

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA

THE LEAGUE OF WOMEN VOTERS  
OF FLORIDA, COMMON CAUSE; JOAN  
ERWIN; ROLAND SANCHEZ-MEDINA,  
JR.; J. STEELE OLMSTEAD; CHARLES  
PETERS; OLIVER D. FINNIGAN;  
SERENA CATHERINA BALDACCHINO;  
and DUDLEY BATES,

Plaintiffs,

vs.

CASE NO. 2012-CA-2842

KENNETH W. DETZNER, in his official  
capacity as Florida Secretary of  
State; THE FLORIDA SENATE; ANDY  
GARDINER, in his official capacity as  
President of the Florida State  
SENATE; THE FLORIDA HOUSE OF  
REPRESENTATIVES; and STEVE CRISAFULLI,  
in his official capacity as Speaker  
of the Florida House of Representatives,  
and PAM BONDI, in her official capacity  
as Attorney General of the State of  
Florida,

Defendants.

\_\_\_\_\_ /

Volume 2, Pages 80 - 209

THE DEPOSITION OF: JOHN GUTHRIE  
AT THE INSTANCE OF: The Plaintiffs  
DATE: July 29, 2015  
TIME: Recommened at 1:33 p.m.  
Adjourned at 5:18 p.m.  
PLACE: Law Offices  
301 South Bronough Street  
Tallahassee, Florida  
REPORTED BY: SARAH B. GILROY, RPR, CRR  
sbrinkhoff@comcast.net  
Notary Public  
State of Florida

1 APPEARANCES:

2 REPRESENTING THE PLAINTIFFS:

3 DAVID B. KING, ESQUIRE  
4 dking@kbzwlaw.com  
5 THOMAS A. ZEHNDER, ESQUIRE  
6 tzehnder@kbzwlaw.com  
7 VINCENT FALCONI, III, ESQUIRE - *Telephonic*  
8 vfalcone@kbzwlaw.com  
9 King, Blackwell, Zehnder & Wermuth  
10 25 East Pine Street  
11 Orlando, Florida 32081

12 REPRESENTING FLORIDA SENATE:  
13 RAOUL G. CANTEROS, III, ESQUIRE  
14 rcantero@whitecase.com  
15 JASON N. ZAKIA, ESQUIRE  
16 jzakia@whitecase.com  
17 White & Case, LLP  
18 Southeast Financial Center  
19 200 South Biscayne Boulevard, Suite 4900  
20 Miami, Florida 33131

21 REPRESENTING THE HOUSE OF REPRESENTATIVES:  
22 GEORGE N. MEROS, JR., ESQUIRE  
23 george.meros@gray-robinson.com  
24 GrayRobinson  
25 301 South Bronough Street, Suite 600  
Tallahassee, Florida

I N D E X

	<u>WITNESS</u>	PAGE NO.
1		
2		
3	JOHN GUTHRIE	
4	Direct Examination (cont'd) by Mr. King	83
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

## 1 DIRECT EXAMINATION (cont'd)

13:33 2 BY MR. KING:

13:34 3 Q All right. Back on the record.

13:34 4 Mr. Guthrie, so in the redistricting cycle in  
13:34 5 2010-2012, as we defined it before, did you have  
13:34 6 any -- did you receive any map information or diagrams  
13:34 7 of -- or drawings of districts from Mr. Bainter, or  
13:34 8 did you provide any map -- draft maps done by the  
13:34 9 Senate?

13:34 10 A I neither received nor provided draft maps  
13:34 11 to -- from or to Mr. Bainter.

13:34 12 Q Do you know Michael Sheehan?

13:34 13 A I do not recall that name.

13:34 14 Q Do you know Matt Mitchell?

13:34 15 A Not --

13:34 16 Q In Gainesville?

13:34 17 A With you saying Gainesville, I -- I recall  
13:34 18 that there were some maps, public submissions that  
13:34 19 came in from several citizens in Gainesville --

13:35 20 Q Well, I -- I'm going to represent to you that  
13:35 21 both Mr. Sheehan and Mr. Mitchell work for  
13:35 22 Mr. Bainter.

13:35 23 A Okay.

13:35 24 Q Did you have any dealings with them about  
13:35 25 redistricting?

13:35 1 A No.

13:35 2 Q All right. Do you know Marc Reichelderfer?

13:35 3 A I do know him.

13:35 4 Q And how long have you known him?

13:35 5 A My best recollection is that I first met  
13:35 6 Mr. Reichelderfer when he came to my office in --  
13:35 7 during -- during the -- boy, I don't remember whether  
13:35 8 it was the 2013 session or the 2014 session when I was  
13:35 9 working on a gaming policy for the Senate. Senator  
13:35 10 Gaetz was the president. Senator Richter was the  
13:35 11 chairman of the committee.

13:35 12 And Mr. Reichelderfer, I believe, is -- is a  
13:35 13 lobbyist for the GREY2K organization, interested in  
13:36 14 compassionate treatment of -- of greyhounds.

13:36 15 And he came to my office then as -- that, I  
13:36 16 believe, was the first time I met him, although I -- I  
13:36 17 know that this was discussed during the congressional  
13:36 18 trial, and the Supreme Court, you know, made a finding  
13:36 19 that I may have met him earlier.

13:36 20 Q So you didn't have any contact with him, you  
13:36 21 don't think, during the redistricting cycle?

13:36 22 A I do not think so.

13:36 23 Q All right. How about Frank Terraferma, do you  
13:36 24 know Mr. Terraferma?

13:36 25 A I do know Frank Terraferma.

13:36 1 Q And how long have you known him?

13:36 2 A I've known him, oh, at least 15 years or so.  
13:36 3 He -- he was involved with the House on redistricting.  
13:36 4 I believe he was House staff in the 2001-2002 time  
13:37 5 frame.

13:37 6 Q Uh-huh. And during this redistricting cycle  
13:37 7 in the Senate maps, did you have any dealings with  
13:37 8 Mr. Terraferma where you supplied him with any  
13:37 9 information or he supplied you with information about  
13:37 10 redistricting?

13:37 11 A No, I did not.

13:37 12 Q Do you know Joel Springer?

13:37 13 A Yes.

13:37 14 Q How do you know him?

13:37 15 A He has been involved with Republican politics  
13:37 16 for -- for some time. He has worked with Senate  
13:37 17 leadership on some of their political work.

13:37 18 Q And did you have any dealings with him during  
13:37 19 the redistricting cycle about the -- the Senate map?

13:37 20 A No.

13:38 21 Q And do you know Andrew Wiggins?

13:38 22 A That name does not ring a bell.

13:38 23 Q Do you know Jim Rimes?

13:38 24 A I do know Jim Rimes.

13:38 25 Q How do you know him?

13:38 1 A He was staff director of the Senate Majority  
13:38 2 Office in 2012, the organizational session of 2012  
13:38 3 through -- or maybe a little bit earlier than that  
13:38 4 through the end of President Gaetz's term.

13:38 5 Q And did you have any dealings with him about  
13:38 6 redistricting?

13:38 7 A I don't recall ever meeting Mr. Rimes before  
13:38 8 he came to work as a Senate employee. We -- so during  
13:38 9 the time frame that you're interested in, I had no  
13:38 10 communications whatsoever with him that I was aware  
13:39 11 of.

13:39 12 Q All right. Now, you indicated before, I  
13:39 13 think, that you attended a meeting in January of 2011  
13:39 14 right here in this room at GrayRobinson with Senator  
13:39 15 Gaetz and Chairman Weatherford, Alex Kelly, and also  
13:39 16 with some political operatives; do you remember that?

13:39 17 MR. CANTERO: Object; I don't think he ever  
13:39 18 has testified to that.

13:39 19 MR. KING: Well, let's -- why don't we let him  
13:39 20 say.

13:39 21 MR. CANTERO: Because you said you testified  
13:39 22 before.

13:39 23 MR. KING: Well, he can tell me whether he did  
13:39 24 or didn't.

13:39 25 A So, I remember --

13:39 1 MR. KING: Now that you've suggested to him  
13:39 2 that he didn't.

13:39 3 A Well, it doesn't matter. I remember being  
13:39 4 asked that question before, and I remember it coming  
13:39 5 up as an issue during the congressional trial. And as  
13:40 6 I stated previously, I don't have any -- I do have  
13:40 7 recollection of walking over here with Senator Gaetz  
13:40 8 prior to -- early on, soon after the election, so soon  
13:40 9 after he became chairman of the Senate redistricting  
13:40 10 committee and Representative Weatherford became  
13:40 11 chairman of the -- of the House committee.

13:40 12 I don't remember ever meeting  
13:40 13 Mr. Reichelderfer prior to when he came to my office  
13:40 14 lobbying on behalf of Greyhound interests. And -- and  
13:40 15 as to other people who -- any of the details of that  
13:40 16 meeting, I really just don't have a recollection.

13:41 17 I can't -- I can't deny it, because I may have  
13:41 18 been here, but I don't know that I was.

13:41 19 BY MR. KING:

13:41 20 Q And if others testified that you were, you  
13:41 21 wouldn't deny it, then?

13:41 22 A I don't have a basis for denying it, other  
13:41 23 than no recollection.

13:41 24 Q And if others testified that Mr. Heffley and  
13:41 25 Mr. Reichelderfer and Mr. Terraferma, and perhaps



13:41 1 Mr. Bainter were present, would you deny that?

13:41 2 A I have no recollection of the meeting.

13:41 3 Q All right. Wouldn't that be an unusual  
13:41 4 meeting for you to be involved in at the start of  
13:41 5 redistricting with a group of political operatives and  
13:41 6 your boss?

13:41 7 A I would not consider that strange. I had -- I  
13:41 8 had visited this conference room previously over the  
13:42 9 years.

13:42 10 Mr. Meros and his firm have been involved as  
13:42 11 counsel to the Legislature on redistricting for 15  
13:42 12 years. So I -- I've been here before.

13:42 13 Q So it wouldn't be unusually strange to have  
13:42 14 the political operatives around when you're having  
13:42 15 those meetings?

13:42 16 A I have -- have read some of the recollections  
13:42 17 about what transpired at -- or what people remember  
13:42 18 transpiring at that meeting. And that sort of  
13:42 19 communication does not strike me as -- as strange.

13:42 20 Q So it doesn't strike you as strange that  
13:42 21 they -- that they would be trying to figure out a way  
13:42 22 to communicate between the staff and the political  
13:43 23 operatives without -- with some sort of a privilege?  
13:43 24 That's not a strange thing to you in that -- in that  
13:43 25 situation?

13:43 1 A That particular spin on what -- what may have  
13:43 2 been going on would change my opinion. I -- I would  
13:43 3 not -- that -- that seems very -- would seem very  
13:43 4 unusual that -- that third parties would be seeking  
13:43 5 any sort of privilege.

13:43 6 Q Did --

13:43 7 A I -- I --

13:43 8 Q -- you express any concerns to Senator Gaetz  
13:43 9 about that meeting?

13:43 10 A Again, I have no specific recollection of that  
13:43 11 meeting. I do have a recollection of -- of being  
13:43 12 aware of -- of this question of whether third parties  
13:44 13 might be entitled to some sort of attorney-client  
13:44 14 privilege, and -- and I did express my opinion that  
13:44 15 that was out of bounds, from my perspective.

13:44 16 Q So when did you express your opinion about  
13:44 17 that?

13:44 18 A At the time that I -- I heard that that notion  
13:44 19 was being discussed.

13:44 20 Q And who did you express that opinion to?

13:44 21 A I -- I would have -- well.

13:44 22 MR. CANTERO: You can answer to the extent  
13:44 23 that it's not communication with a lawyer or with  
13:44 24 your lawyer present.

13:44 25 A Okay. Well, with that caveat, I would have

13:44 1 expressed it to Senator Gaetz.

13:44 2 BY MR. KING:

13:44 3 Q Okay. Was Senator Gaetz suggesting that maybe  
13:44 4 he thought it was a good idea to be able to try to  
13:45 5 have such a privilege so that we could communicate  
13:45 6 with the --

13:45 7 A I --

13:45 8 Q -- political consultants?

13:45 9 A I never had heard him say anything like that.

13:45 10 Q Well, how did it come up, then, that you would  
13:45 11 have to express opinion that you thought it was a bad  
13:45 12 idea?

13:45 13 A I somehow became aware of -- of the -- that  
13:45 14 concept or that -- or that notion, and -- and I spoke  
13:45 15 freely with my chairman about my perspectives on -- on  
13:45 16 all that was going on with respect to redistricting.

13:45 17 Q But was your chairman telling you that he  
13:45 18 wanted to be able to talk to his friend, Mr. Heffley,  
13:45 19 and Mr. Bainter, about the redistricting process?

13:45 20 A On the contrary. Everything I heard my  
13:45 21 chairman say is that he wanted to insulate the Senate,  
13:45 22 and insulate Senate staff and insulate the entire  
13:46 23 process from any sort of improper involvement by  
13:46 24 persons who are -- were pursuing personal or partisan  
13:46 25 interests.

13:46 1 Q So why would you have a meeting with those  
13:46 2 folks, then, at the start of the process, those folks  
13:46 3 that would like to be part of the process like  
13:46 4 Reichelderfer and Heffley and Terraferma?

13:46 5 A You're -- you're -- I think you're kind of  
13:46 6 asking for me to make a conjecture here about why  
13:46 7 there might have been such a meeting?

13:46 8 Q I'm just asking what you know about why there  
13:46 9 was such a meeting, if the idea was we're not supposed  
13:46 10 to have any involvement with these people, why are we  
13:46 11 meeting with them?

13:46 12 MR. CANTERO: Object to the form.

13:47 13 A So -- I -- I'm -- can you state the question  
13:47 14 in a way that doesn't call for me to -- to guess on --  
13:47 15 on -- on what a rationale might be. I mean, I really  
13:47 16 have no idea.

13:47 17 BY MR. KING:

13:47 18 Q I'm not asking you to guess. I'm just saying,  
13:47 19 you said your chairman made it very clear that you  
13:47 20 weren't supposed to be involved with these political  
13:47 21 consultants.

13:47 22 A I was -- that was very clear to me, yes.

13:47 23 Q So why are you coming over here in January at  
13:47 24 the start of the process to have a meeting with them?

13:47 25 A Perhaps in order to communicate that message.

13:47 1 Q So you're going to have a meeting with them in  
13:47 2 secret to tell them that they're not to be part of the  
13:47 3 process; is that right?

13:47 4 MR. CANTERO: Objection; he's already  
13:48 5 testified he doesn't remember being at the meeting,  
13:48 6 so you're --

13:48 7 MR. KING: You don't need to coach him.

13:48 8 MR. CANTERO: -- asking him to tell us about  
13:48 9 things he doesn't know happened.

13:48 10 BY MR. KING:

13:48 11 Q You can go ahead and answer the question, sir.

13:48 12 A Could you repeat the question?

13:48 13 Q Sure.

13:48 14 MR. KING: Could you read it back please,  
13:48 15 Sarah?

13:48 16 (The question beginning on page 92, line 1 was  
13:48 17 read.)

13:48 18 A I did not arrange such a meeting. I don't  
13:48 19 even recall my presence at a meeting where that was  
13:48 20 discussed, and -- and I don't have any further  
13:48 21 opinion.

13:48 22 BY MR. KING:

13:48 23 Q Okay. Did you have any communications with  
13:48 24 any other political consultants that I haven't  
13:48 25 specifically named for you relating to Senate

13:48 1 redistricting?

13:48 2 A I may have received -- I did receive an e-mail  
13:49 3 from persons who were interested in the work of the  
13:49 4 Senate redistricting committee and who had personal or  
13:49 5 partisan interests. And -- and so they sent me  
13:49 6 e-mails, and -- and pursuant to Senator Gaetz's  
13:49 7 direction, I disregarded all of that communication.

13:49 8 Q Do you remember the names of any of these  
13:49 9 consultants?

13:49 10 A No.

13:49 11 Q Did you destroy their e-mails?

13:49 12 A No.

13:49 13 Q They were part of your production in this  
13:49 14 case?

13:49 15 A I think they probably were. They would have  
13:49 16 been -- e-mails from third parties most likely -- like  
13:49 17 that would have -- would have been something that I  
13:49 18 would have retained and would have provided to the  
13:50 19 Senate lawyers.

13:50 20 Q All right. Let's do Exhibit C.

13:50 21 MR. ZEHNDER: That will be 6.

13:50 22 MR. KING: All right.

13:50 23 (Exhibit No. 6 was identified for the record.)

13:50 24 BY MR. KING:

13:50 25 Q I show you, sir, Exhibit 6. I've shown him

13:50 1 the same thing. He's got his own copy.

13:50 2 And that's a composite exhibit, sir, because  
13:50 3 it is a -- it's the contents of a zip file. And on  
13:50 4 the cover of that zip file it says MCARVIN1. And then  
13:51 5 it -- turn to the second page, that shows you a  
13:51 6 picture of what's in the file.

13:51 7 A Okay.

13:51 8 Q Do you see that?

13:51 9 A I see that.

13:51 10 Q And it refers to a draft map, S01; do you see  
13:51 11 that?

13:51 12 A I see that.

13:51 13 Q Now my question to you, sir, is, is this your  
13:52 14 work product?

13:52 15 MR. CANTERO: When you say "this" --

13:52 16 MR. KING: This -- Exhibit 6.

13:52 17 MR. CANTERO: The whole thing? The whole  
13:52 18 thing?

13:52 19 MR. KING: The zip file.

13:52 20 BY MR. KING:

13:52 21 Q Is the zip file materials that you produced?

13:52 22 MR. CANTERO: Take your time to look through  
13:52 23 it.

13:52 24 MR. KING: May I inquire?

13:52 25 BY MR. KING:

13:52 1 Q Well, it's probably not the best way to  
13:52 2 proceed.

13:52 3 A Okay.

13:52 4 Q Let me direct your attention to a couple of  
13:52 5 things.

13:52 6 A Okay.

13:52 7 Q One is you will see throughout this document,  
13:52 8 as you look at individual documents, you will see a  
13:52 9 statement up in the left corner, "Exempt from public  
13:52 10 disclosure as provided in Section 110 -- 11.0431(2)(e)  
13:53 11 Florida Stat 2011."

13:53 12 When you --

13:53 13 MR. CANTERO: Where are we looking?

13:53 14 BY MR. KING:

13:53 15 Q You notice that in the corner of mostly these  
13:53 16 data sheets that are in here.

13:53 17 A All right. Let me get to that.

13:53 18 Q It's up in the left corner, left-hand corner,  
13:53 19 at least four times they're in there. That's, of  
13:53 20 course, what you stamp on your work product sometimes;  
13:53 21 isn't it?

13:53 22 A I have not found what you're referring to yet.

13:53 23 Q You will see it on a document entitled "Draft  
13:53 24 S01 District and County Statistics," which is --

13:54 25 A Okay.



13:54 1 Q -- under the map.

13:54 2 Do you see that?

13:54 3 A Yeah. That's the first place that I see it.

13:54 4 Q And you also see on the right-hand side a  
13:54 5 date, 10-20-2011, 9:38 p.m.; do you see that?

13:54 6 A I do.

13:54 7 Q Okay.

13:54 8 A Looks like there may be multiple copies of the  
13:54 9 same material.

13:54 10 Q Well, evidently whoever compiled the zip file  
13:54 11 and put the stuff in there may have put some stuff in  
13:54 12 there more than once.

13:54 13 A Okay.

13:55 14 Q I will just represent to you, sir, that this  
13:55 15 is a printout of the entire zip file. And the second  
13:55 16 page of Exhibit 6, of course, has the index of what's  
13:55 17 in that zip file; right?

13:55 18 A I hear what you're saying.

