

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

THOMAS C. ALEXANDER, *et al.*,

Defendants.

Case No. 3:21-cv-03302-MGL-TJH-RMG

REPLY IN SUPPORT OF
DEFENDANTS' MOTION FOR A
PARTIAL STAY OF THE COURT'S
JANUARY 6, 2023 ORDER
FOR THE 2024 ELECTION CYCLE

Plaintiffs' Opposition (Dkt. 521) ("Opp.") only confirms that the Court should grant Defendants' Motion For a Partial Stay (Dkt. 519) ("Mot."). On the *Purcell* principle, Plaintiffs take a "heads I win, tails you lose" approach, arguing that Defendants waited until *too late* to file the Motion but that it is somehow *too early* to grant a stay. They therefore ask the Court for an open-ended delay of South Carolina's Congressional primary elections, with no guarantee that an orderly, on-time primary can be conducted absent a stay. On the traditional stay standard, Plaintiffs' arguments all rest on the false premise that Defendants are not likely to prevail on appeal. All along the way, Plaintiffs ignore the operative terms of the Court's February 4 Order, the controlling Supreme Court precedents, and even the subsequent history of cases they cite. The Court should grant a partial stay and allow the 2024 elections to proceed under the General Assembly's Enacted Plan and election calendar.

I. A Partial Stay Is Warranted Under the *Purcell* Principle.

The Court should grant a partial stay under *Purcell* due to the imminence of the 2024 election cycle alone. *See* Mot. 5-11.

Plaintiffs' principal response is to ask the Court for open-ended delay and a status conference—but they neither offer specifics as to *how* the Court actually should proceed nor

come to terms with the untenable consequences of their request. Instead, Plaintiffs want the Court to halt South Carolina’s Congressional primary elections and to “delay ... the filing deadline” for Congressional candidates, so that they can later ask the Court to rush to impose a remedial plan in the middle of an election year on the off chance the Supreme Court affirms the liability finding “in the next month.” Opp. 12, 15. Plaintiffs baldly assert that this course of action will leave open the possibility of imposing a remedial plan in time for the June 11 primary election. *See id.* at 9.

This assertion fails on multiple fronts. In the first place, at this juncture, any delay in the State’s candidate-filing deadline alone violates *Purcell* and warrants a stay. *See, e.g., Purcell v. Gonzalez*, 549 U.S. 1, 5-6 (2006); *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring). Moreover, Plaintiffs gloss over the fact that this Court granted the General Assembly until “30 days after a final decision of the United States Supreme Court” to propose a remedial plan. Dkt. 501 at 3 (February 4 Order). Instead, their assertion contemplates that the Court will renege on this assurance, penalize the General Assembly for taking the Court at its word, and require the General Assembly to propose a remedial plan on a much shorter timeline. *See* Opp. 12. Indeed, Plaintiffs do not *attempt* to argue that it would be feasible to conduct the 2024 primary on time under a remedial plan if Defendants submit a remedial proposal on the 30-day deadline. *See* Opp. 8-11 (arguing instead that Defendants should submit a map sooner).

In all events, Plaintiffs offer no supporting facts, specifics, or explanation for their assertion that a remedial map could be imposed for the June 11 primary election even if the Supreme Court affirms the liability finding “in the next month” and the Court reneges on its assurance to the General Assembly. *Id.* Nor could they, had they tried. To point out just one failing, Plaintiffs do not account for the fact that candidate declarations must be finalized, and

absentee ballots must be prepared, reviewed, and printed, well in advance of the April 27 deadline for mailing ballots to military and other overseas voters under the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”). *See id.*; Knapp Aff. ¶ 6 (Dkt. 519-1).¹

Plaintiffs, moreover, do not own up to what happens under their proposed open-ended delay if the Supreme Court does *not* affirm the liability finding “in the next month.” *Id.* Of course, all of the disruption, voter confusion, and interference with the State’s election machinery occasioned by Plaintiffs’ proposal will be for naught if the Supreme Court reverses. Plaintiffs likewise do not suggest that a remedial map could be adopted if any Supreme Court affirmance comes later than “in the next month,” *id.*, such as in May or June, as is eminently plausible. And Plaintiffs make no argument that denying a stay here would somehow be less disruptive than in *Milligan*, where the Supreme Court granted a stay even though there was substantially more time before the beginning of absentee voting than is present in this case. *See* 142 S. Ct. 879 (65 days before absentee voting); Mot. 2. Plaintiffs’ Opposition thus proves that this case is a textbook example of precisely when and why a *Purcell* stay is warranted. *See* Mot. 5-11.

Plaintiffs’ various other arguments against a *Purcell* stay uniformly fail.

First, Plaintiffs rehash their arguments on the merits, *see* Opp. 7-8, but a stay is warranted under *Purcell* even if Defendants are not likely to prevail on appeal, *see Milligan*, 142 S. Ct. at 882 (Kavanaugh, J., concurring); *Benisek v. Lamone*, 585 U.S. 155, 158, 160 (2018); *Purcell*, 549 U.S. at 5-6; Mot. 5-11.

¹ Plaintiffs’ contention that they have not “had the opportunity to question” Defendant Knapp about the election administration tasks and deadlines described in his affidavit, *see* Opp. 11 n.6, is false. Plaintiffs deposed Defendant Knapp regarding those very topics earlier in the case. *See* Apr. 19, 2022 Deposition of Howard Knapp 21-28, 51-52, 55-93 (discussing UOCAVA deadlines, implementation of Congressional redistricting maps, processing of candidate filings, ballot preparation, and associated “time crunch”); *id.* at 93-96 (discussing costs

Second, Plaintiffs argue that *Purcell* is not triggered because Defendants should adopt a new map pending appeal or at least in less than 30 days after the Supreme Court rules. *See* Opp. 8-11. But regardless of what other courts have done in other cases, *see id.*, *this Court assured* the General Assembly *in this case* that it would have “30 days after a final decision of the United States Supreme Court” to submit a proposed remedial map. February 4 Order at 3. If it is infeasible or too disruptive to conduct the 2024 primary in accordance with the Court’s assurance, Plaintiffs’ issue is with this Court’s February 4 Order, not Defendants’ conduct. Yet Plaintiffs have not sought reconsideration or modification of the February 4 Order.

Nor could they. Even if this Court were to *sua sponte* order, contrary to its earlier assurances, Defendants to submit a new map right away, the start of absentee voting would still be too imminent to adopt a remedial map. As Plaintiffs note, in *Milligan*, 65 days before the onset of mail-in voting, the district court gave Alabama 14 days to submit a new Congressional map. *See* Opp. 8; *Singleton v. Merrill*, 582 F. Supp. 3d 924, 937 (N.D. Ala. 2022). But Plaintiffs nowhere mention that the Supreme Court *stayed* that order under *Purcell*. *Milligan*, 142 S. Ct. 879. And here, there are only 44 days until the start of absentee voting.

Third, Plaintiffs suggest that Defendants provided insufficient “supporting evidence” of disruption and voter confusion to meet their “extraordinary burden” of justifying a stay. *See* Opp. 12. This argument squarely contradicts governing law. The whole point of the *Purcell* principle is that, when voting is imminent, the ordinary presumption against stays flips to an all-but-conclusive presumption in favor of stays. Once “the eve of an election” approaches, “lower federal courts should ordinarily not alter the election rules.” *RNC v. DNC*, 140 S. Ct. 1205, 1207

(continued...)

of special elections); *id.* at 98-102 (explaining that late changes in districting plans result in confusion amongst candidates and voters and undermine confidence in election results) (Ex. A).

(2020). And where a lower court’s injunction violates that principle, the reviewing court “should correct that error” with a stay. *Id.*; accord *Milligan*, 142 S. Ct. at 882 n.3 (Kavanaugh, J., concurring). The principle *presumes* a “risk” of “voter confusion” resulting from late-breaking judicial intervention that justifies keeping the existing voting rules in place. *Purcell*, 549 U.S. at 4-5. Any other approach would be unreasonable. After all, *Purcell* stay applications necessarily must be litigated on short timelines; it is not feasible to expect States to develop detailed factual records before seeking relief.

Accordingly, the Supreme Court has never conditioned *Purcell* stays on the kind of detailed evidence Plaintiffs demand. The defendants in *Milligan* did not identify any specific record evidence of voter confusion, reduced turnout, or erosion of public confidence. *See* Emergency App. for Stay, *Milligan*, 142 S. Ct. 879 (No. 21A375 (21-1086)), 2022 WL 385302, at *38-39. Nor did the Court or Justice Kavanaugh cite any. *See Milligan*, 142 S. Ct. 879; *id.* at 880 (Kavanaugh, J., concurring). And the Supreme Court has granted *Purcell* stays in many other cases based simply on the common-sense presumption that changing the rules at the eleventh hour is likely to be disruptive, not specific factual findings rooted in developed evidentiary records. *See, e.g., DNC v. Wis. State Legislature*, 141 S. Ct. 28, 30 (2020) (Kavanaugh, J., concurring); *RNC*, 140 S. Ct. at 1206-07; *Purcell*, 549 U.S. at 4-6.

In any event, here it is obvious that disruption and voter confusion will result absent a stay. Plaintiffs acknowledge that denial of a stay will likely force candidates to file their Statements of Intention of Candidacy before they even know the district lines. *See* Opp. 15. Candidates obviously have an interest in “know[ing] which district they live in” so they can run in that district, even if they are not required by the Constitution to do so. *Milligan*, 142 S. Ct. at

880 (Kavanaugh, J., concurring). And voters likewise have a corresponding interest in electing representatives who live in their districts.

Even more serious is the risk of disrupting the State’s efforts to comply with UOCAVA. The State has a federal-law obligation to comply with the deadlines set by UOCAVA to ensure that South Carolinians in the military and overseas can exercise their right to vote. Plaintiffs do not dispute that the State cannot alter this deadline. *See* Opp. 4. Nor can the State comply with it instantaneously. Before ballots can be mailed out, the State Election Commission Defendants must have “ample time to create, test and deliver the [required] election databases and ballots to each of the 46 county boards.” Knapp Aff. ¶ 6. They cannot begin this process—which takes weeks, not days—before a map is in place and candidates have declared, because the databases and ballots will vary depending on where the Congressional district lines fall. *Id.* ¶ 7. Since the UOCAVA deadline is only 44 days away, denying a stay will seriously imperil the State’s ability to meet it.

Fourth, Plaintiffs fail to identify any case denying a *Purcell* stay under analogous circumstances. *See* Opp. 6 (citing cases). To begin, *Perez v. Texas*, 891 F. Supp. 2d 808 (W.D. Tex. 2012), *relied on* the *Purcell* principle to deny a stay. There, *the plaintiff* sought to stay the court’s interim remedial map to replace it with yet another map, arguing an intervening decision made the interim map unlawful. *Id.* at 811. The court found “taking any action at this juncture is not feasible,” that “[d]elaying the November election is simply not a viable option,” and that “bifurcating the election” and holding a second redundant election “would lead to voter confusion and enormous expense to the counties.” *Id.* It thus denied the stay without addressing the merits—indeed, even while expressing it “understands [the plaintiff’s] current concerns”

about the intervening judicial decision. *Id. Perez* thus actually confirms that this Court should grant a partial stay here.

Plaintiffs' other cases denying stays have no persuasive value because they considered only the traditional stay factors, without addressing the *Purcell* principle. *See Bethune-Hill v. Va. State Bd. of Elections*, 2018 WL 11393922 (E.D. Va. Aug. 30, 2018) (applying only the traditional stay standard); *Harris v. McCrory*, 2016 WL 6920368, at *1 (M.D.N.C. Feb. 9, 2016) (same); *Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 557 (E.D. Va. 2016) (adopting plan in January when defendants had represented they needed "to have a plan in place by late March"), *stay denied sub. nom. Wittman v. Personhuballah*, 577 U.S. 1125 (2016); *see also Rose v. Raffensperger*, 143 S. Ct. 58, 59 (2022) (requiring stay applicant to "advance[]" a *Purcell* argument distinct from an argument based "on the traditional stay factors and a likelihood of success on the merits" to preserve a request for a *Purcell* stay). Moreover, in two of those cases, the movants not only did not press a *Purcell* argument, but state election officials also affirmatively *opposed* a stay sought by plaintiffs or intervenors. *See Emergency Application for Stay, Va. House of Delegates v. Bethune-Hill*, 139 S. Ct. 914 (2019) (No. 18A629 (18-281));² Mem. in Support of Intervenor-Defendants' Motion to Suspend, Dkt. 271, *Personhuballah*, 155 F. Supp. 3d 552 (No. 3:13-cv-678), 2015 WL 13158667; Defs.' Br. in Opposition, Dkt. 284, *Personhuballah*, 155 F. Supp. 3d 552 (No. 3:13-cv-678), 2015 WL 13158666. Those cases thus are doubly distinguishable from this case, where the Election Commission Defendants have *joined* the request for a stay.

² Available at https://www.supremecourt.gov/DocketPDF/18/18-281/76155/20181213171301115_2018-12-13%20Bethune%20Hill%20Emergency%20Stay%2018-281.pdf.

In contrast, Plaintiffs cannot evade the force of *Milligan*, which clearly calls for a stay here. *Milligan* granted a *Purcell* stay after the district court had ordered Alabama to redraw its Congressional district lines 65 days before the start of absentee voting. 142 S. Ct. 879; *see* Mot. 2. Plaintiffs do not identify any respect in which denying a stay would have been more disruptive there than in this case, where absentee voting is only 44 days away. Knapp Aff. ¶ 9. They instead argue that this is the exceptional case where a stay should be denied even though the *Purcell* principle applies. Opp. 12. In *Milligan*, Justice Kavanaugh hypothesized that “the *Purcell* principle [] *might* be overcome ... if a plaintiff establishes *at least*” four points, including that “the underlying merits are entirely clearcut in favor of the plaintiff” and “the changes in question are at least feasible before the election without significant cost, confusion, or hardship.” 142 S. Ct. at 881 (Kavanaugh, J., concurring) (emphases added). Plaintiffs claim they fit within this potential exception, which the Supreme Court has never to date actually invoked to deny a stay. Plaintiffs are wrong: By denying Plaintiffs’ motion for summary affirmance, the Supreme Court has already found that the merits at minimum are not entirely clearcut in their favor. *See Alexander v. S.C. State Conf. of the NAACP*, 143 S. Ct. 2456 (2023). Nor, for the reasons already discussed, have Plaintiffs met their burden of showing that significant cost, confusion, or hardship *will not* occur. *Milligan* thus proves, rather than refutes, that the Court should grant a partial stay here.

Fifth, Plaintiffs suggest Defendants acted without proper diligence by not seeking a stay earlier, even though Plaintiffs inconsistently also suggest that it is too early to grant a *Purcell* stay here. Opp. 12. To the contrary, Defendants have asserted their interests consistently and promptly throughout the appellate process. Defendants first sought a stay only three weeks after the January 6 Order. Dkt. 495. When in response the Court modified the deadline to submit a

remedial map to “30 days after a final decision of the United States Supreme Court,” February 4 Order at 3, there was no longer any exigency warranting a stay so long as the Supreme Court issued a decision with adequate time to adopt a new map before the 2024 primary. To ensure that would be the case, Defendants and Plaintiffs jointly requested a decision by January 1. *See* Mot. 1. Defendants also “reserve[d] the right to seek a stay of the district court’s injunction if appellate proceedings remain pending in early 2024.” *Juris. Stat.* at 5, *Alexander v. S.C. State Conf. of the NAACP*, No. 22-807 (U.S. Feb. 17, 2023) (citing *Purcell*, 549 U.S. 1, and *Milligan*, 142 S. Ct. 879). Once it became clear the Supreme Court would not rule in time to adopt a remedial map for the 2024 election cycle, Defendants promptly moved for a partial stay. *See* Mot. Defendants sought a stay only after their best efforts to protect their interests by other means had failed. That shows responsibility, not lack of diligence.

