

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE  
CONFERENCE OF THE NAACP, and

TAIWAN SCOTT, on behalf of himself and all  
other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official  
capacity as President of the Senate; LUKE A.  
RANKIN, in his official capacity as Chairman of  
the Senate Judiciary Committee; JAMES H.  
LUCAS, in his official capacity as Speaker of the  
House of Representatives; CHRIS MURPHY, in  
his official capacity as Chairman of the House of  
Representatives Judiciary Committee;  
WALLACE H. JORDAN, in his official capacity  
as Chairman of the House of Representatives  
Elections Law Subcommittee; HOWARD  
KNAPP, in his official capacity as interim  
Executive Director of the South Carolina State  
Election Commission; JOHN WELLS, Chair,  
JOANNE DAY, CLIFFORD J. EDLER, LINDA  
MCCALL, and SCOTT MOSELEY, in their  
official capacities as members of the South  
Carolina Election Commission,

Defendants.

**Case No. 3-21-cv-03302-  
MGL-TJH-RMG**

**THREE-JUDGE PANEL**

**PLAINTIFFS' MOTION TO COMPEL  
TESTIMONY AND PRODUCTION OF  
DOCUMENTS BY DALTON  
OLDHAM, JR.**

## **INTRODUCTION**

In this motion, Plaintiffs seek an order compelling the testimony and production of documents by Dalton L. Oldham, Jr., the registered agent of the Dalton L Oldham LLC (“the LLC”). Over the last two months, Plaintiffs have made repeated and varied efforts to serve Mr. Oldham, a well-known and controversial redistricting consultant for Republican-affiliated entities and interests, who appears to have communicated with key redistricting counsel for the Senate, Mr. Charles Terreni, during this most recent redistricting cycle around the time that the Senate released its first proposed draft congressional map. Testimony and documents also suggest that Mr. Oldham facilitated the transfer of maps between the National Republican Redistricting Trust (“NRRT”) and Andy Fiffick, Senate Chief of Staff and Director of Research, around this same period. Mr. Oldham has not responded to any of Plaintiffs’ seven unique service attempts at multiple addresses, including an address registered by Mr. Oldham that appears to contain no buildings and a property owned by Mr. Oldham where residents refused to answer the door, *or* to service effectuated upon him via the South Carolina Secretary of State, or to direct notification of the subpoena via email by Plaintiffs’ counsel. Therefore, Plaintiffs respectfully request that the Court order Mr. Oldham to appear for a deposition and produce the requested documents.

## **PLAINTIFFS’ MULTIPLE SERVICE ATTEMPTS**

Plaintiffs first became aware of Mr. Oldham’s involvement in congressional redistricting on or about June 30, 2022, after discovering an apparent text conversation from November 2021 between Mr. Oldham and Charles Terreni, Senate Defendants’ outside counsel, among Senate Defendants’ produced documents. In it, Mr. Oldham appears to be coordinating the sharing of political data and possibly other materials with Mr. Terreni. *See Ex. B.* Mr. Oldham reportedly is a longtime redistricting consultant to the Republican National Committee who has worked

closely with the National Republican Redistricting Trust. *See Ex. C.*<sup>1</sup> Though much of his produced text exchange with Terreni was redacted as not relevant, *see Ex. B*, the few visible messages were sufficient to motivate Plaintiffs to seek to learn the nature and extent of his role in South Carolina’s congressional redistricting process.

Within thirty days of identifying the document, Plaintiffs made **seven** separate attempts to personally serve Mr. Oldham, at various associated addresses:

1. The day after identifying the above-mentioned exchange between Oldham and Terreni, July 1, 2022, Plaintiffs attempted service of a subpoena for documents (*see Ex. D*) at approximately 7:15pm at the address believed to be Mr. Oldham’s residence, in Columbia, South Carolina. Dalton and Doris Oldham are listed as the owners of the property in Richland County property records. However, the server found the gate was locked, and the lights were off, and nobody answered the door.
2. The server returned to the Columbia address the next morning, July 2, and was greeted by a man who claimed that his name was “Wayne Johnson,” and that he did not know anyone named Dalton Oldham, despite the fact that Mr. Oldham apparently owns the property where the man claiming to be “Wayne Johnson” apparently lives.
3. On July 6, 2022, a server attempted service at a second address associated with Mr. Oldham, in Alexandria, Virginia. The server was let into the apartment building by a

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<sup>1</sup> *See also* All Things Considered, The Private Files Of Thomas Hofeller, GOP Redistricting Operative, Are Now Public, NPR (Jan. 6, 2020), <https://www.npr.org/2020/01/06/794044665/theprivate-files-of-thomas-hofeller-gop-redistricting-operative-are-now-public> (detailing Mr. Oldham’s former professional relationship with Thomas Hofeller, another controversial GOP strategist who was involved in various gerrymandering litigation).

friendly tenant, but nobody answered the door of the apartment associated with Mr. Oldham.

4. On July 8, a server attempted service at 137 Edgewater Lane in Lexington, South Carolina, which is the address listed for Mr. Oldham in both the South Carolina state bar's attorney directory (*see* **Ex. E**), and the South Carolina Secretary of State's business directory, as the registered agent for the Dalton L Oldham LLC (**Ex. F**). However, the server reported finding the lot to contain only boat storage.
5. On July 21, after Plaintiffs drafted an updated subpoena for documents and deposition testimony (the "July 20 subpoena"), **Ex. A**, a server returned to the Columbia address at 4:10pm; however, nobody answered the door.
6. The server returned at 7:00 pm, and although they could hear a man and woman talking inside, and could see them looking out the curtains, nobody would come to the door. The server waited for 15 minutes, but nobody answered.
7. On July 22, the server returned to the Columbia address at 8:00 pm, but again, nobody would answer the door.

Recognizing that Mr. Oldham appeared to be ducking service and that personal service was not likely to succeed, Plaintiffs drafted a new subpoena, seeking documents and deposition testimony from the Dalton L Oldham LLC (the "LLC subpoena"). **Ex. A**. The LLC subpoena sought the same documents and testimony as the July 20 subpoena, with a return date of August 5, 2022 (or one week prior to Mr. Oldham's deposition, whichever was later). *Id.* Because the server's experience at the Lexington address (which, as noted, is the address where Mr. Oldham has registered as agent for the LLC), confirmed that the "agent for service of process cannot with reasonable diligence be found at the agent's address," S.C. Code § 33-44-111(b), Plaintiffs served



both the July 20 subpoena and the LLC subpoena on the South Carolina Secretary of State on August 1, 2022. *See Ex. G.* Plaintiffs emailed the subpoenas to four email addresses for Mr. Oldham on August 3 (representing every email address known for Mr. Oldham), advising him of service on the Secretary of State, and requesting that he or his counsel contact Plaintiffs' counsel if the requested deposition date was unworkable. In accordance with S.C. Code § 33-44-111(c), the Secretary of State mailed the subpoena to Mr. Oldham on August 4. *See Ex. G* at 5. He appears to have signed for the delivery at the above-mentioned Edgewater Lane address on August 8, 2022. *Ex. H.*<sup>2</sup>

To date, Mr. Oldham has not responded to the subpoena or to Plaintiffs' emails. He has not produced any documents. Nor did he show up at the requested August 11 deposition.

### **LEGAL STANDARD**

Under Federal Rule of Civil Procedure 26, “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case[.]” Further, “[t]he scope of discovery allowed under a subpoena [under Rule 45] is the same as the scope of discovery allowed under Rule 26.” *Singletary v. Sterling Transp. Co.*, 289 F.R.D. 237, 240-41 (E.D. Va. 2012) (citing *Cook v. Howard*, 484 F. App’x 805, 812 (4th Cir. 2012)). Parties may seek information via subpoena under Rule 45 so long as the information is relevant under Rule 26 and does not impose an “undue burden” on the recipient. *See* Fed. R. Civ. P. 45(c)(3)(A)(iv). “Whether a subpoena subjects a witness to undue burden within the meaning of Rule 45(c)(3)(A)(iv) usually raises a question of the reasonableness of the subpoena, which requires the court to weigh a subpoena’s benefits and burdens and consider whether the

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<sup>2</sup> The Secretary of State mailed proof of delivery to Plaintiffs' counsel, which was received on August 22, 2022. *Ex. H.*

information is necessary and whether it is available from any other source.” *Intelligent Verification Sys., LLC v. Microsoft Corp.*, 2014 WL 12544827, at \*1 (E.D. Va. Jan. 9, 2014) (quotations and alterations omitted). The “party resisting discovery bears the burden of showing that the requested discovery is irrelevant to the issues or is overly broad, unduly burdensome, unreasonable, or oppressive.” *Ashmore v. Allied Energy, Inc.*, 2016 WL 301169, at \*3 (quotations omitted) (D.S.C. Jan. 25, 2016); *see also* ECF 299 (quoting *Oppenheimer v. Episcopal Communicators, Inc.*, No. 1:19-cv-00282-MR, 2020 WL 4732238 at \*2 (W.D.N.C. Aug. 14, 2020)).

Under Rule 45(b)(1), “[a]ny person who is at least 18 years old and not a party may serve a subpoena . . . [by] delivering a copy to the named person[.]” In South Carolina, if an LLC’s “agent for service of process cannot with reasonable diligence be found at the agent’s address,” service of any “process, notice or demand” may be made on the LLC by delivering to and leaving with the Secretary of State, or a clerk in the limited liability company department of the Secretary of State’s office duplicate copies of the process, notice or demand.” S.C. Code § 33-44-111.

“The court has broad discretion in deciding to grant or deny a motion to compel.” ECF 299 at 5 (quoting *Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va., Inc.*, 43 F.3d 922, 929 (4th Cir. 1995)).

## **ARGUMENT**

### **I. Plaintiffs Seek Relevant and Proportional Discovery from Mr. Oldham.**

Plaintiffs are entitled to information in the possession, custody, or control of Mr. Oldham, either personally or as controlled by the LLC, that is directly relevant to Plaintiffs’ claims in this case, so long as it is not unduly burdensome. Fed. R. Civ. P. 45(c)(3)(A)(iv). The evidence Plaintiffs seek is plainly relevant, limited in scope, and has not been produced by any Defendants,

who have provided multiple assurances that all relevant non-privileged materials have been produced.

Both a text exchange between Mr. Oldham and Mr. Terreni and testimony from Mr. Terreni reveal that Mr. Oldham was involved in South Carolina’s congressional redistricting process, and that he may have exchanged maps and/or political data with key agents of the Senate Defendants and the National Republican Redistricting Trust, including by acting as an intermediary. In late November, 2021, around the time that the Senate released its first proposed congressional map, Mr. Oldham contacted Mr. Terreni to regarding maps and political data. **Ex. B.** Though the rest of this text thread was somewhat implausibly marked “Not Responsive,” the small sample available indicates that Mr. Oldham had contact with a key redistricting counsel for Senate Defendants, Mr. Terreni, around the time of the Senate’s release of its first draft map. Mr. Terreni was indisputably involved in critical decision-making regarding the Senate’s congressional redistricting process. Further, Mr. Terreni, who has known Oldham for “30 years,” confirmed that Mr. Oldham had maps that Adam Kincaid of the National Republican Redistricting “wanted [Senate Defendants] to see . . . quickly,” so Mr. Terreni provided Mr. Fiffick’s email address to Mr. Oldham to facilitate transmission of those maps. **Ex. I,** Terreni Dep. Tr. at 57:7-62:22. Mr. Kincaid shared files with Mr. Fiffick in late November, 2021. **Ex. J.** This testimony and these documents demonstrate that Plaintiffs’ desire to understand the full scope of Mr. Oldham’s role in the congressional redistricting process, including whether he had any input in the shape of the districts adopted in S. 865, is sufficiently well-founded to satisfy the relevance requirement of Rule 26.

In the subpoena which Mr. Oldham signed for on August 8, Plaintiffs requested testimony and documents regarding the LLC, and the involvement of the LLC and Mr. Oldham, its registered

agent, in the 2021-2022 congressional redistricting process in South Carolina. The vast majority of the listed areas of examination and requests for production specifically reference Defendants in this case, S. 865, and/or the districts at issue in this case. For example, requested Area of Examination No. 5 seeks information regarding the LLC and Oldham's "communications or correspondence with Defendants, Committee Members, and the South Carolina General Assembly and their staff from January 1, 2021 through the present that reflect or discuss the rationale(s), purpose(s), interpretation(s), or analysis of S. 865 and/or Predecessor Maps." **Ex A**, Oldham LLC Subpoena at Schedule A p. 6-7. Request for Production No. 1 seeks "documents provided to or received from Defendants, Committee Members, or the South Carolina General Assembly concerning the congressional districts adopted in S. 865," including documents and/or data provided to the people involved in bringing about the passage of S. 865. **Ex. A**, Oldham LLC Subpoena at Schedule B p. 11. These requests are appropriately tailored to the topics and parties at issue in this case and the evidence necessary for Plaintiffs to establish their claims. Plaintiffs do not demand an infinite repository of documents from Mr. Oldham, only those that have direct relevance to the congressional redistricting process at the center of this case. Moreover, the information sought is apparently not available from any other source, as Defendants have repeatedly assured Plaintiffs that all relevant, non-privileged material has been produced. If the discovery sought by Plaintiffs is as limited as Defendants have indicated they believe it will be, it should impose little burden for Mr. Oldham to comply with Plaintiffs' subpoena.

## **II. Mr. Oldham Has Waived His Right to Object to the Subpoena**

Under Federal Rule of Civil Procedure 45(d)(2)(B), a person served with a subpoena for documents must serve the party or attorney designated in the subpoena with any written objections before the time specified for compliance or fourteen days after the subpoena is served, whichever

is earlier. Failure to object to a subpoena within this time frame ordinarily results in a waiver of any objections to the subpoena. *Alston v. DIRECTV, Inc.*, No. 3:14-cv-4093, 2017 WL 1665418, at \*2 (D.S.C. May 3, 2017) (“A failure to object [to a subpoena] within the fourteen-day period usually results in waiver of the contested issue.” (quotations and citation omitted)); *Williams v. Big Picture Loans, LLC*, 303 F. Supp. 3d 341, 441 (E.D. Va. 2018) (“Normally, failure to object timely [to a subpoena] waives any objection, including privilege.”). Mr. Oldham was emailed the subpoena on August 3, and signed a service acknowledgment on August 8, 2022; the fourteen day period prescribed by Rule 45 expired on August 22. Mr. Oldham has therefore waived the right to object to any aspect of the subpoena, and should be ordered to promptly appear for a deposition and produce all documents described, as requested therein.

### **III. Plaintiffs’ Motion Is Timely**

Although discovery formally closed on August 12, the Court left an open deadline for motions to compel. *See* ECF 210 ¶ 7 (ordering that all “motions other than those relating to the admissibility of evidence at trial and those to compel discovery” be filed by August 19). Furthermore, limited discovery remains ongoing, with at least one Senate and one House witness left to be deposed. Senate Defendants have also indicated a desire that Mr. Oldham be deposed in order to settle Plaintiffs’ questions regarding Mr. Oldham’s role in the congressional redistricting process. Plaintiffs’ filing of this motion was reasonably delayed through no fault of Plaintiffs by Mr. Oldham’s repeated evasion of service, and no party would be prejudiced by an order that Mr. Oldham appear for a deposition and produce the requested documents.

## CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court order Mr. Oldham to appear for a deposition and produce the documents requested in the subpoena served on August 8, 2022 as soon as is practicable, equitable, and just.

Dated: August 31, 2022

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail. An electronic copy was served on Mr. Oldham by electronic mail on August 31, and a paper copy will be sent to Mr. Oldham via overnight delivery service on September 1.

/s/ Allen Chaney  
Allen Chaney



*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit A

AO 88A (Rev. 12/20) Subpoena to Testify at a Deposition in a Civil Action

## UNITED STATES DISTRICT COURT

for the

District of South Carolina

S.C. State Conference of the NAACP, et al.

*Plaintiff*

v.

Thomas C. Alexander, in his official capacity as  
President of the Senate, et al.*Defendant*

Civil Action No. 3:21-cv-03302-MGL-TJH-RMG

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Dalton L Oldham, LLC

*(Name of person to whom this subpoena is directed)*

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must promptly confer in good faith with the party serving this subpoena about the following matters, or those set forth in an attachment, and you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about these matters:

Place:

Remotely via Zoom. See Schedule A.

Date and Time:

08/11/2022 10:00 am

The deposition will be recorded by this method: Stenographer / Court Reporter

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Schedule B. As the deposition will be conducted by Zoom, you must produce the requested documents (to counsel, contact information below) by no later than one week prior to the deposition.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 07/29/2022

CLERK OF COURT

OR

/s/ Allen Chaney*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* South Carolina State Conference of the NAACP, Taiwan Scott, who issues or requests this subpoena, are:

Allen Chaney, tel: (843) 282-7953, achaney@aclusc.org

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:21-cv-03302-MGL-TJH-RMG

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_ .

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**SUBPOENA TO TESTIFY AT A 30(b)(6) DEPOSITION  
IN A CIVIL ACTION DIRECT TO  
THE DALTON L OLDHAM LLC**

**SCHEDULE A**

**INSTRUCTIONS AND DEFINITIONS**

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina Congressional Districts 1, 2, and 5.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee also chaired by Senator Rankin.
5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or purporting to act on the Committees’ behalf or subject to the Committees’ control or is involved in the redistricting work of the committees related to S. 865. The members of the South Carolina House of Representatives Judiciary Committee are Representatives Chris Murphy, John Richard C. King, Neal A. Collins, William H. Bailey, Justin T. Bamberg, Beth E. Bernstein, Bruce M. Bryant, Micajah P. Caskey, IV, Westley P. Cox, Sylleste H. Davis, Jason Elliott, Russell W. Fry, Patricia Moore Henegan, Max T. Hyde, Jr., Jeffrey E. Johnson, Wallace H. Jordan, Jr., John R. McCravy, III, Cezar E. McKnight, Brandon Newton, Wm.

Weston J. Newton, Seth Rose, Ivory Torrey Thigpen, Elizabeth Wetmore, and William W. Wheeler, III. Representatives Jordan, Bamberg, Bernstein, Collins, Elliot, Henegan, and Newton are members of the South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee. The members of the Senate Judiciary Committee are Senators Luke A. Rankin, Brad Hutto, Gerald Malloy, George E. Campsen, III, A. Shane Massey, Marlon E. Kimpson, Ronnie A. Sabb, Margie Bright Matthews, Wes Climer, Mia S. McLeod, Rex F. Rice, Sandy Senn, Scott Talley, Richard J. Cash, Richard A. Harpootlian, Dwight A. Loftis, Brian Adams, Billy Garrett, Penry Gustafson, Michael Johnson, Josh Kimbrell, Vernon Stephens, and Mike Reichenbach. Senators Rankin, Campsen, Young, Sabb, Matthews, Talley, and Harpootlian are members of the South Carolina Senate Judiciary Redistricting Subcommittee.

6. “COMMUNICATIONS” means the transmittal of information of any kind, written or oral, by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, PDFs, written reports, letters, and the like. It includes communications from the Dalton L Oldham, LLC that include or are with outside entities and individuals.
7. “DEFENDANTS” means all of the Defendants in the case caption: Thomas C. Alexander, James H. Lucas, Chris Murphy, Wallace H. Jordan, Howard Knabb, John Wells, Joanne Day, Clifford J. Elder, Linda McCall, and Scott Moseley. “DEFENDANTS” includes any of Defendants’ current or former agents, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on Defendants’ behalf or subject to Defendants’ control.

8. "DISTRICTS BORDERING THE CHALLENGED DISTRICTS" mean South Carolina congressional districts that border in whole or in part the Challenged Districts.
9. "DOCUMENT" or "DOCUMENTS" is defined to be synonymous in meaning and the same in scope as the term "document" as used in Rule 34 and the phrase "writings and recordings" as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Teams, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases, electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers, charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, agreements, corporate resolutions, minutes, books, binders, accounts, photographs, and business records. This shall include all non-identical copies, no matter how prepared; all drafts prepared in connection with such documents, whether used or not; and any deleted or erased documents that may be retrieved from hard drives, floppy disks, electronic back-up files, or any other back-up systems, regardless of location, together with all attachments

thereto or enclosures therewith, in your possession, custody or control or any of your attorneys, employees, agents, or representatives.

- a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

10. “MAP ROOM” refers to any part of the process for the development, design, and and/or revisions of proposed and draft congressional legislative redistricting maps, S. 865 (as defined below), and predecessor maps (as defined below) by the South Carolina General Assembly, including, but not limited to the virtual and physical room the Assembly established to develop congressional maps.
11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.



12. “PREDECESSOR MAPS” means any previous South Carolina congressional redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53, n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “S. 865” refers to Senate Bill 865 as ratified by the South Carolina General Assembly on January 26, 2022 and signed by the Governor of South Carolina on the same day as Act 118, and refers to the bill as a whole and/or to any provision thereof, as well as prior versions thereof, substitute bills, and/or amendments related to the bill. S. 865 is the legislation passed by the South Carolina General Assembly that implemented South Carolina’s seven congressional districts.
16. “SOUTH CAROLINA GENERAL ASSEMBLY” means all one hundred twenty-four (124) members of the South Carolina House of Representatives and all forty-six (46) members of the South Carolina Senate. “SOUTH CAROLINA GENERAL ASSEMBLY” includes committees, committee chairs, staff, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on the South Carolina General Assembly’s behalf or subject to the South Carolina General Assembly’s

control. Staff includes Ms. Emma Dean, Mr. Patrick Dennis, Mr. Thomas Hauger, Ms. Haley Mottel, Mr. Roland Franklin, Mr. Jimmy Hinson, Ms. Ashely Wan Walker Harwell-Beach, Ms. Paula Benson, Mr. Andy Fiffick, Mr. Will Roberts, Mr. Charles “Charlie” Terreni, Mr. Breeden John, Mr. Grayson Morgan, Ms. Morgan Baker, Ms. Madison Faulk, Ms. Michelle McGhee, Ms. Maxine Henry, Ms. Jolie Patterson, Mr. Regan Chase Kelly, and Mr. Dalton “Dale” Lamar Oldham, and Mr. Clark Bensen.

17. “THIRD PARTIES” refers to but is not limited to persons and entities who are political consultants, Republican and Democrat party officials, South Carolina state officials, lobbyists, members of the public, and legislative aides not in the employment of Defendants.
18. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American and Pacific Islander, or is a member of any other racial minority group, who is eligible or could be eligible to vote.
19. “You,” “Your,” and “Dalton L Oldham, LLC” mean Dalton L Oldham, LLC and all affiliated organizations; current or former agents, advisors, employees, representatives, officers, consultants, or contractors; or any person or entity acting or purporting to act on Your behalf or subject to Your control.

#### **AREAS OF EXAMINATION**

1. All information concerning Dalton L Oldham, LLC’s document retention policy.
2. All information concerning the organization and governance of Dalton L Oldham, LLC.
3. All information concerning the funding of Dalton L Oldham, LLC.
4. All Information concerning any role Dalton L Oldham, LLC has on funding the redistricting process in South Carolina.
5. All information regarding Your communications or correspondence with Defendants,

Committee Members, and the South Carolina General Assembly and their staff from January 1, 2021 through the present that reflect or discuss the rationale(s), purpose(s), interpretation(s), or analysis of S. 865 and/or Predecessor Maps.

6. All information concerning documents relating to congressional districts adopted in S. 865 and Predecessor maps that You provided to or received from Defendants, Committee Members, and the South Carolina General Assembly and their staff including but not limited to legislative materials (e.g., proposed maps, meeting notices, agendas, bill summaries, drafts of bills, bill substitutes, minority reports, written testimony, and documents presented during committee and floor debates).
7. All information regarding maps, draft maps, memoranda, reports, analyses, correspondence, or other documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and their staff, concerning the drawing of the districts adopted in S. 865 and Predecessor Maps
8. All information concerning Your role in creating the map contained in S. 865.
9. All information concerning Your communications or correspondence with the attorneys involved in the redistricting process. Attorneys would include Mr. Charles Terreni, Mr. Dalton “Dale” Oldham, Mr. John Gore and attorneys from Jones Day, Nexsen Pruet, Robinson Gray Stepp & Laffitte, LLC, and Terreni Law Firm, LLC.
10. All information concerning documents relating to Racially Polarized Voting in the South Carolina electorate, congressional districts, and the role of race in drawing districts adopted in S. 865 and Predecessor maps that You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly.
11. All information concerning documents You provided or received from Defendants,

Committee Members, or the South Carolina General Assembly sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in S. 865 or the Predecessor Maps You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly, from January 1, 2021 through the present concerning the impact of potential impact of S. 865 and any Predecessor Maps on Voters of Color.

12. All information concerning your role with the Map Room and redistricting in South Carolina.

13. All information concerning Your role with the following hearings:

- a. The South Carolina Senate Redistricting Subcommittee's hearing held on November 12, 2021;
- b. The South Carolina Senate Redistricting Subcommittee's hearing held on November 29, 2021;
- c. The South Carolina House of Representatives Redistricting Ad Hoc Committee's hearing held on December 16, 2021;
- d. The South Carolina House of Representatives Redistricting Ad Hoc Committee's hearing held on December 29, 2021;
- e. The South Carolina House of Representatives Redistricting Ad Hoc Committee's hearing held on January 10, 2022;
- f. The South Carolina House of Representatives Judiciary Committee's hearing held on January 10, 2022; and
- g. The South Carolina Senate Redistricting Subcommittee's hearing held on January

13, 2022.

14. All information concerning all documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly concerning statements supporting or opposing S. 865 and any Predecessor Maps, including any proposed amendments, as well as any maps You proposed and submitted.
15. All information concerning Your role in providing any survey results, databases estimates, or statistics regarding racial or ethnic group affiliation or identification among South Carolina voters in the Challenged Districts and Districts Bordering the Challenged Districts.

## **SCHEDULE B**

### **SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO DALTON LAMAR OLDHAM, JR., DALTON L OLDHAM LLC**

For a statement of your obligation in producing documents under this subpoena see Rule 45(e), and (g) of the Federal Rules of Civil Procedure (“Rule”), which appear on the final page of the subpoena. Documents should be produced pursuant to the Definitions and Instructions below by the later of August 5, 2022 or one week prior to your deposition. To make arrangements for electronic production, contact Allen Chaney, ACLU of South Carolina, P.O. Box 1668, Columbia, South Carolina 29202, tel: 843-282-7953, [achaney@aclusc.org](mailto:achaney@aclusc.org).

### DEFINITIONS

As used herein, the following terms have the following meanings:

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina Congressional Districts 1, 2, and 5.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee also chaired by Senator Rankin.
5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or

purporting to act on the Committees' behalf or subject to the Committees' control or is involved in the redistricting work of the Committees related to S. 865. The members of the South Carolina House of Representatives Judiciary Committee are Representatives Christopher J. Murphy, John Richard C. King, Neal A. Collins, William H. Bailey, Justin T. Bamberg, Beth E. Bernstein, Bruce M. Bryant, Micajah P. Caskey, IV, Westley P. Cox, Sylleste H. Davis, Jason Elliott, Russell W. Fry, Patricia Moore Henegan, Max T. Hyde, Jr., Jeffrey E. Johnson, Wallace H. Jordan, Jr., John R. McCravy, III, Cezar E. McKnight, Brandon Newton, Wm. Weston J. Newton, Seth Rose, Ivory Torrey Thigpen, Elizabeth Wetmore, and William W. Wheeler, III. Representatives Jordan, Bamberg, Bernstein, Collins, Elliot, Henegan, and Newton are members of the South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee. The members of the Senate Judiciary Committee are Senators Luke A. Rankin, Brad Hutto, Gerald Malloy, George E. Campsen, III, A. Shane Massey, Marlon E. Kimpson, Ronnie A. Sabb, Margie Bright Matthews, Wes Climer, Mia S. McLeod, Rex F. Rice, Sandy Senn, Scott Talley, Richard J. Cash, Richard A. Harpootlian, Dwight A. Loftis, Brian Adams, Billy Garrett, Penry Gustafson, Michael Johnson, Josh Kimbrell, Vernon Stephens, and Mike Reichenbach. Senators Rankin, Campsen, Young, Sabb, Matthews, Talley, and Harpootlian are members of the South Carolina Senate Judiciary Redistricting Subcommittee.

6. "COMMUNICATIONS" means the transmittal of information of any kind, written or oral, by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, PDFs, written reports, letters, and the like. It includes communications from the National Republican Redistricting Trust that include or are with outside entities and individuals.

7. “DEFENDANTS” means all of the Defendants in the case caption: Thomas C. Alexander, James H. Lucas, Chris Murphy, Wallace H. Jordan, Howard Knabb, John Wells, Joanne Day, Clifford J. Elder, Linda McCall, and Scott Moseley. “DEFENDANTS” includes any of Defendants’ current or former agents, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on Defendants’ behalf or subject to Defendants’ control.
8. “DISTRICTS BORDERING THE CHALLENGED DISTRICTS” mean South Carolina congressional districts that border in whole or in part the Challenged Districts.
9. “DOCUMENT” or “DOCUMENTS” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 and the phrase “writings and recordings” as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Teams, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases, electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers,



charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, agreements, corporate resolutions, minutes, books, binders, accounts, photographs, and business records. This shall include all non-identical copies, no matter how prepared; all drafts prepared in connection with such documents, whether used or not; and any deleted or erased documents that may be retrieved from hard drives, floppy disks, electronic back-up files, or any other back-up systems, regardless of location, together with all attachments thereto or enclosures therewith, in your possession, custody or control or any of your attorneys, employees, agents, or representatives.

- a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

10. “MAP ROOM” refers to any part of the process for the development, design, and and/or revisions of proposed and draft congressional legislative redistricting maps, S. 865 (as

defined below), and predecessor maps (as defined below) by the South Carolina General Assembly, including, but not limited to the virtual and physical room the Assembly established to develop congressional maps.

11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.
12. “PREDECESSOR MAPS” means any previous South Carolina congressional redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53 n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “S. 865” refers to Senate Bill 865 as ratified by the South Carolina General Assembly on January 26, 2022 and signed by the Governor of South Carolina on the same day as Act 118, and refers to the bill as a whole and/or to any provision thereof, as well as prior versions thereof, substitute bills, and/or amendments related to the bill. S. 865 is the legislation passed by the South Carolina General Assembly that implemented South Carolina’s seven congressional districts.

16. “SOUTH CAROLINA GENERAL ASSEMBLY” means all one hundred twenty-four (124) members of the South Carolina House of Representatives and all forty-six (46) members of the South Carolina Senate. “SOUTH CAROLINA GENERAL ASSEMBLY” includes committees, committee chairs, staff, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on the South Carolina General Assembly’s behalf or subject to the South Carolina General Assembly’s control.
17. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American and Pacific Islander, or is a member of any other racial minority group, who is eligible or could be eligible to vote.
18. “YOU” or “YOUR” means Dalton Lamar Oldham, Jr., and all current or former agents, advisors, employees, representatives, officers, consultants, clerks, or contractors with Dalton L. Oldham LLC and Geographic Strategies LLC, and any person or entity acting or purporting to act on Your behalf or subject to Your control.

#### INSTRUCTIONS

1. The responsive documents should be produced in the manner prescribed by the Rules and any applicable laws or rules.
2. Under Rule 34(b)(2)(B) & (C), if any part of the Request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified. Any ground not stated will be waived.
3. If, in responding to this request, You encounter any ambiguities when construing a request or definition, set forth in Your response what you find ambiguous and the construction You used in responding.

4. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.
5. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.
6. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
7. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.
8. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must so state and either supply the information requested in the

form in which it is available, or supply the data from which the information requested can be obtained.

9. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
10. If any requested document is not or cannot be produced in full, you shall produce it to extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
11. Each document produced must include all attachments and enclosures.
12. Documents attached to each other shall not be separated.
13. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, valuations, or similar documents.
14. In accordance with Rule 34(b), all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.
15. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.
16. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court. Any reference in these document

requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.

17. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.
18. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. To the extent documents can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (\*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level.

19. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:

- a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and
- b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.

20. If any document is withheld, in whole or in part, under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, deliberative process privilege, or investigative or law enforcement privilege, your answer should provide the following information in a single log:

- a. the type of document;
- b. the date of the document;
- c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
- d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;
- e. its title and reference, if any;
- f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- g. the type of privilege asserted;

h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and

i. the paragraph of this request to which the document relates.

21. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

22. These document requests cover the period from January 1, 2021 to the present, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even documents dated, prepared, generated, or received prior to this period.

23. These document requests are continuing in nature and require further and supplemental production if additional documents are acquired and located following the time of the initial production, to the fullest extent under the Rules and any applicable laws or rules.

#### DOCUMENTS REQUESTED

##### **REQUEST FOR PRODUCTION NO. 1**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly concerning the congressional districts adopted in S. 865 and Predecessor Maps, including but not limited to all documents or data provided to, considered by, or relied upon by persons who drew, reviewed, approved, or adopted the districts as reflected in S. 865 and Predecessor Maps.

##### **REQUEST FOR PRODUCTION NO. 2**

All maps, draft maps, memoranda, reports, analyses, correspondence, data or other communication and documents You provided to Defendants, Committee Members, or the South Carolina General Assembly concerning the drawing of the districts adopted in S. 865 and



Predecessor Maps. This request includes, but is not limited to, documents concerning the Racially Polarized voting in the South Carolina electorate, congressional districts, and the role of race in drawing districts. This request also includes, but is not limited to, copies of data made available to Defendants, Committee Members, or the South Carolina General Assembly.

### **REQUEST FOR PRODUCTION NO. 3**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in S. 865 or the Predecessor Maps.

### **REQUEST FOR PRODUCTION NO. 4**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly, from January 1, 2021 through the present concerning the impact or potential impact of S. 865 and any Predecessor Maps on Voters of Color.

### **REQUEST FOR PRODUCTION NO. 5**

All documents and communications concerning the Map Room concerning S. 865 and Predecessor Maps.

### **REQUEST FOR PRODUCTION NO. 6**

All documents and communications concerning the impact or potential impact of S. 865 and any Predecessor Maps on Voters of Color.

### **REQUEST FOR PRODUCTION NO. 7**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants,

Committee Members, or the South Carolina General Assembly concerning any survey results, databases, estimates, or statistics regarding racial or ethnic group affiliation or identification among South Carolina voters in the Challenged Districts and Districts Bordering the Challenged Districts or regarding partisan or political affiliation among South Carolina voters in the Challenged Districts and Districts Bordering the Challenged Districts.

**REQUEST FOR PRODUCTION NO. 8**

All correspondence and documents You received from Mr. Adam Kincaid, the National Republican Redistricting Trust, Fair Lines America, Magellan Consulting, Mr. Reagan Chase Kelley, the South Carolina Senate Majority Caucus, Mr. Charles L.A. Terreni, Terreni Law Firm, LLC, the Republican National Committee, or anyone else from January 1, 2021 to the present concerning S. 865 and any Predecessor Maps, the drawing of congressional districts or any congressional draft maps of the districts considered but not adopted, and congressional redistricting in South Carolina. This request also includes, but is not limited to, copies of data made available to Mr. Adam Kincaid, the National Republican Redistricting Trust, Fair Lines America, Magellan Consulting, Mr. Reagan Chase Kelley, the South Carolina Senate Majority Caucus, Mr. John M. Gore, Jones Day, Mr. Charles L.A. Terreni, Terreni Law Firm, LLC, the Republican National Committee, or anyone else.

Dated: July 29, 2022

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\* *Motion for admission Pro Hac Vice  
forthcoming*

\*\* *Admitted Pro Hac Vice*

Respectfully submitted,

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\* Motion for admission *Pro Hac Vice*  
forthcoming or pending  
\*\* Admitted *Pro Hac Vice*

*Counsel for Plaintiff the South Carolina  
Conference of the NAACP*

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

/s/ Allen Chaney  
Allen Chaney

AO 88A (Rev. 12/20) Subpoena to Testify at a Deposition in a Civil Action

## UNITED STATES DISTRICT COURT

for the

District of South Carolina



S.C. State Conference of the NAACP, et al.,

*Plaintiff*

v.

Thomas C. Alexander, in his official capacity as  
President of the Senate, et al.*Defendant*

Civil Action No. 3:21-cv-03302-MBS-TJH-RMG

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Dalton Lamar Oldham, Jr.

*(Name of person to whom this subpoena is directed)*

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must promptly confer in good faith with the party serving this subpoena about the following matters, or those set forth in an attachment, and you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about these matters:

Place: Remotely via Zoom	Date and Time: 08/10/2022 10:00 am
-----------------------------	---------------------------------------

The deposition will be recorded by this method: Stenographer / Court Reporter

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See attached. As the deposition will be conducted by Zoom, you must produce the requested documents (to counsel, contact information below) by no later than one week prior to the deposition.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 07/20/2022

CLERK OF COURT

OR

/s/ Allen Chaney*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* South Carolina State Conference of the NAACP, Taiwan Scott, who issues or requests this subpoena, are:  
Allen Chaney, tel: (843) 282-7953, [achaney@aclusc.org](mailto:achaney@aclusc.org)

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88A (Rev. 12/20) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 3:21-cv-03302-MBS-TJH-RMG

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.



ATTACHMENT

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
DALTON LAMAR OLDHAM, JR., DALTON L. OLDHAM LLC**

For a statement of your obligation in producing documents under this subpoena see Rule 45(e), and (g) of the Federal Rules of Civil Procedure (“Rule”), which appear on the final page of the subpoena. Documents should be produced pursuant to the Definitions and Instructions below by the later of August 1, 2022 or one week prior to your deposition. To make arrangements for electronic production, contact Allen Chaney, ACLU of South Carolina, P.O. Box 1668, Columbia, South Carolina 29202, tel: 843-282-7953, [achaney@aclusc.org](mailto:achaney@aclusc.org).

DEFINITIONS

As used herein, the following terms have the following meanings:

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina Congressional Districts 1, 2, and 5.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee also chaired by Senator Rankin.
5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or

purporting to act on the Committees' behalf or subject to the Committees' control or is involved in the redistricting work of the Committees related to S. 865. The members of the South Carolina House of Representatives Judiciary Committee are Representatives Christopher J. Murphy, John Richard C. King, Neal A. Collins, William H. Bailey, Justin T. Bamberg, Beth E. Bernstein, Bruce M. Bryant, Micajah P. Caskey, IV, Westley P. Cox, Sylleste H. Davis, Jason Elliott, Russell W. Fry, Patricia Moore Henegan, Max T. Hyde, Jr., Jeffrey E. Johnson, Wallace H. Jordan, Jr., John R. McCravy, III, Cezar E. McKnight, Brandon Newton, Wm. Weston J. Newton, Seth Rose, Ivory Torrey Thigpen, Elizabeth Wetmore, and William W. Wheeler, III. Representatives Jordan, Bamberg, Bernstein, Collins, Elliot, Henegan, and Newton are members of the South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee. The members of the Senate Judiciary Committee are Senators Luke A. Rankin, Brad Hutto, Gerald Malloy, George E. Campsen, III, A. Shane Massey, Marlon E. Kimpson, Ronnie A. Sabb, Margie Bright Matthews, Wes Climer, Mia S. McLeod, Rex F. Rice, Sandy Senn, Scott Talley, Richard J. Cash, Richard A. Harpootlian, Dwight A. Loftis, Brian Adams, Billy Garrett, Penry Gustafson, Michael Johnson, Josh Kimbrell, Vernon Stephens, and Mike Reichenbach. Senators Rankin, Campsen, Young, Sabb, Matthews, Talley, and Harpootlian are members of the South Carolina Senate Judiciary Redistricting Subcommittee.

6. "COMMUNICATIONS" means the transmittal of information of any kind, written or oral, by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, PDFs, written reports, letters, and the like. It includes communications from the National Republican Redistricting Trust that include or are with outside entities and individuals.

7. “DEFENDANTS” means all of the Defendants in the case caption: Thomas C. Alexander, James H. Lucas, Chris Murphy, Wallace H. Jordan, Howard Knabb, John Wells, Joanne Day, Clifford J. Elder, Linda McCall, and Scott Moseley. “DEFENDANTS” includes any of Defendants’ current or former agents, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on Defendants’ behalf or subject to Defendants’ control.
8. “DISTRICTS BORDERING THE CHALLENGED DISTRICTS” mean South Carolina congressional districts that border in whole or in part the Challenged Districts.
9. “DOCUMENT” or “DOCUMENTS” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 and the phrase “writings and recordings” as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Teams, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases, electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers,

charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, agreements, corporate resolutions, minutes, books, binders, accounts, photographs, and business records. This shall include all non-identical copies, no matter how prepared; all drafts prepared in connection with such documents, whether used or not; and any deleted or erased documents that may be retrieved from hard drives, floppy disks, electronic back-up files, or any other back-up systems, regardless of location, together with all attachments thereto or enclosures therewith, in your possession, custody or control or any of your attorneys, employees, agents, or representatives.

- a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

10. “MAP ROOM” refers to any part of the process for the development, design, and and/or revisions of proposed and draft congressional legislative redistricting maps, S. 865 (as

defined below), and predecessor maps (as defined below) by the South Carolina General Assembly, including, but not limited to the virtual and physical room the Assembly established to develop congressional maps.

11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.
12. “PREDECESSOR MAPS” means any previous South Carolina congressional redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53 n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “S. 865” refers to Senate Bill 865 as ratified by the South Carolina General Assembly on January 26, 2022 and signed by the Governor of South Carolina on the same day as Act 118, and refers to the bill as a whole and/or to any provision thereof, as well as prior versions thereof, substitute bills, and/or amendments related to the bill. S. 865 is the legislation passed by the South Carolina General Assembly that implemented South Carolina’s seven congressional districts.

16. “SOUTH CAROLINA GENERAL ASSEMBLY” means all one hundred twenty-four (124) members of the South Carolina House of Representatives and all forty-six (46) members of the South Carolina Senate. “SOUTH CAROLINA GENERAL ASSEMBLY” includes committees, committee chairs, staff, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on the South Carolina General Assembly’s behalf or subject to the South Carolina General Assembly’s control.
17. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American and Pacific Islander, or is a member of any other racial minority group, who is eligible or could be eligible to vote.
18. “YOU” or “YOUR” means Dalton Lamar Oldham, Jr., and all current or former agents, advisors, employees, representatives, officers, consultants, clerks, or contractors with Dalton L. Oldham LLC and Geographic Strategies LLC, and any person or entity acting or purporting to act on Your behalf or subject to Your control.

#### INSTRUCTIONS

1. The responsive documents should be produced in the manner prescribed by the Rules and any applicable laws or rules.
2. Under Rule 34(b)(2)(B) & (C), if any part of the Request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified. Any ground not stated will be waived.
3. If, in responding to this request, You encounter any ambiguities when construing a request or definition, set forth in Your response what you find ambiguous and the construction You used in responding.

4. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.
5. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.
6. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
7. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.
8. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must so state and either supply the information requested in the

form in which it is available, or supply the data from which the information requested can be obtained.

9. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
10. If any requested document is not or cannot be produced in full, you shall produce it to extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
11. Each document produced must include all attachments and enclosures.
12. Documents attached to each other shall not be separated.
13. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, valuations, or similar documents.
14. In accordance with Rule 34(b), all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.
15. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.
16. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court. Any reference in these document



requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.

17. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.
18. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. To the extent documents can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (\*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level.

19. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:

- a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and
- b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.

20. If any document is withheld, in whole or in part, under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, deliberative process privilege, or investigative or law enforcement privilege, your answer should provide the following information in a single log:

- a. the type of document;
- b. the date of the document;
- c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
- d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;
- e. its title and reference, if any;
- f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- g. the type of privilege asserted;

h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and

i. the paragraph of this request to which the document relates.

21. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

22. These document requests cover the period from January 1, 2021 to the present, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even documents dated, prepared, generated, or received prior to this period.

23. These document requests are continuing in nature and require further and supplemental production if additional documents are acquired and located following the time of the initial production, to the fullest extent under the Rules and any applicable laws or rules.

#### DOCUMENTS REQUESTED

##### **REQUEST FOR PRODUCTION NO. 1**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly concerning the congressional districts adopted in S. 865 and Predecessor Maps, including but not limited to all documents or data provided to, considered by, or relied upon by persons who drew, reviewed, approved, or adopted the districts as reflected in S. 865 and Predecessor Maps.

##### **REQUEST FOR PRODUCTION NO. 2**

All maps, draft maps, memoranda, reports, analyses, correspondence, data or other communication and documents You provided to Defendants, Committee Members, or the South Carolina General Assembly concerning the drawing of the districts adopted in S. 865 and

Predecessor Maps. This request includes, but is not limited to, documents concerning the Racially Polarized voting in the South Carolina electorate, congressional districts, and the role of race in drawing districts. This request also includes, but is not limited to, copies of data made available to Defendants, Committee Members, or the South Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 3**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in S. 865 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 4**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly, from January 1, 2021 through the present concerning the impact or potential impact of S. 865 and any Predecessor Maps on Voters of Color.

**REQUEST FOR PRODUCTION NO. 5**

All documents and communications concerning the Map Room concerning S. 865 and Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 6**

All documents and communications concerning the impact or potential impact of S. 865 and any Predecessor Maps on Voters of Color.

**REQUEST FOR PRODUCTION NO. 7**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants,

Committee Members, or the South Carolina General Assembly concerning any survey results, databases, estimates, or statistics regarding racial or ethnic group affiliation or identification among South Carolina voters in the Challenged Districts and Districts Bordering the Challenged Districts or regarding partisan or political affiliation among South Carolina voters in the Challenged Districts and Districts Bordering the Challenged Districts.

**REQUEST FOR PRODUCTION NO. 8**

All correspondence and documents You received from Mr. Adam Kincaid, the National Republican Redistricting Trust, Fair Lines America, Magellan Consulting, Mr. Reagan Chase Kelley, the South Carolina Senate Majority Caucus, Mr. Charles L.A. Terreni, Terreni Law Firm, LLC, the Republican National Committee, or anyone else from January 1, 2021 to the present concerning S. 865 and any Predecessor Maps, the drawing of congressional districts or any congressional draft maps of the districts considered but not adopted, and congressional redistricting in South Carolina. This request also includes, but is not limited to, copies of data made available to Mr. Adam Kincaid, the National Republican Redistricting Trust, Fair Lines America, Magellan Consulting, Mr. Reagan Chase Kelley, the South Carolina Senate Majority Caucus, Mr. Charles L.A. Terreni, Terreni Law Firm, LLC, the Republican National Committee, or anyone else.

Dated: July 20, 2022

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Respectfully submitted,

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\* Motion for admission *Pro Hac Vice*  
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\*\* Admitted *Pro Hac Vice*

*Counsel for Plaintiff the South Carolina  
Conference of the NAACP*

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

/s/ Allen Chaney  
Allen Chaney



*SC NAACP v. Alexander*,  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit B

**THIS EXHIBIT HAS BEEN SUBMITTED TO THE COURT  
FOR *IN CAMERA* REVIEW PURSUANT TO THE  
CONSENT CONFIDENTIALITY ORDER (ECF 123)**

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit C



*Discussing redistricting at the Legislative Summit were, from left, Dale Oldham, redistricting counsel, Republican National Committee; Minnesota Senator Mary Kiffmeyer; NCSL's Ben Williams; Vermont Representative Sarah Copeland; and Jeffrey Wice, special counsel, New York Legislature.*

## Assistant AG Promises a Measured Approach to Election Law Enforcement

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By Lisa Ryckman | Nov. 9, 2021 | [➔ State Legislatures News](#) |

 Print

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States are in the thick of redistricting—and the U.S. Department of Justice is watching.

“Our review of (redistricting) maps will be thorough, fair and fact-based,” U.S. Assistant Attorney General Kristen Clarke told a session at the 2021 NCSL Legislative Summit.

“As state legislators, you are standing on the front lines of crafting the rules for how our democracy operates,” she said. “Those rules involve everything from voter registration systems to how voters cast their ballots—whether that means early voting, vote by mail and traditional Election Day voting at a polling site—to the way in which post-election litigation is conducted.”



Clarke

““ *Having a redistricting process that is open to the public ... promotes the kind of public involvement we want to see in this very important aspect of the democratic process.* —U.S. Assistant Attorney General Kristen Clarke ””

There are some important constraints in federal law, Clarke said. The U.S. Constitution requires state legislative districts to be drawn with nearly equal populations: “One person, one vote.” Section 2 of the Voting Rights Act prohibits discrimination in voting because of race, color or language spoken. It prohibits drawing districts in a way that results in voters not having an equal opportunity to elect representatives of their choice because of race, color or language minority status. It also prohibits any law or procedure that intends to disadvantage voters based on those factors.

“Our efforts to evaluate compliance with Section 2 and to identify potential violations have a very broad scope,” Clarke said. “(But) our analysis is intensely localized insofar as it looks at the particular facts in each jurisdiction.”

States need to take the Voting Rights Act requirements into account when drawing redistricting maps, Clarke said, and remember that the 14th Amendment prohibits substantial disparities in total population between electoral districts as well as certain forms of racial gerrymandering in drawing districts.

Clarke praised efforts to bring the public into the process. “Having a redistricting process that is open to the public, for example through an internet portal and public hearings where the public can see and evaluate the redistricting plans being considered, as well as assuring they have an opportunity to comment, promotes the kind of public involvement we want to see in this very important aspect of the democratic process,” she said.

“We hope that you will produce plans that give citizens a full, fair and equal opportunity to participate in the political process and elect representatives of their choice,” Clarke said.

## **Voting Rights Act Enforcement**

She said the Justice Department supports the John Lewis Voting Rights Advancement Act currently before the Senate, which would restore the department’s ability to conduct federal review—also known as preclearance—of redistricting maps and changes to voting processes in some districts before they go into effect. From 1982 to 2006, when preclearance was in place, the department blocked more than 3,000 discriminatory voting changes, Clarke said. The Supreme Court struck down the coverage formula for preclearance in 2013; the John Lewis Act would create a new formula.

A panel of redistricting experts and legislators weighed in on Clarke’s description of the Justice Department’s oversight plans.

“The question going forward is, are we going to continue with a traditional enforcement of Section 2, or are we now looking at a more partisan enforcement?” said Dale Oldham, former redistricting counsel for the Republican National Committee. “Are we going to enforce it in a way that is going to be designed to create representation for minorities, allow minorities to elect minority candidates? Or are we going to be looking at a partisan enforcement scheme? That’s a story yet to be told.”

Jeffrey Wice, special counsel to the New York State Legislature, said it’s difficult to extract partisanship from the redistricting process.

“Redistricting is often called the blood sport of American politics, and we’re not ever going to really take the politics out of the process unless you go the route of California and Arizona to create completely independent redistricting committees outside of the legislature,” he said.

Even that path doesn't always work, Wice said, noting that bipartisan commissions in Ohio and Virginia failed to agree on plans this year and subsequently left map drawing to other entities.

## Getting the Public Involved

"My message is, conduct an open, transparent redistricting process with public participation," Wice said. "Don't try to cut any corners to speed things up. If you have a hearing, schedule it at a convenient time and let it go until people (have spoken).

"It's my hope that we don't see the kind of overreaching in states that we saw to a degree from both parties in the last decade but have a much more fair, equitable process where districts are drawn and follow where people live," he said

Minnesota Senator Mary Kiffmeyer (R) said she was heartened by Clarke's assurance that the Justice Department would be measured in its approach.

"It's going to be a pretty wild ride, especially because of the census data not being released until August," said Kiffmeyer, who is a former Minnesota secretary of state. "That has made it incredibly difficult if not impossible for some legislatures to even do their redistricting, such as Minnesota, because our session was concluded at the end of June."

The thing that hurts people the most is uncertainty, Kiffmeyer said. "I've had such sympathy for the regular folks out there, who have no clue, and all of a sudden, their districts, who represents them, and boundaries are all turned upside down."

Vermont Representative Sarah Copeland Hanzas (D) agreed the redistricting timeline is intense, leading to stress and uncertainty. That's all the more reason to ensure the process is open and fair, she said.

"One of the most foundational principles of our democracy is that the voters get to choose their leaders—not the other way around," Hanzas said. "We need to build fair maps, call balls and strikes like an umpire would and not put our fingers on the scale."

*Lisa Ryckman is an associate director in NCSL's Communications Division.*

## Additional Resources

- Toolbox | Redrawing Maps the Right Way, by Jeffrey Wice and Frank Strigari

- Redistricting Laws and Information from NCSL
- State Legislatures News

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*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit D



## UNITED STATES DISTRICT COURT

for the

District of South Carolina

S.C. State Conference of the NAACP, et. al,

*Plaintiff*

v.

Thomas C. Alexander, in his official capacity as  
President of the Senate, et. al,*Defendant*

Civil Action No. 3:21-cv-03302-MBS-TJH-RMG

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Dalton Lamar Oldham, Jr.

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attachment below

Place: Mr. Allen Chaney, ACLU of South Carolina  
P.O. Box 1668  
Columbia, South Carolina 29202

Date and Time:

07/15/2022 12:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 07/01/2022

CLERK OF COURT

OR

/s/ Allen Chaney

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* \_\_\_\_\_  
South Carolina State Conference of the NAACP, Taiwan Scott \_\_\_\_\_, who issues or requests this subpoena, are:

Allen Chaney, tel: (843) 282-7953, achaney@aclusc.org

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:21-cv-03302-MBS-TJH-RMG

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
 \_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
DALTON LAMAR OLDHAM, JR., DALTON L. OLDHAM LLC**

For a statement of your obligation in producing documents under this subpoena see Rule 45(e), and (g) of the Federal Rules of Civil Procedure (“Rule”), which appear on the final page of the subpoena. Documents should be produced on or before July 15, 2022. To make arrangements for electronic production, contact Allen Chaney, ACLU of South Carolina, P.O. Box 1668, Columbia, South Carolina 29202, tel: 843-282-7953, [achaney@aclusc.org](mailto:achaney@aclusc.org). The production should be made pursuant to the Definitions and Instructions below.

DEFINITIONS

As used herein, the following terms have the following meanings:

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina Congressional Districts 1, 2, and 5.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee also chaired by Senator Rankin.
5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or

purporting to act on the Committees' behalf or subject to the Committees' control or is involved in the redistricting work of the Committees related to S. 865. The members of the South Carolina House of Representatives Judiciary Committee are Representatives Christopher J. Murphy, John Richard C. King, Neal A. Collins, William H. Bailey, Justin T. Bamberg, Beth E. Bernstein, Bruce M. Bryant, Micajah P. Caskey, IV, Westley P. Cox, Sylleste H. Davis, Jason Elliott, Russell W. Fry, Patricia Moore Henegan, Max T. Hyde, Jr., Jeffrey E. Johnson, Wallace H. Jordan, Jr., John R. McCravy, III, Cezar E. McKnight, Brandon Newton, Wm. Weston J. Newton, Seth Rose, Ivory Torrey Thigpen, Elizabeth Wetmore, and William W. Wheeler, III. Representatives Jordan, Bamberg, Bernstein, Collins, Elliot, Henegan, and Newton are members of the South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee. The members of the Senate Judiciary Committee are Senators Luke A. Rankin, Brad Hutto, Gerald Malloy, George E. Campsen, III, A. Shane Massey, Marlon E. Kimpson, Ronnie A. Sabb, Margie Bright Matthews, Wes Climer, Mia S. McLeod, Rex F. Rice, Sandy Senn, Scott Talley, Richard J. Cash, Richard A. Harpootlian, Dwight A. Loftis, Brian Adams, Billy Garrett, Penry Gustafson, Michael Johnson, Josh Kimbrell, Vernon Stephens, and Mike Reichenbach. Senators Rankin, Campsen, Young, Sabb, Matthews, Talley, and Harpootlian are members of the South Carolina Senate Judiciary Redistricting Subcommittee.

6. "COMMUNICATIONS" means the transmittal of information of any kind, written or oral, by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, PDFs, written reports, letters, and the like. It includes communications from the National Republican Redistricting Trust that include or are with outside entities and individuals.

7. “DEFENDANTS” means all of the Defendants in the case caption: Thomas C. Alexander, James H. Lucas, Chris Murphy, Wallace H. Jordan, Howard Knabb, John Wells, Joanne Day, Clifford J. Elder, Linda McCall, and Scott Moseley. “DEFENDANTS” includes any of Defendants’ current or former agents, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on Defendants’ behalf or subject to Defendants’ control.
8. “DISTRICTS BORDERING THE CHALLENGED DISTRICTS” mean South Carolina congressional districts that border in whole or in part the Challenged Districts.
9. “DOCUMENT” or “DOCUMENTS” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 and the phrase “writings and recordings” as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Teams, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases, electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers,

charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, agreements, corporate resolutions, minutes, books, binders, accounts, photographs, and business records. This shall include all non-identical copies, no matter how prepared; all drafts prepared in connection with such documents, whether used or not; and any deleted or erased documents that may be retrieved from hard drives, floppy disks, electronic back-up files, or any other back-up systems, regardless of location, together with all attachments thereto or enclosures therewith, in your possession, custody or control or any of your attorneys, employees, agents, or representatives.

- a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

10. “MAP ROOM” refers to any part of the process for the development, design, and and/or revisions of proposed and draft congressional legislative redistricting maps, S. 865 (as

defined below), and predecessor maps (as defined below) by the South Carolina General Assembly, including, but not limited to the virtual and physical room the Assembly established to develop congressional maps.

11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.
12. “PREDECESSOR MAPS” means any previous South Carolina congressional redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53 n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “S. 865” refers to Senate Bill 865 as ratified by the South Carolina General Assembly on January 26, 2022 and signed by the Governor of South Carolina on the same day as Act 118, and refers to the bill as a whole and/or to any provision thereof, as well as prior versions thereof, substitute bills, and/or amendments related to the bill. S. 865 is the legislation passed by the South Carolina General Assembly that implemented South Carolina’s seven congressional districts.



16. “SOUTH CAROLINA GENERAL ASSEMBLY” means all one hundred twenty-four (124) members of the South Carolina House of Representatives and all forty-six (46) members of the South Carolina Senate. “SOUTH CAROLINA GENERAL ASSEMBLY” includes committees, committee chairs, staff, advisors, employees, representatives, officers, consultants, contractors, or any person or entity acting or purporting to act on the South Carolina General Assembly’s behalf or subject to the South Carolina General Assembly’s control.
17. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American and Pacific Islander, or is a member of any other racial minority group, who is eligible or could be eligible to vote.
18. “YOU” or “YOUR” means Dalton Lamar Oldham, Jr., and all current or former agents, advisors, employees, representatives, officers, consultants, clerks, or contractors with Dalton L. Oldham LLC and Geographic Strategies LLC, and any person or entity acting or purporting to act on Your behalf or subject to Your control.

#### INSTRUCTIONS

1. The responsive documents should be produced in the manner prescribed by the Rules and any applicable laws or rules.
2. Under Rule 34(b)(2)(B) & (C), if any part of the Request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified. Any ground not stated will be waived.
3. If, in responding to this request, You encounter any ambiguities when construing a request or definition, set forth in Your response what you find ambiguous and the construction You used in responding.

4. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.
5. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.
6. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
7. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.
8. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must so state and either supply the information requested in the

form in which it is available, or supply the data from which the information requested can be obtained.

9. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
10. If any requested document is not or cannot be produced in full, you shall produce it to extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
11. Each document produced must include all attachments and enclosures.
12. Documents attached to each other shall not be separated.
13. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, valuations, or similar documents.
14. In accordance with Rule 34(b), all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.
15. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.
16. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court. Any reference in these document

requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.

17. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.
18. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. To the extent documents can be accurately represented in black and white, they should be produced in single-page Tagged Image File Format (“TIFF”), together with any related field-delimited load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (\*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level.

19. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:

- a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and
- b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.

20. If any document is withheld, in whole or in part, under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, deliberative process privilege, or investigative or law enforcement privilege, your answer should provide the following information in a single log:

- a. the type of document;
- b. the date of the document;
- c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
- d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;
- e. its title and reference, if any;
- f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;
- g. the type of privilege asserted;

h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and

i. the paragraph of this request to which the document relates.

21. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

22. These document requests cover the period from January 1, 2021 to the present, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even documents dated, prepared, generated, or received prior to this period.

23. These document requests are continuing in nature and require further and supplemental production if additional documents are acquired and located following the time of the initial production, to the fullest extent under the Rules and any applicable laws or rules.

#### DOCUMENTS REQUESTED

##### **REQUEST FOR PRODUCTION NO. 1**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly concerning the congressional districts adopted in S. 865 and Predecessor Maps, including but not limited to all documents or data provided to, considered by, or relied upon by persons who drew, reviewed, approved, or adopted the districts as reflected in S. 865 and Predecessor Maps.

##### **REQUEST FOR PRODUCTION NO. 2**

All maps, draft maps, memoranda, reports, analyses, correspondence, data or other communication and documents You provided to Defendants, Committee Members, or the South Carolina General Assembly concerning the drawing of the districts adopted in S. 865 and

Predecessor Maps. This request includes, but is not limited to, documents concerning the Racially Polarized voting in the South Carolina electorate, congressional districts, and the role of race in drawing districts. This request also includes, but is not limited to, copies of data made available to Defendants, Committee Members, or the South Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 3**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in S. 865 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 4**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants, Committee Members, or the South Carolina General Assembly, from January 1, 2021 through the present concerning the impact or potential impact of S. 865 and any Predecessor Maps on Voters of Color.

**REQUEST FOR PRODUCTION NO. 5**

All documents and communications concerning the Map Room concerning S. 865 and Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 6**

All documents and communications concerning the impact or potential impact of S. 865 and any Predecessor Maps on Voters of Color.

**REQUEST FOR PRODUCTION NO. 7**

All documents You provided to or received from Defendants, Committee Members, or the South Carolina General Assembly, and communications between You and Defendants,

Committee Members, or the South Carolina General Assembly concerning any survey results, databases, estimates, or statistics regarding racial or ethnic group affiliation or identification among South Carolina voters in the Challenged Districts and Districts Bordering the Challenged Districts or regarding partisan or political affiliation among South Carolina voters in the Challenged Districts and Districts Bordering the Challenged Districts.

**REQUEST FOR PRODUCTION NO. 8**

All correspondence and documents You received from Mr. Adam Kincaid, the National Republican Redistricting Trust, Fair Lines America, Magellan Consulting, Mr. Reagan Chase Kelley, the South Carolina Senate Majority Caucus, Mr. Charles L.A. Terreni, Terreni Law Firm, LLC, the Republican National Committee, or anyone else from January 1, 2021 to the present concerning S. 865 and any Predecessor Maps, the drawing of congressional districts or any congressional draft maps of the districts considered but not adopted, and congressional redistricting in South Carolina. This request also includes, but is not limited to, copies of data made available to Mr. Adam Kincaid, the National Republican Redistricting Trust, Fair Lines America, Magellan Consulting, Mr. Reagan Chase Kelley, the South Carolina Senate Majority Caucus, Mr. Charles L.A. Terreni, Terreni Law Firm, LLC, the Republican National Committee, or anyone else.



Dated: July 1, 2022

Leah C. Aden\*\*  
Stuart Naifeh\*\*  
Raymond Audain\*\*  
John S. Cusick\*\*  
NAACP LEGAL DEFENSE &  
EDUCATIONAL FUND, INC.  
40 Rector St, 5th Fl.  
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Santino Coleman, Fed. ID. 11914  
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John M. Hindley\*\*  
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LLP  
601 Massachusetts Ave., N.W.  
Washington, D.C. 20001  
Tel: (202) 942-5000  
john.freedman@arnoldporter.com

\* *Motion for admission Pro Hac Vice  
forthcoming*

\*\* *Admitted Pro Hac Vice*

Respectfully submitted,

/s/ Allen Chaney  
Allen Chaney, Fed. ID 13181  
AMERICAN CIVIL LIBERTIES UNION  
OF SOUTH CAROLINA  
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Tel.: (843) 282-7953  
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*Counsel for Plaintiffs the South Carolina  
Conference of the NAACP and Taiwan Scott*

Janette M. Louard\*  
Anthony P. Ashton\*  
Anna Kathryn Barnes\*\*  
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COUNSEL  
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Baltimore, MD 21215  
Tel: (410) 580-5777  
jlouard@naacpnet.org

\* Motion for admission *Pro Hac Vice*  
forthcoming or pending  
\*\* Admitted *Pro Hac Vice*

*Counsel for Plaintiff the South Carolina  
Conference of the NAACP*

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

/s/ Allen Chaney  
Allen Chaney

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# **Exhibit E**

**COVID-19 Updates** See [our page](#) for the latest courts info., announcements, resources & event changes.

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# Bar Member Profile

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**Dalton  
Lamar  
Oldham Jr.**

**Address:**

137 Edgewater Ln

Lexington, SC 29072  
Lexington

8/31/22, 6:43 PM

Dalton Oldham | South Carolina Bar

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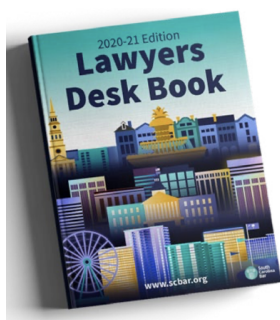
**Phone:** (202) 863-8740 Ext.

**Law School:** University of South Carolina  
School of Law, 1989

**Bar Admission:** 12/04/1989

**Member Class:** Regular Member

**Member Status:** Good Standing



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LOCATION

137 Edgewater Ln

Lexington, SC 29072  
Lexington





*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# **Exhibit F**

South Carolina Secretary of State

# Business Entities Online

File, Search, and Retrieve Documents Electronically

## DALTON L OLDHAM, LLC

### Corporate Information

**Entity Type:** Limited Liability Company

**Status:** Good Standing

**Domestic/Foreign:** Domestic

**Incorporated State:** South Carolina

### Important Dates

**Effective Date:** 06/16/2011

**Expiration Date:** N/A

**Term End Date:** N/A

**Dissolved Date:** N/A

### Registered Agent

**Agent:** DALTON L OLDHAM

**Address:** 137 Edgewater Ln  
Lexington , South Carolina 29072

### Official Documents On File

Filing Type	Filing Date
Notice of Change of Designated Office, Agent or Address of Registered Agent	03/11/2019
Organization	06/16/2011

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit G

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

---

S.C. State Conference of the NAACP, et al.

Plaintiff

Case No.: 3:21-cv-03302-MGL-T-TJH-RMG

vs.

Thomas C. Alexander, in his official capacity as President of the Senate, et al.

---

Defendant

**AFFIDAVIT OF SERVICE**

I, William Springer, a Private Process Server, being duly sworn, depose and say:

That I have been duly authorized to make service of the Letter dated July 29, 2022, Duplicate copies of Deposition Subpoena Duces Tecum with Schedule A, Exhibit 1, and Statutory filing fee in the amount of \$20.00 made payable to the Secretary of State's Office in the above entitled case.

That I am over the age of eighteen years and not a party to or otherwise interested in this action.

That on 08/01/2022 at 3:30 PM, I served Dalton L. Oldham, LLC c/o South Carolina Secretary of State's Office at 1205 Pendleton Street, Suite 525, Columbia, South Carolina 29201 with the Letter dated July 29, 2022, Duplicate copies of Deposition Subpoena Duces Tecum with Schedule A, Exhibit 1, and Statutory filing fee in the amount of \$20.00 made payable to the Secretary of State's Office by serving Allison Green, Agent, authorized to accept service on behalf of the South Carolina Secretary of State.

