

IN THE SUPREME COURT OF OHIO

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

*Relators,*

*v.*

OHIO REDISTRICTING  
COMMISSION, *et al.*,

*Respondents.*

Case No. 2021-1193

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BRIA BENNETT, *et al.*,

*Relators,*

*v.*

OHIO REDISTRICTING  
COMMISSION, *et al.*,

*Respondents.*

Case No. 2021-1198

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THE OHIO ORGANIZING  
COLLABORATIVE, *et al.*,

*Relators,*

*v.*

OHIO REDISTRICTING  
COMMISSION, *et al.*,

*Respondents.*

Case No. 2021-1210

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**RESPONDENTS HUFFMAN AND CUPP'S RESPONSE TO PETITIONERS'  
OBJECTIONS TO THE OHIO REDISTRICTING COMMISSION'S THIRD PLAN**

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## **INTRODUCTION**

At this point, this case boils down to one question: who has the actual authority to adopt a general assembly district plan for Ohio—the Ohio Redistricting Commission (“Commission”), or litigants who prefer their own particular map? The constitutional provisions at issue in this case are new and are being implemented by the Commission and interpreted by this Court for the first time. The Commission has tried its best to implement the new amendments and this Court has done its best to interpret them.

After the difficult process so far, the general assembly district plan adopted by the Commission on February 24, 2022 (“Third Plan”) fully complies with the Ohio Constitution and this Court’s prior orders. The Third Plan is a perfectly proportional 54-18 plan and matches the number of supposed asymmetric districts at the 50-51% level of the Democrats own map, drawn by their paid consultant Chris Glassburn (the “Glassburn Plan”).

Petitioners have an obligation to show that these facts are not true beyond any reasonable doubt. They have not done so and cannot do so. Instead, they have simply moved the constitutional goalposts. Rather than concede the constitutionality of the Third Plan, Petitioners lurch in the direction of constitutional crisis (and election chaos) by insisting, unlike this Court in its last opinion, to measure so-called asymmetry at the 50-52% level. As Petitioners would have it, the difference between normal governance and constitutional crisis is 1%.

That is untenable. Petitioners are now just saying the quiet part out loud. They want the Court to substitute itself for the Commission and order the imposition of the Rodden III map either directly or indirectly. The Bennett Petitioners would do so directly by asking the Court to simply order the Rodden III Plan into law. Other Petitioners would have the Court do it indirectly by supposedly “declaring” its constitutionality or effectively directing the Commission to vote it into



law. But this case demonstrates why courts should not accede to litigants' request to venture into the legislative arena. Redistricting is a legislative task because it requires legislative, not judicial, judgments. Each map contains hundreds if not thousands of individual judgments that courts are not equipped to make. As shown below, both the Rodden III and final Democratic maps show why this is true.

Notably, none of the Petitioners are advocating for or defending the Glassburn Plan. At the same time, not one member of the Commission ever asked the Commission to consider the Rodden III Plan. Yet the Rodden III Plan illustrates the political peril this Court places itself into when trying to judicially compel a particular redistricting result. Trying to draw more Democratic districts in Ohio will produce asymmetry at some level or another. This is because the population has to go somewhere. As shown below, the Rodden III Plan contains numerous "toss up" districts that are in the 52-53% range. If the Court is to assume that a 51% Democratic leaning district is sure to go to Republicans, then there is no principled reason not to believe the same about a 52% district. The Rodden III plan also double bunks or eliminates Republican incumbents in the House and the Senate at an alarming rate.

Petitioners clearly are not primarily concerned with this Court's credibility or the ability of the state of Ohio to avoid chaos in its elections. They simply want the most Democratic plan they can get, and they are hoping this Court delivers it to them. They have manipulated the statistical evidence to lead this Court down a constitutionally precarious path. The Court should step off that path and allow Ohio's elections to go forward under the constitutionally compliant Third Plan.

## **STATEMENT OF FACTS**

### **I. The Adoption of the Third Plan.**

On February 24, 2022 Senate President Huffman moved to introduce a new general assembly district plan for the Commission's consideration. (Exhibit 1, 2/24/21 Hearing Transcript 23:17-24:19). Senator Huffman explained that this new legislative plan contained 18 Republican leaning Senate seats and 54 Republican leaning House seats, which perfectly corresponds to the ratio this Court held was the proportion of seats that complied with the statewide preferences of the voters of Ohio. (*Id.*) See *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, (“*LWV II*”) Slip Opinion No. 2022-Ohio-342, ¶ 64.

Senate President Huffman also briefly discussed issues of asymmetry raised for the first time in this Court's February 7, 2022 opinion. (2/24/21 Hearing Transcript 28:7-16). Senator Huffman explained that as determined by his reading of the Court's order, there were now only two “asymmetrical” districts between 50-51% in the Senate and only five in the House. (*Id.*). Senator Huffman indicated this was the same number of “asymmetrical” seats as were contained in the Glassburn Plan proposed by Democratic Commission members the previous week, and a drastic reduction from the 12 identified in the Court's opinion. (*Id.*)

After a three-hour recess to further discuss and analyze the proposed map, Speaker Cupp spoke about the plan introduced by Senate President Huffman. Speaker Cupp explained that the Plan was “new” because the plan started “anew” with the goal of addressing not just the provisions of Article XI, but also this Court's previous orders. (*Id.* at 31:17-23). In fact, Speaker Cupp noted that 73% of the districts were entirely new and had not been previously considered. (*Id.*). Speaker Cupp stated that he believed that all members of the Commission had worked long and hard to comply with all new provisions of the Constitution, but that because these provisions had never

before been implemented, the process naturally resulted in disagreement over the meaning of specific provisions. (*Id.* at 29:6-32:2). Speaker Cupp stated that he believed the newly introduced plan complied with Article XI and the Court's previous orders. (*Id.*). He noted that while the plan complied with the 54/46 proportionality split mandated by this Court, achieving this while complying with all other criteria regarding splits and subdivisions had been difficult and time consuming. (*Id.* at 30:6-31:6). Speaker Cupp also explained that the plan passed in January had twelve districts that the Court labeled "asymmetrical" or within 50-51%. (*Id.* at 31:7-15). While this new plan contained only five such "asymmetrical" districts in the House, it was the same number as the House plan proposed by Senator Sykes and Representative Russo the week before. (*Id.*). Despite now trying to characterize "asymmetrical" districts as those between 50-52%, Representative Russo also agreed that under the 50-51% metric, the new plan had the same number of asymmetrical districts as the plan she proposed the previous week. (*Id.* at 40:20-41:2).

Senator Huffman then moved to adopt the new plan, noting the quickly approaching primary date. (*Id.* at 33:4-33:15). Senator Huffman also stated that he understood a large portion of this proposal was adopted from the Democratic proposal the week before. (*Id.* at 23:17-24:3).

The Commission voted and the Third Plan as proposed by Senate President Huffman was adopted by a 4-3 vote.

## **II. No Alternative Plans were Offered.**

At no point during the February 24 Commission meeting did any Commission member propose a plan other than the plan considered and adopted by the Commission. Nor did any Commission member propose any specific alterations to that plan. Moreover, no member of the

Commission asked the Commission to either consider or adopt the Rodden III Plan that Petitioners now seek the Court to impose.<sup>1</sup>

The Democratic Commission Members also did not move that the Commission re-consider the Glassburn Plan, which had been voted down by the Commission on February 17. As discussed in the February 17 Commission hearing, the Glassburn Plan raised several constitutional concerns.<sup>2</sup>

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<sup>1</sup> The Rodden III Plan was available for any Commission member to offer for consideration as it had been filed publicly with the Commission on February 15, 2022. See: <https://www.redistricting.ohio.gov/assets/district-maps/district-map-773.zip>

<sup>2</sup> First, there was a concern that the Glassburn Plan violated Article XI, Section 6(A) because it appeared the map was drawn for the purposes of disfavoring the Republican party. Commission members raised this concern noting that five House Districts double bunked Republican incumbents with other Republican incumbents, and a sixth district paired a Republican and a Democrat incumbent. This means that of the twelve incumbents double bunked, eleven of them were Republicans. A concern was raised that the Glassburn Plan specifically targeted Republican Senate Majority Whip Rob McColley who would be unable to run for re-election in 2022 because he would now be in a district that is not up for reelection until 2024. (Exhibit 2, 2/17/2022 Transcript at 9:10-11:6) Senate President Huffman noted that splitting Toledo in the location Mr. Glassburn did had no impact on proportionality and had only the effect of eliminating Senator McColley (*Id.* at 20:15-21:15). Commission members also noted their concern that Republican Senator Kristina Roegner was drawn into a district she did not live in, preventing her re-election (*Id.* at 11:12-23). Similar concerns were raised regarding Republican Senator Jerry Cirino, who was assigned to Senate District 18, despite living outside of the district (*Id.* at 16:9-21), and Republican Senator Niraj Antani who was assigned to Senate District 6 despite him no longer living in the district as drawn (*Id.* at 17:10-14).

As noted above, the Glassburn Plan double bunked 12 incumbent House Members, 11 of whom were Republican members. (Affidavit of Blake Springhetti “Springhetti Aff.” ¶9). This included Republican on Republican pairings in House Districts 35, 40, 51, 82, and 86, and a Democrat/Republican pairing in House District 23. (*Id.*) The Glassburn Plan did not pair two Democratic incumbents together in any district. (*Id.*)

Second there were numerous concerns raised about the compactness of districts. (2/17/2022 Transcript at 40:2-48:21). Auditor Faber also raised the concern that the Glassburn Plan drew the vast majority of “competitive districts” or districts within 50-51% as Democratic districts. (*Id.* at 29:8-16). Auditor Faber was concerned that this would violate the Court’s order regarding symmetry (*Id.* at 29:8-30:17). Auditor Faber also raised an overarching concern that it would be impossible to get more “competitive” Republican seats while simultaneously hitting the 54 seat target due to the political geography of Ohio (*Id.* at 31:9-20) which Auditor Faber recognized gives Republicans a 3-5% advantage in seats based on expert testimony (*Id.* at 83:21-84:5).

Had the Rodden III Plan been introduced by any Commission member, it would have also been subject to similar criticism. First, the Rodden III Plan does not meet strict proportionality as does the Third Plan. (Affidavit of Dr. Barber Enclosing Expert Report (“Barber”) p. 3).<sup>3</sup> In fact, the Rodden III Plan has the same number of Republican districts House Districts (57) and nearly the same number of Republican Senate Districts (18) as the plan that the Court held did not correspond closely to the statewide preferences of the voters of Ohio. (*LWV II* ¶¶63-64) (Barber p. 3; Rodden Report p. 7, 11). Furthermore, the Rodden III Plan displays the same asymmetry Petitioners complain of in the Third Plan, just at a slightly different threshold. As Dr. Barber shows in the table below, Dr. Rodden’s House Plan displays a disproportionately high number of districts with a Democratic projected lean between 52-53%. (Barber p. 5, 11).

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Concerns were also raised that more cities and counties were split at the expense of achieving strict proportionality, and that the Glassburn Plan divided up Ohio’s major cities significantly more than even the original maps in September of 2021. (*Id.* at 50:21-54:22). In fact, the Glassburn Plan doubled the number of times Toledo, Cleveland, Akron, Dayton, and Cincinnati were split as compared to the September map. (*Id.* at 54:16-22). The Glassburn Plan was also criticized for submerging a portion of urban Toledo into a largely rural district (*Id.* at 62:16-21).

<sup>3</sup> Attached hereto as Exhibit 4.

Table 1A: Comparison of Democratic-leaning districts and index margins across plans for Ohio House districts. Using alternative method for calculating partisan index.

Districts % Democratic:	Commission	Rodden	Sykes Russo
[0-45)%	52	50	52
[45-46)%	0	2	1
[46-47)%	1	1	0
[47-48)%	1	3	1
[48-49)%	0	0	0
[49-50)%	0	0	0
[50-51)%	5	2	5
[51-52)%	13	1	1
[52-53)%	3	8	4
[53-54)%	1	1	4
[54-55)%	1	2	3
[55-100)%	22	29	28
R-leaning	54	56	54
D-leaning	45	43	45
R-leaning %	54.55%	56.57%	54.55%
D-leaning %	45.45%	43.43%	45.45%

(Barber p. 5, 11).<sup>4</sup>

Furthermore, the Rodden III Plan double bunks or disadvantages a high percentage of incumbents seeking re-election. (Springhetti Aff. ¶7-8). In his proposed Senate plan, Dr. Rodden double bunks or leaves 18% of Senators seeking re-election in the next two cycles without a district. (Springhetti Aff. ¶8). Specifically, under Dr. Rodden's plan, Senate District 6 would be assigned to Republican Senator Antani although he is drawn out of it. (*Id.*). This prevents Senator Antani from running in his assigned district in 2024, as he is not a resident of the district. (*Id.*). Senate District 14 would be assigned to Republican Senator Terry Johnson although he is also drawn out of it, thereby lacking residency to run again in his district in 2024. (*Id.*). The same is

<sup>4</sup> As explained by Dr. Barber in his report, depending on the manner in which you calculate the index, it can result in a different number of districts within a certain percentage range. Dr. Barber calculated the numbers in both manners and presented them both in his report. The table above contains the same number of Democratic leaning districts in the 50-51% as discussed by the Commission Members for the Third Plan and the Glassburn Plan.

true in Senate District 22 which would be assigned to Republican Senator Mark Romanchuk although he is drawn out of it. This prevents him from running for re-election as he is not a resident of the district. (*Id.*). Further complicating matters, Senate District 2 is assigned to Republican Senator Theresa Gavarone although she is drawn out of it. (*Id.*). But, Senate District 2 does include Senator McColley who is intending to run for re-election in Senate District 1 in 2022. (*Id.*). That can no longer happen under the Rodden III Plan due to residency requirements. (*Id.*). Senate District 18 is also assigned to Republican Senator Cirino although he does not actually reside in this district. (*Id.*). Instead, Dr. Rodden drew Senator Roegner, who is up for re-election this cycle, into Senate District 18, which is not up for re-election until 2024. (*Id.*). This eliminates the opportunity for Senator Roegner to run for re-election in the majority of the current district that elected her (*Id.*). Lastly, Senate District 24 is assigned to Republican Senator Matt Dolan although he does not reside in this district. (*Id.*). Instead, Dr. Rodden drew Democratic Senator Nickie Antonio, who is up for re-election this cycle, into Senate District 23 in 2022, which is not up for re-election until 2024. (*Id.*). This eliminates the opportunity for Senator Antonio to run in the district with the majority of the current district that elected her. (*Id.*).

In his proposed House plan, 20% of current Representatives seeking re-election are double bunked by Dr. Rodden. (Springhetti Aff. ¶7). In addition to pairing the same two sets of Democratic members in Franklin County as the Third Plan, Dr. Rodden draws two districts pairing Republican and Democratic Representatives. (*Id.*). Dr. Rodden draws an additional four districts that double bunk two Republican incumbents in each district. (*Id.*). And Dr. Rodden's proposed House District 91 double bunks not two, but three Republican incumbents. (*Id.*).

## **LEGAL BACKGROUND**

On September 16, 2021, the Commission adopted its first general assembly districting plan (“First Plan”). See *League of Women Voters v. Ohio Redistricting Commission*, slip op. 2022-Ohio-165, ¶ 24 (January 12, 2022) (“*LWV I*”). In *LWV I*, the Ohio Supreme Court held that the percentage of Republican leaning and Democratic leaning districts in the First Plan violated Article XI, Sections 6(A) and 6(B). The Court concluded that the First Plan violated both Sections 6(A) and 6(B) because the number of Republican and Democratic leaning seats did not correspond closely to the statewide preferences of Ohio voters. *LWV I*, ¶ 108. The Court first stated that under the methodology required by Section 6(B) over “the relevant period, about 54% of Ohio voters preferred Republican candidates and about 46% of Ohio voters preferred Democratic candidates.” *LWV I*, ¶ 108. In contrast, the Court found that “under the adopted plan, Republicans are favored to win between 61 and 68 House seats and between 20 and 24 Senate seats.” *Id.* ¶ 121. Based upon this evidence, the Court held that the Commission did not “attempt” to adopt a plan that complied with Section 6 (B). *Id.* ¶ 102-121.

The Court agreed that “Ohio’s political geography poses challenges in the drawing of overall Article XI compliant districts.” *Id.* ¶ 128. But the Court also held that based upon affidavit testimony by “petitioners’ experts: it is possible to draw a plan that is complaint with Article XI that does not favor the majority party to the overwhelming extent that the adopted plan does.” *Id.*

The testimony of Petitioners’ experts relied upon by the Court included the opinions offered by Dr. Michael Latner. *Id.* ¶ 122. According to Dr. Latner, partisan symmetry measures whether each party would receive the same share of legislative seats assuming each had identical percentage vote shares. *Id.* As an example of how the First Plan scored under Dr. Latner’s partisan symmetry analysis, Republicans would win 64 House seats if they won 54% of the statewide vote.



The Court also relied upon the opinions of Dr. Kosuke Imai concerning simulated maps.<sup>5</sup> Dr. Imai only offered simulated house maps and did not provide testimony on simulated senate maps. Dr. Imai's simulations resulted in a majority of his maps having 59 Republican leaning districts as compared to the 62 seats that favored Republicans under the First Plan.

*LWV I* did not explain the percentage of vote which must be found in any district before it can be classified as “favoring” or “leaning” Republican or Democratic candidates. All of the experts who offered testimony during this phase of the litigation treated a district as leaning or favoring one party or the other based upon which party scored a majority of the vote percentage even if it was a bare majority. While the Court mentioned the partisan symmetry test, it did not state where on any partisan symmetry analysis any adopted plan was required to fall in order to correspond closely to the statewide proportion of vote share, as calculated under the methodology stated in Section 6(B). Perfect partisan symmetry was certainly not mentioned as a requirement. The Court clearly agreed that something other than perfect scores under any of the Petitioners' tests could not be achieved because of the “political geography challenges in the drawing of overall compliant districts.” *Id.* ¶ 128.

In response to the Court's order in *LWV I*, the Commission adopted a second plan (“Second Plan”) on January 22, 2022. *LWV II*, ¶ 2. The Second Plan included 57 Republican leaning and 42 Democratic leaning House Districts, 20 Republican leaning Senate Districts, and 13 Democratic

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<sup>5</sup> The Court's reliance on Dr. Imai's 5000 simulated House maps or any other simulated maps offered by Petitioners' expert is problematic to say the least. These plans and the expert who provided them were not subject to discovery or cross examination. Respondents have never had the opportunity to scrutinize Dr. Imai's maps, as they have done with the specific Glassburn and Rodden plans, to determine whether Dr. Imai's plans comply with all sections of the Constitution. Given the complexities of Article XI, it is challenging, if not impossible for an expert to program a code that complies with all provisions of the Ohio Constitution. Other than Dr. Imai's opinion there is no other evidence that all or even a majority of the simulated maps comply with Article XI.

leaning Senate Districts. The Court found the Second Plan in violation of Section 6(B) largely based because of two tests performed by Dr. Imai which were not relied upon by the Court in *LWW I*. Once again, Dr. Imai performed his analysis only as applied to adopted House Districts. Dr. Imai first noted that twelve of the seats counted as Democratic leaning by the Commission had Democratic vote shares between 50 and 51% as compared to no Republican districts falling within this same category. *LWW II* ¶ 57. Dr. Imai then confirmed his claim of partisan bias by performing a completely new test that was not before the Court in *LWW I*. Under this new test, Dr. Imai “look[ed] at whether a Republican or Democrat would have won the district based upon the data from each election out of nine statewide elections between 2016 and 2020, the same election years used by the commission.” *Id.* at ¶ 58. Under this new test, Dr. Imai projected that the Second Plan resulted in 61.6 House seats that leaned Republican as opposed to the 58.9 seats found in his average simulated House plan. *Id.* at ¶ 59. Thus, Dr. Imai confirmed his prior results that 59 Republican leaning seats would comply with the requirements of the Ohio Constitution, including Section 6.

The Court did not explain how Dr. Imai’s new test, examining whether a Republican or Democrat would have won a district based solely on the election results of each of nine different elections, corresponds with the text of Section 6(B) which requires that districts be measured on a statewide index. Nor did the Court explain how Dr. Imai’s decision to use only nine elections instead of the entire complement required by Section 6(B) is a permissible proxy for a statewide index of all elections. In any case, the Court seemed to primarily rely on Dr. Imai’s testimony regarding labelling a district as leaning Democratic when the vote share above 50% is less than 1%. The Court did not state whether it would be permissible to label a district as Democratic leaning if the district had a vote share of 52 to 53% even though several Democratic districts in

this range were present in the Second Plan. *LWV II*, ¶ 57. No further guidance was provided by the Court regarding the tests that must be used for the Commission to adopt a plan that complies with Section 6(B). As a result of these findings, the Court ordered the Commission to adopt a Third Plan.

## **ARGUMENT**

### **I. Petitioners Fail to Meet Their High Burden of Proof**

In its decision of January 12, 2022, the Court adopted the same standard of proof outlined by the Court in *Wilson v. Kasich*, 134 Ohio St.3d 221, 2012-Ohio-5367, 981 N.E.2d 814, at ¶ 18-24 (2012). See *LWV I* ¶78. Thus, “the burden of proof on one challenging the constitutionality of an apportionment plan is to establish that the plan is unconstitutional beyond a reasonable doubt. In the absence of evidence to the contrary, [the court] must presume that the apportionment board performed its duties in a lawful manner.” *Id.* Petitioners fail to meet their high burden to prove that the Third Plan is unconstitutional beyond a reasonable doubt. As this Court clarified, challenges to district maps “are not ordinary civil cases” and as such “it is well-settled that the challenging party faces the highest standard of proof, which is also used in criminal cases, proof beyond a reasonable doubt.” *LWV I*, ¶78. See also *State ex rel. Ohio Congress of Parents & Teachers v. State Bd. of Edn.*, 111 Ohio St.3d 568, 2006-Ohio-5512, 857 N.E.2d 1148, ¶ 21.

Importantly, Petitioners must prove factual issues beyond a reasonable doubt. *LWV I*, ¶78. Under this standard, “it is not enough to show that one plausible reading requires the statute be stricken as unconstitutional, when another plausible reading permits it to survive.” *Ohio Grocers Assn. v. Levin*, 123 Ohio St. 3d 303, 2009-Ohio-4827, 916 N.E.2d 446, ¶ 24. Petitioners fail to show that under the facts as they have presented them, there is no plausible reading of Article XI that renders the Third Plan constitutional.

A comparison of the various districting plans at issue here (i.e. the Third Plan, the Rodden III Plan, and the Glassburn Plan) show that all of the plans have some level of asymmetry but that the level of asymmetry in the Third Plan is no higher than that present in the Glassburn Plan. The Rodden III Plan shows a significant amount of asymmetry with the number of Democratic Districts in the 52-53% range. (Barber ¶5, 11). Petitioners must prove beyond a reasonable doubt that the Third Plan is “too” asymmetrical. They cannot do so because the number of asymmetrical districts in the Third Plan equals the number of such districts in the Glassburn Plan as described by the Court in its prior opinion.

Petitioners know that they cannot meet this burden of proof so, as they have done previously, they simply move the goalposts. Petitioners first argued that the Commission’s districts did not “correspond closely” to the statewide preferences of Ohio’s voters. When the Commission fixed that problem, Petitioners moved the goalposts and complained that districts that were between 50-51% Democratic, were not Democratic districts at all, creating so-called “asymmetry”—a concept found nowhere in the Ohio Constitution. (1/25/22 Report of Dr. Imai at ¶6; LWVO Objections p. 9). Now that the Commission has adopted a plan that resolves this issue by (1) creating a plan with far fewer asymmetrical districts as defined by this Court than the previous plan, and (2) meets the same threshold of “asymmetric” districts proposed by Democratic Commission members, Petitioners move the goalposts yet again. This time they claim that districts between a larger margin (50-52%) are “asymmetric.” That Petitioners must keep changing the constitutional goal demonstrates that they have not shown the Third Plan is unconstitutional beyond a reasonable doubt.

## **II. The Third Plan is Constitutional**

At the outset, none of Petitioners allege any violations of the mandatory provisions of Article XI regarding splits of subdivisions or other constitutional violations. Petitioners only allege violations of Section 6(A), alleging that the Third Plan was drawn primarily to favor the Republican party, and 6(B), a violation of the proportionality requirement. Both of those allegations fail.

### **A. The Third Plan Complies with Section 6(A)**

Petitioners have failed to demonstrate how a plan that corresponds exactly (not just “closely”) to the 54/46 statewide preferences of the voters of Ohio as determined by this Court, somehow favors the Republican party. *LWV II* ¶ 64. Compliance with the Court’s orders regarding proportionality should be a safe harbor for the Commission, not evidence of alleged noncompliance. It is at least evidence that the Third Plan does not favor Republicans to an “overwhelming extent.” *LWV I*, ¶128. In fact, Representative Russo admitted as much when she testified in the Commission’s February 17, 2022 hearing that the Glassburn Plan does not favor or disfavor a political party because it meets the proportional requirement of 54/46 (2/17/22 Transcript at 6:20-23). It belies reason that a plan that meets the exact proportion of the statewide preferences of the Ohio voters as determined by this Court, could also violate Section 6(A)’s requirement that legislative plans not be drawn primarily to favor or disfavor one political party.

Further, when courts look to determine whether a redistricting plan favors one party over another, they traditionally look at treatment of incumbents. *See Larios v. Cox*, 300 F. Supp 2d 1320, 1329 (N.D. Ga.), *affirmed*, *Cox v. Larios*, 542 U.S. 947 (2004) (noting concern with the fact that Georgia’s plan “generally protected” Democratic incumbents, but Republican incumbents were “regularly pitted against one another”). Unlike the Rodden III Plan which double bunks

several sets of incumbents, the Third Plan adversely affects far few incumbents. In the Third Plan's House map only three sets of incumbents are double bunked, but in one of those pairings one incumbent has announced an intention to seek election in another district. (Springhetti Aff. ¶6). The other two sets of paired incumbents in Franklin County in the Third Plan are also double bunked in Dr. Rodden's plan. (Springhetti Aff. ¶7). In the Senate, no incumbent, of either party, is double bunked or left without the opportunity to run in a future election in the cycle in which he or she is up for re-election. (Springhetti Aff. ¶5). On the other hand, numerous Republican incumbents in Dr. Rodden's Senate Plan are deprived of running for re-election in a district with the majority of the constituents that currently elected them to the general assembly. (Springhetti Aff. ¶5). *See Infra* at p. 7.

Dr. Rodden also targets Republican incumbents in his proposed House Districts. *See Infra* at p. 7-8. Almost 20% of current Representatives seeking re-election are double bunked by Dr. Rodden. (*Id.*). If anything is asymmetrical, it is Dr. Rodden's treatment of Republican incumbents, as of the 19 members double bunked 13 (or 68%) are Republican members. (*Id.*). Far from proving beyond a reasonable doubt that the Third Plan unduly favors Republicans, Dr. Rodden's plans do nothing but rebut that presumption, while inferring that his plan was drawn to unduly favor Democrats.

Petitioners also now conspicuously ignore evidence that supports the Third Plan – the so-called efficiency gap of the plan. Respondents do not endorse the use of the efficiency gap in redistricting as it has been a controversial measure. However, Petitioners reported it throughout

this litigation. See 1/25/2022 Report of Dr. Imai, p. 11<sup>6</sup>; 1/25/2022 Warshaw Report pp. 13-14; 1/25/2022 Warshaw Report p. 13; 1/25/2022 Warshaw Report p. 14.<sup>7</sup>

Until now, that is. After relying on the efficiency gap throughout this litigation, it is overtly obvious that Petitioners do not report the efficiency gap result for the Third Plan. Instead, the Bennett Petitioners simply concede that it is “lower” (Bennett Obj. at 23 n.6) than prior plans but assert, without evidence, that the lower result is because of competitive districts in the Third Plan. Dr. Warshaw, who discusses the efficiency gap in each of his previous reports suddenly abandons this analysis. Petitioners’ efforts to avoid the efficiency gap of the Third Plan is likely because the Third Plan not only lowers the efficiency gap, but now produces an efficiency gap that favors Democrats in both the House and the Senate. (Barber pp. 6, 8). This is further indicia that Petitioners’ alleged concerns about symmetry are just a smoke screen to convince the Court to impose a general assembly district plan that systematically eliminates Republican incumbents.

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<sup>6</sup> In his January 25, 2022 report, Dr. Imai reported on simulated plans and did not produce a specific plan which he identified as compliant. Dr. Imai did not submit a report with Petitioners’ objections on February 28, 2022. There has been no discovery in the remedial phase of this case and Dr. Imai has not been subject to cross examination. While he contends that his simulated plans comply with Sections 2,3,4,5, and 7 of Article XI, there is no way of confirming this absent actual review of his 5000 simulated maps. This same flaw exists for any expert in this case who has run simulated plans that have not been subject to discovery and cross examination. The Court should not assume that all simulated plans comply with the Ohio Constitution absent an actual review of the simulations.

<sup>7</sup> It is worth noting that Dr. Warshaw and Dr. Imai’s calculations on the efficiency gap are different, at least for the Second Plan reported by Dr. Imai. This could be due to a range of factors including elections analyzed, and method of calculating the efficiency gap. The number of variables in calculating the efficiency gap are partly why Respondents do not endorse the use of this metric. However, what is unclear is why Dr. Warshaw’s calculations on the First Plan differ from his January 25<sup>th</sup> report, and the Report filed with the Complaint. In his report attached to the original Complaint, Dr. Warshaw calculates the Commission’s Senate Plan as -9% and the House plan at -7%. (9/23/21 Report p. 25) This is different than the scores he reported in January for the exact same plans. Discrepancies like these show the value of cross-examination of experts in these matters, and why unvetted plans should not simply be “declared” constitutional.

## **B. The Third Plan Complies with Article 6(B)**

It is undisputed that the Third Plan achieves perfect proportionality with 54 Republican leaning House Districts and 18 Republican leaning Senate Districts. That should end the matter.<sup>8</sup> However, as they have done with the prior two Commission plans, Petitioners have moved the goalposts. While they criticized the so-called asymmetry in districts at the 50-51% level in the prior plan, they now for the first time expand the alleged asymmetry to districts at the 52% level. This is nothing more than statistical gamesmanship. It certainly has nothing to do with constitutional law. It cannot possibly be the case that a 1% difference in districts is cause for constitutional concern. This Court should reject this statistical manipulation.

First and foremost, redistricting is complex, and Ohio's constitutional line-drawing rules are strict. Each district must be within +/- 5% population and that population has to go somewhere. Redistricting is not like a puzzle, which has predetermined shapes and the only task is to find where they go. Instead, redistricting is the actual creation of the puzzle itself. Without either clear guidance or additional discretion, it is both difficult and time-consuming to create the puzzle. When attempting to create new Democratic districts in a particular area of the state, the Republican voters who are moved out of a district to make it more Democratic have to go somewhere, and somewhere nearby if the districts are to remain contiguous. Moving those Republican voters into districts surrounding the new Democratic district will make the surrounding districts more Republican to varying degrees. This is why all of the plans proposed to date by Commission members and Petitioners have some number of allegedly asymmetrical districts.

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<sup>8</sup> In fact, Representative Russo stated as much when she testified in the Commission's February 17, 2022 hearing that the Glassburn Plan does not favor or disfavor a political party because it meets the proportional requirement of 54/46 (2/17/22 Transcript 6:20-23).



Moreover, the level of asymmetry is driven by the percentage of partisan lean of many districts. The Court's first order did not address what percentage would constitutionally "favor" one party or the other. The Court's second order found the number of "Democratic leaning" districts between 50-51% to be problematic, but did not address what was needed for it to be presumptively constitutional. Taking this measurement as a guidepost the Third Plan contains just 5 House Districts and 2 Senate Districts within this 50-51% range. This is the exact same number of 50-51% Democratic leaning districts proposed in the Glassburn Plan.

