

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

**Original Action Filed Pursuant to
Ohio Const., Art. XI**

**PETITIONERS' SECOND MOTION FOR AN ORDER DIRECTING RESPONDENTS
TO SHOW CAUSE FOR WHY THEY SHOULD NOT BE HELD IN CONTEMPT OF
THE COURT'S APRIL 14, 2022 ORDER**

Freda J. Levenson (0045916)
Counsel of Record
ACLU OF OHIO FOUNDATION, INC.
4506 Chester Avenue
Cleveland, Ohio 44103
(614) 586-1972 x125
flevenson@acluohio.org

David J. Carey (0088787)
ACLU OF OHIO FOUNDATION, INC.
1108 City Park Avenue, Suite 203
Columbus, Ohio 43206
(614) 586-1972 x2004
dcarey@acluohio.org

Alora Thomas (PHV 22010-2022)
Julie A. Ebenstein (PHV 25423-2022)
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street
New York, New York 10004
(212) 519-7866
athomas@aclu.org
Robert D. Fram (PHV 25414-2022)

Dave Yost
Ohio Attorney General

Julie M. Pfeiffer (0069762)
Michael A. Walton (0092201)
Assistant Attorneys General
Jonathan D. Blanton (0070035)
Deputy Attorney General
Michael J. Hendershot (0081842)
Deputy Solicitor
Constitutional Offices Section
30 E. Broad Street, 16th Floor
Columbus, Ohio 43215
(614) 466-2872
julie.pfeiffer@ohioago.gov
michael.walton@ohioago.gov
michael.hendershot@ohioago.gov
jonathan.blanton@ohioago.gov

*Counsel for Respondents Ohio Secretary of
State LaRose and Ohio Auditor Faber*

David A. Lockshaw, Jr. (0082403)

Donald Brown (PHV 25480-2022)
David Denuyl (PHV 25452-2022)
Joshua González (PHV 25424-2022)
COVINGTON & BURLING, LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, California 94105
(415) 591-6000
rfram@cov.com

Alexander Thomson (PHV 25462-2022)
COVINGTON & BURLING, LLP
One CityCenter
850 Tenth Street, NW
Washington, District of Columbia 20001
(202) 662-5425
ajthomson@cov.com

Anupam Sharma (PHV 25418-2022)
Yale Fu (PHV 25419-2022)
COVINGTON & BURLING, LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, California 94306
(650) 632-4700
asharma@cov.com

Counsel for Petitioners

Terrence O'Donnell (0074213)
Manuel Cardona (0098079)
180 East Broad Street, Suite 3400
Columbus, Ohio 43215
(614) 744-2570
dlockshaw@dickinson-wright.com
todonnell@dickinson-wright.com
mcardona@dickinson-wright.com

Special Counsel to Attorney General Dave
Yost

*Counsel for Respondent Secretary of State
Frank LaRose*

Brodi J. Conover (0092082)
BRICKER & ECKLER LLP
2 East Mulberry Street
Lebanon, Ohio 45036
(513) 670-5693
bconover@bricker.com

Annie Marie Sferra (0030855)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
(614) 227-2300
asferra@bricker.com

*Counsel for Respondent Auditor of State
Keith Faber*

Phillip J. Strach
Thomas A. Farr
John E. Branch, III
Alyssa M. Riggins
NELSON MULLINS RILEY & SCARBOROUGH,
LLP
4140 Parklake Ave., Suite 200
Raleigh, North Carolina 27612
(919) 329-3812
phil.strach@nelsonmullins.com

W. Stuart Dornette (0002955)

Beth A. Bryan (0082076)
Philip D. Williamson (0097174)
TAFT STETTINIUS & HOLLISTER LLP
425 Walnut St., Suite 1800
Cincinnati, Ohio 45202
(513) 381-2838
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

*Counsel for Respondents House Speaker
Robert R. Cupp and Senate President Matt
Huffman*

Dave Yost
Ohio Attorney General

John W. Zeiger (0010707)
Marion H. Little, Jr. (0042679)
Christopher J. Hogan (0079829)
ZEIGER, TIGGES & LITTLE LLP
3500 Huntington Center
41 South High Street
Columbus, Ohio 43215
(614) 365-9900
(Fax) (614) 365-7900
zeiger@litohio.com

*Counsel for Respondent Governor Mike
DeWine*

C. Benjamin Cooper (0093103)
Charles H. Cooper Jr. (0037295)
Chelsea C. Weaver (0096850)
COOPER & ELLIOTT LLC
305 West Nationwide Boulevard
Columbus, Ohio 43215
(614) 481-6000
benc@cooperelliott.com

*Special Counsel for Respondents Senator
Vernon Sykes and House Minority Leader
Allison Russo*

Dave Yost
Ohio Attorney General

Erik J. Clark (0078732)
Ashley Merino (0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, Ohio 43215
(614) 481-0900
ejclark@organlegal.com
amerino@organlegal.com

Special Counsel to Attorney General Dave
Yost

*Counsel for Respondent The Ohio
Redistricting Commission*

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The League of Women Voters Petitioners *et al.* respectfully move this Court to order Respondents to show cause why the Ohio Redistricting Commission and members Secretary of State LaRose, Governor DeWine, Representative LaRe, and Senator McColley should not be held in contempt for re-submitting the General Assembly district plan that this Court previously invalidated on March 16, 2022 in *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-789, in violation of this Court's April 14, 2022 Order. The League of Women Voters Petitioners *et al.* respectfully request the Court to subject the Ohio Redistricting Commission and Secretary of State LaRose, Governor DeWine, Representative LaRe, and Senator McColley to a finding of contempt until their contemptuous conduct has been purged in accordance with the remedies sent forth in the attached memorandum in support of this motion.

Dated: May 10, 2022

Robert D. Fram (PHV 25414-2022)
Donald Brown (PHV 25480-2022)
Joshua González (PHV 25424-2022)
David Denuyl (PHV 25452-2022)
Juliana Goldrosen (PHV 25193-2022)
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105-2533
(415) 591-6000
rfram@cov.com

Alexander Thomson (PHV 25462-2022)
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
(202) 662-5425
ajthomson@cov.com

Anupam Sharma (PHV 25418-2022)

Respectfully submitted,

/s/ Freda J. Levenson
Freda J. Levenson (0045916)
ACLU OF OHIO FOUNDATION, INC.
4506 Chester Avenue
Cleveland, Ohio 44103
(614) 586-1972 x125
flevenson@acluohio.org

David J. Carey (0088787)
ACLU OF OHIO FOUNDATION, INC.
1108 City Park Avenue, Suite 203
Columbus, OH 43206
(614) 586-1972 x2004
dcarey@acluohio.org

Alora Thomas (PHV 22010-2022)
Julie A. Ebenstein (PHV 25423-2022)
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street
New York, NY 10004

Yale Fu (PHV 25419-2022)
COVINGTON & BURLING, LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, California 94306
(650) 632-4700
asharma@cov.com

(212) 519-7866
athomas@aclu.org

Counsel for Petitioners

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Freda J. Levenson (0045916)

Counsel of Record

ACLU OF OHIO FOUNDATION, INC.
4506 Chester Avenue
Cleveland, Ohio 44103
(614) 586-1972 x125
flevenson@acluohio.org

David J. Carey (0088787)

ACLU OF OHIO FOUNDATION, INC.
1108 City Park Avenue, Suite 203
Columbus, Ohio 43206
(614) 586-1972 x2004
dcarey@acluohio.org

Alora Thomas (PHV 22010-2022)

Julie A. Ebenstein (PHV 25423-2022)
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street
New York, New York 10004
(212) 519-7866

Dave Yost

Ohio Attorney General

Julie M. Pfeiffer (0069762)

Michael A. Walton (0092201)

Assistant Attorneys General

Jonathan D. Blanton (0070035)

Deputy Attorney General

Michael J. Hendershot (0081842)

Deputy Solicitor

Constitutional Offices Section

30 E. Broad Street, 16th Floor

Columbus, Ohio 43215

(614) 466-2872

julie.pfeiffer@ohioago.gov

michael.walton@ohioago.gov

michael.hendershot@ohioago.gov

jonathan.blanton@ohioago.gov

*Counsel for Respondents Ohio Secretary of
State LaRose and Ohio Auditor Faber*

athomas@aclu.org

Robert D. Fram (PHV 25414-2022)
Donald Brown (PHV 25480-2022)
David Denuyl (PHV 25452-2022)
Joshua González (PHV 25424-2022)
COVINGTON & BURLING, LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, California 94105
(415) 591-6000
rfram@cov.com

Alexander Thomson (PHV 25462-2022)
COVINGTON & BURLING, LLP
One CityCenter
850 Tenth Street, NW
Washington, District of Columbia 20001
(202) 662-5425
ajthomson@cov.com

Anupam Sharma (PHV 25418-2022)
Yale Fu (PHV 25419-2022)
COVINGTON & BURLING, LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, California 94306
(650) 632-4700
asharma@cov.com

Counsel for Petitioners

David A. Lockshaw, Jr. (0082403)
Terrence O'Donnell (0074213)
Manuel Cardona (0098079)
180 East Broad Street, Suite 3400
Columbus, Ohio 43215
(614) 744-2570
dlockshaw@dickinson-wright.com
todonnell@dickinson-wright.com
mcardona@dickinson-wright.com

Special Counsel to Attorney General Dave
Yost

*Counsel for Respondent Secretary of State
Frank LaRose*

Brodi J. Conover (0092082)
BRICKER & ECKLER LLP
2 East Mulberry Street
Lebanon, Ohio 45036
(513) 670-6693
bconover@bricker.com

Annie Marie Sferra (0030855)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
(614) 227-2300
asferra@bricker.com

*Counsel for Respondent Auditor of State
Keith Faber*

Phillip J. Strach
Thomas A. Farr
John E. Branch, III
Alyssa M. Riggins
NELSON MULLINS RILEY & SCARBOROUGH,
LLP
4140 Parklake Ave., Suite 200
Raleigh, North Carolina 27612
(919) 329-3812
phil.strach@nelsonmullins.com

W. Stuart Dornette (0002955)
Beth A. Bryan (0082076)
Philip D. Williamson (0097174)
TAFT STETTINIUS & HOLLISTER LLP
425 Walnut St., Suite 1800
Cincinnati, Ohio 45202
(513) 381-2838
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

*Counsel for Respondents House Speaker
Robert R. Cupp and Senate President Matt
Huffman*

Dave Yost
Ohio Attorney General

John W. Zeiger (0010707)
Marion H. Little, Jr. (0042679)
Christopher J. Hogan (0079829)
ZEIGER, TIGGES & LITTLE LLP
3500 Huntington Center
41 South High Street
Columbus, Ohio 43215
(614) 365-9900
(Fax) (614) 365-7900
zeiger@litohio.com

*Counsel for Respondent Governor Mike
DeWine*

C. Benjamin Cooper (0093103)
Charles H. Cooper Jr. (0037295)
Chelsea C. Weaver (0096850)
COOPER & ELLIOTT LLC
305 West Nationwide Boulevard
Columbus, Ohio 43215
(614) 481-6000
benc@cooperelliott.com

*Special Counsel for Respondents Senator
Vernon Sykes and House Minority Leader
Allison Russo*

Dave Yost
Ohio Attorney General

Erik J. Clark (0078732)
Ashley Merino (0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, Ohio 43215
(614) 481-0900
ejclark@organlegal.com
amerino@organlegal.com

Special Counsel to Attorney General Dave
Yost

*Counsel for Respondent The Ohio
Redistricting Commission*

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Table of Contents

INTRODUCTION	1
FACTUAL BACKGROUND.....	2
I. The Invalidation of the Third and Fourth Plans—and this Court’s April 14th Order	2
A. This Court Holds That the Third Plan is Unconstitutional.	2
B. This Court Holds that the Fourth Plan Is Unconstitutional and Orders The Commission To Adopt an “Entirely New” Plan that Meets the Requirements of the Constitution.	3
II. The Purported April 20th Deadline – and the Commission’s Failure to Meet It.....	4
A. March 28th – April 6th: Secretary LaRose Contends that a Plan Must Be Adopted by April 20th in Order to Be Implemented for an August 2nd Primary Election.	4
B. April 14th – April 20th: The Commission Fails to Schedule a Hearing to Replace the February 24 Plan.	4
III. Federal Intervention: A Federal Panel Urges the Commission to Adopt a Constitutional District Plan By May 28th.....	5
IV. April 20th – May 4th: The Commission Runs Out the Clock	7
A. The Republican Commissioners Reject the Democratic Commissioners’ Invitation to Convene on April 25th.	7
B. The Commission Refuses to Schedule a Hearing Prior to May 4th.	9
V. May 4th – May 6th: The Resubmission of the Third Plan.....	9
A. The Four Commissioners Announce that Their Self-Created Obstacles Prevent Them From Adopting a New Plan.....	9
B. The Legislative Leaders Resign From the Commission.	10
C. The Commissioners, Senator Sykes and Leader Russo, Maintain That it Is Still Fully Possible to Adopt a Constitutional Plan.	12
D. The Commission Votes (4–3) to Resubmit the Third Plan.....	13
ARGUMENT	14

I.	The Re-Submission of the February 24, 2022, Plan is a Contemptuous Violation of this Court’s April 14, 2022, Order.....	14
A.	Legal Standard for Contempt.....	14
B.	Resubmitting the Third Plan Violates the April 14 Order and Satisfies All of the Elements of Contempt.	15
C.	The Alleged “Impossibility” of Enacting a Plan at This Date Does Not Excuse This Violation of the April 14, 2022 Order.....	17
1.	The Four Commissioners Cannot Manufacture A Self-Serving Impossibility Defense.	17
2.	The Impossibility Defense Also Cannot Justify a Failure to Enact a Plan for Post 2022 Elections.	20
D.	The Failure of The Ohio Legislature To Act Does Not Excuse the Four Commissioners from Their Duty to Comply with the Court’s Order and Article XI of the Ohio Constitution.	21
II.	Respondents Are Subject to Contempt	22
A.	The Four Commissioners are subject to the Court’s Order.	22
B.	Each of the Four Commissioners—individually—had the ability to avoid contempt.....	23
C.	Legislative Immunity Does Not Prevent a Contempt Order Against the Commission or the Four Commissioners.....	24
D.	Separation of Powers Principles Do Not Prevent a Contempt Order Against the Commission or Commissioners.....	27
III.	Remedy: The Four Commissioners Can Only Purge Their Contempt By Voting for a Plan that Complies With the Requirements of This Court’s April 14, 2022 Opinion and Order	30

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>In re A.A.J.</i> , 2015-Ohio-2222, 36 N.E.3d 791 (12th Dist.)	15, 17
<i>State ex rel. Bd. of Cty. Comm’rs of Cuyahoga Co. v. Juv. Div. of Ct. of Common Pleas of Cuyahoga Cty.</i> , 54 Ohio St.2d 113, 374 N.E.2d 1369 (1978)	25
<i>Bd. of Ed. of Brunswick City Sch. Dist. v. Brunswick Ed. Ass’n</i> , 61 Ohio St.2d 290, 401 N.E.2d 440 (1980)	30
<i>Bogan v. Scott-Harris</i> , 523 U.S. 44 (1998).....	27
<i>City of Cincinnati v. Cincinnati Dist. Council 51, Am. Fed’n of State, Cnty. & Mun. Emp., AFL-CIO</i> , 35 Ohio St. 2d 197, 299 N.E.2d 686 (1973)	30
<i>City of South Euclid v. Jemison</i> , 28 Ohio St.3d 157, 503 N.E.2d 136 (1986)	27
<i>Cramer v. Petrie</i> , 70 Ohio St.3d 131, 637 N.E.2d 882 (1994)	15
<i>State ex rel. Dewine v. City of Wash. Court House</i> , 12th Dist. Fayette No. CA2013-12-030, 2014-Ohio-3557	18
<i>State ex rel. Edwards v. Murray</i> , 48 Ohio St.2d 303, 358 N.E.2d 577 (1976)	25
<i>Forsythe v. Winans</i> , 44 Ohio St. 277, 7 N.E. 13 (1886)	23
<i>Gauthier v. Gauthier</i> , 12th Dist. Warren No. CA2011-05-048, 2012-Ohio-3046	15
<i>Gompers v. Buck’s Stove & Range Co.</i> , 221 U.S. 418 (1911).....	30
<i>Inc. Vill. of Hicksville v. Blakeslee</i> , 103 Ohio St. 508, 134 N.E. 445 (1921)	25
<i>Karwowski v. Granger Twp. Trustees</i> , 9th Dist. Medina No. 08CA0017-M, 2008-Ohio-4946.....	26

<i>Kent v. Mahaffy</i> , 2 Ohio St. 498 (1853).....	27
<i>League of Women Voters of Ohio v. The Ohio Redistricting Comm’n</i> , No. 2021-1193	<i>passim</i>
<i>League of Women Voters of Ohio v. Ohio Redistricting Comm’n</i> , No. 2022-Ohio-1235	<i>passim</i>
<i>League of Women Voters of Ohio v. Ohio Redistricting Comm’n</i> , No. 2022-Ohio-342	32
<i>League of Women Voters of Ohio v. Ohio Redistricting Comm’n</i> , No. 2022-Ohio-65	31
<i>League of Women Voters of Ohio v. Ohio Redistricting Comm’n</i> , No. 2022-Ohio-789	<i>passim</i>
<i>State ex rel. Ohio Acad. of Trial Laws. v. Sheward</i> , 86 Ohio St. 3d 451, 715 N.E.2d 1062 (1999)	29, 30
<i>Pugh v. Pugh</i> , 15 Ohio St.3d 136, 472 N.E.2d 1085 (1984)	15
<i>Toledo v. State</i> , 154 Ohio St.3d 41, 2018-Ohio-2358, 110 N.E.3d 1257	16, 28, 29
<i>State ex rel. Turner v. Vill. of Bremen</i> , 118 Ohio St. 639, 163 N.E. 302 (1928)	24
<i>Wilson v. Lawrence</i> , 150 Ohio St.3d 368, 2017-Ohio-1410, 81 N.E.3d 1242	26
Statutes	
Ohio R.C. 3501.04	22
Other Authorities	
Ohio Const., Art. V	22
Ohio Const., Art. XI.....	<i>passim</i>

INTRODUCTION

On May 6, 2022, the Republican members of the Ohio Redistricting Commission abandoned all pretense of abiding by this Court's orders.

On that date, four Republican Commissioners voted to resubmit the February 24, 2022 General Assembly districting plan already invalidated by this Court. In so doing, they openly declared that they need not comply with this Court's April 14, 2022 Order, claiming that it was impossible to comply. But the "impossibility" was entirely of their own manufacture. They reshuffled Commission appointments to distance themselves from responsibility. They south to run out the clock so as to trigger a federal court order, and implement a plan that this Court has invalidated.

The four Republican Commissioners ask that this Court meekly retreat, and permit the imposition of an invalid plan for the 2022 General Assembly election. Having failed to take action for three weeks, these Commissioners ironically contend that it is simply too late for this Court to act. Having blown past their own April 20, 2022 "deadline" for the enactment of a plan, they disingenuously lament that now nothing can be done. But their call for "separation of powers" fails to recognize the specific authority that Article XI of the Ohio Constitution vests in this Court in this precise circumstance.

This Court can declare that they are wrong. It can hold the four Commissioners who voted to resubmit the February 24, 2022 Plan in contempt. And, *fully consistent with Article XI of the Ohio Constitution*, it can hold that the only way to purge this contempt is for the Commission to adopt a plan that complies with Article VI of the Ohio Constitution, as repeatedly construed by this Court.

The four Commissioners¹ who voted to resubmit the invalidated February 24, 2022 Plan spoke in unmistakable terms: when it comes to redistricting, this Court just does not matter. The Ohio Constitution does not matter. The 70% of Ohioans who voted to adopt Article XI – to put an end to gerrymandering – do not matter. The majority on the Commission can do what they please.

But this Court does not have to surrender to this assertion of unchecked political power. It too can speak in unmistakable terms. It can affirm that it is not too late to uphold the rule of law.

FACTUAL BACKGROUND

I. The Invalidation of the Third and Fourth Plans—and this Court’s April 14th Order

A. This Court Holds That the Third Plan is Unconstitutional.

On March 16, 2022, this Court struck down the second revised plan adopted by the Commission on February 24, 2022 (“hereinafter “the Third Plan”) for violating Article XI, Sections 6(A) and 6(B) of the Ohio Constitution. *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2022-Ohio-789 ¶ 2 (“*League III*”).

This Court found Section 6(A) “requires this court to discern the map drawers’ intent.” *Id.* at ¶ 24 (quoting *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2022-Ohio-65 ¶ 116 (“*League P*”). This Court held that “[s]ubstantial and compelling evidence shows beyond a reasonable doubt that the main goal of the individuals who drafted the [Third Plan] was to favor the Republican Party and disfavor the Democratic Party.” *League III* ¶ 24. This Court explained that both the highly partisan process of adopting the Third Plan, *id.* ¶¶ 25–30, as well as the Third Plan’s partisan bias towards the Republican Party, *id.* at ¶ 33, established the

¹ The four Commissioners (hereinafter “Four Commissioners”) refer to Governor Mike DeWine, Secretary of State Frank LaRose, Senator Rob McColley, and Representative Jeff LaRe.

requisite intent beyond a reasonable doubt, *see, e.g., id.* ¶¶ 25–30. As regards Section 6(B), this Court noted the Third Plan creates “19 House districts and 7 Senate districts—43 percent of all Democratic-leaning districts—that have Democratic vote shares between 50 and 52 percent. There are *no Republican districts* with a vote share less than 52.7 percent.” *Id.* ¶ 39 (emphasis added). Thus, this Court concluded that the Third Plan had a “gross and unnecessary disparity in the allocation of close districts [that] offends Article XI, Section 6(B).” *Id.* ¶ 43.

The Court invalidated the Third Plan in its entirety, and ordered the Commission to draw an “*entirely new*” plan that conforms with the Ohio Constitution. *Id.* ¶ 44.

B. This Court Holds that the Fourth Plan Is Unconstitutional and Orders The Commission To Adopt an “Entirely New” Plan that Meets the Requirements of the Constitution.

On April 14, 2022, this Court struck down the Fourth Plan (adopted March 28, 2022) “in its entirety” as unconstitutional for again violating Sections 6(A) and 6(B) of Article XI. *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2022-Ohio-1235 ¶ 78 (“*League IV*”).

This Court “order[ed] the [C]ommission to be reconstituted, to convene, and to draft and adopt an **entirely new** General Assembly-district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B) as we have explained those provisions in each of our four decisions in these cases.” *Id.* ¶ 78 (emphasis added).

While this Court gave the Commission until May 6, 2022 to adopt a new plan, the Court noted the Secretary of State’s position that a plan needed to be in place by April 20, 2022 were there to be an August 2, 2022 primary. *Id.* ¶ 74. This Court urged that “[n]o matter what the primary date is to be, time is of the essence.” *Id.* With these time constraints in mind, this Court recommended that the Commission “continue working with Dr. McDonald and Dr. Johnson to complete the plan on which they have made considerable progress—if they are willing and

available and if the commission has the authority to timely retain them for additional work.” *Id.*
“By certain measures, their plan—though incomplete—is on track to being constitutionally
compliant.” *Id.*

Finally, this Court explained that “to promote transparency and increase public trust, the
drafting of the plan is best accomplished in public view with *frequent* meetings to demonstrate
the commission’s bipartisan efforts to reach a constitutional plan.” *Id.* ¶ 78 (emphasis added).

II. The Purported April 20th Deadline – and the Commission’s Failure to Meet It

A. March 28th – April 6th: Secretary LaRose Contends that a Plan Must Be Adopted by April 20th in Order to Be Implemented for an August 2nd Primary Election.

In the parallel federal case, *Gonidakis v. LaRose*, Secretary LaRose and his team of
election officials made clear that in his view, any new map must be adopted by April 20, 2022 in
order to be implemented in time for an August 2, 2022 primary. *See* Ex. 1, Affidavit of Amanda
M. Grandjean, ¶ 7–8 *Gonidakis v. LaRose*, No. 2:22-cv-00773 (S.D. Ohio Apr. 6, 2022), ECF
No. 164-1. Secretary LaRose’s team has repeatedly stated that August 2, 2022 is the last date on
which a primary can be held without interfering with the 2022 general election, motivated
primarily because a special election is going to be held on that date and due to the fact that the
2022 general election process begins on August 8, 2022. *See id.* ¶ 15.

B. April 14th – April 20th: The Commission Fails to Schedule a Hearing to Replace the February 24 Plan.

As noted above, throughout the litigation in federal court, Secretary LaRose’s office
repeatedly testified to the federal panel that a General Assembly-district plan must be in place by
April 20, 2022 in order for that plan to be implemented in time for the August 2, 2022 primary
election. *Id.* ¶ 7–8. Even accepting the representation of the Secretary’s office as true, the
simple fact is that this Court provided the Commission with a full week between the invalidation

of the Fourth Plan on April 14, 2022 and the Secretary of State's purported April 20, 2022 deadline to adopt a constitutionally compliant plan. The Commission, however, failed even to attempt to do so.

To be fair, not all of the Commissioners were so cavalier. Between April 14 and April 18, 2022, Senator Sykes and Minority Leader Russo repeatedly reached out to the five other commissioners, requesting to reconvene the Commission. Ex. 2, April 18, 2022, Sykes-Russo Ltr. to Comm'n ("Over the past four days . . . we have attempted to, in earnest, restart the Commission process. Senator Sykes made repeated calls to our commission Co-Chairman [Bob Cupp]. . . . [T]hese calls went unanswered.").

The April 20 deadline came and went without a single Commission hearing taking place.

III. Federal Intervention: A Federal Panel Urges the Commission to Adopt a Constitutional District Plan By May 28th

On April 20, 2022, a three-judge federal panel (hereinafter "the Panel") issued its decision in parallel federal litigation, in which plaintiffs asked the Panel to impose a General Assembly district plan for the 2022 election cycle in light of the Commission's repeated failures to adopt a constitutional map. See Mem. Opinion and Order at 1–2, *Gonidakis v. LaRose*, No. 2:22-cv-00773 (S.D. Ohio Apr. 20, 2022), ECF No. 196.

The Panel held that, *in the event the Commission fails to adopt a lawful district plan by May 28th*, it would order that the General Assembly primary elections be held on August 2, 2022, and that the state implement the Third Plan for the 2022 election cycle. *Id.* at 4–5. The Panel found that the last date on which a state-legislative primary election could be held in time for the November 8, 2022 general election was August 2. *Id.* at 17. Thus, any new district plan needed to have been adopted by April 20 to comply with the *current* state-imposed deadlines. *Id.* at 7–8, 16–17.

The Panel reasoned that, because Secretary LaRose had already started implementing the Third Plan before this Court held the plan unconstitutional in its order of March 16, “Ohio could implement Map 3 (and only Map 3) as late as May 28 while still complying with state election laws in advance of an August 2 primary date.” *Id.* at 8, 12, 16–17. A majority of the panel thus concluded that provisionally ordering the implementation of the Third Plan on May 28, 2022 as a “backstop” was the best of several flawed options because it “maximiz[ed] the time available to the [Commission] to exercise its responsibility to draw [lawful] voting districts.” *See id.* at 3–4, 45–46.

In choosing this expedient outcome, the panel majority stressed that it had done so to give the Commission “as much time as possible to act” in drafting and adopting a new district plan that complies with the Ohio Constitution. *See id.* at 4–5; *see also id.* at 3 (“Ohio’s elected leaders might still approve a lawful map . . . and our choice of remedy is designed to give them still another chance to do so.”); *id.* at 24 (“Ohio’s officials still can roll up their sleeves and solve this problem on their own.”); *id.* at 47 (“Map 3 is the only option that leaves in place the flexibility for Ohio to act.”); *id.* at 57 (“But in the end, we view the 2010 map as at most a second-best option because Map 3 gives the State more time to act.”).

The Panel also pointed out that while certain provisions of Ohio law would need to be modified to implement a valid district plan in time for the November 8, 2022 general election, state officials have numerous options at their disposal: “Ohio’s elected officials could modify the State’s election dates *or streamline its pre-election protocols to allow for a primary later than the August 2 mark.*” *Id.* at 8 (emphasis added); *see also id.* at 47 (“Ohio can change its election deadlines . . . Ohio might also find ways to ease and shorten the administration of a second primary election, such as uniform ballots or vendors, uploading the new map information

as it is drafted, or more centralized coordination.”); *id.* at 58 (“Before May 28, the General Assembly may set a new primary date or shorten the time it takes to conduct an election.”).

Finally, and perhaps most important, the Panel majority indicated that it expected the Commissioners “to reach across the aisle and reach a *modus vivendi*” rather than “wait out the clock” until May 28, 2022. *Id.* at 48 n.19. “[W]e must presume,” the majority pointedly stated, “that Ohio’s officials are public servants who still view partisan advantage as subordinate to the rule of law.” *Id.* at 48 n.19.

Chief Judge Marbley dissented. He observed that the effect of the majority’s order was to “table[] a watershed constitutional referendum, abrogate[] controlling decisions of the state Supreme Court, and unwittingly reward[] the Commission’s brinksmanship over the rights of Ohio voters.” *Gonidakis v. LaRose*, No. 2:22-cv-00773-ALM-ART-BJB, at *59 (S.D. Ohio Apr. 20, 2022) (Marbley, C.J., dissenting). Chief Judge Marbley would have ordered the State to implement the district plan crafted by the independent mapmakers, Dr. Johnson and Dr. McDonald, because it “is far more faithful than any of the Commission maps to the substantive drafting requirements of Article XI, Section 6.” *See id.* at 70–78.

IV. April 20th – May 4th: The Commission Runs Out the Clock

A. The Republican Commissioners Reject the Democratic Commissioners’ Invitation to Convene on April 25th.

Even after Secretary LaRose’s April 20, 2022 deadline passed, the Democratic Commissioners continued their attempts to schedule a Commission hearing—as required by this Court and the Constitution. *See, e.g.*, Ex. 3, April 22, 2022, Sykes-Russo Ltr. to Comm’n (“It has now been eight days since the Ohio Supreme Court ordered this Commission to reconvene . . . We have contacted each of you repeatedly and asked you to join us in reconvening

the commission . . . [S]till, no meetings have even been scheduled.”). The Republican Commissioners refused.

In light of this continuous stonewalling, Commissioners Sykes and Russo tried themselves to schedule a Commission meeting for Monday, April 25. *Id.* The other Commission members refused to attend.² When Commissioners Sykes and Russo arrived at the meeting room, the doors were locked. *See* Ex. 4, J.D. Davidson, “Doors locked at Ohio Redistricting Commission meeting room,” *The Center Square* (Apr. 25, 2022).

Undeterred, Commissioners Sykes and Russo again urged their fellow Commission members to reconvene “to fulfill [their] constitutional obligations and comply with the Court’s order” of April 14. Ex. 5, April 25, 2022, Sykes-Russo Ltr. to Comm’n. They stressed that the Commission still had “the time, resources, and ability to draw maps that comply with the Ohio Constitution for 2022 and beyond” and that the Commission “should rehire the independent mapmakers, both of whom [were] available, and allow them to review and finalize the maps they produced for us, and vote on those maps before May 6.” *Id.*

At this point, the Commission had now wasted the first 11 days of the remedial period, with only 11 days remaining to produce an “entirely new,” constitutional plan. *See League IV* ¶ 78. Given the Republican Commissioners’ abject refusal to make any attempt to meet the April 20, 2022 deadline that Secretary LaRose himself had set, or to respond to the Democratic Commissioners’ repeated attempts to convene, Petitioners filed a motion to show cause on April

² Governor DeWine stated through a spokesperson that “he has a conflict at that time.” <https://tinyurl.com/5n8vf2y6>. Auditor Faber similarly proclaimed that “he is unavailable Monday.” <https://tinyurl.com/bddrdx69>. A spokesperson for the Ohio GOP stated, “there isn’t a meeting scheduled,” while also claiming that *the Ohio GOP* would “be sure to let you know when a meeting is scheduled.” <https://tinyurl.com/3srh6mfk>.

25, 2022 Mot. to Show Cause, *League of Women Voters of Ohio v. The Ohio Redistricting Comm'n*, No. 2021-1193.³

B. The Commission Refuses to Schedule a Hearing Prior to May 4th.

At long last, House Speaker Cupp finally proposed that the Ohio Redistricting Commission hold a hearing—on May 4, 2022, two days prior to this Court’s deadline. Ex. 7, April 27, 2022, Sykes Ltr. to Cupp.

Senator Sykes agreed to the hearing, but urged House Speaker Cupp to hold a hearing sooner than May 4, 2022. *See id.* (arguing that “waiting to hold our first meeting on May 4 is irresponsible and does not adequately respond to the Supreme Court’s order”); *id.* (stressing that the Commission had “many issues to address that require more than the two days between May 4 and [its] May 6, 9:00 a.m. deadline” to submit a new district plan). He noted with frustration that “the Commission ha[d] remained entirely inactive since the Court’s previous order” and “[t]he Commission should get to work. . . .” *Id.* House Speaker Cupp rejected Senator Sykes’s call to hold a Commission hearing sooner. Ex. 8, April 27, 2022, Cupp Ltr. to Sykes.

V. May 4th – May 6th: The Resubmission of the Third Plan

A. The Four Commissioners Announce that Their Self-Created Obstacles Prevent Them From Adopting a New Plan.

The Commission finally convened on May 4, 2022—nearly 3 weeks after this Court’s order, but less than 48 hours before its deadline. Commission Meetings, Ohio Redistricting Comm’n, <http://bitly.ws/qM6J> (last accessed May 8, 2022). During the May 4 hearing, Secretary LaRose announced that the Commission’s failure to adopt a new plan by April 20, 2022 had made it impossible to adopt any new map at all. *See* Ex. 9, Tr. of May 4, 2022 Ohio

³ Following the filing of this motion, Auditor Faber joined Senator Sykes and Minority Leader Russo in “calling for a meeting to be scheduled – as soon as possible.” Ex. 6, April 26, 2022, Faber Ltr. to Comm’n.

Redistricting Comm’n Hrg. at 32 (“April 20th was the date that we needed finality”). He stated that in his view, if a map had been adopted by April 20, it could have been implemented consistent with existing statutory election deadlines. *See id.* at 32–33 (“If there were to have been a new map by April 20th, they could have had it programmed today so that they can begin the preparation for August 2nd while simultaneously still wrapping up the May election, which happened yesterday. Backtracking from August 2nd to 90 days, it brings us to today. And then two weeks back brings us to April 20th. That’s why we set that date.”); *id.* at 35 (“This is why we said April 20th is not arbitrary. This stuff really matters, and it has real results for Ohio voters and Ohio’s elections officials.”).

After describing the scheduling difficulties created by the Commission’s failure to adopt a new plan by April 20, 2022, Secretary LaRose announced that “[a]ny map adopted at this point, any map, even a slight variation of another map, any new map adopted by this commission would certainly require the general assembly to pass emergency legislation.” *Id.*

B. The Legislative Leaders Resign From the Commission.

Because the Commission had missed the April 20, 2022 deadline, Senator LaRose declared that it would be “irresponsible” for him to even “*consider* a new map” unless he received assurances that the General Assembly would enact emergency legislation adjusting the election deadlines. *Id.* at 35 (emphasis added).

But these assurances could not come from anyone but the legislative leaders. For at the outset of the meeting, Senate President Huffman and House Speaker Cupp had resigned from the Commission. *Id.* at 2–3. This provided Secretary LaRose with a convenient basis to state that a new plan was out of the question:

“It would be irresponsible for me as Ohio’s Chief Elections Officer, to even consider a new map unless the legislative leaders, **and it’s unfortunate, but the legislative leaders are now not**

part of this [C]ommission, unless they could assure me that they could get that super majority vote to pass a piece of legislation to allow us to adjust those timelines. I would need that assurance before I could even consider voting on a new map.”

“ . . . we can’t just pass a map and then hope that we can get emergency legislation done. **I would need assurance from the speaker and the president** and the minority leaders of both chambers that we can get that emergency legislation done because, otherwise, we’d be passing a map that we couldn’t implement.”

Id. at 35–36, 45 (emphasis added).

Accordingly, the Republican Commissioners concluded that—despite this Court’s order to the contrary—it was no longer feasible to adopt a new plan. *See id.* at 45–46 (Secretary LaRose asserting “I’m not willing to vote for a map and then hope that the legislature can come into session in the next week or two and pass this emergency legislation. We would need either firm assurance, or they’d need to be called into session tomorrow to do that.”); *id.* at 55 (Senator McColley claiming that “conversations” he’s had with his own caucus have led him to believe that the legislature would not be taking up emergency legislation); *id.* at 44 (Governor DeWine concluding that “I don’t think there’s any choice other than to tell them to go work on maps and try to take the third map and try to improve that map because of the problems outlined by Secretary LaRose”); *id.* at 49 (Auditor Faber explaining that he understands that “whether we modified map three or whether we modified a new map or whether we modified the map drawers’ map, anything we would pass between now and Friday is impossible, and I’m using that term on purpose, impossible, to be implemented for an August 2nd election no matter what we do”).

Secretary LaRose unsurprisingly concluded that the only remaining option was to implement the unconstitutional Third Plan. *See id.* at 53–54.

C. The Commissioners, Senator Sykes and Leader Russo, Maintain That it Is Still Fully Possible to Adopt a Constitutional Plan.

The Democratic Commissioners disagreed with the Republican Commissioners' conclusion that the upcoming election deadlines precluded the Commission from adopting a new, constitutional plan.

First, Minority Leader Russo took issue with many of the logical fallacies in Secretary LaRose's timeline. As a preliminary matter, there was no guarantee that implementing the Third Plan would resolve all of the timeline issues identified by Secretary LaRose: After all, not all of the counties—particularly the larger ones—had had their systems programed with the Third Plan Yet. *Id.* at 40. Moreover, the Third Plan was not supposed to be implemented until May 28, 2022—if it were to be implemented at all—per the Panel's decision. *See id.* at 38 (“the federal court has given us until May 28th. None of these procedures can start until May 28th because the federal court has given us until May 28th”).

Second, both Democratic Commissioners pointed out that the existing time crunch was entirely a problem of the Commission's own making. *Id.* at 37 (Senator Sykes objecting that “if we were so concerned about that time structure, why would we squander the 20 days of 22 days that the court has allotted us?”); *id.* at 38 (Minority Leader Russo asserting that “we've had 22 days up until this point to avoid where we are now. So this is a problem of our own creation.”).

Third, both Democratic Commissioners pointed out that it was still entirely possible to comply with the Court's order, and urged the Republican Commissioners to do so. *Id.* at 37–38 (Senator Sykes explaining that “[i]t has only been the reluctance of the majority to approve the constitutional map that's caused us to be in a place of where we are right now today. And all we need to do is to pass a constitutional map. It will be accepted by the court, and we can move

forward.”); *id.* at 39 (Minority Leader Russo reminding the Commission “like it or not, we are under a state Supreme Court order to redo these maps”).

Finally, Leader Russo denounced the idea of implementing the unconstitutional Third Plan. *See id.* (declaring that “any election conducted on maps that have been thrown out by our state Supreme Court is unconstitutional. That’s not a fair election. That’s not a legitimate election in my opinion.”).

There indeed was an option readily available to the Commission. Commissioners Sykes and Russo attempted to re-engage the independent map-making process. During the May 4, 2022 hearing, Senator Sykes moved to “engage the independent map drawers to perform a review of their previous work product, making necessary changes to and entertaining suggestions of amendments by the commissioners.” *Id.* at 26. The Commission, however, voted 2–5 against re-engaging the independent map-makers. *Id.* at 63–64.

During the May 5, 2022 hearing, Minority Leader Russo moved that the Commission adopt the independent mapmakers’ plan, as adapted by Dr. Rodden. Ex. 10, Tr. of May 5, 2022 Ohio Redistricting Comm’n Hrg. at 4. She announced that all of the “little fixes” that needed to be performed to make “everything just right” had been handled, and the map was now finished. *Id.* She pointed out that the map had been available to the Commission since April 8, 2022. *Id.* Minority Leader Russo asked why, if the Commissioners were not happy with the independent plan, they offered no amendments to adjust the map. *Id.* at 13.

Minority Leader Russo’s questions and proposal fell on deaf ears. The motion to adopt the independent plan failed 2–5 along party lines. *Id.* at 13–14.

D. The Commission Votes (4–3) to Resubmit the Third Plan.

The Republican Commissioners continued with the narrative that they were being forced to resubmit the unconstitutional Third Plan because of time constraints. Secretary LaRose again

reiterated the schedule, explaining that the new plan would have had to be enacted by April 20, 2022 in order to be implemented in time for the 2022 election. *Id.* at 21. He also acknowledged that the federal court would have to order the use of the Third Plan on May 28, 2022. *Id.*

Notably, the Commission’s decision to resubmit the unconstitutional Third Plan was predicated on the federal court invalidating this Court’s prior decision later this month. Secretary LaRose acknowledged that the re-submission of the Third Plan presumed that the federal court would “overturn” the ruling of the Ohio Supreme Court on May 28, 2022. *Id.* at 23. Senator McColley then moved to resubmit the Third Plan. *Id.* at 24. Leader Russo protested that the federal court had not yet overturned the state court decision, nor had the Panel given the Commission a loophole to ignore this Court’s decision. *Id.* at 25. She also pointed out that the Commission does not have the authority to adopt a plan for only two years. *Id.* (“We don’t have that authority [to enact a map for two years]. We can vote to set a map for four years or for a ten year map. That is the authority that we have.”).

Nevertheless, the Commission voted 4–3 to resubmit the unconstitutional Third Plan for 2022 only. *Id.* at 31–32. Auditor Faber joined the Democratic Commissioners in voting no. *Id.* at 29.

ARGUMENT

I. The Re-Submission of the February 24, 2022, Plan is a Contemptuous Violation of this Court’s April 14, 2022, Order.

A. Legal Standard for Contempt

Ohio law confirms the general rule: courts have the power to hold people in contempt for violating court orders. *See* Ohio R.C. Ann. 2705.02 (“A person guilty of any of the following acts may be punished as for a contempt: (A) Disobedience of, or resistance to, a lawful . . . order . . . or command of a court or officer.”). Courts also possess “inherent authority—authority that

has existed since the very beginning of the common law—to compel obedience of their lawfully issued orders.” *Cramer v. Petrie*, 70 Ohio St.3d 131, 133, 637 N.E.2d 882, 884 (1994).

