

NASSAU COUNTY LEGISLATURE

FULL LEGISLATURE MEETING

RICHARD NICOLELLO, PRESIDING OFFICER

HEARING

CLERK ITEM 33-23

**

Local Law to Amend Annex A of the County
Government Law of Nassau County to Describe
the 19 Legislative Districts

**

County Executive and Legislative Building

1550 Franklin Avenue

Mineola, New York

Thursday, February 16, 2023

6:30 p.m.

TAKEN BY: KAREN LORENZO, OFFICIAL COURT REPORTER

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LEGISLATOR RICHARD J. NICOLELO
PRESIDING OFFICER
9TH Legislative District

LEGISLATOR HOWARD KOPEL
Deputy Presiding Officer
7th Legislative District

LEGISLATOR DENISE FORD
Alternate Presiding Officer
4th Legislative District

LEGISLATOR KEVAN ABRAHAMS
Minority Leader
1st Legislative District

LEGISLATOR SIELA BYNOE
2nd Legislative District

LEGISLATOR CARRIE SOLAGES
3rd Legislative District

LEGISLATOR DEBRA MULE
5th Legislative District

LEGISLATOR C. WILLIAM GAYLOR, III

6th Legislative District

LEGISLATOR JOHN J. GIUFFRE

8th Legislative District

LEGISLATOR MAZI MELESA PILIP

10th Legislative District

LEGISLATOR DELIA DERIGGI-WHITTON

11th Legislative District

LEGISLATOR JAMES KENNEDY

12th Legislative District

LEGISLATOR THOMAS MCKEVITT

13th Legislative District

LEGISLATOR LAURA SCHAEFER

14th Legislative District

LEGISLATOR JOHN FERRETTI, JR.

15th Legislative District

LEGISLATOR ARNOLD W. DRUCKER

16th Legislative District

LEGISLATOR ROSE MARIE WALKER

17th Legislative District

LEGISLATOR JOSHUA LAFAZAN

18th Legislative District

MICHAEL PULITZER

Clerk of the Legislature

A L S O A P P E A R E D:

Professor Magleby

SUNY Binghamton

Misha Tseytlin, ESQ.

TROUTMAN PEPPER

PUBLIC COMMENT:

Angel Cepeda

H. Scottie Coads

Stephanie Chase

Jeffrey Daniels

Perry Grossman

Casey Marlow

Barbara McFadden

Meta J. Mereday

Dave Mejias

Karen Montalbano

Karen Moskowitz

Doris Newkirk

Lisa Ortiz

Chris Jacobs

Pearl Jacobs

James Jacobs

Cristina Arroyo

Matthew Pasternack

Cheryl Ingram

Larry Weiss

Paul Beuer

Charlene Thompson

Patt Terrelongue

Barbara Kremen

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2 PRESIDING OFFICER NICOLELLO: All
3 right. I would like to call this hearing
4 of the Nassau County Legislature to
5 order. And to start things off, I will
6 ask Legislator Colonel Bill Gaylor to
7 lead us in the Pledge of Allegiance.

8 LEGISLATOR GAYLOR: Thank you.

9 (Whereupon, the Pledge of
10 Allegiance is recited.)

11 PRESIDING OFFICER NICOLELLO: Mike,
12 could you please call the roll?

13 CLERK PULITZER: Thank you,
14 Presiding Officer.

15 Roll call. Deputy Presiding Officer
16 Howard Kopel?

17 LEGISLATOR KOPEL: Here.

18 CLERK PULITZER: Alternate Deputy
19 Presiding Officer Denise Ford?

20 LEGISLATOR FORD: Here.

21 CLERK PULITZER: Legislator Siela
22 Bynoe?

23 LEGISLATOR BYNOE: Here.

24 CLERK PULITZER: Legislator Carrie
25 A. Solages?

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LEGISLATOR SOLAGES: Here.

CLERK PULITZER: Legislator Debra
Mule?

LEGISLATOR ABRAHAMS: She is
attending. She has the flu. She wanted
to attend via Zoom, but she is here,
listening.

CLERK PULITZER: Thank you, Kevan.
Legislator C. William Gaylor, III.

LEGISLATOR GAYLOR: Present.

CLERK PULITZER: Legislator John
Giuffre?

LEGISLATOR GIUFFRE: Here.

CLERK PULITZER: Mazi Pilip?

LEGISLATOR PILIP: Here.

CLERK PULITZER: Legislator Delia
DeRiggi-Whitton?

LEGISLATOR DERIGGI-WHITTON: Here.

CLERK PULITZER: Legislator James
Kennedy?

LEGISLATOR KENNEDY: Here.

CLERK PULITZER: Legislator Thomas
McKevitt?

LEGISLATOR MCKEVITT: Here.

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CLERK PULITZER: Legislator Laura Schaefer?

LEGISLATOR SCHAEFER: Here.

CLERK PULITZER: Legislator John Ferretti?

LEGISLATOR FERRETTI: Here.

CLERK PULITZER: Legislator Arnold Drucker?

LEGISLATOR DRUCKER: Here.

CLERK PULITZER: Thank you. Legislator Rose Walker?

LEGISLATOR WALKER: Here.

CLERK PULITZER: Legislator Joshua Lafazan?

LEGISLATOR LAFAZAN: Here.

CLERK PULITZER: Minority Leader Kevan Abrahams?

LEGISLATOR ABRAHAMS: Here.

CLERK PULITZER: Presiding Officer Richard Nicolello?

LEGISLATOR NICOLLELO: Here.

CLERK PULITZER: Thank you. We have a quorum, sir.

PRESIDING OFFICER NICOLELLO: Thank

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2 you very much.

3 We will go right into the hearing.
4 But first, anyone member of the public
5 who's here, who would like to speak in
6 the public comment portion, please come
7 to the Clerk's table, submit a slip, and
8 the slip will be brought up and we will
9 call you in turn.

10 Mike, let's call the hearing.

11 CLERK PULITZER: Thank you. Please
12 take notice the Nassau County Legislature
13 will hold the hearing on Thursday,
14 February 16, 2023, at 6:30 p.m.
15 regarding Clerk Item 33-23 a Local Law to
16 Amend Annex A of the County Government
17 Law of Nassau County to Describe the 19
18 Legislative Districts based upon the 2020
19 Federal Census Data and any proposed
20 amendments thereto.

21 PRESIDING OFFICER NICOLELLO: Thank
22 you. Motion by Deputy Presiding Officer
23 Kopel, seconded by Legislator Ford to
24 open the hearing. All in favor of opening
25 the hearing signify by saying, "Aye".

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2 (Whereupon, all members of
3 the Nassau County Legislature
4 respond in favor.)

5 PRESIDING OFFICER NICOLELLO: Those
6 opposed.

7 (Whereupon, no verbal
8 response.

9 PRESIDING OFFICER NICOLELLO: The
10 hearing is open.

11 I'm going to have some brief
12 remarks, the Minority Leader will then
13 follow with remarks, and then we will
14 have a couple of presentations.

15 Today's hearing relates to the
16 drawing of new district lines for the 19
17 seats on the Nassau County Legislature.
18 The County is required to redistrict
19 every ten years following the completion
20 of the Census.

21 Pursuant to the Nassau County
22 Charter, a Temporary District Advisory
23 Committee was created last April. The
24 Commission held a total of 12 hearings,
25 taking testimony from numerous residents

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2 and others. The members of the Commission
3 ultimately were unable to come to a
4 consensus on a map. The Majority and
5 Minority members of the Commission each
6 submitted separate maps for the
7 consideration of the Legislature, which
8 went before the Rules Committee in
9 January. Based on advice we received from
10 Counsel, who I will bring up in several
11 moments, neither map advanced by the
12 Commission complied with applicable law.
13 We worked with Counsel to produce a map
14 that complies with all constitutional and
15 legal requirements, including the Voting
16 Rights Act and the John Lewis Act
17 Municipal Home Rule Law.

18 The map that we introduced today
19 complies with all Federal and State legal
20 requirements. It incorporates many of the
21 issues raised by legislators and the
22 public. As much as possible, the proposed
23 map provides for compact districts,
24 protects communities of interests, and
25 minimizes the division of villages and

1
2 hamlets. Is the map perfect? No. But
3 perfection in drawing district lines is
4 impossible.

5 However, as stated above, the Mac
6 complies with all legal requirements. It
7 provides for equal representation and for
8 legislative districts that either side
9 can win. I would now like to turn things
10 over to the Minority Leader for opening
11 remarks.

12 LEGISLATOR ABRAHAMS: Good evening.
13 So what we are part of today and what the
14 Presiding Officer had mentioned is,
15 obviously, the two sides tried to present
16 a map. They tried to have some type of
17 continuity in terms of that map action
18 being able to go forward and the
19 Commission was not able to accomplish
20 that. So, basically, tonight, my
21 colleagues, the Republican Majority, have
22 put together a map.

23 Unfortunately -- and there's eight
24 points that I'm going to go through --
25 the map that they are presenting to the

1
2 public is still illegal. The map still
3 violates many of the Federal and State
4 laws. But then most importantly, the most
5 important criteria for any particular
6 map, is that it's a partisan gerrymander.
7 And what does that mean? And you're going
8 to hear a little bit more about that
9 tonight because that term gets thrown out
10 a lot. But it's clear that this map still
11 violates that.

12 That being said, this map continues
13 to perpetuate what we saw in the previous
14 map that was put together by the
15 Republican Commissioners. It dilutes
16 Minority votes. It clearly does that.
17 We're seeing that Hempstead is not split
18 in two districts, but it's split in three
19 districts. One district that it is split
20 in does not have the same level of
21 community interests that exists. That's
22 clear as day. We're also seeing that the
23 Lakeview community is also placed into a
24 district which it does not have very
25 similar interests, doesn't have any

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2 similar interests as it pertains to to
3 community interests and to interest in
4 terms of levels of the school district.
5 Nothing, nothing at all.

6 Where this map also fails is where
7 whenever you have to basically redraw a
8 map, and one of the tenets that's in the
9 John Lewis provision, basically when
10 possible, you have to be able to draw
11 five Minority/Majority districts. The map
12 that has been put forward by the
13 Republican Majority only has four.

14 Fifth, in the Freeport Community
15 Community, which basically is represented
16 by two legislators, a very diverse,
17 beautiful community. That community, part
18 of it in the Northeast and Northwest
19 sections, have been placed into a
20 district that, again, does not have
21 similar interests.

22 Six. In the previous map. One of the
23 things that the Republican Commissioners
24 did, they basically created an Asian
25 influence district, and the Democrat

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2 Commissioners also tried to do that. This
3 map that's before us tonight splits the
4 Asian community into three different
5 ways, which also further dilutes their
6 vote. I can't think how it's conscionable
7 that we would think that a map is legal
8 when it dilutes minority votes in
9 Hempstead, Lakeview, and splits Asian
10 votes throughout North Hempstead. It
11 doesn't seem to make any sense.

12 The map also, without going into
13 great detail, disfavors incumbents, which
14 is a tenet also of the John Lewis
15 provision.

16 And then last but not least, one of
17 the things that the Republican
18 Commissioners had mentioned was that they
19 felt that the Democratic Commission map
20 violated district cores. District cores
21 are basically when you basically adhere
22 to some of the previous lines in a
23 previous map versus where it goes into
24 the new map. Well, if you look at this
25 map, the district cores, as it pertains

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2 to some of the Minority communities have
3 been completely revamped. So that
4 argument that was perpetuated by the
5 Republican Commissioners -- which I have
6 to say is a pretty weak argument. But my
7 colleagues in this partisan gerrymander
8 tonight didn't even follow the district
9 core principle that their Republican
10 Commissioners perpetuated in the earlier
11 versions of the maps that they put out.

12 Look, ultimately, we feel as a
13 Legislative Minority, that without
14 significant changes, it is very hard for
15 us to vote for anything that's illegal.
16 Basically, this map because of what I
17 stated tonight and what we're going to go
18 through also also with the Q&A and the
19 questioning from from experts as well, is
20 illegal. It's a partisan gerrymander. It
21 dilutes Minority votes. Those are clear
22 Federal Voting Right problems. And from
23 our standpoint, we cannot participate and
24 we cannot be a witness to see anything
25 like that happen.

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2 You ask yourselves in the public
3 tonight one simple question as it
4 pertains to protecting Minority votes
5 here in this county, why would we be
6 splitting the Village of Hempstead? Why
7 would we be putting Lakeview into a
8 district that does not have the same
9 community interests? And then when all is
10 possible, we should be trying to elect
11 more minorities to government and when
12 possible, abhorrent to the John Lewis
13 provision. We have to be able to draw
14 lines that covers five Minority/Majority
15 districts. This map tonight,
16 unfortunately, fails in many of those
17 aspects. Thank you.

18 PRESIDING OFFICER NICOLELLO: Thank
19 you, Minority Leader.

20 The hearing will proceed as follows:

21 - We will be having a presentation
22 from Misha Tseytlin of Troutman, Pepper,
23 Hamilton and Sanders regarding the
24 proposed map;

25 - at the Minority's request, we will

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2 have a presentation by an individual
3 retained by the Democratic members of the
4 TDAC;

5 - and then we will proceed to public
6 comment.

7 It's my privilege to introduce Misha
8 Tseytlin. He was the lead counsel in the
9 Harkenrider versus Hochul case and was
10 instrumental in defeating the
11 gerrymanders of both the New York
12 Congressional and the New York State
13 Senate maps, as well as establishing
14 precedent that all New York State
15 counties must now follow.

16 I have asked Mr. Tseytlin to provide
17 testimony today to the Legislature on the
18 proposed map and the floor is yours.

19 MR. TSEYTLIN: Thank you, Presiding
20 Officer. Thank you, Minority Leader.
21 Thank you for having me here today.

22 As the Presiding Officer noted, the
23 Presiding Officer consulted myself and my
24 law firm when the two maps that were
25 submitted by the TDAC, there was no

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2 agreement. And we analyzed those two maps
3 using the expert Sean Trende, the same
4 expert that was the lead expert for the
5 the plaintiffs in the landmark
6 Harkenrider case. And we, unfortunately,
7 concluded that both those maps were
8 illegal in multiple respects.

9 The challenge then became how to
10 present a map that was legal. And we
11 worked with the Presiding Officer and
12 Sean Trende, the expert from Harkenrider,
13 to come up with a map that satisfies all
14 legal criteria.

15 Now, what we did here is we put
16 together a memorandum, which we handed
17 out to you all and there are copies
18 available there for the public, that goes
19 through each legal criteria and explains
20 why the map is legal. This map is for
21 your consideration. And I'm going to try
22 to explain to you all today why the map
23 is legal in every respect. The memorandum
24 is fairly detailed. It has a lot of legal
25 citations, citations to the record in

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2 front of the TDAC, and things of that
3 sort. I'm not going to read through every
4 word of the memorandum, but I am going to
5 try to summarize each aspect of it. And I
6 will be going in the order of the
7 memorandum, so both the legislators and
8 the public can follow along if they so
9 wish.

10 So the memorandum goes in order of
11 of importance in terms of our
12 constitutional system. First, we start
13 off with the US Constitution. That's the
14 highest law in the land. Then we start
15 with the Federal Voting Rights Act.
16 That's a federal law, that's the second
17 level. And then we go on to state law and
18 we'll talk about why in my submission,
19 the map complies with all of those
20 requirements.

21 Now, we're going to start with the
22 US Constitution. The US constitutional
23 provision that's most relevant here is
24 the Equal Protection Clause, and it has
25 two elements that are relevant here, and

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2 the map complies with both elements.

3 First, as interpreted by the US
4 Supreme Court, the Equal Protection
5 Clause requires local redistricting to
6 comply with the one person, one vote
7 principle, and the US Supreme Court has
8 basically said that as far as the US
9 Constitution is concerned, there's a 10%
10 give and take between the largest and the
11 smallest district for a local
12 redistricting law to comply with the
13 equal protection clause.

14 So our map, the difference between
15 the biggest and the smallest district is
16 2.65% -- 2.54%, which is obviously much
17 lower than 10% and lower than deviations
18 that have been upheld by the New York
19 Court of Appeals. So that's pretty
20 straightforward.

21 The next equal protection principle
22 that is important here is the US Supreme
23 Court's prohibition against racial
24 gerrymandering. And what the Supreme
25 Court has said is that where racial

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2 considerations predominate over
3 traditional redistricting criteria, that
4 is unconstitutional, that violates the US
5 Constitution, unless you can survive the
6 highest level of proof in this country,
7 which is strict scrutiny. Put another
8 way, if race is the predominant factor
9 motivating the Legislature's decision to
10 place a significant number of voters
11 within or without a particular district,
12 the decision to place that number of
13 voters within that district is
14 unconstitutional unless you can satisfy
15 strict scrutiny. And that's a direct
16 quote from Miller versus Johnson.

17 In Shaw versus Reno, the United
18 States Supreme Court explained that
19 racial gerrymandering can injure voters,
20 whether or not it dilutes a racial
21 group's voting strength. That is because,
22 as the Supreme Court clarified, drawing
23 districts based upon racial
24 considerations -- and this is a quote
25 from the US Supreme Court -- reinforces

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2 racial stereotypes and threatens to
3 undermine our system of representative
4 democracy by signaling to elected
5 officials that they represent a
6 particular racial group rather than a
7 constituency as a whole. Thus far, the US
8 Supreme Court has only recognized one
9 justification ever for drawing districts
10 based on racial considerations. That's
11 compliance with Section 2 of the Voting
12 Rights Act. And while the Supreme Court
13 has not definitively ruled out whether
14 any other justifications could ever
15 justify drawing districts based on racial
16 considerations, Justice Kennedy, in his
17 controlling opinion in LULAC versus
18 Perry, warned against any approach that
19 would unnecessarily infuse race into
20 virtually every redistricting as raising
21 serious constitutional concerns. More
22 recently, the Supreme Court has shown a
23 special great skepticism towards
24 race-based districting. That's in the
25 Cooper versus Harris case, a unanimous

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2 opinion written by Justice Elena Kagan,
3 and the Wisconsin Legislature case. In
4 both of those cases, the relevant
5 Legislature, or even a court in one
6 circumstance, had drawn districts to hit
7 a particular racial target, 50% of a
8 particular racial group or more. Because
9 Section 2 of the Voting Rights Voting
10 Rights Act did not strictly require those
11 districts, the US Supreme Court struck
12 down those maps. In the North Carolina
13 Cooper case, it was 9:0 even though that
14 map had been supported by the Minority
15 Black Caucus in North Carolina. In
16 Wisconsin Legislature, it was a court
17 drawn map. So the Supreme Court is taking
18 this principle against racial
19 gerrymandering very seriously.

20 Now, with that background in mind,
21 the proposed map is not a racial
22 gerrymander. It does not support
23 traditional redistrict criteria to racial
24 considerations. Rather, as explained in
25 in our discussion here and in the

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2 appendix to this memorandum which you
3 have before you, the map is focused on
4 traditional criteria; such as, ensuring
5 district compactness, contiguity,
6 reflecting population shift, maintaining
7 political equality, and so on.

8 Unfortunately, both the maps of the
9 Democratic commissioners and the
10 Republican commissioners fail this equal
11 protection principle. The Republican
12 commissioners map, as pointed out by the
13 New York ACLU in its comment letter,
14 specifically drew one of the districts to
15 a racial target. That was pointed out by
16 the New York ACLU to the Republican
17 commissioners. They offered no
18 substantive response. So it appears, an
19 unconscionable racial gerrymander.

20 Similarly, the Democrat
21 Commissioners' map drew multiple
22 districts focused on racial
23 considerations, moving numerous voters
24 into districts based on their race, and
25 proudly so. Even though their memorandum

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2 discusses a lot of legal authorities,
3 they did not even attempt to square that
4 with the US Supreme Court's decision in
5 Cooper, the Wisconsin Legislature or the
6 other precedents that I've discussed.

7 As a result, unfortunately, both of
8 the maps proposed by the Democrats and
9 the Commission and the Republicans
10 Commission violate the Equal Protection
11 Clause.

12 Now, I have in hand, right before
13 this presentation, a supplemental report
14 from the Democratic commissioners. That
15 report is even more clear that what the
16 Democrat commissioners were doing was
17 violative of the equal protection clause.
18 They criticize the map that the Presiding
19 Officer and we propose for dismantling
20 the racial gerrymander that the New York
21 ACLU said that the Republicans had
22 adopted in District One.

23 Further, this memorandum lumps
24 Minority groups together in its
25 discussions in exactly the way the US

1
2 Supreme Court said is inappropriate. It
3 does not add Asians with Hispanics and
4 blacks sometimes; other times it does. It
5 is just exactly kind of the poster child
6 for racial gerrymander. And that's why
7 both those maps are unconstitutional.

8 Now, moving on to the next level
9 after we get past the Constitution,
10 that's the Voting Rights Act of 1964.
11 Section 2 of that Act has some broad
12 prohibitions against hurting the voting
13 power of Minority voters. And the way the
14 US Supreme Court has operationalized
15 their broad approach is by something
16 called the Gingles Preconditions, which
17 means that there is a violation of
18 Section 2 of the Voting Rights Act only
19 if those who are urging that violation
20 has occurred can make three preconditions
21 showing:

22 One, a Minority group has a
23 sufficiently large population within a
24 single area to form a Majority over that
25 of that district.

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2 Second, that Minority group must
3 vote together.

4 And third, the white or the majority
5 in that area must generally vote to
6 defeat that minorities preference. Even
7 if one gets past those preconditions,
8 there is then an "All Things Considered
9 Inquiry" to determine whether a
10 Majority/Minority district must be drawn.

11 We had Sean Trende, who was the lead
12 expert in Harkenrider, conduct a Section
13 2 VRA analysis, and he concluded that
14 there was no justification for drawing
15 any additional districts based on race.
16 In light of the prior principles that we
17 just talked about, that it is
18 unconstitutional to draw districts based
19 on race when not required by Section 2 of
20 the VRA. We, therefore, did not consider
21 race any further in redistricting because
22 that would have been unconstitutional
23 under the precedents that I outlined.

24 Now that we're past federal law,
25 let's talk about state law. Here we were

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2 talking about the Home Rule Law as
3 modified by the John Lewis New York
4 Voting Rights Act. Now, these provisions
5 have seven conditions that need to be
6 satisfied. And I'm going to go through
7 all seven of those conditions and discuss
8 why our proposed map today complies with
9 all seven of those conditions.

10 First, the proposed maps must be
11 nearly equal in population as
12 practicable. That's similar to the
13 requirement that we talked about in the
14 first principle of the Equal Protection
15 Clause, if folks will recall. The
16 difference is the New York law doesn't
17 give the 10% buffer that the US
18 Constitution does on the Equal Protection
19 Clause; it gives only a 5% buffer. So you
20 can, for example, a map that had a 7%
21 deviation that would comply with the US
22 constitutional requirement, but that
23 wouldn't comply with New York law. Our
24 map has a 2.54 deviation, so it complies
25 with that principle.

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2 Second, the proposed map must not
3 include any districts that have "been
4 drawn with the intent or result of
5 denying or abridging the equal
6 opportunities of racial minorities or
7 language minority groups to participate
8 in the political process". This is very
9 similar language to Section 2 of the VRA.
10 Now, Section 2 of the VRA obviously has a
11 lot of case law behind it. We talked
12 about the Gingles, preconditions. We
13 talked about the additional analysis.
14 There isn't any case law yet on the John
15 Lewis Act in that language. That language
16 has certain additional elements that are
17 not explicitly in the Voting Rights Act.
18 But what's important to recognize is the
19 New York Constitution in New York law and
20 the federal Constitution have a principle
21 that no state law can require what
22 violates the Equal Protection Clause or
23 any federal constitutional provision. So
24 we think it is important to read the John
25 Lewis Law consistent with the US Supreme

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2 Court's precedent against racial
3 gerrymandering. Any other conclusion that
4 would read the John Lewis Law as a
5 requirement for infusing race into every
6 redistricting decision in the US Supreme
7 Court's interpretation of words would
8 render the John Lewis Law
9 unconstitutional, and we definitely don't
10 want to do that.

11 So what we did is we looked at the
12 same Section 2 voting rights and analysis
13 that Sean Trende had done. There was no
14 requirement to create a race focused
15 district there, and we did not interpret
16 the John Lewis Law as requiring
17 unconstitutional racial gerrymandering.

18 Third, the proposed districts have
19 to have contiguous territory. Obviously,
20 that's pretty easy to understand. Our map
21 is contiguous. I'm not going to waste
22 your time with that.

23 Next, the map must be as compact as
24 practicable. In the memorandum, we
25 discuss a series of different compactness

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2 metrics the courts have used. We then
3 have a chart on page eight that goes
4 through the compactness of of the
5 district based on a couple of these
6 scores. And then we explain that our map
7 performs well on the compactness score,
8 performs comparably to the Democrat
9 legislators' proposal, performs better
10 than the Republican legislators'
11 proposal. So I don't think that I'm going
12 to belabor that point further.

13 The next point, I am going to speak
14 a little bit about longer because it's
15 very important and I'm concerned that the
16 Body has gotten some incorrect and
17 inaccurate information from an expert
18 presented by the the Democrats on the
19 Commission. The proposed map does not
20 draw any districts to discourage
21 competition or for purposes of favoring
22 or disfavoring incumbents or any other
23 particular candidate or political
24 parties. Now, I know a little bit about
25 this language because I was the lead

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2 counsel for the individual voters that
3 challenged the gerrymandered maps drawn
4 in Albany, especially with regard to the
5 congressional districts. What the Court
6 of Appeals, our state's highest court,
7 held in the Harkenrider versus Hochul
8 case is that we successfully relied on
9 the expert testimony of Sean Trende to
10 establish an inference of invidious
11 partisan purpose by the Legislature in
12 Albany. Sean Trende's opinion and
13 supporting simulations were crucial to
14 our victory, both at trial and on appeal.
15 Trende used -- and this is quotes from
16 the Court of Appeals -- "a state of the
17 art program repeatedly accepted by other
18 courts to create a map ensemble which
19 performs comparably to the enacted plan
20 in terms of compactness Majority/Minority
21 county lines". His simulations, "revealed
22 that the enacted map was an extreme
23 outlier that likely reduced the number of
24 Republican congressional seats by packing
25 Republican voters into four districts,

1
2 etc., etc., etc.

3 Now, cognizant of the prohibition
4 against partisan gerrymandering as well
5 as the Harkenrider case, the proposed map
6 was not drawn with a partisan goal at
7 all. But to avoid even the perception of
8 partisanship, the Presiding Officer asked
9 us to retain Sean Trende, the very same
10 expert that that we retained in
11 Harkenrider to analyze the map. And I'm
12 going to put up his results here for the
13 Legislature's review and I will talk
14 about them. I also want to show it to the
15 people just so the people can also
16 understand what I'm talking about.

17 (Whereupon, Graph is
18 displayed and referred to.)

19 MR. TSEYTLIN: I do apologize for the
20 people. I will show you afterwards. I
21 just can't. There's not two sides of
22 this.

23 So this is the type of analysis that
24 Mr. Trende did in the Harkenrider
25 case(referring). This is the ensemble

1
2 methodology plus the gerrymandering
3 index. These are the same exact charts
4 that he created that were victorious in
5 the Harkenrider case.

6 And so I'm going to tell you what
7 these lines are. This line, this red
8 line, this is the Republican Commission's
9 map (referring). It is far off skewed
10 from what you would expect from a neutral
11 drawn map. See how far over it is. This
12 is the Democrat Commission's map
13 (referring). So that's pretty far over as
14 well. And then this is the proposed map,
15 right in the meaty part of the bell
16 curve, right there.

17 Now, I will say what we were dealing
18 with in Albany when we litigated this
19 case last year was a map that was like
20 right here (indicating). It was so
21 extremely gerrymandered that it was
22 almost like, off this. So I'm not saying
23 that either the the Democrat or the
24 Republican Commission map were anywhere
25 like that. But as you can see, they are

1
2 far off in the distribution. Whereas, on
3 the Trende analysis, our map is right in
4 the middle. And if I may, I'd like to
5 show the people as well just so they can
6 see what. I'm talking about.

7 (Whereupon, Graph is
8 displayed to the Audience and
9 referred to.)

10 MR. TSEYTLIN: So this red line
11 right here, that was the Republican
12 Commission's proposal. This blue line,
13 that's the Democrat Commission's proposal
14 and then this green line, that's our
15 proposal (indicating).

16 PRESIDING OFFICER NICOLELLO: He is
17 not taking questions, but I'll let you
18 know that the memo is available over
19 there and on page ten in the memo is a
20 copy of the map that he was just showing
21 you.

22 (Whereupon, audience
23 interruption.)

24 PRESIDING OFFICER NICOLELLO:
25 Continue.

1
2 MR. TSEYTLIN: So that is the exact
3 same analysis that we did in Harkenrider.
4 Mr. Trende did it the exact same way, and
5 this is the results he got.

6 Now, there might be some surprise
7 from folks because they've seen a report
8 in our supplemental report submitted by
9 Professor Magleby who claims to have done
10 the same Harkenrider analysis. That is
11 just absolutely not true. He did not do
12 anything like the Harkenrider analysis.
13 The only thing that was similar is he
14 used in ensemble approach to create a
15 bunch of maps. The core of the Trende
16 Harkenrider analysis was the
17 gerrymandering index, which is what's up
18 here before you, which shows how far
19 askew the map is from what you would
20 expect from a neutral draw. What
21 Professor Magleby does is he used
22 something called a mean median score. He
23 just definitely did a completely
24 different analysis, which was not
25 presented by any expert in Harkenrider,

1
2 has not been opined upon, has not been
3 blessed by the New York Court of Appeals.
4 Further, he selected his base races in a
5 methodology entirely different from Mr.
6 Trende without pointing to any academic
7 literature to state that selection of
8 races was appropriate.

9 So as a result, obviously, the
10 Legislature can decide to listen to
11 Professor Magleby or it can decide to
12 listen to Mr. Trende. I would
13 respectfully submit that the expert who
14 was the one whose methodology was
15 approved by the State's highest court,
16 who also has been a bipartisan district
17 expert, he was one of the two experts
18 that was retained to successfully draw
19 the maps in Virginia, is the more
20 credible one to determine what map is and
21 isn't a partisan gerrymander. And again,
22 I will reemphasize this is the exact same
23 methodology that he did in Harkenrider.
24 And you can see the results clear as day
25 in that chart.

1
2 Now, I'd like to make one other kind
3 of observation based on some remarks by
4 the Minority Leader and the memo that we
5 received about the treatment of
6 incumbents and and things of that sort.
7 In the Harkenrider case, after we won at
8 the Court of Appeals, it went to a
9 neutral special master. And if those of
10 you all who were following that case at
11 all, remember that neutral special
12 master, because he was drawing a fair
13 map, it just happened to pair some
14 incumbents. It happened to make some
15 incumbents unhappy. That is what happens
16 when you draw a map neutrally consistent
17 with Mr. Trende's principles. You're not
18 going to have all legislators be happy.
19 In fact, it would be more surprising if
20 everyone was happy with a neutral drawn
21 map.

22 Now, sixth, as outlined in the
23 attached appendix to the memo, which I
24 will not go through that appendix, you
25 all can read it later. The proposed map

1
2 maintains, protects, respects the cores
3 of existing districts, preexisting
4 political subdivisions and communities of
5 interest. Each of the proposed districts,
6 in our proposed map was drawn as best
7 practicable to show respect for political
8 subdivisions. And you can see that in
9 Appendix A, and that goes through in
10 detail.

11 Now the maps proposed by the
12 Democrat members of the Commission and
13 the Republican members of the Commission
14 unfortunately fail this test in at least
15 one respect. And that's with regard to
16 their treatment of cores of existing
17 districts. That is a mandatory criteria,
18 but only one. What the Republican
19 Commissioners did is they made that the
20 highest criteria above other criteria as
21 as the Minority Leader pointed out, we
22 agree that was problematic. But what the
23 Democrat Commissioners did is they give
24 no weight at all to the statutory factor,
25 no weight at all, even for districts that

1
2 there was no argument that there was a
3 gerrymander before. So both of those
4 extreme approaches we rejected and we
5 gave this consideration due weight as the
6 New York law requires.

7 The seventh and final criteria of
8 state law is the proposed map must
9 contain districts that have been formed
10 so as to promote the orderly and
11 efficient administration of elections. We
12 accomplished that in spades.

13 So those are all the legal criteria
14 that are in the Federal Constitution,
15 Federal Law and State Constitution. And I
16 would respectfully submit that the
17 proposed map complies with all of those
18 criteria.

19 PRESIDING OFFICER NICOLELLO: Thank
20 you, Mr. Tseytlin, for that presentation.
21 Very much appreciate it. And I'm going to
22 open up, if our legislators have any
23 questions for you, I'm going to open up
24 the floor to that. Any legislators?
25 Minority Leader?

1
2 LEGISLATOR ABRAHAMS: Yes. I have a
3 bunch of questions. I'm sorry. I didn't
4 catch your name.

5 MR. TSEYTLIN: My name is Misha
6 Tseytlin.

7 LEGISLATOR ABRAHAMS: Sorry, I'm
8 mispronouncing your name. And you are an
9 attorney at Troutman and Pepper, I'm
10 guessing.

11 MR. TSEYTLIN: That's right.

12 LEGISLATOR ABRAHAMS: And we just
13 received your memo. We appreciate your
14 memo, but we just received your memo
15 probably five minutes before the meeting
16 started. Oh, well, the Legislature just
17 got your memo just five minutes before. I
18 don't know if you prepared it well in
19 advance.

20 But I do have some questions in
21 regards to -- you had mentioned the
22 analysis that Mr. Trende did, and I do
23 have some questions in regards to how the
24 map was put together.

25 But let's start with Mr. Trende. If

1
2 I'm looking at your analysis correctly
3 and remembering what happened and
4 occurred when Mr. Trende provided
5 testimony just last year as it pertains
6 to the case that was before the Court of
7 Appeals, Mr. Trende did the same analysis
8 that he provided for the Republican
9 voters that were suing, he provided the
10 same analysis here?

11 MR. TSEYTLIN: Yes, except the only
12 difference here is that he did 50,000
13 simulations rather than the five and
14 10,000 he did there, because that was one
15 of the criticisms in the Harkenrider
16 case. They wanted more simulations, so he
17 did 50,000.

18 The other wrinkle is there is that
19 requirement in the Home Rule Law about
20 not splitting certain towns that are less
21 than 40%, so he coded that in. So those
22 were two differences; otherwise, the
23 analysis, the same analysis.

24 LEGISLATOR ABRAHAMS: The analysis
25 is the same?

1
2 MR. TSEYTLIN: Yes.

3 LEGISLATOR ABRAHAMS: And in that in
4 that analysis, who actually drew the map
5 that's before us today? Did Mr. Trende
6 draw the map? Did yourself draw the map?
7 Who actually put together the map? I
8 understand you analyzed the map. Who drew
9 map?

10 MR. TSEYTLIN: We worked together
11 with the Presiding Officer to put
12 together the map.

13 LEGISLATOR ABRAHAMS: So yourself
14 and Mr. Trende put together the map?

15 MR. TSEYTLIN: Counsel worked
16 together with the Presiding Officer to
17 put together the map.

18 LEGISLATOR ABRAHAMS: I'm sorry.
19 Who actually sat at a computer and drew
20 the map?

21 MR. TSEYTLIN: I answered your
22 question.

23 LEGISLATOR ABRAHAMS: No, no, you
24 haven't, actually. You said that. You
25 said that you worked together with the

1
2 Presiding Officer to draw the map.

