

IN THE SUPREME COURT OF OHIO

LEAGUE OF WOMEN VOTERS
OF OHIO, *et al.*,

Relators,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

Case No. 2021-1193

BRIA BENNETT, *et al.*,

Relators,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

Case No. 2021-1198

THE OHIO ORGANIZING
COLLABORATIVE, *et al.*,

Relators,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

Case No. 2021-1210

STIPULATION OF EVIDENCE

(deposition transcript and exhibits)

Volume 1 of 7 (pages 00001 -00314)

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**Pro Hac Vice Motion Forthcoming*

STIPULATION OF EVIDENCE
(deposition transcript and exhibits)
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10/18/2021	Transcript of deposition of Governor Mike DeWine	DEPO_00159-290
	Exhibits to DeWine deposition transcript	DEPO_00291-314



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Transcript of Secretary of State Frank LaRose

Date: October 14, 2021

Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

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LEAGUE OF WOMEN VOTERS :
OF OHIO, et al., :
Relators, :
v. : Case NOS. 2021-1193
OHIO REDISTRICTING : 2021-1198
COMMISSION, et al., : 2021-1210
Respondents. :
- - - - -x

Remote Videotaped Deposition of
SECRETARY OF STATE FRANK LAROSE
Thursday, October 14, 2021
9:40 a.m.

Job No.: 405254
Pages: 1 - 105
Reporter: DEBRA BOLLMAN FARFAN, RDR-RMR-CRR-CRC
CA CSR NO. 11648

Transcript of Secretary of State Frank LaRose
Conducted on October 14, 2021

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1 Videoconference Deposition of Secretary of
2 State Frank LaRose, held remotely:

3
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5 Witness Location:

6 REMOTE
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11 Pursuant to notice, before Debra Bollman
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13 Registered Merit Reporter, Certified Realtime
14 Reporter, and Certified Shorthand Reporter No.
15 11648, in and for the State of California.
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Transcript of Secretary of State Frank LaRose
Conducted on October 14, 2021

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Transcript of Secretary of State Frank LaRose
Conducted on October 14, 2021

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Transcript of Secretary of State Frank LaRose
Conducted on October 14, 2021

8

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6 SLOAN SPALDING, Chief of Staff, Ohio
7 Auditor of State

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

10 JARED BENNETT, The VideoTech

11 STEPHEN ANDREYCHUK, The Videographer
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Transcript of Secretary of State Frank LaRose
Conducted on October 14, 2021

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P R O C E E D I N G S

* * * * *

THE VIDEOGRAPHER: Here begins Disk
Number 1 in the videotaped deposition of Ohio
Secretary of State Frank LaRose in the matter
of League of Women Voters of Ohio, et al.,
versus Ohio Redistricting Commission, et al.,
in the Superior Court of Ohio. The case number
is 2021-1193.

Today's date is October 14th, 2021, and
the time is 9:40 a.m. Eastern time.

The videographer today is Stephen
Andreychuk, representing Planet Depos.

This video deposition is taking place
via Zoom with all participants attending
remotely.

The court reporter today is Debra
Bollman, also representing Planet Depos. Would
the reporter please swear in the witness.
Whereupon,

SECRETARY OF STATE

FRANK LAROSE

was called as a witness, was duly sworn
and testified under penalty of perjury as
follows:

Transcript of Secretary of State Frank LaRose

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EXAMINATION

BY MR. STAFFORD:

Q. Good morning, Secretary. My name is Ben Stafford. I'm an attorney with the Elias Law Group, and I represent the Bennett Group of Relators in this set of lawsuits.

The videographer and court reporter have covered some of this, but just a few basics before we get underway.

If you need a break at any time today, please let me know. If there is a question pending, I'll ask that you complete your answer to that question before we take a break, but then we can find a good time to take a break after that. Fair?

A. Yes, sir.

Q. Okay. Please make sure that you give verbal answers rather than nodding or shaking your head so that we've got a clear record of the proceedings.

Then, finally, please make sure to listen to each question that I ask without interrupting with your answer before I finish speaking, and I will try to make sure that I do the same when you're answering.

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

1 Q. And, again, with regard to the 09:43:35
2 development of a General Assembly Plan -- and 09:43:41
3 just for the sake of clarity, I understand 09:43:43
4 there is a Congressional plan that's being 09:43:45
5 developed -- my questions today are really just 09:43:48
6 focused on the General Assembly plan unless I 09:43:50
7 note otherwise. 09:43:52

8 So with regard to the development of a 09:43:53
9 General Assembly plan, what was your role, if 09:43:55
10 any, in developing the procedures that the 09:43:57
11 commission would follow in considering and 09:44:01
12 adopting a plan? 09:44:03

13 A. Ask for clarification. Are you talking 09:44:04
14 about my role in drafting the original 09:44:09
15 constitutional amendment that went before the 09:44:11
16 voters in 2015, or are you talking about my 09:44:13
17 role in developing the rules of the commission? 09:44:16

18 Q. The rules of the commission that were 09:44:19
19 followed in 2021 with regard to such issues as 09:44:22
20 the public hearing schedule, internal meeting 09:44:26
21 schedules of the commission. 09:44:30

22 A. Okay. Again, to the best of my 09:44:31
23 recollection, the rules were proposed by the 09:44:34
24 co-chairs. I reviewed them a day or two before 09:44:39
25 they were adopted. I recommended some changes, 09:44:42

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

Transcript of Secretary of State Frank LaRose

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

Transcript of Secretary of State Frank LaRose
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1 provide criteria to the persons drafting the 09:50:12
2 map that was introduced by Senator Huffman on 09:50:16
3 September 9th that should be followed in 09:50:19
4 preparing the map? 09:50:20

5 A. I mean, obviously, we did dozens of 09:50:22
6 hours of public testimony where commission 09:50:32
7 members asked questions, took testimony, heard 09:50:35
8 from the public. There were times when 09:50:41
9 commission members stated things that they 09:50:44
10 thought should be included in a plan, myself 09:50:47
11 included. 09:50:50

12 Whether the map drawers that completed 09:50:51
13 the plan that was adopted on the 15th took that 09:50:54
14 into consideration or not, I do not know. 09:50:56

15 Q. And other than statements that 09:51:00
16 commissioners made on the public record in the 09:51:03
17 hearings that you were describing, are you 09:51:06
18 aware of any commissioner providing particular 09:51:07
19 feedback to the persons who drew the map? 09:51:11

20 A. My understanding is that the people that 09:51:14
21 drew the maps worked for commission members 09:51:22
22 Huffman and Cupp. 09:51:25

23 Don't want to make assumptions, but my 09:51:27
24 guess would be that they were the ones 09:51:30
25 directing the map drawers in their actions. I 09:51:32

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

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

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

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

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21

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

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22

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

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

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1 staffers who were primarily collaborating on 10:01:04
2 doing the mapmaking, the actual sort of 10:01:07
3 cartography, if you will, of drawing the maps, 10:01:12
4 were a House staff member named Blake 10:01:15
5 Springhetti, and a Senate staff member named, 10:01:18
6 Ray DiRossi. 10:01:21

7 One would assume, then, that the Speaker 10:01:22
8 and the President were working as partners in 10:01:24
9 the drafting process. 10:01:28

10 Q. Other than the briefing that you 10:01:30
11 described or any public hearings, did you ever 10:01:35
12 communicate with Mr. DiRossi about the 10:01:40
13 redistricting process in 2021? 10:01:43

14 A. You mean prior to the beginning of the 10:01:45
15 process? Or I guess clarify when you asked did 10:01:52
16 I communicate with DiRossi. 10:01:57

17 Q. Prior to the briefing that we were just 10:02:00
18 talking about, did you ever communicate with 10:02:03
19 Mr. DiRossi about the process of redistricting 10:02:05
20 in 2021? 10:02:09

21 A. In 2021, I did not communicate with 10:02:10
22 Mr. DiRossi prior to the introduction of the 10:02:15
23 map. 10:02:17

24 To be clear, Mr. DiRossi is a known 10:02:18
25 expert on redistricting. We had served -- when 10:02:22

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

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1 Q. Did you have anyone communicate with
2 Mr. DiRossi on your behalf?

3 A. I know that there were a few times that
4 my chief legal counsel sent emails, but mostly
5 about commission meeting schedules, my desire
6 to -- my desire to get the opportunity to
7 collaborate on amendments to the map.

8 I expressed through my staff that I
9 wanted to work with those that were working on
10 the map to make amendments to it, but that was
11 the extent of our communication.

12 Q. What concerns about the map did you
13 express to Mr. DiRossi during the briefing on
14 September 8th?

15 A. My prime concern was that -- I mean,
16 again, the objective I had from the very
17 beginning was a sincere desire to work with the
18 other six members of the commission to reach a
19 ten-year consensus, bipartisan consensus map.

20 And my concerns that I expressed to
21 Mr. DiRossi were that the first draft of the
22 map that he had drawn I didn't think moved us
23 in the direction of finding that middle-ground
24 consensus significantly.

25 Q. What about the map you reviewed on

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

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1 full-time student at Ohio State and a reservist
2 in the military.

3 But, yeah, given my knowledge of the
4 state of Ohio, I looked at it, and it seemed to
5 me that we had significant work to do before we
6 could reach a bipartisan consensus, based on
7 the first draft that was presented.

8 Q. You said that you spoke with Mr. DiRossi
9 about, I believe, constitutional reforms prior
10 to the beginning of the 2021 redistricting
11 process specifically. What did you and
12 Mr. DiRossi speak about?

13 A. Well, numerous conversations. And quite
14 honestly, I was one of the prime advocates for
15 redistricting reform.

16 It was something I worked on as a
17 freshman state senator and, in fact, had worked
18 with my Democratic counterparts to introduce a
19 bipartisan redistricting reform proposal in my
20 first General Assembly, worked consistently as
21 an advocate for redistricting reform throughout
22 my years in the Senate, and was instrumental in
23 the adoption and eventual passage of the
24 constitutional amendment that is now a part of
25 the Constitution.

1 So I have been extensively involved in
2 conversations about redistricting reform,
3 various iterations of redistricting reform, and
4 I've been a longtime proponent of reforming the
5 process.

6 Q. Why was redistricting reform so
7 important to you even from the beginning of
8 your more recent start, 12 years ago, in
9 politics?

10 A. I think it starts from my first race for
11 the Senate. I come from the Akron area in
12 Summit County, and I ran in a district that was
13 highly competitive.

14 I saw that many of my colleagues did not
15 have competitive districts. And I, for one, am
16 a believer in the power of competition to make
17 us all better.

18 I think competition works in the free
19 market, I think competition works on the
20 athletic field, and I think competition works
21 in politics to make us stronger. And so I
22 wanted to see a more competitive set of
23 districts.

24 I also didn't like the fact that it had
25 been throughout the decades sort of a one-party

1 exercise. I wanted to see a process that was 10:09:07
2 more consensus based. 10:09:12

3 I think throughout history, either party 10:09:14
4 that's had control of the process has, you 10:09:16
5 know -- has used that process to their 10:09:19
6 advantage, and one would suspect that that's 10:09:21
7 kind of the way the system had been set up 10:09:23
8 previously. 10:09:26

9 I wanted to see a new system created 10:09:27
10 that compelled Republicans and Democrats to sit 10:09:30
11 at the table as statesmen and women and to 10:09:33
12 reach compromise. That had been the spirit 10:09:36
13 that I brought to it from the very beginning, 10:09:38
14 and right up through the very eleventh hour, in 10:09:40
15 fact, eleventh-and-a-half hour, of this 10:09:43
16 process. 10:09:46

17 I had been working to try to reach that 10:09:46
18 consensus, to try to create opportunity for 10:09:49
19 that compromise, with the goal of reaching a 10:09:51
20 ten-year commission map with both Republican 10:09:55
21 and Democratic support. 10:09:58

22 Q. And as a proponent of the constitutional 10:10:00
23 amendments mid-decade, last decade, do you 10:10:03
24 understand that the intended effect of those 10:10:10
25 amendments on Ohio's redistricting process to 10:10:12

1 be the outcomes that you just talked about? 10:10:16

2 A. I know that what we wrote created a 10:10:19

3 multi-step process, where there was the best 10:10:25

4 outcome of a ten-year bipartisan consensus, but 10:10:34

5 also a constitutional process for a four-year 10:10:40

6 map without bipartisan support, because, 10:10:46

7 certainly, at some point there needs to be that 10:10:50

8 sort of finality. 10:10:52

9 Again, putting on my other hat as the 10:10:54

10 person in charge of running elections in Ohio 10:10:56

11 and working with all 88 of our county Boards of 10:10:58

12 Elections, there is a very real concern about 10:11:01

13 logistics and timing of getting new maps 10:11:04

14 approved and finalized so that the boards are 10:11:06

15 ready next spring to conduct primary elections. 10:11:09

16 And so there needs to be a finality to 10:11:12

17 this process. That finality exists in the 10:11:14

18 four-year map opportunity. I was very clear 10:11:18

19 when we did the constitutional amendment in the 10:11:21

20 middle of the last decade that that was not a 10:11:25

21 preferred outcome, but it was one of the 10:11:28

22 constitutional options available. 10:11:30

23 Q. It's fair to say that the amendments 10:11:32

24 were intended to prevent partisan 10:11:35

25 gerrymandering; isn't it? 10:11:39

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

1 makes maps, I suppose I don't know of any other 10:12:48
2 meaning. 10:12:51

3 Q. To your knowledge, who were the mappers 10:12:52
4 for the Huffman plan, for the sake of clarity? 10:12:54

5 A. I guess I've never used the term 10:12:58
6 "mapper." I've used the term "mapmaker" or 10:13:04
7 "cartographers." But the people drawing the 10:13:07
8 map, doing the actual technical work of sitting 10:13:10
9 at a computer and GIS shapefile building, my 10:13:13
10 understanding is that those individuals were 10:13:19
11 Blake Springhetti and Ray DiRossi. 10:13:21

12 Q. Did you work with any mappers yourself? 10:13:24

13 A. Throughout the process, I had wanted to 10:13:26
14 be part of collaborating with those that were 10:13:37
15 making the maps. I was not given the 10:13:39
16 opportunity to do so. That is, with the two 10:13:42
17 mapmakers working on behalf of the Speaker and 10:13:48
18 the President. 10:13:50

19 Although repeatedly I had asked to be 10:13:51
20 part of that process and asked to collaborate 10:13:54
21 with them, I was not given the ability to do 10:13:57
22 so. 10:14:00

23 In the later days of the process, once 10:14:01
24 it became clear that they were going to exclude 10:14:03
25 me from the mapmaking, and because at that time 10:14:06

1 it was too late for my staff to set up their
2 own sort of mapmaking process and training and
3 expertise, would have been -- you know, it
4 would have been logistically impossible to put
5 that together at the last minute, I started
6 working with the members of the Minority
7 caucus, the Senate Democrats and House
8 Democrats and their mapmakers, in several
9 meetings that I had with them to at least try
10 to put some drafts down.

