

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BOBBY SINGLETON, *et al.*,

Plaintiffs,

v.

**WES ALLEN, in his official capacity as
Alabama Secretary of State,**

Defendant.

Case No. 2:21-cv-01291-AMM

THREE-JUDGE COURT

EVAN MILLIGAN, *et al.*,

Plaintiffs,

v.

**WES ALLEN, in his official capacity as
Alabama Secretary of State,**

Defendant.

Case No. 2:21-cv-01530-AMM

THREE-JUDGE COURT

MARCUS CASTER, *et al.*,

Plaintiffs,

v.

**WES ALLEN, in his official capacity as
Alabama Secretary of State,**

Defendant.

Case No.: 2:21-cv-1536-AMM

DEFENDANTS' NOTICE OF FILING EXHIBITS

Defendants respectfully notify the Court and the parties of additional exhibits upon which they intend to rely at the August 14 hearing, as follows:

1. Pursuant to an Order entered Saturday in all three cases, the parties are to “[p]repare multiple hard copies of all exhibits and demonstratives that the parties intend to use during the preliminary injunction hearing for each Judge on th[e] three-judge court” and, *inter alia*, “[t]he exhibits should be file-stamped[.]” *Singleton* Doc. 163 at 2; *Milligan*, Doc. 221 at 2; *Caster* Doc. 192 at 2.

2. Pursuant to an Order entered July 27, 2023 in all three cases, the parties are to file exhibit lists by August 10, 2023. *Singleton* Doc. 146 at 3; *Milligan*, Doc. 194 at 3; *Caster* Doc. 171 at 2.

3. Defendants intend to include on their exhibit list the materials attached to their response to the Plaintiffs’ objections, already filed into the record. Additional exhibits Defendants wish to list must be filed in order to provide “file-stamped” copies to the Court.

4. Accordingly, in compliance with this Court’s Orders, the Defendants submit the following additional exhibits upon which they intend to rely at the August 14 hearing:

- a. Exhibit S – Declaration of Jeffrey V. Williams¹;

¹ This exhibit is also the subject of Defendants’ Joint Motion to Substitute Exhibit S in the *Milligan* and *Caster* proceedings. *Milligan* Doc. 224; *Caster* Doc. 194.

- b. Exhibit T – Defendant Secretary of State Wes Allen’s Objections and Responses to *Singleton* Plaintiffs’ First Set of Requests for Admission;
- c. Exhibit U – Exhibit M.1 at the July 13, 2023 proceedings before the Alabama Legislature’s Permanent Legislative Committee on Reapportionment, namely the deposition testimony of Congressman Bradley Bryne in *Chestnut v. Merrill*, Case No. 2:18-cv-00907-KOB (N.D. Ala.), dated July 24, 2019, *sans* Exhibits 1 through 4 thereto and with highlighting having been added;
- d. Exhibit V – Exhibit N at the July 13, 2023 proceedings before the Alabama Legislature’s Permanent Legislative Committee on Reapportionment, namely the testimony of Congressman Bradley Bryne in the January 2022 preliminary injunction proceedings in these cases, with highlighting having been added, saved 4-up to mimic travel transcript format; and,
- e. Exhibit W – Exhibit O at the July 13, 2023 proceedings before the Alabama Legislature’s Permanent Legislative Committee on Reapportionment, namely the deposition testimony of Congressman Jo Bonner in *Chestnut v. Merrill*, Case No. 2:18-cv-00907-KOB (N.D. Ala.), dated July 30, 2019, *sans* Exhibit 9 thereto and with highlighting having been added.

5. The Defendants previously filed as Exhibit B in the *Milligan* and *Caster* proceedings a transcript that should have been the complete transcript for the July 13, 2023 proceedings before the Alabama Legislature's Permanent Legislative Committee on Reapportionment. That transcript was incomplete, and we are working to determine whether we can timely secure a complete transcript.

Respectfully Submitted,

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Attorney General

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CERTIFICATE OF SERVICE

I certify that on August 3, 2023, I electronically filed the foregoing notice with the Clerk of the Court using the CM/ECF system, which will send notice to all counsel of record.

/s/ Edmund G. LaCour Jr.
Counsel for Secretary Allen

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THREE-JUDGE COURT

MARCUS CASTER, *et al.*,)
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Plaintiffs,)

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Case No. 2:21-cv-01536-AMM

WES ALLEN, in his official)
capacity as Alabama Secretary of State,)
)
Defendant.)

DECLARATION OF JEFFREY V. WILLIAMS

I, Jeffrey V. Williams, declare as follows:

1. I am over the age of 19, and the testimony I have set out below is based upon my personal knowledge, which I could testify competently about in court if requested to do so.

Introduction and Background

2. I have lived in Dothan, which is the heart of the Wiregrass, since February 2008. I grew up in Birmingham and Tuscaloosa. I graduated with a B.A. from The University of Alabama in 1992. I served in the U.S. Army and U.S. Army Reserves for a total of seven years as a 1st Lieutenant / Armor Officer. I was stationed at Fort Hood, Texas, Fort Polk, Louisiana, Fort Knox, Kentucky, Fort Jackson, South Carolina, and Fort Riley, Kansas at various points in my tenure. I have worked in the financial services and commercial banking field since 1992. At one point in my career, I moved six times over about a six-year timeframe with the same employer (Birmingham, Gadsden, and Montgomery, Alabama; Memphis and Jackson, Tennessee; and back to Birmingham) due to various promotions and positions with greater responsibility. Because I have lived in several other cities and have now spent over fifteen years in the Wiregrass, I feel I have a unique perspective on the culture and geography of the region.

3. I moved to Dothan in February 2008 to accept the position of Corporate Relationship Manager with BBVA Compass. The Market President had announced his retirement plans and this move would give time for him to mentor me into the role of Market President. From February 2008 to May 2013, I worked in the role of Corporate Relationship Manager. From May 2013 to September 2021, I was the Dothan Market President for BBVA. In those roles, I was either the banker or supervised the bankers for relationships such as Southeast Health (formerly Southeast Alabama Medical Center), George C. Wallace Community College (now Wallace

Community College), Construction Partners, Inc. (the Alabama subsidiary operates as Wiregrass Construction Company), the Houston County Commission, the City of Dothan, Bondy's Automotive, A&D Automotive, Action Automotive, Southern Bone & Joint, Dothan Surgery Center, Digestive Health Specialists, Dothan City Schools, Southeast Alabama Regional Planning & Development Commission, Boyd Brothers Transportation, Timberland Harvesters, and Lewis M. Carter Manufacturing.

4. In September 2021, I accepted the position I currently hold as Regional President for South Alabama for SmartBank, overseeing the Auburn, Dothan, and Montgomery markets. SmartBank is an almost \$5 billion commercial bank headquartered in Tennessee with 42 locations across Alabama, Florida, and Tennessee.

5. As a commercial banker dealing with large businesses and government entities, to be successful, you must understand your client's businesses to a high degree. Given the large companies and government entities I have been involved with banking, I feel that I have a unique perspective on industry in the Wiregrass. As an example of this, as the banker for Southeast Health, I made the first commercial loan to assist with the opening of Alabama College of Osteopathic Medicine (ACOM). The loan was \$20 million to create an escrow account lasting until accreditation to ensure that, should ACOM not achieve accreditation, ACOM's students could continue their education at other medical schools. Underwriting a loan such as this requires a deep understanding of the client's business, the business plan for the new venture, and what about the Wiregrass area will ensure its success.

Community Service

6. I have served as a commissioner with Dothan Housing Authority (DHA) since June 2017 with the last five years in the role of Vice Chairman. The CEO, team, and commission at

DHA have transformed the agency from simply overseeing public housing and the Section 8 program, or Housing Choice Voucher program as it's known today, in Houston County to the innovative and expanded agency it is today. In the last five years, DHA has become regional, taking on management of housing vouchers for a total of five counties in the Wiregrass (Coffee, Dale, Henry, Houston, & Geneva). The agency manages 1,421 total affordable housing units in the City of Dothan alone. The U.S. Department of Housing and Urban Development is pushing for more consolidation and a regional approach to housing authorities to create more efficiency and, with DHA being the largest in the Wiregrass, it makes sense for DHA to take on more responsibility. During the previous five years, DHA has been able to work with developers to create additional housing opportunities and has created multiple resident service programs to enhance quality of life, improve family self-sufficiency, and increase employment opportunities for residents. Further, DHA has rolled out landlord financial incentives and guarantees to entice landlords to come into the voucher program, which further increases the availability of affordable housing.

7. In my fifteen years in Dothan, I have been involved to some degree with the Dothan Area Chamber of Commerce. In October 2022, I joined the executive board of the Chamber, and I was recently elected to the role of Vice Chairman beginning October 2023. The Chamber's President, Matt Parker, has a reputation as a premier economic developer for the region, consistently working with leaders throughout the Wiregrass, not just Dothan. He and the Chamber always take a regional approach to economic development, believing industry created in surrounding communities will benefit us all.

8. In addition, I was a Rotary Club member in Dothan from 2008 to June 2023. Rotary further provides perspective on the region, given my interaction with members in numerous

different professions from both Dothan clubs and the weekly speakers, who provided information on their industry and what is occurring in the community.

Wiregrass Area

9. The counties of Coffee, Dale, Henry, Houston, and Geneva have a long history of working together and are inter-dependent for the good of the region. These counties share similar culture, interests, geography, industries, and economics. The area is not served by interstate access or a major airport, which provides for a significant economic disadvantage compared to Alabama's major population centers. This may be the reason the region works so well together; we are all in similar positions, so we work together to overcome these concerns, rather than competing.

10. Similarly, with the recent exception of Wiregrass-native Senator Katie Britt, the area has been disadvantaged from a state and federal representation standpoint, as the major population centers of Birmingham, Huntsville, and Mobile have tended to elect the state's political leadership.

11. Should the Wiregrass be split from a representation standpoint, this will further disadvantage the region by creating one more obstacle to efficiently work together. It's important that the region be generally on the same page with our approach to issues such as economic development, housing, education, and workforce development.

Wiregrass Major Economic Drivers and Industry

12. Fort Novosel is the home of Army aviation and has a \$1 billion annual economic impact on the Wiregrass, from what I understand from my interaction with the Chamber. Due to my time as an armor officer in the U.S. Army and as the Army's armor forces worked very closely with Army aviation, I have some perspective on the importance of a military fort to a community and Army aviation's important role in our national defense. Fort Novosel impacts the entire region

through its 63,000-acre footprint and soldiers accessing housing, healthcare, retail shopping, and services. Further, various industries are located throughout the region to support the Fort and its soldiers. The perspective I have is that it would be very expensive and difficult to replace Fort Novosel. Army aviation requires an extensive amount of acreage as the helicopters need multiple landing zones over a large area for training. In addition, the Wiregrass communities understand and embrace the need for helicopters flying over our homes and businesses constantly. We can tell this story with one voice as Fort Novosel touches the entire Wiregrass whether it be the base actually being adjacent to communities or helicopters flying over other areas.

13. Due to serving the banking needs of Southeast Health, the area's largest regional hospital, and several large medical practices in the region, I have a strong understanding of what a major economic driver healthcare is for the Wiregrass. Dothan is the largest city for approximately 100 miles in each direction, making it a hub for healthcare services for the region. Dothan's hospitals and medical practices serve the population of the entire Wiregrass and even out-of-state patients. In addition, the region's only medical school, Alabama College of Osteopathic Medicine, is located in Dothan.

14. My time with the Chamber and as a commercial banker has allowed me to understand that one of the area's largest industries is agriculture. Due to the surrounding counties having similar geography, this is the case for all counties in the Wiregrass. While I have not provided banking services to individual farmers, I have provided banking services to or been exposed to ancillary businesses which produce agricultural equipment or provide services for this industry. I believe the area needs to speak with one voice given the significance that agriculture plays in all Wiregrass counties.

15. The area's higher education providers, such as Troy University, Troy University Dothan, Wallace Community College, and Enterprise State Community College and agencies such as Southeast Alabama Works, which covers the region, work very well together to provide the education opportunities that industry and political leadership require. Again, speaking as one voice creates more efficiency in providing secondary education and workforce development.

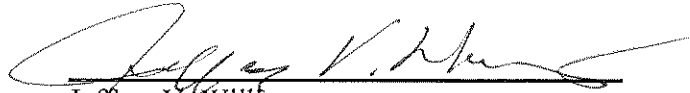
16. As an entrepreneurship mentor for HudsonAlpha Wiregrass' Navigate program, I understand that HudsonAlpha's recent announcement that it will move its plant genome research to a new facility in Dothan could be a game changer for the region. The scientists at HudsonAlpha will work with Wiregrass area farmers to develop new varieties of plants which may be more immune to disease and drought. This research should create a number of businesses or entrepreneurs seeking to be a part of HudsonAlpha Wiregrass' sphere of influence. It will take the region working together to make the very most of the significant economic development opportunities which will be created.

Congressional Representation for the Wiregrass

17. The Wiregrass region does not have the same advantages as the major population centers such as Birmingham, Huntsville, or Mobile. Therefore, dividing an area which shares similar geography, economic issues, and concerns will create even more of a disadvantage to a region which is already working hard, together, to overcome major obstacles to creating economic prosperity for all its citizens.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 2, 2023.


Jeffrey V. Williams

evidence. Secretary Allen reserves the right to make any and all such objections at the appropriate time.

General Objections

Secretary Allen objects to the Instructions to the extent that they purport to impose any requirements or obligations different from those contained in the Federal Rules of Civil Procedure, the local Rules of this Court, applicable orders of the Court, and/or related agreements.

Secretary Allen further objects to each and every request that is not “separately stated” as required by Fed. R. Civ. P. 36(a)(2).

REQUESTS FOR ADMISSION

Request for Admission No. 1: From 1822 until 1965, Alabama drew its Congressional districts with whole counties.

Response: Admitted that Alabama used a whole-county Congressional map from 1822 to 1965, although the Alabama Legislature passed a plan in 1961 that split Jefferson County.

Request for Admission No. 2: In 1961, the Alabama Legislature passed a bill that divided Jefferson County among four Congressional Districts.

Response: Admitted.

Request for Admission No. 3: Governor John Patterson vetoed this bill, saying it would “divest the citizens of that county of direct representation in Congress, is ... unthinkable, unwise, above all wrong, and therefore unconstitutional.”¹

¹ ANNE PERMALOFF AND CARL GRAFTON, POLITICAL POWER IN ALABAMA 134-35 (1995).

Response: Admitted that Governor Patterson vetoed the 1961 bill and that the book cited in the footnote reports that Governor Patterson made the quoted statement. Secretary Allen lacks sufficient information to admit or deny whether that was in fact Governor Patterson's statement or position.

Request for Admission No. 4: In February 1964, the U.S. Supreme Court ruled that Congressional districts must be equal in population. *Wesberry v. Sanders*, 376 U.S. 1 (1964).

Response: Admitted that the Court "h[e]ld that, construed in its historical context, the command of Art. I, s 2, that Representatives be chosen 'by the People of the several States' means that *as nearly as is practicable* one man's vote in a congressional election is to be worth as much as another's." *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964) (footnotes omitted; emphasis added). Otherwise denied.

Request for Admission No. 5: In March 1964, a three-judge panel held that Alabama's nine-district scheme for primary elections violated Article I, § 2 of the U.S. Constitution and the Equal Protection Clause in the Fourteenth Amendment. *Moore v. Moore*, 229 F. Supp. 435 (S.D. Ala. 1964) (three-judge court).

Response: Admitted with the qualification that the Equal Protection violation related to the one-person, one-vote principle only.

Request for Admission No. 6: The *Moore* court gave the Legislature two years to enact a constitutional redistricting plan.

Response: Admitted

Request for Admission No. 7: In August 1964, the Legislature considered a plan that kept all Alabama counties whole, including Jefferson County, even though at 634,864 in the 1960 census, the county's population exceeded the ideal population of the eight Congressional districts at that time, which was 409,250.

Response: Admitted, except that the ideal district size according to the 1960 census was 408,342.5.

Request for Admission No. 8: Attorney General Richmond Flowers warned that such a large population deviation would not survive federal court scrutiny.²

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 9: In the 1965 regular session, the Legislature enacted a plan that split Jefferson County among three Congressional Districts.

Response: Admitted.

Request for Admission No. 10: The *Moore* court declared the plan constitutionally valid, even though it had a maximum population deviation of 13.3%. *Moore v. Moore*, 246 F. Supp. 578 (S.D. Ala. 1965) (three judge court). The Court found it “obvious that [Jefferson County] must be divided between at least two Congressional Districts.” *Id.* at 580–81.

Response: Admitted with the qualification that in the 1965 plan the most overpopulated district deviated by 7.3% over the ideal district population and the most underpopulated districts deviated by 6% under the ideal district population, giving the plan a total population deviation of 13.3%. Based on its usage here, Secretary Allen takes Plaintiffs’ use of the phrases “maximum population deviation” and “maximum deviation” to refer to the range of deviation between the most and least populated districts (as opposed to the individual measure of deviation of the single district with the greatest deviation). Plaintiffs’ remaining requests are answered subject to that understanding.

² *Alabama Journal*, November 23, 1964, p. 13.

Request for Admission No. 11: Jefferson County was the only county split in the 1965 plan and in the post 1970 census plan.

Response: Admitted.

Request for Admission No. 12: The post 1970 census plan split Jefferson County among three Districts. The maximum deviation under this plan was 0.8%.

Response: Admitted.

Request for Admission No. 13: Only Jefferson County and St. Clair County were split in the post 1980 census plan. The ideal size of a district was 556,270, smaller than Jefferson County's population, which was 671,371 in the 1980 census. The maximum deviation among the seven districts was 2.59%.

Response: Admitted.

Request for Admission No. 14: In 1992, seven counties were split for the predominant purpose of drawing one majority-black District. *Wesch v. Hunt*, 785 F. Supp. 1491 (S.D. Ala. 1992) (three-judge court), *aff'd sub nom. Camp v. Wesch*, 504 U.S. 902 (1992), *Figures v. Hunt*, 507 U.S. 901 (1993).

Response: Admitted that seven counties were split in the 1992 Congressional plan adopted by a three-judge court. Otherwise denied.

Request for Admission No. 15: Before 1992, the Legislature had never published any redistricting principles that included a specific maximum population deviation for Congressional districts.

Response: Admitted.

Request for Admission No. 16: In the 2000 census, Jefferson County's population rose to 662,285, which was still larger than the size of an ideal Congressional district (635,299). The post-2000 census plan split Jefferson County and seven other counties, maintaining zero population deviation.

Response: Admitted.

Request for Admission No. 17: In the 2010 census, Jefferson County’s population, 658,158, fell below the ideal size of Congressional districts (682,819), making splitting an Alabama county no longer mathematically necessary.

Response: Admitted that based on the 2010 census, Jefferson County’s population fell below the ideal size of a Congressional district. Otherwise denied.

Request for Admission No. 18: In 2011, the Legislature passed a plan that continued to split Jefferson County. The 2011 plan had zero population deviation.

Response: Admitted.

Request for Admission No. 19: District 7 in the Act 2021-555 plan retains all or part of the same fourteen counties contained in District 7 in the 2011 plan, including the majority-Black rural counties, Sumter, Greene, Hale, Perry, Marengo, Dallas, Wilcox, and Lowndes.

Response: Admitted.

Request for Admission No. 20: 303,168 or 74.0% of the 409,643 Black Population in District 7 comes from three counties that were split in the 1992 and 2011 plans: Jefferson, Tuscaloosa, and Montgomery.³

Response: Admitted.

Request for Admission No. 21: Of the 294,027 people in the part of Jefferson County in District 7, 62.8% are Black. Of the 380,694 people in the rest of Jefferson County, all of which is assigned to District 6, 27.6% are Black.

Response: Admitted.

Request for Admission No. 22: Of the 184,266 people in the part of Tuscaloosa County in District 7, 37.0% are Black. Of the 42,770 people in the rest of Tuscaloosa County, all of which is assigned to District 4, 8.3% are Black.

Response: Admitted.

³ For purposes of these Requests for Admission, “Black” is defined as “Black alone or in combination with other races, including Hispanic.”

Request for Admission No. 23: Of the 65,519 people in the part of Montgomery County in District 7, 80.7% are Black. Of the 166,435 people in the rest of Montgomery County, all of which is assigned to District 2, 50.2% are Black.

Response: Admitted.

Request for Admission No. 24: Plaintiffs Rodger Smitherman and Eddie Billingsley are Black registered voters who reside in Jefferson County and within the boundaries of Congressional District 7 in both the 2011 and 2021 enacted plans.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 25: Plaintiff Leonette W. Slay is a White registered voter who resides in Jefferson County and within the boundaries of Congressional District 6 in both the 2011 and 2021 enacted plans.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 26: Plaintiff Bobby Singleton is a Black registered voter who resides in Hale County and within the boundaries of Congressional District 7 in both the 2011 and 2021 enacted plans.

Response: Admitted.

Request for Admission No. 27: Plaintiffs Darryl Andrews and Andrew Walker are Black registered voters who reside in Montgomery County and within the boundaries of Congressional District 2 in both the 2011 and 2021 enacted plans.

Response: Defendant lacks sufficient information to admit or deny this request.

Request for Admission No. 28: In the Plaintiffs' Whole County Plan, the following candidates received more votes than their opponent in the general election in the counties in Districts 6 and 7:

Year	Office	Candidate
2012	President	Barack Obama
2014	Governor	Parker Griffith
2014	Lieutenant Governor	James Fields
2014	Auditor	Miranda Joseph
2016	President	Hillary Clinton
2016	U.S. Senate	Ron Crumpton
2017	U.S. Senate	Doug Jones
2018	Governor	Walt Maddox
2018	Lieutenant Governor	Will Boyd
2018	Auditor	Miranda Joseph
2020	President	Joe Biden
2020	U.S. Senate	Doug Jones

Response: Admitted that the listed candidates received more votes than their opponents in the counties in District 6 in the Plaintiffs' Whole County Plan when the votes cast in all such counties are totaled, and in the counties in District 7 in the Plaintiffs' Whole County Plan when the votes cast in all such counties are totaled.

Request for Admission No. 29: In the 2010 election for District 7 Representative, Democratic candidate Terri Sewell received 136,696 votes (72.4%), Republican candidate Don Chamberlain received 51,890 votes (27.5%), and write-in candidates received 138 votes (<0.1%). According to Alabama's preclearance submission to the Department of Justice in 2011, the Black population of District 7, using 2010 census figures, was 62.83% of the total population of the district, and the Black Voting Age Population was 59.75% of the Voting Age Population.

Response: Admitted, except that according to Alabama's preclearance submission to the Department of Justice in 2011, the Black population of District 7, using 2010 census figures, was 63.57% of the total population of the district, and the Black Voting Age Population was 60.55% of the Voting Age Population.

Request for Admission No. 30: In the 2012 election for District 7 Representative, Democratic candidate Terri Sewell received 232,520 votes (75.8%), Republican candidate Don Chamberlain received 73,835 votes (24.1%), and write-in candidates

received 203 votes (<0.1%). According to Alabama's preclearance submission to the Department of Justice in 2011, the Black population of District 7, using 2010 census figures, was 63.57% of the total population of the district, and the Black Voting Age Population was 60.55% of the Voting Age Population.

Response: Admitted.

Request for Admission No. 31: The United States Bureau of the Census releases data to the states after each census for use in redistricting. This data includes population and demographic information for each census block.

Response: Admitted that the United States Bureau of the Census releases data to the States for use in redistricting that includes population and demographic information for each census block, but that by using a process known as "differential privacy," the Bureau purportedly altered the population and demographic information for many or all census blocks before release.

Request for Admission No. 32: Following the 2020 Census, the Census Bureau was statutorily required to release this redistricting data no later than April 1, 2021. 13 U.S.C. § 141. However, in February 2021, the Census Bureau issued a press release stating that it would not release the redistricting data until September 30, 2021. On March 10, 2021, the State of Alabama sued the Census Bureau to require it to comply with the statutory deadline. *See Alabama v. United States Dep't of Com.*, No. 3:21-CV-211-RAH-ECM-KCN, (M.D. Ala.) (three-judge court). On March 15, 2021, the Census Bureau issued a further press release stating it could provide redistricting data in a legacy format by mid-to-late August 2021. The Census Bureau provided initial redistricting data to Alabama on August 12, 2021.

Response: Admitted.

Request for Admission No. 33: On May 5, 2021, the Reapportionment Committee of the Alabama Legislature passed the Redistricting Guidelines to be used by the Committee during the redistricting process. Those Guidelines passed on a 16-1 vote, with both Republicans and Democrats as well as Black and White legislators supporting the Guidelines.

Response: Admitted.

Request for Admission No. 34: The Reapportionment Committee held 28 public hearings at locations around the state between September 1 and September 16. The public could attend these hearings in person or via videoconference.

Response: Admitted.

Request for Admission No. 35: On October 25, 2021, Alabama Governor Kay Ivey officially called for the Legislature to convene in a special session to address redistricting.

Response: Admitted.

Request for Admission No. 36: On October 26, 2021, the Reapportionment Committee met and considered a draft congressional plan.

Response: Admitted.

Request for Admission No. 37: On October 28, 2021, the special session began and the Congressional Plan (then H.B. 1) was assigned to the House Committee on State Government. On October 29, the Congressional Plan (in addition to three other redistricting plans) was voted out of committee. All Black Representatives on the Committee voted against the map.

Response: Admitted. Admitted further that all Democrats on the Committee voted against the map.

Request for Admission No. 38: On November 1, the House of Representatives considered the Congressional Plan. The same day, the House passed the Congressional Plan 65-38; in addition to every Democratic Representative, several Republicans voted against the plan. One Black Representative, Rep. Keith Paschal who is the sole Black Republican legislator, voted in favor of the Congressional Plan.

Response: Admitted.

Request for Admission No. 39: On November 2, the Senate General Fund and Appropriations Committee considered the Congressional Plan. The Plan was voted out of Committee that same day. All Black Senators on the Committee voted against the map.

Response: Admitted, except that the Plan was considered by the Senate Finance and Taxation General Fund Committee. Admitted further that all Democrats on the Committee voted against the map.

Request for Admission No. 40: On November 3, the full Senate approved the Congressional Plan 22-7 and forwarded the Plan to Alabama Governor Kay Ivey. All six Black Senators present and Billy Beasley, the sole White Democratic Senator, voted against the map. On November 4, Governor Ivey signed the Congressional Plan into law.

Response: Admitted.

Request for Admission No. 41: On Tuesday, July 23, 2022 a special election was held to fill a vacancy in District 73 of the Alabama House of Representatives. The winner was Kenneth Paschal, the Republican candidate, who received 2,743 votes. Representative Paschal is African American. His white Democratic opponent received 920 votes. District 73 is located in Shelby County, Alabama. Based on 2010 census data, the voting-age population of District 73 was 84.12% white and 9.75% black. (See ALBC doc. 338-1). Representative Paschal defeated a white Republican candidate in the primary election by 64 votes. Representative Paschal received 1,476 votes, while his white opponent received 1,412 votes.

Response: Admitted.

Request for Admission No. 42: On March 12, 2020, James Blacksher, Dorman Walker, and Jim Davis appeared together on a panel to discuss redistricting in a program held by the Montgomery Inns of Court. Blacksher told the audience that it should be possible to draw Congressional districts that kept Montgomery County and all other counties whole.

Response: Admitted that the three appeared on a panel to discuss redistricting and that Mr. Blacksher made the statement.

Request for Admission No. 43: In April 2021, Blacksher asked Bill Cooper, who had been his map drawer during the *ALBC v. Alabama* proceedings, to see if a seven Congressional districts, whole county plan could be drawn using census estimates that were available at the county level only.

Response: Admitted that Bill Cooper was plaintiffs' map drawer in the *ALBC v. Alabama* proceedings and that Jim Blacksher was counsel for the plaintiffs in that litigation. Secretary Allen lacks sufficient information to admit or deny the remainder of this request.

Request for Admission No. 44: The only instructions Blacksher gave Cooper were to keep counties whole and to attempt to keep the Black Belt counties together.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 45: Mr. Cooper produced the plan filed by the *Singleton* Plaintiffs as Exhibit 69.

Response: Admitted.

Request for Admission No. 46: Blacksher and his colleague Ed Still circulated Cooper's plan widely among Black political leaders and organizations who were preparing for post-2020 census redistricting, including the ACLU, Southern Poverty Law Center, NAACP Legal Defense Fund, Greater Birmingham Ministries, and the League of Women Voters of Alabama. Counsel for many of these organizations represent parties in *Milligan*.

Response: Admitted that some counsel who represent the plaintiffs in *Milligan* are with the NAACP Legal Defense Fund or the ACLU. Secretary Allen lacks sufficient information to admit or deny the remainder of this request.

Request for Admission No. 47: The League of Women Voters of Alabama (LWVAL) agreed to sponsor the whole county plan in public discussions and hearings involving the legislative redistricting process.

Response: Admitted.

Request for Admission No. 48: Bill Cooper informed Blacksher in late May that he was under contract with the Perkins Coie law firm and had a conflict of interest.

Blacksher phoned Abha Khanna, who confirmed that Mr. Cooper would not be able to continue working with Blacksher on Congressional redistricting in Alabama.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 49: At Mr. Cooper's suggestion, in early August 2021 Blacksher engaged Dr. Gerald Webster and the CART Lab at the University of Alabama to insert the 2020 census data in Cooper's whole county plan when the Legacy data were released by the Census Bureau. The LWVAL paid Dr. Webster and the CART Lab for their services.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 50: When the Legacy 2020 census data were published on August 12, 2021, the CART Lab inserted them into Cooper's plan. At Blacksher's request, the only change the CART Lab made was to move Morgan County to District 4 and Colbert, Franklin and Jackson Counties to District 5, in order to lower the maximum population deviation from above 5% to 2.47%.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 51: Because the CART Lab did not have the latest Maptitude software installed, Blacksher retained the services of Louis Hines at the Center for Leadership and Public Policy at the Alabama State University to put the CART Lab's whole county plan in Maptitude format for submission to the Reapportionment Office of the Legislature. Mr. Hines sent the Whole County Maptitude files to the Reapportionment Office on September 10, 2021.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 52: On September 1, 2021, Kathy Jones, President of LWVAL, was the first witness at the first public hearing held by the Reapportionment Committee, and she submitted the Whole County Plan to the Committee.

Response: Secretary Allen lacks sufficient information to admit or deny this request.

Request for Admission No. 53: On September 7, 2021, Blacksher emailed Dorman Walker to provide a link to the Whole County Plan on the LWVAL web site.

Response: Admitted.

Request for Admission No. 54: The Whole County Plan was finally entered in the Reapportionment Office system on September 17, 2021.

Response: Admitted.

Request for Admission No. 55: At Blacksher's request, on October 26, 2021, Mr. Hines modified the Whole County Plan to reduce its maximum deviation, first to 0.69% and second to zero %. Mr. Hines submitted the "narrow deviation" and zero deviation Whole County Plans to the Reapportionment Office on October 27, 2021.

Response: Admitted that variations of the "Whole County Plan" were submitted to the Reapportionment Office on or around October 27, 2021, with 0.69% and zero % population deviation. Secretary Allen lacks sufficient information to admit or deny the remainder of this request.

Respectfully submitted,

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Counsel for Secretary Allen

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2023, I served the foregoing on counsel of record by electronic mail.

/s/ James W. Davis
Counsel for Secretary Allen

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Congressman Bradley Byrne

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

----- +

LAKEISHA CHESTNUT, et al.		
Plaintiffs,		
		Case No.
vs.		2:18-CV-00907-KOB
JOHN H. MERRILL, Secretary		
of State,		
Defendant.		

----- +

Washington, D.C.

Wednesday, July 24, 2019

Deposition of CONGRESSMAN BRADLEY BYRNE, a witness herein, called for examination by counsel for Plaintiffs in the above-entitled matter, pursuant to notice, the witness being duly sworn by MICHELE E. EDDY, RPR, CRR, a Notary Public in and for the District of Columbia, taken at the Rayburn House Office Building, 45 Independence Avenue, Southwest, Washington, D.C., at 9:58 a.m.

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646



7/24/2019

Chestnut, et al., v. John H. Merrill

Congressman Bradley Byrne

1 APPEARANCES
 2 ON BEHALF OF THE PLAINTIFFS:
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 13 JIM DAVIS, ESQUIRE
 14 Deputy Attorney General
 15 Division Chief, Constitutional Defense
 16 Office of the Attorney General
 17 501 Washington Avenue
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21 ALSO PRESENT:
 22 Mitch Relfe, Legislative Director for
 Congressman Bradley Byrne
 Daniel Holmstock, Videographer

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4
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6 EXHIBITS
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 8 Exhibit 1 Revised Plan 1, Alabama -- U.S. House 14
 9 Exhibit 2 Alabama -- U.S. House, Revised Plan 2 16
 10 Exhibit 3 Alabama -- U.S. House, Revised Plan 3 16
 11 Exhibit 4 Alabama -- U.S. House, Illustrative 17
 12 Plan 4
 13 Exhibit 5 2011 State Board of Education Districts 25
 14 Exhibit 6 Current map of the U.S. House Districts 46
 15 in Alabama

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1 PROCEEDINGS
 2 Washington, D.C.
 3 July 24, 2019
 4 ---

5 THE VIDEOGRAPHER: This is Video No. 1
 6 in the video-recorded deposition of Congressman
 7 Bradley Byrne taken in the matter of Lakeisha
 8 Chestnut, et al. versus John H. Merrill in his
 9 official capacity as Alabama Secretary of State.
 10 It is pending before the United States District
 11 Court for the Northern District of Alabama,
 12 Southern Division, Case Number 2:18-CV-00907.

13 This deposition is being held at the
 14 Rayburn Office -- House Office Building at 45
 15 Independence Avenue, Southwest, in Washington,
 16 D.C., on July 24th, 2019. The time on the video
 17 screen is 9:59 a.m.

18 My name is Daniel Holmstock, and I'm the
 19 legal videographer from Digital Evidence Group.
 20 Our court reporter is Michele Eddy, in association
 21 with Digital Evidence Group.
 22 For the record now, will counsel please

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1 introduce themselves and whom they represent.
 2 MR. SPIVA: My name is Bruce Spiva. I
 3 represent the plaintiffs in the action.
 4 MS. MADDURI: Lali Madduri, also for the
 5 plaintiffs.
 6 MR. RELFE: Mitch Relfe. I'm counsel
 7 for the office of Congressman Byrne.
 8 MR. DAVIS: Jim Davis representing
 9 Secretary of State John Merrill.

10 THE VIDEOGRAPHER: Will the court
 11 reporter please administer the oath.
 12 ---

13 **CONGRESSMAN BRADLEY BYRNE,**
 14 **having been duly sworn, testified as follows:**

15 EXAMINATION BY COUNSEL FOR PLAINTIFFS
 16 BY MR. SPIVA:
 17 Q Good morning, Congressman Byrne.
 18 A Good morning.
 19 Q Thank you very much for taking your time
 20 out. I know you have a busy schedule. We
 21 appreciate that.
 22 A Sure.

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Congressman Bradley Byrne

1 Q We'll try to keep the encroachment on
2 your time to a minimum.
3 If you can just state your full name for
4 the record.
5 A My name is Bradley Byrne, B-Y-R-N-E.
6 Q What is your address, Congressman Byrne?
7 A 22489 Sea Cliff Drive, Fairhope,
8 Alabama, 36532.
9 Q Have you ever been deposed before?
10 A I have.
11 Q In what capacity?
12 A When I was a member of the State School
13 Board, there was a lawsuit against the State
14 School Board in our official capacity, and I
15 believe when I was Chancellor of Postsecondary
16 Education, there was a lawsuit against the
17 Department of Postsecondary Education, and in my
18 capacity as CEO of the system, I think I was
19 deposed a couple of times.
20 Q Okay. Other than those times, can you
21 recall any other times that you were deposed?
22 A I can't.

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1 A No.
2 Q Was it more recent than that?
3 A It was more recent than that, but I
4 can't remember exactly when it was.
5 Q Okay. And do you recall what you
6 testified about in that redistricting case before
7 the Board of Education?
8 A There was some sort of a proposal, and I
9 don't know if it was a legislative proposal or
10 not, regarding the makeup of the districts and the
11 State School Board. There are eight districts.
12 And I was asked about my opinion about how my
13 district -- my State School Board district would
14 be put together.
15 Q Okay. And so I take it at that time you
16 were a member of the State Board of Education?
17 A I think I was. I can't remember, to be
18 sure.
19 Q All right. And do you recall whether
20 the districts changed as a result of that lawsuit?
21 A I don't know what became of that
22 lawsuit. I was just a witness.

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1 Q Have you ever testified -- we've got a
2 little --
3 A Doesn't mean anything.
4 Q Okay. Have you ever testified in trial
5 before?
6 A Yes, I believe there was a trial
7 regarding the redistricting of the State School
8 Board in the Federal District Court of the
9 Southern District of Alabama, and I think I and
10 perhaps other members of the State School Board
11 were required to come and testify at that trial.
12 There was also a trial in the Montgomery
13 County Circuit Court that I was a very brief
14 witness in, and I think it was another one of
15 those redistricting cases.
16 Q Okay. And were you deposed in either of
17 those cases?
18 A I don't believe I was.
19 Q Okay. In connection with the school
20 board redistricting case, about what time period
21 was that? Maybe I'll try to refresh your memory.
22 Was it mid '90s?

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1 Q Okay. So let me just -- I'll briefly --
2 you've been deposed before, but I'll just briefly
3 go over kind of some of the, you know, usual
4 ground rules. We're doing great so far. Usually
5 because the court reporter has got to take
6 everything down, I will try to wait until you've
7 completed your answer before asking you the next
8 question or jumping in. I would just ask if you
9 would do the same, just wait for the whole
10 question to come out before you answer, just so
11 she can get everything down.
12 If I ask a question and it doesn't make
13 sense to you, please ask me and I will do my best
14 to rephrase it. If you answer it, I'll assume
15 that you understand it as asked. If you want to
16 take a break at any time, you know, just let me or
17 your counsel know and we can -- we can do that.
18 Just -- we just ask that while a question is
19 pending, if you can -- if you can answer the
20 question and then we can take a break at that
21 point.
22 I don't think there's anything else.

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Congressman Bradley Byrne

1 And there's no reason why you can't
2 testify completely and truthfully today? You're
3 not on any medications or anything like that? I
4 have to ask everybody that.
5 A No, I'm not.
6 THE VIDEOGRAPHER: Your microphone fell,
7 counsel.
8 MR. SPIVA: Oh, thank you. The question
9 is where did it fall to.
10 Q And I will try to not gesticulate with
11 my hands so that I don't knock the microphone off.
12 And how did you -- how did you learn
13 about this case, Congressman Byrne?
14 A I believe I received notification of it
15 from the Attorney General's office, State Attorney
16 General's office. I may have read about it in the
17 news before, but I can't be certain about that.
18 Q Do you recall who you first talked about
19 this case with?
20 A There was a call in which there was a
21 member of the Attorney General staff on the call,
22 and there was a lawyer from a law firm in

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1 may be a need for me to give testimony and so sort
2 of in general what my understanding of the case
3 was, what my understanding of the proposed new
4 districts would be, and what my attitude and
5 concerns would be about that.
6 Q Okay. And what did you say in response
7 to those -- to those inquiries?
8 A Well, somebody showed me at that time
9 the actual proposed districts, and I told them I
10 had great concerns about it.
11 Q Okay. And we'll get into that in a
12 minute. Did they show you anything else other
13 than the proposed maps?
14 A I may have seen a copy of the complaint,
15 but if I did, I didn't read it very carefully.
16 Q Okay. I guess that's probably one of
17 the benefits of being a member of Congress and not
18 a practicing lawyer anymore.
19 A That is one of the benefits, and I
20 greatly appreciate that benefit.
21 Q I don't blame you at all.
22 And do you recall anything else about

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1 Montgomery, maybe two lawyers from that law firm
2 in Montgomery that were on the call.
3 Q And do you recall who from the AG's
4 staff was on that call?
5 A No.
6 Q Do you recall the names of the lawyers?
7 A Not really.
8 Q Was one of them Dorman? I'm forgetting
9 Dorman's last name.
10 MR. DAVIS: Walker.
11 Q Was one of them Dorman Walker?
12 A I think Dorman may have been on the
13 call.
14 Q You're familiar with Dorman Walker?
15 A Oh, I've known Dorman a long time. His
16 wife used to practice law with me.
17 Q Okay. And about when was that that you
18 received that call?
19 A This year, but I can't remember when.
20 Q Can you tell me what was discussed on
21 the call?
22 A That the case was pending, that there

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1 that conversation?
2 A I really don't.
3 Q Have you had any other conversations
4 about the case since then?
5 A Yes, just one to get us set up for this
6 deposition today.
7 Q Okay. Who did you talk to to get this
8 set up for the depo?
9 A I think, once again, there was somebody
10 from the Attorney General's office. Mr. Walker
11 may have been on that one, too.
12 Q All right. Did you do anything to
13 prepare for the deposition today?
14 A Just to make sure I remembered some
15 things about the district and some of the things
16 that we had done in the district, particularly my
17 town halls. I've done a lot of town halls. I
18 wanted to go back and make sure that I was certain
19 about what we had done.
20 Q Did you look at any documents to
21 prepare?
22 A Not any documents per se, no, just where

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Congressman Bradley Byrne

1 did we have town halls, how often, et cetera.
 2 Q All right. To refresh your recollection
 3 about that, did you talk to staff or --
 4 A Yes, my staff would give me this
 5 information.
 6 Q Got you.
 7 And any other conversations or meetings
 8 to prepare for today's deposition?
 9 A No.
 10 Q Let me -- I'm not going into detail just
 11 yet, but let me -- just so I know what you -- what
 12 you looked at in preparing for today's deposition,
 13 let me hand you -- I'm going to have marked a few
 14 exhibits and then we'll -- I'll ask you whether
 15 these are the documents that you looked at.
 16 MR. SPIVA: Give us just a second.
 17 We're just going to gather them up here.
 18 Let me give these out one at a time so
 19 we don't get confused. If we could -- if we could
 20 have this one marked as Exhibit 1, please.
 21 (Exhibit 1 was marked for identification
 22 and attached to the deposition transcript.)

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1 Exhibit 2, please.
 2 (Exhibit 2 was marked for identification
 3 and attached to the deposition transcript.)
 4 BY MR. SPIVA:
 5 Q Congressman Byrne, Exhibit 2 is a
 6 document that's labeled at the bottom "Alabama --
 7 U.S. House, Revised Plan 2." Does this appear to
 8 be one of the maps that you reviewed?
 9 A The same answer on this one. They're --
 10 they're all sort of different, but they're also
 11 sort of the same, so it looks like it's one I may
 12 have looked at.
 13 Q Pretty similar to the ones you looked --
 14 you probably looked at?
 15 A Right.
 16 MR. SPIVA: Okay. And I'll give you
 17 what will be marked as Exhibit 3.
 18 (Exhibit 3 was marked for identification
 19 and attached to the deposition transcript.)
 20 BY MR. SPIVA:
 21 Q Congressman Byrne, this is -- this
 22 Exhibit 3 is labeled "Alabama -- U.S. House,

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1 BY MR. SPIVA:
 2 Q And, Congressman Byrne, if you could
 3 just take a look at that. Like I said, we'll get
 4 into detail in a little bit, but is that one of
 5 the proposed maps that you looked at?
 6 And just for the record, this one is
 7 labeled "Revised Plan 1, Alabama -- U.S. House."
 8 A I saw several. They were -- some of
 9 them were pretty similar so I can't tell you for
 10 sure that this is one that I saw, but it looks
 11 like it might have been.
 12 Q Okay. Do you know -- did anybody tell
 13 you that the plans -- that the maps that you saw,
 14 or the proposed maps that you saw, came from an
 15 expert report of the plaintiffs?
 16 A They may have, but I don't remember
 17 that.
 18 Q Okay. All right. I'll tell you what,
 19 let me -- just as a matter of housekeeping, I'm
 20 going to give you all four of these and then we'll
 21 -- we'll come back to them in a minute.
 22 MR. SPIVA: So if we could mark this as

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1 Revised Plan 3." And really the same question,
 2 does this appear to be one of the ones you may
 3 have looked at?
 4 A The same answer.
 5 Q Okay, got you.
 6 MR. SPIVA: Just so we have them all out
 7 on the table, if this could be marked as Exhibit
 8 4.
 9 (Exhibit 4 was marked for identification
 10 and attached to the deposition transcript.)
 11 BY MR. SPIVA:
 12 Q Congressman Byrne, this one is labeled
 13 "Alabama -- U.S. House, Illustrative Plan 4."
 14 Does that -- does that appear to be one that you
 15 reviewed in preparation?
 16 A The same answer.
 17 Q We'll come back to those in a minute.
 18 Let me just ask you a few questions just kind of
 19 about your background and the current -- and the
 20 current map.
 21 You're currently the congressional
 22 representative for Alabama's First Congressional

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Congressman Bradley Byrne

1 District?
 2 A I am.
 3 Q Okay. And can you describe your
 4 district geographically?
 5 A Uh-hmm. It's all of Mobile and Baldwin
 6 Counties, all of Escambia County, all of
 7 Washington County, and all of Monroe County and a
 8 part of Clarke County.
 9 Q And can you describe your constituents?
 10 A Well, I have over 700,000 people that
 11 live in my district. Some people live in urban
 12 areas. Some people live in suburban areas. Some
 13 people live in rural areas. Some people are
 14 working in one type of work. Some people are
 15 working in different types of work. So it's a
 16 fairly diverse district. I like that, by the way.
 17 And we try to make sure we stay in touch with
 18 everybody in our district, wherever they live.
 19 Q What are the racial demographics of your
 20 district?
 21 A Well, I don't know precisely.
 22 Q Sure. I'm not asking for precise

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1 numbers, but -- sorry to interrupt, but if you
 2 could give kind of a general description, that
 3 would be helpful.
 4 A Well, the majority would be white.
 5 There would be a substantial African-American
 6 population and much smaller numbers of Hispanic
 7 Americans. And we do have Asian-Americans
 8 particularly in the southern part of Mobile
 9 County.
 10 Q And you gave a little bit of that in the
 11 last part of your answer, but can you describe how
 12 the various racial groups, you know, how they're
 13 kind of spread over the district in terms of
 14 geographically? Are they segregated? Are they --
 15 is it pretty spread evenly over the district?
 16 A Well, the district's got so many
 17 counties in it that you have white and
 18 African-American people in every county. The
 19 Asian-American population tends to be, not
 20 exclusively, but the vast majority of them are in
 21 Mobile County. And you do have a fairly sizable
 22 Hispanic population in the southern part of

Page 19

1 Baldwin County. That's not to say there aren't
 2 Asian-Americans --
 3 Q Sure.
 4 A -- and Hispanic-Americans in other
 5 places, but that's where you tend to find them.
 6 Q Okay. How about African-American
 7 residents and white residents of the district, are
 8 there -- can you describe kind of patterns of
 9 residential -- residential patterns among those
 10 two groups?
 11 A Well, if you get into the four rural
 12 counties, Monroe, Clarke, Escambia, and
 13 Washington, I don't -- I don't know that there is
 14 any sort of pattern. If there is, I haven't been
 15 aware of it. In Baldwin County, there's a smaller
 16 African-American population, smaller percentage,
 17 but it's not like they're just in one part of the
 18 county. You'll find pockets, I guess, of
 19 African-Americans in different parts of Baldwin
 20 County.
 21 In Mobile County, it used to be that
 22 African-Americans were only -- the majority were

Page 20

1 found in the eastern part of the City of Mobile,
 2 Prichard, southern part of the City of Mobile, et
 3 cetera, but there has been in the last, at least
 4 several years, since I've been in Congress, a
 5 growing number of African-Americans that are
 6 moving out and they're locating in other areas.
 7 So they're actually dispersing more, from my
 8 experience. Some of that comes from the fact that
 9 when I campaign, I go door to door, so I'm
 10 literally seeing people when they come to the
 11 door. And some of it is when I go out and do my
 12 town halls, I'm seeing people in different parts
 13 of my district. I know when people come to the
 14 district, well, they come from this community. So
 15 that's been a change in the last several maybe
 16 more years.
 17 Q In the City of Mobile, are there racial
 18 patterns in terms of where people live?
 19 A Well, as I said, you find a
 20 disproportionately high number of
 21 African-Americans in what I call the eastern part
 22 of Mobile, east of where I-65 bisects the city.

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Congressman Bradley Byrne

1 And also in the southern part of Mobile, we call
 2 that area Down the Bay, Maysville, et cetera.
 3 But, in my experience, in the last
 4 several years, I'm seeing more African-Americans
 5 moving west of I-65, and there's a more integrated
 6 population out west than there used to be, and
 7 that seems to be something that is evolving and
 8 getting stronger.
 9 Q Okay. How long have you seen that
 10 pattern that you just described occurring?
 11 A You know, I didn't notice it until I ran
 12 for Congress in 2013. I think it was occurring
 13 before I noticed it, but I certainly noticed it
 14 when I ran for Congress the first time in 2013
 15 because I went to so many different neighbors
 16 knocking on doors. So you begin to see, you know,
 17 there are a lot of African-Americans that are
 18 living in Sims, for example, and so you see that
 19 pattern begin to emerge. Since I was elected in
 20 2013, I'm seeing it occur more and more
 21 frequently.
 22 Q Got you.

Page 22

1 Did you grow up in Alabama, Congressman?
 2 A I did.
 3 Q Where did you grow up in Alabama?
 4 A I grew up in Mobile.
 5 Q Did you grow up in the City of Mobile?
 6 A I did.
 7 Q And you previously served as a State
 8 Senator from Alabama's 32nd State Senate District;
 9 is that right?
 10 A I did.
 11 Q And what time period did you serve as
 12 State Senator?
 13 A I was elected in 2002. You assume the
 14 office the moment of your election, so November of
 15 2002 until I resigned to become Chancellor of
 16 Postsecondary Education in May of 2007, I believe.
 17 Q Okay. Were you ever involved in any
 18 redistricting in any capacity in that role?
 19 A Other than being a witness that I told
 20 you about previously, but I wasn't on the
 21 reapportionment committee, no.
 22 Q I assume from the time period, too, it

Page 23

1 was probably either after the last redistricting
 2 or before the next one.
 3 A Yes, I don't remember when I was in the
 4 legislature that I as a legislator ever actually
 5 dealt with any reapportioning.
 6 Q Okay. And you also previously served as
 7 a member, as we briefly discussed earlier, as a
 8 member of Alabama's Board of Education.
 9 A Right.
 10 Q And let me actually give you another
 11 exhibit. Actually before I do that, what -- about
 12 what time period were you on the Board of
 13 Education?
 14 A I was elected in 1994 in November. My
 15 predecessor was appointed to be the DA of Mobile
 16 County, and the Governor appointed me to serve out
 17 the remainder of his term. So I actually assumed
 18 my office in December of 1994 and left that office
 19 when I was elected to the State Senate in November
 20 of 2002, so eight years.
 21 Q All right. I'm going to give you
 22 another exhibit, which will be, I think, Exhibit

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1 5.
 2 A I'll move these up here.
 3 Q Sure, yes.
 4 (Exhibit 5 was marked for identification
 5 and attached to the deposition transcript.)
 6 BY MR. SPIVA:
 7 Q Congressman Byrne, this one is labeled
 8 at the top "2011 State Board of Education
 9 Districts." I realize that was well after the
 10 time that you served on the BOE, but does -- does
 11 this map appear to be pretty similar to the way
 12 the districts were drawn when you were on the
 13 board?
 14 A It is not.
 15 Q It's not, okay.
 16 What are the major differences that you
 17 see?
 18 A Well, I can't speak to the other
 19 districts, but my district, which is District 1,
 20 was all of Mobile County, all of Baldwin County,
 21 and all of Escambia County. No part of Mobile
 22 County was a part of District, I guess that's --

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Congressman Bradley Byrne

1 Q Five?

2 A Five? And I did not represent

3 Covington, Butler, Conecuh, or Crenshaw.

4 Q Okay. And when you were on the Board,

5 was there ever a court ordered change to the Board

6 of Education districts?

7 A No, I don't think so.

8 Q Okay. You don't recall like in 1996

9 there wasn't any kind of a change to the

10 districts?

11 A Not that I can recall. It certainly

12 didn't affect my district.

13 Q Okay. So during the time that you were

14 on there, as you recall, you didn't -- you

15 represented, as you said, Mobile, the whole county

16 of Mobile?

17 A Yes. My district from the moment I was

18 on the Board to the moment I left was all of

19 Mobile County, all of Baldwin County, all of

20 Escambia County.

21 Q What district did you represent? I

22 realize this is not the same configuration --

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1 Q '98. Or I guess I should say election

2 because you had been appointed. Did you serve

3 through '98?

4 A I was actually elected in '94. My

5 predecessor, John Tyson, was appointed by Governor

6 Folsom to be the DA in Mobile County. So he had

7 two months left on his term, and so the Governor

8 appointed me to serve out those two months before

9 I assumed my full four-year term in January of

10 1995.

11 Q I see, okay.

12 So when you first ran, you ran as a

13 Democrat.

14 A I did.

15 Q Okay. And you later -- you're currently

16 a member of the Republican party.

17 A Right.

18 Q And you at some point changed from the

19 Democratic party to the Republican party.

20 A In January of 1997.

21 Q Okay. Why did you switch parties?

22 A Because the Democratic party no longer

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1 A It was called District 1.

2 Q And it included, I think you said,

3 Mobile; did it also include Baldwin?

4 A All of Mobile, all of Baldwin, all of

5 Escambia.

6 Q Any other counties?

7 A No.

8 Q Were you aware that at some point after

9 you were on the Board that the map for the Board

10 of Education districts had changed?

