's because the record, the  
5 longer the record is, it's just -- it isn't a problem  
6 anymore. It's just easier to have fewer fields. So,  
7 for instance, the reason the other votes aren't  
8 included but the TV is is you can calculate the other  
9 vote from that if you need it.

10 Q. Uh-huh.

11 A. So, likewise, you can calculate the Democrat  
12 percentage if you need it, but it just saves fields.

13 Q. Does the RP percentage share the two-party  
14 percent, or is it the percentage of everything  
15 including the third party?

16 A. I think this is based upon the actual --  
17 total votes. Once again, you can calculate the  
18 percentage of the major party vote from the  
19 information given here.

20 Q. All right. I think you testified before that  
21 if you knew which census blocks you were including in  
22 the district, then Maptitude can aggregate up, let's  
23 say, the Republican percentage for the entire district  
24 based on all those census blocks; is that right?

25 A. It would add up the raw numbers and calculate

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2 the percentage.

3 Q. Okay. That's how the map works. I  
4 understand.

5 A. Right.

6 Q. Fair enough. Let's skip ahead in the  
7 document a little bit to Page 6. Do you see EA values  
8 appearing on Page 6?

9 A. Yes.

10 Q. Then it starts at EA11, and then it goes all  
11 the way up to EA41. It's not sequential. There's  
12 some gaps. I want to ask you about that. Okay?

13 A. Yes.

14 Q. Do these reflect the EA data that you  
15 provided to Mr. DiRossi and Ms. Mann?

16 MS. McKNIGHT: Objection.

17 THE WITNESS: It appears to be.

18 BY MR. FRAM:

19 Q. And I see we have EA11 through -16 as we saw  
20 back on --

21 A. 11.

22 Q. Exhibit 11. Is it your recollection that  
23 these EA values stated here reflect the same EA  
24 elections set forth on Exhibit 11?

25 MS. McKNIGHT: Objection.

1 CLARK BENSEN

2 You can answer.

3 THE WITNESS: Appears to be, yes.

4 BY MR. FRAM:

5 Q. There's some additional ones beyond 6. That  
6 gets us through EA16.

7 A. Uh-huh. Yes.

8 Q. But then this one keeps going a little  
9 (indicating). You got EA21. That was not on  
10 Exhibit 11. Do you know what that was?

11 A. I'm sure I did. I have no recollection what  
12 they are at this time though.

13 Q. So you also had 31 and 41. Do you see those?

14 MS. McKNIGHT: Objection. Form.

15 You can answer.

16 THE WITNESS: Yes. It appears I did them,  
17 obviously. I just have no recollection what they were  
18 or were not.

19 BY MR. FRAM:

20 Q. Did you ever have any conversation with  
21 Mr. DiRossi or Ms. Mann, after you generated  
22 Exhibit 11, as to developing additional election  
23 averages?

24 A. I don't recall that, but I do frequently have  
25 other -- the way these are set up, the 21, 31, 41,

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2 those were the standardized things that I would do. I  
3 just don't remember what they were.

4 Q. Okay. In any event, in Maptitude they had  
5 the election data beyond just the five elections that  
6 were contained for EA12. Isn't that right?

7 MS. McKNIGHT: Objection.

8 THE WITNESS: Yes.

9 BY MR. FRAM:

10 Q. Okay. And if they wanted to they could have  
11 looked at the election results for Congressional  
12 district based on a broader set of elections than  
13 those contained in the EA12; correct?

14 MS. McKNIGHT: Objection.

15 THE WITNESS: They had the capability of  
16 doing that, yes.

17 MR. FRAM: Okay.

18 (Deposition Exhibit 16 was marked for  
19 identification.)

20 MR. FRAM: We're going to have marked as  
21 Exhibit 16 a document BENSEN\_0000084 through --  
22 actually, it's the only number we have on it. It's a  
23 five-page spreadsheet. So that's Exhibit 16.

24 (The witness reviewed Exhibit 16.)

25 BY MR. FRAM:

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2 Q. Mr. Bensen, this is a document you produced  
3 in this case. The information in the brackets below,  
4 that's the file name. We added the number, but the  
5 file name that was received, it was September 14  
6 "dvw\_aggset\_ohcd\_2011\_enacted-" September --  
7 "-sep14\_ohmix\_", it looks like "kl15a.xls." Do you  
8 see that?

9 A. Yes.

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. Did you create this document?

13 A. Yes.

14 Q. Do you recall why you created this document?

15 A. This is a normal version of the data view  
16 which is -- there's this one record in this case for  
17 each district, and then it just lists what appears to  
18 be all the fields going across. In other words, each  
19 of the variables. They may be a subset of them to the  
20 extent that it doesn't appear to be all of the  
21 population, the census demographics, but it has a mix  
22 of census demographics, and then it has a mix of the  
23 political indicators, meaning as just the Dem and the  
24 Rep vote for what appears to be all the statewide  
25 races, and has some of the election averages towards



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2 the end of the record or the end of the pages.

3 Q. Now, did you generate this using Maptitude?  
4 Is that right?

5 A. Yes. This is one way to export data from  
6 Maptitude.

7 Q. You can export data from Maptitude into  
8 Excel; is that right?

9 A. Yes.

10 Q. This is an .XLS file. That's an Excel file;  
11 is that right?

12 A. Yes.

13 Q. Okay. So I take it the tool you used to do  
14 that, it wouldn't be initially the data view tool, but  
15 it would be some other Maptitude button you'd click  
16 on?

17 MS. McKNIGHT: Objection.

18 You can answer.

19 THE WITNESS: It would be the data view. It  
20 would be -- this is what would show up on your screen.  
21 In the data view window you would then say, "export"  
22 or save as an Excel file. There are several other  
23 options.

24 BY MR. FRAM:

25 Q. So why don't you see if I got the sequence

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2 right. You used the info tool to create the data  
3 view; is that right?

4 A. No. You don't need the info tool here. The  
5 info tool is just a way to look at a particular area.  
6 This is as you were normally drawing, the data view  
7 shows up at the top of your page -- well, that's the  
8 way I would do it. You can then just, when you're  
9 done with the map or if it's just the map you're  
10 looking, it shows you the number so you can just  
11 export that out so you could do something else with  
12 it.

13 Q. So first you see it, but then you export it  
14 to Excel. Is that how that works?

15 A. Right. So you can manipulate it or print it  
16 out more easily. It's very hard to print stuff out in  
17 Maptitude.

18 Q. Understood. And so, like you say, if you  
19 look at Exhibit 16, you look starting on the second  
20 page, you start seeing all those -- let me back up.

21 On the far left it's got district, and it's  
22 got 1 through 16. Do you see that?

23 A. Yes.

24 Q. Those are the 16 districts for which maps are  
25 being drawn in 2011; is that right?

1 CLARK BENSEN

2 A. Yes.

3 MS. McKNIGHT: Objection.

4 You can answer.

5 BY MR. FRAM:

6 Q. And then you go on to the second page.  
7 Starting at eight columns over, we start seeing our  
8 election results -- is that right? -- with the  
9 GO2G\_DV. Do you see that?

10 A. Yes.

11 Q. Then we have here all the statewide elections  
12 between on that page and Page 3 and page -- up through  
13 the middle of Page 4, we got all the elections 2002  
14 through 2010. Do you see that?

15 MS. McKNIGHT: Objection.

16 THE WITNESS: Yes.

17 BY MR. FRAM:

18 Q. Before you weren't sure if you went all the  
19 way back to 2002. Does this refresh your recollection  
20 to the fact that you did?

21 A. Yes. It appears it went to 2002. So these  
22 would be the standard selections of all these  
23 statewide races.

24 Q. Fair enough. And the nomenclature here we've  
25 already discussed with what the acronyms mean. Now,

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2 you don't call them codes. Do you have a name for  
3 these things like G02 that you developed at the RNC?

4 MS. McKNIGHT: Objection. Form.

5 You may answer.

6 THE WITNESS: An acronym is fine. I call  
7 them race codes or office code or whatever.

8 BY MR. FRAM:

9 Q. I'll use what you use. These are the race  
10 codes that you use, and - you developed those race  
11 codes when you worked at the RNC in the '90's; is that  
12 right?

13 A. In the '80's. In the '80's every space,  
14 every byte on a computer was valuable. You didn't use  
15 much. This is back when your file names were 8.3. So  
16 you had to be concise as such.

17 Q. And it still shows up in Maptitude today?

18 A. Well, it does for me because I'm too old to  
19 retrain.

20 Q. But it showed up in 2011 in Ohio?

21 A. Oh, and it will show up in 2021 in the states  
22 I work in, yeah.

23 Q. And then we get to the -- we get to Page 4,  
24 and we start seeing the EA code, starting with EA11.  
25 Do you see that?

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2 A. Yes.

3 Q. And here, once again, it's got not just EA --  
4 going to the next page, but let's see Page 4 and 5.  
5 EA11 through EA16, but also, again, through -- you  
6 also have EAs 21, -31, and -41. Do you see that?

7 A. Yes.

8 Q. Does looking at this help you remember what  
9 those were?

10 A. No. Again, I'm sure I did them because I  
11 have multiple sets of them. I just at this point have  
12 no recollection because I didn't look at this closely  
13 enough to remind me that I should figure out what they  
14 were.

15 Q. Okay. This shows the -- those EA indices,  
16 the number of votes. Let me back up. It shows the  
17 votes for the election selected for each EA for each  
18 Congressional district; is that right?

19 A. Yes.

20 Q. So if I look at just a quick one example and  
21 I pick District 1 and I go over to EA12\_RV, and it  
22 says 173298. Do you see that? It's on Page 4. Does  
23 that mean there were 173,298 Republican votes in the  
24 five elections that were part of EA12?

25 A. Well, in the adjusted version of EA12.

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2 Q. So there you have -- that's not the actual --  
3 let me go back. That's not the actual average for the  
4 five elections?

5 A. No. It's the adjusted version.

6 Q. So let's see if I understand correctly. If I  
7 look at the Democrat vote, okay, it's 131,240; right?

8 A. Yes.

9 Q. So they're not the same. They've been  
10 adjusted to pure 50-50. If it's 50-50, wouldn't it be  
11 the same?

12 A. No. You're missing a point.

13 Q. I am missing the point.

14 A. It's not to create 50-50 districts. It's  
15 using as if you had a 50-50 statewide race. In other  
16 words, since most states don't have races that are  
17 50-50, they have some that are close, some that are  
18 not. So I take the ones that are close and adjust  
19 them down to 50-50. So if you look at this and say,  
20 "Well, if you had a statewide race that was 50-50,  
21 this is how this district would perform.

22 Q. I see. So even if the statewide was 50-50,  
23 the Republicans would do better here. Under the  
24 Democrats they would do 173,298, and the Democrats  
25 would only do 131,240.

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2 A. Right. That's the concept.

3 Q. I see. Now, do you recall whether you  
4 provided the information in Exhibit 16 to Mr. DiRossi  
5 in this manner?

6 MS. McKNIGHT: Objection.

7 THE WITNESS: This was as a result of the  
8 plan they gave me.

9 BY MR. FRAM:

10 Q. So they had this information?

11 A. Well, yes, they had it in their file. So  
12 they could have had the same thing. Now, whether they  
13 used this data view and never looked at those numbers,  
14 I can't tell.

15 Q. Right. But they had it available to them?

16 A. Right.

17 MR. FRAM: I understand. Thank you.

18 (Deposition Exhibit 17 was marked for  
19 identification.)

20 MR. FRAM: Why don't we mark next as  
21 Exhibit 17 a document, Bensen\_000001 through -3. This  
22 is entitled "Example of Calculations for Election  
23 Averages EA11 to EA16." And the far right says, "OH,  
24 "2002-2010,  
25 "Adams County."

1 CLARK BENSEN

2 (The witness reviewed Exhibit 17.)

3 THE WITNESS: Yes.

4 BY MR. FRAM:

5 Q. At the bottom -- there's a file name at the  
6 bottom, and that is "[eall\_  
7 methods\_cy\_Adams\_kg22a.xlsx, page1." Do you see that?

8 A. Yes.

9 Q. Is this a document you created?

10 A. Yes.

11 Q. And you did so as part of your work for  
12 redistricting -- Congressional redistricting in Ohio  
13 in 2011?

14 A. Yes.

15 Q. Do you recall sharing this information with  
16 Mr. Mann and Ms. -- Ms. Mann and Mr. DiRossi?

17 A. I assume this was sent to them when I sent  
18 the state level one, which is Exhibit 11. I just took  
19 the first county and gave them an example of county.

20 Q. Did you also generate EA calculations for  
21 each county, or is this just a one-off example with  
22 Adams County?

23 A. This is just an example for them for one  
24 county.

25 Q. So they could see it?



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2 A. Yes.

3 Q. I notice there's something a little different  
4 about this than the one we went over before, if you  
5 compare this to Exhibit 11. Let's take a look.  
6 Actually, let me ask you, other than the fact that  
7 this is just for county and the other is statewide, is  
8 this sort of the same set of information, just broken  
9 down by county?

10 A. It should be.

11 Q. Now, looking at these, this information here,  
12 you got these -- see the RNP percentage columns in  
13 both 17 and 11?

14 A. Yes.

15 Q. Now, I don't see, if I compare that over to  
16 Exhibit 16 where I've got -- there's EA numbers  
17 provided. I don't see percentages on that table.

18 A. Right.

19 Q. Can you see the -- can you generate  
20 percentages in Maptitude for, say, the Republicans in  
21 a given district in a census block?

22 A. Well, yes. The whole concept of data view is  
23 you can put whatever you want in there. If you want  
24 to see raw numbers, if you want to calculate, you can  
25 calculate. This is just an export of data so that I

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2 can use it to run customized reports.

3 MR. FRAM: All right. Why don't we mark next  
4 as Exhibit 18 a document numbered BLESSING0013211  
5 [Polidata > Clark 07-24-11 ccCounty. cdf]. It's a  
6 multi-page document. They all have that same number,  
7 but they also have identified as up to Page 6. We'll  
8 have that marked next as 18.

9 (Deposition Exhibit 18 was marked for  
10 identification.)

11 BY MR. FRAM:

12 Q. My first question to you, Mr. Bensen, is  
13 what's a -- do you have an understanding what a  
14 ccCounty.cdf file is?

15 A. It's a Maptitude file that has one record of  
16 a SHPE file and information for each county.

17 Q. And if you look at the top of the second page  
18 where you see "Name" it says, "Adam." Do you see  
19 that?

20 A. Yes.

21 Q. So would this be information for Adams County  
22 on this document?

23 A. Yes.

24 Q. And did you -- and then if you go down  
25 starting at the bottom of the second page, you see the

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2 various election results are listed there. Do you see  
3 that?

4 A. Yes.

5 Q. Is that the election results information that  
6 you provided in 2011 as part of --

7 A. It appears to be.

8 Q. And here, if you go to the G02 -- let's see.  
9 G\_RP on the bottom of Page 2. Do you see that?

10 A. I'm sorry. G02.

11 Q. G\_RP. Do you see that?

12 A. Yes.

13 Q. That's one, two, three, four, five, six from  
14 the bottom on Page 2. Do you see that?

15 A. Yes.

16 Q. That would be the Republican percentage in  
17 Adams County that appears at 63.4; is that right?

18 A. Yes.

19 Q. Okay. And, in fact, for all the elections  
20 here on this county report, you see there are RP  
21 values that appear, not just raw numbers; is that  
22 right?

23 A. RPs appear in addition to the raw numbers,  
24 yes.

25 Q. And then if you go over to Page 6, you've got

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2 the EA values. Do you see that?

3 A. Yes.

4 Q. Go to EA -- Exhibit 12. You'll see an \_RP.  
5 Do you see that?

6 A. Yes.

7 Q. And then that number appears as 60.5.

8 A. Yes.

9 Q. That would be if you use the EA12 index that  
10 the Republican percentage is 64.5 percent; is that  
11 right?

12 A. For Adams County.

13 Q. And then if you want to do the same, if you  
14 wanted to generate a Republican percentage using EA12  
15 for an entire district, you could use this information  
16 and aggregate it up; is that right?

17 A. Yeah. As I said, you would aggregate up in  
18 raw numbers, and then it depends on what you have in  
19 your data view as to whether it's calculating. In  
20 other words, in some cases if it's not done correctly,  
21 this RP number isn't correct because it doesn't add  
22 those up. It has to be calculated after the  
23 aggregation --

24 Q. Right.

25 A. -- and because of the way Mapititude is done,

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2 it's sometimes easy to screw up on that.

3 Q. So the first thing you would do is add up the  
4 raw numbers in the district for total Republican  
5 votes, and then Maptitude would calculate the  
6 Republican percentage; is that right?

7 A. Well, yes, but there are several steps  
8 involved. In other words, this is why it would  
9 normally be done initially, but it's not just in the  
10 data set. The user has to do it in their Maptitude  
11 version as well.

12 Q. Okay.

13 A. But, yes, the process would be it gets all  
14 added up automatically by Maptitude. Whether it  
15 calculates a percentage depends on what the user says  
16 to do.

17 Q. Okay. And then -- but you could calculate  
18 the percentage?

19 A. Yes.

20 Q. And then you could make that percentage  
21 appear in a little box that could appear over the  
22 district, couldn't you?

23 A. Yes. It could show up, and it would, at that  
24 point, be just like any other variable that you want  
25 to label over.

1 CLARK BENSEN

2 Q. You could customize the labels you want to  
3 show?

4 A. Yes.

5 Q. You don't want to burden the decision maker  
6 with an eight-page table of data, and if you just want  
7 to show what's the Republican percentage for EA12, you  
8 could just show that in a label?

9 MS. McKNIGHT: Objection.

10 THE WITNESS: We never want to burden the  
11 user or --

12 BY MR. FRAM:

13 Q. I appreciate that.

14 A. -- the viewer.

15 Q. So the label function could help you  
16 communicate efficiently?

17 A. Well, and that's part of the trick of getting  
18 used to using Maptitude. You got to figure out you,  
19 as the line drawer, may have all sorts of stuff on  
20 your screen, but when you're showing it to someone  
21 else, you want to minimize as much as you can.

22 Q. I understand. Did you ever see any maps  
23 concerning the Ohio redistricting in 2011 where labels  
24 with just certain index percentages were applied?

25 A. I never saw any of that.

1 CLARK BENSEN

2 MR. FRAM: This might be an okay time to take  
3 a short lunch now.

4 (A recess was taken from 12:38 p.m.  
5 to 1:05 p.m.)

6 BY MR. FRAM:

7 Q. Going back to Exhibit 11, first page, the  
8 EA12 table. Do you see that?

9 A. Yes.

10 Q. Bottom row with "Adj," do you see that?

11 A. Yes.

12 Q. Does that refer to your adjustment?

13 A. Yes.

14 Q. Okay. There's only one value in the  
15 adjustment row, and that's under DMP percentage. Do  
16 you see that?

17 A. Yes.

18 Q. So that's the Democratic percentage for the  
19 major party vote; is that right? That column, DMP  
20 percentage.

21 A. That is, yes.

22 Q. Right. And then going down to the bottom,  
23 the adjustment is 0.993. Do you see that?

24 A. Yes.

25 Q. It's italicized, that number.

1 CLARK BENSEN

2 A. Yes.

3 Q. Why is that number italicized?

4 A. That's just an indication of the degree to  
5 which I had to adjust the races that are listed. So,  
6 for instance, if you look on the next page, it's like  
7 .990. and .984. It's just a question of the degree to  
8 which the races were close to 50 or not.

9 Q. I was asking -- well, thank you. I was  
10 trying to decipher a little bit.

11 Is the adjustment, the .993, is that a  
12 subtraction or an addition? The .993.

13 A. I think that's just the end result of the  
14 degree to which all of these five races were adjusted.

15 Q. Okay. So it shows you that we had a .993  
16 adjustment. Let's see if I understand the basis of  
17 the adjustment. That's if you add into the mix a  
18 50-50 race; is that right? Added that to the EA12, or  
19 is that something else, or the degree to which the EA  
20 deviated from a 50-50?

21 A. It's more of the latter. It's just really  
22 just a way for me to kind of scope out the degree to  
23 which there's an adjustment in the numbers.

24 Q. Right. So the mechanics is not that you're  
25 adding a sixth election to EA12, a 50-50 race, and



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2 then seeing what the difference would be. It's rather  
3 looking at what EA12 is as compared to a 50-50 race;  
4 is that right? And then that's the adjustment number,  
5 .993?

6 A. Well, yes, sort of. In other words, if these  
7 weren't very close races and they were closer to 55  
8 than 50, this .99 would be more like .90. In other  
9 words, it's a question of how close the mix came to  
10 being 50-50.

11 Q. Okay.

12 A. It doesn't matter except to the extent --  
13 it's like a margin of error kind of thing. It's just  
14 a question of there's more adjustment in the -- in  
15 some races than in others.

16 Q. So if it was a real high performance race for  
17 one party or the other, that adjustment number would  
18 be bigger -- right? -- because it would be farther  
19 away from the -- the adjustment would have to be much  
20 bigger to get to 50-50. Is that it or the other way  
21 around?

22 A. The way I did it, from what I can tell here  
23 is it would be lower because it's a question of how  
24 close it was to perfection. So if you made a bigger  
25 adjustment, it would be farther down.

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2 Q. I see. So this is saying that we are .993  
3 away from a 50-50 is what this is telling us. Is that  
4 what --

5 A. Well, as I said, for the third time, sort of.  
6 It's just a quality control thing that I use to kind  
7 of scope out the degree to which there's error. So  
8 it's only useful to the extent you compare it with the  
9 other adjustments that are on the other page.

10 Q. It tells you how far away this index is from  
11 50-50. Is that what it tells you?

12 A. No. It tells you how far away the races that  
13 were in the selection were away.

14 Q. Right. Therefore, the -- but what one is  
15 doing, I take it, is comparing all the -- in the case  
16 of EA12, all five of the selection against the 50-50.  
17 What the five elections in the EA12 would be compared  
18 to a 50-50.

19 A. I think this has been asked and answered.  
20 That is sort of what it is, but it's not what you're  
21 saying it is. It is just a quality control check for  
22 me to see the degree to which the adjustments needed  
23 to be made as opposed to others in the on year versus  
24 the off year.

25 Q. Okay. Needed to be made if one wanted to get

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2 to 50-50? Needed to be made to what purpose?

3 A. The point here was to have a hypothetical set  
4 of a statewide race that was 50-50.

5 Q. Uh-huh.

6 A. They aren't all 50-50. If they're all 50-50,  
7 the adjustment would be 1.00.

8 Q. Uh-huh. Uh-huh.

9 A. But because they're plus or minus, it's less  
10 than the 1.00.

11 Q. Got it. Got it. Okay. So what this is  
12 saying is that -- I see. And that makes sense if I  
13 look at this particular example. The Democratic  
14 two-party vote, major-party percentages 48.63 -- let's  
15 see. If I go down to, actually, the average, it's  
16 50.38; is that right?

17 A. Right.

18 Q. Okay. All right. Okay. And if it was  
19 exactly 50, then the adjustment would be 1.00?

20 A. Right.

21 Q. Okay. So even though -- I think I understand  
22 where I was falling off the tracks because the  
23 Democratic vote's a little higher than 50-50 here, but  
24 the adjustments is under 1.0?

25 A. Right. So the reason it's in italics is just

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2 because it's really for my purposes and not for the  
3 user's purposes.

4 Q. I see. Let me ask you a question for the  
5 user's purpose.

6 If you look over to Exhibit 15. And let's go  
7 over to EA15, which was the census block for 41 --  
8 census block 4-1-5; right?

9 A. Yes.

10 Q. And let's go to the -- just pick up the EA12  
11 RP\_RP. Do you see that?

12 A. Yes.

13 Q. Is that with an adjustment or is that without  
14 the adjustment, that RP, that Republican percentage?

15 A. I think I've answered this already, which is  
16 it may be -- it would be the unadjusted, but I don't  
17 know from this listing whether that's actually  
18 calculated correctly. It appears to be from 2 versus  
19 25, but I don't know.

20 REPORTER MARTIN: I'm sorry?

21 THE WITNESS: I'm sorry. 2 Democrat and 25  
22 Republican. Well, no. Well, whatever the numbers  
23 are. Don't worry about that. The extra step I said  
24 that needed to be calculated, I can't tell from this  
25 listing whether the extra step was made or not.

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2 BY MR. FRAM:

3 Q. Okay. Again, these are -- I wanted to pick  
4 out RP. I'm just trying to understand whether or not  
5 there had been any adjustment. So you just can't tell  
6 from how this -- whether or not they used the  
7 adjustment or not?

8 A. The raw numbers would be at adjusted numbers.  
9 I can't say if the RP is correctly calculated.

10 Q. Oh. Interesting. So looking above -- thank  
11 you.

12 So for EA12 RV, do you think that showed an  
13 adjustment?

14 A. Yes. The 23 Democrat, the 2 Republican would  
15 have bent the adjusted values, and the 25 as well for  
16 the total. I just can't tell from this standpoint,  
17 even though it looks like 2 divided by 25 and 6.2, I  
18 can't tell if in fact the step was made to calculate  
19 that RP correctly.

20 Q. Okay.

21 A. It probably was here because this is a block  
22 record, but for other levels of geography you can't  
23 tell.

24 Q. Okay. But as you said, when you do the whole  
25 Congressional district, since you're going to add up

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2 all the raw votes from, let's say, a census block and  
3 then you'll calculate your percentages?

4 A. Yes.

5 Q. You're adding up adjusted numbers?

6 A. Yes.

7 Q. So your final Congressional district  
8 percentage would be -- reflect the adjusted numbers.

9 A. Yes. The caveat there that -- you'll note  
10 that the EAs are raw numbers without any decimal  
11 points, whereas all the votes are -- sometimes may  
12 have decimal points.

13 Q. Okay.

14 A. So, in other words, there's going to be some  
15 slippage in the sense that you're not adding up  
16 partial votes.

17 Q. Well, subject -- is it a matter of rounding  
18 the decimal points? Does that have the decimal point  
19 that gets --

20 A. It's really just a question of when you  
21 assign votes to a block, you usually have decimal  
22 points because you will round it up at some point.  
23 You may not round it up. It's kind of personal  
24 preference as to how it's done.

25 Q. Looking at this document, this document being

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2 Exhibit 15, it's your understanding that, in fact,  
3 when you use the raw votes for census block, add them  
4 up to an entire district, and then calculate the  
5 percentages, that those percentages reflect your  
6 adjustment?

7 MS. McKNIGHT: Objection.

8 You can answer.

9 THE WITNESS: Yes. They would add up to the  
10 adjusted numbers at the block level and at the  
11 district level.

12 BY MR. FRAM:

13 Q. Just so we're clear for the record,  
14 qualitatively, right at the district level, just so I  
15 understand qualitatively, the effect of the  
16 adjustment, if I understand correctly, once you've  
17 done that, does that make, in fact, the election  
18 results closer or less close? Once you've done the  
19 adjustment. You've changed the numbers.

20 A. I can't answer that. Can you rephrase that?

21 Q. Sure. You have your numbers, and you adjust  
22 it.

23 A. Yes.

24 Q. When you make -- now we're not just looking  
25 at internal QC. We're actually using the adjustment

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2 when we're scoring a district. So we're beyond your  
3 own QC. You actually use your adjustment to change  
4 the numbers; is that right?

5 A. Yes.

6 MS. McKNIGHT: Objection.

7 You may answer.

8 BY MR. FRAM:

9 Q. Okay. I'm just trying to say directionally  
10 when you do that, is the net effect to make whatever  
11 collection you're doing for your EA, make the  
12 elections closer, the scores closer between the  
13 Republicans and Democrats or farther apart?

14 MS. McKNIGHT: Objection you can answer.

15 THE WITNESS: It would really depend on what  
16 you have in the selection of races you've used. It  
17 would bring them all -- each of those closer to 50-50.  
18 That doesn't mean that each district is necessarily  
19 closer to 50-50.

20 BY MR. FRAM:

21 Q. No, I do understand that.

22 A. Yeah.

23 Q. Incrementally, of course, the district itself  
24 will not become 50-50 by virtue of using your  
25 adjustment. That's right?



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2 A. Yes.

3 Q. I get that. But directionally, incrementally  
4 the district gets closer to 50-50 by virtue of using  
5 the adjustment?

6 A. The numbers in each level of geography become  
7 closer because they are adjusted from what they were  
8 to 50-50.

9 Q. Right. And then when you generate your  
10 district as a whole you're reflecting those adjusted  
11 numbers at the smaller units of geography. For  
12 example, the census block?

13 A. Yes.

14 Q. And, therefore, the district as a whole --  
15 the district as a whole incrementally moved closer to  
16 50-50 incrementally by virtue of using the adjustment?

17 A. Yes.

18 Q. Thank you.

19 A. Are we done with 15?

20 Q. I am.

21 (Deposition Exhibit 19 was marked for  
22 identification.)

23 MR. FRAM: 19 is a document with Bates  
24 No. Bensen\_0000042. It's an E-mail from Heather Mann  
25 to Clark Bensen, cc to Mike Dittoe, D-i-t-t-o-e, dated

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2 September 14, 2011 at 4:34 p.m.

3 (The witness reviewed Exhibit 19.)

4 BY MR. FRAM:

5 Q. Any reason to think you did not receive this  
6 E-mail on or about September 14, 2011?

7 A. No.

8 Q. Do you see there's a request to you from  
9 Heather Mann asking you to -- it says, "Attached are  
10 the files I'd like you to test." Do you see that?

11 A. Yes.

12 Q. Do you recall being asked to test files?

13 A. Yes.

14 Q. Okay. Do you see she's attaching some -- the  
15 "CONGRESSIONAL PLAN SHAPE FILE.DBF." Do you see that?

16 A. Yes.

17 Q. Among others?

18 A. Yes.

19 Q. Do you recall what you did to test the files?

20 A. Well, the focus here was to provide for the  
21 Secretary of State, I believe -- see, I shouldn't have  
22 had food.

23 The Secretary of State was, I believe, having  
24 a website for when a plan was done. In this case it  
25 would have been planned as of September 14, and they

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2 were providing it in two different formats, a block  
3 assignment file and a SHPE file. And a block  
4 assignment file, as we discussed -- well, we didn't.  
5 It's a fairly easy export Maptitude, and it's one  
6 button and it's done.

7 The SHPE file is likewise easy to do, but  
8 whereas the block style file only has two pieces of  
9 information, the block code and the district  
10 assignment, the SHPE file may contain anything that  
11 was in the data view at the time or all that  
12 information. So the point here was to provide a SHPE  
13 file that had no information except the district  
14 number.

15 So the trick is it's tricky in Maptitude to  
16 get that so, in fact, it's a clean SHPE file. So  
17 they're sending it to me so I can make sure that, in  
18 fact, it was a clean SHPE file and had nothing but the  
19 bare information.

20 Q. And what did the bare information consist of?

21 A. The barest would be just the district number.  
22 It may have had like total population.

23 Q. What information should it not include?

24 A. Well, you don't want it to include the  
25 substantive data because that's not the purpose of the

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2 SHPE file. If you're going to present data, you  
3 present it in another format, which is why you would  
4 export the data view to Excel or something and do a  
5 table that people could read. You don't just put it  
6 into the SHPE file.

7 MR. FRAM: Okay.

8 (Deposition Exhibit 20 was marked for  
9 identification.)

10 BY MR. FRAM:

11 Q. Exhibit 20 is an E-mail, LWVOH\_00018302.

12 I just want to draw your attention to on the  
13 last part of the document there's an E-mail string.  
14 It's in Gmail format. So we get the earliest in time  
15 on September 2, 2011, 6:41 p.m. from Adam Kincaid to  
16 Mr. DiRossi, Ms. Mann, Mr. Tom Whatman. And then we  
17 have later in time, I'd like to ask you to look at  
18 Page 7 of the document from Heather Mann to Clark  
19 Bensen and Mark Braden on September 3, 2011 at  
20 8:15 a.m., forwarding some of the other E-mails.

21 Before, I believe you indicated you didn't  
22 recall communications with Mr. Kincaid back in 2011.  
23 I wonder if you recall receiving any of this E-mail  
24 forwarding some of his E-mails back in 2011.

25 A. I don't have a recollection. Where did I get

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2 it from him?

3 Q. No. I didn't say you did. Ms. Mann appears  
4 to be forwarding his materials. I was wondering  
5 whether or not you recall her forwarding you Kincaid  
6 E-mails in 2011.

7 A. No, not at all.

8 Q. You don't recall what this is about?

9 A. First time I've ever seen it. Obviously it's  
10 not the first time I've seen it. I don't have any  
11 recollection of it.

12 MR. FRAM: That's fine.

13 (Deposition Exhibit 21 was marked for  
14 identification.)

15 BY MR. FRAM:

16 Q. It's an E-mail from Heather Mann to Clark  
17 Bensen as the top E-mail on the page. There are two  
18 of them. But it's October 26, 2011 at 9:55 a.m. It's  
19 Bensen-0000047.

20 Mr. Bensen, is there any reason to think you  
21 did not receive this E-mail on or about October 26,  
22 2011?

23 A. No.

24 Q. Okay. Do you recall receiving a request for  
25 SHPE files for Congressional districts?

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2 A. No. It wouldn't seem that unusual.

3 Q. By this point, HB319, the first map had  
4 already been enacted. Do you recall what, if  
5 anything, you were doing on any redraft?

6 MS. McKNIGHT: Objection.

7 THE WITNESS: I don't recall. This appears  
8 to be simply the fact that what we discussed before  
9 about the SHPE file that the Secretary of State was  
10 going to have on their website. Warren Glimpse is  
11 saying he couldn't find it.

12 REPORTER MARTIN: I'm sorry. Who?

13 THE WITNESS: The E-mail -- the sender of the  
14 E-mail is Warren Glimpse, G-l-i-m-p-s-e, and he was  
15 indicating he couldn't find it on the Secretary of  
16 States site. So he's asking Heather Mann for a copy.  
17 She just asked me to send it to him. I guess  
18 that's -- she asked me to send it to her so  
19 presumably, she could respond to this request.

20 (Deposition Exhibit 22 was marked for  
21 identification.)

22 MR. FRAM: 22 is an E-mail from Heather Mann  
23 to Clark Bensen, cc to Troy Judy. Bensen-0000063.

24 (The witness reviewed Exhibit 22.)

25 BY MR. FRAM:

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2 Q. Is there any reason to think you did not  
3 receive this E-mail on or about November 9, 2011?

4 A. No.

5 Q. Do you recall receiving a request from  
6 Ms. Mann to generate EA12 and McCain 08 index scorings  
7 for proposed Congressional districts?

8 MS. McKNIGHT: Objection.

9 You can answer.

10 THE WITNESS: Not without this E-mail. I  
11 have no recollection.

12 BY MR. FRAM:

13 Q. Okay. "EA12," do you see that there at the  
14 bottom -- in the text of the E-mail?

15 A. Yes.

16 Q. In the table you see something called  
17 "Unified Index"?

18 A. Yes.

19 Q. Do you recall what you called the phrase  
20 "Unified Index"?

21 A. That's not my term.

22 Q. Do you recall anybody else using it, though,  
23 in 2011?

24 A. I don't, no.

25 Q. But "EA12" is one of your terms?

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2 A. EA12 is my term, yes.

3 Q. Do you recall in November -- let me ask the  
4 question.

5 How would you -- how would loading a DBF file  
6 help one calculate an EA12 index scoring for a  
7 district?

8 A. Well, I can't tell from this. They sent an  
9 attachment called November Modified DBF. I suspect  
10 that was a block assignment file. So it was to load  
11 it up as a plan and see what the numbers were.

12 Q. Right. So if -- I understand. So if the DBF  
13 files were the block assignment files and you have the  
14 EA12 numbers for each census block, then you could  
15 figure out which census blocks were in a particular  
16 district; correct?

17 A. Right.

18 Q. And then you could use that information to  
19 calculate the EA12 scoring for the district; correct?

20 A. Right.

21 Q. I understand.

22 (Deposition Exhibit 23 and 24 were marked  
23 for identification.)

24 MR. FRAM: We'll do two exhibits next, one  
25 after the other here. So we're up to Exhibit 23. So



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2 Exhibit 23, BLESSING00012553 and, 24, BLESSING0013212.

3 (The witness reviewed Exhibits 23 and 24.)

4 BY MR. FRAM:

5 Q. Have you ever seen either Exhibits 23 or 24  
6 before?

7 A. No.

8 (Deposition Exhibit 25 was marked for  
9 identification.)

10 BY MR. FRAM:

11 Q. We'll mark next as Exhibit 25, BENSEN\_0000086  
12 with the file name "december14 > DVW\_aggset\_ohcd\_2011  
13 \_revised-hb369-december14.xls."

14 (The witness reviewed Exhibit 25.)

15 BY MR. FRAM:

16 Q. Mr. Bensen, did you create this document?

17 A. Yes.

18 Q. You did so as part of your work on  
19 Congressional redistricting in Ohio in 2011?

20 A. Yes.

21 Q. And in the ordinary course you shared it with  
22 Mr. DiRossi and Ms. Mann?

23 A. I don't know.

24 Q. Would it have been your practice to do so?

25 A. Possibly.

1 CLARK BENSEN

2 Q. Do you have any idea why you created this  
3 document?

4 A. Well, I created it -- I would have thought I  
5 created it for my own purposes so I could run my  
6 customized reports. It's similar to the one we had  
7 before, which is just a basic listing of the data.  
8 This is for the December plan.

9 Q. HB369?

10 A. Yes.

11 Q. So do you understand this would have been for  
12 HB369 as enacted; is that right?

13 A. Or as revised, yes. The second round.

14 Q. I'm sorry. You said you created it for your  
15 test report?

16 A. No, so I could run my own reports after. As  
17 I said before, raw numbers are useful. If you want to  
18 count the percentages or something, you would do it  
19 from this set.

20 Q. Now, this has the numbers for each district  
21 for all the EA scorings from EA11 through -41; is that  
22 right?

23 A. Yes.

24 Q. And what -- why would you be running -- I'm  
25 sorry. Why would you be running test -- were you

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2 running test scores off of those EA numbers?

3 A. I didn't say anything about a test.

4 Q. Were you running reports off of those  
5 numbers?

6 A. I would take this information and put it into  
7 my data system where I would keep track of all the  
8 plans I was looking at so we could go through and say,  
9 "Okay. What was the pop in District 1 in Plan 319."  
10 I'd have it in a database. That's all this was for.

11 Q. So just for your internal purposes for this  
12 one?

13 A. Well, in case I had to run some sort of  
14 report on it, but basically, for my own internal stuff  
15 so I could keep track of it.

16 Q. Do you recall providing any internal reports  
17 to anyone in Ohio?

18 A. In Ohio? I don't recall it, no.

19 Q. Why were you keeping track in your own  
20 system, your own reports?

21 A. I'm a redistricting consultant. That's what  
22 I do. I have a data system where I keep track of  
23 everything in a logical fashion so when I need it, I  
24 can find it. I don't have to go into Maptitude and  
25 regenerate it.

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2 Q. Was this generated from Maptitude?

3 A. Yes.

4 Q. So was this data available to Mr. DiRossi and  
5 Ms. Mann?

6 A. Yes.

7 (Deposition Exhibit 26 was marked for  
8 identification.)

9 BY MR. FRAM:

10 Q. I'd like to mark next as 26 a document,  
11 BENSEN\_0000086. And it has the heading "Measures of  
12 Compactness." The file name was  
13 ohcd\_2011-revised-hb369-december14\_ohmix\_k- -- I think  
14 that's -- I can't tell if that's 11 or 115a. Maybe  
15 you can tell me.

16 A. kl15a.

17 Q. kl15a. Thank you.

18 MS. McKNIGHT: Could we go off the record  
19 just for a moment.

20 MR. FRAM: Sure.

21 (A discussion was held off the record.)

22 MR. FRAM: Okay. Just so we're clear, this  
23 document has the same Bates numbers as previous  
24 exhibits we looked at, and that is because they were  
25 produced in native to us without Bates numbers, and I

1 CLARK BENSEN

2 said earlier Covington added the numbers at the bottom  
3 of the documents rather than create a separate slip  
4 sheet that indicates the Bates numbers and says  
5 "Produced in Native." Okay.

6 Q. So, Mr. Bensen, you produced this document?

7 A. I don't have it yet.

8 (The witness reviewed Exhibit 26.)

9 THE WITNESS: Yes.

10 BY MR. FRAM:

11 Q. Maybe you can explain. Do you have an  
12 understanding what the file name is at the top?

13 A. It's just my nomenclature for how I keep  
14 track of files.

15 Q. And did you create this on or about  
16 December 15, 2011?

17 A. Yes. That's generated from Maptitude  
18 software.

19 Q. So the Maptitude software can create  
20 compactness scores for redistricting; is that correct?

21 A. Yes.

22 Q. Okay. Did anyone ask you to do this?

23 A. Not specifically.

24 Q. Do you remember communicating this to  
25 anybody?

1 CLARK BENSEN

2 A. I don't recall. It's a standard thing I run  
3 on any plan I get.

4 MR. FRAM: Okay.

5 (Deposition Exhibit 27 was marked for  
6 identification.)

7 MR. FRAM:

8 Q. Bensen\_0000075, okay, through -76. A couple  
9 of E-mails. One is from Heather Mann to Clark Bensen  
10 on December 15, 2011 at 9:55 a.m. There's an E-mail  
11 earlier, it appears, initially from Clark Bensen to  
12 Heather Mann at 4:55 a.m.

13 I should say there's an even earlier E-mail  
14 from the night before, December 14, at 10:24 p.m. from  
15 Heather Mann. So why don't we take these one at a  
16 time.

17 Mr. Bensen, any doubt that you sent the 4:55  
18 in the morning E-mail to Ms. Mann?

19 A. No.

20 Q. Any doubt that you received the reply from  
21 her at 9:55 that same morning?

22 A. No.

23 Q. And we don't have your name as an  
24 addressee -- I take it back. We do. From Heather  
25 Mann, December 14 at 10:25 p.m., do you see there's an

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2 E-mail she sent to you then?

3 A. Yes.

4 Q. Do you understand she's sending certain  
5 attached files to that E-mail?

6 A. It appears so.

7 Q. And there were SHPE files and equivalency  
8 files for HB 369 as passed. Do you see that?

9 A. Yes.

10 Q. Your E-mail back says -- let me back up.

11 Do you have an understanding why she sent you  
12 those files?

13 A. This gets back to the discussions we had  
14 several times throughout the summer about getting  
15 stuff ready for the Secretary of State's website.

16 Q. Were you helping with that?

17 A. I was the one that generated it for the  
18 Secretary of State, or for their website.

19 MR. FRAM: Okay.

20 (Deposition Exhibit 28 was marked for  
21 identification.)

22 Mr. FRAM: Why don't we mark next as 28  
23 document BENSEN\_0000086 [Congressional Shape Files  
24 Test 2\_HB369 as Passed Test 2 shp]. The second page  
25 of it has an under bar CD15. That's 28.

1 CLARK BENSEN

2 (The witness reviewed Exhibit 28.)

3 BY MR. FRAM:

4 Q. Mr. Bensen, do you recall doing tests on the  
5 SHPE files of HB369 as enacted?

6 A. I remember doing tests on SHPE files, yes.

7 Q. What was the purpose of the test -- running  
8 tests on the SHPE file?

9 A. As I explained before, it's to make sure we  
10 know exactly what information is going to be  
11 accompanying -- substantive information would be  
12 accompanying the SHPE file. The shape for each  
13 district.

14 Q. For District 15, for example, is this --  
15 strike that.

16 Is this an example of that test report for  
17 District 15?

18 A. I don't have a recollection. It appears to  
19 be.

20 Q. Does this appear to be the information that  
21 would be on the test that you created?

22 A. Well, since this says, "Test 2" -- I don't  
23 have any recollection as to how many other tests I did  
24 or what the theory was as to the selection of this  
25 information.



1 CLARK BENSEN

2 Q. Fair enough. But for Test 2, does this  
3 appear to be the information you created?

4 A. It appears that way. Again, I just have no  
5 recollection to discuss that.

6 Q. Okay. Again, I'm calling it a test. Do you  
7 call it a test or report? What would your preferred  
8 wording be?

9 A. We were trying to test here because we were  
10 trying to test to make sure that, in fact, the SHPE  
11 file had what we wanted in it.

12 Q. And the information is included here. It  
13 includes various election result data -- correct? --  
14 for CD15?

15 A. It has several, yes.

16 Q. And that includes -- well, going down on the  
17 CD15, do you see there are various rows that begin  
18 with F\_? Do you see that?

19 A. Yes.

20 Q. Going to F\_EA12\_RV. Do you see that?

21 A. Yes.

22 Q. What does the "F" stand for?

23 A. It's an aptitude conversion for percentage.  
24 When a Maptitude field is exported, it shows up as an  
25 "F." I can see from this file name, though, that I

1 CLARK BENSEN

2 didn't create this. This must have been something  
3 that she sent to -- Heather or Ray sent to me.

4 Q. So she either -- Mr. DiRossi or Ms. Mann, to  
5 the best of your understanding, created this; is that  
6 right?

7 A. Right.

8 Q. Okay. If you look at this -- okay. Never  
9 mind.

10 So if I look at, again, the F\_EA12\_RV, and  
11 that's .5493. Do you see that?

12 A. Yes.

13 Q. Does that mean that the Republican scoring  
14 for CD15 would have been 54.93 percent?

15 MS. McKNIGHT: Objection.

16 But you may answer.

17 THE WITNESS: Yes.

18 (Deposition Exhibit 29 was marked for  
19 identification.)

20 BY MR. FRAM:

21 Q. The document with Bates No. BRADEN000683  
22 through -84, it's an E-mail string, the top of the  
23 first page is to Mark Braden to Mark Salling, Heather  
24 Mann, Clark Bensen, Michael Lenzo, Ray DiRossi, with a  
25 cc to Ellen Cyran. And going down the page there's an

1 CLARK BENSEN

2 E-mail from Mark Salling to -- let's just back up.

3 The date of this E-mail is July 15, 2011, and  
4 the next E-mail is an E-mail from Mark Salling to  
5 Heather Mann, Mark Braden, Clark Bensen, Michael  
6 Lenzo, Ray DiRossi, cc to Ellen Cyran, and that's  
7 July 15 at 4:50 p.m. Do you recall receiving any of  
8 these E-mails back and forth involving Mark Salling?

9 A. I have no recollection of it.

10 Q. Okay. So you have no recollection at all of  
11 receiving any information from Mark Salling in 2011?

12 A. No. I have a recollection of receiving  
13 information from Ohio State. I just don't have any  
14 recollection of this (indicating).

15 Q. Okay. Do you have any recollection of any  
16 use of the Ohio -- do you recall Ohio State traded  
17 database for the election results?

18 A. Yes.

19 Q. In which they tried to estimate election  
20 results for different census blocks. Do you recall  
21 that?

22 A. Yes.

23 Q. Okay. Do you recall any use of that for  
24 Congressional redistricting in 2011?

25 A. No. My recollection is we didn't use it at

1 CLARK BENSEN

2 all.

3 MR. FRAM: If we can take just a quick break.

4 MS. McKNIGHT: Okay.

5 (A recess was taken from 1:56 p.m.  
6 to 2:03 p.m.)

7 MR. FRAM: I'm going to mark next exhibits,  
8 29 and 30. Two distinct E-mails. They're both dated  
9 December 15, 2011. Exhibit 29 is -- 30.

10 (Deposition Exhibits 30, and 31 were  
11 marked for identification.)

12 MR. FRAM: So 30 is Bensen-0000077.

13 And 31 is Bensen-000078. They're E-mails.  
14 They're both from Heather Mann. They're both dated  
15 December 15, 2011. They're both to Clark Bensen.  
16 Difference is Exhibit 30 is a 2:29 p.m., and  
17 Exhibit 31 is a 2:36 p.m. They both have attachments  
18 of "Congressional Shape Files Test 2.zip."

19 (The witness reviewed the documents.)

20 BY MR. FRAM:

21 Q. Mr. Bensen, you produced these documents in  
22 this case?

23 A. Apparently, yes.

24 Q. Do you have any reason to think you didn't  
25 get these E-mails from Ms. Mann on December 15, 2011?

1 CLARK BENSEN

2 A. No.

3 Q. Is it your understanding that she was sending  
4 you the SHPE files for HB369 as enacted?

5 A. Yes.

6 Q. And looking back at Exhibit 28, which was  
7 the -- for CD15, the data on it. Do you see that?

8 A. Yes.

9 Q. Does this help refresh your recollection that  
10 in fact Exhibit 28 was sent to you by Ms. Mann?

11 MS. McKNIGHT: Objection.

12 THE WITNESS: Yes. I thought that's what I  
13 said. Yes, this does appear to be the ones she sent.

14 BY MR. FRAM:

15 Q. Thank you.

16 A. Yeah.

17 Q. I have one question about that. Do you see  
18 on 28 towards the bottom, the second down, four from  
19 the bottom there's a row that says, "FORMULA." I  
20 think it's "FORMULA\_F1" or FI. Do you see that?

21 A. Yes.

22 Q. And then there's "FORMULA\_F1" below that, a  
23 couple down, and then "FORMULA\_F2." Do you see those?

24 A. Yes.

25 Q. Do you have any understanding what those

1 CLARK BENSEN

2 formulas refer to?

3 A. No. I know I helped them calculate -- I  
4 showed them how to calculate things over the course of  
5 when they need to. But they're not mine. So...

6 MR. FRAM: Okay. Well, thank you.

7 Well, we have no further questions for you  
8 subject to follow up if opposing counsel should have  
9 questions for you.

10 MS. McKNIGHT: None for me. Thanks.

11 MS. RIGGINS: None for me.

12 MR. FRAM: I hope it makes for an easier  
13 drive for you.

14 MS. McKNIGHT: For the record, I'd just like  
15 to note we'd like to read and sign. Thank you.

16 (Witness excused.)

17 (Deposition concluded at 2:08 p.m.)

1 CLARK BENSEN

2 C E R T I F I C A T E

3 I do hereby certify that the aforesaid testimony  
4 was taken before me, pursuant to notice, at the time  
5 and place indicated; that said deponent was by me duly  
6 sworn to tell the truth, the whole truth, and nothing  
7 but the truth; that the testimony of said deponent was  
8 correctly recorded in machine shorthand by me and  
9 thereafter transcribed under my supervision with  
10 computer-aided transcription; that the deposition is a  
11 true and correct record of the testimony given by the  
12 witness; and that I am neither of counsel nor kin to  
13 any party in said action, nor interested in the  
14 outcome thereof.

15 Dated: December 17, 2018

16  
17  
18  
19 

20 Nancy J. Martin, RMR, CSR  
21  
22  
23  
24  
25

1 CLARK BENSEN

2 INSTRUCTIONS TO WITNESS

3  
4 Please read your deposition over carefully  
5 and make any necessary corrections. You should state  
6 the reason in the appropriate space on the errata  
7 sheet for any corrections that are made.

8 After doing so, please sign the errata sheet  
9 and date it. You are signing same subject to the  
10 changes you have noted on the errata sheet, which will  
11 be attached to your deposition. It is imperative that  
12 you return the original errata sheet to the deposing  
13 attorney within thirty (30) days of receipt of the  
14 deposition transcript by you. If you fail to do so,  
15 the deposition transcript may be deemed to be accurate  
16 and may be used in court.



ERRATA SHEET

Case Name:

Deposition Date:

Deponent:

Pg.	No.	Now Reads	Should Read	Reason

\_\_\_\_\_  
Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_

(Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_

CLARK BENSEN

ACKNOWLEDGMENT OF DEPONENT

I, CLARK BENSEN, do hereby certify that I have read the foregoing pages, \_\_\_\_\_ to \_\_\_\_\_, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

DATE

SIGNATURE

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_.

Notary Public

IN THE SUPREME COURT OF OHIO

Regina C. Adams, *et al.*,

*Relators,*

v.

Governor Mike DeWine, *et al.*,

*Respondents.*

Case No. 2021-1428

Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)

League of Women Voters of Ohio, *et al.*,

*Relators,*

v.

Governor Mike DeWine, *et al.*,

*Respondents.*

Case No. 2021-1449

Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)

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AFFIDAVIT OF FREDA J. LEVENSON  
RELATORS' EVIDENCE — DISCOVERY AND DEPOSITION FILES

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**\*\* Pro Hac Vice Motion Forthcoming**

**Affidavit of Freda J. Levenson**

I, Freda J. Levenson, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge and having personally examined all records referenced in this affidavit, and further state as follows:

1. The Ohio Supreme Court has entered an order in each of the above-captioned cases, *League of Women Voters of Ohio v. Ohio Redistricting Commission*, No. 2021-1449, and *Adams v. DeWine*, No. 2021-1428, providing that parties shall file any evidence they intend to present no later than Friday, December 10, 2021.
2. I am one of the counsel for Relators in the above-captioned case, Case Number 2021-1449.
3. Alongside this affidavit, Relators submit several Appendices of Exhibits. The Index included at the beginning of each Appendix gives a description of each document and states where it appears in that Appendix. Each of the Indexes is also copied below.
4. First, in the days after filing the complaint in this matter, Relators in each of the above-captioned cases served discovery requests on Respondents for documents, interrogatories, and requests for admissions related to this case. Exhibits Appendix A includes true and correct copies of certified transcripts from depositions taken in this case, as well as exhibits cited in those depositions.
5. Second, Exhibits Appendix B includes true and correct copies of files produced by Respondents in discovery.
6. Third, Exhibits Appendix C includes true and correct copies of the written discovery responses received by all Relators in response to their discovery requests.

7. Fourth, the documents contained in the attached Exhibits Appendix D are true and correct copies of deposition transcripts filed in *League of Women Voters v. Ohio Redistricting Comm'n*, No. 2021-1193.
8. Fifth, the documents contained in the attached Exhibits Appendix E are true and correct copies of deposition transcripts filed in *Ohio A. Philip Randolph Institute v. Smith*, No. 1:18-cv-0037-TSB (S.D. Ohio).
9. Finally, Relators have delivered to the Court on a physical drive copies of native files produced in discovery.

