Exhibit K:
Chris Turner
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHANNON PEREZ, et al.,

Plaintiffs,

v.

STATE OF TEXAS, et al.,

Defendants.

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MEXICAN AMERICAN LEGISLATIVE CAUCUS, TEXAS HOUSE OF REPRESENTATIVES (MALC),

Plaintiffs,

v.

STATE OF TEXAS, et al.,

Defendants.

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TEXAS LATINO REDISTRICTING TASK FORCE, et al.,

Plaintiffs,

v.

RICK PERRY,

Defendant.

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MARGARITA V. QUESADA, et al.,

Plaintiffs,

v.

RICK PERRY, et al.,

Defendants.

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JOHN T. MORRIS, 

Plaintiff, CIVIL ACTION NO. 
v. 
STATE OF TEXAS, et al., [Consolidated case] 

Defendants. 

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EDDIE RODRIGUEZ, et al., 

Plaintiffs, CIVIL ACTION NO. 
v. 
RICK PERRY, et al., 

Defendants. 

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ORAL DEPOSITION OF 

REPRESENTATIVE CHRIS TURNER 

MARCH 26, 2014 

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ORAL DEPOSITION OF REPRESENTATIVE CHRIS TURNER, produced as a witness at the instance of the Defendants, and duly sworn, was taken in the above-styled and numbered causes on the 26th of March, 2014, from 9:30 A.M. to 2:45 P.M., before Kathleen Casey Collins, CSR, in and for the State of Texas, reported by machine shorthand, at The Office of the Attorney General for the State of Texas, Price Daniel Building, 209 West Fourteenth Street, Austin, Travis County, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions attached hereto.
2013 redistricting session?

A. So to prepare myself for the 2013 redistricting session, I did several things. I -- even though I was not a member of the committee, I sat in on two or three of the committee hearings -- the House redistricting committee hearings and listened to testimony. I, you know, read documents related to the legislation, as I would on any bill that we might consider on the floor of the House. I talked to colleagues. So, you know, I would say all of the things that you would typically do -- that a legislator would typically could to prepare for having to vote on and propose, you know, amendments to -- to legislation I did.

Q. Redistricting is an area of law that sort of -- it is an area of legislation that intersects with the law. Correct?

A. Certainly. I think --

Q. Okay.

A. -- legislation by definition intersects with the law --

Q. Okay.

A. -- but certainly redistricting, yes, does.

Q. So I want to ask you about what resources were you utilizing during the session to inform yourself
about the law in addition to observing the hearings and
sort of participating that way?

A. Okay. The Texas Legislative Council data on, you know, population numbers, population growth. You
know, you look at ethnicity. You look at election results. You look at, you know, a variety -- there's a
variety of data available to -- to the public and certainly the legislators to -- to help make those
decisions.

Q. You mentioned TLC, the Texas Legislative Council. Did you utilize the Red Apple software that
they provide?

A. Yes.

Q. Okay. Did you have help in doing that?

A. I don't think I ever had any kind of tutorial or any -- anything like that, no. I think I sort of figured it out to the extent that I used it any.

Q. As a general matter as a Representative, when you're -- when you need information -- redistricting being one example -- you will utilize Texas Legislative Council as a resource. Correct?

A. Yes.

Q. And do you presume that those communications that you're having with the attorneys over at Texas Legislative Council are confidential communications?
A. They're supposed to be, yes.

Q. Okay. And when you operate and when you're speaking with them, you're doing so under the presumption that those communications are not something that are to be disseminated by them or you. Correct?

A. That's right.

Q. Okay. Let's talk about the resources. Now, Texas Legislative Council produces a whole lot of population data, Red reports. Did you review those resources during the redistricting term?

A. Yes.

Q. Do you recall who specifically at Texas Legislative Council you spoke with?

A. No. And generally when I would need specific -- and not just for redistricting but anything. If I needed something from Legislative Council, I would communicate that to my staff, and they would talk to Legislative Council.

Q. Sure. If you had a specific redistricting question, you would designate someone on your staff to contact TLC?

A. Generally speaking.

Q. Who was sort of your redistricting point person on your staff?

A. My chief of staff, Emily Amos, would have been
the primary person. My, at the time, deputy chief of
staff, Kate Fox, was -- was also someone I used as a
resource.

Q. Now that we're starting to talk some about the
session, and I'm going to have a whole lot more
questions about the '13 session, I want to go ahead and
ask you with counsel present are you in any way
asserting the legislative privilege with respect to
communications you've had with other legislators?

