

NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18-CVS-14001

COMMON CAUSE, et al., :
 :
Plaintiffs, :
 :
vs. :
 :
DAVID LEWIS, IN HIS OFFICIAL :
CAPACITY AS SENIOR CHAIRMAN :
OF THE HOUSE SELECT COMMITTEE :
ON REDISTRICTING, et al., :
 :
Defendants. :

DEPOSITION OF
MORGAN JACKSON

Taken by Defendants
Raleigh, North Carolina
May 15, 2019

Reported by: Eileen M. Dunne,
Court Reporter and
Notary Public

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Deposition of MORGAN JACKSON, taken by
the Defendants, at Brooks Pierce, 150 Fayetteville
Street, Suite 1700, Raleigh, North Carolina, on the
15th day of May, 2019, at 1:03 P.M., before
Eileen M. Dunne, Court Reporter and Notary Public.

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P R O C E E D I N G S

* * * * *

MORGAN JACKSON,

being duly sworn or affirming to tell the truth, the whole truth and nothing but the truth, was examined and testified as follows:

THE DEPONENT: I do.

EXAMINATION

BY MS. McKNIGHT:

Q For the record, my name is Kate McKnight with Baker Hostetler. I am here today with Tom Farr of Ogletree Deakins. We represent defendants in the matter Common Cause vs. Lewis.

I'd ask other counsel to announce their presence now.

MR. DAVID: Eric David from Brooks Pierce for the witness, Morgan Jackson.

MR. FLETCHER: Eric Fletcher from Brooks Pierce for the witness, Morgan Jackson.

MR. ROBINSON: John Robinson from Arnold & Porter Kaye Scholer on behalf of the plaintiffs.

MS. HENDERSON: Tomika Henderson from the North Carolina Department of Justice on behalf of the North Carolina Board of Elections.

MS. McKNIGHT: Thank you. And I'd like to make

1 note of two stipulations, the first being that we
2 have come to an agreement with counsel as to
3 Mr. Jackson that all objections are preserved except
4 those as to form and privilege.

5 We have also exchanged an affidavit for the
6 protective order in this case. We understand that
7 the witness, Mr. Jackson, is prepared to sign that
8 affidavit as soon as he is able to get it notarized
9 during the pendency of this deposition and we will
10 include it as an exhibit to this deposition.

11 If I've misstated anything about our
12 stipulations, could counsel say so now?

13 MR. DAVID: That's all fine.

14 BY MS. MCKNIGHT:

15 Q Now that we have that out of the way,
16 Mr. Jackson, it's nice to meet you.

17 A Nice to meet you.

18 Q Could you please state your name for the record?

19 A Morgan Jackson.

20 Q And do you understand that you are here today
21 pursuant to a subpoena issued in the matter Common Case
22 vs. Lewis?

23 A Yes.

24 Q Now, you have been sworn in. Do you understand
25 that you are testifying under oath today?

1 A Yes.

2 Q And do you also understand that that is the same
3 oath that you would take as if you were testifying in
4 court under oath?

5 A Yes.

6 Q Have you ever testified under oath before?

7 A Yes.

8 Q When?

9 A Ooh, um, seven or eight years ago. I'm trying
10 to remember.

11 Q And what were the circumstances of that
12 testimony?

13 A It was in -- it was as a potential witness for
14 the federal investigation as related to John Edwards.

15 Q Were you a party?

16 A No.

17 Q And so you would have been a potential fact
18 witness; is that right?

19 A Yes. I believe that's correct.

20 Q And what was the format of that testimony; was
21 it a deposition or was it on the stand?

22 A Grand jury on the stand.

23 Q Okay. Are there any other times that you can
24 recall that you testified under oath?

25 A No, I don't think so.

1 Q Have you ever been deposed before?

2 A No.

3 Q Well, congratulations.

4 A I'm excited about it.

5 Q Considering the fact that you have not been
6 deposed before and it's been some years since you last
7 testified under oath, let me run over a few ground
8 rules with you. The first is that when I ask a
9 question, you will need to provide a verbal response as
10 opposed to a gesture or some other response. That's in
11 order for the court reporter to take down your
12 response.

13 I will try to be as clear as possible. There is
14 a good chance I may not be clear at times during this
15 deposition. I'd ask that if I am not clear or you do
16 not understand me that you let me know and you ask me
17 to clarify, and we can work through the question.

18 If you answer a question, I will understand that
19 you understand the question. Is that fair?

20 A Yes.

21 Q Okay. The next point -- and, again, this is for
22 the court reporter to have a clear record. I'd ask
23 that you wait until I finish my questions before you
24 start your answer. That way we're not talking over one
25 another and she can create a clear record.

1 If you need to break at any time, just let me
2 know. You're welcome to breaks. This is not meant to
3 be a marathon exercise. The only requirement is that
4 if I have a pending question, I ask that you answer
5 that question before taking any break.

6 Finally, we've come to a stipulation with your
7 counsel about objections. The objections you will hear
8 today are objections as to form of the question or to
9 privilege. As long as your attorney does not direct
10 you to not respond, you should respond to my questions.
11 Is that fair?

12 A Yes.

13 MR. DAVID: Objection.

14 BY MS. MCKNIGHT:

15 Q Is there anything that would prevent you from
16 answering my questions honestly and fully today?

17 A No.

18 Q And what did you do to prepare for this
19 deposition?

20 A I spoke with my attorneys.

21 Q And are those your attorneys here today?

22 A Yes.

23 Q Did you speak with anyone else about today's
24 deposition?

25 A No. I mean, not about the substance of it.

1 Certainly, my wife received the subpoena, so she knows
2 about it.

3 Q And have you talked with any other attorneys
4 about your deposition today outside of this law firm?

5 A No.

6 Q I'd like to step back for a moment and ask you a
7 few questions about your background.

8 First, where were you born?

9 A In Pinehurst, North Carolina.

10 Q And where did you grow up?

11 A In Carthage, North Carolina.

12 Q And where did you go to high school?

13 A Union Pines High School.

14 Q Is that in Carthage?

15 A It's not far, about 10 minutes away.

16 Q And where did you go to college?

17 A UNC Wilmington.

18 Q And have you attained any graduate degrees?

19 A No.

20 Q What is your current position?

21 A I am a partner and co-founder of Nexus
22 Strategies.

23 Q And when did you co-found Nexus Strategies?

24 A 2007.

25 Q What were you doing before you founded Nexus

1 Strategies?

2 A I worked for the attorney general's office.

3 Q How long did you work for the attorney general's
4 office?

5 A A year and a half, two years, something like
6 that.

7 Q So maybe 2005, going back to 2005?

8 A I think that's right. I think it was '05 to
9 '07. That's correct.

10 Q And then what did you do before 2005?

11 A Before 2005, I worked on political campaigns in
12 the 2004 election in the John Edwards For President
13 election.

14 Prior to that, I worked in the United States
15 Senate Office for John Edwards.

16 Q When did you first start working for John
17 Edwards?

18 A 2001.

19 Q And what were you doing before 2001?

20 A I worked for the state Democratic party.

21 Q How long did you work for the state Democratic
22 party?

23 A From 1999. I think I went from 1999 through
24 2001, so two years.

25 Q And what did you do before that?

1 A I worked for several members of congress in a
2 row.

3 Q All from North Carolina?

4 A Yes. Yes.

5 Q Okay. And were they all from the same districts
6 or --

7 A No.

8 Q -- different districts?

9 A I worked for Congressman Mel Watt from '90 --
10 I don't know if you need that or not, but '90 --

11 Q Sure.

12 A -- I think '98 to '99. Prior to that, in '95 to
13 '97, I worked for Congressman Bill Hefner.

14 MR. DAVID: Morgan, just remember to give her a
15 chance to finish her question --

16 THE DEPONENT: I'm sorry.

17 MR. DAVID: -- before you -- it's okay.

18 BY MS. MCKNIGHT:

19 Q And then before that, what did you do?

20 A I was in college.

21 Q Did you graduate college in 1995?

22 A Actually, '96. I'm sorry, '96. So '96 through
23 '97 was the first one.

24 Q Okay. I'd like to ask you a few questions about
25 your work for the state Democratic party in 1999 to

1 2001.

2 A Um-hmm.

3 Q What were your day-to-day duties in that job?

4 A I was the -- the title was the director of party
5 affairs. I helped oversee the campaigns in 2000 as
6 well as interacted with local county parties on a
7 day-to-day basis.

8 Q And which campaigns did you oversee in 2000?

9 A Let's see. In the Democratic party, you had --
10 in the 2000 election, you had everything from the
11 presidential down to the state legislative. So we were
12 involved in a lot of those.

13 Q So presidential all the way down to --

14 A To the state legislature, yes, correct.

15 Q And by state legislature, you mean house and
16 senate?

17 A Correct.

18 Q What kind of work did you do for the state
19 legislative races in 2000?

20 A In 2000, we, as a -- as a state party staffer, I
21 assisted the local caucuses, the state house, the state
22 senate caucuses which oversaw those campaigns. Assist
23 them with a coordinated campaign effort. That was a
24 very large coordinated effort from the president -- as
25 I said, the presidential race on down, including all in

1 between. That was basically it.

2 Q Okay. And when you say you were coordinating
3 campaign efforts, what does that mean?

4 A In a general election, the state party
5 coordinates the efforts, field campaigns, other type of
6 campaigns, that are run with multiple campaigns.

7 Q And so I'm trying to get a sense of what you
8 mean by "coordinate." What does that mean on a
9 practical basis?

10 A It makes sure that when you are managing a large
11 field organization statewide that you -- everything
12 from making sure that local campaigns are plugged into
13 what you're doing to the staffers that are hired on the
14 ground so that the overall effort and the plan is
15 coordinated and people have bought into it, they
16 understand what the effort -- what the goals of the
17 effort are, and making sure that there is communication
18 within to understand what is happening.

19 Q It seems like a lot of communication among a lot
20 of people. Is that fair --

21 A Yes.

22 Q -- to say?

23 A Yes.

24 Q Okay.

25 A That's correct.

1 Q And did you help all legislative races or just
2 some legislative races?

3 MR. DAVID: Objection.

4 A We -- I'm trying to remember, frankly, back to
5 2000. There were some targeted races. As I said, it
6 was -- it was the -- the duty and responsibility of the
7 state senate and state house caucuses to oversee those
8 races. We helped plug in local candidates as well as
9 elected officials to the party activities that we were
10 doing.

11 Q Did you help develop candidates?

12 MR. DAVID: Objection. And let me just -- you
13 keep saying "you." I just want to make sure. Do
14 you mean the party or him personally when you say
15 you?

16 MS. McKNIGHT: That's a fair point.

17 BY MS. McKNIGHT:

18 Q Mr. Jackson, I'd like to ask about your work.

19 A Um-hmm.

20 Q And then I'll ask about the party work, as well.

21 A Okay.

22 Q So -- and by "your work," I understand that you
23 were working on behalf of the party. Is that right?

24 A Yes.

25 Q So in your work for the party, did you do any

1 work to develop candidates for these races?

2 A I believe, if I recall -- I don't remember being
3 involved in any recruitment of candidates in the 2000
4 election. I believe it was pure general election
5 activities. And, as I said, it was much more
6 coordinating efforts that the party was undertaking as
7 a larger operation and making sure that they were aware
8 of what was happening, make sure they were part of the
9 process and communicating what we were doing,
10 essentially. It was less about the individual
11 legislative campaigns. I was not involved in the
12 day-to-day activities of any legislative campaign.

13 Q I see. You used the phrase "targeted races."

14 A Um-hmm.

15 Q What did you mean by that?

16 A Those were the races where the state house and
17 state senate caucuses were investing resources.

18 Q And by "resources," what do you mean?

19 A Money and staff.

20 Q And in 2001, how did the party determine which
21 races to target?

22 A 2001?

23 Q Um-hmm.

24 A There weren't elections in 2001.

25 Q Pardon me. In 2000?

1 A I -- I was not part of that process, so I'm not
2 -- I can't tell you exactly what the determination was
3 at that time.

4 Q Did you have a sense at the time of how they did
5 it?

6 MR. DAVID: Objection.

7 A As I said, I just wasn't part of that process.
8 I -- I -- I don't -- I don't know how they got to the
9 individual races. I wasn't part of the recruiting or
10 the -- the manning of those races or managing of those
11 races.

12 Q We've gone over a long list of your work
13 history. At any point, did you engage in work to
14 target legislative races in North Carolina?

15 A Are you talking about 2000 or are you talking
16 about throughout my career?

17 Q At any point.

18 A Yes, in 2018.

19 Q Other than 2018, were there any other times in
20 your career when you have engaged in work to target
21 races in North Carolina's legislative elections?

22 A No.

23 Q So I'd like to ask you about your work in 2018
24 targeting races. Can you walk me through what you did
25 in 2018 to target races in North Carolina's legislative

1 elections?

2 MR. DAVID: Objection.

3 A Um-hmm. So, in 2018, we began by very much --
4 very much focusing a lot of attention on recruiting
5 candidates in all 170 races, 50 in the senate and 120
6 in the house.

7 We then, subsequently, did a lot of research on
8 those districts, meaning poling, to see which districts
9 might be winnable.

10 And then, at that point, as the cycle developed
11 -- and this was a multi -- this was multi-months and
12 almost a year process. We -- as the political
13 environment, which it -- which, as it was in 2018, we
14 looked at a lot of races that we thought, because we
15 were in a very strong Democratic political environment,
16 that we might have an opportunity to flip.

17 Q And by "flip," you mean?

18 A Knock -- defeat an incumbent.

19 Q I see. And, specifically, a Republican
20 incumbent?

21 A Yes, that's correct.

22 Q You described the length of the process. Could
23 you give me a sense of when this process began and when
24 it ended? And by "this process," I mean your effort to
25 target races in 2018.

1 A Yes. It would have begun maybe in late 2017,
2 and it would have gone through the recruitment and
3 filing, which was in February, I believe, in 2017 -- I
4 mean 2018. There were primary elections in May. And
5 then we continued to research a large number of
6 districts up through the fall in October and obviously
7 the election in November.

8 Q How many districts did you research?

9 A We researched 40-some districts in the house and
10 I think 14 or 15 or 18 in the senate maybe total when
11 we started.

12 Q And were these all districts that you were
13 looking to flip or were some of them districts already
14 held by a Democratic representative?

15 A Our focus was on districts that were held by
16 Republicans.

17 Q You talked earlier about determining which one
18 of these districts might be winnable.

19 A Um-hmm.

20 Q Could you explain that process to me?

21 A Yes. As we start the process, we look at the
22 past performance in earlier races of how Democrats had
23 fared in other races at the district level. We then
24 looked at the fact that we expanded our targets greatly
25 because we believed that North Carolina and that the

1 nation in 2018 was headed towards what looked to be a
2 political tsunami for Democrats.

3 Ultimately, we narrowed those targets down as
4 more and more research came in and we ended up
5 narrowing those in the house and the senate to where we
6 spent resources. And we spent those resources based on
7 what the polling data and other research was showing of
8 where voters were and what voters' attitudes were and
9 the issues they cared about in those districts.

10 Q And when you talked about narrowing it to
11 districts, how many are we talking about?

12 A Ultimately, we focused on 30 districts in the
13 house, and we focused on, I think, 14 in the senate.

14 Q When you talked about a political tsunami, can
15 you explain why you said you believed North Carolina
16 was headed toward that in 2018?

17 A Yes. In 20 -- what -- what the national mood we
18 had seen in 2017 and 2018 in special elections around
19 the country that since President Trump's election,
20 Democrats had performed very well in districts across
21 the country, much better than it had during the 2016
22 presidential race.

23 We also believed that history, which is that the
24 presidents -- the party out of the presidency
25 traditionally gains seats in the first midterm of the

1 presidency.

2 We looked at -- let me think for a second. We
3 looked at the fact that we did not have a United States
4 senate race in 2018, that it was a blue moon election,
5 and believed that those ingredients made North Carolina
6 ripe for a kind of election that would be favor -- as
7 favorable or more favorable to Democrats than any
8 election since Watergate.

9 Q Can you explain the term "blue moon election"?

10 A A blue moon election means when there's no
11 substantive statewide election, no United States
12 Senate, no gubernatorial, no presidential. The --
13 there were just congressional races and just
14 legislative races. There were some local races, as
15 well.

16 Q And why is that special?

17 A Because in a blue moon election, turn out is
18 generally down from a general election or election when
19 you have candidates communicating with voters at a very
20 high level. When you have a United States Senate race
21 that spends 25 or 50 or 100 million dollars, voters
22 have more awareness that there's an election. In a
23 blue moon election, generally, the most motivated
24 voters are the ones who turn out.

25 Q You talked polling and -- and did I also

1 understand you looked at other types of data in order
2 to target races?

3 A Sure.

4 Q What types of data did you look at to target
5 races?

6 A We looked at the amount of money raised by -- as
7 the process grew on. We looked at the money raised by
8 the challengers, the money raised by the incumbents.
9 We looked at not just polling about candidates but
10 polling about issues, what were the issues that were
11 motivating voters in these districts.

12 Q Do you recall off the top of your head what some
13 of the issues motivating voters were in 2018?

14 A Yes. First of all, Democrats were very
15 enthusiastic about voting. A lot of that was based on
16 a reaction to Trump's election. We saw it -- we saw an
17 environment that looked very similar to a 2010 or 1994
18 for -- when Republicans were in the first midterm of a
19 Clinton and Obama presidency, and Republicans were
20 much more highly motivated to turn out and vote than
21 Democrats were.

22 And our early polling and some of these special
23 elections around the country were sending us the
24 signals that we were -- we were looking at the same
25 kind of potential momentum here for Democrats.

1 Q We've been talking about targeting races, and
2 I'd like to shift to another kind of targeting and ask
3 you to correct me if the language I use is not
4 appropriate.

5 Did you engage in any efforts in 2018 to target
6 voters?

7 MR. DAVID: Objection.

8 A I'm not sure I understand. Target voters how?

9 Q Are you familiar with the phrase "targeting
10 voters" in the realm of political work?

11 A Yes.

12 Q What does it mean to you?

13 A What it generally means to me is in the form of
14 a campaign trying to target persuadable voters, trying
15 to motivate voters that are your base voters.

16 Q And I heard two different types of voters there,
17 persuadable and base. Are there other types of voters
18 when you're doing voter targeting work?

19 A Those are the two that we spend the most time
20 thinking about.

21 Q What do you call a voter who is unlikely to vote
22 for you?

23 A We don't really call them anything. We don't
24 spend much time thinking about them. It would be a
25 Republican-base voter, I mean, versus a Democratic-base

1 voter.

2 Q Are there any types of voters on this spectrum
3 that you've just described between Democrat-base voter,
4 persuadable voter, and Republican-base voter who reside
5 between persuadable and base?

6 A It just -- it just depends. It depends on the
7 type -- time -- type of election you have. Some
8 elections, you have a very large middle or persuadable
9 and some you have a very small middle.

10 Q In the 2018 election, how large was the
11 persuadable voter group?

12 A We -- when we began looking at data from around
13 the country, we believed that the persuadable -- this
14 was an election where the persuadable voters was
15 probably smaller than a traditional election because,
16 as we talked about, in a blue moon election, it's
17 really the highly motivated voters who generally turn
18 out, and a lot of those folks generally have an opinion
19 of who they're for or who they're against.

20 Q And did you do work in North Carolina in 2018 to
21 identify the size of the persuadable voter group?

22 A Yes. In some districts, it was large; in some
23 districts, it was very small.

24 Q And could you describe the work you did to
25 identify the size of the persuadable voter group in

1 2018?

2 A Largely polling data.

3 Q And bear with me; these sound like dim

4 questions, but I am trying to get a better

5 understanding of your polling in district -- did you

6 conduct this polling on a district-by-district basis?

7 A Yes.

8 Q And how did you -- did you conduct this polling

9 in every district?

10 A We conducted polling in the large number of

11 districts we talked about at the beginning, and then as

12 the -- as the election wore on, that -- that group got

13 smaller and smaller.

14 Q For the house --

15 A But not in all 170, no. We did not conduct

16 polls in all 170 districts.

17 Q Did you conduct polls in all districts where you

18 were targeting races?

19 A Yes.

20 Q And when would you do this polling?

21 MR. DAVID: Objection.

22 A You do polling in districts like that when you

23 -- at the beginning of the process to figure out what

24 the landscape is, and then you continue throughout the

25 election process at different intervals. It depended

1 on the race and it depended on the -- the criteria and
2 it depended on resources. Polling is expensive.

3 Q How would the polling be conducted?

4 A Via telephone.

5 Q So you described it at the beginning of the
6 process. To get a sense of time frame, was that late
7 2017?

8 A I believe the -- the polling that we began was
9 in the -- in early 2018.

10 Q And did you rely on vendors to conduct this
11 polling?

12 A Yes.

13 Q How many different vendors did you use to
14 conduct this polling?

15 A Three or four.

16 Q And a question about the process: Would the
17 vendors conduct this polling and prepare a report and
18 give you that report?

19 A Yes.

20 Q And while they were conducting the polling,
21 would they talk with you about the progress of the
22 polling?

23 A Pollsters generally don't like to do that.

24 Q Do you recall them doing that in 2018?

25 A I know I didn't have any conversations with

1 pollsters. I don't have a lot of confidence in partial
2 data. I prefer it to be complete.

3 Q And do you have a sense of how many people were
4 surveyed as part of these polls?

5 A Generally, anywhere from 400 to 800 would be the
6 survey size.

7 Q And that would be each time a survey was
8 conducted, they would have polled 400 to 800 people; is
9 that right?

10 A That's correct.

11 Q And is this the kind of thing where they make a
12 phone call and if no one answers, they make another
13 phone call; they wait to make phone calls in order to
14 talk with someone on the phone in order to get
15 information from them?

16 A Yes.

17 Q And I'm trying to get a sense of number. You
18 described that you would conduct polling at the
19 beginning of the process, and then it would continue,
20 and then it would vary in number by district. Is that
21 a fair description?