10:14:12
10:14:13
10:14:18
10:14:20
10:14:22
10:14:25
10:14:30
10:14:32
10:14:37
10:14:39

11 There was never a full plan completed as
12 a result of our work, but at least I was sort
13 of trying to collaborate with them and work
14 with them to see if there was an opportunity to
15 draft some things that could reach that
16 middle-ground compromise.

10:14:41
10:14:43
10:14:45
10:14:47
10:14:49
10:14:53

17 Q. And when you say that they prevented you
18 from participating or they excluded you from
19 the map drawing process, were you referring to
20 the Speaker and Senator Huffman?

10:14:57
10:14:59
10:15:01
10:15:04

21 A. Yes.

10:15:06

22 Q. Okay. When the map was introduced on
23 September 9th, did you believe that it still
24 required a lot of work, I think you put it?

10:15:07
10:15:13
10:15:16

25 A. I said that quite publicly in the

10:15:18

1 commission. In fact, when we voted to accept 10:15:26
2 that as the work product for the commission, I 10:15:28
3 stated very clearly on the record that this map 10:15:31
4 is very much a first draft, in my mind, and 10:15:35
5 needs substantial work. 10:15:38

6 Q. So once the map was adopted that you 10:15:48
7 thought needed substantial work on 10:15:50
8 September 9th, as you put it on the record, I 10:15:52
9 think you said, did you meet with any 10:15:54
10 commissioners to discuss the adopted map or 10:15:56
11 alternative proposals? 10:15:59

12 A. Yes, numerous times. 10:16:00

13 Q. Okay. Who did you meet with? 10:16:02

14 A. In the ensuing week and a half, I met 10:16:05
15 with every member of the commission at one 10:16:11
16 point or another, and in many cases on multiple 10:16:14
17 times. 10:16:17

18 There were a few days there where I was 10:16:19
19 basically at the statehouse all day, sort of 10:16:21
20 shuttling between offices, trying to find 10:16:24
21 opportunities for bringing the two parties 10:16:28
22 together on a -- on a -- again, on a consensus. 10:16:31

23 My goal was simply to try to find that 10:16:34
24 opportunity for some middle-ground compromise 10:16:37
25 to find a way to create a ten-year map. 10:16:47

1 Q. When you say you were looking for a
2 middle-ground compromise, what did you think
3 needed to be changed from the original version
4 of the map on September 9th that would
5 constitute a middle-ground compromise?

10:16:49

10:16:51

10:16:54

10:16:56

10:16:58

6 A. I identified three things that I thought
7 should be part of a basic framework, and what I
8 was initially trying to do was to get other
9 principals of the commission, other members of
10 the commission to have a conversation about
11 those three basic concepts.

10:17:00

10:17:07

10:17:12

10:17:14

10:17:16

10:17:20

12 And they are, in no particular order,
13 the concept of what the proportion of districts
14 are, one to another.

10:17:22

10:17:24

10:17:28

15 Meaning, I guess, what you would call --
16 however you define them, and there are
17 different definitions of this -- a so-called
18 safe Republican district, a competitive
19 district, and a so-called safe Democratic
20 district.

10:17:31

10:17:34

10:17:35

10:17:38

10:17:41

10:17:44

21 So that was the first principle I wanted
22 people to sort of agree on and what that number
23 of proportionality might be.

10:17:45

10:17:48

10:17:50

24 The second one that I thought would be
25 an important topic for both sides to reach

10:17:52

10:17:53

1 agreement on is as it relates to minority
2 opportunity districts and creating those
3 minority opportunity districts.

4 And the third topic that I thought that
5 the commission members should be able to find
6 an agreement on related to not drawing
7 incumbents into the same district, at least
8 avoiding that where possible.

9 My mind was that if there could be a
10 basic agreement of certain numbers as it
11 relates to proportionality of a certain
12 handling of minority opportunity districts and
13 handling as it relates to drawing incumbents
14 together, that if we could reach an agreement
15 in principle on those three things, then maps
16 could be drawn that carry out that agreement.

17 So that was the framework of a basic
18 bipartisan agreement that I was trying to
19 encourage. I don't want to even say broker,
20 but trying to encourage.

21 Q. And you were trying to encourage a
22 conversation and ultimately an agreement around
23 those three principles because you believed
24 that the original map did not adequately embody
25 those three principles?

1 A. Well, no, it was because I had heard,
2 clearly, that the two Democratic members of the
3 commission were not willing to accept the
4 introduced map. And, again, the basic numbers
5 are that you have to reach a certain threshold
6 of votes, including two minority votes, to pass
7 a map.

8 So I was trying to get us to a place
9 where we could reach that threshold.

10 Q. And you believed yourself, personally,
11 that the map required a lot of work, correct?

12 A. As I stated.

13 (Deposition Exhibit No. 1 was marked for
14 identification.)

15 Q. Could we pull up the document marked
16 Huffman 3139 and mark it as Exhibit 1, please.

17 Secretary, could you review this and let
18 me know what it is.

19 A. Yeah, Mr. Stafford, I'm going to turn
20 around and use the screen behind me.

21 Q. Perfect, thank you.

22 And I'll direct your attention to the
23 email that starts this chain on the final page,
24 in particular.

25 A. Yes. Is there more? Okay. Give me a

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

1 And I was trying to sort of spur that 10:23:08
2 along, and I was looking to create those 10:23:11
3 opportunities for members to start having those 10:23:15
4 very serious conversations about where we could 10:23:18
5 meet in the middle. 10:23:20

6 The response to that was from the 10:23:22
7 Senate, I believe, Democratic staff, who 10:23:26
8 invited us to come over, which we then did, to 10:23:28
9 start working on finding some of those areas of 10:23:33
10 agreement or work on areas where there were 10:23:37
11 disagreements. 10:23:39

12 Q. And for the sake of the record, Merle 10:23:44
13 Madrid is your chief of staff? 10:23:47

14 A. That's correct. 10:23:49

15 Q. Okay. And did I pronounce that 10:23:49
16 directly? 10:23:51

17 A. You did. 10:23:51

18 Q. Okay, perfect. 10:23:58

19 When you spoke with the Democratic 10:23:59
20 commissioners and their staff, was there 10:24:00
21 discussion of what proportionality meant? 10:24:03

22 A. I don't recall a specific conversation 10:24:08
23 about what proportionality meant. 10:24:18

24 I can tell you that I introduced the 10:24:21
25 idea and was trying to get a conversation going 10:24:23

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1 among various commission members, including the 10:24:26
2 Democratic members, that for the purpose of a 10:24:28
3 proportionality conversation, that we should 10:24:32
4 consider sort of the following framework. 10:24:36

5 We should define what constitutes a 10:24:39
6 competitive district, and I was open to what 10:24:42
7 that might be. 10:24:45

8 Because, again, to start, I think it's 10:24:46
9 kind of a fiction or a fallacy that we assume 10:24:49
10 that we know how the voters are going to vote, 10:24:52
11 right? Candidates matter, campaigns matter, 10:24:55
12 the sort of prevailing mood of the state 10:24:58
13 matters in elections. 10:25:00

14 I, for one, am an example of this. I 10:25:02
15 won in a heavily Democratic district when I was 10:25:05
16 initially elected to the State Senate. 10:25:08

17 So I thought that we should, for the 10:25:09
18 purpose of any proportionality conversation, 10:25:11
19 define "competitive," 55/45, 46/52, whatever 10:25:14
20 that might be, or 46/50 -- you know, however -- 10:25:20
21 however we wanted to define "competitive," and 10:25:25
22 then take the number of seats that meet that 10:25:28
23 competitive definition sort of off the table. 10:25:32

24 These are simply competitive seats, so 10:25:36
25 go compete for them. And then restrain our 10:25:39

1 proportionality conversation to looking at 10:25:42
2 those that were outside of the competitive 10:25:44
3 range and then, by definition, become safe 10:25:47
4 Republican seats or safe Democratic seats. 10:25:50

5 So what I was trying to do, and I 10:25:52
6 thought this might be a way to create a 10:25:54
7 consensus on, you know, how we're going to 10:25:58
8 define this, define "competitive," put those 10:26:02
9 aside, and then constrain our conversation 10:26:04
10 about proportionality to those that meet the 10:26:07
11 definition of a safe seat. 10:26:09

12 Q. Did any commissioner prior to the 10:26:13
13 adoption of the General Assembly Plan tell you 10:26:15
14 that they agreed with that definition of 10:26:19
15 proportionality? 10:26:20

16 A. No, not specifically. When I brought 10:26:21
17 that up, there were head nods and, you know, 10:26:24
18 sort of, oh, that's a novel or interesting 10:26:27
19 idea. 10:26:30

20 But, no, that was never an agreed-to 10:26:30
21 sort of framework for defining proportionality. 10:26:33

22 Q. And prior to the adoption of the plan on 10:26:37
23 September 15th, did you conduct any analysis or 10:26:40
24 have your staff conduct any analysis of whether 10:26:45
25 the plan met that definition of proportionality 10:26:49

1 that you just laid out? 10:26:53

2 A. A lot of different analyses were 10:26:55
3 conducted. Some we were privileged to as a 10:26:59
4 result of the public hearings. There were 10:27:03
5 hundreds, I think, of members of the public 10:27:06
6 came up and offered their own analysis. 10:27:08

7 There was a question of sort of what 10:27:12
8 data do you consider as it relates to 10:27:15
9 proportionality, and there were some different 10:27:18
10 ways of approaching that as far as the ten-year 10:27:21
11 lookback or, you know, do you take out the 10:27:24
12 extremes on both ends when you average things 10:27:28
13 together. There were all those kind of 10:27:31
14 conversations. 10:27:34

15 But there was not a specific analysis 10:27:35
16 that I did of the September 9th map regarding 10:27:36
17 whether it meant that criteria that I've laid 10:27:40
18 out, no. 10:27:44

19 Q. And same question as to the 10:27:45
20 September 16th map, I think it was adopted 10:27:48
21 shortly after midnight, the final map. Did you 10:27:51
22 conduct any analysis of that? 10:27:54

23 A. My efforts at that point were dedicated 10:27:56
24 to trying to find opportunities for compromise. 10:28:02

25 And so what I had spent my time on, on 10:28:09

1 the 15th and the 14th and the 13th, was trying
2 to bring people together around common
3 principles and trying to find those
4 opportunities for compromise.

5 I had not conducted nor had my staff
6 conduct a detailed analysis of the map that was
7 passed on the 15th.

8 Q. And during those discussions and efforts
9 that you talked about, did any other commission
10 member share with you a proportionality
11 analysis before the final votes on the 15th and
12 the 16th?

13 A. A proportion -- I guess I'm going to ask
14 you the question, Mr. Stafford: Are you saying
15 a proportionality analysis of that map that was
16 finally adopted?

17 Q. That is correct.

18 A. I don't recall specifically. There have
19 been a lot of numbers thrown around, either
20 from members of the public or commission
21 members. I had taken a lot of those into
22 consideration. I don't think any of them was
23 viewed as the definitive number, though. So I
24 don't have a specific recollection of that
25 analysis.