Finally, Plaintiffs have not shown that scheduling a special election is a viable option here. Plaintiffs do not even cite—much less try to distinguish—*North Carolina v. Covington*, 581 U.S. 486 (2017), which held that a court cannot order a special election based on factors that are present “in every racial-gerrymandering case,” such as the harm inherent in being “represented by legislators elected pursuant to a racial gerrymander.” *Id.* at 489. But that is the only harm they identify. *See* Opp. 12-13, 16-17. Nor do they address the point that ordering a special election at the eleventh hour would itself violate the *Purcell* principle. *See* Mot. 9-11. Indeed, given the uncertainty over when the Supreme Court will rule, Plaintiffs cannot even give a ballpark suggestion of when a special election could be scheduled, reinforcing that ordering a special election would be a recipe for electoral chaos, mass voter confusion, and erosion of public confidence in the State’s elections. The Court should grant a partial stay.

II. A Partial Stay Is Warranted Under the Traditional Standard.

Alternatively, the Court should grant a partial stay under the traditional standard. *See* Mot. 11-12. Although Plaintiffs contest each of the three factors, all their arguments fail.

First, as to likelihood of success, Plaintiffs make no argument that this Court should deny a stay *even if* the Supreme Court is likely to reverse. *See* Opp. 7-8. Indeed, all their arguments on irreparable harm and the equities assume that voters have been denied their rights and Defendants have no legitimate interest in implementing the Enacted Plan. *See id.* at 14-17. Thus, since Defendants are likely to prevail, *see* Mot. 11, they are entitled to a stay.

Second, Plaintiffs assert that Defendants have failed “to demonstrate any irreparable injury.” Opp. 14. In doing so, they ignore the governing case law establishing, as a matter of law, that a State suffers irreparable injury from any “inability to enforce its duly enacted plans.” *Abbott v. Perez*, 585 U.S. 579, 603 n.17 (2018); Mot. 11. Further, preventing the State from enforcing its candidate-filing deadline would on its own constitute “irreparable harm,” since the deadline is compelled by “a duly enacted statute.” *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers); *see* S.C. Code § 7-11-15(A); Knapp Aff. ¶ 3. Plaintiffs also ignore the irrecoverable compliance costs involved in holding a special election. *See* Mot. 11.

Third, Plaintiffs contend that their harm from a stay outweighs any harm to the public interest because Plaintiffs will be “forced to continue to reside in and cast ballots in an unconstitutional district.” Opp. 16. Again, that assumes the Enacted Plan is unconstitutional. Because Defendants are likely to prevail, the State’s interest in “enforc[ing] its duly enacted plans” holds greater weight. *Abbott*, 585 U.S. at 603 n.17; *see also Nken v. Holder*, 556 U.S. 418, 434 (2009) (“The first two factors of the traditional standard are the most critical.”). And because the primary is imminent, the public interest in orderly elections necessitates a stay even if the Supreme Court is likely to affirm, as even the cases Plaintiffs cite confirm. *See* Mot. 5-11;

supra Part I; *Covington v. North Carolina*, 2018 WL 604732, at *1 (M.D.N.C. Jan. 26, 2018) (cited at Opp. 15) (noting that the district court “denied Plaintiffs’ request for a special election and reluctantly permitted a third biennial general election (2012, 2014, 2016) to proceed under an unconstitutional redistricting scheme”), *stay entered for yet another cycle*, 138 S. Ct. 974 (2018); *North Carolina v. League of Women Voters of N.C.*, 575 U.S. 950 (2015) (staying the *League of Women Voters* decision cited at Opp. 16-17).

CONCLUSION

The Court should partially stay its January 6 Order and allow the 2024 elections to be conducted under the General Assembly’s Enacted Plan and election calendar.

March 14, 2024
Columbia, South Carolina

Respectfully submitted,

/s/Robert E. Tyson, Jr.
Robert E. Tyson, Jr. (7815)
Vordman Carlisle Traywick, III (12483)
La’Jessica Stringfellow (13006)
ROBINSON GRAY STEPP & LAFFITTE, LLC
Post Office Box 11449 (29211)
Columbia, South Carolina 29201
(803) 929-1400
rtyson@robinsongray.com
ltraywick@robinsongray.com
lstringfellow@robinsongray.com

John M. Gore (admitted *pro hac vice*)
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Phone: (202) 879-3939
Fax: (202) 626-1700
jmgore@jonesday.com

Counsel for Senate Defendants

/s/ Mark C. Moore

Mark C. Moore (Fed. ID No. 4956)
Jennifer J. Hollingsworth (Fed. ID No. 11704)
Hamilton B. Barber (Fed. ID No. 13306)
Michael A. Parente (Fed. ID No. 13358)
MAYNARD NEXSEN PC
1230 Main Street, Suite 700
Columbia, SC 29201
Telephone: 803.771.8900
MMoore@maynardnexsen.com
JHollingsworth@ maynardnexsen.com
HBarber@ maynardnexsen.com
MParente@ maynardnexsen.com

William W. Wilkins (Fed. ID No. 4662)
Andrew A. Mathias (Fed. ID No. 10166)
MAYNARD NEXSEN PC
104 S. Main Street, Suite 900
Greenville, SC 29601
Telephone: 864.370.2211
BWilkins@maynardnexsen.com
AMathias@maynardnexsen.com

Counsel for House Defendants

/s/ M. Elizabeth Crum

M. Elizabeth Crum (Fed. Bar #372)
Michael R. Burchstead (Fed. Bar #102967)
BURR & FORMAN LLP
Post Office Box 11390
Columbia, SC 29211
Telephone: (803) 799-9800
Facsimile: (803) 753-3278

Thomas Wells Nicholson (Fed. Bar #12086)
tnicholson@elections.sc.gov
SOUTH CAROLINA ELECTION
COMMISSION
1122 Lady St., 5th Floor,
Columbia, S.C. 29250
Telephone: 803-734-9063
Facsimile: 803-734-9366

Counsel for Election Commission Defendants

Exhibit A

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF SOUTH CAROLINA
 3 COLUMBIA DIVISION
 4 Civil Action No. 3:21-cv-03302-MBS-TJH-RMG
 5 THE SOUTH CAROLINA STATE CONFERENCE
 6 OF THE NAACP, and TAIWAN SCOTT, ON
 7 BEHALF OF HIMSELF AND ALL OTHER
 8 SIMILARLY SITUATED PERSONS,
 9
 10 Plaintiffs,
 11 vs.
 12 HENRY D. McMASTER, IN HIS OFFICIAL
 13 CAPACITY AS GOVERNOR OF SOUTH CAROLINA;
 14 THOMAS C. ALEXANDER, IN HIS OFFICIAL
 15 CAPACITY AS PRESIDENT OF THE SENATE;
 16 LUKE A. RANKIN, IN HIS OFFICIAL
 17 CAPACITY AS CHAIRMAN OF THE SENATE
 18 JUDICIARY COMMITTEE; JAMES H. LUCAS,
 19 IN HIS OFFICIAL CAPACITY AS SPEAKER
 20 OF THE HOUSE OF REPRESENTATIVES; CHRIS
 21 MURPHY, IN HIS OFFICIAL CAPACITY AS
 22 CHAIRMAN OF THE HOUSE OF REPRESENTATIVES
 23 JUDICIARY COMMITTEE; WALLACE H. JORDAN,
 24 IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF
 25 THE HOUSE OF REPRESENTATIVES ELECTIONS
 LAW SUBCOMMITTEE; HOWARD KNAPP, IN HIS
 OFFICIAL CAPACITY AS INTERIM EXECUTIVE
 DIRECTOR OF THE SOUTH CAROLINA STATE
 ELECTION COMMISSION; JOHN WELLS, CHAIR,
 JOANNE DAY, CLIFFORD J. EDLER, LINDA
 MCCALL, AND SCOTT MOSELEY, IN THEIR
 OFFICIAL CAPACITIES AS MEMBERS OF THE
 SOUTH CAROLINA ELECTION COMMISSION,
 Defendants.

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1 APPEARANCES OF COUNSEL:
 2 ATTORNEYS FOR THE PLAINTIFFS
 3 THE SOUTH CAROLINA STATE CONFERENCE
 4 OF THE NAACP, and TAIWAN SCOTT, ON
 5 BEHALF OF HIMSELF AND ALL OTHER
 6 SIMILARLY SITUATED PERSONS:
 7 NAACP LEGAL DEFENSE & EDUCATIONAL
 8 FUND, INC.
 9 BY: ANTONIO L. INGRAM II
 10 (Appearing via Zoom)
 11 700 14th Street, Suite 600
 12 Washington, DC 20005
 13 (202) 682-1300
 14 aingram@naacpldf.org
 15
 16 ATTORNEYS FOR THE SENATE DEFENDANTS:
 17
 18 ROBINSON GRAY STEPP & LAFFITTE, LLC
 19 BY: VORDMAN CARLISLE TRAYWICK II
 20 (Appearing via Zoom)
 21 1310 Gadsden Street
 22 Columbia, SC 29201
 23 (803) 929-1400
 24 ltraywick@robinsongray.com
 25
 ATTORNEYS FOR THE HOUSE DEFENDANTS:
 NEXSEN PRUET, LLC
 BY: RHETT RICARD
 (Appearing via Zoom)
 205 King Street, Suite 400
 Charleston, SC 29401
 (843) 577-9440
 rricard@nexsenpruet.com

Page 4

1 NEXSEN PRUET, LLC
 2 BY: JENNIFER J. HOLLINGSWORTH
 3 (Appearing via Zoom)
 4 1230 Main Street, Suite 700
 5 Columbia, SC 29201-6220
 6 (803) 771-8900
 7 jhollingsworth@nexsenpruet.com
 8
 9 ATTORNEYS FOR THE SOUTH CAROLINA STATE
 10 ELECTION COMMISSION and ELECTION
 11 DEFENDANTS:
 12 BURR & FORMAN, LLP
 13 BY: M. ELIZABETH CRUM
 14 1221 Main Street, Suite 1800
 15 Columbia, SC 29201
 16 (803) 799-9800
 17 lcrum@burr.com
 18
 19 ALSO PRESENT:
 20
 21 Thomas Nicholson, General Counsel
 22 South Carolina State Election Commission
 23 1122 Lady Street, Suite 500
 24 Columbia, SC 29201
 25 (803) 734-9063
 tnicholson@elections.sc.gov
 Cynthia Nygord, Paralegal
 (Appearing via Zoom)
 Alan Metts, Videographer
 (INDEX AT REAR OF TRANSCRIPT)

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1 THE REPORTER: The attorneys
 2 participating in this deposition acknowledge that I
 3 am not physically present in the deposition room
 4 and that I will be reporting this deposition
 5 remotely.
 6 They further acknowledge that in lieu
 7 of an oath administered in person, I will
 8 administer the oath remotely.
 9 If any party has an objection to this
 10 manner of reporting, please state it now.
 11 THE VIDEOGRAPHER: I, Alan Metts,
 12 hereby affirm that I am familiar with Rule 30 of
 13 the Federal Rules of Civil Procedure and the
 14 provisions of Rule 30(h) of the South Carolina
 15 Rules of Civil Procedure pertaining to videotaped
 16 depositions and will assure that the videotaping of
 17 this deposition is done in compliance with the
 18 provisions of Rule 30(h) and in an impartial
 19 manner.
 20 Good morning. We're going on the
 21 record at 10:10 on April 19th, 2022. Audio and
 22 video recording will continue to take place unless
 23 all parties agree to go off the record. This is
 24 media unit 1 of the video recorded deposition of
 25 Howard Knapp, 30(b)(6) corporate representative of

Page 6	<p>1 the South Carolina State Election Commission taken</p> <p>2 by counsel for the plaintiffs in the matter of the</p> <p>3 South Carolina State Conference of the NAACP and</p> <p>4 Taiwan Scott, on behalf of himself and all other</p> <p>5 similarly situated persons, plaintiffs, versus</p> <p>6 Thomas C. Alexander, in his official capacity as</p> <p>7 President of the Senate, et al., defendants, Civil</p> <p>8 Action No. 321-cv-03302-MBS-TJH-RMG, pending in the</p> <p>9 United States District Court for the District of</p> <p>10 South Carolina, Columbia Division.</p> <p>11 This deposition is being held at Burr</p> <p>12 Forman and also remotely, located at 1221 Main</p> <p>13 Street, Suite 1800, Columbia, South Carolina.</p> <p>14 My name is Alan Metts from the firm</p> <p>15 Veritext Legal Solutions. I'm the videographer.</p> <p>16 The court reporter is Sandy Bjerke from the firm</p> <p>17 Veritext Legal Solutions.</p> <p>18 I'm not related to any party in this</p> <p>19 action, nor am I financially interested in the</p> <p>20 outcome.</p> <p>21 Will counsel now please state your</p> <p>22 appearances and affiliations for the record after</p> <p>23 which the court reporter may swear in the witness.</p> <p>24 MR. INGRAM: My name is Antonio Ingram.</p> <p>25 I'm here on behalf of Plaintiffs South Carolina</p>	Page 8	<p>1 the NAACP and Taiwan Scott.</p> <p>2 Before going further, can you please</p> <p>3 state and spell your name for the record.</p> <p>4 A. My name is Howard Knapp. That's</p> <p>5 H-O-W-A-R-D, K-N-A-P-P.</p> <p>6 Q. Thank you. As I believe you know,</p> <p>7 plaintiffs are challenging the state House</p> <p>8 redistricting maps under the US Constitution in</p> <p>9 this current litigation.</p> <p>10 Mr. Knapp, have you been deposed</p> <p>11 before?</p> <p>12 A. No.</p> <p>13 Q. Okay. So I'll go through a brief</p> <p>14 explanation of what to anticipate today. So you</p> <p>15 now understand that you are under oath?</p> <p>16 A. Yes.</p> <p>17 Q. And that essentially means that any</p> <p>18 statement you make here can be used in court as a</p> <p>19 sworn statement.</p> <p>20 Is there anything that would prevent</p> <p>21 you from providing honest answers to my questions</p> <p>22 here today?</p> <p>23 A. No.</p> <p>24 Q. Are you taking any medications that</p> <p>25 will prevent your ability to answer my questions?</p>
Page 7	<p>1 State Conference of NAACP and Taiwan Scott.</p> <p>2 MS. CRUM: I am M. Elizabeth Crum. I</p> <p>3 am here on behalf of the South Carolina State</p> <p>4 Election Commission, Mr. Knapp and the other</p> <p>5 individual defendants, and Mr. Knapp is here as the</p> <p>6 30(b)(6) deponent.</p> <p>7 MR. NICHOLSON: I'm Thomas Nicholson,</p> <p>8 and I am general counsel for the South Carolina</p> <p>9 State Election Commission.</p> <p>10 MR. RICARD: Good morning. My name is</p> <p>11 Rhett Ricard with the Nexsen Pruet law firm here on</p> <p>12 behalf of the House defendants.</p> <p>13 MR. TRAYWICK: Good morning. My name</p> <p>14 is Lisle Traywick, and I represent the Senate</p> <p>15 defendants.</p> <p>16 HOWARD M. KNAPP</p> <p>17 being first duly sworn, testified as follows:</p> <p>18 EXAMINATION</p> <p>19 BY MR. INGRAM:</p> <p>20 Q. Good morning, Mr. Knapp. How are you?</p> <p>21 A. I'm doing fine, thanks.</p> <p>22 Q. As you've already heard, my name is</p> <p>23 Antonio Ingram, and I'm an attorney with the NAACP</p> <p>24 Legal Defense Fund. And I represent the</p> <p>25 plaintiffs, the South Carolina State Conferences of</p>	Page 9	<p>1 A. No.</p> <p>2 Q. I have to ask that. It's sort of</p> <p>3 standard procedure.</p> <p>4 A. That's okay.</p> <p>5 Q. So if you need to take a break at any</p> <p>6 point please let me know. I only ask that if you</p> <p>7 request a break while a question is pending that</p> <p>8 you answer the question, and then we can take a</p> <p>9 break.</p> <p>10 A. Okay.</p> <p>11 Q. The court reporter is transcribing the</p> <p>12 deposition today, so it's important that we don't</p> <p>13 talk over one another and that we use verbal</p> <p>14 responses. So that means head shakes or nods can't</p> <p>15 really take place in this context because that</p> <p>16 won't appear on the written record. And similarly,</p> <p>17 responses, say uh-huh or huh-uh, sound a lot alike,</p> <p>18 so let's try to use yes or no if we can.</p> <p>19 And if I ask a question and it's</p> <p>20 unclear please ask me to clarify. And if you don't</p> <p>21 ask me to clarify I'll sort of assume that you've</p> <p>22 understood my question. Is that fine?</p> <p>23 A. Yes.</p> <p>24 Q. And finally, once in a while your</p> <p>25 lawyer may object to a question that I ask or she</p>

