

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CINDY BARBERA,
 CARLENE BECHEN, RONALD BIENDSEIL,
 RON BOONE, VERA BOONE, ELVIRA BUMPUS,
 EVANJELINA CLEEREMAN, SHEILA COCHRAN,
 LESLIE W. DAVIS III, BRETT ECKSTEIN,
 MAXINE HOUGH, CLARENCE JOHNSON,
 RICHARD KRESBACH, RICHARD LANGE,
 GLADYS MANZANET, ROCHELLE MOORE,
 AMY RISSEEUW, JUDY ROBSON, GLORIA ROGERS,
 JEANNE SANCHEZ-BELL, CECELIA SCHLIEPP,
 and TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE,
 and RONALD KIND,

Intervenor-Plaintiffs,

v. File No. 11-CV-562

Members of the Wisconsin Government
 Accountability Board, each only in
 his official capacity:
 MICHAEL BRENNAN, DAVID DEININGER,
 -GERALD NICHOL, THOMAS CANE,
 THOMAS BARLAND, and TIMOTHY VOCKE,

[Caption Continued]

VIDEOTAPE DEPOSITION - VOLUME II

ADAM R. FOLTZ

Madison, Wisconsin
 February 1, 2012

Brandé A. Browne, RPR, CRR
 Registered Professional Reporter

1 and KEVIN KENNEDY, Director and
 2 General Counsel for the Wisconsin
 Government Accountability Board,

3 Defendants,

4 F. JAMES SENSENBRENNER, JR.,
 THOMAS E. PETRI, PAUL D. RYAN, JR.,
 5 REID J. RIBBLE, and SEAN P. DUFFY,

6 Intervenor-Defendants.

7 -----

8 VOCES DE LA FRONTERA, INC.,
 9 RAMIRO VARA, OLGA VARA,
 JOSE PEREZ, and ERICA RAMIREZ,

10 Plaintiffs,

11 v. Case No. 11-CV-1011
 JPS-DPW-RMD

12 Members of the Wisconsin Government
 13 Accountability Board, each only in
 his official capacity:
 14 MICHAEL BRENNAN, DAVID DEININGER,
 GERALD NICHOL, THOMAS CANE,
 15 THOMAS BARLAND, and TIMOTHY VOCKE,
 and KEVIN KENNEDY, Director and
 16 General Counsel for the Wisconsin
 Government Accountability Board,

17 Defendants.

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23	(The original exhibits were attached to the original transcript and copies were provided to counsel)	
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1 VIDEOTAPE DEPOSITION of ADAM R. FOLTZ,
 2 a witness of lawful age, taken on behalf of the
 3 Plaintiffs, wherein Alvin Baldus, et al., are
 4 Plaintiffs, and Members of the Wisconsin Government
 5 Accountability Board, et al., are Defendants, pending
 6 in the United States District Court for the
 7 Eastern District of Wisconsin, pursuant to subpoena,
 8 before Brandé A. Browne, a Registered Professional
 9 Reporter and Notary Public in and for the State of
 10 Wisconsin, at the offices of Godfrey & Kahn, S.C.,
 11 Attorneys at Law, One East Main Street, Suite 500,
 12 City of Madison, County of Dane, and State of
 13 Wisconsin, on the 1st day of February 2012,
 14 commencing at 3:11 in the afternoon.

15

16

17 A P P E A R A N C E S

18

19 DOUGLAS M. POLAND, Attorney,
 for GODFREY & KAHN, S.C., Attorneys at Law,
 20 One East Main Street, Suite 500, Madison,
 Wisconsin 53703, appearing on behalf of
 21 Plaintiffs Alvin Baldus, et al.

22

PETER G. EARLE, Attorney,
 23 for LAW OFFICE OF PETER EARLE, LLC, Attorneys at Law,
 839 North Jefferson Street, Suite 300,
 24 Milwaukee, Wisconsin 53202, appearing on
 behalf of Plaintiffs Voces De La Frontera,
 25 Inc., et al.

1 A P P E A R A N C E S (Continued)

2

3 JACQUELINE E. BOYNTON, Attorney,
for LAW OFFICE OF JACQUELINE BOYNTON,
4 Attorney at Law, 2266 North Prospect Avenue,
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5 appearing on behalf of Plaintiffs
Voces De La Frontera, Inc., et al.

6

7 DANIEL KELLY, Attorney,
for REINHART BOERNER VAN DEUREN S.C.,
8 Attorneys at Law, 1000 North Water Street,
Suite 2100, Milwaukee, Wisconsin 53202,
9 appearing on behalf of the Defendants.

10

11 ERIC M. MCLEOD, Attorney,
for MICHAEL BEST & FRIEDRICH LLP, Attorneys at Law,
One South Pinckney Street, Suite 700, Madison,
12 Wisconsin 53703, appearing on behalf of the
Wisconsin State Senate by its Majority Leader
13 Scott Fitzgerald, the Wisconsin Assembly by its
Speaker Jeff Fitzgerald, and
14 Joseph W. Handrick.

15

16 Also present: Todd S. Campbell, CLVS
Campbell Legal Video Company
17 417 Heather Lane, Suite B
Fredonia, WI 53021
18 (262) 447-2199

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22

23

24

25

1 well, make that the second to last page.

2 A All right.

3 Q You will see there is a page with a heading,
4 exhibit A; do you see that?

5 A Yes.

6 Q Do you recall that we talked about that at your
7 first deposition; that's a request that you search
8 for and produce certain documents?

9 A Yes.

10 Q Do you recall as well at your deposition in
11 December that you produced some materials and that
12 there were other materials that were withheld from
13 production based on a claim of privilege?

14 A Yes, that's right.

15 Q I'm going to hand you a copy of what has been
16 marked Exhibit 24; that was at your previous
17 deposition. Do you recall when we looked at
18 Exhibit 24 at your previous deposition?

19 A Yes.

20 Q So that identifies documents that were withheld
21 based on a claim of privilege, correct?

22 A Yes.

23 Q Is it your understanding that the court on
24 January 3rd issued an order that instructed the
25 documents that had been withheld on a claim of

1 THE VIDEOGRAPHER: We are on the
2 record. Seated before you is Mr. Adam Foltz.
3 This is the continuation of his video
4 deposition. This is Disk No. 1 of that
5 continuation, Disk No. 4 of the continued
6 series. The date is February 1st, 2012. The
7 time is 3:10 p.m. We are on the record.

8

9 ADAM R. FOLTZ,
10 called as a witness, testified on oath
11 as follows:

12

13 EXAMINATION

14 By Mr. Poland:

15 Q Mr. Foltz, I'm Doug Poland, as you might recall,
16 from your first deposition. I represent the
17 plaintiffs in this case. I'm going to hand you a
18 copy of a document we marked at the first
19 installment of your deposition in December.

20 A Uh-huh.

21 Q For the record, this is Exhibit No. 23, and this
22 is a copy of the subpoena. Do you understand that
23 you are appearing here today under this subpoena?

24 A Yes.

25 Q If you turn to the last page of Exhibit No. 23 --

1 privilege to be produced?

2 A That is my understanding, yes.

3 Q I'm going to hand you a copy of two documents that
4 have been marked as deposition exhibits in
5 Mr. Handrick's deposition earlier today. One is
6 Exhibit 88, one is Exhibit 89. Counsel should
7 still have their copies of those two letters.
8 Take a minute to look at them, and you will notice
9 as well that the letters have disks attached to
10 them?

11 A Uh-huh.

12 Q Have you seen Exhibits 88 or 89 before?

13 A No, I have not.

14 Q When you originally searched for documents
15 responsive to the subpoena, which is Exhibit 23,
16 back in December, did you collect at that time all
17 of the documents that you had in your possession,
18 custody, or control that were responsive to those
19 categories and provide them to counsel?

20 A Yes.

21 Q You gave those to Mr. McLeod at the time?

22 A Yes.

23 Q As a result of the court order on January 3rd, did
24 you need to do any additional investigation or
25 searching for documents or information that was

1 responsive to the subpoena?
 2 A Not that I can recall.
 3 Q To the best of your knowledge, best of your
 4 understanding, are all the materials that you have
 5 that would be responsive to the document request
 6 attached to your subpoena been produced to the
 7 plaintiffs in this case?
 8 A Yes.
 9 Q You can set those aside. What I'd like to do --
 10 MR. POLAND: Found the clip.
 11 Q I'd like to go back to the transcript in your
 12 deposition. There were some instructions not to
 13 answer in your initial deposition, and I'd like to
 14 go back and ask the questions that were objected
 15 to, and where the questions were not answered.
 16 MR. EARLE: Can you tell us the
 17 page?
 18 MR. POLAND: Sure. I can identify
 19 it for you, Peter. The first -- Peter, this
 20 is from page 63 of the December 21st
 21 deposition.
 22 Q There was a document that you produced and we can
 23 go back to it and have you look at it if we need
 24 to to set the context.
 25 A Uh-huh.

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1 Q I'm going to try and identify for you as best I
 2 can the question. If you need to look at the
 3 document, I'd be happy to pass it around, and we
 4 can take a look at it.
 5 A Uh-huh.
 6 Q There is an Excel spreadsheet that was among the
 7 materials that you had produced in December,
 8 and it was what had been provided to you by
 9 Ryan Squires of the LTSB, and this is reading from
 10 page 63 of the deposition. I asked you a question
 11 about it, and my question was *The subject line*
 12 *indicates all election data spreadsheet. What is*
 13 *contained within that spreadsheet, generally*
 14 *speaking, what data? Answer, Judging by the file*
 15 *name, it appears to be a ward breakdown of all of*
 16 *the data that LTSB provides to us. The VTDS is*
 17 *indicative of ward level data. Then I asked a*
 18 *question, So would that have been all election*
 19 *results from 2000 to 2010 by ward? Answer, I*
 20 *believe so, yes. I then ask the question, Is that*
 21 *material or information that you considered during*
 22 *the redistricting process? Then there was an*
 23 *instruction not to answer, and so you followed*
 24 *counsel's instruction.*
 25 A Uh-huh.

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1 Q So I want to ask that question now. If you need
 2 to look at that document we were looking at, I can
 3 pull it out for you. Would that be easier for you
 4 to do?
 5 A Could you restate the question? I do recall the
 6 document. I just want to make sure of the
 7 question that was objected to.
 8 Q Sure. The specific question I asked was is that
 9 material or information that you considered during
 10 the restricting process?
 11 A Uh-huh, right. That was -- well, there's a
 12 technical issue I should point out too with this.
 13 VTDS data at the ward level, this was older data,
 14 so it's actually impossible to use that in the
 15 Autobound application. The reason being is that
 16 wards obviously changed over the decade, and there
 17 are municipal annexations. So if there's a case
 18 where a VTDS line is noncoincident to a municipal
 19 line, it will cause the Autobound software to
 20 error out essentially. It needs to have some
 21 coincidence in those lines. So that data could
 22 not be used to draw within that, within the
 23 Autobound software.
 24 Q So the VTDS data that you got, that election data
 25 in the spreadsheet, was not -- you weren't able to

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1 use that in Autobound during the redistricting
 2 process?
 3 A We were not able to, correct.
 4 Q Is there -- was it able to be converted over to
 5 some other type of data or imported to some other
 6 type of program that it was used for any purpose
 7 during the redistricting process?
 8 A Not to my knowledge. I don't believe it -- to my
 9 knowledge, there isn't another software that it
 10 could be converted into.
 11 Q I also asked a question about election data a
 12 little bit later on.
 13 MR. POLAND: Peter, this is on
 14 page 66, line 21.
 15 Q I asked the question, *Why is the election data*
 16 *from 2000 to 2010 being used to draw the 2011*
 17 *Wisconsin Act 43 legislative districts, and I*
 18 *guess your answer to that was I couldn't answer*
 19 *that. I then went on and asked Question, You*
 20 *mentioned that it was included as part of the*
 21 *package that the LTSB sent out?*
 22 A Uh-huh.
 23 Q Answer, Correct. Then I asked a question, *Did you*
 24 *have a specific purpose in mind in using this data*
 25 *to draw the Assembly districts in Act 43, and*

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1 that's where there was a legislative privilege
 2 objection asserted and the question wasn't
 3 answered. So I'd like to re-ask the question now
 4 whether there was a specific purpose that you had
 5 in mind in using that data to draw the Assembly
 6 districts in Act 43?
 7 A I would say that the accurate way of putting it is
 8 not that that data is used to draw. I would say
 9 it is provided as part of a back-end analysis.
 10 Q When you say *back-end analysis*, what do you mean
 11 by that?
 12 A The districts are drawn, and then there are
 13 numbers available on the back end, and I would
 14 say, you know, once the district is drawn, and I
 15 would say that would be the more accurate way to
 16 describe the all 2000 to 2010 data set.
 17 Q And how are they used on the back end?
 18 A Just to generally evaluate the map.
 19 Q So you're evaluating the map that you've drawn
 20 based on the performance of those areas in
 21 previous elections?
 22 A That's -- state that again.
 23 MR. POLAND: Could you read the
 24 question back.
 25 (Question read)

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1 Q Did any members ask that you provide that data to
 2 them?
 3 A No.
 4 Q That analysis to them?
 5 A Not that I specifically recall.
 6 Q Was there an effort made to reach out to any of
 7 the legislators and identify for them how their
 8 new districts would perform based on prior
 9 election data?
 10 A We met with members a couple times during the
 11 process.
 12 Q Which members did you meet with during the
 13 process?
 14 A All republican members of the Assembly.
 15 Q When did those meetings occur?
 16 A There were a couple of different rounds. I don't
 17 recall exactly when they took place.
 18 Q Do you remember how early in the process they took
 19 place?
 20 A I would say generally, post receipt of the PL94
 21 data from the census bureau. As we discussed last
 22 time, there is some lag time between receipt of
 23 the data from the census bureau and when it is in
 24 a format that we can use. So I would say sometime
 25 generally after the sent and receipt of the PL

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1 MR. MCLEOD: I would object to the
 2 form of the question, but you can answer if
 3 you're able to.
 4 A I would say that that back end data allows someone
 5 to see how prior elections over the decade perform
 6 in the new district.
 7 Q What purpose would that be useful for in the
 8 redistricting process?
 9 A Well, experts such as, you know, Dr. Gaddie. He
 10 would use that type of information for analysis
 11 that's way above my pay grade. Also, any member
 12 that's asking for that type of information.
 13 Q What did you use it for specifically in the
 14 process of creating Act 43 and Act 44?
 15 A Again, I would take issue with the use of draw or
 16 create versus back-end analysis.
 17 Q In the redistricting process that resulted in
 18 Acts 43 and 44 being passed by the legislature on
 19 August 9th, what use did you put that data to?
 20 A Well, again, the analysis of folks such as, you
 21 know, Dr. Gaddie and other experts. I would also
 22 say if a member was seeking to have it conveyed to
 23 them what percentage their district was on a given
 24 race, new versus old, that data would enable that
 25 to happen.

