

VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

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
TAD M. OTTMAN

Madison, Wisconsin
December 22, 2011

Sarah Finley Pelletter, RPR
Registered Professional Reporter

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

Defendants,

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

Intervenor-Defendants.

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

Plaintiffs,

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

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

Defendants.

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21	(The original exhibits were attached to the original transcript and copies were provided to counsel)	
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24		
25	(The original deposition transcript was filed with Attorney Douglas M. Poland)	

3

1 VIDEOTAPE DEPOSITION of TAD M. OTTMAN,
2 a witness of lawful age, taken on behalf of the
3 Plaintiffs, wherein Alvin Bladus, 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 Sarah Finley Pelletter, a Registered
9 Professional Reporter and Notary Public in and for
10 the State of Wisconsin, at the offices of
11 Godfrey & Kahn, S.C., Attorneys at Law, One East Main
12 Street, in the City of Madison, County of Dane, and
13 State of Wisconsin, on the 22nd day of December 2011,
14 commencing at 9:24 in the forenoon.

15

16

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

18

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

24

25

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

VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

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

2

3 P. SCOTT HASSETT, Attorney,
for LAWTON & CATES, S.C., Attorneys at Law,
4 Ten East Doty Street, Suite 400, Madison,
5 Wisconsin 53703, appearing on behalf of the
Intervenor-Plaintiffs.

6

7 MARIA S. LAZAR, Assistant Attorney General,
for STATE OF WISCONSIN DEPARTMENT OF JUSTICE,
8 17 West Main Street, Madison, Wisconsin 53703,
appearing on behalf of the Defendants.

9

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

12

13 THOMAS L. SHRINER, JR., Attorney,
for FOLEY & LARDNER, LLP, Attorneys at Law,
14 777 East Wisconsin Avenue, Milwaukee,
Wisconsin 53202, appearing on behalf of the
15 Intervenor-Defendants.

16

17 ERIC M. MCLEOD, Attorney,
for MICHAEL BEST & FRIEDRICH LLP, Attorneys at Law,
One South Pinckney Street, Suite 700, Madison,
18 Wisconsin 53703, appearing on behalf of the
Wisconsin State Senate by its Majority Leader
19 Scott Fitzgerald, the Wisconsin Assembly by its
Speaker Jeff Fitzgerald, and Tad M. Ottman.

20

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

24

25

5

1 TAD M. OTTMAN,

2 called as a witness, being first duly sworn,
3 testified on oath as follows:

4

5 MR. KELLY: Mr. Hassett, before you
6 begin, could we put on the record the same
7 agreement we've had the last two days with
8 respect to objections, and that being that
9 when one attorney makes an objection, that
10 stands as an objection for all attorneys
11 without the necessity of each attorney
12 individually joining the objection. Do all
13 counsel agree to that arrangement?

14 MR. HASSETT: Yes.

15 MR. POLAND: Yes.

16 MS. LAZAR: Yes.

17 MR. SHRINER: Yes.

18 MR. EARLE: Yes.

19 MR. POLAND: Before you begin,
20 Peter, we are getting some feedback there
21 coming through. If you could mute your line
22 or stop whatever that background noise is, it
23 would be much appreciated.

24 MR. EARLE: Is it going on now?

25 MR. POLAND: No.

6

1 MR. EARLE: It's when I walk over
2 toward the refrigerator. Okay. I'll stay
3 away from the refrigerator.

4 THE VIDEOGRAPHER: And just so the
5 room knows, if there is interference that
6 drowns out an answer or something, I will
7 have to inform you that it did not come
8 across.

9

10 EXAMINATION

11 By Mr. Hassett:

12 Q Good morning, Mr. Ottman. My name is
13 Scott Hassett. And have you ever given a
14 deposition before?

15 A I have not.

16 Q Well, if you don't understand any of my questions,
17 please let me know. And you have to respond
18 orally and not a shake of the head because the
19 transcript won't pick that up.

20 I want to ask you a few questions on your
21 background. I suspect Mr. Poland will go through
22 it in much more detail later. But where are you
23 currently employed?

24 A I'm employed for the Wisconsin State Senate,
25 Senator Scott Fitzgerald.

7

1 Q And how long have you had that position?

2 A I've been with him for about seven years.

3 Q And where did you work prior to that?

4 A Prior to that, I worked for State Senator
5 Mary Panzer.

6 Q And how long a period did you work for
7 Senator Panzer?

8 A I believe it was about 13 years.

9 Q Have you worked on redistricting prior to this
10 most recent effort in 2011?

11 A I have.

12 Q Would you describe your experience in
13 redistricting?

14 A I have assisted in past redistrictings in terms of
15 reviewing maps and some drafting software,
16 drafting with the software.

17 Q Okay. And what years?

18 A In the years following the 1990 and the 2000
19 censuses.

20 Q So this was your third involvement in
21 redistricting?

22 A That's correct.

23 Q This most recent one this year?

24 A Yes.

25 Q Thank you. In this year, 2011, did you have any

8

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1 involvement in the Congressional redistricting?
 2 A I facilitated the drafting of the Congressional
 3 plan.
 4 Q Would you explain what you did there?
 5 A I transmitted a file or took a file to the
 6 Legislative Reference Bureau to have the bill
 7 drafted.
 8 Q Now, when you say you facilitated the drafting,
 9 did you actually engage in any drafting or drawing
 10 any lines?
 11 A I did not.
 12 Q So all you did was deliver some material from
 13 where to where?
 14 A I got an e-mail from counsel containing a
 15 Congressional plan that I delivered to the
 16 Legislative Reference Bureau.
 17 Q Now, Mr. Foltz testified yesterday, and I may be
 18 wrong, but I thought he said he did that. Did the
 19 two of you do that together?
 20 A We worked together to make sure that the plan --
 21 to check the plan, that it imported correctly, and
 22 then copied it onto a disk and delivered it to the
 23 Legislative Reference Bureau.
 24 Q Okay. Now, prior to that, did you have any
 25 involvement in map work with these districts or

1 drawing any lines in these Congressional
 2 districts?
 3 A I did not.
 4 Q You did not. What's your understanding of who did
 5 it or how it came about?
 6 A I'm not certain who drafted the map.
 7 Q Well, who do you believe did it?
 8 A I believe it was the congressmen.
 9 Q And by congressmen, are you referring to anyone
 10 specifically?
 11 A I believe that staff to Representative Ryan was
 12 involved.
 13 Q And who would that be?
 14 A Andy Speth.
 15 Q How do you spell Mr. Speth's name?
 16 A I believe his last name is S-p-e-t-h.
 17 Q And did you have any interaction with Mr. Speth in
 18 the context of redistricting?
 19 A I had a couple phone conversations with him.
 20 Q What was the nature of those conversations?
 21 A It related mainly to timing of legislative action.
 22 Q And if you would explain that further please.
 23 This was prior to the law being passed, Act 44?
 24 A That's correct.
 25 Q And who initiated the call?