22 A Yes.

23 Q So in your average targeted race, how many polls
24 would you conduct over the course of 2018?

25 MR. DAVID: Objection.

1 A I -- I'm trying to remember. Somewhere between
2 four, five, six depending on the race.

3 Q And I asked you to answer that on average. So
4 is it fair to understand that in some districts, you
5 conducted fewer than four, five or six surveys?

6 A Yes.

7 Q And then in some districts, you may have
8 conducted more than four, five, or six surveys?

9 A I don't -- I don't believe we surveyed any one
10 more than five or six times. That might have been the
11 high end.

12 Q Who did you share this polling data with?

13 A The -- first of all, it was done by the state
14 house and the state senate caucuses in coordination
15 with the Democratic party, so they had access to the
16 data.

17 Q And did you understand that they would be
18 sharing it with others?

19 MR. DAVID: Objection.

20 A I -- I don't know.

21 Q Did you have input on any of the questions that
22 were asked in these surveys?

23 A Yes.

24 Q What kind of input did you have?

25 A Generally, when you are polling, you are looking

1 at profiles of candidates as well as incumbents, you
2 are looking at different issues in different districts,
3 and depending on the district and depending on the poll
4 and the timing of the poll, you would -- you would edit
5 those based on the new information learned from the
6 last poll or just edit it grammatically or otherwise.

7 Q Would you have used these polls as an
8 opportunity to test campaign messages for candidates?

9 A Yes.

10 Q And would you have used these polls to
11 understand the number of persuadable voters in a given
12 district?

13 A You would use them over time to refine that
14 number. Early in the process, there are generally a
15 lot of unknowns and a lot of undecided voters. The
16 further you get out from an election, the less people
17 are paying attention.

18 Q How would you use the data that you gathered
19 from these surveys?

20 MR. DAVID: Objection.

21 A We would use the data to educate and inform
22 candidates on the messaging and the issues that voters
23 -- and their reactions to messages and issues.

24 Q And, for reference, when I say "you," in the
25 context of 2018 and your work in 2018, I'm

1 understanding that to mean you in your role as working
2 with Nexus Strategies.

3 A That is actually me in my role as working with
4 Break the Majority.

5 Q Let's talk about Break the Majority. First, at
6 the outset, did I just understand you to say that Nexus
7 Strategies was not part of Break the Majority; is it a
8 separate entity from Break the Majority?

9 A Yes.

10 Q Did Nexus Strategies do any work in 2018 for the
11 legislative races in North Carolina?

12 A Yes.

13 Q What work did Nexus Strategies do?

14 A We did not do any work in the general election,
15 but we -- we -- some of our clients we did some work
16 for in the primary. But the general election work was
17 related to Break the Majority. And it was not Nexus
18 Strategies; it was myself.

19 Q Which clients did you do primary work for?

20 A Now, you're testing my memory. We did work for
21 Wiley Nickel at a state senate primary. I'm trying to
22 remember. That may have been the only real legislative
23 primary that we were involved in in '18.

24 MR. DAVID: To the extent he's answering about
25 some of his clients, I'd like to designate that as

1 confidential.

2 MS. McKNIGHT: I understand.

3 BY MS. McKNIGHT:

4 Q Just so I understand the scope of the work that
5 Nexus Strategies did, you provided an answer related to
6 a client who was involved with a legislative election.
7 Without naming the names of clients, did Nexus
8 Strategies do any work for any clients other than
9 candidates for legislative races in North Carolina in
10 2018?

11 A Other than legislative races in 2018, is your --
12 your question is did we work for anybody outside of the
13 legislature in political campaigns?

14 Q Correct. If you -- if you -- if Nexus
15 strategies did any work for clients other than a client
16 in the election for North Carolina State Legislature in
17 2018.

18 A Yes.

19 Q And, again, without naming the names of the
20 clients, could you give me a sense of the types of
21 clients those were?

22 A In 2018, we did work on a judicial race. That
23 may have been it.

24 Q Was that judicial race in North Carolina?

25 A Yes.

1 Q Could you explain to me what Break the Majority
2 is?

3 A Um-hmm. Break the Majority was a partnership
4 with the state Democratic party and between the state
5 Democratic party, the state house caucuses, and the
6 state senate caucuses, and Governor Cooper.

7 Q And who were the principals of that partnership
8 in Break the Majority?

9 A The folks I just mentioned.

10 Q Pardon me. Who were the individuals who worked
11 on Break the Majority as principals in this effort?

12 MR. DAVID: Objection. Do you mean principals
13 from a legal standpoint or just people that worked
14 on it generally?

15 BY MS. McKNIGHT:

16 Q People who worked on it.

17 A So there was the state house caucus director,
18 the state senate caucus director, and they both had
19 staffs. There was the North Carolina Democratic Party,
20 and myself, of course, but that -- I don't -- I'm not
21 sure if I understand the question much deeper than that
22 or if you're asking me a deeper question than that.

23 Q Sure. Let me ask a very elementary question.
24 Day to day, who were the people running Break the
25 Majority?

1 A Myself, Kimberly Reynolds, who is executive
2 director of the Democratic Party; Ryan Deeter, who was
3 the state senate caucus director; and Casey Wilkinson,
4 who was the house caucus director.

5 Q When did the Break the Majority effort begin?

6 A I think we conceived of the idea in '17, began
7 raising money, I believe, in late '17, maybe -- maybe,
8 actually, a little bit earlier, maybe the fall of '17,
9 but certainly in '17.

10 Q And you said that you conceived of the idea in
11 2017. About when in 2017 did you conceive of the idea?

12 MR. DAVID: Objection.

13 A I -- earlier in the year sometime or maybe the
14 summer. I'm trying to remember.

15 Q What was the impetus for the idea?

16 A The impetus for the idea was that we needed to
17 break the majorities in the house and the senate to
18 change the policy outcomes of this legislature.

19 Q Why did you think of it in 2017 and not earlier?

20 MR. DAVID: Objection. And just, again, you're
21 using "you." I'm not sure he said that he
22 individually came up with the idea of Break the
23 Majority. I think he said "we" came up with the
24 idea.

25 A That's correct.

1 Can you ask the question again? I'm sorry.

2 Q Sure.

3 MS. McKNIGHT: Could you read back the
4 question?

5 (Whereupon, the question was read back by the
6 reporter.)

7 A In 2016, Governor Cooper was elected, and that
8 was our primary focus in 2016 was to elect Governor
9 Cooper to the Governor's Mansion.

10 Q And did you have the sense that without Governor
11 Cooper in the Governor's Mansion, you could not break
12 the majority?

13 A I think that we believed the priority, the top
14 priority, going into 2016 was to elect Cooper as
15 governor, and after Cooper became governor, our top
16 priority for 2018 was breaking the majority in the
17 legislature.

18 Q And we've talked a bit about "you" versus "we"
19 and who came up with the idea of Break the Majority.
20 So I would like to get a better understanding of that.

21 We talked about the idea coming up in the middle
22 of 2017.

23 A Um-hmm.

24 Q Is that a fair understanding?

25 A I think that's fair, yes.

1 Q Okay. And what do you recall about the genesis
2 of the idea, who had it, when it was discussed, how it
3 came about?

4 A I'm trying to remember how it became an idea.
5 We felt very strongly that the -- electing the governor
6 was a very strong path forward for North Carolina, a
7 good step forward, but in order to achieve the actual
8 policy outcomes of changing the legislation, at the
9 time, the Republican majority was a supermajority, and
10 they could override the Governor's veto if they chose
11 to, and so while the Governor was one step forward, in
12 order to actually achieve real change in policy, we had
13 to break the majority in at least one chamber.

14 Q When you say "we," are you referring to these
15 four individuals you identified earlier? For the
16 record, I understood them to be yourself, Kim Reynolds,
17 Ryan Deeter and Casey Wilkinson?

18 A I would say "we" as a much more global in
19 Democrats.

20 Q So "we," can I understand that to mean the
21 Democratic Party in North Carolina?

22 A Yes.

23 Q Does "we" also include Democratic interests
24 outside of North Carolina?

25 A No.

1 Q How do you know that?

2 A What do you -- I don't understand. How do I
3 know that?

4 Q How do you know that the people who came up with
5 the idea for Break the Majority were limited to those
6 within the North Carolina Democratic Party?

7 A Because they weren't at the table.

8 Q And "at the table," do I understand that to be a
9 metaphor?

10 A Yes, you do.

11 Q Okay. And how would you describe "at the table"
12 in the discussions leading up to the creation of Break
13 the Majority?

14 A I believe the discussions were largely with
15 myself, with leaders in the state Democratic Party
16 about the path forward. Governor Cooper was very clear
17 in 2016 that -- that -- he has said many times publicly
18 that his election was the first step to achieving
19 better policy outcomes. But we had to change the
20 legislature to get -- actually get real investments in
21 education, health care, and other issues the Democrats
22 care deeply about.

23 MS. MCKNIGHT: For the record, I'd like to
24 place a placeholder for Exhibit 1 for the protective
25 order once we enter that. So I'd like to mark this

1 as Exhibit 2.

2 (Exhibit 2 is marked for identification.)

3 BY MS. McKNIGHT:

4 Q Mr. Jackson, I'd ask you to review that, and let
5 me know when you're ready for a question.

6 A Okay.

7 Q Mr. Jackson, Exhibit 2 is an email dated
8 July 18th, 2017 from NCDP Press. The email affiliated
9 with that is Robert Howard, NCDemocratParty.org. Do
10 you see that?

11 A I do.

12 Q Are you familiar with what NCDP Press is?

13 A Yes.

14 Q What is it?

15 A It is the state party's press list.

16 Q And looking at this email, the title of it is,
17 "ICYMI: Politico: Can Roy Cooper Show Democrats How to
18 Win Again?"

19 Do you see that?

20 A I do.

21 Q And have you had a chance to review this email?

22 A Yes.

23 Q And is this an accurate description, in your
24 understanding, of the thoughts behind Break the
25 Majority sometime the summer of 2017?

1 A Yes.

2 Q And I see on the first page, it notes that
3 Cooper, referring to Governor Cooper, has quietly
4 banked 1 million for his new group, Break the Majority.
5 Do you see that?

6 A I do.

7 Q At that point in time, how -- strike that.

8 At that point in time, from which sources had
9 Governor Cooper banked 1 million for his new group,
10 Break the Majority?

11 MR. DAVID: Objection.

12 A A lot of individual donors.

13 Q And how would he have raised those funds?

14 A By asking for them.

15 Q So is it fair to understand that at some point
16 before July 18, 2017, Governor Cooper had asked for
17 funds for the Break the Majority effort?

18 A Yes, that's correct.

19 Q Do you recall when Break the Majority held its
20 first fundraiser?

21 A I don't. I would have to look. I don't recall.
22 Certainly prior to July 18th.

23 Q And about how much did Break the Majority raise
24 overall?

25 A Through the entire cycle?

1 Q Correct.

2 A Over 7 million.

3 Q There's a description in this page about

4 Governor Cooper, or the Break the Majority effort, to

5 recruit candidates and then campaign for them in state

6 senate and general assembly races. Do you see that

7 reference at the bottom of page 1 and top of page 2?

8 A I do.

9 Q And would you agree with that description of

10 Break the Majority's efforts?

11 A Yes.

12 Q And did Break the Majority, indeed, conduct

13 those efforts?

14 A Yes.

15 Q The remainder of the paragraph describes money

16 being raised and what it will cover. It states, "The

17 money, being raised into a new state Democrat Party

18 account, will also cover salaries for what will

19 effectively be a new campaign committee with a

20 dedicated communications director, research director,

21 several junior staffers and cash for everything from

22 field organizers to ads."

23 Do you see where it says that?

24 A I do.

25 Q And based on your understanding and experience,

1 is that accurate?

2 A Yes.

3 Q And did that happen?

4 A Yes.

5 Q The next paragraph describes Break the Majority
6 as a, quote-unquote, "audacious" and "unprecedented"
7 effort. Would you agree with that description?

8 MR. DAVID: Objection.

9 A I would agree that it was the largest effort for
10 a legislative election, legislative cycle that had
11 taken place in North Carolina history for Democrats.

12 Q Two paragraphs down, this article describes
13 "Cooper is coordinating closely on mechanics and
14 messaging with Eric Holder."

15 Do you see that?

16 A I do.

17 Q Do you agree with that?

18 MR. DAVID: Objection.

19 A I would say that the folks in D.C. spent a lot
20 of time on messaging, and they were helpful to us, but
21 as far as close -- coordinating closely, they were not
22 engaged in the day-to-day operations of Break the
23 Majority or the messaging of it.

24 Q So would you say that Cooper was not
25 coordinating closely on mechanics and messaging with

1 Eric Holder?

2 A I think, in theory, there was a lot of -- a lot
3 of messaging nationally about -- from Holder's group
4 about reinvesting in states, the state -- state races
5 and not just federal races, which is where a lot of the
6 energy had been for several cycles. We began our
7 effort independently of them. Their ultimate role with
8 us was they were a donor like the thousands of other
9 donors that we had. But they were not involve in a
10 strategic -- they didn't -- they were not at the table
11 as far as the -- at the theoretical table as far as
12 decisionmaking or involved in the day-to-day
13 operations.

14 Q So is it your testimony today that this North
15 Carolina Democratic Party press release is wrong?

16 MR. DAVID: Objection. That's a -- that's a
17 news story. It's not the press release.

18 MS. McKNIGHT: We're not doing speaking
19 objections, Counsel.

20 MR. DAVID: Well, then you need to ask a fair
21 question.

22 BY MS. McKNIGHT:

23 Q You can answer.

24 A Please ask the question again.

25 Q Sure. Is it your testimony today that this

1 press release sent on behalf of the North Carolina
2 Democratic Party is wrong?

3 MR. DAVID: Same objection.

4 A It would be my testimony today that this article
5 from Politico inflated the coordination between the
6 national group and what we were doing in North
7 Carolina.

8 Q It inflated the coordination?

9 A Yes.

10 Q Why would it have done that?

11 A I don't know.

12 MR. DAVID: Objection.

13 BY MS. McKNIGHT:

14 Q Now, you mentioned that the national Democratic
15 Party was a donor to the Break the Majority effort.

16 MR. DAVID: Objection.

17 A No. I said the National Democratic
18 Redistricting Committee --

19 Q Thank you for the correction. Okay.

20 A -- was a donor, yes, at some point. But I don't
21 -- do not believe by this time they had given any --
22 they had contributed to the campaign.

23 Q Okay. How much did the National Democratic
24 Redistricting Committee donate to the Break the
25 Majority effort?

1 A I'd have to go back and look. It's public
2 record, but I would have to go back and look.

3 Q On page 3, Mr. Jackson -- this is the fourth
4 full paragraph -- I see in that paragraph a quote from
5 you. It says, "They have complete confidence in their
6 absolute authority."

7 Do you see that?

8 A I do.

9 Q Are you misquoted here?

10 A Not at all.

11 Q Okay. And who are you referring as "they"?

12 A I'm referring to the Republican house and senate
13 super majorities, their leadership.

14 Q And is that why Break the Majority was making an
15 effort to literally break the majority in the house and
16 senate?

17 A Again, we were making the effort to break the
18 majority to achieve positive policy outcomes. We
19 disagreed very much with the direction of the state
20 under the Republican super majorities, and there was no
21 check on their power.

22 Q Do you believe that there is a check on their
23 power now?

24 A I think they are still in control and there's
25 more of a check on their power, but they are still in

1 the majority.

2 Q I'm looking at the seventh full paragraph in
3 this article.

4 MR. DAVID: In the article or on that page?

5 I'm sorry.

6 BY MS. McKNIGHT:

7 Q Oh, pardon me. On page 3.

8 This refers to Governor Cooper and his
9 colleagues feeling optimistic given how many
10 legislators have never faced competitive races. Do you
11 see that?

12 A I do.

13 Q Did you have a sense that with the -- strike
14 that.

15 There's a reference here to "the existing map."
16 Do you see that?

17 A Yes.

18 Q Was there a sense of -- did you understand that
19 the map, the legislative map, in 2018 was different
20 than the legislative map in 2016?

21 A I'm not sure if you're asking me do I understand
22 it or do I understand it as referred to in this
23 article.

24 Q I'm asking you about what they're saying in this
25 article and if you agree with what they've written

1 here. And let me restart so it's clear.

2 In the seventh full paragraph, this article
3 notes, Given how many legislators have never faced
4 competitive races due to the existing map, Cooper and
5 his colleagues are feeling optimistic.

6 Do you see that?

7 A Yes.

8 Q What are they referring to there?

9 MR. DAVID: Objection.

10 A I -- you know, I -- that was not my quote, so
11 I'm not -- I can't be exactly sure what they're
12 referring to.

13 Q What do you think they were referring to?

14 MR. DAVID: Objection.

15 A What I would believe they were referring to is
16 that given the districts, the way they have been
17 gerrymandered, that most of those races were not
18 competitive.

19 Q Could you define "gerrymander" for me?

20 MR. DAVID: Objection.

21 A I believe gerrymander -- I'm not sure if it is
22 the proper definition -- but would mean to me that
23 districts drawn to achieve an advantage, an unnatural
24 advantage.

25 Q What is a natural vs. an unnatural advantage in

1 your mind?

2 A I believe an unnatural advantage is when
3 districts are drawn and when you -- when they are drawn
4 in a certain way to pick out certain people and isolate
5 others -- others. I think a natural advantage are some
6 areas are more Democratic and some are more Republican.

7 Q Would you agree with me that in a map drawing
8 process, some people are drawn into districts and other
9 people are drawn out?

10 MR. DAVID: Objection.

11 A I think that certainly has been the case.

12 Q Okay. Let's step back. Have you ever drawn an
13 electoral map before?

14 A Maybe playing around with one but not
15 officially, no.

16 Q Okay. When did you play around with one?

17 A I think I may have played around with one of
18 those software online with the congressional districts
19 maybe in the last -- I can't remember which iteration,
20 the last two or three years. I don't remember exactly
21 which time it was.

22 Q Do you remember the name of the online software?

23 A I don't.

24 Q Do you recall what you did to play around with
25 the congressional districts?

1 A Sure. Moved the lines and tried to see if it
2 was possible to create a compact district and what it
3 -- what it would look like if you just did it.

4 Compactness. What the districts would actually look
5 like versus the way they look now.

6 Q How much time did you spend in that exercise?

7 A Not much.

8 Q About how much?

9 A Ten minutes.

10 Q Okay.

11 A Fifteen minutes. I don't know.

12 Q Why did you stop?

13 A It was -- it was a curiosity, not an actual
14 endeavor.

15 Q Okay. Do you know how maps are drawn?

16 A As far as the software used or --

17 Q Software and process.

18 A Generally, but I've not been involved in it, so
19 not specifically.

20 Q Can you give me your general understanding of
21 how electoral maps are drawn?

22 A You take the population that is required by law
23 and divide it up into the number of districts, and
24 then, obviously, there's different kinds of software
25 that then you move the districts around either via

1 precinct or county, et cetera, until you achieve your
2 -- the ideal number of population in those districts.

3 Q And are you familiar with the county grouping
4 rule in North Carolina?

5 MR. DAVID: Objection.

6 A Vaguely.

7 Q What is your vague understanding of it?

8 A I believe that there are certain counties that
9 are grouped together via legislation because the
10 legislative districts don't all fit because they're --
11 they are -- you've got 100 counties and 120 seats in
12 one chamber and 50 in the other. That in order to
13 achieve the exact number of voters which I believe is
14 required that each district has the exact same number
15 of voters, that you have to group certain counties
16 together to achieve that, is my vague understanding of
17 it. That could be wrong -- that could not be precise.

18 Q And do you know whether map drawers need to
19 consider communities of interest when they draw
20 electoral maps?

21 MR. DAVID: Objection.

22 A I don't.

23 Q And do you know how the different measures of
24 compactness are calculated?

25 A No.

1 MR. DAVID: Objection.

2 BY MS. McKNIGHT:

3 Q Have you ever heard of the Stephenson decision
4 in North Carolina?

5 A Potentially, but not by name. I don't -- I'm
6 not familiar with the -- the name of -- exactly what
7 that means.

8 Q Okay. It's related to the county grouping
9 rule --

10 A Okay.

11 Q -- that we were just discussing. Does that ring
12 any bell?

13 A No.

14 Q Do you understand that electoral maps are
15 redrawn at least every 10 years following the decennial
16 census?

17 A Yes.

18 Q Do you understand that voters move in and out of
19 districts during the course of a decade?

20 A Certainly, yes.

21 Q Do you understand that voters don't always turn
22 out to vote?

23 A Yes.

24 Q And why don't they always turn out to vote?

25 MR. DAVID: Objection.

1 A If we could figure that out, we would have a lot
2 more voters.

3 Q Fair enough. What are some of the reasons why
4 voters don't turn out?

5 A People have other things in their lives. They
6 work. They have kids. They have travel. They forget.
7 They aren't registered. They -- it's not a priority.
8 They don't like the candidates on the ballot.

9 Q And do you understand that voters don't always
10 vote for every office on a ballot?

11 A Yes.

12 Q Is that sometimes referred to as roll-off?

13 A Yes.

14 Q Considering some of the variances we've just
15 discussed, and your own experience, I'd like to
16 understand your personal opinion about how an electoral
17 map drawn once every 10 years could be drawn with
18 surgical precision.

19 MR. DAVID: Objection.

20 A I have not been involved in the map drawing at
21 the legislature or outside the legislature, and so I
22 would tell you that the appearance of those maps is --
23 is much different than the maps appeared 10 years ago
24 or 20 years ago. And I think the advent of computers
25 and the ability to do that have given folks more tools

1 in which to do that with.

2 Q Just so I understand your answer, when you say
3 "those maps," which maps are you talking about?

4 A I think when you look at congressional district
5 maps over the last several decades, the cleanness of
6 the lines, the difference between splitting precincts
7 and counties multiple and numerous ways, I think they
8 were much cleaner before, and now they are not as
9 clean.

10 Q Do you understand that this lawsuit, Common
11 Cause vs. Lewis, challenges house and senate districts
12 in the state of North Carolina and not congressional
13 districts?