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1 data from the census bureau.
 2 Q What about on the back end, any way you can
 3 bookend for me how late the latest meeting would
 4 have been with the members of the Assembly, the
 5 republican members of the Assembly?
 6 A I would believe it probably -- to the best of my
 7 recollection, I would say before the public
 8 introduction of the map.
 9 Q When you met with the republican members of the
 10 Assembly, did you meet with them as a group or
 11 individually?
 12 A Individually.
 13 Q Did you ever meet with multiple members of the
 14 Assembly as a group?
 15 A Well, I should be clear. Robin Vos was with me at
 16 those meetings. So multiple in the sense that was
 17 an individual legislator, Robin Vos, and myself.
 18 Q So you and Mr. Vos met with the individual
 19 republican members of the Assembly; is that fair
 20 to say?
 21 A That's correct.
 22 Q And that happened on more than one occasion?
 23 A As many occasions as it took to get through our
 24 members.
 25 Q Did there ever come a time where you and Mr. Vos

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1 met with more than just one republican member of
 2 the Assembly?
 3 A In the context of those meetings, no. It was
 4 always an individual member. It was always an
 5 individual member, Robin Vos, and myself.
 6 Q Second to the last document, sorry about that.
 7 MR. POLAND: Let's go ahead and
 8 mark this. What exhibit are we at? I'm
 9 sorry Maria missed it.
 10 (Exhibit No. 100 marked for
 11 identification)
 12 Q Mr. Foltz, the court reporter has handed you a
 13 document that we've marked as Exhibit No. 100. We
 14 finally got smart and put identifying numbers on
 15 these documents that were produced so that we
 16 could identify them a little bit better for the
 17 record. Lawyers refer to this as a Bates number.
 18 I won't go into the reasons why, but just so you
 19 know. We've Bates labeled these, so there's an
 20 identifying number in the lower right-hand corner
 21 that you'll see. We've Bates labeled the
 22 documents as they were produced to us, and it was
 23 identified which production it came from. This
 24 was a document that was identified as coming from
 25 your files. So we've Bates stamped it with Foltz,

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1 and then each page you'll see has an identifying
 2 number. So if I refer to, for example, the first
 3 page of Exhibit 100 as Foltz 000689, I might refer
 4 to some pages that way as we look at some of these
 5 documents. I just want to ensure that we're on
 6 the same page. This is one of a number of
 7 different memorandums, very similar memorandums
 8 that was produced --
 9 A Uh-huh.
 10 Q -- among the documents that you gave to us. Can
 11 you identify Exhibit No. 100 for the record,
 12 please?
 13 A A memorandum to Representative Garey Bies
 14 providing various descriptive statistics on the
 15 new first Assembly district.
 16 Q This is dated June 19th, 2011; do you see that?
 17 A Yes, I do.
 18 Q Is this an effort to convey the kind of
 19 information that we were just discussing that
 20 would identify the performance of the new
 21 districts based in -- based on data from some of
 22 the old races?
 23 A That seems like an accurate description, yes.
 24 Q Now, I noted that we have a memorandum like
 25 Exhibit 100 for each of the republican members of

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1 the Assembly, correct?
 2 A That sounds accurate, yes.
 3 Q Were any such memos or similar memos prepared and
 4 given to any of the democratic members of the
 5 Assembly?
 6 A No, there were not.
 7 Q Who instructed the memorandums like Exhibit 100 to
 8 be prepared?
 9 A No one, to my knowledge.
 10 Q Who decided to prepare them?
 11 A Me.
 12 Q Why did you decide to prepare the memorandums like
 13 Exhibit 100?
 14 A To convey the information contained within to the
 15 members.
 16 Q Was there any kind of similar memorandum that was
 17 transmitted to any republican members of the
 18 Assembly before June 19th, 2011?
 19 A In what sense? There was an initial round of
 20 member meetings that we discussed. The meetings
 21 that we talked about post received the census
 22 data.
 23 Q And were there any other versions of this kind of
 24 memorandum that were prepared for the republican
 25 members of the Assembly that would contain any

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1 kind of comparison of races in the current
 2 Assembly district versus the new Assembly
 3 district?
 4 A Well, upon receipt of the PL data, there were no
 5 new districts.
 6 Q So you had to wait until the procedure was
 7 complete in formulating what the new districts
 8 would look like before you could make this kind of
 9 assessment?
 10 A Right. It's a comparative analysis, and at the
 11 point of the receipt of the PL data, there was
 12 nothing to compare it to.
 13 Q Is it fair to say then as of June 19th, 2011, the
 14 districts in -- the Assembly districts had pretty
 15 much been set?
 16 A I think that's a fair assessment.
 17 Q Where did the initial round of discussions take
 18 place between you and the representatives?
 19 A Initial round occurred at Michael Best &
 20 Friedrich.
 21 Q Was there a second round of discussions as well
 22 then?
 23 A This would be the second round.
 24 Q Did you meet in person to provide them with the
 25 memorandum?

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1 A Yes. These are the meetings we discussed earlier.
 2 Q Did you receive feedback from any of the
 3 republican members of the Assembly after providing
 4 them with these memorandums?
 5 A Oh, I'm sure they -- we put the memo and we put
 6 the map in front of them. They definitely had
 7 feedback.
 8 Q Did any of the district configurations change
 9 based on the feedback that you received from
 10 republican members of the Assembly?
 11 A Not that I can recall.
 12 Q Regardless of whether the feedback would have come
 13 as a result of receiving a memo like Exhibit 100,
 14 or for some other reason, were any of the Assembly
 15 districts that you had drafted preliminarily
 16 changed as a result of feedback from republican
 17 members of the Assembly?
 18 A No.
 19 Q When was the first time that you provided the
 20 democratic -- democrat members of the Assembly
 21 with the configuration of their new districts?
 22 A I believe it was July 8th, but I am not 100
 23 percent on that.
 24 Q Were there any meetings with the democrat members
 25 of the Assembly to present them with any kind of

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1 similar analysis?
 2 A No.
 3 Q Did you have any individual meetings with any
 4 members, democrat members, of the Assembly
 5 regarding the configuration of their new
 6 districts?
 7 A Individual meetings, no.
 8 Q Were there group meetings?
 9 A The committee testimony.
 10 Q Other than the committee testimony that you gave,
 11 did you have any other meetings with groups of
 12 democrat legislators?
 13 A No.
 14 Q You testified a few minutes ago that Dr. Gaddie
 15 had done something with respect to data from
 16 previous elections, correct?
 17 A Uh-huh.
 18 Q What's your understanding of what Dr. Gaddie did
 19 with that data?
 20 A I couldn't even begin to -- begin to comment on
 21 that. It's well above my pay grade.
 22 Q All right. Did you have any discussions with
 23 Dr. Gaddie about that analysis?
 24 A I'm sure at some point it came up.
 25 Q Do we still have Exhibit 67, it was a gmail --

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1 MR. POLAND: Does everybody have
 2 that one? We used it this morning.
 3 A Is it this one?
 4 Q Yeah. Mr. Foltz, as you see, this document, which
 5 has been marked as Exhibit 67 has Bates numbers in
 6 the lower right-hand corner indicating that it
 7 came from your files, and it's a gmail printout
 8 that appears to have been printed from your files
 9 as well, correct?
 10 A Uh-huh.
 11 Q Is this a document that you've seen before?
 12 A Yes.
 13 Q Can you identify what this document is?
 14 A An e-mail forwarded to me. It appears
 15 Joe Handrick forwarded an e-mail to Tad and I
 16 regarding some analysis Dr. Gaddie had performed.
 17 Q What did you do with this information when you
 18 received it from Mr. Handrick?
 19 A I don't really believe I did anything with it,
 20 read it.
 21 Q Did you know what Dr. Gaddie was referring to in
 22 this analysis that he performed?
 23 A He is comparing some type of district composite
 24 versus some model that he was running.
 25 Q And did you do anything with the information that

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1 was forwarded?
 2 A No, not that I can recall.
 3 Q Did you have any discussions with Dr. Gaddie about
 4 this information that he sent to Mr. Handrick and
 5 that Mr. Handrick sent to you?
 6 A Not that I can recall.
 7 Q Was this an analysis that you had requested to be
 8 performed?
 9 A I don't recall who requested it.
 10 Q Do you know why it was sent to you?
 11 A Pertinent information regarding redistricting.
 12 Q Who would have thought that it was pertinent to
 13 the redistricting?
 14 A Well, Joe Handrick forwarded it to me.
 15 Q Did you talk to Mr. Handrick at all about this
 16 analysis that Dr. Gaddie performed?
 17 A Not that I can recall.
 18 Q You don't recall using this in any way as part
 19 of the redistricting that resulted in Act 43 or
 20 Act 44?
 21 A No.
 22 Q Did you have any other conversations with
 23 Dr. Gaddie during the process of redistricting?
 24 A Yes.
 25 Q And I want just to make sure that we're clear

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1 here. I'm asking about redistricting and not
 2 about the litigation because Dr. Gaddie has been
 3 tendered as a testifying expert. What did you and
 4 Dr. Gaddie discuss as part of the redistricting
 5 process?
 6 A I don't recall specific conversations, but we
 7 obviously talked about Milwaukee and the proper
 8 drawing of minority districts.
 9 Q What did you and Dr. Gaddie discuss about
 10 Milwaukee and the proper drawing of minority
 11 districts?
 12 A Just how to achieve that.
 13 Q What did Dr. Gaddie say to you about that?
 14 A I don't recall specifically what he said, but it
 15 was general guidance on how to draw them.
 16 Q Do you recall any of the general guidance that he
 17 gave to you on how to draw the minority districts
 18 in Milwaukee?
 19 A Not off the top of my head, no.
 20 Q Did you receive any guidance from anyone else on
 21 the proper drawing of the minority districts in
 22 Milwaukee?
 23 A Not that I can recall.
 24 Q Did you talk to any of the lawyers about that,
 25 Mr. McLeod, Mr. Troupis, Mr. Taffora, or

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1 Sarah Troupis?
 2 A Not that I can recall. I'm sure it came up at
 3 some point, but I don't recall specific
 4 conversations.
 5 Q Speaking specifically about African-American
 6 districts in Milwaukee, did you have -- do you
 7 recall any conversations that you had with any of
 8 the lawyers or Dr. Gaddie about drawing the
 9 minority -- the African-American majority
 10 districts?
 11 A I don't recall a specific conversation.
 12 Q Do you remember, do you know how many
 13 African-American majority districts there are
 14 under Act 43 in Milwaukee?
 15 A Six.
 16 Q Were there any discussions about whether
 17 additional districts beyond the six could be
 18 created?
 19 A Not to my recollection.
 20 Q Did you personally speak with any members of the
 21 African-American community in Milwaukee about the
 22 configuration of the districts under Act 43?
 23 A I did not.
 24 Q I'd like to focus now specifically on the Latino
 25 districts in Assembly Districts 8 and 9 in

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1 Milwaukee.
 2 A Uh-huh.
 3 Q Did you talk to Dr. Gaddie at all about the Latino
 4 districts?
 5 A Yes.
 6 Q What did you and Dr. Gaddie discuss with respect
 7 to Latino districts?
 8 A How to draw them.
 9 Q And what was that conversation?
 10 A I don't recall the specific conversation.
 11 Q Did he give you any kind of general guidance on
 12 how to draw those districts?
 13 A I'm sure he did. Again, I don't recall the
 14 specific conversation where we discussed the
 15 Hispanic districts.
 16 Q Dr. Gaddie visited Madison a few times while the
 17 redistricting was going on, correct?
 18 A That's correct.
 19 Q And he was over in the Michael Best & Friedrich
 20 offices with you; is that correct?
 21 A That's correct.
 22 Q Did he participate in any kinds of discussions or
 23 procedures where you were drawing districts on the
 24 screen and he was guiding you through how to
 25 districts?

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1 A I can't recall if -- where he was effectively
 2 standing over my shoulder; is that what you're --
 3 Q Or in the same room and giving you feedback on how
 4 to draw the minority districts?
 5 A I can't remember if he was standing over my
 6 shoulder or if I would draw alternatives, print
 7 them out or present them to him, but I'm sure
 8 there was obviously give and take. I just don't
 9 recall if he was over my shoulder at the time, if
 10 I was printing out different versions and whatnot.
 11 Q Do you recall the kinds of aspects of the
 12 districts that you showed to Dr. Gaddie that he
 13 would comment on?
 14 A Be more specific.
 15 Q In terms of the geographic layout of the
 16 districts, their shape, configuration, size,
 17 anything like that?
 18 A Not that I can recall.
 19 Q Did Dr. Gaddie stress to you anything of
 20 particular significance or that struck you as
 21 significant about the way to draw the Latino
 22 districts?
 23 A Nothing rings a bell right now, can't remember
 24 anything specifically.
 25 Q You still have Exhibit 67 in front of you?

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1 A Yes.
 2 Q Terrific. There are a couple of terms that
 3 Dr. Gaddie uses in this e-mail that he sends to
 4 Mr. Handrick. This is in the middle of the page,
 5 and there is after the *Hey, Joe* introduction,
 6 there's one long paragraph, and there's a second
 7 paragraph. Then there is another sentence that
 8 reads *This seem to pretty much wraps up the*
 9 *partisanship measure debate*; do you see that?
 10 A Yes, I do.
 11 Q Does that term, partisan measure debate, have any
 12 meaning to you?
 13 A Judging by the context of the rest of the e-mail,
 14 I would say it was an evaluation of some different
 15 composites, and I believe that's what he would be
 16 referring to in that sentence.
 17 Q Did you ever have any discussions with Dr. Gaddie
 18 or Mr. Handrick or Mr. Ottman about a partisanship
 19 measure?
 20 A I'm sure we did. I can't recall specific
 21 conversations.
 22 Q Do you recall generally what the nature of those
 23 conversations was?
 24 A No.
 25 Q Below that, there's a reference to polarization

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1 analysis; do you see that?
 2 A Where is this?
 3 Q It's in the next sentence down. It says *Have Jim*
 4 *call me if he needs anything. Otherwise, I'll be*
 5 *tweaking the polarization analysis*?
 6 A I do see that, yes.
 7 Q Do you know what polarization analysis is?
 8 A I can only assume he's referring to racial
 9 polarization.
 10 Q Did you ever speak with Dr. Gaddie about any kind
 11 of polarization analysis?
 12 A Not that I can recall.
 13 Q Did you ever see any polarization analysis that
 14 Dr. Gaddie conducted?
 15 A I did not.
 16 Q Did you ever speak with anyone about, during the
 17 redistricting process, about any kind of
 18 polarization analysis?
 19 A Not that I can recall.
 20 Q Have you ever conducted a polarization analysis
 21 yourself?
 22 A No.
 23 Q Did you ever see one performed for Act 43?
 24 A No.
 25 Q All right. I've got another question for you from

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1 your previous deposition, again, with the caveat
 2 we'll try to handle it without the document. To
 3 the extent you need the document, let me know, and
 4 we'll pull it out. There was a collection of
 5 e-mails, and it was an e-mail chain that you
 6 produced, and I'll just go through the lead-up W
 7 and As here. Tell me if you need me to get the
 8 document, we will.
 9 MR. POLAND: Peter, it's on
 10 pages 78 and 79.
 11 Q I ask *What is this collection of pages here, just*
 12 *generally?* Answer, *Generally, this is an e-mail*
 13 *chain forward to me by legal counsel reflecting*
 14 *the conversations between MALDEF, the Mexico*
 15 *American Legal Defense Education Fund, and legal*
 16 *counsel regarding the configuration of Assembly*
 17 *Districts 8 and 9. Question, And it was sent to*
 18 *you on Monday, July 11th, correct?* Answer, *It*
 19 *appears that way. Question, Of 2011? And that*
 20 *was two days before the hearing, the July public*
 21 *hearing. Answer, Yes. Question, When you refer*
 22 *to legal counsel, that's Mr. Troupis, correct?*
 23 Answer, *It appears so. Then my final question, Do*
 24 *you know why Mr. Troupis was sending this to you?*
 25 And then there was an assertion of privilege and

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1 an instruction not to answer.
 2 A Uh-huh.
 3 Q So I'd like to come back and ask you that
 4 question. Again, we can pull the document out if
 5 you want to take a look at it for context. But
 6 that's the question I wanted to pose to you. Do
 7 you know why Mr. Troupis was sending that e-mail
 8 to you?
 9 A Well, Mr. Troupis was sending me that e-mail just
 10 to show that we had had a -- deemed a successful
 11 conversation with MALDEF showing that they were
 12 agreeable to the configurations of Assembly
 13 Districts 8 and 9 that we had presented.
 14 Q When you say we had presented, who presented those
 15 that MALDEF?
 16 A Well, Jim Troupis in this case.
 17 Q Were you part of those conversations in that
 18 presentations to MALDEF?
 19 A No, I was not.
 20 Q Did you ever have conversations with anyone from
 21 MALDEF about their response to the drafts of
 22 Assembly Districts 8 and 9 that were presented to
 23 them?
 24 A No, I did not.
 25 Q Did you ever personally participate in any

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1 correspondence or communications with any members
 2 of the Latino community in Milwaukee about the
 3 configuration of Assembly Districts 8 and 9?
 4 A No, I did not.
 5 Q Obviously, Mr. Troupis had, or it appears
 6 Mr. Troupis had some conversations with MALDEF; is
 7 that your understanding?
 8 A Appears that way, yes.
 9 Q Do you know whether anyone else who was on the
 10 redistricting team, and by the redistricting team,
 11 I mean you, Mr. Ottman, Mr. Handrick, any the
 12 legal counsel, people who were working on the
 13 redistricting plan, anyone other than Mr. Troupis
 14 who had communications or conversations with
 15 MALDEF?
 16 A Not to my knowledge.
 17 Q I had asked you back at your deposition, this is
 18 on page 122, when you first started working with
 19 Mr. Handrick on the redistricting, and at that
 20 time you couldn't recall?
 21 A Uh-huh.
 22 Q I wanted to come back to that question now and ask
 23 whether you've been shown anything or seen
 24 anything that refreshes your recollection, so that
 25 you now recall when you started working with

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1 Mr. Handrick on the redistricting?
 2 A No, I don't know.
 3 Q There is a document that we marked this morning
 4 that might help to refresh. So this is Exhibit
 5 No. 93, and ask you to take a look at it?
 6 A Uh-huh.
 7 Q Mr. Foltz, I've handed you a copy of what we've
 8 marked as Exhibit 93 at Mr. Handrick's deposition
 9 this morning.
 10 A Uh-huh.
 11 Q And as you'll see, it's an e-mail chain from
 12 January.
 13 A Okay.
 14 Q And I'd like to draw your attention to the top of
 15 Exhibit 93. You'll see an e-mail from
 16 Mr. Handrick to Mr. Ottman, and Mr. Handrick --
 17 that's dated January 25th. Mr. Handrick states,
 18 "I did spend one half-hour with Adam two weeks
 19 ago. The same day I spend one half-hour with
 20 Senator Fitzgerald. I'm seeing Rep Fitz this
 21 Thursday over the noon hour." Do you see that?
 22 A Uh-huh.
 23 Q Does that help refresh your recollection about
 24 when you might have started to work with
 25 Mr. Handrick on the redistricting?