3 MR. TSEYTLIN: Yes.

4 LEGISLATOR ABRAHAMS: Someone has to
5 sit at a computer and actually draw the
6 map. Was it Mr. Trende?

7 MR. TSEYTLIN: No.

8 LEGISLATOR ABRAHAMS: It was
9 yourself?

10 MR. TSEYTLIN: My law firm drew the
11 map with consultation of the Presiding
12 Officer.

13 LEGISLATOR ABRAHAMS: Let me start
14 over. Maybe I'm being unclear. When the
15 Republican map was presented to the
16 Legislature, Mr. Schaefer got up and
17 said, I drew the map. He was able to say
18 that, unequivocally, he had put together
19 the map. We asked him very pointed
20 questions as it pertained to the map that
21 he presented. Now you're telling me that
22 the entity of Troutman Pepper put
23 together the map. Which one is it? Is it
24 Troutman Pepper that put together a map?
25 A whole bunch of people got in a room and

1
2 put together the map?

3 MR. TSEYTLIN: I'm going to try this
4 one more time. Troutman Pepper working
5 with the Presiding Officer, put together
6 the map.

7 LEGISLATOR ABRAHAMS: So that
8 entity. So there's no individual person.
9 There's multiple people that put together
10 the map? That's my question.

11 MR. TSEYTLIN: I answered the
12 question to the best of my ability.

13 LEGISLATOR ABRAHAMS: So multiple
14 people put together the map. Good.

15 Tonight, Troutman Pepper is paid for
16 by the Republican Majority?

17 PRESIDING OFFICER NICOLELLO:
18 Troutman Pepper was retained by the
19 Presiding Officer pursuant to the Nassau
20 County Charter.

21 LEGISLATOR ABRAHAMS: So they've
22 been -- so can you answer that, sir?

23 PRESIDING OFFICER NICOLELLO: I just
24 answered it for you. I retained Troutman
25 Pepper.

1
2 LEGISLATOR ABRAHAMS: Just for the
3 record.

4 PRESIDING OFFICER NICOLELLO: Okay.
5 He can answer it as well.

6 MR. TSEYTLIN: That's my
7 understanding.

8 LEGISLATOR ABRAHAMS: All right.
9 And. If I'm understanding the analysis
10 correctly, that was presented before us,
11 you had mentioned that yet that you
12 disagreed with some of the components of
13 Dr. Magleby's analysis, correct?

14 MR. TSEYTLIN: Dr. Magleby claimed
15 that he did the analysis that was done in
16 Harkenrider. His analysis has no
17 plausible basis to claim that it's
18 anything like the Harkenrider analysis.
19 He did a completely different analysis,
20 which, as far as I know, has never been
21 presented in any court, and certainly it
22 was never presented in Harkenrider.

23 LEGISLATOR ABRAHAMS: And you
24 reviewed Dr. Magleby's?

25 MR. TSEYTLIN: Yes, yes.

1
2 LEGISLATOR ABRAHAMS: You reviewed
3 it?

4 MR. TSEYTLIN: Yes.

5 LEGISLATOR ABRAHAMS: And you ran it
6 through the same computations that Mr.
7 Trende did?

8 MR. TSEYTLIN: He did a completely
9 different analysis. While he did run
10 simulations, instead of doing a
11 gerrymandering, he did something called a
12 mean median analysis.

13 LEGISLATOR ABRAHAMS: You're saying
14 he did a different analysis, but you're
15 saying -- Mr. Trende is saying that you
16 ran a different analysis or you're saying
17 that he ran the analysis? Because Mr.
18 Trende did this analysis that's before us
19 today with the bar graph and the black up
20 and down graphs, but you didn't do that,
21 Mr. Trende, did that.

22 MR. TSEYTLIN: Mr. Trende did that
23 analysis, yes.

24 LEGISLATOR ABRAHAMS: So, basically,
25 you just analyzed with Dr. Magleby did.

1
2 MR. TSEYTLIN: I read his report as
3 as an expert in redistricting. I have
4 litigated redistricting cases all over
5 the country. I represented independent
6 commissions. I represented individual
7 voters. I read his report, and it's
8 clear, if you read his report, he does
9 not do the Harkenrider analysis at all.
10 He does a completely different kind of
11 analysis.

12 LEGISLATOR ABRAHAMS: So it sounds
13 like to me that you're giving testimony
14 that you are an expert demographer.

15 MR. TSEYTLIN: I'm not giving that
16 testimony, no.

17 LEGISLATOR ABRAHAMS: But you're
18 analyzing Dr. Magleby's criteria as well
19 as his analysis as if you were.

20 MR. TSEYTLIN: That's not correct.

21 LEGISLATOR ABRAHAMS: How is that
22 not, sir?

23 MR. TSEYTLIN: I am telling you --

24 LEGISLATOR ABRAHAMS: You're a
25 litigator.

1
2 MR. TSEYTLIN: As the litigator who
3 litigated Harkenrider --

4 LEGISLATOR ABRAHAMS: So you're a
5 litigator, but you're a part time
6 demographer.

7 PRESIDING OFFICER NICOLELLO:
8 Objection.

9 MR. TSEYTLIN: I was lead counsel in
10 the Harkenrider case, having successfully
11 litigated Mr. Trende's --

12 LEGISLATOR ABRAHAMS: But, sir. But,
13 sir, you're counsel. You're not a
14 demographer.

15 MR. TSEYTLIN: And I presented the
16 analysis of Mr. Trende successfully to
17 the Court of Appeals.

18 LEGISLATOR ABRAHAMS: But then Mr.
19 Trende should be here in terms of
20 criticizing or critiquing what Dr.
21 Magleby did, not yourself.

22 MR. TSEYTLIN: I'm here --

23 LEGISLATOR ABRAHAMS: Why isn't he
24 here?

25 MR. TSEYTLIN: I think so far have

1
2 answered all of your questions, and happy
3 to explain to you how Dr. Magleby's
4 analysis is just different from Mr.
5 Trende's. I know he's going to be
6 testifying later, and I doubt that he's
7 going to claim that he did the same
8 analysis as Mr. Trende, given that Mr.
9 Trende does a gerrymandering index off of
10 his ensemble; whereas, Dr. Magleby does a
11 mean median off of his ensemble.

12 LEGISLATOR ABRAHAMS: Okay. So let's
13 let's get into the criteria of the map
14 because you talked a little bit about
15 that tonight. So let's get into that.

16 You tried to present a rationale for
17 Hempstead being split into three
18 districts. I like to hear that again.

19 MR. TSEYTLIN: That is not part of
20 what I articulated. No.

21 LEGISLATOR ABRAHAMS: Okay. Let's
22 start over. Is Hempstead split into three
23 districts?

24 MR. TSEYTLIN: It is.

25 LEGISLATOR ABRAHAMS: Okay. So,

1
2 basically, I'm trying to understand. You
3 are defending the map that's before us
4 tonight, correct?

5 MR. TSEYTLIN: That's correct.

6 LEGISLATOR ABRAHAMS: Let's try it
7 over again. Let's start again. So
8 basically, Hempstead is split into three
9 districts. You are defending that map.
10 Can you give us the rationale on why
11 Hempstead is split into three districts?

12 MR. TSEYTLIN: Well, first of all,
13 Hempstead is above the 40% threshold, so
14 it can be split.

15 LEGISLATOR ABRAHAMS: Yes.

16 MR. TSEYTLIN: And in order to
17 balance their district criteria, as the
18 Presiding Officer said, there is no
19 perfect map. Certainly two splits is
20 better than one. But then you have to
21 make other compromises. You have to
22 achieve all those legal requirements. Of
23 course --

24 LEGISLATOR ABRAHAMS: And is there
25 any other village that can be split by

1
2 your criteria, that was split three ways?

3 MR. TSEYTLIN: There were not.

4 LEGISLATOR ABRAHAMS: So the Village
5 of Hempstead was special?

6 MR. TSEYTLIN: I'm going to revise.
7 I'm not sure if any others were split in
8 three ways.

9 LEGISLATOR ABRAHAMS: Mr. Tseytlin,
10 let's back up. You drew this map with the
11 with the Presiding Officer, correct?

12 MR. TSEYTLIN: Yes.

13 LEGISLATOR ABRAHAMS: But you just
14 said that you weren't sure if any other
15 village was split three ways.

16 LEGISLATOR ABRAHAMS: Not sitting
17 here this moment, but I will say that in
18 Appendix A of our memorandum, which I
19 didn't read through, talks about the
20 features of each individual district.

21 LEGISLATOR ABRAHAMS: Are you
22 confident of what you presented tonight?

23 MR. TSEYTLIN: Yes.

24 LEGISLATOR ABRAHAMS: So let's start
25 over again. The Village of Hempstead was

1
2 split three ways.

3 MR. TSEYTLIN: Yes.

4 LEGISLATOR ABRAHAMS: That is the
5 only village, to your recollection, has
6 been split three ways; can you say that
7 definitively? I can.

8 MR. TSEYTLIN: Okay.

9 LEGISLATOR ABRAHAMS: But you can't.
10 But you drew the map. Got it.

11 So again, the Village of Hempstead
12 is split three ways, one of which is
13 located in District 14. Now, one of the
14 things, one of the tenets that is tied to
15 the principles that we follow is that
16 there has to be communities of interest.
17 Can you explain to me the communities of
18 interests as it pertains to the Village
19 of Hempstead, that the village is in?

20 MR. TSEYTLIN: The memorandum in
21 Appendix A, it talks about all the
22 communities of interest. I'm going to let
23 the memorandum speak for itself.

24 MR. TSEYTLIN: Well, sir, just to be
25 fair, we didn't get a chance to read your

1
2 memorandum until five minutes before the
3 meeting.

4 MR. TSEYTLIN: Do you want me to
5 just read the District 14 description to
6 you?

7 LEGISLATOR ABRAHAMS: You could read
8 it to me, but I'd rather hear your
9 analysis because you had indicated that
10 you had put together the map.

11 MR. TSEYTLIN: What I indicated is
12 the law firm of Troutman Pepper worked
13 with the Presiding Officer to put
14 together the map. The descriptions are
15 there in the Appendix, and I can either
16 read the descriptions to you or you can
17 read them yourself.

18 LEGISLATOR ABRAHAMS: What I'm
19 trying to find out is the rationale for
20 why it was done.

21 MR. TSEYTLIN: The rationale for why
22 it was done is everything that I talked
23 about. You have to comply with all those
24 various criteria and no map is going to
25 be perfect. You're going to have splits.

1
2 In the ideal map and the ideal world, you
3 would have no splits, but then you would
4 not be able to comply with all those
5 legal criteria, including population
6 deviation, including the prohibition
7 against racial gerrymandering, and all
8 the rest. That's why any split here would
9 have happened, because fundamentally it
10 is because of the equal protection
11 requirement of equal population, but more
12 particularly the other requirements as
13 well.

14 LEGISLATOR ABRAHAMS: So let's just
15 move on because I'm not too sure I
16 understand your point.

17 Lakeview, also in District 14,
18 correct, as proposed map?

19 MR. TSEYTLIN: Yes.

20 LEGISLATOR ABRAHAMS: Are you sure?

21 MR. TSEYTLIN: Yes.

22 LEGISLATOR ABRAHAMS: Lakeview is
23 also in the proposed map. Lakeview has
24 community interests that I guess you're
25 your proposed map that you propose you

1
2 put up tonight actually has some level of
3 community interests with other parts of
4 District 14.

5 MR. TSEYTLIN: That's correct.
6 That's correct.

7 LEGISLATOR ABRAHAMS: How so? Are
8 you familiar with Lakeview?

9 MR. TSEYTLIN: My understanding is
10 that Lakeview shares a school district
11 with other areas of District 14. That's
12 my understanding.

13 LEGISLATOR ABRAHAMS: And what's the
14 racial makeup of Lakeview?

15 MR. TSEYTLIN: As I explained to
16 you, I explained earlier, racial
17 gerrymandering is unconstitutional under
18 the US Constitution, and, therefore, we
19 did not analyze race of the map after Mr.
20 Trende concluded that there was no VRA
21 Section 2 district. In fact, I feel quite
22 uncomfortable speaking about the racial
23 makeup of districts in light of the US
24 Supreme Court's very specific
25 instruction, which is that racial

1
2 gerrymandering is unconstitutional.

3 LEGISLATOR ABRAHAMS: So how would
4 you define communities of interest?

5 MR. TSEYTLIN: Communities of
6 interest are people who share political,
7 economic, social or religious ties.
8 That's how the Supreme Court defines
9 communities of interest.

10 LEGISLATOR ABRAHAMS: I would define
11 it the same way. So explain to me the
12 ties between Lakeview and the surrounding
13 parts that that district that they're
14 supposedly in. You put together the map,
15 right?

16 MR. TSEYTLIN: As I've said five
17 times now, Minority leader, we worked
18 with the Presiding Officer to put
19 together the map. Appendix A speaks for
20 itself with regard to the communities of
21 interests that are considered.

22 LEGISLATOR ABRAHAMS: No, no. What
23 are the tenets? You're saying that
24 Lakeview has communities of interest to
25 those communities that is surrounding it

1
2 in Legislative District 14? Explain to me
3 those tenets that are similar.

4 MR. TSEYTLIN: Again, I will point
5 you to Appendix A.

6 LEGISLATOR ABRAHAMS: Sir, if you
7 can't do it, just say you can't do it.

8 MR. TSEYTLIN: I can do it. I did it
9 in Appendix A, I will refer to that.

10 LEGISLATOR ABRAHAMS: But your
11 appendix -- well, you know what? Since
12 you reference it so much, let's read it,
13 because it doesn't talk to that, but
14 let's try it.

15 MR. TSEYTLIN: You want to look at
16 A3, which talks about District 14. If you
17 want to read that.

18 LEGISLATOR ABRAHAMS: Yeah, I'll
19 read it into the record.

20 "Proposed District 14 includes East
21 Rockaway, Lynbrook, North Lynbrook,
22 Malverne, Lakeview, West Hempstead, and
23 portions of Hempstead. The district
24 unites similar incorporated villages that
25 are strong religious communities -- I'd

1
2 like to understand what you mean by that
3 -- as well as including the synagogues
4 and churches that serve their residents,
5 right?

6 MR. TSEYTLIN: Yes.

7 LEGISLATOR ABRAHAMS: Proposed
8 District 14 Unites Malverne and Lakeview,
9 which share a school district, as well as
10 keeping together the entire West
11 Hempstead School District. This district
12 also combines several train stations
13 along -- train stations. Those are
14 communities of interest?

15 MR. TSEYTLIN: According to the US
16 Supreme Court, transportation links are
17 communities of interest, Minority Leader.

18 LEGISLATOR ABRAHAMS: Good to
19 know -- along the South line of the Long
20 Island Railroad that serve their
21 communities for commuting to and from the
22 city. Now, there are people here from
23 Lakeview tonight. I'm not too sure they
24 would agree with you in terms of the
25 paragraph that -- you wrote this

1
2 paragraph, correct?

3 MR. TSEYTLIN: As I've now said, for
4 the sixth time, we worked with the
5 Presiding Officer.

6 LEGISLATOR ABRAHAMS: Sir, who wrote
7 the paragraph? Who wrote the memo?

8 MR. TSEYTLIN: Presiding Officer, do
9 I have to answer the same question seven
10 times?

11 LEGISLATOR ABRAHAMS: Why can't we?
12 Someone sat at a computer and wrote this
13 memo. Why can't you tell me who did that?

14 PRESIDING OFFICER NICOLELLO: Is it
15 a work product of your law firm?

16 MR. TSEYTLIN: Yes. Working with the
17 Presiding Officer's office.

18 LEGISLATOR ABRAHAMS: So it was
19 multiple people?

20 MR. TSEYTLIN: As I have now said
21 eight times, yes, it was.

22 LEGISLATOR ABRAHAMS: But you can't
23 tell us anybody other than yourself that
24 was one of those multiple people.

25 MR. TSEYTLIN: You want me to

1
2 identify the associates at my law firm,
3 Minority Leader?

4 LEGISLATOR ABRAHAMS: I can't
5 believe that the associates would need
6 more than one person to write this memo.
7 I don't know what you're hiding. I really
8 don't.

9 But that being said, there are
10 people here tonight that are from
11 Lakeview. They would submit tonight that
12 what you wrote in this paragraph does not
13 define communities interests.

14 Now, I'm going to ask you the
15 question again, but now I'm going to
16 break it down based on what you actually
17 wrote. You said that the district unites
18 similar incorporated villages and strong
19 religious communities, correct? What are
20 the religious communities that you
21 identified in Lakeview?

22 MR. TSEYTLIN: The memorandum speaks
23 for itself, and the Appendix speaks for
24 itself.

25 LEGISLATOR ABRAHAMS: Sir. Sir. Sir.

1
2 Sir. Sir. Sir. Sir, you told me multiple
3 times you asked me to read your appendix
4 as it pertains to District 14. I just did
5 so.

6 MR. TSEYTLIN: Minority Leader, I
7 have nothing to add beyond what's there
8 on the Appendix.

9 LEGISLATOR ABRAHAMS: So you don't
10 know?

11 MR. TSEYTLIN: I have nothing to add
12 beyond what I --

13 LEGISLATOR ABRAHAMS: But you want
14 to profess that you did an incredible
15 analysis, but you didn't even do an
16 analysis to determine what the strong
17 religious communities are in the town of
18 Lakeview, correct?

19 MR. TSEYTLIN: As I've now said for
20 the eighth time --

21 LEGISLATOR ABRAHAMS: You know what,
22 you're going to say for the 15th time,
23 because ultimately you're not giving any
24 responses that these folks tonight can
25 rely on. I just asked you a very pointed

1
2 question. You said that there are strong
3 religious communities, one of which
4 includes the town of Lakeview. I asked
5 you a very pointed question. Tell me what
6 those religious communities are.

7 PRESIDING OFFICER NICOLELLO: All
8 right. He has answered that. You don't
9 like his answer; we understand that. But
10 let's move on to another question.

11 LEGISLATOR ABRAHAMS: Presiding
12 Officer, what was his answer?

13 PRESIDING OFFICER NICOLELLO: He
14 said the answer was he was relying upon
15 the appendix in the memo, and that was
16 his answer. So move on to something else.

17 (Whereupon, off the record
18 discussion held.)

19 LEGISLATOR ABRAHAMS: What my
20 colleague is saying, folks, the packet,
21 if you want to be able to read the
22 appendix is over there on the high table.

23 Next component. If I remember
24 correctly, the Republican TDAC Commission
25 members actually presented or proposed,

1
2 and I believe it's also in the Democratic
3 map -- I might be confused about the
4 Republican TDAC map -- an Asian influence
5 district, correct?

6 MR. TSEYTLIN: Creating a racial --

7 LEGISLATOR ABRAHAMS: District that
8 had an Asian influence.

9 MR. TSEYTLIN: Creating on purpose,
10 a racial influenced district would
11 violate the Equal Protection Clause of
12 the US Constitution.

13 LEGISLATOR ABRAHAMS: No, I guess
14 that's not what I asked you. What I asked
15 you was, did those maps do that?

16 MR. TSEYTLIN: The maps presented a
17 district that you can describe as you
18 will. What I'm saying is if they did that
19 on purpose, that would be
20 unconstitutional.

21 LEGISLATOR ABRAHAMS: Can you answer
22 the question?

23 PRESIDING OFFICER NICOLELLO: He
24 just did.

25 LEGISLATOR ABRAHAMS: No. I asked

1
2 you, did those maps do that? You had
3 analyzed the maps, correct?

4 MR. TSEYTLIN: The notion of an
5 Asian influenced district as used in the
6 case law would be a district drawn on
7 purpose for the purpose of having a
8 minority racial group influence the
9 district. If that was done on purpose, it
10 would be unconstitutional if it was done
11 by accident or to further out of the
12 communities considerations, then it would
13 not be legally relevant category.

14 LEGISLATOR ABRAHAMS: Did the
15 Republican TDAC map do that? Did the
16 Democratic TDAC map do that?

17 MR. TSEYTLIN: Presiding Officer,
18 I'm attempting to answer his questions.

19 LEGISLATOR ABRAHAMS: I'm asking you
20 a very pointed question of whether or not
21 those maps included it or not. You said
22 you analyze the maps, sir.

23 MR. TSEYTLIN: Do you want me to
24 repeat what I just said? Which is that --

25 LEGISLATOR ABRAHAMS: Okay, so I

1
2 guess what you're saying is you didn't
3 analyze that aspect of the maps.

4 MR. TSEYTLIN: We looked at that
5 aspect of the map. And what I'm saying is
6 to the extent that was done on purpose,
7 which neither of them said they did it on
8 purpose, certainly the Republican side
9 didn't say did it on purpose, that would
10 be a violation of Equal Protection
11 Clause. However, if it was done because
12 of community interest considerations,
13 then it would be fine. But then it
14 wouldn't be in the legal parlance, an
15 Asian influence district. It would be a
16 district drawn based on legal criteria
17 and communities of interest. It wouldn't
18 be deemed, it wouldn't be termed properly
19 in Asian influence district.

20 LEGISLATOR ABRAHAMS: Well, we'll
21 agree to disagree, sir.

22 MR. TSEYTLIN: Fair enough.

23 LEGISLATOR ABRAHAMS: Let's move
24 into Freeport. Should I read your
25 synopsis again?

1
2 MR. TSEYTLIN: Sure.

3 LEGISLATOR ABRAHAMS: Proposed
4 District 5 includes North Merrick,
5 Merrick, most of Freeport and portions of
6 North Bellmore. The inter-connected
7 communities share numerous communities of
8 interests, have inter municipal aid
9 services for fire departments and
10 ambulatory services, as well as sharing
11 schools. Consistent with the level of
12 inter municipal cooperation, these
13 communities previously crafted common
14 federal applications and aid after
15 Hurricane Sandy. Beyond government
16 operations, these communities share
17 extensive business interests with Merrick
18 and North Merrick even sharing a common
19 chamber of commerce.

20 Finally, these communities share the
21 same rail line and economic corridor that
22 runs along the Sunrise Highway in Merrick
23 and have common interests related to both
24 public transportation. Did I capture
25 everything?

1
2 MR. TSEYTLIN: Yes.

3 LEGISLATOR ABRAHAMS: Let's start
4 with the last point that you mentioned.
5 They share a common chamber of commerce.
6 What's the name of that chamber of
7 commerce?

8 MR. TSEYTLIN: I'm going to again
9 repeat, I'm going to rely upon the
10 Appendix. And I will also say further,
11 that this provides far, far more detail
12 than the information provided by either
13 the Democrat Commissioners on their
14 various districts or the Republican
15 Commissioners on the various districts.
16 So we have provided more information
17 to --

18 LEGISLATOR ABRAHAMS: Let's --

19 MR. TSEYTLIN: May I finish?

20 LEGISLATOR ABRAHAMS: Oh, I'm sorry.
21 I'm sorry.

22 MR. TSEYTLIN: With regard to
23 communities of interest, while you
24 clearly want more specificity, we have
25 provided this Chamber far more

1
2 specificity with regard to communities of
3 interest in this Appendix than anything
4 found in the Republican Commissioners or
5 the Democrat Commissioners' submissions.
6 Now, I know you are wanting more details,
7 but this is significantly more details
8 than they provided, and I didn't remember
9 any questioning of this level of detail,
10 this unhappiness when the Democratic
11 Commissioners were up before the
12 Committee or the Republican Commissioners
13 were before the Committee.

14 LEGISLATOR ABRAHAMS: I don't -- I
15 stand to differ on that. But let's go.
16 Let's try it. Because now you're
17 defending the proposed map that's before
18 us tonight. And this is your paragraph. I
19 didn't make that up. This is what you had
20 written, or an ensemble of people have
21 written.

22 That being said, let's try again.
23 The common chamber of commerce. I would
24 like to know the name of that chamber of
25 commerce.

1
2 PRESIDING OFFICER NICOLELLO: You
3 know, this is going a little bit too far.
4 All right. You can ask the general
5 questions, but this is not so --

6 LEGISLATOR ABRAHAMS: Wait, wait,
7 wait, wait, wait, wait. There is no
8 common chamber of commerce that covers
9 the North Merrick, Merrick and Freeport
10 area. I'd like to know where it is. I've
11 lived there. I'd like to know where it
12 is.

13 PRESIDING OFFICER NICOLELLO: This
14 is not a gotcha session, so you can ask a
15 question. But if you're going to drill
16 down to the nitty gritty to try to get
17 Mr. Tseytlin because of one or two
18 particular communities, it's not going to
19 happen.

20 LEGISLATOR ABRAHAMS: Why do you
21 feel you -- I'm sure you guys had
22 conversations before this. Why do you
23 feel the need to defend him? I asked him
24 a very pointed question. He wrote --

25 PRESIDING OFFICER NICOLELLO: What I

1
2 feel the need to do is to stop you from
3 playing games.

4 LEGISLATOR ABRAHAMS: Presiding
5 Officer. No.

6 PRESIDING OFFICER NICOLELLO: You're
7 playing games. You want the name of
8 specific chambers of commerce. That's not
9 going to happen tonight. You can ask
10 general questions. That's fine. You're
11 not playing gotcha with this --

12 LEGISLATOR ABRAHAMS: Presiding
13 Officer, you're not playing gotcha.

14 PRESIDING OFFICER NICOLELLO: Yes,
15 you are. You know you are.

16 LEGISLATOR ABRAHAMS: Gotcha would
17 be basically if I presented something and
18 then I try to get him on what I said. He
19 wrote this in his memo. He wrote that --
20 Folks, you could read it for yourselves.

21 PRESIDING OFFICER NICOLELLO: You're
22 trying to get him. But he's not
23 answering that question. You can move on.

24 LEGISLATOR ABRAHAMS: So basically,
25 the Presiding Officer is going to come to

1
2 your defense.

3 You mentioned again that there --

4 PRESIDING OFFICER NICOLELLO: There's
5 a level of fairness here and I'm going to
6 enforce it.

7 LEGISLATOR ABRAHAMS: Okay. All
8 right. So the record remains that I have
9 not heard the shared chamber of commerce.
10 I would like to know what it is.

11 Anyway, let's move on. You mentioned
12 that in your opening statement as it
13 pertains to communities of interest, that
14 that you looked at tenets of religious
15 transportation lines, Long Island
16 railroad lines, so on and so forth. Did
17 you look at any other demographic or
18 socioeconomic statuses?

19 MR. TSEYTLIN: We considered all
20 communities of interest that are legally
21 permissible. We did not consider racial
22 groups as such because of the precedent
23 that I relayed to you. But we considered
24 what we've talked about before, which is
25 religious, political, economic, social

1
2 ties, district ties, those kinds of
3 things.

4 LEGISLATOR ABRAHAMS: So are you
5 familiar with, as it pertains to District
6 5, there is a section in District 5 that
7 is that is presently called Northeast
8 Freeport. Are you familiar with that
9 portion of Freeport?

10 MR. TSEYTLIN: Again, with regard to
11 any specifics of districts, I rely on the
12 Appendix.

13 LEGISLATOR ABRAHAMS: Sir, I'm going
14 to have to tell you, honestly, and I'm
15 not trying to be confrontational,
16 Presiding Officer, but the fact remains
17 here you are proposing that this map --
18 and you put together a nice graph, a nice
19 chart -- that you're saying tonight that
20 this map passes all the tests in the John
21 Lewis Provision and the Federal Voting
22 Rights Act and everything else. But then
23 when we ask you details about the map,
24 you can't even present them. You're
25 punting them. Which one is it? Do you

1
2 know the map? Again, did you draw this
3 map?

4 MR. TSEYTLIN: Let me answer the
5 question the 11th time --

6 LEGISLATOR ABRAHAMS: I know. I
7 know. You did it with consultation of the
8 Presiding Officer. But when I'm asking
9 you very detailed questions about the
10 map, you should be able to answer the
11 questions about the map.

12 PRESIDING OFFICER NICOLELLO: No,
13 no. You know, actually, what you're
14 trying to do is getting down to such
15 minute, granular detail that try to trip
16 up the witness that you are actually
17 going far astray from what the purpose of
18 this hearing is.

19 LEGISLATOR ABRAHAMS: No.

20 PRESIDING OFFICER NICOLELLO: We
21 have presented a map that involves 1.4
22 million people with 19 districts.

23 LEGISLATOR ABRAHAMS: Presiding
24 Officer --

25 PRESIDING OFFICER NICOLELLO: And

1
2 various other requirements. If we're
3 going to drill down to the granular --

4 LEGISLATOR ABRAHAMS: I'm not too
5 sure why you feel --

6 PRESIDING OFFICER NICOLELLO: Street
7 by street and catch him on a specific
8 wrong, wrong name of a chamber of
9 commerce, then it's then there's no
10 purpose to this other than, gotcha.

11 LEGISLATOR ABRAHAMS: Presiding
12 Officer, I am not --

13 PRESIDING OFFICER NICOLELLO:
14 There's no individual who would know this
15 county to that extent.

16 LEGISLATOR ABRAHAMS: I think the 19
17 people here do.

18 PRESIDING OFFICER NICOLELLO: They
19 know each other's districts? You don't
20 know enough about my district.

21 LEGISLATOR ABRAHAMS: How do you
22 know that? Are you assuming I don't know
23 anything about your district?

24 PRESIDING OFFICER NICOLELLO: No, no,
25 I'm sorry. That's not true. Obviously, we

1
2 all know things about each other's
3 district, but nobody knows our districts
4 like we do. And there are civic
5 associations -- example: What civic
6 associations handle new Hyde Park?

7 (Whereupon, no verbal
8 response.)

9 PRESIDING OFFICER NICOLELLO: Of
10 course, you don't know, right? You
11 wouldn't know. You wouldn't know.

12 LEGISLATOR ABRAHAMS: There are
13 plenty.

14 PRESIDING OFFICER NICOLELLO: You
15 wouldn't know, but you're willing to say,
16 Oh, this is impartial. This is a terrible
17 gerrymander. So, therefore, by --

18 LEGISLATOR ABRAHAMS: Presiding
19 Officer --

20 PRESIDING OFFICER NICOLELLO: --
21 your own own standards, you're not
22 qualified to make that judgment.

23 LEGISLATOR ABRAHAMS: Presiding
24 Officer, I know your district very well,
25 as you know.

1
2 PRESIDING OFFICER NICOLELLO: I know
3 you. You actually do know my district.
4 That's true.

5 LEGISLATOR ABRAHAMS: But the bottom
6 line is, for some reason, you are coming
7 to the defense of the witness. I don't
8 know why. I mean, maybe because you hired
9 him. But the bottom line is, from our
10 standpoint, I'm asking you very direct
11 questions. You're claiming that these
12 districts do meet the criteria of having
13 communities of interest. I'm asking you
14 questions like, well, how did you come to
15 that conclusion? Because I'm looking at
16 sections, as we talked about with
17 Lakeview, as we're talking about with
18 Northeast Freeport, what we're talking
19 about with Hempstead that do not meet
20 that criteria to have communities of
21 interest. So I'm asking him very pointed
22 questions on why he believes that section
23 of Hempstead that is in District 14, that
24 area of Lakeview, that is in District 14,
25 I'm asking you very pointed questions on

1
2 why you believe those areas have
3 communities and interest of the
4 surrounding areas in that district.
5 Obviously, it doesn't seem like you can
6 answer them, because I'm asking you
7 questions about things that you wrote. I
8 didn't write this. He wrote it, but you
9 can't answer them. Am I understand that
10 correctly?

11 MR. TSEYTLIN: My answers to the
12 community of interest considerations are
13 found in Appendix A. There are other
14 legal considerations that also cabin how
15 much you can unite communities of
16 interest, which were the discussion that
17 I had for about 30 minutes. It is not
18 possible to unite every community of
19 interest. Every single map ever adopted
20 in the United States splits some
21 communities of interest, unites others.

22 LEGISLATOR ABRAHAMS: Where does
23 communities of interest rank in terms of
24 the principles that we should be
25 following?

1
2 MR. TSEYTLIN: Communities of
3 interest is the sixth -- is one of the
4 things listed --

5 LEGISLATOR ABRAHAMS: No. Where does
6 it rank?

7 MR. TSEYTLIN: No --

8 LEGISLATOR ABRAHAMS: You're saying
9 one of the six.

10 MR. TSEYTLIN: Minority Leader, I
11 was answering your question.

12 The top criteria is the US
13 Constitution. Second is the Federal
14 Voting Rights Act. Then there's a Home
15 Rule Law and it has seven different
16 criteria within and the communities of
17 interests are one of the subparts of the
18 sixth criteria, and it says you need to
19 consider --

20 LEGISLATOR ABRAHAMS: Which sub
21 part, what number?

22 MR. TSEYTLIN: It's Municipal Home
23 Rule 10 1a(13)a.

24 LEGISLATOR ABRAHAMS: No, no, no.
25 What I mean is when you start to break

1
2 down the sub parts, which sub parts are
3 ahead of it and which parts are below it?

4 MR. TSEYTLIN: In the Home Rule Law:

5 First, districts shall be nearly as
6 equal population as practicable;

7 Number two, districts shall not be
8 drawn with the intent or result of
9 denying or abridging equal opportunity of
10 racial language, minorities, etc., etc.;

11 Number three, districts shall be
12 consist of contiguous territory
13 districts;

14 Four, districts shall be compact in
15 the form of practical.

16 Five, districts shall not be drawn
17 to discourage competition or the purpose
18 of favoring or disfavoring incumbents or
19 other candidates or political parties;

20 Number six, the maintenance, of
21 course, of existing districts or existing
22 political subdivisions, including cities,
23 villages and towns and of communities of
24 interest, shall be considered and to
25 extent practicable.

1
2 So it's in that list. In number six,
3 it's like the fourth one in number six.

4 LEGISLATOR ABRAHAMS: Communities of
5 interest.

6 MR. TSEYTLIN: Yes, the fourth one
7 in number six of the Home Rule Law.

8 LEGISLATOR ABRAHAMS: That's what
9 what I was driving at.

10 MR. TSEYTLIN: Yeah.

11 LEGISLATOR ABRAHAMS: So, basically,
12 if I'm going back to your tenets again,
13 and let's go back to Freeport, if we can.
14 And I don't want to take too much time
15 tonight because I want the public to be
16 able to get a chance to speak. And I'm
17 sure other Legislators have questions for
18 you. The Northeast Freeport section, I
19 know you said that you did not examine
20 any socioeconomic, you just basically
21 went based off of what you wrote tonight
22 as the criteria on why the northeast
23 section of Freeport, when you decided to
24 split Freeport, was credible to split it
25 where you split it.

1
2 MR. TSEYTLIN: As I've explained
3 many times, in balancing the many
4 criteria, some of which I just
5 articulated and the other ones I
6 articulated earlier, some communities of
7 interest had to be split. It is
8 impossible, Minority Leader, to draw any
9 redistricting map in any place in this
10 country that doesn't split some
11 communities of interest. That's why in
12 the list it is subpart three of six and
13 it is a consideration that needs to be
14 taken into account. It is one of the
15 many, many considerations, many of which,
16 including the US Constitution and the
17 Voting Rights Act, are of higher
18 criteria. And a lot of the splits in the
19 majority of the splits in any district
20 map, not just the counties, is driven by
21 the Equal Population Requirement. That's
22 why you've got to split every single --
23 if you were to interrogate the the
24 Democrat Legislative map, the Republican
25 Legislative map, you will find

1
2 communities of interest that are split
3 there as well. And as I've said, we
4 provided many more details of communities
5 and considerations for this Legislature
6 than either of those two delegations
7 provided to you.

8 LEGISLATOR ABRAHAMS: You don't have
9 to defend your map by criticizing theirs.
10 I'm asking you, can you stand on your
11 own?

12 MR. TSEYTLIN: Yes.

13 LEGISLATOR ABRAHAMS: You keep
14 referencing the Democratic map. Yes, the
15 Democratic map wasn't perfect. The
16 Republican map wasn't perfect. We get
17 that. But you keep defending that by
18 saying, well, I did more than them. Well,
19 if they did little and you're doing
20 little, but you're doing a little bit
21 more than them, I don't understand why
22 you keep saying that as a valid point.