1 A I don't recall.
 2 Q And specifically timing as to what, what's your
 3 best recollection of the conversation?
 4 A My recollection of the conversation was that he
 5 wanted to know when the legislature anticipated
 6 acting on the legislation.
 7 Q Do you know approximately when this was?
 8 A I'm not sure --
 9 Q The call, I'm sorry.
 10 A Oh, the call?
 11 Q Yeah.
 12 A I don't recall.
 13 MR. HASSETT: Are we going to mark
 14 this all as one exhibit, Doug?
 15 MR. POLAND: Yeah, I was going to
 16 mark it all as one exhibit.
 17 MR. HASSETT: Where are we in the
 18 numbers?
 19 MR. POLAND: We can mark it here.
 20 (Exhibit Nos. 33 and 34 marked for
 21 identification)
 22 MR. HASSETT: What's the number?
 23 MR. POLAND: 33 is the stack of
 24 paper.
 25 Q Mr. Poland is handing you Exhibit 33. And within

1 that exhibit, there is an e-mail, and it's from
 2 Ryan Squires. Who is he?
 3 A He is tech support personnel with the Legislative
 4 Technology Services Bureau.
 5 Q Now, here's a -- I don't know if I can get up and
 6 walk around, I'm linked up.
 7 MS. LAZAR: What's the date?
 8 Q This is about, it's about halfway down. Is there
 9 a paper clip in your file there? It's the
 10 document above the paper clip.
 11 A Yes.
 12 Q Yeah, you got it.
 13 MR. SHRINER: Is this a two-page
 14 e-mail?
 15 MR. HASSETT: No, it's a one-page.
 16 Q It begins at the top, it says Hi, Adam and Tad,
 17 and it's from Ryan Squires, it's an e-mail, and
 18 then there's another one underneath from
 19 Michael Keane to Van Der Wielen and Squires, and
 20 it's dated May 11th. Do you recognize this
 21 document?
 22 A Yes, I do.
 23 Q And what is this about?
 24 A This was the -- Michael Keane from the LRB was
 25 working with the Legislative Technology Services

1 Bureau to verify home addresses of the incumbent
2 congressmen.
3 Q And why is that?
4 A I'm not certain why he was doing that.
5 Q It looks like Mr. Squires -- well, explain the
6 e-mail from Mr. Squires to Adam and Tad. I assume
7 that's Adam Foltz?
8 A That's correct.
9 Q And you. And what is that about?
10 A I believe that what he was looking for in this
11 e-mail was whether or not we believed those
12 addresses to be correct for the purposes of
13 plotting them on the redistricting software.
14 Q Okay. And again, was this your only involvement
15 in the Congressional redistricting then,
16 attempting to assist to find these addresses?
17 A I don't recall doing anything with this e-mail,
18 other than looking at the addresses.
19 Q Did you observe any Congressional redistricting
20 maps prior to the passage of Act 44, other than
21 the facilitation you did to the LRB?
22 A I did not.
23 Q In other words, I'm assuming you worked on the
24 legislative maps over a period of months this
25 year, correct?

13

1 A That's correct.
2 Q And in the context of that work, you never
3 observed any Congressional maps proposed for
4 Act 44?
5 A I did not.
6 Q All right.
7 MR. HASSETT: Thank you. I have
8 nothing more.
9 MR. POLAND: I've got a couple of
10 follow-up questions on Mr. Hassett's
11 questions, and then I'll start my exam.
12
13 EXAMINATION
14 By Mr. Poland:
15 Q One follow-up question. You mentioned,
16 Mr. Ottman, that you've received an e-mail from
17 counsel that you were to deliver a file to the
18 LRB, correct?
19 A That's correct.
20 Q Who was the attorney who sent you that e-mail?
21 A Eric McLeod.
22 Q Was anyone else copied on that e-mail?
23 A I'm not certain.
24 Q Did Mr. McLeod say anything specifically to you in
25 that e-mail about delivering that file?

14

1 A Not that I recall.
2 Q Simply instructed you to deliver it to the LRB?
3 A I don't know that there was any instruction. I
4 believe it contained the file. I don't know, I
5 don't recall what the text was.
6 Q Is that e-mail anything that you've included
7 within your production of materials today?
8 A I don't believe so.
9 Q Is there a reason that you didn't produce it
10 today?
11 MR. McLEOD: Can you go back one?
12 What was the former question?
13 MR. SHRINER: Transmittal e-mail.
14 MR. POLAND: Transmittal e-mail.
15 MR. McLEOD: Can you read the --
16 (Question read)
17 MR. McLEOD: And I guess the
18 question is the e-mail between whom and whom?
19 Q You testified before that you received an e-mail
20 from Mr. McLeod, and you delivered that e-mail to
21 the LRB, correct?
22 MR. POLAND: He can answer the
23 question.
24 MR. McLEOD: Uh-huh.
25 MR. POLAND: Whether he testified

15

1 to that or not.
2 A I delivered the file that was contained in the
3 e-mail.
4 Q And Mr. McLeod sent you that e-mail that attached
5 the file, correct?
6 A Correct.
7 Q And that's the file you delivered to LRB, correct?
8 A Correct.
9 Q Did you simply forward that e-mail to LRB?
10 A No.
11 Q You didn't. How did you deliver the file to LRB?
12 A I imported it into the redistricting software and
13 then copied the plan on to a DVD.
14 Q Did -- is the e-mail that Mr. McLeod sent to you
15 attaching the file, is that e-mail contained
16 within the materials you've produced today?
17 A I don't believe so.
18 Q Is there a reason that you did not include it
19 within the materials that you've produced today?
20 A I didn't believe it was responsive to the
21 subpoena.
22 Q Did you receive any -- and I'm going to limit this
23 question now with respect to Act 44 in the
24 Congressional districts. Did you receive any
25 other e-mails from anyone relating to Act 44 or

16

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1 the Congressional districting?
 2 **A** Only as it relates to timing of legislative
 3 action.
 4 **Q** And was that the e-mail correspondence that
 5 Mr. Hassett was just asking you about?
 6 **A** I believe so, yes.
 7 **Q** Did you have any e-mail communications with any
 8 counsel about the timing of Act 44 and when it
 9 would be taken up by the legislature?
 10 MR. McLEOD: I'm going to assert an
 11 objection on grounds of attorney-client
 12 communication, and to the extent that what
 13 you're seeking is the substance of any
 14 attorney-client communications, I'm going to
 15 instruct the witness not to answer.
 16 **Q** Are you going to follow counsel's instruction not
 17 to answer the question?
 18 **A** I am.
 19 **Q** Other than any communications with counsel and the
 20 communications that Mr. Hassett just asked you
 21 about, were there any other communications that
 22 you had with anyone by e-mail regarding Act 44 or
 23 the Congressional redistricting?
 24 **A** Not that I recall.
 25 MR. POLAND: I'm going to stop

17

1 there.
 2 MR. SHRINER: I just have a
 3 clarification question, because I heard you
 4 asking something different from Mr. Hassett.
 5
 6 EXAMINATION
 7 By Mr. Shriner:
 8 **Q** The communications, the couple that you, one or
 9 two that you testified to, Mr. Ottman, between you
 10 and Mr. Speth about legislative timing, were those
 11 e-mails or telephone, as you recall?
 12 **A** As I recall, it was both.
 13 MR. SHRINER: Okay. I thought you
 14 said, Mr. Hassett, there was a phone call,
 15 and then I thought Mr. Poland asked about an
 16 e-mail. So if you had both, that's the
 17 answer. Thank you.
 18 MR. POLAND: Scott, did you have
 19 any follow-up questions?
 20 MR. HASSETT: No, I'm okay.
 21 MR. POLAND: Why don't we go off
 22 the record for a minute.
 23 (Recess)
 24 (Exhibit Nos. 33-A and 35 marked for
 25 identification)

18

EXAMINATION

1
 2 By Mr. Poland: (Cont'd)
 3 **Q** Mr. Ottman, my name is Doug Poland, and I
 4 represent the plaintiffs in this case. You're
 5 here today pursuant to a subpoena that you
 6 received, correct?
 7 **A** Correct.
 8 **Q** I'm going to hand you a copy of a document the
 9 court reporter has marked as Exhibit 35.
 10 Mr. Ottman, have you seen Exhibit No. 35
 11 before?
 12 **A** I have.
 13 **Q** And when did you first see Exhibit No. 35?
 14 **A** A little over a week ago.
 15 **Q** On or about the December 13th date that appears on
 16 the cover letter, that's the first page?
 17 **A** That's correct.
 18 **Q** And who gave you a copy of the deposition
 19 subpoena?
 20 **A** Attorney McLeod.
 21 **Q** I'd like you to turn to the last page of the
 22 deposition subpoena. And do you see that there is
 23 a request headed or captioned Exhibit A, and there
 24 are five enumerated paragraphs asking for copies
 25 of documents and materials. Do you see that?