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1 A Not particularly, no. It just seems that these
 2 were preliminary meetings.
 3 Q What did you and Mr. Handrick meet about in
 4 January of 2011 with respect to redistricting?
 5 A I don't recall.
 6 Q Do you recall whether Mr. Handrick gave you any
 7 kind of information about redistricting at that
 8 time?
 9 A Not that I can recall.
 10 Q Do you know whether the substance of any potential
 11 redistricting program was discussed at that time?
 12 A Not that I can recall. I would assume so, but I
 13 don't directly recall.
 14 Q Were you working out of the Michael Best &
 15 Friedrich offices in January of 2011?
 16 A No, I was not.
 17 Q Do you know where --
 18 A Well, I should -- I may have been sporadically or
 19 periodically, but I believe I was spending a
 20 majority of my time in the Speaker's office at
 21 that point.
 22 Q Do you remember meeting with Mr. Handrick in
 23 January of 2011?
 24 A I do not.
 25 Q My understanding from Mr. Handrick's deposition

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1 this morning is that there was a process that was
 2 followed, or maybe it's too much to be called a
 3 process; but there was a meeting that occurred
 4 over a period of two days where there were
 5 regional options that were presented to a number
 6 of different people, including legislative
 7 leadership, Mr. Handrick, I believe that he
 8 testified that you and Mr. Ottman were there,
 9 perhaps some other people as well where regional
 10 options were presented, decisions were made, and
 11 then the regional options that were chosen were
 12 put together and essentially created Act 43.
 13 That's my understanding. I wanted to ask you
 14 about that process. Do you recall two days' worth
 15 of meet where regional options were presented?
 16 A I don't remember the number of days, but there
 17 were meetings where regional options were
 18 presented.
 19 Q Do you remember when those meetings occurred?
 20 A No, I don't.
 21 Q Do you recall who was present?
 22 A I testified to it last time. I believe it was
 23 Speaker Fitzgerald, Senator Fitzgerald, Robin Vos,
 24 Scott Suder, Senator Zipperer, legal counsel. I
 25 believe that was the sum of it.

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1 Q At those -- at those meetings, how many options
 2 were presented for each region?
 3 A I don't recall.
 4 Q Were there different numbers of options that were
 5 presented for different regions?
 6 A How do you mean?
 7 Q In other words, could there have been some regions
 8 that had three or four options and others that had
 9 one or two?
 10 A Possibly.
 11 Q Who drew the various options that were presented?
 12 A Tad, Joe Handrick, and I.
 13 Q Did you each produce one option?
 14 A Not that -- I don't recall. It could have been
 15 one each. It could have been multiple. I don't
 16 recall.
 17 Q Did you use Mr. Handrick's maps in any way in
 18 preparing your own maps that you presented as
 19 options?
 20 A How do you mean?
 21 Q Did you have any input from Mr. Handrick, whether
 22 it was through maps that he created or otherwise,
 23 in creating your own maps that were presented as
 24 options?
 25 A It was a collaborative effort, so I mean, I'm sure

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1 A Uh-huh.
 2 MR. POLAND: Let's go ahead and
 3 mark that as an exhibit.
 4 (Exhibit No. 101 marked for
 5 identification)
 6 Q Mr. Foltz, the court reporter has handed you a
 7 document that we've marked as Exhibit 101. Can
 8 you identify it for the record, please?
 9 A It appears to be some type of breakdown of regions
 10 of the state and the Assembly districts contained
 11 within those descriptive names.
 12 Q And these are the regions that we've been
 13 discussing where there were maps printed or
 14 different options, and they were presented at this
 15 meeting and then decisions were made about which
 16 option to choose?
 17 A Uh-huh.
 18 Q Now, I notice that there are seven different
 19 regions.
 20 A Uh-huh.
 21 Q Was there a particular order in which the group
 22 proceeded to consider the options?
 23 A Not that I can recall. We started in Milwaukee;
 24 that much I do know. But as far as the
 25 progression beyond that, I don't recall.

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1 there was some discussion between us and various
 2 regions. I don't recall specifically when or
 3 where in the state.
 4 Q My understanding from Mr. Handrick is that after
 5 he prepared a map, that it was, for want of a
 6 better term, resident on the computers at Michael
 7 Best & Friedrich. Did you ever access and use any
 8 of the maps that Mr. Handrick drafted in preparing
 9 your own maps?
 10 A Not that I can recall.
 11 Q Do you ever recall using maps that Mr. Handrick
 12 drafted for any other purpose, whether it was
 13 informational, guidance, just to see what he was
 14 doing?
 15 A Not that I can recall. Again, it was a
 16 collaborative process. I'm sure maps were passed
 17 back and forth, but I don't recall it
 18 specifically.
 19 Q How many different regions were there that were
 20 printed out and presented?
 21 A I don't recall the number, but I do believe I have
 22 the labels produced that would break that apart.
 23 Q I was going to ask that question. I think I've
 24 got it here. I want to show you it to you first,
 25 and we can mark it as an exhibit if it is.

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1 Q Why did you start with Milwaukee?
 2 A Milwaukee has unique concerns in the redistricting
 3 process, and we wanted to make sure that that's
 4 where we started off.
 5 Q Is there something about those unique concerns
 6 that made you decide to want to start in
 7 Milwaukee?
 8 A I don't understand the question.
 9 Q Well, I would think there would be unique concerns
 10 that wouldn't necessarily compel you in some
 11 circumstances to start in Milwaukee. I'm
 12 wondering what it is about the particular
 13 concerns, unique concerns, that you had that made
 14 you decide you wanted to start in Milwaukee?
 15 A Sensitivity to the minority districts. Obviously,
 16 redistricting deals a lot with ripple effects.
 17 And if you start trying somewhere else in the
 18 state, pick an arbitrary spot and try to end up in
 19 Milwaukee, the districts may be a result of the
 20 ripple effects elsewhere. So when you start in a
 21 particular spot in the state, you can -- that's
 22 what's causing the ripple, not what is responding
 23 to the ripple. Does that make sense?
 24 Q The idea being that if you start at someplace else
 25 and end up in Milwaukee, you might have to scrap

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1 your whole map that you've already gone through?
 2 A That seems a fair assessment.
 3 Q Was it the expectation that the most significant
 4 ripple effects would be coming out of Milwaukee
 5 and affecting other potential districts
 6 state-wide?
 7 A I wouldn't necessarily say that. There was
 8 significant population shifts around the state,
 9 and population shifts are obviously something that
 10 impact the ripples.
 11 Q Now, I notice that after Milwaukee, just
 12 proceeding across the page laterally, that reads
 13 southeast corner, then suburbs, then northeast; do
 14 you recall whether you considered the regional
 15 options going in that order?
 16 A I don't believe so. It jumps around in a way that
 17 it wouldn't make sense to proceed that way. I
 18 don't believe there's any spacial time with how
 19 the labels are organized.
 20 Q Were different regions -- well, strike that
 21 question. Among you and Mr. Handrick and
 22 Mr. Foltz, did any one of you have specific
 23 responsibility for any particular region?
 24 A No.
 25 Q Did each of you produce options for each region?

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1 A I believe so. I don't know that for a fact. Like
 2 I said, I don't know if everybody produced one
 3 option or if some places we had two or three
 4 individually, or in this case, zero. I don't
 5 recall.
 6 Q Did this -- did this meeting to consider the
 7 regional options occur before the memorandums were
 8 sent to the republican members of the Assembly on
 9 June 19th?
 10 A Before, yes.
 11 Q Do you know how far -- how long before?
 12 A No.
 13 Q Were any of the other members of the Assembly
 14 shown any of the regional options outside of the
 15 group that considered the options of this meeting?
 16 A Not that I can recall.
 17 Q With respect to each region, was there any one
 18 particular person who had the ultimate
 19 responsibility for making the decision on which
 20 option to choose?
 21 A No.
 22 Q Was it a group decision?
 23 A Yes.
 24 Q Did that hold true for each region?
 25 A I would say yes, but the caveat being that the

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1 options to legislative leaders were limited in the
 2 Milwaukee districts because of the sensitivity to
 3 minority districts. We presented them the options
 4 of the different Hispanic configurations that we
 5 had presented and the African-American districts,
 6 and that was the starting point. You know, as I
 7 testified to, that was the starting point. So we
 8 worked with, you know, folks like Dr. Gaddie to
 9 get it right, or what we deemed to be right, and
 10 went from there.
 11 Q Was Dr. Gaddie shown the options for the minority
 12 districts in Milwaukee?
 13 MR. MCLEOD: I'm going to object to
 14 the form of the question. But you can answer
 15 if you can do so.
 16 A State the question again.
 17 Q Sure. So there were options for the minority
 18 districts that were presented at this particular
 19 meeting, correct?
 20 A I would say that the minority districts were
 21 largely decided by the time leadership met because
 22 of the unique concerns of Milwaukee, that we
 23 worked with folks like Dr. Gaddie to get them
 24 drawn correctly and went from there.
 25 Q You just said *folks like Dr. Gaddie*. Was there

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1 anyone in addition to Dr. Gaddie that you worked
 2 with to ensure that the minority districts in
 3 Milwaukee were configured in a way that the group
 4 believed was appropriate?
 5 A Well, legal counsel, but folks like Dr. Gaddie was
 6 just a general term.
 7 Q So Dr. Gaddie, legal counsel being Mr. Troupis,
 8 Mr. McLeod, Mr. Taffora, any of the lawyers that
 9 were involved in the process?
 10 A Yes.
 11 Q When the group met to consider the various
 12 regions, is it fair to say then that there was
 13 only one option or one map that was presented for
 14 the minority districts in Milwaukee?
 15 A No, that's not accurate.
 16 Q Were there -- was there more than one option?
 17 A Yes.
 18 Q How many options were there?
 19 A I don't recall.
 20 Q Who had decided on those options for the minority
 21 districts that were then presented at this
 22 meeting?
 23 A I'm sorry, say that again.
 24 Q Sure. Who had made the decisions that the options
 25 that were presented at this meeting for the

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1 minority districts were appropriate options?
 2 A Well, as we discussed earlier, we worked with
 3 Dr. Gaddie and legal counsel on the minority
 4 districts.
 5 Q Was there anyone among that group of people,
 6 Dr. Gaddie and legal counsel, who made a final
 7 decision about which options should be presented?
 8 A I don't recall.
 9 Q Then who made the decision at the meeting about
 10 which of the options for the minority districts
 11 ought to be adopted and made part of Act 43?
 12 A Well, I would take issue with how that question is
 13 phrased. As I said, because of the unique
 14 concerns of Milwaukee, we made sure to draw them
 15 right, lock in those decisions. Obviously, the
 16 Hispanic districts, we had three amendments that
 17 were presented. We walked leadership through why
 18 we were where we were at with those districts and
 19 proceeded from there.
 20 Q But there were options that were presented to them
 21 at that meeting, correct?
 22 A The options I would say are the Hispanic
 23 configurations between 8 and 9 that were part of
 24 the amendments that were offered to the bill.
 25 Q But who was it who made the decision that those

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1 configurations ought to be adopted?
 2 A I don't recall.
 3 Q Now, under the northeast region, there are also
 4 districts listed for the Racine/Kenosha area; do
 5 you see those?
 6 A I'm sorry, say that again.
 7 Q Sure. Under the northeast heading, there are
 8 Racine and Kenosha, Districts 61 through 66; do
 9 you see those?
 10 A Yes, I do.
 11 Q Do you know how many options were presented for
 12 those districts?
 13 A I do not recall.
 14 Q Do you know who made the final decision about
 15 which options would be chosen to be incorporated
 16 into Act 43?
 17 A I don't remember.
 18 Q Now, I note that some of the regions here, or
 19 there are some areas that are broken out
 20 separately. So for example, we have Hispanic
 21 Assembly Districts 7, 8, and 9 that's broken out
 22 separately, correct?
 23 A Uh-huh.
 24 Q Then there are some others that are identified by
 25 names -- by names of location. So we have, for

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1 example, Eau Claire area, Dane. That's in that
 2 first column. Then we have others that are
 3 identified by representatives. So for example, if
 4 you look under southwest and central, you'll see
 5 Darling/Vukmir; do you see that?
 6 A Yes, I do.
 7 Q Why are those regions identified by names of
 8 representatives rather than locations?
 9 A I don't know.
 10 Q Did Representative Darling or Vukmir have any
 11 input into the configuration of those Assembly
 12 districts?
 13 A Well, I didn't meet with either given that they're
 14 Tad's house, so --
 15 Q You didn't sit in on any of those meetings?
 16 A Not that I can recall.
 17 Q After this meeting occurred, what was the next
 18 step in preparing the map that eventually became
 19 Act 43?
 20 A I would say the next step would then be taking the
 21 decisions made by the legislative leaders and
 22 merging them into a whole map.
 23 Q Who handled that process? From a hands-on
 24 standpoint, who was it who merged those various
 25 options that were chosen into a single map?

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1 A I don't recall who ended up merging them together.
 2 Q Did you have a part -- play a part in that
 3 process?
 4 A I'm sure I did.
 5 Q Do you believe it was primarily you and Mr. Ottman
 6 who did that?
 7 A To the best of my recollection, yes.
 8 Q Were there any additional decisions to be made as
 9 you merged the regional options together into one
 10 map in terms of any boundaries, population, any
 11 changes that needed to be made?
 12 A I'm not following the question.
 13 Q As you merged the various regions together into a
 14 single map, did that, the process of merging them
 15 together, cause you to make any changes or
 16 revisions to any of the different regions as they
 17 had been configured?
 18 A Well, it's inevitable. If you're taking separate
 19 regions and trying to merge them together, there
 20 are going to be areas where the two pieces of the
 21 puzzle don't fit together. So I'm sure that there
 22 were some alterations or tweaks that needed to be
 23 made, I think, is a fair assessment of it.
 24 Q Do you recall whether there were any alterations
 25 or tweaks that you had to make personally as you

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1 participated in that process?
 2 A I'm sure that there had to be some changes. I
 3 don't recall specifically where. I don't recall
 4 specifically what regions didn't exactly mesh
 5 together perfectly.
 6 Q So sitting here today, you don't recall
 7 specifically any changes that you made to the map
 8 as a result of that process?
 9 A No.
 10 Q Did you receive any guidance or instruction from
 11 legal counsel as you began the process of
 12 redistricting, about what the goal was or general
 13 principles that you should follow?
 14 A I'm sure there was some guidance.
 15 Q Do you recall any of the guidance you were given?
 16 A I don't know. I don't recall any specific
 17 conversations.
 18 MR. EARLE: Your instincts were
 19 percolating there, huh?
 20 MR. MCLEOD: It's hard to stay
 21 awake.
 22 MR. POLAND: Some more coffee.
 23 Q Now, you testified in your deposition in December
 24 that you had conversations with Scott Suder about
 25 redistricting, correct?

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1 A Uh-huh.
 2 Q And do you recall any of the conversations that
 3 you had with Mr. Suder?
 4 A I don't recall specifically, but any reference to
 5 Representative Suder would be the meetings that we
 6 have been discussing, the regional meetings. He
 7 was part of that.
 8 Q Did you ever meet individually with Mr. Suder
 9 about the process of redistricting or the
 10 configuration of any districts?
 11 A I met with him individually on his district as I
 12 met with all the republican members.
 13 Q At the time that you met with him about his
 14 district, had the district configuration already
 15 been set or fixed?
 16 A Well, no. I mean, again, we met post census data
 17 where there was no map, as we talked about. There
 18 was no comparative analysis, and then he was one
 19 of the leadership members that was in the room
 20 during the regional meetings.
 21 Q Did Mr. Suder give any feedback or input to the
 22 configuration of his districts, whether it was at
 23 that particular meeting where the regional options
 24 were considered or before that time?
 25 A I'm sure he did.