23 LEGISLATOR ABRAHAMS: What I'm
24 saying, Minority Leader, is that their
25 maps are illegal. We give you a legal

1
2 map. If there are specifics of this map
3 that this Body wants to change. If you
4 want to have Hempstead split two instead
5 of three, these are changes that you all
6 can make. I'm just giving you a map that
7 is legal, which is the first map that's
8 legal that you've been presented. The two
9 maps on the table, if the Legislature
10 adopts them, the Legislature will be sued
11 and they will lose. So what I'm doing is
12 I'm presenting you a legal map. It's not
13 perfect. No map is perfect. These
14 individual adjustments to communities of
15 interest, to the extent the Body agrees,
16 they can be done. But what I would say
17 when you do that, make sure you stay
18 within the population limits, make sure
19 you don't racially gerrymander, make sure
20 you don't violate the Voting Rights Act,
21 make sure you keep it contiguous compact.
22 With regard to individual adjustments,
23 you want to you want to split one
24 community of interest, but unite another,
25 as long as you're complying with those

1
2 other criteria, this Body can do that.
3 But what you can't do is you can't do
4 what the other two maps that have been
5 given to you and which is to violate the
6 law. You can't do it.

7 LEGISLATOR ABRAHAMS: So I'm going
8 to wrap up with this, Presiding Officer,
9 and I want to thank you for your
10 testimony tonight. Can you specify with
11 your map -- I talked about some areas
12 that that needed to be addressed. I
13 talked about Freeport. I talked about
14 Hempstead. I talked about Lakeview. Can
15 you specify in your map what other
16 communities of interests have been
17 separated from other districts that have
18 similar community interest to them?

19 MR. TSEYTLIN: I'm sure there are
20 many. And the reason for that is in every
21 sense --

22 LEGISLATOR ABRAHAMS: Well, identify
23 something than the ones that we talked
24 about tonight. I'd like to hear it.

25 MR. TSEYTLIN: As I've said multiple

1
2 times, whenever you draw any map, because
3 of how communities of interest are --

4 LEGISLATOR ABRAHAMS: Sir, I'm not
5 going to let you just go on. I asked you
6 a very -- Presiding Officer, I asked him
7 a very pointed question. I can't get more
8 pointed than that. I just identified
9 three areas that have communities of
10 interest that I don't believe have the
11 same communities interest in the district
12 that are drawn in. I asked you a very
13 pointed question, sir: What other parts
14 of the county have those community
15 interests that are not tied to those
16 districts that they're in? I asked you
17 very pointed question. You drew the map,
18 right?

19 MR. TSEYTLIN: As I've said now, 12
20 times --

21 LEGISLATOR ABRAHAMS: So, so
22 basically -- Sir, it's okay to not know.
23 It's okay, you could say, Minority
24 Leader, I don't know the answer to the
25 question. It's fair. I would accept that.

1
2 But you're continuing to ramble and try
3 to think like you're fooling us, but
4 you're not. Again, I'm going to ask you
5 a very pointed question. Do you know
6 whether or not there are other splits in
7 this map that you drew that exists
8 outside of Lakeview, North Freeport, and
9 Hempstead? If you don't know, just say
10 you don't know.

11 MR. TSEYTLIN: Because of the way
12 communities of interests are defined,
13 which are these broad categories, there
14 are many splits in every map possible.

15 LEGISLATOR ABRAHAMS: So give me a
16 specific to one to this map that you
17 drew. Not talking about many maps. I'm
18 not talking about Wisconsin, not talking
19 about Michigan, places that you may have
20 litigated, cases. You drew this map with
21 the Presiding Officer. So you should be
22 able to tell me where those splits are.

23 MR. TSEYTLIN: The easiest way to do
24 that is just to look at the various areas
25 that --

1
2 LEGISLATOR ABRAHAMS: You drew the
3 map -- -

4 MR. TSEYTLIN: I'm going to ask you
5 a question, if you would let me.

6 LEGISLATOR ABRAHAMS: Give me the
7 areas.

8 MR. TSEYTLIN: Every single one that
9 split every, single town that's below the
10 40%, that would be a community of
11 interest split. Every single map will
12 have that.

13 LEGISLATOR ABRAHAMS: No.

14 MR. TSEYTLIN: Yes. Every single map
15 will have many community splits.

16 LEGISLATOR ABRAHAMS: No. So,
17 basically, now you're saying the
18 community interest that you're holding
19 that criteria to is based off of zip code
20 and town?

21 PRESIDING OFFICER NICOLELLO: He
22 didn't say that.

23 LEGISLATOR ABRAHAMS: No. I'm just
24 trying to figure out which one it is.

25 PRESIDING OFFICER NICOLELLO: You're

1
2 not going to paraphrase that and put it
3 in his mouth.

4 LEGISLATOR ABRAHAMS: Then, please,
5 clarify what you just said, because I
6 don't think I understood.

7 PRESIDING OFFICER NICOLELLO: I
8 mean, it's clear. He said it. I mean,
9 and everyone in this room knows this.
10 Every time you draw a map, there's going
11 to be a community of interests that gets
12 separated and you have to try to minimize
13 that. Of course --

14 LEGISLATOR ABRAHAMS: Presiding
15 Officer, let me ask you the question. I
16 guess you consulted --

17 PRESIDING OFFICER NICOLELLO: Of
18 course there's going to be splits.

19 LEGISLATOR ABRAHAMS: So --

20 PRESIDING OFFICER NICOLELLO: It's
21 not possible not to do that.

22 LEGISLATOR ABRAHAMS: Got it. Got
23 it. There are many splits, we understand.
24 Presiding Officer, since you drew the map
25 with the gentleman, can you tell me where

1
2 the other splits are?

3 PRESIDING OFFICER NICOLELLO: Of
4 communities of interest?

5 MR. TSEYTLIN: Presiding Officer --

6 LEGISLATOR ABRAHAMS: Oh, are you
7 defending him now?

8 MR. TSEYTLIN: I'm trying to be
9 respectful, but let me let me explain to
10 you why your question is frankly silly.

11 LEGISLATOR ABRAHAMS: So now I'm
12 silly.

13 MR. TSEYTLIN: That question is
14 silly. Let me explain why. The way
15 communities of interest are defined, all
16 of Nassau, if you are doing a larger map,
17 would be a community of interest. So the
18 Nassau community of interest is split 19
19 ways. That's why the --

20 LEGISLATOR ABRAHAMS: Let me explain.

21 MR. TSEYTLIN: That's why the
22 question is silly.

23 LEGISLATOR ABRAHAMS: Sir, let me
24 explain.

25 MR. TSEYTLIN: Communities of

1
2 interest can be defined in a broad manner
3 or --

4 LEGISLATOR ABRAHAMS: Sir, let me
5 explain, because maybe you have to lower
6 yourself to insults to be able to make
7 your point. I don't need to do that. But
8 maybe you need to do that. I don't know.
9 But that being said, I asked you a very
10 pointed question. It doesn't seem like
11 you can answer the question.

12 PRESIDING OFFICER NICOLELLO: I will
13 answer that. Put it to me -- -

14 LEGISLATOR ABRAHAMS: Presiding
15 Officer --

16 PRESIDING OFFICER NICOLELLO: The
17 community of Oceanside is split,
18 community of New Hyde Park is split --

19 LEGISLATOR ABRAHAMS: Presiding
20 Officer --

21 PRESIDING OFFICER NICOLELLO: The
22 community of Manhasset is split from Port
23 Washington. We could -- if you asked
24 every legislator here about their
25 district --

1
2 LEGISLATOR ABRAHAMS: Presiding
3 Officer --

4 PRESIDING OFFICER NICOLELLO: Wait,
5 wait, wait. No, no, no. I'm answering
6 your question.

7 LEGISLATOR ABRAHAMS: No, no. I was
8 making my point.

9 PRESIDING OFFICER NICOLELLO: You
10 had asked a question of me. He had
11 interrupted. I'm answering you. Every
12 legislator here, your side, our side,
13 every one of us can look at this map and
14 tell you there's community of interest
15 splits in each district. Multiple:
16 Oceanside, I can tell you new Hyde Park
17 has been split, East Williston, Williston
18 Park has been split. Multiple. Levittown
19 has been split.

20 LEGISLATOR ABRAHAMS: So, so.
21 Presiding Officer --

22 PRESIDING OFFICER NICOLELLO: The
23 point is that the answer to your
24 question --

25 LEGISLATOR ABRAHAMS: Presiding

1
2 Officer, what you're stating is the
3 obvious. We know unincorporated areas
4 could be split. What I'm talking to in
5 regards to Hempstead and to Freeport,
6 Hempstead and Freeport are incorporated
7 villages that meet a criteria to be
8 split. So I'm asking the question, you're
9 bringing up every single town --

10 PRESIDING OFFICER NICOLELLO: That's
11 what you asked.

12 LEGISLATOR ABRAHAMS: No, you're
13 misinterpreting what I'm asking the
14 question, and it hinges on Hempstead and
15 Freeport is how did you determine the
16 split in those particular areas? He
17 couldn't answer the question. So then I
18 elaborated the question to get the point
19 that you just made in regards to what
20 other towns that were split. Now, if we
21 were to examine those towns, I would like
22 to see the breakdown and analysis that
23 shows me that those towns have separate
24 or different community interests than the
25 districts that they could have been in or

1
2 not in. I haven't seen that. This is his
3 map. So I'm asking very pointed
4 questions, but for some reason we keep
5 feeling the need to defend him. And then
6 he comes to your defense. I don't know
7 why. But the point I'm trying to make is,
8 I need to understand why we made those
9 splits. The folks behind you want to know
10 why you made those splits. You can't come
11 up with a reason on why. You just say a
12 more general -- I understand what you're
13 going to say -- to paraphrase. You're
14 just continuing to say that, well, in any
15 large county, you're going to have to
16 have splits. Splits are going to happen,
17 community interests are going to split.
18 But you did that based on not even
19 hearing from these folks tonight.

20 MR. TSEYTLIN: When this map was
21 being drawn, we looked at all of the
22 testimony in front of the TDAC. We looked
23 at all the public testimony. We looked at
24 the recommendation from both sides of the
25 TDAC. We talked to the Presiding Officer.

1
2 And in Appendix A --

3 LEGISLATOR ABRAHAMS: Sir, that is
4 impossible.

5 PRESIDING OFFICER NICOLELLO: You
6 keep interrupting him.

7 MR. TSEYTLIN: We talked --

8 LEGISLATOR ABRAHAMS: Sir --

9 PRESIDING OFFICER NICOLELLO:
10 Because you don't like his answer.

11 MR. TSEYTLIN: I read every single
12 word of the --

13 LEGISLATOR ABRAHAMS: Either you're
14 --

15 PRESIDING OFFICER NICOLELLO: This
16 is a monologue.

17 LEGISLATOR ABRAHAMS: Sire, either
18 you didn't read through the transcript
19 properly or you're just flat out just
20 wrong. Because one, because I could tell
21 you unequivocally there were people here
22 from the Village of Hempstead that asked
23 for their village to be made whole,
24 unequivocally. So if you're telling me
25 that they were okay with a split, either

1
2 you read the transcript wrong -- we could
3 go through the transcript because I'm
4 willing to bet that that transcript does
5 not reflect that they said that this
6 village could be split three ways.

7 PRESIDING OFFICER NICOLELLO: You do
8 not have to respond to that.

9 LEGISLATOR ABRAHAMS: Yeah. Because
10 we know the truth. Nothing further.

11 PRESIDING OFFICER NICOLELLO: He
12 didn't want answers. He wanted to give a
13 monologue.

14 Anyone else in the Minority want to
15 ask any questions? Who's next?

16 LEGISLATOR BYNOE: So thank you for
17 your testimony thus far. I do have some
18 questions, and I was going to allow some
19 air to get between myself and the
20 Minority Leader because I, too, want to
21 discuss the communities of Hempstead and
22 Lakeview.

23 Before we talk about those
24 communities, I wanted to talk about the
25 difference in what you say, the process

1
2 that was undertaken by the Democrats,
3 which was a median and mean or mean
4 median simulations. Is that what you
5 stated earlier?

6 MR. TSEYTLIN: So what do you want
7 me. Do you want me to just yes or no? Do
8 you mean explain?

9 LEGISLATOR BYNOE: I want to hear
10 you. Yeah.

11 MR. TSEYTLIN: So what Mr. Trende
12 did in Harkenrider is he ran simulations.
13 And then what he did is you create
14 something called a gerrymandering index,
15 which helps you tell how the map that was
16 adopted performs compared to maps that
17 were drawn without political
18 considerations. That is what you see
19 here. What was done.

20 What Dr. Magleby did is he did a
21 simulation, but then he didn't do a
22 gerrymandering index. He did something
23 called a mean median approach. He didn't
24 explain why he did mean median instead of
25 some other partisan symmetry calculation,

1
2 which is all different from the
3 gerrymander index. He also didn't
4 disclose in his report that what he was
5 doing, regardless of whether in his
6 academic literature he prefers that
7 approach, that it was entirely different
8 from Harkenrider. What you see in his
9 report is he says, I'm doing the
10 Harkenrider thing. Well, we went and we
11 retained the Harkenrider expert and he
12 did the actual Harkenrider thing. And you
13 get them you get a showing that our map
14 is in the middle of the bell curve,
15 whereas both the Republican Commission
16 map and the Democratic Commission map are
17 off the bell curve. But again, as I said,
18 they're not as far off as the
19 congressional map that the Albany
20 Legislature drew, but they're pretty far
21 off. And ours is right in the middle on
22 the gerrymandering index analysis that
23 was successful in in Harkenrider.

24 LEGISLATOR BYNOE: And then at some
25 point you gave a number for the

1
2 simulations. The enumeration of this
3 simulations. How many --

4 MR. TSEYTLIN: Mr. Trende ran 50,000
5 simulations in the circumstance, I
6 believe. Dr. Magleby ran 10,000. Now as
7 we talked in Harkenrider, when you have
8 this number of simulations, once you get
9 about 5000, you're likely just going to
10 end up getting the same results. But Mr.
11 Trende ran 50,000 just because in Harken
12 Ryder he was criticized for only running
13 10,000, which is --

14 LEGISLATOR BYNOE: The next question.
15 Thank you for answering that. Thank you.

16 So I want to shift now specifically
17 to the communities of Hempstead and
18 Lakeview, and I wanted to talk a little
19 bit about the split and how parts of
20 Hempstead and Lakeview then end up in
21 District 14. And specifically, I wanted
22 to talk about the Municipal Home Rule Law
23 where it gives the priorities and it's
24 the population, right? Then second is not
25 diluting the votes of racial and language

1
2 minority groups, correct?

3 MR. TSEYTLIN: Right, Legislator.

4 LEGISLATOR BYNOE: So. Please
5 reconcile how you can protect those
6 groups rights without taking race into
7 consideration. Because you said a few
8 times you don't take race into
9 consideration.

10 MR. TSEYTLIN: What the US Supreme
11 Court has said is that moving any sizable
12 number of people into a particular
13 district based on race is
14 unconstitutional unless you satisfy the
15 highest standard in law, which is strict
16 scrutiny. The US Supreme Court has thus
17 far only recognized one basis in
18 redistricting that would satisfy strict
19 scrutiny. That is, strict compliance with
20 Section 2 of the Voting Rights Act, the
21 Federal Voting Rights Act. Because we did
22 not want to read the John Lewis Law to
23 violate the US Constitution, we
24 interpreted it consistent with Section 2
25 of the VRA. And as I noted, Mr. Trende

1
2 did a Section 2 VRA analysis under the
3 Gingles factors, and he informed us there
4 were no districts that needed to be drawn
5 to comply with Section 2 of the VRA.
6 That satisfies then that provision of
7 state law. Because that provision of
8 state law is read consistent with other
9 provisions of state law which say that
10 nothing in any of the law can require
11 violation of the US Constitution. And of
12 course, that makes a lot of sense because
13 under the Supremacy Clause of the US
14 Constitution, the US Constitution stands
15 higher than the federal legislation and
16 it stands higher than state legislation,
17 which is why that is, I think, a sensible
18 reading of the John Lewis Law. Now I will
19 say that John Lewis Law has never been
20 litigated. This was just enacted. This is
21 the first cycle. Perhaps, there will be a
22 test case here coming up. But we have to
23 do our best to reconcile this new law
24 with something the US Supreme Court has
25 been very firm about. You know, the

1
2 Cooper case was written by Justice Elena
3 Kagan. The Wisconsin state legislature
4 case recently came out and the US Supreme
5 Court has been very harsh on either state
6 legislatures or even state supreme courts
7 who draw districts based on race. And we
8 were very concerned that both the
9 Republican Commission's map and the
10 Democratic Commission's map did not heed
11 those instructions, did not discuss those
12 instructions. And we were trying to
13 comply with the US Constitution. And we
14 believe that John Lewis Act was not
15 intended to be in violation of the US
16 Constitution.

17 LEGISLATOR BYNOE: So that was a
18 lot.

19 MR. TSEYTLIN: It's a complicated
20 legal area.

21 LEGISLATOR BYNOE: Yeah, it is. And
22 I'm not going to profess -- I'm not a
23 lawyer, I'm not a practitioner. But I
24 can't I still can't reconcile to how the
25 Municipal Home Rule specifically states

1
2 that you have to meet these priorities.
3 And they go in order. There's a
4 preference. It's a priority order. And
5 the second one being the most important
6 and it's not diluting those individuals
7 voices. And I don't know how we do that
8 without considering race. So I
9 personally can't reconcile to that. And
10 I'll tell you that those communities to
11 which may share school districts, they
12 may share train lines, but one of the
13 other things that it's supposed to really
14 take into consideration, and as far as I
15 understand it, is that there has to be a
16 commonality in policy, policies that
17 would impact the communities of interest.
18 And I would argue that the policies that
19 would impact Lakeview versus what
20 policies might be impactful or of
21 consideration or of paramount importance
22 to the folks in Malverne and Lynbrook are
23 significantly, significantly different.
24 And I'm going to tell you that the
25 communities of Hempstead and -- and

1
2 Lakeview is a very small, small
3 community. Lakeview proper is, I think,
4 somewhere around 5700 people. But, folks
5 who know that community know that when we
6 say Lakeview, we're also referring to the
7 unincorporated portion of Rockville
8 Centre, and we're also referring to a
9 portion of West Hempstead. So if we were
10 to combine all of those communities,
11 they're not a large group of people. And
12 but if I specifically just peel off
13 Lakeview, Lakeview is a community that
14 does not have its own school district.
15 It's a community that does not have its
16 own community center. And because of
17 that, it is not uncommon to find folks
18 from Lakeview in that greater area,
19 because they're all clustered right
20 together, to find them in Hempstead at
21 Kennedy Park. It's not uncommon to find
22 them in other parts of the community,
23 whether it be Baldwin or Roosevelt and
24 other parts of the community, to meet
25 their cultural needs and to discuss

1
2 things of great paramount consideration
3 for them regarding policy. I implore this
4 Body to reconsider where Lakeview is
5 placed.

6 And when we start talking about
7 Hempstead, where it's a very large
8 population of individuals, there are
9 subsets in different parts of that
10 community, The Heights this and that --
11 to split it three ways -- and I know that
12 it had been split three ways before -- it
13 presents a challenge for some of those
14 communities as well. Because when we
15 talk about policies, policies that would
16 bind those groups together to want to be
17 able to identify a pool of candidates
18 that they want to elect and be able to
19 have those individuals represent them, to
20 split them off as a disenfranchisement.
21 And that's why that second part of that
22 municipal Home Rule Law says you must,
23 you must consider racial language groups.
24 And that's why when we get down the list
25 and we get to communities of interest,

1
2 it's not the last thing on the list
3 because it is important. It's not the
4 last thing.

5 So I know we talked about train
6 lines and I know we talked about, you
7 know, schools and school districts,
8 because I think school districts can be
9 important. But the one thing that I
10 didn't hear anybody talk about today is
11 the commonality of where folks stand on
12 issues and policies and having their
13 voices and their concerns represented by
14 somebody who they can choose. And so I'd
15 like you to revisit that map and consider
16 that small little -- they call it "Little
17 Lakeview" and consider a Little Lakeview.
18 And I would ask you to consider the good
19 people of Hempstead as well. Thank you.
20 Great.

21 PRESIDING OFFICER NICOLELLO: Thank
22 you, Legislator Bynoe. And of course,
23 your points with respect to Lakeview and
24 Hempstead, they're valid. We understand
25 the points that you're making and the

1
2 concerns that you have and members of the
3 public have. But we did make efforts as
4 much as possible to incorporate what was
5 said during our Committee and during the
6 TDAC process. We were able to get
7 Westbury and New Castle back together. We
8 were able to get Uniondale whole. We were
9 able to get the Five Towns together,
10 which were all things that were raised
11 during the the TDAC process and Committee
12 process. But it's a difficult thing to
13 do because you still have to make sure
14 that what you arrive at at the end is
15 something that's going to survive a
16 lawsuit. So we have to make sure --

17 LEGISLATOR BYNOE: Presiding
18 Officer?

19 PRESIDING OFFICER NICOLELLO: Yes.

20 LEGISLATOR BYNOE: I'm sorry, I'll
21 let you finish.

22 PRESIDING OFFICER NICOLELLO: I'm
23 basically done.

24 LEGISLATOR BYNOE: And I want to
25 acknowledge that you did hear the voices

1
2 of Little Lakeview very early on in the
3 process, in so much that Lakeview was
4 split into three different districts and
5 they were then bought back whole. And I
6 do acknowledge that you heard testimony
7 from even Legislator Mule regarding
8 portions of her district, I think it was
9 Freeport, the portion of Freeport. And I
10 will acknowledge Westbury/Newcastle have
11 been put together whole. But this is an
12 opportunity for me, yet again. You know,
13 I'm always going to push the envelope.
14 This is an opportunity for me again to
15 advocate for the community of Lakeview
16 and advocate for some possible changes
17 that could be made into moving around
18 some things so that we do our very best
19 to protect those communities.

20 Thank you.

21 LEGISLATOR BYNOE: As always, your
22 advocacy is very effective and very
23 heartfelt and we understand.

24 Legislator Solages, then Legislator
25 Drucker.

1
2 LEGISLATOR SOLAGES: Thank you. In
3 the same spirit, I'm here also to
4 advocate for the Third Legislative
5 District. I'm here also to advocate for
6 the interests of a part of the Third
7 Legislative District known as Millbrook.
8 And it is an unincorporated part of
9 Valley Stream known as Millbrook, and has
10 been removed from the Third Legislative
11 District. I'd like to know what were the
12 justifications for splitting this part of
13 the Third Legislative District?

14 MR. TSEYTLIN: As I said to Minority
15 Leader, we needed to comply with the law.
16 That was the first and foremost. And as a
17 result of complying with the law, some
18 communities of interest had to be split
19 and that may be one of them. As the
20 Presiding Officer said at the beginning,
21 no map is perfect. And if there are
22 adjustments that are like that like like
23 the ones that were just mentioned that
24 could be done within the context of a
25 legal map, that's something that the Body

1
2 should discuss.

3 LEGISLATOR SOLAGES: I implore my
4 colleagues and I implore yourself and
5 your team and Presiding Officer to
6 reconsider, including, once again,
7 Millbrook. They share a commonality with
8 the rest of the district, specifically
9 the Valley Stream, part of the district
10 in terms of a common school district, in
11 terms of a common train station, the
12 Valley Stream train station that they use
13 no more than than a quarter of a mile
14 away to go to work in New York City.

15 In addition, there are parts of
16 Elmont that are not part of the current
17 Third Legislative District that were part
18 of the Third Legislative District in the
19 past, and that is the eastern part of
20 Elmont that was represented before by
21 Legislator Muscarella and currently by
22 Legislator Giuffre. An example of that
23 is a young lady who lives in that part of
24 Elmont, Nefiah, who was a victim of an
25 acid attack and instead of reaching out

1
2 to your predecessor, Mr. Giuffre, she
3 reached out to my office, even though I
4 was not her legislator, because I
5 represent Elmont. There are parts of
6 Belmont that are east of Meacham Avenue,
7 that runs north and south, there are only
8 two streets that run north and south of
9 Elmont, and this portion of Elmont has no
10 difference from other portions of Elmont.
11 And it is very diverse in terms of a very
12 large South Asian population and also a
13 Caribbean population. And I implore my
14 colleagues to reconsider this map to keep
15 Elmont truly whole, because there are
16 issues that affect not just one part of
17 Elmont, but all of Elmont.

18 You know, again, there was a lot of
19 discussion as to who drew the map. Are
20 there any other persons who are
21 responsible for drawing the map who are
22 here tonight?

23 MR. TSEYTLIN: Nobody from my law
24 firm is here no. Just me.

25 LEGISLATOR SOLAGES: Like Legislator

1
2 Bynoe and Legislator Kevan Abrahams, I
3 share the concern of whether or not race
4 was used. It's almost like a paradox to
5 say that you did not consider race. Where
6 perhaps race of other communities where
7 we're considered. I mean, we have several
8 other communities that may not be
9 considered Minority/Majority communities
10 and their cores were kept intact;
11 whereas, other core communities that are
12 minority communities were not kept
13 intact, such as Legislator Kevan
14 Abrahams.

15 You know, I'm concerned that we have
16 two Minority/Majority communities
17 represented by minorities, myself,
18 Legislative District Three, and Kevan
19 Abrahams, Legislator of District Three
20 (sic), and these communities are being
21 split. Do you have any concerns about
22 these these communities being split?

23 MR. TSEYTLIN: Certainly every
24 community of interest split is ideal to
25 avoid. The problem is that you have to

1
2 comply with what the US constitutional
3 requirement and then the even more
4 stringent state law requirement of equal
5 population. And there is no way to split
6 a sizable area like the county into 19
7 parts without splitting communities of
8 interest.

9 LEGISLATOR SOLAGES: But currently
10 Legislative District Three is represented
11 by a Majority/Minority. Under the new
12 map, it is no longer represented by a
13 Minority/Majority. My residence is no
14 longer in that district. Did you take
15 political considerations in making these
16 maps?

17 MR. TSEYTLIN: No, not at all,
18 Legislator. That's the first time I'm
19 hearing about that. And what happened
20 after we won the Harkenrider case at the
21 Court of Appeals, the Special Master drew
22 a map. And I don't know if I mentioned
23 this earlier, there were certain
24 incumbents that were paired, folks that
25 ended up running --

1
2 LEGISLATOR SOLAGES: I'm very
3 familiar with that decision. I mean, but
4 in that decision that involved multiple
5 counties Queens, Nassau, Suffolk County.
6 Here, this only involves this one county.
7 That's a key difference. We can't just
8 use that case law as example, as gospel,
9 when there are clear distinctions.

10 MR. TSEYTLIN: Well, New York's
11 congressional districts had to be divided
12 into 26. The County has to divide it
13 into 19. Obviously, 26 is bigger than 19.
14 But it shows when you draw a map not to
15 advance a political agenda, but to draw a
16 map that -- look, the proof is in the
17 pudding right there. We had the same
18 expert analyze our map and it's right
19 right in the bell curve. This is a fair
20 map. This is just like people who were
21 paired from the Harkenrider decision were
22 obviously unhappy. They were all over the
23 press, attacking judges and things of
24 that sort. But when you have a map that's
25 drawn fairly, that's not drawn to favor

1
2 or disfavor any incumbent, then you might
3 have, unfortunately, some incumbents that
4 are less happy with that process. But
5 know the reason that the Legislature
6 adopted the Home Rule Law and the
7 prohibition against partisan
8 gerrymandering, mirroring what the people
9 did in 2014, is they didn't want any more
10 partisan gerrymandering. They didn't want
11 any more incumbent protection
12 gerrymandering. And that has
13 consequences.

14 LEGISLATOR SOLAGES: But there are
15 multiple Democratic legislators who are
16 no longer in their district due to your
17 map.

18 MR. TSEYTLIN: I was not aware of
19 that until this moment.

20 LEGISLATOR SOLAGES: Did the map
21 maker conduct an analysis of the weather
22 as to whether there is racially polarized
23 voting in Nassau County?

24 MR. TSEYTLIN: Yes.

25 LEGISLATOR SOLAGES: And did that

1
2 occur for the Third Legislative District
3 in the current map that you propose?

4 MR. TSEYTLIN: There is some
5 racially polarized voting in some parts
6 of Nassau. Yes.

7 LEGISLATOR SOLAGES: What parts of
8 Nassau County?

9 MR. TSEYTLIN: I do not have those
10 numbers in front of me. But what I would
11 say is, the Gingles precondition has
12 three parts and Mr. Trende analyzed three
13 parts. It has not only the racial
14 polarization of the voting, but also
15 whether the minority group, a single
16 minority group, has their candidates of
17 choice --

18 LEGISLATOR SOLAGES: But Mr.
19 Schaefer, when he came here before, did
20 describe that his map did conduct a
21 racial polarized analysis. Does your map
22 do that?

23 MR. TSEYTLIN: No. Mr. Schaefer, in
24 fact, who testified that he had done no
25 racially polarized analysis whatsoever.

1
2 That's what Mr. Schaefer testified to.
3 Mr. Trende did do that analysis. He also
4 he analyzed all three Gingles
5 Preconditions, and he determined no VRA
6 districts were mandated. So, whereas, Mr.
7 Schaefer -- and this is one of the
8 problems with what Mr. Schaefer had done,
9 which mirrored one of the problems in the
10 Democrat TDAC Commission, is he drew a
11 District One based on race without it
12 being grounded in Section 2 of the VRA.
13 And so that was one of the reasons that
14 we concluded that that map was
15 unconstitutional. And similar problems
16 abound in the Democrat proposal. In the
17 memorandum that was submitted earlier
18 today by the Democratic members of the
19 TDAC and the accompanying report they
20 submitted from the other expert, that I
21 take it will not be testifying, shows
22 that they are not taking into account the
23 US Supreme Court case law against racial
24 gerrymandering.

25 LEGISLATOR SOLAGES: The 2013 map

1
2 excluded in the Third Legislative
3 District, Bellerose and Bellerose
4 Terrace, which is north of the Bellmont
5 racetrack as part of the Third
6 Legislative District. Now this map
7 includes these areas once again. They
8 were previously under Legislator
9 Muscarella's district. What is the
10 justification for including them once
11 again in the Third District?

12 MR. TSEYTLIN: One of the criticisms
13 that was made by the Democratic members
14 of the TDAC, of the Republican members of
15 the TDAC maps was that they had placed
16 preservation of the core of districts
17 above other criteria. They had touted
18 that this was the top criteria. We agreed
19 with the Democrat members of the TDAC's
20 criticism that that emphasized that
21 criteria too much. The Minority leader
22 pointed that out as a criticism and we
23 took that criticism seriously.

24 We also rejected the opposite
25 extreme, which is not taken into account

1
2 at all. So the cores of existing
3 districts were taken into account, but
4 they were not made the predominant
5 consideration as they were under the
6 Republican TDAC's proposal.

7 LEGISLATOR SOLAGES: So you did
8 consider the cores of the Third
9 Legislative District and also District
10 One?

11 MR. TSEYTLIN: We considered all of
12 the cores. It was one of the many
13 criteria that we did consider. We did not
14 do either extreme. What happened at the
15 TDAC level was that the Democratic
16 members said, we're going to give zero
17 weight to the cores, even though the
18 statute says you have to give weight to
19 the cores. And then the Republicans said
20 we're going to give predominant weight.
21 What we did is we gave some weight.

22 LEGISLATOR SOLAGES: You made
23 reference to Mr. Trende's analysis. Did
24 did Mr. Trende provide a racially
25 polarized analysis?

1
2 MR. TSEYTLIN: He conducted one,
3 yes.

4 LEGISLATOR SOLAGES: Can you provide
5 -- is that part of your memo?

6 MR. TSEYTLIN: No, he conducted one.

7 LEGISLATOR SOLAGES: But are you
8 relying upon that analysis?

9 MR. TSEYTLIN: We are relying upon
10 his conclusion that we did not have to
11 draw any other districts to comply with
12 Section 2 of the VRA, yes.

13 LEGISLATOR SOLAGES: Can you please
14 provide his analysis?

15 MR. TSEYTLIN: That was the bottom
16 line.

17 LEGISLATOR SOLAGES: You still
18 considered his analysis, nevertheless.
19 So, therefore, for your conclusion, can
20 you please provide that to this Body?

21 MR. TSEYTLIN: I provided to this
22 Body the bottom line conclusion that he
23 analyzed it.

24 LEGISLATOR SOLAGES: So you're not
25 providing the analysis from Mr. Trende?

1
2 MR. TSEYTLIN: I am providing his
3 bottom line conclusion. That is what I'm
4 providing.

5 LEGISLATOR SOLAGES: Can you please
6 provide his analysis?

7 PRESIDING OFFICER NICOLELLO: I
8 think he's answered the question. He's
9 providing the bottom line analysis, and
10 that's --

11 LEGISLATOR SOLAGES: He's relying
12 upon the conclusion, but not upon the
13 analysis. But the analysis determines the
14 conclusion; therefore, we are entitled to
15 the analysis.

16 PRESIDING OFFICER NICOLELLO:
17 Therefore, no, you're not. He's given
18 you an answer, and that's the answer that
19 you have.

20 LEGISLATOR SOLAGES: There was no
21 answer, just to be clear.

22 PRESIDING OFFICER NICOLELLO: He
23 was. He basically said that he's
24 providing a bottom line analysis and
25 that's all that he is providing.

1
2 LEGISLATOR SOLAGES: He's refusing
3 to provide an analysis that he relying on
4 the conclusion that came from that
5 analysis.

6 PRESIDING OFFICER NICOLELLO: It is
7 what it is.

8 LEGISLATOR SOLAGES: On your report
9 on page four, you describe Section 2 of
10 the VRA. It states in relevant part,
11 "relying upon Cooper, traditional
12 criteria such as ensuring district
13 compactness and continuity, reflecting
14 population shifts, maintaining population
15 equality". Is your conclusion today that
16 the John Lewis Voting Rights Act is
17 inconsistent or contradicts the US
18 Constitution?

19 MR. TSEYTLIN: No. Our
20 interpretation of the law that has not
21 been yet interpreted is the law should be
22 interpreted so as not to require a
23 consideration of race that would violate
24 the US Constitution's Equal Protection
25 Requirement. That is an issue that has

1
2 not been litigated. The courts may decide
3 that the John Lewis Law is in line with
4 Section 2 of the VRA, and then there
5 would be no constitutional problem. If
6 the courts conclude that the John Lewis
7 Law requires an over emphasis on racial
8 redistricting, then the unfortunate
9 result would be the John Lewis Law would
10 be declared unconstitutional. I would
11 hope that the courts would not read the
12 John Lewis Law like that, but rather read
13 it under the principle of constitutional
14 avoidance to avoid that result. Because I
15 do not think the Legislature was
16 intending to violate the Constitution.

17 LEGISLATOR SOLAGES: There was
18 reference made to Dr. Megan Gall's
19 analysis that there should be five
20 Majority/Minority districts.
21 Unfortunately, we do not see that. Why
22 the difference from 5 to 4? Why are you
23 only relying upon for Minority districts?

24 MR. TSEYTLIN: We're not relying on
25 any Majority/Minority districts,

1
2 Legislator. As I said, we concluded that
3 there was no need to draw any VRA
4 districts. The fact that we do have four
5 was based was the result entirely of
6 taking communities of interest into
7 account. Of course you can have a
8 Majority/Minority --

9 LEGISLATOR SOLAGES: But did you
10 consider Dr. Gall' conclusion?

11 MR. TSEYTLIN: Yes, we did.

12 LEGISLATOR SOLAGES: And why not
13 incorporate it in your analysis?

14 MR. TSEYTLIN: Dr. Gall's conclusion
15 and her analysis was contrary to the US
16 Supreme Court's case law under the Equal
17 Protection Clause. And since the US
18 Constitution is the predominant law in
19 this land, to the extent that she was
20 making recommendations and she does make
21 recommendations that this Body violate
22 the equal protection clause of the
23 Constitution, I would urge this Body not
24 to heed those recommendations.