“To support a [civil] contempt finding, the moving party must establish by clear and convincing evidence [1] that a valid court order exists, [2] that the offending party had knowledge of the order, and [3] that the offending party violated such order.” *In re A.A.J.*, 2015-Ohio-2222, 36 N.E.3d 791 at ¶ 12 (12th Dist.). “[P]roof of purposeful, willing or intentional violation of a court order is not a prerequisite to a finding of contempt.” *Pugh v. Pugh*, 15 Ohio St.3d 136, 140, 472 N.E.2d 1085, 1086 (1984). “The purpose of sanctions in a case of civil contempt is to compel the contemnor to comply with the lawful orders of a court, and the fact that the contemnor acted innocently and not in intentional disregard of a court order is not a defense to a charge of civil contempt.” *Id.* (quoting *Windham Bank v. Tomaszczyk*, 27 Ohio St.2d 55, 271 N.E.2d 815 (1971)).

“Once the movant establishes [a] prima facie case of contempt, the burden then shifts to the contemnor to prove his inability to comply with the court order.” *In re A.A.J.* at ¶ 13; see also *Gauthier v. Gauthier*, 12th Dist. Warren No. CA2011-05-048, 2012-Ohio-3046 ¶ 33 (“A party who raises the defense of impossibility of performance has the burden of proving it.”). “*The inability that excuses compliance cannot be self-imposed, fraudulent, or due to an intentional evasion of the order.*” *In re A.A.J.* at ¶ 13 (emphasis added).

B. Resubmitting the Third Plan Violates the April 14 Order and Satisfies All of the Elements of Contempt.

All three elements requisite to establishing a prima facie case of civil contempt are present here.

First, there is no question that this Court’s April 14, 2022, order was a valid order, issued pursuant to its authority under Article XI, Section 9 of the Ohio Constitution.

Second, there is no question that the Commissioners who voted to resubmit the Third Plan on May 5, 2022, were fully aware of the Court’s April 14, 2022, order.

Third, there is no dispute that in resubmitting the Third Plan, the four Commissioners violated the Court’s April 14, 2022, order. That order invalidated—“in its entirety”—the Commission’s fourth district plan (*i.e.*, the “third revised plan,” adopted on March 28, 2022) pursuant to Sections 6(A) and 6(B) of Article XI of the Ohio Constitution. *League IV* ¶¶ 2, 78. The Court ordered the Commission “to draft and adopt an **entirely new** General Assembly—district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B).” *Id.* ¶ 78 (emphasis added); *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, 04/14/2022 Case Announcements #3, 2022-Ohio-1249 (emphasis added).

The Commission failed to do so. Instead, on May 5, 2022, it resubmitted a plan that the Court had previously invalidated “in its entirety”—the Third Plan (*i.e.*, the “second revised plan,” adopted on February 24, 2022). *See League III* ¶¶ 2, 44. Critically, in this Court’s April 14, 2022, opinion, the Court correctly noted that “the third revised plan [the Fourth Plan] **ha[d] not materially changed** from the invalidated second revised plan [the Third Plan].” *League IV* ¶ 55 (emphasis added); *see also id.* at ¶¶ 49–50 (“The third revised plan [the Fourth Plan] is materially identical to the invalidated second revised plan [the Third Plan] on the measures this court looked to in *League III*.”). Put simply, in ordering the Commission not to merely resubmit the third revised plan (the Fourth Plan) the Court was also clearly directing the Commission not to submit the (invalidated) second revised plan (the Third Plan).

Thus, in re-adopting the Third Plan the Commission has disobeyed an order of this Court that was “clear and definite, unambiguous, and not subject to dual interpretations.” *See Toledo v. State*, 154 Ohio St.3d 41, 2018-Ohio-2358, 110 N.E.3d 1257 ¶ 23 (quotation omitted).

C. The Alleged “Impossibility” of Enacting a Plan at This Date Does Not Excuse This Violation of the April 14, 2022 Order.

1. The Four Commissioners Cannot Manufacture A Self-Serving Impossibility Defense.

As noted above: “Once the movant establishes this prima facie case of contempt, the burden then shifts to the contemnor to prove his inability to comply with the court order The inability that excuses compliance cannot be self-imposed, fraudulent, or due to an intentional evasion of the order.” *In re A.A.J.*, 2015-Ohio-2222, 36 N.E.3d 791, at ¶ 13.

According to Secretary LaRose’s assessment of the timeline, Ex. 4, Tr. of May 4, 2022 Ohio Redistricting Comm’n Hrg. at 29–37, there were originally two possible avenues for the Commission to enact a new plan that complies with the Constitution while also enabling the 2022 election to comply with statutory deadlines:

First, the Commission could have enacted a new plan by April 20, 2022. Under this option, there would have been no need to change the statutory deadlines for the 2022 election.

Second, the Commission could have enacted a new plan by this Court’s deadline of May 6, 2022. This would have given the General Assembly over three weeks to enact legislation to adjust any statutory deadlines as necessary—as they were invited to do by the federal Panel.

The Republican Commissioners did everything in their power to make both options impossible—or at least for them to appear that way.

a) The Republican Commissioners Refused To Act Between April 14 and April 20.

Secretary LaRose and his team have argued that it would be impossible to adopt a plan after April 20, 2022 given the assumption that the latest possible date for a primary is August 2, 2022. Sec’y of State LaRose’s Rep. in Opp. to Pls’ Second Am. Mot. for a Prelim. Inj. at 7, *Gonidakis v. LaRose*, No. 2:22-cv-00773 (S.D. Ohio Apr. 6, 2022), ECF No. 164. This

contention, however, ignores the fact that the Third Plan was invalidated on April 14, 2022, on which date the Commission was directed to adopt an “entirely new” plan. *League IV* ¶ 78. The Commission thus had nearly a week after the Court order, and before its claimed April 20, 2022 deadline, to enact a new plan. But it failed and refused to do so.

Further, in his May 9 responses, Secretary LaRose likens the Commission’s failure to pass a constitutional plan to *State ex rel. DeWine*, a civil contempt complaint over a city’s maintenance of waste water treatment plants and sewer systems. *State ex rel. Dewine v. City of Wash. Court House*, 12th Dist. Fayette No. CA2013-12-030, 2014-Ohio-3557 ¶ 5. The inapposite nature of this case is hard to overstate. The record in *State ex rel. DeWine* explains that the city worked towards the given deadline, but it was “undisputed that both parties ...knew full-well that the July 1, 2011 deadline was unattainable.” *Id.* ¶ 30. Here, the Republican Commissioners cannot claim the same exigency. They had the responsibility, time, and capacity to carry out their duty before April 20.

Secretary LaRose’s responses also liken following the Court’s April 14 order to the commission of an unlawful act. Resp. of Sec’y LaRose to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2021-1193 (May 5, 2022) at 20 (“A party is excused from performing under a court order if performance would require the commission of an unlawful act.” See *Ass’n of Cleveland Fire Fighters v. City of Cleveland*, 8th Dist. Cuyahoga No. 94361, 2010-Ohio-5597.). He argues that since the General Assembly, and General Assembly alone, has the ability to move the date of primary election, compliance with the Court’s April 14 order would not be lawful. Resp. of Sec’y LaRose to Mot. for Order to Show Cause at 20–21. Once again, this logic ignores the time between April 14–20 during

which the commission could have passed a new plan without any need to move the August 2 primary.

In the face of repeated calls to convene, the Republican Commissioners refused to call a meeting from April 14 through April 20. Even though this Court explicitly reminded the Commission of Secretary LaRose’s stated April 20 deadline in its most recent order. *League IV* ¶ 74 (“we are also mindful of the secretary of state’s position—taken in the federal-court litigation—that a General Assembly–district plan must be in place by April 20 for the last possible primary-election date for the 2022 election cycle, August 2, to be feasible”).

b) The Legislative Leaders Resigned from the Commission in Order to Make Emergency Legislation Appear Impossible.

On May 5, 2022 the Republican Commissioners purported to shut the door on any new plan by pointing to the need for legislative action – and the inability to obtain any assurances that it would be forthcoming. In particular, the choreographed resignation of the Republican legislative leadership from the Commission on May 5, 2022 permitted the remaining Republican Commissioners to intone that they could not obtain any assurances of any statutory changes to the election schedule, as covered in detail, *infra*, Section V.A.

Indeed, shortly after House Speaker Cupp and Senate President Huffman had left the room, Secretary LaRose declared that it would be “irresponsible” for him “to even consider a new map unless the legislative leaders, ***and it’s unfortunate, but the legislative leaders are now not part of this commission***, unless they could assure me that they could get that super majority vote to pass a piece of legislation to allow us to adjust those timelines. I would need that assurance before I could even consider voting on a new map.” Ex. 9, Tr. of May 4, 2022 Ohio Redistricting Comm’n Hrg. at 35–36 (emphasis added.)

2. The Impossibility Defense Also Cannot Justify a Failure to Enact a Plan for Post 2022 Elections.

In its April 14, 2022, order, the Court—pursuant to the authority granted it by the Ohio Constitution—ordered the Commission “to convene, and to draft and adopt an entirely new General Assembly–district plan.” *League IV* ¶ 78. Article XI of the Ohio Constitution limits the Commission to adopting a map that is either good for 10 years (if two members of each of Ohio’s largest political parties vote for the general assembly plan), or four years (if the plan is passed on a simple majority vote without bipartisan support). *See* Ohio Const., Art. XI, §§ 1(B)(3), 8(C)(1)(a).

The Commission, however, by its own admission, adopted a general assembly redistricting plan **only** for the 2022 election. Ex. 10, Tr. of May 5, 2022 Ohio Redistricting Comm’n Hrg. at 24. During the handful of hours of Commission meetings on May 4 and 5, no mention was made of any General Assembly redistricting plan for any election after 2022. *See generally* Ex. 9, Tr. of May 4, 2022 Ohio Redistricting Comm’n Hrg.; Ex. 10, Tr. of May 5, 2022 Ohio Redistricting Comm’n Hrg. Instead, the Four Commissioners engaged in a plainly *ultra vires* action and passed an already rejected plan for just a single election year. Ex. 10, Tr. of May 5, 2022 Ohio Redistricting Comm’n Hrg. at 24. Such action is divorced from authority granted them by the Ohio Constitution and the directive imposed by the Court’s April 14 order. *See League IV* ¶ 78; Ohio Const., Art. XI, §§ 1(B)(3), 8(C)(1)(a).

Thus, even if the Four Commissioners did not manufacture the impossibility of implementing a map for the 2022 general election, the Court should hold the Four Commissioners in contempt for failure to implement a valid four- or ten-year map.

D. The Failure of The Ohio Legislature To Act Does Not Excuse the Four Commissioners from Their Duty to Comply with the Court’s Order and Article XI of the Ohio Constitution.

The Four Commissioners suggest that they somehow are not under a duty to adopt a constitutional plan by pointing to the failure of the Ohio General Assembly to enact legislation modifying the Ohio primary election deadlines established in the Ohio Revised Code.⁴ Ex. 10, Tr. of May 5, 2022 Ohio Redistricting Comm’n Hrg. at 26–32. In effect, the Commissioners contend that their duty to adopt a compliant plan is somehow conditional on there being a legislative enactment to facilitate the implementation of that plan by changing the primary date.

They are mistaken. The action or inaction of the General Assembly does not excuse *the Commission’s* violation of the Court’s April 14 order. The duty of the Commission is set forth by that Order. And the order required them to “to convene, and to draft and adopt an entirely new General Assembly–district plan.” *League IV* ¶ 78.

Thus, nothing in the Court’s opinion and order suggested that the Commission’s non-compliance could be excused if the General Assembly failed to act to change the primary date. This lack of an exception is unambiguous given the fact that the Court was aware that the Ohio General Assembly would also need to take action to change the 2022 General Assembly primary date. *See League IV* ¶ 69 (“The authority for setting the date for a primary election belongs to the General Assembly, not to the Ohio Supreme Court, the secretary of state, or a federal court.”). Even with this knowledge, the Court did not allow for the Commission to violate the Court’s order if the General Assembly failed to act.

⁴ Curiously, the Commission did not take issue with the fact that adopting the Third Plan for an August 2 primary also violates the Ohio Revised Code, and the Ohio General Assembly has not taken any steps to pass legislation to enable an August 2 primary using the Third Plan.

The Court's order is hardly surprising given the division of labor contemplated by the Ohio Constitution governing the use of redistricting plans in primary elections: (1) the General Assembly is responsible for passing legislation to enable "direct primary elections" (Ohio Const., Art. V, § 7)⁵; (2) the Commission "shall be responsible for the redistricting of this state for the general assembly" (Ohio Const., Art. XI, § 1); and (3) the Supreme Court of Ohio "shall have exclusive, original jurisdiction" to determine a General Assembly redistricting plan's compliance with Article XI of the Ohio Constitution (Ohio Const., Art. XI, § 9(A)). A successful and fair primary election can only be achieved if all the necessary parties to an election uphold the obligations conferred upon them by the Ohio Constitution. The Four Commissioners have flouted the Court's order and failed to live up to their own obligations, and the General Assembly's separate failings do not justify the Four Commissioner's behavior.

II. Respondents Are Subject to Contempt

In response to previous motions to show cause, Respondents have raised a series of defenses claiming they are not subject to contempt. None of them are tenable.

A. The Four Commissioners are subject to the Court's Order.

Respondents argue that they were not individually subject to this Court's order, and that the Court only ordered the Commission as a body to take certain action. *See* Resp. of Huffman and Cupp to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm'n.*, No. 2021-1193 (May 5, 2022) at 5; Resp. of Faber to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm'n.*, No. 2021-1193 (May 5, 2022) at 10. But this is a distinction without a difference.

⁵ Through its legislative power, the Ohio General Assembly has designated the Ohio Secretary of State as the "chief election[s] officer." Ohio R.C. 3501.04.

The Commission acts through its members. Accordingly, this Court has the authority to hold individual Commissioners in contempt should they, by virtue of their majority action, defy this Court's order. Under Ohio law, this applies to individual members of the Commission. *See Forsythe v. Winans*, 44 Ohio St. 277, 7 N.E. 13 (1886) (where a city official “brings suit to enjoin the misappropriation of money by the [city] council,” and the court issues such an injunction, “the members of the council, **or any of them**, violating the injunction . . . are liable to be punished for the same as for a contempt of the authority of the court.”) (emphasis added).

B. Each of the Four Commissioners—individually—had the ability to avoid contempt.

In previous contempt briefings, Respondents have contended that they could not be held individually liable for the actions of the Commission because its adoption of a district plan requires majority approval. *See* Resp. of Sec’y of State LaRose to Mots. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2021-1193 (Apr. 4, 2022) at 12; Ex. A to Senate President Huffinan and House Speaker Cupp Mot. for Leave to File a Corrected Mem. in Opp’n to Pet’rs’ Mots. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2021-1193 (Apr. 6, 2022) at 15–16; Resp. of Governor DeWine to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2021-1193 (Apr. 4, 2022) at 26–28; Resp. of Auditor Faber to Show Cause Order, *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2021-1193 (Apr. 4, 2022) at 12. Respondents have similarly argued that the contemnor must have the ability to purge himself of contempt by individual action in compliance with a specific court order, and that doing so is allegedly not possible here. *See* Resp. of Governor DeWine to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2021-1193 (Apr. 4, 2022) at 26–28; Resp. of Sec’y of State LaRose to Mots. for Order to Show

Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, No. 2021-1193 (Apr. 4, 2022) at 12.

Respondents' arguments distill to the contention that while a majority of the Commissioners have individually taken action in defiance of the Court's order none of them can be held to account. But to avoid contempt, a Commissioner need simply vote for a course of action that complies with the Court's earlier order. To vote to *defy* the Court's order and then seek cover under the defense that "I'm only one Commissioner" is an improper attempt to evade responsibility.

Moreover, whatever the dubious merits of this argument in the abstract, it has no force whatsoever in connection with the Commissioners' decision to resubmit the Third Plan, which this Court has previously and unequivocally ruled unconstitutional. The resubmission of the Third Plan was passed with a one-vote margin. Therefore, **any single Commissioner could have prevented the passage of the Third Plan.** Each of the Four Commissioners is fully responsible for that contemptuous act.

C. Legislative Immunity Does Not Prevent a Contempt Order Against the Commission or the Four Commissioners.

That the Commission arguably acts in a legislative capacity in drafting and adopting a General Assembly-district plan does not preclude this Court from holding it and its members in contempt. While this Court has recognized a general principle of legislative immunity, the Four Commissioners have exceeded those bounds.

This Court has long acknowledged the judiciary's capacity to hold officials acting in a legislative capacity in contempt when they defy a court order. *See State ex rel. Turner v. Vill. of Bremen*, 118 Ohio St. 639, 639–40, 163 N.E. 302 (1928) (the Ohio Supreme Court holding village councilmembers in contempt where they ignored a writ of mandamus issued by the court

ordering the council to raise funds); *see also State ex rel. Bd. of Cty. Comm'rs of Cuyahoga Co. v. Juv. Div. of Ct. of Common Pleas of Cuyahoga Cty.*, 54 Ohio St.2d 113, 113–14, 374 N.E.2d 1369, 1369–70 (1978) (holding that the trial court had jurisdiction to proceed in a contempt action against county commissioners for failing to appropriate funds necessary for the court's operation); *State ex rel. Edwards v. Murray*, 48 Ohio St.2d 303, 305, 358 N.E.2d 577, 579 (1976) (“Where the basic function of a court . . . is impeded by a failure or refusal of the body responsible to provide a necessary appropriation, that court possesses the inherent power to order such appropriation and to enforce its order by contempt proceedings.”). These decisions illustrate that those acting in a legislative capacity are unquestionably subject to the contempt power when they violate a court's clear directive.

In their responses to Petitioners' April 25 Motion to Show Cause, Respondents Huffman and Cupp propose that these decisions are distinguishable from the instant case because municipal lawmakers are entitled to a lesser degree of legislative immunity than the Commissioners. Resp. of Huffman and Cupp to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, No. 2021-1193 (May 5, 2022) at 5–6. But they cite no authority in support of this assertion, and this Court has long analogized municipal council members to state legislators for purposes of the legislative-immunity analysis. *See, e.g., Inc. Vill. of Hicksville v. Blakeslee*, 103 Ohio St. 508, 518–19, 134 N.E. 445, 448–49 (1921). Ohio courts have repeatedly held local legislators in contempt in spite of the legislative immunity doctrine, and Respondents have not explained how or why they are entitled to greater immunity than other officials exercising legislative authority.

Respondents also suggest that the aforementioned cases are inapposite because they involve writs of mandamus, which are orders to compel non-discretionary acts, whereas this case

concerns the discretionary acts of drafting and adopting a district plan. *See* Resp. of DeWine to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, No. 2021-1193 (May 5, 2022) at 9–11. But this argument is also unavailing because the Commissioners' obligation "to convene, and to draft and adopt an entirely new General Assembly–district plan" is mandatory. *League IV* ¶ 78.

The Ohio Constitution expressly provides that, "[i]n the event that . . . any general assembly district plan made by the Ohio redistricting commission . . . is determined to be invalid" by this Court, "the commission *shall* be reconstituted," to "convene, and ascertain and determine a general assembly district plan" that complies with the Ohio Constitution. Ohio Const., Art. XI, § 9(B) (emphasis added). This mirrors the language used by the Court in *League IV*, which unambiguously stated that the Commission "*shall* draft and adopt an entirely new" map. *See League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, 04/14/2022 Case Announcements #3, 2022-Ohio-1249 ¶ 2 (emphasis added). This Court has made clear that the word "[s]hall means must" and that "[t]he word must is mandatory." *See Wilson v. Lawrence*, 150 Ohio St.3d 368, 2017-Ohio-1410, 81 N.E.3d 1242 ¶ 13. Passing a new map is therefore not a matter of legislative discretion—it is a nondiscretionary obligation that both the Constitution and this Court expressly require the Commission to fulfill. Therefore, by Governor DeWine's own logic, the Court has full authority to hold the Commissioners in contempt for willfully defying their non-discretionary duty to pass a new map.

Indeed, a failure to perform a nondiscretionary duty abridges legislative immunity because an action inconsistent with a nondiscretionary duty is not a legitimate legislative activity. *Cf. Karwowski v. Granger Twp. Trustees*, 9th Dist. Medina No. 08CA0017-M, 2008-Ohio-4946 ¶ 25 ("However, in order to enjoy this privilege of immunity, the activity in question

must be ‘in the sphere of legitimate legislative activity.’”) (quoting *Bogan v. Scott-Harris*, 523 U.S. 44, 54 (1998)); *Bogan*, 523 U.S. at 55 (finding that an action was legislative in nature, and emphasizing that the action involved a “discretionary, policymaking decision”) (emphasis added).

Lastly, Secretary LaRose argues the cases of legislative bodies being held in contempt are inapposite because “in each, the council members actually violated a court order and impeded the court’s judicial function.” Resp. of Sec’y LaRose to Mot. for Order to Show Cause, *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, No. 2021-1193 (May 5, 2022) at 8. But here, as set forth above, there clearly was a violation of this Court’s Order – and there can be no doubt that the April 14, 2022 order, issued pursuant to this Court’s authority under Article XI, was the exercise of this Court’s judicial function.

D. Separation of Powers Principles Do Not Prevent a Contempt Order Against the Commission or Commissioners.

Separation of powers principles do not prevent the Court from holding the Commissioners in contempt.⁶ Under such principles, this Court may “exercise only such powers as the constitution itself confers” *Kent v. Mahaffy*, 2 Ohio St. 498, 499 (1853). Here, Article XI confers on this Court robust oversight authority over the redistricting process, and with it the corollary power to hold the Commission and its members in contempt where they willfully refuse to abide by Court orders directing them to carry out their constitutional obligations.

⁶ The separation of powers doctrine is not expressly stated in the Ohio Constitution, but is “implicitly embedded in the entire framework” of the Constitution. *City of South Euclid v. Jemison*, 28 Ohio St.3d 157, 159, 503 N.E.2d 136, 138 (1986).

In particular, Article XI, Section 9(B) expressly contemplates that, in remedying unlawfully drafted or adopted district plans, the Court may “order” the Commission to take specific legislative actions. Thus, when a plan is found to be defective, Section 9(B) provides that “the commission shall be reconstituted as provided in Section 1 of this article, **convene** and ascertain and **determine a general assembly district plan** in conformity with such provisions of this constitution as are then valid” (emphasis added). While the judiciary may not customarily act until the legislative process is complete, *see League IV* ¶ 97 (Ohio Apr. 14, 2022) (Kennedy, J., dissenting), Article XI endows this Court with unique supervisory powers over the redistricting process itself.

No party has in any way prevented the Commission from drawing a lawful map or from exercising its legislative discretion over the drafting process. Instead, this Court has merely directed the Commission to complete an obligation that is affirmatively prescribed by the Ohio Constitution. In ordering respondents to reconvene and to draft and adopt a new, constitutionally valid General Assembly-district plan, this Court has never “assert[ed] control” over or sought to micromanage the Commission, *see id.* at ¶ 97; rather, in a manner consistent with the Court’s own Article XI responsibilities, it has simply sought to ensure that the Commission itself undertakes its own duties.

For this reason, *Toledo*, 154 Ohio St.3d 41, 2018-Ohio-2358, 374 N.E.2d 1369, at ¶¶ 4–9, cited by the dissent in *League IV* ¶¶ 94–95, 97 is inapt. There, this Court concluded that the trial court did not have “authority to enjoin the enforcement of [spending] statutes as punishment for contempt” because the judiciary cannot anticipatorily “prohibit the General Assembly from enacting a law”—rather, courts may “intervene only after a legislative enactment has been passed and challenged in an action properly before it.” *See Toledo*, 154 Ohio St.3d, 2018-Ohio-

2358, 374 N.E.2d 1369, at ¶¶ 21, 27, 29. However, *Toledo*, does not extend to the failure by a legislative body to comply with a *non-discretionary* duty to pass a new map, as has here been clearly imposed by the Ohio Supreme Court. *See supra* I.B. Nor can *Toledo* be directly applied to the redistricting context, given the enhanced role for the Ohio Supreme Court under Article XI.

Indeed, it is now the Commissioners themselves who are violating separation of powers principles through their flagrant disregard of this Court's prior orders. By reenacting a map that has already been held unconstitutional, the Commissioners have breached their obligations to respect this Court as the ultimate arbiter of Ohio law. *See State ex rel. Ohio Acad. of Trial Laws v. Sheward*, 86 Ohio St. 3d 451, 467, 715 N.E.2d 1062, 1079 (1999) (“[T]he judicial branch is the final arbiter in interpreting the Constitution and [] the General Assembly may not disregard a Supreme Court decision on the subject, *reenact legislation previously declared violative of the Constitution*, or in any other way exercise, direct, control, or encroach upon the judicial power.”) (emphasis added); *id.* at 474 (“If the General Assembly could . . . reenact legislation declared unconstitutional by this court and require the courts to treat [these laws] as valid . . . , the whole power of the government would at once become absorbed and taken into itself by the legislature.”) (internal quotation omitted).

Secretary LaRose tries to distinguish *Sheward* by arguing that here the Commission is not taking the exact same action that was previously invalidated, because the facts have changed in light of the federal court's ruling and the Third Map is now being passed for just the 2022 election cycle instead of for four years. *See* Sec'y LaRose's Resp. to Pet'r's Objections to the Comm'n's Re-Adoption of the Third Plan, *League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, No. 2021-1193 (May 9, 2022) at 24. But these are distinctions without a

difference. Either way, the Commission is resubmitting the exact same map that was invalidated by this Court as inconsistent with the Ohio Constitution. And the Commission has failed to enact any map at all for beyond 2022. Neither of these factual developments alter those fundamental realities.

Thus, a finding of contempt in this instance is not merely permissible under the separation of powers doctrine, it is the only means remaining to prevent the Commissioners from exceeding “the boundaries of [their] constitutional authority by brushing aside a mandate of this court on constitutional issues as if it were of no consequence.” *See Sheward* at 478; *see also id.* at 463 (“[I]f it is true that the legislature can pass unconstitutional acts . . . and if unconstitutional, that there is no remedy; then indeed is our constitution a blank paper: there is no guarantee for a single right to citizens”) (internal quotation omitted).

III. Remedy: The Four Commissioners Can Only Purge Their Contempt By Voting for a Plan that Complies With the Requirements of This Court’s April 14, 2022 Opinion and Order

“The refusal to perform an act ordered by the court, at a time when the obligation to perform has matured, concretely demonstrates the contemnor’s willingness to defy the law, and justifies” sanction. *Bd. of Ed. of Brunswick City Sch. Dist. v. Brunswick Ed. Ass’n*, 61 Ohio St.2d 290, 294–95, 401 N.E.2d 440, 443–44 (1980); *see also Gompers v. Buck’s Stove & Range Co.*, 221 U.S. 418, 442 (1911) (“[C]ivil contempt is ordered where the defendant has refused to do an affirmative act required by the provisions of an order which, either in form or substance, was mandatory in its character.”). Those sanctions remain until the contemnor purges its contempt by “perform[ing] the affirmative act required by the court's order.” *Id.* “[J]udicial sanctions in civil contempt proceedings may in a proper case, be employed . . . to coerce the defendant into compliance with the court's order.” *City of Cincinnati v. Cincinnati Dist. Council*

51, *Am. Fed'n of State, Cnty. & Mun. Emp., AFL-CIO*, 35 Ohio St. 2d 197, 206, 299 N.E.2d 686, 694 (1973).

Accordingly, League of Women Voters of Ohio Petitioners respectfully request that this Court find the four Commissioners that voted to re-submit the February 24, 2022 Plan in contempt for refusal to comply with the Court's April 14, 2022 order. As set forth above, that decision "order[ed] the commission to be reconstituted, to convene, and to draft and adopt an entirely new General Assembly-district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B) as [the Court] ha[s] explained those provisions in each of [its] four decisions in these cases." *League IV* ¶ 78.

In particular, the Court's decisions have made clear that the new plan must meet two requirements. First, it must attempt to match the "statewide preferences of the voters of Ohio," which "are 54 percent in favor of the Republican Party and 46 percent in favor of the Democratic Party." *League IV* ¶ 56 (quoting *League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, No. 2022-Ohio-342 ¶ 64 ("*League II*"). As this Court has noted, the "attempt" requirement means that "[i]f it is possible for a district plan to comply with the proportionality requirements of Section 6 and Sections 2, 3, 4, 5, and 7, the commission must adopt a plan that does so." *League I* ¶ 88.

Second, when determining the compliance of a plan with the proportionality requirement, competitive districts with vote shares favoring a political party between 50 percent and 52 percent[1] "must either be excluded from the proportionality assessment or be allocated to each party in close proportion to its statewide vote share." *League IV* ¶¶ 57–59 (quoting *League II* ¶ 62). It bears emphasis that this Court's orders in *League III* and *IV* specifically focused on districts with partisan leanings within the 50 to 52% band: In *League III*, ¶¶ 38–42 the Court

held that “the sub-52-percent districts allocated to the Democratic Party under the second revised plan are ‘competitive’ districts and, under our holding in *League II*, must be excluded when assessing the plan’s overall proportionality.”), and in *League IV* reiterated, ¶¶ 58–59 (“In *League III*, this court held that . . . districts . . . with Democratic vote shares between 50 and 52 percent . . . did not ‘favor’ the Democratic party and were instead ‘competitive’ districts that must be excluded from the proportionality assessment For the reasons explained in *League III* . . . the[third revised plan’s] competitive districts should be excluded from the proportionality assessment.”). Any plan that fails to meet this requirement would be inadequate to purge the four Commissioners’ contempt.

Respondents therefore can only purge their contempt through compliance with this Court’s order, by “draft[ing] and adopt[ing] an entirely new General Assembly-district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B) as [the Court] ha[s] explained those provisions in each of [its] four decisions in these cases.” *League III* ¶78. Failure to comply with this court’s orders would warrant the continued imposition of contempt sanctions.

Given that time is of the essence, Petitioners request that the Court further order that the Commission adopt an entirely new General Assembly-district plan by May 16, 2022.

Dated: May 10, 2022

Robert D. Fram (PHV 25414-2022)
Donald Brown (PHV 25480-2022)
Joshua González (PHV 25424-2022)
David Denuyl (PHV 25452-2022)
Juliana Goldrosen (PHV 25193-2022)
Salesforce Tower
415 Mission Street, Suite 5400

Respectfully submitted,

/s/ Freda J. Levenson
Freda J. Levenson (0045916)
ACLU OF OHIO FOUNDATION, INC.
4506 Chester Avenue
Cleveland, Ohio 44103
(614) 586-1972 x125
flevenson@acluohio.org

San Francisco, CA 94105-2533
(415) 591-6000
rfram@cov.com

Alexander Thomson (PHV 25462-2022)
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
(202) 662-5425
ajthomson@cov.com

Anupam Sharma (PHV 25418-2022)
Yale Fu (PHV 25419-2022)
COVINGTON & BURLING, LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, California 94306
(650) 632-4700
asharma@cov.com

David J. Carey (0088787)
ACLU OF OHIO FOUNDATION, INC.
1108 City Park Avenue, Suite 203
Columbus, OH 43206
(614) 586-1972 x2004
dcarey@acluohio.org

Alora Thomas (PHV 22010-2022)
Julie A. Ebenstein (PHV 25423-2022)
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street
New York, NY 10004
(212) 519-7866
athomas@aclu.org

Counsel for Petitioners

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2022.05.10 Freda J. Levenson Affidavit.pdf

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E-Signature 1: Freda Levenson (FJL)

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flevenson@acluohio.org (Principal) (Personally Known)

E-Signature Notary: Theresa M Sabo (TMS)

May 10, 2022 12:43:14 -8:00 [86C6F4A49E37] [65.60.141.105]
tess.sabo@gmail.com

I, Theresa M Sabo, did witness the participants named above electronically sign this document.

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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

**Original Action Filed Pursuant to
Ohio Const., Art. XI**

**EXHIBITS TO PETITIONERS' SECOND MOTION FOR AN ORDER DIRECTING
RESPONDENTS TO SHOW CAUSE FOR WHY THEY SHOULD NOT BE HELD IN
CONTEMPT OF THE COURT'S APRIL 14, 2022 ORDER**

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Affidavit of Freda J. Levenson

I, Freda J. Levenson, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge and having personally examined all record referenced in this affidavit, and further state as follows:

1. I am an attorney licensed to practice in the State of Ohio, and am one of the counsel for Petitioners in the above-captioned case, No. 2021-1193.
2. Exhibit 1 is a true and correct copy of the April 6, 2022 affidavit of Deputy Assistant Secretary of State of Ohio Amanda M. Grandjean filed in *Gonidakis v. LaRose*, No. 2:22-cv-00773-ALM-ART-BJB, ECF No. 164-1.
3. Exhibit 2 is a true and correct copy of the April 18, 2022 letter sent by Senator Vernon Sykes and House Minority Leader Allison Russo to members of the Ohio Redistricting Commission.
4. Exhibit 3 is a true and correct copy of the April 22, 2022 letter sent by Senator Vernon Sykes and House Minority Leader Allison Russo to members of the Ohio Redistricting Commission.
5. Exhibit 4 is a true and correct copy of the April 25, 2022 *The Center Squares* article by J.D. Davidson “Doors locked at Ohio Redistricting Commission meeting room” and available at: https://www.thecentersquare.com/ohio/doors-locked-at-ohio-redistricting-commission-meeting-room/article_96516dca-c4b9-11ec-86a0-db2708db4bc5.html.
6. Exhibit 5 is a true and correct copy of the April 25, 2022 letter sent by Senator Vernon Sykes and House Minority Leader Allison Russo to members of the Ohio Redistricting Commission.
7. Exhibit 6 is a true and correct copy of the April 26, 2022 letter sent by Auditor of State Keith Faber to members of the Ohio Redistricting Commission.
8. Exhibit 7 is a true and correct copy of the April 27, 2022 letter from Senator Vernon Sykes to House Speaker Bob Cupp.
9. Exhibit 8 is a true and correct copy of the April 28, 2022 letter from House Speaker Bob Cupp to Senator Vernon Sykes.
10. Exhibit 9 is a true and correct transcription of the Ohio Redistricting Commission’s May 4, 2022 hearing, transcribed by Planet Depo.

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11. Exhibit 10 is a true and correct transcription of the Ohio Redistricting Commission's May 5, 2022 hearing, transcribed by Planet Depo.

Freda Levenson

Signed on 2022/05/10 12:43:14 -8:00

Freda J. Levenson

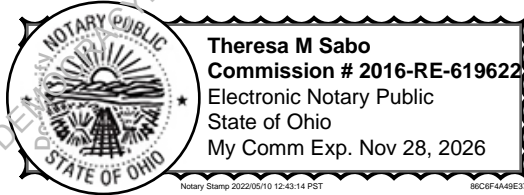
Signed at Columbus, Franklin, Ohio
City County State

Sworn to and subscribed before me this 05/10/2022 day of May, 2022

Theresa M Sabo

Signed on 2022/05/10 12:43:14 -8:00

Notary Public



Notarial act performed by audio-visual communication

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EXHIBIT 1

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Exhibit 1

Affidavit of Amanda M. Grandjean, April 6, 2022

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2022-04-06 Grandjean Affidavit.pdf

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E-Signature Summary

E-Signature 1: Amanda M. Grandjean (AMG)
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 agrandjean@ohiosos.gov (Principal) (Personally Known)

E-Signature Notary: MacKenzie S. Clayton (msc)
 April 06, 2022 17:19:59 -8:00 [794A6E48591E] [107.11.84.255]
 MacKenzie.Clayton@OhioAGO.gov
 I, MacKenzie S. Clayton, did witness the participants named above electronically sign this document.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHAEL GONIDAKIS, et al.,	:	
	:	Case No. 2:22-CV-773
Plaintiffs,	:	
	:	
v.	:	
	:	Chief Judge Algenon Marbley
FRANK LAROSE,	:	
	:	
Defendant.	:	

AFFIDAVIT OF AMANDA M. GRANDJEAN

STATE OF OHIO :
 : SS
COUNTY OF PERRY :

Now comes Amanda M. Grandjean, having been first duly cautioned and sworn, states and affirms as follows:

1. I have personal knowledge of the information set forth in this Affidavit, and I am competent to testify to the matters stated herein.
2. My experience and credentials remain the same as set forth in my March 28, 2022 Affidavit in this matter.
3. On April 1, 2022, the Secretary of State issued Directive 2022-32. This Directive instructed the 88 county boards of elections to immediately, but no later than April 5, 2022, begin issuing Uniformed Services and Overseas Citizens' Absentee Voting Act ("UOCAVA") ballots for all May 3, 2022 primary races except for the Ohio House, Ohio Senate, and State Central Committee races to UOCAVA voters. In addition, on April 5, 2022, early, in-person voting began across the state at each of the 88 county boards of elections' offices and the county boards of elections began transmitting domestic absentee ballots to voters who requested them. Thus, the May 3, 2022 Primary Election is underway without Ohio House, Ohio Senate, and State Central Committee races on the ballot.
4. If this Court is going to set a new date for the remaining 2022 primary races for Ohio House, Ohio Senate, and State Central Committee, then as I testified on March 30, 2022, the best date going forward from an elections administration standpoint is August 2, 2022. The first

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Tuesday after the first Monday in August is already specified in Ohio law as a possible election day, R.C. 3501.01(D), and some county boards will be holding elections on that day anyway. Holding the primary election for these races on August 2, 2022 allows time for the county boards of elections to complete all processes related to the May 3, 2022 Primary Election, including receiving absentee ballots, conducting the official canvass, and certifying the results. An August 2, 2022 Primary Election date for the General Assembly races also provides enough time to properly and accurately administer the primary election for the remaining races.

5. In addition, for the reasons set forth in my March 28, 2022 Affidavit, August 2, 2022 is the latest date a primary election can be held while allowing the November 8, 2022 General Election to proceed in regular order.

6. If this Court orders an August 2, 2022 Primary Election, the 90-day statutory elections deadlines that are tied to the date of a primary election will reset by operation of law, as set forth in the draft elections calendar attached as **Exhibit A**.

7. As I testified on March 30, 2022, the standard 90-day primary elections calendar does not include the time needed by the county boards of elections to reprogram their voter registration and their voting and tabulation systems to a new General Assembly district plan, or the time for candidates to change their residence due to the adoption of a new plan in accordance with Ohio Const. Art. XI, Section 9(C), if applicable.

8. In my professional judgment it is possible to complete these primary election processes without altering the standard, 90-day primary elections calendar so long as the following conditions are met:

- This Court issues an order not later than April 20, 2022 that: (a) adopts a General Assembly district plan for use in 2022, if there is not a final district plan by that date, and (b) specifies that August 2, 2022 is the Primary Election date for the General Assembly and State Central Committee races.
- If the Court orders the use of any plan other than the four plans adopted by the Ohio Redistricting Commission,¹ the underlying electronic data for that plan – including shape files, legal descriptions, most populous county list, and U.S. Census Bureau block assignment files (“BAFs”) – must be transmitted to the Secretary of State no later than April 20, 2022. The immediate transmission of this data is essential, as county boards of elections and their IT vendors require it to begin reprogramming their systems to ensure that all voters are assigned to the proper district and that all ballots contain the correct candidates and issues.
- If this Court determines that the time for candidates to change their residence under Ohio Const. Art. XI, Section 9(C), based upon the plan the Court may adopt, has not expired prior to the May 4, 2022 candidate filing deadline, then the Court must establish processes similar to those contained in Section 4 of Sub. H.B. 93 of the 134th General Assembly that require candidates to become a resident of the district the filer seeks to represent, submit an addendum to their declaration of candidacy,

¹ The shape files and U.S. Census Bureau block assignment files for the Redistricting Commission’s First, Second, Third, and Fourth Plans have already been filed with the Secretary of State’s Office.



declaration of candidacy and petition, nominating petition or declaration of intent to be a write-in candidate that indicates the filer’s new residence address, update their voter registration, and similar provisions related to signature verification, and transfer of filings between the appropriate county boards of elections.

9. Upon the Court’s request, my staff conducted a survey of the county boards of elections regarding which General Assembly district plan is programmed into their voter registration and election management systems. The full results of that survey are attached as **Exhibit B**. As anticipated, the majority of the county boards of elections programmed their voter registration systems to the Redistricting Commission’s February 24, 2022 plan (or “Third Plan”). If this Court orders the adoption of the Commission’s March 28, 2022 plan (the “Fourth Plan”), then the county boards will need to reprogram their systems to the Fourth Plan.

10. While the “current” General Assembly districts are those that were adopted in the 2011 redistricting process, since September 16, 2021, the Secretary has instructed the county boards of elections to reprogram their voter registration and voting and tabulating systems three times. Not all counties can reinstate the 2011 map in their systems because of the number of times these systems were reprogrammed as a result of the 2021-22 redistricting process and litigation. As a result, if this Court orders the use of that 2011 map, the county boards of elections will need to be provided the original 2011 electronic redistricting files, including shape files, legal descriptions, most populous county list, and BAFs. The Secretary does not know the location of those original files and it would be incredibly time-consuming to try and recreate them even if those files are located.

11. Similarly, if the Court orders the reapportionment of that 2011 map using the 2020 census data, the county boards of elections will need the shape files, legal descriptions, most populous county list, and BAFs for the reapportioned map from whomever performs that work.

Further affiant sayeth naught.

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Amanda M. Grandjean
Signed on 2022/04/06 17:19:59 -0000

Amanda M. Grandjean

Sworn to in my presence and subscribed before me this 6th day of April 2022.