11 A I was.

12 Q Okay. And what was your understanding

13 of what brought about that change?

14 A Well, I don't know what brought about

15 that change.

16 Q What -- strike that.

17 When you first got on the Board, you

18 were a Democrat at that point.

19 A I was.

20 Q When you ran for reelection, what year

21 was that?

22 A 1998.

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1 represented the principles that I stood for

2 politically. And I was regularly told by

3 Democratic leaders that I was not a Democrat, that

4 I was really a Republican. I was regularly told

5 by Republican leaders that I was not a Democrat, I

6 was really a Republican. And I sat down with

7 myself one day and said, you know what, you're not

8 really a Democrat, you're really a Republican.

9 And I think I was being honest with myself and my

10 constituents. I think it was the right thing to

11 do.

12 Q I know these things can be complicated,

13 but is there a way to describe in general terms

14 what principles you felt made you fit more with

15 the Republican party than with the Democratic

16 party?

17 A There were a bunch. And some of them

18 really came to focus for me being on the State

19 School Board. I was very much an education

20 reformer. I believed that our education system

21 should be there to serve the children, their

22 parents, not other things. And I found that the

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1 Democratic party stood for taking care of adults
 2 first. And I found that to be totally contrary to
 3 my view of things. I was not familiar before I
 4 became on the State School Board with a two-year
 5 college system. At that time we go to a two-year
 6 college system, and I was not in agreement with
 7 the way that the Democratic party approached the
 8 two-year college system. I had great
 9 disagreements with them about that. I also
 10 disagreed with the Democratic party on basic
 11 issues like abortion, gaming, Second Amendment
 12 rights. And I was already at odds with the
 13 National Democratic Party. What really startled
 14 me was how much at odds I was with the State
 15 Democratic Party. And that made it very clear to
 16 me that I should change parties because, once
 17 again, I was being honest with myself and with the
 18 people I represent about where I stand on issues.

19 Q And on abortion, what -- how did you
 20 differ from the Democratic party on the issue?

21 A I'm ardently pro life.

22 Q And on the Second Amendment, how did you

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1 differ from the Democratic party?

2 A I'm ardently pro Second Amendment.

3 Q Okay. Are you antigun control?

4 A Yes, I'm antigun control. I think we
 5 have a right to bear arms under the Second
 6 Amendment.

7 Q And there was another issue other than
 8 education that you mentioned.

9 A Gaming.

10 Q Gaming. What was -- what was your
 11 difference with the Democratic party on gaming?

12 A Well, again, the Democratic party was
 13 very pro gaming and I was not. You remember in
 14 1999, Governor Siegelman pushed a so-called
 15 education lottery. And he expected the State
 16 School Board to be supportive of his education
 17 lottery. And I remember calling him on the phone
 18 and telling him, because I wanted him to hear it
 19 from me, that I was not supportive of his lottery.
 20 I did not think his lottery was good for the
 21 education system in the State of Alabama.

22 Q You became at some point the Chancellor

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1 of the Alabama Department of Postsecondary
 2 Education?

3 A Uh-hmm.

4 Q When was that?

5 A That was May of 2007.

6 Q Okay. So that was after your time as a
 7 State Senator?

8 A I was a State Senator and then Governor
 9 Bob Riley called me and wanted me to leave the
 10 State Senate, leave my private practice of law and
 11 take on the role of Chancellor with a two-year
 12 college system, a full-time job. When he
 13 initially asked me to do it, I turned him down.
 14 But he came back to me, and some other people came
 15 back to me and persuaded me to do it, and I did
 16 it.

17 Q And what were your -- what was the time
 18 period that you did that role?

19 A I was the Chancellor from May of 2007
 20 until I think May or June of 2009.

21 Q And what did you do after you were the
 22 Chancellor of the Alabama Department of

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1 Postsecondary Education?

2 A I ran for Governor and lost.

3 Q Sounds like that was probably the only
 4 election you ever lost, though.

5 A It's the only election I ever lost, but
 6 I'll never forget it.

7 Q Yeah. I've heard from people that
 8 that's the case, right, that's the -- you never
 9 forget that one.

10 A That's true.

11 Q Yes.

12 So -- and what were your
 13 responsibilities generally as the Chancellor?

14 A The Chancellor is the Chief Executive
 15 Officer of Alabama's two-year college system. At
 16 that time, the governing board was the State Board
 17 of Education so I was formally appointed by the
 18 State Board of Education. That's who I answered
 19 to. They were like my Board of Directors. Since
 20 then they've created a separate board to govern
 21 that system. That's the way it was then.

22 So I was responsible for making sure

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1 that we carried out the laws, that we carried out
 2 the directives and policies of the State Board of
 3 Education, and that the system was delivering on
 4 our mission. At the time I took over, the
 5 two-year college system was in a true crisis.
 6 There were two Grand Jury investigations going on.
 7 The Birmingham News had just won the Pulitzer
 8 Prize reporting on corruption in the system.
 9 Q It's never -- when you get the Pulitzer
 10 Prize for a system that is corrupt, right --
 11 A Yes. I mean, when the biggest newspaper
 12 in your state gets the Pulitzer Prize, reporting
 13 about the corruption of the system you've just
 14 been appointed to take over -- and we were
 15 attracting a lot of new jobs to Alabama. The
 16 two-year college system is a critical, if not the
 17 critical component to providing the workforce
 18 education the people need to be able to be
 19 prepared for those jobs. And so the Governor
 20 said, look, I need for you to first and foremost
 21 clean up the corruption in the system. And the
 22 corruption was endemic in the system. Secondly,

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1 you've got to turn this system to be a much more
 2 effective provider of this education as we
 3 continue to develop Alabama economically. And
 4 then later on, after I became Chancellor, because
 5 of the recession, I had to do all of that while we
 6 were cutting tens of millions of dollars out of
 7 the system, but it was a daunting task. But I
 8 understood how important it was to the state and,
 9 despite the fact I did not want to do it -- and
 10 Governor Riley can tell you how much I did not
 11 want to do it -- I did it. I'm glad I did, and
 12 I'm proud of the work that we did.
 13 Q That's great.
 14 And you also practiced law, I know, over
 15 a long period of time. What kind of law did you
 16 practice?
 17 A I tell everybody I started out my career
 18 as a commercial litigator who did labor and
 19 employment law on the side and at the end of my
 20 career I was a labor and employment lawyer who did
 21 commercial litigation on the side. Both sides of
 22 law, obviously, and doing a lot of litigation.

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1 Q And where did you practice when you were
 2 practicing law?
 3 A I started out -- well, all of my
 4 practice was in Mobile -- geographically I was
 5 headquartered in Mobile. Obviously I had cases
 6 all over the State of Alabama, some in the
 7 panhandle of Florida, a couple in the Gulf Coast
 8 of Mississippi.
 9 Q Okay. Let me ask you, I know you've --
 10 it sounds like you've only had brief conversations
 11 kind of about this case, but you understand, I
 12 take it, Congressman, that you've been listed as a
 13 potential witness for the Secretary.
 14 A Yes, I have.
 15 Q And what topics do you expect to testify
 16 about at trial?
 17 A About the proposals that would
 18 significantly change District 1.
 19 Q Okay. Anything else?
 20 A No, sir.
 21 Q And what do you expect to testify about
 22 concerning that topic?

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1 A I would be testifying, I assume, about
 2 the significant concerns I have about the
 3 proposals in each of Exhibits 1, 2, 3, and 4, for
 4 the redrawing of District 1.
 5 Q We'll dive into that in just a minute.
 6 And let me just ask you before we do
 7 that, did you participate in any capacity in
 8 Alabama's redistricting process in the 2011
 9 redistricting cycle?
 10 A No, I was not in the legislature.
 11 Q Okay. Did you provide any input, have
 12 any conversations, anything like that?
 13 A Not about congressional districts. I
 14 think after the fact I had a discussion with Randy
 15 Davis who was the House Member somewhat -- in some
 16 way involved in doing this about the School Board
 17 District (indicating).
 18 Q And you're pointing to what I believe
 19 was marked as Exhibit 5?
 20 A Exhibit 5, yes. He and I had a
 21 discussion about that. It may have been after the
 22 fact. I'm not certain.

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1 Q After it had changed to this current
 2 configuration?
 3 A It was either as it was being proposed
 4 in this configuration or after it had been
 5 adopted.
 6 Q Okay. And can you tell me, Congressman
 7 Byrne, about that conversation with Mr. Davis?
 8 A Yes, I was concerned about taking away
 9 any part of Mobile County and putting it into
 10 another district. He and I had a discussion about
 11 why they decided to do that.
 12 Q And why were you concerned?
 13 A Because I think it's important to keep
 14 counties whole. I think it's problematic for a
 15 State School Board member from Montgomery to be
 16 able to understand the problems with the school
 17 system in Mobile County.
 18 Q Okay. And what was your understanding,
 19 if any, of why the current configuration was being
 20 proposed?
 21 A Well, because the population changes
 22 within District 5, they needed to grow it, and so

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1 just wasn't configured this way. But it was a
 2 majority-minority district then.
 3 Q Okay. And was that true the whole time
 4 that you were on the school board?
 5 A Yes, there were -- there were two
 6 different members. I have forgotten the man that
 7 was the member on it when I first was elected.
 8 But he was retired and was replaced by Ms. Ella
 9 Bell. So I worked with both of them and actually
 10 spent a little bit of time in various places in
 11 that district with them because they were
 12 different school board members. And particularly
 13 because I had a contiguous district to work with
 14 them, there were times when there were people in
 15 some of the counties just to the north of my State
 16 School Board district would call me for help on
 17 things, and I would tell them, I'm not your school
 18 board member, but I'm happy to help.
 19 Q Right.
 20 A And I would always inform the member
 21 from that district, hey, I've had this request
 22 from people in your district. I don't want to do

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1 they were looking for ways to grow it. And they
 2 decided to put part of it, as you can see from
 3 Exhibit 5, in the northeastern quadrant of Mobile
 4 County. And so I was expressing concerns about
 5 having two school board members dealing with the
 6 Mobile County School System. That was my primary
 7 concern.
 8 Q Did you have any understanding of
 9 whether -- of what the change to the current
 10 configuration of the Board of Education districts
 11 did in terms of majority-minority districts,
 12 either in District 5 or District 4?
 13 A We didn't get into that. I was more
 14 concerned about the problem of a person from
 15 Montgomery trying to understand all of the issues
 16 regarding the Mobile County School System.
 17 Q Did you -- did you have an understanding
 18 that District 5 is now in the State Board of
 19 Education district -- State Board of Education
 20 map, that that is not a majority-minority
 21 district?
 22 A Well, it was when I was on board. It

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1 anything in your district unless you're okay with
 2 it. In every case they would say, no, fine, I
 3 appreciate you doing it. Sometimes that was true
 4 because of the geographic proximity. It's a lot
 5 easier for somebody from Mobile to deal with
 6 Washington, Clarke, and Monroe, for example, than
 7 it is for somebody from Montgomery. So I could
 8 physically be present where it was very difficult
 9 for somebody from Montgomery to physically be
 10 present.
 11 Q I take it from kind of the beginning of
 12 your answer, it sounds like there were two
 13 majority-minority districts in the plan while --
 14 during the time that you were on the school board?
 15 A Yes, there was this district, District
 16 5, and I can't remember the number of the
 17 district, but it was Dr. Hall -- Dr. Hall's
 18 district. That was mainly Birmingham. I know it
 19 was more than that. Dr. Hall was the vice chair
 20 of the Board when I was on the Board. Vice chair
 21 is elected by the Board. The governor's formally
 22 the chair of the Board, but the vice chair really

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1 functions as the chair of the Board. So Dr. Hall
 2 was our vice chair chair the whole time I was on
 3 the Board, and I certainly had a lot of
 4 interaction with Dr. Hall and sometimes in her
 5 district.
 6 Q Okay. Just looking at Exhibit 5, do you
 7 recall if Dr. Hall represented what's labeled as
 8 District 4 which kind of goes up into Jefferson
 9 County and Birmingham?
 10 A Yes, I think she did, but I don't know
 11 that it was configured this way. I can't tell you
 12 for sure.
 13 Q Sure.
 14 A Mainly when I was interacting with
 15 Dr. Hall in her district, I was in the Birmingham
 16 area.
 17 Q What kinds of interactions did you have
 18 with Dr. Hall concerning her district?
 19 A We would have State School Board
 20 meetings in her district. She would have other
 21 meetings in her district pertaining to education,
 22 and she would invite some or all of us to come to

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1 these meetings.
 2 Q Sure.
 3 A I tried to accommodate Dr. Hall every
 4 chance I could. I had tremendous respect for her.
 5 She was our leader. And if she asked me to do
 6 something, if I could do it, and I was a
 7 practicing attorney so I -- lawyer duties, but if
 8 I could do it, I tried to make my schedule
 9 available for her.
 10 Q How about in District 5, it sounds like
 11 you had some interactions with the representative
 12 from -- school board member, I should say, from
 13 District 5 as well?
 14 A Oh, yes, yes. We had not just those
 15 three counties, just above District 1, which would
 16 be Washington, Clarke, and Monroe, but we had
 17 meetings in Selma, Tuskegee. Lots of things
 18 around Montgomery. Of course, when we met
 19 formally, usually we were meeting in Montgomery,
 20 but we had other things around Montgomery like the
 21 Trenholm State Technical College there in
 22 Montgomery. So I had a fair amount of meetings in

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1 District 5.
 2 Q Okay. And who represented District 5
 3 when you were on the Board?
 4 A I think the gentleman's name when I was
 5 first elected was Dr. Willie Paul, and then he
 6 retired and he was replaced by Ella Bell, who I
 7 think is still on.
 8 Q Okay. Did you work with either Dr. Paul
 9 or Ms. Bell?
 10 A A lot.
 11 Q What kinds of things did you work with
 12 them on?
 13 A Just about everything you can imagine
 14 that was within the jurisdiction of the State
 15 School Board. So it could be K-12 matters. It
 16 could be postsecondary matters. There was a lot
 17 of that. A lot of the good things about the Board
 18 when I was on it was we all interacted with one
 19 another about one another's districts a lot, and I
 20 really appreciated, when I was first on the Board
 21 and not as familiar with that district, Dr. Paul
 22 was really good about explaining things to us,

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1 taking us there. I remember we had a State School
 2 Board meeting in Tuskegee and we got there the day
 3 before, spent the night. We got to tour, learned
 4 all about Tuskegee. So I think Dr. Paul did a
 5 really good job of making sure we knew about his
 6 district, in each of his district, and I really
 7 enjoyed doing that.
 8 Q So let me shift gears again here and
 9 just ask you if you're familiar with the term
 10 "communities of interest" as it applies to
 11 redistricting.
 12 A I couldn't define it for you.
 13 Q Okay. Not a formal definition, but do
 14 you have a sense of kind of what that means or --
 15 A No, you would have to tell me.
 16 Q Okay. In your view, are there
 17 communities of interest in your district?
 18 A Of course.
 19 Q Your congressional district?
 20 A Yes.
 21 Q Is there a way you can describe those?
 22 A Yes.

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1 Q I can -- I can give you a current -- I
 2 know you know it very well, but if it's easier to
 3 talk about, looking at the current map, I can --
 4 why don't we mark one just so we all have it in
 5 front of us while you're -- while you're
 6 discussing. So this will be Exhibit 6.
 7 (Exhibit 6 was marked for identification
 8 and attached to the deposition transcript.)
 9 BY MR. SPIVA:
 10 Q If you want to do it in connection with
 11 Exhibit 6, which is the current map of the U.S.
 12 House Districts in Alabama, or if you want to just
 13 do it, you know, without referencing it, however
 14 is, you know, easiest for you, but if you could
 15 kind of describe the communities of interest in
 16 your district.
 17 A Sure. And I'll start with Exhibit 6
 18 because it is helpful. If you look at this map of
 19 those counties, everything feeds into Mobile
 20 Baldwin, okay? First of all, you have two major
 21 river systems that come together, and those two
 22 river systems help define both the economy and the

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1 culture and the communities of that area, going
 2 back hundreds of years. Many of the jobs for the
 3 district are there in Mobile and Baldwin Counties,
 4 and so you have people from Washington, Clarke,
 5 Monroe, and Escambia, who travel into those
 6 counties for their work and then go home at the
 7 end of the day. So just sort of center of
 8 everything is here in Mobile and Baldwin Counties
 9 just because of what they do economically. A lot
 10 of what the people in that area also get in terms
 11 of information comes from the three television
 12 stations there because people all get those
 13 television stations, and they obviously get their
 14 news from that. It used to be we had a common big
 15 urban newspaper, the Mobile Register, we still do,
 16 but it only prints three days a week so it's not
 17 quite as strong as it used to be.
 18 Q It's kind of a common thing around the
 19 country, the local papers going online or just
 20 going out of business.
 21 A Well, in Alabama, the three biggest
 22 newspapers have gone to I think three days a week.

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1 They have this online presence called AL.com. So
 2 -- but it used to be that even people in Monroe
 3 would get the Mobile Press-Register. That's where
 4 they got a lot of their news. But certainly today
 5 they get a lot of their news from those three
 6 local television stations.
 7 Also because of the fact that you've got
 8 an urban area there in Mobile, a lot of people are
 9 pulled into that for cultural activities, civic
 10 activities, entertainment and things. So Mobile
 11 and now -- now that Baldwin County has grown so
 12 much, they're kind of a magnet for those four
 13 counties north of there and pull people in, both
 14 for work and for the other things I mentioned.
 15 Q Okay. Now, I notice that Clarke County
 16 is only partially in your -- in your district. Is
 17 there -- to your knowledge, is there a reason why
 18 that piece of Clarke County is included in
 19 District 1 but not the rest of Clarke County?
 20 A Well, I wasn't a congressman when this
 21 --
 22 Q Sure.

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1 A -- map was done so I'm not sure what
 2 their motives were, but if you followed U.S. 43
 3 north out of Washington County, it would go
 4 basically through the middle of what you see there
 5 as part of District 1. So that includes two key
 6 communities, Jackson and Grove Hill. That's not
 7 all of the city limits of Jackson or all the city
 8 limits of Grove Hill, but a big part of each of
 9 those run right where U.S. 3 goes through there.
 10 And so the people in Grove Hill and Jackson will
 11 drive down to U.S. 43 to get to Mobile both for
 12 work and those other things that I mentioned.
 13 Q Right. Okay. Any other things that you
 14 would describe as communities of interest in your
 15 district?
 16 A Well, everything keys off of what I said
 17 before. Obviously jobs, economics pull people in.
 18 You've got that river system. A lot of us like to
 19 hunt and fish and so the Mobile-Tensaw River Delta
 20 is a very rich place in terms of habitat. We're
 21 all interested in that. This is the oldest part
 22 of the state of Alabama, founded by the French in

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1 1701, but you had other people that came in there
 2 to form that area. So you have this sort of
 3 historical tradition there. Mobile was a French
 4 city where Mardi Gras started in the United
 5 States. So Mobile -- used to be Mobile had Mardi
 6 Gras parades, nobody else did. Now these other
 7 places all have Mardi Gras parades. And so Mardi
 8 Gras has become something that pulls people
 9 together. We have a major university, University
 10 of South Alabama. It not only pulls people in
 11 from those areas, it does things out into these
 12 counties. So everything comes back to that for
 13 those four counties outside of Mobile and Baldwin
 14 County, everything comes back to that.
 15 Now, the fastest growing county in the
 16 State of Alabama, and, therefore, in my district,
 17 is Baldwin County on the eastern side of Mobile
 18 Bay. And so you used to just talk about Mobile,
 19 but my answer previously included Baldwin County
 20 because increasingly you've got Baldwin County
 21 pulling people in, whether it's to the eastern
 22 shore of Baldwin County or down there on the

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1 here I'm not just focusing on your district but
 2 the whole state -- do you think they're generally
 3 kept together under the current map?
 4 A Well, I haven't thought about it for
 5 other districts, and I can't claim that I have the
 6 same level of knowledge about the other districts.
 7 Q Sure.
 8 A But knowing what I know about them, I
 9 think there are common interests in each of these
 10 districts. You can look at the map and tell that
 11 there are some districts that are geographically
 12 larger than others. And the larger they are, the
 13 more geographic area you cover, the less you have
 14 communities of interest. So that might be the
 15 case. But when you look at like the District 5,
 16 which I call it the Tennessee Valley. My daughter
 17 actually lives up there so I'm familiar with it
 18 through her, but I've also spent a lot of time
 19 working up there. That is clearly a community of
 20 interest because of the fact that they share the
 21 Tennessee River. The Tennessee Valley Authority
 22 provides their power. They have their own unique

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1 beaches, Orange Beach and Gulf Shores, which are
 2 tremendous hubs for tourism activity -- people
 3 play and have fun. Also as part of our sort of
 4 shared culture down there is we love seafood. And
 5 the seafood industry is very important to that
 6 district. Lots of restaurants, not just in Mobile
 7 and Baldwin Counties, but even these other places,
 8 lots of restaurants specialize in seafood. So
 9 that's another part of it. Gosh. While the
 10 economy is diverse in that area, there are certain
 11 things about the economy of that area that are
 12 unique. For example, you've got a port. No other
 13 part of Alabama has a port on the ocean or the
 14 Gulf of Mexico. As I said, seafood is a big part
 15 of it. And recreational fishing is a big part.
 16 So you have -- if you just think about that part
 17 of Alabama, and every part of Alabama is unique
 18 and has its own good attributes, but those --
 19 those are unique attributes, good attributes for
 20 that part that pull people together.
 21 Q Okay. Do you believe that communities
 22 of interest under the current Alabama map -- but

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1 history up there. Huntsville, which is right near
 2 Madison County, is where they made the rocket for
 3 Apollo 11. So there's a lot of pride around that
 4 for obvious reasons. It's a more mountainous
 5 area. Where I live, it's more of a flat, coastal
 6 plain going down to the beaches area. So those
 7 two areas are pretty distinct. You can tell that.
 8 District 2 is mainly -- we know it
 9 mainly as the wiregrass, plus Montgomery and some
 10 suburban counties. Wiregrass is a pretty
 11 well-defined region that has its own separate
 12 economy, special features, culture. Their
 13 agriculture is somewhat different from the
 14 agriculture that I have in my district. So
 15 they're more common that way.
 16 District 7 is largely what we would know
 17 as the Black Belt in Alabama, not because of
 18 people's race but because of the soil.
 19 Q Right. Yes.
 20 A And so those counties have a lot in
 21 common with one another. And it's contiguous to
 22 my county, and obviously I have a part of Clarke

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1 County that is considered to be a part of it. So
 2 Representative Sewell, who represents District 7,
 3 and I work together a lot because we have a lot of
 4 things that we have in common.

5 Q I went to law school with Representative
 6 Sewell.

7 A Well, she and I -- she was, by the way,
 8 the bond lawyer -- one of the bond lawyers --
 9 outside bond lawyers when I was Chancellor of the
 10 Postsecondary system. This is before she was in
 11 Congress.

12 Q Right, yes, sure.

13 A So before she and I were colleagues, she
 14 was my lawyer.

15 Q Oh, okay.

16 A So she and I have a good working
 17 relationship. I knew some from my time before
 18 being in Congress about that district, Dr. Paul
 19 obviously introduced me to a lot, but I think
 20 Representative Sewell does a good job of that as
 21 well. So I see her district as having a community
 22 of interest.

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1 have a lot in common and that sort of grouping
 2 makes sense to me.

3 Q Okay. Does it make sense to, with
 4 respect to kind of what you just said, District 6
 5 and District 7, to separate the suburban areas of
 6 Birmingham from the -- from the city itself?

7 A Well, I would prefer -- this is not with
 8 regard to that district -- with all districts -- I
 9 prefer to keep counties whole. But -- and I don't
 10 know why they chose to do it this way. It may be
 11 that they thought putting Birmingham together with
 12 the Black Belt districts made more of a community
 13 of interest than the suburban counties for
 14 Birmingham. I don't know. But I just -- just
 15 knowing those counties, I think that they have a
 16 lot in common.

17 Q Okay. Do you think the City of Mobile
 18 has anything in common with the Black Belt
 19 counties?

20 A Not as much. Mobile historically --

21 Q I keep mispronouncing it. I tried to
 22 get it right, but I keep -- I keep saying it

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1 East of Alabama, District 3, that's Mike
 2 Roger's district. It's a little bit
 3 geographically bigger, but we kind of tend to see
 4 east Alabama as its own geographic region within
 5 the state. It goes from Russell all the way up to
 6 Cherokee, but you've got Opelika and Auburn where
 7 Auburn University is, an extremely important asset
 8 to the State of Alabama.

9 And then District 4, which is Robert
 10 Aderholt's district, is over there just below the
 11 Tennessee Valley. You have Cullman. You have
 12 Jasper. These are -- they tend to be kind of the
 13 same area. And that area right in the center,
 14 District 6, that's Gary Palmer's district. That's
 15 mainly the suburban areas to the City of
 16 Birmingham. The part of District 7 that gets up
 17 into Jefferson County is mainly -- mainly the City
 18 of Birmingham. So all of this area of District 6
 19 is the suburban areas to Birmingham.

20 So when I look at those, with not having
 21 the same level of knowledge about each of those
 22 districts as I do about my own, I do see that they

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1 wrong.

2 A It's real simple. It's Mobile.

3 Q Mobile, yes.

4 A Mobile historically was the port through
 5 which timber and agricultural products moved from
 6 the interior of the state of Alabama and then out
 7 to the world.

8 Q Right.

9 A And so back in those days, when that was
 10 a very important part of the economy of the
 11 interior of the state, then there probably was
 12 more contact between Mobile and the Black Belt.
 13 That's not nearly as important anymore. So I
 14 don't see as much contact and have not in my life
 15 have seen as much contact between those Black Belt
 16 counties and the southwestern part of the state.
 17 They just don't have that connection as much as
 18 they used to. I wish we had more of a connection,
 19 to be honest with you, but it's just the
 20 practicalities of the economy that they have
 21 there. Mobile is not as important to them because
 22 they're not moving things through the port as much

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1 as they used to.

2 Q Right. Okay.

3 Let me ask you, if you would, can we

4 flip back to the current Board of Education map,

5 which I think is Exhibit 5.

6 A Five.

7 Q Five, yes. I apologize. There are a

8 couple questions I think I neglected to ask you

9 when we were talking about that. Do you -- do you

10 view the 2011 Board of Education plan as --

11 respecting communities of interest? And in

12 particular, kind of focusing on your area of the

13 state and the area above it, so kind of what are

14 now labeled District 1 and District 5. I mean, do

15 you -- do you view that as respecting communities

16 of interest, or not really?

17 A Not really.

18 Q How come? I apologize, I know you

19 covered some of this before.

20 A That's fine.

21 I don't think that Conecuh, Butler,

22 Crenshaw, and Covington look to Mobile very much,

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1 Q Ella Bell, yes.

2 Has she ever expressed to you any

3 concerns about the current configuration of the

4 district -- of her district?

5 A I don't think I've talked to Ms. Bell

6 since the current configuration of this district

7 was made.

8 Q Okay. Have you -- have you heard from

9 anybody concerns about the current configuration,

10 especially with respect to District 5?

11 A Well, I referenced earlier the

12 conversations I had with Mr. Davis, who was the

13 representative who was in charge of putting

14 together the State School Board districts. I

15 certainly registered to him my concerns. I don't

16 know that I remember hearing anybody else have the

17 same concerns or at least voice them.

18 Q Okay. So let's maybe now turn back to

19 what we've been calling the proposed plans or

20 revised plans. Why don't -- why don't we start

21 with what was Exhibit 1, which is labeled "Revised

22 Plan 1, Alabama -- U.S. House, Revised Plan 1."

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1 whereas obviously the people in the northeast

2 quadrant of Mobile County that are in District 5,

3 they look to Mobile all the time. So they've been

4 essentially for purposes of the State School Board

5 taken out and put into a district that looks more

6 to Montgomery.

7 Q Okay. When you say "looks to," I think

8 I kind of like intuitively understand what you

9 mean, but can you explain a little bit more what

10 you mean by "looks to"?

11 A Where do you get your news from. Where

12 is the big city that you go shopping. Where are

13 the commonalities of the economy. Where is the

14 commonality in your traditions. You think of

15 Conecuh, Butler, Crenshaw, and Covington being

16 more a part of what we call the wiregrass. And,

17 like I say, they look to Dothan and Montgomery.

18 They don't look to Mobile as much.

19 Q Okay. Has -- I think you -- you said or

20 named the current representative as Ms. Bell, I

21 believe?

22 A Ella Bell.

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1 A Uh-hmm.

2 Q As soon as I can get it in front of me,

3 let me just ask you, what is your view of revised

4 plan 1, which is Exhibit 1?

5 A I don't think it's good for the counties

6 that are presently in District 1 that would remain

7 in this district, which would be Mobile, Baldwin,

8 and Escambia. And I don't think it's good for the

9 counties that are presently in District 2, which

10 are Covington, Coffee, Dale, Henry, Houston, and

11 Geneva.

12 Q Why not?

13 A Well, they are two different regions of

14 the state, and they don't have the commonality

15 that you see presently existing within present

16 Districts 1 and 2. It's a long way from West

17 Mobile to the eastern part of Houston County. So

18 a congressman has to cover that whole area if

19 they're doing their job right. So it is -- if you

20 look at the present composition of District 1,

21 it's not easy, but it's not as hard to get around

22 that district and cover all those different

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1 communities. Whereas if you had to go all the way
 2 from West Mobile County to Houston County, it
 3 would be far more difficult to cover all of those
 4 communities. I mentioned earlier, I do a lot of
 5 town halls. I do them in every community you can
 6 imagine, big, small, rural, doesn't matter.

7 Q Yes.

8 A It would be very difficult for me to be
 9 able to cover what's here in District 1 and have
 10 the same level of town halls and certainly get to
 11 the variety of places I try to get to. Plus
 12 there's such a difference in the economies, et
 13 cetera, and what you're an advocate for in
 14 Congress, that you would still be an advocate for
 15 the entire district, but it would dilute your
 16 ability to be the advocate for the district. A
 17 Senator and a Governor represent the whole state,
 18 and they have to look out for the whole state. A
 19 congressman looks out for their district.

20 Q Right.

21 A They're the ones totally focused on the
 22 district. So right now as a congressman from

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1 District 1, I can totally focus on what I
 2 described to you earlier as the economy and the
 3 other needs for the present composition of
 4 District 1. What you would be asking a
 5 congressman to do under Exhibit 1 is to take that
 6 same level of effort and spread it out over a much
 7 broader array of interests. I wouldn't say that a
 8 congressman wouldn't try to do it, but I don't
 9 think even somebody working as hard as they
 10 possibly could, could do it as well or with the
 11 same level of attention and focus that there needs
 12 to be, plus you're splitting Mobile County up
 13 between District 2 and District 1, and I do not
 14 think it's in the district -- in the interest of
 15 the people of Mobile County to be split up like
 16 that. I think they need to have a whole county
 17 working with one congressman. I think they need
 18 to be conjoined with the whole county of Baldwin
 19 County.

20 Q Okay. Do you think there would be any
 21 benefits to the people of the City of Mobile to a
 22 configuration such as this?

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1 A I think it would be to the detriment of
 2 the people to the City of Mobile. I've been very
 3 involved in economic development efforts in that
 4 area for a long time. And splitting up our
 5 congressional representation would hurt those
 6 economic development efforts which have, frankly,
 7 done an amazing -- we have gotten an amazing
 8 result these last several years. Airbus has a
 9 plant there, for example. That Airbus plant just
 10 didn't show up there. There was substantial
 11 effort to make it happen. We have a Navy shipyard
 12 there in Mobile. That Navy shipyard didn't just
 13 show up there and still remain there. There's
 14 substantial effort for that to happen. I'm
 15 picking out some big examples.

16 Q Sure.

17 A I would -- I would think it would hurt
 18 those efforts based upon my experience going
 19 forward for there to be two congressmen
 20 representing that area rather than one.

21 Q Something you mentioned a minute ago or
 22 kind of at the beginning of the answer you gave

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1 about the map, you said that it would be
 2 difficult, I think, to kind of represent --
 3 effectively represent the whole area because --
 4 was that in terms of the wiregrass counties in the
 5 eastern part of the proposed District 1, is that
 6 mainly because of the distance or because of other
 7 factors?

8 A Other factors as well. Distance,
 9 certainly, is a big part of it. It's a larger
 10 geographic area, therefore, more difficult to
 11 cover. But there's a big difference in the
 12 Covington and Geneva, Coffee, Dale, Henry, Houston
 13 economy, what they focus on, than there is in the
 14 Escambia, Baldwin and Mobile, of the counties
 15 presently in there. One of the big things about
 16 those eastern counties is you've got right in the
 17 middle of that Fort Rucker.

18 Fort Rucker is a major focus for any
 19 congressman representing that area. It represents
 20 an enormous number of jobs, not just at the Fort
 21 but private sector businesses that do business
 22 with the Fort. You've got a lot of military

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1 retirees around in the -- in the communities
 2 around the Fort.
 3 Houston County and Dothan, they have two
 4 or three different very important businesses going
 5 on there, but one of their newest things, they've
 6 got an osteopath college, a medical school,
 7 osteopath school. That's very different from a
 8 medical school like you have at the University of
 9 South Alabama in Mobile. Not worse or better,
 10 just different.
 11 Q Right.
 12 A You have a major university in Mobile
 13 County. They do not have a major university in
 14 the eastern counties in District 1, but they look
 15 just north to Pike where Troy University is. Troy
 16 University is a very different university from the
 17 University of South Alabama. Not better or worse.
 18 Different.
 19 Q Right.
 20 A So the interest that you would be trying
 21 to represent in these eastern counties are
 22 fundamentally different from the interests over

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1 here in the western part, Mobile, Baldwin, and
 2 Escambia. Even though there's some commonality in
 3 agriculture, the agriculture is different.
 4 They've got more poultry and cattle over there
 5 than we do on our side. We have more row crops
 6 than they do. So even though the agriculture may
 7 be similar, there's still some significant
 8 differences. So, for example, in Mobile and
 9 Baldwin Counties where I focus on things like
 10 fixing the red snapper season, which is a federal
 11 thing, believe it or not, making sure that we have
 12 the proper funding for the Navy shipyard in
 13 Mobile. I can really focus on things like that.
 14 But if you throw into the mix Fort Rucker, Troy,
 15 these other agricultural interests that are
 16 different from mine, then, once again, not just
 17 from the geography, but from the diversity of
 18 interest, I'm spreading my focus. I'm spreading
 19 my efforts over a much broader array of interests.
 20 Q Okay. Are there any issues like that
 21 that you can think of where it would present kind
 22 of a conflict in the way you would need to vote on

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1 a given issue? I understand that they're
 2 different, they're kind of different issues, but
 3 where you would say, well, gosh, I got to vote
 4 for, you know, some water issue over here but I've
 5 got -- I've got to vote contrary to that because,
 6 you know, it's a more land-based area. Can you
 7 think of anything like that?
 8 A You know, I'll give you an example. We
 9 had a water bill that moved through Congress a
 10 couple years ago, and because I represent these
 11 seafood areas, some of the seafood interests came
 12 to me and said we want to include in the bill the
 13 authorization of a study about oyster production.
 14 Okay? Very important to that area. The Georgia
 15 members saw that language and thought that it was
 16 there to try to protect the flow of water that
 17 ultimately gets down to Appalachia Coia because
 18 they have their own oysters. And that's where the
 19 Chattahoochee flows out of Georgia along the line
 20 with Alabama, and then through Florida.
 21 And so I was able to tell them, no, this
 22 has to do with my district, which is over here.

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1 Q Right.
 2 A It doesn't have to do with this side
 3 over there, and I'm not getting into your water
 4 wars because there's a water war between Alabama,
 5 Georgia, and Florida --
 6 Q Right.
 7 A -- with regard to the Chattahoochee and
 8 water coming out of the Atlanta. So that was -- I
 9 was able to escape what would have been a blocking
 10 vote from the Georgia delegation over that. But,
 11 in large part, it's not necessarily how you vote.
 12 It's how much time -- there's only so many hours
 13 in the day.
 14 Q Right.
 15 A I only have so many people on my staff.
 16 Okay? If you make me take my time, my staff and
 17 divide it along a much greater geographic area, a
 18 much wider area of interest, each one of those is
 19 going to get less attention, less effort.
 20 Something is going to suffer. That's just the
 21 nature of the world that we live in.
 22 Q Right.

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1 A So, once again, that's the difference
 2 between being a congressman and a Senator.
 3 Q Right.
 4 A A Senator looks after the entire state.
 5 Q Right.
 6 A The congressman is focused on his or her
 7 district. I focus on my district. Congresswoman
 8 Roby who presently represents District 3 -- is
 9 that what it is?
 10 Q I think so, yes.
 11 A Yes. Is it 2?
 12 Q Two.
 13 MR. DAVIS: Roby is 2.
 14 A She really focuses on her district. She
 15 knows that stuff about Fort Rucker. And she got
 16 it. And if she needs my help, she'll call me and
 17 I'll give it to her, but I recognize her as the
 18 expert on Fort Rucker. If she needs some help
 19 with Troy, even though I don't represent Troy, she
 20 calls me and I'm going to help her, but I
 21 recognize that she's got the expertise on that.
 22 All of us in the Alabama delegation have that

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1 but in federal programs, federal grants, and even
 2 in economic development. Believe it or not,
 3 they'll take a congresswoman or congressman when
 4 they're doing -- pitching somebody to come to an
 5 area and bring them in the room and say this is
 6 why this area is so important. This is why you
 7 should bring your business or factory and locate
 8 it here. I play that role. I know everybody else
 9 in delegation plays that role as well.
 10 Q Sure, okay.
 11 MR. DAVIS: Before you go to the next
 12 question, Congressman, do you need a break or a
 13 cup of water?
 14 THE WITNESS: I would love a cup of
 15 water.
 16 MR. SPIVA: I'm sorry. I apologize.
 17 I've been sitting here drinking this.
 18 THE WITNESS: Are we taking a break?
 19 MR. SPIVA: Yes, why don't we take a
 20 few-minute break.
 21 MR. DAVIS: Just a couple minutes.
 22 THE WITNESS: Yes, that would be great.

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1 understanding. If Congresswoman Sewell tells me
 2 "I need some help with something in the Black
 3 Belt," you tell me where you want to go, I'm going
 4 to get behind you and help you. We do that for
 5 one another. It's one of the strengths of our
 6 delegation, is that we do that. But we have to
 7 have that focus and expertise by the member from
 8 that district to lead the rest of us and, frankly,
 9 to lead the state as to where we need to go.
 10 Q Right. I understand you are -- you are
 11 seeking to be the next Senator from Alabama.
 12 A I am. I am.
 13 Q You're going to have a change of focus.
 14 A I am. I am. And that's why right now I
 15 can sort of see the difference.
 16 Q Right.
 17 A There is -- there is a fundamental
 18 difference between being a Senator, for that
 19 matter a Governor, and being a congressman.
 20 Congressmen or congresswomen focus on their
 21 district. They're the advocate for their
 22 district. And that's true not just in legislation

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1 THE VIDEOGRAPHER: The time is 11:06
 2 a.m. and we're going off the record.
 3 (A brief recess was taken.)
 4 THE VIDEOGRAPHER: The time is 11:11
 5 a.m. and we're back on the record.
 6 MR. DAVIS: Before we continue, Bruce,
 7 am I correct that we have an understanding that
 8 this deposition be used only for purposes of this
 9 litigation?
 10 MR. SPIVA: Yes.
 11 MR. DAVIS: Including the video, the
 12 deposition transcript, all of that.
 13 MR. SPIVA: Yes, yes. It's not under
 14 seal, obviously, but we have no intent of like,
 15 you know, displaying this on the evening news or
 16 anything, you know -- anything like that, yes,
 17 right, exactly. I mean, I just -- I just want to
 18 be careful that I'm not like agreeing to keep it
 19 under seal because then it creates all kinds of
 20 problems when you have, as you know, Congressman,
 21 when you have to file, you have to file with a
 22 motion, and, you know, if there's anything that's

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1 referenced or anything like that --

2 MR. DAVIS: No, no, I'm not suggesting

3 it should be under seal. I just want the typical

4 understanding that with most depositions, it would

5 be used for purposes of the litigation.

6 MR. SPIVA: Yes, that is -- that is -- I

7 will agree to that, yes.

8 BY MR. SPIVA:

9 Q So, Congressman Byrne, was there

10 anything else that was of concern to you regarding

11 revised plan 1, which is I think labeled as

12 Exhibit 1?

13 A Well, at least in general I've covered

14 all of it, but there's -- there are a lot more

15 details I could go into with regard to the

16 different economies, et cetera. But, in general,

17 I think I've told you about the spread of time,

18 spread of resources and advocate over a greater,

19 not only geographic area, but greater different

20 types of interests.

21 Q And then maybe just focusing on, for a

22 minute, the CD 2 under the revised plan 1, and if

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1 of her effort into it, but as smart and capable

2 and hardworking as she is, I don't think she could

3 do it as well.

4 Q And you noted -- well, I'll note, and

5 tell me if you agree, the proposed District 7

6 under revised plan 1, that actually is a lot more

7 kind of compact than the District 7 and

8 Representative Sewell's district in the current

9 plan.

10 A Yes.

11 Q Would you agree with that?

12 A I would. I do have concerns about

13 splitting Tuscaloosa County. I think that split

14 into Jefferson County, but it's presently split

15 into Tuscaloosa County. And I think Congressman

16 Aderholt or Congressman Sewell will handle it very

17 well, but I think Tuscaloosa will be better off

18 with one congressman.

19 Q Right. And Jefferson is currently split

20 as well.

21 A Yes.

22 Q So any other concerns about any of this,

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1 it's helpful to look at the current plan.

2 A Yes.

3 Q In looking at that --

4 A Yes, here.

5 Q -- do you have any further concerns

6 other than the ones you've already articulated

7 concerning the proposed CD 2 under revised plan 1?

8 A Well, I think I said this earlier, but

9 I'll make sure I say it again. I think putting

10 that part of Mobile or any part of Mobile County

11 in the same district with the county that's

12 basically centered on Montgomery is going to

13 dilute the efforts that we're making there to

14 build our economy, and also it's asking somebody

15 who is basically focused on Montgomery to try to

16 learn completely different, you know, economic

17 setting, cultural setting, civic setting. And I

18 think that's asking a whole lot from the person

19 that represents District 2. I don't think they

20 could do it as well. I'm not saying that they

21 wouldn't put their effort forth. For example, if

22 that was Terri Sewell, I think she would put all

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1 you know, District 7, District 2, District 1 under

2 revised plan 1?

3 A I have focused just on what it does to

4 District 1. I haven't really looked that much at

5 Exhibit 1 as to what it would do to the other

6 districts. It does make some changes, but I think

7 from my perspective, the biggest problem is what

8 it does to District 1 and District 2 and -- let's

9 see, District 1 and District 2.

10 Q Okay. As you know from, you know, at

11 least briefly reviewing the complaint and, you

12 know, you understand kind of the basic allegations

13 in this complaint, that the plaintiffs are seeking

14 to create a second majority African-American

15 district. Do you think there would be a benefit

16 to the African-American community to having a

17 second majority African-American district?

18 A I don't really have an opinion about

19 that. I'm more concerned about the people where I

20 live. I don't think it's a benefit to the people

21 of Mobile County, whether they're

22 African-American, white, Hispanic, or

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1 Asian-American, to have a congressman from
 2 Montgomery. I don't care what the race of the
 3 congressman is. I don't -- if Martha Roby is
 4 going to be the congressman that would come in
 5 there, I don't think it's good for the people in
 6 my district to have a congressman who is mainly
 7 focused on Montgomery.

8 Q Okay. Now, would you agree that the
 9 voting in your district in the current
 10 configuration is fairly racially polarized? When
 11 I -- just to get a little definition, I mean, you
 12 know, the vast majority of African-Americans in
 13 your district tend to vote, you know, for your
 14 opponent, for the Democratic candidate, and the
 15 vast majority of whites tend to vote for yourself.

16 MR. DAVIS: Object to the form.

17 A I don't -- I don't know the numbers.
 18 Frankly, I don't pay that close attention to that.
 19 In general I know that more African-American's
 20 vote Democrat. More whites vote Republican.
 21 There has been more -- some shifting going on
 22 there, as a matter of fact. You're seeing, like

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1 in Mobile, the City of Mobile, you're seeing more
 2 whites voting Democrat. And in Baldwin County
 3 where I live, you're seeing more African-Americans
 4 vote Republican. So even that's shifting around.

5 Q Okay. You haven't actually seen the
 6 plaintiff's expert reports in this case, have you?

7 A No.

8 Q Would it surprise you that an estimated
 9 97 percent of African-Americans in your district
 10 voted -- sorry, it sounds impolite -- but voted
 11 against you, voted for your opponent in the last
 12 election?

13 MR. DAVIS: Object to form.

14 A I don't know the numbers and so I can't
 15 say I'm surprised. Like I say, when I look at the
 16 results of an election, I'm really not paying that
 17 close of attention to it or concerned about that.

18 Q Okay. Do you know whether -- what the
 19 African-American candidate of choice was in the
 20 last congressional election?

21 A Well, my opponent -- are you talking
 22 about my election?

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1 Q Yes.

2 A My opponent, the Democrat, was Robert
 3 Kennedy. But I don't know -- as I said, I didn't
 4 go back and look at the results after the fact. I
 5 don't know exactly how the vote split out. I know
 6 generally how many votes I got, generally how many
 7 votes he got, but I can't tell you where they came
 8 from.

9 Q Okay. How about the City of Mobile, do
 10 you know how the votes split out in the City of
 11 Mobile in the --

12 A In my election?

13 Q Yes.

14 A I didn't look that closely. I think I
 15 carried Mobile, but I don't know.

16 Q Okay. And I think you acknowledged a
 17 minute ago that, you know, most African-Americans
 18 in your district tend to vote Democratic as
 19 opposed to the majority of whites voting
 20 Republican. Why do you think that's the case?

21 MR. DAVIS: Object to form.

22 A That is a great question, and it's

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1 something that I not only have thought a lot
 2 about, I've worried over because I don't think
 3 it's healthy. I think there's some traditional
 4 things going on. African-Americans look to the
 5 Democratic party as the party that primarily
 6 ushered through the civil rights legislation in
 7 the '60s. Although, if you go back and look at
 8 the history, it would not have happened without
 9 Republican votes in both the House and the Senate,
 10 and there were key opponents to that legislation
 11 that were southern Democrats, but I think
 12 African-Americans look to that and look to that
 13 history. But more and more I think what's
 14 happening in my district is really reflective of
 15 what's happening in the country. People are
 16 finding differences -- I don't want to use the
 17 word polarization. I don't like it. People find
 18 differences among one another because they have a
 19 different view of what American -- what the
 20 federal government should do for America, so it's
 21 more ideological in my mind than it is racial.

22 Q Why do you think that -- well, first let

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1 me ask you, would you agree, though, that that --
 2 that ideological difference closely tracks with
 3 race, corresponds to race?
 4 A I don't know because I've never actually
 5 seen a study on that, but I know from talking to
 6 people, be they white or African-American or
 7 Hispanic or Asian-American, it really starts with
 8 their role of the federal government or what's the
 9 role that should be of the federal government.
 10 So, clearly you've got people in my district of
 11 different races who see that in completely
 12 different ways.
 13 And so I think it's more of what's
 14 happening across the country, that is that we have
 15 difference -- those of us who view the federal
 16 government as something that should be far more
 17 active than some of the rest of us do.
 18 Q Do you think African-Americans tend to
 19 view the role of the federal government more
 20 robustly as one that should be more active than
 21 white Alabamans tend to view it?
 22 A I think that -- I don't know about more

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1 white Alabamans, but the African-Americans that I
 2 have talked to about this express their desire to
 3 have the federal government do more.
 4 Q Would you say that's because those
 5 African-Americans that you talked to view that as
 6 in their interest?
 7 A I'm not sure we drilled down that far to
 8 know. Sometimes people will take an ideological
 9 point of view that's not congruent with their
 10 interests. So I can't say that for sure.
 11 Q Okay. Do you believe that the needs of
 12 African-Americans in your district differ from the
 13 needs of other constituents in your district?
 14 A No.
 15 Q Why not?
 16 A Because I think what people need is the
 17 same. What they need from their families is the
 18 same. What they need from their communities is
 19 the same. What they need from their nation is the
 20 same.
 21 Q Do you have a sense of whether there are
 22 certain -- let me strike that.

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1 What issues, if any, do you believe are
 2 important to the African-American community in
 3 your district?
 4 A The same issues that are important to
 5 the white people in my district. Their jobs, the
 6 education of their children, the safety of their
 7 homes and their community, the continuation of the
 8 opportunities that have been afforded to them.
 9 They want more opportunities for their children
 10 and their grandchildren. I just don't see a
 11 difference there. When you really sit down and
 12 talk with them, as I do in my town hall
 13 meetings -- I had one in Prichard on Friday, for
 14 example. The main issue in my town hall meeting
 15 on Friday was tolls for the new bridge coming
 16 across I-10. And there were white and
 17 African-American people there who had the same
 18 type of disagreement with the tolls, same
 19 intensity of disagreement with the tolls. It
 20 didn't make any difference.
 21 Q That was a green disagreement, right,
 22 about how much green they're going to have to

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1 spend.
 2 A Most things are like that. In my
 3 experience, most things are like that. People are
 4 people are people are people. They
 5 have the same concerns. You might find like, for
 6 example, Friday, that one concern there is,
 7 there's a community in Mobile County called
 8 Africatown. And it's a very important community.
 9 It's where the last group of slaves who were
 10 illegally brought here, by the way, in 1860 or
 11 1861, it's where they congregated and formed a
 12 community. We just recently found the ship that
 13 they came over on. It's a big deal.
 14 Q I read about that.
 15 A We've got some ideas on trying to build
 16 on that and build that community. One concern
 17 that they have that's specific to them, but this
 18 is -- it's more geographic -- it's one of the
 19 routes that people might take to get around the
 20 bridge would come right through Africatown and
 21 would harm, potentially, the activities a lot of
 22 us are interested in looking at to try to build up

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1 Africatown. But I can tell you from talking to
 2 the Mayor of Mobile, who happens to be white, that
 3 that is not something that is white or
 4 African-American. That is, hey, this is a major
 5 opportunity for Mobile. Let's not let this bridge
 6 thing mess up what could be a major opportunity.
 7 But the -- but the concerns that people have were
 8 the same.

9 Q What about in terms of socioeconomic
 10 needs? I mean, does the African-American or at
 11 least on average -- obviously all of these things
 12 you can't -- you can't talk about everybody
 13 because there are people of different
 14 socioeconomic needs of all races -- but on
 15 average, are the socioeconomic needs of
 16 African-Americans in your district greater than
 17 the socioeconomic needs of whites?

18 A Well, in general the answer is no, but
 19 there are some specifics, I think, that are
 20 important. This is not just true in Mobile
 21 County. It's true in other places in Alabama.
 22 Unfortunately a disproportionate number of

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1 African-American children are going to some of our
 2 worse schools. If you want to give everybody an
 3 opportunity in America, they got to get a good
 4 quality education. So the one of the reasons why
 5 I got so involved in education reform prior to
 6 going to the school board was -- in my view was
 7 the next real fight in the civil rights movement
 8 is over education. How do we get quality
 9 education to every child in Alabama, be they
 10 white, be they African-American, be they Asian, be
 11 they Hispanic. That should be something that we
 12 should all be concerned about. But in terms of
 13 the actual need, it's the same. It's just that
 14 we've got a specific manifestation of it
 15 disproportionately affecting young
 16 African-Americans.

17 Q Would you say that the income level, the
 18 average income level of African-Americans in your
 19 district is lower than the average income of
 20 whites in your district?

21 A I've not seen any data on that so I
 22 can't give you an answer.

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1 Q Okay. What about educational
 2 attainment, do you know whether there's a lower
 3 level of educational attainment on average among
 4 black -- blacks in your district than whites?

5 A Well, as I said earlier, I think some of
 6 them got lower quality education, a
 7 disproportionate number of them got lower quality
 8 education. So I don't know the actual data, but I
 9 would not be surprised to see -- if you don't get
 10 education early, it tends to have a going-on
 11 effect. You may not be able to get into college
 12 or you may not think about going to college. So I
 13 think it's one of the most important, if not the
 14 most important thing we need to be working on is
 15 how do we give everybody, wherever they come from,
 16 whoever their parents are, the best possible
 17 education we can give them.

18 Q That's right. You did speak to that.
 19 Sorry to repeat, but what -- what about
 20 healthcare, are there -- and health outcomes, have
 21 you seen any data on whether African-Americans on
 22 average in your district have kind of lower

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1 healthcare outcomes, greater healthcare needs than
 2 whites on average in your district?

3 A I've not seen any data, but I've been
 4 very involved with community health centers in my
 5 district. In fact, I got an award for that.
 6 Community health centers tend to be more prevalent
 7 in African-American districts. They're not only
 8 in African-American communities. So I do try to
 9 work with community health centers because I think
 10 that they're the best way to provide healthcare to
 11 people that are in poor communities. And so I do
 12 see that there's a need for us to do more with
 13 those community health centers. I am glad to see
 14 the University of South Alabama Medical Center
 15 providing really good, quality healthcare to
 16 everybody in our area. And it just happens to be
 17 located in an African-American community. So the
 18 people in that community are like right there,
 19 easy for them to access. So I can't give you
 20 anything from the data, but I do think that
 21 there's a need for us to work harder at that.