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1 Q Did he ever give any feedback about splitting of
 2 any municipalities located within his district?
 3 A Not that I recall.
 4 Q Now, you had some involvement in, at the very
 5 least, facilitating the creation of the
 6 congressional districts that resulted in Act 44,
 7 correct?
 8 A Facilitating the drafting I think was the phrase I
 9 used the last time.
 10 (Exhibit No. 102 marked for
 11 identification)
 12 Q Mr. Foltz, the court reporter has handed you a
 13 copy of a document that has been marked as
 14 Exhibit 102; do you have that in front of you?
 15 A Uh-huh.
 16 Q And again, looking at the Bates in the lower
 17 right-hand corner, you'll see it's a document that
 18 was produced from your files.
 19 A Uh-huh.
 20 Q Take a minute to look at it.
 21 A Okay.
 22 Q You'll see that it's an e-mail from Andy Speth to
 23 several people, including you, dated Tuesday,
 24 June 14th, 2011; do you see that?
 25 A Yes.

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1 Q We've already had testimony about who Mr. Speth
 2 is, but why don't you just go ahead and tell us
 3 for the record in this deposition who Mr. Speth
 4 is?
 5 A Mr. Speth is the chief of staff to
 6 Congressman Paul Ryan.
 7 Q Mr. Speth refers to a call this afternoon,
 8 afternoon, June 14th, with the Speaker, the
 9 Majority Leader, and Congressman Ryan; do you see
 10 that?
 11 A Uh-huh.
 12 Q And the stated purpose of the call is to "get
 13 everyone on the same page as far as the process
 14 and timing of the congressional redistricting is
 15 concerned." Do you see that?
 16 A I do.
 17 Q Do you recall participating in this particular
 18 conversation or telephone call?
 19 A No, I do not recall.
 20 Q Do you remember participating in any conversations
 21 or telephone calls with Mr. Speth regarding the
 22 congressional districts?
 23 A Not that I recall.
 24 Q Do you remember talking to Mr. Speth at all about
 25 the process of preparing a congressional

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1 redistricting map?
 2 A I don't recall.
 3 Q What about the timing?
 4 A As far as this e-mail is concerned, it seems like
 5 there was a conference call that was about that
 6 subject. I don't recall the specific
 7 conversation, though.
 8 Q Do you remember talking with anyone who's
 9 identified in this group of recipients of this
 10 e-mail, talking to them about the timing of the
 11 process of the congressional redistricting?
 12 A I do not.
 13 Q There is a participant identified as Judi Rhodes?
 14 A Uh-huh.
 15 Q Who is that?
 16 A Judi Rhodes works for Senator Fitzgerald.
 17 Q And then there's another e-mail address on there,
 18 gustron@yahoo.com?
 19 A Yes.
 20 Q Do you see that?
 21 A Yes, I do.
 22 Q Who is that?
 23 A That is Andy Gustafson.
 24 Q Who is Andy Gustafson?
 25 A Chief of staff to Speaker Fitzgerald.

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1 A I did not meet with him.
 2 Q Mr. Speth also states that "To aid your efforts
 3 tomorrow, I will forward to each of you talking
 4 points in support of the congressional plan." Do
 5 you see that?
 6 A Yes, I do.
 7 Q Do you recall receiving any talking points from
 8 Mr. Speth?
 9 A I don't recall.
 10 Q The last thing is Mr. Speth refers to a very
 11 aggressive legislative agenda this month; do you
 12 see that?
 13 A Uh-huh.
 14 Q Do you know what he's referring to there?
 15 A I do not.
 16 Q Do you know which particular legislative body he's
 17 talking about when he refers to that?
 18 A I do not.
 19 (Exhibit No. 104 marked for
 20 identification)
 21 Q The court reporter has handed you a document that
 22 we've marked as deposition Exhibit No. 104. And
 23 again, you'll see this comes from your files; it
 24 has a Bates stamp in the lower right-hand corner
 25 indicating that. You'll this is an e-mail from

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1 Q Do you recall speaking either with Judi Rhodes or
 2 Andy Gustafson about the congressional
 3 redistricting maps?
 4 A No, I do not.
 5 (Exhibit No. 103 marked for
 6 identification)
 7 Q Mr. Foltz, the court reporter has handed you a
 8 document that we have had marked as Exhibit
 9 No. 103. I'd like you to take a look at that.
 10 A Okay.
 11 Q This is an e-mail that got printed from your files
 12 dated Wednesday, June 15th, 2011, so it's just the
 13 day after the e-mail we looked at a minute ago
 14 that was marked as Exhibit 102. Do you see that?
 15 A Uh-huh.
 16 Q Does this refresh your recollection in any way
 17 about any call you might have participated in?
 18 A No.
 19 Q Mr. Speth mentions that he will be in Wisconsin
 20 all the next week and is at your disposal to
 21 assist in any way you deem appropriate. Again,
 22 this is to a number of recipients. You're one of
 23 them. Do you recall meeting with Mr. Speth in
 24 person at all to discuss congressional
 25 redistricting?

302

1 Andy Speth to you and to Tad Ottman dated Tuesday,
 2 June 21st, 2011, and it has five numbered
 3 paragraphs in it, correct?
 4 A Yes.
 5 Q Do you recall receiving this e-mail?
 6 A I do not recall receiving it, but obviously I did.
 7 Q Is it your understanding that these are talking
 8 points that Mr. Speth is referring to in Exhibit
 9 No. 103?
 10 A It seems to be that way, yes.
 11 Q Do you remember doing anything with this
 12 particular talking points?
 13 A No, I do not.
 14 Q Do you know whether you forwarded them on to
 15 anyone else?
 16 A I don't recall.
 17 Q You don't recall providing them to anyone else?
 18 A No, I don't.
 19 Q Did you prepare any other kinds of summaries or
 20 talking points yourself that incorporated any of
 21 these talking points?
 22 A I don't recall.
 23 Q Do you recall doing anything at all with these
 24 talking points that were forwarded to you?
 25 A I don't know.

304

1 Q Now, we had talked before, I had asked you some
 2 questions about whether you received feedback from
 3 any members of the legislature on the proposed
 4 districts; do you recall that?
 5 A Yeah.
 6 Q And I asked you whether any of the districts were
 7 changed as a result of feedback that you received?
 8 A Uh-huh, from Assembly members.
 9 Q From Assembly members, that's right.
 10 MR. POLAND: Let's go ahead and
 11 mark this as Exhibit 105.
 12 (Exhibit No. 105 marked for
 13 identification)
 14 Q Mr. Foltz, the court reporter has handed you a
 15 document that has been marked as Exhibit No. 105.
 16 Again, this is a document that comes from your
 17 files, as indicated by the Bates number in the
 18 lower right-hand corner. Can you identify
 19 Exhibit 105, please?
 20 A Identify how?
 21 Q Well, it's an e-mail, correct?
 22 A Correct.
 23 Q And the header is an e-mail with your e-mail
 24 address on it, correct?
 25 A Yes.

305

1 A The Neenah, Menasha, Appleton.
 2 Q What was the issue that arose in getting the bill
 3 passed?
 4 A Senator Ellis was not on board with the
 5 configurations of the Assembly districts within
 6 the Senate. Senator Ellis having to vote on the
 7 Senate Committee and organization can stop the
 8 bill from being introduced or scheduled.
 9 Q And so what was the purpose in sending this to
 10 Michelle Litjens?
 11 A The changes would impact her district.
 12 Q Did you receive any feedback from Michelle Litjens
 13 in response to this e-mail?
 14 A I'm sure I did. I don't recall specifically what
 15 she had to say, but I'm sure that there was a
 16 follow-up to this.
 17 Q So there were changes that were made to the map as
 18 a result of feedback from Senator Ellis; is that
 19 correct?
 20 A Correct.
 21 Q That was based on configuration of Senate
 22 districts?
 23 A Configuration of Assembly districts within the
 24 Senate district, I would say is a more accurate
 25 way of describing it.

307

1 Q Gmail, I should say. And it's a series of e-mail
 2 correspondence, correct?
 3 A Yes.
 4 Q So if we go to the earliest, temporally at least,
 5 e-mail which appears at the top of the first page,
 6 it appears that Mr. Ottman is sending you an
 7 e-mail with four attachments, correct?
 8 A Uh-huh.
 9 Q You then forward it on to Michelle Litjens,
 10 correct?
 11 A Yes.
 12 Q Who is Michelle?
 13 A She's a representative in the State Assembly.
 14 Q Which district does she represent?
 15 A 56.
 16 Q And you state, "Michelle, as per our conversation,
 17 here are the maps in question. Please delete
 18 these when you are done and don't share with
 19 anyone outside of Robin, Fitz and I. Thanks,
 20 Adam, correct"?
 21 A Yes.
 22 Q Why were you sending these to Michelle Litjens?
 23 A There was an issue with getting the bill
 24 introduced, and it required some reconfiguration.
 25 Q Reconfiguration of what?

306

1 Q Were there any other senators in addition to
 2 Senator Ellis who requested changes in Assembly
 3 districts within their Senate districts?
 4 A Not that I'm aware of.
 5 Q Do you know whether Michelle Litjens requested any
 6 changes to be made to the proposed changes in the
 7 maps that you had forwarded on to her?
 8 A Not that I recall.
 9 (Exhibit No. 106 marked for
 10 identification)
 11 Q Mr. Foltz, the court reporter has handed you a
 12 copy of a document that has been marked as Exhibit
 13 No. 106. Do you have that in front of you?
 14 A I do.
 15 Q Is this a document that you've seen before?
 16 A I believe so, yes.
 17 Q I will note for the record if you look in the
 18 lower right-hand corner, it did come from your
 19 files.
 20 A Uh-huh.
 21 Q Can you identify it?
 22 A It appears to be a communication from
 23 Andrew Welhouse to I don't know who providing
 24 background information on redistricting.
 25 Q Who's Andrew Welhouse?

308

1 A Communications director for
 2 Senator Scott Fitzgerald.
 3 Q And I notice that the date on this e-mail is
 4 Friday, July 8th; do you see that?
 5 A Yes.
 6 Q Had you seen a draft of this before July 8th?
 7 A I don't recall.
 8 Q Do you know -- it states at the top, it says
 9 *Media: For your background purposes only.* And it
 10 states, "Please contact myself or John Jagler in
 11 Representative Fitzgerald's offices with any
 12 specific questions, or for any attribution
 13 requests." Do you see that?
 14 A I do.
 15 Q Do you know why this was being sent to you?
 16 A I have no idea.
 17 Q Were you asked to comment on it at all?
 18 A Not that I can recall.
 19 Q Do you know whether a version of this was ever
 20 provided to the media?
 21 A Given the way that the e-mail starts off, I would
 22 assume so.
 23 Q If you jump to the back page, there are a number
 24 of bullet points there that identify or state *Dem*
 25 *Alternatives*; do you see those?

309

1 A I do.
 2 Q Do you know who with prepared these?
 3 A I'm assuming Andrew Welhouse, but I don't know
 4 that.
 5 Q You didn't have any input into that at all?
 6 A Not that I recall.
 7 Q There is a bullet point, the third bullet point
 8 down, that states, "The democrats have already
 9 filed the federal lawsuits to challenge the
 10 existing districts," and existing is all caps; do
 11 you see that?
 12 A I do see that.
 13 Q Do you know what he's referring to in that
 14 statement?
 15 A I believe he's referring to the first Baldus
 16 action. Again, I don't know that.
 17 Q Did you have any discussions with Mr. Welhouse
 18 about the filing of the Baldus case?
 19 A Not that I can recall.
 20 Q Did you have any discussions with either
 21 Speaker Fitzgerald or Senator Fitzgerald about the
 22 filing of the Baldus case?
 23 A I'm sure I did.
 24 Q What about any potential impact on redistricting?
 25 A Not that I can recall, but I'm sure it came up.

310

1 Q Did you discuss the filing of the Baldus action
 2 and any potential impact it would have on
 3 redistricting with Mr. Ottman?
 4 A I'm sure I did.
 5 Q Do you recall any of the conversations that you
 6 had with either Mr. Ottman or any of the
 7 legislators you had about filing of the Baldus
 8 action?
 9 A I can't recall.
 10 Q Now, Mr. Foltz, you participated in some of the
 11 communications with Mr. Rodriguez about the
 12 Hispanic districts, correct?
 13 A No, I did not.
 14 Q You didn't participate in any of those?
 15 A No, I did not.
 16 Q All right. Fair enough. You spoke with
 17 Mr. Ottman about his communications with
 18 Mr. Rodriguez, correct?
 19 A Not that I can recall.
 20 (Exhibit No. 107 marked for
 21 identification)
 22 Q Mr. Foltz, you have Exhibit No. 107 in front of
 23 you?
 24 A I do.
 25 Q All right. And this is a document that was

311

1 produced from your files, correct?
 2 A Yes.
 3 Q Can you identify Exhibit No. 107 for the record?
 4 A An e-mail between Tad Ottman and I regarding heat
 5 maps for Hispanic population in Milwaukee, it
 6 appears.
 7 Q And do you see there's an e-mail dated Saturday,
 8 July 9th from Mr. Ottman to you; that's it at the
 9 top?
 10 A At the top, yes.
 11 Q And Mr. Ottman states "I spoke to Jensen's
 12 Hispanic contact Zeus Rodriguez. Along with the
 13 heat map from Milwaukee, he was interested in heat
 14 maps at lease from Racine, and maybe from Waukesha
 15 and Madison to show that those communities aren't
 16 fractured." Then he goes on to say, "I'll be in
 17 early afternoon, but if you have time to look at
 18 that we can put all that together today." Do you
 19 see that?
 20 A I do.
 21 Q Do you recall now that you spoke with Mr. Ottman
 22 about the conversations that he had with
 23 Mr. Rodriguez?
 24 A Yes, it appears that way.
 25 Q Do you recall, sitting here today, those

312

1 conversations that you had with Mr. Ottman?
 2 A No.
 3 Q Do you recall talking with Mr. Ottman at all about
 4 any heat maps that were prepared for the Latino or
 5 Hispanic districts in Milwaukee?
 6 A Yes.
 7 Q What were the conversations that you had with
 8 Mr. Ottman?
 9 A Oh, the conversations or the fact that I produced
 10 them, the heat maps.
 11 Q Did you produce heat maps?
 12 A Yes.
 13 (Exhibit No. 108 marked for
 14 identification)
 15 Q Mr. Foltz, you have in front of you now a document
 16 that has been marked as Exhibit 108. This is the
 17 order that these were in the file as it was
 18 produced to us. So we've got a map on the first
 19 page, and then we have on the second page of 108,
 20 an e-mail from you to Mr. Ottman; do you see that?
 21 A Yes.
 22 Q And that's dated Monday, July 11th, 2011, correct?
 23 A Uh-huh.
 24 Q You want to identify 108 for us, please?
 25 A This is a heat map, for lack of a better term,

313

1 showing the concentration of the Hispanic voting
 2 age population in, more or less, Milwaukee County.
 3 Q And when you mentioned heat map, I thought you
 4 said for lack of a better term or something like
 5 that?
 6 A I don't know how else to describe the fact that
 7 the more yellow, orange, red of the map is the
 8 higher the concentration of the Hispanic voting
 9 age population. It's a term we use internally.
 10 Q Well, we've certainly seen it in many other
 11 documents as well. Is the map that's on the very
 12 first page of Exhibit 108 a map that you prepared?
 13 A I don't recall who prepared. Actually, state the
 14 question again. Prepared this heat map?
 15 Q Correct.
 16 A Yeah. I would have produced this map, yeah.
 17 Q You produced this in response to a request from
 18 Mr. Ottman; is that correct?
 19 A It appears that way, yes.
 20 Q Is it fair to say that by this date certainly,
 21 July 11th, that the outer boundaries of
 22 Districts 8 and 9 were fixed?
 23 A I wouldn't necessarily say that, but we definitely
 24 had a -- we definitely had different
 25 configurations that fit within a two-district

314

1 radius.
 2 Q Do you know whether they changed from this point?
 3 A I believe they did from this point.
 4 (Exhibit No. 109 marked for
 5 identification)
 6 Q Mr. Foltz, the court reporter has handed you a
 7 document that has been marked Exhibit No. 109, and
 8 again, if you see it is from your files, you see
 9 this is an e-mail from you to Mr. Ottman, and this
 10 is identified as heat map amendment overlay,
 11 correct?
 12 A Yes.
 13 Q What is the purpose of comparing the heat map that
 14 is included in Exhibit 109?
 15 A To show the different configurations between SB148
 16 and the amendment, which changed the configuration
 17 of 8 and 9.
 18 Q At this point in time, why were you preparing
 19 these two different heat maps?
 20 A Just for the purpose of the comparison.
 21 Q Is it your understanding that these were being
 22 transmitted then to Mr. Rodriguez?
 23 A I don't know if I understood that at the time.
 24 Q Did you give these to -- provide these to anyone
 25 other than Mr. Ottman?