A. I'm not asserting legislative privilege
with -- with respect to redistricting.

Q. Okay. During the course of the questioning, I
may ask you some questions that implicate communications
with other members of the Legislature in 2013. I don't
have a list. I don't know -- obviously, the legislative
privilege exists is -- is our position and as we've
articated, and so what I want to do is make sure
that -- we don't know the specific legislators that are
going to be asserting such privilege. So when we get to
those communications, if there's a specific
communication that you had with a legislator, if you
would let me know that you're about to go into the
substance of it, then we can decide whether -- at that
point we can revisit the issue as to whether or not
there may be privilege that attaches with respect to
that communication. Is that fair?

A. Yes.

Q. Does that make sense?

A. Yes, I understand.

Q. Okay. So, in other words, I want you to give me, you know, complete answers to all questions; but if it implicates a specific conversation with a legislator, let me know that and we may ask some -- we may know that that person has or hasn't asserted privilege, and we may just ask questions about the specific communication. Is that fair?

A. Understood --

Q. Okay. Good.

A. -- yes.

Q. Did you feel like Texas Legislative Council was a good resource that was at your disposal during the 2013 session?

A. My -- Are you speaking specifically on redistricting or just in general?

Q. Redistricting, yes, sir.

A. Okay. To the extent that I needed information from Legislative Council that was data, reports, copies of maps printed out, they were responsive. I never -- as I was not a member of the committee on redistricting and I was not a -- obviously in the House leadership to
1 where I was in any way part of the process that was
2 underway to draw the maps or to essentially ratify the
3 interim maps, I did not have occasion to deal with
4 people at leg. council in terms of, you know, legal
5 advice on -- on different maps. It was simply a matter
6 of requesting data, requesting copies of maps that --
7 fairly mundane tasks.

Q. Did you seek legal advice from Texas
8 Legislative Council?
9
A. Not that I can recall, no.

Q. Is there any reason you didn't?

A. I don't recall ever having an occasion to seek
legal advice have legislative council.

Q. Had you had a question -- legal question where
you felt like you needed an answer, would you have been
comfortable contacting TLC?

A. I would have -- That's kind of a hypothetical
question. I guess it would really depend on what the
specific need was. You know, I -- I would not be
opposed to calling Legislative Council and asking their
opinion, no.

Q. Okay. And do you -- do you think that their
opinion related to redistricting matters was valuable?

A. Is there a specific opinion we're talking
about --
session?

A. Yeah. I think if I -- if I needed something specific, I knew that I could call Mr. Hebert.

Q. Did you utilize any other legal resources during the course of your -- of the redistricting session?

A. No, not that I can recall. No.

Q. Were there certain legislators in the Texas House or Senate that you felt had a specific knowledge of redistricting that you relied upon?

A. Yes.

Q. Who were some of those individuals?

A. Well, there are a number of my colleagues who I think have some expertise on redistricting. If I may back up a little bit and say I would, in a sense, view redistricting much like many other issues that we have. If we're talking about public education funding, we have certain colleagues that I view as experts on public education funding, if we're talking about healthcare, criminal justice, and so redistricting is no different.

In the House, I would view -- I would say Representative Trey Martinez Fischer is someone who is knowledgeable about redistricting and Representative Garnet Coleman. Those would be two examples.

Q. Okay. And so were there times during the
session when you relied upon Representative Trey
Martinez Fischer and his knowledge of redistricting?

A. I'm not sure what you mean by "relied upon."
I certainly visited -- well, I don't know if it gets
into an area of --

Q. He's waived his. Mister -- Representative
Martinez Fischer has been deposed and waived his
legislative privilege and so you're free to discuss
those issues.

A. With respect to redistricting. Okay.

Q. Yes. And that's all I'm asking about anyway
is just the redistricting aspects of that. I'll -- go
ahead.

A. So he's someone whose opinion and advice I
thought was important to -- well, his perspective on the
proceedings was -- was important to have and to know.
So certainly he's someone whose opinion I respected.

Q. Okay. By the way, one thing I didn't tell you
is if at any point you want a break --

A. Okay.

Q. -- let me know and we'll take a 5-minute or
10-minute, whatever you need, break.

A. Okay.

Q. I'll stop the proceedings for a while.

A. Thank you. I'm fine right now. Thanks.
A. Yes.

Q. So as expressed in this letter, is it a true statement that the House Democratic Caucus was not opposed to taking up the issue of redistricting as a general matter?

A. That's -- that's correct. Our -- our point of contention, as conveyed in this letter, was the idea that the Legislature would simply rubber stamp the interim maps that were always intended to be temporary.

Q. Okay. And so with that statement, it was the position of the House Democratic Caucus that by itself it was an appropriate issue for the House to take up the issue of redistricting. Correct?