19

1 **A** Yes.
 2 **Q** And you understand that this was a subpoena
 3 requesting that you look for and provide copies of
 4 the materials identified in Exhibit A, correct?
 5 **A** Correct.
 6 **Q** Did you in fact look for materials in your
 7 possession, custody or control that are referred
 8 to in Exhibit A?
 9 **A** I did.
 10 **Q** And have you brought with you today documents that
 11 are responsive to the requests in the subpoena?
 12 **A** I have.
 13 **Q** We're going to go over those in just a second.
 14 Let me first ask you, were you able to locate
 15 materials requested by Exhibit A that were not
 16 produced today?
 17 **A** I'm not sure I understand your question.
 18 **Q** Sure. When you looked for documents or other
 19 materials in your possession, custody or control,
 20 that are requested by the subpoena, what did you
 21 do with the materials that you found?
 22 **A** The responsive materials that I found were
 23 produced here today.
 24 **Q** Were there any materials that you located that
 25 were not produced today?

20

<p>1 A No responsive materials.</p> <p>2 Q Do you know whether there are materials that you</p> <p>3 found that are being withheld from production</p> <p>4 today based on the claim of attorney-client</p> <p>5 privilege, attorney work product privilege,</p> <p>6 legislative privilege, or any other privilege?</p> <p>7 A Yes.</p> <p>8 Q There were such materials that were withheld?</p> <p>9 A Those identified in the privilege log.</p> <p>10 Q Okay. So when you found materials, did you give</p> <p>11 them to Mr. McLeod or another lawyer at</p> <p>12 Michael, Best & Friedrich to make that</p> <p>13 determination as to whether they were privileged?</p> <p>14 A That's correct.</p> <p>15 MR. McLEOD: Doug, can I interject</p> <p>16 briefly?</p> <p>17 MR. POLAND: Yes.</p> <p>18 MR. McLEOD: Just so that the</p> <p>19 record is clear, yesterday in connection with</p> <p>20 Adam Foltz's deposition, we provided a disk</p> <p>21 which is titled Statewide database that</p> <p>22 contains certain files that would be</p> <p>23 responsive to both subpoenas, both Mr. Foltz</p> <p>24 and Mr. Ottman. We've not reproduced this</p> <p>25 disk today in response to Mr. Ottman's</p> <p style="text-align: center;">21</p>	<p>1 of a claim of privilege?</p> <p>2 A That's correct.</p> <p>3 Q You mentioned before that you produced relevant</p> <p>4 documents. Are there documents that you withheld</p> <p>5 from production or didn't give to Mr. McLeod</p> <p>6 because you didn't believe them to be relevant?</p> <p>7 A I'm not sure if I said relevant or responsive. If</p> <p>8 there were nonresponsive documents, I didn't</p> <p>9 produce any.</p> <p>10 Q Did you make any kind of decision of what to give</p> <p>11 to Mr. McLeod based on whether you thought it was</p> <p>12 relevant or not even if it was called for by the</p> <p>13 subpoena?</p> <p>14 A No.</p> <p>15 Q So anything that was within your possession,</p> <p>16 custody or control that was responsive to the</p> <p>17 subpoena or requested by the subpoena, you gave to</p> <p>18 Mr. McLeod?</p> <p>19 A That's correct.</p> <p>20 Q And you have produced materials here today,</p> <p>21 correct?</p> <p>22 A That's correct.</p> <p>23 Q And for the record, we've marked the materials</p> <p>24 that you've produced as Exhibit 33-A and</p> <p>25 Exhibit 34, correct?</p> <p style="text-align: center;">23</p>
<p>1 subpoena, but wanted to make it clear that</p> <p>2 those documents which would have been</p> <p>3 included with Mr. Ottman were otherwise</p> <p>4 produced already, so we haven't provided you</p> <p>5 with a duplicate disk with his name on it.</p> <p>6 MR. POLAND: Okay. And for the</p> <p>7 record, that disk that Mr. McLeod is</p> <p>8 referring to is marked as Exhibit No. 27 in</p> <p>9 Mr. Foltz's deposition yesterday.</p> <p>10 MR. McLEOD: That's correct.</p> <p>11 MR. POLAND: So that's a document</p> <p>12 that is responsive to the subpoena served on</p> <p>13 Mr. Ottman as well.</p> <p>14 MR. McLEOD: That's correct.</p> <p>15 MR. POLAND: And we'll consider it</p> <p>16 produced for that purpose as well.</p> <p>17 Q Did you make any determination on your own,</p> <p>18 Mr. Ottman, about whether materials were covered</p> <p>19 by an attorney-client privilege, work product</p> <p>20 privilege, or legislative privilege?</p> <p>21 A I did not.</p> <p>22 Q So when you were looking through your own</p> <p>23 materials to determine what to give to Mr. McLeod,</p> <p>24 you didn't decide that you would set any aside on</p> <p>25 your own and not give them to Mr. McLeod because</p> <p style="text-align: center;">22</p>	<p>1 A That's correct.</p> <p>2 Q For the record also, we have marked as Exhibit</p> <p>3 No. 33 a document that's entitled Documents</p> <p>4 Produced in Response to Subpoena Issued by</p> <p>5 Plaintiffs to Tad Ottman. I'm going to hand a</p> <p>6 copy of that to you, Mr. Ottman, and ask you if</p> <p>7 you can identify Exhibit No. 33?</p> <p>8 A Yes.</p> <p>9 Q And what is it?</p> <p>10 A It is the documents produced in response to the</p> <p>11 subpoena.</p> <p>12 Q And this sets forth -- this is a document -- it's</p> <p>13 signed by legal counsel by Mr. McLeod, correct?</p> <p>14 A Yes.</p> <p>15 Q And it sets forth in a number of paragraphs, and I</p> <p>16 think there are nine numbered paragraphs in this</p> <p>17 document, and it's described as a privilege log,</p> <p>18 correct? Do you see that on the first page?</p> <p>19 A Yes, that's correct.</p> <p>20 Q And I know you were looking at the number of</p> <p>21 paragraphs, it's nine paragraphs, correct?</p> <p>22 A Yes.</p> <p>23 Q Do you see on the first page, under the caption</p> <p>24 privilege log, it says, "The following documents</p> <p>25 or categories of documents are privileged and are</p> <p style="text-align: center;">24</p>

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1 not being produced." Do you see that?
 2 A I see that.
 3 Q And the first category, it says, "May 4, 2011,
 4 e-mail correspondence from State Senator to
 5 Legislative Staff Member Tad Ottman regarding area
 6 alternatives." Do you see that?
 7 A Yes.
 8 Q Who is the state senator that sent that e-mail
 9 correspondence?
 10 A I don't recall.
 11 Q And that's a document that you located within your
 12 possession but is not produced here today based on
 13 a claim of privilege, correct?
 14 A That's correct.
 15 Q Second paragraph, it says, "July 18, 2011, e-mail
 16 exchange between Legislative Staff Member
 17 Adam Foltz and Legislative Staff Member Tad Ottman
 18 regarding potential amendment to Act 43." Do you
 19 see that?
 20 A Yes.
 21 Q And that's a document that you located that was
 22 within your possession but was not produced here
 23 today, correct?
 24 A That's correct.
 25 Q And again, it was not produced based on the

25

1 assertion of a legislative privilege, correct?
 2 A That's correct.
 3 Q Paragraph 3 states -- identifies a July 9, 2011
 4 e-mail exchange between Legislative Staff Member
 5 Adam Foltz and State Representative and
 6 Legislative Staff Member Tad Ottman regarding
 7 alternatives for AD 8 and AD 9. Do you see that?
 8 A Yes.
 9 Q Who was the state representative that was involved
 10 in that e-mail exchange?
 11 A I don't recall.
 12 Q Again, that e-mail exchange is something that was
 13 within your possession, custody or control,
 14 correct?
 15 A That's correct.
 16 Q And it's not being produced today based on a claim
 17 of legislative privilege, correct?
 18 A That's correct.
 19 Q Paragraph No. 4, you've identified a
 20 July 7, 2011 e-mail between Legislative Staff
 21 Member Adam Foltz and State Representative
 22 regarding area alternatives. Do you see that?
 23 A Yes.
 24 Q Do you know who the state representative was who's
 25 referred to there?