315

1 A I'm sure I did.
 2 Q Did you speak directly with any members of the
 3 Latino community in Milwaukee about the different
 4 proposed configurations of the district?
 5 A No, I did not.
 6 Q To your knowledge, did you provide these to any
 7 democratic members of the -- democratic members of
 8 the Assembly?
 9 A These, I believe, were produced as part of the
 10 committee testimony, but I'm not 100 percent on
 11 that. I can't remember if we printed out the
 12 placards, the 30 by 40s as part of, I believe we
 13 did, as part of our community testimony.
 14 Q Did you ever receive any feedback from
 15 Mr. Rodriguez or from Mr. Ottman about these
 16 different configurations that you provided?
 17 A Well, as I testified to earlier, I never spoke
 18 with Mr. Rodriguez.
 19 Q Do you know whether -- did you receive any
 20 feedback from Mr. Ottman about these
 21 configurations that he received from
 22 Mr. Rodriguez?
 23 A Not that I can recall.
 24 Q Did you have any discussions with Mr. -- strike
 25 that question. You testified earlier that you

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1 received guidance from legal counsel on
 2 configuration of the minority districts in
 3 Milwaukee; is that correct?
 4 A Uh-huh.
 5 Q Do you recall discussing at all with legal counsel
 6 any specific percentages of minority population in
 7 districts that you were attempting to achieve in
 8 Act 43?
 9 A Not that I recall.
 10 (Exhibit No. 110 marked for
 11 identification)
 12 Q Mr. Foltz, the court reporter has handed you a
 13 document that has been marked as Exhibit 110. It
 14 consists of several pages. I'll give you a minute
 15 or two to look it over.
 16 A Okay.
 17 Q If you jump to the earliest e-mail in the chain,
 18 which I believe is the second to last page --
 19 well, let me ask you first just for the record,
 20 you see at the top of the first page that the very
 21 first e-mail is from Mr. Ottman to Mr. Troupis,
 22 Mr. Taffora, Mr. McLeod and you and Mr. Handrick,
 23 correct?
 24 A Uh-huh.
 25 Q Do you recall receiving this e-mail?

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1 A I do want recall receiving this e-mail.
 2 Q So let's jump then to the second to last page.
 3 There is an e-mail from Chris Reader to a number
 4 of different people, and I note that you are not
 5 on that list. It says *Amendments for Friday*
 6 *Executive Session*; do you see that?
 7 A Yes, I do.
 8 Q Do you know what that references to?
 9 A I believe it's -- Chris Reader is the committee
 10 clerk for the Senate committee that was
 11 responsible for hearing and executing the maps,
 12 and SB150 as well. This seems to be a summary of
 13 the amendments that he had for the executive
 14 session.
 15 Q And then it looks like this must have been
 16 forwarded to -- to Mr. Ottman, and if we go up to
 17 the next page, it looks like Mr. Ottman sends it
 18 around to a number of people, including you and
 19 Mr. Troupis as well. Then if we proceed
 20 immediately above that, there's an e-mail from
 21 Mr. Troupis dated Thursday, July 14th, 2011 at
 22 1:28 p.m. It's the larger font print. It's a
 23 little hard to follow.
 24 A Yeah. Page 4 of 6?
 25 Q This would be page -- let's look at the Bates

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1 numbers. So I'm looking at the page, the Bates
 2 number Handrick 000361.
 3 A Okay.
 4 Q And if you look close to the bottom, you'll see
 5 that there's an e-mail from Mr. Troupis that
 6 states, "Tad, could you please resend SB148, 149,
 7 and 150." Do you see that?
 8 A Yes, I do.
 9 Q Then below Mr. Troupis states, "Also, based on
 10 discussions I had this morning, it appears the
 11 other side is going to challenge based on the
 12 disenfranchisement. (Among other ideas they are
 13 tossing around)." Do you see that?
 14 A I do.
 15 Q Do you know what Mr. Troupis is referring to there
 16 when he talks about discussions that he had that
 17 morning?
 18 A I do not know.
 19 Q You don't recall participating in discussions with
 20 Mr. Troupis on or about that date?
 21 A No.
 22 Q He also asks what is the minority number of the
 23 new Racine/Kenosha seat, compared with the prior
 24 minority numbers in the old Racine/Kenosha
 25 County-based seats; do you see that?

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1 A Yes, I do.
 2 Q Do you know why Mr. Troupis was asking that
 3 question at that point in time?
 4 A I do not know.
 5 Q Did you have any conversations or discussions with
 6 Mr. Troupis generally about the minority numbers
 7 in the Racine and Kenosha districts?
 8 A I don't recall.
 9 Q If you then go up one e-mail earlier than that --
 10 sorry, one e-mail above that, I should say, you'll
 11 see an e-mail from Mr. Ottman right at 1:57, and
 12 it looks like he's sending some numbers; do you
 13 see those?
 14 A Yes.
 15 Q So he identifies current Senate districts minority
 16 population in 21 and 22, correct?
 17 A Uh-huh.
 18 Q And then under Senate Bill 148, correct?
 19 A Yes.
 20 Q Now, I note those are coming from Mr. Ottman. I
 21 wanted to ask if you had anything to do with
 22 generating those numbers at all?
 23 A Not for the purpose of this e-mail, but these are
 24 numbers that would be available in the Autobound
 25 software.

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1 Q Do you recall having any discussions with
 2 Mr. Ottman at that time about the minority
 3 district numbers in Kenosha or Racine?
 4 A I do not.
 5 Q Then if we go one e-mail above that, this gets to
 6 the first page, there is a statement by
 7 Mr. Troupis that says, "That is much better than I
 8 thought with HVAP of 28.71 for all minorities, and
 9 an improvement over both prior districts in both
 10 minority categories." Do you see that?
 11 A Yes.
 12 Q Do you know what Mr. Troupis means by HVAP of
 13 28.71 for all minorities?
 14 A No, I don't.
 15 Q Mr. Troupis also asks about the total minority
 16 population for those districts, and then if you
 17 look at the next page, he asks, "In the past, what
 18 has been considered minimal "influence" on a
 19 percentage basis, if you recall? Something to arm
 20 the Senators with." Do you see that?
 21 A I do.
 22 Q Do you know what he meant by minimum influence on
 23 a percentage basis?
 24 A I do not.
 25 Q Did you ever have a discussion with Mr. Troupis

321

1 about that?
 2 A Not that I recall.
 3 Q And what about with Mr. Ottman?
 4 A Not that I recall.
 5 Q Then if you go to the one e-mail just prior to
 6 that, it's an e-mail from Mr. Ottman. He has some
 7 numbers for current districts and new districts,
 8 and then he states, "My recollection is that 30
 9 percent VAP is the threshold for an influence
 10 district." Do you see that?
 11 A I do see that.
 12 Q Do you know what Mr. Ottman means by that
 13 statement?
 14 A I do not.
 15 Q Would you assume that 30 percent VAP means voting
 16 age population?
 17 A I would.
 18 Q Do you know what he means by influence district?
 19 A I'm not sure what he means in the context.
 20 Q Is that a term that you've heard used before?
 21 A I'd say I've heard it used before, yes.
 22 Q And how has it been used when you've heard it
 23 before?
 24 A Various redistricting cases.
 25 Q Do you know what it has meant in the context of

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1 those other redistricting case?
 2 A Not particularly, no.
 3 Q Did you any conversations, just generally, with
 4 Mr. Ottman about what makes up an influence
 5 district?
 6 A Not that I can recall.
 7 Q Did you assist Mr. Ottman at all in compiling any
 8 of these numbers and responding to Mr. Troupis's
 9 request?
 10 A Those numbers just would have been sitting there
 11 in Autbound.
 12 Q I believe you testified at your earlier deposition
 13 about conversations or communications that you had
 14 with Mike Wild?
 15 A Yes.
 16 Q Do you recall discussing or communicating at all
 17 with Mr. Wild about the Assembly districts?
 18 A Yes.
 19 Q Do you recall talking with him or communicating
 20 with him about noncontiguities in the legislative
 21 districts?
 22 A Yes.
 23 Q And what was the conversation you had with him
 24 about that?
 25 A Well, as I testified to last time, in Wisconsin we

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1 have a lot of discontiguous areas of
 2 municipalities. A sewage treatment plant gets
 3 annexed into the next-door neighbor municipality,
 4 but it is not literally contiguous or
 5 geographically contiguous. So when you assign an
 6 entire municipality, you'll have this island,
 7 airport, sewage treatment plant, random
 8 annexation. So when you run a contiguity report,
 9 it will show up as being discontiguous, and in
 10 Wisconsin we have the standard, over the years has
 11 been established is the municipal contiguity, not
 12 literal or geographic contiguity.
 13 So when you run a report, the software has no
 14 way of knowing that a this little island over here
 15 is an airport or a sewage treatment plant. They
 16 just view it as a piece of geography that doesn't
 17 touch another piece of geography.
 18 Q In the discussions that you had with Mr. Wild, the
 19 communications with Mr. Wild pointed out what they
 20 perceived to be discontiguities; is that correct?
 21 A What the software -- what any redistricting
 22 software would point out is discontiguity based on
 23 its understanding. The software doesn't know a
 24 state-wide standard for contiguity. It doesn't
 25 necessarily know this that this island is part of

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1 this municipality. So it was the difference
 2 between literal contiguity and our standards for
 3 contiguity.
 4 Q And that was pointed out then to Mr. Wild; is that
 5 correct?
 6 A That's correct.
 7 Q And as a result of those conversations with
 8 Mr. Wild, those didn't require any changes to the
 9 Assembly districts at that time?
 10 A No.
 11 Q I had asked you before whether you had received
 12 communications from any representatives whose
 13 districts were being changed, and whether they
 14 asked or gave you feedback, I should say, on any
 15 of the changes.
 16 A Right.
 17 Q Do you recall receiving any communications from
 18 André Jacque about that subject?
 19 A No, not -- the e-mail you're referring to I
 20 received from Representative Fitzgerald who had it
 21 sent to him by Representative Jacque.
 22 Q Do you know whether any changes were made as a
 23 result of the e-mail that Representative Jacque
 24 sent to Speaker Fitzgerald?
 25 A No changes were made.

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1 Q Getting back to some of the work that you had
 2 performed with Dr. Gaddie during the redistricting
 3 process. Let's just go ahead and mark this as an
 4 exhibit.
 5 A When you get a chance, can I get five minutes?
 6 Q Absolutely. Let's take it right now.
 7 THE VIDEOGRAPHER: The time is
 8 4:46. We are going off the record.
 9 (Recess taken)
 10 THE VIDEOGRAPHER: The time is
 11 4:55. We are back on the record.
 12 (Exhibit No. 111 marked for
 13 identification)
 14 Q Mr. Foltz, the court reporter is handing you a
 15 document that has been marked as Exhibit 111. I'd
 16 like you to take a look at that, please.
 17 A All right.
 18 Q You'll note that it does have Bates numbers
 19 indicating that it was produced from your files,
 20 correct?
 21 A Yes.
 22 Q Have you seen Exhibit 111 before?
 23 A Yes, I have.
 24 Q Identify it for me, please?
 25 A It is a side-by-side comparison of Assembly

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1 districts. There's also some political history in
 2 here in the second page and also Senate districts.
 3 Q Now, I'd like to draw your attention to the
 4 beginning on the second page and then the last two
 5 pages of the exhibit, up at the top in the
 6 heading, you'll see it says *Milwaukee Gaddie,*
 7 *4/16/11;* do you see that?
 8 A Yes, I do. Are you looking at 67 or are you
 9 looking at 68?
 10 Q You're using the Bates numbers, terrific. Well, I
 11 believe, I think, it starts on page 65 is the
 12 first of them.
 13 A Okay.
 14 Q And then there's 67 and 68. But why don't we just
 15 look at page 1065 first?
 16 A Okay.
 17 Q What does the heading *Milwaukee Gaddie, 4/16/11*
 18 refer to?
 19 A That was a system of how I named files within
 20 Autobound.
 21 Q What significance does that particular title have?
 22 A The significance is is that, as we talked about
 23 earlier, Milwaukee is the starting point. So what
 24 this is is that this is -- it appears to be a full
 25 state-wide map that came from a certain version of

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1 Milwaukee. The Gaddie reference in there probably
 2 references the fact that it was drawn with the
 3 advice or after meeting with Dr. Gaddie about the
 4 Milwaukee districts. The following portion would
 5 be the date, and then I'm assuming v1 is version
 6 one and B is another version. I had a meticulous
 7 filing name system that didn't -- it started off
 8 with the best of intentions on keeping all your
 9 files organized, and before you know it, you've
 10 got a 300 character one file name.
 11 Q Sounds like sort of a Dos-based system there. So
 12 the 4/16/11 you believe refers to the date on
 13 which it was created?
 14 A I don't know if that was the date that it was
 15 created or what exactly the date is in reference
 16 to, but it is a date.
 17 Q Do you know whether it was created, by it I mean
 18 Exhibit 111, was created on or about the time -- a
 19 time that Dr. Gaddie was present in Madison?
 20 A No. Like I said, the file name there is just
 21 indicative of the fact that Milwaukee -- the
 22 Milwaukee template, that starting point that we
 23 talked about earlier, how Milwaukee is kind of
 24 where you start and we build off from that.
 25 That's the only thing I can discern from the

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1 file -- excuse me, from the file name.
 2 Q Do you know whether Dr. Gaddie was present in
 3 Madison working with you on or about April 16th of
 4 2011?
 5 A I can't recall.
 6 Q Now, if we turn back to the first page, which is
 7 page 1064, there's a heading at the top that says
 8 *Final Map*; do you see that?
 9 A Yes, I do.
 10 Q Do you know was that for the final map that is
 11 adopted in Act 43?
 12 A It may be. I'm not sure. If it's not the final
 13 map, it was something that was nearing the final
 14 version.
 15 Q I note also that there is a -- on page 1066, it
 16 also has a heading that identifies *Final Map*; do
 17 you see that?
 18 A I do.
 19 Q It appears to me, and I haven't gone through and
 20 checked all of the numbers, but it appears to me
 21 that it's simply different priority ranking, or
 22 they're sorted in a different manner from top to
 23 bottom. For example, if you look at page 1066, it
 24 looks like it's in district order from one down
 25 through the end of 99?

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1 A It appears that way, yes.
 2 Q And then if you look at the very first page, which
 3 is page 1064, it appears that it's sorted in a
 4 different way perhaps by the column that's headed
 5 up new?
 6 A That seems to be correct.
 7 Q What was the purpose of making this comparison?
 8 A This was just a back-end analysis of various maps
 9 as noted by the header.
 10 Q And when you referred to back-end analysis before.
 11 I know that you mentioned it in conjunction with
 12 giving presentations to different state
 13 representatives about the new districts; is that
 14 the purpose of having Exhibit 111 created?
 15 A This wasn't used in the memos we looked at
 16 earlier, if that's what you're asking.
 17 Q Do you know what purpose it was used for in the
 18 redistricting process?
 19 A Just to take a look at the move in the number from
 20 one district -- from the old district to the new
 21 district.
 22 Q And certainly, one of the effects that's gauged at
 23 the bottom is the change in the partisan makeup of
 24 the Assembly and the Senate, correct?
 25 A Yes.

330

1 Q Was that a consideration that was given in
 2 configuring any of the Assembly and Senate
 3 districts?
 4 A I'll refer back to it is a back-end analysis.
 5 Q Do you know whether the results of this analysis
 6 that's reflected in Exhibit 111 were used in
 7 configuring any of the Assembly or Senate
 8 districts?
 9 A No. Again, it was a back-end analysis.
 10 Q Nonetheless, it appears that -- strike that
 11 question. Can you date the, at least with respect
 12 to the tables that have the Gaddie heading in
 13 them, can you date those tables back to on or
 14 around April 16th, 2011?
 15 A No, and there's nothing there that I could use to
 16 backtrack it because like I said, the reference to
 17 Milwaukee Gaddie was a version of Milwaukee;
 18 whereas, maybe that version of Milwaukee was used
 19 as the jumping point for the rest of the state a
 20 month later. I can't track that back based on the
 21 file name.
 22 (Exhibit No. 112 marked for
 23 identification)
 24 Q Mr. Foltz, the court reporter has handed you a
 25 document that has been marked Exhibit No. 112?