**EXHIBITS APPENDIX A - DEPOSITIONS**  
**Volume 1 of 2**

**Index of Documents**

<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Deposition Transcript of Ray DiRossi	DEPO CONG 0001 - 284



**EXHIBITS APPENDIX A - DEPOSITIONS**  
**Volume 2 of 2**

**Index of Documents**

<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
2	Exhibit 1 to Deposition of Ray DiRossi	DEPO_CONG_0285 - 290
3	Exhibit 2 to Deposition of Ray DiRossi	DEPO_CONG_0291 - 297
4	Exhibit 3 to Deposition of Ray DiRossi	DEPO_CONG_0298
5	Exhibit 4 to Deposition of Ray DiRossi	DEPO_CONG_0299
6	Exhibit 5 to Deposition of Ray DiRossi	DEPO_CONG_0300 - 308
7	Exhibit 6 to Deposition of Ray DiRossi	DEPO_CONG_0309 - 311
8	Exhibit 7 to Deposition of Ray DiRossi	DEPO_CONG_0312 - 313
9	Exhibit 8 to Deposition of Ray DiRossi	DEPO_CONG_0314 - 318
10	Exhibit 9 to Deposition of Ray DiRossi	DEPO_CONG_0319
11	Exhibit 10 to Deposition of Ray DiRossi	DEPO_CONG_0320
12	Deposition Transcript of Blake Springhetti	DEPO_CONG_0321 - 459
13	Exhibit 1 to Deposition of Blake Springhetti	DEPO_CONG_0460 - 462
14	Exhibit 2 to Deposition of Blake Springhetti	DEPO_CONG_0463 - 474
15	Exhibit 3 to Deposition of Blake Springhetti	DEPO_CONG_0475 - 487
16	Exhibit 4 to Deposition of Blake Springhetti	DEPO_CONG_0488 - 494
17	Exhibit 5 to Deposition of Blake Springhetti	DEPO_CONG_0495 - 497
18	Exhibit 6 to Deposition of Blake Springhetti	DEPO_CONG_0498 - 499
19	Exhibit 7 to Deposition of Blake Springhetti	DEPO_CONG_0500 - 501

**EXHIBITS APPENDIX B - DOCUMENTS PRODUCED IN DISCOVERY**  
**Volume 1 of 3**

**Index of Documents**

<b><u>ITEM</u></b>	<b><u>FILE NAME</u></b>	<b><u>BATES RANGE</u></b>
1	HUFFMAN_000003	HUFFMAN_000003-000008
2	HUFFMAN_000535	HUFFMAN_000535
3	HUFFMAN_000536	HUFFMAN_000536
4	HUFFMAN_000566	HUFFMAN_000566-000569
5	HUFFMAN_000668	HUFFMAN_000668
6	HUFFMAN_000703	HUFFMAN_000703
7	HUFFMAN_000704	HUFFMAN_000704-000705
8	HUFFMAN_000706	HUFFMAN_000706
9	Cupp000027	Cupp000027-000029
10	Cupp000030	Cupp000030-000033
11	Cupp000035	Cupp000035-000043
12	Cupp000044	Cupp000044-000046
13	Cupp000047	Cupp000047-000048
14	Cupp000087	Cupp000087-000088
15	Cupp000089	Cupp000089-000102
16	Cupp000128	Cupp000128-000129
17	Cupp001405	Cupp001405-001407
18	Cupp001839	Cupp001839-001841
19	Cupp001843	Cupp001843
20	Cupp001854	Cupp001854
21	DIROSSI_000014	DIROSSI_000014
22	DIROSSI_001215	DIROSSI_001215
23	DIROSSI_002119	DIROSSI_002119
24	DIROSSI_002120	DIROSSI_002120
25	DIROSSI_002121	DIROSSI_002121
26	DIROSSI_002122	DIROSSI_002122
27	DIROSSI_003324	DIROSSI_003324
28	DIROSSI_003325	DIROSSI_003325-003326
29	DIROSSI_003327	DIROSSI_003327
30	DIROSSI_003328	DIROSSI_003328-003333
31	DIROSSI_003334	DIROSSI_003334
32	DIROSSI_003335	DIROSSI_003335
33	DIROSSI_003348	DIROSSI_003348

34	DIROSSI_004252	DIROSSI_004252
35	DIROSSI_004253	DIROSSI_004253
36	DIROSSI_005492	DIROSSI_005492
37	DIROSSI_005493	DIROSSI_005493
38	DIROSSI_005494	DIROSSI_005494
39	DIROSSI_005598	DIROSSI_005598
40	DIROSSI_005599	DIROSSI_005599-005607
41	DIROSSI_005608	DIROSSI_005608
42	DIROSSI_006520	DIROSSI_006520

**EXHIBITS APPENDIX B - DOCUMENTS PRODUCED IN DISCOVERY**  
**Volume 2 of 3**

**Index of Documents**

<b>ITEM</b>	<b>FILE NAME</b>	<b>BATES RANGE</b>
1	DIROSSI_007723	DIROSSI_007723
2	DIROSSI_007724	DIROSSI_007724
3	DIROSSI_007725	DIROSSI_007725
4	DIROSSI_007726	DIROSSI_007726
5	DIROSSI_007727	DIROSSI_007727
6	DIROSSI_008928	DIROSSI_008928
7	DIROSSI_008929	DIROSSI_008929
8	DIROSSI_008930	DIROSSI_008930
9	DIROSSI_008931	DIROSSI_008931
10	DIROSSI_008932	DIROSSI_008932-008935
11	DIROSSI_008936	DIROSSI_008936
12	DIROSSI_008937	DIROSSI_008937
13	DIROSSI_008943	DIROSSI_008943
14	DIROSSI_008944	DIROSSI_008944
15	DIROSSI_008947	DIROSSI_008947
16	DIROSSI_008948	DIROSSI_008948-008949
17	DIROSSI_008950	DIROSSI_008950
18	DIROSSI_008951	DIROSSI_008951
19	DIROSSI_008952	DIROSSI_008952
20	DIROSSI_008953	DIROSSI_008953
21	DIROSSI_008954	DIROSSI_008954
22	DIROSSI_008955	DIROSSI_008955
23	DIROSSI_008956	DIROSSI_008956
24	DIROSSI_008957	DIROSSI_008957
25	DIROSSI_008958	DIROSSI_008958
26	DIROSSI_008959	DIROSSI_008959
27	DIROSSI_008965	DIROSSI_008965
28	DIROSSI_008966	DIROSSI_008966
29	DIROSSI_008967	DIROSSI_008967
30	DIROSSI_008968	DIROSSI_008968
31	DIROSSI_008969	DIROSSI_008969
32	DIROSSI_008970	DIROSSI_008970-008976
33	DIROSSI_009881	DIROSSI_009881

34	DIROSSI_009892	DIROSSI_009892
35	DIROSSI_009895	DIROSSI_009895
36	DIROSSI_011097	DIROSSI_011097
37	DIROSSI_011098	DIROSSI_011098
38	DIROSSI_011099	DIROSSI_011099
39	DIROSSI_011106	DIROSSI_011106
40	DIROSSI_011107	DIROSSI_011107
41	DIROSSI_011108	DIROSSI_011108
42	DIROSSI_011109	DIROSSI_011109
43	DIROSSI_011110	DIROSSI_011110
44	GAVARONE_000132	GAVARONE_000132
45	GAVARONE_000133	GAVARONE_000133
46	GAVARONE_000134	GAVARONE_000134
47	GAVARONE_000135	GAVARONE_000135
48	GAVARONE_002607	GAVARONE_002607-002610
49	GAVARONE_002936	GAVARONE_002936-002938
50	GAVARONE_003074	GAVARONE_003074
51	GAVARONE_003075	GAVARONE_003075
52	GAVARONE_004275	GAVARONE_004275
53	GAVARONE_004276	GAVARONE_004276
54	GAVARONE_004277	GAVARONE_004277
55	GAVARONE_004278	GAVARONE_004278
56	GAVARONE_006702	GAVARONE_006702
57	GAVARONE_006703	GAVARONE_006703
58	GAVARONE_007607	GAVARONE_007607
59	LAROSE000004	LAROSE000004
60	LAROSE000005	LAROSE000005
61	LAROSE000006	LAROSE000006
62	LAROSE000007	LAROSE000007
63	LAROSE000009	LAROSE000009
64	LAROSE000010	LAROSE000010-11
65	LAROSE000012	LAROSE000012
66	LAROSE000013	LAROSE000013-14
67	LAROSE000015	LAROSE000015
68	LAROSE000023	LAROSE000023
69	LAROSE000024	LAROSE000024
70	LAROSE000025	LAROSE000025
71	LAROSE000026	LAROSE000026-27
72	LAROSE000030	LAROSE000030

73	LAROSE000031	LAROSE000031-34
74	LAROSE000035	LAROSE000035-42
75	LAROSE000043	LAROSE000043-46
76	LAROSE000047	LAROSE000047-50
77	LAROSE000051	LAROSE000051-58
78	LAROSE000059	LAROSE000059-62
79	LAROSE000063	LAROSE000063
80	LAROSE000800	LAROSE000800
81	LAROSE000801	LAROSE000801-15
82	LAROSE000816	LAROSE000816
83	LAROSE000817	LAROSE000817
84	LAROSE000818	LAROSE000818
85	LAROSE000819	LAROSE000819
86	LAROSE000820	LAROSE000820
87	LAROSE000821	LAROSE000821
88	LAROSE000822	LAROSE000822
89	LAROSE000823	LAROSE000823
90	LAROSE000824	LAROSE000824
91	LAROSE000825	LAROSE000825-27
92	LAROSE000828	LAROSE000828
93	LAROSE000829	LAROSE000829
94	LAROSE000830	LAROSE000830
95	LAROSE000831	LAROSE000831
96	LAROSE000832	LAROSE000832
97	LAROSE000833	LAROSE000833
98	LAROSE000834	LAROSE000834
99	LAROSE000835	LAROSE000835
100	LAROSE000836	LAROSE000836
101	LAROSE001573	LAROSE001573-74
102	LAROSE001575	LAROSE001575-76
103	LAROSE001577	LAROSE001577
104	LAROSE001578	LAROSE001578-82
105	LAROSE001583	LAROSE001583-86
106	LAROSE001587	LAROSE001587
107	LAROSE001589	LAROSE001589
108	LAROSE001592	LAROSE001592
109	LAROSE001593	LAROSE001593
110	MCCOLLEY_000005	MCCOLLEY_000005
111	MCCOLLEY_000006	MCCOLLEY_000006

112	MCCOLLEY_000014	MCCOLLEY_000014
113	MCCOLLEY_000015	MCCOLLEY_000015
114	MCCOLLEY_000016	MCCOLLEY_000016
115	MCCOLLEY_000017	MCCOLLEY_000017
116	MCCOLLEY_000018	MCCOLLEY_000018
117	MCCOLLEY_000019	MCCOLLEY_000019
118	MCCOLLEY_000020	MCCOLLEY_000020
119	MCCOLLEY_000021	MCCOLLEY_000021
120	MCCOLLEY_000022	MCCOLLEY_000022
121	MCCOLLEY_000023	MCCOLLEY_000023
122	MCCOLLEY_000024	MCCOLLEY_000024
123	MCCOLLEY_000025	MCCOLLEY_000025
124	MCCOLLEY_000026	MCCOLLEY_000026
125	MCCOLLEY_000027	MCCOLLEY_000027
126	MCCOLLEY_001247	MCCOLLEY_001247
127	MCCOLLEY_001249	MCCOLLEY_001249
128	MCCOLLEY_002450	MCCOLLEY_002450
129	MCCOLLEY_002451	MCCOLLEY_002451-52
130	MCCOLLEY_003655	MCCOLLEY_003655
131	MCCOLLEY_004856	MCCOLLEY_004856
132	MCCOLLEY_004857	MCCOLLEY_004857-65
133	MCCOLLEY_004866	MCCOLLEY_004866
134	MCCOLLEY_004883	MCCOLLEY_004883-97
135	MCCOLLEY_004899	MCCOLLEY_004899-4901
136	MCCOLLEY_004953	MCCOLLEY_004953
137	MCCOLLEY_004954	MCCOLLEY_004954-55
138	MCCOLLEY_004956	MCCOLLEY_004956
139	MCCOLLEY_004957	MCCOLLEY_004957-65
140	MCCOLLEY_004966	MCCOLLEY_004966
141	MCCOLLEY_004967	MCCOLLEY_004967
142	MCCOLLEY_004968	MCCOLLEY_004968-69
143	OELSLAGER_000090	OELSLAGER_000090

**EXHIBITS APPENDIX B - DOCUMENTS PRODUCED IN DISCOVERY**  
**Volume 3 of 3**

**Index of Documents**

<b><u>ITEM</u></b>	<b><u>FILE NAME</u></b>	<b><u>BATES RANGE</u></b>
1	Springhetti000001	Springhetti000001-000002
2	Springhetti000003	Springhetti000003-000008
3	Springhetti000009	Springhetti000009-000015
4	Springhetti000016	Springhetti000016-000021
5	Springhetti000022	Springhetti000022-000027
6	Springhetti000035	Springhetti000035-000053
7	Springhetti000054	Springhetti000054-000067
8	Springhetti000068	Springhetti000068
9	Springhetti000070	Springhetti000070
10	Springhetti000071	Springhetti000071-000105
11	Springhetti000106	Springhetti000106-000140
12	Springhetti000141	Springhetti000141-000142
13	Springhetti000143	Springhetti000143-000144
14	Springhetti000145	Springhetti000145-000148
15	Springhetti000158	Springhetti000158-000159
16	Springhetti000162	Springhetti000162
17	Springhetti000163	Springhetti000163-000169
18	Springhetti000170	Springhetti000170-000171
19	Springhetti000183	Springhetti000183-000185
20	Springhetti000194	Springhetti000194
21	Springhetti000198	Springhetti000198-000211
22	Springhetti000212	Springhetti000212-000216
23	Springhetti000217	Springhetti000217-000229
24	Springhetti000230	Springhetti000230-000234
25	Springhetti000323	Springhetti000323-000337
26	Springhetti000338	Springhetti000338-000350
27	Springhetti000366	Springhetti000366-000371
28	Springhetti000712	Springhetti000712-000730
29	WILKIN_000019	WILKIN_000019-000022



**EXHIBITS APPENDIX C - WRITTEN DISCOVERY RESPONSES**  
**Volume 1 of 1**

**Index of Documents**

<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>	<b><u>CASE NUMBER</u></b>
1	Respondent House Speaker Robert R. Cupp's Objections and Responses to Relators' Request for Admission	RESP_0001 – RESP_0007	2021-1428 2021-1449
2	Respondent Senate President Matthew Huffman's Objections and Responses to Relators' Requests for Admission	RESP_0008 – RESP_0015	2021-1428 2021-1449
3	Secretary of State Frank LaRose's Answers to Requests for Admission	RESP_0016 – RESP_0025	2021-1428 2021-1449
4	Respondent House Speaker Robert R. Cupp's Responses to Relators First Set of Request for Production	RESP_0026 – RESP_0035	2021-1428 2021-1449
5	Respondent Senate President Matthew Huffman's Responses to Relators First Set of Request for Production of Documents	RESP_0036 – RESP_0047	2021-1428 2021-1449
6	Secretary of State Frank LaRose's Responses to Request for Production of Documents	RESP_0048 – RESP_0059	2021-1428 2021-1449
7	Respondent House Speaker Robert R. Cupp's Responses to Relators First Set of Interrogatories	RESP_0060 – RESP_0072	2021-1428 2021-1449
8	Respondent Senate President Matthew Huffman's Responses to Relators First Set of Interrogatories	RESP_0073 – RESP_0086	2021-1428 2021-1449
9	Respondent Secretary of State Frank LaRose's Answers to Interrogatories	RESP_0087 – RESP_0094	2021-1428 2021-1449
10	Raymond DiRossi's Objections and Responses to Subpoena Duces Tecum	RESP_0095 – RESP_0104	2021-1428 2021-1449
11	Senator Gavarone's Objections and Responses to Subpoena Duces Tecum	RESP_0105 – RESP_0114	2021-1428 2021-1449
12	Senator Rob McColley's Objections and Responses to Subpoena Duces Tecum	RESP_0115 – RESP_0124	2021-1428 2021-1449
13	Representative Scott Oeslager's Objections and Responses to Subpoena Duces Tecum	RESP_0125 – RESP_0134	2021-1428 2021-1449
14	Blake Springhetti's Objections and Responses to Subpoena Duces Tecum	RESP_0135 – RESP_0144	2021-1428 2021-1449
15	Representative Shane Wilkin's Objections and Responses to Subpoena Duces Tecum	RESP_0145 – RESP_0154	2021-1428 2021-1449

**EXHIBITS APPENDIX D - GENERAL ASSEMBLY REDISTRICTING DEPOSITIONS**

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1	Deposition Transcript of Robert Cupp	DEPO_GA_0001 - 140
2	Exhibit 1 to Deposition of Robert Cupp	DEPO_GA_0141 - 142
3	Deposition Transcript of Frank LaRose	DEPO_GA_0143 - 281

**EXHIBITS APPENDIX D - GENERAL ASSEMBLY REDISTRICTING DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Exhibit 1 to Deposition of Frank LaRose	DEPO_GA_0282 - 286
2	Exhibit 2 to Deposition of Frank LaRose	DEPO_GA_0287 - 300
3	Deposition Transcript of Ray DiRossi	DEPO_GA_0301 - 563

**EXHIBITS APPENDIX D - GENERAL ASSEMBLY REDISTRICTING DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Exhibit 1 to Deposition of Ray DiRossi	DEPO_GA_0564
2	Exhibit 2 to Deposition of Ray DiRossi	DEPO_GA_0565 - 566
3	Exhibit 3 to Deposition of Ray DiRossi	DEPO_GA_0567 - 630
4	Exhibit 4 to Deposition of Ray DiRossi	DEPO_GA_0631
5	Exhibit 5 to Deposition of Ray DiRossi	DEPO_GA_0632
6	Exhibit 6 to Deposition of Ray DiRossi	DEPO_GA_0633 - 662
7	Exhibit 7 to Deposition of Ray DiRossi	DEPO_GA_0663
8	Exhibit 8 to Deposition of Ray DiRossi	DEPO_GA_0664 - 681
9	Deposition Transcript of Blake Springhetti	DEPO_GA_0682 - 780
10	Exhibit 1 to Deposition of Blake Springhetti	DEPO_GA_0781 - 784
11	Exhibit 2 to Deposition of Blake Springhetti	DEPO_GA_0785
12	Exhibit 3 to Deposition of Blake Springhetti	DEPO_GA_0786 - 787

**EXHIBITS APPENDIX D - GENERAL ASSEMBLY REDISTRICTING DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Deposition Transcript of Matt Huffman	DEPO_GA_0788 - 960
2	Exhibit 1 to Deposition of Matt Huffman	DEPO_GA_0961 - 976
3	Exhibit 2 to Deposition of Matt Huffman	DEPO_GA_0977 - 978

**EXHIBITS APPENDIX E - A. PHILIP RANDOLPH INST. V. SMITH DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Deposition Transcript of Clark Bensen	DEPO_SDOH_0001 - 182

**EXHIBITS APPENDIX E - A. PHILIP RANDOLPH INST. V. SMITH DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Deposition Transcript of Raymond DiRossi -- Part 1	DEPO_SDOH_0183 - 471

**EXHIBITS APPENDIX E - A. PHILIP RANDOLPH INST. V. SMITH DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Deposition Transcript of Raymond DiRossi -- Part 2	DEPO_SDOH_0472 - 531
2	Deposition Transcript of John Morgan	DEPO_SDOH_0532 - 694



\_\_\_\_\_  
Freda J. Levenson

Signed at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
City County State

Sworn to and subscribed before me this \_\_\_\_\_ day of December, 2021

\_\_\_\_\_  
Notary Public

## CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on this 10th day of December, 2021, I caused a true and correct copy of the foregoing affidavit and its associated appendices to be served by email upon the counsel listed below:

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*Counsel for Respondents House Speaker Robert R. Cupp and Senate President  
Matt Huffman*

/s/ Freda J. Levenson  
Freda J. Levenson (0045916)  
*Counsel for Relators*

**IN THE SUPREME COURT OF OHIO**

---

**Regina C. Adams, *et al.*,**

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

---

**Case No. 2021-1428**

**Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)**

---

**League of Women Voters of Ohio, *et al.*,**

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

---

**Case No. 2021-1449**

**Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)**

---

**AFFIDAVIT OF FREDA LEVENSON  
EXHIBITS APPENDIX E -  
A. PHILIP RANDOLPH INSTITUTE V. SMITH DEPOSITIONS  
Volume 2 of 3**

---

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*Counsel for League of Women Voters  
Relators*

*\*\* Pro Hac Vice Motion Forthcoming*

**EXHIBITS APPENDIX E - A. PHILLIP RANDOLPH INST. V. SMITH DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Deposition Transcript of Raymond DiRossi -- Part 1	DEPO_SDOH_0183 - 471

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO

\* \* \*

OHIO A. PHILIP RANDOLPH

INSTITUTE, et al.,

Plaintiffs,

CASE NO.

vs.

1:18-cv-00357-TSB-KNM-MHW

RYAN SMITH, Speaker of

the Ohio House of

Representatives, et al.,

Defendants.

\* \* \*

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

\* \* \*

Job No. 149781

EXAMINATION CONDUCTED	PAGE
BY MS. THOMAS-LUNDBORG.....	17

EXHIBITS MARKED	
(Thereupon, Plaintiffs' Exhibit	20
Number 1, Subpoena to Testify at a	
Deposition in a Civil Action, was	
marked for purposes of identification.)	
(Thereupon, Plaintiffs' Exhibit	35
Number 2, Subpoena to Produce	
Documents, Information, of Objects or	
to Permit Inspection of Premises in a	
Civil Action, was marked for purposes	
of identification.)	
(Thereupon, Plaintiffs' Exhibit	40
Number 3, Documents Bates Stamped	
LWVOH_00004033-4034, was marked for	
purposes of identification.)	
(Thereupon, Plaintiffs' Exhibit	59
Number 4, Document Bates Stamped	
LWVOH_00009711, was marked for	
purposes of identification.)	



(Thereupon, Plaintiffs' Exhibit 59  
Number 5, Document Bates Stamped  
DIROSSI\_0000017, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 63  
Number 6, Document Bates Stamped  
DIROSSI\_0000018, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 67  
Number 7, Document Bates Stamped  
DIROSSI\_0000019, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 71  
Number 8, Document Bates Stamped  
LWVOH\_00010555, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 74  
Number 9, Documents Bates Stamped  
LWVOH\_00005475-5477, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 90  
Number 10, Document Bates Stamped  
DIROSSI\_0000527, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 99  
Number 11, Document Bates Stamped  
DIROSSI\_0000020, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit  
Number 12, Document Bates Stamped 100  
DIROSSI\_0000021, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit  
Number 13, Document Bates Stamped 101  
LWVOH\_00009706, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 117  
Number 14, Document Entitled Keep it  
Secret - Keep it Safe, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 121  
Number 15, Document Bates Stamped  
DIROSSI\_0000038, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 145  
Number 16, Document Bates Stamped  
LWVOH\_00018254, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 149  
Number 17, Document Bates Stamped  
DIROSSI\_0000051, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 151  
Number 18, Document Bates Stamped  
DIROSSI\_0000051, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 169  
Number 19, Documents Bates Stamped  
DIROSSI\_0000139-0000141, was marked  
for purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 200  
Number 20, File Produced in Native  
Format Bates Stamped DIROSSI\_0000526,  
was marked for purposes of  
identification.)

(Thereupon, Plaintiffs' Exhibit 219  
Number 21, Documents Bates Stamped  
DIROSSI\_0000470-472, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 232  
Number 22, Document Bates Stamped  
DIROSSI\_0000010, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 244  
Number 23, Document Bates Stamped  
DIROSSI\_0000142, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 248  
Number 24, Documents Bates Stamped  
GOVPR\_008278-8280, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 250  
Number 25, Document Bates Stamped  
DIROSSI\_0000039, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 253  
Number 26, Documents Bates Stamped  
LWVOH\_00018302-18308, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 258  
Number 27, Document Bates Stamped  
DIROSSI\_0000040, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 259  
Number 28, Document Bates Stamped  
DIROSSI\_0000043, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 260  
Number 29, Document Bates Stamped  
DIROSSI\_0000044, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 261  
Number 30, Document Bates Stamped  
DIROSSI\_0000045, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 263  
Number 31, Document Bates Stamped  
LWVOH\_00018310, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 268  
Number 32, Document Bates Stamped  
LWVOH\_00018297, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 274  
Number 33, Documents Bates Stamped  
LVWOH\_00018298-18301, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 280  
Number 34, Document Bates Stamped  
LWVOH\_00018320, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 288  
Number 35, Documents Bates Stamped  
LWVOH\_00018322-18325, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 296  
Number 36, Document Bates Stamped  
DIROSSI\_0000046, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 298  
Number 37, Document Bates Stamped  
LWVOH\_00018321, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 310  
Number 38, Documents Bates Stamped  
SOS\_001010-1011, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 312  
Number 39, Document Bates Stamped  
DIROSSI\_0000061, was marked for  
purposes of identification.)

(Thereupon, Plaintiffs' Exhibit 314  
Number 40, Document Bates Stamped  
DIROSSI\_0000499, was marked for  
purposes of identification.)

1  
2 (Thereupon, Plaintiffs' Exhibit 316  
3 Number 41, File Produced in Native  
4 Format Bates Stamped DIROSSI\_0000525,  
5 was marked for purposes of  
6 identification.)

7 (Thereupon, Plaintiffs' Exhibit 323  
8 Number 42, File Produced in Native  
9 Format Bates Stamped DIROSSI\_0000518,  
10 was marked for purposes of  
11 identification.)  
12  
13  
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1 APPEARANCES:

2 On behalf of the Plaintiffs:

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4 Foundation

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20 Stewart  
21 By: Phillip Strach  
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By: Steven Voigt  
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The Ohio Senate

By: Frank Strigari  
Chief Legal Counsel  
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Columbus, Ohio 43215

On behalf of the Intervenors:

Baker & Hostetler

By: Robert Tucker  
Attorney at Law  
200 Civic Center Drive  
Columbus, Ohio 43215

ALSO PRESENT:

Robert L. Miller, Videographer

\* \* \*

1 THE VIDEOGRAPHER: We're on the  
2 record.

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

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

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

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

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

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

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

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

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

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

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

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

25                  MR. STRACH: Time.

1 MR. VOIGT: Oh, timing, okay, yes.

2 And we've also agreed that objections do not count  
3 toward each side's allotted time, so each side in  
4 this case has been allotted a certain amount of  
5 time. If Mr. Strach makes an objection today, and  
6 let's say there's some discussion about that that  
7 lasts five minutes, that five-minute time does not  
8 count toward the plaintiffs' overall time. Same  
9 thing the other way around, when -- if we are on  
10 Cross-Examination and the plaintiffs' attorneys  
11 are making an objection, that objection does not  
12 count toward the defendants' allotted time.

13 Does that accurately --

14 MS. THOMAS-LUNDBORG: Yes, it does.

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

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

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

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

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

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

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

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

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

1 plan in advance for Day 2.

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

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

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

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

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

24 RAYMOND E. DIROSSI  
25 of lawful age, Witness herein, having been first

1 RAYMOND E. DiROSSI

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

4 CROSS-EXAMINATION

5 BY MS. THOMAS-LUNDBORG:

6 Q. Good morning.

7 A. Good morning.

8 Q. Please state your name for the  
9 record.

10 A. Raymond Edward DiRossi.

11 Q. And what is your address?

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

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

16 A. I do.

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

19 A. I do.

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

23 Have you been deposed before?

24 A. Yes.

25 Q. And when was that?

1 RAYMOND E. DiROSSI

2 A. 2012.

3 Q. And what case was that in?

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

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

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

13 A. Yes.

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

19 A. Okay. Thank you.

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

25 A. Okay.



1 RAYMOND E. DiROSSI

2 Q. Okay. Throughout the deposition

3 --

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

7 A. No.

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

11 A. No.

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

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

19 Q. Congressional redistricting, yes.

20 A. -- legislative, okay.

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

23 A. Yes.

24 Q. Did you do anything else to  
25 prepare?

1 RAYMOND E. DiROSSI

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

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

7 A. Yes.

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

12 BY MS. THOMAS-LUNDBORG:

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

19 A. Is this the one that I signed?

20 MR. STRACH: No, this is different.

21 BY MS. THOMAS-LUNDBORG:

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

24 A. I mean, I was delivered one --

25 Q. Okay.

1 RAYMOND E. DiROSSI

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

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

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

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

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

22 A. No.

23 Q. Do you hold any special  
24 certifications?

25 A. Such as like --

1 RAYMOND E. DiROSSI

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

5 A. Do not.

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

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

15 Q. And who was that senator?

16 A. Senator Charles Horn.

17 Q. And which party is Charles Horn  
18 from?

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

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

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

1 RAYMOND E. DiROSSI

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

6 I left the Ohio Senate in 2005 --

7 Q. May I interrupt you for a second?

8 A. Sure.

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

13 A. I was working for the majority  
14 caucus.

15 Q. And the majority caucus at the  
16 time was?

17 A. Republican caucus.

18 Q. Okay. You may proceed.

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

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

1 RAYMOND E. DiROSSI

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

4 Q. And who was that at the time?

5 A. Jon Husted.

6 Q. And which party is Mr. Husted  
7 from?

8 A. Republican.

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

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

16 Q. And what is the name of that LLC?

17 A. Capital Advantage, LLC.

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

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

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

25 A. I was initially hired to be a

1 RAYMOND E. DiROSSI

2 fundraiser for the campaign arm of the Senate.

3 Q. And what did you do as a  
4 fundraiser for the campaign arm of the Senate?  
5 And by --

6 A. Raising dollars for the campaign  
7 committee to run elections.

8 Q. And which campaign committee is  
9 this?

10 A. Would have been the Republican  
11 Senate Campaign Committee.

12 Q. And how long did you do that?

13 A. Well, so it's kind of some starts  
14 and stops, so it's kind of hard to say exactly.

15 Q. To the best of your recollection.

16 A. The question was how long did I do  
17 that for? What was your question? Sorry.

18 Q. How long did you work for the  
19 fundraising arm as a consultant?

20 A. Let's see --

21 Q. You said you started in 2008.

22 A. I had starts and stops where I  
23 wasn't doing that anymore, but I stopped doing  
24 that in 2015, in December of '14.

25 Q. Okay.

1 RAYMOND E. DiROSSI

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

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

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

13 Q. Is that the only time that you  
14 stopped?

15 A. Yes.

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

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

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



1 RAYMOND E. DiROSSI

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

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

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

8 A. Yes.

9 Q. And what have you been doing  
10 there?

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

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

16 A. With the Ohio Senate.

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

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

22 Q. And who is that --

23 A. Who is --

24 Q. -- for the record, please?

25 A. Who is?

1 RAYMOND E. DiROSSI

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

4 A. The president is Larry Obhof.

5 Q. Larry Obhof. And which party is  
6 that?

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

9 Q. Thank you.  
10 Have you ever worked for a  
11 Democrat?

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

17 Q. And when was that?

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

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

25 A. More or less. Not specifically

1 RAYMOND E. DiROSSI

2 four years, but more or less four years.

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

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

7 Q. Before, during and after?

8 A. Yes.

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

12 A. I was appointed.

13 Q. And who were you appointed by?

14 A. The Senate president.

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

17 A. President Bill Harris.

18 Q. And which party is Bill Harris  
19 from?

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

22 Q. Thank you.

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

1 RAYMOND E. DiROSSI

2 Actually, strike that.

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

8 A. While.

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

11 So we've talked about the break  
12 that you took from consulting when you were  
13 working on redistricting and apportionment in  
14 2011. Did you work on redistricting and  
15 apportionment at any other period?

16 A. In the previous decade I worked on  
17 both.

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

20 A. Yes.

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

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

1 RAYMOND E. DiROSSI

2 because they're kind of intertwined.

3 Constitutional restrictions that applied to the  
4 apportionment, very specific, so in order to  
5 produce all of the necessary documentation for  
6 the apportionment board to consider to complete  
7 its constitutional obligations, and then also  
8 preparing proposals for the districts for the  
9 legislature to consider in the redistricting.

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

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

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

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

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

25 A. Yes.

1 RAYMOND E. DiROSSI

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

4 A. (Witness nodded head up and down.)

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

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

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

15 A. No.

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

19 A. No.

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

22 A. Which decade are you talking  
23 about?

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

1 RAYMOND E. DiROSSI

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

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

6 Q. Okay.

7 A. That was not NCSL.

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

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

12 Q. Did you ever attend an NCSL  
13 training?

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

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

19 A. Yes.

20 Q. Do you recall which ones?

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

25 Q. But there are others that you're

1 RAYMOND E. DiROSSI

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

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

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

10 A. Three, four.

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

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

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

17 A. I couldn't say.

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

21 A. There were other -- other subject  
22 matters.

23 Q. Do you recall what they would have  
24 been?

25 A. Presentations by the Census Bureau



1 RAYMOND E. DiROSSI

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

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

14 A. None that I recall.

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

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

21 Q. Okay.

22 A. I don't recall.

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

25 A. No.

1 RAYMOND E. DiROSSI

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

7 BY MS. THOMAS-LUNDBORG:

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

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

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

18 A. Yes.

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

23 A. Yes.

24 Q. Did you retain any emails from  
25 that period?

1 RAYMOND E. DiROSSI

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

5 Q. And what email addresses did you  
6 search?

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

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

12 A. Sure. RayDiRossi@Gmail.com.

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

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

18 Q. That's correct.

19 A. That decade?

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

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

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

1 RAYMOND E. DiROSSI

2 A. When I was complying with the  
3 subpoena?

4 Q. Yes, that's correct.

5 A. I don't believe so, no.

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

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

10 Q. However you would define notes.

11 A. Anything that I had --

12 Q. Collections of your thoughts.

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

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

18 MR. STRACH: Objection to form.

19 Go ahead.

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

23 BY MS. THOMAS-LUNDBORG:

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

1 RAYMOND E. DiROSSI

2 MR. STRACH: Objection. Form.

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

5 BY MS. THOMAS-LUNDBORG:

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

8 MR. STRACH: Objection to form.

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

12 BY MS. THOMAS-LUNDBORG:

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

15 A. Yes.

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

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

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

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

1 RAYMOND E. DiROSSI

2 over.

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

6 A. I believe so, yes.

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

10 MR. STRACH: Objection to form.

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

13 BY MS. THOMAS-LUNDBORG:

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

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

25 (Thereupon, Plaintiffs' Exhibit

1 RAYMOND E. DiROSSI

2 Number 3, Documents Bates Stamped  
3 LWVOH\_00004033-4034, was marked for purposes  
4 of identification.)

5 BY MS. THOMAS-LUNDBORG:

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

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

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

19 A. I do.

20 Q. Okay.

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

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

25 MS. THOMAS-LUNDBORG: Well, I will

1 RAYMOND E. DiROSSI

2 direct him to any portion that I'm going to ask.

3 If you would like to quickly just flip to see that  
4 this is a document that is addressed to you and is  
5 signed at the back.

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

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

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

16 Let her know when you're ready.

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

20 BY MS. THOMAS-LUNDBORG:

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

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



1 RAYMOND E. DiROSSI

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

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

7 A. I do.

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

10 A. I did.

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

13 A. I did.

14 Q. And what email address did you  
15 use?

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

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

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

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

1 RAYMOND E. DiROSSI

2 MR. STRACH: Objection to form.

3 You can answer if you can.

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

8 BY MS. THOMAS-LUNDBORG:

9 Q. Okay. Who was the coordinator?

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

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

23 A. I do.

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

1 RAYMOND E. DiROSSI

2 talking about.

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

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

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

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

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

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

1 RAYMOND E. DiROSSI

2 apportionment board related to redistricting?

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

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

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

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

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

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

19 A. I can't recall.

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

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

25 Q. Did you provide emails with the

1 RAYMOND E. DiROSSI

2 president of the Senate staff related to  
3 redistricting?

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

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

8 A. Yes.

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

12 A. You're asking specifically about  
13 emails?

14 Q. Yes.

15 A. No.

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

18 A. No.

19 Q. Okay. The next bullet asks for -  
20 and I'm turning to the next page of the exhibit  
21 - all written communication, including emails,  
22 with members of the Ohio legislature or their  
23 staffs relevant to redistricting or  
24 apportionment during the period from July 1,  
25 2011 to October 5th, 2011. Do you see that?

1 RAYMOND E. DiROSSI

2 A. I do.

3 Q. Did you provide emails responsive  
4 to this request?

5 A. Yes.

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

14 A. I do.

15 Q. Did you provide documents  
16 responsive to this request?

17 MR. STRACH: Objection. Form.

18 THE WITNESS: Yes.

19 BY MS. THOMAS-LUNDBORG:

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

1 RAYMOND E. DiROSSI

2 prepared by you or others. Do you see that?

3 A. I do.

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

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

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

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

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

17 A. I do.

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

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

1 RAYMOND E. DiROSSI

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

5 A. Can you say that again, please?

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

10 A. Yes.

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

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

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

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

25 A. Yes.



1 RAYMOND E. DiROSSI

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

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

8 Q. Okay. But you did read the  
9 letter?

10 A. Uh-huh.

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

14 A. I do.

15 Q. Who is Michael Lenzo?

16 A. The majority legal counsel in the  
17 House.

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

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

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

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

1 RAYMOND E. DiROSSI

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

5 A. Yes.

6 Q. And did that deposition regard  
7 apportionment or redistricting?

8 A. It was apportionment.

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

12 A. Please clarify in which way  
13 overlaps.

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

18 MR. STRACH: Objection to form.  
19 Go ahead.

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

23 BY MS. THOMAS-LUNDBORG:

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

1 RAYMOND E. DiROSSI

2 A. You're talking about this current  
3 decade?

4 Q. I'm talking about 2011.

5 A. Yes.

6 Q. Did you use the same political  
7 indices?

8 MR. STRACH: Objection to form.

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

12 BY MS. THOMAS-LUNDBORG:

13 Q. Okay. For both processes?

14 A. For both processes.

15 Q. Were --

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

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

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

24 Q. Okay. We'll get to that.

25 During the -- during the

1 RAYMOND E. DiROSSI

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

4 A. I was.

5 Q. And were you shown documents at  
6 that deposition?

7 A. I was.

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

10 A. I believe so.

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

15 When did you start working on  
16 redistricting in 2011?

17 A. What do you mean by working on?

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

21 MR. STRACH: Objection to form.

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

24 BY MS. THOMAS-LUNDBORG:

25 Q. And doing things in preparation,

1 RAYMOND E. DiROSSI

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

5 MR. STRACH: Objection to form.

6 THE WITNESS: Yeah, there was a lot  
7 of logistical thought that went into the processes  
8 for both apportionment and redistricting that  
9 would be forthcoming that would have happened in  
10 2011.

11 BY MS. THOMAS-LUNDBORG:

12 Q. And when did those start?

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

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

18 MR. STRACH: Objection to form.

19 THE WITNESS: I couldn't be that  
20 specific.

21 BY MS. THOMAS-LUNDBORG:

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

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

1 RAYMOND E. DiROSSI

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

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

9 Q. Page 42.

10 A. Okay.

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

17 A. Okay.

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

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

1 RAYMOND E. DiROSSI

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

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

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

7 THE WITNESS: Yeah.

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

9 BY MS. THOMAS-LUNDBORG:

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

13 A. It sounds like that's your answer.

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

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

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

1 RAYMOND E. DiROSSI

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

5 BY MS. THOMAS-LUNDBORG:

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

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

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

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

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

25 Q. '11.



1 RAYMOND E. DiROSSI

2 A. '11, yes.

3 Q. Okay.

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

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

11 A. Yes.

12 (Thereupon, Plaintiffs' Exhibit  
13 Number 4, Document Bates Stamped LWVOH\_00009711,  
14 was marked for purposes of identification.)  
15 BY MS. THOMAS-LUNDBORG:

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

21 Do you recall attending a  
22 redistricting meeting in May 2011?

23 A. I do not.

24 (Thereupon, Plaintiffs' Exhibit  
25 Number 5, Document Bates Stamped DIROSSI\_0000017,

1 RAYMOND E. DiROSSI

2 was marked for purposes of identification.)

3 BY MS. THOMAS-LUNDBORG:

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

10 A. I do see that.

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

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

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

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

21 MS. THOMAS-LUNDBORG: Okay. Thank  
22 you.

23 BY MS. THOMAS-LUNDBORG:

24 Q. So this purports to be a May 31st,  
25 2011 calendar entry. Do you see that?

1 RAYMOND E. DiROSSI

2 A. Yes.

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

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

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

9 A. It is.

10 Q. What is Maptitude?

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

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

15 A. In 2011, yes.

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

18 MR. STRACH: Objection.

19 THE WITNESS: I don't recall.

20 BY MS. THOMAS-LUNDBORG:

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

24 A. I was not.

25 Q. If you did attain -- did attend

1 RAYMOND E. DiROSSI

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

4 MR. STRACH: Objection.

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

8 BY MS. THOMAS-LUNDBORG:

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

14 MR. STRACH: Objection.

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

19 BY MS. THOMAS-LUNDBORG:

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

24 MR. STRACH: Objection.

25 THE WITNESS: Yeah, I mean, there's

1 RAYMOND E. DiROSSI

2 like four different levels of hypothetical there.

3 I can't answer that.

4 (Thereupon, Plaintiffs' Exhibit  
5 Number 6, Document Bates Stamped DIROSSI\_0000018,  
6 was marked for purposes of identification.)

7 BY MS. THOMAS-LUNDBORG:

8 Q. Okay. Let's turn to the next  
9 exhibit that I'm having marked for the record.  
10 It is DIROSSI\_000018. I'm having it marked as  
11 Exhibit 6. It is another calendar entry.

12 This one says Confirmed:  
13 Legislative Task Force on Redistricting, and  
14 the start date of this calendar entry is June  
15 16, 2011. Do you see that?

16 A. I do.

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

20 A. No.

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

24 A. Absolutely.

25 Q. Okay. And what was that?

1 RAYMOND E. DiROSSI

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

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

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

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

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

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

25 A. That -- I'm sorry.

1 RAYMOND E. DiROSSI

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

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

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

10 A. Not that I recall.

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

13 MR. STRACH: What exhibit number is  
14 this?

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

18 MR. STRACH: Okay.

19 BY MS. THOMAS-LUNDBORG:

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

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

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

1 RAYMOND E. DiROSSI

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

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

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



1 RAYMOND E. DiROSSI

2 Q. Okay.

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

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

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

11 (Thereupon, Plaintiffs' Exhibit  
12 Number 7, Document Bates Stamped DIROSSI\_0000019,  
13 was marked for purposes of identification.)

14 BY MS. THOMAS-LUNDBORG:

15 Q. Okay. I would like to move to  
16 what I'm having marked as Exhibit 7. This  
17 document, for the record, has Bates number  
18 DIROSSI\_000019, and the subject matter is  
19 Confirmed: President Niehaus call with  
20 Congressman LaTourette, and the date is July  
21 7th, 2011. Do you see that?

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

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

1 RAYMOND E. DiROSSI

2 THE WITNESS: I do see the document.

3 BY MS. THOMAS-LUNDBORG:

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

7 A. That I had phone calls with him?

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

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

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

17 MR. STRACH: Objection.

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

21 BY MS. THOMAS-LUNDBORG:

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

24 A. I do. He's now deceased.

25 Q. And who was Congressman

1 RAYMOND E. DiROSSI

2 LaTourette?

3 A. He was a congressman from Ohio.

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

7 A. None that I can recall.

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

10 MR. STRACH: Objection.

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

13 BY MS. THOMAS-LUNDBORG:

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

17 A. I don't recall.

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

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

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

25 MR. STRACH: Objection.

1 RAYMOND E. DiROSSI

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

4 BY MS. THOMAS-LUNDBORG:

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

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

10 Q. Early July.

11 A. I don't.

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

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

18 Q. And what were those instances?

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

1 RAYMOND E. DiROSSI

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

7 Q. Do you recall any other  
8 conversations?

9 A. With --

10 Q. Sitting congresspeople.

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

13 Q. Yes, I am.

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

16 Q. You're the witness.

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

19 Q. Okay. Let's --

20 (Thereupon, Plaintiffs' Exhibit  
21 Number 8, Document Bates Stamped LWVOH\_00010555,  
22 was marked for purposes of identification.)

23 BY MS. THOMAS-LUNDBORG:

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

1 RAYMOND E. DiROSSI

2 Bates number LWVOH\_00010555. It is a calendar  
3 entry with, it looks like, an email, from you  
4 to Heather N. Mann. Do you see that?

5 A. I do.

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

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

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

21 A. Okay. I see that.

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

24 A. I don't recall.

25 Q. Okay. When were you officially

1 RAYMOND E. DiROSSI

2 retained?

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

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

7 MS. THOMAS-LUNDBORG: Sure.

8 THE VIDEOGRAPHER: We're off the  
9 record.

10 (Recess taken.)

11 THE VIDEOGRAPHER: We're on the  
12 record.

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

20 BY MS. THOMAS-LUNDBORG:

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

1 RAYMOND E. DiROSSI

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

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

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

9 (Thereupon, Plaintiffs' Exhibit  
10 Number 9, Documents Bates Stamped  
11 LWVOH\_00005475-5477, was marked for purposes  
12 of identification.)

13 BY MS. THOMAS-LUNDBORG:

14 Q. I would like to now turn to a  
15 document that I'm having marked as Exhibit 9.  
16 It's 9 in your binder. For the record, this  
17 document begins with Bates number  
18 LWVOH\_0005475. At the top it says Consulting  
19 Agreement. Can you turn to the last page,  
20 please?

21 A. (Witness complied.)

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

24 A. I do.

25 Q. And if you take a moment to review



1 RAYMOND E. DiROSSI

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

5 A. It is.

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

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

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

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

1 RAYMOND E. DiROSSI

2 process.

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

5 A. Yes.

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

15 A. I do.

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

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

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

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

25 Q. Yes, half of the money allocated

1 RAYMOND E. DiROSSI

2 to the Republicans, as you explained.

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

4 Q. I'm not entering this at this  
5 time. I have put in front of you a document  
6 that you produced, and again it's not being  
7 entered for the record, but it is  
8 DIROSSI\_000495.

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

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

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

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

1 RAYMOND E. DiROSSI

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

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

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

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

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

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

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

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

1 RAYMOND E. DiROSSI

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

5 MR. STRACH: Objection to form.

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

8 BY MS. THOMAS-LUNDBORG:

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

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

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

24 MR. STRACH: Objection to form.

25 THE WITNESS: Yeah, I mean, I've

1 RAYMOND E. DiROSSI

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

7 BY MS. THOMAS-LUNDBORG:

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

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

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

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

22 Q. Okay.

23 A. This is what I have.

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

1 RAYMOND E. DiROSSI

2 Republicans at the time that you signed your  
3 contract?

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

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

8 A. Yes.

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

13 A. I do.

14 Q. And who is that?

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

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

19 A. He was a member of the Republican  
20 caucus.

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

23 A. I do.

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

1 RAYMOND E. DiROSSI

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

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

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

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

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

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



1 RAYMOND E. DiROSSI

2 that I was going to be working on providing  
3 that.

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

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

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

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

1 RAYMOND E. DiROSSI

2 constitutional.

3 Q. Did you work on drawing a map?

4 A. Yes.

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

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

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

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

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

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

21 Q. Did anyone else --

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

24 Q. Thank you.

25 A. Sorry.

1 RAYMOND E. DiROSSI

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

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

7 Q. Did anyone else use the software?

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

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

15 A. Help me understand that question a  
16 little bit.

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

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

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

1 RAYMOND E. DiROSSI

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

4 Q. Okay.

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

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

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

14 Q. Anyone else?

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

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

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

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

1 RAYMOND E. DiROSSI

2 the software. Can you name those people?

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

9 Q. Okay. So just to circle back to  
10 the contract, if you look at the numbered  
11 paragraph 1, during the term of this agreement  
12 Capital Advantage shall make available Raymond  
13 E. DiRossi to render such consulting services  
14 as may be needed or requested by the Republican  
15 members of the task force to carry out their  
16 duties, and then there is a code cited R.C. 10  
17 -- 103.51. Do you see that?

18 A. I do.

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

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

25 Q. Okay. And I think we've already

1 RAYMOND E. DiROSSI

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

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

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

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

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

1 RAYMOND E. DiROSSI

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

8 A. I do.

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

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

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

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

1 RAYMOND E. DiROSSI

2 congressional districts that extended into  
3 December as well.

4 (Thereupon, Plaintiffs' Exhibit  
5 Number 10, Document Bates Stamped DIROSSI\_0000527,  
6 was marked for purposes of identification.)

7 BY MS. THOMAS-LUNDBORG:

8 Q. I would like to move to the next  
9 exhibit that I'm having marked as Exhibit 10.  
10 It is -- it has Bates number DIROSSI\_0000527,  
11 and the top of the document says Termination  
12 Agreement. Do you see that?

13 And this agreement --

14 A. I do.

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

20 A. I do.

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

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



1 RAYMOND E. DiROSSI

2 Q. And what do they do?

3 A. They are -- they run elections.

4 Q. What do you mean, they run  
5 elections?

6 A. They run elections dealing with  
7 Republican Senate candidates.

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

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

13 Q. I'm just asking what they do.

14 A. Yeah.

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

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

25 Q. Okay. And what did you do for

1 RAYMOND E. DiROSSI

2 them specifically?

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

6 Q. And how did you go about that?

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

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

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

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

20 Do you recall why your agreement  
21 with the RSCC was terminated on August 1st,  
22 2011?

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

1 RAYMOND E. DiROSSI

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

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

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

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

18 A. I sought -- I sought his guidance.

19 Q. And why did you do that?

20 A. I just wanted to make sure that I  
21 did this correctly. I had been through this in  
22 2001, as we talked about, and there were  
23 immediately lawsuits after the 2001 process and  
24 I just wanted to make sure that I did  
25 everything correctly.

1 RAYMOND E. DiROSSI

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

5 A. Yes.

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

8 A. I don't sitting here.

9 MR. STRACH: Insert an objection to  
10 that question.

11 BY MS. THOMAS-LUNDBORG:

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

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

17 Q. Who was she during the  
18 redistricting process?

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

25 Q. Okay. And did you work with

1 RAYMOND E. DiROSSI

2 Ms. Blessing directly?

3 A. Yes.

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

6 A. And what do you mean by that?

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

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

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

18 A. Not that I could recall  
19 specifically.

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

22 MR. STRACH: Objection to form.

23 THE WITNESS: You can ask her.

24 BY MS. THOMAS-LUNDBORG:

25 Q. To your recollection do you recall

1 RAYMOND E. DiROSSI

2 her doing something that you were not involved  
3 in?

4 MR. STRACH: Objection to form.

5 THE WITNESS: I do not recall  
6 specifics.

7 BY MS. THOMAS-LUNDBORG:

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

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

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

16 A. Can you say that again, please?

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

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

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

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

1 RAYMOND E. DiROSSI

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

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

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

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

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

16 Q. Meetings that you would have  
17 attended.

18 A. In July?

19 Q. In July.

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

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

1 RAYMOND E. DiROSSI

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

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

10 A. None that I can specifically  
11 recall.

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

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



1 RAYMOND E. DiROSSI

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

4 A. With anyone else other than --

5 Q. Niehaus and Schuler you just  
6 mentioned.

7 MR. STRACH: Objection to form.

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

10 BY MS. THOMAS-LUNDBORG:

11 Q. Anyone else?

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

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

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

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

24 (Thereupon, Plaintiffs' Exhibit  
25 Number 11, Document Bates Stamped DIROSSI\_0000020,

1 RAYMOND E. DiROSSI

2 was marked for purposes of identification.)

3 BY MS. THOMAS-LUNDBORG:

4 Q. Let's look at what I'm going to  
5 have marked as Exhibit 11. It bears DIROSSI --  
6 I'll just say DIROSSI\_20 for shorthand. This  
7 is an exhibit that you produced to us. The  
8 subject is, 2:45 p.m. Confirmed: Redistricting  
9 Training. Do you see that?

10 A. I do.

11 Q. And it looks like this event is  
12 scheduled to start on July 7th, 2011. Do you  
13 see that?

14 A. I do.

15 Q. Okay. I'm going to just move on  
16 to the next document to mark for the record to  
17 be efficient.

18 (Thereupon, Plaintiffs' Exhibit  
19 Number 12, Document Bates Stamped DIROSSI\_0000021,  
20 was marked for purposes of identification.)

21 BY MS. THOMAS-LUNDBORG:

22 Q. This is DIROSSI\_21 and the subject  
23 is Confirmed: Redistricting Training. Do you  
24 see that?

25 A. I do.

1 RAYMOND E. DiROSSI

2 Q. And its date is July 8th, 2011.

3 Do you see that?

4 A. I do see that.

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

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

13 Q. Understood.

14 (Thereupon, Plaintiffs' Exhibit  
15 Number 13, Document Bates Stamped LWVOH\_00008706,  
16 was marked for purposes of identification.)

17 BY MS. THOMAS-LUNDBORG:

18 Q. To finish out our trio, I would  
19 like to have marked as Exhibit 13 LWVOH\_8706.  
20 And at the top it says Redistricting Meeting  
21 Agenda, Thursday, July 7th, 2011, and Friday,  
22 July 8th, 2011. Do you see that?

23 A. Yes.

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

1 RAYMOND E. DiROSSI

2 redistricting training for 2:45 to 5:00 p.m.

3 That seems to coincide with a 2:45 to 5:30 p.m.

4 training on this agenda in Exhibit 13. Do you  
5 see that?

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

8 Q. Number 11.

9 A. Number 11, I'm sorry.

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

12 A. Number 11, yes.

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

16 A. I do.

17 Q. Okay. And then on --

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

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

1 RAYMOND E. DiROSSI

2 A. Yes.

3 Q. Okay. As you look at this agenda  
4 -- I know you said when you looked at the  
5 calendar entries alone you have no recollection  
6 of going to the meetings. Looking at the  
7 agenda, do you have any recollection of  
8 attending any of these meetings?

9 A. I do have a recollection of  
10 attending something, but I can't say if it was  
11 one or -- one or something different.

12 Q. Okay. The agenda lists a number  
13 of people, including Mark Braden. Do you see  
14 that?

15 A. I do.

16 Q. Do you know who Mark Braden is?

17 A. I do.

18 Q. Who is Mark Braden?

19 A. He was the legal counsel that  
20 represented us in the apportionment lawsuit.

21 Q. By legal counsel that represented  
22 us in the apportionment lawsuit, who is us?

23 A. The apportionment board members.

24 Q. Okay. And was it your  
25 understanding that he represented all

1 RAYMOND E. DiROSSI

2 apportionment board members?

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

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

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

11 Q. I mean work related to  
12 redistricting.

13 MR. STRACH: Objection.

14 THE WITNESS: Yeah, we might have  
15 sought his -- his guidance on legal matters, but I  
16 --

17 BY MS. THOMAS-LUNDBORG:

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

21 A. Yes.

22 Q. And when was that?

23 A. When was the lawsuit filed?

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

1 RAYMOND E. DiROSSI

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

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

8 A. Yes.

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

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

16 Q. Okay.

17 A. It was kind of throughout.

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

20 MR. STRACH: Objection.

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

24 BY MS. THOMAS-LUNDBORG:

25 Q. All right. The other name listed

1 RAYMOND E. DiROSSI

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

4 A. Generally, yes.

5 Q. And who is that?

6 A. He was somebody who -- who was a  
7 resource to us if we had questions specifically  
8 about software. As we talked about before, in  
9 2001 we used AutoBound software. In 2011 we  
10 were switching and using Maptitude software, a  
11 software that I had not been trained on and was  
12 not familiar with, and there was a lot of  
13 things that I just could not understand how  
14 this new software ten years later worked.

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

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

21 A. I don't recall.

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

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



1 RAYMOND E. DiROSSI

2 Q. And who sent that email?

3 A. I can't recall.

4 Q. You said that he was a resource to  
5 you. By you, who do you mean?

6 A. I'm sorry, by who do I --

7 Q. Who was John Morgan a resource  
8 for?

9 A. Me.

10 Q. You specifically. Did he work  
11 with anyone else to your knowledge?

12 A. I had -- I did witness him talking  
13 to Heather and I jointly.

14 Q. Are you aware of him having  
15 conversations with anyone else related to  
16 redistricting in Ohio?

17 A. I am not, no.

18 Q. Were you aware of who was paying  
19 John Morgan to do his work?

20 A. I was not.

21 Q. Did John Morgan make any inputs  
22 into the Maptitude software?

23 MR. STRACH: Objection.

24 THE WITNESS: Yeah, so this is -- you  
25 kind of said inputs into the software and I guess

1 RAYMOND E. DiROSSI

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

7 BY MS. THOMAS-LUNDBORG:

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

11 A. None that I can recall.

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

14 MR. STRACH: Objection.

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

17 BY MS. THOMAS-LUNDBORG:

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

22 A. I can't recall.

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

1 RAYMOND E. DiROSSI

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

4 Q. Okay. And who was Adam Kincaid?

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

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

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

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

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

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

1 RAYMOND E. DiROSSI

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

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

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

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

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

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

1 RAYMOND E. DiROSSI

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

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

13 MR. STRACH: Objection.

14 THE WITNESS: With regards  
15 specifically to --

16 BY MS. THOMAS-LUNDBORG:

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

20 A. Yeah.

21 Q. What was your understanding of his  
22 opinion?

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

1 RAYMOND E. DiROSSI

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

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

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

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

1 RAYMOND E. DiROSSI

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

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

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

19 A. So it would have been Heather and  
20 I.

21 Q. Did anyone else help put together  
22 the index?

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

1 RAYMOND E. DiROSSI

2 Q. And who were those people?

3 A. Well, it was Vaughn Flasher.

4 Q. And who is that?

5 A. He was somebody who had been  
6 involved in campaign activities in the state  
7 for a long period of time.

8 Q. And who did he work for at the  
9 time?

10 A. I think he had -- I think he had  
11 his own business. He had his own business.

12 Q. And you said he was involved in  
13 campaign activities in the state. Do you know  
14 if that was for Republicans or Democrats?