MacKenzie S. Clayton
Signed on 2022/04/06 17:19:59 -0000

Notary Public

DFE9A790-CE1B-4EFA-AEE0-048DFFE79A09 — 2022/04/06 17:13:46 -8:00 — Remote Notary



Affidavit of Amanda M. Grandjean

Exhibit A

2022 Ohio Elections Calendar- August 2022
(GA and State Central Committee)

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Statutory Deadlines Possible August 2, 2022 Statewide Primary Election

2022		Reference
Apr. 24	Boards of elections must prepare and publish notices of the August 2 primary election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before primary election)	R.C. 3511.16
May 04	Local questions and issues, including local options, must be certified or filed with the boards of elections by 4 p.m. (90 days before the primary election)	R.C. 731.28, .29, 3501.02, 4301.33, .331, .332, .333, .334, 4305.14
	Declarations of candidacy for partisan candidates for the offices of State Senator, State Representative, and Member of State Central Committee must be filed by 4 p.m. (90 days before primary election)	R.C. 3513.05
May 16	Boards of elections must certify the validity and sufficiency of partisan candidates' petitions for the offices of State Senator, State Representative, and Member of State Central Committee (78 days before primary election)	R.C. 3513.05
	Boards of elections must certify the validity and sufficiency of local option petitions (78 days before primary election)	R.C. 4301.33, .331, .332, .333, .334, 4305.14
May 20	Protests against partisan candidates' petitions must be filed by 4 p.m. for the offices of State Senator, State Representative, and Member of State Central Committee (74 days before primary election)	R.C. 3513.05
	Protests against local option petitions must be filed by 4 p.m. (74 days before primary election)	R.C. 4301.33, .331, .332, .333, .334, 4305.14
May 23*	Write-in candidates for August 2 primary election for the offices of State Senator, State Representative, and Member of State Central Committee must file declarations of intent by 4 p.m. (72 days before primary election)	R.C. 3513.041
May 24	Secretary of State must certify to boards of elections the form of official ballots for August 2 primary election for the offices of State Senator, State Representative, and Member of State Central Committee (70 days before primary election)	R.C. 3513.05
	Board of elections of most populous county in a multi-county subdivision must certify names of all candidates for the offices of State Senator, State Representative, and Member of State Central Committee to other boards of elections (70 days before primary election)	R.C. 3513.05
May 27	Protests against write-in candidates for the offices of State Senator, State Representative, and Member of State Central Committee must be filed by 4 p.m. (67 days before primary election)	R.C. 3513.041
Jun. 03	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before primary election)	R.C. 3501.27
Jun. 17	UOCAVA absentee ballots for August 2 primary election must be ready for use (46 days before primary election)	R.C. 3511.04
	Boards of elections must update and publish notices of August 2 primary election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before primary election)	R.C. 3511.16
Jun. 21	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (six weeks before primary election)	R.C. 3503.12
Jul. 05*	Deadline for voter registration for August 2 primary election (30 days before primary election)	R.C. 3503.19
	Deadline to file corrections and challenges to precinct voter registration lists (30 days before primary election)	R.C. 3503.24
Jul. 06	Non-UOCAVA absentee ballots for August 2 primary election must be ready for use (first day after close of voter registration)	R.C. 3509.01
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
Jul. 11	Secretary of State and boards of elections must send notice to candidates required to file pre-primary campaign finance reports (10 days before the pre-primary campaign finance report deadline)	R.C. 3517.11
Jul. 13	Committees advocating or opposing issues on August 2 primary election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before primary election)	R.C. 3505.21
Jul. 15	Boards of elections must certify independent candidate petitions by this date	R.C. 3513.262
Jul. 19	Boards of elections must prepare precinct voter registration lists for primary election (14 days before primary election)	R.C. 3503.23
	Secretary of State and boards of elections must send notice to candidates required to file semiannual campaign finance reports (10 days before the semiannual campaign finance report deadline)	R.C. 3517.11
Jul. 21	Pre-primary election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (12 days before primary election) detailing contributions and expenditures through July 13, 2022 (20 days before primary election)	R.C. 3517.10
Jul. 22	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before primary election)	R.C. 3505.21
Jul. 23	Boards of elections must give public notice of August 2 primary election (10 days before primary election)	R.C. 3501.03

*Note: In some instances, the statutory deadline falls on a day when the offices of the Secretary of State and boards of elections are closed. In those instances, the deadlines are extended, pursuant to R.C. 1.14, to the next succeeding day when the appropriate office is open for regular business hours. The preceding dates reflect the extended deadline.

"UOCAVA" is an acronym for Uniformed & Overseas Citizens Absentee Voting Act to refer to those voters who are uniformed and/or overseas. "Non-UOCAVA" refers to voters who are not uniformed or overseas voters.

Statutory Deadlines Possible August 2, 2022 Statewide Primary Election

2022		Reference
Jul. 29	Semiannual election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (last business day of July) detailing contributions and expenditures through June 30, 2022 (last day of June)	R.C. 3517.10
Jul. 30	Applications for absentee ballots to be mailed for August 2 primary election must be received by noon (3 days before primary election)	R.C. 3509.03, .08, 3511.02
Aug. 01	Amendments to observer appointments must be filed by 4 p.m. (day before primary election)	R.C. 3505.21
	Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than the day before the primary election)	R.C. 3501.29
	Nominating petitions of independent candidates for offices for which a primary election may be held must be filed by 4 p.m. (one day before primary election)	R.C. 3513.257
Aug. 02	Primary Election held. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, .32
	If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
Aug. 12	Absentee ballots for August 2 primary election returned by U.S. Mail must be postmarked no later than August 1 and received by boards of elections by this date to be counted (10 days after primary election)	R.C. 3509.05, 3511.11
	UOCAVA absentee ballots for August 2 primary election must be received by boards of elections by this date to be counted (10 days after primary election)	R.C. 3511.11
Aug. 13	Boards of elections may begin official canvass of August 2 primary election ballots (11 days after primary election)	R.C. 3505.32
Aug. 17	Boards of elections must begin official canvass of August 2 primary election ballots no later than this date (15 days after primary election)	R.C. 3505.32
Aug. 23	Boards of elections must complete official canvass of August 2 primary election ballots no later than this date (21 days after primary election)	R.C. 3505.32
Aug. 30	Secretary of State and boards of elections must send notice to candidates required to file post-primary campaign finance reports (10 days before the post-primary campaign finance report deadline)	R.C. 3517.11
Sep. 9	Post-primary election campaign finance reports must be filed by candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (38 days after primary election) detailing contributions and expenditures through September 2, 2022 (seven days before the report is filed)	R.C. 3517.10

*Note: In some instances, the statutory deadline falls on a day when the offices of the Secretary of State and boards of elections are closed. In those instances, the deadlines are extended, pursuant to R.C. 1.14, to the next succeeding day when the appropriate office is open for regular business hours. The preceding dates reflect the extended deadline.

"UOCAVA" is an acronym for Uniformed & Overseas Citizens Absentee Voting Act to refer to those voters who are uniformed and/or overseas. "Non-UOCAVA" refers to voters who are not uniformed or overseas voters.

Affidavit of Amanda M. Grandjean

Exhibit B

2022-04-04 BOE Redistricting Plan Programming Status

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County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Adams	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Allen	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ashland	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ashtabula	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Athens	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Auglaize	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Belmont	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Brown	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Butler	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Carroll	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Champaign	Districts established prior to September 15, 2021	Our districts did not change on any of the proposed maps	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Clark	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Clermont	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Clinton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Columbiana	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Coshocton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Crawford	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Cuyahoga	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Darke	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Defiance	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Delaware	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Erie	Districts established prior to September 15, 2021	It will probably take one week. We already reprogrammed much of our VR system to match the third set of maps; we just had one precinct to go. This particular precinct was difficult because half of it was in one district and half of it was in another. We were in the process of updating when the third set of maps was ruled not valid, so we stopped.	Districts established prior to September 15, 2021	No	
Fairfield	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)

County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Fayette	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Franklin	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Fulton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Gallia	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Geauga	February 24, 2022 (Third Map)		Districts established prior to September 15, 2021	Yes	February 24, 2022 (Third Map)
Greene	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Guernsey	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Hamilton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Hancock	Districts established prior to September 15, 2021	Our districts did not change.	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Hardin	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Harrison	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Henry	Districts established prior to September 15, 2021	N/A	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Highland	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Hocking	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Holmes	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Huron	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Jackson	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Jefferson	Districts established prior to September 15, 2021	None It didn't change.	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Knox	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lake	Districts established prior to September 15, 2021	Not sure.	February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lawrence	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Licking	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Logan	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lorain	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Lucas	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)

County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Madison	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Mahoning	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Marion	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Medina	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Meigs	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Mercer	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Miami	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Monroe	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Montgomery	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Morgan	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Morrow	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Muskingum	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Noble	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ottawa	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Paulding	Districts established prior to September 15, 2021	1 day if needed	Districts established prior to September 15, 2021	Yes	Districts established prior to September 15, 2021
Perry	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Pickaway	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Pike	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Portage	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Preble	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Putnam	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Richland	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Ross	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Sandusky	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	Districts established prior to September 15, 2021
Scioto	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)

County	What general assembly district map adopted by the Ohio Redistricting Commission is currently programmed in the board's voter registration system?	If the board did not reprogram the voter registration system to match the districts from the February 24, 2022 general assembly maps, how long will it take the board to complete this process?	What general assembly district information is currently programmed in the election management system (central tabulation system)?	Prior to removing the offices of Ohio Senate, Ohio House, and State Central Committee from the ballot (pursuant to Directive 2022-31), did the board create a copy or second database in its election management system?	In the copy or previous database of the election management system, which district information is programmed for the offices of Ohio Senate, Ohio House, and State Central Committee?
Seneca	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Shelby	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Stark	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Summit	February 24, 2022 (Third Map)		Districts established prior to September 15, 2021	Yes	February 24, 2022 (Third Map)
Trumbull	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Tuscarawas	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Union	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Van Wert	Districts established prior to September 15, 2021	our districts did not change	Districts established prior to September 15, 2021	No	
Vinton	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Warren	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	January 22, 2022 (Second Map)
Washington	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Wayne	February 24, 2022 (Third Map)		Districts established prior to September 15, 2021	Yes	February 24, 2022 (Third Map)
Williams	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Wood	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)
Wyandot	February 24, 2022 (Third Map)		February 24, 2022 (Third Map)	Yes	February 24, 2022 (Third Map)

EXHIBIT 2

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April 18, 2022

Dear Commissioners,

The Supreme Court of Ohio has once again ordered this Commission to reconvene in order to undertake the task of drawing constitutionally compliant state legislative district maps. Fortunately, we have clear guidance from the Court. Therefore, finalizing legally compliant fair maps should be straightforward.

Over the past four days – ever since the Supreme Court’s decision was rendered – we have attempted to, in earnest, restart the Commission process. Senator Sykes made repeated calls to our commission Co-Chairman. Unfortunately, over the holiday weekend, these calls went unanswered. Leader Russo confirmed for us all that the authority and funding granted to the Commission by the Legislative Task Force on Redistricting to engage independent map drawers is still valid and available. We have confirmed through our staff that our original independent map drawers are available to return and all mapmaking may again be accomplished in full public view.

We believe that the Commission should reconvene in the next few days and rehire the independent mapmakers who were utilized in the last mapmaking round. We should ask them to review and finalize their prior work product and consider any additional input from the Commission, to the extent that such input would not lead to unconstitutional maps. We can then take a vote on a constitutional plan in advance of the Supreme Court of Ohio’s May 6, 2022 deadline.

It takes three of us Commissioners to call a meeting and restart our work. The two of us stand ready to work with all of you to do our duty to draft and adopt fair and constitutional maps. Any one of you could join us in scheduling our next meeting of the Commission, fulfilling our constitutional obligation. Thank you for your prompt attention to this matter.

Sincerely,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo
Commissioner, Ohio Redistricting Commission
House Minority Leader
House District 24

EXHIBIT 3

RETRIEVED FROM DEMOCRACYDOCKET.COM



April 22, 2022

Dear Commissioners,

It has now been eight days since the Ohio Supreme Court ordered this Commission to reconvene and draw constitutionally compliant state legislative district maps. We have contacted each of you repeatedly and asked you to join us in reconvening the commission to fulfill our constitutional obligations and comply with the Court's order. Yet, still, no meetings have even been scheduled.

We now invite you to meet Monday morning, April 25, at 10 a.m. in Room 313 of the Statehouse. Anyone who is unable to attend in person may attend virtually.

The Court stated in its April 14th decision: "We further order the commission to be reconstituted, to convene, and to draft and adopt an entirely new General Assembly district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B) as we have explained those provisions in each of our four decisions in these cases." This is not a suggestion. It is a Court order we must comply with. We only have until 9:00 a.m. on May 6—now less than two weeks away—to adopt a new plan.

We have the time, resources, and ability to draw maps that comply with the Ohio Constitution. Our duties are clear. We are to produce fair maps that reflect the preferences of Ohio voters. We should rehire the independent mapmakers and allow them to review and finalize the maps they produced for us, and vote on those maps before May 6. Both Dr. McDonald and Dr. Johnson have indicated that they are available, and all mapmaking may again be accomplished in full public view.

Please join us at 10 a.m. on Monday.

Sincerely,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo
House Minority Leader
Commissioner, Ohio Redistricting Commission
House District 24

EXHIBIT 4

RETRIEVED FROM DEMOCRACYDOCKET.COM

https://www.thecentersquare.com/ohio/doors-locked-at-ohio-redistricting-commission-meeting-room/article_96516dca-c4b9-11ec-86a0-db2708db4bc5.html

Doors locked at Ohio Redistricting Commission meeting room

By J.D. Davidson | The Center Square

Apr 25, 2022



Ohio state Rep. Allison Russo

Photo courtesy of the Ohio House of Representatives

(The Center Square) – Democrats on the Ohio Redistricting Commission invited the five Republican members to a commission meeting Monday morning after contacting members several times over the past week asking for the group to reconvene.

When House Minority leader Allison Russo, D-Upper Arlington, and Sen. Vernon Sykes, D-Akron, showed up to the committee meeting room at the Ohio Statehouse, the doors were locked and no Republican showed up.

"The fight for fair, constitutional maps is not over – for 2022 or the rest of the decade," Russo said. "We have a constitutional obligation to produce fair state legislative maps for this upcoming fall election. Republican commissioners can lock all the doors they want, but Democrats won't give up. We will be here every day to protect our democracy and uphold the will of the people."

The two remained outside the committee meeting room for around 15 minutes, answering questions from the media.

Aaron Mulvey, spokesman for House Speaker Bob Cupp, R-Lima, said the Democrats never filed a request with the clerk's office to use the room Monday.

The Ohio Supreme Court **ruled** the commission's fourth attempt at drawing state legislative district maps unconstitutional April 14. The commission has not met since the ruling, and Republican members of the commission have given no indication when or if it plans to meet.

Three members of the commission – which also consists of Republicans Gov. Mike DeWine; Secretary of State Frank LaRose; State Auditor Keith Faber; Senate President Matt Huffman, R-Lima; and Cupp – must agree to a meeting for one to be called.

Republicans have said they are reviewing the court ruling, along with a **federal court ruling** from last week that said if the commission cannot draw maps that pass Supreme Court review by May 28, the federal court will impose the group's third set of maps.

Those maps were also ruled unconstitutional by the state Supreme Court.

In a letter to fellow commissioners, Sykes and Russo said the commission still has a responsibility to meet and develop maps despite the federal court order.

"Nothing in the order yesterday absolves the commission of its responsibilities, rather the order encourages us to rise above partisan interests and adopt constitutional maps prior to the court's deadline," the letter reads.

The lack of state maps forced a split in the Ohio primary. Local issues and statewide races are being contested now in the May 3 primary, while state lawmakers are expected to face primaries Aug. 2.

The Ohio Supreme Court ruled, 4-3, on March 16 the commission's third attempt at state legislative district maps unfairly favored Republicans, saying the commission has attempted three sets of maps without input from Democrats on any, instead using GOP staffers to draft each map.

The court also suggested, but did not order, an independent map drawer be engaged, but the commission holds the responsibility to draw and approve maps.

Aside from claiming the process was not transparent, the court focused on toss-up districts and said they could not count to the proportionality it required in previous rulings.

It also ordered a more collaborative effort between Republicans and Democrats on the commission and for the commission to hold more frequent public hearings.

The commission's first maps favored the GOP by 62% in the House and nearly 70% in the Senate. The second set of maps showed 58.3% Republican-leaning legislative districts, above the court-ordered 54%.

Both were ruled unconstitutional.

J.D. Davidson

Regional Editor

An Ohio native, J.D. Davidson is a veteran journalist with more than 30 years of experience in newspapers in Ohio, Georgia, Alabama and Texas. He has served as a reporter, editor, managing editor and publisher.

REMOVED FROM DEMOCRACYDOCKET.COM

EXHIBIT 5

RETRIEVED FROM DEMOCRACYDOCKET.COM



April 25, 2022

Dear Commissioners:

It has now been 11 days since the Ohio Supreme Court ordered this Commission to reconvene and draw constitutionally compliant state legislative district maps. We have contacted each of you repeatedly and asked you to join us in reconvening the commission to fulfill our constitutional obligations and comply with the Court's order. We invited you to join us today in Room 313 of the statehouse but we did not see you there. And still no meetings have been scheduled.

The Court ordered "the commission to be reconstituted, to convene, and to draft and adopt an entirely new General Assembly-district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B) as we have explained those provisions in each of our four decisions in these cases." We take this Court order seriously. We have until 9:00 a.m. on May 6—now 11 days away—to adopt a new plan.

We ask that you join us in calling a meeting of the Commission. We have the time, resources, and ability to draw maps that comply with the Ohio Constitution for 2022 and beyond. We should rehire the independent mapmakers, both of whom are available, and allow them to review and finalize the maps they produced for us, and vote on those maps before May 6. We should also have public input on the maps that we develop and adopt. There is no excuse not to hear from the people of Ohio about the districts that will ultimately be their voice in how our state is run.

Please join us in calling a meeting as soon as possible to do our jobs and adopt fair maps.

Sincerely,

Handwritten signature of Senator Vernon Sykes.

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

Handwritten signature of C. Allison Russo.

C. Allison Russo
House Minority Leader
Commissioner, Ohio Redistricting Commission
House District 24

EXHIBIT 6

RETRIEVED FROM DEMOCRACYDOCKET.COM

OHIO AUDITOR OF STATE KEITH FABER



88 East Broad Street
Columbus, Ohio 43215
ContactUs@ohioauditor.gov
(800) 282-0370

April 26, 2022

Members of the Ohio Redistricting Commission:

I join with other members of the Ohio Redistricting Commission in calling for a meeting to be scheduled - as soon as possible. The Supreme Court of Ohio's May 6th deadline is fast approaching and it is time for us to get to work.

Scheduling a meeting has proven to be a challenge over the past week, with a member of the Commission sidelined with COVID and others preparing for the May 3rd primary. But, the Commission has shown the ability to conduct our meetings remotely and I encourage this option be afforded for each meeting moving forward to increase availability and participation.

I propose we address the following items at our next meeting:

- 1) Discuss having the Attorney General request an extension from the Court to May 13th for the Commission to draft and adopt a new state legislative redistricting plan.
- 2) Set a firm meeting schedule moving forward, subject to recess, with a virtual option;
- 3) Deliberate over which redistricting plan will serve as the starting point for the Commission's adoption of a plan; including, agreeing on the process Commission members shall use to offer formal amendments to any plan adopted subject to amendment – while also providing sufficient time for Commission members and the public to review and consider the plan prior to final adoption.

I look forward to working with each of you to meet our shared obligations of the Court's deadline and the public's expectations.

Very truly yours,

A handwritten signature in cursive script that reads "Keith Faber".

Keith L. Faber
Ohio Auditor of State

EXHIBIT 7

RETRIEVED FROM DEMOCRACYDOCKET.COM



Ohio Senate
Senate Building
1 Capitol Square
Columbus, Ohio 43215
(614) 466-4074

Dr. Vernon Sykes
Ohio State Senator
28th Senate District

April 27, 2022

The Honorable Bob Cupp
Co-Chair, Ohio Redistricting Commission
Ohio House of Representatives
77 South High Street, 14th Floor
Columbus, Ohio 43215

Dear Speaker Cupp,

I write today in response to your recent proposal to hold an Ohio Redistricting Commission meeting on May 4. I accept the proposed date, but with reservations. Leader Russo and I have made repeated attempts to schedule Commission meetings since the latest Supreme Court of Ohio decision that found the last state legislative maps unconstitutional. Two weeks have passed with no meetings. I believe that waiting to hold our first meeting on May 4 is irresponsible and does not adequately respond to the Supreme Court's order. I ask you to reconsider your plan of not scheduling our first meeting until May 4.

Auditor Faber stated in his April 26, 2022 letter to the Commission that Commissioners' schedules can be accommodated with a virtual meeting option. Commissioners occupied with primary election campaigning can utilize this remote participation option. The Commission has many issues to address that require more than the two days between May 4 and our May 6, 9:00 a.m. deadline. Some of these issues are also presented by Auditor Faber in his letter. Additional issues include approving funds to rehire the House and Senate Minority Caucuses' map consultant and re-engaging the independent mapmakers from our previous round of drawing – as suggested by the Supreme Court.

You also indicated in our most recent phone conversations that you are considering asking the Court for an extension of time to complete the map drawing process. This is wholly unnecessary and I am skeptical of ultimate success since the Commission has remained entirely inactive since

the Court's previous decision. The Commission should get to work and eliminate the need to ask for an extension.

You have also indicated in the press that your staff is already working on a General Assembly district plan and that you would make your map drawer available to Democratic commissioner staff in private meetings. While I appreciate your offer to make staff available, the map drawing process should be done publicly and the Commission should immediately retain the independent map drawers, Dr. Douglas Johnson and Dr. Michael McDonald, to allow for the finalization of their constitutional General Assembly district plan.

Furthermore, the House and Senate Democratic Caucuses have not been able to re-engage our consultant for this round of map drawing without access to funds. Leader Russo has indicated to the Commission that Task Force funds are available but would need to be released. Alternatively, the Commission still has funds that could be accessed to support the work of the Commission.

Pursuant to our procedural rules, a meeting of the Commission will be held when three Commissioners call for one. Auditor Faber has joined our call to hold a meeting and we now must set a time. That initial meeting should not be delayed until the last minute. Given the myriad of issues that need to be resolved, I believe the Commission should immediately meet every day until the Court's deadline. I appreciate your prompt attention to this matter and look forward to your response.

Sincerely,



Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

cc: Ohio Redistricting Commission members

EXHIBIT 8

RETRIEVED FROM DEMOCRACYDOCKET.COM



April 28, 2022

Senator Vernon Sykes
Ohio Senate
Statehouse
Columbus, Ohio 43215

Dear Senator Sykes:

I write in reply to your letter dated April 27, 2022. Thank you for agreeing to hold an Ohio Redistricting Commission meeting on May 4. Our staffs are collectively preparing a meeting notice for that date. We will continue to work on an agenda for that meeting as it will draw near soon.

To recap our earlier conversation, it is both unwise and not feasible for the Redistricting Commission to meet prior to that date. As you are quite aware, the primary election for statewide and congressional offices, as well as numerous local races and ballot issues across Ohio will be held on May 3, less than a week from now. Secretary LaRose has the statutory responsibility to ensure that the election runs properly across the state – a huge responsibility. Further, the redistricting process has caused enough confusion among Ohio voters. We already have a split primary. Early voting is at a record low. Holding more meetings prior to May 3 would serve no other purpose than to further confuse the electorate. I am not willing to sacrifice the smooth operation of the primary election for the sole purpose of conducting business that can just as easily be conducted at the Redistricting Commission meeting already scheduled for May 4.

You also mischaracterize Auditor Faber's April 26, 2022 letter. That letter clearly did not call a meeting of the Redistricting Commission pursuant to Rule 5. Instead, the letter encouraged the Commission to meet "as soon as possible." As explained above, we are meeting as reasonably and feasibly soon as possible and thus meeting the Auditor's request.

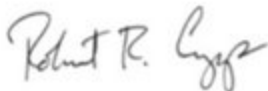
I must express my concern with your request for even more money to re-engage your outside map making consultant, Chris Glassburn. The decision on that request, of course, rests not with me as only the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research ("Task Force") can allocate those funds. That Task Force is co-chaired by Senator Rob McColley and Representative Allison Russo. Your request for additional money should be directed to them. Since you raised the issue, however, I do harbor some concern with your request for additional funding for Mr. Glassburn. It is my understanding that on April 16, 2022, Rep. Russo requested an additional \$200,000 allocation to the Democratic caucus for the stated purpose of re-engaging Mr. Glassburn. It is important to note that this request is in addition to **three other allocations** to the Democratic caucus.

- On April 23, 2021, \$150,000 was allocated to the Democrat caucus¹.
- On August 11, 2021, less than four months later, another \$250,000 was allocated to the Democrat caucus because the original allocation had already been consumed.
- On January 16, 2022, five months later, you expressed a need for an additional \$150,000 for your map making consultant.² This request too was granted.

Now, after paying \$500,000 to Mr. Glassburn, you claim a need to pay him an additional \$200,000? To put this into context, the two independent map makers, Dr. Douglas Johnson and Dr. Mark McDonald, combined were paid roughly \$100,000. I would encourage both co-chairs of the Task Force to request an accounting from Mr. Glassburn for past expenditures and an itemized statement of any billings going forward

I look forward to a productive meeting of the Redistricting Commission on May 4.

Sincerely,



Robert R. Cupp
Speaker of the House
Ohio House of Representatives

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¹ The two Democrat members of the Redistricting Commission.

² The Republican Caucus, all five Republican members of the Redistricting Commission, has received a total allocation of \$200,000.

EXHIBIT 9

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Transcript of Ohio Redistricting Commission

Date: May 4, 2022

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OHIO REDISTRICTING COMMISSION

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5-4-2022

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20 Job Number: 448318

21 Pages: 1 - 65

22 Transcribed by: Planet Depos

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1 (Recording begins.)

2 CO-CHAIR CUPP: The meeting of the Ohio
3 Redistricting Commission will now come to order. I
4 would note before we get into the roll call that we
5 have some letters of appointment in your file, and
6 I'll just make a note of them for the record. One from
7 Senator Huffman, president of the Senate, appointing
8 Senator Robert McColley in lieu of the Senate
9 president's service on the commission. We have a
10 second, one from myself as speaker of the house,
11 appointing representative Jeff LaRe in lieu of my
12 service on the commission. We have then two letters,
13 one from the president of the Senate, and one from the
14 speaker of the House, designating Jeff LaRe as one of
15 the co-chairs of the commission. So at this point I
16 would call upon the governor to administer the oath.

17 GOVERNOR DEWINE: Please raise your right hand
18 and repeat after me. I, state your name,

19 CO-CHAIR LARE: I Rob McColley.

20 GOVERNOR DEWINE: Do solemnly swear.

21 CO-CHAIR LARE: Do solemnly swear.

22 GOVERNOR DEWINE: To support the Constitution of

1 the United States.

2 CO-CHAIR LARE: To support the Constitution of
3 the United States.

4 GOVERNOR DEWINE: The constitution of the state
5 of Ohio.

6 CO-CHAIR LARE: And the constitution of the state
7 of Ohio.

8 GOVERNOR DEWINE: And to faithfully discharge the
9 duties of the office.

10 CO-CHAIR LARE: And to faithfully discharge the
11 duties of the office.

12 GOVERNOR DEWINE: As a member of the Ohio
13 Redistricting Commission.

14 CO-CHAIR LARE: As a member of the Ohio
15 Redistricting Commission.

16 GOVERNOR DEWINE: On which I serve.

17 CO-CHAIR LARE: On which I serve.

18 GOVERNOR DEWINE: Pursuant to Article 11.

19 CO-CHAIR LARE: Pursuant to Article 11.

20 GOVERNOR DEWINE: Section one of the Ohio
21 constitution.

22 CO-CHAIR LARE: Section one of the Ohio

1 constitution.

2 GOVERNOR DEWINE: This I shall do, and I shall
3 answer to God.

4 CO-CHAIR LARE: This I shall do, and I shall
5 answer to God.

6 GOVERNOR DEWINE: Congratulations.

7 CO-CHAIR CUPP: Having been duly appointed and
8 sworn in, I would now ask Representative LaRe, Co-
9 Chair to continue presiding over the meeting today.
10 Co-chair LaRe. Congratulations.

11 CO-CHAIR LARE: Will the staff please call the
12 role?

13 SECRETARY: Co-chair LaRe?

14 CO-CHAIR LARE: Here.

15 SECRETARY: Co-chair Sykes?

16 CO-CHAIR SYKES: Here.

17 SECRETARY: Governor DeWine?

18 GOVERNOR DEWINE: Here.

19 SECRETARY: Auditor Faber?

20 AUDITOR FABER: Present.

21 SECRETARY: Secretary LaRose?

22 SECRETARY LAROSE: Here.

1 SECRETARY: Senator McColley?

2 SENATOR MCCOLLEY: Here.

3 SECRETARY: Leader Russo?

4 LEADER RUSSO: Here.

5 CO-CHAIR LARE: With a quorum present, we'll meet
6 as a full committee. Members can find the minutes from
7 the last meeting on March 28th in their folders. Do I
8 have a motion to accept the minutes?

9 SECRETARY LAROSE: So move.

10 CO-CHAIR LARE: Are there any objection or
11 amendments to the minutes? Hearing none, the minutes
12 are accepted. At this time, we'll move the discussion
13 to the allocation of funds to further work -- for the
14 further work of the commission. Representative Russo.

15 LEADER RUSSO: Thank you. Thank you, co-chair.
16 Welcome to this illustrious committee. We are glad to
17 have you here. I make a motion to adopt a resolution,
18 asking the legislative task force to approve the funds
19 requested by the democratic commissioners,
20 specifically the allocation of funds that I have
21 requested. Specifically, I move that the commission or
22 I urge -- or specifically request the commission urge

1 the legislative task force on redistricting, of which
2 I am co-chair, to approve funding for the caucuses so
3 that the democratic members of the commission have the
4 resources and professional expertise needed to perform
5 their constitutional duties. As a reminder, we rely on
6 a consultant to be able to help us with the map making
7 process.

8 We also have a software licensure as well as the
9 licensure -- or the software support that need to be
10 renewed, The last allocation of which we have not
11 spent all of the allocation, but it expired on March
12 4th. So we do need to at least extend that so that we
13 can continue to have the support that we need to
14 continue with this process. And I would hope that this
15 commission would be supportive of all of our members
16 having the resources necessary to do our
17 constitutional duties.

18 SECRETARY LAROSE: Second the motion.

19 CO-CHAIR LARE: Representative McColley -- or
20 Senator McColley.

21 SENATOR MCCOLLEY: Thank you, chairman. Those of
22 you who are on the commission probably know that

1 Leader Russo is one of the co-chairs of the
2 legislative task force on redistricting. And I am the
3 other co-chair. I did receive a letter from Leader
4 Russo regarding her funding request, and I believe all
5 of you have also received a letter that was drafted by
6 Speaker Cupp subsequent to that request. And I sent a
7 letter back to her that I believe you also have all
8 received as well detailing some concerns that we have
9 with some of the spending out of the allocations that
10 have been made to the Democrat caucus. And I really am
11 just looking for an explanation primarily just in our
12 effort to exercise due diligence and transparency with
13 some of these expenditures.

14 And so primarily just from following this
15 process, I think anybody would understand that Mr.
16 Glassburn has been the Democrat map maker since the
17 beginning of this process, or at least the primary
18 Democrat map maker. And in reviewing some of the
19 expenditures, it has an interesting pattern of
20 payments being made that, from first glance, can't
21 really be explained very well. It appears there were
22 payments made September through December of what

1 appears to be his normal monthly retainer, his normal
2 monthly fee of anywhere from 13 to \$16,000. And then
3 there were two payments in the month of February. And
4 then a month later in the month of March that totaled
5 \$58,500 and \$55,000. And the March payment was
6 actually accompanied by a payment that seemed to be
7 customary with what the monthly fees would appear to
8 be, that being \$14,000 for a total of \$182,500 being
9 spent.

10 The Speaker had mentioned that in our duty to
11 exercise discretion over these funds, that it may not
12 be a bad idea to inquire as to the irregularity of
13 those two payments that seem out of the ordinary
14 course of business, and then to inquire as well about
15 additional payments that were made totaling \$119,000
16 from August 20th, two payments made on October 20th
17 and a payment made on December 2nd to Haystack DNA,
18 which is a company out of Washington, DC that, best I
19 can tell, focuses primarily on data analysis for
20 political issue messaging and fundraising, and has had
21 some involvement with redistricting efforts across the
22 state, those payments totaling \$119,000. And so --

1 trying to get a little bit of an explanation, what
2 those funding numbers were, what that money went for.
3 Don't really have an issue with what appears to be the
4 monthly payments to Mr. Glassburn, but primarily it's
5 those two payments that seem to be out of the
6 ordinary, That I'm a little bit curious about.

7 CO-CHAIR LARE: Representative Russo.

8 LEADER RUSSO: Thank you, co-chair. Thank you,
9 Senator. I'm happy to answer some of those questions.
10 So first, just to level set everyone, the Democratic
11 caucus, we have been allocated a total of \$500,000
12 since this process began, of which we have spent
13 \$354,000. Again, we had originally requested that
14 allocation expire later than the date that I believe
15 was changed by Senator McColley's office in some of
16 our back and forth. And it was changed to expire on
17 March 4th.

18 So in total, the money that we originally
19 allocated and approved has not been spent. In fact,
20 we've got about \$145,000 left. I will also remind
21 folks that the Democratic caucus and the money that we
22 are spending to support our work on this commission

1 goes through the task force, unlike some of our other
2 colleagues on the commission where some of the
3 consulting fees, for example, for outside map makers
4 actually comes through some of the legal expenses. And
5 that, of course we can't get into detail. And I think
6 there's been about \$600,000 so far spent there, but we
7 haven't been able to get details about how that has
8 broken out.

9 Also as a reminder, we do not -- at least for the
10 House Democratic caucus, because we have limited staff
11 and limited payment to our staff -- we are not able to
12 reassign staff to this task and compensate them
13 accordingly. So we have to go to these outside
14 consultants. But specifically your questions about Mr.
15 Glassburn. As a reminder, Mr. Glassburn at the
16 beginning of this process was only in contract with
17 the Senate Democrats, not with the Senate House, the
18 Senate -- or sorry, the House Democrats. The House
19 Democrats, originally, we had a consulting contract
20 with Haystack. They were the map maker. This is before
21 I came on the commission. Their work stopped, I
22 believe, in December. So we did not have any other

1 relationship with them, contract relationship with
2 them after December. And that was before my time
3 coming on the task force.

4 Beginning in January, when I transitioned onto
5 the task force, we also thought that it was more
6 efficient to have Mr. Glassburn working for both of
7 the caucuses. And as a result, his contract amount was
8 higher to reflect that. So the amounts that you see in
9 February and March -- and by the way, he had a
10 contract amount that was approved, a total contract
11 amount that was approved by the task force. And the
12 invoicing goes through LSC, which both the Senate
13 president and the speaker chair that -- and go back
14 and forth chairing that. So he submitted those
15 invoices as he is legally required to do. There were
16 no questions raised about the invoices and they were
17 paid.

18 In the months of February and March, the invoices
19 submitted, I will remind you, not only was he working
20 for two caucuses at the time and two commissioners,
21 but we had three court decisions that came about
22 during that time period. So we were working on both

1 two sets of state legislative maps, as well as an
2 additional set of a congressional map, which is very
3 different certainly than some of the previous months
4 when he was consulting. So he simply invoiced. Again,
5 his contract was a set amount that we gave to him, and
6 it was just simply a matter of how he broke up the
7 invoicing that he did for those two months. But I will
8 remind you, he was also doing, not only working for
9 two different commissioners, but also working during
10 three different decisions, as opposed to in the fall,
11 there was only one decision or actually that was pre-
12 decision, but two different maps.

13 CO-CHAIR LARE: Senator McColley.

14 SENATOR MCCOLLEY: Thank you, Chairman. Thank you
15 for the explanation, Leader Russo. To be clear for
16 everybody, the individual invoices are not necessarily
17 approved by the co-chairs of the task force.
18 Generally, there's a lump sum that's been allocated to
19 each of the individual caucuses, and then it's within
20 their discretion to approve the invoices individually.
21 So these invoices would've been improved to have been
22 paid by the Democrat co-chair of the task force.

1 And I guess I understand -- I guess, some of the
2 reasoning behind that. However, it still doesn't, I
3 guess, justify the enormous departure from what
4 would've been the ordinary and customary order of
5 business with Mr. Glassburn to go from 16,000 in
6 September, 13,000 for October, presumably 13,000 for
7 November, 13,000 for December, and then all of a
8 sudden February and March \$58,500 and 55,000 then to
9 return back to 14,000, despite the fact that as you
10 had said he was working for two caucuses now.

11 And I guess that was part of the reason why I
12 requested in my return letter to you that there be an
13 accounting of whatever costs were presented to justify
14 that large departure that would've, I think, raised
15 anybody's eyebrows if they were being objective, when
16 they looked at the pattern of payments.

17 CO-CHAIR LARE: Senator Russo.

18 LEADER RUSSO: Sure. So, you know, again, this is
19 what map maker's cost and I appreciate us wanting to
20 be good stewards of the taxpayer dollars, but this
21 invoice as required coming through the legislative
22 task force, redistricting task force was submitted.

1 Number one, the contract was approved. It was
2 submitted through LSC. If there were any concerns
3 about the contract, they can raise that. We allocated
4 the dollars. I would love to have a full accounting,
5 frankly, of what the Republican commissioners have
6 spent on map makers, because we can't see those
7 dollars. They come through --

8 CO-CHAIR LARE: Let's maintain decorum, please.

9 LEADER RUSSO: Those come through legal fees that
10 we don't have a detailed accounting of. So if we're
11 going to go back and forth again, if this is part of
12 us not having the resources to be able to complete our
13 constitutional duty, and this is going to be, you
14 know, the games that we're going to play with this,
15 then I would ask that we have the same level of
16 scrutiny and detail of what has been spent on outside
17 consulting map makers from other commissioners.

18 CO-CHAIR CUPP: Again, there has been nothing
19 raised about the contract. Mr. Glassburn was working
20 for two commissioners under three decisions during
21 this time period. Everyone who was up here, including
22 staff knows that there was enormous amount of time and

1 hours spent, particularly during the month of
2 February, end of January, February and beginning of
3 March, given the number of decisions and the number of
4 rounds of map making that we were undergoing during
5 that time.

6 CO-CHAIR LARE: Senator McColley.

7 SENATOR MCCOLLEY: I guess, to start, all of our
8 map makers are employees of our caucus. So there was
9 no additional money spent on them. So it still, in my
10 mind, doesn't get to the crux of the issue. The fact
11 remains that looking at these payments, it's easy to
12 see that his ordinary monthly retainer or fee, if you
13 will, is anywhere from 13 to \$16,000. And all of a
14 sudden in February that quadrupled and then remained
15 high for the first payment of the month of March. And
16 then he was given another payment during the month of
17 March of \$14,000. And so I realize there may have been
18 a lot of work and I'm not disputing that Mr. Glassburn
19 has put an awful lot of hours into this process. And
20 in fact, I don't have any dispute with his normal
21 monthly retainer or fees or however the contract is
22 structured. I've never seen the contract.

1 And so the question remains, what is the
2 justification for 58,500, which is more than each of
3 the previous four payments made to him combined that
4 was paid to him in the month of February and then an
5 additional payment of \$55,000 one month later. So in
6 the course of two months, just during February and
7 March, there were payments made to him of \$127,000.
8 You count both March payments.

9 LEADER RUSSO: So --

10 CO-CHAIR LARE: Senator Russo.

11 LEADER RUSSO: Yes. Thank you. Senator, as a
12 reminder, these are not monthly expenses. He has a set
13 contract amount and the allocation was set to expire
14 on March 4th. So it's not as if he could continue to
15 do the \$13,000 every month. If he was going to submit
16 the invoice for the work, essentially he had to do it
17 from January to March 4th because that's when the
18 allocation expired.

19 I also want to go back and just correct that you
20 only use staff map makers. We know through public
21 records request that, in fact, Mr. Clark Vincent who's
22 a DC mapping consultant was paid through outside

1 counsel, Nelson Mullins. We know that John Morgan, who
2 is also a DC mapping consultant was paid through
3 outside counsel, Nelson Mullins. So this assertion
4 that only Democrats on this commission are using
5 outside map makers is just frankly incorrect.

6 Also, I will say that, again, the staff and the
7 Republican commissioner staff, map making staff, who
8 have been assigned to work on this were also given
9 significant raises prior to this process, totaling
10 \$80,000. That same payment adjustment was not afforded
11 to my staff. And so at the end of the day, frankly,
12 looking at Mr. Glassburn's billings, that seems like a
13 deal to me. And that is, especially when we consider
14 the \$9 million that's already been allocated for a
15 primary that was conducted yesterday, that was
16 confusing, and the 25 million on top of that to
17 conduct a second primary because this commission has
18 not done its job. So if we want to start talking about
19 --

20 CO-CHAIR LARE: Folks, please.

21 LEADER RUSSO: -- prudent use of taxpayer
22 dollars.

1 CO-CHAIR LARE: We need to maintain decorum.

2 LEADER RUSSO: I think we're focusing on the
3 wrong thing.

4 CO-CHAIR LARE: Senator McColley.

5 SENATOR MCCOLLEY: Thank you. Well, to me, I
6 think it's right for us to focus on this. And I think
7 you admitted that even earlier when we appreciated the
8 oversight we were trying to exercise over this. I just
9 don't see, and I've not heard in your explanation, why
10 something would quadruple and then stay quadrupled for
11 yet another month. And then keep in mind, another
12 thing you keep bringing up these outside consultants.
13 None of them participated in the map drawing process.
14 Those people were hired, I believe, by our lawyers,
15 right? Potentially to aid them in the litigation. They
16 were not participating in map drawing at any point in
17 time. And I think the record also proves that to be
18 clear.

19 CO-CHAIR LARE: Representative Russo.

20 LEADER RUSSO: I believe those attorneys were
21 advising members of this commission outside of the
22 litigation throughout the map making process. Again,

1 you say I'm not explaining the invoicing amounts. I
2 did explain the invoicing amounts. He was under
3 contract to provide these services from January to
4 March 4th. And he simply invoiced over that time
5 period, his total contract amount, totaling \$127,500.
6 Again, these are not monthly fees. He had a set
7 contract amount that was approved, approved by LSE,
8 approved by us. And he simply invoiced over the period
9 of time before the allocation expired, which was on
10 March 4th.

11 We had actually originally requested that it
12 expire in mid-April and I believe your office changed
13 the date on that. So that is why we've got the
14 invoicing amounts over that compressed period of time.
15 He just had a shorter period of time to submit
16 invoices. But also his work was entirely justified. He
17 was here doing the work and advising two different
18 commissioners and working through three different
19 decisions at the time.

20 CO-CHAIR LARE: Senator McColley.

21 SENATOR MCCOLLEY: Mr. Chairman, thank you.

22 Haystack DNA -- and I think I might know the answer to

1 this -- but can you explain a little bit what their
2 involvement was and the four payments made to them
3 from August to December of last year, totaling
4 \$119,000?