14 A Yes.

15 Q So my questions today will be focused on house
16 and senate districts. Is your answer the same to my
17 question related to the house and senate districts? I
18 understood your answer to be focused on congressional
19 districts.

20 A Yes, it is the same.

21 Q Now, which house and senate maps do you believe
22 are not as clean, to use your own word, as years ago?

23 A I certainly think the recent iterations and the
24 number of maps since 2010 are much more precise and
25 split a lot of -- a lot of counties that when -- just

1 on the visual inspection of it seem unnecessary. I
2 think they split -- from my understanding, they split a
3 lot of precincts and census blocks that seemed
4 purposeful.

5 Q Have you done any kind of an analysis on the
6 census blocks, as you describe --

7 A I have not.

8 Q -- them, that have been split? Okay. What do
9 you base your opinion on?

10 A News articles, opinions, different things.

11 Q Can you describe which opinions?

12 A I don't mean court opinions, to be clear.

13 Q Okay.

14 A I'm talking about individuals talking about it.

15 Q I see. So newspaper articles and individuals
16 talking about it?

17 A Sure.

18 Q Okay.

19 MR. DAVID: I don't know if this is a breaking
20 point or how much longer -- we've been about an hour
21 and 15.

22 MS. McKNIGHT: Okay.

23 MR. DAVID: I don't want to stop you in the
24 middle of a line --

25 MS. McKNIGHT: No, that's fair. If you don't

1 mind, I'll have one more line, and then we can stop.

2 MR. DAVID: Perfect. That's fine.

3 MS. McKNIGHT: I appreciate it.

4 If you could mark this as Exhibit 3.

5 (Exhibit 3 is marked for identification.)

6 MR. DAVID: Just leave it right here.

7 BY MS. McKNIGHT:

8 Q Mr. Jackson, I have just handed you what is
9 marked as Exhibit 3. This is titled "House
10 Redistricting Plan 2003."

11 A Um-hmm.

12 Q This is produced by the North Carolina General
13 Assembly Information Systems Division, November 24,
14 2003.

15 You were just describing the appearance of maps
16 in North Carolina, specifically electoral maps.

17 This is an electoral map for the house districts
18 in 2003. Your criticisms of some of the recent maps
19 were that they were splitting counties and areas in a
20 way that was not clean. Would you have the same
21 criticisms for this map?

22 A I would say that, as I look at these different
23 districts, that you -- they certainly aren't clean, but
24 I don't know the difference of why certain areas were
25 included versus others. As I said, I wasn't part of

1 the process.

2 Q So would you consider this map, the 2003 House
3 Redistricting Plan, to be a gerrymander?

4 MR. DAVID: Objection.

5 A I don't know.

6 Q And why don't you know?

7 A Because I don't know what the court rulings at
8 the time were, and I don't know what the county
9 clusters are, and I don't know -- I can't speak to
10 whether these were drawn for certain gain.

11 Q And what information would you need to have
12 before determining in your own mind whether this map is
13 a gerrymander?

14 A Some of these I just said. I would need to be
15 more steeped on the current -- the law at the current
16 time and understanding of the -- the voters that reside
17 in each of these districts, the county clustering as it
18 was or was not at the time.

19 Q What is your understanding of county clustering?

20 A The same thing we discussed just a few minutes
21 ago. You called it something different, but I've heard
22 it as called clustering.

23 Q Considering your experience with North Carolina
24 politics, at the time this map was drawn were you
25 familiar with it in 2003?

1 A I certainly remember the redistricting
2 discussions around then, but, no, I was -- I was not
3 part of it. I remember when it was passed, but we've
4 had so many, so I lose track of them.

5 MS. McKNIGHT: Okay. We can take that break
6 now.

7 MR. DAVID: Perfect.

8 (A break was had.)

9 BY MS. McKNIGHT:

10 Q We are back on the record, Mr. Jackson. I'd
11 like to ask you about the passage of the electoral maps
12 that were used for the election in 2018.

13 A Um-hmm.

14 Q Do you recall when those maps were passed by the
15 legislature?

16 A I don't. I don't know the exact date.

17 Q Would August 2017 sound about right to you?

18 A If you say so. That -- that may be correct.

19 Q Okay. Let me step to the side for a moment and
20 ask you a few questions about that map drawing process.
21 Were you involved at all, either in an individual
22 capacity, as part of Break the Majority, or as part of
23 Nexus Strategies, in the drawing of the maps that were
24 passed in the 2017 effort?

25 A No.

1 Q Did you have any role in the 2017 redrawing of
2 the house and senate maps in North Carolina?

3 A No.

4 Q Did you have any discussions with anyone about
5 proposed maps during the 2017 redrawing effort?

6 MR. DAVID: Objection.

7 A I'm sure I did, but I don't remember what they
8 were. I mean, they were not -- it was not substantive.

9 Q Do you recall having discussions with the
10 organization called Common Cause?

11 A No.

12 Q Do you recall having discussions about the 2017
13 redrawing effort with the North Carolina Democratic
14 Party?

15 A Not that I recall. I mean, I'm sure we
16 discussed it. There were -- maps were being redrawn.
17 But I don't remember specific discussions about those
18 maps or the process.

19 Q Did you talk with Senator Dan Blue about
20 amendments he proposed during the 2017 redrawing
21 effort?

22 A I did not.

23 Q Did you talk with Representative Darren Jackson
24 about amendments that he proposed during that effort?

25 A I did not.

1 Q When did you first become aware of the electoral
2 maps as drawn in 2017?

3 A When did I become aware of the -- let me -- to
4 be clear, these are the maps that were used in the 2018
5 election?

6 Q Correct.

7 A I presume when they were passed or when they
8 were introduced on the floor probably would have been
9 the first time I would have seen them.

10 Q And how would you have seen them?

11 A In the news and they were certainly online.
12 There was a lot of discussion publicly about those maps
13 at the time.

14 Q And considering your profession, working with
15 Democratic efforts in North Carolina, would you have
16 looked at those maps as part of your work?

17 A Not specifically. My view of those maps would
18 have been more focused on looking at the data after
19 they came out with those maps, what the districts would
20 -- what the -- what the historical election results in
21 those districts would have been, less so about the maps
22 themselves.

23 Q And do you recall when you first looked at data
24 related to the 2017 maps?

25 A I presume it would have been shortly after the

1 maps were introduced or introduced and passed. I think
2 it was -- if I remember, it was a quick process. I
3 don't -- I don't recall a delayed process.

4 Q How would you have gotten that data?

5 A From the Democratic Party.

6 Q And what kind of data would they have sent you?

7 A Democratic performance data, which is based on
8 historical -- the performance of certain races and the
9 -- what the Democratic received in those races.

10 Q And would you have made any effort to compare
11 the data for the 2017 maps to the data for the map from
12 2011?

13 A Yes. I remember discussions about that.

14 Q And what kind of comparison would you have done?

15 A Looking at the number of districts, and the
16 percentages that Democrats and Republicans had received
17 in those districts.

18 Q What was the result of that comparison?

19 A Very mixed. I think that the belief going into
20 the redraw -- and I -- and if I'm stating this
21 correctly, the -- the court mandated a redraw of those
22 maps -- was the belief that the maps would be better
23 for Democrats and not worse for Democrats. I think the
24 reviews after the numbers came in is they were really
25 not much better for Democrats.

1 Q Were they better for Democrats?

2 A I believe that it was really mixed because there
3 were seats that were current Democrat incumbents were
4 drawn into Republican districts. And at the same time,
5 there were some seats that Republicans had held that
6 were drawn in Democratic districts. But it was -- it
7 was not quite a wash but pretty much a wash, the way
8 that I recall those discussions.

9 Q And which seats were worse for Democrats?

10 A On the top of my mind, I don't remember exactly
11 which ones, but the ones that come to my mind would
12 have been Bobbie Richardson, who was in the state
13 house, her district got much more Republican. I think
14 George Graham's district in the state house got more
15 Republican. I think that, as I'm look -- this is not
16 going to help me as I look at the 2003 map.

17 MR. FARR: Why don't you give him the maps.

18 MS. McKNIGHT: Yeah.

19 A Yeah, that might -- that -- thank you. That
20 might --

21 Q Help you?

22 A -- give me a little bit better idea.

23 MS. McKNIGHT: So I can help you.

24 A Pardon me, Mr. Jackson. There are a couple of
25 different maps, and we want to make sure we use the

1 right one for you.

2 We have a map here I'm going to mark as
3 Exhibit 4. This map is titled "Challenged Districts -
4 2018 House Election Districts."

5 (Exhibit 4 is marked for identification.)

6 BY MS. McKNIGHT:

7 Q And these are the districts -- these are the
8 districts that were used in the 2018 house election.

9 A Okay.

10 Q So using this map, could you tell us which seats
11 in the Virginia House were worse for Democrats after
12 the 2017 redraw?

13 MR. FARR: She meant North Carolina.

14 A I was assuming so. Correct.

15 Q I meant North --

16 A Virginia, yes.

17 Q Pardon me.

18 A You're really out of my depth in Virginia.

19 Q Stuck in my home state. Pardon me.

20 A That's okay.

21 From my recollection, I believe it is House
22 District 10 -- no, excuse me, House District 12.
23 That's where State Representative George Graham
24 resided. House District 7, which is State
25 Representative Bobbie Richardson. I believe, although

1 I'd have to remember, I think House District 66 was
2 worse for an incumbent Democrat. I think that -- I'm
3 trying to remember -- 47 might have -- I believe 47 got
4 worse for the incumbent Democrat, I believe, but again
5 not -- I can't remember specifically.

6 And, again, you will have to excuse me. Most of
7 my focus was on Republican-held districts and not on
8 incumbent Democrats. But I remember the discussions
9 about George Graham and Bobbie Richardson specifically.

10 Q And when we talk about these Democratic
11 districts that got worse, how did they get worse?

12 A They were drawn into districts -- previously
13 they had been in a district where a Democrat had
14 performed over 50 percent and a likely Democratic
15 district, and they were drawn into districts that were
16 well below -- the Democratic performance was well below
17 50, meaning these were likely Republican districts.

18 Q While we're on the topic of percentages, in your
19 practice, how would you define a competitive election?

20 A As -- as in --

21 Q As in by percentage?

22 A By percentage?

23 Q Um-hmm.

24 A I think, traditionally, anything from 47 or 48
25 to -- to 52 or 53 is considered a -- a swing district

1 that could be volatile based on the -- whatever the
2 national atmosphere is, political atmosphere.

3 Q In your opinion, a district that's up to
4 55 percent Republican, could that be competitive for a
5 Democrat?

6 A Make sure I understand. If -- a district that
7 is 55 percent Republican or greater or 55 percent or
8 lower?

9 Q Or lower.

10 A I think it is unlikely that it would be a
11 competitive district if you are at 55 percent.

12 Q In your mind, is there a difference between
13 competitive and swing?

14 A No.

15 Q Going back to the map, we were just talking
16 about districts that had Democratic incumbents. I'd
17 like to ask you about districts that had Republican
18 incumbents that got better for a Democratic candidate.

19 A Okay. Let me think. I think there was a
20 district in Guilford County, and I struggle to know
21 exactly the number. I think it is one of the white,
22 non-shaded districts that I believe two Republicans in
23 Guilford County may have been double bumped and it
24 created a Democratic district, but I -- I don't
25 remember the number, but Ashton Clemmons is the person

1 who holds that seat.

2 I'm trying to remember if there was another one
3 that I was keenly aware of that got better. And I
4 don't -- that was just a function of moving around. I
5 think some of the Wake and Mecklenburg districts got
6 marginally better. For Democrats, that is.

7 Q We talked earlier about your work targeting
8 races, and by "you," I mean you or Break the Majority
9 or you on behalf of Nexus Strategies. In your work
10 targeting races in the 2018 house elections, are you
11 able to identify on this map any districts that you
12 targeted in that effort?

13 A Yes.

14 Q Which districts?

15 A We targeted, let's see, several in Mecklenburg,
16 several in Wake, two in Forsyth, let's see, I think at
17 least one in Guilford, maybe two. We targeted one in
18 Cumberland, two in New Hanover. We targeted the person
19 in Granville No. 2 District -- or District No. 2. We
20 targeted 63 in Alamance County. I'd have to go back
21 and look, frankly, at the -- at the -- I'm -- I'll have
22 to admit I'm much better looking at the races versus
23 the district numbers.

24 Q I can help you with that, Mr. Jackson.

25 A Either 82 or 83 in Cabarrus. I can't remember

1 which one.

2 MS. McKNIGHT: I'd like to have this marked as
3 Exhibit 5.

4 (Exhibit 5 is marked for identification.)

5 BY MS. McKNIGHT:

6 Q Mr. Jackson, I have handed you what is marked
7 Exhibit 5 and labeled as 11/06/2018 Official General
8 Election Results - Statewide. And this has been
9 published by the North Carolina State Board of
10 Elections.

11 I'd like to ask you to go through this and let
12 me know if this looks like a complete record to you of
13 the statewide election results for the house races in
14 North Carolina in 2018.

15 A It appears to be correct.

16 Q Now, Mr. Jackson, I had asked you to go through
17 and identify which house districts you had targeted in
18 2018, and you had listed a series of them. And the
19 last few, just to refresh your recollection, were two
20 in New Hanover, House District 2, House District 63,
21 and then you mentioned it would be easier to look at
22 the election results.

23 Will Exhibit 5 help you identify better which
24 districts you --

25 A Sure.

1 Q -- targeted in 2018? Great. So are there any
2 additional districts?

3 A There's a lot of additional districts.

4 Q Okay. Why don't we go through them.

5 A Okay.

6 Q And we can go in order if you'd like.

7 A Um-hmm.

8 Q Okay.

9 A Call out the number -- would you like me to call
10 the numbers out --

11 Q Yes, that's fine.

12 A -- of the ones we targeted?

13 Q Yes.

14 A No. 1.

15 MR. DAVID: And just to be clear, these are the
16 ones you targeted?

17 THE DEPONENT: Yes.

18 A Me, as in "we," Break the Majority, targeted.

19 Q Right.

20 A No. 1, No. 2, No. 4, No. 6. Let's see here.
21 19, 20, 22.

22 MR. FARR: Could you slow down, Mr. Jackson?

23 THE DEPONENT: Oh, I'm sorry. I apologize.

24 MR. FARR: You're faster than I am.

25 What did you say?

1 THE DEPONENT: 19 and 20. Would you like me to
2 go back further? I'm sorry.

3 MR. FARR: No, that's good for me.

4 THE DEPONENT: 22. Let's see. Okay. Moving
5 over to page 8, District 35, 36, 37, 9 -- excuse me,
6 45.

7 Moving over to page -- No. 51, let's see here,
8 59, 62, 63, 64. Let's see, 68, 74 and 75, 82, and
9 83, down to No. 93, over to 98, 103, 104, 105, 113,
10 118 and 119. And I believe -- I don't think I
11 missed one, but I believe that's an accurate
12 description.

13 BY MS. MCKNIGHT:

14 Q Thank you for walking through that.

15 A Sure.

16 Q Mr. Jackson, I'd like to go through and ask what
17 you did in the targeted races. I'd like to go through
18 one by one and ask you about the efforts that Break the
19 Majority expended in these races and what types of
20 efforts. So it will be a little bit methodical, if you
21 can bear with me. I'll start from the top.

22 A Okay.

23 Q In District 1, this is a race between Candidates
24 Goodwin and Wesson. Could you describe what efforts
25 Break the Majority expended in this district in 2018?

1 A In this district, we -- are you talking about
2 just the general election or are you talking about from
3 the -- or are you talking about including recruiting
4 the candidates, to be clear?

5 Q Including recruiting. Sort of soup to nuts,
6 what --

7 A Yes.

8 Q -- what kind of effort did you expend in this
9 district?

10 A We recruited very actively in the 1st District
11 and were able to get Ron Wesson, a local county
12 commissioner, and he's from Bertie County, to run. We
13 worked closely with his campaign. "We" being Break the
14 Majority. Funded a field effort in his district as
15 well as paid communications.

16 Q Moving on to District 2, could you describe
17 Break the Majority's effort in District 2 in 2018?

18 A Very similar. And, to be honest, that answer is
19 going to be pretty consistent for most of them. But
20 leading from recruitment to expending -- I mean funding
21 a field effort, meaning a grassroots campaign, knocking
22 on doors and -- and talking to voters, and a paid
23 effort that some districts had television, some
24 districts direct mail, digital advertising, the works.

25 Q Do you recall about how much money was spent in

1 District 2 in 2018?

2 A In District 2?

3 Q Yes.

4 MR. DAVID: Objection.

5 A I -- I don't.

6 Q Okay.

7 A I don't have those stats at the top of my head.

8 Q And because we'll go through these districts,
9 I'll have the same question for you. I just want to
10 get a sense of the amount of resources -- I appreciate
11 the description --

12 A Right.

13 Q -- if you have any sense of the amount of
14 resources that Break the Majority spent financially in
15 these districts.

16 A Here's what I can tell you, is that depending on
17 the district -- and, again, I don't have numbers in
18 front of me -- we generally spent anywhere from a
19 hundred thousand dollars to a million dollars. And all
20 of the things I mentioned earlier -- and I will say
21 that in most of the targeted districts I mentioned, we
22 outspent Republicans two or three or four or five to
23 one.

24 Q Okay. So just to be complete, going back to
25 District 1, the resources that Break the Majority spent

1 on District 1, do you recall whether they were closer
2 to the a hundred thousand dollars or the one million
3 line?

4 A I think closer to a hundred or a hundred and 50
5 maybe. I'd -- I'd have to go back and look but ...

6 Q And for District 2, was it closer to a hundred
7 or closer to a million?

8 A Closer to a hundred.

9 Q Let me stop you here on District 3. Did I
10 understand you correctly earlier when you said that --

11 A We didn't do District 3.

12 Q -- you didn't do District 3?

13 A No. I'm sorry. If I said that, it was a
14 mistake.

15 Q No. And, pardon me, I -- I didn't understand
16 that you had. My question was why not?

17 A We looked at the numbers in the district.
18 Originally when we went through our polling process
19 initially, we determined the districts that were most
20 likely -- where we had a good candidate, where the
21 foundation was there that we would grow with -- from
22 and the makeup of the district. And this one just
23 didn't merit out.

24 Q Do you remember any details of why?

25 A I don't on this district.

1 Q I notice that District 3, the Democrat candidate
2 garnered more votes by percentage than the Democratic
3 candidate in District 4.

4 A Um-hmm.

5 Q And Break the Majority targeted District 4 but
6 not District 3. Can you explain why?

7 A Why we targeted District 4 and not District 3?

8 Q Yes.

9 A In our initial review, we believed that District
10 4 was -- it had more potential than District 3 did.
11 Ultimately, I believe the case was in District 4 -- we
12 did not invest a ton of money in District 4. It was on
13 our lower tier and it was a race that was not one of --
14 as I -- as I mentioned earlier, we started with a very
15 large list. We ended up -- I think I probably gave you
16 30 or 35 districts that we targeted. We ended up
17 spending -- spending substantially between two of them.
18 And so District 4 was not in that -- that we spent
19 substantially in. It fell off our radar.

20 Q Do you believe if you had spent more money in
21 District 4, the Democratic candidate could have
22 garnered more votes?

23 A I don't know. I -- we -- we stopped paying
24 attention to it, so I couldn't answer that.

25 Q Why did you stop paying attention to it?

1 A Because resources are finite. At the end of the
2 day, you have to make allocation decisions based on the
3 budget you have and look at what the chances of winning
4 were, and that one just did not merit out.

5 Q Okay. Do I understand that House District 4, it
6 was on the lower end of expenditures for Break the
7 Majority?

8 A Yes. I think ultimately in House District 4, we
9 may have only had a field operation. I don't remember
10 if -- I don't -- if we did paid communication, it was
11 very minimal, and we may not have done any in -- in
12 District 4.

13 Q Okay. Moving on to District 6 --

14 A Um-hmm.

15 Q -- could you describe the effort by Break the
16 Majority in District 6 in 2018, both the actual effort
17 and the resources in money that were devoted to
18 District 6?

19 A Yes. District 6 was one of the 22 districts
20 that we spent a substantial amount of money in. We
21 spent several hundred thousand dollars. As I said,
22 starting with recruiting of Tess Judge on through the
23 process of mail, television, and digital advertising,
24 all three were utilized in that district.

25 Q And about how much did you spend in that

1 district?

2 A I'd have to go back and -- several hundred
3 thousand.

4 Q Seven hundred thousand?

5 A At least two or three if I -- if I had to guess,
6 but that would be, honestly, a guess.

7 MR. DAVID: Did you say "several" or "seven"?

8 THE DEPONENT: Several. Two or three. I'm
9 sorry.

10 A And the candidate raised a lot of money herself,
11 as well. She was a very good candidate.

12 And to be -- let me make this clear to make sure
13 that you understand clearly, when I talk about the
14 money that Break the Majority spent, obviously,
15 candidates had their own fundraising in addition to
16 that. And so when I say we spent two or three hundred
17 thousand, that race may have cost six hundred thousand.

18 Q Sure. I understand. Thank you.

19 Moving on to District 19 --

20 A It's a Wilmington district. Is that -- which
21 one is that? That's the Ted Davis, Marcia -- okay.

22 Q Could you describe Break the Majority's efforts
23 in 2018 in District 19?

24 A We spent a substantial amount of money in
25 District 19 beginning with recruiting, going through,

1 obviously, research and polling, as we discussed. We
2 spent heavily on television advertising and digital
3 advertising. And there was a lot of direct mail there,
4 as well. And the candidate, Marcia Morgan, was a good
5 fundraiser herself, so there was -- she spent money
6 additionally on top of that.

7 Q And sitting here today, do you have a sense of
8 the type of candidate that Ms. Morgan was?

9 A She was a great candidate.

10 Q Had she ever been elected to office?

11 A No.

12 Q Was she a native of the district?

13 A I don't believe so. I don't think she was born
14 in the district. She was -- she had an incredible
15 military career, was someone who was very strong on the
16 issues of GenX, which was very pervasive in Wilmington
17 that year -- I mean, last year. Raised a substantial
18 amount of money. Was doing very well. Ted Davis was
19 under water. His personal approval rating was pretty
20 bad because of GenX. And that is a district that we
21 felt very confident that we could win. And,
22 ultimately, when the results came in, we became very
23 confident of how the district was drawn that we could
24 not break it.