A. Yeah. I think that members of the Legislature know redistricting is a legislative duty, and there were obviously problems with what the Legislature had passed in 2011, and therefore redistricting was yet to be resolved. I think there was also an awareness that there was still litigation pending before courts and, you know, so there were certainly different -- different paths that could be taken. The legislature could choose to do a number of different things. Our position was no matter what, the Legislature should not simply rubber stamp the -- the Congressional and House maps --

Q. Okay.
A. -- the interim maps.

Q. And within your answer, I think that you indicated that you believe redistricting would be a legislative function fundamentally. Correct?

A. In the State of Texas, it is, yes.

Q. Okay. And it's not your position, Representative Turner, that the function of redistricting should be, as a general matter, seeded to a Federal Court to determine?

A. Well, I think that the Legislature, under our State Constitution, is charged with -- with coming up with redistricting plans following the census. But the courts have always played a role in redistricting and -- and, unfortunately, particularly in Texas where I believe every decade since the 1970s at least one of the plans - House, Senate or Congress - has been ruled either to be in violation by a court or has failed to obtain preclearance by the Department of Justice. So I think that there's always going to be a significant role for the courts in redistricting and -- and --

Q. Without question, and obviously the Voting Rights Act exists and certainly Federal Court review is present. But my question was more related to you don't have a fundamental problem and you didn't have a fundamental problem in 2013 with the Legislature taking

89
up the issue of the Texas redistricting House and Congressional maps?

A. I would not have had a problem with the Legislature taking up redistricting if the Legislature had been serious about having a real debate and discussion about what the best way to draw House and Congressional districts would be.

It was clear during the regular session and made especially clear during the special session that there was never any intent to have a serious or open process. It was simply to rubber stamp the interim maps.

Q. Okay.

A. And so -- so that was -- speaking for myself only, that was certainly my objection to the process.

Q. All right. And I need to be -- I want to be clear, though, with my question. So -- so it's not -- whereas you may have observed that efforts other than -- actually, strike that.

So what I hear you saying is you don't have an issue with the Legislature taking it up and you didn't in 2013 except for to the extent that you believe that they were intent upon adopting the interim maps. Correct?

A. That's correct.
another way.

MR. HEBERT: By him?

Q. Did you advocate a specific change that you recall to this Plan H309?

A. As I recall, during the first called session when we voted on redistricting plans, I believe that there were statewide substitutes that were offered. I believe Mr. Martinez Fischer offered one. I believe Representative Yvonne Davis offered one. There may have been others. I don't recall the specifics of those plans; but, in general, I recall that they afforded more opportunities for minority voters in the State of Texas to elect candidates of their choice in different districts and so --

Q. And so I think --

A. -- either one of those plans I think would have represented an improvement -- a dramatic improvement over Plan 309.

Q. Okay. So as I understand your answer, you believe the alternative plan that should have been used was a plan produced by Trey Martinez Fischer or a plan produced by Yvonne Davis. Is that right?

A. I think that either one of those plans would have represented a dramatic improvement over -- over this plan. I don't -- I'm not contending that there is
one way and only one way in which to fix the existing
House map, but I think that both the Martinez Fischer
plan and the Davis plan could well have -- have done
that, yes.

Q. What are the specific -- do you know the
numbers? Mr. Martinez Fischer filed several. Do you
know the specific number that you advocated of the
Martinez Fischer or the Davis plan?
A. I don't recall the specific number. Do you
mean the plan number?

Q. The plan number, uh-huh.
A. No, I don't recall the plan numbers.

Q. Do you recall -- and these were plans that you
believe were offered during the special session of 2013.
Right?
A. Yes.

Q. Okay. Now, you've told me about a couple of
alternative plans that you remember at the time you
would have supported.

As you're sitting here today, is there a
specific area of the map that you can show me that you
believe -- where you believe a Latino or
African-American opportunity district should have been
drawn, even by region or county?
A. This isn't meant to be exhaustive, but I can
Q. Okay. But Mr. Lozano at the time -- let's talk about District 43, Mr. Lozano. When Plan H283, which is the plan passed by the 2011 House, was passed, Mr. Lozano was a Democrat. Right?

A. I believe so. He switched. I wasn't in the Legislature at that time. I know he was elected as a Democrat in 2010, and at some point he switched parties before the next election. I don't know what the timing was, though.

Q. Do you know if Mr. Lozano -- do you know the facts behind 2011, how that district changed?

A. No. As I stated previously, I wasn't here in 2011.

Q. Okay. So you have some criticism of HD 43 as it's configured?

A. Uh-huh.

Q. What is that specific criticism?

A. I just remember in the floor debate, I know Representative Martinez Fischer specifically -- I believe Mr. Lozano asked some questions of Mr. Martinez Fischer specifically as it related to that district; and I think in the Martinez Fischer map, there was a proven way to draw that to maximize Latino voter strength is my recollection.

