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In the Matter of:

WASHINGTON COALITION FOR OPEN GOVERNMENT

VS

STATE OF WASHINGTON

APRIL SIMS

January 14, 2022

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Sarah Fitzgibbon, CCR
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WASHINGTON COALITION FOR OPEN GOVERNMENT vs STATE OF WASHINGTON
Sims, April - January 14, 2022

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

WASHINGTON COALITION FOR OPEN)
GOVERNMENT, a non-profit,)
nonpartisan Washington)
organization,)
) No. 21-2-02069-34
Plaintiff,)
)
v.)
)
THE STATE OF WASHINGTON, a state)
government, acting through THE)
WASHINGTON STATE REDISTRICTING)
COMMISSION, a Washington State)
Agency, et al.,)
)
Defendants.)

VIDEOCONFERENCE DEPOSITION OF APRIL SIMS

January 14, 2022

Taken Remotely via Zoom

Reporter: John M.S. Botelho, CCR, RPR

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1 BE IT REMEMBERED that on Friday,
2 January 14, 2022, at 10:14 a.m. Pacific time, before
3 JOHN M.S. BOTELHO, Certified Court Reporter, appeared
4 APRIL SIMS, via videoconference, the witness herein;
5 WHEREUPON, the following
6 proceedings were had, to wit:

7
8 <<<<<< >>>>>>

9
10 (Mr. Pekelis not present.)

11
12 APRIL SIMS, having been first duly sworn
13 by the Certified Court
14 Reporter, deposed and
15 testified as follows:

16
17 EXAMINATION

10:14:418 BY MS. MELL:

10:14:419 Q State your name.

10:14:420 A April Sims.

10:14:421 Q What is your address?

10:14:522 A 631 110th Street South, Tacoma, Washington 98444.

10:14:523 Q What's your phone number?

10:15:024 A (253) 441-5113.

10:15:025 Q Is that a personal phone?

10:15:091 **A It is.**

10:15:092 Q What kind of phone?

10:15:113 **A An iPhone.**

10:15:134 Q Do you know if you back your iPhone up to the cloud?

10:15:185 **A I do not know.**

10:15:206 Q I'm assuming you have text capabilities from that
10:15:267 number?

10:15:278 **A I do.**

10:15:279 Q What have you done to preserve the text
10:15:310 communications related to redistricting work that is
10:15:311 on that device?

10:15:312 **A I haven't done anything.**

10:15:413 Q Are you preserving them and not deleting any?

10:15:414 **A Yes.**

10:15:415 Q Have you deleted any text messages from your personal
10:15:516 device that pertain to redistricting since you became
10:16:017 a commissioner?

10:16:018 **A Yes.**

10:16:119 Q Did you have any training on -- well, strike that.
10:16:210 What is the Redistricting Commission's policy on
10:16:211 use of personal technology for redistricting?

10:16:322 MR. WONG: Object to form.

10:16:323 **THE WITNESS: I'm not sure. I'm**
10:16:324 **not sure I'm familiar with the policy.**

10:16:325 MS. MELL: I just didn't hear -- I

10:16:411 didn't hear what you said.

10:16:422 **THE WITNESS: I'm not familiar with**
10:16:433 **the policy.**

10:16:444 Q (By Ms. Mell) Do you know if there is a policy?

10:16:455 A **I don't.**

10:16:486 Q Were you ever instructed not to use personal
10:16:527 technology to conduct your work as a commissioner?

10:16:558 A **No. Not that I recall.**

10:16:589 Q Were you ever instructed on how to retain digital
10:17:010 communications for your work as a commissioner
10:17:111 created on private technology?

10:17:112 A **Not that I recall.**

10:17:143 Q When's the last time you deleted text communications
10:17:214 related to your work as a commissioner?

10:17:215 A **I don't recall.**

10:17:316 Q Did you delete any text messages for any specified
10:17:417 time frame?

10:17:418 A **No.**

10:17:419 Q Did you delete any text messages that you recall that
10:17:520 were communications from any particular person?

10:17:521 A **No.**

10:17:522 Q What do you know about what you've -- what you have
10:18:023 versus what you've deleted?

10:18:024 A **I'm not sure I understand the question.**

10:18:025 Q Do you have knowledge as to what you deleted versus

10:18:111
10:18:122
10:18:203
10:18:214
10:18:295
10:18:356
10:18:387
10:18:578
10:19:009
10:19:040
10:19:041
10:19:272
10:19:303
10:19:314
10:19:415
10:19:416
10:19:417
10:19:418
10:19:519
10:19:520
10:20:021
10:20:022
10:20:123
10:20:224
10:20:225

what you have still?

A I deleted some communication between me and my husband.

Q Did you delete those communications to protect your privacy?

MR. WONG: Object to form.

THE WITNESS: Yes.

Q (By Ms. Mell) Were they communications that did contain information related to your work as a commissioner?

A Yes.

Q Did you delete those text message -- well, strike that.

Who is your husband?

A I'm not sure what you're -- what you're asking for. You want his name?

Q Let's start with his name.

A His name is Marcus Sims.

Q Does he have an official role in any capacity?

A No.

Q Were you texting your husband, Marcus Sims, with regard to your work as a commissioner for purposes of your -- strike that.

How did you use your husband relative to your work as a commissioner as expressed in those texts?

10:20:301 MR. WONG: Object to form.

10:20:312 **THE WITNESS: I -- I -- can you**
10:20:343 **repeat the question?**

10:20:354 Q (By Ms. Mell) How were you using -- in what --
10:20:385 strike that.

10:20:386 What role was your husband serving in the context
10:20:437 of you texting him with respect to commission
10:20:468 business?

10:20:489 MR. WONG: Object to form.

10:20:410 **THE WITNESS: I mean, what role was**
10:20:511 **he serving? As my confidant.**

10:21:012 MS. MELL: Okay.

10:21:013 **THE WITNESS: My support system.**

10:21:014 Q (By Ms. Mell) Does Marcus Sims have any particular
10:21:125 expertise applicable to your work as a commissioner?

10:21:116 **A No.**

10:21:207 MR. WONG: April, just let her
10:21:228 finish the question first before you start answering.
10:21:259 Otherwise, the court reporter can't write it down.

10:21:220 Q (By Ms. Mell) Did you delete text communications
10:21:321 with anyone else?

10:21:322 **A Not that I recall.**

10:21:423 Q I noticed -- well, can you explain to me what you
10:21:424 have done to make your text messages pertaining to
10:21:525 your commission work available for purposes of public

10:21:561
10:22:002
10:22:083
10:22:124
10:22:145
10:22:186
10:22:227
10:22:228
10:22:259
10:22:300
10:22:311
10:22:322
10:22:333
10:22:414
10:22:415
10:22:416
10:22:417
10:22:518
10:22:519
10:23:020
10:23:021
10:23:122
10:23:123
10:23:224
10:23:325

records request?

A I reviewed the public records requests and took screenshots of all of my text messages and sent them in to commission staff.

Q Have you made any effort to preserve the metadata associated with those texts, or did you just take screenshots?

A I took screenshots.

Q And have you preserved all of the texts that you took screenshots of?

A Yes.

Q Have you spoken to anyone about translating those texts in their entirety using a software for that purpose?

MR. WONG: Object to form.

THE WITNESS: I have not.

Q (By Ms. Mell) We have outstanding discovery requests for your text communications, so I would just ask that they be preserved. And I'm going to assume that your legal counsel will instruct you on the retention requirements of litigation.

In the text messages I received, from what's in a file folder represented to be April Sims' text from personal devices, there are Adobe documents with distinct file path names that are enumerated.

10:23:371

Did you do that work?

10:23:382

A I did not.

10:23:433

Q There are several texts in the chronology that are

10:23:524

missing, or there are numeric omissions. For

10:23:555

instance, there are numbers that go 32, 33, 34, 35,

10:23:596

and then there's no 36 and then it goes to 37.

10:24:037

Do you have any explanation for those omissions?

10:24:058

MR. WONG: Object to form.

10:24:099

THE WITNESS: I can't speak to

10:24:110

that.

10:24:111

Q (By Ms. Mell) Did you withhold any texts from public

10:24:112

disclosure other than obviously the ones you would

10:24:213

have deleted?

10:24:214

A No.

10:24:215

Q Have you read the texts since making them available

10:24:316

for public disclosure?

10:24:317

A Some of them.

10:24:318

Q Do you agree that the texts with your fellow voting

10:24:419

commissioners reflect that you and your fellow voting

10:24:420

commissioners were negotiating your redistricting

10:24:521

plan collectively?

10:24:522

MR. WONG: Object to form.

10:24:523

THE WITNESS: Can you ask the

10:25:024

question again? Do I agree with...?

10:25:025

Q (By Ms. Mell) Do you agree that your text messages

10:25:071 reflect that you and your fellow voting commissioners
10:25:102 were deliberating, negotiating, preparing your
10:25:203 redistricting plan among the four of you?

10:25:244 MR. WONG: Object to form.

10:25:265 **THE WITNESS: I do not agree with**
10:25:296 **that.**

10:25:297 Q (By Ms. Mell) What's your basis for disagreeing with
10:25:358 that?

10:25:369 **A The four of us weren't negotiating over text. We**
10:25:510 **weren't -- you asked me three spec- -- negotiating --**
10:26:011 **your original question, you asked me three things:**
10:26:112 **Negotiating and...?**

10:26:113 Q I don't remember all the words that I used.
10:26:174 Negotiations is...

10:26:215 **A Well, we just weren't negotiating over text.**

10:26:246 Q Okay. Do you agree that your texts reflect status of
10:26:317 negotiations or communications about the -- strike
10:26:318 that. Let me start over.

10:26:319 Do you agree that your text messages reflect you
10:26:420 communicating with one voting commissioner what
10:26:421 another voting commissioner thought, said, or
10:26:522 communicated with respect to redistricting
10:26:523 negotiations?

10:26:524 MR. WONG: Object to form.

10:27:125 **THE WITNESS: I would not agree**

10:27:141

with that statement.

10:27:162

Q (By Ms. Mell) Why do you not agree with that statement?

10:27:183

10:27:194

A I don't recall ever communicating or even knowing how another commissioner was going to vote.

10:27:525

10:28:006

Q What do you mean by how a commissioner was going to vote relative to the question asking about your negotiations?

10:28:067

10:28:118

10:28:129

A Maybe I need you to -- maybe I need you to repeat the question.

10:28:180

10:28:191

Q Do your text messages document the fact that you and your fellow voting commissioners were communicating among each other information specific to congressional and legislative districts?

10:28:312

10:28:393

10:28:494

A I'm sorry. I'm really trying to understand so that I can answer this question to the best of my ability. Do I agree...

10:28:525

10:29:016

10:29:117

I think I'd have to see the text messages.

10:29:218

10:29:269

Q What was the status of the commission's work with regard to its redistricting plan as of November 12th?

10:29:320

10:29:381

A We were in negotiations on November 12th.

10:29:482

Q What do you mean you were in negotiations on November 12th?

10:29:523

10:29:524

A Commissioner Graves and I were negotiating a legislative proposal on November 12th.

10:30:025

10:30:061 Q How does a legislative proposal relate to your duties
10:30:202 to approve a redistricting plan?

10:30:233 A Well, we were working to negotiate a proposal that we
10:31:004 could bring to the commission for approval of a plan.

10:31:095 Q What is the plan?

10:31:116 A The -- the map.

10:31:197 Q What kind of map?

10:31:238 A Well, Commissioner Graves and I were working on a
10:31:269 legislative map, or a proposal for a legislative map.

10:31:310 Q Did Commissioner Graves -- strike that.

10:31:401 Is a legislative map the entirety of work
10:31:412 required for a plan?

10:31:513 A No.

10:32:214 Q What else is contained within a redistricting plan?

10:32:315 A The plan would include legal descriptions from all of
10:32:416 the boundaries for each district.

10:32:517 Q Is there anything else that's -- is there anything
10:32:518 else in a plan, redistricting plan?

10:33:019 A Not that I can think of.

10:33:020 Q So is it your testimony that a redistricting plan is
10:33:121 complete with a map of legislative districts that
10:33:122 includes legal descriptions of its boundaries?

10:33:223 A I believe so.

10:33:224 Q Are you forgetting at this time that a redistricting
10:33:325 plan is comprised of a congressional district map in

10:33:411 addition to a legislative district map?

10:33:432 MR. WONG: Object to form.

10:33:483 **THE WITNESS: Yeah, and I'm sorry,**
10:33:494 **I thought we were talking about the legislative map**
10:33:545 **for the legislative plan. That's the entire work of**
10:33:586 **the commission.**

10:34:007 MS. MELL: That's my question.

10:34:018 Q (By Ms. Mell) Is a redistricting plan complete with
10:34:049 only a legislative map, or does it have more than one
10:34:090 component?

10:34:211 **A I think our job was to approve two plans, one**
10:34:312 **legislative plan and one congressional plan.**

10:34:343 Q And what was required to approve a legislative
10:34:504 district plan and a congressional district plan?

10:34:515 **A Three of the four commissioners had to vote in favor**
10:35:016 **for approve.**

10:35:017 Q Approve what?

10:35:018 **A The plan.**

10:35:099 Q And when you say "the plan" in that context, are you
10:35:120 speaking of both a legislative and a congressional
10:35:121 district map?

10:35:122 **A Yes.**

10:35:223 Q And what does a legislative and congressional
10:35:224 district map, what is it comprised of?

10:35:325 MR. WONG: Object to form.

THE WITNESS: I'm not sure I

understand the question. What is the...?

Q (By Ms. Mell) How do you know when you have a legislative and congressional district map?

A Well, you have the map. I mean, you -- you either have a map on some platform, whether it's Dave's Redistricting or in Edge.

Q Are there necessary components of a map that make it understandable or defined?

A Other than the digital representation?

Q Well, I don't -- I've never been part of the process. So I'm just wanting to know: How did you gauge what you were doing and how was it expressed?

How was a legislative or congressional district map expressed such that you knew what you were approving?

A And are you asking about a specific time? A time frame? How are you --

Q I just want to know what you understood you had to do relative to your duties to approve a redistricting plan.

And I'm at the point where I'm asking you to be clear about what you thought you had to do specifically as to a congressional and legislative district map as you've used those terms.

10:38:241 A So we were tasked with dividing the 7.7 million
10:38:312 residents in our state into 49 compact, convenient,
10:38:403 and contiguous legislative districts and ten compact,
10:38:464 convenient, contiguous congressional districts that
10:38:515 were relatively equal in population, that did not
10:39:006 unnecessarily divide municipalities, and maintained
10:39:047 communities of interest.

10:39:078 I saw my job as negotiating the boundaries of
10:39:149 those 49 legislative districts.

10:39:160 Q Are you telling me you had no role in negotiating the
10:39:371 boundaries of the ten congressional districts?

10:39:412 A I had some conversations about the ten congressional
10:39:473 districts but was not leading the negotiations on
10:39:514 that map.

10:39:515 Q Did you have some conversations about the
10:39:576 congressional district boundaries in your texting?

10:40:117 A Did I -- say the question again. I'm sorry.

10:40:218 Did I have a role?

10:40:259 Q No.

10:40:280 Did you text about the congressional district
10:40:321 boundaries with your fellow voting commissioners?

10:40:422 A I would have to see the text messages. I don't
10:40:423 recall off the top of my head.

10:40:484 Q As you sit here today, do you have any recollection
10:40:525 as to whether or not your text messages reflect

10:40:551

communications about congressional district maps?

10:40:592

A I imagine there's some communication in my text

10:41:083

messages regarding congressional district maps, but I

10:41:124

could not -- I can't recall to whom or when.

10:41:145

Q As you sit here today, do you have some recollection

10:41:196

that you expressed communications via text with other

10:41:307

voting commissioners that reflected communications

10:41:338

between more than two of you?

10:41:369

MR. WONG: Object to form.

10:41:410

THE WITNESS: Relative to the

10:41:411

congressional maps?

10:41:412

MS. MELL: Sure. Mm-hmm. Yep.

10:41:413

THE WITNESS: Not that I recall.

10:41:514

Q (By Ms. Mell) How about as to the legislative map?

10:41:515

Were you texting among three voting commissioners --

10:42:016

no, strike that.

10:42:017

Did you text with any other voting commissioner

10:42:018

about the legislative district maps, communications

10:42:119

that included the thoughts of a -- thoughts or

10:42:220

communications of a third voting commissioner?

10:42:221

MR. WONG: Object to form.

10:42:322

THE WITNESS: I'm not sure -- it

10:42:323

seemed like a long question. Could you ask me again?

10:42:324

MS. MELL: Yes.

10:42:425

Q (By Ms. Mell) As you sit here today, do you recall

10:42:431 your text communications to reflect that you were
10:42:462 communicating with a fellow voting commissioner about
10:42:523 the redistricting plans, and in the communications
10:42:594 with the one other voting commissioner, you included
10:43:055 communications that you'd had with a third voting
10:43:086 commissioner?

10:43:117 MR. WONG: Object to form.

10:43:128 **THE WITNESS: I don't recall.**

10:43:209 Q (By Ms. Mell) Do you know what the significance of
10:43:210 texting the content of deliberations among three
10:43:311 voting commissioners has to open government?

10:43:412 MR. WONG: Object to form.

10:43:413 **THE WITNESS: I -- I do not.**

10:44:514 Q (By Ms. Mell) Did you say you do know?

10:44:515 **A I do not know the consequences.**

10:45:016 Q I don't think I asked you the consequence.

10:45:017 I asked you: Is there some significance that you
10:45:018 are aware of to texting discussion content about
10:45:119 redistricting among two -- three voting
10:45:120 commissioners?

10:45:201 MR. WONG: Object to form.

10:45:222 **THE WITNESS: You're asking if I**
10:45:223 **know the significance?**

10:45:224 Q (By Ms. Mell) I'm asking: Is there some
10:45:225 significance to you if you and another voting

10:45:311 commissioner are texting about redistricting and
10:45:382 include in those communications the thought processes
10:45:413 of a third commissioner?

10:45:444 MR. WONG: Same objection.

10:45:455 MS. MELL: Voting commissioner.

10:45:476 **THE WITNESS: I suppose that would**
10:46:017 **depend on the -- I don't. Actually, I don't know a**
10:46:068 **significance.**

10:46:069 Q (By Ms. Mell) Do you have any reason to believe it
10:46:080 might have something to do with open government
10:46:101 standards applicable to your work as a commissioner?

10:46:112 MR. WONG: Object to form.

10:46:113 **THE WITNESS: I think I'm still not**
10:46:114 **clear what you're asking me.**

10:46:205 Q (By Ms. Mell) I'm asking whether you know anything
10:46:216 about your duties and responsibilities as a
10:46:217 commissioner to open government.

10:46:218 **A Yes.**

10:46:289 Q Okay. And with that knowledge, does it include
10:46:320 knowledge that it is of significance if you and a
10:46:321 voting commissioner are communicating, whether in
10:46:422 text or in any other form, the thought processes of
10:46:423 you, a second commissioner, and a third commissioner
10:46:524 who can vote?

10:46:525 MR. WONG: Object to form.

10:47:031 THE WITNESS: If you're asking me
10:47:052 if I know that -- I know that the members, the four
10:47:253 voting members of the commission are not allowed to
10:47:274 meet together to deliberate together or a quorum of
10:47:325 the voting members of the commission are not allowed
10:47:356 to meet together to deliberate together.

10:47:467 Q (By Ms. Mell) Do you know whether or not the more
10:47:488 than two of you are able to have discussions,
10:47:559 digitally or otherwise, about redistricting without
10:48:020 implicating your duties to meet publicly?

10:48:081 MR. WONG: Object to form.

10:48:102 THE WITNESS: It's my understanding
10:48:163 that we are allowed to meet and have conversations as
10:48:204 long as those conversations aren't related to actions
10:48:215 that we would take as a commission.

10:48:276 Q (By Ms. Mell) And when you say actions that you
10:48:297 would take as a commission, what do you mean?

10:48:318 A As long as we are not meeting or discussing an
10:48:479 action, something that we are voting on, or a
10:48:520 decision that is before the commission, we are
10:48:521 allowed to meet.

10:48:522 Q Okay. So at what point in a conversation about the
10:49:023 redistricting plan does it become an action, from
10:49:124 what you understand?

10:49:125 MR. WONG: Object to form.

10:49:161

THE WITNESS: Are you asking me to speculate around something specific?

10:49:192

10:49:223

MS. MELL: No. I'm just asking you to explain to me how you understand your duties as a commissioner to open government.

10:49:244

10:49:275

10:49:296

THE WITNESS: Can you ask me the question again?

10:49:307

10:49:338

MS. MELL: Yeah.

10:49:339

Q (By Ms. Mell) You were using the word "action." And you expressed to me that you can discuss your redistricting work among all of the four commissioners or more than just two commissioners so long as it's not an action.

10:49:360

10:49:391

10:49:412

10:49:463

10:49:484

And I'm wanting to know how you know when your conversation moves into the category of what you describe as an action.

10:49:525

10:49:576

10:49:597

MR. WONG: Object to form.

10:50:028

THE WITNESS: Well, I'm not sure that I said we could discuss our redistricting work. Just that we could meet and have conversations as long as it wasn't related to an action that we were taking as a commission or something that we had authority over.

10:50:019

10:50:020

10:50:021

10:50:122

10:50:123

10:50:224

Q (By Ms. Mell) Something that you had a what with?

10:50:225

A Authority over.

10:50:271 Q I'm at a loss as what -- why wouldn't you have
10:50:342 authority over discussions specific to the
10:50:383 redistricting plan?

10:50:414 **A We did have authority over discussions -- we did have**
10:50:475 **authority over the redistricting plan.**

10:50:486 Q All right. So if you and the two commissioners are
10:50:547 discussing redistricting plan and communicating with
10:50:598 each other what a third voting commissioner's
10:51:029 thoughts were as to a redistricting plan, is that
10:51:070 action as you understand the term and are using it
10:51:111 today?

10:51:112 MR. WONG: Object to form.

10:51:113 **THE WITNESS: I'm really not -- can**
10:51:214 **you -- can you ask me that again?**

10:51:215 **I'm really not trying to be difficult. I'm**
10:51:316 **really just trying to understand what it is you're**
10:51:317 **asking.**

10:51:318 Q (By Ms. Mell) And I'm just trying to understand what
10:51:319 you felt your duties and responsibilities were
10:51:320 relative to open government and when you felt you
10:51:421 needed to be meeting publicly and when you didn't.

10:51:422 So I want a clear understanding of what your
10:51:423 thought process was during the deliberations on the
10:51:524 redistricting plan.

10:51:525 So with that background, you used the term

10:52:001 "action" as the triggering event to meet publicly.

10:52:042 And my question is:

10:52:073 If you're deliberating about elements of the
10:52:154 redistricting plan by texting or speaking to one
10:52:215 voting commissioner and you express the thoughts of a
10:52:256 third voting commissioner, is that action or is that
10:52:317 not action for purposes of meeting publicly from what
10:52:358 you felt your duties were?

10:52:389 MR. WONG: Object to form.

10:52:310 **THE WITNESS: Well, I would say**
10:52:411 **that we were communicating, not deliberating.**

10:52:412 Q (By Ms. Mell) Okay. What's the difference?

10:52:413 **A Well, deliberation is discussions that lead to**
10:53:014 **action. We were communicating our priorities. We**
10:53:115 **were communicating, you know, the status of**
10:53:116 **negotiations, but we were never deliberating outside**
10:53:217 **of public view.**

10:53:218 Q Did you ever deliberate the legislative or
10:53:319 congressional district maps in public view on the
10:53:320 15th?

10:53:421 **A We discussed them, yes.**

10:53:422 Q What did you say with regard to legislative or
10:53:423 congressional district maps publicly on the 15th?

10:53:524 **A At what time?**

10:53:525 Q At any time.

10:53:551 **A Well, it was a long meeting. There were a number of**
10:54:062 **times I came on and gave a status update and**
10:54:103 **discussed the legislative plans.**

10:54:134 **Q Was your only knowledge about the congressional**
10:54:185 **district plan what you learned in the public portion**
10:54:246 **of the meeting on the 15th?**

10:54:267 **A That was a lot of it, yes.**

10:54:328 **Q What other information did you have about the**
10:54:359 **congressional district plan that wasn't learned in**
10:54:400 **the public portion of the meeting on the 15th?**

10:54:471 **A Well, I had seen a number of drafts, draft maps. I**
10:54:512 **had -- I'd seen a number of draft maps and had some**
10:55:013 **communication with Walkinshaw.**

10:55:084 **Q Did you have communication with Commissioner**
10:55:115 **Walkinshaw about the congressional maps that included**
10:55:146 **the thought processes of any other voting**
10:55:177 **commissioner?**

10:55:198 **A No.**

10:55:219 **Q Are you sure about that?**

10:55:220 **A Not to my knowledge.**

10:55:321 **Q You understand you're under oath today?**

10:55:322 **A I do.**

10:55:323 **Q Do you recognize that the public portion of your**
10:55:424 **meeting on the 15th was approximately 30 minutes**
10:55:425 **long?**

10:55:501 MR. WONG: Object to form.

10:55:542 THE WITNESS: I don't think I've
10:55:553 actually looked at the -- the actual length. I think
10:55:554 I've heard that.

10:55:555 THE REPORTER: Sorry. "The
10:55:556 actual," what?

10:56:067 THE WITNESS: I don't think I've
10:56:068 looked at the actual length, but I think I've heard
10:56:099 that. I think I read that in an article or it's been
10:56:110 expressed to me.

10:56:111 MS. MELL: Hey, John, can you make
10:56:112 sure that you're doing time markers on the Q and A?
10:56:113 I do need that for all the deps, and I keep
10:56:214 forgetting to tell you that. It's going to be
10:56:215 particularly important with this one.

10:56:216 (Clarification by reporter.)

10:56:317
10:56:418 Q (By Ms. Mell) Did you at any time on the 15th in
10:56:419 public purview discuss a specific legislative or
10:56:520 congressional district map?

10:57:021 A Did I discuss?

10:57:022 Q Yes.

10:57:023 A Yes.

10:57:024 Q What did you say?

10:57:125 A I think I talked about -- we talked about

10:57:291

consolidating Lummi and Nooksack in the 42nd.

10:57:292

THE REPORTER: "Consolidating," I'm

10:57:293

sorry?

10:57:374

THE WITNESS: Lummi and Nooksack

10:57:375

tribes in the 42nd. Taking Lake Stevens out of the

10:57:436

44th. Consolidating Tulalip and Marysville in the

10:57:517

38th.

10:57:578

We talked about taking Tacoma out of Lakewood and

10:58:019

consolidating -- oh, no. I'm sorry. Taking Tacoma

10:58:040

out of the 28th and consolidating Lakewood.

10:58:111

I don't recall what else I said during that

10:58:142

meeting.

10:58:143

Q (By Ms. Mell) And was your description an expression

10:58:204

of what you recall today communicating publicly?

10:58:245

A Was my expression...

10:58:326

Q Did you just describe what you said publicly, or are

10:58:357

you talking about private conversations?

10:58:378

A I believe that's what I said publicly.

10:58:409

Q Did you ever present the public with a redistricting

10:58:420

plan prior to voting?

10:58:521

A We did not have maps, no.

10:59:022

Q Did you ever publicize a redistricting plan prior to

10:59:023

voting?

10:59:124

A We did not.

10:59:125

Q Why were you negotiating a legislative district map

10:59:301 with one other commissioner?

10:59:322 **A We were negotiating in dyads.**

10:59:393 Q Why?

10:59:394 **A That's what previous commissions had done.**

10:59:435 Q Did you publicly decide to negotiate in dyads?

10:59:496 **A I don't recall if we had a conversation about it during a public meeting or not.**

10:59:557

10:59:578 Q Did you take action as a commission to bifurcate the negotiations into dyads?

11:00:059

11:00:080 MR. WONG: Object to form.

11:00:081 **THE WITNESS: Not that I recall.**

11:00:112 Q (By Ms. Mell) Did you ever tell the public the commission was negotiating in dyads?

11:00:153

11:00:184 **A I don't recall.**

11:00:325 Q What were the dyads?

11:00:316 **A The two House appointees in one dyad and the two Senate appointees in another.**

11:00:417

11:00:418 Q So who were the two House appointees?

11:00:519 **A Commissioner Graves and I were the House appointees. Commissioner Fain and Commissioner Walkinshaw were the Senate appointees.**

11:01:020

11:01:021

11:01:022 Q Who made the decision for that breakdown or assignment?

11:01:123

11:01:124 **A I believe it was suggested by Sarah Augustine.**

11:01:225 Q Was it suggested publicly?

11:01:291 **A I don't recall.**

11:01:302 Q Did you agree to negotiate in dyads split between the
11:01:373 House and Senate appointees?

11:01:404 **A I did.**

11:01:405 Q And whom did you communicate your agreement to?

11:01:466 **A I believe to Commissioner Graves.**

11:01:517 Q Anyone else?

11:01:558 **A I likely communicated it to Chair Augustine and
11:02:049 Commissioner Walkinshaw in some form or another.**

11:02:100 Q Did you do so publicly?

11:02:121 **A I don't recall.**

11:02:142 Q Was there a consensus among the commissioners to
11:02:203 negotiate in bipartisan dyads split between the House
11:02:264 and the Senate?

11:02:275 MR. WONG: Object to form.

11:02:286 **THE WITNESS: I don't know what you
11:02:317 mean by "consensus."**

11:02:338 Q (By Ms. Mell) Did you all agree to negotiate in that
11:02:399 form?

11:02:420 **A I mean, we all ended up negotiating in that form, but
11:02:421 I don't recall a conversation where we all came to
11:02:522 some sort of agreement.**

11:02:523 Q Did anyone have any objections to negotiating in that
11:02:524 form?

11:02:525 **A Not that I recall.**

11:02:581 Q Were there any discussions at any time about
11:03:022 negotiating in that form?

11:03:033 **A There were -- I'm sure there were.**

11:03:354 Q What do you recall in terms of conversations about
11:03:395 negotiating in that form?

11:03:416 **A Recall conversations with my team about what a
11:03:507 negotiation plan or schedule would look like.**

11:04:018 **I recall conversations with Commissioner Graves
11:04:059 about what a schedule would look like and how we
11:04:010 would approach the negotiations.**

11:04:111 Q Did you communicate that back to any of the other
11:04:112 commissioners?

11:04:113 **A I believe I let Commissioner Walkinshaw know.**

11:04:214 Q How did you let Commissioner Walkinshaw know?

11:04:315 **A I don't recall if -- if I sent him a draft of the
11:04:316 negotiation schedule or if we just had a
11:04:317 conversation.**

11:04:418 Q Did you write the negotiation schedule?

11:04:419 **A I did not.**

11:04:420 Q Who did?

11:04:421 **A Dominique Meyers.**

11:04:522 Q Earlier, you said your team, or you used the word "my
11:05:023 team."

11:05:024 Whom am I to understand "my team" means when you
11:05:025 use that term?

11:05:071 **A Osta Davis and Dominique Meyers.**

11:05:112 Q Who's Osta Davis?

11:05:123 **A She was the redistricting analyst.**

11:05:164 Q And how about Dominique Meyers?

11:05:305 **A Dominique Meyers is deputy assistant or deputy --**

11:05:346 **deputy chief of staff to the speaker.**

11:05:387 Q And the speaker is who?

11:05:408 **A Laurie Jenkins.**

11:05:549 Q Is Osta Davis a partisan staffer?

11:05:510 **A Yes.**

11:06:001 Q What party?

11:06:012 **A Democratic party.**

11:06:013 Q And how about Dominique?

11:06:014 **A Yes.**

11:06:015 Q Democrat?

11:06:106 **A Yes.**

11:06:117 Q Are you Democrat?

11:06:118 **A I was appointed by the Democratic speaker of the**

11:06:209 **House.**

11:06:220 Q And who is that?

11:06:221 **A Laurie Jenkins.**

11:06:222 Q Did you take direction and input from Laurie Jenkins

11:06:303 in conducting your redistricting work?

11:06:324 MR. WONG: Object to form.

11:06:325 **THE WITNESS: I took input from**

11:06:411

Laurie Jenkins and a number of other stakeholders.

11:06:432

Q (By Ms. Mell) Did you feel responsible for meeting

11:06:533

Laurie Jenkins' objectives in redistricting during

11:06:544

the course of your work as a redistricting

11:06:595

commissioner?

11:06:596

A **Can you ask me the question again?**

11:07:037

MS. MELL: Can you read back the

11:07:038

question?

11:07:039

(Pertinent question read by

11:07:030

the reporter.)

11:07:031

11:08:132

THE WITNESS: Yes, in that I was

11:08:133

appointed to negotiate a redistricting plan. I felt

11:08:214

responsible to get my job done.

11:08:265

Q (By Ms. Mell) And gauging what your job was, in

11:08:316

part, came from the direction Laurie Jenkins gave

11:08:357

you; is that correct?

11:08:368

MR. WONG: Object to form.