25 Q In House District 19, do you have a sense of

1 what that looked like before 2017 as far as prospects
2 for a Democratic victory?

3 A I don't remember.

4 Q Do you know if Representative Davis had been
5 challenged before 2018?

6 A I -- I'm -- I think he had been, but I'm not
7 aware of the race in 2016. He was -- I'm not aware. I
8 can't remember, honestly. I wasn't involved in it.

9 Q Moving on -- and how much -- about how much in
10 resources did Break the Majority spend in District 19?

11 A Again, several hundred thousand.

12 Q Okay. Moving on to District 20, could you
13 explain the efforts that Break the Majority expended in
14 2018 in District 20?

15 A It was very similar. This was a district that,
16 based on our polling research, that we felt like we had
17 a real chance to unseat Holly Grange. Leslie Cohen was
18 a -- a strong, local grassroots candidate. As I
19 mentioned, the issue related to GenX. Similar to Ted
20 Davis; voters viewed Holly Grange very unfavorably for
21 her -- for those issues. And this was a district that
22 we felt like if we were able to outspend -- very
23 similar to the Marcia Morgan/Ted Davis, if we were able
24 to out-communicate and outspend the Republican
25 incumbents that we could be successful. And despite

1 outspending them two or three to one, we ran into the
2 wall of the map.

3 Q Let me ask you a few questions about -- first,
4 about how much money did you spend in HD 20 in 2018?

5 A I would have to go back and look, but a similar
6 amount to Marcia Morgan, so over a hundred thousand.

7 Q But not a million?

8 A No.

9 Q Okay. And do you know how long Leslie Cohen had
10 lived in the district before she ran for elected
11 office?

12 A I don't -- I don't know.

13 Q In your experience, is it more difficult for
14 candidates to win elections in districts where they
15 have not lived for a long time?

16 A Not necessarily.

17 Q Okay. In your experience, is it more difficult
18 for candidates to win when they do not have as much
19 name recognition as the incumbent?

20 A It depends. In these two instances, both
21 incumbents' name recognition was not favorable to them.
22 The fact that they were in office while the GenX crisis
23 was going on and not solved it had put both of them,
24 pardon the pun, but very much under water, meaning
25 their favorables were much lower than their

1 unfavorable. So the fact they were incumbents, voters
2 didn't appreciate it.

3 Q But not all voters, right? Not all voters
4 didn't appreciate the work that incumbents had done?

5 MR. DAVID: Objection.

6 A No, but they were pretty -- pretty unfavorable.
7 Ted Davis, in particular, at a couple of times we
8 polled had the highest unfavorable rating of any member
9 in the state house.

10 Q And when you're working with a candidate who has
11 low to no name recognition in a district, do you expend
12 part of your effort in trying to increase their name
13 recognition with voters?

14 A We do. Oftentimes, we do it in the way of --
15 and the environment that we were in in 2018 was very
16 much an anti-incumbent environment that if you were an
17 incumbent on the ballot, it was more a liability than
18 it was an asset. And what we would do in that case is
19 make sure folks knew they were a fresh voice, that they
20 were not an incumbent, that they were not an inside --
21 a political insider or elected official. And that,
22 generally, in years like 2018, like 2010 and 1994, that
23 actually helps you on the ballot to be a -- to be a
24 fresh face and an outsider rather than -- than somebody
25 who's been elected to office.

1 Q But that's not enough, in and of itself, to gain
2 victory, right?

3 MR. DAVID: Objection.

4 A It takes a lot of -- there are a lot of things
5 that go into the soup of determining what makes a
6 candidate successful.

7 Q And earlier you described running into the map.
8 How did you come to the conclusion that it was the map
9 at issue as opposed to some other element in this soup,
10 as you described?

11 A I think when you look at the election results by
12 county and you see the number of votes that Democrats
13 for the state house or state legislature got in these
14 individual counties versus the number of Democrats they
15 actually elected to office, that is pretty clear to me
16 that the map is -- is your enemy and not the district.

17 Q And you say that without fully understanding the
18 county grouping rule, right?

19 A These are --

20 MR. DAVID: Objection.

21 A We're talking about districts that are within
22 one county. I'm not talking about -- the ones we're
23 talking about now are not across county districts.

24 Q Okay.

25 A They are within one county.

1 Q Which districts that are within one county, in
2 your opinion, did you feel that you ran into the map
3 and could not win?

4 A That's the -- yeah, this is the map. I would
5 tell you that we felt very strongly about it in both 19
6 and 20. Felt very strongly about it in 63. And I
7 can't remember the Terri LeGrand seat. I think that
8 was 74. Let me check to be certain.

9 Yes, 74. Those are some instances where --
10 where in each of those instances, we had candidates who
11 were raising and running -- raising a lot of money,
12 bringing their own resources to the table, they were
13 running good campaigns, their profile was perceived
14 well by voters, and we outspent them three or four or
15 five times what their opponent spent, and we just
16 couldn't -- couldn't break the map.

17 Q So those are Districts 19, 20, 63, and 74?

18 A Yes, those are some -- some instances.

19 Q Are there any other instances?

20 A I think that -- we're talking about the house?

21 Q Correct.

22 A So there's certainly some in the senate that I'm
23 sure we'll talk about later. But for the house -- I'm
24 trying to look back. Fifty-one was a race that we felt
25 we had a superior candidate who had raised -- and run a

1 much better campaign but just could not -- that's a
2 double county district, but could not -- could not get
3 through the map.

4 MR. FARR: Excuse me. Could you -- which
5 counties was that again, 51?

6 THE DEPONENT: Lee and Harnett.

7 MR. FARR: Okay. Thanks.

8 BY MS. MCKNIGHT:

9 Q Are you familiar with the Lee and Harnett area?

10 A Generally so.

11 Q How should the Lee district, District 51, have
12 been drawn differently to give Democrats a better
13 chance at victory?

14 MR. DAVID: Objection.

15 A I was not part of that process, and so I haven't
16 analyzed the precincts to see which ones adjoin 51, but
17 it was my understanding from the campaign that there
18 were district -- there were precincts that were more
19 favorable to Democrats that were closer in proximity to
20 the ones that they had in, I guess, Southern Harnett
21 County. And the campaign very much felt that a switch
22 of a precinct or two would have ended up with a -- a
23 different result.

24 Q Do you know if District 51 had been Republican
25 prior to -- represented by a Republican candidate prior

1 to the 2017 redraw?

2 A I believe that it was.

3 Q Now, I wanted to make sure we had on the record
4 -- I think we've reached 19 and 20 --

5 A Um-hmm.

6 Q -- and now we are on District 22?

7 A Twenty-two, very similar, I think it was, to 4.

8 It was a race that we looked at pretty hard early on,
9 ultimately decided that for -- that it didn't merit out
10 to substantial investment. We had a field program
11 there, but I don't -- I don't believe we did paid
12 communication there.

13 Q So about how much would you have spent in 22?

14 A Oh, in the -- it would have been in the few
15 thousand dollars, not hundreds, or it would have been
16 tens of thousands.

17 Q Going back, just one more question on this
18 District 51 and the map. We were just discussing it,
19 and you described having a conversation with someone
20 about precincts?

21 A Um-hmm.

22 Q Who did you have that discussion with?

23 A With the folks at the state house caucus.

24 Q Okay.

25 A As well as the -- the Lisa Mathis was the

1 candidate. I guess it was her campaign manager. They
2 were talking about certain precincts -- and, again, I
3 don't know which ones they are -- but they felt were
4 much closer and more compact that they had to drive,
5 sort of, around to get to Republican precincts.

6 Q And would those precincts have been in Harnett
7 County?

8 A I believe so.

9 Q And I understand you don't know which precincts?

10 A I don't.

11 Q You just heard that?

12 A That's correct.

13 Q Okay. Moving on to District 35, could you
14 describe Break the Majority's efforts there in 2018?

15 A Let's see here. Yes. So District 35 was an
16 election in which we invested substantial resources in
17 from recruiting Terrence Everitt to run again. He had
18 run two years prior. We invested substantial resources
19 from, same thing, polling, television advertising,
20 digital advertising, direct mail and a field program,
21 as well.

22 Q And about how much was spent there by Break the
23 Majority?

24 A Several hundred thousand dollars. More than a
25 hundred. I'm trying to remember the exact number, but

1 Terrence also did a very good job of raising money.

2 So some of that -- as you understand, some folks
3 got less money because they had more money. But,
4 again, this was one of those races where we
5 substantially outspent the Republican incumbent.

6 Q And now District 36, please?

7 A Very same. The very same response to the prior
8 district. We worked very hard to recruit Julie von
9 Haefen. She was a very good candidate. She raised a
10 lot of money herself. Break the Majority was a
11 substantial contributor to her. We had a field
12 program, digital advertising, television advertising,
13 and direct mail.

14 Q And about how much did you spend?

15 A Oh, several hundred thousand dollars.

16 Q Okay. And now on to District 37.

17 A That is a race we spent probably three or four,
18 maybe more than four hundred thousand. I'm trying to
19 remember. That was a race that was a very expensive
20 race that we spent, I want to say, four times what the
21 Republican, technically an incumbent, but he was a
22 replacement for somebody who had been elected. And all
23 of the same thing: Field program, digital, TV, and
24 radio. I mean, we may have done some radio on some of
25 these districts, too, but when I say TV and digital,

1 radio some places, but mostly TV, digital, and mail.

2 Q Okay. District 45?

3 A Let's see. This was a race that was on our
4 board, as I say, early. It was a race that fell off.
5 The -- it was just not -- it didn't merit out. The
6 candidate --

7 Q Why --

8 A The candidate wasn't running that great of a
9 race and ultimately on a priority scale, we began to
10 shrink resources and -- or shift resources to the races
11 that we were most focused on. This one was not on our
12 board.

13 We had a field operation there, but I don't -- I
14 don't think we did paid communication there.

15 Q And how was his campaign, the candidate's
16 campaign, not well run?

17 A I -- I don't remember all of the specifics of
18 it. I just remember that they were not raising -- they
19 were not raising a lot of money. They were not
20 investing -- part of our investment strategy was we
21 forced candidates to make sure they were running a
22 strong campaign, and that meant -- the metrics of that
23 is raising money, doing call time, knocking on doors a
24 certain number of hours a week, and making sure that
25 they were doing their part. We did not believe in

1 investing in races that they didn't meet those goals.
2 And, ultimately, as I said, it's a resource allocation
3 as you can't invest everywhere, so you have to make
4 decisions based on -- on the merits. And this one did
5 not merit.

6 Q About how much did Break the Majority spend in
7 District 45 in 2018?

8 A I don't -- I don't know that we spent any money
9 or -- or outside of a field campaign. But that's --
10 that's staff time. That's not paid advertising.

11 Q So about how much would that have cost?

12 A I don't know. I mean, it's, sort of, hard to
13 say when you're paying somebody three grand a month to
14 work three districts --

15 Q Yeah.

16 A -- in the same area for six months. It's how
17 much went to one district or the other, but it's like
18 in the few thousand dollars.

19 Q Okay. So some of the efforts that Break the
20 Majority engaged in as far as staffing, you would have
21 staff assigned to multiple districts in the field; is
22 that fair?

23 A Yes, regionally, correct. We had regional field
24 offices, and folks would work out of there.

25 Q I see.

1 Did you have any district-specific field
2 offices?

3 A Certainly, we -- well, they were in -- there
4 were several in Wake County. So certainly several in
5 Mecklenburg County. Some of them were located in
6 certain districts, but that's because they were spaced
7 around the county.

8 But, no, they were -- they were not purposely
9 located in a district. They were located for regional
10 compactness and the fact that we could -- you know,
11 where we found office space, all those kind of
12 traditional things.

13 Q Looking at Exhibit 4, can you give me a rough
14 idea about where your regional offices were?

15 A Yes. We had three or four offices in Wake and
16 Mecklenburg each. We had an office in Union. As I
17 look around -- let's start from the west. Maybe that's
18 easier. We had an office in Buncombe. We had -- that
19 really served a lot of the west. I know we had offices
20 in Mecklenburg. We had -- and some of the folks, to be
21 clear, that -- whose office were in Mecklenburg might
22 operate and might work on races in Cabarrus or Union,
23 but they were regional offices.

24 Offices in Winston-Salem, Greensboro, which is
25 Forsyth and Guilford. And office in Alamance. We had

1 offices in places like Durham and Orange that -- places
2 where races were not targeted but that we had a lot of
3 volunteer capacity.

4 We had offices in -- in -- as I said, in Wake,
5 in Cumberland, New Hanover, Pitt in Greenville. I may
6 have missed one, but that's the -- that's the rough
7 footprint not looking at a list of the offices.

8 Q So about how many offices was that total?

9 A Twelve, fifteen, probably.

10 Q Okay.

11 A Plus or minus.

12 Q Okay. Now, going back and talking about the
13 districts, District 51, we've already talked about this
14 a little bit, but can you describe Break the Majority's
15 effort in District 51 in 2018?

16 A This was a substantial effort. We spent several
17 hundred thousand dollars here. Again, all of the
18 components from recruiting to paid communication across
19 the different mediums.

20 Q Did you conduct recruiting efforts in House
21 District 51?

22 A Yes. I'm sorry if I didn't say that. I meant
23 to say --

24 Q Okay.

25 A -- yeah. Yes.

1 Q And was the candidate, Lisa D. Mathis, was she
2 identified early or later --

3 A Yes.

4 Q -- in the process?

5 A She was a very early recruit. And, to be clear,
6 we recruited in all 170 seats for both chambers. So, I
7 mean, and not to just put a blanket, but we recruited
8 all of these candidates or worked with them in -- as
9 they were getting there, even in races that we spent no
10 money in.

11 But, yes, Lisa Mathis was -- had run for town
12 council or city council in Sanford, was a local
13 businesswoman, had a very strong local -- she was very
14 engaged in the community locally, had a lot of really
15 strong connections and well thought of by the business
16 community by the Progressive and Democrat communities.
17 She -- she was -- and she worked very hard.

18 Q Do you have a sense of the political composition
19 of District 51 prior to the 2017 redraw?

20 A I -- I don't. Frankly, I'd have to look at a
21 map. I don't -- I don't know what it was prior to
22 that. John Sauls, the guy who represents it, had a
23 time or two gone back and forth. There was a Democrat
24 in that seat, and then Sauls won, and then a Democrat
25 won, and I don't -- I don't remember how long he's been

1 there, but he's -- he's flipped back and forth a few
2 times.

3 Q Okay. Moving on to District 59, could you
4 describe Break the Majority's effort in District 59?

5 A Fifty-nine was a district that we invested some
6 but not a huge amount in. Steve Buccini raised -- he
7 was -- he raised a lot of money himself. He ran a good
8 campaign. We invested money in that district. But it
9 was -- it was on our, probably, lower tier of the races
10 we invested. Maybe fifty or a hundred grand. I'd have
11 to go back and look but something to that effect. And,
12 again, from recruiting to paid advertising.

13 Q District 62?

14 A Same thing. I'd say the same exact thing about
15 Martha Shafer. She ran a really good campaign and
16 worked very hard and raised a substantial amount of
17 money herself for somebody who has never run for office
18 before.

19 Q And you'd say the same on money spent by Break
20 the Majority?

21 A Yeah. I think that's right.

22 Q Okay.

23 A I think that's accurate.

24 Q Okay. Moving on to District 63 --

25 A Um-hmm.

1 Q -- could you describe Break the Majority's
2 effort?

3 A We worked very hard to recruit Erica McAdoo, a
4 local attorney. She was from the community, as I
5 remember, had a very strong network. She was a hard,
6 hard worker and had -- she was one of those candidates
7 that -- one of those few candidates for state house
8 that had like 300 active volunteers, which is -- I know
9 it doesn't sound like a lot, but it's -- that's a lot
10 of people for a state house race. And she had a great
11 grassroots effort.

12 She was incredible candidate. We spent a ton of
13 money, meaning several hundred thousand dollars there,
14 ran a lot of digital advertising, a lot of TV, a lot of
15 direct mail.

16 This is, you know, also one of those districts
17 that we felt very strongly that the map beat us and not
18 the candidate, Stephen Ross. The way that 63 wraps
19 around, it -- it goes out of its way to pick up
20 Republicans and skips over Democrats. Given the
21 closeness of this race, less than 300 votes, if you
22 switched out a precinct or two that would have made it
23 a little more contiguous or compact that -- I guess
24 "compact" is the right word -- that this would have
25 been a Democrat house seat. No question about that.

1 Q How much did Break the Majority spend in this
2 district?

3 A Several hundred thousand dollars.

4 Q And looking at District 63, I see that it's
5 wholly contained in Alamance County. Do you see that?

6 A I do.

7 Q And do you have an understanding of the
8 political leaning of the county?

9 A I do. It is traditionally more Republican.

10 Q And would it surprise you to know that county
11 officials are Republican?

12 A No.

13 Q And do I understand that Erica McAdoo had never
14 run for elected office before?

15 A I don't believe she had. She was a local
16 attorney and had a very active practice. And I think
17 her father was a longtime either elected official or
18 community leader.

19 Q Moving on to District 64, could you describe
20 Break the Majority's efforts in District 64?

21 A This is a district that we started out very
22 interested in. We had a -- early on a challenge with
23 the candidate in that we couldn't support that
24 candidate. She had made some comments that we could
25 not get behind. And, ultimately, it -- it fell off our

1 map. She -- she dropped out of the race at some point
2 and Mr. Lynch replaced her, but, by that point in the
3 process, we did not add that race back in. It felt too
4 late.

5 Q I see. What did she say?

6 A It was either a racist comment or -- I think it
7 was racist or it was sexist. It -- I can't remember if
8 it was around the Me Too Movement or -- I feel like it
9 was around race, but it was something that as a
10 Democratic Party, we could not condone.

11 Q And around when did that happen?

12 A That was after she was the nominee, so that
13 would have been after May, if my math is correct or my
14 memory is correct.

15 Q This may be more of a matter of curiosity, but
16 how do you replace a candidate after a primary?

17 A State law provides that if someone withdraws or
18 dies or moves, whatever, that the local party committee
19 -- there's a formulation of how they do it depending on
20 if it's a multi-county or not, but they can replace --
21 they can replace a nominee so -- so someone can be
22 represented. And that happens all the time on both
23 sides.

24 Q I see. So did she voluntarily step down?

25 A I think you could argue voluntarily. I don't

1 know. I think that when every -- when all of the local
2 people said they wouldn't support her anymore, I think
3 she saw the writing on the wall.

4 Q That's a good lawyer answer from a nonlawyer.

5 A I'm trying.

6 Q Okay. Moving on to District 68 --

7 A Okay. This is a race -- we recruited Rick
8 Foulke. Rick not only was a decent fundraiser, he put
9 a lot of personal money in this race. Early polling
10 showed Craig Horn was very vulnerable. We spent maybe
11 a hundred grand, plus or minus, in that district. It's
12 in Union County over near Charlotte.

13 And we -- that was -- that was a race that it --
14 it fell away from us in October. You have a --
15 something that's known as -- something that we view
16 often as -- in these districts that are -- that have
17 Republican tendencies or huge Republican tendencies is
18 that in October Republican -- it flirts with Democrats
19 -- Republican voters flirt with Democrats, and then in
20 October, they go home. And that's what happened in
21 this district.

22 Q And you described that Craig Horn looked
23 vulnerable?

24 A He was very vulnerable.

25 Q And how so? And I'm trying to get at what

1 information did you --

2 A Polling --

3 Q -- look at --

4 A -- information --

5 MR. DAVID: Hold on. Hold on. Let her ask her
6 question.

7 A I'm sorry.

8 Q What information did you look at that told you
9 that he was vulnerable?

10 A Polling data. And, again, especially on
11 incumbents when you check their favorable rating by
12 voters versus their unfavorable rating, Craig Horn had
13 a higher unfavorable than favorable rating. It was in
14 -- it was perceived as in an anti-incumbent environment
15 in 2018. And that did not -- that was against
16 Republicans.

17 And so this looked like a district early on that
18 was very winnable, and it turned out not to be.

19 Q What was Rick Foulke like as a candidate?

20 A He was a -- a physician. He had a large
21 practice in Union County and had treated -- I don't
22 know. He'd been there for a number of years from my
23 recall and had a lot of -- he was very engaged in the
24 community. He was a good candidate.

25 Q Had he ever run for office before?

1 A I don't think so. I don't think so.

2 Q Moving on to District 74 --

3 A Okay.

4 Q -- could you describe Break the Majority's
5 efforts in District 74?

6 A Yes. We were very active in recruiting Terri
7 LeGrand. She was a local community volunteer, and --
8 and I can't remember if she was an attorney or what she
9 did for a profession but very active in the community.

10 Terri raised a substantial amount of money for
11 someone who had never run for office before. We have
12 contributed hundreds of thousands of dollars to Terri
13 and, ultimately, outspent Debra Conrad, the Republican,
14 I think, five to one in that district and -- and still
15 lost by 10 points.

16 Q And do you have any sense of the strength of
17 Debra Conrad's base in that district?

18 A Early polling, even late polling, showed that
19 her name ID was not very high, and voters didn't have a
20 formed opinion of her.

21 Q And I understood from what you said that the
22 candidate Terri LeGrand had never run before. Is that
23 right?

24 A I don't believe she had.

25 Q Would you agree that District 74 was more

1 competitive after the 2017 redraw?

2 A I -- I couldn't speculate. I don't know.

3 Q But you had conducted that analysis, hadn't you,
4 comparing districts drawn in 2017 to their prior
5 iterations?

6 A I don't remember what the -- for District 74, I
7 don't remember whether it got better or worse,
8 candidly.

9 Q Moving on to District 75 -- and, pardon me, Mr.
10 Jackson, about how much did Break the Majority spend in
11 District 74?