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

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

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

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

1 evening of the 15th. And subsequent to that, I 10:34:39
2 have not engaged in such an effort because the 10:34:42
3 commission had already passed maps. 10:34:44

4 Q. Okay. I want to make sure we have an 10:34:50
5 understanding of the basic timeline of the 10:34:53
6 committee's actions in passing maps on the 15th 10:34:54
7 and 16th. 10:34:57

8 So as we discussed, the committee voted 10:35:00
9 to adopt an initial version of the General 10:35:02
10 Assembly Plan on September 9th; is that right? 10:35:05

11 A. That's correct. 10:35:07

12 And I know the word "adopt" is the word 10:35:09
13 that is used in the law, and I understand what 10:35:12
14 that means; but I've always said that this is 10:35:17
15 kind of like a bill being introduced with the 10:35:21
16 full knowledge that there is an amendment 10:35:23
17 process. 10:35:28

18 So I always considered that a work 10:35:28
19 product, the initial draft, the sort of first 10:35:30
20 draft. And that was, in fact, adopted by the 10:35:32
21 commission on the 9th. 10:35:34

22 Q. And then on September 15th, Speaker 10:35:36
23 Huffman presented a motion to amend that plan, 10:35:40
24 correct? 10:35:43

25 A. That is correct. 10:35:43

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

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

1 And, again, throughout -- I don't have 10:38:18
2 specific recollection of the dates, but I had 10:38:21
3 asked sort of what criteria are you all using 10:38:23
4 to evaluate proportionality? What data are you 10:38:29
5 using to determine what the voting pattern of 10:38:33
6 the state of Ohio is? 10:38:38

7 I thought that we should be able to, at 10:38:40
8 least, sort of have a common framework of where 10:38:43
9 those numbers are, but those were not provided. 10:38:45

10 Q. So you were not provided a statement, as 10:38:48
11 you've testified to. Am I right in 10:38:52
12 understanding that you were not provided 10:38:54
13 information about the data that was being used 10:38:56
14 to assess that information? 10:38:59

15 A. I was provided no information about what 10:39:00
16 data or considerations were going into 10:39:06
17 proportionality considerations related to the 10:39:11
18 mapmaking work that was being done by President 10:39:14
19 Huffman or Speaker Cupp. 10:39:19

20 Q. So if you weren't provided any of the 10:39:20
21 information you were asking for, did you 10:39:22
22 receive any response in request to those 10:39:25
23 inquiries? 10:39:27

24 A. No. 10:39:28

25 Q. So were these in-person requests that 10:39:28

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

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

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

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

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

1 majority of the commission decides that it's 10:45:30
2 just not interested in attempting to achieve 10:45:33
3 any sort of partisan proportionality, it can 10:45:36
4 not implement those standards and pass a 10:45:42
5 four-year plan? 10:45:44

6 MS. PFEIFFER: Objection. Vague. 10:45:45
7 Speculative. He can answer to the extent that 10:45:46
8 he knows. 10:45:48

9 THE WITNESS: To the extent that I know, 10:45:49
10 my understanding is that the standards, as it 10:45:50
11 relates to proportionality, are secondary to 10:45:55
12 the primary concerns that are laid out in the 10:45:59
13 Constitution that have to do with splits, 10:46:04
14 contiguity, you know, requirements to not split 10:46:06
15 communities, all of those other sort of 10:46:12
16 mapmaking considerations that are set out as 10:46:18
17 primary in the constitution. 10:46:20

18 BY MS. PFEIFFER: 10:46:23

19 Q. Sitting here today, are you aware that 10:46:23
20 one of the metrics for partisan proportionality 10:46:25
21 that the commission statement utilizes is the 10:46:30
22 overall number of Republican candidates that 10:46:32
23 had won statewide office in the past ten years 10:46:35
24 as compared to the Democrats that had won? 10:46:38

25 A. I am aware. 10:46:40

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

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

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

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

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1	one second to find it.	11:08:39
2	Could you go to the last page in the	11:08:46
3	document. Bates stamp ends with 2075.	11:08:47
4	A. We're there.	11:08:55
5	Q. Let me know when you're there.	11:08:56
6	You'd agree these are messages from you	11:08:58
7	on the right side in blue, right?	11:09:00
8	A. Yes.	11:09:01
9	Q. And to Merle Madrid, your chief of	11:09:07
10	staff?	11:09:10
11	A. Yes.	11:09:10
12	Q. His messages are the one in gray on the	11:09:15
13	left, right?	11:09:19
14	A. Correct. With the tap back of thumbs	11:09:19
15	up, indicating a response from me as well.	11:09:22
16	Q. Thank you. You'd agree these were sent	11:09:25
17	on Wednesday, September 15th, at military time	11:09:28
18	23 -- I believe that says 36; is that right?	11:09:32
19	A. Yes. 11:36 p.m.	11:09:35
20	Q. Right. So I'm okay to set this document	11:09:38
21	aside now.	11:09:44
22	I want to go back to a couple things	11:09:45
23	that Mr. Stafford asked you about earlier	11:09:47
24	today.	11:09:49
25	You said that you didn't personally	11:09:50

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

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

1 efforts fell short.

11:12:12

2 Q. I see there are some papers on the desk
3 in front of you. Could you tell us what you
4 have in front of you?

11:12:13

11:12:20

11:12:22

5 A. Yeah. I've got a list of all of the
6 names, to the best of my knowledge, of who all
7 is participating today because I was trying to
8 keep track of all of that. And then I've got a
9 blank notepad and an unmarked manilla folder.
10 On the blank notepad, I wrote the name of the
11 videographer, and I've written the numbers of
12 the exhibits that were presented.

11:12:23

11:12:26

11:12:28

11:12:30

11:12:33

11:12:38

11:12:41

11:12:47

13 And I wrote your name, Ms. Keenan, so
14 that I could recall it as we were going through
15 these questions.

11:12:49

11:12:51

11:12:53

16 Q. Okay. And so we could see on the video,
17 but for the record, can you confirm you have
18 some notes on the paper in front of you that
19 you just discussed?

11:12:55

11:12:57

11:12:59

11:13:01

20 A. Yeah, but only the items that I just
21 discussed for you. Nothing that I walked into
22 the room with.

11:13:02

11:13:04

11:13:06

23 Q. Okay.

11:13:07

24 MS. KEENAN: Counsel, we would request
25 production of those notes just to confirm.

11:13:08

11:13:12

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

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

1 pre-September 8th, I recall having just an 11:16:35
2 initial conversation at the first commission 11:16:39
3 meeting with the other two executive branch 11:16:42
4 members of the commission. 11:16:46

5 I remember saying to them something to 11:16:50
6 the effect of: I think that we, as the three 11:16:53
7 non-legislative members of this commission, 11:16:56
8 have an opportunity to try to be the convenors, 11:16:59
9 because this is, by definition, a challenging 11:17:04
10 prospect. This is a, you know, difficult task 11:17:07
11 laid before us by the Ohio Constitution to 11:17:11
12 reach that ten-year commission compromise. 11:17:13

13 So there was a sort of a statesman role 11:17:18
14 that the governor and the auditor and I could 11:17:22
15 play to try to bring everyone together to have 11:17:24
16 that conversation. 11:17:26

17 Q. What were the -- I'm sorry. Go ahead. 11:17:31

18 A. Regarding conversations after the 11:17:33
19 introduction of the map on the 9th, I remember 11:17:35
20 conversations between us that: Well, this is a 11:17:40
21 starting point, but just a starting point. And 11:17:42
22 clearly for this to be a good-faith effort, 11:17:45
23 it's going to have to move quite a bit from 11:17:48
24 that. 11:17:50

25 The auditor and I, in particular, 11:17:51

1 engaged extensively in many good faith efforts 11:17:53
2 throughout the days after the introduction of 11:18:00
3 the map on the 9th to try to find those 11:18:02
4 opportunities for compromise. 11:18:05

5 The auditor and I, in many cases, really 11:18:07
6 sort of set up camp together as kind of the 11:18:10
7 team trying to push the rest of the commission 11:18:13
8 to come to the table and reach compromise, even 11:18:17
9 sharing a ride together up to the Cleveland 11:18:21
10 meeting so that we could continue sort of 11:18:25
11 pushing for that and having those 11:18:27
12 conversations. 11:18:29

13 Q. So during that intervening time period 11:18:30
14 of about a week between September 9th and 15th 11:18:34
15 when you testified that you were meeting with 11:18:38
16 each member of the -- each legislative member 11:18:40
17 of the commission on multiple times to try to 11:18:44
18 find a middle ground or compromise -- 11:18:47

19 MS. PFEIFFER: I'm going to object. I'm 11:18:49
20 going to object. I don't believe that was his 11:18:51
21 testimony. 11:18:53

22 MR. FUNARI: Okay. Let me back up. 11:18:55

23 BY MR. FUNARI: 11:18:55

24 Q. I understood, Secretary, that you 11:19:02
25 testified that following the introduction of 11:19:04

1 the map on September 9th, where on the record
2 you pointed out in several instances that you
3 felt it was a draft and a work in progress and
4 that you expressed that the map needed a lot of
5 work, that following that public hearing and
6 prior to the September 15th public hearing, you
7 met on multiple occasions individually with the
8 legislative members, minority and majority
9 members, of the commission to discuss the map
10 and trying to reach a middle ground.

11:19:07
11:19:11
11:19:17
11:19:20
11:19:23
11:19:26
11:19:32
11:19:35
11:19:39
11:19:42

11 Is that your testimony?

11:19:45

12 A. If there's need for clarification, I met
13 throughout those intervening days with all
14 members of the commission, not exclusively the
15 legislative members.

11:19:47
11:19:51
11:19:53
11:19:57

16 Specific recollection of how many times
17 meeting with how many members is near
18 impossible because there was like a shuttling
19 back and forth between offices.

11:20:05
11:20:06
11:20:08
11:20:10

20 I can tell you that I met as often as I
21 could meet, right, with each member of the
22 commission, because I believe that there was a
23 need for a lot of conversation to try to reach
24 that compromise. So I was trying to encourage
25 that conversation.

11:20:11
11:20:14
11:20:16
11:20:17
11:20:22
11:20:24

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

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

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1 Q. Do you know if Auditor Faber was 11:22:56
2 included in any of those meetings where the map 11:23:01
3 was being drawn and you testified that you felt 11:23:07
4 you were shut out of? 11:23:11

5 Did he, I guess -- let me ask that 11:23:12
6 question, and then I'll ask a follow-up. 11:23:14

7 A. I'm not going to speculate about what 11:23:16
8 meetings the Auditor was part of or not, other 11:23:19
9 than I know he was part of meetings that we had 11:23:21
10 where the auditor and I would meet with one 11:23:23
11 other commission member on several occasions, 11:23:26
12 again, and the auditor and I were working very 11:23:31
13 clearly as a team to try to bring about that 11:23:34
14 bipartisan compromise. 11:23:38

15 As far as meetings he had when I wasn't 11:23:40
16 there, I won't speculate. 11:23:41

17 Q. Good. Fair point. 11:23:42

18 Let me ask it this way, then. Do you 11:23:44
19 have a belief that, one way or another, that 11:23:46
20 Auditor Faber shared your frustration of being 11:23:50
21 cut out of the process? 11:23:53

22 A. Yes. We expressed that opinion to one 11:23:54
23 another many times. 11:23:59

24 Q. And same question with respect to 11:24:00
25 Governor DeWine. Do you have a belief as to 11:24:03

1 whether he felt he was being shut out of the 11:24:06
2 process? 11:24:08

3 A. The governor and I did not have a 11:24:08
4 conversation regarding his feelings about the 11:24:11
5 process. 11:24:13

6 I can tell you that the governor was 11:24:13
7 engaging in a good faith effort, along with the 11:24:15
8 auditor and myself, to try to create 11:24:19
9 opportunities for compromise, even offering to 11:24:21
10 conduct a principals' meeting, where three 11:24:25
11 members of the commission would have the chance 11:24:28
12 to sit down and try to hammer out a compromise, 11:24:33
13 in principle, on those three topics I mentioned 11:24:35
14 earlier: proportionality, majority/minority or 11:24:38
15 minority opportunity districts, and minimizing 11:24:41
16 drawing incumbents together. 11:24:44

17 So the governor and the auditor and I 11:24:47
18 were all engaging in a good faith effort to try 11:24:50
19 to create that opportunity for bipartisan 11:24:52
20 compromise. 11:24:54

21 Q. Is it a correct statement that the 11:24:56
22 seven-member commission as a whole never 11:24:59
23 convened and drafted a map of its own? 11:25:03

24 A. I guess I don't know logistically how 11:25:06
25 the commission would do that. 11:25:11

1 When I say "logistically," the work of
2 drafting a map, as you know, and I don't want
3 to oversimplify it here for anybody on this,
4 but like it's not you put a state roadmap on
5 the table and start tracing.

6 It is GIS shapefiles constructed over
7 probably dozens of hours on a sophisticated GIS
8 computer system. So the actual work of making
9 a map takes a long, long time.

10 So for the commission to sit as a group
11 in a public forum and drag lines around on a
12 screen would not have been practical.

13 Q. I appreciate the logistical challenges,
14 but my question was just, "yes" or "no," did
15 the commission convene for the purposes of
16 drawing a map?