26

1 A I don't recall.
 2 Q But that is a document that you had in your
 3 possession but is not being produced here today
 4 based on a claim of legislative privilege,
 5 correct?
 6 A That's correct.
 7 Q Paragraph No. 5 identifies a July 14, 2011
 8 e-mail -- or e-mail correspondence and attachments
 9 from Tad Ottman to Legislative Staff Member
 10 regarding alternatives for AD 8 and AD 9. Do you
 11 see that?
 12 A Yes.
 13 Q Do you know who the legislative staff member was
 14 that you were corresponding with by e-mail?
 15 A I don't recall.
 16 Q And that's a document you have within your
 17 possession but is not being produced here today
 18 based on a claim of legislative privilege,
 19 correct?
 20 A That's correct.
 21 Q Paragraph No. 6 identifies March 1, 2011 e-mail
 22 correspondence from Adam Foltz to Tad Ottman
 23 regarding election data. Do you see that?
 24 A Yes.
 25 Q And that's a document or documents that you had in

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1 your possession, custody or control but is not
 2 being produced here today based on a claim of
 3 legislative privilege, correct?
 4 A That's correct.
 5 Q Paragraph 7 identifies documents used during
 6 meetings between Legislative Staff Member
 7 Tad Ottman and individual Legislators, including
 8 reports related to the 2002 maps, proposed new
 9 district analysis, population change analysis,
 10 maps confirming the physical location of member's
 11 residence. Do you see that?
 12 A Yes.
 13 Q And those are documents that you had within your
 14 possession, custody or control but that are not
 15 being produced here today based on a claim of
 16 legislative privilege?
 17 A Yes.
 18 Q What types of documents are included within --
 19 strike that question. Other than the specific
 20 documents identified here, in other words, there's
 21 a clause of this that says including reports
 22 related to the 2002 maps, proposed new district
 23 analysis, population change analysis, maps
 24 confirming the physical location of member's
 25 residence, are there any other documents that fall

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<p>1 within that category identified in paragraph 7?</p> <p>2 A I don't recall.</p> <p>3 Q In other words, I'm focusing on the word there</p> <p>4 <i>including</i>, which seems to indicate that it's not</p> <p>5 necessarily limited to these things, it includes</p> <p>6 them. Is that correct, that there is something</p> <p>7 more than these?</p> <p>8 A There may be, I don't recall.</p> <p>9 Q Who are the individual legislators that are</p> <p>10 identified in paragraph No. 7?</p> <p>11 A I don't recall which individual ones.</p> <p>12 Q And there is a reference also to meetings. What</p> <p>13 were the meetings that were occurring that are</p> <p>14 referred to in paragraph 7?</p> <p>15 A Those were meetings between me and individual</p> <p>16 legislators.</p> <p>17 Q When did those meetings occur?</p> <p>18 A I don't recall.</p> <p>19 Q Where did those meetings occur?</p> <p>20 A They occurred at Michael Best & Friedrich's</p> <p>21 offices.</p> <p>22 Q Did all of them occur at Michael Best &</p> <p>23 Friedrich's offices?</p> <p>24 A I believe so.</p> <p>25 Q Paragraph No. 8 identifies documents created in</p> <p style="text-align: center;">29</p>	<p>1 census.</p> <p>2 Q So when you use the term <i>reapportionment</i> at your</p> <p>3 deposition today, is it fair for me to assume that</p> <p>4 what you're talking about is can also be referred</p> <p>5 to as redistricting?</p> <p>6 A Yes.</p> <p>7 Q For the purpose of the 2011 redistricting?</p> <p>8 A Yes.</p> <p>9 Q Just want to make sure that we understand each</p> <p>10 other, that we're talking about the same thing.</p> <p>11 Did you have documents that are described in</p> <p>12 paragraph 8 within your possession, custody or</p> <p>13 control?</p> <p>14 A Yes.</p> <p>15 Q And you have not produced those documents here</p> <p>16 today based on a claim of legislative privilege;</p> <p>17 is that correct?</p> <p>18 A That's correct.</p> <p>19 Q And then finally paragraph 9 identifies various</p> <p>20 draft legislative redistricting maps prepared by</p> <p>21 Tad Ottman. Do you see that description?</p> <p>22 A Yes.</p> <p>23 Q You had those materials within your possession,</p> <p>24 custody or control; is that correct?</p> <p>25 A That's correct.</p> <p style="text-align: center;">31</p>
<p>1 preparation for meetings between Legislative Staff</p> <p>2 Member Tad Ottman and individual Legislators. Do</p> <p>3 you see that description?</p> <p>4 A Yes.</p> <p>5 Q Who are the individual legislators who are</p> <p>6 identified in paragraph No. 8?</p> <p>7 A I don't recall which individual legislators.</p> <p>8 Q And what are the meetings that are referred to in</p> <p>9 paragraph 8?</p> <p>10 MR. McLEOD: I'm going to object to</p> <p>11 the form of the question, but if you</p> <p>12 understand it, please feel free to answer.</p> <p>13 A Those were meetings to discuss reapportionment.</p> <p>14 Q I'm sorry, to discuss?</p> <p>15 A Reapportionment.</p> <p>16 Q And you've used the term <i>reapportionment</i>, and</p> <p>17 we've heard other people use the term</p> <p>18 <i>redistricting</i>, other witnesses in the past two</p> <p>19 days. Is there a difference in your mind between</p> <p>20 redistricting and reapportionment?</p> <p>21 A I think they can often be used interchangeably.</p> <p>22 Q And when you use the term <i>reapportionment</i>, what</p> <p>23 are you referring to?</p> <p>24 A I'm referring to the required legislative action</p> <p>25 to correctly apportion districts following a</p> <p style="text-align: center;">30</p>	<p>1 Q And you did not produce those today based on the</p> <p>2 assertion of legislative privilege, correct?</p> <p>3 A That's correct.</p> <p>4 Q Let's talk about the documents that you did</p> <p>5 produce today, Mr. Ottman. I've marked them as</p> <p>6 Exhibit 33-A, that's sitting in front of you. And</p> <p>7 actually, I also want to -- there was a group of</p> <p>8 exhibits that was produced or documents produced</p> <p>9 yesterday by Mr. Foltz as well. We might refer to</p> <p>10 some of those. I'm going to leave those out for</p> <p>11 just a second.</p> <p>12 I'd like you to take a look at the first page</p> <p>13 of Exhibit 33-A. And at least on the copy that I</p> <p>14 have, there is, on the very first page, it's an</p> <p>15 e-mail, it looks like an exchange, up at the top</p> <p>16 it says Tad and Adam, and then there's a signature</p> <p>17 line that says Thank you, Tony. Who is the Tony</p> <p>18 that's referred to there?</p> <p>19 A That is Tony Van Der Wielen with the Legislative</p> <p>20 Technology Services Bureau.</p> <p>21 Q And this appears to be an e-mail exchange between</p> <p>22 you and Mr. Van Der Wielen; is that correct?</p> <p>23 A I believe he's responding to the below e-mail</p> <p>24 between me and Ryan Squires, also from Legislative</p> <p>25 Technology Services Bureau.</p> <p style="text-align: center;">32</p>

VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

1 Q And did this e-mail exchange have to do with some
2 technical difficulties that you were having with
3 the software?
4 A That's correct.
5 Q What's the software that you were using and
6 seeking technical support on?
7 A AutoBound.
8 Q The autoBound software is the software you
9 generally used for the purpose of accomplishing
10 the redistricting, correct?
11 A That's correct.
12 Q What version of autoBound were you using?
13 A I don't recall.
14 Q Had you used autoBound software previously for the
15 purpose of redistricting?
16 A I had.
17 Q Did you use it in the 2000 -- for the purpose of
18 the redistricting following the 2000 decennial
19 census?
20 A I did.
21 Q And did you use it for the purpose of
22 redistricting following the 1990 decennial census?
23 A I don't recall.
24 Q Was the version of autoBound that you used in 2011
25 different than the version of autoBound that you

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1 used following the 2000 census?
2 A Yes.
3 Q Were there some new features to autoBound for the
4 purpose that -- strike that question. Were there
5 some new features to the version of autoBound that
6 you used for the 2011 redistricting?
7 A I don't recall.
8 Q Do you recall any features that were available to
9 you that you used for the redistricting in 2011
10 that you did not use for the redistricting
11 following the 2000 decennial census?
12 A I don't recall the differences.
13 Q The next page -- you can turn the page. The next
14 set of documents here within Exhibit 33-A, I've
15 got a packet that's stapled together. The very
16 first page has a Gmail header, and it appears to
17 be a printout from your Gmail account; is that
18 correct?
19 A That's correct.
20 Q Up in the header line, just below the Gmail logo,
21 it says MALDEF 2 messages; do you see that?
22 A Yes.
23 Q And at least the very first page here, it appears
24 to be an e-mail from Jim Troupis to you and
25 Mr. Foltz with some additional copies, correct?

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1 A That's correct.
2 Q And there's a date of Tuesday, July 12, 2011, at
3 3:32 p.m., correct?
4 A That's correct.
5 Q Now, the substance of, the substance of
6 Mr. Troupis's e-mail appears to have been
7 redacted; is that correct?
8 A That's correct.
9 Q Who did that redaction; did you do that redaction?
10 A That was done by counsel.
11 Q So the text that appeared in Mr. Troupis's e-mail
12 was in the e-mail that you gave to Mr. McLeod; is
13 that correct?
14 A That's correct.
15 Q Do you know why the text was redacted?

16 MR. McLEOD: I mean, I think the
17 question, Doug, goes to issues of law related
18 to the assertion of attorney-client
19 privilege. I assume Mr. Ottman understands
20 that and can answer, but ultimately those are
21 decisions made by counsel on the basis of
22 legal determinations. I don't know that I
23 necessarily have an objection to raise that
24 would instruct him not to answer that
25 particular question, but I'm concerned about

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1 the nature of the questions about him, asking
2 him for some understanding about legal
3 determinations that were made by counsel as
4 to issues of privilege.

5 MR. POLAND: The reason I ask the
6 question is that there's blank space there,
7 and there's no indication that anything was
8 redacted, and so that's why I'm asking the
9 question. I want to make sure that I
10 understand what the assertion of privilege is
11 as to why the information was redacted there.

12 MR. McLEOD: And let me just
13 respond. If there's some -- if we need to
14 provide revised versions of these e-mails
15 indicating the redaction of information, if
16 it's not otherwise obvious, we'll do that in
17 order to make sure we're complying with our
18 obligations to identify, you know, the
19 redaction of information and to assert the
20 privilege specifically. But certainly
21 anywhere where there's communication between
22 attorney-client here on any of these
23 communications, the substance of the text
24 will have been redacted.

25 MR. POLAND: And will it have been

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1 redacted, Eric, on the basis, the assertion
 2 of attorney-client privilege?
 3 MR. McLEOD: That's correct.
 4 MR. POLAND: Is it also legislative
 5 privilege that's being asserted, or is it
 6 just attorney-client?
 7 MR. McLEOD: I think it's
 8 attorney-client privilege.
 9 Q Mr. Ottman, the copies of the Gmail printouts that
 10 you had in your possession did contain text in
 11 e-mails from Mr. Troupis to you, correct?
 12 A That's correct.
 13 Q And it's your understanding that some of that
 14 text, not all of it, but some of that text, that's
 15 in this e-mail packet that starts out on
 16 July 12, 2011, is being redacted based on the
 17 assertion of attorney-client privilege; is that
 18 correct?
 19 A That's my understanding.
 20 Q And that's an assertion of privilege that's been
 21 made by your counsel, correct?
 22 A That's correct.
 23 Q As far as you know, that's a determination made by
 24 counsel?
 25 A Yes.

1 Districts 8 and 9?
 2 MR. McLEOD: Assert the
 3 attorney-client privilege and instruct
 4 Mr. Ottman not to answer concerning what
 5 Mr. Troupis, counsel for the legislature
 6 here, actually said. Instruct Mr. Ottman not
 7 to answer that question.
 8 Q Are you going to follow counsel's instruction not
 9 to answer that question?
 10 A I am.
 11 MR. SHRINER: Could we perhaps
 12 stipulate that Mr. Ottman will always follow
 13 counsel's instruction not to answer the
 14 question and thereby save 20 minutes?
 15 MR. POLAND: I don't think it will
 16 save 20 minutes.
 17 MR. SHRINER: Okay. Well, it just
 18 occurred to me. We do that sometimes, it
 19 does save some time.
 20 MR. POLAND: We do. We do.
 21 Q There is a file, Mr. Ottman, that appears to have
 22 been attached to an e-mail from Elisa Alfonso, and
 23 this is about three pages in. Appears about the
 24 middle of the page, that third page in, it says WI
 25 House MALDEF Plan2 Zip. Do you see that?

1 Q Generally, what was the subject matter of the
 2 e-mail that Mr. Troupis sent to you on
 3 July 12, 2011?
 4 MR. McLEOD: I'm simply going to
 5 point out that you're asking for the subject
 6 matter, not the substance or the actual text
 7 of any communication. To the extent that
 8 you're asking for the subject matter, not any
 9 substance, I think it's an appropriate
 10 question, but to the extent that the question
 11 seeks the actual information contained in the
 12 text of the message, I would assert on the
 13 grounds of attorney-client privilege.
 14 Subject to that, Mr. Ottman can certainly
 15 answer the question.
 16 Q What's the general subject matter of the e-mail
 17 that Mr. Troupis is sending to you?
 18 A It has to do with MALDEF's consideration of maps
 19 for Assembly Districts 8 and 9.
 20 MR. POLAND: I need to ask about
 21 the substance of the communication.
 22 Obviously I'll give you an opportunity to
 23 assert an objection.
 24 Q What was the -- what did Mr. Troupis say about
 25 MALDEF's review of proposed districts, Assembly

1 A Yes.
 2 Q What was that file?
 3 A That was a proposal drawn by MALDEF for
 4 Assembly Districts 8 and 9.
 5 Q Is that file -- has that file been produced or is
 6 it among the materials that you've produced here
 7 today?
 8 A It is.
 9 Q Is that one of the maps that's attached to the
 10 e-mails, or did you produce it in an electronic
 11 form?
 12 A That was produced electronically.
 13 Q So it's going to be on the disk that you produced
 14 today?
 15 A Yes.
 16 Q For the record, I'm going to hand you a copy of
 17 what's been marked as Exhibit No. 34. Can you
 18 identify that please?
 19 A Yes.
 20 Q And what is that, what is Exhibit 34?
 21 A These are the electronic files produced in
 22 response to the subpoena.
 23 Q Okay. So this file that's referred to in
 24 Elisa Alfonso's July 11th e-mail to Mr. Troupis is
 25 contained on that disk; is that correct?