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1 and I may have a discussion. When we do that you
 2 can wait until we're finished and then go ahead and
 3 answer the question unless your lawyer specifically
 4 asks you not to answer the question.
 5 And before we begin I just have a few
 6 preliminary questions. How did you find out about
 7 today's deposition?
 8 A. My general counsel and outside
 9 attorneys notified me.
 10 Q. And were you able to review the notice
 11 of deposition that we provided to them?
 12 A. Yes.
 13 Q. And were you able to review the topics
 14 that were attached to it?
 15 A. Yes.
 16 Q. And so as you know, the commission has
 17 designated you as a Rule 30(b)(6) deponent. And so
 18 is your understanding that you're testifying on
 19 behalf of the commission?
 20 A. Yes.
 21 Q. And are you prepared to provide
 22 testimony regarding each of the topics on the list?
 23 A. Yes.
 24 Q. And, Mr. Knapp, aside from your
 25 attorneys, did you meet with anyone else to prepare

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1 for this deposition?
 2 A. No.
 3 Q. And without talking about sort of the
 4 content of your preparation, when did you meet to
 5 prepare for this deposition?
 6 A. Earlier last week.
 7 Q. And how long was that preparation
 8 session?
 9 A. Approximately one hour.
 10 Q. And what did you review to sort of
 11 prepare for this deposition?
 12 A. The topics you submitted.
 13 Q. Anything else?
 14 A. Internal election calendars as well as
 15 the Code of Laws. Title 7, to be exact.
 16 Q. Thank you. So just for some
 17 background, outside of your role in the South
 18 Carolina State Election Commission, I know you said
 19 you've never been deposed before. Have you been
 20 deposed in sort of non-state business?
 21 A. No.
 22 Q. Have you ever testified in court,
 23 whether it be in your personal or professional
 24 capacity?
 25 A. No.

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1 Q. Now I have some questions on sort of
 2 the lawsuit background. Are you aware of your
 3 codefendants in this lawsuit?
 4 A. Yes.
 5 Q. What do you know about the current
 6 lawsuit in which you're a named defendant?
 7 A. The plaintiffs allege that the
 8 redistricting plans as passed by the General
 9 Assembly and signed into law by the Governor
 10 unfairly discriminate against various people,
 11 voters within the state.
 12 Q. And when did you first learn about this
 13 lawsuit?
 14 A. The day my outside counsel and general
 15 counsel were notified about it.
 16 Q. And do you have an opinion about the
 17 lawsuit?
 18 A. I have no opinion on the lawsuit.
 19 Q. And have you specifically discussed
 20 this lawsuit with anyone else besides your
 21 attorneys in this case?
 22 A. I have discussed the existence of the
 23 lawsuit with many people. It's common knowledge.
 24 But in terms of the details of the case, no.
 25 Q. So have you talked to any current SEC

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1 members?
 2 A. I notified them at commission, our
 3 monthly commission meetings of its existence. When
 4 we were served with the lawsuit as defendants I
 5 notified them that they were defendants in their
 6 official capacities, but beyond that, no.
 7 Q. Have you discussed the lawsuit with any
 8 current legislators?
 9 A. No, I haven't.
 10 Q. What about former legislators?
 11 A. No.
 12 Q. And do you know the plaintiff, Taiwan
 13 Scott?
 14 A. I'm sorry. Could you repeat that?
 15 Q. Do you know the plaintiff, Taiwan
 16 Scott?
 17 A. Oh. No. No, I don't.
 18 Q. Do you know President Murphy of the
 19 South Carolina State Conference of the NAACP?
 20 A. I do not.
 21 Q. Have you read the second amended
 22 complaint filed in this case?
 23 A. Yes.
 24 Q. When did you read the complaint?
 25 A. When it was filed.

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1 Q. Okay. I now have some background
 2 information that I would like to get from you.
 3 When were you born, sir?
 4 A. August 12th, 1985.
 5 Q. And in what city?
 6 A. Nashville, Tennessee.
 7 Q. And where do you live currently?
 8 A. Columbia, South Carolina.
 9 Q. Have you ever lived outside of
 10 Columbia?
 11 A. Yes.
 12 Q. Where else have you lived?
 13 A. Iowa City, Iowa; Billings, Montana;
 14 Washington, DC; Alicante, Spain; Naples, Florida;
 15 and Charleston, South Carolina.
 16 Q. And where did you go to high school?
 17 A. Billings Central Catholic High School
 18 in Billings, Montana.
 19 Q. And what year did you graduate from
 20 high school?
 21 A. 2003.
 22 Q. And where did you go to college?
 23 A. The Citadel.
 24 Q. And what year did you graduate from The
 25 Citadel?

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1 A. 2008.
 2 Q. And what was your undergraduate major
 3 at The Citadel?
 4 A. History.
 5 Q. Did you have any particular focus?
 6 A. No.
 7 Q. Did you go to graduate school?
 8 A. I went to law school.
 9 Q. What law school did you attend?
 10 A. Ave Maria School of Law in Naples,
 11 Florida.
 12 Q. And what year did you graduate?
 13 A. 2012.
 14 Q. Thank you. So in terms of your
 15 professional background, what is the title of your
 16 current position?
 17 A. Executive director of the South
 18 Carolina State Election Commission.
 19 Q. Could you please describe, sort of in
 20 your own words, what is the South Carolina Election
 21 Commission?
 22 A. It is a independent commission
 23 established in Title 7 of the South Carolina Code
 24 of Laws that holds responsibilities of varying
 25 nature related to the maintaining of the statewide

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1 voter registration list and system as well as
 2 supervisory authority over county boards of voter
 3 registration and elections.
 4 Q. And how old is the commission?
 5 A. 54 years old, I believe.
 6 Q. So before the commission was
 7 established, how were elections run in the state?
 8 A. They were -- the State Election
 9 Commission was a -- it wasn't a commission. It was
 10 a division within the South Carolina Secretary of
 11 State's Office.
 12 Q. And the commission's founding, is that
 13 based on a statute, or what is its sort of founding
 14 origin?
 15 A. Its origin -- it was created in
 16 statute, in state statute.
 17 Q. And how many members are on the
 18 commission?
 19 A. Five.
 20 Q. And how are commission members
 21 selected?
 22 A. They are appointed by the Governor.
 23 Q. And how long are their terms?
 24 A. Four years.
 25 Q. And are those terms staggered, or do

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1 you get a whole new commission every four years?
 2 A. They, I believe, were initially
 3 staggered. Each member was staggered. However, at
 4 this time there are four members who share the same
 5 term period, and one member is staggered from the
 6 rest.
 7 Q. And what is your relationship to the
 8 commission as executive director?
 9 A. They are the governing board of the
 10 agency, and they approve -- well, their biggest
 11 duty, I should say, is to serve as the State Board
 12 of Canvassers for all statewide elections. So they
 13 certify the results of those elections. And as I
 14 said, they are the governing board of the agency
 15 itself and appoint the executive director.
 16 Q. So they're essentially your boss, the
 17 commission?
 18 A. Yes.
 19 Q. And how many executive directors
 20 preceded you?
 21 A. Four.
 22 Q. And so how long -- is the executive
 23 director position a term position?
 24 A. No.
 25 Q. So your predecessors, in what

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1 circumstances did they leave their positions?
 2 A. I do not know. The previous four -- I
 3 don't know. I mean, I could tell you the first
 4 four -- one of the first four passed away, I
 5 believe, and the others, I think, simply retired.
 6 Marci Andino resigned her position in 2021.
 7 Q. How long have you been the executive
 8 director?
 9 A. I was appointed in January 2022.
 10 Q. And before that did you have another
 11 position inside of the commission?
 12 A. Yes. I was the director of voter
 13 services, which is a division director position
 14 within the agency.
 15 Q. And is it correct that you also served
 16 as interim executive director before you were
 17 appointed?
 18 A. Yes.
 19 Q. And how did you become interim
 20 executive director?
 21 A. Former Director Andino submitted her
 22 resignation to the commission and the commission
 23 appointed me the interim director in a -- in a
 24 commission meeting upon her departure and that was
 25 October 2021.

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1 Q. Is there usually an interim director
 2 before a new director is appointed?
 3 A. It is common practice throughout state
 4 government for an interim director to hold that
 5 position, that interim position until a full-time
 6 director is appointed, and the election commission
 7 is no exception to that.
 8 Q. And aside from -- so it's my
 9 understanding that sort of the election commission
 10 are your supervisors. Aside from the commission do
 11 you report to anyone?
 12 A. No.
 13 Q. And so as executive director how do you
 14 interface with the commission? Do you have weekly
 15 meetings? How does that relationship work?
 16 A. I have -- or the commission holds
 17 monthly commission meetings which are held the
 18 third Wednesday of every month, and that's when
 19 they've been held since before I arrived at the
 20 agency. So those are monthly.
 21 And I speak to commission members on an
 22 ad hoc basis. Whenever they need a question
 23 answered or if they're getting questions from the
 24 general public they will forward those questions to
 25 me for answering. So outside of the commission

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1 meetings I speak to them on an as-needed basis.
 2 Q. And how does your current role differ
 3 from your previous role as director of voter
 4 services?
 5 A. My previous role as director of voter
 6 services I supervised essentially two departments:
 7 the information technology -- information
 8 technology and cybersecurity department, and the
 9 other department was the database building
 10 department, and those personnel essentially build
 11 the ballots that we vote on in every election.
 12 So my responsibilities centered on the
 13 statewide voting system, database production,
 14 cybersecurity, information technology, and all the
 15 ancillary technologies around voting, things like
 16 that. My current position, I retain responsibility
 17 for those duties as well as the rest of the entire
 18 agency.
 19 Q. Can you say more about your current
 20 responsibilities? Like what does your job entail?
 21 A. Sure. So in Title 7, I can't remember
 22 the citation exactly, but there is a section at the
 23 beginning of Title 7 which enumerates the duties of
 24 this position, but essentially I am the agency
 25 head. I serve as the administrative head of the

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1 agency. I serve as the state's chief election
 2 official, which is a requirement of federal law,
 3 that every state have a chief election official. I
 4 also serve as a sort of secretary -- I don't know
 5 if that's official or not -- to the commission. So
 6 I make sure that minutes are taken during
 7 commission meetings. I kind of manage the
 8 commission meetings along with the chairman of the
 9 commission. And I manage the day-to-day operations
 10 of the agency.
 11 Q. And what is your relationship like with
 12 state and federal sort of compliance? How do you
 13 ensure that the state of South Carolina complies
 14 with state and federal law?
 15 A. Well, we identify what those standards
 16 are that are set forth in state or federal law and
 17 align our operations accordingly.
 18 Q. And could you say more about that
 19 process? What do you do to align those operations
 20 accordingly?
 21 A. I can give you an example. For
 22 instance, federal law dictates that the UOCAVA
 23 deadline, uniform and overseas citizens, they
 24 receive their ballots 45 days ahead of any
 25 election. Therefore, my agency has to make sure

<p style="text-align: right;">Page 22</p> <p>1 ballots are completely developed and ready to go 2 for all counties to send to those UOCAVA voters. 3 So if there is a standard set forth by 4 either state or federal law we establish procedures 5 to make sure tasks are done in accordance to meet 6 those mandated deadlines or processes. 7 Q. Thank you. And so I have a couple 8 questions about in your role as executive director 9 how you work with the local county boards to 10 implement maps. 11 Would you say that as the executive 12 director of the commission, are you responsible for 13 supervising implementation of maps through the 14 county boards? 15 A. Ultimately, yes. 16 Q. And how many county boards are there? 17 A. 46. 18 Q. And so how does that process work of 19 your supervision? Could you sort of walk me 20 through that? 21 A. Sure. So how it happens is 22 congressional, state House and state Senate plans 23 or maps are signed into law by the Governor. Then 24 we instruct counties to begin reviewing 25 congressional plans.</p>	<p style="text-align: right;">Page 24</p> <p>1 Affairs will work with us to create what's called 2 kickout lists. And those are essentially lists of 3 voters that have either been moved or not moved but 4 are in the wrong district. 5 And so, of course, once those kickout 6 lists are sent out the county and/or us will move 7 the voters to their correct district, and that's 8 how redistricting is done. 9 Q. And so it seems like -- and correct me 10 if I'm wrong -- the county boards sort of create 11 their own maps, and you approve of their decisions? 12 A. So historically the Revenue and Fiscal 13 Affairs office has given significant support to the 14 SEC and counties by taking the data and creating 15 maps for all counties in the SEC to use. 16 However, during this cycle RFA has 17 played a much less significant role in the process 18 and has not provided the same level of support. So 19 instead RFA provided PDF files and the shape files, 20 which are essentially -- shape files are the 21 building blocks of maps, what are used to create 22 maps. So they provided those to counties and to 23 us, but they did not -- they did not provide any 24 paper maps. 25 So counties had to rely on their local</p>
<p style="text-align: right;">Page 23</p> <p>1 We start looking at congressional 2 reapportionment and essentially look at what 3 counties are wholly within congressional districts 4 and what counties are what we call split districts 5 where a county shares more than one congressional 6 district. An example of a split county would be 7 Richland County. 8 So we notify counties that they need to 9 proceed looking at redistricting. So what happens 10 is the counties identify district changes within 11 their counties. So they look at various files and 12 data points both within the law and that have been 13 provided by Revenue and Fiscal Affairs to determine 14 which voters need to be moved into which districts. 15 That -- so that process is what's 16 called a D code change. They identify precincts 17 which contain voters, obviously, that need to be 18 moved into a new district, Senate district, House 19 district, congressional district. They submit 20 those D code changes to my office. We essentially 21 move the voters or we approve the moving of the 22 voters by the county. 23 At the end of this process -- and we do 24 that D code change for every map that is passed. 25 At the end of that process Revenue and Fiscal</p>	<p style="text-align: right;">Page 25</p> <p>1 GIS office for those maps, and in some cases the 2 GIS office didn't know what they were doing or did 3 not know the process. It's been a long time since 4 this was done last. So -- and they used to -- they 5 used to provide kickout lists and -- to counties. 6 Now they're providing those lists to us as well. 7 So the process this year has deviated from what my 8 understanding of previous redistricting processes 9 were. 10 Q. Each county has its own GIS officer? 11 A. Yes, each county has its own GIS 12 office. 13 Q. And how -- what does this GIS office do 14 outside of sort of redistricting mapping work? 15 A. Well, they're essentially the map 16 holders of county council, school board. I mean, 17 just any kind of maps or street planning. They 18 work with planning commissions. Anything to do 19 with the geographics of a county, they run that 20 show, ostensibly. I would assume that every GIS 21 office has a slightly varying role depending on 22 what county they're in. 23 For instance, just in regards with the 24 redistricting process an example of a very 25 competent and supportive GIS office in a county</p>