5 LEADER RUSSO: Sure. So Haystack -- again, this
6 preceded my time on this commission. They were
7 contracted with the house Democrats specifically and
8 as map making consultants and to develop maps for us
9 to do the work here on the commission. And they had a
10 set contract amount as well and invoiced over the
11 period of time that they were under contract with us.
12 That contract had ended before I came on this
13 commission and before I was on the task force, but the
14 decision was made, and I will take full responsibility
15 for this, at the beginning of January, when I assumed
16 the position on this commission, that I thought that
17 their services were no longer needed by our caucus and
18 it was more efficient to have Mr. Glassburn.

19 CO-CHAIR LARE: Senator McColley.

20 SENATOR MCCOLLEY: Did Haystack DNA ever actually
21 develop any maps that were presented to the commission
22 or otherwise?

1 LEADER RUSSO: My understanding is that they
2 developed draft maps for us to consider, and for
3 commission, my predecessor, to consider to present to
4 this commission, is my understanding.

5 SENATOR MCCOLLEY: Mr. Chairman.

6 CO-CHAIR LARE: Senator McColley.

7 SENATOR MCCOLLEY: What was the reason you
8 decided to eliminate their contract?

9 LEADER RUSSO: Well, first of all, I'm not being
10 deposed, but frankly, my decision is Mr. Glassburn, I
11 think is a much better consultant and had more
12 knowledge about the maps. And I thought it was more
13 efficient.

14 CO-CHAIR LARE: Senator McColley.

15 SENATOR MCCOLLEY: Okay. I was just curious
16 because -- thank you, Mr. Chairman. I was just curious
17 because it's my understanding that Mr. Glassburn held
18 the same opinion you did given that in his deposition,
19 he said Haystack had very limited value towards any of
20 the final products that were furnace to the
21 commission. So, I mean, I'd opened it up to
22 discussion. I also pointed out in the response letter

1 to Leader Russo that I think before we allocated more
2 money and before we went down that path that I wished
3 that the commission would express its wishes regarding
4 its next steps and what we should be doing in the
5 funding allocations, given that this is solely within
6 the commission at this point, and I would like to be
7 deferential to what's going to happen in that regard.

8 CO-CHAIR LARE: Further discussion? Just for
9 clarification on your motion, are you asking the task
10 force for a reduced amount from the 200,000?

11 LEADER RUSSO: Certainly that is up to discussion
12 with this commission. I would just like this
13 commission, the support of this commission, for us to
14 have allocation of funds to our caucus, so that we can
15 conduct our work as commissioners and perform our
16 constitutional duties, which is to produce a map that
17 is constitutionally compliant and meets the
18 requirements of the court order that we are currently
19 under, that I will remind everyone in this commission
20 has a deadline of Friday at 9:00 and here we are, less
21 than 48 hours before arguing over this, when this
22 should have been done two weeks ago.

1 CO-CHAIR LARE: Any further discussion? All
2 right. Senator Sykes.

3 SENATOR SYKES: Mr. Co-chair and ladies and
4 gentlemen, an explanation was asked for, and I think
5 Leader Russo has provided detailed explanation
6 historically and budgetary wise. And the question
7 still remains before us, making sure that we allocate
8 resources so that we all can participate in map
9 drawing process, and I would hope that you would all
10 consider that.

11 CO-CHAIR LARE: Thank you, Senator. Just for
12 clarification, for the record, Representative Russo,
13 would you mind repeating your motion?

14 LEADER RUSSO: Yes. Thank you, Mr. Co-chair. So
15 move that the commission pass a resolution urging the
16 legislative task force and redistricting to approve
17 funding for the caucuses, so that democratic members
18 of the commission have the resources and professional
19 expertise needed to perform their constitutional
20 duties.

21 CO-CHAIR LARE: Senator McColley.

22 SENATOR MCCOLLEY: Just somewhat of a point of

1 order. I don't know that a resolution is necessary
2 given that the decision is up to Leader Russo and I.
3 Being that we're both here, if the commission
4 generally indicates that they're in favor of
5 authorizing this for the continued expenditures, we
6 can execute this today. So that's, I think, mainly
7 what we're asking for. I don't know that we need an
8 official vote. And so if there's no objection, we can
9 do that.

10 LEADER RUSSO: Mr. Co-chair --

11 CO-CHAIR LARE: Representative Russo.

12 LEADER RUSSO: So maybe if I'm hearing the
13 senator correctly, that you are expressing approval
14 for the allocation, and we can expect that to come in
15 short order?

16 SENATOR MCCOLLEY: Yes. I mean, mainly in the
17 letter, I wasn't expecting it. Sorry, Mr. Chairman. In
18 the letter, I wasn't expecting to have to bring it
19 before the commission and talk about all of this. I
20 was asking for some of these receipts and accounting
21 in the letter I sent to you, but here we are having
22 this conversation nonetheless. And so, if the

1 commission feels it appropriate, then we will sign
2 that letter today, is what I'm saying.

3 CO-CHAIR LARE: Representative Russo.

4 LEADER RUSSO: Yes. Just to clarify, I don't know
5 if we need a vote, but for the commission on this
6 resolution, I'm happy to withdraw the motion, but I
7 also don't hear objections from any other members of
8 the commission.

9 CO-CHAIR LARE: Please.

10 SENATOR MCCOLLEY: Mr. Chairman, I would say at
11 some point in the future, we should be, and I am fine
12 opening up the Republican caucus books. I mean,
13 frankly, all of this is a public record at this point
14 anyway. And so I am fine opening up the Republican
15 caucus books. There's nothing in there that I think
16 would be any surprise to anybody. And so what I would
17 like to see, regardless of whether we approve this
18 today, is still documentations and contracts and
19 things of that nature and the actual invoices, and
20 maybe I can get that from LSE, as to how this was
21 actually structured, because while we're going to
22 approve this, the payments still to me without

1 reviewing that contract, still seem highly irregular.
2 And so it could be something that we look into further
3 down the road, regardless of whether we allocate this
4 future payment.

5 CO-CHAIR LARE: Hearing no objection, do you want
6 to withdraw your motion?

7 LEADER RUSSO: Thank you, Mr. Co-chair. If there
8 is no objection and we can expect the approval today
9 in short order, then yes, I'm fine to withdraw this
10 motion.

11 CO-CHAIR LARE: Okay. So at this time, we'll move
12 the discussion regarding independent map maker
13 drawers. Senator Sykes.

14 SENATOR SYKES: Thank you, Mr. Chairman. I would
15 move that the commission engage the independent map
16 drawers to perform a review of their previous work
17 product, making necessary changes to and entertaining
18 suggestions of amendments by the commissioners.

19 CO-CHAIR LARE: Discussion?

20 LEADER RUSSO: Second.

21 CO-CHAIR LARE: Senator McColley.

22 SENATOR SYKES: If I might, if I might-

1 CO-CHAIR LARE: Hold tight.

2 SENATOR SYKES: Yeah. Thank you, Co-chair. This
3 commission and the people of the state have really
4 invested a lot of work in funds, in the work product
5 of the independent map drawers. In our last meeting,
6 we were very close to having it conclude and being
7 resolved to a position to be more productive for the
8 commission. And I'm hopeful that we can keep that
9 investment and move forward from the actions and the
10 map drawing that's already taken place by the
11 independent map drawers.

12 CO-CHAIR LARE: Thank you. Senator McColley.

13 SENATOR MCCOLLEY: Thank you, Mr. Co-chair.
14 Having observed this process and I'm sure, like many
15 of the people in the room watching, way more the
16 livestream than I probably should have and way more
17 the livestream than my wife preferred that I would've
18 watched, several things became apparent to me. Number
19 one is that, while Doctors Johnson and McDonald put in
20 a lot of hours and a good effort, one thing that
21 became apparent to me is that we have people already
22 at our disposal who are eminently qualified to conduct

1 the business of the commission and to draw the maps of
2 the commission as the commission sees fit, while still
3 being in compliance with the Supreme Court order.
4 Let's not forget in the most recent Supreme Court
5 order, it reiterated the fact that it was a
6 suggestion, not a requirement, and even stated that
7 specifically that it could not require us to engage
8 independent map makers.

9 I personally, with as much scrutiny as he may
10 have been under throughout this process or any of
11 these map makers may have been under throughout this
12 process, I think they are the most qualified in the
13 entire country to be drawing these maps. And so I
14 would oppose a motion to engage the independent map
15 makers again, going forward.

16 CO-CHAIR LARE: Further discussion? Governor
17 DeWine.

18 GOVERNOR DEWINE: Mr. Chairman, thank you. To try
19 to put this in proper context, I think it would be
20 good to hear from the Secretary of State in regard to
21 the practical realities that we are facing. We all
22 have seen his letter, but I would like for him to

1 explain what's doable and what is not doable from his
2 perspective, because the practicality of this is very
3 important. And I think before making any decision
4 about independent map makers or anything else, I think
5 we have to understand exactly where we are at this
6 point. So if the chair would be willing to do that,
7 and if the secretary would be willing to do that, I
8 think this would be an appropriate time.

9 CO-CHAIR LARE: Secretary, do you?

10 SECRETARY LAROSE: Yeah, happy to, and thanks,
11 Co-chair. thanks, Governor. I mean, the fact is
12 yesterday Ohio's elections officials were able to
13 accomplish something that's nothing short of
14 miraculous and it's because of the grit and the
15 patriotism and the determination of these bipartisan
16 teams that all of our boards of elections that they
17 did this. Yesterday's election was a successful
18 election, certainly from the public standpoint. In
19 most parts of the state, it ran smoothly, but there
20 were some real challenges and they were able to
21 overcome those challenges, again, because we build
22 redundancies in that we look for anytime there's a

1 single point of failure, and then we put backup plans
2 in place. Unfortunately, we had to implement those
3 backup plans in several counties, defaulting to paper
4 poll books, instead of electronic poll books and all
5 kinds of other things that, again, the general public
6 didn't really see much. But that happened because we
7 required them to do 100 days worth of work in 45 days
8 that resulted in rushed logic and accuracy testing,
9 which led to technological failures.

10 It resulted in rushed election night reporting
11 preparation, which caused delays. And if we look
12 sleepy, anybody that was involved in the election was
13 working until about three o'clock in the morning over
14 at the secretary of state's office and at 88 county
15 boards of elections because of those delays related to
16 election night reporting. And also as a result, many
17 of you may have noticed that we were not able to
18 report the congressional results on a statewide basis.
19 Those had to be done on a county by county basis.
20 Those rushes that we had to conduct over the last few
21 months also resulted in trouble with ballot printing,
22 led to the need to remake some ballots. There were

1 misprints with little timing marks and things like
2 that that go wrong when the time is not allowed for
3 all the testing.

4 One of the other challenges that we have faced
5 and will continue to face is just staff burnout. And
6 this is not something that can just be swept aside or
7 overlooked. I, we, but I as the chief elections
8 officer, have asked a lot of our elections officials.
9 They are, as we speak, working on the next three and a
10 half, four weeks to conclude that May election. The
11 work of running election certainly doesn't end on
12 election day. They'll be working through the end of
13 May to conclude yesterday's election. And we're having
14 people that are saying, You know what? I don't know
15 if I want to do this work, and considering resigning.
16 And that means that we have a loss of institutional
17 knowledge and that kind of thing. PEO recruitment,
18 recruiting poll workers has become challenging.
19 Although we had adequate numbers yesterday, and we
20 will have adequate numbers for an August 2nd election,
21 but that takes a lot as well.

22 So Governor, if I may, I'd like to go through the

1 actual timeline that we're talking about and why my
2 office told the federal court that April 20th was the
3 date that we needed finality. That was not arbitrary.
4 For that matter, the August 2nd date, which is really
5 the only logical date to conduct a second primary,
6 that is not arbitrary either. It's important to note
7 that today is 90 days until August 2nd. Ohio's
8 elections are normally administered on a 90 day
9 calendar. Again, that's not by chance that that August
10 2nd date happens to be 90 days after today. 90 days is
11 what it takes to prepare for and run an election in
12 regular order to avoid some of the errors and
13 challenges that we faced yesterday. So 90 days from
14 today is August 2nd. The boards of elections need two
15 weeks prior to that to program their systems with new
16 maps.

17 If there were to have been a new map by April
18 20th, they could have had it programmed today so that
19 they can begin the preparation for August 2nd while
20 simultaneously still wrapping up the May election,
21 which happened yesterday. Backtracking from August 2nd
22 to 90 days, it brings us to today. And then two weeks

1 back brings us to April 20th. That's why we set that
2 date. As of today, of course, as I said, the boards
3 are still working to conduct the May 3rd election. We
4 have another 20 days for overseas military ballots to
5 arrive. We have another 10 days for normal absentee
6 ballots to continue arriving. And then the official
7 canvas and the post-election audit all still needs to
8 be conducted over the next four weeks. So that's
9 looking back.

10 Looking forward, according to our 90 day election
11 calendar, we would need to begin validating candidate
12 -- If there was a new map passed, we would need to
13 begin validating candidate petitions on May 16th. The
14 law requires 73 days before a primary election. So
15 that would have to happen on May 16th. Of course,
16 unless the legislature were to pass emergency
17 legislation to change that. Protests to those
18 petitions would need to be filed by May 20th. That
19 again is set in the law at 74 days before an election.
20 We would need to certify the official form of the
21 ballot by May 24th, required to be 70 days before an
22 election. The first ballots for that August 2nd

1 election would need to be in the mail on June 17th.
2 Folks, that's five weeks from now, just a little over
3 five weeks from now for those overseas and military
4 ballots to start going out on June 17th.

5 So let's say we pass a map tomorrow. Will it be
6 challenged? I think that that's certainly a
7 possibility given the history of this process and all
8 of the litigation from all of these special interest
9 groups that like to file lawsuits about these things.
10 So if it was challenged, there would be a week of time
11 that the court would allow the challengers to make
12 their arguments. Then the court has historically taken
13 three weeks to consider those arguments. Three weeks
14 from now, obviously takes us to within just a week and
15 a half of when we'd actually have to send out overseas
16 military ballots.

17 So let's just suppose for a minute that the
18 court didn't strike it down. Let's suppose that we
19 passed a map tomorrow and the court didn't strike it
20 down. The two weeks then would need to be allowed for
21 the boards to program those maps into their systems.
22 And now that's taking us six weeks out from today.

1 That six weeks takes us well past all of those
2 statutory deadlines that are in the law and certainly
3 past the beginning of sending out overseas and
4 military ballots. This is why we said April 20th is
5 not arbitrary. This stuff really matters, and it has
6 real results for Ohio voters and Ohio's elections
7 officials.

8 SECRETARY LAROSE: So let's talk about emergency
9 legislation. Any map adopted at this point, any map,
10 even a slight variation of another map, any new map
11 adopted by this commission would certainly require the
12 general assembly to pass emergency legislation. That
13 means bipartisan votes. That means super majority
14 votes to pass that emergency legislation. For me, my
15 vote on this commission is both as a member of this
16 commission but also as Ohio's Chief Elections Officer.
17 I cannot separate those two roles. It would be
18 irresponsible for me as Ohio's Chief Elections
19 Officer, to even consider a new map unless the
20 legislative leaders, and it's unfortunate, but the
21 legislative leaders are now not part of this
22 commission, unless they could assure me that they

1 could get that super majority vote to pass a piece of
2 legislation to allow us to adjust those timelines. I
3 would need that assurance before I could even consider
4 voting on a new map.

5 I believe that any new map that could be adopted
6 here, you know, must demonstrate -- Before we can pass
7 a new map, we have to demonstrate that we could get
8 that super majority vote. So, again, revisiting this
9 candidate filing question with 30 days of residency,
10 that's a 9C requirement in the constitution. That
11 would be triggered by any new map as well. That brings
12 up a whole nother [sic] set of questions. So, again,
13 unless the general assembly is planning on calling
14 their members into session tomorrow to pass this
15 emergency legislation, I can't see anyway that we can
16 pass a new map. Our elections officials pulled off
17 something miraculous last night, but I don't want to
18 ask them to do that again. And so I'm not really
19 willing to compromise the integrity of our elections
20 by rushing through a new map at this point. Our state
21 motto is with God, all things are possible, so I
22 remain open to conversation about this, but that's

1 certainly where I am on this matter as far as the
2 timing goes.

3 CO-CHAIR LARE: Thank you, Secretary. Senator
4 Sykes.

5 SENATOR SYKES: Thank you, Chair. Governor DeWine
6 and Secretary LaRose have really expanded the question
7 that I proposed. I proposed that we continue to use
8 the independent map drawers, and they've expanded it
9 to whether or not we should even consider any other
10 map other than map three. And I understand the
11 election calendar and the administrative procedures
12 that need to be adhered to, but if we were so
13 concerned about that time structure, why would we
14 squander the 20 days of 22 days that the court has
15 allotted us?

16 CO-CHAIR LARE: Folks, just out of respect for
17 those listening online, let's stop with the clapping.

18 SENATOR SYKES: So the time crunch is legitimate,
19 but we have the ability to make decisions. And we have
20 -- It has only been the reluctance of the majority to
21 approve the constitutional map that's caused us to be
22 in a place of where we are right now today. And all we

1 need to do is to pass a constitutional map. It will be
2 accepted by the court, and we can move forward. So I
3 think that we should reengage the independent map
4 drawers back to the original question that's on the
5 floor now.

6 CO-CHAIR LARE: Representative Russo.

7 LEADER RUSSO: Thank you, Co-Chair. You know,
8 again, I agree with Co-Chair Sykes in his assessment
9 of this situation, in that we've had 22 days up until
10 this point to avoid where we are now. So this is a
11 problem of our own creation. And I am of the opinion,
12 yes, that we can do things that are hard when there is
13 a will to do it. And the other thing that I would note
14 is that the federal court has given us until May 28th.
15 None of these procedures can start until May 28th
16 because the federal court has given us until May 28th.
17 So, you know, frankly, the third map is not set in
18 place. Even if you assume that it is so, it is not. So
19 I don't see how we avoid, you know, some of these
20 challenges either way we go with this.

21 But to me, whether people like it or not on this
22 commission, my fellow commissioners, like it or not,

1 we are under a state Supreme Court order to redo these
2 maps. That is the order that we are under, and that is
3 the task before us. And it is unfortunate that we have
4 wasted all of this time getting to this point. And we
5 are now less than 48 hours away from when the deadline
6 is. But, again, I believe we can do hard things. So I
7 think that we need to do all that we can to meet those
8 requirements to do right by the voters of Ohio
9 because, frankly, any election conducted on maps that
10 have been thrown out by our state Supreme Court is
11 unconstitutional. That's not a fair election. That's
12 not a legitimate election in my opinion.

13 CO-CHAIR LARE: Secretary LaRose, do you want to
14 respond to the status of the third map?

15 SECRETARY LAROSE: Yeah, I guess just to say that
16 there's a reason why the three judge panel in their
17 wisdom pointed out that the most reasonable course of
18 action, if there is no other maps passed by the 28th
19 of May, is to use the third map. That map is already
20 programmed at our boards of elections. Back in
21 February, when it was passed, I ordered the boards to
22 begin preparation for the May 3rd election with that

1 map. It is programmed, and it's ready to go. The --
2 You know, the time period has run since it's been
3 enacted that would've allowed candidates to move if
4 that's what they wish to do. And so, you know, it's
5 really the logical choice that the court made, was to
6 say that that third map, if there is no other action
7 by this commission, is the best course forward.

8 CO-CHAIR LARE: Representative Russo.

9 LEADER RUSSO: Thank you, Mr. Co-Chair. Secretary
10 LaRose, my understanding from the testimony that was
11 presented to the federal court is that not all boards
12 of elections have actually programmed that third set
13 of map. I think there were eight county boards of
14 elections that had not completed that process. You
15 know, I would say that certainly in our larger
16 counties that have over 50 percent of the population,
17 if some of those have not started this process or at
18 least have not completed it, it doesn't matter whether
19 we're talking about the third map or another map that
20 this commission completes. It's going to be work that
21 they will have to do because we've got -- most of our
22 counties in the state have one legislative district,

1 one Senate district, maybe two, and the bulk of the
2 work will fall on those larger counties. And my
3 understanding is it is many of those larger counties
4 who haven't completed this programming of the maps to
5 begin with. So I don't really see where the difference
6 in lift that has to be done by the county boards of
7 elections is going to be significantly different.

8 GOVERNOR DEWINE: Mr. Chairman?

9 CO-CHAIR LARE: Please.

10 GOVERNOR DEWINE: Chairman, besides the Supreme
11 Court timeline of this Friday, the Ohio Supreme Court
12 timeline, and in addition to that and also in addition
13 to the problems that have been outlined by the
14 Secretary of State, we also have another problem. And
15 at least from my reading of what was going on with the
16 independent map makers, I don't think it's simply a
17 question of, even if you could, calling them in here,
18 having them come in immediately and think that they
19 can come up with a map that fits the constitution and
20 also fits the four Ohio Supreme Court decisions. I
21 think anybody who watched that in real time and
22 watched what they had to do -- And I do not blame them

1 at all. I don't blame the court. I don't blame
2 anybody. But the reality is when they were going
3 through that process, it became abundantly clear you
4 can't hit all those marks. You can't hit all of them.
5 And that is the real problem, the other problem that
6 we are up against.

7 You know, we start off with the constitution on
8 proportionality. The court interpreted that in one of
9 their opinions. That's fine. The court added the
10 requirement of symmetry. That's fine. We accept
11 whatever the court tells us. But those two were added.
12 But then when you go through, when you watched the
13 independent map makers go through, you know, they were
14 not able to deal with -- to get all these things and
15 avoid partisan favoritism because what we saw them do
16 every single time when they had a choice, they felt,
17 based on these other two factors I just mentioned,
18 that the court was requiring them to favor the
19 Democrats every single time. They had to pick up. They
20 had to pick up those to get those numbers. I'm not
21 blaming anybody, but that's the way it turned out.

22 The other thing that was not -- they were not

1 able to do was compactness. Compactness, you know,
2 went out the window. You know, they basically said
3 that they were not able to do -- The quote is, We had
4 to blow through compactness. They had to blow through
5 compactness to reach these other things that the Ohio
6 Supreme Court had said. And finally, one of the
7 biggest selling points for the public, I think for
8 everybody, when this constitutional amendment was
9 passed was that we would have more competitive
10 districts, not fewer competitive districts. And yet,
11 the practical reality -- again, no one's fault. It's
12 just the way it worked out. The practical reality when
13 the independent map makers were doing this, they were
14 looking, frankly, not to create more competitive
15 districts, but they had to create fewer competitive
16 districts.

17 So it is -- we are -- we have a big, big problem.
18 And, you know, look, I think that we have an
19 obligation. I have said this consistently at every
20 stage of this. We have an obligation to try to come up
21 with a map. We have an obligation to try to do that. I
22 -- I would think that's what we should do, but we have

1 a Friday deadline. So we can't get the independent map
2 makers -- This goes back to the Senator's motion on
3 the appointing the independent map makers. You know,
4 we have people here, both parties who are here, who
5 can work on maps. You know, I don't think there's any
6 choice other than to tell them to go work on maps and
7 try to take the third map and try to improve that map
8 because of the problems outlined by Secretary LaRose.

9 It's not a good choice. I don't know if we can do
10 it or not. It was -- looked like it was demonstrated
11 the other day that we can't hit all these marks, but I
12 think we have a legal obligation, according to what
13 the court has said, to try to hit those marks. I don't
14 think we have any other choice but to go that route,
15 considering what the Secretary of State has said,
16 considering what the Ohio Supreme Court has said on
17 the date and considering what the practicality is of
18 what we watched in real time when the independent map
19 makers were trying to do it. So it's a long
20 explanation, but for Senator Sykes, I think it does
21 pertain to whether we can get higher independent map
22 makers and get them in here in time to do this without

1 any kind of assurance, frankly, that they can do it
2 because they didn't look like they were able to do it
3 through no fault of their own the other day.

4 CO-CHAIR LARE: Thank you, Governor. And just for
5 my own clarification, if I understood Secretary
6 correct, even if we were able to get these independent
7 mapmakers in tomorrow, they drafted a map, that you
8 still couldn't utilize that unless there was emergency
9 legislative action.

10 SECRETARY LAROSE: Yeah, that's correct. It's
11 worth reiterating. Of course, I'm open to trying to do
12 hard things, as my friend, the leader, said. Anybody
13 that knows me knows that I've embraced challenges, but
14 certainly, we can't just pass a map and then hope that
15 we can get emergency legislation done. I would need
16 assurance from the speaker and the president and the
17 minority leaders of both chambers that we can get that
18 emergency legislation done because, otherwise, we'd be
19 passing a map that we couldn't implement. We can't run
20 an election without the emergency legislation. And so
21 I'm not willing to vote for a map and then hope that
22 the legislature can come into session in the next week

1 or two and pass this emergency legislation. We would
2 need either firm assurance, or they'd need to be
3 called into session tomorrow to do that.

4 CO-CHAIR LARE: Thank you, sir. Auditor Faber.

5 AUDITOR FABER: Thanks. I want to separate these
6 two issues because I want to get back to what
7 Secretary LaRose just indicated and make sure I
8 understand clearly what that is, but I want to deal
9 with this independent map drawer issue first. I oppose
10 bringing the independent map drawers back. I'm not
11 sure that process was overly helpful, in large part
12 because we never had a chance to give independent
13 input as commissioners. The whole understanding and
14 the whole view of the order from the court in my view
15 was the commission was supposed to draw maps. We never
16 even got a chance to offer amendments. We never got a
17 chance to look at the details of what they were doing
18 in the process because they didn't hit the deadlines.
19 And -- and candidly, I think that the staff that are
20 here could have certainly done that and saved the
21 state an awful lot of money. And -- and while I'm sure
22 they're good guys, they meant well, they expressed

1 over and over how complicated the Ohio rules were and
2 that they had to relearn the Ohio rules to do their
3 job.

4 And we had people in place, both Democrats and
5 Republicans, that, had our staff been directed to sit
6 in a room and do it, they could have come up
7 effectively what the independent map drawn for,
8 frankly, expenses that were already being incurred,
9 some of which we heard about earlier and some of which
10 apparently were incurred by staff charges, just like
11 my people who are -- I don't want to -- my people tell
12 me not to say that they're map drawers because they're
13 not. They're staff who have tried to learn these
14 complicated systems and understand the area the best
15 they can. But there are people collectively who can
16 find those answers, and so I think us spending more
17 money of the taxpayers' money on these two
18 individuals, even if they're available, is
19 unnecessary. And so I would not be supportive of
20 rehiring the independent map drawers.

21 Now, if we want to get back to the second after
22 you want to dispense with the map drawer issue, with

1 regard to the other issue, I think Secretary LaRose
2 raised a very important baseline question. If I heard
3 his testimony correctly, it is that we can do nothing
4 at this point that is going to pass a map that is
5 going to be able to be implemented by his staff for a
6 whole host of reasons. And I want to walk through
7 those reasons in a second and ask him to tell me what
8 he thinks would need to be in a emergency piece of
9 legislation so we know exactly what the targets have
10 to be, if that is doable or not. But what I heard him
11 say very clearly, and he is the expert in this area,
12 and I will, of course, be deferential to him in this
13 area, but it will certainly shape my view of what we
14 can and can't do, is that if we can do nothing between
15 now and August 2nd with regard to the map for this
16 next two year cycle, I don't think that ends our
17 obligation to pass a map for some other period of
18 time. I agree with the governor. We have to do what
19 the court told us to do, and we don't have a choice.

20 But when we do that -- And our ability to think
21 deliberatively and carefully and thoughtfully on that
22 is a different analysis. But unless I misheard the

1 secretary, and I want to make sure I heard him
2 correctly, whether we modified map three or whether we
3 modified a new map or whether we modified the map
4 drawers' map, anything we would pass between now and
5 Friday is impossible, and I'm using that term on
6 purpose, impossible, to be implemented for an August
7 2nd election no matter what we do. And the reality is,
8 is the only possibility for any of that to be able to
9 be implemented by August 2nd would require at least
10 two assumables, both of which we're not in the power
11 necessarily to assume. One is that the legislature
12 could pass an emergency clause changing the law in
13 some areas. And two, and I think this is an important
14 thing you mentioned but nobody picked up on, was also
15 having certainty that that's actually going to be the
16 map because the court's going to have to review and
17 the petitioners get a chance to challenge any map that
18 we would ultimately pass. And without a certainty that
19 the map is the map, it's tough for you to implement a
20 map on an election basis on August 2nd. Did I hear you
21 correctly, sir?

22 SECRETARY LAROSE: Yes, you absolutely did. Let's

1 start with the May deadlines. The -- The first one
2 coming up is May 16th, which would be to certify the
3 validity and sufficiency of petition candidates.

4 AUDITOR FABER: Secretary?

5 SECRETARY LAROSE: Yes, sir.

6 AUDITOR FABER: Are these the things that you
7 would need changed in emergency legislation?

8 SECRETARY LAROSE: Absolutely.

9 AUDITOR FABER: Thank you. I want to make sure I
10 was --

11 SECRETARY LAROSE: Yeah. So, again, if the
12 federal court were to approve, revalidate, whatever
13 the right legal term is, the May 3rd map, all of these
14 deadlines would've already elapsed for the -- Sorry,
15 not the May 3rd map. The third map. All of these
16 deadlines would've yet already elapsed for the third
17 map that the federal court has said that they would
18 consider revalidating if this commission didn't act.
19 So these are new deadlines that would only accrue if
20 there was a new map enacted by this commission. May
21 16th, certify validity and sufficiency of candidate
22 petitions. May 20th, this is the deadline for protests

1 against those petitions, which is, again, all required
2 by law. May 24th, and this is the big one for our
3 office, the form of the ballot. This is when we lay
4 out for the boards what the ballot looks like so that
5 they can begin doing logic and accuracy testing.

6 Remember back to me giving the list of
7 things that went wrong over the last 48 hours that we
8 were able to work through but could have been avoided
9 if they hadn't been rushed. The form of the ballot is
10 necessary in order to do logic and accuracy testing
11 and in order to begin the very careful and deliberate
12 printing of those ballots, so that would occur on May
13 24th. Boards of elections must certify the names of
14 the candidates also on May 24th, and then there's a
15 protest for write-in candidates on May 27th. That's
16 just the ones in May. There's a whole list of
17 deadlines that come up in June. So those are the kinds
18 of things that would have to be considered. We're not
19 even talking about, right now, the 9C requirement in
20 the Constitution, allowing candidates 30 days to move
21 from the date a new map is enacted.

22 LEADER RUSSO: Mr. Co-chair.

1 CO-CHAIR LARE: Representative Russo.

2 LEADER RUSSO: Thank you. Again, I'm going to go
3 to the second part of this discussion, which is about
4 these dates. Unless I'm understanding --
5 misunderstanding this, May 28th occurs after May 16th,
6 May 20th and May 24th. My understanding is, in every -
7 - even with the third map, candidates have not been
8 validated in all counties nor has the process for
9 questioning that validation -- and I'm losing my train
10 of thought here. That has also not happened with the
11 third map in all of these counties, so I'm still
12 having trouble understanding that even with the third
13 map, given that it has not been ordered yet by a
14 federal court and will not happen until after May
15 28th, how regardless of whether or not we're talking
16 about a third map or a new map that this commission
17 passes, that we don't still have the same problem that
18 may require or sounds like it will require emergency
19 legislation. So I feel like this is a false choice
20 here because it's the same choice regardless of which
21 path we go with this. Because these things, the
22 deadlines will have already passed anyway because they

1 haven't been done and the third map would not be
2 ordered. And again, this all assumes the federal court
3 doesn't change its mind until after the 28th.

4 CO-CHAIR LARE: Secretary LaRose.

5 SECRETARY LAROSE: Yeah, I'll respond. And this
6 is where I'll be careful not to make legal
7 pronouncements because I'm not a lawyer, but the act
8 that the federal court would be taking putatively is
9 that they would be validating a map that this
10 commission has already enacted. This commission
11 enacted a map, it was struck down by the Ohio Supreme
12 Court, the federal court would be reversing the action
13 of striking down that court. So in that sense, the
14 timelines have all played out from when this
15 commission enacted that map and the federal court
16 would be ordering that that map be run on an August
17 2nd election.

18 Now, of course, those of us in executive office,
19 we don't make the laws, we faithfully carry those out.
20 So what I need to look at with the work that I do --
21 excuse me. What I need to look at with the work that I
22 do is to make sure that I'm faithfully following title

1 35 of the Ohio revised code, and the legislature has
2 already enacted, a few weeks ago, provisions stating
3 that candidates that filed by the February 2nd filing
4 deadline would be grandfathered effectively into the
5 districts as long as the petitions had signatures in
6 the county that includes a part of the new district
7 and all that kind of thing. You remember the language
8 that you all worked on on that.

9 So those would be -- the petition filing
10 questions have already passed because that was
11 triggered way back on February 2nd when the original
12 statutory petition filing deadline occurred. So these
13 new deadlines that I was talking about would only be
14 triggered by a new map and a new election to run those
15 new maps.

16 CO-CHAIR LARE: Thank you, Secretary. Senator
17 McColley?

18 SENATOR MCCOLLEY: Thank you, co-chair. I frankly
19 am inclined to defer to the secretary. He knows these
20 deadlines inside and out. But as far as the discussion
21 on whether there would be votes for an emergency, I
22 hope I'm not stepping too far out of line here, but

1 based upon previous conversations that we've had in
2 our own caucus and conversations I've had with other
3 members of our caucus, I don't think there would be
4 votes for an emergency at this time in this process.
5 So whether people like that or not, that's what it
6 takes under the Ohio constitution to be able to change
7 law without the 90 day layover and I don't think there
8 would be votes in the Senate, at least to get the 22
9 requisite votes to make an emergency piece of
10 legislation.

11 As we go a little bit further down that road, and
12 again, I'm probably the fourth or fifth person trying
13 to re-center this back to the topic of the independent
14 map makers, I would agree wholeheartedly with
15 everything the governor said as to the difficulties
16 that these independent map makers confronted when they
17 were in there drawing maps. And it was through no
18 fault of their own. They were thrown into a situation
19 where, while they may be relative experts compared
20 across the country, they were thrown into a situation
21 where there had been continuing hundreds of pages of
22 guidance provided by the Supreme Court in a short

1 amount of time and a complex set of constitutional
2 requirements that I believe they even mentioned might
3 be the most complex in the entire country, and then
4 told to try and figure this out, which reiterates the
5 point that I was saying earlier. We have map makers on
6 staff, Ray DiRossi and Chris Glassburn, who are people
7 who have deep familiarity with Ohio, with its
8 political geography, and where some of these traps may
9 come into place when they're trying to come up with
10 these maps.

11 But I would also say that in regards to the
12 independent map, some of these difficulties were
13 highlighted even with the -- what I feel is the narrow
14 lane, insofar as how this map needs to be drawn, that
15 the commission has been put into as a result of the
16 jurisprudence from the Supreme Court. Some quotes that
17 I noticed while watching it was Dr. Johnson saying, I
18 never worked this hard for a commission making
19 districts non-competitive. Dr. McDonald saying,
20 probably most of the way through his house map, the
21 first iteration, saying he hasn't even considered
22 compactness yet. One of the map makers saying, No

1 reason I can't split the community just because no
2 one's done it. I'm allowed to. That was Dr. McDonald.
3 Another saying, If we meet the partisan balance
4 goals, is population balance that important? District
5 -- another quote, District by district, we are really
6 drawing heavily for partisanship relative to the other
7 requirements of the Constitution. Another quote from
8 Dr. Johnson, Parma and North Royalton are perfect
9 district together, but it's a Republican district,
10 referencing why he couldn't end up drawing this
11 district. Quotes go on and on and on. Dr. McDonald
12 asking Dr. Johnson what he is working on. Getting rid
13 of a competitive district, Dr. Johnson says. Dr.
14 McDonald's saying, I could improve the performance of
15 this district. I could get it to over 52%, making it
16 more partisan. And this one as well, Dr. McDonald,
17 later on the Saturday, saying, If we're not worried
18 about compactness, we'll get the seats and make them
19 as symmetric as we can.

20 The whole point in all of this is, I feel there's
21 been such -- and this is even from an outsider's view
22 who's not been involved in the actual commission

1 process until now, there's been such an emphasis
2 placed on the proportionality and the symmetry
3 requirements that are being placed on us largely
4 through the court's interpretation rather than what I
5 would see as the plain meaning of the constitution,
6 that we have, in some cases, disregarded, or at least
7 subordinated, many other provisions of the
8 constitution at that expense. So you look at the
9 independent map makers' map, even. When they finished,
10 there were 16 constitutional violations that we could
11 see. And when we're talking about compactness and the
12 whole reason behind when this was passed, I would say,
13 everybody in this room, if they were being objective,
14 would say part of the reason we passed this
15 constitutional amendment was to eliminate unnecessary
16 splitting of governmental units. It eliminated
17 unnecessary splitting of cities and counties, et
18 cetera.

19 But here we are, even looking at the independent
20 map makers' map, because they were so focused on
21 maximizing the number of Democrat districts within the
22 other bright line rules that may have been contained

1 in article 11, that you have, the city of Dayton, for
2 example, which is approximately 140,000 people, could
3 fit in one and part of a second house district, was in
4 four different House districts and two different
5 Senate districts. The city of Toledo, approximately
6 270,000 people, which would fit in two House districts
7 and part of a third, was in four House districts and
8 two Senate districts. It would've fit entirely within
9 one Senate district. Obviously the city of Dayton
10 would as well. Akron, which would've fit inside one
11 Senate district and two House districts, was in four
12 House districts and two Senate districts. The city of
13 Cincinnati, which would've fit inside one Senate
14 district and three House districts, was inside six
15 House districts and three Senate districts.

16 I know that people's tones may have changed over
17 the course of time, but when this thing was passed,
18 this was one of the biggest selling points for why we
19 should pass it -- was the unnecessary splitting of
20 some of these communities. And here we are trying to
21 force these types of splits into a map because we put
22 the partisan symmetry question and the proportionality

1 question on such a pedestal over everything else. So I
2 think, in my personal opinion, the best way to remedy
3 this and get back to the basics, at the very least, is
4 to reengage the caucus map drawers because they're
5 going to be the ones who have, in some cases, decades
6 of familiarity with the state of Ohio.

7 CO-CHAIR LARE: Representative Russo.

8 LEADER RUSSO: Thank you, Mr. Co-chair. There's a
9 lot to respond to here. First, let me just be very
10 clear, the independent map makers did finish a map and
11 there was testimony in front of the federal court that
12 the review, the work that needed to be done, the
13 technical corrections, would take less than a day to
14 finish that. So let me be very clear. Also, let me be
15 very clear that the splits that were just mentioned by
16 Senator McColley, they exist in map three. And in
17 fact, the independent mapmakers' map, the compactness
18 score, and there was undisputed testimony about this,
19 actually has a better compactness score than map
20 three. So I just want to make sure that we're being
21 very honest about these maps.

22 The other thing, just getting back, again, to the

1 Secretary of State and some of the dates that he has
2 outlined. Again, statutorily, we still have deadlines:
3 May 16th, May 20th, May 24th. We have not done that
4 work yet even with the third map. That still has to be
5 done. The third map would not be put in place until
6 the 28th at the earliest. And again, that's assuming
7 that a federal court doesn't change its mind, which it
8 could do and they have been known to do in the past.
9 But even if you assume that they won't, these
10 statutory deadlines will still be an issue even with
11 that map.

12 The other thing that I would like to note as well
13 about map three is, if you will recall the 30 day --
14 well, first of all, the changes that we did for the
15 filing in the legislative adjustment, all of that was
16 tied to a May 3rd primary date. Unfortunately, it was
17 not tied to a primary, it was tied to the May 3rd
18 primary date, so there may be some issues with that as
19 well legally. But I will also remind you that after
20 February 24th, the 30 day constitutional guarantee
21 actually had not fully expired yet before that map was
22 thrown out.

1 So there's still this lingering question of, if
2 candidates, even with map three, have been granted
3 their full ability to move into a new district because
4 that 30 day window had not yet expired when the third
5 map was thrown out. I believe it was three days
6 before. And I believe that you and your staff
7 specifically said that it was moot at that point, that
8 30 day window, because the map had been thrown out or
9 the expiration of that 30 day window. So there's still
10 that lingering question that even exists with map
11 three. I say all of this, again, to reiterate that
12 whether we're going down the map three map and not
13 following the state Supreme Court's order and we're
14 going to defy that and not do anything or we're
15 actually going to work on a map, you still have some
16 of the same issues from -- just from the perspective
17 of conducting an election.

18 SECRETARY LAROSE: Mr. Co-chair, let me respond
19 to that if I may.

20 CO-CHAIR LARE: Please.

21 SECRETARY LAROSE: So all of these deadlines that
22 we're talking about prior to the 28th of May don't

1 apply if the third map is the thing that is enacted
2 because, again, certifying sufficiency and validity of
3 partisan candidates, that happened on the schedule
4 already, that was required in the code and that's all
5 I have to work with is what you all have instructed me
6 to do in the Ohio revised code. We can certify
7 candidates. We have certified candidates for that. The
8 boards of elections are prepared to do that. And then,
9 of course, protests to petitions and that kind of
10 thing, all of those deadlines are things that have
11 already been considered under the timeline set out in
12 the code. So this would only be necessary if there
13 were a new set of maps enacted.

14 CO-CHAIR LARE: Further discussion? So the motion
15 on rehiring the independent map drawers, will the
16 staff please call the roll?

17 SECRETARY: Co-chair LaRe?

18 CO-CHAIR LARE: No.

19 SECRETARY: Co-chair Sykes?

20 CO-CHAIR SYKES: Yes.

21 SECRETARY: Governor DeWine?

22 GOVERNOR DEWINE: No.

1 SECRETARY: Auditor Faber?

2 AUDITOR FABER: No.

3 SECRETARY: Secretary LaRose?

4 SECRETARY LAROSE: No.

5 SECRETARY: Senator McColley?

6 SENATOR MCCOLLEY: No.

7 SECRETARY: Leader Russo?

8 LEADER RUSSO: Yes.

9 SECRETARY: Mr. Co-chair, 2-5.

10 UNIDENTIFIED SPEAKER: Boo.

11 CO-CHAIR LARE: The motion is voted down. So this
12 time, we'll move the discussion to the commission's
13 plan of work and a meeting schedule. We'll open that
14 up for discussion. No discussion? Seeing none. Is
15 there any further business to be brought before the
16 committee? Hearing none, committee stands adjourned.

17 (End of recording.)