12 A In 74, it was multi -- it was well over a
13 hundred and maybe two hundred or three hundred.

14 Q Okay.

15 A I can't remember.

16 Q And moving on to District 75, what was the
17 effort that Break the Majority expended there?

18 A A similar investment with digital, mail,
19 television, and help recruit Dan Besse, sort of the
20 suite of things we discussed.

21 Q And how much did you spend?

22 A Maybe a hundred. I -- I don't remember.

23 Q A little bit less than --

24 A Yes.

25 Q -- 74?

1 A Yes. We viewed 74 -- that race was a much
2 better race on the research that we had and the
3 candidate was raising more money. And, again, we
4 outspent them five to one.

5 Q Okay. Moving on to District 82 --

6 A Okay.

7 Q -- could you describe Break the Majority's
8 efforts in District 82?

9 A Yes. We helped recruit Aimy Steele. We did
10 paid advertising. I think -- I think we may have spent
11 -- it was a little bit less in that district. It might
12 have been 50 or 75 thousand. I don't remember
13 specifically.

14 Q And do you have a sense of the political makeup
15 of the county where District 82 is situated?

16 A Yes. Cabarrus County is traditionally more
17 Republican but Democrats have been making some inroads
18 there recently.

19 Q And can the same be said for District 83?

20 A Yes.

21 Q And Ms. Steele, Aimy Steele, the Democratic
22 candidate, had she ever run for office before?

23 A I don't believe so.

24 Q Moving on to -- and about how much did you spend
25 in District 82?

1 A I think 50 or 75 maybe.

2 Q And moving on to District 83, could you describe
3 Break the Majority's efforts in District 83?

4 A Yes. Very similar to 82. The difference in
5 this district is that Larry Pittman -- so we talked
6 about favorable and unfavorable -- was very much viewed
7 unfavorably in this district even by Republicans. This
8 was a district we really thought we could win, and we
9 spent a decent amount of money. I'd say more --
10 probably more than a hundred, if I remember correctly.

11 Q More than 200?

12 A I don't think we spent that much.

13 Q And Gail Young, had she ever run for office
14 before?

15 A I don't remember. I believe she might have been
16 a local elected official and had run for local office.
17 I don't recall though.

18 Q Okay. Moving on to District 93 --

19 A Um-hmm.

20 Q -- could you describe Break the Majority's
21 efforts in District 93?

22 A Yes. We went out and recruited Ray Russell, did
23 -- invested in a lot of paid media, field, and direct
24 mail, et cetera. Ray was a -- was a really good
25 candidate and raised a decent amount of money himself,

1 and I think we outspent the incumbent maybe three to
2 one here.

3 Q How much did Break the Majority invest in this
4 district in --

5 A Over a --

6 Q -- 2018?

7 A -- a hundred thousand.

8 Q Okay. Over 200?

9 A Potentially.

10 Q Over 300?

11 A I don't -- I don't think we spent that much but
12 maybe over 200. And, again, these numbers are from
13 recall. I could be off.

14 Q Sure. Moving on to District 98 --

15 A Um-hmm.

16 Q -- could you describe Break the Majority's
17 efforts in District 98?

18 A Yes. All the same. I think we probably spent
19 three to four hundred here and I think outspent the
20 incumbent two to one.

21 Q And the candidate, Christy Clark, had she ever
22 run for office before?

23 A I don't believe so.

24 Q And had she lived in this district for a long
25 time?

1 A I think so. I -- I don't -- I don't remember
2 that being either one way or the other.

3 Q Okay. Moving on to District 103 --

4 A Um-hmm.

5 Q -- could you describe Break the Majority's
6 efforts there in 2018?

7 A Yes. All of the paid media, recruiting, et
8 cetera. We spent -- this was one of the more expensive
9 districts. I think we may have spent five or six
10 hundred thousand in this district, maybe seven hundred.
11 This was the most expensive district.

12 Q Why did you spend so much here?

13 A We spent so much here because of the Charlotte
14 media market, and the Charlotte television rates are
15 almost twice what they are everywhere else, and that's
16 why these Charlotte races were more expensive. And the
17 candidate had raised a -- a lot of money. I think we
18 outspent Bill Brawley three to one and won by 65 votes.

19 Q And Rachel Hunt, isn't she related to someone
20 who has been elected to office in North Carolina?

21 A Yes.

22 Q Okay.

23 A Former Governor Jim Hunt.

24 Q And did former Governor Jim Hunt engage in any
25 fundraising efforts for Break the Majority?

1 A Yes. Or, actually, he raised more -- actually,
2 he raised -- he gave us some money right -- he raised
3 money for the state house more so than Break the
4 Majority. They were different -- different buckets of
5 money.

6 Q I see. Did he give any of his own personal
7 money to Break the Majority?

8 A I think so, but I -- like not a huge amount of
9 money. I don't recall it being a large sum.

10 Q Five hundred thousand?

11 A No, not to -- no, to Break the Majority. The
12 large checks that he wrote were actually to the state
13 house and not to Break the Majority.

14 Q I see. Fifty thousand to Break the Majority?

15 A Maybe twenty. I don't -- I don't recall.

16 Q Moving on to District 104, could you explain
17 Break the Majority's efforts there?

18 A We helped recruit Brandon Lofton, helped fund
19 his campaign. He raised a significant amount of money
20 himself, as well. We did all the -- did the additional
21 paid advertising as we'd done in these other districts.
22 I think we outspent the Republican incumbent three to
23 one maybe, two and a half to one.

24 Q And you've said a couple of times outspending.
25 I just want to make clear because we've been -- I've

1 been focused on resources that Break the Majority is
2 giving to campaigns. And I think when you're talking
3 about outspending the other candidate, you're talking
4 about the Democratic Party or the Democratic candidate
5 and what they spent?

6 A Correct. I'm sorry. Globally. It's what was
7 totally spent on behalf of the Democratic candidate
8 versus totally spent on behalf of the Republican
9 candidate. And that's campaign money or party or Break
10 the Majority money, as well.

11 Q So about how much did Break the Majority invest
12 in District 104?

13 A Maybe 200, 300, something in that ballpark.

14 Q Okay. Moving on to District 113 --

15 MR. DAVID: Did you skip 105 on purpose.

16 MS. McKNIGHT: Did I? Oh, pardon me. No, I
17 did not.

18 BY MS. McKNIGHT:

19 Q Oh, pardon me. My eyesight is going. Let's go
20 back.

21 MS. McKNIGHT: Thank you, counsel.

22 BY MS. McKNIGHT:

23 Q District 105; could you explain Break the
24 Majority's efforts there?

25 A Very similar. We spent two or three hundred

1 thousand there in all of the same kinds of spending.

2 Q Now moving on to District 113, what kind of
3 effort --

4 A Oh, I'm sorry. I was --

5 Q -- did --

6 A -- waiting on you.

7 Q -- Break the Majority expend in District 113?

8 A We did more direct mail. I think we -- I think
9 maybe 50 or 75. I can't recall. That was not an
10 expensive district.

11 Q And now turning the page to District 118 --

12 A Um-hmm.

13 Q And, pardon me, Mr. Jackson, going back to 113,
14 why did you not put as much money into District 113?

15 A We didn't put as much money into District 113
16 because at the end of the day, it did not merit out.
17 It was a district that we had hoped would be better,
18 but we just -- it didn't -- when we had to make
19 allocation decisions, it wasn't on the list. It wasn't
20 on the list for the substantial investment.

21 Q And why didn't it merit out?

22 A A lot of reasons. It was a good candidate. He
23 raised -- he was well known, liked, but, ultimately, I
24 believe the polling just didn't stack up, didn't show a
25 path to victory.

1 Q And when you say the polling didn't show a path
2 to victory, what does that mean?

3 A That means that the Republican had too
4 insurmountable of a lead at whatever time we were
5 polling that race, and it did not -- it did not seem
6 like one that a lot more money was going to change the
7 result. And, again, it's to allocate -- if we had all
8 the money in the world, we would have spent here. We
9 loved the candidate and thought he was a good -- ran a
10 good race, but, ultimately it didn't -- it wasn't
11 deemed as competitive as the other races that we
12 invested substantially in.

13 Q I'd like to ask you about this decision you
14 necessarily have to make about when more money will get
15 more support. How do you make that decision?

16 A There are a lot of reasons we make that
17 decision. We look at the -- obviously the numbers in
18 the district, what the polling is reflecting, we look
19 at whether or not the incumbent Republican was very
20 favorably viewed or very well known, we look at the
21 campaign that the challenger is running, are they
22 raising money, are they meeting their metrics. Not one
23 of those things is the ultimate decider. It's really a
24 global view of the world and how does that merit when
25 you look at, you compare, you know, this race to

1 another race, and you have to make allocations.

2 Q Are there any other pieces of information that
3 you haven't already described in answering the question
4 I just asked that would help you to determine whether
5 more money will turn into more support for your
6 candidate?

7 A Potentially, but those are the -- those are the
8 large buckets that we look at.

9 Q What are some of the other smaller buckets you
10 look at?

11 A You know, I guess I didn't say issues.
12 Sometimes there were local issues that would transcend
13 a race that would have real crossover support from --
14 from traditional Republicans that would be willing to
15 not vote for the challenge -- I mean vote for the
16 incumbent because they were upset about an issue. We
17 talked about GenX down in Wilmington. Issues like that
18 sometimes were -- would help change the math of what
19 you looked at.

20 Q Anything else?

21 A I don't -- I don't think so. I mean, not -- not
22 substantial.

23 Q Okay. Turning to District 118, could you
24 explain Break the Majority's efforts in District 118?

25 A Yes. We helped recruit. We spent some money

1 there, not enough -- not enough and not as much as we
2 did in other places. This one, similar to the district
3 we just discussed, at the end of the day just didn't --
4 didn't rise to the occasion.

5 Q And, pardon me, about how much money did you
6 spend in this district?

7 A Maybe we spent 50, potentially.

8 Q Did you help recruit the candidate in District
9 118?

10 A Yes. She had run before.

11 Q Had she won before?

12 A No.

13 Q District 119; what kind of effort did Break the
14 Majority expend in District 119?

15 A Pretty substantial. We spent more than a
16 hundred thousand. I don't remember what the -- if it
17 was -- how much more than that. We helped recruit Joe
18 Sam Queen. He had been in this district before. He
19 was elected and then lost to Mike Clampitt and then
20 came back and beat him this go round. But we did a lot
21 of paid advertising, did a lot of field, traditional
22 things.

23 Q That completes our discussion of the house
24 districts. One more point on the house districts; you
25 had described earlier on that there were about 22

1 districts of the 30. Do you --

2 A Um-hmm.

3 Q -- recall this? Could you explain to me again
4 the difference in those 22 districts that you
5 highlighted?

6 A First of all, I think you have to go back to the
7 40 or so that we started with, and as the process -- as
8 -- we're talking about a year-plus long process, a year
9 and two, three, four months. You started with a very
10 large pool. Then we narrowed it down as we got through
11 the process. And, ultimately, the 22 were the ones
12 that what I would say had substantial investments by us
13 by generally meaning more than 75 or more than a
14 hundred, something like that. Thousand dollars, that
15 is.

16 Q And, now, I -- as you were going, I listed about
17 12 districts that seemed to have higher expenditures by
18 Break the Majority than others. Could I tell you those
19 that I listed and can you identify the additional 10?

20 A I can try. Sure, certainly.

21 Q So I listed HD 6, 19 --

22 A You missed 1.

23 Q Oh, sure. HD 1?

24 A Yes.

25 Q Okay. HD 1, HD 6?

- 1 A HD 2.
- 2 Q HD 2. Okay.
- 3 A You said HD 6.
- 4 Q Yeah.
- 5 A I'm sorry. You keep going so I make sure I'm
- 6 not --
- 7 Q Oh, that's fine. HD 19?
- 8 A Right.
- 9 Q HD 20?
- 10 A Um-hmm.
- 11 Q HD 36?
- 12 A Let me see if there is one in the middle there.
- 13 Let's see. Okay. 36.
- 14 Q HD 37?
- 15 A Um-hmm.
- 16 Q HD 51?
- 17 MR. DAVID: Did you say 35 or 36? I'm sorry.
- 18 MS. McKNIGHT: That's okay. So HD 36, HD 37,
- 19 and then HD 51.
- 20 A Let's see. 51. 51, correct.
- 21 Q HD 63?
- 22 A We spent money in 59. And you said sixty --
- 23 we spent number -- money in 62.
- 24 Q HD 74?
- 25 A One second. You went from 63 the 74; is that

1 correct?

2 Q Yes.

3 A Okay. So 74, yes.

4 Q Would you consider HD 68 as one of these 22?

5 A Oh, yes. I'm sorry. I -- I literally skipped
6 over that one myself. Yes, I would consider that.

7 Q Okay. So then HD 74, and then the next one I
8 have is HD 98.

9 A Seventy-five.

10 Q Seventy-five, okay. And then I have -- after
11 98, I have HD 103.

12 A I'd go back. We did spend -- as I said, in --
13 in 82 and 83, I think we spent 50 to 75, I believe, if
14 I remember, in those two. We didn't do television, but
15 we did -- so I put those in that.

16 Q You'd put those in there?

17 A Um-hmm. And I'm sorry. If you'll go from 83 to
18 -- which is your next number?

19 Q So 98.

20 A Ninety-three.

21 Q Okay.

22 A Ninety-eight is correct.

23 Q Okay. And then the next one I have is HD 103?

24 A Correct.

25 Q HD 104?

1 A Um-hmm.

2 Q HD 105?

3 A Um-hmm.

4 Q And that's the last one I have. Are there any
5 more than that?

6 A No. There is HD 119.

7 Q Okay.

8 A And that should get us there unless I'm missing
9 one.

10 Q I've counted up to 21. So that's --

11 A So we're one shy. I'm sorry. I'm sure I --

12 Q That's okay.

13 A -- missed it as we went through.

14 Q Let me see. Let's look back at HD 35.

15 A Um-hmm.

16 Q Was that on the list -- on your list?

17 A Yes.

18 Q Okay. Pardon me. I -- I excluded that one. So
19 that brings us up to HD 22 --

20 A Got it.

21 Q -- 22 house districts.

22 Okay. Mr. Jackson, this may be a good point to
23 take a break because I need to go into the senate
24 districts, as well.

25 A Good news; there are fewer of those.

1 (A break was had.)

2 MS. McKNIGHT: I'd like to have this marked as
3 Exhibit 6.

4 (Exhibit 6 is marked for identification.)

5 BY MS. McKNIGHT:

6 Q Mr. Jackson, you have just been handed what has
7 been marked Exhibit 6. This is titled "11/06/2018
8 Official General Election Results - Statewide" for the
9 North Carolina Senate. Do you see that?

10 A I do.

11 Q And this is information that has been provided
12 by the North Carolina State Board of Elections. Could
13 you take a moment to flip through this document, which
14 is 11 pages, and let me know if you think it is
15 complete.

16 (Exhibit 7 is marked for identification.)

17 A I believe that is it.

18 Q Thank you, Mr. Jackson.

19 I'll also have handed to you what should be
20 marked as Exhibit 7, which is the 2018 Senate Election
21 Districts. And this is a map prepared by the -- pardon
22 me, printed by the North Carolina General Assembly and
23 dated February 14, 2018. Do you see that?

24 A Yes, ma'am, I do.

25 Q So, Mr. Jackson, I'm giving you Exhibits 6 and 7

1 to assist you in answering my next series of questions.
2 Feel free to flip between either or.

3 What I'd like to do with you is ask you
4 questions similar to the questions that I asked of you
5 about Break the Majority's efforts in the house the
6 North Carolina in 2018. I'd like to walk through the
7 senate districts and ask you about Break the Majority's
8 effort in the senate in 2018.

9 So beginning with North Carolina State Senate
10 District 1, and would you tell us about Break the
11 Majority's efforts, if any, in District 1 in 2018?

12 A Yes. Similar to going back to the house
13 districts, we recruited the candidate, were active in
14 the recruitment of the candidate, we helped fund this
15 district. Cole Phelps was a local county commissioner,
16 rooted -- very rooted in the district, an attorney.
17 Helped fund a number of different ads and direct mail
18 for him and with him. He did a good job raising money
19 and ran a good campaign.

20 Q About how much money did he spend?

21 A Did he --

22 Q Pardon me, did Break the Majority spend in
23 Senate District 1?

24 A I think this was maybe less than a hundred but
25 over fifty.

1 Q Pardon me. We went through a useful exercise
2 with the house. At the outset, let me do that again
3 with you. Could we walk through which senate districts
4 Break the Majority did work in and then we'll go back
5 and walk through those where you did work. District 1?

6 A Yes.

7 Q And where else? We can go through.

8 A Let's see. District 7. That's on page 3.
9 District 9, District 11. Let's see. District 13.
10 District 17, 18, 19, 24, 25, 27, 30, 39, 41. I believe
11 that is it. That should be 13 or 14, if I'm accurate.

12 Q And, for the record, could you explain why Break
13 the Majority selected these senate districts for work
14 and did not select the others?

15 A Based on early polling, based on the results of
16 what we thought were potential paths to victory, based
17 on the maps where the districts were located, based on
18 the caliber of the candidate. Largely -- the chief
19 among those was the potential for a path to victory,
20 meaning where early polling showed weakness with the
21 Republican incumbent.

22 Q And would that include favorability ratings --

23 A Correct.

24 Q -- for the incumbent? Would it include issue
25 polling related to the incumbent?

1 A Yes.

2 Q Would it include anything else?

3 A No, that's -- that's pretty much the big
4 factors.

5 Q Okay. And when you talk about location, you
6 mean where in the state it's located, right?

7 A Yes, but also what the map looked like. And
8 that doesn't really mean east or west. It means based
9 on -- a great example is -- is District 11. It's a
10 district we really wanted to target, but when we looked
11 at it very closely, that -- the southern part of
12 Johnston County was very Republican, but the Smithfield
13 part of it was left out of 11, and if the Smithfield
14 part of it would have been in 11, that would have been
15 a district we would have targeted very heavily because
16 we would have had enough democrats in there to -- to
17 make a real run at it.

18 Q And where was the Smithfield part?

19 A In the upper green is the best way to describe
20 it, Smithfield and Selma.

21 Q Were there any other senate districts where you
22 made a similar decision based on how the map was drawn?

23 A Let's see. 24. Let me make sure that's the --
24 that should be the Rick Gunn seat. We invested in 24
25 but ultimately were limited because of the -- the way

1 the map was drawn.

2 Q And that's District 24 in Alamance County --

3 A And Guilford.

4 Q -- correct?

5 A And Guilford, correct. It's a dual-county
6 district.

7 Q Any others?

8 A I think in the senate, that might be it.

9 Q Okay. Okay. Well, going back to the election
10 result list, Exhibit 6, we've just talked about Senate
11 District 1. It looks like Senate District 7 is the
12 next district where Break the Majority expended some
13 effort in 2018. Could you explain that effort?

14 A Yes. We recruited David Brantley, a longtime
15 judge who was the chief district court judge, had been
16 in Wayne and Lenoir Counties elected for 20-plus years.
17 He got in late to the process, so our spending
18 was a bit more limited here, because he had to wrap up
19 some cases. So he was not -- he was not the nominee on
20 the primary. In the primary, a -- someone else had
21 filed and that person dropped out after the primary.
22 Brantley replaced her on the ballot.

23 Brantley was a hard worker and he -- we spent
24 some money there. I think we might have spent fifty to
25 a hundred.

1 Q So when did Brantley enter the race?

2 A I don't believe it -- it might have been -- the
3 primary was in May -- maybe June, July.

4 Q Had he ever run for elected office before?

5 A For 20 years. He was the chief --

6 Q As a judge?

7 A -- district court judge. Yes.

8 Q I understand.

9 A He had been on the ballot for 20 or 25 years.

10 Q Okay. And moving on to Senate District 9, could
11 you explain Break the Majority's effort in District 9
12 for the Senate in 2018?

13 A Yes. This was a substantial effort. Harper
14 Peterson, we helped recruit into that seat, invested
15 several hundred thousand dollars, I would say three or
16 four hundred thousand in that district. He's a former
17 mayor of Wilmington. We did paid advertising, et
18 cetera, et cetera.

19 This is also one of those districts we talked
20 about earlier where we outspent I think three to one or
21 three and a half to one and we won by two hundred votes
22 in a recount.

23 Q We've seen a couple of three-party races --

24 A Um-hmm.

25 Q -- along the way. Can you explain to me what

1 efforts you made to pull voters who might support the
2 Libertarian candidate in this race?

3 MR. DAVID: I'm sorry. Did you say poll or
4 pull?

5 MS. MCKNIGHT: Pull.

6 A Pull as --

7 Q P-u-l-l.

8 A -- as into Democrats?

9 Q Correct.

10 A To get to vote for Democrat?

11 Q Correct.

12 A Very little, if any.

13 Q Moving on -- and would that answer be the same
14 for any district where you were -- Break the Majority
15 did work and there was a third-party candidate?

16 A Yes.

17 Q Okay. Moving on to Senate District 11, what
18 effort did Break the Majority expend in Senate District
19 11?

20 A We polled early. We -- Rick Horner was
21 relatively new, maybe one term under his belt, I can't
22 recall, but had very, very low name ID, name
23 identification, very low favorables -- low unfavorables
24 for that matter. It was a district that we felt was
25 one that we could win. As we got looking into it more,

1 the absence of some -- we needed more Democratic votes
2 in this district for it to be competitive and they just
3 -- the way the maps were drawn, they just weren't
4 there. And so we did not -- we spent very little money
5 here, maybe in the tens of thousands, if that.

6 Q Now, you discussed because the way the maps are
7 drawn. How would you have drawn this map differently?

8 MR. DAVID: Objection.

9 A I wasn't involved in drawing the maps. What I
10 understand and what we heard from local party leaders
11 and candidates is as you travel this district, you
12 drive -- I don't know if it's 95 or the local 401, or
13 whatever the local roads are -- 301 rather -- as you
14 drive from Rocky Mount and Nashville, you drive through
15 a lot of Democratic precincts that are in a different
16 district to get to these precincts in the -- what would
17 be Western Johnston that are very Republican was the
18 way I understood that. So the upper green above the
19 word "Johnston" is my understanding that those are --
20 those are much more Democratic than the ones to the
21 left. And the point of the candidate and the local
22 party was that you had to drive through Democratic
23 precincts to get to the Republicans in the district.