1 A That's correct.
 2 Q I'd like you to turn then to the next page of
 3 Exhibit 33-A, or the next page of that printout of
 4 Gmails. Do you see about the middle of the page
 5 down, there is a line, a header that says from
 6 Tottman sent Monday, July 11 to Jim Troupis. Do
 7 you see that?
 8 A Yes.
 9 Q And then just below that, in brackets, it says
 10 Quoted text hidden. Do you see that?
 11 A Yes.
 12 Q Do you know what that quoted text is?
 13 A I believe that was a repeat of an earlier e-mail,
 14 so that it wasn't duplicated on the e-mail chain.
 15 Q Is that anything that you specifically hid or
 16 turned on some feature to hide that text when you
 17 printed out these e-mails before you gave them to
 18 Mr. McLeod?
 19 A No.
 20 Q It automatically does that, the Gmail program
 21 automatically does that?
 22 A That's correct.
 23 Q Turn to the next page please. Do you see there's
 24 an e-mail from Mr. Troupis to Elisa Alfonso and
 25 Alonzo Rivas dated Monday, July 11, 6:41 p.m., and

1 the subject matter says MALDEF WI House Plan
 2 (2nd Edition). Do you see that?
 3 A Yes.
 4 Q Mr. Troupis states in that e-mail, "I like your
 5 proposal. We've taken it a bit further. Here is
 6 a comparison of MALDEF's proposal to a suggestion
 7 we think might work a bit better." Do you see
 8 that?
 9 A Yes.
 10 Q Did you have any discussions with Mr. Troupis
 11 about why he believes that, that the suggestion
 12 might work a little bit better -- or work a bit
 13 better?
 14 MR. McLEOD: Can you read that
 15 question back for me please?
 16 (Question read)
 17 MR. McLEOD: I'm going to -- to the
 18 extent the question merely asks for the fact
 19 of a communication about that subject, I
 20 think it's appropriate. To the extent the
 21 question asks for the substance of any
 22 communication or the information conveyed
 23 between attorney-client, I would object on
 24 the grounds of attorney-client privilege.
 25 Subject to that objection, you can answer the

1 question.
 2 A I spoke with Jim Troupis about that.
 3 Q Did you speak with anyone else about the
 4 suggestion that Mr. Troupis stated we think might
 5 work a bit better?
 6 A Not that I recall.
 7 Q Was anyone else present for any conversation or
 8 communication that you had with Mr. Troupis about
 9 that topic?
 10 A No.
 11 Q Did Mr. Troupis tell you why he thought that
 12 suggestion might work a bit better?
 13 A I don't recall.
 14 Q Do you know why Mr. Troupis thought that
 15 suggestion he had might work a bit better?
 16 MR. McLEOD: Can you read that back
 17 for me please.
 18 (Question read)
 19 MR. McLEOD: I'm going to object to
 20 the form of the question. I'm also going to
 21 object to the extent that it seeks to elicit
 22 the substance of a communication between
 23 Mr. Troupis as counsel and Mr. Ottman as
 24 client. So to the extent you can answer the
 25 question without discussing the substance of

1 any specific communication between you and
 2 Mr. Troupis, you may answer.
 3 A I described the proposal to Mr. Troupis. I don't
 4 know how he came to his conclusion.
 5 Q Who come up with that proposal that Mr. Troupis is
 6 suggesting in his e-mail?
 7 A That is something that I and Adam Foltz worked on.
 8 Q Did you and Mr. Foltz work with anyone else on
 9 that proposal?
 10 A No.
 11 Q Did you work with Dr. Gaddie on that proposal?
 12 A No.
 13 Q Just the two of you worked on it?
 14 A Yes.
 15 Q What was the basis for coming up with that
 16 proposal?
 17 A We looked at the suggestion made by MALDEF for how
 18 to configure those districts, and identified ways
 19 that we thought could accomplish the goals that it
 20 appeared they were trying to reach, but that would
 21 involve less disruption to the plan that had been
 22 introduced at that point.
 23 Q When you say would involve less disruption, what
 24 do you mean by that?
 25 A Their plan went outside the boundaries of several

1 assembly districts that would have required
 2 reconfiguration. The alternative that we proposed
 3 confined the changes to two assembly seats.
 4 Q Were there any other reasons that you felt the
 5 proposal that you had or you came up with might
 6 work a bit better than MALDEF's proposal?
 7 A Those were the primary reasons.
 8 Q And you did have discussions with that about --
 9 strike that. You did have discussions with
 10 Mr. Troupis about that subject, correct?
 11 A Correct.
 12 Q And counsel has interposed an objection to that.
 13 To the extent that your communications with
 14 Mr. Troupis are privileged, are you going to
 15 follow counsel's instruction not to disclose those
 16 conversations?
 17 A I am.
 18 MR. POLAND: Just to respond to
 19 Tom's point before, I will assume that we
 20 can --
 21 MR. SHRINER: You can do it any way
 22 you can.
 23 MR. POLAND: Well, I will assume
 24 that we can stipulate that as far as anything
 25 that's redacted in the e-mails, the assertion

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1 is the grounds of attorney-client --
 2 MR. McLEOD: That's correct.
 3 MR. POLAND: -- privilege.
 4 MR. McLEOD: And, Doug, if you want
 5 me to provide you with a revised version of
 6 this showing redacted attorney-client
 7 privilege, I can do it. I thought it was
 8 self-evident based on the to and from lines
 9 listed on the e-mail.
 10 MR. POLAND: Truth be told, I
 11 couldn't always tell where there was material
 12 redacted. It would be helpful, Eric, if you
 13 would do that.
 14 MR. McLEOD: I will agree to do
 15 that.
 16 MR. POLAND: Thank you.
 17 Q Mr. Ottman, continuing to look through this
 18 printout of e-mails, there is, two pages back from
 19 the page we were just looking at, there is an
 20 indication there is an attachment of a file that
 21 says Comparison of 64-50 maps.PDF. Do you see
 22 that reference? This is four pages from the end
 23 of that stapled packet you have there.
 24 A Yes.
 25 Q What is that file?

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1 A That is a file that contains a print -- I believe
 2 that one contains a printout of the plan proposed
 3 by MALDEF with an overlay of the proposal that we
 4 sent back to them.
 5 Q Is that a file that is on the disk that you're
 6 producing today in Exhibit 34?
 7 A It is.
 8 Q Let me ask you, we had some documents produced in
 9 hard copy yesterday by Mr. Foltz, and I'm
 10 referring to Exhibit 25 for the record. We had --
 11 there was a printout of maps that was attached to
 12 some documents in the materials that Mr. Foltz
 13 produced, and I just wanted to hand these to you.
 14 These are two maps, again, that are contained in
 15 Foltz Deposition Exhibit 25. Want to just hand
 16 that to you. If you could take a look at that
 17 particular page and then the next page. Does
 18 that -- does the page that you're looking at right
 19 now appear to be a comparison that you're
 20 referring to?
 21 A It appears to be.
 22 Q But in any event, that -- the PDF file, the
 23 comparison file you're referring to is on the CD
 24 that was produced to us today, correct?
 25 A That's correct.