11:08:389

THE WITNESS: No, I would not say

11:08:420

that's correct.

11:08:421

Q (By Ms. Mell) Okay. So what kind of input did

11:08:502

Laurie Jenkins give you?

11:08:523

A **Speaker Jenkins wanted me to negotiate plans before**

11:09:224

our deadline.

11:09:325

She wanted me to negotiate plans that protected

11:09:401

Democratic majorities.

11:09:482

She wanted me to negotiate plans that maintain

11:09:523

communities of interest.

11:09:534

Q All right. Is that answer complete now?

11:10:035

A To the best of my ability, yes.

11:10:086

Q Do you remember negotiating any particular element of

11:10:187

either the congressional or legislative district maps

11:10:258

to fulfill a request made by Speaker Jinkins, request

11:10:329

or input from Speaker Jinkins?

11:10:370

A Did you say any specific district?

11:10:481

Q I think I said specific input.

11:10:522

A Specific input.

11:10:513

I wouldn't say -- well, no, my entire -- my

11:11:074

priorities throughout this were to negotiate maps

11:11:145

that reflected the political reality in our state.

11:11:196

We are a Democratic majority state, so I wanted

11:11:217

maps that secure those. Our priorities were in

11:11:278

alignment there.

11:11:289

I wanted -- I wanted maps that reflected input

11:11:420

from communities that had historically been left out

11:11:421

of the process, so maps that had more majority-

11:11:482

minority districts that were mindful of how we kept

11:11:523

communities of interest together, maps that reflected

11:11:524

the consultation that we had with the sovereign

11:12:025

tribes in our state.

11:12:141 Q Anything else?

11:12:162 A Did I already mention -- I think I already mentioned
11:12:313 communities of interest.

11:12:324 I'm thinking of my big priorities. I had a
11:12:355 number of priorities going into negotiations and a
11:12:396 number of priorities reflected in the draft maps that
11:12:417 I released publicly.

11:12:448 Q Did you talk to Adam Smith about the content of
11:12:519 redistricting negotiations?

11:12:510 A I talked to Adam Smith. I'm not sure it was
11:13:011 regarding the content of the negotiations.

11:13:012 Q Did you talk to him about your redistricting work?

11:13:013 A I did.

11:13:104 Q What did you talk to Adam Smith about relative to
11:13:145 your redistricting work?

11:13:116 A We talked about my draft congressional map.

11:13:217 We talked about the public input that we
11:13:218 received -- "we" being the commission -- regarding
11:13:319 the way that I drew the 9th congressional district.

11:13:320 Q Is that his district?

11:13:321 A It is.

11:13:322 Q What did he say to you about that?

11:13:423 A I think he really liked the way that I drew -- let me
11:13:524 back up and not...

11:13:525 I got positive feedback from him on the way that

11:14:011 I drew the maps and some concern that community -- or
11:14:042 that public feedback might have been a little harsh
11:14:233 on me.

11:14:244 Q Did you share the content of any of your
11:14:265 communications with Adam Smith with any of your other
11:14:316 commissioners?

11:14:317 A Did I share or show? I didn't hear.

11:14:408 Q Share. Whether you showed or shared orally.

11:14:439 A I'm sure I talked to Commissioner Walkinshaw about
11:14:470 it.

11:14:471 Q Do you know whether or not Commissioner Walkinshaw
11:14:512 was taking the content of the communications you had
11:14:543 with him to any other commissioner?

11:14:574 A I don't know.

11:14:595 Q Who were the staff assigned to the dyad you were
11:15:086 negotiating in for Graves?

11:15:117 A Commissioner Graves' staffer, Anton. I can't
11:15:178 remember Anton's last name.

11:15:199 And I had Osta Davis and Dominique Meyers.

11:15:220 Q So Graves had one staff person, and you had two?

11:15:281 A That's correct.

11:15:282 Q Why did you have two?

11:15:323 A Osta Davis was out sick for a while, so Dominique
11:15:384 Meyers was backfilling for Osta. And when Osta came
11:15:425 back, we wanted to maintain the continuity of our

11:15:481 negotiations, so we wanted to -- Commissioner Graves
11:15:522 agreed to allow Osta to come into the negotiations.

11:15:563 Q Who does Osta Davis work -- or report to in her work
11:16:014 as a Democratic caucus staff person?

11:16:045 A I believe she reports directly to the chief of staff
11:16:116 for the speaker.

11:16:137 Q And who does Dominique Meyers report to in her
11:16:198 position with the House?

11:16:229 A I believe to the chief of staff.

11:16:250 Q And who is the chief of staff?

11:16:301 A It's going to be on the record that I can't remember
11:16:402 his name. (Videoconference technical difficulties.)

11:16:403 THE REPORTER: What was that,
11:16:404 April?

11:16:415 THE WITNESS: I'm -- I'm thinking.
11:16:516 I can't recall his name. But I'm happy to -- I'm
11:16:517 happy to look it up.

11:17:008 Q (By Ms. Mell) Okay. So tell me about what you knew
11:17:029 about the other dyad.

11:17:020 Who was a participant in the congressional map
11:17:021 dyad?

11:17:102 A I mean, Commissioner Walkinshaw, Commissioner Fain,
11:17:203 and their staffers, I believe.

11:17:224 Q Do you remember who were their staffers?

11:17:225 A Ali O'Neil and -- Ali O'Neil for Commissioner

11:17:321

Walkinshaw, and Paul Campos for Commissioner Fain.

11:17:352

Q Was Matt Davis a participant?

11:17:413

A **Matt Davis?**

11:17:474

Q Yes.

11:17:485

A **I don't know a Matt Davis. So I don't know.**

11:17:536

Q Okay. Were there other negotiating units other than

11:18:037

the dyads, such as caucus negotiations?

11:18:078

A **Could you be more specific?**

11:18:129

Q Did you limit your negotiations strictly to the

11:18:170

dyads, or were you also negotiating by partisan

11:18:241

caucus designations?

11:18:262

A **I was negotiating with Commissioner Graves, and I was**

11:18:323

communicating with Commissioner Walkinshaw.

11:18:354

Q And so would you characterize your communications

11:18:415

with Walkinshaw as partisan communications or caucus

11:18:496

communications?

11:18:497

A **Sure.**

11:18:518

Q Okay. And do you know what Graves and Fain were

11:19:009

doing?

11:19:020

Did they also have established a caucus

11:19:021

communication?

11:19:022

A **I don't know.**

11:19:023

Q What was the physical setup of the negotiations

11:19:124

beginning on the 12th relative to your dyads and/or

11:19:225

caucuses?

11:19:231

MR. WONG: Object to form.

11:19:252

THE WITNESS: So the 12th was

11:19:303

Friday?

11:19:344

MS. MELL: Yes.

11:19:355

THE WITNESS: Friday.

11:19:396

All of my communications were through Zoom or over the phone. They were all virtual with regards to my negotiations with Commissioner Graves and my communication with Commissioner Walkinshaw.

11:19:437

11:19:468

11:19:529

11:19:510

Q (By Ms. Mell) On the 12th?

11:19:511

A Correct.

11:19:512

Q And was that planned?

11:20:013

A I don't recall if it was planned. In terms of for it to be virtual?

11:20:114

11:20:205

Q Well, I guess I need a big-picture plan.

11:20:216

I think my opening question was: What was the status of the negotiations? And I really want to know how it was set up.

11:20:217

11:20:218

11:20:319

So that's just kind of some background. That's what I'm trying to get at. I'm starting with the date of the 12th.

11:20:320

11:20:321

11:20:322

What was the plan for purposes of negotiating as of the 12th?

11:20:423

11:20:424

A I believe I had some meetings scheduled with

11:20:525

Commissioner Graves on the 12th. I believe we had a

11:20:591

morning meeting and an afternoon meeting

11:21:052

prescheduled.

11:21:063

Q And how --

11:21:074

A I believe at that time we were meeting twice a day.

11:21:105

Q When was the decision made to preschedule meetings twice a day as of the 12th?

11:21:256

11:21:277

A Probably -- I don't recall.

11:21:408

Q Had there been a decision made to convene negotiations on the 12th in advance of the negotiations convening on the 12th?

11:21:469

11:21:510

11:21:511

A Yes.

11:21:552

Q How did that occur?

11:21:513

A To the best of my recollection, it was -- I don't recall.

11:22:214

11:22:305

Q Was it part of the plan you laid out initially?

11:22:316

A I don't recall.

11:22:417

And when I say the plan that we laid out initially was not a plan that -- it was a plan that my team and I were thinking about, not a formalized plan.

11:22:418

11:22:529

11:22:520

11:22:521

Q Was it ever in writing?

11:22:522

A Yeah, I think there's probably a draft document somewhere.

11:23:023

11:23:024

Q Did you stick to the plan?

11:23:125

A No.

11:23:141 Q How did the -- strike that.

11:23:172 Were you working in conformance with your plan as
11:23:223 of the 12th?

11:23:224 **A No.**

11:23:255 Q Why not?

11:23:276 **A I think we had an idea in September that negotiations**
11:23:417 **would -- that we could script out how negotiations**
11:23:498 **would go.**

11:23:509 **And once we started negotiations, it became clear**
11:23:510 **that the timelines that we thought would work and the**
11:24:011 **process that we thought would work was just not**
11:24:012 **realistic for the work.**

11:24:013 Q What was your redistricting experience when Speaker
11:24:114 Jinkins appointed you?

11:24:115 **A I had none.**

11:24:116 Q What's your highest level of education?

11:24:117 **A Some college.**

11:24:208 Q Where did you go to college?

11:24:219 **A Southern Illinois University.**

11:24:220 Q And do you know why Speaker Jinkins selected you
11:24:321 relative to redistricting work?

11:24:322 **A You'd have to ask her.**

11:24:323 Q How would you characterize your skill set for
11:24:424 purposes of doing redistricting work?

11:24:425 MR. WONG: Object to form.

11:24:491 **THE WITNESS: How would I**

11:24:522 **characterize my...?**

11:24:593 **I'm a labor leader in the Washington State labor**
11:25:214 **movement and have experience bringing groups to**
11:25:265 **consensus and have negotiated a number of employer**
11:25:346 **contracts.**

11:25:347 Q (By Ms. Mell) So right now where do you work?

11:25:428 A **The Washington State Labor Council.**

11:25:449 Q Did you hold the same position when Speaker Jinkins
11:25:480 appointed you?

11:25:481 A **Yes.**

11:25:512 Q And you had that position throughout your
11:25:543 redistricting work?

11:25:514 A **Correct.**

11:26:075 MR. WONG: Joan, we've been going
11:26:086 about an hour ten. If there's a good time soon we
11:26:117 can take a break, appreciate it.

11:26:128 MS. MELL: We can take a ten-minute
11:26:149 break.

11:26:120 MR. WONG: Okay. Thank you.

11:26:121 (Pause in proceedings from
11:26:122 11:26 a.m. to 11:37 a.m.)

11:37:123
11:37:124 Q (By Ms. Mell) On the 12th, what was the
11:37:225 configuration of the negotiations?

11:37:251 **A I was negotiating with Commissioner Graves.**

11:37:302 **Q** What did you know to be the status of the
11:37:343 negotiations beyond your negotiations with Graves?

11:37:364 **A I think I understood that Commissioner Walkinshaw and**
11:37:445 **Commissioner Fain were in communication, but I was**
11:37:476 **not aware of the status of their negotiations.**

11:37:507 **Q** What do you mean you were not aware of the status of
11:37:548 the negotiations?

11:37:549 **A I did not know where they were in their negotiations**
11:37:510 **on the congressional maps.**

11:38:011 **Q** At what point in time did you not know the status of
11:38:012 their negotiations?

11:38:013 **MR. WONG:** Object to form.

11:38:014 **THE WITNESS:** You're asking me
11:38:105 about Friday the 12th?

11:38:126 **MS. MELL:** Correct.

11:38:127 **THE WITNESS:** I did not know the
11:38:118 status of their negotiations.

11:38:119 **Q** (By Ms. Mell) Throughout the entire day of the 12th,
11:38:120 you knew nothing about the status of the negotiations
11:38:121 with Walkinshaw and Fain?

11:38:222 **A I knew they were in communication.**

11:38:223 **Q** Did you know where they were in their negotiations?

11:38:324 **A I did not.**

11:38:325 **Q** Did you know what they were talking about?

11:38:351 **A I did not know the specifics.**

11:38:412 Q Did you know generally?

11:38:433 **A That they were discussing the congressional map**
11:38:474 **generally.**

11:38:475 Q What about the congressional map?

11:38:506 **A I didn't know the specifics.**

11:38:537 Q Did you know anything about what the negotiations
11:38:578 were over relative to congressional maps on the 12th?

11:39:019 **A To the best of my recollection, they were discussing**
11:39:210 **who would draw which districts.**

11:39:311 Q Okay. Did you know anything about the substance of
11:39:342 the negotiations relative to your priorities?

11:39:423 **A Not that I recall.**

11:39:474 Q Had you communicated your priorities to Walkinshaw?

11:39:515 **A Yes.**

11:39:526 Q Did you expect that he was incorporating your
11:39:557 priorities into the negotiations?

11:39:588 **A I had hope that he was.**

11:40:009 Q Did you delegate to him the duties and
11:40:020 responsibilities of incorporating your priorities
11:40:021 into the negotiations he was having with Graves?

11:40:022 MR. WONG: Object to form.

11:40:123 **THE WITNESS: I never delegated my**
11:40:224 **duties and responsibilities. I always had real**
11:40:225 **clarity -- and I think the other members of the**

11:40:291 **commission did too -- that we were all an independent**
11:40:342 **vote. We were all aware of the power of our**
11:40:363 **independent vote.**

11:40:374 Q (By Ms. Mell) All right. So if you were negotiating
11:40:415 in dyads, how did you make sure that you could
11:40:436 exercise your independent vote in an informed way?

11:40:487 A **In terms of -- in terms of what specifically?**

11:41:008 Q The congressional district map.

11:41:099 A **Are we still talking about Friday the 12th?**

11:41:120 Q I don't think it matters. The 12th or at any time.

11:41:211 A **And so your question is...?**

11:41:292 Q If you all believe that you had power in your
11:41:343 individual votes to accomplish your individual
11:41:384 objectives, how did you ensure that when you were
11:41:435 asked to vote, you could exercise your vote in a
11:41:486 meaningful way?

11:41:507 A **So you're asking specifically about the vote on the**
11:41:548 **15th?**

11:41:559 Q No.

11:42:120 A **I'm really trying to understand what you're -- what**
11:42:121 **you're asking me for.**

11:42:202 Q Well, you keep trying to tell me that you were
11:42:223 negotiating the legislative district maps and that
11:42:224 you had nothing to do with the congressional district
11:42:225 map negotiations. And I simply don't believe you.

11:42:311 I don't know how you would exercise a vote on a
11:42:332 congressional district map with the priorities that
11:42:363 you've identified without knowing what you were
11:42:384 voting on.

11:42:395 So my question is: How did you communicate your
11:42:436 priorities relative to the congressional district
11:42:467 map, and how do you know whether or not those were
11:42:488 ever incorporated?

11:42:509 MR. WONG: Object to form.

11:42:510 **THE WITNESS: So you're asking two**
11:42:511 **questions, right? How did I communicate my**
11:43:012 **priorities?**

11:43:013 MS. MELL: Yes.

11:43:014 Q (By Ms. Mell) How did you communicate your
11:43:015 priorities to the negotiators of the congressional
11:43:116 district map?

11:43:117 **A By conversations with Brady -- or sorry --**
11:43:218 **Commissioner Walkinshaw, and I had conversations with**
11:43:219 **Commissioner Fain. And I had conversations with**
11:43:320 **Commissioner Graves.**

11:43:321 **They were all aware of my priorities.**

11:43:322 Q Did you ever have a conversation with Brady that
11:43:523 included content about -- content communicated with
11:43:524 any other commissioner?

11:44:025 **A I'm sure. I'm sure I did have communication with**

11:44:151

**Commissioner Walkinshaw, informing him of my
conversations with other commissioners.**

11:44:242

11:44:253

Q And informing him of your conversations with other
commissioners specific to redistricting, correct?

11:44:314

11:44:345

A **Correct.**

11:44:356

Q So on the 12th, you were negotiating remotely; is
that correct?

11:44:477

11:44:478

A **That's correct.**

11:44:499

Q Do you know if the other commissioners were
negotiating remotely?

11:44:510

11:44:511

A **I do not.**

11:44:512

Q Did at some point you decide to negotiate in person?

11:45:013

A **Yes.**

11:45:014

Q And where did you decide to negotiate in person?

11:45:015

A **Where did we physically meet?**

11:45:126

Q Correct.

11:45:127

A **Or where was I when I made the decision?**

11:45:168

Q Where did you decide to negotiate?

11:45:219

A **Where was I when I made the decision to negotiate, or
where did we nego- -- where did we physically
negotiate?**

11:45:220

11:45:321

11:45:322

**I'm not sure I -- I want to be as clear as
possible.**

11:45:323

11:45:324

Q Where were you when you decided where to negotiate?

11:45:425

A **I imagine I was at home.**

11:45:451 Q Did you make a decision to negotiate in person?

11:45:532 A Yes.

11:45:543 Q Had that decision been made prior to the 12th?

11:45:594 A Commissioner Graves and I had in-person -- we had
11:46:095 asked commission staff to find a meeting location for
11:46:136 us so that we could have the in-person negotiations
11:46:207 sometime in the middle of October.

11:46:278 And we would decide a day or two before whether
11:46:359 or not we would meet virtually or whether or not we
11:46:310 would meet in person.

11:46:311 Q When you say you asked staff to find you and Graves a
11:46:412 location, are you talking about your dyad staff, like
11:46:503 Osta and Anton?

11:46:514 A No. Commission staff. Nonpartisan commission staff.

11:46:515 Q What was the role of nonpartisan commission staff
11:47:016 versus partisan staff?

11:47:017 A In terms of our negotiations?

11:47:018 Q Correct.

11:47:119 A Nonpartisan commission staff did not have a role in
11:47:120 our negotiations.

11:47:121 Q Why not?

11:47:122 A To -- to my knowledge.

11:47:223 Q Did you make that decision?

11:47:224 A I don't believe so.

11:47:325 Q Were you instructed not to use nonpartisan staff in

11:47:381

the negotiations?

11:47:402

A I don't believe so.

11:47:413

Q Why did it occur that you used partisan staff for purposes of negotiation but not nonpartisan staff?

11:47:464

A I don't recall an explicit conversation around it.

11:48:006

Q Why did you do it?

11:48:027

A I think I understood that to be the way that previous commissions had negotiated.

11:48:068

11:48:159

Q Did you see any concern about using partisan staff to negotiate as opposed to nonpartisan staff?

11:48:210

11:48:211

A No.

11:48:282

Q So were you and Graves making -- or having staff make separate arrangements for you and Graves from the other two?

11:48:313

11:48:414

A I wouldn't characterize them as separate

11:48:415

arrangements. Just that Commissioner Graves and I

11:48:516

were motivated to negotiate and proactive in

11:48:517

scheduling time and identifying locations to meet in

11:49:018

person.

11:49:119

11:49:120

Q So what identified -- what location did you identify?

11:49:121

A It was an office suite location in Federal Way. I'd

11:49:222

have to look at old e-mails or look at my calendar to

11:49:223

remember the name.

11:49:224

Q Were you at a hotel?

11:49:325

A The name of the facility.

11:49:341 Q Were you at a hotel?

11:49:362 A I'm not sure if it was a hotel or just one of the
11:49:423 standalone office buildings where there are various
11:49:464 offices.

11:49:485 Q Did you negotiate from that location on the 12th?

11:49:536 A I'm sorry. Can we back up just a moment?

11:49:567 Just so I can clarify: Our meeting location in
11:50:028 Federal Way for mine and Commissioner Graves' earlier
11:50:119 negotiations was not the same meeting location -- was
11:50:110 not the same place we were negotiating on the 15th,
11:50:111 the 14th and 15th.

11:50:212 Q What about the 13th?

11:50:213 A The 13th was not the same location that we negot- --
11:50:314 where we negotiated on the 14th and 15th. And I
11:50:315 can't recall if it was the same location that -- in
11:50:416 our previous negotiations or if it was a new
11:50:517 location.

11:50:518 Q So where do you recall negotiating on the 13th?

11:50:519 A At a location in Federal Way.

11:50:520 Q How would you describe the location?

11:50:521 A It was -- I believe it was a hotel.

11:51:022 Q Do you know --

11:51:023 A That had a number of meeting rooms.

11:51:124 Q Do you remember the name?

11:51:125 A I can look through my calendar. I know I am

11:51:181 notorious for just clicking the address and allowing
11:51:222 Google Maps to blindly lead me.

11:51:313 Q So where did you -- what time did your negotiations
11:51:394 begin on the 14th?

11:51:405 A Saturday the -- no. Sunday the 14th?

11:51:496 Q Oh. I meant the 13th.

11:51:527 A Saturday the 13th?

11:51:548 Q Correct.

11:51:559 A It was sometime late morning, early afternoon. I'd
11:52:020 have to look at old communication to...

11:52:081 Q Who were you negotiating with at this location at the
11:52:112 hotel?

11:52:113 A Commissioner Graves.

11:52:124 Q And your caucus staffers?

11:52:185 A They were in the room. They were not negotiating.

11:52:206 Q Was Chair Augustine there?

11:52:227 A She was.

11:52:238 Q Were they in person?

11:52:269 A Sorry. Just to clarify, Osta Davis was there.
11:52:320 Dominique Meyers was not.

11:52:321 Q So Chair Augustine was there.

11:52:322 And did she have staff with her?

11:52:323 A Not that I recall.

11:52:324 Q Okay. So how long did you negotiate on the 13th?

11:52:425 A I don't remember.

11:52:541 Q Do you have the sense that -- strike that.

11:52:592 Do you have any -- strike that again.

11:53:043 Did you know, when you were negotiating with
11:53:084 Graves, whether Fain and Walkinshaw were also
11:53:125 negotiating in Federal Way?

11:53:146 **A I did not, no.**

11:53:187 Q Did you at some point learn that Fain and Walkinshaw
11:53:218 were similarly negotiating in Federal Way?

11:53:239 **A I did not.**

11:53:240 Q Did you ever have any communications with the
11:53:301 Fain-Walkinshaw dyad on the 13th?

11:53:312 **A I don't believe so. I don't believe I ever had any
11:53:413 communication with their dyad.**

11:53:414 Q Did you ever have any communications so that you were
11:53:525 apprised of the status of the Fain-Walkinshaw dyad?

11:53:516 **A On the 13th?**

11:53:517 Q Correct.

11:54:018 **A I don't recall. I'd have to look through text
11:54:119 messages.**

11:54:200 Q Were you interested in the status of the
11:54:221 Fain-Walkinshaw negotiations and congressional maps
11:54:222 on the 13th?

11:54:223 **A I remember being really focused on negotiating the
11:54:324 legislative maps.**

11:54:325 Q What was the status of your priorities being

11:54:431 incorporated in the Fain-Walkinshaw congressional
11:54:462 maps as of the 13th?

11:54:483 **A I don't know.**

11:54:494 Q Did you have any communications with the
11:55:025 Fain-Walkinshaw dyad with regard to the status of
11:55:056 your negotiations in the Sims-Graves dyad on
11:55:107 legislative maps on the 13th?

11:55:138 **A So, again, I don't recall having any communication
11:55:209 with the Fain-Walkinshaw dyad.**

11:55:210 Q How did you know what was going on in that dyad?

11:55:311 **A Commissioner Walkinshaw would update me.**

11:55:312 Q Would Chair Augustine update you?

11:55:413 **A No.**

11:55:424 Q To the best of your knowledge, Chair Augustine never
11:55:455 told you what was happening in the congressional maps
11:55:496 negotiations?

11:55:517 **A To the best of my knowledge, no.**

11:55:518 Q Did you ever ask Chair Augustine to share with any
11:55:519 other commissioner the status of the negotiations in
11:56:020 the legislative map negotiations?

11:56:021 **A Not that I recall.**

11:56:122 Q How long were you negotiating in Federal Way with
11:56:223 Commissioner Graves?

11:56:224 **A Are we still talking about the 13th?**

11:56:225 Q On the 13th, yes.

11:56:291 **A I don't recall.**

11:56:292 **Q Did you stay overnight on the 13th?**

11:56:353 **A No.**

11:56:354 **Q Do you remember it being hours?**

11:56:415 **A Yes.**

11:56:436 **Q Do you remember what you did during that time?**

11:56:467 **A We negot- -- yes, I do.**

11:56:548 **Q What did you do?**

11:56:549 **A We negotiated around legislative maps.**

11:57:010 **I ran the different mapping scenarios with Osta**

11:57:011 **Davis.**

11:57:012 **I thought through various draft proposals.**

11:57:113 **We talked a lot.**

11:57:174 **Q Did you reach an impasse at any time?**

11:57:215 **A No.**

11:57:276 **Q Did Chair Augustine act as mediator at any time?**

11:57:317 **A Yes.**

11:57:378 **Q On the 13th.**

11:57:419 **On the 13th?**

11:57:420 **A Yes.**

11:57:421 **Q I didn't hear. Was that a "yes" or a "no"?**

11:57:422 **A That's a "yes."**

11:57:423 **Q Explain to me what happened with Chair Augustine.**

11:57:424 **A We invited her into our negotiations to help us**

11:57:525 **mediate or to mediate. Most of the conversation was**

11:58:041 around re-establishing mine and Commissioner Graves'
11:58:072 working relationship so that we could continue to
11:58:113 move through negotiations.

11:58:164 Q What was the impasse over?

11:58:175 MR. WONG: Object to form.

11:58:196 THE WITNESS: We were never at
11:58:217 impasse.

11:58:218 Q (By Ms. Mell) Why did you need a mediator, then?

11:58:259 A Because negotiations were getting sticky.

11:58:280 Q I didn't hear what word you used.

11:58:301 A "Sticky." Negotiations were getting sticky.

11:58:342 Q And sticky is something different than an impasse?

11:58:373 A We were never at impasse. We continued to negotiate
11:58:414 until we reached an agreed-to proposal.

11:58:445 Q Okay. So what was the sticking point that
11:58:506 necessitated Augustine mediating?

11:58:517 A Commissioner Graves believed I had misled him
11:59:208 regarding a specific district, and it impacted our
11:59:289 relationship. And we invited Chair Augustine in to
11:59:320 help us resolve our personal relationship so that we
11:59:321 could continue to negotiate.

11:59:422 Q What was the sticking point on the district?

11:59:423 A He believed that I had advance knowledge that Senator
11:59:524 Hobbs, who represented the 44th district, was going
12:00:025 to be appointed to the secretary of state and

12:00:051
12:00:122
12:00:133
12:00:194
12:00:265
12:00:356
12:00:357
12:00:358
12:00:359
12:00:370
12:00:391
12:00:412
12:00:523
12:01:024
12:01:015
12:01:116
12:01:117
12:01:118
12:01:119
12:01:120
12:01:221
12:01:222
12:01:323
12:01:424
12:01:425

therefore that I knew that that was going to be an open Senate seat.

Q How did that pertain to redistricting work?

A We had negotiated that the 44th district would be a safe Democratic district, meaning I could draw it at over 55 percent performance.

THE REPORTER: "Meaning I could," what?

THE WITNESS: Meaning I could draw it at over 55 percent performance for Democrat.

Q (By Ms. Mell) I need to understand more. I know you -- I think you think I know more than I do.

So what? How does that pertain to the appointment?

A I'm not sure. Can you ask the question again so that I understand what you -- exactly what you're --

Q I think there must have been -- there must be something more you're not saying to complete that explanation.

Because at least from my perspective, I don't understand how your agreement that the 44th could be mapped at over 55 percent Democrat preference related to the appointment of Hobbs.

Did the appointment shift the demographics somehow or the metrics?

12:01:471 A Well, I'm thinking of the best way to say this so
12:01:582 it's not too far in the weeds.

12:02:003 The 44th district, by some metrics, is a
12:02:134 competitive district held -- the Senate seat was held
12:02:215 by a longtime Democrat. Incumbents politically are
12:02:326 difficult to beat, so an open seat in a competitive
12:02:357 district is easier to pick up. So --

12:02:448 Q So --

12:02:459 A Go ahead.

12:02:450 Q No, go ahead. Finish your thought.

12:02:501 A So -- so negotiating a safe -- negotiating to make a
12:03:012 district safe, negotiating to move a competitive
12:03:103 district to a safe district that has a long-term
12:03:204 incumbent is probably viewed as less risky than
12:03:215 negotiating a swing district into a safe district
12:03:306 when there's an open seat.

12:03:317 Q So was it Walkinshaw's desire, then, to renegotiate
12:03:418 the agreement that you could draw it at over 55
12:03:499 percent to account for that risk factor?

12:03:520 MR. WONG: Object to form.

12:03:521 THE WITNESS: I was negotiating
12:03:522 with Commissioner Graves.

12:03:523 MS. MELL: Oh, Graves. I'm sorry.

12:03:524 So --

12:03:525 THE WITNESS: Can you ask the

12:04:001

question again?

12:04:012

MS. MELL: Yeah, let me ask that

12:04:023

again.

12:04:044

Q (By Ms. Mell) So to complete this line of thinking,

12:04:075

then, at that point in time in the negotiations, if

12:04:106

there was a seat that shifted to an open seat, the

12:04:187

idea of drawing boundaries at 55 percent was no

12:04:248

longer acceptable in principle?

12:04:349

A I think the issue on Saturday was more about

12:04:410

Commissioner Graves thinking that I had intentionally

12:04:411

deceived him.

12:04:512

Q Okay. So what did you and Graves decide relative to

12:04:513

this 55 percent and the mediated process with

12:05:014

Augustine?

12:05:015

MR. WONG: Object to form.

12:05:016

THE WITNESS: We made no decisions

12:05:117

on Saturday the 13th. We simply talked about how to

12:05:218

repair our working relationship so that we could

12:05:219

continue to negotiate.

12:05:220

Q (By Ms. Mell) So was there any resolution as to

12:05:321

whether or not the percentage for the 44th would be a

12:05:422

number other than 55 percent?

12:05:423

A That remained in negotiations until we finally came

12:05:424

to an agreed-to proposal on the 15th.

12:05:525

Q And when you say "until we finally came to an

12:05:541 agreed," what on a proposal on the 15th?

12:05:572 **A An agreed-to proposal on the 15th.**

12:05:593 Q Again, the "we" in that sentence is who?

12:06:054 **A Commissioner Graves and me.**

12:06:065 Q What time did you come to an agreed-on proposal on
12:06:146 the legislative district -- districts?

12:06:177 **A Sometime between 8:45 and 9:00 on Monday the 15th.**

12:06:228 Q Did you read Commissioner Graves' deposition?

12:06:309 **A I did.**

12:06:300 Q Why did you do that?

12:06:311 **A To prepare for this deposition.**

12:06:402 Q When you read his deposition, did you take issue with
12:06:413 any of his testimony?

12:06:414 **A Not that I recall.**

12:06:515 Q Is it your recollection that what you read as to what
12:07:016 Commissioner Graves testified to was true and correct
12:07:017 from your perspective?

12:07:018 **A I have no reason to cast doubt on anything that
12:07:219 Commissioner Graves said.**

12:07:220 Q Is your recollection of events different from Graves'
12:07:321 in any manner?

12:07:322 **A I didn't go through his deposition with a fine-tooth
12:07:423 comb. It was more -- I'd never been deposed before,
12:07:424 so it was more to prepare for -- so I could get a
12:07:425 sense of the flow of things. So --**

12:07:501 Q Did you read anything that you disagreed with or you
12:07:532 thought occurred differently?

12:07:553 A I don't recall anything standing out to me.

12:08:004 Q When you reached an agreement with Commissioner
12:08:095 Graves over a legislative district -- well, strike
12:08:126 that.

12:08:127 What did you reach an agreement with him on? A
12:08:168 map or something other than a map?

12:08:189 A Well, there were a number of maps we had exchanged in
12:08:210 the course of our negotiations. Our -- so we had
12:08:311 previously reconciled a number of things. Our final
12:08:412 agreement was around the performance in the 28th,
12:08:413 44th, and 47th legislative districts.

12:08:514 Q 28, 44, and what?

12:08:515 A 47.

12:08:516 42 -- well, that had already been resolved. So
12:09:017 our final agreement, 28, 47, 44.

12:09:018 Q And your final agreement concerned what?

12:09:119 A The Democratic performance of those three districts.

12:09:120 Q Okay. So what was the agreement?

12:09:121 A We agreed to, I believe was 1.5 percent increased
12:09:322 Democratic performance in the 44th with Lake Stevens
12:09:323 removed and moving the district further south, status
12:09:424 quo in the 47th district in terms of Democratic
12:09:425 performance, and I believe three-quarters of a point

12:09:551 or .8 percent increased Democratic performance in the
12:10:002 28th legislative district with Tacoma removed and as
12:10:053 much of Lakewood incorporated as possible.

12:10:114 Q What about the 42nd?