Q. You believe that was in the Trey Martinez
Fischer plan?

A. I believe so.

Q. Okay. Other -- other changes that you saw to H309?

A. Well, there were. There were a number. I know Bell County was another one that --

Q. And what did you think should be done to Bell County?

A. Well, I know what was -- what was done, I believe, in the Martinez Fischer plan is that you would have seen the Killeen area -- I don't think there's a blowup on here and so it's a little hard to tell. But there's -- there's a significant African-American population in Killeen, which, in my understanding, has been fragmented from -- has been fragmented I should say and therefore weakening the African-American voting strength there.

Q. Now, you would agree that the San Antonio Court had had an opportunity -- and let me -- before I do this, do you have any other specific criticisms as you're -- as you're sitting here regarding the H309 plan or any changes that you would have advocated other than either what you've said or that was contained in those two plans?

A. Well, as I mentioned, in -- in Tarrant County
a -- an initial meeting.

A. That -- that sounds familiar --

Q. Okay.

A. -- that perhaps there was a Senate hearing. I don't recall any action in the House other than the bills being filed on the last day that House bills could be filed.

Q. Okay. So one of the issues -- and so the Governor calls the special session at some point in late May. Is that right?

A. It was the day of sine die. We had been adjourned for less than an hour or two and he called the special session, yes.

Q. Okay. In the special session, the only issue in the special session from that time until the redistricting bills were passed was redistricting?

A. Initially, redistricting was the only item on the call. I -- It's my recollection that the Governor added additional items prior to --

Q. The conclusion of redistricting?

A. Yes.

Q. Okay.

A. I don't know the -- I don't recall the exact timing; but at some point after the initial call and the charge to do redistricting, he added some other items, a
1 criminal justice issue, an abortion issue and ultimately
2 a transportation issue, I believe.

3 (Exhibit No. 13 marked)

4 Q. All right. So I'm going to hand you what
5 we'll mark as Deposition Exhibit No. 13. Now, it's a
6 true statement, isn't it, that the call of this special
7 session caused you some concern?
8 A. Yes.
9
10 Q. And I think you objected and you felt like the
call was too restricted. Right?
11 A. I -- I had criticisms of -- well, I had
12 concerns that the Legislature would take up
13 redistricting with the stated purpose of adopting
14 interim plans, yes, which was essentially what was in
15 the Governor's call.
16
17 Q. Okay. And you had a discussion with
18 Speaker Straus regarding that issue?
19 A. Yes.
20
21 Q. Okay. And I've handed you what's been marked
22 as Deposition Exhibit No. 13, and this is a media report
23 from the "Dallas Morning News."
24
25 In the first sentence it says "Speaker
26 Joe Straus, in an exchange with Representative Chris
27 Turner, D-Arlington, said that members were welcome to
28 offer changes to the existing interim maps under
held by the Senate. Is that your understanding?

  A. Yes.

Q. Okay. There was one held in Corpus Christi, for example, one in Houston?

  A. Yes.

Q. And you didn't attend any of those?

  A. No, I did not.

Q. Okay. Are you critical of the field hearings that were held?

  A. My opinion on the field hearings is that they were held in an effort to make the process a little better, to put a little window dressing on things, but that the intent never was to truly listen to public input and use that public input to adjust or improve the redistricting plans that would be adopted. It was pro forma and it was a box to check and it was -- that's all it amounted to.

Q. And that's -- that's your opinion that you hold. Correct?

  A. Yes.

Q. Is there any statement from anyone that that -- where anyone indicated that this is -- that this is just pro forma or a box to check?

  A. Not that I'm aware of, but I think the facts point to that. I think I made the point in the floor
debate that, you know, my staff had gone through all of
the House committee hearings and tallied up how many
witnesses came and testified or -- or registered in
favor of the interim House plan or the interim
Congressional plan, how many testified or registered
against the interim House or Congressional plan, and it
was 400-something to, you know, 60, roughly speaking.
So, obviously, overwhelmingly the public testimony was
opposed to adopting the interim plans, and then the
input was ignored. So I think that tells me that the
committee and the Legislature was not interested in
public input and in improving the plans, no.