15 A. It would have been -- well, some  
16 of it was statewide campaigns that are  
17 nonpartisan, so, I mean, I guess it all  
18 depended on who at the time he was working for.

19 Q. Were you aware of him working for  
20 any Democrat at the time?

21 A. Not to my knowledge.

22 Q. Okay. So you mentioned  
23 Mr. Flasher, Ms. Mann -- Ms. Blessing, excuse  
24 me. Was there anyone else who helped work on  
25 the indices issue?



1 RAYMOND E. DiROSSI

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

6 Q. And who was that?

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

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

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

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

24 A. I don't know.

25 Q. If you do recall the name at any

1 RAYMOND E. DiROSSI

2 point --

3 A. Sure, yes.

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

6 A. I'll blurt it out.

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

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

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

25 Q. And so how did you ultimately

1 RAYMOND E. DiROSSI

2 decide which way you were going to adopt?

3 MR. STRACH: Objection.

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

6 BY MS. THOMAS-LUNDBORG:

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

9 A. Correct.

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

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

15 Q. And what do you mean by best?

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

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

21 A. Sure.

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

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

1 RAYMOND E. DiROSSI

2 it Safe, was marked for purposes of  
3 identification.)

4 BY MS. THOMAS-LUNDBORG:

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

11 A. Okay.

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

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

19 Q. Yes.

20 MR. STRACH: Objection.

21 Go ahead and answer if you can.

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

1 RAYMOND E. DiROSSI

2 came across it and provided it.

3 BY MS. THOMAS-LUNDBORG:

4 Q. Okay.

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

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

9 A. Yes.

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

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

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

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

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

22 BY MS. THOMAS-LUNDBORG:

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

1 RAYMOND E. DiROSSI

2 your possession?

3 A. It was emailed to me.

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

6 A. I do not recall.

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

9 A. I do not.

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

17 A. Okay.

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

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

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

1 RAYMOND E. DiROSSI

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

4 BY MS. THOMAS-LUNDBORG:

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

8 A. I do.

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

12 A. Yes, that would be my  
13 understanding.

14 (Thereupon, Plaintiffs' Exhibit  
15 Number 15, Document Bates Stamped DIROSSI\_0000038,  
16 was marked for purposes of identification.)

17 BY MS. THOMAS-LUNDBORG:

18 Q. Okay. Moving on, I would like to  
19 look at an exhibit that I'm having marked as  
20 Exhibit 15. It's DIROSSI\_38 for the record.  
21 It is a calendar entry from August 30, 2011,  
22 and the subject is Confirmed: Meet with Tom  
23 Whatman. Do you see that?

24 A. I do.

25 Q. Who is Tom Whatman?

1 RAYMOND E. DiROSSI

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

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

10 A. I don't.

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

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

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

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

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

24 Q. And feedback --

25 A. He either worked for him in his



1 RAYMOND E. DiROSSI

2 congressional office or he worked for him in  
3 other capacities.

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

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

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

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

1 RAYMOND E. DiROSSI

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

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

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

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

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

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

25 Q. And what was your understanding of

1 RAYMOND E. DiROSSI

2 why Mr. Whatman was involved in the  
3 redistricting process?

4 MR. STRACH: Objection.

5 BY MS. THOMAS-LUNDBORG:

6 Q. Your understanding of why.

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

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

15 MR. STRACH: Objection.

16 Answer if you know.

17 THE WITNESS: Yeah, so --

18 BY MS. THOMAS-LUNDBORG:

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

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

1 RAYMOND E. DiROSSI

2 was eagerly anticipating what the legislature  
3 was going to enact.

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

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

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

12 A. Yes.

13 Q. And who is that?

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

17 Q. Okay.

18 A. And he currently is a member of  
19 Congress.

20 Q. And which party is he from?

21 A. He's a Republican.

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

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

1 RAYMOND E. DiROSSI

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

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

7 A. I do.

8 Q. Who is Jim Jordan?

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

12 Q. Did you have any conversations  
13 with Jim Jordan?

14 A. I do not believe so, no.

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

18 A. Well, I had -- as I said, we had  
19 18, we were going to 16, so I would have had  
20 conversations about every district because  
21 every district had to change.

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

24 A. I do.

25 Q. And who is that?

1 RAYMOND E. DiROSSI

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

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

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

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

13 A. None that I recall.

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

17 MR. STRACH: Objection.

18 BY MS. THOMAS-LUNDBORG:

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

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

24 Q. Was Joyce Beatty in Congress at  
25 that point?

1 RAYMOND E. DiROSSI

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

4 Q. And you had conversations with  
5 her?

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

8 Q. My question is, at the time in  
9 2011 do you recall having any conversations  
10 with sitting congresspeople?

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

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

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

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

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

1 RAYMOND E. DiROSSI

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

4 A. Yeah, no, I do not.

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

12 A. Sure.

13 Q. We'll enter it later.

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

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

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

23 A. Yes.

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



1 RAYMOND E. DiROSSI

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

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

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

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

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

18 Q. Okay.

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

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

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

25 THE VIDEOGRAPHER: We're off the

1 RAYMOND E. DiROSSI

2 record.

3 (Lunch recess taken.)

4 THE VIDEOGRAPHER: We're on the  
5 record.

6 MS. THOMAS-LUNDBORG: Thank you.

7 BY MS. THOMAS-LUNDBORG:

8 Q. Good afternoon.

9 A. Good afternoon.

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

13 A. Okay.

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

16 A. I do.

17 Q. What were the nature of those  
18 conversations?

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

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2 get rid of, but absorb two.

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

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

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

1 RAYMOND E. DiROSSI

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

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

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

19 A. Batchelder (pronouncing), yes.

20 Q. Batchelder, excuse me.

21 A. Thank you for clarifying, yes.

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

25 A. I don't recall any specific

1 RAYMOND E. DiROSSI

2 conversations about that with Tom.

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

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

9 MS. THOMAS-LUNDBORG: Throughout the  
10 whole process.

11 THE WITNESS: Okay. Could you repeat  
12 it again?

13 BY MS. THOMAS-LUNDBORG:

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

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

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

23 A. None that I can recall  
24 specifically here.

25 Q. And did you have any emails where

1 RAYMOND E. DiROSSI

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

5 A. None that I can specifically  
6 recall sitting here.

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

12 A. So it was -- as I mentioned before  
13 and mentioned the big -- the big pillars of  
14 what the districts were going to look like,  
15 losing two districts, trying to make sure the  
16 11th congressional district of Northeast Ohio  
17 was proposed in a certain way, these were --  
18 those were conversations that he and I were  
19 having about how -- what we were going to try  
20 to do to achieve those.

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

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

1 RAYMOND E. DiROSSI

2 the Speaker of the Ohio House on those topics.

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

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

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

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

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

21 A. Sure.

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

25 A. I've known Heather a long time

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

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

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

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

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



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

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

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

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

17 A. Sure, that would be helpful.

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

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

23 Q. Yes.

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

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

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

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

8 Q. A decision about money to the  
9 caucuses?

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

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

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

21 Q. Okay. But you had decisions (sic)  
22 about that in 2011 with the president? You had  
23 conversations with the president about that in  
24 2011?

25 A. Well, those conversations in 2011

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

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

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

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

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

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

23 A. We did.

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

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

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

9 A. (Witness nodded head up and down.)

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

14 MR. STRACH: Objection.

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

17 BY MS. THOMAS-LUNDBORG:

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

20 A. I don't recall.

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

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

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

6 Q. And where were those computers  
7 located?

8 A. In our office.

9 Q. And where was your office?

10 A. The office was at the DoubleTree  
11 hotel.

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

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

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2 Specifically having been the  
3 budget director in the House in the summer when  
4 we were doing budgets, I know that after about  
5 6:00 every day the Ohio Building Authority  
6 turns off the air-conditioning, and if you want  
7 to run air-conditioning on a floor you have to  
8 pay about \$300 an hour to run air-conditioning.

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

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

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

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2 were.

3 (Thereupon, Plaintiffs' Exhibit  
4 Number 16, Document Bates Stamped LWVOH\_00018254,  
5 was marked for purposes of identification.)

6 BY MS. THOMAS-LUNDBORG:

7 Q. Okay. I would like to show you an  
8 exhibit that I'm having marked as Exhibit 16.  
9 It has Bates number LWVOH\_18254. Do you see  
10 that?

11 A. I do.

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

15 A. I do.

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

19 A. I do.

20 Q. Is that your name?

21 A. It is.

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

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

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

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

8 A. Yes.

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

12 A. Yes.

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

17 A. I do.

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

20 A. I do.

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

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



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

8 A. You want me to read it?

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

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

14 Okay, I've read it.

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

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

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

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

1 RAYMOND E. DiROSSI

2 had keys or not.

3 Q. Okay.

4 A. So did that answer your question?

5 I'm sorry.

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

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

11 A. No.

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

16 A. No.

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

20 A. No.

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

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

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

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

9 A. No.

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

12 MR. TUCKER: Objection to form.

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

19 BY MS. THOMAS-LUNDBORG:

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

22 A. I did not.

23 (Thereupon, Plaintiffs' Exhibit  
24 Number 17, Document Bates Stamped DIROSSI\_0000051,  
25 was marked for purposes of identification.)

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2 BY MS. THOMAS-LUNDBORG:

3 Q. Okay. I'm going to have marked as  
4 Exhibit 17 DIROSSI\_51, and the subject is  
5 Confirmed: Meet with Niehaus at the bunker,  
6 location is redistricting office, and it's  
7 September 15th, 2011. Do you see that?

8 A. I do.

9 Q. What is the bunker?

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

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

17 A. Yes.

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

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

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2 decade.

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

10 Q. Understood.

11 (Thereupon, Plaintiffs' Exhibit  
12 Number 18, Document Bates Stamped DIROSSI\_0000051,  
13 was marked for purposes of identification.)

14 BY MS. THOMAS-LUNDBORG:

15 Q. I would like to change to Exhibit  
16 18. So this, again, it's going to be a little  
17 confusing because this already has an exhibit  
18 sticker 17. The exhibit sticker is from your  
19 prior deposition. It's also a number of  
20 documents put together that I did not  
21 disaggregate since they were put together in  
22 that deposition. And so let's start with the  
23 first document, but we'll go through all three  
24 hopefully very quickly.

25 Do you see that this first

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2 document on -- I'll just say the first page of  
3 the exhibit since there are different page  
4 numbers at the bottom, an email that's from  
5 line is RayDiRossi@Gmail.com?

6 A. Yes.

7 Q. Is that your email address?

8 A. RayDiRossi@Gmail.com?

9 Q. Yes.

10 A. Yes, it is.

11 Q. Okay. And the email is to a  
12 Clinton Morefield. Do you see that?

13 A. I do.

14 Q. Who is that?

15 A. He at the time was the -- either  
16 the IT or the -- the IT person for the Ohio  
17 Senate.

18 Q. Okay. And then the other person  
19 that this is to is Heather Mann. We've  
20 discussed her, but do you recognize that email  
21 address, HeatherMann@Gmail.com?

22 A. Yes.

23 Q. And was that Heather Mann's, now  
24 Heather Blessing's, Gmail address?

25 A. At least at the time it was one

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2 that I used for her, yes.

3 Q. Okay. The email then copies a Jon  
4 Cook. Do you see that?

5 A. I do.

6 Q. Who is that?

7 A. He would be the IT director - I'm  
8 sure I'm getting his title right - him, along  
9 with Clint, of the Ohio House.

10 Q. Okay. And then in the text of the  
11 email you say, We're at the actual hearing at  
12 2:30 in Senate finance. We'll be back at the  
13 bunker later today after the hearing is over.  
14 Do you see that?

15 A. I do.

16 Q. Let's turn to the next page.  
17 Again, this was put together by prior counsel,  
18 so you can't blame me for that. Do you see in  
19 the top right corner your email address?

20 A. We're looking at this one?

21 Q. Yes, we are.

22 A. Yes, I do.

23 Q. Okay. And then do you see in the  
24 -- what seems to be the from line your email  
25 address?

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2 A. Yes.

3 Q. And then the email to Matt  
4 Schuler, do you see that?

5 A. I do.

6 Q. And who was Matt Schuler?

7 A. He was the chief of staff in the  
8 Senate at the time.

9 Q. Okay. And then the text of the  
10 email says, I'm free all day today at the  
11 bunker. Do you see that?

12 A. I do.

13 Q. Moving to the next page --

14 A. This is the same email that refers  
15 to -- the headline and subject of the email is  
16 Meeting Tuesday at the Redistricting Office.  
17 So again, this is -- the meeting was at the  
18 redistricting office and it was me just calling  
19 it by another name in the body of the email.

20 Q. I see that.

21 Going to the next page, do you see  
22 your email in the top right corner of this  
23 document?

24 A. Yes.

25 Q. And then it looks like your email



1 RAYMOND E. DiROSSI

2 is in the from line. Do you see that?

3 A. My email is in the from line.

4 Okay. I see that.

5 Q. Okay. And this is to a  
6 Vaughn@CapitalStrategiesGroup.com. Do you see  
7 that?

8 A. I do.

9 Q. Who is Vaughn?

10 A. Vaughn Flasher, who we mentioned  
11 earlier.

12 Q. And Vaughn Flasher, you said,  
13 helped put together the indices?

14 A. He helped provide guidance on what  
15 statewide nonjudicial election races might be  
16 good to use for putting together historical  
17 election data.

18 Q. And did Vaughn Flasher have any  
19 other involvement in redistricting?

20 A. None that I recall. None that I  
21 recall here.

22 Q. Okay. And then Matt Schuler is  
23 copied here; is that correct?

24 A. That's true.

25 Q. And that's the same Matt Schuler

1 RAYMOND E. DiROSSI

2 we just referenced?

3 A. Yes.

4 Q. And then just going down -- so  
5 there's the top email and there's another email  
6 below it, so I'm going to focus on that, with  
7 all the same people involved. And then it  
8 says, I am meeting with Senator Manning at the  
9 bunker today at 3:30 p.m. today if the Senate  
10 session is over. Do you see that?

11 A. I do.

12 Q. So now we've looked at three  
13 different emails to various individuals where  
14 you've used the term bunker; is that correct?

15 A. Yes.

16 MR. STRACH: Objection.

17 BY MS. THOMAS-LUNDBORG:

18 Q. Was the term bunker commonly used  
19 during that period?

20 A. I think, as I said, I referred to  
21 this office by a number of names. I just kind  
22 of used them interchangeably.

23 Q. Well, you didn't define the term  
24 bunker in any of the emails that we looked at,  
25 did you?

1 RAYMOND E. DiROSSI

2 A. I don't know what you mean by  
3 define it.

4 Q. Well, did you say in any of the  
5 emails I'm at the bunker, aka the redistricting  
6 office?

7 A. Well, I mean, like in the email we  
8 just looked at, the subject is Tuesday at  
9 Redistricting Office and then I say I'll be  
10 over in the bunker --

11 Q. Okay. What about the --

12 A. -- so I'm using them  
13 interchangeably.

14 Q. What about the first document, do  
15 you refer to the redistricting office here?

16 A. Are you looking at 18 or 17?

17 Q. 17. I mean, it is our Exhibit 18,  
18 but it has the 17 sticker on it. But I'm  
19 looking at this email to Clint Morefield,  
20 Heather Mann and Jon Cook. Do you refer to the  
21 redistricting office in this email?

22 A. I don't see that I did in this  
23 particular instance.

24 Q. Okay. Going to the last page of  
25 the exhibit, do you refer to the redistricting

1 RAYMOND E. DiROSSI

2 office in this email? This is the email to  
3 Vaughn and Matt Schuler.

4 A. I did not.

5 Q. Okay. So we've talked about who  
6 had keys to the hotel room. Who actually  
7 visited the hotel room to your recollection?

8 A. You're specifically asking about  
9 the congressional redistricting process?

10 Q. Yes, or whoever visited the hotel  
11 room at the time.

12 A. Dave Yost, who was I believe the  
13 auditor, was there, President Niehaus was  
14 there, Speaker Batchelder, obviously Heather  
15 and I and Troy were there.

16 Q. What about Matt Schuler, was he  
17 there?

18 A. I don't recall if Matt was ever  
19 there. I can't recall.

20 Q. What about Tom Whatman?

21 A. I can't recall if Tom was ever  
22 there.

23 Q. What about Adam Kincaid?

24 A. I cannot recall if he was ever  
25 there.

1 RAYMOND E. DiROSSI

2 Q. Was anyone else on President  
3 Niehaus' staff at the hotel room?

4 A. Clarify for me what you mean by  
5 President Niehaus' staff.

6 Q. Anyone who worked with President  
7 Niehaus.

8 A. Okay. I do believe, from this  
9 previous email, that Clint Morefield came over  
10 to help us install the plotter so that we could  
11 print and he would have been a member of the  
12 Senate staff. Other than that, I cannot recall  
13 anybody specifically who would have been there.

14 Q. Okay. What about anyone on the  
15 Speaker of the Ohio's House staff?

16 A. I'm trying to remember - this was  
17 so long ago - of who was actually members of  
18 the staff at the time. Nobody comes to mind.

19 Q. Okay. What about anyone on the  
20 Governor's staff?

21 A. Beth Hansen was there at least on  
22 one occasion where I was present.

23 Q. What about anyone on the auditor's  
24 staff?

25 A. Other than I mentioned the auditor

1 RAYMOND E. DiROSSI

2 himself, I do not recall any members of his  
3 staff.

4 Q. What about the Secretary of State?

5 A. The Secretary of State was there  
6 once personally, but I cannot remember any  
7 members of his staff being present.

8 And again, I just would maybe  
9 point out, a lot of these -- I kind of fell  
10 into the trap. A lot of these are  
11 apportionment and are not redistricting, so I  
12 apologize if I jumped back and forth there.  
13 The Governor, the auditor, the Secretary of  
14 State are apportionment board members, and so  
15 in many instances when I was referring to them  
16 being there, they weren't there to have  
17 anything to do with redistricting, they were  
18 there for apportionment. Apologies.

19 Q. Okay. Fair enough.

20 What about Mark Huffman?

21 A. Mark Huffman?

22 Q. Do you know who Mark Huffman is?

23 A. That name does not sound familiar.

24 Q. Do you recall there was a Mark  
25 Huffman in the Ohio House at the time?

1 RAYMOND E. DiROSSI

2 A. As a state representative? That  
3 name is not familiar.

4 Q. Do you recall who the sponsor of  
5 319 was?

6 A. I think I do, but it's not Mark  
7 Huffman, no.

8 Q. Who is the sponsor that you're  
9 thinking of?

10 A. I don't want to -- I don't want to  
11 guess. I don't want to guess.

12 Q. Okay. Oh, sorry. I've been  
13 corrected. Do you know a Matt Huffman?

14 A. Oh, state -- current state  
15 senator, former state representative, okay,  
16 yes, I do know Matt Huffman.

17 Q. Okay. And was Matt Huffman ever  
18 at the hotel room?

19 A. None that I can specifically --  
20 not that I can specifically recall.

21 Q. And was Matt Huffman the sponsor  
22 of 319?

23 A. I believe he was, yes.

24 Q. And was Matt Huffman --

25 A. In fact, he was, he was.

1 RAYMOND E. DiROSSI

2 Q. And was Matt Huffman the sponsor  
3 of 369?

4 A. I don't know for sure. I can't  
5 speak to that.

6 Q. Okay. Do you know a Keith Faber?

7 A. I do.

8 Q. And who is Keith Faber?

9 A. He was a state senator at the  
10 time.

11 Q. And was Keith Faber ever at the  
12 hotel room?

13 A. Yes, he was.

14 Q. And how many times?

15 A. I couldn't tell you specifically  
16 how many times.

17 Q. Okay. Was it more than once?

18 A. Yes.

19 Q. And was Keith Faber the Senate  
20 sponsor of the bill?

21 A. I can't answer that. I don't know  
22 whether that senator sponsored the bill or not.

23 Q. Did he sponsor the bill in the  
24 Senate?

25 A. I can't answer that. I don't



1 RAYMOND E. DiROSSI

2 know. I don't know.

3 Q. Okay. Did you work on the Senate  
4 legislative process in your role?

5 A. Can you help me understand the  
6 Senate? You mean --

7 Q. Did you work on the bill, any of  
8 the processes or procedures of getting the bill  
9 moved through Senate?

10 A. Very -- very little. Like I said,  
11 my role was to work to get the districts put  
12 together in a legislative form so that it could  
13 go through the legislative process. Once that  
14 started with 319 and 369, I didn't have really  
15 much of a role.

16 Q. Okay. Was John Morgan ever at the  
17 hotel room?

18 A. I can't recall if he was ever  
19 physically there.

20 Q. Was Mark Braden ever in the hotel  
21 room?

22 A. Yes.

23 Q. And how many times?

24 A. I don't recall a specific number  
25 of times.

1 RAYMOND E. DiROSSI

2 Q. More than once?

3 A. Yes.

4 Q. And then you mentioned that Troy  
5 Judy was there and working on the maps. Do you  
6 recall how many times he was at the hotel room?

7 A. In terms of a specific number, I  
8 do not.

9 Q. Was it more than once?

10 A. Yes.

11 Q. And in this hotel room, just so  
12 the record is clear, did you work on both the  
13 redistricting congressional map and the  
14 apportionment map for the Ohio legislature?

15 A. Yes.

16 Q. Okay.

17 A. But if I could clarify that --

18 Q. Sure.

19 A. -- as we talked about earlier, not  
20 exclusively, because there were two maps, 319  
21 and 369, and by the time 369 was moving through  
22 the legislature we were no longer in the  
23 redistricting office.

24 Q. Okay. Where were you when 369 was  
25 being worked on?

1 RAYMOND E. DiROSSI

2 A. In the Statehouse.

3 Q. Okay. And where in the  
4 Statehouse?

5 A. In the Senate annex building.

6 Q. And was that room available when  
7 you were working on 319?

8 A. I don't -- no, it was not.

9 Q. And why wasn't it available?

10 A. It was housing all of the public  
11 records documents from the previous decades and  
12 they all had to be moved out to make room.

13 Q. And when were those moved?

14 A. I don't recall the specific  
15 timeline.

16 Q. Was it your understanding that  
17 those were moved specifically so you could use  
18 that room?

19 A. Yes.

20 Q. Okay. Regarding the hotel room,  
21 did you go to the hotel room every day when you  
22 were working on the map?

23 A. No.

24 Q. How often were you in the hotel  
25 room?

1 RAYMOND E. DiROSSI

2 A. Often.

3 Q. Was it a few times a week, once a  
4 week?

5 MR. STRACH: I'm just going to object  
6 and ask if you will clarify, when you say the map  
7 do you mean the legislative map or the  
8 congressional map?

9 MS. THOMAS-LUNDBORG: I'm talking  
10 about the congressional map.

11 THE WITNESS: And your question was  
12 how often did I --

13 BY MS. THOMAS-LUNDBORG:

14 Q. How often were you in the hotel  
15 room? During --

16 A. Often.

17 Q. During a given week, how many  
18 times were you in the hotel room?

19 MR. STRACH: Objection.

20 THE WITNESS: It would depend on the  
21 week. I mean, there were some weeks when we  
22 weren't there a lot and there were other weeks  
23 where we were there every day. It would vary  
24 depending on the --

25 BY MS. THOMAS-LUNDBORG:

1 RAYMOND E. DiROSSI

2 Q. And when you say we were there  
3 every day, who would be there if you were there  
4 every day?

5 A. I'm referring to Heather and I.

6 Q. Was anyone else in the hotel room  
7 as often as you were?

8 A. No, other than Heather.

9 Q. When you went to the hotel room,  
10 how long would you be in there typically?

11 A. Well, typically is -- nothing  
12 about this was typical, so it was very extended  
13 periods of time. I'm sorry, do you have --  
14 what is the question?

15 Q. The question was how long would  
16 you be in the hotel room when you were there?

17 A. I mean, a long time.

18 Q. And what is your definition of a  
19 long time since everyone will define it  
20 differently?

21 A. Well, I'm sure there were times  
22 with -- other than going out for lunch or  
23 dinner, that I was there 24 hours straight, and  
24 I'm sure there were other times when I wasn't  
25 there for any time during a 24-hour period.

1 RAYMOND E. DiROSSI

2 Q. And other than Heather Mann, was  
3 anyone in the hotel room for an extended period  
4 of time, like 24 hours?

5 A. I would -- I would say Heather and  
6 I were the two -- the two people that were  
7 there the most --

8 Q. And how --

9 A. -- on that question.

10 Q. I'm sorry. How many computers did  
11 you have to work on while you were there?

12 A. Three.

13 Q. And how often were three people  
14 working on the computers at any given time?

15 A. How do you want me to quantify  
16 that? I mean --

17 Q. You could say once a week, twice a  
18 week, three times a week.

19 A. It varied so -- it varied so much,  
20 I mean, I don't know if I could pin that down  
21 specifically.

22 Q. Okay. Who else used the computers  
23 in the hotel room?

24 A. I had a computer that I used,  
25 Heather had a computer that she used, and then

1 RAYMOND E. DiROSSI

2 there was another computer that was there as  
3 needed, that Troy probably -- Troy Judy would  
4 have used when he was there.

5 Q. Did anyone other than Troy Judy  
6 use the third computer?

7 A. Not to my knowledge.

8 Q. Other than the computer, did you  
9 have other equipment installed at the hotel  
10 room?

11 A. We had a plotter. We had a  
12 plotter so that we could print maps in color so  
13 that the legislative leaders could share those  
14 maps with who they wanted to share maps with.  
15 We had a network -- we had a networking switch  
16 that allowed the computers to be connected  
17 directly, and, you know, that was the extent of  
18 the equipment.

19 Q. Were the computers connected to  
20 the worldwide web?

21 A. They were not.

22 (Thereupon, Plaintiffs' Exhibit  
23 Number 19, Documents Bates Stamped  
24 DIROSSI\_0000139-0000141, was marked for purposes  
25 of identification.)

1 RAYMOND E. DIROSSI

2 BY MS. THOMAS-LUNDBORG:

3 Q. I would like to show you a  
4 document that I'm having marked as Exhibit 19,  
5 and for identification the first page is  
6 DIROSSI\_139. And I'm going to skip the first  
7 page, we'll come back to that. If you could  
8 move to the second page of the document,  
9 please.

10 And at the top of the second page  
11 it says Congressional Redistricting Timeline.  
12 Do you see that?

13 A. I do.

14 Q. The first entry is Wednesday, July  
15 20th, 2011. Do you see that?

16 A. I do.

17 Q. And let me first ask you --  
18 actually, let me strike the last question.

19 Do you recognize this document?

20 A. I do.

21 Q. Is this a document you created?

22 A. It is.

23 Q. Okay. And why did you put this  
24 document together?

25 A. Which piece of it are you



1 RAYMOND E. DiROSSI

2 referring to?

3 Q. Well, let's deal with this second  
4 page. Why did you put the second page  
5 together?

6 A. As we had talked about, one of the  
7 things that I was concerned about were the  
8 logistical and the timelines for producing --  
9 the legislature to produce a -- pass a bill  
10 that would become the congressional districts,  
11 and so this was just putting on paper some of  
12 those timelines, including some of the proposed  
13 dates where the legislators would be traveling  
14 the state to get public input.

15 Q. Okay. So the first entry, it  
16 looks like, was July 20th, 2011; is that  
17 correct?

18 A. It appears to be, yes.

19 Q. So does this document predate July  
20 20th, 2011?

21 A. I don't recall specifically when I  
22 made it.

23 Q. Okay. The first entry is a series  
24 of two meetings, one is 9:00 a.m. to 12:00 p.m.  
25 in Columbus, and then 3:00 p.m. to 6:00 p.m. in

1 RAYMOND E. DiROSSI

2 Zanesville. What were these meetings?

3 A. These were the five locations and  
4 dates for the public hearings that the Senate  
5 committee on redistricting was going to be  
6 having.

7 Q. Okay. The first meeting is July  
8 20th, 2011. To your knowledge was there a  
9 draft map at that point?

10 A. So when you say -- help me  
11 understand a draft map. What does that mean?

12 Q. Had anyone started to put together  
13 a map at that point?

14 A. Well, I can't speak for did  
15 anyone. I did not.

16 Q. Okay. Had you seen a draft map at  
17 that point?

18 A. I don't recall if I had seen  
19 anybody else's ideas on July 20th.

20 Q. Do you know whether any maps were  
21 shared at this July 20th meeting?

22 A. I honestly can't tell you if I  
23 attended these. I don't recall.

24 Q. You don't recall whether you  
25 attended them?

1 RAYMOND E. DiROSSI

2 A. I don't recall.

3 Q. Okay. We'll start with this one.

4 And we can go through a number of these, but  
5 I'll try to keep the number as low as possible.  
6 So I'm not entering it in the record. It's  
7 just to refresh your recollection. It's a  
8 document, DIROSSI\_2225 that you produced to us.

9 Does this document refresh your  
10 recollection about whether you attended any of  
11 these hearings?

12 A. It does not.

13 Q. Okay. I'm showing you another  
14 document that is DIROSSI\_147, again I'm not  
15 entering it, and it's the announcement of the  
16 committee hearings. Does this document refresh  
17 your recollection about whether you attended  
18 any of the hearings?

19 A. It does not.

20 Q. Okay. I'm showing you a document,  
21 it's marked DIROSSI\_00020. It is a witness  
22 information form from 7-20-11, Jim Slagle. It  
23 appears to correspond with one of the hearings.  
24 Does this document refresh your recollection?

25 MR. STRACH: And just to be clear,

1 RAYMOND E. DiROSSI

2 it's actually DIROSSI\_202.

3 MS. THOMAS-LUNDBORG: Oh, sorry, 202.

4 THE WITNESS: No, it does not.

5 BY MS. THOMAS-LUNDBORG:

6 Q. Okay. I think this will be the  
7 last. Sorry, I'm just looking for one other.  
8 I'll just add one more document, I think. So  
9 I'll just represent -- I have a number of  
10 these, but I'll just hand you one now.

11 This is a calendar entry and there  
12 are calendar entries corresponding with all of  
13 the hearings listed here. Does this document  
14 refresh your recollection about whether you  
15 attended the hearings?

16 A. No. As I said before, just  
17 because it says confirmed just meant that I --  
18 the hearing was happening, not that I was  
19 necessarily attending.

20 Q. Okay. Were you aware of the  
21 hearings as they were happening?

22 A. I was -- I was aware that the  
23 hearings were going to be held.

24 Q. Okay. Did you get any feedback,  
25 if you didn't attend the hearings, about what

1 RAYMOND E. DiROSSI

2 happened at each hearing?

3 A. I don't -- I don't recall. I  
4 mean, Jim Slagle with the Ohio Campaign for  
5 Accountable Redistricting and I had a couple of  
6 conversations throughout this process and I'm  
7 sure he would have articulated his --  
8 reiterated some of the points of his testimony.  
9 But other than that, I don't have any specific  
10 recollection.

11 Q. Okay. Do you recall why you held  
12 on to so many documents related to the hearing?

13 A. Because having been through this  
14 the decade before, I knew that lawsuits would  
15 be coming and they were public records, and so  
16 I kept a lot of this stuff.

17 Q. To your knowledge did any of the  
18 feedback from the hearings make it into  
19 anything that you worked on?

20 A. Well, and not to mix, but in the  
21 apportionment map, absolutely, and in the  
22 congressional map, I don't -- since I can't  
23 recall specifically if I got that feedback  
24 directly at the hearings, I mean, I couldn't  
25 recall a specific instance.

1 RAYMOND E. DiROSSI

2 A lot of the feedback that we were  
3 getting about -- again, apologies, we're  
4 dealing with the legislative process for the  
5 congressional map as opposed to the  
6 apportionment process with the apportionment  
7 board. A lot of the feedback that we were  
8 getting on the congressional map revolved  
9 around requests by Democrats in the Ohio House  
10 and the Ohio Senate that they wanted to see  
11 changes in order for the map to be approved by  
12 them, that they would support the map. So  
13 that's how we were primarily getting feedback  
14 from proposed changes, it was through the  
15 elected officials of the citizens.

16 Q. Okay. I just want to stick on the  
17 hearings, though, because there's a  
18 congressional hearing timeline and then the  
19 next page is an apportionment board timeline.

20 A. Yes.

21 Q. So for the congressional only  
22 hearings, did any of that feedback make it into  
23 your map?

24 A. I can't say because I don't recall  
25 if I attended and heard directly what that --

1 RAYMOND E. DiROSSI

2 what that testimony was.

3 Q. Okay. But to your knowledge did  
4 you, whether you were there or someone else  
5 told you, make changes based on public opinion  
6 to the map at these hearings?

7 A. Well, right, public feedback we  
8 were getting through a number of ways. I don't  
9 believe any of the legislative Democrats chose  
10 to testify at these hearings to make their  
11 requests known. Those were happening through  
12 legislative lines of communication through the  
13 minority leaders, the leaders of the chambers  
14 and other avenues. It wasn't happening through  
15 these hearings.

16 Q. Okay. You've said you were the  
17 author of this document. At the bottom of the  
18 document it says, and this is the third to last  
19 line, hold it in the can until the legislature  
20 comes -- comes back in September 13th, 14th.

21 What does hold it in the can mean?

22 A. Yeah, so it was my -- my words  
23 basically saying, as we talked about the  
24 process and the logistical problems involved in  
25 getting the legislature to produce a map, at

1 RAYMOND E. DiROSSI

2 the time that I put this document together the  
3 legislature didn't have session dates scheduled  
4 in order that they would be here to vote to  
5 approve a map.

6 So as we were working  
7 simultaneously on the apportionment map, as  
8 well as the congressional redistricting, we  
9 might have to come up with a proposal that the  
10 legislature could consider, but wait until they  
11 came back so we could have sessions and  
12 hearings, and that's what I meant by hold it in  
13 the can.

14 Q. Okay. And the it referred to here  
15 a draft map?

16 A. Yes, the it here is the proposal  
17 of what the congressional redistricting could  
18 be.

19 MS. THOMAS-LUNDBORG: So I believe we  
20 need to take a break so the DVD can be changed,  
21 and we'll take a ten-minute break and come back?

22 MR. STRACH: Yeah, five or ten is  
23 fine.

24 THE VIDEOGRAPHER: We're off the  
25 record.



1 RAYMOND E. DiROSSI

2 (Recess taken.)

3 THE VIDEOGRAPHER: We're on the  
4 record.

5 MS. THOMAS-LUNDBORG: Okay. Thank  
6 you.

7 BY MS. THOMAS-LUNDBORG:

8 Q. Good afternoon.

9 A. Hello again.

10 Q. Hello again.

11 I would like to ask you a couple  
12 of follow-up questions regarding what we talked  
13 about earlier.

14 A. Sure.

15 Q. You said in our last session that  
16 Montgomery County was kept whole in 369 as a  
17 concession to the Democrats?

18 A. Yes.

19 Q. Were there any other concessions  
20 that were made?

21 A. Yeah, a number. As we discussed,  
22 in Montgomery County we were dealing with the  
23 loss of two congressional districts. This will  
24 take a little explaining. Apologies. We were  
25 dealing with the loss of two congressional

1 RAYMOND E. DiROSSI

2 districts, and the decision was that we were  
3 going to pair two Republicans together and two  
4 Democrats together.

5 The two Republicans that  
6 ultimately were selected to be paired together  
7 were Turner and Austria, which had Montgomery  
8 County as its base. The two Democrats that  
9 were chosen to be paired together were  
10 Congresswoman Kaptur and Dennis Kucinich, which  
11 had a district that had a base in Toledo and in  
12 the west side of Cleveland.

13 And in 319 the 9th congressional  
14 district, which is the one up in the north  
15 along the lake, was designed so that there was  
16 roughly 50 percent of the territory of  
17 Congresswoman Kaptur's district in the new 9th  
18 and 50 percent of the home territory of Dennis  
19 Kucinich's old congressional district in the  
20 9th, and there was some in the middle that  
21 neither of them had represented which was kind  
22 of viewed as neutral territory. So that was  
23 two big components of 319.

24 The Democrats, between the passage  
25 of 319 and the ultimate passage of 369,

1 RAYMOND E. DiROSSI

2 requested a number of changes that were coming  
3 from Congresswoman Kaptur through a number of  
4 channels to us. They wanted to tilt the favor  
5 so that more and more of the territory of  
6 Kaptur's old district would be in the new  
7 district, and that involved making the  
8 connectors between Cleveland and Toledo  
9 skinnier and moving more portions of Toledo  
10 into the district at Kaptur's request, and less  
11 of the population of Dennis Kucinich's area in  
12 the district. This was an effort so that --  
13 they wanted to tip the scales so that the  
14 geography of the district at least favored  
15 Kaptur, and that was another major concession  
16 in 369.

17 In fact, that one I remember very  
18 vividly. That brought forward four votes, one  
19 in the Senate, Senator Brown then voted for 369  
20 where she previously opposed the 319, and  
21 Representative Fedor, Representative Szollisi,  
22 who was the number two -- was the minority  
23 leader of the House of Representatives, and  
24 another Democrat, I believe Representative  
25 Ashford. All four people who had voted against

1 RAYMOND E. DiROSSI

2 319 then were able to cast their vote for 369.  
3 So that was another major concession that was  
4 happening through the legislative process that  
5 brought Democratic votes to 369, the final map.

6 There were others throughout the  
7 district, specifically in Franklin County, if  
8 you want to go through those as well.

9 Q. I would like to hear what they all  
10 were. You can go ahead.

11 A. So in Franklin County in 319 there  
12 was the proposed creation of a new district,  
13 the hope of which was would elect for the first  
14 time a second minority member to Congress,  
15 whereas the state has historically had no  
16 minority representatives or, at the most, one.

17 And in 319 to 369 there were  
18 requests that were coming to us through a  
19 number of channels from Joyce Beatty. She  
20 specifically wanted geography that was in 319  
21 out of 369 because one of her potential primary  
22 opponents resided in that district, a Franklin  
23 County Commissioner, Mary Jo Kilroy. There  
24 were also some other geography changes that she  
25 had asked for.

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2 She also wanted to make sure that  
3 we redrew the district so that the percentage  
4 of non-Hispanic African American -- voting age  
5 African American population was higher than it  
6 was in 319, and she also wanted to make sure --  
7 and again, I'm going to use the word index, but  
8 this is her interpretation of what an index  
9 was, not mine. She wanted to make sure that  
10 the index was better for a Democrat, was more  
11 favorable for her.

12 Q. And what was her position at the  
13 time since she wasn't yet in --

14 A. She had a position at Ohio State.  
15 I do not recall the title of it. She was  
16 working for Ohio State, I believe, at the time,  
17 and I knew who she was.

18 Q. And who were those conversations  
19 with? Were you having conversations directly  
20 with Joyce Beatty or with intermediaries?

21 A. Well, they came through a number  
22 of sources. Again, as we talked about, we're  
23 dealing with a legislative process, so my -- I  
24 really had two primary ways that I was  
25 receiving feedback. One was through President

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2 Niehaus as the leader of the chamber, but I was  
3 also working with Bob Bennett, who was the  
4 former chairman of the Republican party, who  
5 wasn't at the time, but had a number of  
6 longstanding relationships with people,  
7 Democratic members of the party infrastructure  
8 or Democratic elected officials.

9 And I was working extensively with  
10 him between 319 and 369 being adopted and we  
11 were -- he was giving me this feedback that he  
12 was getting directly from those congressmen,  
13 congresswomen or people around them in their  
14 campaign operations.

15 Q. Did you have conversations  
16 directly with anyone who could be termed a  
17 Democrat at this time?

18 A. In the congressional  
19 redistricting, you're asking?

20 Q. Yes, about 319 or 369.

21 A. Yeah, I was -- I was getting that  
22 information from other people, so I was -- I  
23 wasn't the one having those conversations. But  
24 that was the feedback that I was getting and so  
25 that's why I was making those proposals and

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2 those changes and those recommendations for the  
3 map, which we ultimately did, and then we  
4 ultimately got -- I think at the end of the day  
5 we got -- I shouldn't say we got. There were,  
6 I think, 20 members of the Ohio House minority  
7 caucus that voted for the final map, which was  
8 -- of the members that were present from the  
9 Democratic caucus was more than half of them.

10 And in 319 I think there were four  
11 Democrats that voted for the map in the House  
12 and Senate combined. I think that number  
13 swelled to almost 25 votes after we made all of  
14 these changes, so --

15 Q. And were you getting any of this  
16 feedback when you were working on 319 or was  
17 this feedback just about 369?

18 A. Yeah, most of the feedback -- or  
19 everything that I just described was very  
20 inherent in 369. That was -- obviously the  
21 legislative Democrats approached the leadership  
22 and said this is what it's going to take for us  
23 to provide votes to approve this map, and so  
24 that was all post 319 and 369.

25 Q. Okay.

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2 A. There were -- in 319, as I  
3 mentioned, in the 9th congressional district,  
4 there were a lot of conversations that were  
5 happening. Congresswoman Fudge, as the map  
6 rolled out, was -- it had been relayed to me by  
7 a number of people that she did not want to be  
8 paired with Dennis Kucinich in a district. She  
9 did not want to run against him in a primary by  
10 drawing a district completely inside Cuyahoga  
11 County.

12 And so during 319's rollout and  
13 passage, there were conversations that were  
14 happening directly with her or with other  
15 people around her about what her preferences  
16 were for the 11th congressional district. And  
17 as I mentioned before, that's a very important  
18 district for the state because it's the only  
19 district we have in the entire state that has  
20 in recent memory elected a minority member to  
21 Congress.

22 Q. Now, you just said there were  
23 conversations directly with Congresswoman  
24 Fudge. Did you have those conversations with  
25 Congresswoman Fudge?



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2 A. I did not.

3 Q. Do you know who had those  
4 conversations?

5 A. I was working with Bob Bennett and  
6 I know that other members, I believe Speaker  
7 Batchelder -- or I know Speaker Batchelder was  
8 talking to a number of folks and contacts that  
9 he had in Northern Ohio about what  
10 Congresswoman Fudge wanted.

11 And I do specifically remember  
12 preparing two draft maps that we were sending  
13 to her through intermediaries that said we can  
14 draw the 11th district all in Cuyahoga County,  
15 but it will no longer be a majority/minority  
16 district, or we can bring the district down  
17 into Summit County and retain it as a  
18 majority/minority district. And if we kept it  
19 in Cuyahoga County she would be paired with  
20 Dennis Kucinich, and the feedback that came  
21 back down was she would prefer that the  
22 district go down into Summit County, which was  
23 done in 319 as it was introduced and retained  
24 in 369.

25 Q. Okay. You've mentioned Bob

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2 Bennett a couple of times.

3 A. Yes.

4 Q. What was his role in redistricting  
5 other than being an intermediary?

6 A. Well, he was not -- he was a  
7 former chairman of the Republican party and so  
8 he just had been involved in -- I have been now  
9 involved in two decennial redistricting and  
10 apportionments. Mr. Bennett, as we said now  
11 deceased, probably had been involved in four or  
12 five. He had great contacts throughout the  
13 state, both Republican and Democrat, some great  
14 relationships that he had, and he had the  
15 ability to reach across party lines and get  
16 feedback from both sides of the political  
17 spectrum about what people wanted to see in the  
18 legislative bill.

19 Q. Did he ever visit the hotel room  
20 that the map was drawn in?

21 A. To my knowledge, no.

22 Q. Other than talking to people, did  
23 he do anything else related to the map other  
24 than talking to all these people that you've  
25 mentioned?

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2 A. Can you say that again? I'm  
3 sorry, other than --

4 Q. So you've mentioned that he served  
5 as an intermediary.

6 A. Oh, that he did or that I did?  
7 I'm sorry.

8 Q. That he did. He was an  
9 intermediary to Democrats and Republicans all  
10 over the state.

11 A. And you're asking if he --

12 Q. Did anything else related to  
13 redistricting.

14 A. I mean, I worked directly with him  
15 on all the things I just articulated. What  
16 else he was doing, I couldn't say.

17 Q. Okay. I would like to just turn  
18 back to Exhibit 19 for a second. It should  
19 still be in front of you. You were on the  
20 right page.

21 A. I'm sorry.

22 Q. That's fine.

23 A. I had it. There we go.

24 Q. And there was a question I hadn't  
25 had a chance to ask you yet. So there is a

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2 reference here to August 19th. Do you see  
3 that?

4 A. Yes.

5 Q. And it says target date to get the  
6 bill equivalency file to the LSC. What is the  
7 LSC?

8 A. Okay. So that is the Legislative  
9 Service Commission. It is the entity that  
10 produces bills, proposed laws for the General  
11 Assembly. It's a nonpartisan entity. And as  
12 we had previously discussed, since the  
13 legislative congressional redistricting is a  
14 bill that goes through the legislature, we had  
15 to get to LSC what we wanted the congressional  
16 redistricting bill to look like and that's what  
17 that is a reference to.

18 Q. Okay. And what is a bill  
19 equivalency file?

20 A. So now you're getting down in the  
21 technical stuff, but it's basically --

22 Q. Yes.

23 A. It's basically the equivalency  
24 files that says what census blocks of counties  
25 and the geography of the state would be

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2 assigned to which districts so that you could  
3 put that into a legal form.

4 Q. And you used census blocks to draw  
5 the district lines?

6 A. Well, we used a lot of units of  
7 geography, but I think that the common  
8 denominator was census blocks. The lowest  
9 common denominator was census blocks.

10 Q. In addition to census blocks, what  
11 did you use?

12 A. Yeah, so you had census blocks,  
13 census tracks, you had political subdivisions,  
14 whether it be a precinct of a city, a precinct  
15 of a township, whole townships, municipalities,  
16 wards, counties. All the units of geography  
17 that the Census Bureau tracks population data  
18 for.

19 Q. And was there any particular  
20 reason why you were using census blocks, which  
21 you said was the common denominator?

22 A. Yeah, the -- to the best of my  
23 knowledge, the court, the U.S. Supreme Court  
24 still said that you had to draw congressional  
25 districts down to zero population deviation.

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2 And obviously if you're trying to use a larger  
3 unit of geography, the chances that you could  
4 ever come up with 16 congressional districts  
5 that all had literally identical population or  
6 plus or minus one, depending on how many people  
7 there were, without going down to that lowest  
8 unit of geography you would never be able to  
9 achieve the required constitutional population  
10 deviations.

11 Q. Was there any other reason that  
12 you were using census blocks?

13 A. No, that's the -- no.

14 Q. Okay. Did you get any benefit  
15 other than the one person, one vote that you  
16 mentioned from using census blocks?

17 A. No, we got a lot of headaches  
18 because we got in -- there was a lot of -- when  
19 you get down to a unit that small, you run into  
20 a ton of inherent software issues with what is  
21 called split -- split blocks. And that is  
22 where you have a geography unit that maybe  
23 crosses the boundary of a census block, and if  
24 there are two people in that block you have to  
25 figure out, okay, are these two people both in

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2 this part of the split block or in this part of  
3 the split block. So actually going down to  
4 that level caused a lot of headaches.

5 Q. Okay. And generally how were you  
6 able to resolve those headaches?

7 A. We relied on our Cleveland State  
8 and OU database and also the -- this probably  
9 would have been one instance or this was one  
10 instance where we would have used John Morgan's  
11 technical expertise on software and -- I'm  
12 sorry, I misspoke, I said the wrong name. It  
13 was Clark Benson who we used on these, not John  
14 Morgan.

15 Q. Did anyone else other than Clark  
16 Benson help you resolve these issues?

17 A. That's the name that I remember.

18 Q. Okay. So we've spent some time  
19 talking about Congresswoman Fudge's district  
20 and we've talked about majority/minority  
21 districts. Were you concerned about  
22 majority/minority districts because of the  
23 Voting Rights Act?

24 A. Yes.

25 Q. And what is your understanding of

1 RAYMOND E. DiROSSI

2 what the Voting Rights Act requires?

3 MR. STRACH: Objection.

4 THE WITNESS: Yeah, I'm obviously not  
5 an attorney, but in 2001 the district was drawn so  
6 that it was more than 50 percent voting age  
7 non-Hispanic African American population. And  
8 once we started to get up and running and look at  
9 some congressional redistricting ideas, one of the  
10 first things that I was looking at was, with the  
11 significant population loss that Cleveland was  
12 experiencing, when you reconfigured the 11th  
13 district was it possible to still draw a district  
14 that would be more than 50 percent non-Hispanic  
15 voting age African American population.

16 And I mentioned before the way that I  
17 had seen the data and was working with it, if the  
18 district had stayed in Cuyahoga County that would  
19 not have been obtainable. The district would have  
20 fallen to somewhere around 48 percent. So that  
21 was my understanding of the factors that we were  
22 dealing with with regards to the 11th.

23 BY MS. THOMAS-LUNDBORG:

24 Q. Okay. You said you're not an  
25 expert on VRA. Did you receive any -- and by



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2 VRA, I mean Voting Rights Act. Did you receive  
3 any training on what the VRA requires at any  
4 point?

5 MR. STRACH: And I'm going to object.  
6 If you had any training by non-lawyers, you can  
7 testify about that, but --

8 MS. THOMAS-LUNDBORG: I think he can  
9 testify to training by a lawyer, too. He doesn't  
10 have to say what it was, but he can say, yes, I  
11 met with lawyers and they told me what it  
12 requires.

13 MR. STRACH: No, no, he's not going  
14 to testify about that. I'm going to instruct him  
15 not to say anything about any training, meetings  
16 or otherwise, about the VRA with lawyers. If  
17 there was any training, meetings or otherwise  
18 about the VRA with non-lawyers, I'll allow him to  
19 answer that.

20 MS. THOMAS-LUNDBORG: I mean, the  
21 question is not to the substance of what he was  
22 told, lawyers said he had to do. The question is  
23 did a lawyer tell you there are VRA requirements  
24 and that is not a privileged question.

25 MR. STRACH: That is a substantive

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2 question about what he was being told by lawyers,  
3 so no, we're not going to answer that.

4 MS. THOMAS-LUNDBORG: I'm not asking  
5 what he was told by lawyers. I'm asking did he  
6 have conversations with his lawyers.

7 MR. STRACH: You can ask if he had a  
8 conversation with a lawyer, period, but not did he  
9 have a conversation with a lawyer about the VRA.  
10 We will not answer that question.

11 MS. THOMAS-LUNDBORG: All right.

12 BY MS. THOMAS-LUNDBORG:

13 Q. You can go ahead.

14 A. Can you ask the question again?

15 I'm sorry.

16 Q. So there's two questions. One is  
17 did you have any non-lawyer trainings about  
18 VRA?

19 A. Did I have any non-lawyer  
20 training? Again, depending on what training  
21 means, other than attending those NCSL things  
22 we talked about where there might have been  
23 presentations about the Voting Rights Act, I  
24 did not have any training with non-lawyers.

25 Q. Okay. And then did you have any

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2 conversations with lawyers at this time?

3 A. Specifically about --

4 MS. THOMAS-LUNDBORG: Your attorney  
5 has instructed you not to answer about the  
6 specifics of did you have conversations with  
7 lawyers.

8 MR. STRACH: Did you have  
9 conversations with lawyers, as she said, at this  
10 time, period.

11 THE WITNESS: And, I'm sorry --  
12 BY MS. THOMAS-LUNDBORG:

13 Q. At this time, we're talking about  
14 the 2011 redistricting period. We can break  
15 the question up into 319 and 369.

16 THE WITNESS: And I'm supposed to  
17 answer?

18 MR. STRACH: So the question is did  
19 you have conversations with lawyers at the time of  
20 the redistricting.

21 THE WITNESS: Yes.

22 BY MS. THOMAS-LUNDBORG:

23 Q. Okay. Prior to the 2011  
24 redistricting period did you have any  
25 experience drawing VRA compliant districts?

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2 A. In the 2001 apportionment, both in  
3 apportionment and redistricting, we were  
4 drawing a number of districts that were covered  
5 by the Voting Rights Act.

6 Q. Okay. Are you at all familiar  
7 with the requirements of what the -- of what a  
8 VRA compliant district -- sorry, let me strike  
9 that.

10 Are you familiar with determining  
11 the requirements of whether or not a VRA  
12 district should be drawn?

13 MR. STRACH: Objection.

14 MS. THOMAS-LUNDBORG: I'm asking  
15 about his own personal knowledge.

16 MR. STRACH: Well, he's not a lawyer,  
17 so it's not -- it's not that simple.

18 MS. THOMAS-LUNDBORG: Well, he did  
19 work on drawing the districts. He may or may not  
20 have personal knowledge to this, which he is free  
21 to answer that he does or does not.

22 MR. STRACH: But he doesn't have  
23 lawyer personal knowledge.

24 MS. THOMAS-LUNDBORG: I'm asking  
25 about his personal knowledge as the person drawing

1 RAYMOND E. DiROSSI

2 the district, how did he determine, and if he says  
3 I have no personal knowledge then that is his  
4 answer.

5 MR. STRACH: All right. If you have  
6 strictly personal knowledge you can answer that  
7 question, but if it requires you to act like a  
8 lawyer then you're not to act like a lawyer.

9 THE WITNESS: If we were drawing --  
10 and again, I'm in apportionment mostly because in  
11 the congressional there's only one district, but  
12 in the apportionment there are dozens. If we were  
13 working in an area where there were Voting Rights  
14 Act impacted districts, I would have sought legal  
15 advice as to how to proceed.

16 BY MS. THOMAS-LUNDBORG:

17 Q. Okay. Are you at all familiar  
18 with the term racially polarized voting?

19 MR. STRACH: Objection.

20 MS. THOMAS-LUNDBORG: I'm asking if  
21 he's familiar with it.

22 THE WITNESS: I've heard the term,  
23 but I am -- I'm not conversant in it in any way.

24 BY MS. THOMAS-LUNDBORG:

25 Q. Are you at all familiar --

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2 actually, let's just go to a document.

3 (Thereupon, Plaintiffs' Exhibit  
4 Number 20, File Produced in Native Format Bates  
5 Stamped DIROSSI\_0000526, was marked for purposes  
6 of identification.)

7 BY MS. THOMAS-LUNDBORG:

8 Q. This I'm having marked as Exhibit  
9 20. This was produced in native format, which  
10 was an Excel file, so you'll see the first page  
11 is the produced in native cover sheet. It's  
12 DIROSSI\_526. Do you see that?

13 A. Yes.

14 Q. And then the second page is a  
15 Excel spreadsheet. Do you see that?

16 A. Yes.

17 Q. Okay. Based on your recollection,  
18 are you the author of this document?

19 A. Yes.

20 Q. The first set of -- and this is an  
21 Excel spreadsheet, so in the left most column  
22 there is text that says comply with the Voting  
23 Rights Act CD 11. Do you see that?

24 A. I do.

25 Q. And then underneath the first kind

1                   RAYMOND E. DiROSSI  
2       of populated percentage column it says 22.63  
3       percent unified index is 50/50. Do you see  
4       that?