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1 Q Would you turn to the third page back from the
 2 stapled group of e-mail correspondence that you
 3 have there? And I'm looking specifically, there's
 4 an e-mail from Elisa Alfonso dated Tuesday,
 5 July 12, 2011, at 11:41 a.m. Do you see that?
 6 A I do.
 7 Q And it's sent to Mr. Troupis and Alonzo Rivas. Do
 8 you see that?
 9 A Yes.
 10 Q And the e-mail says, "Jim, Alonzo is out this
 11 morning and won't be back until this afternoon.
 12 In regards to the MALDEF map, we will go with the
 13 recommendation that you made last night." Do you
 14 see that?
 15 A Yes.
 16 Q Do you know which recommendation is being referred
 17 to there?
 18 A It's my understanding that it's the alternative
 19 configuration for Assembly Districts 8 and 9
 20 referred to in that PDF.
 21 Q And also referred to in Mr. Troupis's e-mail that
 22 we just went through?
 23 A Correct.
 24 Q The paragraph -- the next sentence down, it says,
 25 "As for tomorrow, we are unfamiliar with the

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VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

1 process. Does it have to be oral testimony or can
 2 it be written?" Do you see that language?
 3 A Yes.
 4 Q And is that a reference to the July 13th joint
 5 committee meeting?
 6 A That's my understanding.
 7 Q Had there been a discussion with MALDEF about
 8 providing testimony at that hearing?
 9 A I don't know.
 10 Q Were you involved in any communications with
 11 MALDEF regarding testimony that anyone from MALDEF
 12 would give at the July 13, 2011 joint committee
 13 hearing?
 14 A No.
 15 Q Did you discuss with anyone the possibility of
 16 having a representative of MALDEF testify at the
 17 July 13, 2011 hearing?
 18 MR. McLEOD: To the extent that
 19 calls for communications between you and
 20 counsel, I would object on grounds of
 21 attorney-client privilege. If the question
 22 seeks to elicit information outside of the
 23 scope of that privilege, you may answer.
 24 Q Did you have -- let me take it two different ways.
 25 Did you have any communications with counsel about

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1 a representative of MALDEF testifying at the
 2 July 13th hearing?
 3 MR. McLEOD: And I'll note, and I
 4 think what you're asking, Doug, is for the
 5 fact of any communication --
 6 MR. POLAND: Correct.
 7 MR. McLEOD: -- about that issue,
 8 not for the substance, and in which case you
 9 may answer, mindful of the objection
 10 concerning attorney-client privilege that
 11 would relate to the substance of any such
 12 communication.
 13 A Yes.
 14 Q And which specific counsel did you have those
 15 conversations with?
 16 A Jim Troupis.
 17 Q Did you have conversations with any other legal
 18 counsel about the possibility of having a MALDEF
 19 representative testify at the July 13th hearing?
 20 A Not that I recall.
 21 Q And what did you and Mr. Troupis discuss with
 22 respect to any representative of MALDEF testifying
 23 at the July 13, 2011 hearing?
 24 MR. McLEOD: I'm going to assert
 25 the attorney-client privilege and instruct

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1 Mr. Ottman not to answer that question.
 2 Q Are you going to follow counsel's instruction and
 3 not answer the question?
 4 A Yes.
 5 Q Other than legal counsel, did you have
 6 conversations with anyone else about a
 7 representative of MALDEF testifying at the
 8 July 13, 2011 hearing?
 9 A Not that I recall.
 10 Q The next e-mail down on that page appears to be an
 11 e-mail from Mr. Troupis dated July 12th, and
 12 that's to Elisa Alfonso and Alonzo Rivas. Do you
 13 see that?
 14 A Yes.
 15 Q In the text of the e-mail, Mr. Troupis states --
 16 this is about three -- this is the third line down
 17 I think of the text, he states, "We would like to
 18 ensure that the concerns of the Latino community
 19 are addressed." Do you see that?
 20 A Yes.
 21 Q Other than MALDEF, do you know whether any other
 22 representatives of the Latino community -- strike
 23 that question. Other than MALDEF, do you know
 24 whether the concerns of any other members of the
 25 Latino community were solicited?

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1 A Yes.
 2 Q What other members of the Latino community were
 3 solicited to give their concerns about
 4 redistricting?
 5 A Zeus Rodriguez.
 6 Q And who is Zeus Rodriguez?
 7 A I'm not certain which organization, if any, that
 8 he's affiliated.
 9 Q Did you ever speak with Zeus Rodriguez?
 10 A I did.
 11 Q When did you speak with Zeus Rodriguez?
 12 A I don't recall exactly. I believe there are some
 13 responsive e-mails in here with the dates.
 14 Q There are, okay. Did you ever correspond with
 15 Mr. Rodriguez other than by e-mail?
 16 A I spoke with him on the phone as well.
 17 Q How many times did you speak with Mr. Rodriguez on
 18 the phone?
 19 A I don't recall.
 20 Q Was it before the July 13, 2011 hearing?
 21 A Yes.
 22 Q Was it before you had arrived at a version of the
 23 redistricting plan that was reflected in Act 43
 24 that was submitted to the legislature?
 25 A Could you clarify that?

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VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

1 Q Sure. At some point in time, there was a version
 2 of Assembly Districts 8 and 9 that was finalized
 3 in such a way that it was submitted to the
 4 legislature for the legislature's consideration,
 5 correct?
 6 A Correct.
 7 Q And these are Assembly Districts 8 and 9 in
 8 Milwaukee we're talking about?
 9 A Yes.
 10 Q Did you speak with Mr. Rodriguez before the time
 11 that Districts 8 and 9 were in that form that was
 12 submitted to the legislature?
 13 A No.
 14 Q So it was after Districts 8 and 9 were set in the
 15 form that was submitted to the legislature that
 16 you spoke with Mr. Rodriguez?
 17 A It was after the time that the original bill draft
 18 with the state map was submitted.
 19 Q Did Districts 8 and 9 -- strike that. Did the
 20 boundaries of Assembly Districts 8 and 9 change
 21 after the time that you spoke with Mr. Rodriguez?
 22 A Yes.
 23 Q How did they change?
 24 A They were -- there was an amendment adopted that
 25 reflected the alternative configuration of 8 and

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1 9.
 2 Q And was that the alternative that was suggested by
 3 Mr. Troupis in the e-mails that we looked at
 4 before?
 5 A That's correct.
 6 Q Did you ever send that alternative to
 7 Mr. Rodriguez?
 8 A Yes.
 9 Q Did you have a conversation with Mr. Rodriguez
 10 about that?
 11 A Yes.
 12 Q Are we going to see that in the e-mails that were
 13 produced?
 14 A Yes.
 15 Q Did you ever meet face-to-face with Mr. Rodriguez?
 16 A I did not.
 17 Q In the e-mail that we were just looking at from
 18 Mr. Troupis, the next sentence continues on and
 19 says, "This morning I asked staff to consult with
 20 our Legislative Reference Bureau on these
 21 alternatives as they must ultimately draft any
 22 amendment." Do you see that?
 23 A Yes.
 24 Q Are you the staff that Mr. Troupis asked to
 25 consult with the LRB?

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1 A Yes.
 2 Q Do you know whether Mr. Troupis asked anyone else
 3 to consult with LRB on this specific, on
 4 Districts 8 and 9?
 5 A He may have asked Adam Foltz as well.
 6 Q Do you know whether he did?
 7 A I don't recall.
 8 Q And did you consult with the LRB on these
 9 alternatives?
 10 A Yes.
 11 Q What was the substance of your conversations with
 12 LRB?
 13 A I provided LRB with a copy of the alternative
 14 configurations for Assembly Districts 8 and 9 and
 15 asked them to draft that as a simple amendment.
 16 Q And so that's the nature of the consultation -- or
 17 the word *consult* is in Mr. Troupis's e-mail.
 18 That's the nature of your communication with LRB?
 19 A That's correct.
 20 Q If you turn the page, you'll see an e-mail from
 21 Mr. Troupis to Elisa Alfonso and Alonzo Rivas
 22 dated July 11th at 6:41 p.m. Do you see that?
 23 A Yes.
 24 Q And we've seen the text of, some of that e-mail at
 25 least we saw in an earlier e-mail, correct?