17 A. No.

18 Q. Okay. Do you recall suggestions being
19 made by the minority legislative members of the
20 commission, the Sykes, Leader Sykes and Senator
21 Sykes, whereby they were suggesting to the
22 Republican members of the commission, and
23 suggesting that the commission purchase
24 software, mapmaking software, so all of those
25 things that you just described that would go

1 into the process of drawing a map could be 11:26:34
2 done? 11:26:39

3 Do you recall receiving any 11:26:40
4 communications or having any discussions with 11:26:41
5 the Democratic members of the commission to 11:26:46
6 that effect? 11:26:48

7 A. Okay. So what I want to do here is just 11:26:49
8 kind of describe my understanding of how 11:26:54
9 resources were allocated for the licensing of 11:26:58
10 software and the hiring of personnel as it 11:27:03
11 relates to the technical work of map drawing. 11:27:05

12 My understanding is that in the state 11:27:08
13 budget a certain amount of money was allocated. 11:27:10
14 My understanding is that the Constitution 11:27:14
15 allows the co-chairs of the commission to 11:27:18
16 direct how that money is spent, because the 11:27:21
17 co-chairs are, of course, one Republican and 11:27:24
18 one Democrat. 11:27:27

19 So when that initial meeting was held, 11:27:30
20 the two co-chairs acknowledged that they were 11:27:33
21 using the funds that were allocated to them to 11:27:37
22 license software and hire staff or whatever 11:27:41
23 they were doing. 11:27:45

24 At that time, I asked President Huffman, 11:27:46
25 since I am a Republican member of the 11:27:51

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1 commission, I am a Republican co-chair that's 11:27:54
2 been allocated money now for this work, you 11:27:56
3 know, will I have equal use and access to those 11:27:59
4 personnel and to that software? 11:28:02

5 I was told at the time I would. That 11:28:05
6 did not play out that way. I was not given 11:28:08
7 access to those personnel and to that software. 11:28:11

8 When it became clear that I was not 11:28:14
9 going to have access to the software and the 11:28:17
10 personnel for the purpose of map drawing, I 11:28:19
11 inquired as to the possibility of how I can 11:28:22
12 have my own mapmaking ability. 11:28:27

13 And I believe there was an email 11:28:30
14 exchange between a member of my staff and a 11:28:32
15 member of the -- some other staff member, I 11:28:35
16 think from the Senate Democrats, and at that 11:28:37
17 point it was, hey, here's how you get the 11:28:41
18 software or here's how you license the 11:28:43
19 software. 11:28:45

20 But at that point it was too late in the 11:28:45
21 process to sort of set up, train on the use of 11:28:48
22 that software and to sort of build my own 11:28:53
23 in-house mapmaking function; that it just 11:28:56
24 simply logistically would not have been 11:28:59
25 possible at that point. 11:29:02

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1 Q. Right. And I understand and recall the 11:29:03
2 email exchange you're referring to. Had the 11:29:07
3 commission been convened earlier, do you 11:29:11
4 believe all of those steps that you just 11:29:16
5 testified you would have taken would have been 11:29:18
6 able to have been accomplished? 11:29:20

7 MS. PFEIFFER: Objection. Calls for 11:29:21
8 speculation. He can answer to the extent that 11:29:22
9 he can. 11:29:25

10 THE WITNESS: To the extent that, you 11:29:26
11 know, timing here was an issue, I wish, and I 11:29:31
12 expressed publicly a great level of frustration 11:29:34
13 that the U.S. Census Bureau was negligent or at 11:29:38
14 least was not accomplishing their duty as laid 11:29:42
15 out in law to get us the census data by the 1st 11:29:45
16 of April, I think is the date that they're 11:29:48
17 required to get it to us by. They were, what? 11:29:50
18 Almost five months later. 11:29:53

19 So, yes, that did create a time crunch 11:29:56
20 that was truly disadvantageous to the work of 11:29:59
21 the commission, and it's regrettable that the 11:30:03
22 Census Bureau put us in that situation. 11:30:04

23 BY MR. FUNARI: 11:30:04

24 Q. So being shut out of the process in 11:30:06
25 making the maps and not seeing them until 11:30:08

1 September 8th, you wouldn't have an 11:30:13
 2 understanding how, if at all, that census data 11:30:16
 3 was used in preparing the September 9th map; 11:30:19
 4 isn't that correct? 11:30:23

5 A. I do not know how the census data was 11:30:24
 6 used by the mapmakers who drew the map that was 11:30:30
 7 introduced on the 9th. 11:30:32

8 I have a general -- 11:30:34

9 Q. And you don't -- oh, go ahead. 11:30:36

10 A. I have a general knowledge of how census 11:30:39
 11 data is received and then processed and then 11:30:41
 12 used in the mapmaking process. 11:30:43

13 Q. But it is a true statement that you 11:30:45
 14 don't know whether the mapmakers, Mr. DiRossi 11:30:47
 15 and his counterpart, in fact, used any of that 11:30:50
 16 census data in the maps that they prepared? 11:30:53

17 A. Can't speak to that because I was not 11:30:56
 18 part of their mapmaking process. 11:30:58

19 Q. Understood. At the beginning of your 11:31:01
 20 deposition, Mr. Secretary, you pointed out that 11:31:04
 21 you're neither a lawyer or constitutional 11:31:07
 22 scholar. 11:31:09

23 And I understand that, but in your 11:31:09
 24 position as a member of the constitutionally 11:31:13
 25 required redistricting commission, do you 11:31:18

1 believe that the final adopted map meets the 11:31:21
2 requirements of the Ohio Constitution? 11:31:26

3 A. Yes, I believe it meets the basic 11:31:29
4 technical requirements of the Ohio 11:31:37
5 Constitution. 11:31:39

6 I guess I view this as the sort of floor 11:31:39
7 and ceiling analogy. It meets those basic 11:31:42
8 requirements that are laid out in the Ohio 11:31:46
9 Constitution for drawing districts. 11:31:48

10 Q. And it's my understanding from your 11:31:53
11 testimony you believe that the map as adopted 11:31:55
12 is somewhere near the floor or is the floor. 11:31:59

13 A. I made it clear from the beginning that 11:32:02
14 my objective is to reach a ten-year consensus, 11:32:04
15 bipartisan consensus that will result in 11:32:08
16 decade-long maps for the people of Ohio based 11:32:12
17 on the bipartisan collaboration and compromise. 11:32:14

18 That was not reached, despite my good 11:32:18
19 faith efforts to reach it, and some others' 11:32:22
20 good faith efforts to reach a bipartisan 11:32:25
21 compromise. 11:32:27

22 The maps that were passed meet the -- 11:32:28
23 again, the standards laid out for a four-year 11:32:32
24 map, but certainly not ideal, and not the maps 11:32:34
25 that I would want to have seen us pass by any 11:32:36

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

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

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1 Q. The Republican legislative members 11:35:08
2 of the commission and their staff completely 11:35:08
3 cut you out from participating in a map that 11:35:08
4 was presented on September 9th, correct?) 11:35:13

5 THE WITNESS: As I testified before, I 11:35:13
6 was excluded from the technical mapmaking 11:35:16
7 process that was carried out by Speaker Cupp 11:35:20
8 and President Huffman and their two staff 11:35:25
9 members who were doing the drawing. 11:35:29

10 I had attempted repeatedly to be a part 11:35:32
11 of that process because that was my 11:35:36
12 understanding of how this should work; that the 11:35:38
13 funds allocated to the commission should be 11:35:40
14 spent for the Republican members to have 11:35:42
15 map-drawing ability and for the Democratic 11:35:46
16 members to have map-drawing ability. 11:35:49

17 And as a Republican member, I thought I 11:35:51
18 should have had access to the Republican 11:35:54
19 staffers who were drawing maps. 11:35:56

20 And as I have expressed, it was a degree 11:35:59
21 of -- there was a great degree of frustration 11:36:02
22 that I was not given ability to work with those 11:36:04
23 individuals. And when, I mean, I had asked 11:36:08
24 repeatedly for the ability to do so. 11:36:14

25 BY MR. FUNARI: 11:36:17

1 Q. And then after September 9th, before 11:36:17
2 September 15th, when you were meeting with the 11:36:20
3 various other members of the commission, you 11:36:21
4 were asking for the raw data, the numbers that 11:36:25
5 were being used by the mapmakers or the map 11:36:28
6 drawers, and you were never getting answers. 11:36:32

7 That's how I understood your testimony. 11:36:34
8 Is that correct? You were getting responses 11:36:36
9 such as "Still working on it," things to that 11:36:39
10 nature? 11:36:42

11 A. Mr. Funari, when you say "raw data," 11:36:42
12 what I had been asking for were, first, 11:36:48
13 rationale for how we define competitive 11:36:49
14 districts. Wanted to, I think, have a common 11:36:54
15 frame of reference. 11:36:56

16 I'm not a trained mediator or 11:36:57
17 negotiator, but my understanding is that we all 11:37:00
18 have to be sort of on the same page as far as a 11:37:02
19 frame of reference for what we're even talking 11:37:04
20 about. 11:37:07

21 So I wanted there to be a consensus 11:37:07
22 among the commission members about what 11:37:10
23 constitutes a competitive district. 11:37:12

24 I also wanted there to be a consensus on 11:37:15
25 how are we defining that proportionality? Are 11:37:18

1 we -- I believe the plain language in the 11:37:21
2 Constitution talks about a ten-year, statewide 11:37:23
3 look at partisan races. 11:37:28

4 I know that some statistical techniques 11:37:31
5 would say, well, you should drop out the 11:37:34
6 outliers, the highest and the lowest, and then 11:37:37
7 get a sort of average or whatever else. 11:37:40

8 But I had asked for all of that, and, 11:37:43
9 again, was not presented with it. 11:37:46

10 Q. And that was by the Republican 11:37:48
11 legislative members of the commission? 11:37:55

12 A. Correct. 11:37:56

13 Q. And then you might say -- 11:37:57

14 A. Well, hold on, hold on. Let me further 11:37:58
15 answer that, because when I had been asked 11:38:00
16 that -- or when I asked for that same sort of 11:38:03
17 understanding from the Democratic members, they 11:38:06
18 gave me kind of a verbal understanding of how 11:38:09
19 they were using Dave's Redistricting to provide 11:38:12
20 that data. 11:38:18

21 So there was never a clear sort of set 11:38:19
22 of understandings of what constitutes 11:38:21
23 proportionality, what constitutes a competitive 11:38:25
24 district, et cetera. 11:38:28

25 Q. So, in your opinion, that definition was 11:38:30

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

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

1 compromise. My goal was trying to, as sort of
2 one of the executive branch members of the
3 commission who does not serve in the
4 legislature on a -- doesn't serve in the
5 legislature at all, and is not in that world on
6 a daily basis, I was trying to be a convenor.

7 And my objective was to try to find that
8 opportunity for middle-ground
9 consensus-building as it relates to how we can
10 bring Republicans and Democrats together for
11 the passage of a ten-year map.

12 Q. Just kind of wrapping up. Do you have
13 any knowledge of whether any other members of
14 the General Assembly were involved in preparing
15 the map that was drawn by DiRossi and produced
16 to the commission on September 9th?

17 A. I have no knowledge of who they
18 consulted with whatsoever, members of the
19 General Assembly or otherwise.

20 Q. Give me one moment; I think I might be
21 done.

22 I don't believe I asked you this,
23 Mr. Secretary, but did the commission itself
24 engage or hire its own map drawer?

25 A. No, the commission did not. Though that

1 had been a concept that I had shared publicly 11:43:15
2 in the past, including way back in 2015 and 11:43:18
3 '16. 11:43:21

4 I had even proposed, again, back as a 11:43:21
5 member of the State Senate, that the 11:43:24
6 Legislative Services Commission would be the 11:43:28
7 appropriate body to do the technical mapmaking 11:43:30
8 work. I believe I had actually drafted a piece 11:43:33
9 of legislation to do that in statute. It was 11:43:38
10 never enacted, obviously. 11:43:41

11 But we have a non-partisan bill drafting 11:43:42
12 service that works for the State General 11:43:45
13 Assembly and has a sterling reputation for 11:43:47
14 offering great support to both sides of the 11:43:50
15 aisle. 11:43:51

16 I thought they would have been perfectly 11:43:51
17 capable of doing the technical mapmaking work, 11:43:53
18 and that would have given each member of the 11:43:56
19 commission equal access to such services. 11:43:58

20 But, again, that did not come to pass. 11:44:03

21 Q. Understood. At the September 15th 11:44:06
22 meeting of the commission, you made the comment 11:44:09
23 or words to the effect that you believe that 11:44:15
24 the commission would be back in this very room 11:44:17
25 very soon. Do you recall making a statement to 11:44:19

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

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

1 these maps are not constitutional. 11:46:35

2 I didn't want to take that risk, which 11:46:37

3 was why I was pushing for a ten-year map. 11:46:39

4 Because, again, I wasn't willing to or I 11:46:42

5 didn't -- I wanted to try to avoid kicking this 11:46:44

6 to the judicial branch altogether. 11:46:47

7 Q. So that was one of your motivations in 11:46:50

8 making that comment that you would be back in 11:46:52

9 this room very soon? 11:46:54

10 A. Again, my prime motivation for that 11:46:55

11 comment was that -- and if you remember, I said 11:46:59

12 when we're drawing congressional districts, the 11:47:02

13 process will be very different. That was in 11:47:05

14 another portion of the same remarks that I 11:47:07

15 made. 11:47:09

16 So my prime thought, when I made those 11:47:09

17 remarks in the middle of the night on Wednesday 11:47:12

18 night, was that we would be back for drawing 11:47:14

19 congressional districts and that the process 11:47:18

20 should work differently as it relates to 11:47:20

21 drawing congressional districts. 11:47:23

22 In my mind was that there's basically a 11:47:25

23 binary outcome of two possible outcomes of this 11:47:28

24 going to the courts. One is that they accept, 11:47:32

25 and one is that they reject. And that is not a 11:47:35

1 chance I wanted to take. 11:47:37

2 I was hoping that a ten-year map could 11:47:39
3 prevent either of those two scenarios from 11:47:42
4 coming to pass. 11:47:45

5 Q. Was it your understanding that 11:47:48
6 partisanship -- partisanship was what was 11:47:51
7 preventing the compromise that you so hoped to 11:47:55
8 achieve with the maps? 11:47:58

9 A. I can't speculate on what the other 11:47:59
10 commission members' motivation was. 11:48:02

11 I can tell you that, as I expressed 11:48:05
12 publicly, I was working in good faith. 11:48:07

13 I didn't sense that there was the same 11:48:12
14 level of motivation from some others. And why, 11:48:15
15 whether it was simply a skepticism of whether 11:48:20
16 it was possible or whether they had given up on 11:48:22
17 the possibility of compromise, I can't 11:48:24
18 speculate. 11:48:27

19 But I know that, you know, I tried very 11:48:27
20 hard to find that bipartisan compromise, and I 11:48:32
21 did not have a sense that the same level of 11:48:35
22 effort was being made by other commission 11:48:37
23 members to find that bipartisan compromise. 11:48:40

24 Q. Did you have a sense of what their 11:48:43
25 motivation was? 11:48:44

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

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

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

1 Q. Thank you. Moving to something you said 11:59:45
2 about the proportionality, and forgive me if 11:59:52
3 I've written it down wrong. But you, when 11:59:57
4 asked, indicated that you felt the secondary 11:59:59
5 standards -- referring to proportionality -- 12:00:03
6 were not hard requirements. I was wondering if 12:00:06
7 you could define what you mean by "hard" in 12:00:10
8 that context. 12:00:13

9 A. Again, to just provide the background 12:00:14
10 that I'm not a lawyer. But my understanding is 12:00:19
11 that so long as the primary standards are met, 12:00:28
12 which are in Section 1 and 7 and a couple 12:00:31
13 others -- I forget which sections, but there 12:00:35
14 are some primary standards that are laid out. 12:00:37
15 And it has a lot to do with splits, for 12:00:39
16 example, and contiguity and that kind of thing. 12:00:44

17 As long as those standards, those 12:00:48
18 primary standards are met, then there's not a 12:00:50
19 consideration of the secondary standards that 12:00:57
20 are laid out, I believe, in Section 6 that have 12:00:59
21 to do with proportionality, compactness, and 12:01:01
22 not favoring or disfavoring. 12:01:04

23 Q. And so as long as the primary standards 12:01:14
24 are met, is it your belief that the secondary 12:01:16
25 standards do not have to be met? 12:01:20

1 A. Yeah, that's my understanding of the
2 plain black-and-white letter of the Ohio
3 constitutional law on this.

4 I came into this, though, with the
5 approach though that the Section 6 standards
6 are things that we should aspire to. And that
7 was the approach that I had taken all along;
8 that there are things that we should work to
9 include.