5                   A.     I do.

6                   Q.     And what does the 26.63 represent  
7       here?

8                   MR. STRACH:   22.63.

9                   MS. THOMAS-LUNDBORG:   Yes, 22.63.

10                  THE WITNESS:   It would have been the  
11       -- based on the unified index that we spoke about  
12       earlier, the numerical representation of all of  
13       the historical election results for those five  
14       races that we talked about earlier.

15       BY MS. THOMAS-LUNDBORG:

16                  Q.     And is this the percentage of  
17       Republican or what is the 22 percent?

18                  MR. STRACH:   Objection. Asked and  
19       answered.

20                  Answer it again.

21                  MS. THOMAS-LUNDBORG:   He didn't  
22       answer whether it was Republican or Democrat. I  
23       still don't know what 22.63 is.

24                  MR. STRACH:   He just said what 22.63  
25       percent was and he'll say it again if you want him

1 RAYMOND E. DiROSSI

2 to.

3 BY MS. THOMAS-LUNDBORG:

4 Q. Can you tell me, is this 22.63  
5 Republican or Democrat winning the percentage  
6 of the election?

7 A. It would be Republican.

8 Q. Thank you.

9 And then I'm going to skip down,  
10 it says draw new minority opportunity district,  
11 Franklin County. Do you see that?

12 A. I do.

13 Q. And it's CD 03. What is -- and  
14 then the next line is 37.83 percent. Do you  
15 see that?

16 A. I do.

17 Q. And is that the Republican  
18 percentage in CD 03?

19 A. Using -- using that scoring of the  
20 unified index, yes.

21 Q. Then the last column, and it's not  
22 populated, is Slagle/OCAR, state is 52-48 in  
23 favor of R's. Do you see that?

24 A. Yes.

25 Q. What is the purpose of this column



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2 here?

3 A. Yeah, so this document, I created  
4 this in response to a media inquiry. And  
5 again, it goes back to -- it goes back to  
6 everybody had their own way of looking at  
7 indexes or historical election results. I  
8 obviously was trying to use the unified index.  
9 A number of people were looking at presidential  
10 index. Mr. Slagle at OCAR had his own scoring  
11 methodology. And the question was being asked  
12 of once you draw these two districts, what does  
13 the rest of the state look like historically.

14 Q. And you said a number of people  
15 were using the presidential index. Do you  
16 recall who those people were?

17 A. Yeah, mostly people who cared  
18 about national elections or congressional  
19 elections, so Republican and Democratic  
20 congressmen and Republican and Democratic  
21 congresswomen, the NRCC, the DS -- or the DRCC  
22 or whatever their name is. The people who run  
23 national congressional and national elections  
24 tend to look at presidential results and their  
25 own scoring system and really kind of looked

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2 with this favor upon what I was using as the  
3 unified index.

4 Q. Okay. And why were you looking at  
5 these two districts in particular?

6 A. It was a media request so I was  
7 just trying to be responsive. As I mentioned,  
8 at any moment in time what somebody cares  
9 about, whether it's geography, how many  
10 incumbents are paired together, an election  
11 data number, how big a district was, you know,  
12 Heather and I were the ones that people were  
13 coming to to ask those questions, and so this  
14 is just one document I created. It doesn't  
15 even look like I finished it. So it was just  
16 --

17 Q. Okay. And do you recall which  
18 media entity you got the request from?

19 A. I don't. I don't.

20 Q. Do you recall any other specifics  
21 about the request?

22 A. I don't. Nope, I don't, sorry.

23 Q. Actually, don't flip it yet.  
24 During your various trainings, aside from  
25 trainings that you had with a lawyer, did any

1 RAYMOND E. DiROSSI

2 of your trainings talk about one person, one  
3 vote, also known as equal population?

4 A. I don't know what -- I mean,  
5 trainings, I was trained on software --

6 Q. Conferences.

7 A. -- two decades ago. Yeah, but I  
8 wouldn't call those trainings. I mean, they're  
9 just like listening to people pontificate about  
10 what they know, and most of it isn't even  
11 relevant to Ohio.

12 So can you restate the question,  
13 please?

14 Q. So conferences or trainings, did  
15 any of them deal with equal population, also  
16 known as one person, one vote?

17 A. Nothing specifically that I can  
18 recall.

19 Q. Okay. Did you take one person,  
20 one vote into consideration when you were  
21 drawing your map?

22 A. All of the districts that were  
23 drawn for the congressional redistricting were  
24 balanced to the person. I believe of the 16  
25 districts, eight of them were plus one person

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2 above the ratio of representation and the  
3 others were right on the number. So, I mean, I  
4 took that into account that the districts had  
5 to be drawn with absolute population, zero  
6 deviation.

7 Q. Did equal population affect the  
8 substance of any lines that were drawn?

9 A. Help me understand what you mean  
10 by substance.

11 Q. Did you move a line from one  
12 location to another location because of equal  
13 population?

14 A. Absolutely.

15 Q. Okay. And do you recall as you  
16 sit here which lines were moved based on equal  
17 population?

18 A. I chuckle because it's -- if  
19 you've ever drawn a map like that, you may have  
20 a district in the northeast corner of the state  
21 of Ohio that is unfortunately three people too  
22 many and you have to balance it out, and  
23 because of the way the map is all  
24 interconnected you may end up having to move  
25 people in Southwest Ohio, two or three people

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2 to achieve that.

3 And so every district I would have  
4 made -- Heather and/or I would have made some  
5 change very small to the lines in order to  
6 achieve zero population deviation. Every  
7 single district we would have had to do that  
8 in.

9 Q. Beyond these small changes of two  
10 or three people, do you recall any large  
11 changes that were made based on equal  
12 population?

13 A. I mean, I recall like the 11th  
14 congressional district, it was after losing two  
15 seats and I think the districts had to grow by  
16 almost 72,000 people, more or less, and I  
17 remember that district having lost significant  
18 population, tens of thousands, maybe even  
19 approaching a hundred thousand, that  
20 significant population changes had to be made  
21 to bring that district in particular up to its  
22 target population.

23 I don't think I -- I don't think  
24 any other district was quite that extreme in  
25 how many people it needed to be adjusted.

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2 Q. Okay. So in addition to equal  
3 population and voting rights compliance, did  
4 you consider any other factors when you were  
5 drawing the map?

6 A. Well, as I mentioned before, there  
7 were some high-level points that Speaker  
8 Batchelder and President Niehaus wanted to  
9 achieve in this legislative map, and that was  
10 the elimination of two districts, the pairing  
11 of two Republican congressmen or women, the  
12 pairing of two Democratic congressmen or women,  
13 proposing an 11th congressional district that  
14 was to the satisfaction of Congresswoman Fudge,  
15 the creation of a new district in Franklin  
16 County that would give a minority candidate the  
17 ability to be elected. I mean, those were the  
18 big -- the big overarching goals. Then making  
19 sure the map was balanced and achieve zero  
20 population deviation. Those were the main --  
21 main components.

22 Q. Okay. Did you consider  
23 communities of interest when you were drawing  
24 the map?

25 A. So that is a term -- obviously I

1 RAYMOND E. DiROSSI

2 have heard that term for decades and I think it  
3 means a lot of different things to a lot of  
4 different people. So you'll have to help me --  
5 tell me what you are suggesting it means so  
6 that I can try to answer your question.

7 Q. Well, I guess my question back to  
8 you is what would you suggest that it means?  
9 What is your understanding of what a community  
10 of interest is?

11 A. Well, it could be -- it could be a  
12 lot of things and in certain parts of the state  
13 we have a very diverse population. We have an  
14 extreme -- we have a large number of rural  
15 areas of the state. We have major water, Lake  
16 Erie and we also have the Ohio River. We have  
17 Southwest Ohio that has a lot of communities of  
18 interest. We have minority communities of  
19 interest in certain areas, mostly urban areas.  
20 We have at least eight major urban areas. I  
21 mean, so community of interest in any part of  
22 the state could mean a very different thing.

23 Q. Understood. Did any of those  
24 definitions make it into your considerations  
25 when you were drawing the map?

1 RAYMOND E. DiROSSI

2 A. I was certainly aware of the ones  
3 that I was aware of as we were drawing the map.

4 Q. And what effect did that have on  
5 any of your map drawing?

6 A. Well, whenever we -- depending on  
7 if there were other goals that conflicted with  
8 it, we would try to preserve those communities  
9 as best possible to achieve the other stated  
10 goals that I mentioned.

11 Q. What about compactness, are you  
12 familiar with the term compactness?

13 A. I'm familiar with the term, I am  
14 unfamiliar with anybody's definition of what it  
15 -- what it means.

16 Q. What is your understanding of what  
17 compactness is?

18 A. That you have a district that is  
19 relatively compact. I'm sorry to use the word  
20 in the definition of the word, but that would  
21 be my understanding.

22 Q. Did your understanding of  
23 compactness affect your map drawing?

24 A. Again, Ohio is very diverse. Look  
25 at the 3rd congressional district that was



1 RAYMOND E. DiROSSI

2 created in Franklin County. The footprint of  
3 that was 720 some odd thousand people, it's  
4 very compact, it is, you know, all within  
5 Franklin County; in Southeast Ohio where we  
6 have a tremendous number of mostly rural areas  
7 where we have entire counties that have a total  
8 of 12 or 13,000 people; we have another  
9 district that is the same exact population  
10 size, but it covers 14, 15 or 16 counties, and  
11 it is a very significant geographical area.

12 So, I mean, I would say they're  
13 both compact because that's where people in  
14 Ohio have chosen to live, but I didn't use any  
15 measure.

16 Q. Okay. So when you were drawing  
17 the map, though, were you thinking about  
18 compactness in drawing the lines?

19 A. I was aware of the concept, yes.

20 Q. Was it operationalized into your  
21 map drawing?

22 MR. STRACH: Objection.

23 THE WITNESS: Yeah, I need to  
24 understand what you mean by --

25 BY MS. THOMAS-LUNDBORG:

1 RAYMOND E. DiROSSI

2 Q. Did you have any system by which  
3 you were making sure districts were compact?

4 MR. STRACH: Objection.

5 THE WITNESS: No, other than visual.

6 BY MS. THOMAS-LUNDBORG:

7 Q. What about county splits, do you  
8 know what -- how would you define county  
9 splits? I think it's fairly self-evident, but  
10 I just want to understand your understanding.

11 A. Yeah, it gets a little tricky in  
12 the apportionment, but in the congressional  
13 redistricting if you have a district that  
14 crosses a county boundary and is not  
15 encompassing an entire county, I could  
16 understand why somebody would say a county is  
17 split.

18 Q. Okay. And did county splits --  
19 what role, if any, did county splits play in  
20 your map drawing?

21 A. Well, we're certainly aware of  
22 where we were doing it. We had a few unique  
23 instances around the state where, due to the  
24 geography of the State of Ohio, we have some  
25 cities -- I'll use my home city as an example.

1 RAYMOND E. DiROSSI

2 I live in Dublin, Ohio, as I said earlier. The  
3 city of Dublin is actually a municipal  
4 corporation, but it is in three specific  
5 counties; it is in Union County, Franklin  
6 County and Delaware County. It's right where  
7 the three of them come together.

8 And this presents sometimes a  
9 challenge. You could try to keep the community  
10 of interest that is Dublin together, but you  
11 would be splitting three counties, or you could  
12 try to keep the three counties in three  
13 separate districts, but then you're splitting  
14 Dublin three different ways.

15 So I was always drawing -- that  
16 happens in Northern Ohio, too, with the city  
17 of, I believe, Fremont is in three, if not  
18 four, counties. I always kept that in mind  
19 when we were -- when I was drawing districts --

20 Q. Okay.

21 A. -- or proposing -- drawing  
22 proposals.

23 Q. And did you do anything in your  
24 map drawing to limit the number of county  
25 splits?

1 RAYMOND E. DiROSSI

2 A. Generally it was something we were  
3 trying to do, but as I mentioned before,  
4 eliminating two districts, the method by which  
5 we were absorbing two districts, trying to, you  
6 know, protect the 11th congressional district  
7 and create a new one in the third, and pairing  
8 incumbents together, those were more important  
9 to our goals than if we split a couple extra  
10 counties.

11 Obviously, as I said before, the  
12 Democrats in some of the areas made requests to  
13 unify a couple counties, in Montgomery County  
14 specifically. But to do that I think we had to  
15 unify Montgomery County to satisfy the request,  
16 but then we split another county because you  
17 had to have zero population deviation. So  
18 sometimes it was a mixed bag.

19 Q. Okay. What about municipal  
20 splits? What do you understand that term to  
21 mean?

22 A. Very similar to counties where you  
23 have a district that does not include all of  
24 the territory of a municipal corporation.

25 Q. And did municipal splits play any

1 RAYMOND E. DiROSSI

2 role in your map drawing?

3 A. Well, again, all districts had to  
4 be balanced to either plus or minus one person  
5 or zero population deviation, so you were going  
6 to have to split counties, you were going to  
7 have to split cities, you were going to have to  
8 split townships and other units of geography to  
9 make those districts balance out. So that was  
10 done.

11 Q. Okay. Are you familiar with the  
12 term incumbency?

13 A. Yes.

14 Q. Are you familiar with the term  
15 incumbency protection?

16 A. I've heard the term, but it could  
17 be --

18 Q. What is your --

19 A. -- could mean different things.

20 Q. Oh, okay, sorry.

21 A. That's okay.

22 Q. I don't mean to speak over you.

23 What does incumbency mean to you?

24 A. So at any point in time who is the  
25 incumbent of any particular district is what

1 RAYMOND E. DiROSSI

2 incumbency means to me.

3 Q. Okay. And an incumbent is?

4 A. The residing -- the residing  
5 office holder of a district.

6 Q. Okay. And did incumbency play any  
7 role in your map drawing?

8 A. As I mentioned, we were losing two  
9 congressional districts, so the decision was  
10 that we would pair two incumbent Democrats  
11 together and two incumbent Republicans together  
12 forcing them to have a primary and let the  
13 voters decide.

14 Q. Outside of this consideration to  
15 pair incumbents, did you look at incumbency in  
16 any other way?

17 A. Yes, we generally try to avoid  
18 pairing districts. I mentioned to you before  
19 that it had been sent -- or the information had  
20 gotten to me that Congresswoman Fudge did not  
21 want to be paired with Dennis Kucinich, then  
22 Congressman Dennis Kucinich, and so the  
23 district that we drew intentionally did not do  
24 that, so yes.

25 I also mentioned Joyce Beatty

1 RAYMOND E. DiROSSI

2 where she specifically wanted to have somebody  
3 who she thought might run against her drawn out  
4 of the district, and so we also did that in  
5 order to get votes.

6 Q. But was she an incumbent?

7 A. She was not an incumbent at the  
8 time.

9 Q. Were there any other incumbents  
10 that you considered during this time?

11 A. Well, I was aware of where every  
12 incumbent, every Republican, every Democratic  
13 lived, so we intentionally -- or didn't  
14 unintentionally pair them together.

15 Q. And how did you do that?

16 A. I think either through -- well,  
17 let me -- I shouldn't say I think. We were  
18 able to obtain the home addresses of all 18  
19 congressmen and women in the state, which we  
20 used.

21 Q. And how did you use them?

22 A. We used them with our software to  
23 do what is called geocoding so that you could  
24 put in their address into the software and it  
25 would put a marker on the map so you could mark

1 RAYMOND E. DiROSSI

2 where specifically a member of Congress  
3 resided.

4 Q. Did partisan makeup of the  
5 districts play any role in your map drawing?

6 A. So the historical election  
7 information that we had talked about before was  
8 one of the things that was in the software just  
9 as the population variations, the Hispanic  
10 percentages of the district, the African  
11 American percentages of the district. We also  
12 had incorporated into that the historical  
13 election data. So it was one of the things we  
14 had.

15 Q. Okay. You had it. Did you use  
16 it?

17 A. Yes, it was one of the things that  
18 we would have looked at as we were proposing  
19 districts, along with all of the other things I  
20 just mentioned.

21 Q. Okay. So outside of VRA and equal  
22 population, were any of the other factors you  
23 considered legally required to your knowledge?

24 A. You said the VRA and what was the  
25 other one?



1 RAYMOND E. DiROSSI

2 Q. Equal population.

3 A. Equal population. The districts  
4 had to be contiguous. That would have been a  
5 requirement.

6 Q. Did you have any hierarchy to  
7 determine which factors were going to be more  
8 important or less important as you were drawing  
9 the map?

10 A. I did not.

11 Q. How did you determine which  
12 factors were going to play a role in any  
13 particular district?

14 A. Well, using those big pillars that  
15 we talked about and then interacting with, for  
16 me, President Niehaus, and making sure that he  
17 could get the votes of the Republicans and  
18 Democrats in the legislature, that was the  
19 process.

20 (Thereupon, Plaintiffs' Exhibit  
21 Number 21, Documents Bates Stamped  
22 DIROSSI\_0000470-472, was marked for purposes of  
23 identification.)

24 BY MS. THOMAS-LUNDBORG:

25 Q. Let's go to what I'm having marked

1 RAYMOND E. DiROSSI

2 as Exhibit 21. This is a document I actually  
3 put together, but it's consecutively Bates  
4 stamped, so hopefully it's not an issue and  
5 they all seem to be relatively the same. I'm  
6 having this marked as Exhibit 21. It's  
7 DIROSSI\_470.

8 And this appears to be a series,  
9 three to be exact, of competition maps. Is  
10 that your understanding of what this exhibit  
11 is?

12 A. Yes.

13 MR. STRACH: Do you know if these  
14 came in color originally or if this is how they --

15 MS. THOMAS-LUNDBORG: This is how  
16 they were produced to us. I copied everything as  
17 produced.

18 MR. STRACH: Okay.

19 BY MS. THOMAS-LUNDBORG:

20 Q. So I'm not going to ask too many  
21 questions about this. My first question is,  
22 when did you -- when did you get these maps to  
23 your best recollection?

24 A. I don't recall when I would have  
25 first had these maps in my possession. I don't

1 RAYMOND E. DiROSSI

2 recall.

3 Q. Would it have been prior to the  
4 introduction of 319?

5 A. It was.

6 Q. Okay. And did anything from the  
7 competition maps make it into your map drawing?  
8 And it doesn't have to be these maps in  
9 particular. Just in general.

10 A. Yeah. Well, again, apologies for  
11 the long -- the long answer, but there's --  
12 there are some things in here that did end up  
13 in the maps in concept, maybe not identical to  
14 the person.

15 Q. Okay.

16 A. But these maps also have some very  
17 significant structural problems that rendered  
18 them, unfortunately, almost useless to me.

19 Q. Which concepts made it into the  
20 319 map?

21 A. So on the third map that says Tim  
22 Clark from Avon Lake, congressional - one of  
23 the winning maps, you notice you have generally  
24 this concept of a district in Northern Ohio,  
25 the 11th congressional district that comes down

1 RAYMOND E. DiROSSI

2 into Summit County like we've been talking  
3 about. So that is not identical, but that  
4 general concept is something that Congresswoman  
5 Fudge had indicated generally she was  
6 interested in.

7 If you note, the other two maps  
8 draw the district of the 11th completely in  
9 Cuyahoga County, which was something that I was  
10 being told she explicitly did not want. So  
11 that was one of the main pillars that these  
12 maps violated.

13 Same thing on the maps on the 3rd  
14 district. One of them, I think the first map  
15 in your series, has the general concept of a  
16 district inside Franklin County. I'm thinking  
17 it's -- it's somebody's attempt at getting to a  
18 second minority district. The map that was  
19 adopted is not identical to that, but it kind  
20 of refines that concept after we were having  
21 conversations with Joyce Beatty about how she  
22 would want the district to look.

23 Do you want me to keep going  
24 through it, or do you just want me to --

25 Q. I'll have questions, but if there

1 RAYMOND E. DiROSSI

2 are other things that you remember I would love  
3 to hear it.

4 A. Maybe more will come to me, but  
5 those are the two specific ones that jump out  
6 at me.

7 Q. Okay. Regarding the 11th  
8 congressional district, and you referenced Tim  
9 Clark's map --

10 A. Yes.

11 Q. -- is it your recollection that  
12 the idea came from this map or did the idea  
13 come from somewhere else?

14 A. I don't know. I can't  
15 specifically answer that. I don't specifically  
16 know the timelines, as I mentioned, of when I  
17 got these and the conversations that were  
18 already underway about -- I can't answer that.

19 Q. Okay. About the first map, which  
20 is the Mike Fortner map, you mentioned the 3rd  
21 district. Is your recollection that the idea  
22 came from this map or did the idea come from  
23 somewhere else?

24 A. For the 1st district, you said?

25 Q. 3rd.

1 RAYMOND E. DiROSSI

2 A. 3rd.

3 Q. I think this is the map you said  
4 that Franklin County --

5 A. I thought you said 1st.  
6 Apologies. Yeah, same question, I don't -- I  
7 can't recall the timelines of when I received  
8 these and when we were coming up with our own  
9 alternatives.

10 Q. Okay.

11 A. But it's worth noting that all  
12 three of these maps are drawn by taking the  
13 liberty of they're not to zero population  
14 deviation. Every one of these maps based on  
15 the data -- underlying data that was provided  
16 to me by Mr. Slagle, who I think was in charge  
17 of the contest, along with the League of Women  
18 Voters and other entities, people were drawing  
19 these maps that were plus or minus thousands of  
20 people, and obviously that's a no-no with  
21 respect to zero population deviation.

22 So that was something, just one  
23 thing which jumps out at me, my specific  
24 recollection of problems that all of these maps  
25 had. They took a lot of liberties that I

1 RAYMOND E. DiROSSI

2 didn't have the luxury of taking.

3 Q. Okay. There are three maps here.  
4 Did you receive more than three maps or did you  
5 only receive three of the competition maps?

6 A. There were at least 50 maps that  
7 were part of the competition, but I believe  
8 these were the three winning maps that Slagle  
9 -- these were the three winning maps that  
10 Slagle provided me.

11 Q. Did you only -- so to clarify my  
12 question, did you only receive three maps or  
13 did you receive more than three?

14 A. I received three.

15 Q. And did you receive them directly  
16 from Mr. Slagle or did you get them from some  
17 other source?

18 A. I don't -- I don't recall.

19 Q. So going to the map drawing  
20 process, I think you mentioned that you used  
21 Maptitude, correct?

22 A. Correct.

23 Q. When did you start inputting data  
24 into Maptitude?

25 A. I don't recall the dates. I was

1 RAYMOND E. DiROSSI

2 not doing that. That was being done for us and  
3 so I do not recall the dates.

4 Q. Who was putting the data for you  
5 into Maptitude?

6 A. Clark Benson.

7 Q. When did you start working in  
8 Maptitude?

9 A. I don't recall a specific date  
10 when we started.

11 Q. We looked at the invoice for the  
12 bunker which started -- let me just go back to  
13 it so we're not both working off of our  
14 memories, it's Exhibit 16 -- which started on  
15 July 17th. Would you have been working in  
16 Maptitude on July 17th?

17 A. No way.

18 Q. Would you have been working on  
19 Maptitude a few days after July 17th?

20 A. I don't recall when. It was a  
21 very -- first of all, it was a long time ago,  
22 it was very chaotic, and we had a ton of  
23 problems getting the software and the data to  
24 interact, and so I can't recall specific dates  
25 of when we started.



1 RAYMOND E. DiROSSI

2 Q. Okay. Do you have a sense of how  
3 long it took to have the data inputted? You  
4 said there were a ton of problems.

5 A. It was a lengthy time and it was  
6 an ongoing process. We would get -- we would  
7 get data that we thought was working and then  
8 we would be told, nope, those split blocks and  
9 some of the other things were still  
10 problematic, and we would have to wait and get  
11 another round of data. And so that happened  
12 over a significant period of time.

13 Q. Were you working in the data  
14 before all these problems were resolved or did  
15 you have to wait until after they were  
16 resolved?

17 A. We were able to turn the computers  
18 on, but then I think we had to start over. We  
19 had to start over. The data wasn't correct and  
20 wasn't working.

21 Q. But did you start the process of  
22 working on maps prior to the data being fixed?

23 A. We tried.

24 Q. And do you recall when that was  
25 happening?

1 RAYMOND E. DiROSSI

2 A. I don't.

3 Q. When you were working in the data,  
4 when did you finally have a kind of map that  
5 was ready to be shared; do you recall?

6 A. Again, I wasn't working in the  
7 data. That is not my background or expertise  
8 to understand how to make the data function.  
9 I'm an end user of the software, not the data  
10 person, so --

11 Q. Okay. Do you recall -- when the  
12 data was ready, how long did it take you to get  
13 a kind of final map?

14 A. I don't recall. We were working  
15 on the apportionment and redistricting  
16 simultaneously. I don't recall.

17 Q. Was it a matter of days or weeks?

18 A. I mean, it was not days. It took  
19 a while to have all of these conversations.

20 Q. Okay. And do you recall when the  
21 map was ready to be shared with anyone outside  
22 of you, Ms. Blessing and Troy Judy?

23 A. I don't recall when that was.

24 Q. Do you recall who you showed the  
25 map to first?

1 RAYMOND E. DiROSSI

2 MR. TUCKER: I'm just going to object  
3 to the phrase map.

4 THE WITNESS: I don't recall.

5 MR. STRACH: Is this a good time to  
6 take a quick break?

7 MS. THOMAS-LUNDBORG: Sure.

8 MR. STRACH: It's been about an hour.  
9 Thanks.

10 THE VIDEOGRAPHER: We're off the  
11 record.

12 (Recess taken.)

13 THE VIDEOGRAPHER: We're on the  
14 record.

15 MS. THOMAS-LUNDBORG: Great.

16 BY MS. THOMAS-LUNDBORG:

17 Q. I would like to go back to Exhibit  
18 19, if you would. So the first time we went  
19 through this exhibit we skipped this first  
20 page, and I would like to take some time to  
21 look at it now.

22 You've testified before that you  
23 used the unified political index, correct?

24 A. Correct.

25 Q. Does this document represent the

1 RAYMOND E. DiROSSI

2 unified political index that you used, the  
3 races?

4 A. Yes, it does.

5 Q. Okay. And where did you get the  
6 data to put together this political index?

7 A. These numbers are publicly  
8 available from the Secretary of State, on the  
9 Secretary of State's website about who -- what  
10 the vote totals were.

11 Q. And did you download the data from  
12 the Secretary of State's website?

13 A. Again, I didn't -- I didn't do the  
14 data.

15 Q. Okay. Who in your understanding  
16 was the person who downloaded the data from the  
17 Secretary of State's website?

18 A. Well, I -- I got the top line  
19 information from the Secretary of State's  
20 website. I believe -- or Clark Benson would  
21 have been the one who was doing the data, and  
22 whether or not he got it from the Secretary of  
23 State's website I couldn't speak to.

24 Q. Okay. And you said that you also  
25 had a contract with Cleveland State and OU.

1 RAYMOND E. DiROSSI

2 Was there a reason that Clark Benson got this  
3 data for you instead of OU and Cleveland State?

4 A. So the contract with Cleveland  
5 State and OU was entered into by the  
6 legislative task force on redistricting that we  
7 talked about, that bipartisan entity. And so  
8 their job was to take the geography of the  
9 State of Ohio and, working with all of the ADA  
10 county boards of elections that maintain their  
11 precinct, ward and municipal boundaries, and  
12 putting together the census data and marrying  
13 those two pieces of data. That is the role of  
14 Cleveland State and OU.

15 Q. Did you specifically contract with  
16 Clark Benson or how did he come to work on the  
17 historical data?

18 A. I did not contract with him. I  
19 don't know how.

20 Q. How were you introduced to Clark  
21 Benson?

22 A. I had known Clark from the  
23 previous decade when he performed the same  
24 function.

25 Q. And how did he come to work in the

1 RAYMOND E. DiROSSI

2 2011 redistricting cycle?

3 A. I can't remember specifically how  
4 he was reintroduced to me as, hey, Clark is  
5 going to be available to help you again.

6 Q. Do you know how he was paid?

7 A. I do not.

8 Q. I would like to look at Exhibit 22  
9 -- or it actually hasn't been introduced yet,  
10 but if you turn to tab 22.

11 (Thereupon, Plaintiffs' Exhibit  
12 Number 22, Document Bates Stamped DIROSSI\_0000010,  
13 was marked for purposes of identification.)

14 BY MS. THOMAS-LUNDBORG:

15 Q. I'm having marked for the record  
16 as Exhibit 22 DIROSSI\_10. This is a series of  
17 charts here. Do you recognize this document?

18 A. I do.

19 Q. Are you the author of this  
20 document?

21 A. I am.

22 Q. Okay. And why did you create this  
23 document?

24 A. As we talked about before, from my  
25 historical interactions with the redistricting

1 RAYMOND E. DiROSSI

2 and apportionment in the previous decade, I  
3 recalled that when you were doing redistricting  
4 and apportionment the first things that  
5 everybody wanted from you were maps and  
6 indexes, maps and indexes. It doesn't matter  
7 if you were talking to the press, if you were  
8 talking to legislative senators, state  
9 representatives, congressmen, people  
10 testifying, citizens, whoever, the first thing  
11 that people wanted were historical political  
12 indexes and maps.

13 And so this was a document I  
14 created trying to keep the -- the political  
15 indexes, the historical election stuff straight  
16 so that I could answer those questions.

17 Q. Okay. Am I correct that this top  
18 chart seems to show the 18 house districts as  
19 they existed from 2002 to 2012?

20 A. Right, so that's a very, very good  
21 point. These are the 18 congressional  
22 districts from the previous decade using the  
23 unified index and some other measures from  
24 2011.

25 Q. Okay. So let's start with this

1 RAYMOND E. DiROSSI

2 first column. It says current districts. Do  
3 the names here represent the congresspeople as  
4 they were at the time in those districts?

5 A. The vast majority of them I'm sure  
6 are the incumbents, but I can't speak to  
7 whether or not they all are. I can't say.

8 Q. Okay. And then the next column is  
9 McCain '08. Is it correct that this would be  
10 how much McCain would have gotten in those  
11 districts in 2008?

12 A. Yes.

13 Q. Okay. And then Bush '04, is that  
14 how much Bush would have gotten in 2004 in  
15 those districts?

16 A. Yes.

17 Q. And then Governor Kasich 2010, is  
18 that the percentage that Governor Kasich would  
19 have gotten in those districts?

20 A. Yes.

21 Q. And then DeWine 2010 AG, is that  
22 the number that DeWine would have gotten in  
23 each of those districts?

24 A. Yes.

25 Q. Then '06 AG Montgomery, is that



1 RAYMOND E. DiROSSI

2 the number that Montgomery would have gotten in  
3 those districts in 2006?

4 A. Yes.

5 Q. And then 2006 AUD, I'm assuming  
6 that's auditor --

7 A. Correct.

8 Q. -- Taylor, is that the percentage  
9 that Taylor would have gotten in those  
10 districts?

11 A. Yes.

12 Q. Are all the individuals that we  
13 just named Republicans?

14 A. They are.

15 Q. Okay. Included in this chart is  
16 DeWine AG 2010. It doesn't appear in 19. You  
17 can look back if you would like to refresh your  
18 recollection.

19 A. Yeah, that's what I was looking  
20 for. Oh, there it is. Yes, I thank you for  
21 that. I would point out that on this document,  
22 19, I had both the Republican and the  
23 Democratic people who participated in that  
24 election. But I remember that was too much  
25 information to get into those little cell

1 RAYMOND E. DiROSSI

2 headers, so I chopped down and abbreviated the  
3 races. That's why those are all the Republican  
4 names.

5 Q. Okay. So my question for you is,  
6 do you recall why DeWine was part of this  
7 document and not part of 19?

8 A. Yeah, as I mentioned, everybody  
9 had their own way of looking at a political  
10 index or historical election data. I had said  
11 and come to the conclusion that these were the  
12 five races that we should be looking at. Other  
13 people wanted to look at pieces and parts of  
14 these five exclusively, specifically the '08  
15 McCain numbers. Other people wanted to include  
16 the 2010 Attorney General race as a barometer  
17 of the historical election results.

18 And so this is me trying to put  
19 all of that information into one document so  
20 that I could answer all of those questions that  
21 I was being bombarded with after the districts  
22 were put out. This document was created after  
23 319 was adopted by the legislature when we were  
24 getting media and member onslaughts of  
25 questions.

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2 Q. Okay. There is a column called  
3 unified average. Is that the unified index?

4 A. It is.

5 Q. And would the unified index be the  
6 five races or would it also include DeWine?

7 A. It would have been the five races  
8 and then weighted to 50/50 as Exhibit 19 had.

9 Q. Okay. The last column refers to  
10 PVI. What is PVI?

11 A. So this is how the national  
12 congressional Democrats and Republicans  
13 calculate indexes. They don't use numbers,  
14 they use R plus this and D plus this. So I  
15 don't know how those are calculated, but I  
16 wanted to try to have at my disposal the  
17 language that they were talking about so when I  
18 was asked about districts I could respond to --  
19 in that language. So that is the congressional  
20 methodology, which I cannot explain what it is.

21 Q. Okay. Do you recall whether you  
22 got this information from the Cook's PVI or did  
23 you get it somewhere else?

24 A. I don't know what the Cook's PVI  
25 is.

1 RAYMOND E. DiROSSI

2 Q. Okay.

3 A. Yeah.

4 Q. Do you recall where you got the  
5 PVI from?

6 A. I don't -- I don't recall. I  
7 would be guessing.

8 Q. Okay. At the bottom of this first  
9 chart it says R plus 5 is likely Republican.  
10 Do you see that?

11 A. I do see that.

12 Q. And do you recall where this R  
13 plus 5 is likely Republican came from?

14 A. Yeah, again, so this deals with  
15 the R plus, D plus language, and so this would  
16 have come from somebody I was talking to at the  
17 national -- the national level of how they  
18 would look at districts.

19 And again, as you pointed out,  
20 everything on the top of this chart deals with  
21 districts that are -- they're the districts  
22 from 2001 with 2010 election data and 2001  
23 population data. So they're not real, they're  
24 just -- they're this weird point in time that  
25 aren't really valid.

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2 As we've talked about, some of  
3 these districts were tens of thousands, if not  
4 hundreds of thousands of people away from the  
5 targets, so another reason why these indexes  
6 are just kind of almost meaningless. But  
7 again, that's what everybody asks for, so I was  
8 trying to have it.

9 Q. Well, just sticking on this first  
10 chart -- and this is the current districts as  
11 they stood at the time, right? This isn't a  
12 hypothetical district that you're looking at?

13 A. It's the districts from 2001 that  
14 over the decade from 2001 to 2011 had grown --  
15 some had contracted and some had grown in  
16 population and so -- not to mention that we  
17 were losing two districts, and so the district  
18 targets of their population had to change by 70  
19 some thousand people.

20 So yes, they are the district  
21 boundaries, but the underlying data that's  
22 generating these is not even really relevant to  
23 anything because they're just not legitimate.

24 Q. But the underlying data is for the  
25 districts as they stood at the time, correct?

1 RAYMOND E. DiROSSI

2 MR. STRACH: Objection.

3 (Witness nodded head up and down.)

4 BY MS. THOMAS-LUNDBORG:

5 Q. Okay. Moving on, it says up to R  
6 plus 5 is swing. Do you see that?

7 A. I do.

8 Q. Where does that come from?

9 A. Same source as the language above  
10 it. This is -- everything that is R plus and D  
11 plus is the federal language of how you look at  
12 districts and their historical election  
13 returns, and so that would have come from the  
14 same source as the language above it.

15 Q. And was that source Adam Kincaid?

16 A. I can't say for sure. I can't  
17 remember.

18 Q. Okay. And then if you look over,  
19 there's R plus 5 is likely Republican. Number  
20 of districts R plus 5 is 7. Do you see that?

21 A. I do.

22 Q. Does that mean that there were 7  
23 districts that were R plus 5?

24 A. Yes.

25 Q. And then it says up to R plus 5 is

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2 swing, number of districts that are R plus 3 -  
3 I wonder if that's a typo - is 9.

4 A. Yeah, I see that and I see that  
5 discrepancy and I'm not sure why -- I don't  
6 know how I made -- I don't know why I made that  
7 error, if that's material to this whole thing  
8 or not.

9 Q. Okay.

10 A. But yeah, that does not seem to be  
11 consistent.

12 Q. But does it appear, just looking,  
13 eyeballing the chart, that there are 9  
14 districts that are R plus 3?

15 A. Yeah, so there are only 8  
16 districts that are R plus 5 and there are 9  
17 districts that are R plus 3, so I'm not sure  
18 which one of those is correct.

19 Q. Okay. Going to the next chart,  
20 this appears to be the kind of pairing of  
21 incumbents that we talked about before. Is  
22 your understanding that this was 319?

23 A. Yes, that's my understanding.  
24 This is 319 as enacted.

25 Q. Okay. And so the first columns

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2 all seem to be the same as the top column.

3 There is one new column here which is titled

4 Delta. Do you see that?

5 A. I do.

6 Q. What is the Delta?

7 A. Well, this would have been

8 information that was provided to me from that

9 national source that uses that language. You

10 know, I was -- I was going to say it's the

11 difference between the PVI and the bottom chart

12 to the top chart, but then as I did some spot

13 checking it doesn't match up, so I --

14 Q. Which one doesn't match?

15 A. I just started at the bottom and

16 the first one I looked at, the 18th district in

17 the top chart Gibbs is R plus 7, whatever that

18 means, and then this bottom -- oh, I see, 18 is

19 not 18 at the bottom. No, there's not 18 in

20 the bottom.

21 Q. What about starting from the top?

22 It might be easier to match. I think there are

23 more of them that --

24 A. It just goes to show, I don't know

25 what -- I mean, I never really looked at this



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2 when I got it. I don't know.

3 Q. I thought you said you were the  
4 author of this document.

5 A. I am, but this information came to  
6 me from somebody else because I don't know what  
7 these scoring things, how you would calculate  
8 them, so I would have just got them and typed  
9 them into the cell in my spreadsheet to produce  
10 this document.

11 Q. Okay. Well, let's go through a  
12 few of them. So the first one is Chabot 1 and  
13 the top line it's D plus 1 and then in the  
14 following chart it's R plus 6, the Delta is  
15 plus 7. Does that look like it's Republicans  
16 have gone up plus 7?

17 MR. STRACH: Objection.

18 THE WITNESS: Yeah, I mean, I think  
19 you could -- R is Republican, but again, I don't  
20 know what 7 -- I don't know what that means. I  
21 don't know that scoring system.

22 BY MS. THOMAS-LUNDBORG:

23 Q. Okay. So R plus 13 on the top for  
24 Schmidt and then on the bottom it's R plus 8  
25 and the Delta is negative 5. Do you see that?

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2 A. I do.

3 Q. And you have no understanding of  
4 whether the Delta negative 5 is R plus 13 minus  
5 R plus 8?

6 A. I mean, that would seem logical,  
7 but since I'm not the source of that  
8 information, I --

9 Q. Okay.

10 (Thereupon, Plaintiffs' Exhibit  
11 Number 23, Document Bates Stamped DIROSSI\_0000142,  
12 was marked for purposes of identification.)

13 BY MS. THOMAS-LUNDBORG:

14 Q. I would like to move on to a  
15 document that I'm having marked as Exhibit 23,  
16 and for identification it's DIROSSI\_142.

17 A. Yes.

18 Q. And it has HB 319 unified indexes,  
19 proposal unified indexes. Do you see that?

20 A. I do.

21 Q. Do you recognize this document?

22 A. Yes.

23 Q. What is it?

24 A. It's yet another document that I  
25 created so that I could be prepared when I

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2 received inquiries about election results about  
3 districts from any source that I would be able  
4 to answer.

5 Q. Okay. And this document is a  
6 little hard to read. Excuse me. This is just  
7 the best copy that we received. The column  
8 that says HB 319 unified indexes, is that the  
9 unified index that we've been discussing?

10 A. It is.

11 Q. And what is the proposal unified  
12 indexes; do you know?

13 A. So this document is House Bill 369  
14 as introduced.

15 Q. Okay. And at the bottom of the --  
16 the last column in the first chart says  
17 assuming 52.5 percent and higher is a safe R.  
18 Do you see that?

19 A. I do.

20 Q. Where did the assumption come from  
21 that 52.5 is a safe R?

22 A. So there was a lot of debate, both  
23 in the press, the media and among legislators,  
24 about districts and historical political  
25 indexes. And specifically the -- Jim Slagle

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2 and the Campaign for Accountable Redistricting  
3 was saying that using his own set of election  
4 data and his own scoring, that there were a  
5 lack of competitive districts. And so I was  
6 trying to use -- trying to show House Bill 319  
7 versus House Bill 369 as introduced just  
8 generally what those indexes would be here.

9 Q. Okay. But where did the  
10 assumption come from that 52.5 percent was safe  
11 R?

12 A. I can't say for -- I can't say for  
13 certain.

14 Q. And then it goes on to say 47.5  
15 percent and lower is safe D. Do you know where  
16 that assumption came from?

17 A. Yeah, that is Jim Slagle's -- I  
18 was restating what he had been saying in the  
19 press about districts.

20 Q. Now, you testified a minute ago  
21 that you created these, Exhibit 24 -- I mean,  
22 sorry, Exhibit 22 and Exhibit 23 for media.  
23 Did you use a political indices at all prior to  
24 the introduction of HB 319?

25 A. Well, it wasn't just for media.

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2 It was for anybody at any moment in time that  
3 might ask. As I pointed out, there were  
4 congressmen and women who had asked for that  
5 information, there were aspiring candidates to  
6 run for Congress in the future when we talked  
7 about now Congresswoman Joyce Beatty who  
8 specifically made a request about indexes of  
9 the 3rd congressional district. There were  
10 members of the Senate leadership team that were  
11 asking, members of the legislature that were  
12 asking, President Niehaus who was then asking  
13 me, and so all of these documents are  
14 me-created so that I could have them handy so  
15 that I could answer those questions.

16 Q. And did you create -- sorry,  
17 strike that.

18 Did you use any of the historical  
19 data prior to HB 319 being introduced?

20 A. I mean, I used it in the -- we had  
21 that same election data available to us for the  
22 apportionment.

23 Q. Did you use it in the drawing of  
24 your maps? Did you ever look at a map and see  
25 how -- its measurement on the unified index?

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2 A. Okay. You said -- okay, I thought  
3 you said before 319.

4 Q. Yes, before 319 was introduced, so  
5 while you were working on drawing the map did  
6 you look at the indices?

7 A. Well, the way that we were set up,  
8 whenever we would make a change to any  
9 district, whether we were working on the whole  
10 state or an individual district, the population  
11 would change, the African American population  
12 would change, the Hispanic population would  
13 change, the unified index would change.

14 All these other variables that  
15 people were interested changed simultaneously.  
16 So we never used any one exclusively, they were  
17 all just changing every time we made any type  
18 of change.

19 Q. Okay. So you did have the unified  
20 index to look at when you were drawing the  
21 maps?

22 A. Yeah, along with everything else  
23 that I articulated.

24 (Thereupon, Plaintiffs' Exhibit  
25 Number 24, Documents Bates Stamped

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2 GOVPR\_008278-8280, was marked for purposes of  
3 identification.)

4 BY MS. THOMAS-LUNDBORG:

5 Q. Okay. I would like to mark for  
6 the record Exhibit 24. It's in tab 24. For  
7 identification, the Bates number is GOVPR\_8278.  
8 This is something that was produced by the  
9 Governor. I'm just going to ask you a kind of  
10 quick question. It is the -- it purports to be  
11 the bill signing of HB 218 and HB 319. You'll  
12 see your name appears as a participant and next  
13 to your name it says Senate Redistricting  
14 Director. Do you see that?

15 A. I do.

16 Q. What was your role as the Senate  
17 Redistricting Director?

18 A. Yeah, so that's probably somebody  
19 preparing a document that really doesn't know  
20 what was happening. I did not hold such a  
21 title or role.

22 Q. Okay. In your work on  
23 redistricting you said you talked to President  
24 Niehaus. Between you and Ms. Blessing, was  
25 there a division of labor between the Senate

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2 and the House?

3 A. Nothing specific, no.

4 Q. Okay. Did you both equal -- have  
5 equal amounts of conversations with President  
6 Niehaus, for example?

7 A. I don't know what conversations  
8 she might have had with him, so I can't compare  
9 the two.

10 (Thereupon, Plaintiffs' Exhibit  
11 Number 25, Document Bates Stamped DIROSSI\_0000039,  
12 was marked for purposes of identification.)

13 BY MS. THOMAS-LUNDBORG:

14 Q. Okay. I'm having marked for the  
15 record Exhibit 25. It's DIROSSI\_39 --

16 A. 39?

17 Q. I'm sorry, that's the name of the  
18 Bates. It's Exhibit 25.

19 A. Got you.

20 Q. And the subject is Confirmed:  
21 Meet with Leadership on Redistricting Bill from  
22 September 2nd, 2011. Do you see that?

23 A. I do.

24 Q. When here it refers to a meeting  
25 with the leadership, do you recall who would



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2 have been included in leadership meetings that  
3 you attended at the time?

4 A. Well, President Niehaus was the  
5 president of the Senate, so obviously he was a  
6 member of leadership, the president. I would  
7 be guessing at the other members of leadership  
8 specifically. I can't recall his other members  
9 of leadership.

10 Q. Okay. Would Democrats have been  
11 included in members of leadership?

12 A. The Democrats had the Democratic  
13 leadership, so --

14 Q. Would they have been included in  
15 meetings that you attended on redistricting?

16 A. If they had asked.

17 Q. Do you recall any specific  
18 meetings that you attended with Democrats?

19 A. I did attend a meeting at the  
20 request of the Democrats for the -- during one  
21 of their caucuses, but I can't say with  
22 certainty whether it was for the congressional  
23 redistricting bill or if it was when we were  
24 working with them to change the process by  
25 which we do apportionment districts in the

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2 state, the constitutional amendment that was  
3 just adopted. But I did attend one caucus at  
4 their invitation.

5 Q. Okay. Other than that one meeting  
6 that you just mentioned, do you recall  
7 attending other -- any other meetings with the  
8 Democratic caucus?

9 A. With the Democratic caucus?

10 Q. Or leadership.

11 A. Caucus, no other. Obviously,  
12 apologies, during the apportionment Leader  
13 Budish was a member of the apportionment board  
14 and I did attend all of the apportionment board  
15 meetings, and specifically spoke with him  
16 extensively about apportionment.

17 Q. If those meetings had been put in  
18 your calendar would they have been put in your  
19 calendar as apportionment board or meetings  
20 with leadership on redistricting bill?

21 A. Probably apportionment board. If  
22 it was an actual date that the apportionment  
23 board met, I would have -- I would have put it  
24 on my calendar as an apportionment board  
25 meeting.

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2 Q. Okay.

3 A. I know Leader Budish and I shared  
4 maybe a two-hour discussion during that  
5 apportionment board meeting about districting  
6 and some of the principles.

7 Q. Okay. Other than that  
8 conversation you had with Leader Budish during  
9 the apportionment board, do you recall any  
10 other conversations with Leader Budish  
11 regarding redistricting?

12 A. I do not.

13 (Thereupon, Plaintiffs' Exhibit  
14 Number 26, Documents Bates Stamped  
15 LWVOH\_00018302-18308, was marked for purposes of  
16 identification.)

17 BY MS. THOMAS-LUNDBORG:

18 Q. I would like to show you a  
19 document that I'm having marked as Exhibit 26,  
20 and the first page has the Bates number of  
21 LWVOH\_18302, and in the top left-hand -- sorry,  
22 right-hand corner is your email. Do you see  
23 that?

24 A. I do.

25 Q. And then the from line appears to

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2 be from Adam Kincaid. Do you see that?

3 A. I do.

4 Q. Do you recognize the email address  
5 next to it as Adam Kincaid's email address?

6 A. I mean, sitting here that would be  
7 his email.

8 Q. Okay. And the to line is your  
9 email address, we've already established that,  
10 and Heather Mann's, we've established that.  
11 There's then an email address for Tom Whatman  
12 which is TWhatman@TeamBoehner.com. Do you see  
13 that?

14 A. Yes, Boehner.

15 Q. Sorry, Boehner. Do you recognize  
16 that as Tom Whatman's email address?

17 A. Looking at it on this piece of  
18 paper I would recognize it as his email  
19 address, but I --

20 Q. Okay. So the email from Adam  
21 Kincaid, as we were discussing, says revised  
22 attached, let me know your thoughts and I'll  
23 work on it some more in the morning if needed.  
24 Do you see that?

25 A. Yes.

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2 Q. And then there appears to be an  
3 attachment which says New Map Idea Redraft.zip.  
4 Do you see that?

5 A. I do.

6 Q. Did you receive from Adam Kincaid  
7 at this point ideas by email?

8 A. Do you know, is this all one email  
9 chain?

10 Q. It appears to be, only because it  
11 says Gmail New Idea Draft page 1 of 8, and then  
12 you have page 2 of 8, page 3 of 8, page 4 of 8,  
13 so on and so forth.

14 A. Yeah.

15 Q. And that's an internal pagination  
16 to the document.

17 A. Okay. And your specific question  
18 again? I'm sorry.

19 Q. It's a general question about  
20 whether you were receiving ideas from Adam  
21 Kincaid at this point.

22 A. Well, with this document in front  
23 of me, he sent me something called New Idea  
24 Redraft. I can't recall if it was at my  
25 request of him or he was sending it to me, but

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2 obviously on September 2nd at the date and time  
3 here, he sent me that email, this email.

4 Q. Okay. Generally do you recall  
5 receiving feedback from Adam Kincaid on the  
6 draft map?

7 MR. STRACH: Objection.

8 THE WITNESS: Yeah, I recall sharing  
9 information and ideas with Adam, but I don't  
10 recall the specifics of them.

11 BY MS. THOMAS-LUNDBORG:

12 Q. Okay. What types of ideas would  
13 you be sharing with Mr. Kincaid at this point?

14 A. Well, again, I don't remember any  
15 specific ones, but if any member of the  
16 legislature, Republican or Democrat, was asking  
17 for something and I felt I wanted his opinion  
18 on it, I would have asked him for his opinion  
19 on it.

20 Q. If you turn to the third page of  
21 this document, and I'm in the middle of the  
22 page, there's an email from Tom Whatman. We've  
23 already established that email address. And in  
24 it he says, Adam, all looks good on the  
25 surface, key is whether we can improve CD 1 and

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2 CD 14 at block level while keeping concepts  
3 intact. Do you see that?

4 A. I do.

5 Q. Do you recall whether at this  
6 point Tom Whatman was providing suggestions to  
7 the draft map?

8 A. Yeah, so this is an email from Tom  
9 to Adam that I'm cc'd on, I guess.

10 Q. I think it's to you, but obviously  
11 --

12 A. But it's from Tom to -- yeah, I  
13 don't recall. You can ask Tom what he meant by  
14 that. I don't know.

15 Q. I'm not asking what he meant in  
16 this email. I'm just asking you generally were  
17 you receiving feedback from Tom Whatman on the  
18 draft map?

19 A. Tom was another resource that we  
20 could -- I could have an information exchange  
21 with.

22 Q. And were you exchanging  
23 information at this point in the process?

24 A. I would -- yes, because the bill  
25 was within a couple of weeks of being

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2 introduced and voted on, so yes.

3 (Thereupon, Plaintiffs' Exhibit  
4 Number 27, Document Bates Stamped DIROSSI\_0000040,  
5 was marked for purposes of identification.)

6 BY MS. THOMAS-LUNDBORG:

7 Q. Okay. I would like to move on to  
8 an exhibit I'm having marked as Exhibit 27.  
9 For the record, it's DIROSSI\_40, and the  
10 subject is Confirmed: Meet with Speaker and  
11 Others re: Redistricting, and it's from  
12 September 5th, 2011. Do you recall meeting  
13 with the speaker generally during this period?

14 A. I do remember a meeting, but I  
15 don't know if -- I don't know anything about  
16 this one. I can't remember what this one was  
17 --

18 Q. And if the meeting -- the meeting,  
19 just to be clear, would have been with Speaker  
20 Batchelder or would it have been with someone  
21 else?

22 MR. STRACH: Objection.

23 THE WITNESS: Which one, the one that  
24 I recall or this one?

25 BY MS. THOMAS-LUNDBORG:



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2 Q. The one that you recall.

3 A. The one that I recall, which I  
4 don't know if it is this one, was with Speaker  
5 Batchelder.

6 Q. Okay. Do you recall anyone else  
7 being at that meeting?

8 A. President Niehaus.

9 Q. Anyone else?

10 A. Myself, Heather.

11 Q. Anyone else?

12 A. Those are the four that I  
13 remember, including myself.

14 Q. And what was the subject of that  
15 meeting that you recall?

16 A. Generally it was congressional  
17 redistricting and where we were in the process  
18 and how we were moving forward.

19 Q. Okay. And where were you at that  
20 point in the process?

21 A. Well, again, we're talking about a  
22 hypothetical meeting -- or a meeting that I  
23 don't remember when it was. So where we were  
24 in the process, I couldn't say.

25 (Thereupon, Plaintiffs' Exhibit

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2 Number 28, Document Bates Stamped DIROSSI\_0000043,  
3 was marked for purposes of identification.)

4 BY MS. THOMAS-LUNDBORG:

5 Q. Okay. I would like to turn to an  
6 exhibit I'm having marked as Exhibit 28. It's  
7 DIROSSI\_43, for the record, and it says  
8 Confirmed: Meet with President Niehaus re:  
9 Apportionment and Redistricting, Tuesday,  
10 November -- sorry, September 6th. Do you see  
11 that?

12 A. I do.

13 Q. Do you recall having a meeting  
14 with President Niehaus around this time?

15 A. I mean, so September is right in  
16 the heart of the apportionment constitutional  
17 timeline that had to be done, the redistricting  
18 was also ongoing, so I -- I do remember meeting  
19 and talking to President Niehaus a lot.

20 (Thereupon, Plaintiffs' Exhibit  
21 Number 29, Document Bates Stamped DIROSSI\_0000044,  
22 was marked for purposes of identification.)

23 BY MS. THOMAS-LUNDBORG:

24 Q. Okay. I would like to move to an  
25 exhibit I'm going to have marked as Exhibit 29.

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2 It is Confirmed: Senate Leadership Meeting,  
3 and it's DIROSSI\_44, for the record.

4 And, to be efficient, I'm also  
5 marking for the record Exhibit 30. It's  
6 DIROSSI\_45. It's another Confirmed: Senate  
7 Leadership Meeting from September 9th.

8 (Thereupon, Plaintiffs' Exhibit  
9 Number 30, Document Bates Stamped DIROSSI\_0000045,  
10 was marked for purposes of identification.)

11 BY MS. THOMAS-LUNDBORG:

12 Q. As you sit here today, do you  
13 recall whether you had two separate meetings  
14 with the Senate leadership or if this is one  
15 meeting with multiple entries?

16 A. Okay. Apologies. You're looking  
17 at 30 and 31? I'm sorry.

18 Q. I'm looking at 29 and 30.

19 A. And your question is did these  
20 meetings happen?

21 Q. Do you recall whether there were  
22 two separate meetings with the Senate  
23 leadership or was there just one meeting?

24 A. I mean, I just don't -- I don't  
25 recall if these meetings happened, I don't

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2 recall if we did one and not the other. It's  
3 just too long ago. I don't recall.

4 Q. Okay. And we've already discussed  
5 a little bit about meetings with leadership.  
6 Do you recall whether these meetings would have  
7 been with Democrats or with Republicans?

8 MR. STRACH: Objection.

9 BY MS. THOMAS-LUNDBORG:

10 Q. As planned, at the minimum there  
11 was a planned meeting?

12 A. Well, as I said, President Niehaus  
13 was having those conversations with the members  
14 of the Democratic Senate, and so there was  
15 really no need for me to have that level of  
16 interaction. Any information that was  
17 relevant, like the requests from the  
18 legislative Democrats that we did in 369, were  
19 being relayed to me through other -- other  
20 channels.