22 Q Am I right that you supported the repeal

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1 of ObamaCare?
 2 A I did.
 3 Q Do you believe that most -- the majority
 4 of African-Americans in your district supported
 5 the repeal of ObamaCare?
 6 A I don't know.
 7 Q And from the people you've talked to,
 8 the African-Americans you talked to in your
 9 district, do you get the sense that they support
 10 the repeal of ObamaCare?
 11 A Some have told me that they do. Some
 12 have told me that they don't. I can't quantify
 13 that, though, because it's not like we
 14 scientifically polled it or even tried to go out
 15 and figure out the race of people who are
 16 responding on the telephone or by email to the
 17 office. But I have had African-Americans say that
 18 they didn't like ObamaCare. They wanted us to do
 19 something different.
 20 Q Right.
 21 A And I've had -- I have had
 22 African-Americans say that they supported it. One

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1 that comes from the federal government community
 2 health centers. I've forgotten the name of the
 3 program. But in a community health center, you go
 4 and they take care of you and have a sliding scale
 5 of what you pay based on your income. It may be
 6 that some people go into community health centers
 7 have Medicaid. Some of them may be on Medicare.
 8 Some of them I know, because I've talked to them,
 9 are on private insurance and they prefer to use
 10 their private insurance at a community health
 11 center for all the reasons I said earlier. So I
 12 don't know that it -- that they're benefiting any
 13 more than any other healthcare institution is from
 14 any expansion of Medicaid.
 15 Q Has Alabama accepted the expansion of
 16 Medicaid under ObamaCare?
 17 A No.
 18 Q That's not really an option, I guess,
 19 for people who wouldn't otherwise qualify for
 20 Medicaid, to take advantage of the expansion of
 21 Medicaid under ObamaCare in Alabama.
 22 A A lot of people who don't qualify for

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1 of the things that -- going back to community
 2 health centers. 100 percent of African-Americans
 3 that I've talked to about community health centers
 4 like community health centers. That's one of the
 5 reasons I'm so focused on community health
 6 centers. The reason they are, as these community
 7 health centers are located in their communities,
 8 in their neighbors. It's easy -- it's easy for
 9 them to physically access these centers. And the
 10 centers are really set up to focus primarily on
 11 the person. And so you can see where people would
 12 say "I really like going there because they really
 13 care about me." And so I do think that community
 14 health centers are in my mind a big part of what
 15 should be a solution to the healthcare problem
 16 throughout America, particularly in my district,
 17 and I think we could put more resources into that
 18 by putting less resources into ObamaCare.
 19 Q Are those community health centers
 20 supported by the expansion of Medicaid under
 21 ObamaCare?
 22 A No, they're supported by direct money

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1 Medicaid are accessing healthcare through these
 2 community health centers. And, as I say, they
 3 take you regardless of your circumstances and
 4 figure on the sliding scale how much you will
 5 contribute.
 6 Q Okay. Have you seen any polling either
 7 in Alabama or nationwide about whether
 8 African-Americans support the repeal of ObamaCare?
 9 A I haven't.
 10 Q Do you believe that African-Americans in
 11 your district supported the Tax Cuts and Jobs Act?
 12 A I'm not sure I've ever heard from an
 13 African-American one way or the other. Let me
 14 think about that for a second. I can't -- they
 15 may have, but I can't recall any particular
 16 conversation at this point in time.
 17 Q Okay. About whether an African-American
 18 or the African-American community at large
 19 supports -- supported the Tax Cuts and Jobs Act?
 20 A I don't remember any conversation about
 21 that.
 22 Q Okay. You were supportive of the Tax

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1 Cuts and Jobs Act.
 2 A Oh, I absolutely was, yes, sir.
 3 Q And have you -- since you've been a
 4 congressman, have you taken a vote on the
 5 reinstatement of kind of Section 4, Section 5 of
 6 the Voting Rights Act?
 7 A I don't believe I have. I don't think
 8 we have. Yeah.
 9 Q Are you familiar with HR 1, the For The
 10 People Act which expands voter registration,
 11 voting access that was passed this year?
 12 A Yes.
 13 Q It was passed by the House this year.
 14 A Yes.
 15 Q Were you in support of that?
 16 A I was not.
 17 Q And --
 18 A But not because it did the things you
 19 mentioned, but because of other things.
 20 Q Why were you against it?
 21 A Because they put a bunch of other stuff
 22 in there that I thought was not germane to what it

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1 A No, there was a ton of stuff. One of
 2 the things that disappointed me about that was, it
 3 was a bill that was just loaded up. And a lot of
 4 mistakes we make around here are when we take a
 5 good idea, if this is a good idea, we start
 6 loading other things on there. Then we destroy
 7 the good idea. That's not a Republican or
 8 Democrat thing, but everybody does that around
 9 here from time to time.
 10 Q Right.
 11 A And I was disappointed in a bill that
 12 could have been such a good bill that could have
 13 gotten a lot of bipartisan support I think was put
 14 together in such a way to where we were guaranteed
 15 it was only going to be partisan.
 16 Q Do you think that African-Americans in
 17 your district on average support the measures that
 18 were in HR 1?
 19 A I've never had anybody in an
 20 African-American community talk to me about HR 1.
 21 Q What about -- would you support the
 22 reinstatement of Section 5 of the Voting Rights

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1 was supposed to be about and I did not think would
 2 be helpful to what we're trying to do in America.
 3 I want everybody to vote, and I'm actually
 4 encouraged by the number and percentage of people
 5 that have been voting, particularly in Alabama,
 6 these last two or three or four election cycles.
 7 I'm pretty passionate about that. But I don't
 8 think -- I think that bill, while it pretended to
 9 be for that, I don't think it actually was going
 10 to accomplish that. I think it did some other
 11 things that I didn't think were pertinent to that
 12 effort.
 13 Q Do you recall what it was that you
 14 didn't like about the bill?
 15 A We can give a full breakdown. We had --
 16 I think we put out a statement at the time or we
 17 can give you something. But that bill was pretty
 18 vague and complex. It would take me a while to
 19 take you through everything that was a problem
 20 with it.
 21 Q Okay. I just didn't know if there was
 22 any like major thing that stood out.

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1 Act? This is the portion that was struck down by
 2 the --
 3 A The formula?
 4 Q Yes. Yes.
 5 A The formula? No. I think there's a
 6 better way to do that.
 7 Q And what's that?
 8 A I think we should have it apply to
 9 everybody in America.
 10 Q You would support something that would
 11 apply essentially to the preclearance review to
 12 all states?
 13 A Yes, what I keep saying is, if it's good
 14 enough for Alabama, why isn't it good enough for
 15 California? Are we saying Alabama is more racist
 16 than California? Are we saying Alabama is more
 17 racist than Missouri? Are we saying Alabama is
 18 more racist than Maryland? Because if you look at
 19 what's happened in the last several years, you'll
 20 find more racial incidences in places like that
 21 than you will in Alabama, yet we're going to take
 22 a law and formula and use it to only focus on a

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1 few parts of America. If it's good for Alabama,
 2 it's good enough for everybody.
 3 Q Right. And I'm not -- I'm not
 4 disagreeing with that at all. But there was like
 5 a coverage formula that, you know, involved
 6 looking at registration rates and --
 7 A Which I think was prejudicial to
 8 Alabama, and I'm afraid a new one would be equally
 9 prejudicial. That's why I said the easiest way to
 10 do this is, if we're going to do this at all,
 11 apply it to everybody.
 12 Q Would you support that? Would you
 13 support reinstating a preclearance regime if it
 14 applied to all states?
 15 MR. DAVIS: Object to form.
 16 Q Go ahead.
 17 A When that is conjoined with some other
 18 things, I might. For example, I don't think you
 19 should have preclearance. I think maybe the best
 20 way to do it is tell everybody in America, every
 21 local, state, et cetera, jurisdiction, you submit
 22 to the Justice Department before you implemented

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1 the things that preclearance states you used to
 2 have to do. And that gives a heads-up to the
 3 Justice Department. If they want to bring an
 4 action in Federal Court, they can because they
 5 have that power to do that today, the Justice
 6 Department does today. Private individuals have
 7 the right to do that today. That wasn't taken
 8 away by the Supreme Court ruling. I just don't
 9 want Alabama to be singled out, and I think we
 10 have been. I think in the last couple, three
 11 decades that's been unfair, and I don't want that
 12 -- I'm not going to vote for something that
 13 singles out Alabama in a negative way like that.
 14 Q I mean, you would agree with me, though,
 15 that there was -- there was quite a history in
 16 Alabama of suppressing black voting rights.
 17 A Oh, yes. I mean, prior to the civil
 18 rights laws in the 1960s, sure there were. But
 19 we're 50-plus years past that. And there's been a
 20 dramatic change in Alabama. I was a kid in the
 21 '60s so I wasn't an adult when all of that was
 22 going on, but I know the difference between the

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1 way things were in the '60s and the way they are
 2 today, and they're dramatically different.
 3 Q Do you -- do you know whether your
 4 African-American constituents agree with you that
 5 that preclearance regime shouldn't be
 6 reimplemented, whether it's implemented just for
 7 Alabama or for the whole country?
 8 A Never had an African-American
 9 constituent talk about that with me.
 10 Q Do you know what position the state
 11 NAACP in Alabama has taken on that issue?
 12 A I don't.
 13 Q Do you know the current president of the
 14 state NAACP?
 15 A I don't think I do.
 16 Q I assume you haven't met with the
 17 president of the NAACP of the State of Alabama?
 18 A I don't think we've had a request from
 19 the state or local NAACP for a meeting. We take a
 20 lot of meetings with groups. We can't always give
 21 it to them exactly when they want them, but when
 22 they make a request, we try to figure out a way to

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1 set up the meeting. And I just can't recall ever
 2 getting a request for a meeting from them.
 3 Q Okay. I take it from your answer, then,
 4 it sounds like you haven't met with the local
 5 NAACP?
 6 A I don't -- well, not formally. There
 7 may be some members of that group that have met
 8 with me in other ways.
 9 Q Yes.
 10 A But -- and we have people that come to
 11 my town hall meetings. I have no idea whether
 12 they are or they aren't.
 13 Q Right.
 14 A There are times where they identify
 15 themselves, but it's not unusual for them to come
 16 and not identify themselves as being a member of
 17 this group or that group. So I could have had a
 18 large number of members --
 19 Q Sure, right.
 20 A -- of the local NAACP be at a town hall
 21 meeting and I wouldn't know it.
 22 Q Right. But it's not like you -- you

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1 haven't had a meeting with, say, the president of
 2 the City of Mobile's NAACP chapter?
 3 A I don't think I have. I don't think
 4 they have requested one.
 5 Q Have you ever requested one of them?
 6 A No. I mean, I typically don't request
 7 meetings with people. They request meetings with
 8 me. I was telling you earlier, there's only so
 9 many hours in the day.
 10 Q Sure.
 11 A I try to respond to other -- my
 12 constituents' request. There are times when I
 13 reach out to a group, but there's usually a
 14 particular reason for that, some event has
 15 occurred or something that does involve my job
 16 where I feel like, hey, I need to go out and reach
 17 out to them.
 18 Q Sure.
 19 A But in 90-plus percent of the cases,
 20 people are calling up and say we want to meet with
 21 our congressman, and my staff tries to figure out
 22 how to fit it into my schedule.

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1 have to go back through my calendar going back to
 2 when I started. I meet with a lot of
 3 African-Americans. I don't always know, as I said
 4 --
 5 Q Who they're affiliated with?
 6 A -- who they're affiliated with because
 7 they tend to come to me because of a concern about
 8 a particular issue. So we're being responsive to
 9 a particular issue.
 10 Q Sure.
 11 A They may be there as part of a group and
 12 I just don't know it.
 13 Q Yes, totally understand. I know a lot
 14 of -- the job of a Congress person, you're mainly
 15 doing a lot of what is constituent services,
 16 right?
 17 A Right.
 18 Q It's not a Republican or Democratic
 19 issue.
 20 A Oh, yeah, and sometimes it may be a
 21 concern -- a specific concern for a community.
 22 Q Right.

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1 Q Is there an Urban League Chapter in
 2 Mobile?
 3 A I don't know of one if there is.
 4 Q I assume you haven't met with the head
 5 of the Urban League in the City of Mobile?
 6 A I don't think I've ever had a request
 7 from them for a meeting.
 8 Q Are you familiar with an organization
 9 called LULAC? It's the League of United Latin
 10 American Citizens.
 11 A I'm not familiar with them.
 12 Q I think I got -- I think I probably got
 13 the acronym a little bit wrong. It's Swedish
 14 LULAC, but I got the -- I think I mixed up the
 15 words. But you never met with LULAC, I take it,
 16 either?
 17 A Not that I know of.
 18 Q Are there any other African-American or
 19 Latino or Hispanic-focused organizations like the
 20 NAACP, like the urban league, that you have taken
 21 a meeting with since you've been congressman?
 22 A I've met with so many groups. I would

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1 A And you may have a group of people come
 2 to see you because of that concern for that
 3 community, but you don't necessarily know what
 4 organizations they're with or not. They're just
 5 there because they all agree about this one issue.
 6 And so we try to take -- if somebody asks for a
 7 meeting, we try to figure out a way to make that
 8 meeting happen. We try to figure out a way to
 9 make it happen as close to where they live as we
 10 can because I know it's difficult for people to
 11 come to places. So I frequently try to go out to
 12 people. So if a group in a community says we need
 13 to meet with you about X, if it's possible, I try
 14 to go out to them. It's not always possible
 15 because of my schedule having to be up here voting
 16 so much. So sometimes they have to come to my
 17 office, but I prefer to go to them.
 18 Q You mentioned town halls. Have you had
 19 town halls in the City of Mobile?
 20 A Oh, yes. Lots of them.
 21 Q Have you had town halls in kind of
 22 African-American residential sections of Mobile?

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1 A I have.
 2 Q Tell me about that.
 3 A Well, it's more than once. It goes back
 4 several years from now. We just pick places -- we
 5 try -- we don't stay in the same place.
 6 Q Right.
 7 A So I've had them downtown. Downtown is
 8 -- tends to be more African-American than not.
 9 We've had them in -- there's a high school in what
 10 I was calling the southern part of Mobile.
 11 There's a high school there that we had a town
 12 hall in, which was more memorable for me because
 13 we had a lot of planned parenthood people there.
 14 We didn't know that we were going to have that.
 15 Instead of being focused on that community, which
 16 is what I like my town halls to be on, we had a
 17 lot of planned parenthood people that showed up
 18 for some reason.
 19 We've had lots of meetings in -- this is
 20 just outside the city limits of Mobile in
 21 Prichard, like we just had one last week. I think
 22 we -- some of the data I told you, I think we

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1 found out that almost half of my town halls are in
 2 African-American communities, but that's spread
 3 out all over the district, not just the City of
 4 Mobile.
 5 Q Have any people at those town halls, any
 6 African-Americans expressed any disagreement with
 7 your stances on any particular bill or issues?
 8 A Yes, I have -- in my town halls it's
 9 not unusual for people of all races to disagree
 10 with me. That's why I have my town halls.
 11 Q It comes with the territory.
 12 A Yes, that's why I have my town halls. I
 13 think people deserve to have their representative
 14 come to their communities and listen to them. And
 15 so it's not infrequent that I go to a town hall
 16 and have people stand up and disagree with me.
 17 I've had African-Americans disagree with me. I've
 18 had white people disagree with me, some of them my
 19 friends. But that's the essence of being a
 20 congressman. If you only hear what you want to
 21 hear, you're not going to be a very good
 22 congressman.

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1 Q What about on issues of civil rights? I
 2 know that that's kind of a broad term. Have you
 3 had African-Americans at any of these town halls
 4 or elsewhere express to you that they disagreed
 5 with your position on civil rights?
 6 A Not civil rights per se. It may be a
 7 particular issue that someone might associate with
 8 civil rights.
 9 Q Can you give me an example?
 10 A Well, I'm trying to think of one because
 11 I said might.
 12 Q Right. Right.
 13 A I do remember one of the times that I
 14 ran, I ran against a Democrat by the name of
 15 Burton LaFlore. I think Burton raised something
 16 in that race, but it's been several years ago and
 17 I don't recall now exactly what it was.
 18 Q Right.
 19 I forgot to ask you about one -- when we
 20 were talking about the various bills, the First
 21 Step Act involving federal sentencing and prison
 22 laws.

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1 A Oh, yes.
 2 Q Did you --
 3 A The one that the President supported?
 4 Q Yes.
 5 A I did not support that.
 6 Q Okay. Why didn't you?
 7 A Because I thought that it had the
 8 potential for releasing people too early who had
 9 committed some pretty serious crimes, not just
 10 possession, but people were actually actively
 11 involved in the distribution of very dangerous
 12 drugs. I'm much more concerned about the people
 13 that are involved in distributing the drugs than I
 14 am the people that are using the drugs. The
 15 people that use the drugs need help. The people
 16 who are distributing the drugs need to be put in
 17 jail and stay in jail.
 18 Q Do you remember whether
 19 African-Americans in your district supported the
 20 First Step Act?
 21 A Never heard anything from any of them
 22 about that.

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1 Q Let me just take a quick look at my
 2 notes. I think we're getting close to the end
 3 here.
 4 A Sure.
 5 (Discussion off the record.)
 6 Q Just one more. Are you familiar with
 7 the Southern Christian Leadership Conference, the
 8 SCLC?
 9 A Oh, yes.
 10 Q Do you know who the Alabama chapter
 11 president is of that now?
 12 A I do not.
 13 Q Have you met with them?
 14 A I don't believe they've ever requested a
 15 meeting, but I'm obviously familiar with that
 16 group.
 17 Q Famous -- has a famous founder, right?
 18 A Absolutely. Representative Sewell
 19 brings a group down, we call it The Pilgrimage
 20 every year. It's really sponsored by a group
 21 called Faith In Politics. So I've tried to
 22 participate in that every year. I've been very

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1 interested in the civil rights movement going back
 2 several years. I've got a lot of books about it.
 3 And my wife's family was sort of around it. She
 4 lived in Montgomery. Her parents -- her mother in
 5 particular were friends with some of the people
 6 who were very active in the civil rights movement
 7 in the Montgomery area. So I've always been
 8 interested in it. I'm very familiar with the
 9 history of it.
 10 I don't know who's in charge of it in
 11 Alabama right now, but if anybody in any of those
 12 groups wants a meeting with them, they're going to
 13 get it. And I'm probably seeing them at The
 14 Pilgrimage every year, but I don't always know
 15 who's who.
 16 Q Right.
 17 A And there's a lot of people there. But
 18 I love going to The Pilgrimage. I love the time
 19 we get to spend together talking about what
 20 happened in the '60s and '70s and what we can do
 21 to work together today.
 22 Q And tell me what that is again. You

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1 mentioned it briefly, what is The Pilgrimage?
 2 A There's a group here called Faith In
 3 Politics here in Washington. And they started
 4 working some years ago with Representative John
 5 Lewis from Georgia. And they bring people to
 6 Birmingham, Montgomery, and Selma. They call it
 7 The Pilgrimage because it's like coming back. Not
 8 only do they go -- we go to the main sites of
 9 civil rights actions in Birmingham and Montgomery
 10 and Selma, but we have programs as part of it.
 11 People make presentations. When Representative
 12 Sewell was elected, because she's from Selma,
 13 she's a daughter of Selma.
 14 Q Right. Yes.
 15 A She became a lot more active in it.
 16 After I was elected, she said -- knowing me like
 17 she did, she said, "Bradley, you need to be
 18 involved in The Pilgrimage. I said, "What is it?"
 19 She told me. I said, "Wow, that's really cool."
 20 So we participated at least in some part of it
 21 every year since my first year. I couldn't do it
 22 my first year because I had a conflict. So we

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1 were actually there with John Lewis and all of
 2 them for the 50th Anniversary of the Selma to
 3 Montgomery march, which was one of my sort of top
 4 10 experiences in my life to be with John Lewis at
 5 that very important -- President Obama spoke, as
 6 you probably know, in Selma. That was a really
 7 cool experience.
 8 What I'm saying is, I'm probably talking
 9 to some of the people you're talking about when
 10 I'm at The Pilgrimage every year, but I don't
 11 always know who's an officer of what because --
 12 Q Sure.
 13 A -- I know it's important, but we're so
 14 caught up in what's going on with the event of
 15 that day.
 16 Q Sure.
 17 Give me just one second to confer with
 18 my co-counsel --
 19 A Sure.
 20 Q -- the real brain here, and then --
 21 A I used to have one of those.
 22 MR. SPIVA: Thank you so much,

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1 Congressman Byrne. It's been a pleasure. I
 2 appreciate you taking the time to do it.
 3 THE WITNESS: Good to see you.
 4 MR. SPIVA: We can go off the record.
 5 Oh, sorry. You -- I'm sorry, Jim.
 6 MR. DAVIS: It's okay. For the record,
 7 I do not have any questions.
 8 THE VIDEOGRAPHER: That's what I was
 9 waiting for. Okay. The time is 11:49 a.m., July
 10 24th, 2019. We are going off the record,
 11 completing the videotaped deposition.
 12
 13 (Signature having not been waived, the
 14 deposition of Congressman Bradley Byrne was concluded
 15 at 11:48 a.m.)
 16
 17
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1 Congressman Bradley Byrne, c/o
 Office of the Attorney General
 2 501 Washington Avenue
 Montgomery, Alabama 36130-0152
 3
 4 Case: Lakeisha Chestnut, et al., v. John H. Merrill
 Date of deposition: July 24, 2019
 5 Deponent: Congressman Bradley Byrne
 6
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Chestnut, et al., v. John H. Merrill

Congressman Bradley Byrne

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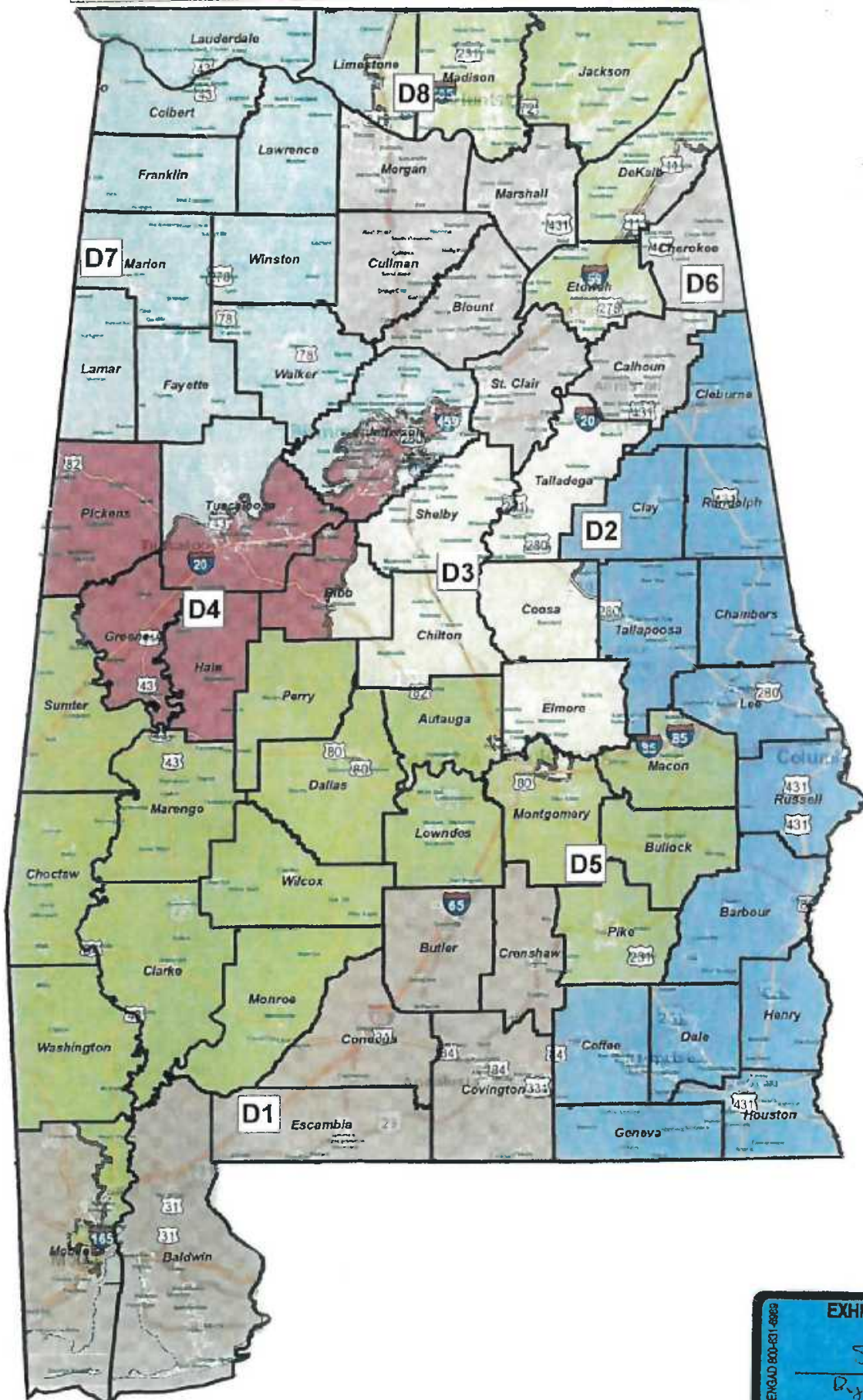


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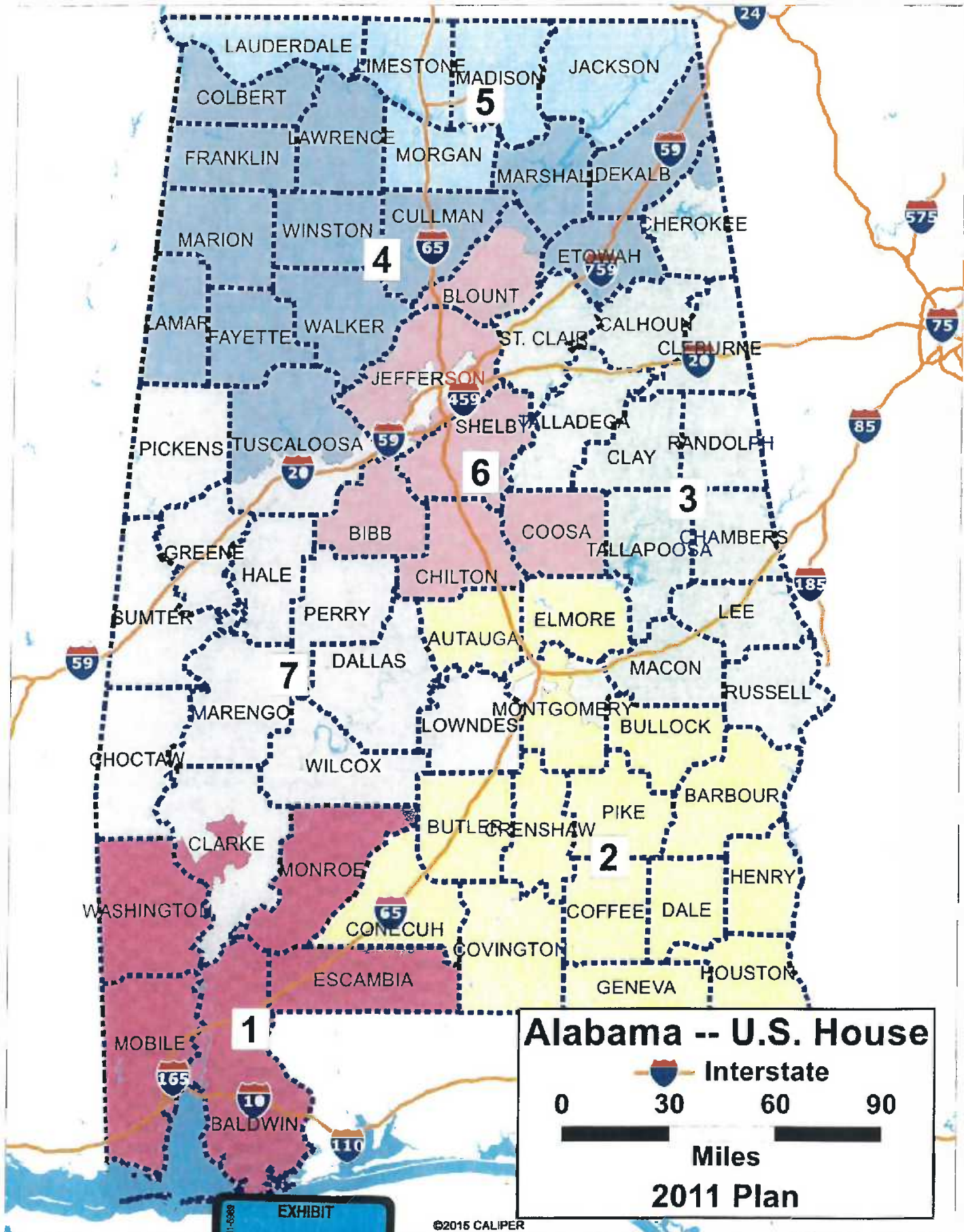


EXHIBIT
6
15 June

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ALABAMA
3 SOUTHERN DIVISION

4 BOBBY SINGLETON, et al., *
5 Plaintiffs, * 2:21-cv-1291-AMM
6 vs. * January 12, 2022
7 * Birmingham, Alabama
8 * 8:30 a.m.

9 JOHN MERRILL, in his official *
10 capacity as Alabama Secretary *
11 of State, et al., *
12 Defendants. *

13 *****
14 EVAN MILLIGAN, et al., *
15 Plaintiffs, * 2:21-cv-1530-AMM

16 vs. *
17 *
18 JOHN MERRILL, in his official *
19 capacity as Alabama Secretary *
20 of State, et al., *
21 Defendants. *

22 *****
23 MARCUS CASTER, et al., *
24 Plaintiffs, * 2:21-cv-1536-AMM

25 vs. *
26 *
27 JOHN MERRILL, in his official *
28 capacity as Alabama Secretary *
29 of State, et al., *
30 Defendants. *

31 *****
32 TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
33 VIA ZOOM CONFERENCE
34 VOLUME VII
35 BEFORE THE HONORABLE ANNA M. MANASCO,
36 THE HONORABLE TERRY F. MOORER,
37 THE HONORABLE STANLEY MARCUS

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P R O C E E D I N G S

(In open court.)

JUDGE MARCUS: Are the parties ready to proceed?

MR. DAVIS: Defense is ready, and Mr. Byrne the next witness is here and ready, Judge.

JUDGE MARCUS: Okay. Caster plaintiffs are ready?

MS. KHANNA: Yes, Your Honor.

JUDGE MARCUS: And the Milligan and Singleton plaintiffs?

MR. BLACKSHER: Singleton are.

MS. WELBORN: Milligan are, as well, thank you.

JUDGE MARCUS: We are going to turn now to your next witness, Mr. Davis.

MR. DAVIS: Thank you, Judge. **The defense calls Mr. Bradley Byrne.**

BRADLEY BYRNE,

having been first duly sworn, was examined and testified as follows:

JUDGE MARCUS: Thanks very much. And if you would be kind enough to state your name for the record.

THE WITNESS: **My name is Bradley Byrne, B-R-A-D-L-E-Y, B-Y-R-N-E.**

JUDGE MARCUS: Thank you very much. And with that, Mr. Davis, you may proceed.

MR. DAVIS: Thank you, Judge.

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DIRECT EXAMINATION

BY MR. DAVIS:

Q Good morning, Mr. Byrne.

A Good morning.

Q Where do you live, Mr. Byrne?

A I live in Fair Hope, Alabama.

Q **How long have you lived in the Gulf Coast region?**

A **My entire life.**

Q And what do you do for a living?

A I am a lawyer.

Q **Have you ever served in public office?**

A **I have.**

Q **Would you please tell the Court about your experience in public service beginning with your earliest appointed or elected position?**

A **Yes. I was elected to the Alabama State School Board in 1994 and took office in December of that year because my predecessor left to go take another position, so I started that a little bit earlier.**

Q **I served the Alabama State School Board eight years. I was elected to the Alabama State Senate in 2002, and under Alabama law, you take office immediately after general election. So I became the state senator in November of 2002. I served there until May of 2007, when I became the chancellor post-secondary education for the state of Alabama.**

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1 In December of 2013, I was elected in a special election
2 to the United States House of Representatives representing the
3 First District, which is the southwestern part of Alabama. I
4 served there until January 3rd of last year, when I left
08:32:01 5 office, and my term expired.

6 Q Thank you, Mr. Byrne.

7 I want to share my screen now and show you a map that has
8 been marked as Defendants' Exhibit 55. Can you see this map,
9 Mr. Byrne?

08:32:14 10 A I can.

11 Q I will represent to you that these are the congressional
12 districts that the Alabama Legislature passed November the last
13 districting cycle.

14 Does the First Congressional District look similar to the
08:32:33 15 district as it existed when you represented the First District?

16 A It is similar. It does not include the lower half of
17 Clarke County that I had in my district. And there's a small
18 sliver of the eastern part of Escambia County that is now part
19 of the Second District, but other than that, it's the same
08:32:51 20 district that I had.

21 Q To your recollection, does the Second District look
22 similar in structure to the way it was when you were serving in
23 Congress?

24 A It does.

08:32:58 25 Q Thank you. How would you describe Gulf Coast region,

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1 Mr. Byrne? And by that, I mean what is it, if anything, that
2 binds that region together to make it a community of interest?
3 A Well, we are on the water. We are on the Gulf of Mexico.
4 We have lots of bodies of water in the district. Mobile Bay is
08:33:22 5 very prominent, and Perdido Bay is pretty prominent. A number
6 of rivers, sounds, et cetera. So water defines the district
7 very much. It's not just any kind of water. It's salt water,
8 brackish water, et cetera.

9 What that means is we have a major deep water port. We
08:33:40 10 have a major ship building industry. We have major tourism
11 industry that's related to the beaches and the water. And also
12 a major seafood industry. And all of those are unique in terms
13 of Alabama unique to this part of the state.

14 And so when you deal with the things that happen in this
08:33:58 15 part of the state, you are dealing with something that's unique
16 in the state of Alabama.

17 Q Do people throughout the region through the other counties
18 in the First District commute in to Mobile for employment?

19 A Yeah. There are major highways that come from the
08:34:16 20 northern part of the district into both Mobile and Baldwin
21 counties. So people in what I call the collar counties, which
22 are Washington County, Escambia County, Monroe County, and
23 presently that lower part of Clarke County, they'll use those
24 highways to go back and forth.

08:34:29 25 It's not just their jobs. It may be going to the doctor,

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1 the hospital, their shopping, et cetera. So there's this sort
2 of larger community involving these four, five counties that
3 flow into and out of Mobile and Baldwin counties. It used to
4 be just Mobile County. Baldwin County has grown so much.
08:34:48 5 Baldwin County is now a very big part of that, as well.

6 Q What role does the Port of Mobile play, if anything, in
7 binding that region together?

8 A Well, it's huge. Mobile started out in the 18th Century
9 as a port. It was a port for French traders, but it was still
08:35:07 10 a port, and it's been a port for 300-plus years, and the port
11 continues to grow. In fact, it had amazing growth last year.
12 It's not just the port itself. The port is at the very center
13 of what is a major logistics hub. For example, we have one of
14 Walmart's four mega distribution centers here in Mobile County.
08:35:25 15 That's all related to the port.

16 The fact that we have Airbus in Mobile, we have it in part
17 because they can ship directly via the ship channels directly
18 from a port in Europe to a port right outside of their assembly
19 facility here in Mobile. So that port is the anchor for the
08:35:46 20 economy around here. And it literally directly and indirectly
21 creates tens of thousands of jobs. So it's extremely important
22 to this area.

23 Q Are there industries in the area along the rivers that
24 flow into the port?

08:36:01 25 A Oh, yeah. We have major industries, chemical industry

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1 players, steel industry players up and down the Mobile river
2 and as you get further north of that into the Tombigbee River.
3 So the river, the Tombigbee River, then on the eastern side,
4 the Alabama River, those are very important to the economy and
08:36:28 5 the culture of this area.

6 Q And do any of those industries rely on the port for
7 distribution of the products?

8 A Well, for the distribution of their products, but also for
9 stuff that comes in that they have to use to create their
08:36:41 10 product. Maybe different types of elements that go into the
11 chemical process. In the case of steel, we actually have steel
12 slabs that come up from Brazil that are then offloaded off the
13 ships and put on barges that come up to a company called AM/NS
14 Calvert. It's a multinational company that employs well over
08:37:01 15 2,000 people in the production of coal and steel.

16 Q Is there anything unique about the history of this region,
17 in terms of international influence?

18 A Yeah. We were founded by the French in 1702. We had
19 20 years in there where we were a British colony and then 30 or
08:37:21 20 40 years where we were a Spanish colony.

21 So unlike the rest of the state of Alabama, we have this
22 extensive Colonial history, and it continues to form our
23 culture today. We're far more likely to have Catholic
24 residents here than in any other part of the state. We have
08:37:42 25 Mardi Gras, which may sound like just sort of a frivolous fun

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1 thing, but Mardi Gras is big business here. There are a lot of
 2 businesses that that is what they do. So it's not unusual to
 3 find Mardi Gras parades not just here in Mobile, but you go
 4 north of here into Washington County, you go over into Baldwin
 08:27:55 5 County, several of the cities in Baldwin County, and even up
 6 into Monroe County, they have Mardi Gras because there is that
 7 cultural connection between the two.

8 I was reading an interesting article the other day about
 9 Truman Capote. He used to have relatives in Monroe County that
 08:38:20 10 he would visit. Mr. Capote wrote that he actually entered into
 11 contests as a child to write stories, and those stories were
 12 part of a contest in the *Mobile Press Register*. He was in
 13 Monroe County. This is 100 years ago.

14 So you can see that there's this long-term connection
 08:38:34 15 between what I call the collar counties in the First
 16 Congressional District and Mobile itself.

17 Q Are Baldwin County in Mobile County closely connected?
 18 A Oh, yeah. If you look at a map of Mobile and Baldwin
 19 counties, it looks like an inverted U. And what's in the
 08:38:53 20 interior of that U is Mobile Bay. And so if you go back
 21 literally centuries, you will see a connection between the two
 22 counties.

23 So my family is originally from Baldwin County. The
 24 Byrnes were from Baldwin County. But if you go back to the
 08:39:08 25 late 18th Century, you will see one of my ancestors was

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1 actually baptized in the Roman Catholic Church here in Mobile.
 2 So there's this intersection between those two counties that's
 3 been going on for a very long time.

4 Q Would you say those counties are more closely connected
 08:39:24 5 today than they were, say, in the '60s and 70s?

6 A Oh, yeah. For example, when -- I live in Baldwin County,
 7 and I work in Mobile County.

8 If you were in my car with me today, you would have seen
 9 thousands of cars crossing from Baldwin County into Mobile
 08:39:42 10 County. So you have lots of people who live in Baldwin County,
 11 but work in Mobile County.

12 Not as many people, but there are people who live in
 13 Mobile County and work in Baldwin County.

14 So there's really strong interconnection between the two
 08:39:56 15 counties.

16 Q What are -- you mentioned a few of these. Let's get on
 17 the record and say what are some of the major industries and
 18 employers in the Mobile region?

19 A For instance, the Port of Mobile. That's a big one. You
 08:40:17 20 have AM/NS Calvert, which is the steel company. There's
 21 Outokumpu, which is a stainless steel company; there's SSAB,
 22 another coal and steel company; and Earth Pipe, which is a
 23 steel pipe company, so those are steel companies.

24 Numerous chemical companies. I think about it. Huntsman,
 08:40:42 25 there's -- oh, shoot. There's Shell. I can't remember all the

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1 chemical companies. It must be 20.

2 Q Of course.

3 A We have the University of south Alabama, which is a major
 4 employer in this area. We have Austal USA, which is a
 08:41:01 5 ship-building company. We have Airbus USA, which is major
 6 airplane assembly facility here. We have the Mitchell Cancer
 7 Research Center. We have -- I mentioned the Walmart mega
 8 distribution center. We have a number of other logistic
 9 distribution centers because of the port.

10 And then if you go into the southern part of Baldwin
 11 County, you have major businesses are there to provide
 12 condominium access to tourists that come down here, hotels,
 13 restaurants, et cetera. In Bon Secour, Alabama and Bayou La
 14 Batre, Alabama, these are two of the largest seafood
 08:41:43 15 distribution places literally in the United States of America.

16 So Nelson Bon Secour Fishery in Bon Secour, huge
 17 distributor for seafood. I can remember eating crab meat in
 18 Washington D.C. and finding out during the meal that that crab
 19 meat came from Bon Secour, Alabama.

20 So you know, no other part of Alabama has industries like
 21 this. I am not saying it's better or worse than the other
 22 parts of the state. It's just unique.

23 Q Would you describe the First District as racially diverse?

24 A Oh, yes. Very much so. We have obviously long-time white
 08:42:21 25 and black communities, but we have Hispanic communities. Down

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1 in Bayou La Batre, we have a number of southeast Asian
 2 communities, people that left those areas in the aftermath of
 3 the Vietnam War and settled Bayou La Batre, Alabama and formed
 4 these huge fishing communities. We have other Asian
 08:42:40 5 communities here. This is always been because of the port I
 6 guess a very diverse area, going back to the earliest times
 7 here.

8 So it's not unusual to find somebody like me who has
 9 French ancestors, you know, Scottish ancestors, Irish
 08:42:58 10 ancestors, German ancestors. It's not unusual to find people
 11 here that can draw their lines back to various parts of Africa.
 12 There are people here that can draw their lines back to the
 13 various nations in southeast Asia. This is a very diverse area
 14 and always has been.

15 Q Are there military interests in the First District?

16 A Yes, sir.

17 Q What do you have?

18 A We have a shipyard here called Austal USA that makes two
 19 different ships presently for the United States Navy, combat
 08:43:33 20 ship and the expeditionary fast transport vessel. Those are
 21 the only vessels that that shipyard makes. It employs
 22 presently about 3,500 people. At one point, it had as many as
 23 4,500 people. Ship building has been a major part of Mobile
 24 going back to Colonial times.

08:43:50 25 We have all -- you have people here who are like fifth,

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1 sixth generation ship builders. Making ships is not like any
 2 other manufacturing process because they're so darn big. It's
 3 just a lot more to it than making a car, or even making the
 4 airplanes that Airbus makes here.

08:44:09 5 So we -- that ship building for the Navy here is a big
 6 deal.

7 Q In the years when you were representing this area in
 8 Congress, Mr. Byrne, were there any particular issues that you
 9 would focus on?

08:44:23 10 A Sure. When you are a Congressman, you're the primary
 11 representative for the people in your district in Washington,
 12 D.C.

13 So there were a myriad of things that were particular to
 14 this district that I had to focus on. The shipyard, for
 08:44:43 15 example, very critical that we make sure those ships are
 16 authorized and appropriated year after year after year.
 17 There's nothing automatic about that. There's a fight over
 18 that every year.

19 But it may sound mundane. We had a huge issue here in
 08:44:56 20 involving the Gulf Red Snapper, which is the number one fish
 21 people like to catch out in the Gulf of Mexico. We have a huge
 22 industry in Orange Beach built up around charter boats, people
 23 that own their own boats. Think about it. It is not just the
 24 fact of the boat, it's you have to buy fuel for the boat, you
 08:45:14 25 have to buy ice for the boat, you have to buy bait for the

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1 boat, you have to buy beer to go out and have fun in the summer
 2 time. It's a huge industry. And we have a real problem with
 3 those seasons being artificially shortened, and we had to go
 4 work on trying to get those seasons back to a reasonable level.

08:45:32 5 For friends of mine that wanted to go fishing on Saturday, it
 6 was for that industry. It was important.

7 We have a program in the federal government called GOMESA.
 8 It is an acronym. But basically, it provides a certain
 9 percentage of what the federal government gets in off shore gas
 08:45:47 10 leases and oil leases that go to the states that border the
 11 Gulf of Mexico. That's to help them deal with what could be
 12 the very negative effect from that like with the BP oil spill
 13 that we had back in 2010. So I was constantly working on that
 14 and similar programs.

08:46:03 15 So I actually formed a caucus in Congress called the I-10
 16 Caucus because those of us that represented districts in the
 17 Gulf Coast had sort of unique problems that we would actually
 18 work on together because those same interests weren't shared
 19 with our colleagues and our state delegations up in the upper
 08:46:21 20 parts of our states. So we would work together on things like
 21 that.

22 And then there would be just the stuff that, you know,
 23 every industry faces when you deal with federal government
 24 regulations. Ship building has all sorts of interesting issues
 08:46:36 25 with the Coast Guard, et cetera. So, yeah, I mean, I had to

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1 work on those. And really had to become an expert on those
 2 issues along with my staff.

3 Q Obviously, a longer snapper season would benefit the
 4 people who enjoy going out in the Gulf and fishing. Does it
 08:46:54 5 have any benefit to other residents of the First District
 6 having a healthy fishing industry?

7 A Okay. That's an industry around it. There are charter
 8 boat fleets, people that work on charter boats. There are
 9 people that run marinas. There are people that sell fuel.
 08:47:10 10 There are people that sell ice. There are people that sell
 11 bait. There are people that, you know, provide condos and
 12 hotel rooms that people stay in when they go fishing.

13 I mean, I remember when I was first elected and I had a
 14 meeting with the people in Orange Beach that were in that
 08:47:24 15 industry, and the room was just crammed full of people. I
 16 never really thought of it that clearly before just how many
 17 people were touched by the fact that we do or do not have a
 18 good snapper season. And it was a major motivation to make
 19 sure that we got that problem solved because it touched so many
 08:47:41 20 different lives and touched so many different jobs.

21 Q Would issues that you worked on such as is the snapper
 22 season or a healthy port or a healthy ship building industry,
 23 would they help both the black and the white residents of the
 24 First District?

08:47:56 25 A Oh, yeah. I mean, people down here, we have people of all

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1 races that are working in all of these industries. And it's a
 2 major source to get good high paying jobs. So it's a benefit
 3 to everybody that we do that.

4 Q Uh-huh. Are you familiar with the Wiregrass region in the
 08:48:15 5 Second District?

6 A I am. I told you earlier that I was a chancellor of
 7 post-secondary education for the state of Alabama. And we had
 8 three or four colleges in the Wiregrass region. We had a
 9 number of vacancies in those colleges, so I had to go through
 08:48:37 10 presidential searches. When you do a presidential search for a
 11 community college, you have to involve the community. You have
 12 to get involved with the community. You have to understand
 13 that community.

14 So, for example, Lurleen B. Wallace Community College in
 08:48:55 15 Andalusia, Alabama, that's Covington County, I spent a lot of
 16 time in Andalusia because we had to build a vacancy there. So,
 17 yes, I have spent a lot of time in the Wiregrass of Alabama
 18 because of that position.

19 Q Tell me how the interest of the Wiregrass would compare to
 08:49:13 20 the interest of the counties that are in the First
 21 Congressional District.

22 A Well, what I described to you before is in the First
 23 Congressional District southwest Alabama, something's built
 24 around the water, okay? The Wiregrass is built around a couple
 08:49:29 25 of things. Fort Rucker, which an Army helicopter training base

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1 there in Ozark is a big part of the Wiregrass. Troy State
 2 University is a huge part of the Wiregrass.
 3 People in the Wiregrass sort of revolve around Dothan down
 4 at the southern end and Montgomery at the northern end. And
 08:49:53 5 they have agricultural interests that are different from the
 6 agricultural interests that will be out here in southwest
 7 Alabama. They don't have a nursery industry like we have here.
 8 We have major wholesale nursery businesses here. They don't
 9 have major watermelon crops. They don't have major pecan
 08:50:13 10 crops. They're more built in to peanuts and cotton and cattle.
 11 So they face, for example, during -- during in Andalusia,
 12 Alabama, you face more towards Troy or Ozark or Dothan. You
 13 don't face down here in southwest Alabama. In addition, it's
 14 kind of hard to get from Mobile to the Wiregrass. We don't
 08:50:36 15 have really good highway connections over there. So it's not
 16 easy for people from there to come here or for people from here
 17 to go there.
 18 So they sort of face to the southeastern part of the
 19 state. We face to the southwestern part of the state.
 08:50:52 20 Q If you were representing the Second District, would you
 21 focus on the same issues that you are focused on when
 22 representing the First?
 23 A No, sir. For example, I was on the Armed Services
 24 Committee, and with the Navy shipyard, I am going to be focused
 08:51:07 25 on Navy stuff.

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1 If I represented the Second Congressional District, I
 2 would be focused on the Army and particularly Army helicopters.
 3 That's what they do at Fort Rucker.
 4 In this district, I was focused for higher education
 08:51:21 5 reasons on the University of South Alabama. If I represented
 6 the Second District, I would be focused on Troy. Now, Troy has
 7 a different mission from the University of South Alabama. They
 8 have an international presence. So working with Troy would be
 9 very different from working for the University of South
 08:51:36 10 Alabama. Troy doesn't have a medical school, but it has a
 11 whole lot of other stuff that's pretty darn important. So
 12 there would -- and the agricultural interests I just described
 13 are very different.
 14 So I would think being the congressman from the Second
 08:51:51 15 District requires a different level of expertise and level of
 16 expertise that I feel like I had to have to represent this
 17 district.
 18 Q I want to share another screen now, Mr. Byrne. And this
 19 is Milligan Exhibit 3, page 7 of that exhibit.
 08:52:11 20 These are some proposed congressional maps that one of the
 21 plaintiffs' experts presented, I will represent to you,
 22 Mr. Byrne.
 23 Review just say these -- here's Plan A and B, and then I
 24 will scroll down to Plan C and Plan D, as well.
 08:52:29 25 Focus on any of those, and tell us what's your reaction

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1 is. Do you see any issues with representing these districts?
 2 A Yes. If you look at Plan A and Plan B, you see it takes
 3 in part of Mobile County, all of Baldwin County, and then goes
 4 east into the Wiregrass legion. So you would essential have to
 08:52:56 5 become an expert on two different regions altogether, two
 6 different communities of interest. I know that's important for
 7 those proceedings.
 8 Then if you look at that district just above it, that
 9 district is essentially part of the Black Belt and part of
 08:53:14 10 southwest Alabama. So the person representing that district
 11 would essentially have to have two very dramatically different
 12 sets of expertise. I think it would be very difficult to be
 13 the congressman for either of those districts not just the fact
 14 you would have this vast geographic area you would have to
 08:53:33 15 cover, but you would be covering two very different communities
 16 of interest.
 17 Q Uh-huh. Why would it make it more difficult to represent
 18 a district if it encompassed different communities of interest?
 19 A Well, for example, if you represented that blue district
 08:53:50 20 at the very bottom, you would have to be an expert on things
 21 involving Navy shipyards and Army helicopter bases. You would
 22 have to be an expert when it comes to agricultural issues like
 23 everything from wholesale nurseries, watermelons, pecans, to
 24 peanuts, cattle production, and cotton production. You would
 08:54:13 25 have to be focused on two major universities that have very

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1 different missions. You would have to be focused on Dothan.
 2 You would have to be focused on Andalusia. You would have to
 3 be focused on Brewton, Mobile, and then all of Baldwin County,
 4 which is the fastest growing county in the state.
 08:54:30 5 So I am not saying you couldn't do it. It would be
 6 extremely difficult to do it, and you would find yourself
 7 somewhat diffused in your ability to be an effective advocate
 8 for that region.
 9 Q What do you mean by diffused?
 08:54:44 10 A Well, there's only so many hours in the day for a
 11 congressman and the staff that that congressman has. And there
 12 are hundreds if not thousands of issues in Washington. And you
 13 have got to figure out what your focus is going to be on. And
 14 focus is very important for a member of Congress because
 08:55:02 15 there's just not enough bandwidth, and there's only 435
 16 congressmen, and you are one of them.
 17 So you really have to figure out where am I going to put
 18 my time? Where am I going to put the resources of my staff?
 19 What fights am I going to fight. If you are fighting a whole
 08:55:21 20 bunch of different fights because you have to, because you have
 21 got that many interests in your district, you are not going to
 22 be effective on each one of those. The more you can sort of
 23 focus your energies, the more effective you will be.
 24 I will give you an example. Everybody in the House of
 08:55:32 25 Representatives and the staff and the leadership, et cetera

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1 knew that I was interested in a bridge across Mobile Bay,
 2 fixing the snapper problem, and gaining the ships authorizing
 3 and appropriated for the shipyard here. Literally, I had the
 4 Speaker come up to me on the floor and say, we get it. It's
 08:50:50 5 that bridge, it's those ships, and it's those fish. Now, when
 6 they know that, they know they have got to make me happy on
 7 that to get my votes. If they don't make me happy on that,
 8 they are not going to get my votes.
 9 Now, if I say I have 20 different things I want you to
 08:56:03 10 make me happy on, they will say, look, I am not going to make
 11 you happy on 20 things. You tell me what your priorities are.
 12 We will help you get those things done, and then you will be a
 13 part of the team. That's how it works. Anybody that tries to
 14 be like out there fighting on every fight tends not to win any
 08:56:22 15 fight.
 16 Q Let's say you represented -- I guess I should show you the
 17 maps again. If you represented a blue district, do you see any
 18 difficulty in just getting around and visiting your
 19 constituents?
 08:56:35 20 A Yeah. It's a long way from Mobile to Dothan. Actually,
 21 the way you get from Mobile to Dothan is that you get on
 22 Interstate 10, you drive east through the Florida panhandle,
 23 and then you get just north of Panama City you turn north. So
 24 it's about a three to three-and-a-half hour drive from Mobile
 08:56:58 25 to Dothan.