If a district "favoring" Democrats must be at least 52%, that will impact the number of asymmetrical districts produced. It will also likely impact the compactness of the districts. If each Democratic district must be 53% or 54% lest it actually favor Republicans, then it may not be possible to draw a plan at all depending on the number of total asymmetrical districts the Court would say are allowed for the plan to pass constitutional muster. The asymmetry is also impacted by how "close" to the strictly proportional result of 54%/46% the map drawer is required to achieve. Attempting to achieve a strict 54%/46% goal produces asymmetrical districts. But if no asymmetry is allowed then it is likely that no perfectly proportional plan will be constitutional. If "close" allows a defined amount of deviation from strict proportionality, then it may be easier to draw less asymmetric districts, depending of course on what percentage partisan lean is required for a district to in fact "favor" Democrats.<sup>9</sup>

As discussed above, there is no basis for now finding that districts between 51-52% are also "asymmetric", and certainly Petitioners have not proven this beyond a reasonable doubt. Instead, Petitioners criticize the Third Plan for having a number of districts just over the 51%

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<sup>9</sup> And all of this impacts compactness. The Ohio Constitution requires the districts to be compact. The stricter the requirements are on asymmetry, the partisan lean of each district, and the degree of proportionality required, the more difficult it becomes to ensure the districts are compact.

Democratic leaning threshold.<sup>10</sup> However, Dr. Rodden's plans do just that, only at the 52% threshold. Therefore if "bunching" a number of districts around a threshold is evidence of partisan intent or asymmetry, Dr. Rodden's maps are also "asymmetrical." This is especially evident in Dr. Rodden's House plan, where 8 districts are in the 52-53% Democratic range.

**Table 1A: Comparison of Democratic-leaning districts and index margins across plans for Ohio House districts. Using alternative method for calculating partisan index.**

Districts % Democratic:	Commission	Rodden	Sykes Russo
[0-45)%	52	50	52
[45-46)%	0	2	1
[46-47)%	1	1	0
[47-48)%	1	3	1
[48-49)%	0	0	0
[49-50)%	0	0	0
[50-51)%	5	2	5
[51-52)%	13	1	1
[52-53)%	3	8	4
[53-54)%	1	1	4
[54-55)%	1	2	3
[55-100)%	22	29	28
R-leaning	54	56	54
D-leaning	45	43	45
R-leaning %	54.55%	56.57%	54.55%
D-leaning %	45.45%	43.43%	45.45%

This is more than double the number of districts within that range than the Glassburn Plan, and more than four times the number of districts within that range as the Third Plan. (Barber p. 5).

<sup>10</sup> Notably, the Third Plan reduces the number of 50-51% districts significantly from the January 2022 Plan, and in fact, matches the number of 50-51% Democratic leaning Senate Districts as the Glassburn Plan, depending on calculation method. Barber p. 8. Using the other calculation method Dr. Rodden has 9 Democratic leaning districts between 52-53%. (Barber p. 9).

Furthermore, as can be seen from the table below, none of the plans drew a significant number of Republican districts between 50-52% because the political geography of the state makes it nearly impossible to do so.

**Table 2A: Comparison of Democratic-leaning districts and index margins across plans for Ohio Senate districts. Using alternative method for calculating partisan index.**

Districts % Democratic:	Commission	Rodden	Sykes Russo
[0-45)%	16	16	16
[45-46)%	1	1	1
[46-47)%	1	0	0
[47-48)%	0	1	1
[48-49)%	0	0	0
[49-50)%	0	0	0
[50-51)%	2	3	2
[51-52)%	5	0	1
[52-53)%	1	0	1
[53-54)%	0	0	0
[54-55)%	0	1	1
[55-100)%	7	11	10
R-leaning	18	18	18
D-leaning	15	15	15
R-leaning %	54.55%	54.55%	54.55%
D-leaning %	45.45%	45.45%	45.45%

And more significantly, Dr. Rodden's plan is not only asymmetrical, but his plan also does not meet the strictly proportional result of 54 Republican leaning House Districts. His plan has 57 such districts which likely makes it easier to avoid the asymmetry issues discussed above. (See *Supra* page 19.)

What the Petitioners are asking the Court to do is to hold, as a matter of state constitutional law, that the Democratic party is entitled to a defined number of districts that (they think) will ensure their election, regardless of who the actual voters choose to elect. But as stated in *Adams v.*

*DeWine*, the new “symmetry” standard Petitioners propose is “absent from the constitutional language” and is “another illusion” in an attempt to require a disproportionate number of Democratic leaning districts. ¶ 105 (O’Connor, J. concurring). They want to enshrine in law a right to *safe* Democratic leaning districts that can withstand any alleged “red wave” (2/28/22 Evidence of Bennett Petitioners at Bennett 0139). Such tactics are the essence of gerrymandering, and the complete antithesis of what an overwhelming number of Ohioans rejected in 2015 when they amended Article XI of the Ohio Constitution. This is a ruse that the Court should reject.

Furthermore, as noted by Dr. Barber in his report, the partisan indices the Court is reviewing are useful, but not perfect. Every race is different in any given election, and individual candidate factors matter. (Barber p. 9). In fact, looking retroactively, when Dr. Barber compared actual state general assembly election results in 2018 with the index used here by all parties, the average difference between the actual election results and the partisan index for each district was 5 points in the house, and 3.7 points in the senate. (*Id.*). The partisan index actually misclassifies the party of the winning general assembly candidate in 10 different districts across both chambers. (*Id.*). This clearly shows that the people of Ohio determine the outcome of elections, not some partisan scoring metric developed by academics.

It is beyond any reasonable doubt that the Third Plan is perfectly proportional and meets all standards articulated in the Court’s prior orders. The Third Plan contains 54 Republican leaning House Districts and 18 Republican leaning Senate Districts, and it even exhibits a pro-Democratic efficiency gap. The only other allegedly proportional plan the Commission considered was the Glassburn Plan. The Third Plan is at least as symmetric as the Glassburn Plan using the 50-51% threshold the Court examined in its February 7, 2022 Opinion.

However, the Third Plan does not systematically disfavor one party's incumbents over the other, as the Glassburn Plan does. As noted above the Glassburn Plan double bunked 12 incumbents, 11 of whom were Republican members in the House. (Springhetti Aff. ¶9). The Glassburn Plan also significantly disadvantaged Republican incumbents in the Senate, many of whom are protected by Section 5 of Article XI by assigning numerous Republican incumbents to districts that they did not live in. (Springhetti Aff. ¶10). In contrast the Third Plan double bunks at least half, possibly a third of, the number of the incumbents as the Glassburn Plan in the House, and adversely impacts no member of either political party in the Senate in such a manner. (Springhetti Aff. ¶¶5-6). On these facts, it is clear that if one of these two proportional plans was drawn to favor a political party, it is the Glassburn Plan which was drawn to favor Democrats.

**C. The Court Should Not Grant Petitioners Requested Relief to “Declare” the Rodden III Plan Constitutional or Order it into Law.**

Petitioners want the Court to substitute itself for the Commission and order the imposition of the Rodden III Plan either directly or indirectly. The Bennett Petitioners would do so directly by asking the Court to simply order the Rodden III Plan into law. Other Petitioners would have the Court do it indirectly by supposedly “declaring” its constitutionality or effectively directing the Commission to vote it into law.

While the Court has the power to strike down a Commission plan, nothing in Article XI gives this Court the power to affirmatively order the use of a plan not adopted by the Commission. Bennett Petitioners would simply have the Court read this language into Article XI without regard for precedent or the actual text of the constitution. It is century old precedent that a court must not substitute its judgment or text into the constitution. *See State ex rel. Lorain v. Stewart*, 119 Ohio St.3d 222, 2008-Ohio-4062, 893 N.E.2d 184, ¶ 36.

Ohio Organizing Collaborative and League of Women Voters Petitioners' requests fare no better. What these petitioners ask is for a declaration that the Rodden III Plan is constitutional. No Commission member chose to introduce the Rodden III Plan for a Commission vote. Dr. Rodden has not been subject to cross examination regarding his plan or his methods for creating the same. Essentially, Petitioners ask for an advisory opinion declaring as constitutional a plan that not one single Commission member found appropriate to offer for discussion, that was drawn in secret with methods not subject to cross examination or verification, and by an out of state expert paid for by Petitioners in this case.

Apart from the facial absurdity of this request, well-established precedent shows that this Court does not issue advisory opinions. *See State ex rel. Sawyer v. Cendroski*, 118 Ohio St. 3d 50, 2008-Ohio-1771885 N.E.2d 938, ¶ 10. Furthermore, this Court has repeatedly applied this rule in election cases. *See State ex rel. Todd v. Felger*, 116 Ohio St. 3d, 2007-Ohio-6053, 877 N.E.2d 673, ¶ 13 (citing *State ex rel. Essig v. Blackwell*, 103 Ohio St. 3d 481, 2004-Ohio-5586, 817 N.E.2d 5, ¶ 34); *see also In re Contested Election on Nov. 7, 1995*, 76 Ohio St. 3d 234, 236, 667 N.E.2d 362 (1996) (per curiam) (“It is well settled that we will not indulge in advisory opinions.” (internal citation omitted)). Most recently, this Court held in *State ex rel. Rhoads v. Hamilton County Board of Elections*, 165 Ohio St. 3d 562, 2021-Ohio-3209, \_\_\_ N.E.3d \_\_\_, ¶ 26, that it did not need to interpret ballot language for a proposed amendment to the Cincinnati city charter to determine how to fill vacancies on the city council, as “[a]dopting either party’s argument would amount to [the Court] providing an advisory opinion as to the meaning of the proposed amendment’s language.” Adopting Petitioners argument here would amount to issuing an advisory opinion, and this Court should decline to do so.

## CONCLUSION

The question before the Court is not whether maps proposed by Dr. Rodden or Mr. Glassburn are “better” than the Commission’s Third Plan. Instead, the question is whether the Third Plan is constitutional. *See Wilson v. Kasich*, 134 Ohio St.3d. 2012-Ohio-5367 981 N.E. 2d. 1814, ¶31. On the record presently before the Court, the Third Plan is constitutional and the objections to it should be overruled.

Respectfully submitted this the 3rd day of March, 2022.

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/s/ Phillip J. Strach  
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4873-0685-9026 v.1

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# **Exhibit 1**

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OHIO REDISTRICTING COMMISSION

FEBRUARY 24, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

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1                   SPEAKER CUPP: The Ohio Redistricting  
2 Commission will reconvene pursuant to the  
3 recess. I will ask first that the staff please  
4 call the roll.

5                   THE CLERK: Co-Chair Speaker Cupp.

6                   SPEAKER CUPP: Present.

7                   THE CLERK: Co-Chair Senator Sykes.

8                   SENATOR SYKES: Present.

9                   THE CLERK: Governor DeWine.

10                  GOVERNOR DEWINE: Here.

11                  THE CLERK: Auditor Faber.

12                  AUDITOR FABER: Here.

13                  THE CLERK: President Huffman.

14                  PRESIDENT HUFFMAN: Here.

15                  THE CLERK: Secretary LaRose.

16                  SECRETARY LAROSE: Here.

17                  THE CLERK: Leader Russo.

18                  Mr. Co-Chair, a quorum is present.

19                  SPEAKER CUPP: With a quorum present,  
20 we will resume our meeting as a full commission.

21                  At this time, the commission will hear;  
22 public testimony from sponsors of complete  
23 statewide congressional plans. These  
24 proceedings will be recorded and broadcast by  
25 the Ohio Channel so the board, in its

1 deliberations, may consider things that are said  
2 here today.

3 We ask our audience to refrain from  
4 clapping or other loud noise out of respect for  
5 the witnesses and persons that may be watching  
6 the proceedings remotely because that sort of  
7 noise does interfere with the sound for those  
8 who are listening remotely.

9 If you are here to testify, and have  
10 not done so already, please complete a witness  
11 slip and give it to one of our staff. If you  
12 have written testimony, please submit a copy to  
13 our staff so it can be included in the official  
14 record of proceedings.

15 As previously agreed with the co-chair,  
16 a witness may testify before the commission for  
17 up to ten minutes on the plan. They are  
18 testifying about subject to any further  
19 limitation by the co-chairs. Witnesses should  
20 limit their testimony to the complete statewide  
21 congressional plan that they submitted.

22 We'll now begin with our first witness  
23 here today whose name is Trevor Martin. So  
24 please come forward. Is Trevor Martin here?

25 THE CLERK: He's not here yet.

1                   SPEAKER CUPP: Not here yet. Okay.  
2                   Okay. We'll skip over him and come back later.

3                   So our first witness will be Linus  
4                   Beatty. Mr. Beatty, come forward and please  
5                   state and spell your name for the record, speak  
6                   clearly, loudly enough for this panel to hear  
7                   and for the audience as well. So welcome.

8                   LINUS BEATTY: Thank you so much.

9                   My name is Linus Beatty. L-I-N-U-S  
10                  B-E-A-T-T-Y.

11                  First, I'd like to thank all of the  
12                  commissioners, the media that's present, and all  
13                  of the public for giving us your time today to  
14                  hear my plan.

15                  Like many in our state, I've been  
16                  deeply disappointed in how the process has  
17                  worked so far for redistricting. However, I'm  
18                  not here today to talk about the process so far.  
19                  Instead, I'd like to talk about a plan that I  
20                  have that can help move the state forward that I  
21                  believe is fair and compliant with the  
22                  constitution.

23                  This map which I have submitted has a  
24                  9/6 breakdown which I believe is in line with  
25                  what the supreme court has asked this commission

1 to do. Furthermore, it avoids double-bunking  
2 any incumbents who have -- who have signaled  
3 that they are seeking reelection.

4 I believe that my map does an excellent  
5 job of maintaining communities of interest  
6 particularly when compared to the map from last  
7 decade. The example that I would give is  
8 examining last decade's 12th and 15th districts,  
9 both of which went into Franklin county before  
10 going eastward into Appalachia. I don't need to  
11 tell you guys that these communities aren't that  
12 similar in their culture and the economic  
13 realities that they face. And as a result of  
14 that not being what it is, several parts of  
15 Appalachia were represented by two members from  
16 Franklin county for a decent chunk of the  
17 decade.

18 My map, however, splits Franklin county  
19 only twice, the minimum number needed to comply  
20 with the constitution. It keeps the 15th  
21 district, which is currently occupied by Joyce  
22 Beatty, entirely within Franklin county. And  
23 the 12th district, which goes up into Delaware  
24 county and slightly over into Licking, stays  
25 entirely within the Columbus metropolitan area.

1                   Furthermore, the 10th district, which  
2                   would be occupied by Charlie Balderson right  
3                   now, is about half contained within Appalachia  
4                   and the other half is in rural and exurban  
5                   communities near Columbus. This, in addition to  
6                   keeping the sixth district entirely within  
7                   Appalachia and the second district mostly within  
8                   Appalachia, will help ensure that this region is  
9                   accurately represented in Washington.

10                   I don't know if you guys have the  
11                   district statistics. I submitted them, but --

12                   SPEAKER CUPP: I believe they have been  
13                   distributed to members' folders. Yes, we have  
14                   them.

15                   LINUS BEATTY: So as you can see, it  
16                   will most likely function as a 9/6 map, nine  
17                   Republican, six Democrats. The statistics there  
18                   are from a 2016 to 2020 composite. And I  
19                   believe that this map avoids splitting counties  
20                   whenever possible. There are only 14 county  
21                   splits, the minimum needed, and there are only  
22                   13 counties that are split, with Cuyahoga being  
23                   split twice.

24                   As I wrap up my opening statement, I  
25                   would like to leave this commission with one



1 thought that I feel justifies where we're at  
2 right now. I ask each and every one of you: Do  
3 you weigh your own political future and your own  
4 political fortune over the values of our  
5 republic and the strength of our democracy?

6 I think that is a question that every  
7 single public servant should ask themselves  
8 before any action, and I ask that before every  
9 single vote, whether it's for my map or another  
10 map, you will do the same.

11 Thank you very much. And I yield for  
12 any questions related to my map.

13 SPEAKER CUPP: Thank you very much for  
14 taking the initiative to draw a map and come  
15 here and submit it and to testify. I don't know  
16 if you watched the hearing yesterday, but we do  
17 have some basic questions that are just  
18 requirements to go through to see whether your  
19 map -- to ask you whether your map complies with  
20 those.

21 LINUS BEATTY: Yes.

22 SPEAKER CUPP: The first is the  
23 congressional ratio of representation, and that  
24 is in Article XIX, Section 2(A)(2). The ratio  
25 of representation is 786,630. Did you apply a

1 standard of strict mathematical equality for the  
2 population of each district, or did you deviate  
3 from the ratio of representation?

4 LINUS BEATTY: No district deviates  
5 more than two people from that. And if I had  
6 better software, I could probably make it less.  
7 I did it on Dave's.

8 SPEAKER CUPP: Two is pretty good, and  
9 one yesterday was pretty good too.

10 Do you believe your district population  
11 meets the constitutional standard set out in the  
12 federal case law for one person, one vote?

13 LINUS BEATTY: I believe so.

14 SPEAKER CUPP: All right. Next is  
15 regarding the splits of political subdivisions.

16 Prior to drawing districts, did you  
17 determine which counties had populations that  
18 exceeded the ratio of representation pursuant to  
19 Article XIX, Section 2(B)(4).

20 LINUS BEATTY: Yes.

21 SPEAKER CUPP: And can you tell us what  
22 those are.

23 LINUS BEATTY: They are Franklin  
24 county, Cuyahoga county, and Hamilton county.

25 SPEAKER CUPP: In any of those

1 counties, were there any cities or townships  
2 whose population exceeded the congressional  
3 ratio of representation?

4 LINUS BEATTY: Columbus does.

5 SPEAKER CUPP: And therefore, did you  
6 follow the rules in Section 2(B)(4)(a) to  
7 include a significant portion of that political  
8 subdivision in one district?

9 LINUS BEATTY: Yes.

10 SPEAKER CUPP: I think you testified to  
11 that.

12 Returning to those counties whose  
13 population exceeded the ratio of representation,  
14 were there any cities or townships that were  
15 larger than 100,000 persons but less than the  
16 congressional ratio of representation?

17 LINUS BEATTY: Parma would be, I  
18 believe, above that. And Cuyahoga county, I did  
19 not split that. And then -- oh, wait. Over  
20 100,000?

21 SPEAKER CUPP: Yes.

22 LINUS BEATTY: Oh, then I guess it  
23 would just be Cincinnati and then Cleveland  
24 which are all kept whole. Sorry. My bad.

25 SPEAKER CUPP: And did you follow the

1 rule about not splitting?

2 LINUS BEATTY: Not splitting. No.  
3 Those cities are not split.

4 SPEAKER CUPP: All right. Thank you.  
5 How many counties in your plan are  
6 whole in one congressional district?

7 LINUS BEATTY: It would be 75.

8 SPEAKER CUPP: And how many counties in  
9 your plan are split once?

10 LINUS BEATTY: It would be 12.

11 SPEAKER CUPP: And how many counties in  
12 your plan are split twice?

13 LINUS BEATTY: One.

14 SPEAKER CUPP: That would be Cuyahoga?

15 LINUS BEATTY: Yes, Cuyahoga.

16 SPEAKER CUPP: How many counties in  
17 your plan are split more than twice?

18 LINUS BEATTY: None.

19 SPEAKER CUPP: And so do you believe  
20 these numbers comply with Article XIX,  
21 Section 2(B)(5) regarding county splits?

22 LINUS BEATTY: I do.

23 SPEAKER CUPP: In regard to the  
24 contiguity of -- contiguity -- yeah, keeping  
25 them together, does your plan comply with

1 Article XIX, Section 2(B) in that if a district  
2 contains only part of a county, the part of the  
3 district that lies in that district is  
4 continuous within the boundaries of that county?

5 LINUS BEATTY: It does.

6 SPEAKER CUPP: All right. And then  
7 portions relating -- question relating to the  
8 portions of the territory in more than one  
9 county.

10 Prior to drawing the districts, did you  
11 determine which counties had populations that  
12 exceeded 400,000 in population?

13 LINUS BEATTY: Yes.

14 SPEAKER CUPP: And those would be?

15 LINUS BEATTY: They would be -- let's  
16 see if I can remember all of them. They would  
17 be Lucas, Montgomery, Hamilton, Cuyahoga,  
18 Franklin, and then Summit, I believe, are all of  
19 them.

20 SPEAKER CUPP: Does your plan comply  
21 with Article XIX, Section 2(B)(7) in that no two  
22 congressional districts shall share portions of  
23 the territory of more than one county except for  
24 those counties whose population exceeds 400,000  
25 persons?

1 LINUS BEATTY: Yes.

2 SPEAKER CUPP: And did you attempt to  
3 include at least one whole county in each  
4 congressional district in compliance with  
5 Article XIX, Section 2(B)(8).

6 LINUS BEATTY: Yes, I did.

7 SPEAKER CUPP: All right. That's all  
8 the questions I have.

9 Are there any members of the commission  
10 that have further questions?

11 Hearing none, thank you very much for  
12 your testimony.

13 Oh, I'm sorry. Auditor Faber.

14 AUDITOR FABER: I just had one. And I  
15 appreciate your work in putting this together  
16 because I know this took you a lot of time,  
17 especially with the detail you paid to try and  
18 keep communities of interest and it looks like  
19 incumbents and minimize the splits.

20 But as I look at District 9, it looks a  
21 lot like the famed Snake on the Lake that we've  
22 heard a lot about. Can you explain that  
23 distinction and why we heard so much concern  
24 about that but yet this isn't it.

25 LINUS BEATTY: So one thing that I

1 would note is that the Snake on the Lake  
2 does -- it splits Ottawa and Erie to go  
3 basically very narrowly along the lake, and does  
4 the same in Lorain before growing out and taking  
5 western Cleveland, which is very strongly  
6 Democrat, to make it into a vote sink.

7 When I designed my map, I tried to  
8 avoid splits, and furthermore, I looked at  
9 previous maps, including ones before this last  
10 congressional map, to see what counties were  
11 often kept together. For example, I put  
12 Sandusky county with the 5th because that had  
13 been with the 5th going back to the '70s prior  
14 to this configuration.

15 Does that answer your question, or  
16 would you like more clarity?

17 AUDITOR FABER: I guess it's as good as  
18 any. I can't tell the details, but it looks  
19 like you chose to slice Lorain county in half  
20 and made some other adjustments, but again, I am  
21 just curious --

22 LINUS BEATTY: I would note that this  
23 is pretty much the 9th district that existed  
24 prior to this decade. It's the same one that  
25 was on the 2000s. Lorain's not split the exact

1 same way, but that is where that comes from.

2 SPEAKER CUPP: All right. Is there any  
3 further questions? There being no further  
4 questions, we thank you for coming and making  
5 your presentation.

6 LINUS BEATTY: Thank you.

7 SPEAKER CUPP: So we also have Trevor  
8 Martin checked in. Is Trevor Martin here today?  
9 Trevor.

10 TREVOR MARTIN: Good afternoon. Thank  
11 you, co-chairs, members of this commission, for  
12 giving me this opportunity to speak.

13 My name is Trevor Martin. I'm a  
14 community organizer and member of the  
15 Fair Districts Ohio coalition. I have trained  
16 over 80 individual community members to use  
17 mapping software, specifically Dave's  
18 Redistricting tool and Districtr, to participate  
19 in the '22 Ohio redistricting process by  
20 creating informative, descriptive, and  
21 meaningful community maps that Ohio citizens can  
22 share and thereby advocate for fair and  
23 representative districts.

24 In addition, I have either facilitated  
25 or sat in on dozens of community-mapping



1 sessions organized and hosted by community  
2 members throughout Ohio. In doing so, I've  
3 heard from hundreds of community members from  
4 all over the state, and I've seen hundreds of  
5 community maps made by Ohio citizens that  
6 reflect a vision of their community, how they  
7 define that community, and how they would like  
8 to see these communities represented.

9 I was hoping to address some of the  
10 critiques made yesterday, February 23, 2022, in  
11 front of this body regarding the  
12 Fair Districts Ohio Model Map. First and  
13 foremost, the assertion that the Fair Districts  
14 Model Map is least fair of all proposals  
15 submitted to this commission. The fact is that  
16 the Fair Districts Model Map scores the highest  
17 of all submitted proposals on Dave's  
18 Redistricting cumulatively and in nearly every  
19 metric of fairness that we can observe, scoring  
20 very high in proportionality, splitting, and  
21 minority representation. It is the most compact  
22 and the most competitive of any plan that has  
23 been presented to this body during public  
24 testimony.

25 I would like to point out that the

1 Fair Districts Ohio Model Map is the only truly  
2 nonpartisan map that had been presented to this  
3 commission yesterday, February 23, 2022.

4 Unlike other proposals that had been  
5 presented on behalf of a particular party, the  
6 Fair Districts Model Map is a product of many  
7 people from across many walks of life. It is a  
8 matter of fact that voting members of the  
9 Republican Party in Ohio had participated in our  
10 community mapping and in our district drawing  
11 competitions. I myself sat in on a mapping  
12 session in Wyoming, Ohio, down by Cincinnati,  
13 that had several Republicans in attendance,  
14 including the chair of the Wyoming, Ohio,  
15 Republican Club. I was also present at a heated  
16 discussion in Portage county that was attended  
17 by both liberal and conservative Ohio voters.

18 The Fair Districts Model Map is a  
19 collaboration of multiple community maps created  
20 by self-proclaimed Democrats, Republicans, and  
21 unaffiliated Ohio citizens. To say that it  
22 unduly favors any party is preposterous.

23 More specifically, the district  
24 variance calculations presented by witness Paul  
25 Miller at the February 23, '22, meeting of the

1 Ohio Redistricting Commission should not be used  
2 to determine the constitutionality of any  
3 district plan being considered by this  
4 commission. In short, statistical variance  
5 measures the proximity of each data point, in  
6 this case a congressional district, in relation  
7 to an identified target outcome.

8 In the case of Mr. Miller's analysis,  
9 his target outcome is a 50/50 Republican-to-  
10 Democrat vote total per district and what he  
11 categorizes as a fair district. This is how  
12 Mr. Miller concluded that the GOP congressional  
13 plans were the fairest because those maps  
14 gerrymandered certain communities to produce a  
15 map with a higher number of districts with a  
16 relatively low partisan index split.

17 This argument was rightly struck down  
18 by the Supreme Court as a map that unduly  
19 favored the GOP because it was specifically  
20 Democratic counties that were split in such a  
21 way to create an artificially competitive  
22 environment.

23 This is a highly-flawed metric for  
24 identifying gerrymandering for several reasons.  
25 First, Ohio's political geography is not

1           conducive to a 15 district 50/50 split map.  
2           This is obvious to anyone who has spent even a  
3           marginal amount of time looking at the state.  
4           In fact, producing a map with little variance  
5           between districts requires gerrymandering.  
6           Think about it. How do you produce a 50/50  
7           district in Cuyahoga county or along Ohio's  
8           western border? You can't unless you  
9           specifically crack and pack together distant  
10          communities to construct a single district.

11                 We know some districts in Ohio are  
12          going to be solid Republican and others will be  
13          solid Democrat. That's just reality. A higher  
14          level of variance between districts is a sign  
15          that communities of interest are being  
16          respected.

17                 The Fair Districts Model Map inherently  
18          scores lower using Mr. Miller's approach  
19          precisely because it does represent communities  
20          of interest, keeping them together and within a  
21          given district. To be sure the Fair Districts  
22          Model Map does address competitiveness, but it  
23          does so within the areas of the state where the  
24          natural distribution of population and partisan  
25          spread of voters is competitive rather than the

1       artificial application of competitiveness across  
2       all districts.

3               Second, statistical variance analysis  
4       was never put forth as evidence during any of  
5       the court proceedings challenging the  
6       constitutionality of either the general assembly  
7       maps or congressional maps. This is striking  
8       considering Mr. Miller's analysis concluded the  
9       GOP maps were the fairest. If the methodology  
10      of statistical variance had even a fraction of  
11      legitimacy of other measures for identifying  
12      gerrymandering, for example, the efficiency gap,  
13      the vote-seat ratio, or mean-median analysis,  
14      then I'm sure lawyers representing the  
15      defendants in these cases would have made this  
16      analysis a central component to their legal  
17      arguments. Instead, they did not even mention  
18      this form of analysis in their court filings.

19             I would also like to confront the  
20      accusation made yesterday that the Fair  
21      Districts Model Map is racist. I and my fellow  
22      colleagues and citizen mapmakers who put much  
23      work into this map found it to be utterly  
24      disrespectful, offensive, and patently false.  
25      The Fair Districts Model Map is a product of

1       dozens, if not hundreds, of diverse individuals  
2       and organizations throughout the state,  
3       including members of black fraternities and  
4       sororities, including Alpha Kappa Alpha in the  
5       Cleveland area.

6               The model map scores a 50 for minority  
7       representation in Dave's Redistricting tool  
8       which is equal to or higher than any other map  
9       that has been presented to this commission that  
10      I am aware of.

11              The Fair Districts Model Map preserves  
12      the majority-minority district in CD 11 and  
13      creates a second opportunity district in CD 1 in  
14      Hamilton county in addition to the already  
15      present opportunity district in Franklin county,  
16      Congressional District 3.

17              In comparison, other proposals  
18      submitted to this body yesterday dilute CD 11 so  
19      that it is downgraded from a majority-minority  
20      district to an opportunity district which could  
21      run afoul of the federal Voting Rights Act.  
22      They also provided fewer or weaker opportunity  
23      districts than the Fair Districts Model Map  
24      does. Therefore to say that the  
25      Fair Districts Model Map is racist, though very

1 offensive, that declaration is laughable and  
2 demonstrably false.

3 Furthermore, the claim that the model  
4 map is out of compliance with the Court's  
5 opinion in Adams v Dewine is also incorrect.  
6 The assumption is based off a misreading of the  
7 text. Splitting Summit county is permissible.  
8 The Court found that the struck down  
9 Senate Bill 258 splits of Summit and Cuyahoga  
10 counties unduly favored Republicans, conferring  
11 a partisan advantage, thus it was not that these  
12 counties were split but rather how they were  
13 split. The splits that are present in the  
14 Fair Districts Model Map confer no such  
15 advantage for either party and are there solely  
16 to preserve community boundaries, school  
17 districts, or other such nonpartisan criteria.

18 Now, as a community member -- or  
19 community organizer myself, I have a keen  
20 interest in keeping communities of interest  
21 together and to advocate for fair representation  
22 of those communities.

23 The definition of community can mean a  
24 lot of different things to a lot of different  
25 people, and each individual can be a member or

1 multiple communities. Believe me, this came up  
2 often in my discussions with Ohio voters about  
3 community and who the people were supposedly  
4 representing these communities.

5 what these community made maps do show  
6 is where these people live, where they work,  
7 where their children go to school, where they  
8 shop, where they eat, their parks, their trails,  
9 their community centers, their places of  
10 worship. These community maps tell stories of  
11 community concerns, what they considered  
12 important to them, and how decisions should be  
13 made when drawing district lines that will  
14 affect their day-to-day lives.

15 In conclusion, I would like to assert  
16 that the Fair Districts Model Map keeps  
17 political subdivisions and communities together  
18 as much as possible and more accurately reflects  
19 the partisan balance of this great state of  
20 Ohio. Fair Districts Ohio urges you to adopt  
21 this nonpartisan constitutionally compliant map  
22 that prioritizes voters. And please remember  
23 that Ohio voters overwhelmingly approved a new  
24 process to put an end to partisan  
25 gerrymandering. Thank you.



1                   SPEAKER CUPP: Are there questions for  
2                   Mr. Martin?

3                   I do not believe there are. So thank  
4                   you for coming and making your presentation. I  
5                   think I asked about the map yesterday, the  
6                   constitutional requirements, so we don't need to  
7                   repeat that today.

8                   TREVOR MARTIN: I appreciate it. Thank  
9                   you.

10                  SPEAKER CUPP: That is all of the  
11                  witnesses that we have checked in to testify to  
12                  submitted whole state congressional  
13                  redistricting maps.

14                  At this time, is there further business  
15                  to come before the commission?

16                  The chair recognizes Senator Huffman.

17                  PRESIDENT HUFFMAN: Yeah. Thank you,  
18                  Mr. Speaker and members of the commission.

19                  As I think all commissioners know,  
20                  we've been working a lot of these past several  
21                  days to try to resolve the general assembly  
22                  maps. We have had a map which we believe  
23                  comports with all of the requirements of the  
24                  Supreme Court, 54 -- well, we will call I think  
25                  the Republican 54/18 map that I believe that's

1           been presented at -- in a session with the  
2           Democratic commissioners and their various  
3           experts.

4                     My understanding is that all of the  
5           Republican commissioners have had an opportunity  
6           to review that and look at it. Unfortunately,  
7           at the moment, there are not paper copies.  
8           We're doing this as quickly as we can.