Q. Well, and -- and so your opinion is based upon
the numbers that you've looked at?

A. That's one factor.

Q. What are other factors that lead you to that
opinion, that these were just pro forma?

A. That the alternative plans proposed by other
members -- if you look on these hearing notices, for
instance, HB 13 by Representative Yvonne Davis, "14" by
Yvonne Davis, "17" by Coleman, "26" by Anchia, "11" by
Oliveira, "13" by Davis "14" by Davis. I believe there
was a Martinez Fischer plan. Maybe that was on the
House floor. But none of -- none of those alternative
plans that were proposed by frankly any member other
than the chairman, but certainly plans proposed by
minority members of the Legislature, by members who
represent majority minority districts, none of those
plans were taken seriously or considered seriously so...

Q. Well, I mean, let -- let's -- let me break
that down. First of all, you gave us some numbers,
400-something to 50.

A. And those are rough. That's my --

Q. Okay. Fair enough.

A. -- rough recollection.

Q. But it's a true statement, isn't it, that
during his introductory remarks that Chairman Darby
asked that if there are specific problems with specific
districts that he wanted those addressed with
specificity at those hearings? That's what he said;
right?

A. He did say that, yes.

Q. And you would agree, as a participant to some
of the hearings, that there were multiple individuals
that would come in and fill out a card and not speak.
Right?

A. Yes.

Q. There were multiple individuals who got up and
spoke and didn't provide a legal basis for requiring a
change. That's true, isn't it?
A. Sure. But it's not the public's job to do the
Legislature's job for it. I think that the -- the
Legislature can take public testimony, and then it's --
it's our job as legislators to craft plans that (a)
conform to the law and (b) indicate we've taken into
account some public opinion. But, I mean, I don't think
we ought to hold layperson witnesses from Arlington,
Texas responsible for, you know, proposing specific
legal remedies to -- to maps. I think if we do that,
you know, we're setting an incredibly high bar for
public participation in the process.

Q. But you counted the -- you counted what you
considered the votes at the hearing -- right -- at the
hearings. Right?

A. I wouldn't call them votes, but I would say
people who registered an opinion.

Q. Okay.

A. Yes.

Q. And that would just -- and as to the
specificity that was offered regarding the legal
defects, you would agree with me that there was very
little offered?

A. By members of the public, that is probably
true. I think members of the committee and members of
the Legislature offered very specific detailed plans and
laid-out plans that -- that would have been dramatic
improvements. I mean those plans were not adopted --

Q. But when --

A. -- or not seriously considered even.

Q. When you use the term "dramatic improvements," are you saying they were legally required improvements, or are you saying that you would have -- that they're improvements that you would have liked to have seen adopted?

MR. HEBERT: I'll object to the form of the question in that it's asking a legal question, whether they're legally required.

A. And I don't purport to say something would be legally required or -- or not.

I come back to, you know, the -- the overarching issue for me, which is that the population growth in the state was 89 percent minority in the last decade and that the 2011 maps drawn by the Legislature and then the 2012 maps -- interim maps by the courts don't reflect those population changes.

I think that the alternative maps offered by some of my colleagues - Representative Davis, Coleman, Martinez Fischer and others, Anchia - would have -- would have improved the interim maps, but those plans weren't seriously considered by the Legislature.
agency typically sends representatives to be available as a resource should the committee have questions."

Did I read that accurately?

A. Yes.

Q. Okay. Now, so one of the areas that you were critical on and is reflected here is that -- that the Attorney General did not appear at the redistricting committee. Is that correct?

A. Well, the attorney general's office. I wasn't suggesting that the Attorney General -- that Attorney General Abbott himself needed to appear. That would have been good, I think, had he done that because he was obviously the person who was pushing and advocating for adopting the interim plans. But my questioning here with Representative Darby -- or in my exchange with him I say did the -- did the Attorney General's office make itself available as a resource witness. So I would mean, you know, Attorney General attorneys -- Attorney General office attorneys, staff members, et cetera, as we often in -- you know, if I'm in the insurance committee, we'll have resource witnesses from the Department of Insurance who -- it's generally not the insurance commissioner. Sometimes it is, but usually it's people in her office. That's what I -- that's what I meant here.
And I was surprised that in a redistricting committee hearing and several hearings, as we've talked about already, that there was never the opportunity for members of the committee to call the Attorney General's office as a resource witness.

Q. Were you present -- do you know if Chairman Darby obtained legal counsel?

A. I believe he did.

Q. Okay. And do you know who his legal counsel was?

A. I -- I knew at one time. I've forgotten the name.

Q. Do you know if he offered to make his -- the legal counsel available to the remainder of the committee?

A. He may have. I'm not -- I'm not positive.

Q. Do you know if other members of the committee, Mr. Martinez Fischer being one of them, objected to using committee -- to using the attorneys that mister -- that Chairman Darby had retained?