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1 would be Charleston. Another which provided no
 2 support and no competence about this process would
 3 be Bamberg.
 4 The GIS offices usually print the maps.
 5 They -- let me back up. The RFA in years past has
 6 provided these maps. This year counties are having
 7 to rely on their local GIS office to produce the
 8 maps which has created some issues. Some GIS
 9 offices cannot physically print the maps because
 10 they don't have the infrastructure to do that. So
 11 not every GIS office is equal.
 12 Q. And as executive director how do you
 13 ensure that the county boards and their GIS offices
 14 comply with state and federal law?
 15 A. We double-check all the work done by
 16 the locals, by the counties. We ensure that --
 17 because at the end of the day the most important
 18 thing for us is that every voter is in the correct
 19 district, whether it's county council -- I mean,
 20 from the smallest office to congressional, that
 21 every voter is in the correct office [sic].
 22 So we work with the counties, all 46
 23 counties to ensure that those kickout lists I
 24 mentioned are rectified. And we're still doing
 25 that to this day as we speak, that that's -- that

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1 that process is occurring. So until every county's
 2 kickout list is clean, we will continue that work,
 3 but it's a lengthy process, a very lengthy process.
 4 Q. And so you had mentioned before that
 5 there are 46 county boards. Does each board have a
 6 uniform number of board members?
 7 A. No. So there is no rhyme or reason or
 8 formula behind how many board members are on each
 9 county board. That is left to the sole discretion
 10 of each county delegation.
 11 For instance, I believe Chesterfield
 12 has three board members. And others of varying --
 13 other counties, large, medium and small counties
 14 have as much as nine. Richland County, which is
 15 the third largest county in the state, has five.
 16 So it's really at the discretion of the
 17 county delegation which is comprised of each
 18 county's House -- South Carolina House and South
 19 Carolina Senate representatives.
 20 Q. And the delegation of these state
 21 legislators, they appoint the board, or how does
 22 that work?
 23 A. They recommend approval -- I'm sorry.
 24 They recommend certain members of the public be
 25 appointed by the Governor to the board. So each

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1 county board is gubernatorially appointed upon
 2 recommendation by the county delegation.
 3 And I should add that the Governor can
 4 only appoint people recommended by the county
 5 delegation, and he does not have the authority to
 6 appoint anyone outside those recommendations.
 7 Q. Are these boards compensated?
 8 A. They are given quarterly stipends.
 9 Q. Do you know how much the stipend is?
 10 A. A little over a thousand dollars a
 11 year.
 12 Q. And are these boards partisan?
 13 A. No.
 14 Q. But they're selected by how -- by
 15 elected officials who are partisan.
 16 A. Correct.
 17 Q. So how does the delegation ensure that
 18 these individuals not act with partisan interests?
 19 MS. CRUM: Object to the form of the
 20 question. You may answer.
 21 THE WITNESS: I don't know that they
 22 do.
 23 BY MR. INGRAM:
 24 Q. And as executive director, do you
 25 communicate directly with the county boards across

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1 the state?
 2 A. My agency holds numerous training
 3 sessions throughout the year for county boards,
 4 county board members. I rarely speak to county
 5 board members one on one. I usually, if there is
 6 an issue within a county or even with a county
 7 board, my first conversation is with that county
 8 director. I have only spoken directly to a handful
 9 of board members.
 10 The most I converse with these board
 11 members is at training sessions where I'm present
 12 and they just come up to me to chitchat. But there
 13 are more and more conversations between myself and
 14 board members currently due to a range of issues
 15 that counties are facing right now.
 16 Q. What are some of the issues that are
 17 being dealt with?
 18 A. The lack of county support, both
 19 financially and otherwise, of the county government
 20 of the election and voter registration's office.
 21 The fact is that -- well, I shouldn't
 22 say the fact. What I have found in the short -- in
 23 my short tenure is probably over half of the
 24 counties in this state, their county councils or a
 25 portion of their county councils do not even

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1 recognize the county board offices as county
 2 offices.
 3 They are county offices by law, the
 4 county councils have to appropriate money to run
 5 those offices, but the stance of these county
 6 councils is because the boards are gubernatorially
 7 appointed, they are state offices, and they are
 8 not. So this lack of support has illustrated
 9 itself in ways that have hindered county
 10 operations.
 11 For instance, recently in Newberry
 12 County the director actually left to come work for
 13 my agency. She gave a five-and-a-half-week notice
 14 that she was leaving, and in that time the county
 15 did nothing to replace her. And when she left --
 16 and her deputy left as well -- there was nobody to
 17 run that county office for weeks. And the county
 18 administrator was new and had no interest in
 19 helping out.
 20 And it's those kinds of
 21 misunderstandings about how government is
 22 structured, that's really what I'm dealing with
 23 when it comes to the county boards. They're not
 24 getting the needed support from their county
 25 councils.

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1 And as I tell them, there is very
 2 little I can do about that. I advise them to go
 3 speak to their county delegation members or the
 4 county council chairman, but there's very little I
 5 can do about that other than agree that their
 6 concerns are real.
 7 Q. And for a county board that you just
 8 talked about, it probably is based on each county,
 9 but is there a typical tenure to serve on the
 10 board, or how does that work --
 11 MS. CRUM: Object to the form of the --
 12 MR. INGRAM:
 13 Q. -- for each county?
 14 MS. CRUM: Object to the form of the
 15 question. You may answer.
 16 THE WITNESS: The county boards are --
 17 they serve essentially at the will of the
 18 delegation for their -- so upon their term expiring
 19 I've seen a range of people not really being
 20 reappointed, but they're just holdovers. They're
 21 in their position until they're told to leave.
 22 I've seen board members who were told to leave, you
 23 know, upon expiration of their term and the county
 24 delegation wanted somebody else.
 25 So it's up to the county delegation

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1 upon expiration of each person's term what that
 2 delegation wants to do with them, either renew
 3 their appointment or not.
 4 BY MR. INGRAM:
 5 Q. So they're essentially political
 6 appointees of the congressional -- of the
 7 delegation of state and/or state officials?
 8 MS. CRUM: Object to the form of the
 9 question. You may answer.
 10 THE WITNESS: They are appointees of
 11 the delegations.
 12 BY MR. INGRAM:
 13 Q. And whether indirectly or directly, do
 14 these county boards reach out to your office for
 15 guidance, or is it more formally, just having
 16 trainings?
 17 A. So county offices, board members,
 18 staff, they reach out to my agency often for
 19 support. And that's part -- you know, that's part
 20 of our job, is to help support these counties, both
 21 with...
 22 So my predecessor created the area
 23 representative department within my agency, and we
 24 have four area representatives whose job it is to
 25 go out into these counties and support them,

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1 whether it's with equipment or IT, limited IT
 2 support.
 3 So the reality is a lot of these
 4 counties have very limited resources. And it's not
 5 to the willingness of the county to help. That's
 6 irrelevant. Just some counties don't have the
 7 resources that others do.
 8 An example of a county that gets
 9 anything they want whenever they want it is
 10 Charleston. Another example of a county that
 11 doesn't get a lot of support is Saluda.
 12 So because of the differentiation in
 13 the level of support and the differentiation in the
 14 level of resources of these counties, my agency
 15 tries to help out as much as it can according to
 16 the law.
 17 Q. Just to confirm, your agency doesn't
 18 have any sort of control over the county boards or
 19 independent actors.
 20 A. So --
 21 MS. CRUM: Object to the form of the
 22 question. Have you finished your question?
 23 MR. INGRAM: Yes.
 24 MS. CRUM: That's more like a
 25 statement.

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1 MR. INGRAM: I can rephrase if it's
 2 helpful.
 3 BY MR. INGRAM:
 4 Q. Are the county boards independent
 5 actors?
 6 A. Yes, they are independent.
 7 Q. So how does your relationship with
 8 these independent boards impact map implementation?
 9 A. I wouldn't say it does. In terms of
 10 redistricting it is a cohesive effort of multiple
 11 parties at the state and local level.
 12 And in my experience, we are truly --
 13 every party involved, from RFA to us to the
 14 counties, is agnostic about the maps themselves.
 15 We just want to make sure the voters are moved into
 16 their districts according to the law as it's
 17 written.
 18 And so there's very little -- there's
 19 no discussion about the maps themselves. It's
 20 just -- the discussion centers on the logistics and
 21 processes of moving voters, which, as I said
 22 before, is very lengthy.
 23 Q. Have there been situations in the past,
 24 to your knowledge, where your agency has issued
 25 guidance or a directive and there has been

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1 resistance by the county boards?
 2 A. No.
 3 Q. So we'll just shift gears for a moment.
 4 As executive director are you also in charge with
 5 communicating with elected officials?
 6 MS. CRUM: Object to the form of the
 7 question.
 8 THE WITNESS: I speak with other
 9 elected officials.
 10 BY MR. INGRAM:
 11 Q. In what context?
 12 A. So as agency head of a state agency I
 13 am funded entirely by state general funds. So I,
 14 like all my counterparts in state government, have
 15 to submit budget requests which are submitted to
 16 the Governor's office and the General Assembly.
 17 So I regularly, throughout the
 18 legislative session, work with legislative staff
 19 and members on -- and I advocate for my agency's
 20 budget, which, like I said, is -- every agency --
 21 every state agency in the state does that.
 22 In regards to other communications I
 23 have with them, it regards various legislation
 24 pertaining to elections. And the staff and/or
 25 members will ask me my opinion or how things work

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1 logistically, what will work, what won't work in
 2 the current -- under the current law. If we change
 3 this law, how will that impact elections, things
 4 like that.
 5 Q. How often do you have these
 6 communications?
 7 A. During legislative session, I would
 8 say -- well, depending on the -- depending on the
 9 calendar of the Senate or the House and depending
 10 what legislation is pending, sometimes not at all
 11 because there's no election law pending.
 12 But in my tenure there has been a
 13 number of election bills that have been introduced.
 14 So I have spoken to a number of legislators and
 15 their staffs about pending legislation and I'd say
 16 weekly or at least every two weeks.
 17 Q. And how does this communication happen?
 18 Is it via phone, email, written correspondence?
 19 A. In person or over the phone. And the
 20 only email I can recall -- the only email
 21 communications would be to discuss when we could
 22 talk on the phone or meet in person.
 23 Q. And do you ever have to liaise with
 24 public officials on behalf of the commission?
 25 A. I don't -- I don't understand the

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1 question.
 2 Q. Do you ever have to serve as sort of a
 3 intermediary between the commission and public
 4 officials regarding legislation or other issues
 5 that impact elections?
 6 A. Well, that is kind of a function of my
 7 position. I speak for the commission itself and as
 8 well as the agency. So when I speak to these
 9 members I often speak on behalf of the commission
 10 and the agency.
 11 If there is an issue that I know the
 12 commission will want to know about I notify the
 13 commission. Such as if a bill's been filed, a big
 14 election bill has been filed I will notify the
 15 commission and say for your information this bill
 16 was filed today in the House or Senate. This is
 17 what it does. And I'll discuss that as well in our
 18 commission meetings in open session, so...
 19 Q. Can the commission remove an executive
 20 director?
 21 A. Yes. I serve at the pleasure of the
 22 commission.
 23 Q. And would the commission vote on that
 24 decision, or how would that decision be made?
 25 A. Ostensibly, I believe the commission

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1 would have to vote to remove an executive director.
 2 Q. And has that happened in the past?
 3 A. Not to my knowledge.
 4 Q. And from your recollection what is the
 5 average tenure of an executive director? I know
 6 there's only been four in 54 years, so probably
 7 long, but I'd love to get your thoughts on that.
 8 A. Well, I know one director was only
 9 director for approximately nine months or something
 10 like that. So myself and her apart, the average
 11 tenure is probably 15 years. 15 to 20 years. They
 12 are long tenures for state agency heads.
 13 Q. And given those long tenures, how does
 14 that work if the commission changes? Does the
 15 commission have to re -- sort of nominate or
 16 approve of the executive director, or is this sort
 17 of -- how does that process work?
 18 A. So when an executive director is
 19 appointed currently, that executive director serves
 20 until they're either asked to leave or they resign
 21 or retire. It doesn't matter who gets appointed,
 22 reappointed onto the commission. That executive
 23 director has just held their position until such
 24 time as they leave.
 25 But when new commissioners are

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1 appointed they'll -- you know, the executive
 2 director has worked with the new commissioners to
 3 help them understand their role, understand their
 4 different duties as commissioners, and that's how
 5 that relationship has worked.
 6 Q. And if you need to implement policy on
 7 behalf of the commission, how would you go about
 8 doing that? Who would you talk to?
 9 A. It would depend on the policy. Thus
 10 far, the commission, during my tenure, has not
 11 issued a policy on anything.
 12 Q. In the past can you give an example of
 13 what this looked like when a policy was issued?
 14 A. I can't recall hearing of or personally
 15 seeing the State Election Commission issuing a
 16 policy on anything. I'm not saying that that has
 17 never happened, but not to my knowledge and I have
 18 never personally seen it.
 19 Q. Let me ask you more specific. If there
 20 are, for example, federal or state legislation that
 21 needs to be communicated to county boards, what
 22 would be your role in that conveying of
 23 information?
 24 A. So I convey that -- the way it works
 25 practically is I convey that information both to

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1 the commission, so they understand it, and I convey
 2 that information to the county boards as well. And
 3 when I say county boards I'm talking about the
 4 county directors, their staff. So when I say
 5 county board I mean everybody at the county level.
 6 But the board -- the commission does
 7 not set forth policy or implement policy or make
 8 decisions on the day-to-day operations of
 9 elections. That is the role of the executive
 10 director. Or has been the role of the executive
 11 director.
 12 Q. And is your position a partisan
 13 position?
 14 A. No.
 15 Q. And the election commission is also
 16 nonpartisan?
 17 A. Correct.
 18 Q. Are there any safeguards to keep it
 19 that way in place?
 20 A. There is a section of Title 7 that
 21 mandates that at least one member of the commission
 22 be a representative of the majority party as
 23 represented in the General Assembly and also
 24 another commission member must be a member of
 25 the -- a representative of the minority party as

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1 represented in the General Assembly.
 2 Q. And what constitutes a quorum for the
 3 commission?
 4 A. Three members.
 5 Q. And currently what is the composition
 6 of the commission in terms of partisan background?
 7 A. I do not know. This is an issue that
 8 has faced the commission since it was -- I think
 9 since the code was written.
 10 Although the provision I just described
 11 to you exists, there is not a mechanism by which
 12 you can easily identify who's a Democrat or who's a
 13 Republican because we do not have partisan
 14 registration in the state of South Carolina.
 15 So the Governor appoints whom they --
 16 whomever they wish to the commission, and that's
 17 just how it's been.
 18 Q. And what are the backgrounds typically
 19 of commissioners? Professionally, for example.
 20 A. In my experience they range from
 21 attorneys to commercial real estate agents to
 22 bankers, insurance agents. In my experience and to
 23 my knowledge it has been wide ranging. The
 24 backgrounds are wide ranging.
 25 Q. So this system that you described of

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1 having sort of a person from the majority party and
 2 a person from the minority party, do you think it's
 3 worked well in practice?
 4 A. Yes.
 5 Q. So would you -- do you think that the
 6 commission has sort of been able to stay above
 7 politics in South Carolina in a nonpartisan way?
 8 A. I believe it has. And that's, frankly,
 9 why the commission was taken away -- or the
 10 office -- the election office was taken out of a
 11 partisan position under the elected secretary of
 12 state's office and established as an independent
 13 commission. And to my knowledge and in my
 14 experience it has worked well under that scheme.
 15 Q. And where does the commission's funding
 16 come from?
 17 A. The General Assembly. I'd say the vast
 18 majority of funding comes from the General
 19 Assembly. The State Election Commission as well as
 20 every other state office, election office receives
 21 grants from the -- from Congress through the United
 22 States Election Assistance Commission approximately
 23 every two to three years to assist with election
 24 security or other similar information technology
 25 needs.