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CERTIFICATION OF TRANSCRIPT

I, Olivia Wilke, do hereby certify that foregoing transcript, to the best of my ability, knowledge, and belief, is a true and correct record of the proceedings; that said proceedings were reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Olivia Wilke, CET
Planet Depos
5/5/2022

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

A			
ability	accounting	administrative	15:7, 15:13,
37:19, 48:20,	13:13, 14:4,	37:11	21:9, 23:1,
62:3, 65:4	14:10, 24:20	admitted	23:8, 23:9,
able	accrue	18:7	24:19, 25:13,
6:6, 10:7,	50:19	adopt	28:21, 29:16,
10:11, 14:12,	accuracy	5:17	30:4, 31:3,
29:12, 29:20,	30:8, 51:5,	adopted	33:7, 34:7,
30:17, 42:14,	51:10	35:9, 35:11,	34:8, 35:1,
43:1, 43:3,	across	36:5	36:21, 37:22,
45:2, 45:6,	8:21, 55:20	advising	39:4, 39:7,
48:5, 49:8,	act	18:21, 19:17	40:11, 42:1,
51:8, 55:6	50:18, 53:7	afforded	42:4, 42:14,
about	action	17:10	44:11, 50:13,
8:14, 9:6,	39:18, 40:6,	after	50:15, 51:1,
9:20, 10:6,	45:9, 53:12	2:18, 11:2,	52:8, 52:11,
10:7, 10:14,	actions	32:10, 47:21,	53:2, 53:14,
11:16, 11:21,	27:9	52:5, 52:14,	54:7, 54:8,
14:3, 14:19,	actual	53:3, 61:19	57:20, 61:14,
17:18, 21:12,	25:19, 32:1,	again	61:15, 62:11,
24:19, 29:4,	57:22	9:13, 12:4,	62:21, 63:4,
30:13, 32:1,	actually	13:18, 14:11,	63:5, 63:10
34:9, 35:8,	8:6, 10:4,	14:18, 17:6,	allocate
36:22, 37:13,	12:11, 19:11,	18:22, 19:6,	23:7, 26:3
40:19, 47:9,	20:20, 25:21,	20:5, 28:15,	allocated
51:19, 52:3,	34:15, 40:12,	29:21, 30:5,	9:11, 9:19,
52:16, 54:13,	49:15, 60:19,	32:9, 33:19,	12:18, 14:3,
57:18, 58:11,	61:21, 62:15	36:8, 36:12,	17:14, 22:1
60:18, 60:21,	added	36:18, 38:8,	allocation
61:13, 62:22	42:9, 42:11	39:6, 43:11,	5:13, 5:20,
absentee	addition	50:11, 51:1,	6:10, 6:11,
33:5	41:12	52:2, 53:2,	9:14, 16:13,
absolutely	additional	55:12, 60:22,	16:18, 19:9,
49:22, 50:8	8:15, 12:2,	61:2, 61:6,	22:14, 24:14
abundantly	15:9, 16:5	62:11, 63:2	allocations
42:3	adequate	against	7:9, 22:5
accept	31:19, 31:20	42:6, 51:1	allotted
5:8, 42:10	adhered	ago	37:15
accepted	37:12	22:22, 54:2	allow
5:12, 38:2	adjourned	agree	34:11, 36:2
accompanied	64:16	38:8, 48:18,	allowed
8:6	adjust	55:14	31:2, 34:20,
accomplish	36:2	aid	40:3, 57:2
29:13	adjustment	18:15	allowing
according	17:10, 61:15	akron	51:20
33:10, 44:12	administer	59:10	already
accordingly	2:16	all	17:14, 27:10,
10:13	administered	6:11, 6:15,	27:21, 39:19,
	32:8	7:4, 7:7, 13:7,	47:8, 50:14,

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>50:16, 52:22, 53:10, 54:2, 54:10, 63:4, 63:11 also 6:8, 7:5, 7:7, 9:20, 10:9, 11:5, 12:8, 12:9, 16:19, 17:2, 17:6, 17:8, 18:17, 19:16, 21:22, 25:7, 30:16, 30:21, 35:16, 41:12, 41:14, 41:20, 49:14, 51:14, 52:10, 56:11, 60:14, 61:19 although 31:19 amendment 43:8, 58:15 amendments 5:11, 26:18, 46:16 amount 11:7, 11:10, 11:11, 12:5, 14:22, 16:13, 19:5, 19:7, 20:10, 22:10, 56:1 amounts 11:8, 19:1, 19:2, 19:14 analysis 8:19, 48:22 another 15:16, 18:11, 33:4, 33:5, 35:10, 40:19, 41:14, 57:3, 57:5, 57:7 answer 4:3, 4:5, 9:9, 19:22 answers 47:16</p>	<p>any 5:10, 10:22, 14:2, 15:20, 18:16, 20:21, 21:19, 23:1, 25:7, 25:16, 28:10, 29:3, 35:9, 35:10, 36:5, 36:11, 37:9, 39:9, 44:5, 44:14, 45:1, 49:8, 49:17, 64:15, 65:9 anybody 7:15, 25:16, 30:12, 41:21, 42:2, 42:21, 45:12 anybody's 13:15 anything 29:4, 49:4, 62:14 anytime 29:22 anyway 25:14, 36:15, 52:22 anywhere 8:2, 15:13 apparent 27:18, 27:21 apparently 47:10 appear 8:7 appears 7:21, 8:1, 9:3 apply 63:1 appointed 4:7 appointing 2:7, 2:11, 44:3 appointment 2:5 appreciate 13:19</p>	<p>appreciated 18:7 appropriate 25:1, 29:8 approval 24:13, 26:8 approve 5:18, 6:2, 12:20, 23:16, 25:17, 25:22, 37:21, 50:12 approved 9:19, 11:10, 11:11, 12:17, 14:1, 19:7, 19:8 approximately 59:2, 59:5 april 32:2, 32:17, 33:1, 35:4 arbitrary 32:3, 32:6, 35:5 area 47:14, 48:11, 48:13 areas 49:13 arguing 22:21 arguments 34:12, 34:13 arrive 33:5 arriving 33:6 article 3:18, 3:19, 59:1 aside 31:6 asked 23:4, 31:8 asking 5:18, 22:9, 24:7, 24:20, 57:12 assembly 35:12, 36:13</p>	<p>assertion 17:3 assessment 38:8 assigned 17:8 assumables 49:10 assume 38:18, 49:11, 61:9 assumed 20:15 assumes 53:2 assuming 61:6 assurance 36:3, 45:1, 45:16, 46:2 assure 35:22 attorneys 18:20 audit 33:7 auditor 4:19, 4:20, 46:4, 46:5, 50:4, 50:6, 50:9, 64:1, 64:2 august 8:16, 20:3, 31:20, 32:4, 32:7, 32:9, 32:14, 32:19, 32:21, 33:22, 48:15, 49:6, 49:9, 49:20, 53:16 authorizing 24:5 available 47:18 avoid 32:12, 38:10, 38:19, 42:15 avoided 51:8</p>
---	---	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>away 39:5</p> <p>awful 15:19, 46:21</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 7:7, 9:16, 11:13, 13:9, 14:11, 16:19, 33:1, 33:9, 38:4, 39:20, 44:2, 46:6, 46:10, 47:21, 51:6, 54:11, 55:13, 60:3, 60:22</p> <p>backtracking 32:21</p> <p>backup 30:1, 30:3</p> <p>bad 8:12</p> <p>balance 57:3, 57:4</p> <p>ballot 30:21, 33:21, 51:3, 51:4, 51:9</p> <p>ballots 30:22, 33:4, 33:6, 33:22, 34:4, 34:16, 35:4, 51:12</p> <p>based 42:17, 55:1</p> <p>baseline 48:2</p> <p>basically 43:2</p> <p>basics 60:3</p> <p>basis 30:18, 30:19, 49:20</p> <p>became 27:18, 27:21, 42:3</p> <p>because 10:10, 14:6,</p>	<p>16:17, 17:17, 21:16, 21:17, 25:21, 29:2, 29:14, 29:21, 30:6, 30:15, 38:16, 39:9, 40:21, 42:15, 44:8, 45:2, 45:18, 46:6, 46:12, 46:18, 47:12, 49:16, 52:20, 52:21, 52:22, 53:7, 54:10, 57:1, 58:20, 59:21, 60:4, 62:3, 62:8, 63:2</p> <p>become 31:18</p> <p>been 4:7, 7:10, 7:16, 9:11, 9:19, 10:6, 10:7, 12:18, 12:21, 13:4, 14:16, 14:18, 15:17, 17:8, 17:14, 22:22, 28:10, 28:14, 32:17, 37:20, 39:10, 40:2, 41:13, 47:5, 51:8, 51:9, 52:7, 52:13, 53:1, 55:21, 56:15, 57:21, 57:22, 58:1, 58:22, 61:8, 62:2, 62:8, 63:11</p> <p>before 2:4, 10:20, 11:2, 19:9, 20:12, 20:13, 22:1, 22:2, 22:21, 23:7, 24:19, 29:3, 33:14, 33:19,</p>	<p>33:21, 36:3, 36:6, 39:3, 61:21, 62:6, 64:15</p> <p>began 9:12</p> <p>begin 32:19, 33:11, 33:13, 39:22, 41:5, 51:5, 51:11</p> <p>beginning 7:17, 10:16, 11:4, 15:2, 20:15, 35:3</p> <p>begins 2:1</p> <p>behind 13:2, 58:12</p> <p>being 7:20, 8:8, 13:15, 21:9, 24:3, 27:6, 28:3, 47:8, 58:3, 58:13, 60:20</p> <p>belief 65:5</p> <p>believe 7:4, 7:7, 9:14, 10:22, 18:14, 18:20, 19:12, 36:5, 39:6, 56:2, 62:5, 62:6</p> <p>besides 41:10</p> <p>best 8:18, 40:7, 47:14, 60:2, 65:4</p> <p>better 21:11, 60:19</p> <p>between 48:14, 49:4</p> <p>big 43:17, 51:2</p> <p>biggest 43:7, 59:18</p>	<p>billings 17:12</p> <p>bipartisan 29:15, 35:13</p> <p>bit 9:1, 9:6, 20:1, 55:11</p> <p>blame 41:22, 42:1</p> <p>blaming 42:21</p> <p>blow 43:4</p> <p>boards 29:16, 30:15, 32:14, 33:2, 34:21, 39:20, 39:21, 40:11, 40:13, 41:6, 51:4, 51:13, 63:8</p> <p>boo 64:10</p> <p>books 25:12, 25:15, 30:4</p> <p>both 11:6, 11:12, 11:22, 16:8, 24:3, 35:15, 44:4, 45:17, 47:4, 49:10</p> <p>bright 58:22</p> <p>bring 24:18</p> <p>bringing 18:12, 46:10</p> <p>brings 32:22, 33:1, 36:11</p> <p>broke 12:6</p> <p>broken 10:8</p> <p>brought 64:15</p> <p>budgetary 23:6</p>
--	--	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>build 29:21</p> <p>bulk 41:1</p> <p>burnout 31:5</p> <p>business 8:14, 13:5, 28:1, 64:15</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>calendar 32:9, 33:11, 37:11</p> <p>call 2:4, 2:16, 4:11, 63:16</p> <p>called 46:3</p> <p>calling 36:13, 41:17</p> <p>came 10:21, 11:21, 20:12</p> <p>can't 7:20, 10:5, 14:6, 36:15, 42:4, 44:1, 44:11, 45:14, 45:19, 48:14, 57:1</p> <p>candidate 33:11, 33:13, 36:9, 50:21</p> <p>candidates 40:3, 50:3, 51:14, 51:15, 51:20, 52:7, 54:3, 62:2, 63:3, 63:7</p> <p>candidly 46:19</p> <p>cannot 35:17</p> <p>canvas 33:7</p> <p>careful 51:11, 53:6</p>	<p>carefully 48:21</p> <p>carry 53:19</p> <p>case 65:9</p> <p>cases 58:6, 60:5</p> <p>caucus 7:10, 9:11, 9:21, 10:10, 15:8, 20:17, 22:14, 25:12, 25:15, 55:2, 55:3, 60:4</p> <p>caucuses 6:2, 11:7, 11:20, 12:19, 13:10, 23:17</p> <p>caused 30:11, 37:21</p> <p>certainly 12:3, 22:11, 29:18, 31:11, 34:6, 35:2, 35:11, 37:1, 40:15, 45:14, 46:20, 48:13</p> <p>certainty 49:15, 49:18</p> <p>certification 65:1</p> <p>certified 63:7</p> <p>certify 33:20, 50:2, 50:21, 51:13, 63:6, 65:3</p> <p>certifying 63:2</p> <p>cet 65:18</p> <p>cetera 58:18</p> <p>chair 4:9, 11:13, 29:6, 37:5</p> <p>chairing 11:14</p>	<p>chairman 6:21, 12:14, 19:21, 21:5, 21:16, 24:17, 25:10, 26:14, 28:18, 41:8, 41:10</p> <p>challenge 49:17</p> <p>challenged 34:6, 34:10</p> <p>challengers 34:11</p> <p>challenges 29:20, 29:21, 31:4, 32:13, 38:20, 45:13</p> <p>challenging 31:18</p> <p>chambers 45:17</p> <p>chance 32:9, 46:12, 46:16, 46:17, 49:17</p> <p>change 33:17, 53:3, 55:6, 61:7</p> <p>changed 9:15, 9:16, 19:12, 50:7, 59:16</p> <p>changes 26:17, 61:14</p> <p>changing 49:12</p> <p>charges 47:10</p> <p>chief 31:7, 35:16, 35:18</p> <p>choice 40:5, 42:16, 44:6, 44:9, 44:14, 48:19, 52:19, 52:20</p> <p>chris 56:6</p>	<p>cincinnati 59:13</p> <p>cities 58:17</p> <p>city 59:1, 59:5, 59:9, 59:12</p> <p>clapping 37:17</p> <p>clarification 22:9, 23:12, 45:5</p> <p>clarify 25:4</p> <p>clark 16:21</p> <p>clause 49:12</p> <p>clear 12:15, 18:18, 42:3, 60:10, 60:14, 60:15</p> <p>clearly 46:8, 48:11</p> <p>close 27:6</p> <p>co-chair 2:2, 2:19, 2:21, 3:2, 3:6, 3:10, 3:14, 3:17, 3:19, 3:22, 4:4, 4:7, 4:10, 4:11, 4:13, 4:14, 4:15, 4:16, 5:5, 5:10, 5:15, 6:2, 6:19, 7:3, 9:7, 9:8, 12:13, 12:22, 13:17, 14:8, 14:18, 15:6, 16:10, 17:20, 18:1, 18:4, 18:19, 19:20, 20:19, 21:6, 21:14, 22:8, 23:1, 23:3, 23:11, 23:14, 23:21,</p>
--	---	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>24:10, 24:11, 25:3, 25:9, 26:5, 26:7, 26:11, 26:19, 26:21, 27:1, 27:2, 27:12, 27:13, 28:16, 29:9, 29:11, 37:3, 37:16, 38:6, 38:7, 38:8, 39:13, 40:8, 40:9, 41:9, 45:4, 46:4, 51:22, 52:1, 53:4, 54:16, 54:18, 60:7, 60:8, 62:18, 62:20, 63:14, 63:17, 63:18, 63:19, 63:20, 64:9, 64:11 co-chairs 2:15, 7:1, 12:17 code 54:1, 63:4, 63:6, 63:12 colleagues 10:2 collectively 47:15 combined 16:3 come 2:3, 14:7, 14:9, 24:14, 41:18, 41:19, 43:20, 45:22, 47:6, 51:17, 56:9 comes 10:4 coming 11:3, 13:21, 50:2 commission 1:10, 2:3, 2:9,</p>	<p>2:12, 2:15, 3:13, 3:15, 5:14, 5:21, 5:22, 6:3, 6:15, 6:22, 9:22, 10:2, 10:21, 17:4, 17:17, 18:21, 20:6, 20:9, 20:13, 20:16, 20:21, 21:3, 21:4, 21:21, 22:3, 22:6, 22:12, 22:13, 22:19, 23:15, 23:18, 24:3, 24:19, 25:1, 25:5, 25:8, 26:15, 27:3, 27:8, 28:1, 28:2, 35:11, 35:15, 35:16, 35:22, 38:22, 40:7, 40:20, 46:15, 50:18, 50:20, 52:16, 53:10, 53:15, 56:15, 56:18, 57:22 commission's 64:12 commissioner 17:7 commissioners 5:19, 11:20, 12:9, 14:5, 14:17, 14:20, 19:18, 22:15, 26:18, 38:22, 46:13 committee 5:6, 5:16, 64:16 communities 59:20 community 57:1 compactness 43:1, 43:4,</p>	<p>43:5, 56:22, 57:18, 58:11, 60:17, 60:19 company 8:18 compared 55:19 compensate 10:12 competitive 43:9, 43:10, 43:14, 43:15, 57:13 complete 14:12 completed 40:14, 40:18, 41:4 completes 40:20 complex 56:1, 56:3 compliance 28:3 compliant 22:17 complicated 47:1, 47:14 compressed 19:14 compromise 36:19 concerned 37:13 concerns 7:8, 14:2 conclude 27:6, 31:10, 31:13 conduct 17:17, 22:15, 27:22, 30:20, 32:5, 33:3 conducted 17:15, 33:8, 39:9 conducting 62:17</p>	<p>confronted 55:16 confusing 17:16 congratulations 4:6, 4:10 congressional 12:2, 30:18 consider 17:13, 21:2, 21:3, 23:10, 34:13, 35:19, 36:3, 37:9, 50:18 considered 51:18, 56:21, 63:11 considering 31:15, 44:15, 44:16, 44:17 consistently 43:19 constitution 2:22, 3:2, 3:4, 3:6, 3:21, 4:1, 36:10, 41:19, 42:7, 51:20, 55:6, 57:7, 58:5, 58:8 constitutional 6:5, 6:17, 14:13, 22:16, 23:19, 37:21, 38:1, 43:8, 56:1, 58:10, 58:15, 61:20 constitutionally 22:17 consultant 6:6, 16:22, 17:2, 21:11 consultants 10:14, 18:12, 20:8 consulting 10:3, 10:19, 12:4, 14:17 contained 58:22</p>
--	---	--	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>context 28:19 continue 4:9, 6:13, 6:14, 16:14, 31:5, 33:6, 37:7 continued 24:5 continuing 55:21 contract 10:16, 10:19, 11:1, 11:7, 11:10, 12:5, 14:1, 14:3, 14:19, 15:21, 15:22, 16:13, 19:3, 19:5, 19:7, 20:10, 20:11, 20:12, 21:8, 26:1 contracted 20:7 contracts 25:18 conversation 24:22, 36:22 conversations 55:1, 55:2 correct 16:19, 45:6, 45:10, 65:5 corrections 60:13 correctly 24:13, 48:3, 49:2, 49:21 cost 13:19 costs 13:13 could 16:14, 26:2, 28:7, 32:18, 35:22, 36:1, 36:3, 36:5, 36:7, 41:17, 46:20, 47:6,</p>	<p>49:12, 51:8, 57:14, 57:15, 58:10, 59:2, 61:8 couldn't 45:8, 45:19, 57:10 counsel 17:1, 17:3, 65:8 count 16:8 counties 30:3, 40:16, 40:22, 41:2, 41:3, 52:8, 52:11, 58:17 country 28:13, 55:20, 56:3 county 30:14, 30:19, 40:13, 41:6, 54:6 course 8:14, 10:5, 16:6, 33:2, 33:15, 39:17, 40:7, 45:11, 48:12, 53:18, 59:17, 63:9 court 11:21, 22:18, 28:3, 28:4, 32:2, 34:11, 34:12, 34:18, 34:19, 37:14, 38:2, 38:14, 38:16, 39:1, 39:10, 40:5, 40:11, 41:11, 41:20, 42:1, 42:8, 42:9, 42:11, 42:18, 43:6, 44:13, 44:16, 46:14, 48:19, 50:12, 50:17, 52:14,</p>	<p>53:2, 53:8, 53:12, 53:13, 53:15, 55:22, 56:16, 60:11, 61:7 court's 49:16, 58:4, 62:13 create 43:14, 43:15 creation 38:11 crunch 37:18 crux 15:10 cupp 2:2, 4:7, 7:5, 14:18 curious 9:6, 21:15, 21:16 currently 22:18 customary 8:7, 13:4 cycle 48:16</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>data 8:19 date 9:14, 19:13, 32:3, 32:4, 32:5, 32:10, 33:2, 44:17, 51:21, 61:16, 61:18 dates 52:4, 61:1 day 17:11, 31:12, 32:8, 33:10, 44:11, 45:3, 55:7, 60:13, 61:13, 61:20, 62:4, 62:8, 62:9</p>	<p>days 30:7, 32:7, 32:10, 32:13, 32:22, 33:4, 33:5, 33:14, 33:19, 33:21, 36:9, 37:14, 38:9, 51:20, 62:5 dayton 59:1, 59:9 dc 8:18, 16:22, 17:2 deadline 22:20, 39:5, 44:1, 50:22, 54:4, 54:12 deadlines 35:2, 46:18, 50:1, 50:14, 50:16, 50:19, 51:17, 52:22, 54:13, 54:20, 61:2, 61:10, 62:21, 63:10 deal 17:13, 42:14, 46:8 decades 60:5 december 7:22, 8:17, 10:22, 11:2, 13:7, 20:3 decided 21:8 decision 12:11, 12:12, 20:14, 21:10, 24:2, 29:3 decisions 11:21, 12:10, 14:20, 15:3, 19:19, 37:19, 41:20 decorum 14:8, 18:1</p>
---	--	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>deep 56:7</p> <p>defaulting 30:3</p> <p>defer 54:19</p> <p>deferential 22:7, 48:12</p> <p>defy 62:14</p> <p>delays 30:11, 30:15</p> <p>deliberate 51:11</p> <p>deliberatively 48:21</p> <p>democrat 7:10, 7:16, 7:18, 12:22, 58:21</p> <p>democratic 5:19, 6:3, 9:10, 9:21, 10:10, 23:17</p> <p>democrats 10:17, 10:18, 10:19, 17:4, 20:7, 42:19, 47:4</p> <p>demonstrate 36:6, 36:7</p> <p>demonstrated 44:10</p> <p>departure 13:3, 13:14</p> <p>depos 1:22, 65:19</p> <p>deposed 21:10</p> <p>deposition 21:18</p> <p>designating 2:14</p> <p>despite 13:9</p> <p>detail 10:5, 14:16</p> <p>detailed 14:10, 23:5</p>	<p>detailing 7:8</p> <p>details 10:7, 46:17</p> <p>determination 29:15</p> <p>develop 20:8, 20:21</p> <p>developed 21:2</p> <p>dewine 2:17, 2:20, 2:22, 3:4, 3:8, 3:12, 3:16, 3:18, 3:20, 4:2, 4:6, 4:17, 4:18, 28:17, 28:18, 37:5, 41:8, 41:10, 63:21, 63:22</p> <p>difference 41:5</p> <p>different 12:3, 12:9, 12:10, 12:12, 19:17, 19:18, 41:7, 48:22, 59:4</p> <p>difficulties 55:15, 56:12</p> <p>diligence 7:12</p> <p>directed 47:5</p> <p>dirossi 56:6</p> <p>discharge 3:8, 3:10</p> <p>discretion 8:11, 12:20</p> <p>discussion 5:12, 21:22, 22:8, 22:11, 23:1, 26:12, 26:19, 28:16, 52:3, 54:20, 63:14, 64:12, 64:14</p>	<p>dispense 47:22</p> <p>disposal 27:22</p> <p>dispute 15:20</p> <p>disputing 15:18</p> <p>disregarded 58:6</p> <p>district 40:22, 41:1, 54:6, 57:4, 57:5, 57:9, 57:11, 57:13, 57:15, 59:3, 59:9, 59:11, 59:14, 62:3</p> <p>districts 43:10, 43:15, 43:16, 54:5, 56:14, 58:21, 59:4, 59:5, 59:6, 59:7, 59:8, 59:11, 59:12, 59:14, 59:15</p> <p>dna 8:17, 19:22, 20:20</p> <p>doable 29:1, 48:10</p> <p>doctors 27:19</p> <p>documentations 25:18</p> <p>doing 12:8, 19:17, 22:4, 43:13, 46:17, 51:5</p> <p>dollars 13:20, 14:4, 14:7, 17:22</p> <p>done 17:18, 22:22, 30:19, 41:6, 45:15, 45:18, 46:20, 53:1,</p>	<p>57:2, 60:12, 61:3, 61:5</p> <p>down 22:2, 26:3, 34:18, 34:20, 53:11, 53:13, 55:11, 62:12, 64:11</p> <p>dr 56:17, 56:19, 57:2, 57:8, 57:11, 57:12, 57:13, 57:16</p> <p>draft 21:2</p> <p>drafted 7:5, 45:7</p> <p>draw 28:1, 46:15</p> <p>drawer 46:9, 47:22</p> <p>drawers 26:13, 26:16, 27:5, 27:11, 37:8, 38:4, 46:10, 47:12, 47:20, 49:4, 60:4, 63:15</p> <p>drawing 18:13, 18:16, 23:9, 27:10, 28:13, 55:17, 57:6, 57:10</p> <p>drawn 47:7, 56:14</p> <p>due 7:12</p> <p>duly 4:7</p> <p>during 11:22, 12:9, 14:20, 15:1, 15:4, 15:16, 16:6</p> <p>duties 3:9, 3:11, 6:5, 6:17, 22:16, 23:20</p>
---	---	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>duty 8:10, 14:13</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>each 12:19, 16:2</p> <p>earlier 18:7, 47:9, 56:5</p> <p>earliest 61:6</p> <p>easy 15:11</p> <p>effectively 47:7, 54:4</p> <p>efficient 11:6, 20:18, 21:13</p> <p>effort 7:12, 27:20</p> <p>efforts 8:21</p> <p>eight 40:13</p> <p>either 32:6, 38:20, 46:2</p> <p>elapsed 50:14, 50:16</p> <p>election 29:17, 29:18, 30:10, 30:12, 30:16, 31:10, 31:11, 31:12, 31:13, 31:20, 32:11, 32:20, 33:3, 33:10, 33:14, 33:19, 33:22, 34:1, 37:11, 39:9, 39:11, 39:12, 39:22, 45:20, 49:7, 49:20, 53:17, 54:14, 62:17</p> <p>elections 29:12, 29:16, 30:15, 31:7,</p>	<p>31:8, 32:8, 32:14, 35:6, 35:16, 35:18, 36:16, 36:19, 39:20, 40:12, 40:14, 41:7, 51:13, 63:8</p> <p>electronic 30:4</p> <p>eliminate 21:8, 58:15</p> <p>eliminated 58:16</p> <p>else 29:4, 60:1</p> <p>embraced 45:13</p> <p>emergency 33:16, 35:8, 35:12, 35:14, 36:15, 45:8, 45:15, 45:18, 45:20, 46:1, 48:8, 49:12, 50:7, 52:18, 54:21, 55:4, 55:9</p> <p>eminently 27:22</p> <p>emphasis 58:1</p> <p>employed 65:9</p> <p>employees 15:8</p> <p>enacted 40:3, 50:20, 51:21, 53:10, 53:11, 53:15, 54:2, 63:1, 63:13</p> <p>end 15:2, 17:11, 31:11, 31:12, 57:10, 64:17</p> <p>ended 20:12</p> <p>ends 48:16</p>	<p>engage 26:15, 28:7, 28:14</p> <p>enormous 13:3, 14:22</p> <p>entertaining 26:17</p> <p>entire 28:13, 56:3</p> <p>entirely 19:16, 59:8</p> <p>errors 32:12</p> <p>especially 17:13</p> <p>essentially 16:16</p> <p>et 58:17</p> <p>even 18:7, 28:6, 35:10, 35:19, 36:3, 37:9, 38:18, 41:17, 45:6, 46:16, 47:18, 51:19, 52:7, 52:12, 56:2, 56:13, 56:21, 57:21, 58:9, 58:19, 61:4, 61:9, 61:10, 62:2, 62:10</p> <p>ever 20:20</p> <p>every 16:15, 42:16, 42:19, 43:19, 52:6</p> <p>everybody 12:16, 43:8, 58:13</p> <p>everyone 9:10, 14:21, 22:19</p> <p>everything 55:15, 60:1</p> <p>exactly 29:5, 48:9</p>	<p>example 10:3, 59:2</p> <p>excuse 53:21</p> <p>execute 24:6</p> <p>executive 53:18</p> <p>exercise 7:12, 8:11, 18:8</p> <p>exist 60:16</p> <p>exists 62:10</p> <p>expanded 37:6, 37:8</p> <p>expect 24:14, 26:8</p> <p>expecting 24:17, 24:18</p> <p>expenditures 7:13, 7:19, 24:5</p> <p>expense 58:8</p> <p>expenses 10:4, 16:12, 47:8</p> <p>expert 48:11</p> <p>expertise 6:4, 23:19</p> <p>experts 55:19</p> <p>expiration 62:9</p> <p>expire 9:14, 9:16, 16:13, 19:12</p> <p>expired 6:11, 16:18, 19:9, 61:21, 62:4</p> <p>explain 19:2, 20:1, 29:1</p> <p>explained 7:21</p>
---	--	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>explaining 19:1</p> <p>explanation 7:11, 9:1, 12:15, 18:9, 23:4, 23:5, 44:20</p> <p>express 22:3</p> <p>expressed 46:22</p> <p>expressing 24:13</p> <p>extend 6:12</p> <p>eyebrows 13:15</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>faber 4:19, 4:20, 46:4, 46:5, 50:4, 50:6, 50:9, 64:1, 64:2</p> <p>face 31:5</p> <p>faced 31:4, 32:13</p> <p>facing 28:21</p> <p>fact 9:19, 13:9, 15:10, 15:20, 16:21, 28:5, 29:11, 60:17</p> <p>factors 42:17</p> <p>failure 30:1</p> <p>failures 30:9</p> <p>fair 39:11</p> <p>faithfully 3:8, 3:10, 53:19, 53:22</p> <p>fall 12:10, 41:2</p>	<p>false 52:19</p> <p>familiarity 56:7, 60:6</p> <p>far 10:6, 37:1, 54:20, 54:22</p> <p>fault 43:11, 45:3, 55:18</p> <p>favor 24:4, 42:18</p> <p>favoritism 42:15</p> <p>february 8:3, 11:9, 11:18, 13:8, 15:2, 15:14, 16:4, 16:6, 39:21, 54:3, 54:11, 61:20</p> <p>federal 32:2, 38:14, 38:16, 40:11, 50:12, 50:17, 52:14, 53:2, 53:8, 53:12, 53:15, 60:11, 61:7</p> <p>fee 8:2, 15:12</p> <p>feel 52:19, 56:13, 57:20</p> <p>feels 25:1</p> <p>fees 8:7, 10:3, 14:9, 15:21, 19:6</p> <p>fellow 38:22</p> <p>felt 42:16</p> <p>few 30:20, 54:2</p> <p>fewer 43:10, 43:15</p>	<p>fifth 55:12</p> <p>figure 56:4</p> <p>file 2:5, 34:9</p> <p>filed 33:18, 54:3</p> <p>filing 36:9, 54:3, 54:9, 54:12, 61:15</p> <p>final 21:20</p> <p>finality 32:3</p> <p>finally 43:6</p> <p>financial 65:10</p> <p>find 5:6, 47:16</p> <p>fine 25:11, 25:14, 26:9, 42:9, 42:10</p> <p>finish 60:10, 60:14</p> <p>finished 58:9</p> <p>firm 46:2</p> <p>first 7:20, 9:10, 15:15, 21:9, 33:22, 46:9, 50:1, 56:21, 60:9, 61:14</p> <p>fit 28:2, 59:3, 59:6, 59:8, 59:10, 59:13</p> <p>fits 41:19, 41:20</p> <p>five 34:2, 34:3</p> <p>floor 38:5</p>	<p>focus 18:6</p> <p>focused 58:20</p> <p>focuses 8:19</p> <p>focusing 18:2</p> <p>folders 5:7</p> <p>folks 9:21, 17:20, 34:2, 37:16</p> <p>following 7:14, 53:22, 62:13</p> <p>force 5:18, 6:1, 7:2, 10:1, 11:3, 11:5, 11:11, 12:17, 12:22, 13:22, 20:13, 22:10, 23:16, 59:21</p> <p>foregoing 65:4</p> <p>forget 28:4</p> <p>form 33:20, 51:3, 51:9</p> <p>forth 9:16, 11:14, 14:11</p> <p>forward 27:9, 28:15, 33:10, 38:2, 40:7</p> <p>four 16:3, 20:2, 31:10, 33:8, 41:20, 59:4, 59:7, 59:11</p> <p>fourth 55:12</p> <p>frankly 14:5, 17:5, 17:11, 21:10,</p>
---	---	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>25:13, 38:17, 39:9, 43:14, 45:1, 47:8, 54:18 friday 22:20, 41:11, 44:1, 49:5 friend 45:12 front 60:11 full 5:6, 14:4, 20:14, 62:3 fully 61:21 funding 6:2, 7:4, 9:2, 22:5, 23:17 fundraising 8:20 funds 5:13, 5:18, 5:20, 8:11, 22:14, 27:4 furnace 21:20 further 5:13, 5:14, 22:8, 23:1, 26:2, 28:16, 55:11, 63:14, 64:15 future 25:11, 26:4</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>games 14:14 gave 12:5 general 30:5, 35:12, 36:13 generally 12:18, 24:4 gentlemen 23:4</p>	<p>geography 56:8 getting 39:4, 57:12, 60:22 give 46:12 given 15:3, 15:16, 17:8, 21:18, 22:5, 24:2, 34:7, 38:14, 38:16, 52:13 giving 51:6 glad 5:16 glance 7:20 glassburn 7:16, 9:4, 10:15, 11:6, 13:5, 14:19, 15:18, 20:18, 21:10, 21:17, 56:6 glassburn's 17:12 go 10:13, 11:13, 13:5, 14:11, 16:19, 31:2, 31:22, 38:20, 40:1, 42:12, 42:13, 44:6, 44:14, 52:2, 52:21, 55:11, 57:11 goals 57:4 god 4:3, 4:5, 36:21 goes 10:1, 11:12, 37:2, 44:2 going 14:11, 14:13, 14:14, 16:15,</p>	<p>22:7, 25:21, 28:15, 34:4, 40:20, 41:7, 41:15, 42:2, 48:4, 48:5, 49:15, 49:16, 52:2, 60:5, 62:12, 62:14, 62:15 good 13:20, 27:20, 28:20, 44:9, 46:22 governmental 58:16 governor 2:16, 2:17, 2:20, 2:22, 3:4, 3:8, 3:12, 3:16, 3:18, 3:20, 4:2, 4:6, 4:17, 4:18, 28:16, 28:18, 29:11, 31:22, 37:5, 41:8, 41:10, 45:4, 48:18, 55:15, 63:21, 63:22 grandfathered 54:4 granted 62:2 grit 29:14 groups 34:9 guarantee 61:20 guess 13:1, 13:3, 13:11, 15:7, 39:15 guidance 55:22 guys 46:22</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>half 31:10, 34:15</p>	<p>hand 2:17 happen 22:7, 33:15, 52:14 happened 30:6, 32:21, 52:10, 63:3 happens 32:10 happy 9:9, 25:6, 29:10 hard 38:12, 39:6, 45:12, 56:18 haystack 8:17, 10:20, 19:22, 20:5, 20:20, 21:19 hear 25:7, 28:20, 49:20 heard 18:9, 47:9, 48:2, 48:10, 49:1 hearing 5:11, 24:12, 26:5, 64:16 heavily 57:6 held 21:17 help 6:6 helpful 46:11 here 4:14, 4:16, 4:18, 4:22, 5:2, 5:4, 5:17, 14:21, 19:17, 20:9, 22:20, 24:3, 24:21, 36:6, 41:17, 44:4, 44:22, 46:20, 52:10,</p>
---	--	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