12:10:135 A The 42nd -- we had already resolved that and
12:10:216 previously agreed to uniting Nooksack and Lummi in
12:10:267 the 42nd, which I believe increased the Democratic
12:10:288 performance slightly in that district.

12:10:329 We had previously agreed to status quo in all of
12:10:370 the other competitive or swing districts that we had
12:10:421 previously been negotiating around.

12:10:452 Q And what does "status quo" mean?

12:10:473 A As close to the current Democratic performance as
12:10:514 possible. So no change in either direction.

12:10:535 Q When you say "no change," is that zero?

12:11:016 A As close as possible to zero. I mean, all the
12:11:077 districts had to change because of population
12:11:118 increases. So...

12:11:209 Q So if it was a 1 percent change, that would not be
12:11:220 status quo?

12:11:221 A A full 1 percent?

12:11:302 Q Correct.

12:11:303 A In the swing districts we were negotiating? I would
12:11:324 say that would not be status quo.

12:11:325 Q And there were multiple different ways to achieve a

12:11:421 status quo district, correct?

12:11:442 **A Correct.**

12:11:493 Q There are multiple different ways to achieve a .8
12:11:574 shift in the 28th, correct?

12:12:005 **A Correct.**

12:12:076 Q Did you agree to -- well, strike that.

12:12:097 Did you vote on -- strike that.

12:12:188 MR. WONG: Joan, I'm not sure if
12:12:209 she was done answering the question.

12:12:210 Were you starting to say something? I'm sorry.
12:12:211 I just heard you talking over each other.

12:12:212 **THE WITNESS: Right. I mean, I**
12:12:213 **think for the 28th district -- your question, yes,**
12:12:314 **correct. There are multiple ways to draw it. But**
12:12:315 **when you remove Tacoma and incorporate Lakewood, it**
12:12:416 **limits the op- -- the options there in terms of both**
12:12:417 **what cities you're consolidating and how much you are**
12:12:518 **adjusting the Democratic performance. Still multiple**
12:12:519 **ways, but probably fewer options.**

12:12:520 Q (By Ms. Mell) Did your final agreement with Graves
12:13:021 incorporate the priorities of Walkinshaw?

12:13:022 **A Many of them, I think.**

12:13:123 Q And how did you know that?

12:13:124 **A I knew what his priorities were. We had a number of**
12:13:225 **conversations about his priorities.**

12:13:211 Q And were those conversations about his priorities
12:13:272 done privately?
12:13:293 A Some -- some were private. Some were public. Some
12:13:364 were he released a few public statements, made some
12:13:425 statements during some public meetings.
12:13:456 Q Did any of the priorities incorporate -- strike that.
12:13:507 Did your agreement incorporate any of Fain's
12:13:548 priorities?
12:13:559 A I had hoped so.
12:14:000 Q Did you know what Fain's priorities were?
12:14:011 A I thought I understood his priorities as more
12:14:012 competitive districts.
12:14:013 Q How did you understand his priorities?
12:14:014 A He had some weird spreadsheet he sent around.
12:14:125 Q Did you --
12:14:116 A I shouldn't say "weird."
12:14:117 He sent around a spreadsheet communicated via
12:14:118 memo. I -- I had a difficult time understanding it.
12:14:219 That's why I say "weird." I mean no disrespect to
12:14:220 Commissioner Fain.
12:14:221 Q "Weird" has been a word that has come up in this
12:14:222 previously.
12:14:303 I guess --
12:14:324 A As it relates to a spreadsheet? Then I wouldn't feel
12:14:325 so bad.

12:14:391 Q No, I think it was a description of Commissioner
12:14:422 Walkinshaw.
12:14:423 A Oh.
12:14:474 Q It was "weirdo."
12:14:475 A Oh.
12:14:486 Q There was an apology for that too.
12:14:497 A Then I won't feel so bad. Just make sure you capture
12:14:538 that. I mean no disrespect (Videoconference
9 technical difficulties.)
10 THE REPORTER: "I mean no
11 disrespect..." What was the rest there?
12 THE WITNESS: What's that?
13 THE REPORTER: "I mean no
14 disrespect..." What was the rest of that sentence?
12:15:015 THE WITNESS: I mean no disrespect
12:15:016 to Commissioner Fain.
12:15:017 Q (By Ms. Mell) How did you get Commissioner Fain's
12:15:118 memo?
12:15:119 A I believe he sent an e-mail to the members of the
12:15:120 commission sometime Saturday evening. Saturday the
12:15:221 14th.
12:15:222 Q Do you know why he timed it at that time?
12:15:323 A I do not.
12:15:324 Q Did you say Saturday the 14th or the 13th?
12:15:325 A I'd have to look. I thought it was Saturday the

12:15:381

14th. But maybe it would have been --

12:15:432

Q Okay. Okay.

12:15:443

A I don't know. Sometime that weekend, going into our final negotiations, he sent something around.

12:15:464

12:15:465

THE REPORTER: "He sent

12:15:466

something..." What was that?

12:15:547

THE WITNESS: He sent -- he sent

12:15:568

something around. He sent an e-mail to the

12:15:579

commission sometime that weekend.

12:15:580

Q (By Ms. Mell) And do you know why it was timed when it occurred?

12:16:011

12:16:022

A I do not.

12:16:083

Q Is it -- is it -- strike that.

12:16:094

When you left on Saturday, what was your intent with regard to the negotiations?

12:16:215

12:16:216

A To continue to negotiate.

12:16:297

Q How?

12:16:318

A To meet with Paul again and keep talking through the differences that we had in our proposals.

12:16:319

12:16:400

Q And what did you think was happening with Fain and Walkinshaw when you left on the 13th?

12:16:421

12:16:482

A When I left on Saturday the 13th?

12:16:523

Q Correct.

12:16:524

A Ask me the question again.

12:17:025

Q What did you think was happening with your

12:17:031

counterparts on that day by the time you left?

12:17:082

A I had hoped that they were negotiating the congressional maps.

12:17:103

12:17:114

Q And did you know the status of their negotiations when you left on Saturday?

12:17:145

12:17:156

A I did not. I don't think I did.

12:17:207

Q So then what happened on Sunday the 14th?

12:17:328

Monday's the 15th. Can we agree on that?

12:17:349

A Monday is the 15th.

12:17:310

Can we go back to the 13th?

12:17:311

Q Yes.

12:17:412

A Saturday. I believe on Saturday, Commissioner Walkinshaw was planning to negotiate or send a proposal to Commissioner Fain relative to the legislative districts.

12:17:513

12:18:014

12:18:015

12:18:106

Q Legislative districts or the congressional?

12:18:117

A Legislative districts.

12:18:118

Q Okay. And why was Walkinshaw going to give something to Fain on the legislative districts?

12:18:119

12:18:220

A I --

12:18:221

Q On Saturday the 13th.

12:18:222

A I'm sorry. Go ahead.

12:18:223

Q On Saturday the 13th.

12:18:324

A So I communicated to Commissioner Walkinshaw that

12:18:425

mine and Commissioner Graves' negotiations was at a

12:18:521 sticking point and we were bringing Commissioner
12:18:552 Augustine in to help mediate.

12:18:593 I believe he told me that he was going to try to
12:19:094 negotiate his legislative map proposal with
12:19:125 Commissioner Fain.

12:19:206 Q Did you know what his legislative map proposal was?

12:19:287 A I didn't know -- no, not exactly.

12:19:318 Q Were you opposed to any of his metrics?

12:19:349 A I'm not sure I know what you mean by "his metrics."

12:19:460 Q Whatever the elements were of his proposal.

12:20:011 A Was I opposed to any elements of his proposal?

12:20:062 I'm not sure that I was fully aware at that time
12:20:113 what his entire proposal was.

12:20:174 Q Did you know some of what he wanted to propose to
12:20:215 Fain?

12:20:226 A Yes.

12:20:247 Q What was it?

12:20:268 A I believe he was still proposing a CVAP majority
12:20:319 Hispanic district in eastern Washington that leaned
12:20:420 Democrat.

12:20:421 I believe he was still proposing the public map
12:20:522 he had released sometime at the beginning of October,
12:21:023 mid October, but there may have been some changes to
12:21:024 it.

12:21:025 Q Were any of your priorities included in his proposal

12:21:131

to Fain?

12:21:142

A I imagine they were. I don't know specifically.

12:21:193

Q And do you imagine they were because you communicated

12:21:214

your priorities to Walkinshaw to include in his

12:21:265

proposal to Fain?

12:21:296

A I imagine they were, because I had both communicated

12:21:327

my priorities and because there were a number of

12:21:368

similarities in the second round of draft maps that

12:21:409

Commissioner Walkinshaw and I released sometime in

12:21:410

October.

12:21:411

Q So you and Commissioner Walkinshaw released both

12:21:412

congressional and legislative map proposals in

12:21:513

August?

12:21:514

Is that what you said?

12:21:515

MR. WONG: Object to form.

12:21:516

THE WITNESS: Commissioner

12:21:517

Walkinshaw and I released -- publicly released -- all

12:22:018

members of the commission publicly released

12:22:019

legislative maps on September 21st, draft

12:22:020

congressional maps on September 28, and Commissioner

12:22:121

Walkinshaw and I released a second round of draft

12:22:122

legislative maps sometime in October.

12:22:223

Q (By Ms. Mell) So were you and Walkinshaw negotiating

12:22:324

legislative maps to achieve that public proposal?

12:22:325

A No.

12:22:361 Q How did you guys come to agreement on what you wanted
12:22:422 to release?

12:22:453 MR. WONG: Object to form.

12:22:474 **THE WITNESS: We had received**
12:23:085 **information and analysis regarding a VRA-compliant**
12:23:226 **district in eastern Washington, and both wanted to**
12:23:307 **demonstrate to the public that we had heard and**
12:23:398 **incorporated a lot of the feedback we'd received**
12:23:449 **during the public comment period following the**
12:23:410 **release of the maps.**

12:24:001 Q (By Ms. Mell) So you met and created a map?

12:24:012 **A We never met. We never created a joint map.**

12:24:013 **I mean, do you mean did we meet in person?**

12:24:104 Q Well, I don't know.

12:24:115 How did you -- I thought I understood that you
12:24:176 released maps, a legislative map, in October.

12:24:217 **A Yes.**

12:24:218 Q And that was you and Walkinshaw or you and Graves?

12:24:219 **A Commissioner Walkinshaw and I both released**
12:24:320 **separate -- separate draft legislative maps in**
12:24:321 **October.**

12:24:322 Q Okay. But you had collaborated as to what would be
12:24:423 in your respective legislative district proposed maps
12:24:424 published in October?

12:24:425 MR. WONG: Object to form.

THE WITNESS: We communicated what would be in our draft maps that we released in October.

Q (By Ms. Mell) Okay. And did you communicate with any other commissioner about what would be in your maps published in October?

A No.

Q So Sunday the 14th, did you stay in Federal Way?

A I was there all day, yes.

Q Did you stay overnight on Sunday the 14th?

A I did not.

Q How long were you in Federal Way on Sunday the 14th?

A I think I left sometime between 12 and 1 a.m.

Q And by Sunday the 14th, had you convened at the Hampton?

A Correct.

Q What was the physical layout of the negotiations at the Hampton on Sunday the 14th?

A On Sunday the 14th...

I believe we had three rooms: One room for Osta Davis and me to work in, one room for the Republicans to work in, and one larger suite with a round meeting table for negotiations that Sarah Augustine was primarily working out of.

Q And in your room with Osta Davis, was Walkinshaw in

12:27:191 that room with you?

12:27:202 **A No.**

12:27:253 Q Where was Walkinshaw?

12:27:274 **A He was at the Marriott Courtyard, I believe it was,
12:27:315 across the parking lot from the Hampton.**

12:27:336 Q Why was he at the Marriott (videoconference technical
12:27:337 difficulties.)

12:27:338 THE REPORTER: "Why was he at the
12:27:339 Marriott..." What was the rest there, Joan?

12:27:410 Q (By Ms. Mell) Why was he at the Marriott rather than
12:27:411 the Hampton with you guys?

12:27:412 **A That's where he chose to be.**

12:27:413 Q Did he choose to be there for purposes of open
12:27:514 government compliance?

12:27:515 MR. WONG: Object to form.

12:27:516 THE WITNESS: I think he
12:27:517 communicated some concerns around that.

12:28:018 Q (By Ms. Mell) Did you talk to him about that?

12:28:019 **A I don't recall if we had a conversation about it.**

12:28:120 Q Did you have a conversation with anybody about it?

12:28:221 **A I think I communicated to Chair Augustine that
12:28:222 Brady -- I'm sorry -- Commissioner Walkinshaw would
12:28:323 not be meeting us at the location. And I think I
12:28:324 shared his concerns with Commissioner Augustine.**

12:28:425 I'd have to look at the text messages to be sure.

12:28:481 Q So did Walkinshaw stay at the Marriott throughout
12:28:562 Sunday the 14th?

12:28:583 **A I believe so.**

12:28:584 Q And did you shuttle over to the Marriott to negotiate
12:29:045 with him at times?

12:29:056 MR. WONG: Object to form.

12:29:077 **THE WITNESS: I never negot- -- I**
12:29:138 **walked over to the Marriott and communicated with**
12:29:159 **him.**

12:29:160 Q (By Ms. Mell) When you walked over to the Marriott
12:29:181 to communicate with Walkinshaw, what were you
12:29:202 communicating with him about?

12:29:213 **A I believe I was giving him an update on where we were**
12:29:214 **in negotiations.**

12:29:285 Q And when you say where you were in negotiations, do
12:29:316 you mean where you, Sims -- no, excuse me -- you,
12:29:387 Graves, and Fain were in negotiations at the Hampton?

12:29:418 **A No. I mean where Commissioner Graves and I were in**
12:29:419 **our negotiations over our proposed plan.**

12:29:520 Q Are you sure you didn't have conversations with Fain
12:29:521 at the Hampton where you were located -- where you
12:30:022 were all located -- Fain, you, and Graves -- that you
12:30:023 communicated back to Walkinshaw?

12:30:124 **A Not that I recall.**

12:30:225 Q Is it correct that you did not limit your negot- --

12:30:331

strike that.

12:30:332

Is it correct that you communicated with Graves

12:30:353

on the 14th at the Hampton?

12:30:384

A That's correct.

12:30:395

Q Is it correct that you also communicated with Fain on

12:30:446

the 14th at the Hampton?

12:30:457

A That is correct.

12:30:488

Q And when you were communicating with Graves, were you

12:30:539

communicating with Graves about redistricting plan?

12:30:510

A Yes.

12:30:511

Q And when you communicated with Fain, were you

12:31:012

communicating with Fain about redistricting plan?

12:31:013

A I don't believe so.

12:31:114

Q Why?

12:31:115

A I don't recall anything other than casual

12:31:116

conversation with Commissioner Fain on Sunday the

12:31:217

15th -- 14th.

12:31:218

Q And when you say "casual conversation," are you

12:31:219

telling me that you had communications with Fain but

12:31:320

didn't say anything about the redistricting work you

12:31:321

were both doing?

12:31:322

A To my recollection, yes.

12:31:323

Q You didn't ask him any questions about his memo?

12:31:524

A No.

12:31:525

Q Did you ever tell Fain what you thought about his

12:31:571

memo?

12:31:572

A I don't believe so.

12:32:103

Q Did you ever talk to Graves about what you thought about Fain's memo?

12:32:134

12:32:145

A I don't think specific to the memo. I might have mentioned -- yeah, I don't think specific to the memo.

12:32:396

12:32:447

12:32:448

Q But you might have mentioned what?

12:32:469

A That I still didn't understand the spreadsheet.

12:32:480

Q Were you looking at the spreadsheet with Graves?

12:32:511

A No.

12:32:512

Q Did Graves say anything to you about the spreadsheet?

12:33:013

A Other than he might have agreed with me that neither of us really got it.

12:33:114

12:33:185

Q Okay.

12:33:186

A Kind of dismissed it.

12:33:197

Q So did you use it any further?

12:33:218

A No. We didn't use it at all. I did not use it at all.

12:33:219

12:33:220

Your question was did I use it any further. I wanted to clarify that I did not use it at all.

12:33:321

12:33:322

Q Well, you used it enough to dismiss its merits, right?

12:33:323

12:33:324

MR. WONG: Object to form.

12:33:425

THE WITNESS: I never used it. I

12:33:421

never understood it to use it.

12:33:432

Q (By Ms. Mell) Did you read it?

12:33:463

A Did I read the memo?

12:33:484

Q Yes.

12:33:495

A Yes.

12:33:516

I'm clarifying for you that I didn't understand

12:33:537

the spreadsheet, so I never used it.

12:33:558

Q Okay.

12:33:569

A You asked me if I used it further. And I want to be

12:33:510

clear that I never used it at all.

12:34:021

Q You elected not to use it with -- and communicated

12:34:082

that to Graves, correct?

12:34:113

A Correct.

12:34:174

Q Did you have separate conversations with Fain outside

12:34:215

of his e-mail memo to incorporate Fain's priorities

12:34:316

in your legislative district proposal?

12:34:317

A On the 14th or the 15th? What day are we talking

12:34:418

about?

12:34:419

Q On the 14th.

12:34:520

A I don't remember anything other than casual

12:34:521

conversation with Commissioner Fain on the 14th.

12:35:022

Q What was the status of your negotiations when you

12:35:023

left on the 14th?

12:35:024

A They were ongoing.

12:35:125

Q How close were you in terms of reaching agreement at

12:35:181
12:35:192
12:35:263
12:35:294
12:35:325
12:35:356
12:35:367
12:35:568
12:36:099
12:36:110
12:36:311
12:36:312
12:36:313
12:36:314
12:36:405
12:36:406
12:36:417
12:36:508
12:36:519
12:37:020
12:37:121
12:37:122
12:37:123
12:37:124
12:37:225

the time you left on the 14th?

A I think that would depend on how you define "close."

Out of the 49 legislative districts we were drawing, we were negotiating over just a handful.

Q And what were those in play when you left on the 14th?

A 10th, the 15th, the 17th, the 24th, the 26th, the 28th, the 40th, the 42nd, the 44th, the 47th. Let's see. Make sure.

24th, 26th, the 28th. The 5th.

Q 11 districts?

A I didn't count those on my fingers, but that sounds right to me.

Q With regard to the congressional districts at the time you left on the 14th, what was the status of any dis- -- strike that.

When you left on the 14th, what did you believe the districts were in play with respect to the congressional district maps on the 14th?

A I understood that Commissioner Walkinshaw and Commissioner Fain were still negotiating and having -- and communicating regarding the congressional maps.

Q Okay. So what was in play at the time that you left on the 14th?

12:37:231 **A Excuse me.**

12:37:232 **To my knowledge, all of them.**

12:37:253 **Q What time did you get to the Hampton -- or strike**
12:37:404 **that.**

12:37:405 **What time did you start negotiating at the**
12:37:426 **Hampton on the 14th?**

12:37:437 **A I think we originally planned for 8:30. I think**
12:37:498 **maybe around -- I don't recall. Sometime in the**
12:37:549 **morning.**

12:37:560 **Q Sometime before 9?**

12:37:581 **A It may have been after 9.**

12:38:042 **Q Was it after 10?**

12:38:073 **A Sometime between 9 and 10, I think.**

12:38:114 **Wait. I'm sorry. Can you clarify the question?**
12:38:145 **What time did I begin negotiating, or what time did**
12:38:166 **negotiations begin?**

12:38:177 **Q What time did negotiations begin?**

12:38:218 **A It was probably after 10:00, then.**

12:38:329 **Q But you believe you got there before 10?**

12:38:320 **A Yes.**

12:38:321 **Q What did you do between the time you got there and**
12:38:422 **the time negotiations began?**

12:38:423 **A I met with my staff. I ran through different**
12:38:524 **proposals and possibilities, strategized.**

12:39:025 **I had a conversation with Commissioner Fain**

12:39:061

regarding the congressional maps.

12:39:122

Q And what was your conversation with Fain regarding

12:39:153

the congressional maps on the 14th?

12:39:174

A On the 14th?

12:39:215

Q I think that's the day we were on.

12:39:246

A I thought we were on the 15th. Did I misunderstand?

12:39:277

Q Yes.

12:39:288

A Oh. Then I apologize. All the information that I

12:39:319

just gave you regarding when we started negotiating

12:39:340

was relative to the 14th. I mean, relative to the

12:39:371

15th, which is Sunday. No. Monday.

12:39:412

You're asking about the 14th, which was Sunday,

12:39:443

correct?

12:39:464

Q I was asking about the 14th, Sunday.

12:39:495

A Okay. So I did not -- so when I mentioned that I had

12:39:516

a conversation with Commissioner Fain to discuss

12:39:547

congressional districts, that was on the 15th, not

12:40:008

the 14th. So let me go back to the 14th.

12:40:039

What time did we start negotiating on the 14th?

12:40:070

It was sometime later in the afternoon. Maybe 1:00.

12:40:101

Q And then you stayed until 1 in the morning-ish?

12:40:132

A Yeah.

12:40:163

Q Okay. And by the time you left, there were

12:40:224

approximately 11 districts in play as to the

12:40:255

legislative map; is that correct?

12:40:281 **A Correct. Correct.**

12:40:282 **Q And the congressional district map, all ten districts**
12:40:313 **were still in play?**

12:40:334 **A To my understanding, there -- I did not understand**
12:40:365 **there to be any movement on that negotiation.**

12:40:476 **Q Do you know what was in contention as to those ten**
12:40:527 **districts?**

12:40:528 **A I think there were still discussions around who would**
12:41:039 **draw which districts and what the performance of some**
12:41:060 **of the districts would be.**

12:41:071 **Q Do you remember what districts?**

12:41:112 **A Specific to who would draw which ones, or specific**
12:41:113 **to...?**

12:41:114 **Q The metrics.**

12:41:225 **A I believe the 3rd, the 6th. I think all of them with**
12:41:416 **the exception of the four safe districts, super-safe**
12:41:417 **districts.**

12:41:418 **Q And what were the super-safe districts?**

12:41:519 **A The 4th and the 5th and the 7th and the 9th.**

12:41:520 **Q When you say who would draw the maps, what were the**
12:42:021 **options that were being discussed?**

12:42:022 **A I don't know what the options were that were being**
12:42:123 **discussed.**

12:42:124 **Q What was even the negotiating point?**

12:42:125 **A That the Republicans would draw the safe Republican**

12:42:211 districts and that the Democrats would draw the safe
12:42:242 Democratic districts.

12:42:253 Q Did you have similar negotiating points as to the
12:42:394 legislative district maps on who would draw what?

12:42:425 A Yes. Commissioner Graves and I had discussed that
12:42:516 they -- he would draw eastern Washington and that I
12:42:557 would draw King County, with the exception of the
12:42:588 districts that we were negotiating, which were the
12:43:019 5th and the 47th in King County.

12:43:010 THE REPORTER: "Which were the 5th
12:43:011 and the 47th..." What was that?

12:43:012 THE WITNESS: In King County. The
12:43:013 5th and the 47th districts in King County.

12:43:164 MS. MELL: I think I missed the
12:43:175 content of that.

12:43:206 THE WITNESS: Mm-hmm.

12:43:207 That I -- well, and so that he would draw most of
12:43:218 eastern Washington with the exception of the 3rd
12:43:219 district and that I would draw most of King County
12:43:220 with the exception of the 5th and the 47th districts.

12:43:321 Q (By Ms. Mell) Did that ever change, or was that the
12:43:322 agreement throughout?

12:43:323 A I don't remember when we actually came to -- I don't
12:43:524 know that it was the agreement throughout, but it was
12:43:525 once we reached the agreement, we didn't revisit it.

12:43:591 Q Who actually drew the maps?

12:44:032 A **Our staff.**

12:44:083 Q And who drew what?

12:44:104 A **Well, we accepted their eastern Washington, and they
12:44:155 accepted our King County.**

12:44:206 Q Was that on the 6th, 16th?

12:44:257 A **The actual map drawing --**

12:44:288 Q Right.

12:44:289 A **-- was done -- the majority of the map drawing was
12:44:310 done on the 16th, yes.**

12:44:311 Q Okay. And so your acceptance of the districts drawn
12:44:312 by the Republicans occurred on the 16th?

12:44:413 A **I'm not sure I understand the question or what you're
12:44:414 asking.**

12:44:415 **We agreed to it in advance, and the actual
12:44:516 mapping occurred on the 16th.**

12:44:517 Q What did you agree to in advance with respect to --
12:44:518 with respect to who drew what?

12:45:019 A **That Commissioner Graves would draw eastern
12:45:020 Washington with the exception of the 3rd district and
12:45:021 that I would draw -- or, rather, our teams would draw
12:45:122 King County with the exception of the 5th and the
12:45:123 47th.**

12:45:124 Q So on the 16th, is that what occurred with respect to
12:45:225 drawing?

12:45:271 **A Yes.**

12:45:302 **Q** And then at what point in time --

12:45:343 **A To my knowledge.**

12:45:354 **Q** And then who drew the exceptions?

12:45:415 **MR. WONG:** Object to form.

12:45:426 **THE WITNESS:** I don't know what you
12:45:437 **mean by "exceptions."**

12:45:448 **Q** (By Ms. Mell) Well, you said he would draw eastern
12:45:479 Washington except for the 3rd and you would do King
12:45:510 County except the 5th and the 47th.

12:45:531 So who did the 3rd, 5th, and 47th?

12:45:572 **A They accepted our 3rd. And by the time we agreed to**
12:46:103 **our proposal, we had agreed to status quo on the 5th**
12:46:154 **and the 47th, so we drew that.**

12:46:195 **Q** Who drew it?

12:46:216 **A My staff.**

12:46:247 **Q** Okay. So your staff selected the district boundaries
12:46:358 using a status quo metric for the 5th and the 47th
12:46:409 that was accepted on the 16th?

12:46:420 **A** I don't know that I would say it was accepted on the
12:46:521 16th. I'm trying to understand the question.

12:46:522 So we originally agreed through the course of our
12:46:523 negotiations that I would accept his eastern
12:47:024 Washington and he would accept my King County. 5 and
12:47:025 47 were still in play.

12:47:081 Sometime during the day on the 15th, we removed
12:47:142 the 5th from the negotiations. We removed the 47th
12:47:243 from the -- well, we accepted the 47th as status quo.
12:47:304 And since those were no longer in play, my team drew
12:47:365 King County.

12:47:386 Q Okay. But when you say they're not in play, somebody
12:47:417 still had to create the boundaries for the 5th and
12:47:438 the 47th, correct?

12:47:449 A I had already created boundaries for the 5th and the
12:47:470 47th.

12:47:491 Q Okay. So --

12:47:512 A In my map proposals.

12:47:523 Q Pardon me?

12:47:544 A I'm sorry.

12:47:575 Q Did somebody draw district boundaries for the 5th and
12:48:006 the 47th on the 16th?

12:48:017 A The district boundaries for the 5th and the 47th were
12:48:118 already drawn. The 16th was reconciling the
12:48:139 differences between our two maps and making sure that
12:48:160 our agreement was articulated into the final maps
12:48:221 that were produced on the 16th.

12:48:222 Q Right.

12:48:223 But on the 16th, there had to be decisions made
12:48:224 about where the district boundaries were for the 5th
12:48:325 and the 47th to keep it status quo, correct?

12:48:341 A No. Those decisions had already been made.

12:48:372 Q By whom?

12:48:373 A I had already drawn King County. I already had a map
12:48:464 with the 5th and the 47th in it. And so our teams
12:48:535 were working to reconcile the two maps.

12:48:556 Q What two maps?

12:48:587 A I had a map, and Commissioner Graves' staff had a
12:49:038 map. I should say my staff had a map, my map, and
12:49:069 Commissioner Graves had a map.

12:49:100 In the time leading up to -- these were the maps
12:49:141 that we were working so hard to finish to show the
12:49:172 public before midnight.

12:49:223 Q But you didn't show them to the public before
12:49:254 midnight, did you?

12:49:275 A Correct.

12:49:286 Q There was work done to create district boundaries on
12:49:317 the 16th, correct?

12:49:318 A There was work done to articulate our framework into
12:49:409 the final maps on the 16th.

12:49:420 Q And that work done to articulate your framework into
12:49:521 final maps on the 16th required you and the other
12:50:022 commissioners to make decisions about where the
12:50:023 district boundaries would be located, correct?

12:50:124 A That is not correct.

12:50:125 Q So how -- how were the decisions made to articulate

12:50:221 the framework into an actual map without you making
12:50:272 decisions about where to put the boundaries on the
12:50:313 16th?

12:50:344 **A Well, our staff had been privy to all of our**
12:50:395 **negotiations, privy to all of the decisions that we**
12:50:426 **had made regarding the proposal, and knew what needed**
12:50:517 **to be done to reconcile those differences and put**
12:50:558 **that into a final map.**

12:50:579 **Q But if there's differences requiring reconciliation,**
12:51:000 **someone has to make the decision to reconcile the**
12:51:041 **district boundaries in a particular way, correct?**

12:51:082 **A I'm trying to think through the phrasing of your**
12:51:113 **question so I can answer this correctly.**

12:51:144 **Can you ask me again?**

12:51:215 **Q How do you do this without making a decision about**
12:51:226 **where if it's this or if it's this?**

12:51:317 **A Because those things have already been agreed to.**

12:51:348 **Like, we had agreed in our proposal to**
12:51:399 **consolidate Washougal and Camas in the 17th.**

12:51:420 **We had agreed through previous conversations that**
12:51:521 **I -- I liked his drawing of the 26th district. I**
12:51:522 **would accept that in the proposal.**

12:52:023 **That, you know, that he would accept my 3rd**
12:52:024 **district. So when our staff were reconciling the two**
12:52:125 **districts, like, oh, my southwest Washington looks**

12:52:171 different, but that's right. We agreed that I would
12:52:242 accept your southwest Washington. So we need to put
12:52:273 that there. Or you had agreed -- and I just tried to
12:52:304 remember off the top of my head some of the things
12:52:345 that he had agreed -- to bring the 12th district
12:52:386 across the mountains and into western Washington.

12:52:477 Or, you know, there were a number of things. We
12:52:508 had been negotiating for weeks. We had spent hours
12:52:569 going over proposals and reviewing draft maps. So in
12:53:010 the final hours, once we came to an agreement on a
12:53:121 proposal relative to the 44th and the 28th, a lot of
12:53:172 the proposal decisions had already been decided.

12:53:213 Q All right. So we know you got to the hotel on the
12:53:314 15th around -- between 9 and 10; is that correct?

12:53:415 A That's correct.

12:53:466 Q And you --

12:53:477 A Maybe between -- I was -- I was shooting for 8:30, so
12:53:518 it might have been even before 9. I just don't
12:53:519 remember.

12:53:520 Q Okay. And you didn't leave on the 15th, correct?

12:53:521 A Correct.

12:54:022 What --

12:54:023 Q You didn't really sleep there, either, right? You
12:54:024 were up overnight, negotiating?

12:54:025 A Been a long time since I pulled an all-nighter.

12:54:101 Q So how were the negotiations structured on the 15th?

12:54:212 A Can you be more specific?

12:54:253 Q Give me the space allocation, where the dyads were
12:54:304 communicating, where the caucuses were communicating.

12:54:335 A Okay. So on the 15th, Commissioner Augustine secured
12:54:426 some additional working and meeting space. So we had
12:54:477 access to a large banquet room downstairs, which was
12:54:548 where most of the negotiations for that day occurred.

12:54:599 She secured an additional large suite, I guess
12:55:010 you would call it. So we had one suite and one room
12:55:111 that the Republicans were using, one suite and one
12:55:212 room for the Democrats' use for our caucuses, and I
12:55:213 believe Brady, or Commissioner Walkinshaw, still had
12:55:314 his room at the Courtyard.

12:55:315 Q Was Brady Walkinshaw ever in the one suite, one room
12:55:416 that you were negotiating from?

12:55:417 A Was he ever in that room on the 15th?

12:55:518 Q Right.

12:55:519 A The large banquet room we were negotiating in?

12:55:520 Q No. The -- I think you said you as the Democrat --
12:56:021 Democrats had one suite, one room.

12:56:022 Did Walkinshaw ever join you there as a Democrat?

12:56:023 A Yes.

12:56:024 Q Okay. How many hours was he with you in that room?

12:56:125 A I could not call it.

12:56:141 Q Was it hours?

12:56:162 A It was over the course of hours, he was in and out of
12:56:213 the room.

12:56:224 Q What was he doing when he was in that room with you?

12:56:295 A He was -- we were talking. We were eating. Taking
12:56:456 phone calls. Some time spent probably just thinking.

12:56:557 Q Were there communications going on within that room
12:57:058 such that you each could hear one another that
12:57:089 pertain to redistricting business?

12:57:120 MR. WONG: Object to form.

12:57:111 THE WITNESS: I'm not -- yeah, I'm
12:57:112 not sure what you're -- what you're asking here.