9                     And also, I understood that at the  
10          request of Senator Sykes there was going to be  
11          some sort of break between this hearing and full  
12          consideration of that map.

13                    So I don't have anything more than that  
14          other than we believe it comports with  
15          everything in the constitution and in the  
16          dictates that the Court has given us. So at  
17          that -- at the point in time when I have -- at  
18          6:00, after the requested three-hour break, I'll  
19          present that and talk in detail.

20                    SPEAKER CUPP: Any further questions?  
21          Comments?

22                    SENATOR SYKES: One question,  
23          Mr. Co-Chair. Has this map or plan been  
24          distributed or made available to the public?

25                    PRESIDENT HUFFMAN: It's my

1 understanding is it's not been. It's about to  
2 be shortly. It's kind of getting in final form,  
3 and I'm not sure how quickly it can be loaded up  
4 to the website, but hopefully that will be  
5 in -- oh, apparently, in the next half an hour  
6 or so, so well before the hearing here in a few  
7 hours.

8 SENATOR SYKES: We're all the  
9 members -- if I can make --

10 SPEAKER CUPP: Go right ahead.

11 SENATOR SYKES: Have all the members,  
12 majority members of the commission, were they  
13 involved in the drafting of this -- of this  
14 plan?

15 PRESIDENT HUFFMAN: Senator, I  
16 don't -- I don't have a daily log or diary of  
17 what each of the other six members of the  
18 commission did. Everyone's had a chance to see  
19 it, make comments, suggestions, whatever it may  
20 be. So I don't -- I don't know the detail of  
21 what everybody said and did and when they did  
22 it.

23 SENATOR SYKES: Okay.

24 SPEAKER CUPP: All right. Without  
25 objection, the commission will recess until

1 6:00. In the meantime, the proposed map will be  
2 uploaded to the public website and maps will be  
3 printed and made available as quickly as  
4 possible. So the committee will recess until  
5 6:00 p.m.

6 (Recess.)

7 SPEAKER CUPP: The redistricting  
8 commission will come back to order pursuant to  
9 the recess earlier today. I would note for the  
10 record that all members of the commission are  
11 present here as we have reconvened.

12 Is there business to come before the  
13 commission? The chair recognizes Senator  
14 Huffman.

15 PRESIDENT HUFFMAN: Thank you, Co-Chair  
16 Cupp.

17 At this time I would move that the  
18 commission adopt the plan that is submitted on  
19 the commission's website known under the name  
20 Paul DeSantis. And that is my motion, and I'd  
21 like to speak to the motion.

22 SPEAKER CUPP: I'll second the motion.  
23 Senator Huffman.

24 PRESIDENT HUFFMAN: Thank you,  
25 Mr. Chair.

1                   Just briefly, and obviously happy to  
2                   answer any questions, this plan is a plan that  
3                   designates 18 Republican Senate seats and 54  
4                   House Republican seats, or an 18/15, 54/45 map  
5                   which was designated in the Supreme Court's  
6                   decision.

7                   I would note that the Democratic map  
8                   submitted last week had the same number as I  
9                   believe the Rodden map referred to in the  
10                  Supreme Court's decision at an 18/57 map.

11                  I did want to comment that this --  
12                  these maps, all of them, were drawn -- or at  
13                  least I think the Glassburn map, Democratic map  
14                  and ours, were done pursuant -- or with the data  
15                  that was provided by Ohio University pursuant to  
16                  the contract that was issued by the  
17                  redistricting committee and the commission, in  
18                  other words, the census data sent to Ohio  
19                  University, and that's the data that was used  
20                  and agreed to be used by everyone. I think  
21                  since -- at least in the last few hours some  
22                  folks have said, well, there may be districts on  
23                  third party websites -- or opinions on third  
24                  party websites that use different data. I think  
25                  we've had a lot of testimony about how a lot of

1       that is inaccurate or not quite according to  
2       Hoyle. So these are -- this -- the indexes in  
3       the total are pursuant to the official data from  
4       Ohio University that the mapmakers on both sides  
5       of the aisle have been using, so it's an 18/54  
6       map.

7               The other requirement that the Supreme  
8       Court indicated in its second opinion is the  
9       issue regarding symmetry. I'm going to talk a  
10      little bit more about the Senate map. I'll  
11      allow Speaker Cupp to talk about the House map.  
12      But there are -- the issues or the districts  
13      regarding asymmetry are two in the Senate and  
14      five in the House. This is identical to, again,  
15      to the Democratic map that was submitted last  
16      Thursday.

17             And otherwise, this map follows all the  
18      other technical line-drawing rules provided in  
19      the constitution.

20             And I think that's the extent of my  
21      remarks. Obviously, we're all interested in  
22      getting this done quickly and -- as we've got a  
23      May 3rd primary. I'll let Secretary LaRose talk  
24      about that, if he chooses, regarding the  
25      urgency, perhaps talk even more than he already

1 has. I think he's put the commission in a  
2 pretty good place knowledgewise about it.

3 So those are the extent of my remarks  
4 now, Mr. Speaker. I'd be happy to answer any  
5 questions at this time.

6 SPEAKER CUPP: Before you do that, let  
7 me just talk a bit about the House map.

8 So I want to first say that I honestly  
9 believe that all members of the redistricting  
10 commission have worked long and hard to achieve  
11 a new General Assembly District Plan that is in  
12 compliance with all the requirements of the Ohio  
13 Constitution. The fact is that it is a new  
14 constitutional provision that has never before  
15 been utilized or navigated or litigated. And as  
16 such, it naturally results in differing opinions  
17 and understanding about what is required.

18 Decisions of the Ohio Supreme Court  
19 have subsequently filled in some of the meaning  
20 of certain constitutional provisions, thus the  
21 map -- this map before us now starts anew, with  
22 a goal of meeting those provision as  
23 adjudicated.

24 The House districts in this new General  
25 Assembly plan proposal I believe meets the

1 requirements of the Ohio Constitution as  
2 interpreted by the Ohio Supreme Court, including  
3 these requirements that the Court has ordered  
4 beyond those expressly stated in the text of  
5 Article XI.

6 In regard to partisan proportionality,  
7 the Supreme Court has held that the appropriate  
8 ratio based on the percentage of statewide votes  
9 for each major political party in statewide  
10 elections over the last ten years translates  
11 into 54 Republican-leaning House districts and  
12 45 Democrat-leaning House districts provided  
13 other requirements of the Ohio Constitution are  
14 not violated in drawing districts to meet this  
15 proportionality. The district plan approved by  
16 the commission in January of this year included  
17 57 Republican-leaning districts and 42  
18 Democrat-leaning districts.

19 The proposed new district map before us  
20 has 54 Republican-leaning seats and 45  
21 Democratic-leaning seats. I would point out  
22 that this was very difficult to achieve, and it  
23 was time-consuming to navigate the  
24 constitutional limitations on splits and  
25 divisions of political subdivisions in the



1 state, but after months of trying and retrying  
2 and trying again, and after several court  
3 decisions refining the meaning of the terms of  
4 the constitution, the target partisan  
5 proportionality as determined by the Court has  
6 been achieved in this proposed map.

7 The House plan, House part of this plan  
8 approved by this commission in January included  
9 12 so-called asymmetrical districts as defined  
10 by the Court. This new plan includes only five  
11 asymmetrical districts which is the same number  
12 of asymmetrical districts as contained in the  
13 House plan that Representative Russo moved to  
14 adopt and have this commission -- asked this  
15 commission to adopt on February 17th.

16 I have used the term new plan several  
17 times because this General Assembly District  
18 Plan has been developed anew. Approximately  
19 70 percent of the House districts are different  
20 from the districts approved by the commission in  
21 January and, taken together, approximately  
22 73 percent of all 132 general assembly districts  
23 are new.

24 That will conclude my overview of the  
25 House districts of the plan, and I would be

1 happy to respond to any questions that I may be  
2 able to answer.

3 So the floor is open.

4 SENATOR SYKES: Mr. Co-Chair, you know,  
5 I am just disappointed, you know, not so much  
6 for myself but disappointed in the -- for the  
7 Court and for the people of the state of Ohio  
8 particularly as it relates to, you know, just  
9 the process. You know, I'm the sponsor of  
10 Ohio's open meetings law, and, you know, we have  
11 some guidelines to try to make sure that the  
12 people's business, that they have access to it,  
13 have information about it, they have a chance to  
14 petition us, to hold us accountable, to give  
15 input whether that's through a public hearing or  
16 even just a telephone call.

17 We've been told that you've been  
18 working on this since February 11th, and we have  
19 not had a chance, an opportunity to give any  
20 input or have any knowledge about what you're  
21 doing.

22 So we're just wondering, do you expect  
23 us to vote on this? We just got it, the  
24 information about this, just a few hours ago.  
25 We've been deliberating over districts and

1       redistricting issues since the summer, but now,  
2       with just a few hours' notice, you want us -- do  
3       you want us to vote on this today?

4               SPEAKER CUPP: What's the pleasure of  
5       the commission?

6               PRESIDENT HUFFMAN: Mr. Chair. Yeah,  
7       well, a couple of things. I mean, I don't  
8       think -- and I appreciate what you're saying.  
9       And, you know, Senator Sykes, there are many,  
10      many, many meetings that are productive meetings  
11      that don't take place -- our -- you and I talked  
12      about this issue in your office, and the press  
13      and the public weren't a part of that. We've  
14      had phone conversations, things like that, so  
15      sometimes those are productive meetings.

16              I don't think these issues are new to  
17      anyone sitting here on the commission.  
18      Much -- you know, much of this plan are actually  
19      adoptions from the Democratic map and not in  
20      whole but at least in concept. And I would  
21      prefer to vote on the plan tonight for a couple  
22      of reasons. One is the Supreme Court has made  
23      it clear as to the urgency of responding to  
24      them. And more importantly, I think, or as  
25      importantly is that we have a May 3rd election

1 and the secretary has made clear -- again, I'll  
2 let him speak to the specifics of it -- about  
3 the importance of having this -- and hopefully  
4 still possible, having these general assembly  
5 district elections on May 3rd.

6 And, you know, all of the other options  
7 are bad. Two primaries, bad idea because I  
8 happened to suggest it and people let me know  
9 pushing back the primary, people are not in  
10 favor of that also.

11 So I don't know. You know, I think at  
12 this point, a while ago days matter, at this  
13 point hours matter, and so I would prefer to  
14 vote on it tonight, and those are the reasons  
15 why. So those are my comments about the timing.

16 SENATOR SYKES: Mr. Co-Chair, the Court  
17 has instructed us to work on a commission plan  
18 and have the commission work on a plan, not to  
19 have a Democratic plan or a Republican plan.

20 And so what is your rationale since we  
21 have reached out to you to be involved to offer  
22 input, but we haven't been given any  
23 information, just the map once you finished and  
24 completed. How is that compliant with the  
25 directive of the Court?

1           PRESIDENT HUFFMAN: well, if I could,  
2           we're here now and we can talk about it. I'm  
3           not sure how else the commission can meet and  
4           talk about it unless we notice up a meeting and  
5           we're all here to do that. So we have a  
6           meeting, we can talk about it now, things you  
7           like or dislike or whatever it may be.

8           SENATOR SYKES: well, you know, we did  
9           have an opportunity in the last few hours to  
10          take a look at the map, and it looks like it  
11          puts the minority party in a more inferior  
12          position than before, with only six -- 26  
13          districts that are -- that would be most likely  
14          won by Democrats in the House and only eight  
15          districts that would most likely be won by  
16          Democrats in the Senate.

17          And so, you know, we don't believe that  
18          this -- we appreciate the idea that you maybe  
19          embrace the concept that you need to comply with  
20          the proportionality guidelines, but the Court  
21          also indicated that symmetry was also important,  
22          and we don't believe that you've complied with  
23          that. We believe that you've made that worse.

24          SPEAKER CUPP: If I might ask, what is  
25          your rationale for that?

1                   SENATOR SYKES: Rationale, you  
2                   have -- in the plan that was turned down by the  
3                   Court, in the House, districts that had a DPI  
4                   from 50 to 52, there were 14 leaning Democrat.  
5                   In this plan you have 19 for the House. And for  
6                   the Senate you have in fact five in the plan  
7                   that was turned down by the Court and then you  
8                   have seven in the one being presented here  
9                   today, between 50 and 52. And so we believe  
10                  that that placed the minority party in a more  
11                  inferior position.

12                 SPEAKER CUPP: Well, if I might respond  
13                 to that, I actually -- I read the Supreme Court  
14                 decision again today, Decision Number 2, and  
15                 specifically looked at the asymmetry question.  
16                 And when the Court addressed asymmetry, they  
17                 discussed the districts that were 51 percent or  
18                 less Democrat-leaning, and that's the -- that is  
19                 my understanding is the point where the Court  
20                 took issue. It did not take issue with any of  
21                 the districts that had a greater than 51 percent  
22                 partisan lean.

23                 In this map, as I've already indicated,  
24                 it does have five districts that are  
25                 asymmetrical. That is the same number of

1           asymmetrical districts that were in the map that  
2           Representative Russo moved and you seconded just  
3           a week ago to adopt. So I'm not sure I  
4           understand your issue unless you're saying that  
5           you don't believe districts that are over  
6           51 percent leaning Democratic based on the ratio  
7           that we're required to use are not winnable. So  
8           I completely don't understand because clearly  
9           the percentage is leaning Democrat. It's  
10          certainly not leaning Republican, and it's  
11          certainly not neutral.

12                   SENATOR SYKES: Well, the point that  
13           we're making is that all of these districts, 52  
14           or less, 52 percent with the Democratic index or  
15           less are all Democratic districts. There are  
16           none -- there are zero in the Republican area,  
17           and so we're just concerned, we're concerned  
18           about it.

19                   SPEAKER CUPP: Is this a new issue  
20           you're raising? Because that was not --  
21           52 percent was not something that the Court  
22           addressed, between 51 and 52. They addressed it  
23           between, you know, 50 and 51 is what I read.

24                   Representative Russo, did you --

25                   LEADER ELECT RUSSO: Thank you,

1 Mr. Co-Chair.

2 I'm just going to be frank here. I  
3 think this discussion and claiming that you  
4 addressed asymmetry as smoke and mirrors. Here,  
5 I am going to read paragraph 40 from the  
6 decision itself so that we're not interpreting  
7 what the Court said. We're actually reading the  
8 words.

9 In paragraph 40, it says.

10 "Article XI, Section 6(B) provides that  
11 the commission shall attempt to draft a plan in  
12 which the statewide proportion of districts  
13 whose voters favor each political party shall  
14 correspond closely to the statewide preferences  
15 of the voters of Ohio. (Emphasis added.)

16 "Yet the commission knowingly adopted a  
17 plan in which all the House districts whose  
18 voters favor Republicans do so at vote shares of  
19 52.6 percent and above, while more than a  
20 quarter (12 of 42) of the House districts whose  
21 voters favor Democrats do so at a vote share  
22 between 50 and 51 percent (meaning that a  
23 1 percent swell in Republican vote share would  
24 sweep 12 additional districts into the  
25 Republican column). Nine of those districts



1 favor Democrats at a level under 50.5 percent."

2 So that has been pointed out, but it  
3 goes on further to say:

4 "while the Constitution does not  
5 require exact parity in terms of the vote share  
6 of each district, the commission's adoption of a  
7 plan in which the quality of partisan favoritism  
8 is monolithically disparate is further evidence  
9 of a Section 6(A) violation. In other words, in  
10 a plan in which every toss-up district is a  
11 Democratic district, the commission has not  
12 applied the term favor as used in Section 6(B)  
13 equally to the two parties.

14 "The commission's adoption of a plan  
15 that absurdly labels what are by any definition  
16 competitive or toss-up districts as  
17 Democratic-leaning -- at least when the plan  
18 contains no proportional share of similar  
19 Republican-leaning districts -- is demonstrative  
20 of an intent to favor the Republican Party."

21 So I will go back to the maps that you  
22 have submitted claiming that you have addressed  
23 this issue of symmetry, and in fact, what you  
24 have proposed is a 26/54 split for the House  
25 because you have 19 districts that fall between

1           50 and 52. Amazingly, you've actually created a  
2           bigger problem because previously you only had  
3           14 that fell within that range. Now, you've  
4           created 19 and claim that you have addressed  
5           symmetry.

6                     The same is true in the Senate  
7           districts. You created a map that has seven  
8           districts that fall between 50 and 52, amazingly  
9           expanding the issue whereas previously there  
10          were five in the map that was declared  
11          unconstitutional and thrown out by the courts.

12                    So, you know, this argument that you  
13           somehow have addressed asymmetry by creating  
14           fewer districts between the 50 and 51 percent  
15           range seems to ignore what the Court was saying  
16           in its decision.

17                    So I ask the question: How have you  
18           addressed asymmetry given the full reading of  
19           the Court's decision in paragraph 40?

20                    SPEAKER CUPP: Representative Russo,  
21           I'd ask you how many Democrat-leaning districts  
22           are between 50 and 51 percent which is what the  
23           Court addressed?

24                    LEADER ELECT RUSSO: In which map?

25                    SPEAKER CUPP: The House map.

1 LEADER ELECT RUSSO: In the House map  
2 that has been moved to be adopted, it is five.  
3 And you are correct that there were five in the  
4 Democratic district, but again, the Court  
5 decision is pretty clear that when you have  
6 monolithic asymmetry, regardless of whether  
7 we're using a threshold of 50.5, 50.8, 51, 51.5,  
8 52, the important piece of this is that you have  
9 zero Republican districts that fall within those  
10 ranges: 19 on the House side versus zero on the  
11 Republicans. And in the Senate, seven that are  
12 between 50 and 52 for Democrats and zero on the  
13 Senate.

14 So in my view, I don't think that this  
15 at all addresses what the Court noted was the  
16 issue as a violation of Section 6(A) and 6(B) in  
17 their decision.

18 SPEAKER CUPP: I guess you and I are  
19 reading it differently.

20 Any further discussion? Questions?

21 I think the issue you threw out is, you  
22 know, when do we vote. So shall we go ahead and  
23 vote now or what?

24 LEADER ELECT RUSSO: Mr. Speaker, I do  
25 have another question.

1 SPEAKER CUPP: Sure.

2 LEADER ELECT RUSSO: Thank you.

3 I would ask to the commissioners, do  
4 the majority of the commissioners believe that  
5 this map which actually worsens partisan  
6 asymmetry, it does not improve it, will satisfy  
7 the Court and show that the commissioners, each  
8 member of this commission, when we appear on  
9 Tuesday before the Court, is not contemptuous of  
10 the Court and does not remain in contempt or  
11 possibly in contempt?

12 SPEAKER CUPP: Well, as I've indicated  
13 to the press, I'm not commenting on pending  
14 litigation, and I don't think it's wise for  
15 anybody to do that.

16 LEADER ELECT RUSSO: Mr. Co-Chair, I'm  
17 sorry, but we're sitting here because of pending  
18 litigation discussing these maps, so I would  
19 disagree with that assessment.

20 SPEAKER CUPP: All right. If there's  
21 no further discussion, is there a motion on the  
22 floor and a second? Are we --

23 Staff call the roll.

24 THE CLERK: Co-Chair Speaker Cupp.

25 SPEAKER CUPP: Yes.

1 THE CLERK: Co-Chair Senator Sykes.

2 SENATOR SYKES: No.

3 THE CLERK: Governor Dewine.

4 GOVERNOR DEWINE: Aye.

5 THE CLERK: Auditor Faber.

6 AUDITOR FABER: No.

7 THE CLERK: President Huffman.

8 PRESIDENT HUFFMAN: Yes.

9 THE CLERK: Secretary LaRose.

10 SECRETARY LAROSE: Yes.

11 THE CLERK: Leader Russo.

12 LEADER ELECT RUSSO: No.

13 THE CLERK: Co-Chair, it's 4-3.

14 SPEAKER CUPP: The vote is four to  
15 three. The motion does pass. It is not passed  
16 by the required majority to be a ten-year  
17 district plan, so it passes as a four-year  
18 district plan.

19 Secretary LaRose, did you have a  
20 motion?

21 SECRETARY LAROSE: Yeah, I do. Thank  
22 you, Mr. Co-Chair.

23 And I do want to reemphasize that which  
24 I have said many times from this seat and that  
25 which I have said many times in letters that

1 I've sent to the members of the general assembly  
2 and to the leadership that we are in one heck of  
3 a time crunch. And as it relates to conducting  
4 the election on May 3rd, I'm duty bound to make  
5 sure people understand really what's at peril  
6 for any further delay. I'm glad that we've just  
7 conducted this vote, by the way.

8 But one other thing that I thought we  
9 should consider here as we wrap up the work of  
10 this commission, having just adopted what I  
11 believe are constitutional maps, is to take a  
12 look at the Section 9(C) provision that says, in  
13 part, "A General Assembly District Plan made  
14 pursuant to this section shall allow" -- again,  
15 shall allow -- "30 days for persons to change  
16 residence in order to be eligible for election."

17 My read of that is that the plan that  
18 we just adopted shall allow 30 days for persons  
19 to change residence in order to be eligible for  
20 the election. Of course, what that means is  
21 that a candidate who filed their petitions back  
22 on February 2nd to run for the House or Senate  
23 must now from today, from adoption of this plan,  
24 have an additional 30 days to notify the Board  
25 of Elections that they intend to move and then

1 to in fact move to a new residency and be  
2 eligible for the ballot. Because of that  
3 provision, the county boards of elections may  
4 read that to mean that they just have to wait  
5 30 days now for that to happen. My hope is to  
6 give them more clear guidance than that and, in  
7 fact, ask candidates to notify the Board of  
8 Elections of their intention to move. My guess  
9 is there may be very few that do so, but in the  
10 case where your county has somebody who has  
11 notified you that there's that intention, then  
12 the board would know how to deal with that based  
13 on the directive I would give them.

14 of course, that would take -- if they  
15 did just simply wait for 30 days, that would  
16 mean that they can't certify any petitions until  
17 March 26th. March 26th is a date long after the  
18 overseas and military ballots are required to go  
19 out. In fact, I'll remind us that we have three  
20 weeks until overseas and military ballots go  
21 out. That's three weeks from tomorrow until I'm  
22 required by law to mail out overseas and  
23 military ballots to our men and women serving  
24 overseas and to their families and those who are  
25 studying abroad, et cetera.

1           That is effectively the beginning of  
2           the election. Of course, election day is on  
3           May 3rd, but voting begins starting three weeks  
4           from now, and that is the time crunch that we're  
5           operating under, and to get this work done in  
6           those three weeks is nearly unimaginable,  
7           perhaps possible with some real amazing work by  
8           our county boards of elections.

9           So back to the matter at hand. Because  
10          of the severely compressed timeframe, we now  
11          have to hold primaries for these races  
12          potentially, you know, under a very compressed  
13          the timeframe.

14          What I'm asking the members of the  
15          commission to consider is simply adopting a  
16          statement that I have distributed to all of you,  
17          and I'll read it. It says:

18                 "The General Assembly District Plan  
19          that this commission just adopted would  
20          authorize me as Secretary of State to issue to  
21          the boards of elections directives by which  
22          House and Senate candidates who have filed to  
23          run shall comply with Article XI, Section 9(C)  
24          if any candidates wish to do so."

25                 Again, that they would have the



1 opportunity to meet that 30-day residency  
2 requirement under the rules that I would send to  
3 the boards of elections by directive and that we  
4 are adopting this as part of the plan that we  
5 just passed.

6 UNIDENTIFIED SPEAKER: Second.

7 SENATOR SYKES: Point of order.

8 SPEAKER CUPP: Mr. Co-Chair.

9 SENATOR SYKES: Yeah. Mr. Co-Chair,  
10 you know, I don't think we have the authority to  
11 authorize the Secretary of State to do anything.  
12 This motion exceeds the authority of the  
13 commission. The residency deadline is both a  
14 constitutional and a statutory issue, and I  
15 don't believe that the commission has the  
16 authority to change the election law to  
17 accommodate the 30-day residency requirement.  
18 This motion will not resolve the issue raised by  
19 the Secretary of State and Attorney General.

20 SECRETARY LAROSE: I'd like to respond  
21 to that, Mr. Co-Chair.

22 SPEAKER CUPP: Secretary LaRose.

23 SECRETARY LAROSE: First of all,  
24 arguably, I have the directive authority already  
25 to tell the boards of elections how to comply

1 with this part of the constitution, but I would  
2 argue that we as a commission have the duty to  
3 include this language in the plan that we're  
4 adopting right now because what the constitution  
5 says, again, is that a general assembly plan  
6 adopted pursuant to this section, the plan that  
7 we just adopted pursuant to this section shall  
8 allow 30 days for persons to change residence.

9 By adopting the statement that I just  
10 read into the record, we are allowing, as part  
11 of this plan that we just adopted, the 30 days  
12 for candidates to change residence in order to  
13 be eligible for election.

14 SPEAKER CUPP: Auditor Faber.

15 AUDITOR FABER: Thank you.

16 I tend to believe the secretary already  
17 has this authority. I believe the constitution  
18 makes it clear without regard to whether we give  
19 authority or don't give authority that somebody  
20 gets 30 days to move into the district once the  
21 district maps are final regardless of when  
22 they're on the ballot. And candidly, I suggest  
23 that the secretary could just issue guidance  
24 saying that file a statement if you intend to  
25 relocate and then verify that relocation when

1           you certify the election. I think that  
2           certainly would be within his discretion and  
3           certainly compliant with the constitution.

4                     And for that reason, I support this  
5           motion because I think it just makes it clear to  
6           everybody that that is the intent of what should  
7           happen to comply with the constitution. So in  
8           that regard, I think this is only a statement of  
9           intent. I don't know that it gives him any new  
10          authority, but I think it certainly is  
11          appropriate to make it clear to everybody that  
12          we believe people who may have already filed for  
13          one district and something got changed in a line  
14          adjustment, I think it's only fair for them to  
15          know that they can move under the constitution,  
16          which the constitution already gives them that  
17          right, within 30 days, so I have no problem  
18          putting in that statement for that reason.

19                    SPEAKER CUPP: Senator Sykes.

20                    SENATOR SYKES: Yes. If I could ask a  
21          question on the motion.

22                    What about those persons who had not  
23          filed already but based on the new configuration  
24          of the districts decided they want to run? Will  
25          they be given a constitutional right to 30 days

1 to move into the -- to file?

2 SECRETARY LAROSE: That's a question,  
3 Co-Chair, that only you and your colleagues in  
4 the general assembly can answer. I don't have  
5 the power to do that right now. As you know, my  
6 Boy Scout handbook is Title 35. I do what you  
7 all tell me to do and that is follow the law.

8 The law currently says that the  
9 petitions that were filed are the only ones that  
10 are being filed, and those were filed back on  
11 February 2nd.

12 SPEAKER CUPP: Senator Sykes.

13 SENATOR SYKES: How does that comply  
14 with the constitution giving someone 30 days in  
15 fact to move into the district?

16 SECRETARY LAROSE: Mr. Co-Chair, two  
17 separate matters. One relates to residency.  
18 The other one relates to declaring yourself a  
19 candidate for the ballot.

20 The candidates -- those who declared  
21 themselves a candidate for the ballot on  
22 February 2nd are a fixed group of people, we  
23 know who those are. What the constitution says  
24 is that group of people now have the ability to  
25 move if they find themselves living in a place

1           that is not where they intended to run or the  
2           district for which they intended to run. That's  
3           what 9(C) of Article XI allows for.

4                   SENATOR SYKES: I respectfully  
5           disagree.

6                   SPEAKER CUPP: The chair recognizes  
7           Senator Huffman.

8                   PRESIDENT HUFFMAN: Thank you,  
9           Co-Chair.

10                   I think some similar questions were  
11           raised last Thursday. There was a creation --  
12           and I'm not sure, there might have been some  
13           House districts, but at least one Senate  
14           district, where there would have been no one who  
15           had filed and no one who had the correct number  
16           in signatures, and I think Representative Russo  
17           raised a number of potential solutions,  
18           including write-in ballots and other perhaps  
19           legislative fixes.

20                   And I guess I would say regarding these  
21           kinds of issues, you know, from my  
22           perspective -- I can't speak for the other 32  
23           members of the Senate, but perhaps I can  
24           tentatively speak for my caucus, we would be  
25           certainly interested and willing to draft

1           legislation on an emergency basis next week to  
2           make whatever rules are necessary for basic  
3           fairness to allow folks to go ahead and file for  
4           the various districts. Obviously, the timing of  
5           this has been difficult on everyone. So if  
6           there are changes, you know, maybe we can even  
7           get to work on that this weekend.

8                   SPEAKER CUPP: Okay. The motion has  
9           been made and seconded. I believe it's been  
10          seconded.

11                   UNIDENTIFIED SPEAKER: Yes, it has  
12          been.

13                   SPEAKER CUPP: Okay. Thank you.  
14           Any further discussion? If not, the  
15          staff will call the roll, please.

16                   THE CLERK: Co-Chair Speaker Cupp.

17                   SPEAKER CUPP: Yes.

18                   THE CLERK: Co-Chair Senator Sykes.

19                   SENATOR SYKES: No.

20                   THE CLERK: Governor DeWine.

21                   GOVERNOR DEWINE: Aye.

22                   THE CLERK: Auditor Faber.

23                   AUDITOR FABER: Yes.

24                   THE CLERK: President Huffman.

25                   PRESIDENT HUFFMAN: Yes.

1 THE CLERK: Secretary LaRose.

2 SECRETARY LAROSE: Yes.

3 THE CLERK: Leader Russo.

4 LEADER ELECT RUSSO: No.

5 THE CLERK: Five to two, Mr. Co-Chair.

6 SPEAKER CUPP: The vote is five to two.

7 The motion has carried.

8 SENATOR SYKES: Mr. Co-Chair, I move  
9 that we accept the written testimony for  
10 kathleen Clyde who had planned on testifying  
11 here today, but we changed the time period and  
12 she was not able to stand around and wait, and  
13 so I respectfully submit it on her behalf.

14 SPEAKER CUPP: And I would second that  
15 and, without objection, it will be submitted  
16 into the record from the testimony for this  
17 afternoon.

18 Now, is there any further business to  
19 come before the commission this evening?

20 Auditor Faber.

21 AUDITOR FABER: Thank you.

22 Do we have an intention to set dates to  
23 continue our work on the congressional for next  
24 week, or do we have an idea of what we're  
25 looking at?

1                   SPEAKER CUPP: I think probably next  
2                   Tuesday. That doesn't prevent any plan from  
3                   being circulated before that time.

4                   Does that sound satisfactory, or do you  
5                   have something else in mind?

6                   SENATOR SYKES: That's fine.

7                   SPEAKER CUPP: All right. We'll  
8                   schedule a commission meeting for next Tuesday,  
9                   and we may do it -- well, we have session next  
10                  Wednesday as well so we can get this  
11                  congressional districts done, wrap that up, at  
12                  least our end of it, very quickly.

13                  LEADER ELECT RUSSO: Mr. Speaker.

14                  SPEAKER CUPP: Yes.

15                  LEADER ELECT RUSSO: Are we going to do  
16                  8(C)(2) statements from the majority and from  
17                  the minority?

18                  SPEAKER CUPP: We will, but I think  
19                  we're going to need to recess to prepare the  
20                  statement.

21                  How much time do we think we're going  
22                  to need?

23                  I am advised that it will probably take  
24                  one hour.

25                  LEADER ELECT RUSSO: To clarify, you're



1 going to recess for an hour?

2 SPEAKER CUPP: Yes. I'm hoping to so  
3 we can comply with that portion that we're  
4 required to comply with.

5 LEADER ELECT RUSSO: Okay. Great. So  
6 we're reconvening this evening to read this.

7 SPEAKER CUPP: Yes. Yes.

8 All right. Without objection, the  
9 commission will be in recess for one hour. By  
10 my clock, that means it would be ten minutes  
11 till 8:00 and we'll reconvene.

12 (Recess.)

13 SPEAKER CUPP: Pursuant to the recess,  
14 the Ohio Redistricting Commission will come back  
15 to order.

16 I would note that all members of the  
17 commission are present.

18 Is there any -- we have a motion for  
19 the required statement? Well, we don't have one  
20 yet. All right. Well, in order to -- all  
21 right. Well, I guess there's nothing wrong with  
22 doing this in what might be considered reverse.