Allison Green is described herein as:

Gender: Female Race/Skin: Black Age: 35 Weight: 160 Height: 5'2" Hair: Black Glasses: No

I declare under penalty of perjury that this information is true and correct.

Aug 3, 2022

Executed On



William Springer  
William Springer

Client Ref Number: N/A

Job #: 1606280

8/15/22 744

State of South Carolina

OFFICE OF

MARK HAMMOND

Secretary of State

1205 Pendleton Street, Suite 525

COLUMBIA, SC 29201

NEOPOST

FIRST-CLASS MAIL

08/05/2022

PRSRT

US POSTAGE \$000.52<sup>6</sup>



ZIP 29201  
041M11452438

Arnold & Porter Kaye Scholer LLP

8/3/22

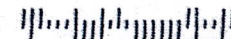
FRST FCL

Attn: Andrew R. Hirschel

250 West 55th Street

New York, NY 10019-9710

GYG-SMM 10019



APNY105695



State of South Carolina  
Office of the Secretary of State  
The Honorable Mark Hammond

1205 PENDLETON STREET, SUITE 525  
COLUMBIA, SC 29201

803-734-2170  
sos.sc.gov



August 4, 2022

ELECTRONIC CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Dalton L. Oldham, LLC  
Mr. Dalton L. Oldham, Registered Agent  
137 Edgewater Ln  
Lexington, SC 29072

RE: Dalton L. Oldham, LLC, 3:21-cv-03302-MBS-TJH-RMG

Dear Madam/Sir:

In accordance with South Carolina Code § 33-44-111, we are enclosing herewith a copy of the Subpoena to Testify at a Deposition in a Civil Action; Proof of Service; Subpoena for Production of Documents Directed to Dalton Lamar Oldham, Jr., Dalton L. Oldham, LLC; Certificate of Service; and Exhibit 1 in the above-entitled case. Service was accepted on August 1, 2022 and a copy has been duly filed in our office as of this date. The fee of \$10.00 has been paid.

Yours very truly,

Allyson Green  
South Carolina Secretary of State's Office

Enclosures

cc: Arnold & Porter Kaye Scholer LLP  
Andrew R. Hirschel  
250 West 55th Street  
New York, NY 10019-9710

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit H



State of South Carolina

OFFICE OF

MARK HAMMOND

Secretary of State

1205 Pendleton Street, Suite 525

COLUMBIA, SC 29201

NEOPOST

FIRST-CLASS MAIL

08/16/2022

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ZIP 29201  
041M11452438

8-17-22 PRST FDL

Arnold & Porter Kaye Scholer LLP

Attn: Andrew R. Hirschel

250 West 55th Street

New York, NY 10019-9710



APNY105783

GAJSSMM 10019







Date Produced: 08/15/2022

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8385 1701 92. Our records indicate that this item was delivered on 08/08/2022 at 03:12 p.m. in LEXINGTON, SC 29072. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink, appearing to read "D. O. Williams", written over two lines.

Address of Recipient :

A handwritten address in black ink, appearing to read "137 Edgewater Ln Lexington SC", written over two lines.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

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DALTON L OLDHAM LLC  
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DELIVERED DATE: 08/08/2022

Ref: SOP ; #3:21-cv-03302-MBS-TJH-RMG

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DALTON L OLDHAM LLC  
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LEXINGTON SC 29072-9723

MAIL PIECE TRACKING EVENTS:

08/04/2022 14:37	PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	WASHINGTON,DC 20201
08/04/2022 16:15	SHIPMENT RECEIVED ACCEPTANCE PENDING	COLUMBIA,SC 29201
08/04/2022 22:04	PROCESSED THROUGH USPS FACILITY	COLUMBIA SC PROCESSING CENTER 29201
08/05/2022 09:31	PROCESSED THROUGH USPS FACILITY	COLUMBIA SC PROCESSING CENTER 29201
08/06/2022 01:53	PROCESSED THROUGH USPS FACILITY	COLUMBIA SC PROCESSING CENTER 29201
08/06/2022 08:33	ARRIVAL AT UNIT	LEXINGTON,SC 29073
08/06/2022 08:44	OUT FOR DELIVERY	LEXINGTON,SC 29072
08/06/2022 20:22	FORWARDED	LEXINGTON,SC 29072
08/08/2022 15:12	DELIVERED LEFT WITH INDIVIDUAL	LEXINGTON,SC 29072

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit I

1  
2 IN THE UNITED STATES DISTRICT COURT  
3 FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

4 -----x  
THE SOUTH CAROLINA STATE  
5 CONFERENCE OF THE NAACP

6 and

7 TAIWAN SCOTT, ON BEHALF OF HIMSELF  
8 AND ALL OTHER SIMILARLY SITUATED  
PERSONS,

Case No.  
3:21-CV-03302  
JMC-TJH-RMG

9 Plaintiffs,

10 Vs.

11 THOMAS C. ALEXANDER, IN HIS OFFICIAL  
CAPACITY AS PRESIDENT OF THE SENATE;  
12 LUKE A. RANKIN, IN HIS OFFICIAL CAPACITY  
AS CHAIRMAN OF THE SENATE JUDICIARY  
COMMITTEE; MURRELL SMITH, IN HIS OFFICIAL  
13 CAPACITY AS SPEAKER OF THE HOUSE OF  
REPRESENTATIVES; CHRIS MURPHY, IN HIS  
14 OFFICIAL CAPACITY AS CHAIRMAN OF THE  
HOUSE OF REPRESENTATIVES JUDICIARY  
COMMITTEE; WALLACE H. JORDAN, IN HIS  
15 OFFICIAL CAPACITY AS CHAIRMAN OF THE HOUSE  
OF REPRESENTATIVES ELECTIONS LAW  
16 SUBCOMMITTEE; HOWARD KNAPP, IN HIS  
OFFICIAL CAPACITY AS INTERIM EXECUTIVE  
17 DIRECTOR OF THE SOUTH CAROLINA STATE  
ELECTION COMMISSION; JOHN WELLS, JOANNE  
18 DAY, CLIFFORD J. EDLER, LINDA MCCALL,  
19 AND SCOTT MOSELEY, IN THEIR OFFICIAL  
CAPACITIES AS MEMBERS OF THE SOUTH  
20 CAROLINA STATE ELECTION COMMISSION,

21 Defendants.

22 -----x  
STENOGRAPHIC REMOTE VIRTUAL DEPOSITION  
23 CHARLES TERRENI  
24 Tuesday, August 16, 2022  
25

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2 August 16, 2022</p> <p>3 9:56 a.m.</p> <p>4</p> <p>5</p> <p>6 T R A N S C R I P T of the</p> <p>7 stenographic remote virtual deposition</p> <p>8 of CHARLES TERRENI, pursuant to the</p> <p>9 Federal Rules of Civil Procedure, held</p> <p>10 remotely on Tuesday, August 16, 2022,</p> <p>11 commencing at approximately 9:56 a.m.</p> <p>12 (EST), reported by and before Erica</p> <p>13 Ruggieri, a Registered Professional</p> <p>14 Reporter, Certified Court Reporter,</p> <p>15 and Notary Public of the State of New</p> <p>16 York and New York.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 APPEARANCES OF COUNSEL: (Cont'd)</p> <p>3 (Via Videoconference)</p> <p>4</p> <p>5 ATTORNEYS FOR THOMAS C. ALEXANDER, IN HIS</p> <p>6 OFFICIAL CAPACITY AS PRESIDENT OF THE</p> <p>7 SENATE; IJUE A. RANKIN, IN HIS OFFICIAL</p> <p>8 CAPACITY AS CHAIRMAN OF THE SENATE</p> <p>9 JUDICIARY COMMITTEE;</p> <p>10 ROBINSON GRAY STEPP &amp; LAFFITTE, LLC</p> <p>11 BY: VORDMAN CARLISLE TRAYWICK III, ESQ.</p> <p>12 1310 Gadsden Street</p> <p>13 PO Box 11449</p> <p>14 Columbia, SC 29211</p> <p>15 (803) 231-7810</p> <p>16 ltraywick@robinsongray.com</p> <p>17</p> <p>18 ATTORNEYS FOR ELECTION DEFENDANTS:</p> <p>19 BURR &amp; FORMAN, LLP</p> <p>20 BY: JANE W. TRINKLEY, ESQ.</p> <p>21 1221 Main Street, Suite 1800</p> <p>22 Columbia, South Carolina 29201</p> <p>23 803-799-9800</p> <p>24 jtrinkley@burr.com</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 APPEARANCES OF COUNSEL:</p> <p>3 (Via Videoconference)</p> <p>4</p> <p>5 ATTORNEYS FOR THE PLAINTIFFS:</p> <p>6 THE SOUTH CAROLINA STATE CONFERENCE OF</p> <p>7 THE NAACP AND MOON DUCHIN, PHD:</p> <p>8 NAACP LEGAL DEFENSE &amp; EDUCATIONAL FUND, INC.</p> <p>9 BY: LEAH C. ADEN, ESQ.</p> <p>10 JOHN CUSICK, ESQ.</p> <p>11 40 Rector Street, Fifth Floor</p> <p>12 New York, New York 10006</p> <p>13 (917) 858-2870</p> <p>14 laden@naacpldf.com</p> <p>15 jcusick@naacpldf.org</p> <p>16</p> <p>17 ATTORNEYS FOR THE HOUSE DEFENDANTS:</p> <p>18 NEXSEN PRUET, LLC</p> <p>19 BY: ANDREW MATHIAS, ESQ.</p> <p>20 104 South Main Street, Suite 900</p> <p>21 Greenville, South Carolina 29601</p> <p>22 (864) 370-2211</p> <p>23 amathias@nexsenpruet.com</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 APPEARANCES OF COUNSEL: (Cont'd)</p> <p>3 (Via Videoconference)</p> <p>4</p> <p>5 ATTORNEYS FOR SENATE DEFENDANTS:</p> <p>6 JONES DAY</p> <p>7 BY: JOHN M. GORE, ESQ.</p> <p>8 51 Louisiana Avenue, N.W.</p> <p>9 Washington, D.C. 20001-2113</p> <p>10 (202) 879-3939</p> <p>11 jmgore@jonesday.com</p> <p>12 -and-</p> <p>13 ROBINSON GRAY STEPP &amp; LAFFITTE, LLC</p> <p>14 BY: CYNTHIA NYGORD, ESQ.</p> <p>15 1310 Gadsden Street</p> <p>16 PO Box 11449</p> <p>17 Columbia, South Carolina 29211</p> <p>18 (803) 231-7810</p> <p>19 cnygord@robinsongray.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



<p style="text-align: right;">Page 6</p> <p>1                   TERRENI</p> <p>2    C H A R L E S   T E R R E N I,</p> <p>3    called as a witness, having been</p> <p>4    duly sworn by a Notary Public, was</p> <p>5    examined and testified as follows:</p> <p>6    EXAMINATION BY</p> <p>7    MS. ADEN:</p> <p>8       Q.   Good morning, Mr. Terreni.</p> <p>9    I am Leah Aden. It's nice to see</p> <p>10   you.</p> <p>11       A.   Nice to see you again.</p> <p>12       Q.   I am currently, as you may</p> <p>13   know, representing Plaintiffs in the</p> <p>14   current challenge to certain</p> <p>15   congressional districts and</p> <p>16   Plaintiffs are the South Carolina</p> <p>17   NAACP and Mr. Tai Scott.</p> <p>18       Do you mind going ahead and</p> <p>19   stating your name and spelling it</p> <p>20   for the record, please?</p> <p>21       A.   Certainly. It's Charles,</p> <p>22   C-H-A-R-L-E-S. Terreni,</p> <p>23   T-E-R-R-E-N-I.</p> <p>24       Q.   So the correct</p> <p>25   pronunciation is Terreni?</p>	<p style="text-align: right;">Page 8</p> <p>1                   TERRENI</p> <p>2    for your knowledge, Mr. Terreni,</p> <p>3    that Ms. Nygord is on the staff</p> <p>4    team for one of the plaintiff</p> <p>5    counsel, I believe the Senate</p> <p>6    defendant team. You may be</p> <p>7    familiar but just so you know who</p> <p>8    is on the line and I believe that</p> <p>9    is everyone.</p> <p>10       Q.   Mr. Terreni, you are a</p> <p>11   lawyer; is that correct?</p> <p>12       A.   Yes, ma'am.</p> <p>13       Q.   But you are represented</p> <p>14   here today. Is that also correct?</p> <p>15       A.   It is.</p> <p>16       Q.   And who represents you?</p> <p>17       A.   John Gore and Lisle</p> <p>18   Traywick.</p> <p>19       Q.   And they are with the Jones</p> <p>20   Day law firm?</p> <p>21       A.   John Gore is with the Jones</p> <p>22   Day law firm. Lisle Traywick is</p> <p>23   with, they changed their name</p> <p>24   recently, maybe he will refresh my</p> <p>25   memory. Robinson Gray.</p>
<p style="text-align: right;">Page 7</p> <p>1                   TERRENI</p> <p>2       A.   That's fine.</p> <p>3       MS. ADEN: And I'd like to</p> <p>4   take a moment and ask everyone who</p> <p>5   is representing parties in the case</p> <p>6   to also go ahead and state their</p> <p>7   name for the record beginning with</p> <p>8   counsel for the plaintiffs.</p> <p>9       MR. CUSICK: Good morning.</p> <p>10   This is John Cusick also with LDF</p> <p>11   on behalf of the Plaintiffs.</p> <p>12       MS. ADEN: Mr. Gore, would you</p> <p>13   go next, please.</p> <p>14       MR. GORE: Sure. John Gore</p> <p>15   for the Senate Defendants.</p> <p>16       MR. TRAYWICK: Lisle Traywick</p> <p>17   of Robinson Gray also for the</p> <p>18   Senate Defendants.</p> <p>19       MS. TRINKLEY: Jane Trinkley</p> <p>20   with Burr &amp; Forman for the Election</p> <p>21   Defendants.</p> <p>22       MR. MATHIS: Andrew Mathias of</p> <p>23   Nexsen Pruet for the individual</p> <p>24   House Defendants.</p> <p>25       MS. ADEN: And I believe just</p>	<p style="text-align: right;">Page 9</p> <p>1                   TERRENI</p> <p>2       Q.   Gray?</p> <p>3       A.   Yeah.</p> <p>4       Q.   Have you taken depositions</p> <p>5   before?</p> <p>6       A.   Yes.</p> <p>7       Q.   About how many times?</p> <p>8       A.   Couple dozen at least.</p> <p>9       Q.   So just so that we are on</p> <p>10   the same page despite your having</p> <p>11   taken depositions before, I'm going</p> <p>12   to identify some basic ground rules</p> <p>13   for how this deposition will proceed</p> <p>14   today so we are on the same page.</p> <p>15       You have been sworn in so you</p> <p>16   are testifying under oath which</p> <p>17   means that you are testifying as if</p> <p>18   you are before a judge in a</p> <p>19   courtroom with the same duty to</p> <p>20   answer questions truthfully.</p> <p>21       Do you understand?</p> <p>22       A.   Yes.</p> <p>23       Q.   And a court reporter,</p> <p>24   Ms. Ruggieri, whose name I may</p> <p>25   already mispronounced already is</p>

<p style="text-align: right;">Page 10</p> <p>1           TERRENI</p> <p>2   transcribing this deposition and so</p> <p>3   with that in mind if you and I both</p> <p>4   could try to please speak audibly</p> <p>5   and clearly and I will try to speak</p> <p>6   slowly.</p> <p>7       Please refrain from nodding or</p> <p>8   shaking your head so that we have a</p> <p>9   clear transcript. And if I ask a</p> <p>10   question that you do not understand</p> <p>11   or you need me to repeat, I'm happy</p> <p>12   to do so. I will do my best to</p> <p>13   rephrase. If I ask you a question</p> <p>14   and you answer the question,</p> <p>15   however, I will assume you</p> <p>16   understand my question.</p> <p>17       Do you understand those basic</p> <p>18   ground rules?</p> <p>19       A. Yes, ma'am.</p> <p>20       Q. Okay. There may be</p> <p>21   attorney objections. Though we are</p> <p>22   the primary people who should be</p> <p>23   talking today in addition to the</p> <p>24   court reporter who may need</p> <p>25   something from us, your counsel may</p>	<p style="text-align: right;">Page 12</p> <p>1           TERRENI</p> <p>2       Q. Okay. For today's</p> <p>3   deposition where are you physically</p> <p>4   located?</p> <p>5       A. In my office at 1508 Lady</p> <p>6   Street in Columbia.</p> <p>7       Q. Okay. Is there anyone else</p> <p>8   in the room with you?</p> <p>9       A. No, ma'am.</p> <p>10       Q. Did you bring any materials</p> <p>11   with you for the deposition?</p> <p>12       A. I have two screens and on</p> <p>13   my second screen I have the exhibits</p> <p>14   that you submitted for my</p> <p>15   deposition.</p> <p>16       Q. Do you have any hard copies</p> <p>17   of those in front of you?</p> <p>18       A. No, ma'am.</p> <p>19       Q. And did you take any notes</p> <p>20   on any of the soft copy exhibits</p> <p>21   that are on your screen, any</p> <p>22   comments, put any comments, markup</p> <p>23   the documents at all?</p> <p>24       A. No, ma'am.</p> <p>25       Q. What is your understanding</p>
<p style="text-align: right;">Page 11</p> <p>1           TERRENI</p> <p>2   object to my question and the</p> <p>3   objection will be noted for the</p> <p>4   record. But you still must provide</p> <p>5   an answer unless you are instructed</p> <p>6   not to.</p> <p>7       Do you understand that?</p> <p>8       A. Yes, ma'am.</p> <p>9       Q. Okay. Is there any reason</p> <p>10   why you may be unable to understand</p> <p>11   or answer my questions today?</p> <p>12       A. None that I know of.</p> <p>13       Q. Okay. If at any time you</p> <p>14   want to take a break, and I'll try</p> <p>15   to take them every once in a while,</p> <p>16   please let me know. We will get off</p> <p>17   the record at some point and talk</p> <p>18   lunch and make sure that you have</p> <p>19   what you need to proceed. The only</p> <p>20   thing I ask is that before we take a</p> <p>21   break that I am able to complete my</p> <p>22   question and you complete your</p> <p>23   answer.</p> <p>24       Does that make sense?</p> <p>25       A. Yes, ma'am.</p>	<p style="text-align: right;">Page 13</p> <p>1           TERRENI</p> <p>2   of this lawsuit?</p> <p>3       A. I understand the plaintiffs</p> <p>4   are challenging the configuration of</p> <p>5   certain congressional districts in</p> <p>6   the State of South Carolina drawn in</p> <p>7   the last cycle, that it is generally</p> <p>8   an allegation of racial</p> <p>9   gerrymandering.</p> <p>10       You'll have to remind me as to</p> <p>11   the exact districts you challenged</p> <p>12   but I know it's not District 6. It</p> <p>13   probably is 2, 1 and 5. But I could</p> <p>14   stand corrected.</p> <p>15       Q. So that's correct, those</p> <p>16   are the challenged districts, 1, 2</p> <p>17   and 5.</p> <p>18       You mentioned a racial</p> <p>19   gerrymandering claim. What do you</p> <p>20   understand that to mean?</p> <p>21       A. Well, what I understand a</p> <p>22   racial gerrymandering claim to mean</p> <p>23   is generally a claim of improper</p> <p>24   racial motivation as expressed in</p> <p>25   Shaw versus Reno. Though race was</p>

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<p style="text-align: right;">Page 14</p> <p>1                   TERRENI</p> <p>2 the predominant factor in the</p> <p>3 redistricting decisions that were</p> <p>4 made or the challenges.</p> <p>5       Q. Have you ever brought or</p> <p>6 defended against a racial</p> <p>7 gerrymandering claim?</p> <p>8       A. No.</p> <p>9       Q. Do you know what an</p> <p>10 intended racial discrimination claim</p> <p>11 is?</p> <p>12       A. Generally speaking, it's a</p> <p>13 claim that is brought on the basis</p> <p>14 that an enacted plan was enacted</p> <p>15 with improper racial motives</p> <p>16 regardless of its defense.</p> <p>17       Q. Do you see a racial</p> <p>18 gerrymandering claim and an</p> <p>19 intentional racial discrimination as</p> <p>20 equal, the same claim?</p> <p>21       A. Well, a racial</p> <p>22 gerrymandering claim does not have</p> <p>23 to have a direct evidence of intent.</p> <p>24 So, no, I don't them as equal,</p> <p>25 although they would often be</p>	<p style="text-align: right;">Page 16</p> <p>1                   TERRENI</p> <p>2       A. Yes, ma'am.</p> <p>3       Q. -- does race have to be the</p> <p>4 predominant purpose or can it be a</p> <p>5 purpose animating the decision? Do</p> <p>6 you know one way or other?</p> <p>7       A. My understanding is it</p> <p>8 would have to be the predominant but</p> <p>9 I say that with -- you know. I have</p> <p>10 faced racial gerrymandering issues</p> <p>11 in redistricting but I don't have</p> <p>12 much experience with intentional.</p> <p>13       Q. So that last claim,</p> <p>14 intentional racial discrimination,</p> <p>15 have you ever brought and/or</p> <p>16 defended against an intentional</p> <p>17 racial discrimination claim whether</p> <p>18 in the redistricting or</p> <p>19 nonredistricting context?</p> <p>20       A. I don't believe so.</p> <p>21       Q. Have you ever familiarized</p> <p>22 yourself with the Arlington Heights</p> <p>23 case?</p> <p>24       A. It's been a while. I mean</p> <p>25 I have read it, I'm familiar with it</p>
<p style="text-align: right;">Page 15</p> <p>1                   TERRENI</p> <p>2 related.</p> <p>3       Q. In the context of a racial,</p> <p>4 intentional racial discrimination</p> <p>5 claim in a redistricting action, do</p> <p>6 you under- -- what would that mean</p> <p>7 to you?</p> <p>8       A. That race was the</p> <p>9 predominant intent -- that racial</p> <p>10 discrimination or disadvantaging a</p> <p>11 racial minority was the intent of</p> <p>12 the redistricting effort.</p> <p>13       Q. And in an intentional</p> <p>14 racial discrimination claim as</p> <p>15 compared to a racial discrimination</p> <p>16 claim do you understand that intent</p> <p>17 has to be predominant as well or can</p> <p>18 it be a purpose motivating the</p> <p>19 action?</p> <p>20       A. I'm sorry, could you</p> <p>21 restate that question.</p> <p>22       Q. Yes. In an intentional</p> <p>23 racial discrimination claim as</p> <p>24 compared to a racial gerrymandering</p> <p>25 claim --</p>	<p style="text-align: right;">Page 17</p> <p>1                   TERRENI</p> <p>2 but it's been a long time.</p> <p>3       Q. Now, you mention that you</p> <p>4 have never brought or defended</p> <p>5 against a racial gerrymandering case</p> <p>6 but I believe you just mentioned</p> <p>7 that you faced racial gerrymandering</p> <p>8 issues. Can you explain what you</p> <p>9 meant by that?</p> <p>10       A. Well, in every litigation</p> <p>11 cycle there is an awareness of the</p> <p>12 need to avoid racial gerrymandering.</p> <p>13 There have been at times accusations</p> <p>14 of racial gerrymandering and in that</p> <p>15 context I have encountered racial</p> <p>16 gerrymandering claims or the theory.</p> <p>17       Q. With respect to any other</p> <p>18 claim of racial discrimination have</p> <p>19 you ever brought and/or defended</p> <p>20 against racial discrimination?</p> <p>21       A. Yeah. I brought a racial</p> <p>22 -- a lawsuit before that was based</p> <p>23 on racial discrimination.</p> <p>24       Q. What was the nature of that</p> <p>25 claim?</p>

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<p style="text-align: right;">Page 18</p> <p>1                   TERRENI</p> <p>2           A. It was a lawsuit brought</p> <p>3           under the South Carolina, I believe</p> <p>4           it's called the State Accommodations</p> <p>5           Act against a restaurant that</p> <p>6           discriminated against my clients for</p> <p>7           refusing them service.</p> <p>8           Q. What about a Voting Rights</p> <p>9           Act claim, have you ever brought or</p> <p>10          defended against one of those?</p> <p>11          A. Yes, ma'am.</p> <p>12          Q. In what context?</p> <p>13          A. Well, there have been a</p> <p>14          few. Would you like me to try to go</p> <p>15          through them or...</p> <p>16          Q. Yes, please, briefly. What</p> <p>17          body was at issue?</p> <p>18          A. They were primarily Section</p> <p>19          5 claims. I litigated a Section 5</p> <p>20          claim on behalf of the Richland</p> <p>21          County Republican Party in the '90s</p> <p>22          involving the need to preclear</p> <p>23          changes in a redistricting plan. I</p> <p>24          was the plaintiff.</p> <p>25          I defended the State</p>	<p style="text-align: right;">Page 20</p> <p>1                   TERRENI</p> <p>2           should not be diminished in a</p> <p>3           redistricting plan absent</p> <p>4           unavoidable circumstances such as</p> <p>5           inward migration or something of</p> <p>6           that sort.</p> <p>7           There was an intent component</p> <p>8           in Section 5 as I recall. And then</p> <p>9           as a practical matter it required</p> <p>10          either getting preclearance from the</p> <p>11          Justice Department and persuading</p> <p>12          them that a plan was</p> <p>13          nonretrogressive or retrogressive</p> <p>14          depending on what side I was on.</p> <p>15          And also -- or in the alternative</p> <p>16          obtaining a declaratory judgment</p> <p>17          from the D.C. Circuit.</p> <p>18          Q. Under Section 5 could a</p> <p>19          jurisdiction go from having three</p> <p>20          majority-minority districts to two,</p> <p>21          for example?</p> <p>22          A. It could.</p> <p>23          Q. It could under what</p> <p>24          circumstances?</p> <p>25          A. A plethora of</p>
<p style="text-align: right;">Page 19</p> <p>1                   TERRENI</p> <p>2           Republican Party in an action that</p> <p>3           was brought trying to compel</p> <p>4           preclearance of the state</p> <p>5           presidential primary in 2000, which</p> <p>6           was a volunteer primary.</p> <p>7           I brought a Section 5 claim I</p> <p>8           believe against Allendale County</p> <p>9           several years ago involving</p> <p>10          Allendale, one of the Allendale</p> <p>11          County local governments and that</p> <p>12          was also a preclearance issue and an</p> <p>13          equal protection issue.</p> <p>14          That's what I remember off the</p> <p>15          top of my head.</p> <p>16          Q. You mentioned Section 5.</p> <p>17          What is your understanding of what</p> <p>18          Section 5 required?</p> <p>19          A. Retrogression.</p> <p>20          Q. What does retrogression</p> <p>21          mean to you?</p> <p>22          A. Well, what retrogression</p> <p>23          meant to me was -- well, it was</p> <p>24          twofold. It was one that the</p> <p>25          existing rights of minority voters</p>	<p style="text-align: right;">Page 21</p> <p>1                   TERRENI</p> <p>2           circumstances, but one would be that</p> <p>3           the population wouldn't be there to</p> <p>4           support three minority districts</p> <p>5           anymore.</p> <p>6           Q. Did it require looking at</p> <p>7           voting patterns to see whether or</p> <p>8           not there was racial bloc voting in</p> <p>9           a jurisdiction?</p> <p>10          A. It could.</p> <p>11          Q. Are you familiar with</p> <p>12          racial bloc voting?</p> <p>13          A. To some extent, yes.</p> <p>14          Q. What do you understand it</p> <p>15          to mean?</p> <p>16          A. I mean racial bloc voting</p> <p>17          if you are referring to the Gingles</p> <p>18          preconditions it would entail a</p> <p>19          situation in which the minority</p> <p>20          community is sufficiently compact to</p> <p>21          form the majority district, that the</p> <p>22          minority community is politically</p> <p>23          cohesive and tends to attempt to</p> <p>24          vote candidates of its choice. Then</p> <p>25          if you have racially polarized</p>

<p style="text-align: right;">Page 22</p> <p>1           TERRENI</p> <p>2   voting, you would have the majority</p> <p>3   community consistently frustrating</p> <p>4   the efforts of the minority</p> <p>5   committee to elect candidates of its</p> <p>6   choice.</p> <p>7   Q. While you were defending or</p> <p>8   while you were working on Section 5</p> <p>9   actions was it also possible for --</p> <p>10   are you aware whether it was</p> <p>11   possible for a jurisdiction to</p> <p>12   receive preclearance under Section 5</p> <p>13   and still face a lawsuit on the</p> <p>14   other side of that preclearance</p> <p>15   under some other constitutional or</p> <p>16   statutory framework?</p> <p>17   A. I'm aware that it was.</p> <p>18   Q. Are you aware that the</p> <p>19   constitutional and statutory</p> <p>20   framework still exists today that</p> <p>21   existed when Section 5 was in</p> <p>22   operation?</p> <p>23   A. I'm aware that -- yes.</p> <p>24   Generally speaking. I mean I</p> <p>25   haven't wanted to do a history</p>	<p style="text-align: right;">Page 24</p> <p>1           TERRENI</p> <p>2   know, I don't know the particulars</p> <p>3   of it, but to force coverage of</p> <p>4   Section 5 for a particular</p> <p>5   jurisdiction.</p> <p>6   Q. Have you ever brought or</p> <p>7   defended against a Section 2 action</p> <p>8   under the Voting Rights Act?</p> <p>9   A. Bear with me, I haven't</p> <p>10   practiced law in a while.</p> <p>11   I have never brought a Section</p> <p>12   2 action. It is possible that</p> <p>13   Section 2 was raised as a cause of</p> <p>14   action in some of the litigation in</p> <p>15   which I have been involved.</p> <p>16   Q. Have you ever represented a</p> <p>17   minority individual plaintiff or a</p> <p>18   group that served minority voters in</p> <p>19   a Section 5 or other voting type</p> <p>20   challenge or case?</p> <p>21   A. That's a broad statement.</p> <p>22   I mean if you are talking about a</p> <p>23   named plaintiff, to the best of my</p> <p>24   recollection, no. There would have</p> <p>25   been -- there may have been minority</p>
<p style="text-align: right;">Page 23</p> <p>1           TERRENI</p> <p>2   lesson here because I'm not capable</p> <p>3   of it, but I'm generally aware that</p> <p>4   you can still sue someone over a</p> <p>5   redistricting plan under Section 2</p> <p>6   or the 14th Amendment or whatever</p> <p>7   causes of action existed before</p> <p>8   Section 5 no longer was in effect.</p> <p>9   Q. No longer is in?</p> <p>10   A. Effect.</p> <p>11   Q. Section 5 is still</p> <p>12   constitutional, it just doesn't</p> <p>13   function anymore, is that your</p> <p>14   understanding?</p> <p>15   A. My understanding is until</p> <p>16   such time as Congress were to update</p> <p>17   the coverage formula Section 5</p> <p>18   cannot be implemented.</p> <p>19   Q. Do you know anything about</p> <p>20   the bail-in requirement under</p> <p>21   Section 3C under the Voting Rights</p> <p>22   Act? Are you familiar with that?</p> <p>23   A. I'm generally aware that</p> <p>24   plaintiffs can sue a jurisdiction</p> <p>25   for discriminatory practices. You</p>	<p style="text-align: right;">Page 25</p> <p>1           TERRENI</p> <p>2   members involved in the entities</p> <p>3   that I represented.</p> <p>4   Q. Have you ever represented</p> <p>5   -- you mentioned having represented</p> <p>6   Republican organizations in some</p> <p>7   Section 5 proceedings. Have you</p> <p>8   ever represented a</p> <p>9   Democratic-affiliated organization</p> <p>10   in a Section 5 proceeding?</p> <p>11   A. No.</p> <p>12   Q. Would you consider the</p> <p>13   Voting Rights Act a race-conscious</p> <p>14   statute?</p> <p>15   A. I don't understand the</p> <p>16   question.</p> <p>17   Q. Would you consider the</p> <p>18   Voting Rights Act to be a statute</p> <p>19   that requires awareness of race?</p> <p>20   A. Not universally. I mean it</p> <p>21   is certainly a statute that is</p> <p>22   designed to protect the rights of</p> <p>23   racial minorities under certain</p> <p>24   circumstances but it doesn't mean</p> <p>25   that you need universal awareness of</p>

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<p style="text-align: right;">Page 26</p> <p>1           TERRENI</p> <p>2 race. Again, I'm not sure I'm</p> <p>3 understanding your question. I'm</p> <p>4 not trying to be evasive though. It</p> <p>5 just seems to me that what you would</p> <p>6 do anyway.</p> <p>7       Q. In order to determine</p> <p>8 Section 5 compliance or Section 2</p> <p>9 compliance would you agree that you</p> <p>10 have to be aware of the race of</p> <p>11 voters in a jurisdiction?</p> <p>12       A. I think those are two</p> <p>13 different questions. Section 5</p> <p>14 compliance I would imagine you do</p> <p>15 need to be aware of the race of the</p> <p>16 voters in a jurisdiction. Section 2</p> <p>17 compliance involves defending a</p> <p>18 Section 2 claim and may not -- at</p> <p>19 the point their claim is brought</p> <p>20 they need to have that awareness.</p> <p>21 But you wouldn't automatically or</p> <p>22 universally need to be aware of the</p> <p>23 race of the voters.</p> <p>24       Q. You mentioned Thornburg</p> <p>25 versus Gingles and you mentioned</p>	<p style="text-align: right;">Page 28</p> <p>1           TERRENI</p> <p>2 I think you were asking me.</p> <p>3 Minority plaintiffs have certainly</p> <p>4 brought Section 2 lawsuits.</p> <p>5       Q. And do you believe that</p> <p>6 requires an awareness of race in</p> <p>7 order to bring a Section 2 lawsuit?</p> <p>8       A. I would imagine so.</p> <p>9       Q. And do you agree that it</p> <p>10 would require an awareness of race</p> <p>11 to defend against a Section 2</p> <p>12 lawsuit?</p> <p>13       A. Yes.</p> <p>14       Q. So Section 5 requires an</p> <p>15 awareness of race, Section 2</p> <p>16 requires an awareness of race. What</p> <p>17 about an intentional racial</p> <p>18 discrimination claim, does that</p> <p>19 require an awareness of race?</p> <p>20       A. Well, let's back up. I</p> <p>21 didn't say Section 2 required an</p> <p>22 awareness of race universally. I</p> <p>23 said Section 2 you need an awareness</p> <p>24 of race to defend a Section 2 claim.</p> <p>25 Does it foreclose an awareness of</p>
<p style="text-align: right;">Page 27</p> <p>1           TERRENI</p> <p>2 something about determining whether</p> <p>3 a minority community is compact,</p> <p>4 whether the majority of -- minority</p> <p>5 community is politically cohesive,</p> <p>6 whether or not another group</p> <p>7 consistently votes against that</p> <p>8 community. Does that require an</p> <p>9 awareness of the race of particular</p> <p>10 voters in order to determine those</p> <p>11 different elements that you set</p> <p>12 forth?</p> <p>13       A. To determine those elements</p> <p>14 it would, yes.</p> <p>15       Q. You mentioned Section 2</p> <p>16 compliance involves defending</p> <p>17 against a Section 2 lawsuit. Is it</p> <p>18 possible to affirmatively raise a</p> <p>19 Section 2 claim?</p> <p>20       A. I don't understand how you</p> <p>21 would do that.</p> <p>22       Q. Have minority plaintiffs</p> <p>23 affirmatively brought Section 2</p> <p>24 lawsuits, are you aware of that?</p> <p>25       A. That's different from what</p>	<p style="text-align: right;">Page 29</p> <p>1           TERRENI</p> <p>2 race in redistricting otherwise?</p> <p>3 But it also doesn't mandate it. I</p> <p>4 might be in South Dakota and I might</p> <p>5 not need a section -- I'm not</p> <p>6 familiar with the demographics of</p> <p>7 South Dakota but I imagine Section 2</p> <p>8 is not an overriding concern there.</p> <p>9       So you are asking universal</p> <p>10 questions about Section 2 and</p> <p>11 Section 5 that I'm really kind of</p> <p>12 unable to say. But if you are</p> <p>13 asking me would I need awareness of</p> <p>14 race to defend a Section 2 claim,</p> <p>15 yeah, sure.</p> <p>16       Q. Are there protected groups</p> <p>17 who live in South Dakota are you</p> <p>18 aware?</p> <p>19       A. No. I told you I'm not</p> <p>20 aware of the demographics. I</p> <p>21 mention that as a hypothetical, but</p> <p>22 I'm certainly, you know -- you tell</p> <p>23 me. I mean you have national</p> <p>24 experience, I don't know. But if</p> <p>25 you were an universally majoritarian</p>

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<p style="text-align: right;">Page 30</p> <p>1           TERRENI</p> <p>2 jurisdiction without a minority</p> <p>3 group that required protection, I'm</p> <p>4 not sure you would need great</p> <p>5 awareness of race. That's all I was</p> <p>6 trying to say.</p> <p>7       Q. Do you understand Section 2</p> <p>8 to apply nationwide?</p> <p>9       A. Yes.</p> <p>10       Q. Or does it apply to certain</p> <p>11 jurisdictions?</p> <p>12       A. I understand it to apply</p> <p>13 nationwide.</p> <p>14       Q. Do you understand that</p> <p>15 Native American people, for example,</p> <p>16 live in South Dakota?</p> <p>17       A. Of course. Yes.</p> <p>18       Q. And so if they live in</p> <p>19 South Dakota and are a minority in</p> <p>20 the community and allege racial vote</p> <p>21 dilution could they bring a Section</p> <p>22 2 lawsuit?</p> <p>23       A. Yeah.</p> <p>24       Q. In order to bring or defend</p> <p>25 against an intentional racial</p>	<p style="text-align: right;">Page 32</p> <p>1           TERRENI</p> <p>2 third amended complaint not the</p> <p>3 first complaint or any of the</p> <p>4 subsequent complaints that have been</p> <p>5 filed but solely the third amended</p> <p>6 complaint just so that we are on the</p> <p>7 same page.</p> <p>8       Do you understand?</p> <p>9       A. That's up to you.</p> <p>10       Q. Okay. In addition to the</p> <p>11 attorneys at Jones Day and Robison</p> <p>12 [sic] Gray, whose name I also may be</p> <p>13 missing if they changed the name,</p> <p>14 and without going into the content</p> <p>15 of those discussions, have you</p> <p>16 sought legal advice from any other</p> <p>17 attorneys about this lawsuit?</p> <p>18       A. No.</p> <p>19       Q. What about Nexsen Pruet?</p> <p>20       A. No.</p> <p>21       Q. Now you acknowledge that</p> <p>22 you have been involved in South</p> <p>23 Carolina's redrawing of its</p> <p>24 congressional lines this cycle prior</p> <p>25 to the third amended complaint being</p>
<p style="text-align: right;">Page 31</p> <p>1           TERRENI</p> <p>2 discrimination claim do you think</p> <p>3 that that requires an awareness of</p> <p>4 race?</p> <p>5       A. I don't know. It's a very</p> <p>6 broad question. I just don't know.</p> <p>7 I never defended intentional</p> <p>8 discrimination.</p> <p>9       Q. Have you read the</p> <p>10 complaints that have been filed by</p> <p>11 plaintiffs in this lawsuit?</p> <p>12       A. I read the third amended</p> <p>13 complaint preparing for this</p> <p>14 deposition. I believe I read the</p> <p>15 first complaint. I didn't spend a</p> <p>16 great deal of time but I did read</p> <p>17 it.</p> <p>18       Q. Would you agree that the</p> <p>19 third amended complaint focuses on</p> <p>20 plaintiffs' challenge to the</p> <p>21 congressional districts that we</p> <p>22 discussed, 1, 2 and 5?</p> <p>23       A. That's my recollection.</p> <p>24       Q. And so today we are going</p> <p>25 to focus on the allegations in the</p>	<p style="text-align: right;">Page 33</p> <p>1           TERRENI</p> <p>2 filed. Is that accurate?</p> <p>3       A. It would be accurate to say</p> <p>4 that I worked for the South Carolina</p> <p>5 State Senate, one that drew the</p> <p>6 congressional lines that are being</p> <p>7 disputed.</p> <p>8       Q. And with respect to working</p> <p>9 with the Senate to redraw</p> <p>10 congressional lines this cycle have</p> <p>11 you sought legal advice from</p> <p>12 attorneys at Jones Day?</p> <p>13       A. The Senate has sought legal</p> <p>14 advice through me, yes.</p> <p>15       Q. Which attorneys?</p> <p>16       A. John Gore primarily,</p> <p>17 Michael Carvin and Lou Fisher. And</p> <p>18 another associate or partner of</p> <p>19 Mr. Gore who will be offended that I</p> <p>20 can't remember his name.</p> <p>21       Q. Can you pronounce Mr. Lou's</p> <p>22 last name, please?</p> <p>23       A. Fisher.</p> <p>24       Q. Fisher?</p> <p>25       A. F-I-S-H-E-R.</p>

<p style="text-align: right;">Page 34</p> <p>1           TERRENI</p> <p>2       Q. So John Gore, Michael</p> <p>3       Carvin, Lou Fisher and another</p> <p>4       associate, those are the four</p> <p>5       attorneys at Jones Day that you have</p> <p>6       interacted with regarding</p> <p>7       congressional redistricting on</p> <p>8       behalf of the Senate?</p> <p>9       A. Well, I believe he was a</p> <p>10      partner and his name I believe was</p> <p>11      Stewart Copeland [sic]. I'm sorry,</p> <p>12      that's also a name of a band member</p> <p>13      of The Police but I'm not sure so I</p> <p>14      don't want to get them confused but</p> <p>15      I believe that was his name.</p> <p>16      Q. SO Stewart Copeland [sic],</p> <p>17      Lou Fisher, Michael Carvin and John</p> <p>18      Gore?</p> <p>19      A. Yes, ma'am.</p> <p>20      Q. When did you begin</p> <p>21      corresponding with them regarding</p> <p>22      congressional lines for the Senate?</p> <p>23      A. I want to answer your</p> <p>24      question accurately. I began</p> <p>25      corresponding with them regarding</p>	<p style="text-align: right;">Page 36</p> <p>1           TERRENI</p> <p>2       2010, late 2010. If you are asking</p> <p>3       something more specific, please let</p> <p>4       me know.</p> <p>5       Q. So for this, the census</p> <p>6       release data in 2020 is the 2021, is</p> <p>7       that fair to say?</p> <p>8       A. I don't know.</p> <p>9       Q. I'm sorry?</p> <p>10      A. I'm sorry, was that a</p> <p>11      question?</p> <p>12      Q. Do you agree with that, the</p> <p>13      census release data for this</p> <p>14      redistricting cycle in 2021, would</p> <p>15      you agree with that?</p> <p>16      A. Would about it?</p> <p>17      MR. GORE: Object to form.</p> <p>18      Q. Would you agree that the</p> <p>19      U.S. census released data related to</p> <p>20      the redrawing lines for this cycle</p> <p>21      in 2021?</p> <p>22      A. Oh, yes.</p> <p>23      Q. And is it your position</p> <p>24      that you were communicating with the</p> <p>25      four people who you identified at</p>
<p style="text-align: right;">Page 35</p> <p>1           TERRENI</p> <p>2       redistricting, it would have been in</p> <p>3       2011 or late 2010. Generally</p> <p>4       speaking, that correspondence would</p> <p>5       have included congressional and</p> <p>6       Senate redistricting processes.</p> <p>7       Regarding lines, I'm not sure</p> <p>8       I remember when I -- the first time</p> <p>9       I discussed lines with -- is that</p> <p>10      what you asked? I'm sorry.</p> <p>11      Congressional lines or congressional</p> <p>12      redistricting?</p> <p>13      Q. Let's make sure we are on</p> <p>14      the same page. The redrawing of the</p> <p>15      congressional map this cycle, I'm</p> <p>16      interested in when you started</p> <p>17      speaking with, corresponding with,</p> <p>18      communicating with the four people</p> <p>19      at Jones Day who you mentioned this</p> <p>20      cycle?</p> <p>21      A. To the extent that</p> <p>22      congressional redistricting was</p> <p>23      implicated in the overall</p> <p>24      redistricting process it would have</p> <p>25      been sometime around early 2011 or</p>	<p style="text-align: right;">Page 37</p> <p>1           TERRENI</p> <p>2       Jones Day about the redrawing of the</p> <p>3       lines that follows the release of</p> <p>4       that data beginning after -- in the</p> <p>5       last decade in 2011, 2010?</p> <p>6       MR. GORE: Object to form.</p> <p>7       A. I'm really -- I don't</p> <p>8       understand the question.</p> <p>9       Q. Okay. Let me try again.</p> <p>10      You mentioned speaking to four</p> <p>11      partners at Jones Day. Was that</p> <p>12      with regard to the redrawing of</p> <p>13      congressional lines by the Senate</p> <p>14      for the post 2020 redistricting</p> <p>15      cycle?</p> <p>16      A. It was regarding the post</p> <p>17      2020 redistricting cycle generally,</p> <p>18      which would include redrawing</p> <p>19      congressional lines. That process</p> <p>20      started in late 2010. And if you</p> <p>21      are asking at what point -- if you</p> <p>22      are asking me something else,</p> <p>23      please, ask it.</p> <p>24      Q. I'm confused about why --</p> <p>25      so your relationship with Jones Day</p>



<p style="text-align: right;">Page 38</p> <p>1           TERRENI</p> <p>2    about this redistricting cycle goes</p> <p>3    back to 2010, am I hearing you</p> <p>4    right, or did you mean 2020?</p> <p>5       A. I'm sorry. I meant 20 -- I</p> <p>6    did mean 2020 although I had a</p> <p>7    relation or the Senate was also</p> <p>8    represented by Jones Day in the last</p> <p>9    cycle. But I meant 2020.</p> <p>10   Q. So late 2020 you started</p> <p>11   talking to Jones Day about the</p> <p>12   redrawing of lines for South</p> <p>13   Carolina which may include</p> <p>14   congressional lines?</p> <p>15    A. Correct, yeah.</p> <p>16    Q. Okay. What about Robison</p> <p>17   Gray, who had you spoken with,</p> <p>18   communicated with there in</p> <p>19   particular about the redrawing of</p> <p>20   congressional lines for the Senate</p> <p>21   or by the Senate?</p> <p>22    A. Rob Tyson and Lisle</p> <p>23   Traywick but that was after your</p> <p>24   litigation was filed.</p> <p>25    Q. And did you talk to anyone</p>	<p style="text-align: right;">Page 40</p> <p>1           TERRENI</p> <p>2       A. Yes.</p> <p>3       Q. How frequently would you</p> <p>4    communicate with her about the</p> <p>5    redrawing of congressional lines for</p> <p>6    the Senate?</p> <p>7       A. It depends on what part of</p> <p>8    the cycle we are in, but when --</p> <p>9    generally speaking, around the time</p> <p>10   the staff plan was released and</p> <p>11   shortly before that I would have</p> <p>12   communicated with Paula on almost a</p> <p>13   daily basis.</p> <p>14    Q. And when did that begin?</p> <p>15   So your communication with her was</p> <p>16   isolated to around the time of the</p> <p>17   staff plan or shortly before then,</p> <p>18   it did not begin in 2020 like with</p> <p>19   Jones Day?</p> <p>20    A. No, ma'am, that's not what</p> <p>21   I'm saying. What I'm saying is that</p> <p>22   your question, as I understood it,</p> <p>23   was about congressional lines.</p> <p>24    Q. Yes.</p> <p>25    A. And I'm saying I didn't</p>
<p style="text-align: right;">Page 39</p> <p>1           TERRENI</p> <p>2    with Nexsen Pruet or from Nexsen</p> <p>3    Pruet about, not this lawsuit, but</p> <p>4    the redrawing of congressional lines</p> <p>5    following the 2020 census?</p> <p>6       A. No, ma'am.</p> <p>7       Q. What about the Senate</p> <p>8    President's Office, did you</p> <p>9    communicate with them about the</p> <p>10   redrawing of congressional lines by</p> <p>11   the Senate for this cycle?</p> <p>12    A. During the drawing process</p> <p>13   or after?</p> <p>14    Q. During the drawing process?</p> <p>15    A. I don't recall.</p> <p>16    Q. What about the Office of</p> <p>17   Legislative Counsel?</p> <p>18    A. Only to the extent that we</p> <p>19   were discussing like bill formats</p> <p>20   and things like that.</p> <p>21    Q. What about Senate Judiciary</p> <p>22   counsel?</p> <p>23    A. Certainly, yes.</p> <p>24    Q. Does that include Paula</p> <p>25   Benson?</p>	<p style="text-align: right;">Page 41</p> <p>1           TERRENI</p> <p>2    spend a great deal communicating</p> <p>3    with Paula Benson about</p> <p>4    congressional lines until the Senate</p> <p>5    plan was substantially concluded and</p> <p>6    we shifted our work to congressional</p> <p>7    lines. So did I talk to Paula</p> <p>8    Benson about Congress before then,</p> <p>9    yeah, I'm sure I did. But the</p> <p>10   frequency, which I believe you asked</p> <p>11   me about, would have been very</p> <p>12   different once we started getting</p> <p>13   all of those into Congress.</p> <p>14    Q. What is the time frame for</p> <p>15   when you are talking about where the</p> <p>16   Senate started get into Congress,</p> <p>17   what time frame are we talking</p> <p>18   about?</p> <p>19    A. Generally speaking, I</p> <p>20   believe it was around November of</p> <p>21   2021.</p> <p>22    Q. What was the -- let me --</p> <p>23   what was the primary means of</p> <p>24   communicating with those four</p> <p>25   attorneys at Jones Day beginning in</p>

<p style="text-align: right;">Page 42</p> <p>1           TERRENI</p> <p>2   2020, late 2020. And by means,</p> <p>3   phone, email, in-person meetings,</p> <p>4   how did you communicate with those</p> <p>5   attorneys?</p> <p>6   A. Telephone or video calls.</p> <p>7   Probably some emails too but not --</p> <p>8   primarily it would have been phone</p> <p>9   or video.</p> <p>10   Q. What about with Robison</p> <p>11   Gray, also, how did you communicate</p> <p>12   with them?</p> <p>13   A. Well, I mean again that was</p> <p>14   after the lawsuit was filed.</p> <p>15   Primarily, again, phone and video.</p> <p>16   May have been some email traffic I'm</p> <p>17   sure.</p> <p>18   Q. And with Ms. Benson</p> <p>19   focusing on the time when the Senate</p> <p>20   started focusing on congressional</p> <p>21   lines around November 2021, what</p> <p>22   were the means by which you</p> <p>23   communicated with her?</p> <p>24   A. Verbally and by email and</p> <p>25   some video calls.</p>	<p style="text-align: right;">Page 44</p> <p>1           TERRENI</p> <p>2   A. The same. Once we began</p> <p>3   the process in earnest I</p> <p>4   communicated with her almost daily.</p> <p>5   Q. Madison Faulk, are you</p> <p>6   familiar with her?</p> <p>7   A. Yes, ma'am.</p> <p>8   Q. And does she fall into that</p> <p>9   same bucket as Ms. Benson, Breeden</p> <p>10   John and Maura Baker?</p> <p>11   A. No, ma'am. She wasn't</p> <p>12   involved as frequently.</p> <p>13   Q. Wasn't involved excuse me?</p> <p>14   A. As frequently.</p> <p>15   Q. Maxine Henry?</p> <p>16   A. Same thing. Maxine was not</p> <p>17   an attorney, Maxine was really -- is</p> <p>18   Senate, was a Senate [inaudible] so</p> <p>19   not as frequently.</p> <p>20   Q. And Michelle McGee?</p> <p>21   A. Yes, but maybe for</p> <p>22   different reasons.</p> <p>23   Q. Can you explain that?</p> <p>24   A. Michelle was an</p> <p>25   administrative assistant for the</p>
<p style="text-align: right;">Page 43</p> <p>1           TERRENI</p> <p>2   Q. Among Senate Judiciary</p> <p>3   counsel what about John -- Breeden</p> <p>4   John, are you familiar with him?</p> <p>5   A. I am familiar with Breeden</p> <p>6   John.</p> <p>7   Q. Did you communicate with</p> <p>8   him about congressional lines for</p> <p>9   this -- drawn by the Senate?</p> <p>10   A. Yes.</p> <p>11   Q. How frequently?</p> <p>12   A. Same frequency. As we got</p> <p>13   into it, it would have been nearly</p> <p>14   daily.</p> <p>15   Q. And how did you communicate</p> <p>16   with him?</p> <p>17   A. Verbally, video, email.</p> <p>18   Q. What about Ms. Baker, Maura</p> <p>19   Baker, are you familiar with her?</p> <p>20   A. Yes, ma'am.</p> <p>21   Q. Did you communicate with</p> <p>22   her about -- on the Senate side the</p> <p>23   redrawing of congressional lines?</p> <p>24   A. Yes.</p> <p>25   Q. How frequently?</p>	<p style="text-align: right;">Page 45</p> <p>1           TERRENI</p> <p>2   Senate, was coordinating things like</p> <p>3   logistics and that. She wasn't</p> <p>4   really involved in drawing the map.</p> <p>5   Q. Were there any other Senate</p> <p>6   Judiciary counsel that you</p> <p>7   interacted with when the Senate</p> <p>8   focused on congressional lines that</p> <p>9   we did not just discuss?</p> <p>10   A. With Andy Fiffick.</p> <p>11   Q. Okay.</p> <p>12   A. I'm thinking to see if we</p> <p>13   missed anybody. I don't believe</p> <p>14   there's anybody else.</p> <p>15   Q. And what was the frequency</p> <p>16   that you communicated with Andy</p> <p>17   Fiffick?</p> <p>18   A. Daily.</p> <p>19   Q. What were the means by</p> <p>20   which you communicated with him?</p> <p>21   A. Email, video calls, in</p> <p>22   person. Oh, I should add there were</p> <p>23   probably some text messages as well.</p> <p>24   Q. Is that text with Andy</p> <p>25   Fiffick, Ms. Benson, Breeden John</p>

<p style="text-align: right;">Page 46</p> <p>1           TERRENI</p> <p>2   and Maura Baker?</p> <p>3       A. Yes, ma'am. They all were.</p> <p>4   It would have been mostly just</p> <p>5   logistical, where are the meetings,</p> <p>6   something like that.</p> <p>7       Q. How many telephone or video</p> <p>8   calls do you think you've had with</p> <p>9   attorneys at Jones Day since late</p> <p>10 2020?</p> <p>11      A. I don't know.</p> <p>12      Q. A couple of dozen?</p> <p>13      A. I don't know.</p> <p>14      Q. I'm sorry, I didn't hear</p> <p>15   you. What did you say?</p> <p>16      A. I said I don't know.</p> <p>17      Q. How were those set up? Did</p> <p>18   you set them up? Did you have an</p> <p>19   assistant set them up or how did</p> <p>20   they -- how were they scheduled?</p> <p>21      A. Generally speaking, it</p> <p>22   would be Jones Day scheduling. I</p> <p>23   mean if you are talking about the</p> <p>24   logistics of setting it up?</p> <p>25      Q. Yes.</p>	<p style="text-align: right;">Page 48</p> <p>1           TERRENI</p> <p>2   discussed, would they attend those</p> <p>3   telephone or video calls with Jones</p> <p>4   Day?</p> <p>5       A. Sometimes.</p> <p>6       Q. Would anyone who was not an</p> <p>7   attorney but who was a nonattorney</p> <p>8   be on those calls with Jones Day?</p> <p>9       A. I don't recall that ever</p> <p>10   happening.</p> <p>11      Q. Did you seek legal advice</p> <p>12   -- let me step back.</p> <p>13       How would you -- what was the</p> <p>14   purpose of your communications with</p> <p>15   the Jones Day law firm, as you</p> <p>16   understood it?</p> <p>17      A. To seek legal advice.</p> <p>18      Q. What does that mean?</p> <p>19      A. To request legal advice.</p> <p>20   I'm not sure how else to elaborate</p> <p>21   on that.</p> <p>22      Q. Generally what type of</p> <p>23   legal advice would one need around</p> <p>24   congressional redrawing of the lines</p> <p>25   in South Carolina?</p>
<p style="text-align: right;">Page 47</p> <p>1           TERRENI</p> <p>2       A. Somebody at Jones Day would</p> <p>3   send a meeting invite and we would</p> <p>4   have a call.</p> <p>5       Q. Did you ever schedule any</p> <p>6   of those phone or video calls, your</p> <p>7   office?</p> <p>8       A. It's possible, yeah.</p> <p>9       Q. Who would have set those</p> <p>10   up, you or someone who works for</p> <p>11   you?</p> <p>12      A. I would.</p> <p>13      Q. Do you keep a calendar?</p> <p>14      A. I do.</p> <p>15      Q. Would your calendar</p> <p>16   populate with the Zoom or telephone</p> <p>17   conferences that you schedule with</p> <p>18   Jones Day?</p> <p>19      A. I assume so.</p> <p>20      Q. Do you know whether or not</p> <p>21   that calendar was collected for</p> <p>22   discovery purposes in this case?</p> <p>23      A. I don't recall.</p> <p>24      Q. Would Senate Judiciary</p> <p>25   counsel, any of the people that we</p>	<p style="text-align: right;">Page 49</p> <p>1           TERRENI</p> <p>2       A. About the redistricting</p> <p>3   process and the laws that need to be</p> <p>4   compiled. I mean it's legal advice.</p> <p>5   It's just that.</p> <p>6       Q. Would it be reading -- them</p> <p>7   advising you on the current state of</p> <p>8   the law regarding redistricting?</p> <p>9       A. Yeah.</p> <p>10      Q. Would it involve them</p> <p>11   advising you on the public -- any</p> <p>12   public hearings that the South</p> <p>13   Carolina Senate set up?</p> <p>14      A. It could. I mean I don't</p> <p>15   know if Mr. Gore wants to object to</p> <p>16   any of this because it seems</p> <p>17   privileged to me, but it could.</p> <p>18      Q. Very generically could</p> <p>19   legal advice involve reviewing</p> <p>20   materials that the Senate published</p> <p>21   on its Senate redistricting website?</p> <p>22      A. It could.</p> <p>23      Q. Would and could it involve</p> <p>24   reviewing maps and associated data</p> <p>25   that the Senate considered in</p>

<p style="text-align: right;">Page 50</p> <p>1           TERRENI</p> <p>2 redrawing congressional lines?</p> <p>3     A. Yes.</p> <p>4     Q. Would and could it involve</p> <p>5 discussing questions that</p> <p>6 legislative members -- legislative</p> <p>7 members had about the congressional</p> <p>8 redrawing of lines?</p> <p>9     A. It could.</p> <p>10    Q. Could it involve questions</p> <p>11 that were asked by the public about</p> <p>12 the congressional redistricting</p> <p>13 lines?</p> <p>14    A. It could.</p> <p>15    Q. Did you on occasion ask for</p> <p>16 documentation of legal research</p> <p>17 prepared by the Jones Day law firm?</p> <p>18    A. I don't remember.</p> <p>19    Q. Do you remember exchanging</p> <p>20 documents with the Jones Day law</p> <p>21 firm?</p> <p>22    A. I'm sure I exchanged</p> <p>23 documents with the Jones Day law</p> <p>24 firm.</p> <p>25    Q. Via email?</p>	<p style="text-align: right;">Page 52</p> <p>1           TERRENI</p> <p>2     A. I didn't mean to slight</p> <p>3 them. Of course Senator Young and</p> <p>4 Senator Sabb.</p> <p>5     Q. Which of those members are</p> <p>6 lawyers you are aware?</p> <p>7     A. Young, Sabb, Matthews -- I</p> <p>8 mean, excuse me -- Matthews is not</p> <p>9 on the committee. Young, Sabb,</p> <p>10 Campsen, Rankin, Matthews. That's a</p> <p>11 lot of them, right.</p> <p>12    Q. What about Senator</p> <p>13 Harpootlian, was he also a member?</p> <p>14    A. He was a member. How could</p> <p>15 I forget.</p> <p>16    Q. Did you interact with any</p> <p>17 of the staff of those subcommittee</p> <p>18 members?</p> <p>19    A. On occasion.</p> <p>20    Q. Such as?</p> <p>21    A. Senator Campsen's lawyer.</p> <p>22 Senator Harpootlian's attorney from</p> <p>23 his law practice. I think that's</p> <p>24 it.</p> <p>25    Q. And do you recall the name</p>
<p style="text-align: right;">Page 51</p> <p>1           TERRENI</p> <p>2     A. It would have been via</p> <p>3 email if I did.</p> <p>4     Q. Did you ever exchange</p> <p>5 documents in person?</p> <p>6     A. No.</p> <p>7     Q. With respect to redrawing</p> <p>8 Senate congressional lines this</p> <p>9 cycle you are aware that there was a</p> <p>10 Senate redistricting subcommittee</p> <p>11 formed to consider congressional</p> <p>12 lines?</p> <p>13    A. There was a Senate</p> <p>14 redistricting subcommittee formed to</p> <p>15 consider Senate and congressional</p> <p>16 ones.</p> <p>17    Q. Who were the members of the</p> <p>18 Senate subcommittee considering</p> <p>19 congressional lines?</p> <p>20    A. Luke Rankin, Brad Hutto,</p> <p>21 Talley, Margie Bright Matthews. I'm</p> <p>22 sure somebody -- oh, Senator</p> <p>23 Campsen, Chip Campsen.</p> <p>24    Q. What about Senators Young</p> <p>25 and Sabb?</p>	<p style="text-align: right;">Page 53</p> <p>1           TERRENI</p> <p>2 of Senator Campsen's lawyer?</p> <p>3     A. Brian Cole.</p> <p>4     Q. Cole?</p> <p>5     A. Cole, yeah.</p> <p>6     Q. Do you recall the lawyer</p> <p>7 for Senator Harpootlian?</p> <p>8     A. Chris Kenney.</p> <p>9     Q. What about Joey Opperman or</p> <p>10 Opperman, do you know who that is?</p> <p>11    A. I know who he is. I don't</p> <p>12 think I ever directly interacted</p> <p>13 with Mr. Opperman.</p> <p>14    Q. Did you communicate with</p> <p>15 House Judiciary counsel during</p> <p>16 consideration by the Senate on</p> <p>17 congressional lines?</p> <p>18    A. I don't recall doing so.</p> <p>19    Q. Emma Dean?</p> <p>20    A. No.</p> <p>21    Q. Patrick Dennis?</p> <p>22    A. Dennis, you know, it's</p> <p>23 possible that I had some</p> <p>24 communication with Patrick. I don't</p> <p>25 remember if it was during the Senate</p>

<p style="text-align: right;">Page 54</p> <p>1           TERRENI</p> <p>2   process or the congressional process</p> <p>3   or litigation process honestly. It</p> <p>4   was minimal.</p> <p>5   Q. Would that have been by</p> <p>6   email, in person, by phone or a</p> <p>7   combination thereof?</p> <p>8   A. It could have been by text</p> <p>9   but I believe that was about -- that</p> <p>10   was about the litigation, I'm sorry.</p> <p>11   Nothing other than that really. It</p> <p>12   was -- I don't think I had any email</p> <p>13   correspondence from Patrick. No,</p> <p>14   actually come to think of it</p> <p>15   regarding congressional, I don't</p> <p>16   want to be absolute about it, but I</p> <p>17   don't recall any conversation with</p> <p>18   Patrick about congressional.</p> <p>19   Q. And you mentioned text</p> <p>20   messages with him about this</p> <p>21   litigation?</p> <p>22   A. It involved -- yes. Yes.</p> <p>23   I had one text exchange with him.</p> <p>24   It wasn't about the lawsuit as such,</p> <p>25   it was about some lawyers.</p>	<p style="text-align: right;">Page 56</p> <p>1           TERRENI</p> <p>2   A. Well, yeah. I mean there</p> <p>3   were some lawyers I'm sure that</p> <p>4   communicated with the community and</p> <p>5   with me. Dale Oldham was one of</p> <p>6   them. I'm trying to think if there</p> <p>7   was anybody else. That was it I</p> <p>8   believe.</p> <p>9   Q. Who does Dale Oldham work</p> <p>10   for?</p> <p>11   A. That's a good question. I</p> <p>12   don't know.</p> <p>13   Q. Did you communicate with</p> <p>14   him?</p> <p>15   A. Yeah.</p> <p>16   Q. How often?</p> <p>17   A. Rarely. He called me after</p> <p>18   his staff plan was released one or</p> <p>19   two times and I'm talking about</p> <p>20   communicating with him about</p> <p>21   congressional redistricting.</p> <p>22   Q. Did you talk to him about</p> <p>23   noncongressional redistricting?</p> <p>24   A. Yeah.</p> <p>25   Q. Such as?</p>
<p style="text-align: right;">Page 55</p> <p>1           TERRENI</p> <p>2   Q. What about Roland Franklin,</p> <p>3   are you familiar with him?</p> <p>4   A. No.</p> <p>5   Q. Jimmy Hinson?</p> <p>6   A. Name rings a bell but I</p> <p>7   didn't have any communication with</p> <p>8   him.</p> <p>9   Q. Are any of the Senate or</p> <p>10   staff counsel that we talked about,</p> <p>11   any of them black people?</p> <p>12   A. Maxine Henry. I think</p> <p>13   that's it.</p> <p>14   Q. Is there any other legal</p> <p>15   counsel that we haven't discussed</p> <p>16   who you communicated with about this</p> <p>17   cycle's redrawing of the</p> <p>18   congressional lines?</p> <p>19   A. In an attorney-client</p> <p>20   context or?</p> <p>21   Q. Yes.</p> <p>22   A. No.</p> <p>23   Q. And in a nonattorney-client</p> <p>24   context, any other attorneys, any</p> <p>25   other legal counsel?</p>	<p style="text-align: right;">Page 57</p> <p>1           TERRENI</p> <p>2   A. A boat. I didn't talk to</p> <p>3   him very often but I have known Dale</p> <p>4   for a long time. I'm sure he wished</p> <p>5   me a Merry Christmas and that kind</p> <p>6   of thing.</p> <p>7   Q. How long have you known</p> <p>8   him?</p> <p>9   A. 30 years.</p> <p>10   Q. And you don't know -- I'm</p> <p>11   sorry, do you know who he works for?</p> <p>12   A. I do not. I know he works</p> <p>13   for some national Republican</p> <p>14   organization. The National</p> <p>15   Republican Redistricting Trust has</p> <p>16   been mentioned in the discovery that</p> <p>17   I have seen. I don't know if he</p> <p>18   works with them or not. I have no</p> <p>19   idea.</p> <p>20   Q. So you talked to him one or</p> <p>21   two times after the staff plan</p> <p>22   released and we earlier discussed</p> <p>23   that that was around November of</p> <p>24   2021. Is that when you recall</p> <p>25   talking to him?</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 58</p> <p>1           TERRENI</p> <p>2       A. I think so, yes.</p> <p>3       Q. And only those one or two</p> <p>4 times?</p> <p>5       A. Again, if we are talking</p> <p>6 about congressional, yes. Only</p> <p>7 those one or two. It was a couple</p> <p>8 of calls.</p> <p>9       Q. Who else was on those</p> <p>10 calls?</p> <p>11       A. No one.</p> <p>12       Q. How long did they last?</p> <p>13       A. Couple minutes.</p> <p>14       Q. Did you correspond by</p> <p>15 email, text or some other means</p> <p>16 after or around those conversations?</p> <p>17       A. He sent me a couple of text</p> <p>18 messages.</p> <p>19       Q. Did you turn those over in</p> <p>20 discovery in this case?</p> <p>21       A. Yes.</p> <p>22       Q. Do you know -- more than</p> <p>23 five texts messages, around how</p> <p>24 many?</p> <p>25       A. I think it was just two or</p>	<p style="text-align: right;">Page 60</p> <p>1           TERRENI</p> <p>2       that he works for the -- whoa, whoa,</p> <p>3       whoa. I'm not aware that he worked</p> <p>4       for the -- that's right, I'm not</p> <p>5       aware that he worked for the South</p> <p>6       Carolina Senate during this</p> <p>7       congressional cycle.</p> <p>8       If you want me to expand, I am</p> <p>9       aware that he did some work on a</p> <p>10       Senate Republican caucus during the</p> <p>11       Senate phase of redistricting, just</p> <p>12       to be clear.</p> <p>13       Q. Now, you said he wanted us</p> <p>14       to see our maps, some maps on that.</p> <p>15       Who was us that you are referring</p> <p>16       to?</p> <p>17       A. Senate -- Senate Judiciary</p> <p>18       staff.</p> <p>19       Q. And did he ultimately send</p> <p>20       you that information?</p> <p>21       A. Yes.</p> <p>22       Q. And he sent that to you by</p> <p>23       email?</p> <p>24       A. Not me by email. He would</p> <p>25       have -- he did not send anything but</p>
<p style="text-align: right;">Page 59</p> <p>1           TERRENI</p> <p>2       three.</p> <p>3       Q. What was the nature of</p> <p>4       those texts?</p> <p>5       A. As I recall, he texted us</p> <p>6       something to the effect of having a</p> <p>7       plan that he thought, just having a</p> <p>8       plan that he wanted us to see.</p> <p>9       There was a second text, if I</p> <p>10       recall, just from the exhibits you</p> <p>11       shared that -- says something about</p> <p>12       he had some political data that was</p> <p>13       different from the data we had</p> <p>14       posted our website. Those were the</p> <p>15       texts.</p> <p>16       Q. Is your position that he</p> <p>17       reached out to you initially or did</p> <p>18       you reach out to him regarding</p> <p>19       congressional maps?</p> <p>20       A. He reached out to me.</p> <p>21       Q. And is it your position</p> <p>22       that he does not work for the South</p> <p>23       Carolina Senate this congressional</p> <p>24       cycle?</p> <p>25       A. My position? I'm not aware</p>	<p style="text-align: right;">Page 61</p> <p>1           TERRENI</p> <p>2       he -- Adam Kincaid, who I understand</p> <p>3       to be with the National Republican</p> <p>4       Redistricting Trust, I believe, had</p> <p>5       to send us the file. And he needed</p> <p>6       to transfer it by gmail or by Google</p> <p>7       Drive because it was a big file.</p> <p>8       And he did it by sending it to Andy</p> <p>9       Fiffick at a gmail address.</p> <p>10       Q. Did you tell Oldham to send</p> <p>11       it to Mr. Fiffick?</p> <p>12       A. I didn't tell Oldham to</p> <p>13       send it to Mr. Fiffick. I think at</p> <p>14       some point during this conversation</p> <p>15       I believe he would have been in the</p> <p>16       room, we were looking for a gmail</p> <p>17       address that this individual could</p> <p>18       use and Andy probably volunteered</p> <p>19       his gmail address so that the file</p> <p>20       could be transferred.</p> <p>21       Q. So Oldham calls you and</p> <p>22       said he has some maps that he wants</p> <p>23       the Senate Judiciary to look at.</p> <p>24       Does he identify at that time that</p> <p>25       those maps would come from the</p>