25 LEGISLATOR SOLAGES: I respectfully

1
2 disagree, legally speaking.

3 But going back to Mr. Trende, can he
4 provide a memo or any information
5 regarding his racially polarized
6 analysis?

7 PRESIDING OFFICER NICOLELLO: No.
8 You have his answer. You have his answer.

9 LEGISLATOR SOLAGES: Why is it such
10 a secret? I mean, this process should be
11 transparent.

12 PRESIDING OFFICER NICOLELLO: This
13 is not litigation. This is a hearing -- -

14 LEGISLATOR SOLAGES: Unfortunately,
15 this will lead to litigation.

16 PRESIDING OFFICER NICOLELLO: Well,
17 right. If that's what it takes in
18 litigation, then that's what it takes,
19 the litigation. But this is a hearing --

20 LEGISLATOR SOLAGES: Nassau
21 taxpayers can't afford that.

22 PRESIDING OFFICER NICOLELLO: You're
23 presented with this information and this
24 is what you have.

25 LEGISLATOR SOLAGES: Is there any

1
2 reason why Mr. Trende is not here
3 tonight?

4 MR. TSEYTLIN: The request was
5 someone that could could testify to all
6 the legal requirements; that is the map.
7 Mr. Trende provided analysis on two of
8 the nine legal requirements. I'm able to
9 talk about his analyses. Those two and
10 I'm able to talk about the others. So it
11 seemed that that made more sense.

12 LEGISLATOR SOLAGES: We talked about
13 Dr. Gall, also we're going to hear from
14 Dr. Magleby. He considers your map to be
15 an extreme example of gerrymandering.
16 What is your response to that?

17 MR. TSEYTLIN: My response was upon
18 taking his criticisms in his report of
19 the Republican TDAC proposal seriously,
20 we retain -- and he said in his report,
21 I'm doing this because the New York Court
22 of Appeals said this is the kind of
23 analysis you need to do. So what do we
24 do? We retained the expert in Harkenrider
25 to do the exact same analysis. There you

1
2 have it. Our map is right in the bell
3 curve. The two TDAC maps are off. Now
4 they're not off anywhere as egregiously
5 as the Democrat gerrymander in Albany
6 last year. I don't want to be impugning
7 either map to that extent. But it is very
8 clear that under the actual analysis in
9 Harkenrider, not this entirely different
10 mean median analysis that Dr. Magleby is
11 doing, that our map scores
12 extraordinarily well.

13 LEGISLATOR SOLAGES: Mr. Trende's
14 conclusion for the racially polarized
15 analysis, what election cycles did that
16 analysis rely upon?

17 LEGISLATOR SOLAGES: I do not know
18 the answer.

19 LEGISLATOR SOLAGES: Did it rely
20 upon 2021?

21 PRESIDING OFFICER NICOLELLO: He
22 just told you he doesn't know the answer.

23 LEGISLATOR SOLAGES: He could answer
24 no to that question. You can answer no to
25 2019. You can answer no 2017.

1
2 MR. TSEYTLIN: I do not know the
3 answer to which ones he analyzed.

4 LEGISLATOR SOLAGES: Why is that
5 information secret? I mean, if you're
6 relying upon his conclusion, shouldn't it
7 be based upon some empirical data?

8 PRESIDING OFFICER NICOLELLO: Mr.
9 Tseytlin, that's not a question. You can
10 go to the next question.

11 LEGISLATOR SOLAGES: I will allow
12 Mr. Drucker to answer questions about his
13 district, but the map clearly rips him
14 out of his district, and I share his
15 concern. Now I'm in Legislator Kopel's
16 district. Are you sure no consideration
17 considerations were made?

18 MR. TSEYTLIN: We can not take into
19 account -- the first time I'm hearing
20 about any --

21 LEGISLATOR SOLAGES: Just like you
22 can't take race in consideration.

23 PRESIDING OFFICER NICOLELLO: You
24 don't have to answer that question. Go
25 ahead. Next question.

1
2 LEGISLATOR SOLAGES: You mentioned
3 villages. And in the Third Legislative
4 District, we see the Village of Valley
5 Stream. Is the population of the Village
6 of Valley Stream, greater or lesser than
7 40% of the Third Legislative District?

8 MR. TSEYTLIN: I have not memorized
9 all the population sizes here today.

10 LEGISLATOR SOLAGES: Understood. But
11 you are relying upon an analysis as to
12 whether or not specific villages are
13 being broken up.

14 MR. TSEYTLIN: Every village that is
15 broken up is higher than the 40%
16 threshold.

17 LEGISLATOR SOLAGES: So is it safe
18 to say that the threshold is established
19 in the Third Legislative District with
20 respect to the Village of Valley Stream?

21 MR. TSEYTLIN: As I said, I did not
22 memorize the population of every
23 district, but I did have my team confirm
24 that every single village that is split
25 is in compliance with that 40% rule.

1
2 LEGISLATOR SOLAGES: Thank you.

3 I implore my colleagues to please
4 keep Elmont whole and also to include
5 Millbrook once again in the Third
6 Legislative District.

7 Thank you.

8 PRESIDING OFFICER NICOLELLO: Thank
9 you.

10 Legislator Drucker.

11 LEGISLATOR DRUCKER: Thank you,
12 Presiding Officer.

13 I don't want to belabor or kick the
14 dime or kick a horse, whatever the
15 expression is.

16 PRESIDING OFFICER NICOLELLO: Beat a
17 dead horse.

18 LEGISLATOR DRUCKER: Beat a dead
19 horse. I'm getting tired, Presiding
20 Officer. Thank you.

21 How familiar are you with the
22 particular characteristics of the 19
23 legislative districts? Personally
24 familiar.

25 MR. TSEYTLIN: Personally, that is

1
2 not my core competency. That's why that's
3 why I consulted with the --

4 LEGISLATOR DRUCKER: It's a yes or
5 no question. Are you personally familiar
6 with the characteristics of the 19
7 districts?

8 MR. TSEYTLIN: I'm certainly not an
9 expert on that. I am not an expert on
10 that. I'm not claiming to be.

11 LEGISLATOR DRUCKER: Yes. So, some
12 of my questions, just like with the
13 Minority Leader and others on my caucus,
14 you might not be able to answer that.

15 But, I mean, you know, everyone
16 agrees that tragically, Nassau County has
17 de facto racially and ethnically and
18 culturally segregated communities. It's
19 it's tragic, but it's the reality and the
20 maps have to understand that.

21 I represent Legislative District 16.
22 It just so happens that this map that
23 you're proposing, the line is drawn on my
24 front walk of my house and I am now in
25 Legislator Ferretti's district.

1
2 Legislator Ferretti, I love Legislator
3 Ferretti. John, you listening? I love
4 Legislator Ferretti, but probably the
5 only thing we have in common is we're
6 both diehard Mets fans.

7 But to put a point, my district now
8 under this new map, you cut in half
9 Plainview. Plainview/Old Bethpage, are
10 you familiar with this district at all?
11 So Plainview/Old Bethpage is one
12 contiguous compact, ethnically,
13 culturally similar, politically similar
14 community. The school district is called
15 the Plainview/Old Bethpage School
16 District. The library is the
17 Plainview/Old Bethpage Library. The
18 Chamber of Commerce is the Plainview/Old
19 Bethpage Chamber of Commerce, The
20 Plainview/Old Bethpage Community Pool.
21 The Houses of Worship. Everything is
22 Plainview/Old Bethpage. I live within
23 one mile -- it's kind of sad -- of where
24 I lived my entire life. I haven't gone
25 very far. So I know the community like

1
2 the back of my hand, and Plainview and
3 old Bethpage are joined at the hip in all
4 respects. And now I have to be able to
5 understand how this map all of a sudden
6 takes a community that's been together
7 since inception, and the boundary line is
8 where I live. And I live in a condominium
9 complex over the last couple of years.
10 The condominium complex is called Country
11 Pointe Plainview. My mailing address is
12 Plainview. Most of the people in my
13 community have a Plainview mailing
14 address. There's a really small section
15 in the back that actually has an Old
16 Bethpage mailing address. So this now map
17 is going to cut that in half and remove
18 an entire community. I don't know how
19 that's possible to do that. We've been
20 together forever.

21 You talk about one of the criteria
22 under the Municipal Home Rule, "the maps
23 can't discourage competition for the
24 purpose of favoring or disfavoring an
25 incumbent". Well, I can't think of any

1
2 other map that disfavors me because the
3 line is at my front door, coincidentally.
4 And how many other -- are there any guys
5 on the other side of the aisle, do you
6 know, who now the line pulls them out of
7 their district? On our side, we have
8 myself, the Minority Leader and
9 Legislator Solages. So that three out of
10 seven that's I think 40% of our caucus is
11 now out. I don't know how that's
12 justifiable in any world. Can you talk
13 about that?

14 MR. TSEYTLIN: As as I responded to
15 your fellow legislator, I had no idea
16 about any incumbent locations until I was
17 -- like I said, I got the memo earlier
18 today from the the Democrats on the TDAC.
19 You know, to the extent that something
20 like that occurred, it seems almost déjà
21 vu to what happened when the special
22 master drew the the remedial map and the
23 Harkenrider case. It was all over the
24 news. Everyone knows there were primaries
25 of folks and they were unhappy about it.

1
2 But that's what happens when you
3 don't do business as usual. What was
4 business as usual before was drawing maps
5 that took into account these things. Now
6 you're not supposed to be favoring
7 political parties or incumbents.

8 LEGISLATOR DRUCKER: So there's no
9 political agenda with regard to these
10 maps?

11 MR. TSEYTLIN: Legislator, the proof
12 is in the pudding. We retained the same
13 expert that analyzed the partisan
14 fairness. In the New York Court of
15 Appeals landmark decision Harkenrider, we
16 asked him, does this pass the test? It
17 passes it with flying colors.

18 LEGISLATOR DRUCKER: Right. So you
19 drew the maps with the Presiding Officer
20 with no political agenda involved. But
21 40% of this caucus is now out, and any
22 other on the other side?

23 MR. TSEYTLIN: As as I said,
24 Legislator, you're saying certain things
25 about about --

1
2 LEGISLATOR DRUCKER: The answer is
3 no. The answer is no.

4 MR. TSEYTLIN: You can answer your
5 question, but I have no idea.

6 LEGISLATOR DRUCKER: Shouldn't you
7 have an idea?

8 MR. TSEYTLIN: No, I should not. For
9 the same reason that the Special Master
10 was criticized. In the proposed map in
11 Harkenrider, the Special Master drew some
12 incumbents into the same districts and he
13 was criticized in that the proposal stage
14 saying, how could you do this? And he
15 wrote it in the final report. I'm not
16 allowed by the New York Constitution to
17 take these things into account. And that
18 was exactly correct. And we were
19 following that precedent.

20 LEGISLATOR DRUCKER: I want to let
21 these people speak, so I'm not going to
22 beat a dead horse. But Old Bethpage,
23 although it sounds like Bethpage is so
24 completely different in every aspect than
25 Old Bethpage, Old Bethpage and Bethpage,

1
2 I mean from the school districts, from
3 politics, from religion. I mean, you
4 know, I don't want to say there was any
5 sort of attempt to do this with religion
6 in mind, but once you cross over Old
7 Bethpage into Bethpage, there's a
8 difference, and Farmingdale there's a
9 difference. But that's just the way
10 Nassau County is, tragically. It's sad,
11 but that's what we have and we need to do
12 better.

13 So this map doesn't do it for me,
14 although I get to be in Legislator
15 Ferretti's district.

16 PRESIDING OFFICER NICOLELLO: Okay,
17 Thank you, Arnie. I think the Minority
18 Leader had some follow up questions.

19 LEGISLATOR ABRAHAMS: Follow up and
20 then obviously we can move on.

21 I was listening to some of the
22 question and answering by Legislator
23 Solages to you, Mr. Tseytlin. I
24 understood when you were going back and
25 forth with me that you had a very

1
2 comprehensive knowledge of what Mr.
3 Trende had done, but when Legislator
4 Solages asked you in regards to what
5 criteria in terms of determining this was
6 not a partisan gerrymander, what years
7 did he use, the years that he uses, is
8 that a criteria?

9 MR. TSEYTLIN: No. Legislator
10 Solages was asking me the years that he
11 used for his racial polarizing analysis.
12 What you're asking for is this. And he
13 used the exact same races and the exact
14 same years that he used for the analysis
15 that he did in Harkenrider, which is the
16 statewide elections in the state of New
17 York from 2016 to 2020, the
18 gubernatorial, the senate, and the
19 presidential elections, those are the
20 ones he used for that. He may have used
21 the same ones for the racial polarizing
22 analysis. I just don't know. That's why I
23 was answering. But I know for --

24 LEGISLATOR ABRAHAMS: I guess, what
25 I'm driving at and also going to ask you

1
2 -- not to cut you off, I'm sorry. Just
3 trying to start a new -- what he used as
4 that criteria to come up with that,
5 that's the appropriate criteria to use
6 here in Nassau, even though the criteria
7 used for that is a different election
8 cycle?

9 MR. TSEYTLIN: Yes, absolutely. The
10 academic literature is that statewide
11 races are the the best way to establish a
12 baseline of partisanship. I will note
13 that in the report of Dr. Magleby, the
14 longer report, not the short one today,
15 he says that he tries to explain why he
16 used countywide races and his
17 justification was that individual
18 congressional races and individual
19 legislator races are not appropriate,
20 which we agree with. And then he says
21 countywide races has been found to be
22 reliable. But he cites nothing for that.
23 There's no citation in this report for
24 that. In fact, so far as I know, in every
25 case that has used simulation analyses,

1
2 the races that were used for that
3 analysis were statewide races, because
4 those are the best ones to abstract away
5 from individual candidate quality,
6 spending disparities, and other
7 idiosyncrasies that could make a low name
8 ID race or a low, low money race or a
9 high money race on one side and the other
10 not representative.

11 LEGISLATOR ABRAHAMS: Every single
12 case?

13 MR. TSEYTLIN: I am not aware of any
14 case that has ever used local races to
15 set the baseline for a simulation
16 analysis. Maybe there's some somewhere in
17 the country, there's obviously more and
18 more simulation analysis being done. But
19 so far as I know, and the leading
20 practitioners of this methodology,
21 including Dr. Imai, who was kind of the
22 The Godfather of this analogy, uses
23 statewide races.

24 LEGISLATOR ABRAHAMS: Got it.

25 MR. TSEYTLIN: Now, that was not the

1
2 biggest mistake, in my judgment, that Dr.
3 Magleby made, that was not doing the
4 gerrymandering index, but rather using
5 the mean median difference. But that is
6 another compounding factor that I think
7 was unfortunate in his analysis and not
8 supported by any academic literature that
9 he cited, at least, in his report.

10 LEGISLATOR ABRAHAMS: If you can
11 refer your attention to page three of
12 your analysis, and this is going to be
13 quick because I'm trying to reconcile the
14 numbers and I'm not coming up with it.
15 You mentioned in your analysis that the
16 mean number -- again, this is your
17 analysis, right? Just want to make sure
18 that. You mentioned in your analysis
19 that the mean number is 73,521 based off
20 of a population adjusted population of
21 1,396,897, correct?

22 MR. TSEYTLIN: That's what the
23 numbers say. Yes.

24 LEGISLATOR ABRAHAMS: Are you aware
25 that the adjusted population is

1
2 1,396,925?

3 MR. TSEYTLIN: I'm not, but I can I
4 can look at the numbers afterwards. And
5 if there's a slight correction, I'm sure
6 that can be made. I don't know those
7 numbers --

8 LEGISLATOR ABRAHAMS: Let's just
9 establish for the record because I was
10 looking at your map and I notice -- and
11 my eyes are not the best, I'll admit that
12 getting older with age. But I noticed in
13 your map that in District 14 or District
14 7, it looks like there's a zero in
15 between the two maps. What is that zero?

16 MR. TSEYTLIN: I don't know.

17 LEGISLATOR ABRAHAMS: I'm sorry.

18 MR. TSEYTLIN: I don't know.

19 LEGISLATOR ABRAHAMS: Okay, So
20 there's a zero there -- you drew this
21 map, correct?

22 MR. TSEYTLIN: As I said, I think 12
23 times before, it was done --

24 LEGISLATOR ABRAHAMS: It was done in
25 consultation.

1
2 MR. TSEYTLIN: Yes. And so that
3 zero would have been spit out by the
4 program.

5 LEGISLATOR ABRAHAMS: So it was spit
6 out by the program. So that zero, does
7 that have any significance?

8 MR. TSEYTLIN: Not that I know of.

9 MR. TSEYTLIN: Well, based on what
10 I'm seeing, it does have some
11 significance. Would you like to hear what
12 it is?

13 MR. TSEYTLIN: Sure.

14 LEGISLATOR ABRAHAMS: You left out a
15 census block of 28 people. That's why the
16 your number is off. Your number is off by
17 28 people. So in essence, your mean
18 population for all districts should not
19 be 73,521; it should be 73,522. But
20 again, you're contending that this map is
21 legal. Again, you're attending, that you
22 put together this map. And again, I'm
23 going to attest that this map is sloppy,
24 but thank you. Nothing further.

25 PRESIDING OFFICER NICOLELLO: So let

1
2 me let me see. Legislator Ferretti has a
3 question. Let me see the point here.
4 Apparently, an error was made with 28
5 people being left out and, therefore, the
6 mean population should not be 73,521; it
7 should be 73,522. And the conclusion that
8 my colleagues have drawn is this map is
9 sloppy. All right. You can have that
10 point. See if anyone else buys that.

11 LEGISLATOR ABRAHAMS: Where else,
12 Presiding Officer, is it sloppy? I just
13 found this in the last 20 minutes. I'm
14 sure if you give me more time, I can find
15 more.

16 PRESIDING OFFICER NICOLELLO: You
17 found a variance of 28 people in a
18 population of over 1.3 million. So, I
19 mean --

20 LEGISLATOR ABRAHAMS: In 20 minutes.
21 Yeah, I did.

22 PRESIDING OFFICER NICOLELLO: I
23 started this by saying it's gotcha
24 moments, and you finished it with a
25 gotcha moment. So, gotcha.

1
2 Legislator Ferretti.

3 LEGISLATOR FERRETTI: So I just
4 wanted to thank you for your testimony. I
5 was blown away by a lot of it. I think we
6 all got a pretty good education tonight
7 in this redistricting, which I find
8 fascinating. I watched all the the
9 hearings with the two commissions. And,
10 you know, I think that especially in your
11 introduction, when you explain the whole
12 process, you got so much out there in a
13 pretty short period of time on a pretty
14 complicated issue. So thank you for that,
15 very informative.

16 There was one question that was
17 asked of you that you began to answer
18 when you were being questioned earlier
19 about communities of interest and you
20 were kind of cut off from answering. I
21 don't remember exactly what the question
22 was, but just to refresh your
23 recollection, you began to talk about in
24 a certain situation, Nassau County as a
25 whole would be treated as a community of

1
2 interest, and then you were kind of cut
3 off from further explaining as to how
4 that would be. So would you can you
5 explain that?

6 MR. TSEYTLIN: Yeah. So thank you so
7 much. So I was asked by the Minority
8 Leader what other communities of interest
9 at all are split. And what I was trying
10 to say was that communities of interest
11 are defined so broadly that if you're
12 talking about a bigger map, let's say a
13 congressional map, the County itself, it
14 has commonality, it has political
15 interest, is represented by this Body, it
16 would fairly be termed as a community of
17 interest. And obviously that community of
18 interest has to be split 19 ways for you
19 all to be here. So the point I was trying
20 to make and maybe I shouldn't use the
21 word silly and I apologize for that. The
22 point I was trying to make is the
23 question was poorly framed. The reason
24 for that is every map, by drawing even
25 two districts in a map, you're

1
2 automatically going to split communities
3 of interest. And when you have to draw a
4 community -- this is a community of
5 interest, it's got political commonality
6 being represented by this Body, it's a
7 community of interest. So to draw these
8 19 districts, we had to divide the
9 community of interest 19 ways. And every
10 single, as the Presiding Officer said,
11 gotcha question, really founders on that
12 very core premise, which is that whenever
13 you draw any one district line, by
14 definition, you're going to split a
15 series of communities of interest. And
16 what a legal map does is it complies with
17 all legal requirements, and does its best
18 to divide less communities of interest,
19 to respect cores of existing districts to
20 the extent possible, to respect all of
21 the other considerations. And that's the
22 point I was really trying to make with
23 regard to that comment.

24 LEGISLATOR FERRETTI: Thank you. I
25 appreciate it.

1
2 PRESIDING OFFICER NICOLELLO: All
3 right, Mr. Tseytlin, thank you very much
4 for your testimony. We appreciate it. And
5 we're going to move on at this point.

6 I'm going to offer the Minority
7 Leader an opportunity to introduce a
8 speaker.

9 LEGISLATOR ABRAHAMS: Thank you,
10 Presiding Officer. I would like to bring
11 up Dr. Magleby and Chairman Mejias at
12 this time. They had conducted an analysis
13 of the proposed map that's before us
14 today.

15 PRESIDING OFFICER NICOLELLO: Let me
16 be clear about this. We'll hear from Dr.
17 Magleby. Dave Mejias, my good friend,
18 this is not your time to speak. If you
19 want something to speak, you, like all of
20 us, eventually, will have an opportunity
21 for three minutes with the rest of the
22 public.

23 MR. MEJIAS: I'm sorry, but I don't
24 believe Mr. Tseytlin is an expert. He's
25 not a demographer. He's not an expert on

1
2 RPV analysis. He's an attorney. I'm an
3 attorney. So the Minority Leader has
4 asked an attorney who, after literally
5 hundreds of hours of sitting through
6 hearings, researching the law, I'm now an
7 expert on redistricting, racially
8 polarized voting and partisan
9 gerrymandering. So if you're allowed to
10 bring an expert in to talk about the law,
11 a legal expert, then the Minority caucus
12 should be allowed the same respect,
13 especially in light of the fact that the
14 hyperbole that we just heard is belied by
15 the facts and the law.

16 PRESIDING OFFICER NICOLELLO: Thank
17 you, Mr. Mejias.

18 MR. MEJIAS: I would like the same
19 opportunity that your expert had to talk
20 about the law.

21 PRESIDING OFFICER NICOLELLO: Mr.
22 Tseytlin was brought here to present the
23 map. We offered the Minority an
24 opportunity to have their expert, Mr.
25 Magleby, come and speak as well. You were

1
2 a member of the Commission. You served
3 with distinction.

4 MR. MEJIAS: Thank you.

5 PRESIDING OFFICER NICOLELLO: That
6 service is over.

7 MR. MEJIAS: It's not, actually.

8 PRESIDING OFFICER NICOLELLO: You
9 are, again, a member of the public and i
10 will invite you up to speak. I have your
11 slip and you will have an opportunity to
12 speak as everyone else will.

13 LEGISLATOR ABRAHAMS: I'm not too
14 sure I understand your rationale,
15 Presiding Officer. He's part of the
16 analysis and the expertise that we're
17 relying on. Why are you disallowing?

18 PRESIDING OFFICER NICOLELLO: Mr.
19 Mejias is a gentleman who I served with
20 for years. He is not an expert that we
21 have called. Mr. Magleby is an expert on
22 the map. We do not want to hear from Mr.
23 Mejias and his partisan approaches.

24 MR. MEJIAS: Respectfully, Mr.
25 Tseytlin is not an expert either.

1
2 PRESIDING OFFICER NICOLELLO:

3 Understand this. I spoke about this with
4 the Minority earlier, but that is our
5 position; the Majority. This is how we
6 structured the hearing. We would have
7 someone in to present the map. We would
8 allow the Minority to have an expert.
9 You're not an expert, so please step away
10 from the podium and let Mr. Magleby
11 proceed.

12 MR. MEJIAS: I just want to be clear
13 as to what you actually define as an
14 expert. You had an attorney who is not an
15 expert on what our -- by the way, you
16 didn't have your expert up here. You did
17 not have your cartographer --

18 PRESIDING OFFICER NICOLELLO: All
19 right. Thank you, Mr. Mejias.

20 MR. MEJIAS: Your expert on
21 polarized voting and gerrymandered.

22 PRESIDING OFFICER NICOLELLO: Mr.
23 Mejias, would you please step away from
24 the table?

25 MR. MEJIAS: I can understand. I can

1
2 understand --

3 PRESIDING OFFICER NICOLELLO: Mr.
4 Mejias, this is not a dialogue. You are
5 out of order. You stepped up into the
6 well, you are not invited. You are not
7 part of the program.

8 MR. MEJIAS: I was invited. I was
9 invited by the Minority Caucus.

10 PRESIDING OFFICER NICOLELLO: It
11 doesn't matter.

12 MR. MEJIAS: I can understand --

13 PRESIDING OFFICER NICOLELLO:
14 Understand this. They had the
15 opportunity to invite whoever they want.
16 We had an agreement that they would
17 invite their expert. He's here. We want
18 to --

19 LEGISLATOR ABRAHAMS: Which includes
20 Mr. Mejias.

21 PRESIDING OFFICER NICOLELLO: Mr.
22 Mejias, you are not the expert. Have you
23 ever testified in a case? Have you
24 testified in a case with respect to --

25 MR. MEJIAS: Has Mr. Tseytlin?

1
2 PRESIDING OFFICER NICOLELLO: No,
3 no, no, no.

4 MR. MEJIAS: No, no, no, no, no, no,
5 no, no. Is very good question, Presiding
6 Officer. That's an excellent question.
7 Mr. Tseytlin said he was the attorney. As
8 an attorney --

9 PRESIDING OFFICER NICOLELLO: Mr.
10 Mejias.

11 MR. MEJIAS: I would imagine in
12 redistricting cases, he's prevented from
13 testifying --

14 PRESIDING OFFICER NICOLELLO: Mr.
15 Mejias, we are either going to have to
16 remove you or you'll leave voluntarily.

17 MR. MEJIAS: I want to be very
18 clear. I want to be very clear. I can
19 completely understand why you would not
20 want a competent, qualified trial
21 attorney who, after sitting through
22 hundreds of hours of listening to
23 experts, is probably actually better
24 informed than your expert because he
25 blatantly misrepresented the law. But I

1
2 can understand why you would not want a
3 counterpoint and a counterargument to
4 your expert. This is very similar -- you
5 know what this seems like? This is
6 similar to the time when my father was
7 put on trial in Cuba. It was only a
8 prosecution, there wasn't a defense.

9 PRESIDING OFFICER NICOLELLO: Mr.
10 Mejias, you have very high opinion
11 yourself; that's fine.

12 MR. MEJIAS: You're welcome to shoot
13 it down.

14 LEGISLATOR ABRAHAMS: Presiding
15 Officer, I would like to--

16 PRESIDING OFFICER NICOLELLO: We
17 would like to hear from the expert.

18 LEGISLATOR ABRAHAMS: And you will.

19 PRESIDING OFFICER NICOLELLO: If Mr.
20 Mejias is going to boycott this, then
21 we're not going to hear from either and
22 we're going to go out to the public; your
23 choice.

24 LEGISLATOR ABRAHAMS: Presiding
25 Officer, I would like to hear where

1
2 you're citing either in the Rules of
3 Procedure or in the Charter that
4 identifies that you could dictate to us
5 who our witnesses are at this dais.
6 Please. I would like to hear where --

7 PRESIDING OFFICER NICOLELLO: We had
8 an agreement, Minority leader. We had an
9 agreement --

10 LEGISLATOR ABRAHAMS: We had an
11 agreement that we would bring our
12 experts, which Mr. Mejias is one of them.

13 PRESIDING OFFICER NICOLELLO: We did
14 not have an agreement that you were going
15 to bring a political operative to speak
16 at this hearing. So. Mr. Mejias, would
17 you please leave?

18 MR. MEJIAS: Hold on a second. Are
19 you telling me that Mr. Tseytlin is not a
20 political operative?

21 PRESIDING OFFICER NICOLELLO: Mr.
22 Mejias, would you please leave?

23 MR. MEJIAS: Okay. You are the
24 presiding officer and I do respect you
25 tremendously. I don't want to get into an

1
2 argument with you. When we did serve with
3 distinction.

4 PRESIDING OFFICER NICOLELLO: I do
5 respect you as well.

6 MR. MEJIAS: I just do want to say
7 for the record that I do disagree that
8 the Minority does not have the
9 opportunity to have an expert of their
10 choosing --

11 PRESIDING OFFICER NICOLELLO: They
12 do.

13 MR. MEJIAS: -- recite the law when
14 the Majority had an expert come and talk
15 about the law and actually make blatant
16 misrepresentations about what the federal
17 law and the Constitution is, because the
18 Supreme Court does not say what he says.

19 So having said that, I don't want to
20 get I don't want to get into an argument
21 or fight with you. I just want the record
22 to be clear that the Minority was denied
23 the opportunity to have their expert, an
24 expert, provide a counterpoint and a
25 legal analysis to your attorney, because

1
2 he's not an expert in this, to your
3 lawyer. So usually in America, there's
4 your plaintiff, a defendant, a
5 prosecution, a defense. There's two sides
6 of an issue. And considering the fact
7 that, from what I've heard, we are going
8 to be in litigation and you're
9 guaranteeing that. But you are now on
10 notice that prevailing party applies and
11 you will be paying millions of dollars to
12 somebody, because this map, the map that
13 you presented, is completely illegal.

14 PRESIDING OFFICER NICOLELLO: Thank
15 you. We've actually just heard from the
16 voice of Jay Jacobson. We appreciate you
17 being here, Mr. Mejias.

18 LEGISLATOR ABRAHAMS: It's
19 unbelievable.

20 PRESIDING OFFICER NICOLELLO: I
21 mean, come on. Come on. You just
22 threatened us with a lawsuit. Would you
23 please step away from the podium?

24 LEGISLATOR ABRAHAMS: Presiding
25 Officer, if I may. Mr. Mejias, before

1
2 you leave, if I may. I just asked that,
3 Dr. Magleby, are you an attorney by law?

4 DR. MAGLEBY: I'm not an attorney by
5 law.

6 LEGISLATOR ABRAHAMS: You're not
7 attorney by law. If there are legal
8 questions that are presented to Mr.
9 Magleby, can Mr. Mejias at least be
10 sitting next to Mr. Magleby.

11 PRESIDING OFFICER NICOLELLO: No.
12 No. This is not a legal -- Mr. Mejias is
13 a well respected --

14 LEGISLATOR ABRAHAMS: I got it. I
15 got it.

16 PRESIDING OFFICER NICOLELLO:
17 Extremely talented litigator, served with
18 distinction for many years, but he's not
19 here as an expert. And we would ask you
20 to step away. And I'm not going to take
21 away your three minutes later on when you
22 get up to the microphone.

23 MR. MEJIAS: Thank you, Presiding
24 Officer. I appreciate that small gesture.
25 Thank you.

1
2 LEGISLATOR SOLAGES: Anyone
3 appreciate the perception here? We have
4 black and brown communities being cracked
5 and packed and now a Latino male who's
6 going to testify is not even allowed to
7 speak. I mean, come on. I mean, come on
8 here. Look at the perception. Let the
9 record reflect that. This is disgusting.
10 This is not America.

11 PRESIDING OFFICER NICOLELLO: Mr.
12 Magleby, go ahead.

13 DR. MAGLEBY: Thank you, Mr.
14 Presiding Officer, Minority Leader,
15 Legislators, it is a pleasure to be here
16 tonight. Genuinely.

17 I'm a professor of political science
18 and economics at SUNY Binghamton. My
19 research expertise is in elections,
20 election geography and legislative
21 politics. And I have to tell you, having
22 a front row seat to see how this
23 Legislature works is exciting. I'm not
24 sure it's like this every time, but if it
25 is, you're missing out on an opportunity

1
2 for high ratings TV. This has been good.

3 I'm going to briefly summarize what
4 I found in my analysis of the February
5 9th Republican proposal. And then, if I
6 may, I know that you asked me to limit my
7 remarks to five minutes, but if I could
8 beg some indulgence --

9 LEGISLATOR ABRAHAMS: I'm sorry, Dr.
10 Magleby, you don't need to adhere to your
11 comments to five minutes.

12 DR. MAGLEBY: Okay. Because there
13 were quite a few points that were leveled
14 by your expert that are worth addressing,
15 some of which were rather personal. And I
16 would like the opportunity to address
17 them point by point, if I may.

18 So we had a brief overview of the
19 legal definitions and the supremacy of
20 the Constitution from the Republican's
21 witness. I won't repeat any of that, but
22 let me delve in for just a moment into
23 what a gerrymander is. And to do that,
24 I'm going to quote a great New Yorker,
25 Antonin Scalia, who, in the case Veith

1
2 versus Jubelirer, cited Black's Law
3 dictionary when he defined gerrymandering
4 as -- this is the quote directly from the
5 decision -- the term political
6 gerrymander has been defined as, "the
7 practice of dividing geographical areas
8 into electoral districts, often of highly
9 irregular shape, to give one political
10 party an unfair advantage by diluting the
11 opposition's voting strength".

12 Vote dilution can occur through two
13 processes what's called cracking. That's
14 the distribution of a particular group of
15 voters, frequently minority voters or
16 members of a minority group across
17 multiple districts in order to inhibit
18 their ability to affect the outcome of an
19 election. An alternative form of
20 gerrymandering that is related to
21 cracking is called packing, and it occurs
22 when you over concentrate voters of a
23 particular group in order to limit their
24 influence in this system of electoral
25 districts.

1
2 The map that was proposed on
3 February 9th does both things. It both
4 cracks, and it packs partisan voters. The
5 way that I know this is by doing the
6 analysis that I have done time and time
7 again in peer reviewed research, and as
8 an expert on behalf of plaintiffs,
9 challenging maps, unfair electoral maps,
10 throughout the country.

11 Unfortunately, your expert wasn't
12 aware of my work, and that's fine. I
13 wasn't particularly aware of his work or
14 his role in the Harkenrider case, but now
15 I know more. The methodology I propose
16 has been accepted by courts throughout
17 the country. So what I did is I used a
18 computer with software that I wrote with
19 a resident of Nassau County at the time,
20 he was a student of mine at SUNY
21 Binghamton. We wrote software that would
22 randomly draw districts in a political
23 jurisdiction a large number of times, and
24 it did it without reference to
25 partisanship, but it did include all of

1
2 the relevant criteria from the New York
3 Municipal Home Rule Law. What we found
4 was that the map proposed -- what I found
5 was, is the map proposed on February 9th
6 is an extreme partisan gerrymander.

7 Now, you've seen some methodology
8 here that's different, slightly
9 different, from the methodology that I
10 used in my report. And I want to address
11 that. Let me come back to that in one
12 second. But if I could just point out
13 that this might sound familiar, multiple
14 legislators have said that they watched
15 the proceedings of the Redistricting
16 Commission. And it is true that
17 Republicans time and time again proposed
18 maps that were extreme partisan
19 gerrymanders. By contrast, the Democratic
20 map, when it's subjected to exactly the
21 same methodology, does not show itself to
22 be a gerrymander. It shows itself to
23 represent voters in the county fairly,
24 whether they're Democrats or whether
25 they're Republicans. All voters were

1
2 treated equally under that proposal.

3 Now, I know that we had some
4 challenges remembering you're your
5 attorney's name. I'm sorry, I don't I
6 tried to write it down while I was also
7 writing down --

8 (Whereupon, Mr. Tseytlin's
9 name is established.)