13:55 19 Q Okay.

13:55 20 A I --

13:55 21 MR. CANTERO: Can I show him this? Talking  
13:55 22 about that.

13:55 23 THE WITNESS: Yeah. I see that. So I was  
13:55 24 aware from reading the Chen and Rodden report,  
13:55 25 which I did, that there was a plan that the

13:55 1 plaintiff counsel provided to the plaintiff's  
13:56 2 experts called MCVIN.

13:56 3 And I -- and I took --

13:56 4 MR. CANTERO: There is no question pending.

13:56 5 THE WITNESS: Okay. All right.

13:56 6 BY MR. KING:

13:56 7 Q And you took what? You say you were aware of  
13:56 8 the plan, and then you took what?

13:56 9 A So I took a look at the DOJ file that was  
13:56 10 supplied by Mr. -- or Dr. Chen and Dr. Rodden through  
13:56 11 their disclosure. I forget whose -- whose package it  
13:56 12 was in.

13:56 13 Q And what did you find?

13:56 14 A I found a -- a map that looked like -- looked  
13:56 15 to me like it likely was my work product.

13:56 16 MR. KING: Let's mark -- just to simplify  
13:57 17 things, we have marked one document out of Exhibit  
13:57 18 6, which is a copy of the plan, draft S01, as  
13:57 19 Exhibit 7. And I show that to you, sir.

13:57 20 (Exhibit No. 7 was identified for the record.)

13:57 21 A Okay.

13:57 22 BY MR. KING:

13:57 23 Q Is that what you looked at and concluded that  
13:57 24 that was your work product?

13:57 25 A I -- based on looking at that, based on the

13:57 1 associate -- the naming convention that is used here,  
13:57 2 the draft, underscore, S01, based on the MCARVIN  
13:57 3 moniker, I came to believe that it likely was my work  
13:57 4 product.

13:57 5 Q So --

13:57 6 A That the map that comes from producing a map  
13:58 7 from the DOJ file was -- was that, was my work  
13:58 8 product.

13:58 9 Q So Exhibit 7, titled "draft, dash, S01" was  
13:58 10 the work product of the Senate redistricting staff  
13:58 11 back prior to October 20, 2011; correct?

13:58 12 A Or on October 20. There is -- I believe,  
13:58 13 based on what you are showing me here, that to be the  
13:58 14 case.

13:58 15 Q And would it also be true that all the rest of  
13:58 16 the contents of that zip file came from the Senate  
13:58 17 redistricting office?

13:58 18 A That's what I believe.

13:58 19 Q Now, do you recall creating a zip file on  
13:59 20 October 20, 2011, and providing it to someone?

13:59 21 A What is the -- I'm wondering, because I  
13:59 22 haven't looked at this -- I'm wondering what the total  
13:59 23 size of the zip file is. It looks like it's about 6  
13:59 24 megabytes. So it is -- I may have been -- I may have  
13:59 25 created that zip file, or I may have created the

13:59 1 contents that somebody else compressed into a zip  
13:59 2 archive.

13:59 3 It could have been either way.

13:59 4 Q It says 6,648 KB.

13:59 5 A Right.

13:59 6 Q So you -- do you recall why you assembled  
13:59 7 these documents to be put into a zip file, sir?

14:00 8 A This looks like materials that I would have  
14:00 9 supplied to counsel.

14:00 10 Q So you think this -- you supplied this to  
14:00 11 counsel at that time?

14:00 12 A That's my belief, yes.

14:00 13 Q And do you recall why you would have provided  
14:00 14 that zip file to counsel?

14:00 15 A I would provide, as I testified earlier, a --  
14:00 16 to counsel a -- information about our work in  
14:00 17 progress. This was likely early work in progress.  
14:00 18 And I was -- I would have provided it to counsel at  
14:01 19 his request or maybe on my own motion so that counsel  
14:01 20 would be apprised of how we were proposing to  
14:01 21 implement the guidelines specified in the state  
14:01 22 constitution.

14:01 23 Q So this would have been your most current map  
14:01 24 reflecting the direction that the Senate redistricting  
14:01 25 staff was going as of October 20, 2011; is that right?

14:01 1 A That would be my best guess, yes.

14:01 2 Q All right. And so evidently the counsel that  
14:01 3 this was supplied to was Michael Carvin; is right?

14:01 4 A Michael Carvin was counsel for the Florida  
14:01 5 Senate.

14:01 6 Q All right. And the fact that his name is on  
14:02 7 the zip file, does that suggest to you that he  
14:02 8 received the zip file from you?

14:02 9 A That name could have been put there by anybody  
14:02 10 who had possession of the file. So I -- I doubt that  
14:02 11 that would have been the name that I would have  
14:02 12 applied to that particular zip file.

14:02 13 I, from time to time, would send Mr. Carvin  
14:02 14 data on a compact disk or a DVD -- I think it was  
14:02 15 mostly compact disk -- by express mail or FedEx.

14:02 16 And so it may be that I sent him optical  
14:02 17 media, and he and somebody else created a zip file.  
14:02 18 That's possible.

14:02 19 It's possible, although my recollection is I  
14:03 20 did less of it, that I might have sent a zip file  
14:03 21 by -- by e-mail. But I don't -- I don't recall doing  
14:03 22 that in this case, if ever.

14:03 23 So I may -- what I may have done is sent -- I  
14:03 24 would rather -- yeah. Well, beyond that, it's all  
14:03 25 conjecture.

14:03 1 Q Now, the Senate did not produce Exhibit 6 or 7  
14:03 2 in this litigation; have they, sir?

14:03 3 A I -- to the best of my knowledge, they did  
14:03 4 not, yes.

14:03 5 Q Is that because the Senate had destroyed this  
14:03 6 document, these two documents, Exhibit 6 and 7?

14:03 7 A I -- well those -- these documents I never --  
14:04 8 as -- as -- as they are here, I never possessed. I --  
14:04 9 I had hundreds of thousands of documents during this  
14:04 10 process. And things that there was no reason, in my  
14:04 11 mind, for me to retain, work product that I had no  
14:04 12 official responsibility to retain and saw no value in  
14:04 13 retaining, I did not retain.

14:04 14 Q Well, you retained a record of draft maps,  
14:04 15 over 50, that show the progress and evolution of the  
14:04 16 ultimate redistricting maps; isn't that correct?

14:04 17 A I produced for discovery to my attorneys  
14:04 18 everything that I could find that was responsive to  
14:05 19 your request for draft maps.

14:05 20 Q And certainly Exhibit 6 and 7 would have been  
14:05 21 responsive to our request if you still possessed them;  
14:05 22 right?

14:05 23 A If I possessed them, I would have produced  
14:05 24 them.

14:05 25 Q And you know -- do you know where we got

14:05 1 these?

14:05 2 A Not exactly, no. Well, the answer is, no, I  
14:05 3 don't know where you got those.

14:05 4 Q All right. Let me show you Exhibit D and B.

14:05 5 MR. ZEHNDER: D first?

14:05 6 MR. KING: D first. Actually, let me see B  
14:06 7 first.

14:59 8 (Exhibit No. 8 was identified for the record.)

14:06 9 BY MR. KING:

14:06 10 Q I show you, sir, Exhibit 8, which you don't  
14:06 11 have any connection with this document, but it was a  
14:06 12 document that was produced by Frank Terraferma. And  
14:06 13 it -- if you go down to the bottom, you see where it  
14:06 14 says an e-mail from Rich Heffley to Mike Sheehan at  
14:07 15 Data Targeting. You know that to be Mr. Bainter's  
14:07 16 company; right?

14:07 17 A I know that Data Targeting is associated with  
14:07 18 Mr. Bainter, yes.

14:07 19 Q All right. And you see Mr. Heffley says --

14:07 20 A Where are we on the page?

14:07 21 Q At the very bottom of the page.

14:07 22 A First page. Okay.

14:07 23 Q The first page. See where Mr. Heffley says,  
14:07 24 "Draft S01 is the plan. Thanks."

14:07 25 Do you see that?

14:07 1 A I see that.

14:07 2 Q Now, S01 is obviously referring to Exhibit 7;  
14:07 3 right --

14:07 4 A I don't --

14:07 5 Q -- which is draft S01; right, that you  
14:07 6 produced; correct? Well, you -- not you produced; you  
14:07 7 didn't produce it -- that you drew and was your work  
14:07 8 product; right?

14:07 9 A I don't know what -- what the author of this  
14:07 10 e-mail is referring to. But that seems like a  
14:07 11 reasonable conjecture for somebody to make.

14:08 12 Q And this is on October the 28th. Do you see  
14:08 13 that?

14:08 14 A I do see that.

14:08 15 Q So on October 20, evidently a draft map S01 is  
14:08 16 provided in a zip file to Mr. Carvin. By eight days  
14:08 17 later Mr. Heffley is saying S01 is the plan; right?

14:08 18 A I -- I see the exhibit you've placed in front  
14:08 19 of me.

14:08 20 Q And then Mr. Sheehan sends back resulting  
14:08 21 Maptitude files, unzip and open in Maptitude. And  
14:08 22 then Mr. Heffley sends it to Mr. Terraferma. And then  
14:08 23 Mr. Terraferma, on the same day, sends it to Mike  
14:08 24 Wild, the redistrict -- in redistricting at the  
14:08 25 Republican party headquarters in Washington, D.C.



14:09 1 A Is that on a different page?

14:09 2 Q It's all on that one page. You see all the  
14:09 3 various e-mails --

14:09 4 A Oh, Mike -- Mike Wild up at the top. Okay.

14:09 5 Q Yeah.

14:09 6 MR. CANTERO: Object to the form of the  
14:09 7 question.

14:09 8 BY MR. KING:

14:09 9 Q So --

14:09 10 MR. CANTERO: Mischaracterizes the exhibit.

14:09 11 THE WITNESS: Right. I -- I don't -- I don't  
14:09 12 know who Mike Wild is.

14:09 13 BY MR. KING:

14:09 14 Q Right. And I don't expect you to. But you do  
14:09 15 know all these other political operatives, because  
14:09 16 they were the same fellows that were at the meeting  
14:09 17 with you back in January of 2011; right?

14:09 18 MR. CANTERO: Object to the form;  
14:09 19 mischaracterizes the testimony.

14:09 20 BY MR. KING:

14:09 21 Q You know who Heffley is; right?

14:09 22 A I know Mr. Heffley.

14:09 23 Q You know who Terraferma is?

14:09 24 A I know Mr. Terraferma.

14:09 25 Q All right. And you know who Mr. Bainter is?

14:09 1 A I know Mr. Bainter.

14:09 2 Q And so your work product, eight days after you  
14:09 3 have sent it to Mr. Carvin, is in the hands of all  
14:09 4 these political operatives; right? According to what  
14:10 5 this reflects; right?

14:10 6 A I -- I can -- I can see why you would say  
14:10 7 that. I -- I don't know that. I -- other than by  
14:10 8 virtue of -- of this exhibit.

14:10 9 Q And --

14:10 10 MR. KING: Let's do D, Tom. Let's make it an  
14:10 11 exhibit.

14:10 12 (Exhibit No. 9 was identified for the record.)

14:10 13 BY MR. KING:

14:10 14 Q Next I show you, sir, Exhibit 9, which is --  
14:10 15 now this is what we got from Data Targeting. This is  
14:10 16 a document produced from Mr. Bainter's operation. And  
14:10 17 you see the first page there, the draft S01 is the  
14:11 18 plan; do you see that?

14:11 19 A Am I court approved to look at this?

14:11 20 Q You are, amazingly. These are not  
14:11 21 confidential documents.

14:11 22 A Okay.

14:11 23 Q This is part of the nonconfidential part of  
14:11 24 it.

14:11 25 A Okay.

14:11 1 Q Okay. So do you see where it says, "Draft S01  
14:11 2 is the plan. Thanks"?

14:11 3 A That looks like the same message that we saw  
14:11 4 before.

14:11 5 Q Right. And do you see right under it, though,  
14:11 6 this is a little different, you see right under it, it  
14:11 7 says MCARVIN1zip6.7MG?

14:11 8 A Okay.

14:11 9 Q So there --

14:11 10 A I do see that.

14:11 11 Q -- is your zip file; right?

14:11 12 MR. CANTERO: Objection.

14:11 13 A I do not know, as I testified earlier, that I  
14:11 14 was the one who created that zip archive.

14:12 15 BY MR. KING:

14:12 16 Q Okay. You or somebody working for you; right?

14:12 17 A No. It could have been done down -- I could  
14:12 18 have sent data out on a CD as individual files, and  
14:12 19 somebody may have compressed those into a zip archive.

14:12 20 Q Okay. A distinction without a difference;  
14:12 21 right?

14:12 22 A I don't know that. I'm not -- I'm one of  
14:12 23 these data wonk guys, and -- and so --

14:12 24 Q But you told me that it would be very normal  
14:12 25 for you to send it in zip file; right?

14:12 1 A My -- I don't think that's my testimony  
14:12 2 either. I -- I said that I recall on several  
14:12 3 occasions sending maps, statistics, and -- and CDs to  
14:12 4 Mr. Carvin.

14:12 5 Q All right. So -- so the question is, then,  
14:12 6 whether you sent it by CD or whether you sent it by  
14:12 7 zip file, it is the work of your redistricting office;  
14:13 8 correct?

14:13 9 A My testimony was and is that the -- the  
14:13 10 products that you showed me that were contained in  
14:13 11 that zip file likely -- most likely were -- were  
14:13 12 documents that I created.

14:13 13 Q And S01 is a draft map that you created, or  
14:13 14 somebody working for you created, around October 20,  
14:13 15 2011; right?

14:13 16 A I believe that is correct.

14:13 17 Q And those things, eight days later, were in  
14:13 18 the hands of the political operatives; right?

14:13 19 A I have seen, for the first time, this  
14:13 20 evidence, you know, today. And I'll -- I'll -- you  
14:13 21 know, you can draw your conclusions. I'll -- I have  
14:13 22 no basis for disagreement.

14:14 23 Q Well, we wouldn't have it if they hadn't  
14:14 24 produced it; right?

14:14 25 A Okay.

14:14 1 MR. CANTERO: Object to the form.

14:14 2 BY MR. KING:

14:14 3 Q The Senate has totally lost possession of  
14:14 4 those documents; right?

14:14 5 A I did not retain those documents.

14:14 6 Q And you didn't retain any method of  
14:14 7 transmission to show that you sent them where you sent  
14:14 8 them; right?

14:14 9 A I did not.

14:14 10 Q And isn't that convenient when it ends up in  
14:14 11 the hands of the political operatives?

14:14 12 MR. CANTERO: Object to the form.

14:14 13 Argumentative.

14:14 14 BY MR. KING:

14:14 15 Q How do we know you didn't send it straight to  
14:14 16 the -- Mr. Heffley?

14:14 17 MR. CANTERO: Object to the form.

14:14 18 A My testimony was and is that I never sent any  
14:14 19 draft maps to Mr. Heffley.

14:14 20 BY MR. KING:

14:14 21 Q Well, did Mr. Carvin tell you he was going to  
14:15 22 deliver it to Mr. Heffley?

14:15 23 MR. CANTERO: Don't answer that. It's  
14:15 24 attorney-client communication.

14:15 25 MR. KING: Well, it wouldn't -- I don't think

14:15 1 that would be helping him do legal advice. It  
14:15 2 would be how to participate in a conspiracy or a  
14:15 3 scheme to violate the constitution if that's what  
14:15 4 Mr. Carvin told him. I don't think that would be  
14:15 5 an attorney-client privileged statement. Would it  
14:15 6 really?

14:15 7 MR. CANTERO: I'm asking -- just telling him  
14:15 8 not to answer the question. I'm not saying what  
14:15 9 the answer would be.

14:15 10 MR. KING: Well --

14:15 11 MR. CANTERO: His conversations with Mike  
14:15 12 Carvin are attorney-client privileged.

14:15 13 MR. KING: So even if they're discussing a  
14:15 14 scheme to violate the constitution? Is your  
14:15 15 Attorney-client privilege --

14:15 16 MR. MEROS: Are you guys arguing back and  
14:15 17 forth, or are you asking him a question?

14:15 18 MR. KING: We are a little bit. We are a  
14:15 19 little bit, George.

14:15 20 MR. MEROS: Let's ask questions so we can all  
14:15 21 get out of here at a reasonable time.

14:16 22 MR. KING: I don't -- you're going to get out  
14:16 23 at the same time regardless of whether we talk or  
14:16 24 not here.

14:16 25 BY MR. KING:

14:16 1 Q So was it your understanding that your lawyer  
14:16 2 was going to be a conduit to provide information to  
14:16 3 the political operatives?

14:16 4 MR. CANTERO: Objection; don't answer.

14:16 5 MR. KING: Well, that's not asking for any  
14:16 6 communications with the lawyer.

14:16 7 BY MR. KING:

14:16 8 Q Did -- did -- did you have any reason to  
14:16 9 believe that Mr. Carvin was going to provide your work  
14:16 10 product to the political operatives?

14:16 11 MR. CANTERO: If your understanding is outside  
14:16 12 of any attorney-client communication, you can  
14:16 13 answer.

14:16 14 A I had no knowledge whatsoever of Mr. Carvin  
14:16 15 using what I sent him for any purpose other than  
14:17 16 advising the Florida Senate.

14:17 17 BY MR. KING:

14:17 18 Q Well, isn't it somewhat of an amazing  
14:17 19 coincidence that what you sent to Mr. Carvin, which  
14:17 20 ended up in the hands of the political operatives,  
14:17 21 just happens to be the one draft map that we have  
14:17 22 discovered that you don't have in your possession?

14:17 23 MR. CANTERO: Object to the form;  
14:17 24 argumentative.

14:17 25 A Please restate the question.

14:17 1 BY MR. KING:

14:17 2 Q Isn't it a remarkable coincidence that the --  
14:17 3 the single map that we have discovered that ended up  
14:17 4 in the hands of the political operatives just happens  
14:17 5 to be the one that's been deleted from your  
14:17 6 possession?

14:17 7 MR. CANTERO: Same objection.

14:17 8 A My personal practice was not to retain the  
14:17 9 hundreds of thousands of iterations of -- of draft  
14:18 10 plans that I went through in trying to craft or model  
14:18 11 districts, pursuant to Senator Gaetz's direction, that  
14:18 12 complied with the state constitution.

14:18 13 BY MR. KING:

14:18 14 Q Well, you actually started out on this S --  
14:18 15 this S01 -- this is a naming convention; isn't it?

14:18 16 A That is.

14:18 17 Q And so --

14:18 18 A Or -- or a draft S01, I would say.

14:18 19 Q Draft S01, right. And in your draft maps we  
14:18 20 found draft S09; right? We talked about that this  
14:18 21 morning.

14:18 22 A That is correct.

14:18 23 Q And draft S09 was the one you created on  
14:18 24 November the 21st and last updated on November 23rd,  
14:19 25 as you were doing that flurry of meeting with the



14:19 1 senators; right?

14:19 2 A That's -- that's what we believe, yes.

14:19 3 Q Now, up until we discovered this S01, there  
14:19 4 were no copies of S01, S02, S03, S04, S05, S06, S07,  
14:19 5 S08 in your records of draft maps; right?

14:19 6 A That is right.

14:19 7 Q Can you tell me whether, in fact, there were  
14:19 8 draft maps with designations between S02 and S08?

14:19 9 A I -- well, I don't know about S08 or S07 or  
14:19 10 any -- any number in particular. I do recall that the  
14:19 11 naming convention that I used for personal work  
14:20 12 product that I was working on myself under my  
14:20 13 DistrictBuilder account was to call things draft  
14:20 14 and -- and then an underscore, and -- and then either  
14:20 15 C or S and -- and a number.