23 So, Representative Russo, are you ready  
24 with your statement?

25 LEADER ELECT RUSSO: Yes. Thank you,

1 Mr. Chair.

2 First I'd like to say that the maps  
3 approved by the majority commissioners tonight  
4 yet again fail to meet the Ohio Constitution and  
5 fail to meet the directive of the Ohio Supreme  
6 Court. We have had several opportunities to  
7 work together as a commission to draw maps, and  
8 each time the majority commissioners have  
9 squandered the chance to do so.

10 We would ask the commission: Have we  
11 learned nothing after two court orders? We have  
12 been directed to work together and put aside  
13 partisan interest in order to draw maps that  
14 meet the constitution of the state of Ohio,  
15 something that we are both duty and oath bound  
16 to uphold.

17 Instead of working together, this map  
18 that was passed this evening was drawn entirely  
19 by Republican legislators on the commission  
20 without our involvement and without allowing  
21 feedback or changes.

22 The Court has told us that this is  
23 problematic and a sign of partisan intent. In  
24 fact, they state in their decision in  
25 paragraph 31:

1            "We observed that when a single party  
2            exclusively controls the redistricting process,  
3            it should not be difficult to prove that the  
4            likely political consequences of the  
5            reapportionment were intended."

6            We should not repeat the same mistake  
7            again. And while the majority commissioners may  
8            claim that these maps meet the requirements of  
9            Article XI, Section 6, in reality, they fall  
10          short of that metric. Unequivocally, the Ohio  
11          Supreme Court has directed us to draw that  
12          closely -- maps that closely match statewide  
13          voter preferences.

14          And as the Court noted in paragraph 40,  
15          in fact, the most recent invalidated  
16          unconstitutional map had 14 Democratic-leaning  
17          House seats in the 50 to 52 percent Democratic  
18          index range. Today's plan has 19, five more.  
19          There are zero Republican-leaning House seats  
20          that are in the 50 to 52 percent range. The  
21          most recent invalidated unconstitutional map had  
22          five Democratic-leaning Senate seats in that  
23          range, and today's plan actually increases that  
24          asymmetry with seven districts between 50 and  
25          52 percent. There are zero Republican-leaning

1 Senate seats that are in the same 50 to  
2 52 percent range.

3 It is not hard to see that these maps  
4 do not meet the Court's direction on partisan  
5 symmetry and are yet again in violation of  
6 Article XI, Section 6.

7 Even with a contempt hearing on the  
8 horizon, the majority commissioners continue to  
9 show their contempt for the Court, the  
10 constitution, and the rule of law.

11 And to go back and state exactly what  
12 the language is in paragraph 40, it says:

13 "While the constitution does not  
14 require exact parity in terms of the vote share  
15 of each district, the commission's adoption of a  
16 plan in which the quality of partisan favoritism  
17 is monolithically disparate is further evidence  
18 of a Section 6(A) violation. In other words, in  
19 a plan in which every toss-up district is a  
20 Democratic district, the commission has not  
21 applied the term favor as used in Section 6(B)  
22 equally to the other two parties.

23 "The commission's adoption of a plan  
24 that absurdly labels what are by any definition  
25 competitive or toss-up districts as

1 Democratic-leaning -- at least when the plan  
2 contains no proportional share of similar  
3 Republican-leaning districts -- is demonstrative  
4 of an intent to favor the Republican Party."

5 Again, those are not my words. Those  
6 are the words from the Court's decision.

7 With time and collaboration, we could  
8 amend these maps to make them compliant with the  
9 law and the Court's orders. We know that it is  
10 possible to put forward constitutional maps for  
11 this body to consider. We developed these maps  
12 in a process where we continually -- we being  
13 the Democrats -- continually invited feedback  
14 from other members of the commission.  
15 Unfortunately, the majority members of the  
16 commission voted them down and would not work  
17 with us.

18 The public has been completely shut out  
19 of any meaningful opportunity to analyze these  
20 maps, let alone provide testimony. This was not  
21 the process contemplated by Ohio voters in  
22 passing this constitutional reform. Instead of  
23 proportional and fair maps, Ohioans are once  
24 again left with maps that fail to meet the  
25 constitution. It is disappointing that instead

1 of simply working together, the majority  
2 commissioners are flagrantly ignoring Ohio  
3 voters and the Supreme Court of Ohio in an  
4 attempt to tighten their unyielding grasp on  
5 their supermajority power.

6 Thank you, Mr. Chair.

7 SPEAKER CUPP: Without objection, the  
8 statement that is authorized by the constitution  
9 will be considered submitted for the record.

10 Is there further motion?

11 PRESIDENT HUFFMAN: Mr. Chairman, the  
12 Section 8(C)(2) statement has been presented to  
13 the commissioners for their review, and I would  
14 move that it be accepted.

15 SPEAKER CUPP: I'll second that.

16 Is there any discussion on that  
17 statement?

18 All right. I guess in the interest of  
19 symmetry, I probably should read this statement.  
20 So it's the Section 8(C)(2) statement required  
21 under the Ohio Constitution.

22 In the League of Women Voters versus  
23 Dewine, Slip Opinion Number 2022-Ohio-342, the  
24 Ohio Supreme Court ordered the commission to  
25 draft and adopt an entirely new General Assembly

1 District Plan that conforms with the Ohio  
2 Constitution including Article XI, Section 6(A)  
3 and 6(B). The redistricting commission did so.

4 The commission drew an entirely new  
5 plan in which the statewide proportion of  
6 Republican-leaning to Democrat-leaning districts  
7 precisely corresponds to 54 percent  
8 Republican-leaning and 46 percent  
9 Democrat-leaning districts.

10 In doing so, the commission was mindful  
11 that all of Section 6, Article XI of the Ohio  
12 Constitution was to be complied with, not just  
13 certain sections. Plus no one division of  
14 Section 6 is subordinate to another.

15 The commission was also mindful that  
16 compliance with Section 6 shall not result in  
17 violations of Section 2, 3, 4, 5, or 7 of  
18 Article XI of the Ohio Constitution.

19 All members of the commission, through  
20 their respective staff and individually, were  
21 given the opportunity to meet with the map  
22 drawers to express concerns, make suggested  
23 edits and otherwise participate in the mapmaking  
24 process in a collaborative fashion. The final  
25 adopted plan contains input from those members

1 of the commission directly or through their  
2 staff who chose to participate.

3 The final adopted House district plan  
4 contains 54 Republican-leaning districts. This  
5 corresponds to approximately 55 percent of the  
6 total number of House districts.

7 The final adopted Senate district plan  
8 contains 18 Republican-leaning districts. This  
9 corresponds to approximately 54 percent of the  
10 total number of Senate districts.

11 In total, the final adopted General  
12 Assembly District Plan contains a total of 72  
13 Republican-leaning districts and 60  
14 Democrat-leaning districts. This corresponds to  
15 approximately 54 percent Republican-leaning  
16 districts and approximately 45 percent  
17 Democratic-leaning districts. These percentages  
18 meet strict proportionality.

19 The redistricting commission addressed  
20 the asymmetry holding -- asymmetry holding  
21 identified in League of Women Voters 2. Only  
22 five of the 99 House districts have a partisan  
23 lean between 50 and 50.99 percent. All other  
24 districts have a partisan lean greater than  
25 51 percent.



1                   In the Senate map, only two districts  
2                   have a partisan lean between 50 and  
3                   50.99 percent. This is the exact same number of  
4                   asymmetric House and Senate districts found in  
5                   the Sykes-Russo House proposal map.

6                   The commission believes that the number  
7                   of Republican-leaning districts and  
8                   Democrat-leaning districts meets the strict  
9                   proportionality despite the distribution of  
10                  voters and geography of Ohio.

11                  Moreover, the final adopted General  
12                  Assembly Plan does not contain any violations of  
13                  Section 2, 3, 4, 5, or 7 of Article XI of the  
14                  Ohio Constitution and complies with Section 6 of  
15                  Article XI of the Ohio Constitution.

16                  Any objection to submitting this as the  
17                  8(C)(2) statement? Hearing no objection, it's  
18                  considered admitted.

19                  You object.

20                  SENATOR SYKES: Yes.

21                  SPEAKER CUPP: All right. The clerk  
22                  will -- the secretary will call the roll.

23                  THE CLERK: Co-Chair Speaker Cupp.

24                  SPEAKER CUPP: Yes.

25                  THE CLERK: Co-Chair Senator Sykes.

1 SENATOR SYKES: No.

2 THE CLERK: Governor DeWine.

3 GOVERNOR DEWINE: Yes.

4 THE CLERK: Auditor Faber.

5 AUDITOR FABER: For the purposes of  
6 having that submitted as a statement, I guess my  
7 answer is yes.

8 THE CLERK: President Huffman.

9 PRESIDENT HUFFMAN: Yes.

10 THE CLERK: Secretary LaRose.

11 SECRETARY LAROSE: Yes.

12 THE CLERK: Leader Russo.

13 LEADER ELECT RUSSO: No.

14 THE CLERK: 5-2, Mr. Co-Chair.

15 SPEAKER CUPP: The vote is five to two.  
16 The statement is adopted and submitted with the  
17 record.

18 Any further business come before the  
19 commission this evening?

20 Auditor Faber.

21 AUDITOR FABER: Thank you, Mr. Speaker.

22 I want to make it clear on the record  
23 that the minority report issued by Senator Sykes  
24 and House minority leader is not a report that I  
25 concur with.

1 SPEAKER CUPP: Any further business?

2 Hearing no further business, the

3 commission is adjourned for tonight.

4 (End of recording.)

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## R E P O R T E R ' S   C E R T I F I C A T E

STATE OF NORTH CAROLINA

--o0o--

I, DENISE MYERS BYRD, Court Reporter,  
do hereby certify that the transcription of the  
recorded OHIO REDISTRICTING COMMISSION held on  
February 24, 2022, was taken down by me  
stenographically to the best of my ability and  
thereafter transcribed under my supervision; and  
that the foregoing pages, inclusive, constitute  
a true and accurate transcription of said  
recording.

Signed this the 2nd day of March 2022.

*Denise Myers Byrd*  
Denise Myers Byrd  
CSR 8240, RPR, CLR 102409-2

# **Exhibit 2**

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OHIO REDISTRICTING COMMISSION

FEBRUARY 17, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

Transcribed by:

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1 (Statement on recording: Due to audio  
2 technical difficulties, the beginning of the  
3 committee is unavailable.)

4 LEADER ELECT RUSSO: ... with  
5 modification made to the map based on feedback  
6 that we received that day from the commissioners  
7 here in this room today. We filed this map with  
8 the Court on January 28th, and we have since  
9 done additional minor cleanup that moved 84  
10 people into different districts.

11 We asked for additional feedback from  
12 commissioners to be sent to us by 9:00 a.m. this  
13 morning, and we did not receive any.

14 We did receive an email from staff of  
15 the auditor's office, but it did not show any  
16 constitutional violations.

17 The block assignment files for these  
18 maps under consideration in this motion are on  
19 the commission website. The proportional  
20 breakdown of these maps is 45 Democratic-leaning  
21 and 54 Republican-leaning House districts and 15  
22 Democratic-leaning and 18 Republican-leaning  
23 Senate districts.

24 This closely corresponds to the  
25 statewide voter preferences of Ohio as required

1 by Section 6(B). The Court said the 54/46 ratio  
2 is a foundational ratio created not by this  
3 Court or by any particular political party, but  
4 instead etched by the voters of Ohio into our  
5 constitution.

6 All other requirements of the  
7 constitution are met. No one has shown  
8 constitutional violations in these maps. So I  
9 urge a yes vote for adoption of the maps that  
10 have been proposed in this motion.

11 SENATOR SYKES: Are there any questions  
12 or comments?

13 SPEAKER CUPP: Mr. Chairman, is there a  
14 copy of the map in the folder? I don't have a  
15 computer here so I can't see the map.

16 SENATOR SYKES: We stand at ease until  
17 the copies are distributed.

18 PRESIDENT HUFFMAN: Mr. Chairman, one  
19 question. I know that there was a map produced  
20 a few weeks ago and then also a map revealed at  
21 the end of last week and then about 24 hours ago  
22 changes to that map.

23 So is the -- is the motion regarding  
24 the map from yesterday?

25 LEADER ELECT RUSSO: Through the



1 Co-Chair to the Senate president, the map that  
2 we have proposed that you see before you is the  
3 map with all changes incorporated. You received  
4 this map via -- again, it's been posted on the  
5 commission website. We specified the small  
6 changes that were made. Again, those changes  
7 resulted in 84 voters moving.

8 PRESIDENT HUFFMAN: To be clear, I  
9 guess my question -- just so we know which  
10 version of the map, these are -- the final  
11 version is the map that we got -- that was  
12 posted or changed yesterday; is that correct?

13 LEADER ELECT RUSSO: Through the  
14 co-chair to the Senate president, yes, that is  
15 correct.

16 PRESIDENT HUFFMAN: Okay. Very good.  
17 I have a series of questions about the  
18 map. I'm not sure if Mr. Glassburn is going to  
19 be here today or I should pose those to  
20 Leader Russo or some other individual or set of  
21 individuals.

22 SENATOR SYKES: Leader Russo, please.

23 PRESIDENT HUFFMAN: Okay. Very good.  
24 The first requirement in the  
25 constitution is -- in Section 6, of course, is

1           Section 6(A). And based on our analysis of the  
2           map, there is a pairing of incumbents -- House  
3           incumbents in the map. Five House districts are  
4           drawn so that five -- or ten House Republicans  
5           are drawn together. In a sixth district, there  
6           is also a Republican incumbent drawn into a  
7           district that is drawn into a Democratic  
8           district.

9                     There is no such treatment for any of  
10           the Democratic House members. That appears to  
11           favor the Democratic Party. How does that  
12           comport with Section 6(A)?

13                    LEADER ELECT RUSSO: Through the  
14           co-chair. Thank you, Mr. Senate President, for  
15           that question. First, let me be clear again  
16           that our map is compliant with Sections 2, 3, 4,  
17           5, and 7, and also complies with Section 6. No  
18           one has shown a constitutional violation.

19                    Specifically, Section 6(A) says "No  
20           General Assembly District Plan," meaning the  
21           entire plan, "shall be drawn primarily to favor  
22           or disfavor a political party."

23                    It does not specifically speak to an  
24           individual district or the composition of a  
25           district is certainly entirely constitutional to

1 have Democratic districts and Senate districts.  
2 And certainly the constitution I believe remains  
3 silent on pairing of incumbents.

4 PRESIDENT HUFFMAN: Was the -- may I  
5 continue, Mr. -- without going through the chair  
6 each time just for the flow of the conversation.

7 SENATOR SYKES: Absolutely.  
8 Absolutely.

9 PRESIDENT HUFFMAN: Thank you.

10 Is the drawing of House districts that  
11 only pair Republican incumbents either against  
12 themselves or into Democratic districts, doesn't  
13 that in fact disfavor the Republican Party?

14 LEADER ELECT RUSSO: Through the  
15 Co-Chair to Mr. Senate President, again,  
16 Section 6(A) of the constitution says no General  
17 Assembly District Plan, meaning the plan in its  
18 entirety, shall be drawn primarily to favor or  
19 disfavor a political party.

20 Our plan that is submitted does not  
21 favor or disfavor a political party. It meets  
22 the proportional requirement of 54/46.

23 PRESIDENT HUFFMAN: And I understand  
24 the holistic statement, but to examine whether  
25 the entire plan favors or disfavors a party, you

1 have to look at individual elements. And I'm  
2 asking on this individual element, where this  
3 plan only pairs Republican incumbents against  
4 other Republican incumbents or Republican  
5 incumbents into Democratic districts in the  
6 House, doesn't that portion of your plan  
7 disfavor the Republican Party and favor the  
8 Democratic Party?

9 LEADER ELECT RUSSO: Through the  
10 Co-Chair. Again, to the Senate President, we  
11 are -- the question is does this map meet  
12 constitutional requirements --

13 PRESIDENT HUFFMAN: That's not my  
14 question.

15 LEADER ELECT RUSSO: well, then you and  
16 I will disagree that it favors or disfavors one  
17 party over the other based on one singular  
18 district.

19 PRESIDENT HUFFMAN: well, to be clear,  
20 I'm not asking about one singular district. I'm  
21 asking about six districts in this element of  
22 your plan. And if your conclusion is that  
23 doesn't favor or disfavor a party, I'll accept  
24 that as an answer and let the public decide  
25 whether six -- 11 Republicans drawn in against

1 each other against -- into a Democratic district  
2 incumbents, whether that favors or disfavors a  
3 party.

4 So let me --

5 LEADER ELECT RUSSO: Mr. Co-Chair, I'd  
6 like to respond to that please, if I may.

7 SENATOR SYKES: You may.

8 LEADER ELECT RUSSO: Thank you,  
9 Mr. Co-Chair.

10 In response to your statement,  
11 President Huffman, when there is a gerrymander  
12 that must be undone, which is currently the  
13 situation we are under in the maps as they exist  
14 today, some of the unfairly favored members will  
15 lose their seats. That is part of undoing a  
16 gerrymandered map and districts.

17 PRESIDENT HUFFMAN: And I guess I would  
18 say, Mr. Chairman and to Leader Russo, the map  
19 that is currently in place was approved by the  
20 Ohio Supreme Court in 2011. So we can use the  
21 term gerrymander, but in fact was found to be  
22 constitutional not only by the Ohio Supreme  
23 Court but in several lawsuits in federal court  
24 over the past ten years.

25 Let's turn a little bit to the Senate

1 map also. And if we could get, for the  
2 commission's purposes, the map of northwest Ohio  
3 which includes Lucas county.

4 And in particular, Leader Russo, I want  
5 to draw attention to a set of changes. Some  
6 would -- maybe it would be easier for the  
7 commission if it was closer to the podium. If  
8 you would, yeah, just pick that up and move it  
9 over.

10 And, Members of the Commission, you may  
11 or may not know that Senator Rob McColley, who  
12 happens to be the majority whip in the Ohio  
13 Senate right now, is from Henry county. And if  
14 you look at Henry county, it is the second  
15 line -- well, it's actually in the peach-looking  
16 district, the county that has the number 2 in  
17 it.

18 Senator McColley's current district  
19 goes south to Putnam county, Paulding county,  
20 then inward, and the district would now pairs  
21 Senator McColley and Senator Gavarone in the  
22 same district. Senator Gavarone, of course, is  
23 an incumbent and is not up for election for two  
24 years. Senator McColley is -- would essentially  
25 be able -- be unable to run because the district

1 he would now be in would be occupied by a  
2 current senator who's in the middle of their  
3 four-year term who, of course, under the  
4 constitution is allowed to continue.

5 so this district itself eliminates  
6 Senator McColley from being able to run. Isn't  
7 that true, Leader Russo?

8 LEADER ELECT RUSSO: Through the  
9 Co-Chair to the Senate President, is there a  
10 constitutional violation that you are asserting?

11 PRESIDENT HUFFMAN: No. I'm asking a  
12 question.

13 Doesn't this drawing of this district  
14 eliminate Senator McColley from being able to  
15 run in 2022?

16 LEADER ELECT RUSSO: Through the  
17 Co-Chair to the Senator, I have not assessed  
18 whether or not individual members of the general  
19 assembly can run or not run.

20 PRESIDENT HUFFMAN: Okay. Well, I  
21 guess I'll represent to the commission that  
22 that's true. If there's someone who comes up  
23 with different information during the time of  
24 this hearing. Senator McColley lives in Henry  
25 county, the county with the 2 on it, and because

1 under this map he would now be in a district  
2 that is occupied by a senator in the middle of  
3 their four-year district, he's eliminated from  
4 running and I would submit clearly disfavors a  
5 member of the Republican Party, a Republican  
6 incumbent.

7 If we could show the statewide map now.  
8 And this is also an interesting change of  
9 districts. Yeah, the entire statewide Senate  
10 map.

11 Senate District 27 currently is  
12 the -- is a district that is occupied by Senator  
13 Kristina Roegner, who's from Hudson, Ohio, in  
14 Summit county, which is just south of Cuyahoga  
15 county. The new Senate District 27 now exists  
16 in Greene county and part of Montgomery county.

17 So question again to Leader Russo, and  
18 maybe you've already answered this that you  
19 haven't examined that, but with Senate District  
20 27 now in Greene county and Montgomery county,  
21 Senator Roegner would also be eliminated from  
22 running for reelection. Isn't that true?

23 LEADER ELECT RUSSO: Through the  
24 Co-Chair to the Senate President, again, I will  
25 remind you this is a discussion, not a



1 deposition. And again, what is the  
2 constitutional violation that you are asserting  
3 here? Because so far, you know, the fact that  
4 certain members of the general assembly are not  
5 able to run is not a violation of the  
6 constitution and does not speak to how our map  
7 does not meet the constitutional requirements of  
8 Section 6.

9 PRESIDENT HUFFMAN: I disagree because  
10 we're discussing -- I'm discussing Section 6(A)  
11 which again says no General Assembly District  
12 Plan -- and a plan is made up of many elements,  
13 some of the elements I'm discussing right now.  
14 No General Assembly District Plan shall be drawn  
15 primarily to favor or disfavor a political  
16 party. And if comprehensively this district  
17 plan favors or disfavors a political party, it  
18 is unconstitutional because it does not meet the  
19 requirements of Section 6(A).

20 So as we go through these multiple  
21 changes to this map that overwhelmingly disfavor  
22 the Republican Party and favor the Democratic  
23 Party, we can see the lack of constitutionality.

24 LEADER ELECT RUSSO: Mr. Co-Chair, can  
25 I please respond.

1 PRESIDENT HUFFMAN: I'd like to finish  
2 my statement, if I could, Mr. Co-Chair.

3 SENATOR SYKES: Yes, Mr. President.

4 PRESIDENT HUFFMAN: Yeah, thanks.

5 So I simply want to go through -- now  
6 if what Leader Russo would like me to do is just  
7 simply have a narrative and not be able to  
8 respond to these things individually, I'm happy  
9 to do that. I don't know that that's much help  
10 for the public, but I'm happy to not question  
11 her.

12 It looks like Mr. Glassburn, the map  
13 drawer, is not here today. And -- oh, he is  
14 here?

15 If Leader Russo is going to be the  
16 person answering and she'd rather have me do a  
17 narrative on this, that's fine. It really  
18 doesn't make any difference to me. I just want  
19 to make sure that these points are made.

20 SENATOR SYKES: Yes. You may continue.

21 PRESIDENT HUFFMAN: All right. So do  
22 you want me to stop individually or -- if  
23 Leader Russo does not want to answer questions  
24 about that, that's fine.

25 SENATOR SYKES: Leader Russo.

1 LEADER ELECT RUSSO: I'm happy to  
2 answer questions.

3 SENATOR SYKES: She's here to --

4 PRESIDENT HUFFMAN: So returning to my  
5 last question, I'm talking about Section 6(A)  
6 where we can either politically disfavor or  
7 favor a party doesn't -- moving District 27 to a  
8 different part of the state and therefore making  
9 it impossible for Senator Roegner, who doesn't  
10 live there and hasn't filed petitions -- or  
11 doesn't have signatures from folks in Greene  
12 county and Montgomery county, doesn't that  
13 disfavor a Republican incumbent?

14 LEADER ELECT RUSSO: Through the  
15 Co-Chair. I do not believe that that disfavors  
16 the Republican Party. In fact, I would, you  
17 know, again, because this is a discussion of the  
18 commission of the map, I would ask to you how  
19 many people did your map move that you proposed  
20 the last time from an odd- to an even-numbered  
21 district or vice versa, and certainly we have  
22 examples on the House side, where Democratic  
23 members were drawn out of Democratic-leaning  
24 districts into Republican-leaning districts? Is  
25 that what you were putting forward as defining

1           unconstitutional?

2                   PRESIDENT HUFFMAN: Yeah. Well, I  
3           don't know the answer to the first question that  
4           was there. Secondly, we had a long discussion  
5           about that map when it was passed originally,  
6           and at the moment we're trying to get to the  
7           bottom of this map that's being proposed today,  
8           so that's why I'm asking questions about that.

9                   I guess everyone can make their own  
10          conclusion regarding Senator Roegner and how she  
11          could run in Greene county or Montgomery county.

12                   But isn't it also true that under the  
13          current scenario, where we had petitions signed  
14          by a certain date, we passed a legislation to  
15          make sure that all of these signatures either in  
16          a county or close by counted, there's no one who  
17          has filed petitioners in Senate District 27 that  
18          have signatures from those two counties that are  
19          currently valid? I'm correct on that, aren't I?

20                   LEADER ELECT RUSSO: Through the  
21          Co-Chair, through the Senate President, I don't  
22          know the answer to that question. However, I  
23          will remind you that the adjustment to the  
24          petitions that we passed a couple of weeks ago,  
25          number one, don't hold individuals at fault for

1           having the wrong district number. There's still  
2           the window to move into a district. And  
3           certainly, by election law that currently  
4           exists, there's the opportunity for write-in  
5           candidates.

6                   PRESIDENT HUFFMAN: Okay. Well, we  
7           could solve it with all write-in candidates, I  
8           guess.

9                   Okay. Another senator -- Republican  
10          senator, Senator Jerry Cirino, currently  
11          represents Senate District 18. He lives in Lake  
12          county. Senate District 18 has now been moved  
13          down into I think it's Portage county, in  
14          southern Summit county, at least I think that's  
15          what the map shows. So Senator Cirino, who is  
16          former Lake county commissioner -- he has nine  
17          kids and 35 grand kids, and I'm told they all  
18          live in Lake county -- he will also represent a  
19          district that he was not elected in and would  
20          have to move in in two years to run for; isn't  
21          that right?

22                   LEADER ELECT RUSSO: Again, through the  
23          Co-Chair. President Huffman, again, have not  
24          followed individual candidates. I think it was  
25          you who indicated during the last commission

1 meeting, when we were talking about State  
2 Representative Dan Troy, that if you've got a  
3 great candidate, a great candidate can compete  
4 in any district.

5 PRESIDENT HUFFMAN: Yeah. Well, it  
6 would certainly have to be a district that maybe  
7 at one point he lived in or ran for office. So  
8 we'll see how well Senator Cirino can do down in  
9 District 18.

10 The last senator, I guess, I want to  
11 draw attention to is Senator Antani, and his  
12 district is now -- which is District 6. He no  
13 longer lives in his district either; is that  
14 correct? In Montgomery county?

15 LEADER ELECT RUSSO: Sorry. Through  
16 the Co-Chair. Which district was that again?

17 PRESIDENT HUFFMAN: Senate District 6  
18 in Montgomery county. The red one.

19 LEADER ELECT RUSSO: I can't see the  
20 entire map from here.

21 PRESIDENT HUFFMAN: Okay. Well, the  
22 map -- I think you have your own handout here.  
23 It should be seen on your handout that you just  
24 passed out to the commission.

25 LEADER ELECT RUSSO: Again, I'm sorry.

1 Can you repeat your question.

2 PRESIDENT HUFFMAN: Yeah. The question  
3 is: Isn't it true that Senator Antani is now  
4 drawn out of his district and does not live  
5 inside the district -- Senate District 6 that he  
6 was elected in?

7 LEADER ELECT RUSSO: Again, through the  
8 Co-Chair. Mr. President Huffman, again, I do  
9 not follow individual candidates.

10 What is the constitutional violation,  
11 again, that you are alleging?

12 PRESIDENT HUFFMAN: Well, all of these  
13 questions, as I'll repeat again, have to do with  
14 Section 6(A), that a plan, which is made up of  
15 many elements, cannot favor or disfavor a  
16 political party.

17 And I'm submitting to the commission,  
18 and if Leader Russo cares to respond or any  
19 other commission members care to respond, that  
20 as it relates to 6(A), this map only -- not only  
21 primarily but only favors Democratic -- the  
22 Democrat Party and only disfavors the Republican  
23 Party which I think certainly meets the category  
24 of primary.

25 So that's my response regarding --

1           those are my questions and my statements  
2           regarding the Section 6(A).

3                   LEADER ELECT RUSSO: Mr. Co-Chair, can  
4           I respond.

5                   SENATOR SYKES: Yes.

6                   LEADER ELECT RUSSO: Thank you,  
7           Mr. Co-Chair.

8                   Senate President -- President Huffman,  
9           sorry, I will again disagree with your  
10          assertion. Again, we have created an entire  
11          plan that meets the proportional requirements.  
12          As a consequence of meeting that requirement,  
13          there will be some elected representatives who  
14          may not have a district to run in or be in a  
15          district that does not favor their party. That  
16          is a consequence of drawing a proportional map.

17                   And again, I will restate that our map  
18          meets all sections that are required,  
19          Sections 2, 3, 4, 5, and 7, and fully complies  
20          with Section 6, including both the not favoring  
21          or disfavoring the proportional requirement as  
22          well as -- I'm sorry, I'm losing my place -- as  
23          well as the compactness.

24                   PRESIDENT HUFFMAN: And so it's just  
25          coincidental that all of the candidates -- all



1 of the incumbents that are disfavored here,  
2 which are a total of 15, all of them are  
3 Republicans. That's just a coincidental portion  
4 of this map that's being presented today?

5 LEADER ELECT RUSSO: Through the  
6 Co-Chair, through President Huffman, if your  
7 standard is the current set of maps which favor  
8 the Republicans or the maps that you have  
9 proposed in the last commission meeting that  
10 have been thrown out by the courts, both the  
11 last set of maps and the original set of maps  
12 that you proposed, if that is the standard that  
13 you are using, then, yes, some Republicans are  
14 going to lose seats.

15 PRESIDENT HUFFMAN: So if I may  
16 continue, Mr. Chair.

17 So if the goal is to sacrifice other  
18 portions of the Constitution, 6(A) or 6(C), in  
19 order to meet 6(B) -- one, return your attention  
20 to northwest Ohio.

21 Section -- or District 11 in Lucas  
22 county, District 2, which is to the southwest  
23 and south, and District 26 make up much of  
24 northwest Ohio. District 2 is a 60 percent  
25 Republican district. District 26 is a

1           60 percent Republican district. District 11 is  
2           a 40 percent Republican district. In essence,  
3           two Republican and one Democratic districts.  
4           That same land area is also in the current map  
5           and all of the proposed maps have basically the  
6           same draw. There are two 60 percent Republican  
7           districts and one 40 percent Republican -- or  
8           Democratic district.

9                        What this map does, however, of course,  
10           is for the first time in decades split the city  
11           of Toledo into a district that goes off to the  
12           southeast and -- but doesn't affect  
13           proportionality at all. In fact, it keeps  
14           proportionality the same. The one effect it  
15           does have is to eliminate Senator McColley.

16                      So how does splitting the city of  
17           Toledo for the first time in I think 30 years  
18           and taking that into a different district, how  
19           does that -- and how does that help your  
20           proportionality argument?

21                      LEADER ELECT RUSSO: Through the  
22           Co-Chair. President Huffman, I'm not entirely  
23           clear what your question is because there was a  
24           lot in there. But again, you know, I will say  
25           that our map meets the constitutional

1 requirements, including all requirements of  
2 Section 6.

3 And are you proposing that it is your  
4 goal to sacrifice sections of the constitution,  
5 including 6(B), in order to meet 6(A) and (C)?

6 PRESIDENT HUFFMAN: Yeah. I'm asking  
7 questions about your map. And it appears the  
8 reason -- since the proportionality did not  
9 change in northwest Ohio for the districts that  
10 are there, except the one thing that did change  
11 is the exclusion of Henry County into a  
12 different district, the appearance is that we're  
13 trying to eliminate Senator McColley from the  
14 Ohio Senate because you're not changing anything  
15 as it relates to 6(B).

16 LEADER ELECT RUSSO: Again, through the  
17 Co-Chair. President Huffman, what is your  
18 constitutional violation that you are asserting?

19 PRESIDENT HUFFMAN: Well --

20 LEADER ELECT RUSSO: Other than that  
21 you are unhappy that there is an incumbent who  
22 perhaps will be running in a district that is  
23 more difficult for him to win.

24 PRESIDENT HUFFMAN: Well, with the  
25 exception of my wife, my happiness is not

1 constitutional to anybody.

2 I would say that 6(A) has to do with  
3 favoring or disfavoring a political party. And  
4 if that's what you're trying to do by  
5 eliminating Senator McColley, I think that's  
6 unconstitutional.

