

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, et al.,

Plaintiffs,

v.

Case No. 15-CV-421-bbc

GERALD NICHOL, et al.,

Defendants.

**PRETRIAL DISCLOSURES OF DEFENDANTS,
PURSUANT TO RULE 26(A)(3)**

The defendants, Gerald Nichol, et al., by their attorneys, Wisconsin Attorney General Brad D. Schimel and Assistant Attorneys General Brian P. Keenan and Anthony D. Russomanno, make the following pretrial disclosures pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure:

Rule 26(a)(3)(A)(i): Individuals potentially called to testify regarding this matter.

Defendants expect to call the following witnesses at trial:

1. Nicholas Goedert
2. Sean Trende
3. Adam Foltz
4. Tad Ottman

Defendants reserve the right to call any witness named on the plaintiffs' witness list.

Rule 26(a)(3)(A)(ii): Individuals whose testimony may be presented by deposition transcript.

1. R. Keith Gaddie

The defendants reserve the right to counter-designate testimony from the deposition of Jeff Ylvisaker should the plaintiffs decide to designate testimony from his deposition.

Rule 26(a)(3)(A)(iii): Identification of documents or exhibits.

Defendants expect to offer the following documents and exhibits into evidence at trial:

1. Map of Act 43 legislative districts from pages 20–98 of the 2015–2016 Wisconsin Blue Book
2. Electronic version of map of Act 43 from LTSB website
3. 2011 Wisconsin Act 43
4. Appendix to 2011 Wisconsin Act 43
5. Map of 2002 Assembly Districts showing over- and under-population (*Baldus* Trial Ex. 1121)
6. Map of 2002 Senate Districts showing over- and under-population (*Baldus* Trial Ex. 1122)
7. Tables 1, 2, 4, 17, 20, 21, and 22 to the pretrial report filed on February 14, 2012 in *Baldus*
8. Maps of Wisconsin legislative districts drawn by the court in *Baumgart v. Wendelberger* from pages 20–98 of the 2009–2010 Wisconsin Blue Book

9. Electronic version of map of legislative districts drawn by the court in *Baumgart v. Wendelberger* Act 43 from LTSB shape files
10. Maps of Wisconsin legislative districts drawn by the court in *Prosser v. Elections Board* from pages 22–98 of the 2001–2002 Wisconsin Blue Book
11. Maps of Wisconsin legislative districts enacted in 1983 from pages 22–98 of the 1991–1992 Wisconsin Blue Book
12. Maps of Wisconsin legislative districts enacted by the Eastern District of Wisconsin in 1983 from pages 22–98 of the 1983–1984 Wisconsin Blue Book
13. Maps of Wisconsin legislative districts enacted in 1972 from pages 22–99 of the 1981–1982 Wisconsin Blue Book
14. Map of Demonstration Plan legislative districts from shape files produced by Kenneth Mayer
15. The sections of the Wisconsin Blue Book containing the results of the November general elections in 1972, 1974, 1976, 1978, 1980, 1982, 1984, 1988, 1992, 1994, 1996 and 1998
16. The Government Accountability Board election results from the November general elections in 2000, 2002, 2004, 2006, 2008, 2010, 2012 and 2014 and from the gubernatorial recall election in June 2012, including the results shown county-by-county
17. The City of Milwaukee Election Commission results from the November general elections in 2000, 2004, 2008 and 2012
18. Expert report of Nicholas Goedert including all tables, charts and maps therein
19. Expert report of Sean Trende including all tables, charts and maps therein
20. Nicholas Goedert, *Gerrymandering or Geography? How Democrats won the popular vote but lost the Congress in 2012*, Research and Politics, April–June 2014: 1–8

21. Nicholas Goedert, *The Case of the Disappearing Bias: A 2014 Update to the "Gerrymandering or Geography" Debate*, Research and Politics, 2015
22. Jowei Chen & Jonathan Rodden, *Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures*, Quarterly Journal of Political Science, 2013, 8: 239–269
23. Spreadsheet entitled "WisCompact" on the drive produced by R. Keith Gaddie in *Baldus* and marked as Gaddie Dep. Ex. 57
24. June 19, 2011 memo from Adam Foltz to Rep. Gary Bies regarding new district (Dep. Ex. 100 from February 1, 2012 Foltz deposition in *Baldus*).
25. Spreadsheet entitled "Composite_Current_Curve" from computer WRK32586
26. Spreadsheet entitled "Team_Map_Curve" from computer WRK32586
27. Spreadsheet entitled "Team_Map_Autobound_Matrix" from computer WRK32864
28. Spreadsheet entitled "Merged Matrix output" from computer WRK32586
29. Spreadsheet entitled "C_Users_tottman.WRK32587_Desktop_Incumbents_Assembly_2011_2012" from external hard drive for computer WRK52587
30. Deposition Exhibit 112 from the February 1, 2012 deposition of Adam Foltz in the *Baldus* case
31. Mayer Dep. Ex. 5 (spreadsheet containing efficiency gap calculation for Act 43 assuming no incumbents and every seat contested)
32. Mayer Dep. Ex. 8 (spreadsheet containing efficiency gap calculation for "Gaddie metric")
33. Mayer Dep. Ex. 10 (spreadsheet containing efficiency gap calculation for Demonstration Plan assuming no incumbents and every seat contested)

34. Mayer Dep. Ex. 67 (spreadsheet containing information on incumbents who ran for reelection in 2012 in Act 43 districts)
35. Mayer Dep. Ex. 68 (spreadsheet containing information on incumbency in districts in the Demonstration Plan)
36. Mayer Dep. Ex. 69 (spreadsheet containing efficiency gap calculation for Act 43 with incumbents)
37. Mayer Dep. Ex. 70 (spreadsheet containing efficiency gap calculation for Demonstration Plan with incumbents)
38. Mayer Dep. Ex. 71 (spreadsheet containing efficiency gap calculation for Demonstration Plan with incumbents)
39. Mayer spreadsheet entitled “Revised Act 43 Swing Rebuttal”
40. Mayer spreadsheet entitled “Revised Efficiency Gap – Incumbents in My Plan”
41. Mayer spreadsheet entitled “Revised Swing Ratio INCUMBENTS”
42. Demonstrative exhibit showing district-by-district Assembly election results from 2004, 2006, 2008 and 2010 along with the partisan scores from the legislative staff’s average of statewide races
43. Demonstrative exhibit showing district-by-district Assembly election results from 2012 and 2014 along with partisan scores from the legislative staff’s composite model and Mayer’s baseline partisanship model
44. Demonstrative exhibit showing the 2010 Assembly election results for the seats shown in Mayer’s illustrative maps, Dkt. 1-1
45. Demonstrative exhibits showing Mayer’s baseline partisanship scores for the Demonstration Plan districts included in Mayer’s illustrative maps, Dkt. 1-1

Dated this 25th day of April, 2016.

BRAD D. SCHIMEL
Attorney General

s/ Brian P. Keenan _____
BRIAN P. KEENAN
Assistant Attorney General
State Bar #1056525

ANTHONY D. RUSSOMANNO
Assistant Attorney General
State Bar #1076050

Attorneys for Defendants

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-0020 (*Keenan*)
(608) 267-2238 (*Russomanno*)
(608) 267-2223 (Fax)
keenanbp@doj.state.wi.us
russomannoad@doj.state.wi.us