10 Again, that was the work that I had done
11 from the very beginning to try to reach a set
12 of maps that resulted in a ten-year compromise,
13 that made reasonable attempts to accomplish the
14 standards laid out in Section 6 as well.

15 Q. Moving now to the questions where you
16 were asked about being shut out from the
17 Republican mapmakers. I want to shift to the
18 mapmakers on the Democrat side. You had access
19 to those mapmakers?

20 A. I did.

21 Q. And were there meetings in which you
22 were in the room with the mapmakers on the
23 Democrat side and participating in live map
24 drawing, if you will?

25 A. Yes, there were on numerous occasions.

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

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

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1 A. Hmm, I can say that they expressed a
2 willingness. I can say that the staff members
3 were earnest and purposeful in the work that
4 they did. They put in some very long hours and
5 that kind of thing.

6 As it relates to the commission members
7 and what level of good faith they were
8 operating under, it's hard to judge.

9 But I certainly did appreciate the fact
10 that I had the opportunity to work with the
11 Democratic map drawers.

12 It was, again, frustrating to me that I
13 did not have the same opportunity to work with
14 the Republican map drawers. It struck me as a
15 little ironic, quite candidly.

16 But I was happy to work with whoever I
17 could work with at that point to try to bring
18 about that ten-year bipartisan compromise.

19 And so, you know, that's my level of
20 recollection as far as sort of the good
21 faithedness of the members.

22 I mean, ultimately, I think the four
23 members of the commission that were least open
24 to compromise were the four legislative
25 members, though, and that was frustrating to

12:05:18

12:05:25

12:05:31

12:05:35

12:05:40

12:05:45

12:05:47

12:05:49

12:05:53

12:05:54

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12:06:00

12:06:03

12:06:05

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12:06:35

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

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1	it."	12:07:36
2	Listen, as far as what level of good	12:07:36
3	faith any member of the commission had, I can't	12:07:38
4	say for sure.	12:07:41
5	MS. MENASHE: Nothing further, thank	12:07:46
6	you.	12:07:47
7	THE WITNESS: Thank you, Ms. Menashe.	12:07:48
8	MS. PFEIFFER: Okay. Does anyone else	12:07:50
9	have anything?	12:07:52
10	Court reporter, I think we're done.	12:07:53
11	MR. STAFFORD: I'd just like to thank	12:08:06
12	again the Secretary for his time today.	12:08:07
13	THE WITNESS: Thank you. I do	12:08:08
14	appreciate it.	12:08:09
15	THE VIDEOGRAPHER: This concludes the	12:08:13
16	video deposition of Ohio Secretary of State	12:08:15
17	Frank LaRose. We are going off the record.	12:08:18
18	The time is 12:08.	12:08:21
19	(Deposition concluded at 12:08 p.m.,	12:08:23
20	104)	

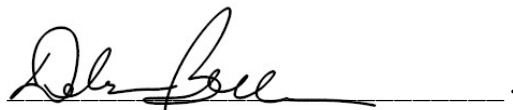
Reporter's Certificate

)
State of California)
)

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

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

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



Debra Bollman Farfan, CA CSR No. 11648

RDR, RMR, CRR, CRC

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<p>12 29:8, 100:9, 104:18, 104:19 120 6:4 1210 1:9, 67:16 125 5:22 13 44:1 1330 6:22 14 1:15, 10:10, 44:1 15 16:13, 42:23, 44:1, 44:7, 44:11, 46:10, 46:11, 46:16, 48:4, 49:1, 49:6, 49:22, 50:5, 55:7, 63:17, 65:1, 65:9, 65:15, 70:14, 71:6, 85:2, 87:19, 90:21, 100:6, 100:10, 100:17, 101:21, 105:19 15222 4:18 16 6:13, 43:20, 44:12, 49:7, 55:8, 90:3, 100:8 1700 4:6 1750 6:4 1st 45:3, 45:10, 45:21, 45:24, 79:15 <hr/>2<hr/>200 7:6</p>	<p>20001 3:9 2015 13:16, 90:2 202 3:10 2020 96:24 2021 1:7, 1:8, 1:9, 1:15, 10:9, 10:10, 13:19, 24:13, 24:20, 24:21, 25:4, 25:11, 28:10, 105:20 203 5:14 206 4:10 2062 9:17, 59:21 2066 59:19, 61:3 2075 63:3 2100 4:6 212 5:24 221 7:20 225 4:17 23 63:18 250 7:17 2533 3:21 27612 7:7 2872 6:15 <hr/>3<hr/>30 6:13</p>	<p>31 95:12 3139 9:16, 38:16 36 63:18, 63:19 38 9:16 3rd 45:24 <hr/>4<hr/>40 1:16, 10:11 405254 1:21 4140 7:6 415 3:20, 3:22 43206 5:15 43215 6:14, 6:23, 7:18 44103 5:7 45 14:23, 14:24, 41:19 4506 5:6 46 41:19, 41:20 466 6:15 48 14:24, 15:1 49 95:24, 95:25 4956 3:9 <hr/>5<hr/>5-2 50:1, 50:16 50 41:20, 60:9,</p>	<p>60:10 519 5:24 52 41:19 5400 3:20 55 41:19 57 96:1, 96:3 59 9:17 591 3:22 <hr/>6<hr/>6000 3:10, 3:22 614 6:15, 7:20 62 9:7 6500 7:20 656 4:10 662 3:10 67 9:8 <hr/>7<hr/>700 7:17 728 6:15 7509 7:18 7592 6:15 7866 5:24 <hr/>8<hr/>8(c 87:7, 87:12 850 3:8</p>
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83:2, 84:4,

85:1, 88:7,

89:16

To: Rowe, Mike[Mike.Rowe@ohiosenate.gov];
 Heather.Blessing@ohiohouse.gov[Heather.Blessing@ohiohouse.gov];
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 'asbilchak@ohioauditor.gov'[asbilchak@ohioauditor.gov];
 Sheila.Boehner@ohiohouse.gov[Sheila.Boehner@ohiohouse.gov]
From: Madrid, Merle
Sent: Thur 9/9/2021 9:36:52 PM
Subject: RE: [EXTERNAL] Re: Next steps

Thanks Mike. SOS staff will be there.

From: Rowe, Mike <Mike.Rowe@ohiosenate.gov>
Sent: Thursday, September 9, 2021 17:35
To: Madrid, Merle <mmadrid@OhioSOS.Gov>; Heather.Blessing@ohiohouse.gov;
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 <Matthew.Donahue@governor.ohio.gov>; 'asbilchak@ohioauditor.gov' <asbilchak@ohioauditor.gov>;
 Sheila.Boehner@ohiohouse.gov
Subject: [EXTERNAL] Re: Next steps

****Secretary of State Security Notice****

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Merle,

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

I look forward to your responses.

Mike Rowe

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

From: "Madrid, Merle" <mmadrid@OhioSOS.Gov>

Date: Thursday, September 9, 2021 at 3:31 PM

To: "Heather.Blessing@ohiohouse.gov" <Heather.Blessing@ohiohouse.gov>, "Christine.Morrison@ohiohouse.gov" <Christine.Morrison@ohiohouse.gov>, "Paul.Disantis@ohiohouse.gov" <Paul.Disantis@ohiohouse.gov>, "Will.Hinman@ohiohouse.gov" <Will.Hinman@ohiohouse.gov>, "Dauren.Mason@ohiohouse.gov" <Dauren.Mason@ohiohouse.gov>, "Samantha.Herd@ohiohouse.gov" <Samantha.Herd@ohiohouse.gov>, "Andy.DiPalma@ohiohouse.gov" <Andy.DiPalma@ohiohouse.gov>, "Mindy.Spain@ohiohouse.gov" <Mindy.Spain@ohiohouse.gov>, "Oliveti, Chris" <coliveti@OhioSOS.Gov>, "Oliveti, Chris" <coliveti@OhioSOS.Gov>, "Grodhaus, Michael" <mgrodhaus@OhioSOS.Gov>, "Sarah.Cherry@ohiohouse.gov" <Sarah.Cherry@ohiohouse.gov>, "Rowe, Mike" <Mike.Rowe@ohiosenate.gov>, "Stockman, Scott" <Scott.Stockman@ohiosenate.gov>, "Boas, George" <George.Boas@ohiosenate.gov>, "Rothey, Kristin" <Kristin.Rothey@ohiosenate.gov>, "Routt, Randall" <Randall.Routt@ohiosenate.gov>, "Cambieri, Giulia" <Giulia.Cambieri@ohiosenate.gov>, "Osterback, Kate" <Kate.Osterback@ohiosenate.gov>, "Golski, Mallory" <Mallory.Golski@ohiosenate.gov>, "Barron, John" <John.Barron@ohiosenate.gov>, "Strigari, Frank" <Frank.Strigari@ohiosenate.gov>, "Matthew.Donahue@governor.ohio.gov" <Matthew.Donahue@governor.ohio.gov>, "asbilchak@ohioauditor.gov" <asbilchak@ohioauditor.gov>, "Sheila.Boehner@ohiohouse.gov" <Sheila.Boehner@ohiohouse.gov>

Subject: Next steps

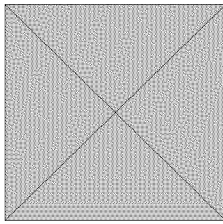
Now that the commission has accepted a map, and ahead of the hearings beginning Sunday afternoon, Secretary LaRose and our staff are available and desirous to meet, either in person, by phone, or virtually, to understand where there is an opportunity to build consensus among the commission members.

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

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

Thanks all!

-Merle



Merle Madrid | Chief of Staff
Office of the Ohio Secretary of State
O: 614.728.9132
OhioSoS.gov

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

******Secretary of State Security Notice******

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ANNOUNCEMENT OF COMMISSION MEETING – THURSDAY, SEPT. 9, 2021 @ 10AM

TO:: Members of the Ohio Redistricting Commission

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

DATE: Thursday, September 9, 2021

TIME: 10:00 AM

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

AGENDA

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

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

TO:: Members of the Ohio Redistricting Commission

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

DATE: Thursday, September 9, 2021

TIME: 2:00 PM

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

AGENDA

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

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

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

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13:20



Bob Cupp >

Sun, Sep 12, 16:01

Are you near the hearing site?



Text Message



Exhibit #

LaRose 2

10/11/21 - JB

exhibitsticker.com

DEPO_00145

GOV_002062



To: Emilia Sykes



Mon, Sep 13, 22:30

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

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

Delivered

Thank you.

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

We've got this.



iMessage



To: Mike DeWine



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

Wed, Jun 30, 19:33

Great

Wed, Sep 8, 12:33

Give me a call when you have a chance please

Delivered



iMessage



Wed, Sep 8, 14:50

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

Perfect. Will be pulling into the garage momentarily.

Wed, Sep 8, 17:31

Ask: what time do the Sykes leave tomorrow?

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

Wed, Sep 8, 21:09

[REDACTED]

Thu, Sep 9, 09:56

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

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

Yep

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

[REDACTED]



Thu, Sep 9, 14:17

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

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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

[Redacted]

[Redacted]

[Redacted]

Fri, Sep 10, 08:37

[Redacted]

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

Fri, Sep 10, 15:59

[Redacted]

Mon, Sep 13, 14:23

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



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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

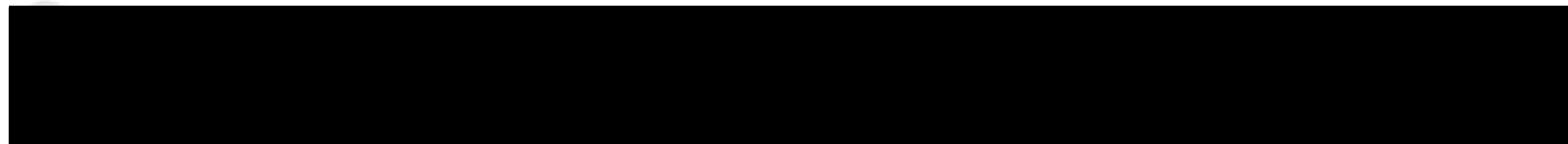
To: Merle Madrid



Mon, Sep 13, 20:20



Mon, Sep 13, 21:49



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



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

The same teams link from earlier will connect



Mon, Sep 13, 23:50

we just cut the mapping team loose.

Faber and I get home around 1

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

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

DEPO_00152

GOV_002069

To: Merle Madrid



Tue, Sep 14, 08:27

Did you copy all of this?

1 Reply

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

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

Did you copy all of this?

Yes, I copied all of this.

Tue, Sep 14, 11:55



Feel free to use campaign funds to buy food for mappers

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

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

Copy

DEPO_00153

GOV_002070

To: Merle Madrid



Tue, Sep 14, 13:04

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

"Oh absolutely"



Andy Chow
twitter.com

^ Thanks for working on this.