7 LEADER ELECT RUSSO: Again, through the  
8 Co-Chair to President Huffman, the requirements  
9 are for the entire district plan, not an  
10 individual district. And again, there will be  
11 districts that are Republican-leaning and  
12 Democratic-leaning in order to meet 6(B).

13 PRESIDENT HUFFMAN: Very good. Well,  
14 let's --

15 LEADER ELECT RUSSO: And that is not  
16 violating 6(A) to do that.

17 PRESIDENT HUFFMAN: All right. Thank  
18 you. Very good. Let's move to violations of  
19 Section 6(B).

20 In the second Supreme Court opinion,  
21 the Court remarked that -- and used the term  
22 symmetry when defining Democratic districts that  
23 were very close to 50 percent and  
24 proposed -- and suggested for the first  
25 time -- it's not in the constitution. It wasn't

1 in the Court's first decision but is in the  
2 Court's second decision -- that the Democratic  
3 districts that are between 50 and 51 percent  
4 aren't truly Democratic-leaning districts, yet  
5 this map has six districts that are in that  
6 percentage: two Senate and four House districts.

7 So doesn't that in fact violate the  
8 Court's symmetry proposal that is in their  
9 opinion to have districts in that 50 to  
10 51 percent bracket?

11 LEADER ELECT RUSSO: Through the  
12 Co-Chair. President Huffman, no, it does not.

13 What the Court discussed on the issues  
14 of symmetry is if those -- those districts that  
15 are between 50 and 51 are completely out of  
16 whack for one party versus the other.

17 In your previous map, those  
18 numbers -- I will speak to the House districts.  
19 You had 12 of those districts that were between  
20 50 and 51 percent, no Republican districts that  
21 were between 50 and 51 percent, so essentially  
22 toss-up districts. In this map there are five  
23 House seats that are between 50 and 51 percent  
24 and three Senate seats between 50 and --  
25 sorry -- 50 and 52 percent and two seats that

1 lean Republican, so in the opposite direction,  
2 that are under 54 percent.

3 SENATOR SYKES: Mr. Huffman, if we  
4 could maybe allow another member have a chance  
5 to ask a question. We can come back to you.

6 PRESIDENT HUFFMAN: Certainly.

7 SENATOR SYKES: Any other questions by  
8 any other members?

9 SPEAKER CUPP: Mr. Chairman, while  
10 we're having a pause, I would think that --  
11 Leader Russo made a statement in the last map  
12 the Republicans paired Democrats together. In  
13 the last -- sort of a systematic way, in large  
14 numbers. And I would just point out in the  
15 final map, we had one district -- one district  
16 with two returning incumbents that were paired,  
17 one was Republican and one was a Democrat in a  
18 Democrat-leaning district, by the way.

19 So I'm not sure what's at play here,  
20 whether this is just an attempt to throw  
21 Republicans together, but accusing what we  
22 did -- saying what we did in the second map is  
23 inaccurate. In fact, there was a deliberate  
24 attempt not to put incumbents together  
25 because -- of either party.

1 LEADER ELECT RUSSO: Sure.

2 SENATOR SYKES: Leader Russo.

3 LEADER ELECT RUSSO: Through the  
4 Co-Chair. Co-Chair Cupp, thank you for that  
5 correction. My apologies. What I was saying  
6 was that there were certainly members -- current  
7 members who were put from competitive districts  
8 into Republican-leaning districts. And my  
9 apologies for misspeaking there.

10 SENATOR SYKES: Auditor Faber.

11 AUDITOR FABER: Thank you.

12 I want to pick up on just two things  
13 that were asked before to help me understand.  
14 In the map -- and I apologize. I just did this  
15 quickly, so if my numbers are a little off, to  
16 whoever wants to answer this.

17 I noticed that you drew a number of  
18 competitive seats, and I have stated publicly  
19 that I've always thought the answer to this  
20 map-drawing dilemma we have is to draw more  
21 competitive seats, not less.

22 And so first of all, I want to  
23 understand what you viewed as a competitive  
24 index for the purposes of this map. Dave's uses  
25 a ten point spread, and I think in my prior

1           conversations with my Democratic colleagues,  
2           we've all agreed that that may be too broad.

3                       So I have looked at a 48/52 kind of  
4           range, so it's a little tighter spread. I don't  
5           know which one you guys are looking at for your  
6           spread. If you could just tell me what your  
7           spread on the competitive ratio is, it would  
8           help me understand that.

9                       LEADER ELECT RUSSO: Thank you.  
10          Through the co-chair. Auditor Faber, as a  
11          reminder, there is no definition of  
12          competitiveness. In fact, I don't believe that  
13          this commission has defined that, nor is  
14          competitiveness mentioned in the constitution.

15                      AUDITOR FABER: I appreciate that,  
16          Leader. So what you're telling me is you guys  
17          don't care about competitiveness?

18                      LEADER ELECT RUSSO: Through the  
19          Co-Chair, through the -- or to Auditor Faber,  
20          what we care about is meeting constitutional  
21          requirements.

22                      AUDITOR FABER: As do I. But going  
23          back to my question on competitiveness, you're  
24          telling me that you and your map drawers didn't  
25          care about competitiveness or didn't consider



1 competitiveness when you were drawing the maps?  
2 Because you would, I think, agree that you're  
3 required to meet certain constitutionality  
4 tests, but you can also draw other things that  
5 we had I think was about 80 hours of testimony  
6 coming before this body from various interested  
7 parties talking about the merits of competitive  
8 districts and the foibles of having hyper  
9 anticompetitive districts.

10 If you guys didn't consider that and  
11 you don't think it's important, I think it's  
12 important for the public to hear that, but if  
13 that's not your position, in all candor, I think  
14 it's a good argument it isn't your position, but  
15 if that is your position, I'd like to know.

16 LEADER ELECT RUSSO: Through the  
17 Co-Chair, through Auditor Faber. While I  
18 appreciate the question, it is at least my  
19 position that when you draw maps that are  
20 constitutional and meet the requirements of the  
21 constitution, you will inherently have some  
22 competitive districts.

23 AUDITOR FABER: All right. So my next  
24 follow-up question, Mr. Chair, is looking at  
25 your maps, I think you mentioned, Leader, when

1       you were discussing the prior maps that there  
2       were a number of competitive Republican -- I  
3       mean, competitive districts drawn, and in the  
4       Court's notation they indicated that those  
5       favored primarily -- or those were primarily  
6       Democrat districts which were the competitive  
7       ones.

8               In this map, my quick count is that you  
9       have eight Democrat competitive seats and one  
10      Republican competitive seat in the range that I  
11      talked about.

12             Is there a reason that you chose to  
13      draw competitive districts to be Democrat seats,  
14      leaning Democrat, versus Republican-leaning  
15      competitive seats when you made your decisions  
16      in drawing the maps?

17             LEADER ELECT RUSSO: Again, through the  
18      Co-Chair. Auditor Faber, we did not draw these  
19      seats. The constitution does not require  
20      competitiveness, nor does it mention it. We  
21      draw -- drew these maps to meet the requirements  
22      of the constitution. Inherently, there will be,  
23      quote, unquote, some competitive seats. What I  
24      consider competitive, what you consider  
25      competitive may be different. As a commission,

1 we have not agreed upon what that means, but  
2 again, the requirements of the Court and the  
3 constitution is to meet these sections, and that  
4 is what we did in drawing these maps.

5 AUDITOR FABER: Well, Leader Russo, I  
6 appreciate you giving me the same answer back  
7 again to whatever question I ask on this topic,  
8 but I want to go back and ask the point very  
9 clearly.

10 The Supreme Court made a big deal in  
11 its last opinion emphasizing that the  
12 competitive districts seem to only be placed in  
13 districts that leaned Democrat and would be  
14 counted in the Democrat totals and not in areas  
15 that lean Republican. In your map, this map  
16 that you're proposing that we accept, you've  
17 done exactly the same thing.

18 And so when I count numbers, I'm just  
19 curious why because if -- if it could be done  
20 another way, I presume you would have done it  
21 another way because you don't care about  
22 competitiveness.

23 LEADER ELECT RUSSO: Again, through the  
24 Co-Chair. Auditor Faber, again, I believe what  
25 the Court was -- said in its decision was that

1 when there is large asymmetry in districts that  
2 are between 50 and 51, that that seems to  
3 indicate that a map favors one particular party.

4 You know, again, we can draw more  
5 competitive seats for Republicans if you would  
6 like to give us the districts that you think  
7 that that's appropriate and we are happy to make  
8 that happen for you.

9 AUDITOR FABER: Leader Russo, but  
10 therein lies the problem. I don't know that you  
11 can get more competitive seats for Republicans  
12 and hit a 54 or a 55 or a 56 or a 57 target  
13 because the way you got to your target was by  
14 doing something called cracking and packing.  
15 And we've all had a lot of conversations about  
16 cracking and packing. And the way you get to  
17 the map numbers you got because of the geography  
18 in Ohio is by packing Republicans and cracking  
19 Democrats, but I go back to another question  
20 that's related to this.

21 LEADER ELECT RUSSO: Mr. Co-Chair, can  
22 I reply to that.

23 SENATOR SYKES: Yes.

24 LEADER ELECT RUSSO: Auditor Faber,  
25 with all due respect, that is simply false. In

1 fact, there are more competitive Republican  
2 seats, if you would like to add more, that can  
3 be drawn, for example, in Hamilton county and  
4 Franklin county. That is possible. So what you  
5 are asserting is just simply false, and we will  
6 agree to disagree on that.

7 AUDITOR FABER: But, Leader Russo, if I  
8 were to draw more competitive Republican seats  
9 in Franklin county, I would love to do that, but  
10 that decreases the number of Democrat seats in  
11 Franklin county or eligible Democrat seats.

12 LEADER ELECT RUSSO: No. It increases.

13 AUDITOR FABER: I don't think that's  
14 right because looking at your map, I'm not sure  
15 that there are many other seats that you could  
16 get in those areas, but we'll agree to disagree.

17 Let's go back and talk just about one  
18 of the provisions you talked about in Toledo.

19 My understanding is is that you split  
20 the city of Toledo. Could you have drawn a  
21 district keeping the city of Toledo wholly  
22 within -- wholly within a number of districts?

23 LEADER ELECT RUSSO: Through the  
24 Co-Chair. Senator auditor, the city of Toledo  
25 is larger than a House district, so it is not

1 possible to draw an entire House district within  
2 the city of Toledo.

3 AUDITOR FABER: How about three House  
4 districts within the city of Toledo?

5 LEADER ELECT RUSSO: Through the  
6 Co-Chair, through the auditor, I'm not entirely  
7 sure what constitutional violation you are  
8 asserting with this question, but I will point  
9 out that the current map that you have before  
10 you divides Toledo four times, and the map that  
11 was voted on by this commission in our last  
12 meeting Toledo was divided five times.

13 AUDITOR FABER: Could you have drawn  
14 the city of Toledo totally within one Senate  
15 district?

16 LEADER ELECT RUSSO: Again, through the  
17 Co-Chair. Auditor Faber, one of the  
18 constitutional requirements is that a Senate  
19 district incorporates three House districts.  
20 And as I noted before, Toledo -- it's not  
21 possible to draw just one House district for  
22 Toledo.

23 AUDITOR FABER: So, Leader Russo, first  
24 of all, do you believe the constitution requires  
25 you to draw Senate districts wholly within a

1 city if you can do that?

2 LEADER ELECT RUSSO: Through the  
3 Co-Chair to Auditor Faber, the commission has  
4 not taken a position on that. And if that is  
5 something that you wish for this commission to  
6 agree upon, you know, certainly we can all  
7 evaluate that and the impacts of it and how to  
8 make adjustments to this map to do that.

9 AUDITOR FABER: So you're telling me  
10 it's whatever the commission agrees on is what  
11 you determine is constitutional?

12 LEADER ELECT RUSSO: Through the  
13 Co-Chair to Auditor Faber, no, the constitution  
14 is pretty clear in what the requirements are to  
15 be constitutional, but there are some  
16 components, technical requirements, that  
17 certainly we could have further discussion on  
18 that the Court has remained relatively silent  
19 on, that if we take a position as a commission  
20 is fair, but we have not done that.

21 AUDITOR FABER: As a follow-up, would  
22 you agree with me that generally it's a good  
23 idea to have people represented by people who  
24 have a continuity of interest with them? Let  
25 me -- and let me translate that.

1           would you agree with me that generally  
2           you should have cities generally being able to  
3           be represented by people in cities and rural  
4           areas generally represented by people from rural  
5           areas, that there is an interest in any  
6           redistricting effort to try and keep communities  
7           of interest at least together where you can?

8           LEADER ELECT RUSSO: Through the  
9           Co-Chair, through Auditor Faber, again, the  
10          point of this discussion is to discuss the maps  
11          that are in front of us. Again, what is the  
12          constitutional violation that you are asserting?

13          AUDITOR FABER: I am asserting simply  
14          that we heard a lot of testimony in front of  
15          this committee over the process of this process  
16          about how important it is and how people can  
17          feel disenfranchised if you intentionally take  
18          steps to have them represented by somebody who  
19          doesn't think or necessarily vote like them  
20          merely for a political outcome. That's  
21          something that we've heard defined as  
22          gerrymandering.

23                 I'm just asking you whether you think  
24          that's the right thing for us to be trying to  
25          avoid.



1                   And by the way, we can ask questions  
2                   about your maps. It's not just technically  
3                   whether you believe they're constitutional or  
4                   not. If you don't want to answer the question,  
5                   you don't have to answer the question, but  
6                   ultimately we're supposed to consider a lot of  
7                   things when we decide whether we like a map or  
8                   not. And in that process, certainly whether or  
9                   not you're going to take an inner city area and  
10                  link it with a rural area for the purposes of  
11                  drawing a particular district outcome is  
12                  something that I think we ought to consider.

13                 LEADER ELECT RUSSO: Through the  
14                 Co-Chair, through Auditor Faber, I would love to  
15                 have these discussions and have public input.  
16                 If you have a map to propose that achieves this  
17                 or suggestions to propose that address some of  
18                 these concerns that you have, again, so far I  
19                 have not seen a constitutional violation just  
20                 because you disagree with some decisions that  
21                 were made.

22                 We certainly can consider those as a  
23                 commission, and I would welcome, and I'm sure  
24                 the public would welcome, any input on a map  
25                 that you want to put forward that achieves this.

1 AUDITOR FABER: Thank you. One  
2 question before I yield back.

3 I was really confused by the dialogue  
4 between you and Senator Huffman specifically  
5 about the ability to adversely impact individual  
6 partisan issues in a district and somehow that  
7 doesn't then aggregate into the maps taking a  
8 side.

9 So is it your opinion that you can  
10 favor or disfavor a political party in some  
11 parts of the map and that's okay?

12 LEADER ELECT RUSSO: Through the  
13 Co-Chair. Auditor Faber, I think that's an  
14 interesting question. Again, I think the  
15 constitution is pretty clear, and it says no  
16 General Assembly District Plan, meaning a  
17 statewide plan, shall be drawn primarily to  
18 favor or disfavor a political party. It does  
19 not address individual districts.

20 Certainly, following the technical  
21 requirements of the constitution will mean that  
22 there will be Republican districts and  
23 Democratic districts. I will remind you there  
24 are Democrats who live in Republican-leaning  
25 districts and who are currently represented by

1           Republicans. That will happen within the state  
2           of Ohio.

3                   AUDITOR FABER: I absolutely agree with  
4           that, and I've taken that position for a long  
5           time.

6                   However, going back to how much can  
7           you -- in how many districts can you  
8           intentionally favor or disfavor a political  
9           party before you reach an aggregate of  
10          disfavoring or favoring a political party for  
11          the purposes of a map under 6(A)?

12                   LEADER ELECT RUSSO: Through the  
13          Co-Chair. Auditor Faber, again, Section 6(A) of  
14          the constitution says no General Assembly  
15          District Plan shall be drawn primarily to favor  
16          or disfavor a political party, and it is  
17          referring to the statewide plan. There will  
18          always be Republican districts and Democratic  
19          districts.

20                   AUDITOR FABER: Can you tell me a  
21          single instance in your map where you drew a  
22          district primarily to favor a Republican member  
23          of the general assembly or the Republican Party.

24                   LEADER ELECT RUSSO: Through the  
25          Co-Chair to auditor Faber, there were certainly

1 decisions that were made to -- that we could  
2 have made differently. For example, in Hamilton  
3 county, for the total number of House seats,  
4 there could be six Democratic seats drawn and  
5 one Republican. We, in this map, have five and  
6 two. In Franklin county, there could be 12  
7 Democratic seats. We have drawn 11 and one. So  
8 there were certainly decisions that were made  
9 that took that into account.

10 AUDITOR FABER: For the purposes of  
11 passing, I'll go ahead and pass at this point,  
12 Mr. Chairman.

13 SENATOR SYKES: Okay. Any other  
14 questions or comments?

15 Mr. President, we're back to you.

16 PRESIDENT HUFFMAN: Thank you very  
17 much, Mr. Co-Chair.

18 So, Leader Russo, I assume this is also  
19 Senator Sykes or anyone else who's appropriate  
20 to answer. So far we've talked about violations  
21 that I believe are in both 6(A) and 6(B) of the  
22 constitution. I'd like to now talk about  
23 violations in the constitution of section 6(C).  
24 And for purposes of doing that, we have some  
25 maps that we want to show of the individual

1 districts.

2 As indicated -- or I'll just simply  
3 read section -- article 6 -- Section 6 -- excuse  
4 me -- Article XI, Section 6(C). Very simple  
5 language.

6 "General assembly districts shall be  
7 compact."

8 "General assembly districts shall be  
9 compact."

10 So first, I want to look at the  
11 districts that have been drawn in and around  
12 Summit county. And I think -- we can just put  
13 them up numerically, the first one.

14 And as it relates to Section 6(C),  
15 Leader Russo, is this a compact district?

16 LEADER ELECT RUSSO: Through the  
17 Co-Chair. President Huffman, our maps are  
18 compact and meet all requirements of the  
19 constitution.

20 PRESIDENT HUFFMAN: Yeah. To be clear,  
21 I'm not asking about the map because the map  
22 itself doesn't change. That's the map, the  
23 state of Ohio. This language says general  
24 assembly districts shall be compact.

25 My question is: As to your proposed

1 District 31, is this district compact in your  
2 estimation?

3 LEADER ELECT RUSSO: Through the  
4 Co-Chair. President Huffman, yes, it is.

5 PRESIDENT HUFFMAN: Okay. Let's take a  
6 look at 32. And I presume these are all  
7 viewable by the commission and anyone who  
8 happens to be watching on TV.

9 So let's take a look at District 32.  
10 And this district is also in Summit county. And  
11 is this a district that you think is compact?

12 LEADER ELECT RUSSO: Through the  
13 Co-Chair. President Huffman, yes.

14 PRESIDENT HUFFMAN: Let's take a look  
15 at 34, then. And you think this district is  
16 compact?

17 LEADER ELECT RUSSO: Through the  
18 Co-Chair. President Huffman, yes.

19 PRESIDENT HUFFMAN: And these districts  
20 also ultimately split the city of Akron, don't  
21 they?

22 LEADER ELECT RUSSO: Through the  
23 Co-Chair. President Huffman, our map splits  
24 Akron into two House districts. The previous  
25 map that was thrown out by the Court and adopted

1 by this constitution [sic] in the last meeting  
2 split Akron three times.

3 PRESIDENT HUFFMAN: Well, let's take a  
4 look at House District 35, then. Now, this is a  
5 district that I think includes the city of  
6 Akron, has a whole -- the southern part there is  
7 Summit county, does kind of a sprint around the  
8 outer edges of Portage county and ends up with a  
9 couple of townships up in Geauga county, well,  
10 in part of another one, kind of in a C-clamp, I  
11 think, version.

12 Is this district compact in your  
13 estimation?

14 LEADER ELECT RUSSO: Through the  
15 Co-Chair. President Huffman, I will correct you  
16 that this district does not include the city of  
17 Akron. And, yes, it is compact.

18 PRESIDENT HUFFMAN: So a district that  
19 has a little bit of Summit county, some of  
20 Portage county, and all the way up to Geauga  
21 county in your estimation is a compact district?

22 LEADER ELECT RUSSO: Through the  
23 Co-Chair to President Huffman, yes, this is  
24 compact.

25 I will remind you that in the last map

1           that was thrown out by the Court and that was  
2           passed by this commission, there was a district  
3           that was very similar to this that I believe  
4           included Summit, Portage, and Geauga -- Summit,  
5           Cuyahoga, and Geauga.

6           PRESIDENT HUFFMAN: Yeah. Well, I  
7           guess, Mr. Chairman, you know, we're not looking  
8           at the last map. There's no motion here to pass  
9           the lat -- we're asking the consideration of  
10          this map. So comparison to the previous --

11          SENATOR SYKES: I will remind you,  
12          Mr. President, as Auditor Faber has indicated,  
13          that, you know, we're asking questions and  
14          answering questions about any and all of this,  
15          and so it's not just limited to the map.

16          PRESIDENT HUFFMAN: Oh, very good, very  
17          good. We'll talk about everything we've talked  
18          about before, then. We'll get to public  
19          testimony later in my questioning.

20          So if it's your testimony here today  
21          that this district is compact and therefore  
22          meets the requirements of Section 6(C), all I  
23          can say is that I heartily disagree and we'll  
24          let the public decide about that one.

25          Let's take a look at House Districts 16



1 and 14, if we could, please. And these  
2 districts, for the commission's benefit, are in  
3 Cuyahoga county.

4 So, Leader Russo, can you see the  
5 Greene district, District 16 under your map  
6 that's on this board?

7 LEADER ELECT RUSSO: Yes, I can see it.

8 PRESIDENT HUFFMAN: Okay. And it  
9 appears to start in the far western edge of  
10 Cuyahoga county and reaches in an elongated  
11 fashion into neighborhoods deep into Cleveland,  
12 with a narrow line, kind of almost in the shape  
13 of a dog or maybe a dinosaur.

14 Is -- do you think that this complies  
15 with Section 6(C) of Article XI of the  
16 constitution?

17 LEADER ELECT RUSSO: My apologies. Can  
18 you repeat your question.

19 PRESIDENT HUFFMAN: Sure. Do you think  
20 section -- or District 16 that you're proposing  
21 comports or complies with Article XI, 6(C) of  
22 the constitution which requires that general  
23 assembly districts shall be compact?

24 LEADER ELECT RUSSO: Through the  
25 Co-Chair. President Huffman, yes, I do. I

1 believe that's North Olmsted that is the arm  
2 that goes out.

3 PRESIDENT HUFFMAN: Okay. But do you  
4 think this is a compact district?

5 LEADER ELECT RUSSO: Yes.

6 PRESIDENT HUFFMAN: Okay. How about  
7 District 14? Is that also a compact district in  
8 your estimation?

9 LEADER ELECT RUSSO: Yes.

10 PRESIDENT HUFFMAN: Okay. And since  
11 we've talked about some of the other maps we've  
12 had proposal, there were no districts that were  
13 drawn like this in the previous map that -- in  
14 Cuyahoga county, were there?

15 LEADER ELECT RUSSO: Through the  
16 Co-Chair. Senate President, which maps are you  
17 referring to?

18 SENATOR HUFFMAN: The previous map that  
19 you were referring to.

20 LEADER ELECT RUSSO: Which previous?

21 PRESIDENT HUFFMAN: The most previous  
22 map.

23 LEADER ELECT RUSSO: The one that was  
24 thrown out by the Court?

25 PRESIDENT HUFFMAN: The most recent map

1           that the commission approved. That's correct.

2                   LEADER ELECT RUSSO: The  
3           unconstitutional map?

4                   PRESIDENT HUFFMAN: I think it is  
5           constitutional, but if you -- if we need to go  
6           back to date and time and all that we can.

7                   Do the minutes reflect the last meeting  
8           for purposes of Leader Russo's question? We  
9           could look and see what the date is so she can  
10          be clear about that.

11                   LEADER ELECT RUSSO: To be clear, you  
12          are talking about the map that was passed by the  
13          commission, correct?

14                   PRESIDENT HUFFMAN: Yeah, at the  
15          last -- the second map that was passed by the  
16          commission.

17                   LEADER ELECT RUSSO: I do not --

18                   PRESIDENT HUFFMAN: If we can get the  
19          date when we passed it if it's helpful.

20                   LEADER ELECT RUSSO: I don't have a  
21          photographic memory so I don't entirely remember  
22          what the districts look like. But again, the  
23          Court threw out that map and determined it to  
24          not meet the requirements of the constitution.

25                   PRESIDENT HUFFMAN: All right. Let's

1 look at House District 55, if we could.

2 So this district -- or House  
3 district -- proposed House District 55 stretches  
4 out along Lake Erie, from part of Lorain county,  
5 I think that is, and into Erie county and all  
6 along the lake shore, kind of in the shape of a  
7 bat. And you might recall the name Snake on the  
8 Lake from the last congressional map, that was a  
9 district that was created at the request of  
10 Democratic congressional members back in 2011.

11 This appears to suffer from some of the  
12 same criticisms that the Snake on the Lake did,  
13 a long elongated district along the lake.

14 Leader Russo, do you want me to repeat  
15 the question?

16 LEADER ELECT RUSSO: Through the  
17 Co-Chair through to President Huffman, if you're  
18 asking me if this map -- or if this district is  
19 compact, yes, it is.

20 And I would ask back to you: Are you  
21 conceding that Section 6 of the constitution is  
22 mandatory?

23 PRESIDENT HUFFMAN: Section 6(C) is  
24 what I'm asking you about specifically. My  
25 answer to that question: My conclusion is no.

1       The reason I know that or I believe that is not  
2       only did I introduce this legislation in 2014, I  
3       helped campaign for it, along with many of the  
4       petitioners. And in fact, the purpose of this  
5       is as long as all the other requirements that  
6       are listed are followed, then Section (C) is not  
7       something -- this is aspirational in nature. If  
8       folks don't want to believe a Republican from  
9       Lima, they can ask former State Representative  
10      and Secretary of State candidate Kathleen Clyde  
11      who testified on the floor of the House that  
12      Section (C) is aspirational. So the Court has  
13      concluded that and that's all that really  
14      matters.

15               So my question as it relates to House  
16      District 55 is is 6(C) a compact district in  
17      your estimation?

18               LEADER ELECT RUSSO: Through the  
19      Co-Chair. President Huffman, yes, I believe  
20      this district is compact and agree with the  
21      Court that Section 6 is mandatory.

22               PRESIDENT HUFFMAN: Okay. Very good.  
23               I'd like to continue on a -- if I may,  
24      Mr. Chairman.

25               SENATOR SYKES: How much longer do you

1 think you might have?

2 PRESIDENT HUFFMAN: Well, it kind of  
3 depends on what answers come out, Mr. Chairman,  
4 but probably ten minutes or so, I think.

5 SENATOR SYKES: All right.

6 PRESIDENT HUFFMAN: Can I continue.

7 SENATOR SYKES: Please.

8 PRESIDENT HUFFMAN: And then,  
9 Mr. Chairman, for purposes of these questions, I  
10 want to make clear, and I think Auditor Faber --  
11 part of Auditor Faber's points are that we do  
12 have to follow the constitution, but that's not  
13 the only requirement when we're drawing maps.  
14 If that were true, it would not have been  
15 necessary to have public input.

16 And as I know it was very important to  
17 Senator Sykes that we have many, many public  
18 hearings and we allow as many people to testify  
19 about those things, there are other -- also  
20 other --

21 SENATOR SYKES: I'm surprised that you  
22 put an emphasis on public hearings. Your side  
23 of the aisle had been fighting them this whole  
24 time, so I'm surprised that you're putting  
25 emphasis on it now.

1           PRESIDENT HUFFMAN: Well, we had them,  
2           I know that, Senator Sykes, and we wanted to  
3           hear from what those folks had to say, so  
4           there's a lot of public testimony. There are  
5           also other laws in the state of Ohio, and there  
6           are federal laws, and we'll get to those in a  
7           moment.

8           But when comments that Senator Faber  
9           made regarding the division of political  
10          subdivisions, there are constitutional  
11          requirements, but even so, if the constitutional  
12          requirements are met, there are -- we've had  
13          much public testimony, there have been many  
14          editorials talking about the importance of  
15          keeping cities together, keeping counties  
16          together.

17          So the questions I'm going to ask you  
18          here are not about constitutional violations.  
19          The questions are what I think are important  
20          public policy when drawing maps as expressed to  
21          us in this -- these are mapmaking, map line  
22          drawing elements that have been important for  
23          decades and even centuries and, of course, part  
24          of our public testimony and part of editorials  
25          and other opinion that the public have given to

1 us.

2 SENATOR SYKES: For clarification,  
3 Mr. President, are you saying that you have  
4 completed all of your constitutional questions  
5 about the map?

6 PRESIDENT HUFFMAN: I'm saying for  
7 purposes of the next several questions I'm going  
8 to ask I'm not asking about constitutional  
9 violations.

10 SENATOR SYKES: But you plan on going  
11 back to that?

12 PRESIDENT HUFFMAN: To constitutional  
13 issues?

14 SENATOR SYKES: Yes.

15 PRESIDENT HUFFMAN: Unlikely.

16 SENATOR SYKES: Unlikely.

17 PRESIDENT HUFFMAN: But it depends on  
18 what the answers are or any other testimony  
19 there may be. So may I continue.

20 SENATOR SYKES: Yes.

21 PRESIDENT HUFFMAN: Thank you very  
22 much.

23 So the House map -- the first House  
24 map, Democratic map, I should say, the -- this  
25 is what Democrats submitted right at the



1 beginning. It split the four cities of Toledo,  
2 Cleveland, Dayton, and Cincinnati into 12 House  
3 districts. There were only 12 House districts  
4 in those, and thus more compact and more  
5 cohesive in terms of those cities.

6 This map, as I understand it, divides  
7 those cities into -- there are 19 House  
8 districts into those cities. And I think if you  
9 could put back up I think District 16, you can  
10 see one of these -- actually, the other one, if  
11 you could, 14. You can see one of these  
12 elongated districts.

13 But isn't keeping these cities -- isn't  
14 keeping these cities from being divided up,  
15 isn't that an important element of drawing  
16 districts -- again, not constitutional -- as  
17 long as the other city dividing rules are  
18 followed?

19 LEADER ELECT RUSSO: Through the  
20 Co-Chair. President Huffman, again, I would  
21 welcome any public input, and if that's what  
22 you're proposing today, to have the public's  
23 input from individuals who live in that  
24 community to weigh in on this, I would certainly  
25 welcome that and thank you for putting that

1 forward.

2 PRESIDENT HUFFMAN: Yeah, I'm not  
3 proposing additional public input. So let me  
4 re-ask the question.

5 The public, I think, has weighed in  
6 quite clearly that they want minimal divisions  
7 of cities and other subdivisions, so much so,  
8 when we wrote this in 2014, that we actually had  
9 requirements about making sure that local  
10 divisions aren't divided up.

11 Again, not submitting to constitutional  
12 violations, but this map divides those  
13 districts, those cities even more than the  
14 original Democratic map that was submitted back  
15 in September, doesn't it?

16 LEADER ELECT RUSSO: Through the  
17 Co-Chair. President Huffman, if you would like  
18 for us to propose that map from September,  
19 because you think that is a better map, we can  
20 certainly make a motion to do that as well.

21 PRESIDENT HUFFMAN: Okay. I really  
22 just want to get to the point that you're  
23 dividing cities up more than the original  
24 Democratic map. Isn't that true?

25 LEADER ELECT RUSSO: Through the

1 Co-Chair. President Huffman, I think they are  
2 both good maps. If you prefer the first map  
3 over the second map and wish to have the public  
4 weigh into this more, I would welcome that.

5 PRESIDENT HUFFMAN: Well, I guess the  
6 point is all we have is this map here now being  
7 considered. So I'm going to submit to the  
8 commission, and they can go look at the original  
9 Democratic map, that the cities of Toledo,  
10 Cleveland, Dayton, and Cincinnati, those four  
11 cities, there were only 12 House districts drawn  
12 within those cities. This map divides those  
13 cities up almost 50 percent more -- or more than  
14 50 percent more by adding an additional parts of  
15 seven House districts from that original map.

16 And on the Senate map, the original  
17 Democratic map took the five major cities of  
18 Toledo, Cleveland, Akron, Dayton, and  
19 Cincinnati, and there were six Senate districts  
20 within those cities. This doubles the number of  
21 divisions within those cities on the Senate  
22 district map to 12.