<p style="text-align: right;">Page 62</p> <p>1                   TERRENI</p> <p>2   National Republican Redistricting</p> <p>3   Trust?</p> <p>4     A. No. I don't think so. I</p> <p>5   mean I understood them to come from</p> <p>6   some Republican entity but I wasn't</p> <p>7   familiar with the National</p> <p>8   Redistricting Trust per se.</p> <p>9     Q. Did you tell him at that</p> <p>10   time to send them to the Senate</p> <p>11   redistricting email that had been</p> <p>12   publicized to the rest of the</p> <p>13   public?</p> <p>14     A. I told him he could but he</p> <p>15   wanted us to see them. We had</p> <p>16   already published the staff plan and</p> <p>17   he said, well, I'd like to send,</p> <p>18   something to the effect, I don't</p> <p>19   remember the exact conversation,</p> <p>20   that he wanted us to see them and</p> <p>21   wanted us to see them quickly so we</p> <p>22   gave him that email address.</p> <p>23     Q. I want to look at what was</p> <p>24   submitted as tab 50 which is a text</p> <p>25   exchange between Mr. Oldham and</p>	<p style="text-align: right;">Page 64</p> <p>1                   TERRENI</p> <p>2   this?</p> <p>3     A. It's both, my cell phone.</p> <p>4     Q. And you used this cell</p> <p>5   phone for Senate redistricting</p> <p>6   purposes, this cycle?</p> <p>7     A. Among other things, yes.</p> <p>8     Q. Do you also receive emails</p> <p>9   around your other business with your</p> <p>10   law firm on this same cell phone?</p> <p>11     A. Yes.</p> <p>12     Q. So this is not a cell phone</p> <p>13   designated just for the Senate, your</p> <p>14   work with the Senate this</p> <p>15   redistricting cycle?</p> <p>16     A. No, ma'am.</p> <p>17     Q. And this is one text</p> <p>18   exchange, some of it is redacted.</p> <p>19   Is this the sum total of texts that</p> <p>20   you had with Mr. Oldham?</p> <p>21     A. About congressional</p> <p>22   redistricting or in general?</p> <p>23     Q. About congressional</p> <p>24   redistricting.</p> <p>25     A. Sorry, I'm just trying to</p>
<p style="text-align: right;">Page 63</p> <p>1                   TERRENI</p> <p>2   another person from November 23,</p> <p>3   2021, that said South Carolina</p> <p>4   Senate 4343. And that would be</p> <p>5   Plaintiffs' Exhibit 1.</p> <p>6     (Plaintiffs' Exhibit 1, Text</p> <p>7   exchange, marked for</p> <p>8   identification, as of this date.)</p> <p>9     A. I'm sorry, tab 50?</p> <p>10     Q. Yes.</p> <p>11     A. Okay. All right.</p> <p>12     Q. You have that in front of</p> <p>13   you?</p> <p>14     A. I do.</p> <p>15     Q. Is this -- do you recognize</p> <p>16   this text exchange?</p> <p>17     A. Yes.</p> <p>18     Q. Is this one of the texts</p> <p>19   that you received from Mr. Oldham?</p> <p>20     A. Yes.</p> <p>21     Q. So this 803-530-2893 number</p> <p>22   is yours?</p> <p>23     A. It is.</p> <p>24     Q. Is this your personal cell</p> <p>25   phone, a work cell phone, what is</p>	<p style="text-align: right;">Page 65</p> <p>1                   TERRENI</p> <p>2   look at it all.</p> <p>3     I think so.</p> <p>4     Q. So looking at the November</p> <p>5   19, 2021, 9:38 a.m. text, Dalton</p> <p>6   Oldham reads -- sends a text to you</p> <p>7   that says: "Call me. Want to know</p> <p>8   if you/Andy has it."</p> <p>9     A. Um-hmm.</p> <p>10     Q. Do you know what he's</p> <p>11   referring to here?</p> <p>12     A. I believe he's referring to</p> <p>13   that plan -- he sent three plans at</p> <p>14   one point and then he sent another</p> <p>15   plan later on. I believe this would</p> <p>16   refer to the first two plans that he</p> <p>17   sent.</p> <p>18     Q. Okay. We are going to look</p> <p>19   at those because those were sent on</p> <p>20   November 18th, I believe?</p> <p>21     A. That would make sense.</p> <p>22   Around that time.</p> <p>23     Q. I'm sorry to interrupt you.</p> <p>24     A. No, I just said that makes</p> <p>25   sense, around that time. I don't</p>

<p style="text-align: right;">Page 66</p> <p>1           TERRENI</p> <p>2    have a timeline in front of me but</p> <p>3    that makes sense.</p> <p>4       Q.   And so he's texting you to</p> <p>5    ask whether Andy has received it?</p> <p>6       A.   Yes.</p> <p>7       Q.   Okay. And you write and</p> <p>8    respond: "Got it."</p> <p>9       Are you saying got it you got</p> <p>10   the maps or got it about calling him</p> <p>11   in reference to his -- what he sent?</p> <p>12       A.   In reference to what he</p> <p>13   sent.</p> <p>14       Q.   Did you end up calling him?</p> <p>15       A.   I don't remember. I'm sure</p> <p>16   I did. At some point I called him</p> <p>17   even before or after this. But we</p> <p>18   did have a telephone conversation.</p> <p>19   If you are asking me if I called him</p> <p>20   after that text at 9:41 a.m., I</p> <p>21   don't remember.</p> <p>22       Q.   How long was the</p> <p>23   conversation that you had with him</p> <p>24   after you received the maps?</p> <p>25       A.   Minutes.</p>	<p style="text-align: right;">Page 68</p> <p>1           TERRENI</p> <p>2    differently than us. Please call, I</p> <p>3    will explain."</p> <p>4       A.   He texts on the 23rd. I</p> <p>5    don't think he's responding to my</p> <p>6    saying got it on the 19th.</p> <p>7       Q.   I understand. And Clark,</p> <p>8    who is he working for at this time?</p> <p>9       A.   Us, the Senate, on a</p> <p>10   contract.</p> <p>11       Q.   And is he working on</p> <p>12   congressional redistricting?</p> <p>13       A.   He's working on</p> <p>14   redistricting in general. He's just</p> <p>15   a data member. The company is</p> <p>16   Polidata. All he did was</p> <p>17   disaggregate and reaggregate</p> <p>18   election results for the Senate.</p> <p>19   And we put them on our website.</p> <p>20       Q.   What type of, you mention</p> <p>21   the disaggregated and reaggregated</p> <p>22   election results. What was the</p> <p>23   point of that data, what could it be</p> <p>24   used for?</p> <p>25       A.   To evaluate as far as the</p>
<p style="text-align: right;">Page 67</p> <p>1           TERRENI</p> <p>2       Q.   Would you have put that</p> <p>3   meeting on your scheduler?</p> <p>4       A.   No.</p> <p>5       Q.   Do you recall putting any</p> <p>6   meetings you had with Mr. Oldham up</p> <p>7   on your calendar?</p> <p>8       A.   No. They weren't meetings,</p> <p>9   they were telephone calls. I don't</p> <p>10   usually log an unscheduled telephone</p> <p>11   call on my calendar.</p> <p>12       Q.   Mr. Oldham responds:</p> <p>13   "Clark, disag'd his numbers</p> <p>14   differently than us. Please call.</p> <p>15   I will explain."</p> <p>16       Who is Clark?</p> <p>17       A.   Clark Bensen of Polidata,</p> <p>18   our vendor for election data. I'll</p> <p>19   point out he didn't respond to got</p> <p>20   it. That's a message that he sent</p> <p>21   several days later.</p> <p>22       Q.   So you responded: "Got it</p> <p>23   on the 19th."</p> <p>24       Then he responds on the 23rd:</p> <p>25   "Clark disaggregated his numbers</p>	<p style="text-align: right;">Page 69</p> <p>1           TERRENI</p> <p>2   meeting in the district.</p> <p>3       Q.   So census data, race data,</p> <p>4   election results from particular</p> <p>5   elections? Can you explain a little</p> <p>6   bit more what the data was?</p> <p>7       A.   Of course. South Carolina</p> <p>8   election results from past</p> <p>9   elections. The precinct lines were</p> <p>10   different before and after the</p> <p>11   census. So what Clark was hired to</p> <p>12   do was take the election results and</p> <p>13   break them out, generally speaking,</p> <p>14   to the bloc level through a formula</p> <p>15   of some sort and then reaggregate</p> <p>16   them into the new VTDs under the --</p> <p>17   with the new ones. And that's the</p> <p>18   data that's on our website.</p> <p>19       Q.   Did you use that data</p> <p>20   during this cycle?</p> <p>21       A.   Yes, some of it.</p> <p>22       Q.   Do you know if subcommittee</p> <p>23   members were aware that Clark Bensen</p> <p>24   was working for the Senate -- Clark</p> <p>25   Bensen was working for the Senate?</p>



<p style="text-align: right;">Page 70</p> <p>1           TERRENI</p> <p>2           A. I think so. Whether they</p> <p>3 aware specifically that it was Clark</p> <p>4 Bensen or not they were aware that a</p> <p>5 data vendor was working for -- had</p> <p>6 been contracted by the Senate. We</p> <p>7 had a discussion about that in one</p> <p>8 of the early subcommittee meetings.</p> <p>9           Q. Did Mr. Bensen report to</p> <p>10 you or did he report to someone else</p> <p>11 during this consideration of the</p> <p>12 congressional lines?</p> <p>13           A. Me.</p> <p>14           Q. Did he send invoices to</p> <p>15 you?</p> <p>16           A. I believe he would have</p> <p>17 sent his invoice to the clerk's</p> <p>18 office. He may have sent it to me,</p> <p>19 I don't remember.</p> <p>20           Q. And do you know what he</p> <p>21 meant by Mr. Oldham saying "Clark</p> <p>22 disaggregated his numbers</p> <p>23 differently than us"?</p> <p>24           A. Yes.</p> <p>25           Q. Can you explain?</p>	<p style="text-align: right;">Page 72</p> <p>1           TERRENI</p> <p>2 one way or the other. I never saw</p> <p>3 Mr. Oldham's data or discussed it in</p> <p>4 detail but I felt satisfied that</p> <p>5 what Clark had given us was accurate</p> <p>6 and that we really didn't need to</p> <p>7 revisit the issue.</p> <p>8           Q. But did you call him after</p> <p>9 this to talk about this topic?</p> <p>10           A. Yeah. I -- he said Clark</p> <p>11 dis- -- please call and I will</p> <p>12 explain. I called him, he</p> <p>13 explained.</p> <p>14           Q. And then it looks like he</p> <p>15 called you at 6:00 on the 23rd,</p> <p>16 6:00 p.m. on the 23rd and then he</p> <p>17 texted you again at 9:01 on the</p> <p>18 23rd, the same day, and said: "We</p> <p>19 did another version. Call me back</p> <p>20 please."</p> <p>21           So that means -- did you call</p> <p>22 him after 6:00 p.m. when he sent his</p> <p>23 first text and then he sent you back</p> <p>24 what he's referencing here, this</p> <p>25 other version, is that how it</p>
<p style="text-align: right;">Page 71</p> <p>1           TERRENI</p> <p>2           A. Yes. Mr. Oldham was very</p> <p>3 concerned that Clark's numbers</p> <p>4 overestimated the Republican</p> <p>5 strength of various precincts and,</p> <p>6 therefore, of the First District</p> <p>7 under our plan because they had used</p> <p>8 a different method of disaggregating</p> <p>9 and reaggregating their data which</p> <p>10 Mr. Odom thought was more accurate.</p> <p>11           Q. Where did you land on this?</p> <p>12 Did you think that Clark's method as</p> <p>13 compared to -- when you are saying</p> <p>14 their method, is this NRRT or is</p> <p>15 this Oldham or who?</p> <p>16           A. He didn't specify -- I</p> <p>17 don't think he specified could have</p> <p>18 been -- I don't know. It was</p> <p>19 somebody associated with Mr. Oldham.</p> <p>20 That's all I know.</p> <p>21           Q. What position did you take</p> <p>22 that Clark's data had done it</p> <p>23 correctly or that the other entity</p> <p>24 had done it correctly?</p> <p>25           A. I didn't take a position</p>	<p style="text-align: right;">Page 73</p> <p>1           TERRENI</p> <p>2 worked, or can you explain the</p> <p>3 interaction between those two texts</p> <p>4 that he sent you on the same day</p> <p>5 about three hours apart?</p> <p>6           MR. GORE: Object to form.</p> <p>7           A. I'll do my best. He sent</p> <p>8 me a text at 9:01 p.m. viewed by me</p> <p>9 late at 9:15 p.m. I'm just relying</p> <p>10 on the record here. He says: "We</p> <p>11 did another version. Call me back."</p> <p>12           I said: "Another version?"</p> <p>13           He said: "Another version of</p> <p>14 the map."</p> <p>15           And at 9:15 p.m. I replied:</p> <p>16 "Tomorrow," because it was 9:15 p.m.</p> <p>17 And I would have called him back the</p> <p>18 next day and, I imagine the next day</p> <p>19 because I recall that he sent us</p> <p>20 another version of the plan and that</p> <p>21 plan was what he saw as -- what he</p> <p>22 saw was an improvement on the staff</p> <p>23 plan which we had released and</p> <p>24 that's what it was.</p> <p>25           Q. And then there's a redacted</p>

<p style="text-align: right;">Page 74</p> <p>1           TERRENI</p> <p>2   not responsive text exchange after</p> <p>3   November 23, 9:15 p.m. but before</p> <p>4   November 30, 11:19, a.m., but on</p> <p>5   11/30/2021 at 11:19 you view a</p> <p>6   message from Dalton Oldham that</p> <p>7   says: "Do you want our political</p> <p>8   data. We are prepared to put it up</p> <p>9   on a publicly available site so you</p> <p>10   can download? It will provide an</p> <p>11   explanation of the disaggregation,</p> <p>12   reaggregation process and provides</p> <p>13   accurate bloc level political data</p> <p>14   without using race."</p> <p>15       Do you see that?</p> <p>16       A. Okay.</p> <p>17       Q. Did you get that political</p> <p>18   data from Mr. Oldham?</p> <p>19       A. No.</p> <p>20       Q. Did you see it?</p> <p>21       A. No.</p> <p>22       Q. And do you know what he</p> <p>23   means about providing</p> <p>24   disaggregation/reaggregation and</p> <p>25   accurate bloc level political data</p>	<p style="text-align: right;">Page 76</p> <p>1           TERRENI</p> <p>2       Q. Were you ever on any phone</p> <p>3   calls with Mr. Oldham, Mr. Gore and</p> <p>4   yourself?</p> <p>5       A. No.</p> <p>6       Q. Are you aware of whether</p> <p>7   Mr. Gore spoke to Mr. Oldham?</p> <p>8       A. Not to my knowledge. I</p> <p>9   don't know. I mean they both are in</p> <p>10   the same office or actually but not</p> <p>11   to my knowledge.</p> <p>12       Q. Do you know if Mr. Oldham</p> <p>13   spoke with anyone at Jones Day?</p> <p>14       A. No.</p> <p>15       THE WITNESS: Would this be a</p> <p>16   good time to take a break?</p> <p>17       MS. ADEN: Yes, maybe five</p> <p>18   minutes, is that okay or do you</p> <p>19   need more?</p> <p>20       THE WITNESS: Five would be</p> <p>21   fine. Thank you.</p> <p>22       MS. ADEN: Let's come back at</p> <p>23   11:18, please.</p> <p>24       THE WITNESS: Sounds great.</p> <p>25   Thank you.</p>
<p style="text-align: right;">Page 75</p> <p>1           TERRENI</p> <p>2   without using race, do you know what</p> <p>3   that is?</p> <p>4       A. No.</p> <p>5       Q. Do you know if Mr. Oldham</p> <p>6   is affiliated with someone who is</p> <p>7   now deceased named Thomas Hofeller</p> <p>8   or Hofeller, H-O-F-E-L-L-E-R, I</p> <p>9   believe?</p> <p>10       A. Hofeller. Yes, I know him.</p> <p>11       Q. What do you know about</p> <p>12   Mr. Hofeller?</p> <p>13       A. Mr. Hofeller was a</p> <p>14   demographer for various Republican</p> <p>15   organizations, maybe the Republican</p> <p>16   National Committee. He was -- I</p> <p>17   believe he worked with the Census</p> <p>18   Bureau at some time. That's what I</p> <p>19   know about Mr. Hofeller. I met him</p> <p>20   a couple of occasions with</p> <p>21   redistricting NCSL functions.</p> <p>22       Q. Would you consider him a</p> <p>23   controversial figure?</p> <p>24       A. No opinion about</p> <p>25   Mr. Hofeller one way or the other.</p>	<p style="text-align: right;">Page 77</p> <p>1           TERRENI</p> <p>2       (Whereupon, there is a recess</p> <p>3   in the proceedings.)</p> <p>4       MS. ADEN: Back on the record.</p> <p>5       Q. You mentioned knowing</p> <p>6   Mr. Oldham for about 30 years. How</p> <p>7   would you contact him if you needed</p> <p>8   to?</p> <p>9       A. I would call him.</p> <p>10       Q. Would you use the number on</p> <p>11   this text message?</p> <p>12       A. I assume I would, yeah.</p> <p>13   Whatever is that number is what I</p> <p>14   would use.</p> <p>15       Q. So you're not aware that</p> <p>16   this number on this text exchange</p> <p>17   from at least the last time you</p> <p>18   corresponded with him in</p> <p>19   November 30, 2021, you are not aware</p> <p>20   that it's changed?</p> <p>21       A. No, ma'am.</p> <p>22       Q. Okay.</p> <p>23       A. Or that it hasn't changed.</p> <p>24   I just don't know.</p> <p>25       Q. Do you know if he has an</p>

20 (Pages 74 - 77)

<p style="text-align: right;">Page 78</p> <p>1           TERRENI</p> <p>2 office in South Carolina, is he</p> <p>3 based in Washington? Do you know</p> <p>4 physically where Mr. Oldham is?</p> <p>5       A. No, ma'am.</p> <p>6       Q. Have you seen him in 2022</p> <p>7 physically?</p> <p>8       A. I don't think so, no. Not</p> <p>9 that I recall. It's possible but I</p> <p>10 don't recall.</p> <p>11       MS. ADEN: If we could go to</p> <p>12 tab 9, which is a communication</p> <p>13 between Mr. Fiffick and Mr. Kincaid</p> <p>14 dated November 18, 2021, South</p> <p>15 Carolina Senate 3244 is the Bates</p> <p>16 stamp. That would be Plaintiffs'</p> <p>17 Exhibit 2 I believe.</p> <p>18       (Plaintiffs' Exhibit 2,</p> <p>19 Communication between Mr. Fiffick</p> <p>20 and Mr. Kincaid, Bates South</p> <p>21 Carolina Senate 3244, marked for</p> <p>22 identification, as of this date.)</p> <p>23       Q. Do you have that?</p> <p>24       A. Yes, ma'am. Is it a --</p> <p>25 it's an email dated November 18th?</p>	<p style="text-align: right;">Page 80</p> <p>1           TERRENI</p> <p>2       A. Mr. Oldham or Mr. Kincaid,</p> <p>3 whoever, needed an email address</p> <p>4 with which to share these maps. And</p> <p>5 I believe, I don't specifically</p> <p>6 recall, that we provided -- I</p> <p>7 provided it to him probably. I just</p> <p>8 know that Mr. Oldham called, he</p> <p>9 wanted to share these maps with us,</p> <p>10 we allowed him to do so.</p> <p>11       Q. Did you know Mr. Kincaid</p> <p>12 before he sent these emails?</p> <p>13       A. No, ma'am.</p> <p>14       Q. Have you talked to</p> <p>15 Mr. Kincaid on the phone?</p> <p>16       A. No.</p> <p>17       Q. Have you emailed separately</p> <p>18 with Mr. Kincaid about congressional</p> <p>19 redistricting?</p> <p>20       A. No.</p> <p>21       Q. So Mr. Oldham is the go-to</p> <p>22 to NRRT as far as you are concerned?</p> <p>23       A. No. Mr. Oldham -- I don't</p> <p>24 have a go-to to NRRT.</p> <p>25       Q. But Mr. Oldham is the</p>
<p style="text-align: right;">Page 79</p> <p>1           TERRENI</p> <p>2       Q. Yes.</p> <p>3       A. Yes, I have it.</p> <p>4       Q. From Adam Kincaid to Andrew</p> <p>5 Fiffick.</p> <p>6       A. Yes, ma'am.</p> <p>7       Q. So you've seen this before?</p> <p>8       A. Yes.</p> <p>9       Q. Before even I sent it?</p> <p>10       A. Before you sent it, yes.</p> <p>11       Q. When did you see it?</p> <p>12       A. I think in the process of</p> <p>13 discovery.</p> <p>14       Q. Is this the two maps that</p> <p>15 you believe Mr. Oldham was referring</p> <p>16 to in the text exchange that we just</p> <p>17 went over?</p> <p>18       A. I believe so, yes, ma'am.</p> <p>19       Q. And it's your position,</p> <p>20 correct me if I'm wrong, that in</p> <p>21 speaking to Mr. Oldham you told him</p> <p>22 that he could communicate to NRRT,</p> <p>23 that they could share these maps</p> <p>24 with Mr. Fiffick at his gmail?</p> <p>25       MR. GORE: Object to form.</p>	<p style="text-align: right;">Page 81</p> <p>1           TERRENI</p> <p>2 connection between NRRT and the</p> <p>3 Senate with regard to these maps?</p> <p>4       A. Yeah.</p> <p>5       MR. GORE: Objection.</p> <p>6 Mischaracterizes his testimony.</p> <p>7 You can answer.</p> <p>8       A. Yeah.</p> <p>9       Q. Can you read the subject of</p> <p>10 this email, the one from</p> <p>11 November 18, 2021, at 10:05 p.m.?</p> <p>12       A. A and B.zip.</p> <p>13       Q. Item shared with you A and</p> <p>14 B.zip, is that accurate?</p> <p>15       A. Yes, ma'am.</p> <p>16       Q. And did you ultimately</p> <p>17 review what was in the A and B.zip?</p> <p>18       A. Yes.</p> <p>19       Q. What was in there?</p> <p>20       A. Two maps.</p> <p>21       Q. Do you know if those maps</p> <p>22 are referred to or have been</p> <p>23 referred to as the Wren and Palmetto</p> <p>24 maps?</p> <p>25       A. I believe they have.</p>

<p style="text-align: right;">Page 82</p> <p>1           TERRENI</p> <p>2       Q. And do you know -- how did</p> <p>3       you come to see them, can you</p> <p>4       describe what you understand</p> <p>5       happened once this Adam Kincaid sent</p> <p>6       Mr. Fiffick this zip file, how did</p> <p>7       it go from there to you seeing them?</p> <p>8       A. One way or another the</p> <p>9       files were conveyed to Will Roberts</p> <p>10      who loaded them in the Maptitude</p> <p>11      software so that we could look at</p> <p>12      them.</p> <p>13      Q. And by saying we looked at</p> <p>14      them, who was that?</p> <p>15      A. Generally Mr. Roberts, me,</p> <p>16      Mr. Fiffick, Breeden John may have</p> <p>17      been there. I don't believe anybody</p> <p>18      else specifically but...</p> <p>19      Q. Do you know if these maps</p> <p>20      were shared with Jones Day?</p> <p>21      A. I don't recall. I think</p> <p>22      so.</p> <p>23      Q. Did you share them with</p> <p>24      Jones Day?</p> <p>25      A. I don't remember.</p>	<p style="text-align: right;">Page 84</p> <p>1           TERRENI</p> <p>2       -- with the delegation on maps. I</p> <p>3       asked him if the delegation included</p> <p>4       Mr. Clyburn. He said no, this is</p> <p>5       the Republican delegation and that</p> <p>6       was it. That's what he told me.</p> <p>7       Q. And by -- so that means</p> <p>8       that -- did you understand that to</p> <p>9       mean that Mr. Oldham had</p> <p>10      communicated with all six members of</p> <p>11      the congressional delegation but</p> <p>12      Representative Clyburn on this map</p> <p>13      or both of these maps?</p> <p>14      A. I understood Mr. Oldham to</p> <p>15      represent that the maps were</p> <p>16      acceptable to the six members of the</p> <p>17      delegation. We did not discuss</p> <p>18      whether he individually communicated</p> <p>19      with each member or whether he</p> <p>20      communicated with the staff or he</p> <p>21      didn't do a role call. Just what he</p> <p>22      said.</p> <p>23      Q. Are you aware of whether --</p> <p>24      are you aware that there were other</p> <p>25      maps submitted by the public</p>
<p style="text-align: right;">Page 83</p> <p>1           TERRENI</p> <p>2       Q. How would you have shared</p> <p>3       them with Jones Day? Via email?</p> <p>4       A. I don't think I would have</p> <p>5       shared them with Jones Day, it would</p> <p>6       have been -- I would have had Mr.</p> <p>7       Roberts or somebody send it to Jones</p> <p>8       Day, if we did it. I just don't</p> <p>9       remember this.</p> <p>10      Q. Why would you have sent</p> <p>11      them to Jones Day for what purpose?</p> <p>12      A. Because they were submitted</p> <p>13      to the Senate -- they were</p> <p>14      represented as having some political</p> <p>15      consensus behind them and so just</p> <p>16      for general informational purposes.</p> <p>17      Q. Political consensus of who?</p> <p>18      A. The congressional</p> <p>19      delegation. Specifically the</p> <p>20      Republican congressional delegation.</p> <p>21      Mr. Oldham told me they had worked</p> <p>22      with the Republican congressional</p> <p>23      delegations on some maps or map</p> <p>24      delegation singular or rather he had</p> <p>25      said they worked on the delegations</p>	<p style="text-align: right;">Page 85</p> <p>1           TERRENI</p> <p>2       proposing congressional lines of</p> <p>3       this cycle?</p> <p>4       A. Yes.</p> <p>5       Q. Are you aware whether those</p> <p>6       maps were submitted to Jones Day?</p> <p>7       A. I imagine Jones Day was</p> <p>8       made aware of various maps that were</p> <p>9       submitted. I don't want to go in --</p> <p>10      I don't think it's appropriate,</p> <p>11      unless my attorney tells me so, to</p> <p>12      go through each map that I submitted</p> <p>13      to Jones Day, but yes Jones Day was</p> <p>14      generally made aware of maps that</p> <p>15      were submitted to the Senate.</p> <p>16      Q. How many maps did you share</p> <p>17      with Jones Day?</p> <p>18      A. I don't know how many maps</p> <p>19      I individually shared with Jones Day</p> <p>20      again -- I mean it could have been</p> <p>21      anybody on Senate staff. I mean if</p> <p>22      you are saying physically shared,</p> <p>23      probably not many because Will</p> <p>24      Roberts would have been the logical</p> <p>25      person to do it. I'm speculating</p>

<p style="text-align: right;">Page 86</p> <p>1           TERRENI</p> <p>2    here. I just don't -- I mean are</p> <p>3    you asking me you if we,</p> <p>4    collectively, the Senate staff</p> <p>5    shared maps with Jones Day, yes.</p> <p>6    The logistics of it, I'm sorry, I</p> <p>7    don't remember.</p> <p>8       Q. How did you determine which</p> <p>9    maps you would have shared, you</p> <p>10   collectively, the Senate, with Jones</p> <p>11   Day?</p> <p>12    A. Maps that I thought had</p> <p>13   some particular political</p> <p>14   significance perhaps at a</p> <p>15   constituency that would have made</p> <p>16   them likely to adopt or the member</p> <p>17   had some concerns about or had</p> <p>18   questions about or was interested</p> <p>19   in. If someone -- I mean that's a</p> <p>20   general answer but it's pretty much</p> <p>21   accurate.</p> <p>22    Q. How would a nonpartisan</p> <p>23   organization have factored into your</p> <p>24   calculus of a map that had political</p> <p>25   significance?</p>	<p style="text-align: right;">Page 88</p> <p>1           TERRENI</p> <p>2       Q. But how many were there,</p> <p>3    were there more than five, more than</p> <p>4    ten, more than 20? Do you have any</p> <p>5    sense of how many publicly submitted</p> <p>6    maps there were?</p> <p>7       A. It was more than five. May</p> <p>8    have been more than ten. I don't</p> <p>9    recall. We can look at the website</p> <p>10   and see.</p> <p>11    Q. But based upon your</p> <p>12   previous testimony is it your</p> <p>13   position that not you or the Senate</p> <p>14   staff collectively would not</p> <p>15   necessarily have shared each of</p> <p>16   those maps with Jones Day, you would</p> <p>17   have made some determination about</p> <p>18   which ones you would have selected</p> <p>19   to send to Jones Day, whether or not</p> <p>20   they looked at them separate -- all</p> <p>21   of them separately or not you made a</p> <p>22   selection of some not all of the</p> <p>23   maps to be submitted to Jones Day?</p> <p>24       MR. GORE: Objection.</p> <p>25   Mischaracterizes testimony. Go</p>
<p style="text-align: right;">Page 87</p> <p>1           TERRENI</p> <p>2       A. They certainly could have.</p> <p>3    League of Women Voters was very</p> <p>4    active, well respected participant</p> <p>5    in the process. I'm sure we paid</p> <p>6    close attention to their maps.</p> <p>7       Q. Do you recall specifically</p> <p>8    sharing the League of Women Voters</p> <p>9    map with Jones Day?</p> <p>10    A. Again, I'm not trying to be</p> <p>11   picky here but do I recall me</p> <p>12   specifically sharing it, no. Did we</p> <p>13   share it with Jones Day, probably</p> <p>14   so. Jones Day also could have</p> <p>15   accessed it from the website. I</p> <p>16   mean they are all posted.</p> <p>17    Q. How many publicly submitted</p> <p>18   maps are you aware were proposed by</p> <p>19   the public that were posted on the</p> <p>20   Senate's website?</p> <p>21    A. I believe all of them.</p> <p>22    Q. Excuse me?</p> <p>23    A. I believe all of them, at</p> <p>24   least the ones that were submitted</p> <p>25   by the submission deadline.</p>	<p style="text-align: right;">Page 89</p> <p>1           TERRENI</p> <p>2    ahead. You can answer.</p> <p>3       A. Well, we did not share</p> <p>4    every map with Jones Day. That</p> <p>5    obviously involved some editorial</p> <p>6    function which we exercised in</p> <p>7    sending maps to Jones Day. We did</p> <p>8    not send every map to Jones Day.</p> <p>9       Q. The calculus for which maps</p> <p>10   you would send to Jones Day was</p> <p>11   essentially whether or not you</p> <p>12   thought, you collectively thought</p> <p>13   that a map had some political</p> <p>14   significance, was likely to be</p> <p>15   adopted or a member would be</p> <p>16   interested in, those were the</p> <p>17   contours of how you determine which</p> <p>18   maps you would pick and potentially</p> <p>19   submit to Jones Day?</p> <p>20    A. Those would be some of the</p> <p>21   reasons, yes, for sending maps to</p> <p>22   Jones Day, yes.</p> <p>23    Q. Looking at tab 58, and I</p> <p>24   sent you 57, 58 is the associated</p> <p>25   stats for the Wren map. I think we</p>

<p style="text-align: right;">Page 90</p> <p>1           TERRENI</p> <p>2     added it to that share point file.</p> <p>3     Do you see a number 58 in that file?</p> <p>4         A. No, ma'am. I had to</p> <p>5     download those exhibits so if you</p> <p>6     added it afterward, you sent them to</p> <p>7     us. For whatever reason I don't</p> <p>8     have it.</p> <p>9         MS. ADEN: John, could you</p> <p>10    screen share it, 58.</p> <p>11        MR. GORE: I'm not sure I have</p> <p>12    it either. I'm checking to see if</p> <p>13    I have it, but I'm not certain that</p> <p>14    I do.</p> <p>15        Q. It also should be -- have</p> <p>16    uploaded in Veritext.</p> <p>17        MR. GORE: If Andrew or John</p> <p>18    Cusick has it and can share it,</p> <p>19    that might be a little easier.</p> <p>20        MS. ADEN: Yeah. It's South</p> <p>21    Carolina 26635, that's the Bates</p> <p>22    stamp number. John, you can let me</p> <p>23    know if you have it.</p> <p>24        MR. CUSICK: Yup. I'm about</p> <p>25    to pull it up in one second. Oh,</p>	<p style="text-align: right;">Page 92</p> <p>1           TERRENI</p> <p>2     would this have been something</p> <p>3     prepared by the South Carolina</p> <p>4     Senate during the redistricting</p> <p>5     process or does this look like a</p> <p>6     document prepared by someone outside</p> <p>7     of the Senate?</p> <p>8         A. It likely was prepared by</p> <p>9     the Senate. It was definitely</p> <p>10    prepared by somebody with Maptitude.</p> <p>11    We used Maptitude. And so I assume</p> <p>12    it's a Senate document.</p> <p>13        Q. Were population summaries</p> <p>14    like these something you regularly</p> <p>15    saw during consideration of</p> <p>16    congressional plans?</p> <p>17        A. Among others, yes.</p> <p>18        Q. And this summary includes</p> <p>19    information about total population;</p> <p>20    is that correct?</p> <p>21        A. Yes.</p> <p>22        Q. And deviations from</p> <p>23    equality amongst the seven</p> <p>24    congressional districts in total</p> <p>25    numbers and even percentages; is</p>
<p style="text-align: right;">Page 91</p> <p>1           TERRENI</p> <p>2     unfortunately -- maybe we can go</p> <p>3     off record for a moment just</p> <p>4     because the host disabled</p> <p>5     participant screen sharing.</p> <p>6        MS. ADEN: Mr. Gore, do you</p> <p>7     need a minute to talk with your</p> <p>8     client about this?</p> <p>9        MR. GORE: Yeah. Let's take a</p> <p>10    minute.</p> <p>11        (Whereupon, there is a recess</p> <p>12    in the proceedings.)</p> <p>13        (Plaintiffs' Exhibit 3, Wren</p> <p>14    plan, Bates South Carolina Senate</p> <p>15    26635, marked for identification,</p> <p>16    as of this date.)</p> <p>17        Q. So you have had a chance to</p> <p>18    look at South Carolina Senate 26635,</p> <p>19    tab 58. This is identified in the</p> <p>20    top left-hand corner as the Wren</p> <p>21    plan.</p> <p>22        Have you seen this document</p> <p>23    before?</p> <p>24        A. I don't remember.</p> <p>25        Q. Looking at this document</p>	<p style="text-align: right;">Page 93</p> <p>1           TERRENI</p> <p>2     that correct?</p> <p>3         A. Yes, ma'am.</p> <p>4        Q. And does it also report</p> <p>5    racial demographic information?</p> <p>6         A. It does.</p> <p>7        Q. Okay. I want to focus on</p> <p>8    the percentage of non-DoJ black</p> <p>9    Hispanic people identified in this</p> <p>10   chart, which is the far right</p> <p>11   column.</p> <p>12        Are you familiar with the</p> <p>13   category non-Hispanic DoJ black?</p> <p>14        A. Generally, yes.</p> <p>15        Q. What do you understand it</p> <p>16   to mean?</p> <p>17        A. What I understand it to</p> <p>18   mean is when we at the outset of the</p> <p>19   process settled on a metric for a</p> <p>20   percentage of black population for</p> <p>21   redistricting we had to pick one of</p> <p>22   the measures. And for consistency's</p> <p>23   sake we tried to, as I recall, we</p> <p>24   tried to replicate the measure that</p> <p>25   was used by the Department of</p>



<p style="text-align: right;">Page 94</p> <p>1                   TERRENI</p> <p>2 Justice in the 2010-cycle, which</p> <p>3 would have been non-Hispanic DoJ</p> <p>4 black.</p> <p>5 Q. Do you understand that</p> <p>6 category to include people who</p> <p>7 self-identify as black on the census</p> <p>8 but do not identify as Hispanic in</p> <p>9 addition?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Are you familiar with a</p> <p>12 category called any part black that</p> <p>13 the census reports?</p> <p>14 A. I am.</p> <p>15 Q. What do you understand</p> <p>16 about that category?</p> <p>17 A. If a respondent in that</p> <p>18 category identifies any part as</p> <p>19 black they will be any part black,</p> <p>20 meaning you could be Hispanic and</p> <p>21 black and identify as -- and that</p> <p>22 would be included in AP black.</p> <p>23 Q. I have not asked you, were</p> <p>24 you born in South Carolina?</p> <p>25 A. No, ma'am.</p>	<p style="text-align: right;">Page 96</p> <p>1                   TERRENI</p> <p>2 say that you are familiar -- strike</p> <p>3 that.</p> <p>4 Based upon having lived in</p> <p>5 South Carolina for the better part</p> <p>6 of your life and your professional</p> <p>7 experience would you expect the</p> <p>8 difference between the non-Hispanic</p> <p>9 DoJ black category and the any part</p> <p>10 black category in South Carolina to</p> <p>11 have wide disparities?</p> <p>12 A. No.</p> <p>13 Q. So you expect them to be</p> <p>14 similar in number in South Carolina?</p> <p>15 A. Generally, yes.</p> <p>16 Q. Looking at this Wren plan</p> <p>17 this is one of the plans -- these</p> <p>18 are statistics for one of the plans,</p> <p>19 we don't have a map associated with</p> <p>20 this statistical summary, but this</p> <p>21 is one of the statistical summaries</p> <p>22 from one of the plans that Adam</p> <p>23 Kincaid sent to Andy Fiffick, is</p> <p>24 that fair to say?</p> <p>25 A. Yeah.</p>
<p style="text-align: right;">Page 95</p> <p>1                   TERRENI</p> <p>2 Q. Where were you born?</p> <p>3 A. In Italy.</p> <p>4 Q. Did you live in Italy for</p> <p>5 any period of time after you were</p> <p>6 born?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. For how long?</p> <p>9 A. I lived in Italy until I</p> <p>10 was eight. I lived in Belgium for</p> <p>11 another three years, moved to the</p> <p>12 States when I was 11.</p> <p>13 Q. Do you have dual</p> <p>14 citizenship?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. And have you -- when you</p> <p>17 moved to the States when you were</p> <p>18 around 11 where did you move to?</p> <p>19 A. Columbia.</p> <p>20 Q. South Carolina?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Have you lived in Columbia,</p> <p>23 South Carolina since that time?</p> <p>24 A. I have.</p> <p>25 Q. In South Carolina would you</p>	<p style="text-align: right;">Page 97</p> <p>1                   TERRENI</p> <p>2 Q. Okay. Looking at the</p> <p>3 summary how many of the seven</p> <p>4 congressional districts reflected</p> <p>5 within it have a non-Hispanic DoJ</p> <p>6 black population that is above</p> <p>7 50 percent?</p> <p>8 A. None.</p> <p>9 Q. What is the district that</p> <p>10 has the highest percentage of</p> <p>11 non-Hispanic DoJ black voters in</p> <p>12 this Wren plan?</p> <p>13 A. District 6.</p> <p>14 Q. Is that the current</p> <p>15 district represented by</p> <p>16 Representative Clyburn?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. And is he the only black</p> <p>19 congressional representative in</p> <p>20 South Carolina?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. And in at least the past</p> <p>23 two decades has he been the only</p> <p>24 black congressional representative</p> <p>25 in South Carolina?</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1           TERRENI</p> <p>2       A. I don't remember when</p> <p>3       Senator Scott was elected to the</p> <p>4       Senate or was appointed to the</p> <p>5       Senate by Congress whether that was</p> <p>6       in the past two decades or not, but</p> <p>7       other than Congressman Scott if he</p> <p>8       would fall in that time period, yes.</p> <p>9       Q. And the federal Congress is</p> <p>10      Representative Clyburn the only</p> <p>11      black representative that has been</p> <p>12      elected in at least the past two --</p> <p>13      strike that.</p> <p>14      Outside of CD 6 what is the --</p> <p>15      can you read the percentages of</p> <p>16      black voters in each of the other</p> <p>17      districts, the approximate</p> <p>18      percentages? So let's start with</p> <p>19      CD 1, what is the percentage of</p> <p>20      black voters?</p> <p>21      A. 18.04 percent.</p> <p>22      Q. What about CD 2?</p> <p>23      A. 24.89.</p> <p>24      Q. And CD 3?</p> <p>25      A. 18.18.</p>	<p style="text-align: right;">Page 100</p> <p>1           TERRENI</p> <p>2       particular, what was your reaction</p> <p>3       to it when you saw this map?</p> <p>4       A. I didn't think it was</p> <p>5       viable. We had already produced a</p> <p>6       staff plan which I don't believe had</p> <p>7       been posted to the website at that</p> <p>8       point but we had already had a plan</p> <p>9       that we were going to bring to the</p> <p>10      subcommittee as a working start.</p> <p>11      And I looked at both of those plans,</p> <p>12      Wren, and maybe it was Palmetto,</p> <p>13      very briefly and thought their</p> <p>14      shapes were messy and were not an</p> <p>15      improvement over this back plan.</p> <p>16      Q. Did you communicate that</p> <p>17      feedback about the Wren or the</p> <p>18      Palmetto to Mr. Oldham?</p> <p>19      A. Yes.</p> <p>20      Q. Over a phone call?</p> <p>21      A. Yes.</p> <p>22      Q. Did you communicate that</p> <p>23      feedback -- and did you ask him to</p> <p>24      communicate that feedback to NRRT,</p> <p>25      Mr. Kincaid in particular?</p>
<p style="text-align: right;">Page 99</p> <p>1           TERRENI</p> <p>2       Q. CD 4?</p> <p>3       A. 18.54.</p> <p>4       Q. CD 5?</p> <p>5       A. 25.39.</p> <p>6       Q. And CD 7?</p> <p>7       A. 26.81.</p> <p>8       Q. So is it fair to say in the</p> <p>9       Wren plan the lowest BVAP population</p> <p>10      is in CD 1?</p> <p>11      A. Yes.</p> <p>12      Q. And the highest is in CD 7</p> <p>13      15 27 percent, is that fair to say?</p> <p>14      A. No, it would be in</p> <p>15      District 6.</p> <p>16      Q. Oh, the second highest.</p> <p>17      I'm sorry. The second highest</p> <p>18      outside of CD 6 was that in CD 7 as</p> <p>19      26 percent?</p> <p>20      A. Yes, ma'am.</p> <p>21      Q. Yes -- I think I cut you</p> <p>22      off. Yes or no?</p> <p>23      A. Oh, I'm sorry, yes.</p> <p>24      Q. What else do you recall</p> <p>25      about seeing the Wren plan? In</p>	<p style="text-align: right;">Page 101</p> <p>1           TERRENI</p> <p>2       A. No.</p> <p>3       Q. Did you receive guidance</p> <p>4       from Jones Day about the Wren plan</p> <p>5       before you communicated it back to</p> <p>6       Mr. Oldham?</p> <p>7       A. I don't believe so.</p> <p>8       Q. Do you have any reason to</p> <p>9       dispute that in this map Sumter is</p> <p>10      split, Sumter as a county is split?</p> <p>11      A. I don't know.</p> <p>12      Q. What about Orangeburg, do</p> <p>13      you recall whether Orangeburg was</p> <p>14      split as a county in this Wren plan?</p> <p>15      A. If you showed me the map, I</p> <p>16      could, but I don't know. I can't --</p> <p>17      from memory, no, I don't have any</p> <p>18      recollection.</p> <p>19      Q. Do you have any</p> <p>20      recollection of how Beaufort was</p> <p>21      treated in this Wren plan?</p> <p>22      A. No.</p> <p>23      Q. And what about Charleston,</p> <p>24      the County of Charleston, do you</p> <p>25      have any recollection of how</p>



<p style="text-align: right;">Page 102</p> <p>1                   TERRENI</p> <p>2    Charleston was treated, whether</p> <p>3    whole or split, in this Wren plan?</p> <p>4       A. I seem to recall the split.</p> <p>5       Q. Do you recall how much</p> <p>6    CD 2, Representative Wilson's</p> <p>7    district, how CD 2 fared under this</p> <p>8    Wren plan?</p> <p>9       A. No.</p> <p>10      Q. And what about CD 7, do you</p> <p>11     have any recollection of how CD 7</p> <p>12     fared under this Wren plan?</p> <p>13      A. What do you mean by fared?</p> <p>14      Q. Whether it was kept whole,</p> <p>15     whether it was split, do you have</p> <p>16     any recollection?</p> <p>17      A. Of CD 7 whether it was</p> <p>18     split?</p> <p>19      Q. Um-hmm.</p> <p>20      A. I'm sure it was changed.</p> <p>21      Q. Changed from when?</p> <p>22      A. The benchmark plan.</p> <p>23      Q. And the benchmark plan is</p> <p>24     referring to the 2011, the plan</p> <p>25     adopted and enacted after the 2011</p>	<p style="text-align: right;">Page 104</p> <p>1                   TERRENI</p> <p>2    did you intend for tab 58 to be</p> <p>3    Plaintiffs Exhibit 3?</p> <p>4       MS. ADEN: Yes.</p> <p>5       MR. GORE: So I think we're on</p> <p>6    4 then now. Just to clarify we are</p> <p>7    at tab 38 and that's going to be</p> <p>8    Exhibit 4. Is that correct?</p> <p>9       MS. ADEN: Yes.</p> <p>10      MR. GORE: Okay, thank you.</p> <p>11      A. If I may just to complete</p> <p>12     my answer. I saw the map.</p> <p>13      Q. Yes.</p> <p>14      A. And I may or may not have</p> <p>15     seen the statistics at the time,</p> <p>16     probably did, but I definitely saw</p> <p>17     them in reviewing for this</p> <p>18     deposition?</p> <p>19      Q. So this Palmetto map was</p> <p>20     one of the other maps that was part</p> <p>21     of A and B.zip file that Mr. Kincaid</p> <p>22     sent to Andy Fiffick at his gmail;</p> <p>23     is that correct?</p> <p>24      A. I think so, yes.</p> <p>25      Q. Where did you see -- when</p>
<p style="text-align: right;">Page 103</p> <p>1                   TERRENI</p> <p>2    redistricting cycle?</p> <p>3       A. Yeah. I mean -- everything</p> <p>4    would be changed. I'm not sure how</p> <p>5    we are talking about splitting the</p> <p>6    district -- I'm not trying to be</p> <p>7    cute. I need the map. If you show</p> <p>8    me the map, I'll be glad to.</p> <p>9       Q. So let's turn to tab 38,</p> <p>10    which is the map and the associated</p> <p>11    stats for the Palmetto map. This is</p> <p>12    Bates stamped South Carolina 26370</p> <p>13    to 71.</p> <p>14    (Plaintiffs' Exhibit 4, Map,</p> <p>15    Bates South Carolina 26370 to 71,</p> <p>16    marked for identification, as of</p> <p>17    this date.)</p> <p>18      A. Yes, ma'am.</p> <p>19      Q. Have you seen this map and</p> <p>20     associated stats before?</p> <p>21      A. I have seen the map. And I</p> <p>22     probably saw the stats.</p> <p>23      MR. GORE: Can I clarify the</p> <p>24     record? I was just going to try to</p> <p>25     clarify that with you. Ms. Aden,</p>	<p style="text-align: right;">Page 105</p> <p>1                   TERRENI</p> <p>2    you said you had seen this map</p> <p>3    before, where do you think you saw</p> <p>4    it?</p> <p>5       A. It would have been in the</p> <p>6    redistricting office, probably</p> <p>7    Senator Rankin's office.</p> <p>8       Q. Is that also often referred</p> <p>9    to as the map room or is that a</p> <p>10   separate room?</p> <p>11      A. That's a separate room.</p> <p>12      Q. So you think you saw this</p> <p>13   map in Senator Rankin's office,</p> <p>14   that's the first time you saw it?</p> <p>15      A. I think. That's my</p> <p>16   recollection. And just to be clear,</p> <p>17   there were times when we had a map</p> <p>18   room and I believe it was on the 5th</p> <p>19   floor. It was kind of a small</p> <p>20   cramped room. When Senator Rankin</p> <p>21   -- when they weren't in session,</p> <p>22   Senator Rankin really didn't use his</p> <p>23   office that much. He made his</p> <p>24   office available to us as kind of a</p> <p>25   de facto map room.</p>

<p style="text-align: right;">Page 106</p> <p>1                   TERRENI</p> <p>2           My recollection is I saw this</p> <p>3   in Senator Rankin's office but I</p> <p>4   mean -- there's no functional</p> <p>5   difference between me seeing it</p> <p>6   upstairs or downstairs except it was</p> <p>7   a little less camped and a little</p> <p>8   less muggy.</p> <p>9           Q. Who was with you when you</p> <p>10   saw that map in Senator Rankin's</p> <p>11   office, do you recall?</p> <p>12           A. I remember that Will</p> <p>13   Roberts was there because he would</p> <p>14   have loaded it and Andy Fiffick was</p> <p>15   there. Paul may have been there. I</p> <p>16   remember Andy and Will being there</p> <p>17   for sure.</p> <p>18           Q. Do you have any sense of</p> <p>19   what the purpose of this map was?</p> <p>20           A. Well, as I mentioned</p> <p>21   earlier, Dale said that they had</p> <p>22   this map that had the support of the</p> <p>23   Republican members of the</p> <p>24   congressional delegation and wanted</p> <p>25   us to have it and I think he wanted</p>	<p style="text-align: right;">Page 108</p> <p>1                   TERRENI</p> <p>2   support of the congressional</p> <p>3   delegation. I don't recall him</p> <p>4   mentioning meetings. I didn't</p> <p>5   attend them for sure if they took</p> <p>6   place.</p> <p>7           Q. Were you aware that there</p> <p>8   were going to be meetings with the</p> <p>9   congressional delegation to put</p> <p>10   together proposed maps to be</p> <p>11   submitted to the Senate?</p> <p>12           A. No.</p> <p>13           Q. Were you surprised that the</p> <p>14   congressional delegation went to</p> <p>15   Dale Oldham to propose maps to put</p> <p>16   before the Senate rather than coming</p> <p>17   to you or other members of the</p> <p>18   Senate staff to propose maps to put</p> <p>19   into the record?</p> <p>20           MR. GORE: Object to form.</p> <p>21           A. I don't think I had any</p> <p>22   reaction to it one way or the other.</p> <p>23   It didn't surprise me that Dale</p> <p>24   might have communicated with the</p> <p>25   Republican members of the delegation</p>
<p style="text-align: right;">Page 107</p> <p>1                   TERRENI</p> <p>2   us to support it or propose it to</p> <p>3   this subcommittee -- so that was --</p> <p>4   I mean you have to ask Dale about</p> <p>5   his purposes but I imagine it was to</p> <p>6   -- I mean I understand his purpose,</p> <p>7   it was to put forward a Republican</p> <p>8   map that was supported by a</p> <p>9   Republican congressional delegation.</p> <p>10   Whether that was the case or not, I</p> <p>11   don't know.</p> <p>12           Q. Do you know whether this</p> <p>13   map sort of reflected the particular</p> <p>14   preferences of members of the</p> <p>15   congressional delegation?</p> <p>16           A. I just said I don't know.</p> <p>17   It was represented as such, but I</p> <p>18   don't know.</p> <p>19           Q. And let me -- just to be</p> <p>20   fair, did you -- you did not attend</p> <p>21   any of those meetings with the</p> <p>22   congressional delegation that</p> <p>23   Mr. Oldham referenced?</p> <p>24           A. I don't know -- I said</p> <p>25   Mr. Oldham said this map had the</p>	<p style="text-align: right;">Page 109</p> <p>1                   TERRENI</p> <p>2   about redistricting, that's</p> <p>3   generally his job as I know it -- I</p> <p>4   don't know. I wasn't surprised. I</p> <p>5   wasn't expecting it either.</p> <p>6           Q. Had you personally reached</p> <p>7   out to members of the congressional</p> <p>8   delegation to get their views about</p> <p>9   how the congressional maps should</p> <p>10   look like?</p> <p>11           A. Had I reached out?</p> <p>12           Q. Yes.</p> <p>13           A. I don't recall reaching</p> <p>14   out. I mean if I did have a call</p> <p>15   from Joe Wilson, I don't think it</p> <p>16   was initiated by me. I think it</p> <p>17   might have been initiated by Joe and</p> <p>18   Dalton Tresvant contacted the Senate</p> <p>19   but not me on behalf of Congressman</p> <p>20   Clyburn.</p> <p>21           Q. So you had one conversation</p> <p>22   with Congressman Wilson about</p> <p>23   congressional map making, is that</p> <p>24   what you are saying?</p> <p>25           A. I think it was one, yes.</p>

<p style="text-align: right;">Page 110</p> <p>1           TERRENI</p> <p>2       Q. And what was the purpose of</p> <p>3 that conversation?</p> <p>4       A. Congressman Wilson wanted</p> <p>5 to express his -- some ideas about</p> <p>6 redistricting those lines in the</p> <p>7 second district.</p> <p>8       Q. What were those ideas?</p> <p>9       A. That he wanted to stay in</p> <p>10 Richland, he wanted to stay in</p> <p>11 Aiken. And if he had to expand, he</p> <p>12 wanted to -- he was not adverse to</p> <p>13 -- if his district was going to have</p> <p>14 to move a little bit he was not</p> <p>15 adverse to having to move to</p> <p>16 Newberry.</p> <p>17       Q. Moving to where?</p> <p>18       A. Newberry County.</p> <p>19       Q. Did he mention anything</p> <p>20 about Fort Jackson in particular?</p> <p>21       A. I don't recall if he</p> <p>22 mentioned it expressly, but I would</p> <p>23 have known from the past two cycles</p> <p>24 that Fort Jackson was very important</p> <p>25 to Congressman Wilson.</p>	<p style="text-align: right;">Page 112</p> <p>1           TERRENI</p> <p>2 to?</p> <p>3       A. I might have communicated</p> <p>4 them, I don't remember. I mean they</p> <p>5 really weren't earth shattering.</p> <p>6 That he wanted Fort Jackson was</p> <p>7 something well-known and litigated</p> <p>8 over before. That he wanted</p> <p>9 Southern Orangeburg County, I</p> <p>10 remember him saying that as well.</p> <p>11 He's been saying. I mean that's</p> <p>12 something that's been going for</p> <p>13 20 years. So I don't know if I</p> <p>14 communicated them at all. I don't</p> <p>15 remember having any reason to talk</p> <p>16 about it. It just didn't come up in</p> <p>17 the future.</p> <p>18       Q. Do you remember putting the</p> <p>19 ideas about what Representative</p> <p>20 Wilson wanted into the public record</p> <p>21 at any of the hearings that the</p> <p>22 Senate had on congressional map</p> <p>23 making?</p> <p>24       A. No, ma'am.</p> <p>25       Q. Meaning you don't remember</p>
<p style="text-align: right;">Page 111</p> <p>1           TERRENI</p> <p>2       Q. Did he mention anything</p> <p>3 about how to treat Beaufort in</p> <p>4 relation to CD 2 one way or the</p> <p>5 other?</p> <p>6       A. I'm trying to remember. I</p> <p>7 know he would have -- he said at</p> <p>8 some point that he was under</p> <p>9 Beaufort before and he enjoyed</p> <p>10 Beaufort. But I think his</p> <p>11 preference was not to have his</p> <p>12 district run down to Beaufort mainly</p> <p>13 just because of logistics.</p> <p>14       Q. What did you do --</p> <p>15       A. As I recall.</p> <p>16       Q. What did you do with these</p> <p>17 ideas from Representative Wilson?</p> <p>18       A. We took them under</p> <p>19 advisement. Like we took</p> <p>20 Congressman Clyburn's ideas under</p> <p>21 advisement from Dalton.</p> <p>22       Q. Did you communicate the</p> <p>23 ideas that representative --</p> <p>24 Congressman Wilson shared with you?</p> <p>25 Who did you communicate those ideas</p>	<p style="text-align: right;">Page 113</p> <p>1           TERRENI</p> <p>2 or you did not do it?</p> <p>3       A. I don't remember doing it.</p> <p>4       Q. Looking at the second page</p> <p>5 of this tab 38?</p> <p>6       A. Yes.</p> <p>7       Q. Does this similarly include</p> <p>8 the statistical summary like with</p> <p>9 the Wren plan that we just looked</p> <p>10 at?</p> <p>11       A. It does.</p> <p>12       Q. And does it similarly</p> <p>13 include the breakdown of the</p> <p>14 non-Hispanic, the percentage of the</p> <p>15 non-Hispanic 18 plus DoJ black</p> <p>16 population figures for each of those</p> <p>17 seven districts?</p> <p>18       A. It appears to, yes.</p> <p>19       Q. How many of the proposed</p> <p>20 districts in the Palmetto plan have</p> <p>21 a district above 50 percent of black</p> <p>22 voters, non-Hispanic DoJ black</p> <p>23 voters?</p> <p>24       A. No.</p> <p>25       Q. What is the next highest</p>

<p style="text-align: right;">Page 114</p> <p>1           TERRENI</p> <p>2   percentage of black voters in any of</p> <p>3   the other congressional districts</p> <p>4   outside of CD 6?</p> <p>5       A.   Appears to be District 7,</p> <p>6   the 24.82.</p> <p>7       Q.   What is the lowest</p> <p>8   percentage of black voters in any of</p> <p>9   the districts under the Palmetto</p> <p>10   plan?</p> <p>11       A.   District 1, 17.08.</p> <p>12       Q.   Looking back at the first</p> <p>13   page, can you tell what district</p> <p>14   Beaufort is in in this map?</p> <p>15       A.   Appears to be mostly in</p> <p>16   district -- well, it's all in</p> <p>17   District 1, I believe, unless</p> <p>18   there's a cut of my Hampton. I</p> <p>19   believe it's all in District 1.</p> <p>20       Q.   And looking at Charleston</p> <p>21   County can you tell where Charleston</p> <p>22   County falls under the Palmetto</p> <p>23   plan?</p> <p>24       A.   In District 1 and</p> <p>25   District 6.</p>	<p style="text-align: right;">Page 116</p> <p>1           TERRENI</p> <p>2   concerns about the way District 6</p> <p>3   was drawn just in the form of change</p> <p>4   and the regular shapes. And we</p> <p>5   didn't see this as being the plan</p> <p>6   that we needed to spend more time</p> <p>7   worrying about.</p> <p>8       Q.   And you subsequently spoke</p> <p>9   to Mr. Oldham again and did you, to</p> <p>10   be clear, did you ask him what -- he</p> <p>11   initiated the sending of a second</p> <p>12   map known as the Jessamine map. Do</p> <p>13   you recall that?</p> <p>14       A.   That was a few days later.</p> <p>15       Q.   Did you ask for that map or</p> <p>16   did he just send it in response to</p> <p>17   the feedback that you gave him about</p> <p>18   the Palmetto and Wren?</p> <p>19       A.   It was not solicited by me.</p> <p>20   He sent it in response to the</p> <p>21   feedback about Palmetto and Wren and</p> <p>22   the staff plan, the release of the</p> <p>23   staff plan. And the release of the</p> <p>24   staff plan would have been -- I</p> <p>25   think he sent it after the staff</p>
<p style="text-align: right;">Page 115</p> <p>1           TERRENI</p> <p>2       Q.   Do you have any view of</p> <p>3   whether congressional District 7 in</p> <p>4   this map looks changed from the</p> <p>5   benchmark map in 2011?</p> <p>6       A.   I would have -- honestly, I</p> <p>7   would have to compare it but it</p> <p>8   looks generally the same.</p> <p>9       Q.   Is there anything else</p> <p>10   about the Palmetto plan that stands</p> <p>11   out to you looking at it at this</p> <p>12   moment?</p> <p>13       A.   In what way?</p> <p>14       Q.   Let's go back. How long do</p> <p>15   you remember spending looking at</p> <p>16   this map in Senator Rankin's office?</p> <p>17       A.   Five minutes, ten.</p> <p>18       Q.   Is there a reason why you</p> <p>19   only looked at it for five or</p> <p>20   10 minutes?</p> <p>21       A.   Yes, ma'am. We had already</p> <p>22   drawn a plan that we were getting</p> <p>23   ready to propose. We didn't see</p> <p>24   this making any improvement. We</p> <p>25   thought District 6, we had some</p>	<p style="text-align: right;">Page 117</p> <p>1           TERRENI</p> <p>2   plan was released and then posted to</p> <p>3   the website and I think his effort</p> <p>4   as he described it was to, quote</p> <p>5   unquote, improve on the staff plan.</p> <p>6       Q.   Did you at any time ever</p> <p>7   contemplate asking Mr. Fiffick to</p> <p>8   forward the maps from Mr. Kincaid</p> <p>9   received on November 18th to the</p> <p>10   Senate redistricting email that had</p> <p>11   been released to the public?</p> <p>12       A.   I don't recall doing that</p> <p>13   no.</p> <p>14       Q.   Do you recall asking any of</p> <p>15   the Senate staff to forward these</p> <p>16   two maps to any member of the Senate</p> <p>17   redistricting subcommittee?</p> <p>18       A.   I don't recall doing that.</p> <p>19       Q.   As you sit here today, do</p> <p>20   you know whether any member of the</p> <p>21   Senate subcommittee has ever seen</p> <p>22   the Palmetto or the Wren plan?</p> <p>23       A.   I believe Senator</p> <p>24   Harpootlian saw them.</p> <p>25       Q.   How so?</p>

<p style="text-align: right;">Page 118</p> <p>1           TERRENI</p> <p>2       A. Well, because he asked in</p> <p>3 the subsequent subcommittee meeting</p> <p>4 in which I believe the staff plan</p> <p>5 was presented whether or not we had</p> <p>6 had any communications from a</p> <p>7 national committee and Andy Fiffick</p> <p>8 told him that we had and he asked</p> <p>9 what they were and he told him</p> <p>10 generally speaking that we had</p> <p>11 gotten something from this</p> <p>12 organization I think he struggled to</p> <p>13 name and told him that we had looked</p> <p>14 at them and dismissed them and they</p> <p>15 had not -- Senator Harpootlian was</p> <p>16 concerned that the staff plan was</p> <p>17 based on outside input. Andy told</p> <p>18 him it wasn't and I believe in the,</p> <p>19 I guess I shouldn't speculate, my</p> <p>20 recollection is that in the</p> <p>21 aftermath of that deposition -- not</p> <p>22 deposition -- that subcommittee</p> <p>23 meeting Andy would have -- gave him</p> <p>24 those maps.</p> <p>25       Q. But you don't know whether</p>	<p style="text-align: right;">Page 120</p> <p>1           TERRENI</p> <p>2       Q. Have you seen this before?</p> <p>3       A. In preparing for this</p> <p>4 deposition.</p> <p>5       Q. Had you seen the contents</p> <p>6 of what was being transmitted from</p> <p>7 Mr. Kincaid to Mr. Fiffick, had you</p> <p>8 seen that before preparing for this</p> <p>9 deposition?</p> <p>10       A. In the context of the</p> <p>11 Jessamine zip file I believe so,</p> <p>12 yes.</p> <p>13       Q. Where would you have seen</p> <p>14 the Jessamine zip file?</p> <p>15       A. In the Senate offices,</p> <p>16 probably I believe Senator Rankin's</p> <p>17 office.</p> <p>18       Q. Okay. Do you recall who</p> <p>19 was with you when you saw this map?</p> <p>20       A. I believe Andy would have</p> <p>21 been and Will Roberts and I don't</p> <p>22 recall anybody else but there could</p> <p>23 have been other people.</p> <p>24       Q. And is there any reason why</p> <p>25 after the first email from Adam</p>
<p style="text-align: right;">Page 119</p> <p>1           TERRENI</p> <p>2 Mr. Fiffick shared those maps with</p> <p>3 Senator Harpootlian one way or the</p> <p>4 other?</p> <p>5       A. No, ma'am.</p> <p>6       Q. And do you know whether, as</p> <p>7 you sit here today, how any member</p> <p>8 of the public would be aware of the</p> <p>9 Palmetto and Wren plan being sent to</p> <p>10 staff members of the Senate during</p> <p>11 the redistricting process?</p> <p>12       A. I do not.</p> <p>13       Q. Let's look at tab 10, which</p> <p>14 is another email from Adam Kincaid</p> <p>15 and Andy Fiffick dated</p> <p>16 November 24th, 2021, and is Bates</p> <p>17 stamp number South Carolina Senate</p> <p>18 ending in 3245 and this should be</p> <p>19 Plaintiffs' Exhibit 5.</p> <p>20       (Plaintiffs' Exhibit 5, Email</p> <p>21 from Adam Kincaid to Mr. Fiffick,</p> <p>22 Bates South Carolina Senate ending</p> <p>23 in 3245, marked for identification,</p> <p>24 as of this date.)</p> <p>25       A. Yes, ma'am.</p>	<p style="text-align: right;">Page 121</p> <p>1           TERRENI</p> <p>2 Kincaid went to Andy Fiffick's gmail</p> <p>3 Adam Kincaid continued to send it to</p> <p>4 Mr. Fiffick's gmail and not his</p> <p>5 Senate website -- his Senate</p> <p>6 professional email?</p> <p>7       A. Yes. Because what he was</p> <p>8 doing was e-mailing a Google --</p> <p>9 well, I can't speak for Mr. Kincaid</p> <p>10 but the practical reason would have</p> <p>11 been he was e-mailing a Google drive</p> <p>12 account file which that Jessamine</p> <p>13 zip file would be downloaded from</p> <p>14 the Google website. And to do that</p> <p>15 you had to sign in with a Google</p> <p>16 email address. That's how this</p> <p>17 whole gmail address got started</p> <p>18 because as I'm understanding it --</p> <p>19 understand it they could not have</p> <p>20 signed in on the Senate board side.</p> <p>21       Q. But as you sit here today,</p> <p>22 are you aware whether this Jessamine</p> <p>23 map as a pdf with associated</p> <p>24 statistics, was that ever attached</p> <p>25 to an email, a separate email and</p>