12:57:203 Q (By Ms. Mell) When you and Walkinshaw were in the
12:57:214 one suite, one room for the Dems in the Hampton on
12:57:215 the 15th, could you hear each other?

12:57:216 A Yes. For some of it.

12:57:317 Q Did you hear that he was talking about commission
12:57:318 business?

12:57:319 A I'm not sure I understand what the -- what you mean
12:57:420 by "commission business."

12:57:421 Q Redistricting.

12:57:522 A Were we discussing redistricting?

12:57:523 Q Could you hear him talking about redistricting when
12:57:524 you were together in the same room?

12:57:525 A Could I hear him talking...?

You mean other than talking to me?

12:58:061

12:58:162

Q Yes.

12:58:173

A Yes.

12:58:214

Q What do you recall hearing him say when he wasn't talking to you about redistricting?

12:58:285

12:58:296

A I don't recall the specifics. Just know if he was -- the way the room was set up, I'm sure that he -- yeah, I don't recall specifics.

12:58:387

12:58:428

12:58:439

Q How was the room set up?

12:58:470

A It was a larger hotel room with two beds, a couch, a large desk that kind of divided the space, a restroom or a bathroom, a number of chairs so you could work various spots.

12:58:511

12:59:012

12:59:113

12:59:164

Q Did you --

12:59:215

A To call it a suite is being generous. It was just bigger than a normal-sized hotel room.

12:59:316

12:59:357

Q So how were you -- did you each move around within that room, or did you kind of set up somebody at the desk, somebody on the bed, somebody on the couch?

12:59:418

12:59:459

A We moved around the room.

12:59:420

12:59:501

Q Okay. And did you have your staff in there?

12:59:522

A They were in and out, yes.

12:59:503

13:00:024

Q Okay. So what content of any communications of Walkinshaw's did you hear when he wasn't directing the conversation to you that pertain to

13:00:025

13:00:091

redistricting?

13:00:092

A I don't recall.

13:00:103

Q Do you have any recollection whatsoever?

13:00:224

A I think he might have updated the Senate majority leader on where we were in our negotiations at one point in time.

13:00:495

13:00:526

13:00:597

The day is a little bit of a blur in terms of specific timelines.

13:01:058

13:01:089

Q Do you remember him talking to Fain?

13:01:110

A Do I remember him talking to Fain?

13:01:171

Q Yes.

13:01:112

A I remember him reporting to me that he had conversations with Commissioner Fain.

13:01:213

13:01:214

Q About redistricting?

13:01:215

A Yes.

13:01:286

Q What do you remember him reporting about redistricting conversations with Fain to you?

13:01:317

13:01:318

A That they were planning to finish negotiations on the congressional map when Commissioner Graves and I finish negotiating our proposal.

13:01:319

13:01:420

13:01:421

Q Was that a strategic maneuver?

13:01:522

A I don't recall it being part of a strategic conversation.

13:01:523

13:01:524

Q What did you think the purpose of Walkinshaw telling you what Fain told him about that to be?

13:02:025

13:02:091 A You're asking me what I thought the purpose of
13:02:272 Commissioner Walkinshaw communicating that to me?

13:02:293 Q Yeah.

13:02:314 A I thought that to mean he was updating me on the
13:02:355 status of his negotiations.

13:02:376 Q Okay. Was it indicative to you of whether or not
13:02:427 there was an impasse or an agreement?

13:02:578 A No.

13:02:579 Q What else did you hear -- strike that.

13:03:070 What else did Walkinshaw talk to you about that
13:03:111 was specific to what another commissioner was doing
13:03:142 or saying when you were in that room on the 15th?

13:03:183 A I don't recall him saying anything to me that was
13:03:214 specific to what another commissioner was doing or
13:03:285 saying other than updating me on the status of his
13:03:316 negotiations.

13:03:317 Q Would that include specifics about the negotiations?

13:03:318 A What specifics do you mean?

13:03:419 Q Metrics, negotiating points, negotiating strategies,
13:03:480 timing.

13:03:521 A So I remember him communicating that they had
13:04:022 exchanged proposals. They weren't negotiating until
13:04:123 we finished the legislative proposal.

13:04:224 Q Is that the end of your answer?

13:04:225 A I'm still thinking.

13:04:271

Q Okay.

13:04:282

A I'm sure I reiterated my priorities to make sure that he knew what they were.

13:04:403

13:04:444

Q Your priorities as to what?

13:04:465

A As to the congressional map.

13:04:486

Q Okay.

13:04:507

MR. WONG: Joan, we're a little

13:04:538

after 1. If we could break for lunch soon, that

13:04:569

would be appreciated.

13:04:570

MS. MELL: Okay. Yes. The answer

13:05:011

is, yes, we can break for lunch. I'm looking to see

13:05:012

what time it is.

13:05:513

(Pause in proceedings from

13:05:514

1:05 p.m. to 1:41 p.m.)

13:05:515

(Mr. Wong not present.)

13:05:516

(Mr. Pekelis present.)

13:41:017

13:41:018

Q (By Ms. Mell) So, Commissioner Sims, where was the

13:41:019

one-room suite -- one-suite, one-room room in the

13:41:120

Hampton compared to where the Republicans were in

13:41:221

their one-suite, one-room location?

13:41:222

A Well, to clarify, we each had one suite and we each

13:41:323

had one room. So --

13:41:324

Q What does that mean?

13:41:325

A There were two rooms for the Democrats to use and two

13:41:401

rooms for the Republicans to use.

13:41:432

Q That were adjoining?

13:41:463

A They were not adjoining, to my knowledge.

13:41:494

Q But the one suite, one room was, correct?

13:41:545

A No.

13:41:546

Q Configuration?

13:41:557

A No. There was one suite, and then there was one

13:41:598

room. They were two separate rooms, and they were

13:42:049

not adjoining, to my knowledge.

13:42:060

Q So the Rs had a configuration of one suite, one room,

13:42:091

and the Dems had a configuration of one suite, one

13:42:112

room at the Hampton?

13:42:113

A The total of four rooms. Correct.

13:42:164

Q But none of you kept to yourselves in those four

13:42:265

rooms, correct?

13:42:356

MR. PEKELIS: Object to form.

13:42:367

THE WITNESS: I can't speak to what

13:42:398

everyone else was doing.

13:42:409

Q (By Ms. Mell) You were in any one of those four

13:42:420

locations with other voting commissioners during the

13:42:461

course of the negotiations, correct?

13:42:522

A I was never in the room, the Republican room. I was

13:43:023

in the Republican suite at one point on the 15th.

13:43:124

Q What'd you say? On the 15th?

13:43:225

A Correct.

13:43:211 Q When you were in the Republican suite, what other
13:43:342 commissioners were in there?
13:43:353 **A Commissioner Fain.**
13:43:404 Q Any other commissioners in there when you were in the
13:43:445 Republican suite?
13:43:466 **A No.**
13:43:467 Q With regard to the one room for the Democrats, were
13:43:538 you ever in the one room with the Democrats with any
13:43:569 other commissioner?
13:43:510 **A Yes.**
13:43:511 Q Who?
13:43:512 **A Commissioner Walkinshaw.**
13:44:013 Q Anyone else?
13:44:014 **A No other commissioners.**
13:44:105 Q And with regard to the one suite for the Democrats,
13:44:116 were you ever in that room with any other
13:44:117 commissioners?
13:44:118 **A Yes.**
13:44:119 Q Who?
13:44:120 **A Commissioner Walkinshaw.**
13:44:221 Q Any other commissioners?
13:44:222 **A No.**
13:44:223 Q Did you meet with other commissioners in the hallway?
13:44:424 **A Yes.**
13:44:425 Q Did you ever meet with two commissioners in the

13:44:501

hallway?

13:44:502

A No. Not that I can recall.

13:44:583

Q How far away was the Republican one room and one

13:45:024

suite from the Democrats' one room, one suite?

13:45:075

A The suites were on opposite ends of the hallway. So

13:45:136

a fair distance in terms of the hotel space. The

13:45:257

two --

13:45:258

Q Where were -- go ahead.

13:45:289

A The two single rooms, I believe, were relatively

13:45:310

close to each other.

13:45:401

Q What was the difference in terms of how you chose

13:45:422

whether you were going to occupy the suite or the

13:45:453

room?

13:45:414

A Once the suite became available, we moved to the

13:45:515

suite.

13:45:516

Q When did the suite become available?

13:45:517

A Sometime that day.

13:45:518

Q On the 15th?

13:46:019

A Correct.

13:46:020

Q But all four were located on the same floor, along

13:46:121

the same hallway?

13:46:122

A I don't know if I would call it the same hallway, in

13:46:123

that one was straight off of the elevator and the

13:46:224

other was around the corner from the elevator. So

13:46:225

they could be defined as two separate hallways since

13:46:311

they didn't technically connect. So...

13:46:352

Q Were the rooms on the same hallway and the suites on a separate hallway?

13:46:383

13:46:394

A **The rooms were in the same hallway. The suites were on separate hallway -- hallways as I define them.**

13:46:465

13:46:516

Q And then the banquet room was on -- well, the suites and the rooms were on the second floor, correct?

13:47:027

13:47:048

A **Correct.**

13:47:059

Q And the banquet room was on the first floor?

13:47:080

A **Correct.**

13:47:081

Q And you moved between or among those rooms via a stairway or elevator?

13:47:152

13:47:163

A **Both.**

13:47:204

Q Did you make a concerted effort not to come into communication with more than one commissioner at a time as you moved about those rooms?

13:47:255

13:47:296

A **Yes, I did.**

13:47:317

13:47:358

Q Did you do that for purposes of complying with open government rules?

13:47:409

13:47:420

A **Yes.**

13:47:421

Q So while you were moving among those rooms, talking with one commissioner at a time, were you ever texting communications with a third commissioner?

13:47:522

13:47:523

A **I'd have to look at the text messages.**

13:48:124

13:48:125

Q Why? Do you not have any recollection as to what you

13:48:181

were doing?

13:48:182

A Well, the day is a little blurry. And so there may have been times when I sent a text on my way back to the room or sent some other communication as I'm leaving one space and transitioning to another.

13:48:333

13:48:384

13:48:475

13:48:506

Q Was there ever a point in time when you were talking with a commissioner and texting a third?

13:48:537

13:48:558

A Not that I can recall.

13:49:139

Let me back up to that. There may have been a --

13:49:110

I may have sent a communication to Commissioner

13:49:211

Walkinshaw, advising him where I was.

13:49:212

Q For what purpose?

13:49:213

A Just as an update.

13:49:314

Q At some point in time on the 15th, did you take a vote?

13:49:415

13:49:416

A Yes.

13:49:417

Q How did you know to vote?

13:49:518

A There was a motion on the floor that had been seconded that called for a vote.

13:50:019

13:50:020

Q Did you make any motion?

13:50:021

A I don't recall if I made the motion or not.

13:50:122

Q Did you return to the public portion of the meeting for purposes of taking a vote?

13:50:123

13:50:224

MR. PEKELIS: Object to form.

13:50:225

THE WITNESS: I returned to the

13:50:321 meeting for the purposes of getting an update and to
13:50:382 discuss the agreed-to proposal.

13:50:403 Q (By Ms. Mell) Did you at some point in time return
13:50:444 to the public meeting for purposes of taking a vote?

13:50:485 A I would say I returned to the meeting to get a status
13:51:116 update on our proposal work.

13:51:187 Q Was there a status update portion of your meeting
13:51:238 scheduled on the agenda?

13:51:269 A I'm not sure that I -- I don't recall what was
13:51:310 written on the agenda.

13:51:311 Q Did you read the agenda or have the agenda before you
13:51:382 on the 15th?

13:51:393 MR. PEKELIS: Object to form.

13:51:404 THE WITNESS: I think I reviewed
13:51:415 the agenda in advance of the meeting but did not have
13:51:476 it in front of me on the 15th.

13:51:497 Q (By Ms. Mell) Did you expect or anticipate there
13:52:188 would be a vote taken on the 15th?

13:52:219 A We were all certainly working towards that. I had
13:52:280 hoped.

13:52:281 Q Did you reach a point in your negotiations on the
13:52:322 15th where you returned to the public meeting for
13:52:383 purposes of voting?

13:52:394 MR. PEKELIS: Object to form.

13:52:525 THE WITNESS: We reached agreement

13:52:521 on a proposal and came back to the meeting to discuss
13:52:552 that proposal.

13:52:563 MS. MELL: I didn't hear what the
13:52:584 word was you used before "proposal."

13:53:015 THE WITNESS: We reached agreement
13:53:046 on a proposal. Commissioner Graves and I reached
13:53:087 agreement on a proposal and came back to the meeting
13:53:098 to discuss that proposal with other members of the
13:53:129 commission.

13:53:130 Q (By Ms. Mell) Was it for purposes of making a motion
13:53:191 and voting?

13:53:192 A It was for the purpose --

13:53:213 MR. PEKELIS: Object to form.

13:53:264 THE WITNESS: -- of discussion.

13:53:315 It was for discussion.

13:53:316 THE REPORTER: Repeat that. Sorry.

13:53:317 THE WITNESS: It's okay.

13:53:318 It was to discuss the proposal.

13:53:319 Q (By Ms. Mell) Did you ever discuss the proposal in
13:53:390 the public meeting after you reached agreement?

13:53:391 A After Commissioner Graves and I reached agreement?

13:53:402 Q Well, whatever you were talking about.

13:53:423 You said, We reached an agreement and came back
13:53:494 to the meeting for purposes of discussing the
13:53:525 proposal.

13:53:531 Did you ever do that?

13:53:552 MR. PEKELIS: Object to form;
13:53:583 misstates the testimony.

13:53:594 THE WITNESS: Can you ask me the
13:54:055 question again so I make sure I understand what
13:54:076 you're...?

13:54:107 Q (By Ms. Mell) Did I understand your prior testimony
13:54:128 correct in that you said you reached an agreement on
13:54:179 a proposal and returned to the public meeting for
13:54:210 purposes of discussing the proposal?

13:54:211 A Correct.

13:54:302 Q Did you return to the public meeting and discuss the
13:54:313 agreed proposal?

13:54:314 A I shared some details regarding the proposal during
13:54:415 that meeting.

13:54:416 Q That's not my question.

13:54:517 After you reached an agreement on a proposal, did
13:55:018 you return to the meeting and discuss your agreement
13:55:019 on the proposal?

13:55:120 A I'd have to look at the transcripts from the meeting
13:55:221 to see how we worded it. I recall coming back into
13:55:322 the meeting and discussing some specifics around the
13:55:323 proposal.

13:55:424 Q Did you communicate publicly that you had reached an
13:55:425 agreement on a proposal?

13:55:481 A I don't believe so.

13:55:522 Q Why not?

13:55:543 A I believe at the time, we were still hoping we could
13:56:004 have maps that we could show the public regarding the
13:56:055 proposal.

13:56:056 Q So am I to understand that you didn't --

13:56:117 A I believe -- I'm sorry.

13:56:118 Q Is it my understanding that you didn't tell the
13:56:149 public about having reached an agreement on a
13:56:160 proposal because you didn't have maps to show the
13:56:191 public?

13:56:202 A Can you ask me that question again? Is it your
13:56:213 understanding...?

13:56:224 Q Yeah.

13:56:225 Am I understanding your testimony correctly when
13:56:316 I heard you to say that you did not share with the
13:56:367 public that you had reached an agreement on a
13:56:398 proposal because you did not have maps drawn to share
13:56:429 with the public?

13:56:520 A I think I might want to revisit what I said. Because
13:56:521 in the confusion of the evening, I'm not sure if I
13:57:022 expressly said that we had reached agreement or if I
13:57:023 just talked about the specifics of the agreement, of
13:57:024 the proposed agreement or the agreed-to proposal.

13:57:125 Q Do you think as you sit here today that you told the

13:57:161 public about the specifics of the agreement you
13:57:222 reached on a proposal privately?

13:57:283 **A As I sit here today... (Sotto voce speech.)**

13:57:284 THE REPORTER: Sorry. I'm not
13:57:285 getting, April, your muttering.

13:57:406 THE WITNESS: I'm thinking out
13:57:417 loud.

13:57:488 And I think, looking back, I wish I would have
13:57:509 said a lot more. Really regret that in the confusion
13:58:010 of the moment, we didn't provide as much clarity for
13:58:011 the public.

13:58:312 So can you ask me the specific question one more
13:58:313 time?

13:58:314 Q (By Ms. Mell) Did you choose not to disclose to the
13:58:415 public that you had privately negotiated and agreed
13:58:516 upon a proposal because you didn't have maps to share
13:59:017 and disclose with the public at that time?

13:59:018 MR. PEKELIS: Object to form.

13:59:119 THE WITNESS: I would say that I
13:59:120 didn't make the conscious decision not to share, in
13:59:121 that the update that I provided to the public during
13:59:222 that meeting was based on my desire to finish the
13:59:323 maps and have final maps that we could share with the
13:59:424 public.

13:59:425 Q (By Ms. Mell) And your agreement was reached

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14:01:025

sometime around 8:45; is that correct?

A My agreement with Commissioner Graves? Correct.

Q Your agreement on -- well, did your agreement on a proposal include the input of the other two commissioners?

A I'm not sure what you mean by "input."

Q Did it have elements of what they wanted in it?

A I had hoped so. I had hoped --

Q Had you included --

(Simultaneous speakers.)

THE REPORTER: Sorry. "I had hoped..." Finish that, April.

THE WITNESS: I had hoped that there was enough in our proposed agreement.

Q (By Ms. Mell) Had you intentionally included elements of what they wanted in your proposal?

A I worked to negotiate agreement that had some of the priorities that Commissioner Walkinshaw had communicated to me.

Q And how about Fain?

A I had hoped that it had enough of his priorities included as well.

Q So is it correct that you included priorities of Fain and Walkinshaw in what you finally agreed as a

14:01:061 proposal to put forward?

14:01:102 **A I'd say that's correct.**

14:01:213 **Q So explain to me, at 8:45, what were the four corners**
14:01:294 **of the proposal? What did the proposal contain?**

14:01:325 **A I'm not -- I don't know what you mean by "four**
14:01:376 **corners."**

14:01:387 **Q What was inside the box that would define the**
14:01:428 **proposal?**

14:01:439 **MR. PEKELIS: Object to form.**

14:01:410 **THE WITNESS: This is to the best**
14:01:411 **of my recollection.**

14:01:512 **Our final proposal or agreed-to proposal included**
14:02:013 **a majority CVAP Hispanic district in the 15th;**
14:02:114 **southwest Washington that had consolidated Camas and**
14:02:215 **Washougal; status quo Democratic performance in all**
14:02:216 **of our swing districts with the exception of the 28th**
14:02:317 **and the 44th. Both of those districts had increased**
14:02:318 **Democratic performance.**

14:02:419 **We incorporated all of the requests from our**
14:02:420 **tribal consultation process.**

14:02:521 **Our agreement included seven majority-minority**
14:02:522 **districts, bringing the 12th district across the**
14:03:023 **Cascades along Highway 2.**

14:03:024 **(Sotto voce speech.)**

14:03:025 **THE REPORTER: Once again, I'm not**

14:03:051 getting that, April.

14:03:282 **THE WITNESS:** I'm thinking. I want
14:03:293 to make sure that I'm capturing as much as I can
14:03:324 remember.

14:03:345 Probably -- my King County, his eastern
14:03:536 Washington with the exception of the 3rd. Thurston
14:04:067 County, Mason County wholly in the 35th. The
14:04:118 Evergreen State College into the 22nd.

14:04:249 Those are some of the key things that I remember.
14:04:210 I -- I -- there were a number of different components
14:04:211 in that proposal that we had negotiated over weeks.

14:04:312 Q (By Ms. Mell) How did you know what the final terms
14:04:313 were that you'd agreed upon?

14:04:314 A Because we had been negotiating them for weeks --

14:04:315 Q How did you know --

14:04:316 **THE REPORTER:** Sorry. Sorry. "For
14:04:317 weeks..." Continue that.

14:04:418 **THE WITNESS:** We had been
14:04:419 negotiating them for weeks.

14:04:520 **MS. MELL:** Right.

14:04:521 Q (By Ms. Mell) So by the time you've been negotiating
14:04:522 it for weeks, did you consider the significance of
14:05:023 articulating the substance of what you were agreeing
14:05:024 to in writing so that you knew that you'd formulated
14:05:125 an agreement on like terms?

14:05:141 MR. PEKELIS: Object to form.

14:05:152 THE WITNESS: You know, it's kind
14:05:243 of hard to explain. The negotiator in me is used to
14:05:274 swapping proposals across the table back and forth.

14:05:345 But in this particular negotiation, because we
14:05:356 had spent so much time together, so much time
14:05:397 negotiating proposals throughout our negotiations, a
14:05:428 number of things resolved themselves and we had
14:05:469 clarity around just that there were just a handful of
14:05:510 issues remaining when we went into our last day of
14:05:511 negotiations.

14:05:512 Q (By Ms. Mell) So where was the work product of your
14:06:013 agreement moving into your negotiations on the 5th
14:06:014 expressed?

14:06:015 A We had expressed them verbally. There were some -- I
14:06:116 think some e-mail communication where maybe I
14:06:117 expressed that I -- you know, that I was accepting or
14:06:218 adopting something in one of his proposals or maybe
14:06:219 he had expressed it back to me.

14:06:320 Q What were the swing districts?

14:06:321 A In general?

14:06:322 Q The ones in your agreement.

14:06:423 A What were the swing districts in our -- in which --
14:06:424 I'm sorry.

14:06:425 Q The agreement --

14:06:501 **A Which districts were --**

14:06:502 (Interruption by reporter due
14:06:503 to simultaneous speakers.)

14:06:504

14:06:575 **THE WITNESS: I just want to make**
14:06:586 **sure I understand the question.**

14:07:007 **What were the swing districts when?**

14:07:028 **MS. MELL: That you described were**
14:07:039 **in your 8:45 agreement.**

14:07:040 **THE WITNESS: Well, in our 8:45**
14:07:111 **agreement, we had agreed that the swing districts**
14:07:112 **would remain status quo.**

14:07:113 **MS. MELL: Yeah. And I want to**
14:07:114 **know what districts those are.**

14:07:115 **THE WITNESS: The 10th, the 26th,**
14:07:216 **the 42nd, the 17th, the 24th, the 47th.**

14:07:517 **You're asking which districts were swing or which**
14:07:518 **districts were status quo? I'm sorry.**

14:07:519 **Q (By Ms. Mell) I'm asking you which swing districts**
14:08:020 **were -- were part of what you articulated as your**
14:08:121 **8:45 agreement.**

14:08:122 **MR. PEKELIS: Object to form.**

14:08:123 **THE WITNESS: So the 42nd, the**
14:08:224 **10th, the 44th, the 47th, the 28th, the 26th, the**
14:08:325 **24th, the 17th.**

14:08:501 I think I captured them all. Am I forgetting --

14:08:542 Q (By Ms. Mell) How many --

14:08:553 A The 5th remained a swing district, competitive
14:08:594 district.

14:09:005 Q Okay. How many conditions were there to your 8:45
14:09:086 agreement? Conditions or elements.

14:09:127 MR. PEKELIS: Object to form.

14:09:138 THE WITNESS: There were -- how
14:09:229 many elements were included in our agreement?

14:09:240 MS. MELL: Yeah.

14:09:241 Q (By Ms. Mell) Can you count all the agreements that
14:09:262 comprised your 8:45 agreement?

14:09:293 MR. PEKELIS: Object to form.

14:09:314 THE WITNESS: Not off the top of my
14:09:365 head today.

14:09:386 Q (By Ms. Mell) Is there more than five?

14:09:457 MR. PEKELIS: Same objection.

14:09:468 THE WITNESS: I would say more than
14:09:519 five.

14:09:520 Q (By Ms. Mell) More than ten?

14:09:521 MR. PEKELIS: Same objection.

14:09:522 THE WITNESS: I don't know.

14:10:123 Q (By Ms. Mell) But it's correct that whatever you
14:10:124 agreed to, you never expressed it in any formal way,
14:10:125 correct?

14:10:211 **A Correct.**

14:10:232 Q And the only place where anyone would be able to
14:10:273 ascertain the contents of the agreement would be by
14:10:324 asking you or Commissioner Graves?

14:10:405 **A Or either of our staff who were engaged in the**
14:10:446 **negotiations. They would likely...**

14:10:527 Q Were the agreements within your 8:45 agreement
14:10:578 communicated to Fain?

14:11:049 **A I don't know.**

14:11:040 Q Were your agreements within your 8:45 agreement
14:11:071 communicated to Walkinshaw?

14:11:092 **A Some of them.**

14:11:113 Q Which ones did you communicate with Walkinshaw?

14:11:144 **A The final partisan numbers in the 44th and the 28th.**

14:11:245 Q And what were those final partisan numbers in the
14:11:286 44th and the 28th?

14:11:297 **A Increased performance a point and a half in the 44th.**
14:11:318 **Increased performance of .8, I believe, in the 28th.**

14:11:419 Q What time was an agreement reached on the
14:11:520 congressional district maps?

14:11:521 **A I don't know.**

14:12:022 Q What time did you understand there was no further
14:12:023 negotiating on the congressional district maps?

14:12:024 **A When I believe it was Senator Fain made the**
14:12:125 **commission.**

14:12:191 Q When Senator Fain made the motion on the
14:12:232 congressional district map, did you have an
14:12:273 understanding of the status of Senator --
14:12:324 Commissioner Fain's negotiations with Commissioner
14:12:385 Walkinshaw prior to Commissioner Fain making a
14:12:416 motion?

14:12:447 MR. PEKELIS: Object to form.

14:12:458 **THE WITNESS: I'm not sure I**
14:12:469 **understand the question.**

14:12:490 Q (By Ms. Mell) Well, did you -- strike that.

14:12:511 Are you telling me that the first time you knew
14:12:552 that the negotiations between Fain and Walkinshaw and
14:13:013 a congressional district map had concluded was when
14:13:054 Fain made a motion?

14:13:115 **A Yes.**

14:13:126 Q So at the time Fain made a motion on the
14:13:167 congressional district maps, what did you know about
14:13:228 his motion?

14:13:219 **A I knew that he was moving adoption of the maps or**
14:13:320 **adoption of the plan.**

14:13:321 Q Okay. So what were the elements of what he was
14:13:382 moving to adopt?

14:13:323 **A There was -- I'm sorry. What are you asking me?**

14:13:524 Q I'm asking you what the elements were of the motion
14:14:025 specific to the congressional district plan.

14:14:051 A The elements as I understood them was that they were
14:14:102 status quo maps in terms of Democratic performance.
14:14:153 I should -- let me say that a different way.

14:14:174 That they were status quo maps in terms of the
14:14:235 makeup of congressional seats in our state. It would
14:14:296 be six Democratic, three Republican, and one true
14:14:297 swing.

14:14:338 That the 8th would remain a status quo district.

14:14:379 That the 6th would pick up population in Tacoma
14:14:420 and Thurston County.

14:14:441 The 3rd would remain largely unchanged.

14:14:472 The 10th district would expand.

14:15:023 The 4th and the 5th districts would remain
14:15:054 vertical and continue to divide Cowlitz -- not
14:15:105 Cowlitz -- Colville nation.

14:15:136 That the 7th and 9th district -- that the 9th
14:15:217 district would continue to be a majority-minority
14:15:248 district and would pick up some south Seattle but not
14:15:319 all of it.

14:15:320 Q Are those the elements you can remember voting on
14:15:421 with respect to the congressional district map?

14:15:422 A That's what I recall, yes.

14:15:423 And a slightly compact 2nd congressional
14:15:524 district. I think that congressional district was
14:15:525 going be smaller, and the 1st district would pick up

14:16:011 **more territory going north.**

14:16:032 Q So did you glean all those elements from Fain's
14:16:063 motion?

14:16:074 A **Some of them.**

14:16:095 Q Okay. Which --

14:16:106 A **Sorry. To answer your question, no.**

14:16:147 Q Okay. So how did you know what you were voting on
14:16:198 when you voted?

14:16:209 A **Some of it was based on the discussion that we had
14:16:210 prior to the motion.**

14:16:211 Q But some of it wasn't, correct?

14:16:312 A **Correct.**

14:16:323 Q As a matter of fact, much of it wasn't, correct?

14:16:314 MR. PEKELIS: Object to form.

14:16:315 **THE WITNESS: Are you asking me if**

14:16:416 **I agree with you?**

14:16:417 Q (By Ms. Mell) I'm asking -- well, there are -- many
14:16:418 of the elements that you thought you were voting on
14:16:529 were never expressed in the public discussion portion
14:16:520 of your meeting on the 15th.

14:17:021 A **I'd have to look at --**

14:17:022 MR. PEKELIS: Object to form.

14:17:023 **THE WITNESS: -- the tran...**

14:17:024 THE REPORTER: Sorry. Start that
14:17:025 over, April.

**THE WITNESS: I'd have to look at
the transcripts.**

Q (By Ms. Mell) Are the transcripts your best
recollection of what occurred at this time because
you don't know what happened?

A I would say that my memory of that evening is fuzzy.
And at this point in time, I was exhausted. And
there was a lot of confusion and chaos in the
evening.

Q Would you agree that in the course of negotiations on
the 15th, that you lost sight of the fact that the
public was there to observe your negotiations?

A You're asking if I agree with you in that statement?

Q Yes.

A I do not.

Q Why not?

A I just wouldn't characterize it that way.

Q Would you agree that -- well, can you as you sit here
today think of any content expressed publicly that
comprise an element of the proposal you voted on for
congressional districts prior to your vote in the
public session?

MR. PEKELIS: Object to form.

THE WITNESS: Can you ask me again?

Q (By Ms. Mell) As you sit here today, what elements

14:18:521
14:18:582
14:19:013
14:19:104
14:19:135
14:19:256
14:19:307
14:19:408
14:19:429
14:19:460
14:19:491
14:19:522
14:19:513
14:20:014
14:20:015
14:20:116
14:20:117
14:20:118
14:20:209
14:20:220
14:20:321
14:20:322
14:20:523
14:20:524
14:21:025

of what you voted on with regard to a congressional district map were expressed publicly before your vote?

A I would have to look at the transcripts to be sure. I remember, I believe it was Commissioner Walkinshaw and I believe Commissioner Fain also added to the discussion.

Q (By Ms. Mell) What content -- what content was shared publicly about the congressional district map before you voted on it?

A To my recollection, there was some discussion as to the boundaries of some of the districts. I think that the 8th district would continue to cross the Cascades. I'm sure there was more that I don't recall off the top of my head.

Q Do you agree that the majority of the elements necessary to define congressional district boundaries were not expressed to the public prior to your vote?

A Yeah, I would agree with that.

Q Would you agree --

A But in the chaos of the evening, we did not express or share as many of the details in the plans as we would have liked.

Q And did you -- did you not express or share as many

14:21:121 of the details in the plan as you would have liked
14:21:162 due to the chaos meaning you prioritized negotiations
14:21:243 over public communication?

14:21:284 **A I thought that we would have an opportunity to share**
14:21:455 **our maps with the public and then take a vote. And I**
14:21:546 **was always working toward that goal.**

14:21:567 Q Was there a point in time when you recognize you
14:22:058 wouldn't achieve that goal?

14:22:079 **A Yes.**

14:22:080 Q And was it at that point in time that you decided to
14:22:121 vote on a nonexistent map?

14:22:112 **A It was at that point in time that I decided to vote**
14:22:213 **on our agreed-to framework.**

14:22:224 Q Without a map, correct?

14:22:215 **A Correct. There were no maps when we took the vote.**

14:22:286 Q Okay. And your agreed-upon framework was generalized
14:22:357 enough that multiple district boundaries could have
14:22:408 been mapped from those elements that you agreed to;
14:22:419 is that correct?

14:22:420 MR. PEKELIS: Object to form.

14:22:521 **THE WITNESS: I would say our**
14:22:522 **agreed-to framework was specific enough that we could**
14:22:523 **draw our maps from it, which is what we did.**

14:22:524 Q (By Ms. Mell) And what you're saying in terms of
14:23:025 drawing your maps from it, do you mean that you could

14:23:091 ultimately agree on a specific location for district
14:23:142 boundaries using the framework?

14:23:193 **A Can you ask me that again?**

14:23:224 **Q** It's correct that the framework was not -- strike
14:23:295 that.

14:23:296 It is correct that in the framework agreed upon,
14:23:337 there were multiple iterations of district maps that
14:23:368 could be articulated and expressed through a shape
14:23:419 file, correct?

14:23:410 **MR. PEKELIS:** Object to form.

14:23:411 **THE WITNESS:** I think that there
14:24:212 are multiple ways to draw any map. But as you start
14:24:313 to make -- as you agree to different points, the
14:24:414 variations become limited. So the agreement to come
14:24:415 across Highway 2 limits the other variables in the
14:24:516 map. So once you make a decision here, it impacts or
14:25:017 limits the number of decisions or variables in other
14:25:118 districts.