23 So this is the kind of dividing up of  
24 local communities that has been sort of a  
25 hallmark of this reform, much of our public

1 testimony has been about, and that's why I think  
2 this is an appropriate part of this -- you know,  
3 appropriate part of what we should be doing here  
4 is dividing all these cities.

5 In Akron and Summit county -- if we can  
6 get the Akron, Summit county, especially as it  
7 relates to Senate District 28.

8 In the first two commission maps -- and  
9 these are the maps that were proposed and passed  
10 by the commission but for one reason or another,  
11 I think mostly having to do with Section 6(B),  
12 those maps were -- the Supreme Court ruled that  
13 those were unconstitutional. But in Akron and  
14 Summit county, the new map here, again, the city  
15 of Akron was whole. And, you know, we heard  
16 from folks in Summit county and in newspapers  
17 and that part of the state, why are they -- why  
18 are they -- in some of the previous iterations,  
19 why is the city of Akron divided, it should all  
20 be in one district, and so those first two  
21 commission maps did that.

22 This map, however, actually,  
23 essentially divides Akron in half in a Senate  
24 district. Senate District 18, 42 percent of  
25 Akron is in one Senate district and 58 percent

1 of it is in Senate District 28. So those who  
2 wanted Akron together and testified about that  
3 and wrote editorials about it and letters in the  
4 newspaper, you'll be disappointed by this map.  
5 It's not -- in fact, divides it up.

6 And more to the point is that  
7 42 percent of Akron that's taken out of  
8 the -- and into a different district, it no  
9 longer even stays in Summit county. It's now  
10 going to be paired with all of Portage county  
11 and part of Geauga county. And again, we heard  
12 much testimony about this. This is a -- are the  
13 people who live in the city of Akron, do they  
14 have a common interest on public policy issues,  
15 for the most part, with people who live in  
16 Portage county and Geauga county?

17 So I would say, I guess, pairing Summit  
18 county Senate district and about half of Akron  
19 with Portage and Geauga county is certainly a  
20 unique way of doing this, and maybe pairing  
21 Summit county with part of Portage and Geauga  
22 county is not new, but having the core city of  
23 Akron leave and go into the -- the city of Akron  
24 be paired with these other districts is in fact  
25 unique.

1                   And do you have the map to look at, or  
2                   we don't have that one? Yeah, the Summit  
3                   Senate District 28, Summit county map. We don't  
4                   have one of those? Okay. Well, we'll find it  
5                   later.

6                   LEADER ELECT RUSSO: Mr. Co-Chair, may  
7                   I respond. I'm not sure if these are questions  
8                   or not.

9                   SENATOR SYKES: Yes. Let me -- since  
10                  this is Akron, if I could, before you speak.

11                  Mr. President, you know, we have  
12                  solicited input from you, from your side, from  
13                  the majority, and the only thing we've been able  
14                  to get for the most part has been to schedule  
15                  this meeting on the last day, but if you have  
16                  suggestions that you'd like us to consider --  
17                  and we made an appeal as late as yesterday with  
18                  the deadline of getting your input in today, you  
19                  know, please, we want to work with you.

20                  It has been a directive of the Court  
21                  that we in fact have a commission map and not a  
22                  minority or majority. In order to do that -- we  
23                  have to work together in order to do that.

24                  PRESIDENT HUFFMAN: Sure.

25                  SENATOR SYKES: And we have to exchange

1 information and ideas, and that just hasn't  
2 taken place to the extent that it should, and  
3 we're hopeful that this may be the beginning of  
4 something.

5 PRESIDENT HUFFMAN: Yeah. Well, I  
6 think -- I recall in our last go-round here  
7 in -- not the last one but the one before, in  
8 September, I spent about three days trying to  
9 set up meetings, one in Akron on the way to our  
10 meeting and two days' worth of phone calls to  
11 you and to other commission members trying to  
12 meet, trying to get a resolution, and that  
13 didn't happen. And the other maps that we  
14 are -- I think are majority proposals to one  
15 degree or another, and I guess we're here  
16 talking about this map right now. And I have  
17 criticisms of the map, not only constitutional  
18 criticisms but public policy and traditional  
19 mapmaking criticisms of that, and that is what  
20 this is about.

21 So if you look at Senate District 23  
22 which -- or excuse me -- 28, right, yes,  
23 Senate District -- I think it's  
24 Senate District 18 now, it includes a  
25 portion -- again, a portion of the city of

1 Akron, kind of swoops down, you can see House  
2 District 31, the C-clamp district, which is  
3 House District 35, and then House District 72.  
4 And again, taking the city of Akron out of  
5 Summit and pairing it with essentially rural  
6 counties out to the east is -- I don't think is  
7 what the folks who have testified in our  
8 traditional mapmaking proposals.

9 SENATOR SYKES: Mr. President, that is  
10 a House map.

11 PRESIDENT HUFFMAN: I understand that.  
12 Do we have a district map for the  
13 Senate? Yeah.

14 And your district, I guess you can  
15 refer to the one that you passed out. If you  
16 look at House District 72, 55, and 31 I believe  
17 is your Senate map. Oh, there we go.

18 All right. 18 is 72, 55, and 31  
19 combined; is that correct?

20 SENATOR SYKES: I believe so.

21 PRESIDENT HUFFMAN: Yeah. So my point  
22 is that with all of the emphasis on keeping  
23 these cities whole as much as possible --  
24 sometimes you can't because a city is bigger  
25 than a House district, so we understand those



1 divisions, but dividing it within city -- within  
2 senate districts is a different story, and  
3 certainly dividing up a large city like Akron  
4 and taking it into a rural area doesn't seem to  
5 comport with the wishes of the public and,  
6 again, traditional mapmaking proposals.

7 So that's my point. I mean, we can  
8 argue it if we want to, but if not, I'd like to  
9 move on to Toledo and Lucas county if I can. If  
10 you can bring those maps up and put in.

11 LEADER ELECT RUSSO: Mr. Co-Chair.  
12 Mr. Co-Chair.

13 SENATOR SYKES: Leader Russo.

14 LEADER ELECT RUSSO: Thank you.

15 President Huffman, I appreciate your  
16 comments. I'm not sure if there were questions  
17 in there, but, you know, I would remind you that  
18 these maps and the files were provided to your  
19 staff. They've had them for days. We've asked  
20 for feedback from them.

21 If you have a proposal that you would  
22 like to put forward that addresses these  
23 concerns, I think this commission would be more  
24 than happy to consider that.

25 Is that your plan today, to put forward

1 a proposal?

2 PRESIDENT HUFFMAN: I have -- I have to  
3 ask the rest of my questions. We'll see how  
4 this goes. But I believe the first question  
5 that you answered was that the final version of  
6 this was delivered yesterday, about 24 hours  
7 ago, and I'd like to finish without being  
8 interrupted.

9 LEADER ELECT RUSSO: Sure. Although I  
10 will correct you that there were some census  
11 blocks --

12 PRESIDENT HUFFMAN: If I can finish  
13 without being interrupted, Mr. Chairman, I would  
14 appreciate that. I promise not to interrupt  
15 Representative Russo if she won't interrupt me.  
16 Would that be okay?

17 SENATOR SYKES: Yes, sir.

18 PRESIDENT HUFFMAN: All right. Thanks  
19 very much.

20 So I understand that there's -- you  
21 like proposals in response to what you want. I  
22 can only respond to what's being presented to me  
23 here today. And if there are -- there are a lot  
24 of different possible proposals we can have, but  
25 again, we have to have one that at least four

1 members of the commission will support. We've  
2 had that twice already. We now have a new  
3 requirement that the Supreme Court put on us in  
4 the last decision; we're trying to figure that  
5 one out too.

6 So I'd like to move on to the Toledo  
7 and Lucas county area, if I can, at this time.

8 So in the first two commission maps  
9 that were proposed and in both of the maps by  
10 Professor Rodden, which the Supreme Court  
11 decided, the city of Toledo is wholly within  
12 Senate District 11 which is wholly inside Lucas  
13 county, as it has been for the last 30 years,  
14 and is currently, that Senate District 11 is  
15 inside Lucas county.

16 Under the map that's proposed, all or  
17 part of the city of Toledo, a full 20 percent of  
18 Toledo, is sliced off and put into a rural  
19 Senate district, which will be represented by  
20 Senator Reineke in the middle of his four-year  
21 term. And as you can see, Mr. Chairman, that  
22 heads east out of Lucas county, and Toledo is  
23 now paired with Erie, Ottawa, Sandusky, Seneca,  
24 Huron and, all the way down at the bottom there,  
25 Crawford county in "Bucyrus," Ohio, at least

1           that's -- it's really Bucyrus, but that's what  
2           they say. And that new Senate district would  
3           include the part of Toledo where currently  
4           Senator Fedor actually lives.

5                       So my statement to the commission -- it  
6           can be in the form of a question if folks want  
7           it to be or you can make whatever response you  
8           want to, but my statement to the commission is  
9           this is a completely unique, even by Democratic  
10          standards, division of the city of Toledo,  
11          taking a large swath of it, and a significant  
12          swath for other reasons, out of and therefore  
13          the city of Toledo is no longer whole, it's no  
14          longer within Lucas county and is now part of a  
15          heavily Republican district. Some would surmise  
16          that that had to do with eliminating Senator  
17          McColley, but my statement is that as it relates  
18          to keeping cities, including major cities whole,  
19          this proposal violates certainly that tenet of  
20          mapmaking.

21                      So that's my statement. You can  
22          respond however you want, if you think it's  
23          appropriate.

24                      LEADER ELECT RUSSO: Thank you,  
25          Co-Chair. Thank you, President Huffman, for

1           those comments.

2                   Again, I will say that our map is  
3           compliant with Sections 2, 3, 4, 5, and 7, and  
4           also complies with Section 6 of the  
5           constitution. Thus far, I don't believe that  
6           there are clear violations of the constitution  
7           that have been shown.

8                   If you would like to go back to the  
9           Democratic map that was proposed in September,  
10          certainly I would entertain proposing that map  
11          for this commission to again consider.

12                   If you have your own proposal to put  
13          forward, I would love to see that, as I'm sure  
14          other members of this commission would, but I  
15          appreciate your input.

16                   PRESIDENT HUFFMAN: All right. Well,  
17          thank you very much.

18                   And so again, my concern is the slicing  
19          and dicing, as the term has often been used, of  
20          cities and counties --

21                   SENATOR SYKES: Mr. Huffman, I think  
22          your ten minutes are just about --

23                   PRESIDENT HUFFMAN: Okay. I have  
24          another set of questions that I think are very  
25          important, Mr. Chairman, and I'll try to go

1 through. And if -- I don't think it's necessary  
2 to have repeated that the Leader thinks the  
3 issue is -- or the map is constitutional. We  
4 understand that position.

5 So I'm going to talk about something  
6 else that is not part of the Ohio Constitution,  
7 but it is also a legal requirement for this  
8 commission to understand. Okay.

9 In 1996, the United States Supreme  
10 Court decided a case called Bush versus Vera,  
11 and I hope everyone would agree that the  
12 rule -- the law set out by the United States  
13 Supreme Court is binding upon this body. And  
14 that case arose out of a challenge to districts  
15 that had been drawn by the State of Texas. And  
16 in short, the case says that when drawing  
17 legislative districts, the 14th Amendment to the  
18 US Constitution prohibits a state from using  
19 race as a proxy for the political fortunes of  
20 one party over another. Doing so is what has  
21 become known as racial gerrymandering. Okay.  
22 So the first thing -- first of these -- and  
23 we're going to have all three of them displayed  
24 at the same time.

25 Now, these are the districts we've been

1       able to look at and analyze in the brief time  
2       that we've had this new map, and the first one  
3       is Senate District 25. So in Senate  
4       District 25, you will see that -- they're doing  
5       their best. They did not train under Vanna  
6       White, but -- they were hired for their brains,  
7       not their mapmaking or map-presenting ability,  
8       but they're doing a great job under difficult  
9       circumstances.

10               But let's take a look at Senate  
11       District 25, and you will see that Lake county,  
12       which is a -- about a 55 percent Republican  
13       county, reaches into Cuyahoga county and  
14       extracts portions of East Cleveland which are  
15       heavily African American areas. It's very clear  
16       that the east side of the city of Cleveland has  
17       those areas -- why don't we just do it one at a  
18       time, guys. And that, of course, attaches into  
19       Lake county.

20               That district was drawn and clearly  
21       uses race to the benefit of one political party.  
22       This district right here, Senate District 25, is  
23       a textbook version of racial gerrymandering, and  
24       that is prohibited by Bush v Vera, United States  
25       Supreme Court. Not addressed by the Ohio

1 Supreme Court, but this kind of district is  
2 prohibited, and this district, and therefore the  
3 map itself, will be struck down by -- in any  
4 case that deals with racial gerrymandering.

5 So that's a particularly dramatic  
6 example. We've got a couple of others examples.  
7 Could we put 44 up, then, also, Adam. I'm going  
8 to put in for more sturdy easels for all of us.

9 Now, we just talked a little bit about  
10 the Senate district that now pulls out inner  
11 city wards in Lucas county, which are also  
12 heavily African American, takes those down all  
13 the way down to Crawford county, but this House  
14 district -- oh, and by the way, the Senate  
15 District 25 we just talked about is now drawn as  
16 a Democratic district. Because once you add  
17 those portions of East Cleveland into 25, it  
18 becomes a Democratic district. So we're doing  
19 this -- clearly this racial gerrymandering is  
20 being done to benefit and make sure that a  
21 Democrat can get elected from that district.

22 This House district does the same  
23 thing, it's House District 44, and it reaches  
24 into these inner-city neighborhoods in Toledo  
25 and takes them out into Ottawa county in order



1 to create a district where Democrats can win.  
2 It cracks the city of Toledo and gets those  
3 historically African American populations and  
4 attaches them into Ottawa county. I think this  
5 district was also drawn by using race to benefit  
6 one political party, again, a textbook example  
7 of racial gerrymandering.

8 Let's look at Senate District 18, if we  
9 can. We've talked a little bit about this as a  
10 district that probably is not compact and also  
11 violates traditional mapmaking rules by  
12 taking -- splitting cities and taking them in  
13 this case the city of Akron.

14 So what you see here is you have  
15 Senate District 18, Portage county, a portion of  
16 Geauga county, a rural area, and the bottom  
17 portion of the city of Dayton. This cracks the  
18 city of Akron. It takes historically African  
19 American populations, attaches them to Portage  
20 and Geauga county, and this is done to  
21 create -- clearly to create a Democrat-leaning  
22 district, again, textbook example of racial  
23 gerrymandering done to benefit one political  
24 party.

25 So I'm not asking anybody any questions

1 about that. If anybody would like to respond to  
2 that, they can go ahead and do it. But I don't  
3 think this can be dismissed as well. It doesn't  
4 violate some part of the Ohio Constitution  
5 because this is required under federal law as  
6 dictated by the United States Supreme Court.

7 Now, these examples are just some of  
8 the very dramatic that we were able to find in  
9 the short time that we've had this map. I'm  
10 certain if you go through there are multiple  
11 other ones. Because the reason these things are  
12 done is to take African American voters who are  
13 reliably Democrat voters, cracking them into  
14 different districts and pairing them with  
15 suburban Democrat voters someplace else.

16 Now, you may think, well, that's what  
17 we need to do to make it proportional or your  
18 version of fair or whatever it is, but in the  
19 end, it's racial gerrymandering, it's illegal,  
20 and that's why this map is not appropriate.

21 So that's the extent of my comments,  
22 Mr. Chairman. If someone else has something in  
23 response that I'd like to be able to respond,  
24 but at this time I will turn it over to any of  
25 the other commissioners.

1                   SENATOR SYKES: Are there any other  
2                   questions or comments?

3                   Secretary LaRose.

4                   SECRETARY LAROSE: Thank you, Co-Chair.  
5                   Obviously, we've got challenging  
6                   scenarios, so I think it's important that we  
7                   consider all the options on the table. And  
8                   Leader Russo made a comment a few moments ago  
9                   that really caught my attention. She offered to  
10                  reintroduce the map that had been proposed  
11                  originally by our Democratic colleagues in  
12                  September.

13                  Did you -- do you believe, Leader, that  
14                  that map that was proposed in September is a  
15                  constitutional map?

16                  LEADER ELECT RUSSO: Through the  
17                  Co-Chair. Secretary LaRose, that's a good  
18                  question. I will remind you, I was not a  
19                  commissioner when that was originally proposed  
20                  so I haven't dug into the details, but certainly  
21                  if there are members of this commission who  
22                  believe that that is a better map or at least a  
23                  starting point of a map and it requires some  
24                  tweaks and you have concerns about  
25                  constitutional violations that you would like

1 for us to adjust, we can do those quickly and  
2 consider those.

3 SECRETARY LAROSE: Leader, do you  
4 recall in that map that the Democratic members  
5 of the commission proposed how many Republican  
6 House seats there were?

7 LEADER ELECT RUSSO: Through the  
8 Co-Chair. Secretary LaRose, I do not recall.

9 SECRETARY LAROSE: The number was 58.

10 All right. Thank you.

11 SENATOR SYKES: Are there any other  
12 questions? If not, we have a motion on the  
13 floor.

14 would the secretary call the roll on  
15 the motion.

16 SPEAKER CUPP: would you restate the  
17 motion, please.

18 LEADER ELECT RUSSO: Mr. Co-Chair, the  
19 motion was I move that the commission adopt the  
20 Sykes-Russo February 15th House and Senate maps.

21 SENATOR SYKES: call the roll, please.

22 THE SECRETARY: Co-Chair Speaker Cupp.

23 SPEAKER CUPP: No.

24 THE SECRETARY: Co-Chair Senator Sykes.

25 SENATOR SYKES: Yes.

1 THE SECRETARY: Governor DeWine.

2 GOVERNOR DEWINE: No.

3 THE SECRETARY: Auditor Faber.

4 AUDITOR FABER: No.

5 THE SECRETARY: President Huffman.

6 PRESIDENT HUFFMAN: No.

7 THE SECRETARY: Secretary LaRose.

8 SECRETARY LAROSE: No.

9 THE SECRETARY: Leader Russo.

10 LEADER ELECT RUSSO: Yes.

11 SENATOR SYKES: 5-2, the motion is not  
12 approved.

13 At this time, are there any other items  
14 to be brought before the commission?

15 LEADER ELECT RUSSO: Mr. Co-Chair.

16 SENATOR SYKES: Yes.

17 LEADER ELECT RUSSO: I'd also like to  
18 make a motion that any commissioner with an  
19 allegation that the Sykes-Russo February 15th  
20 map, the allegation that it violates the  
21 constitution, that you put that allegation  
22 forward on the record in writing.

23 SENATOR SYKES: Second the motion.

24 Any questions on the motion?

25 SPEAKER CUPP: Mr. Chairman.

1                   SENATOR SYKES:   Yes.

2                   SPEAKER CUPP:   I understand if one was  
3                   to invite members to do that, but to have a  
4                   motion to compel them to do that, I think that  
5                   is beyond the courtesy that should be accorded  
6                   to members of this commission, so I would oppose  
7                   it.

8                   SENATOR SYKES:   Any other comments?

9                   PRESIDENT HUFFMAN:   Mr. Chairman, I  
10                  agree with Senator Cupp, one-time Senator Cupp,  
11                  Speaker Cupp. I guess I've tried to make clear  
12                  what I think my objections are, and there are  
13                  different reasons that folks may have, but  
14                  it's -- you know, in this context, like it or  
15                  not, the commission speaks as the commission,  
16                  and we determine that by the votes that we have  
17                  and not individuals. We have to act  
18                  collectively, just as the general assembly does.  
19                  We certainly don't force members of the general  
20                  assembly to stand up and explain their yes or no  
21                  vote on each occasion. So I also would oppose  
22                  the motion.

23                  SENATOR SYKES:   Any other comments?

24                  LEADER ELECT RUSSO:   Mr. Co-Chair, I  
25                  would respectfully disagree with that. The

1 Court has been very clear that it would like for  
2 us to put forward a plan that addresses the  
3 issues that it raised in the decision that is  
4 constitutional. We have put forth a map, again,  
5 that we believe is compliant with Sections 2, 3,  
6 4, 5, and 7, and also complies with Section 6.

7 I think that it is entirely appropriate  
8 that if we are either not going to adopt this  
9 map or put forward any proposal in response to  
10 the Court that we should be very clear and  
11 writing why it was that this map that was put  
12 forward for consideration by the commission was  
13 not constitutional if that is the allegation by  
14 some members of this constitution -- I mean of  
15 this commission.

16 SENATOR SYKES: Any other comments?  
17 Would the secretary call the roll on  
18 the motion.

19 THE SECRETARY: Co-Chair Speaker Cupp.

20 SPEAKER CUPP: No.

21 THE SECRETARY: Co-Chair Senator Sykes.

22 SENATOR SYKES: Yes.

23 THE SECRETARY: Governor DeWine.

24 GOVERNOR DEWINE: No.

25 THE SECRETARY: Auditor Faber.

1 AUDITOR FABER: No.

2 THE SECRETARY: President Huffman.

3 PRESIDENT HUFFMAN: No.

4 THE SECRETARY: Secretary LaRose.

5 SECRETARY LAROSE: No.

6 THE SECRETARY: Leader Russo.

7 LEADER ELECT RUSSO: Yes.

8 SENATOR SYKES: The motion is not  
9 approved.

10 Are there any other comments to be made  
11 today?

12 SPEAKER CUPP: Co-Chair, unless there's  
13 somebody that wants to make a statement at this  
14 time, I would move that we adjourn for, let's  
15 say, 30 --

16 UNIDENTIFIED SPEAKER: Recess.

17 SPEAKER CUPP: I'm sorry. Yes. Recess  
18 for 30 minutes more or less so that members can  
19 think about what we've seen and heard and has  
20 been presented here today and then reassemble.  
21 No more than 30 minutes. I don't want it to  
22 stretch to three hours.

23 SENATOR SYKES: Is there any further  
24 discussion on the recess? Any objection?

25 UNIDENTIFIED SPEAKER: I didn't hear



1 the time. 30 minutes?

2 SENATOR SYKES: 30 minutes. At 3:40.

3 We're now recessed until 3:40.

4 (Recess.)

5 SENATOR SYKES: Is there anyone that  
6 want to make comments?

7 AUDITOR FABER: Mr. Chair, before I  
8 make comments, I would propose a motion to amend  
9 the rules of the commission.

10 SENATOR SYKES: Is there a second?

11 AUDITOR FABER: Well, I need to say  
12 what the motion is for first.

13 SENATOR SYKES: All right. Explain  
14 your --

15 AUDITOR FABER: You may want to second  
16 it when you hear what a great amendment it is,  
17 Mr. Vice Chair -- or Co-Chair.

18 Mr. Chairman, I'd like to propose that  
19 the commission modify the rules to allow a  
20 meeting of the commission to be called upon the  
21 request of any three commission members, where  
22 possible, with 24 hours notice. Specifically, I  
23 would move to amend Rule 5 of the Ohio  
24 Redistricting Commission Rules calling for  
25 meetings. It should now read, then:

1                   After an initial meeting of the  
2                   Redistricting Commission, any of the three  
3                   members of the commission may call for a meeting  
4                   of the commission upon a request by three  
5                   members of the commission for a meeting. The  
6                   co-chairs shall promptly provide notice of the  
7                   meeting pursuant to Rule 2 within 24 hours, when  
8                   feasible, at a location determined by the  
9                   co-chairs.

10                   Effectively, what this amendment would  
11                   do is amending the calling of meetings to allow  
12                   not only the co-chairs to call meetings but  
13                   meetings to be called upon the agreement of any  
14                   three of the members.

15                   UNIDENTIFIED SPEAKER: Second.

16                   SENATOR SYKES: Auditor Faber, the  
17                   motion has been seconded.

18                   More comments or one question. Would  
19                   you be in agreement that at least members of  
20                   both parties should be a part of the three?

21                   AUDITOR FABER: No. Mr. Chairman, I  
22                   understand the rationale for that. The  
23                   co-chairs can continue to call meetings, and we  
24                   have a bipartisan way to do that. The reality  
25                   is is there may be a circumstance that

1 would -- that the majority would need to meet  
2 without regard to the partisanship of the  
3 issues, and our view is is that you ought to be  
4 able to have three members of this commission  
5 call for a meeting. You still are required to  
6 have a quorum, and you're still required to  
7 follow the other procedures.

8 SENATOR SYKES: Are there any other  
9 questions or comments?

10 will the secretary call the roll.

11 THE SECRETARY: Co-Chair Speaker Cupp.

12 SPEAKER CUPP: Yes.

13 THE SECRETARY: Co-Chair Senator Sykes.

14 SENATOR SYKES: Yes.

15 THE SECRETARY: Governor DeWine.

16 GOVERNOR DEWINE: Yes.

17 THE SECRETARY: Auditor Faber.

18 AUDITOR FABER: Yes.

19 THE SECRETARY: President Huffman.

20 PRESIDENT HUFFMAN: Yes.

21 THE SECRETARY: Secretary LaRose.

22 SECRETARY LAROSE: Yes.

23 THE SECRETARY: Leader Russo.

24 LEADER ELECT RUSSO: No.

25 SENATOR SYKES: 6-1, the rules are so

1 amended.

2 Are there any other comments?

3 Auditor Faber.

4 AUDITOR FABER: Thank you, Co-Chair.

5 I just want to start out by having a  
6 discussion generally of where I think we find  
7 ourselves in this process, and I think we can  
8 start out -- and I would pass this out to the  
9 members. Sorry. There are two maps -- if I  
10 could get those passed out -- that I think are  
11 relevant. I would ask staff to go ahead and put  
12 the larger issues up for the staff.

13 The first map that's being erected is a  
14 map that came directly out of the minority  
15 opinion in the Supreme Court. It's a graphic  
16 that I think is beneficial for us all to  
17 consider to understand the dynamic -- actually,  
18 that's the second one. If you would do the  
19 other one first. Thank you.

20 It's important that we take a look at  
21 this. This is a map that reflects the red and  
22 blue precinct-level data based on the last  
23 election cycle. I think this map alone dictates  
24 the problem that you have when you try and draw  
25 proportional maps to effectively do 45 House

1       seats into these areas. It also signifies what  
2       a lot of us have talked about, the fact that  
3       Ohioans tend to live around people who think and  
4       vote like them.

5               The second map is also an important  
6       reference point that we all need to think about,  
7       and this is a map that says if we take every  
8       single county that Joe Biden won in the last  
9       election and gave every single seat -- every  
10      single seat in that county to the Democrats, the  
11      Democrats would have 39 seats. That would be  
12      the most egregiously gerrymandered maps, and  
13      frankly, I don't think anybody has even  
14      suggested that. However, it starts to explain  
15      the problem.

16             I think we would all agree that there  
17      must, for example, be two Republican seats in  
18      Hamilton county. Given the communities and the  
19      way they vote, there must be at least two seats  
20      in Montgomery county for Republicans unless  
21      you're willing to crack voters of Dayton and  
22      dilute their voting power, which we have heard  
23      we should avoid doing if at all possible.

24             That means there are about 35  
25      Democratic seats in those counties. Yes, you

1 can find Democrat seats other places. You can  
2 find potentially two more seats in Lorain, one  
3 each in Trumbull, Stark, and Mahoning county.  
4 That brings us to about 40 seats.

5 So where else do you get the five  
6 seats? The invalidated map found one in Geauga  
7 and Portage counties. The Democrat maps have  
8 made attempts to gain another three seats, and,  
9 as referenced earlier, we have some concerns  
10 about whether that map passed constitutional  
11 muster. There's an argument, I believe, that  
12 supports that they violated at the very least  
13 sections 6(A) and 6(C). I think they're  
14 arguably also violate Section 2 and Section 3 of  
15 the other articles.

16 I brought these objections up over and  
17 over again. When the maps were released that  
18 grouped downtown Columbus with Pickaway county,  
19 I mentioned that that was egregiously partisan.  
20 To ease my concerns, they grouped Ottawa county  
21 in with downtown Toledo. The current map had no  
22 shortage of instances of grouping unlike  
23 communities together purely for partisan  
24 advantage, a few of which left my staff and they  
25 relayed these comments to the Democratic

1 commission members, yet no changes were made.

2 In the end, this is the problem: The  
3 problem is how do you hit the proportional  
4 number, and how do you hit that number without  
5 gerrymandering seats for one party or the other  
6 in violation of the other sections of the  
7 constitution?

8 To me, this is where the impasse that  
9 we currently sit in lies. Where is the number?  
10 How do you do that without cracking and packing  
11 in an area that clearly leads us to a potential  
12 violation?

13 As I said before, we have tried to meet  
14 with the various members of this commission,  
15 Republican and Democrat, on a number of  
16 occasions. Early on in the process, I thought  
17 we were making very good -- this is back in  
18 September -- very good progress towards a  
19 compromise. At that point, as I said in my  
20 deposition, it appeared both sides wanted  
21 litigation instead of a solution.

22 We heard today that maybe the Democrats  
23 would consider a version of the original Sykes  
24 and Sykes proposal. If that's the case, then  
25 I'm all for it. The reality is that would be a

1           58/20 map, a map that was rejected based on the  
2           number seeking the ratio as has previously been  
3           discussed.

4                   As we go through this process and have  
5           gone through this process, I simply am concerned  
6           that we are sitting here arguing whether or not  
7           the Democrats should be allocated three more  
8           seats based on the one that the majority of the  
9           Supreme Court ruled unconstitutional out of 99.  
10          That amounts to 2.3 percent, or thereabouts, of  
11          the total seats. Put another way -- let me  
12          correct my math. Three out of 99 is essentially  
13          2.3 percent. Five out of 132 is 3.7 percent.  
14          Put another way: We're a few percentage points  
15          away from perfect proportionality.

16                   The constitution instructs this  
17          commission to closely correspond with that  
18          proportionality, and I would argue that the  
19          ratio that we're hitting is closely  
20          corresponding.

21                   We've heard from experts saying that  
22          Ohio's political geography gives Republicans a  
23          3 to 5 percent advantage in seats based on the  
24          maps that you're seeing here. The reality is  
25          when you follow the provisions of the



1 constitution that prohibit unnecessary splitting  
2 of counties, cities, and townships, you are left  
3 with a situation to where Republicans have a  
4 slight advantage over those type of  
5 circumstances. I would argue that we are  
6 probably even beating that 3 to 5 percent number  
7 that has been testified before in this lawsuit  
8 and also -- also before this committee.

9 To do otherwise, to ignore this  
10 essentially means we're attempting to  
11 gerrymander the state that doesn't amount to a  
12 majority but will amount to the silencing of  
13 many voters who get placed in districts that are  
14 fundamentally stacked against them for no other  
15 reason than a partisan gain to draw a Democrat  
16 seat. I think that's wrong.

17 I think one of the things we had in  
18 mind when we drafted this constitutional  
19 amendment, yes, an amendment that I sat in the  
20 room and helped draft, it appears that others  
21 read the constitutional amendment differently  
22 than we anticipated, but that's their right.  
23 However, some people are arguing that Democrats  
24 deserve X numbers of seats and Republicans  
25 deserve Y number of seats. Simply put, I don't

1 think either party deserves a damn thing.

2 The way to solve that problem is to  
3 draw competitive seats. I think voters in Ohio  
4 deserve to be represented by people that share  
5 their views. Let them decide who those views  
6 are by electing people in competitive seats  
7 where you can. I think we've seen maps in a few  
8 occasions that would do almost that, but none of  
9 the maps -- none of the maps that we've seen  
10 that does any of that hits this magic 54 to 48  
11 ratio or an 18 to 15 proportion.

12 If we are able to recognize this and  
13 move forward with an understanding that we need  
14 to draw maps that as closely as we can  
15 correspond to these things, I think there's  
16 room. However, as of now, I don't think there's  
17 a recognition of this. I don't think that there  
18 has been a recognition of the reality of where  
19 Ohioans live, and Ohioans tend to live around  
20 people who think and vote like them and  
21 therefore should be entitled to representation  
22 that represents them in that capacity.

23 I don't see what good the offers have  
24 been, and unless people are willing to come to  
25 the table to continue this process, I think

1 we're going to have a tough time reaching an  
2 outcome.