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

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

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

Tue, Sep 14, 20:45

They are moving farther away on Franklin County

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



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

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

Tue, Sep 14, 23:41

To: Merle Madrid



Wed, Sep 15, 08:42


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

Two parallel but separate conversations for this morning:

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



Wed, Sep 15, 17:33

17:30   

← Thread



ACLU of Ohio
@acluohio

We urge the Ohio Redistricting Commission to reject the highly partisan, highly gerrymandered map that is currently being considered. We demand fairness, nothing more, nothing less.

-  @FrankLaRose: 614-466-2655
-  @KeithFaber: 614-466-4514
-  @SpeakerCupp: 614-466-9624



FairDistrictsOhio and 9 others

Tweet your reply



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

Dave and Dana have been talking to folks all day.

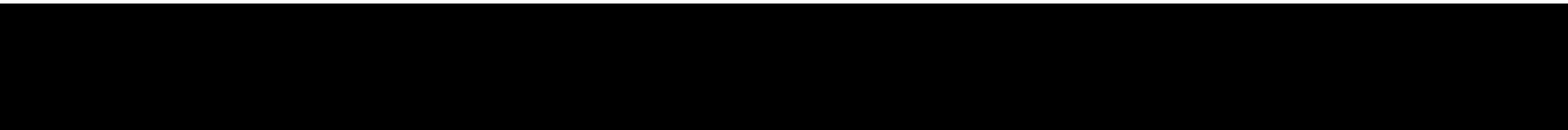
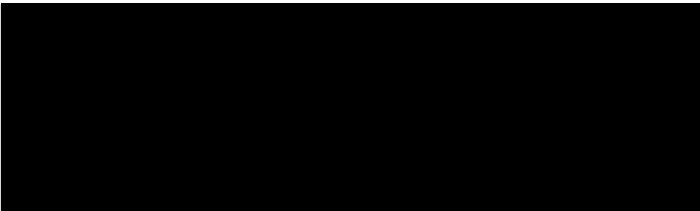


Wed, Sep 15, 22:34

Find a way out.

It's going to the courts anyway.

Wed, Sep 15, 23:36



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



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

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



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

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

This rationale is asinine

I should vote no

It will be cited in the court against the GOP

Probably not worth it

That was my intention

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

None the less it's asinine.

Second asinine thing I'm voting for tonight



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Transcript of Governor Mike DeWine

Date: October 18, 2021

Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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SUPREME COURT OF OHIO

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

VIDEOTAPED DEPOSITION OF GOVERNOR MIKE DEWINE

October 18, 2021

6:34 a.m.

Conducted Virtually

REPORTED BY:

Tammy Moon, CSR No. 13184, RMR, CRR

Transcript of Governor Mike DeWine
Conducted on October 18, 2021

2

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

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Transcript of Governor Mike DeWine
Conducted on October 18, 2021

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Transcript of Governor Mike DeWine
Conducted on October 18, 2021

5

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Transcript of Governor Mike DeWine
Conducted on October 18, 2021

6

1 ALSO PRESENT:

2 DANIEL MURRY, Deputy Legal Counsel, Office of
3 the Governor

4 SLOAN SPALDING, Chief of Staff, Ohio Auditor of
5 State

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

8 MICHAEL GRODHAUS, Chief Counsel, Ohio Secretary
9 of State's office

06:36:16

06:36:21

10 RACHEL HERMAN, Governor's office

06:36:52

11 GABRIEL MARTIN, VIDEOGRAPHER

12 MICHAEL PIETANZA, THE REMOTE TECHNICIAN

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GOVERNOR MIKE DEWINE

Monday, October 18, 2021

Tammy Moon CSR No. 13184, RPR, CRR

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Transcript of Governor Mike DeWine
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1 Monday, October 18, 2021, 6:34 a.m.

2 THE VIDEOGRAPHER: Here begins Disk Number 1 in 06:33:24
3 the remote video deposition of Governor Mike DeWine 06:33:27
4 in the matter of consolidated cases 2021-1198, League 06:33:30
5 of Women Voters, et al., vs. Ohio Redistricting 06:33:38
6 Commission, et al.; 2021-1193, League of Women Voters 06:33:42
7 of Ohio, et al., vs. Ohio Redistricting Commission, 06:33:49
8 et al.; 2021-1210, Ohio Organization Collaborative, 06:33:54
9 et al., vs. Ohio Registration Commission, et al., in 06:34:01
10 the Ohio Supreme Court. 06:34:07

11 Today's date is October 18, 2021, and the time 06:34:09
12 on the video monitor is 6:34 Pacific Standard Time. 06:34:12

13 The remote videographer today is Gabriel Martin 06:34:18
14 representing Planet Depos. All the parties of this 06:34:21
15 video deposition are attending remotely. 06:34:25

16 Will the counsel please voice identify 06:34:27
17 themselves and state whom they represent. 06:34:30

18 MS. COONTZ: Bridget Coontz on behalf of 06:34:35
19 Ohio attorney -- governor -- excuse me. 06:34:38

20 Bridget Coontz on behalf of Ohio Governor Mike 06:34:39
21 DeWine. I'm with the Ohio Attorney General's Office. 06:34:42

22 MR. FUNARI: Brad Funari on behalf of the Ohio 06:34:46
23 Organizing Collaborative Relators with Reed Smith. 06:34:51

24 MR. RUDENSKY: Yuriy Rudensky, Brennan Center 06:34:57
25 for Justice, on behalf of Ohio Organizing 06:35:01

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

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

Transcript of Governor Mike DeWine
Conducted on October 18, 2021

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

Transcript of Governor Mike DeWine
Conducted on October 18, 2021

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

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

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

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

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

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

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

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

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

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22

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

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

1 So I'd like you to just listen to my question
2 and do your best to answer the question that I ask so
3 we can move through this.

4 MS. COONTZ: Objection. I believe the witness
5 is.

6 MR. FUNARI:

7 Q. Okay. What were your discussions with the
8 lieutenant governor specifically?

9 A. I --

10 Q. Other than the delay in the receipt of census
11 data?

12 A. I had discussions with the lieutenant governor
13 probably every day about things.

14 Q. Specific to the work of the redistricting
15 commission.

16 A. What time period?

17 Q. At any time.

18 A. I had discussions with the lieutenant governor
19 early on about the -- he was in -- he and I were in
20 meetings where we had a discussion about the failure
21 of the census bureau to get data to us.

22 Later on, when we were -- when I was trying to
23 see if we could get an agreement that the republican
24 legislative leaders, democrat legislative leaders
25 would agree to, I had discussions with him in regard

1 to that.

06:57:27

2 So as we got closer, you know, to the 15th of
3 September, we had, you know, discussions about, is
4 there a way we can put together -- can we get an
5 agreement between the republican legislative leaders
6 and the democrat legislative leaders.

06:57:28

06:57:37

06:57:39

06:57:43

06:57:46

7 So he and I would have had discussions -- he
8 and I did have discussions about that at different
9 points in the days leading up to the 15th.

06:57:49

06:57:52

06:57:55

10 Q. Did you have any discussions with him or anyone
11 else about whether your office would be proposing a
12 map?

06:57:59

06:58:02

06:58:07

13 A. We made a decision to -- my goal all along was
14 to try to get a ten-year map, to get a bipartisan
15 map, to get an agreement between the republican
16 leaders and the democrat leaders.

06:58:07

06:58:20

06:58:27

06:58:30

17 I felt that that would give the public
18 confidence that this was a fair map, and both
19 democrats and republicans agreed to it.

06:58:32

06:58:37

06:58:47

20 I also felt it was better to be able to go ten
21 years instead of having to go back and do this
22 process again in four years. So that was my -- you
23 know, what my goal was.

06:58:50

06:58:53

06:58:57

06:59:00

24 Democrats presented a map. Republicans
25 presented a map. I felt that it was possible to take

06:59:02

06:59:06

1 those two maps as beginning, but then end up with an 06:59:13
2 agreement between the parties. 06:59:18

3 That did not -- as you know, did not happen. 06:59:21
4 And I'm sorry that it did not happen. 06:59:25

5 Q. All right. Let me go back -- 06:59:27

6 (Simultaneous colloquy.) 06:59:29

7 A. So -- let me finish. 06:59:29

8 So we decided not to present our own map. And 06:59:31
9 I think the best way to try to get an agreement was 06:59:39
10 to let the parties start, see where they were, and 06:59:42
11 then try to see if we could put a compromise 06:59:46
12 together. 06:59:51

13 Q. So as I understand your answer, you were 06:59:52
14 delegating the map drawing to the legislative members 06:59:56
15 of the commission, both republican and -- 07:00:01

16 MS. COONTZ: Objection. Mischaracterizes the 07:00:04
17 testimony. 07:00:07

18 THE WITNESS: That's not what I said. 07:00:07

19 MR. FUNARI: Let me get a little further. 07:00:09

20 (Simultaneous colloquy.) 07:00:11

21 MS. COONTZ: I -- 07:00:11

22 THE WITNESS: Excuse me. 07:00:12

23 I never used the word "delegate." What I told 07:00:13
24 you was that I believed that the best way -- the best 07:00:16
25 shot that we had at getting a ten-year map and 07:00:20

1 getting a nonpartisan map was to let the democrats 07:00:24
2 come forward with a proposal and the republicans come 07:00:31
3 forward with a proposal and then see where everybody 07:00:35
4 was and then be a person that could try and pull this 07:00:39
5 together. 07:00:45

6 I felt all along that we had a decent shot of 07:00:45
7 being able to do that. It was not until the night of 07:00:50
8 the 15th that it became apparent to me that we could 07:00:53
9 not -- that that was simply not going to happen. 07:00:58

10 The statement I made on the night of the 15th 07:01:02
11 expresses, I think, exactly what -- you know, what I 07:01:05
12 felt that night. 07:01:11

13 MR. FUNARI: 07:01:13

14 Q. My question was -- let me ask it very directly. 07:01:14

15 Is it correct that your office never drafted or 07:01:18
16 proposed a map to the Ohio Redistricting Commission 07:01:24
17 for consideration? 07:01:28

18 A. We did not propose a formal map to the Ohio 07:01:29
19 Redistricting Commission, that is correct. 07:01:35

20 MR. FUNARI: Can we pull up the Constitution of 07:01:37
21 the State of Ohio, please, specifically Article XI. 07:01:39

22 While you're doing that, I'm going to -- well, 07:01:49
23 before you do that, if you could -- 07:01:50

24 MS. COONTZ: Is this an exhibit? 07:01:52

25 MR. FUNARI: You can queue that up. 07:01:54

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

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

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

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

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

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

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

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

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

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

1 us. We had all of those things going. We did end up
2 having, as you know, many -- many public hearings
3 that took place. So that was part of --

4 MR. FUNARI:

5 Q. SO let's talk about those public hearings.

6 How many public hearings does the constitution
7 of Ohio require with respect to the proposed plan?

8 (Reporter admonition.)

9 A. I don't know, but we had numerous public
10 hearing.

11 Q. So you don't know -- when was the last time you
12 read Article XI of the Ohio constitution?

13 A. I don't know, Counsel.

14 Q. Isn't it correct that there were no public
15 hearings to elicit public input prior to August --
16 the week of August 25th?

17 A. That sounds about right.

18 Q. And you attended one of those public hearings,
19 correct?

20 A. Every -- every public hearing --

21 Q. Your Honor --

22 A. -- if I did not attend, my legal counsel
23 attended and --

24 MR. FUNARI: I'm going to move to strike. It's
25 non-responsive. Non-responsive. I'm moving to

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

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

Transcript of Governor Mike DeWine
Conducted on October 18, 2021

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

1 Exhibit 1.

07:21:24

2 (Exhibit 1 was marked for identification.)

3 MR. FUNARI: Could you scroll down, please, and
4 let the governor read the email from the bottom up.

07:21:26

07:21:27

5 Can you see that okay, Governor?

07:21:30

6 THE WITNESS: Counsel, they're pulling it up.
7 I don't quite have it yet. Let me see.

07:21:34

07:21:36

8 MR. FUNARI: Okay. Let us know when you're
9 ready.

07:21:39

07:21:40

10 Scroll down a little more, please. There we
11 go.

07:21:44

07:21:46

12 THE WITNESS: Okay.

07:21:47

13 MR. FUNARI:

07:21:50

14 Q. Okay. Email threads start at the bottom, so
15 that's where I'm going to start with this exhibit.
16 And this was produced by your office. Bates Number
17 534 and 535.

07:21:50

07:21:52

07:21:55

07:21:59

18 At the bottom, there is an email from yourself
19 to Mr. Donahue and LeeAnne Cornyn. No subject, but
20 you appear to be asking the question, "What is story
21 on letter we received saying we should start on
22 redistricting?"

07:22:01

07:22:04

07:22:13

07:22:16

07:22:19

23 Do you see that?

07:22:19

24 A. Yes, sir.

07:22:21

25 Q. Did that email come from you? Did you draft

07:22:21

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

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

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

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

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

1 Q. Second paragraph, he says, "I think the answer
2 should be that in the light of the Census delay, we
3 are evaluating the timing of when to call that
4 meeting."

5 Do you see that?

6 A. Yes.

7 Q. So is it fair to say that even earlier in March
8 of 2021, your office, including yourself, were
9 deliberating and talking about when to convene the
10 commission?

11 MS. COONTZ: I'm going to object. It
12 mischaracterizes the exhibit and the witness's
13 testimony. He's not on this email, so --

14 MR. FUNARI: I didn't ask about this. I didn't
15 ask anything about the email. I'm asking if it's
16 correct -- let me ask it again, and then you can see
17 if it's objectionable.