14:20 16 Q So this would suggest, then, that you likely  
14:20 17 yourself did S01 and S09; is that right?

14:20 18 A I believe that to be the case, yes.

14:20 19 Q Okay. Now, did you also do the naming  
14:20 20 convention Senate 5, Senate 6, Senate 7, Senate 8,  
14:20 21 Senate 9?

14:20 22 A I may have had plans in my locker that had  
14:20 23 names like that, but -- and one thing for all of us to  
14:21 24 understand here is that the redistricting staff was  
14:21 25 working collaboratively as a unit. And I would share

14:21 1 exports from the DistrictBuilder program; I would  
14:21 2 share them with staff routinely. Multiple times each  
14:21 3 week we would -- would share data with one another as  
14:21 4 we had ideas that we thought were worthy of sharing.

14:21 5 So I may have had files with those names in --  
14:21 6 in my locker. But -- but you don't know -- we don't  
14:21 7 know from the name alone whether it was in -- in my  
14:21 8 locker or -- or that of other staff.

14:21 9 And I don't know that it much matters, because  
14:21 10 we really were working cohesively. And each of us  
14:22 11 decided individually what we thought was useful for us  
14:22 12 to retain for our own purposes, and -- and what we  
14:22 13 thought was just clutter that we better -- would be  
14:22 14 better served not to retain.

14:22 15 Q Well, you didn't think S01 was clutter; did  
14:22 16 you, sir?

14:22 17 A Once -- once I moved on from that -- that  
14:22 18 draft, that would have been my belief, yes.

14:22 19 Q And so then you would have created S02; right?

14:22 20 A Perhaps.

14:22 21 Q And then S03?

14:22 22 A Again, I -- I don't have any specific  
14:22 23 recollection --

14:22 24 Q Well --

14:22 25 A -- as to --

14:22 1 Q I'm sorry. I'm sorry. In -- in your naming  
14:22 2 convention, you seem to me to be a pretty precise  
14:23 3 fellow; is that right?

14:23 4 A I don't know what you think I am.

14:23 5 (Laughter.)

14:23 6 BY MR. KING:

14:23 7 Q Well, "precise" is certainly a quality it  
14:23 8 seemed to me like would fit. Would you agree with  
14:23 9 that?

14:23 10 A I approach my work very carefully, yes.

14:23 11 Q Right. So you wouldn't go -- in naming maps,  
14:23 12 you wouldn't go draft S01 and then draft S09; would  
14:23 13 you?

14:23 14 A So what -- what you cannot infer from just  
14:23 15 based on the way I name drafts, you cannot infer that  
14:23 16 there is a sequential progression from 1 to 9. In  
14:23 17 between there may have been a 1A -- I'm going to make  
14:23 18 it worse for you -- there may have been a 1A, a 1B, a  
14:24 19 1C.

14:24 20 There may have been -- and at some point as I  
14:24 21 was collaborating with staff I may have skipped one or  
14:24 22 more numbers. So from the -- the simple name and the  
14:24 23 way that I just personally -- because all of this is  
14:24 24 just personal work files that -- of modeling that I  
14:24 25 was doing.

14:24 1 And just like when you're working on a  
14:24 2 brief -- I don't work on briefs, but you work on  
14:24 3 briefs -- you -- you -- in Word you might work on it  
14:24 4 for a little while, and then you would save the  
14:24 5 document. And then you may work on it a little longer  
14:24 6 and save it again.

14:24 7 And each time you save, you have the option to  
14:24 8 save it with a new name or save it with the old name.  
14:24 9 If you save it with the old name, you're going to  
14:25 10 overwrite what -- what formerly was there.

14:25 11 So the -- the choice of when to say "save" and  
14:25 12 when to say "save as" and whether or not to retain any  
14:25 13 of that personal work product rests solely with the  
14:25 14 person who is -- is -- is doing that work.

14:25 15 It's not something that I supervised for my  
14:25 16 employees. I -- I merely managed the -- the documents  
14:25 17 in my own locker.

14:25 18 Q But if -- if we just relied on the documents  
14:25 19 we got from the Senate, nobody would have ever been  
14:25 20 aware that there were maps in the S01 through S08 line  
14:25 21 that no longer existed; right?

14:25 22 A I think I have testified that we cannot infer  
14:25 23 that from the fact that we have something named draft,  
14:26 24 underscore, S01, and we have something named S09. I  
14:26 25 don't think you can -- can make that inference, as I

14:26 1 just explained, and I don't think you want me to  
14:26 2 explain it again.

14:26 3 Q Okay. And so on October the 28th, let's say,  
14:26 4 none of the senators had seen a draft map produced by  
14:26 5 your redistricting office; right?

14:26 6 A I explained how we did some screen-sharing  
14:26 7 meetings.

14:26 8 Q But that was later on; wasn't it?

14:26 9 A October 20 -- I'm sorry. Thank you. October  
14:26 10 28th, November 28th, I got -- I got confused there.

14:27 11 As of October 28th, I don't remember sharing  
14:27 12 any draft maps with -- with any senators, other than  
14:27 13 Senator Gaetz.

14:27 14 Q So evidently the only people that -- outside  
14:27 15 of your office that had a vision of your work as of  
14:27 16 that time and where you were going with S01 were  
14:27 17 Senator Gaetz and Mr. Terraferma and Mr. Bainter and  
14:27 18 Mr. Heffley; correct?

14:27 19 MR. CANTERO: Object to the form.

14:27 20 BY MR. KING:

14:27 21 Q According to what you've seen here today?

14:27 22 A I can speak for Senator Gaetz. I have  
14:27 23 testified that I was collaborating with Senate  
14:27 24 redistricting staff -- with Senate staff. And -- and  
14:27 25 so they would have been aware. And I have testified

14:28 1 that I had shared draft products with Senate counsel.

14:28 2 Q So if these documents are accurate, if we  
14:28 3 really did get them from the political operatives,  
14:28 4 then the political operatives knew more about the  
14:28 5 status of your work on October the 28th than did the  
14:28 6 other 28 members of the committee on reapportionment  
14:28 7 in the Senate of the State of Florida; right?

14:28 8 A You're making a logical deduction, which is  
14:28 9 what it is.

14:28 10 Q It seems to be unassailable; doesn't it?

14:28 11 MR. CANTERO: Object to the form.

14:28 12 A It is a logical deduction.

14:28 13 BY MR. KING:

14:28 14 Q That's not the way it's supposed to work; is  
14:28 15 it?

14:28 16 MR. CANTERO: Object to the form.

14:29 17 A It is surprising to me that political  
14:29 18 consultants would have had those draft products, if,  
14:29 19 in fact, they did. And I presume, based on what  
14:29 20 you're showing me here today, that they did.

14:29 21 BY MR. KING:

14:29 22 Q When did you first learn that the political  
14:29 23 consultants had your work?

14:29 24 A I don't know if I was aware of -- of any -- of  
14:29 25 the MCARVIN zip thing from the congressional trial or

14:29 1 not. The first possible time that I could have been  
14:29 2 even remotely aware of that was -- was during the  
14:30 3 congressional trial.

14:30 4 I became aware of it -- of a MCARVIN map when  
14:30 5 I read the Chen and Rodden expert report that -- that  
14:30 6 the plaintiffs provided and at that point started  
14:30 7 doing some due diligence to try to figure out, you  
14:30 8 know, what is this thing, and -- and what's going on  
14:30 9 here.

14:30 10 And I, from the zip file, was able to -- and  
14:30 11 the time and -- I mean, just what it looked like to me  
14:30 12 was that it was a work product, as I said, that --  
14:30 13 that I had created. And --

14:30 14 MR. CANTERO: You've answered the question.

14:30 15 THE WITNESS: Okay.

14:30 16 BY MR. KING:

14:30 17 Q Did you investigate -- as part of your due  
14:30 18 diligence, did you investigate how it was that this  
14:31 19 could have ended up in the hands of the political  
14:31 20 operatives?

14:31 21 A No.

14:31 22 Q So did you report to Senator Gaetz what you  
14:31 23 had discovered?

14:31 24 A I became aware of that recently. My -- and my  
14:31 25 communications regarding that discovery have been

14:31 1 between me and counsel. Me and Mr. Cantero and his  
14:31 2 firm.

14:31 3 Q Right. You didn't -- you didn't reveal this  
14:31 4 to Senator Galvano, the head of Redistricting Now?

14:31 5 A I believe that I was retired when I started --  
14:31 6 I mean, some of it was as late as yesterday. Senate  
14:31 7 counsel -- I asked Senate counsel --

14:32 8 MR. CANTERO: I wouldn't discuss --

14:32 9 THE WITNESS: Yeah.

14:32 10 BY MR. KING:

14:32 11 Q He would rather you not --

14:32 12 A I --

14:32 13 Q -- say --

14:32 14 A I --

14:32 15 Q -- what you want to.

14:32 16 A I wish -- I -- I wanted to see a --

14:32 17 MR. CANTERO: You've answered his --

14:32 18 A -- copy of the zip.

14:32 19 MR. CANTERO: You've answered the question --

14:32 20 THE WITNESS: Yeah.

14:32 21 MR. CANTERO: -- about Senator Galvano.

14:32 22 BY MR. KING:

14:32 23 Q Did you see the contents of the zip before you  
14:32 24 came here today?

14:32 25 A No. Other than the -- other than the -- one



14:32 1 of the pages you showed me had the -- a directory of  
14:32 2 what the contents were.

14:32 3 MR. KING: Do you have Exhibit 9 over there?

14:32 4 BY MR. KING:

14:32 5 Q Do you see Exhibit 9? Now, would you look at  
14:32 6 Exhibit 9, and look at the back of that, because you  
14:32 7 will see a document entitled "Rich Heffley, DOJ map,  
14:33 8 10-28-2011, DOJ."

14:33 9 A Okay.

14:33 10 Q And you see we also got that from the  
14:33 11 political operatives. And my question to you is, have  
14:33 12 you ever seen that before?

14:33 13 A I saw that Professors Chen and Rodden analyzed  
14:33 14 a map that they called, I think, something like Rich  
14:33 15 Heffley DBF --

14:33 16 Q All right.

14:33 17 A -- DOJ.

14:33 18 Q And did you see that the Rich Heffley DOJ map,  
14:33 19 10-28-2011, is exactly the same as your S01?

14:33 20 A Actually, I yesterday performed that analysis  
14:33 21 myself, and they are exact.

14:33 22 Q Well, good, then I don't have to go through  
14:33 23 that process with you here.

14:33 24 A At least as -- as to the DO -- so the only  
14:33 25 source of either of these files that I have is the

14:34 1 production that Professors Chen and Rodden provided  
14:34 2 through discovery.

14:34 3 Q Right. But -- but what you saw is that the  
14:34 4 data and the district lines were exactly the same in  
14:34 5 both -- both maps; right?

14:34 6 A I looked at it block by block. And I saw that  
14:34 7 every single block was assigned to the same district.

14:34 8 Q Right. So those maps are identical; correct?

14:34 9 A Identical district assignments, yes.

14:34 10 Q Right. The only thing that's different is the  
14:34 11 title on the maps; right?

14:34 12 A Basically, yes.

14:34 13 Q One says draft S01, and the other says Rich  
14:34 14 Heffley 10-28-2011, whatever.

14:34 15 A Or whatever, yeah.

14:34 16 Q So not only was Mr. Heffley purloining your  
14:35 17 work product, but he was calling it by his name;  
14:35 18 right?

14:35 19 MR. CANTERO: Object to the form.

14:35 20 A I -- I don't know where that name came from  
14:35 21 or -- or -- or what -- what is going on there.

14:35 22 BY MR. KING:

14:35 23 Q Would you be surprised to know that -- that  
14:35 24 actually the districts in S01 fit with the evolution  
14:35 25 of the progress of your maps in Senate 7, 8, and 9?

14:35 1 A That would not surprise me.

14:35 2 Q In other words, you will see maps -- you will  
14:36 3 see districts that are exactly the same in Carvin and  
14:36 4 in Senate 7, 8, and 9?

14:36 5 A I'm not sure -- well, Carvin is -- is -- as we  
14:36 6 have talked through here, I think is a -- a stretch  
14:36 7 for the name of -- of that plan.

14:36 8 Q Let me -- let me change the name to S01.

14:36 9 A Okay.

14:36 10 Q So in S01 you will see a number of districts,  
14:36 11 if you compare S01 to Senate 7, 8, and 9, you will see  
14:36 12 a substantial number of districts that are precisely  
14:36 13 the same; right?

14:36 14 A I did not do the block-by-block comparison  
14:36 15 with -- with those that I did with -- with the Rich  
14:36 16 Heffley DBF.DOJ file and the draft S01. So I don't  
14:37 17 know -- I can't speak as precisely as I would like.  
14:37 18 But -- but I -- I understand and do not disagree with  
14:37 19 what you are saying about a general correspondence  
14:37 20 between those maps.

14:37 21 Q I show you, sir, Exhibit 10, which is a  
14:38 22 comparison of District 6 in draft S01. The first page  
14:38 23 is a picture of that as compared to 9004. It's  
14:38 24 different; right?

14:38 25 (Exhibit No. 10 was identified for the

14:38 1 record.)

14:38 2 A Yes. And I -- this is not a -- an exhibit  
14:38 3 that I created --

14:38 4 BY MR. KING:

14:38 5 Q No, sir.

14:38 6 A -- but I'm -- if I look at this visual, I -- I  
14:38 7 would come to the same conclusion that you do.

14:38 8 Q All right. And then if you look at the second  
14:38 9 page you will see a comparison of Senate 7 to 9004.

14:38 10 Do you see that?

14:38 11 A The second page?

14:38 12 MR. MEROS: The second page?

14:38 13 MR. KING: The second page.

14:38 14 MR. CANTERO: No.

14:38 15 THE WITNESS: Mine must be in a different  
14:38 16 order.

14:38 17 BY MR. KING:

14:38 18 Q So you see 143? All right. Skip that one.

14:38 19 And we will go to the third page. Do you see Senate  
14:39 20 7?

14:39 21 A I -- I see what's written on the page here,  
14:39 22 yes.

14:39 23 Q And that's a diagram of Senate 7 District 6,  
14:39 24 which is pretty much precisely the same as draft S01;  
14:39 25 right?

14:39 1 A I have not done the block-by-block comparison.  
14:39 2 But -- but the -- you know, graphic here looks the  
14:39 3 same.

14:39 4 Q And you see that the population, the black  
14:39 5 percentage, the Hispanic percentage, Obama 2008, Sink  
14:39 6 2010, are all pretty much the same; right?

14:39 7 A I do see that.

14:39 8 Q All right. So evidently draft S01, Senate 7,  
14:39 9 you're moving in the same -- same direction on that  
14:39 10 district anyway; right?

14:40 11 A Okay.

14:40 12 Q Okay is not really answering the question. It  
14:40 13 would be yes or no.

14:40 14 A Please restate the question.

14:40 15 Q All right. So you're moving in the same --  
14:40 16 you're using the same configuration of District 6 in  
14:40 17 draft S01 and in Senate 7; right?

14:40 18 A That is correct.

14:40 19 Q And then, look at Senate 8. That would be the  
14:40 20 fourth page. And Senate 8 is the same again; right?

14:40 21 A It appears -- without doing a block-by-block  
14:40 22 comparison, based on the graphic and the population  
14:40 23 statistics reported here, it appears to be the same.

14:40 24 Q And turn the page, then, and you see Senate 9  
14:40 25 compared to 9004; right?

14:41 1 A I do.

14:41 2 Q And in Senate 9, District 6 remains the same  
14:41 3 as it was in draft S01, Senate 7, Senate 8, and  
14:41 4 Senate -- now Senate 9; correct?

14:41 5 A I see what you see, yes.

14:41 6 Q And you would agree that it remains the same;  
14:41 7 right?

14:41 8 A With the caveats expressed earlier that I --

14:41 9 Q Sure.

14:41 10 A -- have not done a block-by-block comparison.

14:41 11 Q And, of course, I happen to include in there  
14:41 12 on the second page, 143, which is a public map from a  
14:41 13 fellow named Mr. Patten. You see it actually  
14:41 14 corresponds to District 6 in 9004; right?

14:41 15 A I see that.

14:41 16 Q So evidently you hadn't got around yet to  
14:41 17 considering the benefits of public map 143 by November  
14:42 18 the 15th when you last worked on Senate 9; correct?

14:42 19 MR. CANTERO: Object to the form.

14:42 20 A Where is the exhibit that shows -- from the  
14:42 21 response to the interrogatories that shows when the  
14:42 22 plans were created and --

14:42 23 BY MR. KING:

14:42 24 Q That's the --

14:42 25 A -- updated?

14:42 1 Q -- very first exhibit.

14:42 2 MR. ZEHNDER: Exhibit 1.

14:42 3 MR. CANTERO: Here you go (tendering  
14:42 4 document.)

14:42 5 A So created on November 21st and last updated  
14:42 6 on November 23rd.

14:42 7 BY MR. KING:

14:42 8 Q That was S09?

14:42 9 A Right.

14:42 10 Q And -- and Senate 9 was -- do you see  
14:43 11 Senate 9?

14:43 12 A I do.

14:43 13 Q And what does that say?

14:43 14 A That was created on November 3rd and last  
14:43 15 updated on November 15th.

14:43 16 Q All right. So as of November 15th, you still  
14:43 17 seemed to be approaching Senate District 6 in  
14:43 18 precisely the same way that it had been approached in  
14:43 19 S01; correct?

14:43 20 A You're actually making a leap here that I  
14:43 21 cannot make. You -- you don't know from one draft to  
14:43 22 another what changes were made along the way. We also  
14:43 23 don't know precisely when a change was made during the  
14:44 24 span of time between when a -- when a file is created  
14:44 25 and when it is last updated.

14:44 1 It -- the change could have been made the  
14:44 2 first day; it could have been made the last day, or it  
14:44 3 could have been made anywhere in between. So what  
14:44 4 I -- so I -- I can't make the leap that you made.

14:44 5 Q Well, understanding what you just said, there  
14:44 6 were no changes made to District 6 between October 20  
14:44 7 and November 15th; were there?

14:44 8 A No. I don't think you can infer that.

14:44 9 Q Well --

14:44 10 A I -- I think you can infer that, as a -- as  
14:44 11 Senate 9 was last saved, with or without changes -- it  
14:44 12 may have been -- so I might have -- have created  
14:44 13 Senate 9 on November 3rd and made no changes, ever,  
14:45 14 and then saved it on November 15th.

14:45 15 Q Right.

14:45 16 A And -- and so in -- in between we don't -- we  
14:45 17 don't know what was going on in between that period of  
14:45 18 time with any particular district.

14:45 19 Q Right. But you don't have another map in that  
14:45 20 series that changes that district; isn't that correct?

14:45 21 A We don't -- we don't have -- in -- in what we  
14:45 22 produced, which is everything that we retained, I -- I  
14:45 23 mean, a map that -- well, even before I say that, what  
14:45 24 I would want to do is arrange these plans in some sort  
14:46 25 of chronological order so -- the kinds of leaps you're



14:46 1 wanting to make here are -- are, I think, very  
14:46 2 hazardous without -- without knowing exactly what  
14:46 3 we're talking about.

14:46 4 Q Well, for the purposes of our discussion right  
14:46 5 now, would you agree that what we have established  
14:46 6 from looking at Exhibit 10 is the fact that, where you  
14:46 7 were on District 6 on S01 is the same place you are on  
14:46 8 District 6 on draft maps Senate 7, Senate 8, and  
14:46 9 Senate 9?

14:46 10 A Yes. I've already agreed with that.