21 Q. If you received a meeting  
22 invitation, would that meeting have been for a  
23 meeting with Republicans and Democrats or just  
24 Republicans?

25 MR. STRACH: Objection.

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2 THE WITNESS: I mean, it could have  
3 been -- it could have been both.

4 (Thereupon, Plaintiffs' Exhibit  
5 Number 31, Document Bates Stamped LWVOH\_00018310,  
6 was marked for purposes of identification.)

7 BY MS. THOMAS-LUNDBORG:

8 Q. I'm moving to what I'm having  
9 marked as DiRossi 31. It has Bates stamp LWVOH  
10 and it's 18310. And do you see your email  
11 address at the top right corner?

12 A. I do.

13 Q. And then do you see your email  
14 address in the from line at the top of the  
15 email?

16 A. I do.

17 Q. In the to line it says Senator  
18 Keith Faber. Do you see that?

19 A. Yes.

20 Q. And who -- do you recognize this  
21 email address?

22 A. Yes.

23 Q. And whose email address is this?

24 A. I believe it is Senator Keith  
25 Faber's.

1 RAYMOND E. DiROSSI

2 Q. And then in the cc line it is Matt  
3 Schuler. Do you recognize this as Matt  
4 Schuler's email address?

5 A. Yes.

6 Q. And in the email the top line says  
7 Senator Faber, here is your concept put into a  
8 map. Do you see that?

9 A. Yes.

10 Q. At any point in the redistricting  
11 process did you receive ideas from Senator  
12 Faber?

13 A. Verbally, yes.

14 Q. And what were the nature of his  
15 verbal ideas?

16 A. So he lives in -- resides in  
17 Mercer County and in House Bill 319 and 369 you  
18 have multiple congressional districts that were  
19 being proposed to come together and balance out  
20 on population in Mercer County.

21 And do you have copies of the maps  
22 that I can -- I can use? We keep referring to  
23 all these maps and I --

24 Q. You know, I have a copy of 369, I  
25 believe. Would this be helpful to you?

1 RAYMOND E. DiROSSI

2 A. Yes. So as I was saying -- thank  
3 you for that, that's very helpful. As I was  
4 saying, in Mercer County you have three  
5 congressional districts that are coming  
6 together and are really being balanced out down  
7 to that block level, and he, residing in Mercer  
8 County, was very interested about what  
9 geography was going to be in what district, and  
10 so those were the nature of the verbal  
11 interactions that I had with him.

12 Q. Okay. I'm going to skip a line.  
13 And then the email goes on to, if the other  
14 idea that Huffman worked on - we need to get  
15 something that you and Huffman agree to by  
16 tomorrow when Speaker Batchelder and President  
17 Niehaus get together. Do you see that?

18 A. I do.

19 Q. Do you recall there being a  
20 disagreement between Mr. Huffman and Mr. Faber?

21 A. I do not recall any disagreement  
22 between them.

23 Q. Okay. Do you recall a time where  
24 there were discussions between members of the  
25 House and members of the Senate about the

1 RAYMOND E. DiROSSI

2 redistricting bill?

3 A. So you're asking me if I was part  
4 of any conversations with -- I'm sorry.

5 Q. With members of the House and  
6 members of the Senate about the bill.

7 A. Well, this -- this would be one  
8 example where Senator Faber, senator, Matt  
9 Huffman, House member, and I were talking  
10 about, my recollection Mercer County, and how  
11 the map could be proposed.

12 Q. Okay. Do you recall if at this  
13 point in September -- on September 10th if the  
14 map had been introduced yet?

15 A. I should know that. I don't  
16 recall. I don't recall.

17 Q. The next line of the email says DC  
18 is increasingly -- is pushing to put the lid on  
19 this. Do you see that?

20 A. I do.

21 Q. Do you recall what the reference  
22 to DC is?

23 A. I don't -- I don't recall.

24 Q. What about put the lid on this,  
25 what does that mean?



1 RAYMOND E. DiROSSI

2 A. Well, it's to get a map proposed  
3 and enacted.

4 Q. Were you getting pressure from  
5 anyone to get a map proposed and enacted at  
6 this point?

7 A. Well, people were getting pressure  
8 from me because we were right in the heart of  
9 the constitutionally mandated timeline for the  
10 apportionment, which had to be done by  
11 September 31st, and I was personally very  
12 concerned that we were still working on the  
13 congressional redistricting at the same time we  
14 were trying to do the apportionment and that we  
15 were just -- it was too much.

16 Q. I understand that you were  
17 pressuring people, but this DC, at a minimum,  
18 is a reference to someone who is not you,  
19 correct?

20 MR. STRACH: Objection.

21 BY MS. THOMAS-LUNDBORG:

22 Q. Do you refer to yourself in the  
23 third person?

24 A. Not usually, but I'm sure I have.

25 Q. Do you refer to yourself by DC?

1 RAYMOND E. DiROSSI

2 A. No.

3 Q. So, at a minimum, this was someone  
4 outside of you?

5 MR. STRACH: Objection.

6 THE WITNESS: Yeah, I don't remember  
7 the specifics of who I was referring to here in  
8 this -- you know, obviously an email from almost  
9 seven years ago.

10 (Thereupon, Plaintiffs' Exhibit  
11 Number 32, Document Bates Stamped LWVOH\_00018297,  
12 was marked for purposes of identification.)

13 BY MS. THOMAS-LUNDBORG:

14 Q. All right. I'm going to move on  
15 to an exhibit I'm having marked as 32 and it is  
16 LWVOH\_18297, and the subject line is  
17 Redistricting Tweaks. Do you see your email  
18 address in the top right corner?

19 A. I do.

20 Q. Then there is an email in the from  
21 line. Do you recognize this email address?

22 A. Are you referring to Senator  
23 Niehaus?

24 Q. Yes.

25 A. Yes, I do recognize that.

1 RAYMOND E. DiROSSI

2 Q. And whose email address is that?

3 A. Senator Niehaus'.

4 Q. And in the to line there is a  
5 Whatman@sppgrp.com. Do you see that?

6 A. I do.

7 Q. Do you recognize that email  
8 address?

9 A. You know, I really don't because  
10 we just looked at -- you asked me before about  
11 a Tom Whatman email and that was the one I  
12 recognized. This one is a different one. I  
13 don't recognize this one.

14 Q. Okay. Did you email any Whatmans  
15 at more than one email address?

16 A. Boy, I don't recall.

17 Q. Okay.

18 A. I don't recall.

19 Q. Do you recognize your email  
20 address in the other to line?

21 A. I do. That is mine.

22 Q. Okay. In the first line it says  
23 sorry about the last-minute tweaks from Faber  
24 and Widener. Do you see that?

25 A. I do.

1 RAYMOND E. DiROSSI

2 Q. Did you have an understanding or  
3 do you know of who Faber is?

4 A. I don't think I ever said I didn't  
5 know who Faber was.

6 Q. I'm asking who is Faber referenced  
7 here?

8 MR. STRACH: Objection.

9 You can answer that if you can.

10 THE WITNESS: It sounds like a simple  
11 question, but I didn't understand it. Apologies.

12 BY MS. THOMAS-LUNDBORG:

13 Q. Yeah. Who is the Faber referenced  
14 here?

15 A. Senator Faber.

16 Q. And who is the Widener referenced  
17 here?

18 A. Senator Widener.

19 Q. And I'm skipping to the next line.  
20 It says, I'm still committed to getting --  
21 committed to ending up with a map that Speaker  
22 Boehner fully supports with or without the  
23 votes from two members in leadership. Do you  
24 see that?

25 A. Yes.

1 RAYMOND E. DiROSSI

2 Q. Do you recall at the time there  
3 being discussions about Speaker Boehner's  
4 support of the map?

5 A. Yeah, I mean, this -- obviously  
6 this is an email from Senator Niehaus that I  
7 may have received, but I didn't send, so I  
8 don't know what -- I mean --

9 Q. Again, I'm not asking you about  
10 this email specifically. I'm asking do you  
11 recall there being any discussions which you  
12 were a part of where there was talk about  
13 Speaker Boehner's support of the map?

14 A. Well, it was -- it was clear to me  
15 from conversations with President Niehaus that  
16 President Niehaus was interested in Speaker  
17 Boehner's input and thoughts on the map. But  
18 ultimately, as we've talked about, this was a  
19 bill that was going through the legislature,  
20 and anybody who had thoughts or ideas of the  
21 map, if we couldn't get -- I shouldn't say we,  
22 because I'm not a member of the legislature, if  
23 the president and the speaker of the Ohio House  
24 can't get the votes in the legislature, it's  
25 irrelevant.

1 RAYMOND E. DiROSSI

2 So yes, it was made clear to me  
3 that he was interested in feedback and what  
4 Speaker Boehner thought, but he still had the  
5 responsibility to work with the Democrats in  
6 the legislature and get a bill passed.

7 Q. Okay. At the time when 319 was  
8 passed did it have Democratic support?

9 A. I believe it did. It had much  
10 less support than 369, where, as I said, I  
11 think there were 25 members of the Democratic  
12 House and Senate that voted in support of it,  
13 but there were members of the Senate Democratic  
14 caucus who voted for 319. They spoke very  
15 passionately about the map on the floor of the  
16 Ohio Senate. And there were a handful of  
17 members of the Ohio House that voted in support  
18 of 319 on the Ohio House and who also spoke  
19 very eloquently about it on the floor of the  
20 House.

21 Q. So your recollection is that  
22 Democrats spoke in favor of the map, and by the  
23 map I mean 319, on the floor of the House?

24 A. The ones who voted for it, yes,  
25 some of them did speak to it on the floor of

1 RAYMOND E. DiROSSI

2 the House and Senate respectively.

3 Q. And when was that?

4 A. I don't recall the specific date  
5 that 319 was on the floor of the House and  
6 Senate, but whatever date it was.

7 Q. At the bottom of this email it  
8 says I spoke with Strivers Sunday morning and  
9 know he does not support the Widener changes  
10 putting him over to Wright-Patt. Do you see  
11 that?

12 A. I do.

13 Q. Do you recall there being  
14 discussions at the time with Congressman  
15 Strivers?

16 A. Again, this is not an email that I  
17 generated. I received it, but I didn't  
18 generate it, so I -- if there are  
19 conversations, I wasn't having them.

20 Q. Okay.

21 A. That's not what I was --

22 Q. So you did not have any  
23 conversations with Congressman Strivers at this  
24 time?

25 A. None that I can specifically

1 RAYMOND E. DiROSSI

2 recall.

3 Q. Okay.

4 A. I do remember in producing  
5 documents there was an email that I believe he  
6 and I exchanged, but I cannot recall the  
7 specifics of it.

8 Q. Do you recall at all there being a  
9 particular concern with Congressman Strivers at  
10 this time regarding the draft map?

11 A. You're talking about 319 or 369 or  
12 both?

13 Q. 319 because we're in early  
14 September.

15 A. 319. Your question again?

16 Q. Do you recall there being any  
17 concerns that Congressman Strivers had about  
18 319?

19 A. None that I can articulate or  
20 recall.

21 (Thereupon, Plaintiffs' Exhibit  
22 Number 33, Documents Bates Stamped  
23 LVWOH\_00018298-18301, was marked for purposes of  
24 identification.)

25 BY MS. THOMAS-LUNDBORG:



1 RAYMOND E. DiROSSI

2 Q. Okay. I'm going to turn to a  
3 document I'm having marked as Exhibit 33 and  
4 it's LWVOH\_18298. And do you see your email  
5 address in the top right corner?

6 A. I do.

7 Q. And then in the from line, is that  
8 your email address?

9 A. Yes, it is.

10 Q. And then in the to line, is that  
11 President Niehaus' email address?

12 A. You know, once again, the previous  
13 email that we looked at for his was at fuse dot  
14 net and this one is not. That is an email I am  
15 unfamiliar with.

16 Q. Okay.

17 A. I'm not sure why there's a  
18 different one there.

19 Q. And we've already talked about the  
20 other two email addresses. You recognize Keith  
21 Faber and Matt Schuler's email address,  
22 correct?

23 A. I do.

24 Q. The timestamp of this email is  
25 1:00 a.m. on September 12th. Do you see that?

1 RAYMOND E. DiROSSI

2 A. I do.

3 Q. Do you recall working late during  
4 this period?

5 A. Yes.

6 Q. As part of your work during this  
7 period were you emailing with President  
8 Niehaus?

9 A. Well, this email was from me to  
10 him at 1:06 a.m.

11 Q. Okay. And were you -- we've seen  
12 other emails from Keith Faber. Were you  
13 emailing with him during this period?

14 A. This period being this time of  
15 night or this period meaning --

16 Q. Meaning we've seen a couple of  
17 emails starting with September 10th. This is  
18 September 12th. Do you recall in this period  
19 in September emailing with Keith Faber?

20 A. I recall mid September is the time  
21 where the first map House Bill 319 was close to  
22 being enacted and it was also the final two  
23 weeks of the apportionment, so we would be  
24 working around the clock on both -- both items  
25 simultaneously. So conversations with

1 RAYMOND E. DiROSSI

2 President Niehaus about apportionment and  
3 redistricting would be very commonplace.

4 Q. What about with Matt Schuler, were  
5 you emailing with him regularly during this  
6 period?

7 A. Not as regular. I enjoyed a  
8 luxury -- as I mentioned to you before, I had  
9 been a part of this process the decade before.  
10 I was really the only person that had some  
11 historical interaction with this process  
12 before. So I was largely, by Matt, who had not  
13 been through this process, by President  
14 Niehaus, to some extent as well, who had not  
15 been through this process, I was -- they knew  
16 that I understood the logistical and time  
17 frames and everything and so they -- I did not  
18 get a whole lot of direction from them.

19 Q. Do you recall if the map had been  
20 introduced yet at this point?

21 A. I don't recall.

22 Q. Now, looking at the text of the  
23 email, you state index for Latta fell two  
24 one-hundredth of a point to 51.33. Who is  
25 Latta?

1 RAYMOND E. DiROSSI

2 A. He would have been a congressman,  
3 former state senator and congressman from the  
4 5th congressional district.

5 Q. And which party was he part of?

6 A. He was a member of the Republican  
7 party.

8 Q. And then the next line says index  
9 for Jordan rose three one-hundredths of a  
10 point, 53.26. Do you see that?

11 A. I do.

12 Q. And who was Jordan?

13 A. He is a former state senator,  
14 current member of the Ohio Congressional  
15 Delegation.

16 Q. And is that Jim Jordan who we've  
17 referenced in the past?

18 A. It is.

19 Q. Okay. And is the index referred  
20 to here the same political index that we  
21 discussed earlier?

22 A. It's the unified index that I was  
23 using or I was trying to use, even though that  
24 others wanted to use other --

25 Q. Okay.

1 RAYMOND E. DiROSSI

2 A. -- other indexes.

3 Q. And was it your practice at the  
4 time that when you were making changes to the  
5 map that you would reference the index?

6 A. Well, as I've said, at any moment  
7 in time what people would ask about might be  
8 geography, might be indexes, might be  
9 incumbency, might be a number of things. The  
10 very next line in this email that you didn't  
11 mention yet, I'm sure you would have, is the  
12 geographical changes to the districts for those  
13 two things.

14 So I was mentioning the amount of  
15 people in Lucas County that each of these two  
16 congressional districts would contain in the  
17 4th and 5th congressional district, and then I  
18 was also showing the effect on the historical  
19 political index simultaneously.

20 Q. Going to the next email in the  
21 chain, this one is 7:44 a.m., a more decent  
22 time of morning, from President Niehaus to you  
23 directly, and it says did Whatman sign off. Do  
24 you see that?

25 A. I do.

1 RAYMOND E. DiROSSI

2 Q. Did you have an understanding of  
3 who Whatman was?

4 A. Yes.

5 Q. Was that Tom Whatman?

6 A. Yes.

7 Q. And why was Whatman's sign-off  
8 discussed here?

9 MR. STRACH: Objection.

10 Go ahead and answer.

11 THE WITNESS: Yeah, I mean, this is  
12 an email from Niehaus, so you can ask him - I'm  
13 sure you will - of what he was looking for. But,  
14 as I said before, Tom was somebody that I was  
15 exchanging information on or with.

16 BY MS. THOMAS-LUNDBORG:

17 Q. Sorry, I'm just going to continue  
18 and we may get to --

19 A. That's fine.

20 Q. I'm just going to move on. I  
21 think the question my colleague has will be  
22 relevant. I'm moving on to exhibit -- what I'm  
23 going to have marked as Exhibit 34 and it's  
24 LWVOH\_18320.

25 (Thereupon, Plaintiffs' Exhibit

1 RAYMOND E. DiROSSI

2 Number 34, Document Bates Stamped LWVOH\_00018320,  
3 was marked for purposes of identification.)

4 BY MS. THOMAS-LUNDBORG:

5 Q. And do you see your email address  
6 in the top right corner?

7 A. I do.

8 Q. And then do you see your email  
9 address in the to line?

10 A. I do.

11 Q. And the subject is Stivers Map and  
12 this is from that same date, Monday, the 12th,  
13 and this again is a -- a more natural time of  
14 morning, 11:22 a.m. Do you see that?

15 A. I do.

16 Q. And who is this email to?

17 A. To Tom Whatman.

18 Q. And this is the email address that  
19 you recognize as his email address?

20 A. Yes.

21 Q. And in the text of the email it  
22 says Strivers '08 Pres goes from 52.64 to 53.1.  
23 Do you see that?

24 A. I do.

25 Q. Is that another reference to the

1 RAYMOND E. DiROSSI

2 unified index?

3 A. It is.

4 Q. And then it says Stivers --

5 A. I'm sorry. Did you say 52.64 to  
6 53.31?

7 Q. Yes.

8 A. Okay. I misspoke. That is not  
9 the unified index.

10 Q. What is that?

11 A. 52.64 to 53.31 was the '08  
12 presidential numbers. And again, this goes to  
13 the inherent conflict where I thought  
14 historically we should be looking at one  
15 number, and other people, federal folks,  
16 congressmen, congresswomen had different  
17 numbers they wanted to look at.

18 Q. Okay. And then this says Strivers  
19 unified index goes from 55.02 to 55.72. Is  
20 that a reference to the unified index?

21 A. It is.

22 Q. Okay. Thank you for that  
23 clarification.

24 The next line is Schmidt 08 Pres  
25 goes from 54.62 to 53.99. Who is Schmidt?



1 RAYMOND E. DiROSSI

2 A. Congresswoman Schmidt was a -- she  
3 is no longer, but she was an incumbent from one  
4 of the Southern Ohio congressional districts.

5 Q. And which party was she from?

6 A. Republican.

7 Q. And is this reference to the  
8 presidential '08 index that we discussed?

9 A. It is, yeah, the one that's going  
10 down, right. So this is -- this is a great  
11 example of any time you make these changes in  
12 the map, one index might be going up, another  
13 one might be going down. So, you know, in this  
14 case one set of numbers were going up, another  
15 one was going down.

16 Q. And the next line says Stivers  
17 unified index goes from 57.64 to 56.96. Is  
18 that a typo? Do you think that's Schmidt?

19 A. I think I probably made many typos  
20 in these emails. Yeah, that probably would  
21 have been Schmidt is what I would have meant  
22 there.

23 Q. And would this have been a  
24 reference to the unified index that we  
25 discussed?

1 RAYMOND E. DiROSSI

2 A. Yes.

3 Q. And then you say I can send the  
4 equivalency file if necessary. Do you see  
5 that?

6 A. I do.

7 Q. Did you have a practice of sending  
8 the equivalency files to Tom Whatman at this  
9 point?

10 A. I wouldn't call it a practice.  
11 Sometimes I did, sometimes I didn't.

12 MS. THOMAS-LUNDBORG: Okay. I think  
13 we have to go off the record to change the DVD.

14 THE VIDEOGRAPHER: We're off the  
15 record.

16 (Recess taken.)

17 THE VIDEOGRAPHER: We're on the  
18 record.

19 MS. THOMAS-LUNDBORG: Thank you.

20 BY MS. THOMAS-LUNDBORG:

21 Q. Good afternoon.

22 A. Hello again.

23 Q. We're almost there, I promise.

24 I would like to go back to the  
25 unified index. Did you share the unified index

1 RAYMOND E. DiROSSI

2 numbers with President Niehaus prior to the map  
3 being introduced?

4 A. You mean how I came to suggest the  
5 specific races that made -- did I talk to him  
6 about its composition or --

7 Q. I'm talking about the unified  
8 index numbers for districts. Did you share  
9 those numbers with President Niehaus prior to  
10 the introduction of HB 319?

11 A. I don't recall if I did.

12 Q. Let's look back at Exhibit 33.  
13 And this is an email, to refresh your  
14 recollection, from you to President Niehaus,  
15 and as we discussed, in the body of the email  
16 you reference Latta and Jordan numbers. Do you  
17 see that?

18 A. Yes.

19 Q. Does this refresh your  
20 recollection about whether you shared unified  
21 indices numbers with President Niehaus prior to  
22 the introduction of HB 319?

23 A. Well, with regards to this  
24 specific email, I mentioned the unified index,  
25 I mentioned the geography changes for that --

1 RAYMOND E. DiROSSI

2 those two specific districts. I thought you  
3 were asking about all of the districts.

4 Q. Is your recollection that you only  
5 shared the unified index number for Latta and  
6 Jordan?

7 A. Before you pointed me to this, I  
8 didn't recall -- I mean, I obviously sent him  
9 this email, but I don't recall any other  
10 instances when I would have -- specific  
11 instances where I would have shared that  
12 information.

13 Q. Would you have shared that  
14 information with anyone that you recall?

15 A. Well, again, primarily they were  
16 -- if anybody asked me, I would have shared  
17 them, but I don't recall.

18 Q. Okay. Do you recall anyone from  
19 the leadership, being the Republican  
20 leadership, asking for the unified index  
21 numbers prior to the introduction of HB 319?

22 MR. STRACH: Objection.

23 THE WITNESS: I don't recall. I  
24 think I had lost this battle in the index numbers,  
25 the historical election information that I wanted

1 RAYMOND E. DiROSSI

2 to look at, nobody else really seemed to want to  
3 look at. They wanted to look at their own --  
4 their own numbers.

5 BY MS. THOMAS-LUNDBORG:

6 Q. Okay. So when you look at Exhibit  
7 33, that's your index, correct?

8 A. I don't specifically reference  
9 that it's the unified index, I just refer to it  
10 as an index. So I don't recall if it was the  
11 unified index or it was one of the other  
12 components thereof or one of the other things  
13 that people had asked to look at.

14 Q. Okay. What were the other indices  
15 that this could have been in Exhibit 33?

16 A. Like we talked about in some of  
17 the other documents, it could have been the '08  
18 presidential numbers that a lot of people  
19 wanted to use, because these were federal  
20 elections so they wanted to use presidential  
21 election results. It could have been any of  
22 the individual components of the unified index  
23 that somebody wanted to look at. We talked  
24 about a document where there were some people  
25 that said you should be looking at the 2010 AG

1 RAYMOND E. DiROSSI

2 race, a race that I didn't want -- or didn't  
3 think we should include in the unified index.  
4 So unless I specified the unified index, I  
5 can't remember which one that is for.

6 Q. Okay. Looking at Exhibit 34,  
7 which we've already gone through, there is a  
8 reference to presidential index and unified  
9 index. Is the unified index discussed here the  
10 unified index --

11 A. Yes.

12 Q. -- that you created?

13 A. Yes, so this one I specifically  
14 said what the numbers came from.

15 Q. Okay.

16 (Thereupon, Plaintiffs' Exhibit  
17 Number 35, Documents Bates Stamped  
18 LWVOH\_00018322-18325, was marked for purposes of  
19 identification.)

20 BY MS. THOMAS-LUNDBORG:

21 Q. I would like to mark what is going  
22 to be Exhibit 35 and it has LWVOH\_18322. Do  
23 you see that?

24 A. 18 -- 18322?

25 Q. Yes, sorry, I'm just marking it

1 RAYMOND E. DiROSSI

2 for the record.

3 A. Oh, yes, I see.

4 Q. And do you see your email address  
5 in the top right-hand corner?

6 A. I do.

7 Q. And then do you see your email  
8 address in the from line?

9 A. Yes.

10 Q. Okay. And the email is to Adam  
11 Kincaid. Do you recognize that address?

12 A. I do.

13 Q. And then it's copying the Heather  
14 Mann address that you recognize, correct?

15 A. Yes.

16 Q. And the Tom Whatman email address  
17 that you recognize?

18 A. Yes.

19 Q. Okay. In the text of the email it  
20 says we are working to get sign-off from  
21 Speaker Batchelder and President Niehaus on  
22 this Stivers edit and then we will be done. Do  
23 you see that?

24 A. I do.

25 Q. Do you recall there being a

## **CERTIFICATE OF SERVICE**

I, Freda J. Levenson, hereby certify that on this 10th day of December, 2021, I caused a true and correct copy of this appendix to be served by email upon the counsel listed below:

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**IN THE SUPREME COURT OF OHIO**

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**Regina C. Adams, *et al.*,**

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

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**Case No. 2021-1428**

**Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)**

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**League of Women Voters of Ohio, *et al.*,**

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

---

**Case No. 2021-1449**

**Original Action Filed Pursuant to  
Ohio Const., Art. XIX, Sec. 3(A)**

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**AFFIDAVIT OF FREDA LEVENSON  
EXHIBITS APPENDIX E -  
A. PHILIP RANDOLPH INSTITUTE V. SMITH DEPOSITIONS  
Volume 3 of 3**

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**EXHIBITS APPENDIX E - A. PHILLIP RANDOLPH INST. V. SMITH DEPOSITIONS**

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>BATES RANGE</u></b>
1	Deposition Transcript of Raymond DiRossi -- Part 2	DEPO_SDOH_0472 - 531
2	Deposition Transcript of John Morgan	DEPO_SDOH_0532 - 694

1 RAYMOND E. DiROSSI

2 Stivers edit at the time?

3 A. I don't recall. I mean, the title  
4 of this email is Possible Stivers Addition. I  
5 can't recall what it was or if it was included  
6 or not.

7 Q. Okay. I would like to turn to the  
8 next page. I'm sorry, the next page in the  
9 same exhibit. This is an email from Tom  
10 Whatman at an address that we've already said  
11 for the record you recognize, to you, Adam  
12 Kincaid and Heather Mann, and the text of the  
13 Tom Whatman email says, guys, really sorry to  
14 ask, but can we do a small carveout of 77 in  
15 Canton and put Timken HQ in the 16th. Do you  
16 see that?

17 A. I do.

18 Q. Do you recall receiving a request  
19 from Tom Whatman at this time?

20 A. I do.

21 Q. And what was the nature of that  
22 request?

23 A. He was asking, very much as the  
24 text reads here, of whether or not we could  
25 make a geography change and include some

1 RAYMOND E. DiROSSI

2 geography that wasn't currently proposed in the  
3 16th into the 16th.

4 Q. And did you have an understanding  
5 of why that request was being made?

6 A. I mean, other than what I just  
7 said, he wanted to include this area in the  
8 16th.

9 Q. And you had no understanding of  
10 why?

11 A. No.

12 Q. Did you make that change?

13 A. I believe later in the email I  
14 asked Adam Kincaid if he would make the change  
15 and send me an equivalency file so that I could  
16 review it to understand it a little better.

17 Q. Was it your practice to make  
18 changes to geography that you didn't  
19 understand?

20 MR. STRACH: Objection.

21 THE WITNESS: I mean, we didn't make  
22 the change. Based on this email, they -- I asked  
23 them to make the change and send it to me so that  
24 I could review it, and then with doing that we  
25 made the change.

1 RAYMOND E. DiROSSI

2 BY MS. THOMAS-LUNDBORG:

3 Q. Okay. And why did you make the  
4 change?

5 A. Well, this is not -- this was,  
6 again, not uncommon that we would make changes  
7 for geography at the request of either  
8 congressmen or congresswomen to add geography  
9 or add territory into the district. This was  
10 kind of a common request.

11 Q. Okay. And at any point when you  
12 received requests like this, did you question  
13 why you were receiving the request?

14 A. In some cases.

15 Q. Do you recall any specific cases?

16 A. I recall -- I recall that we had a  
17 specific request from Congresswoman Kaptur to  
18 include physical property in the 9th  
19 congressional district. She wanted  
20 specifically for the NASA Lewis Research Center  
21 in Cleveland and Brook Park, Ohio to be  
22 included in the district. She also wanted the  
23 Plum Brook Station that was in Sandusky, Ohio  
24 to be included in her district. And I did not  
25 understand the reason for that and so I asked,

1 RAYMOND E. DiROSSI

2 and I got an answer and then I recommended the  
3 change.

4 Q. Okay. Are there any other changes  
5 to geography that you recall making?

6 A. We may have talked about it  
7 before, but in the 3rd congressional district,  
8 not congresswoman at the time, but Joyce Beatty  
9 specifically asked for some territory to be  
10 excluded from 319 into what became 369. And I  
11 didn't really appreciate or understand the  
12 reason why, and after asking some questions it  
13 was relayed to me the reason why and then we  
14 made that change.

15 Q. Are there any other requests that  
16 you recall?

17 A. Those three are the three specific  
18 ones I recall about very specific geographical  
19 areas. There were generally people who said  
20 put this county in a district, take this county  
21 out of a district, but those were the three  
22 very, very specific geography ones that we  
23 received, and I think all three of them we did.

24 Q. Okay. You just mentioned there  
25 were requests about putting counties in certain



1 RAYMOND E. DiROSSI

2 districts. Do you recall any of those?

3 A. There was -- Clark County, I  
4 remember there being a lot of conversations  
5 about making Clark County whole when it was  
6 proposed in 319 to be split between two  
7 districts, and 319 as it was adopted did not do  
8 that change. But later when we did 369, the  
9 map that we've talked a little bit about, Clark  
10 County was made whole in the 8th -- in the 8th  
11 congressional district.

12 Q. And who was the congressperson in  
13 the 8th?

14 A. That was Speaker Boehner.

15 Q. And did that request come directly  
16 from Speaker Boehner?

17 A. No, the request was from Senator  
18 Widener who wanted to see Clark County made  
19 whole in one district. He really didn't  
20 specify which, but he wanted Clark County to be  
21 whole, didn't want it to be split.

22 Q. And which party was Senator  
23 Widener part of?

24 A. Widener was a Republican member of  
25 the state Senate.

1 RAYMOND E. DiROSSI

2 Q. Do you recall any other requests  
3 related to counties?

4 A. Well, we've talked about -- you  
5 mean a whole county or just geography?

6 Q. I'm talking about geography.

7 A. So we talked a little bit about  
8 them, but the --

9 Q. Separate from what we've already  
10 discussed, any other ones that you recall.

11 A. Okay. Let's see, we talked about  
12 the Congresswoman Kaptur, changes for Lucas  
13 County and Cuyahoga County, we talked about  
14 Fudge changes for the 11th.

15 Oh, I do specifically remember  
16 Congresswoman Schmidt from Southern Ohio, she  
17 lived in Loveland, Ohio, which she lived in  
18 Clermont County in Loveland. And I think one  
19 of the earlier questions that you asked me was  
20 about communities of interest and I gave  
21 examples about political subdivisions like  
22 cities that cross -- cross county boundaries.  
23 This was one instance where she lived in  
24 Loveland in Clermont County, but Loveland also  
25 extended into Hamilton County, and so at her

1 RAYMOND E. DiROSSI

2 request she wanted Loveland to be whole in the  
3 congressional district. And so in -- I believe  
4 in 319 and 369 we unified the city of Loveland  
5 even though they were across political  
6 subdivision boundaries -- or across county  
7 boundaries, I apologize.

8 Q. Okay. Anything else that you  
9 recall separate from what we've already  
10 discussed?

11 A. Nothing -- nothing else that jumps  
12 out at me. Those were the big ones that were  
13 focused on geography. Some Republicans, some  
14 Democrat.

15 Q. Okay.

16 (Thereupon, Plaintiffs' Exhibit  
17 Number 36, Document Bates Stamped DIROSSI\_0000046,  
18 was marked for purposes of identification.)

19 BY MS. THOMAS-LUNDBORG:

20 Q. I would like to mark what is going  
21 to be Exhibit 36. It's DIROSSI\_46 for  
22 identification. The subject is Confirmed:  
23 Meet at the Bunker about Rollout, and it's from  
24 September 12th, 2011.

25 Do you recall whether the map was

1 RAYMOND E. DiROSSI

2 public in September -- on September 12th?

3 A. That is close to the date that I  
4 believe that the map was adopted, 319 was  
5 adopted. I don't know specifically if it was  
6 public by then, but it's close to that date.

7 Q. Do you recall whether the map was  
8 introduced on the 13th?

9 A. I don't recall.

10 Q. Okay.

11 A. And again, this email is funny  
12 because it's almost the opposite of a previous  
13 email that you asked me to look at where in  
14 this one I say the location of this meeting is  
15 in the redistricting office, but in the subject  
16 matter I say we're having a meeting at the  
17 bunker about the rollout. In the previous  
18 email the location was the bunker, but the  
19 subject matter was redistricting office. So I  
20 just used those interchangeably.

21 Q. Do you have any recollection of  
22 what rollout would have been referenced here?

23 A. Yeah, this may have been about the  
24 process -- it could have been -- well, I guess  
25 I should stop. This could have been about

1 RAYMOND E. DiROSSI

2 apportionment or it could have been about  
3 redistricting, so I'm not totally sure which  
4 one it's about.

5 Q. Okay. During this time in the  
6 process were you working on the rollout for the  
7 apportionment map?

8 A. So the apportionment map  
9 constitutionally had to be adopted by the end  
10 of September. And so I can't remember the  
11 exact timelines of when the proposed maps  
12 rolled out, but they were in September.

13 Q. Okay.

14 A. They were around this time. So  
15 I'm not sure which one is which here.

16 (Thereupon, Plaintiffs' Exhibit  
17 Number 37, Document Bates Stamped LWVOH\_00018321,  
18 was marked for purposes of identification.)

19 BY MS. THOMAS-LUNDBORG:

20 Q. Okay. I'm going to move on to  
21 what I'm having marked as Exhibit 37. It's  
22 LWVOH and it's 18321 for the record. Do you  
23 see your email address in the top right corner?

24 A. I do.

25 Q. And then in the from line it

1 RAYMOND E. DiROSSI

2 appears to be an email from Heather Mann at the  
3 email address that you recognize, correct?

4 A. Yes.

5 Q. And then who is in the to line?  
6 Do you recognize that email?

7 A. That was an email address for Jim  
8 Renacci.

9 Q. And who is that?

10 A. He was a congressman from Northern  
11 -- Northeast Ohio.

12 Q. And then your email address is  
13 copied; is that correct?

14 A. Yes, I am cc'd.

15 Q. And in the text of the email it  
16 says, per your request, here are the population  
17 numbers and percentages of Congresswoman  
18 Sutton's current district that would be  
19 contained in the proposed districts. Do you  
20 see that?

21 A. I do.

22 Q. Who is Congresswoman Sutton?

23 A. She is also a -- at the time was a  
24 sitting incumbent of a Northeast Ohio  
25 congressional district.

1 RAYMOND E. DiROSSI

2 Q. Okay. To the extent that you  
3 know, why was -- why were the percentages from  
4 Congressman (sic) Sutton's district being  
5 shared with Congressman Renacci?

6 A. Well, obviously this is an email  
7 from Heather to Congressman Renacci and I was  
8 just cc'd, so I don't know the specific genesis  
9 of it or what specifically she was trying to  
10 convey.

11 Q. Okay. At any point did you share  
12 numbers like this with sitting congresspeople?

13 A. I don't recall. If asked, I would  
14 have, but I can't recall. You know this --  
15 maybe I should say, a lot of this in Northeast  
16 Ohio has to do -- I guess call it the ripple  
17 effect. When the decision was made with  
18 Congresswoman Fudge that the 11th district  
19 would be structured in a way that started in  
20 Cuyahoga and came down to Summit County, it  
21 really kind of split Northeast Ohio into two  
22 separate halves, and so there were a lot of  
23 geographical changes that were happening in  
24 Northeast Ohio because of the configuration of  
25 the 11th.

1 RAYMOND E. DiROSSI

2 And this is one of the districts  
3 that was kind of absorbed into six or seven  
4 different surrounding districts, but it all  
5 kind of started with the decision to draw the  
6 11th district the way that it was drawn.

7 Q. Okay.

8 A. So that's the background.

9 Q. And were you a part of those  
10 conversations about the changes to this section  
11 of the map?

12 A. Heather and I would have worked  
13 jointly on those throughout the process.

14 Q. And this is an email to a  
15 particular congressperson. Were there emails  
16 or phone conversations with other  
17 congresspeople about this section of the map?

18 MR. STRACH: Objection.

19 THE WITNESS: You're asking if I or  
20 Heather or --

21 BY MS. THOMAS-LUNDBORG:

22 Q. Let's take it in two parts.

23 A. Okay.

24 Q. As far as you're aware, were there  
25 other emails with sitting congresspeople about



1 RAYMOND E. DiROSSI

2 this portion of the map that you just  
3 described?

4 A. I can't say there weren't, but  
5 none that I specifically recall.

6 Q. Okay. Were there phone  
7 conversations about this portion of the map  
8 with sitting congresspeople?

9 MR. STRACH: Objection.

10 THE WITNESS: None that I recall  
11 having.

12 BY MS. THOMAS-LUNDBORG:

13 Q. Okay. Do you recall having any  
14 conversations with the members of the staff of  
15 sitting congresspeople about this portion of  
16 the map?

17 A. None that I can specifically  
18 recall.

19 Q. We've gone through a lot of  
20 calendar entries. Did you produce all of the  
21 calendar entries that you retained from that  
22 period?

23 A. Yes.

24 Q. Were you part of the process of  
25 revising the map after 319 in preparation for

1 RAYMOND E. DiROSSI

2 369?

3 A. Yes.

4 Q. And what was your role in that  
5 process?

6 A. So at this point we had moved out  
7 of the redistricting office and I was working  
8 in the Statehouse, as we talked about earlier,  
9 and so there were, especially in 369 -- the map  
10 for 319 for a number of reasons, we can discuss  
11 them if you want, had stalled and it was  
12 obvious that it wasn't going to be enacted.  
13 There were a lot of conversations happening at  
14 multiple levels with the Democrats in the  
15 Senate and in the House of Representatives  
16 about what changes would need to be made to 369  
17 in order to get the votes necessary to pass the  
18 map.

19 And so as that information was  
20 filtering back down to me from a number of  
21 sources, I was working independently of  
22 Heather, as she was working independently of  
23 me, to try to put those together in a map that  
24 would balance out the population and try to  
25 adhere to as many of these other principles as

1 RAYMOND E. DiROSSI

2 I've articulated, and that's what we were doing  
3 in preparation for 369 to be adopted.

4 Q. And you said you were working  
5 independently of Heather?

6 A. Yes.

7 Q. Is that different than the process  
8 during 319?

9 A. Well, in 319 -- well, for most of  
10 the process in 319, if not all of the process,  
11 we worked together in the redistricting office.  
12 Once we had closed the redistricting office  
13 when 319 had been adopted and we thought that  
14 would be the map, we thought we were done, and  
15 so we both kind of went our separate ways.

16 But then when a second map needed  
17 to be done, she was working out of her office  
18 and I was working out of the Statehouse, and by  
19 independently I meant physically apart from  
20 each other.

21 Q. Okay. Were you having  
22 conversations about the work that you were  
23 doing?

24 A. Some. Not nearly as much as  
25 before, but Heather and I did talk

1 RAYMOND E. DiROSSI

2 occasionally, yes.

3 Q. And when you separated your work,  
4 were you given individual responsibilities?  
5 How was the work divided between you and  
6 Ms. Blessing?

7 A. There was no delineation of you do  
8 this, I do this. It was we're both working on  
9 what our leaders, for me President Niehaus, and  
10 for her Speaker Batchelder, thought we needed  
11 to do to get the appropriate number of  
12 Democratic votes to pass a map.

13 Q. Okay. And when it came to drawing  
14 district lines did you work together or  
15 separately?

16 A. Mostly separately, but on occasion  
17 we would have talked and shared what are you  
18 working on, this is what I'm working on.

19 Q. And at the end of the process did  
20 you have two separate maps or was it combined  
21 into one map?

22 A. Well, at the very end of the  
23 process House Bill 369 was introduced in the  
24 Ohio House, so she would have been the one who  
25 sent the final map to the Legislative Service

1 RAYMOND E. DiROSSI

2 Commission to be drafted into a bill so that it  
3 could undergo the hearing process. But we  
4 would have had to put any pieces and parts of  
5 what we had been working on together for her to  
6 do that.

7 Q. Okay. And when did the process of  
8 putting it together happen?

9 A. You know, I don't recall. There  
10 was a long period of time after the adoption of  
11 319 where there was just no movement on -- on  
12 the map and we were just kind of stuck in  
13 neutral. And then we were able to get House  
14 Bill -- enough Democratic input that we could  
15 get 369 introduced, and we thought that we had  
16 enough to move the bill and we didn't, and then  
17 we were back into neutral.

18 And then finally there was a  
19 breakthrough, probably more that Heather was  
20 involved in than I, that kind of broke -- broke  
21 through and the deal was struck that the  
22 legislative Democrats were comfortable, and  
23 then we moved forward with the process and the  
24 map was adopted.

25 Q. Going back to 369 prior to

1 RAYMOND E. DiROSSI

2 introduction and the two separate maps, you had  
3 a map and Heather had a map, correct?

4 A. Well, I don't know if we had full  
5 maps. We obviously had 319 because that's  
6 where we left off, but I think -- well, I  
7 shouldn't speak for her. I was having  
8 conversations -- oops, sorry if I hit the  
9 microphone. I was having conversations with  
10 Bob Bennett, I was having conversations with  
11 Tom Niehaus, he was having conversations with  
12 anybody who was giving me input about what the  
13 requests of the Democrats in the House and  
14 Senate were in order for them to provide their  
15 votes. And so I was working on -- maybe not a  
16 whole map, maybe I was just working on one  
17 district to try to make the changes to  
18 accommodate the Democratic requests.

19 Q. And then at some point the changes  
20 you made and the changes that Ms. Blessing made  
21 were integrated, correct?

22 A. Yes, they would have been to  
23 produce House Bill 369 as introduced.

24 Q. Okay. And do you recall when that  
25 took place?

1 RAYMOND E. DiROSSI

2 A. I don't. I don't recall when it  
3 was introduced.

4 Q. And when you were working on  
5 combining the pieces that you were working --  
6 that you each were separately working on, did  
7 you have a process of deciding what would  
8 happen if there was a conflict?

9 A. We didn't have a set process and I  
10 can't recall any conflicts that arose. I mean,  
11 I think when the Democrats were making a  
12 request like we talked about in Montgomery  
13 County, that request was being made to the --  
14 the House and the Senate kind of together and  
15 so there wasn't a conflict. It was kind of  
16 like we're either doing what they want to do or  
17 we're not.

18 Q. Okay. And you mentioned after 369  
19 was introduced it stalled and then there was a  
20 breakthrough. What was that breakthrough?

21 A. And again, so here's where I  
22 wasn't as involved. That was more on the House  
23 side. But I think it all -- or I know it all  
24 revolved around Joyce Beatty making some final  
25 requests, last-minute changes to the 3rd

1 RAYMOND E. DiROSSI

2 congressional district. And once those were  
3 made, the votes were secure and the map could  
4 proceed.

5 Q. Okay. And you don't recall what  
6 the change was to the 3rd district?

7 A. I mean, I can speak to -- I  
8 couldn't speak to the specific geography, but I  
9 know specifically she wanted to change a little  
10 bit of the geography, and I'm referring to  
11 Joyce Beatty, so that one of her potential  
12 primary opponents wouldn't be in the 3rd  
13 district and they would be in one of the other  
14 Franklin County districts. So there was some  
15 geography changes that Heather would be able to  
16 speak to to accomplish -- to accomplish that  
17 request.

18 Q. Okay. And your recollection is  
19 that happened after HB 369 was introduced?

20 A. Yes, those were the final changes.  
21 369 was then amended and then passed. She also  
22 wanted to ensure that the -- the non-Hispanic  
23 African American voting age population of the  
24 3rd congressional district, to see if it could  
25 be made higher, and she also wanted to make



1 RAYMOND E. DiROSSI

2 sure that the index - and again, that's the  
3 index that she was looking at, not necessarily  
4 the unified index - was as favorable to her as  
5 possible.

6 Q. Okay. Do you know which index she  
7 was looking at?

8 A. You know, I don't know.

9 Q. Okay. And you said none of those  
10 conversations happened directly with you?

11 A. That is correct.

12 Q. And how did you learn of those  
13 conversations?

14 A. From conversations with Heather,  
15 from conversations with Bob Bennett and  
16 conversations with Tom Niehaus.

17 (Thereupon, Plaintiffs' Exhibit  
18 Number 38, Documents Bates Stamped  
19 SOS\_001010-1011, was marked for purposes of  
20 identification.)

21 BY MS. THOMAS-LUNDBORG:

22 Q. Okay. I don't think we're going  
23 to spend that much time on this. I just want  
24 to look at Exhibit -- what I'm going to have  
25 marked as Exhibit 38, and it's SOS\_1010 for the

1 RAYMOND E. DiROSSI

2 record.

3 Do you see your email address at  
4 the top?

5 A. I do.

6 Q. And then this is to Halle Pegler  
7 (sic). Do you see that?

8 A. Halle Pelger (pronouncing).

9 Q. Sorry.

10 A. That's okay. If you're not from  
11 Ohio, you wouldn't know who she is. No  
12 problem.

13 Q. Well, who is she?

14 A. She worked for the Secretary of  
15 State's office.

16 Q. And did she have any involvement  
17 in the redistricting process?

18 A. So her only involvement for the  
19 redistricting process was after the maps were  
20 adopted, the Secretary of State in Ohio is in  
21 charge of obviously effectuating the elections.  
22 And one of the things that needed to be done in  
23 both decades, and always needs to be done, is  
24 people need to file -- take out petitions to  
25 file to run for office.

1 RAYMOND E. DiROSSI

2 And in a congressional district  
3 the Ohio law is that you have to file in the  
4 most populous county in your district. So if  
5 you -- if you wanted to run in a district that  
6 was in two counties, depending on which county  
7 had the most population in your congressional  
8 district is which county Board of Elections you  
9 would need to file on.

10 The Secretary of State was  
11 responsible for letting all 88 county Board of  
12 Elections know for congressional districts  
13 where candidates would need to file, and this  
14 was happening very quickly on the heels of  
15 these maps. So my interaction with her, with  
16 Halle as a representative of the Secretary of  
17 State's office, was letting her know here are  
18 the population breakdowns of the district --

19 Q. Okay.

20 A. -- so that they could do that  
21 process in a timely manner.

22 (Thereupon, Plaintiffs' Exhibit  
23 Number 39, Document Bates Stamped DIROSSI\_0000061,  
24 was marked for purposes of identification.)

25 BY MS. THOMAS-LUNDBORG:

1 RAYMOND E. DiROSSI

2 Q. Okay. Let's move on to an exhibit  
3 I'm going to have marked as Exhibit 39. It's  
4 DIROSSI\_61 and the subject is Confirmed: Brief  
5 Leadership on Congressional Maps. Its date is  
6 November 2nd, 2011. Do you see that?

7 A. I do.

8 Q. Do you recall whether you had any  
9 briefings with leadership at this time on  
10 congressional maps?

11 A. I don't recall if this one -- if I  
12 attended this one, but I do recall having  
13 meetings with the leadership to update them on  
14 where we were in this process.

15 Q. And would you have had those  
16 meetings before HB 369 was introduced?

17 MR. STRACH: Objection.

18 THE WITNESS: Yeah, I can't recall.

19 BY MS. THOMAS-LUNDBORG:

20 Q. Okay.

21 A. I definitely had meetings with the  
22 leadership as 369 was pending, but I don't know  
23 about before it was introduced.

24 Q. Okay. When you met with the  
25 leadership would that have been the Republican

1 RAYMOND E. DiROSSI

2 leadership and the Democratic leadership?

3 A. This would have been with the  
4 Republican leadership. Obviously if the  
5 Democrats had asked, at this point we were  
6 working very closely with them in the House and  
7 in the Senate to change the map for their --  
8 for their requests. So if they had asked, I  
9 would have obviously met with them.

10 (Thereupon, Plaintiffs' Exhibit  
11 Number 40, Document Bates Stamped DIROSSI\_0000499,  
12 was marked for purposes of identification.)

13 BY MS. THOMAS-LUNDBORG:

14 Q. Okay. I would like to move on to  
15 an exhibit I'm going to have marked as Exhibit  
16 40. It's DIROSSI\_499. Do you see that?

17 A. Yes, I do.

18 Q. Okay. So this was an exhibit that  
19 you produced. It says that it's provided by  
20 Gongwer.

21 A. Gongwer (pronouncing).

22 Q. And it's Political Indexes -  
23 Proposed Congressional Districts. Do you  
24 recognize this document?

25 A. Generally.

1 RAYMOND E. DiROSSI

2 Q. And what is it?

3 A. Well, I am not the source of this  
4 document. I produced it because I had it in my  
5 possession, but I am not the author or the  
6 creator of it.

7 Q. And how did it come to be in your  
8 possession?

9 A. Gongwer is a Statehouse news  
10 service reporting agency that reports on  
11 happenings in and around the Statehouse, and at  
12 some point this document would have been in  
13 Gongwer and I would have thought it to be of  
14 some value and so I would have kept a copy of  
15 it in my files.

16 Q. Okay. Do you recall having seen  
17 this document before?

18 A. Until I produced it again, I  
19 really didn't remember that I had it.

20 Q. Do you know what political indices  
21 was being used here?

22 A. Yeah, so the source of this is --  
23 Jim Slagle and the Ohio Campaign for  
24 Accountable Redistricting, as I mentioned, he  
25 had his own methodology and so I can't speak to

1 RAYMOND E. DiROSSI

2 what he -- I can't speak to how the methodology  
3 he was using.

4 (Thereupon, Plaintiffs' Exhibit  
5 Number 41, File Produced in Native Format Bates  
6 Stamped DIROSSI\_0000525, was marked for purposes  
7 of identification.)

8 BY MS. THOMAS-LUNDBORG:

9 Q. Okay. I would like to turn to an  
10 exhibit that I'm going to have marked as  
11 Exhibit 41. This is another exhibit that was  
12 produced in native, it's an Excel file. So  
13 there is the cover sheet which says it was  
14 produced in native and it's DIROSSI\_525. And  
15 because it's an Excel sheet, unfortunately the  
16 columns break onto different pages.

17 And are you familiar with the term  
18 metadata?

19 A. I have heard -- I have heard the  
20 term. I've heard the term.

21 Q. Okay. Do you understand that when  
22 you produce something in native there is a --  
23 there's data associated with when the document  
24 was created?

25 A. Yeah, I'm not familiar with

1 RAYMOND E. DiROSSI

2 native. I'm sorry.

3 Q. So this says that the file was  
4 produced in native format, meaning we received  
5 an Excel spreadsheet.

6 A. Oh, okay, so -- okay, thank you.

7 Q. So I think there's no point in us  
8 kind of having a back and forth about what  
9 metadata means, but I will represent for the  
10 record that the metadata says that this  
11 document was created on November 2nd, 2011.

12 Does that generally seem right to  
13 you, that you would have been working on  
14 documents like this in early November?

15 A. You said November of 2011?

16 Q. Yeah, November 2nd, 2011.

17 A. I mean, generally this is yet  
18 another example of a document that I would have  
19 created because at any moment in time who knows  
20 what question I would be asked. This one, for  
21 whatever reason at the time, I was going back  
22 to 2001 and trying to show two decades of  
23 changes. That's what threw me, that there's 18  
24 districts here in the first column, but --

25 Q. Okay. I just want to go through



1 RAYMOND E. DiROSSI

2 each of these columns to make sure I understand  
3 what they mean. The first column is 2001  
4 member districts. Do you see that?

5 A. I do.

6 Q. And what is your understanding of  
7 what this column is?

8 A. Yeah, without -- without saying I  
9 was accurate, I assume what I was saying is who  
10 were the incumbent members of each of the 18  
11 congressional districts in 2001.

12 Q. Okay. And 2001 unified index, do  
13 you see that?

14 A. I do.

15 Q. Is that the index that you  
16 created?

17 A. Yes, but I can't recall, to be  
18 honest, if it was the unified index that I  
19 created in 2001 or if it was the unified index  
20 I created in 2011 superimposed on 2001  
21 districts.

22 Q. Okay. 2011 member districts, do  
23 you see that?

24 A. I do.

25 Q. And is this the proposal for the

1 RAYMOND E. DiROSSI

2 districts for 319 or 369?

3 A. Yeah, that is a great question.  
4 This is the first example where in this  
5 document I can't recall -- you said November of  
6 '11?

7 Q. Yes. I'm just talking about this  
8 column, members and districts.

9 A. Yeah, but you asked if it was from  
10 319 or 369.

11 Q. Right. Were there any changes in  
12 the pairing of members and districts between  
13 319 and 369?

14 A. No.

15 Q. Okay. Then it says 2011 unified  
16 index. Do you see that?

17 A. I do.

18 Q. Would that have been the unified  
19 index that you created?

20 A. Sounds right, yes.

21 Q. And then 2008 Pres index with 2011  
22 districts. Do you see that?

23 A. Yes.

24 Q. And would that be the 2008  
25 presidential index that we've been discussing?

1 RAYMOND E. DiROSSI

2 A. Yeah, that was an alternative that  
3 other people wanted to use, so I was including  
4 it on my documents so I could have it handy.

5 Q. And then the next column is 2011  
6 VA AA. Do you see that?

7 A. I do.

8 Q. What does that column represent?

9 A. It would be 2011 voting age  
10 African American population percentages.

11 Q. Okay. And then the next column is  
12 2011 NHB VA AA. What does that column  
13 represent?

14 A. That's non-Hispanic black voting  
15 age African American population percentages.

16 Q. Okay. So the first -- the prior  
17 column includes Hispanic blacks and then the  
18 following column is non-Hispanic blacks?

19 A. Yes.

20 Q. Okay. Then there's a column  
21 entitled REDRAW 2011 unified index. Do you see  
22 that?

23 A. I do.

24 Q. And what does that column  
25 represent?

1 RAYMOND E. DiROSSI

2 A. That's a good question. I cannot  
3 remember what REDRAW meant and why I have it  
4 capitalized, if that mean --

5 Q. So it possible that this is the  
6 change from 319 to 369?

7 A. It's possible, but I can't say  
8 that it is. I don't -- I don't know in this  
9 last column what I was trying to compare. I  
10 can't say.

11 Q. Okay. Going to the last page, the  
12 first column is just a continuation of the  
13 first column we saw on the first page, and then  
14 the following column is change 2011 unified  
15 index. Do you see that?

16 A. I do.

17 Q. Just correct me if I'm wrong.  
18 Does that appear to be the change between the  
19 2011 unified index on this page and the REDRAW  
20 2011 unified index?

21 A. If I take a second and try to get  
22 oriented.

23 Q. Sure.

24 A. Okay. I'm sorry. I was just  
25 trying to get oriented. Your question again

1 RAYMOND E. DiROSSI

2 was?

3 Q. Oh, whether this change unified --  
4 2001 unified index, if this column represents  
5 the difference between 2011 unified index and  
6 the REDRAW 2011 unified index.

7 So, for example, if you look at  
8 the first -- the first row of Chabot, does that  
9 appear to be the difference between 2011  
10 unified index and REDRAW 2011 unified index?