331

1 A Uh-huh.
 2 Q Do you have that in front of you?
 3 A Yes, I do.
 4 Q Again, it is a document that was produced from
 5 your files, produced to us from your files. Have
 6 you seen Exhibit 112 before?
 7 A Yes, I have.
 8 Q Can you identify it, please?
 9 A Just various data from the various districts. It
 10 appears to be the data. It appears to be the data
 11 of the '02 map as of Census Day 2010, I believe,
 12 but I don't know that 100 percent. I'm pretty
 13 sure it is.
 14 Q Now, if we go -- the first column obviously
 15 identifies the districts, correct?
 16 A Yes.
 17 Q And the second column is -- the heading is *TA*
 18 *Persons*; do you see that?
 19 A Yes, I do.
 20 Q What is *TA persons*?
 21 A I believe it stands for total all persons. I'm
 22 not 100 percent on that. It's an output from --
 23 the LTSB provide a database, but I believe that's
 24 the shorthand.
 25 Q And the persons 18 would be?

332

1 A Number of people above -- 18 or above.
 2 Q And then under the target column, that would be
 3 for equal population; is that correct?
 4 A Yeah. That is the ideal population of each
 5 Assembly district as of Census Day 2010.
 6 Q Now, there are percentages given for -- there's a
 7 percentage block column; do you see that?
 8 A Yes, I do.
 9 Q I assume that's the percentage of -- well, strike
 10 that question. What percentage or what number
 11 does that identify?
 12 A That would be all -- a percentage of the
 13 population, all population, not just voting age,
 14 that is African-American.
 15 Q And then I can't read the heading in the next
 16 column because it's just -- the color is too hard
 17 to read?
 18 A Yeah, it's VA.
 19 Q So that is voting age?
 20 A Yes.
 21 Q And then we have the columns that refer to
 22 Hispanic as well, correct?
 23 A Yes.
 24 Q Now, there are two other columns that follow. One
 25 says 3RaceAve, and then one says ALL0410; do you

333

1 A To have summary data of how over/under populated
 2 districts were, racial composition, things like
 3 that.
 4 Q What was the importance of knowing the composite
 5 numbers for the previous races?
 6 A To determine, again, going back to the back-end
 7 analysis, looking at different alternatives of
 8 composites that could be used for that back-end
 9 analysis.
 10 Q And would that be the purpose also of looking at
 11 whether the democrats or republicans prevailed in
 12 the different districts?
 13 A I would say it was just to have a context of how
 14 the districts performed.
 15 Q In the past?
 16 A Correct.
 17 Q Now, we referred before to -- on the talking
 18 points that Mr. Speth had provided to you as part
 19 of the congressional districts, correct?
 20 A Uh-huh.
 21 Q Were there other talking points that were prepared
 22 for the Assembly districts?
 23 A I believe there were talking points prepared, yes.
 24 Q Who prepared talking points for the Assembly
 25 districts?

335

1 see those?
 2 A Yes, I do.
 3 Q What are those?
 4 A Various composite numbers.
 5 Q When you say *various composite numbers*, what do
 6 you mean by that?
 7 A Different amalgamations of races.
 8 Q When you say different amalgamations of races, you
 9 mean these are races for political contests that
 10 have already occurred?
 11 A Yes.
 12 Q How -- is there a way to tell what those
 13 amalgamations are based on those titles?
 14 A No, I don't recall what they were off the top of
 15 my head.
 16 Q Is there any way to date when this document was
 17 created?
 18 A No.
 19 Q But you believe it refers back to the
 20 configurations of the districts from 2002?
 21 A I believe so. The different numbers look very
 22 familiar as far as the over/under population of
 23 the various districts.
 24 Q Do you know what use you would have made of the
 25 Exhibit 112 in your redistricting process?

334

1 A I don't know if the talking points were Assembly
 2 district specific, but I do recall that there were
 3 some talking points produced.
 4 Q Did you prepare those?
 5 A I don't recall if I did.
 6 Q Do you recall whether you contributed to them at
 7 all?
 8 A I probably did, but I don't recall specifically
 9 how.
 10 Q You received them, though?
 11 A Uh-huh.
 12 Q What was the context in which you received talking
 13 points?
 14 A Could you be more specific?
 15 Q Sure. Did you -- were they e-mailed to you? Were
 16 they provided to you in a meeting? Were they
 17 provided to you, whether it was a group meeting
 18 for a face-to-face meeting with an individual?
 19 A I don't recall.
 20 (Exhibit No. 113 marked for
 21 identification)
 22 Q Mr. Foltz, the court reporter has handed you a
 23 copy of a document that has been marked as
 24 Exhibit 113; do you see that?
 25 A Yes, I do.

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1 Q And you see in the bottom right-hand corner, it's
 2 identified as coming from the files that you
 3 provided to us, correct?
 4 A Yes.
 5 Q So up at the top -- strike that. Do you recognize
 6 Exhibit No. 113?
 7 A It looks familiar, yes.
 8 Q What is it?
 9 A It appears to be general talking points as the
 10 header.
 11 Q This pertains -- do you know which map it pertains
 12 to or which bill it pertains to?
 13 A I don't know. I'm assuming, again, if not the
 14 final version, somewhere near final version.
 15 Q Did you participate in creating Exhibit 113?
 16 A I'm sure I did, yes.
 17 Q Do you know who else participated in creating
 18 Exhibit 113?
 19 A I do not recall.
 20 Q Up at the top bullet point, it says general map
 21 goals; do you see that?
 22 A Yes, I do.
 23 Q And it states the highest priority is achieving
 24 equal population, correct?
 25 A Yes.

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1 Q And then the second refers to properly drawing
 2 minority districts, and then in quotes it says,
 3 "Minorities must be given the opportunity to elect
 4 the candidate of their choosing." Do you see
 5 that?
 6 A Yes, I do.
 7 Q Do you know where that quote came from?
 8 A I do not.
 9 Q Then third bullet states compact and contiguous?
 10 A Uh-huh.
 11 Q Speaking of all three of these goals, were these
 12 goals that were -- strike that. Do you know where
 13 these three goals came from?
 14 A No, I don't recall.
 15 Q Do you know whether they were provided by legal
 16 counsel or by legislators?
 17 A I do not.
 18 Q All right. If we look, the second bullet
 19 identifies *Timeline and Process*, correct?
 20 A Uh-huh.
 21 Q It states three separate bills will be introduced,
 22 congressional map, legislative map, and then
 23 process/venue change?
 24 A Uh-huh.
 25 Q What is meant by process/venue change?

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1 A That would be a reference to SB150.
 2 Q Is there any way that you can date the timing of
 3 the preparation of these general talking points?
 4 A No.
 5 Q Do you recall how these came into your possession?
 6 A I don't recall exactly.
 7 Q Next bullet down states Senate plans to introduce
 8 the bill late next week; do you see that?
 9 A I do.
 10 Q Does that help you to fix at all the timing of the
 11 preparation of these talking points?
 12 A Assuming you backdate it from when the Senate
 13 introduced the bill, which I believe was Friday
 14 the 8th, that would put it in the week prior. But
 15 again, I don't know if the timeline had been
 16 locked in at that point, so I don't know where
 17 we're backdating from.
 18 Q Now, a couple of bullets down from there, it
 19 states, "This is a placeholder map. If the Senate
 20 comes back in the majority, we may come back and
 21 adjust." Do you see that?
 22 A Yes, I do.
 23 Q What's that a reference to?
 24 A Well, it's a reference to if the Senate comes back
 25 in the majority, there may be the possibility of

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1 adjusting the map.
 2 Q And by the Senate coming back in the majority, is
 3 that a reference to the recall elections?
 4 A In this case, it would be.
 5 Q The Senate did come back in the majority in
 6 August, correct?
 7 A That is correct.
 8 Q Were there any adjustments made?
 9 A Again, I don't know exactly where this is dated,
 10 so I can't really speak to that. I don't know
 11 where this was produced in the timeline.
 12 Q As a result of the recall elections or after the
 13 recall elections were held in August, were there
 14 any adjustments made at all to the map?
 15 A No, I don't believe so.
 16 Q Now, there is a statement below that that states,
 17 "Public comments on this map may be different than
 18 what you hear in this room." Do you see that?
 19 A Yes, I do.
 20 Q What is the reference to what you hear in this
 21 room?
 22 A I'm assuming meetings between members. That's my
 23 assumption.
 24 Q Did you participate in any meetings in a
 25 particular room where there were comments made

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1 about these talking points?
 2 A I don't recall.
 3 Q Was this document handed out to people who
 4 gathered in a room together?
 5 A I don't recall.
 6 Q Now, the reference there to public comments on
 7 this map, do you know what's meant by the
 8 reference to public comments?
 9 A I would assume the general public. I honestly
 10 don't know exactly what it's referring to there.
 11 Q Do you know whether those are comments that might
 12 be made by legislators?
 13 A I don't recall.
 14 Q Now, the next sentence reads, "Ignore the public
 15 comments." Do you see that?
 16 A Yes, I do.
 17 Q Had you heard that before, that people were being
 18 told to ignore public comments?
 19 A I don't recall.
 20 Q Did anyone ever tell you outside of the context of
 21 this particular page that you should ignore public
 22 comments?
 23 A Not that I recall.
 24 Q Did you ever participate in any discussions where
 25 you were urged to ignore public comments?

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1 A I don't recall.
 2 Q There is a reference in that line, previously
 3 signed agreement applies to this meeting. Do you
 4 know whether the reference at this meeting in that
 5 particular bullet point refers to meeting with the
 6 legislators?
 7 A I don't recall what meeting it's referring to.
 8 Q Does that reference to meeting previously signed
 9 agreement that applies to this meeting help you to
 10 date at all when this was created?
 11 A No. It's somewhere between the first round of
 12 member meetings and the second round.
 13 Q Do you believe that these general talking points
 14 were created for the purpose of the member
 15 meetings?
 16 A I don't recall.
 17 Q The last bullet states, "Public comment will lead
 18 to depositions and being called to the witness
 19 stand." Do you see that?
 20 A Uh-huh.
 21 Q Do you know what that refers to?
 22 A I think on its face, it's pretty self-explanatory.
 23 Q What's your understanding of what it means?
 24 A That if a member of the legislature talks too much
 25 about redistricting, there is a chance that they

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1 A Not that I recall.
 2 Q Next bullet down states *Confidentiality*, and if
 3 you see the first bullet, it says, "Previously
 4 signed agreement applies to this meeting." Do you
 5 see that?
 6 A Yes, I do.
 7 Q What's the previously signed agreement that's
 8 referred to there?
 9 A When initially meeting on redistricting, each
 10 member signed a piece of paper that I'm not sure
 11 exactly what it said, but it said something to the
 12 effect of what is said in this room stays in this
 13 room.
 14 Q Do you still have those confidentiality agreements
 15 in the computers over at Michael Best & Friedrich
 16 or in your possession?
 17 A Not that I recall.
 18 Q Do you know whether this is a document that might
 19 have been handed out at the meetings that you had
 20 with the individual legislators sometime in June?
 21 A It was not handed out to the individual
 22 legislators.
 23 Q Were these talking points that were conveyed to
 24 the individual legislators at those meetings that
 25 you had with them?

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1 will be sitting in the chair I'm sitting in right
 2 now or another venue.
 3 Q Being called to the witness stand, is that your
 4 understanding that it's a reference to it would be
 5 in the context of litigation, they'd have to
 6 testify?
 7 A It seems to make sense.
 8 Q Do you know whether that reference is to
 9 litigation that had already been filed as of the
 10 time that the talking points were created?
 11 A I don't have a way to backdate this, so I don't
 12 know.
 13 MR. POLAND: I have no further
 14 questions at this time.
 15 MR. EARLE: I have a few.
 16
 17 EXAMINATION
 18 By Mr. Earle:
 19 Q Mr. Foltz?
 20 A Yes, sir.
 21 Q What did you do to prepare for today's deposition?
 22 A Produced all of the documents that were withheld
 23 based on the privilege log from last time.
 24 Q Well, when did you do that?
 25 A Well, they were produced the first time around, so

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1 there was really no additional production
 2 required.
 3 Q Two minutes of your prep here.
 4 A Okay.
 5 Q Who did you talk to before you came here today to
 6 be deposed in terms of being prepared today?
 7 A Legal counsel.
 8 Q Who?
 9 A Eric McLeod.
 10 Q When was that?
 11 A I don't recall exactly.
 12 Q Well, was it this week?
 13 A Probably.
 14 Q How long did that take?
 15 A I don't recall.
 16 Q So between -- you don't remember when the meeting
 17 was and you don't remember how long it was and it
 18 was this week?
 19 A I don't know how long I talked to Eric about the
 20 deposition, no. I don't keep an egg timer on
 21 these things.
 22 Q Who else was in the room when you talked to Eric
 23 about this deposition?
 24 A Sometimes me, sometimes Tad Ottman.
 25 Q Did you review documents with Mr. McLeod?

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1 when that meeting was, and you don't remember how
 2 long it ran?
 3 A No, I do not.
 4 Q And we're at Wednesday today, so that means you
 5 don't remember what happened on Tuesday or Monday?
 6 A Like I said, I don't keep an egg timer on these
 7 things. I don't know how long we met. Eric works
 8 10 feet down the hall from where Tad and I sit. I
 9 don't keep a running total on this.
 10 Q And you -- what was your answer in regards to my
 11 question about whether you looked at documents
 12 when you met with Mr. McLeod?
 13 A I reviewed the documents on the disks that were
 14 provided.
 15 Q And you did that with Mr. McLeod?
 16 A No.
 17 Q You did that on your own?
 18 A Yes.
 19 Q And when did you do that?
 20 A Sometime in the past two days or possibly last
 21 week.
 22 Q Okay. So amongst the documents you reviewed, you
 23 reviewed Exhibit 113, which you still have in
 24 front of you?
 25 A Yes, I would have.

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1 A Not that I recall.
 2 Q When did you review the documents?
 3 A Sometime this week.
 4 Q Did you read your transcript of your prior
 5 deposition?
 6 A Yes, I did.
 7 Q Did you read the transcript of Professor Gaddie?
 8 A No, I did not.
 9 Q Did you read any other transcripts?
 10 A No, I did not.
 11 THE VIDEOGRAPHER: The time is
 12 5:18. We are going off the record. This
 13 concludes Disk No. 1 of the continuation of
 14 Mr. Adam Foltz, Disk No. 4 in the series of
 15 the deposition.
 16 (Recess taken)
 17 THE VIDEOGRAPHER: We are on the
 18 record. The time is 5:22. This marks the
 19 beginning of Disk No. 2 in the continuation
 20 of Mr. Adam Foltz and Disk No. 5 in the
 21 series. We are on the record.
 22 Q Mr. Foltz, just to summarize your preparation for
 23 this deposition, you met with Eric McLeod this
 24 week, part of the time Tad Ottman was in the room,
 25 part of the time he wasn't, but you don't remember

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1 Q Did you review it carefully?
 2 A I don't know how you would define carefully. I
 3 looked at it.
 4 Q All right. What was the caption on this document
 5 in your disk?
 6 A The captions on the disk are some Foltz, and then
 7 I don't know if it's a Bates number or something
 8 that was otherwise -- I don't know if -- what the
 9 document was titled as. There were a series of
 10 PDFs with what looked more like serial numbers to
 11 me than any identifying information.
 12 Q I have the document on my screen here, and the
 13 document is captioned *General Talking Points for*
 14 *Robin*?
 15 A Okay.
 16 Q Do you dispute that?
 17 A I don't dispute that. I don't recall that.
 18 Q Well, when you clicked on your disk, you had to --
 19 when you reviewed this document, right, you had to
 20 click on the name of the document?
 21 A Well, is it a Word or a PDF document?
 22 Q It's a Word document, Mr. Foltz.
 23 A Well, this one has holes punched in it, which
 24 would indicate it's a scanned document. So I
 25 don't know if I looked at the specific Word

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1 document you are or a scanned version of the same
 2 material.
 3 Q Okay. Now, you testified you don't remember when
 4 you made this document?
 5 A No, I don't.
 6 Q You made this document, didn't you?
 7 A Somebody did.
 8 Q Do you recall making this document?
 9 A I don't recall making this document, no. It was
 10 in my possession. I produced it.
 11 Q I only have one copy here, extra copy.
 12 MR. EARLE: Why don't we go off the
 13 record for a moment.
 14 THE VIDEOGRAPHER: The time is
 15 5:26. We are going off the record.
 16 (Recess taken)
 17 (Exhibit No. 114 marked for
 18 identification)
 19 THE VIDEOGRAPHER: The time is
 20 5:28. We are back on the record.
 21 Q Mr. Foltz, do you know what metadata is?
 22 A Yes, I do. I should say I have a rough idea. I
 23 understand metadata in the GIS context. So this
 24 obviously not being a GIS file, so I don't fully
 25 understand what metadata is.