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1 Q. So there's funding from both the
 2 federal government and South Carolina state
 3 government?
 4 A. Correct. Overwhelmingly state
 5 government funded, minimal federal funding.
 6 Q. And does the commission's funding sort
 7 of stem from a line item in the budget, or is there
 8 a -- you know, how does that process work?
 9 A. Yes. Every agency has a section of the
 10 state budget. The state budget is a bill that's
 11 written like any other piece of legislation, and
 12 the -- every agency, including the State Election
 13 Commission, has a section of that budget.
 14 So the way it works is in late fall of
 15 every year every agency will submit their budget
 16 requests to the Governor's office for consideration
 17 in his executive budget. In January, very, very
 18 early February every agency goes before the House
 19 Ways and Means, their respective House Ways and
 20 Means subcommittee, they present their budget
 21 requests to the House that way.
 22 And then, of course, the subcommittee
 23 meets, determines what they want to do for every
 24 agency, the full House Ways and Means committee
 25 determines how they want to fund the state, and

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1 then that goes, of course, to the full House like
 2 any other piece of legislation.
 3 It's a similar process in the Senate.
 4 Approximately March of every year, late February
 5 and March state agencies present their budget
 6 requests to their respective Senate finance
 7 subcommittee. And then those -- that subcommittee
 8 will determine how they want to fund the agency,
 9 present that to the full finance committee and the
 10 full finance committee will issue a report to the
 11 Senate and the Senate will debate the budget bill.
 12 Once the House and Senate have passed
 13 their own budget bills they are then sent to
 14 conference and the conference committee, which is
 15 appointed by the leaders of both bodies, appoints
 16 three representatives -- I believe it's three --
 17 from each body to represent those bodies in
 18 conference.
 19 And the conference committee negotiates
 20 sections of every piece of legislation, including
 21 the budget. Conference committee reports are then
 22 adopted by the House and Senate and sent to the
 23 Governor for his signature or veto.
 24 Q. And would you say that the budgets
 25 allocated to the commission varies depending on

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1 whether it's an election year, or is it a more
 2 consistent allocation of funds?
 3 A. In my experience the State Election
 4 Commission's budget requests have been funded
 5 almost -- almost always at the complete request of
 6 the agency.
 7 So in other words, my predecessor, I
 8 can't recall a time where her budget request was
 9 not granted. My first budget request, which is
 10 before the Senate right now, the House
 11 representatives fully funded my complete request,
 12 and to my knowledge, I believe the Senate intends
 13 to do the same. So I believe the General Assembly
 14 has funded the agency adequately as requested by
 15 the agency every year.
 16 Q. Let me rephrase my question.
 17 There are some years where there are
 18 more elections than others; correct?
 19 A. Correct.
 20 Q. Does the funding oscillate depending on
 21 election activity in terms of --
 22 A. No.
 23 Q. -- what you request?
 24 A. No. No. Well, so the request itself
 25 might be in preparation for an election, a

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1 statewide election year, but the funding does
 2 not -- is not determined by, oh, it's going to be
 3 an election this year so we better give them more
 4 money. It's truly just whatever the executive
 5 director requests of the General Assembly.
 6 That's -- it's granted based solely on that.
 7 Now the federal government will
 8 issue -- like I said, those federal funds, those
 9 are in preparation for federal elections,
 10 congressional or presidential, et cetera. So
 11 they're very open about that, that this is, you
 12 know, to be used in preparation for federal
 13 elections.
 14 Q. How does one deal with unexpected
 15 election costs? For example, if there is a budget
 16 that was submitted and you anticipated a certain
 17 level of election activity but then, for example,
 18 there's a special election, how does one
 19 accommodate for that?
 20 A. So the way our budget is built or
 21 created is we -- the State Election Commission
 22 establishes a sort of cushion for -- based on the
 23 average number of special elections in off-election
 24 years. It's not a lot, but, you know, we know how
 25 much approximately -- and I don't have that

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1 information with me.
 2 But, you know, we can determine how
 3 much we will have to reimburse the county for a
 4 state Senate primary -- or election, special
 5 election or state House special election.
 6 And those are minimal, to be honest.
 7 So we don't have a lot of state-level races that
 8 need reimbursement or that happen in special
 9 elections or off-election years. So we're able to
 10 plan for those and -- accordingly. That's just the
 11 way budgeting works.
 12 Q. And what is the annual budget for the
 13 commission?
 14 A. It has gone -- well, currently it sits
 15 at approximately \$12 million a year.
 16 Q. And does that include so both the
 17 federal contributions and the state-funded portion?
 18 A. Yes.
 19 Q. And you had mentioned before that each
 20 county office has a GSI sort of for mapping. Does
 21 the commission have any in-house cartographers?
 22 A. The commission does not have any
 23 in-house GIS staff. We rely on the expertise of
 24 Revenue and Fiscal Affairs and -- yes, that's -- we
 25 don't have anybody inside.

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1 Q. So when the census data is released,
 2 who in your office reviews it? Like who are those
 3 people?
 4 A. So my information technology staff will
 5 work with Revenue and Fiscal Affairs, GIS people,
 6 and they'll work together on that.
 7 Q. Do you outsource any of this work to
 8 third parties, individual consultants?
 9 A. No. No, the State Election Commission
 10 does not, no.
 11 Q. And so we've sort of established
 12 there's a commission, you're executive director.
 13 What type of staff do you hire that you're sort of
 14 supervising?
 15 A. Well, my staff includes currently 27
 16 people split into various divisions. There's the
 17 voter services division, which, like I said, is
 18 primarily information technology and cybersecurity
 19 focused. There is the public information and
 20 training division which is comprised of individuals
 21 that specialize in training or have education
 22 backgrounds and individuals that have backgrounds
 23 in public information, public relations, things of
 24 that nature. Outreach as well. So -- and
 25 administration and finance. The administration and

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1 finance division is comprised of individuals that
 2 have finance and accounting and human resource and
 3 procurement backgrounds.
 4 Q. And do you know the average sort of
 5 tenure of your staff?
 6 A. So prior to the 2020 election the
 7 agency was one of few in state government that had
 8 very low turnover and very high tenure. I would
 9 say after the 2020 election we've seen over 50
 10 percent turnover for a variety of reasons, as have
 11 the counties.
 12 We have, I believe at this point since
 13 2020, 20 new county directors, most of which have
 14 never been through any statewide election. So a
 15 lot of new people and a lot of new roles at the
 16 state and local level.
 17 Q. Why would you say there's -- there was
 18 so much turnover after the 2020 election?
 19 MS. CRUM: Object to the form of the
 20 question; calls for speculation. You may answer.
 21 THE WITNESS: The environment
 22 surrounding elections nationwide following the 2020
 23 election has been contentious, and repeated
 24 misinformation about how elections work in various
 25 states has taken a toll on election officials. It

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1 has made election officials the bad guys.
 2 Election officials are like many, I
 3 guess, government functions where you don't really
 4 care about the successes, you only care about the
 5 failures.
 6 And then to add to that mantra, you
 7 know, there's the concern that it's just not worth
 8 it for these election officials, what they go
 9 through both at the local level and within my own
 10 agency.
 11 The amount of stress they're under and
 12 the amount of scrutiny they're under is not worth
 13 it to them. And people's health has been a concern
 14 because of that stress, and people are retiring if
 15 they can, they are leaving if they can find better
 16 work, but the entire -- and this is not -- not just
 17 South Carolina. This is nationwide.
 18 BY MR. INGRAM:
 19 Q. And so the average tenure in the past
 20 was a lot higher, but now I think you said you have
 21 about maybe half new employees?
 22 A. Correct.
 23 Q. And how do those employees get trained?
 24 What sort of human resources structure do you have?
 25 A. So when new employees are hired they're

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1 given a brief orientation from our human resource
 2 staff, and the kind of work my staff does and
 3 myself is not something you learn in any school.
 4 It is very much on-the-job training, and you just
 5 learn by doing.
 6 When I joined the agency I had
 7 absolutely no election experience, but I had a lot
 8 of government administration experience. So I had
 9 to learn a lot on the job about what my people did
 10 and become an expert quickly in a variety of
 11 election processes.
 12 So that same -- that applies to every
 13 staff member of mine from the database builders
 14 that build the elections to information technology
 15 people.
 16 Even people in public relations or
 17 training, even though that's not technically
 18 oriented, they have to understand how elections
 19 work. You know, how do you prepare for an
 20 election, what to -- what are the responsibilities
 21 of the counties and state, et cetera.
 22 And so a lot of -- I'd say all of the
 23 training done in my agency and at the county level
 24 is on-the-job training.
 25 Q. Thank you. So is it fair to say that

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1 when -- in this current cycle, for example, when
 2 the state House orders the commission to implement
 3 maps, is there discretion there, or is there sort
 4 of a hierarchy that requires compliance?
 5 MS. CRUM: Object to the form of the
 6 question.
 7 THE WITNESS: Do you want me to answer?
 8 BY MR. INGRAM:
 9 Q. You may answer.
 10 A. No, there's no discretion. The
 11 redistrict map -- the districting maps are passed.
 12 Once they're signed into law by the Governor it's
 13 as effective as any other law that's passed, and we
 14 have to implement the maps accordingly. There is
 15 no discretion by either the commission, the county
 16 boards, myself or the county directors.
 17 Q. I also just want to go back to a
 18 comment you made a few minutes ago. We were
 19 talking about the composition of the commission.
 20 You said that South Carolina does not have partisan
 21 registration; is that correct?
 22 A. Correct.
 23 Q. Can you say more about that? Or what
 24 does that mean?
 25 A. When a new voter goes to register to

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1 vote, unlike in other states like Florida -- in
 2 Florida you go to register to vote you can say I am
 3 registering as a Republican or as a Democrat or as
 4 a Green Party, Liberal Party, Working Families
 5 Party. You're registered as a voter in those
 6 parties or you're assigned to one of those parties.
 7 In South Carolina you register to vote
 8 and you're a voter. What this practically means
 9 as -- going back to my example in Florida, if you
 10 registered as a Republican and you want to vote in
 11 a primary you will vote in a Republican primary or
 12 if you're registered as a Democrat you vote in a
 13 Democratic primary.
 14 In South Carolina anybody, any
 15 qualified voter can vote in any primary. We have
 16 open -- it's called open primaries. So we have
 17 open primaries in South Carolina.
 18 Q. Does it stay -- does that concept mean
 19 that -- well, do you have to pick a primary to vote
 20 in?
 21 A. You do. Well, if you want to vote,
 22 yes, you have to pick. You have to pick one
 23 primary to vote in, yes.
 24 Q. So it's open, but you effectively still
 25 have to choose to vote in the Republican or the

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1 Democratic primary?
 2 A. Correct. You cannot vote in both.
 3 Q. And does the commission collect voting
 4 demographic information such as partisan
 5 preferences?
 6 A. So we collect voter history which is
 7 available to the public for purchase. And that
 8 voter history includes demographic information
 9 about the voter, in which elections those voters
 10 voted as well, in what years.
 11 Q. And do you collect information about
 12 racial demographics?
 13 A. That data includes -- the data I
 14 mentioned previously does include racial
 15 information.
 16 Q. What about socioeconomic?
 17 A. No. The data includes the person's
 18 name, their address, their race, date of birth, so
 19 their age, so -- and what elections they voted in.
 20 Q. Perfect.
 21 MR. INGRAM: Let's take a five-minute
 22 break.
 23 THE VIDEOGRAPHER: We are going off the
 24 record. This is the end of media unit No. 1. The
 25 time is 11:19.

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1 (A recess transpired from 11:19 until
 2 11:28.)
 3 THE VIDEOGRAPHER: We are back on the
 4 record. This is the beginning of media unit No. 2.
 5 The time is 11:28.
 6 BY MR. INGRAM:
 7 Q. Mr. Knapp, I want to talk about what
 8 happens after each redistricting cycle. I know
 9 this is probably your first one. So once the
 10 Governor signs a new map into law, what happens at
 11 the commission level?
 12 A. So at the commission level I direct the
 13 county directors and their staff -- I'll just use
 14 the term county boards. The board members
 15 themselves don't really have any role in this
 16 process.
 17 But I direct the directors and the
 18 staff to look at the data points set forth in the
 19 congressional redistricting law and start looking
 20 basically at their counties. Again, as I said
 21 before, is your county wholly in a congressional
 22 district or is it a split county with two or more
 23 congressional districts in it. So that's the first
 24 step.
 25 Q. Sorry. I don't want to interrupt, but

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1 this deposition is about the House maps. So would
 2 you be so kind to talk about the process for the
 3 House maps?
 4 A. Sure. Yeah, and my apologies. We kind
 5 of do all of them together. So yeah, the House
 6 maps, it's similar. So what we have done in the
 7 past, again, this is not this cycle, but my
 8 understanding of past practice is we would accept
 9 maps and data from the Revenue and Fiscal Affairs
 10 office and use those resources to do what I said
 11 before, the whole D code process of moving voters,
 12 moving precincts into new districts, et cetera.
 13 That has not occurred this year. The
 14 staffer at RFA who -- well, the two staffers
 15 that -- there were two primary staffers at RFA who
 16 did this. One has since passed away since the last
 17 redistricting cycle, and one now works for the
 18 Senate in a similar capacity.
 19 So RFA does not have the expertise or
 20 competence that they once had to do this process.
 21 So how it's worked this year is they're just
 22 providing PDF files and shape files, again, which
 23 are not maps. They haven't provided any maps to
 24 the counties or the SEC to help with this process,
 25 but they have been checking for errors, doing those

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1 kickout errors. So we send RFA data to check
 2 behind us to make sure both we and the county are
 3 correct, and they've been helping with that
 4 process.
 5 Q. And so that's sort of what happens at
 6 the commission level statewide, and then when it
 7 trickles down to the county, can you walk me
 8 through that?
 9 A. So that whole dynamic also applies to
 10 the counties, and with the added caveat of they're
 11 also dealing with their GIS office which has
 12 varying levels of competency and resources
 13 themselves.
 14 As I said, a lot of counties this
 15 turnaround or this cycle, redistricting cycle have
 16 had to rely on their GIS office to make the maps
 17 for them since they were not provided by RFA. And
 18 some GIS offices have been unable to do that
 19 because they don't have the equipment to do that.
 20 So counties, what they do, again, with
 21 the House or, you know, House, congressional,
 22 Senate, whatever -- we're talking about the House.
 23 So the county identifies the district changes, the
 24 House district changes within their county.
 25 Districts may be added, removed or adjusted based

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1 on the redistricting plan.
 2 The county request -- they submit
 3 requests for the D codes, the D code changes. So
 4 they submit a D code change form to the State
 5 Election Commission, and that D code form changes
 6 the districts within a precinct.
 7 So the county updates -- and to go
 8 further deep into that, each D code contains street
 9 files. So on one side of the street you may have
 10 District 1. On the other you may have District 2.
 11 So you have a lot of those street files within a
 12 precinct D code.
 13 And so those are then processed by the
 14 State Election Commission, and the county then
 15 redistricts the voters or requests a mass county
 16 decoding.
 17 If there's been a complete change in
 18 the county we can do a mass change for them, but
 19 then, you know, the county will run various reports
 20 to identify any redistricting or street address
 21 errors on their own, and they'll also work with us
 22 and RFA to do those kickout lists.
 23 So really the redistricting effort when
 24 it comes to House redistricting is very much a
 25 hand-in-glove approach by the SEC and the county

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1 offices.
 2 The counties are on the streets. They
 3 are the ones looking at the physical boundaries of
 4 these district lines. It's a laborious process.
 5 Sometimes they have to physically get in their cars
 6 to figure out where is the line. This house on
 7 this corner might be District 1, but its neighbor
 8 might be District 5, for instance.
 9 So we help with the high-level stuff,
 10 and they do the minutiae street stuff. That would
 11 be an easier way to look at it.
 12 Q. So is it possible that the maps that
 13 are enacted have to undergo slight modifications to
 14 comply with these county, sort of -- how does that
 15 work?
 16 MS. CRUM: Object to the form of the
 17 question.
 18 THE WITNESS: I don't really -- could
 19 you rephrase? I don't really understand the
 20 question.
 21 BY MR. INGRAM:
 22 Q. So the process of implementation that
 23 you're describing in terms of minutiae, for
 24 example, one side of the street having District 1
 25 and one side of the street having District 2, is

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1 all of that reflected in the maps that are signed
 2 by the Governor, or are those sort of tweaks that
 3 happen at the commission and county level?
 4 A. The process itself is not enumerated in
 5 any law. What I recall, the redistricting law, all
 6 of them, all the laws that have been passed, the
 7 plans that have been passed simply dictate the data
 8 points of the districts. Like this district has
 9 these voters, et cetera. It's not -- they are not
 10 maps. They are data points in the law. So the
 11 process of actually moving voters and the process
 12 of redistricting is not something that's enumerated
 13 in the law. The process itself is not.
 14 Q. So in terms of my question, after the
 15 maps are drawn does implementation require any sort
 16 of modification?
 17 A. No, not to my knowledge. I mean, in
 18 the laws themselves the redistricting plans are not
 19 maps. I know that's a misconception, that the
 20 House has passed their map, the Senate has passed
 21 their map, et cetera. They aren't maps at all.
 22 They are just data points. As the legislation
 23 shows, that they are just data points. So it's
 24 left up to RFA and us and the counties to interpret
 25 those data points to the best of our abilities.