10 DR. MAGLEBY: Mr. Tseytlin says that
11 Magleby has no plausible claim that I did
12 a Harkenrider analysis. I find this
13 curious, because Mr. Tseytlin and his
14 expert also didn't do the same exact
15 analysis that they did in the Harkenrider
16 case. They presented a particularly
17 problematic metric, but they neglected to
18 do additional analysis, what's often
19 called a Mattingly analysis, that is a
20 district by district analysis of whether
21 partisanship of those districts are
22 themselves individually outliers. I was
23 confused by this because I have read Mr.
24 Trende's report and it turns out that on
25 page 15 and page 21 of his expert report

1
2 offered in court in Steuben County, he
3 does exactly the same analysis, precisely
4 the same analysis, that I do on page 27,
5 page 36, page 46, and page 55 of the
6 report that I offered the Redistricting
7 Commission. I don't know why he decided
8 to leave out that analysis in his
9 description of the map that he drew. I
10 suspect that if he did exactly the same
11 analysis that his expert did in the
12 Hakenrider case, that he would find
13 exactly what I found, that the map he
14 drew in consultation with the Presiding
15 Officer, is itself a partisan
16 gerrymander.

17 Now, let me address his criticism of
18 the median mean. It's been pointed out
19 time and time again, he frequently
20 retreated to the point that he's not an
21 expert. He himself is an attorney. So
22 it's fine that he's not familiar with the
23 expansive scholarly literature on methods
24 for measuring partisan gerrymanders. And
25 let me tell you something, if you go

1
2 through that literature in detail, go to
3 Google Scholar, like I tell all of my
4 students at Binghamton to do, and look up
5 Gerrymandering Index, Sean Trende, you
6 will find zero citations. It is not a
7 method that has been subjected to peer
8 review. It is not a method that has been
9 evaluated by scholars and found to be a
10 rigorous and robust way of evaluating the
11 partisanship of maps.

12 On the other hand, the median mean
13 analysis has won awards from nonpartisan
14 groups, suggesting that it is the
15 appropriate way of measuring partisan
16 gerrymandering. If you look me up and
17 find my scholarly record on the median
18 mean, you will find multiple citations.
19 Not only that, you will find that my work
20 has been cited over and over and over
21 again, not just by courts and attorneys
22 and experts, but by other scholars who
23 know what they're doing.

24 Now, I don't know. It's frustrating
25 to me that he suggests that this is the

1
2 methodology that the Court accepted in
3 Harkenrider. So I was sitting there and I
4 was thinking, you know, I read the
5 Harkenrider decision and I don't remember
6 Trende's gerrymandering index appearing
7 anywhere in the Harkenrider decision. It
8 turns out technology in the Internet is
9 useful. You can bring up the Harkenrider
10 decision and you can see that in the
11 Harkenrider decision by the Court of
12 Appeals, not once do they measure any
13 gerrymandering index. They do, however,
14 measure ensemble analyses. They do
15 reference the fact that we should look
16 for outliers in terms of partisan bias.
17 That is exactly what I did. Exactly. And
18 if he wants to be disingenuous and
19 somehow impugn my ability to do this
20 analysis or even my character, I'm sorry,
21 he needs to do more homework than he did
22 tonight.

23 Let me point out some problems, some
24 problems with the analysis. I'm
25 interested in why Republicans -- you paid

1
2 a lot of money for this guy to come here
3 and tell you about this and why you're
4 not asking more questions about the kind
5 and quality of analysis that you paid a
6 lot of money for. Or maybe you paid for
7 the map and didn't care what the analysis
8 said, as long as it pointed in a
9 direction that you liked. But I don't
10 know. It's hard to say, Mr. Nicolello --

11 PRESIDING OFFICER NICOLELLO: Are
12 you going to give a presentation or
13 you're going to speak about our
14 motives --

15 DR. MAGLEBY: Mr. Nicolello, I'm
16 sorry.

17 PRESIDING OFFICER NICOLELLO: Are
18 you going to tell us about this map?

19 DR. MAGLEBY: I sat in the back of
20 the room and I heard your expert impugn
21 my impugn my research, my character and
22 my integrity.

23 PRESIDING OFFICER NICOLELLO: I
24 understand and you have an
25 opportunity and you're very well speaking

1
2 your case. When you start to talk about
3 our motivation, you've gone over the
4 line. So either speak about the map or
5 don't.

6 LEGISLATOR ABRAHAMS: In all due
7 respect, and, Rich, I say this as a
8 friend. I let Mr. Tseytlin speak for 20
9 minutes, uninterrupted for a long period
10 of time until we got to the Q&A. Dr.
11 Magleby has only spoken for seven minutes
12 before he gets interrupted. By the way,
13 his character, his work has been
14 insulted, which he has a right to defend.
15 So I don't understand why we have to
16 interrupt him. We take a lot more heat
17 than than what Dr. Magleby is saying from
18 the chair. I mean, we can't get offended
19 based off of what he just said. We take a
20 lot. Where is Meda Mereday? She says a
21 lot more worse things to us.

22 DR. MAGLEBY: Mr. Nicoletto.

23 PRESIDING OFFICER NICOLELLO: Wait,
24 wait, wait, wait, wait. I'm going to
25 respond to the Minority leader.

1
2 Look, he could speak and go into
3 this whole program and try to restore his
4 credibility, etcetera, that's fine by me.
5 But when he starts to talk about our
6 motivations, you crossed over a line and
7 we're not going to let you cross over
8 that line, sir.

9 LEGISLATOR ABRAHAMS: I would just
10 ask that Dr. Magleby be able to continue
11 his presentation without being
12 interrupted. I did not interrupt Mr.
13 Tseytlin, even though he said somethings
14 --

15 (Whereupon, public
16 interruption.)

17 PRESIDING OFFICER NICOLELLO: You're
18 out of order (referring to public
19 interruption).

20 You can proceed. But if you start
21 talking about a motivation, I'm going to
22 step in again. And by the way, the
23 Minority Leader interrupted almost every
24 answer that Mr. Tseytlin spoke --

25 LEGISLATOR ABRAHAMS: Oh, no, no,

1
2 no. I'm talking about his opening
3 presentation. Come on, guys. You know the
4 truth.

5 PRESIDING OFFICER NICOLELLO: Well,
6 he never spoke about you, did he? Did he
7 say a word about the Minority members of
8 this Legislature? Did he?

9 LEGISLATOR ABRAHAMS: Guys, are we
10 that thin skinned? Are we serious?

11 PRESIDING OFFICER NICOLELLO: No,
12 no, no, no.

13 LEGISLATOR ABRAHAMS: Are we that
14 thin skinned?

15 DR. MAGLEBY: If I may, Mr.
16 Nicolello. Your point is well taken.
17 Your point is well taken.

18 I want to circle back to your
19 concern about motivation, if I may,
20 because this is actually a methodology
21 that allows us to figure out what kinds
22 of motives went into maps. So if I may,
23 I'm going to double back to that. But
24 you're absolutely right. I do have
25 questions about why we're not actually

1
2 seeing the Harkenrider analysis from the
3 lawyer who made the argument before the
4 Court of Appeals and has willingly,
5 intentionally, left out major elements of
6 the same analysis that carried the day in
7 Harkenrider. That analysis is in my
8 report. And it shows exactly what he
9 argued before the Court of Appeals, that
10 the congressional map in New York was a
11 gerrymander. Using that same methodology,
12 the map that has been proposed here that
13 he helped draw in consultation with you
14 is a partisan gerrymander, not just a
15 partisan gerrymander, an extreme partisan
16 gerrymander. The probability of arriving
17 at the map that you proposed, if the map
18 was drawn neutrally without the intent of
19 advantaging a particular party, is less
20 than one in 10,000. So I can't say why
21 you decided to leave out particular
22 critical elements of the analysis of the
23 map. But I can say confidently, that you
24 would not arrive at this particular map
25 unless you were very consciously trying

1
2 to dilute the votes of Democratic voters
3 and enhance the influence of Republican
4 voters, the result of which is going to
5 be a perpetuation of a Republican
6 Majority, that in a county that is highly
7 competitive in off year elections, would
8 turn into a solidly entrenched Republican
9 Majority.

10 Now, I want to say one more thing
11 about the methodology, because it's not
12 clear from their report. And I have to
13 tell you, my day job is as a professor.
14 And so I spend a lot of time reading
15 papers and this one gets, I don't know, a
16 B minus. It is missing -- he talks about
17 citations. He says, I never include a
18 citation. That's not true. If you read my
19 report, I cite my own work. You can
20 follow the citation trains to all of the
21 other work that cites my work. Here, he
22 references Trende's gerrymandering index.
23 He doesn't talk about which elections
24 were used. Under questioning, he says he
25 uses statewide elections. Okay. Well,

1
2 this is something that I know something
3 about because unlike Mr. Trende and
4 unlike your expert, who with whom I'm not
5 familiar because he doesn't do this kind
6 of work outside of his legal practice. In
7 this particular case, we use the
8 elections that represent the level of
9 competition in the elections that will be
10 used to elect representatives to the
11 assembly that we're considering. Let me
12 say that again, maybe in different terms.
13 When we're considering congressional
14 elections, we use elections that happen
15 in even year elections. That's why we use
16 gubernatorial races and senate races and
17 other statewide races. In this instance,
18 the appropriate elections to use are the
19 elections that were where you all were
20 elected in years like 2017, 2019 and
21 2021. Those were excluded from his
22 analysis. That turnout and competition in
23 statewide elections in New York is very
24 different. It is very different than the
25 kind of competition that leads to the

1
2 election of a county executive, a county
3 district attorney, a county clerk, a
4 county comptroller, or any single one of
5 you, because you don't get elected when
6 those folks are on the ballot. So to use
7 those elections is a miscarriage of the
8 methodology. It's a misapplication that
9 is a rookie mistake made by a set of
10 analysts who aren't familiar with this
11 methodology, who haven't subjected their
12 work to peer review, and have not had to
13 face their peers and had their
14 methodology evaluated in the same way
15 that someone like me or other experts who
16 have published in this field have. So
17 he's absolutely wrong. He's absolutely
18 wrong to come here and use an analysis
19 that hasn't been subjected to peer
20 review, using the wrong data, and
21 pointing out that it tells you something
22 that I have no idea what this figure
23 actually means. And I read papers about
24 this every single day. I see all sorts of
25 malarkey, and I can make sense of it. I

1
2 don't know what this means.

3 I think I have more. I am very
4 interested in hearing what your questions
5 are and having the opportunity to respond
6 to any criticism of the report that I
7 produced late last year, or the analysis
8 that I shared earlier this week of the
9 map that was circulated late last week.
10 I'm at your disposal.

11 PRESIDING OFFICER NICOLELLO:

12 Questions? Any legislators?

13 Go ahead, Minority Leader.

14 LEGISLATOR ABRAHAMS: Thank you,
15 Presiding Officer.

16 How are you, Dr. Magleby?

17 DR. MAGLEBY: I'm well, thank you.

18 LEGISLATOR ABRAHAMS: Good, good,
19 good. I just have more of a general
20 question. I know your expertise is in the
21 analysis of gerrymandering districts, but
22 I brought up the point and I got
23 criticized for being more of a gotcha
24 moment. How else would one be able to
25 describe what we saw tonight with this

1
2 map? The attorney for this map
3 identified that he couldn't explain what
4 a zero was on the map. He couldn't
5 explain why the adjusted population
6 wasn't right. I used the word sloppy. I
7 got criticized for that. In your
8 experience, based on what you've seen,
9 have you seen at this level someone that
10 would present a map that is off by a
11 certain amount of population of people?

12 DR. MAGLEBY: I haven't. That's
13 usually sort of the first thing we check
14 in any simulation that we do, in any
15 analysis of an actual map, it would
16 certainly be something we do. I drew
17 hundreds of thousands of maps to develop
18 the ensemble that is represented in the
19 report that I provided to the Commission.
20 Over and over again, I've drawn millions
21 of maps in my career in doing this kind
22 of analysis for academic research and in
23 helping redistricting commissions and
24 courts decide what to do in redistricting
25 scenarios. It's very unusual to proceed

1
2 with a map without double and triple
3 checking that everything adds up. It's
4 actually one of the simplest things to do
5 is just to add up the population of each
6 district. And if it's not right, you
7 know, something went wrong.

8 LEGISLATOR ABRAHAMS: And I don't
9 know if you remember and if you don't
10 recall, that's okay. When it pertained to
11 the Republican TDAC map and the Democrat
12 TDAC map, I'm assuming their adjusted
13 populations added up. If you don't
14 remember that's fine.

15 DR. MAGLEBY: I don't remember off
16 the top of my head. I know that all of
17 the simulations I used to evaluate those
18 maps added up. It's so routine that I
19 wouldn't it wouldn't stand out in my
20 memory if it was correct. If it wasn't
21 correct, I probably would have sent an
22 e-mail to someone or made a call saying,
23 Why is this off? But I have no
24 recollection of seeing a red flag like
25 that.

1
2 LEGISLATOR ABRAHAMS: Well, now
3 let's get into the meat of it, because I
4 think Mr. Tseytlin made the point about
5 his graph that he put together with the
6 help of Mr. Trende, and if I understand
7 what he's saying correctly and based on
8 what your analysis also is, Dr. Magleby,
9 is that the Democratic map and the
10 Republican map he draws -- if we don't
11 mind if someone could just put that up so
12 the public can see it again.

13 (Whereupon, Mr. Tseytlin's
14 Graph is displayed to public
15 and referred to.)

16 LEGISLATOR ABRAHAMS: What Mr.
17 Tseytlin described was that the line that
18 you're looking at, that's all the way to
19 the left or somewhat in the middle, that
20 line represents the Republican map.
21 However, Dr. Magleby, you had said that
22 the criteria that they used or the
23 criteria that Mr. Tseytin had used, that
24 he testified earlier this evening, was
25 that he used gubernatorial years or

1
2 presidential years. And I noticed in your
3 analysis you did not use that. Can you
4 elaborate? Because you would get a much
5 different result if you're using
6 gubernatorial versus elections that
7 actually this Body gets elected in.

8 DR. MAGLEBY: So if I were to see
9 this graph come across my desk as a
10 professor -- and I see graphs like this
11 in papers, editors send them to me to
12 offer peer review, I would raise a few
13 red flags about it. So number one, he's
14 using the wrong elections to diagnose
15 gerrymandering in a county setting. So
16 using statewide elections here introduces
17 a whole bunch of confounding variables
18 that call into question any inference
19 that we might want to make based on these
20 data. So, for example, when a president
21 is running for election, the electorate
22 in Nassau County is different than the
23 electorate is when people show up to
24 elect folks like you. And so we have
25 these differences in turnout and that

1
2 would lead to potentially different
3 patterns.

4 The second problem here, and this is
5 something that maybe not as egregious,
6 but the idea that we're collapsing all
7 elections into one single graph also
8 masks some of the dynamics we might
9 observe in instances where Republicans
10 did a little bit better than they
11 otherwise do in statewide elections in
12 New York. So what we're seeing here are
13 instances where Republicans ran weak
14 statewide candidates for governor, for
15 attorney general, for comptroller or
16 other offices. And we're not actually
17 seeing the strongest Republican
18 candidates. In New York what we often
19 find is that at the county level, we get
20 strong candidates who are connected to
21 their districts. People want to vote for
22 them. Some of you may have aspirations to
23 run for governor someday. We have a
24 strong tradition of Republican governors
25 from Nassau County. That could be in

1
2 your future. And in that case, it would
3 make sense to see how a Republican
4 candidate running for governor would fend
5 when facing down a Democratic opponent.
6 We don't know that from this analysis. So
7 the technical term for this is a
8 confounding variable, and he hasn't
9 allowed us to control for or see how that
10 confounding variable might unfold. And
11 there's two confounding variables that
12 this index and this score is collapsing,
13 and we can't tell what's going on from
14 this from this chart.

15 So if I was evaluating this chart,
16 you generally have a chance to revise and
17 resubmit if work isn't up to snuff, but
18 you think they might be on to something.
19 In this case, if they had to revise and
20 resubmit it, I would ask them, break out
21 every single election. Let's see how this
22 map behaves across multiple elections,
23 across those countywide races, in
24 addition to whatever else. Although it
25 would not be appropriate. I mean, if it

1
2 was a statewide race, you could use the
3 gubernatorial race, but to use countywide
4 elections and see how the Republican map
5 proposed on February 9th performs.

6 LEGISLATOR ABRAHAMS: Is that
7 possible, Presiding Officer that we can
8 ask Mr. Tseytlin to provide that analysis
9 for us from Mr. Trende?

10 PRESIDING OFFICER NICOLELLO: No.
11 Mr. Tseytlin has made his presentation.
12 He's given us --

13 LEGISLATOR ABRAHAMS: No, no, no,
14 no, no.

15 PRESIDING OFFICER NICOLELLO: I'm
16 not doing anything further.

17 LEGISLATOR ABRAHAMS: No, no, no,
18 no. Dr. Magleby brings up a very good
19 point. It should muster through multiple
20 different types of tests. Is it possible
21 you can ask Mr. Tseytlin to provide that
22 level of test as per what Dr. Magleby is
23 saying for the future? We're not voting
24 on this tonight are we?

25 PRESIDING OFFICER NICOLELLO: What

1
2 you have is a difference of Mr. Trende,
3 who's working with Mr. Tseytlin, and Dr.
4 Magleby about the methodology that's
5 appropriate to be used. So we are not
6 going to adopt his methodology. They're
7 obviously conflicting. So we're not going
8 to say, well, yes, we're going to do it
9 your way, because I think from what I
10 heard in the testimony before is that Dr.
11 Magleby's approach is improper and should
12 not be used. So why would we adopt --

13 LEGISLATOR ABRAHAMS: I'm not asking
14 for Dr. Magleby's approach to be adopted.
15 What I'm asking for is Dr. Magleby's
16 approach to be side by side with that
17 one, so we can see the difference. Why
18 not?

19 PRESIDING OFFICER NICOLELLO: You
20 can have Dr. Magleby provide whatever
21 whatever graphs or approaches that he
22 wants.

23 LEGISLATOR ABRAHAMS: He's already
24 testifying what he's already providing
25 tonight. But I would like to see Mr.

1
2 Tseytlin, since he's already provided
3 this approach, to provide an approach
4 based off of what Dr. Magleby is saying.

5 PRESIDING OFFICER NICOLELLO: You
6 didn't hear a word I said?

7 LEGISLATOR ABRAHAMS: No, I did.

8 PRESIDING OFFICER NICOLELLO: Mr.
9 Tseytlin said his approach is the
10 incorrect approach. And now you're
11 saying, well, why don't you go back and
12 do the incorrect approach so we can look
13 at it? So that is not --

14 LEGISLATOR ABRAHAMS: Now I
15 understand. So, so basically, the
16 Majority has adopted Mr. Tseytlin's
17 approach, just to make sure I'm clear on
18 that for the record.

19 PRESIDING OFFICER NICOLELLO: Let me
20 be clear about this.

21 LEGISLATOR ABRAHAMS: You haven't
22 adopt that approach?

23 PRESIDING OFFICER NICOLELLO: Let --

24 LEGISLATOR ABRAHAMS: Have you
25 adopted the approach or not?

1
2 PRESIDING OFFICER NICOLELLO: What
3 are you going to interrogate me?

4 LEGISLATOR ABRAHAMS: I'm asking you
5 a question.

6 PRESIDING OFFICER NICOLELLO: Are
7 you going to interrogate me?

8 LEGISLATOR ABRAHAMS: I'm asking you
9 a question, have you adopted that
10 approach or not?

11 PRESIDING OFFICER NICOLELLO: I'm
12 going to answer your question again.
13 You're asking Mr. Tseytlin and Mr. Trende
14 to do an analysis following Dr. Magleby's
15 approach, which they already have said is
16 inappropriate way to do this. So, no,
17 we're not going to follow his methodology
18 because we've been told it is the
19 inappropriate way to do the analysis.

20 DR. MAGLEBY: Mr. Nicolello, if I
21 may. The challenge with that approach is
22 that Mr. Tseytlin didn't do the analysis
23 he said he did. He came here and he said
24 he did the analysis they did in
25 Harkenrider with the same expert, but he

1
2 didn't. He did one part of it. You do
3 half of an assignment in my class, you
4 get an F; that's 50% at most. I will
5 respect the fact that I hurt your
6 feelings when I said that it impugns his
7 intentions or your intentions by
8 censoring the analysis in order to avoid
9 doing exactly what he claimed he did. I
10 would like to see if he said -- Sean
11 Trende on his computer has code that
12 could do this just like that. You
13 wouldn't have to pay him more than ten
14 bucks to push "Go" on this. He may have
15 already done it. And in fact, if he
16 already did do it, it's going to come out
17 because it sounds like someone's going to
18 sue you over this map and it's going to
19 come out that you knew that this was a
20 partisan gerrymander before you came
21 forward and that you showed less than all
22 of the analysis that even your expert who
23 came here tonight says, I didn't do it.
24 Well, the fact of the matter is, I read
25 the Court of Appeals opinion. I did what

1
2 the Court of Appeals said. I found that
3 it was a statistical outlier using a
4 generally accepted metric, using
5 generally accepted methodologies and the
6 appropriate data. And then I replicated
7 almost exactly two figures that appear in
8 Mr. Trende's analysis on which the Court
9 of Appeals based their decision, and
10 they're leaving that out. They haven't
11 shown you everything that they can and
12 should do. Like I said, I mean, I don't
13 know Long Islanders have a have a
14 reputation for wanting a good deal. I'm
15 not sure you got a good deal here.

16 PRESIDING OFFICER NICOLELLO: Dr.
17 Magleby, I come from a practice of law,
18 some of us up here do, of personal injury
19 work, and in the case when someone did,
20 they have a plaintiff's attorney that
21 brings a lawsuit claiming injuries.
22 Plaintiff's attorney will get a doctor
23 and the defendant's attorney will get a
24 doc. Plaintiff's attorney will say this
25 plaintiff is permanently disabled. These

1
2 are severe, life altering injuries.
3 Defendant's doctor will say he has a
4 sprain or strain and there's really not
5 much here. So this is the way I'm looking
6 at your testimony. If we had given you
7 the map that was prepared today and told
8 you that Minority had prepared it, you
9 would be up here saying that map is the
10 best thing since sliced bread. So when
11 you testify, everything you say is coming
12 through that prism.

13 DR. MAGLEBY: I understand that
14 point of view. And the thing to realize
15 here is my interest in this is that the
16 process works and the process works for
17 the people of Nassau County. Now, the
18 fact of the matter is that when I came, I
19 brought receipts. I did the analysis. I
20 showed it to you. It's in the report.
21 There's additional analysis I didn't have
22 time to write up because of the short
23 turnaround time, because it took so long
24 to draw this map that I only had a couple
25 of days to get you something back. But

1
2 the receipts are all there. So what
3 happens -- and forgive me, my experience
4 with a personal injury suit is not as
5 extensive as yours is -- but what I
6 understand is that there's a process of
7 discovery where the notes and the
8 hospital records and all sorts of things
9 become public. They're made public. And
10 what is happening here is there's a
11 suppression of information. A selective
12 suppression of information. And that
13 tells a lot more about the motives of Mr.
14 Tseytlin and the motives of the
15 Republican Majority than it does about
16 mine, because you can replicate what I
17 did.

18 PRESIDING OFFICER NICOLELLO: Well,
19 your use of terms like buzzwords shows us
20 all we need to know about you.

21 DR. MAGLEBY: I'm sorry. What
22 buzzwords was I using?

23 PRESIDING OFFICER NICOLELLO:
24 Suppression, sir? What do you mean to
25 imply with the word suppression?

1
2 DR. MAGLEBY: I mean to say that
3 there is an easily conducted analysis,
4 easily done by the people that you are
5 claiming to be experts that they did when
6 they successfully challenged a map. But
7 it isn't here. Why isn't it here? I did
8 that analysis. I know what that analysis
9 looks like. It shows that this is a
10 gerrymander. So if they do the same
11 analysis using appropriate elections, are
12 they going to find that the green line is
13 right where they say it is? I don't know.
14 I would like to see. By suppression I
15 mean that there is information that is
16 available to the Republican Majority and
17 to your experts that they haven't made
18 public.

19 In addition, your expert claimed
20 over and over and over again that I
21 didn't do the analysis that was in
22 Hakenrider and so you went out and got
23 the expert that did the analysis in
24 Harkenrider and then asked him to do half
25 of the analysis that he did in

1
2 Harkenrider. I did all of it. It's a
3 gerrymander.

4 PRESIDING OFFICER NICOLELLO:
5 Legislator Ferretti, you have a question.

6 LEGISLATOR ABRAHAMS: I wasn't
7 actually done yet. I had one last
8 question.

9 LEGISLATOR ABRAHAMS: My last final
10 question: With the map that's before us,
11 which doesn't assign voters to any
12 particular district, which dilutes
13 minority votes, which as you as you put
14 it, gerrymander is based on, party
15 survive a legal challenge?

16 DR. MAGLEBY: It would not survive a
17 legal challenge. The February 9th
18 Republican proposal would not survive a
19 legal challenge using the same logic
20 applied in the Harkenrider case.

21 LEGISLATOR ABRAHAMS: Thank you.

22 PRESIDING OFFICER NICOLELLO:
23 Legislator Ferretti.

24 LEGISLATOR FERRETTI: Thank you.
25 Thank you, Dr. Magleby. I appreciate your

1
2 testimony. And like I said to Mr.
3 Tseytlin, I do find this fascinating.
4 It's a fascinating process.

5 I did hear in your testimony, and I
6 think the Minority Leader just repeated
7 it, is it true that at your conclusion
8 that this is a gerrymander based on
9 party?

10 DR. MAGLEBY: It's a partisan
11 gerrymander. Yes.

12 LEGISLATOR FERRETTI: And I think at
13 one point you said that it couldn't
14 possibly have been put together without
15 an attempt for one party to succeed over
16 the other. Is that what you said?

17 DR. MAGLEBY: It couldn't have been
18 put together in a way that was neutral
19 with respect to party. That's the
20 precise thing I should have said, and
21 that's what my analysis shows.

22 LEGISLATOR FERRETTI: I just have
23 one question. Maybe just one question.
24 Are you aware out of the 19 districts in
25 the February 9th proposed map, how many

1
2 of those districts have more registered
3 Democrats than Republicans?

4 DR. MAGLEBY: I don't know what the
5 registration numbers are across the
6 district.

7 LEGISLATOR FERRETTI: Would it
8 surprise you if I told you that 15 of the
9 19 have more registered Democrats than
10 Republicans?

11 DR. MAGLEBY: I mean, I have not
12 looked at the registration data. That's
13 not a typical way that we analyze these
14 maps.

15 LEGISLATOR FERRETTI: If, in fact,
16 15 of the 19 districts had more
17 registered Democrats than Republicans,
18 would that change your opinion that this
19 map was made based on gerrymandering for
20 partisan, or would it maybe switch which
21 side you think it was gerrymandered for?

22 DR. MAGLEBY: So the appropriate way
23 of evaluating maps is to look at the way
24 people vote. Registration data has
25 generally not been brought to bear in

1
2 these questions, both in the academic
3 literature and in court.

4 LEGISLATOR FERRETTI: Okay. I
5 understand that that's your opinion, but
6 just in terms of registration, you're not
7 aware?

8 DR. MAGLEBY: I'm not aware. I have
9 not looked at the registration numbers.

10 LEGISLATOR FERRETTI: Thank you.

11 PRESIDING OFFICER NICOLELLO:
12 Legislator Solages.

13 LEGISLATOR SOLAGES: Thank you so
14 much.

15 There's been reference to the word
16 outliers. Can you define that in this
17 context, please?

18 DR. MAGLEBY: An outlier is an event
19 or an observation that would be extremely
20 unlikely to happen by random chance.

21 LEGISLATOR SOLAGES: So, according
22 to your data, Districts Two, Three and
23 Six are outliers; is that correct?

24 DR. MAGLEBY: The most Democratic
25 districts in the county under the

1
2 February 9th Republican proposal are
3 outliers with respect to party. They are
4 more Democratic than we would expect
5 under a neutral redistricting process.

6 LEGISLATOR SOLAGES: And you
7 mentioned before that this may cause a
8 lawsuit initiated by some party that will
9 be entitled to prevailing award. But in
10 addition to a lawsuit, what else do these
11 processes result in? I mean, do they
12 result in voter confusion? Do they result
13 in low voter turnout? I mean, how does
14 this affect our democracy, which we all
15 love and care about?

16 DR. MAGLEBY: I appreciate that
17 question. So my job, as I said, I'm a
18 professor. I'm not a political operative.
19 I spend my day thinking about
20 understanding and explaining democracy
21 and politics to young people. My hope is
22 that by doing that, I inspire them to
23 engage in processes exactly like this. I
24 was very happy to to run into one of my
25 former students tonight in this room. I

1
2 feel like Binghamton is an outpost of
3 Nassau County in upstate New York. My
4 hope is that I can help people who come
5 to my class understand how these things
6 work and go back to their communities --
7 very few of them, too few of them stay in
8 Binghamton, I wish we kept more of them
9 up there. You guys have some good people
10 down here -- I hope that they can go back
11 and work to make their communities
12 better.

13 The problem with gerrymanders and
14 I'm going to try my best not to get
15 animated about this, but the problem with
16 gerrymanders is that they distort the
17 electoral process -- I'm going to try not
18 to use buzzwords because I want to try
19 and be technical about this -- they
20 distort electoral processes. And the
21 gerrymander that the Republicans proposed
22 throughout the Commission process and
23 then again on February 9th, is that it is
24 a gerrymander that systematically
25 underweights the votes of some members of

1
2 this community while also overweighting
3 the votes of others. It's a zero sum
4 thing. In this community, Democrats or
5 Republicans, when people go to vote in
6 countywide elections, it's very close to
7 evenly split between Democrats and
8 Republicans. It should be the case that
9 the seat that you're sitting in, Mr.
10 Nicolello, changes hands over and over
11 and over again. That we can see
12 accountability in a body like this. So
13 when I see a gerrymander -- I do get
14 animated and I'm trying to avoid
15 buzzwords, Mr. Nicolello --but the
16 problem with gerrymanders is it distorts
17 democratic processes, it removes
18 accountability, and it robs people, too
19 often the most vulnerable people, of
20 their voice in the democratic process.
21 And so if I get animated about this
22 tonight -- and I was told by my wife when
23 I came down here to stay calm, I'm trying
24 my best to do that. You've called me
25 back a couple of times, Mr. Presiding

1
2 Officer -- It's because I think all of us
3 are invested in a democracy that works
4 for people. But what happens when you
5 have a partisan gerrymander like the one
6 that was passed and, unfortunately, the
7 one that was used to elect all of you and
8 the one that you're proposing to pass
9 again, it's going to rob people of their
10 influence. It's going to make it harder
11 for me to tell my students when I look
12 them in the eye and they come back to
13 Nassau County, that you can go there and
14 make a difference because the map was
15 constructed to keep people from making a
16 difference. And that is what bothers me
17 about this process. And I was told, don't
18 get bothered, but it bothers me. I'll be
19 honest.

20 LEGISLATOR SOLAGES: With the
21 lawsuits, with the stays, it will result
22 in voter confusion?

23 DR. MAGLEBY: Absolutely. People are
24 not going to know where they're going to
25 go to vote. They're not going to know who

1
2 their legislator is.

3 LEGISLATOR SOLAGES: Will they know
4 the election date?

5 DR. MAGLEBY: Well, we certainly
6 hope so. It all depends on how this moves
7 forward in the courts. I'm not a
8 litigator, I'm not a personal injury
9 attorney. I don't know how all of this
10 will -- I'm not a legal strategist. All I
11 can tell you is what the numbers tell me.
12 The numbers tell me that the map proposed
13 on February 9th is going to underweight
14 the votes of Democratic voters, of people
15 of color, of people who are vulnerable in
16 this county, while elevating the votes of
17 others. That's a problem. That's a
18 problem. And we should all see that as a
19 problem.

20 LEGISLATOR SOLAGES: Thank you, sir.

21 PRESIDING OFFICER NICOLELLO:
22 Legislator Drucker, then Legislator
23 Kopel.

24 LEGISLATOR DRUCKER: Thank you,
25 Presiding Officer.

1
2 Doctor, the witness, Mr. Tseytlin,
3 stated that he was not aware of any of
4 the particular characteristics of the 19
5 legislative districts. And would you
6 agree that Long Island or Nassau County,
7 in particular, these 19 legislative
8 districts, they have granular
9 differences? They have a lot of
10 differences racially, ethnically,
11 religious wise, politically. Would you
12 agree with that analysis or that opinion
13 that Nassau County, the 19 districts are
14 very diverse, very different, and not
15 being able to know any of the characters
16 districts of those districts negatively
17 impact on your ability to draw a map?

18 DR. MAGLEBY: So you're asking a
19 tough question. And let me preface this
20 answer by saying that at no point was I
21 asked to consider communities of interest
22 beyond the political communities that are
23 required to be maintained as whole under
24 the Municipal Home Rule Law. To say that
25 Nassau County is diverse as an

1
2 understatement. This is an incredibly
3 diverse and dynamic community, and it's
4 full of different, diverse communities. I
5 think it was you, Legislator Drucker, who
6 suggested that we have too much
7 segregation in our community here. I
8 think that goes without saying that
9 segregation of any kind is problematic.
10 The challenge with communities of
11 interest and this kind of analysis is
12 exactly what we saw unfold in a back and
13 forth between you and your colleagues.
14 And that is, what you see as a vital and
15 important community of interest is not to
16 your colleagues across the way here and
17 what the mapmakers suggest are important,
18 those are valuable decisions, and they
19 have huge impact on the kinds of
20 districts we see.

21 LEGISLATOR DRUCKER: But do you have
22 an opinion on the fact that Mr. Tseytlin
23 stated that he doesn't know about the
24 differences in the communities and yet
25 that he drew a map; do you have an

1
2 opinion on that?

3 DR. MAGLEBY: I think that in this
4 regard, Mr. Drucker, I'm going to suggest
5 that Mr. Tseytlin was confronted with a
6 very difficult challenge when he drew
7 this map. He didn't know which
8 communities were the important ones, so
9 he was left to figure it out, I guess, on
10 his own.

11 LEGISLATOR DRUCKER: You don't
12 recommend that that's a good thing to do
13 when you're tasked with drawing a map?

14 DR. MAGLEBY: I think that the
15 process that the Commission followed of
16 going to the communities is themselves.
17 So the Commission went around all of
18 Nassau County and met with people and
19 they spoke to them about their
20 communities and helped them understand.
21 The Municipal Home Rule Law tells us how
22 to think about political communities,
23 which are important communities of
24 interest. There are other communities of
25 interest. The Voting Rights Act requires

1
2 that we think about particular
3 communities, racial communities that have
4 coherent voting patterns like the black
5 community and Latino community on Long
6 Island. So a map that disregards those
7 communities would be enormously
8 problematic, both from a moral, ethical,
9 but also legal point of view. So yes, he
10 should be familiar with those, but then
11 it becomes whose community is more
12 important? Bethpage, Old Bethpage versus
13 Bethpage. I'm going to reveal something
14 and maybe it's embarrassing to be up
15 here. I don't know the difference. I
16 know Bethpage is where the US Open gets
17 played every once in a while, and it's
18 been a while since it's been there.
19 That's the limit of my understanding. But
20 I drew 10,000 maps that followed the
21 Municipal Home Rule Law that maintained
22 minority communities that were
23 politically coherent together, and then
24 compared a map that considered those
25 communities to the map that was drawn by

1
2 the Democrats, by the Republicans.