14:46 11 MR. MEROS: Let's take a break when you are at  
14:46 12 a breaking point, please.

14:46 13 MR. KING: Sure.

14:46 14 MR. MEROS: Okay.

14:46 15 (In recess from 2:46 to 2:56.)

14:56 16 BY MR. KING:

14:56 17 Q Mr. Guthrie?

14:59 18 A Yes, sir.

14:59 19 (Exhibit No. 11 was identified for the  
14:59 20 record.)

14:59 21 BY MR. KING:

14:56 22 Q We have looked at one district now to see that  
14:56 23 basically that district remained the same in -- from  
14:57 24 S01 right through Senate 9. Let me show you another  
14:57 25 example.

14:57 1 I'm going to show you Exhibit 11, which shows  
14:57 2 you District 29. And do you see on the first page  
14:57 3 there it shows District 29 in Senate comm, which was a  
14:57 4 map that was closed out on October 7, 2011, a draft  
14:57 5 map.

14:57 6 Do you see that?

14:57 7 A Yeah. I do see that, yes.

14:57 8 Q All right. And then if you look at the second  
14:57 9 page, you see draft S01 looks exactly the same as  
14:57 10 Senate comm; right? Same stats at the bottom?

14:57 11 A That is correct.

14:58 12 Q All right. And then you see the third page,  
14:58 13 Senate 7. In Senate 7, exactly the same; right?

14:58 14 A You know, with the same explanation I have not  
14:58 15 done a -- a block-by-block comparison --

14:58 16 Q Sure.

14:58 17 A -- but the statistics and the graphic look the  
14:58 18 same, yes.

14:58 19 Q And then next to the last page, Senate 8 looks  
14:58 20 the same; right?

14:58 21 A Yes. It looks the same.

14:58 22 Q And then it was the same as of November 15th;  
14:58 23 right?

14:58 24 A So the plan that was last updated on November  
14:58 25 15th --

14:58 1 Q Right.

14:58 2 A Yes.

14:58 3 Q And then actually that's what the final 29  
14:58 4 looked like in 9004; right?

14:59 5 A That's what this sheet would indicate, yes.

14:59 6 Q All right. Do you have any reason to disagree  
14:59 7 with that?

14:59 8 A No.

14:59 9 Q Okay. Then let me show you Exhibit 12.

14:59 10 Exhibit 12 is another district, District 36. And  
14:59 11 this -- actually the very first page of this I think  
14:59 12 shows us the point we wanted to make, and that is, if  
14:59 13 you look at Senate comm on October 7, S01 on October  
14:59 14 20, Senate 7 on November 3, and Senate 9 on November  
14:59 15 15, the map is precisely the same; right?

14:59 16 (Exhibit No. 12 was identified for the  
14:59 17 record.)

14:59 18 A I agree that they look the same.

14:59 19 BY MR. KING:

14:59 20 Q Okay. And, of course, you see that the stats  
15:00 21 are exactly the same population -- the population  
15:00 22 doesn't have to be the same in these districts; does  
15:00 23 it, sir?

15:00 24 A What do you mean, they don't have --

15:00 25 Q Well, I mean, the population can vary from the

15:00 1 various maps for a district; right?

15:00 2 A The Supreme Court has, in its opinion, said  
15:00 3 that a range of population, other than numerical  
15:00 4 equality, was permissible for House and Senate --

15:00 5 Q Right?

15:00 6 A -- districts; is that what you're saying?

15:00 7 Q Yes.

15:00 8 A Okay.

15:00 9 Q And so if the population is the same in each  
15:00 10 of these districts, that would sort of be very  
15:00 11 indicative of the fact that these are identical  
15:00 12 districts then; wouldn't it?

15:00 13 A I would say if all of the statistics,  
15:00 14 including percentages carried to the hundredth point,  
15:00 15 are the same, then -- then that -- that's sort of  
15:00 16 evidence. Now in this case we don't see that with  
15:00 17 respect to the Obama 2008 and the Sink 2010 numbers.

15:01 18 So what that tells me is that there are likely  
15:01 19 block level differences between those plans --

15:01 20 Q Right.

15:01 21 A -- that, if I were to do the block-by-block  
15:01 22 comparison, I would see. But you don't necessarily  
15:01 23 see from, you know, from these gross graphics and --  
15:01 24 and summary statistics.

15:01 25 Q Well, on 12 the stats, though, on -- on the

15:01 1 2008 and 2010 election are exactly the same to four  
15:01 2 digits; aren't they?

15:01 3 A On 12?

15:01 4 Q On Exhibit 12?

15:01 5 A So what I am seeing for Obama is Scomm is --

15:01 6 Q Oh, I'm sorry. You're right. It's a  
15:01 7 different -- the fourth digit, one is an 8, and the  
15:01 8 other is a 6?

15:01 9 A Right.

15:01 10 Q Okay. So it's a slight -- and the same thing,  
15:01 11 one is a 4, and two of them on -- on Sink, and -- so  
15:02 12 those are very minuscule differences; right, if there  
15:02 13 is a difference here?

15:02 14 A I believe that there is a difference, and --  
15:02 15 and -- from the graphic it does not appear to be a  
15:02 16 significant --

15:02 17 Q Right.

15:02 18 A -- difference in terms of -- of which  
15:02 19 blocks -- but, again, the only way you know what the  
15:02 20 difference is is to do a block-by-block comparison.

15:02 21 You may -- there may be a difference that  
15:02 22 doesn't even involve population.

15:02 23 Q Sure.

15:03 24 MR. KING: Let's mark S.

14:59 25 (Exhibit No. 13 was identified for the

15:03 1 record.)

15:03 2 BY MR. KING:

15:03 3 Q I show you Exhibit 13, sir, and ask you if you  
15:03 4 recognize that as S09, the map that was created around  
15:04 5 November the 21st to the 23rd.

15:04 6 A Well, I -- I will accept your representation  
15:04 7 that this is a map rendering of the block assignment  
15:04 8 file called S09.DOJ. I have no -- I see nothing on  
15:04 9 this page that would cause me to challenge that --  
15:04 10 that claim.

15:04 11 Q All right. Now, S09 is the work product of  
15:04 12 the Senate redistricting department; correct?

15:04 13 A I believe that it is, yes.

15:05 14 Q And that, of course, comes after you stopped  
15:05 15 working on Senate 9; right?

15:05 16 A You cannot necessarily infer temporal order  
15:05 17 from plan names. I mean, to the extent that the last  
15:05 18 updated date of one plan precedes the created date of  
15:05 19 another, you know that the first came first.

15:05 20 Q All right.

15:05 21 A But any time there is an overlap you don't --  
15:05 22 you don't -- you can't really exactly infer or  
15:05 23 deduce -- you cannot deduce temporal order.

15:05 24 Q Well, there -- you don't have to deduce  
15:05 25 temporal order between Senate 9 and S09, because there

15:05 1 is no overlap; is there?

15:06 2 A Let me -- that is correct.

15:06 3 Q So we know that Senate 9 preceded S09; right?

15:06 4 A We do.

15:06 5 Q And in fact, S09 was created during that last  
15:06 6 flurry of activity before you had to provide a  
15:06 7 published map on November the 28th; isn't that right?

15:06 8 A It was created in the -- the week prior to  
15:06 9 when the SS000S9004 was -- was published.

15:06 10 Q All right. So -- and there is no other  
15:06 11 temporal map that is referred to in the list of maps,  
15:07 12 draft maps that you provided us, between November the  
15:07 13 15th and November the 21st; is there, sir?

15:07 14 A I -- if you want to -- if you have put these  
15:07 15 in -- in order, and -- and determined that, that is  
15:07 16 not something I would dispute.

15:07 17 Q Okay.

15:07 18 A It's not a determination that I have made.

15:07 19 Q All right.

15:07 20 MR. KING: Now let's look at A2 and B2.

15:08 21 BY MR. KING:

15:08 22 Q Now, Mr. Guthrie, to your knowledge, did  
15:08 23 anybody, you or anybody else in the Senate  
15:08 24 redistricting office, provide the data and information  
15:08 25 about S09 to Mr. Heffley or Mr. Terraferma or

15:08 1 Mr. Bainter?

15:08 2 A I have no knowledge of that.

15:08 3 Q Are you aware that they had some of this  
15:08 4 information contemporaneous with the time that S09 was  
15:08 5 developed by your office?

15:08 6 A I am not aware of that, no.

15:08 7 (Exhibit No. 14 was identified for the  
15:08 8 record.)

15:09 9 BY MR. KING:

15:09 10 Q All right. Let me show you Exhibit 14. And I  
15:09 11 represent to you that Exhibit 14 is an e-mail, starts  
15:09 12 at the bottom of the page, e-mail from Frank  
15:09 13 Terraferma to Rich Heffley. And this is a document  
15:09 14 that was produced by Mr. Terraferma.

15:09 15 And do you see that on November the 21st at  
15:09 16 2:00 -- at -- on 2011 at 3:52 a.m. in the morning  
15:09 17 Mr. Terraferma sends an e-mail to Mr. Heffley saying,  
15:09 18 quote, CDs are on your chair. One of them, 8, has a  
15:09 19 problem and can't be uploaded. Another one, 4, I  
15:10 20 downloaded the political data and called it as such,  
15:10 21 along with everything on the CDs.

15:10 22 The Larcenia is back in style, I see. Maybe  
15:10 23 we should all -- all it the Lazarus seat instead.  
15:10 24 Otherwise, looking good. Except why the Margolis seat  
15:10 25 is still there is beyond me. That seat should have



15:10 1 been abolished ten years ago. TTY tomorrow.

15:10 2 And then do you see that Mr. Heffley says,  
15:10 3 "I've been able to open up on two computers, let me  
15:10 4 know when you get here."

15:10 5 Are you -- has anybody ever made you aware of  
15:10 6 this e-mail, sir?

15:10 7 A No.

15:10 8 Q Did you put on a CD S08 and S04 to be provided  
15:11 9 to the political operatives?

15:11 10 A No.

15:11 11 Q All right. Then you see Mr. Heffley responds  
15:11 12 to Mr. Terraferma and says, "I've been able to open up  
15:11 13 on two computers. Let me know when you get here."

15:11 14 Do you see that?

15:11 15 A I see that.

15:11 16 Q All right. Then next I'm going to show you  
15:11 17 Exhibit 15. Exhibit 15 is an e-mail, again produced  
15:11 18 by Mr. Terraferma, on November 21, 2011, 1:39 p.m.,  
15:11 19 Terraferma to Heffley, "Here it is,  
15:11 20 Heffley8polydata.xls" -- oh, xls. I'm sorry.

15:11 21 A We can't all be computer wonks.

15:11 22 Q I'm sorry. Some of us have reached an age  
15:12 23 that we will never be computer wonks.

15:12 24 So my question to you is, sir, do you know  
15:12 25 anything about Heffley8polydata?

15:12 1 A I do not.

15:12 2 Q Have you ever seen this before?

15:12 3 A No.

15:12 4 Q Now, you will see attached to this a data  
15:12 5 sheet.

15:12 6 Do you see that?

15:12 7 A I'm turning to that now.

15:12 8 MR. KING: Let's get C2 and D2.

15:12 9 BY MR. KING:

15:12 10 Q Have you ever seen that data sheet before?

15:13 11 A No.

15:13 12 (Discussion off the record.)

15:13 13 BY MR. KING:

15:13 14 Q I show you Exhibit 16, which purports to be  
15:13 15 the data sheet blown up for Heffley8polydata. And  
15:13 16 then I show you --

15:13 17 MR. CANTERO: I don't have it.

15:13 18 BY MR. KING:

15:13 19 Q -- Exhibit 17 --

15:13 20 MR. CANTERO: Hold on.

15:13 21 MR. KING: Oh.

15:14 22 (Exhibit Nos. 16 and 17 were identified for  
15:14 23 the record.)

15:14 24 MR. KING: And just for the record, we made

15:14 25 the yellow highlights on that document. That's not

15:14 1 the way it came.

15:14 2 BY MR. KING:

15:14 3 Q And next I show you Exhibit 17, which is the  
15:14 4 data sheet for S09 DOJ, the -- the map produced by  
15:14 5 your office.

15:14 6 A Okay. So what it looks like to me --

15:14 7 MR. KING: Do you have E2?

15:14 8 MR. CANTERO: There is no question.

15:14 9 MR. KING: Was the first one Exhibit 16?

15:14 10 MR. CANTERO: Yes.

15:14 11 MR. KING: And the second one is Exhibit 17.

15:15 12 And this, E2, is going to be Exhibit 18.

15:15 13 (Exhibit No. 18 was identified for the  
15:15 14 record.)

15:15 15 BY MR. KING:

15:15 16 Q Next, sir, I show you Exhibit 18, which is a  
15:15 17 comparison of 14 districts between Heffley8polydata  
15:15 18 compared to S09.

15:15 19 Now, just so you will know, Mr. Guthrie, the  
15:15 20 stuff we got from Mr. Heffley and Mr. Terraferma did  
15:15 21 not have a picture of Heffley8polydata, didn't have a  
15:16 22 map picture. So we don't have a map to look at to  
15:16 23 compare to S09. So all we have is the data.

15:16 24 But do you see, sir, that for 14 districts  
15:16 25 the -- the data, including the population and the

15:16 1 percentage of black, the percentage of Hispanics, and  
15:16 2 so on, all of that is identical; is it not, sir?

15:16 3 A Would you like me to assume that, or do you  
15:16 4 want me to look at the numbers on the page?

15:16 5 Q I'm asking -- why don't you test me. Look at  
15:16 6 a few and see -- and see if we're right about that.

15:16 7 A It appears to me that the numbers provided for  
15:17 8 districts in so-called Heffley8polydata are -- have  
15:17 9 the same attributes in terms of population; black  
15:17 10 percentage, black VAP percentage, Hispanic percentage  
15:17 11 and Hispanic VAP percentage as the corresponding  
15:17 12 districts in what is named here S09.

15:17 13 Q So in S09, Districts -- follow me -- Districts  
15:17 14 1, 2, 3, 4, 5, 6, 8, 10, 14, 18, 20, 21, 23, and 25  
15:18 15 have exactly the same data as that contained in the  
15:18 16 possession of Rich Heffley and Frank Terraferma,  
15:18 17 Heffley8polydata; right?

15:18 18 A I -- I reach the same conclusion you do  
15:18 19 looking at this sheet.

15:18 20 Q And that cannot be a coincidence; can it, sir?  
15:18 21 Two --

15:18 22 MR. CANTERO: What can't be?

15:18 23 BY MR. KING:

15:18 24 Q Two different map drawers drawing maps aren't  
15:18 25 going to get precisely the same population percentages

15:18 1 on 14 different districts at the same time; are they?

15:18 2 MR. CANTERO: Object to the form.

15:18 3 A I would say it's not impossible, but it's not  
15:18 4 likely.

15:18 5 BY MR. KING:

15:18 6 Q So wouldn't you agree with me that the most  
15:19 7 likely inference to draw from this is that on the 21st  
15:19 8 of November, at the same time you're starting to work  
15:19 9 on S09, Heffley and Terraferma have got at least 14 of  
15:19 10 your districts already?

15:19 11 A What I see is that what is called here  
15:19 12 Heffley8polydata has the correspondence you described  
15:19 13 with S09.

15:19 14 Q So when Mr. Terraferma is delivering a CD to  
15:20 15 Mr. Heffley that contains this information in  
15:20 16 district -- in something called 8, isn't it a fact  
15:20 17 that what evidently he is delivering is the prior  
15:20 18 iteration to S09, which was S08?

15:20 19 A I don't think you can deduce that, but -- but  
15:20 20 you may choose to infer it.

15:20 21 Q Well, isn't it correct that this  
15:20 22 establishes -- this is proof of the fact that there is  
15:20 23 a breach of the information from your office that it's  
15:20 24 getting to the -- to the political operatives as fast  
15:20 25 as you're developing it?

15:20 1 MR. CANTERO: Object to the form.

15:20 2 A So I -- I see the numbers on the -- the page  
15:21 3 and do not reach a different conclusion than you would  
15:21 4 reach.

15:21 5 BY MR. KING:

15:21 6 Q I mean, your confidential materials that are  
15:21 7 supposed to be secret and just going to the senators  
15:21 8 are in the hands of the political operatives almost as  
15:21 9 fast as you're putting this stuff on paper yourself;  
15:21 10 right?

15:21 11 MR. CANTERO: Object to the form.

15:21 12 A I see the correspondence that you are asking  
15:21 13 about, the -- the value judgment about how quickly  
15:21 14 that's happening. I -- I'm -- and I don't want to be  
15:21 15 ridiculous here -- but I -- that's -- that's your  
15:21 16 statement, not mine.

15:21 17 I mean I -- I was doing my work and was  
15:21 18 unaware of what might be going on in -- in this  
15:22 19 parallel universe that I knew nothing about.

15:22 20 Q But your work seemed to be going out the door  
15:22 21 as fast as it's done; right?

15:22 22 MR. CANTERO: Object to the form; asked and  
15:22 23 answered.

15:22 24 BY MR. KING:

15:22 25 Q I mean, your office is leaking like a sieve;

15:22 1 isn't it?

15:22 2 MR. CANTERO: Object to the form.

15:22 3 Argumentative. Asked and answered.

15:22 4 BY MR. KING:

15:22 5 Q Well, I mean, do you have some other  
15:22 6 explanation for how Mr. Heffley and Mr. Terraferma  
15:22 7 have the work product of the Senate redistricting  
15:22 8 office, Mr. Guthrie?

15:22 9 A I have no explanation of how they might have  
15:22 10 been obtaining Senate drafts.

15:22 11 Q Well, isn't it fair to say that someone who  
15:22 12 had access to this information in your office was  
15:22 13 providing it to the political operatives --

15:23 14 MR. CANTERO: Object to the form.

15:23 15 BY MR. KING:

15:23 16 Q -- right?

15:23 17 MR. CANTERO: Calls for speculation.

15:23 18 A So what we see is the correspondence, right,  
15:23 19 you know, the -- which -- which has evidentiary value  
15:23 20 in and of itself, but I don't know that -- that we  
15:23 21 have proven anything. We certainly haven't proven how  
15:23 22 or why or who -- we haven't proven that there is a  
15:23 23 leak. And we haven't proven who or how or why such a  
15:23 24 leak occurred.

15:23 25 BY MR. KING:

15:23 1 Q Well, if there is not a leak, Mr. Guthrie, how  
15:23 2 is it that Mr. Heffley and Mr. Terraferma have the  
15:23 3 data on 14 of your districts that end up in S09 on  
15:23 4 November the 21st to the 23rd? And they've got it on  
15:24 5 November the 21st. How does that happen without a  
15:24 6 leak?

15:24 7 A I don't know.

15:24 8 Q I mean, Mr. Heffley and Mr. Terraferma didn't  
15:24 9 get to range around your office looking at your work  
15:24 10 product in your presence; did they?

15:24 11 A In my presence, I do not think they ever came  
15:24 12 into my office --

15:24 13 Q So --

15:24 14 A -- during this time period.

15:24 15 Q So if that's the case, then the next logical  
15:24 16 assumption is that someone in your office or someone  
15:24 17 you're providing information to legitimately, like the  
15:24 18 chairman of the committee or his staff member,  
15:24 19 Mr. Clark, somebody was providing that information to  
15:24 20 Heffley and Terraferma; right?

15:24 21 A Well, another possibility would be that it  
15:25 22 was -- it was intercepted surreptitiously by some sort  
15:25 23 of, you know, computer intrusion or -- or -- or -- I  
15:25 24 mean, that is possible.

15:25 25 Q Sure.