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1 Q. But those -- do those data points not
 2 entail physical demarcations of lines and counties?
 3 A. They do.
 4 Q. So they may not be physical maps, but
 5 they still are conveying boundaries; correct?
 6 A. That's correct. That's a fair -- yes.
 7 So they're not drawings of maps, of geographical
 8 boundaries. They enumerate them with words and not
 9 illustrations, I guess, for lack of a better term.
 10 So yeah. But we take that exact data and implement
 11 that data accordingly. There is no deviating from
 12 that, from whatever's enumerated in the law.
 13 Q. And is the commission the only entity
 14 in charge of preparing the state for elections
 15 under the new maps?
 16 A. It depends on the election. For
 17 statewide elections, yes. For municipal elections,
 18 it depends. And for less than countywide, that
 19 would be the counties. So the State Election
 20 Commission kind of leads the efforts for statewide
 21 elections.
 22 So like this year with the
 23 gubernatorial year we have several statewide
 24 offices up for election. In 2024 it will be
 25 similar. We'll have the President, the President

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1 and Vice President, Congress, et cetera.
 2 So for statewide elections, the State
 3 Election Commission is kind of the lead on that.
 4 When it comes to countywide or less than countywide
 5 the county boards are the ones that lead those
 6 efforts.
 7 And there are a number of municipal
 8 election commissions that are not held accountable
 9 by us or the county offices that have their own
 10 elections, and they run those elections as they see
 11 fit.
 12 Q. You've talked about implementing maps
 13 in terms of moving voters to comply with the data
 14 provided by the Governor and the legislative
 15 chambers in South Carolina. What else goes into
 16 implementing maps that your office has to --
 17 A. There's nothing -- I'm sorry. Go
 18 ahead.
 19 Q. -- perform? Yeah.
 20 A. Okay. Well, nothing is added to the
 21 data. There's no extemporaneous information that's
 22 added. We just simply -- we, and I use that term
 23 in terms of the counties and us. We take the data
 24 that's in the law. And as I said, the most minute
 25 process is done by the counties, and that is to --

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1 sometimes they need to figure out if the law says
 2 that this street and that street establish a
 3 boundary but there's a question as to certain
 4 houses on that street, they may have to physically
 5 go to those streets to figure out this house is
 6 here, that house is there. So they are...
 7 And RFA used to do this. RFA used
 8 to -- when they created the maps following -- like
 9 the physical drawing of the maps, RFA would. They
 10 would get in the car and if there were issues they
 11 would have a GIS system in that car to kind of
 12 physically map out the boundaries. For whatever
 13 reason they don't do that anymore. So it's left to
 14 the counties to do that.
 15 Q. For example, in terms of candidate
 16 qualifying deadlines, is that something the
 17 commission and your office has jurisdiction over?
 18 A. Candidate filing deadlines?
 19 Q. And qualifying deadlines.
 20 A. Oh, qualifying deadlines? Oh, no.
 21 Those are established by state law. Candidate
 22 filing and certification deadlines are established
 23 in state law in Title 7.
 24 Q. Right, but does the commission and your
 25 office have any interface with that process?

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1 A. We accept the filing of the candidates,
 2 of each candidate. So the State Election
 3 Commission accepts certain candidates. So for
 4 congressional, President. I mean, the big offices,
 5 the statewide offices, the greater than countywide
 6 offices. Essentially everything from South
 7 Carolina House of Representatives up we accept.
 8 The county boards accept South Carolina Senate,
 9 South Carolina House and below. So those
 10 candidates file with the county office.
 11 So we, the county boards and us, we
 12 accept the filings, we gather the information.
 13 Those are -- that's all publicly available on our
 14 website under the candidate tracking system. And
 15 that data is sent to -- or those lists are sent to
 16 each respective party, and it's up to the party to
 17 certify their candidates by a certain deadline.
 18 So once the parties have certified
 19 their candidates, they send us a list of their
 20 certified candidates for each respective office,
 21 and then we build the ballots based on those
 22 candidates that the parties have certified.
 23 Q. And does that sort of division of
 24 responsibilities apply to all aspects of the
 25 election process?

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1 For example, for ballots, does your
 2 office prepare the ballots for both statewide
 3 offices or only -- how does that work?
 4 A. We -- the State Election Commission
 5 builds all ballots for all elections in the state
 6 with the exception of the municipal election
 7 commissions in the state that hold their own
 8 elections under any -- any way they seem fit or
 9 they deem fit.
 10 Q. And what about recruiting or training
 11 poll workers?
 12 A. So that is a joint effort by the state
 13 and the county offices. The state has a media
 14 campaign, if you will, called No Excuse SC. We run
 15 various advertisements and other public relation
 16 campaigns to get more poll workers for the
 17 counties. But the poll workers themselves, they
 18 are signed up by the county offices, they are
 19 trained by the county offices.
 20 We provide the training materials to
 21 the counties and we train the counties on how to
 22 train poll workers, but the counties are the ones
 23 that train the poll workers. And that's really
 24 done at the county level. They are paid by the
 25 county. We reimburse the counties a percentage,

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1 but counties are free to use as many or as -- poll
 2 workers as they would like.
 3 Q. So we've talked about qualifying
 4 deadlines, we've talked about preparing ballots,
 5 and poll workers.
 6 Is there any other aspect to election
 7 administration that your office is involved with
 8 that we haven't talked about today?
 9 A. I'm sure there is. I can't really
 10 think of it right now. I mean, there is very
 11 little that we don't have anything to do with.
 12 You know, even when it comes to
 13 cybersecurity we try and prepare county offices as
 14 best we can for cybersecurity threats. When it
 15 comes to IT support, again, counties should rely on
 16 their IT department if they have one, but they
 17 heavily rely on us.
 18 One aspect that has been challenging
 19 for a growing number of counties are their county
 20 attorneys. Many county attorneys throughout the
 21 state, again, like their county councils, do not
 22 recognize their county board offices as county
 23 offices and, thus, will not give them the legal
 24 support and advice they need and that they're due.
 25 There is an attorney general report on

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1 this exact issue in 2017 which was requested by the
 2 former Richland County director when he was dealing
 3 with this issue, and that issue remains in Richland
 4 County, but we cannot provide legal support. So I
 5 guess that would be one area we cannot do.
 6 We can provide guidance on various
 7 legal issues, but we do not -- we cannot advise
 8 counties legally on anything, if that makes sense.
 9 So like my attorney, my general counsel is not the
 10 attorney for the county offices.
 11 Training. Again, we provide all the
 12 training materials, we train the counties, we train
 13 the counties to train poll workers, we train the
 14 counties to train their own staff. Oftentimes my
 15 staff will go train county staff. We train county
 16 board members.
 17 So to kind of answer but not answer
 18 your question, there is very little, if anything,
 19 besides -- outside of the legal advice thing that I
 20 mentioned that we don't have anything to do with at
 21 the county level.
 22 Q. Thank you. I have a few logistical
 23 questions for you as well.
 24 A. Sure.
 25 Q. So when new maps are drawn how long

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1 does it take to prepare the ballots for those
 2 elections?
 3 A. The same amount of time it takes for
 4 any other election. As we speak, so really what
 5 happens is after candidate filing is done -- let me
 6 back up.
 7 Redistricting ideally should be
 8 completely done by the time candidate filing occurs
 9 so candidates know what offices they're running for
 10 in what districts and voters will know who their
 11 candidates are.
 12 So we build ballots based on that and
 13 we are building them right now and that's a
 14 couple-of-week process that involves both creating
 15 the ballot databases.
 16 We do a process called Q&A, which is we
 17 have separate people in my office who are
 18 segregated from that process that review the
 19 ballots for accuracy to ensure that the ballots are
 20 correct.
 21 Before the QA process we have county
 22 offices looking at their databases to make sure the
 23 offices are listed correctly, the ballots look good
 24 to them.
 25 So it's a multistep, several-party,

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1 stakeholder process to develop ballots, and it
 2 takes several weeks to do.
 3 Q. And for example, does the printing
 4 occur in-house of the ballots, or do you have a
 5 third-party vendor for that?
 6 A. So are you talking about absentee?
 7 Q. No. Just regular ballots.
 8 A. Okay. Well, regular ballots are -- on
 9 election day counties have blank ballot cards which
 10 are used by the ballot-marking devices that you --
 11 THE REPORTER: I'm sorry. I'm sorry.
 12 Because of the paper moving it kind of obliterated
 13 some of what you said. Could you say that again,
 14 please?
 15 THE WITNESS: That's okay. Sure. So
 16 on election day every county, every polling place
 17 has blank ballot cards. These are thermal paper
 18 cards that are used, are inserted by the voter into
 19 a ballot-marking device. So there's no printing
 20 there other than by the voter with the BMD.
 21 The counties will print backup paper
 22 ballots for use in polling places. They will print
 23 provisional ballots and fail-safe ballots in-house.
 24 So -- but a lot of -- you know, the counties
 25 basically source their own paper and their own

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1 ballots for election day at the polling place.
 2 Absentee ballots, it differs. Some
 3 counties will mail off or issue paper ballots
 4 in-house. So they'll print the ballot, they have
 5 the envelope, they mail it to the voter. Or in our
 6 current in-person absentee process the voter will
 7 come into the office, they'll go through the BMD
 8 process or they'll be issued a paper ballot that
 9 was printed in-house.
 10 Many counties use approved printing and
 11 mailing vendors. There are three of them that were
 12 selected in a joint county board and SEC committee
 13 in two thousand -- leading up to the 2020 election.
 14 So these vendors have been scrutinized and approved
 15 to print absentee ballots for any county in the
 16 state.
 17 So the county will send a data file.
 18 So if Howard Knapp requests a absentee ballot from
 19 Richland County, Richland County will send Howard
 20 Knapp's ballot to their printer who will print the
 21 ballot, send it to me in an envelope and then I
 22 send the return envelope back to the county.
 23 So many counties utilize these
 24 third-party vendors, and we encourage them to do so
 25 because of the increasing number of absentee ballot

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1 requests.
 2 BY MR. INGRAM:
 3 Q. And sort of in the same vein of
 4 logistical questions, how long would you say it
 5 takes to typically recruit poll workers?
 6 A. It depends on the environment. And
 7 I'll clarify that statement for you.
 8 Leading up to the 2020 primary it was
 9 very difficult because the reality is a good
 10 segment of the poll worker population is of a
 11 certain age and did not want to be around anybody
 12 during Covid.
 13 So following the primaries there was a
 14 huge campaign by us, led by us, and the counties
 15 also did their own campaigning for poll workers.
 16 And in the 2020 general election we actually had a
 17 surplus across the state of poll workers.
 18 So in terms of actually the process of
 19 recruiting somebody, it could take a matter of
 20 days, as quick as a -- as quickly as a number of
 21 days. It really depends on the county and how the
 22 county HR office onboards those poll workers.
 23 Because as I've learned, certain
 24 counties -- this goes to the lack of uniformity
 25 throughout the state. Certain counties treat poll

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1 workers as independent contractors and have their
 2 own onboarding process with that. Some counties
 3 treat poll workers as temporary employees, so they
 4 have their own process for hiring them.
 5 So it's really, again, dependent on the
 6 county support and how that county treats poll
 7 workers. So it could take as quickly as a few days
 8 or as long as a few months depending on the county.
 9 Q. And do you know if counties typically
 10 have either a database or a Listserv of previous
 11 poll workers that they can draw from?
 12 A. Yes. Every county, to my knowledge,
 13 has an ongoing, ever-evolving list of poll workers
 14 to choose from.
 15 Q. And in terms of filing deadlines, how
 16 does that work with the commission in terms of
 17 administering elections? How much sort of lead
 18 time do they need to effectively administer
 19 elections after filing deadlines?
 20 A. Well, following candidate filing
 21 deadlines we would need approximately two months to
 22 build and compile all the databases and have them
 23 ready to go.
 24 Basically the clock -- the period we
 25 have to work with is once the party sends us the

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1 certified candidates for their party, we have until
 2 shortly before the UOCAVA deadline of 45 days
 3 before an election to get all the ballots done.
 4 And that is approximately a two-and-a-half month
 5 period to get all of that done. So it's a time
 6 crunch. And that's a federally mandated deadline,
 7 that all UOCAVA ballots must be issued by each
 8 respective county to each UOCAVA voter 45 days
 9 before any election.
 10 Q. And if, for example -- well, I guess
 11 the time crunch, could that be alleviated by hiring
 12 additional staff, or what creates the time crunch?
 13 A. Well, it's not just the number of
 14 staff, but it's also -- we're relying on a lot of
 15 other people like the party to make sure they have
 16 all their ducks in a row, make sure their
 17 certification is correct. We're relying on the
 18 county offices to get their information correct to
 19 know what actually needs to go on their ballot.
 20 So it's not just a situation where
 21 throwing more money at the situation will fix it.
 22 You know, this is an ebb-and-flow process. My
 23 database-building department is extremely busy
 24 right now, but in December of this year they're not
 25 going to have a lot to do.

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1 So I'm not going to hire 20 database
 2 builders to get, you know, two counties done in one
 3 day just for that, you know. And again, there's
 4 the QA process, that we have to be methodical and
 5 pragmatic about making sure the ballots are correct
 6 and accurate on election day and --
 7 Q. But -- um-hum.
 8 A. Oh. I was going to say to that end I
 9 established for the first time this year a
 10 candidate withdrawal deadline.
 11 So what this agency has done in the
 12 past is allowed candidates to withdraw on -- you
 13 know, there's no deadline for them to withdraw
 14 before their name is taken off the ballot.
 15 With all the technologies we have with
 16 elections right now and with everything going on I
 17 established a candidate withdrawal deadline of
 18 April 27th, which is 48 days before an election.
 19 So essentially we've created a process
 20 where we have to consider the federal deadlines and
 21 the technology used in elections. So the time
 22 between candidate -- party certification and that
 23 candidate withdrawal of 48 days before an election,
 24 that's really the time crunch, and adding more
 25 people to that is not going to help the situation.