A. I do remember in the Dallas field hearing in which I was present there was a discussion and I believe an objection over the redistricting committee's counsel and that the counsel, I believe, was asked to leave the proceedings.
Texas, that's our role. You understand that; right?

A. Yes.

Q. Okay. And you understood that in representing the State of Texas' interest in litigation that you were asking -- if you requested -- if you were seeking the Attorney General to show up at the committee, you were asking one of the litigants to be subject to questioning by the committee members that were also litigants, Mr. Martinez Fischer being one of them. Correct?

A. Yes. However, I do think it's highly unusual that the committee would be discussing legislation in which a state agency is very much involved and has a lot of knowledge of and I would think a lot of expertise in that that agency would not be available as a resource to that committee, and I found that concerning in and of itself.

I found it especially troubling then as I learned -- as we learned on the floor of the House this day that the Attorney General's office apparently had made an appearance at the Republican caucus meeting, the House caucus meeting, and had made itself available to Republican House members in a private closed meeting but not to the committee in public.

Q. Now, we've already discussed sort of the
Do you know that one way or the other?

A. I would not be surprised to -- to hear that, no.

Q. Okay. Did you -- did you look at some of the briefing regarding the state's position from the Section 2 and Section 5 cases?

A. I'm sure I have at times. I don't recall specifically, but I'm sure I've seen some of those briefings, yes.

Q. Okay. Now, first of all, I think you've indicated that Chairman Darby is a gentleman. Correct?

A. A what?

Q. A gentleman.

A. Yes, he is.

Q. You have a good working relationship with Chairman Darby. Correct?

A. We have a good professional relationship as colleagues, yes.

Q. Okay. You don't have any reason to doubt his truthfulness, Chairman Darby?

A. No.

Q. Okay. Are you in any way critical of the way that that redistricting committee was run?

A. Well, I'm critical of the process as a whole, and the committee is certainly part of that process.
It was my sense that the entire process was rather closely directed by the Attorney General's office and that the members of the Legislature went along with it -- or I won't say the members, but the members of the majority party largely went along with that, and that's what resulted in what I think was a flawed process where public input was at first not going to be really sought out, and then when it was, it was largely ignored and in favor of simply rubber stamping the interim maps, which was I believe was the -- which was the stated intent all along from what the Attorney General had asked the Legislature to do during the regular session to then what he asked -- to then what the Governor put on the call for the special session. I think that was the very clear plan and direction the entire time from the leadership and -- and the Attorney General.

Q. Well, I want to drill down on your personal knowledge with respect to the role of the Attorney General in the process.

Are you -- first of all, what personal knowledge do you have of the involvement in the Attorney General -- of the Attorney General's office with respect to the redistricting legislation in the spring or during the special session? Do you know --
have any personal knowledge of any involvement?

A. I have personal knowledge of a letter or communication to -- I believe to the Speaker and to the Lieutenant Governor during the regular session asking that the Legislature adopt the interim maps as the permanent maps for the rest of the decade.

Q. Okay. What else?

A. And then that -- that coincided with the filing of the -- of the bills during the regular session on the last day of the House filing period.

And then obviously the -- as we've discussed already, in the exchange of letters between the Democratic Caucus and the Attorney General, I think the Attorney General made it clear, you know, he thought that the correct position was to proceed with -- with adopting those maps.

Q. What other personal knowledge do you have of the Attorney General's role in the redistricting process?

A. I know from conversations with colleagues, some of which may be getting into a privileged area. I don't know. Again, I'm happy to waive mine in this context but --

Q. And we can isolate that. But I want you to -- conversations, and so we'll go back to that, and then I
want to know additional personal knowledge you have of
the Attorney General's office's involvement in the
regular session or special session redistricting
process.

A. Well, through conversations I had, it was
clear that the Attorney General's office was --
throughout the process was saying what the Legislature
could do and could not do, whether that was in terms of
amendments on the House map, which we talked about
before, and that there were -- I think you stipulated
six amendments that were adopted. I also know for a
fact there were amendments that were agreed to between
two members in El Paso County in one instance, which the
Attorney General objected to. And -- and if the
Attorney General objected, it was not adopted. If the
Attorney General -- when I say "the Attorney General," I
mean the office. I don't mean the individual. If the
office objected, it was not adopted. If the Attorney
General's office said it was okay, it was, you know, at
least made -- the chairman of the committee at least
said it was acceptable to him as an amendment. So -- so
that's my knowledge as a member of the Legislature as to
what that involvement was.

Q. Okay. And so I want to be sure I'm clear
that you're talking about the amendment process, and I
A. Yes.

Q. Okay.

A. Yes.

Q. It's not based on your personal observation or your own knowledge. Right?

A. That is correct.

Q. Okay. Now, let me ask you this: You mentioned earlier something about a Republican caucus meeting that someone in the Attorney General's office attended?