18 Q. This email is offered as a point of reference,
19 Governor. March 9, 2012. Senior members of your
20 staff are instructing other members of your staff to
21 answer inquiries, in this case from the press, that
22 "in light of the Census delay, we are evaluating the
23 timing of when to call the meeting," is what is
24 written.

25 My question is, is it correct that your office

Transcript of Governor Mike DeWine
Conducted on October 18, 2021

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

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

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

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

1 held the meeting."

07:37:04

2 My question to you is, did you direct Mr. Hall
3 and members of your staff not to disclose information
4 with respect to the convening of the meeting?

07:37:06

07:37:09

07:37:15

5 A. I have no recollection of telling them that.

07:37:19

6 Q. Okay. Did you know that Mr. Hall was telling
7 members of your staff to convey to members of the
8 public not to answer that question?

07:37:24

07:37:26

07:37:31

9 MS. COONTZ: Objection. The witness is not on
10 this email. If you want to talk to -- he can't
11 answer --

07:37:32

07:37:36

07:37:37

12 MR. FUNARI: Let's take --

07:37:38

13 (Simultaneous colloquy.)

07:37:39

14 MS. COONTZ: Let me get my objection on the
15 record.

07:37:39

07:37:41

16 Mr. -- the governor is not on this email. He
17 cannot speculate as to what Mr. Hall was directing
18 people to do.

07:37:42

07:37:45

07:37:48

19 THE WITNESS: Counsel --

07:37:49

20 MR. FUNARI: That wasn't my question.

07:37:50

21 Let's take the exhibit down.

07:37:51

22 You have to wait for a question, Governor.

07:37:53

23 Let's take this down. Let's close his laptop
24 so it's not in front of him.

07:37:57

07:37:59

25 Q. My question was, quite simply, did you know

07:38:00

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

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

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

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

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

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

1 was ultimately adopted as the plan?

07:47:08

2 A. Well, I believe -- I believe it was Ray, who
3 testified, and he is the person who did the
4 mechanical work on the republican proposed by --

07:47:10

07:47:20

07:47:26

5 Q. Ray DiRossi?

07:47:34

6 A. Ray DiRossi, as you know, testified.

07:47:40

7 Q. He hasn't testified yet.

07:47:43

8 A. Well, he -- I'm sorry. He testified in front
9 of the commission at the time when that map was
10 presented to the commission.

07:47:44

07:47:46

07:47:50

11 Q. Did Mr. -- so who did -- strike that.

07:47:53

12 Who employed Mr. DiRossi in connection with his
13 drafting of the map that the republican legislative
14 members of the commission proposed to the commission?

07:47:57

07:48:02

07:48:07

15 A. My understanding would be, Counsel, that he
16 reported to the -- to republican legislative members
17 and that -- that -- they came up with a proposal,
18 just as the democrats came up with a map.

07:48:10

07:48:15

07:48:23

07:48:27

19 And again, my goal was to take those two, that
20 actually weren't very far apart, and see if we could
21 reach an agreement. And that was what I was trying
22 to do.

07:48:31

07:48:36

07:48:39

07:48:42

23 Q. I think that's how we started our conversation
24 this morning. We have two maps, one proposed by the
25 republicans, one proposed by the democratic

07:48:43

07:48:45

07:48:50

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

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

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

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

1 But I'm asking you if -- what your current
2 belief is -- what your belief is, whether or not the
3 enacted redistricting plan that you voted to enact
4 complies with Article I, Section 2 of the Ohio
5 constitution?

6 MS. COONTZ: Objection. Relevance.

7 THE WITNESS: I'm reading it, Counsel.

8 MR. FUNARI:

9 Q. Okay.

10 A. What I'm reading says, "All political power is
11 inherent in the people." Is that what you're
12 referencing?

13 Q. Yes. Keep reading.

14 A. "Government is instituted for their equal
15 protection and benefit, and they have the right to
16 alter, reform, or abolish the same, whenever they may
17 deem it necessary; and no special privileges or
18 immunities shall ever be granted, that may not be
19 altered, revoked, or repealed by the General
20 Assembly."

21 Q. Do you believe that the enacted redistricting
22 plan complies with Article I, Section 2 of the Ohio
23 constitution?

24 A. Counsel, this is something that's going to have
25 to be decided by the Ohio Supreme Court.

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

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

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

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

1 criteria that had to be met. And it's fairly
2 prescriptive.

3 And so, you know, you have to be able to check
4 those boxes, you know, not -- not, unless it's
5 necessary, you know, dividing up political
6 subdivisions, for example, not dividing up counties.

7 I'm not doing a very good job of describing
8 what was in there. But those, you know, criteria
9 that were really laid out that you have to check the
10 box. And so I think -- you know, I felt that the
11 republican plan checked those boxes, and that's why I
12 was able to vote for it. But that would be -- you'd
13 have to be able to check those boxes.

14 But in addition to that, you know, what I
15 wanted to see was what I didn't see, and that is both
16 sides getting together and being able to reach an
17 agreement. The fact is that they were not that far
18 apart.

19 Q. I appreciate that, Governor.

20 Those were criteria -- when you said those
21 criterias identified, you're referring to the
22 criteria in Article XI of the constitution?

23 A. Correct.

24 Q. Did -- in fact, this part of your process in
25 approving the republican-drawn map, did you give any

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

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

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

1 right to assemble together, understands the people's
2 right to express their viewpoint.

3 Anybody who has gone through -- any governor
4 who has gone through the pandemic certainly
5 understands that. I've had picketers at my house.
6 I've had people express their points of view every
7 day. They have every right to do that. I've always
8 defended that, and I've always defended the right of
9 people to assemble together and to petition their
10 government. So this is just ingrained in who we are.

11 Q. I appreciate that general belief. I hope that
12 was --

13 A. It's pretty specific, Counsel. It's not just a
14 general belief. It's a specific thing that we live
15 by every day.

16 Q. Okay. So is it something that you deliberately
17 considered as you were voting on the map?

18 A. Counsel, it did not flash into my mind, you
19 know, that specific section of the constitution. But
20 it is with me every single day. I live with it. I
21 respect it. So it certainly is always there in
22 anything I do.

23 Q. Last question on this article, Section 6.

24 A. Okay. Hold on, Counsel. We'll pull it up
25 here.

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

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

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

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

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

1 staying on the record.

08:22:10

2 THE WITNESS: Counsel, do you want to just ask
3 me again. Maybe I can speed this up for you. Ask me
4 the question again. I'm sorry.

08:22:11

08:22:13

08:22:16

5 MR. KLEIN: Sure thing.

08:22:18

6 Q. So did the content of the -- rather, let me
7 rephrase.

08:22:18

08:22:22

8 Did the 8(C)(2) statement issued by the
9 commission play a role in your decision to vote yes
10 on the enacted plan?

08:22:24

08:22:26

08:22:30

11 A. Well, the answer is no. We'd already voted at
12 the point, as you know.

08:22:34

08:22:38

13 Q. Right. Well, so --

08:22:39

14 A. It was passed after the vote --

08:22:40

15 Q. Right.

08:22:44

16 A. -- to fulfill an obligation to do that.

08:22:46

17 Q. Okay. So then you had testified earlier you
18 weren't sure when you first saw the Section 8(C)(2)
19 statement, correct?

08:22:48

08:22:56

08:22:59

20 A. Counsel, I heard the arguments before, at least
21 the essential arguments before. What I don't recall
22 is if I've seen this document before that night.

08:23:00

08:23:04

08:23:06

23 Q. Okay. And did that rationale play any role in
24 your decision to vote in favor of the enacted plan,
25 the rationale?

08:23:10

08:23:14

08:23:19

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

1 I think that is certainly part of making that
2 correct determination of what is the statewide
3 preferences of people in the state of Ohio. I think
4 that's correct.

5 What I would not agree with is the reference to
6 81 percent. I don't think that could have -- that
7 81 percent is a -- any kind of mark that would
8 indicate statewide preferences.

9 MR. KLEIN:

10 Q. Okay. So --

11 A. I think looking at the elections in general and
12 seeing how they came out, that is a very legitimate
13 part of making that determination as spelled out in
14 the constitution. Looking at who won statewide
15 elections is relevant. What I wouldn't agree with is
16 using an 81 percent as being at one end of a range.

17 Q. Right. So is it fair to say, then, that you
18 did not agree fully with -- sorry. Strike that.

19 Is it fair to say that you did not agree with
20 this rationale as a whole used to explain the plan's
21 compliance with Article XI, Section 6?

22 A. Did not wholly agree with the rationale in this
23 document. I voted for it because I felt it was the
24 rationale that had been put forward by republican
25 legislative leaders. And I agreed with most of it.

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

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

1 Q. Okay. Governor, you testified earlier that the 08:30:08
2 commission members didn't sit in front of a computer 08:30:14
3 and do the mechanical work of drawing the map. 08:30:16

4 Setting aside the mechanical aspects of the 08:30:20
5 drawing a map, did you provide any input on the map 08:30:22
6 that was enacted? 08:30:25

7 A. Well, we had discussions all the way through. 08:30:27
8 Again, you know, part of the discussions involved the 08:30:35
9 use of a -- what's called, I think, Dave's 08:30:41
10 Redistricting. And so the numbers -- it's the 08:30:48
11 different maps that were proposed. 08:30:54

12 Running those maps through this Dave's 08:31:00
13 Redistricting came up with some numbers. And the 08:31:05
14 numbers, at one point, you had a republican map that 08:31:09
15 supposedly, according to this Dave's, would have 08:31:15
16 resulted in 62 republicans in the house. 08:31:21

17 The democrats at one point had a map -- and I 08:31:26
18 don't recall whether it was the first or the second 08:31:33
19 map -- that had republicans at 57. 08:31:35

20 So when I looked at that, I felt that that was 08:31:39
21 an area that we could seek -- seek an agreement. 08:31:44
22 There were only five. I said earlier in my 08:31:47
23 testimony. I thought they were a lot closer than 08:31:50
24 each side thought. There were only five apart. And 08:31:53
25 it just seemed to me that get -- split the 08:31:57

1 difference, come in there and come up with an
2 agreement.

3 So my discussions with the democrats and with
4 the republicans going back and forth, you know, we
5 never got down to a number that both parties could
6 agree on where each side was. And so it always
7 seemed to me that we would come up with an agreement.

8 And again, you know, that was based -- my
9 desire to do that was based upon my conviction that a
10 bipartisan agreement, and the bipartisan agreement
11 would give us a ten-year map.

12 There's a lot of advantages of a ten-year map,
13 but the most important one -- you know, one, we don't
14 have to go back and do it for a year.

15 Q. Governor --

16 A. Most importantly, you get the public's
17 perception that this is right.

18 Q. Okay. If you don't mind, I'd like to go back
19 to my original question --

20 A. Sure.

21 Q. -- which is, did you provide any -- did you
22 provide any input into the map that was --

23 A. I would -- look, I would have given feedback
24 to -- there was discussions, I'm sure. There was
25 discussions with -- once the republican map was out,

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

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

1 deadline. I didn't want to do that, but I thought if
2 we went into that next day, that the pressure would
3 really be on, and that when you're that close, we
4 would have been able to reach an agreement.

5 So that was what my hope was. But that
6 night -- I don't know exactly what time it was, but
7 it became -- it was 9:00 or 10:00 o'clock, I suspect,
8 that it became clear in those discussions that I had
9 that simply not happening, and we could push this
10 off, you know, for days, and it would not make a
11 difference.

12 Time --

13 Q. Beyond your suggestion that you continue
14 conversations into the next day, what specifically
15 did you do to try to make compromise happen?

16 A. Well, I'd been going back and forth for some
17 time between the parties and having discussions. I
18 had discussion with Leader Sykes. I had discussions
19 with Senator Sykes, discussion in Senator Sykes'
20 office.

21 You know, the night itself, as I discussed, at
22 the podium, not -- excuse me -- but at the table, and
23 talked with Leader Sykes and talked with
24 Senator Sykes together --

25 (Simultaneous colloquy.)

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

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1 partisanship, then it would be partisanship. It was 08:38:14
2 understood what the breakout, you know, might be, 08:38:19
3 even though -- 08:38:23

4 (Reporter clarification.) 08:38:33

5 (Reporter admonition.) 08:38:35

6 THE WITNESS: It matters who, how much money, 08:38:35
7 all those things. So those are caveats to this 08:38:37
8 Dave's numbers. 08:38:41

9 MS. BRADY: 08:38:45

10 Q. Okay. And so if you weren't talking about the 08:38:46
11 expected partisan outcomes of the maps with specific 08:38:48
12 reference to these numbers, what specifically -- 08:38:51

13 (Simultaneous colloquy.) 08:38:53

14 A. No. I'm sorry. We were talking about the 08:38:55
15 numbers. 08:38:56

16 Q. Okay. 08:38:58

17 A. At least I was. I mean, I was referencing the 08:38:58
18 fact, hey, you guys are not that far apart. One is 08:39:01
19 at 62. One is at 57. That is not very far apart. 08:39:06
20 We ought to be able to strike a deal. 08:39:10

21 Q. Okay. I think -- Governor, returning to my 08:39:12
22 question from earlier about whether or not you 08:39:28
23 considered the requirements of Article XI, Section 6, 08:39:32
24 what was your conclusion when you considered the 08:39:38
25 article -- the requirements of Article XI, Section 6 08:39:40

1 with regard to the map that was ultimately enacted?

08:39:43

2 A. Well, the article speaks for itself. It tells
3 us what we are doing.

08:39:49

08:39:53

4 My feeling was expressed -- I expressed that
5 night, what we should have been trying to do is to
6 get a ten-year map. And to get a ten-year map,
7 you've got to get both sides to agree, and that gives
8 the public a lot more confidence.