11 MR. STRACH: Objection.

12 THE WITNESS: I'm just trying to  
13 remember. I can't remember what the REDRAW meant.

14 BY MS. THOMAS-LUNDBORG:

15 Q. That's not my question. My  
16 question is, is this --

17 A. It would help me understand --  
18 understand this document and why I even created  
19 it. Okay.

20 Q. Okay. I'm just asking, looking at  
21 the numbers themselves, does 2011 unified  
22 index, REDRAW 2011 unified index, the  
23 difference between the two appear to be a  
24 change 2011 unified index?

25 MR. STRACH: Objection.

1 RAYMOND E. DiROSSI

2 THE WITNESS: Yeah, I can't remember.

3 It's possible, but I can't say for sure that  
4 that's what it is.

5 (Thereupon, Plaintiffs' Exhibit  
6 Number 42, File Produced in Native Format Bates  
7 Stamped DIROSSI\_0000518, was marked for purposes  
8 of identification.)

9 BY MS. THOMAS-LUNDBORG:

10 Q. Okay. I would like to move on to  
11 a document I'm having marked as Exhibit 42.  
12 It's another document that you produced in  
13 native, meaning we got the Excel sheet, which  
14 is why we have file produced in native cover  
15 sheet, and it's DIROSSI\_518, for the record,  
16 and the metadata for this document is November  
17 15th, 2011.

18 Are you the author of this  
19 document?

20 A. You know, this one I'm not sure if  
21 -- I can't say for certain like all the other  
22 ones that I am the author of this one. This  
23 one does not look like the style that I would  
24 have created.

25 Q. Okay.

1 RAYMOND E. DiROSSI

2 A. It's similar, but I can't say that  
3 I am the author.

4 Q. If you weren't the author, who  
5 would you have received this document from?

6 MR. STRACH: Objection.

7 THE WITNESS: You said I produced it?

8 BY MS. THOMAS-LUNDBORG:

9 Q. Yes, you produced it in native,  
10 meaning you produced an Excel spreadsheet to  
11 us.

12 A. I can't recall who would have  
13 given this to me. I don't know.

14 Q. Do you recall having looked at a  
15 document like this?

16 A. Until I turned the page, it did  
17 not look familiar.

18 Q. Okay. Do you recall during the  
19 time that you were working on drafting HB 369,  
20 did you look at the unified index?

21 A. Yeah, as we talked about before,  
22 on -- the way we had our computers set up,  
23 whenever a geographic change was made in the  
24 map the population data would change, the  
25 Hispanic concentrations of the district would

1 RAYMOND E. DiROSSI

2 change, the African American populations would  
3 change and the unified index would change. And  
4 we also included, I think, the '08 presidential  
5 number as a standalone late in the process  
6 because a lot of people were saying you're  
7 wrong, you've got to use this one. So any time  
8 we made a change, all of those things would  
9 have changed.

10 Q. Okay. Do you recall when you were  
11 working on HB 369 before it was enacted whether  
12 any district changed significantly on the  
13 unified index? And it's however you would  
14 define significant.

15 MR. STRACH: Objection.

16 THE WITNESS: In 369?

17 BY MS. THOMAS-LUNDBORG:

18 Q. Yes, from 369 as enacted to 319,  
19 were there any significant changes on the  
20 unified index?

21 MR. STRACH: Objection. I think you  
22 mean from 319 to 369.

23 MS. THOMAS-LUNDBORG: From 319 to  
24 369, yes.

25 THE WITNESS: Well, the 10th district



1 RAYMOND E. DiROSSI

2 specifically, I remember that that was a function  
3 of the legislative Democrats in Montgomery County  
4 asking that Montgomery County be made whole  
5 significantly changed the index of that district.

6 BY MS. THOMAS-LUNDBORG:

7 Q. And what was the change, if you  
8 recall?

9 A. It was about three and a half  
10 points.

11 Q. Okay. Did any other district  
12 change significantly?

13 A. That's the one -- that's the one  
14 example that I can remember sitting here today.

15 Q. Okay. Do you recall whether there  
16 was between -- we just talked about 369 as  
17 introduced. Do you recall whether there were  
18 any significant changes between 319 as passed  
19 and 369 as passed to the unified index?

20 A. Well, from 319 to 369 as  
21 introduced?

22 Q. We've already discussed 369 as  
23 introduced. Now I'm asking 369 as passed.

24 A. Compared to --

25 Q. 319.

1 RAYMOND E. DiROSSI

2 A. 369 as passed to 319, okay. And  
3 you're specifically asking if the unified index  
4 changed in any of those?

5 Q. In any significant way.

6 A. Well, obviously the 10th, as we  
7 just talked about, changed.

8 Q. Yes.

9 A. There was significant geography  
10 changes to the 9th congressional district that  
11 we talked about that Congresswoman Kaptur was  
12 asking for. I can't recall if those impacted  
13 the unified indexes, but they were significant  
14 geography changes, tens of thousands, if not  
15 hundreds of thousands of people moving in and  
16 out of those districts.

17 The changes we talked about in the  
18 3rd were not substantial geography size  
19 changes, so I can't imagine that those would  
20 have changed the unified index. So I think the  
21 10th and potentially the 9th would be the two  
22 that could fit that that would have had  
23 significant changes.

24 Q. Okay. So before I introduce this  
25 document, I just want to ask you a question and

1 RAYMOND E. DiROSSI

2 then we'll decide if it gets introduced or not.

3 Do you recognize this document?

4 A. I have a vague recollection of  
5 this document.

6 Q. Are you the author of this  
7 document?

8 A. I don't believe -- I don't believe  
9 that I am.

10 Q. Okay. Did you see this document  
11 before you prepared for your testimony today?

12 A. I did not.

13 Q. Okay. So then I'll just ask you  
14 general questions. You talked about the  
15 changes in the numbers of African Americans in  
16 the 3rd district, for example. Do you recall  
17 by what percentage African American numbers  
18 changed from 319 to 369?

19 MR. STRACH: Objection.

20 THE WITNESS: From 319 to 369?

21 BY MS. THOMAS-LUNDBORG:

22 Q. Yes.

23 A. I don't recall.

24 Q. Do you recall what numbers the  
25 African American percentage changed in CD 9

1 RAYMOND E. DiROSSI

2 from 319 to 369?

3 A. I don't recall for the 9th either.

4 Q. Okay. Do you recall any other  
5 district where --

6 A. There's a much more significant  
7 African American population in the 3rd than in  
8 the 9th, so I'm not sure there's -- the 9th is  
9 in west Cleveland and goes to Toledo and  
10 doesn't have all of Toledo, so there's not a  
11 significant African American population.

12 Q. Okay.

13 A. So I don't think there would have  
14 been significant changes.

15 Q. Do you recall whether the  
16 percentage of African Americans changed in  
17 district 11 from 319 to 369?

18 A. I don't recall any changes to the  
19 geography of 11 at all specifically after 319  
20 was introduced. I got the impression that  
21 Congresswoman Fudge was very happy with how the  
22 district was proposed in 319. As we talked  
23 about, she specifically didn't want to be in  
24 Cuyahoga County and paired with Dennis Kucinich  
25 and she wanted it to remain a majority/minority

1 RAYMOND E. DiROSSI

2 district. So I don't -- I don't believe we  
3 made any changes to the 11th from 319 to 369 as  
4 enacted.

5 Q. Okay. Did the African American  
6 population change from 319 to 369 in any other  
7 district that we haven't discussed?

8 A. Did it change at all, you're  
9 asking? Did it change at all? Again, you're  
10 asking from 319 to 369?

11 Q. Yes.

12 MR. STRACH: Objection. 369 as  
13 introduced or as passed?

14 THE WITNESS: That's a good point,  
15 yeah.

16 BY MS. THOMAS-LUNDBORG:

17 Q. If there are changes from it as  
18 introduced we can start there and then we can  
19 go to as passed.

20 A. So before you asked if there were  
21 significant as I defined it, and now you're  
22 asking for any --

23 Q. Yes.

24 A. -- any change? Okay. I just want  
25 to make sure I have that right.

1 RAYMOND E. DiROSSI

2 I mean, I believe the 10th, the  
3 10th district, as we talked about, from 319 to  
4 369 as introduced and 369 as enacted would have  
5 had changes to the minority population after  
6 the change that the legislative Democrats asked  
7 for.

8 Q. And do you recall what was the  
9 nature of that change as introduced?

10 A. You mean am I able to quantify the  
11 change?

12 Q. Yes.

13 A. I am not, not offhand.

14 Q. And as enacted?

15 A. No.

16 Q. Are there any other districts  
17 where the African American population changed?

18 A. We talked about the 11th, we  
19 talked about the 9th, we talked about the 3rd,  
20 we talked about the 10th. I mean, it is  
21 possible anywhere there was any legislative  
22 change, obviously there could have been a very  
23 insignificant change, small change in those,  
24 but I've articulated the ones I can recall.

25 MS. THOMAS-LUNDBORG: Okay. I think

1 RAYMOND E. DiROSSI

2 I've gone through my major questions, so maybe if  
3 we just take a five-minute break and I might have  
4 something short.

5 MR. STRACH: Okay.

6 THE VIDEOGRAPHER: We're off the  
7 record.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We're on the  
10 record.

11 BY MS. THOMAS-LUNDBORG:

12 Q. We're almost done. Good evening,  
13 I think it is now.

14 A. Good evening.

15 Q. So I would like to just ask you a  
16 few follow-up questions about things that you  
17 testified to earlier.

18 We talked a lot about the unified  
19 index and you said that at some point you lost  
20 the war over the unified index. Could you  
21 clarify the war regarding the unified index?

22 A. Yeah, so probably a poor choice of  
23 words. It was the -- from my experience the  
24 previous decade, that was the index when we  
25 were looking at historical election data that I

1 RAYMOND E. DiROSSI

2 thought we should use. But especially using --  
3 when we were in congressional redistricting,  
4 everybody else had their own standard and  
5 nobody really thought necessarily that the  
6 unified index was the best one.

7 I still tried to use it, but  
8 anybody at the national level, the congressmen  
9 and women that we were dealing with that were  
10 incumbents or aspiring candidates, they had  
11 their own -- they had their own standard, and  
12 then many people wanted to use the '08  
13 presidential as a single race to look at races,  
14 and I just was kind of wanting to use the  
15 unified index.

16 Q. Okay. Let's take those in kind of  
17 pieces. Did President Niehaus have a different  
18 index that he wanted to use?

19 A. Not that he ever conveyed to me,  
20 no.

21 Q. Did Speaker Batchelder have  
22 another index that he wanted to use?

23 A. No.

24 Q. What about Matt Huffman, did he  
25 have another index that he wanted to use?



1 RAYMOND E. DiROSSI

2 A. Not to my recollection.

3 Q. What about Keith Faber, did he  
4 have another index that he wanted to use?

5 A. No.

6 Q. You mentioned national people had  
7 different indexes. Did Adam Kincaid have  
8 another index that he wanted to use?

9 A. Yes.

10 Q. And what index was that?

11 A. That was the PVI or R plus 1, D  
12 plus 1 system.

13 Q. Okay. And did he tell you why he  
14 wanted to use that system?

15 A. I guess that is a common -- common  
16 used national -- national description of  
17 districts.

18 Q. And did you share with him PVI  
19 numbers prior to the introduction of HB 319?

20 A. So I would never be able to share  
21 with anybody PVI because I don't know how to  
22 calculate it or couldn't generate it on my own.  
23 It would have to be something that was provided  
24 by somebody else and given to me.

25 Q. Did you have discussions with Adam

1 RAYMOND E. DiROSSI

2 Kincaid about the PVI prior to the introduction  
3 of HB 319?

4 MR. STRACH: Objection.

5 THE WITNESS: Yeah, not that I -- not  
6 that I recall.

7 BY MS. THOMAS-LUNDBORG:

8 Q. Okay. Did you have discussions  
9 with Adam Kincaid about the PVI prior to the  
10 introduction of HB 369?

11 MR. STRACH: Objection.

12 THE WITNESS: Yeah, I don't recall.

13 BY MS. THOMAS-LUNDBORG:

14 Q. Okay. What about Tom Whatman, did  
15 he have a system that he wanted to use?

16 A. None that he particularly  
17 articulated to me, but I just got the  
18 impression he didn't think the unified index  
19 was the -- was the best way to look at those  
20 districts.

21 Q. Okay. Did he make suggestions  
22 about other ways to look at those districts?

23 A. I can't recall specifically. I  
24 can't recall specifically if he suggested -- if  
25 he was the one that suggested using '08

1 RAYMOND E. DiROSSI

2 presidential numbers.

3 Q. Okay. Did you receive any  
4 suggestions from President Niehaus regarding  
5 the partisan composition of districts --

6 MR. STRACH: Objection.

7 BY MS. THOMAS-LUNDBORG:

8 Q. -- prior to the introduction of HB  
9 319?

10 MR. STRACH: Objection.

11 THE WITNESS: None -- none that I  
12 recall.

13 BY MS. THOMAS-LUNDBORG:

14 Q. Did you receive any -- strike  
15 that.

16 Did you share draft maps with  
17 President Niehaus prior to the introduction of  
18 HB 319?

19 A. I'm sure I did.

20 Q. And did you share draft maps with  
21 President Niehaus of HB 369 prior to its  
22 introduction?

23 A. I'm sure I would have and did.

24 Q. Did you -- and do you recall how  
25 many draft maps you would have shared with him?

1 RAYMOND E. DiROSSI

2 A. I don't recall.

3 Q. Did you have a process for sharing  
4 draft maps with President Niehaus?

5 A. Did not have a process.

6 Q. Did you share any draft maps with  
7 Speaker Batchelder prior to the introduction of  
8 HB 319?

9 A. Heather and I together would have.

10 Q. And do you recall how many draft  
11 maps you shared with him?

12 A. I don't recall. And again, to  
13 clarify draft maps, when you're saying that in  
14 my mind I'm thinking the maps that became House  
15 Bill 319 as introduced, the maps that became  
16 House Bill 369 as introduced. They weren't  
17 necessarily drafts of like other iterations.  
18 The ones that I'm specifically recalling are  
19 sharing with them the maps that ended up being  
20 the introduced versions.

21 Q. Okay. Did you share -- I think we  
22 talked about the speaker related to HB 319.  
23 Did you share drafts of HB 369?

24 A. With Speaker Batchelder?

25 Q. Yes.

1 RAYMOND E. DiROSSI

2 A. I would -- I believe Heather and I  
3 would have, absolutely.

4 Q. And when you were sharing drafts  
5 with President Niehaus and Speaker Batchelder,  
6 what information was included in those drafts?

7 A. Well, Speaker Batchelder is an  
8 amazing individual. He asked us to fax him  
9 copies of maps. And so I believe your specific  
10 question is about Speaker Batchelder, we would  
11 have -- Heather and/or I, or another member of  
12 his staff, would have faxed him maps. It would  
13 have been the maps is my recollection of what  
14 we would have shared with him, which we all  
15 joked was worthless because the maps were going  
16 to print out at the other end of the fax  
17 machine in black and white and you would not be  
18 able to tell what you were looking at.

19 Q. And were you just sharing the  
20 picture of the map or were you sharing any  
21 underlying data regarding the map?

22 A. We were faxing him the maps.

23 Q. So the picture of the map?

24 A. The picture of the map is  
25 specifically what I recall.

1 RAYMOND E. DiROSSI

2 Q. Okay. And President Niehaus, what  
3 were you sharing with him?

4 A. He would have been potentially  
5 over at the office so he could actually see the  
6 map on the screen that we were talking about.  
7 And then so obviously all of the demographic  
8 data that I mentioned before that would be on  
9 the screen for any map that we were working on  
10 would have been available for him to look at.

11 Q. And the demographic data that  
12 would be available is demographic data and you  
13 said also the index would be available?

14 A. Yeah, population data, minority  
15 concentrations, population deviations, indexes,  
16 yes.

17 Q. Okay. And Mark Huffman, did you  
18 share drafts --

19 A. Matt.

20 Q. I'm sorry, Matt.

21 A. No problem.

22 Q. Matt Huffman, did you share drafts  
23 of the map with Matt Huffman --

24 MR. STRACH: Objection.

25 BY MS. THOMAS-LUNDBORG:

1 RAYMOND E. DiROSSI

2 Q. -- prior --

3 MR. STRACH: Sorry, I just want to  
4 make clear you're still working off of his  
5 definition of draft, which is draft of the map as  
6 introduced.

7 MS. THOMAS-LUNDBORG: Yes, of HB 319.

8 THE WITNESS: Yeah, I remember  
9 sharing a map that became 319 with Representative  
10 Huffman.

11 BY MS. THOMAS-LUNDBORG:

12 Q. Okay. To your counsel's  
13 clarification, were there any iterations of  
14 versions of the map that were shared that  
15 predate the map that was introduced?

16 MR. STRACH: Objection.

17 THE WITNESS: I'm trying to recall  
18 what specific ones those would be. I just -- I  
19 just can't remember that far back of what  
20 specifically would have been shared.

21 BY MS. THOMAS-LUNDBORG:

22 Q. Okay. With Matt Huffman you did  
23 share a draft of HB 319?

24 A. Yes, because I believed he was  
25 going to be the sponsor, so I believe Heather

1 RAYMOND E. DiROSSI

2 specifically had said that we needed to make  
3 sure that he had an understanding of what he  
4 would be introducing to start the legislative  
5 process.

6 Q. And did you share a draft of HB  
7 369 with Matt Huffman before it was introduced?

8 MR. STRACH: I'm sorry, objection.  
9 Of the as introduced version before it was  
10 introduced or of something different than the as  
11 introduced version?

12 MS. THOMAS-LUNDBORG: He can define  
13 in his answer what draft and what it was that was  
14 shared with Matt Huffman.

15 THE WITNESS: So in all of these  
16 questions I'm referring to the map that became the  
17 introduced versions. I have specific  
18 recollections of sharing the maps that became the  
19 introduced versions. I don't have specific  
20 recollections of other ideas, concepts or drafts  
21 that ended up not being the introduced versions.

22 BY MS. THOMAS-LUNDBORG:

23 Q. Okay. So with Matt Huffman do you  
24 have a recollection of sharing the map as  
25 you're defining it of 369?



1 RAYMOND E. DiROSSI

2 A. Yes.

3 Q. Okay. And Keith Faber, did you  
4 share a version of the map, and you can clarify  
5 in your answer what you mean, of HB 319 prior  
6 to introduction?

7 A. I don't specifically recall with  
8 Senator Faber. I don't recall. The bill was  
9 being introduced in the house, not the Senate.  
10 So there was more focus on the House members.

11 Q. Okay. Do you recall whether a  
12 version of HB 369 was shared with Senator Faber  
13 prior to its introduction?

14 A. As we discussed earlier, he and I  
15 did spend some time at the office looking at  
16 specifically the geography in Mercer County  
17 where we have three congressional districts  
18 coming together, so, you know, some of those  
19 versions may have found their way into 319  
20 and/or 369 and some of them may not have.

21 Q. Okay. So just to go back to make  
22 sure the record is clean, with Senator Faber  
23 did you discuss the map in draft form prior to  
24 the introduction of 319?

25 A. I don't have a specific

1 RAYMOND E. DiROSSI

2 recollection of that.

3 Q. Okay. When we looked at -- and we  
4 can go back to the exhibit --

5 A. Other than the Mercer County --  
6 other than the Mercer County geography issue  
7 that we just talked about.

8 Q. Okay. Did you share a draft map  
9 with anyone else prior to the introduction of  
10 HB 319? And you can define what draft means in  
11 your answer.

12 MR. STRACH: Objection. You need to  
13 define whatever you're talking about.

14 THE WITNESS: Yeah, yeah, I mean it's  
15 -- you know, the people I've articulated I have  
16 specific memories of sharing the maps with them  
17 that were introduced and, you know, we've talked  
18 today about some of the other people who had  
19 looked at maps. I think I've exhausted every --  
20 all of the people that I can specifically remember  
21 sharing maps with.

22 BY MS. THOMAS-LUNDBORG:

23 Q. Okay. In regards to HB 369, do  
24 you recall sharing the map with anyone else?

25 MR. STRACH: Same objection, same

1 RAYMOND E. DiROSSI

2 instruction.

3 THE WITNESS: Yeah, I mean, the only  
4 person, Bob Bennett. Bob Bennett and I, I mean,  
5 I've said his name before, but he would have  
6 looked at maps that became House Bill 369, at  
7 least pieces of -- pieces of it.

8 BY MS. THOMAS-LUNDBORG:

9 Q. Did he look at maps that would  
10 have become 319?

11 A. I don't -- I don't have those  
12 recollections. I don't recall.

13 Q. Oh, I'm getting --

14 MR. FRAM: We're improving.

15 BY MS. THOMAS-LUNDBORG:

16 Q. You said that you shared the maps  
17 as defined as the map as introduced. Did you  
18 share any of the demographic data with anyone  
19 prior to the introduction of HB 319?

20 MR. STRACH: Objection.

21 BY MS. THOMAS-LUNDBORG:

22 Q. And I'm using your term  
23 demographic data that you used in a prior  
24 response.

25 A. Well, I mean, like I said, the

1 RAYMOND E. DiROSSI

2 people that were at the office would have seen  
3 it on the screen, the people that we were  
4 faxing maps to would not have had access to it.  
5 I don't recall -- I mean, that is just such a  
6 hectic, crazy time, and I don't recall any more  
7 details about who we would have shared it with,  
8 who I would have shared it with and what I  
9 would have shared, other than what I've said.

10 Q. Okay. As you sit here today is  
11 your recollection that the primary way that you  
12 shared demographic data was by showing it on  
13 the computer screens in the office?

14 MR. STRACH: Objection.

15 THE WITNESS: I mean, that was -- if  
16 people were there, that was certainly the easiest  
17 way to share it with them, but we've gone through  
18 a couple examples where it was done by email.

19 MS. THOMAS-LUNDBORG: Okay. I have  
20 no further questions at this point.

21 MR. STRACH: All right. We don't  
22 have any -- this is Phil Strach. We don't have  
23 any questions at this time.

24 MR. TUCKER: Intervenors don't have  
25 any questions at this time.

1 RAYMOND E. DiROSSI

2 MR. STRACH: Are we off the record?

3 MS. THOMAS-LUNDBORG: We're off the  
4 record. Good night, everyone.

5 THE VIDEOGRAPHER: Off the record.

6 (Thereupon, signature was not waived  
7 by the witness.)

8 (Thereupon, the deposition was  
9 concluded at 6:10 p.m.)

10 \* \* \*

1 I, RAYMOND E. DiROSSI, do hereby certify  
2 that the foregoing is a true and accurate  
3 transcription of my testimony.  
4  
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1 STATE OF OHIO )

2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE

3 I, Christine Gallagher, a Notary  
4 Public within and for the State of Ohio, duly  
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the  
7 above-named RAYMOND E. DiROSSI, was by me first  
8 duly sworn to testify the truth, the whole truth  
9 and nothing but the truth.

10 Said testimony was reduced to  
11 writing by me stenographically in the presence  
12 of the witness and thereafter reduced to  
13 typewriting.

14 I FURTHER CERTIFY that I am not a  
15 relative or Attorney of either party, in any  
16 manner interested in the event of this action,  
17 nor am I, or the court reporting firm with which  
18 I am affiliated, under a contract as defined in  
19 Civil Rule 28(D).

20 IN WITNESS WHEREOF, I have hereunto set my  
21 hand and seal of office at Dayton, Ohio, on this  
22 31st day of October, 2018.

23 \_\_\_\_\_  
CHRISTINE GALLAGHER

24 NOTARY PUBLIC, STATE OF OHIO

25 My Commission expires 8-28-2023

ERRATA SHEET

Case Name:

Deposition Date:

Deponent:

Pg.	No.	Now Reads	Should Read	Reason
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Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_

(Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_



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

-----X  
OHIO A. PHILIP RANDOLPH INSTITUTE, No. 1:18-cv-00357-TSB  
et al.,  
Plaintiffs,  
v.  
RYAN SMITH, Speaker of the Ohio  
House of Representatives, et al.,  
Defendants.  
-----X

DEPOSITION OF JOHN MORGAN

Washington, DC

November 28, 2018

Reporter: Linda Kinkade

Job No. 149798

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November 28, 2018

9:09 a.m.

The following is the transcript of the deposition of JOHN MORGAN held at the offices of Covington & Burling LLP, One CityCenter, 850 Tenth Street, NW, Washington, DC 20001.

Reported by: Linda S. Kinkade RDR CRR RMR RPR CSR

Registered Diplomate Reporter, Nationally Certified Realtime Reporter, Registered Merit Reporter, Registered Professional Reporter, Certified Shorthand Reporter, in and for the State of California, Notary Public, within and for the District of Columbia

1       A P P E A R A N C E S:

2  
3           Covington & Burling  
4           On Behalf of Plaintiffs OHIO A. PHILIP  
5           RANDOLPH INSTITUTE, et al.  
6           BY:   Robert Fram, Esq.  
7           One Front Street  
8           San Francisco, California 94111  
9  
10

11       -and-

12  
13           Covington & Burling  
14           On Behalf of Plaintiffs OHIO A. PHILIP  
15           RANDOLPH INSTITUTE, et al.  
16           BY:   Peter Rechter, Esq.  
17           One CityCenter  
18           850 Tenth Street, NW  
19           Washington, DC 20001  
20  
21  
22  
23  
24  
25

1       A P P E A R A N C E S (continued):

2  
3  
4           Baker & Hostetler

5           On Behalf of Deponent John Morgan

6           BY: Katherine McKnight, Esq.

7           1050 Connecticut Avenue, NW

8           Washington, DC 20036  
9

10  
11  
12          Ogletree, Deakins, Nash, Smoak & Stewart

13          On Behalf of Legislative Defendants

14          BY: Alyssa Riggins, Esq.

15          4208 Six Forks Road

16          Raleigh, North Carolina 27609  
17  
18  
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INDEX OF EXAMINATION

EXAMINATION OF JOHN MORGAN

PAGE

BY MR. FRAM

7

BY MS. MCKNIGHT

--

BY MS. RIGGINS

--

1 J. MORGAN

2 P R O C E E D I N G S

3 THE REPORTER: Good morning, counsel. If  
4 you would state your appearances for the record,  
5 please.

6 MR. FRAM: Sure. Rob Fram,  
7 Covington & Burling, for the plaintiffs.

8 MR. RECHTER: Peter Rechter, Covington &  
9 Burling, for the plaintiffs.

10 MS. MCKNIGHT: Good morning. Katherine  
11 McKnight, BakerHostetler, for John Morgan.

12 JOHN MORGAN,  
13 having been first duly sworn, was thereafter  
14 examined and testified as follows:

15 MR. FRAM: I was about to start by saying  
16 the stipulations that we've had in the prior  
17 depositions will apply, and there are basically two  
18 of them, and that is that objections other than to  
19 form are preserved, and the other one may or may not  
20 be necessary today, but an objection made by one  
21 attorney here counts for the other attorneys as well.

22 Ms. McKnight is the only attorney here, and  
23 certainly -- I don't know what we do about that. We  
24 haven't had this -- I haven't been in a deposition  
25 before where they weren't here, but, as far as I'm

1 J. MORGAN

2 concerned, the stipulation is fine.

3 EXAMINATION

4 BY MR. FRAM:

5 Q. So, Mr. Morgan, have you been deposed  
6 before?

7 A. Yes.

8 Q. How many times?

9 A. I don't know off the top of my head. Six  
10 or seven times maybe.

11 Q. Thank you. That's a fair number. Well,  
12 that will help move things along here. I'll try not  
13 to bore you with some of the usual things lawyers say  
14 at the beginning of depositions, but just a couple of  
15 things.

16 The most important thing I think we tend to  
17 say is that I will do my best to try not to interrupt  
18 you, my best, and not fill in your sentences. And  
19 I'll ask you to do the same just so that the court  
20 reporter here can get a clean booklet of what we're  
21 saying here for later when people read this. Is that  
22 okay?

23 A. Okay.

24 Q. Of course, if you need to take a break,  
25 feel free. I'll ask you try not to do that when I've

1 J. MORGAN

2 asked you a question that you haven't answered yet,  
3 unless you need to talk to your lawyer about an  
4 attorney-client privilege question, and, of course,  
5 that's always fine. But, other than that, I'd ask  
6 you to please not take a break while the question is  
7 hanging out there. Do you understand that?

8 A. Okay.

9 Q. Any reason you can't give complete and  
10 truthful testimony today, any medications or  
11 anything?

12 A. No, nothing like that.

13 Q. Okay. I'd like to show you a document we  
14 premarked as Exhibit 1, which is the subpoena in this  
15 case that was served on you. Please take a look at  
16 it.

17 (Exhibit 1 marked for  
18 identification: Subpoena to Produce  
19 Documents, Information or Objects)

20 Q. After you take a look at it, I'll ask  
21 whether you recall seeing it before?

22 A. Yes.

23 Q. Do you recall when you saw it?

24 A. Sometime in the summertime.

25 Q. Okay. And did you go look for documents



1 J. MORGAN

2 in response to this subpoena, Exhibit 1?

3 A. I shared this with the attorneys that are  
4 representing me here, and then, after discussing it  
5 with them, I looked for documents, yes.

6 Q. Okay. And the documents you produced in  
7 this case, did you look on a computer to find some of  
8 them?

9 A. Yes.

10 Q. Okay. And was that a computer that -- a  
11 personal computer or work computer, do you recall?

12 A. It's primarily a work computer.

13 Q. Do you recall, other than the computer, do  
14 you recall looking for documents any other place?

15 A. I would have looked through some files as  
16 well, like physical files.

17 Q. Did you find some documents in the  
18 physical -- in the paper files?

19 A. No.

20 Q. Okay. So the only documents you produced  
21 in this case, they were from the computer; is that  
22 right?

23 A. That's right.

24 Q. And did you look in email accounts when  
25 you were looking on the computer?

1 J. MORGAN

2 A. Yes.

3 Q. Do you recall which email accounts?

4 A. All the email accounts that I have access  
5 to.

6 Q. Okay. Now would one of them be jmorgan@  
7 appliedresearchcoordinates.com?

8 A. Yes.

9 Q. Any others that you have access to that  
10 you can recall?

11 A. morgangop@comcast.net, jmorgan4@cox.net,  
12 and I also have redistrictingexpert@gmail.com, which  
13 I don't think was active at the time of this  
14 redistricting work that I did.

15 Q. Were the other three email accounts active  
16 back in 2011?

17 A. I believe so.

18 Q. You mentioned you've been deposed a few  
19 other times. Did any of those depositions involve  
20 redistricting?

21 A. Yes.

22 Q. I'm going to make a point here. When we  
23 talk about redistricting in this deposition, it will  
24 be a couple different ways. I'm going to ask you  
25 some questions about your general redistricting

1 J. MORGAN

2 background, but, when I ask you about Ohio, I'm going  
3 to be asking you about redistricting as it concerns  
4 congressional redistricting, not the state  
5 legislative redistricting. Do you understand that?

6 A. Okay.

7 Q. And if it's not clear, please let me know,  
8 and I will try and clarify just so you understand.

9 So you said some of these depositions  
10 concerned redistricting; is that right?

11 A. Yes.

12 Q. Do you recall what states they concerned?

13 A. Yes.

14 Q. Could you please let me know?

15 A. North Carolina, Virginia, New Mexico,  
16 Georgia. I think that's all.

17 Q. Okay. Did any of them concern challenges  
18 to maps drawn in 2011 as regards the congressional  
19 redistricting?

20 A. Yes.

21 Q. Do you recall which one?

22 A. Virginia.

23 Q. Any of the others?

24 A. Not that I recall.

25 Q. In preparing for today's deposition --

1 J. MORGAN

2 well, let me back up. Did you do anything to prepare  
3 for today's deposition?

4 A. Yes.

5 Q. And what did you do, please?

6 A. I met with Ms. McKnight yesterday.

7 Q. Anything else?

8 A. That's basically all I did for  
9 preparation.

10 Q. Did you review any documents?

11 A. I looked at an invoice yesterday.

12 Q. Anything else?

13 A. I think there was another document that  
14 Ms. McKnight shared with me.

15 Q. Did it help you remember something you  
16 hadn't remembered before you saw it?

17 A. Yes.

18 Q. Okay. Well, then I would ask you, what  
19 was that document, please?

20 A. It was about a meeting in July of 2011.

21 Q. In Ohio?

22 A. In Ohio.

23 Q. Around July 7 or 8?

24 A. I think so.

25 Q. 2011?

1 J. MORGAN

2 A. I think so.

3 Q. Okay. We'll look at some of that.

4 Anything else?

5 A. That's it.

6 Q. Okay. At any time have you looked at the  
7 complaint in this case?

8 A. No, not really.

9 Q. You say "not really." I got to warn you.  
10 As a lawyer, when anyone says "not really," they  
11 always ask, well, in any way.

12 A. No.

13 Q. Okay. It's sort of a red flag for us.

14 A. I haven't -- I haven't seen a document  
15 with the complaint.

16 Q. Okay. I take it you heard about it; you  
17 just haven't read it.

18 A. Correct.

19 Q. I understand. We'll mark next a document.  
20 It's a version of your CV. We pulled it off the  
21 Internet. It was attached to a proposal of Applied  
22 Research Coordinates for the City of Placentia, but  
23 I'm not going to ask about the proposal. It just  
24 happens to be the document we have with your CV. So  
25 I just want to make that clear for the record.

1 J. MORGAN

2 We'll have this as Exhibit 2. I'm just going  
3 to ask you about your CV.

4 (Exhibit 2 marked for  
5 identification: Re Proposal for  
6 services 2017 (City of Placentia)  
7 with attached CV)

8 Q. Some of the questions I'll ask right now  
9 you'll need to look at the CV, some you won't, you'll  
10 probably just know off the top of your head, but if  
11 you need to look at it, feel free.

12 I guess, if you could please state your  
13 education since high school.

14 A. I graduated from the University of Chicago  
15 with a B.A. in history.

16 Q. And, yes, I see from your CV you did an  
17 Honors Thesis, didn't you.

18 A. Yes.

19 Q. And that was entitled, quote, "The Net  
20 Effects of Gerrymandering 1896 to 1932"; is that  
21 right?

22 A. Yes.

23 Q. And what was the -- was there any theme  
24 you recall about the net effects of gerrymandering in  
25 your Honors Thesis?

1 J. MORGAN

2 A. The time period under consideration was a  
3 defined political time period in U.S. history. So  
4 that's -- the 1896 to 1932 is a recognized time  
5 period. So I looked at the redistricting that  
6 occurred in 1900, 1910, 1920 and 1930, and I was  
7 looking at the balance of seats between the parties  
8 as a result of those elections.

9 Q. And did you find there was a net effect of  
10 gerrymandering in any one of those cycles?

11 A. I would say that, in general, first off, I  
12 need to say that the 1920 reapportionment cycle,  
13 there was no redistricting or apportionment of seats  
14 conducted after 1920. It would be unusual, and, as  
15 far as I know, it's the only time when the House of  
16 Representatives did not reapportion its seats.

17 So, in a sense, there wasn't a redistricting  
18 following the 1920 census in the way that we would  
19 understand seats -- the number of seats changing  
20 based on the population every ten years. In 1920  
21 there was no adjustment made for that.

22 So, with that in mind, I looked at the  
23 redistricting cycles in that time period. And, I  
24 guess, the general conclusion was that any  
25 redistricting effects were fairly balanced -- or any

1 J. MORGAN

2 advantage from redistricting, any of the effects from  
3 the parties, were fairly balanced. With the  
4 Republicans in the North and the Midwest, if they had  
5 an advantage, it was canceled effectively by the  
6 Democratic strength in the South and the Southwest.

7 Q. Now when you say it was balanced, just so  
8 I understand, that the parties in their respective  
9 regions, they did seek an advantage, they just -- is  
10 that right?

11 A. That was my analysis in that paper, yes.

12 Q. And they, in fact, regionally did obtain  
13 one; is that right?

14 A. That's what I discussed in the paper.

15 Q. I see. Okay. I'm going to bring you  
16 forward from 1932 a little bit.

17 A. Sure.

18 Q. Let's see if we can get up to your  
19 employment after you graduated. Will you please  
20 describe that? What was your first job?

21 A. Sure. Well, after college, I went to work  
22 for my father's company, Applied Research  
23 Coordinates, and I worked with him in that company.

24 Q. And did any of that work concern  
25 redistricting?



1 J. MORGAN

2 A. Yes.

3 Q. What time period, please?

4 A. Right after college. I graduated in June  
5 of 1991, and the next day I began work in Michigan on  
6 redistricting.

7 Q. You say "began work." Were you drawing  
8 maps?

9 A. Yes.

10 Q. Do you recall back then what the -- did  
11 you use software back then to draw maps?

12 A. Yes. Sometimes yes; sometimes no.

13 Q. Do you recall what software you were using  
14 back then?

15 A. I don't recall the name of it then, no.

16 Q. Was it a GIS program or was GIS around  
17 back then?

18 A. It was primitive back then, but it was  
19 around, yes.

20 Q. And then after that work on the Michigan  
21 maps, what did you do next?

22 A. I had also worked in Indiana before I left  
23 college, so I worked in Indiana and Michigan. I  
24 worked in a handful of other states in 1991 and 1992.

25 Q. And were you also drawing maps in Indiana?

1 J. MORGAN

2 A. Yes.

3 Q. And then after that cycle, then, the 1991  
4 cycle, what was your next job?

5 A. Well, I continued to work with my father's  
6 company in 1991, '92, '93, '94, and I assisted him  
7 also for the rest of the '90s.

8 Q. Now after '91, what were you doing -- I  
9 take it -- let me back up. So after '91 did any of  
10 your work concern redistricting during the '90s?

11 A. Yes. In 1992 I continued to work on  
12 redistricting.

13 Q. And where was that, please?

14 A. I did work in Pennsylvania, New York,  
15 New Jersey, Florida, Illinois, Wisconsin. I think  
16 that's most of the work that I personally did in the  
17 1990s cycle.

18 Q. Now I'm asking about after '91. So were  
19 these state legislative maps or were they  
20 congressional maps?

21 A. So to clarify, I worked in '91 and '92 on  
22 redistricting for state legislative and congressional  
23 redistricting in various combinations in those  
24 states.

25 Q. I see. And then after '92, what were you

1 J. MORGAN

2 working on?

3 A. I would work with my father's company,  
4 Applied Research Coordinates, on campaigns,  
5 elections, things like that.

6 Q. What did you do on campaigns and elections  
7 in the '90s?

8 A. I would look at past election results and  
9 come up with vote models or just analyze demographics  
10 and election history for campaign work.

11 Q. When you say "vote models," could you  
12 please explain what you mean by that?

13 A. Sure. In the '90s I would help create  
14 what I would call margin goals or expectations for  
15 statewide or district-based elections.

16 Q. So you say expectations for, let's say, a  
17 congressional district election. Would that mean  
18 some sort of a prediction or expectation as to how  
19 that district might vote based on how the map was  
20 drawn?

21 A. I would say that it was campaign-specific.  
22 So if I had a congressional candidate as a client, I  
23 would try to anticipate what votes were necessary to  
24 win the upcoming election.

25 And so in my discussion of terms, I would call

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2 that margin goals so that the candidate would have  
3 some idea of what it would take to win.

4 Q. And what would you base that on, what  
5 sorts of information or data?

6 A. I would use past elections. I would use  
7 demographic data. I would use candidate-specific  
8 information, such as background profiles, you know,  
9 bios of candidates. Polling information would also  
10 go into that.

11 Q. Now you say "past elections." Did you  
12 ever come to view what collection of past elections  
13 were most reliable for some of these expectations, as  
14 you called them?

15 A. Actually I would have most of the time  
16 available multiple elections for a series of years  
17 beforehand, and typically I would put the election  
18 data on a series of maps that I would then show to  
19 the campaigns, and these maps would be specific to  
20 whatever district was being analyzed.

21 Q. And did you have any -- did you have a  
22 view as to whether or not you should have more than  
23 one election, more than two, any certain number of  
24 elections you should have?

25 A. I would produce a lot of election

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2 material, and what was most useful varied depending  
3 on the nature of the election that was being  
4 conducted.

5 Q. Just so I understand, if you can give me  
6 an example of a campaign where you did this.

7 A. In that time period?

8 Q. Sure.

9 A. I would have -- let me think of a specific  
10 campaign. In the New Jersey legislative elections, I  
11 would have worked -- I did work -- for the State  
12 Assembly and the State Senate Republican caucuses in  
13 the 1991 and 1993 election cycles.

14 Q. Did you do any of this work for any  
15 congressional campaigns?

16 A. Yes.

17 Q. Could you name one for me, please.

18 A. I believe I did work -- I did work for  
19 Wisconsin congressional district 1 in a special  
20 election, and then a general election, I believe, in  
21 1994. There were other congressional elections in  
22 that cycle.

23 I did work for a New Jersey congressional  
24 candidate in 1994 in district 8. I did work for  
25 New Jersey congressional candidates in 1992 in

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2 district 6 and district 2. There are others as well.

3 (Counsel, Ms. Riggins, joined the deposition.)

4 Q. In the congressional district races, do  
5 you recall the kinds of election data that you would  
6 look at in terms of setting expectations? How many  
7 elections?

8 A. It really varies by state. In the case of  
9 New Jersey, I would have -- I did look at  
10 gubernatorial elections, presidential elections, and  
11 U.S. Senate elections. Those are the only statewide  
12 elections in New Jersey, but in other states there  
13 were more elections available.

14 So in Wisconsin I looked at elections for  
15 governor, treasurer, attorney general, secretary of  
16 state, president, Senate. Because there are more  
17 elections available in Wisconsin. Each state has a  
18 different slate of elections available.

19 Q. I notice you're including statewide  
20 elections with the elections you identified. Do I  
21 have that right?

22 A. Yes. I looked at statewide elections. I  
23 also looked at congressional election results too.

24 Q. Okay. Did you tend to stay away from  
25 judicial elections?

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2 A. In those cases, yes.

3 Q. Congressional -- have you ever used  
4 judicial elections looking at a congressional --

5 A. Yes.

6 Q. Okay. Which one, do you recall?

7 A. I looked at them in New Mexico, definitely  
8 in New Mexico. There are other times when I've used  
9 them. It just depends on the state and the elections  
10 that are available.

11 Q. Looking at those elections that you were  
12 looking at, did you ever create averages or indices?

13 A. I have done that. I don't tend to use  
14 them in this context.

15 Q. Do you use them in any context?

16 A. If a client requests them, yes.

17 Q. In what context, can you recall? If you  
18 ever have used them, in what context, can you recall?

19 A. In New Mexico there was an election  
20 average that was used by the legislature. And in the  
21 redistricting litigation around New Mexico's  
22 legislative elections, that average was used  
23 throughout.

24 Q. Have you ever used averages in any other  
25 work you've done?

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2 A. Yes, again, if the client requests it,  
3 yes.

4 Q. Can you recall where?

5 A. It would be state by state.

6 Q. Do you recall any states where you did?

7 A. Again, New Mexico, possibly Pennsylvania,  
8 possibly Ohio.

9 Q. Okay. Thank you for answering that way  
10 because I was going to clarify.

11 When asking about these averages, I was asking  
12 about beyond just the '90s, if that helps, but I  
13 think your answer is -- I take it the work in  
14 Pennsylvania and Ohio, that was after the '90s; is  
15 that right?

16 A. Yes.

17 Q. For election averages, have you ever heard  
18 something abbreviated EA? Have you ever seen that  
19 software?

20 A. I have seen election averages abbreviated  
21 as EA, yes.

22 Q. So we were talking about your work in the  
23 '90s. At some point did you leave Applied Research  
24 Coordinates?

25 A. Yes.



1 J. MORGAN

2 Q. And where did you go to, what job?

3 A. I worked for an organization called GOPAC  
4 starting in 1995.

5 Q. And what did you do there?

6 A. I was the national field director, and so  
7 I would -- I did a lot of things. I worked on  
8 candidate training classes. I would analyze  
9 elections and help the political team determine where  
10 to spend resources on legislative and congressional  
11 elections.

12 Q. How long did you have that job?

13 A. I was full-time employed at GOPAC for  
14 about two years in 1997, and I continued as a  
15 consultant after that for a time period.

16 Q. Until about '99?

17 A. Yes.

18 Q. Okay. And then after '99 what did you do?

19 A. I went back to work with my father's  
20 company, Applied Research Coordinates.

21 Q. And how long were you there?

22 A. I worked there until I took another  
23 position with GOPAC in 2004.

24 Q. So roughly '99 to 2004?

25 A. That's right.

1 J. MORGAN

2 Q. Okay. And what were you doing, on your  
3 return to Applied Research, what were you doing?

4 A. I did campaign work, as we discussed a  
5 little bit, and I also did redistricting work in 2001  
6 and 2002.

7 Q. And do you recall what states you did  
8 redistricting work in the 2001 cycle?

9 A. Yes.

10 Q. Which were they, please?

11 A. Rhode Island, New Jersey, Pennsylvania,  
12 Virginia, North Carolina, South Carolina, Georgia,  
13 Indiana, Wisconsin. There may have been one or two  
14 others.

15 Q. Did any of these concern congressional --  
16 were these all congressional redistricting?

17 A. They were a mix of legislative and  
18 congressional.

19 Q. Which ones were congressional, please?

20 A. Virginia, I think Pennsylvania and  
21 New Jersey. I don't know. I don't know some of the  
22 others.

23 Q. And did you actually draw maps?

24 A. Yes.

25 Q. And did you use software in the 2001 cycle

1 J. MORGAN

2 to draw maps?

3 A. Yes.

4 Q. What was the software that was in use at  
5 that time?

6 A. It varied by state, depending on what was  
7 available. The two software that I recall are  
8 Maptitude and ArcGIS, or sometimes their product is  
9 called AutoBound, but some states have their own  
10 proprietary software as well.

11 Q. What was the first state you employed  
12 Maptitude in?

13 A. I think it was used in Georgia, possibly  
14 Wisconsin, New Jersey, Virginia, North Carolina.

15 Q. So I think you said that Virginia was a  
16 congressional redistricting; is that right?

17 A. Yes.

18 Q. And so did you use Maptitude to draw maps  
19 in Virginia's congressional redistricting in 2001?

20 A. Yes.

21 Q. And also New Jersey's congressional  
22 redistricting in 2001, did you use Maptitude?

23 A. I believe so. I don't know that I was as  
24 involved in that as my father was.

25 Q. Okay. And what about Pennsylvania? Do

1 J. MORGAN

2 you recall what you did there, which software?

3 A. I don't. That may have been more  
4 legislative. There I worked primarily for the state  
5 Senate caucus.

6 Q. When you used Maptitude to draw lines back  
7 then, did you go through any training to learn how to  
8 use it?

9 A. Yes.

10 Q. What was the training?

11 A. I think there was a training session  
12 sponsored by Maptitude in conjunction with the  
13 Republican National Committee, and I also did  
14 Maptitude training at the NCSL, the National Council  
15 of State Legislators. There may have been more  
16 training than that, but those are two that I recall.

17 Q. Do you recall who led the training at the  
18 RNC?

19 A. At the RNC training, it would have been  
20 Dave Flaherty and Tom Hofeller. I think those two  
21 were the ones that did that training. At NCSL, I  
22 don't recall.

23 Q. Okay. Do you recall anything about, like,  
24 how long the training took place? Was it a couple of  
25 days?

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2 A. My portion was probably half a day.

3 Q. And was it here in Washington?

4 A. It was in the Washington area.

5 Q. Okay. Did anybody from the Caliper  
6 Company come to help in the training?

7 A. Yes.

8 Q. And just for the record, Caliper, you  
9 understand, is the company that produced Maptitude?

10 A. Yes.

11 Q. Have you stayed current with different  
12 versions of Maptitude as it's developed over the  
13 years, different versions?

14 A. I've stayed fairly current, yes.

15 Q. And you used it again in the 2011 cycle;  
16 is that right?

17 A. Yes.

18 Q. And are you familiar with it today?

19 A. Yes.

20 Q. Did you have to go through any new  
21 training on Maptitude as it's gone through different  
22 versions?

23 A. Yes. I did a training session in 2011 or  
24 2010. I don't remember which year it was.

25 Q. And do you recall anything about any new

1 J. MORGAN

2 features of Maptitude in 2010 or 2011 that were  
3 subject to the training?

4 A. No, I don't really. It just blurs  
5 together.

6 Q. Do you recall any new features in  
7 Maptitude that have evolved since the first time you  
8 used it?

9 A. Yes. There was a new feature that allowed  
10 Maptitude users to bring in a Google Earth view  
11 underneath the maps. I think there was more  
12 functionality with the data side of the GIS work  
13 engine.

14 Q. When you say the data side of the GIS  
15 engine, can you explain to me a little more what that  
16 involves?

17 A. Sure. The GIS software primarily takes  
18 the geospatial information and marries it with what  
19 you would consider to be something closer to  
20 spreadsheet data or database programs, and I think  
21 there was more functionality with the database side  
22 in 2011 than there would have been in 2001.

23 Q. Do you remember something called the  
24 DataView 1 table or window?

25 A. Yes.

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2 Q. The Info Tool?

3 A. Yes.

4 Q. Do you remember you could click on the  
5 Info Tool and then scroll over a portion of a map and  
6 then click on it, and the DataView 1 table would show  
7 up or a window would pop up?

8 A. I'm not exactly sure that it works that  
9 way.

10 Q. What's your understanding of how the Info  
11 Tool works or worked in 2011, to be specific?

12 A. I just don't know if it calls up the  
13 DataView 1 table when you do the procedure you were  
14 describing.

15 Q. But you saw the DataView -- you were able  
16 to call up the DataView -- are you comfortable with  
17 calling it the DataView 1 window or DataView 1 table?

18 A. I'm not sure what you're referring to  
19 exactly when you say that. When I think of DataView  
20 1, I'm thinking of the District Summary view, which  
21 is different than what you might be describing. I  
22 think our terms are crossed here.

23 Q. Okay. In the DataView 1 table, could you  
24 see different election results?

25 A. I'm not sure I understand what the

1 J. MORGAN

2 DataView 1 table is.

3 Q. Okay. Is there a way of using the Info  
4 Tool to see election results?

5 A. Yes.

6 Q. Okay. And you could see that on, say, the  
7 right side -- you could see a map in the middle of  
8 the screen and then you could see -- the window could  
9 appear on the right side?

10 A. The placement of windows is entirely  
11 configurable.

12 Q. Fair enough. But you could see it on the  
13 same screen?

14 A. Yes.

15 Q. Okay. What about exporting the election  
16 results to an Excel sheet? Would Maptitude have that  
17 capability?

18 A. Yes.

19 Q. Okay. Did it have that ability in 2011?

20 A. Yes, that ability was there to export  
21 different geographical tables  
22 in an Excel spreadsheet.

23 Q. Okay. Has the ability to export -- let me  
24 back up.

25 Has the ability to view election results in a



1 J. MORGAN

2 window or table changed in Maptitude since 2011?

3 A. I don't know.

4 I'm going to get a little water.

5 Q. Oh, sure, sure.

6 MR. FRAM: For the record, do you want to  
7 say hi?

8 (Alyssa M. Riggins, Esq. now present)

9 BY MR. FRAM:

10 Q. We were talking about 2001 a little bit.  
11 I think you actually said -- I want to make sure I  
12 got it right. You actually did draw maps in 2001?

13 A. Yes.

14 Q. And for congressional districts?

15 A. Yes.

16 Q. Okay. And when you did it, did you have  
17 election result data available?

18 A. Yes, election data current through 2000 --  
19 yeah, 2000, and very rarely would have been 2001,  
20 probably just through 2000.

21 Q. And using Maptitude were you able to  
22 tell -- have the election results data at the census  
23 block level?

24 A. Yes.

25 Q. And then, do I have it right, that the way

1 J. MORGAN

2 you draw a map in Maptitude is you draw a line around  
3 a group of census blocks; is that right?

4 A. There are many different ways to draw  
5 maps. One way is as you're describing.

6 Q. What are the other ways?

7 A. Primarily you would do a point-and-click  
8 like you're describing. You can lasso where you draw  
9 an outline around census blocks. You can also use  
10 other levels of geography to point and click.

11 You can also select by other attributes. You  
12 could select by, say, a search of a code. Like you  
13 could select something based on its geography code.  
14 So I could select a single county, not by clicking on  
15 it, but by putting in its county ID. So there's just  
16 multiple ways to select things. But point-and-click  
17 and also lassoing and things like that.

18 Q. When you say "point-and-click," just so  
19 that we're on the same page here, and "lassoing,"  
20 does lassoing involve circling a certain, let's say,  
21 number of census blocks, as an example?

22 A. As an example, you could circle census  
23 blocks. The sensitivity depends on what you actually  
24 encompass, whether the program is set to select only  
25 things enclosed within the polygon or whether things

1 J. MORGAN

2 that touch the polygon. There's many different ways  
3 to do this.

4 Q. Okay. And what's point-and-click, your  
5 phrase?

6 A. If you were to have the settings in  
7 Maptitude configured in such a way that you would  
8 click on a geographic unit, it would select it for  
9 inclusion in a proposed district.

10 Q. Okay. And do you recall, did you prefer  
11 one method or the other when you were drawing maps,  
12 congressional district maps, in 2001?

13 A. I don't have a preference per se on that.  
14 I would work with the clients to configure what they  
15 want to use.

16 Q. But either way you would, once you either  
17 lassoed or point and click, you would have available  
18 the prior election results; is that right?

19 A. Generally speaking, for whatever you  
20 selected, you could get election results on that  
21 selected portion. So if one were to select a town,  
22 you would potentially have election results for that  
23 town, or for the new proposed district, which would  
24 include that town, depending on the settings.

25 Q. Now to get the election results data --

1 J. MORGAN

2 well, I'll ask you. How did you get the election  
3 results data? What was the source of it?

4 A. Generally speaking, the source of the  
5 election results data would be the secretaries of  
6 states from the various states, the election  
7 authorities, division of elections or secretary of  
8 states in South Carolina or Wisconsin or Indiana,  
9 depending.

10 Q. Did the secretary of states have election  
11 data broken down to the census block level?

12 A. In my experience most secretaries of  
13 states do not but some election authorities do.

14 Q. Okay. If they didn't, was there another  
15 source you would need to use or did use?

16 A. Well, ultimately, when you talk about the  
17 source, the source is ultimately going to be the  
18 secretary of state or election division. The  
19 election results are reported at different levels.  
20 Generally, they would be reported at the precinct  
21 level, possibly a town or county level, and so that's  
22 the source material.

23 Q. Right. That's the ultimate source  
24 material --

25 A. Yes.

1 J. MORGAN

2 Q. -- but it might be -- if the secretary of  
3 state, let's say, for example, provided the election  
4 results at the precinct level, not a census block  
5 level, have you ever run into a state where that was  
6 the case?

7 A. Yes.

8 Q. For Maptitude, you might want to have the  
9 election results at the census block level. Have you  
10 ever run into that where you only had precinct data  
11 from the secretary of state but you needed to get  
12 census block election results from Maptitude?

13 A. Yes.

14 Q. Do you remember an example of where that  
15 happened?

16 A. That would be fairly standard, yes.

17 Q. Okay. And so to get from that secretary  
18 of state precinct-level information to the  
19 census-block level to use in Maptitude, how was that  
20 translation effected?

21 MS. MCKNIGHT: Objection.

22 Q. How did you -- fair enough.

23 How did you get from secretary of state  
24 precinct-level data to census-block-level data?

25 A. In general, the precinct-level data would

1 J. MORGAN

2 be allocated by the underlying census blocks to the  
3 extent that the census-block boundaries were  
4 congruent with the precinct boundaries.