<p style="text-align: right;">Page 122</p> <p>1                   TERRENI</p> <p>2 center to the redistrict -- Senate</p> <p>3 redistricting email website to be</p> <p>4 part of that public record?</p> <p>5       A. I don't think so.</p> <p>6       Q. Is there a reason for that?</p> <p>7       A. Yeah. The public</p> <p>8 submission deadline had passed a</p> <p>9 long time ago and this was just</p> <p>10 somebody sending something in on</p> <p>11 behalf of individual congressmen.</p> <p>12 It wasn't being used. It wasn't the</p> <p>13 basis for anything in the Senate --</p> <p>14 in the Senate map drawing so we</p> <p>15 didn't see the need to post it.</p> <p>16       Q. But there was -- outside of</p> <p>17 submission office maps there was</p> <p>18 testimony, there were emails from</p> <p>19 constituents and others being sent</p> <p>20 after public submissions of maps, is</p> <p>21 that fair to say?</p> <p>22       A. It would have been emails.</p> <p>23 I don't remember -- we had a map</p> <p>24 submission process and people</p> <p>25 generally submitted maps in</p>	<p style="text-align: right;">Page 124</p> <p>1                   TERRENI</p> <p>2 was anything that was going to cause</p> <p>3 us to change anything so basically,</p> <p>4 you know, we took the email, we</p> <p>5 loaded the map, looked at it, put it</p> <p>6 aside. I mean we were trying to</p> <p>7 move on.</p> <p>8       Q. But you are making the</p> <p>9 decision about whether it was the</p> <p>10 basis for anything that you did.</p> <p>11 The public has no way to analyze</p> <p>12 whether or not it was the basis for</p> <p>13 anything that you've done because</p> <p>14 they have never seen the Jessamine,</p> <p>15 the Wren or the Palmetto map; is</p> <p>16 that correct?</p> <p>17       A. Yeah.</p> <p>18       Q. Did you share the Jessamine</p> <p>19 map with Jones Day?</p> <p>20       A. I don't recall.</p> <p>21       Q. Are you aware of anyone who</p> <p>22 shared the Jessamine map with Jones</p> <p>23 Day?</p> <p>24       A. I don't recall.</p> <p>25       Q. Did you direct anyone to</p>
<p style="text-align: right;">Page 123</p> <p>1                   TERRENI</p> <p>2 compliance with that process. That</p> <p>3 doesn't mean that other people might</p> <p>4 have walked in and said I'm thinking</p> <p>5 about a map, especially if it was</p> <p>6 something that was represented as</p> <p>7 being from a member of the</p> <p>8 congressional delegation. Did we</p> <p>9 want to see it? Sure. But I don't</p> <p>10 know because I wasn't present at</p> <p>11 that meeting, but Dalton Tresvant</p> <p>12 may have done the same thing for</p> <p>13 Congressman Clyburn, that wouldn't</p> <p>14 have been unusual in my experience</p> <p>15 in redistricting.</p> <p>16       If we had somehow used these</p> <p>17 maps that is before as the basis for</p> <p>18 something we proposed to the South</p> <p>19 Carolina Senate for its</p> <p>20 consideration with the subcommittee,</p> <p>21 I believe we literally said, hey, we</p> <p>22 got this map, you know, it has</p> <p>23 congressional input and style. We</p> <p>24 didn't think it -- we didn't think</p> <p>25 it was useful. We didn't think it</p>	<p style="text-align: right;">Page 125</p> <p>1                   TERRENI</p> <p>2 share the Jessamine map with Jones</p> <p>3 Day?</p> <p>4       A. Again, I don't recall. It</p> <p>5 wasn't that significant. It's very</p> <p>6 possible I didn't bother.</p> <p>7       Q. Did you share the Jessamine</p> <p>8 map or direct anyone to share the</p> <p>9 Jessamine map with any Senate</p> <p>10 leadership?</p> <p>11       A. I don't remember. I don't</p> <p>12 think so.</p> <p>13       Q. Do you recall asking any</p> <p>14 Senate staff to share the Jessamine</p> <p>15 map with any Senate leadership?</p> <p>16       A. No, ma'am.</p> <p>17       Q. After receipt of the</p> <p>18 Jessamine map did you speak with</p> <p>19 Mr. Oldham again about the map?</p> <p>20       A. I don't recall. I probably</p> <p>21 did.</p> <p>22       Q. Did you provide him</p> <p>23 feedback on the Jessamine map like</p> <p>24 you did with respect to the Palmetto</p> <p>25 and Wren map?</p>



<p style="text-align: right;">Page 126</p> <p>1           TERRENI</p> <p>2           A. Well, I probably said Dale,</p> <p>3 I'm sorry, we are just going to move</p> <p>4 on. These were not detailed</p> <p>5 discussions.</p> <p>6           Q. Looking at tab 11, which is</p> <p>7 now a third email between Adam</p> <p>8 Kincaid and Mr. Fiffick dated</p> <p>9 November 28, 2021, with Bates stamp</p> <p>10 numbering South Carolina Senate</p> <p>11 3246.</p> <p>12           (Plaintiffs' Exhibit 6, Email</p> <p>13 between Adam Kincaid and</p> <p>14 Mr. Fiffick, Bates South Carolina</p> <p>15 Senate 3246, marked for</p> <p>16 identification, as of this date.)</p> <p>17           A. Okay.</p> <p>18           Q. Do you have any</p> <p>19 understanding of why Mr. Kincaid</p> <p>20 sent Mr. Fiffick another email four</p> <p>21 days later from November 24th with</p> <p>22 the file labeled Jessamine map?</p> <p>23           A. No.</p> <p>24           Q. Did you recall looking at</p> <p>25 the attachment in this November 28th</p>	<p style="text-align: right;">Page 128</p> <p>1           TERRENI</p> <p>2 this was sent. I just don't -- I</p> <p>3 don't remember a second Jessamine</p> <p>4 email. I don't remember this.</p> <p>5           Q. Do you recall in the</p> <p>6 Jessamine map how many districts</p> <p>7 above 50 percent there were?</p> <p>8           A. No.</p> <p>9           Q. Do you recall -- strike</p> <p>10 that.</p> <p>11           After you told Mr. Oldham stop</p> <p>12 sending, essentially do not send any</p> <p>13 more maps, did you have any other</p> <p>14 conversations with Mr. Oldham about</p> <p>15 congressional redistricting?</p> <p>16           A. I never told Mr. Oldham not</p> <p>17 to send any more maps. I don't</p> <p>18 think that's my testimony.</p> <p>19           Q. What -- did you have any --</p> <p>20 after Mr. Oldham sent this map to</p> <p>21 Andy Fiffick first on the 24th and</p> <p>22 then again the same map on the 28th,</p> <p>23 did you have any further</p> <p>24 communications with Mr. Oldham about</p> <p>25 congressional redistricting?</p>
<p style="text-align: right;">Page 127</p> <p>1           TERRENI</p> <p>2 email in Mr. Rankin's or anyone</p> <p>3 else's office?</p> <p>4           A. No, ma'am. I recall three</p> <p>5 maps. Whether they did something</p> <p>6 else with it I don't remember this</p> <p>7 at all. November 28th, you'll have</p> <p>8 to refresh my memory, but I would</p> <p>9 add that at some point during that</p> <p>10 period because we were talking about</p> <p>11 Thanksgiving would have, you know,</p> <p>12 been in this; is that correct?</p> <p>13           If you'll allow me to, I'll</p> <p>14 look at when Thanksgiving was. But</p> <p>15 my only point is I caught COVID at</p> <p>16 some point after that so I wasn't in</p> <p>17 the office. I was in some</p> <p>18 communication but it's possible this</p> <p>19 happened when I had COVID.</p> <p>20           Q. And how were you -- does</p> <p>21 that mean you were not working on</p> <p>22 congressional redistricting?</p> <p>23           A. It doesn't mean that I</p> <p>24 wasn't working on it. But it does</p> <p>25 mean I may not have been around when</p>	<p style="text-align: right;">Page 129</p> <p>1           TERRENI</p> <p>2           MR. GORE: Objection.</p> <p>3 Mischaracterizes the document.</p> <p>4           A. Again, I remember adjusting</p> <p>5 that -- I remember telling him we</p> <p>6 were ready, thank you for the map</p> <p>7 but we think we are going to move</p> <p>8 on. I don't recall any additional</p> <p>9 conversations with Mr. Oldham about</p> <p>10 congressional redistricting effort.</p> <p>11 Certainly about any maps or anything</p> <p>12 like that?</p> <p>13           Q. And if you had it would</p> <p>14 have been via phone?</p> <p>15           A. Yeah.</p> <p>16           Q. Do you recall whether</p> <p>17 Mr. Oldham was ever invited by</p> <p>18 anybody in the Senate Judiciary</p> <p>19 staff to testify about the Palmetto,</p> <p>20 Wren or Jessamine maps during the</p> <p>21 subsequent hearings that were held</p> <p>22 on South Carolina congressional</p> <p>23 redistricting?</p> <p>24           A. I recall that he was not.</p> <p>25           Q. Do you recall whether he</p>

<p style="text-align: right;">Page 130</p> <p>1           TERRENI</p> <p>2 was invited?</p> <p>3       A. I recall that he was not</p> <p>4 invited. That's what I just said.</p> <p>5       Q. And do you recall was that</p> <p>6 a decision made by the Senate staff</p> <p>7 not to invite him or why given --</p> <p>8 strike that.</p> <p>9       Given the interest of a</p> <p>10 congressional, Republican</p> <p>11 congressional delegation in the</p> <p>12 drawing of congressional lines did</p> <p>13 you do anything to include</p> <p>14 Mr. Oldham or the congressional</p> <p>15 delegation in the consideration of</p> <p>16 congressional maps after</p> <p>17 November 28th?</p> <p>18       MR. GORE: Object to form.</p> <p>19       A. What we did to include</p> <p>20 Mr. Oldham, the congressional</p> <p>21 delegation and Republican, Democrat</p> <p>22 or anybody else is they were free to</p> <p>23 contact staff, members of the</p> <p>24 subcommittee, come to explain and</p> <p>25 testify if they wanted to. There</p>	<p style="text-align: right;">Page 132</p> <p>1           TERRENI</p> <p>2 is titled 2021 Policy For Public</p> <p>3 Plan Submission South Carolina</p> <p>4 Senate Judiciary Committee</p> <p>5 Redistricting Committee which was</p> <p>6 adopted on September 17, 2021, it's</p> <p>7 Bates stamped South Carolina Senate</p> <p>8 3723 through 24. So this should now</p> <p>9 be Plaintiffs' Exhibit 7.</p> <p>10       (Plaintiffs' Exhibit 7, 2021</p> <p>11 Policy For Public Plan Submission</p> <p>12 South Carolina Senate Judiciary</p> <p>13 Committee Redistricting Committee,</p> <p>14 Bates South Carolina Senate 3723</p> <p>15 through 24, marked for</p> <p>16 identification, as of this date.)</p> <p>17       A. Yes, ma'am.</p> <p>18       Q. Take a moment to look at</p> <p>19 this, please.</p> <p>20       Are you familiar with this</p> <p>21 document?</p> <p>22       A. Yes, ma'am.</p> <p>23       Q. Okay. What is it?</p> <p>24       A. It's a public submissions</p> <p>25 policy.</p>
<p style="text-align: right;">Page 131</p> <p>1           TERRENI</p> <p>2 was no affirmative decision one way</p> <p>3 or the other to not specifically</p> <p>4 invite Mr. Oldham, Mr. Tresvant or</p> <p>5 anybody else. They knew where to</p> <p>6 find us.</p> <p>7       Q. Could Mr. Oldham and R.T.</p> <p>8 have submitted testimony, not maps,</p> <p>9 not data or maybe maps and attached</p> <p>10 data, could they have submitted that</p> <p>11 as part of the public record and</p> <p>12 subsequent hearings that were held</p> <p>13 by the Senate in December and</p> <p>14 January of 2021 and 2022?</p> <p>15       A. To the extent that</p> <p>16 testimony is received by the</p> <p>17 subcommittee they were welcome to do</p> <p>18 that.</p> <p>19       Q. Let's look at tab 16.</p> <p>20       MR. GORE: Before we move on</p> <p>21 to that did you mean to mark tab 11</p> <p>22 as an exhibit?</p> <p>23       MS. ADEN: That should be</p> <p>24 Plaintiffs' Exhibit 6, yes.</p> <p>25       Q. So looking at tab 15, which</p>	<p style="text-align: right;">Page 133</p> <p>1           TERRENI</p> <p>2       Q. And if you look at the</p> <p>3 first page, could you read into the</p> <p>4 record the sentence in I-B?</p> <p>5       A. "All plans submitted to and</p> <p>6 accepted by the redistricting</p> <p>7 subcommittee will be made part of</p> <p>8 the public record and will be made</p> <p>9 available in the same manner as</p> <p>10 other redistricting public records."</p> <p>11       Q. So is it your position that</p> <p>12 because -- well, strike that.</p> <p>13       Let me have you look at</p> <p>14 paragraph 3A and read that aloud</p> <p>15 into the record. It begins with</p> <p>16 "Via plan"?</p> <p>17       A. "Via plan for the full</p> <p>18 state or for an amendment to an</p> <p>19 existing plan it should be a</p> <p>20 complete amendment to the plan not</p> <p>21 just a proposal for the district. A</p> <p>22 plan should stand as a complete</p> <p>23 statewide plan for redistricting,</p> <p>24 i.e., all pieces of geography must</p> <p>25 be accounted for in the same" --</p>



<p style="text-align: right;">Page 134</p> <p>1                   TERRENI</p> <p>2    this seems to say some district --</p> <p>3    "in some district."</p> <p>4       Q.   And 3B provides the portal</p> <p>5    or the means by which plans be</p> <p>6    submitted and identifies the</p> <p>7    redistricting.south</p> <p>8    Carolina.Senate.gov website for</p> <p>9    submissions. Is that fair to say?</p> <p>10   A.   Yes, ma'am.</p> <p>11   Q.   And it provides that plans</p> <p>12   have to be in a particular format</p> <p>13   and with particular naming</p> <p>14   conventions and other things to be</p> <p>15   submitted. Is that fair to say?</p> <p>16   A.   It does.</p> <p>17   Q.   And so it's your position</p> <p>18   that because the -- or is it your</p> <p>19   position that because the maps sent</p> <p>20   by Adam Kincaid via his</p> <p>21   communications with Mr. Oldham, that</p> <p>22   because they violated this policy,</p> <p>23   is that the reason why they were not</p> <p>24   publicized on the Senate's website</p> <p>25   or accepted by the Senate?</p>	<p style="text-align: right;">Page 136</p> <p>1                   TERRENI</p> <p>2    passed, and I'm speaking about</p> <p>3    congressional, its Senate plan.</p> <p>4       So at that point we felt some</p> <p>5    time pressure to get things going.</p> <p>6    We did a -- we had the public</p> <p>7    submissions submitted. We held --</p> <p>8    we were holding hearings on the</p> <p>9    plans. Then at the last minute as</p> <p>10   we were getting ready to post the</p> <p>11   staff plan we get this call from</p> <p>12   Dale that said I had this plan that</p> <p>13   all the congressional delegations or</p> <p>14   at least all the Republicans had</p> <p>15   turned out that he represented as</p> <p>16   having supported.</p> <p>17       So at that point we had a</p> <p>18   choice of do we want to see this</p> <p>19   plan that supposedly is relevant to</p> <p>20   two out of seven congressmen in the</p> <p>21   state or do we tell him we don't,</p> <p>22   then I said well send it on. We</p> <p>23   will take a quick look at it. We</p> <p>24   were about to release the staff</p> <p>25   plan. So didn't make sense to me to</p>
<p style="text-align: right;">Page 135</p> <p>1                   TERRENI</p> <p>2    A.   No.</p> <p>3       Q.   Then is the reason because</p> <p>4    of the timing of when they were</p> <p>5    provided?</p> <p>6    A.   Yeah.</p> <p>7       Q.   Okay. So the timing is the</p> <p>8    basis for why these did not appear</p> <p>9    on the Senate's website and were</p> <p>10   purportedly not accepted by the</p> <p>11   Senate. Is that fair to say?</p> <p>12   A.   No. It's the context. And</p> <p>13   by that I'll try to explain. We had</p> <p>14   set a public submissions deadline.</p> <p>15   We had hearings on publicly</p> <p>16   submitted plans. We did all that.</p> <p>17   We were under some time pressure to</p> <p>18   produce a congressional</p> <p>19   redistricting plan because of the</p> <p>20   time we were aware of the core</p> <p>21   express of desire for plans to be</p> <p>22   submitted by January 18th. The</p> <p>23   Senate didn't do anything with</p> <p>24   redistricting until after it had</p> <p>25   essentially completed, maybe not</p>	<p style="text-align: right;">Page 137</p> <p>1                   TERRENI</p> <p>2    ignore it.</p> <p>3       I believe at one point I had</p> <p>4    said, well, Dale you can submit it</p> <p>5    through the public website. Dale</p> <p>6    for one reason or another may have</p> <p>7    been reluctant do to that. We just</p> <p>8    said, well, fine, send it to us, we</p> <p>9    will take a look at it. And then</p> <p>10   when we looked at it, it became very</p> <p>11   clear to us it was not going to be</p> <p>12   anything we used.</p> <p>13       So really, I mean I never gave</p> <p>14   much thought to where it should be</p> <p>15   on the public website or not. And</p> <p>16   it wasn't. Everybody knew about it</p> <p>17   by the subsequent subcommittee</p> <p>18   meeting because at that point that's</p> <p>19   when Andy and Senator Harpootlian</p> <p>20   had this exchange. We were focused</p> <p>21   on moving the staff plan on. I mean</p> <p>22   these plans just, they were kind of</p> <p>23   dead letters at that point. That's</p> <p>24   why we didn't post them. But, you</p> <p>25   know, that's just what happens.</p>

35 (Pages 134 - 137)

<p style="text-align: right;">Page 138</p> <p>1           TERRENI</p> <p>2       Q. But this policy was in</p> <p>3 place before November 18th when Adam</p> <p>4 Kincaid sent the first two maps to</p> <p>5 Andy Fiffick, correct?</p> <p>6       A. Yes, ma'am.</p> <p>7       Q. So based upon this policy</p> <p>8 and the timing and the form by which</p> <p>9 Adam Kincaid was sending those maps,</p> <p>10 they should not have been considered</p> <p>11 or accepted by the Senate according</p> <p>12 to this policy; is that correct?</p> <p>13       MR. GORE: Objection.</p> <p>14 Mischaracterizes testimony and</p> <p>15 document.</p> <p>16       MS. ADEN: I'm asking a</p> <p>17 question. I didn't characterize</p> <p>18 his testimony.</p> <p>19       Q. According to this policy --</p> <p>20       A. No, I will disagree with</p> <p>21 that. Let me explain why. And</p> <p>22 there's some shortcuts involved in</p> <p>23 this. But the policy was a public</p> <p>24 submissions policy. We named the</p> <p>25 organization such as yours could</p>	<p style="text-align: right;">Page 140</p> <p>1           TERRENI</p> <p>2 it.</p> <p>3       So did we go by the letter of</p> <p>4 this policy, I don't think we gave</p> <p>5 much thought to it. We thought we</p> <p>6 best look at -- it's been told to us</p> <p>7 that it's something that could be</p> <p>8 supported by a congressional</p> <p>9 delegation. We had not heard from</p> <p>10 most of them up until that point and</p> <p>11 we thought we better take a look at</p> <p>12 it. And so we did. And that's kind</p> <p>13 of where we are. That's why the</p> <p>14 policy was -- I mean that's how the</p> <p>15 policy fits into this.</p> <p>16       Q. Turn to the text of this</p> <p>17 policy, the NRRT submission on</p> <p>18 November 13th, would have violated</p> <p>19 it, correct?</p> <p>20       A. No.</p> <p>21       Q. According to --</p> <p>22       A. The text of his policy is</p> <p>23 referring to the public submissions</p> <p>24 process. The NRRT submission was in</p> <p>25 my mind something that was more akin</p>
<p style="text-align: right;">Page 139</p> <p>1           TERRENI</p> <p>2 come submit a plan and testify in</p> <p>3 support of it. That's how we</p> <p>4 conceived it.</p> <p>5       Dale Oldham calls and says</p> <p>6 there's this plan that's got the</p> <p>7 support of the congressional</p> <p>8 Republican delegation. Maybe it</p> <p>9 does, maybe it doesn't. But in the</p> <p>10 pressing deadline that we had we</p> <p>11 thought well, let's see it. Whether</p> <p>12 Dale had the support of it -- I mean</p> <p>13 whether -- whether Dale sent it or</p> <p>14 we could have gone back and said we</p> <p>15 will get a senator to submit it to</p> <p>16 us as an amendment, he certainly</p> <p>17 could have done that. I mean that's</p> <p>18 common sense if he's putting</p> <p>19 something from the Republican</p> <p>20 delegation in the same way that if</p> <p>21 Clyburn or another member of the</p> <p>22 Senate had come in and said we want</p> <p>23 you to look at this map as something</p> <p>24 that could be a perspective</p> <p>25 amendment, we were going to look at</p>	<p style="text-align: right;">Page 141</p> <p>1           TERRENI</p> <p>2 to the legislative submission</p> <p>3 policy. Congressmen somehow in a</p> <p>4 congressional redistricting cycle</p> <p>5 are more akin to members. Now,</p> <p>6 whether or not that was an accurate</p> <p>7 portrayal, that was a decision we</p> <p>8 made.</p> <p>9       Q. So is it your position that</p> <p>10 the NRRT is equivalent to a</p> <p>11 legislative submission by a member</p> <p>12 of the South Carolina legislature?</p> <p>13       A. No.</p> <p>14       Q. Is it your position that</p> <p>15 Dale Oldham is a representative, an</p> <p>16 official representative of the</p> <p>17 Republican delegation for South</p> <p>18 Carolina?</p> <p>19       A. No.</p> <p>20       Q. Is it your position that</p> <p>21 the submission of a map, the</p> <p>22 Jessamine map by the NRRT on</p> <p>23 November 24th was not in violation</p> <p>24 of the policy, this 2021 policy that</p> <p>25 we are looking at?</p>

<p style="text-align: right;">Page 142</p> <p>1           TERRENI</p> <p>2       A. I don't think it was.</p> <p>3       Q. Have you heard of the</p> <p>4 American Legislative Exchange</p> <p>5 Council, ALEC?</p> <p>6       A. Yes.</p> <p>7       Q. How have you heard about</p> <p>8 them?</p> <p>9       A. I'm aware that the American</p> <p>10 Legislative Exchange Council is an</p> <p>11 organization that is mostly</p> <p>12 conservative, that provides access</p> <p>13 over a think tank for legislators</p> <p>14 who sometimes go to conferences or</p> <p>15 receive legislation from them.</p> <p>16       Q. Do you know whether NRRT</p> <p>17 provided data -- actually strike</p> <p>18 that.</p> <p>19       Do you know who Reagan Kelley</p> <p>20 is?</p> <p>21       A. Yes.</p> <p>22       Q. Who is it?</p> <p>23       A. He is an employee of the</p> <p>24 Senate Republican caucus. I don't</p> <p>25 know his specific title but he was</p>	<p style="text-align: right;">Page 144</p> <p>1           TERRENI</p> <p>2 the congressional redistricting</p> <p>3 cycle?</p> <p>4       A. No.</p> <p>5       Q. Are you familiar with Sean</p> <p>6 Trende?</p> <p>7       A. Not personally. I believe</p> <p>8 -- no. Am I familiar with him? I</p> <p>9 mean I have heard of him.</p> <p>10       Q. What have you heard about</p> <p>11 him?</p> <p>12       A. That he may be an expert</p> <p>13 involved in the litigation of this</p> <p>14 lawsuit.</p> <p>15       Q. Have you reviewed any -- he</p> <p>16 is an expert for defendants in the</p> <p>17 litigation. Have you reviewed any</p> <p>18 of his reports or analyses in the</p> <p>19 context of this litigation?</p> <p>20       A. No.</p> <p>21       Q. Beyond what we've discussed</p> <p>22 then, did you or the Senate hire any</p> <p>23 other experts to facilitate the work</p> <p>24 of redistricting by the Senate or</p> <p>25 Congress during this redistricting</p>
<p style="text-align: right;">Page 143</p> <p>1           TERRENI</p> <p>2 kind of their guy.</p> <p>3       Q. Did you communicate with</p> <p>4 Mr. Kelley about congressional</p> <p>5 redistricting?</p> <p>6       A. No.</p> <p>7       Q. Do you -- are you aware</p> <p>8 that NRRT, whether NRRT provided</p> <p>9 Mr. Kelley data related to</p> <p>10 redistricting in South Carolina this</p> <p>11 cycle?</p> <p>12       A. No.</p> <p>13       Q. Have you seen any data that</p> <p>14 NRRT may have provided to Mr. Kelley</p> <p>15 about congressional or any other</p> <p>16 redistricting this cycle?</p> <p>17       A. No.</p> <p>18       Q. Are you aware of ALEC's</p> <p>19 involvement in South Carolina</p> <p>20 redistricting following the 2020</p> <p>21 census?</p> <p>22       A. No.</p> <p>23       Q. Beyond who we've already</p> <p>24 discussed did you or the Senate hire</p> <p>25 any other consultants to help with</p>	<p style="text-align: right;">Page 145</p> <p>1           TERRENI</p> <p>2 cycle?</p> <p>3       A. You mean during the cycle?</p> <p>4       Q. Yes.</p> <p>5       A. To facilitate the work of</p> <p>6 the committee?</p> <p>7       Q. Of the Senate.</p> <p>8       A. Of the Senate? Not that I</p> <p>9 recall, no.</p> <p>10       Q. Do you know who Thomas</p> <p>11 Brunell is?</p> <p>12       A. I recall the name.</p> <p>13       Q. Did he do any work on</p> <p>14 behalf of the Senate for</p> <p>15 congressional redistricting?</p> <p>16       A. No.</p> <p>17       Q. I want to show you what is</p> <p>18 in tab 57, which should be the</p> <p>19 retainer on December 2019.</p> <p>20       A. Yes.</p> <p>21       Q. This is Bates stamped South</p> <p>22 Carolina Senate 4353 to 4354.</p> <p>23 (Plaintiffs' Exhibit 8,</p> <p>24 Charles Terreni representation</p> <p>25 letter, Bates South Carolina Senate</p>

<p style="text-align: right;">Page 146</p> <p>1                   TERRENI</p> <p>2     4353 to 4354, marked for</p> <p>3     identification, as of this date.)</p> <p>4     Q. Do you recognize this</p> <p>5     document?</p> <p>6     A. I do.</p> <p>7     Q. And this should be</p> <p>8     Plaintiffs' Exhibit 8. What is this</p> <p>9     document?</p> <p>10    A. That's my representation</p> <p>11    letter.</p> <p>12    Q. Okay. And what is the</p> <p>13    scope of your representation</p> <p>14    according to this letter?</p> <p>15    A. To advise -- "During the</p> <p>16    course of my representation I will</p> <p>17    advise and report directly to you as</p> <p>18    chairman of the Senate Judiciary and</p> <p>19    such other individuals" -- excuse</p> <p>20    me, I'm sorry, it's the first</p> <p>21    paragraph. "To advise and represent</p> <p>22    the South Carolina Senate in</p> <p>23    connection with redistricting</p> <p>24    following the 2020 Decennial</p> <p>25    census."</p>	<p style="text-align: right;">Page 148</p> <p>1                   TERRENI</p> <p>2     policy direction regarding</p> <p>3     congressional maps this cycle?</p> <p>4     A. Sometimes.</p> <p>5     Q. What did that include?</p> <p>6     A. Senator Rankin sought in</p> <p>7     terms of the 7th District, the 7th</p> <p>8     District was pretty much a settled</p> <p>9     matter from the last redistricting</p> <p>10    cycle and his desire was to not see</p> <p>11    a lot of change in it. Senator</p> <p>12    Rankin otherwise asked us to work</p> <p>13    with the members and come up with a</p> <p>14    viable and help them develop a</p> <p>15    viable redistricting plan that could</p> <p>16    pass the Senate.</p> <p>17    I'm sure there were other</p> <p>18    discussions but I mean that's the</p> <p>19    general -- that would have been the</p> <p>20    general direction that he gave.</p> <p>21    Senator Rankin was involved along</p> <p>22    the way as things went and arguments</p> <p>23    were made and we took our cues from</p> <p>24    him.</p> <p>25    Q. Were those directions</p>
<p style="text-align: right;">Page 147</p> <p>1                   TERRENI</p> <p>2     Q. And is that scope</p> <p>3     consistent with what you ultimately</p> <p>4     did during the redistricting cycle</p> <p>5     followings the 2020 census?</p> <p>6     A. Yes.</p> <p>7     Q. Okay. And as a practical</p> <p>8     matter did you report directly to</p> <p>9     the recipient of this letter,</p> <p>10    Chairman Rankin of the South</p> <p>11    Carolina Senate?</p> <p>12    A. Yes.</p> <p>13    Q. Did you report to anybody</p> <p>14    else?</p> <p>15    A. No.</p> <p>16    Q. What does it mean to report</p> <p>17    to Senator Rankin, what does that</p> <p>18    encompass?</p> <p>19    A. Senator Rankin gave broad</p> <p>20    direction as to the redistricting</p> <p>21    process. If there were policy</p> <p>22    decisions to be made about</p> <p>23    redistricting Senator Rankin was the</p> <p>24    ultimate decision-maker.</p> <p>25    Q. Did Senator Rankin give you</p>	<p style="text-align: right;">Page 149</p> <p>1                   TERRENI</p> <p>2     committed writing?</p> <p>3     A. Mostly not.</p> <p>4     Q. Who were those directions</p> <p>5     communicated to?</p> <p>6     A. Me, Andy. I mean, his</p> <p>7     staff, Senate Judiciary staff.</p> <p>8     Q. Did you or anyone at your</p> <p>9     direction communicate those policy</p> <p>10    directions to the public?</p> <p>11    A. I don't recall doing so,</p> <p>12    no.</p> <p>13    Q. Did you implement at least</p> <p>14    the policy decisions that you just</p> <p>15    identified, keep no change to CD 7</p> <p>16    -- well, that was really the only</p> <p>17    policy direction I saw or heard.</p> <p>18    Did you implement that policy</p> <p>19    guidance?</p> <p>20    A. Generally, yes.</p> <p>21    Q. Did you implement it when</p> <p>22    the Senate staff developed the</p> <p>23    initial staff plan?</p> <p>24    A. Implementing is a strong</p> <p>25    word. There wasn't a lot of, from</p>

<p style="text-align: right;">Page 150</p> <p>1           TERRENI</p> <p>2   our perspective a lot of reason to</p> <p>3   change District 7 but, yes, you</p> <p>4   could say that.</p> <p>5       Q.   What about --</p> <p>6       A.   I'm sorry, you could say</p> <p>7   that. Yes, I'm sorry.</p> <p>8       Q.   What about with the Senate</p> <p>9   Amendment 1 by Senator Campsen, do</p> <p>10   you know if keeping CD 7 alone, was</p> <p>11   that implemented in the context of</p> <p>12   that proposed map?</p> <p>13       A.   I believe it was.</p> <p>14       Q.   And in the enacted map was</p> <p>15   that guidance implemented keeping</p> <p>16   CD 7 substantially similar. And</p> <p>17   when we are saying substantially</p> <p>18   similar, it's substantially similar</p> <p>19   to the benchmark map from 2011?</p> <p>20       A.   Yes, ma'am. Yes.</p> <p>21       Q.   Would it be fair to say</p> <p>22   that if that guidance was not</p> <p>23   written or communicated to the</p> <p>24   public, that the public could</p> <p>25   potentially propose maps that change</p>	<p style="text-align: right;">Page 152</p> <p>1           TERRENI</p> <p>2   you want to.</p> <p>3       Q.   I believe you mentioned</p> <p>4   that you talked about CD 7 no change</p> <p>5   and then you mentioned something</p> <p>6   about numbers and I wanted you to</p> <p>7   explain more, like he asked for some</p> <p>8   numbers, what you meant by that?</p> <p>9       A.   I don't recall saying that.</p> <p>10   If I did, I stand corrected. What I</p> <p>11   believe I said is we took cues from</p> <p>12   Senator Rankin at different stages</p> <p>13   of the process.</p> <p>14       Q.   Did Senator Rankin ever ask</p> <p>15   you for data?</p> <p>16       A.   He may have.</p> <p>17       Q.   Do you recall providing him</p> <p>18   data or do you recall asking a</p> <p>19   member of the Senate staff to</p> <p>20   provide him data?</p> <p>21       A.   I'm sure Senator Rankin may</p> <p>22   have asked for data and either I may</p> <p>23   have asked a member of the staff to</p> <p>24   or he could have asked them</p> <p>25   directly. He didn't have to go</p>
<p style="text-align: right;">Page 151</p> <p>1           TERRENI</p> <p>2   CD 7 without an awareness that that</p> <p>3   was a policy recommendation by the</p> <p>4   chair of the Senate Judiciary</p> <p>5   Committee?</p> <p>6       A.   I'm not sure it is. I</p> <p>7   believe the chair had expressed that</p> <p>8   policy preference publicly. In any</p> <p>9   case, it was never an absolute. He</p> <p>10   was saying I would like CD 7 to be</p> <p>11   kept more or less the same just as</p> <p>12   any of the other 45 members could</p> <p>13   come to us and say I'd like to do</p> <p>14   this or that.</p> <p>15       He was also the chair, we took</p> <p>16   our cues from him. He could also be</p> <p>17   outvoted. But I believe Senator</p> <p>18   Rankin was pretty open about</p> <p>19   thinking congressional District 7</p> <p>20   was a settled matter.</p> <p>21       Q.   You mentioned that Senator</p> <p>22   Rankin also asked for numbers. What</p> <p>23   type of numbers?</p> <p>24       A.   I don't think I mentioned</p> <p>25   that. I could stand corrected if</p>	<p style="text-align: right;">Page 153</p> <p>1           TERRENI</p> <p>2   through me.</p> <p>3       Q.   Did you develop or did you</p> <p>4   ask a member of the Senate staff to</p> <p>5   develop materials to share with</p> <p>6   Senator Rankin or any other senator?</p> <p>7       A.   Senator Rankin and other</p> <p>8   senators on occasion requested</p> <p>9   materials of us which I may or may</p> <p>10   not have conveyed, but I mean,</p> <p>11   again, it wasn't a formal. So Andy</p> <p>12   was always in contact with Senator</p> <p>13   Rankin, Will, anybody else. So he</p> <p>14   could have asked them as well.</p> <p>15   Materials at various points in time</p> <p>16   both prepared for Senator Rankin,</p> <p>17   yeah, sure.</p> <p>18       Q.   Did those materials include</p> <p>19   race data?</p> <p>20       A.   The statistical reports</p> <p>21   that included our -- on our plans</p> <p>22   often included race data. And yes,</p> <p>23   some of the supporting materials</p> <p>24   would have included race data.</p> <p>25       Q.   Did they include talking</p>

<p style="text-align: right;">Page 154</p> <p>1           TERRENI</p> <p>2 points for around maps and different</p> <p>3 proposals?</p> <p>4     A. Yes.</p> <p>5     Q. Did you review the data and</p> <p>6 any talking points before they were</p> <p>7 shared with legislative members?</p> <p>8     A. Often, yes. Most of the</p> <p>9 time.</p> <p>10    Q. Do you know whether Jones</p> <p>11 Day reviewed data and talking points</p> <p>12 before they were shared with</p> <p>13 legislators?</p> <p>14    A. Sometimes, yes.</p> <p>15    Q. Do you know if Jones Day</p> <p>16 reviewed maps, proposed maps before</p> <p>17 they were shared with legislators?</p> <p>18    A. Sometimes.</p> <p>19    Q. Would it be you or someone</p> <p>20 else who would determine when to</p> <p>21 share data and/or maps and/or</p> <p>22 talking points with Jones Day?</p> <p>23    A. It was generally me and</p> <p>24 Andy.</p> <p>25    Q. What was your basis for</p>	<p style="text-align: right;">Page 156</p> <p>1           TERRENI</p> <p>2 upon, you meaning the Senate relied</p> <p>3 upon for proposed maps?</p> <p>4     A. Yes.</p> <p>5     Q. Did you do that by email or</p> <p>6 by phone?</p> <p>7     A. I don't remember</p> <p>8 specifically. It could have varied</p> <p>9 depending on the data we were</p> <p>10 discussing.</p> <p>11    Q. Do you consider the</p> <p>12 question of whether communities of</p> <p>13 interest -- are you familiar with</p> <p>14 what communities of interest are?</p> <p>15    A. Yes.</p> <p>16    Q. What are they?</p> <p>17    A. They were defined in our</p> <p>18 guidelines but they are generally</p> <p>19 groupings of, demographic groupings</p> <p>20 of individuals that are defined by</p> <p>21 geographical boundaries, common</p> <p>22 shared interests, vernacular history</p> <p>23 and so forth. We have a more</p> <p>24 complete definition in the</p> <p>25 guidelines, but that's, generally</p>
<p style="text-align: right;">Page 155</p> <p>1           TERRENI</p> <p>2 determining when to share that</p> <p>3 information with Jones Day?</p> <p>4     A. There could be a lot of</p> <p>5 reasons. One might be we wanted</p> <p>6 Jones Day to check our work, make</p> <p>7 sure they didn't see any legal</p> <p>8 pitfalls to what we were advancing.</p> <p>9 We could want to confirm our own</p> <p>10 impressions with other things that</p> <p>11 have been put in front of us or</p> <p>12 options that had been asked --</p> <p>13 requested. It was generally that.</p> <p>14 Wanting legal advice from Jones Day</p> <p>15 on various proposals whether they</p> <p>16 came from us or from other people.</p> <p>17    Q. Did you ever ask to confirm</p> <p>18 that the data that you relied upon</p> <p>19 was accurate?</p> <p>20    A. Of Jones Day?</p> <p>21    Q. Yes.</p> <p>22    A. I don't think so, no.</p> <p>23    Q. Did you ever ask Jones Day</p> <p>24 to confirm the appropriateness of</p> <p>25 any of the data that you relied</p>	<p style="text-align: right;">Page 157</p> <p>1           TERRENI</p> <p>2 speaking, what you want, people with</p> <p>3 some common interest of some sort.</p> <p>4     Q. Did you -- during your work</p> <p>5 on congressional redistricting did</p> <p>6 you consider whether communities of</p> <p>7 interest were respected in various</p> <p>8 proposals by the legislature or by</p> <p>9 the public?</p> <p>10    A. Yes, we tried to.</p> <p>11    Q. Did you consider the</p> <p>12 question of whether communities of</p> <p>13 interest were respected to be a</p> <p>14 legal question?</p> <p>15    A. It was partly a legal</p> <p>16 question, partly a factual issue.</p> <p>17    Q. To the extent there was a</p> <p>18 factual question would you seek</p> <p>19 guidance from Jones Day about</p> <p>20 whether or not a communities of</p> <p>21 interest was respected?</p> <p>22    A. No.</p> <p>23    Q. How would you determine if</p> <p>24 it was factual or legal, would you</p> <p>25 do that, make that determination,</p>



<p style="text-align: right;">Page 158</p> <p>1                   TERRENI</p> <p>2   you or you in consultation with</p> <p>3   Senate counsel or how would you</p> <p>4   determine whether it was a legal or</p> <p>5   factual question?</p> <p>6       A. There was never such a</p> <p>7   distinction, such a rigid</p> <p>8   distinction, but I wouldn't have</p> <p>9   consulted Jones Day about</p> <p>10 communities of interest in South</p> <p>11 Carolina unless I was concerned</p> <p>12 about the legal defensibility of</p> <p>13 asserting a particular community of</p> <p>14 interest or the description somebody</p> <p>15 else gave a community of interest</p> <p>16 and whether it was something that</p> <p>17 could be legally justified or</p> <p>18 supported in litigation which we</p> <p>19 anticipated.</p> <p>20       Q. Do you know what contiguity</p> <p>21 is?</p> <p>22       A. Yes.</p> <p>23       Q. What is it?</p> <p>24       A. It's the connection between</p> <p>25 district boundaries which under our</p>	<p style="text-align: right;">Page 160</p> <p>1                   TERRENI</p> <p>2   generally, can generally be</p> <p>3   described as the percentage or the</p> <p>4   portion of the district, of an old</p> <p>5   district that's retained in a new</p> <p>6   district. Some people may have</p> <p>7   variations on it, but that's</p> <p>8   basically what it is, it is the</p> <p>9   heart or the bulk of the former</p> <p>10 district preserved in any district.</p> <p>11       Q. And whether an analysis of</p> <p>12 -- an analysis of -- strike that.</p> <p>13       An analysis of whether the</p> <p>14 core of a district that was being</p> <p>15 proposed how it changed this cycle</p> <p>16 as compared to under the benchmark</p> <p>17 plan, is that a factual question or</p> <p>18 a legal question in your view?</p> <p>19       A. Both.</p> <p>20       Q. What makes it a legal</p> <p>21 question?</p> <p>22       A. Well, core constituencies</p> <p>23 have been described and defined to</p> <p>24 some extent in the case law of South</p> <p>25 Carolina. Specifically I can think</p>
<p style="text-align: right;">Page 159</p> <p>1                   TERRENI</p> <p>2   policies can really be point to</p> <p>3   point contiguity as I recall or</p> <p>4   contiguity by water. But it's the</p> <p>5   requirement in general that</p> <p>6   districts be contiguous meaning that</p> <p>7   districts touch each other. You</p> <p>8   couldn't have District 1 in the</p> <p>9   northeastern corner of the state and</p> <p>10 then replicated in the southwestern</p> <p>11 corner of the state. Absent some</p> <p>12 legitimate connecting geography such</p> <p>13 as water.</p> <p>14       Q. Did you consider that to be</p> <p>15 a legal or a factual question</p> <p>16 whether a district was contiguous</p> <p>17 with another district?</p> <p>18       A. Both.</p> <p>19       Q. What about core</p> <p>20 constituency, are you familiar with</p> <p>21 that term?</p> <p>22       A. Yes.</p> <p>23       Q. What do you understand that</p> <p>24 to mean?</p> <p>25       A. Core constituency is</p>	<p style="text-align: right;">Page 161</p> <p>1                   TERRENI</p> <p>2   of Carlson [ph] County versus</p> <p>3   McConnel case in which they</p> <p>4   discussed core constituency in some</p> <p>5   detail involving how long, what</p> <p>6   percentage of the district remained</p> <p>7   districts or parts of the district</p> <p>8   that were in a district before.</p> <p>9       So you asked core</p> <p>10 constituency. We can run a core</p> <p>11 constituency report and that's a</p> <p>12 factual question in assessing maps</p> <p>13 in terms of a percentage. Then</p> <p>14 there's a second question of, you</p> <p>15 know, John, how is the court going</p> <p>16 to view this if it's litigated or</p> <p>17 how significant is this factor. I</p> <p>18 think those are legal questions and</p> <p>19 ones that we were discussing with</p> <p>20 Jones Day.</p> <p>21       Q. What about maintaining</p> <p>22 counties, cities and/or VTDs whole</p> <p>23 or whether to split them, in your</p> <p>24 view is that both a factual and a</p> <p>25 legal question?</p>

<p style="text-align: right;">Page 162</p> <p>1           TERRENI</p> <p>2           A. Yeah, it is.</p> <p>3           Q. So with respect to many of</p> <p>4 these that we just described it's a</p> <p>5 factual question whether or not they</p> <p>6 are split or not split, whole or not</p> <p>7 split whole and your view --</p> <p>8           Yes, I'm sorry?</p> <p>9           A. No, I was nodding along,</p> <p>10 sorry, go ahead.</p> <p>11          Q. And then it becomes a legal</p> <p>12 question in your view about whether</p> <p>13 or not that split or that keeping of</p> <p>14 a district as similar, you know, the</p> <p>15 amount of how a district retains or</p> <p>16 is not -- or is different from a</p> <p>17 benchmark plan the degree to whether</p> <p>18 or not that happens or if that</p> <p>19 happens is a legal question in your</p> <p>20 view or whether it's appropriate for</p> <p>21 it to split or not split, whether</p> <p>22 it's appropriate to retain this much</p> <p>23 or that little, for you that's a</p> <p>24 legal question of how the courts</p> <p>25 will view those decisions?</p>	<p style="text-align: right;">Page 164</p> <p>1           TERRENI</p> <p>2 might have done an analysis of how</p> <p>3 many splits there were of a</p> <p>4 particular county or city, and you</p> <p>5 might have both shared that data</p> <p>6 with Jones Day and asked whether or</p> <p>7 not that is defensible, both of</p> <p>8 those could have been done in the</p> <p>9 context of your communications with</p> <p>10 Jones Day?</p> <p>11          MR. GORE: I'm just going to</p> <p>12 put an objection on the record. We</p> <p>13 are getting really close to topics</p> <p>14 and conversations that may have</p> <p>15 been covered by attorney-client</p> <p>16 privilege. So if the witness can</p> <p>17 answer that without divulging</p> <p>18 privileged conversations, he can do</p> <p>19 so.</p> <p>20          A. I'm sorry, can you repeat</p> <p>21 that question?</p> <p>22          Q. Yes. Would you have on</p> <p>23 behalf of the Senate have asked</p> <p>24 Jones Day or have shared with Jones</p> <p>25 Day factual information about the</p>
<p style="text-align: right;">Page 163</p> <p>1           TERRENI</p> <p>2           A. Yes.</p> <p>3           MR. GORE: Object to form.</p> <p>4 You can answer.</p> <p>5           A. Thank you. The</p> <p>6 appropriateness or the legality, the</p> <p>7 defensibility of one feature or</p> <p>8 another of the plan would be core</p> <p>9 constituency splitting counties, the</p> <p>10 circumstances under which it's done,</p> <p>11 the reasons for it, I think those</p> <p>12 are legal questions, at least in the</p> <p>13 context that they were posed to</p> <p>14 Mr. Gore.</p> <p>15          The fact that a plan splits a</p> <p>16 county five times that's sort of a</p> <p>17 factual issue that's generated on</p> <p>18 Maptitude before. So are these</p> <p>19 concepts like communities of</p> <p>20 interest, I think they are a little</p> <p>21 hazier, but I think it's safe to say</p> <p>22 I didn't rely on Mr. Gore for his</p> <p>23 knowledge of South Carolina.</p> <p>24          Q. But you might ask -- you</p> <p>25 might -- is it fair to say that you</p>	<p style="text-align: right;">Page 165</p> <p>1           TERRENI</p> <p>2 number of splits in a particular</p> <p>3 plan?</p> <p>4           A. Yeah.</p> <p>5           Q. Would you have asked Jones</p> <p>6 Day to confirm whether those numbers</p> <p>7 that you shared were accurate or</p> <p>8 not?</p> <p>9           A. No.</p> <p>10          Q. You would -- would you have</p> <p>11 expected that they would have</p> <p>12 checked the accuracy of data that</p> <p>13 you shared with them?</p> <p>14          A. No.</p> <p>15          Q. But you would have asked</p> <p>16 them whether or not that number of</p> <p>17 splits is defensible or not, is that</p> <p>18 fair to say?</p> <p>19          A. I could have, yeah. I</p> <p>20 could have. I mean I -- when it</p> <p>21 comes to a number of splits I mean</p> <p>22 we had Maptitude and Will Roberts</p> <p>23 for that. I didn't need John Gore</p> <p>24 for that. You know, the Senate plan</p> <p>25 with various attributes and I'd say</p>



<p style="text-align: right;">Page 166</p> <p>1           TERRENI</p> <p>2   the question generally was give us</p> <p>3   your legal opinion whether this plan</p> <p>4   complies with redistricting law and</p> <p>5   whether it will be defensible in</p> <p>6   litigation.</p> <p>7       Q. Just to be clear, any of</p> <p>8   the plans that you would have sent</p> <p>9   to Jones Day would have included</p> <p>10   statistical data that captured some</p> <p>11   racial demographics?</p> <p>12       A. No. It could have. It</p> <p>13   didn't necessarily. It's possible.</p> <p>14   Often do. But not -- we wouldn't</p> <p>15   have mandate. It wasn't pertinent</p> <p>16   to the question so we probably</p> <p>17   wouldn't have sent it. I don't</p> <p>18   know.</p> <p>19       Q. Looking back at this</p> <p>20   retainer letter.</p> <p>21       A. Yes, ma'am.</p> <p>22       Q. How would you have</p> <p>23   communicated or reported to Chairman</p> <p>24   Rankin, by phone, by text, by email</p> <p>25   or combination thereof?</p>	<p style="text-align: right;">Page 168</p> <p>1           TERRENI</p> <p>2       Q. Who did you send the bill</p> <p>3   to?</p> <p>4       A. The bill goes to Andy</p> <p>5   Fiffick and the Senate clerk.</p> <p>6       Q. Is it fair to say that</p> <p>7   based upon this retainer you bill on</p> <p>8   a monthly basis?</p> <p>9       A. I generally do, yes.</p> <p>10       Q. Okay. Do you know the</p> <p>11   source of those funds?</p> <p>12       A. The State of South</p> <p>13   Carolina.</p> <p>14       Q. And this is, reflects a</p> <p>15   retainer from December 30, 2019, is</p> <p>16   that fair to say? At the top of</p> <p>17   South Carolina Senate?</p> <p>18       A. Yes, ma'am.</p> <p>19       Q. 4353, it's dated</p> <p>20   December 30, 2019?</p> <p>21       A. Yes, ma'am.</p> <p>22       Q. Do you know approximately</p> <p>23   how much you have billed for your</p> <p>24   work on redistricting under this</p> <p>25   retainer since December 30, 2019?</p>
<p style="text-align: right;">Page 167</p> <p>1           TERRENI</p> <p>2       A. Combination. And in</p> <p>3   person.</p> <p>4       Q. Are you still employed by</p> <p>5   the Senate?</p> <p>6       A. I never was employed by the</p> <p>7   Senate unless you count my time as a</p> <p>8   Senate page. I'm under contract.</p> <p>9   Is the Senate paying my bills now,</p> <p>10   yeah.</p> <p>11       Q. Are you still -- is this</p> <p>12   retainer agreement still in effect</p> <p>13   with respect to your work with the</p> <p>14   Senate?</p> <p>15       A. Yes.</p> <p>16       Q. Looking at the second</p> <p>17   paragraph it reflects your hourly</p> <p>18   rate?</p> <p>19       A. Yes.</p> <p>20       Q. And shares the process by</p> <p>21   which you will bill for your work on</p> <p>22   behalf of the Senate. Who do you</p> <p>23   bill?</p> <p>24       A. The Senate. I mean</p> <p>25   specifically?</p>	<p style="text-align: right;">Page 169</p> <p>1           TERRENI</p> <p>2       A. No, ma'am.</p> <p>3       Q. Would it be fair to say</p> <p>4   that you have at least attempted to</p> <p>5   on a monthly basis provide bills to</p> <p>6   the Senate, Andy Fiffick or someone</p> <p>7   else, on a monthly basis since</p> <p>8   December 30, 2019?</p> <p>9       A. Generally speaking. If</p> <p>10   there was a month without a lot of</p> <p>11   work I might have held the bill</p> <p>12   until the next month, but we</p> <p>13   generally bill monthly.</p> <p>14       Q. Do you know whether your</p> <p>15   monthly bills, would they range in</p> <p>16   amount of \$5,000, \$10,000, \$20,000?</p> <p>17       A. It would vary. I mean back</p> <p>18   in 2019 they might have been very</p> <p>19   small. During -- after the PL data</p> <p>20   came out they would have been</p> <p>21   substantially more because I was</p> <p>22   spending more time. I don't really</p> <p>23   -- I mean -- that's my answer. I</p> <p>24   don't know.</p> <p>25       Q. Between November and</p>

<p style="text-align: right;">Page 170</p> <p>1                   TERRENI</p> <p>2   January, November of 2020 and</p> <p>3   January of 20 -- I'm sorry, November</p> <p>4   of 2021 and January of 2022, do you</p> <p>5   know approximately how much you</p> <p>6   would have billed for that time when</p> <p>7   congressional redistricting would</p> <p>8   have been pretty active with the</p> <p>9   Senate?</p> <p>10   A. 70,000 maybe. Somewhere</p> <p>11   70, a hundred. I don't -- somewhere</p> <p>12   in that range.</p> <p>13   Q. And based upon this</p> <p>14   retainer there's no cap to the</p> <p>15   amount that you can bill, is that</p> <p>16   fair to say?</p> <p>17   A. \$300 an hour.</p> <p>18   Q. And there's been no</p> <p>19   addendum to this agreement, is that</p> <p>20   fair to say?</p> <p>21   A. No, ma'am.</p> <p>22   MS. ADEN: Okay. We have been</p> <p>23   going for a bit. It's 1:08. We</p> <p>24   started at 10:00. For the purposes</p> <p>25   of the court reporter if we could</p>	<p style="text-align: right;">Page 172</p> <p>1                   TERRENI</p> <p>2   AFTERNOON SESSION</p> <p>3   (Time noted: 1:41 p.m.)</p> <p>4   CHARLES TERRENI,</p> <p>5   resumed and testified as follows:</p> <p>6   EXAMINATION BY (Cont'd.)</p> <p>7   MS. ADEN:</p> <p>8   Q. So I'd like to focus your</p> <p>9   attention on some questions about</p> <p>10   the Senate redistricting criteria</p> <p>11   and guidelines. If you look at tab</p> <p>12   1, which is an email from Paula</p> <p>13   Benson to Senator Campsen, it copies</p> <p>14   you Mr. Terreni with the subject</p> <p>15   adopted guidelines and description</p> <p>16   of Thornburg versus Gingles and NCSL</p> <p>17   redbook dated January 18, 2022, it</p> <p>18   has two attachments, it's Bates</p> <p>19   stamped South Carolina Senate 22356</p> <p>20   to 22364 and this will be</p> <p>21   Plaintiffs' Exhibit 9 I believe.</p> <p>22   (Plaintiffs' Exhibit 9, Email</p> <p>23   from Paula Benson to Senator</p> <p>24   Campsen with attachments, Bates</p> <p>25   South Carolina Senate 22356, marked</p>
<p style="text-align: right;">Page 171</p> <p>1                   TERRENI</p> <p>2   go off the record for a second and</p> <p>3   talk about whether or not it would</p> <p>4   be a good time for us to take a</p> <p>5   short lunch. I know we want to</p> <p>6   keep pushing through the day, I</p> <p>7   imagine, but I would love to</p> <p>8   respect everyone's need for blood</p> <p>9   sugar.</p> <p>10   (Luncheon recess: 1:08 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 173</p> <p>1                   TERRENI</p> <p>2   for identification, as of this</p> <p>3   date.)</p> <p>4   Q. Do you have that?</p> <p>5   A. Yes, ma'am.</p> <p>6   Q. What is your understanding</p> <p>7   of what these documents are?</p> <p>8   A. Well, one is an email from</p> <p>9   Paula to Senator Campsen sending him</p> <p>10   the guidelines adopted by the</p> <p>11   subcommittee, an excerpt from the</p> <p>12   NCSL redbook which is the NCSL's</p> <p>13   guide on redistricting discussing</p> <p>14   Thornburg versus Gingles.</p> <p>15   Q. I want to focus your</p> <p>16   attention on page 2, South Carolina</p> <p>17   Senate 22357. Looking at that first</p> <p>18   paragraph at the top of the page is</p> <p>19   it fair to say that the Senate</p> <p>20   guidelines identified the purpose of</p> <p>21   them is to: "A, the redistricting</p> <p>22   subcommittee and interested parties</p> <p>23   in developing and evaluating</p> <p>24   redistricting plan proposals"?</p> <p>25   A. Yes.</p>

<p style="text-align: right;">Page 174</p> <p>1           TERRENI</p> <p>2       Q. Based on that stated</p> <p>3 purpose would you agree that the</p> <p>4 public would reasonably look to this</p> <p>5 document to understand the</p> <p>6 guidelines that the Senate would be</p> <p>7 used to develop and consider public</p> <p>8 proposals?</p> <p>9       A. Yes.</p> <p>10      Q. To evaluate public</p> <p>11 proposals?</p> <p>12      A. In part.</p> <p>13      Q. What else would it look to</p> <p>14 besides these guidelines if it's in</p> <p>15 part?</p> <p>16      A. Well, their policy</p> <p>17 preferences and political</p> <p>18 considerations. In any</p> <p>19 redistricting process these are</p> <p>20 factors that are going to be</p> <p>21 considered in the end backdrop to</p> <p>22 that.</p> <p>23      Q. And if those policy</p> <p>24 preferences and political</p> <p>25 considerations that are in the</p>	<p style="text-align: right;">Page 176</p> <p>1           TERRENI</p> <p>2 those views and policy preferences</p> <p>3 expressed in guidelines, no. I mean</p> <p>4 they couldn't be and they are not</p> <p>5 meant to be.</p> <p>6      Q. Could these guidelines be</p> <p>7 modified?</p> <p>8      A. By the Senate subcommittee.</p> <p>9      Q. Could they? There's no</p> <p>10 rule that prevents them from being</p> <p>11 modified after September 17th, 2021;</p> <p>12 is that correct?</p> <p>13      A. Correct.</p> <p>14      Q. And there's no prohibition</p> <p>15 on reducing -- let me strike that.</p> <p>16      Do you think it would be fair</p> <p>17 to the public if a policy preference</p> <p>18 became important to the decision</p> <p>19 about whether a map would be adopted</p> <p>20 or not for that to be publicized in</p> <p>21 a way acceptable to the general</p> <p>22 public?</p> <p>23      MR. GORE: Object to form.</p> <p>24      A. I'm struggling to</p> <p>25 understand the question. Would it</p>
<p style="text-align: right;">Page 175</p> <p>1           TERRENI</p> <p>2 backdrop are not reduced to writing</p> <p>3 in the context of South Carolina's</p> <p>4 redistricting process's cycle would</p> <p>5 it be fair to say that the public</p> <p>6 would only know about those</p> <p>7 preferences and policy</p> <p>8 considerations if they were made on</p> <p>9 the public record at a hearing or on</p> <p>10 one of the documents that the Senate</p> <p>11 posted to its website?</p> <p>12      A. The public in general, I</p> <p>13 mean members of the public could</p> <p>14 communicate with individual members</p> <p>15 of the Senate and I assume they have</p> <p>16 conversations about what they would</p> <p>17 like or not like. The point being</p> <p>18 these are sort of common guidelines</p> <p>19 that were adopted by the Senate for</p> <p>20 the redistricting process.</p> <p>21      Now, one individual senator</p> <p>22 may have a different view of what</p> <p>23 the resulting plan might look like</p> <p>24 from the other. They may have</p> <p>25 several views. Are every one of</p>	<p style="text-align: right;">Page 177</p> <p>1           TERRENI</p> <p>2 be fair?</p> <p>3      Q. Yes. Would it be --</p> <p>4      A. It could be fair. It could</p> <p>5 be unfair. I mean that's not my --</p> <p>6 do I think it would be? I mean, no.</p> <p>7 If what you are talking about is</p> <p>8 what every representative, elected</p> <p>9 official expresses in the map</p> <p>10 drawing process, I mean if they</p> <p>11 wanted to do that they are free to</p> <p>12 do it, but that's not the system we</p> <p>13 have. I mean they -- I'm not sure</p> <p>14 what we are saying here.</p> <p>15      Q. Do you consider these</p> <p>16 criteria, these guidelines binding</p> <p>17 on a subcommittee's decision-making</p> <p>18 with respect to congressional maps?</p> <p>19      A. I think the subcommittee is</p> <p>20 free to do what the subcommittee</p> <p>21 wants to do. They pass guidelines.</p> <p>22 If they want to deviate from the</p> <p>23 guidelines and they take a vote to</p> <p>24 do it, they are free to do it.</p> <p>25      Q. And as far as you are</p>

<p style="text-align: right;">Page 178</p> <p>1           TERRENI</p> <p>2    aware, was there any vote to deviate</p> <p>3    from these guidelines during this</p> <p>4    past redistricting cycle?</p> <p>5       A. Not that I'm aware of.</p> <p>6       Q. Based upon the stated</p> <p>7    purpose would you agree that the</p> <p>8    public would reasonably look to this</p> <p>9    document to understand the criteria,</p> <p>10   the guidelines, the Senate would be</p> <p>11   perhaps identified as useful to</p> <p>12   developing proposals by the</p> <p>13   legislature?</p> <p>14       A. Yeah.</p> <p>15       Q. And to evaluate the map</p> <p>16   ultimately enacted by the</p> <p>17   legislature?</p> <p>18       A. They would be one -- there</p> <p>19   would be one measure. I mean a</p> <p>20   number of people submitted very</p> <p>21   different policy proposals that they</p> <p>22   asserted complied with the</p> <p>23   guidelines. And certainly with the</p> <p>24   more objective measures such as plus</p> <p>25   or minus one and that kind of thing.</p>	<p style="text-align: right;">Page 180</p> <p>1           TERRENI</p> <p>2    our community. It's Bates stamped</p> <p>3    South Carolina Senate 3745.</p> <p>4       A. Um-hmm.</p> <p>5       Q. Have you found that</p> <p>6    document?</p> <p>7       A. I have.</p> <p>8       (Plaintiffs' Exhibit 10, South</p> <p>9    Carolina Senate Redistricting</p> <p>10   Subcommittee 2021 Public Hearings,</p> <p>11   Bates South Carolina Senate 3745,</p> <p>12   marked for identification, as of</p> <p>13   this date.)</p> <p>14       Q. Do you recognize this</p> <p>15   document?</p> <p>16       A. Yes.</p> <p>17       Q. Did you help create it?</p> <p>18       A. I may have.</p> <p>19       Q. Can you read into the</p> <p>20   record the first two sentences under</p> <p>21   Redistricting Guidelines beginning</p> <p>22   with "Redistricting guidelines or</p> <p>23   criteria"?</p> <p>24       A. Yes. "Redistricting</p> <p>25   guidelines or criteria are the rules</p>
<p style="text-align: right;">Page 179</p> <p>1           TERRENI</p> <p>2    They did. I mean but they were very</p> <p>3    different. I mean so I'm not</p> <p>4    sure -- yes, the public would look</p> <p>5    to these guidelines but then express</p> <p>6    their policy differences through the</p> <p>7    guidelines. In other words, they</p> <p>8    might say well, no, I think my map,</p> <p>9    which is, complies with the</p> <p>10   guidelines, is a threshold matter is</p> <p>11   a better policy choice than somebody</p> <p>12   else's map just as you did versus</p> <p>13   other maps that were for your</p> <p>14   organization versus other maps that</p> <p>15   were submitted.</p> <p>16       Q. Did you or the Senate</p> <p>17   present the guidelines to the public</p> <p>18   as rules for how the maps would be</p> <p>19   judged?</p> <p>20       A. I don't recall using that</p> <p>21   language, no.</p> <p>22       Q. Let's look at tab 49, which</p> <p>23   is a document titled South Carolina</p> <p>24   Senate Redistricting Subcommittee</p> <p>25   2021 Public Hearings. Tell us about</p>	<p style="text-align: right;">Page 181</p> <p>1           TERRENI</p> <p>2    of the road for how district lines</p> <p>3    are redrawn in accordance with</p> <p>4    state's population. Criteria is</p> <p>5    intended to make the districts easy</p> <p>6    to identify and understand and to</p> <p>7    ensure fairness and consistency."</p> <p>8       Q. So based upon this document</p> <p>9    do you have any reason to disagree</p> <p>10   that this document was publicized by</p> <p>11   the Senate Judiciary Redistricting</p> <p>12   Subcommittee during this last round</p> <p>13   of redistricting?</p> <p>14       A. No.</p> <p>15       Q. And is it fair to say that</p> <p>16   this document that was publicized</p> <p>17   identified the redistricting</p> <p>18   guidelines as rules of the road for</p> <p>19   how lines will be redrawn?</p> <p>20       A. Yeah. The rules of the</p> <p>21   road for how lines would be drawn,</p> <p>22   they are not the exclusive criteria</p> <p>23   for how lines will be judged and I</p> <p>24   feel confident everybody understood</p> <p>25   that because they submitted vastly</p>