52:20, 54:22, 58:19, 59:20, 60:9 hereby 65:3 high 15:15 higher 11:8, 44:21 highlighted 56:13 highly 26:1 hired 18:14 historically 23:6, 34:12 history 34:7 hit 42:4, 44:11, 44:13, 46:18 hold 27:1 honest 60:21 hope 6:14, 23:9, 45:14, 45:21, 54:22 hopeful 27:8 host 48:6 hours 15:1, 15:19, 22:21, 27:20, 39:5, 51:7 house 2:10, 2:14, 10:10, 10:17, 10:18, 20:7, 56:20, 59:3, 59:4, 59:6, 59:7, 59:11, 59:12, 59:14, 59:15 however 13:2, 15:21	huffman 2:7 hundreds 55:21 <hr/> I <hr/> idea 8:12 illustrious 5:16 immediately 41:18 implement 30:2, 45:19, 49:19 implemented 48:5, 49:6, 49:9 important 29:3, 32:6, 48:2, 49:13, 57:4 impossible 49:5, 49:6 improve 44:7, 57:14 improved 12:21 inclined 54:19 includes 54:6 including 14:21 incorrect 17:5 incurred 47:8, 47:10 independent 26:12, 26:15, 27:5, 27:11, 28:8, 28:14, 29:4, 37:8, 38:3, 41:16, 42:13, 43:13, 44:1, 44:3, 44:18, 44:21, 45:6, 46:9,	46:10, 46:12, 47:7, 47:20, 55:13, 55:16, 56:12, 58:9, 58:19, 60:10, 60:17, 63:15 indicated 46:7 indicates 24:4 individual 12:16, 12:19 individually 12:20 individuals 47:18 input 46:13 inquire 8:12, 8:14 inside 54:20, 59:10, 59:13, 59:14 insofar 56:14 instead 30:4 institutional 31:16 instructed 63:5 integrity 36:19 interest 34:8, 65:10 interesting 7:19 interpretation 58:4 interpreted 42:8 invested 27:4 investment 27:9 invoice 13:21, 16:16 invoiced 12:4, 19:4,	19:8, 20:10 invoices 11:15, 11:16, 11:18, 12:16, 12:20, 12:21, 19:16, 25:19 invoicing 11:12, 12:7, 19:1, 19:2, 19:14 involved 30:12, 57:22 involvement 8:21, 20:2 irregular 26:1 irregularity 8:12 irresponsible 35:18 issue 8:20, 9:3, 15:10, 46:9, 47:22, 48:1, 61:10 issues 46:6, 61:18, 62:16 iteration 56:21 <hr/> J <hr/> january 11:4, 15:2, 16:17, 19:3, 20:15 jeff 2:11, 2:14 job 1:20, 17:18, 47:3 john 17:1 johnson 27:19, 56:17, 57:8, 57:12, 57:13 judge 39:16
---	---	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>june 34:1, 34:4, 51:17 jurisprudence 56:16 justification 16:2 justified 19:16 justify 13:3, 13:13</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep 18:11, 18:12, 27:8 kind 31:17, 45:1, 54:7, 63:9 kinds 30:5, 51:17 know 6:22, 13:18, 14:14, 16:20, 17:1, 19:22, 24:1, 24:7, 25:4, 31:14, 36:6, 38:7, 38:17, 38:19, 40:2, 40:4, 40:15, 42:7, 42:13, 43:1, 43:2, 43:18, 44:3, 44:5, 44:9, 48:9, 59:16 knowledge 21:12, 31:17, 65:5 known 61:8 knows 14:22, 45:13, 54:19</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>ladies 23:3</p>	<p>lane 56:14 language 54:7 lare 2:11, 2:14, 2:19, 2:21, 3:2, 3:6, 3:10, 3:14, 3:17, 3:19, 3:22, 4:4, 4:8, 4:10, 4:11, 4:13, 4:14, 5:5, 5:10, 6:19, 9:7, 12:13, 13:17, 14:8, 15:6, 16:10, 17:20, 18:1, 18:4, 18:19, 19:20, 20:19, 21:6, 21:14, 22:8, 23:1, 23:11, 23:21, 24:11, 25:3, 25:9, 26:5, 26:11, 26:19, 26:21, 27:1, 27:12, 28:16, 29:9, 37:3, 37:16, 38:6, 39:13, 40:8, 41:9, 45:4, 46:4, 52:1, 53:4, 54:16, 60:7, 62:20, 63:14, 63:17, 63:18, 64:11 large 13:14, 46:11 largely 58:3 larger 40:15, 41:2, 41:3 larose 4:21, 4:22, 5:9, 6:18, 29:10, 35:8, 37:6, 39:13,</p>	<p>39:15, 40:10, 44:8, 45:10, 46:7, 48:1, 49:22, 50:5, 50:8, 50:11, 53:4, 53:5, 62:18, 62:21, 64:3, 64:4 last 5:7, 6:10, 20:3, 27:5, 30:20, 36:17, 51:7 later 8:4, 9:14, 16:5, 57:17 law 33:14, 33:19, 35:2, 49:12, 51:2, 55:7 laws 53:19 lawsuits 34:9 lawyer 53:7 lawyers 18:14 lay 51:3 layover 55:7 leader 5:3, 5:4, 5:15, 7:1, 7:3, 9:8, 12:15, 13:18, 14:9, 16:9, 16:11, 17:21, 18:2, 18:20, 20:5, 21:1, 21:9, 22:1, 22:11, 23:5, 23:14, 24:2, 24:10, 24:12, 25:4, 26:7, 26:20, 38:7, 40:9, 45:12, 51:22, 52:2,</p>	<p>60:8, 64:7, 64:8 leaders 35:20, 35:21, 45:17 learn 47:13 least 6:12, 7:17, 10:9, 40:18, 41:15, 49:9, 55:8, 58:6, 60:3 led 30:9, 30:22 left 9:20 legal 10:4, 14:9, 44:12, 50:13, 53:6 legally 11:15, 61:19 legislation 33:17, 35:9, 35:12, 35:14, 36:2, 36:15, 45:15, 45:18, 45:20, 46:1, 48:9, 50:7, 52:19, 55:10 legislative 5:18, 6:1, 7:2, 12:1, 13:21, 23:16, 35:20, 35:21, 40:22, 45:9, 61:15 legislature 33:16, 45:22, 49:11, 54:1 legitimate 37:18, 39:12 less 22:20, 39:5, 60:13 let's 14:8, 28:4, 34:5, 34:17, 34:18, 35:8, 37:17, 49:22</p>
--	--	--	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>letter 7:3, 7:5, 7:7, 13:12, 21:22, 24:17, 24:18, 24:21, 25:2, 28:22 letters 2:5, 2:12 level 9:10, 14:15 licensure 6:8, 6:9 lieu 2:8, 2:11 lift 41:6 limited 10:10, 10:11, 21:19 line 54:22, 58:22 lingering 62:1, 62:10 list 51:6, 51:16 listening 37:17 litigation 18:15, 18:22, 34:8 little 9:1, 9:6, 20:1, 31:1, 34:2, 55:11 livestream 27:16, 27:17 logic 30:8, 51:5, 51:10 logical 32:5, 40:5 long 44:19, 54:5 longer 20:17 look 26:2, 29:22, 30:11, 43:18,</p>	<p>45:2, 46:17, 53:20, 53:21, 58:8 looked 13:16, 44:10 looking 7:11, 15:11, 17:12, 33:9, 33:10, 43:14, 58:19 looks 51:4 losing 52:9 loss 31:16 lot 15:18, 15:19, 27:4, 27:20, 31:8, 31:21, 46:21, 60:9 love 14:4 lsc 11:12, 14:2 lse 19:7, 25:20 lump 12:18 <hr/> <p style="text-align: center;">M</p> <hr/> made 7:10, 7:20, 7:22, 8:15, 8:16, 8:17, 16:3, 16:7, 20:2, 20:14, 40:5 mail 34:1 mainly 24:6, 24:16 maintain 14:8, 18:1 majority 35:13, 36:1, 36:8, 37:20 make 2:6, 5:17,</p>	<p>34:11, 37:19, 46:7, 49:1, 50:9, 53:6, 53:19, 53:22, 55:9, 57:18, 60:20 maker 7:16, 7:18, 10:20, 26:12 maker's 13:19 makers 10:3, 14:6, 14:17, 15:8, 16:20, 17:5, 28:8, 28:11, 28:15, 29:4, 41:16, 42:13, 43:13, 44:2, 44:3, 44:19, 44:22, 55:14, 55:16, 56:5, 56:22, 58:9, 58:20, 60:10 making 6:6, 15:4, 17:7, 18:22, 20:8, 23:7, 26:17, 29:3, 56:18, 57:15 many 27:14, 30:16, 41:3, 58:7 mapmakers 45:7, 60:17 mapping 16:22, 17:2 maps 12:1, 12:12, 20:8, 20:21, 21:2, 21:12, 28:1, 28:13, 32:16, 34:21, 39:2, 39:9, 39:18, 41:4, 44:5, 44:6, 46:15, 54:15, 55:17, 56:10,</p>	<p>60:21, 63:13 march 5:7, 6:11, 8:4, 8:5, 9:17, 11:9, 11:18, 13:8, 15:3, 15:15, 15:17, 16:7, 16:8, 16:14, 16:17, 19:4, 19:10 marks 31:1, 42:4, 44:11, 44:13 matter 12:6, 32:4, 37:1, 40:18, 49:7 matters 35:5 maximizing 58:21 maybe 24:12, 25:20, 41:1 mccolley 2:8, 2:19, 5:1, 5:2, 6:19, 6:20, 6:21, 12:13, 12:14, 15:6, 15:7, 18:4, 18:5, 19:20, 19:21, 20:19, 20:20, 21:5, 21:6, 21:7, 21:14, 21:15, 23:21, 23:22, 24:16, 25:10, 26:21, 27:12, 27:13, 54:17, 54:18, 60:16, 64:5, 64:6 mccolley's 9:15 mcdonald 27:19, 56:19, 57:2, 57:11, 57:16 mcdonald's 57:14</p>
--	---	--	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>mean 21:21, 24:16, 25:12, 29:11 meaning 58:5 means 31:16, 35:13 meant 46:22 meet 5:5, 39:7, 57:3 meeting 2:2, 4:9, 5:7, 27:5, 64:13 meets 22:17 member 3:12, 3:14, 35:15 members 5:6, 6:3, 6:15, 18:21, 23:17, 25:7, 36:14, 55:3 mentioned 8:10, 42:17, 49:14, 56:2, 60:15 messaging 8:20 mid-april 19:12 might 19:22, 26:22, 56:2 military 33:4, 34:3, 34:16, 35:4 million 17:14, 17:16 mind 15:10, 18:11, 23:13, 53:3, 61:7 minority 45:17 minute 34:17</p>	<p>minutes 5:6, 5:8, 5:11 miraculous 29:14, 36:17 misheard 48:22 misprints 31:1 misunderstanding 52:5 modified 49:2, 49:3 money 9:2, 9:18, 9:21, 15:9, 22:2, 46:21, 47:17 month 8:3, 8:4, 15:1, 15:15, 15:16, 16:4, 16:5, 16:15, 18:11 monthly 8:1, 8:2, 8:7, 9:4, 15:12, 15:21, 16:12, 19:6 months 11:18, 12:3, 12:7, 16:6, 30:21 moot 62:7 more 11:5, 16:2, 20:18, 21:11, 21:12, 22:1, 27:7, 27:15, 27:16, 43:9, 43:14, 47:16, 57:16 morgan 17:1 morning 30:13 most 28:4, 28:12, 29:19, 39:17,</p>	<p>40:21, 56:3, 56:20 motion 5:8, 5:17, 6:18, 22:9, 23:13, 25:6, 26:6, 26:10, 28:14, 44:2, 63:14, 64:11 motto 36:21 move 5:9, 5:12, 5:21, 23:15, 26:11, 26:15, 27:9, 38:2, 40:3, 51:20, 62:3, 64:12 much 21:11, 28:9, 30:6 mullins 17:1, 17:3 must 36:6, 51:13 myself 2:10</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name 2:18 names 51:13 narrow 56:13 nature 25:19 necessarily 12:16, 49:11 necessary 6:16, 24:1, 26:17, 51:10, 63:12 need 6:9, 6:12, 6:13, 18:1, 24:7, 25:5, 30:22, 32:14,</p>	<p>33:11, 33:12, 33:18, 33:20, 34:1, 34:20, 36:3, 37:12, 38:1, 39:7, 45:15, 46:2, 48:8, 50:7, 53:20, 53:21 needed 6:4, 20:17, 23:19, 32:3, 60:12 needs 33:7, 56:14 neither 65:8 nelson 17:1, 17:3 never 15:22, 46:12, 46:15, 46:16, 56:18 new 32:15, 32:17, 33:12, 35:10, 35:19, 36:4, 36:5, 36:7, 36:11, 36:16, 36:20, 49:3, 50:19, 50:20, 51:21, 52:16, 54:6, 54:13, 54:14, 54:15, 62:3, 63:13 next 22:4, 31:9, 33:8, 45:22, 48:16 night 30:10, 30:16, 36:17 nobody 49:14 non-competitive 56:19 none 5:11, 18:13, 38:15, 64:14,</p>
---	--	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>64:16 nonetheless 24:22 normal 8:1, 15:20, 33:5 normally 32:8 north 57:8 note 2:4, 2:6, 32:6, 38:13, 61:12 nother 36:12 nothing 14:18, 25:15, 29:13, 48:3, 48:14 noticed 30:17, 56:17 november 13:7 number 1:20, 14:1, 15:3, 27:18, 58:21 numbers 9:2, 31:19, 31:20, 42:20</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>o'clock 30:13 oath 2:16 objection 5:10, 24:8, 26:5, 26:8 objections 25:7 objective 13:15, 58:13 obligation 43:19, 43:20, 43:21, 44:12, 48:17 observed 27:14</p>	<p>obviously 34:14, 59:9 occur 51:12 occurred 54:12 occurs 52:5 october 8:16, 13:6 offer 46:16 office 3:9, 3:11, 9:15, 19:12, 30:14, 32:2, 51:3, 53:18 officer 31:8, 35:16, 35:19 official 24:8, 33:6, 33:20 officials 29:12, 31:8, 35:7, 36:16 ohio 1:10, 2:2, 3:5, 3:7, 3:12, 3:14, 3:20, 3:22, 35:6, 39:8, 41:11, 41:20, 43:5, 44:16, 47:1, 47:2, 53:11, 54:1, 55:6, 56:7, 60:6, 63:6 ohio's 29:12, 32:7, 35:6, 35:16, 35:18 okay 21:15, 26:11 olivia 65:3, 65:18 one 2:6, 2:10, 2:13, 2:14,</p>	<p>3:20, 3:22, 7:1, 12:11, 14:1, 16:5, 27:19, 27:20, 31:4, 40:22, 41:1, 42:8, 43:6, 49:11, 50:1, 51:2, 56:22, 57:16, 59:3, 59:9, 59:10, 59:13, 59:18 one's 43:11, 57:2 ones 51:16, 60:5 online 37:17 only 10:16, 11:19, 12:8, 12:11, 16:20, 17:4, 32:5, 37:20, 49:8, 50:19, 54:13, 63:12 open 36:22, 45:11, 64:13 opened 21:21 opening 25:12, 25:14 opinion 21:18, 38:11, 39:12, 60:2 opinions 42:9 oppose 28:14, 46:9 opposed 12:10 order 2:3, 13:4, 22:18, 24:1, 24:15, 26:9, 28:3, 28:5, 32:12, 39:1, 39:2, 46:14, 51:10, 51:11,</p>	<p>62:13 ordered 39:21, 52:13, 53:2 ordering 53:16 ordinary 8:13, 9:6, 13:4, 15:12 original 38:4, 54:11 originally 9:13, 9:18, 10:19, 19:11 other 7:3, 10:1, 10:22, 14:17, 25:7, 30:5, 31:4, 37:9, 37:10, 38:13, 39:18, 40:6, 42:5, 42:17, 42:22, 43:5, 44:6, 44:11, 44:14, 45:3, 48:1, 48:17, 55:2, 57:6, 58:7, 58:22, 60:22, 61:12 otherwise 20:22, 45:18, 65:10 out 7:9, 8:13, 8:18, 9:5, 10:8, 21:22, 34:4, 34:15, 34:22, 35:3, 37:16, 39:10, 39:17, 42:21, 43:2, 43:12, 51:4, 53:14, 53:19, 54:20, 54:22, 56:4, 61:22, 62:5, 62:8, 63:11 outcome 65:11</p>
---	---	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>outlined 41:13, 44:8, 61:2 outside 10:3, 10:13, 14:16, 16:22, 17:3, 17:5, 18:12, 18:21 outsider's 57:21 over 4:9, 8:11, 18:8, 19:4, 19:8, 19:14, 20:10, 22:21, 30:13, 30:20, 33:8, 34:2, 40:16, 47:1, 51:7, 57:15, 59:16, 60:1 overcome 29:21 overlooked 31:7 overly 46:11 overseas 33:4, 34:3, 34:15, 35:3 oversight 18:8 own 38:11, 45:3, 45:5, 55:2, 55:18</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>pages 1:21, 55:21 paid 11:17, 12:22, 16:4, 16:22, 17:2 panel 39:16 paper 30:3 parma 57:8</p>	<p>part 13:11, 14:11, 35:21, 46:11, 52:3, 54:6, 58:14, 59:3, 59:7 participate 23:8 participated 18:13 participating 18:16 particularly 15:1 parties 44:4, 65:9 partisan 42:15, 57:3, 57:16, 59:22, 63:3 partisanship 57:6 parts 29:19 pass 23:15, 33:16, 34:5, 35:12, 35:14, 36:1, 36:6, 36:14, 36:16, 38:1, 45:14, 46:1, 48:4, 48:17, 49:4, 49:12, 49:18, 59:19 passed 33:12, 34:19, 39:18, 39:21, 43:9, 52:22, 54:10, 58:12, 58:14, 59:17 passes 52:17 passing 45:19 past 35:1, 35:3, 61:8 path 22:2, 52:21</p>	<p>patriotism 29:15 pattern 7:19, 13:16 payment 8:5, 8:6, 8:17, 10:11, 15:15, 15:16, 16:5, 17:10, 26:4 payments 7:20, 7:22, 8:3, 8:13, 8:15, 8:16, 8:22, 9:4, 9:5, 13:16, 15:11, 16:3, 16:7, 16:8, 20:2, 25:22 pedestal 60:1 peo 31:17 people 18:14, 27:3, 27:15, 27:21, 31:14, 38:21, 44:4, 47:4, 47:11, 47:15, 55:5, 56:6, 59:2, 59:6 people's 59:16 percent 40:16 perfect 57:8 perform 6:4, 22:15, 23:19, 26:16 performance 57:14 period 11:22, 14:21, 19:5, 19:8, 19:14, 19:15, 20:11, 40:2, 48:17 person 55:12</p>	<p>personal 60:2 personally 28:9 perspective 29:2, 62:16 pertain 44:21 petition 50:3, 54:9, 54:12 petitioners 49:17 petitions 33:13, 33:18, 50:22, 51:1, 54:5, 63:9 pick 42:19, 42:20 picked 49:14 piece 36:1, 48:8, 55:9 place 27:10, 30:2, 37:22, 38:18, 47:4, 56:9, 61:5 placed 58:2, 58:3 plain 58:5 plan 64:13 planet 1:22, 65:19 planning 36:13 plans 30:1, 30:3 play 14:14 played 53:14 please 2:17, 4:11, 14:8, 17:20, 25:9, 41:9,</p>
--	--	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

62:20, 63:16 point 2:15, 18:16, 22:6, 23:22, 25:11, 25:13, 29:6, 30:1, 35:9, 36:20, 38:10, 39:4, 48:4, 56:5, 57:20, 62:7 pointed 21:22, 39:17 points 43:7, 59:18 political 8:20, 56:8 poll 30:4, 31:18 population 40:16, 57:4 position 20:16, 27:7 possibility 34:7, 49:8 possible 36:21 post-election 33:7 potentially 18:15 power 49:10 practical 28:21, 43:11, 43:12 practicality 29:2, 44:17 pre 12:11 preceded 20:6 predecessor 21:3 preferred 27:17 preparation 30:11, 32:19, 39:22	prepare 32:11 prepared 63:8 present 4:20, 5:5, 21:3 presented 13:13, 20:21, 40:11 president 2:7, 2:13, 11:13, 45:16 president's 2:9 presiding 4:9 presumably 13:6 previous 12:3, 16:3, 26:16, 55:1 primarily 7:11, 7:14, 8:19, 9:4 primary 7:17, 17:15, 17:17, 32:5, 33:14, 61:16, 61:17, 61:18 printing 30:21, 51:12 prior 17:9, 32:15, 62:22 probably 6:22, 27:16, 55:12, 56:20 problem 38:11, 41:14, 42:5, 43:17, 52:17 problems 41:13, 44:8 procedures 37:11, 38:15 proceedings 65:6 process 6:7, 6:14,	7:15, 7:17, 9:12, 10:16, 15:19, 17:9, 18:13, 18:22, 23:9, 27:14, 28:10, 28:12, 34:7, 40:14, 40:17, 42:3, 46:11, 46:18, 52:8, 55:4, 58:1 produce 22:16 product 26:17, 27:4 productive 27:7 products 21:20 professional 6:4, 23:18 program 32:15, 34:21 programmed 32:18, 39:20, 40:1, 40:12 programming 41:4 pronouncements 53:7 proper 28:19 proportionality 42:8, 58:2, 59:22 proposed 37:7 protest 51:15 protests 33:17, 50:22, 63:9 proves 18:17 provide 19:3 provided 23:5, 55:22 provisions 54:2, 58:7	prudent 17:21 public 16:20, 25:13, 29:18, 30:5, 43:7 pulled 36:16 purpose 49:6 pursuant 3:18, 3:19 put 15:19, 27:19, 28:19, 30:1, 56:15, 59:21, 61:5 putatively 53:8
			Q
			quadruple 18:10 quadrupled 15:14, 18:10 qualified 27:22, 28:12 question 16:1, 23:6, 36:9, 37:6, 38:4, 41:17, 48:2, 59:22, 60:1, 62:1, 62:10 questioning 52:9 questions 9:9, 10:14, 11:16, 36:12, 54:10 quorum 5:5 quote 43:3, 57:5, 57:7 quotes 56:16, 57:11
			R
			raise 2:17, 14:3

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>raised 11:16, 13:14, 14:19, 48:2 raises 17:9 ran 29:19 rather 58:4 ray 56:6 re-center 55:13 reach 43:5 reading 41:15 ready 40:1 real 29:20, 35:6, 41:21, 42:5, 44:18 realities 28:21 reality 42:2, 43:11, 43:12, 49:7 realize 15:17 really 7:10, 7:21, 9:3, 27:3, 30:6, 32:4, 35:5, 36:18, 37:6, 40:5, 41:5, 57:5 reason 13:11, 21:7, 39:16, 57:1, 58:12, 58:14 reasonable 39:17 reasoning 13:2 reasons 48:6, 48:7 reassign 10:12</p>	<p>recall 61:13 receipts 24:20 receive 7:3 received 7:5, 7:8 recent 28:4 record 2:6, 18:17, 23:12, 25:13, 65:6 recording 2:1, 64:17 records 16:21 recruiting 31:18 recruitment 31:17 redistricting 1:10, 2:3, 3:13, 3:15, 6:1, 7:2, 8:21, 13:22, 23:16 redo 39:1 reduced 22:10, 65:7 redundancies 29:22 reengage 38:3, 60:4 referencing 57:10 reflect 11:8 regard 22:7, 28:20, 48:1, 48:15 regarding 7:4, 22:3, 26:12 regardless 25:17, 26:3, 52:15, 52:20</p>	<p>regards 56:11 regular 32:12 rehiring 47:20, 63:15 reiterate 62:11 reiterated 28:5 reiterates 56:4 reiterating 45:11 related 30:15, 65:8 relationship 11:1 relative 55:19, 57:6 relearn 47:2 reluctance 37:20 rely 6:5 remain 36:22 remained 15:14 remains 15:11, 16:1, 23:7 remake 30:22 remedy 60:2 remember 51:6, 54:7 remind 9:20, 11:19, 12:8, 22:19, 61:19 reminder 6:5, 10:9, 10:15, 16:12 renewed 6:10</p>	<p>repeat 2:18 repeating 23:13 report 30:18 reporting 30:10, 30:16 representative 2:11, 4:8, 5:14, 6:19, 9:7, 18:19, 23:12, 24:11, 25:3, 38:6, 40:8, 52:1, 60:7 republican 14:5, 17:7, 25:12, 25:14, 57:9 republicans 47:5 request 5:22, 7:4, 7:6, 16:21 requested 5:19, 5:21, 9:13, 13:12, 19:11 require 28:7, 35:11, 49:9, 52:18 required 11:15, 13:21, 30:7, 33:21, 51:1, 63:4 requirement 28:6, 36:10, 42:10, 51:19 requirements 22:18, 39:8, 56:2, 57:7, 58:3 requires 33:14 requiring 42:18 requisite 55:9 residency 36:9</p>
--	---	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>resigning 31:15</p> <p>resolution 5:17, 23:15, 24:1, 25:6</p> <p>resolved 27:7</p> <p>resources 6:4, 6:16, 14:12, 23:8, 23:18</p> <p>respect 37:16</p> <p>respond 39:14, 53:5, 60:9, 62:18</p> <p>response 21:22</p> <p>responsibility 20:14</p> <p>result 11:7, 30:16, 56:15</p> <p>resulted 30:8, 30:10, 30:21</p> <p>results 30:18, 35:6</p> <p>retainer 8:1, 15:12, 15:21</p> <p>return 13:9, 13:12</p> <p>revalidate 50:12</p> <p>revalidating 50:18</p> <p>reversing 53:12</p> <p>review 26:16, 49:16, 60:12</p> <p>reviewing 7:18, 26:1</p> <p>revised 54:1, 63:6</p> <p>revisiting 36:8</p>	<p>rid 57:12</p> <p>right 2:17, 18:6, 18:15, 23:2, 37:22, 39:8, 50:13, 51:19</p> <p>road 26:3, 55:11</p> <p>rob 2:19</p> <p>robert 2:8</p> <p>role 4:12</p> <p>roles 35:17</p> <p>roll 2:4, 63:16</p> <p>room 27:15, 47:6, 58:13</p> <p>rounds 15:4</p> <p>route 44:14</p> <p>royalton 57:8</p> <p>rules 47:1, 47:2, 58:22</p> <p>run 32:11, 40:2, 45:19, 53:16, 54:14</p> <p>running 31:11</p> <p>rushed 30:8, 30:10, 51:9</p> <p>rushes 30:20</p> <p>rushing 36:20</p> <p>russo 5:3, 5:4, 5:14, 5:15, 7:1, 7:4, 9:7, 9:8, 12:15,</p>	<p>13:17, 13:18, 14:9, 16:9, 16:10, 16:11, 17:21, 18:2, 18:19, 18:20, 20:5, 21:1, 21:9, 22:1, 22:11, 23:5, 23:12, 23:14, 24:2, 24:10, 24:11, 24:12, 25:3, 25:4, 26:7, 26:20, 38:6, 38:7, 40:8, 40:9, 51:22, 52:1, 52:2, 60:7, 60:8, 64:7, 64:8</p> <hr/> <p>S</p> <p>said 13:10, 21:19, 33:2, 35:4, 43:2, 43:6, 43:19, 44:13, 44:15, 44:16, 45:12, 50:17, 55:15, 62:7, 65:6</p> <p>same 14:15, 17:10, 21:18, 52:17, 52:20, 62:16</p> <p>saturday 57:17</p> <p>saved 46:20</p> <p>saw 42:15</p> <p>say 17:6, 19:1, 25:10, 34:5, 39:15, 40:6, 40:15, 47:12, 48:11, 56:11, 58:12, 58:14, 62:11</p> <p>saying 25:2, 31:14,</p>	<p>56:5, 56:17, 56:19, 56:21, 56:22, 57:3, 57:14, 57:17</p> <p>says 57:13</p> <p>schedule 63:3, 64:13</p> <p>score 60:18, 60:19</p> <p>scrutiny 14:16, 28:9</p> <p>seats 57:18</p> <p>second 2:10, 6:18, 17:17, 26:20, 32:5, 47:21, 48:7, 52:3, 59:3</p> <p>secretary 4:13, 4:15, 4:17, 4:19, 4:21, 4:22, 5:1, 5:3, 5:9, 6:18, 28:20, 29:7, 29:9, 29:10, 30:14, 35:8, 37:3, 37:6, 39:13, 39:15, 40:9, 41:14, 44:8, 44:15, 45:5, 45:10, 46:7, 48:1, 49:1, 49:22, 50:4, 50:5, 50:8, 50:11, 53:4, 53:5, 54:16, 54:19, 61:1, 62:18, 62:21, 63:17, 63:19, 63:21, 64:1, 64:3, 64:4, 64:5, 64:7, 64:9</p> <p>section 3:20, 3:22</p> <p>see 11:8, 14:6,</p>
--	---	--	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>15:12, 18:9, 25:17, 30:6, 36:15, 38:19, 41:5, 58:5, 58:11 seeing 64:14 seem 8:13, 9:5, 26:1 seemed 8:6 seems 17:12 seen 15:22, 28:22 sees 28:2 selling 43:7, 59:18 senate 2:7, 2:8, 2:13, 10:17, 10:18, 11:12, 41:1, 55:8, 59:5, 59:8, 59:9, 59:11, 59:12, 59:13, 59:15 senator 2:7, 2:8, 5:1, 5:2, 6:20, 6:21, 9:9, 9:15, 12:13, 12:14, 13:17, 15:6, 15:7, 16:10, 16:11, 18:4, 18:5, 19:20, 19:21, 20:19, 20:20, 21:5, 21:6, 21:7, 21:14, 21:15, 23:2, 23:3, 23:11, 23:21, 23:22, 24:13, 24:16, 25:10, 26:13, 26:14, 26:21, 26:22, 27:2, 27:12, 27:13, 37:3,</p>	<p>37:5, 37:18, 44:20, 54:16, 54:18, 60:16, 64:5, 64:6 senator's 44:2 send 34:15 sending 35:3 sense 53:13 sent 7:6, 24:21 separate 35:17, 46:5 september 7:22, 13:6 serve 3:16, 3:17 service 2:9, 2:12 services 19:3, 20:17 session 36:14, 45:22, 46:3 set 9:10, 12:2, 12:5, 16:12, 16:13, 19:6, 20:10, 33:1, 33:19, 36:12, 38:17, 40:12, 56:1, 63:11, 63:13 sets 12:1 several 27:18, 30:3 shall 4:2, 4:4 shape 48:13 short 24:15, 26:9, 29:13, 55:22 shorter 19:15</p>	<p>should 22:4, 22:22, 25:11, 27:16, 37:9, 38:3, 43:22, 59:19 sic 36:12 sign 25:1 signature-plkal 65:15 signatures 54:5 significant 17:9 significantly 41:7 simply 12:4, 12:6, 19:4, 19:8, 41:16 simultaneously 32:20 since 7:16, 9:12, 40:2 single 30:1, 42:16, 42:19 sir 46:4, 49:21, 50:5 sit 47:5 situation 38:9, 55:18, 55:20 six 34:22, 35:1, 59:14 sleepy 30:12 slight 35:10 smoothly 29:19 software 6:8, 6:9</p>	<p>solely 22:5 solemnly 2:20, 2:21 some 2:5, 7:8, 7:9, 7:13, 7:18, 8:21, 9:9, 9:15, 10:1, 10:2, 10:4, 12:3, 13:1, 24:20, 25:11, 29:20, 30:22, 32:12, 38:19, 40:17, 47:9, 48:17, 49:13, 56:8, 56:12, 56:16, 58:6, 59:20, 60:5, 61:1, 61:18, 62:15 something 18:10, 26:2, 29:13, 31:6, 36:17 somewhat 23:22 sorry 10:18, 24:17, 50:14 sounds 52:18 speak 31:9 speaker 2:10, 2:14, 7:6, 8:10, 11:13, 45:16, 64:10 special 34:8 specifically 5:20, 5:21, 5:22, 10:14, 20:7, 28:7, 62:7 spending 7:9, 9:22, 47:16 spent 6:11, 8:9,</p>
--	---	--	--

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>9:12, 9:19, 10:6, 14:6, 14:16, 15:1, 15:9 split 57:1 splits 59:21, 60:15 splitting 58:16, 58:17, 59:19 squander 37:14 staff 4:11, 10:10, 10:11, 10:12, 14:22, 16:20, 17:6, 17:7, 17:11, 31:5, 46:19, 47:5, 47:10, 47:13, 48:5, 56:6, 62:6, 63:16 stage 43:20 standpoint 29:18 stands 64:16 start 15:7, 17:18, 34:4, 38:15, 42:7, 50:1 started 40:17 state 2:18, 3:4, 3:6, 8:22, 12:1, 27:3, 28:20, 29:19, 36:20, 39:1, 39:10, 40:22, 41:14, 44:15, 46:21, 60:6, 61:1, 62:13 state's 30:14 stated 28:6</p>	<p>states 3:1, 3:3 statewide 30:18 stating 54:2 status 39:14 statutorily 61:2 statutory 35:2, 54:12, 61:10 stay 18:10 stepping 54:22 steps 22:4 stewards 13:20 still 13:2, 15:9, 23:7, 25:18, 25:22, 26:1, 28:2, 32:20, 33:3, 33:7, 45:8, 52:11, 52:17, 61:2, 61:4, 61:10, 62:1, 62:9, 62:15 stop 37:17 stopped 10:21 strike 34:18, 34:19 striking 53:13 struck 53:11 structure 37:13 structured 15:22, 25:21 stuff 35:5</p>	<p>submit 16:15, 19:15 submitted 11:14, 11:19, 13:22, 14:2 subordinated 58:7 subsequent 7:6 successful 29:17 sudden 13:8, 15:14 sufficiency 50:3, 50:21, 63:2 suggestion 28:6 suggestions 26:18 sum 12:18 super 35:13, 36:1, 36:8 supervision 65:7 support 2:22, 3:2, 6:9, 6:13, 9:22, 22:13 supportive 6:15, 47:19 suppose 34:17, 34:18 supposed 46:15 supreme 28:3, 28:4, 39:1, 39:10, 41:10, 41:11, 41:20, 43:6, 44:16, 53:11, 55:22, 56:16, 62:13 sure 13:18, 20:5, 23:7, 27:14,</p>	<p>46:7, 46:11, 46:21, 49:1, 50:9, 53:22, 60:20 surprise 25:16 swear 2:20, 2:21 swept 31:6 sworn 4:8 sykes 4:15, 4:16, 23:2, 23:3, 26:13, 26:14, 26:22, 27:2, 37:4, 37:5, 37:18, 38:8, 44:20, 63:19, 63:20 symmetric 57:19 symmetry 42:10, 58:2, 59:22 systems 32:15, 34:21, 47:14</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>take 20:14, 44:7, 60:13 taken 27:10, 34:12 takes 31:21, 32:11, 34:14, 35:1, 55:6 taking 34:22, 53:8 talk 24:19, 35:8 talking 17:18, 32:1, 40:19, 51:19, 52:15, 54:13,</p>
---	--	---	---

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>58:11, 62:22 targets 48:9 task 5:18, 6:1, 7:2, 10:1, 10:12, 11:3, 11:5, 11:11, 12:17, 12:22, 13:22, 20:13, 22:9, 23:16, 39:3 taxpayer 13:20, 17:21 taxpayers 47:17 teams 29:16 technical 60:13 technological 30:9 tell 8:19, 44:6, 47:11, 48:7 tells 42:11 term 49:5, 50:13 testimony 40:10, 48:3, 60:11, 60:18 testing 30:8, 31:3, 51:5, 51:10 th 5:7, 8:16, 32:2, 32:18, 33:1, 33:13, 33:15, 33:18, 33:21, 34:1, 34:4, 35:4, 38:14, 38:15, 38:16, 39:18, 50:2, 50:21, 50:22, 51:2, 51:13, 51:14, 51:15, 52:5, 52:6, 52:15,</p>	<p>53:3, 61:3, 61:6, 61:20, 62:22 thank 5:15, 6:21, 9:8, 12:14, 16:11, 18:5, 19:21, 21:16, 23:11, 23:14, 26:7, 26:14, 27:2, 27:12, 27:13, 28:18, 37:3, 37:5, 38:7, 40:9, 45:4, 46:4, 50:9, 52:2, 54:16, 54:18, 60:8 thanks 29:10, 29:11, 46:5 they'd 46:2 thing 18:3, 18:12, 27:20, 31:17, 38:13, 42:22, 49:14, 54:7, 59:17, 60:22, 61:12, 63:1, 63:10 things 25:19, 27:18, 30:5, 31:1, 34:9, 36:21, 38:12, 39:6, 42:14, 43:5, 45:12, 50:6, 51:7, 51:18, 52:21, 63:10 think 7:15, 10:5, 13:14, 18:2, 18:6, 18:17, 19:22, 21:11, 22:1, 23:4, 24:6, 25:15, 28:12, 28:19,</p>	<p>29:3, 29:4, 29:8, 34:6, 38:3, 39:7, 40:13, 41:16, 41:18, 41:21, 43:7, 43:18, 43:22, 44:5, 44:12, 44:14, 44:20, 46:19, 47:16, 48:1, 48:16, 48:20, 49:13, 55:3, 55:7, 60:2 thinks 48:8 third 38:17, 39:14, 39:19, 40:6, 40:12, 40:19, 44:7, 50:15, 50:16, 52:7, 52:11, 52:12, 52:16, 53:1, 59:7, 61:4, 61:5, 62:4, 63:1 thought 11:5, 20:16, 21:12, 52:10 thoughtfully 48:21 three 11:21, 12:10, 14:20, 19:18, 30:13, 31:9, 34:13, 37:10, 39:16, 49:2, 59:14, 59:15, 60:16, 60:20, 61:13, 62:2, 62:5, 62:11, 62:12 through 7:22, 10:1, 10:4, 11:12, 13:21, 14:2, 14:7, 14:9, 16:20, 16:22, 17:2, 19:18,</p>	<p>31:12, 31:22, 36:20, 42:3, 42:12, 42:13, 43:4, 45:3, 48:6, 51:8, 55:17, 56:20, 58:4 throughout 18:22, 28:10, 28:11 thrown 39:10, 55:18, 55:20, 61:22, 62:5, 62:8 tied 61:16, 61:17 tight 27:1 time 5:12, 11:2, 11:20, 11:22, 14:21, 14:22, 15:5, 18:17, 19:4, 19:9, 19:14, 19:15, 19:19, 20:6, 20:11, 26:11, 29:8, 31:2, 34:10, 37:13, 37:18, 39:4, 40:2, 41:21, 42:16, 42:19, 44:18, 44:22, 48:18, 55:4, 56:1, 59:17, 64:12 timeline 32:1, 41:11, 41:12, 63:11 timelines 36:2, 53:14 timing 31:1, 37:2 title 53:22 today 4:9, 24:6, 25:2, 25:18,</p>
---	---	---	---

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

26:8, 32:7, 32:10, 32:14, 32:18, 32:22, 33:2, 34:22, 37:22 together 57:9 told 32:2, 48:19, 56:4 toledo 59:5 tomorrow 34:5, 34:19, 36:14, 45:7, 46:3 tones 59:16 top 17:16 topic 55:13 total 8:8, 9:11, 9:18, 11:10, 19:5 totaled 8:4 totaling 8:15, 8:22, 17:9, 19:5, 20:3 tough 49:19 towards 21:19 train 52:9 transcribed 1:22 transcript 65:1, 65:4 transitioned 11:4 transparency 7:12 traps 56:8 tried 47:13	triggered 36:11, 54:11, 54:14 trouble 30:21, 52:12 true 65:5 try 28:18, 43:20, 43:21, 44:7, 44:13, 56:4 trying 9:1, 18:8, 44:19, 45:11, 55:12, 56:9, 59:20 turned 42:21 two 2:12, 8:3, 8:13, 8:16, 9:5, 11:20, 12:1, 12:7, 12:9, 12:12, 13:10, 14:20, 16:6, 19:17, 22:22, 32:14, 32:22, 34:20, 35:17, 41:1, 42:11, 42:17, 46:1, 46:6, 47:17, 48:16, 49:10, 49:13, 59:4, 59:6, 59:8, 59:11, 59:12 types 59:21 typewriting 65:7	28:10, 28:11, 39:1, 39:2, 55:6, 63:11, 65:7 undergoing 15:4 understand 7:15, 13:1, 29:5, 37:10, 46:8, 47:14 understanding 21:1, 21:4, 21:17, 40:10, 41:3, 46:13, 52:4, 52:6, 52:12 understood 45:5 undisputed 60:18 unfortunate 35:20, 39:3 unfortunately 30:2, 61:16 unidentified 64:10 united 3:1, 3:3 units 58:16 unless 33:16, 35:19, 35:22, 36:13, 45:8, 48:22, 52:4 unlike 10:1 unnecessary 47:19, 58:15, 58:17, 59:19 until 30:13, 32:7, 38:9, 38:14, 38:15, 38:16, 52:14, 53:3, 58:1, 61:5 urge 5:22	urging 23:15 use 16:20, 17:21, 37:7, 39:19 using 17:4, 49:5 utilize 45:8
	U		V
	ultimately 49:18 unconstitutional 39:11 under 14:20, 19:2, 20:11, 22:19,		validated 52:8 validating 33:11, 33:13, 53:9 validation 52:9 validity 50:3, 50:21, 63:2 value 21:19 variation 35:10 view 46:14, 48:13, 57:21 vincent 16:21 violations 58:10 vote 24:8, 25:5, 35:15, 36:1, 36:8, 45:21 voted 64:11 voters 35:6, 39:8 votes 35:13, 35:14, 54:21, 55:4, 55:8, 55:9 voting 36:4
			W
			walk 48:6

Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>want 16:19, 17:18, 26:5, 31:15, 36:17, 39:13, 46:5, 46:6, 46:8, 47:11, 47:21, 47:22, 48:6, 49:1, 50:9, 60:20 wanting 13:19 washington 8:18 wasted 39:4 watched 27:18, 41:21, 41:22, 42:12, 44:18 watching 27:15, 56:17 way 11:9, 27:15, 27:16, 38:20, 42:21, 43:12, 54:11, 56:20, 60:2 we'll 5:5, 5:12, 26:11, 57:18, 64:12, 64:13 we're 14:10, 14:14, 18:2, 24:3, 24:7, 25:21, 31:13, 32:1, 40:19, 49:10, 51:18, 52:15, 57:17, 58:11, 60:20, 62:12, 62:13, 62:14, 62:22 we've 9:20, 19:13, 38:9, 40:21, 55:1 week 34:10, 34:14,</p>	<p>45:22 weeks 22:22, 31:10, 32:15, 32:22, 33:8, 34:2, 34:3, 34:13, 34:20, 34:22, 35:1, 54:2 welcome 5:16 went 9:2, 22:2, 43:2, 51:7 whatever 13:13, 42:11, 50:12 whether 25:17, 26:3, 37:9, 38:21, 40:18, 44:21, 49:2, 49:3, 52:15, 54:21, 55:5, 62:12 whole 36:12, 46:13, 46:14, 48:6, 51:16, 57:20, 58:12 wholeheartedly 55:14 wife 27:17 wilke 65:3, 65:18 willing 29:6, 29:7, 36:19, 45:21 window 43:2, 62:4, 62:8, 62:9 wisdom 39:17 wise 23:6 wish 40:4 wished 22:2</p>	<p>wishes 22:3 withdraw 25:6, 26:6, 26:9 within 12:19, 22:5, 34:14, 58:21, 59:8 without 25:22, 44:22, 45:20, 49:18, 55:7 work 5:13, 5:14, 9:22, 10:21, 15:18, 16:16, 17:8, 19:16, 19:17, 20:9, 22:15, 26:16, 27:4, 30:7, 31:11, 31:15, 40:20, 41:2, 44:5, 44:6, 51:8, 53:20, 53:21, 60:12, 61:4, 62:15, 63:5, 64:13 worked 43:12, 54:8, 56:18 workers 31:18 working 11:6, 11:19, 11:22, 12:8, 12:9, 13:10, 14:19, 19:18, 30:13, 31:9, 31:12, 33:3, 57:12 worried 57:17 worth 30:7, 45:11 would've 12:21, 13:4, 13:14, 27:17,</p>	<p>40:3, 50:14, 50:16, 59:8, 59:10, 59:13 wrapping 32:20 write-in 51:15 wrong 18:3, 31:2, 51:7</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 27:2, 29:10, 39:15, 45:10, 50:11, 53:5 year 20:3, 48:16 yesterday 17:15, 29:12, 31:19, 32:13, 32:21 yesterday's 29:17, 31:13</p> <hr/> <p style="text-align: center;">\$</p> <hr/> <p>\$119,000 8:15, 8:22, 20:4 \$127,000 16:7 \$127,500 19:5 \$13,000 16:15 \$14,000 8:8, 15:17 \$145,000 9:20 \$16,000 8:2, 15:13 \$182,500 8:8 \$354,000 9:13 \$500,000 9:11 \$55,000 8:5, 16:5</p>
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Transcript of Ohio Redistricting Commission
 Conducted on May 4, 2022

<p>\$58,500 8:5, 13:8 \$600,000 10:6 \$80,000 17:10 \$9 17:14</p>	<p>61:3 200,000 22:10 2022 1:11 22 37:14, 38:9, 55:8</p>	<p>45 30:7 48 22:21, 39:5, 51:7 4th 6:12, 9:17, 16:14, 16:17, 19:4, 19:10</p>	<p>9c 36:10, 51:19</p>
<p style="text-align: center;">0</p>	<p>24</p>	<p style="text-align: center;">5</p>	
<p>00 22:20</p>	<p>33:21, 51:2, 51:13, 51:14, 52:6, 61:3, 61:20</p>	<p>5-4 1:11 5/5/2022 65:20</p>	
<p style="text-align: center;">1</p>	<p>25</p>	<p>50 40:16</p>	
<p>10 33:5</p>	<p>27 51:15</p>	<p>52 57:15</p>	
<p>100 30:7</p>	<p>270,000 59:6</p>	<p>55,000 13:8</p>	
<p>11 3:18, 3:19, 59:1</p>	<p>28 5:7, 38:14, 38:15, 38:16, 39:18, 52:5, 52:15, 53:3, 61:6, 62:22</p>	<p>58,500 16:2</p>	
<p>13 8:2, 15:13</p>	<p>2nd 8:17, 31:20, 32:4, 32:7, 32:10, 32:14, 32:19, 32:21, 33:22, 48:15, 49:7, 49:9, 49:20, 53:17, 54:3, 54:11</p>	<p style="text-align: center;">6</p>	
<p>13,000 13:6, 13:7</p>	<p style="text-align: center;">3</p>	<p>65 1:21</p>	
<p>14,000 13:9</p>	<p>30 36:9, 51:20, 61:13, 61:20, 62:4, 62:8, 62:9</p>	<p style="text-align: center;">7</p>	
<p>140,000 59:2</p>	<p>35 54:1</p>	<p>70 33:21</p>	
<p>16 33:13, 33:15, 50:2, 50:21, 52:5, 58:10, 61:3</p>	<p>3rd 33:3, 39:22, 50:13, 50:15, 61:16, 61:17</p>	<p>74 33:19</p>	
<p>16,000 13:5</p>	<p style="text-align: center;">4</p>	<p>78 33:14</p>	
<p>17 34:1, 34:4</p>	<p style="text-align: center;">448318 1:20</p>	<p style="text-align: center;">8</p>	
<p style="text-align: center;">2</p>		<p>88 30:14</p>	
<p>2-5 64:9</p>		<p style="text-align: center;">9</p>	
<p>20 8:16, 32:2, 32:18, 33:1, 33:4, 33:18, 35:4, 37:14, 50:22, 52:6,</p>		<p>90 22:20 32:7, 32:8, 32:10, 32:13, 32:22, 33:10, 55:7</p>	

EXHIBIT 10

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OHIO REDISTRICTING COMMISSION

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5-5-2022

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20 Job Number: 448505

21 Pages: 1 - 38

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1 (Recording begins.)

2 CO-CHAIR SYKES: I'd like to call the Ohio
3 redistricting commission to order. Before we start,
4 Co-chair LaRe would like to make a comment.

5 CO-CHAIR LARE: Certainly, I understand
6 everybody's enthusiasm, but after yesterday, I just
7 want to remind folks that we have an overflow room
8 just across the hall. Should anybody feel the need for
9 clapping and cheering, that would be more appropriate.
10 This institution is here before all of us and it'll be
11 here after we're all gone, so out of respect, I'd ask
12 you to not clap and cheer so that we can hear one
13 another and the folks listening online can hear as
14 well. And the sergeant in arms in the back room will
15 be happy to show anybody where that is should they
16 need to go there. Thank you.

17 CO-CHAIR SYKES: Will the staff please call the
18 roll?

19 SECRETARY: Co-chair LaRe?

20 CO-CHAIR LARE: Here.

21 SECRETARY: Co-chair Senator Sykes?

22 CO-CHAIR SYKES: Here.

1 SECRETARY: Governor DeWine?

2 GOVERNOR DEWINE: Here.

3 SECRETARY: Auditor Faber?

4 AUDITOR FABER: Yes. (crosstalk) --

5 SECRETARY: Secretary LaRose?

6 SECRETARY LAROSE: Here.

7 SECRETARY: Senator McColley?

8 SENATOR MCCOLLEY: Here.

9 SECRETARY: Leader Russo?

10 LEADER RUSSO: Here.

11 SECRETARY: Mr. Co-chair, a quorum is present.

12 CO-CHAIR SYKES: Quorum being present, we will
13 meet as the full commission. In your folders, there
14 are minutes of our previous meeting held yesterday. Is
15 there a motion to accept the minutes?