14:25:119 For example, if you pull the 60,000 population
14:25:320 from western Washington or, rather, bring the 12th
14:25:321 district over to pick up 60,000 in population, and
14:25:422 you have agreement around the performance of specific
14:25:423 districts, you're limited in how you can draw a
14:25:524 number of other districts.

14:25:525 **Q** (By Ms. Mell) But you're not limited to one option,

14:26:011

are you?

14:26:022

A Well, it depends on in -- depends on the decision

14:26:123

points that came before. In some cases, there's

14:26:174

really only one way that you can draw a district if

14:26:205

you have already agreed to all of these other things,

14:26:236

which is what makes the negotiations so complicated.

14:26:277

Q How many different maps were drawn after the vote for

14:26:348

reconciliation on the 16th?

14:26:369

A There was -- to my knowledge, there was one map drawn

14:26:510

on the 16th. I'm sorry. Let me -- there was one

14:26:511

congressional map drawn and one legislative map drawn

14:26:512

that I believe my staff and Paul's staff were working

14:27:113

to reconcile those two maps into one.

14:27:114

Q So that would be four each, correct? Two -- a

14:27:215

Republican and a cauc- -- Democrat version on each

14:27:216

map?

14:27:317

A Well, the Republican and the Democratic version -- I

14:27:318

can only speak to the legislative map drawing for

14:27:319

this specific question.

14:27:420

For the legislative maps, my map was done on the

14:27:421

15th. I believe that Commissioner Graves' map was

14:27:522

also done on the 15th. And, to my knowledge, the one

14:27:523

map reconciling or consolidating those two maps is

14:27:524

what was drawn on the 16th. So when I say one map,

14:28:025

that's the one map I'm referring to.

14:28:031 Q How many different iterations of district boundaries
14:28:082 were reconciled on the 16th?

14:28:123 **A I don't know.**

14:28:144 Q More than one?

14:28:155 **A I'm not sure I understand the question.**

14:28:286 Q Did you have to make decisions that involved more
14:28:337 than one expression of district boundaries on the
14:28:438 16th? Did you have choices?

14:28:489 **A I don't recall making any decisions on the 16th.**

14:29:020 Q Did your staff?

14:29:011 **A I don't actually do the mapping, so to say that I did
14:29:012 anything or much on the 16th is certainly generous.**

14:29:113 **I -- I don't know that there were -- ask me the
14:29:114 question again. I'm sorry. In terms of what the
14:29:115 staff were doing.**

14:29:486 Q How long did it take to create an expression on the
14:30:127 16th of your agreed-upon proposal?

14:30:118 **A I don't know what you mean by "an expression."**

14:30:219 Q Something that would enable the public to know what
14:30:320 you decided.

14:30:321 **A I believe the maps were completed in the Dave's
14:30:422 Redistricting tool sometime around -- the legislative
14:30:423 maps, just to be clear -- sometime around 7 a.m.**

14:30:424 Q And when the meeting ended a little after midnight,
14:30:525 what maps were utilized to begin work on the vote --

14:31:081 on the voted-upon proposal?

14:31:102 **A My map and Commissioner Graves' maps, or map, were**
14:31:293 **the two maps being used or being reconciled.**

14:31:344 **Q And when you say "being reconciled," what did that**
14:31:375 **require?**

14:31:386 **A Again, this is my understanding and will speak to my**
14:31:507 **ineptness in terms of actually drafting the maps and**
14:31:538 **doing the work. But I believe staff did an overlay**
14:31:579 **of one map on top of the other so we could see where**
14:32:010 **the differences were and reconcile from there.**

14:32:121 **Q How many different overlays did you look at?**

14:32:112 **A I never looked at an overlay. I never saw a digital**
14:32:213 **image of the two maps overlaid. That's just how I**
14:32:214 **believe it was described to me.**

14:32:285 **Q Were there differences in any overlay?**

14:32:316 **A I imagine there were.**

14:32:317 **Q How many differences were there?**

14:32:318 **A I couldn't guess.**

14:32:409 **Q How many decisions were made in the reconciliation**
14:32:420 **process?**

14:32:421 **A Again, I didn't make any decisions in that process.**

14:32:422 **Q Were decisions made in the reconciliation process?**

14:32:523 **A Not that I'm aware of.**

14:32:524 **Q Is there something --**

14:33:025 **A Well, let me...**

Not that I'm aware of.

Q So in the reconciliation process, did your map and the other map of Commissioner Graves overlay with precisely the same boundaries?

A **Were our maps exact? No.**

Q Okay. So how -- how did a decision get made on a final map?

A **I confirmed with my staff that the final map included all of our agreed-to metrics and decisions around communities of interest and consolidating cities. And we loaded it into the Edge program.**

Q Did you have a checklist at the time?

A **No.**

Q Did they?

A **Not that I'm aware of.**

Q So when your map -- did your map that was utilized moments after midnight include all of the elements of the motion you believed you'd agreed upon?

A **I believe -- I believe so.**

Q And, similarly, did Graves' map that was utilized for purposes of reconciliation to create a final map on the 16th incorporate and include all the elements of your agreed-upon proposal?

A **I do not know.**

Q Did you know anything about Graves' map?

14:35:501 A I knew a number of things about Graves' map.

14:35:572 Q So at the time that you were in -- I'll strike that.

14:36:033 What did you know about the map that you
14:36:084 attribute to Graves that was used to reconcile with
14:36:125 your map?

14:36:286 A I knew that his 15th legislative district was a CVAP
14:36:367 majority Hispanic district that was very similar to
14:36:428 the one that I had previously proposed; that his map
14:36:499 also came across Highway 2.

14:36:510 I knew that his staff -- I knew that his 28th
14:37:011 district was really similar to mine, that his 26th
14:37:012 district was similar to mine, or rather, his 28th
14:37:103 district was similar to what we were negotiating.

14:37:124 You know, when you're -- when you're -- when you
14:37:115 are working on proposals, you run these mapping
14:37:216 scenarios to make sure that what you're proposing
14:37:217 will actually work in that form and work with some of
14:37:318 the other decisions that you've made in the map.

14:37:319 And so as we were negotiating, there were just
14:37:420 parts of our map that became more and more in
14:37:421 alignment.

14:37:522 Q At the time the meeting concluded, what was different
14:38:023 about -- well, strike that.

14:38:024 At the time the public meeting concluded a little
14:38:025 after midnight on the 16th, what was different about

14:38:151 Graves' map from your map relative to the elements of
14:38:172 your agreement?

14:38:193 **A I'm not sure.**

14:38:244 **Q Were there differences?**

14:38:275 **A I imagine that that's what staff were working on.**

14:38:306 **Q And how were those differences resolved?**

14:39:007 **A Some of them, I imagine, were resolved by way of**
14:39:038 **geographical boundaries. Some, I imagine, were**
14:39:089 **resolved because the more decisions you make, the**
14:39:110 **fewer options you have, and so the more narrow those**
14:39:111 **options become.**

14:39:312 **Some of them were, you know -- there was**
14:39:313 **agreement that we would draw King County. So if you**
14:39:414 **accept our King County, then that impacts the number**
14:39:415 **of other areas in the district and therefore the map**
14:39:416 **and therefore limits what you can do with other**
14:39:517 **districts.**

14:39:518 **So if we have our King County and right below**
14:39:519 **that is Pierce County and in that county is the 28th**
14:40:020 **district, there's only so many things that you can do**
14:40:021 **with that district once you remove Tacoma,**
14:40:022 **incorporate Lakewood, and agree to keep the**
14:40:123 **Democratic performance at a certain place. So some**
14:40:124 **of those things just work themselves out.**

14:40:225 **Q What district is Lakewood in?**

14:40:261 **A The 28th district.**

14:40:272 **Q Is all of Lakewood in the 28th in the final map
14:40:333 transmitted to the legislature?**

14:40:344 **A Nearly all of it, I believe.**

14:40:365 **Q Who decided what part to leave out?**

14:40:566 **A I don't recall. So we made an agreement that we
14:41:147 wouldn't increase the Democratic performance by more
14:41:168 than a certain amount and so that we would try to
14:41:199 incorporate as much of Lakewood as possible.**

14:41:210 **I wanted a 28th district that would trend
14:41:211 majority-minority sometime in the next decade.
14:41:212 Commissioner Graves knew that that was my intent and
14:41:313 why I was negotiating to include Lakewood.**

14:41:314 **But because we had negotiated around specific
14:41:415 Democratic performance, that limited some of our
14:41:416 options in the way the district needed to be drawn.
14:41:517 And our staff, in honoring our agreement, drew the
14:41:518 districts accordingly.**

14:41:519 **Q Was there enough left unsaid in -- or unexpressed in
14:42:020 your agreement that you had to make decisions on the
14:42:021 16th as to where to finally place the boundaries?**

14:42:022 **A I don't recall making any decisions on the 16th as to
14:42:123 where the boundaries on the maps would be.**

14:42:124 **Q Did you leave the decision to locate boundaries in a
14:42:225 specified location to your staff?**

14:42:261 **A** I empowered my staff to do the mapping. I mean,
14:42:302 there was --

14:42:313 Q Without your input?

14:42:324 **A** There was so little --

14:42:355 Q With or without your input?

14:42:386 **A** I think I had input.

14:42:417 Q Okay. So why do you say that you weren't making
14:42:438 decisions, then?

14:42:449 What do you call your input?

14:42:470 **A** Clarifying our agreement.

14:42:491 Q Oh, okay. All right.

14:42:522 So let's look at what's going to be marked as
14:42:573 Exhibit 60 --

14:43:064 MS. MELL: My page numbers are so
14:43:075 far back now that we've been going so long. I don't
14:43:166 remember what you told me, John.

14:43:187 THE REPORTER: We'll start with 66.

14:43:208 MS. MELL: I was going to say that.

14:43:219 Okay.

14:43:320 Q (By Ms. Mell) Do you see my Screen 2, this one?

14:43:321 **A** I do.

14:43:322 It's a list of documents?

14:43:423 Q Yep.

14:43:424 Says "Sims Exhibits" right here. Is that what
14:43:425 you're looking at?

14:43:451 **A Mm-hmm. Yes.**

14:43:462 **Q I'll move you over here.**

14:43:483 All right. We'll make this Exhibit 66.

14:44:034 Showing you what's been marked as Exhibit 66, do
14:44:075 you recognize that document?

14:44:086 **A Yes.**

14:44:117 **Q What is it?**

14:44:128 **A Text messages between me and Laurie Jenkins, Speaker**
14:44:209 **Jenkins.**

14:44:200 **Q Do you know what time this communication occurred?**

14:44:211 **A I don't know exactly. It looks like sometime --**
14:44:312 **sometime in the morning of the 16th.**

14:44:313 **Q What's your training in the Open Public Meetings Act?**

14:44:314 **A I had the training provided to us by the attorney**
14:44:415 **general or the presentation provided to us by the**
14:44:416 **attorney general when I was appointed.**

14:44:417 **Q Did you have any further training?**

14:44:418 **A Not that I recall, no.**

14:44:519 **Q Did you understand, when you listened to the attorney**
14:44:520 **general's presentation, that that was not compliant**
14:44:521 **with the statutory requirements of OPMA or was**
14:45:022 **insufficient training to comply with statutory**
14:45:023 **requirements of OPMA?**

14:45:024 **MR. PEKELIS: Object to form.**

14:45:125 **THE WITNESS: No, at the time, I**

14:45:161

did not.

14:45:182

Q (By Ms. Mell) Did you remember the attorney

14:45:203

general's discussion about serial meetings or serial

14:45:254

communications?

14:45:275

A Yes.

14:45:286

Q What do you recall? Or strike that.

14:45:317

What do you think a serial communication is?

14:45:358

MR. PEKELIS: Object to form; calls

9

for a legal conclusion.

10

(Simultaneous speakers.)

11

12

THE REPORTER: Sorry. Repeat the

13

objection there.

14

MR. PEKELIS: Well, I actually cut

15

off her question. So maybe just let her re-ask the

14:45:516

question, and then I'll reconsider.

14:45:517

Q (By Ms. Mell) What do you think a serial

14:45:518

communication means?

14:45:519

MR. PEKELIS: Object to form; calls

14:45:520

for a legal conclusion.

14:45:521

THE WITNESS: A serial meeting

14:46:022

would be if I had a Zoom meeting open with one voting

14:46:123

member of the commission and then they left and I

14:46:124

invited another voting member of the commission in to

14:46:225

continue that same deliberation and then invited

14:46:281 another -- another member in and continued that same
14:46:332 deliberation.

14:46:343 Q (By Ms. Mell) And is your entire knowledge about a
14:46:414 serial meeting contained within what the assistant
14:46:455 attorney general told you when you were listening to
14:46:476 his presentation as a commissioner?

14:46:507 A Yes.

14:46:548 Well, I would say the base of my knowledge.

14:47:039 Q I didn't hear the modifier. The what?

14:47:040 A The base of my knowledge.

14:47:091 Q Are there any other elements, to your knowledge,
14:47:122 other than what the AG told you?

14:47:143 MR. PEKELIS: Object to form.

14:47:164 THE WITNESS: I've heard other
14:47:215 people mention serial meetings in the course of this
14:47:246 work.

14:47:317 Q (By Ms. Mell) Who has told you what?

14:47:318 A I don't recall any -- anything specific. Just that I
14:47:319 have heard "serial meetings" and that we're not
14:47:320 allowed to have serial meetings come up.

14:47:421 Q Did that include any explanation of what a serial
14:47:422 meeting would be?

14:47:423 A No.

14:47:424 Q Do you know what a secret vote is?

14:47:525 MR. PEKELIS: Object to form.

14:47:551

THE WITNESS: A vote taken in

14:47:562

secret.

14:47:573

Q (By Ms. Mell) And what does a secret vote look like

14:47:594

to you?

14:48:015

MR. PEKELIS: Object to form.

14:48:026

THE WITNESS: A vote taken --

14:48:057

excuse me. Excuse me.

14:48:148

A vote taken out of public view.

14:48:189

Q (By Ms. Mell) Did you ever take a vote out of public

14:48:200

view?

14:48:211

A I did not.

14:48:212

Q What is a vote?

14:48:213

A Sorry. What is a vote?

14:48:324

Q Yes.

14:48:315

A When -- I think the question might be so simple that

14:48:416

I don't understand what you're looking for.

14:48:517

Q We do a lot of that in the practice of law. Sorry

14:48:518

for putting you through the torture process of it,

14:49:019

but that's where it's at.

14:49:020

Can you articulate what a vote means to you?

14:49:021

MR. PEKELIS: And I'll just object

14:49:022

to the extent it's calling for a legal conclusion.

14:49:123

THE WITNESS: What does a vote mean

14:49:124

to me? I might be overthinking the question.

14:49:325

Q (By Ms. Mell) Let's try it this way. When I -- when

14:49:411 I say the word "vote," what does that look like to
14:49:442 you in the context of your redistricting work?

14:49:583 **A I believe it's my -- me using my institutionally**
14:50:044 **recognized power to express my explicit support or**
14:50:125 **nonsupport on an action item.**

14:50:236 MR. PEKELIS: And, Joan, can I just
14:50:257 interject here? I know we've been going about an
14:50:278 hour and 15 minutes since the lunch break, and it
14:50:299 appears the witness has something in her throat.
14:50:310 She's had a couple of coughing fits.

14:50:341 No offense, April.

14:50:352 So it might be a good time for a short break.

14:50:403 MS. MELL: Okay. We'll come back
14:50:414 at 3?

14:50:425 MR. PEKELIS: Sounds good.

14:50:436 (Pause in proceedings from
14:50:437 2:50 p.m. to 3:02 p.m.)

15:02:518
15:02:519 **Q (By Ms. Mell) Commissioner Sims, how did you know**
15:02:520 **that Paul and Joe did not want a court-drawn map?**

15:03:021 MR. PEKELIS: Objection;
15:03:022 foundation.

15:03:223 MS. MELL: This is my reference.

15:03:224 MR. PEKELIS: Same objection.

15:03:525 MS. MELL: Is she talking? I can't

15:03:571 hear her.

15:04:022 **THE WITNESS: I'm sorry. I didn't**
15:04:053 **realize I was still on "mute."**

15:04:064 MS. MELL: At the last minute, I
15:04:085 could see your mouth moving. I didn't hear anything.

15:04:116 **THE WITNESS: This text message,**
15:04:147 **this screenshot of these text messages between**
15:04:188 **Speaker Jinkins and me is sometime late the morning**
15:04:229 **on the 16th. So after we had finished the mapping**
15:04:310 **and probably, you know, after over 30 hours of being**
15:04:411 **awake, so I still hadn't been to sleep yet at this**
15:04:412 **point on Tuesday. So I had been up since early**
15:04:513 **Monday morning and surviving on just a few hours'**
15:04:514 **sleep from the night before.**

15:05:215 So just to, you know, provide a little bit of
15:05:216 context, I think I mentioned that I was at the hotel
15:05:317 till about 1:00 on Sunday night and back at the
15:05:318 hotel, you know, sometime around 9:00 the following
15:05:319 day.

15:05:420 And so I think I just had a conversation with
15:05:421 Paul and asked him. This was, I think, regarding a
15:06:022 statement.

15:06:123 Q (By Ms. Mell) All I want to know right now is: How
15:06:224 did you know what Paul and Joe wanted relative to a
15:06:225 court-drawn map?

15:06:241 **A I had a conversation with Paul.**

15:06:272 Q How did you know what Joe wanted from your
15:06:313 conversation with Paul?

15:06:324 **A I think I was making an assumption that they both
15:06:375 felt the same way.**

15:06:386 Q Are you sure that Paul didn't tell you whether or not
15:06:417 Joe wanted a court-drawn map?

15:06:438 **A I don't know if he expressly told me that.**

15:06:489 Q Did you talk to Paul about what Joe wanted with
15:06:510 regard to a court-drawn map?

15:06:511 **A I think the conversation that I had with Paul is, Are
15:06:512 we still together on this?**

15:06:513 Q And when you say, "Are we still together on this?"
15:07:014 who are you talking about?

15:07:015 **A I meant him and me.**

15:07:016 Q And so this reference to Joe was just to suggest to
15:07:117 Laurie that you were in the know with what Joe wanted
15:07:178 even though you didn't really know?

15:07:119 **A I think I made an assumption that he was in.**

15:07:220 Q Are you sure you didn't talk to him about it?

15:07:221 **A Did I have a conversation with Joe?**

15:07:222 Q Yeah.

15:07:223 Did you have a conversation with Joe about
15:07:324 whether or not he wanted a court-drawn map?
15:07:325 He was in the same room with you, wasn't he?

15:07:351 A No. I was -- this was Tuesday morning, the 16th. I
15:07:412 was at home. I had left the hotel by about 7 a.m.
15:07:453 that morning.

15:07:484 Q Before you left the hotel that morning, did you talk
15:07:515 to Joe about whether or not he wanted a court-drawn
15:07:546 map?

15:08:187 A I think at some point in time the morning of the 16th
15:08:268 or the evening of the 16th, early morning 16th, there
15:08:479 was a -- there was conversation about a press release
15:08:520 or a press statement where we would express our
15:08:591 desire for the courts to consider our maps.

15:09:082 Q Who was that conversation among? The commissioners?

15:09:113 A Yes.

15:09:154 Q The voting commissioners?

15:09:185 A Not all of us at one time, but I think there was some
15:09:226 conversation as to a press statement. Or maybe it
15:09:267 was over text or e-mail. We looked at different
15:09:298 press statements. And I think one draft of the
15:09:319 statement was our expressing our unanimous support.
15:09:420 And the statement that ultimately came out was
15:09:481 different.

15:09:522 Q Did you collectively consider various press
15:10:003 statements on the 16th?

15:10:024 A I think there were -- I don't know what you mean by
15:10:085 "collectively."

15:10:071 Q Did all of you voting commissioners have an
15:10:102 opportunity to weigh in on what you wanted to express
15:10:143 to the public, in one form or another communicating
15:10:264 about that same subject?

15:10:295 MR. PEKELIS: Object to form.

15:10:306 **THE WITNESS: I'm not sure that we**
15:10:317 **all did. I recall seeing one or two draft**
15:10:388 **statements.**

15:10:399 Q (By Ms. Mell) Do you recall what the position was of
15:10:410 your fellow commissioners on the statements?

15:11:311 Are you still thinking?

15:11:312 **A I am. I -- ask me the question again, please.**

15:11:413 Q Did you have knowledge of what any other commissioner
15:11:504 thought about communications to the press on the
15:11:515 16th?

15:12:016 **A Yes.**

15:12:017 Q How did you have knowledge of what the other
15:12:018 commissioners thought about communications to the
15:12:019 press on the 16th?

15:12:120 **A I talked to Commissioner Walkinshaw, and I talked to**
15:12:221 **Commissioner Graves.**

15:12:222 Q When you talked to Commissioner Walkinshaw, did you
15:12:223 share anything you knew about your conversation with
15:12:324 Commissioner Graves with regard to a statement?

15:12:325 **A I don't believe so.**

15:12:371 Q Did you talk with -- when you talked to Graves, did
15:12:412 you share any of what you'd conversed with Walkinshaw
15:12:483 about to Graves?

15:12:574 **A Yes.**

15:12:595 Q Okay. What did you share?

15:13:016 **A I believe I said, I'm not sure where Brady is on
15:13:087 this.**

15:13:148 Q And what did Graves say?

15:13:179 **A I don't recall.**

15:13:180 Q When Laurie Jenkins was saying, "Statement seems
15:13:521 pretty settled," was she referring to the statement
15:13:542 you discussed with Walkinshaw and Graves?

15:13:513 **A I believe she was referring to the press statement
15:14:014 that the commission released.**

15:14:015 Q How is the commission statement at the press meeting
15:14:016 distinct from the press statement you talked to
15:14:117 Walkinshaw and Graves about?

15:14:118 **A I think the original press statement that we
15:14:119 discussed expressed our unanimous support for the
15:14:220 maps and talked about our -- expressed our regret
15:14:321 over failing to meet the standards of transparency we
15:14:322 had set at the beginning of this process. And I
15:14:323 think the final statement was much shorter and did
15:14:424 not express some of those things.**

15:14:425 Q So what was Laurie Jenkins telling you was pretty

15:14:521

settled?

15:14:592

A I read this as her questioning if -- I read this more

15:15:103

as a question of whether or not we were going to

15:15:154

express unanimous support for the maps.

15:15:225

Q And did you know, when she asked you that question,

15:15:266

whether or not you were?

15:15:367

A Did I know whether or not we were what?

15:15:398

Q Whether or not the commission was expressing the

15:15:449

unanimous position of the commissioners on the maps.

15:15:510

A I didn't know -- at this time, there were a lot of

15:15:511

questions and ambiguity around the impact of our vote

15:16:012

the night before. Like, we were all --

15:16:013

Q Were you talking --

15:16:014

THE REPORTER: What was that there,

15:16:015

April?

15:16:116

THE WITNESS: We were all tired.

15:16:117

Q (By Ms. Mell) Were you all talking about the impact

15:16:178

when you were collectively together in the room on

15:16:209

the 16th?

15:16:220

A I wouldn't say that we were all collectively together

15:16:221

on the 16th.

15:16:222

Q You were all in the same room, weren't you?

15:16:323

A At certain points.

15:16:324

Q Well, how many hours were you in the same room with

15:16:425

three other voting commissioners on the 16th?

15:16:491 **A Throughout the course of the night?**

15:16:512 **Q On the 16th. Throughout the course of the entire**
15:16:553 **16th.**

15:16:574 **A I mean, we were all in and out of the room at various**
15:17:085 **points in the night.**

15:17:116 **Q Did you leave the public hearing and go to the**
15:17:157 **banquet room together?**

15:17:218 **A No.**

15:17:239 **Q So did each of you as commissioners arrive in the**
15:17:260 **banquet room at varying times after the public**
15:17:291 **meeting?**

15:17:312 **A That's my recollection.**

15:17:313 **Q How much time differential was there between each of**
15:17:364 **you?**

15:17:415 **A I couldn't guess.**

15:17:466 **Q Who got there first?**

15:17:477 **A I don't know.**

15:17:518 **Q Who was there when you got there?**

15:17:519 **A Commissioner Augustine and Commissioner Graves, I**
15:18:020 **believe.**

15:18:021 **Q How long did you stay in that room?**

15:18:122 **A I was in and out of the room. I couldn't hazard a**
15:18:223 **guess how much time was spent in that room.**

15:18:224 **Q When did you leave?**

15:18:225 **A Probably a little after 7 in the morning.**

15:18:291 Q Was the majori- -- well, did you arrive in the room
15:18:352 having left the public meeting?
15:18:373 **A Shortly thereafter, yes.**
15:18:394 Q So a little bit after midnight?
15:18:435 **A Correct.**
15:18:446 Q And you stayed there until 7, was sometimes moving in
15:18:507 and out of the room?
15:18:518 **A I stayed at the hotel until 7. Correct.**
15:18:599 **7-ish, to be accurate.**
15:19:020 Q Why were you in the banquet room?
15:19:071 **A Watching the mapping. On hand in case my team had**
15:19:122 **questions.**
15:19:133 Q Did your team have questions?
15:19:214 **A Yes.**
15:19:285 Q Did you answer their questions?
15:19:316 **A I did.**
15:19:317 Q Did you answer questions posed with respect to the
15:19:368 teams working on the congressional district maps?
15:19:419 **A I did not have input on the congressional maps.**
15:19:420 Q Did you have any idea what was happening with the
15:19:421 congressional maps?
15:19:522 **A Only that they were working on them.**
15:19:523 Q Could you see them working on them?
15:20:024 **A Could I see that they were working on them --**
15:20:025 Q Correct.

15:20:031 **A -- or did I see -- I could see that they were working**
15:20:052 **on them.**

15:20:063 **Q** Could you hear what they were saying at any time you
15:20:104 were in the banquet room?

15:20:175 **A I don't remember hearing what they were saying.**

15:20:236 **Q** Were you in a position where you could hear what they
15:20:267 were saying?

15:20:278 **A I was so focused on the legislative maps that they**
15:20:349 **probably could have been shouting my name and I might**
15:20:370 **not have heard them.**

15:20:401 **Q** Is it correct that you were within earshot of the
15:20:452 individuals working on the congressional mapping at
15:20:483 various times when you were in the banquet room where
15:20:514 other commissioners, voting commissioners were
15:20:555 present?

15:20:586 **A I don't know that that's correct, within earshot.**

15:21:027 **Q** You don't know that it's incorrect either, do you?

15:21:058 **A I thought your question was is it correct, so I**
15:21:099 **wanted to answer your question.**

15:21:100 **Q** Right.

15:21:121 **And you said you don't know, right?**

15:21:122 **A Right.**

15:21:123 **Q** Okay. So if Ali O'Neil said she talked to you and
15:21:124 another commissioner as to the map she was working
15:21:225 on, do you have any reason to believe her statement

15:21:231

to be false?

15:21:262

A If that's her recollection.

15:21:293

Q What?

15:21:304

If that's her recollection, you believe her to be a truthful person?

15:21:325

15:21:386

Is that correct?

15:21:397

A Well, I'm not going to speak to my opinions as to her character.

15:21:438

15:21:439

Q Well, that's what I'm asking you.

15:21:460

Why won't you tell me whether or not you believe she's a truthful person?

15:21:471

15:21:512

A I believe that Ali O'Neil and I experienced our work and the activities on the 16th in a different way and we have different recollections of the evening.

15:22:013

15:22:114

15:22:145

Q What's different about her recollection from your recollection as it's been expressed in her statement or anywhere else?

15:22:196

15:22:217

MR. PEKELIS: Object to form.

15:22:218

15:22:219

THE WITNESS: As it relates to the question that you're asking me now about if Ali said X, would I have reason to believe that, I think if that's her memory, that is her memory. I think my memory of that evening is different.

15:22:320

15:22:422

15:22:423

15:22:524

Q (By Ms. Mell) Did you read Ali's deposition transcript?

15:22:525

15:22:561 **A I did. I believe I did.**

15:23:052 **Q** Where do you have a difference of opinion as to
15:23:103 observations Ali had as to you as expressed in her
15:23:174 deposition?

15:23:185 **A I did not go over her deposition with that in mind.**
15:23:256 **I read her deposition to get a sense of how this**
15:23:307 **deposition would go, because I've never been deposed**
15:23:338 **before.**

15:23:339 **So I was not -- I don't -- I would have to -- we**
15:23:360 **would have to go over her deposition and with any**
15:23:381 **specific questions that you have as to it.**

15:23:412 **Q** What do you recall was different about her
15:23:463 recollection from yours about the events of the 16th?

15:23:524 **A I don't even -- I don't even recall what she said as**
15:24:015 **to her recollection on the 16th.**

15:24:026 **Q** How about as to the 15th?

15:24:077 **A Yeah, I think if you have specific questions, I'm**
15:24:118 **happy to answer them.**

15:24:129 **Q** I just want to know what you do and don't remember.

15:24:160 **You told me that you have a different**
15:24:181 **recollection of what happened on -- during those**
15:24:202 **negotiations. I want to know what was different**
15:24:223 **about your recollection from what she expressed.**

15:24:224 **A I guess --**

15:24:285 **MR. PEKELIS: Objection. There's**

15:24:291 no -- there's no question pending.

15:24:312 MS. MELL: Yes, there is.

15:24:333 MR. PEKELIS: Mr. Court Reporter,
15:24:344 would you read back the transcript, please. The last
15:24:365 statement --

15:24:376 MS. MELL: I don't need the court
15:24:397 reporter to read back the transcript to know that
15:24:408 there's a question pending.

15:24:419 Q (By Ms. Mell) What was the difference between your
15:24:430 recollection of the events that occurred in the final
15:24:441 negotiations at the Hampton Inn from what Ali O'Neil
15:24:522 expressed?

15:24:513 MR. PEKELIS: Object to form; asked
15:24:514 and answered.

15:25:015 **THE WITNESS: Yeah, I mean, I think**
15:25:016 **I'm happy -- it is -- I'm happy to answer specific**
15:25:017 **questions.**

15:25:018 MS. MELL: That's a specific
15:25:089 question.

15:25:020 Q (By Ms. Mell) I want to know -- you testified to me
15:25:121 that her recollection of events is different than
15:25:122 yours. How so?

15:25:123 **A I said my recollection of events and my experience of**
15:25:224 **events was different than hers. I was --**

15:25:225 Q How so?

15:25:241 A I was directly negotiating with Commissioner Graves
15:25:302 and engaged in a number of conversations that she
15:25:333 wasn't engaged in.

15:25:354 There were a number of times that either I left
15:25:385 the room or she left the room and conversations that
15:25:426 she had that I wasn't privy to and conversations that
15:25:467 I had that she wasn't privy to.

15:25:478 She wasn't working directly for me or supporting
15:25:509 me in my work on the 15th or the 16th.

15:25:510 So there were a number of points in time where
15:25:511 our experiences diverged.

15:26:012 Q How so?

15:26:013 A I just explained that to you.

15:26:014 Q Well, you explained why you questioned her
15:26:105 credibility. You didn't explain what was different
15:26:126 about your recollections.

15:26:147 What do you recollect --

15:26:158 MR. PEKELIS: Objection.

15:26:169 Objection; misstates the testimony. And object to
15:26:200 form.

15:26:221 Q (By Ms. Mell) Are you saying that Ali O'Neil
15:26:222 testified to you communicating with more than one
15:26:323 commissioner when you claim you didn't?

15:26:324 MR. PEKELIS: Object to form.

15:26:325 THE WITNESS: I think I've been

15:26:451 clear that I have communicated with all of the
15:26:472 commissioners. I negotiated with Commissioner Graves
15:26:523 but communicated with Commissioner Walkinshaw and
15:26:554 also had communications with Commissioner Fain.

15:27:005 I don't think I've ever -- unless I misunderstood
15:27:046 the question in the way that you asked it, I don't
15:27:067 think I've ever expressed that I did not communicate
15:27:088 with other members of the commission.

15:27:139 Q (By Ms. Mell) Do you understand that Ali O'Neil
15:27:180 testified that you were engaged in conversations with
15:27:231 respect to redistricting with more than one
15:27:262 commissioner at a time?

15:27:313 A I did not -- I understand that that's what you're
15:27:364 telling me now.

15:27:375 Yes, I did not read her deposition with an eye to
15:27:416 poking holes into everything that she said or looking
15:27:467 to verify if what I thought what she said was
15:27:498 accurate. Her testimony is her testimony.

15:27:549 Q Do you dispute that you were communicating with one
15:28:020 commissioner the content of your conversation with
15:28:021 another commissioner with respect to redistricting?

15:28:022 A I gave -- I -- I gave Commissioner Walkinshaw status
15:28:123 updates on my negotiation. I updated him on the
15:28:224 aspects of some proposals. I've never asserted that
15:28:325 I did not communicate redistricting work to

15:28:341 Commissioner Walkinshaw. Unless you ask the
15:28:422 question -- unless I misunderstood the question when
15:28:443 you asked me originally.

15:28:454 Q Can you think of one thing that Ali O'Neil expressed
15:28:475 in her deposition or in her written statement that
15:28:516 you disagree with?