3 with that, Mr. Chairman, I would  
4 encourage us to continue to be vigilant, and  
5 certainly as we move into the congressional map  
6 process that we continue to be mindful of each  
7 other's positions, but let's work on solutions,  
8 not just positions. Thank you.

9 SENATOR SYKES: Mr. Auditor, thank you  
10 for your statement.

11 Others have statements they'd like to  
12 make?

13 Mr. President.

14 PRESIDENT HUFFMAN: Thank you, Senator.

15 Ladies and gentlemen, just about  
16 midnight September 15, 2021, a majority of this  
17 commission adopted a new four-year district plan  
18 for the Ohio House and the Ohio Senate that  
19 complied with all the requirements of  
20 Sections 2, 3, 4, 5, and 7 of Article XI of the  
21 Ohio Constitution.

22 None of the petitioners who filed the  
23 lawsuits challenging the first General Assembly  
24 District Plan allege the plan contained any  
25 violations of Sections 2, 3, 4, 5, or 7 of

1 Article XI.

2 The petitioners' lawsuits challenging  
3 the first General Assembly District Plan focused  
4 on their allegations that the plan violated  
5 Sections 6(A) and 6(B) of Article XI.

6 On January 12, 2022, approximately four  
7 months after the passage of the map, a  
8 four-member majority of the Ohio Supreme Court  
9 ruled that the petitioners could bring their  
10 Section 6 claims without having to first allege  
11 and prove that the plan contained any violations  
12 of Sections 2, 3, 4, 5, or 7.

13 In the same opinion, the majority ruled  
14 that the first General Assembly District Plan  
15 violated both Section 6(A) and (B) and ordered  
16 the commission to adopt a new general district  
17 plan within ten days, by January 22nd. The  
18 majority's opinion also directed the members of  
19 the commission to work towards adopting a new  
20 plan in a more collaborative, bipartisan  
21 fashion. Thereafter the commission began in  
22 good faith to take steps to comply with the  
23 majority's ruling. The Republican House and  
24 Senate map drawers immediately began meeting  
25 with their Democratic counterparts. The map

1        drawers collectively followed Senator Sykes'  
2        suggestion that one way to comply with the  
3        majority's opinion was to focus on particular  
4        regions of the state rather than trying to draft  
5        a completely new statewide plan from a blank  
6        slate. Regional map drafts were exchanged  
7        between the Republican and Democratic map  
8        drawers.

9                The commission notes that it's  
10       difficult, if not impossible, to draw 132  
11       general assembly districts in ten days without  
12       any form of a base map to work from. And from  
13       the receipt of census data on August 12, 2021,  
14       to the date of its adoption, the first General  
15       Assembly District Plan took over a month to  
16       develop and adopt, remember, from August 12th to  
17       approximately September 15th.

18                On January 22, 2022, ten days after  
19       January 12th, a majority of the commission  
20       adopted another four-year district plan for the  
21       general assembly. We'll call that the second  
22       General Assembly District Plan. The General  
23       Assembly District Plan had 57 Republican-leaning  
24       seats in the House, a reduction of five from the  
25       first general district plan and eight from its

1 current membership, or a total of 11 percent  
2 reduction, and 20 Republican-leaning seats in  
3 the Senate, a reduction of three from the first  
4 general assembly plan and five from its current  
5 membership, or a 20 percent reduction.

6 As the commission majority stated in  
7 its January 22nd Section 8(C)(2) statement that  
8 was adopted by the commission, this corresponds  
9 closely to the 54 percent Republican and  
10 40 percent Democratic strict proportionality of  
11 past statewide election results in Ohio. And as  
12 the commission majority explained in that  
13 statement, neither the Ohio Constitution nor the  
14 decision of the Supreme Court requires adoption  
15 of a plan meeting strict proportionality, only  
16 that it closely correspond with it.

17 So on February 7, 2022, the same  
18 four-member majority of the Supreme Court  
19 invalidated the second General Assembly District  
20 Plan, holding that the new plan also violated  
21 Section 6(A) and 6(B), (B) being the  
22 proportionality section which, as we noted, was  
23 within just three seats in the House and two  
24 seats in the Senate of the strict  
25 proportionality rule.

1           The majority opinion did not provide  
2           guidance as to the precise meaning of correspond  
3           closely, whether 57 corresponded closely to 54  
4           or 20 corresponded closely to 18. Instead, the  
5           opinion criticized a new concept, partisan  
6           asymmetry, in the second General Assembly  
7           District Plan based on districts that were 50 to  
8           51 percent leaning Democratic even though that  
9           concept or term is not found in Article XI of  
10          the Ohio Constitution or, as far as I know, any  
11          other state law.

12          The opinion did not identify how many  
13          such districts are legally permissible in a  
14          General Assembly District Plan or what  
15          percentage of Democratic-leaning districts would  
16          satisfy the standards under Section 6 of  
17          Article XI of the Ohio Constitution.

18          The majority ordered that the  
19          commission reconvene and adopt an entirely new  
20          General Assembly District Plan by February 17th,  
21          today, and that such plan be filed with the  
22          court by 9:00 on February 18, 2022.

23          I want to note that the system that is  
24          set up in the constitution is based on at least  
25          60 days for the drawing of a general assembly

1 map. This was part of the plan when this was  
2 adopted in 2015. By federal law, the census  
3 data is supposed to be available by April 1st.  
4 Now, we understand there's a problem with that  
5 this year, but it takes approximately 90 days to  
6 put that into the census block data, and we  
7 would have it by -- typically, in any typical  
8 year, by July 1st, and that's what happened in  
9 2011.

10 The commission has 60 days to draw a  
11 bipartisan plan under the constitution, and, if  
12 unable to, 15 days to draw a plan that is not  
13 bipartisan by September 15th. It's what  
14 happened this year, under a lot of work and long  
15 hours by map drawers. We, as I mentioned, got  
16 the data August 12th this year and were still  
17 able to draw a plan by September 15th.

18 So it's constitutionally anticipated  
19 that it should take 60 days from scratch to draw  
20 a map. In this case, the Supreme Court gave the  
21 commission ten days to start with a completely  
22 new map and a significant mathematical problem  
23 of -- with the concept of partisan asymmetry.

24 No General Assembly District Plan has  
25 been presented to the commission to date that



1 achieves a strictly proportional 54/46 result  
2 without committing significant other violations  
3 of the Ohio Constitution. While the Ohio  
4 Supreme Court has correctly refrained from  
5 ordering the commission to draw a particular  
6 district, a particular General Assembly District  
7 Plan pursuant to Section 9(D) of Article XI, the  
8 Court has declined to define "correspond  
9 closely" and the majority opinion regarding the  
10 second General Assembly District Plan does not  
11 address it.

12 In its order regarding the first  
13 General Assembly District Plan, however, the  
14 Court did identify the plan submitted by  
15 Dr. Rodden as constitutional even though that  
16 plan contained 57 Republican-leaning House  
17 districts and multiple 50 to 51 percent  
18 Democratic-leaning districts.

19 In its order regarding the second  
20 General Assembly District Plan, the Court  
21 suggested that it may be possible to draw a plan  
22 that more closely corresponds to the statewide  
23 preferences but did not define how close would  
24 be constitutional.

25 Under these circumstances, I don't

1 believe the commission is able to ascertain a  
2 General Assembly District Plan in conformity  
3 with the provisions of the Ohio Constitution and  
4 Ohio state law, nor with the federal  
5 constitution or federal state law. And as I  
6 mentioned today, we have to be cognizant of  
7 significant federal constitutional decisions and  
8 the federal constitution, especially as it  
9 relates to racial gerrymandering which clearly,  
10 in my opinion, the redistricting plan submitted  
11 tonight by the Democrats does that.

12 And I would suggest to inquiring  
13 members of the media, many of whom are here  
14 tonight, that they inquire of some candidates,  
15 African American Democratic candidates who may  
16 be interested in running. They'll probably want  
17 to speak off the record or on background, lest  
18 they be punished by some of their Democratic  
19 members of their party. Ask them what they  
20 think of the Democratic map that was presented  
21 here today. They may be willing to speak to  
22 you. They may not be willing to speak. They  
23 have spoken to me confidentially, however.

24 So that's my statement. I appreciate  
25 the indulgence of the commission in allowing me

1 to make that. Thank you, Mr. Chairman.

2 SENATOR SYKES: Thank you,  
3 Mr. President.

4 Are there any other comments to be  
5 made?

6 Governor.

7 GOVERNOR DEWINE: Thank you,  
8 Mr. Chairman.

9 Let me try to summarize where I think  
10 we are and also what I think our obligation is.  
11 And some of this is very elementary, but  
12 sometimes it's helpful to state the obvious.

13 We have an obligation to follow the  
14 Ohio Constitution. We have an obligation to  
15 follow the court order whether we like it or  
16 not, whether we agree with it or not. And  
17 three, we have an obligation to produce a map.

18 Now, I believe that the evidence we've  
19 seen shows that it's not possible to  
20 simultaneously follow all the provisions of the  
21 court order and the constitution at the same  
22 time. An example: The Court indicated -- said  
23 that in drawing the map, we should start from  
24 scratch, or that in so many words. When we talk  
25 to the people who are actually doing the map,

1       they tell us that is really not possible to do  
2       it that way within a ten-day period of time.  
3       That is just an example.

4               But I don't think we have the luxury of  
5       saying we're just quitting and we're stopping.  
6       I think we have an obligation to attempt to  
7       follow as much of these orders as we can and to  
8       send a map to the Court.

9               There are things I think that can be  
10      improved. My colleague pointed out the term  
11      that the symmetry is really not in the  
12      constitution, but this is what the Court has  
13      said. Again, that is an area that we might and  
14      I think we could actually improve and get closer  
15      to what the Court's decision is.

16              So I believe we have an obligation to  
17      send a new map to the Court, do the best that we  
18      can.

19              As has been pointed out by several of  
20      my colleagues, the truth is we have not seen a  
21      map that's been produced that, after it's been  
22      analyzed, follows the constitution. Some of  
23      them may have been purported to do that, but  
24      when you dug into them and looked at them  
25      carefully, it was clear they were not.

1 I think it's also clear based upon what  
2 the Senate president said, the state auditor  
3 said in looking at the Democrat map that that  
4 map clearly is not constitutional.

5 We have passed a map, and the Supreme  
6 Court has said what they said, it was not  
7 adequate. We passed a second map, and the  
8 Supreme Court said the same thing again but  
9 added different language. If we leave here  
10 without getting a map, we are giving the Court  
11 absolutely nothing to react to.

12 No one said this is easy, but I believe  
13 that we can -- giving the mapmakers specific  
14 instructions, we can come up with a map that  
15 fits better the constitution as well as the  
16 court order. I think that's our obligation. We  
17 have an obligation to follow the constitution,  
18 we have an obligation to follow the court order,  
19 and -- and we have an obligation to produce a  
20 map. Thank you, Mr. Chair.

21 SENATOR SYKES: Thank you, Governor.

22 Secretary LaRose.

23 SECRETARY LAROSE: Thank you,  
24 Mr. Co-Chair.

25 And unfortunately, as a practical

1 matter, it would appear, at least at this point,  
2 that this body is at an impasse. The mapmakers,  
3 the majority mapmakers -- and let's be clear,  
4 the majority mapmakers work for the speaker and  
5 for the president. The majority mapmakers are  
6 telling us that they don't believe that we can  
7 constitutionally do what the Court majority has  
8 asked us to do. This is one of those classic  
9 cases of what we want versus what we can  
10 accomplish.

11 Those who are looking to cast blame and  
12 score political points will perhaps represent  
13 that the situation we're in is simply because of  
14 a lack of will. I don't believe that that's the  
15 case.

16 On the other side of this conversation,  
17 though, are requirements that we have to comply  
18 with. We simply can't ignore one part of the  
19 constitution to comply with another. Experts  
20 with the experience and technology to determine  
21 what a constitutional map looks like tell us  
22 that they can't satisfy the demands that the  
23 Court has placed on us, and again, it's a  
24 question of what we want to accomplish versus  
25 what we can accomplish.

1 I, of course, wear two hats in this  
2 capacity, and right now I'm putting on my hat as  
3 Ohio's chief elections officer and thinking  
4 about the very challenges that we face as it  
5 pertains to conducting an election.

6 Our county boards of elections are less  
7 than one month away from being required by  
8 federal law to mail primary election ballots to  
9 the brave men and women serving in our military,  
10 my brothers and sisters who are serving  
11 overseas. Just a couple weeks after that,  
12 voters will begin showing up at their early  
13 voting locations expecting to be able to cast a  
14 ballot. This very morning I spoke to all 88 of  
15 our county boards of elections, and I told them  
16 that we're going to do everything we can to  
17 convey the urgency of this situation.

18 So that's what I'm doing right now.  
19 That's what I've done repeatedly in this room  
20 and in other venues, express the urgency of this  
21 situation. The challenge that the boards of  
22 elections are facing cannot be understated.  
23 Their constituents, the voters of Ohio, they  
24 expect and they deserve secure, accessible and  
25 accurate elections. That's what we accomplished

1 in the face of unprecedented challenges in 2020,  
2 that's what Ohio elections officials repeatedly  
3 rise to the challenge and accomplish, but now we  
4 as Ohio's bipartisan elections officials are  
5 headed towards a brand new challenge. This  
6 challenge is not one that can be met with  
7 creativity and grit and tenacity like the 2020  
8 presidential election challenges were. Instead,  
9 this one is simply dictated by logistical  
10 deadlines, hard logistical deadlines, and we are  
11 on the verge of starting to miss those  
12 deadlines.

13 We can't just flip a switch and hold a  
14 primary, you all know that, but I think for a  
15 long time elections officials have made this  
16 work look easy, and so some have maybe come to  
17 the conclusion that just one morning you turn on  
18 the lights in the gymnasium and they start  
19 voting, but, of course, we all know that there's  
20 a lot -- a lot of work -- work that's required  
21 by both state and federal law that has to be  
22 done before that can happen. Absentee ballots  
23 can't be printed until we know where the  
24 candidates are running. Voting machines can't  
25 be programmed and tested for security until



1 districts are finalized. In fact, these things  
2 can't even be done for several weeks until after  
3 maps are passed.

4 My job here is to vote for what I  
5 believe satisfies the constitution and, just as  
6 importantly, to make sure that this commission  
7 knows what is at stake. So let me be impeccably  
8 clear about something: with just four weeks  
9 until ballots are required to be sent to our men  
10 and women in uniform and their families overseas  
11 and with much to be done in preparation, we are  
12 dangerously close to possibly violating federal  
13 law. We need finality. We need to decide  
14 quickly between approving a map that the Court  
15 can find acceptable or the legislature,  
16 wrestling with the tough challenges, of deciding  
17 to change the date of the primary. There's  
18 just -- there's no in between.

19 Thank you so much, Mr. Co-Chair.

20 SENATOR SYKES: Leader.

21 LEADER ELECT RUSSO: Thank you,  
22 Mr. Chair.

23 First, let me be very clear that, you  
24 know, I will disagree with some of the majority  
25 commission members who have spoken so far. This

1 is a matter of what we can accomplish and what  
2 we are choosing not to get done.

3 Meeting proportionality as required by  
4 the constitution is not gerrymandering. It is  
5 possible for us to draw constitutional maps and  
6 for us to work together as the Court has  
7 directed us to do. Democratic members of this  
8 commission provided maps to other members of  
9 this commission many days ago. In fact, they  
10 were posted publicly and provided to the Court  
11 weeks ago. There has been plenty of time to  
12 provide feedback, and if there is disagreement  
13 about the constitutional issues to make those  
14 changes and adjustments. And in fact, we have  
15 shown very much a willingness to do that, but in  
16 the last ten days there has been no willingness  
17 from the majority members to have those  
18 conversations.

19 In fact, our proposal that was just  
20 rejected by the commission has created  
21 constitutional state legislative maps. Doing  
22 nothing -- and it seems to me that that is what  
23 this commission is choosing to do today, the  
24 majority members on this commission, doing  
25 nothing. And as the governor laid out, our job

1 is to follow the constitution, follow the court  
2 order and produce a map. Today, the deadline  
3 that the Court has given to us, this commission  
4 is doing none of those things by not putting  
5 forward a proposal of maps.

6 This is a direct assault on our  
7 democracy and Ohio voters, and if we do not  
8 respect the legitimacy of the courts, then we  
9 are disrespecting the rule of law.

10 Senator Sykes and I have done our duty  
11 and, unfortunately, we will be back here again  
12 in this room until we all fulfill our obligation  
13 to enact constitutional maps.

14 Thank you, Mr. Chair.

15 SENATOR SYKES: Thank you, Leader.

16 It's been suggested that we use racial  
17 gerrymandering in drawing of districts. Just  
18 because we are accused of that just doesn't make  
19 it so. And I want to make it clear that this is  
20 a baseless accusation, and we did not use race  
21 as a predominant factor in drawing the lines.  
22 we used the state constitution guidelines, the  
23 federal constitution, and all the laws --  
24 applicable laws and relevant laws to draft these  
25 districts.

1                   You know, I've been here in the  
2                   legislature based on you-all's support for  
3                   30 years, and I've noticed, observed, recognize  
4                   something, that the majority has the  
5                   responsibility and the authority to rule, to  
6                   decide. You know, they got the numbers. But in  
7                   spite of the fact that you have a supermajority  
8                   in the House and the Senate, all the statewides,  
9                   the congressional delegation, this commission,  
10                  and the Ohio Supreme Court, you've been unable  
11                  and unwilling to comply with our highest  
12                  directive, and that is to comply with the  
13                  constitution.

14                 Now, I'm grateful that we have, you  
15                 know, another branch of government, the Supreme  
16                 Court, and we are dependent upon them to hold us  
17                 accountable to the constitution. Meeting the  
18                 Court's order is not impossible. The Court  
19                 itself has found evidence that it can be done.  
20                 It is not enough for the commission simply to  
21                 say that it is impossible.

22                 Our map, as well as other maps  
23                 submitted to the redistricting commission, show  
24                 that there's not only one pathway to comply, but  
25                 there's several pathways that can be used to

1       comply with the constitutional provisions.  
2       Neither Ohio's political geography, the  
3       line-drawing requirements of Article XI, nor any  
4       other constitutional directive prevent us from  
5       drawing maps that closely correspond to the  
6       statewide preferences of the voters. The only  
7       thing that's preventing us from meeting the  
8       Court's order is an apparent lack of will.

9               It is not gerrymandering to draw maps  
10       that meet proportionality. It's just the  
11       opposite. Proportionality is the criteria and  
12       the guide to prevent us from gerrymandering.  
13       The Court has directed us, if there is a pathway  
14       for proportionality, then we must adopt this,  
15       and we have demonstrated in this meeting today,  
16       in the presentation of our map, that you can  
17       meet that proportionality requirement, and this  
18       commission should be adopting a plan. The  
19       majority really is failing and they're derelict  
20       in their duty and responsibilities to the  
21       citizens of the state, and we're hopeful that  
22       that will soon change.

23               Are there any other comments?

24               SPEAKER CUPP: Mr. Co-Chairman, I would  
25       just ask for purposes of this meeting whether

1 anyone else has a map to present today.

2 It appears not, and it would appear  
3 presently that this redistricting commission is  
4 at an impasse.

5 SENATOR SYKES: Are there any other  
6 comments to be made? Are there any further  
7 business to be brought before the commission?

8 If not, the commission --

9 SPEAKER CUPP: I'm sorry. I do have  
10 one thing I would ask the members.

11 Because this commission will have to  
12 take up congressional redistricting for the  
13 first time. We haven't done that before, and so  
14 Co-Chairman Sykes and I will be contacting each  
15 of you and your schedulers to see when we can  
16 meet hopefully in the first part of next week.  
17 Because as the Secretary of State has said, time  
18 is slipping away in order to conduct an election  
19 on the set date.

20 SENATOR SYKES: The meeting is  
21 adjourned.

22 (End of recording.)

23 --o0o--  
24  
25

## R E P O R T E R ' S   C E R T I F I C A T E

STATE OF NORTH CAROLINA

--o0o--

I, DENISE MYERS BYRD, Court Reporter,  
do hereby certify that the transcription of the  
recorded OHIO REDISTRICTING COMMISSION held on  
February 17, 2022, was taken down by me  
stenographically to the best of my ability and  
thereafter transcribed under my supervision; and  
that the foregoing pages, inclusive, constitute  
a true and accurate transcription of said  
recording.

Signed this the 20th day of February  
2022.

*Denise Myers Byrd*  
Denise Myers Byrd  
CSR 8240, RPR, CLR 102409-2

# **Exhibit 3**

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IN THE SUPREME COURT OF OHIO

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

*Petitioners,*

*v.*

OHIO REDISTRICTING  
COMMISSION, *et al.*,

*Respondents.*

Case No. 2021-1193

BRIA BENNETT, *et al.*,

*Petitioners,*

*v.*

OHIO REDISTRICTING  
COMMISSION, *et al.*,

*Respondents.*

Case No. 2021-1198

THE OHIO ORGANIZING  
COLLABORATIVE, *et al.*,

*Petitioners,*

*v.*

OHIO REDISTRICTING  
COMMISSION, *et al.*,

*Respondents.*

Case No. 2021-1210

**AFFIDAVIT OF BLAKE SPRINGHETTI**

1. I am over the age of eighteen (18) and am competent to testify to the matters set forth herein. The following is true of my own personal knowledge and I otherwise believe it to be true.

2. I am the Majority Director of Finance for the Ohio House of Representatives and report to Speaker Robert R. Cupp who is a member of the Ohio Redistricting Commission. As such, I have been involved in the efforts of the Commission to comply with the Supreme Court of Ohio's orders requiring the redrawing of Ohio's general assembly districts. In doing so, I utilized geographic information computer software by Caliper corporation called Maptitude. I have also been called upon by Commission members to evaluate specific districting proposals, including redistricting plans drawn by Mr. Christopher Glassburn, and plans submitted to the Commission by Bennett and League of Women Voters Petitioners, purportedly drawn by Dr. Rodden.

3. I was involved in drafting the General Assembly districting plan passed by the Ohio Redistricting Commission on February 24, 2022 (the "Third Plan") along with Mr. Ray DiRossi.

4. When drafting the Third Plan, we strove to minimize the impacts to incumbent members of the general assembly. In determining who was an "incumbent" for these purposes, we did not consider general assembly members who are term-limited, or have publicly announced that they will not seek re-election to their current office to be "incumbents."

5. Under the Third Plan, no Senate incumbents as we defined them were paired in the same district. Additionally, given that Ohio Senators have 4 year terms, we strove to ensure that each incumbent protected by Section 5 of Article XI was placed in the majority of the district that elected them. We also strove to apply Section 5 of Article XI in a manner that didn't harm any Senator in future election years regardless of political affiliation. Meaning that if a Senator were

assigned to SD 6 in the Third Plan, we strove to ensure they resided in SD 6 and could seek re-election in that district if they so choose. We achieved this goal.

6. Under the Third Plan, only 6 incumbents as we defined them were paired or “double bunked” in the same district. HD 7 pairs Democratic Representatives Russo and Miller. HD 13 pairs Democratic Representatives Skindell and Sweeney. HD 17 pairs Representatives Patton (R) and Smith (D). However, Representative Smith has filed to run for election to HD 16. As a result, it is unclear if there is actually a double bunking in HD 17.

7. As part of my job assisting Speaker Cupp in his duties as a Commission member, I also analyzed the Rodden III Plan filed by the Bennett and League of Women Voters Petitioners with the Commission on February 15, 2022. Like the Third Plan, the Rodden III Plan pairs Representatives Russo and Miller, as well as Representatives Skindell and Sweeney. However, in addition to these pairings the Rodden III Plan pairs the following incumbent members of the House:

Republican Representatives Seitz and Abrams are paired in Rodden HD 23

Republican Representatives Manning and Stein are paired in Rodden HD 52

Republican Representatives Schmidt and Bird are paired in Rodden HD 60

Republican Representatives Powell and Manchester are paired in Rodden HD 98

Republican Representatives Loychik and Fowler-Arthur are paired in Rodden HD 63

Republican Representatives Hillyer, Jones, Ferguson are triple bunked in Rodden HD 91

Republican Representative Bob Young and Democratic Representative Galonski are paired in Rodden HD 32

Republican Representative Oeslager and Democratic Representative West are paired in Rodden HD 47.

In total Dr. Rodden impacts 21 incumbent members of the Ohio House of Representatives, 6 Democratic Representatives and 15 Republican Representatives.

8. The Rodden III plan also impacts numerous Senators who are protected by Section 5 of Article XI. Specifically:

Republican Senator Antani is assigned to Rodden SD 6 although he does not reside in this district. Therefore, when Senator Antani runs for re-election in 2024, he is not a resident of the current district that elected him.

Republican Senator Johnson is assigned to Rodden SD 14 although he does not reside in this district. Therefore when Senator Johnson runs for re-election in 2024, he is not a resident of the current district that elected him.

Republican Senator Romanchuk is assigned to Rodden SD 22 although he does not reside in this district. Therefore when Senator Romanchuk runs for re-election in 2024, he is not a resident of the current district that elected him.

Republican Senator Gavarone is assigned to Rodden SD 2 although she does not reside in this district. Senator McColley who resides in Dr. Rodden's SD 2 is up for re-election this year, thus eliminating the opportunity for Senator McColley to run for re-election in the current district that elected him (SD 1). This is because SD 2, where Senator McColley resides under Dr. Rodden's plan, is not up for re-election until 2024.

Republican Senator Cirino is assigned to Rodden SD 18, although he does not reside in this district. Senator Roegner who resides in Dr. Rodden's SD 18 is up for re-election this year, thus eliminating the opportunity for Senator Roegner to run for re-election in the current district that elected her (SD 27). This is because SD 18, where Senator Roegner resides under Dr. Rodden's plan, is not up for re-election until 2024.

Republican Senator Dolan is assigned to Rodden SD 24 although he does not reside in this district. Democratic Senator Antonio who resides in Dr. Rodden's SD 24 is up for re-election this year, thus eliminated the opportunity for Senator Antonio to run in the current district that elected her (SD 23). This is because SD 24, where Senator Antonio resides under Dr. Rodden's plan, is not up for re-election until 2024.

In total Dr. Rodden impacts 9 incumbents, 8 of whom are Republican Senators.

9. I have also analyzed the Glassburn III plan proposed by Democratic Commission members the week of February 14, 2022. The following incumbent members of the House are paired by Mr. Glassburn in this proposal:

Republican Representative Callender and Democratic Representative Troy are paired in Glassburn HD 23

Republican Representatives Bob Young and Pavliga are paired in Glassburn HD35

Republican Representatives Tom Young and Dean are paired in Glassburn HD 40

Republican Representatives Oeslager and Stoltzfus are paired in Glassburn HD 51

Republican Representatives Stein and Click are paired in Glassburn HD 82

Republican Representatives Hillyer and Don Jones are paired in Glassburn HD 86

In total the Glassburn map pairs 12 incumbent members of the Ohio House of Representatives. Of those, 11 are Republicans.

10. The Glassburn Plan also negatively impacts numerous incumbent Senators. In particular the Glassburn Plan creates the following issues:

Republican Senator Gavarone is assigned to Glassburn SD 2 although she does not reside in this district. Senator McColley who resides in Glassburn SD 2 is up for re-election this year, thus eliminating the opportunity for Senator McColley to run for re-election in the current district that elected him (SD 1). This is because SD 2, where Senator McColley resides under the Glassburn Plan, is not up for re-election until 2024.

Glassburn SD 6 would be assigned, per Section 5 of Article XI through 2024, to Republican Senator Antani who would not live in the district. Instead, Senator Antani would live in SD 27 which would run in 2022. In 2024 when Senator Antani would be up for re-election, he would not live in a district that is up for re-election and not eligible to run in SD 6.

Glassburn SD 28 would be assigned, per Section 5 of Article XI through 2024, to Democratic Senator Sykes but he wouldn't live in the district. He would live in SD18. This would eliminate Republican Senator Roegner from running for re-election in 2022 in SD 27 because she lives in SD 28 that is assigned to Senator Sykes.

Glassburn SD 18 would be assigned, per Section 5 of Article XI through 2024, to Republican Senator Cirino who would not live in the district. Instead, Senator Cirino

would live in the SD 25 which would run in 2022. In 2024 when Senator Cirino would be up for re-election, he would not live in a district that is up for re-election and would not be eligible to run in SD 18.

**FURTHER THE AFFIANT SAYETH NAUGHT.**

This the 2<sup>nd</sup> day of March, 2022.

By: Blake V. Springhetti  
Blake Springhetti

SWORN TO AND SUBSCRIBED BEFORE ME

This the 2<sup>nd</sup> day of March, 2022.

Paul V. Disantis  
Notary Public

Franklin County, OH 10

My Commission Expires:

N/A Attorney at Law



# **Exhibit 4**

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IN THE SUPREME COURT OF OHIO

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

Bria Bennett, *et al.*,

Ohio Organizing Collaborative, *et al.*,

*Relators,*

v.

Ohio Redistricting Commission, *et al.*,

*Respondents.*

Case Nos. 2021-1193; 2021-1198; 2021-1210

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AFFIDAVIT OF DR. MICHAEL BARBER

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Now comes affiant Dr. Michael Barber, having been first duly cautioned and sworn,  
deposes and states as follows:

1. I am over the age of 18 and am competent to testify regarding the matters discussed below.
2. For the purposes of this litigation, I have been asked by counsel for Respondents to analyze relevant data and provide my expert opinions.
3. To that end, I have personally prepared the report attached to this affidavit as **Exhibit A**, and swear to its authenticity and to the faithfulness of the opinions.

FURTHER THE AFFIANT SAYETH NAUGHT.



Executed on 2 March, 2022.

Michael Barber



Dr. Michael Barber

STATE OF FLORIDA

COUNTY OF PINELLAS

Sworn to and subscribed before me by means of online notarization this the 2<sup>nd</sup> day of March, 2022, by DR. MICHAEL BARBER, who appeared by way of two-way audio/video communication technology, and he provided his Utah driver's license as identification.

Cynthia D. Glaros



Cynthia D. Glaros  
Notary Public, State of Florida  
My Commission Expires: 06/30/2022

Cynthia D. Glaros  
Notary Public, State of Florida  
Commission # GG228737  
My Commission Expires June 30, 2022

Online Notary Public. This notarial act involved the use  
of online audio/video communication technology.

RETRIEVED FROM DEMOCRACYDOCKET.COM

# **Exhibit A**

RETRIEVED FROM DEMOCRACYDOCKET.COM

## Qualifications and Experience

I am an associate professor of political science at Brigham Young University and faculty fellow at the Center for the Study of Elections and Democracy in Provo, Utah. I received my PhD in political science from Princeton University in 2014 with emphases in American politics and quantitative methods/statistical analyses. My dissertation was awarded the 2014 Carl Albert Award for best dissertation in the area of American Politics by the American Political Science Association.

I teach a number of undergraduate courses in American politics and quantitative research methods.<sup>1</sup> These include classes about political representation, congressional elections, statistical methods, and research design. I have worked as an expert witness in several cases in which I have been asked to analyze and evaluate various political and elections-related data and statistical methods. Cases in which I have testified at trial or by deposition are listed in my CV, which is attached to the end of this report. I have previously provided expert reports in several cases related to voting, redistricting, and election-related issues: *Nancy Carola Jacobson, et al., Plaintiffs, vs. Laurel M. Lee, et al., Defendants. Case No. 4:18-cv-00262 MW-CAS (U.S. District Court for the Northern District of Florida)*; *Common Cause, et al., Plaintiffs, vs. Lewis, et al., Defendants. Case No. 18-CVS-14001 (Wake County, North Carolina)*; *Kelvin Jones, et al., Plaintiffs, v. Ron DeSantis, et al., Defendants, Consolidated Case No. 4:19-cv-300 (U.S. District Court for the Northern District of Florida)*; *Community Success Initiative, et al., Plaintiffs, v. Timothy K. Moore, et al., Defendants, Case No. 19-cv-15941 (Wake County, North Carolina)*; *Richard Rose et al., Plaintiffs, v. Brad Raffensperger, Defendant, Civil Action No. 1:20-cv-02921-SDG (U.S. District Court for the Northern District of Georgia)*; *Georgia Coalition for the People's Agenda, Inc., et al., Plaintiffs, v. Brad Raffensperger, Defendant. Civil Action No. 1:18-cv-04727-ELR (U.S. District Court for the Northern District of Georgia)*; *Alabama, et al., Plaintiffs, v. United States Department of Commerce; Gina Raimondo, et al., Defendants. Case No. CASE NO. 3:21-cv-00211-RAH-ECM-KCN (U.S. District Court for the Middle District of Alabama Eastern Division)*; *League of Women Voters of Ohio, et al., Relators, v. Ohio Redistricting Commission, et al., Respondents. Case No. 2021-1193 (Supreme Court of Ohio)*; *Harper, et al., Plaintiffs, v. Hall et al., Defendants. Case No. 21-CVS-015426 (Wake County North Carolina)*; *Carter, et al., Petitioners, v. Degraffenreid et al., Respondents. Case No. 464 M.D. 2021 (Commonwealth Court of Pennsylvania)*. I have also recently testified before the Pennsylvania Legislative Reapportionment Commission regarding the Commission's proposed map for the Pennsylvania House of Representatives.