<p style="text-align: right;">Page 182</p> <p>1           TERRENI</p> <p>2   different things using these same</p> <p>3   rules. I think there's a</p> <p>4   difference. That's the colloquial</p> <p>5   language we use and I think it was</p> <p>6   well understood by everybody.</p> <p>7       Q. Are you aware that Senator</p> <p>8   Rankin has been deposed in this</p> <p>9   case?</p> <p>10    A. I am.</p> <p>11    Q. Would it surprise you if he</p> <p>12   referred to the guidelines as the</p> <p>13   end all and be all for the Senate's</p> <p>14   consideration of congressional maps?</p> <p>15    A. I would have to see his</p> <p>16   deposition. I don't know how to</p> <p>17   judge that statement in isolation.</p> <p>18    Q. Would it surprise you if he</p> <p>19   said that the Senate would not and</p> <p>20   could not deviate from these</p> <p>21   guidelines?</p> <p>22    A. No.</p> <p>23    Q. Would you disagree then</p> <p>24   with Senator Rankin's assessment of</p> <p>25   the import of these guidelines</p>	<p style="text-align: right;">Page 184</p> <p>1           TERRENI</p> <p>2       Q. Who made the decision to</p> <p>3   hire Jones Day this cycle?</p> <p>4       A. Senator Rankin.</p> <p>5       Q. Were you privy to the scope</p> <p>6   of the retention with Jones Day?</p> <p>7       A. Probably.</p> <p>8       Q. Do you know who pays Jones</p> <p>9   Day?</p> <p>10    A. The State of South</p> <p>11   Carolina.</p> <p>12    Q. Do you know how much they</p> <p>13   are paid an hour for their</p> <p>14   representation in this litigation?</p> <p>15    A. I don't recall.</p> <p>16    Q. Do you know what the scope</p> <p>17   -- do you know how much they were</p> <p>18   paid for their work with</p> <p>19   congressional redistricting prior to</p> <p>20   this litigation?</p> <p>21    A. At one time I did. I do</p> <p>22   not recall. And I should clarify</p> <p>23   that I really don't have any direct</p> <p>24   knowledge of any arrangements that</p> <p>25   may be specific to the litigation.</p>
<p style="text-align: right;">Page 183</p> <p>1           TERRENI</p> <p>2   notwithstanding?</p> <p>3       A. I have no way of saying</p> <p>4   that. I would need for context.</p> <p>5       Q. Going back to tab 1 on the</p> <p>6   Senate guidelines, were you involved</p> <p>7   in the creation of them?</p> <p>8       A. Yes.</p> <p>9       Q. How so?</p> <p>10    A. I was in -- had some input</p> <p>11   in the drafting of the document that</p> <p>12   ultimately was adopted by the Senate</p> <p>13   subcommittee.</p> <p>14    Q. Did you or -- did you or</p> <p>15   are you aware of anyone who shared</p> <p>16   these draft guidelines with the</p> <p>17   Jones Day law firm?</p> <p>18    A. I'm sure I shared them with</p> <p>19   the Jones Day law firm.</p> <p>20    Q. Was anyone else outside of</p> <p>21   the Senate consulted in the</p> <p>22   development of these guidelines?</p> <p>23    A. No, ma'am.</p> <p>24    Q. Outside of Jones Day?</p> <p>25    A. Not that I know of.</p>	<p style="text-align: right;">Page 185</p> <p>1           TERRENI</p> <p>2       Q. Did you see a retention</p> <p>3   agreement with Jones Day similar to</p> <p>4   the retention agreement you had with</p> <p>5   the Senate at any point in your work</p> <p>6   on redistricting this cycle?</p> <p>7       A. I believe I saw the</p> <p>8   original retention agreement which</p> <p>9   would not have been similar to mine,</p> <p>10   at least in form. But I saw a</p> <p>11   retention agreement.</p> <p>12    Q. Roman numeral I of these</p> <p>13   guidelines on this first page is</p> <p>14   identified as Requirements of</p> <p>15   Federal Law.</p> <p>16    A. Yes, ma'am.</p> <p>17    Q. If you look at under Roman</p> <p>18   numeral I-A2 Congressional</p> <p>19   Districts.</p> <p>20    A. Um-hmm.</p> <p>21    Q. Is it fair to say that the</p> <p>22   guidelines urged congressional maps</p> <p>23   to avoid populational deviations of</p> <p>24   one person but recognized that a</p> <p>25   deviation, however small, can be</p>

<p style="text-align: right;">Page 186</p> <p>1                   TERRENI</p> <p>2   just fiduciary, is that your</p> <p>3   understanding?</p> <p>4       A. Yes.</p> <p>5       Q. Under Roman numeral I-B</p> <p>6   still in the federal law section</p> <p>7   it's titled Voting Rights. Could</p> <p>8   you take a moment to read that</p> <p>9   sentence.</p> <p>10   A. "A redistricting plan for</p> <p>11   the general assembly or Congress</p> <p>12   must not have either the purpose or</p> <p>13   the effect of diluting minority</p> <p>14   voting strength and must otherwise</p> <p>15   comply with Section 2 of the Voting</p> <p>16   Rights Act, as expressed in</p> <p>17   Thornburg versus Gingles and its</p> <p>18   progeny, and the 14th and 15th</p> <p>19   amendments to the U.S.</p> <p>20   Constitution."</p> <p>21   Q. What did understand the</p> <p>22   diluting a minority voting strength</p> <p>23   mean?</p> <p>24   A. Generally speaking it means</p> <p>25   the diluting of -- the effective</p>	<p style="text-align: right;">Page 188</p> <p>1                   TERRENI</p> <p>2       Q. Could it include the</p> <p>3   packing of black voters?</p> <p>4       A. It could as the term is</p> <p>5   used in the case law.</p> <p>6       Q. Could it include both the</p> <p>7   packing and cracking of black</p> <p>8   voters?</p> <p>9       A. Yes.</p> <p>10   Q. I believe you mentioned the</p> <p>11   three Gingles preconditions. Are</p> <p>12   the three Gingles preconditions that</p> <p>13   you mentioned what you would</p> <p>14   consider to be the test for whether</p> <p>15   there's dilution of minority voting</p> <p>16   strength?</p> <p>17   A. It would be one test.</p> <p>18   Q. What is the other or what</p> <p>19   is another?</p> <p>20   A. Well, racial gerrymandering</p> <p>21   could, I don't suppose it</p> <p>22   necessarily has to, but could result</p> <p>23   in the dilution of minority voting</p> <p>24   strength. It could result in the</p> <p>25   enhancement of the minority voting</p>
<p style="text-align: right;">Page 187</p> <p>1                   TERRENI</p> <p>2   reduction of a minority community's</p> <p>3   ability to exercise its electoral</p> <p>4   franchise either through Section 2</p> <p>5   by electing a representative of its</p> <p>6   choice or through the ability to</p> <p>7   elect or an opportunity to elect a</p> <p>8   representative of its choice</p> <p>9   regarding the three Thornburg versus</p> <p>10   Gingles preconditions are met and,</p> <p>11   three, the avoidance of intentional</p> <p>12   or predominantly race based</p> <p>13   redistricting under the 14th</p> <p>14   amendment as shown in subsequent</p> <p>15   case law.</p> <p>16   Q. In South Carolina would</p> <p>17   minorities include black voters?</p> <p>18   A. Yes.</p> <p>19   Q. Would an example of</p> <p>20   dilution of racial or ethnic</p> <p>21   minority voting strength include the</p> <p>22   cracking of black voters?</p> <p>23   A. It's a legal term but yes,</p> <p>24   it could. It could as the term is</p> <p>25   used in the case law.</p>	<p style="text-align: right;">Page 189</p> <p>1                   TERRENI</p> <p>2   strength as well, but that would be</p> <p>3   another way of doing it.</p> <p>4       Q. I believe you mentioned</p> <p>5   earlier that racial gerrymandering</p> <p>6   can be demonstrated through direct</p> <p>7   evidence of dilution, is that your</p> <p>8   understanding?</p> <p>9       A. I may have said that, but I</p> <p>10   need to -- I mean the central</p> <p>11   question of racial gerrymandering</p> <p>12   would be whether race was a</p> <p>13   predominant factor in the</p> <p>14   redistricting process and whether or</p> <p>15   not if it was the predominant factor</p> <p>16   in redistricting process whether it</p> <p>17   was the predominant factor in order</p> <p>18   to serve a compelling state</p> <p>19   interest.</p> <p>20   Q. And what do you understand</p> <p>21   to be compelling state interest?</p> <p>22   A. Under some circumstances</p> <p>23   compliance of Section 2 could be a</p> <p>24   compelling state interest.</p> <p>25   Compliance of Section 2 does not</p>



<p style="text-align: right;">Page 190</p> <p>1           TERRENI</p> <p>2   always have to be. I assume you can</p> <p>3   comply with Section 2 without having</p> <p>4   to consider race as the predominant</p> <p>5   factor but it could be.</p> <p>6   Q. What about remedying</p> <p>7   historical discrimination, has that</p> <p>8   been recognized as a compelling</p> <p>9   state interest?</p> <p>10   A. It may have been recognized</p> <p>11   as a compelling state interest but</p> <p>12   in the current redistricting</p> <p>13   framework, as I understand it,</p> <p>14   unless it's expressed through the</p> <p>15   Voting Rights Act it wouldn't in and</p> <p>16   of itself be -- I don't know there</p> <p>17   would be a compelling state interest</p> <p>18   for using race as the predominant</p> <p>19   factor in redistricting. I never</p> <p>20   really had to encounter that.</p> <p>21   Q. If staff was instructed not</p> <p>22   to consider race during</p> <p>23   congressional redistricting, who</p> <p>24   would have made that decision on</p> <p>25   behalf of the Senate?</p>	<p style="text-align: right;">Page 192</p> <p>1           TERRENI</p> <p>2   Chairman Rankin instructed Senate</p> <p>3   staff not to consider race during</p> <p>4   congressional redistricting?</p> <p>5   A. I don't recall him doing</p> <p>6   that.</p> <p>7   Q. Is that something you would</p> <p>8   recall?</p> <p>9   A. Probably.</p> <p>10   Q. Because it's important</p> <p>11   whether or not the Senate could</p> <p>12   consider race or not in drawing</p> <p>13   redistricting lines?</p> <p>14   A. No. It's just because it</p> <p>15   would have been a specific</p> <p>16   instruction from Senator Rankin. I</p> <p>17   mean when you say considering race,</p> <p>18   if you are asking did Senate staff</p> <p>19   look at the racial impact of various</p> <p>20   draws or the racial composition in</p> <p>21   districts under various draws, the</p> <p>22   answer is yes. Was it the</p> <p>23   predominant factor in guiding</p> <p>24   redistrict -- proposed redistricting</p> <p>25   fans, no, and was it a predominant</p>
<p style="text-align: right;">Page 191</p> <p>1           TERRENI</p> <p>2   MR. GORE: Again, I'm just</p> <p>3   going to object to the extent this</p> <p>4   calls for attorney-client</p> <p>5   communications. And the witness</p> <p>6   can answer to the extent he can do</p> <p>7   so without divulging confidential</p> <p>8   or privileged information.</p> <p>9   A. Well, the question is if</p> <p>10   staff were considered -- were</p> <p>11   instructed not to consider race in</p> <p>12   redistricting who would have</p> <p>13   instructed staff in that fashion, is</p> <p>14   that -- did I restate your question</p> <p>15   fairly?</p> <p>16   Q. Yes.</p> <p>17   A. Well, I don't think anybody</p> <p>18   could have instructed staff in that</p> <p>19   regard better than the chairman or</p> <p>20   the subcommittee and the vote if</p> <p>21   that guidance was given. However,</p> <p>22   if that guidance were given, it</p> <p>23   would have been given by counsel,</p> <p>24   me, Mr. Gore, Mr. Fiffick.</p> <p>25   Q. Are you aware whether</p>	<p style="text-align: right;">Page 193</p> <p>1           TERRENI</p> <p>2   factor for the subcommittee, I don't</p> <p>3   believe it was.</p> <p>4   Q. Who would have made the</p> <p>5   determination of whether or not race</p> <p>6   was the predominant factor in</p> <p>7   redrawing the congressional map?</p> <p>8   A. The courts.</p> <p>9   Q. So that decision, that</p> <p>10   analysis of whether race was the</p> <p>11   predominant factor in the redrawing</p> <p>12   of South Carolina's congressional</p> <p>13   map, that has not been determined</p> <p>14   yet because litigation is ongoing?</p> <p>15   A. I mean that's the way I see</p> <p>16   it. If you are asking whether or</p> <p>17   not we consider race as the</p> <p>18   predominant factor, the answer is</p> <p>19   no.</p> <p>20   Q. Because that's a factual</p> <p>21   question because there hasn't been a</p> <p>22   legal determination yet?</p> <p>23   A. Well, I suppose so. I mean</p> <p>24   obviously we don't think it was.</p> <p>25   You seem to think that it was the</p>

<p style="text-align: right;">Page 194</p> <p>1                   TERRENI</p> <p>2   predominant factor and the courts</p> <p>3   are going to have decide.</p> <p>4    Q. If an individual member</p> <p>5   said during the redistricting</p> <p>6   process that they did not consider</p> <p>7   race, is it your position that they</p> <p>8   were not instructed to do so by</p> <p>9   Senator Rankin as far as you are</p> <p>10   aware?</p> <p>11   A. I'm not aware of Senator</p> <p>12   Rankin instructing individual</p> <p>13   members to do things one way or</p> <p>14   another.</p> <p>15   Q. Do you see anything, and</p> <p>16   you can take a moment looking at</p> <p>17   this guidance, do you see anything</p> <p>18   in the guidance saying that race</p> <p>19   would not be considered in the</p> <p>20   development of redistricting lines</p> <p>21   for maps in South Carolina during</p> <p>22   this cycle?</p> <p>23   A. I don't think so. And it</p> <p>24   says race must not be the</p> <p>25   predominant factor. Yeah. I mean</p>	<p style="text-align: right;">Page 196</p> <p>1                   TERRENI</p> <p>2   consideration of race mean to you in</p> <p>3   redrawing lines?</p> <p>4    A. As a practical matter we</p> <p>5   consider race in that we look at the</p> <p>6   racial impact of different</p> <p>7   permutations or different plans when</p> <p>8   we draw; in other words, it's a</p> <p>9   question. It is also a question,</p> <p>10   no. I said it could be a question.</p> <p>11   What is the BVAP. Why is that?</p> <p>12   Because for one thing if it involves</p> <p>13   a minority-majority district people</p> <p>14   are going to raise questions about</p> <p>15   that. Did you pack it, did you</p> <p>16   crack it. Same questions you are</p> <p>17   raising now. So for us to just put</p> <p>18   blinders on and say I don't want to</p> <p>19   look at BVAP, I don't think is</p> <p>20   practical in redistricting in South</p> <p>21   Carolina. Does it mean that</p> <p>22   everything is guided by BVAP? No.</p> <p>23   It just means that, hey, if there's</p> <p>24   going to be a substantial change in</p> <p>25   this district, if there's going to</p>
<p style="text-align: right;">Page 195</p> <p>1                   TERRENI</p> <p>2   I'm not aware of any instruction in</p> <p>3   the guidelines that says don't</p> <p>4   consider race. Now, whatever</p> <p>5   individual members wanted to do</p> <p>6   could be that individual members</p> <p>7   said I'm just not going to look at</p> <p>8   race at all. I mean I think that</p> <p>9   would be a permissible policy</p> <p>10   decision on their part. I had no</p> <p>11   control over that.</p> <p>12   Q. I want to understand a</p> <p>13   little bit more what you believe to</p> <p>14   be the consideration of race and I</p> <p>15   believe you recently testified a few</p> <p>16   moments ago that it's looking at the</p> <p>17   racial impact of lines on a</p> <p>18   particular protected community, is</p> <p>19   that fair to say?</p> <p>20   A. Yeah, by impact I mean you</p> <p>21   change the composition of the</p> <p>22   district is the starting point.</p> <p>23   Q. Is the --</p> <p>24   A. Is a starting point.</p> <p>25   Q. What else does</p>	<p style="text-align: right;">Page 197</p> <p>1                   TERRENI</p> <p>2   be a substantial change in the BVAP</p> <p>3   of the district, there's substantial</p> <p>4   inquiries in the BVAP for the</p> <p>5   district that may raise some</p> <p>6   questions that we have to explore,</p> <p>7   either legal questions or practical</p> <p>8   questions. I may need to call</p> <p>9   Mr. Gore UP and say hey, would this</p> <p>10   district caused some legal concerns</p> <p>11   from the racial gerrymandering</p> <p>12   standpoint where because it's</p> <p>13   resulting in a different BVAP</p> <p>14   impact. It's just one of those</p> <p>15   things like county boundaries,</p> <p>16   precinct boundaries, whatever you</p> <p>17   should reconsider.</p> <p>18   Q. Could keeping BVAP as at</p> <p>19   the relative same levels as the 2011</p> <p>20   benchmark map also have a racial</p> <p>21   impact?</p> <p>22   A. Could keeping BVAP -- I</p> <p>23   mean it's going to be what it is,</p> <p>24   right? I mean you either drop it,</p> <p>25   raise it or keep it the same. It's</p>



<p style="text-align: right;">Page 198</p> <p>1           TERRENI</p> <p>2 all an impact, right?</p> <p>3       Q. So keeping BVAP at a</p> <p>4 similar level as the 2011 map could</p> <p>5 that be under certain actual</p> <p>6 scenarios dilution of minority</p> <p>7 voting strength?</p> <p>8       A. Oh, I'm sorry. I didn't --</p> <p>9       Q. I didn't say it great</p> <p>10 before so it wasn't -- I said it</p> <p>11 better I think the second time.</p> <p>12       A. Could it be dilution to</p> <p>13 keep it in the benchmark plan under</p> <p>14 the 2011 -- I mean under 2020 census</p> <p>15 numbers. In other words, you have a</p> <p>16 benchmark plan that was X in</p> <p>17 District 6, it's now Y in</p> <p>18 District 6, could that be dilution</p> <p>19 if you leave it at Y and you don't</p> <p>20 make some corresponding change.</p> <p>21 Could be.</p> <p>22       Q. I think earlier you</p> <p>23 testified that at some point you</p> <p>24 readily Arlington Heights case but</p> <p>25 you are not super familiar with it,</p>	<p style="text-align: right;">Page 200</p> <p>1           TERRENI</p> <p>2 of what the test would be for</p> <p>3 proving purposeful discrimination</p> <p>4 under Section 2?</p> <p>5       A. I imagine it would be an</p> <p>6 evidentiary test.</p> <p>7       Q. Who was responsible to the</p> <p>8 extent that compliance with the</p> <p>9 Voting Rights Act was a criteria</p> <p>10 that was evaluated in consideration</p> <p>11 of Senate maps, proposed maps or</p> <p>12 even public maps, who was</p> <p>13 responsible for making the</p> <p>14 determination that a map complied</p> <p>15 with the Voting Rights Act?</p> <p>16       A. Primarily the legal</p> <p>17 question of voting rights compliance</p> <p>18 and likely or unlikely liability</p> <p>19 under the Voting Rights Act would</p> <p>20 have been something we consulted</p> <p>21 with Mr. Gore on.</p> <p>22       So in other words, if we have</p> <p>23 a map that we were interested in and</p> <p>24 we had some questions about it we</p> <p>25 would go to Mr. Gore and say,</p>
<p style="text-align: right;">Page 199</p> <p>1           TERRENI</p> <p>2 is that fair?</p> <p>3       A. That's fair.</p> <p>4       Q. So do you know under</p> <p>5 Section 2 -- well, let me step back.</p> <p>6 I think I understood you to have</p> <p>7 said earlier that you understand</p> <p>8 Section 2 to have a effects element</p> <p>9 and/or a purpose element, you can</p> <p>10 show a violation of Section 2 by</p> <p>11 discriminatory results and/or by</p> <p>12 discriminatory purposes. Is that</p> <p>13 what you understand to be the case?</p> <p>14       A. Yes, in the sense that I</p> <p>15 believe at one time purpose was</p> <p>16 required. While it was amended</p> <p>17 Congress said no, you no longer had</p> <p>18 to show explicit purpose, you could</p> <p>19 show it through a fact.</p> <p>20       Could you show a violation of</p> <p>21 Section 2 by purpose alone? I</p> <p>22 believe so. As a practical matter I</p> <p>23 don't know that I have ever seen</p> <p>24 that done.</p> <p>25       Q. And therefore are you aware</p>	<p style="text-align: right;">Page 201</p> <p>1           TERRENI</p> <p>2 Mr. Gore, you know, or John, you</p> <p>3 know, tell us about the legal</p> <p>4 upsides and downsides and possible</p> <p>5 challenges and defenses on this map.</p> <p>6 We relied on him for, fundamentally</p> <p>7 for that counseling.</p> <p>8       I have a working knowledge of</p> <p>9 this stuff, but I was brought in</p> <p>10 largely in the process to structure</p> <p>11 it. Andy had never done it before.</p> <p>12 I have been around for the past two</p> <p>13 redistricting cycles. So a lot of</p> <p>14 the practical stuff, like hiring</p> <p>15 demographers, how many printers you</p> <p>16 need and just the working day-to-day</p> <p>17 knowledge of voting rights, that's</p> <p>18 what I did. Serious questions about</p> <p>19 compliance we turned to Jones Day.</p> <p>20       Q. Based upon your earlier</p> <p>21 testimony, well, based upon what I'm</p> <p>22 understanding from you, you</p> <p>23 mentioned Section 2 compliance as a</p> <p>24 defense to a claim of racial</p> <p>25 gerrymandering, is that fair to say?</p>

<p style="text-align: right;">Page 202</p> <p>1           TERRENI</p> <p>2       A. It could be.</p> <p>3       Q. And based upon what I'm</p> <p>4 hearing from you is it fair to say</p> <p>5 that until there is a claim of</p> <p>6 racial gerrymandering it is not your</p> <p>7 understanding that you have to look</p> <p>8 at compliance with Section 2 until</p> <p>9 that claim has been raised, is that</p> <p>10 fair?</p> <p>11       A. No. Let --</p> <p>12       Q. Let me ask --</p> <p>13       A. -- until -- I'm sorry, go</p> <p>14 ahead.</p> <p>15       Q. No, you can go.</p> <p>16       A. In the first place, I</p> <p>17 believe your question was claim of</p> <p>18 racial gerrymandering when looking</p> <p>19 at Section 2 compliance?</p> <p>20       Q. Well, I think you testified</p> <p>21 earlier that a defense to racial</p> <p>22 gerrymandering could be compliance</p> <p>23 with Section 2. And then we have</p> <p>24 the discussion about whether</p> <p>25 remedying historical discrimination</p>	<p style="text-align: right;">Page 204</p> <p>1           TERRENI</p> <p>2       Q. How then did you consider</p> <p>3 whether race was the predominant</p> <p>4 factor or not, and if so, whether</p> <p>5 there was a compelling state</p> <p>6 interest during the legislative</p> <p>7 process, how did you go about doing</p> <p>8 that?</p> <p>9       MR. GORE: Again, I'm going to</p> <p>10 just restate my objection on</p> <p>11 attorney-client privilege and work</p> <p>12 product grounds. The witness can</p> <p>13 answer to the extent he can do so</p> <p>14 without divulging privileged</p> <p>15 information.</p> <p>16       A. Generally speaking, you</p> <p>17 asked about every plan or most --</p> <p>18 any number of plans that might have</p> <p>19 been submitted and there would have</p> <p>20 been a criticism of racial</p> <p>21 gerrymandering, which I'm sure you</p> <p>22 can appreciate is not an infrequent</p> <p>23 accusation in this process. So</p> <p>24 spending on the plan there may have</p> <p>25 been different ways to evaluate it.</p>
<p style="text-align: right;">Page 203</p> <p>1           TERRENI</p> <p>2 could also be a defense to racial</p> <p>3 gerrymandering. But we've</p> <p>4 established Section 2.</p> <p>5       A. I said that compliance with</p> <p>6 Section 2 could be a defense to</p> <p>7 racial gerrymandering in the context</p> <p>8 of -- compliance with Section 2</p> <p>9 could be a defense for a racial</p> <p>10 gerrymandering claim if there's no</p> <p>11 other way it complied with Section</p> <p>12 2. That's my understanding of the</p> <p>13 law.</p> <p>14       Q. Let me ask you this.</p> <p>15 During your consideration, during</p> <p>16 your experience with congressional</p> <p>17 redistricting, did you hear the</p> <p>18 public or any member of the</p> <p>19 legislature challenge any plan as a</p> <p>20 racial gerrymander, any of proposed</p> <p>21 plans by the Senate or any plan even</p> <p>22 proposed by the public, did you hear</p> <p>23 claims of racial gerrymandering</p> <p>24 during the process?</p> <p>25       A. Yes.</p>	<p style="text-align: right;">Page 205</p> <p>1           TERRENI</p> <p>2       First of all, I mean you could</p> <p>3 look at it and -- well, let's be --</p> <p>4 let's -- I'm trying to</p> <p>5 distinguish --</p> <p>6       Q. Let's focus on a plan by</p> <p>7 the legislature proposed by the</p> <p>8 Senate that was accused of racial</p> <p>9 gerrymandering.</p> <p>10       A. That makes it a little</p> <p>11 easier. Well, in that case first</p> <p>12 you ask yourself factually were the</p> <p>13 map drawers, were the members</p> <p>14 engaged in race-based gerrymandering</p> <p>15 or do you know personally or from</p> <p>16 the record that there were other</p> <p>17 considerations that were expressed</p> <p>18 and were substantiated why these</p> <p>19 changes were made. So if you -- if</p> <p>20 the answer is yeah, I know why that</p> <p>21 was done and I know from the record</p> <p>22 it was explained in the record in</p> <p>23 incredible fashion that that wasn't</p> <p>24 a race based gerrymandering, that</p> <p>25 was -- those changes were made for</p>

<p style="text-align: right;">Page 206</p> <p>1                   TERRENI</p> <p>2 race neutral reasons or even for</p> <p>3 reasons that were not predominantly</p> <p>4 racial then you don't get there.</p> <p>5       You only get to this</p> <p>6 compelling state interest thing if</p> <p>7 somebody says no, it was -- no, I'm</p> <p>8 sorry, we just had to do it, we had</p> <p>9 to take race into account and we had</p> <p>10 to do it in such fashion in order to</p> <p>11 comply with Section 2.</p> <p>12       I'm not aware that we ever got</p> <p>13 to that on any claim we had,</p> <p>14 Ms. Aden. I don't recall making</p> <p>15 that determination. There's no</p> <p>16 opposition that any Senate plan that</p> <p>17 was advanced was a racial</p> <p>18 gerrymandering that was necessary</p> <p>19 for Section 2 compliance. To the</p> <p>20 opposite.</p> <p>21       Q. Was that -- those were</p> <p>22 based upon this evaluation of</p> <p>23 whether race was considered, whether</p> <p>24 race was predominated over</p> <p>25 traditional redistricting</p>	<p style="text-align: right;">Page 208</p> <p>1                   TERRENI</p> <p>2       MR. GORE: Again, I'm just</p> <p>3 going to renew the objection to the</p> <p>4 extent it calls for privileged</p> <p>5 communications, attorney-client</p> <p>6 communications or work product.</p> <p>7 The witness can answer to the</p> <p>8 extent he can do so without</p> <p>9 divulging any such communications.</p> <p>10       A. Without divulging those</p> <p>11 communications there wouldn't</p> <p>12 automatically have been such an</p> <p>13 analysis done. I'm not saying it</p> <p>14 would have been done on different</p> <p>15 occasions or different forms. I</p> <p>16 mean I -- if you are asking me by --</p> <p>17 if there were explanations given to</p> <p>18 legislators for how a plan was drawn</p> <p>19 or what -- or what the features of a</p> <p>20 plan were and those explanations</p> <p>21 offered race mutual explanations or</p> <p>22 explanations in which didn't</p> <p>23 predominate but provided fact sheets</p> <p>24 and that kind of thing to</p> <p>25 legislators, I certainly am.</p>
<p style="text-align: right;">Page 207</p> <p>1                   TERRENI</p> <p>2 principles. Are you aware whether</p> <p>3 those discussions about what was</p> <p>4 done, how it was done, were those</p> <p>5 reduced to writing or were those by</p> <p>6 verbal explanations, whether on the</p> <p>7 floor or in informal proceedings?</p> <p>8       A. It would depend on the</p> <p>9 plan, but if we are talking about</p> <p>10 the plans that were advanced by the</p> <p>11 subcommittee and the Senate, they</p> <p>12 were generally explanations to be</p> <p>13 given verbally either by Mr. Roberts</p> <p>14 or individual members in the course</p> <p>15 of the debate.</p> <p>16       Q. And if a plan had been</p> <p>17 accused of, a legislative plan had</p> <p>18 been accused or was accused of being</p> <p>19 a racial gerrymander during the</p> <p>20 legislative process, there was no</p> <p>21 systematic analysis, written</p> <p>22 analysis that would have been done</p> <p>23 to justify what was and was not</p> <p>24 considered with respect to that</p> <p>25 plan?</p>	<p style="text-align: right;">Page 209</p> <p>1                   TERRENI</p> <p>2       Q. I'll move on. Under Roman</p> <p>3 numeral I-C on this guidelines, the</p> <p>4 next category under Requirements of</p> <p>5 Federal Law is to avoid racial</p> <p>6 gerrymandering which we have been</p> <p>7 discussing?</p> <p>8       A. Yes, ma'am.</p> <p>9       Q. Would you agree that</p> <p>10 looking at racial demographics</p> <p>11 during development of plans is not</p> <p>12 per se racial predominance?</p> <p>13       A. Yes.</p> <p>14       Q. Would you agree that</p> <p>15 considering racial bloc voting, any</p> <p>16 racial bloc voting patterns is not</p> <p>17 per se racial predominance?</p> <p>18       A. Yes, not per se.</p> <p>19       Q. Would you agree that</p> <p>20 considering where communities live</p> <p>21 and whether they live in segregated</p> <p>22 communities or not is not per se</p> <p>23 racial predominance?</p> <p>24       A. Yes.</p> <p>25       Q. So would you agree that</p>

<p style="text-align: right;">Page 210</p> <p>1           TERRENI</p> <p>2   under these guidelines and under any</p> <p>3   of your other sources of information</p> <p>4   that all of those things could have</p> <p>5   been considered without necessarily</p> <p>6   racially gerrymandering?</p> <p>7       A. Yes.</p> <p>8       Q. Looking at Roman numeral</p> <p>9   II, Constant Dispute. Do you</p> <p>10   understand that to be a federal law</p> <p>11   requirement or not?</p> <p>12       A. Honestly, I never have</p> <p>13   given it much thought. It's a</p> <p>14   practical requirement. I don't</p> <p>15   know.</p> <p>16       Q. But under -- as it looks</p> <p>17   like in this guideline under Roman</p> <p>18   numeral I, Requirements of Federal</p> <p>19   Law, the major subheadings are</p> <p>20   Population Equality, Voting Rights</p> <p>21   and Avoidance of Racial</p> <p>22   Gerrymandering, those are</p> <p>23   requirements under I-A?</p> <p>24       A. Yes, ma'am.</p> <p>25       Q. And contiguity is under</p>	<p style="text-align: right;">Page 212</p> <p>1           TERRENI</p> <p>2   it. Another way of saying it would</p> <p>3   be that the federal, complies with</p> <p>4   federal law and contiguity for that</p> <p>5   matter are just kind of baseline</p> <p>6   requirements and maybe the</p> <p>7   background to redistricting. You</p> <p>8   know, almost the canvas on which you</p> <p>9   would use the additional</p> <p>10   considerations to draft your plan.</p> <p>11       So are they inferior, yeah, in</p> <p>12   that sense I guess they are. But I</p> <p>13   think they really co-exist.</p> <p>14       Q. But according to the</p> <p>15   language in this document it said</p> <p>16   they should be given consideration,</p> <p>17   it doesn't say they must be given</p> <p>18   consideration, is that accurate?</p> <p>19       A. Yes.</p> <p>20       Q. And it lists the things</p> <p>21   that follow underneath them as</p> <p>22   saying that they can be considered</p> <p>23   where practical and where</p> <p>24   appropriate and in no particular</p> <p>25   order or preference?</p>
<p style="text-align: right;">Page 211</p> <p>1           TERRENI</p> <p>2   Roman numeral II and it does not say</p> <p>3   one way or the other whether it's</p> <p>4   federal or state law nor a</p> <p>5   requirement, is that fair to say?</p> <p>6       A. Yeah. Yeah, that's fair.</p> <p>7       Q. Looking at page 2 South</p> <p>8   Carolina Senate 22358 there is a</p> <p>9   Section 3, Additional</p> <p>10   Considerations. And it reads:</p> <p>11   "Other criteria that should be given</p> <p>12   consideration, where practical and</p> <p>13   appropriate, in no particular order</p> <p>14   of preference."</p> <p>15       Did I read that accurately?</p> <p>16       A. You did.</p> <p>17       Q. And you see that section?</p> <p>18       A. I do.</p> <p>19       Q. Do you understand that</p> <p>20   these subcategories underneath</p> <p>21   additional considerations are of</p> <p>22   lower priority than what precedes</p> <p>23   them under federal law, even</p> <p>24   contiguity?</p> <p>25       A. That's one way of saying</p>	<p style="text-align: right;">Page 213</p> <p>1           TERRENI</p> <p>2       A. Correct.</p> <p>3       Q. And we agreed earlier this</p> <p>4   document was not modified or amended</p> <p>5   but it was adopted on September 17th</p> <p>6   by the subcommittee?</p> <p>7       A. That's what I remember.</p> <p>8       Q. And Roman numeral A under</p> <p>9   these additional considerations is</p> <p>10   communities of interest, is that</p> <p>11   accurate?</p> <p>12       A. It is.</p> <p>13       Q. Okay. And you explained</p> <p>14   earlier what you understood</p> <p>15   communities of interest to be?</p> <p>16       A. Um-hmm.</p> <p>17       Q. Is there anything about how</p> <p>18   it's described here that makes you</p> <p>19   change how you view communities of</p> <p>20   interest one way or the other?</p> <p>21       A. I think this is probably a</p> <p>22   better description than I gave you</p> <p>23   off the top of my head. But I don't</p> <p>24   think what I said was inconsistent</p> <p>25   with this.</p>

<p style="text-align: right;">Page 214</p> <p>1           TERRENI</p> <p>2       Q. I want to just take a</p> <p>3 moment to talk a little bit about</p> <p>4 public hearings that were held by</p> <p>5 the Senate in 2021. Are you aware</p> <p>6 that the Senate held public hearings</p> <p>7 around the state from approximately</p> <p>8 late July through early,</p> <p>9 mid-August 2021?</p> <p>10      A. Yes, ma'am.</p> <p>11      Q. And do you recall how many</p> <p>12 hearings there were?</p> <p>13      A. Not off the top of my head.</p> <p>14      Q. If I said around ten, does</p> <p>15 that seem fair?</p> <p>16      A. It does.</p> <p>17      Q. Were you involved in the</p> <p>18 decision to hold these hearings?</p> <p>19      A. The decision was the</p> <p>20 subcommittee's, but I certainly</p> <p>21 outlined that as part of the process</p> <p>22 for the Senate and to Senator</p> <p>23 Rankin.</p> <p>24      Q. Do you know if decisions</p> <p>25 about the public process, whether or</p>	<p style="text-align: right;">Page 216</p> <p>1           TERRENI</p> <p>2 not sure I went to all of them but I</p> <p>3 went to most of them.</p> <p>4      Q. And are you aware that</p> <p>5 those public hearings were videoed</p> <p>6 and there was a written</p> <p>7 transcription of the hearings?</p> <p>8      A. I'm generally aware of</p> <p>9 written transcription, I'm not sure</p> <p>10 when it was created. I don't recall</p> <p>11 that. I know they were videoed so</p> <p>12 they could be accessed in that way</p> <p>13 and in person to the website. So</p> <p>14 then people had access to what was</p> <p>15 said.</p> <p>16      Q. And if you didn't go to a</p> <p>17 hearing, did you subsequently look</p> <p>18 at a written transcription or video</p> <p>19 if it was available for a particular</p> <p>20 hearing?</p> <p>21      A. Yeah, I would have</p> <p>22 familiarized myself with the</p> <p>23 testimony one way or another, either</p> <p>24 by watching the video, reading the</p> <p>25 transcript or speaking to somebody</p>
<p style="text-align: right;">Page 215</p> <p>1           TERRENI</p> <p>2 not Jones Day was also consulted</p> <p>3 about the public hearings?</p> <p>4      A. I'm sure they were.</p> <p>5      Q. Did you create any public</p> <p>6 education materials about</p> <p>7 redistricting for these public</p> <p>8 hearings?</p> <p>9      A. Did I personally? I don't</p> <p>10 think so. But I do remember there</p> <p>11 was I think what you showed me</p> <p>12 earlier was one of the handouts that</p> <p>13 we used.</p> <p>14      Q. Which you said you believe</p> <p>15 you have reviewed?</p> <p>16      A. I believe I would have</p> <p>17 reviewed it, yes.</p> <p>18      Q. If there was information</p> <p>19 disseminated about public hearings,</p> <p>20 would you likely have reviewed it</p> <p>21 or?</p> <p>22      A. Yes.</p> <p>23      Q. Did you personally attend</p> <p>24 those public hearings?</p> <p>25      A. Most of them at least. I'm</p>	<p style="text-align: right;">Page 217</p> <p>1           TERRENI</p> <p>2 who was already reading the summary.</p> <p>3 There was some times stories that</p> <p>4 were created. I'm struggling to</p> <p>5 remember. I think I attended all of</p> <p>6 them but I don't -- I can't be a</p> <p>7 hundred percent sure.</p> <p>8      Q. Do you recall taking any</p> <p>9 notes during those hearings?</p> <p>10      A. I probably did.</p> <p>11      Q. Do you recall taking</p> <p>12 handwritten notes during those</p> <p>13 hearings?</p> <p>14      A. Yes.</p> <p>15      Q. Do you recall whether or</p> <p>16 not you turned those over in the</p> <p>17 process of discovery in this case?</p> <p>18      A. I may have turned them over</p> <p>19 in the process of discovery. But</p> <p>20 I'll just go ahead and point out</p> <p>21 your subpoena didn't ask for my</p> <p>22 notes.</p> <p>23      Q. Do you consider the work</p> <p>24 product that you generated during</p> <p>25 the redistricting process to be the</p>

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<p style="text-align: right;">Page 218</p> <p>1                   TERRENI</p> <p>2 work product of the Senate?</p> <p>3       A. Yes. In accordance with</p> <p>4 the terms of my retainer agreement</p> <p>5 which has Senator Rankin as the</p> <p>6 representative of the Senate to whom</p> <p>7 I answer.</p> <p>8       Q. So is that a yes or no?</p> <p>9       A. It's a yes. I said yes.</p> <p>10       Q. I didn't hear you, I'm</p> <p>11 sorry. So any handwritten notes of</p> <p>12 the public hearings would be --</p> <p>13 could be --</p> <p>14       A. Oh, I'm sorry, you said</p> <p>15 work product of the Senate. It's my</p> <p>16 work product on behalf of the</p> <p>17 Senate. I failed to make the</p> <p>18 distinction. By Senate staff, no.</p> <p>19       Q. But do you consider the</p> <p>20 work product that you generated to</p> <p>21 be the work product of the Senate</p> <p>22 since you were hired by the Senate</p> <p>23 to advise and consult for them?</p> <p>24       A. It's my work -- my</p> <p>25 understanding of work product</p>	<p style="text-align: right;">Page 220</p> <p>1                   TERRENI</p> <p>2       A. No.</p> <p>3       Q. Do you know whether in the</p> <p>4 context of this litigation there's a</p> <p>5 common interest agreement between</p> <p>6 the defendants for the Senate and</p> <p>7 the defendants for the House?</p> <p>8       A. I believe there is.</p> <p>9       Q. There is or is not?</p> <p>10       A. I said I believe there is.</p> <p>11 I don't think I have seen any, but I</p> <p>12 believe I have heard of it.</p> <p>13       Q. Did any feedback from these</p> <p>14 hearings impact your assessment of</p> <p>15 the maps that the legislature</p> <p>16 developed or that the public</p> <p>17 submitted?</p> <p>18       A. In what way?</p> <p>19       Q. Did you from having</p> <p>20 participated in public hearings by</p> <p>21 going to them or reviewing them, if</p> <p>22 you did not, did anything that you</p> <p>23 learned from them impact how you</p> <p>24 developed and considered and</p> <p>25 critiqued maps?</p>
<p style="text-align: right;">Page 219</p> <p>1                   TERRENI</p> <p>2 protection the way I have treated it</p> <p>3 in the practice of law is my work</p> <p>4 product is my work product and is</p> <p>5 protected from discovery as an</p> <p>6 attorney acting on behalf of a</p> <p>7 client.</p> <p>8       My work product -- if a client</p> <p>9 were to ask me for a file, I don't</p> <p>10 think I'm generally obligated to</p> <p>11 turn over my work product or my</p> <p>12 notes, although I've never had to do</p> <p>13 that is that in my communications</p> <p>14 with the client are attorney-client</p> <p>15 privilege. If you are asking me</p> <p>16 whether my -- I considered my notes</p> <p>17 to be the equivalent of a Senate</p> <p>18 staffer's notes, the answer is no.</p> <p>19       Q. Are you aware of whether or</p> <p>20 not there is a common interest</p> <p>21 agreement -- there was a common</p> <p>22 interest agreement between the work</p> <p>23 that the Senate was doing in</p> <p>24 developing congressional maps and</p> <p>25 that of the House?</p>	<p style="text-align: right;">Page 221</p> <p>1                   TERRENI</p> <p>2       A. Yes.</p> <p>3       Q. How so?</p> <p>4       A. Well, we would have</p> <p>5 considered maps at times and in some</p> <p>6 cases as to whether, or most of</p> <p>7 entitlement, whether testimony</p> <p>8 supported or opposed them. But I</p> <p>9 mean testimony was not the sole</p> <p>10 source of that, of why a map might</p> <p>11 have been drawn but it was taken</p> <p>12 into account.</p> <p>13       Q. Do you mind looking at tab</p> <p>14 45?</p> <p>15       A. Yes, ma'am.</p> <p>16       Q. Which is the subpoena, the</p> <p>17 final subpoena --</p> <p>18       A. Yes, ma'am.</p> <p>19       Q. -- for this deposition.</p> <p>20       A. Yes, ma'am.</p> <p>21       Q. That would be now</p> <p>22 Plaintiffs' Exhibit 11.</p> <p>23       A. Yes, ma'am.</p> <p>24       (Plaintiffs' Exhibit 11,</p> <p>25 Subpoena, marked for</p>



<p style="text-align: right;">Page 222</p> <p>1                   TERRENI</p> <p>2    identification, as of this date.)</p> <p>3       Q.   Could you go under the</p> <p>4    definition of communications and</p> <p>5    read that to yourself, please.</p> <p>6       A.   Yes, ma'am.</p> <p>7       "Communications means the</p> <p>8    transmittal of information of any</p> <p>9    kind, written or oral, by and</p> <p>10   through any means, including but not</p> <p>11   limited to emails, email</p> <p>12   attachments, calendar invitations,</p> <p>13   PowerPoint presentations, pdfs,</p> <p>14   written reports, letters and the</p> <p>15   like. It includes communications</p> <p>16   from the National Republican</p> <p>17   Redistricting Trust that include or</p> <p>18   are with outside entity and</p> <p>19   individuals."</p> <p>20       Q.   And if you can go to the</p> <p>21   next page and look at paragraph 9,</p> <p>22   document or documents. You do not</p> <p>23   need to read that into the record</p> <p>24   but take a moment to skim that,</p> <p>25   please.</p>	<p style="text-align: right;">Page 224</p> <p>1                   TERRENI</p> <p>2    into the record would you agree that</p> <p>3    it in general asks for documents</p> <p>4    that reflect or discuss the</p> <p>5    rationale, the purpose, the</p> <p>6    interpretation, the analysis of the</p> <p>7    enacted map and predecessor maps?</p> <p>8       A.   Under certain circumstances</p> <p>9    -- I mean what it asks for is all</p> <p>10   documents by the defendant committee</p> <p>11   members or the South Carolina</p> <p>12   General Assembly or communications</p> <p>13   between defendant committee members</p> <p>14   of South Carolina General Assembly</p> <p>15   and so forth. I took notes. I</p> <p>16   didn't communicate with anybody.</p> <p>17       Q.   Can you go up to the</p> <p>18   definition of you on paragraph 18 on</p> <p>19   page 6?</p> <p>20       A.   Certainly.</p> <p>21       Q.   It says: "You or your</p> <p>22   means Charles L.A. Terreni and all</p> <p>23   current or former agents, advisors,</p> <p>24   employees, representatives, officers</p> <p>25   consultant, clerks or contractors</p>
<p style="text-align: right;">Page 223</p> <p>1                   TERRENI</p> <p>2       A.   Yes.</p> <p>3       Q.   So looking at the</p> <p>4    definition of communications and</p> <p>5    documents, and you can even go down</p> <p>6    to the documents requested on pages</p> <p>7    11 through 13, I just want to</p> <p>8    understand whether it's your</p> <p>9    position that written notes that you</p> <p>10   made during consideration of</p> <p>11   congressional maps that that -- you</p> <p>12   do not believe that they fall within</p> <p>13   the scope of the subpoena that we</p> <p>14   served upon you.</p> <p>15       A.   Well, let's go through</p> <p>16   this, and I will say that I read the</p> <p>17   subpoena, I consulted with my</p> <p>18   counsel and we both agreed that</p> <p>19   those documents had not been</p> <p>20   requested. So I am going to go look</p> <p>21   at it again.</p> <p>22       Q.   Let's look at request for</p> <p>23   production No. 1, for example.</p> <p>24       A.   Yes, ma'am.</p> <p>25       Q.   Without reading it entirely</p>	<p style="text-align: right;">Page 225</p> <p>1                   TERRENI</p> <p>2    with Terreni Law Firm and any person</p> <p>3    or entity acting or purporting to</p> <p>4    act on your behalf or subject to</p> <p>5    your control."</p> <p>6       A.   I'm sorry, I'm looking.</p> <p>7       Yeah.</p> <p>8       Q.   And so it's your position</p> <p>9    that the notes that you took during</p> <p>10   the public hearings that I believe</p> <p>11   you just testified impacted your</p> <p>12   consideration of congressional</p> <p>13   maps --</p> <p>14       A.   I didn't say that at all.</p> <p>15   I said -- you asked me if I took</p> <p>16   notes during the public hearings. I</p> <p>17   said I did. You asked me if we had</p> <p>18   considered the testimony in public</p> <p>19   hearings in the process of</p> <p>20   redistricting and I said I did. You</p> <p>21   didn't ask me, and I wouldn't deny</p> <p>22   if I did, let's just be clear, did</p> <p>23   you consult your notes. I may have.</p> <p>24   I probably consulted the transcript.</p> <p>25   It was much easier. I took notes</p>

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<p style="text-align: right;">Page 226</p> <p>1           TERRENI</p> <p>2 just because I was taking notes.</p> <p>3 You know, but anyway it's possible I</p> <p>4 consulted my notes.</p> <p>5       Please, go ahead.</p> <p>6       Q. And the notes that you</p> <p>7 consulted, either the handwritten</p> <p>8 notes or the transcripts, impacted</p> <p>9 your review, your consideration of</p> <p>10 congressional maps this cycle, yes</p> <p>11 or no?</p> <p>12       A. They could have.</p> <p>13       Q. Are you saying that they</p> <p>14 didn't?</p> <p>15       A. I'm not saying they didn't</p> <p>16 or they did. It would depend on the</p> <p>17 notes. It would depend on -- I mean</p> <p>18 I -- that's a very general question.</p> <p>19       Q. But there were ten</p> <p>20 hearings, correct?</p> <p>21       A. Yes, there were ten</p> <p>22 hearings.</p> <p>23       Q. And would you agree that</p> <p>24 there were thousands of pages of</p> <p>25 transcripts of those hearings or</p>	<p style="text-align: right;">Page 228</p> <p>1           TERRENI</p> <p>2 the notes. We complied with the</p> <p>3 terms of the subpoena. If you are</p> <p>4 implying something else, that's</p> <p>5 different. If you are asking</p> <p>6 whether the notes are discoverable,</p> <p>7 I'm going to let you battle that out</p> <p>8 with Mr. Gore. But I deny any</p> <p>9 implication that I have somehow not</p> <p>10 complied with the terms of your</p> <p>11 subpoena. You asked for</p> <p>12 communications I gave them to you.</p> <p>13       Q. Did you share those notes</p> <p>14 with Senator Rankin as someone who</p> <p>15 you report to?</p> <p>16       A. No.</p> <p>17       Q. And did you share them with</p> <p>18 any Senate staff?</p> <p>19       A. No.</p> <p>20       Q. I want to turn your</p> <p>21 attention to tab 28, which should</p> <p>22 now be marked as Plaintiffs' Exhibit</p> <p>23 12.</p> <p>24       (Plaintiffs' Exhibit 12, Email</p> <p>25 from Paula Benson to Charles</p>
<p style="text-align: right;">Page 227</p> <p>1           TERRENI</p> <p>2 more than a thousand?</p> <p>3       A. I don't know.</p> <p>4       Q. Do you think that any</p> <p>5 aspect of your handwritten notes</p> <p>6 factored into your consideration of</p> <p>7 congressional maps this cycle?</p> <p>8       A. It could have.</p> <p>9       Q. Have you gone back to look</p> <p>10 at those notes to make an assessment</p> <p>11 of whether anything in them impacted</p> <p>12 your assessment for consideration of</p> <p>13 congressional maps?</p> <p>14       A. Not specifically.</p> <p>15       Q. But you could do that?</p> <p>16       A. I suppose.</p> <p>17       Q. And that would be relevant</p> <p>18 under the scope of the subpoena to</p> <p>19 what went into the consideration of</p> <p>20 congressional maps this cycle?</p> <p>21       A. No.</p> <p>22       Q. Why not?</p> <p>23       A. You asked for what you</p> <p>24 asked for in the subpoena. Mr. Gore</p> <p>25 determined that you didn't ask for</p>	<p style="text-align: right;">Page 229</p> <p>1           TERRENI</p> <p>2 Terreni with attachment, Bates</p> <p>3 South Carolina Senate 22619 to</p> <p>4 22621, marked for identification,</p> <p>5 as of this date.)</p> <p>6       Q. And this is an email cover</p> <p>7 from Paula Benson to you and others</p> <p>8 dated November 2, 2021, with an</p> <p>9 attachment identified as testimony</p> <p>10 concerning communities of interest.</p> <p>11 It's Bates stamped South Carolina</p> <p>12 Senate 22619 to 22621.</p> <p>13       Do you have that?</p> <p>14       A. I think so, yes.</p> <p>15       Q. Are you familiar with this</p> <p>16 document?</p> <p>17       A. At this time I don't</p> <p>18 remember if I saw this or not. I</p> <p>19 just don't remember it.</p> <p>20       Q. But you are copied on this</p> <p>21 document or you sent this document?</p> <p>22       A. I appear to be, yes.</p> <p>23       Q. And Paula Benson is someone</p> <p>24 that you said you frequently</p> <p>25 communicated with during the</p>

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<p style="text-align: right;">Page 230</p> <p>1                   TERRENI</p> <p>2 congressional redistricting process?</p> <p>3       A. Yes, ma'am.</p> <p>4       Q. Does the first page reflect</p> <p>5 that Ms. Benson had her law clerk</p> <p>6 compile a chart showing the</p> <p>7 testimony that the Senate received</p> <p>8 at public hearings about communities</p> <p>9 of interest?</p> <p>10      A. It does.</p> <p>11      Q. And is it fair to say that</p> <p>12 the attached document is a two-page</p> <p>13 chart?</p> <p>14      A. It is.</p> <p>15      Q. And is it fair to say that</p> <p>16 for some entries like for Sumter a</p> <p>17 July 28th hearing that there is one</p> <p>18 row entry on that chart summarizing</p> <p>19 testimony?</p> <p>20      A. It is what it is, yes.</p> <p>21      Q. Are you aware of any other</p> <p>22 charts like this summarizing</p> <p>23 communities of interest testimony</p> <p>24 produced by the Senate?</p> <p>25      A. Off the top of my head I</p>	<p style="text-align: right;">Page 232</p> <p>1                   TERRENI</p> <p>2       A. Yes, ma'am.</p> <p>3       Q. And based upon where this</p> <p>4 falls in the guidelines would you</p> <p>5 agree that this is a subsidiary</p> <p>6 consideration to federal law</p> <p>7 requirements?</p> <p>8       A. Yeah. And if you are</p> <p>9 asking me could you violate federal</p> <p>10 law for the sake of constituent</p> <p>11 consistency, my answer would be no.</p> <p>12      Q. And by federal law we are</p> <p>13 talking about compliance with one</p> <p>14 person, one vote Section 2 and</p> <p>15 nonracial gerrymandering?</p> <p>16      A. Yes, ma'am.</p> <p>17      Q. Did you have any concerns</p> <p>18 that preserving the cores of</p> <p>19 existing districts could bake in</p> <p>20 lines that are harmful to compliance</p> <p>21 with federal law?</p> <p>22      A. To the extent that I did, I</p> <p>23 would have discussed them with</p> <p>24 Mr. Gore. In the final analysis my</p> <p>25 answer would be no.</p>
<p style="text-align: right;">Page 231</p> <p>1                   TERRENI</p> <p>2 mean Goodman, but I don't remember</p> <p>3 at this time.</p> <p>4       Q. Do you know whether this</p> <p>5 summary was provided to Senate</p> <p>6 members?</p> <p>7       A. No.</p> <p>8       Q. Okay. Going back to tab 1,</p> <p>9 which is the guidelines.</p> <p>10      A. Okay.</p> <p>11      Q. Underneath Communities of</p> <p>12 Interest under 3B on the second page</p> <p>13 South Carolina Senate 22358 there is</p> <p>14 a category called Constituent</p> <p>15 Consistency.</p> <p>16      Do you see that?</p> <p>17      A. Yes, ma'am.</p> <p>18      Q. And it says that:</p> <p>19 "Preserving the cores of existing</p> <p>20 districts, keeping incumbent</p> <p>21 residences and districts with their</p> <p>22 core constituents and avoiding</p> <p>23 contests between incumbent</p> <p>24 legislators should be considered."</p> <p>25      Is that accurate?</p>	<p style="text-align: right;">Page 233</p> <p>1                   TERRENI</p> <p>2       Q. Do you know if core</p> <p>3 constituency is a per se defense to</p> <p>4 the sorting of voters within,</p> <p>5 without or keeping them in</p> <p>6 districts?</p> <p>7       MR. GORE: Object to form.</p> <p>8       A. Could you repeat that</p> <p>9 question?</p> <p>10      Q. Do you know whether core</p> <p>11 constituency respecting cores of</p> <p>12 districts is a per se defense to the</p> <p>13 improper sorting of voters between</p> <p>14 districts?</p> <p>15      A. Improper sorting of voters</p> <p>16 according to race is what you mean?</p> <p>17      Q. And are legally improper.</p> <p>18      A. Of any kind?</p> <p>19      Q. Of any kind.</p> <p>20      A. I don't think it is.</p> <p>21      Q. And do you think it is a</p> <p>22 per se defense to the legal sorting</p> <p>23 of voters on the basis of race?</p> <p>24      A. No.</p> <p>25      Q. In fact, are you aware of</p>

<p style="text-align: right;">Page 234</p> <p>1                   TERRENI</p> <p>2 any case law that shows that core</p> <p>3 constituency can be unjustified if</p> <p>4 it harms racial minorities?</p> <p>5       A. I'm not sure what you mean</p> <p>6 by the term "harms racial minority,"</p> <p>7 but I'm not aware of any case law</p> <p>8 that says core constituencies can</p> <p>9 justify the violation of federal</p> <p>10 law, if that's what you are asking</p> <p>11 me.</p> <p>12       Q. Looking at subcategories C,</p> <p>13 D and E, which are minimizing</p> <p>14 divisions of county boundaries,</p> <p>15 minimizing divisions of cities and</p> <p>16 towns, and minimizing divisions of</p> <p>17 voting precinct boundaries.</p> <p>18       A. Yes.</p> <p>19       Q. Do you think this category</p> <p>20 overlaps with the communities of</p> <p>21 interest category or do you see them</p> <p>22 as distinct considerations?</p> <p>23       A. They could overlap but not</p> <p>24 necessarily.</p> <p>25       Q. How is responsible -- well,</p>	<p style="text-align: right;">Page 236</p> <p>1                   TERRENI</p> <p>2 expected to determine whether or not</p> <p>3 a district is compact?</p> <p>4       A. I think compactness</p> <p>5 generally is a geographical question</p> <p>6 not a cultural question. So I think</p> <p>7 that's where you would end up being</p> <p>8 more in a community of interest</p> <p>9 situation than a compactness</p> <p>10 situation.</p> <p>11       There are times when one of</p> <p>12 these factors may override the</p> <p>13 other. That's what the guidelines</p> <p>14 are intended do.</p> <p>15       Q. If you look at the language</p> <p>16 in the guidelines it says: "In</p> <p>17 determining the relative compactness</p> <p>18 of a district consideration should</p> <p>19 be given to geography, demography,</p> <p>20 communities of interest and the</p> <p>21 extent to which parts of the</p> <p>22 district are joined by roads, media</p> <p>23 outlets or other areas or other</p> <p>24 means for constituents to</p> <p>25 communicate effectively with each</p>
<p style="text-align: right;">Page 235</p> <p>1                   TERRENI</p> <p>2 let me strike that.</p> <p>3       Under the last category</p> <p>4 District Compactness, what does</p> <p>5 district compactness mean to you?</p> <p>6       A. What courts have said in</p> <p>7 South Carolina decisions, especially</p> <p>8 Colleton County, it means the</p> <p>9 compactness is somebody's view on a</p> <p>10 subjective and individual basis.</p> <p>11 That no mechanical measure of</p> <p>12 compactness is necessarily used.</p> <p>13 It's really a visual thing.</p> <p>14       Q. Does compactness relate to</p> <p>15 the shape of a district?</p> <p>16       A. It could.</p> <p>17       Q. And can it relate to the</p> <p>18 distribution of communities within a</p> <p>19 district?</p> <p>20       A. Please explain what you</p> <p>21 mean.</p> <p>22       Q. So for example, could you</p> <p>23 look to the way that communities are</p> <p>24 sorted within a district whether and</p> <p>25 how communities of interest are</p>	<p style="text-align: right;">Page 237</p> <p>1                   TERRENI</p> <p>2 other and with their</p> <p>3 representatives?</p> <p>4       A. Court act. Which means</p> <p>5 that, at least, the compactness of a</p> <p>6 district might mean the extent to</p> <p>7 which different communities or</p> <p>8 components of a district are able to</p> <p>9 communicate with one another or</p> <p>10 joined by [inaudible] outlets.</p> <p>11       What I'm saying is I don't</p> <p>12 think compactness and communities of</p> <p>13 interest are the same thing. I</p> <p>14 think they are different. Now, it</p> <p>15 could -- the inclusion of the impact</p> <p>16 of both communities of interest in a</p> <p>17 district relate to its compactness I</p> <p>18 suppose yes. But I view at least</p> <p>19 compactness as primarily a visual</p> <p>20 and geographical feature which may</p> <p>21 involve these factors that are</p> <p>22 talked about in there.</p> <p>23       Q. Are you familiar with the</p> <p>24 LULAC versus Perry case that the</p> <p>25 Supreme Court decided?</p>

<p style="text-align: right;">Page 238</p> <p>1           TERRENI</p> <p>2           A. I read it a long time ago.</p> <p>3       But I remember some of it.</p> <p>4           Q. And you would accept the</p> <p>5       Supreme Court's definition of</p> <p>6       compactness as defined in that case?</p> <p>7           A. I don't recall the</p> <p>8       definition.</p> <p>9           Q. In the final category Roman</p> <p>10       numeral IV it states that: "Other</p> <p>11       succinct and importable sources of</p> <p>12       demographic and political</p> <p>13       information may be considered in</p> <p>14       drafting and analyzing proposed</p> <p>15       redistricting plans."</p> <p>16       Did I read that correct?</p> <p>17       A. You did.</p> <p>18       Q. What did you understand</p> <p>19       demographic and political</p> <p>20       information to mean here?</p> <p>21       A. Well, political results to</p> <p>22       the extent where we had other</p> <p>23       political subdivision boundaries</p> <p>24       such as school district boundaries</p> <p>25       or things to that effect might be a</p>	<p style="text-align: right;">Page 240</p> <p>1           TERRENI</p> <p>2           A. In congressional map</p> <p>3       making, and I'm just -- I want to be</p> <p>4       careful to be complete here, I know</p> <p>5       that we had access to some voter</p> <p>6       registration data and I also know</p> <p>7       that we -- quickly that we had some</p> <p>8       point determined wasn't really</p> <p>9       probative or reliable.</p> <p>10       And -- so I don't believe we</p> <p>11       considered it in the congressional</p> <p>12       process. There was no other</p> <p>13       political data other than what you</p> <p>14       see on the website.</p> <p>15       Q. And do you know what the</p> <p>16       source of this unreliable data was</p> <p>17       that you did not consider?</p> <p>18       A. Would have been the State</p> <p>19       Election Commission.</p> <p>20       Q. Mr. Terreni, are you</p> <p>21       familiar with statements that racial</p> <p>22       identity and political affiliation</p> <p>23       are correlated in South Carolina?</p> <p>24       A. I have heard that said</p> <p>25       before.</p>
<p style="text-align: right;">Page 239</p> <p>1           TERRENI</p> <p>2       variable or spoken about by members.</p> <p>3       They could be considered any</p> <p>4       information, institutional quarters</p> <p>5       information, do you have presence,</p> <p>6       do you have diversity, that kind of</p> <p>7       thing.</p> <p>8       Q. And demographic data, what</p> <p>9       does that include?</p> <p>10       A. It says it may be</p> <p>11       considered, the demographic data we</p> <p>12       consider is the demographic data</p> <p>13       which you've seen. I'm not aware if</p> <p>14       any other -- if we had had other</p> <p>15       reliable sources of demographic data</p> <p>16       we might have included in there if</p> <p>17       we did that I recall.</p> <p>18       Q. And in terms of the</p> <p>19       political data I know you mentioned</p> <p>20       the work that Clark Bensen did on</p> <p>21       election results. Did you get</p> <p>22       political data from any other</p> <p>23       sources this cycle that you</p> <p>24       considered for congressional map</p> <p>25       making?</p>	<p style="text-align: right;">Page 241</p> <p>1           TERRENI</p> <p>2       Q. What do you understand that</p> <p>3       to mean?</p> <p>4       A. That minorities,</p> <p>5       specifically African-Americans,</p> <p>6       overwhelmingly vote for the</p> <p>7       Democratic party and that white</p> <p>8       voters not as overwhelmingly but in</p> <p>9       equal -- not equal, excuse me, but</p> <p>10       white voters predominantly vote for</p> <p>11       Republicans.</p> <p>12       Q. Are you aware of any cases</p> <p>13       decided by South Carolina courts,</p> <p>14       federal or state, or the Fourth</p> <p>15       Circuit or Supreme Court that have</p> <p>16       found racially polarized voting in</p> <p>17       South Carolina?</p> <p>18       A. Colleton County versus</p> <p>19       McConnell found racially polarized</p> <p>20       voting in South Carolina in 2000 or</p> <p>21       2001 and '2. I don't know that it</p> <p>22       was -- and other than that, I'm not</p> <p>23       saying there was, but I'm not</p> <p>24       remembering.</p> <p>25       Q. Are you familiar with the</p>

<p style="text-align: right;">Page 242</p> <p>1                   TERRENI</p> <p>2   litigation involving Charleston</p> <p>3   school districts?</p> <p>4       A. Generally.</p> <p>5       Q. And are you aware whether</p> <p>6   racially polarized voting has been</p> <p>7   found in Charleston?</p> <p>8       A. I'm sorry, Charleston</p> <p>9   school districts?</p> <p>10      Q. Or County Commission?</p> <p>11      A. That's two different</p> <p>12   things.</p> <p>13      Q. It is. It's two different</p> <p>14   things. There's a county level</p> <p>15   Section 2 lawsuit?</p> <p>16      A. Presently or --</p> <p>17      Q. No. There's a --</p> <p>18      A. I remember a section, I</p> <p>19   guess it was a Section 2 lawsuit but</p> <p>20   I don't remember a lawsuit</p> <p>21   challenging Charleston's method of</p> <p>22   electing county council members</p> <p>23   which was a voting district</p> <p>24   decision. And it would not surprise</p> <p>25   me that polarized voting was found</p>	<p style="text-align: right;">Page 244</p> <p>1                   TERRENI</p> <p>2   whether a racially polarized voting</p> <p>3   analysis was conducted or are you</p> <p>4   aware whether racially polarized</p> <p>5   voting analysis was conducted by the</p> <p>6   Senate as maps were being developed</p> <p>7   for Congress?</p> <p>8       A. I am not aware that a</p> <p>9   racially polarized voting analysis</p> <p>10   was conducted by the Senate as maps</p> <p>11   were being developed for Congress.</p> <p>12   I have no knowledge of such a thing</p> <p>13   and I don't believe it occurred.</p> <p>14      Q. Are you aware whether the</p> <p>15   public or legislative members asked</p> <p>16   for racially polarized voting</p> <p>17   analysis to be conducted while</p> <p>18   congressional maps were being</p> <p>19   considered?</p> <p>20      A. I'm aware that some members</p> <p>21   of the public and one member of the</p> <p>22   general assembly, at least, Senator</p> <p>23   Harpootlian, asked or suggested that</p> <p>24   it should be done.</p> <p>25      Q. And do you know whether</p>
<p style="text-align: right;">Page 243</p> <p>1                   TERRENI</p> <p>2   in that lawsuit, but I don't</p> <p>3   specifically recall, but it wouldn't</p> <p>4   surprise me.</p> <p>5       Q. Did you consider or are you</p> <p>6   aware of anyone in the Senate who</p> <p>7   considered any sources of data on</p> <p>8   voting behavior as congressional</p> <p>9   maps were developed?</p> <p>10      A. I'm sorry, I'm having</p> <p>11   trouble with that question. Could</p> <p>12   you restate it for me? Maybe if I</p> <p>13   hear it again.</p> <p>14      Q. Let me strike that. I'm</p> <p>15   going to move on to something else.</p> <p>16      You cited the Colleton County</p> <p>17   case. Do you dispute or have a</p> <p>18   basis to dispute that there is --</p> <p>19   that there continues to be racially</p> <p>20   polarized voting in South Carolina?</p> <p>21      A. I don't know one way or the</p> <p>22   other honestly. I mean I have heard</p> <p>23   people say it, express their views</p> <p>24   on that both ways.</p> <p>25      Q. But you are not aware of</p>	<p style="text-align: right;">Page 245</p> <p>1                   TERRENI</p> <p>2   that was acted upon?</p> <p>3       A. Yeah. I know it wasn't.</p> <p>4       Q. Who made the decision not</p> <p>5   to act upon those requests?</p> <p>6       A. The subcommittee.</p> <p>7       Q. Did they take a vote on</p> <p>8   that?</p> <p>9       A. I think they have. It was</p> <p>10   during the, or at least they</p> <p>11   declined to take a vote on it, but</p> <p>12   the discussion we had in a public</p> <p>13   subcommittee meeting in which</p> <p>14   Senator Harpootlian advanced the</p> <p>15   opinion that we should have a</p> <p>16   racially polarized voting analysis</p> <p>17   conducted in advance of the Senate</p> <p>18   and congressional process. I</p> <p>19   expressed the opinion that it was</p> <p>20   not useful. And the Senate, we did</p> <p>21   not, at least implicitly, the</p> <p>22   subcommittee did not agree with</p> <p>23   Senator Harpootlian, and I mean that</p> <p>24   just the Senate did not vote or</p> <p>25   direct us to conduct that. I</p>