15:25 1 A And I -- and I -- and I don't know how on  
15:25 2 earth that could have happened. It's nothing that I  
15:25 3 was aware of.

15:25 4 Q So you don't have any evidence of that  
15:25 5 occurring?

15:25 6 A Of --

15:25 7 Q Of being hacked?

15:25 8 A I do not.

15:25 9 Q But you do know that there are people involved  
15:25 10 in this that had access to this information that have  
15:25 11 relationships with Heffley and Terraferma; right?

15:25 12 A Yes, I know that.

15:25 13 Q You know that Mr. Clark had a close  
15:25 14 relationship with Mr. Heffley; right?

15:25 15 A I know that he had a relationship.

15:25 16 Q All right. You knew that Senator Gaetz had a  
15:26 17 close relationship with Mr. Heffley; right?

15:26 18 A Again, the -- I want to be careful with --  
15:26 19 with the adjectives here. Senator Gaetz -- I -- what  
15:26 20 I do know is that Senator Gaetz had communicated --  
15:26 21 you know, would meet with Mr. Heffley from time to  
15:26 22 time.

15:26 23 Q Well, Mr. Heffley was a long-time political  
15:26 24 consultant of Senator Gaetz; wasn't he? Wasn't he?

15:26 25 A I've --

15:26 1 MR. CANTERO: Object to the form.

15:26 2 A I have seen evidence from the earlier trial  
15:26 3 that there was -- which is how I became aware of -- of  
15:26 4 any such relationship -- that -- that Senator Gaetz  
15:26 5 had -- had an association with Mr. Heffley.

15:27 6 BY MR. KING:

15:27 7 Q So -- so let me get this straight here. So,  
15:27 8 now, back in October -- in October, Heffley and  
15:27 9 Terraferma were aware -- and Bainter -- were aware of  
15:27 10 what you were doing at the end of October -- October  
15:27 11 28th they had S01, and none of the senators did;  
15:27 12 correct, except maybe Senator Gaetz?

15:27 13 A And I am not saying that Senator Gaetz had --

15:27 14 Q All right.

15:27 15 A -- S -- S01 or any particular plan.

15:27 16 Q So maybe they knew more about the work -- your  
15:27 17 work than any of the senators did at the end of  
15:27 18 October; right?

15:27 19 MR. CANTERO: Object to the form.

15:27 20 BY MR. KING:

15:27 21 Q If they had the plan and the senators didn't.

15:27 22 MR. CANTERO: Objection; calls for  
15:27 23 speculation.

15:27 24 A So -- I mean they had, you know, through --  
15:28 25 through discovery we have an idea of what they had,

15:28 1 and -- and as far as I know, that information had not  
15:28 2 been provided to them or anyone else, to my --

15:28 3 BY MR. KING:

15:28 4 Q And so then --

15:28 5 A -- knowledge.

15:28 6 Q So then, on November the 21st, once again,  
15:28 7 Heffley and Terraferma are right on top of what you're  
15:28 8 doing in your office. They've got 14 of the districts  
15:28 9 in S09. And, again, none of the senators know  
15:28 10 anything about S09; right --

15:28 11 A On --

15:28 12 Q -- on November the 21st?

15:28 13 A I would think that the chairman would be --  
15:28 14 would be at least generally aware of what I was doing  
15:29 15 to model districts on his behalf.

15:29 16 Q Okay. So Senator Gaetz, Frank Terraferma, and  
15:29 17 Rich Heffley are the most informed about the work of  
15:29 18 your Senate redistricting committee as of November the  
15:29 19 21st, and no more than any of the other 28 members of  
15:29 20 the committee on reapportionment; right?

15:29 21 A I believe that with respect to Senator Gaetz.  
15:29 22 I don't know that with respect to Mr. Terraferma or  
15:29 23 Mr. Heffley.

15:29 24 Q Well, you know that Terraferma and Heffley had  
15:29 25 14 of the districts that were going to be in S09, and

15:29 1 none of your other senators on the reapportionment  
15:29 2 committee knew anything about those districts; did  
15:29 3 they, sir?

15:29 4 A Not as far as I know.

15:29 5 MR. CANTERO: Objection; calls for  
15:29 6 speculation.

15:29 7 BY MR. KING:

15:29 8 Q Not as far as what?

15:29 9 A As I know.

15:30 10 Q Now that's not the way it's supposed to work;  
15:30 11 is it, Mr. Guthrie?

15:30 12 A I am surprised that -- that persons who were  
15:30 13 not working directly with the Senate committee or --  
15:30 14 or Senate staff had -- had access to the computer, if  
15:30 15 they did.

15:30 16 Q And by -- well, you've certainly seen evidence  
15:30 17 here today that they did; right?

15:30 18 A I -- I've seen the same -- the evidence that  
15:30 19 you've provided, yes.

15:30 20 Q And if they knew the direction you were going,  
15:30 21 that allowed them to give information to senators  
15:31 22 about the political results of those decisions that  
15:31 23 were being made; isn't that right?

15:31 24 A If you have a block assignment file, and you  
15:31 25 know demographic attributes by block, then -- then

15:31 1 anybody could -- could make those calculations and --  
15:31 2 and -- and aggregate whether it's census data or  
15:31 3 elections data or whatever, or -- or socioeconomic  
15:31 4 data. All of those kinds of data could be aggregated  
15:31 5 from block level to district level if you had a block  
15:31 6 assignment file.

15:31 7 Q And from what you've heard about the political  
15:31 8 operatives, I mean, Mr. Terraferma's referred to as  
15:31 9 genius mapmaker. I mean, you understand that they  
15:32 10 would have the ability to do those kind of things;  
15:32 11 right? You listened to them testify at the trial.

15:32 12 A The -- I don't recall -- that may have been  
15:32 13 their testimony during trial. I don't recall them  
15:32 14 testifying to their evaluation of political  
15:32 15 performance, but it wouldn't shock me to -- to have,  
15:32 16 you know -- if somebody said that they -- they maybe  
15:32 17 were.

15:32 18 Q Now, let me ask you very directly. Doesn't  
15:32 19 this lead you to believe that Mr. Heffley and  
15:32 20 Mr. Terraferma had in their possession draft 8, S08?

15:33 21 MR. CANTERO: Objection; calls for  
15:33 22 speculation; asked and answered.

15:33 23 A So that question seems to call for  
15:33 24 speculation, and I believe it's been asked and  
15:33 25 answered.

15:33 1 BY MR. KING:

15:33 2 Q Well, I guess my question to you, then, more  
15:33 3 directly is, was there an S08, Mr. Guthrie?

15:33 4 A I don't know.

15:33 5 MR. MEROS: Mr. Heffley?

15:33 6 MR. KING: No, Mr. Guthrie. I'm asking  
15:33 7 Mr. Guthrie.

15:33 8 MR. MEROS: I thought you said Mr. Heffley.

15:33 9 MR. KING: No. I said Mr. Guthrie. I  
15:33 10 believe. I hope. He doesn't look anything like  
15:33 11 Mr. Heffley.

15:33 12 BY MR. KING:

15:33 13 Q So let me ask it again, since we --  
15:33 14 Mr. Guthrie, was there an S08?

15:33 15 A I don't know.

15:33 16 Q Well, wouldn't that suggest that there was?

15:34 17 MR. CANTERO: Object to the form; calls for  
15:34 18 speculation.

15:34 19 A If -- if you believed that -- that I created  
15:34 20 along the way plans numbered sequentially from S01 to  
15:34 21 S09, then -- then you would infer that all the  
15:34 22 intermediate numbers were -- were populated.

15:34 23 But I -- I explained earlier that my naming  
15:34 24 convention doesn't -- as I know it, or as I remember  
15:34 25 it -- doesn't really support leaping to that

15:34 1 conclusion.

15:34 2 I may have skipped number 8, or I may have --  
15:34 3 I may have skipped -- what I -- what I -- you know, to  
15:34 4 be fair, what I don't expect that I would do is -- is  
15:35 5 do 1, and then 8, and then 3, and then 9. I think  
15:35 6 there would have been a progression in the way that I  
15:35 7 name things, just because that would make sense to me.

15:35 8 But -- but you don't know that I ever had a  
15:35 9 draft with every single number in between.

15:35 10 BY MR. KING:

15:35 11 Q All right. But the name of that is  
15:35 12 Heffley8polydata. So we've got 8 in the title that  
15:35 13 Heffley gave it; right?

15:35 14 A That's what I see on the page here, yes.

15:35 15 Q And that's not a direct match to that -- to  
15:35 16 S09. It's only 14 districts that match.

15:35 17 A You showed me 14. I --

15:35 18 Q Right.

15:35 19 A I don't know about the others.

15:35 20 Q The rest are different.

15:35 21 A Okay. I will take your word for it.

15:35 22 Q So wouldn't that seem to support the idea that  
15:35 23 this was a work in progression, that you had 14 of the  
15:35 24 districts the same, but there were others that were  
15:35 25 different. And then you move on and create S09?

15:36 1 MR. CANTERO: Object to the form.

15:36 2 A So -- I mean, a lot of this is -- is -- is a  
15:36 3 matter of fact based on what these artifacts show and  
15:36 4 what they hold.

15:36 5 BY MR. KING:

15:36 6 Q Right.

15:36 7 A And -- and -- and whatever the facts are, I  
15:36 8 accept the facts.

15:36 9 Q Well, we're having to put the facts together  
15:36 10 as much as we can, because a lot of stuff doesn't  
15:36 11 exist anymore; isn't that right?

15:36 12 A I did not retain every draft map that I worked  
15:36 13 on during this process.

15:36 14 Q But -- but isn't it -- isn't it interesting,  
15:36 15 evidently, that the ones that you didn't retain are  
15:36 16 the ones that end up in the hands of the political  
15:36 17 operatives?

15:36 18 MR. CANTERO: Object to the form.

15:36 19 BY MR. KING:

15:36 20 Q What does that mean?

15:36 21 A What I -- what --

15:36 22 MR. CANTERO: Hold on. Assumes facts not in  
15:36 23 evidence.

15:36 24 Go ahead.

15:36 25 BY MR. KING:



15:36 1 Q Well, let's -- let's review the -- the facts.  
15:37 2 S01 ends up in the hands of Mr. Heffley and  
15:37 3 Mr. Terraferma. You don't have a copy of it. The  
15:37 4 Senate of Florida does not have a copy of S01; right?

15:37 5 A That is correct.

15:37 6 Q All right. Then we get to polydata 8, which  
15:37 7 contains 14 districts that looks like it was S08.  
15:37 8 It's in the hands of the political operatives, and you  
15:37 9 don't have a copy of it; right?

15:37 10 MR. CANTERO: Object to the form; assumes  
15:37 11 facts not in evidence.

15:37 12 A Is there an S08 that you've shown me, other  
15:37 13 than this Heffley8polydata?

15:37 14 BY MR. KING:

15:37 15 Q It's referred to as 8. But I have not shown  
15:37 16 you a map that says S08, because you haven't produced  
15:37 17 one.

15:37 18 The question is, was there one, and is the  
15:37 19 data on Heffleypolydata8 or Heffley8polydata -- is  
15:38 20 that from S08?

15:38 21 A I don't know.

15:40 22 (Discussion off the record.)

15:40 23 BY MR. KING:

15:40 24 Q Now, do you know a fellow named Tony Cortese?

15:40 25 A I do.

15:40 1 Q And who do you know him to be?

15:41 2 A He presently is a policy director in the  
15:41 3 Senate president's office.

15:41 4 Q And --

15:41 5 MR. CANTERO: Tom, do you have a copy of that?

15:41 6 MR. ZEHNDER: Yeah. He hasn't given it to him  
15:41 7 yet.

15:41 8 MR. KING: I haven't given it to him.

15:41 9 MR. ZEHNDER: Oh.

15:41 10 MR. KING: I'm just asking questions.

15:41 11 BY MR. KING:

15:41 12 Q And so does that mean he is an aide to  
15:41 13 President Gardiner?

15:41 14 A Yes. He -- he is executive staff to the  
15:41 15 Senate president.

15:41 16 Q Now, back in 2012, in April of 2012, what was  
15:41 17 he doing; do you know?

15:41 18 A He was staff director of the Senate majority  
15:41 19 office.

15:41 20 Q Okay. And would you provide him information  
15:41 21 about redistricting?

15:41 22 A If Mr. Cortese asked me for information, I  
15:41 23 would provide it, yes.

15:41 24 Q Had you provided him information before during  
15:42 25 the redistricting process in -- from October of 2011

15:42 1 through April of 2012?

15:42 2 A I -- I don't know -- I don't know. I mean --  
15:42 3 so -- did I provide information. I provided -- I  
15:42 4 provided information to many, many, many Senate staff.  
15:42 5 But if you're asking about draft plans, I don't have,  
15:42 6 as I sit here today, a specific recollection of  
15:42 7 providing draft plans to Mr. Cortese.

15:43 8 Q Would you -- would you give him information  
15:43 9 about maps or data or plans or decisions regarding  
15:43 10 districts?

15:43 11 A I would have communicated with Mr. Cortese  
15:43 12 about the work that I was doing, yes.

15:43 13 Q On a regular basis?

15:43 14 A Not daily, but -- but I -- I would say most  
15:43 15 weeks I would see Mr. Cortese somewhere along the  
15:43 16 line.

15:43 17 Q And he was always interested in your  
15:43 18 redistricting work?

15:43 19 A As staff director of the Senate majority  
15:43 20 office, he -- he was interested in the work of that  
15:43 21 committee, yes.

15:43 22 Q All right, sir. I show you Exhibit 19 and ask  
15:44 23 you if you recognize that as a -- the bottom line  
15:44 24 there -- as an e-mail that you sent to Mr. Cortese on  
15:44 25 April 11th, 2012, and the subject was: Attached

15:44 1 draft. And you say, "Draft is attached."

15:44 2 (Exhibit No. 19 was identified for the  
15:44 3 record.)

15:44 4 BY MR. KING:

15:44 5 Q Do you see that?

15:44 6 A I see that.

15:44 7 Q Did you send that e-mail?

15:44 8 A I have no reason to doubt that I sent that  
15:44 9 e-mail.

15:44 10 Q All right. And so what you were sending him  
15:44 11 was a draft of the brief, as you all were getting  
15:44 12 started in litigation over the maps the second time;  
15:44 13 right?

15:44 14 A I believe that the Senate's brief in the  
15:44 15 apportionment 2 case was due on April 13th. So this  
15:45 16 would have been a couple days before that.

15:45 17 Q So did you understand that he would send it to  
15:45 18 Pat Bainter?

15:45 19 A No.

15:45 20 Q Was that okay, as far as you were concerned?

15:45 21 A That -- I did not know that that would happen,  
15:45 22 and I -- I don't -- as I sit here today, I'm not  
15:45 23 inclined to make value judgments about what others  
15:45 24 decide to do.

15:45 25 Q Okay. Did he ask you for the brief? Is that

15:45 1 why you sent it to him?

15:45 2 A I don't recall.

15:45 3 Q Would you have just -- let me see who to send  
15:45 4 the brief to. I believe I will send it to  
15:45 5 Mr. Cortese?

15:45 6 MR. CANTERO: Objection; sarcastic.

15:45 7 MR. KING: I'm -- I'm just trying to figure  
15:45 8 out what would happen here. I'm not trying to be  
15:45 9 sarcastic.

15:45 10 MR. ZEHNDER: That is on the list somewhere  
15:46 11 I'm sure; right?

15:46 12 BY MR. KING:

15:46 13 Q Would you send it to Mr. Cortese if he didn't  
15:46 14 ask for it?

15:46 15 A I sent some e-mails and some documents to  
15:46 16 Mr. Cortese without any initiative from him. And I  
15:46 17 sent others that he requested. So I -- I may have  
15:46 18 done it either way.

15:46 19 And I -- in this particular case, I don't  
15:46 20 remember whether it was something I sent unsolicited  
15:46 21 or whether it was something he requested of me.

15:46 22 Q Did you know that Mr. Cortese had a  
15:46 23 relationship with Mr. Bainter?

15:47 24 A I don't think I -- I know that, no, or knew it  
15:47 25 at the time.

15:47 1 Q Did you know at that time that Senator  
15:47 2 Gardiner had a relationship with Mr. Bainter?

15:47 3 A I did not know at that time.

15:47 4 Q Okay. Now, did Mr. Bainter provide any  
15:47 5 feedback on the brief?

15:47 6 A I have no idea, none to me.

15:47 7 Q Did Mr. Cortese or Mr. Gardiner provide any  
15:47 8 feedback on the brief?

15:47 9 A Mr. -- Senator Gardiner may have been present  
15:48 10 in meetings with counsel where the brief was  
15:48 11 discussed. I really don't have a specific  
15:48 12 recollection. But it would not have been unusual, in  
15:48 13 my mind, for -- for Senator Gardiner to communicate  
15:48 14 directly to counsel any feedback that he had.

15:48 15 Q Okay. Now, I assume you're aware that a  
15:48 16 number of the public maps that came to the -- came  
15:48 17 through the public portal in the public process that  
15:48 18 ended on November the 1st, ostensibly, a number of  
15:48 19 those maps were submitted by Mr. Terraferma and  
15:48 20 Mr. Bainter and Mr. Heffley through third parties. Do  
15:49 21 you recall that? Are you aware of that?

15:49 22 A I -- I know that there was a -- a set of maps  
15:49 23 that came in from people who -- who indicated their --  
15:49 24 their city of residence was Gainesville. And they all  
15:49 25 came in on the same day.

15:49 1 But -- but other than what I might have heard  
15:49 2 during the congressional trial, I really didn't know  
15:49 3 what -- you know, what the origin of those -- those  
15:49 4 maps was.

15:49 5 Q And were those maps suspicious to you at all?

15:49 6 A It -- the fact that a number of maps came in  
15:49 7 all indicating they were from Gainesville looked  
15:49 8 unusual to me when they first came in.

15:49 9 Q And you all studied those maps pretty  
15:49 10 carefully; right?

15:49 11 A What I did when I -- when I received maps  
15:50 12 from -- from the public submission process was process  
15:50 13 them to the web. So there -- there was some work that  
15:50 14 I had to do on the Senate side and that Mr. Kelly had  
15:50 15 to do on the House side in order to get all these  
15:50 16 public submissions or amendments by committee or  
15:50 17 senators or -- or representatives posted on the  
15:50 18 website.

15:50 19 So we would do that. I -- you know, sometimes  
15:50 20 would -- would take a look at maps once they came in.  
15:50 21 If it came from the League of Women Voters, I would  
15:50 22 look at it very carefully as soon as I could. If it  
15:50 23 came in from the NAACP, I would look at it very  
15:50 24 carefully.

15:50 25 Routinely I didn't -- didn't scrutinize or

15:50 1 analyze every plan that came in from the public, and I  
15:50 2 don't remember doing that with -- with any of these  
15:51 3 maps that came from -- from Gainesville, you know, on  
15:51 4 that date or at that time.

15:51 5 We did look at them later.

15:51 6 Q Well, as you were explaining the decisions  
15:51 7 that you made, you indicated that you relied on those  
15:51 8 maps as you were drawing and making decisions about  
15:51 9 districts; isn't that right?

15:51 10 MR. CANTERO: Object to the form.

15:51 11 A So the -- because you've shown it to me in the  
15:51 12 prior deposition, and, I mean, I'm generally aware  
15:51 13 that I wrote a script that -- for Senator Gaetz that  
15:51 14 talked about commonalities between public submissions  
15:51 15 and the S9004.

15:52 16 BY MR. KING:

15:52 17 Q Well, you did more than write a script for  
15:52 18 president -- for Senator Gaetz about reviewing the  
15:52 19 public maps and making attributions about how they  
15:52 20 influenced you; didn't you?