24 Q District 11 is contiguous, though, isn't it?

25 MR. DAVID: Objection.

1 A Yes.

2 Q And is it your opinion that the Democratic Party
3 in North Carolina is entitled to competitive senate
4 districts?

5 MR. DAVID: Objection.

6 A I don't know that I have an opinion on that. I
7 have an opinion about races. I'm a -- I'm a
8 practitioner, not an opinionator. I believe in looking
9 at what we have and trying to figure out how we can win
10 these races, and that race was just not winnable based
11 on the way it was drawn.

12 Q I'm trying to get at this issue where you've
13 described a number of variables in each election, and
14 you're coming to a conclusion in District 11 that it's
15 because of how it was drawn as opposed to other
16 factors.

17 A Um-hmm.

18 Q How did you come to that conclusion?

19 A I think anytime -- and it's very similar to some
20 of the house districts we talked about. When you have
21 to drive through and you -- in a community and you go
22 through a community and you work your way around to
23 other precincts and you drive through precincts to get
24 to other precincts, and these are Republican and those
25 adjacent are Democratic, if -- if you drew a map that

1 was more compact, those would be winnable districts.

2 Q How do you know that a district that is more
3 compact than District 11 would be winnable by a
4 Democrat?

5 A I -- I don't know that. What I do know is that
6 -- as I said, I haven't looked at the precincts, but
7 what I have understood from locals who have is that you
8 have to drive through Democratic precincts to get to
9 Republicans in the district. And so you're driving
10 around contiguous precincts to get to ones that are
11 further away.

12 Q I understood from your testimony earlier that
13 you were not part of the map drawing process, right?

14 A Correct.

15 Q Do I also understand that to mean that you were
16 not part of any Democratic effort to draw an
17 alternative to District 11?

18 A I serve on the board of the Democracy Project,
19 but I was not part of -- that board funds different
20 things, but I was not part of the drawing or anything
21 they were doing.

22 Q And just to better understand your opinion about
23 how this district was drawn, you do not -- pardon me,
24 you are not here to provide testimony about why
25 District 11 was drawn the way it was, right?

1 A I'm here to provide -- I was answering the
2 question of why we didn't -- your question was why did
3 we not invest in that district and I -- my answer was
4 because of the way it was drawn.

5 Q And so you're not here to provide testimony
6 about the intent of the map drawers who drew District
7 11, right?

8 MR. DAVID: Objection.

9 A I don't know what their intent was.

10 Q Then taking it one step further, you do not know
11 what factors the map drawers were weighing when they
12 drew District 11; isn't that right?

13 A I was not a part of that process, so I do not
14 know.

15 Q Okay. Moving on to -- pardon me, still on
16 District 11, how much money did Break the Majority
17 spend in District 11 in 2018?

18 A Very little. A few thousand dollars, but very
19 little.

20 Q Moving on to District 13 --

21 A Um-hmm.

22 Q -- what effort did Break the Majority expend in
23 District 13 in the senate?

24 A Mostly a field program. We ended up not doing
25 paid media there as we made allocation decisions at the

1 end of the day and that -- for the reasons stated
2 earlier, it just -- that district did not merit paid
3 advertising.

4 Q And what reasons stated earlier?

5 A Reasons that as we looked at the entire
6 landscape and our budget and our resources that based
7 on our polling that district was not -- the path of
8 victory in that district was not as good as some of the
9 other districts that we invested in.

10 Q And it appears to me from looking at the map
11 that Senate District 13 is drawn in two whole counties.
12 Is that your view, as well?

13 A Yes.

14 Q And what is your understanding of the political
15 makeup of those two counties?

16 A The political makeup has -- historically was
17 Democratic but has -- has changed in recent years, and
18 the massive two 500-year floods have displaced a lot of
19 folks in Robeson County, and a lot of those happen to
20 be Democratic voters. And that district is a little
21 bit more culturally conservative, as well.

22 Q About how much money did Break the Majority
23 spend in District 13?

24 A Similar, like a few thousand or tens of
25 thousands, not -- we didn't spent a hundred thousand

1 dollars there.

2 This was also a district where there was a
3 hurricane in the process of the election cycle, and
4 that disrupted a lot of things.

5 Q I'm always sorry to hear that.

6 Okay. Moving on to District 17, what effort did
7 Break the Majority expend in District 17 in the senate?

8 A Working with the candidate, and the candidate
9 was able to successfully raise -- a) we recruited Sam
10 Searcy, a local businessman -- businessman who was
11 running for congress, and we convinced him to run for
12 this instead. Sam contributed a lot of personal money
13 to this. He was a very hard-working candidate. We
14 gave him, I think, maybe a hundred or two hundred to --
15 to help him, but we very -- we were very involved in
16 this race. This was an eight hundred thousand or
17 million dollar race.

18 Q Moving on to District 18, what effort did Break
19 the Majority expend there?

20 A A very large effort. As we talk about the
21 number of districts to be apples to apples as our
22 discussion with the house, this was -- these last two
23 were substantial investments by Break the Majority from
24 recruiting Mack Paul to run to running a very
25 aggressive field program to spending several hundred

1 thousand dollars, maybe three or four, in this race on
2 paid advertising.

3 This, similar to District 11, is one that --
4 well, let me say it the right way, different but
5 similar. This was one where we were able to outspend
6 the incumbent by a large sum of money but ultimately
7 failed, we feel, in large part due to the way the
8 district is drawn.

9 Q You were just talking about District 19?

10 A Eighteen.

11 Q Eighteen. Pardon me. When you made decisions
12 about whether or not to spend more money or less money
13 in a district, how would you communicate those
14 decisions to staff?

15 A Be -- if I can ask --

16 Q Let me --

17 A -- which staff, like can't --

18 Q Let me --

19 A -- which -- who --

20 Q How would you communicate those decisions --
21 let's start here. When you would make decisions about
22 whether to increase or decrease funding in certain
23 districts that you were targeting, first, how would you
24 make those decisions, who would you make them with?

25 MR. DAVID: Objection.

1 A Those decisions were made as a group. In the
2 case of the senate, it would be myself, Ryan Deeter,
3 the senate caucus director, his staff. He had several
4 folks that worked with him, as well. We would present
5 -- after we had data and polling and research, we would
6 present our thoughts to the senate caucus, the
7 leadership of -- the elected leaders of the senate.
8 And, ultimately -- ultimately, they were the final
9 arbiters of where the money was spent.

10 Q And you've spoken about field staff.

11 A Um-hmm.

12 Q How would you communicate to them decisions
13 about where resources were going to be allocated?

14 A We didn't communicate to the field staff.

15 Q Who communicated to the Break the Majority field
16 staff about their work?

17 A I guess, to be clear, we're talking about two
18 different things. The field staff is running a field
19 program. It has nothing to do with paid media and --
20 and substantial investments. They were not part of the
21 discussion. They were out to register voters, knock on
22 doors, GOTV, and get voters to the polls.

23 That is a very different part of a campaign than
24 paid communication. So they -- that operated -- that
25 plan operated as it was written the whole time. That

1 didn't matter whether more money was allocated or less
2 money was allocated to a district. The field component
3 did not change.

4 Q That's helpful to know. Okay. So when we're
5 talking about decisions that you're going to allocate
6 fewer dollars to a certain district, the field efforts
7 were unaffected by those decisions?

8 A That is correct.

9 Q I see. And would you make these decisions in
10 in-person meetings or on a telephone?

11 A Both.

12 Q Would you ever communicate about these decisions
13 on email?

14 A Generally not. Usually it was -- because you
15 had to have the members there and present, and usually
16 it was phone calls, conference calls, or in-person
17 meetings less frequently than the weekly or biweekly --
18 I can't recall -- but phone calls.

19 Q And you talked about talking with people on the
20 ground about what districts look like.

21 A Um-hmm.

22 Q Would you talk with them on the phone about that
23 information?

24 A Yes, I think that's accurate.

25 Q Would you ever email with them about that

1 information?

2 A I don't recall. We certainly emailed, but a lot
3 of the conversations that I'm recalling are individual
4 conversations, either on the phone or in person.

5 Q Going back to the list of elections, you
6 described District 18 as -- did I understand your
7 testimony correctly that you thought Senate District
8 18, there was an issue with the way the map was drawn?

9 A Yes, you did. That's correct.

10 Q And how did you come to that determination?

11 A From the campaign and from locals. The large
12 concern, not only -- the view of the map, as you look
13 at it, is -- it is contiguous, but it was less than
14 compact -- is that you snake together down to pick up
15 Republican strongholds around the Raleigh Country Club,
16 and you bypass in the process a number of Democratic
17 precincts that are closer to the heart of the district.
18 And I -- the candidate and the staff would complain
19 that on some places I think there was like a very, very
20 small area, like a -- the -- the lead was like a few
21 hundred feet or a hundred yards from one -- from
22 one district to the other rather than -- and skipping
23 over -- I guess to make it more clear, if you -- on the
24 map, if you see the yellow portions in the upper part
25 of 15, those, I believe, were Democratic precincts and

1 you draw a very small line around those to get to the
2 Republican precincts below them. And I think this is a
3 district where we feel very confident that the drawing
4 of this map is what defeated Mack Paul and reelected
5 Johnny Mack Alexander.

6 Q And looking at this map, District -- Senate
7 District 18, can you identify where in Senate District
8 18 the incumbent for this district lived?

9 A I don't know.

10 Q Okay. Moving on to Senate District 19, what was
11 the effort that Break the Majority expended in Senate
12 District 19?

13 A A very substantial effort. I think the total
14 spent -- and I don't recall how much was Break the
15 Majority versus the campaign, but I think it was eight
16 hundred or nine hundred thousand dollars. So the Break
17 the Majority effort would have probably been half of
18 that, three, four, five hundred thousand.

19 Q And did I understand correctly that the kind of
20 effort you expended there, nonfinancial but actual
21 campaigning and electoral efforts, was it similar to
22 the other districts that we've discussed?

23 A As far as the field operation?

24 Q Yes.

25 A Yes, correct.

1 Q Did you recruit the candidate in this district?

2 A We did. He was a former city councilman member,
3 military, retired, had run for mayor, I think, as well,
4 but had been on the city council for a term or two or
5 three.

6 Q Moving on to District 24, what was the effort
7 that Break the Majority expended in District 24 for
8 2018?

9 A Recruited J. D. Wooten to run. He was a local
10 guy I think who had either been there all his life or
11 at least since college, very active in the community,
12 had some good roots, ran a good campaign. I think we
13 contributed fifty or a hundred to that district.

14 Ultimately, the -- the numbers didn't add up for
15 a larger investment. And as we looked at the map, we
16 just needed -- we needed a little bit more out of
17 Greensboro, the way the map was drawn, to sort of get
18 some white voters out of Greensboro and not African
19 American voters. And more -- more realistic --
20 actually, on the east side of Greensboro, it may not
21 have been African Americans. Getting Democrats --
22 keeping Democrats in 28 and putting in, sort of,
23 Republicans in 24 in the City of Greensboro just made
24 this district too hard. J. D. ran a good campaign.

25 Q Now, you mentioned -- you mentioned white voters

1 and African American voters. Why?

2 A I -- I -- I was thinking more about -- I think
3 in this one, actually, it might not have been race. It
4 might have been much more party in the fact that I
5 think on the east side of Greensboro, I think those
6 precincts -- I'd have to go back and look -- are -- are
7 Democratic, but I don't think they're overwhelmingly
8 African American, the -- what you see in the green that
9 is right up above the -- I guess that's yellow.

10 Q And do you have an understanding about how
11 African American voters tend to vote?

12 MR. DAVID: Objection.

13 A I think that it depends on where they're located
14 and it depends on what part of the state, what the
15 issue set is. It just depends.

16 Q And, pardon me, because I didn't quite
17 understand the answer to the question earlier when you
18 identified white voters versus African American voters.
19 Can you explain why that was a thought in your mind in
20 response to my question about District 24?

21 A As I was looking at the map, I was thinking
22 about that it went closer into, sort of, Greensboro
23 like North Carolina A&T, around that section, which is
24 -- is much more predominantly African American.

25 Q And why does that matter?

1 A It -- that pre -- those precincts around there
2 are pretty strong Democratic, but a lot of these that,
3 sort of, fold up, as you see the -- if you go from
4 north to south, that go north, that little notch
5 that's, sort of, hanging out there, and there's a
6 yellow on top of green, those, it's my understanding,
7 are Democratic precincts, but I don't -- I don't think
8 they're heavily African American.

9 Q And we understood from earlier testimony that
10 Alamance is heavily Republican. Isn't that right?

11 A Um-hmm.

12 MR. DAVID: Is that a yes?

13 A I'm sorry. Yes.

14 Q Okay. Moving on to District 25, what effort did
15 Break the Majority expend in District 25 in 2018?

16 A Break the Majority invested fifty or a hundred
17 thousand in that race. We recruited Helen Probst
18 Mills. She raised an incredible amount of money, ran a
19 great campaign. At the end of the day, the -- just the
20 way the district was drawn, was -- it just was too
21 Republican. We -- we just couldn't get there. And so
22 we did not invest much more than that.

23 There was one Republican county sandwiched with
24 three over -- overwhelming Democratic counties, but at
25 the end of the day, the Republican county had more

1 votes.

2 Q Now, earlier, I had asked you to identify
3 districts where the shape of the map had dictated your
4 decision whether to spend money or not money. You had
5 not identified District 25 earlier, but you just
6 described that issue in District 25.

7 A Yes. I'm sorry. The -- the issue with 25 is
8 that -- it's a little bit -- part of my reasoning would
9 be the shape of it because it -- the county is not
10 split. And, sorry, I was just looking at that a little
11 bit earlier. Most of the districts I identified were
12 where you split certain counties certain ways.

13 Q Um-hmm.

14 A This district is more about the pairing of the
15 counties -- of the counties of pairing Moore with Anson
16 and Richmond and Scotland. Those are three Democratic
17 counties that are pretty reliably Democratic. Moore is
18 a very strong Republican county.

19 Q Okay. And we discussed earlier the county
20 groupings issue. Is it your testimony that this was an
21 improper grouping of counties under the county grouping
22 rule?

23 A I don't --

24 MR. DAVID: Objection.

25 A I don't know. I don't know what the grouping or

1 clusters -- what we call it the grouping, I don't know
2 if that is these four counties are one group or they're
3 not. I don't know.

4 Q Okay. So you don't know whether a map drawer
5 would have been forced to collect these counties in one
6 district due to that rule, right?

7 MR. DAVID: Objection.

8 A I wasn't part of that, so I don't know one way
9 or the other.

10 Q Okay. And not only were you not part of it, but
11 you do not understand the county grouping rule; isn't
12 that right?

13 MR. DAVID: Objection.

14 A As I said, I haven't -- I'm not a map drawer, so
15 I don't think about it in those terms. I look at it
16 more as a practitioner. And when you take one very
17 heavily Republican county and you pair it with three
18 heavily Democratic counties, you often get a Republican
19 result.

20 Q And understanding what you just said, it's not
21 your testimony here today that the map drawers intended
22 to draw a Republican district in District 25, is it?

23 A I don't know what they intended, but I know what
24 they did; they drew a Republican district in 25. I
25 don't know if that was their intention or not. I

1 wasn't part of that process.

2 Q And are you here to provide testimony that based
3 on the election results out of a district, you can make
4 assumptions about the intent of the map drawers?

5 MR. DAVID: Objection.

6 A I did not make an assumption about the intent.
7 I made an assumption about the result. As I said, I
8 was not a party to the discussions. And, to my
9 knowledge, I don't think they took place in public. So
10 they were discussions held in the Republican caucus,
11 which I am not a member.

12 Q Okay. And discussions that were made --
13 conducted within the Democratic caucus about the map
14 drawing effort in 2017, you were not a part of those
15 either, were you?

16 A No.

17 Q So you don't know whether Democratic map drawing
18 efforts would have agreed with this county grouping,
19 right?

20 A I don't know.

21 Q Do you have any sense of the limitation placed
22 on map drawers in North Carolina by the county grouping
23 rule?

24 A No.

25 MR. DAVID: Objection.

1 Q Moving on to District 27 --

2 (Counsel enters the conference room.)

3 MS. McKNIGHT: Good afternoon. Would counsel
4 like to present himself for the record?

5 MR. SPEAS: Eddie Speas, counsel for the
6 Plaintiffs.

7 Mr. Farr.

8 And you are?

9 MS. McKNIGHT: Good afternoon. My name is Kate
10 McKnight with Baker Hostetler for Defendants. It's
11 nice to meet you.

12 MR. SPEAS: Nice to meet you.

13 BY MS. McKNIGHT:

14 Q So moving on to Senate District 27, could you
15 describe the effort by Break the Majority in Senate
16 District 27 in 2018?

17 A Yes. We recruited Michael Garrett to run.
18 Michael had run two years before. We polled
19 extensively in this and found Trudy Wade to be the most
20 disliked member of the state legislature. And her
21 favorable and unfavorable at one -- I mean, she --
22 her re-elect or vote somebody else was minus 35, which
23 is not a good number if you want to run for reelection.
24 And we -- we helped Michael Garrett with digital pay --
25 I mean, digital, television, direct mail to the tune of

1 probably four or five hundred thousand dollars. This
2 was an eight hundred or nine hundred thousand dollar
3 total race.

4 It was a race, as I said, that when we started
5 this race, Trudy Wade was minus 35. We spent almost a
6 million dollars in this race and we won by barely a
7 point.

8 Q Moving on to District 30, what effort did Break
9 the Majority expend in District 30 in 2018?

10 A We recruited Jen Mangrum to run. We helped her
11 raise money. We contributed a field program and some
12 paid communication. We found at that time that Phil
13 Berger was extremely unpopular in his own district and
14 we thought we had a chance there to unseat him. She
15 was a really great candidate who ran very hard but,
16 ultimately, it was just too Republican of a district to
17 do so.

18 Q And about how much did Break the Majority spend
19 in District 30?

20 A Fifty to a hundred, maybe.

21 Q That's a little bit less than some of the other
22 races. Why?

23 A It depends on the media market and the cost of
24 television, frankly, and, at the end of the day, day,
25 the -- a race like we just covered on 27, the metrics

1 were better, and we had a much more weaker incumbent,
2 and, you know, it was one of those races in 27 that if
3 we'd had some voters in High Point, that race wouldn't
4 even have been targeted. The way that district was
5 drawn, it does sort of take the High Point Democrats
6 out of that district. That's the purple southwest
7 corner. We wouldn't have had to spend any money there.

8 I think you need to go east. Sorry.

9 MR. DAVID: He was talking about 27.

10 A Twenty-seven not --

11 Q Oh, I see.

12 A I'm sorry.

13 Q Okay. So I --

14 A I'm sorry.

15 Q -- was asking about District --

16 A Yes, I was comparing it as the reason we spent
17 money in 27 and not 30, the difference between the two
18 in the same media market.

19 Q Okay. Let's move on to District 39. Could you
20 describe the effort that Break the Majority expended in
21 District 39 in 2018?

22 A Yes. We had an active field program. We were
23 involved in the recruiting in this race but ultimately
24 there ended up a primary in this race that went on
25 until May, and we worked with Stachowicz after the

1 primary. We contributed some money to him but not a
2 ton of money as it turned out. He was a good
3 candidate. I think he was a first time candidate. I
4 think maybe fifty or a hundred thousand, if I had to
5 ballpark remember in this race.

6 Q And you said you spent less. Why is that?

7 A Because the way the district was drawn.

8 Q Now, when I asked you that question earlier
9 about which districts you made decisions based on the
10 way they were drawn, you had not identified District
11 39.

12 A This one -- again, as I'm -- as I said earlier,
13 and I apologize for not being complete, what we -- what
14 I was talking about earlier was more about districts
15 that were split in counties. This one I would identify
16 in the way that it's drawn, when you look at
17 Mecklenburg County, as a whole, Mecklenburg County,
18 that Democrats running for state legislature got 70
19 percent of the vote in Mecklenburg County, as a whole,
20 and here we got 47 percent. And, ultimately, it was
21 just not -- the way the district was drawn, it didn't
22 warrant the investments that other districts did.

23 Q Based on what you just described, is it your
24 belief that voters are entitled to a percentage of
25 seats in the legislature that is proportional to their

1 vote?

2 MR. DAVID: Object to form.

3 A I -- I'm sorry. Ask that again. I'm not sure I
4 understand.

5 Q Sure. Based on what you just described about a
6 70 percent to 42 percent difference between the votes
7 for Democrats and the seats that Democrats have, is it
8 your position that voters are entitled to a number of
9 seats in the legislature that is proportional to the
10 vote they have for their preferred party?

11 MR. DAVID: Objection.

12 A I don't know that I've given any thought to
13 that. I guess my basis comes from when -- in a county
14 that votes 70 percent Democrat, the only way not to
15 elect all Democrats is to rig the map. And that's what
16 was done in 39.

17 Q Do you know where in the county the Democrats
18 live?

19 A Yes.

20 Q Okay. And do you know where in the county
21 Democrats do not live?

22 A Yes.

23 Q Okay. And is it your position that Democratic
24 voters are entitled to a map drawn in Mecklenburg
25 County that maximizes Democratic seats?

1 MR. DAVID: Objection.

2 A I would make an argument that a map that is
3 fairly drawn that was representative of all of
4 Mecklenburg would -- it would elect more Democrats if
5 you elect -- if 70 percent of the voters choose
6 Democrats, you would elect Democrats.

7 Q And how do you define "fairly drawn"?

8 A Not being rigged.

9 Q Okay. How do you define "rigged"?

10 A It's when you game the system for an unnatural
11 advantage.

12 Q And how do you define "unnatural advantage"?

13 MR. DAVID: Objection. Asked and answered.

14 A An unnatural advantage is one that does not
15 occur naturally, is one that is manmade.

16 Q So if Democratic voters are clustered in certain
17 areas of the state, is it an unnatural advantage that
18 they have to win districts in that area of the state?