<p style="text-align: right;">Page 246</p> <p>1           TERRENI</p> <p>2 shouldn't say we. I can't speak for</p> <p>3 them.</p> <p>4       After this question can we</p> <p>5 take just a five-minute break?</p> <p>6       MS. ADEN: Yes. Why don't we</p> <p>7 stop and we will return to that.</p> <p>8       THE WITNESS: I appreciate</p> <p>9 that. We will come back at three</p> <p>10 maybe. Is that okay?</p> <p>11       MS. ADEN: Sounds great.</p> <p>12       (Whereupon, there is a recess</p> <p>13 in the proceedings.)</p> <p>14       Q. Before the break I believe</p> <p>15 you mentioned not agreeing that a</p> <p>16 racially polarized voting analysis</p> <p>17 was necessary, at least in the early</p> <p>18 part of 2021. Can you explain why?</p> <p>19       A. Yes, ma'am. We had no</p> <p>20 reason to believe at the time that</p> <p>21 we were going to have an issue with</p> <p>22 Section 2 compliance. No claims had</p> <p>23 been asserted. Nobody really</p> <p>24 threatened them. The sixth</p> <p>25 congressional district which would</p>	<p style="text-align: right;">Page 248</p> <p>1           TERRENI</p> <p>2 benchmark map?</p> <p>3       A. It was.</p> <p>4       Q. Okay. How did you or the</p> <p>5 Senate assess whether or not that</p> <p>6 district would still perform with</p> <p>7 the change in the BVAP having not</p> <p>8 looked at racial bloc voting</p> <p>9 patterns in that district?</p> <p>10       A. It was an educated judgment</p> <p>11 in the sense that it was not a</p> <p>12 substantial diminution of the black</p> <p>13 population. It was not all the</p> <p>14 Senate districts around the state.</p> <p>15 The minority Senate districts were</p> <p>16 facing reduced black population</p> <p>17 because the state Senate certainly</p> <p>18 as a whole -- I mean, excuse me,</p> <p>19 black population as a whole had been</p> <p>20 reduced including the BVAP.</p> <p>21       I had heard Congressman</p> <p>22 Clyburn himself say that he didn't</p> <p>23 think his district needed as much</p> <p>24 BVAP. I think he was quoted</p> <p>25 publicly saying that. And we didn't</p>
<p style="text-align: right;">Page 247</p> <p>1           TERRENI</p> <p>2 have been the likely target of that</p> <p>3 claim had been upheld against a</p> <p>4 Section 2 challenge by the court ten</p> <p>5 years ago. And the upside, if there</p> <p>6 was one, of conducting a racially</p> <p>7 polarized voting analysis in my</p> <p>8 opinion outweighed the downside, at</p> <p>9 least what I told the subcommittee,</p> <p>10 and the downside being that all of a</p> <p>11 sudden race would have been in the</p> <p>12 middle of the room and that we would</p> <p>13 risk making race or some artificial</p> <p>14 target the -- derived from that</p> <p>15 polarized voting analysis the</p> <p>16 predominant factor or at least</p> <p>17 expose ourselves to accusations that</p> <p>18 it was. So at that point with no</p> <p>19 Section 2 claim -- facing no Section</p> <p>20 2 claim we didn't think it was</p> <p>21 necessary.</p> <p>22       Q. Are you aware of whether</p> <p>23 the black voting age population in</p> <p>24 congressional District 6 was reduced</p> <p>25 as compared to under the 2011</p>	<p style="text-align: right;">Page 249</p> <p>1           TERRENI</p> <p>2 really hear anybody arguing that it</p> <p>3 needed to be maintained above that.</p> <p>4 I believe perhaps the NAACP's</p> <p>5 comments did mention it, but didn't</p> <p>6 -- mentioned that there could be a</p> <p>7 reduction but I don't even think</p> <p>8 your organization took a strong</p> <p>9 stand about it, but I don't want to</p> <p>10 speak for you. So we didn't feel it</p> <p>11 was a problem given the relatively</p> <p>12 small reduction in BVAP.</p> <p>13       Q. But it was an educated</p> <p>14 guess not an analysis reduced to</p> <p>15 writing?</p> <p>16       A. Correct.</p> <p>17       Q. Is it your view that the</p> <p>18 black population in South Carolina</p> <p>19 has gone down between the 2010</p> <p>20 census and the 2020 census?</p> <p>21       A. That's my recollection.</p> <p>22       Q. Have you seen an analysis</p> <p>23 reflecting that?</p> <p>24       A. I have seen the PL data.</p> <p>25       Q. Is it possible that the</p>

<p style="text-align: right;">Page 250</p> <p>1           TERRENI</p> <p>2   population has not been reduced but</p> <p>3   that it may have moved throughout</p> <p>4   South Carolina?</p> <p>5       A. I think the PL data was</p> <p>6   statewide. It's possible that the</p> <p>7   population -- that as a percentage,</p> <p>8   I didn't mean hard numbers, I meant</p> <p>9   the percentage -- that the</p> <p>10   percentage of BVAP statewide I</p> <p>11   believe is lower than it was during</p> <p>12   the last census results.</p> <p>13       Q. But in certain parts of the</p> <p>14   state because of movement and</p> <p>15   demographic changes it could have</p> <p>16   grown in certain counties or</p> <p>17   districts in the state?</p> <p>18       A. Right. I meant statewide.</p> <p>19       Q. I'm going to direct your</p> <p>20   attention to tab 33, which is the</p> <p>21   transcript from the September 17th,</p> <p>22   2021, Senate Judiciary Committee</p> <p>23   with Bates stamp number 3484, 3571.</p> <p>24       A. Okay.</p> <p>25       Q. So I think, I'm sorry, for</p>	<p style="text-align: right;">Page 252</p> <p>1           TERRENI</p> <p>2   have you read aloud the sentence</p> <p>3   that begins with -- let me stop and</p> <p>4   say would you agree that in this</p> <p>5   paragraph Senator Harpootlian's</p> <p>6   statements are being transcribed on</p> <p>7   page 14 in lines 5 through 9?</p> <p>8       A. They appear to be.</p> <p>9       Q. Could you read the sentence</p> <p>10   that begins "So we don't even" at</p> <p>11   line 5?</p> <p>12       A. "So we don't even have</p> <p>13   racial bloc. So how are you going</p> <p>14   to do a Section 2 analysis without</p> <p>15   that data? So I would almost say</p> <p>16   this constitutes willful wantonness.</p> <p>17   No, it does constitute willful</p> <p>18   wantonness."</p> <p>19       Q. So is it fair to say at</p> <p>20   least as of September 17th of 2021</p> <p>21   Senator Harpootlian is looking for</p> <p>22   the data to be able to do a racial</p> <p>23   bloc analysis in order to assess</p> <p>24   whether or not there's a Section 2</p> <p>25   issue?</p>
<p style="text-align: right;">Page 251</p> <p>1           TERRENI</p> <p>2   Ms. Ruggieri's purposes tab 28</p> <p>3   should have been Plaintiffs' Exhibit</p> <p>4   12.</p> <p>5       MS. ADEN: Is that what you</p> <p>6   also have, Mr. Gore?</p> <p>7       MR. GORE: Let me see. Yes.</p> <p>8       MS. ADEN: And then tab 33,</p> <p>9   which we are just about to talk</p> <p>10   about, would be Plaintiffs' Exhibit</p> <p>11   13.</p> <p>12       (Plaintiffs' Exhibit 13,</p> <p>13   Transcript from 9/17/2021 Senate</p> <p>14   Judiciary Committee, Bates</p> <p>15   SCSENATE_00003484, marked for</p> <p>16   identification, as of this date.)</p> <p>17       Q. Do you have the transcript</p> <p>18   in front of you, Mr. Terreni?</p> <p>19       A. Yes, ma'am.</p> <p>20       Q. Do you recall being in</p> <p>21   attendance at this meeting?</p> <p>22       A. I do.</p> <p>23       Q. I want to turn your</p> <p>24   attention to page 14, South Carolina</p> <p>25   Senate 3498, lines 4 through 9, and</p>	<p style="text-align: right;">Page 253</p> <p>1           TERRENI</p> <p>2       A. Senator Harpootlian, as I</p> <p>3   recall, asked for two things. He</p> <p>4   initially asked for an analysis. He</p> <p>5   then asked for data with which to do</p> <p>6   an analysis. I responded to Senator</p> <p>7   Harpootlian that I didn't believe --</p> <p>8   to my recollection, that I didn't</p> <p>9   believe the analysis was useful for</p> <p>10   the subcommittee at the time, but</p> <p>11   that the data that he or other</p> <p>12   members of the public might wish to</p> <p>13   use to conduct the racial bloc</p> <p>14   voting analysis or at least some of</p> <p>15   it to the extent that we could</p> <p>16   access it, would be made available</p> <p>17   in short time and, in fact, it was.</p> <p>18       Q. But as of September 17th it</p> <p>19   does not appear that the Senate had</p> <p>20   compiled the necessary data to do a</p> <p>21   racial bloc analysis, is that fair</p> <p>22   to say?</p> <p>23       A. Yes, ma'am.</p> <p>24       Q. Looking at tab 17, which</p> <p>25   should be Plaintiffs' Exhibit 14,</p>



<p style="text-align: right;">Page 254</p> <p>1           TERRENI</p> <p>2   this is an email from Lea Aden, me,</p> <p>3   to the Senate Redistricting</p> <p>4   Subcommittee dated October 8th,</p> <p>5   2021, which includes Senate and</p> <p>6   congressional map submissions along</p> <p>7   with --</p> <p>8       A. I'm sorry, could you --</p> <p>9   which tab?</p> <p>10    Q. Tab 17 I hope.</p> <p>11    A. Oh, I'm sorry. I opened</p> <p>12   the wrong one.</p> <p>13       Yes, ma'am.</p> <p>14    Q. Okay. Plaintiffs' Exhibit</p> <p>15   14, it's an email from again me to</p> <p>16   the Senate Redistricting</p> <p>17   Subcommittee dated October 8th,</p> <p>18   2021. It includes Senate and</p> <p>19   congressional map submissions along</p> <p>20   with attachments with Bates stamp</p> <p>21   South Carolina Senate 3798 to 3834.</p> <p>22       (Plaintiffs' Exhibit 14, Email</p> <p>23   from Leah Aden to the Senate</p> <p>24   Redistricting Subcommittee, Bates</p> <p>25   South Carolina Senate 3798 to 3834,</p>	<p style="text-align: right;">Page 256</p> <p>1           TERRENI</p> <p>2   on who the recipients were. As a</p> <p>3   matter of course, if Michelle indeed</p> <p>4   was on the email she may have sent</p> <p>5   it to me because she was kind of was</p> <p>6   doing logistics. Could have been</p> <p>7   Andy, but generally somebody would</p> <p>8   make sure I got it.</p> <p>9       Q. Do you recall reviewing</p> <p>10   this submission?</p> <p>11    A. Yeah.</p> <p>12    Q. I want to focus on Bates</p> <p>13   stamp number South Carolina Senate</p> <p>14   3807, which is -- should be page 10</p> <p>15   of the pdf, 10 of 37 of the pdf.</p> <p>16    A. Okay.</p> <p>17    Q. Is it fair to say looking</p> <p>18   at the first paragraph of this</p> <p>19   letter to the Senate that the South</p> <p>20   Carolina NAACP believes that any</p> <p>21   racial bloc voting is a</p> <p>22   consideration that the subcommittee</p> <p>23   should be taking into account during</p> <p>24   redistricting?</p> <p>25    A. I'm sorry, I was on the</p>
<p style="text-align: right;">Page 255</p> <p>1           TERRENI</p> <p>2   marked for identification, as of</p> <p>3   this date.)</p> <p>4       Q. Do you -- this is sent from</p> <p>5   me to the Senate redistricting</p> <p>6   email. I guess I have a question</p> <p>7   for you which we haven't gotten to</p> <p>8   which is whether or not you had</p> <p>9   access to this email box for the</p> <p>10   Senate?</p> <p>11    A. No, not directly that I</p> <p>12   recall. But it probably would have</p> <p>13   been forwarded to me at some point.</p> <p>14    Q. And was that the normal</p> <p>15   practice, that things were forwarded</p> <p>16   to you from this email inbox if you</p> <p>17   did not have access to it?</p> <p>18    A. Yeah. I'm not saying</p> <p>19   everything was, but if was a plan</p> <p>20   submission or something like this it</p> <p>21   generally would have been sent to</p> <p>22   me.</p> <p>23    Q. And who would send it to</p> <p>24   you?</p> <p>25    A. That could vary depending</p>	<p style="text-align: right;">Page 257</p> <p>1           TERRENI</p> <p>2   wrong page.</p> <p>3       Are you talking about Bates</p> <p>4   number 0003 --</p> <p>5       Q. 3807?</p> <p>6       A. 3817?</p> <p>7       Q. 3807.</p> <p>8       A. 07. Yes.</p> <p>9       Q. So yes --</p> <p>10    A. Wait a minute. Please</p> <p>11   repeat your question.</p> <p>12    Q. Yes. Is it fair to say</p> <p>13   that based upon the first paragraph</p> <p>14   of this, in this letter on 3807 that</p> <p>15   the South Carolina NAACP is urging</p> <p>16   the subcommittee to consider any</p> <p>17   racial bloc voting as it performs</p> <p>18   redistricting this cycle?</p> <p>19    A. Yes.</p> <p>20    Q. And is it fair to say that</p> <p>21   the South Carolina NAACP is</p> <p>22   advancing that it believes racial</p> <p>23   bloc voting continues to exist in</p> <p>24   various elections in South Carolina?</p> <p>25    A. Yes.</p>

65 (Pages 254 - 257)

<p style="text-align: right;">Page 258</p> <p>1           TERRENI</p> <p>2       Q. And is it fair to say that</p> <p>3 looking at this page the South</p> <p>4 Carolina NAACP provides data from</p> <p>5 three elections, the 2020 Senate</p> <p>6 election and in the footnote 26, the</p> <p>7 2018 Treasurer and 2018 Secretary of</p> <p>8 State. It's analysis that there is</p> <p>9 racial bloc voting in at least those</p> <p>10 three elections in South Carolina?</p> <p>11       A. It's fair to say the NAACP</p> <p>12 said as much, yes.</p> <p>13       Q. Do you have any reason to</p> <p>14 disagree that those racial bloc</p> <p>15 voting findings are erroneous?</p> <p>16       A. I don't have any reason to</p> <p>17 agree or disagree, I haven't</p> <p>18 examined it.</p> <p>19       Q. Do you recall attending a</p> <p>20 November 12, 2021, Senate</p> <p>21 redistricting subcommittee meeting?</p> <p>22       A. If we look at the</p> <p>23 transcript, but you might refresh my</p> <p>24 memory. Do you have the document?</p> <p>25       Q. Let's look at tab 19 which</p>	<p style="text-align: right;">Page 260</p> <p>1           TERRENI</p> <p>2 subcommittee's working plan, to</p> <p>3 racial bloc voting analysis. Did</p> <p>4 you?"</p> <p>5       John Ruoff: "You know, I have</p> <p>6 looked at racial bloc voting</p> <p>7 analyses but we have not done a</p> <p>8 specific rbv analysis of these</p> <p>9 districts as drawn now."</p> <p>10       Senator Harpootlian: "And to</p> <p>11 your knowledge, the staff hasn't</p> <p>12 either; is that correct?"</p> <p>13       John, and it says John Day, it</p> <p>14 should be John Ruoff: "I don't</p> <p>15 know. Mr. Terreni and I had a</p> <p>16 conversation about them during that</p> <p>17 before the maps were drawn but I</p> <p>18 don't know whether the staff."</p> <p>19       Q. Do you recall having a</p> <p>20 conversation with John Ruoff, and</p> <p>21 it's spelled R-U-O-F-F, not as roof</p> <p>22 as it's written in this transcript,</p> <p>23 as Mr. Ruoff describes in this</p> <p>24 proceeding?</p> <p>25       A. Yeah.</p>
<p style="text-align: right;">Page 259</p> <p>1           TERRENI</p> <p>2 will be Plaintiffs' Exhibit 15. And</p> <p>3 this should be the November 12th</p> <p>4 transcript of the Senate</p> <p>5 redistricting hearing South Carolina</p> <p>6 Senate 11729, 11843.</p> <p>7       (Plaintiffs' Exhibit 15,</p> <p>8 Transcript of the Senate</p> <p>9 redistricting hearing, Bates South</p> <p>10 Carolina Senate 11729, 11843,</p> <p>11 marked for identification, as of</p> <p>12 this date.)</p> <p>13       A. I believe I attended.</p> <p>14       Q. If you look at page 24,</p> <p>15 South Carolina Senate 11752, and I'm</p> <p>16 talking about the page numbers in</p> <p>17 the top right-hand corner of the</p> <p>18 actual transcript not the pdfs.</p> <p>19       A. Yes.</p> <p>20       Q. Can you read into the</p> <p>21 record slowly lines 12 through --</p> <p>22 I'm sorry, 2 through 12?</p> <p>23       A. "Senator Harpootlian: The</p> <p>24 League -- maybe you know the League</p> <p>25 subjected our -- our plan, the</p>	<p style="text-align: right;">Page 261</p> <p>1           TERRENI</p> <p>2       Q. And do you -- so you don't</p> <p>3 have any reason to dispute that at</p> <p>4 least before November 12, 2021, you</p> <p>5 had a conversation with Dr. Ruoff</p> <p>6 about the Senate doing an RPV</p> <p>7 analysis?</p> <p>8       A. No. I had a conversation</p> <p>9 with Dr. Ruoff about him doing an</p> <p>10 RBV analysis. Specifically I asked</p> <p>11 him if he was going to do one. He</p> <p>12 said no, that he didn't have the</p> <p>13 resources to conduct that. And I</p> <p>14 also had a, in that same</p> <p>15 conversation said well, given that</p> <p>16 somebody may want to do one at some</p> <p>17 point in time could we update your</p> <p>18 list of black/white elections that</p> <p>19 you compiled in the 2010 scope. And</p> <p>20 Dr. Ruoff agreed that that would be</p> <p>21 a good idea so that people weren't</p> <p>22 caught flat-footed if they needed</p> <p>23 one.</p> <p>24       Dr. Ruoff in 2010, probably</p> <p>25 going back to 2000, although I</p>

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<p style="text-align: right;">Page 262</p> <p>1           TERRENI</p> <p>2   wasn't directly involved with</p> <p>3   Dr. Ruoff doing this, had maintained</p> <p>4   this list that became kind of a</p> <p>5   source document for election -- for</p> <p>6   experts to use in selecting</p> <p>7   elections for their analyses just so</p> <p>8   they could know, hey, I want to use</p> <p>9   this [inaudible]. We needed to</p> <p>10   update that list for the past ten</p> <p>11   years.</p> <p>12       And then in the 2010 election,</p> <p>13   in the 2010 cycle we thought it was</p> <p>14   much more likely we would need such</p> <p>15   an analysis. Dr. Ruoff and the</p> <p>16   Senate entered into a collaborative</p> <p>17   agreement in which we would help</p> <p>18   update that information and we would</p> <p>19   share it with Dr. Ruoff and the</p> <p>20   public. We did that in 2010. We</p> <p>21   did it again in 2020. So that was</p> <p>22   part of that conversation with</p> <p>23   Dr. Ruoff. So that it could be done</p> <p>24   if it needed to be done and that</p> <p>25   everybody would be working from the</p>	<p style="text-align: right;">Page 264</p> <p>1           TERRENI</p> <p>2   -- why were those particular</p> <p>3   elections relevant?</p> <p>4       A. Because Dr. Ruoff and other</p> <p>5   experts in the past had said that</p> <p>6   those elections, at least some of</p> <p>7   them, were particularly probative to</p> <p>8   -- for use in racial bloc voting</p> <p>9   analyses.</p> <p>10       That's as far as I have gotten</p> <p>11   into it. I knew that's what they</p> <p>12   needed, that's what they said they</p> <p>13   wanted, we would provide it.</p> <p>14       Q. Let's look at tab 18, which</p> <p>15   will be Plaintiffs' Exhibit 16,</p> <p>16   which is an email chain with Breeden</p> <p>17   John copying two people at</p> <p>18   elias.law, E-L-I-A-S dot law.</p> <p>19       A. Yes, ma'am.</p> <p>20       Q. -- dated December 9, 2021,</p> <p>21   South Carolina Senate 3372 through</p> <p>22   80. And it attaches a document</p> <p>23   identified as South Carolina 2012</p> <p>24   through 2020 Elections Voting Data</p> <p>25   Final and the subject is "Request</p>
<p style="text-align: right;">Page 263</p> <p>1           TERRENI</p> <p>2   same list of elections if they</p> <p>3   wanted to.</p> <p>4       Q. So you trusted or the</p> <p>5   Senate trusted Dr. Ruoff to put --</p> <p>6   to compile relevant elections that</p> <p>7   anyone could use to consider racial</p> <p>8   bloc voting analysis, is that fair</p> <p>9   to say?</p> <p>10       A. Well, the Senate assisted</p> <p>11   Dr. Ruoff. We made some bloc works</p> <p>12   available or staff available to help</p> <p>13   him identify those races using the</p> <p>14   State Election Commission's voter</p> <p>15   file and put it together, but so</p> <p>16   yeah, we trusted Dr. Ruoff to guide</p> <p>17   the Senate in doing that and we are</p> <p>18   happy to work together with</p> <p>19   Dr. Ruoff in that document that I</p> <p>20   believe was published on the Senate</p> <p>21   website. You may have it in your</p> <p>22   discovery.</p> <p>23       Q. You mentioned updating it</p> <p>24   to include elections featuring black</p> <p>25   and white candidates. Why was that</p>	<p style="text-align: right;">Page 265</p> <p>1           TERRENI</p> <p>2   for state racial bloc voting data."</p> <p>3       A. Yes ma'am.</p> <p>4       (Plaintiffs' Exhibit 16, Email</p> <p>5   chain, Bates South Carolina Senate</p> <p>6   3372 through 3380, marked for</p> <p>7   identification, as of this date.)</p> <p>8       Q. Is this reflecting the</p> <p>9   compilation of data to do an RBV</p> <p>10   analysis that you mentioned</p> <p>11   Dr. Ruoff and the Senate worked</p> <p>12   together to prepare?</p> <p>13       A. I believe it is.</p> <p>14       Q. And can you read the first</p> <p>15   two sentences on South Carolina</p> <p>16   Senate 3372 which begins with "The</p> <p>17   attached file"?</p> <p>18       A. "The attached file was</p> <p>19   created through cooperative research</p> <p>20   by the South Carolina Senate</p> <p>21   Judiciary Committee and Dr. John</p> <p>22   Ruoff as their Memorandum of</p> <p>23   Understanding states."</p> <p>24       And then it goes -- I don't</p> <p>25   know if you want me to keep reading.</p>

<p style="text-align: right;">Page 266</p> <p>1           TERRENI</p> <p>2       Q. Yes, that first sentence</p> <p>3 only.</p> <p>4       A. Okay.</p> <p>5       Q. The parties -- I'm sorry,</p> <p>6 of the next paragraph. It reads:</p> <p>7 "The parties recognize that the</p> <p>8 results of certain election contests</p> <p>9 held in South Carolina since the</p> <p>10 year 2010 may be needed by the</p> <p>11 Senate to prepare a redistricting</p> <p>12 plan to be enacted after the release</p> <p>13 of the 2020 census results."</p> <p>14       Do you know if this data was</p> <p>15 available before December 9, 2021?</p> <p>16       A. I believe it may have been.</p> <p>17 I mean I believe so, yes.</p> <p>18       Q. Okay.</p> <p>19       A. I don't know when it was</p> <p>20 finally compiled but I believe it</p> <p>21 was.</p> <p>22       Q. And once it was compiled it</p> <p>23 would have been put up on the</p> <p>24 Senate's website?</p> <p>25       A. That was the arrangement,</p>	<p style="text-align: right;">Page 268</p> <p>1           TERRENI</p> <p>2 2011 plan as possible for</p> <p>3 congressional redistricting?</p> <p>4       A. No. There's not.</p> <p>5       Q. Is there anything within</p> <p>6 these guidelines expressly stating</p> <p>7 that the public and/or the</p> <p>8 legislature preferred a map that</p> <p>9 minimally made changes between the</p> <p>10 2011 map and the one to be enacted?</p> <p>11       A. I don't think so.</p> <p>12 Constituent consistency and</p> <p>13 preserving cores was a factor but it</p> <p>14 didn't express a preference, no.</p> <p>15       Q. Do you think the average</p> <p>16 member of the public would</p> <p>17 understand, would equate preserving</p> <p>18 the cores of constituencies with</p> <p>19 making a map that minimally changes</p> <p>20 districts between the 2011 map and</p> <p>21 the 2020 map?</p> <p>22       A. I don't know, but it</p> <p>23 wouldn't be intended for them to</p> <p>24 reach that understanding. That</p> <p>25 wasn't a foregone conclusion. These</p>
<p style="text-align: right;">Page 267</p> <p>1           TERRENI</p> <p>2 yes.</p> <p>3       Q. And though the data was</p> <p>4 collected there was not a related</p> <p>5 racial bloc voting analysis done</p> <p>6 pursuant to that data by the Senate?</p> <p>7       A. Correct.</p> <p>8       Q. Okay. Could the Senate</p> <p>9 have hired someone to do that</p> <p>10 analysis if it didn't have staff</p> <p>11 trained to do so?</p> <p>12       A. Racial bloc voting</p> <p>13 analysis?</p> <p>14       Q. Yes.</p> <p>15       A. Yes.</p> <p>16       Q. I just want to look back at</p> <p>17 tab 1, which should be the --</p> <p>18       A. Guidelines?</p> <p>19       Q. -- guidelines just to</p> <p>20 confirm within the guidelines on</p> <p>21 South Carolina Senate 22357 to</p> <p>22 22358, is there anything on this</p> <p>23 guideline that indicates that</p> <p>24 congressional District 7 should</p> <p>25 remain as close to the benchmark</p>	<p style="text-align: right;">Page 269</p> <p>1           TERRENI</p> <p>2 criteria would have resulted in --</p> <p>3 could have weighed other factors</p> <p>4 above core constituent consistency</p> <p>5 or cores and the map could have been</p> <p>6 radically different than the one you</p> <p>7 submitted.</p> <p>8       Q. Except for core</p> <p>9 constituency could not supercede</p> <p>10 one person one vote Section 2</p> <p>11 compliance and nondilution,</p> <p>12 nonracial gerrymandering?</p> <p>13       A. And nonracial</p> <p>14 gerrymandering?</p> <p>15       Q. It could not supercede</p> <p>16 racial gerrymandering --</p> <p>17       MR. GORE: Object to form.</p> <p>18       MS. ADEN: I object to my own</p> <p>19 form.</p> <p>20       Q. Core constituency could not</p> <p>21 supercede compliance with one person</p> <p>22 one vote compliance with Section 2</p> <p>23 and it could not lead to racial</p> <p>24 gerrymandering under the guidelines?</p> <p>25       A. Correct.</p>

<p style="text-align: right;">Page 270</p> <p>1           TERRENI</p> <p>2       Q. Do you see anything in</p> <p>3 these guidelines that articulates</p> <p>4 that Beaufort should remain in CD 1</p> <p>5 and not be put in CD 2?</p> <p>6       A. Not explicitly. That's an</p> <p>7 outcome.</p> <p>8       Q. But that is something that</p> <p>9 was debated during the legislative</p> <p>10 process?</p> <p>11       A. Yes.</p> <p>12       Q. And similarly you don't see</p> <p>13 anything expressly in these</p> <p>14 guidelines that says keep Fort</p> <p>15 Jackson in CD 2 with -- in CD 2?</p> <p>16       A. Again, not expressly, no.</p> <p>17       Q. And is there anything in</p> <p>18 this instruction that says make</p> <p>19 Congressional District 1 likely to</p> <p>20 elect a Republican congressional</p> <p>21 candidate or be Republican leaning?</p> <p>22       A. Not specifically, no.</p> <p>23       Q. And unspecifically where do</p> <p>24 you think it says that or suggests</p> <p>25 that?</p>	<p style="text-align: right;">Page 272</p> <p>1           TERRENI</p> <p>2       (Plaintiffs' Exhibit 17, Email</p> <p>3 cover from Holli Miller, Bates</p> <p>4 South Carolina Senate 3387 to 3395,</p> <p>5 marked for identification, as of</p> <p>6 this date.)</p> <p>7       Q. Do you remember receiving</p> <p>8 this cover letter and the</p> <p>9 attachment?</p> <p>10       A. Yes.</p> <p>11       Q. And are the recipients also</p> <p>12 other subcommittee members besides</p> <p>13 Senator Harpootlian?</p> <p>14       A. A lot of them, yes.</p> <p>15       Q. Are there also Senate staff</p> <p>16 on that?</p> <p>17       A. Yes. There are some Senate</p> <p>18 staff and then other people I don't</p> <p>19 recognize.</p> <p>20       Q. Looking at South Carolina</p> <p>21 Senate 3389 to 3393, so this is the</p> <p>22 actual letter. As a general matter</p> <p>23 what did you understand Senator</p> <p>24 Harpootlian was doing with this</p> <p>25 letter?</p>
<p style="text-align: right;">Page 271</p> <p>1           TERRENI</p> <p>2       A. It doesn't -- I'm sorry --</p> <p>3 it doesn't specifically say that or</p> <p>4 even nonspecifically. It does say</p> <p>5 congressional District 1 should be</p> <p>6 Republican leaning. No, that's not</p> <p>7 a guideline.</p> <p>8       Q. In tab 12, which should be</p> <p>9 plaintiffs Exhibit 17.</p> <p>10       A. Tab 12, okay.</p> <p>11       Q. This should be an email</p> <p>12 cover from Holi, H-O-L-I, Miller, or</p> <p>13 two Ls. Is that two Ls or one L? I</p> <p>14 can't see. Two Ls, H-O-L-L-I Miller</p> <p>15 on behalf of Senator Harpootlian</p> <p>16 copying you, Mr. Terreni dated</p> <p>17 September 16, 2021 with the subject</p> <p>18 "Notice of redistricting</p> <p>19 subcommittee meeting" and it's</p> <p>20 attaching a letter to Luke Rankin.</p> <p>21 This is Bates stamped South Carolina</p> <p>22 Senate 3387 to 95. Can you take a</p> <p>23 moment to -- I'll direct you to</p> <p>24 particular things, but it's a</p> <p>25 nine-page pdf.</p>	<p style="text-align: right;">Page 273</p> <p>1           TERRENI</p> <p>2       A. Proposing legislative</p> <p>3 guidelines or redistricting</p> <p>4 guidelines for consideration of the</p> <p>5 committee.</p> <p>6       Q. Can you read just the first</p> <p>7 and last sentence of the paragraph</p> <p>8 on 3390? The first sentence begins</p> <p>9 with "However" and last begins with</p> <p>10 "Because."</p> <p>11       A. "However, what is not clear</p> <p>12 from the draft guidance is what the</p> <p>13 subcommittee contends would rise to</p> <p>14 the level of vote dilution under the</p> <p>15 VRA or the Constitution. For</p> <p>16 example" --</p> <p>17       Q. Let's stop -- not there.</p> <p>18 Can you go to the last sentence,</p> <p>19 "Because"?</p> <p>20       A. "Because the threshold</p> <p>21 requirements must be met before a</p> <p>22 litigant could even argue if the</p> <p>23 court should force the state to draw</p> <p>24 a majority-minority district, the</p> <p>25 legislature should not voluntarily</p>

<p style="text-align: right;">Page 274</p> <p>1           TERRENI</p> <p>2   undertake such a task in</p> <p>3   anticipation of such a challenge</p> <p>4   without first making sure these</p> <p>5   conditions were met."</p> <p>6   Q. And then looking at the</p> <p>7   next paragraph, is it fair to say</p> <p>8   that Senator Harpootlian is asking</p> <p>9   the subcommittee staff to produce a</p> <p>10   document, a written document that</p> <p>11   fully explains what the subcommittee</p> <p>12   should credit as sufficient evidence</p> <p>13   of vote dilution to warrant a</p> <p>14   remedial racial redistricting under</p> <p>15   Section 2 or the constitution?</p> <p>16   A. That's what it says.</p> <p>17   Q. And is it fair to say in</p> <p>18   the last sentence he says: "In the</p> <p>19   absence of such data and analysis I</p> <p>20   do not believe the state can</p> <p>21   credibly claim to be acting in</p> <p>22   furtherance of the VRA or the</p> <p>23   Constitution when subordinating</p> <p>24   other race neutral considerations to</p> <p>25   draw majority-minority districts."</p>	<p style="text-align: right;">Page 276</p> <p>1           TERRENI</p> <p>2   have brought a racial gerrymandering</p> <p>3   lawsuit, correct?</p> <p>4   A. Correct.</p> <p>5   Q. Okay. Do you know if</p> <p>6   Senator Harpootlian's request for</p> <p>7   this analysis was adopted?</p> <p>8   A. It was not.</p> <p>9   Q. Read the first sentence of</p> <p>10   the next paragraph aloud beginning</p> <p>11   with "However, I believe."</p> <p>12   A. Are you talking the second</p> <p>13   paragraph in Section 3?</p> <p>14   Q. I'm sorry, second paragraph</p> <p>15   under 3 Avoidance of Racial</p> <p>16   Gerrymandering, South Carolina</p> <p>17   Senate 3390.</p> <p>18   A. "However, I believe the</p> <p>19   subcommittee should seek guidance</p> <p>20   from committee staff in order to</p> <p>21   enact a policy that seeks to correct</p> <p>22   racial decisions or decision-making</p> <p>23   that serves as the predicate for the</p> <p>24   choices reflected in your benchmark</p> <p>25   plan."</p>
<p style="text-align: right;">Page 275</p> <p>1           TERRENI</p> <p>2   Did I accurately read that?</p> <p>3   A. It does.</p> <p>4   Q. And does it reflect that</p> <p>5   Senator Harpootlian thinks that an</p> <p>6   analysis of a potential vote</p> <p>7   dilution is necessary not just to</p> <p>8   defend against a Section 2 lawsuit</p> <p>9   but also to defend against a</p> <p>10   constitutional challenge such as a</p> <p>11   racial gerrymandering or an</p> <p>12   intentional discrimination</p> <p>13   challenge?</p> <p>14   A. Given what he said, you</p> <p>15   know, it would be defense and to a</p> <p>16   racial gerrymandering claim is,</p> <p>17   quote, in furtherance of the VRA,</p> <p>18   unquote, which would mean Section 2</p> <p>19   compliance. This is a defense to</p> <p>20   racial gerrymandering because he</p> <p>21   says when subordinating other race</p> <p>22   mutual considerations to draw a</p> <p>23   majority-minority district is just</p> <p>24   something we didn't do.</p> <p>25   Q. And we, the plaintiffs,</p>	<p style="text-align: right;">Page 277</p> <p>1           TERRENI</p> <p>2   Q. And then if you could just</p> <p>3   read the last sentence on 3391,</p> <p>4   which is the next page, beginning</p> <p>5   with "In light of." It's the last</p> <p>6   sentence of the first nonfull</p> <p>7   paragraph on the South Carolina</p> <p>8   Senate 3391.</p> <p>9   A. Just tell me where it</p> <p>10   begins and I'll --</p> <p>11   Q. You are in the right</p> <p>12   paragraph. It's just I'm focusing</p> <p>13   on the last sentence, which reads:</p> <p>14   "In light of U.S. Supreme Court</p> <p>15   precedent --</p> <p>16   A. Yes. I'm sorry.</p> <p>17   Q. -- over the last decade."</p> <p>18   A. I'm sorry. "In light of</p> <p>19   U.S. Supreme Court precedent over</p> <p>20   the last decade I believe our</p> <p>21   guidelines should be updated to</p> <p>22   recognize the districting decisions</p> <p>23   the legislature made a decade ago</p> <p>24   under the auspices of Section 5 were</p> <p>25   based on a flawed view of VRA that</p>

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<p style="text-align: right;">Page 278</p> <p>1           TERRENI</p> <p>2   was unconstitutionally in effect at</p> <p>3   the time those decisions were made."</p> <p>4   Q. And this guidance from the</p> <p>5   committee staff about correcting</p> <p>6   racial decision-making from the</p> <p>7   benchmark plan, was that</p> <p>8   recommendation adopted?</p> <p>9   A. This isn't guidance from</p> <p>10   the committee staff.</p> <p>11   Q. Excuse me.</p> <p>12   A. You asked me if this</p> <p>13   guidance from the committee staff</p> <p>14   correcting racial discrimination in</p> <p>15   the benchmark plan was adopted, and</p> <p>16   I'm saying --</p> <p>17   Q. I'm sorry, that's not the</p> <p>18   question. Was the request that the</p> <p>19   committee do that analysis or seek</p> <p>20   guidance from staff, was that</p> <p>21   request taken up, adopted?</p> <p>22   A. Senator Harpootlian's</p> <p>23   request was not adopted because</p> <p>24   committee staff and the committee</p> <p>25   did not think the existing districts</p>	<p style="text-align: right;">Page 280</p> <p>1           TERRENI</p> <p>2   adopted?</p> <p>3   A. Well, we have to -- when he</p> <p>4   says district cores should be</p> <p>5   subordinated to the other criteria</p> <p>6   above, no. It is not consistent</p> <p>7   with the way the guidelines were</p> <p>8   adopted or implemented because under</p> <p>9   his criteria he would have</p> <p>10   prioritized counties and cities and</p> <p>11   voting precincts and not splitting</p> <p>12   or minimizing -- so in other words,</p> <p>13   he would elevate A, B, C -- A and B</p> <p>14   and C, as I look at this now it's</p> <p>15   been a while, over district cores.</p> <p>16   So A is not consistent with the way</p> <p>17   the subcommittee directed</p> <p>18   redistricting to take place.</p> <p>19   Q. And A that you are</p> <p>20   referring to is in the Senate</p> <p>21   guidelines, which is communities of</p> <p>22   interest?</p> <p>23   A. No, ma'am. It's in his</p> <p>24   guidelines which is counties.</p> <p>25   Q. Okay. I'm sorry, I didn't</p>
<p style="text-align: right;">Page 279</p> <p>1           TERRENI</p> <p>2   were unconstitutionally drawn, which</p> <p>3   is the premise of these requests.</p> <p>4   Q. Okay. But he asked for it</p> <p>5   and it was not taken up, that's the</p> <p>6   question?</p> <p>7   A. Correct.</p> <p>8   Q. Okay. And looking at South</p> <p>9   Carolina Senate 3392, there is a</p> <p>10   paragraph D in the middle of the</p> <p>11   page identified as Maintaining</p> <p>12   District Cores. And it reads:</p> <p>13   "While I agree we should maintain</p> <p>14   district cores when possible, other</p> <p>15   considerations stated above should</p> <p>16   be given priority and we should</p> <p>17   recognize that maintaining district</p> <p>18   cores could simply ossify problems</p> <p>19   caused by past districting efforts.</p> <p>20   Accordingly, I give this some but</p> <p>21   relatively low weight."</p> <p>22   Does that opinion square with</p> <p>23   the way that district cores or core</p> <p>24   constituency is characterized in the</p> <p>25   guidelines that were actually</p>	<p style="text-align: right;">Page 281</p> <p>1           TERRENI</p> <p>2   know what you were referring to,</p> <p>3   which document you were referring</p> <p>4   to.</p> <p>5   A. I'm on the page you told me</p> <p>6   to be on, which is the 3392 and he,</p> <p>7   Senator Harpootlian proposed the</p> <p>8   district cores should be given</p> <p>9   priority -- other considerations</p> <p>10   above should be given priority, I'll</p> <p>11   read that and understand over</p> <p>12   district courts. And those other</p> <p>13   considerations were counties, towns,</p> <p>14   cities and precincts.</p> <p>15   So the way he's phrased this</p> <p>16   you would prioritize not splitting</p> <p>17   the precinct down to being able to</p> <p>18   maintaining the district core.</p> <p>19   That's just not consistent with what</p> <p>20   the Senate adopted. Which I think</p> <p>21   was your question.</p> <p>22   Q. Did the maintaining</p> <p>23   district cores during the Senate's</p> <p>24   map, at least part of the Senate's</p> <p>25   map making process, did that</p>

<p style="text-align: right;">Page 282</p> <p>1           TERRENI</p> <p>2 ultimately take priority over some</p> <p>3 of those identified criterias like</p> <p>4 counties, keeping counties whole,</p> <p>5 keeping towns and cities whole in</p> <p>6 your view?</p> <p>7       A. It didn't necessarily take</p> <p>8 priority in the process. Well, it</p> <p>9 wasn't mandated that it take</p> <p>10 priority but the resulting plan did</p> <p>11 certainly prioritize maintaining</p> <p>12 cores of splitting precincts,</p> <p>13 although it didn't split many VTDs.</p> <p>14 As the process progressed I think it</p> <p>15 was fair to say that the legislature</p> <p>16 and the subcommittee members that</p> <p>17 supported the plan, prioritized</p> <p>18 maintaining the cores of these</p> <p>19 districts or weighed that factor to</p> <p>20 be more significant than others.</p> <p>21 Not all of them but in perhaps</p> <p>22 others once.</p> <p>23       Q. Can you tell me which</p> <p>24 others in the guidelines you think</p> <p>25 fell below -- I'm sorry -- you think</p>	<p style="text-align: right;">Page 284</p> <p>1           TERRENI</p> <p>2 saying is different members had</p> <p>3 different motivations. Certainly</p> <p>4 many members pointed to an advantage</p> <p>5 of this plan as being that it was</p> <p>6 the least change -- that it was a</p> <p>7 least or a lesser change plan from</p> <p>8 the existing plan. That they liked</p> <p>9 the existing plan and the changes</p> <p>10 here were not terribly upsetting.</p> <p>11       Q. I would like to turn to the</p> <p>12 initial staff map and some questions</p> <p>13 about that, but I want to do a, if</p> <p>14 we could go off the record for a</p> <p>15 second and do both a time check and</p> <p>16 a whether people need a five-minute</p> <p>17 break before we turn to that</p> <p>18 subject.</p> <p>19       MR. GORE: A break is always</p> <p>20 great. I would like a five-minute</p> <p>21 break.</p> <p>22       (Whereupon, there is a recess</p> <p>23 in the proceedings.)</p> <p>24       Q. Turning to the map room,</p> <p>25 were you in the map room when</p>
<p style="text-align: right;">Page 283</p> <p>1           TERRENI</p> <p>2 came before core constituency that</p> <p>3 were not one of the federal</p> <p>4 requirements?</p> <p>5       A. It's a good question,</p> <p>6 Ms. Aden. I imagine for different</p> <p>7 people --</p> <p>8       Q. Looking for that all day.</p> <p>9 Go ahead.</p> <p>10       A. You've asked a lot of good</p> <p>11 questions. I imagine for different</p> <p>12 people it meant different things.</p> <p>13 Certainly they were merged so that</p> <p>14 the minimal change in this plan was</p> <p>15 something that was appreciated by a</p> <p>16 lot of notes. But there were other</p> <p>17 factors too. It's not an either/or</p> <p>18 thing. I mean Berkeley County, for</p> <p>19 instance, was whole, the VTD splits</p> <p>20 were not terribly prevalent. There</p> <p>21 was certainly a reduction from the</p> <p>22 previous plan. So I don't know</p> <p>23 there was --</p> <p>24       I'm trying to answer your</p> <p>25 question but I suppose what I'm</p>	<p style="text-align: right;">Page 285</p> <p>1           TERRENI</p> <p>2 members of the legislature would</p> <p>3 come into the map room to consider</p> <p>4 congressional maps, Mr. Terreni?</p> <p>5       A. Often.</p> <p>6       Q. And when members of the</p> <p>7 legislature would come in to</p> <p>8 consider congressional maps, was</p> <p>9 race data available to them as they</p> <p>10 were drawing maps?</p> <p>11       A. If they requested it, it</p> <p>12 was.</p> <p>13       Q. Excuse me? I'm sorry.</p> <p>14       A. If they requested it, it</p> <p>15 was.</p> <p>16       Q. Was it a feature that you</p> <p>17 would agree could be turned on or</p> <p>18 off in Maptitude while maps were</p> <p>19 being developed?</p> <p>20       A. It could be displayed.</p> <p>21       Q. Okay. And you would agree,</p> <p>22 though, that when maps were -- the</p> <p>23 maps were proposed the initial staff</p> <p>24 plan and those that follow that they</p> <p>25 came along with a summary report</p>



<p style="text-align: right;">Page 286</p> <p>1           TERRENI</p> <p>2    which included race data?</p> <p>3       A.   Yes.</p> <p>4       Q.   So turning to the initial</p> <p>5    staff plan I think we talked earlier</p> <p>6    that the development of that plan</p> <p>7    happened around November or so after</p> <p>8    the Senate map making had been</p> <p>9    completed, is that fair to say?</p> <p>10   A.   Yes.</p> <p>11   Q.   As congressional</p> <p>12   redistricting was underway, did you</p> <p>13   or were you aware of anyone having a</p> <p>14   plan for the trajectory of how the</p> <p>15   bill would proceed through the</p> <p>16   legislative process?</p> <p>17   A.   Yeah. We discussed how the</p> <p>18   bill could move through the</p> <p>19   legislative process. The House was</p> <p>20   considering a congressional plan,</p> <p>21   the Senate obviously was and one way</p> <p>22   or another either the Senate was</p> <p>23   going to amend the House bill or we</p> <p>24   were going to exchange bills or --</p> <p>25   so different scenarios were explored</p>	<p style="text-align: right;">Page 288</p> <p>1           TERRENI</p> <p>2    plan. They had no role in drawing</p> <p>3    it.</p> <p>4       Q.   To be clear, did you have a</p> <p>5    role in actually drawing the initial</p> <p>6    staff plan?</p> <p>7       A.   No, ma'am. Will Roberts</p> <p>8    was our protographer.</p> <p>9       Q.   Did you direct Will Roberts</p> <p>10   in any regard with respect to the</p> <p>11   initial staff plan?</p> <p>12   A.   Not in -- direct is a</p> <p>13   loaded word. I would have had</p> <p>14   conversations with Will about the</p> <p>15   staff plan as it was developed. I</p> <p>16   might have asked questions about</p> <p>17   whether these things were feasible.</p> <p>18   I don't remember directing Will to</p> <p>19   do anything.</p> <p>20   Q.   Do you recall telling</p> <p>21   Mr. Roberts to develop a map that</p> <p>22   considers the Senate's adopted</p> <p>23   criteria?</p> <p>24   A.   I don't know that I had to</p> <p>25   tell Mr. Roberts that. He already</p>
<p style="text-align: right;">Page 287</p> <p>1           TERRENI</p> <p>2    for how to move this through as</p> <p>3    efficiently as possible or through</p> <p>4    this. Efficiently is probably not</p> <p>5    the best word in legislation.</p> <p>6       Q.   On November 23, 2021, the</p> <p>7    Senate Redistricting Subcommittee</p> <p>8    publicly posted a plan called the</p> <p>9    2021 Staff State Congressional Plan.</p> <p>10   Do you recall that proposal,</p> <p>11   Mr. Terreni?</p> <p>12   A.   Give me that date again,</p> <p>13   please.</p> <p>14   Q.   November 23, 2021.</p> <p>15   A.   Yes, ma'am.</p> <p>16   Q.   And it's fair to say you</p> <p>17   had a role in developing the</p> <p>18   Senate's initial staff plan?</p> <p>19   A.   Yes, ma'am.</p> <p>20   Q.   And it's fair to say that</p> <p>21   Jones Day had a role in developing</p> <p>22   the initial staff plan?</p> <p>23   A.   They had a -- they advised</p> <p>24   us -- they gave legal advice in the</p> <p>25   development of the initial staff</p>	<p style="text-align: right;">Page 289</p> <p>1           TERRENI</p> <p>2    knew, he was an experienced mentor,</p> <p>3    but if I ever reinforced it, it</p> <p>4    wouldn't surprise me.</p> <p>5       Q.   Did you ever direct or tell</p> <p>6    Mr. Roberts to develop an initial</p> <p>7    staff map that responded to Senator</p> <p>8    Rankin's request that CD 7 be the</p> <p>9    least changed district from the</p> <p>10   benchmark plan?</p> <p>11   A.   I may have. He may have</p> <p>12   heard that himself, but I may have.</p> <p>13   It wouldn't surprise me if I did.</p> <p>14   Q.   Was it possible that</p> <p>15   Mr. Roberts or Mr. Fiffick or any of</p> <p>16   the other staff heard stuff from</p> <p>17   other people and that went into the</p> <p>18   initial staff plan even if it wasn't</p> <p>19   something that was specified on</p> <p>20   these Senate adopted guidelines?</p> <p>21   A.   Yes.</p> <p>22   Q.   And then did you guys talk</p> <p>23   about that or how did -- who was the</p> <p>24   decision-maker about whether this</p> <p>25   other stuff that was being talked</p>

<p style="text-align: right;">Page 290</p> <p>1                   TERRENI</p> <p>2    about made it into the initial staff</p> <p>3    plan?</p> <p>4       A. The staff plan was an</p> <p>5    initial draft for the consideration</p> <p>6    of the members. The staff plan, as</p> <p>7    I recall, was largely developed by</p> <p>8    Mr. Roberts. He had a plan that he</p> <p>9    thought could work that was a good</p> <p>10   starting point to bring to the</p> <p>11   subcommittee, and he showed it to us</p> <p>12   and we may have had some discussion</p> <p>13   about one feature or another and</p> <p>14   then the staff plan developed from</p> <p>15   that.</p> <p>16       I hope that answers your</p> <p>17   question. It was a group thing.</p> <p>18       Q. And how -- when you said</p> <p>19   there was feedback or there was</p> <p>20   discussion about one feature or the</p> <p>21   other, did that lead to him coming</p> <p>22   up with like another iteration</p> <p>23   before it became the final initial</p> <p>24   staff plan, were there like versions</p> <p>25   of this map that were being</p>	<p style="text-align: right;">Page 292</p> <p>1                   TERRENI</p> <p>2    some subcommittee -- I mean the last</p> <p>3    time, 2010 was a very different</p> <p>4    process in that there was going to</p> <p>5    be a new set of congressional</p> <p>6    district. That engendered a lot of</p> <p>7    interest on behalf of members. So</p> <p>8    there was more intense interest in</p> <p>9    the congressional plan.</p> <p>10       Either way members knew their</p> <p>11   way to our office. If they wanted</p> <p>12   to come in, they were certainly</p> <p>13   welcome to. I don't remember there</p> <p>14   being a break in the old interest</p> <p>15   about this congressional plan from</p> <p>16   many members and I don't believe any</p> <p>17   member had any [inaudible] before</p> <p>18   the staff plan was promulgated.</p> <p>19   Again, that was a very quick</p> <p>20   turnaround. And I just think the</p> <p>21   circumstances were so different.</p> <p>22   There were a lot of people that had</p> <p>23   -- were very interested in what the</p> <p>24   district was going to require.</p> <p>25       Q. In 2010?</p>
<p style="text-align: right;">Page 291</p> <p>1                   TERRENI</p> <p>2    developed before there was the</p> <p>3    initial staff plan that was given to</p> <p>4    the subcommittee?</p> <p>5       A. I believe so. If you</p> <p>6    consider a version every iteration</p> <p>7    of the map, meaning every time a</p> <p>8    change was made that's a version,</p> <p>9    yes. I mean was the map changed</p> <p>10   from the first time Will displayed</p> <p>11   it on the screen for us, I'm sure it</p> <p>12   was.</p> <p>13       Q. Did any subcommittee member</p> <p>14   have access to the initial staff</p> <p>15   plan before it was publicized on</p> <p>16   November 23rd?</p> <p>17       A. I don't believe so. We</p> <p>18   were kind of in a rush to get it</p> <p>19   out.</p> <p>20       Q. Based upon your past work</p> <p>21   with congressional redistricting was</p> <p>22   it normal for subcommittee members</p> <p>23   to not have seen a draft of the map</p> <p>24   before it was publicized?</p> <p>25       A. It was not abnormal for</p>	<p style="text-align: right;">Page 293</p> <p>1                   TERRENI</p> <p>2       A. Yes, ma'am.</p> <p>3       Q. When you said showed us,</p> <p>4   can you just briefly reiterate who</p> <p>5   that us was who would have seen the</p> <p>6   initial staff plan that Will Roberts</p> <p>7   was largely developing?</p> <p>8       A. Generally speaking, the</p> <p>9   Senate Judiciary staff, I'm sure</p> <p>10   Mr. Fiffick, Breeden would have seen</p> <p>11   it. I imagine at some time</p> <p>12   everybody did. Paula, Maura. I</p> <p>13   don't know about Madison. But Paula</p> <p>14   and Maura would have seen it likely.</p> <p>15   I didn't mean to slight anybody by</p> <p>16   leaving them out. But I mean that</p> <p>17   was in --</p> <p>18       Q. And just to be clear, did</p> <p>19   Clark Bensen see this initial staff</p> <p>20   plan before it was publicized?</p> <p>21       A. No.</p> <p>22       Q. Did Dale Oldham see this</p> <p>23   initial staff plan before it was</p> <p>24   publicized?</p> <p>25       A. No.</p>

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<p style="text-align: right;">Page 294</p> <p>1           TERRENI</p> <p>2       Q. Did Adam Kincaid see this</p> <p>3 initial staff plan before it was</p> <p>4 publicized?</p> <p>5       A. No.</p> <p>6       Q. Did Reagen Kelly see this</p> <p>7 initial staff plan before it was</p> <p>8 publicized?</p> <p>9       A. I'm almost certain he did</p> <p>10 not because Reagan really expressed</p> <p>11 at the beginning of the</p> <p>12 congressional process that he</p> <p>13 wanted -- he really didn't want</p> <p>14 anything to do with it.</p> <p>15       Q. He really didn't want to</p> <p>16 what?</p> <p>17       A. That he wasn't going to be</p> <p>18 involved in the congressional</p> <p>19 process. The only hedging I'm</p> <p>20 getting is Reagan, certainly if</p> <p>21 Reagan had walked in the room we</p> <p>22 wouldn't -- knocked on the door and</p> <p>23 wanted to come in we wouldn't have</p> <p>24 turned him away, but I don't recall</p> <p>25 him seeing it and I don't believe he</p>	<p style="text-align: right;">Page 296</p> <p>1           TERRENI</p> <p>2       A. I believe so, yes.</p> <p>3       Q. But Jasper County is a</p> <p>4 considered part of the black belt in</p> <p>5 South Carolina?</p> <p>6       A. Jasper County is a</p> <p>7 significant African-American</p> <p>8 population. I don't recall its</p> <p>9 present demographics. There's been</p> <p>10 a lot of spread out in Hilton Head</p> <p>11 so I don't want to qualify that.</p> <p>12 But generally speaking, yes, it</p> <p>13 would be -- it would have a larger</p> <p>14 African-American population than Sun</p> <p>15 City, that's for sure.</p> <p>16       Q. Do you know whether at any</p> <p>17 point in developing the initial</p> <p>18 staff plan or frankly any point</p> <p>19 while the Senate was considering</p> <p>20 congressional redistricting whether</p> <p>21 anyone attempted to draw a Second</p> <p>22 District in which black voters were</p> <p>23 the majority of the district?</p> <p>24       A. From the Senate staff or</p> <p>25 the public submissions?</p>
<p style="text-align: right;">Page 295</p> <p>1           TERRENI</p> <p>2 did.</p> <p>3       Q. As the initial staff plan</p> <p>4 was being developed, how was -- are</p> <p>5 you aware of how Will Roberts or any</p> <p>6 other Senate staffer was factoring</p> <p>7 in the information received during</p> <p>8 the public comment period?</p> <p>9       A. Oh, he was there. He heard</p> <p>10 it. He would have distilled it.</p> <p>11 There were little details. You</p> <p>12 know, an example that we all thought</p> <p>13 of was there were members of Sun</p> <p>14 City in Jasper County who expressed</p> <p>15 a strong preference for remaining in</p> <p>16 the same district with the remainder</p> <p>17 of Sun City, which was largely</p> <p>18 Beaufort County. So you'll see that</p> <p>19 little protrusion in Jasper. That</p> <p>20 was the result of public testimony.</p> <p>21 So some of these features would be</p> <p>22 absorbed in that way.</p> <p>23       Q. Did Sun -- are the</p> <p>24 demographics of Sun City largely</p> <p>25 majority white?</p>	<p style="text-align: right;">Page 297</p> <p>1           TERRENI</p> <p>2       Q. Senate staff.</p> <p>3       A. I don't believe anyone</p> <p>4 purposefully set up to draw a black</p> <p>5 majority District 6. I don't recall</p> <p>6 if anyone drew a map in the course</p> <p>7 of map drawing that was black</p> <p>8 majority. That might not have been</p> <p>9 the goal as far as I'm aware.</p> <p>10       Q. My question I think was a</p> <p>11 little bit different. But whether</p> <p>12 outside of CD 6 whether anyone --</p> <p>13 let's stop for a second. CD 6 prior</p> <p>14 to this enacted map was a district</p> <p>15 above 50 percent majority of black</p> <p>16 voters under some measure of black</p> <p>17 that the census provides?</p> <p>18       A. Under the 2010 census that</p> <p>19 certainly is the case. I don't</p> <p>20 recall, Ms. Aden, if CD 6 was</p> <p>21 majority black under the PL data</p> <p>22 that was released. In other words,</p> <p>23 prior CD 6 I don't know if there was</p> <p>24 a majority district or at least a</p> <p>25 BVAP majority district under the PL</p>

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<p style="text-align: right;">Page 298</p> <p>1                   TERRENI</p> <p>2     data that was released in 2021.</p> <p>3       Q.   Assuming that it was</p> <p>4     majority black voting age population</p> <p>5     in CD 6 in 2011 based upon the 2011</p> <p>6     enacted map, do you know if anyone</p> <p>7     this cycle for the Senate attempted</p> <p>8     to draw a Second District with the</p> <p>9     majority of black voters?</p> <p>10    A.   Not for that express</p> <p>11    purpose, I don't recall that</p> <p>12    happening.</p> <p>13    Q.   What other unexpressed</p> <p>14    purpose would there be?</p> <p>15    A.   Something else. I mean</p> <p>16    there -- you could draw -- you could</p> <p>17    be trying to draw a different</p> <p>18    iteration of CD 6 to accommodate any</p> <p>19    of the various recommendations that</p> <p>20    were made by whomever. Maybe one of</p> <p>21    those plans incidentally resulted in</p> <p>22    a 50 percent district. I don't</p> <p>23    know. That's what I'm saying. No</p> <p>24    one sat down in the map room and</p> <p>25    said we need a 50 percent</p>	<p style="text-align: right;">Page 300</p> <p>1                   TERRENI</p> <p>2     two thousand -- I said '20. I'm</p> <p>3     sorry. 2010. I don't believe I saw</p> <p>4     any in this cycle that I recall.</p> <p>5       Q.   Can an effectiveness</p> <p>6     analysis look at whether a district</p> <p>7     will perform for a racial minority</p> <p>8     group and/or for a particular</p> <p>9     candidate?</p> <p>10    A.   Yes, I think so.</p> <p>11    Q.   Meaning an effectiveness</p> <p>12    analysis can look at whether or not</p> <p>13    black voters can elect their</p> <p>14    preferred candidate of choice,</p> <p>15    whoever that candidate is, including</p> <p>16    a black representative. Is that</p> <p>17    fair to say?</p> <p>18    A.   It is.</p> <p>19    Q.   But an effectiveness</p> <p>20    analysis could also look at, for</p> <p>21    example, whether or not the</p> <p>22    Democratic candidate in a past</p> <p>23    election would win under the</p> <p>24    boundaries of a proposed new</p> <p>25    district. Is that fair to say?</p>
<p style="text-align: right;">Page 299</p> <p>1                   TERRENI</p> <p>2     District 6.</p> <p>3       Q.   Have you heard the term "an</p> <p>4     effectiveness analysis"?</p> <p>5       A.   Yes.</p> <p>6       Q.   What do you understand it</p> <p>7     to be?</p> <p>8       A.   It's a statistical analysis</p> <p>9     that seeks to predict whether the</p> <p>10    minority community can elect a</p> <p>11    candidate of its choice. That's my</p> <p>12    general understanding of it.</p> <p>13    Q.   Have you seen effectiveness</p> <p>14    analysis being performed -- when</p> <p>15    have you seen effectiveness analysis</p> <p>16    performed in your career?</p> <p>17    A.   In litigation, specifically</p> <p>18    the Colleton County versus McConnell</p> <p>19    case. I would have at a greater</p> <p>20    distance witnessed it performed in</p> <p>21    2020. I believe there would have</p> <p>22    been some litigation, I mean some</p> <p>23    effectiveness analysis conducted by</p> <p>24    various parties who were commenting</p> <p>25    on the preclearance submission in</p>	<p style="text-align: right;">Page 301</p> <p>1                   TERRENI</p> <p>2       A.   I think so, yes.</p> <p>3       Q.   Basically I guess my</p> <p>4     question is was an effectiveness</p> <p>5     analysis you can look at race and/or</p> <p>6     party -- the candidate of a</p> <p>7     political party's -- the impact --</p> <p>8     strike that. I'll just move on.</p> <p>9       While the initial staff plan</p> <p>10    was being developed were there any</p> <p>11    discussions about increasing,</p> <p>12    decreasing or maintaining the black</p> <p>13    voting age population in certain</p> <p>14    districts?</p> <p>15    A.   There would have been an</p> <p>16    awareness of the black population in</p> <p>17    the Sixth District if we had seen a</p> <p>18    plan that made a substantial</p> <p>19    reduction in the black population in</p> <p>20    the Sixth District and it was plan</p> <p>21    that we wanted to pursue, we would</p> <p>22    recognize that race and we then may</p> <p>23    have been prompted to do further</p> <p>24    inquiry.</p> <p>25       I believe the Sixth District</p>

<p style="text-align: right;">Page 302</p> <p>1           TERRENI</p> <p>2    plan, it was reduced by three or</p> <p>3    four percentage points, if I</p> <p>4    remember correctly, it wasn't much.</p> <p>5    But whatever we did in the Sixth</p> <p>6    District staff plan was not enough</p> <p>7    to prompt that concern for us,</p> <p>8    especially given that many of the</p> <p>9    plan of the Senate districts from</p> <p>10   which we had received the input of</p> <p>11   African-American members were below</p> <p>12   50 and we had not received any</p> <p>13   concern from a Section 2 perspective</p> <p>14   or really even from anyone else that</p> <p>15   they weren't going to perform -- I</p> <p>16   don't want to say a general</p> <p>17   wholesale. But no, we didn't have a</p> <p>18   concern about that in this context,</p> <p>19   in the context of -- we didn't have</p> <p>20   a concern about that with respect to</p> <p>21   6 as it was in the staff plan.</p> <p>22       I hope that answers your</p> <p>23   question. If not, please restate</p> <p>24   it.</p> <p>25       Q. Is it your position that</p>	<p style="text-align: right;">Page 304</p> <p>1           TERRENI</p> <p>2       Q. Outside of CD 6 did you</p> <p>3    have any data, any basis to know one</p> <p>4    way or the other whether a reduction</p> <p>5    in the black voting age population</p> <p>6    of 3 or 4 percentage points or even</p> <p>7    some larger number would impact the</p> <p>8    ability of black voters to elect a</p> <p>9    candidate of choice or influence a</p> <p>10   candidate of choice. Did you have</p> <p>11   any analysis or data to backup</p> <p>12   whether or not there would be that</p> <p>13   impact outside of CD 6?</p> <p>14       A. Certainly not to elect. As</p> <p>15   far as influence, that evidence</p> <p>16   would have been anecdotal. I mean</p> <p>17   -- but so -- and I don't recall any.</p> <p>18       Q. Do you think that black</p> <p>19   voters based upon the way the staff</p> <p>20   plan was developed could perceive</p> <p>21   that outside the CD 6 their</p> <p>22   electoral opportunity doesn't matter</p> <p>23   to the Senate?</p> <p>24       A. No.</p> <p>25       Q. Why not?</p>
<p style="text-align: right;">Page 303</p> <p>1           TERRENI</p> <p>2    there was no need to be aware of the</p> <p>3    black voting age population in</p> <p>4    districts outside of CD 6 this</p> <p>5    cycle?</p> <p>6       A. No. We were certainly</p> <p>7    aware of it as those reports would</p> <p>8    have produced it. We didn't see</p> <p>9    anything in the plans that we</p> <p>10   produced that caused us one concern</p> <p>11   or the other.</p> <p>12       Our primary -- I think our</p> <p>13   primary concern would have been that</p> <p>14   if we did something that</p> <p>15   dramatically changed the racial</p> <p>16   composition, really reduced it in</p> <p>17   one of these remaining districts, we</p> <p>18   might have been accused of some sort</p> <p>19   of intentional racial drawing. That</p> <p>20   wasn't what we were doing. We were</p> <p>21   certainly sensitive to those</p> <p>22   concerns, and so we would have</p> <p>23   monitored the BVAP of different</p> <p>24   plans but -- so yeah, we would have</p> <p>25   looked at it for everybody.</p>	<p style="text-align: right;">Page 305</p> <p>1           TERRENI</p> <p>2       A. Well, I don't want to</p> <p>3    presume to speak for black voters,</p> <p>4    that's simply not my place. But</p> <p>5    they are entitled to participate in</p> <p>6    elections. It's not a foregone</p> <p>7    conclusion how they are going to</p> <p>8    vote. And it's not a foregone</p> <p>9    conclusion that their votes won't</p> <p>10   matter or not matter just because</p> <p>11   Republicans have been elected in</p> <p>12   these other districts.</p> <p>13       We have had hotly contested</p> <p>14   elections in the state, as you know,</p> <p>15   in the First District, in the Sixth</p> <p>16   District -- excuse me, in the Second</p> <p>17   District and there's no reason to</p> <p>18   believe that a black voter or a</p> <p>19   white voter or Hispanic voter or</p> <p>20   anyone else might not have a</p> <p>21   significant impact on these races.</p> <p>22       Q. Would you agree, though,</p> <p>23   that there's a perception about how</p> <p>24   most black voters vote for</p> <p>25   political -- for party affiliated</p>

<p style="text-align: right;">Page 306</p> <p>1                   TERRENI</p> <p>2 candidates?</p> <p>3       A. There is a perception that</p> <p>4 most white voters and, for democrats</p> <p>5 I think that's been borne out</p> <p>6 statistically, whether it's</p> <p>7 predicted or not I don't know. I</p> <p>8 suspect it is.</p> <p>9       I guess what I'm saying is</p> <p>10 it's not like we haven't had</p> <p>11 uncompetitive elections. Joe Wilson</p> <p>12 had a very strong challenge from</p> <p>13 Adair Boroughs in the last race.</p> <p>14 Joe Cunningham won the First</p> <p>15 District. So if -- in a district</p> <p>16 that as I recall had a similar</p> <p>17 composition or one that we passed.</p> <p>18 So if black voters, even we were to</p> <p>19 take that jump, that black voters</p> <p>20 are going to be loyally Democratic</p> <p>21 as the courts have concluded based</p> <p>22 on evidence in the past, that it</p> <p>23 doesn't mean there's -- they have</p> <p>24 very little influence in the</p> <p>25 process.</p>	<p style="text-align: right;">Page 308</p> <p>1                   TERRENI</p> <p>2 to the 25th. I remember catching</p> <p>3 COVID shortly or at least being</p> <p>4 diagnosed with COVID shortly after</p> <p>5 that. So to the extent I would have</p> <p>6 seen the next subcommittee meeting</p> <p>7 where -- I believe that was the one</p> <p>8 in which Congressman Cunningham</p> <p>9 testified, the former Congressman</p> <p>10 Cunningham, I think I would have</p> <p>11 watched that remotely and I would</p> <p>12 have been out of the Senate offices</p> <p>13 for several days, whatever the</p> <p>14 protocol was from when I started to</p> <p>15 feel better. Say basically I was</p> <p>16 out for about a week or so but not</p> <p>17 incommunicado.</p> <p>18       Q. So there was a hearing</p> <p>19 November 29th about that</p> <p>20 November 23rd map. Did you prepare</p> <p>21 any materials while you were under</p> <p>22 the weather for that hearing.</p> <p>23       A. I didn't prepare them. I</p> <p>24 may have reviewed them.</p> <p>25       Q. Do you recall preparing any</p>
<p style="text-align: right;">Page 307</p> <p>1                   TERRENI</p> <p>2       Q. But there was no analysis</p> <p>3 around the initial staff plan about</p> <p>4 whether or not black voters'</p> <p>5 preferences for candidates in some</p> <p>6 of these hotly contested or nonhotly</p> <p>7 contested elections would change or</p> <p>8 not change under the proposed map?</p> <p>9       A. No.</p> <p>10       Q. After the redistricting</p> <p>11 subcommittee published this</p> <p>12 November 23rd map do you remember</p> <p>13 what, if anything, you did on</p> <p>14 congressional redistricting from</p> <p>15 November 23rd until November 29th or</p> <p>16 is this the time where you might</p> <p>17 have been under the weather?</p> <p>18       A. It is a time -- I mean 23rd</p> <p>19 -- I believe Thanksgiving just a</p> <p>20 couple days later, if I remember</p> <p>21 from some of the testimony I saw in</p> <p>22 your exhibits. The 23rd was a</p> <p>23 Tuesday before Thanksgiving.</p> <p>24 Thanksgiving is usually on a</p> <p>25 Thursday so that would have taken us</p>	<p style="text-align: right;">Page 309</p> <p>1                   TERRENI</p> <p>2 talking points in particular or</p> <p>3 cheat sheets or other guidance for</p> <p>4 staffers, Senate staffers, preparing</p> <p>5 or reviewing those types of</p> <p>6 documents for Senate staffers or</p> <p>7 Senate leadership for this</p> <p>8 November 23rd hearing -- 29th</p> <p>9 hearing?</p> <p>10       A. Not specifically.</p> <p>11       Q. Were you in communication</p> <p>12 with any Senate members or Senate</p> <p>13 staff remotely while you were</p> <p>14 watching that hearing on November</p> <p>15 29th?</p> <p>16       A. In -- no, I don't believe I</p> <p>17 was. I know that my hookup -- I</p> <p>18 seem to recall my hookup was</p> <p>19 different than -- it's not like I</p> <p>20 was in with the public blank, but I</p> <p>21 don't think I had the wherewithal to</p> <p>22 communicate directly with members.</p> <p>23 I don't recall doing that. I don't</p> <p>24 think I did.</p> <p>25       Q. Looking at tab 8, which is</p>