5 Q. Did somebody have to figure that out?

6 A. Well, not always, because the census  
7 geography sometimes aligns with the precinct  
8 geography, so, in a sense, that information is  
9 available.

10 Q. Okay. Is it already just geocoded in by  
11 the secretary of state or someone needs to do that  
12 work?

13 A. It depends on the state. Again, the --  
14 there is a lot of additional data work that can be  
15 done to make this process more efficient.

16 Q. And sometimes precincts split census  
17 blocks; is that right?

18 A. Yes.

19 Q. And then someone has to figure out what to  
20 do about that; is that right?

21 A. In those cases, yes, if it's a requirement  
22 for redistricting.

23 Q. Did you do that work yourself or did you  
24 work with some other person or expert to help on  
25 that?

1 J. MORGAN

2 MS. MCKNIGHT: Objection.

3 A. In general, I do some work by myself. I  
4 work with others. I use the data that's provided for  
5 me.

6 Q. Who are the others you might have worked  
7 with or you did work with in the past on  
8 congressional redistricting with this sort of data?

9 A. I've worked with Clark Benson. I've  
10 worked with Dave Flaherty, John Diaz. I've also  
11 worked with Jennifer Flaherty. There have been other  
12 people that have provided data like this, but those  
13 are the people I remember working with.

14 Q. Do you recall the elections in which you  
15 worked with Clark Benson?

16 A. I worked with Clark Benson on many  
17 elections.

18 Q. Okay. Do you recall any congressional  
19 districting projects where you worked with Clark  
20 Benson?

21 A. Yes.

22 Q. Which ones, please?

23 A. I've worked with him as far as election  
24 data -- he provides datasets for dozens of states  
25 that I've worked in. I've gotten data from him for

1 J. MORGAN

2 Connecticut, New York, Pennsylvania, New Jersey,  
3 Maryland, Virginia, North Carolina, South Carolina,  
4 Georgia, Florida, Tennessee, Ohio, Michigan, Indiana,  
5 Wisconsin, Missouri, Iowa, Louisiana, New Mexico,  
6 California, Nevada.

7 These are instances where I've gotten election  
8 data in the way that you're describing from Clark.  
9 There may be others.

10 Q. Did you get any -- you mentioned Ohio, and  
11 you also mentioned some other experts you worked with  
12 in terms of election data. Anybody else besides  
13 Mr. Benson that you worked with for Ohio?

14 A. Primarily for Ohio, for this type of  
15 election work, I worked with Mr. Benson, and I  
16 believe that there was an Ohio university that was  
17 involved in some of this data collection.

18 Q. Does the name Mark Salem ring a bell?

19 A. No.

20 Q. Does Cleveland State University ring a  
21 bell?

22 A. That sounds right.

23 Q. Okay. You said you were back with Applied  
24 Research Coordinates, I think you said until 2004,  
25 and then you went back to GOPAC; is that right?



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2 A. Yes. I started work as GOPAC executive  
3 director in July of 2004.

4 Q. And what did you do then?

5 A. I was the leader of the organization. I  
6 was the executive director from 2004 through 2007  
7 working with the chairman, J.C. Watts, who was a  
8 former member of Congress.

9 Q. What were your responsibilities?

10 A. I was responsible for all aspects of the  
11 organization.

12 Q. Did any of it have to do with  
13 redistricting?

14 A. During that time period, to the extent  
15 that redistricting was discussed, I might have said  
16 something about it.

17 Q. Do you recall anything?

18 A. Not specifically.

19 Q. Now, I'm sorry, you were there until about  
20 2007?

21 A. That's right. I left my position  
22 officially in March of 2007. I continued on as a  
23 consultant for a few more months.

24 Q. And then what did you do after that?

25 A. I took over ownership of Applied Research

1 J. MORGAN

2 Coordinates. I acquired that from my father.

3 Q. And that's your present job to this day?

4 A. Yes.

5 Q. Now Applied Research Coordinates, that's  
6 over in Fairfax, Virginia; is that right?

7 A. At this time it was. I currently am in  
8 Springfield.

9 Q. I'm sorry. We should get our time right.  
10 In 2011 was it in Virginia?

11 A. Yes.

12 Q. In Fairfax?

13 A. Yes.

14 Q. Okay. And how many people work at Applied  
15 Research Coordinates in 2011?

16 A. Typically it would be one or two.

17 Q. I see in your résumé one of the clients  
18 you listed was Republican State Leadership Committee.  
19 Was that the case in 2011?

20 A. I'm sorry. Where are you directing --

21 Q. On your résumé, which we have here as  
22 Exhibit 2, I think you've got here under, let's see,  
23 the second bullet under Employment, on page 1 of your  
24 CV, Republican State Leadership Committee.

25 A. I see that.

1 J. MORGAN

2 Q. Was that a client in 2011?

3 A. No.

4 Q. Okay. When did you work with the  
5 Republican State Leadership Committee?

6 A. In 2014.

7 Q. Okay. Did you ever work with a person  
8 called Chris Jankowski?

9 A. I have worked with him, yes.

10 Q. Did you do any work with him in 2010?

11 A. No.

12 Q. 2011?

13 A. No.

14 Q. Okay. 2009?

15 A. No.

16 Q. Did you work with anybody -- did you ever  
17 work with someone called Ed Gillespie?

18 A. No.

19 Q. We can get into specifics in just a little  
20 bit, but I think you mentioned Ohio. So you worked  
21 on Ohio redistricting in 2011, correct?

22 A. Yes.

23 Q. And at that time you worked with  
24 Maptitude?

25 A. Yes.

1 J. MORGAN

2 Q. And the work you did with Maptitude  
3 involved having access to election results data, is  
4 that right, in 2011 in Ohio?

5 A. Yes.

6 Q. And you had that information at the  
7 census-block level?

8 A. Yes.

9 Q. Do you recall the elections as to which  
10 you had election results data when you did your work  
11 in Ohio in 2011?

12 A. I had election results from 2002, 2004,  
13 2006, 2008 and 2010, as I recall.

14 Q. Statewide?

15 A. I believe so.

16 Q. Nonjudicial?

17 A. I believe so.

18 Q. Do you recall using any averages of those  
19 elections?

20 MS. MCKNIGHT: Objection.

21 A. I don't specifically recall that, no.

22 Q. How would you use these election results?  
23 If you didn't average them, you just had a whole  
24 array of elections, how would you use that  
25 information?

1 J. MORGAN

2 MS. MCKNIGHT: Objection.

3 Q. Would you reduce it -- if you didn't  
4 reduce it down to a single number of an average?

5 MS. MCKNIGHT: Objection.

6 A. The election data can be used in many  
7 different ways. I could look at any specific  
8 election that's in the entire dataset of elections  
9 that are available. For example, there's a  
10 governor's race in 2010, so that would be one  
11 election you could look at.

12 Q. Now before, you said, you worked on a  
13 congressional campaign, you sometimes would try to  
14 figure out, I think you used the word, what the  
15 expectations would be for a district based upon past  
16 election results. Did you ever do that doing  
17 redistricting, to figure out what an expectation  
18 would be for how a district would vote?

19 MS. MCKNIGHT: Objection.

20 A. I'm not sure what you're asking.

21 Q. You have all sorts -- let me back up. In  
22 Ohio, in 2010-2011 cycle, did you do any map drawing?

23 MS. MCKNIGHT: Objection.

24 A. I did some map drawing in 2011 on the two  
25 times that I came out to visit.

1 J. MORGAN

2 Q. Okay. And when you drew, did the map  
3 drawing, were you able -- did you have access to  
4 election data when you drew the maps?

5 A. Yes.

6 Q. Okay. And using that election data, would  
7 you have some expectation as to how a particular  
8 congressional district would vote?

9 MS. MCKNIGHT: Objection.

10 A. I don't recall doing that.

11 Q. How would you -- how would you use, if you  
12 used it at all, the election data?

13 A. It depends on what the clients want to  
14 see. In my case, you know, I would have all the  
15 election data available.

16 Q. And in Ohio in 2011, do you recall what  
17 the clients wanted to see?

18 A. No.

19 Q. Do you recall any way you used the  
20 election data in 2011?

21 A. I mean, there was a lot of election data  
22 available. I looked at the election data on the  
23 screen, and I, you know, worked with what was  
24 available.

25 Q. And did you present that -- in 2011 in

1 J. MORGAN

2 Ohio, who was the client, please?

3 A. I worked with Mark Braden. He brought me  
4 in for the legislative reapportionment panel on the  
5 congressional redistricting efforts.

6 Q. Was he the client, as far as you  
7 understood?

8 A. Yes.

9 Q. Okay. And did you present election data  
10 to anybody other than -- well, let me back up.

11 Did you present election data to Mark Braden  
12 in 2011?

13 A. I didn't present election data in the  
14 manner you're describing.

15 Q. Did you present it to anyone? Well, you  
16 had the data. Did you show it to anybody?

17 A. I don't understand.

18 Q. Well, you said you had a broad array of  
19 election data. My question is: What did you do with  
20 it?

21 A. It was all available on the Maptitude  
22 system, and it was available at multiple levels, at  
23 the precinct, the town, the county level. All that  
24 data was available, and I used that data to set up  
25 the map drawers so they could draw maps.

1 J. MORGAN

2 Q. I see. Do you recall who you helped set  
3 up on Maptitude so that they could draw maps?

4 A. Yes.

5 Q. Who was that, please?

6 A. I worked with Ray DiRossi and Heather  
7 Mann.

8 Q. What about Adam Kincaid?

9 A. No.

10 Q. Did you ever work with Adam Kincaid?

11 A. I know who he is, and I've talked to him.  
12 I can't say I've worked directly for him or with him.

13 Q. Did you show Ray DiRossi and Heather Mann  
14 how to access election data in Maptitude?

15 A. Yes.

16 Q. Did you show them how to do it at the  
17 census-block level?

18 A. I don't recall.

19 Q. What do you recall, if anything, about how  
20 you showed them how to access election data?

21 A. I showed them how to use the tools in  
22 Maptitude to display the election data they wanted to  
23 see.

24 Q. Were one of those tools the info tool?

25 A. That would have been one of the tools,



1 J. MORGAN

2 yes.

3 Q. Do you recall any of the other tools?

4 A. I would say that one of the tools I would  
5 use would be the labeling tool so that you could  
6 display, say, the county name and then some political  
7 or demographic data, such as the population or some  
8 election result, on the label for a geography.

9 Q. Any other tools you recall?

10 A. I used the district summary tool, if you  
11 will, and the -- it's called, I think, the pending  
12 changes window, so it allows you to look at a  
13 proposed district based on a selection that has not  
14 been added yet. So I used that tool as well.

15 Q. Did any of these tools involve the export  
16 of data to Excel, election data, to Excel?

17 A. I don't recall.

18 Q. Do you recall ever seeing the output of  
19 their work using -- Heather Mann or Ray DiRossi's  
20 work -- using Maptitude?

21 A. No.

22 Q. Turning to the Ohio 2011 cycle, do you  
23 recall who reached out to you to work on that?

24 A. Mark Braden.

25 Q. You say you were providing training -- let

1 J. MORGAN

2 me back up. Is it fair to say that you were  
3 providing training to Heather Mann and Ray DiRossi on  
4 Maptitude in 2011?

5 A. Yes.

6 Q. And was that done in person in Ohio?

7 A. Yes.

8 Q. Was that done at that July 7 and 8 meeting  
9 that you referenced in the beginning of the  
10 deposition?

11 A. Yes. I worked with them on the  
12 legislative and, to some extent, on the congressional  
13 redistricting.

14 Q. And that took place -- that was in the  
15 afternoon of the 7th and the morning of the 8th, is  
16 that right, in July 2011?

17 A. I'm not sure.

18 Q. Do you recall how long the training was?

19 A. No.

20 Q. Okay. Do you recall going back there for  
21 more training, to give them more training after that  
22 early July meeting?

23 A. Yes, I went back, I think, later in July.

24 Q. Around the 25th?

25 A. That sounds about right.

1 J. MORGAN

2 Q. Okay. And what do you recall about that  
3 training?

4 A. I helped them get their map computers up  
5 and running and displayed the way they wanted them to  
6 display the information.

7 Q. Do you recall initially -- let me back up.  
8 When you left Ohio July 8th, did you expect to  
9 come back later in July for further training?

10 A. I thought that was possible, yes.

11 Q. Okay. And was this second meeting, was  
12 that back at the DoubleTree Hotel in Columbus?

13 A. I don't know where it was.

14 Q. Was it in a hotel room?

15 A. Yes.

16 Q. A hotel room where they had taken the  
17 normal beds and hotel furniture out and they just had  
18 a work desk and computers; is that right?

19 A. Yes, that sounds right.

20 Q. About three computer screens?

21 A. That sounds about right.

22 Q. Anybody else there besides Ms. Mann and  
23 Mr. DiRossi?

24 A. On one of the meetings I know Mark Braden  
25 was there. I don't remember who else was there in

1 J. MORGAN

2 the hotel suite.

3 Q. Okay. Now after that visit to Ohio, did  
4 you go back again?

5 A. No.

6 Q. Do you recall any questions they asked you  
7 at the second meeting, this late July meeting?

8 A. No.

9 Q. Was that the last time you communicated  
10 with Mr. DiRossi or Ms. Mann about the Ohio  
11 redistricting in 2011?

12 A. I don't think so.

13 Q. You think you might have communicated with  
14 them after that?

15 A. I think so.

16 Q. Did you make any further trips back to  
17 Ohio?

18 A. No.

19 Q. So these communications were on the phone  
20 or --

21 A. Yes.

22 Q. So you had phone calls with them? Do you  
23 recall about how many times you talked on the phone?

24 A. I only recall one time I spoke with them.

25 Q. Okay. When was that?

1 J. MORGAN

2 A. I don't remember when it was. It was -- I  
3 don't know when it was exactly.

4 Q. Do you recall what it was about?

5 A. I don't recall what it was about.

6 Q. Did you email back and forth?

7 A. Not that I recall.

8 Q. Okay. Did you have any shared sites, FTP  
9 sites or any other sites, where you could share  
10 information?

11 A. Not that I recall, no.

12 Q. Did you ever send each other any hard copy  
13 of anything regarding redistricting in 2011?

14 A. No.

15 Q. Other than your meeting on July 7 and 8 in  
16 Ohio, did you attend any other meetings in Ohio about  
17 redistricting?

18 A. I think that was the first one.

19 Q. Did you ever see any presentation by  
20 anybody from Cleveland State University about  
21 redistricting in Ohio in 2011?

22 A. No.

23 Q. Do you recall any reason given as to why  
24 you were being asked to help out in Ohio in 2011?

25 A. Mr. Braden said he was working for the

1 J. MORGAN

2 Ohio Redistricting Commission and that he wanted me  
3 to be available to help out, and I said I thought I  
4 could arrange it. And I had worked with him in other  
5 states.

6 Q. Do you recall about when that conversation  
7 took place?

8 A. Sometime in the summertime.

9 Q. Would it have been June?

10 A. I don't know.

11 MR. FRAM: We've been going a while. We  
12 can take a break.

13 (Proceedings recessed at 10:15 a.m.)

14 (Session at 10:26 a.m.)

15 BY MR. FRAM:

16 Q. Before the break, we were talking about  
17 different tools in Maptitude and you mentioned the  
18 label tool. Do you remember that?

19 A. Yes.

20 Q. The label tool in Maptitude, it's a  
21 little -- there's an icon on the right-hand, excuse  
22 me, on the left-hand side of the screen, is that  
23 right, to click on the label tool?

24 A. I don't know. The placement of things  
25 varies on how the screens are set up.

1 J. MORGAN

2 Q. Okay. But there's an icon on the screen  
3 you can click on the label tool?

4 A. Yes.

5 Q. When you click on the label tool, then if  
6 you hover the cursor over a congressional district  
7 and you click on it, what do you see then?

8 A. I don't know. That's not how I use the  
9 label tool.

10 Q. How do you use it?

11 A. I use the label tool to put the name of  
12 the locality that I'm interested in, say a township  
13 or a county, and then some information about it.

14 Q. Okay. If you wanted to generate -- have  
15 you ever generated a map where right on top of the  
16 congressional district was a little box with certain  
17 information about the district?

18 A. Yes.

19 Q. And that information could be election  
20 data information?

21 A. Yes.

22 Q. Do you recall training Ms. Mann or  
23 Mr. DiRossi how to do that in 2011?

24 A. Yes.

25 Q. And do you recall what tool you would use

1 J. MORGAN

2 to do that?

3 A. I would describe it as a label tool.

4 Q. Okay. So you could use the label tool.

5 And could you customize what election information you  
6 wanted to see on top of that congressional district?

7 A. Yes.

8 Q. And you could include an election average,  
9 if that was your intent; is that right?

10 A. You can include any piece of data that's  
11 in the software, yes.

12 Q. Do you recall any way in which the  
13 election -- excuse me -- any way in which the label  
14 tool was customized in your work in Ohio in 2011?

15 A. No.

16 Q. Do you recall any information they wanted  
17 to see and be on top of a district?

18 A. Not specifically, no.

19 Q. Do you recall whether they wanted to see  
20 election data of any kind?

21 A. Yes, they wanted to see election data.

22 Q. Do you recall whether they wanted to see  
23 any average, election average, of any kind, not  
24 saying which one?

25 A. I think so.



1 J. MORGAN

2 Q. But I take it, as you sit here now, you  
3 don't recall which election average, if they wanted  
4 one, that they wanted to see?

5 A. No, I don't know.

6 Q. As you trained them, did you ever watch  
7 them actually do that, use the label tool to show a  
8 little box of information on top of a district?

9 A. I showed them how to display labels in  
10 that manner, yes.

11 Q. And including election data?

12 A. Yes.

13 Q. Do you recall whether or not you trained  
14 them in how to use the DataView 1 table?

15 A. Again, I'm not sure I understand what you  
16 mean by the DataView 1 table.

17 Q. We can take a look at a document on that.

18 Did you ever look at -- did you show them how  
19 to use the info tool?

20 A. I use the info tool. To the extent that  
21 that was part of the training, then yes.

22 MR. FRAM: Why don't we mark as Exhibit 3,  
23 it's a document, Bates number LWVOH\_00008706 through  
24 87 -- excuse me -- 07 on the other side of the page.

25 (Exhibit 3 marked for

1 J. MORGAN

2 identification: Redistricting

3 Meetings Agenda

4 LWVOH\_00008706 - LWVOH\_00008707)

5 Q. I'll say that again. 00008706 through 07.  
6 It's entitled Redistricting Meetings Agenda,  
7 Thursday, July 7, 2011 at the top of the page, and  
8 then down in the middle of the page it says Friday,  
9 July 8, 2011.

10 My question to you, Mr. Morgan: Is this the  
11 document that you looked at the other day in  
12 preparing for your deposition?

13 A. No.

14 Q. Okay. Have you seen this document before?

15 A. No.

16 Q. Okay. Does this -- however, you do, I  
17 take it, you do recall attending meetings on July 7  
18 and July 8, 2011 in Ohio?

19 A. I do remember attending meetings around in  
20 that time period, yes.

21 Q. And we'll start with July 7. Do you  
22 recall starting out the day meeting with the  
23 auditor's office?

24 A. I recall a meeting. I don't know if it  
25 was at the auditor's office.

1 J. MORGAN

2 Q. Okay. Do you recall meeting with the  
3 governor's staff on the morning of July 7?

4 A. I recall one meeting that seemed to have a  
5 lot of attendees.

6 Q. Do you recall Governor Kasich at any of  
7 these meetings?

8 A. I don't think so.

9 Q. Mark Braden was at these meetings?

10 A. Yes. I was with Mark Braden during that  
11 first trip to Ohio.

12 Q. You flew out together?

13 A. I believe so. I really don't know. I  
14 don't know.

15 Q. Do you recall any of the House or Senate  
16 staff, Ohio House or Senate staff, that you met with?

17 A. Yes, I was introduced to Heather Mann and  
18 Ray DiRossi at that time, and there was one other  
19 person, I think, that was with the speaker's staff.

20 Q. Troy Judy?

21 A. I met him when I was out there, yes.

22 Q. Turn to the second page. You see there's  
23 a whole list of staff and titles. Do you see that?

24 A. Okay.

25 Q. Take a look and see if it refreshes your

1 J. MORGAN

2 recollection as to any of the people that you met  
3 with while you were out there.

4 A. I remember meeting Mike Lenzo and Troy  
5 Judy, and I think I met Beth Hanson.

6 Q. Okay. Do you recall if you met Beth  
7 Hanson at the governor's office?

8 A. I don't recall.

9 Q. Okay. I think you already said you met  
10 Ray DiRossi; is that right?

11 A. Yes.

12 Q. And is that the first time you met Ray  
13 DiRossi?

14 A. Yes.

15 Q. And Heather Mann, did you meet her?

16 A. Yes.

17 Q. Is that the first time you met her?

18 A. Yes.

19 Q. I'm just going to stay with the morning  
20 before we get to the redistricting training. The  
21 meetings you had -- let me break this up.

22 Do you remember there being meetings and then  
23 separately there was a training set of meetings?

24 A. I don't know if it was the same day or  
25 over two days. That's what I'm really not clear on.

1 J. MORGAN

2 Q. Okay.

3 A. I remember that there was one meeting with  
4 a very large group, and there was another meeting  
5 with a smaller group.

6 Q. Okay. And let's break them apart. Who  
7 was in the larger group?

8 A. It would have been the people that were  
9 representing the statewide elected officials on the  
10 reapportionment board.

11 Q. Reapportionment, that being the state  
12 legislative?

13 A. Yes.

14 Q. I'm not going to ask you about that.

15 A. Okay.

16 Q. But just focusing on the congressional  
17 redistricting, was there -- other than the training  
18 meetings, was there any meeting that concerned the  
19 congressional redistricting?

20 A. I really don't distinguish between the  
21 two. I was hired for work for both the legislative  
22 and the congressional, so I don't know that the  
23 meetings had different purposes.

24 Q. Okay. Do you recall anything of what was  
25 discussed at the -- what I'll call the non-training

1 J. MORGAN

2 meeting?

3 MS. MCKNIGHT: Objection.

4 A. No, not really.

5 Q. Or what the purpose of that meeting was?

6 A. From my point of view, the purpose was to  
7 make introductions. I really didn't know any of the  
8 people that were involved in this process aside from  
9 Mr. Braden.

10 Q. Do you recall anything that was said at  
11 that meeting?

12 A. No.

13 Q. Okay. Why don't we turn to the training  
14 meeting or meetings. Like you say, you're not sure  
15 if it was one or two days. What do you recall about  
16 that?

17 A. I recall working with Mr. Braden and Ray  
18 and Heather and I think Troy Judy and Mike. Those  
19 are the ones that I remember talking to in that  
20 training-style session.

21 Q. What do you recall about the content of  
22 the training?

23 A. I think -- I really don't remember. It  
24 wasn't a formal training session like a classroom  
25 style. So it wasn't like I was at a lectern talking.

1 J. MORGAN

2 So it was really more of a -- looking at Maptitude  
3 software.

4 Q. And did you have Maptitude up on the  
5 screen that they could see?

6 A. Yes.

7 Q. Did you show them how to use different  
8 tools?

9 A. That's what I -- that's what I recall.

10 Q. And one of those was the label tool?

11 A. Yes, I think I worked with the label tool  
12 there.

13 Q. What about the info tool?

14 A. I don't recall that.

15 Q. What about exporting data to Excel, did  
16 you go over that in training?

17 A. I don't believe I did.

18 Q. Did you do that at any point with them?

19 A. I don't recall specifically.

20 Q. Do you recall any discussion of which  
21 election data to include in Maptitude?

22 A. At that training session?

23 Q. At that training session.

24 A. No.

25 Q. Do you recall at any time?

1 J. MORGAN

2 A. Yes, I recall looking at the statewide  
3 elections, and I suggested that close statewide  
4 elections would be useful to look at in a general  
5 sense.

6 Q. With whom did you have that conversation,  
7 please?

8 A. With Ray and Heather.

9 Q. Do you recall if that would have been --  
10 that would have been after the July 7 and 8 meetings;  
11 is that right?

12 A. Yes.

13 Q. Would that have been before you returned  
14 around July 25th to Ohio, or was it when you  
15 returned?

16 A. It was when I returned.

17 Q. Okay. Do you recall why you suggested  
18 looking at the state close elections?

19 A. I remember that the 2006 election results  
20 were not favorable to the Republicans, and so in the  
21 sense that you might treat that election as an  
22 outlier, if you're looking for close elections.

23 Q. What about 2008 presidential? Do you  
24 recall any conversation about that?

25 A. No.



1 J. MORGAN

2 Q. Now there you said -- Obama won the state  
3 in 2008; is that right?

4 A. Yes.

5 Q. Do you recall whether or not it would be a  
6 good idea to rely on the McCain percentage or not?

7 A. I don't recall that conversation.

8 Q. What about the Senate elections? Do you  
9 recall a conversation whether or not to rely on the  
10 Senate elections in Ohio?

11 A. I'm aware of the Senate elections  
12 generally. I don't recall specifically discussing  
13 that.

14 Q. In some of those Senate elections the  
15 Republicans did well; is that right?

16 A. Yes.

17 Q. Did you have any discussion whether to not  
18 include those elections because the Republicans did  
19 too well?

20 A. No.

21 Q. Do you recall discussing excluding any  
22 elections because the Republicans did too well?

23 A. No.

24 Q. Why did you want to look at close  
25 elections?

1 J. MORGAN

2 A. In general terms, I would say that close  
3 elections are useful if you're looking at statewide  
4 election -- it just models close elections to look at  
5 previous close elections.

6 Q. Why would you want to model close  
7 elections?

8 A. It's just one of the elections to look at.  
9 I think that, in a general sense, the close elections  
10 are useful in showing, you know, what can happen  
11 when, you know, when a future election is not certain  
12 or going strongly one way or the other, and in most  
13 cases a future election is unknown.

14 Q. So see if I understand you correctly. If  
15 a Republican would prevail using election results  
16 data from a close election, was that, in your view,  
17 more accurate prediction that they would prevail in a  
18 district in a future election?

19 A. Not necessarily. I just would say that,  
20 in a general sense, I think that the close elections  
21 are useful than elections that skew one way or the  
22 other at the extremes.

23 Q. Useful to what purpose, to what end?

24 A. To just understanding how a state  
25 performs.

1 J. MORGAN

2 Q. Okay. But useful in understanding how  
3 they perform as to who might win the election?

4 A. Yes. And also a lot of times, when you  
5 use statewide elections of any kind, from my point of  
6 view, looking at candidate geography is also  
7 important, where a candidate is from.

8 Q. I'm sorry. What did you mean by that,  
9 please?

10 A. When you're looking at a general election  
11 in a statewide contest, which is usually what would  
12 be used in a statewide redistricting setting, it's  
13 important, in my opinion, to look at where candidates  
14 are from, because, typically, they would overperform  
15 in their home areas versus other areas of the state.  
16 That's just a general observation.

17 Q. But you did look at statewide election  
18 data, correct?

19 A. Yes.

20 Q. And that statewide election data does not  
21 include congressional district level where the  
22 candidate is from, correct?

23 A. I don't understand the question.

24 Q. Well, you said you would look -- I'm  
25 trying to understand how you would include the

1 J. MORGAN

2 information about where the candidate is from. If  
3 you're starting with statewide election data, then  
4 how did you also include the information about where  
5 the candidate is from?

6 A. It's not included in the data per se.

7 Q. Okay. Can you -- does Maptitude help you  
8 capture that in some way?

9 A. In a general sense, it's possible to  
10 identify a previous electoral district for a  
11 candidate or to show an address where that candidate  
12 resides.

13 Q. But as you say -- you said it's possible.  
14 Do you recall doing that, training people how to do  
15 that in Ohio in 2011?

16 A. No.

17 Q. Okay. Do you recall any questions that  
18 were asked of you in the training sessions -- session  
19 or sessions -- on July 7 and 8 in Ohio in 2011?

20 A. No, I don't recall specific questions.

21 Q. Did Ms. Mann or Mr. DiRossi have the  
22 opportunity to actually go on a computer and practice  
23 using Maptitude during those sessions?

24 A. Yes, I believe so.

25 Q. Anybody else do that?

1 J. MORGAN

2 A. I don't think so. I really don't recall  
3 that.

4 Q. And do you recall, when they were on the  
5 computer practicing, what were they practicing doing?

6 A. Either drawing legislative districts or  
7 drawing congressional districts.

8 Q. Okay. And when they drew congressional  
9 districts, were they drawing them around census  
10 blocks or were they drawing -- how were they drawing  
11 them?

12 MS. MCKNIGHT: Objection.

13 A. I'm not sure I understand.

14 Q. Let's say they were drawing a  
15 congressional district. How did they go about it?  
16 What were they doing when they were doing that  
17 drawing?

18 A. I remember there was information on the  
19 map screens and there were, for example, existing  
20 district boundaries, and the congressional districts  
21 were just -- were drawn, basically, in the  
22 point-and-click methodology. And I don't remember --  
23 I remember -- I don't remember finishing a  
24 congressional district down to zero population, which  
25 would be required for a final plan.

1 J. MORGAN

2 Q. "Down to zero population," you mean down  
3 to zero population deviation?

4 A. That's right.

5 Q. Okay. Do you recall them, as they were  
6 practicing, learning how to have election data  
7 displayed on the screen?

8 A. Yes.

9 Q. And would that appear using the label  
10 tool?

11 A. Yes. I showed them how to use the label  
12 tool, and they were self-empowered to put whatever  
13 they wanted to on the labels.

14 Q. So at that time you don't recall -- do you  
15 recall at that time what information they were  
16 putting on top of the district using the label tool?

17 A. No.

18 Q. Do you recall at any time seeing that,  
19 let's say, on your return trip?

20 A. On the return trip, I know that there was  
21 a machine set up to draw, and there would have --  
22 there was information on the labels. I don't recall  
23 what was on the labels.

24 Q. But by then there was political -- strike  
25 that.

1 J. MORGAN

2 By then there was election result data on the  
3 labels; is that right?

4 MS. MCKNIGHT: Objection.

5 A. I really don't -- I really don't know  
6 that.

7 Q. Okay.

8 A. I was just saying that I showed them how  
9 to use the labels, and I didn't -- I don't know what  
10 they put on the labels.

11 Q. And, by the way, just so we're on the same  
12 page, the labels, those are the little boxes that  
13 appear on top of the district; is that right?

14 A. Yes, on top of the district or on top of  
15 the township or the county. They can appear at  
16 different levels of geography.

17 Q. And do you recall seeing labels on top of  
18 some unit of geography on your return trip around  
19 July 25?

20 A. Yes.

21 Q. You just don't recall what was in the  
22 label; is that right?

23 A. That's correct.

24 Q. Do you recall if Troy Judy learned how to  
25 use the label tool during any of these trainings?

1 J. MORGAN

2 A. I don't recall.

3 Q. Did he attend the training?

4 A. I don't know for sure.

5 Q. Did Mr. Braden attend the training?

6 A. He was there at the July 7th-July 8th,  
7 during that session.

8 Q. For that session?

9 A. Yes.

10 Q. Did he already know how to use Maptitude  
11 before that session?

12 MS. MCKNIGHT: Objection.

13 Q. If you know.

14 A. I don't think he used it during that  
15 session.

16 Q. Do you know if he knew how?

17 A. I don't know.

18 MR. FRAM: What we'll have marked next as  
19 Exhibit 4 is a document, Bates number Morgan\_000002,  
20 five zeros and a 2, if I'm counting right.

21 (Exhibit 4 marked for  
22 identification: Invoice dated  
23 7/31/2011)

24 Q. Mr. Morgan, is this one of the invoices  
25 you looked at preparing for your deposition?



1 J. MORGAN

2 A. Yes.

3 Q. Okay. I just want to go through the  
4 different -- well, a couple things about it.

5 This one, this invoice, is dated July 31,  
6 2011. Just stating that for the record. I'll also  
7 state for the record, though, that this invoice has a  
8 number, BH 2011-OH07. Do you see that?

9 A. Yes.

10 Q. Is it your understanding that would mean,  
11 using your invoicing system, that was the seventh  
12 invoice for your work in Ohio?

13 A. No.

14 Q. Was this your first one?

15 A. Yes.

16 Q. Okay. Do you have any idea why 07 was  
17 included in the invoice number?

18 A. Yes.

19 Q. Why?

20 A. Because it's the seventh month, July.

21 Q. I see. Okay. That helps. Now I have to  
22 ask your counsel for the previous six. Thank you.

23 So I think we talked about what you did on the  
24 7th and 8th a little bit, going down the line items  
25 below, but there are entries for the 18th and 19th,

1 J. MORGAN

2 20th and 24th of July. Do you see those?

3 A. Yes.

4 Q. And they all say "technical and map  
5 drawing." Do you see that?

6 A. Yes.

7 Q. Do you recall what you did when it came to  
8 technical and map drawing work?

9 A. Yes. During this time I was helping Clark  
10 Benson work with the data that was used for the  
11 legislative drawing process. There was an issue with  
12 the boundaries of the Ohio cities and townships being  
13 different from the Census boundaries, so it required  
14 the data being adjusted in some way. It was related  
15 to what you mentioned about Cleveland State, that  
16 there was some data from there, and I was helping  
17 Clark Benson work on that.

18 Q. Now was that only for the state  
19 legislative map or was any of that for the  
20 congressional map?

21 A. That was for the state legislative maps.

22 Q. So all those entries -- do any of those  
23 entries concern work regarding the congressional map?

24 A. Not that I recall.

25 Q. And then there's this meeting back on the

1 J. MORGAN

2 25th and 26th back in Columbus. Do you see that?

3 A. Yes.

4 Q. Now that was the meeting you went back in  
5 person; is that right?

6 A. Yes.

7 Q. Okay. The hours there, it was a lot more,  
8 so that involved going back and spending time there?

9 A. Yes, that was two days.

10 Q. Two days and travel.

11 A. Yes.

12 Q. And some of that work, as we discussed,  
13 just to be clear, that did concern congressional  
14 redistricting also?

15 A. Yes.

16 Q. And you were there working two days in  
17 that hotel room with those -- with Mr. Mann and --  
18 excuse me -- Mr. DiRossi and Ms. Mann?

19 A. Yes. I should say a portion of the two  
20 days.

21 Q. A portion of the two days.

22 A. Yes.

23 Q. And do you recall what the first thing you  
24 needed to address when you got there?

25 A. No.

1 J. MORGAN

2 Q. Do you recall anything about the specific  
3 content of what you did?

4 A. I worked on legislative redistricting and  
5 congressional redistricting. So we worked hands on  
6 with maps.

7 Q. And on congressional redistricting, what  
8 do you recall doing hands on with maps?

9 A. I recall drawing a few districts in the  
10 northeastern part of the state, I would say around  
11 Cleveland and the extreme northeast of the state,  
12 Youngstown, and that was what I worked on on that  
13 day.

14 Q. So around Cleveland, do you recall, does  
15 Congressional District 11 ring a bell?

16 A. Yes.

17 Q. And around Youngstown, does District 13  
18 ring a bell?

19 A. That sounds right. The district  
20 numberings were changed because Ohio went from 18  
21 congressional seats to 16. So in the sense there's  
22 two different numbering systems between the pre-2010  
23 districts and the post-2010 districts.

24 Q. And let's talk about the Cleveland  
25 District 11 just for a little bit. What do you

1 J. MORGAN

2 recall in terms of the map drawing as to that  
3 district?

4 A. I remember that the district was -- the  
5 district was essentially parts of Cleveland and it  
6 extended down into Akron.

7 Q. And was there any discussion as to how far  
8 south it should go?

9 A. No.

10 Q. Do you recall whether or not it was taking  
11 out pieces of district that was otherwise bordering  
12 on District 16?

13 A. I don't recall the district numbers. I  
14 remember that the districts that I worked on during  
15 that time period were primarily in the northeastern  
16 corner, including the district that was what I recall  
17 the Youngstown seat, the northeastern seat, and  
18 Cleveland.

19 Q. Okay. Did you work on any borders of the  
20 districts above the Youngstown seat up in District  
21 14?

22 A. Yeah, that's the one I think I was  
23 referring to.

24 Q. Okay. There's the Youngstown -- I'm  
25 sorry. I apologize for interrupting you.

1 J. MORGAN

2 Were you looking at the districts all the way  
3 up in the northeast corner or the one just south of  
4 it also?

5 MS. MCKNIGHT: Objection.

6 A. Those are the districts that I recall  
7 working on. That's the area of the state that I can  
8 recall.

9 Q. Why were you working on those districts?

10 A. It was a corner of the state, and so I  
11 think there was -- there was an effort to understand  
12 how much the population changes were going to affect  
13 that corner district, which would have to expand  
14 because the population numbers had changed, in a  
15 sense. From going from 18 districts to 16, each  
16 district would have to gain more population, you  
17 know, in most cases. There might be a circumstance  
18 where a district had grown so much that it might not  
19 need to gain additional territory to get to its  
20 finishing population.

21 Q. Do you remember the name of Congressman  
22 LaTourette?

23 A. Yeah.

24 Q. Do you recall any discussion about what  
25 the political -- the election results would be for

1 J. MORGAN

2 his district?

3 A. Yes. I remember that there was an  
4 expectation that LaTourette would not be in office  
5 for the entire decade.

6 Q. Any discussion about what the election  
7 results would be for his district?

8 A. I'm sorry. I don't understand that.

9 Q. Well, did you do any work regarding  
10 drawing his district?

11 A. Yes.

12 Q. And do you remember any discussion of  
13 election results data as regards the district you  
14 were drawing there?

15 A. I remember looking at the political data  
16 for some of the towns on the edge of the district.  
17 Because it was a corner district, it was pretty well  
18 set for a large percentage of the district. And so  
19 the question I remember was, you know, where does the  
20 extra population come from.

21 Q. Was there any discussion about how  
22 different, putting different populations in or out of  
23 the district would affect the election results for  
24 the district as a whole?

25 A. I don't remember that specifically. I

1 J. MORGAN

2 just remember that the expansion was necessary for  
3 that district.

4 Q. And do you recall any discussion as to how  
5 that might affect -- I don't want to be -- you used  
6 the word specific, so I got to ask you this. Do you  
7 recall, generally, any general recollection as to how  
8 the election results for that district were to shake  
9 out?

10 A. I remember that the incumbent for  
11 district that was the Youngstown seat was -- it came  
12 into play because the Youngstown seat, I think his  
13 residence or his political base, as I understood it,  
14 was right in that Youngstown area. So District 14  
15 could only go so far south before it would get into  
16 the Youngstown seat.

17 Q. And the Youngstown representative, is that  
18 Representative Ryan?

19 A. Yes, that's right.

20 Q. So you've got LaTourette up north of Ryan;  
21 is that right?

22 A. Yes.

23 Q. Okay. You were trying to figure out how  
24 far south you could bring LaTourette's district; is  
25 that right?



1 J. MORGAN

2 A. Yes. An issue in that area is that  
3 Mahoning County has fairly large, populous townships.  
4 So I think there was some question about how --  
5 whether or not to split a township, again, the large,  
6 populated townships in Mahoning County, in that area,  
7 so there was just -- I just remember there was some  
8 question about the size of the townships making a  
9 difference in where to draw.

10 Q. Now Representative Ryan's district, I'll  
11 state for the record, 13, did you have an  
12 understanding historically whether voted Democrat or  
13 Republican?

14 A. Yes. It was a Democrat district.

15 Q. And the district to the north, District  
16 14, LaTourette's district, had voted for Republicans  
17 in the past; is that right?

18 A. For LaTourette, yes.

19 Q. For LaTourette?

20 A. Yes.

21 Q. Was there any consideration as to whether  
22 or not, where you drew the boundary, whether that  
23 would make that district more or less Republican or  
24 Democrat, the 14th?

25 MS. MCKNIGHT: Objection.

1 J. MORGAN

2 A. I mean, I was aware that District 14 was  
3 held by a Republican, and, you know, District 13 was  
4 held by a Democrat, and the areas to the south and  
5 Mahoning County were fairly Democratic and to the  
6 west and Cleveland were fairly Democratic.

7 Q. So the more farther south you brought 14,  
8 the more Democrat?

9 MS. MCKNIGHT: Objection.

10 A. It depends on where.

11 Q. Depending on which township?

12 A. Yes.

13 Q. I understand. Similarly, going to the  
14 west, depends on where; is that right?

15 A. Yes.

16 Q. And did you look at those considerations  
17 when trying to figure out where to put the boundaries  
18 of 14?

19 MS. MCKNIGHT: Objection.

20 A. In this case I was at the very beginning  
21 in the process, so, you know, the boundaries were  
22 fluid from my point of view.

23 Q. Who asked you to look at the question of  
24 Districts 14 and 13 and 11?

25 A. I don't remember.

1 J. MORGAN

2 Q. Did you come up with that on your own or  
3 did someone in Ohio suggest that you should look at  
4 it?

5 A. I don't know.

6 Q. Okay. Did you do any looking at the --  
7 looking at District 11 for a minute. Did you look at  
8 any question of how far south that should go?

9 A. I remember looking at Cleveland and Akron,  
10 and that's about all I remember about how far south  
11 it goes. So I remember going to Akron but not beyond  
12 that. I don't know.

13 Q. Do you recall any reason -- any discussion  
14 about that?

15 A. No.

16 Q. Do you recall any discussion of any effect  
17 that the boundaries of 11 might have on  
18 Representative Renacci's district?

19 A. Which district is that?

20 Q. 16.

21 A. Is that adjacent to --

22 Q. Yes, to 11.

23 A. -- Cleveland --

24 Q. To 11.

25 A. I don't remember where the boundaries of

1 J. MORGAN

2 that were at the time.

3 Q. Do you recall any discussion, though, of  
4 what the impact on Representative Renacci's district  
5 would have been by the manner you were drawing  
6 District 11?

7 A. No.

8 MS. MCKNIGHT: Objection.

9 Q. Do you recall any discussion of the effect  
10 of how you were drawing District 11 on Representative  
11 Sutton?

12 MS. MCKNIGHT: Objection.

13 A. No, I don't remember that.

14 Q. Do you recall any discussion of  
15 Representative Marcia Fudge during the discussions of  
16 District 11?

17 A. She's the incumbent for District 11?

18 Q. Yes.

19 A. That -- I don't recall discussions about  
20 that.

21 Q. Okay. Other than those three districts,  
22 do you recall any discussion of any other districts  
23 during your meetings on July 25 and 26?

24 A. Yes. I remember there being some  
25 discussion about the possibility of combining

1 J. MORGAN

2 District 11 and District 9, which was -- I don't  
3 remember -- I think District 11 or district -- I  
4 think it was District 11 was Congressman Kucinich.  
5 I'm not sure what the number was.

6 Q. Kucinich might have been 10.

7 A. I don't know.

8 Q. Nine was Representative Kaptur. Do you  
9 recall that?

10 A. Yes.

11 Q. Do you recall any discussions about --  
12 that district has an interesting shape. Doesn't it  
13 go along the lake?

14 MS. MCKNIGHT: Objection.

15 Q. Do you recall there being a district that  
16 goes along the lake?

17 A. I'm not sure I understand.

18 Q. Do you recall there being a district in  
19 northern Ohio along the lake?

20 A. There is one now, in the current enacted  
21 congressional plan.

22 Q. Do you recall any discussion of that?

23 A. Only that that was a possibility, that  
24 seats were going to have to be combined somewhere to  
25 go from 18 to 16, and that's all I recall was that

1 J. MORGAN

2 that was one that was discussed as possibly  
3 combining.

4 Q. Do you recall any discussion of the shape  
5 of District 9?

6 A. No.

7 Q. Do you recall any discussion about any  
8 other districts?

9 A. No.

10 Q. The district in the Columbus area, any  
11 discussion of that?

12 A. No, not here.

13 Q. At any time?

14 A. I had a discussion with Mr. Braden about  
15 it.

16 Q. Okay. Do you recall ever discussing --  
17 I'm not asking about legal opinion or advice, but  
18 anything about the shape -- strike that -- any of the  
19 contours of the district around Columbus?

20 MS. MCKNIGHT: Objection.

21 A. No, I have no recollection about that.

22 Q. By the way, the district around Columbus,  
23 is District 3 something that you recall?

24 A. At the time there was no district number  
25 associated with it. I now know that District 3 is

1 J. MORGAN

2 the enacted district number for the district that  
3 encompasses Columbus.

4 Q. Okay. Do you recall any discussion at any  
5 time with anyone about how the district around  
6 Columbus would affect the two adjacent districts?

7 A. No.

8 Q. Do you recall any discussion of the effect  
9 of creating a district in Columbus would affect  
10 Representative Stivers' district?

11 A. No.

12 Q. Representative Tiberi's district?

13 A. No.

14 Q. District 12 or District 15, do you recall  
15 anything about that?

16 MS. MCKNIGHT: Objection.

17 A. No.

18 Q. Do you recall any discussion at any point  
19 about the shape of District 1 around Cincinnati?

20 A. No.

21 Q. What else did you talk about in your  
22 meetings in Columbus on the 25th and 26th?

23 A. As I said, I looked at congressional and  
24 legislative redistricting in that time period, and  
25 the portion of the state in congressional was the

1 J. MORGAN

2 northeast that I described. That's the only portion  
3 I worked on.

4 Q. Do you recall anything about -- any  
5 discussion of any political indices that Mr. DiRossi  
6 or Ms. Mann were using in their work?

7 A. No, not at that time.

8 Q. At any time?

9 A. No.

10 Q. Do you recall discussing what political  
11 indices would be useful that involved congressional  
12 redistricting in Ohio in 2011 with anyone at any  
13 time?

14 A. No.

15 Q. Did you have discussions -- I don't want  
16 to be too narrow about it. Did you have any  
17 communications with anybody about what indices would  
18 be useful in Ohio in 2011?

19 A. I didn't, no.

20 Q. Okay. Did the question of what indices  
21 would be useful come up when you were meeting earlier  
22 in July when you were visiting Ohio?

23 A. I don't recall that.

24 Q. Do you recall any reason why Mr. DiRossi  
25 or Ms. Mann needed you to take a look at the



1 J. MORGAN

2 northeast corner of Ohio?

3 A. No, I don't recall a reason for that.

4 Q. Any reason -- did they say they were  
5 having any technical difficulties?

6 A. I don't remember them having technical  
7 difficulties, no.

8 Q. Do you recall it just happened to be the  
9 thing they were working on that day?

10 A. Yes.

11 Q. Had you planned to go back to sort of have  
12 a further hands-on training for them? Did that  
13 happen to be the day you were going to be there?

14 A. That was the day that was requested, yes.

15 MR. FRAM: We'll have this marked as  
16 number 5. It's Bates-numbered Morgan\_0000 -- four  
17 zeros -- 18. It's another invoice. This one is  
18 dated August 31, 2011.

19 (Exhibit 5 marked for  
20 identification: Invoice dated  
21 8/31/2011)

22 Q. Is this another one of the invoices you  
23 looked at the other day?

24 A. I didn't look at this invoice the other  
25 day.

1 J. MORGAN

2 Q. Okay. Does this look like an invoice that  
3 you submitted to the Baker firm around August 31,  
4 2011?

5 A. Yes.

6 Q. Okay. Just so we're clear for the record,  
7 the invoices for the work you did for Ohio  
8 redistricting in 2011, they all were submitted to the  
9 Baker firm; is that right?

10 A. Yes.

11 Q. Okay. And they're the ones who paid you?

12 A. Yes.

13 Q. Okay. You never submitted any invoices to  
14 anybody else; is that right?

15 A. No.

16 Q. Now there's a couple of data entries here,  
17 August 2 and August 28. Do you see that?

18 A. Yes.

19 Q. And they are both for technical and map  
20 drawing?

21 A. Yes.

22 Q. Do you recall what that work was about?

23 A. I don't.

24 Q. Do you recall whether you were doing any  
25 technical or map drawing work regarding congressional

1 J. MORGAN

2 redistricting in August 2011?

3 A. I don't recall that at all.

4 MR. FRAM: We'll mark as number 6  
5 Morgan\_000019 an invoice dated September 29, 2011.

6 (Exhibit 6 marked for  
7 identification: Invoice dated  
8 9/29/2011)

9 Q. And, again, is this one of the invoices  
10 you looked at the other day?

11 A. I did not look at this one.

12 Q. Okay. Does it also look like an invoice  
13 you submitted to the Baker firm on or about September  
14 29, 2011?

15 A. Yes.

16 Q. And do you see there's five different date  
17 entries between August 31 and September 23? Do you  
18 see that?

19 A. Yes.

20 Q. And they are all for technical and map  
21 drawing?

22 A. Yes.

23 Q. Do you recall any work you did regarding  
24 Ohio technical and map drawing in the time period?

25 A. During that time period I was working on

1 J. MORGAN

2 the legislative and congressional, and, when I wasn't  
3 in Ohio, most of the work that I did was focused on  
4 helping Clark Benson with his data work.

5 Q. Let's break that apart a little bit.

6 A. Okay.

7 Q. So I think you said you were in Ohio on  
8 July 25 and 26; is that right?

9 A. Yes.

10 Q. So these are dates that come after that;  
11 is that right?

12 A. Yes.

13 Q. August 31 through -- were you in Ohio  
14 during anytime between August 31 and September 23?

15 A. I don't think so.

16 Q. Okay. Did you ever go back to Ohio to do  
17 any work on congressional redistricting at any time  
18 after July 25, 2011?

19 A. I don't think so.

20 Q. Okay. What do you recall doing about work  
21 on congressional redistricting? You say that was one  
22 of the two things you were doing.

23 A. I really don't recall anything  
24 specifically during this time period.

25 Q. Did you draw any maps?

1 J. MORGAN

2 A. No.

3 Q. Did you look at any maps anybody else had  
4 drawn?

5 A. No.

6 Q. Do you recall having any communications  
7 with Mr. DiRossi?

8 A. Yes. I recall a phone call with him.

9 Q. And before you weren't sure -- I don't  
10 think you remembered what it was about; is that  
11 right?

12 A. Right.

13 Q. Do you recall now?

14 A. No.

15 Q. Okay. Any conversations with anybody else  
16 besides Mr. DiRossi on the phone?

17 A. Yes. I spoke with Heather Mann.

18 Q. Do you recall anything about that  
19 conversation? Let me back up. How many times?

20 A. I don't know.

21 Q. Okay. Do you recall anything about that  
22 conversation or conversations?

23 A. Not -- not regarding congressional, no.

24 Q. Did you talk to anybody else about  
25 congressional redistricting?

1 J. MORGAN

2 A. No.

3 Q. You said you worked with Mr. -- you said  
4 you recall working with Mr. Benson at that time?

5 A. Yes.

6 Q. Was that in person or on the phone or by  
7 email or some other way?

8 A. It would have been on the phone and  
9 working with data that he sent me.

10 Q. Okay. And what do you recall about that  
11 work?

12 A. The legislative reapportionment work was  
13 all centered around getting the population numbers to  
14 agree with the state university population numbers.  
15 That was a difficult process.

16 Q. And what about the -- anything about the  
17 congressional?

18 A. No.

19 Q. It was all about the state legislative?

20 A. With Clark Benson, yes.

21 Q. I should ask, what was difficult about the  
22 process?

23 A. The population totals for the cities  
24 differed from the population totals that the Census  
25 had. So the local university official who produced

1 J. MORGAN

2 the data used some sort of system to allocate it that  
3 was different from the system that was used in  
4 Maptitude.

5 So there was a lot of effort trying to get  
6 those to connect because the legislative  
7 redistricting process is very specific about the  
8 treatment of towns and cities, whereas the  
9 congressional districts didn't have the same dataset  
10 and it didn't have the same footprint of towns and  
11 cities that the legislative did.

12 Q. Do you recall concerning the question of  
13 how census blocks might be split by precincts in  
14 Ohio?

15 MS. MCKNIGHT: Objection.

16 A. No.

17 Q. Do you recall any questions at all about  
18 the Cleveland State University data as regards Ohio  
19 in terms of splitting of census blocks?

20 A. No. I'm sorry. As it relates to the  
21 legislative, that was my understanding is what I was  
22 working on.

23 Q. Setting aside legislative or  
24 congressional, just whether or not any questions at  
25 all about being able to make the data provided by

1 J. MORGAN

2 Cleveland State University work with Maptitude?

3 A. Yes. That's what I was discussing.

4 Q. All right. And that was, you mentioned,  
5 in terms of townships, I believe.

6 A. And cities and towns and townships.

7 Q. What about Census, making the Cleveland  
8 State University data work with the census blocks for  
9 Maptitude?

10 A. I think that's -- to be clear, I think  
11 that's implied in what I'm discussing. It's the  
12 municipal boundaries are what I'm talking about. So  
13 those also include precinct boundaries, yes.

14 Q. Okay. And do you recall -- were you and  
15 Mr. Benson trying to figure out ways to make the  
16 Cleveland State University data work with Maptitude  
17 in Ohio?

18 A. Yes.

19 Q. And were you still working on that in the  
20 September 2011 time period?

21 A. I think so.

22 Q. Were you working on it earlier than that?

23 A. Yes.

24 Q. How early were you working on that  
25 project?



1 J. MORGAN

2 A. I think it was in July and August, maybe a  
3 little in August, but September.

4 Q. You started back in July?

5 A. I think so.

6 Q. And you were still working on it in  
7 September?

8 A. There were different aspects of it. I  
9 think there were two different vintages of data that  
10 were released. And I think that some of the  
11 difficulties were not known immediately, and so there  
12 was different efforts to resolve that.

13 Q. Do you recall -- well, did it get  
14 resolved?

15 A. I think so. I don't know.

16 Q. Do you recall about when?

17 A. I don't know.

18 Q. Do you recall was Mr. Benson primarily  
19 involved in trying to resolve that or were you or was  
20 it a joint effort?

21 A. I recall that he would do the data  
22 resolution and then he would send me information on  
23 that dataset. So I would have that data to use for  
24 the legislative redistricting.

25 Q. And was the next step in the process you

1 J. MORGAN

2 then provided that to Ms. Mann and Mr. DiRossi?

3 A. If Clark didn't provide it directly, then  
4 I would, yes.

5 Q. Okay.

6 A. But I was -- it was really my  
7 understanding that -- I think it was provided to them  
8 by Clark Benson.

9 Q. Was he primarily -- it was primarily his  
10 task to provide the data they could use in Maptitude  
11 and you were providing an additional set of eyes?

12 MS. MCKNIGHT: Objection.

13 A. I would say that, yes, I think that Clark  
14 was providing the data, and my role was to utilize  
15 the data.

16 Q. Okay.

17 A. Could we take a break?

18 MR. FRAM: Of course.

19 (Proceedings recessed at 11:20 a.m.)

20 (In session at 11:40 a.m.)

21 MR. FRAM: Why don't we mark next as 7,  
22 it's a document that is without a Bates number  
23 because it was produced as a screenshot, and so we  
24 added this thing at the bottom that says Morgan  
25 Document Production August 17, 2018 -- August 17,

1 J. MORGAN

2 2018. And it has a series of what appear to be  
3 folders, files or -- zip files, they all have .zip on  
4 them, zip files on the document 68. I should say at  
5 the top there's an identifier, which, again, came  
6 from us, it says Document Production Third Party  
7 Morgan, John, 2018, 08-17.

8 MS. MCKNIGHT: Pardon me, Mr. Fram. I  
9 don't believe the witness has a copy.

10 MR. FRAM: I'm sorry.

11 (Exhibit 7 marked for  
12 identification: Screenshot Morgan  
13 Document Production\_August 17, 2018)

14 Q. What it says at the top is identifier and  
15 Document Production, Third Party, Morgan, John,  
16 2018.08.17, and then 20180817\_001.zip, and then  
17 20180817\_001.