3 LEGISLATOR DRUCKER: I would have a
4 problem with any expert on either side of
5 the aisle who tried to present a map to
6 us as a Legislative Body and had no
7 familiarity with the characteristics of
8 each of the communities. I just find that
9 problematic no matter who's presenting
10 the map.

11 DR. MAGLEBY: I appreciate that. I
12 appreciate that. And I can see where
13 you're coming from. There's a joke that
14 we tell among analysts here, that
15 communities of interest are like the
16 meaning of Christmas. It's kind of
17 whatever you want it to be. And so what
18 is an important community to you may not
19 be so important to someone else. And
20 what's challenging about the Municipal
21 Home Rule Law and other criteria that
22 we've been given, is that we don't know
23 how to distinguish between which are the
24 most important communities in which
25 aren't. We don't have an objective single

1
2 methodology to apply in that instance,
3 except we do have the Voting Rights Act
4 and we do have the Municipal Home Rule
5 Law. We have the John Lewis Voting Rights
6 Act for New York, which tells us how to
7 think through some of those communities.

8 I agree, Mr. Drucker, it would be
9 very helpful for folks to be forthright
10 about this. There are commissions and
11 legislatures and other redistricting
12 bodies that have tried really hard to
13 figure out which and what communities
14 exist. But a comprehensive encyclopedic
15 knowledge of every community in Long
16 Island is something that is reserved for
17 people who were born and raised on the
18 island. And I don't know where Mr.
19 Tseytlin is from, I'm not from here. So I
20 would fall into that category.

21 LEGISLATOR DRUCKER: Well, I'm not
22 asking for an encyclopedic knowledge. How
23 about a basic knowledge? He stated he
24 had none.

25 So anyway, I'm not going to belabor

1
2 that point. I just have one final
3 question. It's getting late. As a follow
4 up to my friend Legislator Ferretti's
5 question, has party registration ever
6 been used or applied in any of the case
7 law?

8 DR. MAGLEBY: So it is getting late.
9 Off the top of my head, I am not aware of
10 any cases recently dealing with
11 gerrymandering that have used
12 registration data. We're interested in
13 understanding the actual patterns of
14 competition within these districts, and
15 the countywide elections give us the best
16 view of how competition in county
17 elections occur. That's why we use the
18 countywide elections in the analysis that
19 I did in my report and that I did for the
20 memo that I circulated earlier this week.

21 LEGISLATOR DRUCKER: Thank you very
22 much. Thank you very much, Doctor.

23 LEGISLATOR KOPEL: Dr. Magleby.

24 DR. MAGLEBY: Yes, sir.

25 LEGISLATOR KOPEL: Good evening.

1
2 This has been absolutely fascinating, the
3 back and forth. And the more educated I
4 get, the more confused I become between
5 the two expert opinions. So why don't you
6 help us understand a little bit, please?

7 It seems like the most critical
8 point of differentiation and correct me
9 if I'm wrong between you and Mr.
10 Tseytlin, would be the statistical method
11 that each of you have used in order to
12 determine what is the proper map and what
13 is gerrymandering; would that be correct?

14 DR. MAGLEBY: This may seem like I
15 am grasping at straws, but this is
16 actually a very important distinction.
17 It's not about methodology. This is about
18 a measure. So the methodology is actually
19 the same. So in the Harkenrider decision,
20 the Court of Appeals suggested that we
21 could use computers to draw large
22 ensembles of maps that would represent a
23 neutral counterfactual, alternative,
24 hypothetical maps that follow particular
25 criteria. So in that we agree. Although,

1
2 I would nit pick with Mr. Tseytlin's
3 representation of their report and
4 methodology, because at no point does he
5 indicate which algorithm he used. At no
6 point does he indicate any general
7 characteristics or summary statistics
8 with regard to the ensembles that were
9 generated. So there are some questions
10 that remain unanswered that are actually
11 very, very important in understanding if
12 that methodology, that ensemble
13 methodology, was applied appropriately.

14 I believe, if memory serves, he
15 talked about Kosuke Imai's work on
16 algorithmic sampling of geographic
17 districts in passing in his comments.
18 It's possible that they used that
19 methodology. That's an off the shelf
20 piece of software that you can download
21 and run on your computer. Anybody could
22 draw --

23 LEGISLATOR KOPEL: The thing is that
24 none of us here have any idea what you're
25 talking about. Let's be honest.

1
2 DR. MAGLEBY: So let me back up. So
3 the statistical method is the same. Where
4 we are different and where the analysis
5 is different is in terms of measurement.
6 How do we measure how partisan districts
7 are? So the way we generate that neutral
8 counterfactual is indistinguishable. And
9 I personally have done a lot of work in
10 my research life on the different
11 methodologies for using computers to draw
12 districts.

13 LEGISLATOR KOPEL: So we've got a
14 disagreement on methodology,
15 interpretation.

16 DR. MAGLEBY: No. We have a
17 difference in measurement. He says the
18 appropriate way to measure partisanship
19 in county elections is using statewide
20 races. I say that the appropriate way to
21 measure county elections and partisanship
22 in county elections is using county
23 elections. That's the first difference.

24 LEGISLATOR KOPEL: I understand.
25 When you say patterns of competition. Can

1
2 you define what you mean? Can you explain
3 what you mean by that?

4 DR. MAGLEBY: Patterns of
5 competition.

6 LEGISLATOR KOPEL: That's a phrase
7 that you use just a few moments ago.

8 DR. MAGLEBY: Certainly. So patterns
9 of competition would be how many
10 Democratic voters and how many Republican
11 voters exist within the boundaries of a
12 district drawn by a legislature and how
13 many Democratic and how many Republican
14 voters reside within the boundaries of
15 districts in these hypothetical maps
16 drawn by computer.

17 LEGISLATOR KOPEL: So that's an
18 excellent point. Because Legislator
19 Ferretti, just a little while ago said to
20 you -- and it's fair enough that you
21 don't have that information at your
22 fingertips, and I'm not asking you that
23 you that you should -- but what he said
24 is that, let's assume that that it's
25 correct that 15 out of the 19 have a

1
2 heavier concentration of registered
3 Democrats than of registered Republicans,
4 let's assume for the moment that that's
5 factual --

6 DR. MAGLEBY: I'll follow you on
7 this hypothetical. I don't know for sure,
8 but sure, let's suggest that. Okay.

9 LEGISLATOR KOPEL: No, no. We'll
10 call it a hypothetical because you don't
11 have it at your fingertips and it's not
12 fair to ask you to know that. So I'm
13 having great difficulty in understanding,
14 if that's the case, how it's possible
15 that you're coming to the conclusion that
16 this is a gerrymander. I don't get it.

17 DR. MAGLEBY: So registration
18 patterns are not the same as voting
19 patterns.

20 LEGISLATOR KOPEL: But voting
21 patterns -- I mean, I've got many friends
22 who are Democrats who might vote for
23 Republicans in a given election and vice
24 versa. So voting patterns will change.
25 Voting patterns will change based upon

1
2 candidates.

3 DR. MAGLEBY: Oh. Oh. So there is
4 there is a longstanding and well
5 understood empirical pattern in voting,
6 American voting, that people vote
7 consistently with one party or the other.
8 So this has been something we've
9 understood. It's one of it's one of the
10 things that's best understood about
11 American politics. We've known this since
12 the 1940s and the advent of public
13 opinion surveys, that partisanship as
14 manifest in the way that you vote, is
15 remarkably consistent from election to
16 election. So with all due respect --

17 LEGISLATOR KOPEL: Isn't it true,
18 though, forgive me, I know I've
19 interrupted you and I don't mean to be
20 rude, but patterns change. That may
21 change as well. And we've seen that again
22 in American history time and time again.
23 I mean, look, just go back to all the
24 working class white people, let's say,
25 who are absolutely traditionally

1
2 Democrat, very often vote Republicans.
3 This is all the college educated -- -

4 DR. MAGLEBY: Excellent point.

5 LEGISLATOR KOPEL: Women who were
6 traditionally Republican now are voting
7 Democrat. Things change.

8 DR. MAGLEBY: Absolutely. And that's
9 why Mr. Tseytlin and his expert's
10 analysis is not appropriate. They
11 collapse all of that into one single
12 metric. Whereas, if you look at my
13 analysis, I break it out election by
14 election so I can capture some of the
15 dynamics. If this is true, and there is
16 some changes at the margins, what you are
17 suggesting, Mr. Kopel, is exactly why his
18 analysis is not the right kind of
19 analysis.

20 Now, I wasn't there in the
21 courtroom. I wasn't there in depositions.
22 But if I was, that would have been a
23 question I would have asked of his expert
24 in Harkenrider. The Court of Appeals made
25 a decision based on, apparently, this

1
2 very same collapsed metric. But the
3 appropriate way to do it is to try and
4 capture the dynamics that you're talking
5 about, using the appropriate elections.
6 So we break out election by election. So
7 if you look at the memo I circulated,
8 you'll see I've got the election for
9 county executive, I've got the election
10 for county comptroller, county clerk, DA
11 and repeated all over again over time, so
12 that we can say, are these dynamics
13 shifting significantly within the county,
14 Now, even within the same election --

15 LEGISLATOR KOPEL: They do, by the
16 way, they shift within the county. You
17 had you had periods, long periods of
18 Republican control. You had a good long
19 period of Democratic control in the early
20 2000s. Then you've got Republican again.

21 DR. MAGLEBY: That's right. And so
22 we want to be able use as much data --

23 LEGISLATOR KOPEL: And by the way, d
24 just let me finish that one thought.

25 DR. MAGLEBY: I'm sorry. You've got

1
2 me excited about this. This is a great
3 question.

4 LEGISLATOR KOPEL: Yeah. But I would
5 point out that the last change over
6 happened using the same map that was used
7 to the last the previous Democrat
8 Administration.

9 DR. MAGLEBY: I do want to offer an
10 important caveat to this. You're right,
11 over long periods of time, we see secular
12 trends where there is an ebb and flow
13 towards Democrats and towards
14 Republicans. The dynamic that you
15 reference where you have friends, people
16 you work with, people who live on your
17 street, who are like, I can support
18 so-and-so for county executive, but I
19 cannot vote for so-and-so for DA. So I'm
20 going to vote different ways on those two
21 candidates. Does that happen? Absolutely.
22 Does the methodology I offer capture
23 that? Yes. The methodology offered by the
24 by Mr. Tseytlin does not do that, and
25 that's a big problem. I agree. We talked

1
2 about this earlier and we suggested that
3 we weren't going to go back and look at
4 it again using their methodology because
5 it was already signed, sealed and
6 delivered. That's okay. But what you're
7 suggesting is exactly the problem with
8 the approach that was taken by the
9 Republican expert.

10 LEGISLATOR KOPEL: So let's so let's
11 let's boil it down over here. Taking the
12 most recent Republican generated map.
13 Let's take the February 9th map. So your
14 conclusion is that, notwithstanding the
15 fact that, and, again, I will grant you
16 the hypothetical, notwithstanding, let's
17 say, assuming that it's true, that the
18 great majority of the districts have a
19 have a larger Democratic registration,
20 notwithstanding that this is a
21 gerrymandered map because based upon
22 certain voting patterns which change,
23 which change, you know, change all the
24 time, nonetheless, because of that voting
25 pattern, I guess in the last few

1
2 elections, that's going to mean that one
3 party wins and not the other. And that
4 seems, forgive me, but it seems kind of
5 flimsy.

6 DR. MAGLEBY: Okay. Flimsy. Let's
7 see. So what I'm suggesting, Mr. Kopel,
8 is that a fairly drawn map and, with all
9 due respect, the Democratic proposal from
10 I think it was November 20th is one that
11 matches the political dynamics of the
12 county extremely well. At some point I
13 will give a lecture where I will recycle
14 figures from the work that I've done here
15 to show students how this actually works.
16 And the textbook example of a pro
17 Republican gerrymander are the November
18 10th, November 20th and February 9th maps
19 offered by the Republicans. The
20 Democratic map is one that would swing
21 back and forth. As I said earlier, the
22 Democrats proposed a map --

23 LEGISLATOR KOPEL: Assuming that
24 these voting patterns, of course, don't
25 change. That's making that assumption,

1
2 which is a great big assumption, which is
3 often wrong.

4 DR. MAGLEBY: So voting patterns,
5 you're absolutely right. Voting patterns
6 will ebb and flow over time. But the
7 problem with a packing gerrymander, the
8 gerrymander we observe in Nassau County
9 in the 2013 map and in the proposals
10 advanced by the Republican Majority, is
11 that they inoculate the Majority against
12 precisely those ebbs and flows you're
13 talking about, those slight changes. This
14 is a county that's a toss up. But what
15 you are suggesting is we want to take
16 politics out of the campaigns and the
17 elections for county legislature and
18 basically create a buffer that makes it
19 so that Republicans can consistently win.
20 And they do that by relocating or
21 redistributing Democratic voters and
22 concentrating them in a Minority of
23 districts. Particularly --

24 LEGISLATOR KOPEL: In our
25 hypothetical, that's not the case.

1
2 DR. MAGLEBY: We must be talking
3 about a different hypothetical.

4 LEGISLATOR KOPEL: No, no, no. We're
5 talking about a hypothetical where
6 Democratic voters have the edge in 15 out
7 of 19.

8 DR. MAGLEBY: But the problem is,
9 that the --

10 LEGISLATOR KOPEL: On the February
11 9th map.

12 DR. MAGLEBY: So if it was the case
13 that voting patterns revealed that there
14 is an advantage for Democrats in 15 out
15 of 19 districts, it would depend a lot on
16 what the distribution of Democrats are
17 across those districts. It's not enough
18 to know that there's a majority of
19 Democrats. If all of those districts, if
20 15 districts have a majority of 50.001%
21 Democrats in your hypothetical, a slight
22 change in the electoral dynamics would
23 swing the entire county to Republicans.
24 So we need to be precise about this. But
25 we also -- what you're suggesting is

1
2 voting patterns, and that's not this
3 county.

4 LEGISLATOR KOPEL: No, sorry, sir.
5 Those were your words. I had no idea what
6 you meant by that. I asked you to
7 explain.

8 DR. MAGLEBY: Registration is not a
9 helpful statistic in understanding what
10 actually happens in these districts.

11 LEGISLATOR KOPEL: If what you're
12 saying is that the fact that a one
13 political party might have won the last
14 several elections is inherently unfair to
15 the other party?

16 DR. MAGLEBY: No, that's not what
17 I'm saying. What I'm saying is unfair is
18 if a map is drawn in a way that
19 underweights Democratic votes as the
20 February 9th map does, or as the 2013 map
21 does, which we're now conceding to be a
22 problematic map, if we agree that those
23 underweight Democratic votes, Democrats
24 are going to have to work extra hard to
25 turn people out to win elections. So the

1
2 reason why the median mean -- he doesn't
3 know a lot about the median mean. He can
4 do some more homework after tonight,
5 perhaps, and learn more about how the
6 median mean works. But the reason why
7 it's --

8 LEGISLATOR KOPEL: By the way, the
9 reason I don't know all these statistics.
10 That's why I went to law school. If I
11 could handle these things.

12 DR. MAGLEBY: So the median mean
13 difference tells us basically what
14 portion of the countywide vote, what
15 Democrats have to receive in order to
16 carry a Majority of the district --

17 LEGISLATOR KOPEL: And over come
18 these voting --

19 DR. MAGLEBY: Overcome the
20 disposition of districts that serve to
21 over concentrate voters, not just
22 registered voters, but voters.

23 And so what we see is that in Nassau
24 County, Democrats have to win 53 to 54%
25 of the vote just to break even in these

1
2 countywide races. That hasn't happened.

3 LEGISLATOR KOPEL: Okay. So you're
4 saying that was done deliberately to
5 favor one party?

6 DR. MAGLEBY: I'm saying that it was
7 not due to random chance. That it can't
8 have been that a neutral process would
9 have yielded that outcome.

10 LEGISLATOR KOPEL: Okay. Thank you
11 very much. As I say, it's been
12 fascinating. I appreciate it.

13 DR. MAGLEBY: It's my pleasure.

14 PRESIDING OFFICER NICOLELLO:
15 Doctor, you said you used county races,
16 correct?

17 DR. MAGLEBY: Countywide races, yes.

18 PRESIDING OFFICER NICOLELLO: Which
19 years?

20 DR. MAGLEBY: 2017, 2019 and 2021.

21 PRESIDING OFFICER NICOLELLO: Did
22 you use just countywide or also
23 legislative races?

24 DR. MAGLEBY: Just countywide. The
25 reason why we do that is because we're

1
2 reassigning voters between districts and
3 we want to make sure we're comparing
4 apples to apples when we do that. Believe
5 it or not, voters see all of you
6 differently. And so a Republican in one
7 district is not thought of the same way
8 as a Republican in a different district.
9 So we want to make sure we're holding
10 that constant.

11 PRESIDING OFFICER NICOLELLO: How do
12 you factor into your equation, when
13 you're doing on a local level, the effect
14 of larger issues, such as in the last
15 election countywide, bail reform, how do
16 you factor that into your model?

17 DR. MAGLEBY: So in 2021, bail
18 reform was a big deal in New York, and
19 those dynamics would be present in all of
20 those countywide elections I used to
21 calculate the partisanship of the
22 hypothetical districts generated by the
23 computer algorithm and also the districts
24 that were drawn by your expert and by the
25 expert retained by the Republican

1
2 commissioners.

3 PRESIDING OFFICER NICOLELLO: In
4 2021, the County Clerk in a heavily
5 Democratic county enrollment wise, one
6 way was, I believe, 160,000 vote
7 plurality. So those heavy numbers for
8 Republicans were inserted into your --

9 DR. MAGLEBY: Absolutely. And even
10 with those heavy numbers --

11 PRESIDING OFFICER NICOLELLO: But,
12 doesn't that skew? I mean, you're
13 looking at it, the trend is 53%. But
14 doesn't that number skew because the
15 results were so high?

16 DR. MAGLEBY: So. We absolutely want
17 to account for that in our analysis. And
18 if you look at my report and,
19 unfortunately, I was taken by surprise by
20 the analysis that the Republicans
21 presented tonight, or I could have
22 brought the analysis that they did in
23 Harkenrider exactly as they did it in
24 Harkenrider to show you that when applied
25 here, even in the presence of those

1
2 dynamics, Democrats are at a huge
3 disadvantage because of the location of
4 the district boundaries. Any advantage to
5 Republicans, any advantage to Democrats
6 is washed out and made innocuous by the
7 fact that the places where voters are
8 showing up in those elections and the
9 places where they're staying home are not
10 evenly distributed across the county.
11 It's concentrated in particular patterns
12 in particular districts.

13 PRESIDING OFFICER NICOLELLO: Now,
14 you're saying that -- I'm glad you're
15 talking about particular districts,
16 because you talked about each district
17 should flip. Do you know that we have a
18 legislator sitting to my left who runs in
19 a heavily, heavily Democratic district
20 for 10, 12, 13, 14 years and wins; 20
21 years? So the Republican numbers in that
22 district are high for that legislator
23 because of who she is. You would think
24 that that district would flip Democratic,
25 but it doesn't. So how do you factor into

1
2 your equation and these results the fact
3 of incumbency?

4 DR. MAGLEBY: So incumbency is not
5 something that I took into consideration
6 in the drawing of any of the hypothetical
7 maps. But Ms. Ford's prowess as a
8 campaigner is something we want to be
9 careful that we don't include as a one of
10 those confounding variables. That's why
11 we use the countywide votes cast in her
12 district. So if we used votes for Ms.
13 Ford, when we relocate the voters that
14 would otherwise support Democrats to
15 another district, I don't know whose
16 district she sits next to in the actual
17 geography of the county, but if you moved
18 those voters across Mr. Kopel's district,
19 it's possible, maybe unlikely, Mr. Koppel
20 seems like a nice guy, but those voters
21 would change their mind and vote for a
22 Democrat in those instances. But that's
23 why we use those countywide races,
24 because when they vote for county
25 executive in Ms. Ford's district, they're

1
2 also voting for county executive in Mr.
3 Kopel's district. And so we're comparing
4 apples and apples, whereas comparing Ms.
5 Ford to Mr. Kopel might be comparing
6 apples to oranges.

7 LEGISLATOR ABRAHAMS: Just if I may
8 interject, and this is just more of a
9 point of clarity. Mr. Magleby, one thing
10 that the Presiding Officer, which I'm
11 sure he accidentally omitted when he told
12 you this, Legislator Ford has been a
13 registered Democrat, but she runs on the
14 Republican line. That part he did leave
15 out. I don't know if that changes your
16 response. That's why I don't --

17 LEGISLATOR FORD: I don't believe
18 that would have any impact on the
19 analysis. But but even so, I mean, I'm
20 sorry, I didn't mean to jump in on you,
21 but when you look at the countywide
22 races, the Republican map, actually, the
23 one that was first presented from the
24 TDAC, I was put into Legislative Kopel's
25 district. Then the Democratic map, you

1
2 have me skewed over taking me out of a
3 good portion of the district that I've
4 represented for a long time and put me up
5 into Baldwin into an area that I'm not
6 familiar. And like when you were saying
7 about voter confusion, you know, and it's
8 not fair to people when they're looking
9 and they be moved back and forth and
10 everything, you know, so you put me over
11 to there, but then you also change my
12 legislative district number. So I think
13 that in essence, that would probably
14 cause a lot of confusion for the people
15 who live in the district that normally
16 knew themselves as Legislative Four
17 District, and now they're in a completely
18 different numbered district. So I just
19 wanted to point that out, and I'm going
20 to give back to the Presiding Officer.

21 DR. MAGLEBY: And I'm appreciative
22 and sensitive to the concern you raise,
23 Legislator Ford, in fact, the Municipal
24 Home Rule Law has very specific language
25 about not favoring or disfavoring any

1
2 incumbent. The problem is we don't know.
3 So this came up in the earlier testimony.
4 What does that mean? How do I know that
5 I haven't unduly treated you? I don't
6 know exactly how to tell. We're told to
7 consider them in order. I was asked to
8 opine on partisan gerrymandering. This is
9 an open question in terms of research
10 about how we should appropriately
11 consider what it means to favor or
12 disfavor incumbents. And you're
13 absolutely right, district boundaries
14 change. They identify with their
15 communities, as Mr. Drucker pointed out.
16 They identify somewhat with their
17 legislator. There are few very motivated
18 people who identify with you all, but
19 most people don't, actually. Most people
20 show up and they think, I kind of like
21 Democrats or I kind of like Republicans.
22 And so the fact that you could show up in
23 a place where people predominantly like
24 Democrats, I don't know the numbers,
25 exactly, that's precisely the kind of

1
2 thing, that lurking or confounding
3 variable, is what we want to remove from
4 the analysis by using countywide races.

5 PRESIDING OFFICER NICOLELLO: Let me
6 let me just mention that Legislator
7 Pilip, who is a registered Republican,
8 ran and won in the Great Neck District,
9 which is a heavily, heavily Democratic
10 district. She won in that district.
11 Legislator Gaylor who is a Republican for
12 many, many years, has run in a Democratic
13 district and won. And I would say that
14 each of those legislators and many of us
15 up here ran ahead of the county executive
16 in those races. So when you're just
17 looking at the top down and not factoring
18 into the fact that there are incumbents
19 running and their incumbents generating
20 candidates, I think that potentially your
21 local analysis is more skewed than doing
22 a statewide analysis.

23 DR. MAGLEBY: I think that's a
24 really interesting point. I have lots of
25 ways I want to push back on that.

1
2 PRESIDING OFFICER NICOLELLO: That
3 will be less when I make then (laughter).

4 DR. MAGLEBY: I will say this, and
5 if you want me to opine on this, I'm
6 happy to. I'm a professor, and if you
7 can't tell, I like long answers. And
8 there are a lot of tired people here who
9 want to want to talk to you. And I'm
10 sorry that I have gone on and on here. I
11 appreciate you listening.

12 PRESIDING OFFICER NICOLELLO: We do
13 appreciate.

14 DR. MAGLEBY: This is an open
15 question in the political science
16 research. The accepted practice in the
17 analysis of redistricting is to use
18 elections that are the most appropriate
19 for the region you're studying that
20 encompass the entire jurisdiction when
21 elections are happening. So considering a
22 gubernatorial race in 2017 is odd
23 because, as you pointed out, 2021 is a
24 different year than 2020 and is a
25 different year from 2022. But what we

1
2 want to do is we want to find something
3 that will capture the general competitive
4 dynamics that won't have these lurking
5 confounders of a Denise Ford, who's just
6 super dynamic and charming and
7 persuasive, or whoever else is out there
8 that could show up and change the way
9 votes are cast. I teach politics. I
10 don't think politics is a dirty word. I
11 think that what we should be seeking for
12 is a system that fairly allows political
13 processes to play themselves out, that we
14 have the opportunity for a Denise Ford to
15 go out and campaign in a district that
16 would listen to you and respond to you,
17 and where voters are allowed to evaluate
18 the platform you propose and make a
19 choice. The challenge with
20 gerrymandering, and I'm not sure who
21 objected to this, but the accepted
22 understanding of how gerrymandering works
23 is that it changes the weight of votes
24 cast in an election. Now, that sounds odd
25 because everybody shows up and everyone

1
2 has one vote. But if I'm a Democratic
3 voter in the Sixth District in the map
4 that was proposed on February 9th, I'm
5 going to show up -- and there's a lot of
6 Democratic voters in that district -- the
7 marginal impact of my vote is very small.
8 Some of these Republican districts, and I
9 forget the numbers off the top of my
10 head, they've moved around enough on
11 different proposals. I can't keep them
12 straight. And I hope Mr. Drucker won't
13 hold that against me, that I don't have
14 every piece of geography in Nassau County
15 memorized. But in those districts that
16 are more marginal but favor Republicans,
17 the marginal impact of a vote in those
18 districts matters quite a bit.

19 And so by playing with these these
20 the competitive dynamics, by drawing
21 lines in particular ways that over
22 concentrate voters of a particular kind,
23 what you're doing is you're robbing them
24 of influence and and you're undermining
25 their influence on the electoral process.

1
2 That's why it changes the weight of a
3 vote. And we can actually calculate the
4 weight of the vote.

5 Now, you went to law school. If you
6 went to if you're an engineer, raise your
7 hand. And I will explain to you the math
8 of how this works. But the fact of the
9 matter is that's what happens and what I
10 stand for. I know I'm here and I'm the
11 Democratic witness and I you have to
12 factor that into my credibility and
13 however you want to do that, I can tell
14 you that what I stand for is that I stand
15 for equal protection under the law, the
16 14th Amendment, that everybody's vote
17 should be weighted equally. It should all
18 count equally. We should not draw maps
19 that favor particular individuals over
20 others.

21 (Whereupon, Public
22 interruption.)

23 PRESIDING OFFICER NICOLELLO: We
24 have three more Legislators, then we'll
25 get to the public comment.

1
2 All right. We have Legislator
3 Ferretti, McKevitt and DeRiggi-Whitton.

4 LEGISLATOR MCKEVITT: I'm just going
5 to go to a brief point. Because I have to
6 know something about redistricting. When
7 I was in New York State Assembly for 12
8 years, and in 2012, I was redistricted by
9 87%. I was the second biggest
10 redistricting in the state of New York,
11 except for a district up in Oneida, which
12 was 91%. And I went from a rather more
13 Democratic district to a Republican
14 district. So around 2010, actually 2008,
15 presidential, I got about 58%. When I go
16 to a much more Republican district in
17 2012, I go down to 56%. But then four
18 years later, I go up to 66%. So I can
19 even give an example on the county level
20 where I ran my first race in County
21 Legislature, brand new district, I got
22 52%. My district in the last four years,
23 which has had a lot more Democrats move
24 into it, I went from 52% to 66%. So my
25 district didn't magically become more

1
2 Republican with tons of Democrats moving
3 in. It's the fact that I work very hard.
4 Many times when a constituent calls me I
5 don't return the call, I go to the house.
6 I see people. So the fact is, is that
7 under whatever analysis you're talking
8 about is, you really can't go and filter
9 out that hard work, which is going to
10 skew those results.

11 DR. MAGLEBY: I appreciate and I
12 should have said this at the outset. I
13 came up here animated about criticism of
14 my research and work, and I should have
15 prefaced all of this that what you all do
16 is remarkable. This is a remarkable thing
17 that in the United States, all of you
18 would sit here on a Thursday night, late
19 at night with and that folks would sit
20 here and wait to talk to you, this is a
21 remarkable thing that we do this. So
22 you're absolutely right. The analysis
23 that I did excludes individual campaign
24 dynamics. I feel like I want to come
25 back down here and take each of you to

1
2 coffee and interview you about your
3 campaign techniques and processes,
4 because I could write a really great
5 paper about all of this.

6 The problem with criticizing my work
7 for that is that you'd have to criticize
8 your expert's work for that, too, because
9 they're masking those dynamics in the
10 analysis that they do. And I would stand
11 up for both of our analyses while
12 disagreeing about the particulars and
13 saying that, Mr. McKeivitt, you're not
14 going to run for office in perpetuity.
15 Maybe you want to die in office in the
16 Nassau County Legislature.

17 LEGISLATOR MCKEVITT: No (laughter).

18 DR. MAGLEBY: You know. You could
19 step down. He was up here earlier as a
20 well intentioned wingman. I was talking
21 to Dave Mejias about this. I asked, do
22 you ever want to do this again? He said
23 absolutely not. This is one of the least
24 appreciated roles in our democracy. You
25 sit here, and I'm feeling bad that my

1
2 comments were interpreted to mean that I
3 was impugning your characters. I 100%
4 appreciate what you're doing. It is
5 noble. It is important. You won't do it
6 forever.

7 So what happens when you step down?
8 Who succeeds you? A Democrat or a
9 Republican? And if what we're trying to
10 figure out is -- spoiler alert; some of
11 you are better at campaigning than others
12 and some of you know who you are. We
13 have this ebb and flow and who's getting
14 elected and re elected. And we want to
15 understand how that works absent your own
16 particular charisma, your ability to
17 communicate and connect with
18 constituents, your ability to mobilize
19 constituents to come out and vote for
20 you, which is probably the most important
21 factor. All of that is what we call a
22 confounding or lurking variable, if I'm
23 looking at the votes cast for you. The
24 big problem is that -- you pointed out --
25 you end up in another district once we

1
2 redistrict and you used a number, you
3 said 80 and 89%?

4 LEGISLATOR MCKEVITT: No, I went
5 from one which was 58% in a much more
6 Democratic district, went to a much more
7 Republican district, went down to 56. My
8 first time out. Because no one knew me.

9 DR. MAGLEBY: Initially, I thought I
10 heard you say that you were the most
11 redistricted district.

12 LEGISLATOR MCKEVITT: I was
13 redistricted by 87%. My new district in
14 2012, I ran an 87% new district.

15 DR. MAGLEBY: So this is one of
16 these really interesting questions that
17 goes to a point that Mr. Tseytlin said
18 earlier. And it was a problem in the
19 Republican proposals in the County
20 Commission, which is how do we understand
21 what district is our district?
22 Legislators should all have shirts made
23 with the numbers of their districts on
24 it. You get really attached to being in
25 the 10th District or the 19th District or

1
2 the Second District. And the numbers the
3 numbers are somewhat arbitrary, right?
4 You stay the same. But how do we know
5 when a district changes? That's a really
6 tough question. So preserving cores, he
7 suggested we paid no attention to
8 preserving cores. I would contend that we
9 paid about as much attention to
10 preserving cores as you can. Because what
11 does it mean to preserve a core? This is
12 really getting into professor speak here.
13 There's a really old philosophical
14 problem called the Ship of Theseus, which
15 you may have encountered in your
16 philosophy classes because philosophers
17 love this. If you went to law school,
18 maybe you were a philosophy major. Ship
19 of Theseus is this idea, Theseus was a
20 hero, came back to Greece. He parked his
21 boat outside Athens, and to celebrate his
22 victory, they would take it out and
23 they'd sail it around. And then they park
24 it. And every year they did this. And
25 every year something would break and they

1
2 would replace it. And after several
3 hundred years, someone noticed that all
4 of the old wood was gone. And they said,
5 shoot, when did this stop being the Ship
6 of Theseus? When did it stop being your
7 district? I picked up my kid from
8 preschool one day after thinking about
9 this problem for way too long because
10 that's what professors do. And he's like,
11 Dad, what are you thinking about? I'm
12 like the Ship of Theseus. I explain it to
13 him. I said, what do you think? And he
14 said, 50%. Just like that solves a
15 problem that thousands of years of
16 philosophers have never been able to
17 answer; love five year olds, man.

18 The fact is, and I mean this with
19 all due respect. Legislator Ford, it
20 sounds like you've done really amazing
21 things. Legislator McKevitt.

22 LEGISLATOR FORD: We all have.

23 DR. MAGLEBY: You all have. Yes. And
24 as I said, I appreciate it. These
25 districts don't belong to you. They

1
2 belong to voters, voters whose voices
3 deserve to be heard and their voices
4 deserve to be heard in fair ways, in ways
5 where we're not skewing it in favor of
6 one. And one, where the ebbs and flows
7 when bail reform, whatever you think
8 about bail reform, if that's a big deal
9 for you as a voter and you want to
10 register how you feel about that with
11 your vote, you're entitled to have your
12 vote heard, not have it discounted,
13 diluted, muted or underweighted in any
14 particular way. So 100%, you're right. I
15 appreciate you letting me give this -- is
16 I feel like I'm filibustering myself here
17 now and I should let whoever has other
18 questions.

19 PRESIDING OFFICER NICOLELLO: One
20 more Legislator.

21 LEGISLATOR DERIGGI-WHITTON: Real
22 quick, because I truly appreciate the
23 public being here.

24 I sat and listened and I do
25 appreciate both you and Mr. Tseytlin's

1
2 testimony. I think I felt a lot smarter
3 before I walked in here tonight. But I
4 kind of just watching both of you and
5 listening to both of you, I think that
6 there's one major difference that I just
7 would like for you to maybe explain. It
8 sounds to me as if Mr. Tseytlin was
9 primarily focused on the Constitutional
10 guides as to what should be considered
11 when we're making a map, and he was very
12 clear on saying that we shouldn't take
13 race into consideration. It sounds to me
14 also that you have a different opinion,
15 which is maybe that the New York laws
16 might prevail for Nassau County. My
17 question is, and again, I had to take
18 notes, but the Gingles test.

19 (Whereupon, off the record
20 commentary.)

21 LEGISLATOR DERIGGI-WHITTON: Mr.
22 Tseytlin, your counterpart, said that he
23 did not feel that Nassau County qualified
24 for that. Basically, the Gingles test
25 would take race into consideration; is

1
2 that correct?

3 DR. MAGLEBY: I need to preface any
4 answer I give here by making it clear
5 that I was not asked to opine in my
6 report or my analysis on the question of
7 Voting Rights Act violations. And so I
8 actually have not done the analysis that
9 would allow me to answer that question.
10 There was another expert that the
11 Democrats retained that focused on that.
12 In other work and in my research I do
13 work on this, but I have not actually
14 examined the data here to be able to
15 answer that question authoritatively. I'm
16 sorry.

17 LEGISLATOR DERIGGI-WHITTON: Yeah,
18 because I kind of think that that is one
19 of the more important points in the sense
20 of whether or not we take
21 Minority/Majority districts into
22 consideration or not as to whether or not
23 we qualify. I mean, the Constitution says
24 no, but the state laws say yes.

25 DR. MAGLEBY: On this, I'm going to

1
2 I'm going to go outside of what I was
3 asked to do and suggest that this is very
4 much an open question. And it is
5 absolutely the case that the application
6 of Gingles in this instance will be very
7 important in the way that we understand
8 how to move forward.