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1 And north of there to Henry County, that's a county just
 2 north of Houston County, it's even further than that. And so
 3 in order to represent the people in Abbeville who deserve good
 4 representation, even if you just visited there for an hour, you
 08:57:13 5 would spend three-and-a-half, maybe four hours just to get
 6 there and that much going back, so it's a long haul.
 7 And the interests as I said of that southeastern part of
 8 the state are very different than the interests in the
 9 southwestern part of the state.
 08:57:27 10 So when you finish with having your meetings in an area
 11 like that, go back to Washington, you have to decide, all
 12 right, what I am going to focus on? What are the priorities
 13 for this sort of sprawling district with all these different
 14 interests?
 08:57:39 15 And somebody is going to lose out. That's just the way it
 16 is. There's only so much bandwidth for a congressman, and that
 17 person has to decide what am I going to focus on? Am I going
 18 to help the shipyard in Mobile, or am I going to help Fort
 19 Rucker?
 08:57:54 20 Q Where do you think a congressman or congresswoman who
 21 represented the blue district would want to have local offices?
 22 A Well, you clearly want to have your main office Mobile,
 23 but you want to have as pretty significant office as you can
 24 afford in Dothan. You are only allotted so much money as a
 08:58:13 25 congressman for your office, staff, and your office rent. So

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1 you have got to spread that over Mobile and Dothan. And
 2 Baldwin County is the fastest growing county in the state. You
 3 have to have a presence in Baldwin County for a lot of
 4 different reasons.
 08:58:13 5 Then I guess you try to find some way to put something in
 6 Andalusia. That's kind of more centrally located
 7 geographically. But as I said, and I can say it's really hard
 8 to get from here to Andalusia. Andalusia is a pretty hefty
 9 drive from here. Not as far as Dothan, but it's still a hefty
 08:58:51 10 drive because there's no good highway to get there.
 11 Q Look at this yellow district or tan, the one above the
 12 blue district.
 13 Let's say there was a primary election in that district,
 14 and someone was running to be the Democratic candidate, and
 08:59:09 15 that someone was from Mobile. There was another person running
 16 in the primary from Montgomery. Do you have any thoughts on
 17 who might have a stronger base of support geographically?
 18 A I would think that if you were from Montgomery, you would
 19 have a stronger chance than if you're representing that part
 08:59:28 20 that's in Mobile.
 21 The Black Belt -- what those counties primarily look like
 22 to me, the Black Belt is kind of its own thing. It's got very
 23 rural, very agricultural. And they look more to Montgomery
 24 than they look to Mobile for sure. So I would think somebody
 08:59:50 25 from Montgomery would have a better shot at that district than

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1 somebody from Mobile.
 2 Q Do you think it possible, Mr. Byrne, if you had a map in
 3 Plan A or Plan B that you could have, say, a congressman for
 4 the blue district from Dothan or Andalusia and a congressman
 09:00:10 5 for the yellow district from Montgomery so that you had no one
 6 in Congress from the Mobile region?
 7 A That could happen, yeah. It's kind of hard to know
 8 exactly what parts of Mobile County are being taken with those
 9 two plans. But if you dilute the vote in Mobile County, that
 09:00:29 10 obviously is going to make the vote of the rest of that
 11 district -- those two districts more important. So, yeah, you
 12 could have a congressman from Dothan under both of those plans
 13 and a congressman from Montgomery and not a congressman from
 14 Mobile, which would be a tragedy for the people down here.
 09:00:45 15 Q Why would it be a tragedy for the people down there?
 16 A I'm not saying somebody from Dothan or Montgomery wouldn't
 17 care about this area. But as I said before, you wouldn't have
 18 somebody that's focused, focused on the port, focused on the
 19 shipyard, focused on our fishery in the Gulf of Mexico, focused
 09:01:01 20 on the nursery issues we have here. They just -- they're just
 21 not enough bandwidth to be as focused as I was able to be
 22 focused. I could walk in a room and talk about any of those
 23 issues and master it. If I had to represent those other areas,
 24 as well, or somebody from the other areas had to represent
 09:01:22 25 Mobile, I just don't think that you could master it.

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1 Q Do Mobile and Montgomery ever compete each other, in terms
 2 of trying to recruit businesses, for example?
 3 A Not that I know of. Their economic development plan,
 4 their industrial plan is very different from ours. Montgomery,
 09:01:45 5 for all the right reasons, has really focused on two things --
 6 automotive, obviously with the Hyundai plant there and all the
 7 suppliers of the Hyundai plant, but also because of their Air
 8 Force presence, they really focus on how they can magnify
 9 Maxwell Air Force Base and things that are a part of that.
 09:02:05 10 I think they have made a very smart decision to do that,
 11 by the way, but that's a different economic plan than what we
 12 have done here. So we're as much trying to help them because
 13 of the port. So as anything else, I don't really think we
 14 believe ourselves that we're competing with them.
 09:02:23 15 Q Would you have any concerns with the congressional map
 16 that divided the Mobile region along racial lines?
 17 A Yes.
 18 Q What would those be?
 19 A Well, when you are a Congressman, you should be
 09:02:39 20 representing everybody and thinking about how I do X is that
 21 going to affect everybody in my district? You shouldn't be
 22 thinking about, I am going to do this because it helps black
 23 people, or I'm going to do this because it helps white people.
 24 I am going to do this because it helps everybody. And if you
 09:02:55 25 help everybody, everybody rises. That's what you want.

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1 Mobile is a little bit different from the rest of the
 2 state. We do not have the same history during the Civil Rights
 3 movement that Selma, Montgomery, Birmingham did. We had a
 4 mayor here named Joe Lang who worked with a Civil Rights leader
 09:03:14 5 down here named John LeFlore. And so we didn't have some of
 6 the violence, the extent of the violence that you saw in the
 7 other parts of the state. We tried to work through our issues
 8 because we thought it was more important for us to work through
 9 those issues and work together to try to figure out a way to
 09:03:31 10 live together harmoniously. Were we perfect about it? No, we
 11 did not. But we didn't have the problems you saw in the rest
 12 of the state because we at least made the effort to work
 13 together.
 14 Q When you said that you worked -- that you served on the
 09:03:47 15 state school board, correct?
 16 A Yeah.
 17 Q I want to share a map now which is Defendants' Exhibit 26.
 18 This is the 2001 map, Mr. Byrne. I know -- I think you
 19 were in the State Senate then, weren't you?
 09:04:08 20 A In 2001, I was still on the state school board.
 21 Q Okay. So which district did you represent in the state
 22 school board?
 23 A District number 1.
 24 Q Thank you. Did you ever get calls from people in, say
 09:04:25 25 District 5 when you were on the school board?

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1 A I did. There was some people in Monroe County, I
 2 remember, and maybe Clarke County who thought I was their state
 3 school board member, and they would call me, and I would always
 4 call the member for that district when they did and ask him or
 09:04:40 5 her because it changed if they wanted me to help those people,
 6 and they would say, please. And I would go up there and talk
 7 with them and explain to them I was not their school board.
 8 Q Now, I want to share a newer map. This is from Caster
 9 Exhibit 1, which for the record, was Mr. Cooper's report. This
 09:05:12 10 is page 19 of that report. And I will represent to you,
 11 Mr. Byrne, this is the new state school board map that was
 12 passed by the Legislature this cycle just a couple of months
 13 ago.
 14 What thoughts if any do you have about this map, in
 09:05:26 15 particular, the way the blue district includes part of Mobile
 16 and Baldwin County is constructed?
 17 A Well, I testified before the Legislature Redistricting
 18 Committee that I felt like Mobile and Baldwin County should be
 19 kept whole and contiguous. So to the extent that this map
 09:05:47 20 includes a district that comes from Montgomery all the way into
 21 Mobile County, I didn't much like it.
 22 Q Why did you not like it?
 23 A Because Mobile County school system is the largest school
 24 system in the state. And it has unique issues because it's the
 09:06:04 25 largest in the state. And I felt like we needed a school board

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1 member who was focused on Mobile County as well as the other
 2 counties. I had Baldwin and Escambia as well. But there were
 3 so many issues with the Mobile County school system, a lot of
 4 my time was spent focused on that. And if you break it up into
 09:06:25 5 two different people, you don't really have that level of
 6 focus.
 7 I'm not saying that the people that represent those two
 8 districts aren't working as hard as they can. I'm sure they
 9 are. But it's very difficult to be focused on the Mobile
 09:06:37 10 County school system if you have got almost all the Black Belt,
 11 which that district up in the northern part is and a big chunk
 12 of the Wiregrass, which the lower part of the -- the lower
 13 district is.
 14 Q Someone who has served both in Congress and on the state
 09:06:56 15 school board, how do the roles of those two offices compare to
 16 each other, Mr. Byrne?
 17 A They're very different. You're on the state school board,
 18 you are focused on educational issues. That's it.
 19 Now, there are some work force development issues that go
 09:07:13 20 with that, et cetera. But that's pretty much it. You are just
 21 focused on educational issues. When you are in the United
 22 States Congress, you are focused on a large number of issues.
 23 I mean, it's almost everything comes within the purview of the
 24 United States Congress from foreign policy, defense policy,
 09:07:32 25 health care, to internal security, and education, as well. I

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1 was on the Education and Labor Committee in the House of
 2 Representatives. And one of the problems I had as a
 3 congressman is that people expected you to be knowledgeable on
 4 so many different things.

09:07:48 5 Now, at least you have got a staff in Congress. When I
 6 was on the state school board, I had no staff. I had to rely
 7 upon the staff of the State Department of Education, and they
 8 had other things to do.

9 So it was difficult to me to be on the state school board.
 09:08:03 10 But at least I could just focus on one set of issues and try to
 11 master them.

12 And so it was very different being in both of those roles.
 13 But I enjoyed both of those roles.

14 Q Considering the different roles between the school board
 09:08:17 15 and the congressman, even if you assumed it made sense to split
 16 Mobile County in a school board map, does that mean it would
 17 make sense to do so in a congressional map?

18 A No. It would not make sense. At least on the school
 19 board, you are focused on one set of issues. So if I'm from
 09:08:38 20 Montgomery and I have got half of Mobile County from Mobile and
 21 I have part of the Wiregrass, at least, I have got a
 22 geographically diverse area. At least, I'm really only focused
 23 on a very set, defined set of issues.

24 Now, they are very important issues. Don't get me wrong.
 09:08:56 25 But at least I could focus on those issues and try to make sure

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1 as I go from county to county that I am applying what I know on
 2 these issues to each one of those counties as they are very
 3 different.

4 Q When you campaigned for Congress in the different
 09:09:11 5 elections, Mr. Byrne, what parts of your district would you
 6 campaign in?

7 A All of them. I had a -- go ahead.

8 Q Would you campaign in areas that were both more -- would
 9 you campaign in neighborhoods or areas that had a large
 09:09:30 10 African-American community?

11 A Oh, yeah. You can't run for Congress in this district --
 12 I will just make sure -- to be clear -- in this district
 13 without touching every part of it. And I made a concerted
 14 effort to go everywhere. In fact, if you look at my schedule,
 09:09:49 15 I spent a disproportionate amount of my time in the more rural
 16 areas than I did in more populated areas, because if you want
 17 to go up to Monroeville, you might as well spend some time in
 18 Monroe County.

19 There are parts of Monroe County that are almost
 09:10:07 20 completely African-American. There's a little town in north
 21 Monroe county called Beatrice that's 50/50. I had a town ball
 22 in Beatrice. Someone said, why in the world would you bother
 23 spending time in Beatrice because it's so small? I said they
 24 deserve to be represented, too. So I went to all parts of my
 09:10:25 25 district.

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1 Prichard probably didn't give me 5 percent of the vote in
 2 my elections. I probably lost there by a huge margin. But I
 3 would go and have town hall meetings and campaign in Prichard
 4 because I believed the people in Prichard deserve to have a
 09:10:42 5 good congressman.

6 Q When you ran for Congress, Mr. Byrne, did you run as a
 7 candidate of any political party?

8 A Yes. I was a Republican.

9 Q Why are you a Republican, Mr. Byrne?

09:10:54 10 A Because the Republican Party is closer to the conservative
 11 principles that I believe in than the Democratic Party is. I
 12 started out as a Democrat, but I felt like by 1997 I guess is
 13 when I switched parties, the Democratic Party had migrated away
 14 from what were my principles. Not putting down the Democratic
 09:11:15 15 Party if people are Democrats. I have friends who are
 16 Democrats and work with a lot of Democrats, but I just felt
 17 like the Republican Party is more closely aligned with where I
 18 stood on issues and principles.

19 Q Did you work with Democrats when you were in Congress?

09:11:31 20 A Oh, yes. All the time. I will give you two examples. I
 21 served on the Armed Services Committee. Every year, the only
 22 bill the Armed Services Committee works on is the National
 23 Defense Authorization, which we have passed out of the Congress
 24 every year since John Kennedy was president. Those bills are
 09:11:53 25 always bipartisan 100 years ago percent of the time. We work

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1 -- from the very beginning of the years, we work on that bill.
 2 We consciously work together to make sure that bill, the bill
 3 that authorizes the defense of this country is something that
 4 we can all vote for.

09:12:08 5 So we work at being bipartisan, very much so.

6 The other example I give you is this: Shortly after
 7 President Trump was elected, this "Me-Too" movement came out.
 8 And we discovered that we have "Me-Too" problems in United
 09:12:28 9 States Congress. But we also discovered that members of the
 10 United States Congress weren't subject to the same processes
 11 that the private sector was subject to under Title VII of the
 12 1964 Civil Rights Act.

13 Now, I spent a career as a labor employment attorney
 14 telling small, medium-sized businesses in Alabama what they had
 09:12:44 15 to do to comply with that law. And here in Congress, the body
 16 that passed that law was not holding itself under the same set
 17 of accountability processes.

18 So I worked with a very liberal Democrat congresswoman
 19 from California, Jackie Speier, and we put together a bill that
 09:13:04 20 made Congress be as accountable, even more accountable than we
 21 hold people in the private sector, and that bill that Jackie
 22 and I put together passed the United States House unanimously,
 23 passed the United States Senate unanimously, and is a law of
 24 the United States now. And those are just two examples.

09:13:20 25 I worked all the time in a bipartisan manner, because I

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1 firmly believe that the best legislation in Washington is
2 bipartisan legislation. The hardest legislation to pass in
3 Washington is partisan legislation. And it's always a problem,
4 always.

09:13:36 5 So I enjoyed working the bipartisan fashion. I know you
6 look up there now and think, they're completely divided. They
7 can't get along. And there are problems. Don't get me wrong.
8 But there are still people up there, former colleagues of mine
9 on both sides of the aisle that understand what I say is true,
09:13:53 10 and they're still trying to work together to make things happen
11 and happen in the right way.

12 Q When you served on the delegation with Congresswoman
13 Sewell for the Seventh District, did you have the opportunity
14 to work with her on any issues?

09:14:09 15 A Oh, all the time. All the time. We shared Clarke County.
16 We actually had joint town halls together.

17 If she had an issue that affected her district, you know
18 uniquely, she would call on the other members of the delegation
19 to help her, and we always did, 100 years ago percent of the
09:14:26 20 time. And she always helped us. We all worked together. It
21 wasn't like it was unique to her.

22 So Terry was a part of a group called Faith and Politics.
23 I assume she is still a part of it. That's the group that
24 brings the pilgrimage to Alabama every year around the
09:14:47 25 anniversary of the Edmund Pettus Bridge March from 1965. She

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1 wanted to make sure that when that group came here to Alabama,
2 which would bring couple hundred people, people from Congress,
3 people from business and industry, people from foundations, she
4 wanted to make sure that we were all working together, that
09:15:08 5 they saw Alabama, the Alabama delegation working together.

6 So I always participated in that pilgrimage with her.
7 Usually on Saturday mornings when she did her program either at
8 Brown Chapel in Selma or the Dexter Avenue Baptist Church in
9 Montgomery, she would ask me to be sort of her sidekick for it,
09:15:27 10 so that we could get up and tell the people from all the other
11 parties of America here's a Democrat and Republican, black
12 woman and white man working together on issues that matter to
13 the people of Alabama, in particular, matters that revolve
14 around Civil Rights.

09:15:40 15 And I was always honored that she felt comfortable enough
16 to ask me to do that. And I can tell you, you can sit in that
17 room with some of the people in that room like John Lewis who
18 we lost last year, and you realize what people in this state
19 went through to get us the quality of life we have got today --
09:15:58 20 to get to today. I feel like a little bitty nothing compared
21 to people like that. But it was an honor always to be with
22 Terry and to work with her on -- whether it's the pilgrimage or
23 other things that were important to our district.

24 Q When you were in Congress, Mr. Byrne, were there any
09:16:17 25 issues you worked on to devote your time and your political

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1 capital towards that you thought and expected to have a
2 particular benefit to your African-American constituents?
3 A Just about everything. If I am doing something that's
4 going to benefit the economy in southwest Alabama, it's going
09:16:36 5 to benefit African-Americans in my district, of course, it is.
6 If you go to the various businesses in this area, and I
7 traveled and met with workers in every one of these industries.
8 It was always black and white. That's the nature of our work
9 force down here. I mean, whether you are at a chemical plant,
09:16:56 10 steel plant, ship building plant, airplane, you are going to
11 have a mixed group of people.

12 So every time I was doing something for the economy. But
13 I particularly felt like I was helping them every time we
14 worked on education issues. And this goes back to my state
09:17:13 15 school board days. I think the number one Civil Rights issue
16 in Alabama today is the fact that we don't give a quality
17 education to black people like we do the white people. And I
18 really feel strongly about that. We are not going to have the
19 sort of gains and advances and progress we need in this state
09:17:38 20 until we make more improvements to our education system.
21 That's true across the country, but I am more focused on
22 Alabama.

23 Q Have you spent any time working with HBCUs, Mr. Byrne?

24 A Yes, sir. HBCUs are historically black colleges and
09:17:48 25 universities. We had several of them in the two-year college

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1 system in Alabama include Bishop State here in Mobile. So when
2 I was on the state school board, I worked with them. When I
3 was chancellor of post-secondary education I worked with them.
4 And by the way, including Tuskegee, and then when I got to
09:18:06 5 Congress, a congresswoman from North Carolina named Alma Adams
6 asked me to be a co-chair with her of the HBCU Congressional
7 Causas. So for five years I guess it was, I was the co-chair
8 of the HBCU Congressional Caucus.

9 Q Did you spend time working on community health centers?

09:18:33 10 A Oh, yes. We have several community health centers here in
11 the district. I've gotten to know them pretty well. I am very
12 impressed with the quality of health care that they provide to
13 their patients. And I was a strong advocate for them and
14 continue to be a strong advocate for them because I think that
09:18:56 15 they provide quality health care close near where people live,
16 so it's community plan, and it's the best way I think to get
17 primary health care to people in those communities. So I am a
18 strong supporter of community health center.

19 Q Back to your co-chairmanship on the HBCU caucus, I am not
09:19:21 20 suggesting this was the reason you did it, but did you receive
21 any recognition for your service in that area?

22 A I did. The Thurgood Marshall Fund gave me an award
23 three years. Probably one of the awards that I am the most
24 proud of. Thurgood Marshall Fund works to provide funding,
09:19:40 25 private funding to HBCUs across America. And I had no idea

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1 they were going to give me an award, and it just knocked me out
 2 when they did. I remain in contact with them. I still
 3 continue to work with them even though I am not in Congress
 4 because I am a huge believer in HBCUs, and I think what the
 09:19:59 5 Thurgood Marshall Fund is doing and the United Negro College
 6 Fund, both of them together are doing great work for those
 7 colleges, and I think they are important to America.
 8 Q Just a few more questions, Mr. Byrne. And I will remind
 9 you. We want to make sure the Court understands your testimony
 09:20:15 10 that Ms. Decker can take it down. We will try to slow down
 11 just a little. I want to -- when you were in Congress, did you
 12 consider yourself to be the representative of both Republicans
 13 and Democrats in your district?
 14 A Yes.
 09:20:30 15 Q Did you consider yourself to be the representative of both
 16 the white and African-American constituents in your district?
 17 A Absolutely, yes.
 18 Q I want to share a screen now, Mr. Byrne. This is Milligan
 19 Exhibit 5. It is the report of one of their experts, Dr. King,
 09:20:57 20 and she is offering opinions on certain issues. I want to read
 21 this introduction section into the record so you can get some
 22 context. Dr. King writes, White law makers in Alabama learned
 23 long ago to color mask their public statements, just as they
 24 have learned to color mask the legislation intended to protect
 09:21:22 25 their racial prerogatives.

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1 Not since the high tide of brazen white supremacy when
 2 George Wallace proclaimed, segregation forever, have public
 3 figures been so bold.
 4 MS. WELBORN: Mr. Davis, this is Dr. Bagley's report,
 09:21:43 5 not Dr. King's report.
 6 MR. DAVIS: I apologize for that confusion. Yes.
 7 Thank you for the correction.
 8 BY MR. DAVIS:
 9 Q Then Mr. Bagley after giving some examples says this.
 09:22:03 10 JUDGE MARCUS: I think you have to just -- as we
 11 proceed, Mr. Davis, just take your time and speak right into
 12 the speaker.
 13 MR. DAVIS: Thank you, Judge.
 14 BY MR. DAVIS:
 09:22:16 15 Q I will read now an excerpt into the record from Milligan
 16 Exhibit 5, the Bagley report.
 17 Dr. Bagley writes, Representative Bradley Byrne of the
 18 State's First Congressional District when he was vying for a
 19 Senate seat aired a campaign ad in which he condemned black
 09:22:36 20 people by placing their images in a fire.
 21 The television spot begins with Byrne staring into a wood
 22 fire in a backyard and lamenting the loss of his brother in the
 23 armed services. He shifts to lamenting the course the country
 24 is taking as the faces of black and brown people appear in the
 09:22:56 25 fire. Former national football league quarterback Colin

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1 Kaepernick appears in the fire as Byrne calls him an entitled
 2 athlete dishonoring the American flag. Members of the
 3 congressional caucus known as the Squad, Ilhan Omar and
 4 Alexandria Ocasio Cortez appear in the fire and are accused of
 09:23:17 5 attacking America and cheapening 9/11. No white people appear
 6 in the fire.
 7 My question to you, Mr. Byrne, is: Is there anything you
 8 care to say in response?
 9 A Yes, sir. That ad was about my brother. And the fire was
 09:23:38 10 a fire in the fire pit at our hunting camp that he and I used
 11 to sit around all the time. So that ad was about my brother.
 12 Now, the fact that I'm contrasting a rich, NFL quarterback
 13 named Colin Kaepernick who won't stand up during the national
 14 anthem with my brother's service who made far less than Colin
 09:24:01 15 Kaepernick makes and literally contracted a disease during one
 16 of his deployments with the 20th Special Forces group that
 17 killed him, I think that's a legitimate thing for me to raise.
 18 I have grave disagreements with Representative Alexandria
 19 Ocasio Cortez and Representative Omar. But I can tell you I
 09:24:18 20 never had any negative interaction with either one of them.
 21 Representative Alexandria Ocasio Cortez, actually, her
 22 office was in my office building. And when she was relatively
 23 new, she couldn't find her way to her office and literally
 24 stopped me in the hallway and asked me, can you tell me where
 09:24:36 25 my office is? I said, yes, ma'am, and I told her where it was.

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1 And we sort of developed a personal rapport just because she
 2 got to the moment of weakness, which we all have in Congress by
 3 the way. It's easy to get lost in those buildings.
 4 So we never really had a political conversation, but we
 09:24:50 5 would have these personal sort of, you know, informal social
 6 interactions. I disagree with her on the issues, but I don't
 7 have any problems with her as a person.
 8 The same is true for Ms. Omar. Now, Ms. Omar served on
 9 the Education and Labor Committee with me. So we would have
 09:25:07 10 interactions about education issues, and we had some
 11 disagreements about -- but there was no -- that was really
 12 about my brother. It was not about those other people. And
 13 the fact that we used them was to simply contrast them and
 14 their positions with the service that my brother had rendered
 09:25:29 15 to our country.
 16 Q Was it your intention to single out anyone because of
 17 their race?
 18 A No. I singled out Mr. Kaepernick because he won't stand
 19 up during the national anthem, and there are plenty of black
 09:25:43 20 athletes that stand up during the national anthem by the way.
 21 I have noticed that's not as what a lot of people try to
 22 portray it to be.
 23 And I am singling out Ms. Alexandria Ocasio Cortez and
 24 Ms. Omar because of their attacks against America. They attack
 09:25:56 25 American values. And I think it's perfectly within the realm

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1 of what's appropriate dialogue to say, I expect somebody that's
2 making this money as Colin Kaepernick to stand up during the
3 national anthem, and I don't think members of Congress should
4 be attacking the country.

09:26:12 5 Q Mr. Byrne, I want you to think of the people who are
6 involved in congressional campaigns, whether it's a candidate
7 or someone considering a run, that person's staff, volunteers,
8 and then I want you to assume that a couple of weeks before the
9 January 28th deadline, the congressional map changes from the
09:26:40 10 way it's usually been and what the Legislature passed to all of
11 a sudden it changes to something like what the plaintiffs are
12 representing excuse me -- what the plaintiffs are proposing.

13 Do you see any issues that would cause with congressional
14 campaigns?

09:26:57 15 A Yes, sir. First of all, we have primaries in four months,
16 general election in ten months. Once you turn the calendar to
17 the beginning of the year, you have that primary staring you in
18 the face, you have already set your campaign in place. You
19 already have your plan in place. You have already got
09:27:17 20 volunteers set up ready to go. You have got, you know, the
21 campaign ad messaging already worked out. And you are hitting
22 the ground running.

23 So if you change my district on me with that little time,
24 it's going to put a substantial burden on my ability to refocus
09:27:33 25 my campaign, conduct my campaign, get volunteers, et cetera.

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1 And particularly if you give me a new geographic area that I
2 haven't represented before, where I don't have, you know, the
3 natural contacts, et cetera, that's a huge problem for any
4 community. And I don't -- and that's true for any candidate,
09:27:52 5 Democrat, Republican, people that are long-time public office
6 holders, people that are brand new. It could be a tremendous
7 difficulty.

8 Q Mr. Byrne, you said you went to a public hearing where
9 some of these districts were at issue. Why did you go to the
09:28:13 10 public hearing? Why are you here today to talk to the Court
11 about districts?

12 A Number one, I am a citizen, so I have -- so I am not just
13 any citizen. I mean, I served on the state school board, held
14 a district for eight years. I served in the United States
09:28:33 15 House of Representatives representing one of the districts for
16 seven years. I have, you know, a unique set of understandings
17 about what it's like to represent these areas. And I felt like
18 I owed it to the system. I owed it to the public to stand up
19 and say -- as somebody that's actually done this work, these
09:28:51 20 districts the way I'm proposing them makes sense this way.

21 And the most important thing I was trying to say is keep
22 this particular community together. Keep these communities
23 together. Don't pull southwest Alabama apart because we work
24 together down here. Mobile area Chamber of Commerce doesn't
09:29:13 25 just do economic development for Mobile County. They also do

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1 it for Washington County.

JUDGE MARCUS: Let me stop you for a second,
3 Mr. Byrne. You cut out. The sound cut out for a minute. So
4 take your time and just repeat what you just said if you would,
09:29:29 5 please.

6 THE WITNESS: Yes, sir. What I have been the most
7 concerned about is that people that pull apart southwest
8 Alabama and have different parts being represented -- we work
9 together down here in southwest Alabama. The example I used
09:29:48 10 was the Mobile area Chamber of Commerce, the economic
11 development for both Mobile County and Washington County,
12 because we're so closely connected.

13 We need to stay together down here. We have a group
14 called CAP, Cultural Alabama partnership, that pulls together
09:30:05 15 these counties so that we have common representation, common
16 advocacy efforts with the Alabama Legislature and the members
17 of Congress. So keep us together. Don't pull us apart. Let
18 us be one group of people that work together for our region of
19 the state and maximize the benefits that we want to get for our
09:30:27 20 people down here.

21 MR. DAVIS: Thank you, Mr. Byrne. I have no further
22 questions and pass the witness at this time.

23 JUDGE MARCUS: Thank you, counsel. Cross-examination
24 in what order did you propose to proceed on behalf of Milligan
09:30:40 25 and Caster and the Singleton? And we leave that up to you.

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1 MS. WELBORN: I will be going first for the Milligan
2 plaintiffs, Your Honor.

3 JUDGE MARCUS: All right. And, Mr. Whatley, would you
4 be going second or the Caster folks going second?

09:30:57 5 MR. WHATLEY: Doesn't matter to me, Your Honor.

6 JUDGE MARCUS: I leave that up to you. So let's
7 begin --

8 MR. WHATLEY: I am happy for the Caster plaintiffs to
9 go second.

09:31:03 10 JUDGE MARCUS: All right. Thanks very much.

11 Ms. Welborn, you may proceed with your cross-examination.

12 MS. WELBORN: Thank you.

13 CROSS-EXAMINATION

14 BY MS. WELBORN:

09:31:18 15 Q Representative Byrne, my name is Kaitlin Welborn, and I
16 represent the Milligan plaintiffs. Good morning.

17 A Good morning.

18 Q So I'd like to talk about the current redistricting plan
19 first. You had no direct role in drawing the current
09:31:25 20 congressional map in Alabama, right?

21 A I didn't have any direct role, but I did testify before
22 the committee.

23 Q But other than that, you did not do anything to --

24 A That's correct.

09:31:37 25 Q -- help draw the congressional map?

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1 A That's correct.
 2 Q And you did not provide any input to Mr. Hinaman, the map
 3 drawer?
 4 A I did not know Mr. Hinaman.
 09:31:49 5 Q I'm sorry?
 6 A I don't think I know him.
 7 Q Okay. And you did not speak with Representative Pringle
 8 about the 2021 map?
 9 A I did.
 09:31:59 10 Q You did?
 11 A Yes.
 12 Q I'm sorry?
 13 A He is the chair of the committee, and I testified before
 14 the committee.
 09:32:08 15 Q Okay. But did you speak to Representative Pringle outside
 16 of the public hearing?
 17 A I don't believe I did, no.
 18 Q Okay. And did you not speak with Senator McClendon
 19 outside of the public hearing?
 09:32:22 20 A I don't believe I did, no.
 21 Q And you did not speak with Secretary Merrill's expert
 22 Thomas Bryan?
 23 A No, ma'am.
 24 Q Okay. You first ran for Congress in a special election in
 09:32:34 25 2013, right?

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1 A That's correct.
 2 Q And at that time, you had already held state office in
 3 Alabama for some time as you had mentioned, right?
 4 A That's correct.
 09:32:44 5 Q So you were something of a known quantity to the voters in
 6 your district?
 7 A Well, I thought I was better known than I found out that I
 8 was, but, yes, to some people, I was a known quantity.
 9 Q And in the 2013 special election, your opponent,
 09:33:03 10 Mr. LeFlore was black, right?
 11 A That's correct.
 12 Q And he lost to you by over 30 percent?
 13 A I don't remember the percent.
 14 Q And then you faced Mr. LeFlore again in the 2014 general
 09:33:20 15 election?
 16 A That's right.
 17 Q And at that time, he lost to you by over 35 percent?
 18 A Once again, I don't remember the percent.
 19 Q Okay. As a congressional representative, don't you have
 09:33:35 20 to focus on multiple issues all at once?
 21 A You do.
 22 Q And you have to learn about all of the issues that matter
 23 to your constituents?
 24 A You do, but there's some issue you know more about than
 09:33:49 25 others to be honest with you. You can't be an expert on

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1 everything.
 2 Q And some Representatives in Congress represent entire
 3 states, right?
 4 A That's true.
 09:33:57 5 Q Is it impossible to be knowledgeable about, for example,
 6 both the University of South Alabama and Troy University at the
 7 same time?
 8 A Well, you can be knowledgeable about them, but you can be
 9 more knowledgeable about one than two.
 09:34:15 10 Q Okay. Wouldn't having two congressional representatives
 11 representing Mobile and Baldwin give the region even greater
 12 influence in Congress?
 13 A Well, the truth of the matter is if you have two different
 14 ones, you don't have one that's just entirely focused on a
 09:34:33 15 particular interest. So --
 16 Q No. You have two that are focused on that area?
 17 A Unfortunately, when you have two, you don't have the same
 18 amount of focus. That's just the honest truth about it. So if
 19 I am only concerned about the University of South Alabama, I
 09:34:47 20 know I am the congressman for the University of South Alabama,
 21 and they don't have anybody but me to go up there and do what
 22 needs to be done for them. And so it really is better to have
 23 just one than to have two that are sort of split and paying
 24 attention to other things.
 09:35:02 25 Q Representative Sewell and Palmer both live in Birmingham,

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1 right?
 2 A I don't think -- I know Representative Sewell lives in
 3 Birmingham. I think Representative Palmer lives outside of
 4 Birmingham, but in the metro area.
 09:35:24 5 Q In Jefferson County?
 6 A Yeah.
 7 Q Okay. Are you aware of any criticisms of either of those
 8 representatives failing to adequately represent the rest of
 9 their districts?
 09:35:35 10 A I've never heard anybody criticize either one of them for
 11 what they do for their district. Each one of them in their own
 12 way do an excellent job for their district.
 13 Q Okay. Are you aware that District 4 stretches across the
 14 northern part of the state from Lamar and Tuscaloosa counties
 09:35:53 15 all the way east to Etowah and DeKalb counties?
 16 A I am. I believe that's Congressman Aderholt's district.
 17 Q That's right. It's Congressman Aderholt.
 18 And presumably, Representative Aderholt campaigns
 19 everywhere in his district, right?
 09:36:10 20 A I don't know where he campaigns, but Congressman Aderholt
 21 like Congresswoman Sewell and Congressman Palmer, does an
 22 excellent job in his district.
 23 Q I would like to talk about the economics of the Mobile
 24 area.
 09:36:22 25 You spoke quite a bit about the port in Mobile. Does

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1 Republican Carl your successor also work to protect ship
 2 building in Congress?
 3 A Yes, ma'am. He is doing a good job.
 4 Q Wouldn't you expect anyone who represented Mobile to work
 09:36:39 5 to protect the ship building industry in Congress?
 6 A Oh, I think that's true. The question is, once again,
 7 it's bandwidth. How much time can you devote to that issue if
 8 you have got other competing issues? So I can't say this about
 9 Congressman Carl because I am not there with him all the time.
 09:36:58 10 But for me, every day that I woke up in Congress, I was
 11 concerned about that shipyard. And that's what it took because
 12 there were all sorts of people trying to take the money away
 13 from those programs that they were building ships for, for
 14 other programs. And it was a fight every day just like the red
 09:37:14 15 snapper fight was a fight every day.
 16 Now, if I have got to worry about several other issues in
 17 addition to those, I am not going to be as effective in that
 18 fight as I would be if I'm focused on those.
 19 Q Okay. But if the port in Mobile were in a different
 09:37:30 20 district than CD 1, it would still be true that someone would
 21 work to represent, you know, the ship -- protect the ship
 22 building industry in Congress?
 23 A I would think so, but I would think it would be a question
 24 of how much time, how much effort, and how much priority they
 09:37:46 25 put on it. And if they have got other things they are

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1 competing with, it wouldn't be as much. That's just the nature
 2 of things.
 3 Q Okay. And other than the port, you mentioned a few other
 4 industries such as Airbus and fishing, and said that those are
 09:38:05 5 some of the largest industries in the Mobile area, right?
 6 A Yeah. I also mentioned tourism and seafood, et cetera.
 7 Q Okay. The largest industry in Mobile County is health
 8 care; is that right?
 9 A I guess if you put all the hospitals together, it might --
 09:38:26 10 that might be true, yeah.
 11 Q And the second largest industry is retail sales; is that
 12 right?
 13 A In terms of numbers of employees, that may be true. I
 14 don't know about payrolls.
 09:38:36 15 Q Okay. And the recent economic growth in Mobile County has
 16 attracted more people to move to the Mobile area; is that
 17 right?
 18 A That's correct.
 19 Q And people go to Mobile County from other counties to
 09:38:50 20 work?
 21 A Oh, yes. A lot of people do.
 22 Q And to live?
 23 A Yes.
 24 Q And to shop?
 09:38:57 25 A Oh, yes.

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1 Q And those people may come from Clarke County?
 2 A Yes.
 3 Q Conecuh County?
 4 A Not too many people from Conecuh County.
 09:39:10 5 Q Okay. What about Wilcox County?
 6 A Not very many people from Wilcox County.
 7 Q And migration from other areas would include people moving
 8 from the area commonly known as the Black Belt, right?
 9 A There are people that move here from the Black Belt, yes.
 09:39:28 10 Q Okay. You don't know the level of migration into the
 11 Mobile area in the past decade, do you?
 12 A You mean where they came from?
 13 Q The level of migration.
 14 A The level. Oh, I couldn't quantify it for you, but we
 09:39:45 15 have had migration.
 16 Q Or the past 50 years?
 17 A We have had migration the last 50 of years, yes.
 18 Q But you don't know the level?
 19 A No, I can't quantify for you.
 09:39:56 20 Q And you don't have a breakdown of where those migrants
 21 have come from?
 22 A No, ma'am.
 23 Q Are you aware of the racial disparities in the poverty
 24 level in Mobile?
 09:40:18 25 A You mean the percentage of people who are in poverty who

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1 are black versus white?
 2 Q Yes.
 3 A I know that it's a higher percentage poverty among black
 4 people than white people in Mobile County.
 09:40:26 5 Q Are you aware that over 51 percent of people living below
 6 the poverty line in Mobile County are black, even though only
 7 36 percent of Mobile County is black?
 8 A I don't know the figure precisely, but I wouldn't be
 9 surprised if that was the case.
 09:40:43 10 Q Okay. Are you aware that the Mobile City Council had to
 11 be sued in the 1970s and 1980s to ensure black representation?
 12 A I am well aware of that, yes, ma'am.
 13 Q And are you aware that the Mobile County School Board had
 14 to be sued in the 1970s and 1980s to ensure black
 09:41:01 15 representation?
 16 A I am well aware that, yes, ma'am.
 17 Q You mentioned representative John Lewis and the
 18 commemoration of the Selma to Montgomery March?
 19 A Correct.
 09:41:13 20 Q But you did not support the John Lewis Voting Rights
 21 Advancement Act while you were in Congress, did you?
 22 A I did not.
 23 Q You are familiar with the area referred to as the Black
 24 Belt, right?
 09:41:29 25 A Oh, yes, ma'am.

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1 Q And the Black Belt is generally an area whose counties are
 2 generally majority black, right?
 3 A It's actually called the Black Belt because of the soil.
 4 The soil is dark and rich there, so it's not called the Black
 09:41:44 5 Belt of race or ethnicity.
 6 Q That's not what I asked. Is it an area whose counties are
 7 generally majority black?
 8 A Yes. There are some exceptions to that, but yes, as a
 9 region, it's majority black.
 09:42:08 10 Q Okay. And in general, the Black Belt has lower income
 11 levels than other areas of the state, right?
 12 A Yes, ma'am, that's correct.
 13 Q And it has lower education levels than other areas?
 14 A There are exceptions to that, but that's true.
 09:42:17 15 Q And it has worse health care and facilities than other
 16 areas?
 17 A I don't know that. I have toured hospitals in the Black
 18 Belt, and there the number of good hospitals in Black Belt, so
 19 I can't verify what you just said.
 09:42:28 20 Q Okay. That's perfect, because I would like to talk about
 21 health care now.
 22 In December 2020, you were interviewed by al.com about
 23 your time after Congress. Do you recall this interview?
 24 A Well, yeah, I did a lot of interviews when I was a member
 09:42:45 25 of Congress, but I do recall generally that interview.

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1 MS. WELBORN: Mr. Ang, could you bring up that
 2 article?
 3 BY MS. WELBORN:
 4 Q Mr. Byrne, do you recognize this article?
 09:42:55 5 A It's been a while since I've read it, but, yes, John
 6 Sharp. I remember the article he wrote, yeah.
 7 MS. WELBORN: Your Honor, we would like to mark this
 8 document as Milligan Plaintiffs' Exhibit 55 for identification.
 9 JUDGE MARCUS: Okay.
 09:43:12 10 MS. WELBORN: Mr. Ang, could you flip to page 2,
 11 please?
 12 BY MS. WELBORN:
 13 Q And, Republican Byrne, could you please read the paragraph
 14 starting with, the daily data?
 09:43:24 15 A The daily data that I've got in this -- which really
 16 forced me to focus on the fact that there is a problem with the
 17 ability of black people to be able to get good, primary health
 18 care. One thing I have worked on in Congress and will continue
 19 to be interested in, is how do we get primary health care to
 09:43:43 20 black people? It's clear with the data we have is that black
 21 people with underlying health conditions are disproportionately
 22 affected by the novel Coronavirus virus. We should want
 23 everyone in our communities to have real access to quality
 24 primary health care.
 09:44:01 25 Q Thank you.

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1 MS. WELBORN: And, Mr. Ang, could you flip to the last
 2 page, please?
 3 BY MS. WELBORN:
 4 Q And, Representative Byrne, could you read the paragraph
 09:44:11 5 starting with, many of us have access?
 6 A Many of us have access to primary health care, and we take
 7 that for granted, but for a disproportionate number of people
 8 in the state, and a disproportionate number of black people,
 9 that's not true. It's not good for our communities, for our
 09:44:27 10 state, or our nation.
 11 Q Thank you.
 12 MS. WELBORN: And, Mr. Ang, you can take that down.
 13 BY MS. WELBORN:
 14 Q Representative Byrne, do you agree that it is difficult
 09:44:37 15 for black people in Mobile County to get primary health care?
 16 A Yes, ma'am.
 17 Q And would you agree that it is difficult for black people
 18 in the Black Belt to get primary health care?
 19 A I don't know as much as the Black Belt as I do about
 09:44:51 20 Mobile County, but I wouldn't be surprised if that was true.
 21 Q Okay. Thank you. You are aware that the Affordable Care
 22 Act allows states to opt in to Medicaid expansion, right?
 23 A I am.
 24 Q And you are aware that Governor Bentley convened a task
 09:45:07 25 force that recommended that Alabama opt into Medicaid

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1 expansion, right?
 2 A I don't know about that.
 3 Q Okay. But Alabama has not opted into Medicaid expansion?
 4 A That's correct.
 09:45:20 5 Q And if Medicaid were expanded in Alabama about, 220,000
 6 more Alabamians would receive health care coverage; is that
 7 right?
 8 A No.
 9 Q I'm sorry?
 09:45:39 10 A I said no.
 11 Q Okay. Do you have a different figure?
 12 A No. I think what you are saying is they would be covered
 13 by Medicaid, but it doesn't mean they would have access to
 14 health care because there are not enough health care providers
 09:45:51 15 to provide health care to.
 16 Q I'm sorry. I'm talking about health care coverage, so
 17 insurance?
 18 A It's a difference between coverage and gaining health
 19 care.
 09:45:59 20 Q Okay. 220,000 more Alabamians would be covered by
 21 Medicaid and have Medicaid insurance?
 22 A Yes. But they wouldn't necessarily be able to get health
 23 care because we don't have doctors that will take care of them.
 24 We have --
 09:46:14 25 Q Thank you.

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1 A We have one pediatrician in Escambia County, Alabama that
 2 will take Medicaid patients because the level of pay is so low
 3 for Medicaid. So you can have Medicaid and not be able to get
 4 health care because there's no doctor to give it to you.
 09:46:29 5 That's --
 6 Q Okay. Thank you.
 7 A -- why I support community health centers.
 8 Q But of those 220,000 Alabamians who would be covered under
 9 Medicaid in that they have Medicaid insurance, black people
 09:46:44 10 would disproportionately be among those at those people, right?
 11 A I don't know that figure. I couldn't -- I couldn't
 12 quantify that.
 13 Q And while you were in office, you opposed Medicaid
 14 expansion, right?
 09:46:55 15 A I did because I thought we should have community health
 16 centers instead.
 17 Q Okay. And Representative Sewell supports Medicaid
 18 expansion?
 19 A She does.
 09:47:04 20 Q And that Alabama Black Legislative Caucus supports
 21 Medicaid expansion?
 22 A I don't know.
 23 Q Okay. In Congress, you made opposition to the Affordable
 24 Care Act a major priority; is that fair?
 09:47:19 25 A I did.

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1 Q And you sponsored a 2015 bill to repeal the Affordable
 2 Care Act?
 3 A Repeal and replace.
 4 Q And in 2017, you supported a budget revolution to appeal
 09:47:32 5 the Affordable Care Act?
 6 A That's correct.
 7 Q Do you recall the American Health Care Act of 2017?
 8 A I do.
 9 Q And it sought to repeal the Affordable Care Act, as well,
 09:47:44 10 right?
 11 A Repeal and replace.
 12 Q And you supported the American Health Care Act, right?
 13 A Yes, because I thought it was going to give a better
 14 health care system than the one that the Affordable Care Act
 09:47:57 15 provided.
 16 Q Okay. Thank you.
 17 Do you know what percentage of black voters voted for you
 18 in the 2014 and 2018 general elections?
 19 A I don't.
 09:48:07 20 Q Would it surprise you that in your 2014 election only
 21 15 percent of black voters in District 1 voted for you?
 22 A No.
 23 Q And would it surprise you to know that in 2018 only
 24 5.4 percent of black voters in District 1 voted for you?
 09:48:29 25 A That would surprise me, yeah.

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1 Q Okay.
 2 MS. WELBORN: I believe I have no further questions,
 3 but if I could please confer with my colleagues for a few
 4 minutes.
 09:48:40 5 JUDGE MARCUS: You may.
 6 MS. WELBORN: Thank you.
 7 We have no further questions. Thank you.
 8 JUDGE MARCUS: All right. Thank you. And you may
 9 proceed, Mr. Osher.
 09:49:09 10 MR. OSHER: Thank you, Your Honor.
 11 CROSS-EXAMINATION
 12 BY MR. OSHER:
 13 Q Good morning, Representative. How are you?
 14 A Good morning. I'm well, thank you.
 09:49:17 15 Q Can you hear me okay?
 16 A I can.
 17 Q Great. My name is Dan Osher. I represent the Caster
 18 plaintiffs in this lawsuit. I think we met a few years ago
 19 during the *Chestnut* litigation where you testified. Do you
 09:49:29 20 remember that?
 21 A I do.
 22 Q Great.
 23 Representative, how long did you serve in Congress?
 24 A Seven years.
 09:49:38 25 Q And during that time and when you were campaigning, did

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1 you reach out to your constituents to try to learn what their
 2 interests and needs were?
 3 A Constantly.
 4 Q I'm sorry. I didn't catch that answer.
 09:49:52 5 A Constantly.
 6 Q What about organizations that served your constituents,
 7 did you reach out to meet with any such organizations?
 8 A Typically, they would reach out to me. So somebody
 9 reached out to me and said, will you come speak to our group,
 09:50:05 10 or can we come meet with you? I would say, yes.
 11 Q Okay. You mentioned Airbus during your testimony. That
 12 is a pretty big presence in Mobile; isn't that right?
 13 A Yes, sir.
 14 Q Did you ever seek out a meeting to meet with
 09:50:21 15 Representatives from Airbus?
 16 A No. They sought out meetings with me.
 17 Q So you never reached out to them during your candidacy or
 18 serving Congress?
 19 A I didn't have to. They reached out to me.
 09:50:34 20 Q Fair enough.
 21 What about Austal, did you ever reach out to them?
 22 A Yes, sir, but that was part of the back and forth in
 23 trying to get ships authorized and appropriated. So I would
 24 initiate conversations with them and tell them this is what
 09:50:50 25 just happened or what's about to happen.

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1 Q Sure. And that was a huge project in your district,
 2 right? I believe you spent a lot of time on that?
 3 A Yes, sir. A lot of time.
 4 Q Any other of the companies that you identified in your
 09:51:01 5 direct examination, did you reach out to any of those while you
 6 were serving or campaigning?
 7 A I would probably each reach out to the University of South
 8 Alabama because I was on the education committee, and I was
 9 trying to -- but in general, if I spoke with companies, that
 09:51:22 10 would have been because they or somebody representing their
 11 industry reached out to me.
 12 Q Sure. Busy guy. I wouldn't dispute that. So you
 13 testified in the *Chestnut* trial while you were in office you
 14 never had a formal reading with the Alabama State Conference of
 09:51:42 15 the NAACP; isn't that right?
 16 A That's correct. They never reached out to me.
 17 Q And you never reached out to them?
 18 A No.
 19 Q And you didn't know who the president of that organization
 09:51:55 20 was when you testified in *Chestnut*; is that right?
 21 A Yes, sir.
 22 JUDGE MARCUS: Give him a chance to complete his
 23 answer. You may proceed, Mr. Byrne.
 24 THE WITNESS: I still don't know.
 09:52:09 25 BY MR. OSHER:

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1 Q And you testified in *Chestnut* that you never held a
 2 meeting with anyone from the Urban League while you were in
 3 office, right?
 4 A That's correct. They never reached out to me.
 09:52:21 5 Q And you never reached out to them?
 6 A That's right.
 7 Q And you testified in *Chestnut* you never met with anyone
 8 from the Southern Christian Leadership Conference; isn't that
 9 right?
 09:52:31 10 A Not that I am aware of.
 11 Q And you testified in *Chestnut* that you never had a meeting
 12 with anyone from the National Coalition of Black Civic
 13 Participation; isn't that right?
 14 A That's correct. Now, I think what I said in that trial
 09:52:43 15 and I will say again today is I may have met with those people
 16 when I was somewhere else. Like I may have met with them in
 17 Selma during the pilgrimage, but I didn't meet with them as
 18 members of organizations. It was part of a bigger meeting.
 19 Q Of course. Understood. And you testified in *Chestnut*
 09:53:03 20 that you never met with anyone from LULAC, the League of United
 21 Latin American Citizens; isn't that right?
 22 A That's correct.
 23 Q And you testified in *Chestnut* that you didn't even know
 24 what that organization was?
 09:53:15 25 A That's correct.

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1 Q And you further testified that you never paid attention to
 2 what extent your black constituents supported or opposed you in
 3 your congressional races; isn't that right?
 4 A That's right. It didn't matter. I still had to represent
 09:53:33 5 them, whether they voted for me or not.
 6 Q Sure. But you didn't pay attention to whether they
 7 actually supported or opposed you?
 8 A No. Wouldn't matter.
 9 Q So during your seven years in Congress, and I think you
 09:53:47 10 already talked about this, you got to know the other members of
 11 the Alabama delegation; isn't that right?
 12 A Our delegation worked together very well, very closely.
 13 Q And I -- in Ms. Welborn's cross-examination, you talked
 14 about this a little bit, but I'd like to dig down a little
 09:54:08 15 more.
 16 MR. OSHER: Jeff, can I have you pull up Caster
 17 Plaintiffs' Exhibit 12? Thanks.
 18 BY MR. OSHER:
 19 Q And, Representative, I will represent to you that this is
 09:54:28 20 a map of the congressional plan that was in place I believe the
 21 whole time that you were in office?
 22 A That's correct.
 23 Q Over a decade between 2012 and this year, or I should say
 24 last year.
 09:54:41 25 So Robert Aderholt represented District 4, right?

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1 A That's correct.
 2 Q So looking at his district -- and let's see.
 3 MR. OSHER: Jeff, could you focus in on the purple
 4 district there? Yeah. Perfect.
 09:54:53 5 BY MR. OSHER:
 6 Q So looking at that district, it spans the width of the
 7 state. It has corners in Colbert County in northwest down to
 8 Lamar and Tuscaloosa counties, then over east to Etowah,
 9 Marshall, and Dekalb County; isn't that right?
 09:55:22 10 A Yes, sir.
 11 Q Would you say that's an accurate description of that
 12 description?
 13 A Yes, sir.
 14 Q Did Representative Aderholt ever express to you that it
 09:55:32 15 was too difficult for him to travel to the different parts of
 16 his district?
 17 A No. I actually know that area fairly well because I have
 18 campaigned in there twice running for statewide office, and
 19 that area, it has an awful lot in common with one another.
 09:55:49 20 Q Sure. That --
 21 JUDGE MARCUS: Just let him finish his answer.
 22 THE WITNESS: I said they're very similar.
 23 BY MR. OSHER:
 24 Q My apologies for -- I didn't mean to talk over you,
 09:56:02 25 Representative.

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1 That wasn't my question. My question was: Did
 2 Representative Aderholt ever express to you that it was too
 3 difficult for him to travel to the different parts of his
 4 district when he represented them?
 09:56:13 5 A No. When you are in Congress and you are delegated to a
 6 district like that, you do what you have to do, and I am sure
 7 he does an excellent job of it.
 8 Q And he is an effective representative of his district?
 9 A Yes. Very much so.
 09:56:28 10 Q And you testified that you got to know Representative
 11 Sewell pretty well during your time in Congress?
 12 A Actually, I knew her before I got to Congress. But she
 13 and I worked very closely together when I was in Congress.
 14 Q She is also a very effective Representative of her
 09:56:42 15 district?
 16 A Very effective.
 17 MR. OSHER: Jeff, can we focus on District 7 in the
 18 map?
 19 BY MR. OSHER:
 09:56:53 20 Q So, again, looking at this district, her district started
 21 out in -- well, it goes down to the south in Clarke County,
 22 then to Montgomery in the east, up to Birmingham in the
 23 northeast in Jefferson County, and then over to Pickens County
 24 in the west. Do you see that? Did I describe her district
 09:57:13 25 accurately?