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1 Q You understand that every Word document has a
 2 property component to it where you can see data
 3 related to that document, correct?
 4 A That makes sense, yes.
 5 Q And the document that has been tendered on the
 6 disk has metadata on it; do you understand that?
 7 A Uh-huh.
 8 Q And this exhibit before you, which is
 9 Exhibit 110 -- 114, it indicates you're the author
 10 of this document; do you see that?
 11 A I see that the author is deemed as A. Foltz, yes.
 12 Q You are A. Foltz?
 13 A Yes.
 14 Q And this document was created on June 20th, 2011
 15 at 11:45 p.m.; do you see that there?
 16 A I see 12:45 p.m., but okay.
 17 Q And you see June 20th, 2011?
 18 A Yes, I do.
 19 Q Do you dispute that you created this document on
 20 that date at that time?
 21 A I don't dispute, but I don't recall.
 22 Q Okay. And you last saved this document on
 23 July 7th, 2011 at 2:40 p.m.; do you see that
 24 there?
 25 A Yes, I do.

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1 Q Do you dispute that you last saved this document
 2 at that point in time?
 3 A I don't dispute that, but again, I don't recall
 4 that.
 5 Q So what does that tell us about when the meetings
 6 that were the subject of the document occurred?
 7 A Sometime post 6/20.
 8 Q And before 7/7?
 9 A Not necessarily. I don't know. I don't know when
 10 I would have gone back in. I don't know if I had
 11 made any edits. I don't recall.
 12 Q Were you in the meetings with Vos when he met with
 13 individual members?
 14 A Yes, I testified to that earlier.
 15 Q Okay. And these were the talking points that he
 16 used during that meeting?
 17 A I don't recall if I ever produced them for Robin,
 18 if I actually turned them over. If it was
 19 something that I produced and did not turn them
 20 over to Robin.
 21 Q I see. It says here that the last time it was
 22 saved, it was saved by you, correct?
 23 A Appears that way, yes.
 24 Q And there's no indication anywhere on the metadata
 25 that anybody else participated in the drafting or

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1 the editing or the saving or creation of this
 2 document?
 3 A The metadata wouldn't reflect everything. If
 4 somebody -- if Tad and I were talking about this,
 5 and he contributed something and it was on my
 6 computer, it wouldn't be reflected in the
 7 metadata.
 8 Q Did Tad consult with you in the creation of this
 9 document?
 10 A I don't recall. I was just using it as an
 11 example.
 12 Q And this document indicates that the total editing
 13 time was 16,629 minutes?
 14 A Yeah, that seems a little odd.
 15 Q You worked on it for a long time?
 16 A Yeah, there's something fishy there.
 17 Q Did you have the document open for a long time?
 18 A I may have had it open on my desktop. I shouldn't
 19 say open on the desktop. I may have had it open
 20 in the background or something like that. I
 21 honestly don't know where -- it doesn't take
 22 16,629 minutes to put together this much text.
 23 Q How much editing did you do to this document?
 24 A I don't recall.
 25 Q How much thought did you give to what you put into

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1 this document?
 2 A I don't recall.
 3 MR. MCLEOD: Object to the form of
 4 the question.
 5 Q I'm curious about these previously signed
 6 agreements. Each republican member of the
 7 Assembly signed an agreement before seeing
 8 information related to the maps?
 9 A Before -- when we initially met. So I don't know.
 10 How do you define the maps in this case because
 11 the first time we met with them, there were no
 12 maps other the current maps. There were no
 13 drafts. There were no proposals. It was the
 14 current maps as documented by the 2002 core plan
 15 at that point?
 16 Q Who drafted the confidentiality agreements?
 17 A I don't recall.
 18 Q Who was the custodian of the signed
 19 confidentiality agreements?
 20 A I guess it would have been me.
 21 Q And where do you store things of that type?
 22 A They would have been in the office.
 23 Q The office at Michael Best & Friedrich?
 24 A Yes.
 25 Q Did you have a file cabinet at Michael Best &

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1 Friedrich in addition to your computer?
 2 A Yes.
 3 Q And describe that file cabinet for me.
 4 A There -- it's a standard desk that has a couple of
 5 drawers on each side of it.
 6 Q Are the files that were in that desk still in that
 7 desk?
 8 A Not all of them.
 9 Q Did you turn over the files that contained the
 10 signed confidentiality agreements?
 11 A I don't remember if I retained them after the map
 12 had passed. I don't recall if I retained them or
 13 not.
 14 Q Well, are they -- well, would you consider those
 15 signed confidentiality agreements responsive to
 16 the subpoena for this deposition?
 17 A I'd have to look at that exhibit again, but my
 18 general understanding of the responsiveness is
 19 that it was anything used to draft or analyze the
 20 map. And I wouldn't say that a confidentiality
 21 agreement signed by a member was used to draft or
 22 analyze the map, no.
 23 Q How many pages was the confidentiality agreement?
 24 A I don't recall.
 25 Q Now, did you participate in any meetings with

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1 anybody where the pendency of the recalls was
 2 discussed in the context of the timetable for the
 3 redistricting process?
 4 A Not -- I can't recall a specific meeting.
 5 Q I'm going to ask you straight out. Did you ever
 6 participate in any meeting at any point in time
 7 where the pendency of the recall was discussed in
 8 the context of the timetable for redistricting?
 9 A Not that I recall.
 10 Q Did the pendency of the recall have anything to do
 11 with the accelerated timetable to complete the
 12 redistricting process?
 13 A I would say that the recall came into play in the
 14 degree that it's mentioned in these talking
 15 points, that there was a possibility of coming
 16 back to adjust the map.
 17 Q So there was, in your mind at least as you were
 18 drafting these talking points for Mr. Vos, there
 19 was an interest in getting a placeholder map in
 20 place before the recalls just in case, correct?
 21 MR. MCLEOD: Object to the form of
 22 the question. You can answer if you're able
 23 to.
 24 A What do you mean?
 25 Q Well, if the recalls occur and the republicans

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1 lose the majority in the Senate, then you may not
 2 be able to pass the map, correct?
 3 A Hypothetically, but the majority was maintained.
 4 Q Yes, we know that as a historical fact, but this
 5 was drafted before the recall elections, correct?
 6 A Yes.
 7 Q And the accelerated scheduling for passing the
 8 legislation occurred before the recall elections,
 9 correct?
 10 A It did occur before, yes.
 11 Q So the occurrence -- the pendency of the recalls,
 12 was it a factor in the accelerated schedule to
 13 pass Act 43?
 14 A I would point out that we had a already filed
 15 federal lawsuit at that point seeking to have the
 16 court intervene and draw the map.
 17 Q Mr. Foltz, I didn't ask you that. I'm not asking
 18 you about other factors. I'm asking about the
 19 pendency of the recalls, and it's influence on the
 20 schedule of passing Act 43; I want you to answer
 21 that question.
 22 A I think the bullet point is pretty
 23 self-explanatory.
 24 Q So the answer is yes, the pendency of the recalls
 25 was a factor in accelerating the schedule in the

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1 passing Act 43; is that what your answer is?
 2 A I think the recalls were a factor in that a map
 3 was being passed before them, and there -- if the
 4 Senate, I should say, came back in the majority,
 5 there was a possibility of adjusting the map.
 6 Q So the point here, there's a hypothetical
 7 explanation to an attendee in a meeting at which
 8 these talking points were being presented, and
 9 that talking point is that the map is being
 10 accelerated because of the recall, and if they
 11 don't like something about it, they can adjust it
 12 later?
 13 A Well, I would say that the bullet point is
 14 self-explanatory, and I would also say there were
 15 no adjustments made to the map.
 16 Q Did the Assembly members who signed the
 17 confidentiality agreement keep a copy?
 18 A I don't believe so.
 19 Q They were told they couldn't keep a copy?
 20 A I don't recall that they were told that.
 21 Q Did you collect a signed confidentiality agreement
 22 from every republican member?
 23 A I don't know if I collected it from every
 24 republican member, but it's a probably safe
 25 assumption.

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1 Q And when they signed the agreement, they gave it
 2 to you?
 3 A Yes.
 4 Q What did the agreement say?
 5 A I don't recall.
 6 Q You don't recall anything about what the agreement
 7 said?
 8 A No, I don't. It was a long time ago.
 9 Q Exhibit 112, if you could grab it there?
 10 A Okay.
 11 Q Now, as I understand your testimony, Exhibit 112
 12 is what the -- what the legislative districts look
 13 like under the 2010 census data before they were
 14 reapportioned, correct?
 15 A Yes, that's accurate.
 16 Q So according to this, the 8th Assembly district
 17 is 69.68 percent total population Hispanic?
 18 A 69.68, yes.
 19 Q Percent?
 20 A Correct.
 21 Q What was the 8th Assembly District ultimately
 22 passed in Act 43?
 23 A And you're referring to the total Hispanic
 24 percentage, the blue column there?
 25 Q Yeah.

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1 A Or the HVAP?
 2 Q Well, the HVAP is 65.5 percent, correct?
 3 A Right. And you're asking about Act 43 in regard
 4 to the blue column Hispanic or the HVAP in green
 5 and yellow?
 6 Q Well, the 69.68 percent is what the percentage was
 7 before reapportion, correct?
 8 A Correct. Of total Hispanic population, yes.
 9 Q And the 65.5 percent is the HVAP before
 10 reapportion, correct?
 11 A Correct.
 12 Q And I'm asking you what the HVAP was in the
 13 reapportion?
 14 A Okay, so it's HVAP. I just wanted to clarify
 15 which column we were talking about. 60.
 16 Q So you reduced the HVAP in the 8th Assembly
 17 District by five percent points?
 18 A I wouldn't agree with the characterization of
 19 that, no, I wouldn't.
 20 Q Well, statistically, it was 65.5 before you
 21 touched it, and after you finished with it, it was
 22 60?
 23 A And it was also malapportioned district.
 24 Q Yes, I understand that. We're not accounting for
 25 the 2,828 people that needed to be added?

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1 A Uh-huh. So again, I wouldn't agree with -- as of
 2 census day, it was 65.5. At the time of court
 3 passage in '02, it was 60.
 4 Q Are you testifying here today that it was not
 5 possible to maintain those population thresholds
 6 and add 2,828 people to that district?
 7 A I wouldn't be able to answer that without the
 8 mapping software.
 9 Q Did you try?
 10 A Not that I recall.
 11 Q Did anybody involved in the team try?
 12 A Not that I recall. I would offer that the 64.50
 13 amendment that was introduced to committee shares
 14 a great deal of geographic shape similarity, which
 15 would probably -- well, answers your question, to
 16 a degree that the amendment that was offered at
 17 64.50 shared a lot in common with the current
 18 configuration in the 8th Assembly District in just
 19 it's simple shade.
 20 Q So why are you telling me that?
 21 A Because you were asking if alternative --
 22 Q No, I was asking that at all. I was asking you if
 23 you tried to match these numbers?
 24 A What do you mean by *match these numbers*?
 25 Q Well, you have a district that you're about to

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1 reapportionment that's about 2,828 people short of
 2 the -- of an equalized value. And the question is
 3 whether or not you tried to add 2,828 people and
 4 maintain a district that was 65.5 percent HVAP?
 5 A And I told you that these --
 6 Q The answer is that you didn't, right?
 7 A No, the answer is that I don't recall. But I was
 8 pointing out the 64 alternative that was offered
 9 as an amendment is very similar to what you're
 10 describing as far as the term you had used is a
 11 least changed district.
 12 Q We can look at the metadata for this chart and
 13 figure out when you made it, can't we?
 14 A I'm sure you can.
 15 Q You want to hazard an estimation as to when you
 16 did that?
 17 A Pretty early in the process.
 18 Q What month?
 19 A Don't know.
 20 Q This is before you showed it to anybody, right?
 21 This is before you started having the meetings
 22 with legislators?
 23 A I don't recall. And the other thing I would point
 24 out too is that she had multiple tabs to it too.
 25 That it was continually added on to as the process

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1 came -- you know, as the process evolved.
 2 Q Now, I listened to your testimony in response to
 3 Mr. Poland's questions about this, and I frankly
 4 didn't understand it, this Exhibit 112. In
 5 particular, I didn't understand your testimony
 6 about the three race average. What is that
 7 designed to gauge?
 8 A It's an amalgamation, it appears to be, of three
 9 races. I don't recall which races specifically,
 10 to measure the partisan percentage.
 11 Q So this is a statistic that gives a reader some
 12 indication of the partisan percentage?
 13 A I believe that's accurate, yes.
 14 Q And so the higher the percentage, the better for
 15 the republicans, and the lower, the worse for the
 16 republicans; is that accurate?
 17 A I would say I wouldn't couch it in terms of better
 18 or worse, but I would say based on the historical
 19 political races that were used to create composite
 20 higher will equal higher GOP composite, yes.
 21 Q And what's the ALL0410?
 22 A I don't recall which races were used for that one.
 23 I don't know if that's a reference to every race
 24 that is part of the Autobound data set. I'm not
 25 sure if that is state-wide, constitutional,

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1 federal; I'm not exactly sure what races went into
 2 that composite.
 3 Q But that also is an indicia of partisanship pro or
 4 con republican, correct?
 5 A Yes.
 6 Q And then the Delta, what is the Delta?
 7 A It appears to be the difference between the two.
 8 Q And cycles GOP, what does that mean?
 9 A It appears to be who represented the district at
 10 various points within the decade.
 11 Q So what does that number stand for? So if we look
 12 at District 1, it's republican across the board,
 13 right?
 14 A Yes.
 15 Q And cycles GOP, that means in those five races,
 16 2002, 2004, 2006, 2008, and 2010, a republican was
 17 elected each time?
 18 A It appears that way, yes.
 19 Q And the one below that, there was a democrat
 20 elected in 2008, that's in District 2; that's why
 21 there's a 4 there?
 22 A Correct.
 23 Q Is this matrix, with regards to partisanship, the
 24 product of Dr. Gaddie's work?
 25 A No.

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1 Q You figured out all by yourself how to do all this
 2 and come up within index for partisanship?
 3 A Well, we were playing around with different
 4 composites. I'm not sure if I developed that
 5 composite. I'm not sure if Tad did. I'm not -- I
 6 don't recall exactly who did.
 7 Q Did you get any advice from Professor Gaddie in
 8 constructing the partisanship index?
 9 A There was an e-mail that referenced the
 10 conversation of that earlier in the day -- in the
 11 deposition.
 12 Q So I guess I want to be clear about is that
 13 Professor Gaddie participated with you in
 14 constructing this partisanship analysis mechanism,
 15 correct?
 16 MR. MCLEOD: Object to the form of
 17 the question. I think it's vague and
 18 ambiguous what you're asking about, Peter.
 19 But to the extent you can answer the
 20 question, please do so.
 21 A I would say that the e-mail that we looked at
 22 earlier today was Dr. Gaddie relaying how a metric
 23 he was working on related to one or both of these
 24 metrics.
 25 Q You have an exhibit there in front of you, 96 -- I

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1 guess before we go away from 112, is there
 2 anything else you can remember about 112 to help
 3 us figure out when you did this?
 4 A Like I said, it was an ongoing, probably created
 5 early, but may have been modified. I may have
 6 dumped out the census data earlier, but added on
 7 the political representation history later. I
 8 don't know exactly when those various editions
 9 occurred.
 10 Q And who did you share this with?
 11 A I'm sure Tad Ottman. Beyond that, I don't recall.
 12 Q Did you share it with Eric McLeod?
 13 A He may have seen it, but I don't recall
 14 specifically sharing it with him.
 15 Q You don't have any recollection of discussing it
 16 with Eric McLeod?
 17 A Not particularly.
 18 Q How about Ray Taffora?
 19 A No.
 20 Q How about Joe Handrick?
 21 A I don't recall discussing this spreadsheet
 22 specifically with Joe Handrick, no.
 23 Q What about with your boss?
 24 A Doesn't ring a bell.
 25 Q What?