9 I will say this, the analysis of the
10 Republican map, I incorporated the
11 Republican understanding of the
12 application of Gingles to the simulation.
13 So I did a different set of simulations
14 for the Republican maps than I did for
15 the Democratic maps. And that's because
16 the Republicans suggested that there's a
17 very different criteria when it comes to
18 racial representation in the county, that
19 there should be for Majority/Minority
20 districts. They didn't actually say that.
21 They voted with their feet in the way
22 they drew the map. In the map that they
23 offered, there were four
24 Majority/Minority districts. So in all
25 the simulations I did, the ensemble I

1
2 used for the Republican map, there were
3 at least four Majority/Minority
4 districts.

5 When I analyzed the Democratic map,
6 I analyzed it with the understanding that
7 had been advanced by the Democrats. That
8 Gingles requires that there's five
9 Majority/Minority maps. So this is
10 another way that my simulations differ
11 from the simulations that were advanced
12 by Mr. Tseytlin and Mr. Trende, is that
13 it doesn't seem like they were taking
14 into consideration any understanding of
15 how Gingles would work. It was simply an
16 exercise in drawing maps randomly without
17 reference to race. But that that's not
18 consistent with the actual map they drew.
19 And that's not consistent with even -- so
20 this is probably abundantly clear at this
21 point. Lawyers are really good at
22 answering exactly the question they're
23 asked. And professors like to say, great
24 question. Let me tell you the question
25 you should have asked. But in this

1
2 instance, we considered both
3 interpretations, both the one that was in
4 the revealed kind of understanding in the
5 way that the Republicans drew the map and
6 in the revealed way that the Democrats
7 were using the map. And it would not be
8 appropriate, and I didn't say this in my
9 list of things that I objected to in the
10 way he analyzed the map, he wasn't using
11 the appropriate counterfactual based on
12 the criteria Democrats had advanced. The
13 question is, is there partisan bias based
14 on a set of criteria? The Democrats
15 brought to bear a different set of
16 criteria. That's a question that another
17 expert and another time can answer. If we
18 adopt the Democratic criteria, there's no
19 evidence that they've skewed the map in
20 their favor. If we adopt a Republican
21 criteria, there's evidence that the map
22 was drawn in a way that was not neutral
23 with respect to party.

24 LEGISLATOR DERIGGI-WHITTON: So. Yes
25 or no? Do you believe that Nassau County

1
2 would qualify for that Gingles test?

3 DR. MAGLEBY: It would be a big
4 mistake to advance a map without doing
5 exactly that kind of analysis. It would
6 be money very poorly spent on the part of
7 this Body to propose and pass a map that
8 would not clearly survive a challenge
9 under the Gingles criteria. I'm saying
10 that as someone who's observed this
11 process play out in different places. You
12 absolutely need to do that analysis. If
13 you're concerned about -- when I talk to
14 people who are doing redistricting, they
15 always want to know, am I going to get
16 sued? Am I going to get sued?

17 LEGISLATOR DERIGGI-WHITTON: All
18 right. Don't worry about it. You're
19 right. I know I should end it with this.
20 But so, basically, you're not 100% sure
21 if it should be used or not. You're not
22 sure if it should be used in Nassau
23 County.

24 DR. MAGLEBY: So I have seen the
25 analysis done by my counterpart, who was

1
2 also retained as an expert by the
3 Democrats and that analysis indicates
4 that there are clear patterns of racially
5 polarized voting. The people who are
6 affected by the Voting Rights Act, those
7 groups of folks, live in compact areas
8 and it would be possible to draw
9 districts to provide them representation,
10 up to five districts. So, yes.

11 LEGISLATOR DERIGGI-WHITTON: In my
12 opinion, that is how the two of you
13 differed. As to whether or not the
14 Minority/Majority consideration should be
15 taken in. And that, in my opinion, the
16 Gingles test should show that. So I guess
17 I don't know why we don't qualify for the
18 Gingles test, but. Thank you.

19 PRESIDING OFFICER NICOLELLO: Dr.
20 Magleby, when you go home tonight, you
21 tell your wife you were passionate but
22 not heated. So we very much appreciate
23 your real passion for this.

24 DR. MAGLEBY: Thank you, Mr.
25 Presiding Officer. Thank you,

1
2 Legislators, for your time. Thank you
3 all. Thank you all for patiently waiting.

4 (Whereupon, applause.)

5 PRESIDING OFFICER NICOLELLO: All
6 right. For the public comments, we start
7 off with Angel Cepeda.

8 MR. CEPEDA: Good evening, Presiding
9 Officer, Minority Leader, Legislators,
10 It's very clear to me based upon what
11 we've heard here this evening that
12 redistricting is more an art than
13 actually a science.

14 Having said that, I realize that
15 what's before you is really a difficult
16 task. But as a Plainview resident for
17 more for almost 30 years, a community
18 leader being on their school board and
19 having been involved at the town level as
20 well, I can tell you that community
21 commonality is very important. And
22 what's happened to Plainview, I would
23 respectfully request that you look at and
24 you put back together. Country Pointe is
25 Plainview. It's Country Pointe at

1
2 Plainview.

3 These are things that as a science
4 it requires you to speak to each other
5 with, find out, make these things happen.

6 As I said, this is more art than
7 science. It really is. Having listened, I
8 think that Dr. Magleby made it quite
9 clear. You can you can skew things one
10 way or the other by just changing some of
11 the statistics. But at the end of the
12 day, you've got to recognize communities
13 like Plainview.

14 LEGISLATOR SOLAGES: Are we
15 entertaining speeches from political
16 candidates or past political candidates?
17 Just asking.

18 LEGISLATOR KOPEL: Finish, Mr.
19 Cepeda. Please finish.

20 MR. CEPEDA: Was that a question?

21 LEGISLATOR KOPEL: No, no, no. We're
22 not doing Q&A here. This is public
23 comment. Okay. Your turn.

24 MR. CEPEDA: So that was what I'm
25 here for, is to respectfully ask you to

1
2 look at Plainview and restore it as one
3 community. Thank you.

4 LEGISLATOR KOPEL: Thank you.

5 LEGISLATOR FORD: Good to see you.

6 LEGISLATOR KOPEL: Next one is Karen
7 Montalbano. Karen Montalbano.

8 MS. MANTALBANO: My name is Karen
9 Montalbano. I'm with the Baldwin Civic
10 Association. I'm their government
11 liaison.

12 Now, I've taken a look at the maps
13 and I thank you for making Baldwin mostly
14 whole. From what I hear now is there's
15 part of it that's not in the same
16 district. I can't tell because these maps
17 really are very hard to read. And I know
18 my glasses, I might need better ones, but
19 they're very hard to read and I can't
20 tell what streets are or are not in
21 Baldwin. We are now Legislative District
22 Six. I don't know what that means, who
23 our legislator is. But I noticed that in
24 reading some of this memorandum that came
25 out, many of these places are being

1
2 grouped by the Long Island Railroad,
3 Sunrise Highway, which runs straight
4 through our community, and the fact that
5 they are near the water. And yet we seem
6 to be going further up north. I am also
7 very dismayed to see that many of our
8 other communities are being divided. It's
9 very disappointing that there are not
10 more Majority/Minority districts being
11 represented, and I really find that this
12 process has never really been transparent
13 enough for us to really comment, and
14 especially when I'm reading things and
15 making my changes as I go along and what
16 I have to say.

17 Thank you.

18 LEGISLATOR KOPEL: Thank you. Mr.
19 Mejias.

20 MR. MEJIAS: Hi, everybody. Thank
21 you for having me. Thank you, Presiding
22 Officer, for the time, I will be brief. I
23 know there's a lot of people here, and
24 I'll try to be as quick as possible.

25 As Legislator Solages pointed out, I

1
2 was the only Hispanic ever elected to
3 this austere body, and I haven't been in
4 office for 13 years. And that needs to
5 change. And that's what this process is
6 about. And to ask the answer the question
7 as to whether or not race can be used in
8 this process, I would correct Mr.
9 Tseytlin in that the Supreme Court in
10 Cooper v. Harris said that we have to
11 have strict compliance with Section 2 of
12 the Federal Voting Rights Act. We cannot
13 deny minority communities candidates of
14 their choice, which is what partisan
15 gerrymandering does. And, therefore,
16 under the Supreme Court's analysis in
17 Cooper v. Harris, it is a compelling
18 state interest to have strict compliance
19 with Section 2 of the Federal Voting
20 Rights Act. So that point needs to be
21 made. To sit here and say it's
22 unconstitutional is really referring just
23 to the Merrill case that's taking place
24 in Alabama and it hasn't been decided.
25 There's been some opinions out there that

1
2 maybe they should be race, maybe there
3 shouldn't be race. But as of right now,
4 the law and the constitutional law under
5 the Supreme Court says that it is a
6 compelling government interest. And if
7 you think about it, when this Body was
8 first started, there was two minority
9 districts drawn at that time. And if you
10 think it's unconstitutional to use race,
11 you can actually draw a map where there
12 are no minority legislators here. And
13 that would be a violation of the Federal
14 Voting Rights Act and certainly end up in
15 court under that analysis.

16 It's interesting that the Racially
17 Polarized Voting analysis was not brought
18 to the table by Mr. Tseytlin. It's being
19 kept secret for some reason. We don't
20 know why. Using statewide elections, as
21 Dr. Magleby said, is a problem.

22 Analyzing, to Legislator Ferretti's
23 point, the registration, if you think
24 about it, if we just went by
25 registration, it wouldn't make any sense.

1
2 If you use the actual results, the county
3 executive race in the last two elections
4 has been won by 52% of the vote or so, by
5 Republican, by Democrat. It's flip
6 flopped. But Republicans have 63% of the
7 seats in this chamber. So that lends
8 itself to say there is a partisan
9 gerrymander. The 2013 map is a partisan
10 gerrymander, because if it wasn't, if it
11 was drawn completely neutrally, it would
12 reflect the results of the countywide
13 elections that go back and forth.

14 To answer other people's questions,
15 what does Lakeview and Hempstead have in
16 common with East Rockaway? Right. You
17 know, nothing. There was a tremendous
18 amount of testimony from the people that
19 came down here that want Lakeview kept
20 with Hempstead, and they want to make
21 sure that they are represented. And this
22 map dilutes minority votes illegally.

23 Thank you.

24 PRESIDING OFFICER NICOLELLO: Thank
25 you, Dave.

1
2 Scottie Coads.

3 MS. COADS: Boy, this is a long
4 time.

5 PRESIDING OFFICER NICOLELLO: My
6 apologies for the long wait.

7 MS. COADS: He asked the right
8 question. What does Lakeview and
9 Hempstead have in common with Lynbrook,
10 Malverne, East Rockaway, and a portion of
11 West Hempstead? I have a West Hempstead
12 address. But the portion that will be
13 part of Lakeview is very conservative. So
14 what do we have in common? Nothing.

15 When Franklin Square got 20,000
16 population and you're putting 6,000 from
17 Lakeview into that district, do we have a
18 chance? Do we stand a chance? Not at all.

19 And the other thing is, cracking,
20 stacking, and packing are the three
21 things that should be decided with
22 redistricting. So what have you done to
23 Lakeview? You've cracked us away from
24 where we were since 1980. When our
25 district was first formed in 1980, the

1
2 census, and then redistricting, we were
3 doing great in Lakeview. And then all of
4 a sudden, in 2023, you decided that we
5 need to be with Lynbrook, Malverne, and
6 East Rockaway, and then you added West
7 Hempstead. I would have felt a whole lot
8 better if you put us with a district that
9 we had common interests. We have none.

10 I just drive through Lynbrook. They
11 couldn't care less. I have someone here
12 with me tonight who's always experienced
13 racism in Lynbrook. And then here we are
14 in 2023, after all our fighting to make
15 sure our district in Lakeview was strong,
16 we find ourselves fighting to get out of
17 three, four districts that we don't
18 belong in. For what reason, other than
19 gerrymandering?

20 And I say to you, I don't know what
21 to say, actually. What do we want? We
22 want to be put back where we were. When
23 our district was first formed in 1980, we
24 worked our butts off in Lakeview to make
25 our community strong. I can remember we

1
2 didn't have to worry about, maybe we
3 should have, but we didn't, we didn't
4 worry about parading through Hempstead,
5 Baldwin, Freeport, Roosevelt, and on to
6 Lakeview with a stream of cars fighting
7 to get people to vote. And we built all
8 of those communities. And you took, in
9 2023, a community that fought -- we try
10 not to make a difference with who's
11 running or whatever. But you know what?
12 We lucked out because we got good
13 representatives in the First District, in
14 the Second District and in the Third
15 District. We're not here to talk about
16 which representative we want to represent
17 us. We want to talk about fair lines. The
18 lines are not fair. They were not drawn
19 fairly.

20 So I'm going to say to you, my
21 little -- I see you don't have the time
22 on me, so that's a good thing. I'm going
23 to read some stuff that I know three
24 minutes I have a tendency of going over.
25 But let me just say this, I rise this

1
2 evening representing the great community
3 of Lakeview along with the avid
4 supporters of Lakeview communities. Many
5 of them don't live in Lakeview, but they
6 support us because they know we're
7 strong. We have a strong community that
8 has been fondly referred to as "Little
9 Old Lakeview". You see, we acquired that
10 name affectionately because although we
11 are a small community, we carry a big
12 stick. What do I mean by that? If
13 rattlesnakes are voting in Lakeview, we
14 vote. And that's the truth. And we are
15 fair.

16 There are people who are sitting on
17 this side I have invited ten years ago to
18 hear me speak about redistricting.
19 Presiding Officer, you were one of them
20 who showed up to one of my meetings ten
21 years ago. We do what's right. Lakeview
22 has stayed home since the inception of
23 the 18th Assembly District, and that's
24 where we want to be put back. Back with
25 Hempstead. Back with Baldwin, Freeport,

1
2 Roosevelt, Uniondale, even a portion of
3 West Hempstead Falls in the 18th Assembly
4 District. Lakeview has got two addresses,
5 two post offices. One is 11570, Rockville
6 Centre. The other one is 11552, West
7 Hempstead.

8 Why do I not want to be in West
9 Hempstead? Because the portion you're
10 putting us in is all conservative. We
11 will not have a chance to elect or have
12 common interests. We just use the post
13 office.

14 We have a school district with
15 Lakeview, Lynbrook, Malverne. What does
16 it mean? We just fought Malverne to stop
17 with its racist street naming. The name
18 was recently changed in Malverne. I have
19 many friends in Malverne. It has nothing
20 to do with friends. It has to do with the
21 proper lines and how we are going to be
22 represented.

23 And I say to you, our hearts are
24 hurting. And if you don't believe it, I
25 almost went to tears when I saw our hard

1
2 work being put into a district or in
3 districts like Lakeview, Lynbrook,
4 Malverne. Those people don't even want us
5 there. They don't even talk to us. We
6 have no common interests. None. Except
7 our school district have the three names.
8 And we had to fight like the dickens
9 Transport 12 to even get Lakeview
10 recognized to get busing in Malverne.

11 I'm telling you, maybe I'm aging
12 myself. But I got the history. We worked
13 our butts off in all of our districts in
14 One and Two, and we say we need to be put
15 back where we belong, where our common
16 interests are the same.

17 Thank you.

18 PRESIDING OFFICER NICOLELLO: Thank
19 you, Scottie. Lisa Ortiz.

20 MS. ORTIZ: Good evening, everyone.
21 Thank you for allowing me to come before
22 you all tonight. I am here, I am a
23 resident of Lakeview, one of the founding
24 members of the Lakeview Civic
25 Association. I am a trustee on the

1
2 Lakeview Public Library Board, and I am a
3 very proud member of Lakeview.

4 I've come before you several times
5 throughout the redistricting process, and
6 one of the main concerns initially was
7 that Lakeview remain whole. We asked, and
8 you actually accommodated and we are
9 grateful for that.

10 Our next request was to place us in
11 a district with communities that share
12 commonalities with us. We've asked this
13 several times, and yet here we are again,
14 asking again. The district that has now
15 been presented for Lakeview, the last set
16 of maps was comprised of Lakeview,
17 Lynbrook, Malverne, and Valley Stream.
18 This current map that is proposed by the
19 Republican Majority places Lakeview,
20 Lynbrook, Malverne, West Hempstead, and
21 now East Rockaway. All of those
22 communities have at least double the
23 amount of constituents in it than we do.
24 So when we think about disenfranchising,
25 when you think about silencing and you

1
2 think about gerrymandering and you think
3 about making sure that you are silencing
4 a community that has a very, very loud
5 voice, that's exactly what you're doing
6 to us.

7 Lakeview has fought very hard from
8 the time back in the sixties when Dr.
9 King came through to integrate our
10 schools. The first school district to be
11 forced to be integrated by the state was
12 done because of Lakeview.

13 When one of the your experts, the
14 Republican expert, spoke about the
15 commonalities that we have are school
16 districts, we can talk about that. Our
17 school district is the only thing that we
18 share, but we don't share the same name.
19 I mean, the school district is Malverne,
20 not Malverne/Lakeview, like Old
21 Bethpage/Plainview. When we requested
22 that, from what I understand, it's been
23 denied.

24 Recently, many representatives from
25 Lakeview fought long and hard in

1
2 conjunction with the school district, to
3 have that street name that was named
4 after a leader in the KKK to be removed.
5 It was a very long and hard battle. A
6 grand wizard in the KKK. That battle
7 started back in the sixties, am I right,
8 Scottie? For 60 years we had to fight.
9 While that may seem like, Oh, well, at
10 least you're making progress. How much?
11 How much do we have to fight? We're here
12 tonight. No other communities are here.
13 Malverne is not here fighting to remain
14 in their district. West Hempstead is not
15 here fighting to remain in their
16 district, because their districts still
17 look like their communities. Our
18 communities that we share commonalities
19 with Hempstead, Roosevelt, Baldwin,
20 Uniondale. These are the places that we
21 go to worship. These are the places that
22 we go to shop, to spend time with our
23 family, our friends. But yet you want to
24 throw us into a district that we have
25 zero commonalities with?

1
2 So tonight to wrap this up, because
3 there are many people that I'm sure want
4 to speak at 10:42 at night, I am asking
5 that you would place Lakeview back where
6 it was into a Majority/Minority district.
7 That will give us the opportunity to
8 choose a candidate of our own choice.
9 Place us with a district that will not
10 silence our voice, that will understand
11 the needs of our community and ensure
12 that whoever represents it comes out
13 there, not afraid of us, they'll work
14 with us to make sure that our community
15 is kept intact. And most importantly, we
16 still want to remain whole in a
17 Majority/Minority district.

18 Thank you.

19 PRESIDING OFFICER NICOLELLO: Thank
20 you, Ms. Ortiz.

21 Doris Newkirk.

22 MS. NEWKIRK: Good evening,
23 everyone. I am Doris Hicks-Newkirk, newly
24 Newkirk. And I come before you as a
25 resident of Lakeview, homeowner for the

1
2 last 37 years, retired educator of the
3 Malvern School District.

4 Some of the things you've heard are
5 true. Last week, two weeks ago, we had
6 the renaming of the Street name Linder
7 Place. We led that through the initiative
8 of the Lakeview NAACP under my direction
9 under a Call of Action in 2020. We then
10 passed it on to the school and let the
11 children do their thing. I stand before
12 you as the president of the Lakeview
13 NAACP, letting you know that we also have
14 a youth council where our young people
15 come out and have their voice heard as
16 well.

17 I ask you a question: What is your
18 reasoning for this by putting us in this
19 district? I ask you: What do you gain?
20 And I will say to you, that we wish to
21 remain number one, whole. Number two, a
22 Minority/Majority voting district. We
23 want to be in a community of likeness.
24 And believe it or not, you must
25 understand that you are taking away our

1
2 voting strength. And we will not be
3 silenced.

4 I also want to tell you that it's
5 not okay to smother our vote by placing
6 us in those communities. I have friends
7 in some of those communities, very few.
8 But I'll tell you, I know that some of
9 our young people have walked down the
10 street and been told to go back where
11 they came from. So I tell you what, send
12 my children back to Lakeview. Let them
13 stay where they can grow up and know the
14 community that they come from. We've
15 heard it. We've seen it. We've heard
16 people in the store tell our children we
17 don't serve the "Ns". They've come to me
18 and told me, and they were afraid to tell
19 me. I wish they had told me as soon as it
20 happened. Because the NAACP would have
21 been on it like white on rice.

22 I say to you, Have we gained too
23 much recognition in Little Old Lakeview?
24 Have we been given too much support by
25 our awesome Legislator, Siela Bynoe? As I

1
2 stood before you a few months ago, I
3 thought of some of the things and
4 reported it to you the things that she's
5 done for our wonderful district. Need I
6 remind you? I think I should take one
7 second and remind you: Health fairs, tax
8 reforms, street repairs, walking our
9 community, holiday celebrations, and last
10 but not least, we've had someone that has
11 cared for us. The first time in 37 years.

12 I can tell you, we have little to
13 none in common with the communities that
14 you want to put us in. So before you make
15 your final decision, I strongly ask you
16 to think on these things.

17 Thank you.

18 PRESIDING OFFICER NICOLELLO: Thank
19 you, Ms. Newkirk.

20 Tristen Salley.

21 MR. SALELY: Good evening to each of
22 you. I stand tonight as a proud Lakeview
23 resident, a community activist, and the
24 pastor of one of the oldest black
25 congregations in the hamlet of Lakeview.

1
2 I recognize and am grateful for this
3 Body that listened to the residents of my
4 community 94 days ago, when we came
5 before you and asked to be made whole.
6 And we acknowledge that. But in making us
7 whole, there's a little bit more that
8 needs to be done. Here we are in the
9 middle of Black History Month faced with
10 redistricting where it has been proposed
11 to crack and disenfranchise black and
12 minority votes to dilute the vote and our
13 voice that would prevent us from
14 potentially electing candidates of our
15 choice who represent us morally. And
16 we've seen the importance nationally of
17 making sure that candidates represent our
18 communities with high morals across both
19 sides of the aisle.

20 I ask tonight that you would
21 consider deeply and greatly continuing to
22 keep Lakeview whole in a district with
23 commonalities. To your witnesses point
24 from the Republican side tonight, as one
25 of the pastors in Lakeview, I can tell

1
2 you that we share absolutely no religious
3 commonalities with Malverne, Lynbrook, or
4 East Rockaway. We don't. We're not a part
5 of any associations together. We don't
6 worship together. And truly, one of the
7 most segregated hours that you will find
8 in those communities is the hour of
9 worship on Sundays and Saturdays.

10 And so we ask you, we implore of
11 you, to think long and hard about the
12 actions in which this Body will take as
13 it represents Little Lakeview and other
14 minority communities. Do not
15 disenfranchise those who have worked
16 tirelessly, who have died for fighting
17 for equal rights and voting rights and
18 the importance of having a voice in this
19 community and in this country. Do not
20 ignore it.

21 Ninety four days ago I stood before
22 you getting ready to welcome my first
23 born child. I asked you to make sure
24 that he could grow up in a community that
25 would represent him fully and wholly.

1
2 Well, he's here and I'm still fighting.
3 Because there's more that this Body can
4 do to make sure that communities of color
5 are equally represented in Nassau County.
6 I beg of you to consider your actions.

7 PRESIDING OFFICER NICOLELLO: Thank
8 you, Pastor Sally.

9 Karen Moskowitz.

10 MS. MOSKOWITZ: My name is Karen
11 Moskowitz, and I serve as a co-chair of
12 the Redistricting Committee of the Nassau
13 County League of Women Voters. Thank you
14 for the opportunity to address the
15 Legislature. Although I think I almost
16 lost the will to live about an hour and a
17 half ago.

18 The League is a nonpartisan,
19 grassroots nonprofit, encouraging,
20 informed and active participation in our
21 democracy. The league takes positions on
22 a variety of public policy issues, but
23 never supports or opposes any political
24 party or candidate.

25 The Legislature's proposed map,

1
2 released February 9th, is commendable in
3 that it creates for Minority/Minority
4 (sic) districts. However, with Nassau's
5 minority population now at 44% per the
6 2020 Census, the expectation is that at
7 least five Minority/Majority districts
8 are needed to avoid diluting their
9 political influence by diminishing their
10 ability to elect representatives of their
11 choice. Equitable representation of
12 minorities is mandated by New York's
13 Municipal Home Rule Law. Contrary to the
14 repeated statements of the Republican
15 witness, we note that racial minority
16 groups are explicitly referenced in that
17 law.

18 Additionally, we see that the
19 Minority/Majority villages of Hempstead
20 and Freeport have been split. Although in
21 the case of Hempstead, we recognize that
22 this might, might have been done to
23 create more minority districts.

24 Finally, we note that District 18 is
25 extraordinarily elongated, running

1
2 southeast from the north coast and
3 sharply narrowing as it squeezes through
4 Williston Park, ending at the Mineola
5 border.

6 We have two questions for the
7 legislature. I think we've beaten the
8 first one to death. We would like to
9 understand the reasoning behind the
10 creation of only for Minority districts.
11 I think the Republican representative
12 explained that based upon the fact that
13 he did not take into account racial
14 groups.

15 And secondly, we'd appreciate
16 knowing when the Legislature plans to
17 vote on a map. And I don't know, Mr.
18 Nicoletto, if you can tell us when you
19 plan to vote on a map, if you're aware
20 right now.

21 PRESIDING OFFICER NICOLELLO: We
22 expect to vote on a map on Monday, on
23 February 27.

24 MS. MOSKOWITZ: All right. Thank
25 you.

1
2 PRESIDING OFFICER NICOLELLO: Thank
3 you.

4 Jeffrey Daniels.

5 MR. DANIELS: I would say good
6 evening, but I probably better off to say
7 goodnight to everyone.

8 We've been using the word or the
9 phrase common interest a lot tonight.
10 Everybody's been saying common interest
11 amongst ourselves, whether it be
12 Lakeview, Hempstead, and other places.
13 But I'd say I think we all have common
14 interests. We all want to live the best
15 life we could actually live, and we all
16 hold that in common. Not as Republicans,
17 not as Democrats, not as African
18 Americans, Caucasians, Irishmen, wherever
19 you come from. You came to America to
20 live your best life. And in order to do
21 that, that is the common denominator, the
22 common interest, if you would, that we
23 all have that we all seek to continue to
24 have here.

25 Now, we've all started from

1
2 different places. Our experiences are
3 different. We've been disenfranchised.
4 Purposely disenfranchised. And then laws
5 and rules that were meant to stop the
6 disenfranchisement were actually used to
7 continue it. And that's a little bit of
8 what we're hearing tonight, is that we
9 can't have minority districts because
10 that's against the law.

11 I'm going to give you a very quick
12 example, because the time is ticking.
13 We've got minority set asides and MBWE
14 set asides for minorities. Primarily
15 entrepreneurs that are just getting
16 started. You have to get certified to be
17 an MBWE contractor. That's the only place
18 I know that you've got to tell somebody
19 and prove to somebody that you're black
20 in order for you to get what was meant
21 for you to actually receive.

22 And then we're doing something very
23 similar today. You have gutted my
24 village. You put it into three pieces.
25 Let's not act as if that was not

1
2 intentional. Because one who lives in
3 Hempstead only has to look at the map to
4 tell you exactly what streets you cut.
5 Along Cathedral Avenue is now part of
6 this part of town. Terrace Avenue was cut
7 out like this in the box. That's
8 intentional. That's not someone just
9 coming through with the line.

10 So let's give each other an
11 opportunity to live that best life. And
12 it's not racial, it's American. And we're
13 all American. We need representation
14 because we started in a different spot.
15 We understand each other differently. We
16 need real representation. You cannot gut
17 -- the mecca of black and brown in all of
18 Long Island is the Village of Hempstead,
19 and you've now taken that and watered it
20 down. And we can't have that.

21 Thank you.

22 PRESIDING OFFICER NICOLELLO: Thank
23 you, Mr. Daniels.

24 Stephanie Chase.

25 MS. CHASE: Good evening. Just some

1
2 have a few figures here:

3 Lynbrook has 20,741 residents:
4 76.48% are white; That's 14,871. Black
5 and African, they say it's 4.56%; 886. I
6 really don't believe there's 886 black
7 people in Lynbrook. I used to work there
8 in the post office and I never saw 800
9 people. Malverne has 7,238; 84.99% is
10 white. Black 6.29. We're put in with
11 these areas. We will be diluted.

12 Lynbrook I know doesn't care about
13 us. I worked there. Scottie mentioned, I
14 faced so much racism, but I have met very
15 good people there. But for my age, I'm
16 66, and I started working there in '85. I
17 can't tell you. The shock. The hurt.
18 Being called the N-word, people yelling
19 mysteriously out of windows as I deliver
20 mail. Police officers following me every
21 day. I don't know how I'm sane. Every day
22 they followed me. I always had a uniform
23 because I had a friend who worked in
24 Brooklyn and he gave me a uniform. He
25 just said, you know, you're going to need

1
2 this so people will know who you are.
3 Because they have a thing when you start,
4 you don't have a uniform, so you're not
5 identifiable. But it's funny that all
6 the black people that work there, they've
7 been stopped by the police asking what
8 they're doing there. I was in uniform,
9 the truck down the street I was asked,
10 what are you doing? My hands were full
11 with mail. I'm trying to get done. And I
12 just looked at him and went (indicating).
13 So I know most of them don't care about
14 us. I could see the evidence. Just stand
15 on the corner near the theatre and watch
16 how many black and Latino people get
17 stopped in their cars by the police. Now,
18 I'm saying there are good people there.

19 Malverne, like we said, I'm sorry.
20 Took so long to change that street. East
21 Rockaway. Forget it. I don't understand
22 why you would want to do this. I really
23 don't understand why you want to do that.
24 And then you're going to turn around and
25 say, Oh, look at those people. They

1
2 don't this and they don't that. And
3 you're taking away our rights. You're
4 taking away everything. We fought. We
5 fight to get the roads. We fight to do
6 this. We fight to keep our community. But
7 you're trying to take that away from us.
8 Why? Why? Why are you afraid? Why are you
9 so afraid of black and Latino people?
10 I'm sorry. It angers me. I think I'm kind
11 of lost my mind a little bit from what
12 I've gone through. I really have.

13 Got to do better. Got to be fair.
14 Don't sit here and talk about God and
15 this and that and you're not even
16 following the basic principles. All you
17 got to do is do the Ten Commandments. But
18 you don't do it.

19 Then you sit there and you're
20 talking about, oh, you don't want to get
21 into minute details. They were important
22 to what we what we think. Those little
23 minute details I wanted to hear. I don't
24 know. I don't know what to tell you. It's
25 a shame that we have to, in this day and

1
2 age, come here and do this. But we're
3 going to fight. Mighty Lakeview, you're
4 going to hear from us.

5 PRESIDING OFFICER NICOLELLO: Thank
6 you, Ms. Chase.

7 Barbara McFadden.

8 MS. MCFADDEN: Good evening. Thank
9 you very much, Minority Leader.

10 I've been here so long, my phone
11 died. Thank you, Legislator Abrahams,
12 for helping me be able to speak this
13 evening. Please forgive me, I'm only
14 eight weeks and two days post spinal
15 surgery.

16 But as a child of the south, 76
17 years, I have to say, I didn't move from
18 the south. I moved up south.

19 Tonight, I'm representing the
20 National Coalition of 100 Black Women in
21 Long Island Chapter, Inc. It advocates to
22 influence policies that promote gender
23 equity and health, education and economic
24 empowerment. Given that policy is so
25 intrinsic and it is intrinsically related

1
2 to voting activity, fighting against all
3 acts of voter suppression is a key tenet
4 to our agenda.

5 Therefore, the National Coalition of
6 100 Black Women Long Island Chapter,
7 wants the Commission, this Body, this
8 Legislative Body to have on record our
9 adamant rejection of any attempt at
10 gerrymandering to weaken the black vote,
11 and thus black voices in this country's
12 political process.

13 This practice also makes it that
14 much harder for Long Islanders to achieve
15 equity on Long Island, and that is done
16 intentionally. If the Urban League can
17 quantify that billions of dollars were
18 lost due to segregation, and then we had
19 a huge community fund put back dollars
20 into Long Island, then you know that it's
21 not something that Lakeview is just
22 talking about. It is a reality.

23 We emphatically call on this
24 Commission, as I said, again, to
25 reconsider approving any map that harms

1
2 the communities, any of our communities.

3 We also want to make it clear that
4 gerrymandering is not only unethical, it
5 is illegal, and we will support any
6 effort to combat this illegal practice.
7 Thank you very much and good night.

8 PRESIDING OFFICER NICOLELLO: Thank
9 you, Ms. McFadden. Chris Jacobs. So the
10 next three speakers are Chris Jacobs,
11 James Jacobs and Pearl Jacobs.

12 MR. CHRIS JACOBS: Good evening. So
13 the map, although I'm grateful that, you
14 know, was kept whole, I'm disappointed
15 that the other communities weren't kept
16 whole; Lakeview, Baldwin, Freeport. They
17 should all be kept all along with the
18 other ones.

19 I also noticed when you go on the
20 map, you go on the website, when you zoom
21 in right next to the two, you can't see
22 here, but if you go online right now,
23 you'll see it says East Garden City. And
24 for over a decade, Uniondale has been
25 fighting to have the East Garden City

1
2 designation removed. So that's something
3 that should be taken into account on
4 whatever map is put forward. Hopefully,
5 Uniondale, along with all the other
6 communities, stay whole.

7 This map is an okay map for a
8 certain parts, but it definitely needs
9 improvement. I was at the Town meeting a
10 couple of nights ago and I watched them
11 pass an abomination of a map, which is
12 terrible.

13 But that's all I got to say.
14 Basically, thank you for Uniondale whole,
15 but make good on the other ones. Lakeview
16 should be whole and the rest of them
17 should be whole and after that, it'll be
18 a good map that works for everybody.

19 Thank you.

20 PRESIDING OFFICER NICOLELLO: Thank
21 you, Mr. Jacobs. We will go back and look
22 at that map. If it is indeed there, we'll
23 take that term out.

24 MR. J. JACOBS: James B. Jacobs.
25 That's my son. I'm proud of what he's

1
2 saying. And my wife, too. I support
3 Lakeview and their struggle. Same thing
4 with Baldwin the rest of everybody else,
5 because the struggle is real.

6 That's why we have the John Lewis
7 Law, because if everybody did the right
8 thing, we have to have laws on the books
9 for people to do the right thing, you
10 know?

11 And now, Mr. Nicolello, thank you,
12 Kevan, for speaking your truth. Siela
13 Bynoe and Mr. Solages for speaking your
14 truth. I really appreciate you both.

15 I just need clarification on some
16 things. So if you could bear with me, I
17 appreciate it. On District Two, my son
18 brought up the fact about East Garden
19 City, that shouldn't be there on the
20 right hand top, right hand corner.

21 On District Seven, this district
22 combined interconnecting communities of
23 five towns consistent with public comment
24 urges them to draw together a new map
25 bringing together Orthodox Jewish

1
2 synagogues, train station and other
3 service that served these communities.
4 Now, my understanding of how the
5 Constitution works and the First
6 Amendment is a separation of church and
7 state. But yet, if you're of a religious
8 persuasion, just me sharing a thought, my
9 personal opinion, my last name is Jacobs,
10 I have opinions. It's just that, how come
11 they have consideration for religious
12 affiliation when when you look at what
13 they spoke about worship on Sunday being
14 the most segregated hour in America, how
15 come that was not taken in consideration?
16 Because like-minded folks together and
17 and to me, if the same political parties
18 had ideas that anybody would find
19 competing, they will vote for them. But
20 see, why would I vote for someone that
21 don't have my best interests at heart? So
22 I commend the people up here for speaking
23 their piece. Because here's the thing.
24 Thirty years ago, when I move out to
25 Nassau County in the Town of Hempstead, I

1
2 was told it was very welcome to
3 everybody. But between redlining and
4 other things that were done to the
5 community as a whole as a disservice,
6 that a veteran served this country, she
7 worked for federal government and so
8 forth. But where's the love they show to
9 a constituent? Because the way I look at
10 it think you're picking your voters now
11 we're picking the politician.