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1 A Yes.
 2 Q In your time in Congress, did Representative Sewell ever
 3 express to that you it was too difficult for her to travel to
 4 the different parts of her district?
 09:57:26 5 A She never said it was too difficult, but she said it was
 6 pretty difficult.
 7 Q When did she say that?
 8 A On several different occasions. She would talk about what
 9 her schedule was and how difficult it was for her to be able to
 09:57:39 10 go from Birmingham to Clarke County to Lowndes County to
 11 Choctaw County, just the difficulty in travel, and the fact
 12 that, you know, she's got parts of Jefferson County an urban
 13 county, parts of Montgomery County another urban county
 14 together with the rural Black Belt counties. It's tough, it's
 09:58:01 15 real tough on her, but she is very smart and very capable, and
 16 she does -- she works hard.
 17 Q And you said she's a very effective representative?
 18 A Oh, yes very effective.
 19 Q And let's look at District 3.
 09:58:17 20 As you spoke a bit about earlier, looking at that district
 21 -- and I'm sorry. Who represents District 3?
 22 A It's Mike Rogers.
 23 Q And he did the whole time you were in office; is that
 24 right?
 09:58:29 25 A Oh, yes. Yeah.

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1 Q So looking at his district, it has at least half of the
 2 eastern border of the state running all the way up from
 3 Cherokee County and all the way down to Russell County; isn't
 4 that right?
 09:58:41 5 A That's right.
 6 Q Okay. Did Representative Rogers ever say to you that it
 7 was too difficult for him to travel to the different parts of
 8 his district?
 9 A No. I think he felt like his district had a lot of
 09:58:52 10 commonality -- not necessarily easy to get from Cherokee County
 11 to Russell County, but the commonality of interests they had
 12 made it a little bit easier on him.
 13 He does have the Anniston Army Depot, so he is going to be
 14 focused on that. But in Russell County, he has got people that
 09:59:11 15 are across the river from a major Army base, so he's got that
 16 to contend with, too. But he's a ranking member of the House
 17 Armed Services Committee now, soon to be the chairman, and so
 18 he will be in a unique position to help both of those.
 19 Q Sure. That wasn't my question. My question was about the
 09:59:29 20 difficulty of travel to the different parts of the district.
 21 And --
 22 A Yeah. He would say, I have had a long day or a long
 23 couple of three days because I have to go from Cherokee County
 24 all the way down to Pike Road in Montgomery. That's a long
 09:59:44 25 way.

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1 Q But he's -- you think he's a very effective representative
 2 in his district?
 3 A Oh, yeah, yeah.
 4 Q Okay.
 09:59:51 5 MR. OSHER: You can take that down, Jeff, thank you.
 6 BY MR. OSHER:
 7 Q In your direct examination, do you recall talking to
 8 Mr. Davis about how the illustrative plans that the plaintiffs
 9 have offered in this case may result in no congressional
 10:00:06 10 representative living in Mobile? Do you remember that?
 11 A Yes.
 12 Q And I think -- I can't remember. It might have been
 13 Mr. Davis or you said that that would be a tragedy?
 14 A It would be a tragedy if we didn't have somebody from
 10:00:16 15 Mobile representing the Mobile area, yeah.
 16 Q Okay.
 17 MR. OSHER: Jeff, could I have you pull up Defendants'
 18 Exhibit 2, which I believe is Mr. Bryan's report that was
 19 offered by the state in this case?
 10:00:37 20 Can you go to page 27? Next page, please. And can you
 21 zoom in on the Figure 5.6, Alabama enacted plan. Any way to
 22 zoom in further.
 23 BY MR. OSHER:
 24 Q Representative, can you see that map?
 10:01:08 25 A I can.

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1 Q Okay. I will represent to you that this is the current
 2 enacted map, and it has dots as to where each of the current
 3 Representatives live. Do you see that?
 4 A I do.
 10:01:19 5 Q Can you tell me which congressional representative
 6 currently lives in Montgomery?
 7 A I don't think anybody currently lives in Montgomery.
 8 Q And you would agree that Montgomery is the third biggest
 9 city in Alabama?
 10:01:38 10 A Actually, now, I think it's the fourth.
 11 Q Fair enough. You would say that Montgomery is a very
 12 important city in the state of Alabama?
 13 A Oh, yes, very important city.
 14 Q Okay.
 10:01:50 15 MR. OSHER: You can take that down, Jeff. Thank you.
 16 BY MR. OSHER:
 17 Q You spoke a bit about District 5 in the State Board of
 18 Education plan. Do you remember that?
 19 A I can't remember which district it was.
 10:02:03 20 Q District 5 is the one that connects Montgomery to Mobile
 21 with the Black Belt?
 22 A Okay. I remember that one.
 23 Q And up until a few years ago, Ella Bell represented that
 24 district for a long time; is that right?
 10:02:17 25 A She did, yes.

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1 Q Did she ever express to you that it was too difficult for
 2 her to represent a district that had both Montgomery and Mobile
 3 in it?
 4 A Yes.
 10:02:29 5 Q When did she say that?
 6 A I think I mentioned earlier that I would get phone calls
 7 from people in her district at -- thinking I was their state
 8 school board member. And asking me to come to meetings. And I
 9 would call her and I would say, it's your district, not my
 10:02:46 10 district. I don't want to do anything in your district you
 11 don't know about. I said, do you want me to do something? She
 12 said, would you please, because I cannot get down there. It's
 13 too far me to get from Montgomery to there. I have other
 14 things going on. And so I said, sure, I will be happy to do
 10:02:59 15 it. So I would do that for her from time to time and for her
 16 predecessor.
 17 Q And if she was a member of Congress and you were also a
 18 member of Congress and that sort of confusion arose, that would
 19 -- the same thing would happen, right, you would talk to the
 10:03:17 20 other member of the Congress and try to figure it out?
 21 A Yes. But I got to be honest with you, that never happened
 22 when I was in Congress. I guess people know who their
 23 Congressman is. So I never got any calls from Terri Sewell's
 24 district, for example, saying would you come meet with us
 10:03:32 25 except for Clarke County because she and I shared Clarke

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1 County.
 2 Q And Clarke County is the only district -- I'm sorry -- the
 3 only county that your district split last redistricting cycle,
 4 right?
 10:03:43 5 A That's right. And we had an understanding we would work
 6 together in Clarke County, and there was never any issue.
 7 Q Sure. Ella Bell extremely effectively represented that
 8 district, right?
 9 A I don't think I would agree with that.
 10:04:01 10 Q Dr. Tommy Stewart succeeded Ella Bell to represent that
 11 district?
 12 A I -- yeah. I don't know him, but I -- I know the name.
 13 Q Did you ever speak to Dr. Stewart?
 14 A Not that I can recall.
 10:04:19 15 Q What about Dr. Chestnut, who currently represents that
 16 district?
 17 A I don't recall having any interaction with Dr. Chestnut
 18 either. I've been away from the state school board for a
 19 while.
 10:04:30 20 Q You voted to -- in Ms. Welborn's cross-examination, you
 21 spoke about your efforts to repeal the Affordable Care Act;
 22 isn't that right?
 23 A That's right.
 24 Q You testified in *Chestnut* that you never tried to
 10:04:48 25 determine whether your black constituents wanted the Affordable

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1 Care Act to be stay in place, right?
 2 A I didn't try to determine anybody's particular views on
 3 that. I just listened to what people were telling me. And I
 4 had a lot of people telling me they wanted to change it.
 10:05:02 5 Q You never sought out the advice from the state conference
 6 of the NAACP on that issue?
 7 A I think I testified earlier I never had any interaction
 8 with them consciously. I may have been in a room with some of
 9 them and didn't know they were members of that organization.
 10:05:16 10 Q And you never even tried to figure out what their position
 11 was on the issue?
 12 A No. I -- when it came to that issue, I had plenty of
 13 people tell me what their positions was. I didn't have to
 14 reach out to people.
 10:05:30 15 Q In *Chestnut*, you testified that while you were in office
 16 you never even tried to determine how many black constituents
 17 you actually had; isn't that right?
 18 A Well, I knew them in general, but I didn't know precisely.
 19 I knew it was about 25 percent.
 10:05:44 20 Q In fact, when you were asked about a percentage of your
 21 district that was black during *Chestnut*, you said, it didn't
 22 matter to me. Isn't that right?
 23 A It didn't matter to me.
 24 Q You voted against the First Step Act?
 10:05:59 25 A You have to refresh me. I don't know what the First Step

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1 Act was.
 2 Q The First Step Act was the criminal justice reform?
 3 A Oh, yeah, yeah, yeah. I'm sorry. Yes, I did.
 4 Q But you testified in *Chestnut* that you never tried to
 10:06:15 5 determine whether your black constituents felt that that bill
 6 would improve their lives, right?
 7 A I never heard from anybody about that bill.
 8 Q You didn't attempt to discern the Alabama NAACP's view on
 9 the bill?
 10:06:30 10 A I never had any interaction with them. Consciously
 11 knowingly.
 12 Q You spoke a bit about the various factories and plants
 13 that are located in Mobile?
 14 A (Nodded head.)
 10:06:44 15 Q Do you recall that?
 16 A That's right.
 17 Q Are you aware that there are higher rates of cancer and
 18 asthma among the black community in Mobile due to their
 19 proximity to those factories and plants?
 10:06:55 20 A I'm not, but I wouldn't argue with it. In general, I know
 21 that we have an issue with regard to the quality of health care
 22 that's been available to black people in Alabama in my
 23 district.
 24 Q Do you know who Alabama commemorates in Congress' Statuary
 10:07:19 25 Hall?

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1 A Yes. It's Helen Keller, and it's -- I forgot his name --
 2 a former Civil War general.
 3 Q Joseph Wheeler?
 4 A Yeah.
 10:07:31 5 Q And Joseph Wheeler was a calvary general for the
 6 Confederate Army; isn't that right?
 7 A I know he was a general. I don't know if it was calvary
 8 or not.
 9 Q But he was on the Confederate side of the Civil War?
 10:07:43 10 A Right. I know a lot more about Helen Keller than I know
 11 about him.
 12 Q Did you ever try to determine how your black constituents
 13 felt about Alabama celebrating a Confederate general in the
 14 halls of Congress?
 10:07:53 15 A I never asked them, but I think I can guess.
 16 Q You never reached out to?
 17 A No.
 18 Q And what is your guess as to how they would feel about it?
 19 A I don't think they would like it. That's a decision by
 10:08:08 20 the state, not a decision by Congress.
 21 Q You would agree with me that members of Congress can use
 22 their influence to try to change state policy?
 23 A Some do. I didn't. I didn't think it was appropriate.
 24 Now, when I was in the Legislature, I supported putting Helen
 10:08:29 25 Keller's statue in there. I actually served on the committee

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1 that raised the money to put the statue there because I think
 2 Helen Keller was a better representative of the state than the
 3 person we had there before.
 4 Q Oh, you're referring to the Joseph Wheeler statue, or the
 10:08:44 5 one that was replaced by Helen Keller?
 6 A The one replaced by Helen Keller.
 7 Q You didn't take any action in the Legislature to remove
 8 the Joseph Wheeler statue or replace it with something else?
 9 A No. We were kind of focused on Helen Keller when I was in
 10:09:17 10 the Legislature.
 11 Q Speaking of your time in the Legislature, when did you
 12 serve in the Senate?
 13 A From November of 2002 to May of 2007.
 14 Q During that time, I imagine you went to the Alabama
 10:09:13 15 Capitol pretty often?
 16 A Yes, sir.
 17 Q Did you often walk by the monument to Confederate soldiers
 18 and sailors that sits in front of the Capitol?
 19 A If I did, I didn't pay any attention to it. I didn't know
 10:09:30 20 that we had one.
 21 Q So you sort of turned a blind eye to it?
 22 A I was busy doing other things. I wasn't paying attention
 23 to stuff like that.
 24 Q Were you aware that while you were there, the memorial was
 10:09:40 25 surrounded by flags of the Confederate states?

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1 A I don't remember that, either.
 2 Q Is it your contention that that shrine to the Confederacy
 3 does not exist in front of the Capitol?
 4 A Oh, no. I'm not saying they don't. I just never paid any
 10:09:58 5 attention to them.
 6 Q So you never tried to determine whether your black
 7 constituents had a problem with that sitting at the foot of the
 8 Capitol?
 9 A I never had a discussion with any constituent about that.
 10:10:09 10 Q And is your assumption that you described earlier the same
 11 here that you would think that your black constituents probably
 12 did not appreciate that?
 13 A If they even knew about it.
 14 Q Representative, you would agree that the poverty rate
 10:10:32 15 among black Alabamians is significantly higher than it is among
 16 white Alabamians?
 17 A I know it's higher. I don't know I can say it's
 18 significantly higher.
 19 Q Am I right that when you testified in *Chestnut*, you
 10:10:44 20 actually said you didn't know if that was the case, right?
 21 A No. But I wouldn't be surprised if it was higher.
 22 Q Understood. I will represent to you that the poverty rate
 23 is more than double among black Alabamians than it is white
 24 Alabamians.
 10:11:06 25 What about child poverty rates? Do you know if there's a

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1 disparity there?

2 A I don't. I don't know what the child poverty rate is.

3 Q Would it surprise you if it was nearly triple among black

4 Alabamians than it is white Alabamians?

10:11:19 5 A It would not.

6 Q Household average income, do you know if that's lower

7 among black Alabamians than white Alabamians?

8 A I don't know, but I would not be surprised if it were.

9 Q Same with unemployment rate, do you know if it's -- if

10:11:35 10 it's higher than among black Alabamians than white Alabamians?

11 A I don't know, but I wouldn't be surprised if it were.

12 Q I will represent to you that it's more than double among

13 black Alabamians than white Alabamians. Does that surprise

14 you?

10:11:48 15 A Yeah, that kind of does surprise me.

16 Q Okay. Do you have any reason to dispute that?

17 A No. I am just saying -- I don't have the data in front of

18 me, so I am not going to try to guess at the data, but as I

19 come around and looked at this as an industry down in this part

10:12:09 20 of the state, there are plenty of black people that work in

21 every industry that we have got down here. And that doesn't

22 surprise me because 25 percent of the people that live down

23 here are black and expected to be in the work force, and they

24 are.

10:12:21 25 Q Representative you are a little quiet now, if you wouldn't

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1 mind speaking up.

2 A Okay.

3 Q Thank you.

4 A I will move a little closer.

10:12:38 5 Q I will represent to you that one of the Caster plaintiffs'

6 experts in this case reported that the black unemployment rate

7 among -- the black Alabamian unemployment rate is 7.8 percent,

8 and that for white Alabamians, it's 3.8 percent. So the -- so

9 he reports that it's more than double among black Alabamians?

10:12:51 10 A I don't know.

11 Q So assuming the figures that I discussed there are true,

12 you would agree that those disparities stem from Alabama's

13 centuries' long discrimination against black people in the

14 state?

10:13:04 15 A I think the problems that are facing the black community

16 with regard to all these issues is a function of the failure of

17 the state of Alabama to provide a quality education to them.

18 Q Does that have -- is that rooted in the discrimination

19 that Alabama had against black individuals?

10:13:22 20 A No. It's rooted in the overall failure to the Alabama

21 public education system, which -- white people just not as much

22 as it affects black people. It's the reason I got in public to

23 begin with is because I thought the biggest problem facing

24 Alabama was our inability to provide quality education to all

10:13:41 25 of our citizens, and we're still not doing enough. And it's

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1 having these effects that I think hurt everybody in Alabama,

2 but particularly the people who are not getting that quality

3 education.

4 Q So is it your testimony that the disparities that I have

10:13:56 5 described have no roots in the centuries' long discrimination

6 that Alabama, the entrenched discrimination in Alabama against

7 black individuals?

8 A I don't know that I can say that there's no effect. But

9 what I'm saying is, is that the single biggest problem, the

10:14:15 10 thing that's the biggest cause for them is our failure to

11 provide quality education to everybody in the state. We live

12 in a time when you're going to be valued by what you know and

13 what you do with what you know. And if we don't provide

14 quality education to all of our people, they won't get the

10:14:32 15 economic value in their lives that they need. If they don't

16 have the economic value in their lives, they can't afford

17 quality health care and all these other stuff. So I continue

18 to believe today as I did when I ran for state school board in

19 1994, if you want to address all the other issues, fix the

10:14:49 20 education system in the state.

21 Q You agree with me that Alabama had for a very long time a

22 strictly segregated education system?

23 A Oh, yes, sir, absolutely. To our great shame, we did

24 that.

10:15:03 25 Q Just a few more questions, Representative.

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1 You testified on direct about the -- the campaign ad. Do

2 you recall that?

3 A Yes.

4 Q Your campaign ad.

10:15:17 5 I understand your testimony that that ad was intended to

6 be primarily about your brother; is that right?

7 A That's correct.

8 Q So regardless of your intent, do you know how that ad was

9 perceived among your black constituents?

10:15:29 10 A I don't know that I ever had a discussion with a black

11 person about that ad.

12 Q You didn't hear any feedback from the black community or

13 the press on this?

14 A Not that I can recall.

10:15:44 15 Q You understand, don't you, that images of black people in

16 a fire could trigger a connection in the minds of some to the

17 more horrific eras of racial discrimination in Alabama?

18 A No.

19 Q You would agree that in Alabama, there is a horrific

10:16:03 20 history of lynching black Americans?

21 A Yes, sir.

22 Q And that history included burning black individuals alive?

23 A Never heard of that.

24 Q You would also agree, wouldn't you, that Alabama has had a

10:16:17 25 history of bombing and burning down houses occupied by black

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1 Alabamians?

2 A Yes, sir. To our great shame.

3 Q You would also agree that the KKK used burning crosses to

4 terrorize black individuals in Alabama?

10:16:31 5 A Yes, sir. To our great shame, they did that.

6 MR. OSHER: Your Honor, if I can just have a minute.

7 JUDGE MARCUS: You may.

8 BY MR. OSHER:

9 Q Just one more question, Representative. Sitting here

10:17:11 10 today, do you understand how the images included in that ad

11 might be viewed negatively by the black community?

12 A No.

13 MR. OSHER: That's all I have. Thank you.

14 JUDGE MARCUS: All right. Thank you. And who will be

10:17:25 15 conducting cross-examination for the Singleton plaintiffs?

16 MR. WHATLEY: Your Honor, I am Joe Whatley. I will.

17 JUDGE MARCUS: All right. Thank you, Mr. Whatley, and

18 you may proceed.

19 MR. WHATLEY: Thank you.

10:17:35 20 CROSS-EXAMINATION

21 BY MR. WHATLEY:

22 Q Mr. Byrne, it's good to see you again. I have a few

23 questions.

24 First of all, I, along with other counsel, I represent the

10:17:47 25 Singleton plaintiffs. **Are you familiar with the whole county**

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1 **plan that the Singleton plaintiffs have proposed, Singleton**

2 **plan number one?**

3 **A I don't know if it's the Singleton plan, but I have seen a**

4 **map that shows whole counties.**

10:18:03 5 **Q Okay. And are you aware that that plan keeps Mobile**

6 **County whole?**

7 **A The map that I saw kept Mobile County whole.**

8 **Q And you would agree that's a good thing?**

9 **A That's a good thing. What I was concerned about was that**

10:18:23 10 **it added Andalusia and the county that Andalusia is in and took**

11 **away Washington County and Monroe County. I don't think that's**

12 **a community of interest between Covington County which is where**

13 **Andalusia is and Mobile.**

14 **Q Okay. We will talk about that in a second.**

10:18:35 15 **A Okay.**

16 **Q But it also kept Mobile and Baldwin counties together, the**

17 **two Gulf counties?**

18 **A It did.**

19 **Q And that was something you viewed to be crucial, correct?**

10:18:43 20 **A Yes.**

21 **Q Okay. And you know when you are drawing districts you**

22 **have to keep the population -- you have to have an eye on the**

23 **population. What you have -- how equal it has to be is a**

24 **question the judges will decide. But you know that you have to**

10:18:58 25 **look to population of counties when you are drawing districts,**

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1 correct?

2 A That's correct.

3 Q And by putting Covington in instead of Washington and

4 Monroe, they came -- the Singleton plaintiffs came to districts

10:19:14 5 that had relatively equal population, correct?

6 A That's correct. It has some flaws other than that, but,

7 yes, it does do that.

8 Q And you would also agree that Covington and Escambia

9 counties have some commonalities, correct?

10:19:29 10 A Yes. But Escambia County is not the core of the district.

11 Q I'm sorry. I couldn't hear you?

12 A I'm sorry. Escambia County is not the core of the

13 district. And the part of Escambia County that is closest to

14 Covington County, which is Brewton and east Brewton, not really

10:19:48 15 Atmore, which on the other end of Escambia County, clearly much

16 more to Mobile.

17 Q And the county seat in Escambia County?

18 A Brewton.

19 Q Remind me where that is?

10:19:58 20 A It's Brewton.

21 Q Okay. In that eastern end of the county that's closer to

22 Covington?

23 A That's right.

24 Q And not far from Andalusia?

10:20:04 25 A That's right.

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1 Q Okay.

2 MR. WHATLEY: Let's pull up Caster Exhibit 12. And go

3 down so we can see the southern part of that, Suzanne.

4 BY MR. WHATLEY:

10:20:26 5 Q This is the current district -- I think you just testified

6 the district that -- District 1 is the one you served in this

7 configuration?

8 A That's correct.

9 Q Okay. Now, I will tell you as a preliminary matter both,

10:20:42 10 Mr. Hare and I grew up in Monroeville. And my mother and his

11 parents still live in Monroeville. So let's spend a little bit

12 of time talking about your testimony about Monroe County.

13 Now, Monroe County -- in Monroe County, the economy is

14 largely or in many respects built around the tree; isn't that

10:21:10 15 right? You have paper mills, you have the timber business

16 especially in the northern part of the county. It's -- that's

17 a huge part of the county -- economy; isn't that right?

18 A It's a significant part of it, yes.

19 Q Okay. And they don't have ship building in Monroe County,

10:21:27 20 for example?

21 A No. But you have people from Monroe County that work in

22 the shipyards.

23 Q True. People commute. But they don't do it in Monroe

24 County?

10:21:34 25 A They don't do it in Monroe County, no.

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1 Q And, in fact, between 2010 and 2020, between the two
2 censuses, Monroe County lost a significant part of its
3 population, didn't it, what, around 15 percent?
4 A I don't know the exact percent, but they did lose a
5 significant amount of population.
6 Q Okay. And in Monroe County or at least Monroeville also
7 has a tourist element to its economy, doesn't it?
8 A It does. They try to attract people there because it's
9 the home of Harper Lee, who you probably knew.
10 Q Right. And you brought up Truman Capote in your direct
11 testimony. Were you aware that Truman was the other boy, To
12 Kill a Mockingbird?
13 A Yes.
14 Q Not Harper Lee's brother obviously, but the other boy in
15 To Kill a Mockingbird?
16 A Yes.
17 Q And what you're saying -- in Monroeville, especially
18 pre-COVID and we hope post-COVID, a lot of the economy is built
19 around the Mockingbird, it's built around Harper Lee and Truman
20 Capote and attracting tourists to Monroeville based on that?
21 A They're trying to develop more tourism off of that, yes.
22 I don't know to what extent they have been successful.
23 Q Well, you know at least pre-COVID and even last year to
24 some extent they have a -- the To Kill a Mockingbird play and
25 attract hundreds -- attract thousands of people into

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1 Monroeville to see the Mockingbird play?
2 A Yes, they do. In fact, I've seen it three or four times
3 and got to be on the jury one time.
4 Q Okay. And that -- especially in the spring is a big part
5 of the economy?
6 A In the spring, I would think it would be, yeah.
7 Q Okay. And you mentioned that you attended a town hall
8 meeting in Beatrice, right?
9 A Yeah. Yeah.
10 MR. WHATLEY: And, Suzanne, can you make the District
11 1 larger?
12 BY MR. WHATLEY:
13 Q Is kind of in the northeastern corner of Monroe County?
14 A I don't know -- yeah, I guess that's northeastern.
15 Q And one of the things that's important in Beatrice's
16 economy is hunting camps. You mentioned you were at you a
17 hunting camp, at your hunting camp, but hunting camps are big
18 up there, right?
19 A Yes.
20 Q Okay. And I think you said the northern part of Monroe
21 County is a predominately black area, right?
22 A Yes.
23 Q And, in fact, especially the northern half of Monroe
24 County is considered to be part of the Black Belt, right?
25 A I don't know that.

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1 Q You don't know that.
2 Do you know that both its population and its economy have
3 a lot of similarities to the rest of the Black Belt, correct?
4 A I don't think I would agree with that. It has some
5 interesting unique industries there. You mentioned tourism, in
6 terms of the Mockingbird, but also there's a plant there that
7 does pre-manufactured concrete walls. It's another plant there
8 that makes the cardboard containers that are used to package
9 various goods including some of the craft beer that are made in
10 Mobile. So I don't know other counties in the Black Belt that
11 have those sort of more advanced industries.
12 Q Yes, sir. I'm sorry. Did I cut you off?
13 A No. I finished.
14 Q Okay. You were talking about the precast concrete. You
15 were talking about Gate or Gate-Lazenby?
16 A Yes.
17 Q Okay. What I was really focused on is more the part of
18 the county north of Monroeville?
19 A Okay.
20 Q And Gate-Lazenby -- I don't mean to make this personal,
21 but I worked my way through college working there. But north
22 of Gate-Lazenby is also south of Monroeville, right?
23 A Yes.
24 Q Okay. And north of --
25 A But in Monroe County.

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1 Q North of Monrovia, in the northern part of the county,
2 that is the area where wouldn't you agree with me at least the
3 population is very similar to what you found in the Black Belt?
4 A I would think in very north Monroe County, it would be
5 very similar to say Wilcox County.
6 Q Right. And you talked about the education. The high
7 school in Beatrice is J. F. Shields, right?
8 A I don't know the name of it.
9 Q But you know there is a high school in --
10 A That's right. I think I have been there.
11 Q Yes, sir. And it is an all-black school?
12 A I know it's predominantly black. I don't know if it's all
13 black.
14 Q And the white children around Beatrice go to the all-white
15 private school, Monroe Academy down in Monroeville, don't they?
16 A I don't know that.
17 Q You don't know that?
18 A No.
19 Q Well, you mentioned that there were some white folks at
20 your town hall meeting in Beatrice. Do you know where their
21 children go to school?
22 A I didn't ask where they children went to school. People
23 in the town hall meeting were mainly older.
24 Q Okay. You do know that there is an all-white private
25 academy in Monroe County where many of the white students go to

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1 school?

2 A I know that there's a private academy. I don't know the

3 racial mix of it. I don't think I have ever been to that

4 school.

10:27:41 5 Q Okay. Now, let's go over to Clarke County, if we could.

6 You represented -- and, again, I have relatives there, so

7 I am going to focus on some issues. You are represented the

8 part of Clarke County that includes Grove Hill?

9 A Part of Grove Little, not all of Grove Hill.

10:28:06 10 Q And you represented the part that goes out on Highway 84,

11 the road that goes sort of east and west to there, that's

12 Highway 84, right?

13 A Yeah.

14 Q And are you aware that there's a town of Whatley about

10:28:23 15 six miles east of Grove Hill?

16 A I am aware of it.

17 Q On Highway 84?

18 A Yes.

19 Q Okay. And so as an example, my cousins in Grove Hill or

10:28:42 20 north of Highway 84 in Grove Hill would have been represented

21 by you, right?

22 A Depending upon exactly where they live, probably so. But

23 if they were northeast, they wouldn't be represented by me.

24 Q And if they were northwest, they would be?

10:28:57 25 A They would be.

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1 Q Okay. And my cousins in Whatley, Alabama, six miles to

2 the east in the same county, would have been represented by

3 Congresswoman Sewell?

4 A I think that's right, yes.

10:29:09 5 Q Okay. And I want to be clear. This question is not meant

6 to disparage either you or Congresswoman Sewell. You would

7 agree, I think you already have, that she is an outstanding

8 congresswoman?

9 A She is an outstanding congresswoman.

10:29:26 10 Q But wouldn't you agree, sir, and I think this has been

11 your testimony, that if you had combined Clarke County, that my

12 cousins in Whatley and my cousins in Grove Hill would have been

13 better represented regardless of whether it was you or her?

14 A By having just one congressman?

10:29:52 15 Q Yes?

16 A Yeah. I think that's what I have been saying in previous

17 testimony. I think it's better for a county to have one

18 congressman and not to be split up. But what Congresswoman

19 Sewell and I did was from the very beginning we said we will

10:30:09 20 work together, and we did. We worked together very well. We

21 used to do joint town halls together for example. Thomasville

22 was not in my district, but the mayor of Thomasville would come

23 and see me every time he was in Washington. He is a personal

24 friend, and if Congresswoman Sewell needed help from

10:30:27 25 Thomasville, she got it from me 100 years ago percent of the

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1 time. That's just the way we worked things out.

2 Q But despite that fact, your testimony is that it would be

3 better off to keep counties together?

4 A Yes. That's my position.

10:30:34 5 Q And you believe that it would be better to keep Tuscaloosa

6 so it's not split, for example?

7 A Yes.

8 Q And the same for other counties in Alabama that are split,

9 such as Montgomery?

10:30:46 10 A Yes. Now, I understand that when you're trying to balance

11 out population, sometimes you can't make that happen. But to

12 the maximum extent possible, counties should be kept whole and

13 contiguous in congressional districts.

14 Q And you were asked specifically about the -- about

10:31:09 15 Montgomery not having a Congress person. Do you recall that?

16 A I don't remember the question just put that way, no.

17 Q In any event, Montgomery currently does not have a member

18 of Congress living there, correct?

19 A No one that lives there, yes, that's correct.

10:31:26 20 Q Yes. I'm sorry. I wasn't clear with my question.

21 A They had Martha Roby previously, and now their present

22 member is from Coffee County.

23 Q And was it your testimony that by splitting or splitting

24 any county you might make it less likely that a congressperson

10:31:44 25 reside there?

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1 A Yeah.

2 Q Okay.

3 A You start splitting counties like that, and that county

4 loses its influence. That's why I don't want Mobile County to

10:31:55 5 be split.

6 Q And --

7 MR. DAVIS: Give me one second. Sorry to interrupt,

8 Mr. Whatley. Judge, I just want to check on Mr. Byrne. We

9 have been going about two hours.

10:32:05 10 JUDGE MARCUS: We have been going a long time.

11 Let me ask you, Mr. Whatley: How much longer you have

12 with Mr. Byrne. Perhaps this would be a convenient time for a

13 short break.

14 MR. WHATLEY: It's fine for me to take a short break,

10:32:20 15 Your Honor.

16 JUDGE MARCUS: All right. We will take a break for

17 15 minutes, and then we will pick up the balance of your

18 examination.

19 Question, though, Mr. Whatley: How much longer do you

10:32:32 20 think you have with Mr. Byrne?

21 MR. WHATLEY: I would guess about 10 or 15 minutes.

22 Perhaps the break will make it shorter.

23 JUDGE MARCUS: I'm sorry. I didn't mean to cut you

24 off.

10:32:41 25 MR. WHATLEY: I said perhaps the break will make it

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1 shorter and more organized.
 2 JUDGE MARCUS: All right. We will break for
 3 15 minutes and then pick up the thread of the cross by
 4 Mr. Whatley and any redirect by Mr. Davis.
 10:32:53 5 Thank you. We will in a 15-minute recess.
 6 (Recess.)
 7 JUDGE MARCUS: Mr. Whatley, are you ready to proceed
 8 at this point?
 9 MR. WHATLEY: Yes, sir.
 10:48:40 10 JUDGE MARCUS: Mr. Byrne, you all set to go forward?
 11 THE WITNESS: Yes, sir, I am.
 12 JUDGE MARCUS: Thank you very much. Mr. Whatley, you
 13 may complete your cross.
 14 MR. WHATLEY: Thank you, Your Honor.
 10:48:51 15 Suzanne, will you put back up for just a minute the 2011
 16 plan? I think it's Caster Exhibit 12, Your Honor.
 17 JUDGE MARCUS: Just so I'm clear, Mr. Whatley, this is
 18 the plan that actually was enacted by the state Legislature in
 19 2011, correct?
 10:49:23 20 MR. WHATLEY: Yes, sir. Yes, sir, Your Honor. And
 21 just to put it in context, Mr. Byrne, it's the plan that
 22 existed when you served in Congress, correct?
 23 THE WITNESS: Yes, sir.
 24 BY MR. WHATLEY:
 10:49:34 25 Q Okay. I want to focus back on Clarke County for just one

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1 A Yes. I think that the four metro areas in the state, plus
 2 Dothan, Tuscaloosa, Auburn, all those areas need to have sort
 3 of at the center of their community adequately represented in
 4 the United States Congress.
 10:51:26 5 Q So there ought to be in separate -- and to be clear, there
 6 ought to be separate congressional districts or Huntsville,
 7 Mobile, Montgomery, and Birmingham should each be located in a
 8 separate congressional district from each other?
 9 A Yes.
 10:51:45 10 Q Okay. And going to Congressman Palmer, I think there was
 11 some questioning about Congressman Palmer earlier maybe by both
 12 counsel. Isn't it correct that Congressman Palmer currently
 13 lives in Shelby County?
 14 A To be honest with you, I don't know exactly where he
 10:52:06 15 lives. He either lives in the southern part of Jefferson
 16 County or in Shelby County. I don't know.
 17 Q Were you aware that at one point he did live in Jefferson
 18 County and he moved to Shelby County?
 19 A I am not aware of that.
 10:52:18 20 Q You are not aware of that. Okay.
 21 MR. WHATLEY: Your Honors, I think that's all I have.
 22 JUDGE MARCUS: Thank you. Redirect, Mr. Davis?
 23 MR. DAVIS: Yes, Your Honor, briefly.
 24 REDIRECT EXAMINATION
 10:52:30 25 BY MR. DAVIS:

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1 second.
 2 And I don't think I asked you about the economy of Clarke
 3 County. In Clarke County, a big part of the county also
 4 focuses on the tree, correct?
 10:49:52 5 A Yes.
 6 Q And so a paper mill and lumber mill in Jackson?
 7 A Yes.
 8 Q In the southern part of the county, correct?
 9 A That's correct.
 10:50:05 10 Q And there is a paper mill -- I don't know if you can see
 11 it -- it's in the edge of Wilcox County and Pine Hill, not far
 12 from Thomasville that you mentioned, correct?
 13 A Yes. Yes.
 14 Q And so they make paper, and they produce lumber in Clarke
 10:50:28 15 County, and they don't make ships, correct?
 16 A They don't make ships in Clarke County.
 17 Q But they do make paper, and they do produce timber?
 18 A That's correct.
 19 Q Okay. We can take that down.
 10:50:39 20 Mr. Byrne, I think in your -- you have clearly said before
 21 -- I don't remember if it was in your testimony in the previous
 22 case, or in your deposition, that you think it's important that
 23 each of the urban or Metropolitan -- or each of the cities in
 24 Alabama have its own congressional district or be in a separate
 10:51:12 25 congressional district?

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1 Q Mr. Byrne, did you turn down any meeting requests from the
 2 Alabama NAACP?
 3 A No.
 4 Q Would you have been happy to meet with them had they asked
 10:52:06 5 for a meeting?
 6 A Absolutely. I meet with just about everybody.
 7 Q We talked about the third districts -- and the Third
 8 District and the Fourth Congressional District when you were
 9 speaking with Mr. Osher. Do you consider the areas encompassed
 10:52:54 10 in Alabama's Third Congressional District to be part of a
 11 community of interest?
 12 A I do. That's east Alabama, and it got a common set of
 13 industries and things that they're interested in, and they
 14 largely look to Auburn as their university.
 10:53:09 15 Q What about the Fourth Congressional District, do you
 16 consider those areas to be part of a community of interest?
 17 A They are. We have similar industry in all those areas all
 18 tied to the automobile industry, for example. And they have
 19 very similar -- when you go from one of those towns to the
 10:53:27 20 next, walking from the east side of the state to the west, the
 21 towns are very similar to one another.
 22 Q Do you consider the more urban parts of Mobile County to
 23 be part of the same community of interest with Montgomery,
 24 Macon, and Barbour counties?
 10:53:47 25 A I have been up and down those other places. They just

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1 don't have a connection to Mobile or so.

2 Q And what about the more rural parts of Mobile County? Are

3 they part of a community of interest with the Wiregrass in

4 Dothan?

10:54:02 5 A No, they are not.

6 Q When you are considering --

7 A Let me give an example there. One of the maps I saw of

8 Covington County in the First Congressional District, there's

9 really no connection between Covington County and the main

10:54:26 10 interest that you can see in the First Congressional District.

11 So I don't see that it makes any sense to put a Wiregrass

12 county like Covington in with a district that's primarily

13 centered with Mobile and Baldwin County. It's hard to get to

14 Andalusia from Mobile, very hard. And so as the result, very

10:54:36 15 few people go back and forth between Andalusia and Mobile.

16 Q Which districts would allow a Congressman or congresswoman

17 to more effectively represent the constituents of District 1,

18 whether they're black, whether they're white, Republican,

19 Democrat, rich or poor? Would that be the districts as passed

10:54:59 20 in Alabama's plan, or the districts that plaintiffs are

21 proposing that we viewed a little while ago?

22 A The Legislature plan by far. And as I said before, I

23 testified before that committee, and I listened to other people

24 talk while I was there. And the Legislature effectively did

10:55:17 25 what we were asked to do, which was to keep our part of the

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1 state together.

2 Q Uh-huh. And would your ability as a Congressman to

3 represent your constituents, would it be negatively impacted if

4 your district changed at the last minute to a vastly different

10:55:34 5 structure, including different areas of the state?

6 A Very definitely so, yes.

7 Q We talked about a lot issues, Mr. Byrne. Is there

8 anything else you would like to bring to the Court's attention

9 as they consider these various plans?

10:55:47 10 A Yes, sir. I would want to say this, I have great respect

11 for the Court and this proceeding, and I know the Court's got

12 some difficult decisions to make. But we're pretty far along

13 into this campaign cycle. And I have seen what it does to

14 congressmen in other states when at the last minute, courts

10:56:05 15 start moving things around. And I think it hurts the

16 effectiveness of congressmen when that happens. I am not

17 saying the Court may not have a good reason to do it.

18 But as I said earlier, we are just a few months away from

19 primaries. And it would be very difficult to start shifting

10:56:22 20 this thing around. It was hard enough as it was when the

21 Legislature pass these districts. People held back and held

22 back and held back. And now, they're right in the meat of

23 these campaigns. And I just think it would be terrible if we

24 change course on all these candidates running for these various

10:56:40 25 offices, Democrat, Republican, doesn't matter. It's going to

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1 have the very same detrimental effect on those candidates and

2 on those congressmen, sitting congressmen if all of a sudden

3 these things are moved around some more.

4 And the second thing I would say is, I've tried to say a

10:56:35 5 little bit earlier, Covington County doesn't fit with the First

6 Congressional District. They're wonderful people over there.

7 I have good friends. I worked with a lot of them when we were

8 replacing the president of the community college. But I don't

9 think they would want to be in a district with Mobile because

10:57:09 10 they look to Dothan. They look to the Wiregrass.

11 So that map that has Covington County with Mobile, that

12 just doesn't fit. And I think the way the Legislature has

13 drawn the First Congressional District makes all the sense in

14 the world, given the needs that they have to try to take a few

10:57:26 15 areas away from that district presently because of the growth

16 in Baldwin County. I think they did the best they could

17 possibly do.

18 MR. DAVIS: Thank you, Your Honor.

19 MS. WELBORN: I'm sorry. We just objected to that

10:57:38 20 last line of questioning and move to strike it as beyond the

21 scope of Mr. Byrne's direct. Asking, you know, anything else

22 he wanted to add was not in Mr. Byrne's direct examination.

23 JUDGE MARCUS: It would have been wiser to object

24 before the question was asked, but while the question I think

10:57:58 25 did go beyond, the answer, I think bore upon the stuff that

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1 came up in cross. So the objection is overruled, and we will

2 not strike that portion of the testimony. But thank you.

3 Any other questions, Mr. Davis, that you have for

4 Mr. Byrne?

10:58:13 5 MR. DAVIS: No, Your Honor. That completes redirect.

6 JUDGE MARCUS: Any other questions any of the lawyers

7 have for Mr. Byrne?

8 All right. Judge Moorer, Judge Manasco, did either of you

9 have a question for Mr. Byrne?

10:58:30 10 JUDGE MANASCO: None from me.

11 JUDGE MOORER: No, sir.

12 JUDGE MARCUS: Mr. Byrne, I have got a question for

13 you. Perhaps you can help me with this.

14 On your direct examination by Mr. Davis, you were asked

10:58:47 15 about the 2021 map that the Legislature adopted for the State

16 Board of Education.

17 THE WITNESS: Right.

18 JUDGE MARCUS: And it was observed that -- you

19 observed that you testified, if I heard you right, with regard

10:59:06 20 to that and urged the Legislature not to split Mobile County.

21 Did I have that right?

22 THE WITNESS: Yes, sir, that's what I said.

23 JUDGE MARCUS: And then the testimony came out that,

24 in fact, the Legislature in 2021 split Mobile County in the

10:59:29 25 maps that it drew for the board of education, and it

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1 specifically split Mobile County between Districts 1 and 5.
 2 This is the board of ed map I am talking about. Do you recall
 3 all of that discussion?
 4 THE WITNESS: Yes, sir, I do.
 10:59:47 5 JUDGE MARCUS: I just have one question, if you know
 6 the answer. I was curious, do you know why the Legislature
 7 actually split Mobile County between Districts 1 and 5 when
 8 they drew the board of education maps?
 9 THE WITNESS: Yes, sir. They actually did this in
 11:00:09 10 2011. The other district -- District 1 is the one down here.
 11 District 5 I guess is the other one. That district lost a lot
 12 of population, and they had to pick it up somewhere. And they
 13 believed that the best way to pick it up was to go south into
 14 Mobile County.
 11:00:25 15 So while I was sympathetic to the fact the Legislature had
 16 to make some significant changes to that district, I didn't
 17 like the fact that they were splitting Mobile County because of
 18 the fact the Mobile County school system is so big and has so
 19 many issues as any big school systems does.
 11:00:41 20 I would like to see a school board member that's focused
 21 on that primarily as their job.
 22 JUDGE MARCUS: Thank you much.
 23 Any follow-up questions from any of the lawyers based on
 24 the question that I had asked Mr. Byrne? Mr. Davis?
 11:00:55 25 MR. DAVIS: No, Your Honor.

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1 JUDGE MARCUS: Mr. Whatley?
 2 MR. WHATLEY: No, Your Honor.
 3 JUDGE MARCUS: Mr. Osher? Counsel for --
 4 MS. WELBORN: No, Your Honor.
 11:01:03 5 JUDGE MARCUS: -- for Milligan?
 6 All right. We thank you very much for your time and
 7 efforts this morning, Mr. Byrne, and you are excused.
 8 THE WITNESS: Thank you, Your Honor.
 9 JUDGE MARCUS: Does that close the presentation of
 11:01:20 10 evidence for the state?
 11 MR. DAVIS: It does, Your Honor.
 12 JUDGE MARCUS: And that would be for both the
 13 Secretary of State as the party defendant and for the
 14 intervening defendants McClelland and Pringle, correct?
 11:01:38 15 MR. DAVIS: That's right, Judge.
 16 JUDGE MARCUS: Okay. Did -- before we get to
 17 exhibits, which I wanted to talk about before we went on to
 18 closing arguments, was there anything by way of rebuttal either
 19 from the Milligan plaintiffs, the Caster plaintiffs, or the
 11:01:55 20 Singleton plaintiffs?
 21 MR. BLACKSHER: Singleton plaintiffs, no, Your Honor.
 22 JUDGE MARCUS: Thank you. Milligan?
 23 MR. ROSS: No, Your Honor.
 24 JUDGE MARCUS: And for Caster, Ms. Khanna?
 11:02:09 25 MS. KHANNA: No, Your Honor.

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CERTIFICATE

1
 2
 3
 4 I certify that the foregoing is a correct
 5 transcript from the record of proceedings in the
 6 above-entitled matter.
 7
 8
 9

10 *Christina K Decker*

01-12-2022

11
 12 Christina K. Decker, RMR, CRR
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 14 ACCR#: 255

Date

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7/30/2019

Chestnut, et al., v. John H. Merrill

Josiah Bonner

Page 1

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LAKEISHA CHESTNUT, et al.,
Plaintiffs,

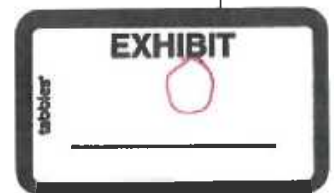
vs. CASE NO. 2:18-cv-907-KOB

JOHN H. MERRILL, in his official capacity as
Alabama Secretary of State,
Defendant.

* * * * *

The videotaped deposition of JOSIAH
BONNER was taken before Bethany Whaley,
Certified Court Reporter, ACCR 661, as
Commissioner, on Tuesday, July 30, 2019,
commencing at approximately 9:00 a.m., at the
Office of Attorney General, 501 Washington
Avenue, Montgomery, Alabama, pursuant to the
stipulations set forth herein.

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14	Also Present:
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16	Bryan Taylor, Governor's office
17	Skip Warren, videographer
18	
19	
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21	
22	
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1	* * * * *
2	STIPULATIONS
3	It is hereby stipulated and agreed by
4	and between counsel representing the parties
5	that the videotaped deposition of JOSIAH
6	BONNER is taken pursuant to the Rules of Civil
7	Procedure, and that said deposition may be
8	taken before Bethany Whaley, Certified Court
9	Reporter, as Commissioner, without the
10	formality of a commission; that objections to
11	questions, other than objections as to the
12	form of the questions, need not be made at
13	this time, but may be reserved for a ruling at
14	such time as the deposition may be offered
15	into evidence, or used for any other purpose
16	by either party hereto, provided by the
17	Statute.
18	It is further stipulated and agreed
19	by and between counsel representing the
20	parties in this case, that the filing of the
21	deposition of JOSIAH BONNER is hereby waived,
22	and that said deposition may be introduced at
	the trial of this case or used in any other
	manner by either party hereto provided for by
	the Statute, regardless of the waiving of the
	filing of same.
	It is further stipulated and
	agreed by and between counsel and the witness
	that the reading and signing of the deposition
	by the witness is waived.
	* * * * *
	Page 5

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Chestnut, et al., v. John H. Merrill

Josiah Bonner

1 THE VIDEOGRAPHER: The marks the
 2 beginning of MPEG one, volume one in the
 3 videotape deposition of Josiah Bonner. We are
 4 on the record. Today is Tuesday, July 30th,
 5 2019, and the time is 9:01 a.m.
 6 My name is Skip Warren. I'm the
 7 videographer. The court reporter is Bethany
 8 Whaley. We're at the offices of the Alabama
 9 Attorney General in Montgomery, Alabama. The
 10 matter is Chestnut, et al. versus Merrill,
 11 et al. The Civil Action Number is
 12 218-CV-907-KOB.
 13 Would counsel and all present
 14 please introduce themselves after which the
 15 court reporter will swear in the witness?
 16 MS. MADDURI: Lalitha Madduri for
 17 the plaintiffs.
 18 MR. DAVIS: Jim Davis for
 19 Secretary of State John Merrill.
 20 MS. HOWELL: Laura Howell for
 21 Secretary of State Merrill.
 22 MR. WALKER: Dorman Walker for

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1 Secretary of State John Merrill.
 2 MS. MCKAY: Erica McKay,
 3 Governor's Legal Office.
 4 MR. TAYLOR: Bryan Taylor -- Bryan
 5 with a Y -- Governor's Legal Office.
 6 JOSIAH BONNER,
 7 being first duly sworn, was examined and
 8 testified as follows:
 9
 10 EXAMINATION BY MS. MADDURI:
 11 Q. Good morning --
 12 A. Good morning.
 13 Q. -- Mr. Bonner. Thank you for
 14 being here.
 15 A. Thank you.
 16 Q. Like I said, I think we'll wrap up
 17 in about ten minutes, but we do appreciate
 18 your time and taking the morning out for us,
 19 so thank you.
 20 A. It's my pleasure. Absolutely.
 21 Q. Can you please state your full
 22 name for the record?

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1 A. My name is Josiah Robins Bonner,
 2 Jr.
 3 Q. And what is your address?
 4 A. 1163 Wellesley, W-E-L-L-E-S-L-E-Y,
 5 Green, Tuscaloosa, Alabama 35406, but I am in
 6 the process of moving. And so my new address
 7 is 7216 Sibley, S-I-B-L-E-Y, Montrose,
 8 Alabama, M-O-N-T-R-O-S-E, 36559. And that
 9 will be effective September 1st.
 10 Q. And have you ever been deposed
 11 before, sir?
 12 A. I was asked that question, and I
 13 was not able to give a definitive answer. So
 14 I don't believe I have, but I have
 15 participated in depositions when I was in
 16 Congress.
 17 Q. In what capacity did you
 18 participate?
 19 A. I was chairman and then ranking
 20 member of the House Ethics Committee. So we
 21 deposed witnesses when we were doing
 22 investigations. I have been called as a

Page 8

1 witness -- or I was told I would be called as
 2 a witness in civil disputes, child custody
 3 cases and all, but I never actually testified.
 4 Q. Okay. So you've never testified
 5 in a court of law or any other --
 6 A. Not that I'm aware of.
 7 Q. So I'll just go over a couple
 8 ground rules then.
 9 A. Okay.
 10 Q. So we're going to try to make a
 11 clear record, and for the sake of the court
 12 reporter, I'll ask you questions, and I just
 13 ask that you wait until I'm finished asking
 14 the question before you respond, and I will
 15 similarly try not to speak over you to make
 16 her job a little bit easier.
 17 And it's also important just to
 18 give audible answers, either yes or no, as
 19 opposed to shaking your head or nodding your
 20 head or saying uh-huh or um-hmm just because
 21 it's hard to understand what that means when
 22 it's on paper. Does that all make sense?

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Josiah Bonner

1 A. Yes, ma'am.

2 Q. And if you don't understand a

3 question that I ask, please just let me know,

4 and I'll try to clarify.

5 A. Okay.

6 Q. If you don't tell me that you

7 don't understand --

8 A. (Witness nods head.)

9 Q. -- I'll assume that you have

10 understood. Does that make sense?

11 A. It makes sense.

12 Q. Okay. And if you need a break at

13 any time, just please let me know.

14 A. (Witness nods head.) Okay.

15 Q. I just only ask that if there's a

16 question pending we just finish that question

17 before we take the break.

18 A. That sounds fair.

19 Q. Okay. Is there any reason today

20 that you can't give your full and honest

21 testimony?

22 A. No, ma'am.

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1 the phone call or exactly who called me.

2 I believe it was the -- the chief

3 counsel, Mr. Taylor, who called just to make

4 me aware of this, but I wouldn't want to swear

5 under oath about that because it could have

6 been someone else. But it was someone in

7 that -- in that legal office.

8 Q. Okay. And what did they tell you

9 about the case?

10 MR. DAVIS: I would object to that

11 on grounds of privilege. Mr. Taylor and the

12 Attorney General's office represent

13 Mr. Bonner. So don't go into details about

14 what the legal office has told you about the

15 case.

16 Q. (By Ms. Madduri) What is your

17 general understanding of the case?

18 A. Well, my general understanding is,

19 is that there was a challenge to the current

20 district lines and that the judge determined

21 that there was not enough time to order -- to

22 rule on that and to order new district lines

Page 12

1 Q. Any medication or anything like

2 that?

3 A. No, ma'am.

4 Q. Okay. Great. So how did -- how

5 did you learn about this case?

6 A. I was told, I believe, by a member

7 of our legal staff that there was a case and

8 that the Secretary of State's office and the

9 Attorney General's office and the plaintiffs

10 may all have some interest in talking with me

11 given that I had worked on Capitol Hill for

12 18 years and then served in Congress for six

13 terms.

14 Q. Okay. And do you remember when

15 you learned about the case?

16 A. It would have been within the last

17 six months. I've been with Governor Ivey for

18 seven and a half months. I've been her Chief

19 of Staff since January 15th, and so it was

20 after I moved into the Chief of Staff's

21 office, but I don't keep a daily calendar -- I

22 keep a daily calendar, but I -- I don't recall

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1 and that that matter would be set aside.

2 And that -- the remaining question

3 was whether or not the plaintiffs' contention

4 that there be two minority districts would be

5 heard at a later time.

6 Q. And I'm not asking you for any

7 privileged information here, but who else have

8 you spoken with about the case other than the

9 lawyers that --

10 A. No one else.

11 Q. Were you provided with any

12 documents or records regarding the case?

13 A. I -- I was -- I met with one of

14 the attorneys in the Governor's office who

15 advised that I did not need to read any

16 documents or ask for any documents to prepare

17 for this. And therefore, I did not ask for

18 any documents, and I did not read any

19 documents.

20 Q. How did you prepare for today's

21 deposition, if you did?

22 A. I got up, put on a nice suit, and

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Pages 10 to 13

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Josiah Bonner

1 I -- I really came prepared to discuss my
 2 experiences of having worked on Capitol Hill
 3 in the federal delegation, Alabama
 4 Congressional Delegation for about 28 years.
 5 Q. Understood. So we can dig into
 6 that. So you were the congressional
 7 representative for Alabama's 1st district --
 8 A. Yes, ma'am.
 9 Q. -- starting in 2003; is that
 10 right?
 11 A. Yes, ma'am.
 12 Q. Okay. Until 2013?
 13 A. Yes, ma'am.
 14 Q. Can you just describe for me your
 15 district generally?
 16 A. It is a -- it's a very special
 17 part of Alabama. If you -- every member of
 18 congress would think their district is the
 19 most special, but ours is unique in the sense
 20 that it's the only coastal district. So we
 21 have mountains in north Alabama, and in south
 22 Alabama, we have beautiful Gulf Coast beaches.