<p style="text-align: right;">Page 310</p> <p>1                   TERRENI</p> <p>2   a transcription of the November 29,</p> <p>3   2021, hearing that was transcribed</p> <p>4   by a court reporter service and it's</p> <p>5   Bates stamped South Carolina NAACP</p> <p>6   CD 11844-11934.</p> <p>7       A. Yes, ma'am.</p> <p>8       (Plaintiffs' Exhibit 18,</p> <p>9   Transcript of 11/29/2021 hearing,</p> <p>10   Bates South Carolina NAACP CD 11844</p> <p>11   through 11934, marked for</p> <p>12   identification, as of this date.)</p> <p>13       Q. This will be Plaintiffs'</p> <p>14   Exhibit 18. I want to direct you to</p> <p>15   the remarks of Will Roberts, which</p> <p>16   go from pages 4 through 7.</p> <p>17       A. Um-hmm.</p> <p>18       Q. And in particular, I want</p> <p>19   to direct you to page 5, which is</p> <p>20   South Carolina Senate -- yes. South</p> <p>21   Carolina NAACP, I apologize, Bates</p> <p>22   stamped South Carolina NAACP CD</p> <p>23   11848. So the Bates stamp is wrong</p> <p>24   that I said before it's South</p> <p>25   Carolina NAACP CD 11844 through</p>	<p style="text-align: right;">Page 312</p> <p>1                   TERRENI</p> <p>2       Q. Does it say anything about</p> <p>3   nondilution of minority voting</p> <p>4   strength?</p> <p>5       A. It does not.</p> <p>6       Q. Does it say anything about</p> <p>7   compliance with Section 2 or</p> <p>8   nonracial gerrymandering?</p> <p>9       A. No. I think those are</p> <p>10   presupposed as we discussed earlier.</p> <p>11       Q. But it has elevated core</p> <p>12   constituencies which was an</p> <p>13   additional consideration in the</p> <p>14   criteria to one of the top two goals</p> <p>15   of the map alongside one person one</p> <p>16   vote. Is that fair to say?</p> <p>17       A. Not over avoidance of</p> <p>18   racial gerrymandering Section 2.</p> <p>19   Will would have known that. I mean</p> <p>20   those are nonnegotiable, right? So</p> <p>21   he would have -- he said our goals,</p> <p>22   I mean I think he assumed everybody</p> <p>23   understood them, not trying to</p> <p>24   violate federal law. So our goal</p> <p>25   was to bring congressional districts</p>
<p style="text-align: right;">Page 311</p> <p>1                   TERRENI</p> <p>2   11934. And now we are looking at</p> <p>3   page 5, which is 11848. Sorry.</p> <p>4       If you look at line [sic] 5,</p> <p>5   I'll represent that this is Will</p> <p>6   Robert's speaking and providing an</p> <p>7   overview of this congressional staff</p> <p>8   plan. Do you see on line 5 -- on</p> <p>9   page 5 line 6 that he refers to that</p> <p>10   plan as a minimal change plan?</p> <p>11       A. Yes, ma'am.</p> <p>12       Q. And looking at that same</p> <p>13   page, lines 7 through 11 it reads:</p> <p>14   "Our goal was to bring the</p> <p>15   congressional districts back into</p> <p>16   deviation compliance, while</p> <p>17   maintaining the core constituencies</p> <p>18   of the districts. And with this</p> <p>19   plan, we have accomplished that."</p> <p>20       Do you see that?</p> <p>21       A. Yes.</p> <p>22       Q. Okay. Does that identify</p> <p>23   two major goals for this initial</p> <p>24   staff plan?</p> <p>25       A. Yeah, that's fair to say.</p>	<p style="text-align: right;">Page 313</p> <p>1                   TERRENI</p> <p>2   back into compliance -- check. I</p> <p>3   mean that's something we'd want to</p> <p>4   do, while maintaining the cores of</p> <p>5   district, that's one of the</p> <p>6   criteria, in this plan. And with</p> <p>7   this plan we have accomplished that.</p> <p>8       I agree with that statement to</p> <p>9   the extent it was descriptive. I</p> <p>10   agree with that statement to the</p> <p>11   extent that it states goals. I</p> <p>12   don't believe that statement was</p> <p>13   intended nor would I agree with it</p> <p>14   to be exclusive.</p> <p>15       Q. Have you heard courts refer</p> <p>16   to the one person one vote principle</p> <p>17   as a background criteria for</p> <p>18   redistricting as well?</p> <p>19       A. Yes, ma'am.</p> <p>20       Q. So you presuppose</p> <p>21   compliance with one person one vote;</p> <p>22   is that correct?</p> <p>23       A. Yes.</p> <p>24       Q. Okay. But yet it is</p> <p>25   something that Will Roberts</p>



<p style="text-align: right;">Page 314</p> <p>1           TERRENI</p> <p>2 identified as being a primary goal</p> <p>3 alongside maintaining cores of</p> <p>4 constituency when he publicly</p> <p>5 introduced this staff plan on the</p> <p>6 29th hearing?</p> <p>7       A. Yeah. And that makes</p> <p>8 sense. And I'll explain my view of</p> <p>9 it at least. I don't remember the</p> <p>10 specific case but I know the case</p> <p>11 you are referring to in which the</p> <p>12 course said well, you know, we save</p> <p>13 it, you know, the one person one</p> <p>14 vote standard is a backdrop of</p> <p>15 whatever you just -- however you</p> <p>16 just described it. In the sense</p> <p>17 that it's not discretionary. But so</p> <p>18 Will though as demographer says hey,</p> <p>19 I complied with one person one vote,</p> <p>20 I drew this plan, this one that has</p> <p>21 a deviation of one.</p> <p>22       Also you might say well, why</p> <p>23 is that even a frontier. Well there</p> <p>24 was a discretionary criteria when it</p> <p>25 comes to equal population, that's</p>	<p style="text-align: right;">Page 316</p> <p>1           TERRENI</p> <p>2       Q. Turning back to this tab 8,</p> <p>3 the November 29, 2021 hearing.</p> <p>4       A. Um-hmm.</p> <p>5       Q. If you look at page 67,</p> <p>6 lines 15 through line 69 -- I'm</p> <p>7 sorry, page 67, line 15 through page</p> <p>8 69, line 9, I just want you to skim</p> <p>9 it.</p> <p>10       A. 67 lines what?</p> <p>11       Q. Line 15.</p> <p>12       A. Okay.</p> <p>13       Q. 69, line 9.</p> <p>14       Have you had a chance to skim,</p> <p>15 Mr. Terreni?</p> <p>16       A. Just one second. Okay.</p> <p>17       Q. This is when the public</p> <p>18 first learned about Adam Kincaid?</p> <p>19       A. This is when the Republican</p> <p>20 subcommittee met, not Adam Kincaid.</p> <p>21       Q. Yes. And looking at page</p> <p>22 32, you have to go back, page 32 in</p> <p>23 the top right-hand corner. And if</p> <p>24 you look at lines 9 through 16, do</p> <p>25 you see Senator Harpootlian on the</p>
<p style="text-align: right;">Page 315</p> <p>1           TERRENI</p> <p>2 the 5 percent frontier. The general</p> <p>3 Senate is not bound to go to a plus</p> <p>4 or minus five, it could have been</p> <p>5 plus or minus two, it could have</p> <p>6 been something else. That wasn't</p> <p>7 substantive of public concern. So</p> <p>8 A, you've gotta know the criteria.</p> <p>9 B, Will says it. I don't think it</p> <p>10 means -- I'm not sure you need to</p> <p>11 read more into it than that.</p> <p>12       Q. Do you recall when</p> <p>13 listening to that hearing that there</p> <p>14 were concerns expressed about</p> <p>15 packing and cracking black</p> <p>16 communities with respect to this</p> <p>17 map?</p> <p>18       A. I do.</p> <p>19       Q. Okay. And do you recall</p> <p>20 that those concerns didn't just come</p> <p>21 from the public, they came from</p> <p>22 members of the subcommittee</p> <p>23 including Senator Bright Matthews</p> <p>24 and Senator Harpootlian?</p> <p>25       A. Yes.</p>	<p style="text-align: right;">Page 317</p> <p>1           TERRENI</p> <p>2 29th expressly asking for what</p> <p>3 information this independent</p> <p>4 Republican group, having later been</p> <p>5 identified as Adam Kincaid from</p> <p>6 NRRT, specifically asking for what</p> <p>7 had been submitted by them?</p> <p>8       A. Yes.</p> <p>9       Q. Okay. And looking at page</p> <p>10 35, lines 20 through 25 Senator</p> <p>11 Harpootlian states at the hearing:</p> <p>12 "And that's what upsets me is that</p> <p>13 some independent Republican group is</p> <p>14 allowed to let them know what they</p> <p>15 think but I'm not. Never saw the</p> <p>16 congressional plan. Never asked for</p> <p>17 my input."</p> <p>18       Were you surprised that he</p> <p>19 made that statement?</p> <p>20       A. Yes.</p> <p>21       Q. Why?</p> <p>22       A. Because Senator Harpootlian</p> <p>23 was well aware that he had access to</p> <p>24 the map room. Senator Harpootlian,</p> <p>25 among the membership, was most</p>

<p style="text-align: right;">Page 318</p> <p>1                   TERRENI</p> <p>2   reluctant of the members to engage</p> <p>3   with the staff throughout the</p> <p>4   process. So for Senator Harpootlian</p> <p>5   to claim that we never asked for his</p> <p>6   input in my opinion didn't tell the</p> <p>7   whole story because by then,</p> <p>8   especially after going through the</p> <p>9   Senate plan for six months,</p> <p>10   everybody knew that they had access</p> <p>11   to the staff and that we didn't have</p> <p>12   -- they didn't have to ask for it.</p> <p>13   We didn't ask for anybody's input</p> <p>14   really. We needed to get a staff</p> <p>15   plan in front of the subcommittee so</p> <p>16   that we could have a beginning of a</p> <p>17   process under which we were under a</p> <p>18   time crunch. Remember, we were</p> <p>19   being sued, we had a judge that was</p> <p>20   -- that expressed some urgency in</p> <p>21   receiving a plan. And we felt like</p> <p>22   this was the beginning of the</p> <p>23   process and not the end. And the</p> <p>24   Republican group was not solicited</p> <p>25   by us. They contacted us and by</p>	<p style="text-align: right;">Page 320</p> <p>1                   TERRENI</p> <p>2   recall that the House issued a staff</p> <p>3   plan. Whether it was November or</p> <p>4   December, I don't remember.</p> <p>5       Q. Did you review that plan?</p> <p>6       A. When they published it.</p> <p>7       Q. Did you provide any input</p> <p>8   on that plan?</p> <p>9       A. No.</p> <p>10       Q. Did you share any thoughts</p> <p>11   about that plan with members of the</p> <p>12   Senate staff?</p> <p>13       A. I'm sure we all looked at</p> <p>14   it. I'm sure we all looked at it.</p> <p>15   I don't -- I remember it made some</p> <p>16   substantial changes to a number of</p> <p>17   districts and I remember we didn't</p> <p>18   think it was something the</p> <p>19   subcommittee would be interested in.</p> <p>20       Q. So do you -- is it fair to</p> <p>21   say that from your perspective the</p> <p>22   House's initial map did not impact</p> <p>23   the map that the Senate was doing,</p> <p>24   the map making that the Senate was</p> <p>25   doing, at least initially?</p>
<p style="text-align: right;">Page 319</p> <p>1                   TERRENI</p> <p>2   then the staff plan had already been</p> <p>3   done.</p> <p>4       I believe Mr. Fiffick, and</p> <p>5   this isn't in the transcript, but</p> <p>6   during the audio session that I</p> <p>7   could hear, what I recall is</p> <p>8   Mr. Fiffick told him as much.</p> <p>9       Q. And do you recall Senator</p> <p>10   Harpootlian not being the lone</p> <p>11   senator who was -- expressed</p> <p>12   dissatisfaction that they had not</p> <p>13   been part of the development of the</p> <p>14   initial staff plan, that Senator</p> <p>15   Bright Matthews also shared that</p> <p>16   concern?</p> <p>17       A. I do.</p> <p>18       Q. Turning to the initial, the</p> <p>19   House's initial draft plan. In</p> <p>20   December of 2021 were you aware that</p> <p>21   the House's Redistricting Ad Hoc</p> <p>22   Committee was working on its first</p> <p>23   staff plan?</p> <p>24       A. I don't remember the dates</p> <p>25   of when the House did what, but I do</p>	<p style="text-align: right;">Page 321</p> <p>1                   TERRENI</p> <p>2       A. I think it was probably</p> <p>3   fair.</p> <p>4       Q. And were you aware that</p> <p>5   after release, the House released</p> <p>6   the Ad Hoc Committee released its</p> <p>7   map on December 13th it held a</p> <p>8   hearing on that plan on</p> <p>9   December 16th?</p> <p>10       A. I was aware of that.</p> <p>11       Q. But you did not participate</p> <p>12   or listen to that hearing?</p> <p>13       A. No, ma'am, not to my</p> <p>14   recollection.</p> <p>15       Q. And you never reviewed a</p> <p>16   transcript of that hearing?</p> <p>17       A. I may have reviewed a</p> <p>18   transcript at some point. I don't</p> <p>19   know when it was produced. But I</p> <p>20   don't -- I don't recall.</p> <p>21       Q. Were you aware of when the</p> <p>22   House Redistricting Ad Hoc Committee</p> <p>23   released an alternative staff plan</p> <p>24   on December 22nd?</p> <p>25       A. I am.</p>

<p style="text-align: right;">Page 322</p> <p>1           TERRENI</p> <p>2       Q. Did you review that plan?</p> <p>3       A. I'm sure I did, yes.</p> <p>4       Q. And like with the initial</p> <p>5 Ad Hoc's plan did you first review</p> <p>6 it when it was publicized or had you</p> <p>7 seen it before it was publicized?</p> <p>8       A. I don't believe I saw it</p> <p>9 before it was publicized. I may</p> <p>10 have. But at that point there was a</p> <p>11 little bit more communication, not</p> <p>12 between myself but mostly with</p> <p>13 Mr. Fiffick. Mr. Fiffick knew more</p> <p>14 about what the House was doing just</p> <p>15 because he's in the General</p> <p>16 Assembly. When I saw that plan, I</p> <p>17 don't recall. It was -- one way or</p> <p>18 another it was about the time it was</p> <p>19 published.</p> <p>20       Q. About the time of?</p> <p>21       A. It was published.</p> <p>22       Q. And if you had seen it</p> <p>23 before it was published, it would</p> <p>24 have come through Mr. Fiffick or</p> <p>25 would you have gotten it from</p>	<p style="text-align: right;">Page 324</p> <p>1           TERRENI</p> <p>2 published, but I don't want to deny</p> <p>3 the possibility that I saw it before</p> <p>4 it was published. The situation is</p> <p>5 pretty fluid at that time.</p> <p>6       Q. Were you aware that the</p> <p>7 alternative staff plan that the</p> <p>8 House released on December 22nd was</p> <p>9 based on the Senate's initial staff</p> <p>10 plan?</p> <p>11       A. I'm aware that it was very</p> <p>12 similar to the Senate's initial</p> <p>13 staff plan. Whether it was</p> <p>14 identical I'm not clear. I mean</p> <p>15 given that it was very similar it's</p> <p>16 logical to conclude that they based</p> <p>17 it on it.</p> <p>18       Q. And is that because Will</p> <p>19 Roberts or someone had done an</p> <p>20 analysis comparing them or is that</p> <p>21 based upon your own view of the two</p> <p>22 maps?</p> <p>23       A. Probably both. I mean we</p> <p>24 probably ran planning components</p> <p>25 reports on them and, you know,</p>
<p style="text-align: right;">Page 323</p> <p>1           TERRENI</p> <p>2 someone on the House's staff or a</p> <p>3 House member?</p> <p>4       A. I would not have gotten it</p> <p>5 from a House member. I would not</p> <p>6 have gotten it -- I don't believe I</p> <p>7 would have gotten it from anybody on</p> <p>8 staff. If it were anyone it would</p> <p>9 have been Patrick. But -- Patrick</p> <p>10 Dennis. But I don't recall Patrick</p> <p>11 Dennis showing me that. So it</p> <p>12 probably -- I'm speculating. It</p> <p>13 probably would have been</p> <p>14 Mr. Fiffick. There are a thousand</p> <p>15 ways something can make its way from</p> <p>16 the Blatt building, B-L-A-T-T, to</p> <p>17 the Gressete building,</p> <p>18 G-R-E-S-S-E-T-E -- the Blatt</p> <p>19 building being the House building,</p> <p>20 House office building and the</p> <p>21 Gressete building being the Senate</p> <p>22 building.</p> <p>23       And again, I mean I'm really</p> <p>24 speculating here because I don't</p> <p>25 recall seeing it before it was</p>	<p style="text-align: right;">Page 325</p> <p>1           TERRENI</p> <p>2 looked to see what was where and</p> <p>3 concluded that they were very</p> <p>4 similar. I could have looked at it</p> <p>5 and known that. And I'm sure the</p> <p>6 statistics Will ran on it bore it</p> <p>7 out and I'm sure he would have run</p> <p>8 them.</p> <p>9       Q. Were you aware of a hearing</p> <p>10 that was held on that plan on</p> <p>11 December 29th by the House?</p> <p>12       A. I'm aware of the House held</p> <p>13 a hearing on it, yes.</p> <p>14       Q. Did you participate in that</p> <p>15 hearing virtually or in person</p> <p>16 simultaneously or did you read a</p> <p>17 transcript of it subsequent to that?</p> <p>18       A. I believe I watched it</p> <p>19 online.</p> <p>20       Q. Did you take any</p> <p>21 handwritten notes of either of the</p> <p>22 hearings of on the House map on</p> <p>23 December 16th or December 29th?</p> <p>24       A. I don't recall.</p> <p>25       Q. For the December 29th</p>



<p style="text-align: right;">Page 326</p> <p>1           TERRENI</p> <p>2   hearing do you recall similar</p> <p>3   concerns about the map packing and</p> <p>4   cracking black voters?</p> <p>5       A. I remember that there were</p> <p>6   certain House members, notably</p> <p>7   Representative Bernstein, who were</p> <p>8   not happy with the map. I believe</p> <p>9   some of those concerns may have been</p> <p>10   expressed. Now I'm sure they -- I</p> <p>11   believe they were, yes.</p> <p>12       Q. Do you remember anyone else</p> <p>13   from the House expressing concerns</p> <p>14   besides Representative Bernstein?</p> <p>15       A. Not specifically, although</p> <p>16   I'm aware that there were other</p> <p>17   members that expressed concern. I</p> <p>18   just -- I recognize Representative</p> <p>19   Bernstein because she's local to</p> <p>20   Richland County and that's my home</p> <p>21   county.</p> <p>22       Q. Turning to the Senate</p> <p>23   second draft plan. If you look at</p> <p>24   tab 27, which should be Plaintiffs'</p> <p>25   Exhibit 19.</p>	<p style="text-align: right;">Page 328</p> <p>1           TERRENI</p> <p>2   Campsen?</p> <p>3       A. No, not directly. But I</p> <p>4   was aware -- if it's what I think it</p> <p>5   is I was aware of the request.</p> <p>6       Q. What do you think it is?</p> <p>7       A. Senator Campsen was</p> <p>8   interested in knowing what</p> <p>9   percentage of Charleston County</p> <p>10   versus Berkeley County versus</p> <p>11   Dorchester County was in the various</p> <p>12   districts.</p> <p>13       So you know, it was</p> <p>14   Charleston, you know, was who had</p> <p>15   the biggest or the second or third</p> <p>16   biggest share of the population.</p> <p>17   What were the components.</p> <p>18       Q. Do you remember doing other</p> <p>19   analyses like this for Senator</p> <p>20   Campsen or any other senator?</p> <p>21       A. Like this as in what</p> <p>22   percentage of which county was</p> <p>23   there, no.</p> <p>24       Q. Yes.</p> <p>25       A. No. I don't recall doing</p>
<p style="text-align: right;">Page 327</p> <p>1           TERRENI</p> <p>2       A. Tab 27. I have an email</p> <p>3   and some statistics, is that what</p> <p>4   you are --</p> <p>5       Q. Yes. This is an email from</p> <p>6   John Breeden to Chip Campsen and</p> <p>7   which you are copied on. It is</p> <p>8   dated January 11, 2022. And it</p> <p>9   attaches a Charleston and Daniel</p> <p>10   Island plan comparison document. Or</p> <p>11   that's the subject of the email.</p> <p>12   And it's Bates stamped number South</p> <p>13   Carolina Senate 22547 to 2250.</p> <p>14       (Plaintiffs' Exhibit 19, Email</p> <p>15   from John Breeden to Chip Campsen,</p> <p>16   Bates South Carolina Senate 22547</p> <p>17   to 2250, marked for identification,</p> <p>18   as of this date.)</p> <p>19       A. Yes.</p> <p>20       Q. Do you recall this email</p> <p>21   chain?</p> <p>22       A. Yes. Now I do, yeah.</p> <p>23       Q. Okay. Were you involved in</p> <p>24   the development of the data that</p> <p>25   Mr. Breeden is sharing with Senator</p>	<p style="text-align: right;">Page 329</p> <p>1           TERRENI</p> <p>2   anything else. Could have, but I</p> <p>3   don't remember it.</p> <p>4       Q. And looking at South</p> <p>5   Carolina Senate 22550, this type of</p> <p>6   analysis of the various plans, the</p> <p>7   benchmark, the Senate staff plan,</p> <p>8   the House Judiciary plan, the House</p> <p>9   Judiciary plan Senate Amendment 1</p> <p>10   that includes this breakdown of vote</p> <p>11   shares for President Trump, that</p> <p>12   would have been based upon the 2020</p> <p>13   election?</p> <p>14       A. Yes, ma'am.</p> <p>15       Q. Okay. And so are you aware</p> <p>16   of whether an analysis like that was</p> <p>17   done for other areas in South</p> <p>18   Carolina?</p> <p>19       A. Well, other areas I don't</p> <p>20   recall that happening, no.</p> <p>21       Q. Was there a meeting, a</p> <p>22   subsequent meeting about this data?</p> <p>23       A. Well, if we are looking at</p> <p>24   the date of this email, it would</p> <p>25   have been January 11, 2022. That</p>

<p style="text-align: right;">Page 330</p> <p>1           TERRENI</p> <p>2    was about the time the final</p> <p>3    committee meetings were heating up.</p> <p>4    So I don't know if there was this</p> <p>5    specific meeting about this data.</p> <p>6    But Senator Campsen was involved in</p> <p>7    the plan but eventually was passed</p> <p>8    by the subcommittee and was an</p> <p>9    advocate of this plan and</p> <p>10   subcommittee on the floor. So we</p> <p>11   met with Senator Campsen on several</p> <p>12   occasions.</p> <p>13    Q. So turning to January 11th,</p> <p>14   the Senate redistricting</p> <p>15   subcommittee provided a notice that</p> <p>16   it posted two proposed congressional</p> <p>17   plans to be considered on January</p> <p>18   13th, two dates later. Do you</p> <p>19   recall that?</p> <p>20    A. Yes.</p> <p>21    Q. Would you agree that one</p> <p>22   was an amendment by Senator</p> <p>23   Harpootlian, the other was a plan</p> <p>24   generated by the Senate staff?</p> <p>25    A. I think at that point the</p>	<p style="text-align: right;">Page 332</p> <p>1           TERRENI</p> <p>2    for having produced an initial</p> <p>3    draft. If you are talking about the</p> <p>4    Senate staff plan, I would credit</p> <p>5    the Senate staff with producing it</p> <p>6    in the Senate -- developing the</p> <p>7    Senate staff plan with Will acting</p> <p>8    as protographer and with input</p> <p>9    everyone else. But Will was the</p> <p>10   prime -- had the template for that</p> <p>11   claim, yes.</p> <p>12    Q. Can we refer to the Senator</p> <p>13   Campsen map as the Senate Amendment</p> <p>14   1?</p> <p>15    A. Yes.</p> <p>16    Q. Would it be fair to say</p> <p>17   that Will Roberts, you Mr. Terreni,</p> <p>18   Breedon John, Senator Campsen,</p> <p>19   Senator Rankin were involved in the</p> <p>20   development of Senate Amendment 1?</p> <p>21    A. Yes. In different ways but</p> <p>22   yes.</p> <p>23    Q. What do you mean in</p> <p>24   different ways?</p> <p>25    A. A Senate amendment is just</p>
<p style="text-align: right;">Page 331</p> <p>1           TERRENI</p> <p>2    other was going to be a plan. It</p> <p>3    may have gone beyond the staff plan.</p> <p>4    It may have been a plan that was</p> <p>5    sponsored by Senator Campsen and</p> <p>6    Senator Rankin and Senator Campsen.</p> <p>7    It was basically a majority plan.</p> <p>8    Q. Who would have drawn the</p> <p>9    other plan, not the Harpootlian</p> <p>10   plan, but the Senator</p> <p>11   Campsen-Senator Rankin plan? Would</p> <p>12   Senate staff had drawn it for them</p> <p>13   or would they have developed it on</p> <p>14   their own?</p> <p>15    A. Senate staff would have</p> <p>16   drawn it for them.</p> <p>17    Q. Would it be fair to say</p> <p>18   that that Senator Campsen-Senator</p> <p>19   Rankin plan was a modification of</p> <p>20   the initial Senate staff plan?</p> <p>21    A. Yes.</p> <p>22    Q. And in particular the</p> <p>23   Senate staff would you credit Will</p> <p>24   Roberts with having developed it?</p> <p>25    A. I would credit Will Roberts</p>	<p style="text-align: right;">Page 333</p> <p>1           TERRENI</p> <p>2    that. It was an amendment that is</p> <p>3    sponsored by a Senate majority and</p> <p>4    ultimately voted on and adopted by</p> <p>5    the Senate. So in that sense it's</p> <p>6    not my plan. Did I assist in its</p> <p>7    development, yeah. I would say I</p> <p>8    did, in providing practical or legal</p> <p>9    advice regarding the plan.</p> <p>10   Supporting them and advancing it.</p> <p>11    But at that point it was</p> <p>12   beyond the staff plan so I just want</p> <p>13   to make sure by saying did we</p> <p>14   participate, it was not a</p> <p>15   relationship among equals.</p> <p>16    Q. When you say practical</p> <p>17   advice about the Senate amendment</p> <p>18   plan, what's an example of what that</p> <p>19   would encompass?</p> <p>20    A. Well, it would encompass,</p> <p>21   like, institutional recollection</p> <p>22   about what maybe some members of the</p> <p>23   delegation's preferences were, what</p> <p>24   decisions had been made by the court</p> <p>25   on the record regarding those</p>

<p style="text-align: right;">Page 334</p> <p>1                   TERRENI</p> <p>2    preferences of and various features</p> <p>3    of the map. Features of the map</p> <p>4    that were inherited from the court.</p> <p>5    Q. Like with the initial staff</p> <p>6    map do you know whether Senate</p> <p>7    Amendment 1 was shared with Jones</p> <p>8    Day before it was released to the</p> <p>9    public?</p> <p>10   A. Senate Amendment 1?</p> <p>11   Q. Um-hmm.</p> <p>12   A. Probably. Most likely.</p> <p>13   Q. Can you describe briefly</p> <p>14   the process for how the initial</p> <p>15   Senate staff plan was modified to</p> <p>16   become Senate Amendment 1?</p> <p>17   A. Well, it was replaced at a</p> <p>18   subcommittee. There was a hearing</p> <p>19   held by the subcommittee. There was</p> <p>20   public testimony on the plan,</p> <p>21   various members came and inquired</p> <p>22   about it, maybe shared concerns</p> <p>23   about it, maybe suggested things</p> <p>24   that should or shouldn't be done.</p> <p>25   And ultimately the amendment</p>	<p style="text-align: right;">Page 336</p> <p>1                   TERRENI</p> <p>2    And there were some other</p> <p>3    features, like Beaufort was kept in</p> <p>4    the First District with Charleston,</p> <p>5    Berkeley or at least partially</p> <p>6    Charleston. I mean there were -- I</p> <p>7    could go on. I don't know -- you</p> <p>8    tell me.</p> <p>9    Q. Were there any other key</p> <p>10   criteria that you think guided the</p> <p>11   Senate Amendment 1?</p> <p>12   A. The criteria were the</p> <p>13   criteria. Was there any other key</p> <p>14   input that guided Senate Amendment</p> <p>15   1, there might have been. Again,</p> <p>16   I'm distinguishing between criteria</p> <p>17   as the criteria adopted by the</p> <p>18   subcommittee and political decisions</p> <p>19   that were made by the membership in</p> <p>20   the development of the map. I think</p> <p>21   those are two different things.</p> <p>22   Q. You mentioned Sun City</p> <p>23   earlier being responded to in terms</p> <p>24   of that white majority area being</p> <p>25   kept together in Jasper County?</p>
<p style="text-align: right;">Page 335</p> <p>1                   TERRENI</p> <p>2    emerged. Maybe even the staff had</p> <p>3    some ideas about how we could build</p> <p>4    on it. I believe at some point we</p> <p>5    understood that Berkeley County</p> <p>6    could be kept whole, for instance,</p> <p>7    and so we did it.</p> <p>8    Q. Was that a priority to keep</p> <p>9    Berkeley whole?</p> <p>10   A. No, it wasn't a specific</p> <p>11   priority to keep Berkeley whole.</p> <p>12   No, it was just a feature.</p> <p>13   Q. What were the priorities of</p> <p>14   Senate Amendment 1 as far as you can</p> <p>15   recall?</p> <p>16   A. Well, they preserved the</p> <p>17   course of the existing districts in</p> <p>18   a way that most other plans didn't.</p> <p>19   I think for some members there was a</p> <p>20   political consideration and they at</p> <p>21   least preserved the competitive</p> <p>22   nature of District 1 and its</p> <p>23   viability for a Republican</p> <p>24   candidate. There's certainly no</p> <p>25   guarantee.</p>	<p style="text-align: right;">Page 337</p> <p>1                   TERRENI</p> <p>2    A. Yes.</p> <p>3    Q. Do you, sitting here today,</p> <p>4    believe that the community in</p> <p>5    Charleston was kept whole and</p> <p>6    responded to in the same way as</p> <p>7    those in Sun City?</p> <p>8    MR. GORE: Objection.</p> <p>9    Mischaracterizes his testimony.</p> <p>10   A. Yeah, that's certainly not</p> <p>11   my testimony.</p> <p>12   Q. That's a question. Do you</p> <p>13   think that --</p> <p>14   A. I don't think they are</p> <p>15   comparable.</p> <p>16   Q. You don't think they are?</p> <p>17   A. Comparable.</p> <p>18   Q. How come?</p> <p>19   A. We are talking about a</p> <p>20   sliver of Jasper County. I don't</p> <p>21   remember the specific population but</p> <p>22   it was de minimis. It is part of</p> <p>23   the same -- as far as I know even</p> <p>24   enclosed but it's certainly the same</p> <p>25   planned community that has its bulk</p>

<p style="text-align: right;">Page 338</p> <p>1           TERRENI</p> <p>2   in Berkeley County so -- I mean</p> <p>3   Beaufort County. So it really</p> <p>4   wasn't a stretch to say we are going</p> <p>5   to take Sun City and loop in this</p> <p>6   little nub at the top of -- at the</p> <p>7   bottom of Jasper County, top of</p> <p>8   Beaufort, and keep the Sun City</p> <p>9   place together. It's only -- I</p> <p>10   don't know, but they certainly --</p> <p>11   they have the same roads, they have</p> <p>12   the same community events for its</p> <p>13   connectivity. That seemed like a</p> <p>14   fairly reasonable conclusion to</p> <p>15   reach and it was not going to have</p> <p>16   any kind of major political impact</p> <p>17   on anybody one way or the other. So</p> <p>18   we didn't see it as something that</p> <p>19   would impact the Sixth District or</p> <p>20   the First District one way or the</p> <p>21   other. It was not a big enough</p> <p>22   situation.</p> <p>23       Charleston is very different.</p> <p>24   Charleston in its current</p> <p>25   configuration, you know, at least</p>	<p style="text-align: right;">Page 340</p> <p>1           TERRENI</p> <p>2   by the people voting on the plans.</p> <p>3   It's not for me to say.</p> <p>4       MS. ADEN: Can we take a</p> <p>5   five-minute so I can streamline</p> <p>6   with the time that's remaining?</p> <p>7       THE WITNESS: Fine with me.</p> <p>8       MS. ADEN: Could we go to 5:05</p> <p>9   just to be even. That would be</p> <p>10   helpful.</p> <p>11       THE WITNESS: Sure.</p> <p>12       (Whereupon, there is a recess</p> <p>13   in the proceedings.)</p> <p>14       Q. If I can have you look at</p> <p>15   tab 5, which is a transcription of</p> <p>16   -- which is a transcription of the</p> <p>17   January 13, 2022, Senate Judiciary</p> <p>18   hearing transcribed by a court</p> <p>19   reporter service. This would be</p> <p>20   Plaintiffs' Exhibit 20. And if you</p> <p>21   could turn to page 18 in the top</p> <p>22   right-hand corner.</p> <p>23       (Plaintiffs' Exhibit 20,</p> <p>24   Transcription of 1/13/2022 Senate</p> <p>25   Judiciary hearing, marked for</p>
<p style="text-align: right;">Page 339</p> <p>1           TERRENI</p> <p>2   the beginnings of it were drawn by</p> <p>3   the United States District Court.</p> <p>4   And Charleston County, as far as I</p> <p>5   know, has never been unified in a</p> <p>6   congressional district in, certainly</p> <p>7   since single member districts maybe.</p> <p>8   I stand corrected. If we go before</p> <p>9   2000, my memory is fading a little</p> <p>10   bit.</p> <p>11       So no, I don't think there's a</p> <p>12   comparison between, given the</p> <p>13   peninsula of Charleston County in</p> <p>14   District 1, I think they are apples</p> <p>15   and oranges.</p> <p>16       Q. If Charleston could be kept</p> <p>17   whole in CD 1, comply with the</p> <p>18   Senate's stated criteria, keep CD 7</p> <p>19   untouched, largely untouched, would</p> <p>20   the major political concern that</p> <p>21   remains be making CD 1 not</p> <p>22   Republican leading?</p> <p>23       A. It's in the eye of the</p> <p>24   beholder. I mean it's a -- well,</p> <p>25   that's a policy decision to be made</p>	<p style="text-align: right;">Page 341</p> <p>1           TERRENI</p> <p>2   identification, as of this date.)</p> <p>3       Q. Beginning at line 3.</p> <p>4       A. I'm sorry, Ms. Aden, could</p> <p>5   you identify what hearing is this?</p> <p>6       Q. This is the January 13,</p> <p>7   2022, Senate redistricting hearing.</p> <p>8       A. The subcommittee?</p> <p>9       Q. Yes.</p> <p>10       A. And where did you want me</p> <p>11   to go?</p> <p>12       Q. To page 18, line 3. 18 in</p> <p>13   the top right-hand corner, it's</p> <p>14   South Carolina NAACP CD 19952.</p> <p>15       A. Okay.</p> <p>16       Q. Were you present at this</p> <p>17   hearing?</p> <p>18       A. I believe I was, yes.</p> <p>19       Q. And you identified</p> <p>20   Mr. Opperman earlier as someone who</p> <p>21   worked with Senator Harpootlian, is</p> <p>22   that fair?</p> <p>23       A. Yes. I want to say that he</p> <p>24   may have worked with some other</p> <p>25   folks too. I'm not being cute, I</p>

<p style="text-align: right;">Page 342</p> <p>1           TERRENI</p> <p>2 just seem to remember him maybe</p> <p>3 working for more than one person, or</p> <p>4 am I confusing him with someone</p> <p>5 else. I know he worked with Senator</p> <p>6 Harpootlian. I just thought he may</p> <p>7 have submitted maps for some other</p> <p>8 people.</p> <p>9       Q. On lines 4 through 5 of</p> <p>10 page 18, is it fair -- does it state</p> <p>11 that: "I offered testimony on</p> <p>12 behalf of the whole county map which</p> <p>13 has been designated Senate Amendment</p> <p>14 2"?</p> <p>15       A. Yes.</p> <p>16       Q. At any point did you review</p> <p>17 and assess Senate Amendment 2?</p> <p>18       A. Yeah, I'm sure I looked at</p> <p>19 it and made some conclusions about</p> <p>20 it.</p> <p>21       Q. Do you know whether Senate</p> <p>22 Amendment 2 was shared with Jones</p> <p>23 Day?</p> <p>24       A. Yes, ma'am.</p> <p>25       Q. And was it shared with</p>	<p style="text-align: right;">Page 344</p> <p>1           TERRENI</p> <p>2       A. All right, tab 59.</p> <p>3       Q. Okay.</p> <p>4       (Plaintiffs' Exhibit 21,</p> <p>5 analysis of House Plan 2, Senate</p> <p>6 Amendment 2A, marked for</p> <p>7 identification, as of this date.)</p> <p>8       Q. And tab 59 is -- would you</p> <p>9 agree is an analysis of House Plan</p> <p>10 2, Senate Amendment 2-A, which</p> <p>11 includes various reports such as on</p> <p>12 core constituencies, a partisan</p> <p>13 analysis?</p> <p>14       A. Yes.</p> <p>15       Q. Political subdivisions</p> <p>16 splits between districts?</p> <p>17       A. Yes.</p> <p>18       Q. Population summary?</p> <p>19       A. Yes, ma'am.</p> <p>20       Q. Population summary voting</p> <p>21 age population, various statistics</p> <p>22 and analyses related to Senate</p> <p>23 Amendment 2, is that fair to say?</p> <p>24       A. Yes. Yes, ma'am.</p> <p>25       Q. Okay. Were these reports</p>
<p style="text-align: right;">Page 343</p> <p>1           TERRENI</p> <p>2 Senate leadership?</p> <p>3       A. Well, yeah, it was used in</p> <p>4 the committee or the subcommittee.</p> <p>5       Q. Leadership outside of the</p> <p>6 committee.</p> <p>7       A. Oh. Well, at some point</p> <p>8 I'm sure it was. When and who I</p> <p>9 could not tell you. I know as the</p> <p>10 process went towards the floor</p> <p>11 certainly other members began paying</p> <p>12 attention so if you could be more</p> <p>13 specific about Senate leadership. I</p> <p>14 know Senator Massey was involved at</p> <p>15 some point.</p> <p>16       Q. If you can look, I'd like</p> <p>17 you to keep tab 5 open, but if you</p> <p>18 can open also tab 59, which was one</p> <p>19 of the new exhibits that was</p> <p>20 emailed.</p> <p>21       A. Oh, I'm sorry, I need to go</p> <p>22 to a different screen. I should</p> <p>23 have it open then.</p> <p>24       Q. Tab 59 would be Plaintiffs'</p> <p>25 Exhibit 21.</p>	<p style="text-align: right;">Page 345</p> <p>1           TERRENI</p> <p>2 prepared by Senate staff?</p> <p>3       A. Yes.</p> <p>4       Q. Of Senate Amendment 2</p> <p>5 introduced by Senator Harpootlian?</p> <p>6       A. Yes.</p> <p>7       Q. Okay. Were reports like</p> <p>8 these prepared for other plans</p> <p>9 prepared by the Senate staff?</p> <p>10       A. Some were, but I mean this</p> <p>11 report in particular was prepared</p> <p>12 for Mr. Opperman and, therefore,</p> <p>13 Senator Harpootlian. I believe this</p> <p>14 is the eve of the, of a subcommittee</p> <p>15 meeting. Maybe we can go back and</p> <p>16 look. I don't know. I know -- I</p> <p>17 remember why this report was</p> <p>18 prepared. It was Mr. Opperman</p> <p>19 didn't have the wherewithal to</p> <p>20 create these reports, and either he</p> <p>21 or Senator Harpootlian asked for our</p> <p>22 help in doing it and so Will ran</p> <p>23 them and provided them.</p> <p>24       Q. Turning back to tab 5,</p> <p>25 which is the transcription of the</p>

<p style="text-align: right;">Page 346</p> <p>1           TERRENI</p> <p>2   hearing from January 13th, I would</p> <p>3   like you to turn to page 14, lines</p> <p>4   14 through 19.</p> <p>5       A.   Yes, ma'am.</p> <p>6       Q.   Is it fair to -- does Mr.</p> <p>7   Opperman state that Senate Amendment</p> <p>8   2: "Clearly and unquestionably</p> <p>9   complies with Section 2 of the</p> <p>10   Voting Rights Act without violating</p> <p>11   the 14th Amendment prohibition to</p> <p>12   racial gerrymandering"?</p> <p>13       A.   Yes.</p> <p>14       Q.   Did you or anyone assess</p> <p>15   whether this statement was accurate?</p> <p>16       A.   We didn't dispute it,</p> <p>17   although -- we didn't dispute it or</p> <p>18   as to the compliance with Section 2</p> <p>19   of voting rights I believe we</p> <p>20   disputed it. With regard to racial</p> <p>21   gerrymandering I would need to</p> <p>22   revisit Senate Amendment 2, but I</p> <p>23   don't remember that being an</p> <p>24   overriding concern.</p> <p>25       Q.   But is there any, as you</p>	<p style="text-align: right;">Page 348</p> <p>1           TERRENI</p> <p>2   think his point was we had water</p> <p>3   contiguity across Charleston Harbor</p> <p>4   and he obviously didn't like that,</p> <p>5   and we felt it was acceptable.</p> <p>6       Q.   On Page 19 from line 21 to</p> <p>7   page 20, line 3 Mr. Opperman remarks</p> <p>8   of Senate Amendment 1 that: "By</p> <p>9   having District 1 on one side of the</p> <p>10   Charleston peninsula and on the</p> <p>11   other side of the Charleston</p> <p>12   peninsula but not connecting anyway,</p> <p>13   this is just one of many examples of</p> <p>14   bizarre choices that do not follow</p> <p>15   traditional redistricting criteria."</p> <p>16       So this is -- would you agree</p> <p>17   that this is Mr. Opperman lodging an</p> <p>18   objection with the way that Senate</p> <p>19   Amendment 1 as compared to Senate</p> <p>20   Amendment 2 achieved contiguity, at</p> <p>21   least in that area of the map?</p> <p>22       A.   Yes.</p> <p>23       Q.   On page 20, lines 7 through</p> <p>24   20 Mr. Opperman states that Senate</p> <p>25   Amendment 2: "More closely hues to"</p>
<p style="text-align: right;">Page 347</p> <p>1           TERRENI</p> <p>2   sit here today, any written analysis</p> <p>3   of Senate Amendment 2 reflecting,</p> <p>4   demonstrating a conclusion by you or</p> <p>5   someone working at your direction</p> <p>6   that Senate Amendment 2 violates the</p> <p>7   14th Amendment's prohibition on</p> <p>8   racial gerrymandering?</p> <p>9       A.   No.</p> <p>10       Q.   Or somehow does not comply</p> <p>11   with Section 2?</p> <p>12       A.   No.</p> <p>13       Q.   Okay. On page 20, lines 4</p> <p>14   through 6 he states that Senate</p> <p>15   Amendment 2: "More closely adheres</p> <p>16   to contiguity objectives under the</p> <p>17   Committee's guidelines."</p> <p>18       A.   He says that.</p> <p>19       Q.   Did you or anyone at your</p> <p>20   direction assess whether this</p> <p>21   statement was accurate?</p> <p>22       A.   We disagreed with it.</p> <p>23       Q.   Did you dedicate that</p> <p>24   disagreement in writing somewhere?</p> <p>25       A.   It's possible, but I mean I</p>	<p style="text-align: right;">Page 349</p> <p>1           TERRENI</p> <p>2   communities of interest.</p> <p>3       And then on line 21 on that</p> <p>4   same page, line 21 -- I'm sorry,</p> <p>5   then on line 21 on that same page</p> <p>6   through line 10 on page 21 does it</p> <p>7   list -- do you see that he lists the</p> <p>8   regions of the state that according</p> <p>9   to Mr. Opperman respect communities</p> <p>10   of interest?</p> <p>11       A.   On page 20 and 21 in the</p> <p>12   paragraph beginning "As for</p> <p>13   communities of interest" or --</p> <p>14       Q.   Yes.</p> <p>15       A.   Yes.</p> <p>16       Q.   Did you or anyone that you</p> <p>17   are aware of assess whether or not</p> <p>18   that was true that those communities</p> <p>19   of interest were respected?</p> <p>20       A.   I don't know that we did it</p> <p>21   formally. We certainly did it</p> <p>22   informally at that process and I</p> <p>23   know that we didn't agree. And that</p> <p>24   the members that were allocating the</p> <p>25   other plan didn't agree. We were so</p>



<p style="text-align: right;">Page 350</p> <p>1           TERRENI</p> <p>2 far down -- so I mean that's -- did</p> <p>3 we assess it? I mean we heard the</p> <p>4 testimony. Obviously we didn't</p> <p>5 agree with it. Obviously the</p> <p>6 subcommittee didn't agree with it.</p> <p>7       Q. But the disagreements and</p> <p>8 your assessments that you talked</p> <p>9 about, were those committed writing</p> <p>10 that was made available to the</p> <p>11 public on the record?</p> <p>12       A. I don't think so.</p> <p>13       Q. On page 21, lines 11</p> <p>14 through 20 Mr. Opperman assesses how</p> <p>15 Senate Amendment 2 preserves</p> <p>16 district cores and he provides the</p> <p>17 percentages of the cores of</p> <p>18 districts that are retained in</p> <p>19 Senate Amendment 2 as compared to</p> <p>20 the 2011 benchmark map?</p> <p>21       A. Yes, ma'am.</p> <p>22       Q. Did you or anyone assess</p> <p>23 whether these -- this data, these</p> <p>24 percentages of retention that he</p> <p>25 reports were accurate or not?</p>	<p style="text-align: right;">Page 352</p> <p>1           TERRENI</p> <p>2       A. As I recall, this Amendment</p> <p>3 2 had fewer county splits than</p> <p>4 Amendment 1. It was accurate in</p> <p>5 that respect.</p> <p>6       Q. And on page 22, lines 15</p> <p>7 through page 23 line 5 he reports:</p> <p>8 "The splits of VTDs where the</p> <p>9 population is zero as compared to</p> <p>10 where there are splits and no</p> <p>11 population and provides explanations</p> <p>12 for the split VTDs."</p> <p>13       Did you or anyone assess</p> <p>14 whether or not this analysis of VTD</p> <p>15 splits and the reasons for them were</p> <p>16 accurate?</p> <p>17       A. I'm sure we did. I know we</p> <p>18 did, and I believe there may have</p> <p>19 been some question about his</p> <p>20 explanation of the Georgetown split.</p> <p>21 And others. His representation of</p> <p>22 them. I know we looked at the</p> <p>23 split. I don't think we had an</p> <p>24 argument about how to even do the</p> <p>25 VTD split. I'm not sure we -- I</p>
<p style="text-align: right;">Page 351</p> <p>1           TERRENI</p> <p>2       A. I believe we generally</p> <p>3 confirmed them. They were a</p> <p>4 comparison to the benchmark map. We</p> <p>5 also compared them to Amendment 1.</p> <p>6       Q. Okay. But do you have any</p> <p>7 basis to disagree that his data as</p> <p>8 reported here was inaccurate?</p> <p>9       A. Not at this time but the</p> <p>10 data speaks for itself. I don't</p> <p>11 have any basis to disagree as I sit</p> <p>12 in this deposition as. Far as I</p> <p>13 recall these numbers were accurate.</p> <p>14 Could they be a little off, they</p> <p>15 might be, I don't know. We have to</p> <p>16 just run the report and see.</p> <p>17       Q. On page 21, lines 21</p> <p>18 through 25 he states that Amendment</p> <p>19 2 is preferable to the second Senate</p> <p>20 staff plan or the plan passed by the</p> <p>21 House because it has fewer county</p> <p>22 splits.</p> <p>23       A. Yes, ma'am.</p> <p>24       Q. Did you or anyone assess</p> <p>25 whether this statement was accurate?</p>	<p style="text-align: right;">Page 353</p> <p>1           TERRENI</p> <p>2 don't -- I know that we -- there was</p> <p>3 some misgiving about the Georgetown</p> <p>4 split and I don't know about the --</p> <p>5 I don't know about the other splits.</p> <p>6 I mean --</p> <p>7       Q. Do you know whether that</p> <p>8 disagreement about the Georgetown</p> <p>9 split was your concern about it or</p> <p>10 that of anyone in the Senate</p> <p>11 dedicated to written analysis for</p> <p>12 the public record?</p> <p>13       A. I don't believe so, no.</p> <p>14       Q. On page 23, lines 6 through</p> <p>15 15 Mr. Opperman provides additional</p> <p>16 explanation for county splits and</p> <p>17 why the splits are okay because of</p> <p>18 the political and economic power of</p> <p>19 four of the counties that are split.</p> <p>20 Did you or anyone assess whether or</p> <p>21 not that opinion was accurate?</p> <p>22       A. I don't think it was</p> <p>23 measured. To state that a county's</p> <p>24 political and economic power</p> <p>25 relative to the rest of the state</p>

<p style="text-align: right;">Page 354</p> <p>1           TERRENI</p> <p>2   and if a country must be split,</p> <p>3   having a ton of power make it more</p> <p>4   easy to bear the split. You know,</p> <p>5   we're medium size or small, at least</p> <p>6   there's no county -- small counties</p> <p>7   are split. I'd have to revisit the</p> <p>8   plan to see that, but I think a</p> <p>9   great deal of what he's saying here</p> <p>10   is subjective. Did he split six</p> <p>11   counties? As I recall, that's true.</p> <p>12   Were four large, probably. The</p> <p>13   rationale I don't remember one way</p> <p>14   or the other.</p> <p>15   Q. On page 24, lines 12</p> <p>16   through 17 do you recall Senator</p> <p>17   Harpootlian asking Mr. Opperman to</p> <p>18   offer an analysis comparing the</p> <p>19   Senate Amendment 2 plan against the</p> <p>20   second Senate staff plan for the</p> <p>21   Senate?</p> <p>22   A. I don't specifically recall</p> <p>23   that, but I know that it happened in</p> <p>24   the transcript.</p> <p>25   Q. Let's look at tab 3.</p>	<p style="text-align: right;">Page 356</p> <p>1           TERRENI</p> <p>2   to request on January 13, 2022.</p> <p>3   A. Yes.</p> <p>4   Q. Is it fair to say that</p> <p>5   Mr. Opperman's testimony on</p> <p>6   January 13th like in this document</p> <p>7   wakes through each of the criteria</p> <p>8   identified in the Senate's</p> <p>9   guidelines and compares his view of</p> <p>10   how Senate Amendment 2 complies with</p> <p>11   each of the Senate's guidelines as</p> <p>12   compared to Senate Amendment 1?</p> <p>13   A. Generally speaking, yes.</p> <p>14   Q. Did anyone, you or anyone</p> <p>15   that you are aware of assess the</p> <p>16   comparisons within it?</p> <p>17   A. Yeah. I'm sure we would</p> <p>18   have read Mr. Opperman's document</p> <p>19   and we would have paid attention to</p> <p>20   it. We would have -- I don't know</p> <p>21   what you mean by assess but I mean</p> <p>22   we certainly would have considered</p> <p>23   it.</p> <p>24   Q. Did you provide a written</p> <p>25   response to this testimony?</p>
<p style="text-align: right;">Page 355</p> <p>1           TERRENI</p> <p>2   A. Okay.</p> <p>3   Q. This will be Plaintiffs'</p> <p>4   Exhibit 22. This is an email cover</p> <p>5   from Andy Fiffick to Senator Rankin</p> <p>6   and you, Mr. Terreni, dated</p> <p>7   January 18, 2022, with an attachment</p> <p>8   entitled Written Testimony Opperman</p> <p>9   OO3, Bates stamped South Carolina</p> <p>10   Senate 22344, 22352.</p> <p>11   (Plaintiffs' Exhibit 22, Email</p> <p>12   cover from Andy Fiffick to Senator</p> <p>13   Rankin, et al, Bates South Carolina</p> <p>14   Senate 22344, 22352, marked for</p> <p>15   identification, as of this date.)</p> <p>16   Q. Do you recall seeing this</p> <p>17   document?</p> <p>18   A. Yes.</p> <p>19   Q. On 22345 does -- does the</p> <p>20   title of the document Written</p> <p>21   Testimony Offered to the</p> <p>22   Redistricting Subcommittee of the</p> <p>23   South Carolina Senate Judiciary</p> <p>24   Committee regarding House Plan 2,</p> <p>25   Senate Amendments 1 and 2 pursuant</p>	<p style="text-align: right;">Page 357</p> <p>1           TERRENI</p> <p>2   A. I don't believe I</p> <p>3   specifically provided a written</p> <p>4   response to this testimony.</p> <p>5   Q. Looking at this memo do you</p> <p>6   see him reference keeping CD 7 the</p> <p>7   same as in the benchmark?</p> <p>8   A. If you could point to a</p> <p>9   page number, that might be helpful.</p> <p>10   Q. In this letter do you see</p> <p>11   -- are you aware or have you looked</p> <p>12   at this letter before or, as you sit</p> <p>13   here today, of whether or not</p> <p>14   Mr. Opperman identified keeping CD 7</p> <p>15   as one of the Senate criteria by</p> <p>16   which he compares his map Senate</p> <p>17   Amendment 2 or Senator Harpootlian</p> <p>18   Senate Amendment 2 to?</p> <p>19   A. I'm sorry, do you mean is</p> <p>20   one of his headings like compactness</p> <p>21   minimizing, et cetera, keeping</p> <p>22   related to the Senate amendment -- I</p> <p>23   mean to -- it's been a long day --</p> <p>24   congressional District 7 or are you</p> <p>25   asking me did he discuss</p>



<p style="text-align: right;">Page 358</p> <p>1           TERRENI</p> <p>2 congressional District 7 in his</p> <p>3 analysis?</p> <p>4       Q. Meaning looking at this</p> <p>5 letter is it fair to say that he</p> <p>6 looks at the Senate guidelines and</p> <p>7 the categories identified in the</p> <p>8 Senate guidelines and makes a</p> <p>9 comparison or an evaluation from his</p> <p>10 view of how Senate Amendment 2</p> <p>11 complies with Senate guidelines. Is</p> <p>12 that fair?</p> <p>13       A. Yes.</p> <p>14       Q. At the same time we have</p> <p>15 been discussing all day how</p> <p>16 subsequent to those guidelines or</p> <p>17 around those guidelines there have</p> <p>18 behind other considerations</p> <p>19 identified by the public, by</p> <p>20 legislative members and others. Is</p> <p>21 that correct?</p> <p>22       A. Yes.</p> <p>23       Q. But is it fair to say that</p> <p>24 some of the criteria such as, or the</p> <p>25 political considerations such as</p>	<p style="text-align: right;">Page 360</p> <p>1           TERRENI</p> <p>2 least according to Mr. Opperman's</p> <p>3 view Senate Amendment 2 complies</p> <p>4 with the Senate guidelines, keeps</p> <p>5 Charleston County whole in CD 1 and</p> <p>6 keeps Beaufort in CD 1 and out of</p> <p>7 CD 2?</p> <p>8       A. I remember Charleston, I'll</p> <p>9 take your word for it on Beaufort,</p> <p>10 and certainly Mr. Opperman thought</p> <p>11 his plan complied with the</p> <p>12 guidelines.</p> <p>13       Q. But there's no written</p> <p>14 documenting of the Senate's view of</p> <p>15 why Mr. Opperman's -- or Senator</p> <p>16 Harpootlian Amendment 2 failed. Is</p> <p>17 that fair to say?</p> <p>18       A. Senator Harpootlian's</p> <p>19 Amendment 2 failed because it didn't</p> <p>20 have the votes to pass on the floor.</p> <p>21 The documentation would be the floor</p> <p>22 debate.</p> <p>23       Q. Do you remember from the</p> <p>24 floor debate a critique with how --</p> <p>25 a particular critique with how</p>
<p style="text-align: right;">Page 359</p> <p>1           TERRENI</p> <p>2 keeping Senate -- congressional</p> <p>3 District 7 whole or keeping Fort</p> <p>4 Jackson in Representative Wilson's</p> <p>5 district, some of these other</p> <p>6 political considerations</p> <p>7 Mr. Opperman does not evaluate</p> <p>8 alongside these Senate guidelines.</p> <p>9 Is that fair to say?</p> <p>10       A. He does not appear to. It</p> <p>11 doesn't mean that he didn't -- I</p> <p>12 mean Mr. Opperman proposed a plan</p> <p>13 that, as I recall, had all of</p> <p>14 Charleston County in it, in one --</p> <p>15 in Senate district -- I mean</p> <p>16 Congressional District 1. And other</p> <p>17 people did and then other people</p> <p>18 proposed plans in Mr. Opperman's</p> <p>19 plan. As I recall, we arranged</p> <p>20 congressional District 7.</p> <p>21       I mean people had policy</p> <p>22 preferences that were additional to</p> <p>23 the criteria. I don't think that</p> <p>24 should be a surprise to anybody?</p> <p>25       Q. Would you agree that at</p>	<p style="text-align: right;">Page 361</p> <p>1           TERRENI</p> <p>2 Senate Amendment 2 failed to address</p> <p>3 one of the stated Senate guidelines</p> <p>4 that had been adopted in September</p> <p>5 of 2021?</p> <p>6       A. Not at this time. There</p> <p>7 was certainly an analysis that was</p> <p>8 -- not an analysis but rather a fact</p> <p>9 sheet that was provided to the</p> <p>10 members that compared Senate</p> <p>11 Amendment 2, the benchmark plan, and</p> <p>12 Senate Amendment 1. I mean it would</p> <p>13 have had things like county splits.</p> <p>14 It would have had -- it would have</p> <p>15 been a run down of the criteria</p> <p>16 basically.</p> <p>17       Q. Looking at tab 59 which is</p> <p>18 -- in your email should be one of</p> <p>19 the new documents. This will be</p> <p>20 Plaintiffs' Exhibit 23. This is</p> <p>21 South Carolina Senate 3260 to 68.</p> <p>22       A. No. 3260. You are talking</p> <p>23 about 59, tab 59? I have that email</p> <p>24 to Will Roberts to Robert Joseph</p> <p>25 Opperman at tab 59.</p>

<p style="text-align: right;">Page 362</p> <p>1                   TERRENI</p> <p>2           Q. Yes. And is that South</p> <p>3 Carolina Senate 3260 to 326 --</p> <p>4           A. I have to 368, yes, yes,</p> <p>5 I'm sorry. It begins with 60 and</p> <p>6 ends with 68.</p> <p>7           (Plaintiffs' Exhibit 23, Email</p> <p>8 from Will Roberts to Mr. Opperman,</p> <p>9 Bates South Carolina Senate 3260 to</p> <p>10 3268, marked for identification, as</p> <p>11 of this date.)</p> <p>12          Q. And this is from Will</p> <p>13 Roberts to Mr. Opperman copying Andy</p> <p>14 Fiffick. You are not copied on this</p> <p>15 email; is that correct?</p> <p>16          A. I don't appear to be, no.</p> <p>17          Q. Do you recall seeing this?</p> <p>18          A. As I said before, I was</p> <p>19 aware that Will ran these reports</p> <p>20 and I think I saw these reports,</p> <p>21 yeah.</p> <p>22          Q. If you can go to 3264,</p> <p>23 which is pdf pages 5 of 9, there's</p> <p>24 an analysis of each of the districts</p> <p>25 and the share, the total number of</p>	<p style="text-align: right;">Page 364</p> <p>1                   TERRENI</p> <p>2           A. Yes, ma'am.</p> <p>3           Q. On January 19, 2022, the</p> <p>4 full Senate Judiciary Committee held</p> <p>5 a hearing on congressional</p> <p>6 redistricting. I want to ask you to</p> <p>7 look at tab 25, which is an email</p> <p>8 from Will Roberts to Andy Fiffick</p> <p>9 dated January 16, 2022. This will</p> <p>10 be Plaintiffs' Exhibit 24. And the</p> <p>11 subject is analysis for Senator</p> <p>12 Campsen with an attachment that says</p> <p>13 notes on Senate Amendment 1.</p> <p>14           (Plaintiffs' Exhibit 24, Email</p> <p>15 from Will Roberts to Andy Fiffick,</p> <p>16 marked for identification, as of</p> <p>17 this date.)</p> <p>18          A. Yes.</p> <p>19          Q. Do you recall this email</p> <p>20 and attached analysis?</p> <p>21          A. No.</p> <p>22          Q. Would an analysis such as</p> <p>23 this where it appears that or would</p> <p>24 you agree that Will Roberts appears</p> <p>25 to have done an analysis of whether</p>
<p style="text-align: right;">Page 363</p> <p>1                   TERRENI</p> <p>2 voters and the share of voters for</p> <p>3 Biden as compared to Trump. Would</p> <p>4 you agree?</p> <p>5          A. Yes, ma'am.</p> <p>6          Q. Were these types of</p> <p>7 analysis done, these particular ones</p> <p>8 about the vote shares in each of</p> <p>9 these districts, do you remember</p> <p>10 this one done for Senate Amendment</p> <p>11 1?</p> <p>12          A. I believe so, yes.</p> <p>13          Q. Do you know if it was done</p> <p>14 for the initial staff plan?</p> <p>15          A. Probably.</p> <p>16          Q. And do you know. Well,</p> <p>17 strike that.</p> <p>18          A. It may not have been</p> <p>19 printed but we looked at partisan</p> <p>20 numbers. Specifically these 2020</p> <p>21 Trump/Biden numbers.</p> <p>22          Q. And who gave you those</p> <p>23 numbers or that data to do those</p> <p>24 numbers, is this Vincent, Clark</p> <p>25 Vincent data?</p>	<p style="text-align: right;">Page 365</p> <p>1                   TERRENI</p> <p>2 Senate Amendment 1 complies with one</p> <p>3 person one vote, if you look at</p> <p>4 22529?</p> <p>5          A. Yeah.</p> <p>6          Q. And whether it adheres to</p> <p>7 the Voting Rights Act?</p> <p>8          A. Appears that he did that.</p> <p>9          Q. And whether it avoids</p> <p>10 racial gerrymandering?</p> <p>11          A. He says he did.</p> <p>12          Q. And whether it respects</p> <p>13 contiguity or achieves contiguity</p> <p>14 among districts?</p> <p>15          A. Yes.</p> <p>16          Q. 22560 is talking about</p> <p>17 contiguity?</p> <p>18          A. Yes.</p> <p>19          Q. And it does an analysis of</p> <p>20 communities of interest also on</p> <p>21 22530?</p> <p>22          A. Yes.</p> <p>23          Q. And it also looked at cores</p> <p>24 of existing districts on 22530?</p> <p>25          A. Yes.</p>

<p style="text-align: right;">Page 366</p> <p>1           TERRENI</p> <p>2       Q. And it looks at minimizing</p> <p>3 splits -- whether the Senate</p> <p>4 Amendment 1 minimizes splits. Is</p> <p>5 that fair to say?</p> <p>6       A. Yes.</p> <p>7       Q. Would an analysis such as</p> <p>8 this normally have gone to a leading</p> <p>9 member of the Senate without counsel</p> <p>10 such as yourself or Jones Day having</p> <p>11 reviewed it?</p> <p>12       A. I don't know that Jones Day</p> <p>13 would have necessarily reviewed it.</p> <p>14 One of the Senate's lawyers would</p> <p>15 have reviewed it. I usually would</p> <p>16 have been included in that loop.</p> <p>17 I'm not sure why I wasn't. And I</p> <p>18 don't remember this particular</p> <p>19 document. But usually I would have</p> <p>20 been copied on it. Jones Day would</p> <p>21 have been different. They would not</p> <p>22 have been copied on everything.</p> <p>23       Q. Are you aware of a memo</p> <p>24 like this being developed by Will</p> <p>25 Roberts or any other Senate staff</p>	<p style="text-align: right;">Page 368</p> <p>1           TERRENI</p> <p>2 raised by the map. And I think we</p> <p>3 would have said that about both</p> <p>4 maps, Amendment 1 and 2.</p> <p>5       Q. And would there have been</p> <p>6 on this chart an analysis of whether</p> <p>7 or not the map avoids racial</p> <p>8 gerrymandering?</p> <p>9       A. Analysis to the extent</p> <p>10 there was a description of the</p> <p>11 various mapping choices, yes -- and</p> <p>12 why they, the reasons for them or</p> <p>13 the physical characteristics of</p> <p>14 them, yes.</p> <p>15       Q. And would those and this</p> <p>16 chart have gone to every member of</p> <p>17 the Senate?</p> <p>18       A. It did go to every member</p> <p>19 of the Senate. It went to every</p> <p>20 member of the Senate on the day of</p> <p>21 the debate. The chart was prepared</p> <p>22 the night before the debate or the</p> <p>23 day before the debate in one format</p> <p>24 or another. I don't know the</p> <p>25 specific sequence of it but sponsors</p>
<p style="text-align: right;">Page 367</p> <p>1           TERRENI</p> <p>2 regarding any other maps prepared by</p> <p>3 the -- prepared or considered by the</p> <p>4 Senate regarding congressional</p> <p>5 redrawing of the lines?</p> <p>6       A. Well, memo like this is a</p> <p>7 specific format question. As I have</p> <p>8 said before, there was a comparison</p> <p>9 memo that was in a chart form that</p> <p>10 was performed for subcommittee</p> <p>11 staff, sponsors of the bill and</p> <p>12 shared eventually with the entire</p> <p>13 Senate membership floor debate. I</p> <p>14 recall that. It would have gone</p> <p>15 through -- it would have gone</p> <p>16 through the criteria one by one. It</p> <p>17 was not in this format.</p> <p>18       Q. Would the chart that you</p> <p>19 are talking about have included</p> <p>20 something that made a conclusion</p> <p>21 about whether a map adhered to the</p> <p>22 Voting Rights Act?</p> <p>23       A. It probably would have said</p> <p>24 something about, to the effect that</p> <p>25 the Voting Rights Act concerns</p>	<p style="text-align: right;">Page 369</p> <p>1           TERRENI</p> <p>2 and supporters of the comparison did</p> <p>3 have this version of it for</p> <p>4 reference during an, I think during</p> <p>5 the full committee meeting.</p> <p>6       Within a relatively short</p> <p>7 period of time the chart went -- the</p> <p>8 bill was on the floor reporting out</p> <p>9 favorably for debate. And that</p> <p>10 morning of the debate Senator Bright</p> <p>11 Matthews requested that chart be</p> <p>12 distributed or provided to all the</p> <p>13 members, whether they supported the</p> <p>14 amendment or not. And it was.</p> <p>15       Q. Can we turn to tab 14,</p> <p>16 which would be Plaintiffs' Exhibit</p> <p>17 25. This is Bates stamped -- well,</p> <p>18 it's an email exchange from Breeden</p> <p>19 John to Andy Fiffick and certain</p> <p>20 senators and it copies or it's</p> <p>21 directed to you and it's dated</p> <p>22 January 20th, 2022, there's a</p> <p>23 subject talking points and cheat</p> <p>24 sheets.</p> <p>25       A. Yes, ma'am.</p>