15:28:577 A Yes.

15:28:588 Q What?

15:28:589 A I believe in her memo, she mentioned that at some
15:29:010 point in time we were at an impasse. And we were
15:29:111 never at impasse.

15:29:202 Q And that's because you describe the impasse as
15:29:213 "sticky" points?

15:29:214 A Well, we never expressly said that we were at
15:29:315 impasse. We were continuing to negotiate and
15:29:316 continuing to communicate.

15:29:317 Q But you had reached a sticking point with Graves,
15:29:418 correct?

15:29:419 A On Friday the 13th?

15:29:420 Q I don't know. I believe that's --

15:29:421 A Friday the 12th?

15:29:522 What I mentioned earlier, on Friday the 12th,
15:29:523 that we reached a sticking point when we brought
15:29:524 Sarah in?

15:29:525 Q I remember your prior testimony. When I used the

15:29:591 word "impasse," you said it was "sticky" points with
15:30:012 Graves; is that correct?

15:30:023 **A That is correct.**

15:30:054 Q All right. I'm showing you what's been marked as
15:30:165 Exhibit 66 -- 67. Excuse me.

15:30:216 Do you recognize that document?

15:30:247 **A I do.**

15:30:308 Q What is it?

15:30:309 **A Text communication between me and Speaker Jenkins.**

15:30:390 Q And what are you communicating with Laurie Jenkins
15:30:461 about at this stage?

15:31:012 **A I can't see the entire -- you opened up another
15:31:013 screen, and so -- thank you.**

15:31:214 **I believe that I am updating her on the progress
15:31:315 of the map.**

15:31:386 Q Was she urging you to vote on something at this
15:31:417 stage?

15:31:418 **A No.**

15:31:419 Q What does it mean, "And, if there's something you can
15:31:420 all produce and vote on before midnight, that should
15:31:421 also help"?

15:31:422 **MR. PEKELIS: Object to form; calls
15:31:523 for speculation.**

15:32:224 **THE WITNESS: Yeah, I think she's
15:32:225 just suggesting here that we should try to produce**

15:32:321 **our maps so we can vote on them before midnight.**

15:32:362 Q (By Ms. Mell) Well, if she was suggesting that you
15:32:393 should vote on maps, why did she not use the word
15:32:414 "maps" and use "something"?

15:32:425 Was it significant to you that she was saying
15:32:456 "something" as opposed to "maps"?

15:32:497 **A No.**

15:32:508 Q Okay. Was there a point in time when you got close
15:32:549 enough to your jurisdictional deadline that you
15:32:580 thought you should vote on a proposal rather than a
15:33:011 map?

15:33:042 **A Yes.**

15:33:053 Q What point in time was that?

15:33:094 **A When the chair called for the motion.**

15:33:125 Q Had you had a conversation with the chair about
15:33:216 voting on proposals before she called for a motion?

15:33:247 **A I believe I texted her sometime before the deadline
15:33:318 and asked if we were supposed to be voting, because
15:33:349 it wasn't clear to me that we were.**

15:33:420 Q Did you have a conversation with her that
15:33:421 precipitated going into the action portion of the
15:33:522 meeting and voting on proposals rather than maps?

15:34:023 **A Yes.**

15:34:024 Q When did that occur?

15:34:025 **A Sometime before 11:30.**

15:34:131 Q Who was present for your conversation?

15:34:172 A I don't recall.

15:34:193 Q Did you know that you were going to vote on proposals
15:34:224 for both maps, congressional and legislative? Or
15:34:255 excuse me. That you were going to vote on both
15:34:296 legislative and congressional proposals, not maps?

15:34:357 A Not until we -- she called for the vote.

15:34:398 Q Okay. But you had an understanding that you would
15:34:429 bring up -- strike that.

15:34:470 You had an understanding before going into the
15:34:501 action portion of the meeting that you were at a
15:34:532 stage where you couldn't vote on maps, correct,
15:34:563 because you didn't have any?

15:35:014 A Correct.

15:35:025 Q And you'd had a conversation about taking a vote on
15:35:066 proposals before you went into the action portion of
15:35:117 the meeting, correct?

15:35:128 A Correct.

15:35:189 Q And you'd had that conversation in a way that you
15:35:220 knew Augustine understood that was what would happen
15:35:321 and the other three commissioners knew that's what
15:35:382 was going to happen, correct?

15:35:423 A I'm not sure I understand the question.

15:35:424 Q You were not the only one with the knowledge that,
15:35:485 when you moved back into the action portion of the

15:35:511 meeting right before midnight, that the thought was
15:35:582 you would have before you frameworks for
15:36:053 consideration?

15:36:074 MR. PEKELIS: Object to form.

15:36:115 **THE WITNESS: Yeah, I'm -- I'm**
15:36:136 **still not clear what you mean or what you're looking**
15:36:157 **for.**

15:36:158 MS. MELL: I'm not looking for
15:36:169 anything. I just want you to tell the truth and
15:36:180 answer my questions here.

15:36:191 So don't try to guess at what I want. Tell me
15:36:222 the truth in response to the question as you
15:36:243 understand it. If you don't understand the question,
15:36:274 let me know you don't understand the question.

15:36:295 MR. PEKELIS: I think that's --

15:36:326 Q (By Ms. Mell) With regard to the action portion of
15:36:347 the meeting, prior to going into the action portion
15:36:368 of the meeting, what did you know about the
15:36:389 congressional district proposal going into the
15:36:420 meeting?

15:36:421 Did you know that you would be considering a
15:36:522 proposal?

15:36:523 MR. PEKELIS: Object to form.

15:37:424 **THE WITNESS: So if you're**
15:37:425 **referring to after we took our last caucus and came**

15:37:531

back, yes.

15:38:002

Q (By Ms. Mell) What did you understand Laurie Jenkins to mean, "We have an agreement"?

15:38:043

15:38:164

A I had informed Speaker Jenkins that Commissioner Graves and I had reached a proposed agreement.

15:38:285

15:38:336

Q So who did you take her to mean the Rs were?

15:38:467

A I assumed he was referring to whoever had been tweeting out, and I don't know who that was. I wasn't on Twitter that night.

15:38:548

15:38:589

15:39:000

Q And an agreement as to what map? Agreement as to what?

15:39:081

15:39:082

MR. PEKELIS: Object to form.

15:39:113

THE WITNESS: That Commissioner

15:39:114

Graves and I had come to an agreement on a proposal.

15:39:305

Q (By Ms. Mell) So only as to the legislative proposal?

15:39:376

15:39:407

MR. PEKELIS: Object to form.

15:39:408

THE WITNESS: Well, this is

15:39:419

speculation based on --

15:39:420

Q (By Ms. Mell) It's not speculation. I'm asking you what you took it to mean. So just tell me what you thought when you received a text from Laurie Jenkins saying, "I can't imagine the court saying they're going to draw the maps. It might be good to have the R's tweet out that since" -- "we have an agreement

15:39:421

15:39:422

15:39:523

15:39:524

15:39:525

15:39:591

since they've already been tweeting a bit."

15:40:012

Who's the "we" in that sentence as you understood

15:40:063

it at the time you received the text?

15:40:104

A I understood the "we" to mean Paul and I had agreement on the proposal.

15:40:165

15:40:186

Q As to the legislative districts?

15:40:217

A Correct.

15:40:228

Q Did you ever figure out how you would extract

15:40:329

consequences from the Senate?

15:40:340

MR. PEKELIS: Object to form.

15:40:341

THE WITNESS: No.

15:40:402

Q (By Ms. Mell) Why did you want to extract

15:40:423

consequences from the Senate?

15:40:444

What had the Senate done to offend her?

15:40:505

MR. PEKELIS: Object to form.

15:40:516

THE WITNESS: I don't know.

15:40:517

There's lots of dynamics between the House and Senate that I'm not familiar with.

15:40:518

15:41:019

Q (By Ms. Mell) What had you -- what conflict existed

15:41:020

in the negotiations between the House and the Senate

15:41:021

that you were aware of at the time she texted you?

15:41:122

A There was no conflict that I was aware of at the time that she texted me.

15:41:223

15:41:224

Q What were the negotiations in any way affected by a

15:41:225

distinction between the House and the Senate?

15:41:321 MR. PEKELIS: Object to form.

15:41:362 THE WITNESS: Can you ask the
15:41:373 question again?

15:41:374 Q (By Ms. Mell) Were there any differences between
15:41:395 what the House commissioners wanted and the Senate
15:41:436 commissioners wanted?

15:41:557 A I would imagine so.

15:41:578 Q Well, don't imagine. Tell me what it was.

15:42:009 A Well, I mean, I did my best to incorporate Brady's
15:42:010 priorities when I was negotiating with Commissioner
15:42:111 Fain -- I'm sorry -- with Commissioner Graves.

15:42:212 I -- you know, there were still differences in my
15:42:313 draft maps and Commissioner Walkinshaw's draft maps
15:42:314 that we independently released in October. Maybe a
15:42:415 difference of opinion around the VRA-compliant
15:42:416 district in eastern Washington.

15:42:517 I mean, I did my best to negotiate those things
15:42:518 in the final proposal and hoped that that would be
15:43:019 sufficient to earn Commissioner Walkinshaw's vote.

15:43:020 Q Do you think that was a Senate-versus-House issue?

15:43:121 A I can only speak for the Democratic side of the
15:43:222 Senate and the House issue. But those were some of
15:43:223 the biggest differences in mine and Commissioner
15:43:224 Walkinshaw's map proposals.

15:43:325 Q Why were they a Senate/House distinction? Why was

15:43:381

one uniquely Senate versus the House?

15:43:412

A All four voting members of the commission were

15:43:473

uniquely empowered with one vote, and we all had

15:43:534

unique priorities and differences in how we wanted

15:43:585

those priorities articulated in the maps.

15:44:086

Q But what was it that -- what were the House/Senate

15:44:137

distinctions that were linked to those two chambers?

15:44:258

A Brady -- sorry -- Commissioner Walkinshaw was the

15:44:299

Senate appointee to the commission. I was the House

15:44:310

appointee to the commission. And so our two maps

15:44:411

reflected the difference in the Senate commissioner's

15:44:512

articulation of his priorities and the House

15:44:513

commissioner's articulation of her priorities.

15:45:014

Q Were there differences in whether or not the supreme

15:45:015

court should do the work that were distinct along

15:45:116

Senate versus House lines?

15:45:117

A To my knowledge, yes.

15:45:218

Q What did the Senate side want?

15:45:319

A From my understanding, the Senate was less concerned

15:45:320

with the political implications of a court-drawn map.

15:45:421

Q When you say less concerned by the political

15:45:422

implication of the court-drawn map, what do you mean?

15:45:523

A I mean that the court-drawn map was largely an

15:46:024

unknown and that the commission had never -- had

15:46:125

never failed -- I don't know; that's a double

15:46:171 negative -- that the commission had never failed in
15:46:212 its work -- had never failed in completing its work
15:46:263 on time. And the consequences of our failure was
15:46:424 unknown to all of us and not without some risk.

15:46:525 Q Okay. I understand that.

15:46:546 But what were the political implications? What
15:46:577 was the Senate side's thinking the supreme court was
15:47:018 going to do that had --

15:47:039 MR. PEKELIS: Object to form.

15:47:010 THE WITNESS: I don't know what the
15:47:011 Senate side was thinking. Only that they were less
15:47:212 opposed to the risk.

15:47:213 MS. MELL: Yeah.

15:47:214 Q (By Ms. Mell) But what exactly was the risk? That
15:47:275 it was going to become more Democrat, or the
15:47:306 political metrics would be more R or more D? I don't
15:47:357 understand.

15:47:368 What did you mean when you say "political
15:47:399 implications"?

15:47:400 What were the contemplated political
15:47:421 implications, in your view, of the supreme court
15:47:422 drawing the maps?

15:47:423 MR. PEKELIS: Object to form.

15:47:524 THE WITNESS: Well, for me, in my
15:47:525 view, there were personal and political consequences.

15:48:081 The -- our commission was the most diverse
15:48:142 commission in the history of our commission. I'm the
15:48:193 first black woman appointed to do this work. We are
15:48:234 the youngest commission in the history of our
15:48:285 commission in the Washington State.

15:48:296 And the personal consequences of not being able
15:48:377 to accomplish a task I had been appointed to do was
15:48:448 significant for me and what it means to my community.

15:48:519 The political consequences included not knowing
15:49:010 what the district boundaries would be until April
15:49:011 30th of 2022, which is the supreme court's deadline,
15:49:112 which is three weeks before the filing week in
15:49:113 Washington State, which would mean that candidates
15:49:214 and incumbents wouldn't know what district they could
15:49:215 run and serve in until just weeks before the filing
15:49:216 deadline.

15:49:317 There was some uncertainty as to what criteria
15:49:318 the supreme court would use and whether or not the
15:49:419 supreme court would be required to use the same
15:49:420 criteria that the commission is required to use as
15:49:421 described in the WAC.

15:49:522 I think those were some of the risks and some of
15:50:023 the -- and some of the considerations that I had
15:50:024 certainly.

15:50:125 Q (By Ms. Mell) Showing you what's been marked as

15:50:171 Exhibit 68, does this text communication reflect your
15:50:262 contact with Brady Walkinshaw on the 15th?

15:50:293 **A It does.**

15:50:334 Q Did you share with Brady Walkinshaw on the 15th
15:50:375 negotiation information on redistricting that you
15:50:416 obtained from Joe Fain?

15:50:447 **A I'm sorry. This is communication on the 14th.**

15:50:488 Q Okay.

15:50:489 **A Is what this looks like to me. Saturday the --
15:50:510 Sunday the 14th.**

15:50:511 Q Okay. So this is you telling Commissioner Walkinshaw
15:51:022 what Joe Fain had told you with regards to the
15:51:063 legislative maps, correct?

15:51:114 **A No.**

15:51:105 MR. PEKELIS: Object to form.

15:51:116 **THE WITNESS: My communication to
15:51:117 Brady is represented in blue. Brady's communication
15:51:218 to me is reflected in gray.**

15:51:219 Q (By Ms. Mell) Did you say in the gray?

15:51:220 **A In the gray.**

15:51:221 Q So this is Brady sharing what Joe told Brady with
15:51:322 you?

15:51:323 **A Mm-hmm.**

15:51:324 Q Okay. And so would you agree that this is a serial
15:51:425 communication or serial meeting at this point?

15:51:441 MR. PEKELIS: Object to form; calls
15:51:462 for a legal conclusion.

15:51:523 THE WITNESS: I mean, I'm not --
15:51:534 I'm not the attorney here, so I did not at the time
15:51:575 see this as a serial meeting.

15:51:596 Q (By Ms. Mell) Okay. But you would agree that in
15:52:027 this communication, you are made aware of what the
15:52:078 thoughts are of three voting commissioners?

15:52:129 MR. PEKELIS: Object to form.

15:52:110 THE WITNESS: In this
15:52:111 communication, Commissioner Walkinshaw is relating to
15:52:212 me what he heard from Commissioner Fain in terms of
15:52:213 their communication. It was not specific -- I did
15:52:314 not read this as specific to anyone's particular
15:52:315 position.

15:52:316 Q (By Ms. Mell) Well, you said he's "no" on the leg
15:52:417 maps, no matter what, right?

15:52:418 That's a position, isn't it?

15:52:419 A Commissioner --

15:52:420 MR. PEKELIS: Object to form.

15:52:521 THE WITNESS: Commissioner
15:52:522 Walkinshaw is sharing with me what Commissioner Fain
15:52:523 said he heard about Commissioner Walkinshaw. Like,
15:53:024 this is what Joe is telling me he's heard about me.

15:53:125 MS. MELL: I see.

15:53:151 Q (By Ms. Mell) So that's -- you would agree that it's
15:53:192 a thought process among three voting commissioners,
15:53:223 correct?

15:53:234 MR. PEKELIS: Object to form.

15:53:305 **THE WITNESS: I would agree -- no,**
15:53:316 **I would not agree.**

15:53:317 MS. MELL: Okay.

15:53:328 **THE WITNESS: I wouldn't say it**
15:53:329 **that way, so I would not agree with the way that you**
15:53:310 **said it.**

15:53:311 Q (By Ms. Mell) Would you agree that this text
15:53:312 communication reflects knowledge of communications
15:53:413 among three voting commissioners?

15:53:414 MR. PEKELIS: Object to form.

15:54:115 **THE WITNESS: I think I'm just**
15:54:116 **having a hard time really understanding the question.**

15:54:217 Q (By Ms. Mell) Okay. So from this text
15:54:218 communication, you know what you're thinking, right,
15:54:309 because you're the recipient?

15:54:320 MR. PEKELIS: Object to form.

15:54:321 MS. MELL: What's the objection to
15:54:322 form on that?

15:54:323 MR. PEKELIS: Leading.

15:54:324 MS. MELL: Okay.

15:54:425 **THE WITNESS: With what**

15:54:501

communication?

15:54:532

Q (By Ms. Mell) You're the recipient of this text communication in gray, correct?

15:54:553

15:54:574

A Correct.

15:54:585

Q So you know where you stand on the issues relative to the negotiation at that stage, correct?

15:55:056

15:55:077

MR. PEKELIS: Object to form.

15:55:108

THE WITNESS: Yes, I know my

15:55:119

position.

15:55:120

Q (By Ms. Mell) Okay. And this is another elected

15:55:161

commission- -- or another voting commissioner

15:55:192

expressing the position of what another voting

15:55:263

commissioner thought your position was at that stage of the negotiations; is that correct?

15:55:324

15:55:335

MR. PEKELIS: Object to form.

15:55:366

THE WITNESS: That is not correct.

15:55:377

Q (By Ms. Mell) Okay. How would you describe what

15:55:418

Brady Walkinshaw is communicating to you?

15:55:479

A The -- the "you" in this is Commissioner Walkinshaw.

15:55:520

So Commissioner Walkinshaw is telling me that

15:55:521

Commissioner Fain texted him and said that

15:56:022

Commissioner -- that he heard that Commissioner

15:56:023

Walkinshaw was a "no."

15:56:024

So that is just Commissioner Fain sharing with

15:56:125

me -- I'm sorry -- Commissioner Walkinshaw sharing

15:56:161 with me that Commissioner Fain was telling him that
15:56:202 he had heard that he was a "no" vote.

15:56:223 Q Okay.

15:56:234 A There was nothing relevant from my position. There
15:56:295 was nothing in this text message that was relevant in
15:56:326 terms of what I was negotiating that evening.

15:56:367 Like, I candidly didn't really care what Joe
15:56:418 thought about -- what Commissioner Fain thought about
15:56:469 Commissioner Walkinshaw or what Commissioner
15:56:490 Walkinshaw thought about Commissioner Fain and either
15:56:511 of their positions.

15:56:522 I was working to negotiate a proposal that Paul
15:56:563 and I could bring before the commission, and I was
15:56:584 solely focused on that.

15:57:005 Q Showing you what's been marked as Exhibit 69, does
15:57:416 this reflect Brady Walkinshaw communicating to you
15:57:457 what his position is on the communications that were
15:57:518 being made public on the 16th?

15:57:569 MR. PEKELIS: Object to form.

15:58:020 THE WITNESS: No.

15:58:021 Q (By Ms. Mell) What does this text communication
15:58:022 exchange mean to you?

15:58:023 A I believe that this was Sunday morning, Sunday the
15:58:124 14th. And Commissioner Walkinshaw was inviting me to
15:58:225 a meeting to discuss a VRA-compliant legislative

15:58:331 **district and the requirements around that.**

15:58:372 Q So what is the date of this exchange?

15:58:453 A **I believe it is Sunday the 14th.**

15:58:534 Q And what is this that you're hopping onto?

15:58:585 A **A meeting to discuss a strategy for a VRA district --
15:59:046 a VRA-compliant district in eastern Washington.**

15:59:087 Q And what does the, "Want to hop back on our Zoom for
15:59:118 a sec?" mean?

15:59:139 MR. PEKELIS: Object to form.

15:59:130 Q (By Ms. Mell) Is it this Zoom or a different
15:59:151 negotiating Zoom?

15:59:182 MR. PEKELIS: Same objection.

15:59:213 **THE WITNESS: I'm not entirely
15:59:324 sure. It looks like two separate Zooms, just looking
15:59:315 at the text message.**

15:59:426 Q (By Ms. Mell) Were you negotiating in Zoom?

15:59:417 A **On this day regarding these text messages?**

15:59:518 Q Well, no.

15:59:519 At any time, were you negotiating redistricting
15:59:520 in Zoom?

15:59:521 A **Yes.**

16:00:022 Q Among commissioners?

16:00:023 MR. PEKELIS: Object to form.

16:00:024 **THE WITNESS: Commissioner Graves
16:00:025 and I negotiated a number of times over Zoom.**

16:00:191 Q (By Ms. Mell) This segment, "K. Just some (very
16:00:252 real) concerns about three commissioners being in the
16:00:283 same building at the same time, even if you're not in
16:00:324 the same room," meant what to you?

16:00:375 How did you take that?

16:00:396 **A I think this is the question that you asked me
16:00:417 earlier about whether or not Commissioner Walkinshaw
16:00:468 ever expressed any concern with all of us meeting.
16:00:509 This was going into the in-person negotiations on
16:00:510 Sunday.**

16:00:571 Q And this was what we were talking about earlier.

16:01:002 It was his expression about getting out of open
16:01:013 government compliance?

16:01:014 **A Correct.**

16:01:015 Q Showing you what's been marked as Exhibit 70, do you
16:01:416 recognize that communication?

16:01:517 **A Yes.**

16:01:528 Q What is it?

16:01:519 **A It appears to be a text message from Commissioner
16:01:520 Graves.**

16:01:521 I'm -- okay. Yeah. The -- the view on this is
16:02:022 really large. So I can only see two of the
16:02:023 communication bubbles, and I don't know if that's
16:02:124 your intent.

16:02:125 Q That help?

16:02:161 A Yeah, I still can't see the entire thing unless you
16:02:192 scroll forward.

16:02:203 That's better. It gives me a sense of the
16:02:234 conversation.

16:02:255 Q Can you see it now?

16:02:276 A I can.

16:02:477 Q So is the blue you?

16:02:498 A It is.

16:02:539 Q Okay. And so were you working to get the voting
16:02:550 commissioners to a unanimous statement?

16:03:411 Are you still thinking?

16:03:412 A I am.

16:03:413 This was -- this was Tuesday at about 6. I think
16:03:414 I'd taken, like, a two-hour nap at this point in
16:03:515 time, so I'm just trying to remember the conversation
16:03:516 track.

16:04:017 Yeah, I was working to try to understand the
16:04:018 impacts of the vote we had taken the night of the
16:04:119 15th and was really interested in whether or not the
16:04:220 statement that we had drafted earlier was a statement
16:04:221 that all the members of the commission would support
16:04:322 with regards to unanimous support for the maps.

16:04:323 Q How did you ascertain whether or not there was
16:04:324 unanimous support?

16:04:525 A I think I called Commissioner Walkinshaw --

16:04:531 Q And what did he tell you?

16:04:542 A -- and asked him -- and asked him if he was in
16:05:003 support.

16:05:054 Q What did he tell you?

16:05:065 A That he needed to think about it.

16:05:086 Q Did you tell him what your position was?

16:05:127 A I told him my position was still the same.

16:05:168 Q What was your position at that point?

16:05:239 A That I supported our maps.

16:05:250 Q Okay. Did you tell him what Commissioner Fain's
16:05:311 position was?

16:05:312 A I'm not sure if I knew Commissioner Fain's position
16:05:313 at that time. I was still -- so I did not.

16:05:314 Q Did you tell him what Commissioner Graves' position
16:05:415 was?

16:05:516 A I don't recall.

16:05:517 Q Did you talk to Commissioner Graves and share what
16:06:018 Walkinshaw told you?

16:06:119 A I probably communicated that Walkinshaw was
16:06:120 undecided.

16:06:221 Q So at that point in time, there were three voting
16:06:222 commissioners with information on what those three
16:06:223 commissioners' position was, correct?

16:06:324 MR. PEKELIS: Object to form.

16:06:325 THE WITNESS: Well, I mean,

16:06:411

Commissioner Walkinshaw's position was unknown.

16:06:432

MS. MELL: Right.

16:06:443

THE WITNESS: I had not confirmed

16:06:464

Commissioner Fain's position.

16:06:505

So I knew what Commissioner Graves' position was.

16:06:546

Q (By Ms. Mell) And Graves knew what yours was,

16:06:567

correct?

16:06:578

MR. PEKELIS: Object to form.

16:07:029

THE WITNESS: Yes.

16:07:020

Q (By Ms. Mell) So you know what Graves thought.

16:07:061

Graves knew what you thought. And both of you knew

16:07:092

what Walkinshaw thought, that he was undecided; is

16:07:123

that correct?

16:07:124

MR. PEKELIS: Object to form.

16:07:195

THE WITNESS: Right. So Brady was

16:07:206

an unknown. Commissioner Walkinshaw's position at

16:07:217

this point in time was unknown. He had not

16:07:218

articulated his position.

16:07:279

Q (By Ms. Mell) And you shared that with Graves?

16:07:320

A Correct.

16:07:321

Q And you shared with Graves what you thought?

16:07:322

A Correct.

16:07:323

Q So three voting commissioners knew at this point in

16:07:324

time, which is sometime around, well, November 16th,

16:07:425

around 6:22 p.m., about a press statement, correct?

16:07:501

MR. PEKELIS: Object to form.

16:07:542

THE WITNESS: Correct.

16:07:573

Q (By Ms. Mell) And at some point in time did you

16:08:014

bring into the loop Fain?

16:08:045

A Not that I recall.

16:08:066

Q Do you know if either Walkinshaw or Graves brought

16:08:137

Fain into the loop?

16:08:188

A I do not.

16:08:209

Q Did you issue a unanimous statement?

16:08:210

MR. PEKELIS: Object to form.

16:08:311

THE WITNESS: I don't know if I

16:08:312

recall a statement. I do recall all four voting

16:08:413

members of the commission expressing their support

16:08:414

during our press conference on Thursday the 18th.

16:08:415

Q (By Ms. Mell) Did you know prior to the press

16:08:516

conference the position of the other commissioners?

16:09:217

A Yes.

16:09:218

Q Okay. How did you know?

16:09:219

A I knew Brady and Paul's position. I still had not

16:09:220

had direct communication with Commissioner Fain. I

16:09:321

knew Commissioner Graves' and Commissioner

16:09:322

Walkinshaw's position.

16:09:323

Q Okay. Did you know that Fain was going to align with

16:09:424

the three of you even though you hadn't communicated

16:09:425

with him?

16:09:491 **A I made -- I assumed. I hoped.**

16:09:522 Q Did you know from either Walkinshaw or Graves what
16:09:573 Fain's position was?

16:10:074 **A I believe Commissioner Fain released a public
16:10:135 statement, now that I think about it. Based on that
16:10:226 statement, I made the assumption that he was
16:10:267 supporting the -- that he was going to make a
16:10:298 statement in support of the maps.**

16:10:309 Q Did you communicate -- did you learn any information
16:10:340 from Chair Augustine prior to the press conference as
16:10:391 to the position of the other commissioners?

16:10:502 **A Not that I recall.**

16:10:543 Q Had Commissioner Walkinshaw communicated to you that
16:10:594 he decided to support the maps by the time of the
16:11:035 press conference?

16:11:056 **A Say the -- I'm sorry. Ask me again.**

16:11:087 Q By the time of the press conference, had Commissioner
16:11:118 Walkinshaw finally taken a position on the maps and
16:11:149 expressed that to you?

16:11:180 **A Yes.**

16:11:181 Q Okay. And had you shared that with Graves?

16:11:222 **A I may have.**

16:11:223 Q Okay. So going into the press conference, there were
16:11:304 three voting commissioners who knew the position of
16:11:325 the others was to approve the maps, correct?

16:11:401 MR. PEKELIS: Object to form.

16:11:562 **THE WITNESS: Yes.**

16:12:093 Q (By Ms. Mell) Okay. And by the time the press
16:12:114 conference occurred -- well, strike that.

16:12:135 Where were you for the press conference?

16:12:166 **A I was at home.**

16:12:197 Q Where were the other commissioners?

16:12:218 **A We were all virtual, so I don't know where they were.**

16:13:199 Q On this Exhibit 70 where you're talking to Graves, do
16:13:210 you know what you communicated to him so he could get
16:13:211 it into the news stories with the maps?

16:13:512 **A I don't recall communicating anything with him or to**
16:13:513 **him regarding something to go with the ma- -- could**
16:14:014 **you ask me the question again so I can make sure I**
16:14:015 **understand?**

16:14:016 Q I'm just trying to understand what this was that he
16:14:017 was asking you to get to him.

16:14:118 **A I -- if you look at the previous window, I was asking**
16:14:219 **him when does the window close, asking him his**
16:14:220 **opinion in terms of when we would need to communicate**
16:14:221 **our unanimous support.**

16:14:322 And he is saying, "I suppose until April 30th,"
16:14:323 which is the deadline for the court to draw maps, but
16:14:424 if we could -- I took this to mean, if we could
16:14:425 release them with the maps, that would be good.

16:16:051 Q Showing you what's been marked as Exhibit 70a.

16:16:092 MR. PEKELIS: Counsel, before we
16:16:103 move on to another exhibit -- seems like you're
16:16:124 moving on -- we've been going about an hour and ten
16:16:145 minutes since the last break. Seems like a logical
16:16:166 breaking point perhaps for another short break.

16:16:207 MS. MELL: I don't mind taking one,
16:16:218 but I really want to keep moving. I'm not one to
16:16:249 take breaks every hour. I think it just slows down
16:16:270 the momentum.

16:16:291 So unless people really need a break, I'd like to
16:16:312 just keep going. We've got a lot of text to get
16:16:323 through. And I don't really want to stay until 9.
16:16:344 But the witness has been very, very delayed in her
16:16:405 responses, so this is a dep that might need to
16:16:426 continue over into another day.

16:16:447 MR. PEKELIS: Well, we will not go
16:16:468 into another day. And I think the witness has been
16:16:489 as responsive as possible given the ambiguity and
16:16:520 convolutedness of many of the questions.

16:16:521 I do need to use the restroom, so I would
16:17:022 appreciate a five-minute break.

16:17:023 MS. MELL: I move to strike your
16:17:024 condescending representation of the nature of the
16:17:025 questions, and I take offense at your

16:17:071 characterization of them. And I think the record
16:17:112 will reflect the delayed responses.

16:17:133 And whether or not you agree to another day of
16:17:154 this deposition is not an issue that I'm willing to
16:17:225 concede at this point because I think that this
16:17:246 deposition will need to have a second day.

16:17:257 But we can take a break.

16:17:288 MR. PEKELIS: Okay.

16:17:309 (Pause in proceedings from
16:17:300 4:17 p.m. to 4:25 p.m.)

16:25:301
16:25:302 Q (By Ms. Mell) Showing you what's been marked as
16:25:403 Exhibit 70a, do you recognize that document?

16:25:414 A I don't see anything on my screen.

16:25:505 Q See it?

16:25:516 A 70a?

16:26:007 Q 70a, yes.

16:26:018 A Yes.

16:26:059 Q What was the clear agreement that Paul backed out on?

16:26:120 A Paul and I had agreed that the 44th would be a safe
16:26:121 district, a safe Democratic district. And I think I
16:26:222 explained this earlier regarding the open seat in the
16:26:223 44th. Because Senator Hobbs had been appointed. And
16:26:324 we had agreed to a negotiation framework that made
16:26:425 the 44th a safe district.

16:26:481 Q And when you say "safe district," remind me what that
16:26:522 meant.

16:26:533 **A Safe for Democrats performing at 55 percent or higher**
16:26:584 **using the 2020 Pellicciotti election results.**

16:27:105 Q All right. So this communication, "That's a
16:27:126 mischaracterization- there was a clear agreement that
16:27:167 paul backed out on," is coming from you -- from Brady
16:27:198 to you?

16:27:209 **A Yes.**

16:27:210 Q At what time?

16:27:211 **A I don't know.**

16:27:212 Q What day?

16:27:413 **A Sunday the 15th.**

16:27:414 Q 15th's Monday.

16:27:415 **A Sunday the 14th.**

16:27:416 Q So you think that this agreement that was backed out
16:27:517 on occurred on the 14th, Sunday?

16:27:518 MR. PEKELIS: Object to form.

16:28:019 **THE WITNESS: No. The agreement**
16:28:020 **that Paul backed out on happened on Friday the 12th.**

16:28:121 Q (By Ms. Mell) And so Brady knew about the clear
16:28:202 agreement?

16:28:223 **A Yes.**

16:28:224 Q Okay. So was there clear agreement that existed
16:28:225 between Paul Graves and you that Brady Walkinshaw

16:28:381 learned of prior to this text message to you?

16:28:402 MR. PEKELIS: Object to form.