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1 A. Well, at the time I grew up in
 2 Camden, which is no longer in the district.
 3 It's in Congresswoman Sewell's district, in
 4 the 7th district. But the -- the districts in
 5 Alabama have changed over the last 40 to
 6 50 years based on the population changes.
 7 The Black Belt of Alabama, which
 8 is predominantly the 7th congressional
 9 district, has lost population, and therefore
 10 they've had to go into Jefferson County which
 11 is the most populated county in the state and
 12 some even into Montgomery County as well just
 13 to find enough people.
 14 The county I grew up in had
 15 probably 14,000 people in it when I was a
 16 child, and it probably has 14,000 people in it
 17 today if you're lucky. But I grew up in the
 18 northern part of the district. But then in
 19 1984, I moved to help my predecessor Sonny
 20 Callahan get elected to Congress. I was his
 21 campaign press secretary, and then after he
 22 was successful with his election, he asked me

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1 So Mobile and Baldwin Counties are
 2 the two largest counties in the district.
 3 They anchor, and they have for the last 40 to
 4 50 years, the contiguous counties surrounding
 5 it. There's a lot of continuity in that
 6 district in terms of its economy, in terms of
 7 its history, and in terms of its -- its DNA.
 8 A lot of it revolves around the water, around
 9 the river system.
 10 And when I was elected in 2002, I
 11 became the fifth member of Congress to
 12 represent that district since -- in -- in
 13 90 years. So there's not been a lot of
 14 turnover. I worked for my immediate
 15 predecessor. I was his press secretary and
 16 then later his Chief of Staff.
 17 And I actually interned for his
 18 predecessor when I was in college. So it's my
 19 home, and as a result, I know that area of the
 20 state fairly well.
 21 Q. Which part of the district did you
 22 grow up in?

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1 to go to Washington with him.
 2 Q. Can you describe -- you talked a
 3 little bit about geography, a little bit about
 4 other aspects of the district. Can you talk a
 5 little bit about the demographics of your
 6 district when you represented it?
 7 A. So Mobile is the largest city in
 8 the district, and it's the port of Alabama.
 9 So we have one of the largest intrastate water
 10 systems in the nation. The Mobile Delta is
 11 the second largest body of -- of water of its
 12 kind in the nation. Second only to the
 13 Florida Everglades.
 14 So the district's livelihood feeds
 15 off of the bay and of the delta and of the
 16 river system. As a port city, we have a lot
 17 of cargo that comes in and out of Mobile every
 18 day. And a lot of that cargo that goes out
 19 come from the surrounding areas.
 20 It comes from the timber-producing
 21 companies in Clarke County and in Monroe
 22 County and in Escambia County. It comes from

Page 17

Pages 14 to 17

1 the poultry-producing counties. I mean, it's
 2 a state port. It's, I think, the 13th largest
 3 in the nation.
 4 But in some areas like in -- in
 5 timber, we're the largest. In coal, we've
 6 been number one or two in the nation. So the
 7 district's compactness has been largely
 8 because the legislature and the federal
 9 courts, when the legislature couldn't agree on
 10 a legislative plan, recognized that there was
 11 a community of interest in the 1st
 12 congressional district that was unique.
 13 And that community of interest, it
 14 involves banking, it involves education, it
 15 involves health care. If you're in
 16 Monroeville, Alabama and you're -- you've been
 17 diagnosed with an illness that needs a
 18 specialty hospital, you go to Mobile.
 19 If you are in -- working along
 20 highway -- U.S. Highway 43, which runs from
 21 Mobile all the way up to Thomasville, working
 22 at one of the chemical companies that have

Page 18

1 located there or a steel mill that's located
 2 there, it's very likely that you live
 3 somewhere in Mobile or Baldwin Counties
 4 because Washington County is not a very
 5 populated county. They couldn't supply all
 6 the workers for those industrial needs.
 7 So the -- the district truly is a
 8 cohesive area that has been that way since
 9 the -- the early 1960s in the -- in the --
 10 when we had eight members of Congress, Mobile
 11 and Baldwin Counties were separated. But
 12 after that time, the -- the leadership of
 13 Alabama legislature and the Courts recognize
 14 that it was impossible to separate Mobile and
 15 Baldwin Counties because they were connected
 16 by the bay and they truly -- they have
 17 something in common that very few other parts
 18 of the state have.
 19 This year is Alabama's 200th year
 20 as a state, but Mobile was founded in 1702.
 21 Alabama was -- became a state in 1819. So
 22 even the oak trees talk a different language

Page 19

1 in Mobile and Baldwin Counties. It's just --
 2 it's one of the oldest parts of the country
 3 quite frankly. And -- and that area's
 4 political geography matches well with its
 5 economic and social geography as well.
 6 Q. I think you talked a little bit
 7 about the economic part of that. Can you talk
 8 a little bit about the political part that you
 9 just mentioned, the political --
 10 A. Well, as I say, Congressman Frank
 11 Boykin was -- John McDuffie was elected in the
 12 19 teens. He became a federal judge when he
 13 left Congress. Frank Boykin was in for
 14 28 years. He was the last Democrat member
 15 elected. Jack Edwards was elected in 1964,
 16 served for 20 years. Sonny Callahan was
 17 elected in 1984, served for 18 years.
 18 And then when I was elected in
 19 2002, I served -- I did not complete my term,
 20 but I was elected to my sixth term and later
 21 resigned. But the -- the district has, since
 22 1964, elected Republican members of Congress,

Page 20

1 but we have had a diverse political history
 2 throughout the district as well. For
 3 instance, Mobile elected an African-American
 4 mayor, Sam Jones, when it was still a majority
 5 white city.
 6 Unlike other cities in Alabama and
 7 in the deep south, Mobile avoided some of the
 8 racial -- racially charged issues that
 9 Birmingham, Selma, and Montgomery had. We had
 10 a mayor, long before I lived there, that
 11 worked hard to make sure that Mobile avoided
 12 that.
 13 And Mobile being a port city has
 14 so much more international influence than,
 15 quite frankly, some of the other cities as
 16 well. Plus, we're a much older city than
 17 Birmingham, for instance.
 18 Q. Okay. So you mentioned sort of
 19 the unique economic features and political
 20 features. And I think you also said social
 21 features. Can you talk a little bit about
 22 those?

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1 A. We're not bragging, but we're the
 2 mother of Mardi Gras. So most Americans think
 3 of Mardi Gras, they think of New Orleans, but
 4 they would be mistaken because it started in
 5 Mobile. And it is spread throughout our area
 6 of the state, Fairhope, Gulf Shores, Orange
 7 Beach, Dauphin Island.
 8 It -- it is a part of the
 9 religious life of the district because it's
 10 actually connected to the Catholic church, but
 11 it's also something that -- other cities today
 12 might start a Mardi Gras society, but none
 13 have some as old as 150, 160 years of age. So
 14 it -- it is something that people in south
 15 Alabama take part in throughout our district.
 16 It's not uncommon during the
 17 season for there to be 150 to 350,000 people
 18 that have come in from all the surrounding
 19 towns. And some rent motel rooms and some
 20 bring their RVs, but it's a family
 21 celebration.
 22 Q. Is that in Mobile?

Page 22

1 A. It is.
 2 Q. It is?
 3 A. That's where it originated, but
 4 it's also in Fairhope, and it's in all of the
 5 other veteran communities as well. But it's
 6 also -- I would -- I would expand the social
 7 beyond just a celebration. Mardi Gras, too,
 8 connects heavily to Mother Nature. We have
 9 sailing. We have fishing on the rivers, in
 10 the gulf, in the bay.
 11 Hunting is a popular sport. It's
 12 a very social sport. It's a big -- big
 13 economic driver too. And so -- so, you know,
 14 many instances you choose to live close to
 15 where you work or close to where the schools
 16 are that you want your children to go to, but
 17 a lot of people choose to live in south
 18 Alabama because of the plethora of
 19 opportunities they've got to socialize, to
 20 enjoy nature, and to enjoy getting out of the
 21 woods and getting in the water. And -- and
 22 it's -- it's a common thread that connects a

Page 23

1 lot of people in that part of the state
 2 together.
 3 Q. So I think we're getting there
 4 already, but I think you're describing some
 5 communities of interest that exist in your
 6 district. Can you just in your own words tell
 7 me what a community of interest means?
 8 A. Well, I think a community of
 9 interest is an area that complements each
 10 other, that -- that supports each other, that
 11 connects to each other, and it does it in
 12 business and commerce. It does this in
 13 education. It does it in law.
 14 I mean, the attorneys in the small
 15 towns around Mobile practice law at the
 16 federal courthouse in -- in Mobile. They
 17 wouldn't go to the Middle District or to the
 18 Northern District, with rare exception.
 19 And then certainly that community
 20 of interest has a political overtone as well.
 21 When you are fortunate to be elected to
 22 represent your district in Congress, you then

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1 quickly realize that you have an obligation to
 2 serve the people in that district.
 3 And so compactness, ease of
 4 travel, going from one end of the district to
 5 the other, either north, south, east, or west
 6 is important, how you locate your district
 7 offices.
 8 Every congressional office has a
 9 budget that's roughly the same amount. There
 10 is a slight adjustment for a major
 11 metropolitan area like New York City or Los
 12 Angeles or Dallas. But you have basically a
 13 million dollars -- it may be a little bit more
 14 than that now -- to pay your staff, to rent
 15 your office, to provide services to your
 16 constituents.
 17 And so that -- that community of
 18 interest and that compactness is helpful to
 19 you to be a better representative, to make
 20 sure that you can do town hall meetings, that
 21 you can go to your constituents and that they
 22 don't have the burden of coming to Washington

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Pages 22 to 25

1 to see you.

2 Q. I think very helpfully Alabama's

3 legislature has created a -- a definition sort

4 of for communities of interest, and I think

5 we've talked -- you know, it's pretty broad.

6 And I can -- I can read it to you.

7 It's from the legislature's

8 Reapportionment Committee Guidelines for

9 Congressional, Legislative, and Board of

10 Education Redistricting.

11 So it says that a community of

12 interest is defined as an area with recognized

13 similarities of interest including, but not

14 limited to, racial, ethnic, geographic,

15 governmental, regional, social, cultural,

16 partisan, or historic interest; county,

17 municipal, or voting precinct boundaries; and

18 commonality of communication.

19 So I think you've touched on a lot

20 of these already.

21 A. (Witness nods head.)

22 Q. A couple that I don't know if

Page 26

1 25 different countries that live in that part

2 of south Mobile County. A smaller population,

3 but nonetheless a diverse population, lives in

4 the fishing village of Bon Secour, which is

5 over in Baldwin County, near Gulf Shores and

6 Orange Beach.

7 So, for instance, when we've had a

8 hurricane or when we had the oil spill --

9 hurricane that was most devastating to our are

10 was Hurricane Ivan in 2004. Hurricane Katrina

11 hit in 2005. It was equally -- it was worse

12 for the Gulf Coast, but Hurricane Ivan was

13 really more damaging to south Alabama than

14 Hurricane Katrina.

15 Or when we had the oil spill in

16 2010 off the coast of Louisiana, my office,

17 our staff, we worked to make sure that the

18 entire community of interest got the messages

19 of evacuation, of safety, of shelter, of -- of

20 help from FEMA, of -- of -- of help from the

21 organization that was set up by the Obama

22 administration help after the oil spill that

Page 28

1 we've talked about are the racial and ethnic

2 ones.

3 A. (Witness nods head.)

4 Q. Can you talk a little bit about

5 communities of interest from that aspect in

6 your district?

7 A. Well, the first history has a very

8 diverse ethnic population. Bayou La Batre is

9 a small costal community down in the southern

10 the part of Mobile County. It's the seafood

11 capital of Alabama.

12 If you enjoy eating shrimp or crab

13 meat or oysters or fish in Washington, DC, at

14 some of the finest restaurants, it's very

15 likely that the product came through Bayou La

16 Batre. It's a -- it's a shipbuilding

17 community. And it is also where one of our

18 famous native sons, Forrest Gump, called home.

19 He is fictional.

20 But we have people from Cambodia,

21 from Vietnam, from Thailand, from Taiwan, from

22 China, from Mexico, probably 17, maybe 20 or

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1 Mr. Feinberg oversaw.

2 So you do that by going -- by

3 having translators. You do that by -- by

4 actually doing flyers and mailings in

5 different languages. You do it by working

6 with the Red Cross and other groups that

7 actually specialize -- especially a lot of

8 faith-based groups that specialize in

9 contacting those different communities.

10 So it would be one of the most, if

11 not the most, diverse congressional districts

12 in the state. We have a large

13 African-American population that is spread

14 throughout the district, but there is a city

15 in the district, Prichard, Alabama, that

16 has -- it's one of the -- it would be one of

17 the ten largest cities in the state probably.

18 And it's today a majority

19 African-American population, but it wasn't

20 that long ago when it was majority Caucasian

21 population. They elected their first

22 African-American mayor when it was majority

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1 white town. And then after that, they elected
 2 a white lady mayor when it was a majority
 3 African-American town.
 4 So there's been -- as I said
 5 earlier, unlike some cities in the state and
 6 throughout the nation, we have had a more
 7 harmonious relationship with the different
 8 racial backgrounds and ethnic backgrounds than
 9 a lot of other parts of the country.

10 Q. So you mentioned Prichard as a
 11 place that's majority African-American. Are
 12 there other places in the district where
 13 African-Americans are more concentrated?

14 A. There -- there are parts of Mobile
 15 that are. Africatown, the plateau community,
 16 is part in Mobile and part in Prichard.
 17 Trinity Gardens -- there are sections of
 18 town -- of the city of Mobile that are.

19 But I'm -- I -- I don't know the
 20 numbers, but you could look at Bay Minette
 21 which is the county seat of Baldwin County.
 22 You can look at Chatom which is the county

Page 30

1 seat of Washington County. You could look at
 2 Monroeville which is the county seat of Monroe
 3 County. And you would see a -- a -- a healthy
 4 balance in terms of the racial makeup. I just
 5 can't tell you what those are.

6 Q. And I'm not -- I'm not trying to
 7 ask you for facts or figures, so thank you.
 8 That's helpful.

9 One -- I think it would be helpful
 10 if I gave you a map to look at instead of --
 11 so I can -- this is the current Congressional
 12 District Plan which we can mark as Exhibit 1.
 13 (Bonner Exhibit 1 was
 14 marked for identification.)
 15 MR. DAVIS: Here, hand this down
 16 to Bryan, and I will share -- I'll look on
 17 with Jo. Just make sure you can see it.

18 A. I've seen this before.

19 Q. (By Ms. Madduri) Yes. I'm sure
 20 you're familiar with this. I wanted to ask
 21 you in Clarke County, what is that area that
 22 is encompassed in congressional district 1

Page 31

1 that splits Clarke County?

2 A. Clarke County, this area is
 3 predominantly the area that leads into
 4 Jackson, Alabama. So Clarke County has three
 5 large cities. The county seat is Grove Hill.
 6 And then the northernmost city is Thomasville,
 7 and then Jackson is the southernmost city.

8 And so I will tell you that when
 9 the decision was made in the redrawing prior
 10 to this current map to split Clarke County,
 11 there were a lot of local people, local
 12 leaders, the editor of the newspaper, the --
 13 some of the mayors, some of the other
 14 prominent citizens in the community, both
 15 African-American and white who were not
 16 excited about having the split county.

17 But when -- when the legislature
 18 made the decision and before that in the
 19 previous redistricting effort to split Clarke
 20 County, the members of the congressional
 21 delegation made a commitment to the people of
 22 Clarke County that rather than being concerned

Page 32

1 about having their county split, they would
 2 find it beneficial. And we worked our hearts
 3 out to make that happen.

4 So when I was elected in 2002,
 5 Congressman Artur Davis was elected the same
 6 year from the 7th congressional district, and
 7 Artur and I agreed to do joint town hall
 8 meetings. When Congressman Davis left
 9 Congress and Congresswoman Terri Sewell came
 10 in, she and I agreed to do joint town hall
 11 meetings.

12 The ironic and, quite frankly, sad
 13 thing was that we asked C-SPAN. We asked the
 14 national media if they would like to see a
 15 black Democrat from Birmingham and a white
 16 Republican from Mobile do a joint town hall
 17 meeting, and because it wasn't crossfire, it
 18 wasn't controversial, and we weren't putting
 19 boxing gloves on and -- and fighting each
 20 other politically, it didn't make a lot of
 21 news. But we did that every year.
 22 And we did it. It's now

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Pages 30 to 33

1 continued. Congressman Byrne, I believe,
 2 continues to have these meetings with
 3 Congresswoman Sewell. And so the concerns
 4 that the people in Clarke County had was that
 5 they felt, if I can speak for them, what they
 6 told me was they felt -- they were concerned
 7 that if they had a split county that they
 8 would not be served by either member of
 9 Congress.

10 And in fact, you'd probably add up
 11 that we spent as much time in Clarke County as
 12 we did in any of the other counties, but that
 13 area goes north of Jackson, but it does not
 14 go -- as I recall, it doesn't go all the way
 15 into Grove Hill, and it certainly doesn't go
 16 to Thomasville. And yet when someone from
 17 Thomasville would call our office needing
 18 help, or when someone from Jackson would call
 19 Congresswoman Sewell's office needing help,
 20 help was there.

21 Q. And just so I'm clear, when --
 22 when was -- you mentioned it happened in a

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1 Congress sent their Chiefs of Staff or a
 2 designee to come down to work with the
 3 legislature to -- to -- obviously the
 4 legislature made the decision on drawing for
 5 the federal races, for the state races, for
 6 the state school board.

7 So our role was to come down to
 8 answer questions, to work with them to help
 9 understand communities of interest,
 10 compactness of district, and offer whatever
 11 help we could to help them do their
 12 constitutionally mandated job of redrawing the
 13 districts every ten years.

14 Q. Were you ever involved in actually
 15 drawing the map?

16 A. I -- I saw others who knew how to
 17 work the computer, but I never actually did
 18 that, no, ma'am.

19 Q. And what did you think about -- I
 20 guess, first, what did you think about the
 21 removal of Wilcox County from --
 22 A. Well, it was personally

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1 previous redistricting cycle. When did
 2 this --

3 A. So the --

4 Q. -- change happen to add Clarke
 5 County or this part of Clarke County into --

6 A. So when -- when Congressman
 7 Callahan was elected in 1984, Wilcox County
 8 was in there, my home, and all of Clarke
 9 County. So the district actually, instead of
 10 having six counties, had seven counties.

11 But because of the adjustments in
 12 population, the -- Wilcox County left in the
 13 1990 redrawing and Clarke County became split
 14 as I recall in the 2000 and then again in
 15 2010. And so it was split in 2000. It was
 16 split further in 2010.

17 Q. And what was -- what was your
 18 involvement, if any, in that --

19 A. Well, I was a member --

20 Q. -- in those decisions?

21 A. -- of Congressman Callahan's
 22 staff, and so therefore, all of the members of

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1 disappointing because it was my home county,
 2 but it was not a surprise. The population --
 3 there was a desire at that time made to create
 4 a minority district.

5 And at that time, they needed a
 6 certain percentage of minority vote in that
 7 district to give the best chance of creating
 8 that district. So there's a higher percentage
 9 of African-Americans in Wilcox County even
 10 though it's a small county, 14, 15,000 people.

11 And so the legislature at that
 12 time made that decision, and so that's why
 13 there's -- they call it the finger. But
 14 that's why there's a finger that goes up into
 15 Jefferson County that's going after the
 16 largest population of primarily
 17 African-American voters that can also connect
 18 into the other Black Belt counties to create
 19 that minority district.

20 Q. In your view, did Wilcox County
 21 share all of those same sorts of communities
 22 of interest that you described with the rest

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1 of what was formerly congressional district 1,
 2 I think, in 1990, it sounds like?
 3 A. Actually, it probably was the
 4 outlier. Camden is 30 miles from Selma. And
 5 so if you are a child growing up in Wilcox
 6 County and you need to go to the doctor or you
 7 need to go to the grocery store or you needed
 8 to go get a new pair of -- new set of tires,
 9 you would go to Selma more than you would go
 10 to Mobile.
 11 So Wilcox County politically was
 12 not as connected other than the fact it had
 13 been in the district, and Congressman Edwards
 14 served that district and Congressman Callahan
 15 served that district including Wilcox County.
 16 But I never had the privilege of
 17 representing my home county, but my home also
 18 shifted to Mobile when I moved there in 1984.
 19 I was just -- I was actually born in Selma
 20 because we didn't have a hospital in Camden.
 21 And I didn't like it, so I moved away about
 22 three days later to Camden.

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1 6th -- in the 7th district or the 1st district
 2 because they have been well served by
 3 Congresswoman Sewell and Congressman Bynae and
 4 before him, me.
 5 Q. Generally when redistricting, do
 6 you believe that it's preferable to keep
 7 counties whole?
 8 A. It was the legislature's goal to
 9 keep them whole. That's what they told us.
 10 At the time, Gerald Dial in the last
 11 redistricting was, I believe, the head of the
 12 Senate Reapportionment Committee, and Jim
 13 McClendon was, I believe, head of the House
 14 Reapportionment Committee.
 15 And I think their -- they would
 16 have preferred to have keep counties whole,
 17 but they also were trying to get to zero
 18 deviation. They were trying to get to a -- a
 19 map this the Justice Department would approve,
 20 meeting all the other goals and objectives
 21 that they had.
 22 So I have a good friend who was

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1 Q. And then Clarke County, are there
 2 any communities of interest that you think are
 3 split up by this, the way that this is
 4 divided?
 5 A. No. If you're in Thomasville,
 6 which is the northernmost city in -- in that
 7 county, you're still going to gravitate toward
 8 Mobile. There's a major four-lane highway
 9 that runs north and south.
 10 You can look at the football
 11 schedule this time of year, and you'll see
 12 Thomasville plays Jackson, Grove Hill, and
 13 Monroeville, Chatom, played Butler in Choctaw
 14 County. There's no political overtones to
 15 developing a football schedule, but the
 16 communities are connected even though
 17 Thomasville is technically in the 7th
 18 district -- politically in the 7th
 19 congressional district.
 20 Nobody who lives in that county --
 21 few people who live in that county would be
 22 able to tell you whether they live in the

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1 the publisher of the local paper in -- in
 2 Jackson -- actually was the publisher of the
 3 local paper in Grove Hill which is the county
 4 seat in Clarke County, but going back to
 5 the -- to the map that was drawn that first
 6 separated Clarke County -- Jim Cox is the
 7 publisher's name.
 8 He now owns the papers in Jackson
 9 as well as in Thomasville, but I remember
 10 specifically him telling me that he couldn't
 11 see how it could be beneficial to having a
 12 split county. And years later he told me when
 13 I assured him that we would make certain that
 14 Clarke County was not underserved or ignored
 15 in any way, he said, I should have trusted
 16 you. Y'all have done everything you promised
 17 and then some.
 18 So -- but yes, I think most people
 19 would prefer to have their counties kept
 20 whole, but it's easier said than done. But
 21 even so, if you look at this map, there really
 22 are not that many split counties in Alabama

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1 compared to a lot of districts around the
 2 country.
 3 Q. Do you -- what do you think about
 4 the splitting of Montgomery County the way
 5 it's split?
 6 A. Well, it -- it was split that way
 7 to achieve the population goals, but I will
 8 also tell you that being the capital city,
 9 there are -- there were other members of
 10 delegation that wanted to be -- wanted a part
 11 of Montgomery County.
 12 They wanted the -- some of it is
 13 service oriented, and quite frankly, some of
 14 it is -- is politically valuable to -- you
 15 know, it's very expensive to run for office.
 16 And so when you have a large city, the capital
 17 city gives you an added reason to come here
 18 not only to serve your district but also when
 19 it's time to run for reelection to -- to meet
 20 your political friends as well.
 21 Q. And what about for the
 22 constituents in Montgomery County, do you

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1 think there are any issues with them being
 2 split up this way?
 3 A. No, ma'am. I don't personally
 4 have any reason to believe there are any
 5 issues. Montgomery is also -- and I'm not an
 6 expert on the 2nd district, but Montgomery's
 7 economy has also been more closely tied to the
 8 Wiregrass economy.
 9 The Wiregrass of Alabama is a
 10 geographic region like the Black Belt is.
 11 It's made up of -- in Houston, Dale, Henry,
 12 Coffee, Geneva, Barbour, Pike. So if you were
 13 to ask people in Dothan, in Houston County, if
 14 they needed to go to -- go to a bigger city to
 15 go shopping, to go to the hospital, to go to
 16 do business, they would choose Montgomery over
 17 Mobile in a heartbeat.
 18 Q. What are some -- you mentioned
 19 economic interests in the Wiregrass region in
 20 CD 2, what are some of those interests that
 21 exist there?
 22 A. Well, one that easily comes to

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1 mind is -- is agriculture. Alabama is a big
 2 agriculture state. For years it was our
 3 leading industry statewide, but for many, many
 4 years, for decades, the federal government had
 5 a federal peanut program that the counties in
 6 the 2nd district actively participated in
 7 along with neighboring counties in Georgia and
 8 in Florida.
 9 And until they changed that
 10 program, people in the 3rd district, people in
 11 the 7th district, people in the 1st district
 12 didn't grow peanuts. It was -- it was based
 13 on soil. It was also based on the
 14 historical -- if you were in that program, you
 15 didn't want to get out of it because there
 16 were years -- if there had been a surplus the
 17 previous year, they would actually pay you to
 18 not grow peanuts. So it was a -- it was a
 19 very lucrative program for those who were in
 20 it.
 21 But -- but there are other more
 22 obvious differences as well. We have Fort

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1 Rucker, and we have Maxwell and Gunter Air
 2 Force Base. So you've got Army Aviation down
 3 in the Wiregrass, down in Enterprise area.
 4 You've got the F-35s coming to Montgomery.
 5 You've got Air University training all the
 6 air -- the Air Force officers that will go on
 7 to lead the Air Force in Montgomery.
 8 We had an Air Force base in
 9 Mobile. It closed in the 1960s. We build
 10 ships for the Navy, so we have a much
 11 different -- we're all pro military in the
 12 state. But you can be pro military, but you
 13 can also see a -- a -- a stark difference in
 14 terms of where you're going to put your
 15 efforts.
 16 Like in Huntsville with the
 17 administration calling for the creation of
 18 Space Force, that's something of real interest
 19 to the folks in Madison County and Marshall
 20 County. Doesn't really have a lot of interest
 21 to us on the coast unless we're going to ship
 22 those rockets up the river system, and we may.

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1 But -- but our focus, if you were
 2 in Congress from the 2nd congressional
 3 district, you would want to be on the Armed
 4 Services Committee. You'd have a vested
 5 interest in protecting the federal
 6 government's installations at Fort Rucker and
 7 at Dannelly and at Maxwell Gunter.
 8 And -- and that's borne out by
 9 evidence that Congressman Dickinson who was in
 10 office for 20-plus years, maybe 28 -- 24 was
 11 on Armed Services. Congressman Everett was on
 12 Armed Services. Congressman Bright was Armed
 13 Services, and congressman -- Congresswoman
 14 Roby was on it until she got on the
 15 Appropriations Committee that was created when
 16 the congressman from the 1st district
 17 resigned. That would be me, but her goal was
 18 to get on defense appropriations and she did.
 19 Likewise, if you're from the 1st
 20 district, you know, I -- I didn't have near as
 21 much interest in helicopters as I did ships.
 22 When I was in Congress, we got the contract

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1 a year later, and today, they are building the
 2 A-320 which is the most popular single-aisle
 3 plane in the world with 9,000 planes on back
 4 order.
 5 And they have just started work on
 6 an A-220 smaller jet that's based on a
 7 Canadian jet, Bombardier, and so in less than
 8 a decade, they will -- Mobile will become the
 9 fourth largest city for commercial air --
 10 aircraft manufacturing in the world, which is
 11 pretty good.
 12 Q. That's very impressive.
 13 MR. DAVIS: Lali, would this be a
 14 good time for --
 15 MS. MADDURI: Sure.
 16 MR. DAVIS: -- a break?
 17 MS. MADDURI: Yeah.
 18 THE VIDEOGRAPHER: This ends MPEG
 19 one in the continued deposition of Josiah
 20 Bonner. We are off the record at 9:52.
 21 (A recess was taken.)
 22 THE VIDEOGRAPHER: This begins

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1 for Austal which is an Australian shipyard to
 2 build a new generation of warship for the
 3 Navy, the littoral combat ship.
 4 We got the contract for them to
 5 build -- it was a 2-plus billion dollar
 6 contract. And today 4,500 people work in that
 7 shipyard. So that's -- that's an important
 8 part of our economy, but it's also something
 9 that you can't build ships in Dothan or
 10 Montgomery. You've got to be in a deep water
 11 port.
 12 Q. Is there a -- an Airbus plant in
 13 Mobile now?
 14 A. There is. So we grew -- DNA has
 15 long been in -- aerospace has long been in
 16 Alabama's DNA. The Wright brothers actually
 17 opened an aviation training center in
 18 Montgomery in 1910, I believe. But we started
 19 recruiting Airbus in my early years in
 20 Congress, and then we landed them in 2012.
 21 They made the decision to come.
 22 They broke ground. They had the grand opening

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1 MPEG two in the continued deposition of Josiah
 2 Bonner. We're on the record at 10:02.
 3 Q. (By Ms. Madduri) Mr. Bonner, can
 4 you tell me -- you were mentioning there's
 5 some particular agricultural interest in CD 2.
 6 Is there any agricultural in CD 1?
 7 A. There is. It's -- it's a
 8 different type of agriculture. We -- a lot of
 9 timber and soybeans, cotton, and other row
 10 crops like that.
 11 Q. And where in the district are
 12 those located?
 13 A. Washington, Clarke, Monroe,
 14 Escambia, Baldwin. Although Baldwin is one of
 15 the fastest growing counties, and so a lot of
 16 their farmland is being squeezed for
 17 development.
 18 Q. Understood. And I think you were
 19 talking about this a little bit before, but
 20 can you tell me a bit about the split of
 21 Jefferson County in the current plan?
 22 A. Well, Jefferson County is the

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1 largest county in the state. And as such,
 2 the -- when you've got counties that are
 3 losing population like Wilcox and Choctaw and
 4 Lowndes, and you've got counties that are
 5 growing in population like Jefferson and
 6 Madison and Morgan, when the legislature --
 7 not during this last redistricting but in the
 8 previous ones, Congressman Claude Harris
 9 represented the 7th congressional district.
 10 And when he did not seek
 11 reelection, Congressman Earl Hilliard who was
 12 the state legislator at the time, state
 13 senator, ran and was elected to that seat as
 14 the first African-American to serve in the
 15 delegation since reconstruction or for a long,
 16 long time.
 17 And then Congressman Hilliard was
 18 defeated by Congressman Davis, and then
 19 Congressman Davis chose to run for governor
 20 and Congresswoman Sewell ran. So I believe
 21 that's my history, but the area in Jefferson
 22 County was drawn as we understood it to create

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1 the best opportunity for an African-American
 2 to be elected to Congress with -- I believe it
 3 was a 65 percent was the number that they
 4 used, but that's a few years ago.
 5 Q. And do you think -- do you think
 6 it's harmful at all for Jefferson County to be
 7 split this way?
 8 A. I would have no reason to believe
 9 it is harmful to Jefferson County.
 10 Q. And my understanding is that
 11 basically the city of Birmingham is captured
 12 in congressional district 7; is that right?
 13 A. Yes, ma'am.
 14 Q. Okay. And then it's mostly
 15 suburbs or non city areas of Jefferson County
 16 that are in congressional district 6; is that
 17 right?
 18 A. That would be correct. Jefferson
 19 County is also one county away from being the
 20 geographic center of Alabama. Montevallo is
 21 actually the geographic center. It's in
 22 Shelby County.

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1 And so Jefferson County being the
 2 largest county, their -- their radius of
 3 service and connectivity to Tuscaloosa, to
 4 Walker County, to Blount County, to the other
 5 counties that are contiguous. A lot of people
 6 go to Birmingham to shop, for medical reasons,
 7 for banking reasons, and for other reasons,
 8 but I -- I don't know that you would -- I
 9 don't know that it would be easy to identify
 10 when you were in the 7th congressional
 11 district or the 6th congressional district
 12 unless you were thinking with a political
 13 mind.
 14 Q. That makes sense, but generally
 15 there's no -- you don't think -- you're not
 16 aware of any issues that arise by pulling the
 17 city of Birmingham out of Jefferson County
 18 this way?
 19 A. I am not.
 20 Q. You touched on this before, but
 21 I'm just going to show you a map of 1950 --
 22 A. Okay.

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1 Q. -- of the way the districts are
 2 drawn. This we can mark as Exhibit 2. It's
 3 the congressional districts as of 1950.
 4 (Bonner Exhibit 2 was
 5 marked for identification.)
 6 Q. (By Ms. Madduri) So I realize
 7 it's a little hard to see, but I think you
 8 mentioned before that back then Mobile --
 9 Mobile and Baldwin County were separate.
 10 A. Uh-huh.
 11 Q. Can you talk a little bit more
 12 about -- I believe you said that you thought
 13 it was best when they put those back together.
 14 Can you talk a little bit about what issues
 15 you think exist by having them separate like
 16 this?
 17 A. Well, in -- in this map, you would
 18 have to go back to a time when the Baldwin
 19 County economy was primarily agriculture.
 20 Today it is a much more diverse economy driven
 21 largely by tourism.
 22 And so Gulf Shores -- Orange Beach

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1 didn't even exist as a community. Gulf Shores
 2 was a small summertime vacation community,
 3 mostly for locals to go about three months out
 4 of the year. It's now -- Gulf Shores, Orange
 5 Beach, and Fort Morgan, which is
 6 unincorporated in Baldwin County, it's a
 7 year-round economy. People come from the
 8 north during the winter to escape cold
 9 weather.
 10 And so in the 1950s compared to
 11 today, the economies of Mobile and Baldwin
 12 County have grown closer and more alike in
 13 shipbuilding, in seafood production, in
 14 tourism. And there's a strong connectivity
 15 between those two counties today that are
 16 unique to Alabama. They are no two counties
 17 like Mobile and Baldwin Counties because of
 18 their geographic location.
 19 Q. And then also at this time Mobile
 20 County was combined with some of the Black
 21 Belt counties to the north --
 22 A. Uh-huh.

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1 interest, do you think Mobile County shares
 2 communities of interest with, I think, you
 3 mentioned Choctaw and Marengo?
 4 A. To a much less degree than they do
 5 with the counties that they currently -- I
 6 mean, the alignment that we're looking at in
 7 today's map for all practical purposes has
 8 been in place for the last 30 to 40 years.
 9 And -- and the economies of that
 10 area have grown more aligned during that
 11 period of time. The continuity and the
 12 communities of interest have grown more
 13 aligned during that time.
 14 Q. What are some of the -- I guess
 15 the lack of continuity between Mobile and
 16 Choctaw and Marengo in your view?
 17 A. Well, Choctaw and Marengo would
 18 probably go to Meridian, Mississippi to go
 19 shopping, to go to the hospital, to go buy an
 20 automobile. They are currently in the 7th
 21 congressional district. Congresswoman Sewell
 22 has field offices.

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1 Q. -- of it?
 2 Do you think that configuration
 3 makes sense, or are there problems that you
 4 see with that sort of thing?
 5 A. Well, it -- it -- it is still
 6 connected in the current map to the Black Belt
 7 counties. It's just because of population
 8 shifts.
 9 As we've discussed previously,
 10 you -- you lose population in one county. You
 11 gain in another faster growing county, and
 12 those adjustments have been made. But you'll
 13 see, this would have been Wilcox County, which
 14 as I mentioned, was in the district when I
 15 first went to work with Congressman Callahan.
 16 All of Clarke County, Washington County, and
 17 Monroe County.
 18 So it is hard to see, but it looks
 19 like Choctaw County and Marengo were the two
 20 counties in the 1950s, but they were taken out
 21 in the 1960s remap as I recall.
 22 Q. In terms of communities of

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1 You know, one of the challenges of
 2 serving a district is you got to make sure
 3 you've got staff that can get out and serve
 4 those districts. She does a great job. She's
 5 from Selma originally. Her mother was on the
 6 city council there. And so she has a very
 7 active constituent services program in these
 8 rural areas.
 9 They would go to Selma. They
 10 would certainly go -- Marengo County would go
 11 to Selma to go shopping or for the hospital.
 12 I saw Meridian, but they would have a closer
 13 proximity to go to Selma and a more -- a
 14 higher likelihood than they probably would to
 15 come to Mobile.
 16 Q. And then also at this time,
 17 Baldwin County, Escambia County, and Covington
 18 County are in the same district. Do you --
 19 and I realize Baldwin and Escambia are
 20 currently still in the same district. So I
 21 guess the question is: Do you feel that
 22 Covington County has --

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1 A. Cov --
 2 Q. -- communities of interest in
 3 common with Escambia and Baldwin and this sort
 4 of grouping?
 5 A. Covington has a -- a strong
 6 identity with Geneva County and Coffee County
 7 in the Wiregrass. And that's not only where
 8 it is in the political map, but it's also
 9 where it is in the economic map as well. It's
 10 hard to get from Andalusia to Mobile. There's
 11 no four-lane highway.
 12 Q. Yeah, they are not too close
 13 together. I'm going to hand you the State
 14 Board of Education District's Map from 2011,
 15 and we can mark that as Exhibit 3.
 16 (Bonner Exhibit 3 was
 17 marked for identification.)
 18 Q. (By Ms. Madduri) Are you familiar
 19 with this map?
 20 A. I'm -- I'm -- I'm looking at it
 21 really for the first time in a long time.
 22 I've --

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1 of Staff for Congressman Callahan probably
 2 when these were drawn; is that right? It was
 3 probably drawn -- let's say it was drawn 2011.
 4 A. No. I was a member of Congress in
 5 2011.
 6 Q. Oh, sorry.
 7 A. In --
 8 Q. Yeah. Of course.
 9 A. -- 2001, I was Chief of Staff, but
 10 Congressman Callahan would not have sent me to
 11 Montgomery to focus on the State Board of
 12 Education.
 13 Q. Okay. Looking at just where we
 14 have District 1 on this map, do you have any
 15 issues with the way this is configured?
 16 A. I don't have an opinion --
 17 Q. No opinion.
 18 A. -- about it.
 19 Q. Understood.
 20 No opinion on any -- any of this
 21 configuration at all?
 22 A. No.

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1 Q. Yeah.
 2 A. I've never really studied the
 3 State Board of Education maps that closely.
 4 Q. Have you ever been involved in any
 5 way in either giving input or --
 6 A. No, ma'am.
 7 Q. -- consulted in drawing these
 8 maps?
 9 A. No, ma'am.
 10 Q. Okay. Were you familiar with them
 11 at all when you were in Congress?
 12 A. I -- I was familiar that the
 13 legislature was redrawing the -- I mean, there
 14 are eight districts as opposed to seven. They
 15 have a totally different responsibility. They
 16 are not federal representatives or state
 17 representatives.
 18 So I would say that I -- I had
 19 little to no interest in where the State Board
 20 of Education maps were in this redraw or in
 21 any previous redraw.
 22 Q. I think you would have been Chief

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1 Q. Okay.
 2 A. Because a State Board of Education
 3 member has a different responsibility. A
 4 member of Congress is not only representing
 5 their constituents with votes that they cast,
 6 but also with services that they provide.
 7 So when someone who lives in
 8 Washington County has a problem with Social
 9 Security or with the Veteran's Administration
 10 or they're in the military and they're trying
 11 to get a different assignment, they're not
 12 going to contact their state school board
 13 member. They're going to contact their U.S.
 14 Congressman.
 15 And so I've never really studied
 16 maps for state legislators or school board
 17 members or anyone else because my focus has
 18 always been on how to put the best team
 19 together to serve the people of the 1st
 20 congressional district.
 21 I had over 450 town hall meetings
 22 during my ten and a half years. I don't

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1 recall there ever being a state school board
 2 member having a town hall meeting. I'm not
 3 saying they don't or they didn't. But -- but
 4 you serve -- if -- if you're a -- you just
 5 have a different way of serving people when
 6 you have a different job.
 7 Q. Yeah. That makes sense. Let's
 8 move on.
 9 I'm going to show you the -- I
 10 want to get your thoughts on the maps that
 11 plaintiffs are proposing in this case.
 12 A. Okay.
 13 Q. So I'm going to give you four
 14 maps, and we'll just mark them all at the same
 15 time for ease. So this is -- it will be
 16 Exhibit 4.
 17 (Bonner Exhibit 4 was
 18 marked for identification.)
 19 Q. (By Ms. Madduri) Exhibit 4 is
 20 called -- you'll see it's called Revised
 21 Plan 1.
 22 (Bonner Exhibit 5 was

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1 A. No. This is the first time I'm
 2 seeing these.
 3 Q. And please take as much time as
 4 you need because I realize there's a lot of
 5 maps, and you haven't seen them before. But I
 6 just generally want to get your thoughts on if
 7 you see issues or if you have criticisms of
 8 these maps.
 9 I'm sure as you'll see, District 1
 10 is different than it is in the current plan.
 11 A. Well, they all have a unique
 12 characteristic, and that is that they would
 13 destroy the opportunity for the
 14 representatives from the 1st district and the
 15 2nd district to serve their constituents in a
 16 way that they have been served previously.
 17 It would -- I mentioned that
 18 it's -- there's no easy way to get from
 19 Andalusia in Covington County to Mobile.
 20 If you are the representative in
 21 the 1st district in any of these maps and you
 22 live in Mobile and you need to go to Houston

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1 marked for identification.)
 2 Q. (By Ms. Madduri) Then we have
 3 what will be Exhibit 5, which is called
 4 Revised Plan 2.
 5 (Bonner Exhibit 6 was
 6 marked for identification.)
 7 Q. (By Ms. Madduri) And then
 8 Exhibit 6 will be Revised Plan 3.
 9 (Bonner Exhibit 7 was
 10 marked for identification.)
 11 Q. (By Ms. Madduri) The last one is
 12 called Illustrative Plan 4, and that will be
 13 Exhibit 7.
 14 Have you seen any of these plans
 15 before?
 16 A. I don't know that I've ever seen
 17 these plans, but I've seen different maps
 18 during the previous redistricting efforts that
 19 were equally as ugly.
 20 Q. Okay. So then I assume you
 21 haven't had any conversations about these
 22 or --

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1 County in Dothan, you're going to spend more
 2 time in Florida than you will in Alabama.
 3 Or if you're the representative
 4 from -- and you live in Dothan but you've got
 5 a meeting in Mobile, you're going to spend
 6 more time in Florida than you will in Alabama.
 7 If you live in the 2nd district
 8 and you have been elected out of Mobile as
 9 your base and you're trying to go to a town
 10 hall meeting in Macon County or Bullock
 11 County, you're going to spend half a day
 12 getting there.
 13 There -- there is no real
 14 community of interest in these maps. And as
 15 someone who's had the privilege of serving in
 16 Congress and -- and doing his best to
 17 represent all of the people in his district,
 18 this would be a difficult challenge to
 19 represent because there's so very little in
 20 common with the proposals either of District 1
 21 or District 2.
 22 Q. Can you talk a little bit more

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1 about what you think is not in common and we
 2 can -- we can take each in turn. So how about
 3 starting with congressional district 2 in
 4 these proposed maps, which is -- which are
 5 roughly similar.

6 You don't need to necessarily
 7 understand exactly what is different between
 8 each one, but of course if you have specific
 9 concerns on any of them, please do let me
 10 know. But we can just start by talking about
 11 congressional district 2 the way it's
 12 proposed.

13 What are the -- what are the lack
 14 of commonalities of interest in your view?

15 A. Well, the -- the Washington and
 16 Clarke and Monroe County in Exhibit 4 and
 17 Exhibit 6 and Exhibit 7 have nothing in common
 18 with Macon and Bullock Counties except that
 19 they are counties in the state of Alabama.

20 They don't share any history.
 21 They don't share any geographical alignment.
 22 They don't share any social or political

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1 alignment. If -- if you -- you could name a
 2 town that the congressman or congresswoman was
 3 from, and it doesn't really matter where on
 4 these maps you're looking at, it's going to be
 5 difficult to serve them based on my experience
 6 of service.

7 Q. In what ways would it be difficult
 8 to serve --

9 A. Being accessible, of being aware
 10 of -- of -- of the -- you know, there --
 11 there's a value in -- in understanding an
 12 area's historical relationship with each
 13 other. And so you'd have to learn a whole new
 14 set of political leaders, mayors, county
 15 commissioners, probate judges.

16 You have to learn a whole new set
 17 of issues. The challenges that someone in
 18 Macon and Bullock County -- I -- I don't even
 19 know what their economy is derived from quite
 20 frankly. Anymore than someone from Macon or
 21 Bullock County would know what the economy of
 22 Clarke or Washington or Monroe County was.

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1 You might as well just go into Mississippi or
 2 Georgia, if the law allowed you to but it
 3 doesn't, to pick up constituents.

4 But it -- it is -- it's -- this
 5 would be foreign, I believe, to any of the
 6 people who have been elected to office, and
 7 quite frankly, I think it would be foreign to
 8 any of the people who run for office over the
 9 last 30 years to try to serve -- try to be
 10 elected to much less serve districts that are
 11 configured like this.

12 Q. I think you mentioned economics,
 13 specifically the economy --

14 A. Uh-huh.

15 Q. -- being different or just
 16 unknown. Are there any other considerations
 17 that you think would be difficult here?

18 A. Well, so Houston County, Henry
 19 County, Dale County, Geneva County, when the
 20 people of those communities want to go to the
 21 beach, they go to Florida. They go to Destin.
 22 They go to Navarre. They go to Panama City.

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1 They don't go to Gulf Shores or Orange Beach.
 2 When they want to export products,
 3 the -- the river system doesn't provide access
 4 from the Wiregrass over to here (indicating).
 5 You can come by rail, or you can come by
 6 interstate in Florida, but there is -- so
 7 there's just no continuity of our -- of our --
 8 the things we've talked about previously, our
 9 social life, our business life, our education
 10 life. For all practical purposes, this is in
 11 a different part of the world.

12 Q. You mentioned -- just right now
 13 you mention educational life.

14 A. Uh-huh.

15 Q. In 2011 when that Board of
 16 Education map was created, Alabama decided --
 17 the Alabama legislature decided to put part of
 18 Mobile County into sort of a similar --
 19 similar configuration to this actually.

20 Do you see any issues with them
 21 having done that?

22 A. Again, State Board of Education

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1 and the United States Congress to me are night
 2 and day. And since that time, I believe I'm
 3 correct, they also changed the Board of
 4 Education to where now there's a separate
 5 board for two-year colleges as opposed to K
 6 through 12. I don't know what that map looks
 7 like.

8 And those are not elected
 9 positions. They are appointed positions
 10 confirmed by the state legislature. But
 11 students in Houston, Dale, Henry, Geneva,
 12 Coffee Counties are more than likely to go to
 13 Troy University in Pike County or to Wallace
 14 Community College in Dothan than they are to
 15 Spring Hill College, University of South
 16 Alabama, or University of Mobile or Bishop
 17 State or Coastal Alabama, which are the two
 18 two-year systems here.

19 And so conversely, I'm talking
 20 about two-year and four-year schools, you look
 21 at the student bodies of the University of
 22 South Alabama, you're going to see a much

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1 not saying it's not ever happened in the
 2 history of the Congress, but it's -- it's hard
 3 to be -- it's hard to serve that many
 4 different constituencies that would be
 5 important to your -- to your district, to the
 6 constituents that live there.

7 Q. Which -- which congressional
 8 committees were you on when you served?

9 A. Appropriations.

10 Q. Any other?

11 A. And ethics.

12 Q. And ethics. Any other?

13 A. My early committees, I was on
 14 agriculture and science and budget. But those
 15 were just to get me to appropriations. The
 16 1st congressional district has long had a seat
 17 on appropriations, and that was a goal of mine
 18 early on.

19 Q. I think you've started to talk
 20 about this, but can you help me understand if
 21 you were representing the congressional
 22 district 1 the way it's drawn in the -- in the

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1 larger concentration of students who are from
 2 what is in Exhibit I, the traditional 1st
 3 congressional district.

4 Q. I think we've kind of talked about
 5 both districts, but let's just focus on the
 6 proposed congressional district 1. Can you
 7 talk a little bit about what communities of
 8 interest you think are broken up here?

9 Yeah. We can start with that.

10 What communities of interest are broken up by
 11 having District 1 configured this way?

12 A. Economic and business, cultural.

13 I -- I mentioned earlier that if you were in
 14 Congress from the current 2nd district
 15 (indicating), you would probably want to be on
 16 the Armed Services Committee supporting the
 17 U.S. Army post Fort Rucker or the Air Force
 18 bases at Maxwell Gunter.

19 If you are under the current maps
 20 that you're proposing, it -- I'm not aware of
 21 anyone who's ever been on Navy Seapower
 22 Committee and Army and Air Force. I mean, I'm

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1 proposed maps, in your opinion, are there
 2 issues where there would have been conflicts
 3 of interests between the communities you
 4 were -- you would be representing?

5 A. I -- I think the conflict would be
 6 you would be serving multiple masters, not
 7 really two masters. But you would be -- the
 8 economy in Mobile and Baldwin Counties is
 9 totally a different focus than the economy of
 10 the Wiregrass area.

11 So in addition to the challenge of
 12 getting from point A to point B, there would
 13 be an additional expense. I mean, I -- when I
 14 was working with Congressman Callahan, we had
 15 one district office. I expanded it to two.

16 You would have to have at least
 17 three. Your budget's not going to up in a
 18 rural area just because you have three
 19 offices. So you're going to have to have
 20 fewer staff or more offices, but it's -- you
 21 can't have both.

22 Just the -- the -- the challenge

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1 of getting into -- I mean, if -- if you have a
 2 town hall meeting in Houston County, you --
 3 your best bet may be to fly to Panama City,
 4 Florida to drive up. They do have an airport
 5 in Dothan, but it has very limited air
 6 service.

7 And there -- so you would only --
 8 you'd have an airport in Mobile, and then
 9 you'd have to get in the car and drive four
 10 and a half to five hours to get to Dothan.

11 Q. Other than economic interests, are
 12 there any other issues where you see conflicts
 13 of interest arising between the communities
 14 that are in the proposed congressional
 15 district I?

16 A. I think it would be fair to say
 17 that there is -- there's just so little in
 18 common between being in Tillman's Corner in
 19 Mobile County and going up to Luverne in
 20 Crenshaw County.

21 The -- the only way you would do
 22 that today would be if you had a relative who

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1 lived up there and you were going to a family
 2 reunion. I mean, there's -- there's no social
 3 interaction. There's no athletic interaction
 4 to speak of. There's -- so I -- I don't see
 5 this being a map that if I were interested in
 6 running for office, I would consider running
 7 in because I -- not because I don't think I
 8 could win it, but because I don't know why
 9 anybody would want to serve in a district that
 10 is this different from the -- the maps that
 11 have historically served these two districts
 12 and served them well.

13 Q. Can you think of any issues that
 14 exist where if you were representing this
 15 district, where you would vote differently as
 16 opposed to if you were representing the
 17 district as it currently is?

18 A. Well, I -- I mentioned the peanut
 19 program. I mean, when you were the
 20 representative of the 2nd congressional
 21 district, you became the -- you became the
 22 expert, subject matter expert of agricultural

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1 programs that were unique to this area that
 2 were also unique to Georgia and Florida.

3 But no one else in delegation even
 4 knew what -- what those programs were because
 5 they were so unique to that area. And -- and
 6 likewise, when you represent Mobile and
 7 Baldwin Counties and you've got the
 8 shipbuilding industry and the aerospace
 9 industry, chemical industry and the steel
 10 industry, you become -- you become affiliated
 11 with the steel caucus, you become affiliated
 12 with the shipbuilding caucus.

13 I mean, that becomes a part of
 14 your network when you get to Washington to try
 15 to better serve your constituents and the
 16 companies and the individuals that work there.
 17 So it really is a very strong economic
 18 overture there.

19 Q. Is that peanut program still in
 20 effect?

21 A. It -- it -- it is, but it changed
 22 during a rewrite of the ag bill probably

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1 12 years ago or so. It was when I was in
 2 Congress.

3 One of the things that I worked on
 4 and it continues -- that Congressman Byrne
 5 continues to work on is deepening of the port
 6 of Mobile. And so your focus is on working
 7 with the Army Corps of Engineers, not Army
 8 helicopters. I mean, you -- you -- you have a
 9 vested interest in supporting the -- the
 10 programs that support the economy of that area
 11 of the state that you live in. Just like
 12 Congressman Brooks is focused on supporting
 13 Redstone Arsenal up in Madison County.

14 And Congresswoman Sewell and
 15 Congresswoman Roby have worked to support
 16 Maxwell and Congressman Rogers Maxwell and
 17 Gunter in Montgomery.