In my position as a professor of political science, I have conducted research on a variety of election- and voting-related topics in American politics and public opinion. Much of my research uses advanced statistical methods for the analysis of quantitative data. I have worked on several

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<sup>1</sup> The political science department at Brigham Young University does not offer any graduate degrees.

research projects that use very large datasets that include millions of observations, including state voter registration files, campaign contribution lists, and data from the US Census. I have also used geographic information systems and other mapping techniques in my work with political data. Much of this research has been published in peer-reviewed journals. I have published nearly 20 peer-reviewed articles, including in our discipline's flagship journal, *The American Political Science Review* as well as the inter-disciplinary journal, *Science Advances*. My CV, which details my complete publication record, is attached to this report as Appendix B.

The analysis and opinions I provide below are consistent with my education, training in statistical analysis, and knowledge of the relevant academic literature. These skills are well-suited for this type of analysis in political science and quantitative analysis more generally. My conclusions stated herein are based upon my review of the information available to me at this time. I am being compensated at a rate of \$400.00 per hour. My compensation does not depend in any way on the outcome of the case or on the opinions or testimony that I provide.

### **Summary of Opinions**

I have been asked to examine the partisan properties of the third redistricting plan for the Ohio State House of Representatives and Ohio Senate, adopted by the Ohio Redistricting Commission on 24 February 2022. I have also been asked to evaluate the most recent plans put forward by Professor Jonathan Rodden (Rodden III Plan) and the Democratic members of the Ohio Redistricting Commission (Sykes Russo Plan).

As has been noted in a number of filings to the court, Article XI, Section 6, requires that the proportion of seats that lean towards one political party or the other should closely correspond with the election results from statewide elections between 2012-2020. In my original report, as well as in the reports of plaintiffs' experts, we agree that the aggregation of statewide election results over this period yields a ratio of roughly 54% Republican and 46% Democratic.

The Ohio Redistricting Commission's third House plan achieves the statewide proportionality requirement by creating 54 Republican-leaning seats (54.5% of the 99-seat chamber) and 45 Democratic-leaning seats (45.5% of the 99-seat chamber). The partisan lean of each district in the House and Senate plans is based on the aggregation of 9 statewide elections from 2016-2020 and is (as far as I can determine) identical to the index produced by Dr. Rodden in his most recent report, filed on 28 February 2022.<sup>2</sup>

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<sup>2</sup> The elections used in the index are 2016: President, Senate; 2018: Senate, Governor, Attorney General, Auditor, Secretary of State, Treasurer; 2020: President. As Dr. Rodden described, the index is produced by adding up all the votes cast for each of the two major parties in each statewide election and dividing by the total number of votes cast for both of the two major parties, summing over all of those elections. Dr. Rodden notes that there is an alternative way to make these calculations in which the proportion of votes is tallied for each of the statewide

The Rodden III House plan does not achieve proportionality and has 57 Republican-leaning seats (57.6% of the 99-seat chamber) and 42 Democratic-leaning seats (42.4% of the 99-seat chamber).

The Sykes Russo plan is also not as close to proportionality as the Commission's plan.<sup>3</sup> The Sykes Russo plan has 55 Republican-leaning seats (55.6% of the 99-seat chamber) and 44 Democratic-leaning seats (44.4% of the 99-seat chamber).

The Ohio Redistricting Commission's third Senate plan achieves the statewide proportionality requirement by creating 18 Republican-leaning seats (54.5% of the 33-seat chamber) and 15 Democratic-leaning seats (45.5% of the 33-seat chamber). The Rodden III and Sykes Russo plans also create 18 Republican-leaning districts and 15 Democratic-leaning districts.

### Comparison of House Maps

Table 1 below shows not only the total number of Republican and Democratic-leaning districts for each House plan, but also the number of districts that fall within various ranges in terms of the relative margins of the partisan index. For example, the first row of numbers in the table show the number of districts in each of the three plans with a partisan index between 0 and 45% Democratic, based on the results of the partisan index. These would be considered safe Republican districts. Looking across the row we see that all three plans generate between 51 and 52 safely Republican districts.

The next several rows break down the index into smaller, 1% margins around the 50% threshold for determining if a district is Republican or Democratic-leaning. For example, the second row of numbers shows the number of districts with a partisan index between 45 and 46% Democratic.<sup>4</sup> The row after that shows the number of districts with a partisan index between 46 and 47% Democratic, etc.

The colors in the first column of the table help the reader by indicating when the partisan index flips from being Republican-leaning (in red) to Democratic-leaning (in blue). This occurs when the partisan index moves from less than 50% to greater than 50% Democratic.

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elections first, and then the proportions are averaged across elections, and I report the results using that method as well. In general, the differences are small.

<sup>3</sup> Although using the alternative method of calculating the partisan index shown in the appendix of this report, the plan is proportional.

<sup>4</sup> Because the index represents the two-party vote share, the values of the index are currently measured as Democratic vote shares, but 100 minus the index would yield the Republican vote share. For example, a district with an index of 49% Democratic would have a reciprocal index value of 51% Republican.

Table 1 shows that the geography of Ohio is such that partisan preferences are not evenly distributed across the state, and as a result, the distribution of seat margins is not symmetric in any of the three plans. This is a function of Democratic voters in the state being densely clustered in homogenous precincts in the largest cities of the state while Republican voters are more scattered throughout the state in more heterogeneous districts. I discussed at length the unique political geography of Ohio and its implications for redistricting in my original report, filed on 21 October 2022.

Dr. Rodden notes the lack of competitive Republican-leaning districts in the Commission's plan compared to the number of competitive Democratic-leaning districts in the Commission's plan. However, it is important to note that this asymmetry is present in all three of the plans considered here. The Commission plan creates 1 district with a partisan index between 47-50% Democratic. The Rodden plan creates 3 districts in this range, and the Sykes Russo plan creates 2 districts in this competitive interval.

Given that these plans represent the preferred proposals of the plaintiffs and the Democratic members of the Commission, I would assume that if it were possible to create more competitive Republican-leaning districts, that these map makers would have done so. Not doing so implies that geography more so than partisan gains is the constraining factor.

Districts % Democratic:	Commission	Rodden	Sykes Russo
[0-45)%	52	51	52
[45-46)%	0	1	0
[46-47)%	1	2	1
[47-48)%	1	2	1
[48-49)%	0	0	0
[49-50)%	0	1	1
[50-51)%	5	1	4
[51-52)%	14	1	3
[52-53)%	2	9	4
[53-54)%	1	0	3
[54-55)%	1	2	2
[55-100)%	22	29	28
R-leaning	54	57	55
D-leaning	45	42	44
R-leaning %	54.55%	57.58%	55.56%
D-leaning %	45.45%	42.42%	44.44%

Table 1: Comparison of Democratic-leaning districts and index margins across plans for Ohio House districts.

Furthermore, the Commission plan is also not alone in the abundance of competitive Democratic-leaning districts. All three plans contain many of these districts with partisan indices between 50% and 53%. Dr. Rodden uses 52% as a cutoff for competitive districts, but looking at his plan, there are 9 districts with a partisan index between 52-53%, which leads to an incorrect conclusion that the Rodden III plan does not also contain a large number of competitive Democratic-leaning districts.

Looking across the rows shows the similarity and differences in the plans. The Commission plan contains 21 districts that have a partisan index between 50-53% Democratic and 2 districts between 53-55% Democratic. The Rodden III plan contains 11 districts with a partisan index between 50-53% Democratic and 2 districts between 53-55% Democratic. The Sykes Russo plan also contains 11 districts in the 50-53% range and 5 districts between 53-55% Democratic.

The last row of the table shows the number of safe Democratic seats with a partisan index greater than 55%. The Commission's third proposal contains 22 of these districts. The Rodden III plan contains 29 of these districts and the Sykes Russo plan contains 28 of these districts.

At the end of this report I present the same table as Table 1, but calculate the partisan index using the alternative method noted by Dr. Rodden in his report. The results are similar but in some cases the number of districts in each category shifts.

The efficiency gap is another redistricting metric developed by academics and looks for the degree to which a political party's votes statewide are translated into seats in each district.<sup>5</sup> A description of this measure provided by the Brennan Center for Justice summarizes it: "[T]he efficiency gap counts the number of votes each party wastes in an election to determine whether either party enjoyed a systematic advantage in turning votes into seats. Any vote cast for a losing candidate is considered wasted, as are all the votes cast for a winning candidate in excess of the number needed to win."<sup>6</sup> In other words, under the efficiency gap the ideal strategy for a political party to maximize the impact of their voters is to distribute them as evenly as possible across districts so as to win by a narrow margin in the districts they win and lose by very large margins in the districts where they lose. Put another way, under the theory of minimizing wasted votes, "win by a little, lose by a lot" is the ideal strategy for a party to maximize their impact of their voters.<sup>7</sup>

The efficiency gap is calculated as  $\text{Efficiency Gap} = (\text{Total Democratic Wasted Votes} - \text{Total Republican Wasted Votes}) / \text{Total Votes}$ . In analyzing the Commission's legislative plan, I use the Democratic seat and vote margins which means that negative efficiency gap numbers indicate a districting plan that favors Republican voters and positive numbers indicate a plan that favors Democratic voters.

Using the 9 statewide elections described above, the third Commission map has an efficiency gap value of 2.43%, which indicates a slight bias in the direction of the Democratic Party. The Rodden III plan has an efficiency gap value of -1.13%, which indicates a slight bias in the direction of the Republican Party. The Sykes Russo plan has an efficiency gap value of 0.38%, which indicates a very small bias in the direction of the Republican Party. Overall, all of these numbers are small and indicate relative balance between the parties.

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<sup>5</sup> McGhee, Eric. "Measuring efficiency in redistricting." *Election Law Journal: Rules, Politics, and Policy* 16, no. 4 (2017): 417-442. Veomett, Ellen. "Efficiency gap, voter turnout, and the efficiency principle." *Election Law Journal: Rules, Politics, and Policy* 17, no. 4 (2018): 249-263. Plener Cover, Benjamin. "Quantifying partisan gerrymandering: An evaluation of the efficiency gap proposal." *Stan. L. Rev.* 70 (2018): 1131.

<sup>6</sup> [https://www.brennancenter.org/sites/default/files/legal-work/How the Efficiency Gap Standard Works.pdf](https://www.brennancenter.org/sites/default/files/legal-work/How%20the%20Efficiency%20Gap%20Standard%20Works.pdf)

<sup>7</sup> Of course, parties have other priorities and winning by a single vote might not be their ideal scenario in reality.



## Comparison of Senate Maps

Table 2 below shows not only the total number of Republican and Democratic-leaning districts for each Senate plan, but also the number of districts that fall within various ranges in terms of the relative margins of the partisan index. For example, the first row of numbers in the table show the number of districts in each of the three plans with a partisan index between 0 and 45% Democratic, based on the results of the partisan index. These would be considered safe Republican districts. Looking across the row we see that all three plans generate between 16 and 17 safe Republican districts.

The next several rows break down the index into smaller, 1% margins around the 50% threshold for determining if a district is Republican or Democratic-leaning. For example, the second row of numbers shows the number of districts with a partisan index between 45 and 46% Democratic. The row after that shows the number of districts with a partisan index between 46 and 47% Democratic, etc.

The colors in the first column of the table help the reader by indicating when the partisan index flips from being Republican-leaning (in red) to Democratic-leaning (in blue). This occurs when the partisan index moves from less than 50% to greater than 50% Democratic.

Dr. Rodden notes the lack of competitive Republican-leaning districts in the Commission's plan compared to the number of competitive Democratic-leaning districts in the Commission's plan. However, it is important to note that this asymmetry is present in all three of the plans considered here. The Commission plan creates no district with a partisan index between 47-50% Democratic. Likewise, the Rodden plan only creates 1 district in this range, and the Sykes Russo plan creates only 1 district in this competitive interval.

Given that these plans represent the preferred proposals of the plaintiffs and the Democratic members of the Commission, I would assume that if it were possible to create more competitive Republican-leaning districts, that these map makers would have done so. Not doing so implies that geography more so than partisan gains is the constraining factor.

Furthermore, the Commission plan is also not alone in the abundance of competitive Democratic-leaning districts. Looking across the rows shows the similarity and differences in the number of competitive Democratic-leaning seats in the plans. The Commission plan contains 8 districts that have a partisan index between 50-53% Democratic and 0 districts between 53-55% Democratic. The Rodden III plan contains 3 districts with a partisan index between 50-53% Democratic and 1 district between 53-55% Democratic. The Sykes Russo plan contains 4 districts in the 50-53% range and 1 district between 53-55% Democratic.

The last row of the table shows the number of safe Democratic seats with a partisan index greater than 55%. The Commission's third proposal contains 7 of these districts. The Rodden III plan contains 11 of these districts and the Sykes Russo plan contains 10 of these districts.

At the end of this report I present the same table as Table 2, but calculate the partisan index using the alternative method noted by Dr. Rodden in his report. The results are similar but in some cases the number of districts in each category shifts.

Districts % Democratic:	Commission	Rodden	Sykes Russo
[0-45)%	16	17	16
[45-46)%	2	0	1
[46-47)%	0	0	0
[47-48)%	0	1	1
[48-49)%	0	0	0
[49-50)%	0	0	0
[50-51)%	2	3	2
[51-52)%	5	0	1
[52-53)%	1	0	1
[53-54)%	0	1	0
[54-55)%	0	0	1
[55-100]%	7	11	10
R-leaning	18	18	18
D-leaning	15	15	15
R-leaning %	54.55%	54.55%	54.55%
D-leaning %	45.45%	45.45%	45.45%

Table 2: Comparison of Democratic-leaning districts and index margins across plans for Ohio Senate districts.

The efficiency gap, which is described in more detail above, is another redistricting metric developed by academics and looks for the degree to which a political party's votes statewide are translated into seats in each district.

Using the 9 statewide elections described above, the third Commission map has an efficiency gap value of 2.08%, which indicates a slight bias in the direction of the Democratic Party. The Rodden III plan has an efficiency gap value of 2.24%, which indicates a slight bias in the direction of the Democratic Party. The Sykes Russo plan has an efficiency gap value of 2.33%, which also indicates a small bias in the direction of the Democratic Party. Overall, all of these numbers are small and indicate relative balance between the parties.

## A Note on Partisan Indices

It is important to note that partisan averages — such as the ones I have created here, and similar indices used in other reports in these cases — are useful, but not perfect. Every legislative race is different. Individual candidate factors such as prior legislative experience, professional background, gender, and ties to the local community are all important factors in determining candidate success. Campaigns and the issues and policies that candidates choose to emphasize and endorse are also important. These factors all contribute to making each race unique and slightly different from what an index of statewide election results might predict.

There are two different ways to illustrate this idea. The first is to examine how well partisan indices created from statewide election results (which we are using as a proxy for the partisan tendencies of a district) predict actual state legislative election results (which are the elections we actually care about in the context of legislative redistricting).

Using the districts from the 2012-2020 redistricting cycle, I compare actual state legislator election results in 2018 (2016 & 2018 for the Senate where even and odd numbered districts rotate elections) with averages of statewide election results for Governor, US Senate, and President in those same districts in 2016-2018. As one would expect, there is going to be some amount of slippage between the actual state legislature election result and what is predicted by the partisan index of statewide election results. Across the 99 districts in the House, the average difference between the actual election results and the partisan index for each district was 5 points in the House. This difference was 3.7 points in the Senate. The partisan index misclassifies the party of the winning state legislative candidate in 10 different districts across both chambers.

Another way to illustrate this point is to look at the variation in the statewide elections that are used to generate the partisan index. Recall that the partisan indices discussed above and in other expert reports is an average of multiple statewide elections. Thus, while a district might have an average of exactly 50%, it is likely that no individual election actually produced an outcome of 50%, and it is entirely possible that there are statewide elections that went into calculating that average that are vastly different from the average.

For example, the partisan index is composed of the average of 9 different statewide elections. In the House, the median variation in those 9 elections was approximately 14.6 percentage points. In the Senate, the median variation in those 9 elections was approximately 14.5 percentage points. Thus, while a district may have a partisan index of 50%, there are elections that could range up to 7 percentage points on either side of the average — from 43% to 57% that average together to 50%. Keep in mind that this reflects the *median* variation. Many districts range by much more than this. In fact, in some districts the statewide election results used to create the partisan index varied by more than 20 percentage points.

Given these results, we should take all partisan indices with an appropriately sized grain of salt. They can certainly tell us about general trends, but no one should believe that they are going to perfectly predict state legislative election results in any given district, nor are they going to perfectly predict the overall partisan composition of the state legislature.

## Appendix A: Results with Alternative Partisan Index

The tables below present the same results as Tables 1 and 2 above but use a slightly different method of calculating the partisan index. Rather than adding up all of the votes across each of the 9 statewide elections and then computing the two-party average vote share, this alternative method first calculates the average two-party vote share for each of the 9 elections separately and then takes the average of the 9 averages. Dr. Rodden notes that in his most recent report he uses the first approach and that in other previous reports he has used the latter method. My previous report used the first method as well. The first method gives equal weight to each *voter*, but weights elections with higher turnout (i.e. presidential elections) more. The second method gives equal weight to each *election*, but as a result gives greater weight to votes cast in lower turnout elections (non-presidential election year races). The results are typically similar. For completeness I present the alternative method below.

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Table 1A: Comparison of Democratic-leaning districts and index margins across plans for Ohio House districts. Using alternative method for calculating partisan index.

Districts % Democratic:	Commission	Rodden	Sykes Russo
[0-45)%	52	50	52
[45-46)%	0	2	1
[46-47)%	1	1	0
[47-48)%	1	3	1
[48-49)%	0	0	0
[49-50)%	0	0	0
[50-51)%	5	2	5
[51-52)%	13	1	1
[52-53)%	3	8	4
[53-54)%	1	1	4
[54-55)%	1	2	3
[55-100]%	22	29	28
R-leaning	54	56	54
D-leaning	45	43	45
R-leaning %	54.55%	56.57%	54.55%
D-leaning %	45.45%	43.43%	45.45%

Table 2A: Comparison of Democratic-leaning districts and index margins across plans for Ohio Senate districts. Using alternative method for calculating partisan index.

Districts % Democratic:	Commission	Rodden	Sykes Russo
[0-45)%	16	16	16
[45-46)%	1	1	1
[46-47)%	1	0	0
[47-48)%	0	1	1
[48-49)%	0	0	0
[49-50)%	0	0	0
[50-51)%	2	3	2
[51-52)%	5	0	1
[52-53)%	1	0	1
[53-54)%	0	0	0
[54-55)%	0	1	1
[55-100]%	7	11	10
R-leaning	18	18	18
D-leaning	15	15	15
R-leaning %	54.55%	54.55%	54.55%
D-leaning %	45.45%	45.45%	45.45%

## **Appendix B: Curriculum Vitae**

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# Michael Jay Barber

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## CONTACT INFORMATION

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Department of Political Science  
724 KMBL  
Provo, UT 84602

barber@byu.edu  
<http://michaeljaybarber.com>  
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## ACADEMIC APPOINTMENTS

### **Brigham Young University**, Provo, UT

August 2020 - present Associate Professor, Department of Political Science  
2014 - July 2020 Assistant Professor, Department of Political Science  
2014 - present Faculty Scholar, Center for the Study of Elections and Democracy

## EDUCATION

### **Princeton University Department of Politics**, Princeton, NJ

Ph.D., Politics, July 2014

- Advisors: Brandice Canes-Wrone, Nolan McCarty, and Kosuke Imai
- Dissertation: "Buying Representation: the Incentives, Ideology, and Influence of Campaign Contributions on American Politics"
- 2015 Carl Albert Award for Best Dissertation, Legislative Studies Section, American Political Science Association (APSA)

M.A., Politics, December 2011

### **Brigham Young University**, Provo, UT

B.A., International Relations - Political Economy Focus, April, 2008

- *Cum Laude*

## RESEARCH INTERESTS

American politics, congressional polarization, political ideology, campaign finance, survey research

## PUBLICATIONS

19. **"Ideological Disagreement and Pre-emption in Municipal Policymaking"**  
with Adam Dynes  
Forthcoming at *American Journal of Political Science*
18. **"Comparing Campaign Finance and Vote Based Measures of Ideology"**  
Forthcoming at *Journal of Politics*
17. **"The Participatory and Partisan Impacts of Mandatory Vote-by-Mail"**, with John Holbein  
*Science Advances*, 2020. Vol. 6, no. 35, DOI: 10.1126/sciadv.abc7685
16. **"Issue Politicization and Interest Group Campaign Contribution Strategies"**, with Mandi Eatough  
*Journal of Politics*, 2020. Vol. 82: No. 3, pp. 1008-1025



15. **“Campaign Contributions and Donors’ Policy Agreement with Presidential Candidates”**, with Brandice Canes-Wrone and Sharece Thrower  
*Presidential Studies Quarterly*, 2019, 49 (4) 770–797
14. **“Conservatism in the Era of Trump”**, with Jeremy Pope  
*Perspectives on Politics*, 2019, 17 (3) 719–736
13. **“Legislative Constraints on Executive Unilateralism in Separation of Powers Systems”**, with Alex Bolton and Sharece Thrower  
*Legislative Studies Quarterly*, 2019, 44 (3) 515–548  
Awarded the Jewell-Loewenberg Award for best article in the area of subnational politics published in *Legislative Studies Quarterly* in 2019
12. **“Electoral Competitiveness and Legislative Productivity”**, with Soren Schmidt  
*American Politics Research*, 2019, 47 (4) 683–708
11. **“Does Party Trump Ideology? Disentangling Party and Ideology in America”**, with Jeremy Pope  
*American Political Science Review*, 2019, 113 (1) 38–54
10. **“The Evolution of National Constitutions”**, with Scott Abramson  
*Quarterly Journal of Political Science*, 2019, 14 (1) 89–114
9. **“Who is Ideological? Measuring Ideological Responses to Policy Questions in the American Public”**, with Jeremy Pope  
*The Forum: A Journal of Applied Research in Contemporary Politics*, 2018, 16 (1) 97–122
8. **“Status Quo Bias in Ballot Wording”**, with David Gordon, Ryan Hill, and Joe Price  
*The Journal of Experimental Political Science*, 2017, 4 (2) 151–160.
7. **“Ideologically Sophisticated Donors: Which Candidates Do Individual Contributors Finance?”**, with Brandice Canes-Wrone and Sharece Thrower  
*American Journal of Political Science*, 2017, 61 (2) 271–288.
6. **“Gender Inequalities in Campaign Finance: A Regression Discontinuity Design”**, with Daniel Butler and Jessica Preece  
*Quarterly Journal of Political Science*, 2016, Vol. 11, No. 2: 219–248.
5. **“Representing the Preferences of Donors, Partisans, and Voters in the U.S. Senate”**  
*Public Opinion Quarterly*, 2016, 80: 225–249.
4. **“Donation Motivations: Testing Theories of Access and Ideology”**  
*Political Research Quarterly*, 2016, 69 (1) 148–160.
3. **“Ideological Donors, Contribution Limits, and the Polarization of State Legislatures”**  
*Journal of Politics*, 2016, 78 (1) 296–310.
2. **“Online Polls and Registration Based Sampling: A New Method for Pre-Election Polling”** with Quin Monson, Kelly Patterson and Chris Mann.  
*Political Analysis* 2014, 22 (3) 321–335.
1. **“Causes and Consequences of Political Polarization”** In *Negotiating Agreement in Politics*. Jane Mansbridge and Cathie Jo Martin, eds., Washington, DC: American Political Science Association: 19–53. with Nolan McCarty. 2013.
  - Reprinted in *Solutions to Political Polarization in America*, Cambridge University Press. Nate Persily, eds. 2015
  - Reprinted in *Political Negotiation: A Handbook*, Brookings Institution Press. Jane Mansbridge and Cathie Jo Martin, eds. 2015

AVAILABLE  
WORKING PAPERS

**“Misclassification and Bias in Predictions of Individual Ethnicity from Administrative Records”** (Revise and Resubmit at *American Political Science Review*)

**“Taking Cues When You Don’t Care: Issue Importance and Partisan Cue Taking”**  
with Jeremy Pope (Revise and Resubmit)

**“A Revolution of Rights in American Founding Documents”**  
with Scott Abramson and Jeremy Pope (Conditionally Accepted)

**“410 Million Voting Records Show the Distribution of Turnout in America Today”**  
with John Holbein (Revise and Resubmit)

**“Partisanship and Trolleyology”**  
with Ryan Davis (Under Review)

**“Who’s the Partisan: Are Issues or Groups More Important to Partisanship?”**  
with Jeremy Pope (Revise and Resubmit)

**“Race and Realignment in American Politics”**  
with Jeremy Pope (Revise and Resubmit)

**“The Policy Preferences of Donors and Voters”**

**“Estimating Neighborhood Effects on Turnout from Geocoded Voter Registration Records.”**  
with Kosuke Imai

**“Super PAC Contributions in Congressional Elections”**

WORKS IN  
PROGRESS

**“Collaborative Study of Democracy and Politics”**  
with Brandice Canes-Wrone, Gregory Huber, and Joshua Clinton

**“Preferences for Representational Styles in the American Public”**  
with Ryan Davis and Adam Dynes

**“Representation and Issue Congruence in Congress”**  
with Taylor Petersen

**“Education, Income, and the Vote for Trump”**  
with Edie Ellison

INVITED  
PRESENTATIONS

**“Are Mormons Breaking Up with Republicanism? The Unique Political Behavior of Mormons in the 2016 Presidential Election”**

- Ivy League LDS Student Association Conference - Princeton University, November 2018, Princeton, NJ

**“Issue Politicization and Access-Oriented Giving: A Theory of PAC Contribution Behavior”**

- Vanderbilt University, May 2017, Nashville, TN

“Lost in Issue Space? Measuring Levels of Ideology in the American Public”

- Yale University, April 2016, New Haven, CT

“The Incentives, Ideology, and Influence of Campaign Donors in American Politics”

- University of Oklahoma, April 2016, Norman, OK

“Lost in Issue Space? Measuring Levels of Ideology in the American Public”

- University of Wisconsin - Madison, February 2016, Madison, WI

“Polarization and Campaign Contributors: Motivations, Ideology, and Policy”

- Hewlett Foundation Conference on Lobbying and Campaign Finance, October 2014, Palo Alto, CA

“Ideological Donors, Contribution Limits, and the Polarization of State Legislatures”

- Bipartisan Policy Center Meeting on Party Polarization and Campaign Finance, September 2014, Washington, DC

“Representing the Preferences of Donors, Partisans, and Voters in the U.S. Senate”

- Yale Center for the Study of American Politics Conference, May 2014, New Haven, CT

#### CONFERENCE PRESENTATIONS

Washington D.C. Political Economy Conference (PECO):

- 2017 discussant

American Political Science Association (APSA) Annual Meeting:

- 2014 participant and discussant, 2015 participant, 2016 participant, 2017 participant, 2018 participant

Midwest Political Science Association (MPSA) Annual Meeting:

- 2015 participant and discussant, 2016 participant and discussant, 2018 participant

Southern Political Science Association (SPSA) Annual Meeting:

- 2015 participant and discussant, 2016 participant and discussant, 2017 participant

#### TEACHING EXPERIENCE

Poli 315: Congress and the Legislative Process

- Fall 2014, Winter 2015, Fall 2015, Winter 2016, Summer 2017

Poli 328: Quantitative Analysis

- Winter 2017, Fall 2017, Fall 2019, Winter 2020, Fall 2020, Winter 2021

Poli 410: Undergraduate Research Seminar in American Politics

- Fall 2014, Winter 2015, Fall 2015, Winter 2016, Summer 2017

AWARDS AND  
GRANTS

2019 BYU Mentored Environment Grant (MEG), American Ideology Project, \$30,000

2017 BYU Political Science Teacher of the Year Award

2017 BYU Mentored Environment Grant (MEG), Funding American Democracy Project, \$20,000

2016 BYU Political Science Department, Political Ideology and President Trump (with Jeremy Pope), \$7,500

2016 BYU Office of Research and Creative Activities (ORCA) Student Mentored Grant x 3

- Hayden Galloway, Jennica Peterson, Rebecca Shuel

2015 BYU Office of Research and Creative Activities (ORCA) Student Mentored Grant x 3

- Michael-Sean Covey, Hayden Galloway, Sean Stephenson

2015 BYU Student Experiential Learning Grant, American Founding Comparative Constitutions Project (with Jeremy Pope), \$9,000

2015 BYU Social Science College Research Grant, \$5,000

2014 BYU Political Science Department, 2014 Washington DC Mayoral Pre-Election Poll (with Quin Monson and Kelly Patterson), \$3,000

2014 BYU Social Science College Award, 2014 Washington DC Mayoral Pre-Election Poll (with Quin Monson and Kelly Patterson), \$3,000

2014 BYU Center for the Study of Elections and Democracy, 2014 Washington DC Mayoral Pre-Election Poll (with Quin Monson and Kelly Patterson), \$2,000

2012 Princeton Center for the Study of Democratic Politics Dissertation Improvement Grant, \$5,000

2011 Princeton Mamdouha S. Bobst Center for Peace and Justice Dissertation Research Grant, \$5,000

2011 Princeton Political Economy Research Grant, \$1,500

OTHER SCHOLARLY  
ACTIVITIES

Expert Witness in Nancy Carola Jacobson, et al., Plaintiffs, vs. Laurel M. Lee, et al., Defendants. Case No. 4:18-cv-00262 MW-CAS (U.S. District Court for the Northern District of Florida)

Expert Witness in Common Cause, et al., Plaintiffs, vs. LEWIS, et al., Defendants. Case No. 18-CVS-14001 (Wake County, North Carolina)

Expert Witness in Kelvin Jones, et al., Plaintiffs, v. Ron DeSantis, et al., Defendants, Consolidated Case No. 4:19-cv-300 (U.S. District Court for the Northern District of Florida)

Expert Witness in Community Success Initiative, et al., Plaintiffs, v. Timothy K. Moore, et al., Defendants, Case No. 19-cv-15941 (Wake County, North Carolina)

Expert Witness in Richard Rose et al., Plaintiffs, v. Brad Raffensperger, Defendant, Civil Action No. 1:20-cv-02921-SDG (U.S. District Court for the Northern District of Georgia)

Georgia Coalition for the People’s Agenda, Inc., et. al., Plaintiffs, v. Brad Raffensberger, Defendant. Civil Action No. 1:18-cv-04727-ELR (U.S. District Court for the Northern District of Georgia)

Expert Witness in Alabama, et al., Plaintiffs, v. United States Department of Commerce; Gina Raimondo, et al., Defendants. Case No. CASE No. 3:21-cv-00211-RAH-ECM-KCN (U.S. District Court for the Middle District of Alabama Eastern Division)

Expert Witness in League of Women Voters of Ohio, et al., Relators, v. Ohio Redistricting Commission, et al., Respondents. Case No. 2021-1193 (Supreme Court of Ohio)

Expert Witness in Regina Adams, et al., Relators, v. Governor Mike DeWine, et al., Respondents. Case No. 2021-1428 (Supreme Court of Ohio)

Expert Witness in Rebecca Harper, et al., Plaintiffs, v. Representative Destin Hall, et al., Defendants (Consolidated Case). Case No. 21 CVS 500085 (Wake County, North Carolina)

ADDITIONAL  
TRAINING

EITM 2012 at Princeton University - Participant and Graduate Student Coordinator

COMPUTER  
SKILLS

Statistical Programs: R, Stata, SPSS, parallel computing

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