15:52 21 A I don't clearly understand the question.

15:52 22 Q Well, let me show you a couple of things here.  
15:52 23 Let's see if we can figure this out. Let me show you  
15:52 24 Exhibit 20. Exhibit 20 is a committee meeting  
15:52 25 expanded agenda which describes each of the 40



15:52 1 districts in the Senate Map 9004 and indicates which  
15:52 2 of the public maps were persuasive as to drawing those  
15:53 3 districts; doesn't it, sir?

15:53 4 (Exhibit No. 20 was identified for the  
15:53 5 record.)

15:53 6 A I -- I see what that -- what that memo or what  
15:53 7 that document says, yes.

15:53 8 BY MR. KING:

15:53 9 Q And didn't your staff produce Exhibit 20, sir?

15:53 10 A I believe that we -- that the reapportionment  
15:53 11 staff -- Senate reapportionment staff did produce  
15:53 12 this, yes.

15:53 13 Q So the -- the material that in -- that is in  
15:53 14 this is accurate and correct; right? Because you --  
15:53 15 your office prepared it?

15:53 16 A Well, we are not perfect, and -- we were not  
15:53 17 perfect, but we strived for accuracy, yes.

15:53 18 Q And everything you said there you intended to  
15:53 19 be true and correct; right?

15:53 20 A I would not write a document that I believed  
15:53 21 to be false, I don't think.

15:53 22 Q And did you actually draft this document  
15:54 23 yourself?

15:54 24 A I believe that it was probably a collaboration  
15:54 25 for which I was ultimately responsible.

15:54 1 Q And you read it over certainly before you put  
15:54 2 it into the public record; right?

15:54 3 A I -- and -- and this document is the one that  
15:54 4 was included in the meeting packet, may I ask?

15:54 5 Q Yes, sir. That's what it reflects there. It  
15:54 6 was in the meeting packet for the December 6, 2011,  
15:54 7 meeting at which 2000 -- I mean 9004 was passed by the  
15:54 8 committee; right?

15:54 9 A That was the meeting when 9004 was -- was  
15:54 10 introduced -- I think the committee moved to introduce  
15:54 11 9004 as a committee bill.

15:54 12 Q Yes.

15:54 13 A And -- and -- so if it was in the meeting  
15:55 14 packet, then I -- I would -- I was ultimately  
15:55 15 responsible for everything that went out in -- in a  
15:55 16 meeting packet. And so I would have read this  
15:55 17 document.

15:55 18 Q And -- and this went to each member of the  
15:55 19 committee so they could see how you all came up with  
15:55 20 the districts that they were going to be voting on  
15:55 21 that day; right?

15:55 22 A Not only did it go to all the members of the  
15:55 23 committee, but it also was posted on the website and  
15:55 24 was available to --

15:55 25 Q Sure.

15:55 1 A -- to the world.

15:55 2 Q And so in this do you now understand that  
15:55 3 Senate public maps 84, 85, 90, 105, 108, 123, 143,  
15:55 4 146, and 147, all came out of the map-making process  
15:56 5 of Bainter, Terraferma, Heffley, and Reichelderfer?

15:56 6 A I caused all of the public submissions that  
15:56 7 the -- that were posted on the website to go there.  
15:56 8 When we published them, we indicate the name of the  
15:56 9 person who made the submission and -- and the person's  
15:56 10 residence, city.

15:56 11 And although the House did -- we also included  
15:56 12 House plans on the Senate side. And the House chose  
15:56 13 to show not cities, but rather counties. So if it was  
15:56 14 submitted through the House process, it would have the  
15:56 15 county name. If it came through the Senate process,  
15:56 16 it would be the city name.

15:56 17 So I -- you rattled off a lot of numbers  
15:56 18 there. And -- and, I mean, who submitted those maps,  
15:57 19 as far as I know -- knew, were the people whose names  
15:57 20 appeared on -- on the submission form. The -- the  
15:57 21 connection between those maps and -- and  
15:57 22 Mr. Terraferma or Mr. Heffley or -- who was the third  
15:57 23 person you said?

15:57 24 Q Reichelderfer.

15:57 25 A Or Mr. Reichelderfer.

15:57 1 Q And Terraferma.

15:57 2 A Yeah, I really didn't --

15:57 3 MR. ZEHNDER: Bainter.

15:57 4 BY MR. KING:

15:57 5 Q Bainter.

15:57 6 A I did not know anything about that sort of  
15:57 7 connection until discovery during the congressional  
15:57 8 trial.

15:57 9 Q But now you understand; right?

15:57 10 A I am generally aware of the evidence that was  
15:57 11 presented during the congressional trial.

15:57 12 Q And the evidence was sufficient to convince  
15:57 13 you that these maps came out of Mr. Bainter's  
15:57 14 map-making factory with the assistance of Heffley and  
15:58 15 Terraferma and Reichelderfer?

15:58 16 MR. CANTERO: Object to the form.

15:58 17 A That's a pretty broad compound. But -- but --

15:58 18 MR. CANTERO: Object to the characterization.

15:58 19 A I -- I heard the evidence that was presented  
15:58 20 during the congressional trial.

15:58 21 BY MR. KING:

15:58 22 Q I mean, you say you -- you looked over the  
15:58 23 maps that Mr. Chen and Rodden examined. Did you  
15:58 24 compare the Schmedlov 3 map to Alex Patton's 143  
15:58 25 public submission?

15:58 1 A I looked at that yesterday.

15:58 2 Q And did you see that it was identical?

15:58 3 A I did.

15:58 4 Q Okay. So I don't have to prove that those --

15:58 5 A No.

15:58 6 Q -- are identical --

15:58 7 A Block --

15:58 8 Q -- to satisfy you?

15:58 9 A Block for block they're identical.

15:58 10 Q All right. So if the testimony clearly was  
15:58 11 that Mr. Terraferma, that map emanated from Terraferma  
15:58 12 and Bainter and Heffley, you would agree, then, that  
15:58 13 the Patton map is --

15:58 14 A If --

15:59 15 Q -- identical to it?

15:59 16 A If Schmedlov is a product of one of those  
15:59 17 persons, then the Patton map is -- what I can testify  
15:59 18 to is the Patton map is identical to Schmedlov.

15:59 19 Q And so actually the Patton map was one that  
15:59 20 you relied on very heavily; isn't that correct, sir?

15:59 21 MR. CANTERO: Object to the form.

15:59 22 A The Patton map was one that, in describing  
15:59 23 the -- the relationships between the public hearings  
15:59 24 and the public map submissions and the product that  
15:59 25 was -- that the Senate was -- the Senate committee was

15:59 1 being asked to introduce as a proposed committee  
16:00 2 bill -- I lost my train of thought there -- the --

16:00 3 BY MR. KING:

16:00 4 Q The question was the Patton map was a map that  
16:00 5 you relied on very heavily; isn't that correct --

16:00 6 MR. CANTERO: Object to the form.

16:00 7 BY MR. KING:

16:00 8 Q -- as far as 9004 is concerned?

16:00 9 A It was a map that exhibited a number of -- of  
16:00 10 commonalities with 9004. We -- we may have used the  
16:00 11 word "relied on" in -- in writing the meeting  
16:00 12 materials and in -- in drafting a script for Senator  
16:00 13 Gaetz. But the -- the way that public input was --  
16:00 14 was factored by the committee staff is, we took in all  
16:01 15 of the hearings -- which I and the staff, by and  
16:01 16 large, attended all of the meetings -- myself, I  
16:01 17 attended all of them; staff attended most of them --  
16:01 18 and all of the submissions, the map submissions kind  
16:01 19 of in toto, whether they were submitted to the Senate  
16:01 20 or the House, and gleaned from those sort of general  
16:01 21 ideas or concepts about what could be done in terms of  
16:01 22 modeling districts that would comply with the  
16:01 23 constitutional guidelines.

16:01 24 So we -- we did this general exercise, and  
16:01 25 then we, irrespective of what the maps were, who

16:01 1 submitted them, we -- we went about preparing the  
16:01 2 drafts that we produced for Senator Gaetz. And -- and  
16:01 3 then it was later in the process when, just to provide  
16:02 4 some context for the -- the meeting on December 6, I  
16:02 5 asked staff to help me put together this document,  
16:02 6 which -- which describes commonalties.

16:02 7 And -- and we used the term -- I regret today  
16:02 8 that I used the term "relied upon," because I don't  
16:02 9 think we relied upon any particular district from any  
16:02 10 particular public submission. But we did take all of  
16:02 11 the material that was provided to the committee into  
16:02 12 consideration in trying to model districts that were  
16:02 13 compliant with the constitutional guidelines.

16:02 14 Q But you told the public when they were  
16:02 15 submitting -- to get them to submit these maps, that  
16:02 16 you were going to rely on their proposals, look at  
16:03 17 them, and see if they made sense, and then utilize  
16:03 18 them if they -- they did; didn't you?

16:03 19 A I believe that we told the public that their  
16:03 20 input would be considered.

16:03 21 Q Right.

16:03 22 A And -- and it was.

16:03 23 Q But what you really did was, as I understand  
16:03 24 what you just said, is that you drew the map and got  
16:03 25 it the way you wanted it, and then you looked through

16:03 1 the public maps to see if there were identical  
16:03 2 districts, and then you referred to that as that's an  
16:03 3 identical district to --

16:03 4 A Well, you -- you left a step out.

16:03 5 Q Okay.

16:03 6 A The first step was that we considered the  
16:03 7 input that we had gotten from the public.

16:03 8 Q Okay.

16:03 9 A Then we did our modeling, and then we wrote a  
16:03 10 script or wrote a -- wrote these scripts --

16:03 11 Q Isn't it correct, sir, in Exhibit 20 that  
16:03 12 you -- the only district that -- I mean, the only  
16:03 13 public map that is referred to for Districts 3, 6, and  
16:03 14 14, is Alex Patton's 143? You can look at District 3  
16:04 15 on page 1, at the bottom of page 1.

16:04 16 A Okay.

16:04 17 Q District 6 down toward the bottom of page 2.

16:04 18 A Correct.

16:04 19 Q And District 14 on page 4 in the middle --  
16:04 20 middle of the page.

16:04 21 A That is correct.

16:04 22 Q Now, you could have referred to a lot of other  
16:04 23 districts that his map was the closest to, but you  
16:04 24 chose not to do that; isn't that correct?

16:04 25 A I believe that's correct, yes.



16:04 1 Q So you made a conscious decision not to refer  
16:04 2 to Mr. Patton's map very much; isn't that correct?

16:04 3 A What -- I did make a conscious decision about  
16:04 4 the contents in -- in this memo. And what I was  
16:05 5 conscious of is -- is not wanting to state that we  
16:05 6 relied on a single public hearing or a single map in  
16:05 7 terms of -- of where we found commonalties.

16:05 8 Q Even though you did?

16:05 9 A There were more commonalties with the Alex  
16:05 10 Patton submission than many, if not most, of the other  
16:05 11 public submissions.

16:05 12 Q Than any other public submission; isn't that  
16:05 13 correct?

16:05 14 A I -- well, I've not done that analysis. There  
16:05 15 were a lot of similarities with the NAACP map. And I  
16:05 16 think there -- so, I mean, the -- the facts are what  
16:05 17 they are. You -- you know, anybody can -- can look  
16:05 18 and see, but I've not done that analysis.

16:06 19 Q I show you Exhibit 21 and ask if you recognize  
16:06 20 that document?

16:06 21 (Exhibit No. 21 was identified for the  
16:06 22 record.)

16:06 23 A And this was a Senate production or something  
16:06 24 you got off the Senate website or --

16:06 25 BY MR. KING:

16:06 1 Q Yes, sir.

16:06 2 A Okay.

16:06 3 Q Isn't it correct, sir, that Exhibit 21 is a  
16:06 4 document produced by your office in support of the  
16:06 5 enacted 9008?

16:06 6 A Where it says "Senate Casebook" at the top,  
16:07 7 what I recall is Senator Gaetz requested of the staff  
16:07 8 that we provide him what he called casebooks for him  
16:07 9 to have at his disposal during legislative debate  
16:07 10 on -- when he presented this bill on the floor of the  
16:07 11 Senate.

16:07 12 Q All right. And in the descriptions of each of  
16:07 13 the 40 districts, you also indicate districts that --  
16:07 14 from the public maps -- that lined up with the  
16:07 15 districts you referred to; right, with the districts  
16:07 16 you've drawn?

16:07 17 A As I flip through this, I'm not seeing that.  
16:07 18 But I -- I -- that does not surprise me -- well, here  
16:07 19 I see total public testimony -- well, is that it or --

16:07 20 Q You --

16:07 21 A -- I mean, again, the words are what they are.

16:07 22 Q Well, if you look at --

16:08 23 A Yeah, point me to a particular page.

16:08 24 Q Let's look at District 2. And it's on page  
16:08 25 17. And you see it refers to -- at the top of the

16:08 1 page it refers to maps, and it says, plans containing  
16:08 2 a district similar -- a district similar to District 2  
16:08 3 encompassing the same counties and using I-75 in Ocala  
16:08 4 and Marion County as a boundary, 143 by Alex Patton.

16:08 5 A Yes.

16:08 6 Q Do you see that?

16:08 7 A I see that.

16:08 8 MR. CANTERO: Sorry. What page are you guys  
16:08 9 on?

16:08 10 MR. KING: That's on page 17.

16:08 11 BY MR. KING:

16:08 12 Q Another one, for example, on page 30, that's  
16:08 13 for District 4.

16:09 14 A Page 30. Okay.

16:09 15 Q District 4. And do you see that down at the  
16:09 16 bottom of the page, plan identical to this district,  
16:09 17 143 by Alex Patton?

16:09 18 A Yes, I see that.

16:09 19 Q I'm sorry. That was District 5.

16:09 20 A Yeah. I wasn't proofing that. I was going by  
16:09 21 the page number.

16:09 22 Q That was District 5.

16:09 23 A Yeah.

16:09 24 Q Would -- would you be surprised -- I'm not  
16:09 25 going to go through each of these, but would you be

16:09 1 surprised to know that you relied on -- or that you  
16:09 2 referred to Alex Patton on Districts 5, 2, 7, and 11,  
16:09 3 that that map was the only one that was referred to on  
16:10 4 each of the discussions of those four districts, and  
16:10 5 then you also relied -- or not relied -- referred to  
16:10 6 Patton on District 22 as well? Would that surprise  
16:10 7 you?

16:10 8 A That would not surprise me.

16:10 9 Q Okay. And in fact, as you look at the cover,  
16:10 10 what you see is that District 5, 2, 7, and 11,  
16:10 11 basically your map was modeled after Mr. Patton's map  
16:10 12 across the top of North Florida; do you see that?

16:10 13 A Do -- so what I think I hear you saying is  
16:10 14 that in this -- this case book we say that Patton is  
16:10 15 identical to 9008 in those four districts; is that  
16:11 16 what it says?

16:11 17 Q Yes, sir.

16:11 18 A Because what you've given me here is a  
16:11 19 185-page -- or 186-page --

16:11 20 Q I'm not saying it's exactly identical. It's  
16:11 21 identical in a -- in a couple of districts there I  
16:11 22 think, pretty much.

16:11 23 A Right. Well, I don't have any reason to  
16:11 24 disagree with anything we said --

16:11 25 Q Let me show you Exhibit --

16:11 1 A -- in this report.

16:11 2 Q Let me show you Exhibit 22, which is the  
16:11 3 Patton Schmedlov map or Schmedlov. Still a little  
16:11 4 unclear on that pronunciation.

16:11 5 (Exhibit No. 22 was identified for the  
16:11 6 record.)

16:11 7 BY MR. KING:

16:11 8 Q And -- and so would you be surprised that  
16:11 9 about 30 of the 40 districts in 9008 are supported by  
16:11 10 references to the maps produced by Mr. Bainter in  
16:11 11 Heffley and Terraferma?

16:12 12 MR. CANTERO: Object to the form. What do you  
16:12 13 mean mass produced by --

16:12 14 MR. KING: I mean that the nine public maps  
16:12 15 that emanated from Mr. Bainter and Mr. Terraferma  
16:12 16 and Mr. Heffley and maybe even Mr. Reichelderfer.

16:12 17 MR. CANTERO: Object to the form.

16:12 18 A So two -- again, this is a numerical exercise  
16:12 19 which --

16:12 20 BY MR. KING:

16:12 21 Q We're not going to count them up now. We just  
16:12 22 don't have time to do that now.

16:12 23 A Okay.

16:12 24 Q Would you be surprised to know that you had  
16:12 25 referred on those -- those tainted maps in 30 of the

16:12 1 40 districts?

16:12 2 MR. CANTERO: Object to the form.

16:12 3 A And that's what was stated here, or -- or is  
16:12 4 that something you're --

16:12 5 BY MR. KING:

16:12 6 Q No. That's just the ones you attributed --

16:12 7 A -- including based on Chen -- Chen and  
16:12 8 Rodden or --

16:12 9 Q No, that's the ones you've attributed.

16:12 10 A Okay. 30 out of 40 in this --

16:12 11 Q Yeah.

16:12 12 A -- document --

16:12 13 Q Have support --

16:13 14 A -- reference 143?

16:13 15 Q -- by -- not 143, to the nine pro -- the nine  
16:13 16 maps produced --

16:13 17 A Oh, any one of those --

16:13 18 Q -- by the Bainter group, right.

16:13 19 A Those nine?

16:13 20 Q Including 143?

16:13 21 A Those being the numbers that you rattled off  
16:13 22 earlier?

16:13 23 Q Right.

16:13 24 A That would not surprise me.

16:13 25 Q Okay. So let's look now at 143 and compare it

16:13 1 to S09. Let's look at H4, I4, HI, it's that group, H,  
16:14 2 I, J, K, L, M, N, O, P.

16:14 3 (Discussion off the record.)

16:15 4 (In recess from 4:15 to 4:24 p.m.)

16:24 5 BY MR. KING:

16:24 6 Q I'm showing you Exhibit 23, which is a  
16:24 7 composite exhibit, Mr. Guthrie.

16:24 8 MR. CANTERO: I'm sorry. 23; right?

16:24 9 MR. KING: 23.

16:24 10 (Exhibit No. 23 was identified for the  
16:24 11 record.)

16:24 12 A So in terms of counsel getting the PDFs they  
16:24 13 requested, you'll -- you will give us a mapping of --  
16:24 14 it's really not my worry -- of one from the, you know,  
16:24 15 how -- what this is a composite of?

16:24 16 BY MR. KING:

16:24 17 Q Let me just ask you questions about it --

16:24 18 A All right.

16:24 19 Q -- and we will figure that out later.

16:24 20 So the first page there reflects public map  
16:25 21 143, District 6, as compared to S09 District 1. And  
16:25 22 then a third diagram is a diagram which compares the  
16:25 23 two boundaries, shows the overlapping boundary, and  
16:25 24 shows the difference. Do you see that?

16:25 25 A I see this exhibit, yes.

16:25 1 Q And so would you agree, sir, that this is  
16:25 2 highly similar to S09 District 1, the district in the  
16:25 3 public map by Patton?

16:25 4 A I -- I would agree that there -- there -- they  
16:25 5 are similar.

16:25 6 Q If I tell you that 95.1 percent of the  
16:25 7 population in S09 from S D6 in 143, we had that  
16:26 8 similarity, it's close to 95.1 percent of the  
16:26 9 population.

16:26 10 A I will take your word for it.

16:26 11 Q All right. Then next we turn -- the second  
16:26 12 page, we're comparing 143 District 16 to District 3 in  
16:26 13 S09, almost identical; isn't that correct, sir?