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1 Q. And so it sounds like -- correct me if
 2 I'm wrong -- it's not just about sort of the
 3 people; right? It's about information sharing and
 4 the logistics of having to communicate with
 5 different moving parts?
 6 A. Yes.
 7 Q. And going back to the budget that we
 8 discussed earlier, how much does it cost to
 9 implement maps post redistricting?
 10 A. That's -- I truly don't know. I mean,
 11 this is just a part of our jobs, and I don't think
 12 we incur any more costs because of redistricting.
 13 It's just part of what we do. So there is no
 14 additional cost to the state for us to redistrict.
 15 That's also because we don't use
 16 outside consultants to do the work for us. So if
 17 the question is does it cost the state anything
 18 additional to implement redistricting from the
 19 State Election Commission standpoint, no, it does
 20 not.
 21 Q. So if the commission and your office
 22 had to redraw a portion of the maps, would it cost
 23 additional money?
 24 A. We would not redraw a portion of the
 25 map. That would be the -- that is the sole

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1 jurisdiction of the General Assembly or the court.
 2 Q. Sorry. Let me be more specific. If
 3 you had to implement portions of the map that were
 4 redrawn, would that cost additional funds?
 5 A. No, no. We would just do it.
 6 Q. We'll be done shortly, but I just have
 7 a few last questions about the current cycle. Are
 8 you familiar with House Bill 4493?
 9 A. I am not. I mean, I might be, but I
 10 don't remember the number.
 11 Q. So that's the bill that was passed for
 12 the state House maps that I believe went into --
 13 was enacted in -- I think December 9th, if I
 14 remember correctly.
 15 A. You -- yeah, the state House and the
 16 state Senate plans were both signed on December
 17 10th. So yeah, I'm familiar with all three
 18 redistricting maps. I just didn't know the
 19 numbers, so --
 20 Q. No worries.
 21 A. Yes, I am familiar with it.
 22 Q. So that was, you know, as you said,
 23 December 10th. It is now April 19th. So what has
 24 happened since the Governor signed the state House
 25 maps by your office in terms of implementation?

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1 A. So at the beginning of that process we
 2 were trying to -- I reached out to my predecessor
 3 to ask her what do I do, because I've never been
 4 through this process. The last time I was -- this
 5 process took place I was in my first year of law
 6 school or the second year of law school in a
 7 different state and I had no idea what to do. So I
 8 reached out to her, what did we do last time, and I
 9 know many county directors did the same. And she
 10 walked me through the process as it occurred in her
 11 tenure.
 12 So we engaged with Revenue and Fiscal
 13 Affairs, Frank Rainwater and his staff who were not
 14 sure of their own role in the process and needed
 15 clarification from a former staffer of theirs who
 16 currently works for the Senate on what their
 17 responsibilities were.
 18 So we have been working with RFA as
 19 best we can to take the data they send to us and
 20 the counties into the local GIS offices and we have
 21 been systematically moving precincts into their
 22 proper districts ever since then.
 23 So an issue that has occurred and
 24 somewhat delayed the process this year is the staff
 25 at RFA who have never done this before were using

<p style="text-align: right;">Page 78</p> <p>1 the current data as outlined in all of the 2 redistricting acts, plans, but were using old 3 precinct names from 10 or even 20 years ago, and we 4 were getting a lot of errors, a lot of bad 5 information from RFA because of that. 6 And once that was discovered I reached 7 out to the Senate majority and minority leaders and 8 the deputy clerk and asked them if we could work 9 with their staffer who had previously worked at RFA 10 to assist us in this process because he knew the 11 process, he knew the technology that needed to be 12 used. And we had been working with him to 13 establish these kickout lists, these error messages 14 and to kind of get our ducks in a row. 15 And ever since then, which was about a 16 week or so ago, things have been running smoothly, 17 and we're on track to being complete soon. 18 Q. And so aside from sort of the moving of 19 voters into various precincts based on the newly 20 drawn maps from the legislature and Governor, have 21 you done any activities involving ballots or 22 candidate-qualifying activities? 23 A. So in regards to candidate 24 qualifications, we don't do anything with that. 25 There's nothing in Title 7 of the state code that</p>	<p style="text-align: right;">Page 80</p> <p>1 information, it's entered into VREMS, which is our 2 Voter Registration and Election Management System. 3 We take that data from VREMS about the candidates 4 and the offices, we take that information and start 5 building the ballots. We code the ballots. This 6 is what your ballot's supposed to look like. 7 So where the ballot styles come in is 8 the ballot style is a number that differentiates 9 what ballots go to what voters. So you and I could 10 be neighbors but with two different ballot styles. 11 Or we might have the same one. But if we had a 12 different one -- so, for instance, we had the same 13 US Senator, same congressman, same House and -- 14 House rep and senator at the state level but 15 different school districts. So I might be ballot 16 style, you know, ABC001 and you might be ABC0002. 17 So every voter has a ballot style in 18 the state. So we build -- we code those ballots 19 with that in mind, that voters that live here get 20 this ballot style. 21 And so effectively what this means is 22 on poll -- on election day every polling place has 23 one or more ballot styles. Usually we'll have a 24 few ballot styles available. So when you go to 25 present your ID and you get your blank ballot card,</p>
<p style="text-align: right;">Page 79</p> <p>1 allows us to do anything with that, but we did 2 conduct candidate filing in March. We accepted 3 candidate filing documents from all the candidates 4 in the state. And by we again I mean the county 5 boards and us, and we have been building ballots 6 based on those candidates and offices. 7 So right now we are in the process of 8 building those ballots in coordination with -- as 9 they're being reviewed by the counties and my QA 10 staff, quality assurance, QA staff. So yeah, it's 11 a very long and, like I said, laborious process. 12 Q. So in terms of building ballots, based 13 on what you said previously sort of more in the 14 abstract, most of that work is about data 15 compilation? 16 Because it seems like -- and correct me 17 if I'm wrong -- that the way voting takes place, 18 there are blank ballots that individuals put into a 19 machine. And so those are sort of preprinted. You 20 don't have to sort of print those on a case-by-case 21 basis. 22 A. Correct. So -- and this is something 23 that's not commonly known by most people, but every 24 voter has a ballot style. And so the way this 25 works kind of at a high level is we take candidate</p>	<p style="text-align: right;">Page 81</p> <p>1 the BMD knows Antonio Ingram gets ballot style X 2 and Howard Knapp gets ballot style Y. So you'll 3 get your ballot, your accurate ballot, I'll get my 4 ballot, so... 5 Q. That's helpful. Thank you for 6 explaining that. 7 And so at this point, in the sort of 8 election year -- I know the election's coming up 9 this fall -- what more do you need to do as an 10 office to prepare for the upcoming elections? 11 A. So the primaries, once the ballots are 12 built, ballots are approved, the candidate 13 withdrawal date of April 27th has passed, we then 14 have to ensure that every county sends out their 15 UOCAVA ballots by the deadline, and those that 16 don't -- and there have been those that haven't we 17 then have report to the Department of Justice. So 18 every two years -- 19 THE REPORTER: I'm sorry. 20 THE WITNESS: I'm sorry. Go ahead. I 21 think Sandy's frozen. 22 MR. INGRAM: You guys are both frozen 23 for me. 24 THE WITNESS: Oh, no. We can see you. 25 MR. INGRAM: Okay. We will begin.</p>

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1 Sandy's still frozen.
 2 MS. CRUM: Yeah.
 3 THE VIDEOGRAPHER: Can I go off the
 4 record?
 5 THE WITNESS: Yeah.
 6 THE VIDEOGRAPHER: We are off the
 7 record at 12:04.
 8 (Off the record to resolve technical
 9 issues from 12:04 until 12:09.)
 10 THE VIDEOGRAPHER: We are back on the
 11 record at 12:09.
 12 BY MR. INGRAM:
 13 Q. Mr. Knapp, what other steps does the
 14 commission still need to take to implement the maps
 15 before the election this fall?
 16 A. So the steps that are taken to move
 17 maps, you said?
 18 Q. To implement the maps.
 19 A. Implement the maps?
 20 Q. You already talked about moving people
 21 into different precincts --
 22 A. Well, that's --
 23 Q. -- based on changes, et cetera.
 24 A. And that's really -- that's what
 25 redistricting is. Once the voters are moved and

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1 all voters -- or all moves have been approved,
 2 that's the show. That's redistricting. So...
 3 Q. Right. But the elections can't happen
 4 unless there are ballots, unless there are, you
 5 know, other parts of the piece; right?
 6 A. Okay. That's correct. So once we --
 7 once that process is done we -- it's a multi,
 8 two-and-a-half month process from candidate
 9 certification by the party to candidate withdrawal
 10 date, of building the ballots. And as I said, it's
 11 a multistep, multi-stakeholder process, pulling
 12 information out of the VREMS system, Voter
 13 Registration and Election Management System, that
 14 contains, you know, candidate names and offices
 15 they're running for, what district, county,
 16 et cetera.
 17 So that data is used to build the
 18 ballots. We build the ballots, they are QA'ed
 19 in-house as well as looked at by the counties
 20 themselves to make sure the title of the offices
 21 are correct and, you know, the council members are
 22 correct and everything like that. Because
 23 sometimes counties will enter information into
 24 VREMS about their candidates or their offices
 25 that's not always correct. So that's why it's

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1 helpful to have this very intensive QA process.
 2 So once the ballots are done and
 3 they're approved and the candidates -- the
 4 candidates are who they're going to be, then UOCAVA
 5 ballots are sent out to all UOCAVA voters.
 6 Every two years we have to certify to
 7 the Department of Justice that our counties sent
 8 out their UOCAVA ballots by the UOCAVA deadline,
 9 and that has not always happened.
 10 We -- I know one or two years ago we
 11 had a county not send out UOCAVA ballots. They
 12 were one or two days late. So we had to, in our
 13 report to the DOJ, mention that county was late by
 14 this number of days.
 15 So, of course, after UOCAVA there is a
 16 number of internal processes of, you know,
 17 establishing the absentee process. You know, so
 18 technically the absentee period starts every year
 19 on January 1st. You could go -- in South Carolina
 20 it's that you qualified. South Carolina -- South
 21 Carolina voters can go into their county office and
 22 request -- or submit their requests for absentee
 23 ballots on January 1st, but for all practical
 24 matters the absentee period is 30 days before an
 25 election.

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1 So we start gearing up for the absentee
 2 period. Currently that's both in person and by
 3 mail. So while UOCAVA ballots are being sent out
 4 and everything there's like a 15-day period leading
 5 up to sending out absentee ballots to regular
 6 voters, domestic qualified voters.
 7 So that's that next step, mailing out
 8 absentee-by-mail ballots, opening
 9 absentee-in-person satellite locations for 30 days
 10 which currently is at the discretion of each
 11 county. And that's a -- in-person absentee process
 12 is kind of a laborious process at the polling place
 13 level, but at the satellite level that's fine. So
 14 that's done. Then we have election day. So that's
 15 kind of everything that leads up to election day.
 16 It's a very long process between us and the
 17 counties.
 18 And none of this -- and it's kind of a
 19 misconception among a lot of people in the state,
 20 is redistricting is not flipping a switch.
 21 Redistricting is a very long process that has
 22 historically taken approximately six months or
 23 longer to fully accomplish.
 24 And that's been -- that's been on our
 25 minds this whole time, is it takes about half a

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1 year to really do redistricting. We've been able
 2 to kind of shorten that a little bit this year with
 3 some of the improved technologies both within VREMS
 4 and in other ways, but it's a long process.
 5 Q. And how does that work if there, for
 6 example, would be a special election? Would the
 7 UOCAVA deadlines still be tethered to the date of
 8 that election and be 45 days prior to?
 9 A. Yeah. So correct. The special
 10 election is treated like a normal election. The
 11 same period of -- the candidate filing period,
 12 party certification, those same periods are applied
 13 accordingly to whatever the situation is.
 14 We have two or three state-level races
 15 this year where that's occurred, and, you know, we
 16 establish -- once a vacancy occurs, we have to
 17 determine, No. 1, when was that vacancy -- when did
 18 that vacancy actually occur, and then we -- if it's
 19 a state-level race or the county establishes what
 20 the calendar is going to be for that election.
 21 So -- but it's the same period. Like I said,
 22 UOCAVA, absentee, it's all the same timeline. It's
 23 just within a random calendar period.
 24 Q. And in terms of -- as you know in this
 25 litigation the plaintiffs are challenging the

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1 approved maps.
 2 In the event of a victory by the
 3 plaintiffs, how long would it take if one had to
 4 change or implement based on newly drawn maps by
 5 the legislature eliminating a number of state House
 6 districts? Would that take six months, or would
 7 the process be shorter because it's only a portion
 8 of your map?
 9 A. I would say it would take anywhere from
 10 three to five months to accomplish. If that were
 11 to happen this year we -- it's an -- it would not
 12 be possible for us to implement that at this point
 13 this year.
 14 But, you know, if that were to
 15 happen -- let's say a negotiated settlement or
 16 court-ordered new maps be drawn for any number of
 17 districts, we could implement those districts next
 18 year. That would be fine in about a three- to
 19 five-month period.
 20 But we're too far into the calendar
 21 now, that we would have to move the general
 22 election at this point to establish -- you know,
 23 for that to be a possibility this year.
 24 Q. And does the number of changes to the
 25 maps change the timeline if you have eight

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1 districts that change versus two?
 2 A. It just makes the problem smaller. It
 3 doesn't really change the timeline. I mean, the
 4 problems that we would face in those eight or two
 5 districts, it would be -- it would not be good for
 6 those eight or two districts. They would not be --
 7 the issues that would -- that would pop up both
 8 with certifying those candidates, who was actually
 9 certified to run in these new districts, to --
 10 because you've got incumbents who have already
 11 filed according to the law, they've paid their
 12 certification fee and now you're opening it back up
 13 to other people. That would create issues both
 14 with us and probably those candidates.
 15 You know, you're pushing back. It --
 16 you would have to push back the entire election.
 17 You can't have a general election for -- you can't
 18 have people in these two districts voting for
 19 governor on a different day than everybody else in
 20 the 43 other districts in the state.
 21 So if you were to change even one
 22 district you would have to move the entire election
 23 calendar to marry those dates so that all voters
 24 are treated equal, and candidates.
 25 Q. So if a settlement or a court order

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1 necessitated a change to the maps, your position
 2 would be in order to implement them in a effective
 3 way you would need at least three to five months
 4 after the date of those decisions to have been
 5 made?
 6 A. At least. I would -- I would strongly
 7 recommend not making any changes to anything this
 8 calendar year at all.
 9 Q. And so if changes were made via
 10 settlement or court order, those changes would have
 11 to be implemented in 2023?
 12 A. Yes, and they -- they would be, yes.
 13 Q. And, for example, if those changes
 14 necessitated a special election, how would that
 15 sort of work in terms of deadlines?
 16 A. So it would depend. If there were a
 17 special election held today it would be held on the
 18 new lines. If there were special elections -- it
 19 would depend when the special election occurred.
 20 If the new lines were ordered or passed
 21 by the General Assembly, or negotiated or whatever,
 22 if new lines were established by the powers that be
 23 we would need to see what the effective date of
 24 those lines are and when the vacancy of that office
 25 occurs to give you an answer to that.