<p style="text-align: right;">Page 370</p> <p>1           TERRENI</p> <p>2       Q. And there's an attachment</p> <p>3       Senate Amendment 1 Talking Points</p> <p>4       2022-0120 and then there's a</p> <p>5       separate attachment Plan Comparison</p> <p>6       Sheets 2022-0120.</p> <p>7       A. Yes, ma'am.</p> <p>8       (Plaintiffs' Exhibit 25, Email</p> <p>9       from Breeden John to Andy Fiffick,</p> <p>10      et al, with attachment, marked for</p> <p>11      identification, as of this date.)</p> <p>12      Q. This tab 14, Plaintiffs'</p> <p>13      Exhibit 25, is this the chart that</p> <p>14      you've been referencing?</p> <p>15      A. No, ma'am. But much of the</p> <p>16      information is the same. This looks</p> <p>17      like there's another version or</p> <p>18      precursor to it. But it's not the</p> <p>19      same one.</p> <p>20      Q. What Breeden John is</p> <p>21      sharing here to Mr. Fiffick and</p> <p>22      certain legislative members, was</p> <p>23      this version of information, the</p> <p>24      talking points and cheat sheets, was</p> <p>25      this shared with all Senate members?</p>	<p style="text-align: right;">Page 372</p> <p>1           TERRENI</p> <p>2       they would have done that for sure.</p> <p>3       So that leads us to page 1 census</p> <p>4       data overview and our process so</p> <p>5       far. I might have reviewed it but I</p> <p>6       doubt I prepared it.</p> <p>7       Q. This constituency analysis</p> <p>8       on 21742 --</p> <p>9       A. Yes.</p> <p>10      Q. -- do you recall doing this</p> <p>11      for the initial staff plan?</p> <p>12      A. Not specifically, but we</p> <p>13      likely did.</p> <p>14      Q. Was there a point in time</p> <p>15      where you started reporting -- well,</p> <p>16      strike that.</p> <p>17      On 21733 in the second-to-last</p> <p>18      bullet it indicates that the Senate:</p> <p>19      "Received more than 1,000 written</p> <p>20      comments on the two amendments"</p> <p>21      around January 13th of 2022?</p> <p>22      A. I think it says 1,000</p> <p>23      comments. Obviously that would have</p> <p>24      been -- when was the date of this?</p> <p>25      I'm just trying to be accurate.</p>
<p style="text-align: right;">Page 371</p> <p>1           TERRENI</p> <p>2       A. I don't think so. I don't</p> <p>3       know. I mean I'm looking at who it</p> <p>4       was shared with and I think it was</p> <p>5       shared with them, which is basically</p> <p>6       leadership supporting the amendment.</p> <p>7       I see Senator Campsen, Senator</p> <p>8       Massey, Senator Grooms. So I don't</p> <p>9       believe so.</p> <p>10      Q. But not Senator Bright</p> <p>11      Matthews, Senator Harpootlian or</p> <p>12      Senator Sabb, members of the Senate</p> <p>13      subcommittee?</p> <p>14      A. No, ma'am.</p> <p>15      Q. Did you help create these</p> <p>16      documents?</p> <p>17      A. I think this would have</p> <p>18      been mostly -- I don't think so. I</p> <p>19      think Breeden and Will compiled</p> <p>20      these statistics. I'm not saying I</p> <p>21      didn't see them when they were</p> <p>22      created. I don't have the specific</p> <p>23      recollection of it, but I wouldn't</p> <p>24      have -- I mean the tables, for</p> <p>25      instance, I would have had no --</p>	<p style="text-align: right;">Page 373</p> <p>1           TERRENI</p> <p>2       Q. It was prepared on</p> <p>3       January --</p> <p>4       A. The 20th. Yeah, okay.</p> <p>5       Yeah, in the last week is what it</p> <p>6       says, I mean if he's talking about</p> <p>7       January 13th to 20, yeah.</p> <p>8       Q. Do you know whether those</p> <p>9       written comments -- have you seen</p> <p>10      those 1,000 written comments?</p> <p>11      A. Not every one of them but</p> <p>12      some of them, yes.</p> <p>13      Q. And were those sent to the</p> <p>14      Senate Redistricting.gov email</p> <p>15      address?</p> <p>16      A. They were sent to -- I</p> <p>17      believe so. They were sent to an</p> <p>18      address on the website that was set</p> <p>19      up to receive them.</p> <p>20      Q. And based upon your</p> <p>21      testimony earlier today you wouldn't</p> <p>22      have had direct access to all 1,000,</p> <p>23      someone would have had to forward</p> <p>24      you some of those emails, the ones</p> <p>25      that they identified as wanting you</p>

<p style="text-align: right;">Page 374</p> <p>1                   TERRENI</p> <p>2 to see. Is that fair to say?</p> <p>3       A. I don't recall if I had</p> <p>4 direct access to them or not. As a</p> <p>5 practical matter I didn't read 1,000</p> <p>6 written comments. I do recall that</p> <p>7 we had staff monitoring comments and</p> <p>8 providing some updates on them</p> <p>9 during certain periods of time. I</p> <p>10 don't know if that was going on at</p> <p>11 this time or not.</p> <p>12       Q. As you sit here today, do</p> <p>13 you know whether those thousand</p> <p>14 comments were made available to the</p> <p>15 public on the Senate's website?</p> <p>16       A. I don't recall.</p> <p>17       Q. Can we turn to tab 4, which</p> <p>18 will be Plaintiffs' Exhibit 26,</p> <p>19 which is an email between</p> <p>20 Mr. Fiffick, Luke Rankin, copying</p> <p>21 you Mr. Terreni, dated January 18th,</p> <p>22 2022, with the subject, "House</p> <p>23 questions distilled and clarified."</p> <p>24 And it has an attachment of the same</p> <p>25 name and it's Bates stamped South</p>	<p style="text-align: right;">Page 376</p> <p>1                   TERRENI</p> <p>2 state and federal constitutions,</p> <p>3 state and federal law such as</p> <p>4 one man one vote, the Voting Rights</p> <p>5 Act and avoidance of racial</p> <p>6 gerrymandering and contiguity are</p> <p>7 absolute requirements of equal</p> <p>8 importance."</p> <p>9       Do you agree that complying</p> <p>10 with state constitutions is of equal</p> <p>11 importance with complying with</p> <p>12 federal Constitution?</p> <p>13       A. No.</p> <p>14       Q. Do you agree that complying</p> <p>15 with state law is on the same</p> <p>16 footing as complying with federal</p> <p>17 law?</p> <p>18       A. No.</p> <p>19       Q. The next sentence reads --</p> <p>20 do you agree that contiguity is on</p> <p>21 equal footing as complying with the</p> <p>22 federal Constitution?</p> <p>23       A. No.</p> <p>24       Q. And complying with federal</p> <p>25 law?</p>
<p style="text-align: right;">Page 375</p> <p>1                   TERRENI</p> <p>2 Carolina Senate 22286 through 88.</p> <p>3 You are cc'd on this email and</p> <p>4 attached document.</p> <p>5       (Plaintiffs' Exhibit 26, Email</p> <p>6 between Mr. Fiffick, Luke Rankin</p> <p>7 with attachment, Bates South</p> <p>8 Carolina Senate 22286 through</p> <p>9 22288, marked for identification,</p> <p>10 as of this date.)</p> <p>11       Q. Do you recall receiving</p> <p>12 this email and attachment?</p> <p>13       A. Not specifically. I'm not</p> <p>14 saying I didn't, I just don't --</p> <p>15 today I don't.</p> <p>16       Q. Do you recall who created</p> <p>17 it?</p> <p>18       A. Apparently Andy.</p> <p>19       Q. In the middle of page 22287</p> <p>20 there is a paragraph that reads</p> <p>21 committee or that's titled:</p> <p>22 "Committee criteria - how was it</p> <p>23 ranked and was it applied equally</p> <p>24 across the board?"</p> <p>25       And it reads: "Complying with</p>	<p style="text-align: right;">Page 377</p> <p>1                   TERRENI</p> <p>2       A. No.</p> <p>3       Q. And it reads: "Maintaining</p> <p>4 communities of interest constituent</p> <p>5 consistency, minimizing divisions of</p> <p>6 city and county boundaries,</p> <p>7 minimizing divisions of ETDs and</p> <p>8 district compactness were all given</p> <p>9 consideration in no particular order</p> <p>10 of preference and applied equally</p> <p>11 across all seven districts."</p> <p>12       Do you agree with that?</p> <p>13       A. I'm not sure what he means</p> <p>14 by that. Were they applied</p> <p>15 uniformly across all seven</p> <p>16 districts, no. Were they applied</p> <p>17 equally meaning were they all given</p> <p>18 consideration, yes. I mean I think</p> <p>19 you'd have to ask the author. To me</p> <p>20 it's a little bit ambiguous.</p> <p>21       Q. There's a paragraph or a</p> <p>22 title of a paragraph that reads why</p> <p>23 and, quote, unusual configuration,</p> <p>24 end quote, in Charleston and why not</p> <p>25 a, quote, swath, end quote -- swath,</p>

<p style="text-align: right;">Page 378</p> <p>1           TERRENI</p> <p>2   S-W-A-T-H, end quote, in Charleston</p> <p>3   as deposed to their, quote,</p> <p>4   appearing to be a little, quote</p> <p>5   again, cutting out, end quote. And</p> <p>6   it responds that it was not for</p> <p>7   racial reasons.</p> <p>8       A. Where is this?</p> <p>9       Q. This is still on --</p> <p>10      A. Oh, I see it. I'm sorry, I</p> <p>11     see it.</p> <p>12      Q. And it further says:</p> <p>13     "Members of the Charleston</p> <p>14     delegation took into consideration</p> <p>15     core constituency," and it</p> <p>16     highlights "also need to talk to</p> <p>17     Campsen as he has an opinion on</p> <p>18     this."</p> <p>19       Were you what a part of a</p> <p>20     conversation with Senator Campsen</p> <p>21     about an unusual configuration in</p> <p>22     Charleston and otherwise how</p> <p>23     Charleston was treated on or around</p> <p>24     January 18th when this analysis was</p> <p>25     sent to Senator Rankin?</p>	<p style="text-align: right;">Page 380</p> <p>1           TERRENI</p> <p>2   time. This always goes fast.</p> <p>3       Q. On page 22288 there is</p> <p>4   another heading: "Was Charleston</p> <p>5   split differently? Why?" And it</p> <p>6   also highlights that there was lots</p> <p>7   of discussion on this with Campsen</p> <p>8   and we should talk about this. Were</p> <p>9   you privy to any conversations with</p> <p>10   Campsen about the treatment of</p> <p>11   Charleston?</p> <p>12      A. Yes.</p> <p>13      Q. And would you agree that</p> <p>14   there was at least one map</p> <p>15   introduced including by Senator</p> <p>16   Harpootlian or specifically by</p> <p>17   Senator Harpootlian that kept</p> <p>18   Charleston whole in CD 1?</p> <p>19      A. Yes. That would have been</p> <p>20   a different treatment than</p> <p>21   Charleston.</p> <p>22      Q. After the January -- before</p> <p>23   the January 19th hearing were you</p> <p>24   aware that in addition to Senator</p> <p>25   Harpootlian other amendments were</p>
<p style="text-align: right;">Page 379</p> <p>1           TERRENI</p> <p>2       A. It was really two</p> <p>3   questions. I have no recollection</p> <p>4   about discussing an unusual</p> <p>5   configuration in Charleston with</p> <p>6   Senator Campsen. Did I discuss</p> <p>7   Charleston with Senator Campsen and</p> <p>8   the First District, yeah, sure.</p> <p>9       MR. GORE: Ms. Aden, I just</p> <p>10     want to note for the record that</p> <p>11     based on the time I have been</p> <p>12     keeping, we are at six hours and</p> <p>13     47 minutes. And I think the rules</p> <p>14     limit the deposition to seven hours</p> <p>15     so I'm just flagging that for your</p> <p>16     awareness.</p> <p>17       MS. ADEN: That's correct. I</p> <p>18     know we are running down on time.</p> <p>19     If we are off the record, can you</p> <p>20     just confirm -- I think you're</p> <p>21     right. I'm wrapping up. I'm not</p> <p>22     going to waste the time.</p> <p>23       MR. GORE: Just wanted to make</p> <p>24     you aware. Sorry, go ahead.</p> <p>25       MS. ADEN: Always aware of</p>	<p style="text-align: right;">Page 381</p> <p>1           TERRENI</p> <p>2   introduced?</p> <p>3       A. Yes.</p> <p>4       Q. Did you work with any</p> <p>5   senators on other amendments that</p> <p>6   were -- that they wanted introduced</p> <p>7   into the record?</p> <p>8       A. We all did.</p> <p>9       Q. And we is it the same core</p> <p>10   that you had been mentioning --</p> <p>11      A. Yes, ma'am.</p> <p>12      Q. Would you, is your view of</p> <p>13   why those amendments failed similar</p> <p>14   to the view of Senator Harpootlian's</p> <p>15   amendment which is they simply</p> <p>16   didn't have the votes for passage?</p> <p>17      A. Yes.</p> <p>18      Q. As you sit here today, are</p> <p>19   there, are you aware informal on any</p> <p>20   reports written reports that the</p> <p>21   Senate staff prepared at your</p> <p>22   direction or that you are aware of</p> <p>23   that critique any of the other</p> <p>24   amendments that were introduced at</p> <p>25   the January 19th hearing?</p>



<p style="text-align: right;">Page 382</p> <p>1           TERRENI</p> <p>2       A. No. I don't think so. Let</p> <p>3 me add I don't remember when those</p> <p>4 memos were prepared. They may have</p> <p>5 been prepared after the January 19th</p> <p>6 hearing in preparation for the floor</p> <p>7 debate. The dates are all a little</p> <p>8 confusing to me. But what I'm</p> <p>9 trying to say is the amendments may</p> <p>10 have been prepared after the favor-</p> <p>11 -- the subcommittee, the final</p> <p>12 subcommittee report and after the</p> <p>13 favorable committee report but</p> <p>14 before the bill was debated on the</p> <p>15 floor.</p> <p>16       Q. Is it your view that it was</p> <p>17 too late in the process for those</p> <p>18 amendments to be successful?</p> <p>19       A. No.</p> <p>20       Q. Was it possible for</p> <p>21 amendments as late as mid to late</p> <p>22 January to be successful?</p> <p>23       A. If they had the votes, I</p> <p>24 mean anything could be successful.</p> <p>25       MS. ADEN: I think that is</p>	<p style="text-align: right;">Page 384</p> <p>1           TERRENI</p> <p>2       Q. Mr. Terreni, I'd like to</p> <p>3 call your attention back to the</p> <p>4 document you were just discussing</p> <p>5 with Ms. Aden, tab 4, Plaintiffs'</p> <p>6 Exhibit 6 [sic].</p> <p>7       Do you have that in front of</p> <p>8 you?</p> <p>9       A. I can get it.</p> <p>10       Yes.</p> <p>11       MS. ADEN: You said 6, did you</p> <p>12 mean 26.</p> <p>13       MR. GORE: Yes. Exhibit 26,</p> <p>14 tab 4. Thank you.</p> <p>15       A. Yes, sir.</p> <p>16       Q. I believe you said that</p> <p>17 making Charleston whole also would</p> <p>18 have been different treatment of</p> <p>19 Charleston County. Is that right?</p> <p>20       A. Yes.</p> <p>21       Q. And why is that the case?</p> <p>22       A. Because Charleston County</p> <p>23 was split in the prior plan enacted</p> <p>24 in 2011, I guess. It was split in</p> <p>25 the core plan that was drawn by the</p>
<p style="text-align: right;">Page 383</p> <p>1           TERRENI</p> <p>2 what I have at this time.</p> <p>3       MR. GORE: Okay. Thank you.</p> <p>4 I have some questions, but before I</p> <p>5 ask my questions either,</p> <p>6 Mr. Mathias or Ms. Trinkley, would</p> <p>7 you like to ask anything?</p> <p>8       MR. MATHIAS: I have no</p> <p>9 questions.</p> <p>10       MS. TRINKLEY: I have no</p> <p>11 questions either. Thank you,</p> <p>12 Mr. Terreni.</p> <p>13       THE WITNESS: Mr. Gore, I'm</p> <p>14 going to ask you, what do you have,</p> <p>15 a couple hours or --</p> <p>16       MR. GORE: Yeah, I was</p> <p>17 thinking three or four actually.</p> <p>18       THE WITNESS: Okay. I need</p> <p>19 two minutes.</p> <p>20       MR. GORE: Let's take a couple</p> <p>21 minute break.</p> <p>22       (Whereupon, there is a recess</p> <p>23 in the proceedings.)</p> <p>24 EXAMINATION BY</p> <p>25 MR. GORE:</p>	<p style="text-align: right;">Page 385</p> <p>1           TERRENI</p> <p>2 core in 20 -- I think it was 2000</p> <p>3 and it was, I believe it had been</p> <p>4 divided in the previous plan. I</p> <p>5 know it had. I know it had.</p> <p>6       I'm sorry, it was divided in</p> <p>7 the plan in the '90s and I think in</p> <p>8 the age of single member districts</p> <p>9 it always has been.</p> <p>10       Q. I'm referring again to this</p> <p>11 document, Exhibit 26, tab 4. Do you</p> <p>12 know whether this document was</p> <p>13 reviewed, used or relied upon by</p> <p>14 anyone?</p> <p>15       A. I don't know that, no.</p> <p>16       Q. Mr. Terreni, have you</p> <p>17 discussed this litigation at all</p> <p>18 with Dale Oldham?</p> <p>19       A. No.</p> <p>20       Q. Mr. Terreni, will you turn</p> <p>21 back to tab 5, Plaintiffs' Exhibit</p> <p>22 21. This is the transcript of the</p> <p>23 June 13th, 2022, redistricting</p> <p>24 subcommittee meeting?</p> <p>25       A. Yes. Bear with me, I need</p>

<p style="text-align: right;">Page 386</p> <p>1           TERRENI</p> <p>2 to close some tabs here. Tab 5,</p> <p>3 yes, sir.</p> <p>4     Q. Will you scroll down to</p> <p>5 page 21.</p> <p>6     A. Yes, sir.</p> <p>7     Q. You and Ms. Aden discussed</p> <p>8 these core preservation numbers for</p> <p>9 Senate Amendment 2. Do you recall</p> <p>10 how these preservation numbers</p> <p>11 compare to the core preservation</p> <p>12 numbers in Senate Amendment 1?</p> <p>13     A. They are all lower,</p> <p>14 significantly so.</p> <p>15     Q. Can you turn with me now to</p> <p>16 tab 17, Plaintiffs' Exhibit 14.</p> <p>17     A. Can you share it?</p> <p>18     Q. Yes, I can share it.</p> <p>19     A. Which tab was it?</p> <p>20     Q. It's tab 17. Can you see</p> <p>21 it on my screen now?</p> <p>22     A. I can and I'm going to see</p> <p>23 if I can open it now. I have it,</p> <p>24 yes.</p> <p>25     Q. This is the letter that</p>	<p style="text-align: right;">Page 388</p> <p>1           TERRENI</p> <p>2     A. Oh, page 8 of the --</p> <p>3     Q. 8 of the letter. SC Senate</p> <p>4 3807 is the Bates number?</p> <p>5     A. I see it now. I'm sorry.</p> <p>6     Q. And are you familiar with</p> <p>7 the four cases cited in this</p> <p>8 footnote?</p> <p>9     A. I can't say that I remember</p> <p>10 Collins versus City of Norfolk. The</p> <p>11 North Carolina case, yes. And</p> <p>12 Gingles obviously. And Johnson</p> <p>13 versus De Grandy I remember.</p> <p>14     Q. Whether or not you are</p> <p>15 familiar with these cases, are all</p> <p>16 of these cases Section 2 cases?</p> <p>17     A. Gingles was the case I</p> <p>18 believe it was. I don't know about</p> <p>19 Collins. Yeah, they say they are</p> <p>20 Section 2 cases. I'm sorry.</p> <p>21     Q. Does the parenthetical</p> <p>22 after Collins indicate that Collins</p> <p>23 was a Section 2 case?</p> <p>24     A. Yes.</p> <p>25     Q. And was De Grandy a Section</p>
<p style="text-align: right;">Page 387</p> <p>1           TERRENI</p> <p>2 Ms. Aden drafted on behalf of the</p> <p>3 NAACP and perhaps related entities</p> <p>4 and sent to the redistricting</p> <p>5 subcommittee on October 8th. And if</p> <p>6 we scroll to page 10 of the pdf,</p> <p>7 there's a discussion about racially</p> <p>8 polarized voting analysis and racial</p> <p>9 bloc voting. Do you recall</p> <p>10 discussing this with Ms. Aden</p> <p>11 earlier today?</p> <p>12     A. Yes, sir.</p> <p>13     Q. She had you read the first</p> <p>14 sentence here about racial bloc</p> <p>15 voting. I'd like to call your</p> <p>16 attention -- that sentence ends in</p> <p>17 footnote 24. And I'd like to call</p> <p>18 your attention to footnote 24 at the</p> <p>19 bottom of the page.</p> <p>20     A. Footnote 24 or 34?</p> <p>21     Q. Yes, 24.</p> <p>22     A. I'm sorry, what page are we</p> <p>23 on?</p> <p>24     Q. It's page 10 of the pdf.</p> <p>25     It's --</p>	<p style="text-align: right;">Page 389</p> <p>1           TERRENI</p> <p>2 2 case?</p> <p>3     A. I think so.</p> <p>4     Q. You and Ms. Aden spent a</p> <p>5 significant amount of time today</p> <p>6 discussing the Voting Rights Act.</p> <p>7 Had the plaintiffs brought a Section</p> <p>8 2 claim in this case?</p> <p>9     A. No, sir.</p> <p>10     Q. Has the General Assembly</p> <p>11 asserted a Section 2 defense in this</p> <p>12 case?</p> <p>13     A. No, sir.</p> <p>14     Q. We will turn away from this</p> <p>15 letter for a moment. I'm going to</p> <p>16 ask you a question and then point</p> <p>17 you to another document. I believe</p> <p>18 you and Ms. Aden discussed Sun City.</p> <p>19 Do you recall that discussion?</p> <p>20     A. I do.</p> <p>21     Q. And you testified that Sun</p> <p>22 City is a majority white community;</p> <p>23 is that right?</p> <p>24     A. That's my understanding.</p> <p>25     Q. And is the fact that Sun</p>



<p style="text-align: right;">Page 390</p> <p>1                   TERRENI</p> <p>2 City is majority white the reason</p> <p>3 that the Sun City community was kept</p> <p>4 together in the enacted plan?</p> <p>5       A. No, sir, it was not.</p> <p>6       Q. And what was the reason it</p> <p>7 was kept together?</p> <p>8       A. It was a part of the same</p> <p>9 development. We had an individual</p> <p>10 testify, didn't make any sense, that</p> <p>11 at least one individual testified</p> <p>12 very passionately but it didn't make</p> <p>13 any sense to keep a district line</p> <p>14 running through his neighborhood</p> <p>15 that didn't include him with -- in</p> <p>16 the same district as his neighbors.</p> <p>17 I'm aware that Sun City is a</p> <p>18 large development on the outskirts</p> <p>19 of Beaufort and in its expansion I</p> <p>20 believe it reached into Jasper</p> <p>21 County. So we kept Sun City whole,</p> <p>22 so to speak. That was the point of</p> <p>23 the change.</p> <p>24       Q. Do you know whether Senator</p> <p>25 Margie Bright Matthews supported</p>	<p style="text-align: right;">Page 392</p> <p>1                   TERRENI</p> <p>2 reports that Will Roberts generated</p> <p>3 for the Harpootlian plan; is that</p> <p>4 correct?</p> <p>5       A. Tab 29.</p> <p>6       Q. 59.</p> <p>7       A. Sorry. I have to open</p> <p>8 another tab.</p> <p>9       Yes sir.</p> <p>10       Q. And turning to page 5 of</p> <p>11 the pdf do you see vote totals and</p> <p>12 percentages for Joe Biden and Donald</p> <p>13 Trump for each district?</p> <p>14       A. I do.</p> <p>15       Q. And do you know whether</p> <p>16 this data was provided for other</p> <p>17 plans on the Senate redistricting</p> <p>18 website?</p> <p>19       A. I believe it was.</p> <p>20       Q. And would that include</p> <p>21 Senate Amendment 1?</p> <p>22       A. I believe so.</p> <p>23       Q. Did it include other</p> <p>24 proposed plans?</p> <p>25       A. Yes, sir. At the time --</p>
<p style="text-align: right;">Page 391</p> <p>1                   TERRENI</p> <p>2 keeping Sun City whole?</p> <p>3       A. I don't recall.</p> <p>4       Q. You and Ms. Aden spent a</p> <p>5 fair amount of time discussing Adam</p> <p>6 Kincaid in the National Republican</p> <p>7 Redistricting Trust. Do you recall</p> <p>8 that?</p> <p>9       A. Yes, sir.</p> <p>10       Q. Do you recall she showed</p> <p>11 you a transcript where Senator</p> <p>12 Harpootlian expressed that he wanted</p> <p>13 to see the National Republican</p> <p>14 Redistricting Trust plans, do you</p> <p>15 recall that?</p> <p>16       A. Yes, sir.</p> <p>17       Q. Do you know whether those</p> <p>18 plans were ever provided to Senator</p> <p>19 Harpootlian?</p> <p>20       A. Yes. It's my understanding</p> <p>21 they were.</p> <p>22       Q. Mr. Terreni, can you open</p> <p>23 tab 59, which is Exhibit 21?</p> <p>24       A. Yes.</p> <p>25       Q. This is the series of</p>	<p style="text-align: right;">Page 393</p> <p>1                   TERRENI</p> <p>2 yes. At the time of the amended,</p> <p>3 yes, was my recollection.</p> <p>4       Q. Mr. Terreni, I want to ask</p> <p>5 you a few questions about Jones Day,</p> <p>6 which has been mentioned in today's</p> <p>7 deposition. I believe you said that</p> <p>8 one of the lawyers at Jones Day who</p> <p>9 you spoke with has the first name</p> <p>10 Stewart. Do you remember that?</p> <p>11       A. Yes, sir.</p> <p>12       Q. Is it possible that his</p> <p>13 last name is Crosland,</p> <p>14 C-R-O-S-L-A-N-D?</p> <p>15       A. Yes. Now that you mention</p> <p>16 it, it is. He obviously wasn't</p> <p>17 Stewart Copeland or apparently</p> <p>18 wasn't Stewart Copeland with all</p> <p>19 deference to the band member.</p> <p>20       Q. What was Jones Day's role</p> <p>21 in South Carolina redistricting this</p> <p>22 cycle?</p> <p>23       A. Providing legal advice to</p> <p>24 the South Carolina Senate,</p> <p>25 specifically the Redistricting</p>

<p style="text-align: right;">Page 394</p> <p>1                   TERRENI</p> <p>2   Committee and the chairman of the</p> <p>3   Senate Judiciary Committee and his</p> <p>4   staff as instructed and then later</p> <p>5   defending the Senate against this</p> <p>6   lawsuit.</p> <p>7       Q. Do you know whether Jones</p> <p>8   Day provided legal advice on both</p> <p>9   Senate and congressional</p> <p>10   redistricting?</p> <p>11       A. Yes.</p> <p>12       Q. And did it do so?</p> <p>13       A. Yes.</p> <p>14       Q. Did Jones Day do anything</p> <p>15   in redistricting other than</p> <p>16   providing legal advice?</p> <p>17       A. No.</p> <p>18       Q. When you provided</p> <p>19   information to Jones Day or asked</p> <p>20   Jones Day to conduct a review, what</p> <p>21   was your purpose in soliciting Jones</p> <p>22   Day's involvement?</p> <p>23       A. To assess the legality,</p> <p>24   defensibility of a -- or</p> <p>25   defensibility of a plan in</p>	<p style="text-align: right;">Page 396</p> <p>1                   TERRENI</p> <p>2   available to Jones Day from the</p> <p>3   website as well, correct?</p> <p>4       A. Correct.</p> <p>5       Q. Do you know whether anyone</p> <p>6   ever conveyed maps, plans or data to</p> <p>7   Jones Day separate from the website?</p> <p>8       A. Yes.</p> <p>9       Q. Do you know whether anyone</p> <p>10   sent any of the National Republican</p> <p>11   Redistricting Trust maps to Jones</p> <p>12   Day?</p> <p>13       A. I think we did. I don't</p> <p>14   remember specifically, but we may</p> <p>15   have. We didn't spend a lot of time</p> <p>16   with those maps, Mr. Gore. I don't</p> <p>17   remember if I sent them to you or</p> <p>18   not.</p> <p>19       Q. I want to ask you a few</p> <p>20   questions about Robinson Gray as</p> <p>21   well. I believe you testified that</p> <p>22   Robinson Gray became involved in</p> <p>23   this matter after litigation was</p> <p>24   filed; is that correct?</p> <p>25       A. Correct.</p>
<p style="text-align: right;">Page 395</p> <p>1                   TERRENI</p> <p>2   litigation. In other words, we</p> <p>3   wanted to know whether, A, it</p> <p>4   complied with federal law.</p> <p>5   Generally state law wasn't a</p> <p>6   question, but it could have been I</p> <p>7   suppose. And, B, in anticipation of</p> <p>8   litigation how our exposure to the</p> <p>9   likelihood of a lawsuit and the</p> <p>10   possible defenses and claims that</p> <p>11   might be brought.</p> <p>12       Q. Is it fair to say that your</p> <p>13   purpose in soliciting Jones Day's</p> <p>14   input was to seek legal advice?</p> <p>15       A. Yes.</p> <p>16       Q. Did you have any other</p> <p>17   purpose?</p> <p>18       A. No.</p> <p>19       Q. I believe you testified</p> <p>20   that the plans provided and posted</p> <p>21   on the website were available to</p> <p>22   anybody in the world; is that</p> <p>23   correct?</p> <p>24       A. Anybody with a computer.</p> <p>25       Q. Those plans would have been</p>	<p style="text-align: right;">Page 397</p> <p>1                   TERRENI</p> <p>2       Q. Did Robinson Gray provide</p> <p>3   any legal advice on the drawing of</p> <p>4   the congressional plan?</p> <p>5       A. I don't recall them doing</p> <p>6   that. I think they were only</p> <p>7   engaged after the Senate was sued or</p> <p>8   maybe once we were -- well, no the</p> <p>9   Senate was sued early on so there</p> <p>10   wasn't overlap. I don't recall</p> <p>11   Robinson Gray providing advice on</p> <p>12   the maps.</p> <p>13       Q. Did Robinson Gray draw any</p> <p>14   redistricting maps?</p> <p>15       A. No.</p> <p>16       Q. Did Robinson Gray direct</p> <p>17   the drawing of any redistricting</p> <p>18   maps?</p> <p>19       A. No.</p> <p>20       Q. Did Jones Day draw any</p> <p>21   redistricting maps?</p> <p>22       A. No.</p> <p>23       Q. Did Jones Day direct the</p> <p>24   drawing of any redistricting maps?</p> <p>25       A. No.</p>

<p style="text-align: right;">Page 398</p> <p>1           TERRENI</p> <p>2       Q. Mr. Terreni, I'd like to</p> <p>3 get a little more clarity on your</p> <p>4 role in the redistricting process.</p> <p>5 Did you draw any redistricting maps?</p> <p>6       A. No.</p> <p>7       Q. Did you draw any</p> <p>8 redistricting lines?</p> <p>9       A. No.</p> <p>10      Q. Did you dictate the drawing</p> <p>11 of any maps or lines?</p> <p>12      A. No.</p> <p>13      Q. So today if you testified</p> <p>14 that "we" drew a plan, did you</p> <p>15 meaning to include yourself in the</p> <p>16 "we" who drew the plan?</p> <p>17      A. Not in the sense of drawing</p> <p>18 it. And if I said that, I was being</p> <p>19 inartful and I appreciate you</p> <p>20 pointing it out, Mr. Gore.</p> <p>21      Q. So what did you mean by</p> <p>22 that?</p> <p>23      A. What I meant was the Senate</p> <p>24 redistricting staff and specifically</p> <p>25 the members -- and the members of</p>	<p style="text-align: right;">Page 400</p> <p>1           TERRENI</p> <p>2       A. Yes, sir.</p> <p>3       Q. This is the 2021 policy for</p> <p>4 public plan submissions. Do you</p> <p>5 recall discussing this with Ms. Aden</p> <p>6 today?</p> <p>7       A. I do.</p> <p>8       Q. Paragraph 2 of this</p> <p>9 document, the first sentence of that</p> <p>10 paragraph reads: "The redistricting</p> <p>11 subcommittee will designate a time</p> <p>12 period during which it will accept</p> <p>13 redistricting plans for review and</p> <p>14 consideration."</p> <p>15       Did I read that correctly?</p> <p>16      A. You did.</p> <p>17      Q. Did the subcommittee</p> <p>18 designate a time period for</p> <p>19 accepting plan submissions?</p> <p>20      A. It did.</p> <p>21      Q. Were any of the plans</p> <p>22 emailed by the National Republican</p> <p>23 Redistricting Trust provided before</p> <p>24 that deadline?</p> <p>25      A. No.</p>
<p style="text-align: right;">Page 399</p> <p>1           TERRENI</p> <p>2 the Senate drew a plan. Some</p> <p>3 members of the Senate came in and</p> <p>4 said I want to see this or that done</p> <p>5 and I would like that include in the</p> <p>6 amendment and ultimately -- well,</p> <p>7 ultimately it's the senator and</p> <p>8 Senate that draws the plan, it's not</p> <p>9 staff, but the staff can certainly</p> <p>10 go through the mechanics of it, the</p> <p>11 staff drew a staff plan.</p> <p>12       Did I draw it specifically,</p> <p>13 no. Was I present while it was</p> <p>14 being drawn, yes. Did I facilitate</p> <p>15 the process, yes. Did I dictate</p> <p>16 where a line went or not, no. Did I</p> <p>17 convey some institutional knowledge</p> <p>18 about the preferences of different</p> <p>19 members or the congressional</p> <p>20 delegation, yes.</p> <p>21      Q. Who is the decision-maker</p> <p>22 as to which plan would be enacted?</p> <p>23      A. The Senate.</p> <p>24      Q. Mr. Terreni, can you open</p> <p>25 tab 1, Plaintiffs' Exhibit 7?</p>	<p style="text-align: right;">Page 401</p> <p>1           TERRENI</p> <p>2       Q. Is that the reason why</p> <p>3 those plans were not posted on the</p> <p>4 website?</p> <p>5       A. Yes. I mean that's --</p> <p>6 yeah. I mean they were sent to us</p> <p>7 at the last minute, we looked at</p> <p>8 them. There wasn't a subcommittee</p> <p>9 hearing for anybody to comment on.</p> <p>10 We didn't use them, we didn't</p> <p>11 consider them and so we didn't post</p> <p>12 them. I'm not sure a lot of thought</p> <p>13 was given it to, Mr. Gore.</p> <p>14      Q. Let me point your attention</p> <p>15 to paragraph I-B. And the first</p> <p>16 part of I-B reads: "All plans</p> <p>17 submitted to and accepted by the</p> <p>18 redistricting subcommittee will be</p> <p>19 made part of the public record and</p> <p>20 will be made available in the same</p> <p>21 manner as other redistricting</p> <p>22 subcommittee public records."</p> <p>23       Did I read that correctly?</p> <p>24      A. You did.</p> <p>25      Q. Were the National</p>

<p style="text-align: right;">Page 402</p> <p>1                   TERRENI</p> <p>2   Republican Redistricting Trust plans</p> <p>3   ever accepted by the redistricting</p> <p>4   subcommittee within the meaning of</p> <p>5   this document?</p> <p>6       A. No, sir.</p> <p>7       Q. Why not?</p> <p>8       A. Because they were never</p> <p>9   accepted and brought before the</p> <p>10 subcommittee for public testimony</p> <p>11 and for questions by the members of</p> <p>12 the subcommittee. They were not</p> <p>13 presented to the subcommittee.</p> <p>14       Q. Do you know whether any</p> <p>15 member of the subcommittee or any</p> <p>16 member of the Senate ever saw those</p> <p>17 plans?</p> <p>18       A. Before or after the</p> <p>19 subcommittee?</p> <p>20       Q. Either.</p> <p>21       A. Before no. Afterwards upon</p> <p>22 request I believe Senator</p> <p>23 Harpootlian saw them. I don't</p> <p>24 believe anybody else wanted to see</p> <p>25 them.</p>	<p style="text-align: right;">Page 404</p> <p>1                   TERRENI</p> <p>2   defendants, committee members or the</p> <p>3   South Carolina General Assembly or</p> <p>4   communications between you and</p> <p>5   defendants committee members or the</p> <p>6   South Carolina General Assembly."</p> <p>7       Did you ever provide your</p> <p>8   handwritten documents to defendants,</p> <p>9   committee members or the South</p> <p>10 Carolina General Assembly?</p> <p>11       A. No, sir.</p> <p>12       Q. Were your handwritten notes</p> <p>13 communications between you and</p> <p>14 defendants, committee members or the</p> <p>15 South Carolina General Assembly?</p> <p>16       A. No.</p> <p>17       Q. Would you scroll down to</p> <p>18 the next page, page 12 of the</p> <p>19 document, page 15 of the pdf.</p> <p>20       A. Yes, sir.</p> <p>21       Q. Request For Production 2</p> <p>22 calls for "all correspondence and</p> <p>23 documents you received from Mr. Adam</p> <p>24 Kincaid, the National Republican</p> <p>25 Redistricting Trust, Fair Alliance</p>
<p style="text-align: right;">Page 403</p> <p>1                   TERRENI</p> <p>2       Q. Did it violate any Senate</p> <p>3   redistricting subcommittee policy or</p> <p>4   this document for you and others to</p> <p>5   look at the National Republican</p> <p>6   Redistricting Trust plans?</p> <p>7       A. No, sir.</p> <p>8       Q. Mr. Terreni, can you turn</p> <p>9   to tab 45, Plaintiffs' Exhibit 11?</p> <p>10       A. Yes, sir.</p> <p>11       Q. Is this the subpoena that</p> <p>12 was served on you in this case?</p> <p>13       A. Yes.</p> <p>14       Q. And do you recall earlier</p> <p>15 today discussing with Ms. Aden some</p> <p>16 handwritten notes you took of public</p> <p>17 hearings in 2021?</p> <p>18       A. Yes, sir.</p> <p>19       Q. Can you scroll down to page</p> <p>20 11 of this exhibit?</p> <p>21       A. Yes, sir.</p> <p>22       Q. This is Request For</p> <p>23 Production No. 1 towards the bottom</p> <p>24 of the page. Calls for "all</p> <p>25 documents you provided to</p>	<p style="text-align: right;">Page 405</p> <p>1                   TERRENI</p> <p>2   America, Magellan Consulting or</p> <p>3   anyone else."</p> <p>4       Were your handwritten notes --</p> <p>5   did I read that correctly?</p> <p>6       A. Yes, sir.</p> <p>7       Q. Were your handwritten</p> <p>8   notes, correspondence or documents</p> <p>9   you received from Mr. Kincaid, the</p> <p>10 National Republican Redistricting</p> <p>11 Trust, Fair Alliance America,</p> <p>12 Magellan Consulting or anyone else?</p> <p>13       A. No, sir.</p> <p>14       Q. Scroll down to Request For</p> <p>15 Production No. 3. This one asks</p> <p>16 again for "all documents you</p> <p>17 provided to or received from</p> <p>18 defendants, committee members or the</p> <p>19 South Carolina General Assembly and</p> <p>20 communications between you and</p> <p>21 defendants, committee members or the</p> <p>22 South Carolina General Assembly</p> <p>23 relating to the following hearings."</p> <p>24       Did I read that correctly?</p> <p>25       A. You did.</p>

<p style="text-align: right;">Page 406</p> <p>1           TERRENI</p> <p>2           Q. Were your handwritten notes</p> <p>3 documents you provided to or</p> <p>4 received from defendants, committee</p> <p>5 members or the South Carolina</p> <p>6 General Assembly?</p> <p>7           A. No, they were not.</p> <p>8           Q. Were your handwritten notes</p> <p>9 communications between you and</p> <p>10 defendants, committee members or the</p> <p>11 South Carolina General Assembly?</p> <p>12           A. No, sir.</p> <p>13           Q. Let's scroll to the next</p> <p>14 page, which is the final of the</p> <p>15 subpoena Request For Production No.</p> <p>16 4. This request calls for "all</p> <p>17 documents concerning any retainer</p> <p>18 agreement, fee agreement or any</p> <p>19 other contract or agreement between</p> <p>20 you and defendants, committee</p> <p>21 members or the South Carolina</p> <p>22 General Assembly."</p> <p>23           Did I read that correctly?</p> <p>24           A. You did.</p> <p>25           Q. Were your handwritten</p>	<p style="text-align: right;">Page 408</p> <p>1           TERRENI</p> <p>2           A. I believe it was.</p> <p>3           Q. Is it possible that this</p> <p>4 attachment was too large to be</p> <p>5 posted on the website and that</p> <p>6 instead information about how to</p> <p>7 request this document was posted on</p> <p>8 the website?</p> <p>9           A. Yes. That's possible. As</p> <p>10 a matter of fact, now that you ask</p> <p>11 me that question I remember that was</p> <p>12 the case.</p> <p>13           Q. But this document was</p> <p>14 available to the public upon</p> <p>15 request; is that right?</p> <p>16           A. Yeah. Yeah. All we needed</p> <p>17 to do was email or prepare it with</p> <p>18 Alliance.</p> <p>19           Q. Earlier today you and</p> <p>20 Ms. Aden discussed a racially</p> <p>21 polarized voting analysis. Do you</p> <p>22 recall that?</p> <p>23           A. Yes, sir.</p> <p>24           Q. And you shared your view as</p> <p>25 to why such an analysis was not</p>
<p style="text-align: right;">Page 407</p> <p>1           TERRENI</p> <p>2 notes, documents concerning any</p> <p>3 retainer agreement, fee agreement or</p> <p>4 any other contract or agreement</p> <p>5 between you and defendants,</p> <p>6 committee members or the South</p> <p>7 Carolina General Assembly?</p> <p>8           A. No, sir.</p> <p>9           Q. Mr. Terreni, will you now</p> <p>10 turn to tab 18, which is Plaintiffs'</p> <p>11 Exhibit 16.</p> <p>12           A. Yes, sir.</p> <p>13           Q. This is the email from</p> <p>14 Breeden John to recipients at</p> <p>15 alliance.law; is that correct?</p> <p>16           A. Correct.</p> <p>17           Q. And there is an attachment</p> <p>18 here of various races and vote</p> <p>19 totals in South Carolina; is that</p> <p>20 right?</p> <p>21           A. Yes, sir.</p> <p>22           Q. Now, I believe you may have</p> <p>23 testified that this attachment was</p> <p>24 made available on the website; is</p> <p>25 that right?</p>	<p style="text-align: right;">Page 409</p> <p>1           TERRENI</p> <p>2 helpful or required for the</p> <p>3 congressional redistricting plan; is</p> <p>4 that correct?</p> <p>5           A. Correct.</p> <p>6           Q. Is that a view that you</p> <p>7 shared publicly on the record in a</p> <p>8 subcommittee hearing?</p> <p>9           A. Yes, sir.</p> <p>10           Q. Mr. Terreni, can you turn</p> <p>11 now, open tab 1, which is</p> <p>12 Plaintiffs' Exhibit 9?</p> <p>13           A. Yes, sir.</p> <p>14           Q. And this is the email from</p> <p>15 Paula Benson to Senator Campsen</p> <p>16 copying others that attaches, among</p> <p>17 other things, the Senate guidelines,</p> <p>18 correct?</p> <p>19           A. Yes, sir.</p> <p>20           Q. So I'd like to call your</p> <p>21 attention to the Senate</p> <p>22 redistricting guidelines.</p> <p>23           A. Yes, sir.</p> <p>24           Q. Do these guidelines say</p> <p>25 anything about reunifying Charleston</p>

<p style="text-align: right;">Page 410</p> <p>1                   TERRENI</p> <p>2   County in the enacted plan?</p> <p>3       A. No, sir.</p> <p>4       Q. Do they say anything about</p> <p>5   reunifying Richland County in the</p> <p>6   enacted plan?</p> <p>7       A. No, sir.</p> <p>8       Q. How about Sumter County?</p> <p>9       A. No, sir.</p> <p>10      Q. How about Orangeburg</p> <p>11   County?</p> <p>12      A. No, sir.</p> <p>13      Q. Do these guidelines say</p> <p>14   anything about conducting a racially</p> <p>15   polarized voting analysis?</p> <p>16      A. No, sir.</p> <p>17      Q. Do they direct the Senate</p> <p>18   or Senate staff to conduct a</p> <p>19   racially polarized voting analysis?</p> <p>20      A. No, sir.</p> <p>21      Q. Mr. Terreni, for how many</p> <p>22   cycles have you been involved in</p> <p>23   redistricting in South Carolina?</p> <p>24      A. This was my third.</p> <p>25      Q. And based on that</p>	<p style="text-align: right;">Page 412</p> <p>1                   TERRENI</p> <p>2   one person in Sun City. Do you</p> <p>3   recall hearing testimony from</p> <p>4   members of the public about keeping</p> <p>5   Charleston County whole even if it</p> <p>6   had been split in previous maps?</p> <p>7       A. I do.</p> <p>8       Q. Would you agree that more</p> <p>9   people testified in support of</p> <p>10   keeping Charleston County whole than</p> <p>11   compared to the treatment of Sun</p> <p>12   City?</p> <p>13      A. Yes.</p> <p>14      Q. Looking at the Senate</p> <p>15   redistricting criteria adopted on</p> <p>16   September 17th, under Additional</p> <p>17   Considerations is one of the</p> <p>18   criteria that should be considered</p> <p>19   keeping counties whole, maintaining</p> <p>20   counties?</p> <p>21      A. It's -- one of the criteria</p> <p>22   is minimizing of county boundaries.</p> <p>23      Q. And so minimizing the</p> <p>24   splits of counties, including</p> <p>25   Charleston, would thus comply with</p>
<p style="text-align: right;">Page 411</p> <p>1                   TERRENI</p> <p>2   experience and your involvement this</p> <p>3   time around, do you believe there's</p> <p>4   any basis in this record to conclude</p> <p>5   that the enacted congressional plan</p> <p>6   is a racial gerrymander?</p> <p>7       A. No, sir.</p> <p>8       Q. And based again on that</p> <p>9   experience and your own involvement</p> <p>10   in congressional redistricting this</p> <p>11   time around, do you believe there's</p> <p>12   any basis in this record to conclude</p> <p>13   that the enacted congressional plan</p> <p>14   is the result of intentional racial</p> <p>15   discrimination?</p> <p>16      A. No, sir.</p> <p>17      MR. GORE: Thank you,</p> <p>18   Mr. Terreni, I have no further</p> <p>19   questions at this time.</p> <p>20      MS. ADEN: I have a very few</p> <p>21   for redirect.</p> <p>22   BY MS. ADEN:</p> <p>23      Q. Mr. Terreni, you were asked</p> <p>24   about Charleston County's treatment</p> <p>25   in prior maps and also testimony of</p>	<p style="text-align: right;">Page 413</p> <p>1                   TERRENI</p> <p>2   that additional criteria in the</p> <p>3   Senate guidelines; is that correct?</p> <p>4       A. It could.</p> <p>5       Q. You were asked about the</p> <p>6   four cases in the footnote of the</p> <p>7   South Carolina NAACP letter in tab</p> <p>8   17, Plaintiffs' Exhibit 14.</p> <p>9       A. Yes, ma'am.</p> <p>10      Q. One of those included a</p> <p>11   McCrory case out of North Carolina.</p> <p>12   Do you recall that?</p> <p>13      A. Yes, ma'am.</p> <p>14      Q. And you recall being</p> <p>15   familiar with that case?</p> <p>16      A. I read the opinion.</p> <p>17      Q. Do you have any reason to</p> <p>18   dispute that that case in addition</p> <p>19   to having a Section 2 claim also had</p> <p>20   an intentional vote discrimination</p> <p>21   claim?</p> <p>22      A. I don't have any reason to</p> <p>23   dispute it. I don't recall.</p> <p>24      Q. Do you have any reason to</p> <p>25   dispute that the basis for why the</p>



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1           TERRENI

2 plaintiffs sought bail-in under

3 Section 5 of the Voting Rights Act

4 was because of a constitutional

5 violation?

6       A. That may have been -- no, I

7 don't have any reason to dispute

8 that.

9       Q. So it's possible that that

10 McCrory case -- in fact, I'm

11 representing that the McCrory case

12 had more than Section 2 claims. Do

13 you have any reason to dispute that?

14       A. No.

15       Q. You had mentioned that --

16 your understanding that Senator

17 Harpootlian received the documents

18 that Adam Kincaid sent to

19 Mr. Fiffick. Did you personally

20 send Senator Harpootlian the

21 information received from NRRT?

22       A. No.

23       Q. And did you personally

24 receive confirmation that the

25 material that Andy Fiffick received

Page 415

1           TERRENI

2 from NRRT was shared with Senator

3 Harpootlian?

4       A. I received confirmation

5 that it was offered to him at the

6 very least. Whether Senator

7 Harpootlian accepted that offer I

8 can't personally say. I assume that

9 he did.

10       Q. Do you know who offered the

11 information to Senator Harpootlian?

12       A. Andy Fiffick.

13       Q. Do you know whether Senator

14 Bright Matthews asked for the

15 information from NRRT?

16       A. I do not.

17       Q. Do you know who Senator

18 Kimpson is?

19       A. I do.

20       Q. Is he a lawyer?

21       A. He is.

22       Q. And you were asked for your

23 opinion about whether or not the

24 enacted map is a racial

25 gerrymandering. Do you recall that?

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1           TERRENI

2       A. By Senator Kimpson?

3       Q. No. By Mr. Gore on his

4 questioning.

5       A. Yes, ma'am.

6       Q. Do you have any reason to

7 dispute that on January 20, 2022,

8 during the Senate floor hearing

9 Senator Kimpson characterized Senate

10 Amendment 1 as a racial gerrymander?

11       A. I have no reason to dispute

12 that, that that was his

13 characterization, no.

14       Q. You mentioned when speaking

15 with Mr. Gore that you provided --

16 you did not -- that you did not

17 develop, you yourself did not

18 develop congressional redistricting

19 maps, is that fair?

20       A. Draw, I think the word was

21 "draw" but develop I wouldn't

22 dispute that.

23       Q. But you personally do not

24 draw congressional redistricting

25 maps, is that your testimony?

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1           TERRENI

2       A. Correct, yes.

3       Q. But you testified that you

4 provided institutional knowledge on

5 those maps, is that fair to say?

6       A. Yes.

7       Q. Okay. You also mentioned

8 earlier today that you provided

9 information to Mr. Roberts, Will

10 Roberts, is that fair to say, as he

11 was developing at least the initial

12 step plan and potentially other

13 congressional maps for the staff, is

14 that fair to say?

15       A. On some occasions, yes.

16       Q. And Mr. Roberts is a

17 cartographer as you've described

18 him, is that fair to say?

19       A. Yes.

20       Q. Is he a lawyer?

21       A. No.

22       Q. Do you think when you were

23 providing information to Mr. Roberts

24 you were providing him with legal

25 advice?

<p style="text-align: right;">Page 418</p> <p>1           TERRENI</p> <p>2       A. On occasions, yes.</p> <p>3       Q. Were there occasions such</p> <p>4 as when you were providing him</p> <p>5 institutional knowledge about past</p> <p>6 redistricting decisions that those</p> <p>7 would have been fact-based</p> <p>8 information?</p> <p>9       A. Yes.</p> <p>10       MS. ADEN: I think those are</p> <p>11 all of my questions. The only</p> <p>12 thing I'd like to put on the</p> <p>13 record, Mr. Gore, is that we would</p> <p>14 like to hold this deposition open</p> <p>15 pending our continued review of the</p> <p>16 subpoena and the testimony today</p> <p>17 about whether or not all</p> <p>18 information that was asked to be</p> <p>19 produced by the Senate has been</p> <p>20 provide and we will talk internally</p> <p>21 as a team and may follow up with</p> <p>22 you, but until such time we'd like</p> <p>23 to hold the deposition open for</p> <p>24 that purpose.</p> <p>25       MR. GORE: Noted. We</p>	<p style="text-align: right;">Page 420</p> <p>1</p> <p>2 STATE OF NEW YORK    )</p> <p>3                                ):ss</p> <p>4 COUNTY OF NEW YORK    )</p> <p>5</p> <p>6       I, CHARLES TERRENI, the witness</p> <p>7 herein, having read the foregoing</p> <p>8 testimony of the pages of this</p> <p>9 deposition, do hereby certify it to be a</p> <p>10 true and correct transcript, subject to</p> <p>11 the corrections, if any, shown on the</p> <p>12 attached page.</p> <p>13</p> <p>14 _____</p> <p>15           CHARLES TERRENI</p> <p>16</p> <p>17</p> <p>18</p> <p>19 Sworn and subscribed to before me,</p> <p>20 this _____ day of _____, 2022.</p> <p>21 _____</p> <p>22 Notary Public</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 419</p> <p>1           TERRENI</p> <p>2 obviously object to holding the</p> <p>3 deposition open. This deposition</p> <p>4 has gone the full seven hours</p> <p>5 allowed by the rules and more.</p> <p>6       I think it's also clear based</p> <p>7 on the deposition testimony that</p> <p>8 the handwritten notes were not</p> <p>9 within the scope of the subpoena.</p> <p>10 So we do object to holding this</p> <p>11 open.</p> <p>12       We, of course, are happy to</p> <p>13 hear from you if you'd like to</p> <p>14 discuss any production issues or</p> <p>15 document issues that you think may</p> <p>16 have been arisen, but we do note</p> <p>17 for the record that we object to</p> <p>18 holding the deposition open for the</p> <p>19 reasons stated.</p> <p>20       MS. ADEN: And I think we can</p> <p>21 go off the record.</p> <p>22       (Time noted: 6:47 p.m.)</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 421</p> <p>1</p> <p>2 STATE OF NEW YORK    )</p> <p>3                                ss.:</p> <p>4 COUNTY OF NEW YORK    )</p> <p>5</p> <p>6       I, ERICA L. RUGGIERI, RPR and a</p> <p>7 Notary Public within and for the State</p> <p>8 of New York, do hereby certify:</p> <p>9       That I reported the proceedings</p> <p>10 in the within-entitled matter, and</p> <p>11 that the within transcript is a true</p> <p>12 record of such proceedings.</p> <p>13       I further certify that I am not</p> <p>14 related by blood or marriage, to any</p> <p>15 of the parties in this matter and</p> <p>16 that I am in no way interested in the</p> <p>17 outcome of this matter.</p> <p>18       IN WITNESS WHEREOF, I have</p> <p>19 hereunto set my hand this 23rd day of</p> <p>20 August, 2022.</p> <p>21</p> <p>22 <i>Erica Ruggieri</i></p> <p>23 _____</p> <p>24           ERICA L. RUGGIERI, RPR, CSR, CLR</p> <p>25</p>



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_____</p> <p>18</p> <p>19 CHANGE: _____</p> <p>20 REASON: _____</p> <p>21</p> <p>22 CHANGE: _____</p> <p>23 REASON: _____</p> <p>24</p> <p>25 CHANGE: _____</p> <p>26 REASON: _____</p> <p>27</p> <p>28 CHANGE: _____</p> <p>29 REASON: _____</p> <p>30</p> <p>31 CHANGE: _____</p> <p>32 REASON: _____</p> <p>33</p> <p>34 CHANGE: _____</p> <p>35 REASON: _____</p> <p>36</p> <p>37 CHANGE: _____</p> <p>38 REASON: _____</p> <p>39</p> <p>40 CHANGE: _____</p> <p>41 REASON: _____</p> <p>42</p> <p>43 CHANGE: _____</p> <p>44 REASON: _____</p> <p>45</p> <p>46 CHANGE: _____</p> <p>47 REASON: _____</p> <p>48</p> <p>49 CHANGE: _____</p> <p>50 REASON: _____</p> <p>51</p> <p>52 CHANGE: _____</p> <p>53 REASON: _____</p> <p>54</p> <p>55 CHANGE: _____</p> <p>56 REASON: _____</p> <p>57</p> <p>58 CHANGE: _____</p> <p>59 REASON: _____</p> <p>60</p> <p>61 CHANGE: _____</p> <p>62 REASON: _____</p> <p>63</p> <p>64 CHANGE: _____</p> <p>65 REASON: _____</p> <p>66</p> <p>67 CHANGE: _____</p> <p>68 REASON: _____</p> <p>69</p> <p>70 CHANGE: _____</p> <p>71 REASON: _____</p> <p>72</p> <p>73 CHANGE: _____</p> <p>74 REASON: _____</p> <p>75</p> <p>76 CHANGE: _____</p> <p>77 REASON: _____</p> <p>78</p> <p>79 CHANGE: _____</p> <p>80 REASON: _____</p> <p>81</p> <p>82 CHANGE: _____</p> <p>83 REASON: _____</p> <p>84</p> <p>85 CHANGE: _____</p> <p>86 REASON: _____</p> <p>87</p> <p>88 CHANGE: _____</p> <p>89 REASON: _____</p> <p>90</p> <p>91 CHANGE: _____</p> <p>92 REASON: _____</p> <p>93</p> <p>94 CHANGE: _____</p> <p>95 REASON: _____</p> <p>96</p> <p>97 CHANGE: _____</p> <p>98 REASON: _____</p> <p>99</p> <p>100 CHANGE: _____</p> <p>101 REASON: _____</p> <p>102</p> <p>103 CHANGE: _____</p> <p>104 REASON: _____</p> <p>105</p> <p>106 CHANGE: _____</p> <p>107 REASON: _____</p> <p>108</p> <p>109 CHANGE: _____</p> <p>110 REASON: _____</p> <p>111</p> <p>112 CHANGE: _____</p> <p>113 REASON: _____</p> <p>114</p> <p>115 CHANGE: _____</p> <p>116 REASON: _____</p> <p>117</p> <p>118 CHANGE: _____</p> <p>119 REASON: 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CHANGE: _____</p> <p>317 REASON: _____</p> <p>318</p> <p>319 CHANGE: _____</p> <p>320 REASON: _____</p> <p>321</p> <p>322 CHANGE: _____</p> <p>323 REASON: _____</p> <p>324</p> <p>325 CHANGE: _____</p> <p>326 REASON: _____</p> <p>327</p> <p>328 CHANGE: _____</p> <p>329 REASON: _____</p> <p>330</p> <p>331 CHANGE: _____</p> <p>332 REASON: _____</p> <p>333</p> <p>334 CHANGE: _____</p> <p>335 REASON: _____</p> <p>336</p> <p>337 CHANGE: _____</p> <p>338 REASON: _____</p> <p>339</p> <p>340 CHANGE: _____</p> <p>341 REASON: _____</p> <p>342</p> <p>343 CHANGE: _____</p> <p>344 REASON: _____</p> <p>345</p> <p>346 CHANGE: _____</p> <p>347 REASON: _____</p> <p>348</p> <p>349 CHANGE: _____</p> <p>350 REASON: _____</p> <p>351</p> <p>352 CHANGE: _____</p> <p>353 REASON: _____</p> <p>354</p> <p>355 CHANGE: _____</p> <p>356 REASON: _____</p> <p>357</p> <p>358 CHANGE: _____</p> <p>359 REASON: _____</p> <p>360</p> <p>361 CHANGE: _____</p> <p>362 REASON: _____</p> <p>363</p> <p>364 CHANGE: _____</p> <p>365 REASON: _____</p> <p>366</p> <p>367 CHANGE: _____</p> <p>368 REASON: _____</p> <p>369</p> <p>370 CHANGE: _____</p> <p>371 REASON: _____</p> <p>372</p> <p>373 CHANGE: _____</p> <p>374 REASON: _____</p> <p>375</p> <p>376 CHANGE: _____</p> <p>377 REASON: _____</p> <p>378</p> <p>379 CHANGE: _____</p> <p>380 REASON: _____</p> <p>381</p> <p>382 CHANGE: _____</p> <p>383 REASON: _____</p> <p>384</p> <p>385 CHANGE: _____</p> <p>386 REASON: _____</p> <p>387</p> <p>388 CHANGE: _____</p> <p>389 REASON: _____</p> <p>390</p> <p>391 CHANGE: _____</p> <p>392 REASON: _____</p> <p>393</p> <p>394 CHANGE: _____</p> <p>395 REASON: _____</p> <p>396</p> <p>397 CHANGE: _____</p> <p>398 REASON: _____</p> <p>399</p> <p>400 CHANGE: _____</p> <p>401 REASON: _____</p> <p>402</p> <p>403 CHANGE: _____</p> <p>404 REASON: _____</p> <p>405</p> <p>406 CHANGE: _____</p> <p>407 REASON: _____</p> <p>408</p> <p>409 CHANGE: _____</p> <p>410 REASON: _____</p> <p>411</p> <p>412 CHANGE: _____</p> <p>413 REASON: _____</p> 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CHANGE: _____</p> <p>611 REASON: _____</p> <p>612</p> <p>613 CHANGE: _____</p> <p>614 REASON: _____</p> <p>615</p> <p>616 CHANGE: _____</p> <p>617 REASON: _____</p> <p>618</p> <p>619 CHANGE: _____</p> <p>620 REASON: _____</p> <p>621</p> <p>622 CHANGE: _____</p> <p>623 REASON: _____</p> <p>624</p> <p>625 CHANGE: _____</p> <p>626 REASON: _____</p> <p>627</p> <p>628 CHANGE: _____</p> <p>629 REASON: _____</p> <p>630</p> <p>631 CHANGE: _____</p> <p>632 REASON: _____</p> <p>633</p> <p>634 CHANGE: _____</p> <p>635 REASON: _____</p> <p>636</p> <p>637 CHANGE: _____</p> <p>638 REASON: _____</p> <p>639</p> <p>640 CHANGE: _____</p> <p>641 REASON: _____</p> <p>642</p> <p>643 CHANGE: _____</p> <p>644 REASON: _____</p> <p>645</p> <p>646 CHANGE: _____</p> <p>647 REASON: _____</p> <p>648</p> <p>649 CHANGE: _____</p> <p>650 REASON: _____</p> <p>651</p> <p>652 CHANGE: _____</p> <p>653 REASON: _____</p> <p>654</p> <p>655 CHANGE: _____</p> <p>656 REASON: _____</p> <p>657</p> <p>658 CHANGE: _____</p> <p>659 REASON: _____</p> <p>660</p> <p>661 CHANGE: _____</p> <p>662 REASON: _____</p> <p>663</p> <p>664 CHANGE: _____</p> <p>665 REASON: _____</p> <p>666</p> <p>667 CHANGE: _____</p> <p>668 REASON: _____</p> <p>669</p> <p>670 CHANGE: _____</p> <p>671 REASON: _____</p> <p>672</p> <p>673 CHANGE: _____</p> <p>674 REASON: _____</p> <p>675</p> <p>676 CHANGE: _____</p> <p>677 REASON: _____</p> <p>678</p> <p>679 CHANGE: _____</p> <p>680 REASON: _____</p> <p>681</p> <p>682 CHANGE: _____</p> <p>683 REASON: _____</p> <p>684</p> <p>685 CHANGE: _____</p> <p>686 REASON: _____</p> <p>687</p> <p>688 CHANGE: _____</p> <p>689 REASON: _____</p> <p>690</p> <p>691 CHANGE: _____</p> <p>692 REASON: _____</p> <p>693</p> <p>694 CHANGE: _____</p> <p>695 REASON: _____</p> <p>696</p> <p>697 CHANGE: _____</p> <p>698 REASON: _____</p> <p>699</p> <p>700 CHANGE: _____</p> <p>701 REASON: _____</p> <p>702</p> <p>703 CHANGE: _____</p> <p>704 REASON: _____</p> <p>705</p> <p>706 CHANGE: _____</p> <p>707 REASON: _____</p> <p>708</p> <p>709 CHANGE: _____</p> <p>710 REASON: _____</p> <p>711</p> <p>712 CHANGE: _____</p> <p>713 REASON: _____</p> <p>714</p> <p>715 CHANGE: _____</p> <p>716 REASON: _____</p> <p>717</p> <p>718 CHANGE: _____</p> <p>719 REASON: _____</p> <p>720</p> <p>721 CHANGE: _____</p> <p>722 REASON: _____</p> <p>723</p> <p>724 CHANGE: _____</p> <p>725 REASON: _____</p> <p>726</p> <p>727 CHANGE: _____</p> <p>728 REASON: _____</p> <p>729</p> <p>730 CHANGE: _____</p> <p>731 REASON: _____</p> <p>732</p> <p>733 CHANGE: _____</p> <p>734 REASON: _____</p> <p>735</p> <p>736 CHANGE: _____</p> <p>737 REASON: _____</p> <p>738</p> <p>739 CHANGE: _____</p> <p>740 REASON: _____</p> <p>741</p> <p>742 CHANGE: _____</p> <p>743 REASON: _____</p> <p>744</p> <p>745 CHANGE: _____</p> <p>746 REASON: _____</p> <p>747</p> <p>748 CHANGE: _____</p> <p>749 REASON: _____</p> <p>750</p> <p>751 CHANGE: _____</p> <p>752 REASON: _____</p> <p>753</p> <p>754 CHANGE: _____</p> <p>755 REASON: _____</p> <p>756</p> <p>757 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[exhibit - fair]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit J

**THIS EXHIBIT HAS BEEN SUBMITTED TO THE COURT  
FOR *IN CAMERA* REVIEW PURSUANT TO THE  
CONSENT CONFIDENTIALITY ORDER (ECF 123)**