16:26 14 A Well, what I see is both those districts are  
16:26 15 made up of -- of many whole counties.

16:26 16 Q Right.

16:26 17 A They both split just one county, and there is  
16:26 18 a difference around the City of Orlando, where most of  
16:26 19 your -- a big chunk of your population of Marion  
16:26 20 County exists.

16:26 21 So they're different in --

16:26 22 Q Wait a minute. I didn't understand.

16:26 23 A -- Ocala.

16:26 24 Q Did you say Orlando?

16:26 25 A I said Orlando; I meant Ocala.



16:27 1 Q Well, Marion County is not in -- part of  
16:27 2 Marion County is in --

16:27 3 A Right. So that's where the difference occurs  
16:27 4 is in the county that is different.

16:27 5 Q Right. Just a little small difference -- just  
16:27 6 like 98.7 percent the same population; would you  
16:27 7 accept that?

16:27 8 A Is that what you determined?

16:27 9 Q Yes, sir.

16:27 10 A Okay. Then I will take your word for it.

16:27 11 Q And, of course, you attributed this  
16:27 12 district -- you attributed that you considered this  
16:27 13 district in your public submissions, right, on the  
16:27 14 casebook and the -- and the --

16:27 15 A I -- I believe we looked earlier at -- at --  
16:27 16 about having the same counties and following  
16:27 17 Interstate 75.

16:27 18 Q All right. Then let's look at the third  
16:27 19 sheet, which is District 5. And do you see there is  
16:27 20 great similarity there as well; correct?

16:28 21 A I'm not sure what I'm looking at in the  
16:28 22 overlay here. It looks like it's confined to Nassau  
16:28 23 and Duval Counties.

16:28 24 Q Right. It's simply --

16:28 25 A Of course, that urban area is -- is very

16:28 1 dense.

16:28 2 Q Right.

16:28 3 A So differences that appear small on a -- on a  
16:28 4 wide scale map may, in fact, involve a lot of  
16:28 5 population.

16:28 6 Q 91.9 percent of the population. Would that  
16:28 7 surprise you?

16:28 8 A If -- if that's your testimony, then -- I --

16:28 9 MR. MEROS: It's not his testimony; okay?

16:28 10 MR. CANTERO: Apparently he's testifying.

16:28 11 MR. KING: Just trying to speed it along,  
16:28 12 friends.

16:28 13 BY MR. KING:

16:28 14 Q All right. Let's look at the fourth page.  
16:28 15 Now we have got 143, District 3, S09 District 6.

16:29 16 A All right.

16:29 17 Q Identical; right?

16:29 18 A No equivocation here.

16:29 19 Q All right. And next we are looking at  
16:29 20 District 14 in 143 compared to S09 District 7. And I  
16:29 21 will represent to you that that's 88 percent  
16:29 22 population comparability. But it's -- it clearly is a  
16:29 23 situation where the lines are extraordinarily similar  
16:29 24 on the west side of the district; correct?

16:29 25 A Yeah. What you see is -- let's see -- well,

16:29 1 again, the -- the Orange County area is -- is very  
16:30 2 dense, central Orange County. And -- and so -- I -- I  
16:30 3 can't tell from this what the population commonality  
16:30 4 is.

16:30 5 But -- but I would -- I can see, as you  
16:30 6 suggest, that -- that the overall shape of the  
16:30 7 district is similar, and the population commonality is  
16:30 8 what it is. We can --

16:30 9 Q Right.

16:30 10 A We can calculate that.

16:30 11 Q And the next page is 143 District 7, S09  
16:30 12 District 8: That's the district along the coast. And  
16:30 13 you see a great similarity there. The differences are  
16:30 14 down at the bottom. And at the top, and the  
16:30 15 population comparability is 91.2 percent.

16:30 16 A Okay.

16:30 17 Q Again, as you all -- as your office did S09,  
16:31 18 you paid very careful consideration to 143; isn't that  
16:31 19 correct?

16:31 20 A Well, I -- I would not say that. What I would  
16:31 21 say is that, as we developed S09, we -- that it was  
16:31 22 built upon what we had learned and what we had modeled  
16:31 23 in our committee previously. So I -- it is not my  
16:31 24 belief that -- that we were directly relying on or  
16:31 25 directly importing districts from 143 in order to

16:31 1 create S09.

16:31 2 Q Well, in S09 you took a very different turn  
16:31 3 than you had taken in the last map prior to that,  
16:32 4 Senate 9; isn't that correct, sir?

16:32 5 A It's not my testimony that that was the last  
16:32 6 map prior -- it's the last -- I -- I will accept that,  
16:32 7 among the drafts that we retained and the drafts  
16:32 8 that -- which were the ones that we produced through  
16:32 9 discovery, that, that it preceded, you know, all that.

16:32 10 But -- but there may have been work that I was  
16:32 11 doing and that staff was doing in between.

16:32 12 Q And would you be surprised that the way S09  
16:32 13 changed from Senate 9 was very similar to the  
16:32 14 districts, at least in the upper half of the state,  
16:32 15 the northern half of the state, to Mr. Patton's map,  
16:32 16 which, of course, was created by the political  
16:33 17 operatives?

16:33 18 A Well, to the -- to the extent that -- that the  
16:33 19 meeting materials that we produced said that there  
16:33 20 were commonalities, I'm not going to disagree with  
16:33 21 what I and the staff reported at that time.

16:33 22 Q But a lot of these districts you did not  
16:33 23 attribute to Mr. Patton's map were also --

16:33 24 A Even in --

16:33 25 Q -- the most similar?

16:33 1 A Even in that casebook -- I think the  
16:33 2 casebook --

16:33 3 Q Only five --

16:33 4 A Okay.

16:33 5 Q -- in the casebook.

16:33 6 A Okay.

16:33 7 Q All right. Let's get through the rest of  
16:33 8 these. Then we will look at that.

16:33 9 So the next page compares District 143,  
16:33 10 District 12 to S09, District 9. And you see that's  
16:33 11 the one with the appendage for Senator Gardiner;  
16:33 12 right?

16:33 13 MR. CANTERO: Object to the form.

16:34 14 A What I see is -- is -- is those three  
16:34 15 districts both include -- all include territory west  
16:34 16 of Orlando and -- and territory in the eastern  
16:34 17 portions of Orlando.

16:34 18 BY MR. KING:

16:34 19 Q I mean, there is a remarkable similarity in  
16:34 20 creating the two appendages there that wouldn't just  
16:34 21 happen by happenstance; would it?

16:34 22 A I believe -- so if you were to create a  
16:34 23 minority district benefiting African-American voters  
16:34 24 and a opportunity district benefiting Hispanic voters,  
16:34 25 it's not surprising to me -- and -- and you were

16:34 1 trying to keep counties whole, it's not surprising to  
16:34 2 me that you would end up with -- with this -- this  
16:35 3 wraparound appearance for that particular district.

16:35 4 Q But of course, to come up with that appendage,  
16:35 5 the similar appendage, that also would be consistent  
16:35 6 with creating a district that would be electable for a  
16:35 7 Senator Gardiner; isn't that correct?

16:35 8 MR. CANTERO: Object to the form.

16:35 9 A I really don't have an opinion on what's  
16:35 10 electable for Senator Gardiner.

16:35 11 BY MR. KING:

16:35 12 Q And of course, that's the way the political  
16:35 13 operatives wanted to draw it; right?

16:35 14 MR. CANTERO: Object to the form; calls for  
16:35 15 speculation.

16:35 16 BY MR. KING:

16:35 17 Q Since they did 143, District 12, just that  
16:35 18 way.

16:35 19 A I will accept your representation that  
16:35 20 District 12 and 143 is -- is as depicted here.

16:36 21 Q And they created that approach that managed to  
16:36 22 carve out a small area where Winter Park and Senator  
16:36 23 Gardiner live and couple it -- avoid the minority  
16:36 24 districts and couple it with a district that would be  
16:36 25 electable for a Republican; correct?

16:36 1 MR. CANTERO: Object to the form.

16:36 2 A I'm trying to get with you here. I apologize  
16:36 3 for my -- so you're referring to -- did you -- between  
16:36 4 Winter Park and where?

16:36 5 BY MR. KING:

16:36 6 Q I referred to the fact that that appendage  
16:36 7 included Winter Park.

16:36 8 A The -- just in the interest of efficiency, do  
16:37 9 you want to point on the map to what you're -- no?

16:37 10 Q No.

16:37 11 A Okay.

16:37 12 Q We need to move on. Let's flip the page and  
16:37 13 look at District 4, compared -- in 143, compared to  
16:37 14 District 14 in S09. Again, another almost identical  
16:37 15 district; right?

16:37 16 A With the -- yeah, with the exception of the  
16:37 17 boundary in Clay County, it looks like.

16:37 18 Q Would you be surprised that's 99.4 percent the  
16:37 19 same population, those two districts?

16:37 20 A Based on what you're showing me and telling me  
16:37 21 here, I would not, and what I know about where the  
16:37 22 St. Johns River is located.

16:37 23 Q And so, once again, Mr. Bainter and -- and his  
16:37 24 group predict almost completely exactly where the  
16:38 25 Senate is going to go in S09; right?

16:38 1 A There is a commonality between 143 and S09.

16:38 2 Q All right. Now let's look at -- on the next  
16:38 3 page, District 9, compared to S09 District 19. Now  
16:38 4 this is the minority district you were talking about;  
16:38 5 right?

16:38 6 A That is.

16:38 7 Q All right. That's a pretty remarkable  
16:38 8 similarity between the two; right?

16:38 9 A That -- that level of similarity I do not find  
16:38 10 remarkable at all when it comes to modeling districts  
16:38 11 for the purpose of complying with tier 1.

16:38 12 Q Well, would you be surprised to know -- let  
16:38 13 me -- let me strike that.

16:38 14 Would it be correct that you were trying to  
16:39 15 model a minority district to comply with tier 1 when  
16:39 16 you were doing Senate 7, 8, and 9? You know, the  
16:39 17 prior Senate draft maps?

16:39 18 A Oh, I -- we were trying to comply with the  
16:39 19 constitutional requirements through -- through the  
16:39 20 process.

16:39 21 Q And you weren't -- you weren't drawing it  
16:39 22 anywhere near --

16:39 23 A No.

16:39 24 Q -- like this --

16:39 25 A No.



16:39 1 Q -- right --

16:39 2 A For any particular map that we happened to  
16:39 3 find in -- in one of the staff lockers, I -- I really  
16:39 4 don't know why it is there. I -- I -- among what we  
16:39 5 produced were some plans that were submitted by the  
16:39 6 League of Women Voters, for instance. So --

16:39 7 Q But we're not talking about those right now.  
16:39 8 We're talking about the one that you modeled District  
16:39 9 19 off of, which is Mr. Patton's District 9; isn't  
16:39 10 that correct, sir?

16:40 11 A I -- I disagree that I modeled District 19 in  
16:40 12 S09 off of -- off of that.

16:40 13 Q All right.

16:40 14 A I mean I -- the commonalities are what they  
16:40 15 are. These -- there -- I don't recall that 143 was  
16:40 16 the only map that had a Orlando district that extended  
16:40 17 into Sanford. I -- I suspect that there were probably  
16:40 18 others, but I don't know, because I haven't -- I'm not  
16:40 19 prepared to testify in trial here today.

16:40 20 Q All right.

16:40 21 A I'm prepared to answer your questions.

16:40 22 Q And, of course, this one was 96.1 percent on  
16:40 23 the comparable population.

16:40 24 A Okay.

16:40 25 Q So that's very close; isn't it?

16:41 1 A 96.1 --

16:41 2 Q Yes.

16:41 3 A -- is -- is -- is a substantial commonality,  
16:41 4 which doesn't surprise me if two plans set out to  
16:41 5 achieve opportunities for minority voters.

16:41 6 Q All right. Look at the next page, which is --  
16:41 7 which is 143, District 10, compared to S09 District  
16:41 8 20, 92.3 --

16:41 9 A Okay.

16:41 10 Q -- percent comparable --

16:41 11 A And I have --

16:41 12 Q -- population.

16:41 13 A -- a loose page here. Do you want -- but  
16:41 14 we're doing -- oh, it's just -- 143, 10 to 920 -- it's  
16:41 15 in order. It just didn't catch the staple, that's  
16:41 16 all.

16:41 17 Q Okay. Slip it in. We will fix it.

16:41 18 A All right. So I'm sorry for the distraction.

16:42 19 Q That's okay.

16:42 20 MR. ZEHNDER: Thank you for fixing it.

16:42 21 BY MR. KING:

16:42 22 Q And then, if we turn next page, 143, District  
16:42 23 11, compared to S09, District 22, that's the Seminole  
16:42 24 County district, which is 92.5 percent the same  
16:42 25 population. Once again, a very similar district;

16:42 1 right?

16:42 2 A Well -- so once you create a -- a common  
16:42 3 minority district or districts between two plans, it  
16:42 4 doesn't surprise me that the residual in Seminole and  
16:42 5 Orange County would -- would have a lot of  
16:42 6 commonality.

16:42 7 Q I mean -- all right. Let's turn the page.  
16:43 8 Look at 143, District 24, compared to S09, District  
16:43 9 23. Now we're talking about Sarasota and Charlotte  
16:43 10 County. And we have a completely identical match;  
16:43 11 right, 100 percent?

16:43 12 A I don't see anything here that would cause me  
16:43 13 to disagree with that.

16:43 14 Q All right. That's just happenstance?

16:43 15 MR. CANTERO: Object to the form.

16:43 16 A That -- if these two districts are block for  
16:43 17 block the same, and they -- and they include partial  
16:43 18 counties, then I would -- I would not suggest that  
16:43 19 it's happenstance.

16:43 20 BY MR. KING:

16:43 21 Q All right. And you don't even attribute -- in  
16:44 22 your case book, you don't attribute this district to  
16:44 23 Mr. Patton.

16:44 24 MR. CANTERO: Objection --

16:44 25 A Well, in -- in --

16:44 1 MR. CANTERO: Hold on.

16:44 2 A In the --

16:44 3 MR. CANTERO: Hold on.

16:44 4 A -- case --

16:44 5 MR. CANTERO: Hold on.

16:44 6 THE WITNESS: Sorry.

16:44 7 MR. CANTERO: Objection; the case book is  
16:44 8 about 9004, not S09.

16:44 9 MR. KING: Right. But the district remains  
16:44 10 the same.

16:44 11 MR. CANTERO: Are you testifying to that?

16:44 12 MR. KING: Well, you know, at a trial, I would  
16:44 13 take the time to show you that it's the same.

16:44 14 MR. CANTERO: I just want to clarify that the  
16:44 15 casebook is not about S09.

16:44 16 MR. KING: I understand.

16:44 17 BY MR. KING:

16:44 18 Q But when you carry it on through to 9004 and  
16:44 19 9008, in neither one of those books where you  
16:44 20 attribute districts do you attribute this district to  
16:44 21 Mr. Patton's 143; do you, sir?

16:44 22 A The -- the -- the words that we wrote are what  
16:44 23 they are.

16:44 24 Q Okay. Next page, District 13 in 143, compared  
16:45 25 to District 24 in S09. Once again, a very similar

16:45 1 district with 92.9 percent same population; correct?

16:45 2 A Yes. This is a -- what I called a Hispanic  
16:45 3 opportunity district.

16:45 4 Q Right. Now, isn't it correct, sir, that you  
16:45 5 weren't drawing a Hispanic opportunity district until  
16:45 6 S09?

16:45 7 A I would -- I believe that I -- that sounds --  
16:45 8 well, I don't know about plans that may have been  
16:45 9 modeled between Senate 9 and S09. But among the --  
16:45 10 the drafts that -- that were retained, I believe that  
16:46 11 the first appearance of a Hispanic district was -- was  
16:46 12 this S09.

16:46 13 Q Right. And it was based on Mr. Bainter's  
16:46 14 District 13 in 143; isn't that correct?

16:46 15 A Well, it also --

16:46 16 MR. CANTERO: Object to the form.

16:46 17 A Yeah, I don't accept that.

16:46 18 (Discussion off the record.)

16:46 19 BY MR. KING:

16:47 20 Q So there was no map -- draft map that you  
16:47 21 produced between Senate 9 and S09 unless there was an  
16:47 22 S08 that was destroyed; right?

16:47 23 MR. CANTERO: Object to the form. Asked and  
16:47 24 answered.

16:47 25 A So what I have testified to is that I did not

16:47 1 retain every iteration of a plan. And there were  
16:47 2 literally thousands, tens of thousands of those during  
16:47 3 this process. And I did not retain them all.

16:47 4 BY MR. KING:

16:47 5 Q All right. So on September -- I mean, on  
16:47 6 November the 15th, you closed out Senate 9; you opened  
16:47 7 S09 on November the 21st; right? We have decided --  
16:47 8 we have already figured that out.

16:47 9 A Okay.

16:47 10 Q And in Senate 9 there was no minority district  
16:48 11 in Central Florida. In S09 there is. And there is in  
16:48 12 143; right?

16:48 13 A The -- for Senate 9 -- you use the term  
16:48 14 "closeout," which is kind of new to our discussion  
16:48 15 today --

16:48 16 Q Last modified.

16:48 17 A -- which may have meant saved with no changes.

16:48 18 Q Okay.

16:48 19 A So those --

16:48 20 Q Fine.

16:48 21 A I stand by the numbers that were produced --  
16:48 22 or the dates that were produced in the Senate's  
16:48 23 interrogatory response.

16:48 24 Q Okay. And the next page is 143, 15 compared  
16:48 25 to S09, 26. Indian River was left off of 26 in S09.

16:49 1 But the population remains 91.9 -- .1 percent the  
16:49 2 same; right?

16:49 3 MR. CANTERO: Object to the form.

16:49 4 A I hear what you're saying. That seems -- oh,  
16:49 5 okay. I -- well, trying --

16:49 6 MR. CANTERO: Don't answer anything you don't  
16:49 7 know.

16:49 8 A I don't know.

16:49 9 BY MR. KING:

16:49 10 Q And then the last one is 143, 36 compared to  
16:49 11 S09, District 40. And while the configuration is --  
16:49 12 the boundary configuration is significantly different,  
16:49 13 the population remains 92.5 percent the same in that  
16:50 14 South Florida district; would you agree to that?

16:50 15 MR. CANTERO: Object to the form.

16:50 16 A I -- I haven't done the analysis, and I don't  
16:50 17 know.

16:50 18 BY MR. KING:

16:50 19 Q All right. Now, the question is, Mr. Guthrie,  
16:50 20 didn't Senator Gaetz tell you to pay a particular  
16:50 21 attention to 143?

16:50 22 A He did not.

16:50 23 Q Who did?

16:50 24 A Nobody told me to pay particular attention to  
16:50 25 143.

16:50 1 Q Because clearly there is a remarkable  
16:50 2 similarity between S09 and 143; isn't that correct,  
16:50 3 sir?

16:50 4 A I -- I agree that there are commonalities  
16:50 5 between those plans, yes.

16:51 6 Q And do you also agree that for many of those  
16:51 7 districts where there was commonality, you made the  
16:51 8 decision not to indicate that 143 was similar or was  
16:51 9 what you -- you referred to regarding that district?

16:51 10 MR. CANTERO: Object to the form.

16:51 11 A So the evidence is what it is. And I -- I  
16:51 12 really have nothing more to add.

16:51 13 BY MR. KING:

16:51 14 Q Okay. Well, let's look -- let's look at H3  
16:52 15 and J3.

16:52 16 MR. ZEHNDER: Exhibit 24 is going to be H3.

16:52 17 (Exhibit No. 24 was identified for the  
16:52 18 record.)