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1 So it would be hard to say at this
 2 moment what lines would be used for what special
 3 elections without knowing when those vacancies
 4 would occur and when those lines would take effect.
 5 Right now if a House member died or
 6 resigned they would be -- the new special election
 7 would be held on the new lines, and that's just how
 8 that would work, so -- and I should say the caveat
 9 that the Senate is not being touched until 2024.
 10 So if there was a special election for the
 11 Senate -- I know this is not about the Senate.
 12 Q. Um-hum.
 13 A. But I need to make that caveat. That
 14 if there was a South Carolina Senate vacancy, they
 15 would be -- a special election would be held today
 16 on the old lines because those aren't being touched
 17 until 2024, so...
 18 Q. And when -- sort of the hypothetical
 19 that we were talking about. If that took place,
 20 how would the commission educate voters about the
 21 changes? What would that process look like?
 22 A. So we would have a vigorous social
 23 media, traditional media, newspaper campaign,
 24 radio. We would use every media outlet at our
 25 disposal to get the word out to voters about the

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1 changes.
 2 And, you know, we kind of did that in
 3 2020 when the General Assembly made some emergency
 4 and temporary changes to the absentee laws to allow
 5 people to vote absentee during Covid, and we did a
 6 vigorous PR campaign at that point, which is about
 7 all we can do. We -- that's what we would do in
 8 this situation.
 9 And that's what we have been doing,
 10 frankly, since the -- all three plans were passed
 11 into law we have been educating voters, hey,
 12 you're -- you may be -- you need to check your
 13 voter registration to make sure that you understand
 14 what offices you're voting for, what district you
 15 live in, it's possible you've been moved.
 16 So another way that that's handled is
 17 by the counties, because the general rule is people
 18 do not get new voter registration cards after this
 19 process unless their polling place has changed.
 20 Because you'll still go to your same polling place
 21 and you'll still be given a ballot. It may be for
 22 the different offices than you thought it would be,
 23 but you're still going to the same polling place.
 24 And that's really the purpose of the voter
 25 registration card, is to tell people where they go

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1 to vote.
 2 Some counties take it upon
 3 themselves -- because that voter registration card
 4 also lists, by the way, the districts that you're
 5 in, House district, Senate district, et cetera, but
 6 primarily it tells you where to go vote.
 7 But some counties have taken it upon
 8 themselves and have budgeted funds for new voter
 9 registration cards to their voters to let everybody
 10 know, hey, this is your new polling place, if it's
 11 new, or here are your new offices.
 12 So it's a vigorous effort on behalf of
 13 the SEC and the counties to educate as many voters
 14 as possible, because we are very much in favor of
 15 promoting participation.
 16 Q. And that prior three to five months
 17 estimated time frame we discussed, do you think
 18 that's sufficient to educate voters?
 19 A. I do, I do. With the way media is
 20 today and the fact that so many people have more
 21 access to information than ever before in probably
 22 human history, I believe that that is sufficient,
 23 yes.
 24 Q. And do you also believe that three- to
 25 five-month time frame would be sufficient to

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1 recruit and train poll workers if need be?
 2 A. I do.
 3 Q. And would it also be sufficient to
 4 prepare ballots?
 5 A. I do. I do think so, yes.
 6 MR. INGRAM: Thank you for your time.
 7 Those are all of my questions.
 8 THE WITNESS: Thank you.
 9 MR. INGRAM: I don't know if there's
 10 any redirect.
 11 MS. CRUM: None by the commission
 12 defendants, the election defendants.
 13 MR. TRAYWICK: A brief question real
 14 quick.
 15 EXAMINATION
 16 BY MR. TRAYWICK:
 17 Q. Hey, Mr. Knapp. As I introduced myself
 18 earlier, my name is Lisle Traywick, and I represent
 19 the Senate defendants in this action.
 20 I don't recall if you went into great
 21 detail about the cost of the special election. I
 22 know you gave a time frame. It costs money, does
 23 it not, to order special elections for multiple
 24 districts outside the context of a normal general
 25 election, doesn't it?

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1 A. It does. It does cost more. I don't
 2 know the exact figure, but conducting a special
 3 election costs as much as that election would cost
 4 in a regular election because it's the same office.
 5 So you're having poll workers. It would just be a
 6 pro rata share of whatever that office would cost
 7 in a regular election year. I don't have those
 8 figures in front of me, but it is an additional
 9 cost to the counties, it is an additional cost to
 10 the state.
 11 There is a threshold, I should say, if
 12 you ordered, you know, an X number of special
 13 elections for the House or Senate that we could not
 14 reimburse the total amount or any amount. There is
 15 a threshold. I don't know what that threshold is.
 16 But we reimburse the counties a percentage of those
 17 election costs because they're state-level races.
 18 It could get to the point -- again, I
 19 don't know the number, but it could get to the
 20 point where we couldn't afford to reimburse the
 21 counties.
 22 I cannot speak to the cost burden of
 23 the counties, but knowing the counties, it would --
 24 you know, there is a number of special elections
 25 that, if ordered, would be unbearable for the

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1 counties without additional funds from the General
 2 Assembly.
 3 Q. And, Mr. Knapp, in your experience is
 4 turnout typically lower in special elections --
 5 A. Yes.
 6 Q. -- of voters? And does the commission
 7 receive more phone calls or any expressions of
 8 confusion from voters when there are special
 9 elections outside the context of a general
 10 election?
 11 A. We get a number of phone calls from
 12 confused voters wondering why they have a special
 13 election, what does this mean, and that's not --
 14 that's for any special election. They'll see a
 15 notice for a special election being held.
 16 Of course, depending on the office --
 17 for an example, everyone knew that Hugh Leatherman
 18 died. So when his seat became vacant nobody was
 19 surprised. But sometimes people don't hear about
 20 House reps resigning or their sheriff. Well, they
 21 hear about their sheriff resigning. But, you know,
 22 it depends on the office. If there's a special
 23 election ordered, the bigger the office, the more
 24 turnout, the more confused voters, yes.
 25 MR. TRAYWICK: Thank you. That's all

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1 the questions I have. I appreciate your time this
 2 morning.
 3 THE WITNESS: No problem.
 4 MR. INGRAM: I just have one follow-up
 5 based on Mr. Traywick's question.
 6 EXAMINATION
 7 BY MR. INGRAM:
 8 Q. Mr. Knapp, when we talked about the
 9 cost of elections, correct me if I'm wrong, you
 10 communicated to me that it would -- because special
 11 elections were built into the budget, that it would
 12 not cost additional funds; is that correct?
 13 A. Yes. Because there is a normal amount
 14 of special elections that we more or less budget
 15 for in regular, non-redistricting years.
 16 Q. Okay. So it would not incur additional
 17 fees to have a special election that would require
 18 additional budgetary support, would it?
 19 A. I can't say. During a normal election
 20 year we can absorb those costs and we can pass
 21 those reimbursement dollars to the counties, but if
 22 through redistricting we were ordered to hold a
 23 certain number of special elections the costs could
 24 become unbearable because that's not the typical
 25 course of business.

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1 And again, I don't have the number of
 2 what that is. I just know that we have so many
 3 dollars and counties have so many dollars and it
 4 costs so many dollars to have a special election.
 5 There is a threshold. I don't know what it is, but
 6 there is a threshold by which we could not
 7 reimburse anything more. We could not reimburse
 8 our normal amount, and they could not afford it.
 9 Now that being said, it's more of a
 10 bigger deal for us than it is the counties.
 11 Because let's say we were ordered to have 15
 12 special elections. Well, those are 15 counties,
 13 ostensibly, or a portion thereof. You're not
 14 having one county do 15 races.
 15 So it would be a bigger impact on the
 16 state than it would the locals, I think, because
 17 the locals could do one or two House races. It
 18 would probably be okay. It would have a bigger
 19 impact on the state. Because when it comes to
 20 state-level races we have to reimburse all counties
 21 at a certain level, so...
 22 Q. And would there be a way for you to
 23 request additional funds from the General Assembly
 24 if that were to occur?
 25 A. Yes, if that were to occur there's a

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1 way that agencies can request additional funds from
 2 the General Assembly in the case of unanticipated
 3 issues like this.
 4 If this were to happen I would go
 5 before the Other Funds Committee and explain to the
 6 Other Funds Committee I've been ordered to
 7 reimburse for X number of special elections. My
 8 current budget will not allow me to do that and
 9 continue to function as the agency. I need X
 10 number of dollars to pass along to the counties for
 11 reimbursements.
 12 MR. INGRAM: Thank you.
 13 EXAMINATION
 14 BY MR. RICARD:
 15 Q. Good afternoon, Mr. Knapp. This is
 16 Rhett Ricard. As I've introduced myself earlier, I
 17 represent the House defendants in this case and
 18 I've just got a few questions for you.
 19 A. Sure.
 20 Q. Can you hear me okay?
 21 A. Yes.
 22 Q. Okay. Perfect. So, you know, the
 23 first question: Is it fair to say that the
 24 implementation of new plans takes time and
 25 expertise?

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1 A. Yes, very much so.
 2 Q. Okay. If there were to be a negotiated
 3 settlement or court order, I believe you testified
 4 that your office would not be able to implement
 5 districts this year. Is that a fair -- is that a
 6 fair summation of your prior testimony earlier
 7 today?
 8 A. Yes.
 9 THE REPORTER: I'm sorry. There was
 10 one word. That your office would not be able to
 11 implement what districts?
 12 MR. RICARD: Implement districts this
 13 year.
 14 THE REPORTER: Okay.
 15 THE WITNESS: And yes. The answer is
 16 yes.
 17 BY MR. RICARD:
 18 Q. What are the reasons for that,
 19 Mr. Knapp?
 20 A. Because the timeline that we have
 21 built -- and it's available on our website.
 22 There's an election calendar. The way the election
 23 calendar is built, there are certain timelines that
 24 are either mandated by the state code of laws or by
 25 federal statute that we have to meet.

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1 And we start with the general election
 2 and we work back from there. So unless the general
 3 election was moved back a certain amount of months,
 4 we would not be able to meet those statutorily
 5 required deadlines.
 6 Q. Okay. Is one of those deadlines the
 7 date by which you have to mail absentee ballots to
 8 military and overseas citizens?
 9 A. Correct, the UOCAVA deadline is one of
 10 those deadlines.
 11 Q. Are you aware of what that deadline is
 12 for the 2022 election cycle?
 13 A. The primary deadline is April 30th, I
 14 believe and -- yes, April 30th. And then the --
 15 the general election is September 24th.
 16 Q. Okay. So just so I understand you
 17 correctly, those primary absentee ballots to the
 18 UOCAVA voters, that's here in a matter of days.
 19 A. That's correct.
 20 Q. And so would you agree that that's an
 21 indication of how far we are along in this
 22 timeline?
 23 A. I'd say that's a very fair illustration
 24 of how deep we are into the process, yes.
 25 Q. Would the accuracy of the election be

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1 put at risk if deadlines were to move at this
 2 point?
 3 A. That would be a concern of mine, that
 4 not only the results of the election may not be
 5 accurate, but the ballots themselves would not be
 6 accurate. So it is a possibility that we would
 7 have the wrong voters voting on the wrong ballots,
 8 electing the wrong people.
 9 Q. Okay. And, you know, a similar vein.
 10 Would there be a likelihood of confusion for both
 11 candidates and voters in affected areas that might
 12 be altered by a negotiated settlement or court
 13 order?
 14 MS. CRUM: I'm going to object to the
 15 form of that question. You can answer. I'm sorry.
 16 THE WITNESS: Okay. The -- it's my
 17 opinion that there would be extreme confusion. If
 18 there were -- a negotiated settlement were
 19 established for this year it would cause extreme
 20 confusion amongst candidates and voters.
 21 BY MR. RICARD:
 22 Q. Okay. And, you know, I'm certainly not
 23 asking you to speculate on, you know, individual
 24 voters or anything like that, but, you know, based
 25 on your experience in this office, you know, would

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1 you anticipate there to be calls and anticipate
 2 there to be confusion amongst candidates and voters
 3 in affected areas?
 4 A. Absolutely.
 5 Q. And would that undermine the confidence
 6 that you might have in the election results?
 7 A. Yes.
 8 MR. RICARD: Mr. Knapp, I appreciate
 9 your testimony and your time today. I don't have
 10 any further questions for you.
 11 THE WITNESS: Okay.
 12 MS. CRUM: The election defendants have
 13 no questions.
 14 MR. INGRAM: Perfect. I think we can
 15 end this then.
 16 THE VIDEOGRAPHER: All right. One
 17 second, please. We are off the record at 12:33,
 18 and this concludes today's testimony given by
 19 Howard Knapp, 30(b)(6) corporate representative of
 20 the South Carolina State Election Commission.
 21 The total number of media units used
 22 was two and will be retained by Veritext Legal
 23 Solutions.
 24 Okay. We're off the record. If
 25 counsel could stay on Zoom so we could ask about


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1 your orders, if you don't mind.
 2 MR. INGRAM: Sounds good. I'll have a
 3 copy of the transcript.
 4 THE REPORTER: Okay. And did you want
 5 a rough draft?
 6 MR. INGRAM: Yes, please.
 7 THE REPORTER: Okay. Thank you.
 8 Mr. Traywick?
 9 MR. TRAYWICK: Just a final PDF in the
 10 ordinary course will be good.
 11 MS. CRUM: And on behalf of the
 12 election defendants we would like a rough draft and
 13 to read -- well, we'd like to read and sign.
 14 THE REPORTER: Okay.
 15 MR. RICARD: And this is Rhett Ricard
 16 on behalf of the House defendants. We'd like a
 17 rough draft.
 18 (The right to read and sign this
 19 transcript was not waived.)
 20 (The deposition was concluded at
 21 12:33 PM.)
 22
 23
 24
 25

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CERTIFICATE OF REPORTER

I, Sandra K. Bjerke, Registered
 Professional Reporter and Notary Public for the
 State of South Carolina at Large, do hereby certify
 that the foregoing transcript was transcribed to
 the best of my ability using the Zoom technology
 platform, including, but not limited to, its
 inherent shortcomings of garbled speech,
 overmodulation, and voice-overlap cancellation;
 I further certify that I am neither
 related to nor counsel for any party to the cause
 pending or interested in the events thereof.
 Witness my hand, I have hereunto
 affixed my official seal this 22nd day of April,
 2022 at Charleston, Charleston County, South
 Carolina.



Sandra K. Bjerke

Sandra K. Bjerke, RDR, CRR, CBC
 My Commission Expires
 May 6, 2030

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REQUESTED INFORMATION INDEX

(No Information Requested)

E X H I B I T S

(No Exhibits Proffered)

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1 M. ELIZABETH CRUM
 2 lcum@burr.com
 3 April 22, 2022
 4 The South Carolina State Conference Of The NAACP v Alexander
 5 4/19/2022, Howard M. Knapp (#5189994)
 6 The above-referenced transcript is available for
 7 review.
 8 Within the applicable timeframe, the witness should
 9 read the testimony to verify its accuracy. If there are
 10 any changes, the witness should note those with the
 11 reason, on the attached Errata Sheet.
 12 The witness should sign the Acknowledgment of
 13 Deponent and Errata and return to the deposing attorney.
 14 Copies should be sent to all counsel, and to Veritext at
 15 erratas-cs@veritext.com.
 16
 17 Return completed errata within 30 days from
 18 receipt of testimony.
 19 If the witness fails to do so within the time
 20 allotted, the transcript may be used as if signed.
 21
 22 Yours,
 23 Veritext Legal Solutions
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 25

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1 The South Carolina State Conference Of The NAACP v Alexander
 2 Howard M. Knapp (#5189994)
 3 ACKNOWLEDGEMENT OF DEPONENT
 4 Howard M. Knapp, do hereby declare that I
 5 have read the foregoing transcript, I have made any
 6 corrections, additions, or changes I deemed necessary as
 7 noted above to be appended hereto, and that the same is
 8 a true, correct and complete transcript of the testimony
 9 given by me.
 10
 11 _____
 12 Howard M. Knapp Date
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 2 Howard M. Knapp (#5189994)
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