A. Yes?

Q. Do you have any personal knowledge of that occurring?

A. Well, I wasn't in the Republican caucus meeting. They don't -- they don't let me in those.

Q. All right.

A. But yeah, I have personal knowledge in that Chairman Darby acknowledged that in an exchange that he and I had --

Q. And this is public record. Right?

A. -- on the floor of the House.

Q. And this is public record. Right?

A. Yeah. This is in the "House Journal."

Q. Okay.

A. And this is -- as I was saying, I asked him
about if the Attorney General's office had been
available as a resource witness for the committee, and
Chairman Darby said no; and I asked if he knew why the
AG's office did not make itself available, and he said
no.

I said "Okay. But they did make
themselves available as a resource to a Republican
caucus meeting this afternoon. Is that right."

Mr. Darby said, "They were here at the
caucus meeting."

So that's my personal knowledge of that.

Q. It's just what's on the public record?
A. Yes, sir.

Q. Okay. And who -- who that was or anything
about the particulars, how long the conversation
occurred, what it involved, you have no information
about that?
A. I don't know who it was, how long it was. I
do know -- or I recall from the time that it was
specifically about amendments and if amendments were
okay to offer or not okay to offer and -- and what the
Attorney General's office's view was on amendments to
the House map.

Q. Okay. But as to the substance, I mean, you
don't know one way or the other?
A. No. I don't know any specifics --

Q. Okay.

A. -- no.

Q. And you don't know the Attorney General's position on amendments, if they have one?

A. Well, I had the distinct impression from talking with colleagues who were trying to offer amendments that if the Attorney General's office was not okay with the amendment, the amendment was not going to be considered by -- by the House, or at least would not be acceptable to the author --

Q. But again --

A. -- of the amendment.

Q. -- that's not based on your personal knowledge?

A. That's correct, yes.

Q. Okay. Now, Chairman Darby, do you recall him asking other participants in the litigation if -- basically telling them that if they wanted to sit down and explain issues related to their position on adopting the interim maps or the redistricting process in general whether he would make himself available for that?

A. He may have. I don't recall specifically.

Q. Okay.

A. I'm not a litigant, and so that wouldn't have
A. No. I know that they were all, I believe, fairly minor, minor as in they didn't move a lot of geography one way or the other, I think. But I don't know the specifics, no.

Q. Do you have any understanding of why -- and you mentioned earlier the El Paso amendment, why the -- and I assume you're talking about the amendment offered by Representative Joe Moody?

A. It was an amendment that Representative Moody and Representative Marquez had worked out involving their two districts.

Q. Did you understand that the Court maps had already changed the configuration of El Paso, the El Paso House districts?

A. I knew that there had been a change, yeah. I didn't know the specifics of it.

Q. Did you know that there had been an additional HCVAP population added to District 78 by the Court?

A. I'm not aware.

Q. Okay. Do you know -- do you have any personal knowledge as to why the amendment -- why those who voted against it voted against the amendment?

A. Well, I think that the -- the reason the amendment was not adopted is that Chairman Darby did not accept the amendment. You know, as author of the bill,
if he says the amendment is acceptable, nine times out
of ten, it's going to go on the bill, whether it's
redistricting or anything else. If he says it's not
acceptable, then it goes to a vote, and on redistricting
it ends up being a partisan vote and so therefore it
doesn't pass.

Q. As to why Chairman Darby didn't accept the
amendment, though, you don't know what his reasoning
was?

A. I think I know. It goes to conversations with
members again.

Q. Is that with Chairman Darby or someone else?

A. No.

Q. Is that with mister -- I'm sorry, Mr. Martinez
Fischer?

A. It would just be Mr. Moody --

Q. Mr. Moody.

A. -- in this case.

Q. Do you know how Mr. Moody -- and Mr. Moody
has -- also he's been deposed and has waived his
legislative privilege, and so you are free --

A. Okay.

Q. -- to discuss that conversation with
Mr. Moody.

What did Representative Moody tell you?
A. The gist of what he told me was that, you know, he had worked it out with Representative Marquez and there was -- you know, there was agreement there, but in the end the Attorney General's office was not -- was not comfortable with the amendment and so therefore it wasn't going to -- going to fly. That was the gist of it.

Q. Do you know where he obtained his information?

A. No. I didn't ask him. I didn't know if he heard it firsthand or -- or was in the room. I'm not sure of the specifics.

Q. And are you aware if -- and I assume you're aware of this being the chairman of the democratic caucus. Mr. Moody has been involved in some hotly contested races with Republican Dee Margo in El Paso; correct?