16 UNIDENTIFIED SPEAKER: So motion.

17 CO-CHAIR LARE: Second.

18 CO-CHAIR SYKES: Been moved and seconded. Is
19 there any objections to the minutes being approved?
20 Hearing none, the minutes are therefore approved. At
21 this time, we'd like to know if there's any further
22 business to be conducted here by the commission. I

1 would call on Leader Russo.

2 LEADER RUSSO: Thank you, Co-chair. I'd like to
3 make a motion to adopt the independent map makers'
4 maps as identify -- as modified by Dr. Rodden,
5 presented to the state and federal courts and uploaded
6 to the commission website.

7 CO-CHAIR SYKES: Second the motion.

8 LEADER RUSSO: Great. As everyone knows, the
9 independent map drawers completed the work that they
10 were hired to do. They produced constitutional maps
11 that were also more compact than any of the commission
12 maps that have been adopted so far. As with any house
13 that is built, inspection usually reveals a punch list
14 of little fixes needed to make everything just right.
15 This same is true with any set of maps. And the short
16 punch list that was identified has also had each item
17 addressed.

18 So before us, we have a modified independent
19 map drawers' map, and I think those are going to be
20 passed out if they haven't already. It's been
21 available to all of us since April 8th. You have the
22 handouts describing the map before you, color maps,

1 partisan stats, information about precisely what was
2 fixed within the maps by Dr. Rodden as presented to
3 the state and federal courts.

4 Yesterday, we heard the governor say that we
5 must adopt constitutional maps if it can be done.
6 Well, it can be done and that has been noted by the
7 courts. It was done. That was also noted by the
8 courts. And those maps are now before us with this
9 motion. I will remind my fellow commissioners that we
10 are under a court order to adopt a constitutional set
11 of maps by 9:00 AM tomorrow morning, regardless of any
12 implementation timelines or impediments or an election
13 cycle and I recommend support of this motion.

14 CO-CHAIR SYKES: Senator McColley?

15 SENATOR MCCOLLEY: Thank you, Mr. Co-chair. I
16 would be opposed to working off of these maps. There
17 are several reasons. Number one, I know there's been
18 some assertions that this was a finished product of
19 the independent map makers or that they finished their
20 work that night. And I understand what Leader Russo
21 was saying, that there were several items that needed
22 to be changed, small items, but I would note a few

1 things.

2 Dr. Johnson, in his sworn affidavit, said
3 several things in anticipation of the federal court
4 case, I believe, where he mentioned that he did not
5 finish his work on this map. And he further mentioned
6 that, as you guys are all aware, in the rules
7 regarding the independent map makers, there was a
8 requirement that none of the caucus map makers inject
9 their maps or draw the maps themselves for the
10 independent map makers. Dr. Rodden, in his affidavit,
11 further stated that there were a full 21 House
12 districts and seven Senate districts that were
13 literally taken from Mr. Glassburn and put into the
14 map, in violation of the rules established by this
15 commission, and so the maps were neither finished nor
16 in accordance with the rules of this commission.

17 The next question I have is, who finished the
18 maps? It's Dr. Rodden and Dr. Rodden did it outside
19 the purview of this commission. He did it without the
20 guidance of this commission. And beyond that, you have
21 to ask yourself, who is Dr Rodden and what's his
22 relevance to the case at hand? He is a paid expert by

1 the attorneys that are the petitioners in this case
2 and the Eric Holder aligned groups, and so I think it
3 would be improper for us to use this Rodden map as a
4 starting point, continuing our conversations, and
5 that's regardless of the reasons that the Secretary of
6 State had mentioned yesterday and the objections that
7 I think he still holds today. Thank you.

8 CO-CHAIR SYKES: Are there additional comments?

9 LEADER RUSSO: Mr. Co-chair, I'd like to respond
10 to that.

11 CO-CHAIR SYKES: Leader Russo.

12 LEADER RUSSO: Thank you. Thank you, Mr. Co-
13 chair. To be clear, this map is finished. In fact,
14 what Dr. Johnson said in his testimony was that he had
15 not finished inspecting and reviewing and double
16 checking the maps -- after that they were complete,
17 and that is what Rodden did that was submitted to both
18 the court -- the federal court and as well as the
19 state Supreme Court. So my question to the commission
20 and for those who are opposed this map, and I suppose
21 I'll start with Senator McColley, specifically what
22 violations of article 11 sections 2, 3, 4, 5, and 7

1 have been identified within this corrected map that
2 has been presented before us?

3 CO-CHAIR SYKES: Senator McColley?

4 SENATOR MCCOLLEY: Thank you, Co-chair. As I
5 mentioned in my response earlier, it was regardless of
6 the issues that Secretary LaRose illustrated, however,
7 many of those issues remain for me, so regardless of
8 whether this map complies or not, although I have
9 reason to believe, looking at some of the districts,
10 there could be some issues, regardless of that fact, I
11 share many of the same concerns of the secretary, so I
12 cannot in good conscience support this map.

13 LEADER RUSSO: Senator.

14 CO-CHAIR SYKES: Leader Russo?

15 LEADER RUSSO: Thank you, Co-chair. So if I'm
16 understanding correctly, again, we have a
17 constitutional map that is before us that has been
18 verified, has no constitutional violations of article
19 11, sections 2, 3, 4, 5, and 7, and as a reminder, we
20 are under a court order to adopt a constitutional set
21 of maps by 9:00 AM tomorrow morning regardless of any
22 implementation challenges, regardless of what election

1 cycle we do or don't think that this will apply to, so
2 I recommend support of this motion and would ask the
3 commissioners if not adopting a constitutional map
4 today will put us at risk of contempt.

5 CO-CHAIR SYKES: Any additional comments? Auditor
6 Faber?

7 AUDITOR FABER: Yeah, I have trouble adopting
8 this map that I learned about today for the first time
9 at 3 o'clock or thereabouts. The fact of the matter
10 is, this map was not completed by the independent map
11 drawers, who frankly, as the evidence would show, may
12 have not have been all that independent, but
13 regardless, the obligation was on us to draw a map. As
14 we all know, a number of us had amendments to be
15 offered that the -- were not able to be considered in
16 the timeframe that the independent -- or the map
17 drawers had. It was our obligation to draw a map, not
18 on two people that we hired, particularly when we
19 couldn't even offer amendments to that map or talk
20 about suggestions as to where they are.

21 Whether this map meets all the provisions of 2,
22 3, 4, 5, and 7, I have no idea. I have not had a

1 chance to review it in detail. And for that reason and
2 because of the reasons articulated by Secretary
3 LaRose, I think it's inappropriate for us to be voting
4 on that map as completed by one of the petitioners and
5 their lawyers. Make no mistake, the Mark Elias Group,
6 who apparently submitted this map and Mr. Rodden, who
7 works for them, I've had things that I liked that Mr.
8 Rodden had done and thought might be a workable spot
9 in the past. However, this map and these changes, I
10 don't believe, represent that. I don't believe they're
11 fair and I believe they're gerrymandered in front of -
12 - in favor of one of the parties, so I will be a no
13 vote.

14 UNIDENTIFIED SPEAKER: Liar.

15 CO-CHAIR SYKES: Governor DeWine?

16 GOVERNOR DEWINE: Mr. Chairman, thank you very
17 much.

18 UNIDENTIFIED SPEAKER: Bullshit.

19 GOVERNOR DEWINE: In addition to these problems,
20 there is another problem. Yesterday, after our
21 meeting, I sat down with Secretary LaRose and went
22 over the problems that he had articulated and we spent

1 quite some time doing that. I asked him then, at the
2 end of our discussion, to reduce to writing what his
3 position was and I would like, if I could, Mr.
4 Chairman, to yield to the secretary to explain those
5 problems.

6 UNIDENTIFIED SPEAKER: We heard it.

7 UNIDENTIFIED SPEAKER: We heard it yesterday.

8 GOVERNOR DEWINE: Let me just say, Mr. Chairman,
9 that it was --

10 UNIDENTIFIED SPEAKER: Wasting time.

11 UNIDENTIFIED SPEAKER: You're wasting time.

12 GOVERNOR DEWINE: -- in more detail and I think I
13 got a fuller understanding of what he said and it is
14 clear to me that it is impossible to proceed with an
15 August 2nd primary with any map other than map three,
16 that's the conclusion he comes to.

17 SECRETARY LAROSE: Absolutely.

18 GOVERNOR DEWINE: So I think that is relevant,
19 Mr. Chairman, I think that is relevant to members of
20 the committee. I think that is relevant to this
21 discussion too and I would ask if the secretary could
22 explain that at this point.

1 UNIDENTIFIED SPEAKER: We heard it.

2 SECRETARY LAROSE: Happy to do so --

3 CO-CHAIR SYKES: I have a question to the
4 governor. Do you think it would be more relevant? I
5 understand there may be another motion for a
6 consideration of map three --

7 GOVERNOR DEWINE: Mr. Chairman, if you'd rather
8 have that explanation later, that's fine. I couldn't
9 decide whether to do it now because I think it does
10 have some relevance to this, but you're right, it
11 probably has more relevance later and if you want to
12 do it later, I'm perfectly fine with that.

13 CO-CHAIR SYKES: Okay. We'll do it later.

14 GOVERNOR DEWINE: Thank you.

15 CO-CHAIR SYKES: Leader Russo.

16 LEADER RUSSO: Thank you, Co-chair. I would like
17 to address the issue of having these maps before us.
18 Again, I would like to remind members of this
19 commission that these maps were actually filed with
20 the court on April 8th and April 12th. They've
21 actually been delivered by the counsel of the
22 plaintiffs to all of the counsel of members of this

1 commission, so we have all had plenty of time and
2 access to these maps. They are virtually the same as
3 the maps that the map drawers completed on March 28th.
4 And again, we again have a constitutionally compliant
5 map in front of us. That is what the court has ordered
6 us to do, is to adopt a constitutionally compliant map
7 by tomorrow morning at 9:00 AM. Again, not with
8 consideration of whether or not implementation of this
9 map or the election cycle that this map would be used,
10 that is the court order before us. And, you know,
11 again, I would propose back to the members of the
12 commission, if you are not happy with these maps, why
13 no amendments have been offered to change this map if
14 there were changes that you wanted to make?

15 CO-CHAIR SYKES: Are there additional comments?
16 Will the staff please call the roll?

17 SECRETARY: Co-chair LaRe?

18 CO-CHAIR LARE: No.

19 SECRETARY: Senator -- Senator Sykes?

20 CO-CHAIR SYKES: Yes.

21 SECRETARY: Governor DeWine?

22 GOVERNOR DEWINE: No.

1 SECRETARY: Auditor Faber?

2 AUDITOR FABER: No.

3 SECRETARY: Secretary LaRose?

4 SECRETARY LAROSE: No.

5 SECRETARY: Senator McColley?

6 SENATOR MCCOLLEY: No.

7 SECRETARY: Leader Russo?

8 LEADER RUSSO: Yes.

9 SECRETARY: Mr. Co-chair, 2-5.

10 UNIDENTIFIED SPEAKER: Voters don't matter.

11 UNIDENTIFIED SPEAKER: Shame.

12 UNIDENTIFIED SPEAKER: Contempt.

13 CO-CHAIR SYKES: Order, please. Order, please.

14 UNIDENTIFIED SPEAKER: Shame.

15 Liars.

16 CO-CHAIR LARE: Order, please.

17 UNIDENTIFIED SPEAKER: Shame.

18 UNIDENTIFIED SPEAKER: Shame.

19 UNIDENTIFIED SPEAKER: Shame.

20 UNIDENTIFIED SPEAKER: Shame.

21 CO-CHAIR SYKES: The motion fails. Is there other

22 business to be brought before the commission?

1 UNIDENTIFIED SPEAKER: Passing maps?

2 UNIDENTIFIED SPEAKER: How about the impeachment
3 of state office holders?

4 GOVERNOR DEWINE: Mr. Chairman?

5 CO-CHAIR SYKES: Governor DeWine?

6 GOVERNOR DEWINE: I wonder if we now could have
7 the explanation. Again, I asked the secretary to
8 reduce it to writing. I think it is, at least for me,
9 was a more fuller, after reading this two pages, more
10 fuller understanding of exactly the quandary we are in
11 or the very difficult situation that we are in and I
12 would ask if he could explain that.

13 CO-CHAIR SYKES: Are you making a motion or you
14 just want the explanation?

15 GOVERNOR DEWINE: Not at this point, but we will
16 have a motion.

17 CO-CHAIR SYKES: Okay.

18 SECRETARY LAROSE: Happy to do so, Mr. Chairman.

19 CO-CHAIR SYKES: Secretary LaRose?

20 SECRETARY LAROSE: Yeah. Thank you, Mr. Chairman.
21 Thank you, Governor. I'm going to read this. Normally,
22 I wouldn't read something verbatim, but I think it's

1 important for everybody to hear it. It's being passed
2 out to the members of the commission right now and
3 they'll be copies for the members of the public and
4 the press as well. Just a statement that I wrote
5 today.

6 As of today, a primary election date for the
7 offices of state representative, state senator and
8 political party state central committee member has not
9 been established. The Ohio general assembly has the
10 sole authority in the Ohio revised code to set the
11 time, place and manner of a public election conducted
12 in the state of Ohio. The only other government entity
13 that can supersede that authority is a federal court
14 of law. A three judge panel assigned to consider the
15 Ohio general assembly redistricting case, *Gonidakis et*
16 *al. v. LaRose*, has ordered that if the state does not
17 adopt a lawful district plan and set a primary
18 election date before May 28th, quote, We will order
19 the primary be moved to August 2nd and map three be
20 used for only the 2022 election cycle. After that,
21 Ohio will have to pass a new map that complies with
22 federal and state law.

1 As of this date, the Ohio general assembly has
2 not set a primary election date for the above
3 mentioned contest. Any action doing so would require
4 an emergency clause to make the election date and its
5 associated deadlines effective immediately. The
6 speaker of the House and the president of the Ohio
7 Senate have indicated publicly that they lack the
8 required two thirds vote in both chambers to enact
9 emergency legislation for this purpose. Therefore, the
10 only remaining option to conduct a primary election to
11 which Ohio voters are entitled is the prescribed
12 action by the federal district court. My office --

13 UNIDENTIFIED SPEAKER: (crosstalk) constitution.

14 CO-CHAIR SYKES: Order, please.

15 SECRETARY LAROSE: My office and the bipartisan
16 Ohio Association of Elections Officials have
17 repeatedly stated that because August 2nd, 2022 is
18 already reserved for special elections in Ohio law. It
19 is the only date on which a statewide primary election
20 can be conducted in advance of the scheduled general
21 election, of course, November 8th, 2022. August 2nd,
22 2022 is the latest date by which Ohio can conduct a

1 primary election without overlapping or altering the
2 scheduled timeline to successfully administer a
3 general election. This is also recognized by the three
4 judge panel in *Gonidakis et al. v. LaRose* and
5 uncontested by any of the parties involved in that
6 litigation.

7 Under Ohio law, elections are conducted over at
8 least a 90 day period. 89 days now stand between this
9 date, today, and August 2nd, 2022. This puts Ohio
10 within the traditional statutory window for
11 administering its next election. The federal panel
12 majority in *Gonidakis* stated clearly that for any new
13 district plan to be utilized for an August 2nd, 2022
14 primary election and to have the benefit of a full 90
15 day election administration period, the commission
16 would need to adopt it by April 20th, 2022. Obviously,
17 that did not happen.

18 Their opinion is based on testimony from my
19 staff that the 88 county boards of election would
20 collectively need at least two weeks to reprogram
21 their computer systems to new House and Senate
22 districts before the full 90 day primary election

1 period would begin, which would also do the least
2 amount of damage to current Ohio election law. To
3 administer an August 2nd election, the boards must
4 meet a series of statutory and administrative
5 deadlines to have the first ballots, the first
6 ballots, which are known as the uniformed and overseas
7 civilians absentee voting ballot act or UOCAVA
8 ballots, those must be prepared not later than June
9 17th, 2022, 46 days before the election.

10 To achieve this, elections officials must meet
11 the following statutory requirements. These are those
12 requirements. They have to certify no later than 78
13 days before the primary election, hold protests
14 against certified candidates no later than 74 days
15 before the primary election, determine the validity or
16 invalidity of the declaration of candidacy and
17 petition, receive write-in candidate declarations of
18 intent for partisan offices, hold protests against
19 write-in candidates no later than 67 days before the
20 election. The Secretary of State must certify to
21 boards of elections the form of the official ballot no
22 later than 70 days before the primary election. And

1 then, boards of elections of the most populous
2 counties in a multi-county district must certify names
3 of all candidates to the other county boards of
4 elections in the district not later than 70 days.

5 Boards of elections need at least two weeks, as
6 I stated before, to reprogram voter registration and
7 tabulation systems to accommodate a new map, which, as
8 of this date, takes us to at least May 19th were a new
9 map to be passed. At this point, the boards would
10 already be in violation of state law, unless the
11 general assembly changes the statutory deadlines.

12 Additionally, my office would not instruct the boards
13 to deprogram map three before May 28th, risking the
14 new map could be invalidated with no immediate options
15 to administer a primary election. This administrative
16 delay also reduces or nearly eliminates the required
17 process election officials must complete to conduct
18 testing on all voting equipment, proof ballots, test
19 ballots, recruit poll workers, and order absentee and
20 election day ballots. These are some of the issues
21 that I detailed for you all yesterday.

22 In summary, the last day a new map could have

1 been ordered and implemented without ordering --
2 altering current statutory deadlines that proceed an
3 August 2nd, 2022 primary election was April 20th,
4 2022. The general assembly has not set a new primary
5 date and its leaders have publicly stated that they do
6 not have the votes to pass emergency legislation to do
7 so. All but two of Ohio's 88 county boards of
8 elections have fully programmed the third general
9 assembly district plan adopted by the Ohio
10 Redistricting Commission. A majority of the federal
11 panel, considering Gonicakis, recognized that map
12 three has administrative advantages of implementation
13 that no other map produced by the commission to date
14 presents, including a largely completed candidate
15 certification process that also would not require the
16 revisiting of deadlines and residency requirements.
17 Therefore, map three is the only viable option to
18 effectively administer a primary election on August
19 2nd, 2022.

20 If, on May 28th, 2022, the federal court orders
21 that Ohio use map three and sets that primary election
22 date for August 2nd, 2022, my office will be prepared

1 to issue a directive to the boards of elections
2 implementing that order and providing detailed
3 instructions on the administration of a successful
4 primary election. I wanted to state quickly, for
5 reiteration purposes, the speaker and the president
6 have made it abundantly clear that they lack the votes
7 for an emergency clause legislation, they said that to
8 us yesterday, and while I'm always willing to strive
9 to accomplish something worthwhile, I'm certainly not
10 interested in exercises in futility, so what we have
11 to work with is map three.

12 It's important to understand that earlier this
13 year, when the commission adopted map three, my office
14 began conducting the required statutory deadlines that
15 are laid out in code for map three. We dutifully
16 followed the law under map three by sending out
17 directives --

18 CO-CHAIR SYKES: Order, please, please. Order.
19 Order.

20 CO-CHAIR LARE: The committee will stand at ease.

21 SECRETARY LAROSE: We dutifully followed the --

22 (Music.)

1 SECRETARY LAROSE: Appreciate that. So as I was
2 stating, once map three was adopted by this
3 commission, our office dutifully followed the law with
4 all of the timelines laid out in the law, including
5 administering directives to the boards of elections
6 that told them to accept and review candidate
7 petitions, allow for the protest period to begin and
8 also informed candidates how to utilize their rights
9 under 9C should they wish to move and even issuing the
10 form of the ballot as well as posting a federal write-
11 in ballot absentee notice, which is required under
12 federal law. All of those things occurred prior to the
13 court's invalidation.

14 So effectively, the Ohio Supreme Court pressed
15 pause on all of those elections administration
16 processes. If the federal court, on the 28th of May,
17 were to overturn the ruling of the Ohio Supreme Court,
18 essentially validating the third map, our office is
19 fully prepared to press play again on all of those
20 processes which need to continue. That, simply stated,
21 is why map three is the most viable option from the
22 elections administration standpoint. And with that,

1 Mr. Chairman, I appreciate the time.

2 SENATOR MCCOLLEY: Mr. Chairman. Mr. Chairman. We

3 --

4 UNIDENTIFIED SPEAKER: It's not constitutional.

5 CO-CHAIR SYKES: Yes. Senator McColley.

6 SENATOR MCCOLLEY: Thank you. For all the reasons

7 we've discussed here today and those enumerated by

8 Secretary LaRose's statement, I move that the

9 commission resubmit the February 24th, 2022 commission

10 approved plan only for use in the 2022 election and

11 the statement to the redistricting commission by Ohio

12 Secretary of State LaRose to the secretary of state's

13 office no later than 9:00 AM tomorrow morning in

14 response to the Ohio Supreme Court's order dated April

15 14th, 2022. And after filing with the secretary's

16 office, counsel for the redistricting commission shall

17 file the February 24th, 2022 commission approved plan

18 and the statement to the redistricting commission by

19 Ohio Secretary of State LaRose with the Ohio Supreme

20 Court, not later than 12:00 PM tomorrow, in response

21 to the Ohio Supreme court's order dated April 14th,

22 2022.

1 UNIDENTIFIED SPEAKER: Second.

2 UNIDENTIFIED SPEAKER: Second.

3 UNIDENTIFIED SPEAKER: Boo.

4 UNIDENTIFIED SPEAKER: What about the voters?

5 CO-CHAIR SYKES: Is there a second?

6 UNIDENTIFIED SPEAKER: Second right here.

7 LEADER RUSSO: Objection.

8 CO-CHAIR SYKES: Leader Russo.

9 LEADER RUSSO: Thank you, Co-chair.

10 UNIDENTIFIED SPEAKER: What about the voters?

11 LEADER RUSSO: First, I would like to say, and be
12 very clear about this, that the federal court has not
13 overturned a state court decision nor have they given
14 us a loophole to simply ignore a court order. And this
15 commission does not have the authority to only set a
16 map for two years. We don't have that authority. We
17 can vote to set a map for four years or for a ten year
18 map. That is the authority that we have. So my
19 question for the Secretary of State, Secretary LaRose,
20 after hearing your explanations, are you saying that
21 you object to a constitutionally compliant map that
22 was submitted, the independent map makers' map with

1 the corrections by Rodden, simply because of this
2 implementation timeline or because the order itself --
3 again, it's not about implementation, it is about
4 instituting a constitutionally compliant map.

5 UNIDENTIFIED SPEAKER: Right.

6 SECRETARY LAROSE: There's two responses to that,
7 Mr. Chair, if I may.

8 CO-CHAIR SYKES: Yes, please.

9 SECRETARY LAROSE: The first one is that, as I
10 stated yesterday, in order to use that map to conduct
11 an election, we would need to have super majority
12 votes in both chambers and the speaker and the
13 president have made it clear to me that the votes for
14 those -- for that -- such legislation does not exist,
15 and so I'm not interested in creating a situation
16 where our elections officials are handed an untenable
17 and unaccomplishable situation. So unless there was a
18 vote of the legislature to set the date and then
19 change the deadlines associated with it, no map is
20 something that I'm willing to consider at this point.
21 Second, I guess I don't share your confidence
22 that the map that you presented today is void of any

1 constitutional violations. You have stated that, but I
2 guess I don't share that same optimism that that map
3 is divinely inspired or perfectly void of any kind of
4 constitutional violations.

5 CO-CHAIR SYKES: I'd like to move that we take a
6 recess to consult with the commission's attorney to
7 give us some advice as relates to map three, whether
8 or not it's constitutional and/or whether or not we
9 are subjecting this commission to further charges of
10 contempt.

11 SENATOR MCCOLLEY: I object.

12 UNIDENTIFIED SPEAKER: Yeah.

13 SECRETARY LAROSE: I object as well.

14 LEADER RUSSO: I second that motion.

15 CO-CHAIR SYKES: Any additional comments?

16 SECRETARY LAROSE: There was an objection.

17 CO-CHAIR SYKES: Is there an objection? Will the
18 staff please call the roll?

19 SENATOR MCCOLLEY: To be -- point of order --

20 CO-CHAIR SYKES: Yes.

21 SENATOR MCCOLLEY: This is on the motion to
22 recess, correct?

1 CO-CHAIR SYKES: Yeah, on the motion to recess.

2 SECRETARY: Co-chair LaRe?

3 CO-CHAIR LARE: No.

4 SECRETARY: Co-chair Senator Sykes?

5 CO-CHAIR SYKES: Yes.

6 SECRETARY: Governor DeWine?

7 GOVERNOR DEWINE: No.

8 SECRETARY: Auditor Faber.

9 AUDITOR FABER: No.

10 SECRETARY: Secretary LaRose?

11 SECRETARY LAROSE: No.

12 SECRETARY: Senator McColley?

13 SENATOR MCCOLLEY: No.

14 SECRETARY: And Leader Russo?

15 LEADER RUSSO: Yes.

16 SECRETARY: Mr. Co-chair, 2-5.

17 CO-CHAIR SYKES: Motion fails.

18 SECRETARY LAROSE: Chairman, I move we call the
19 question.

20 CO-CHAIR SYKES: Staff, please call the roll.

21 SECRETARY: Co-chair LaRe?

22 CO-CHAIR LARE: Yes.

1 SECRETARY: Senator Sykes?

2 CO-CHAIR SYKES: No.

3 SECRETARY: Governor DeWine?

4 GOVERNOR DEWINE: Aye.

5 SECRETARY: Auditor Faber?

6 AUDITOR FABER: I'm consistent with my vote on
7 this map the first time because I believe it has
8 constitutional infirmities, particularly because I
9 believe it's unconstitutional as a drawing map in
10 favor of one political party, the Democrats. I don't
11 believe this map supports the constitutional test and
12 therefore, even though I understand the need to get a
13 map in place, I think if the federal courts want to
14 impose it, they can do that. I'm a no vote.

15 SENATOR MCCOLLEY: Mr. Chairman, point of order.

16 CO-CHAIR SYKES: Yes.

17 SENATOR MCCOLLEY: A motion to call the question
18 is a separate motion from the actual question,
19 correct? I'm just confirming that. So this vote is on
20 a motion to call the question. It's not on the actual
21 question that was the motion.

22 AUDITOR FABER: Thank you. Thank you for that

1 clarification, Senator McColley, for calling the
2 question (crosstalk) --

3 UNIDENTIFIED SPEAKER: (crosstalk) He doesn't
4 have permission. He needs to give permission --

5 SECRETARY: I'm sorry, Mr. Co-chair, I did not
6 hear what Auditor Faber said.

7 CO-CHAIR SYKES: He indicated that he was --

8 SECRETARY: (indiscernible) --

9 UNIDENTIFIED SPEAKER: He doesn't have permission
10 to speak (indiscernible) --

11 CO-CHAIR SYKES: Yes.

12 UNIDENTIFIED SPEAKER: Okay, do you're going to
13 (crosstalk) --

14 CO-CHAIR SYKES: The yeas prevail, so we will
15 call the question now on the motion.

16 SENATOR MCCOLLEY: Mr. Chairman, I don't believe
17 my name was called on the previous motion. I just want
18 to make sure, it's a yes vote.

19 SECRETARY: Mr. Co-chair, would you like me to-

20 CO-CHAIR SYKES: Yeah. Please call the name
21 McColley.

22 SECRETARY: Senator McColley?

1 SENATOR MCCOLLEY: Yes.

2 SECRETARY: Secretary LaRose?

3 SECRETARY LAROSE: Yes.

4 SECRETARY: Leader Russo?

5 LEADER RUSSO: No.

6 SECRETARY: 5 to 2, sir.

7 CO-CHAIR SYKES: At this point, we will call the
8 question then on the motion. Staff, please call the
9 roll.

10 SECRETARY: Co-chair LaRe?

11 CO-CHAIR LARE: Yes.

12 SECRETARY: Co-chair Senator Sykes?

13 CO-CHAIR SYKES: No.

14 SECRETARY: Governor DeWine?

15 GOVERNOR DEWINE: Yes.

16 SECRETARY: Auditor Faber?

17 AUDITOR FABER: For all the reasons I previously
18 articulated, I am a no vote because I believe this map
19 unconstitutionally gerrymanders.

20 SECRETARY: Secretary LaRose?

21 SECRETARY LAROSE: Yes.

22 SECRETARY: Senator McColley?

1 SENATOR MCCOLLEY: Yes.

2 SECRETARY: Leader Russo?

3 UNIDENTIFIED SPEAKER: Contempt.

4 LEADER RUSSO: Consistent with a previous Supreme
5 Court order and ruling that has already indicated that
6 this map is not constitutional, I vote no.

7 CO-CHAIR SYKES: Mr. Co-chair, 4-3.

8 CO-CHAIR SYKES: The motion is approved. Is there
9 any further business to be brought before the
10 commission today?

11 LEADER RUSSO: Mr. --

12 CO-CHAIR SYKES: Yes.

13 LEADER RUSSO: Are we going to do the statements?

14 CO-CHAIR SYKES: Yes.

15 UNIDENTIFIED SPEAKER: I have a point of order I
16 would like to bring into consideration. Both of my
17 brothers died serving this country --

18 CO-CHAIR SYKES: It's improper at this time. Do
19 you have --

20 UNIDENTIFIED SPEAKER: Finish saying what you're
21 saying.

22 UNIDENTIFIED SPEAKER: Liars. Liars.

1 CO-CHAIR SYKES: We have a requirement -- order.

2 UNIDENTIFIED SPEAKER: Hold them in contempt.

3 Hold them in contempt. Hold them in contempt. Hold --

4 (Music.)

5 CO-CHAIR SYKES: At this time, we will call on

6 Leader Russo for a minority report.

7 LEADER RUSSO: Thank you, Co-chair Sykes. Ladies

8 and gentlemen, the majority commissioners of the Ohio

9 Redistrict -- Redistricting Commission failed once

10 again to uphold their duty to the Ohio constitution

11 and the people of Ohio. They failed to adhere to the

12 old adage that those who cannot remember the past are

13 condemned to repeat it.

14 Unfortunately, we are not, today, dealing with

15 ancient history, but instead in recent events. We are

16 again left with a blatantly unconstitutional plan that

17 brings us no closer to the goal of a constitutionally

18 compliant map. The actions taken by the majority are a

19 clear affront to the Supreme Court of Ohio. The

20 majority sat on their hands and adopted a plan today

21 that we all know is unconstitutional.

22 Once again, the majority members dragged their

1 feet. They ignored our calls for action, defied the
2 Supreme Court of Ohio, and paid no mind to the reforms
3 adopted into our constitution by the voters of Ohio.
4 At the last minute, the commission once again adopted
5 a patently unconstitutional map. In fact, it is simply
6 a resubmission of map three without seriously
7 considering any widely available constitutional
8 alternatives.

9 The majority commissioners performed exactly as
10 the dissent in the federal case of *Gonidakis vs LaRose*
11 predicted. They did nothing and tried to run out the
12 clock in a bad faith effort to punt their
13 responsibility to another entity, prizing their
14 partisan advantage over their duty as public servants,
15 sworn to uphold the rule of law. The federal court
16 presumed that quote, Ohio's officials are public
17 servants who still view partisan advantage as
18 subordinate to the rule of law. And that it would be
19 quote, In our own self-interest to pass a new map
20 rather than accept map three.

21 The majority commissioners have ignored this
22 call to adhere to the rule of law and rise above

1 partisan interest. The majority did not take us down
2 this path by mere accident. The events that led us
3 back here were not committed through incompetence. We
4 are here purposefully. The majority had plenty of time
5 to meet all the criteria presented by the Supreme
6 Court of Ohio.

7 There were some members of this commission who
8 made consistent and clear efforts to meet those
9 standards set by the court. And instead of action, our
10 calls were met with silence or indifference. The
11 commission should have met numerous times between
12 April 14th and today. And instead, we met yesterday
13 and adjourned abruptly without even fully discussing
14 our sparse agenda. And at that meeting, the majority
15 commissioners seemed much more interested with the
16 democratic caucus's map drawing consultant than they
17 did with actually meeting a Supreme Court ordered
18 deadline for a set of constitutional maps.

19 The Supreme Court of Ohio gave every reason for
20 the Ohio redistricting commission to reengage our
21 independent map drawers, Dr. McDonald and Dr. Johnson,
22 and allow them the few hours needed to finalize their

1 maps from the last round of map drafting. Beginning
2 April 14th, the time allotted to the commission was
3 more than enough to reengage the map drawers, provide
4 them with the commissioners' feedback, debate
5 potential amendments, and finalize a constitutional
6 set of maps. Instead, no action was taken and less
7 than two days before our May 6th, 9:00 AM deadline,
8 the majority instead refuse to reengage with the
9 independent map drawers. The deficiencies of the map
10 adopted on May 5th by a vote of four to three are well
11 known by commissioners, the court, and the general
12 public. The map fails to live up to the requirements
13 in the Ohio constitution, article 11, section 6a and
14 6b.

15 The act of passing an unconstitutional map is
16 egregious. It's egregious enough and its own right,
17 but resubmitting an identical copy of a map already
18 struck down by the Supreme Court of Ohio is
19 indefensible. The majority commissioners have no
20 defense, and they refused even to provide a pretense
21 for their actions by abiding by the requirement in
22 Ohio's constitution, article 11, sections 8c2, to

1 explain the constitutionality of their actions. The
2 majority commissioners have ignored the Ohio Supreme
3 Court, and have not only refused to work on a new
4 plan, as we have been given time, and again directed
5 to do, but have passed a plan that the Supreme Court
6 of Ohio has already found to be unconstitutional. This
7 is a clear slap in the face of Ohio voters and of the
8 rule of law.

9 CO-CHAIR SYKES: The report does not require a
10 vote and will be accepted in the record. Is there any
11 further business? The meeting is adjourned.

12 (End of recording.)
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CERTIFICATION OF TRANSCRIPT

I, Olivia Wilke, do hereby certify that foregoing transcript, to the best of my ability, knowledge, and belief, is a true and correct record of the proceedings; that said proceedings were reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Olivia Wilke, CET
Planet Depos
5/6/2022

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

A			
abiding	33:18, 36:21, 37:1	advantage	20:10, 32:5, 36:17, 37:6
36:21		34:14, 34:17	
ability	actual	advantages	also
38:4	29:18, 29:20	21:12	4:11, 4:16, 5:7, 18:3, 19:1, 20:16, 21:15, 23:8
able	actually	advice	altering
9:15	12:19, 12:21, 35:17	27:7	18:1, 21:2
about	adage	affidavit	alternatives
5:1, 9:8, 9:20, 15:2, 25:4, 25:10, 25:12, 26:3	33:12	6:2, 6:10	34:8
above	addition	affront	although
17:2, 34:22	10:19	33:19	8:8
abruptly	additional	after	always
35:13	7:8, 9:5, 13:15, 27:15	2:6, 2:11, 7:16, 10:20, 15:9, 16:20, 24:15, 25:20	22:8
absentee	additionally	again	amendments
19:7, 20:19, 23:11	20:12	8:16, 12:18, 13:4, 13:7, 13:11, 15:7, 23:19, 26:3, 33:10, 33:16, 33:22, 34:4, 37:4	9:14, 9:19, 13:13, 36:5
absolutely	address	against	amount
11:17	12:17	19:14, 19:18	19:2
abundantly	addressed	agenda	ancient
22:6	4:17	35:14	33:15
accept	adhere	al	another
3:15, 23:6, 34:20	33:11, 34:22	16:16, 18:4	2:13, 10:20, 12:5, 34:13
accepted	adjourned	aligned	anticipation
37:10	35:13, 37:11	7:2	6:3
access	administer	all	any
13:2	18:2, 19:3, 20:15, 21:18	2:10, 2:11, 4:21, 6:6, 9:12, 9:14, 9:21, 12:22, 13:1, 20:3, 20:18, 20:21, 21:7, 23:4, 23:12, 23:15, 23:19, 24:6, 31:17, 33:21, 35:5	3:19, 3:21, 4:11, 4:12, 4:15, 5:11, 8:21, 9:5, 11:15, 17:3, 18:5, 18:12, 26:22, 27:3, 27:15, 32:9, 34:7, 37:10, 38:9
accident	administering	allotted	anybody
35:2	18:11, 23:5	36:2	2:8, 2:15
accommodate	administration	allow	apparently
20:7	18:15, 22:3, 23:15, 23:22	23:7, 35:22	10:6
accomplish	administrative	already	apply
22:9	19:4, 20:15, 21:12	4:20, 17:18,	9:1
accordance	adopt		appreciate
6:16	4:3, 5:5, 5:10, 8:20, 13:6, 16:17, 18:16		23:1, 24:1
achieve	adopted		appropriate
19:10	4:12, 21:9, 22:13, 23:2, 33:20, 34:3, 34:4, 36:10		2:9
across	adopting		
2:8	9:3, 9:7		
act	advance		
19:7, 36:15	17:20		
action			
17:3, 17:12, 34:1, 35:9, 36:6			

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>approved 3:19, 3:20, 24:10, 24:17, 32:8 april 4:21, 12:20, 18:16, 21:3, 24:14, 24:21, 35:12, 36:2 arms 2:14 article 7:22, 8:18, 36:13, 36:22 articulated 10:2, 10:22, 31:18 asked 11:1, 15:7 assembly 16:9, 16:15, 17:1, 20:11, 21:4, 21:9 assertions 5:18 assigned 16:14 associated 17:5, 26:19 association 17:16 attorney 27:6 attorneys 7:1 auditor 3:3, 3:4, 9:5, 9:7, 14:1, 14:2, 28:8, 28:9, 29:5, 29:6, 29:22, 30:6, 31:16, 31:17 august 11:15, 16:19, 17:17, 17:21, 18:9, 18:13, 19:3, 21:3, 21:18, 21:22</p>	<p>authority 16:10, 16:13, 25:15, 25:16, 25:18 available 4:21, 34:7 aware 6:6 aye 29:4</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 2:14, 13:11, 35:3 bad 34:12 ballot 19:7, 19:21, 23:10, 23:11 ballots 19:5, 19:6, 19:8, 20:18, 20:19, 20:20 based 18:18 because 10:2, 12:9, 17:17, 26:1, 26:2, 29:7, 29:8, 31:18 been 3:18, 4:12, 4:20, 5:6, 5:17, 8:1, 8:2, 8:17, 9:12, 12:21, 13:13, 16:9, 21:1, 37:4 before 2:3, 2:10, 4:18, 4:22, 5:8, 8:2, 8:17, 12:17, 13:10, 14:22, 16:18, 18:22, 19:9, 19:13, 19:15, 19:19, 19:22, 20:6, 20:13,</p>	<p>32:9, 36:7 began 22:14 begin 19:1, 23:7 beginning 36:1 begins 2:1 being 3:12, 3:19, 16:1 belief 38:5 believe 6:4, 8:9, 10:10, 10:11, 29:7, 29:9, 29:11, 30:16, 31:18 benefit 18:14 best 38:4 between 18:8, 35:11 beyond 6:20 bipartisan 17:15 blatantly 33:16 boards 18:19, 19:3, 19:21, 20:1, 20:3, 20:5, 20:9, 20:12, 21:7, 22:1, 23:5 boo 25:3 both 7:17, 17:8, 26:12, 32:16 bring 32:16 brings 33:17 brothers 32:17</p>	<p>brought 14:22, 32:9 built 4:13 bullshit 10:18 business 3:22, 14:22, 32:9, 37:11</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>call 2:2, 2:17, 4:1, 13:16, 27:18, 28:18, 28:20, 29:17, 29:20, 30:15, 30:20, 31:7, 31:8, 33:5, 34:22 called 30:17 calling 30:1 calls 34:1, 35:10 candidacy 19:16 candidate 19:17, 21:14, 23:6 candidates 19:14, 19:19, 20:3, 23:8 cannot 8:12, 33:12 case 6:4, 6:22, 7:1, 16:15, 34:10, 38:9 caucus 6:8 caucus's 35:16 central 16:8 certainly 2:5, 22:9 certification 21:15, 38:1</p>
--	---	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>certified 19:14 certify 19:12, 19:20, 20:2, 38:3 cet 38:18 chair 7:13, 26:7 chairman 10:16, 11:4, 11:8, 11:19, 12:7, 15:4, 15:18, 15:20, 24:1, 24:2, 28:18, 29:15, 30:16 challenges 8:22 chambers 17:8, 26:12 chance 10:1 change 13:13, 26:19 changed 5:22 changes 10:9, 13:14, 20:11 charges 27:9 checking 7:16 cheer 2:12 cheering 2:9 civilians 19:7 clap 2:12 clapping 2:9 clarification 30:1 clause 17:4, 22:7</p>	<p>clear 7:13, 11:14, 22:6, 25:12, 26:13, 33:19, 35:8, 37:7 clearly 18:12 clock 34:12 closer 33:17 co-chair 2:2, 2:4, 2:5, 2:17, 2:19, 2:20, 2:21, 2:22, 3:11, 3:12, 3:17, 3:18, 4:2, 4:7, 5:14, 5:15, 7:8, 7:9, 7:11, 8:3, 8:4, 8:14, 8:15, 9:5, 10:15, 12:3, 12:13, 12:15, 12:16, 13:15, 13:17, 13:18, 13:20, 14:9, 14:13, 14:16, 14:21, 15:5, 15:13, 15:17, 15:19, 17:14, 22:18, 22:20, 24:5, 25:5, 25:8, 25:9, 26:8, 27:5, 27:15, 27:17, 27:20, 28:1, 28:2, 28:3, 28:4, 28:5, 28:16, 28:17, 28:20, 28:21, 28:22, 29:2, 29:16, 30:5, 30:7, 30:11, 30:14, 30:19, 30:20, 31:7, 31:10, 31:11, 31:12, 31:13, 32:7,</p>	<p>32:8, 32:12, 32:14, 32:18, 33:1, 33:5, 33:7, 37:9 code 16:10, 22:15 collectively 18:20 color 4:22 comes 11:16 comment 2:4 comments 7:8, 9:5, 13:15, 27:15 commission 1:10, 2:3, 3:13, 3:22, 4:6, 4:11, 6:15, 6:16, 6:19, 6:20, 7:19, 12:19, 13:1, 13:12, 14:22, 16:2, 18:15, 21:10, 21:13, 22:13, 23:3, 24:9, 24:11, 24:16, 24:17, 24:18, 25:15, 27:9, 32:10, 33:9, 34:4, 35:7, 35:11, 35:20, 36:2 commission's 27:6 commissioners 5:9, 9:3, 33:8, 34:9, 34:21, 35:15, 36:4, 36:11, 36:19, 37:2 committed 35:3 committee 11:20, 16:8, 22:20</p>	<p>compact 4:11 complete 7:16, 20:17 completed 4:9, 9:10, 10:4, 13:3, 21:14 compliant 13:4, 13:6, 25:21, 26:4, 33:18 complies 8:8, 16:21 computer 18:21 concerns 8:11 conclusion 11:16 condemned 33:13 conduct 17:10, 17:22, 20:17, 26:10 conducted 3:22, 16:11, 17:20, 18:7 conducting 22:14 confidence 26:21 confirming 29:19 conscience 8:12 consider 16:14, 26:20 consideration 12:6, 13:8, 32:16 considered 9:15 considering 21:11, 34:7 consistent 29:6, 32:4, 35:8</p>
---	---	--	--