19 A In districts that aren't drawn the way that 39
20 was, it is a natural advantage.

21 Q Okay.

22 A The way 39 was drawn, it gives Republicans an
23 unnatural advantage in that district.

24 Q And we've already -- I already understood your
25 testimony that you were not part of the map drawing

1 process.

2 A Correct.

3 Q And have you ever worked on alternative maps for
4 the Mecklenburg County area?

5 A No. But I'm very familiar with the political
6 divisions within Mecklenburg County.

7 Q So would you also agree that in areas where
8 there are -- there is a large proportion of Republican
9 voters, that those are areas where Republican voters
10 have a natural advantage?

11 MR. DAVID: Objection.

12 A Are you asking that in specific to 39? I want
13 to make sure I'm understanding --

14 Q No.

15 A -- the question. So can you ask it one more
16 time, please?

17 Q Sure.

18 MS. McKNIGHT: Could you repeat the question,
19 please?

20 (Whereupon, the question was read back by the
21 reporter.)

22 MR. DAVID: Objection.

23 A I think that it really depends on your
24 definition of large. And I think if you're -- it
25 depends on -- if you're talking about here, we're

1 talking about a county. I don't know if you are
2 talking about something different than that at this
3 point. I just want to make sure I'm clear.

4 Q Sure. No, and that's fair enough.

5 I've candidly never come across this description
6 of natural versus unnatural advantage, so I'm trying to
7 get a better understanding of what you mean by it. So
8 I'm trying to use your own words --

9 A Um-hmm.

10 Q -- and get an understanding of natural and
11 unnatural advantage because it's a way you described
12 what is a rigged district, which is a district where
13 people are taking advantage. And on natural versus
14 unnatural advantages, you were suggesting that
15 Democrats -- in an area where there is a high
16 percentage of Democrats, Democrats carry a natural
17 advantage. I was trying to understand if you also
18 believed that in areas where there is a large
19 percentage of Republican voters, those Republican
20 voters have a natural advantage?

21 A I think that's true in certain areas.

22 Q But not in all areas?

23 A Well, I just -- I'm -- I'm not exactly clear how
24 large we're talking about. If we're talking about
25 having a Republican precinct versus a Republican

1 district --

2 Q I see.

3 A -- it's -- it's a little bit different. I just
4 don't want my words to be misunderstood.

5 Q That's fair. And one issue here is
6 concentration, as I understand your question. And is
7 it your understanding that Democratic voters are
8 concentrated in certain areas in the state?

9 MR. DAVID: Objection.

10 A I believe that it depends on which area of the
11 state you're talking about. I think that in some urban
12 areas, Democrats are more concentrated. In some rural
13 areas, Democrats are -- do well and some they don't.
14 It depends on different portions of the state. The
15 issue sets are very different. And there are certain
16 areas of the state that are absolutely -- we're talking
17 about one right now -- Mecklenburg at 70 percent
18 Democratic. Yeah, that's a concentration of Democrats,
19 and, therefore, in a fairly drawn map, would elect
20 Democrats.

21 Q And Mecklenburg County does elect Democrats,
22 doesn't it?

23 A Not in District 39.

24 Q Okay. In other districts in Mecklenburg County,
25 does it elect Democrats?

1 A Yes, some with an 80 or 90 percent ratio.

2 Q Okay. So I want to get back to this idea of a
3 fair map, and I want to try to avoid chasing the tail
4 on this definition, so bear with me.

5 You're making a conclusion about this map as
6 being unfair. Do I understand that correctly?

7 A As a practitioner, yes.

8 Q And, specifically, District 39?

9 A That is correct.

10 Q And how have you come to the conclusion that
11 District 39 is unfair?

12 A When there are five districts inside of a
13 county, and the county, as a whole, votes 70 percent
14 Democratic, having one of those districts vote in the
15 40s Democratic and having others vote in the 80s
16 Democratic, to me, I view that as -- as an unnatural
17 advantage that's been created in 39 that would not
18 exist had the districts not been drawn that way.

19 Q So I think, if I understand correctly, you're
20 looking at this and saying, Look, one of these
21 districts out of five has a low Democratic voting
22 percentage when only 30 percent of the voters do not
23 vote for Democrats; is that right?

24 A I'm saying that in a map where these districts
25 are created more equal to each other, this district

1 would not vote 53 percent Republican.

2 Q I see. So you believe that in order -- it's
3 your belief that in order for District 39 to be fair,
4 using your own understanding of what that means, it
5 should be drawn with more Democrats; is that right?

6 MR. DAVID: Objection.

7 A I don't think that's what I'm saying. I think
8 what I'm saying is -- I think maybe you're
9 misunderstanding me. What I'm saying is you can't draw
10 39 to be a Republican district unless your goal is to
11 draw it as a Republican district. That it is
12 unnaturally -- it does not occur naturally. This is
13 something that is drawn unnaturally. And, again, I'm
14 not in the room when they made the decision, but, as a
15 practitioner, I can tell you I don't believe you can do
16 that unless your goal was to create a Republican
17 district.

18 Q And you have come to that conclusion based on
19 the fact that the county, as a whole, votes for
20 Democratic candidates at a rate of 70 percent, right?

21 MR. DAVID: Objection.

22 A In 2018, they did.

23 Q Okay. And it's your conclusion that having one
24 of these districts out of five that went Republican is
25 unnatural?

1 A Yes.

2 Q And how would District 39 -- how would you
3 expect District 39 or any of the districts within
4 Mecklenburg County to be shaped in order to be fair?

5 MR. DAVID: Objection.

6 A First of all, I would say that 39 could
7 certainly be more compact from the way it is drawn. It
8 starts in Charlotte and winds down towards South
9 Carolina and around. And, you know, the way I look at
10 it visually, it looks like a district that -- that is
11 purposely drawn that way for a reason. There's -- I
12 don't think there's a natural reason you would draw an
13 L-shaped district that wraps around others unless you
14 were trying to get to certain voters.

15 Q And do you know the compactness scores for
16 District 39?

17 A I don't.

18 Q Do you know the compactness scores for any of
19 the districts in Mecklenburg County?

20 A I don't.

21 Q Do you know where the map drawers started
22 drawing the districts within Mecklenburg County?

23 A I was not part of that process.

24 Q And I understand that you've never drawn a
25 complete electoral map; is that right?

1 A Never have.

2 Q And do you know where pockets of population are
3 located within District 39?

4 A I do.

5 Q And where are there high pockets of population
6 and low pockets of population?

7 A In that part of Mecklenburg County, there are
8 pretty high pockets of population everywhere.

9 Q And so do you appreciate that map drawers are
10 limited by the one person, one vote principle?

11 MR. DAVID: Objection.

12 A Yes. Sure.

13 Q What does that principle mean to you?

14 A It means one person is counted once.

15 Q And do you understand that map drawers need to
16 draw districts in sizes that capture roughly the same
17 population as all other districts?

18 A I do. Which would be my precise point about
19 there's a better way to draw this district.

20 Q Can you explain that?

21 A Yes. Your supposition was that they're looking
22 for high population voting to get one person, one vote.
23 What I would say, as somebody who understands this
24 county, is that there are plenty of votes in closer
25 proximity, that you're going out of your way to get

1 certain votes for certain reasons.

2 Q That's a very helpful explanation because I want
3 to make clear that my supposition is not that they
4 needed to find additional voters. The supposition is
5 that there is a limitation on map drawers in how many
6 people can be located within a district, that it cannot
7 go above or below that number.

8 MR. DAVID: Objection. Is that a question?

9 MS. McKNIGHT: It is. And we're not doing
10 speaking objections --

11 MR. DAVID: Then ask --

12 MS. McKNIGHT: -- Counsel.

13 MR. DAVID: Then ask a question.

14 MS. McKNIGHT: We're not doing speaking
15 objections, Counsel.

16 MR. DAVID: Ask a question, and he'll answer
17 it.

18 BY MS. McKNIGHT:

19 Q As I described, the supposition you had is not
20 the supposition that I had. The point is that
21 one person, one vote is a limitation on map drawers.
22 My question was do you understand that that limitation
23 affects how these districts were drawn?

24 A I understand one person, one vote. I do not
25 understand that -- how it affects the limitations of

1 District 39.

2 Q Okay. Do you understand how the principle of
3 one person, one vote affects any of the districts drawn
4 in the 2018 senate plan?

5 A As I have answered earlier, I believe -- I
6 understand one person, one vote to mean you get counted
7 once.

8 Q Moving to district 41, could you explain the
9 efforts expended in District 41 by Break the Majority?

10 A Yes. We recruited Natasha Marcus into this
11 race. We invested heavily in this race to the tune of
12 two or three hundred thousand dollars, maybe more. I'm
13 trying to remember. She also did a very good job
14 raising money, was very active in the local community,
15 and we invested in paid communication as well as a
16 field effort.

17 Q Okay. I think we've completed our review of the
18 senate districts. Thank you, Mr. Jackson.

19 I'd like to go back briefly to Exhibit 2. Now,
20 we had discussed earlier your understanding that the
21 2017 maps were passed in or around August 2017; isn't
22 that right?

23 A I believe that was correct.

24 Q Okay. So it appears to me that this Exhibit 2
25 is dated prior to the passage of the new plans. Is

1 that consistent with your memory?

2 A Yes.

3 Q Okay. And so, at this point in time, meaning
4 July 2017, did you or Break the Majority have any sense
5 of how the 2017 map would be redrawn?

6 A No. We were not involved in that process. We
7 assumed that it would be more of the same.

8 Q Would you agree that the 2017-2018 map is more
9 favorable to Democrats than the 2011 map?

10 A As I testified earlier, I think marginally but
11 not a huge difference, no.

12 Q And can you explain -- we talked briefly about
13 your work to compare the 2017 map to the 2011 map.
14 Could you explain that process, how you compared the
15 two different maps?

16 A As I said, that was the party doing the
17 comparison of those maps. I was certainly privy to the
18 end result of the -- of the examination, and there were
19 -- it was largely based on past performance in prior
20 races, prior campaigns, and how Democrats had performed
21 versus Republicans.

22 Q What kind of races do you look at?

23 A I did not compare -- I mean, I did not draw the
24 comparison, but usually statewide races.

25 Q I'd like to ask you to look at Exhibit 7 and 4

1 together. These are the 2018 election districts for
2 the senate and house.

3 A You said -- tell me one more time.

4 Q Yes.

5 A Three? Four?

6 Q It's Exhibits 4 and 7.

7 A Okay. All right.

8 Q Looking at these maps, do you recall in 2018
9 where you thought Democrats could pick up seats
10 regionally?

11 MR. DAVID: Objection.

12 A In the house or the senate or both, or what are
13 we talking about?

14 Q Oh, let's start -- let's do one at a time. So
15 let's start with Exhibit 4, the House Election
16 Districts.

17 A It was largely based on polling information and
18 where we saw that there was opportunity. I think this
19 -- as I went through the district by district, there
20 were certainly several in Mecklenburg; some in
21 Cabarrus; Forsyth County, two races; two races in
22 Guilford County; one in Alamance; several in Wake
23 County; a Lee and Harnett County race; a couple down in
24 New Hanover; there was one out on the Outer Banks.
25 It's not on the -- not on this map, but that's not -- I

1 guess it's not -- it's not shaded.

2 Q Um-hmm.

3 A There were -- there were two out west, west of
4 Asheville. So there were -- and I'll be honest with
5 you. Every -- we competed in every media market. We
6 targeted and competed in every media market in the
7 state in both rural and urban districts, and suburban,
8 of course.

9 Q Would you run through the same exercise with
10 regard to the senate; and that is to look at the map
11 overall and identify regionally where you thought
12 Democrats could pick up seats?

13 A As I testified, we -- if you start from the
14 east, meaning the pink, No. 1 on the Outer Banks, going
15 down the coast, No. 9 in New Hanover, 19 in Cumberland,
16 25 in the Piedmont. We talked about a couple in
17 Mecklenburg. We talked about -- let's see. We talked
18 about several in the Greensboro market, which is 27 and
19 30 and 24. We talked about two in Wake County or
20 involved in Wake County. I can't remember if I'm -- 7
21 in Wayne and Lenoir.

22 I don't -- I don't recall if I'm leaving someone
23 out, but, again, in most every media market of the
24 state, we not only targeted races but spent a
25 significant amount of money in both rural and urban

1 districts and suburban.

2 Q Are you familiar with the term "support scores"?

3 A Yes.

4 Q What does that mean to you?

5 A It is a -- various groups use support score
6 based on -- I'm not -- I've never created one, so I'm
7 not exactly sure what goes into them but past political
8 performance, I think, maybe even consumer data and
9 polling data.

10 Q You said you've never created one. Have you
11 ever used one?

12 A Yes. For individual voters, yes.

13 Q Did you use support scores in 2018 with Break
14 the Majority?

15 A Yes.

16 Q And did you use support scores in certain of the
17 districts you worked in or in all of the districts?

18 A All of the districts.

19 Q Okay. And what did they tell you?

20 A They generally give you a spectrum of where the
21 estimation of how a voter would vote if he or she
22 votes.

23 Q Does this go back to categorizing voters by base
24 and -- what was the term we used earlier?

25 A Persuadable.

1 Q Persuadables?

2 A Um-hmm.

3 Q Okay. Do support scores use those same
4 categories?

5 A Yeah. There are more. I think there are --
6 I'm trying to remember. There are several -- there --
7 there are numbers and they go from 0 to 100 or 100 to
8 0. I can't remember which way. And it depends on the
9 ones you look at. It depends on which is higher or
10 lower, meaning Democratic.

11 Q Do they have more or different categories for
12 voters other than base and persuadable?

13 A In support scores, really not that way. It's a
14 0 to 20, a 20 to 40, a 60 to 80, an 80 to 100, if I can
15 recall correctly. You look at different buckets that
16 are -- and you don't call them base and persuadables.
17 It's much more you look -- what we utilize support
18 scores in Break the Majority was for Turn Out the Vote.
19 We looked at -- that if these folks were likely to
20 vote, they would likely be Democrats, and those are the
21 folks that we spent time talking about -- talking to.

22 Q And can you bear with me; can you go back to 0
23 to 20. Does it then go 20 to 40, 40 to 60 --

24 A Something like that.

25 Q -- something like that?

1 A That's correct. Some are 0 to 30. Again, it
2 depends on the metric but different of them are graded
3 differently.

4 Q And so if there is a support score in a district
5 that is 20 for Democrats, does that literally mean that
6 you expect to get to 20 percent votes for a Democratic
7 candidate; is that how you read it?

8 A It's a little bit more confusing than that,
9 honestly. It is the -- as I said, the different --
10 different support scores are calculated, it's my
11 understanding, differently. So it doesn't necessarily
12 mean -- it's not as simple as 0 to 100 means a hundred
13 percent of the time they're going to vote for Democrats
14 or zero percent of the time, but it is when you look at
15 -- we spend a lot of time looking at support scores,
16 especially when early voting is -- is being voted. So
17 that we look at who has already voted, what is -- what
18 is it we believe the people who have early voted so
19 far, how they might vote. We obviously don't know, but
20 based on all these data points, this is what the -- the
21 formula would -- would predict. It's a predictive
22 model more than anything.

23 Q I see. And is it -- I understand you're
24 describing it as a formula. Does it include anything
25 other than averages of elections? For example, does it

1 include any form of weighting different elections or
2 different factors?

3 A Again, I -- I don't create the support scores,
4 so I'm not exactly sure what all goes into the -- into
5 the pot.

6 Q Okay. And I understand that you use support
7 scores. Did you use one set of support scores in 2018?

8 A Yes, largely the DNC support scores.

9 Q And do you have any sense of how the DNC
10 calculates its support scores?

11 MR. DAVID: Objection.

12 A I don't know what goes into the mix.

13 Q And did you use anyone else's support scores in
14 2018?

15 A I'm trying to remember. I think primarily the
16 DNC. I think we may have only used the DNC as far as
17 the party.

18 Q And so at 0 to 100, is, sort of, closer to 100
19 more support for Democrats and closer to zero, less
20 support?

21 A Yes.

22 Q Okay. And I understand it may be a spectrum of
23 support. Would you describe to me whether -- how you
24 would use that spectrum of support?

25 MR. DAVID: Objection.

1 A Again, it depends on what you're using it for.
2 There's also a turnout score based on how likely you
3 are to vote. And oftentimes it is used in conjunction
4 with that to create a different metric of how likely
5 someone is to vote and how likely they are to vote
6 Democratic if they vote.

7 Q What would you call that metric that has the
8 turnout score combined in some way with the support
9 score?

10 A It's not really -- that's -- I -- I -- let me
11 rephrase that. It's not really -- it doesn't create a
12 new number. It is the -- the way you calculate your
13 voters in a district is you say I'm going to search for
14 how many voters are 0 to 20 and a turnout score of 80
15 to 100. Those are voters who are going to vote
16 whenever there is an election. Zero to twenty are
17 people who are rarely, if ever, going to vote, I
18 believe is the -- as I go back through it, I think that
19 is the right metric here. It might be flipped. They
20 always confuse me but -- as you can tell, I'm not the
21 voter file guy.

22 But you calculate those together and say, all
23 right, well, let me pull -- you rarely just pull a -- a
24 support score. You have to pull it by turnout because
25 otherwise it's -- it's useless. If I know somebody is

1 100 percent Democratic voter, but they voted once in
2 the last 20 years, that's not -- that's not useful to
3 me. I need to know who is actually going to turn out
4 or who has -- who -- who do you need to communicate
5 with to inform them there is an election and, as we
6 talked about, persuadables. You have to look at the
7 metrics to figure that out. And that's what we have
8 really smart data people to do. That's not my thing.

9 Q I'd like to ask you a few bigger picture
10 questions about our political system and how you
11 understand it.

12 Do you believe that voters have a right to
13 representation?

14 MR. DAVID: Objection.

15 A I've honestly never thought about do voters have
16 a right to representation. I -- I -- on the face of
17 it, it sounds right. I mean, sure, but I just haven't
18 given thought to it. As I said, I'm a practice guy,
19 not a theory guy.

20 Q Fair enough. And what are those rights to
21 representation?

22 A I have never --

23 MR. DAVID: Objection.

24 A -- given it thought -- given it thought what the
25 rights to representation are.

1 Q Do you believe that electoral maps can be
2 responsive or nonresponsive to voters?

3 A Responsive or nonresponsive as in to -- to what
4 to voters? I don't -- I don't know that I understand
5 what you mean by that.

6 Q That's fair. And if you -- if you don't know
7 what I mean by it, we can move on.

8 A Okay.

9 Q Let me just tie it off. Do I understand
10 correctly that you've never heard that terminology in
11 relation to electoral districts, being responsive or
12 nonresponsive to voters?

13 A I'm sure I have, but I have paid no attention to
14 it.

15 Q Okay. And you're not here to provide testimony
16 about an understanding of what that statement means?

17 A Not at all.

18 Q Okay. Do you believe that votes can be
19 nullified or diluted?

20 A I do believe votes can be diluted.

21 Q Do you believe that votes can be nullified?

22 A I -- I guess -- I guess that is -- that is
23 certainly a way to phrase it. Diluted is more what I
24 see, but it could -- they could be nullified if you're
25 diluted enough.

1 Q And, in your experience, which is vast in the
2 political realm, have you come across votes not being
3 counted?

4 MR. DAVID: Objection.

5 A Not -- not being counted as in they're --
6 literally, they cast a ballot but they were not
7 counted?

8 Q Correct.

9 A Every cycle, there is in every part of the
10 state, in every part of the country, there is somebody
11 alleging that. Sometimes equipment breaks. Sometimes
12 it's user error. You know, we go through these
13 recounts and you find -- find undercounting. You find
14 these -- a number of things. But as far as
15 specifically a vote that is not counted, I've never
16 been a witness to somebody whose vote was not counted.

17 Q Do you believe that the Democratic Party in
18 North Carolina is entitled to legislative seats?

19 MR. DAVID: Objection.

20 A I believe that voters in North Carolina are
21 entitled to fair districts that represent their views.

22 Q But in every district there's going to be at
23 least one voter --

24 A Right.

25 Q -- likely a lot more, who has a representative

1 who doesn't always agree with them; isn't that right?

2 A Sure. But I would make the point that when you
3 -- when you look at the state, as we talked about
4 Mecklenburg, and when you have 50 or 51 percent voting
5 for Democrats for a majority in the legislature and
6 Republicans have a supermajority or barely broke a
7 supermajority, that would be unrepresentative.

8 Q So when we talked earlier about representative
9 rights, you said that you didn't have an idea of how to
10 describe representative rights.

11 A I don't really think about it as -- I don't
12 think about it in terms of rights. I think about it in
13 terms of fairness.

14 Q Okay. And --

15 A And -- and respecting voters' wishes.

16 Q I see. And how -- I'd like to get an
17 understanding of what you believe is representation.

18 A Um-hmm. I believe -- and, again, I speak as a
19 practitioner, not as -- not as a lawmaker. I believe
20 that when at a fund -- fundamental base when 51 percent
21 of voters choose you, you win. And, in this case, that
22 doesn't -- that has not happened in either the house
23 nor the senate maps.

24 And so I -- I don't look at it as a right to
25 representation. I look at it, as a practitioner, of

1 fairness. If you get 50 or 51 percent, you win. But
2 that is not true in the state legislature currently in
3 North Carolina.

4 Q Let me make sure I understand what you're
5 saying.

6 A Um-hmm.

7 Q I believe that you would agree with me that
8 districts where a Democratic candidate garners the
9 majority of the vote, that Democrat candidate wins,
10 right?

11 A Yes, correct.

12 Q Okay. I understand you to be talking about some
13 form of proportional representation, meaning you're
14 talking about a county like Mecklenburg that has a
15 certain percentage of Democratic support, and you are
16 expecting to see that percentage of support translate
17 into number of seats; is that fair?