12 And let me not forget other thing.
13 There's something that jumped out at me,
14 but something somebody said about how
15 they putting all these communities in
16 train stations and divided towns by the
17 railroad. If people know the history and
18 the thing about it, because here's the
19 thing. Just like in Florida, they went
20 black history from 1970 going forward.
21 Now, I didn't realize until someone
22 brought it to my attention that the Town
23 of Hempstead used to have a slave trade.
24 Just saying. I just want it to be a fair
25 map.

1
2 I'm just going to finish on this
3 note. I wish you all the best. Like I
4 said, Mr. Nicollelo, to me you seem like
5 a stand up kind of person. Kevan, Siela
6 Bynoe. Josh, like your commercial. And
7 that young lady there, you okay. I'm
8 keeping it real.

9 But the thing in the nutshell is
10 that as long to treat people fairly and
11 they think the votes count and is weighed
12 evenly and equitably, then it's all good.
13 Because I'm of the philosophy, I don't
14 care what party you are about, but if you
15 come to me in my community to enlist in
16 my vote and disrespect me that way, why
17 should I vote for you?

18 Thank you.

19 PRESIDING OFFICER NICOLELLO: Thank
20 you, Mr. Jacobs. Pearl Jacobs.

21 MS. JACOBS: Good evening. Good
22 evening.

23 My son said about the Town of
24 Hempstead, yes. That map was an
25 abomination. It definitely split

1
2 Uniondale, which I was not happy about.
3 We came there all the time. We held up by
4 signs. Keep Uniondale whole, other
5 communities, keep their communities
6 whole. But I'm going to read something
7 that the Town of Hempstead wrote
8 regarding District Three. It's just a
9 paraphrase. "In addition to uniting the
10 Five Towns, the Board's proposed plan
11 does not split Woodmere, which members of
12 the community testified should be kept
13 whole". So to me, that's blatant
14 discrimination. Good for my brothers and
15 sisters and with me, I'm happy for them,
16 but they're respected. And they said, we
17 want to keep be kept whole, they are kept
18 whole because they say we want to be kept
19 whole, and Uniondale was not.

20 You know why I was sitting there. I
21 was just looking for synonyms for
22 gerrymandering: Dishonesty, crookedness,
23 trickery, treachery, and fraudulence.
24 These are not flattering words, and
25 gerrymandering is not a flattering or

1
2 ethical action.

3 I'm happy that Uniondale was kept
4 whole. I'm happy about that. But I'm
5 extremely -- but I'm not happy about the
6 East Garden City sitting there, so I know
7 you're going to look into that, Presiding
8 Officer, it has to be taken off, East
9 Garden City -- but I'm not happy that my
10 fellow Majority/Minority communities were
11 not kept whole. Lakeview, Queen Scottie.
12 I always call you Queen Scottie because
13 because she is the queen of advocacy.
14 And Freeport, Hempstead, Baldwin, Elmont,
15 when my fellow Majority/Minority
16 communities are not kept whole, I am not
17 happy. So I'm with you on that. I'm with
18 you on that.

19 So you, as our elected officials,
20 have the ability to break this
21 discriminating action of gerrymandering.
22 Please take that under consideration and
23 make all of our communities whole and
24 together with people and communities that
25 they want to be together with. Like

1
2 minded. Thank you.

3 Hey, Josh, keep giving Santos hell.
4 Thank you.

5 PRESIDING OFFICER NICOLELLO: Thank
6 you, Pearl. Christina Arroyo.

7 (Whereupon, no response.)

8 PRESIDING OFFICER NICOLELLO: Casey
9 Marlowe.

10 MR. MARLOW: Hi. My name is Casey
11 Marlow. I'm from Farmingdale, and I'm a
12 member of the Nassau County Democrats.

13 First of all, I'd like to thank
14 everyone involved with the Commission for
15 their time and hard work throughout this
16 important process, and to my friends and
17 fellow citizens tonight for waiting it
18 out to make sure that their important
19 comments are heard and also at previous
20 meetings. A special shout out to my
21 former professor, Professor Magleby, for
22 his expertise and excellent testimony
23 tonight and in assisting members of the
24 Commission and the Democratic Caucus.

25 However, as someone who's seen this

1
2 process go along in numerous hearings, I
3 can only conclude that this process is
4 shamefully devolved into something of a
5 farce. Democracy is not happening in this
6 process. It is being subverted and
7 strangled by the process of which we are
8 seeing another gerrymander of our county
9 for another ten years. Ten years? It's a
10 whole decade. Details matter when it
11 comes when we're talking about something
12 for a whole decade. And we've already
13 been racially gerrymandered in the 2013
14 maps, too. That's already been proven by
15 Professor Magleby. It's frankly,
16 un-American. And Professor Magleby, he
17 brought all the receipts, and I think he
18 proved why this map is illegal.

19 Now, I'm not a lawyer, but as I
20 heard tonight, basically taking race into
21 consideration when you're making maps and
22 making sure that minority voters have
23 some representation, that seems to be
24 racial gerrymandering, the same as
25 cracking and packing them. That's absurd.

1
2 And like I said, but I'm not a lawyer.

3 I saw the Republican witness say
4 this. And to be clear, no disrespect to
5 him, I'm sure he's an excellent
6 litigator. I'm sure he's a great lawyer.
7 But, man, he proclaimed expertise on this
8 subject of redistricting and mapmaking
9 and then we all saw what happened tonight
10 when confronted by a real expert. He said
11 a lot of malarkey. And I wish that you
12 all had enough respect for the process
13 and for the voters to have taken this
14 seriously and get a real expert as your
15 witness. It was kind of grotesque.
16 Because you guys are trying to pass what
17 is essentially another gerrymander for
18 the next decade. But you got lazy and you
19 brought in, I'm sure, an excellent
20 lawyer, someone who has a, you know, a
21 record of litigation, and you all got
22 shown up big time. I just wish that News
23 12 got all of Magleby's testimony on film
24 because, my God.

25 But as many of you have heard me

1
2 say, my friends, at these hearings, this
3 process is about representation and
4 democracy. Something so important that
5 our founding fathers pitched a revolution
6 to secure them for our beautiful America.
7 I'm almost done. Generations of Americans
8 bled and died for these the most noble of
9 principles. I'll restate the simple fact
10 that representation today means power and
11 also means resource allocation. This
12 illegal map disrespect the diversity of
13 our county in a way that is frankly
14 un-American.

15 We can all see that these maps are
16 trying to deny representation to black
17 and brown and Asian people in this
18 county, and thus power and resources to
19 those who have been perpetually ignored.
20 And yet there are still growing and they
21 are still getting stronger, these
22 communities, despite this. But the only
23 way this map could be worse is if George
24 Santos himself drew them. Joshua, I want
25 you to get on that, okay.

1
2 But, you know, frankly, given the
3 complete lack of transparency throughout
4 the Commission and how lazy this process
5 has been handled, especially tonight, and
6 when you look at the thoroughly
7 discredited measurements and variables
8 used to draw it, George Santos might well
9 have drawn this map and given you all ran
10 him twice, I wouldn't put it past you.

11 In conclusion, I would like to thank
12 those involved with the Commission for
13 their service to the people of this
14 county, to Professor Magleby, and to my
15 fellow friends and citizens for their
16 determination tonight to have their
17 voices heard on this all important
18 matter. It's a shame that so much time
19 and effort through this process was
20 corrupted into an illegal map. I hope
21 that we, the people in Nassau County, get
22 justice and the legal map that we
23 deserve, because this map ain't it.

24 Also, Presiding Officer, Jay Jacobs
25 is a good friend of mine and he's a good

1
2 man, and I'm sure he's happy that you
3 shouted him out tonight. Thank you. Have
4 a great night.

5 PRESIDING OFFICER NICOLELLO: Thank
6 you.

7 Meta Mereday.

8 MS. MEREDAY: "Stony the road we
9 trod,

10 Bitter the chastening rod,
11 Felt in the days when hope unborn
12 had died,

13 Yet with a steady beat.

14 Have not our weary feet,

15 Strayed from the place for which our
16 fathers and mothers died?

17 We have come over a way that with
18 tears has been watered,

19 We have come over way of the blood
20 of the slaughtered,

21 Yet with a steady beat. Yet with a
22 steady beat."

23 I'm here to lift every voice and I'm
24 going to sing. Not because I'm singing
25 like the historians used to say that the

1
2 slaves were singing in the cotton fields
3 because they were happy. They weren't
4 singing because they were happy. They
5 were singing because they were sharing
6 the message that they were going to be
7 free. They were releasing the shackles,
8 not the master, unless we're talking
9 about the master up above.

10 Fannie Lou Hamer said, If I fall,
11 I'll fall 5'4" inches, which was her
12 height. Forward in the fight for freedom,
13 she said, I'm not backing off. And guess
14 what? I'm not either. We are not either.

15 Interestingly enough, today,
16 President Biden, who is the President of
17 these United, sometimes divided, States
18 of America, had to issue an Executive
19 Order to further advance racial equity
20 and support for underserved communities
21 through the federal government, because
22 clearly, the House is not going to make
23 that happen. That's a house divided
24 against itself. And guess what? It's
25 going to fall. That majority will not

1
2 stand.

3 The first act, his executive order
4 when he was inaugurated on January 20th,
5 was advancing racial equity. Two years
6 later, he had to further that advance.
7 Why? Because this is the country going
8 backwards. We are going backwards.

9 Many have already spoken with regard
10 to the issues with these maps. I'm glad
11 we finally got a time frame because I'm
12 still disgusted by the display just
13 south. And we can talk Mason-Dixon Line
14 right here in Nassau County, just south
15 of here in the town of Hempstead. When
16 they voted on a more divisive map than
17 this one. But guess what? By hook or
18 crook, somebody is going to be here on
19 Monday, the 28th. So y'all got between
20 then, now and then to get it right. To
21 get it right. Twenty seventh, whatever
22 the day is, because I know they're trying
23 to get these maps out by the end of the
24 month. I get it.

25 But it was already spoken with

1
2 regard to you saying you can't have the
3 racial inequities and all of that. But
4 you got a clear statement in District 17
5 about the South Asian Chamber of
6 Commerce. What is that? You have the
7 Orthodox Jews listed in their district.
8 I'm all for everybody. But you have a
9 Commission about anti Semitism. But
10 people of color, specifically African
11 Americans, are still the most in terms of
12 hate crimes. Where is the justice? Where
13 is the equity?

14 So again, you already have all the
15 information about what you need to do
16 with these maps. You sure need to get
17 Lakeview straight. And please tell me,
18 where is the other half or the other
19 piece of Baldwin? I would just like to
20 know. Because it says most of Baldwin.
21 You know, we're already separated down
22 the middle in Baldwin with the Town. We
23 have one representative and a ghost
24 because I guess they're still trying to
25 do all the qualifications to find out

1
2 who's going to take over for that spot
3 for our second representative.

4 But I am imploring this Body. And I
5 appreciate the shout out, Minority
6 Leader, I appreciate that. I didn't even
7 know you said my name, but I appreciate
8 that.

9 LEGISLATOR ABRAHAMS: Fairly so,
10 fairly so.

11 MS. MEREDAY: I'm hopeful that we
12 can, again, work together to make this
13 happen, because we're going to continue
14 to lift every voice. Not just in
15 February, because black history is
16 American history.

17 Thank you. Have a good night.

18 PRESIDING OFFICER NICOLELLO: Thank
19 you, Meda.

20 Perry Grossman.

21 MR. GROSSMAN: Thank you very much,
22 Mr. Presiding Officer, and to the
23 members. I drove here from the Bronx this
24 evening because someone called me up to
25 tell me that Mr. Tseytlin cited the

1
2 testimony of the NYCLU in his map. I'm
3 the director of the Voting Rights Project
4 for the New York Civil Liberties Union,
5 and I'm pretty familiar with our
6 testimony. And when I heard what he said,
7 I was concerned because he only cited a
8 small portion of our testimony, I think
9 missed some critical pieces. And there's
10 been a lot of discussion about when the
11 consideration of race is appropriate in
12 redistricting.

13 And so the first thing I want to do
14 is go back to the testimony that we
15 submitted because Mr. Tseytlin neglected
16 to mention this part. He noted correctly
17 that the attempt by the Republican
18 Commissioners to draw a non Hispanic
19 black Majority district violated Cooper v
20 Harris because there was not sufficient
21 evidence that a black majority district
22 was required to allow black voters to
23 elect their candidates of choice in
24 Legislative District One; that's true.
25 And so we helped you avoid one legal

1
2 claim. You are all quite welcome.

3 The issue that was neglected,
4 however, was that we pointed out that the
5 evidence in the record shows that the
6 Gingles conditions are present here in
7 Nassau, that there is substantial
8 evidence in the record, Mr. Tseytlin did
9 not note it, of Racially Polarized
10 Voting, of political cohesion among black
11 and Latino voters, and that drawing
12 Majority/Minority districts is, in fact,
13 appropriate. The Republican Commissioners
14 and the Democratic Commissioners both
15 recognize that both drew
16 Majority/Minority districts. The Rules
17 Committee advanced both of those maps.

18 The consideration of race here is
19 entirely appropriate. What Mr. Tseytlin
20 notes in saying that the consideration of
21 race is not appropriate is one sentence
22 where he says that, "Sean Trende
23 conducted a Gingles Precondition analysis
24 and concluded that Nassau County contains
25 no districts meeting the Gingles

1
2 Preconditions that would require or
3 permit the creation of any race focused
4 district for the purpose of compliance
5 with Section two of the VRA". That's all,
6 he says. If Mr. Trende's analysis is
7 worth its salt, publish it. If you don't
8 want to, of course you don't have to. But
9 this is not enough to go on to say that
10 race conscious redistricting is
11 inappropriate. Because the evidence in
12 the record, the only evidence in the
13 record right now, shows that there is
14 Racially Polarized Voting and that the
15 preferred candidates of white voters
16 usually defeat the preferred candidates
17 of black and Latino voters.

18 The Gingles Preconditions are
19 present here. And frankly, this is
20 something that's well known to anyone
21 who's had contact with Nassau County at
22 any point over the last 50 years is that
23 racial voting patterns are polarized and
24 there is a need for race conscious
25 redistricting consistent with the

1
2 Municipal Home Rule Law. Thank you.

3 PRESIDING OFFICER NICOLELLO: Thank
4 you, Mr. Grossman.

5 Matthew Pasternak.

6 MR. PASTERNAK: Matthew Pasternak.
7 This is my first time addressing the
8 County Legislature. And again, I just
9 want to say thank you all for taking our
10 testimony and hearing our testimony.

11 But at the same time, I'm very
12 disappointed by these maps. I feel that
13 they don't represent the interest of the
14 communities that are respected here
15 tonight. They don't further or advance
16 Nassau County as a place for good
17 government and democratic accountability.
18 And I feel that they really have
19 fundamentally flawed issues that are
20 either going to be litigated against or
21 it's just not going to stand.

22 I mean, the people here who have
23 spoken have been passionate, honest, and
24 truthful about what they're trying to
25 say. And I think the thing is they still

1
2 feel like communities of color are not
3 being represented by the map. There's
4 still a lot of cracking and packing in
5 areas that shouldn't be, and that it's a
6 map that fundamentally fails every
7 independent mapping topography test
8 imaginable.

9 So I wouldn't even be so deeply
10 concerned about it. But I think the thing
11 I'm most concerned about is how one side
12 isn't releasing data or empirical
13 evidence that would clearly put these
14 issues to rest. So if you believe your
15 numbers, you did due diligence well,
16 then, you know, that's something you're
17 taught in elementary school. You know,
18 you have to show your work. It's
19 unfortunate or unfortunate whether you
20 think. If I were to take a test and not
21 show how I got one plus one equals two,
22 I get kicked out. Or if I present my work
23 product, I'd be laughed at and told to
24 start over again.

25 So I think we can fundamentally have

1
2 better maps. We can change the
3 trajectory. But I think unless one side
4 shows it's data, shows empirical
5 evidence, you're going to have this deep
6 level of mistrust. You see it in this
7 room. I mean, there's so many questions
8 about this map going forward that we're
9 not going to see, but I think we can put
10 it to rest. And I'm not saying it's done
11 purposely. I'm not saying there's
12 mischief or anything, but you can easily
13 see how the indication could be there.

14 I thank the commissioners for doing
15 their work, I thank the Legislature for
16 taking up this map. But please, at the
17 end of the night, please do the right
18 thing. Thank you.

19 PRESIDING OFFICER NICOLELLO: Thank
20 you, Mr. Pasternak.

21 Cheryl Ingram.

22 MS. INGRAM: Good evening, sir. How
23 you doing, everyone?

24 I'm proud to say that I'm a Lakeview
25 girl since August of 1974. I got my

1
2 everything from Lakeview. I learned how
3 to swim at Lakeview Park. I also became a
4 Girl Scout. But we got disbanded in 1978
5 because it was not enough money. But my
6 mother didn't let us run the streets.

7 I remember even when I was a little
8 girl went after they had shut down the
9 Woodfield Road School, I used to have
10 activities after school and I used to beg
11 my mother. Can I go up to the after
12 school activities there? She allowed me,
13 and I learned a lot.

14 But I think that Lakeview should
15 remain whole. I remember that even when
16 we used to go to Echo Park to learn how
17 to swim. I learn how to swim in the
18 winter of 1974. By the time spring came
19 around in 1975, I knew how to swim. I got
20 everything from Lakeview.

21 I'm also a proud Malverne alumni.
22 Come June of this year, I have been out
23 of Malverne High School for 40 years.
24 Even my uncle asked me two days ago on
25 St. Valentine's Day how long I had been

1
2 out of Malverne High School. I remember
3 when we went to school there, they didn't
4 even want our black behind over there in
5 that school. I went to Linder Place
6 School. I even knew they was racist then
7 because I used to come home and say
8 things to my mother and she go, we don't
9 talk like that around here. Where did you
10 learn that? Linder Place School.

11 I also was a Nassau County Park
12 ranger. Tom Gulotta was the one who was
13 instrumental with getting me hired
14 because I had the background and
15 experience.

16 Also, I later on went to Nassau
17 County Police Department, and little do I
18 know that I was going to become the
19 victim of assault and battery by my own
20 police department. I had to reach out to
21 Siela Bynoe. Didn't I? I had to write a
22 two page e-mail show, bruises or what
23 they did to me, you know. So I know
24 people are telling the truth.

25 I even had to give up my Camaro in

1
2 2014, I have been driving since 19. I got
3 my license in 1986. In 1989, I finally
4 got a car and consistently had a car. And
5 every time I turn around they're behind
6 me. I have been pulled over 17 times, 14
7 times, and my Chevy Cavalier. So I know
8 what you're talking about, about
9 constantly being harassed. And then when
10 my family bought me a Chevy Camaro SS, I
11 had to give that up in 2014. Constantly
12 being followed, constantly being
13 followed. Why?

14 And you know something too, when I
15 was a park ranger and I was down in Bay
16 Park, you have the Marine Bureau that's
17 down there and you have the Aviation
18 Bureau. When I had my 1983 Buick Regal
19 Limited 3.8 was always pulled over. Why
20 am I being pulled over? I work down
21 there. That's my post. That's my post
22 down there. If that's where you assign me
23 to go down there, whether it's three
24 miles or six miles from my house, why am
25 I constantly being harassed?

1
2 So a lot of times when people come
3 to me and tell me about these things
4 going on in the community, everybody is
5 not lying, you know.

6 And I believe that we should remain
7 whole because I noticed that that map
8 does not accurately depict Lakeview. And
9 H. Scottie Coads, she's telling the
10 truth. I used to live on Barbara Lane in
11 West Hempstead, right? She's about three
12 blocks from me, and I always had the
13 longest walk to go to school.

14 Lakeview never had a post office.
15 Our mail always came through the West
16 Hempstead Post Office, and I always had
17 to put the plus four code 4012 any time
18 when I would label my mail as Lakeview.
19 We were non-existent. It's the same thing
20 with the Rockville Centre Post office.
21 Our zip code is 11573, but I had to also
22 let them know why I used the plus four
23 code of 3305. Because also in the
24 Incorporated Village of Rockville Centre
25 there is a Clinton Avenue, but we don't

1
2 have a Lakeview post office. Right.
3 That's why all our mail has to go through
4 the Rockville Centre post office.

5 We don't have nothing in common.

6 PRESIDING OFFICER NICOLELLO: Okay.
7 Miss Ingram, could you please sum up?

8 MS. INGRAM: Oh, I'm done.

9 PRESIDING OFFICER NICOLELLO: Oh,
10 you are? Okay. Thank you, Miss Ingram.

11 Larry Weiss.

12 MR. WEISS: Good evening, everyone. I
13 don't know about you. I'm toast. You guys
14 probably are too, so try to hear me out
15 for a bit.

16 Larry Weiss, 25 year resident of
17 Plainview, lifetime resident of Nassau
18 County. I know a little bit about the
19 geography of the county. We stand with
20 our brethren in Lakeview and the
21 surrounding communities. And we are a
22 community, too. And I believe a big part
23 of what everyone's talking about tonight
24 is for communities to have cohesive
25 representation, for a community to have a

1
2 representative sitting in this
3 Legislature.

4 Plainview is one of those
5 communities that's being cracked, right?
6 I need to talk about District 16. As I
7 see on the map, it stretches from the
8 Suffolk County line, two thirds of the
9 way across the county. We have Plainview
10 going all the way to East Williston.
11 Plainview has nothing in common with East
12 Williston. What Plainview has something
13 in common with is Old Bethpage. I live in
14 Plainview/Old Bethpage. I serve on the
15 board of the Plainview/Old Bethpage
16 Chamber of Commerce for 13 years. My
17 daughter graduated from Plainview/Old
18 Bethpage High School. My wife spent the
19 afternoon today at a lecture at
20 Plainview/Old Bethpage Library.

21 To draw a line separating Plainview
22 from Old Bethpage is no different from
23 what we're hearing from the rest of the
24 community here. You can't be dividing
25 communities in half. For what purpose?

1
2 How are we going to have a representative
3 sitting here who represents Plainview and
4 East Williston and somebody else
5 representing Old Bethpage? It makes no
6 sense.

7 Frankly, dividing this up the way
8 you have in this map is just kind of
9 ridiculous. You know, the Plainview/Old
10 Bethpage Chamber is one chamber. I heard
11 District Five being referred to as a
12 cohesive community because of a chamber
13 of commerce. We have a chamber of
14 commerce, the Plainview/Old Bethpage
15 Chamber of Commerce. You want to divide
16 that in half?

17 It's kind of ridiculous to have East
18 Williston part of this district and not
19 Old Bethpage. That's ridiculous. But
20 what's unconscionable is to draw a line
21 100 feet from where our representative
22 currently lives, Arnie Drucker, and
23 deprive us of that representation.
24 Arnie's been with us since we lost Judy
25 Jacobs. It's up to the voters of our

1
2 community whether Arnie sits in that
3 chair or not. It's not up to this Body to
4 make that decision. And yet this decision
5 is going to be made based on
6 redistricting. That's not fair to us
7 voters, right? We live here and we're
8 entitled to our choice. And with that,
9 I'll let you go because everybody's
10 really tired. Okay. Thanks.

11 PRESIDING OFFICER NICOLELLO: Thank
12 you, Mr. Weiss.

13 Paul Beuer.

14 MR. BEUER: Paul Beuer, 52, lifelong
15 resident of Baldwin, honorary resident of
16 Lakeview tonight.

17 Couple points here. First off, thank
18 you for making me want to audit Professor
19 Magleby's class. It was an excellent
20 presentation.

21 You guys have a credibility problem.
22 The problem that we have here is an issue
23 of bread and circuses versus good
24 governance. On the national level, we
25 have a former Town of Hempstead Council

1
2 member who sits with election deniers on
3 national security committees and on the
4 local level here, we had a circus in Town
5 of Hempstead ridiculous redistricting
6 meetings which led to a vote on the
7 evening of Valentine's Day, which is not
8 good governance at all. First off.

9 Secondly, good governance requires
10 several things. It requires communities,
11 library districts, school districts to be
12 held whole. It requires towns like mine
13 of Baldwin, and I'm a proud product of
14 Baldwin public education and I've watched
15 that town wither for two plus decades. We
16 need one Baldwin in order to redevelop
17 and stop the blight. But, you know, you
18 guys are intent on disenfranchising
19 people during their own history month.
20 Unacceptable.

21 And once again, bread and circuses.
22 You want to talk about a casino? Great.
23 You don't want to talk about Santos after
24 two political cycles. Understandable. But
25 now you're trying not even to talk about

1
2 election integrity. You know, if you guys
3 feel very good about your records, run on
4 them. Don't be afraid of
5 Majority/Minority districts. If the
6 public doesn't want them, they won't vote
7 for them. Right? Just very simple. But
8 you're weighing against people's right to
9 vote and to have a voice.

10 So, what do I ask for? I urge this
11 chamber to have a discussion at some
12 point on things like ranked choice
13 voting, things like independent public
14 commissions for redistricting. That's
15 good governance.

16 And also your own expert, your own
17 expert inferred, you have to litigate
18 because there's no case law. I mean, if
19 that's how you think you're going to run
20 Nassau and a Mega Nassau at that with
21 bread and circuses, you know go ahead.
22 We'll turn Nassau blue. It's about the
23 voters. It's not about you.

24 PRESIDING OFFICER NICOLELLO: Thank
25 you, Mr. Beuer.

1
2 Marie Jordan.

3 (Whereupon, no response.)

4 PRESIDING OFFICER NICOLELLO: Amanda
5 Field.

6 (Whereupon, no response.)

7 PRESIDING OFFICER NICOLELLO:
8 Charlene Thompson.

9 MS. THOMPSON: Good evening,
10 everyone. The hours late, but we stuck it
11 out because we felt we had some things
12 that we wanted to say tonight.

13 And so you guys know me. I'm
14 Charlene Thompson. I would like to share
15 just a little bit. I've had the privilege
16 of being a professor at SUNY Old Westbury
17 in their Politics, Economics and Law
18 Department. And one of the classes I
19 taught was the Politics of Race and
20 Class. And we looked at Nassau County
21 politics, the history of politics and
22 voting patterns in Long Island.

23 And also I want to share with you,
24 in the aftermath of the Long Island
25 Divided exposé by *Newsday*, I read that

1
2 article and I said, hey, those real
3 estate licenses are going to need some
4 training. And so I went out and got
5 certified by the state to do continuing
6 education training for real estate
7 licenses, and in researching the
8 development of my courses, I realized and
9 came to understand the history of
10 government, developers, politics, and
11 racial division by design. We have a
12 unique history of that here in Nassau
13 County, having the Levitt homes being the
14 first American suburb. And, you know,
15 William Levitt gets a bad rap about being
16 a segregationist. But it wasn't his fault
17 because the FHA loans that he used to
18 develop the properties were subject to
19 racial covenants. And then when the
20 mortgage holders wanted to get mortgages
21 in the Levitt homes, they had to have
22 restrictive covenants placed on the
23 mortgages and the deeds and that was
24 designed by government, by our federal
25 government.

1
2 Now, William Levitt had black
3 builders on his projects and wanted to
4 sell those homes to the black builders,
5 but unfortunately he couldn't. So you
6 know what he did? He went over and did
7 another development in Lakeview, and
8 that's how we got part of the
9 segregation. And then we see in the real
10 estate industry, we still have vestiges
11 of racial steering and redlining.

12 So there's a couple of things that I
13 want to talk about. Even now, when we
14 look at these maps that have been
15 produced, it's a start. I disagree with
16 the fact that we can't use the racial
17 lens because we are becoming more diverse
18 and more melanated. Long Island, also,
19 is still increasingly segregated. I think
20 we're up to four Majority/Minority
21 districts that both sides can agree upon.
22 And so we should go back and look at this
23 and look at the racial makeup of the
24 communities and these Majority/Minority
25 districts.

1
2 But I also want to talk about a term
3 that was used and thrown out by the
4 Democrats expert. He talked about
5 political gerrymandering. And that was an
6 interesting term to me, because if you
7 look at political gerrymandering versus
8 racial composition and incumbent
9 protection, they don't all come out in
10 the wash. You got to give some to get the
11 other. You're not going to be able to
12 please everybody.

13 So what I would recommend and
14 encourage the Body to do is to take the
15 maps as a start, go back and put on that
16 lens to make sure that we're fair to our
17 communities where we have demonstrated
18 historical voting blocks and common
19 interest.

20 Thank you for your time.

21 PRESIDING OFFICER NICOLELLO: Thank
22 you, Miss Thompson.

23 Patt Terrelongue.

24 MS. TERRELONGUE: Last name
25 Terrelongue. I also represent the

1
2 Tuskegee Airmen. I am the president for
3 the Tri-State Chapter of the Tuskegee
4 Airmen.

5 This summer, there were some kids
6 Malverne on the Malverne side of the
7 creek, tearing up the railroad tracks.
8 One kid's yelling, he's from Germany, his
9 family's from Germany, he's a Nazi, and
10 he can't wait to go Ns and Js. I called
11 the police several times. My neighbors
12 called the police. Of course they never
13 come. I get the whole spiel. Is it on
14 your side? No, it's on your side. They
15 never come.

16 You heard about the street named
17 after Grand Dragon of the Ku Klux Klan,
18 which my granddaughter had to walk past
19 all the time.

20 I had to have the talk with my
21 11-year-old great grandson right before
22 Christmas. I was the child that was told
23 to get up in the middle of a grammar
24 lesson and tell how much cotton I could
25 pick a minute. I'm the kid who was asked

1
2 to write a paper on a member of my family
3 that contributed to society, and when I
4 turned in it was thrown at me with a big
5 red "D". I had to go back to school with
6 newspaper clippings proving my heritage
7 and my family.

8 What do I have in common with these
9 people? I live in both worlds: Your
10 world and my world. I've walked worked on
11 Wall Street. When my son was becoming a
12 teenager, I decided I couldn't handle
13 those hours with Morgan Stanley, I took a
14 job doing arbitration and holding
15 hearings for Transit. I retired from them
16 some time ago.

17 I went to a church in Lynbrook and
18 one in East Rockaway thinking I'm going
19 to a flea market. And what do I see? Nazi
20 paraphernalia. What do I have in common?
21 I beg -- no, no, no. I'm demanding that
22 you keep us whole.

23 You know, the government said we
24 were too dumb, our brains were too small,
25 and the World War II would be over by the

1
2 time we could learn to fix a plane.

3 Well, you know what? They gave us planes
4 that were retired. It took five planes to
5 make one good plane for our men to fly.
6 And we showed them what we could do.
7 Don't tell me we can't, because we will.

8 I am demanding for the residents of
9 Lakeview to be placed in a
10 Majority/Minority district where our
11 voices are able to elect the candidate of
12 our choice. A district that does not
13 silence my voice -- well, it's hard to
14 silence me, honey -- and keep us whole. I
15 will go to court if necessary. I don't
16 like what you do, and it's really ugly.

17 But, you know, the Tuskegee Airmen
18 taught me so much. I grew up with them.
19 They were our God parents that were our
20 uncles, our mother, my father, and all
21 the men that I knew personally. And they
22 didn't stand for nothing. One of them was
23 almost lynched when he tried to vote
24 after he came back from Italy, and he
25 didn't want to go back to Selma. Martin

1
2 Luther King asked him. The police come
3 and he said, Pat, I was scared. I don't
4 ever want to see Selma again. But he went
5 back because he says it's righteous. So
6 I've made up my mind to always do the
7 righteous thing. And if it means fighting
8 you on this, I will. I don't want to. I
9 hope you will do the right thing. I have
10 nothing in common with these people other
11 than they want to kill me and my family.
12 Please do something about this.

13 Thank you.

14 PRESIDING OFFICER NICOLELLO: All
15 right. Well, thank you, everyone who's
16 had the patience to stay with us
17 throughout the entire hearing. But now
18 we're going to have a motion to close.

19 Motion by Legislative Walker to
20 close the hearing.

21 MS. KREMEN: Excuse me. Can I just
22 say something? I didn't get to sign up,
23 but just for a moment. I'm from
24 Plainview/Old Bethpage since I'm a year
25 and a half old. My name is Barbara

1
2 Kremen, K-R-E-M-E-N.

3 PRESIDING OFFICER NICOLELLO: Go
4 ahead.

5 MS. KREMEN: So I just first wanted
6 to say that I really appreciate
7 everybody's what they've been saying
8 because our country has really gotten
9 crazy with not giving everyone equal
10 votes, which is what we're all supposed
11 to have. And I worked for Nassau County
12 for 23 years as a public health educator,
13 So I worked in a lot of the districts
14 that you talked about with the public
15 clinics. And I know that there's not a
16 commonality with a lot of the districts
17 that they're trying to put you in with.
18 So it is clearly a sign of breaking
19 things apart.

20 Coming back to Plainview/Old
21 Bethpage, that's my district. You know, I
22 went to school there. You know, my
23 parents bought in 1955. I've been there
24 for 68 years. So it's quite a long time
25 that it's Plainview/Old Bethpage. I just

1
2 wanted to to correct what your
3 representative from your Republican side
4 said in his piece. In A4, the Appendix
5 about Plainview/Old Bethpage. He noted
6 that Syosset and Woodbury share a school
7 district, community parks, commercial
8 interests with their extensive commercial
9 relationship embodied in a single chamber
10 of commerce covering both areas. Well,
11 Plainview/Old Bethpage have all those
12 same things and more. Amanda Fields was
13 here and I asked her, does Plainview
14 Water District actually serve
15 Plainview/Old Bethpage? And she said,
16 yes. I said, I guess it ought to be
17 called the Painview/Old Bethpage Water
18 District.

19 But clearly, you know, this is it.
20 It's the Plainview/Old Bethpage
21 community. So to cut us in half makes no
22 sense either. You know, myself, my
23 family, my children grew up in this
24 house. I really don't see the the benefit
25 to the people of Nassau County breaking

1
2 up these communities that have been for
3 so long.

4 So I thank you for taking my
5 statement and I hope that you all will
6 consider that and keep us, as you've all
7 said, whole.

8 Thank you.

9 LEGISLATOR WALKER: Once again, a
10 motion to close.

11 PRESIDING OFFICER NICOLELLO: One
12 second. Scottie.

13 MS. COADS: I know I had my turn,
14 but I want to say thank you for all that
15 you do. I spoke tonight, and it was my
16 seventh time testifying. And for the
17 legislators that represent us, my
18 district, Siela, Carrie A, Kevan and all
19 of you who have stood by us and all of
20 you who want to see things happen for us,
21 I thank you on both sides. Everybody not
22 evil. And I just want to let you know
23 that we are proud of our legislators.
24 Very much so. Thank you.

25 PRESIDING OFFICER NICOLELLO: Thank

1
2 you, Scottie. Legislator Walker.

3 LEGISLATOR WALKER: Motion to close
4 the hearing.

5 PRESIDING OFFICER NICOLELLO:
6 Seconded by Legislator Ford. All in favor
7 of closing the hearing signify by saying,
8 "Aye".

9 (Whereupon, all members of
10 the Nassau County Legislature
11 respond in favor.)

12 PRESIDING OFFICER NICOLELLO: Those
13 opposed.

14 (Whereupon, no verbal
15 response.

16 PRESIDING OFFICER NICOLELLO: It's
17 closed. Thank you very much.

18 (Whereupon, meeting is
19 closed, 12:10 p.m.)

20
21 *****
22
23
24
25

C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF NASSAU)

I, KAREN LORENZO, a Notary Public for and
within the State of New York, do hereby
certify:

That the above is a correct transcription
of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set
my hand this 16th day of February, 2023.

Karen Lorenzo
KAREN LORENZO

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