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>constitution 17:13, 33:10, 34:3, 36:13, 36:22 constitutional 4:10, 5:5, 5:10, 8:17, 8:18, 8:20, 9:3, 24:4, 27:1, 27:4, 27:8, 29:8, 29:11, 32:6, 34:7, 35:18, 36:5 constitutionality 37:1 constitutionally 13:4, 13:6, 25:21, 26:4, 33:17 consult 27:6 consultant 35:16 contempt 9:4, 14:12, 27:10, 32:3, 33:2, 33:3 contest 17:3 continue 23:20 continuing 7:4 conversations 7:4 copies 16:3 copy 36:17 correct 27:22, 29:19, 38:5 corrected 8:1 corrections 26:1 correctly 8:16</p>	<p>could 8:10, 11:3, 11:21, 15:6, 15:12, 20:14, 20:22 couldn't 9:19, 12:8 counsel 12:21, 12:22, 24:16, 38:8 counties 20:2 country 32:17 county 18:19, 20:3, 21:7 course 17:21 court 5:10, 6:3, 7:18, 7:19, 8:20, 12:20, 13:5, 13:10, 16:13, 17:12, 21:20, 23:14, 23:16, 23:17, 24:20, 25:12, 25:13, 25:14, 32:5, 33:19, 34:2, 34:15, 35:6, 35:9, 35:17, 35:19, 36:11, 36:18, 37:3, 37:5 court's 23:13, 24:14, 24:21 courts 4:5, 5:3, 5:7, 5:8, 29:13 creating 26:15 criteria 35:5 crosstalk 3:4, 17:13, 30:2, 30:3,</p>	<p>30:13 current 19:2, 21:2 cycle 5:13, 9:1, 13:9, 16:20 <hr/> <p style="text-align: center;">D</p> <hr/> damage 19:2 date 16:6, 16:18, 17:1, 17:2, 17:4, 17:19, 17:22, 18:9, 20:8, 21:5, 21:13, 21:22, 26:18 dated 24:14, 24:21 day 18:8, 18:15, 18:22, 20:20, 20:22 days 18:8, 19:9, 19:13, 19:14, 19:19, 19:22, 20:4, 36:7 deadline 35:18, 36:7 deadlines 17:5, 19:5, 20:11, 21:2, 21:16, 22:14, 26:19 dealing 33:14 debate 36:4 decide 12:9 decision 25:13 declaration 19:16 declarations 19:17</p>	<p>defense 36:20 deficiencies 36:9 defied 34:1 delay 20:16 delivered 12:21 democratic 35:16 democrats 29:10 depos 1:22, 38:19 deprogram 20:13 describing 4:22 detail 10:1, 11:12 detailed 20:21, 22:2 determine 19:15 dewine 3:1, 3:2, 10:15, 10:16, 10:19, 11:8, 11:12, 11:18, 12:7, 12:14, 13:21, 13:22, 15:4, 15:5, 15:6, 15:15, 28:6, 28:7, 29:3, 29:4, 31:14, 31:15 died 32:17 difficult 15:11 directed 37:4 directive 22:1 directives 22:17, 23:5</p>
---	---	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>discussed 24:7</p> <p>discussing 35:13</p> <p>discussion 11:2, 11:21</p> <p>dissent 34:10</p> <p>district 16:17, 17:12, 18:13, 20:2, 20:4, 21:9</p> <p>districts 6:12, 8:9, 18:22</p> <p>divinely 27:3</p> <p>doing 11:1, 17:3</p> <p>done 5:5, 5:6, 5:7, 10:8</p> <p>double 7:15</p> <p>down 10:21, 35:1, 36:18</p> <p>dr 4:4, 5:2, 6:2, 6:10, 6:18, 6:21, 7:14, 35:21</p> <p>drafting 36:1</p> <p>dragged 33:22</p> <p>draw 6:9, 9:13, 9:17</p> <p>drawers 4:9, 4:19, 9:11, 9:17, 13:3, 35:21, 36:3, 36:9</p> <p>drawing 29:9, 35:16</p> <p>dutifully 22:15, 22:21, 23:3</p>	<p>duty 33:10, 34:14</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>each 4:16</p> <p>earlier 8:5, 22:12</p> <p>ease 22:20</p> <p>effective 17:5</p> <p>effectively 21:18, 23:14</p> <p>effort 34:12</p> <p>efforts 35:8</p> <p>egregious 36:16</p> <p>election 5:12, 8:22, 13:9, 16:6, 16:11, 16:18, 16:20, 17:2, 17:4, 17:10, 17:19, 17:21, 18:1, 18:3, 18:11, 18:14, 18:15, 18:19, 18:22, 19:2, 19:3, 19:9, 19:13, 19:15, 19:20, 19:22, 20:15, 20:17, 20:20, 21:3, 21:18, 21:21, 22:4, 24:10, 26:11</p> <p>elections 17:16, 17:18, 18:7, 19:10, 19:21, 20:1, 20:4, 20:5, 21:8, 22:1, 23:5, 23:15, 23:22, 26:16</p> <p>elias 10:5</p>	<p>eliminates 20:16</p> <p>emergency 17:4, 17:9, 21:6, 22:7</p> <p>employed 38:9</p> <p>enact 17:8</p> <p>end 11:2, 37:12</p> <p>enough 36:3, 36:16</p> <p>enthusiasm 2:6</p> <p>entitled 17:11</p> <p>entity 16:12, 34:13</p> <p>enumerated 24:7</p> <p>equipment 20:18</p> <p>eric 7:2</p> <p>essentially 23:18</p> <p>established 6:14, 16:9</p> <p>et 16:15, 18:4</p> <p>even 9:19, 23:9, 29:12, 35:13, 36:20</p> <p>events 33:15, 35:2</p> <p>every 35:19</p> <p>everybody 16:1</p> <p>everybody's 2:6</p> <p>everyone 4:8</p> <p>everything 4:14</p> <p>evidence 9:11</p>	<p>exactly 15:10, 34:9</p> <p>exercises 22:10</p> <p>exist 26:14</p> <p>expert 6:22</p> <p>explain 11:4, 11:22, 15:12, 37:1</p> <p>explanation 12:8, 15:7, 15:14</p> <p>explanations 25:20</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>faber 3:3, 3:4, 9:6, 9:7, 14:1, 14:2, 28:8, 28:9, 29:5, 29:6, 29:22, 30:6, 31:16, 31:17</p> <p>face 37:7</p> <p>fact 7:13, 8:10, 9:9, 34:5</p> <p>failed 33:9, 33:11</p> <p>fails 14:21, 28:17, 36:12</p> <p>fair 10:11</p> <p>faith 34:12</p> <p>far 4:12</p> <p>favor 10:12, 29:10</p> <p>february 24:9, 24:17</p> <p>federal 4:5, 5:3, 6:3, 7:18, 16:13,</p>
---	--	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>16:22, 17:12, 18:11, 21:10, 21:20, 23:10, 23:12, 23:16, 25:12, 29:13, 34:10, 34:15 feedback 36:4 feel 2:8 feet 34:1 fellow 5:9 few 5:22, 35:22 file 24:17 filed 12:19 filing 24:15 finalize 35:22, 36:5 financial 38:10 fine 12:8, 12:12 finish 6:5, 32:20 finished 5:18, 5:19, 6:15, 6:17, 7:13, 7:15 first 9:8, 19:5, 25:11, 26:9, 29:7 fixed 5:2 fixes 4:14 folders 3:13 folks 2:7, 2:13 followed 22:16, 22:21,</p>	<p>23:3 following 19:11 foregoing 38:4 form 19:21, 23:10 found 37:6 four 25:17, 36:10 frankly 9:11 front 10:11, 13:5 full 3:13, 6:11, 18:14, 18:22 fuller 11:13, 15:9, 15:10 fully 21:8, 23:19, 35:13 further 3:21, 6:5, 6:11, 27:9, 32:9, 37:11 futility 22:10</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gave 35:19 general 16:9, 16:15, 17:1, 17:20, 18:3, 20:11, 21:4, 21:8, 36:11 gentlemen 33:8 gerrymandered 10:11 gerrymanders 31:19 give 27:7, 30:4</p>	<p>given 25:13, 37:4 glassburn 6:13 go 2:16 goal 33:17 going 4:19, 15:21, 30:12, 32:13 gone 2:11 gonidakis 16:15, 18:4, 18:12, 21:11, 34:10 good 8:12 government 16:12 governor 3:1, 3:2, 5:4, 10:15, 10:16, 10:19, 11:8, 11:12, 11:18, 12:4, 12:7, 12:14, 13:21, 13:22, 15:4, 15:5, 15:6, 15:15, 15:21, 28:6, 28:7, 29:3, 29:4, 31:14, 31:15 great 4:8 group 10:5 groups 7:2 guess 26:21, 27:2 guidance 6:20 guys 6:6</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hall 2:8</p>	<p>hand 6:22 handed 26:16 handouts 4:22 hands 33:20 happen 18:17 happy 2:15, 12:2, 13:12, 15:18 hear 2:12, 2:13, 16:1, 30:6 heard 5:4, 11:6, 11:7, 12:1 hearing 3:20, 25:20 held 3:14 here 2:10, 2:11, 2:20, 2:22, 3:2, 3:6, 3:8, 3:10, 3:22, 24:7, 25:6, 35:3, 35:4 hereby 38:3 hired 4:10, 9:18 history 33:15 hold 19:13, 19:18, 33:2, 33:3 holder 7:2 holders 15:3 holds 7:7 hours 35:22 house 4:12, 6:11,</p>
---	--	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>17:6, 18:21 however 8:6, 10:9</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea 9:22 identical 36:17 identified 4:16, 8:1 identify 4:4 ignore 25:14 ignored 34:1, 34:21, 37:2 illustrated 8:6 immediate 20:14 immediately 17:5 impeachment 15:2 impediments 5:12 implementation 5:12, 8:22, 13:8, 21:12, 26:2, 26:3 implemented 21:1 implementing 22:2 important 16:1, 22:12 impose 29:14 impossible 11:14 improper 7:3, 32:18 inappropriate 10:3 including 21:14, 23:4</p>	<p>incompetence 35:3 indefensible 36:19 independent 4:3, 4:9, 4:18, 5:19, 6:7, 6:10, 9:10, 9:12, 9:16, 25:22, 35:21, 36:9 indicated 17:7, 30:7, 32:5 indifference 35:10 infirmities 29:8 information 5:1 informed 23:8 inject 6:8 inspecting 7:15 inspection 4:13 inspired 27:3 instead 33:15, 35:9, 35:12, 36:6, 36:8 instituting 26:4 institution 2:10 instruct 20:12 instructions 22:3 intent 19:18 interest 35:1, 38:10 interested 22:10, 26:15, 35:15</p>	<p>invalidated 20:14 invalidation 23:13 invalidity 19:16 involved 18:5 issue 12:17, 22:1 issues 8:6, 8:7, 8:10, 20:20 issuing 23:9 it'll 2:10 item 4:16 items 5:21, 5:22 itself 26:2</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>job 1:20 johnson 6:2, 7:14, 35:21 judge 16:14, 18:4 june 19:8</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>kind 27:3 know 3:21, 5:17, 9:14, 13:10, 33:21 knowledge 38:5 known 19:6, 36:11 knows 4:8</p>	<p style="text-align: center;">L</p> <hr/> <p>lack 17:7, 22:6 ladies 33:7 laid 22:15, 23:4 lare 2:4, 2:5, 2:19, 2:20, 3:17, 13:17, 13:18, 14:16, 22:20, 28:2, 28:3, 28:21, 28:22, 31:10, 31:11 largely 21:14 larose 3:5, 3:6, 8:6, 10:3, 10:21, 11:17, 12:2, 14:3, 14:4, 15:18, 15:19, 15:20, 16:16, 17:15, 18:4, 22:21, 23:1, 24:12, 24:19, 25:19, 26:6, 26:9, 27:13, 27:16, 28:10, 28:11, 28:18, 31:2, 31:3, 31:20, 31:21, 34:10 larose's 24:8 last 20:22, 34:4, 36:1 later 12:8, 12:11, 12:12, 12:13, 19:8, 19:12, 19:14, 19:19, 19:22, 20:4, 24:13, 24:20 latest 17:22</p>
---	---	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>law 16:14, 16:22, 17:18, 18:7, 19:2, 20:10, 22:16, 23:3, 23:4, 23:12, 34:15, 34:18, 34:22, 37:8 lawful 16:17 lawyers 10:5 leader 3:9, 3:10, 4:1, 4:2, 4:8, 5:20, 7:9, 7:11, 7:12, 8:13, 8:14, 8:15, 12:15, 12:16, 14:7, 14:8, 25:7, 25:8, 25:9, 25:11, 27:14, 28:14, 28:15, 31:4, 31:5, 32:2, 32:4, 32:11, 32:13, 33:6, 33:7 leaders 21:5 learned 9:8 least 15:8, 18:8, 18:20, 19:1, 20:5, 20:8 led 35:2 left 33:16 legislation 17:9, 21:6, 22:7, 26:14 legislature 26:18 less 36:6 liar 10:14</p>	<p>liars 14:15, 32:22 liked 10:7 list 4:13, 4:16 listening 2:13 literally 6:13 litigation 18:6 little 4:14 live 36:12 looking 8:9 loophole 25:14</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>made 22:6, 26:13, 35:8 majority 18:12, 21:10, 26:11, 33:8, 33:18, 33:20, 33:22, 34:9, 34:21, 35:1, 35:4, 35:14, 36:8, 36:19, 37:2 make 2:4, 4:3, 4:14, 10:5, 13:14, 17:4, 30:18 makers 4:3, 5:19, 6:7, 6:8, 6:10, 25:22 making 15:13 manner 16:11 many 8:7, 8:11 map 4:3, 4:9, 4:19,</p>	<p>4:22, 5:19, 6:5, 6:7, 6:8, 6:10, 6:14, 7:3, 7:13, 7:20, 8:1, 8:8, 8:12, 8:17, 9:3, 9:8, 9:10, 9:13, 9:16, 9:17, 9:19, 9:21, 10:4, 10:6, 10:9, 11:15, 12:6, 13:3, 13:5, 13:6, 13:9, 13:13, 16:19, 16:21, 20:7, 20:9, 20:13, 20:14, 20:22, 21:11, 21:13, 21:17, 21:21, 22:11, 22:13, 22:15, 22:16, 23:2, 23:18, 23:21, 25:16, 25:17, 25:18, 25:21, 25:22, 26:4, 26:10, 26:19, 26:22, 27:2, 27:7, 29:7, 29:9, 29:11, 29:13, 31:18, 32:6, 33:18, 34:5, 34:6, 34:19, 34:20, 35:16, 35:21, 36:1, 36:3, 36:9, 36:12, 36:15, 36:17 maps 4:4, 4:10, 4:12, 4:15, 4:22, 5:2, 5:5, 5:8, 5:11, 5:16, 6:9, 6:15, 6:18, 7:16, 8:21, 12:17, 12:19, 13:2, 13:3, 13:12, 15:1, 35:18, 36:1,</p>	<p>36:6 march 13:3 mark 10:5 matter 9:9, 14:10 mccolley 3:7, 3:8, 5:14, 5:15, 7:21, 8:3, 8:4, 14:5, 14:6, 24:2, 24:5, 24:6, 27:11, 27:19, 27:21, 28:12, 28:13, 29:15, 29:17, 30:1, 30:16, 30:21, 30:22, 31:1, 31:22, 32:1 mcdonald 35:21 meet 3:13, 19:4, 19:10, 35:5, 35:8 meeting 3:14, 10:21, 35:14, 35:17, 37:11 meets 9:21 member 16:8 members 11:19, 12:18, 12:22, 13:11, 16:2, 16:3, 33:22, 35:7 mentioned 6:4, 6:5, 7:6, 8:5, 17:3 mere 35:2 met 35:10, 35:11, 35:12 might 10:8</p>
---	---	---	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

mind	19:8, 19:10,	9:14	21:9, 21:21,
34:2	19:20, 20:2,	numerous	23:14, 23:17,
minority	20:17	35:11	24:11, 24:14,
33:6	N	O	24:19, 24:21,
minute	name	o'clock	33:8, 33:10,
34:4	30:17, 30:20	9:9	33:11, 33:19,
minutes	names	object	34:2, 34:3,
3:14, 3:15,	20:2	25:21, 27:11,	35:6, 35:19,
3:19, 3:20	nearly	27:13	35:20, 36:13,
mistake	20:16	objection	36:18, 37:2,
10:5	need	25:7, 27:16,	37:6, 37:7
modified	2:8, 2:16,	27:17	ohio's
4:4, 4:18	18:16, 18:20,	objections	21:7, 34:16,
more	20:5, 23:20,	3:19, 7:6	36:22
2:9, 4:11,	26:11, 29:12	obligation	okay
11:12, 12:4,	needed	9:13, 9:17	12:13, 15:17,
12:11, 15:9,	4:14, 5:21,	obviously	30:12
35:15, 36:3	35:22	18:16	old
morning	needs	occurred	33:12
5:11, 8:21,	30:4	23:12	olivia
13:7, 24:13	neither	offer	38:3, 38:18
most	6:15, 38:8	9:19	once
20:1, 23:21	new	offered	23:2, 33:9,
motion	16:21, 18:12,	9:15, 13:13	33:22, 34:4
3:15, 3:16,	18:21, 20:7,	office	one
4:3, 4:7, 5:9,	20:8, 20:14,	15:3, 17:12,	2:12, 5:17,
5:13, 9:2, 12:5,	20:22, 21:4,	17:15, 20:12,	10:4, 10:12,
14:21, 15:13,	34:19, 37:3	21:22, 22:13,	26:9, 29:10
15:16, 27:14,	next	23:3, 23:18,	online
27:21, 28:1,	6:17, 18:11	24:13, 24:16	2:13
28:17, 29:17,	night	offices	only
29:18, 29:20,	5:20	16:7, 19:18	16:12, 16:20,
29:21, 30:15,	none	official	17:10, 17:19,
30:17, 31:8,	3:20, 6:8	19:21	21:17, 24:10,
32:8	normally	officials	25:15, 37:3
move	15:21	17:16, 19:10,	opinion
23:9, 24:8,	note	20:17, 26:16,	18:18
27:5, 28:18	5:22	34:16	opposed
moved	noted	ohio	5:16, 7:20
3:18, 16:19	5:6, 5:7	1:10, 2:2,	optimism
much	nothing	16:9, 16:10,	27:2
10:17, 35:15	34:11	16:12, 16:15,	option
multi-county	notice	16:21, 17:1,	17:10, 21:17,
20:2	23:11	17:6, 17:11,	23:21
music	november	17:16, 17:18,	options
22:22, 33:4	17:21	17:22, 18:7,	20:14
must	number	18:9, 19:2,	order
5:5, 19:3,	1:20, 5:17,		2:3, 5:10,

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>8:20, 13:10, 14:13, 14:16, 16:18, 17:14, 20:19, 22:2, 22:18, 22:19, 24:14, 24:21, 25:14, 26:2, 26:10, 27:19, 29:15, 32:5, 32:15, 33:1 ordered 13:5, 16:16, 21:1, 35:17 ordering 21:1 orders 21:20 other 11:15, 14:21, 16:12, 20:3, 21:13 otherwise 38:10 out 2:11, 4:20, 16:2, 22:15, 22:16, 23:4, 34:11 outcome 38:11 outside 6:18 over 10:22, 18:7, 34:14 overflow 2:7 overlapping 18:1 overseas 19:6 overturn 23:17 overturned 25:13 own 34:19, 36:16 <hr/> <p style="text-align: center;">P</p> <hr/> pages 1:21, 15:9</p>	<p>paid 6:22, 34:2 panel 16:14, 18:4, 18:11, 21:11 particularly 9:18, 29:8 parties 10:12, 18:5, 38:9 partisan 5:1, 19:18, 34:14, 34:17, 35:1 party 16:8, 29:10 pass 16:21, 21:6, 34:19 passed 4:20, 16:1, 20:9, 37:5 passing 15:1, 36:15 past 10:9, 33:12 patently 34:5 path 35:2 pause 23:15 people 9:18, 33:11 perfectly 12:12, 27:3 performed 34:9 period 18:8, 18:15, 19:1, 23:7 permission 30:4, 30:9 petition 19:17 petitioners 7:1, 10:4 petitions 23:7</p>	<p>place 16:11, 29:13 plaintiffs 12:22 plan 16:17, 18:13, 21:9, 24:10, 24:17, 33:16, 33:20, 37:4, 37:5 planet 1:22, 38:19 play 23:19 please 2:17, 13:16, 14:13, 14:16, 17:14, 22:18, 26:8, 27:18, 28:20, 30:20, 31:8 plenty 13:1, 35:4 point 7:4, 11:22, 15:15, 20:9, 26:20, 27:19, 29:15, 31:7, 32:15 political 16:8, 29:10 poll 20:19 populous 20:1 position 11:3 posting 23:10 potential 36:5 precisely 5:1 predicted 34:11 prepared 19:8, 21:22, 23:19</p>	<p>prescribed 17:11 present 3:11, 3:12 presented 4:5, 5:2, 8:2, 26:22, 35:5 presents 21:14 president 17:6, 22:5, 26:13 press 16:4, 23:19 pressed 23:14 presumed 34:16 pretense 36:20 prevail 30:14 previous 3:14, 30:17, 32:4 previously 31:17 primary 11:15, 16:6, 16:17, 16:19, 17:2, 17:10, 17:19, 18:1, 18:14, 18:22, 19:13, 19:15, 19:22, 20:15, 21:3, 21:4, 21:18, 21:21, 22:4 prior 23:12 prizing 34:13 probably 12:11 problem 10:20 problems 10:19, 10:22,</p>
--	---	--	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

11:5 proceed 11:14, 21:2 proceedings 38:6 process 20:17, 21:15 processes 23:16, 23:20 produced 4:10, 21:13 product 5:18 programmed 21:8 proof 20:18 propose 13:11 protest 23:7 protests 19:13, 19:18 provide 36:3, 36:20 providing 22:2 provisions 9:21 public 16:3, 16:11, 34:14, 34:16, 36:12 publicly 17:7, 21:5 punch 4:13, 4:16 punt 34:12 purpose 17:9 purposefully 35:4 purposes 22:5 purview 6:19 put 6:13, 9:4	puts 18:9 <hr/> <p style="text-align: center;">Q</p> <hr/> quandary 15:10 question 6:17, 7:19, 12:3, 25:19, 28:19, 29:17, 29:18, 29:20, 29:21, 30:2, 30:15, 31:8 quickly 22:4 quite 11:1 quorum 3:11, 3:12 quote 16:18, 34:16, 34:19 <hr/> <p style="text-align: center;">R</p> <hr/> rather 12:7, 34:20 read 15:21, 15:22 reading 15:9 reason 8:9, 10:1, 35:19 reasons 5:17, 7:5, 10:2, 24:6, 31:17 receive 19:17 recent 33:15 recess 27:6, 27:22, 28:1 recognized 18:3, 21:11 recommend 5:13, 9:2	record 37:10, 38:6 recording 2:1, 37:12 recruit 20:19 redistrict 33:9 redistricting 1:10, 2:3, 16:15, 21:10, 24:11, 24:16, 24:18, 33:9, 35:20 reduce 11:2, 15:8 reduced 38:7 reduces 20:16 reengage 35:20, 36:3, 36:8 reforms 34:2 refuse 36:8 refused 36:20, 37:3 regarding 6:7 regardless 5:11, 7:5, 8:5, 8:7, 8:10, 8:21, 8:22, 9:13 registration 20:6 reiteration 22:5 related 38:8 relates 27:7 relevance 6:22, 12:10, 12:11 relevant 11:18, 11:19,	11:20, 12:4 remain 8:7 remaining 17:10 remember 33:12 remind 2:7, 5:9, 12:18 reminder 8:19 repeat 33:13 repeatedly 17:17 report 33:6, 37:9 represent 10:10 representative 16:7 reprogram 18:20, 20:6 require 17:3, 21:15, 37:9 required 17:8, 20:16, 22:14, 23:11 requirement 6:8, 33:1, 36:21 requirements 19:11, 19:12, 21:16, 36:12 reserved 17:18 residency 21:16 respect 2:11 respond 7:9 response 8:5, 24:14, 24:20 responses 26:6
--	---	---	--

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>responsibility 34:13 resubmission 34:6 resubmit 24:9 resubmitting 36:17 reveals 4:13 review 10:1, 23:6 reviewing 7:15 revised 16:10 revisiting 21:16 right 4:14, 12:10, 16:2, 25:6, 26:5, 36:16 rights 23:8 rise 34:22 risk 9:4 risking 20:13 rodden 4:4, 5:2, 6:10, 6:18, 6:21, 7:3, 7:17, 10:6, 10:8, 26:1 roll 2:18, 13:16, 27:18, 28:20, 31:9 room 2:7, 2:14 round 36:1 rule 34:15, 34:18, 34:22, 37:8 rules 6:6, 6:14, 6:16</p>	<p>ruling 23:17, 32:5 run 34:11 russo 3:9, 3:10, 4:1, 4:2, 4:8, 5:20, 7:9, 7:11, 7:12, 8:13, 8:14, 8:15, 12:15, 12:16, 14:7, 14:8, 25:7, 25:8, 25:9, 25:11, 27:14, 28:14, 28:15, 31:4, 31:5, 32:2, 32:4, 32:11, 32:13, 33:6, 33:7</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>said 6:2, 7:14, 11:13, 22:7, 30:6, 38:6 same 4:15, 8:11, 13:2, 27:2 sat 10:21, 33:20 say 5:4, 11:8, 25:11 saying 5:21, 25:20, 32:20, 32:21 scheduled 17:20, 18:2 second 3:17, 4:7, 25:1, 25:2, 25:5, 25:6, 26:21, 27:14 seconded 3:18 secretary 2:19, 2:21, 3:1, 3:3, 3:5,</p>	<p>3:6, 3:7, 3:9, 3:11, 7:5, 8:6, 8:11, 10:2, 10:21, 11:4, 11:17, 11:21, 12:2, 13:17, 13:19, 13:21, 14:1, 14:3, 14:4, 14:5, 14:7, 14:9, 15:7, 15:18, 15:19, 15:20, 17:15, 19:20, 22:21, 23:1, 24:8, 24:12, 24:19, 25:19, 26:6, 26:9, 27:13, 27:16, 28:2, 28:4, 28:6, 28:8, 28:10, 28:11, 28:12, 28:14, 28:16, 28:18, 28:21, 29:1, 29:3, 29:5, 30:5, 30:8, 30:19, 30:22, 31:2, 31:3, 31:4, 31:6, 31:10, 31:12, 31:14, 31:16, 31:20, 31:21, 31:22, 32:2 secretary's 24:15 section 36:13 sections 7:22, 8:19, 36:22 seemed 35:15 self-interest 34:19 senate 6:12, 17:7, 18:21 senator 2:21, 3:7, 3:8,</p>	<p>5:14, 5:15, 7:21, 8:3, 8:4, 8:13, 13:19, 14:5, 14:6, 16:7, 24:2, 24:5, 24:6, 27:11, 27:19, 27:21, 28:4, 28:12, 28:13, 29:1, 29:15, 29:17, 30:1, 30:16, 30:22, 31:1, 31:12, 31:22, 32:1 sending 22:16 separate 29:18 sergeant 2:14 series 19:4 seriously 34:6 servants 34:14, 34:17 serving 32:17 set 4:15, 5:10, 8:20, 16:10, 16:17, 17:2, 21:4, 25:15, 25:17, 26:18, 35:9, 35:18, 36:6 sets 21:21 seven 6:12 several 5:17, 5:21, 6:3 shall 24:16 shame 14:11, 14:14, 14:17, 14:18, 14:19, 14:20</p>
--	---	---	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>share 8:11, 26:21, 27:2 short 4:15 should 2:8, 2:15, 23:9, 35:11 show 2:15, 9:11 signature-plkal 38:15 silence 35:10 simply 23:20, 25:14, 26:1, 34:5 since 4:21 sir 31:6 situation 15:11, 26:15, 26:17 slap 37:7 small 5:22 sole 16:10 some 5:18, 8:9, 8:10, 11:1, 12:10, 20:20, 27:7, 35:7 something 15:22, 22:9, 26:20 sorry 30:5 sparse 35:14 speak 30:10 speaker 3:16, 10:14, 10:18, 11:6, 11:7, 11:10,</p>	<p>11:11, 12:1, 14:10, 14:11, 14:12, 14:14, 14:17, 14:18, 14:19, 14:20, 15:1, 15:2, 17:6, 17:13, 22:5, 24:4, 25:1, 25:2, 25:3, 25:4, 25:6, 25:10, 26:5, 26:12, 27:12, 30:3, 30:9, 30:12, 32:3, 32:15, 32:20, 32:22, 33:2 special 17:18 specifically 7:21 spent 10:22 spot 10:8 staff 2:17, 13:16, 18:19, 27:18, 28:20, 31:8 stand 18:8, 22:20 standards 35:9 standpoint 23:22 start 2:3, 7:21 starting 7:4 state 4:5, 5:3, 7:6, 7:19, 15:3, 16:7, 16:8, 16:12, 16:16, 16:22, 19:20, 20:10, 22:4, 24:12, 24:19, 25:13, 25:19</p>	<p>state's 24:12 stated 6:11, 17:17, 18:12, 20:6, 21:5, 23:20, 26:10, 27:1 statement 16:4, 24:8, 24:11, 24:18 statements 32:13 statewide 17:19 stating 23:2 stats 5:1 statutory 18:10, 19:4, 19:11, 20:11, 21:2, 22:14 still 7:7, 34:17 strive 22:8 struck 36:18 subjecting 27:9 submitted 7:17, 10:6, 25:22 subordinate 34:18 successful 22:3 successfully 18:2 suggestions 9:20 summary 20:22 super 26:11 supersede 16:13 supervision 38:7</p>	<p>support 5:13, 8:12, 9:2 supports 29:11 suppose 7:20 supreme 7:19, 23:14, 23:17, 24:14, 24:19, 24:21, 32:4, 33:19, 34:2, 35:5, 35:17, 35:19, 36:18, 37:2, 37:5 sure 30:18 sworn 6:2, 34:15 sykes 2:2, 2:17, 2:21, 2:22, 3:12, 3:18, 4:7, 5:14, 7:8, 7:11, 8:3, 8:14, 9:5, 10:15, 12:3, 12:13, 12:15, 13:15, 13:19, 13:20, 14:13, 14:21, 15:5, 15:13, 15:17, 15:19, 17:14, 22:18, 24:5, 25:5, 25:8, 26:8, 27:5, 27:15, 27:17, 27:20, 28:1, 28:4, 28:5, 28:17, 28:20, 29:1, 29:2, 29:16, 30:7, 30:11, 30:14, 30:20, 31:7, 31:12, 31:13, 32:7, 32:8, 32:12, 32:14, 32:18, 33:1, 33:5, 33:7, 37:9</p>
--	---	---	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>systems 18:21, 20:7</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tabulation 20:7</p> <p>take 27:5, 35:1</p> <p>taken 6:13, 33:18, 36:6</p> <p>takes 20:8</p> <p>talk 9:19</p> <p>ten 25:17</p> <p>test 20:18, 29:11</p> <p>testimony 7:14, 18:18</p> <p>testing 20:18</p> <p>th 12:20, 13:3, 16:18, 18:16, 19:9, 20:8, 20:13, 21:3, 21:20, 23:16, 24:9, 24:15, 24:17, 24:21, 35:12, 36:2</p> <p>thank 2:16, 4:2, 5:15, 7:7, 7:12, 8:4, 8:15, 10:16, 12:14, 12:16, 15:20, 15:21, 24:6, 25:9, 29:22, 33:7</p> <p>themselves 6:9</p> <p>thereabouts 9:9</p> <p>therefore 3:20, 17:9, 21:17, 29:12</p>	<p>things 6:1, 6:3, 10:7, 23:12</p> <p>think 4:19, 7:2, 7:7, 9:1, 10:3, 11:12, 11:18, 11:19, 11:20, 12:4, 12:9, 15:8, 15:22, 29:13</p> <p>third 21:8, 23:18</p> <p>thirds 17:8</p> <p>thought 10:8</p> <p>three 11:15, 12:6, 16:14, 16:19, 18:3, 20:13, 21:12, 21:17, 21:21, 22:11, 22:13, 22:15, 22:16, 23:2, 23:21, 27:7, 34:6, 34:20, 36:10</p> <p>through 35:3</p> <p>time 3:21, 9:8, 11:1, 11:10, 11:11, 13:1, 16:11, 24:1, 29:7, 32:18, 33:5, 35:4, 36:2, 37:4</p> <p>timeframe 9:16</p> <p>timeline 18:2, 26:2</p> <p>timelines 5:12, 23:4</p> <p>times 35:11</p> <p>today 7:7, 9:4, 9:8,</p>	<p>16:5, 16:6, 18:9, 24:7, 26:22, 32:10, 33:14, 33:20, 35:12</p> <p>told 23:6</p> <p>tomorrow 5:11, 8:21, 13:7, 24:13, 24:20</p> <p>traditional 18:10</p> <p>transcribed 1:22</p> <p>transcript 38:1, 38:4</p> <p>tried 34:11</p> <p>trouble 9:7</p> <p>true 4:15, 38:5</p> <p>two 9:18, 15:9, 17:8, 18:20, 20:5, 21:7, 25:16, 26:6, 36:7</p> <p>typewriting 38:7</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>unaccomplishable 26:17</p> <p>unconstitutional 29:9, 33:16, 33:21, 34:5, 36:15, 37:6</p> <p>unconstitutional-ly 31:19</p> <p>uncontested 18:5</p> <p>under 5:10, 8:20, 18:7, 22:16, 23:9, 23:11,</p>	<p>38:7</p> <p>understand 2:5, 5:20, 12:5, 22:12, 29:12</p> <p>understanding 8:16, 11:13, 15:10</p> <p>unfortunately 33:14</p> <p>unidentified 3:16, 10:14, 10:18, 11:6, 11:7, 11:10, 11:11, 12:1, 14:10, 14:11, 14:12, 14:14, 14:17, 14:18, 14:19, 14:20, 15:1, 15:2, 17:13, 24:4, 25:1, 25:2, 25:3, 25:4, 25:6, 25:10, 26:5, 27:12, 30:3, 30:9, 30:12, 32:3, 32:15, 32:20, 32:22, 33:2</p> <p>uniformed 19:6</p> <p>unless 20:10, 26:17</p> <p>untenable 26:16</p> <p>uocava 19:7</p> <p>uphold 33:10, 34:15</p> <p>uploaded 4:5</p> <p>use 7:3, 21:21, 24:10, 26:10</p> <p>usually 4:13</p> <p>utilize 23:8</p>
---	--	---	---

Transcript of Ohio Redistricting Commission
 Conducted on May 5, 2022

<p>utilized 18:13</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>validating 23:18 validity 19:15 verbatim 15:22 verified 8:18 viable 21:17, 23:21 view 34:17 violation 6:14, 20:10 violations 7:22, 8:18, 27:1, 27:4 virtually 13:2 void 26:22, 27:3 vote 10:13, 17:8, 25:17, 26:18, 29:6, 29:14, 29:19, 30:18, 31:18, 32:6, 36:10, 37:10 voter 20:6 voters 14:10, 17:11, 25:4, 25:10, 34:3, 37:7 votes 21:6, 22:6, 26:12, 26:13 voting 10:3, 19:7, 20:18 vs 34:10</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>want 2:7, 12:11,</p>	<p>15:14, 29:13, 30:17 wanted 13:14, 22:4 wasting 11:10, 11:11 we'll 12:13 we're 2:11 we've 24:7 website 4:6 weeks 18:20, 20:5 went 10:21 whether 8:8, 9:21, 12:9, 13:8, 27:7, 27:8 widely 34:7 wilke 38:3, 38:18 willing 22:8, 26:20 window 18:10 wish 23:9 within 5:2, 8:1, 18:10 without 6:19, 18:1, 21:1, 34:6, 35:13 wonder 15:6 work 4:9, 5:20, 6:5, 22:11, 37:3 workable 10:8 workers 20:19 working 5:16</p>	<p>works 10:7 worthwhile 22:9 wouldn't 15:22 write 23:10 write-in 19:17, 19:19 writing 11:2, 15:8 wrote 16:4</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 9:7, 15:20, 27:12, 28:1, 30:20 year 22:13, 25:17 years 25:16, 25:17 yeas 30:14 yesterday 2:6, 3:14, 5:4, 7:6, 10:20, 11:7, 20:21, 22:8, 26:10, 35:12 yield 11:4 yourself 6:21</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>11 7:22, 8:19, 36:13, 36:22 12 12:20 12:00 pm 24:20 14 24:15, 24:21, 35:12, 36:2</p>	<p>17 19:9 19 20:8</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2-5 14:9, 28:16 20 18:16, 21:3 2022 1:11, 16:20, 17:17, 17:21, 17:22, 18:9, 18:13, 18:16, 19:9, 21:3, 21:4, 21:19, 21:20, 21:22, 24:9, 24:10, 24:15, 24:17, 24:22 21 6:11 22 18:16 24 24:9, 24:17 28 13:3, 16:18, 20:13, 21:20, 23:16 2nd 11:15, 16:19, 17:17, 17:21, 18:9, 18:13, 19:3, 21:3, 21:19, 21:22</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>38 1:21</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4-3 32:7 448505 1:20 46 19:9</p>
--	--	--	--

Transcript of Ohio Redistricting Commission
Conducted on May 5, 2022

<p>5</p> <p>5-5 1:11 5/6/2022 38:20 5th 36:10</p> <hr/> <p>6</p> <p>67 19:19 6a 36:13 6b 36:14 6th 36:7</p> <hr/> <p>7</p> <p>70 19:22, 20:4 74 19:14 78 19:12</p> <hr/> <p>8</p> <p>88 18:19, 21:7 89 18:8 8c2 36:22 8th 4:21, 12:20, 17:21</p> <hr/> <p>9</p> <p>90 18:8, 18:14, 18:22 9:00 am 5:11, 8:21, 13:7, 24:13, 36:7 9c 23:9</p>		
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CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on May 10, 2022, I caused a true and correct copy of the forgoing to be served by email upon the counsel listed below:

Dave Yost
Ohio Attorney General

Julie M. Pfeiffer (0069762)
Michael A. Walton (0092201)
Assistant Attorneys General
Jonathan D. Blanton (0070035)
Deputy Attorney General
Michael J. Hendershot (0081842)
Deputy Solicitor
Constitutional Offices Section
30 E. Broad Street, 16th Floor
Columbus, Ohio 43215
(614) 466-2872
julie.pfeiffer@ohioago.gov
michael.walton@ohioago.gov
michael.hendershot@ohioago.gov
jonathan.blanton@ohioago.gov

Counsel for Respondents Ohio Secretary of State LaRose and Ohio Auditor Faber

David A. Lockshaw, Jr. (0082403)
Terrence O'Donnell (0074213)
Manuel Cardona (0098079)
180 East Broad Street, Suite 3400
Columbus, Ohio 43215
(614) 744-2570
dlockshaw@dickinson-wright.com
todonnell@dickinson-wright.com
mcardona@dickinson-wright.com

Special Counsel to Attorney General Dave Yost

Counsel for Respondent Secretary of State Frank LaRose

Brodi J. Conover (0092082)
BRICKER & ECKLER LLP
2 East Mulberry Street
Lebanon, Ohio 45036

(513) 670-6693
bconover@bricker.com

Annie Marie Sferra (0030855)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
(614) 227-2300
asferra@bricker.com

Counsel for Respondent Auditor of State Keith Faber

John W. Zeiger (0010707)
Marion H. Little, Jr. (0042679)
Christopher J. Hogan (0079829)
ZEIGER, TIGGES & LITTLE LLP
3500 Huntington Center
41 South High Street
Columbus, Ohio 43215
(614) 365-9900
zeiger@litohio.com
little@litohio.com

Counsel for Respondent Governor Mike DeWine

Phillip J. Strach
Thomas A. Farr
John E. Branch, III
Alyssa M. Riggins
NELSON MULLINS RILEY & SCARBOROUGH, LLP
4140 Parklake Ave., Suite 200
Raleigh, North Carolina 27612
(919) 329-3812
phil.strach@nelsonmullins.com

W. Stuart Dornette (0002955)
Beth A. Bryan (0082076)
Philip D. Williamson (0097174)
TAFT STETTINIUS & HOLLISTER LLP
425 Walnut St., Suite 1800
Cincinnati, Ohio 45202
(513) 381-2838
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

Counsel for Respondents House Speaker Robert R. Cupp and Senate President Matt Huffman

C. Benjamin Cooper (0093103)
Charles H. Cooper Jr. (0037295)
Chelsea C. Weaver (0096850)
COOPER & ELLIOTT LLC
305 West Nationwide Boulevard
Columbus, Ohio 43215
(614) 481-6000
benc@cooperelliott.com

Special Counsel for Respondents Senator Vernon Sykes and House Minority Leader Allison Russo

Dave Yost
Ohio Attorney General

Erik J. Clark (0078732)
Ashley Merino (0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, Ohio 43215
(614) 481-0900
ejclark@organlegal.com
amerino@organlegal.com

Special Counsel to Attorney General Dave Yost

Counsel for Respondent The Ohio Redistricting Commission

/s/ Freda J. Levenson
Freda J. Levenson (0045916)
Counsel for Petitioners