16:28:423 THE WITNESS: Well, and the
16:28:464 agreement here was the negotiation framework, what
16:28:515 districts we would negotiate. And I apprised
16:28:546 Commissioner Walkinshaw of that negotiation framework
16:29:017 as part of my ongoing communication to keep him in
16:29:148 the loop in terms of my negotiations.

16:29:159 Q (By Ms. Mell) Okay. So if I heard you correctly,
16:29:180 the clear agreement involved more than the 44th; is
16:29:211 that correct?

16:29:212 A Correct.

16:29:213 Q So the clear agreement, what were the parameters of
16:29:214 the clear agreement?

16:29:315 A That we would use the 2020 Pellicciotti election
16:29:316 results as our main metric. And using those metrics,
16:29:417 we identified 23 districts as safe Democratic
16:29:518 districts, two districts as lean Democratic
16:30:019 districts, seven districts as swing, two districts as
16:30:120 lean Republican, and the remaining districts were
16:30:221 safe Republican districts based on the Pellicciotti
16:30:222 performance.

16:30:223 We agreed that the 44th would be one of those
16:30:324 safety districts and that we would start our
16:30:325 negotiations with the 10th, 17th, 24th, 26th, 28th,

16:30:571

and 42nd.

16:30:592

Did I forget one? 10th, 17th --

16:31:013

Q Which ones am I counting? The swings?

16:31:054

A Those are the swing districts that we would start our negotiations. And the 35th.

16:31:085

16:31:096

Q Okay. Yeah, I was one shy there.

16:31:127

And the two lean R ones were what?

16:31:158

A The 6th and the 25th.

16:31:179

Q And the two lean district -- two lean Ds?

16:31:210

A The 5th and the 47th.

16:31:301

Q Okay. And so was the backout -- the negotiations on the -- I want to say the 12th, but when -- what day do you describe the negotiations beginning that were subject to this agreement?

16:31:412

16:31:513

16:31:514

16:31:515

A We started negotiating around that agreement on the 27th of October.

16:32:016

16:32:017

Q 27th of October?

16:32:018

A Mm-hmm.

16:32:019

Q So what was the status of those negotiations as of the 12th?

16:32:120

16:32:121

A That's when they got sticky.

16:32:122

Q Okay. And that's because of the 44th?

16:32:223

A Correct.

16:32:224

Q Okay. And so at the time that this text occurs, that's the 14th?

16:32:325

16:32:331 **A It appears to be, yes.**

16:32:352 Q Okay. And the agreement to negotiate the seven swing
16:32:413 districts was among all four of you, right?

16:32:464 **A No. That was the agreement that Paul and I**
16:32:535 **established so that we could start our negotiations.**

16:32:576 Q Okay. And then this -- then sometime between the
16:33:017 14th and the 27th in October, Brady understood that
16:33:168 as of the 14th, Paul had backed out on that
16:33:229 agreement?

MR. PEKELIS: Object to form.

THE WITNESS: Yes.

16:33:312 Q (By Ms. Mell) And he learned that from you, correct?

16:33:323 **A Correct.**

MR. PEKELIS: Object to form.

16:33:345 Q (By Ms. Mell) Okay. And so at the time you
16:33:386 communicated to Brady that Paul had backed out on the
16:33:477 agreement, Brady knew where you were on negotiating
16:33:518 on the agreement and Brady knew where Paul was on
16:34:019 negotiating the agreement, correct?

MR. PEKELIS: Object to form.

16:34:121 **THE WITNESS: I'm not sure I**
16:34:122 **understand the question.**

16:34:123 Q (By Ms. Mell) So at the time of this text
16:34:124 communication between you and Brady, you were
16:34:225 communicating about the position of three of you,

16:34:281 you, Brady, and Paul, correct?

16:34:302 MR. PEKELIS: Object to form.

16:34:393 **THE WITNESS: At the time of this**
16:34:404 **communication, I wasn't communicating anything.**

16:34:435 **I'm sorry. I'm not sure what I was communicating**
16:34:476 **at the time of this communication.**

16:34:487 Q (By Ms. Mell) Okay. At the time of this
16:34:508 communication, Brady is telling you what his
16:34:559 perceptions are of another voting commissioner; that
16:34:590 is, that Paul Graves backed out on a clear agreement;
16:35:011 is that correct?

16:35:042 MR. PEKELIS: Object to form.

16:35:013 **THE WITNESS: You're asking me if**
16:35:114 **that's what Brady texted in this string?**

16:35:115 MS. MELL: No.

16:35:116 Q (By Ms. Mell) I'm asking if that's what he
16:35:117 communicated to you.

16:35:118 MR. PEKELIS: Same objection.

16:35:219 **THE WITNESS: You know, I'm not**
16:35:220 **sure. It's so out of context here. I'm not sure**
16:35:221 **what this -- I'm not sure why it shows up the way**
16:35:322 **that it does here.**

16:35:323 Q (By Ms. Mell) Okay. Did you know on the 14th that
16:35:424 Paul had backed out of a clear agreement?

16:35:425 **A Did I know?**

16:35:441

Q Yeah.

16:35:452

A Yes, I knew on the 12th.

16:35:473

Q Okay. And did you know that Brady knew that Paul had

16:35:504

backed out on a clear agreement on the 12th?

16:35:535

A Yes.

16:35:556

Q Did Graves know that you two knew he had backed out

16:36:007

on a clear agreement?

16:36:018

MR. PEKELIS: Object to form.

16:36:269

THE WITNESS: I informed

16:36:210

Commissioner Graves that Commissioner Walkinshaw

16:36:311

planned to negotiate his draft legislative map

16:36:412

directly with Commissioner Fain as a result of our

16:36:413

negotiations breaking down.

16:36:514

Q (By Ms. Mell) Okay. And did -- so when you

16:37:025

communicated that to Graves, Graves knew that

16:37:016

Walkinshaw was taking action in the negotiations

16:37:017

based on the status of your negotiations with Graves

16:37:118

breaking down?

16:37:119

MR. PEKELIS: Object to form.

16:37:120

THE WITNESS: I'm not sure what you

16:37:221

mean by "taking action."

16:37:222

Q (By Ms. Mell) That he was going to do his

16:37:223

negotiations separately, right?

16:37:224

MR. PEKELIS: Same objection.

16:37:425

THE WITNESS: I told Commissioner

16:37:461 **Graves that Commissioner Walkinshaw was sending a**
16:37:492 **legislative map proposal to Commissioner Fain.**

16:37:553 MS. MELL: Oh. Maybe I was
16:37:574 misunderstanding. Okay.

16:37:585 Q (By Ms. Mell) So are you telling that there -- at
16:38:026 this point -- strike that.

16:38:027 At that stage in the communication is, when
16:38:068 you're talking to Graves, you're telling Graves that
16:38:109 Walkinshaw intends to convene the legislative map
16:38:140 negotiations using Walkinshaw's map by communicating
16:38:181 with Fain and leaving Graves out of it.

16:38:202 Is that my understanding?

16:38:213 MR. PEKELIS: Object to form.

16:38:214 **THE WITNESS: I'm not sure what you**
16:38:215 **mean by "convene."**

16:38:216 Q (By Ms. Mell) Well, what do you think it means?

16:38:317 **A That he was sending him a proposal and hoping that he**
16:38:318 **could negotiate around his legis- -- his draft**
16:38:419 **legislative map.**

16:38:420 Q To break the impasse with Graves, right?

16:38:421 **A We were never at impasse.**

16:38:422 Q Okay. To break the sticking point with Graves?

16:38:423 **A Or to try a new tactic.**

16:38:524 I mean, I was continuing to negotiate with
16:38:525 Commissioner Graves around the legislative map.

16:39:001 Q And that was -- that was the negotiations were
16:39:032 operating on two separate tracks?

16:39:073 **A Correct.**

16:39:074 Q Okay. All right.

16:39:185 70a. 71.

16:39:326 Do you recognize Exhibit 71 as proposed press
16:39:397 statements from Brady Walkinshaw to you?

16:39:428 MR. PEKELIS: Object to form.

16:39:519 **THE WITNESS: I am -- are you**
16:39:510 **telling me that this is -- I don't see any text**
16:39:511 **bubbles from me on this.**

16:39:512 **So are you telling me that these are screenshots**
16:40:013 **from my phone and not screenshots from someone else's**
16:40:014 **phone? These are screenshots from my phone?**

16:40:015 MS. MELL: Yes. We have an ongoing
16:40:016 stipulation in this matter that the public records
16:40:107 that were produced have been broken into file folders
16:40:118 and represented to be of certain commissioners' cell
16:40:209 phones.

16:40:220 These come from the file folders produced in the
16:40:221 public records request as text communications from
16:40:222 your cell phone.

16:40:323 **THE WITNESS: Okay. And your**
16:40:424 **question again, then? I'm sorry.**

16:40:425 Q (By Ms. Mell) Is this Brady Walkinshaw texting what

16:40:441 he is willing to agree to in terms of a press
16:40:492 statement?

16:40:553 **A I don't know if this is him texting what he's willing**
16:40:574 **to agree to. This is him texting me thoughts that he**
16:41:015 **has around a press statement.**

16:41:036 Q Okay. Do you know if you shared this text chain with
16:41:087 anyone else who was a commissioner?

16:41:148 **A If I did?**

16:41:149 Q Yeah.

16:41:110 **A I don't believe so.**

16:41:111 Q Showing you what's been marked as Exhibit 72, is this
16:41:212 Brady Walkinshaw telling you what he wants to tell
16:41:313 the press? "We could also say we reached consensus
16:41:414 on the maps- however you want to frame it"?

16:41:415 **A This is more text messages from Brady, or**
16:41:416 **Commissioner Walkinshaw. There were...**

16:41:517 Q To you about what to say to the press?

16:42:018 **A I think he's communicating to me his thoughts.**

16:42:019 Q And what does it mean when he says, "We could also
16:42:020 say we reached consensus on the maps"?

16:42:121 Was there lack of an agreement as to whether or
16:42:122 not you reached consensus on the maps as of the time
16:42:123 this text communication was exchanged?

16:42:124 **A No.**

16:42:225 Q How did you reach consensus on the maps?

16:42:261

MR. PEKELIS: Object to form.

16:42:332

THE WITNESS: Well, we voted on a

16:42:403

plan that included the framework. And we articulated

16:42:444

it into the maps.

16:42:515

Q (By Ms. Mell) And then did you all look at those

16:42:546

maps and agree upon them?

16:42:577

MR. PEKELIS: Object to form.

16:42:588

THE WITNESS: I don't recall us all

16:43:009

looking at the maps and agreeing to them.

16:43:010

I checked in with my staff before we sent the

16:43:011

file to Edge to make sure that we had everything that

16:43:112

we had in our framework. They loaded it into Edge,

16:43:113

and everyone left. Or I'm assuming everyone left.

16:43:214

Q (By Ms. Mell) And then you communicated amongst one

16:43:215

another to reach consensus on representing to the

16:43:316

media that you agreed upon the maps as transmitted?

16:43:317

MR. PEKELIS: Object to form.

16:43:418

THE WITNESS: I'm not sure I

16:43:419

understand the question.

16:43:420

Q (By Ms. Mell) After the maps were transmitted, you

16:43:521

worked to reach a consensus on communicating to the

16:43:522

media that all the commissioners agreed to the maps

16:44:023

as transmitted, correct?

16:44:024

MR. PEKELIS: Object to form.

16:44:225

THE WITNESS: After the maps were

16:44:291 submitted -- on the website? Submitted to -- after
16:44:372 the maps were submitted where?

16:44:403 MS. MELL: Transmitted, I said.

16:44:414 THE WITNESS: Transmitted from
16:44:465 where to where?

16:44:496 MS. MELL: To the legislature.

16:44:527 MR. PEKELIS: Object to form.

16:45:008 THE WITNESS: I don't know if I
16:45:019 know exactly when the maps were transmitted to the
16:45:040 legislature.

16:45:061 Q (By Ms. Mell) Does it matter?

16:45:102 MR. PEKELIS: Object to form.

16:45:113 THE WITNESS: It matters -- it
16:45:144 matters if you're asking me what I did when.

16:45:175 Q (By Ms. Mell) Well, I'm just asking you: At some
16:45:206 point before you guys publicly met with the press,
16:45:267 you coordinated with your fellow commissioners to
16:45:328 take a position uniformly on whether or not you
16:45:349 approve the maps; is that correct?

16:45:360 MR. PEKELIS: Object to form.

16:45:381 THE WITNESS: I communicated with
16:45:422 other members of the commission to determine their
16:45:423 position.

16:45:524 Q (By Ms. Mell) And you knew that you'd reached a
16:46:025 consensus on approving the maps prior to speaking to

16:46:021 the media, correct?

16:46:042 MR. PEKELIS: Object to form.

16:46:063 THE WITNESS: I wouldn't say we
16:46:084 reached consensus.

16:46:125 Q (By Ms. Mell) You all agreed to represent to the
16:46:146 media that you approved the maps?

16:46:177 MR. PEKELIS: Object to form.

16:46:478 Q (Continuing by Ms. Mell) Is that correct?

16:46:489 MR. PEKELIS: Same objection.

16:46:410 THE WITNESS: I'm just thinking
16:46:511 through the question, and I want to be thoughtful in
16:46:512 my response because I think words matter.

16:46:513 There was at no time a joint call where we
16:47:014 checked in to see if we had agreement.

16:47:115 What I do remember is having individual
16:47:116 conversations with Commissioner Graves and individual
16:47:217 conversations with Commissioner Walkinshaw, trying to
16:47:218 ascertain where they were in terms of the press
16:47:219 conference and in terms of a public statement.

16:47:320 Q (By Ms. Mell) Did you all get on a meeting call with
16:47:421 legal counsel on the 16th?

16:48:022 A I don't think so.

16:48:023 Q Showing you what's --

16:48:024 A If -- I'm sorry. Go ahead.

16:48:025 Q I think I interrupted you. I'm sorry.

16:48:121 A All of our conversations with legal counsel have been
16:48:232 in executive session, which was all part of a public
16:48:293 meeting, so I don't remember the timeline of events.

16:48:324 At some point in time, I think that we -- we had
16:48:385 a public meeting and went into executive session so
16:48:416 that we could talk with legal counsel. I don't
16:48:437 recall that being on the 16th.

16:49:008 Q Showing you what's been marked as Exhibit 73, what
16:49:059 was it that Joe was trying to do with the statement
16:49:070 in terms of teeing it up as you understood?

16:49:111 MR. PEKELIS: Object to form.

16:49:222 THE WITNESS: Do you have a
16:49:213 screenshot that has the statement on it?

16:49:274 MS. MELL: Not right here. I mean,
16:49:295 I have -- I have what's over -- Fain's? It'd take me
16:49:346 a minute to get it, and I really don't have time to
16:49:377 go divert on that right at this moment.

16:49:518 THE WITNESS: I'd have to see
16:49:529 Joe's -- what statement he's referring to. There
16:49:520 were a number of text messages from Commissioner
16:50:021 Walkinshaw that morning.

16:50:122 Q (By Ms. Mell) So as you sit here today, you do not
16:50:123 have a recollection as to what Brady was wanting to
16:50:124 communicate with you about relative to how Joe Fain
16:50:225 was teeing up the statement?

16:50:291

MR. PEKELIS: Object to form.

16:50:372

THE WITNESS: I don't want to

16:50:393

speculate without seeing --

16:50:414

Q (By Ms. Mell) I'm not asking you to speculate. I'm asking what your recollection is.

16:50:435

16:50:446

What do you recall, if anything, about this

16:50:477

communication from Brady Walkinshaw to you about Joe?

16:50:548

A I don't recall. But if I could see the statement

16:50:589

that he's referring to, that might help.

16:51:010

Q With regard to Exhibit 74, who's Jamie?

16:51:111

A Senator Jamie Pedersen.

16:51:172

Q What is Brady Walkinshaw wanting to -- what has Brady Walkinshaw effectively communicated to you at this point in time, if you recall?

16:51:213

16:51:214

16:51:315

MR. PEKELIS: Object to form.

16:51:416

THE WITNESS: I think we're sharing

16:51:517

our frustration. We were on a call with leadership,

16:52:118

and there was some feedback as to their frustration

16:52:219

that they hadn't seen the maps and assumptions they

16:52:220

may have made about what we had agreed to.

16:52:221

Q (By Ms. Mell) Okay. And so were you and Brady negotiating about what to do about that?

16:52:422

16:52:423

A No.

16:52:424

Q Did this exchange between you and Brady get -- did

16:52:525

any portion of the exchange between you and Brady get

16:52:541 communicated by you to either Walkinshaw or Fain?

16:53:022 **A Walkinshaw is on the text message.**

16:53:043 Q Or excuse me. Graves?

16:53:064 **A No. Not on my end.**

16:53:375 Q Showing you what's been marked as Exhibit 74a, is
16:53:416 this Brady Walkinshaw communicating with you that he
16:53:457 approves of Paul's text -- texted statement to the
16:53:528 media?

16:53:549 MR. PEKELIS: Object to form.

16:54:010 **THE WITNESS: Yes.**

16:54:121 Q (By Ms. Mell) So from the communications in this
16:54:142 text, you knew what Paul's recommendation was because
16:54:173 you were reviewing what Paul wrote and then you were
16:54:214 receiving Brady's approval of what Paul wrote?

16:54:275 MR. PEKELIS: Object to form;
16:54:296 foundation.

16:54:317 **THE WITNESS: If I remember**
16:54:318 **correctly, there was an e-mail from Lisa McLean**
16:54:419 **asking the members of the commission if they approved**
16:54:420 **this statement.**

16:54:421 **I read Brady's texts as letting me know that he**
16:54:522 **had expressed his approval to Lisa.**

16:54:523 Q (By Ms. Mell) And then it was Paul's statement that
16:55:024 he was approving?

16:55:025 MR. PEKELIS: Object to form.

16:55:031 **THE WITNESS: I'm not sure if I**

16:55:042 **knew at that time who had drafted the statement.**

16:55:073 Q (By Ms. Mell) Well, what did you think, "Paul's text
16:55:124 is great," mean?

16:55:125 MR. PEKELIS: I didn't hear the
16:55:136 question. Could you ask it again or read it back?

16:55:177 Q (By Ms. Mell) What did you think "Paul's text"
16:55:208 meant, was referring to?

16:55:239 **A The e-mail from Lisa McLean.**

16:55:400 Q Showing you what's been marked as Exhibit 75, does
16:55:461 this text communication indicate to you that at 11:38
16:55:512 on November 15th, Commissioner Augustine indicated to
16:55:543 you that you were being asked to vote?

16:55:514 **A Yes.**

16:56:015 Q Is that prior to taking action publicly?

16:56:046 **A I believe so.**

16:56:077 Q And who do you think -- let's see.

16:56:218 What did you do upon receipt of this text? Did
16:56:239 you communicate to any of your other voting
16:56:280 commissioners that Chair Augustine was asking you to
16:56:321 vote?

16:56:322 **A I think I sent a text to Commissioner Graves, asking**
16:56:323 **if he was aware that we were supposed to vote.**

16:56:424 **The -- especially -- the day, itself, is a little**
16:56:525 **hazy, but especially that last hour of the meeting**

16:57:011

was so hectic.

16:57:082

And I thought that we would just continue to work

16:57:143

and that we would continue to work on our maps, and

16:57:184

when our maps were done, we would show them to the

16:57:215

public and then we would vote. Because I had

16:57:276

understood that the previous commissions all finish

16:57:307

their work past their deadline.

16:57:328

So I didn't know when we got on the call that we

16:57:379

were going to vote before the maps were ready. And I

16:57:410

was trying to wrap my mind around that in the final

16:57:471

hectic minutes of that meeting.

16:57:522

Q And did you indicate to Commissioner Augustine that

16:57:563

you needed to confer with Brady about the

16:57:594

congressional district maps that he was negotiating

16:58:025

and you were not negotiating before you voted?

16:58:186

A Yeah, I wanted to check in with Commissioner

16:58:227

Walkinshaw. I -- I had -- I was not aware exactly

16:58:268

where we were, where he and Commissioner Fain were in

16:58:319

their negotiations around the congressional maps for

16:58:320

the congressional plan.

16:58:321

And I saw our work as encompassing both the

16:58:422

legislative plan and the congressional plan and did

16:58:423

not want to take action on one plan without taking

16:58:524

action on the other.

16:58:525

So I wanted to make sure that he had concluded

16:58:591 his negotiations and that we would have a plan -- a
16:59:042 congressional map plan to vote on.

16:59:053 Q So did you leave this text communication and go
16:59:094 confer with Brady?

16:59:245 A Yes, we took a caucus at some point after this, and I
16:59:316 think I checked in with Commissioner Walkinshaw and
16:59:347 asked if he concluded his negotiations with
16:59:368 Commissioner Fain.

16:59:419 He indicated that they had.

16:59:440 Q Did he tell you what the elements were of their
16:59:501 negotiations?

16:59:512 A He communicated to me that it was a status quo map in
17:00:023 terms of a 6-3-1 congressional delegation split. Or
17:00:074 maybe I asked. I believe I checked in on the 9th
17:00:115 district, but it would include parts of south
17:00:226 Seattle.

17:00:307 Q And did you, in exchange, tell him about the status
17:00:348 of the legislative negotiations and what the elements
17:00:409 were at that time?

17:00:420 A I had advised him or communicated with him, after
17:00:421 Commissioner Graves and I reached agreement on the
17:00:522 proposal, some of the pieces of the proposal.

17:00:523 Q Showing you what's been marked as Exhibit 76, is this
17:01:024 Paul Graves indicating to you that the absence of
17:01:125 legislative maps are problematic?

17:01:191
17:01:212
17:01:293
17:01:314
17:01:355
17:01:396
17:01:427
17:01:458
17:01:459
17:01:470
17:01:471
17:01:512
17:01:512
17:02:013
17:02:114
17:02:115
17:02:216
17:02:317
17:02:318
17:02:519
17:02:520
17:03:021
17:03:022
17:03:023
17:03:124
17:03:125

MR. PEKELIS: Object to form;
foundation.

THE WITNESS: I read this text to mean that the legislative maps weren't ready to show, which is why I asked if we stayed in recess until we worked it out. I thought we were really close to having maps that we could share with the public at this point in time.

Q (By Ms. Mell) Do you know what time this exchange occurred?

A Sometime between 11:30 and midnight.

Q Do you know why Brady didn't want to vote yet?

A I think he was still negotiating the congressional map.

Q Do you remember giving Brady Walkinshaw an update on the legislative map negotiations on November 15th at 11:26 p.m. at the steps?

A This is me communicating to Commissioner Walkinshaw that we have to hop on the Zoom and give an update at 11:30.

Q To who?

A To the general public. That we needed to join the meeting, the commission meeting, and give an update.

Q Did you talk about what you would tell the public before hopping on?

17:03:161 **A No.**

17:03:232 Q Do you know for sure that you didn't?

17:03:253 MR. PEKELIS: Object to form.

17:03:264 **THE WITNESS: To be as accurate as**

17:03:315 **possible, I should say: Not that I recall.**

17:03:376 Q (By Ms. Mell) Showing you what's been marked as

17:03:397 Exhibit 78, is this you communicating to Joe Fain

17:03:428 that you would work on the congressional district

17:03:489 proposal?

17:03:510 **A Well, this is just me being flip.**

17:03:571 Q When you're saying --

17:04:012 **A Mm-hmm.**

17:04:023 Q So this is you in blue?

17:04:054 **A That is correct.**

17:04:065 Q "I'm working an ld proposal," meaning legislative

17:04:126 district proposal, "right now"; is that correct?

17:04:117 **A Correct.**

17:04:148 Q And, "Will work on a cd proposal when this is wrapped

17:04:179 up or you can call Brady?"

17:04:190 So is that you telling Paul to go finish up the

17:04:221 work on the congressional district map?

17:04:322 Actually, I don't understand this. You tell me.

17:04:323 What does this mean?

17:04:324 **A That was me communicating to Commissioner Fain that I**

17:04:325 **was busy negotiating legislative maps with**

17:04:431
17:04:462
17:04:503
17:04:524
17:04:535
17:05:076
17:05:127
17:05:158
17:05:299
17:05:320
17:05:431
17:05:472
17:05:513
17:06:014
17:06:015
17:06:116
17:06:127
17:06:168
17:06:179
17:06:200
17:06:221
17:06:302
17:06:323
17:06:324
17:06:325

Commissioner Graves, and that if he wanted to negotiate congressional maps, he could wait until I was done or he could negotiate with Brady, or Commissioner Walkinshaw.

Q Showing you what's been marked as Exhibit 79. I think we've already gone over this one, actually. Yeah. I think these are just back in my sequence that I thought I had gone through.

Okay. Showing you what's been marked as Exhibit 80. This is November 15th, at 11:45 a.m.

During this time frame, is it correct that you were back and forth meeting with Joe and Brady?

A That's not correct.

Q Were you meeting with Joe, or is that Sarah?

A I had a meeting with Joe. I was not back and forth with Joe.

Q Okay. So on the 15th, you only had one meeting with Joe?

A That's correct. To my recollection, that's correct.

Q What was your meeting with Joe on the 15th?

A We were talking about congressional districts.

Q And what did you say to Joe, and what did he say to you?

A I wanted to understand his priorities. I was feeling the pressure of our impending deadline. We were 12

17:06:461 hours away and still had a lot of negotiations ahead
17:06:522 of us. I wanted to make sure that I understood his
17:06:553 priorities and just felt like I should be doing
17:07:034 something.

17:07:055 Q Did you take the communications you had with Joe back
17:07:096 to Brady or to Paul?

17:07:127 A Yes. I shared with Commissioner Walkinshaw that
17:07:378 Commissioner Fain told me he wanted to draw the 9th
17:07:439 because he lived in the 9th and that my flip response
17:07:470 was I wanted to draw the 10th since I lived in the
17:07:511 10th.

17:07:512 Q Who were you communicating with on this one?
17:08:113 Exhibit 81.

17:08:124 MR. PEKELIS: Object to form;
17:08:135 foundation.

17:08:216 THE WITNESS: Looks like a pop-up
17:08:227 must have occurred when I was doing my screenshot.

17:08:278 That looks like communication between me and
17:08:329 Commissioner Graves.

17:08:420 Q (By Ms. Mell) Do you remember meeting with him in
17:08:421 the hallway and discussing redistricting?

17:08:422 A Yes.

17:08:423 Q Do you remember what information you exchanged in
17:08:524 this time frame?

17:08:525 A I don't.

17:09:001 Q Do you know whether or not, in the exchanges you had
17:09:022 with Paul Graves in the hallway, you took the
17:09:043 information communicated with Paul Graves about
17:09:104 redistricting back to Brady Walkinshaw?

17:09:125 MR. PEKELIS: Object to form. She
17:09:136 just testified she didn't remember.

17:09:247 **THE WITNESS: I don't remember.**

17:09:378 Q (By Ms. Mell) More of the same? Time frames of you
17:09:419 meeting with Paul Graves in the hallway -- is that
17:09:430 correct? -- to discuss redistricting?

17:09:431 MR. PEKELIS: Object to form.

17:10:012 **THE WITNESS: Correct.**

17:10:013 Q (By Ms. Mell) Showing you what's been marked as
17:10:054 Exhibit 83, was Paul Graves making a counteroffer to
17:10:115 you, two points in the 44th, that you took back to
17:10:136 Brady Walkinshaw?

17:10:137 MR. PEKELIS: Object to form.

17:10:218 **THE WITNESS: Paul Graves was**
17:10:219 **restating the offer he had made earlier.**

17:10:320 Q (By Ms. Mell) And was that communicated to -- by you
17:10:321 to Paul Walk- -- to Brady Walkinshaw?

17:10:322 **A I'm not sure.**

17:10:423 Q Did it happen?

17:10:424 MR. PEKELIS: Object to form.

17:10:425 **THE WITNESS: Did what happen?**

MS. MELL: Two points in the 44th.

THE WITNESS: No.

Q (By Ms. Mell) Did you reject that?

A I think I countered.

Q What did you counter?

A Another -- I did another counterproposal.

Q Did you confer with Brady before countering?

A Without seeing the time stamps on this, I'm not sure.

Q Did you inform Brady Walkinshaw of your counteroffers in your negotiations with Paul Graves as to the 44th?

A I did.

Q Showing you what's been marked as Exhibit 84, is this Brady Walkinshaw informing you as to the position he will take relative to Joe Fain?

MR. PEKELIS: Object to form.

THE WITNESS: As the position who will take?

MS. MELL: Brady.

MR. PEKELIS: Same objection.

THE WITNESS: Can you ask me the question again?

Q (By Ms. Mell) What does this mean? "Can follow your lead- thoughts on my reply to Joe?"

A It looks like he sent me a screenshot of his reply to Commissioner Fain, telling him that he stayed at the

17:12:521 **hotel last night and was willing to meet in the**
17:12:562 **morning to negotiate the CD maps.**

17:13:003 Q Showing you what's been marked as Exhibit 85, is this
17:13:174 Brady Walkinshaw conveying to you what his
17:13:215 conversation was with Joe in the hall?

17:13:236 MR. PEKELIS: Object to form.

17:13:277 **THE WITNESS: Yes.**

17:13:288 Q (By Ms. Mell) Okay. So from this text
17:13:369 communication, you knew that Brady had a conversation
17:13:390 with Joe about Paul; is that correct?

17:13:411 **A No.**

17:13:522 Q Tell me what this means: "Fwiw, I just had a convo
17:13:593 with Joe in the hall. My impression is that he's
17:14:034 lightly playing Paul. And my sense was that he's
17:14:065 going to accept the deal as you laid out."

17:14:106 MR. PEKELIS: Object to form; calls
17:14:127 for speculation.

17:14:138 **THE WITNESS: This is Commissioner**
17:14:219 **Walkinshaw letting me know what his impression is of**
17:14:220 **a conversation that he had with Commissioner Fain.**

17:14:321 Q (By Ms. Mell) About the deal you laid out?

17:14:322 MR. PEKELIS: Same objection.

17:14:323 **THE WITNESS: Yeah, I take that to**
17:14:424 **mean one of the many proposals.**

17:14:525 Q (By Ms. Mell) And one of the many proposals as to

17:14:581 the legislative district plan?

17:15:002 MR. PEKELIS: Object to form.

17:15:043 **THE WITNESS: Those were the only**
17:15:054 **proposals I was working on.**

17:15:065 Q (By Ms. Mell) So is that a "yes"?

17:15:086 MR. PEKELIS: Same objection.

17:15:187 **THE WITNESS: Yes. I believe so.**

17:15:228 MR. PEKELIS: Ms. Mell, I don't
17:15:239 want to tell you how to ask questions in your
17:15:250 deposition, but I am getting tired. It's been a long
17:15:261 day. And I'd rather not have to make individual
17:15:312 objections to the form of the question.

17:15:313 I'm hoping you'd offer me a standing objection as
17:15:364 to form for the rest of the deposition in the hopes
17:15:395 that it might move things along faster.

17:15:416 MS. MELL: Well, I'm not going to
17:15:467 agree that you can just have a standing objection to
17:15:508 form on any question that's asked.

17:15:519 MR. PEKELIS: How about a standing
17:15:520 objection to leading questions?

17:15:521 MS. MELL: Okay. Yes. We can
17:15:522 agree to that.

17:15:523 MR. PEKELIS: Thank you.

17:16:024 Q (By Ms. Mell) All right. So showing you what's been
17:16:025 marked as Exhibit 86. That looks like -- forget it.

17:16:131
17:16:212
17:16:243
17:16:314
17:16:365
17:16:426
17:16:457
17:16:468
17:16:509
17:16:510
17:16:511
17:16:512
17:17:013
17:17:114
17:17:125
17:17:116
17:17:117
17:17:208
17:17:219
17:17:220
17:17:221
17:17:222
17:17:223
17:17:324
17:17:325

Strike that. This looks like a repeat to me.
Okay. So showing you what's been marked as Exhibit 87. On November 15th at 10:38 a.m., did you invite Joe Fain to discuss congressional district maps since -- let's see -- Brady and Paul were talking the legislative district maps?

A Yes.

Q So would this text communication reflect the approximate time when you then met with Joe Fain and talked about the metrics of CD maps?

A Yes.

Q And you did that in -- what does "the upstairs conference room" mean?

MR. PEKELIS: Object to form; calls for speculation.

THE WITNESS: I took that to mean the Republican suite.

Q (By Ms. Mell) So did you go to the Republican suite at that time?

A I did.

Q Was there any other commissioner in there other than Fain?

A No.

Q Showing you what's been marked as Exhibit 88, what does that mean? "One problem solved."

17:17:431 MR. PEKELIS: Object to form; calls
17:17:442 for speculation.

17:17:493 **THE WITNESS: I didn't respond to**
17:17:514 **this text message.**

17:17:525 Q (By Ms. Mell) Is this all Tina Podlodowski
17:17:576 communicating to you?

17:18:017 **A It appears that there are two people on this text**
17:18:058 **stream. So she's communicating to me and**
17:18:089 **Commissioner Walkinshaw.**

17:18:090 Q Okay. Did you not do a press conference at her
17:18:111 request?