18 A What I --

19 MR. DAVID: Objection.

20 A What I'm saying right now is that when you look
21 at the state as a whole and 120 districts in the house
22 and 50 in the senate and Democrats garner over 50
23 percent of the votes statewide by voters, that over 50
24 percent of the voters in the state voted for the
25 Democrat to be in charge of the legislature, but yet

1 Republicans hold large majorities, that, to me -- I
2 don't know about rights and I don't know about this,
3 but that -- that screams unfairness and not
4 representative of the people of what their votes --
5 their votes were cast.

6 Q Is it your position that the electoral maps in
7 North Carolina should be redrawn in order to secure
8 Democrats 50, 51 percent of the seats?

9 A I believe that if a -- one party wins over
10 50 percent of the seats, that is dictating that -- that
11 is where voters' wishes are, and I think the districts
12 should match that, whoever -- whichever party is
13 garnering the majority of votes.

14 Q Okay.

15 A And I think that would be the case if the
16 districts were drawn fairly, that you would end up in
17 that place.

18 Q I see. How often do you suggest that districts
19 be redrawn in North Carolina?

20 MR. DAVID: Objection.

21 A I don't have an opinion on that.

22 Q So if in one election, Democrats garner 60
23 percent in the statewide vote, but two years later they
24 only garner 40 percent of the statewide vote, should
25 districts be redrawn to match Democrat voting support?

1 MR. DAVID: Objection.

2 A I think federally it is every 10 years. I don't
3 think there is -- my opinion doesn't matter.

4 Q So in that scenario I just described, is a
5 voting map that is drawn based on the 60 percent
6 Democratic support voting model where a map is drawn to
7 have 60 percent Democratic seats, does that map then
8 become unfair under your definition when there is an
9 election when Democrats only garner 40 percent of the
10 statewide vote?

11 A No. I think that's the voters' will. But my
12 point is when you consistently vote -- and, as in this
13 election when you -- when -- it -- it's one thing --
14 every two years, voters have an option to change who
15 they vote for. And in 2018, they voted to elect a
16 majority of Democrats, but we do not have a majority of
17 Democrats in the legislature. And if in 2020, they
18 decided to -- the voters of the state decided to elect
19 a majority of Republicans, then so be it; they would
20 have a majority of Republicans.

21 My point is about the 2018 election, and when
22 you elect -- when voters choose 50 to 51 percent across
23 the state Democrats and you end up with 37 or 41 or 42
24 percent elected officials, that does not seem fair to
25 me. As a practitioner, I believe when you get

1 50 percent of the vote, you win.

2 Q Right. Is it your belief that our political
3 system and our electoral system is one of proportional
4 representation?

5 MR. DAVID: Objection.

6 A No. I believe that our political system in
7 North Carolina and our districts in North Carolina are
8 ones that are rigged for a result rather than what the
9 voters wish.

10 Q Okay. That wasn't quite my question,
11 Mr. Jackson, so let me try to focus us in.

12 We have talked quite a bit about your -- and
13 please correct me if I misunderstand your position. I
14 believe your position is that when Democrats receive 50
15 to 51 percent of the statewide vote, they are entitled
16 to 50 to 51 percent of the seats.

17 MR. DAVID: Objection.

18 A I believe if the maps were drawn fairly, they
19 would receive 50 to 51 percent of the seats.

20 Q So we've talked before about the variations
21 between elections. Some of those include voters moving
22 in and out of districts, different issues presented,
23 timing of the election, you identified 2018 as being a
24 midterm election after President Trump was elected.
25 There are a whole host of issues we've discovered today

1 that affect elections. Is it fair to say that
2 Democrats' vote share could waver in years; some years
3 it could be greater than 51 percent of the statewide
4 vote and some years it could be less?

5 A Certainly.

6 Q Okay.

7 A But in '18, it didn't waver. It was 50 to
8 51 percent on the chamber.

9 Q I see. And so -- and the reason I'm asking you
10 this is I'm trying to understand your definition of
11 unfair. The way I'm hearing you, it sounds like your
12 definition of unfair is based on one election, but it's
13 a definition that could not withstand years of
14 variation.

15 A I don't think you're, sort of, addressing that
16 correctly.

17 Q Okay. Please correct me.

18 A I believe that if in 20 -- if -- in a fairly
19 drawn map that if Republicans received 50 or 52 percent
20 of the vote, then they should receive somewhere around
21 that number of representatives. No, I don't believe in
22 a representation as in Europe, but what I do believe is
23 that it should be somewhere near that. What we have in
24 North Carolina is not that. Democrats received over
25 50 percent of the vote and have barely 40 percent of

1 the election -- I mean, of the actual winners, the
2 members of the legislature. And, to me, that smacks of
3 unfairness in the process, and the districts were drawn
4 for that result.

5 Q What percentage of Republican vote share do you
6 need to see for you to say that this map was drawn
7 fairly, to use your own words?

8 A If it was drawn fairly -- I think this is a
9 50/50 state, first of all. If you look at every
10 statewide race, they're generally won or lost within a
11 hundred thousand votes statewide. Democrats win some;
12 Republicans win some. And I think when you look at a
13 50/50 state, yes, you can switch chambers every other
14 year if that is the voters' wishes. But that -- the
15 legislature would more mirror the voters' wishes is
16 what my point is.

17 Q We discussed earlier the concentration of
18 Democratic voters in certain areas of this state. Is
19 it your position that map drawers should look at those
20 areas of concentration and divide them up with the
21 intent of ensuring that Democrats have at least
22 50 percent of the seats?

23 MR. DAVID: Objection.

24 A No. I think it is my -- my belief that the maps
25 should more accurately reflect the wishes of the

1 voters. And if that means that Democrats -- if
2 Democrats get 50 to 51 percent of the vote, they should
3 be -- and not exactly 50 to 51 percent, but somewhere
4 in that ballpark, not 10 or 12 or 14 percent below.
5 That is very askew for what the voters have voted for.

6 Q How would you define the ballpark?

7 A I think a -- you know, a couple of percentage
8 points, not 12 or 14.

9 Q So when there is voting variation, as we've
10 discussed, between elections, should the districts be
11 redrawn in order to match that voting variation?

12 MR. DAVID: Objection.

13 A To make sure I understand your question, are you
14 saying based upon the results of the election?

15 Q Correct.

16 A I think based -- no. I think if the maps are
17 drawn fairly, that the voters will decide themselves
18 every two years when we have elections who is going to
19 be in charge of the state, which is the way that it is
20 set up now.

21 Q And you keep talking about maps being drawn
22 fairly, and we haven't quite defined what that means.
23 We've discussed it, so let me make sure I understand
24 what you're talking about. We discussed the fact that
25 you were not part of the map drawing process. We've

1 discussed that fact that you have -- and correct me if
2 I'm wrong -- limited understanding of the county
3 grouping rule; is that fair?

4 A Yes.

5 Q Okay. And we've discussed the fact that there
6 is a limitation on map drawers regarding one person,
7 one vote. Considering those limitations and others
8 that we've have today, how do you recommend that these
9 districts be drawn -- pardon me, how do you suggest
10 that these districts were drawn in an unfair way?

11 MR. DAVID: Objection.

12 A I think I've stated it several times. And I'm
13 glad to restate it.

14 Q Please do.

15 A Is that I don't believe that these maps are
16 drawn -- that they do not represent the will of the
17 people and the voters of North Carolina.

18 Q And I don't mean to interrupt you, but I want to
19 make sure I understand that. You -- "representing the
20 will of the people," are you meaning to say that
21 because the districts do not match -- the number of
22 seats do not match the percentage of vote for Democrats
23 that they are unfair?

24 MR. DAVID: Objection.

25 A I would say they're unfair because they also

1 don't match the number for Republicans.

2 Q Okay. Are there any other reasons why they're
3 unfair?

4 MR. DAVID: Objection.

5 A I look at it as a practitioner, and based on
6 electoral outcomes, and that is where I base my
7 opinions off of.

8 Q And so if in 2020, election results come back
9 and show that Democrats garner 20 percent of the
10 statewide vote -- bear with me, I understand this is a
11 hypothetical; I'm trying to test your definition a
12 little -- should the map then be redrawn in order to be
13 fair to Republicans in a manner that allows Democrats
14 only 20 percent of the seats?

15 MR. DAVID: Objection.

16 A I think if the map was drawn fairly, that it
17 would reflect voters' wishes, and if the voters' wishes
18 are that a state like North Carolina is 50/50, then I
19 would expect the maps to be much closer in there to the
20 50/50. And in your definition of 20/80, then I would
21 presume that that is the wish of the voters. But as
22 far as redrawn, no. I don't think they have to be
23 redrawn after every election. I don't understand where
24 that question is coming from.

25 Q Okay. Here's where it's going. On your

1 definition of what's fair and unfair as far as
2 districts being drawn, I understand that you're looking
3 at electoral outcomes. So if you under -- if your
4 position is that districts don't need to be redrawn
5 after every election, can't you expect that there will
6 be election outcomes where there is a variation between
7 support for certain parties and the number of seats
8 they have in the legislature?

9 A I believe it should be a minor variation. If
10 the districts are drawn fairly, you will not have --
11 you shouldn't have wild swings of 15 percent off
12 consistently from what the -- what the vote totals are.

13 Q What do you base that opinion on?

14 MR. DAVID: Objection.

15 A I base that opinion on -- on practice. If you
16 consistently get 50 percent of the vote in a district,
17 then -- over 50 percent, you're going to consistently
18 win in that district.

19 MR. FARR: Can we take a break?

20 MS. McKNIGHT: Sure.

21 (A break was had.)

22 MR. DAVID: So I just want to make sure that I
23 designate the discussion you-all had about the
24 support scores, we'd like to designate that whole
25 discussion as confidential.

1 MS. McKNIGHT: Okay.

2 BY MS. McKNIGHT:

3 Q Mr. Jackson, we have discussed today the drawing
4 of electoral districts in North Carolina for the house
5 and the senate, and I'd like to ask you how should
6 these districts be drawn differently?

7 A I think --

8 MR. DAVID: Objection.

9 A -- I would believe they need to be drawn in a
10 more fair manner so that the will of the voters is
11 represented in the outcomes of the elections.

12 Q What criteria would you use or should the map
13 drawer use in order to draw maps in North Carolina?

14 MR. DAVID: Objection.

15 A I'm not a -- I'm not proficient on what the
16 legal requirements are. You mentioned some earlier.
17 But, again, I'm -- I focus on electoral outcomes, and I
18 think that districts should be drawn in a way that
19 ultimately -- and, of course, there will be variances;
20 in elections, there are good years and bad years for
21 both parties. But I think in the basics that the
22 districts over a period of time mirror or closely
23 mirror the elect -- the results of -- of the voters.

24 Q Now, in 2018, you told people that you believed
25 Break the Majority could break the majority in the

1 house and senate, didn't you?

2 A I did.

3 Q And did you believe that at the time?

4 A I believed it for a very long time. And the
5 fact that we were able to raise seven million dollars
6 to put to this effort -- and after we were -- we ran up
7 against the maps and what we found even outspending
8 candidates three and four and five to one and losing is
9 the reason we shut down Break the Majority.

10 Q When did you shut down Break the Majority?

11 A After the election.

12 MS. McKNIGHT: I'd like to mark this as Exhibit
13 8.

14 (Exhibit 8 is marked for identification.)

15 BY MS. McKNIGHT:

16 Q Pardon me, Mr. Jackson. This has some
17 attachments to it. This is Exhibit 8. So this whole
18 -- this packet is Exhibit 8. Pardon me. This is an
19 email string with attachments.

20 MR. DAVID: So it's a four-document packet?

21 MS. McKNIGHT: Yes. I'll put on the record I
22 have marked as Exhibit 8 an email string with the
23 Bates stamp NCDP_0014433. This document is
24 designated confidential subject to protective order.
25 And it spans the Bates pages through Bates page

1 number NCDP_0014440.

2 BY MS. McKNIGHT:

3 Q Mr. Jackson, could you take a moment to look at
4 this, and let me know when you're ready for questions.

5 A I'm sorry. You said 14440? I think I ended at
6 39.

7 Q Oh.

8 A I don't know if I'm -- I don't know if that's
9 the back page maybe.

10 Q (Presenting).

11 A Oh, oh. That's just a --

12 Q There you go.

13 A I'm sorry.

14 Q No, that's okay.

15 A That's -- that's fine.

16 Q For completeness.

17 A And sorry. Say -- say again. You asked?

18 Q Sure. Just take a moment and look at that and
19 let me know when you're ready for questions.

20 Mr. Jackson, I just have several general --

21 A Sure.

22 Q -- questions about it.

23 A I'm good.

24 Q Are you ready? Okay. So do you recognize this
25 document?

1 A Vaguely. This looks like something we put
2 together.

3 Q Okay.

4 A I don't remember this specifically, but this
5 looks accurate.

6 Q And turning to page -- to Bates stamp
7 NCDP_0014435, this document is titled "Break the
8 Majority Press Kit," and it is attached to the email.
9 Does this look like the type of document that Break the
10 Majority would have sent on or around July 18, 2017?

11 A I believe it is.

12 Q Do you have any reason to doubt the authenticity
13 of Exhibit 8?

14 A I -- I do not.

15 Q I'm going to hand you what should be marked as
16 Exhibit 9.

17 (Exhibit 9 is marked for identification.)

18 A Thank you. Are we done with 8?

19 Q Yes.

20 Mr. Jackson, I'll have similar questions for
21 you.

22 A Okay.

23 Q So just let me know when you've had a chance to
24 review it.

25 A Okay.

1 Q Exhibit 9 is an email with an attachment. The
2 Bates range is NCDP_32308 through Bates No.
3 NCDP_0032313. This has been designated as confidential
4 subject to protective order in this case.

5 This is an email from Robert Howard to
6 Letitia.Stein@Thomsonreuters.com copying Morgan
7 Jackson. It is dated April 26, 2018.

8 I notice in the cc line the name "Morgan
9 Jackson"? Is that you?

10 A I believe it is.

11 Q Do you recall receiving this email?

12 A I'm sure I did.

13 Q And turning to the attachment on this email, it
14 is titled "Break the Majority Targets Vulnerable State
15 Republicans." Do you see that?

16 A I do.

17 Q Do you have any reason to doubt the authenticity
18 of this attachment or this email?

19 A No.

20 Q Okay. And why would Robert Howard have sent
21 this email to Letitia Stein?

22 A I believe she is a reporter, and we -- I assume
23 the timeline is right on this. I'm sure it is if it's
24 here. I had recently done a press briefing detailing a
25 series of about 43 polls that we did in April -- late

1 -- late March/early April of 2018 to the North Carolina
2 press corps, walking them through it. And I think this
3 was Robert reaching out to her. I don't remember
4 talking to her, but I talk to a ton of reporters, so
5 I'm sure I did if this says I was going to talk to her.

6 Q And in the attachment, it says from Robert
7 Howard, North Carolina Democratic Communications
8 Director. Do you see that?

9 A Yes.

10 MR. DAVID: She's talking about that
11 (indicating).

12 A Oh, I'm sorry. I'm sorry.

13 Q In the attachment.

14 A Yes, I see that.

15 Q And this attachment refers to Break the
16 Majority. Would you have seen this attachment before
17 it was prepared or finalized?

18 A Yes.

19 Q And do you agree with the contents of this
20 attachment?

21 MR. DAVID: Objection.

22 A I haven't read it line for line but the general
23 premise, yes.

24 Q Let me rephrase that. If at the time this was
25 sent to you before it was finalized, if you saw an

1 error in here, would you have corrected it?

2 A I would. I'm not the best proofreader in the
3 world, so I will say that.

4 Q Well, as far as substance and big picture items
5 go, would you have corrected or edited this attachment
6 if you had found some error in how it represented Break
7 the Majority and Break the Majority's efforts?

8 A I believe so.

9 Q All right. Thank you. You can set that aside,
10 sir.

11 So on that attachment, turning to page NCDP
12 32312 --

13 A Um-hmm, yes, ma'am.

14 Q -- the third header down is titled, "Nationwide,
15 2017 State and Special Elections Signal Shift
16 Leftward."

17 A Um-hmm.

18 Q And in the second bullet point -- sub-bullet
19 point it says, "With new maps, more funding and an
20 increasingly favorable political environment, Democrats
21 are well positioned to break the supermajorities in
22 2018 and battle for majorities in 2020." Do you see
23 that?

24 A Um-hmm.

25 Q Did you agree with that at the time?

1 A I remember us backing that down because of the
2 fact that there was a lot of pushback from donors about
3 -- we didn't want to set an expectation that we could
4 not meet. And in politics and fundraising, you always
5 want to make sure that you're not setting expectations
6 you cannot meet.

7 And so we -- I remember the -- the purpose of
8 that. Some of the finance folks were saying they
9 wanted us to change that to set up a two-tiered system
10 so that we gave ourselves some wiggle room with donors
11 so they would not feel -- again, setting expectations.

12 Q But you changed that from the way it's written
13 here?

14 A No. I -- I don't know -- no, no, no, I'm sorry.
15 I think you misunderstood. I'm saying I -- I --
16 originally, our communication was about we were going
17 to break the majority in '18, and we didn't discuss
18 2020. And several folks were pushing us to change the
19 way we worded it, and I think that's what this resulted
20 in because it made it more achievable to donors as a
21 fundraising mechanism.

22 Q I see. And so you believe it's achievable to
23 battle for majorities in 2020?

24 A At this time, I do not.

25 Q Okay. At that time, you did?

1 A At that time, I still felt very possible given
2 the very strong climate, the -- political climate for
3 Democrats. I talked about the tsunami belief earlier.
4 The fact that there were new maps on the horizon that
5 we believed had to get a lot better, and then it turned
6 out they didn't. But, ultimately, we felt like if we
7 could raise the money, outspend the Republicans, in a
8 blue moon election cycle when only motivated voters
9 would vote and with Donald Trump's high unfavorables in
10 an anti-incumbent environment, we felt that we had the
11 perfect storm, that if we were ever going to have a
12 chance to break the majorities, it would be in 2018.

13 And so we raised well over seven million dollars
14 and spent over thirteen million combined with
15 candidates. We targeted 22 house seats, spent several
16 hundred thousand on those house seats trying to win 15,
17 and we won nine. In the senate, we targeted 13 seats
18 with several hundred thousand, the substantial
19 investments, and we won five. And -- and of those
20 five, we won three within less than one point. And
21 then the house, of the nine seats that we won, two were
22 within less than one point and two of the Democrats who
23 won received less than 50 percent of the vote.

24 And so that has changed my belief on what is
25 possible based on these maps.

1 Q By this point, April 11, 2018, you were aware of
2 the shape of the maps; were you not?

3 A Yes.

4 Q Okay. And, at that time, you believed that you
5 were well positioned to break the supermajorities in
6 2018 and battle for majorities in 2020, right?

7 A I actually was more optimistic than that. But I
8 listened to a lot of the folks who raised money for us,
9 and they believed it was more important to set the
10 expectation game appropriately with donors.

11 Q So do I understand correctly that you will not
12 battle for a majority in 2020?

13 A We have closed Break the Majority down. The
14 state house and senate caucuses will continue to run
15 their efforts and continue to -- to, hopefully, hold
16 what they have gained, but I do not believe there will
17 be the significant investment in 2020 as there was --
18 there will not be, from the governor's perspective, as
19 significant an investment in 2020 as there was in 2018.

20 Q And Break the Majority was able to break the
21 supermajority, wasn't it?

22 A Barely, yes.

23 Q And the governor was happy about that, wasn't
24 he?

25 MR. DAVID: Objection.

1 A We were pleased that -- that there are not
2 supermajorities, but as we often find, sometimes they
3 don't hold in the legislature.

4 Q And, in fact, you spoke with the media about
5 being happy about breaking the supermajority, didn't
6 you?

7 A Yes. Absolutely.

8 Q You can set that to the side.

9 Mr. Jackson, do you understand that document
10 requests were served on you as part of a subpoena?

11 A I do.

12 Q What did you do to search for responsive
13 documents?

14 A I received that subpoena -- I don't recall the
15 date, but it was pretty late in the process. And when
16 I advised my attorney, I think they objected.

17 MR. DAVID: Oh -- yeah. I was going to say
18 don't get into what --

19 BY MS. MCKNIGHT:

20 Q Yeah, don't --

21 MR. DAVID: -- any communications we had.

22 A Sorry. I apologize, but ...

23 Q Right. I'm not interested in any --

24 A Right.

25 Q -- communication you had with your attorney.

1 I'm trying to get an understanding of what
2 effort, if any, you conducted to search for responsive
3 documents.

4 A I did not in a matter of two or three days
5 before this was to be scheduled. I did not.

6 Q And you haven't -- you haven't searched for any
7 documents between when you received the subpoena and
8 today, correct?

9 A Nope.

10 MS. MCKNIGHT: Okay. Well, thank you,
11 Mr. Jackson. We would like to hold open this
12 deposition considering the fact that we have not
13 received any responsive documents to your subpoena.
14 But, other than that, we have concluded our
15 questioning for today, and we appreciate your time.

16 THE DEPONENT: Thank you very much.

17 MS. MCKNIGHT: Thank you.

18 MR. DAVID: I just want to object on the record
19 to keeping the deposition open. I think the -- my
20 understanding is the subpoena was served after the
21 close of fact discovery in the case, and so we don't
22 think it's a proper subpoena. In any event, we
23 don't think there is any basis to hold the
24 deposition open and we would object to reopening it.

25 I don't have any questions. I don't know if

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any of the other attorneys have any questions.

MR. ROBINSON: No questions.

MS. HENDERSON: No questions.

(SIGNATURE RESERVED.)

(THE DEPOSITION CONCLUDED AT 6:11 P.M.)

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ERRATA SHEET

Case name: COMMON CAUSE, et al.
vs.
DAVID LEWIS, et al.

Case number: 18-CVS-14001

Witness name: Morgan Jackson

Date: May 15, 2019

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SIGNATURE PAGE

I, Morgan Jackson, do hereby state under oath that I have read the above and foregoing deposition in its entirety and that the same is a full, true and correct transcript of my testimony, subject to the attached list of corrections, if any.

Morgan Jackson

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public
My commission expires: _____

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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)

I, Eileen M. Dunne, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

EILEEN M. DUNNE
Notary Public # 201314900195

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