16:52 19 BY MR. KING:

16:52 20 Q Okay. Here is Exhibit 24, sir. And that's  
16:52 21 just an excerpt from your casebook -- not from the  
16:52 22 casebook -- from the meeting packet regarding 9004,  
16:52 23 which we have previously marked in evidence, which is  
16:53 24 Exhibit 20. Okay. So this is an excerpt from Exhibit  
16:53 25 20.



16:53 1 Exhibit 24 is an Exhibit from Exhibit 20, and  
16:53 2 it refers to District 8. And you say District 8, in  
16:53 3 the second paragraph you say, public plan, 155  
16:53 4 includes a district similar to District 8; right?

16:53 5 A I see that, yes.

16:53 6 Q You don't refer to 143; right?

16:53 7 A I see it the way that you see it, yes.

16:53 8 Q Okay. And next let's look at J3.

16:53 9 (Exhibit No. 25 was identified for the  
16:53 10 record.)

16:53 11 MR. ZEHNDER: Should be 25; right?

16:53 12 MR. KING: Yes. That's Exhibit 25, yes.

16:54 13 BY MR. KING:

16:54 14 Q Now, on 25 we're looking at S09, District 8  
16:54 15 and 143, and we see that they're very similar; right?

16:54 16 A We -- we see that they --

16:54 17 Q To District 7, 143?

16:54 18 A We see that they share commonalities, yes.

16:54 19 Q But -- but, you might say, I asked you about  
16:54 20 9004, and so let's look at the second page, where we  
16:54 21 now have 9004, District 8, and we have District 155 --  
16:54 22 I mean, Map 155, District 8, which is the one you  
16:54 23 referred to in Exhibit 20 and 24; right?

16:55 24 A Yes.

16:55 25 Q And 155 has a population overlap of 71.2

16:55 1 percent and a border overlap of 17.4 percent,  
16:55 2 excluding the state border; do you see that?

16:55 3 MR. CANTERO: It says 16.8 percent.

16:55 4 MR. KING: Huh?

16:55 5 MR. CANTERO: Maybe I'm looking at a different  
16:55 6 one?

16:55 7 MR. ZEHNDER: Different order of pages.

16:55 8 MR. KING: No. We're looking at 9004.

16:55 9 MR. CANTERO: Is yours the same as mine, Tom?

16:55 10 MR. ZEHNDER: I don't know. I think so,  
16:55 11 Raoul.

16:55 12 MR. KING: Let's make sure which one he's got.

16:55 13 BY MR. KING:

16:55 14 Q Do you have 155; population overlap 71.2,  
16:56 15 border overlap 16.8?

16:56 16 A I do.

16:56 17 Q Okay. And then for 143, we have got a  
16:56 18 population overlap of 74 percent and a border overlap  
16:56 19 of 53.4 percent; right?

16:56 20 A Yeah. I'm -- I hear what you're saying. I'm  
16:56 21 trying to wrap my head -- and you excluded the state  
16:56 22 border in both.

16:56 23 Q Both, right.

16:56 24 A So ...

16:56 25 Q So the question is, isn't it correct that you

16:56 1 were attempting to downplay your reliance on 143 by  
16:56 2 relying -- by -- by calling out a district that was  
16:56 3 less similar, the one you chose, than 143?

16:57 4 MR. CANTERO: Object to the form.

16:57 5 A So the -- I don't know how the border overlap  
16:57 6 numbers were calculated here. That's actually a  
16:57 7 fairly complicated algorithm. But -- but you know, as  
16:57 8 to the thrust of your question, as I said earlier, in  
16:57 9 preparing the material that went into the meeting  
16:57 10 packet, my -- what I asked staff to do was -- and what  
16:57 11 I chose to do was not overemphasize any single public  
16:57 12 hearing or any single public map submission in terms  
16:57 13 of its commonalities with the -- the proposed  
16:57 14 committee product.

16:57 15 BY MR. KING:

16:57 16 Q All right. Let's look at one more real  
16:57 17 quickly. Let's do K3 and M3.

16:58 18 MR. KING: K3 is 26.

16:58 19 BY MR. KING:

16:58 20 Q I show you Exhibit 26.

16:58 21 (Exhibit No. 26 was identified for the  
16:58 22 record.)

16:58 23 BY MR. KING:

16:58 24 Q And we're discussing District 7 in 9004. And  
16:58 25 you say that public plans 84 and 146 each contain a

16:59 1 district similar to District 7.

16:59 2 Do you see that?

16:59 3 A I do.

16:59 4 Q All right. And then --

16:59 5 MR. CANTERO: This is an excerpt of Exhibit  
16:59 6 20; right?

16:59 7 MR. KING: This is an excerpt of Exhibit 20,  
16:59 8 exactly. And here we have -- thank you.

16:58 9 (Exhibit No. 27 was identified for the  
16:59 10 record.)

16:59 11 BY MR. KING:

16:59 12 Q All right. Let me show you M -- Exhibit 27,  
16:59 13 which is a comparison. Let's just skip the first page  
16:59 14 and go right to the second. Let's go to 9004 of  
16:59 15 Exhibit 27.

16:59 16 And you see that we're looking at 9004,  
16:59 17 District 7. And we're looking at 84, which  
16:59 18 incidentally came out of the Bainter map factory as  
17:00 19 well. You see that one, and it has a population  
17:00 20 overlap of 56 percent and a border overlap of 17.3  
17:00 21 percent.

17:00 22 Do you see that?

17:00 23 A I see the numbers printed on this page.

17:00 24 Q And then you look at 146, another product of  
17:00 25 the Bainter map factory, and it has a 75.7 percent

17:00 1 population overlap and a 23.6 percent border overlap.

17:00 2 Do you see that one?

17:00 3 MR. CANTERO: I object to the characterization  
17:00 4 embedded in the question.

17:00 5 MR. KING: Okay.

17:00 6 A Right. This -- so none of this is my  
17:00 7 testimony other than the fact that I can see.

17:00 8 BY MR. KING:

17:00 9 Q And then you see 143, which has a population  
17:00 10 overlap of 88.8 percent and a border overlap of 69.9  
17:00 11 percent; right?

17:00 12 A Yes. I see that printed on the page.

17:00 13 Q All right. But you refer to 14 -- 84 and 146,  
17:01 14 because you want to downplay your emphasis on 143;  
17:01 15 correct?

17:01 16 MR. CANTERO: Object to the form.

17:01 17 A I've already stated what we did in the meeting  
17:01 18 packet with respect to not wanting to single out a  
17:01 19 single plan or a single public hearing or any  
17:01 20 particular public input as having abundant or  
17:01 21 overwhelming influence or -- or commonality with the  
17:01 22 proposed plan.

17:01 23 (Exhibit No. 28 was identified for the  
17:01 24 record.)

17:01 25 BY MR. KING:

17:02 1 Q I show you Exhibit 28, another excerpt from  
17:02 2 Exhibit 20. It refers to District 22, indicates on  
17:02 3 page 6 that you rely -- or that you refer to public  
17:02 4 plans 64, 72, 146, and 147 that contain districts with  
17:02 5 an orientation similar to that of District 22; do you  
17:02 6 see that?

17:02 7 A I see that.

17:02 8 (Exhibit No. 29 was identified for the  
17:02 9 record.)

17:02 10 BY MR. KING:

17:02 11 Q All right. Then next I show you Exhibit 29,  
17:03 12 and let's turn to the second page, which looks at each  
17:03 13 of those. And what we see is that 64 has a population  
17:03 14 overlap of 82.9 percent; 72, a population overlap of  
17:03 15 77.9 percent; 146, a population overlap of 90.6 and a  
17:03 16 border overlap of 59.5; 147, a population overlap of  
17:03 17 90.6 and border overlap of 51.5; and then 143, which  
17:03 18 has a population overlap of 92 percent and a border  
17:03 19 overlay of 63.9 percent.

17:03 20 You referenced all of the maps except for 143,  
17:03 21 which is the most similar; isn't that correct?

17:04 22 A I see what is printed on this page. And -- or  
17:04 23 on the two pages. I've -- I've already explained --  
17:04 24 there's another point that probably needs to be made  
17:04 25 here, lest you jump to unreasonable conclusions, is

17:04 1 that staff did not have the benefit of -- of these  
17:04 2 so-called population overlap numbers, and we certainly  
17:04 3 didn't have these border overlap minus the state  
17:04 4 border numbers, as they were looking at the public  
17:04 5 submissions to try to articulate a -- a list -- and I  
17:04 6 don't know that we claimed that it's an exhaustive  
17:04 7 list -- but a list of plans that happen to exhibit  
17:05 8 common district configurations to what's in the plan  
17:05 9 the committee is being asked to consider.

17:05 10 BY MR. KING:

17:05 11 Q Weren't you suspicious of maps 146 and 147  
17:05 12 that are exactly the same, that were filed on the  
17:05 13 afternoon of November the 1st within an hour or so of  
17:05 14 each other?

17:05 15 A And -- I have not independently determined  
17:05 16 that those two maps are identical. So --

17:05 17 Q I didn't say they were identical. But they  
17:05 18 have lots of identical districts; don't they?

17:05 19 A I did notice that, among those plans that came  
17:05 20 in from Gainesville, there were similarities.

17:05 21 Q I mean, that doesn't happen accidentally; does  
17:05 22 it?

17:06 23 MR. CANTERO: Object to the form.

17:06 24 A Yeah, I don't know what you mean by the term  
17:06 25 "accidentally."

17:06 1 BY MR. KING:

17:06 2 Q I mean, you just don't match a number of  
17:06 3 districts identically in two separate maps by  
17:06 4 coincidence; do you?

17:06 5 A If -- if you match -- matched lots of  
17:06 6 districts identically, and you're not following county  
17:06 7 lines, then -- then that would indicate that one may  
17:06 8 have borrowed from -- from the other. It doesn't tell  
17:06 9 you who borrowed from whom, but -- but -- but it -- it  
17:06 10 would suggest that two people were working off of a  
17:06 11 similar objective or a similar source.

17:08 12 (Discussion off the record.)

17:08 13 BY MR. KING:

17:08 14 Q If you would look at Exhibit 20, page 3. It  
17:08 15 refers to District 9.

17:09 16 MR. CANTERO: Here is the summary.

17:09 17 THE WITNESS: Yeah, it's here somewhere.

17:09 18 BY MR. KING:

17:09 19 Q And you see on page 3 on district -- let's  
17:09 20 see --

17:09 21 MR. CANTERO: He's still looking for the  
17:09 22 exhibit.

17:09 23 BY MR. KING:

17:09 24 Q -- on District 9 -- oh, I'm sorry. You're  
17:09 25 still looking for Exhibit 20? I gotcha. It's getting



17:09 1 a little deep over there.

17:09 2 MR. CANTERO: I can give him my copy.

17:09 3 THE WITNESS: Mine may be there. Okay.

17:09 4 BY MR. KING:

17:09 5 Q Okay. If you look at page 3, where it refers  
17:09 6 to District 9, you see that it refers to public plans  
17:09 7 146 and 147 each contain districts of a similar  
17:09 8 configuration; right?

17:09 9 A I see that, yes.

17:09 10 Q All right. Then I'm going to show you Exhibit  
17:10 11 30.

17:10 12 (Exhibit No. 30 was identified for the  
17:10 13 record.)

17:10 14 BY MR. KING:

17:10 15 Q All right. Now we're dealing with -- and  
17:10 16 let's -- let's just go look at -- let's skip the first  
17:10 17 page and go on to S04 -- 9004.

17:10 18 We're looking at that district that has the  
17:10 19 appendage where Senator Gardiner lives; right?

17:10 20 A I -- I know from -- from the trial that  
17:10 21 Senator Gardiner -- well, I don't know exactly where  
17:11 22 Senator Gardiner lives. He -- he lives somewhere in  
17:11 23 east Orlando. And I don't know exactly where, so ...

17:11 24 Q Okay. And --

17:11 25 A But if you've determined that, I don't have

17:11 1 any basis here for disputing it.

17:11 2 Q Now 146 and 147 are, again, products of the  
17:11 3 political operatives' efforts. But you see that  
17:11 4 actually 143 is closer, although they're -- all three  
17:11 5 of those are very similar; right?

17:11 6 A Yes.

17:11 7 Q And, of course, you knew that all three of  
17:11 8 those were filed the very same afternoon, all from  
17:11 9 Gainesville; right?

17:11 10 A I -- I knew that a bunch of maps had come in  
17:11 11 from Gainesville. I really wasn't looking at the  
17:12 12 public submissions in terms of who submitted them or  
17:12 13 where they came from. But I did notice a -- a group  
17:12 14 of maps coming in on -- at -- on a particular day from  
17:12 15 a particular place.

17:12 16 Q All right. And then if you will turn the  
17:12 17 page, and you will see 9008. And you will see the  
17:12 18 same comparability, but 143 is much more comparable;  
17:12 19 right -- is more comparable?

17:12 20 A It's -- it's more comparable in terms of  
17:12 21 population overlap and border overlap than 155.

17:12 22 Q All right.

17:12 23 A But the other two are quite close I would say.  
17:12 24 For the -- the sort of analysis you're doing here, I  
17:12 25 don't think percentages are particularly probative of

17:13 1 any -- any greater comparability.

17:13 2 Q But all three of those maps are the maps of  
17:13 3 the political operatives; right?

17:13 4 MR. CANTERO: Object to the form.

17:13 5 BY MR. KING:

17:13 6 Q 143, 146, 147.

17:13 7 A If I had a -- a copy of the public submissions  
17:13 8 in front of me all with the names, I -- I could --  
17:13 9 which we've provided to you, by the way, along the --  
17:13 10 along the way here. But if I had that in front of me,  
17:13 11 I could -- I could opine on that. I haven't memorized  
17:13 12 all these names and --

17:13 13 Q Right. I understand.

17:13 14 A -- all these numbers and --

16:58 15 (Exhibit No. 31 was identified for the  
16:58 16 record.)

17:13 17 BY MR. KING:

17:13 18 Q Let me show you this last exhibit right here.  
17:13 19 And this is Exhibit 31. And you see now we're looking  
17:13 20 at 9030 in comparison to 143.

17:13 21 And we're doing an overlap of those two. And  
17:14 22 what you did in 930 [sic] was to simply change the  
17:14 23 bulk of Senator Gardiner's district to the east, but  
17:14 24 with the same appendage down to his house; right, or  
17:14 25 down in the area where he lived?

17:14 1 A As I have stated, I don't know exactly where  
17:14 2 Senator Gardiner lives or where his residence would  
17:14 3 fall, you know, on the east side or the west side of  
17:14 4 any of these --

17:14 5 Q Well, look at the second page, and that will  
17:14 6 speed us along on that.

17:14 7 A Well, I see a square there.

17:14 8 Q Right.

17:14 9 A I --

17:14 10 Q Okay.

17:14 11 A That's what I --

17:14 12 Q But the point I would like you to note is  
17:14 13 that, when you compare this to 143, when you flip the  
17:15 14 district you still retained exactly the area that the  
17:15 15 political operatives tried to have in a district that  
17:15 16 would perform for Senator Gardiner; isn't that  
17:15 17 correct, sir?

17:15 18 MR. CANTERO: Object to the form.

17:15 19 A I -- I think that's -- that that is not at all  
17:15 20 what I would say.

17:15 21 BY MR. KING:

17:15 22 Q Isn't it a remarkable coincidence, again, that  
17:15 23 that boundary area surrounding Mr. Gardiner's house  
17:15 24 continues to work for 143, whether it's 9008 or 9030?

17:15 25 MR. CANTERO: Object to the form.

17:15 1 A Yes. I -- I -- the Supreme Court ordered the  
17:16 2 Senate to remediate deficiencies in district -- or in  
17:16 3 plan 9008, including -- I don't even remember the  
17:16 4 district number -- or the couple of district numbers  
17:16 5 in that area.

17:16 6 And the Senate did so. The -- the remedial  
17:16 7 plan kept for the district where, as you say -- where  
17:16 8 you're alleging that Senator Gardiner's house is --  
17:16 9 and I don't disagree with that -- that -- that it put  
17:16 10 it in a district that, I think, retained something  
17:16 11 less than 20 percent of his former district, which --  
17:16 12 so the suggestion that that district was drawn to  
17:17 13 benefit Senator Gardiner is not one that I agree with  
17:17 14 at all.

17:17 15 BY MR. KING:

17:17 16 Q Okay.

17:17 17 A And we have explained, by the way, why there  
17:17 18 was this territory east of Orlando between the  
17:17 19 Hispanic district and the African-American district  
17:17 20 that -- that didn't help either of those in terms of  
17:17 21 their ability to elect candidates of the minority  
17:17 22 voters' choosing.

17:17 23 MR. KING: Okay. I haven't run out of  
17:17 24 questions, but I've run out of time. And so I'm --  
17:17 25 I'm -- like I told you I would, I'm prepared to

17:17 1 terminate the deposition now. I don't have any  
17:17 2 plans to retake it unless Mr. Guthrie appears as a  
17:17 3 potential witness the next time around in the next  
17:17 4 remedial case.

17:18 5 MR. CANTERO: Understood.

17:18 6 MR. KING: If he does, then I will probably  
17:18 7 want to continue the deposition. But if he  
17:18 8 doesn't, I won't.

17:18 9 MR. CANTERO: Okay.

17:18 10 MR. KING: Okay. You have a right to read and  
17:18 11 sign, Mr. Guthrie. It's up to you.

17:18 12 MR. CANTERO: He will read.

17:18 13 THE WITNESS: Thank you.

14 (The deposition was adjourned at 5:18 p.m.)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATE OF OATH**

STATE OF FLORIDA                    )  
COUNTY OF LEON                    )

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this \_\_\_\_\_ day of August, 2015.

/s/ Sarah B. Gilroy  
SARAH B. GILROY  
sbrinkhoff@comcast.net  
NOTARY PUBLIC  
850.878.2221

**CERTIFICATE OF REPORTER**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF FLORIDA        )  
COUNTY OF LEON        )

I, SARAH B. GILROY, Registered Professional Reporter,  
and Notary Public, do hereby certify that the foregoing  
proceedings were taken before me at the time and place  
therein designated; that a review of the transcript was  
requested, and that the foregoing pages numbered 1  
through 206 are a true and correct record of the  
aforesaid proceedings.

I further certify that I am not a relative, employee,  
attorney or counsel of any parties, nor am I a relative  
or employee of any of the parties' attorney or counsel  
connected with the action, nor am I financially  
interested in the action.

DATED this \_\_\_\_\_ day of August, 2015.

/s/ Sarah B. Gilroy  
SARAH B. GILROY  
sbrinkhoff@comcast.net  
850.878.2221

17:18





ACCURATE STENOGRAPHY REPORTERS  
 2894-A Remington Green Lane  
 Tallahassee, Florida 32308  
 850-878-2221

August 10, 2015

John Guthrie  
 c/o Raoul Cantero, Esquire  
 rcantero@whitecase.com

re: July 29, 2015, deposition of John Guthrie, LWVF, et al vs. Detzner, et al

Dear Mr. Guthrie:

This letter is to advise that the transcript for the above-referenced deposition has been completed and is available for your review and signature through your attorney's office, or if you wish, you may sign below to waive review of this transcript.

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter, as considered reasonable under applicable rules; however, there is no Florida Statute to this regard.

The original of this transcript has been forwarded to the ordering party, and your errata, once received, will be forwarded to all ordering parties for inclusion in the transcript.

Sincerely yours,

SARAH B. GILROY, Court Reporter

cc: David King, Esquire  
 George Meros, Esquire

Waiver:

I, \_\_\_\_\_, hereby waive the reading and signing of my deposition transcript.

\_\_\_\_\_  
 Deponent signature

\_\_\_\_\_  
 Date