18 Q. And did you say it's the --
 19 there's an interest in the Army Corps of
 20 Engineers in and around Mobile?

21 A. The Army Corps of Engineers
 22 headquarters from -- all the way from

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1 **Brownsville, Texas to Miami, Florida is**
 2 **located in Mobile. So it's a large**
 3 **headquarters for the entire Gulf of Mexico.**
 4 **And it comes in handy when you're dealing with**
 5 **a hurricane or an oil spill or trying to**
 6 **dredge the water system to get the port to be**
 7 **a -- a top ten port.**
 8 **Q. And do you have any thoughts or**
 9 **comments about the splitting of Mobile County?**
 10 **In all -- in all four of the maps, that county**
 11 **is split.**
 12 **A. I -- I -- my thought would be that**
 13 **it's -- Mobile County is different than Clarke**
 14 **County. Mobile is one of the largest counties**
 15 **in the state. It is the economic hub for this**
 16 **area of the state.**
 17 **Remove the political maps, it's**
 18 **the economic hub, and as such, splitting it**
 19 **just for the political purposes of what I**
 20 **assume would be the plaintiffs' motives, I**
 21 **don't think is going to serve Mobile well or**
 22 **the 1st congressional district well. But**

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1 **Clarke County?**
 2 **A. Well -- well, I think if you're**
 3 **going to be successful, you're going to --**
 4 **you're going to make every effort to serve**
 5 **your district obviously. But it would just be**
 6 **a much harder thing to do. If you're in**
 7 **Washington 40 to 45 weeks out of the year and**
 8 **you come home for a recess week or a recess**
 9 **month like August, it is much more challenging**
 10 **when you're -- I mean, we were able to get**
 11 **sometimes five town hall meetings a day**
 12 **scheduled.**
 13 **It would be hard to do with --**
 14 **with any of the four maps that you've got in**
 15 **front of me. It's not just town halls. It's**
 16 **also other ways. I mean, I had a field rep**
 17 **who went on a monthly basis throughout the**
 18 **district, every month went to all of the**
 19 **counties in my district. Sometimes several**
 20 **times.**
 21 **So you're either going to -- as I**
 22 **say, you're going to increase your staff.**

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1 **that's my personal opinion.**
 2 **Q. And in -- in what ways do you**
 3 **think it wouldn't serve the city of Mobile or**
 4 **the county of Mobile?**
 5 **A. Because of the things we've talked**
 6 **about, the community of interest, the**
 7 **continuity, the historical connections between**
 8 **Mobile. And, you know, it -- it's like a -- a**
 9 **spoken hub. I mean, this is the hub of**
 10 **economic life in this whole region of the**
 11 **state.**
 12 **And it is directly tied to**
 13 **Washington County and to Clarke County and**
 14 **Monroe County and Escambia County. It -- and**
 15 **it does not have that connection or tie,**
 16 **historic or otherwise, to the counties in**
 17 **central Alabama or the counties in the**
 18 **Wiregrass.**
 19 **Q. If you were representing the new**
 20 **proposed congressional district 1, do you**
 21 **imagine that you would hold those same types**
 22 **of joint town halls that you were doing for**

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1 **You're going to increase your number of**
 2 **offices, but you can't do both because your**
 3 **budget doesn't increase.**
 4 **Q. Do you think it would be**
 5 **beneficial potentially to a district like**
 6 **District 7 right now, which is very large in**
 7 **the current map, in the 2011 plan, but would**
 8 **be significantly reduced in size in some of**
 9 **the proposed maps, for some of these same**
 10 **reasons that you're talking about? For**
 11 **example, the geography, the distance, the**
 12 **number of offices you have to have?**
 13 **A. Because of the way Congresswoman**
 14 **Sewell serves her district and Congressman**
 15 **Davis served his district, I believe that**
 16 **they -- the people who live in those counties**
 17 **have been very pleased with the service that**
 18 **they've gotten. And they've done a -- a -- a**
 19 **good job because those have been**
 20 **historically -- the -- the adjustments have**
 21 **been made based on population and getting to**
 22 **zero deviation from this map to the one that**

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1 was ten years earlier. And the one that was
 2 ten years earlier.
 3 You showed a map in the 1950s.
 4 But if you look really in the 1970s, 1980s,
 5 1990s, 2000s, 2010s, those maps that were
 6 approved and that were also approved by the
 7 Justice Department are very similar in terms
 8 of the area of service.
 9 Q. I'm going to give you one more
 10 map. The last one, I promise. And this will
 11 be, I think, Exhibit 8. I apologize if it's
 12 smaller.
 13 (Bonner Exhibit 8 was
 14 marked for identification.)
 15 Q. (By Ms. Madduri) And I can just
 16 tell you this is a plan that our expert drew
 17 because there's some speculation that in the
 18 next redistricting cycle, Alabama may lose one
 19 of its seats and go down to six congressional
 20 districts instead of the current seven.
 21 So I just want to get your general
 22 thoughts on the same thing. Same issues we've

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1 been discussing, whether there are communities
 2 of interest that are at issue here. Just your
 3 general views on this plan.
 4 A. Well, unfortunately, I -- I don't
 5 really have an opinion about this because I'm
 6 working for the Governor of Alabama, and our
 7 goal is to keep all seven districts. So we're
 8 going to work to get as robust a census as
 9 possible. So we haven't even begun looking at
 10 hypotheticals of six districts. Our goal is
 11 to keep seven or maybe get eight.
 12 Q. Understood. If this situation
 13 does arise, just looking at this map, are
 14 there any specific issues that you see that
 15 you find concerning?
 16 A. Well, I -- I -- I would say and I
 17 think anyone who has ever served in office or
 18 who ever aspires to serve in office that there
 19 is a value to -- as compact a district that
 20 has as much community of interest and
 21 continuity of interest as possible.
 22 And if we lose a seat, then --

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1 then that changes the scenario totally for
 2 everybody, but -- but that will be because we
 3 didn't do our job to make sure that every
 4 person counts in our census. And we're going
 5 to do everything we can to -- to do that.
 6 Q. Okay. Understood. So no -- no
 7 thoughts or comments on this map?
 8 A. No.
 9 Q. Okay. That's fine.
 10 A. No, ma'am.
 11 Q. If you are called as a witness in
 12 this case, what -- what do you expect to
 13 testify about?
 14 A. Well, I would expect that if I
 15 were called, it would be to give my experience
 16 as someone who worked in the federal
 17 delegation for about 28 years.
 18 Q. Are there any specific issues that
 19 you believe you would testify about?
 20 A. No, ma'am. I -- I could testify
 21 on what it was like being a congressman and
 22 working as a member of a congressional staff.

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1 I'm comfortable with that.
 2 Q. Understood. Did you
 3 participate -- we -- we talked about this a
 4 little bit, but I want to just get more
 5 information.
 6 Did you participate in any
 7 capacity in Alabama's redistricting plan
 8 following the 2010 census so to create that
 9 2011 plan?
 10 A. I participated in the sense that
 11 all of the members of Congress from Alabama,
 12 Democrat and Republican, agreed to work with
 13 the legislature as had been done in previous
 14 redistricting efforts. And we agreed to work
 15 to support keeping the districts as close to
 16 what they had been historically.
 17 And we all did that knowing that
 18 we would have to ultimately get a slightly
 19 different district than what might be ideal
 20 for us but because it was for the benefit of
 21 the state as a whole and for our respective
 22 seven congressional districts.

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1 Q. And to -- to the best of your
2 recollection, who or what types of people did
3 you have conversations with or communications
4 with about creating that sort of plan?
5 A. Congresswoman Sewell, Congressman
6 Bachus, Congressman Brooks, Congressman
7 Rogers, Congresswoman Roby.
8 Q. It sounds like the Alabama
9 delegation. You don't have to -- it's not a
10 memory test.
11 A. It's not a real interest to our
12 senate colleagues because they didn't have to
13 run in distract maps.
14 Q. Right.
15 A. So, but the seven members of
16 Congress from Alabama worked closely together
17 and supported each other and -- and -- and --
18 and were willing to work with the legislature
19 in a bipartisan way to produce a map that we
20 believed would be constitutional, would meet
21 the criteria, that would pass muster by the
22 Department of Justice. This map did. And

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1 served in the legislature.
2 Q. Do you remember any of the -- the
3 specific legislators that you met with or had
4 conversations with about this?
5 A. (Witness nods head.) Well, I got
6 to know the Reapportionment Committee very
7 well. We had Senator Vivian Davis Figures
8 from Mobile. We had Representative Jamie Ison
9 from Mobile. We had -- Senator Gerald Dial
10 was the chairman in the Senate or the
11 co-chairman, Representative Jim McClendon
12 who's now in the Senate was the co-chairman in
13 the House.
14 We -- when -- when the map and
15 therefore the political lines that are going
16 to be determined by that are in the hand of
17 the legislature, you work with the leadership
18 of the legislature, the bipartisan way. You
19 work with the -- you work with the committee,
20 and that -- that's primarily who we spent most
21 of our time with because they were the ones
22 who -- in whose responsibility this fell.

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1 we -- we worked and our staffs worked to
2 support that effort.
3 Q. So outside of the Alabama
4 Congressional Delegation, outside of your
5 staff, were there other individuals or
6 entities that you worked with in the --
7 A. We worked with the Reapportionment
8 Committee of the Alabama Senate and House.
9 Q. Uh-huh.
10 A. And we worked with -- I'm sure --
11 I -- I -- I -- I don't know who the other
12 members worked with, but we -- we worked as a
13 cohesive group starting with us.
14 We had meetings. And we would
15 come to Montgomery, and we would have lunch
16 with members of the legislature, but we did
17 that not just every ten years. We did that to
18 maintain relationships.
19 Some of them actually had served
20 in the legislature prior to being elected to
21 Congress, so they had pre-existing
22 relationships there. I did not. I had never

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1 Congresswoman Sewell also worked
2 with the Justice Department. The Attorney
3 General married a young lady from Mobile, and
4 so she and Attorney General Holder were good
5 friends. She and President Obama and
6 Mrs. Obama were in school together, law school
7 and undergraduate. I think she and Mrs. Obama
8 were in the same social sorority.
9 So we all did what we could to
10 help get it through the legislative process
11 and then get it approved with the stamp of
12 approval from the Justice Department.
13 Q. Are you aware of any efforts to
14 create a second majority-minority district
15 during that redistricting cycle?
16 A. There have been conversations
17 about that during that cycle and also
18 previously as well. There was a general
19 consensus that if you were going to maintain
20 the threshold of what some believe that you
21 needed to have to guarantee a minority
22 district, then you would lower it such to try

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1 to create a second district that you may well
 2 risk having a minority representative in
 3 Congress.
 4 I believe it was 65 percent. And
 5 I think you were going to lower it to create
 6 two, and it would be closer to 50 percent.
 7 Q. What about instead of an actual
 8 majority-minority second district, what about
 9 like an influence district just where, you
 10 know, the population -- the African-American
 11 population would be higher but maybe not
 12 actually up to whatever threshold the
 13 legislature considered necessary to be a
 14 effective majority-minority district?
 15 A. I was aware of -- look, you have
 16 35 state senators, and you have 105 state
 17 house members. Many of whom their motivation
 18 for drawing district lines are their own
 19 political interests.
 20 So you would be talking to
 21 Representative A or Senator B, and you may
 22 well be talking to someone who was trying to

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1 historic benefits to the service of the
 2 constituents to keep the districts as they
 3 have been for several decades.
 4 Q. Were you supportive of creating a
 5 second majority-minority or a significant
 6 influence district?
 7 A. I saw no value in it because I was
 8 very confident that I was serving the people
 9 of my district regardless of their racial
 10 background, their socioeconomic background,
 11 their political views, their -- or -- or other
 12 issues that -- that were at play.
 13 Q. To the -- to the best of your
 14 recollection, were there any plans that you
 15 remember that did propose having a second
 16 majority-minority or a significant influence
 17 district?
 18 A. I -- I remember seeing -- and I
 19 can't tell you whether it was the 2010 or the
 20 2000 redistricting, but I remember seeing a
 21 plan similar to this that would have gone
 22 under Mobile Bay.

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1 draw a district for their political
 2 aspirations as well. So there were a lot of
 3 different dynamics at play here.
 4 But -- and I don't -- and I'm not
 5 speaking for anyone else in the delegation,
 6 but I don't believe that anyone in the
 7 delegation believed that the creation of a
 8 second minority district or a -- a significant
 9 influence district was something that -- that
 10 was given any real encouragement by any
 11 members of our delegation, Democrat or
 12 Republican.
 13 Q. When you say "the delegation," you
 14 mean the -- the seven --
 15 A. Federal. Uh-huh.
 16 Q. -- congressman -- congressmen and
 17 women?
 18 Why -- why do you think that
 19 wasn't --
 20 A. Well, you'd have to ask the other
 21 six members who were in at the time, but I
 22 think everyone believed that there were

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1 There was actually a question
 2 about whether that would make that contiguous
 3 or not. We'd go all the way over to Dothan.
 4 I saw one that even went all the way up to
 5 Auburn in Lee County. And then the other part
 6 of Mobile that would go all the way up to
 7 Pickens and Tuscaloosa.
 8 And having been a student at the
 9 University of Alabama and having had children
 10 who attended the University of Alabama --
 11 Q. Uh-huh.
 12 A. -- I knew how hard it was to get
 13 to Tuscaloosa. There's no four-lane road
 14 there anymore than there's a four-lane road
 15 from Mobile to Dothan.
 16 So I -- I heard that there were
 17 legislators that were talking about that, but
 18 I didn't spend a lot of time encouraging that,
 19 and therefore, I didn't spend any time with
 20 those legislators. But -- but keep in mind,
 21 other legislators, other members of Congress
 22 from the delegation were similarly looking

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1 after what was the district that they knew
 2 best, and the one that they had worked in and
 3 had run in and been successful in.
 4 Q. Do you recall having any
 5 conversations or discussions or other
 6 communications about why you didn't
 7 encourage -- I think you said encourage -- a
 8 second majority-minority or a significant
 9 influence district?
 10 A. I -- I had no reason to encourage
 11 creating a second minority district that would
 12 have, in my view, been detrimental to my
 13 district and to the service that my staff and
 14 I were rendering.
 15 We had an outstanding reputation
 16 for serving people without regard to their
 17 political views, their -- I mean, we did not
 18 have a litmus test. If you called my office
 19 and you needed help, you got help.
 20 And the proof of that is, is that
 21 I won -- I -- I won five of the six counties
 22 in my first race, and I won all six counties

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1 second majority-minority or influence district
 2 not created in the last plan in 2011?
 3 A. Well, I can't really speak for the
 4 mindset of 140 legislators.
 5 Q. Of course. In -- in your -- in
 6 your view.
 7 A. I -- I -- I really don't know that
 8 I'm qualified to answer that.
 9 Q. That -- that's perfectly fine.
 10 And can you -- can you recall any
 11 communications that you had with anybody,
 12 conversations or written or in some of the,
 13 you know, your delegation meetings --
 14 A. Well --
 15 Q. -- any conversations about
 16 creating that or why it shouldn't be created
 17 or should be?
 18 A. I -- I really and truly can't
 19 recall that the delegation -- when we met to
 20 talk about the redistricting process, I really
 21 can't recall that we spent a lot of time
 22 talking about all the different scenarios that

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1 in every subsequent race and with a couple
 2 times running unopposed. If I were not doing
 3 a good job, I would have drawn an opponent.
 4 Q. Uh-huh. Did you ever speak with
 5 any constituents or anyone in your district
 6 about the potential to have a second
 7 majority-minority district or --
 8 A. No one ever contacted me that I
 9 can recall saying that they felt that they
 10 needed a second minority district to be better
 11 represented. I'm not saying that there were
 12 not people who might have thought that.
 13 But when I went to town hall
 14 meetings in Prichard or in Trinity Gardens or
 15 in other communities throughout the district,
 16 I -- I can't recall -- and again, I said I had
 17 450, so I'm not saying they were all
 18 lovefests, but I can't recall anyone ever
 19 coming and saying that they wished that they
 20 were in a different district and had a
 21 different congressman.
 22 Q. In your view, why -- why was a

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1 were out there.
 2 Our goal was to work cohesively to
 3 represent the state, to keep as much
 4 disruption to a minimum as possible, and to
 5 show, as we tried to show with our daily
 6 service, that regardless of -- of which party
 7 we represented, that we represent the same
 8 state. And that we work together for the good
 9 of the people of Alabama.
 10 Q. So it sounds like you don't recall
 11 any conversations then within the delegation
 12 about the potential for creating a second
 13 majority-minority or influence district?
 14 A. I -- I -- I can't say
 15 categorically there were none -- there were
 16 not any. I don't recall any at this moment,
 17 no.
 18 Q. What about conversations or
 19 communications outside of the delegation? Do
 20 you recall any of those?
 21 A. No, because we didn't come to
 22 Montgomery to work with the state legislature

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1 with the goal of looking at options and
 2 creating a different map. We all believed
 3 that we were serving -- I said with confidence
 4 that I felt like I was serving the people of
 5 my district.
 6 I -- I think that every member of
 7 the delegation would have said the same thing.
 8 Without being cocky, just with -- just
 9 confidence that we were doing the best we
 10 could to represent the people of our
 11 districts.
 12 Q. Understood.
 13 Did -- in terms of the delegation,
 14 did you -- was it your position then that you
 15 should keep the districts the way that they
 16 were, or did you have a plan that you
 17 proposed --
 18 A. We --
 19 Q. -- a physical plan that you
 20 proposed?
 21 A. We knew we would have to make
 22 adjustments based on population.

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1 Q. Uh-huh.
 2 A. And -- and we agreed that we would
 3 make adjustments based on that. And quite
 4 frankly, some members ended up getting -- in
 5 the final plan, some members ended up getting
 6 counties that they had not sought. But that
 7 was what, in the wisdom of the legislature,
 8 needed to be done to accomplish the goal of
 9 the map.
 10 Q. So did the delegation present a
 11 map that they wanted, or was there a
 12 physical -- you know, like a proposed map from
 13 the delegation?
 14 A. I -- I believe we had an agreed
 15 upon. I can't tell you that we produced a map
 16 or that a map was submitted. It could have
 17 been. I really don't recall. We -- we ended
 18 up agreeing that we would take what the
 19 legislature did and not challenge that.
 20 But, for instance, the northern
 21 part of Tuscaloosa County in the previous
 22 redistricting was represented by Congressman

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1 Bachus. And it was adjusted to where it would
 2 be Congressman Aderholt. And -- but -- but
 3 for the greater good of serving the state,
 4 there was -- it -- it -- it was not that big
 5 of an adjustment to where it created any
 6 tension within the delegation.
 7 Q. So to the -- the best of your
 8 recollection, were there any, I guess,
 9 disagreements between what the legislature had
 10 proposed and what the Alabama delegation had
 11 wanted?
 12 A. Once the legislature made its map
 13 final, we all got on board trying to support
 14 getting it cleared by the Justice Department
 15 and put into place so that we could know what
 16 districts we would be running in and begin
 17 that process.
 18 Ten years earlier, it was a much
 19 more challenging effort. The governor
 20 actually called, I think, two or three special
 21 sessions to deal with redistricting. A
 22 federal court had gotten involved.

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1 And I was working as a staffer at
 2 the time, but there was a concern that we may
 3 not even have maps in place for the members to
 4 run in. So contrast that experience with this
 5 where we were working with the legislature
 6 that was trying to keep the districts as close
 7 as to what they had been historically in
 8 recent history, we -- we -- we chose not to
 9 disagree over little things.
 10 Q. Understood.
 11 Ms. MADDURI: I think -- do you --
 12 would you want to take a break? We've been
 13 going for a little while. I have some -- I do
 14 have some questions about the previous
 15 redistricting too.
 16 MR. DAVIS: Sure. This is a fine
 17 time.
 18 MS. MADDURI: This might be a good
 19 time to --
 20 THE WITNESS: Sure.
 21 THE VIDEOGRAPHER: This ends MPEG
 22 two in the continued deposition of Josiah

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Josiah Bonner

1 Bonner. We are off the record at 11:08.
 2 (A recess was taken.)
 3 THE VIDEOGRAPHER: This begins
 4 MPEG three in the continued deposition of
 5 Josiah Bonner. We are on the record at 11:22.
 6 Q. (By Ms. Madduri) So before the
 7 break, I think we were going to start talking
 8 about the previous cycle of redistricting.
 9 What was your -- what was your role in that?
 10 A. I was Chief of Staff for
 11 Congressman Callahan. And just as when I was
 12 in Congress and sent my staff down, I went
 13 down on behalf of Congressman Callahan, and I
 14 was there with the other Chiefs of Staff from
 15 the other members of Congress.
 16 And it was basically the same
 17 thing, to work with the legislature to try to
 18 get a plan that was as close to what we had
 19 knowing that there would have to be some
 20 adjustments made for population shift.
 21 Q. Do you remember, just roughly, how
 22 many times did you meet or have conversations

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1 advantage of being a member who came from the
 2 legislature like Congressman Rogers did is, is
 3 that you have those preexisting friendships.
 4 You have those preexisting relationships. But
 5 -- but -- but we worked closely.
 6 Walter Braswell was Congressman
 7 Harris' Chief of Staff. Tom Bevill was
 8 represented by Don Smith. You have to
 9 understand a small delegation like ours has a
 10 very special relationship. The chiefs of
 11 staffs meet every month and have lunch as do
 12 the members.
 13 I can tell you of very few
 14 congressional delegations that meet monthly,
 15 Democrat and Republican, House and Senate, and
 16 talk about what we can do to -- to serve
 17 Alabama as well as the Alabama delegation
 18 does. And that has historically been the
 19 case, and it continues to be the case. And
 20 it's one of the hallmarks of what makes this
 21 delegation so effective.
 22 You look at Alabama's nine person

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1 about this with the other Chiefs of Staff and
 2 the delegation?
 3 A. Frequently. And by that, I would
 4 say that leading up to the redistricting year,
 5 you know, we would meet probably -- it's been
 6 20 years. It's been longer than that, but
 7 we -- we would've met between five and ten
 8 times.
 9 Q. And that's the delegation?
 10 A. Uh-huh. Yes, ma'am.
 11 Q. Okay. And what about
 12 representatives of the legislature?
 13 A. So Congressman Callahan had served
 14 in the legislature, and Congressman Bevill was
 15 the senior member of Congress at the time.
 16 No. That would have been in the '90.
 17 So in the 2000, Sonny may have
 18 been the only -- and -- and Spencer Bachus, I
 19 think were the only two members that had
 20 previously served in legislature.
 21 So the advantage of working for a
 22 member who's been in the legislature or the

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1 delegation compared to Texas or California or
 2 New York or Florida, and they can't sometimes
 3 agree on what the state colors are much less
 4 on how they can work together for the good of
 5 the state.
 6 Q. So you all met maybe five to ten
 7 times, you said, prior to that redistricting.
 8 What about with the legislature or legislature
 9 representatives?
 10 A. We -- we -- we would come -- of
 11 those -- and five or ten is certainly a guess,
 12 but of the times that we met, most of those
 13 meetings were in Washington. And then once
 14 the legislature started coming into session
 15 and they started to focus on that, we worked
 16 closely with the governor who is a Democrat.
 17 We worked closely with the Speaker
 18 of the House who was a Democrat. We worked
 19 closely with the Lieutenant Governor and the
 20 Senate and the House leadership. And back in
 21 the 2000 census as opposed to the 2000 -- or
 22 the redistricting as opposed to the 2010, it

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Josiah Bonner

1 was a Democrat majority in the legislature.
 2 Q. Within the congressional
 3 delegation, were there -- did you all have
 4 sort of a unified view on what should be done
 5 with the redistricting? Were there any
 6 conflicting views or disagreements within the
 7 delegation?
 8 A. We were consistent as we were ten
 9 years later. We -- we tried to work
 10 cohesively to help the legislature draw a map
 11 that would not disrupt the service to the
 12 state but would, in fact, allow its continuity
 13 to continue.
 14 Q. And were there any conflicts or
 15 disagreement between what the legislature
 16 wanted to do with the map versus what the
 17 congressional delegation wanted to do?
 18 A. I believe that it was about that
 19 time that some in the legislature wanted to
 20 create a minority-majority district, and that
 21 was creating some tension within the Democrat
 22 members of the delegation, but it was not

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1 didn't really have as much of an impact
 2 because this is where you get parochial.
 3 You -- you focus on your district,
 4 and then it's like putting a puzzle together.
 5 You see how your district's going to fit with
 6 this district and that district. So our focus
 7 was on trying to preserve the integrity of the
 8 1st congressional district, which is what we
 9 did.
 10 Q. Were any changes made to the 1st
 11 congressional district in order to create that
 12 majority-minority district?
 13 A. Well, in the 1990 census, we lost
 14 Wilcox County, and then in the 2000 census, we
 15 lost a part of Clarke County.
 16 Q. Was that something that you -- I
 17 guess, first with Wilcox County, the loss of
 18 Wilcox County, was that something that you
 19 opposed or supported or how -- how was that?
 20 A. Well, I was a relatively young
 21 staffer, and so I didn't really have a -- a
 22 vote, if you will. They needed to make the

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1 something that we felt -- that Congressman
 2 Callahan felt that he needed to get involved
 3 in because he was going to work with the
 4 delegation regardless.
 5 Q. And was that the creation -- what
 6 ultimately was the creation of congressional
 7 district ??
 8 A. Yes, ma'am.
 9 Q. Okay. Did you or you on behalf of
 10 congressional -- Congressman Callahan have any
 11 views about whether that district should or
 12 shouldn't be created?
 13 A. Not that I recall.
 14 Q. Do you remember any conversations
 15 about --
 16 A. (Witness shakes head.)
 17 Q. -- the creation of that --
 18 A. No, ma'am, I really don't.
 19 Q. Do you recall if you were
 20 supportive of creating that district?
 21 A. Well, my role was really to focus
 22 on the 1st congressional district, and it

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1 adjustments. As I recall, the -- the map that
 2 was drawn that resulted in the loss from
 3 Wilcox County I think was actually drawn by a
 4 three-judge panel, I believe.
 5 So we -- we were not -- my ties to
 6 Wilcox County were personal. They were not
 7 the congressman's ties. He was from Mobile,
 8 and he wanted to make certain that the
 9 district remained as intact from Mobile and
 10 Baldwin Counties as possible, and therefore
 11 that was my objective too.
 12 Q. Do you recall any conversations or
 13 communications about the drawing of the map by
 14 that three-judge panel in relation to the 1990
 15 redistricting?
 16 A. I remember that the legislature
 17 was not able to draw a map, and we needed a
 18 map. And it went to a three-judge panel, and
 19 the map they produced was one that the members
 20 of Congress all -- I mean, if a three-judge
 21 panel makes the decision, it -- it's hard to
 22 go back in and ask them if they'll make some

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1 changes to it to make you a little bit
 2 happier. So we -- we took it, and we were --
 3 we did the best we could to serve it.
 4 Q. But do you remember having any
 5 conversations or communications about just the
 6 views on what they had done?
 7 A. So now we're going back to --
 8 Q. We're going back to 1990.
 9 A. -- '90. I -- I don't recall any
 10 conversations.
 11 Q. And when that map was redrawn,
 12 the -- the majority-minority district was not
 13 created, correct?
 14 A. I -- I believe that's correct.
 15 I'd have to look at the map to see, but I
 16 believe that that's correct.
 17 Q. Okay. I think you mentioned that
 18 the redistricting process in relation to the
 19 2000 census was contentious. Can you talk a
 20 little bit about what you mean -- meant by
 21 that?
 22 A. Well, Congressman Harris believed

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1 primary for all practical purposes served as
 2 tantamount to the general election because if
 3 you got the Democrat nomination, as was true
 4 in Alabama for many years, you basically had
 5 been elected. The general election was just a
 6 formality.
 7 Q. So I think I might have asked you
 8 this, but I'm misremembering, so I want to
 9 make sure I understood what you said.
 10 Do you -- were you supportive of
 11 creating that majority-minority district?
 12 A. As a young Hill staffer, no one
 13 really asked me whether I supported it or not.
 14 The -- the members of the delegation, though,
 15 agreed to work with -- through the differences
 16 of opinion.
 17 Congressman Harris is deceased.
 18 He died of cancer, so he would not be here to
 19 speak for himself. And I'm certainly not
 20 qualified to speak for him, but my
 21 recollection -- his Chief of Staff and I were
 22 good friends. It was Walter Braswell. He has

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1 that he served the people of the 7th district
 2 well. And he -- I think most of the members
 3 of -- of the delegation believed that he did
 4 and most of the people in his district did
 5 because he was re-elected several times.
 6 But when the decision was made to
 7 create the district, President Clinton was in
 8 office, and I guess to soften the blow, if you
 9 will, Congressman Harris was made U.S.
 10 Attorney.
 11 So he was no longer going to be
 12 afforded the opportunity to be -- I mean, I'm
 13 not saying he couldn't have gotten elected.
 14 He was very popular. But the district was
 15 created to create a majority-minority
 16 district.
 17 And I don't -- I don't know that
 18 many people could have gotten elected in that
 19 district other than a minority member who was
 20 Congressman Earl Hilliard -- then State
 21 Senator Earl Hilliard.
 22 I mean, he had a primary, but the

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1 passed away as well. So there's no one who
 2 can dispute what I'm about to say.
 3 But I think that they personally
 4 believed -- they were Democrats, conservative
 5 Democrats, but they served that district with
 6 integrity and with professionalism and to the
 7 best of their ability. And I think in their
 8 view, they -- they believed they could have
 9 continued to serve the district.
 10 But the political decision of
 11 creating the majority-minority district was
 12 made, and the reality was that that district
 13 was not drawn with the intent to keep a white
 14 Democrat in that seat. That's not unusual
 15 with other districts around the country where
 16 those decisions are made by their legislators
 17 as well.
 18 Q. Right. So when you say the
 19 decision was made, you're referring to the
 20 Alabama legislature's decision?
 21 A. (Witness nods head.)
 22 Q. And --

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1 A. Yes, ma'am.
 2 Q. Oh, thank you.
 3 And I -- I realize -- I realize
 4 that -- I believe you were Chief of Staff at
 5 that point, correct?
 6 A. In 1990, I was, yes.
 7 Q. Right. Okay. Or sorry -- in
 8 2000.
 9 A. 2000.
 10 Q. In the -- in the -- in the cycle
 11 where the majority-minority was -- district
 12 was created which is in 2000, correct?
 13 A. Well, I was Chief of Staff in 1990
 14 and Chief of Staff in 2000. If you've got the
 15 maps, we can look at and I can show you.
 16 Q. I actually don't think I have that
 17 map, but I just want to clarify.
 18 A. I -- I was Chief of Staff in 1990,
 19 and I was Chief of Staff in 2000.
 20 Q. Correct. And I might be
 21 misunderstanding, but I thought the -- I
 22 thought you said that the majority-minority

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1 subsequent meetings with the legislature?
 2 A. Yes. And when I answered the
 3 question about five to ten meetings, I could
 4 not swear under oath that there were five or
 5 ten.
 6 Q. Absolutely.
 7 A. All I know is, is that we
 8 worked -- as I said, we -- we had monthly
 9 meetings as the Chiefs of Staff. The
 10 delegation had monthly meetings. And so I
 11 don't know how many meetings we had, but how
 12 ever many meetings we had that were focused on
 13 redistricting, the goal was to try to work
 14 together for the good of the state.
 15 Q. Understood.
 16 To the best of your recollection,
 17 was there any -- anyone that you were aware of
 18 related to the Alabama Congressional
 19 Delegation that was opposed to creating that
 20 majority-minority district?
 21 A. I don't believe there was anyone
 22 who was opposed to that I can recall.

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1 district, CD 7, was created in the 2000 --
 2 following the 2000 census?
 3 A. No. It would have been created in
 4 1990 --
 5 Q. Okay.
 6 A. -- following that because
 7 President Clinton was in office during the
 8 time that Congressman Harris became U.S.
 9 Attorney. And he was in office -- he was
 10 elected in the '92 election and served until
 11 2000.
 12 So it would have been in the 1990
 13 census that resulted in the redraw of the maps
 14 that created the minority -- majority-minority
 15 district.
 16 Q. Understood. Understood.
 17 A. I was a young Chief of Staff. 12.
 18 Q. Understood.
 19 And just to make sure I have this
 20 straight, so then was that the cycle where you
 21 said there were five to ten meetings of the
 22 Alabama Congressional Delegation and

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1 Congressman Harris didn't see the need for it.
 2 But -- but that was -- but that was his view,
 3 and it was not shared by the people who made
 4 that decision.
 5 Q. Did you have any concerns with the
 6 creation of that district --
 7 A. I --
 8 Q. -- the majority-minority district?
 9 A. I -- I really did not have any
 10 concerns because my focus was on the 1st
 11 congressional district.
 12 Q. Do you recall if Representative
 13 Callahan had any --
 14 A. No.
 15 Q. -- concerns with creating that
 16 district?
 17 A. None that I can recall.
 18 Q. Do you recall any communications
 19 with anyone that you had where they were
 20 concerned or opposed to creating that
 21 majority-minority district?
 22 A. I -- I really don't remember that

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1 it was a -- a -- an issue for the delegation
 2 other than Congressman Harris. And I don't
 3 recall that it was even that controversial in
 4 the legislature. But again, that's been
 5 37 years ago, 39 years ago. It's been a few
 6 years.
 7 Q. Understood.
 8 And just so I'm clear though.
 9 There was a -- some kind of litigation that
 10 followed that map being created with the
 11 three-judge panel that you mentioned?
 12 A. In the 1990?
 13 Q. Right. So I believe that map was
 14 adopted in around 1992 because --
 15 A. I --
 16 Q. -- Clinton was in office?
 17 A. That -- that would sound about
 18 right.
 19 Q. Okay. So was there litigation
 20 that you're aware of relating to that map
 21 after that, so sometime in the early or
 22 mid-1990s?

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1 led to that?
 2 A. I'm sorry. I don't.
 3 Q. No, that's fine. What is the --
 4 the Alabama Fair Reapportionment Fund?
 5 A. Can you tell me a little bit more
 6 about it?
 7 Q. Well, I actually don't know that
 8 much about it.
 9 A. Okay.
 10 Q. So I was hoping that you would
 11 tell me about it.
 12 MR. DAVIS: Did you say Alabama
 13 Fair Reapportionment Fund?
 14 MS. MADDURI: Correct.
 15 A. I'm -- I'm sorry. I -- I don't
 16 recognize that name.
 17 Q. (By Ms. Madduri) Let me see. I
 18 do have an article that mentions it, so I can
 19 give you that in case it helps trigger.
 20 MS. MADDURI: We can mark it. I
 21 think we'll be at Exhibit 9.
 22 (Bonner Exhibit 9 was

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1 A. I really don't recall whether
 2 there was litigation. As a result of the map,
 3 I remember that the legislature failed to do
 4 its job, and the federal courts made the
 5 decision to draw the map.
 6 Q. When you say failed to do their
 7 job, what do you mean?
 8 A. The legislature in Alabama, as I
 9 think in most states, is charged the
 10 responsibility of redrawing every ten years
 11 based on a new census.
 12 And as I recall, the legislature
 13 was unable to agree on a plan, and if they
 14 couldn't do it, the federal courts made the
 15 decision that they could. Someone had to.
 16 Q. Okay. So the legislature was
 17 unable to create a map at all?
 18 A. That -- that's my recollection.
 19 Q. Okay. Do you recall what were the
 20 main --
 21 A. I don't.
 22 Q. -- disagreements or what issues

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1 marked for identification.)
 2 MR. WALKER: Are we going to mark
 3 this?
 4 MS. MADDURI: Yes. It's going to
 5 be Exhibit 9.
 6 Q. (By Ms. Madduri) And feel free to
 7 review the article. I believe you're quoted
 8 on the first page of that document.
 9 A. I am. I have not seen this in a
 10 long time so...
 11 Q. And I know it's been a long time,
 12 so I apologize for asking you to think back so
 13 far.
 14 A. Okay. So this fund, based on this
 15 newspaper article, and now jogging my memory,
 16 was established by the seven members of the
 17 congressional delegation. And it appears that
 18 all seven of them supported it.
 19 I cannot answer whether all seven
 20 of them financially contributed to it, but it
 21 addresses something we talked about earlier.
 22 So this was dealing with the 2001

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1 redistricting effort, but ten years earlier
 2 when the federal courts drew this, the -- each
 3 congressional office has what is called a
 4 members representational account, an MRA.
 5 That's the money -- it's like your
 6 budget -- that you have to hire your staff, to
 7 set up a district office, to pay for telephone
 8 services, newspaper subscription services, and
 9 things like that. The law is clear that you
 10 cannot use your congressional budget for
 11 reapportionment purposes.
 12 So as is noted in this article,
 13 which has been entered as an exhibit, this
 14 article states -- and I would have no reason
 15 to dispute -- that Congressman Callahan
 16 actually had to spend \$250,000 from his
 17 campaign fund ten years earlier to -- in
 18 federal court in legal fees to support getting
 19 a plan, a map, a redistricting plan that would
 20 in fact allow him to continue to work, run in
 21 a district that is close to what it looks like
 22 today.

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1 So the members, proactively trying
 2 to avoid a repeat of what happened ten years
 3 ago, agreed to support a plan that we went to
 4 the legislature and encouraged them to
 5 consider. And it was a plan that called for
 6 keeping the districts as opposed to the plan
 7 that at that time Dr. Joe Reed, who is
 8 chairman of the Alabama Democratic Conference,
 9 was pushing, which was to create a second
 10 minority district.
 11 But in this article, it says, it
 12 quotes Congressman Hilliard who was the first
 13 African-American member of the delegation
 14 since reconstruction to say that -- Hilliard
 15 says he knows of no plans to try to create the
 16 second majority black district because the
 17 changes that would require like -- because the
 18 changes that would require likely wouldn't be
 19 approved by the courts.
 20 So you have to keep in mind it was
 21 a different Justice Department. It was a
 22 different time, and at that time, while it

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1 appears Dr. Reed wanted two minority
 2 districts, Congressman Hilliard as the
 3 Democrat -- he was not the only Democrat -- he
 4 was not the only Democrat in delegation, but
 5 he was the only minority Democrat in the
 6 delegation -- was not supportive of that
 7 effort to create two minority districts
 8 because he didn't think the courts would
 9 actually support that.
 10 That's what I -- that's my
 11 interpretation of this. And I'm sorry that
 12 when you asked about the account, it -- it was
 13 not a name I was familiar with. But I do
 14 recall it now.
 15 Q. Okay. So you mentioned, as this
 16 article says, that Representative Callahan had
 17 to spend \$250,000 from his campaign fund ten
 18 years ago to challenge Reed's plan?
 19 A. Right.
 20 Q. Okay. So in Reed's plan that this
 21 is referring to, it's your understanding that
 22 that had two majority-minority districts?

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1 A. I didn't really recall that he was
 2 pushing that in 1990, but I don't dispute if
 3 that's the case. We would certainly be able
 4 to -- to factually determine that. I do
 5 recall that there has been discussion for some
 6 time about creating two minority -- two
 7 majority-minority districts, but the challenge
 8 was always going to be whether it would
 9 actually pass muster with the Civil Rights
 10 Division and the Department of Justice.
 11 Q. Do you recall what Representative
 12 Callahan was unsupportive of in Reed's plan?
 13 A. Well, it would have created --
 14 it -- it would have divided Mobile and Baldwin
 15 Counties, and it would have destroyed the 1st
 16 congressional district as it had existed and
 17 as he served.
 18 I don't recall the specifics from
 19 that. I would have to go back, but the court
 20 records would show the different maps that
 21 were introduced at that time as evidence.
 22 Q. Do you recall this letter that

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1 this article was referencing which was
 2 signed -- the article says was signed by
 3 Representative Callahan?
 4 A. I -- I recall it now.
 5 Q. Well, no. That's fine. I mean,
 6 it was a long time ago. I'm --
 7 A. I don't recall the verbiage of the
 8 letter. I don't recall the ask, but I'm sure
 9 it was raising money. I mean, it says it was
 10 a fund raising fund to try to raise money in a
 11 legal way to try to get the legislature to
 12 deal with the redistricting effort that the
 13 legislature ten years earlier had failed to be
 14 able to do.
 15 Q. So in connection with the 2000
 16 census in that redistricting, is it correct
 17 that Congressman Callahan did not support a
 18 second majority-minority district being drawn
 19 at that time?
 20 A. I -- I would respectfully dispute
 21 that description. I don't recall Congressman
 22 Callahan ever sharing with me his opinion

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1 It's a lot of money today.
 2 But today, that would -- back
 3 then, that was a significant amount of money
 4 that was used from the campaign, which was a
 5 legal use of the money, but I think
 6 Congressman Callahan was not alone in
 7 believing that -- other members of Congress
 8 were spending money as well in that court
 9 defending their districts.
 10 So he believed it was better to
 11 raise the money through this account than to
 12 have to take money out of your campaign
 13 account.
 14 Q. Have you ever been involved in
 15 raising money for that fund to the best of
 16 your recollection?
 17 A. As a congressional staffer, I
 18 would have been restricted in raising money
 19 for any type of political activity. Each
 20 House member has the opportunity to name one
 21 staff member as their political liaison, if
 22 you will, who can be a spokesman or who can

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1 about the pros or cons of creating a second
 2 majority-minority district.
 3 His focus was self-serving. It
 4 was to keep the congressional district that he
 5 had. And quite frankly, so was the view of
 6 the other six members of Congress. If you've
 7 got something that works, why would you lead
 8 the effort to change it?
 9 Q. Do you recall who was involved
 10 with managing that fund, the Alabama Fair
 11 Reapportionment Fund?
 12 A. Well, this article says -- and so
 13 therefore I will have to take it on face
 14 value; I guess this is before fake news was
 15 created -- that it was -- that the money was
 16 raised and the address was the Alabama
 17 Republican Party.
 18 But keep in mind, we did not have
 19 the ability to use congressional money for
 20 this. We had already -- ten years earlier,
 21 we -- the Callahan campaign had spent
 22 \$250,000, which was a lot more money then.

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1 coordinate with the campaign activities.
 2 I had that role when I was his
 3 Chief of Staff. So I had that in 1990 and I
 4 had it in 2000. I did not have it when he was
 5 first elected in 1984.
 6 Q. So in that role or otherwise, had
 7 you ever been involved in fundraising for that
 8 fund?
 9 A. Not that I recall.
 10 Q. Do you recall who the primary
 11 sources of funding for that -- for the fund
 12 were?
 13 A. Probably the same companies and
 14 individuals. I don't know whether they could
 15 take company -- the corporate money or not.
 16 I -- so I shouldn't say companies. But we --
 17 look, in Alabama and probably in most states,
 18 it's the same people that get asked to write
 19 the campaign contributions to both parties, to
 20 both candidates.
 21 So my guess is, is that if you
 22 look at an FEC report today and you look at

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1 one in -- in 2000 when this fund was created,
 2 you would see the same type of groups and
 3 entities and people who were involved in the
 4 political process.
 5 It may be a different person, but
 6 it would be who -- the person who was in
 7 charge of -- the president of the Farmers
 8 Federation, the president of the power
 9 company, or the president of the -- this group
 10 or that group, the business community.
 11 They all have been -- they've --
 12 they've grown exponentially over the years,
 13 but they are the ones who traditionally
 14 support both Democrats and Republicans.
 15 Q. And what was your understanding of
 16 the purpose or the goal of that fund?
 17 A. To try to get the legislature to
 18 approve a map that would avoid us going to
 19 another lengthy and expensive federal court
 20 proceeding and to try to keep the district
 21 maps as closely aligned as they had been
 22 during the previous decade for the upcoming

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1 decade.
 2 Q. And did you work with this same
 3 fund when you became the congressman?
 4 A. I don't think we called it that.
 5 I don't even know that we -- I don't know what
 6 the name of that fund was, but we all chipped
 7 in and raised -- we -- we all -- when I --
 8 Congressman Bonner followed the leadership of
 9 Congressman Callahan.
 10 And when it was time for us to
 11 work with the legislature in 2010, we all, all
 12 seven members, Democrat and Republican,
 13 donated money to try to help the legislature
 14 draw a map that was as close to the one as the
 15 one we had. We did not to my -- I don't
 16 recall whether we actually introduced a map,
 17 but Congresswoman Sewell, Congressman Bachus,
 18 Congressman Rogers, Congresswoman -- now I'm
 19 talking about the 2010.
 20 We -- we all agreed to try to work
 21 together as we had previously for the last --
 22 as long as I've been around. The map you

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1 showed in 1950, I was born in 1959. So that
 2 predates my knowledge.
 3 Q. To the best of your recollection,
 4 were funds -- was that fund ever used to --
 5 whether it's lobby against or argue against --
 6 A. No.
 7 Q. -- the creation of a second
 8 majority-minority district?
 9 A. That was never the goal. The goal
 10 was to keep the districts as close to what
 11 they were. And it really was not -- I mean,
 12 look, we -- we had -- in the 2010
 13 redistricting effort, we had the first
 14 African-American president.
 15 We had, I believe, the first
 16 African-American Attorney General, and I had a
 17 very good working relationship with General
 18 Holder. And to the extent any congressman has
 19 a good working relationship with the White
 20 House, I had a good working relationship with
 21 White House.
 22 On my last day in office, General

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1 Holder called to tell me what -- he was very
 2 complimentary and said that it would -- he was
 3 sad to see me leave, but he was wishing me
 4 best wishes.
 5 But it was his Justice Department
 6 that stamped approved when this map came down.
 7 And when we were working in the 2010
 8 redistricting effort to get the map we
 9 currently have as we had previously, we were
 10 working in the same spirit that it existed for
 11 the last 40 years.
 12 And it -- it -- it's hard to
 13 describe that in a transcript, but it was a
 14 spirit of collegiality. It was a spirit of
 15 common service to the state. It was a spirit
 16 of -- of making sure that the 4.8 million
 17 people that lived in our state, regardless of
 18 the skin tone that they had or the accent that
 19 they had or the conditions that they grew up
 20 in, that -- that they were well served and
 21 served well and with integrity.
 22 Q. Is it your general understanding

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1 that to -- if a second majority-minority
 2 district was to be created, that would
 3 necessarily require changing sort of these
 4 historical districts that you've been
 5 describing all morning?
 6 A. Well, I've never seen a map that I
 7 can recall that could create a second
 8 majority-minority map that would not
 9 substantially alter the integrity of the 1st
 10 congressional district. None of the maps that
 11 you introduced as exhibits today do that.
 12 And as I said, I remember seeing
 13 maps that legislators were talking about in
 14 previous efforts that would take part of
 15 Mobile and run it up to -- there -- there is
 16 no four-lane highway from Mobile to -- to
 17 Sumter County or to Greene County or to
 18 Pickens County. You're going to be going on
 19 two-lane farm-to-market roads in a lot of
 20 that.
 21 Or that would take it under the
 22 bay. And one of the maps in this 2000

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1 Q. Do you think there are any people
 2 in Alabama, your constituents, whether in the
 3 overall state or in congressional district 1
 4 who would have benefited from having a second
 5 majority-minority district in Alabama?
 6 A. I -- I don't know how they could
 7 have. When I received the NAACP award as the
 8 champion in 2009, they didn't put an asterisk
 9 on it. When I got the very first earmark,
 10 back when we could do earmarks, was for
 11 Pritchard, Alabama because the mayor and the
 12 council had had such a long-running dispute
 13 that they wouldn't even agree to pay the
 14 firefighters.
 15 And they didn't even have enough
 16 money to put gas in the fire trucks. And so I
 17 got a grant -- a -- an earmark for Pritchard
 18 to get an expanded water service so that the
 19 fire hydrants could actually work, and we
 20 could put money in the fire trucks so that if
 21 someone's house caught on fire that it would
 22 be put out.

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1 redistrict that Dr. Reed pushed actually
 2 circled Congressman Callahan's home on Dog
 3 River. It circled it. The house across the
 4 street wasn't -- it was going to be in the
 5 Mobile district.
 6 Congressman Callahan's house was
 7 drawn to Dog River underneath Mobile Bay all
 8 the way over to Dothan, and I think it -- it
 9 may not have gone to Auburn in Lee County. It
 10 went up to Russell County.
 11 And so that offended the census
 12 that -- you talk about gerrymandering. That
 13 was the ultimate where someone was going to
 14 take him -- he would have not even been able
 15 to drive out of his driveway, he would have
 16 been in another congressional district.
 17 So you can't expect that he was
 18 excited about that. But we have never
 19 supported doing anything that would destroy
 20 the integrity of -- of not only our district,
 21 but really of the -- of the districts that
 22 have well served this state.

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1 I didn't carry Prichard in the
 2 ballot boxes. I don't know that I ever
 3 carried Prichard in the ballot boxes. I got
 4 more and more votes each time. Prichard was a
 5 majority-minority city, but I served the
 6 people of Prichard with all my heart.
 7 And that's why I can't imagine why
 8 anybody would have ever wanted -- someone
 9 might have wanted a Democrat because there
 10 were Democrats that didn't vote for me. But I
 11 never gave anyone reason to believe that they
 12 were not being well served because I was
 13 Caucasian and they were not.
 14 Q. Were there any issues or needs
 15 that you saw or were told about from your
 16 African-American constituents that were
 17 different than other white constituents in
 18 your district?
 19 A. Well, sure. The African-American
 20 constituents asked for me to help them get
 21 recognition for Africatown, which I did. That
 22 was probably not something that other -- I

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1 mean, that wasn't even something that
 2 residents in any other counties were
 3 interested in. Africatown was the site of the
 4 last slave ship to actually land, the
 5 Clotilda. They just recently found it.
 6 But -- but -- but that's somewhat
 7 of a -- I mean, I think you can go to any
 8 demographic group. You can go to a -- a group
 9 of soccer players and their focus is on soccer
 10 fields. You can go to a group that focuses on
 11 ballet or on some other activity, and they're
 12 interested in that.
 13 And so -- but -- but when the
 14 African-American constituents that I worked
 15 for and represented asked for my help, to the
 16 best of my ability, we helped them.
 17 Q. Do you recall any examples of what
 18 African-American constituents asked you for
 19 that you were able to help them on aside from
 20 the --
 21 A. No.
 22 Q. -- Africatown?

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1 A. They needed help with the water
 2 pressure and the firehoses in Prichard, and --
 3 and we helped. There would have been times
 4 where there -- there were applications for
 5 public transportation grants. We -- we
 6 provided those letters of support.
 7 There are other examples of where
 8 the particular neighborhood -- or a -- a good
 9 friend of mine who I served with in the
 10 leadership Mobile class was from the Trinity
 11 Gardens area. Trinity Gardens is a majority
 12 African-American section of Mobile.
 13 She -- there had been some
 14 shootings. Her son had been murdered, and she
 15 asked if I would come have a town hall meeting
 16 to meet with the young people to try to
 17 encourage them to put the guns down and to
 18 start loving and -- and -- and not hating.
 19 And I went.
 20 I went to 26 funerals of soldiers
 21 that died in Afghanistan and Iraq. Probably
 22 18 were African-American. I preached at one

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1 of the services. When I was standing in
 2 Howard Johnson, Jr.'s bedroom with his three
 3 sisters and his mother and father -- he was
 4 the first soldier killed from Alabama -- I
 5 wasn't standing in a black man's bedroom.
 6 I was standing in an American
 7 hero's bedroom. And when the father asked me
 8 to preach -- he's a minister -- asked me to
 9 moderate, to MC the funeral that was on
 10 national TV, it was after I had said, Reverend
 11 Johnson, whatever you need me to do, I will
 12 do.
 13 And until the day he died several
 14 years later, we remained extremely close. And
 15 I would be heartsick to think that anyone in
 16 his family believed that I wasn't doing
 17 everything in my power as a human being to
 18 serve them well in their time of grief.
 19 Q. That's really sad, but it sounds
 20 like you did a --
 21 A. Well, it's just -- it's just the
 22 way we did things.