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1 A I don't recall.
 2 Q You don't recall?
 3 A No.
 4 Q Anybody else?
 5 A I don't recall sharing this with anyone.
 6 Q Why don't you grab Exhibit 96? I think it is in
 7 front of you there. I think in the other stack
 8 there.
 9 A 96, there we go.
 10 Q If you look at the bottom of 96, it's an e-mail
 11 from you to Professor Gaddie, Jim Troupis, and
 12 Eric McLeod with a cc to Tad Ottman and
 13 Joseph Handrick; do you see that there?
 14 A Yes, I do.
 15 Q The caption is *The Hispanic Community Speaks in*
 16 *Milwaukee* is the caption?
 17 A I didn't yes.
 18 Q Where did that caption come from?
 19 A I don't know.
 20 Q You wrote it, right?
 21 A Yes.
 22 Q Would you read into the record what the e-mail
 23 says, what you wrote?
 24 A *Team, please take a look at the attached press*
 25 *release from Voces de la Frontera regarding*

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1 *Milwaukee's aldermanic districts. They are*
 2 *lobbying for a third Hispanic district increasing*
 3 *the Hispanic voting age population in the*
 4 *already-proposed Hispanic districts. In a 15-seat*
 5 *plan, the ideal population for an aldermanic*
 6 *district is 39,656 compared to 57,444 per Assembly*
 7 *districts. Then there is a link to wispolitics*
 8 *hyperlink. And then following that, Any thoughts*
 9 *on how this could tie into our thought process*
 10 *regarding the south side? Adam.*
 11 Q Now, attached to that is a press release from
 12 wispolitics?
 13 A Yes.
 14 Q If you look down at the URL, you'll see that it
 15 matches the URL on the link?
 16 A Okay.
 17 Q Do you recall seeing that? That's the press
 18 release you were referring to?
 19 A I don't recall it specifically, but I attached it
 20 to the e-mail.
 21 Q But you read it, right?
 22 A At some point, yes.
 23 Q But you read it before you sent it to the rest of
 24 the team?
 25 A Yes.

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1 Q Now, this press release indicates that the Latino
 2 community wants to have aldermanic districts of at
 3 least 70 percent; do you see that there?
 4 A I see that, yes.
 5 Q Now, you discussed with Jim Troupis and
 6 Eric McLeod this idea of a 70 percent threshold,
 7 right?
 8 A I don't recall discussing that, no. I sent him
 9 the e-mail.
 10 Q Well, you got a response to your e-mail from
 11 Jim Troupis, right?
 12 A Yes.
 13 Q And you read the response you got from
 14 Jim Troupis, right?
 15 A Yes.
 16 Q What's the response say to you? Why don't you
 17 read into the record what Jim Troupis wrote back
 18 to you when you sent him that press release?
 19 A *The problem here is that the group wants 70*
 20 *percent. This is a classic overkill. I am*
 21 *already worried about 65 percent and now we have*
 22 *groups wanting 70. Can we see what it would look*
 23 *like? I assume it makes the second Assembly*
 24 *direct not much better than 50 to 55 percent.*
 25 Q You recall receiving that response?

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1 A Yes.
 2 Q So you agree that there was a discussion between
 3 you, amongst the team, about this idea of a 70
 4 percent threshold being requested by at least
 5 Voces de la Frontera, right?
 6 A I would agree that there are two e-mails, yes.
 7 Q Are you -- you will not agree that there was a
 8 discussion about the 70 percent threshold?
 9 A I think you have the discussion in your hand.
 10 Q What did -- what did you understand Jim Troupis to
 11 mean that *this is classic overkill*?
 12 A You would have to ask Jim. I don't know what he
 13 means by overkill.
 14 Q Well, did you ask him when you received this
 15 e-mail?
 16 A Well, not that I recall.
 17 Q Did the team consider the possibility of drawing
 18 an Assembly district with a 70 percent population
 19 threshold?
 20 A I don't recall. Considered in so much that this
 21 e-mail referenced aldermanic districts. And I
 22 think it should be pointed out that it's a bit of
 23 an apples to oranges comparison because of just
 24 the ideal population thresholds you need to meet.
 25 Q Well, obviously you framed it in your initial

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1 e-mail that there's a difference of 39,000 to
 2 57,000 between an aldermanic district and an
 3 Assembly district, right?
 4 A In a 15-seat plan. If memory serves, Milwaukee
 5 was talking about the possibility of changing the
 6 size of the board. So that was in a 15-seat plan
 7 scenario.
 8 Q So you're testifying that the common council of
 9 the city of Milwaukee was contemplating reducing
 10 the size of the common council to a 15-member
 11 Assembly?
 12 A I don't remember where they're at right now or
 13 where they were at at the time of this e-mail. I
 14 know if 15 is a reduction or status quo. I don't
 15 recall.
 16 Q Why did you decide to talk about a 15-seat city
 17 plan?
 18 A Is that referenced in the attachments?
 19 Q The next sentence says, "I am already very worried
 20 about the 65 percent, and now we have groups
 21 wanting 70 percent." What did you understand
 22 Jim Troupis to be -- what the reason he was
 23 worried about the 65 percent?
 24 A I don't know.
 25 Q Well, did you ask him?

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1 A Not that I recall.
 2 Q But he wasn't just worried. He was very worried
 3 about the 65 percent. I mean, there seems to be
 4 some emphasis in his language here.
 5 MR. MCLEOD: Excuse me, I scratched
 6 my throat.
 7 Q That seems to me that that would be something that
 8 the team discussed, that Mr. Troupis was very
 9 worried about it?
 10 A Was there a question in there?
 11 Q Yeah. I mean, so it's your testimony here that
 12 you don't recall that being discussed,
 13 Mr. Troupis's concerns?
 14 A No, I don't recall discussing that.
 15 Q He then asks, "Can we see what that would look
 16 like?" Now, he's referring here to a 70 percent
 17 district, right?
 18 A I'm not sure if he's referring to a 70 percent.
 19 He could be referring to a 70 percent -- yeah,
 20 he's probably referring to a 70 percent Assembly
 21 district there.
 22 Q I mean, you were in charge of crunching the
 23 numbers for the Assembly, right?
 24 A It was a collaborative effort.
 25 Q But you were the lead on actually punching the

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1 numbers, right?
 2 A I was one of the people tasked with that. I
 3 wouldn't say I was in the lead. It was, as I
 4 testified to earlier, a collaborative effort.
 5 Q But as far as the Assembly goes, who else besides
 6 you would be in a significant position with
 7 regards to crunching the numbers for the Assembly?
 8 A Tad Ottman, Joe Handrick, Keith Gaddie.
 9 Q I thought the testimony was that Tad Ottman was
 10 kind of a lead for the Senate and you were the
 11 lead for the Assembly?
 12 A You don't draw Senate districts; you draw Assembly
 13 maps, which three of them together draws the
 14 Senate district. You draw Assembly maps. And I
 15 also testified to that we did not have a bright
 16 line of the way our labor was divided.
 17 Q Did anybody take a look at what a 70 percent
 18 district would look like in using Mr. Troupis's
 19 words?
 20 A I don't recall.
 21 Q So was there ever a map created with a 70 percent
 22 Latino total population?
 23 A Total or HVAP?
 24 Q Total population?
 25 A Because the current districts are both over 70

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1 percent total.
 2 Q I'm sorry, HVAP.
 3 A HVAP, I don't recall if a 70 percent HVAP district
 4 was created by the redistricting team.
 5 Q Give me one moment here. It's your testimony that
 6 both the 8th and 9th Assembly districts total
 7 population is over 70 percent?
 8 A I believe the total, not HVAP. I believe that's
 9 the case. I'd have to --
 10 Q What would you need to look at to refresh your
 11 recollection about that?
 12 A Probably it might be part of the LRB cover sheets
 13 that are attached to the map. Otherwise, it's
 14 part of the Autobound software. But I wouldn't
 15 say that they're total -- I may be referring to
 16 total minority population by mistake. I just
 17 don't have the number in front of me.
 18 Q Now, this discussion about what a 70 percent
 19 district would look like, and it's effect on a
 20 second Assembly district comes under a capitalized
 21 caption that says *Attorney-Client Privilege*
 22 *Litigation Preparation*?
 23 A Uh-huh.
 24 Q So was it your understanding that the discussion
 25 about whether a 70 percent district was possible

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1 was discussed in the context of preparing for
 2 litigation?
 3 A I can't speak to why Jim Troupis writes what
 4 Jim Troupis writes in an e-mail.
 5 Q Well, I mean, the other e-mails to you didn't have
 6 that kind of litigation preparation emphasis in
 7 them. Didn't you find that kind of odd that he
 8 responds to you with these big words, capital
 9 letters?
 10 MR. MCLEOD: Object to the form.
 11 Answer if you can.
 12 A Like I said, I can't speak to why Jim Troupis does
 13 what Jim Troupis does.
 14 Q But you agree that in the other e-mails you
 15 received from Jim Troupis, he didn't capitalize on
 16 the front before the discussion *Litigation*
 17 *Preparation*, correct?
 18 A I don't know that for a fact. I'll take your word
 19 for it.
 20 Q Those regional meetings that you had --
 21 A Uh-huh.
 22 Q -- you were in the room during the regional
 23 meetings, right?
 24 A That's correct.
 25 Q And Tad Ottman was in the room?

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1 A Yes.
 2 Q Was Joe Handrick in the room?
 3 A Sometimes, yes.
 4 Q And the leadership of the legislature was in the
 5 room?
 6 A Yes.
 7 Q Was counsel in the room?
 8 A Yes.
 9 Q You took notes?
 10 A No.
 11 Q Did counsel take notes?
 12 A I don't know.
 13 Q Well, you were in the room; did Mr. McLeod have a
 14 legal pad with him?
 15 A I don't recall.
 16 Q Did anybody write anything down?
 17 A I don't recall.
 18 Q Well, how -- how were the decisions that were made
 19 in that room recorded for purposes of
 20 implementation?
 21 A Any number of ways. We had the -- we had the
 22 mapping software sitting right there. I guess I'm
 23 not following the question. We were in the room
 24 with the computers that contained the mapping
 25 software. We had printed paper copies, and that

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1 was that.
 2 Q So decisions were made as to which way to go in
 3 each region, right?
 4 A Yes.
 5 Q And so how many regions were there; quite a few
 6 regions, right?
 7 A A fair number.
 8 Q So how did you keep track of what you were
 9 deciding?
 10 A I don't recall. It could have been that I set
 11 aside the sheet that was the alternative
 12 leadership decided to go with. I may have made a
 13 notation on the sheet of paper and set that aside.
 14 I don't recall exactly how I tracked that.
 15 Q And it's your affirmative testimony that none of
 16 the other participants in that meeting were taking
 17 notes?
 18 MR. MCLEOD: Objection, form of the
 19 question.
 20 MR. KELLY: Objection,
 21 mischaracterizes his testimony.
 22 MR. EARLE: Well, I'm asking him.
 23 MR. KELLY: No, you're not.
 24 Q Is it your affirmative testimony that nobody in
 25 that room was taking notes?

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1 A I don't recall what people were doing in that room
 2 with regard to note taking.
 3 Q Who was in the room for the regional meeting where
 4 the 8th Assembly District was discussed?
 5 A Well, as I talked to Doug about earlier, Milwaukee
 6 was more locked in by the time we -- we had the
 7 regional terms, but Milwaukee was more about
 8 addressing minority districts, coming to the room,
 9 explaining the leadership, explaining where we
 10 were. We walked through the different
 11 configurations of the Hispanic districts in 8
 12 and 9 and went from there.
 13 Q Is it a fair characterization of the situation at
 14 that point in time, when you had that locked in,
 15 and you walked into the room, that there was a
 16 predisposition to flexibility as to the
 17 configuration of the 8th versus the 9th as long as
 18 it stayed within the boundaries that had been set
 19 for the Senate district?
 20 A Could you say that again? I'm not following
 21 where --
 22 Q You came up with a set of boundaries for the 3rd
 23 Senate District, correct?
 24 A Well, the Assembly districts contained within.
 25 Q And it's my understanding that, and maybe I'm

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1 wrong about this, but it's my understanding from
 2 the testimony I've heard up to this point that
 3 there was flexibility as to how the 8th and
 4 the 9th were configured relative to each other as
 5 long as they stayed within the boundaries -- the
 6 outside boundaries of those two districts
 7 combined?
 8 A The alternatives presented to leadership at that
 9 time, the amendments that are available would have
 10 been in that pod.
 11 Q So the outside boundaries of the pod would not
 12 change; it was just simply within the pod, right?
 13 A They could have changed, but the three
 14 alternatives that were put out there publicly, and
 15 I would say those three alternatives were within
 16 the pod.
 17 Q Have you spoken with Professor Gaddie?
 18 A Yes.
 19 Q When was the last time you spoke with
 20 Professor Gaddie?
 21 A I don't recall.
 22 Q Was it since the Act 43 was adopted?
 23 A Yes.
 24 Q Was it in the last week have you spoken with him?
 25 A No.

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1 Q How about in the last two weeks?
 2 A No.
 3 Q How about since his deposition?
 4 A No.
 5 Q How about before his deposition?
 6 A It would have been before his deposition, yes.
 7 Q Did you talk to Professor Gaddie in terms of his
 8 preparation for the deposition?
 9 A No.
 10 Q You consider Professor Gaddie as part of the team,
 11 correct?
 12 A I would say he's a retained expert.
 13 Q As you were coming up with the redistricting plan,
 14 he was part of the team to do that, correct?
 15 A He was a retained expert to consult on matters
 16 regarding redistricting in the State of Wisconsin.
 17 Q You want to call him a retained expert, but was he
 18 part of the team functionally?
 19 MR. MCLEOD: I'm going to object.
 20 I think you've asked it about three times
 21 now. If you want to keep asking him, that's
 22 fine. We can sit here as long as --
 23 MR. EARLE: I want to get an answer
 24 to the question and move on.
 25 MR. MCLEOD: I think he has

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1 answered the question twice now.
 2 Q I understand he was retained expert. Did you
 3 consider him to be part of the team?
 4 A He was a retained expert. Make it three.
 5 Q Make it three times.
 6 MR. EARLE: I think I'm done.
 7 Wait.
 8 MR. MCLEOD: Once you say you're
 9 done, you're done.
 10 THE WITNESS: It's my fault. I
 11 should have been quicker on the trigger.
 12 THE VIDEOGRAPHER: We are going off
 13 the record. This concludes the video
 14 deposition of Mr. Adam Foltz. The time is
 15 6:08 p.m.
 16 (Adjourning at 6:09 p.m.)
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1 STATE OF WISCONSIN)
) ss.
2 COUNTY OF DANE)

3 I, BRANDÉ A. BROWNE, a Registered Professional
4 Reporter and Notary Public duly commissioned and
5 qualified in and for the State of Wisconsin, do
6 hereby certify that pursuant to subpoena, there came
7 before me on the 1st day of February 2012, at 3:11 in
8 the afternoon, at Godfrey & Kahn, S.C., Attorneys at
9 Law, One East Main Street, Suite 500, the City of
10 Madison, County of Dane, and State of Wisconsin, the
11 following named person, to wit: ADAM R. FOLTZ, who
12 was by me duly sworn to testify to the truth and
13 nothing but the truth of his knowledge touching and
14 concerning the matters in controversy in this cause;
15 that he was thereupon carefully examined upon his
16 oath and his examination reduced to typewriting with
17 computer-aided transcription; that the deposition is
18 a true record of the testimony given by the witness;
19 and that reading and signing was not waived.
20 I further certify that I am neither
21 attorney or counsel for, nor related to or employed
22 by any of the parties to the action in which this
23 deposition is taken and further that I am not a
24 relative or employee of any attorney or counsel
25 employed by the parties hereto or financially

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1 interested in the action.
2 In witness whereof I have hereunto set my
3 hand and affixed my notarial seal this 6th day of
4 February 2012.
5
6
7 _____
Notary Public, State of Wisconsin
Registered Professional Reporter
8 My commission expires
April 21, 2013
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	<p>110 [4] - 251:18, 317:10, 317:13, 350:9</p>	<p>260:16, 261:16, 332:11, 333:5, 358:13, 363:16</p>	<p>39,000 [1] - 370:1 39,656 [1] - 367:6</p>	<p>6</p>
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