18 Again, that's -- my understanding that's  
19 information we added, just so we're clear, on the top  
20 and the very bottom, but the rest of it is a  
21 screenshot of what was produced to us.

22 And my question to you, Mr. Morgan, does this  
23 look like a screenshot of zip files that were on your  
24 computer when you looked at your computer to produce  
25 documents in this case?

1 J. MORGAN

2 A. Yes.

3 Q. We can just go through a little bit of  
4 what these zip file names might be. You see there's  
5 a ccBlock\_oh. Do you see that?

6 A. Yes.

7 Q. Does that mean census block for Ohio?

8 A. Yes.

9 Q. Okay. And then what is r05, if you  
10 recall?

11 A. The number would be what I would describe  
12 as a vintage number.

13 Q. And what did that mean, what kind of  
14 vintages?

15 A. It means that that was just a dataset that  
16 was current at that time, and my understanding was  
17 that the vintage 05 would predate the vintage 07.

18 Q. Okay. And so I see there's 05 and 07 for  
19 several of these zip files; is that right?

20 A. Yes.

21 Q. And so 07 was more current; is that right?

22 A. Yes.

23 Q. And was 07 a revision of 05 or was it a  
24 superset of what was in 05? Was it everything in 05  
25 plus some or were some in 05 changed?

1 J. MORGAN

2 MS. MCKNIGHT: Objection.

3 A. I don't know for sure.

4 Q. Okay. And going down to county OH, do you  
5 see that?

6 A. Yes.

7 Q. Are those -- what's your understanding was  
8 in that zip folder?

9 A. That would be the county-level dataset and  
10 map files for Maptitude.

11 Q. And same answer as to what the 05 and 07  
12 meant?

13 A. Yes.

14 Q. And then MCD, do you see that next?

15 A. Yes.

16 Q. What's that refer to?

17 A. It's a Census abbreviation.

18 Q. Okay. And, let's see, does that -- is  
19 that minor civil division?

20 A. Yes.

21 Q. Okay. And what's that? So those are the  
22 minor civil division datasets for Ohio; is that  
23 right?

24 A. Yes. It would be commonly understood as  
25 townships.

1 J. MORGAN

2 Q. Okay. And these are all for 2011?

3 A. Yes.

4 Q. And that's true for all the zip files  
5 we're looking at here?

6 A. Yes.

7 Q. Okay. And the same answer as to R05 and  
8 R07, two different vintages; is that right?

9 A. Yes.

10 Q. Now ccPlace\_Ohio -- OH -- do you see that?

11 A. Yes.

12 Q. What's that refer to?

13 A. Place would be an abbreviation for Census  
14 designated place.

15 Q. And what would an example of that be?

16 A. It could be an unincorporated town or an  
17 incorporated town, municipal boundary of some sort.

18 Q. Now under that, do you see ccVTD? Do you  
19 see that?

20 A. Yes.

21 Q. What's VTD stand for, please?

22 A. It could be one of two things, but some  
23 people would call it a voting tabulation district,  
24 but there's another way to describe it as well. It  
25 is similar to a voting precinct.

1 J. MORGAN

2 Q. In Ohio are the VTDs the precincts?

3 A. Not in every case, but mostly, yes.

4 Q. Okay. When they were precincts, do you  
5 recall what they were in Ohio 2011?

6 A. Well, the other one that's on there is a  
7 ward, which in some municipalities would be the  
8 equivalent of what you might call a precinct  
9 somewhere else.

10 Q. I see. Now there's another -- there is a  
11 actual zip folder for wards. Do you see that?

12 A. Yes.

13 Q. And that was all the wards in Ohio?

14 A. I don't know.

15 Q. Okay. It's not a very big folder. Do you  
16 see there?

17 A. Okay.

18 Q. I just don't know if that helps you  
19 remember.

20 A. I don't know. The wards could refer only  
21 to wards of a city or other municipal entities that  
22 have wards instead of precincts. Each state has  
23 different classifications.

24 Q. Okay. And do you see the date modified,  
25 it's all July 12, 2018? Do you see that?

1 J. MORGAN

2 A. Yes.

3 Q. All at 6:31 p.m.?

4 A. Yes.

5 Q. Because that's when you went to go get the  
6 documents to respond to the subpoena; is that right?

7 A. Yes.

8 Q. Doesn't mean you actually changed the  
9 data, just when you opened it up; is that right?

10 A. I zipped those files so they would be easy  
11 to upload to the place where I sent them to the  
12 attorneys.

13 Q. Thank you. Now I just want to look at one  
14 of them.

15 MR. FRAM: Let's mark 8.

16 (Exhibit 8 marked for  
17 identification: Screenshot Morgan  
18 Document Production\_File  
19 Types\_ccBlock\_oh\_r07)

20 Q. So Exhibit 8 here is going to be a  
21 document, again, at the bottom it says Morgan  
22 Document Production\_File types\_ccBlock\_OH\_R07, and  
23 it's got an identifier at the top that we also added  
24 with the same information.

25 So back on Exhibit 7, the second line was the



1 J. MORGAN

2 ccBlock\_OH\_R07.zip. Do you see that?

3 A. Yes.

4 Q. If you click on that, is it your  
5 recollection you see what's on Exhibit 8?

6 A. Okay. Yes.

7 Q. Okay. And so is this a screenshot, then,  
8 of the files that would be within the zip file  
9 ccBlock\_OH\_R07?

10 A. Yes.

11 Q. Okay. Let's just walk through what they  
12 are a little bit.

13 So ccBlock.bin, what would be in that file?

14 A. That's a binary file. The .bin is the  
15 binary suffix, and so that's going to be the bulk of  
16 the information associated with this file.

17 Q. Okay. And what kind of information would  
18 there be?

19 A. You could describe that as something more  
20 like a text or a database file of some sort. Like  
21 that's functionally what it's closest and analogous  
22 to.

23 Q. And what would be the substantive -- the  
24 substance -- of that information?

25 A. It would have demographic and political

1 J. MORGAN

2 data, whatever is in the underlying file at the block  
3 level.

4 Q. So that would have election result data at  
5 the census-block level?

6 A. I assume so, yes.

7 Q. And going down to the next one,  
8 ccBlock.BX, what's that?

9 A. That's an index file. It has to do with  
10 connecting the geographic spatial data to the, what  
11 you might call spreadsheet data.

12 Q. What's the spreadsheet data, please?

13 A. The data that we just discussed.

14 Q. So that would connect the election results  
15 to specific geographies?

16 A. All the data that's in the dataset, so  
17 election -- anything you'd put in the dataset --  
18 election results, demographic data, anything that's  
19 in the dataset.

20 Q. Okay. And then the next one is  
21 ccBlock.cdf. Do you see that?

22 A. Yes.

23 Q. And does the CDF stand for Caliper --  
24 well, I should ask you. What does CDF stand for, if  
25 you have an understanding?

1 J. MORGAN

2 A. Compact data file in my understanding.  
3 It's a customized geographic file that Caliper  
4 generates. It's analogous to what you might call a  
5 shape file. It's a geographic boundary file. It's  
6 independent of other data.

7 Q. Okay. And then ccBlock.DCB, what's that?

8 A. That's an index file that helps connect  
9 the two. Generally speaking, the DCB and the CDF  
10 files are generated in the same way at the same time.

11 Q. You say "connect the two." Connect which  
12 two?

13 A. So an index file is essentially, on its  
14 own, if you looked at it, you would not recognize it  
15 as data like election data or demographic data. It  
16 might be more like a pointer file. So it's saying  
17 that, say, some internal designation references some  
18 other internal designation. So it's an index file.

19 Q. And then ccBlock.sty, what's that?

20 A. I think that has to do with possibly the  
21 display of the files, like it's -- it's a utility  
22 file for how the other files are displayed so that it  
23 can be brought up easily.

24 Q. Okay.

25 MR. FRAM: Now for 9 it's a multipage

1 J. MORGAN

2 document. Actually there are eight pages. They all  
3 came from one file, and they came from the  
4 ccBlock\_OH\_R07\_ccBlock.cdf.

5 (Exhibit 9 marked for  
6 identification: Series of  
7 screenshots with attached Morgan  
8 modifier cdf\_1, etc.)

9 Q. And these are a series of screenshots that  
10 we received, and we added the identifier information  
11 here because it was produced in native form without  
12 numbers.

13 So my first question is: Do you recognize  
14 this document in any way?

15 A. The document is apparently a screenshot of  
16 Maptitude showing the files loaded up. It references  
17 at the bottom the specific file that was on the  
18 previous Exhibit 7 and 8.

19 Q. Right. As a matter of fact, if you go  
20 back to Exhibit 8 and you look to the third line  
21 down, do you see ccBlock.cdf? Do you see that?

22 A. Yeah. This appears to be a copy of that  
23 file, so I'm assuming it's the same file. I don't  
24 know that for a fact.

25 Q. Do you understand, if you clicked on that,

1 J. MORGAN

2 that this is what would pop up?

3 A. That's not what the file same says at the  
4 bottom of this.

5 Q. Okay.

6 A. It has \_1, so it is a, I believe, a copy  
7 of the file.

8 Q. Let me explain the \_1 situation.

9 A. Sure.

10 Q. We added -- we added the identifier at the  
11 bottom. We added \_s 1 through 8, so we can identify  
12 each separate page of the document.

13 A. So they are page numbers?

14 Q. Exactly. But without that addition, does  
15 this look like what would be what the contents of  
16 what you produced ccBlock.cdf on Exhibit 8?

17 A. Yes, that's what it looks like.

18 Q. Okay. So just looking at this first page  
19 1 for a minute, do you have an understanding of what  
20 we're looking at here?

21 A. Yes. It's a map of the census blocks of  
22 the state of Ohio --

23 Q. Okay.

24 A. -- from 2010.

25 Q. Okay. This is something that could be

1 J. MORGAN

2 loaded into Maptitude, is that right, or generated by  
3 Maptitude?

4 MS. MCKNIGHT: Objection.

5 Q. How does it work with Maptitude?

6 MS. MCKNIGHT: Objection.

7 A. I'm not sure what you're asking about.

8 Q. Well, is this something that, using  
9 Maptitude, that you would be able to see?

10 A. Maptitude data, when it's distributed in,  
11 my understanding is it includes census block  
12 geography, which is what this is here.

13 Q. Right. And then you, going back before,  
14 you said that some of the files you had that are  
15 identified in Exhibit 8, one of them you think you  
16 helped in terms of showing how the display worked; is  
17 that right?

18 A. I'm sorry?

19 Q. Going back to Exhibit 8, I think you said  
20 the STY file might have been a file that was used to  
21 help make the display effective.

22 A. I don't know that for certain. It could  
23 be a display file. It's a small file, so it's -- all  
24 of these files collectively make up what's in the zip  
25 file, and they -- they interrelate to each other so

1 J. MORGAN

2 that, if you open those series of files on Maptitude,  
3 you will get this geographic file, which has  
4 geographic information and data associated with it.

5 Q. Okay. So using those files, we could  
6 then -- you would then generate this screenshot?

7 A. Yes.

8 Q. Okay. Great. Then turning down to  
9 page -- on the second page, \_2 of the document, a  
10 couple things to look at here. Sorry. Stay with 1  
11 for a minute.

12 Do you see the top where it says Map1 2010  
13 Final Census Blocks (Ohio)? Do you see that?

14 A. I see that, yes.

15 Q. Is that your understanding what we see  
16 here is the final census blocks that come out of the  
17 2010 election; is that right?

18 MS. MCKNIGHT: Objection.

19 A. Yes, that's my understanding.

20 Q. All right. Now looking at page 2, turn to  
21 the far left. Do you see there are a bunch of icons  
22 down the left-hand column?

23 A. Okay.

24 Q. And you see how there's a little blue box  
25 around the little i icon? Do you see that?

1 J. MORGAN

2 A. Yes, I see that.

3 Q. That's the info tool; is that right?

4 A. Yes.

5 Q. Okay. And then you see there's an i  
6 sitting over in the middle of the map? Do you see  
7 that?

8 A. Yes.

9 Q. And then looking over to the far right you  
10 see it says "Block 1006"? Do you see that?

11 A. Yes.

12 Q. It's your understanding that the i is over  
13 census block 1006?

14 MS. MCKNIGHT: Objection.

15 A. I don't know that for certain. It could  
16 be.

17 Q. If you wanted to see the data in DataView  
18 1, you would use the info tool; is that right?

19 MS. MCKNIGHT: Objection.

20 A. It's possible to do that.

21 Q. Okay. And if you wanted to see a census  
22 block, you could click your cursor first to highlight  
23 the info tool, and then you'd click it over a census  
24 block; is that right?

25 MS. MCKNIGHT: Objection.



1 J. MORGAN

2 A. I suppose that's what you could do.

3 Q. Have you ever done that to see the  
4 information on a census block using the info tool?

5 MS. MCKNIGHT: Objection.

6 A. I haven't done it in this way, but it's  
7 possible to do it this way.

8 Q. In what way have you done it?

9 MS. MCKNIGHT: Objection.

10 A. In other places I've looked at census  
11 block data, but not in this way.

12 Q. In what way have you done it, if you  
13 haven't done it --

14 MS. MCKNIGHT: Objection. Pardon me.

15 A. In this case I didn't do this, and what I  
16 can do is I would select a single census block using  
17 the selection tool.

18 Q. Okay. And then instead of using the info  
19 tool, you'd use the selection tool; is that right?

20 A. Yes.

21 Q. And then would you get, using the  
22 selection tool, could you get data that would be of  
23 the form that appears on the right-hand side of this  
24 exhibit?

25 A. It depends on how things are configured,

1 J. MORGAN

2 but it's possible to get data that's in the dataset.  
3 So you could get all this information.

4 Q. Okay. And did you train folks in Ohio how  
5 to use the selection tool to get election data?

6 MS. MCKNIGHT: Objection.

7 A. I don't -- I don't think I did that in the  
8 way you're describing it, no.

9 Q. Did you train them in Ohio to use any tool  
10 to get election data?

11 A. Yes. I would use the label tool or --  
12 it's possible the info tool as well -- but I didn't  
13 do it on a census block in this way.

14 Q. Okay. So did you train them to use the  
15 label tool for congressional districts?

16 A. For any district or township, MCD,  
17 precinct, whatever they wanted to look at.

18 Q. Okay. But you don't recall doing it for  
19 census blocks?

20 A. No, I don't.

21 Q. I understand. Using the -- let me move to  
22 page 4 briefly. Just going down the middle of the  
23 page, where it says G02G\_DV, do you see that?

24 A. I do.

25 Q. Is that something -- is that an

1 J. MORGAN

2 abbreviation you're familiar with?

3 A. Yes.

4 Q. What's that mean to you?

5 A. It is the general election from 2002 for  
6 the office of governor, the democratic vote share.

7 Q. All right. The democratic vote period,  
8 isn't it? It's not a share, DV. It says 33,000. Do  
9 you see that over there?

10 A. It's 33.

11 Q. Oh, I see. It's a share, 33. You got 33  
12 percent?

13 A. No, not 33 percent. It's the votes.

14 Q. Just, right --

15 A. It's not a percentage.

16 Q. Right. It's just the votes, so 33,000?

17 A. 33.

18 Q. 33 -- so then the dot with the three  
19 zeros, what's that mean?

20 A. Just three zeros after the decimal point.

21 Q. I see. So they got 33. Okay.

22 A. Yes.

23 Q. And then going down -- so G stands for  
24 general, just so we're clear; is that right?

25 A. Yes.

1 J. MORGAN

2 Q. And 02 is the year, the 2002 election?

3 A. Yes.

4 Q. And the next G is for governor?

5 A. Yes.

6 Q. And then \_DV, that's for the Democratic  
7 vote share?

8 A. Yes.

9 Q. Okay. And then we go down to G02G\_RV. Do  
10 you see that?

11 A. Yes.

12 Q. Is that the Republican vote share?

13 A. Yes.

14 Q. Okay. And then under that is G02G\_TV. Do  
15 you see that?

16 A. Yes.

17 Q. And that's the total vote?

18 A. Yes.

19 Q. Okay. And also the governor's race --

20 A. Yes.

21 Q. -- in 2002? Okay. Now the next one is  
22 G02G\_RP. Do you see that?

23 A. I do, yes.

24 Q. Is that the Republican percentage in the  
25 2002 governor race?

1 J. MORGAN

2 A. Yes.

3 Q. Is that percentage calculated on a  
4 two-party vote or do you know how that's calculated?

5 A. In this instance it appears to be a  
6 two-party vote.

7 Q. Okay. Now this information we've just  
8 described about the 2002 governor race, okay, were  
9 you able to see this in Maptitude using tools other  
10 than info tool?

11 A. Yes.

12 Q. You used that on the select tool?

13 A. Yes.

14 Q. And could you use that on the label tool?

15 A. If it was configured that way, yes.

16 Q. Anything else, any other way to access  
17 this information?

18 A. Yes. You could bring up a DataView  
19 showing all the census blocks and you could look at  
20 an individual census block in a different format. It  
21 would have the same data.

22 Q. Do you recall training Mr. DiRossi or  
23 Ms. Mann in terms of how to be able to see this data  
24 using Maptitude and using different tools?

25 A. Not in this format.

1 J. MORGAN

2 Q. Not in the DataView format, I understand  
3 that, but any other format?

4 A. Yes.

5 Q. Okay. What format do you recall training  
6 them in?

7 A. Just how to display the political data in  
8 a manner similar to this at other geographic levels  
9 like precinct, town, county.

10 Q. I see. And doing that, the tools were the  
11 select tool or the label tool; is that right?

12 A. It could have been the info tool too.  
13 Again, you know, they're self-empowered to use the  
14 tools.

15 Q. Got it. So they were trained in all three  
16 tools?

17 A. Not necessarily by me. I mean, they could  
18 use the tools. They were fairly skilled, as far as I  
19 could tell.

20 Q. But did you train them to use any of the  
21 tools?

22 A. I don't specifically recall.

23 Q. Do you recall how they became  
24 self-empowered?

25 A. I worked with them, and, if they had

1 J. MORGAN

2 questions, I answered them. They had some knowledge  
3 already.

4 Q. So as far as you could tell, they could  
5 use these tools to access this political data?

6 A. Some of it, yes.

7 Q. Any particular political data you're aware  
8 they could access?

9 A. All the data was there. I don't know what  
10 in particular they wanted to use.

11 Q. Okay. And then going through just some of  
12 the other, I'm going to call them, in the column  
13 entitled name, I'll just call them codes.

14 A. Yeah, election codes.

15 Q. Election codes, are you comfortable with  
16 that?

17 A. Yes.

18 Q. So we've got G02A. Do you see that?

19 A. Yes.

20 Q. Is that for the attorney general's race in  
21 2002?

22 A. Yes.

23 Q. Okay. And you have the same set of data  
24 we've just described for the governor. And then you  
25 can see G02I, is that the auditor's race?

1 J. MORGAN

2 A. Yes.

3 Q. Okay. And then going down to T ... is  
4 that the secretary of state?

5 A. Yes.

6 Q. And then, by the way, the conventions for  
7 these elections for the attorney general, auditor,  
8 secretary of state, they're the same as for the  
9 governor in terms of being Democratic vote,  
10 Republican vote, total vote, and Republican  
11 percentage; is that right?

12 A. I assume so, yes.

13 Q. And then G02J, that's the general election  
14 2002 for the treasurer; is that right?

15 A. Yes.

16 Q. And same set of codes that follow under it  
17 until we get to G02H. Is that the 2002 -- what is  
18 that, 2002 H, if you know?

19 A. That's Congress, House.

20 Q. Okay. And then going to page 5, G02Y, do  
21 you see that?

22 A. Yes.

23 Q. Is that the Senate?

24 A. No.

25 Q. What is G02Y?



1 J. MORGAN

2 A. It's the State Senate.

3 Q. State Senate. Okay. Thank you. And  
4 G02X, do you see that?

5 A. Yes.

6 Q. And what's that?

7 A. That's the State House.

8 Q. Okay. Now did you provide any training on  
9 these codes, election codes, to anyone in Ohio in  
10 2011?

11 A. If there were questions, I would have  
12 answered them.

13 Q. Did you provide any information to folks  
14 as to how to use -- what these codes meant?

15 A. I think so, yes.

16 Q. Was that in writing?

17 A. No.

18 Q. Was it a PowerPoint?

19 A. No.

20 Q. Part of a presentation you made?

21 A. Just explaining what's on the screen.  
22 There's a mnemonic to these. Once you know the  
23 mnemonic, they make sense.

24 Q. Sure. And you put it up on a screen. And  
25 was this back on the July 7 and July 8 meeting?

1 J. MORGAN

2 A. Again, all the data was there and the  
3 letter designations for the election codes. Once you  
4 understand the mnemonics, it's fairly easy to  
5 remember them.

6 Q. Sure. I was just trying to put a date  
7 around this. Do you recall at which meeting it  
8 happened?

9 A. I don't know.

10 Q. Was it one of the earlier, when you were  
11 first introducing the Ohio folks to Maptitude?

12 A. I don't remember this being much of an  
13 issue.

14 Q. By the time you got there on July 25 they  
15 already understood this; is that right?

16 A. I think so.

17 Q. Okay. So like you say, there's a  
18 mnemonic -- never can say that right -- and I'm not  
19 going to drag you through every single code for every  
20 election in this table, but I just want to go over at  
21 a high level that the same data exists for the 2004  
22 elections, is that right, for the president? Is that  
23 right?

24 A. Yes.

25 Q. That's G04P; is that right?

1 J. MORGAN

2 A. Yes.

3 Q. Okay. And then there is a Senate, 2004,  
4 the G04S. Do you see that?

5 A. Yes.

6 Q. Okay. And then the house, G04H?

7 A. Yes.

8 Q. We're back to G04Y again for State Senate?

9 A. Yes.

10 Q. Okay. And then G04X, the State House; is  
11 that right?

12 A. Yes.

13 Q. Okay. And that gets us to G06, and you've  
14 got the -- there you've got information, I'll just  
15 say, it appears to be for the Senate and the governor  
16 and the attorney general and the auditor using the  
17 same codes that we've already discussed; is that  
18 right?

19 A. Yes.

20 Q. Okay. Should make a complete record and  
21 say there's also apparently in 2006 information on  
22 the treasurer, and going on to page 6 here, and,  
23 let's see, the secretary of state, and the State  
24 Senate and State House, correct?

25 A. For 2006, yes.

1 J. MORGAN

2 Q. That's right. Okay. And then for 2008  
3 we've got the same information for the president, the  
4 House, the State Senate, the State House; is that  
5 right?

6 A. Yes.

7 Q. Did I leave anything out?

8 A. I don't think so.

9 Q. Okay. And then for 2010 we've got the  
10 U.S. Senate at the bottom of page 6, and then going  
11 over to page 7, the governor, the attorney general,  
12 the auditor, secretary of state, treasurer, U.S.  
13 Congress, State Senate and State House; is that  
14 right?

15 A. Yes.

16 Q. Did I leave anything out?

17 A. I don't think so.

18 Q. Okay. And while not appearing -- not  
19 necessarily access to the DataView 1, because you  
20 don't know how they did it, all this information was  
21 available in Maptitude to Mr. DiRossi and Ms. Mann in  
22 2011; is that right?

23 MS. MCKNIGHT: Objection.

24 A. I don't know what they used, but, as far  
25 as I know, Maptitude, in the file that I have here,

1 J. MORGAN

2 had that information.

3 Q. The file you had here, what was the source  
4 of the data?

5 A. I got this from Clark Benson.

6 Q. Okay. As far as you know, he provided the  
7 same data to Mr. DiRossi and Ms. Mann that he  
8 provided to you?

9 A. I don't know.

10 Q. So he provided this to you.

11 A. Yes.

12 Q. Okay. Do you recall about when he  
13 provided it to you?

14 A. In July of 2011.

15 Q. Now going down towards the bottom of page  
16 7, do you see there a reference to various EA fields  
17 in the name column? Do you see that?

18 A. Yes.

19 Q. And what's your understanding the EA  
20 refers to here?

21 A. Election average.

22 Q. Okay. You see there's EA11, EA12, and  
23 EA13, and then on the next page it goes up through,  
24 let's see, EA14, EA15, EA16, EA21, EA31, and EA41.  
25 Do you see that?

1 J. MORGAN

2 A. I see that.

3 Q. Do you have any idea what those EAs refer  
4 to?

5 A. No.

6 Q. Do you have anything to do with helping  
7 put together what these EAs were?

8 A. No.

9 Q. Do you know -- do you have any idea of who  
10 did?

11 A. I got this file from Mr. Benson. I don't  
12 know if he created these or not.

13 Q. Do you have any understanding of what,  
14 let's say, EA12\_RP means? Do you see that towards  
15 the bottom of page 7?

16 A. Yes. It's the Republican percentage for  
17 that election average.

18 Q. Okay. And would that be for Census Block  
19 1006?

20 A. Yes.

21 Q. Okay. Everything in this exhibit concerns  
22 Census Block 1006; is that right?

23 MS. MCKNIGHT: Objection.

24 A. As far as I can tell.

25 Q. Okay. Did you ever see any spreadsheets

1 J. MORGAN

2 regarding the -- let me restate that.

3 Do you recall ever seeing any spreadsheets  
4 that provided political index scoring for proposed  
5 congressional districts in 2011 in Ohio?

6 A. No.

7 Q. Do you recall ever seeing any spreadsheets  
8 for any congressional districts in the map that was  
9 enacted in Ohio that had political index scorings on  
10 them?

11 A. I don't recall looking at that. I may  
12 have received that information once the plan was  
13 enacted.

14 Q. Okay. Do you recall, if you received it,  
15 do you recall who you would have received it from?

16 A. From the Republican National Committee.

17 Q. Okay. And would those scores have  
18 included -- let me back up.

19 Are you familiar with something called the  
20 PVI?

21 A. I've heard that term or those  
22 abbreviations.

23 Q. And do you have an understanding what that  
24 means?

25 A. Could you define it, please?

1 J. MORGAN

2 Q. Well, would the Cook Political Report  
3 generate something called PVI numbers?

4 A. My understanding is that PVI could be an  
5 abbreviation for partisan voting index. That's what  
6 I understand it to mean.

7 Q. Does that compare the votes in a district  
8 against national party strength?

9 A. I really don't know. It depends. That's  
10 a term that could be used for any partisan voting  
11 index.

12 Q. Have you ever used PVI in any of your  
13 work?

14 A. As discussed in this context, yes.

15 Q. Okay. Did you use it in Ohio in 2011?

16 A. I did not.

17 Q. How have you used it?

18 A. In this term the partisan voting index can  
19 be keyed to any number of averages to a state. It's  
20 usually configurable for that state. And I've seen  
21 it used and I've used it in New Mexico and in  
22 New Jersey.

23 MR. FRAM: Off the record, please.

24 (Discussion was had off the record.)

25 (Proceedings recessed at 12:18 p.m.)



1 J. MORGAN

2 AFTERNOON SESSION

3 (In session at 1:02 p.m.)

4 BY MR. FRAM:

5 Q. You mentioned in preparing for your  
6 deposition you looked at invoices. I took it from  
7 your answer that you looked at more than one.

8 A. I think I just looked at the one.

9 Q. Just the one.

10 A. I think so.

11 Q. I wanted to make sure I hadn't made a  
12 mistake and forgot to show you a bunch of invoices.

13 A. No, I saw the three that you produced  
14 here.

15 Q. Okay. There's not a whole bunch more  
16 invoices I forgot about. Okay. That's good.

17 MR. FRAM: We'll mark Exhibit 10. It's a  
18 PowerPoint. The cover title page is Drawing the  
19 Lines, and is Bates number LENZO\_0002549 through 80.  
20 And it says, on the title page, it also says John  
21 Morgan, Applied Research Coordinates.

22 Q. Please take a look at it.

23 (Exhibit 10 marked for  
24 identification: John Morgan Applied  
25 Research Coordinates | Drawing the

1 J. MORGAN

2 lines LENZO\_0002549 - LENZO\_0002580)

3 A. Okay.

4 Q. Mr. Morgan, have you seen this PowerPoint  
5 before?

6 A. Yes.

7 Q. And is this a PowerPoint you created?

8 A. Yes.

9 Q. And a PowerPoint that you have used in  
10 presentations?

11 A. Yes.

12 Q. And do you recall how many presentations  
13 you've used this in?

14 A. Two or three.

15 Q. Could you please identify for me the  
16 presentations where you've used this PowerPoint?

17 A. I believe this was used in 2010 at an NCSL  
18 conference for Republican legislators.

19 Q. And what else, please?

20 A. I used a version of this in New Mexico in  
21 2011, and I think -- I think that's probably it for  
22 the time periods that we're talking about here.

23 Q. Did you ever use this PowerPoint in any  
24 presentation in Ohio?

25 A. I don't think so.

1 J. MORGAN

2 Q. Okay. Did you ever -- do you recall  
3 whether or not Mr. DiRossi was present for the NCSL  
4 presentation in 2010?

5 A. I don't know.

6 Q. Do you know whether Mr. Lenzo was present  
7 at that presentation?

8 A. I'm not sure.

9 Q. Do you recall whether anyone from Ohio was  
10 present at that presentation?

11 A. I'm not sure. There were a lot of people  
12 there. There were Republican elected officials and  
13 staff members. And so I met a lot of people. I  
14 don't know who is who.

15 Q. Why don't we just go through a bit.

16 A. Sure.

17 Q. After the title page, the page with  
18 0002550, do you see the heading on the PowerPoint is  
19 "keep it secret, keep it safe," quote/unquote. Do  
20 you see that?

21 A. Yes.

22 Q. Now that's a quote, isn't it, from  
23 Fellowship of the Ring, if I recall correctly?

24 A. Yes.

25 Q. The first book in the trilogy; is that

1 J. MORGAN

2 right?

3 A. Yes, that's right.

4 Q. And that's why there's a ring over on the  
5 left in the picture there --

6 A. Yes.

7 Q. -- over next to the -- okay. And why did  
8 you pick that title?

9 A. Throughout this presentation, I was using  
10 little pieces from cartoons or, you know, commonly  
11 known movies and books. So I just picked that to  
12 keep people interested while I was talking about  
13 stuff.

14 Q. Good strategy. Now do you recall who said  
15 "keep it secret, keep it safe" in the book?

16 A. Yes. It was the Wizard Gandalf, and he  
17 was talking about the Lord of the Rings ring, which  
18 was advice he was giving to Frodo Baggins, who is a  
19 Hobbit.

20 Q. And he gave that admonition to Frodo. Do  
21 you recall why he gave him that admonition?

22 A. I think that the ring was being tested to  
23 see whether it was the ring of power at that time,  
24 and he wanted to make sure that no one got their  
25 hands on it.

1 J. MORGAN

2 Q. Because it was so powerful?

3 A. Yes, or it could be. I don't know if they  
4 knew that at the time, but, yeah, it was -- it was an  
5 item of magic, and it was -- it ended up being the  
6 one ring of power.

7 Q. That's how I've always understood it too.  
8 Thank you.

9 So the question, then, is, some of the ways to  
10 keep it secret. Okay. Talks about a controlled  
11 access to location, do you see that?

12 A. In the bullet points? Yes.

13 Q. The first bullet point, yeah. Now, in  
14 fact, when you went to Ohio, to that hotel room, you  
15 could only get in the room with a key card; isn't  
16 that right?

17 A. I don't know. I assume so.

18 Q. Somebody let you in, right?

19 A. Yes.

20 Q. You didn't have a key card?

21 A. No.

22 Q. Do you recall who let you in?

23 A. It would be Ray or Heather, I think.

24 Q. Do you recall any other security they had  
25 in place in that room at the time?

1 J. MORGAN

2 A. I remember they had computers. I don't  
3 know if they had, like, screen passwords or something  
4 like that.

5 Q. Okay. And do you recall discussing the  
6 idea of having a hotel room that was kept away from  
7 distractions when you were in Ohio for the July 7 and  
8 8 meetings?

9 A. I'm sorry. Could you repeat the question?

10 Q. You were in Ohio for July 7 and 8, 2011,  
11 right?

12 A. Yes.

13 Q. And you talked to Mr. Mann -- sorry; I'll  
14 repeat that -- Ms. Mann and Mr. DiRossi. Do you  
15 recall that?

16 A. Yes.

17 Q. Do you recall talking about that they  
18 should secure a room that was away from distractions?

19 A. I didn't suggest that.

20 Q. Was it discussed?

21 A. I believe that there was an indication  
22 that they would have office space available.

23 Q. What about space in the hotel, was that  
24 discussed?

25 A. I don't remember that.

1 J. MORGAN

2 Q. Was there anything discussed about the  
3 need for keeping things secret and safe when you were  
4 out there in July?

5 A. Not in this context.

6 Q. In any context?

7 A. No.

8 Q. Okay. Do you remember having that  
9 conversation with anyone in Ohio at any time?

10 A. No.

11 Q. Turning to LENZO\_0002552, do you see the  
12 quote, "Never Travel Without Counsel"? Do you see  
13 that?

14 A. Yes.

15 Q. Do you recall saying -- stating this at  
16 the NCSL conference?

17 A. Well, I put this slide on the screen and  
18 discussing having counsel and attorneys involved in  
19 the process, yes.

20 Q. What do you recall saying about that?

21 A. Just that it's important to have attorneys  
22 involved in the process from start to finish, and my  
23 experience has been that's what most people do in  
24 redistricting.

25 Q. Now you see it says, quote, "be aware of

1 J. MORGAN

2 the record that is building around your actions,"  
3 closed quote. Do you see that?

4 A. Yes.

5 Q. Do you recall ever discussing that with  
6 anyone in Ohio?

7 A. Not specifically about this, no.

8 Q. Do you recall anyone discussing in Ohio  
9 the need to be careful about the record that was  
10 building?

11 A. No.

12 Q. Go to 2557 where it says, quote, "don't  
13 get painted into a corner." Do you see that?

14 A. Yes.

15 Q. What did you mean -- I take it you said,  
16 quote, "start from endpoint and work towards a  
17 checkpoint." Do you see that?

18 A. Yes.

19 Q. What did you mean by that?

20 A. In general terms, it's useful to have  
21 defined regions so that, when you have multiple  
22 people working on plans, you can put pieces of the  
23 plans together and they -- you can knit them together  
24 easily.

25 Q. So, for example, in Ohio, an example of a



1 J. MORGAN

2 region would have been those Northeast Ohio districts  
3 we were discussing before?

4 A. In general, it could be something like  
5 that. That wasn't a defined region that I was aware  
6 of.

7 Q. Were there any defined regions in Ohio you  
8 were aware of?

9 A. No.

10 Q. Any idea whether or not folks in Ohio, in  
11 fact, worked with certain regions?

12 A. I don't know.

13 Q. Do you see the last bullet, it says,  
14 quote, don't commit to a specific district unless --  
15 strike that -- "don't commit to a specific district  
16 until you test out the impact"? Do you see that?

17 A. Yes.

18 Q. What did you mean by that?

19 A. In the sense that you would have  
20 interested parties take a look at it, particularly in  
21 this case I'm thinking mostly about incumbents.

22 Q. Okay. And how would you test the impact?

23 A. Well, in this process I work a lot of  
24 times with legislators, and they have input on  
25 districts. So, you know, knowing how districts work

1 J. MORGAN

2 together, checking with various members of the  
3 legislature or other stakeholders in the process.

4 Q. Would looking at the political -- strike  
5 that.

6 Would looking at the election data for  
7 proposed districts be part of how you would test the  
8 impact?

9 A. It could be.

10 Q. Turning to the next slide, 2558, do you  
11 see that?

12 A. Yes.

13 Q. It says "data"?

14 A. Yes.

15 Q. Why don't we go through the different  
16 kinds of data. So there's Census PL-94-171 data.  
17 What's that, please?

18 A. That's the data that the Census releases  
19 after it completes the census. It's the data that's  
20 commonly used for redistricting. It's enumerated  
21 data from the Census.

22 Q. And then you say, quote, "use presidential  
23 and statewide election data." Do you see that?

24 A. Yes.

25 Q. Why did you say that? Why should that be

1 J. MORGAN

2 used?

3 A. That's -- the statewide and presidential  
4 election results are available data, and it's just  
5 data you can use.

6 Q. Is there any reason that's good data to  
7 use?

8 A. I didn't say it was good or bad data. I  
9 just said it's data, and it's useful in the sense  
10 that it's at every part of the state for statewide  
11 and presidential as opposed to the next one, which  
12 are district-specific, legislative and congressional.

13 Q. Did you also recommend that that be used,  
14 legislative and congressional elections?

15 MS. MCKNIGHT: Objection.

16 A. It's on this slide. I don't know that I  
17 recommended it.

18 Q. Okay. You say under there, the next  
19 bullet is, quote, "limited local elections as  
20 needed," quote/unquote. Do you see that?

21 A. Yes.

22 Q. What did you mean by "limited local  
23 elections"?

24 A. If some -- if someone were to determine  
25 that a mayor's race or some other race, a judge race,

1 J. MORGAN

2 or some other local election made sense to look at, a  
3 supervisor, then you could look at that data too.

4 Q. The next bullet is, quote, racial bloc  
5 data -- Democratic -- Democrat primaries -- let me  
6 say that again. Quote, "Racial bloc data -- Democrat  
7 primaries? Non-partisan?" Do you see that?

8 A. Yes.

9 Q. What did you mean by that bullet?

10 A. Just other data that could be used.

11 Sometimes partisan primaries are looked at,  
12 nonpartisan elections, judges, and then sometimes  
13 there will be a racial bloc voting analysis that  
14 could be done with that data and other data.

15 Q. Okay. Now the next bullet says, quote,  
16 "use averages with caution," quote/unquote.

17 A. Yes.

18 Q. What did you mean by that?

19 A. In this sense, when I'm talking about  
20 averages, using an average, it doesn't always take  
21 into account the good years and bad years. So you  
22 need to know what is being put into the average.

23 And, in addition to that, I mentioned before  
24 there are regional variances with candidates. I  
25 always want to make sure I'm aware of that. So in my

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2 work I don't always use averages, but some clients  
3 want to use averages.

4 Q. Just so we're clear, average would be  
5 averages of different elections?

6 A. Generally, yes.

7 Q. Okay. Do you recall any discussion with  
8 anyone in Ohio about whether they should be using  
9 averages or not?

10 A. No.

11 Q. The next bullet, quote, "ACS will be  
12 available, but it is not, quote, 'snapshot,' closed  
13 quote, data." That's the end of the bullet, closed  
14 quote. Do you see that?

15 A. Yes.

16 Q. What did that mean?

17 A. ACS is American Community Survey. It's a  
18 survey data that the Census publishes. It's  
19 available on a one-year, three-year and a five-year  
20 cycle. And it's not snapshot data because,  
21 essentially, that data, it's survey data, and it's  
22 collected over a period of time.

23 So that, while you have more responses by  
24 using a larger period of time, therefore, you have a  
25 greater number of samples to choose from, it's not

1 J. MORGAN

2 contemporaneous. It doesn't exist at one single  
3 point in time.

4 Q. Okay. And the next bullet, quote, "voter  
5 file data? Micro-targeting data?" Do you see that?

6 A. Yes.

7 Q. What -- how would voter file data be used?

8 A. There's many ways you could use voter file  
9 data. At the basic level, you could learn the total  
10 number of registered voters in a voting precinct. In  
11 some states there's partisan voting data, so you can  
12 know the number of registered voters of a particular  
13 party. And also in some cases you have actual street  
14 addresses of voters, so it would be, theoretically,  
15 possible to look at individual voters on a map.

16 Q. And when you say "micro-targeting data,"  
17 what does that mean?

18 A. That would be other data that might be  
19 associated with an individual registered voter or a  
20 person.

21 Q. Okay. And have you used that in any of  
22 your work, micro-targeting data?

23 A. Yes.

24 Q. Did you do any of that in Ohio?

25 A. No.

1 J. MORGAN

2 Q. The next slide talks about, quote,  
3 "Anticipate bottlenecks." Do you see that?

4 A. Yes.

5 Q. And there's a reference to, quote/unquote,  
6 "VRA bottlenecks." Do you see that?

7 A. Yes.

8 Q. What's that mean?

9 A. Voting Rights Act is the abbreviation.

10 Q. What would a Voting Rights Act bottleneck  
11 be?

12 A. If there are districts that are drawn for  
13 purposes of satisfying the Voting Rights Act,  
14 sometimes they create an area that becomes fixed in a  
15 map. And so in some cases those districts would be  
16 drawn and not changed.

17 Q. Did you in your practice -- I know you're  
18 not a lawyer, so I'm not going to ask you what you  
19 think the right view of the law is, just in your  
20 practice -- do you have any criteria that you apply  
21 to determine whether a district satisfies the Voting  
22 Rights Act?

23 A. No. I rely on legal counsel to determine  
24 that.

25 Q. Then the next thing is "Political

1 J. MORGAN

2 bottlenecks." Do you see that?

3 A. Yes.

4 Q. What did you mean by that?

5 A. There are circumstances, in general, where  
6 you would have two incumbents that are -- who live  
7 close by or, you know, you would have circumstances  
8 where, you know, districts have lost population in a  
9 single area and you have to deal with the fallout  
10 from making changes in those areas.

11 Q. What about "Internal bottlenecks," what  
12 did you mean by that?

13 A. Those might be factors that are not  
14 apparent at first, but when you start drawing them  
15 you come back to the same problems. And so sometimes  
16 a change of how the map drawer views an area can  
17 resolve those.

18 Q. Okay. On 2564, you see the title  
19 "Bartlett v. Strickland"?

20 A. Yes.

21 Q. Did you draft this slide?

22 A. Yes.

23 Q. Do you see here that there's a discussion  
24 in the second bullet of the majority-minority rule.  
25 Do you see that?



1 J. MORGAN

2 A. Yes.

3 Q. Is it your understanding that in 2010 that  
4 one needed to apply majority-minority rule to  
5 determine if a district was VRA compliant?

6 A. I don't know. I took these quotes  
7 directly from the opinion.

8 Q. Okay. This is what you presented, though?

9 A. Yes. In this slide I took these directly  
10 from the opinion.

11 Q. Do you recall ever having any discussion  
12 with anyone in Ohio about what was involved in terms  
13 of being VRA compliant?

14 A. No. That was left to the attorneys.

15 Q. Let's see 2569, quote, "Plan to think  
16 outside the box." Do you see that?

17 A. Yes.

18 Q. It says, quote, "Let others look at the  
19 plans -- at the right time," quote/unquote. Do you  
20 see that?

21 A. Yes.

22 Q. What do you mean by "at the right time"?

23 A. Generally, in this process there's a lot  
24 of preliminary drawing and concepts that are looked  
25 at, and, you know, you want to show people the

1 J. MORGAN

2 results of the work that's being done when it's in a  
3 presentable format. Sometimes things are just not  
4 ready to be presented.

5 Q. It says down at the last bullet, quote,  
6 "Anticipate your opponents." Do you see that?

7 A. Yes.

8 Q. How can you do that?

9 A. Generally, you can see what people that  
10 you consider opposing your viewpoint might say about  
11 something and just anticipate what they would say in  
12 the way that would you do for, you know, preparing  
13 for an argument or something.

14 Q. In the context of a congressional district  
15 map, how would you anticipate opponents of the map to  
16 challenge what you're doing?

17 A. I really don't know. That's very  
18 specific.

19 Q. Did you have any discussion with anyone in  
20 Ohio about anticipating what opponents of the map  
21 might do?

22 A. No.

23 Q. Did that come up at the July meeting?

24 A. No.

25 Q. Did that come up during your visit in

1 J. MORGAN

2 July --

3 A. No.

4 Q. -- at the hotel room?

5 A. No.

6 Q. Any question about any objection one might  
7 make to the map ever come up at all?

8 A. I really don't know. I didn't --

9 Q. With you.

10 A. No.

11 Q. I'm sorry to interrupt.

12 On 2572 in the slide "Redistricting Math," it  
13 says, quote, "Know when to collapse a district." Do  
14 you see that?

15 A. Yes.

16 Q. Is there a certain point when it's  
17 appropriate to collapse a district?

18 A. No, not -- not necessarily. It's just  
19 being aware of what happens if you collapse a  
20 district. In legislative redistricting especially,  
21 there will be population shifts in the state, and it  
22 would be possible to address these by continually  
23 going and getting more and more population outside of  
24 a region, or you could collapse a district, stabilize  
25 a region, and move the seat to another part of the

1 J. MORGAN

2 state.

3 Q. When you were in Ohio in July 25-26, 2011,  
4 do you recall there was a discussion about  
5 Representative Kucinich's district? Do you recall  
6 that?

7 A. Just a little bit, yes.

8 Q. About whether or not to collapse that  
9 district?

10 A. I think that was something that was  
11 considered.

12 Q. Do you recall anything about that  
13 conversation?

14 A. No, just there needed to be two districts  
15 combined and that that was a possibility.

16 Q. Do you recall talking about what the  
17 consequences might be in doing that?

18 A. No.

19 Q. Go to the next slide, "Incumbent  
20 pairings." Do you see that?

21 A. Yes.

22 Q. Do you recall a discussion in Ohio about  
23 the pairing of Representative Turner and  
24 Representative Austria?

25 A. No.

1 J. MORGAN

2 Q. The pairing of Representative Johnson and  
3 Representative Gibbs?

4 A. No.

5 Q. About any incumbent pairings?

6 A. Just the one I mentioned.

7 Q. Kucinich and Kaptur?

8 A. Yes.

9 Q. At 2575 under the slide entitled "Score  
10 the plans," do you see that?

11 A. Yes.

12 Q. And you say, the first bullet is, quote,  
13 "Determine what to include in a standard report," do  
14 you see that, quote/unquote? Do you see that?

15 A. Yes.

16 Q. And under that you say, quote, "deviation,  
17 racial data, partisan data, other demographics,"  
18 quote/unquote. Do you see that?

19 A. Yes.

20 Q. So is it your recommendation that, among  
21 other things, partisan data should be included in a  
22 standard report?

23 A. Those are factors that could be included.  
24 This is a very general presentation. Yes.

25 Q. Right, but that was your --

1 J. MORGAN

2 A. That was included in the presentation,  
3 yes.

4 Q. And then going down two more bullets it  
5 says, quote, "What is the likely partisan outcome?"  
6 Do you see that?

7 A. Yes.

8 Q. And that was also included in the  
9 presentation?

10 A. Yes.

11 Q. Okay. Do you recall any discussion with  
12 anyone at any time in 2011 in Ohio regarding  
13 congressional redistricting about consideration of  
14 what the likely partisan outcome would be?

15 A. No.

16 Q. The last slide, quote/unquote, "Stay  
17 cool." Do you see that?

18 A. Yes.

19 Q. The last bullet says, quote, "Play your  
20 position," quote/unquote.

21 A. Yes.

22 Q. What do you mean by that?

23 A. Just what it says. If you have a job role  
24 or a position in the process, stick to that position,  
25 stay in your lane.

1 J. MORGAN

2 Q. Going back to score the plans, you talk  
3 about --

4 MS. MCKNIGHT: Which page?

5 MR. FRAM: It's 2575.

6 Q. Could you use Maptitude to determine the  
7 partisan outcome of a district?

8 A. Not that I know of.

9 Q. You couldn't use it to determine using the  
10 election data?

11 A. You can include the election data  
12 certainly.

13 Q. Couldn't that tell you the partisan  
14 outcome?

15 MS. MCKNIGHT: Objection.

16 A. I don't know. It could. It's just a  
17 number. Usually somebody would look at it.

18 Q. If you didn't use Maptitude, how could you  
19 determine the partisan outcome?

20 A. You could use other data sources, you  
21 know. It doesn't have to be Maptitude.

22 Q. It doesn't have to be Maptitude, but could  
23 it be Maptitude?

24 A. I mean, you can get political data that's  
25 in the Maptitude program and display it district by

1 J. MORGAN

2 district certainly.

3 Q. Okay. What other data could you use to  
4 determine the partisan outcome?

5 A. You can look at things that are not  
6 included, like partisan registration, incumbency, you  
7 know. A lot of times people will look at the  
8 percentage of a district that's retained versus new  
9 territory. There's a lot of other factors.

10 MR. FRAM: I'm going to mark next  
11 testimony in the case Rima Ford Vesilind vs. Virginia  
12 State Board of Elections. It's the trial proceedings  
13 of March 14, 2017.

14 (Exhibit 11 marked for  
15 identification: Rima Ford Vesilind  
16 vs. Virginia State Board of  
17 Elections Trial Proceedings  
18 3/14/2017)

19 Q. Your testimony -- there's a lot of pages  
20 here for completeness sake, but your testimony  
21 actually starts around page, let's see --

22 MS. MCKNIGHT: 516.

23 Q. -- 516. I'm not going to ask you about  
24 all your testimony, but I just want you to know where  
25 to start. You're at the very bottom of 516.



1 J. MORGAN

2 I was going to ask you some questions about  
3 your testimony concerning the subject of compactness,  
4 which shows up around page 553 and going forward,  
5 554, around there, but you should look at as much of  
6 your testimony as you want to.

7 A. I'm sorry. What are you directing me to?

8 Q. I'm directing you to 553 and 554.  
9 Actually you can even start earlier than that. You  
10 can go back to 548 even and look at that. I think  
11 you discuss compactness back there also. 548, 549,  
12 and then you can keep going through, but then it  
13 picks up again at 553 and 554.

14 MS. MCKNIGHT: Mr. Fram, do you want him  
15 to review all those pages?

16 MR. FRAM: I'm going to ask him some  
17 questions about it. He should review it for context.  
18 It's up to him. I don't want to mislead him or not  
19 give him a chance to look at the whole thing.  
20 Roughly from 548 through 554.

21 A. Okay. I've looked at some of the  
22 material.

23 MS. MCKNIGHT: Pardon me, Mr. Fram.

24 Because this is sworn testimony and you're  
25 giving sworn testimony today, I just want to make

1 J. MORGAN

2 sure you've had a chance to review every single page  
3 that he identified.

4 A. Okay.

5 Q. Yes. Please take your time.

6 A. Sure. Okay. I looked at the portions you  
7 assigned me to look at with the direct examination.

8 Q. Okay.

9 A. Do you need me to look past page 556?

10 Q. No. That's all for now.

11 A. Okay.

12 Q. I have a question for you. So you  
13 testified about the subject of compactness in this --  
14 in this redistricting, correct?

15 A. Yes.

16 Q. Just so we're on the same page, what does  
17 compactness mean to you?

18 A. Well, compactness, as it relates to  
19 redistricting, usually refers to geographic tests  
20 that are run in software, so they are, generally  
21 speaking, about geographic compactness in that sense  
22 as far as shapes go.

23 Someone can also speak of compactness as an  
24 area that is, say, smaller than another area, might  
25 be considered more compact. So if a district has a

1 J. MORGAN

2 smaller size area-wise, it could be considered more  
3 compact in that context. That's a little different  
4 than polygon tests.

5 Q. A polygon test, does that include the  
6 Reock score?

7 A. Yes, that's one of the tests.

8 Q. And Polsby-Popper, is that another one?

9 A. Yes.

10 Q. Okay. So you're familiar with those two  
11 scores?

12 A. I am.

13 Q. Okay. And is there an optimum score for  
14 compactness in Polsby-Popper?

15 A. Not that I'm aware of.

16 Q. What about 1.0? Is that considered to be  
17 a test for compactness in Polsby-Popper?

18 A. I'm sorry. I don't --

19 Q. The score 1.0, does that have any meaning  
20 to you in Polsby-Popper?

21 A. In what context?

22 Q. In terms of optimum compactness for a  
23 district.

24 A. I don't know that there is such a number.

25 Q. Okay. You talk about there being

1 J. MORGAN

2 acceptable tolerances on page 554.

3 A. Okay.

4 Q. Do you see that?

5 A. Yes.

6 Q. What did you mean by that? In your view,  
7 what's an acceptable tolerance for compactness?

8 A. Well, in the case of Virginia, there was a  
9 score on those measures that were upheld in the court  
10 case from 2001. So it seemed that that would be  
11 appropriate as a -- as a score for the 2011 plan for  
12 the House of Delegates of Virginia.

13 Q. And do you recall what that number was?

14 A. No.

15 Q. Was that on your Polsby-Popper test?

16 A. I don't know which one it was.

17 Q. In your practice, is there any -- do you  
18 have any notion -- do you have any criteria of  
19 acceptable tolerances for compactness?

20 A. No. It varies state by state and, you  
21 know, time by time.

22 Q. So a score as low as 0.15 can be  
23 acceptable?

24 A. 0.15 of what?

25 Q. Polsby-Popper.

1 J. MORGAN

2 A. It could be.

3 Q. Or it could not be.

4 A. I don't know.

5 Q. Okay. What about irregular shapes? Do  
6 you ever look at that in terms of compactness, just  
7 like at certain points, if the shape is too irregular  
8 to satisfy compactness?

9 A. People look at those, yes.

10 Q. Have you ever done so?

11 A. I mean, I can look at any shape, yes.

12 Q. Have you ever looked at it and thought the  
13 shape was too irregular to satisfy compactness?

14 A. I don't know that that would be  
15 determinative of compactness.

16 Q. What would be?

17 A. Most people would look at compactness  
18 scores or other information about districts.

19 Q. And looking at scores, is there any, in  
20 your experience -- you've done a lot of redistricting  
21 work -- is there any level at which something is  
22 below acceptable tolerance for its compactness?

23 A. I think each case is different, and these  
24 compactness scores are comparative. You have to  
25 compare those scores to other scores.

1 J. MORGAN

2 MR. FRAM: Why don't we take a little  
3 break. I'll look at my notes, and I'll see where we  
4 are.

5 MS. MCKNIGHT: Okay. Sure.

6 (Proceedings recessed at 1:43 p.m.)

7 (In session at 1:52 p.m.)

8 MR. FRAM: Subject to any follow-up, any  
9 questions your counsel may have, I have no further  
10 questions for you.

11 THE WITNESS: Okay. Thank you.

12 MS. MCKNIGHT: Thank you.

13 MR. FRAM: Thank you for your time.

14 MS. MCKNIGHT: We'll reserve our right to  
15 read and sign.

16  
17 //

18 (The deposition of JOHN MORGAN concluded at  
19 1:52 p.m.)

20 //  
21  
22  
23  
24  
25

1 J. MORGAN

2 ACKNOWLEDGMENT OF DEPONENT

3 I, JOHN MORGAN, do hereby acknowledge that I  
4 have read and examined the foregoing testimony and  
5 that the same is a true, correct and complete  
6 transcription of the testimony given by me, with the  
7 exception of the noted corrections, if any, appearing  
8 on the attached errata page(s).

9  
10 \_\_\_\_\_  
11 DATE

\_\_\_\_\_  
JOHN MORGAN

12  
13 Subscribed and sworn to before me this \_\_\_\_\_ day of  
14 \_\_\_\_\_, 2018.

15 \_\_\_\_\_ (Notary Public)

16 My Commission expires: \_\_\_\_\_  
17  
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J. MORGAN

C E R T I F I C A T E

I, LINDA S. KINKADE, Registered Diplomate Reporter, Certified Realtime Reporter, Registered Merit Reporter, Certified Shorthand Reporter, and Notary Public, do hereby certify that prior to the commencement of examination the deponent herein was duly sworn by me to testify truthfully under penalty of perjury.

I FURTHER CERTIFY that the foregoing is a true and accurate transcript of the proceedings as reported by me stenographically to the best of my ability.

I FURTHER CERTIFY that I am neither counsel for nor related to nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 3rd day of December 2018.



LINDA S. KINKADE

My commission expires: July 31, 2022

NOTARY PUBLIC IN AND FOR

THE DISTRICT OF COLUMBIA



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NAME OF WITNESS:

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

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## CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on this 10th day of December, 2021, I caused a true and correct copy of this appendix to be served by email upon the counsel listed below:

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