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1 Q. Uh-huh.
 2 A. And we did it with the -- with the
 3 25 other families as well. Thank goodness
 4 they didn't all ask me to lead a funeral
 5 service, but -- but, you know, when you're
 6 standing there and you're looking at the
 7 trophies and the blue ribbons -- I mean, he
 8 was an all-star athlete, and he answered his
 9 country's service. And he was killed in the
 10 early days of the war in Iraq.
 11 And my wife baked a pound cake,
 12 and I went into to see the family whom I had
 13 never met before. But that's the kind of
 14 bonding experience that I tried to have with
 15 all of my constituents.
 16 Whether it was the bad times -- I
 17 mean, same thing with the oil spill. We're
 18 talking about minorities as though we're just
 19 talking about African-Americans, but you go to
 20 Bayou La Batre, the little fishing village,
 21 and when the oil spill -- when the explosion
 22 occurred at Deepwater Horizon, you have to

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1 understand that initially -- people forget --
 2 initially, we were told that -- that there was
 3 no leakage. And then they said, Well, there's
 4 been a breach. There is some leakage.
 5 We knew that the explosion
 6 occurred. We knew people had been killed, but
 7 then, once we started seeing that plume of oil
 8 coming up, and it was such a helpless feeling.
 9 And my staff and I went door-to-door to
 10 businesses whose owners couldn't even speak
 11 English to let them know that we were going to
 12 stand by them in Mobile and Baldwin Counties.
 13 I didn't go to Washington to work
 14 to take some of those meetings. And when
 15 you're hugging someone whose livelihood -- and
 16 if you fish for a living, if you shrimp for a
 17 living, and you can't get your boat out in the
 18 water because it's filled with oil, you can
 19 have -- don't have any money to buy bread and
 20 milk for your kids.
 21 And so we pressed the people at
 22 BP, and we pressed the organization what was

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1 African-American community back in the '50s
 2 and '60s during the Civil Rights Movement.
 3 And Mobile was fortunate to avoid
 4 not all, but most of the battle scars, if you
 5 will, that some Alabama cities have. And --
 6 and so we -- we did not have some of the
 7 issues that other places had to deal with.
 8 Q. Uh-huh. What about things like,
 9 for example, educational outcomes? There are
 10 generally pretty large disparities between
 11 educational outcomes for African-Americans and
 12 white people within Alabama, within lots of
 13 different parts of the country. Was that ever
 14 an issue that came up for you?
 15 A. Not in a -- not in a negative way.
 16 As I said when I went to Trinity Gardens
 17 with -- with my friend after her son had been
 18 murdered, I mean, I -- I visited -- my goal
 19 was to visit every high school in my district.
 20 I did not complete that goal, but I visited
 21 most of them.
 22 And I -- I -- I went to the

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1 set up to provide help to those families as
 2 hard as anyone could have pressed. And I did
 3 that because that was my job.
 4 Q. I'm sure it meant a lot to your
 5 constituents to see you come door-to-door.
 6 A. It meant a lot to me --
 7 Q. Yeah.
 8 A. -- to be able to help them.
 9 Q. Yeah. In terms of civil rights
 10 issues, were there any specific issues that
 11 came up a lot in your district or that you
 12 thought -- you understood that your
 13 African-American constituents cared
 14 specifically about?
 15 A. Not off the top of my head. If
 16 you can give me some examples, I can -- I'd be
 17 happy to -- it's kind of like this article, it
 18 may jog my memory. But Mobile, as I mentioned
 19 earlier, had a very progressive Mayor Joe
 20 Langan --
 21 Q. Uh-huh.
 22 A. -- who worked with the

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1 schools that were majority-minority schools, I
 2 went to the private schools. I went to the
 3 Catholic schools. I went to the schools that
 4 had a more even balance. I mean, I -- I went
 5 wherever. I sponsored an art contest every
 6 year for the kids of the 1st congressional
 7 district.
 8 I nominated probably 145, maybe
 9 200 young men and women to go to the military
 10 academies. We did not have a quota. We
 11 nominated the best students that could be
 12 competitive. We nominated a lot of students
 13 from different racial and ethnic backgrounds.
 14 And so I don't recall that it
 15 was -- there was a real time during my
 16 ten-and-a-half years where there was an issue
 17 that -- that arose specifically with regard to
 18 it being a Civil Rights issue.
 19 For instance, Senator Figures and
 20 I -- as she was on the redistricting committee
 21 in the 2010 redistricting and maybe even on in
 22 2000, I'm not sure when she -- I think she was

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1 in -- on the city council at that time.
 2 But anyway, you know, we used
 3 to -- we -- we used to laugh at how -- we were
 4 ringing a bell for the Salvation Army one time
 5 at Christmastime and got very competitive
 6 that -- who got the most money in their
 7 kettle, but we used to laugh at how some --
 8 how hard it was for some people to imagine
 9 that a -- a black Democrat and a white
 10 Republican could be such close friends.
 11 And she had a son that got in
 12 trouble and I did everything I could to help
 13 him, not because she was a state senator or
 14 because she was black or because she was a
 15 female, but it was the right thing to do.
 16 So I don't recall that there was
 17 a -- a real time or issue where the -- the
 18 people in my district, regardless of their
 19 political views or their racial makeup, would
 20 have -- would have had -- that I would have
 21 given them reason to believe that I was
 22 insensitive to their views even when there

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1 were times when we disagreed.
 2 And that was every time I went and
 3 had dinner with my mother-in-law, I would have
 4 disagreements, but -- but they were usually
 5 friendly.
 6 Q. Yeah. That's just part of the --
 7 that's just part of the job.
 8 A. Yeah.
 9 Q. It sounds like you really made it
 10 around your district --
 11 A. I did.
 12 Q. -- a lot.
 13 Did you observe anything that, you
 14 know, you recall where there were more
 15 differences maybe socioeconomically -- just
 16 socioeconomically between more minority
 17 communities and more white communities?
 18 A. Well, I observed that there were
 19 differences between -- within the minority
 20 communities. In Washington County, there's
 21 a -- a -- the -- the Mobile Washington Band of
 22 Choctaw Indians that was recognized by the

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1 state under Governor James' administration but
 2 was never recognized by the Federal Bureau of
 3 Indian Affairs.
 4 Two counties over, the Poarch Band
 5 of Creek Indians got a state recognition, and
 6 they also got a federal recognition. The
 7 Poarch Band of Creek Indians built a casino.
 8 They're -- by all accounts, are making a lot
 9 of money.
 10 You've got four major Indian
 11 tribes in Alabama: Creek, Choctaw, Cherokee,
 12 and Chickasaw. And two within 60 miles of
 13 each are as opposite as night is from day.
 14 Both really good groups of people
 15 that work really hard, but one with that
 16 federal recognition got a certain benefit that
 17 the others who sought that recognition, they
 18 never got. I actually sponsored the
 19 legislation for the MOWAS to get federal
 20 recognition, but I was not able to get it
 21 through the House and the Senate.
 22 Q. Uh-huh.

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1 A. So I think that in this country
 2 and quite frankly in the world, you're going
 3 to always see examples of where some people
 4 are -- have a -- have more advantage because
 5 of education or more advantage because of
 6 genetics. You know, some people are just born
 7 healthier than other people.
 8 But -- but I really don't -- I
 9 can't give you a specific example of where --
 10 I mean, look, I'm -- in my spare time, I'm
 11 head of the -- I'm -- I'm a volunteer chairman
 12 of the board for the Alabama School of Math
 13 and Science.
 14 It's the only -- there's 17 STEM
 15 schools in the nation. Alabama has one of
 16 them. I don't know what the racial makeup is
 17 of our student body. They take students from
 18 all 67 counties. It's a free public
 19 education. But I would say probably 40
 20 percent, maybe 45 percent are
 21 African-American.
 22 And you're taking young people who

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1 are gifted in the math and science area that
 2 might live in a rural area like Wilcox County
 3 and it's giving them a chance to go to a world
 4 class education -- get a great education and
 5 go on and get a great scholarship to go off to
 6 college. So I've -- I've always prided myself
 7 in looking for opportunities to help all
 8 people.

9 Q. Uh-huh. Did -- do you believe
 10 that African-Americans in your district
 11 supported Obamacare or the Affordable Care
 12 Act?

13 A. I think that they probably did.

14 Q. Did you support the Affordable
 15 Care Act?

16 A. I did not.

17 Q. Do you think African-Americans in
 18 your district supported the repeal of
 19 Obamacare?

20 A. It's a broad generalization but
 21 probably not.

22 Q. Did you support repealing?

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1 And it was not an easy vote for me
 2 to cast. There were only about 35 or 36 who
 3 voted against it. So I knew that I wasn't
 4 voting to get something passed, but I believed
 5 with all of my heart that we had seen with the
 6 presidential election of 2000 and with other
 7 examples as well -- that if -- it -- and it
 8 worked and we needed it in the '60s for sure.
 9 But -- but why didn't we apply it to the whole
 10 country?

11 That was my logic behind that, but
 12 I really did not have that much mail or phone
 13 calls from -- I'm not saying I didn't have
 14 any, but it was not a -- it was not a -- a
 15 red-button issue that we heard a lot about.

16 The health care bill was. And I
 17 will tell you why I voted against it. I can't
 18 tell you why -- the entire Alabama delegation
 19 voted against it, including Congressman Davis,
 20 who was in office at the time.

21 But I kept a copy of that bill on
 22 my desk. And people would come to see me, and

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1 A. I did.

2 Q. Do you believe that
 3 African-Americans in your district supported
 4 the reauthorization of the Voting Rights
 5 Act --

6 A. I -- I did not --

7 Q. -- from 2006?

8 A. I did not hear from that many
 9 African-Americans about that, but I took that
 10 vote very seriously. In the -- in the 2000
 11 presidential election, Bush v. Gore, we saw a
 12 moment in time where the disputed ballots in
 13 that presidential election were not in the
 14 voting right states.

15 South Florida was not covered
 16 under that. The disputed ballots in Ohio and
 17 in Michigan and other states, and so I
 18 consulted with Congressman Edwards who had
 19 actually been in Congress when the first
 20 Voting Rights Act passed and with subsequent
 21 reauthorizations as well as Congressman
 22 Callahan who had been in.

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1 they didn't want a picture with me. They
 2 wanted a picture of that bill because it was
 3 this tall (indicating). But I believed with
 4 all of my heart that social security was
 5 created with bipartisan support.

6 Medicare was created with
 7 bipartisan support. Medicaid was created with
 8 bipartisan support, and I did vote to expand
 9 Medicaid to include prescription drugs -- I'm
 10 sorry -- Medicare.

11 We're early in my time in Congress
 12 which was not popular with some of my
 13 Republican constituents, but I thought it was
 14 the right thing to do. But for the life of
 15 me, I actually -- at a Republican retreat
 16 where the president came, begged the president
 17 to not force -- he had the votes to do it, and
 18 he did it. But I didn't believe that it was
 19 right for the country on something that
 20 touched everyone because health care's
 21 universal.

22 I just didn't think it was right

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1 for us to have a partisan vote on something
 2 that was bipartisan, as bipartisan as health
 3 care. So I did vote against it. I think it
 4 is safe to your premise that the majority of
 5 the African-American constituents that
 6 contacted me were supportive of it.
 7 But some could argue that they
 8 were supportive of it because the first
 9 African-American president was proposing it.
 10 President Clinton tried it with his wife
 11 leading the effort, and Congress couldn't get
 12 it passed.
 13 And there are some who would say
 14 today that people are opposed to it because it
 15 was President Obama's bill. Just as there are
 16 some people would believe today that if
 17 President Trump had proposed it, there are
 18 some who would support it even if it were the
 19 same bill.
 20 I just thought it was a bad piece
 21 of legislation, that we needed to do
 22 something, but I thought to do it on a

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1 partisan vote would divide the country.
 2 Q. With regards to the Voting Rights
 3 Act, did you hold any town halls --
 4 A. I did.
 5 Q. -- on that issue?
 6 A. Well, I didn't hold any town halls
 7 on that issue. I --
 8 Q. Or did it came up at town halls?
 9 A. It came up at some. I defended my
 10 vote. And even with people that disagreed
 11 with me -- and there were some, but I think
 12 they respected the fact that the -- the -- the
 13 logic that I used. But yes, I mean, there
 14 were people -- my executive assistant is --
 15 was African-American.
 16 Q. Uh-huh.
 17 A. She was conservative. She was a
 18 Republican. And she said, Jo, this is hard
 19 for me to explain when I go home at
 20 Thanksgiving.
 21 And when I told her my reasoning,
 22 she went home at Thanksgiving. And she came

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1 back and she said, To my surprise, my family
 2 understood why you did it.
 3 That was personally rewarding to
 4 me because my goal was never to be divisive in
 5 that. I just felt that if we were going to do
 6 it in 20 -- when was it? 2007?
 7 Q. 2006.
 8 A. 2006?
 9 Q. Yeah.
 10 A. -- then it should apply to
 11 everyone.
 12 Q. Did you meet with or consult with
 13 any African-American leaders --
 14 A. I did.
 15 Q. -- on this issue?
 16 A. I -- I talked with -- before big
 17 boats, TARP, the voting rights extension, the
 18 Affordable Care Act, there were -- I would
 19 oftentimes seek advice even though, as a
 20 congressman, you don't need to seek it because
 21 you're going to get it anyway. But -- but I
 22 oftentimes would seek the advice of -- of

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1 friends in a very unofficial way.
 2 And yes, I -- I talked with a
 3 number of my African-American friends about
 4 it, about my logic behind it. One is a very
 5 good friend of mine. He was a colonel in the
 6 Air Force, and he said actually -- and he
 7 lived in south Florida at the time. He said,
 8 I think you make a pretty good point.
 9 Q. So would you be --
 10 MR. DAVIS: How -- how we doing?
 11 Governor's going to need our Chief of Staff
 12 back before too terribly long.
 13 MS. MADDURI: Understood. I don't
 14 have too much more. Just a page.
 15 Q. (By Ms. Madduri) So would you be
 16 supportive -- I'm -- I'm sure you know that
 17 now the Supreme Court has overturned the part
 18 of the Voting Rights Act that I believe were
 19 discussed in Section 4 and Section 5, the
 20 preclearance requirement, that only applied
 21 to, you know, specific states as you
 22 mentioned.

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1 Would you be supportive of
2 reinstating those sections if it applied to
3 all states, all jurisdictions equally?
4 A. Well, I -- I don't have a vote
5 anymore.
6 Q. Understood. But your view on
7 that?
8 A. But look, I -- my view -- I would
9 be consistent with my view. I thought it
10 should apply to all states.
11 Q. Do you think there's any kind of
12 partisanship divide between African-American
13 and white voters in your district or Alabama
14 as a whole?
15 A. Define "partisanship divide."
16 Q. Do you think one race, whether
17 white or black, votes more for Democrats or
18 Republicans?
19 A. Sadly, I think that the evidence
20 would suggest that more African-Americans vote
21 Democrat than Republican, and that's
22 frustrating to Republicans like me who want to

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1 think, if any, exist that African-Americans
2 don't tend to support Republicans?
3 A. I -- I really don't have an
4 informed opinion about that.
5 MR. TAYLOR: Make sure I
6 understand the extent of the question. His
7 personal opinion about why African-Americans
8 support Republicans or Democrats?
9 MS. MADDURI: Okay.
10 Q. (By Ms. Madduri) Do you think the
11 same is true on the other side? Do you think
12 white voters tend to support Republicans more
13 often?
14 A. Well -- well, are you talking
15 about Alabama or you --
16 Q. Yeah --
17 A. -- talking about nationally?
18 Q. -- Alabama. Alabama. Your
19 district, your -- within your experience
20 personally.
21 A. In -- in the last 35 years, but it
22 wasn't that long ago when Alabama was a

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1 make -- in -- in the words of a former party
2 chairman, who want to build a big tent.
3 And we want to give people who
4 have the same values and the same goals and
5 the same aspirations a room in our party.
6 Q. In your view, why -- why do you
7 think African-Americans tend to vote for
8 Democrats more?
9 A. That's like asking me to read the
10 minds of the legislature. I -- I don't know.
11 I was very proud of my many, many
12 African-American friends and supporters from
13 all walks of life. And I was equally proud to
14 represent those that did not support me, but I
15 did everything I knew to do to serve all
16 people well and with integrity.
17 And I can't really look back on --
18 on that chapter and think well, if I had done
19 things differently, I might have gotten a few
20 more votes here or a few more votes there.
21 Q. Just in -- and just in your
22 opinion, do you think -- what reasons do you

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1 one-party state.
2 Q. Uh-huh. Do you have --
3 A. It was a Democrat state.
4 Q. And you've -- you've been -- I
5 mean, you've watched that transformation, I'm
6 sure. Do you have any views on why that
7 transformation happened?
8 A. I -- I think many former Democrats
9 who became Republicans would tell you that the
10 party that they knew and grew up in changed
11 and no longer reflected their views and
12 values.
13 And, I mean, President Reagan
14 switched parties and --
15 Q. Uh-huh.
16 A. So there are a lot of examples of
17 people. George Wallace, Jr --
18 Q. Uh-huh.
19 A. -- the son of former Democrat
20 Governor George Wallace, switched parties.
21 A lot of people switched parties,
22 but I think that the national party, as

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Chestnut, et al., v. John H. Merrill

Josiah Bonner

1 evidenced by what's going on today, that the
 2 Democrats continue to move further and further
 3 to the left. And I think that for a lot of
 4 people who grew up in Alabama being a
 5 Democrat, they just don't recognize that party
 6 anymore.

7 Q. Are there any specific issues that
 8 jump out to you in terms of this leftward
 9 movement --

10 A. Well --

11 Q. -- that you think they --

12 A. I --

13 Q. -- disagree with?

14 A. I think everything from today's
 15 run up to the presidential campaign is about,
 16 you know, universal free health care. Well,
 17 we passed the Affordable Care Act. It's not
 18 free. And there's no way it will ever be
 19 free. You got to pay for it if you're going
 20 to have a quality health care service.

21 So I -- I just think that even my
 22 Democrat friends in Alabama today, and I've

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1 congressional district.

2 A. Well, clearly the -- the continued
 3 development of the port of Alabama is unique
 4 to Mobile. It is a port that serves the whole
 5 state, but we are -- as I say, I think we're
 6 the 13th largest port.

7 We're -- we're in a position with
 8 what the state is doing with the new
 9 infrastructure bill. We're in a position to
 10 invest a sizable amount of resources to make
 11 Mobile one of the top five port cities in the
 12 nation. That's going to great a whole new
 13 economy of jobs and opportunities.

14 You won't need a four-year degree
 15 or even a two-year degree, but you'll be able
 16 to make 85 or 90 or \$100,000 a year, which is
 17 more than double the average family of four
 18 income. That's big time. That's a big-time
 19 opportunity.

20 The continued growth of the
 21 aerospace industry in Mobile with Airbus and
 22 the continued growth of the shipbuilding

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1 got many of them, have a hard time defending
 2 some of the socialistic policies and -- and
 3 views of the -- of the national Democrat
 4 party.

5 Q. And I'm -- just to make sure
 6 you're not too worried, I'm at pretty much the
 7 end of everything. Just a couple more
 8 questions for you.

9 A. I feel like I've been a political
 10 commentator.

11 Q. Well, I mean, your perspective is
 12 interesting.

13 A. Sure.

14 Q. You've been involved in space.

15 A. Not complaining.

16 Q. Yeah.

17 A. Not complaining.

18 Q. You can -- you can become a pundit
 19 after this.

20 I'm curious if you think there are
 21 any unique needs in the -- in the City of
 22 Mobile as opposed to the rest of the

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1 industry, I mentioned the shipbuilder Austal,
 2 they're the ones building the Navy ships. But
 3 they are competing now with a -- for a
 4 contract to get a frigate that would add
 5 another 2500 people.

6 So you take 4500 people that work
 7 there now and you add another 2500 people,
 8 that's a game changer to your economy. So the
 9 Mobile economy is also -- I mean, it -- it
 10 takes a special skill set to be a pipe fitter
 11 on a ship or to -- to be a welder on an
 12 airplane. You don't want someone who's not
 13 trained to do that.

14 So one of our challenges is to
 15 continue to grow our economy, to continue to
 16 grow our workforce so that young people who
 17 are born in that wonderful town today have a
 18 chance to get a good education, get a job, and
 19 raise their family in a place that they love
 20 and call home.

21 Q. Uh-huh. Do most people that work
 22 in Mobile, do they all live in that same

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1 space, or are they also coming from other
 2 counties?
 3 A. They live in other counties, but a
 4 large percentage of them live in the Mobile,
 5 Baldwin County area. Goes back to that
 6 continuity and community of -- of interest.
 7 Q. Do you see any benefits to
 8 African-Americans in Mobile if they were
 9 included in a district that also included
 10 counties from the Black Belt area?
 11 A. They are.
 12 Q. I guess more counties from the
 13 Black Belt area as opposed to where they are
 14 now?
 15 A. Well, the -- the district that --
 16 if -- if the legislature had the ability to
 17 create a new district that would be ideal in
 18 every setting, in my view, it would be as
 19 close to what we've got now as we have,
 20 because of the historical similarities,
 21 because of the recent convergence.
 22 It's like we were talking about

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1 General.
 2 Q. I actually don't know exactly, so
 3 I can't -- I can't comment on --
 4 A. I believe --
 5 Q. -- that one way or the other.
 6 A. I believe that's true.
 7 Q. Okay.
 8 A. And I do find it interesting
 9 personally that his Justice Department
 10 approved this map. And that it was good when
 11 he was Attorney General, and that now there's
 12 a desire to change it, I -- I don't understand
 13 the logic behind that.
 14 Q. Okay.
 15 MS. MADDURI: Well, I think -- I
 16 think that's all my questions.
 17 THE WITNESS: Okay.
 18 MR. DAVIS: Before we go off the
 19 record, do we need to talk? Let's step out in
 20 the hall.
 21 THE VIDEOGRAPHER: We are off the
 22 record at 12:44.

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1 earlier with Baldwin County, the Baldwin
 2 County in 1950 and the Baldwin County of today
 3 are two different places.
 4 I -- I can't personally see that
 5 there's going to be any real benefit to
 6 splitting Mobile up or to even splitting
 7 Mobile and Baldwin Counties apart just for
 8 the -- the political benefit of the
 9 plaintiffs. I -- I think that you've got to
 10 think about the 780,000 people who live there
 11 and who currently are interconnected in so
 12 many different ways as we've discussed.
 13 Q. What do you mean when you say "the
 14 political benefits of the plaintiffs"?
 15 A. Well, the -- the plaintiffs are
 16 the ones who are advocating for the second
 17 district, I believe.
 18 Q. (Attorney nods head.)
 19 A. And I believe I'm right that one
 20 of the -- correct me if I'm wrong, that one of
 21 the people at the national level that is
 22 advocating for this is the former Attorney

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1 (A recess was taken.)
 2 THE VIDEOGRAPHER: We are on the
 3 record at 12:46.
 4 MR. DAVIS: Defendant has no
 5 questions. Thank you, Mr. Bonner.
 6 MS. MADDURI: Thank you, sir.
 7 THE VIDEOGRAPHER: This ends MPEG
 8 three and concludes the deposition of Josiah
 9 Bonner. We are off the record July 30th,
 10 2019, and the time is 12:46 p.m.
 11
 12 (The deposition of JOSIAH BONNER
 13 was concluded at 12:46 p.m.)
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7/30/2019

Chestnut, et al., v. John H. Merrill

Josiah Bonner

1 * * * * *

2 **REPORTER'S CERTIFICATE**

3 * * * * *

4 **STATE OF ALABAMA)**

5 **COUNTY OF ST. CLAIR)**

6 I, Bethany Whaley, Certified Court

7 Reporter and Notary Public in and for the

8 State of Alabama at Large, do hereby certify

9 that on July 30, 2019, I reported the

10 aforementioned proceedings, and that the pages

11 herein contain a true and accurate

12 transcription of the said proceedings.

13 I further certify that I am

14 neither of kin nor of counsel to the parties

15 to said cause, nor in any manner interested in

16 the results thereof.

17 This the 12th day of August, 2019.

18 s/s Bethany Whaley

19 Bethany Whaley, ACCR 661

20 Certified Court Reporter and

21 Notary Public for the

22 State of Alabama

My commission expires 3/27/22.

Page 170

1 Digital Evidence Group, L.L.C.

2 1730 M Street, NW, Suite 812

3 Washington, D.C. 20036

4 (202) 232-0646

5 **SIGNATURE PAGE**

6 Case: Lakeisha Chestnut, et al., v. John H. Merrill

7 Witness Name: Josiah Bonner

8 Deposition Date: July 30, 2019

9 I do hereby acknowledge that I have read

10 and examined the foregoing pages

11 of the transcript of my deposition and that:

12 (Check appropriate box):

13 () The same is a true, correct and

14 complete transcription of the answers given by

15 me to the questions therein recorded.

16 () Except for the changes noted in the

17 attached Errata Sheet, the same is a true,

18 correct and complete transcription of the

19 answers given by me to the questions therein

20 recorded.

21 _____

22 DATE WITNESS SIGNATURE

DATE NOTARY

Page 172

1 Josiah Bonner, c/o

2 Office of the Attorney General

3 501 Washington Avenue

4 Montgomery, Alabama 36130-0152

5 Case: Lakeisha Chestnut, et al., v. John H. Merrill

6 Date of deposition: July 30, 2019

7 Deponent: Josiah Bonner

8 Please be advised that the transcript in the above

9 referenced matter is now complete and ready for signature.

10 The deponent may come to this office to sign the transcript,

11 a copy may be purchased for the witness to review and sign,

12 or the deponent and/or counsel may waive the option of

13 signing. Please advise us of the option selected.

14 Please forward the errata sheet and the original signed

15 signature page to counsel noticing the deposition, noting the

16 applicable time period allowed for such by the governing

17 Rules of Procedure. If you have any questions, please do

18 not hesitate to call our office at (202)-232-0646.

19 Sincerely,

20 Digital Evidence Group

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5 **ERRATA SHEET**

6 Case: Lakeisha Chestnut, et al., v. John H. Merrill

7 Witness Name: Josiah Bonner

8 Deposition Date: July 30, 2019

9 Page No. Line No. Change

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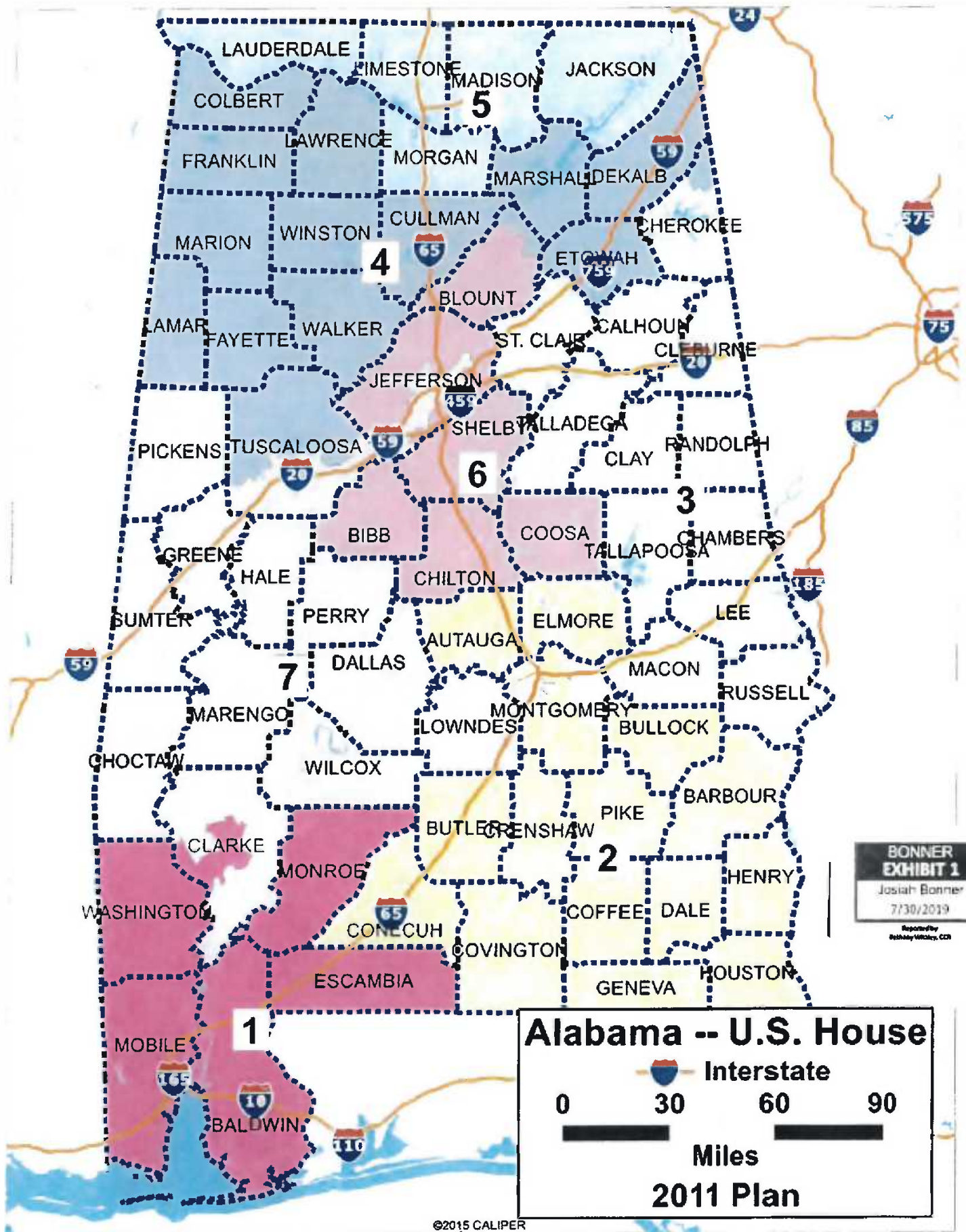
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21 _____

22 Signature Date

Page 173

Pages 170 to 173

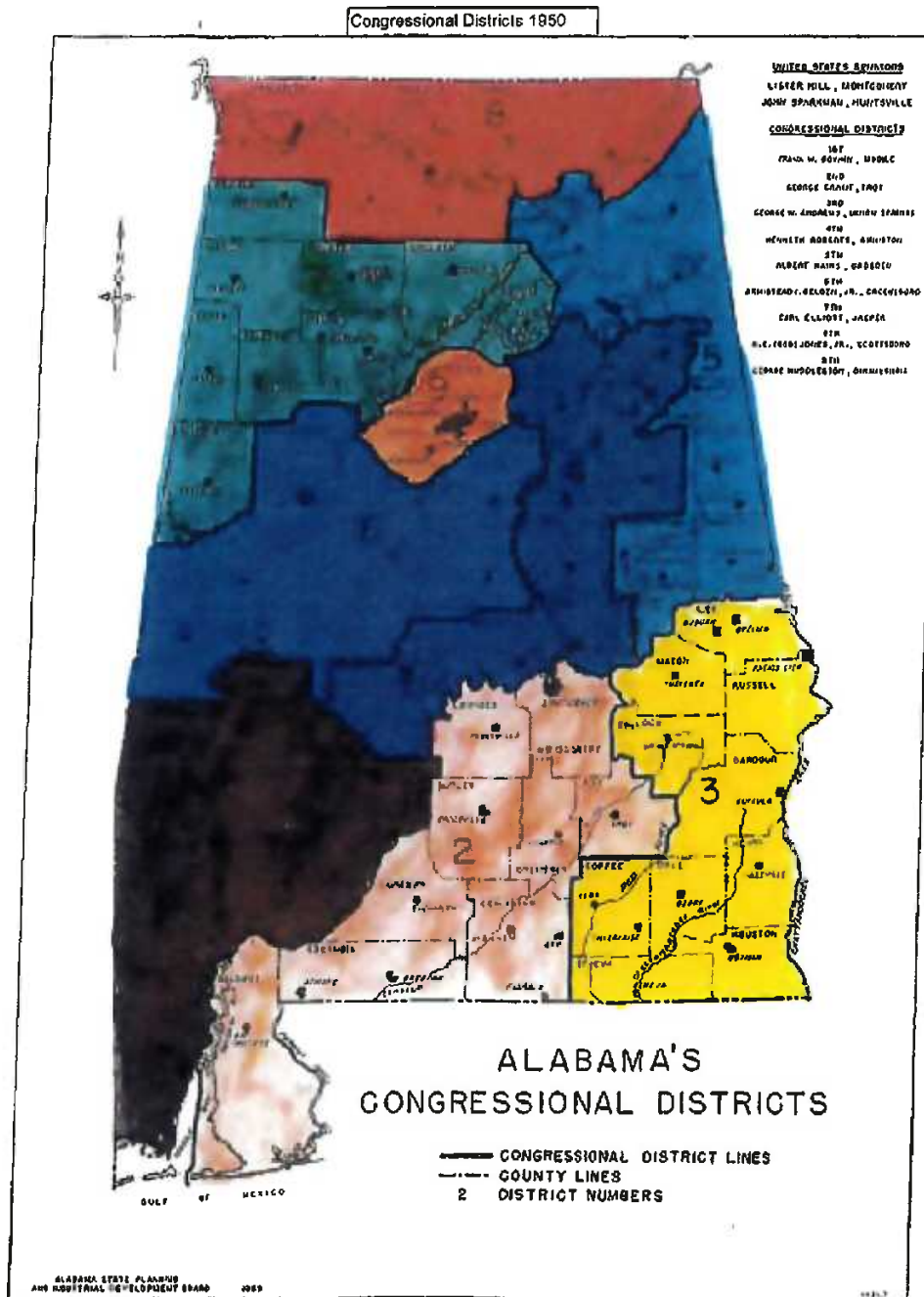


**BONNER
EXHIBIT 1**
Josiah Bonner
7/30/2019
Reported by
Anthony Wilkey, CDR

Alabama -- U.S. House
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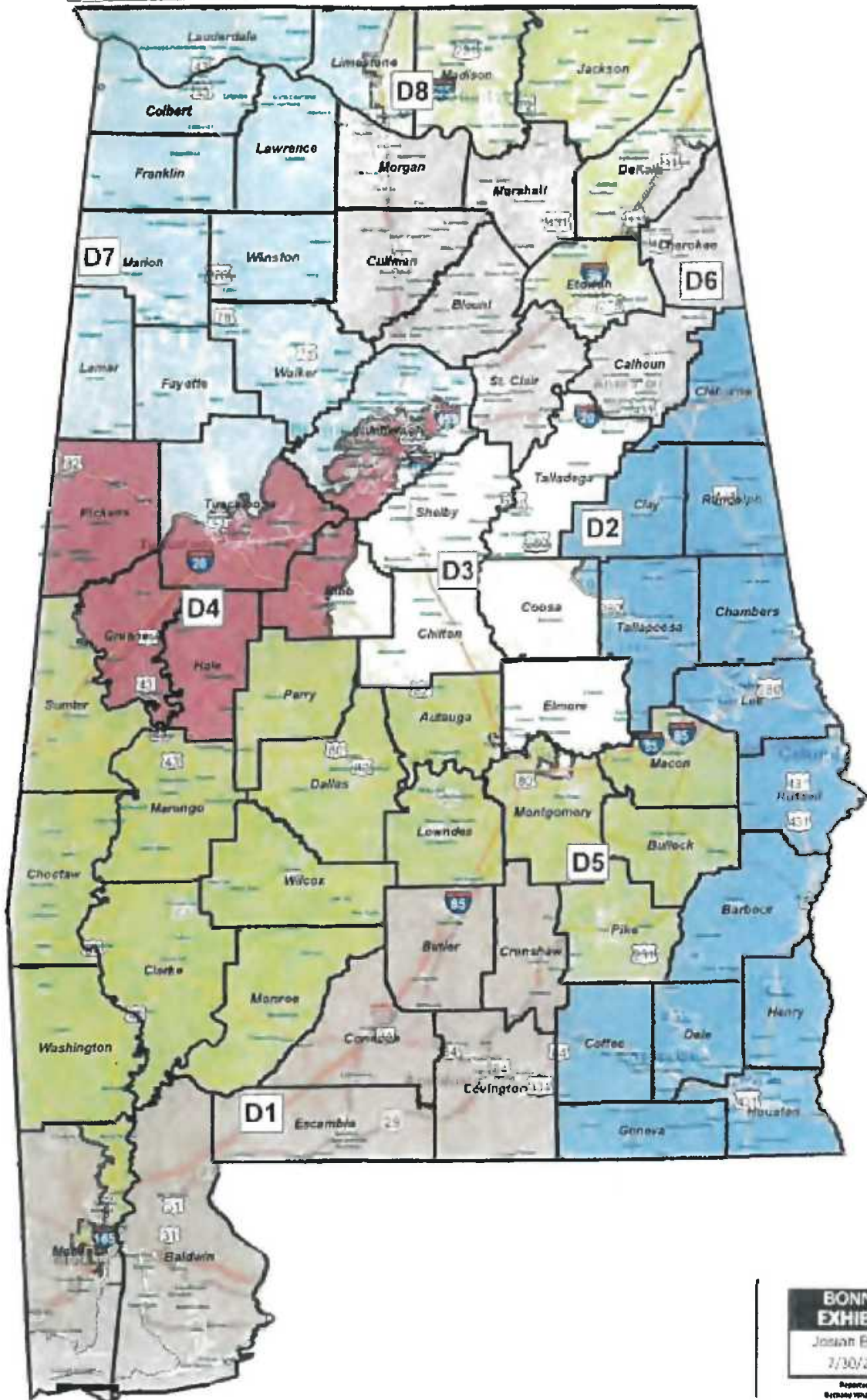




**BONNER
EXHIBIT 2**
 Josiah Bonner
 7/30/2019
 Registered in
 Alabama, USA

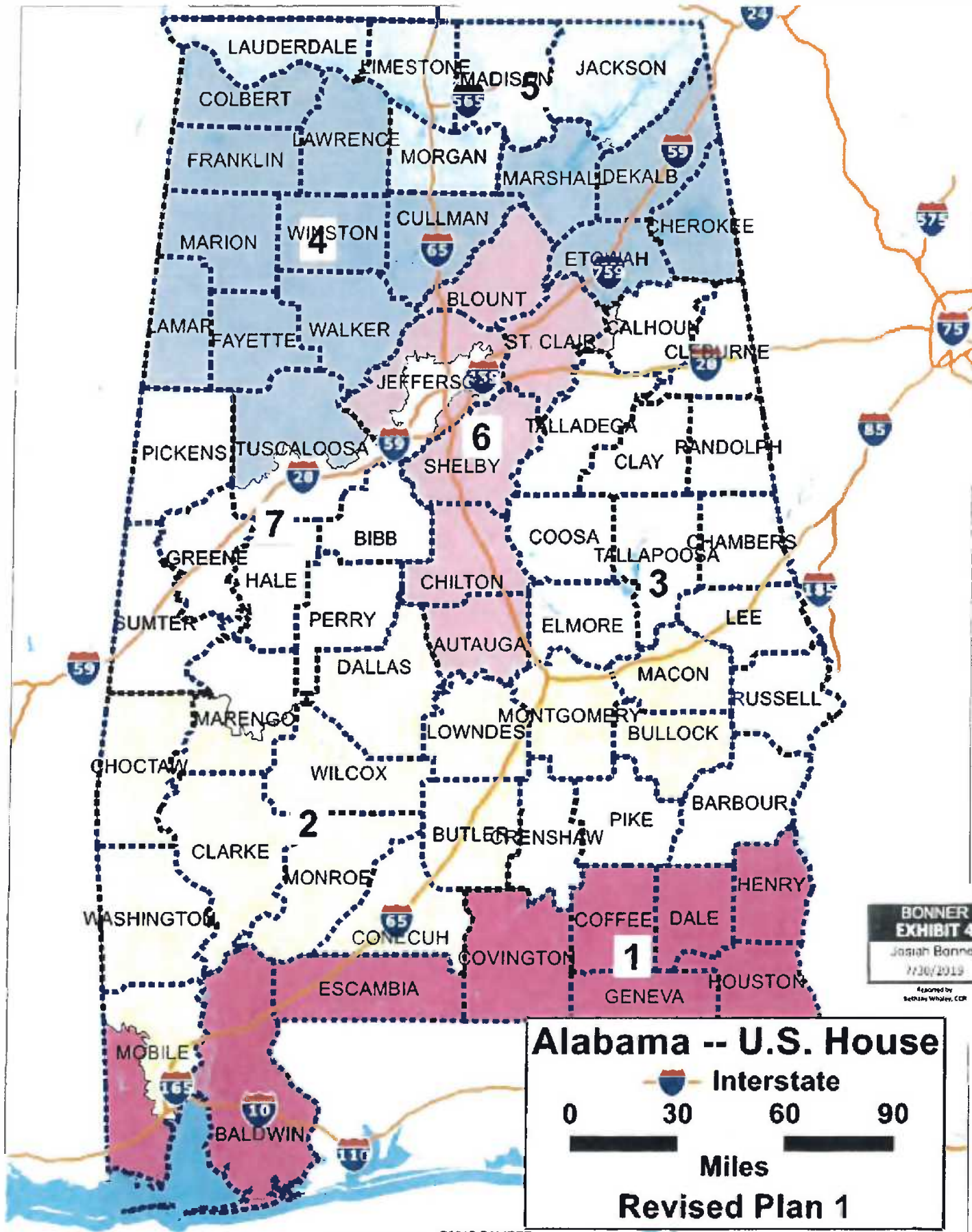


2011 State Board of Education Districts



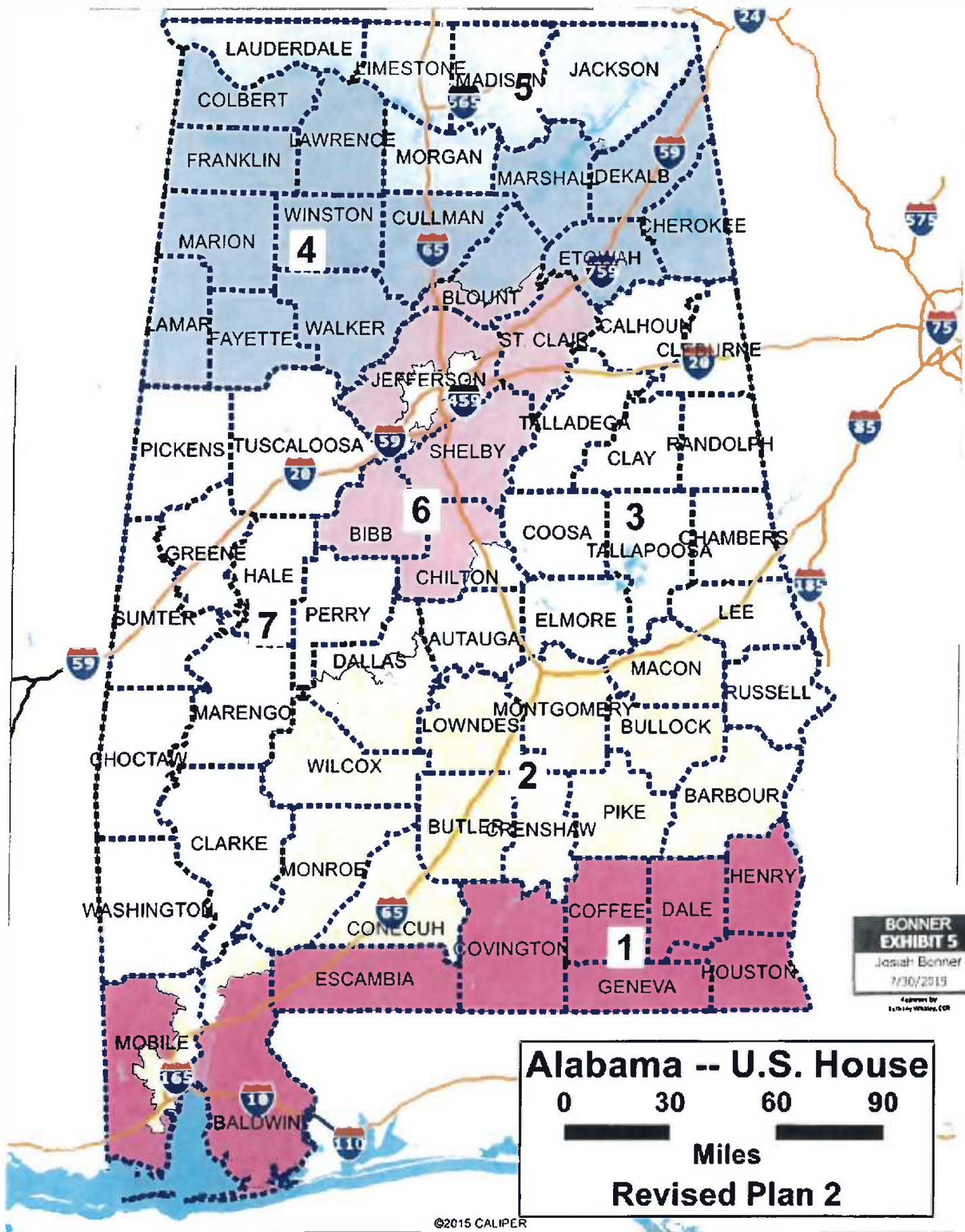
**BONNER
EXHIBIT 3**
Josiah Bonner
7/30/2019
Reported by
Bethany Whales, CPA

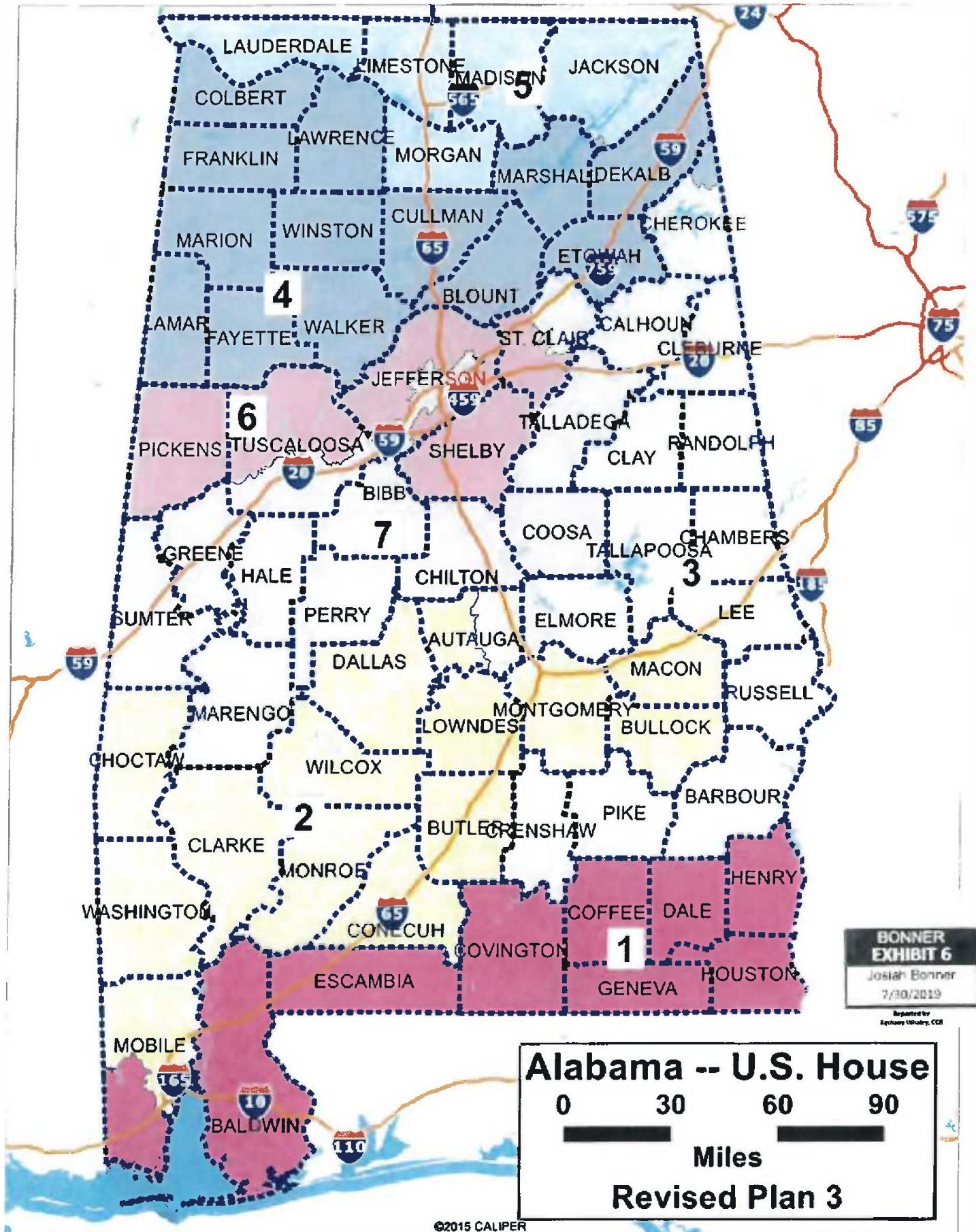




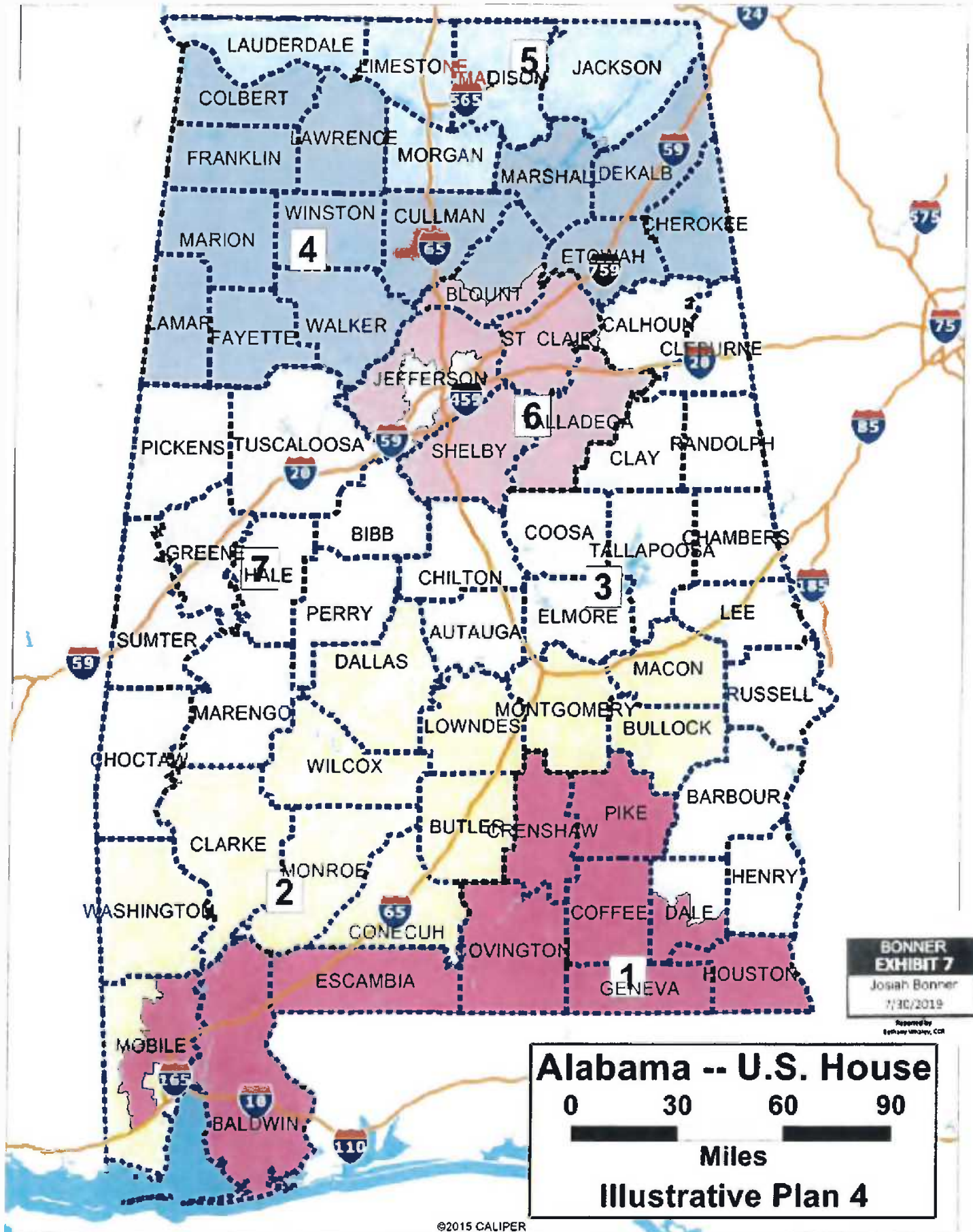
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EXHIBIT 4**
Josiah Bonner
7/30/2019
Approved by
Section Wholes, COP

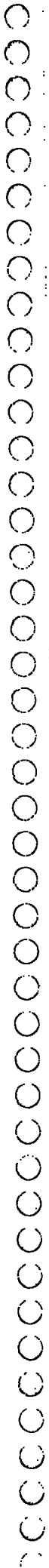










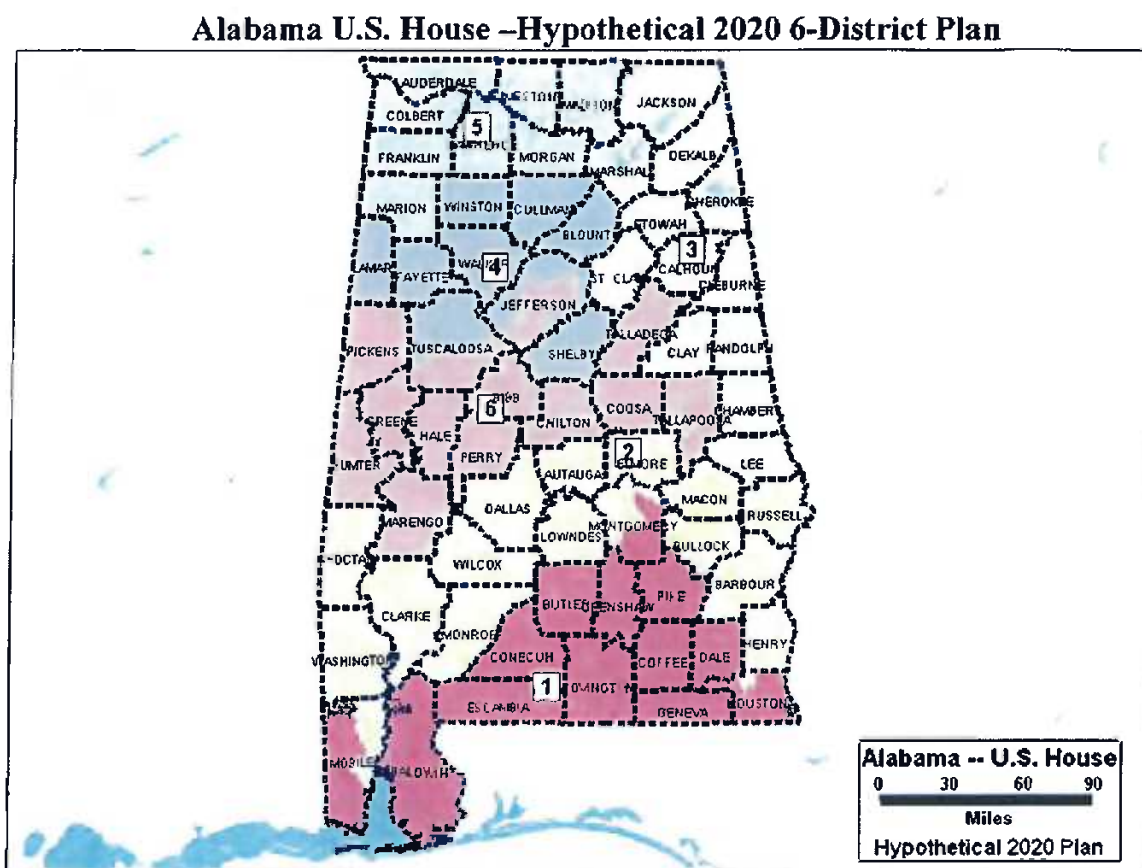


VI. Hypothetical 2020 Plan

(a) Geographic Area

41. The map in **Figure 2** (on the next page) depicts a 6-district hypothetical 2020 plan (“Hypothetical Plan”), with a realistic possibility that two of the six districts will be majority-Black CVAP by 2020.

Figure 2



42. The Hypothetical Plan is drawn using 2010 VTDs (and 2010 population), with a projected 2020 statewide population of 4.9 million (slightly