17:18:112 **A Cancellation of the press conference had nothing to**
17:18:213 **do with this request.**

17:18:214 Q When she's talking about the press conference, is
17:18:275 this the press conference that was slated to occur at
17:18:316 10 in the morning but did not?

17:18:317 **A Correct.**

17:18:318 Q Did you agree to cancel the press conference at 10 in
17:18:369 the morning?

17:18:420 **A I don't recall being asked if I agree or not.**

17:18:521 Q Did you in any way give your affirmation to Sarah
17:18:522 Augustine that canceling the press conference would
17:19:023 be appropriate?

17:19:124 **A I don't recall the details around the cancellation of**
17:19:125 **the press conference.**

17:19:201 Q Did the cancellation of the press conference occur in
17:19:252 the meeting on the 16th in the banquet room?

17:19:333 A Well, I wouldn't characterize the work we were doing
17:19:404 in the banquet room as a meeting.

17:19:465 My recollection is the press conference was
17:19:506 canceled sometime after I got home. I was notified
17:19:577 of the cancellation sometime after I got home.

17:20:248 (Clarification by reporter.)

17:20:279
17:20:210 Q (By Ms. Mell) What was the suggestion given to you
17:20:311 by Adam Smith?

17:20:422 MR. PEKELIS: Object to form;
17:20:413 foundation.

17:20:514 THE WITNESS: I believe he
17:20:515 suggested that I read a recent Seattle Times article
17:20:516 about redistricting as it related to the 9th and 7th
17:21:017 congressional districts.

17:21:328 Q (By Ms. Mell) Showing you what's been marked as
17:21:319 Exhibit 91, do you recognize that document?

17:21:320 A I do.

17:21:421 Q Is this Chair Jenkins communicating with you about
17:21:422 the negotiations?

17:21:523 A Speaker Jenkins, just out of respect for her title.

17:21:524 Q I'm sorry. I didn't mean to make that mistake.
17:22:025 Speaker Jenkins.

17:22:011 **A** I just don't want it on -- yeah. I just don't want
17:22:042 it on the record that I am calling her "chair" and
17:22:073 not "speaker" --

17:22:084 **Q** No.

17:22:095 **A** -- since I live and work here.

17:22:126 **The question was...?**

17:22:157 **Q** Is this you communicating with Speaker Jenkins about
17:22:198 the negotiations?

17:22:259 **A** Yes.

17:22:300 **Q** And did you have Speaker Jenkins talking to Andy
17:22:381 Billig to help facilitate the negotiations?

17:22:522 **A** No.

17:22:543 **Q** Did she offer to do that?

17:23:314 **A** I don't believe she offered to do that.

17:23:415 **Q** Do you know if it happened?

17:23:516 **A** I don't.

17:25:217 **Q** Showing you what's been marked as Exhibit 92a, does
17:25:308 this text communication between Sarah Augustine and
17:25:319 you provide us information on the time when you were
17:25:400 at a stalemate with Paul Graves?

17:25:421 **MR. PEKELIS:** Object to form.

17:25:422 **THE WITNESS:** It does.

17:25:503 **Q** (By Ms. Mell) Okay. These are your words,
17:25:524 "stalemate," right there?

17:25:525 **A** Correct.

17:25:551 Q And can I equate that to your prior testimony where
17:25:592 you're referring to "sticking point" as that same
17:26:053 point, or was that a different point in time?

17:26:184 A So earlier, if I remember correctly, I mentioned a
17:26:225 sticking point on the 12th and another sticking point
17:26:286 on the 15th.

17:26:327 At this point in time -- I guess you could call
17:26:448 it a sticking point.

17:26:469 Q Were there various sticking points throughout the
17:26:510 negotiations with you and Paul?

17:27:011 A I would -- I would say so. Like any negotiation.

17:27:412 Q Showing you what's been marked as Exhibit 93, do you
17:27:513 recall texting with Joe Fain and then meeting up with
17:28:014 him on the 5th to discuss redistricting?

17:28:015 MR. PEKELIS: Object to form;
17:28:106 foundation.

17:28:117 THE WITNESS: These text messages
17:28:118 are communication between Representative Joe
17:28:219 Fitzgibbon and me. I understand that "JF" and two
17:28:220 Joes are confusing, but this is communication with
17:28:221 Representative Joe Fitzgibbon.

17:28:322 Q (By Ms. Mell) Okay. So he's helping you with
17:28:323 negotiations?

17:28:324 MR. PEKELIS: Object to form.

17:28:425 THE WITNESS: Was he helping me

17:28:421

with negotiations?

17:28:442

MS. MELL: Yes.

17:28:443

Q (By Ms. Mell) Providing you information?

17:28:524

A **Joe Fitzgibbon is a stakeholder and provided me with input, but I would not characterize our conversations as his helping me with negotiations.**

17:28:595

17:29:046

17:29:127

Q Okay.

17:29:208

MS. MELL: I don't have anything

17:29:219

more at this time.

17:29:290

MR. PEKELIS: Arthur, do you have

17:29:311

questions?

17:29:322

MR. WEST: I have just a few, if

17:29:313

that'd be okay.

17:29:314

MR. PEKELIS: Could we take maybe a

17:29:375

short break before you begin?

17:29:406

MR. WEST: We certainly can.

17:29:417

And then when we come back, Joan, could we get

17:29:418

Page 7 of Exhibit 2 up on the screen?

17:29:489

MS. MELL: Yeah.

17:29:420

Can we make it pretty short? I am hoping to get out of here by 7, I guess 6 your time.

17:29:521

17:29:522

MR. WEST: A three-minute break and

17:29:523

then ten minutes of questions?

17:30:024

MR. PEKELIS: Oh. Sounds good.

17:30:025

////

(Pause in proceedings from
5:30 p.m. to 5:36 p.m.)

EXAMINATION

BY MR. WEST:

Q Good afternoon.

I draw your attention to Page 7 of Exhibit 2, the statement of Ali O'Neil.

My first question is: After the meeting concluded shortly after 12:00, is it your testimony that you and the other commissioners and the staff made their way to the meeting room at the Hampton Inn?

A It's my testimony that sometime after the meeting concluded on midnight, that I moved to the banquet room.

Q Were there other people who also went to the banquet room?

A Throughout the night, yes. Periods throughout the night, there were all or most of us in the room and there were periods of time where there were only a few people in the room.

Q Okay. So after the official public meeting concluded, there was a period when you and the rest

17:37:301 of the commissioners and staff moved to the banquet
17:37:352 room at the Hampton Inn; is that correct?
17:37:423 **A I would say there was a period of time where we were**
17:37:464 **likely all in the same room.**
17:37:465 Q Okay.
17:37:486 **A I would not characterize what we did as concluding**
17:37:517 **the meeting and all moving together at one time into**
17:37:558 **the room. Just want to be clear about, paint a clear**
17:38:009 **picture.**
17:38:010 Q Very good.
17:38:011 Now, is this common practice for the commission,
17:38:012 after it closes out a public meeting, to have a post
17:38:113 meeting?
17:38:114 MR. PEKELIS: Object to form.
17:38:115 **THE WITNESS: Well, I wouldn't**
17:38:116 **characterize what we had as a meeting so much as we**
17:38:217 **happen to all be in the same large banquet room,**
17:38:318 **attempting to finish the maps.**
17:38:319 Q (By Mr. West) How did you all happen to wind up at
17:38:320 the same place? Is this by random chance?
17:38:421 **A In what place?**
17:38:422 Q The meeting room.
17:38:523 MS. MELL: Arthur, I might suggest,
17:38:524 if you call it the banquet room, we'll get over the
17:39:025 delays of calling it a meeting room.

17:39:061 Q (By Mr. West) My question is: How is it that after
17:39:102 the public meeting ended, within some period of time,
17:39:153 all of the commissioners and the staff made their way
17:39:194 to the banquet room?

17:39:225 Was this random chance, or was there some form of
17:39:256 agreement?

17:39:297 **A There was no form of agreement that I was aware of.**
17:39:378 **It was the largest space we had available to us.**

17:39:439 Q Okay.

17:39:410 **A The lobby was dark because it was after midnight. I**
17:39:411 **made my way to the banquet room because my staffer**
17:39:512 **Osta Davis was in the banquet room, working on the**
17:39:513 **maps, on the legislative maps.**

17:39:514 Q Okay. And do you have any idea why the other
17:40:025 commissioners made their way to the banquet room?

17:40:156 Were their staff similarly in the banquet room,
17:40:187 working on the maps?

17:40:218 **A I know that Anton and Osta were in the banquet room,**
17:40:219 **working on the legislative maps. I am not sure what**
17:40:320 **brought Ali O'Neil and Paul Campos into the banquet**
17:40:321 **room.**

17:40:322 Q Okay. And what is the earliest time after, say,
17:40:423 12:30 that you were aware that all the commissioners
17:40:524 were in the banquet room?

17:40:525 **A I don't know. I don't recall looking at my watch or**

17:41:061 looking around the room to assess who was there at
17:41:082 what time.

17:41:093 Can I -- can I go back to something that you
17:41:114 asked me about the banquet room --

17:41:145 Q Sure.

17:41:146 A -- and why I went there?

17:41:177 Q Yes.

17:41:178 A I believe that Commissioner Graves texted me and
17:41:239 asked me to meet him in the large room, the banquet
17:41:260 room.

17:41:261 Q Okay.

17:41:272 A And that's -- that's what brought me to the large
17:41:313 banquet room.

17:41:354 Q Was that his text saying "big room"?

17:41:395 A It may have been.

17:41:416 Q Thank you.

17:41:457 During this period from 12:30 to approximately 7
17:41:508 in the morning, what period of time would you
17:41:559 estimate that all of the commissioners were in the
17:41:520 big banquet room?

17:41:521 A I could not hazard a guess.

17:42:022 Q Less than half? More than half? You don't remember?

17:42:123 A Yeah, I -- I don't remember.

17:42:224 Q Okay. Thank you.

17:42:225 Let's look at the second bullet point on Page 7

17:42:261 of Exhibit 2.

17:42:292 This is a statement by Ali O'Neil saying the
17:42:313 commissioners agreed to send the congressional map
17:42:354 file to commission staff.

17:42:385 And then it says 4:37.

17:42:416 Do you recall agreeing to send the congressional
17:42:477 map file to commission staff?

17:43:078 **A I don't recall giving express approval on the**
17:43:119 **congressional map.**

17:43:120 **Q** Do you recall giving implicit approval to the
17:43:171 congressional map?

17:43:182 **A Will you restate the last question?**

17:43:213 **Because I did vote for the plan, which was my**
17:43:314 **expressed approval.**

17:43:315 **So just to clarify. Sorry. It's getting late**
17:43:316 **here.**

17:43:417 **Q** Did you discuss in the -- in the big room, did you
17:43:488 engage in any discussions concerning the
17:43:519 congressional map?

17:43:520 **A I knew that Commissioner Walkinshaw and Commissioner**
17:44:021 **Fain were working with their team to finalize the**
17:44:022 **congressional map and get it transmitted into Edge.**

17:44:023 **I remember being aware at some point in time that**
17:44:124 **they had finished that work and that it had been**
17:44:125 **transmitted.**

17:44:181 I do not remember if I expressed or implied any
17:44:232 approval.

17:44:253 Q How did you become aware of this? Do you not
17:44:464 remember at this time?

17:44:565 A I'm doing my best to -- to remember. Someone may
17:45:076 have said the congressional maps are done or loaded.

17:45:117 Q Okay. Do you recall having any conversations with
17:45:188 two or more commissioners concerning the
17:45:229 congressional maps?

17:45:310 A I recall a conversation regarding the timeline to
17:45:411 release the maps and what I interpreted as shared
17:46:012 desire to meet the timeline that Chair Augustine had
17:46:123 described during the meeting.

17:46:114 Chair Augustine told the members of the public
17:46:115 that the maps would be available sometime in the
17:46:186 morning. I remember really wanting to honor that on
17:46:217 the heels of what I felt like was a bit of a debacle
17:46:328 the night before.

17:46:329 Q And is it your testimony that you engaged in
17:46:320 conversation with two or more of the other
17:46:321 commissioners concerning that issue?

17:46:522 A I would say that I expressed my interest and desire
17:46:523 in getting the maps posted as soon as possible, yes.

17:47:024 Q To two or more of the other commissioners?

17:47:025 A Yes.

17:47:051 Q Did they also express their desires in response or in
17:47:122 conjunction with your expression of your desires?

17:47:183 MR. PEKELIS: Object to form.

17:47:304 **THE WITNESS: I believe we all felt**
17:47:325 **like we wanted to get the maps done as soon as**
17:47:356 **possible.**

17:47:377 Q (By Mr. West) So looking at Bullet Point No. 4, if
17:47:458 Ms. McBeal -- Ms. O'Neil testified under oath that
17:47:509 she observed three or more commissioners discussing
17:47:510 the issue of hurrying up and finishing the maps so
17:48:011 they could be posted as quickly as possible in the
17:48:012 morning, and you're included in that, would you have
17:48:013 any reason to dispute that statement?

17:48:104 MR. PEKELIS: Object to form.

17:48:115 **THE WITNESS: I mean, I think**
17:48:116 **that's what I spoke to. I -- are you asking me about**
17:48:217 **what I'm -- this bullet point, or are you asking me**
17:48:218 **about what you just said?**

17:48:219 MR. WEST: I'm asking about this
17:48:300 bullet point.

17:48:321 Q (By Mr. West) First, you believe this bullet point
17:48:322 is accurate?

17:48:423 **A No.**

17:48:424 Q Why isn't it accurate?

17:48:425 **A My interest in asking my staff member to hurry and**

17:48:521 finish the maps and get them done as quickly as
17:48:562 possible was as it related to the commitment we had
17:49:013 made to the general public.

17:49:024 We had just finished 11 months of robust public
17:49:075 engagement and public feedback, and I knew that the
17:49:106 public was hungry to see our maps. And I wanted to
17:49:147 honor that.

17:49:168 Q Thank you.

17:49:189 Aside from the basis for finishing them quickly,
17:49:220 is there any other portion of this paragraph that you
17:49:261 consider to be inaccurate?

17:49:512 A I don't recall commissioners saying that we hope the
17:50:013 maps were posted beforehand so the questions from the
17:50:074 reporters would focus more on the maps rather than
17:50:095 the process of the public meeting and vote.

17:50:126 So if that is what Ali O'Neil heard, I may not
17:50:177 have been present or I may not have heard that. I
17:50:218 may not have been in the room at that time.

17:50:289 Q But to the extent that there was a conversation
17:50:320 between you and two or more other commissioners about
17:50:361 finishing up the maps quickly, do you dispute that?

17:50:422 A I mean, I think I've answered that we wanted to get
17:50:523 the maps done as soon as possible.

17:50:524 Q And you had a discussion about that with two or more
17:50:525 of the other commissioners?

17:51:011 **A** I don't recall there being a formal huddle or -- but,
17:51:072 yeah, I mean, I'm sure that I communicated my desire
17:51:153 to more than one member of the commission.

17:51:184 **Q** And they communicated their position on that back to
17:51:235 you?

17:51:276 **A** There was a shared desire to get our maps done and
17:51:317 made available to the public as soon as possible.

17:51:338 **Q** And that shared desire came from a series of
17:51:389 conversations between you and two or more of the
17:51:400 other commissioners, correct?

17:51:421 **MR. PEKELIS:** Object to form.

17:51:512 **THE WITNESS:** I just want to make
17:51:513 sure I understand the question.

17:52:014 **Can you ask me one more time?**

17:52:085 **Q** (By Mr. West) You're talking about you -- at some
17:52:116 point you realize there was a shared desire amongst
17:52:147 the commissioners to get the maps done as quickly as
17:52:178 possible.

17:52:189 And my question is: Is this something you
17:52:200 learned in that period where you discussed this
17:52:221 matter with the other -- with two or more of the
17:52:282 other commissioners?

17:52:323 **A** Yes.

17:52:394 **Q** Do you recall which two or more of the other
17:52:425 commissioners you spoke with?

17:52:511 **A I don't.**

17:52:512 Q Could it have been all three?

17:53:053 **A I don't recall.**

17:53:054 Q Okay. Thank you.

17:53:075 At around 5:30 or 6 a.m., do you recall

17:53:136 Commissioner Fain leaving the Hampton Inn?

17:53:177 **A I don't recall what time he left, but I do recall him**

17:53:208 **leaving, yes.**

17:53:229 Q Okay. And pretty much before that time, were the

17:53:270 commissioners moving in and out of the room, and the

17:53:311 staff pretty much the same?

17:53:312 **A The staff working on the legislative map were stoic**

17:53:413 **in that they were focused on the map and rarely left**

17:53:414 **the room. But there were other commissioners and**

17:53:515 **staff moving in and out of the room throughout the**

17:53:516 **night.**

17:53:517 Q And do you recall, is it -- the commissioners and

17:53:518 yourself interacting with the staff while they were

17:54:019 finishing the maps?

17:54:020 **A I do.**

17:54:021 Q Okay. And was that a common event during the

17:54:022 seven-hour period?

17:54:123 **A I wouldn't describe it as "common."**

17:54:124 Q Okay. Roughly, how many times do you think you

17:54:125 interacted with them or went over to look at their

17:54:211

computer during that seven-hour period?

17:54:252

A I would say "not often."

17:54:273

Q A half a dozen? Once an hour? Twice an hour?

17:54:334

A I'm not sure that I could quantify it other than to

17:54:385

say, at one point in the evening, I thought to

17:54:426

myself, I should probably just leave; I'm not doing

17:54:447

anything here, and would have gone home had it not

17:54:558

been bad form.

17:54:569

Q Okay.

17:54:510

A Had it not been tacky to leave my staff behind to

17:55:011

work through the night while I was at home sleeping,

17:55:022

I would have left. I don't think that I was much

17:55:013

help to anyone.

17:55:014

Q Thank you.

17:55:015

Shortly after Commissioner Fain left, do you

17:55:116

recall Commissioner Graves receiving a phone call?

17:55:117

A I don't recall him receiving a phone call. If he

17:55:218

did, I didn't see it.

17:55:229

Q Do you recall -- reading Bullet Point 6, is it

17:55:320

correct that at some point after 5:30 or 6,

17:55:421

Commissioner Graves indicated to Commissioners Sims

17:55:422

and Walkinshaw that there were potentially some legal

17:55:423

questions about the previous night's vote?

17:55:524

MR. PEKELIS: Object to form.

17:55:525

THE WITNESS: And Bullet 6, just so

17:55:561
17:55:582
17:56:033
17:56:124
17:56:135
17:56:206
17:56:227
17:56:258
17:56:309
17:56:310
17:56:311
17:56:422
17:56:413
17:56:474
17:56:515
17:56:576
17:56:577
17:57:018
17:57:019
17:57:120
17:57:121
17:57:222
17:57:223
17:57:324
17:57:325

I'm clear, since they're not numbered, is the one that starts with, "At around 5:30"?

MR. WEST: Yes.

THE WITNESS: I remember a conversation with Commissioner Graves that there were some outstanding questions as to the impact of our vote the night before.

Q (By Mr. West) Do you recall if Commissioner Walkinshaw shared in this discussion?

A I don't recall if Commissioner Walkinshaw shared in the discussion. I had --

Q Where was it when this took place?

A I'm sorry. Ask me the question again.

Q Do you recall where he was located when Commissioner Graves spoke to you? By "he," I mean Commissioner Walkinshaw.

How close were you to Commissioner Walkinshaw when Commissioner Graves raised this concern?

A I think Commissioner Graves and I were in the hallway and Commissioner Walkinshaw was in the room.

Q Okay. Where was Ali O'Neil at this point?

A I don't know.

Q Okay. Do you believe it's a correct statement to say that Commissioner Graves indicated to both you and Commissioner Walkinshaw that there were potentially

17:57:391 some legal questions about the previous night's vote?

17:57:442 MR. PEKELIS: Object to form.

17:58:233 THE WITNESS: So I'm sequencing the
17:58:254 conversation, so...

17:58:325 Yes.

17:58:346 Q (By Mr. West) So did you have any discussions
17:58:417 following or around the period when Commissioner
17:58:468 Graves indicated this to you and Commissioner
17:58:499 Walkinshaw, did you have any further -- after being
17:58:520 notified of this, was there a discussion with
17:58:541 Commissioner Sims or Walkinshaw and you about this
17:59:002 issue?

17:59:113 A Yes, I think there was a conversation --

17:59:214 Q And -- what?

17:59:215 A Go ahead.

17:59:256 Q And who was involved in this conversation?

17:59:217 A I don't recall if it was all three of us or just
17:59:318 Commissioner Graves and me, but a conversation about
17:59:419 contacting the attorney general.

17:59:420 Q Okay. And is it your testimony that Commissioner
17:59:521 Walkinshaw didn't take place in any of these
17:59:522 conversations?

17:59:523 A It is my testimony that I don't recall --

17:59:524 Q Okay.

17:59:525 A -- if he was a part of those conversations or not.

18:00:031 Q To the extent that Ms. O'Neil testified under oath
18:00:072 that he did, would you have any basis to refute that?

18:00:123 MR. PEKELIS: Object to form.

18:00:174 **THE WITNESS: I can only speak to**
18:00:195 **what I remember.**

18:00:206 Q (By Mr. West) Okay. So that would be "no"?

18:00:247 MR. PEKELIS: Same objection.

18:00:348 **THE WITNESS: Other than there are**
18:00:399 **other things in the memo that I likely don't agree**
18:00:410 **with, I think as I've mentioned before, that our**
18:00:511 **memory and our experience of the events are**
18:00:512 **different.**

18:00:513 Q (By Mr. West) Okay. But with that particular point,
18:01:014 do you have any memories that would contradict the
18:01:015 sworn testimony of the staff member that all three of
18:01:016 you discussed that?

18:01:117 MR. PEKELIS: Object to form.

18:01:118 **THE WITNESS: I do not.**

18:01:119 MR. WEST: Thank you.

18:01:220 Q (By Mr. West) Bullet Point 8. Ms. O'Neil states
18:01:221 that, "I heard the commissioners decide that they did
18:01:222 not want to post the maps publicly at that time, and
18:01:323 I believe there was a request made to the commission
18:01:324 staff to take down the congressional map that was
18:01:425 posted shortly beforehand."

18:01:441 Is this a correct statement?

18:01:532 **A You're asking me if Ali O'Neil's statement as to what**
18:01:583 **she believed is correct?**

18:01:594 Q No. I'm asking if the statement that the
18:02:025 commissioners decided that they did not want to post
18:02:066 the maps publicly at that time and that there was a
18:02:117 request made to the commission staff to take down the
18:02:158 congressional maps posted shortly beforehand was
18:02:209 correct.

18:02:200 Are those two statements factual and correct?

18:02:211 MR. PEKELIS: Object to form;
18:02:222 compound.

18:02:303 Q (By Mr. West) Let's go with the first statement.

18:02:314 Is the first statement correct?

18:02:315 **A Yes.**

18:02:326 Q Let's go with the second statement.

18:02:407 Was there a request made to the commission staff
18:02:418 to take down the maps?

18:02:419 **A Yes.**

18:02:420 Q Okay. Did you, in coordination with the other two
18:03:021 commissioners in the room, come to a decision that
18:03:022 the maps shouldn't be posted publicly at that time?

18:03:223 **A I'm not sure if all three of us in the room made the**
18:03:224 **decision or if someone just said we should take the**
18:03:325 **congressional maps down and if there was -- no one**

18:03:411

objected.

18:03:432

I don't recall a decision being made by all three commissioners.

18:03:513

18:03:554

Q Okay. So you just test- -- you just stated that the statement that she heard the commissioners decide they did not want to post the maps publicly at that time was correct, correct?

18:03:595

18:04:036

18:04:067

18:04:108

A Yes.

18:04:119

Q Okay. And were you one of the commissioners who made that decision?

18:04:160

18:04:181

A So what I'm -- let me try to be more clear, because I think I'm confused to the question.

18:04:212

18:04:213

It was decided that we did not want the congressional map to be the only map posted, and we made the request to take down the congressional map. There was not a vote or an official decision made by the commission.

18:04:314

18:04:405

18:04:416

18:04:417

18:04:508

And so when you say the commissioners decided, when Ali says the commissioners decided, a decision had been made, but it was not an official decision or a vote. It was, like, Well, who agrees and who doesn't agree?

18:04:519

18:04:520

18:04:521

18:05:022

18:05:023

It was in the chaos and the tiredness of the morning, like, running through the various advantages and disadvantages to having only one map available on

18:05:024

18:05:125

18:05:141

the website.

18:05:152

Q When you speak of "we," who does "we" encompass?

18:05:263

A Commissioner Graves, Commissioner Walkinshaw.

18:05:304

Probably some of our staff might have weighed in.

18:05:435

It was a discussion.

18:05:446

Q Okay. And you participated in that discussion as

18:05:497

well?

18:05:518

A I did.

18:05:539

Q And the upshoot of that discussion was that we, the

18:05:580

commissioners, wanted to take down the maps?

18:06:011

A Correct.

18:06:022

Q Okay. And that was expressed through the commission

18:06:073

staff?

18:06:084

A Yes.

18:06:085

Q Thank you.

18:06:236

At around 7 or 7:30 a.m., were the maps finally

18:06:277

reconciled by the staff members?

18:06:318

A That's my recollection.

18:06:489

Q What happened then?

18:06:420

A Can you be more specific?

18:06:521

Q Following the reconciliation of the things, did you

18:06:522

come to an agreement not to post the maps before the

18:07:023

10 a.m. press conference?

18:07:024

And that would be --

18:07:025

A I don't recall it.

18:07:091 Q -- 8, first complete bullet item.

18:07:162 A I don't recall that agreement.

18:07:183 Q Okay. Is it possible that agreement was reached?

18:07:474 A I mean, you're asking me in the realm of possibility.

18:07:515 I -- Commissioner Graves and I were lead on the

18:07:566 legislative maps.

18:08:077 Q Was there an agreement -- do you believe that this

18:08:128 bullet point is correct in the two statements that it

18:08:159 makes?

18:08:110 A I do not.

18:08:111 Q Which portions of it do you believe are incorrect?

18:08:212 A Well, I don't believe there was ever an agreement not

18:08:213 to post the maps before 10.

18:08:214 Q Okay.

18:08:215 A And I don't recall agreeing to have further

18:08:316 discussion before the maps would be approved and

18:08:317 posted.

18:08:318 Q Okay. So as far as you were concerned at that point,

18:08:419 the maps were final. The commissioners had agreed to

18:08:420 them. And it was okay for them to be approved --

18:08:421 they were approved and could be posted?

18:08:522 A Well, my understanding of the process is that the

18:08:523 maps needed to be transferred and loaded into the

18:08:524 Edge, and from there, we would need to double-check

18:09:025 the partisan performance.

18:09:091 Because the map drawing in Edge did not include
18:09:122 the 2020 treasurer's metric -- or I'm sorry. The map
18:09:173 drawing in Dave's did not include the 2020
18:09:194 treasurer's race as a metric. So we had to draw it
18:09:235 to the best of our ability, load it into Edge,
18:09:266 double-check.

18:09:277 Staff was going to double-check the performance,
18:09:298 that it met our agreement, then transmit to
18:09:349 nonpartisan staff so nonpartisan staff could then
18:09:380 tweak whatever needed to be tweaked so that it would
18:09:411 be -- I mean, just to make sure that the margins were
18:09:442 right in the various software.

18:09:503 Q So your position is that there was further work to be
18:09:544 done on the maps before they could be approved and
18:09:585 posted?

18:09:596 A Just verification that needed to happen before they
18:10:027 could be approved, before they could be posted.
18:10:058 Before they could be sent to the nonpartisan staff.

18:10:089 Q Did that further work and approval take place?

18:10:120 A It's my understanding that Osta Davis and Anton -- I
18:10:221 wish I could remember his last name; I feel so
18:10:222 disrespectful -- continued, double-checked the map
18:10:323 once it was loaded in Edge to make sure that it met
18:10:354 our agreement.

18:10:425 Q Did you have any further conversations or text or

18:10:501 e-mails with the other commissioners between that
18:10:532 point in the morning and the time when the maps were
18:10:593 sent to the supreme court?

18:11:024 **A I did.**

18:11:035 Q Who did you have conversations with?

18:11:076 **A I think we talked about this earlier. I spoke with**
18:11:107 **Commissioner Walkinshaw. I spoke with Commissioner**
18:11:148 **Graves. I don't recall if I spoke with Commissioner**
18:11:219 **Fain or not.**

18:11:230 Q And the subject matter of the conversations you had
18:11:271 was...?

18:11:292 **A Like I testified to earlier regarding the press**
18:11:313 **conference, our press statement.**

18:11:414 MR. WEST: Very good. Thank you
18:11:515 very much for your time. I think I'm done.

18:11:586 Oh. I do have one more question.

18:12:017 Q (By Mr. West) After the maps were transmitted to the
18:12:038 supreme court, did you, in combination with any of
18:12:099 the other commissioners, appear on TVW or make any
18:12:120 public statements concerning this process?

18:12:321 **A After the maps were transmitted?**

18:12:322 Q After the maps were finalized, did you and the other
18:12:323 commissioners appear in public, go on TVW, make any
18:12:424 public appearance where the redistricting effort was
18:12:425 discussed?

18:12:491 **A Yes.**

18:12:512 Q When did these events occur?

18:12:543 **A We had a press conference on Thursday, November 18th.**

18:12:594 Q Okay. Was there any other event where this happened?

18:13:105 **A There's not another event that I can recall.**

18:13:146 **I think I released a statement on Twitter**

18:13:177 **sometime on the 17th or the 18th.**

18:13:208 Q Was that a unilateral statement, or was that a

18:13:239 statement the other commissioners had seen and

18:13:260 approved?

18:13:271 **A It was my statement.**

18:13:312 MR. WEST: Very good. Thank you

18:13:323 very much for your time.

18:13:354 MR. PEKELIS: I don't have any

18:13:385 questions.

18:13:416 MR. HUGHES: None from me.

17 (Signature reserved.)

18 (Deposition concluded at

19 6:13 p.m.)

20 (Exhibit Nos. 66 through 70,

21 70a, 71 through 74, 74a, 75

22 through 79, 79a, 80 through

23 85, 85a, 86 through 92,

24 92a, 93, and 94 marked for

25 identification.)

A F F I D A V I T

I, April Sims, hereby declare under penalty of perjury that I have read the foregoing deposition and that the testimony contained herein is a true and correct transcript of my testimony, noting the attached corrections.

April Sims

Date: _____

1 STATE OF WASHINGTON) I, John M.S. Botelho, CCR, RPR,
2) ss a certified court reporter
3 County of Pierce) in the State of Washington, do
4 hereby certify:

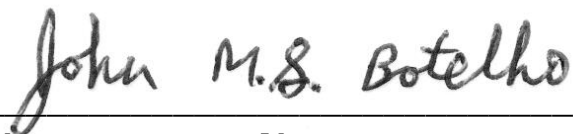
5 That the foregoing deposition of APRIL SIMS was taken
6 before me and completed on January 14, 2022, and thereafter
7 was transcribed under my direction; that the deposition is a
8 full, true and complete transcript of the testimony of said
9 witness, including all questions, answers, objections,
10 motions and exceptions;

11 That the witness, before examination, was by me duly
12 sworn to testify the truth, the whole truth, and nothing but
13 the truth, and that the witness reserved the right of
14 signature;

15 That I am not a relative, employee, attorney or counsel
16 of any party to this action or relative or employee of any
17 such attorney or counsel and that I am not financially
18 interested in the said action or the outcome thereof;

19 That I am herewith securely sealing the said deposition
20 and promptly delivering the same to Zachary J. Pekelis.

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 this 27th day of January, 2022.

23 

24 _____
25 John M.S. Botelho, CCR, RPR
Certified Court Reporter No. 2976
(Certification expires 05/26/22.)

B&A Litigation Services
2208 North 30th Street, Suite 202
Tacoma, WA 98403
253.627.6401

Date: January 27, 2022

To: Zachary J. Pekelis
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, Washington 98101-3404

Case: Washington Coalition for Open Government v. State of Washington
Cause No.: 21-2-02069-34
Deposition of: April Sims
Date Taken: January 14, 2022

The above transcript must be read and the Correction Sheet signed within 30 days of this notice or before the trial date. If the Correction Sheet is not signed within that time period, signature will be deemed waived for all purposes.

Please contact the witness and arrange a convenient time and place for reading and signing.

After the Correction Sheet is signed, please retain the signed original Correction Sheet.

Reporter: John M.S. Botelho, CCR, RPR
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cc: joan@3brancheslaw.com, awestaa@gmail.com, andrew.hughes@atg.wa.gov

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CORRECTION SHEET

Instructions: Please carefully read your deposition and on this correction sheet make any changes or corrections in form or substance that you feel should be made. You may add additional sheets, if necessary. After completing this form, please sign your name in the space provided. Please do not mark the transcript. Thank you.

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SIGNATURE OF WITNESS: _____

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