A. Yes, he has.

Q. Okay. Three times. Right?


Q. And they've all been close races. Correct?

A. I think when he lost, it was close. I think when he won last time, I think it was a fairly -- a fairly significant margin, but I don't recall the numbers so --

Q. Okay. So let me ask you --
Correct?

A. Yes.

Q. Were there any problems with the administration of the election from November of 2012 that you know of?

A. The administration of the election?

Q. Yes. Were there any problems with the elections that were run in November of 2012 based on those districts? Any geographical issues, any problems created by the -- by the map?

A. I seem to recall there was a big problem down in Galveston County with the polls not opening on time in the 2012 election.

Q. Let me ask a better question. Anything related to the configurations of the districts that caused a problem in the administration of the November of 2012 election?

A. Well, there was a lot of confusion related to the administration of the -- particularly of the primaries because of the -- people were very confused about what districts they were in, and I'm talking about voters being confused, when you had, you know, the Legislature-passed plan and you had an initial Court plan and then you had a second Court plan and the primary date changed a couple of times and it was
ultimately delayed until the end of May, and so I think there was a lot of confusion.

There was certainly a delay in having, you know, accurate voter registration cards sent out and voter rolls updated and people knowing what districts they're in and that sort of thing.

Some of that is going to happen in any redistricting, I suppose. I think it was particularly acute in 2012 given the repeated delays and the various different versions of the maps that we -- that we had.

Q. But, in -- in part, that was just a natural result of litigation that had been -- that had resulted in the adoption of two different interim plans?

A. It would be part of it.

Q. The -- I'm going to go ahead and direct your attention to another portion of the debate.

A. Okay.

Q. All right. So here let's go to the bottom of Page S66.

A. Okay.

Q. Okay. So here you're laying out an amendment on behalf of Representative Anchia. Correct?

A. Correct.

Q. And you indicate that his amendment would create a third majority minority Congressional district
Court decision in the Shelby County case. Correct?

Sorry. I know I'm not supposed to ask questions but I just --

Q. I believe that to be the case based on the date.

A. Okay. So yeah. I mean I have no reason to think that that quote is not something I said. I've said similar things certainly in other contexts. My quote has to do with redistricting, and the story has to do with voter ID.

Q. Fair enough. And I agree there is an incongruity in the article.

A. Okay.

Q. Want I want to ask you is do you believe that the 2013 Legislature intentionally discriminated against Latinos or African-Americans?

A. Yes, both.

Q. And why?

A. Why do I believe that?

Q. Why do you believe that? What's the basis of that opinion?

A. Well, several things that we've talked about today.

One, you know, I'll go back to population growth in the State of Texas over the last decade -- the
previous decade where 89 percent of the population
growth was in minority communities, and by that -- by
that measure, minority representation in the
Congressional and House maps should have increased, but
that was not the case.

Secondly, what we see again and again of
intentional fragmentation of minority voters across the
state. I think -- again, I think frankly in the House
district that I represent, a lot of those neighborhoods
are fragmented in the Congressional map, and -- and we
see that in other places, Nueces County for one, and --
and we talked extensively about Dallas and Tarrant
counties.

And then, thirdly, I think that in 2013,
the Legislature had the benefit of the Court record and
the Court ruling from both the San Antonio Court in 2011
and then the D.C. Court in 2012 in the Section 5 case,
and the Legislature had before it the benefit of the
D.C. Court's ruling that there was intentional
discrimination on the part of the Legislature and
retrogression in the maps that were adopted, and even
knowing that and even knowing that the interim maps that
the San Antonio Court ordered without the -- that they
ordered before the D.C. Court issued that ruling and
knowing that those interim maps were drawn to conform to
the legislatively enacted acted plans of 2011 as much as possible, I believe the Legislature had a duty and a responsibility and an obligation to make substantive changes to the House and the Congressional plans to remedy the intentional discrimination that the D.C. Court found. The Legislature chose intentionally not to do that in the House map or the Congressional map, and so therefore I think that, yes, they intentionally discriminated by passing these two plans.

Q. You believe that -- and let me see if I'm clear. Are you saying that the -- that, in your view, failing to go in and make changes based upon the D.C. order is the basis for your argument -- is one of the bases for your argument that the Texas Legislature intentionally acted to discriminate against Latinos and African Americans?

A. That's one of the bases of the argument, yes.

Q. Do you know -- Have you compared the Section 5 ruling with the areas that the San Antonio Court addressed in the interim plan to see which ones are not addressed?

A. I've not done a specific side-by-side comparison, but I know that there were issues addressed in the D.C. Court that were not addressed in the interim plan, yeah.