08:39:58

08:40:01

08:40:06

08:40:10

08:40:13

9 So that was the goal in there. And I felt that
10 for this to be -- it had a better chance of being
11 held constitutional if we reached an agreement than
12 if we did not reach an agreement.

08:40:17

08:40:19

08:40:23

08:40:26

13 Q. And that night, you referred to -- let me
14 see -- you said that you were sure that the
15 commission could have reached an outcome that was
16 much more clearly constitutional.

08:40:27

08:40:33

08:40:35

08:40:37

17 Can you explain what you meant by that?

08:40:39

18 A. Yes. I think if we would have split the
19 difference -- if we'd had an agreement on numbers --
20 and again, understanding that there's no guarantee in
21 politics. It depends who the candidate is, how much
22 money is raised, what the political climate is, how
23 these are going to turn out.

08:40:42

08:40:46

08:40:49

08:40:54

08:40:57

08:41:00

24 But if we were agreed that one map was at 62
25 and the other map was at 57 as far as republicans,

08:41:01

08:41:07

1 that was not very far apart. And so my goal was to 08:41:11
2 bring that compromise. So that's where I'm at. 08:41:17
3 Isn't there a place where we can come together. 08:41:20
4 Isn't there some place where you can accept it. 08:41:23

5 And that was always the discussion. You guys 08:41:26
6 are not -- at least from my point of view, you guys 08:41:29
7 are not very far apart. We ought to be able to reach 08:41:31
8 an agreement. We want to reach an agreement. 08:41:34

9 So you start looking at where would someone 08:41:36
10 move. And that was the nature of the -- you know, 08:41:39
11 where would you be willing to move to was always the 08:41:42
12 question in any kind of negotiations. 08:41:47

13 Q. And did they -- was there any indication that 08:41:50
14 the republican legislative leaders were willing to 08:41:55
15 move? 08:41:57

16 A. Well, I'm talking about it -- look, I always 08:41:58
17 thought that, yes. I had -- from both sides, I 08:42:02
18 thought there was a chance to get an agreement, up 08:42:06
19 until the last hour, the last moment when in my last 08:42:09
20 meetings with both sides, it became clear to me this 08:42:15
21 is not going to happen. And it doesn't matter how 08:42:22
22 long we go. You know, it's just not going to happen, 08:42:25
23 unfortunately. 08:42:29

24 But up until then, yes. I think from what 08:42:29
25 side -- at least the feedback that I was getting -- 08:42:33

1 or my perception, at least, was that there was a 08:42:36
2 chance that we could get an agreement up until that 08:42:40
3 time. 08:42:44

4 Now, we never -- to be clear, we never got into 08:42:45
5 any specific numbers, you know, where we put it down 08:42:48
6 where one side said, I'll do this, or I could go back 08:42:52
7 and forth between the parties. You know, we never 08:42:55
8 got that far. 08:42:58

9 But there was at least enough encouragement 08:42:59
10 that we could keep negotiating until we hit a wall 08:43:06
11 that night, and it was clear to me that we could not 08:43:10
12 do that. 08:43:13

13 Q. And was there a specific -- specific moment 08:43:14
14 that you're referring to or thinking of when you say 08:43:16
15 that "we hit a wall that night"? 08:43:20

16 A. Sure. Sure. I mean, I can -- you know, just 08:43:21
17 in the discussions with the -- the two democrat 08:43:25
18 leaders were right together. Leader Sykes, 08:43:28
19 Senator Sykes, they were together. I was leaning 08:43:32
20 over and talking with them. And it was clear that, 08:43:34
21 you know, they didn't see -- they were not willing to 08:43:38
22 move forward. 08:43:42

23 I had the same thing from the republicans. It 08:43:43
24 was just clear at that moment that they were both 08:43:47
25 just where they were, and we were not going to be 08:43:49

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

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

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

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Conducted on October 18, 2021

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

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1 Mike DeWine.

08:48:25

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3 (TIME NOTED: 8:48 a.m.)

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DECLARATION UNDER PENALTY OF PERJURY

I, GOVERNOR MIKE DEWINE, do hereby certify
under penalty of perjury that I have read the
foregoing transcript of my deposition taken on
October 18, 2021; that I have made such corrections
as appear noted on the Deposition Errata Page,
attached hereto, signed by me; that my testimony as
contained herein, as corrected, is true and accurate.

Dated this day of 2021 at

,

GOVERNOR MIKE DEWINE

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1 UNITED STATES DISTRICT COURT)
2 THE CENTRAL DISTRICT OF NORTHERN CALIFORNIA)

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

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

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

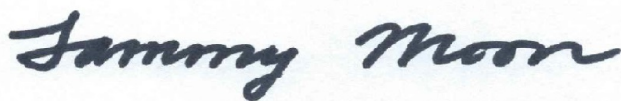
13 That a review of the transcript by the deponent
14 (x was/was not) requested;

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

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

20 In witness whereof, I have hereunto subscribed
21 my name.

22 Dated: 19th of October, 2021

23 
24

25 Tammy Moon, CSR No. 13184

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From: "Hall, Michael" <Michael.Hall@governor.ohio.gov>

To: "Eck, Joshua" <Josh.Eck@governor.ohio.gov>, "Henson, Clayton" <Clayton.Henson@development.ohio.gov>

Cc: "Cornyn, LeeAnne" <Leeanne.Cornyn@governor.ohio.gov>

Subject: FW:

Date: Tue, 06 Apr 2021 21:16:27 -0000

Importance: Normal



FYI

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

-----Original Message-----

From: Cornyn, LeeAnne <Leeanne.Cornyn@governor.ohio.gov>

Sent: Tuesday, April 6, 2021 7:43 AM

To: Mike Dewine <Mike@silverdollarbaseball.com>; Donahue, Matthew <Matthew.Donahue@governor.ohio.gov>

Cc: Hall, Michael <Michael.Hall@governor.ohio.gov>

Subject: RE:

Governor,

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

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

Their recommendations include:

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

Let me know if you have any questions.

Best,

LeeAnne

-----Original Message-----

From: Mike Dewine <Mike@silverdollarbaseball.com>

Sent: Tuesday, April 6, 2021 6:30 AM

To: Donahue, Matthew <Matthew.Donahue@governor.ohio.gov>; Cornyn, LeeAnne <Leeanne.Cornyn@governor.ohio.gov>

Subject:

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

Sent from my iPad

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

From: "Hall, Michael" <Michael.Hall@governor.ohio.gov>

To: "Tierney, Daniel" <Dan.Tierney@governor.ohio.gov>, "Donahue, Matthew" <Matthew.Donahue@governor.ohio.gov>, "Dawson, Laurel" <Laurel.Dawson@governor.ohio.gov>, "McCarthy, Daniel" <Dan.McCarthy@governor.ohio.gov>, "Eck, Joshua" <Josh.Eck@governor.ohio.gov>

Subject: RE: From NPR's census reporter (Thursday, 3/11 deadline)

Date: Tue, 09 Mar 2021 17:40:47 -0000

Importance: Normal

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

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

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

Michael Hall

Director of Policy

Ohio Governor Mike DeWine

michael.hall@governor.ohio.gov

w: (614) 629-8201

m: (937) 510-7017

From: Tierney, Daniel <Dan.Tierney@governor.ohio.gov>

Sent: Tuesday, March 9, 2021 11:28 AM

To: Donahue, Matthew <Matthew.Donahue@governor.ohio.gov>; Dawson, Laurel <Laurel.Dawson@governor.ohio.gov>; Hall, Michael <Michael.Hall@governor.ohio.gov>; McCarthy, Daniel <Dan.McCarthy@governor.ohio.gov>; Eck, Joshua <Josh.Eck@governor.ohio.gov>

Subject: FW: From NPR's census reporter (Thursday, 3/11 deadline)

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

Dan Tierney

Press Secretary

Office of Ohio Governor Mike DeWine

Office number: 614-466-6242

Mobile number: 614-653-6676

Dan.Tierney@governor.ohio.gov

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

Hi, Dan,

NPR's census reporter Hansi Lo Wang here.

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

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

1. When does Governor DeWine currently plan on convening the first meeting of the Ohio redistricting commission?
2. Was Governor DeWine aware of the Census Bureau's April 13, 2020 announcement that it planned to deliver redistricting data by July 31? (Here's the link: <https://2020census.gov/en/news-events/press-releases/statement-covid-19-2020.html?linkId=100000011751624>)

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

Thank you,

Hansi

Hansi Lo Wang (he/him)
National Correspondent
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CAUTION: This is an external email and may not be safe. If the email looks suspicious, please do not click links or open attachments and forward the email to csc@ohio.gov or click the Phish Alert Button if available.

FRANK LAROSE
Ohio Secretary of State



Constitution of the State of Ohio

Exhibit #

Gov. Mike Dewine 03

10/15/21 - MP

exhibitsticker.com

DEPO_00296



REPEALED. County and township treasuries.

§5

(1851, rep. 1933)

REPEALED. What officers may be removed.

§6

(1851, rep. 1933)

REPEALED. Local taxation.

§7

(1851, rep. 1933)

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

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

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

Article XI: Apportionment

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

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

(1) The governor;

(2) The auditor of state;

(3) The secretary of state;

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

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

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

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

(i) Adopt rules of the commission;

(ii) Hire staff for the commission;

(iii) Expend funds.

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

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

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

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

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

The commission shall adopt a final general assembly district plan not later than the first day of September of a

year ending in the numeral one. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

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

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

(1967, am. 2015)

Ratio of representation in house and senate.

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

(1967, am. 2015)

Population of each House of Representatives district.

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

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

of division (B) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Notwithstanding division (C)(2) of this section, the commission shall create the district by splitting, once, a single county that contains a population

of not less than ninety-five per cent of the ratio of representation, but not more than one hundred five per cent of the ratio of representation.

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

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

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

(1967, am. 2015)

Population of each Senate district.

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

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

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

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

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

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

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

(1967, am. 2015)

Representation for each house and senate district.

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

(1967, am. 2015)

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

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

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

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

(C) General assembly districts shall be compact.

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

(1967, am. 2015)

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

§6a

(1956, rep. 1967)

Boundary lines of House of Representatives districts.

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

(1967, am. 2015)

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

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

commission.

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

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

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

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

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

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

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

(D) After a general assembly district plan adopted under division (C)(1)(a)

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

(1967, am. 2015)

When population of county is fraction of ratio of representation.

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

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

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

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

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

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

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

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

(b) If the court finds that it is necessary to amend not fewer than six house of representatives districts to correct violations of those requirements, to amend not fewer than two senate districts to correct violations of those requirements, or both, the court shall

declare the plan invalid and shall order the commission to adopt a new general assembly district plan in accordance with this article.

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

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

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

(1967, am. 2015)

Severability provision.

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

(1967, am. 2015)

REPEALED. Senate districts.

§11

(1967, rep. 2015)

REPEALED. Change of district boundaries of senate districts.

§12

(1967, rep. 2015)

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

§13

(1967, rep. 2015)

REPEALED. District boundaries until january 1, 1973.

§14

(1967, rep. 2015)

REPEALED. Severability provision.

§15

(1967, rep. 2015)

Article XII: Finance and Taxation

Poll taxes prohibited.

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

(1851, am. 1912)

Limitation on tax rate; exemption.

§2 No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a

majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of permanently and totally disabled residents, residents sixty-five years of age and older, and residents sixty years of age or older who are surviving spouses of deceased residents who were sixty-five years of age or older or permanently and totally disabled and receiving a reduction in the value of their homestead at the time of death, provided the surviving spouse continues to reside in a qualifying homestead, and providing for income and other qualifications to obtain such reduction. Without limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law.

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



CONSTITUTION OF THE **STATE OF OHIO**



DEPO_00306

Exhibit #

Gov. Mike Dewine 04

10/15/21 - MP

exhibitsticker.com

Preamble

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

Article I: Bill of Rights

Inalienable rights.

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

(1851)

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

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

(1851)

Right to assemble.

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

(1851)

Bearing arms; standing armies; military power.

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

(1851)

Trial by jury.

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

(1851, am. 1912)

Slavery and involuntary servitude.

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

(1851)

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

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

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

(1851)

Writ of habeas corpus.

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

(1851)

Bail.

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

The General Assembly shall fix by law

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

(1851, am. 1997)

Trial for crimes; witness.

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

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

(1851, am. 1912)

Rights of victims of crimes.

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

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

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

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

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

(5) upon request, to reasonable notice

of any release or escape of the accused;

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

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

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

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

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

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

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

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

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

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

(1994, am. 2017)

Freedom of speech; of the press; of libels.

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

(1851)

Transportation, etc. for crime.

§12 No person shall be transported out of the state, for any offense committed within the same; and no conviction shall

work corruption of blood, or forfeiture of estate.

(1851)

Quartering troops.

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

(1851)

Search warrants and general warrants.

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

(1851)

No imprisonment for debt.

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

(1851)

Redress for injury; Due process.

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

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

may be provided by law.
(1851, am. 1912)

No hereditary privileges.

§17 No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.
(1851)

Suspension of laws.

§18 No power of suspending laws shall ever be exercised, except by the General Assembly.
(1851)

Eminent domain.

§19 Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.
(1851)

Damages for wrongful death.

§19a The amount of damages recoverable by civil action in the courts for death caused by the wrongful act, neglect, or default of another, shall not be limited by law.
(1912)

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

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

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

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

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

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

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

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

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

(2008)

Powers reserved to the people.

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

(1851)

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

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

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

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

(D) This section does not affect laws or rules in effect as of March 19, 2010; affect which services a health care provider or hospital is required to perform or provide; affect terms and

conditions of government employment; or affect any laws calculated to deter fraud or punish wrongdoing in the health care industry.

(E) As used in this Section,

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

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

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

(2011)

Article II: Legislative

In whom power vested.

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

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



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

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

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

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

CERTIFICATE OF SERVICE

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

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

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