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1 A That's correct.
 2 Q There also is a reference there to HVAP numbers
 3 under the two plans; do you see that?
 4 A Yes.
 5 Q What does HVAP refer to?
 6 A Hispanic voting-age percentage.
 7 Q Is it percentage, or is it population?
 8 A It is percentage.
 9 Q And what does that percentage measure?
 10 A That measures the proportion of the district under
 11 those alternatives of Hispanics over the age of
 12 18.
 13 Q Does it account for citizenship?
 14 A Not that I'm aware.
 15 Q And so the numbers that are there, if we look, it
 16 says MALDEF, correct, and then under that it says
 17 AD 8 60.10, correct?
 18 A Correct.
 19 Q And under that it says AD 9 53.00?
 20 A Correct.
 21 Q And what does MALDEF stand for?
 22 A I believe it's the Mexican American Legal Defense
 23 Education Fund.
 24 Q And where it states AD 8, that's referring to
 25 Assembly District 8?

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1 A That's correct.
 2 Q Is the 60.10 an expression of a percentage?
 3 A It is.
 4 Q So that would be 60.10 percent of the Hispanic
 5 voting-age population in Assembly District 8?
 6 A Correct.
 7 Q And that's the proposed Assembly District 8 or the
 8 one that was proposed by MALDEF, correct?
 9 A The one proposed by MALDEF.
 10 Q And below that is Assembly District 9, MALDEF's
 11 proposal would have a 53 percent Hispanic
 12 voting-age population?
 13 A That's correct.
 14 Q Below that, it sets out, quote-unquote, Our
 15 Alternative. Do you see that?
 16 A Yes.
 17 Q And that's the alternative that Mr. Troupis had
 18 proposed, correct?
 19 A Correct.
 20 Q Are those the percentages that ended up eventually
 21 being adopted?
 22 A Yes.
 23 Q Who made a determination that those are the
 24 percentages that would be included in Act 43?
 25 A The legislature.

1 Q Who drew the districts, District 8 and District 9,
 2 so that they would be formulated to have those
 3 percentages of Hispanic voting-age population?
 4 A Adam Foltz and I worked on those.
 5 Q Did anyone else work with you and Mr. Foltz to
 6 come up with those districts?
 7 A No.
 8 Q How did you decide that the Hispanic voting-age
 9 population in Assembly District 8 would be 60.52
 10 percent?
 11 A That was a determination by running the autoBound
 12 software on the proposed map configuration that we
 13 came up with.
 14 Q And how did you decide to configure Assembly
 15 District 8 so it would result in a 60.52 percent
 16 Hispanic voting-age population?
 17 A That was arrived at by looking at MALDEF's
 18 alternative proposal, and working to make the
 19 changes within the confines of Assembly District 8
 20 and 9 rather than go outside into other districts
 21 that would require further reconfiguration under
 22 the MALDEF proposal.
 23 Q And the differences between the MALDEF proposal
 24 and your proposal were not limited simply to the
 25 percentage of Hispanic voting-age population,

1 correct?
 2 A Correct. It was selection of ward, different
 3 wards to include in the district made under the
 4 different proposals.
 5 Q And was that done on a ward basis or was that done
 6 on a census block basis?
 7 A I believe that was done on a census block basis.
 8 Q Who made the determination to do that on a census
 9 block basis?
 10 A That was a determination that Adam Foltz and I
 11 made.
 12 Q Why did you use census blocks instead of wards?
 13 A For population reasons.
 14 Q What do you mean by population reasons?
 15 A The -- we didn't have new wards for that area of
 16 the state. The old wards were of substantially
 17 larger sizes, so in order to even out the
 18 populations, in Milwaukee, we did a live drawing
 19 map at the census block level.
 20 Q When you were involved in the redistricting
 21 following the 2000 decennial census, was that
 22 accomplished with census blocks or wards?
 23 A That I believe was accomplished with wards.
 24 Q When you were involved with the redistricting
 25 after the 1990 decennial census, was that

1 redistricting accomplished with census blocks or
 2 wards?
 3 A That I believe was also accomplished with wards.
 4 Q Why did you not wait to do the redistricting until
 5 after the ward process had played out in the state
 6 of Wisconsin?
 7 A The legislature wanted to move at an earlier time.
 8 Q Did anyone specifically tell you that it wanted to
 9 move at an earlier time?
 10 A The timing was up to legislative leadership.
 11 Q Who made the determination that census blocks
 12 should be used instead of wards?
 13 A There -- the new wards weren't available, so that
 14 was the only thing we had to base it on.
 15 Q So was that a decision that you made?
 16 A Yes.
 17 Q Do you know who in the legislature made the
 18 determination to go forward with the redistricting
 19 process before the ward process was complete in
 20 Wisconsin?
 21 A I believe the scheduling was all done by the
 22 assembly and senate organization committees.
 23 Q Was there any reason that you were made aware of
 24 of why the scheduling was done such that the
 25 redistricting was to be accomplished before the

1 ward process had played itself out in Wisconsin?
 2 A Not that I was specifically made aware of.
 3 Q Among the differences in the proposal that MALDEF
 4 had made versus the proposal that you set forward,
 5 there was a difference in the configuration of the
 6 districts as well, correct?
 7 A Correct.
 8 Q And that's reflected on the maps that you have
 9 produced in Exhibit 34?
 10 A That's correct.
 11 MR. POLAND: I want to pause for
 12 just a moment. Peter, have you received an
 13 e-mail yet with the scanned documents?
 14 MR. EARLE: Not yet. I've been
 15 checking. No.
 16 Q Mr. Ottman, if you flip to the next document
 17 that's in that stack, there is a numbered list of
 18 13 items. What is that document?
 19 A That is a document of my notes from a conversation
 20 with technical support on how to fix a problem I
 21 was having with the software.
 22 Q Who is the conversation -- the conversation was
 23 with LTSB staff; is that correct?
 24 A That's correct.
 25 Q The next page in the stack, my stack at least, is

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1 talking about autoBound, correct?
 2 A That's correct.
 3 Q You had your own copy of autoBound that you were
 4 working with?
 5 A I did.
 6 Q And so Mr. Van Der Wielen, did he have a different
 7 version of autoBound, do you know?
 8 A No, I believe he had the same version.
 9 Q Do you know why he was able to print a
 10 disenfranchisement report but you couldn't?
 11 A As the e-mails explain, his attempt to create the
 12 report didn't generate accurate numbers, and I was
 13 never able to get it to work, what he had created,
 14 I was never able to get that to work correctly on
 15 my software.
 16 Q So on this page here that's labeled
 17 Disenfranchisement Report, dated May 20, 2011, are
 18 these numbers not accurate?
 19 A Those I believe are sample numbers that he created
 20 to test his own software on his computer using his
 21 data.
 22 Q So they do not represent actual disenfranchisement
 23 numbers that would pertain to the redistricting in
 24 Wisconsin?
 25 A That's correct.

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1 five pages stapled together. On the very first
 2 page, there is an e-mail from Mr. Van Der Wielen
 3 to you and Mr. Foltz, it would appear; is that
 4 right?
 5 A Yes.
 6 Q And if I turn the page, it states
 7 disenfranchisement report; do you see that?
 8 A Yes.
 9 Q And there's a date given of May 20, 2011?
 10 A That's correct.
 11 Q What is this disenfranchisement report?
 12 A This is a sample report that he attached to an
 13 e-mail. He was working on adding a feature to the
 14 software to automatically calculate
 15 disenfranchisement.
 16 Q And did he successfully add that feature to the
 17 software?
 18 A Not to my version.
 19 Q Not to your version of the software?
 20 A Correct.
 21 Q Were you ever able to modify your version of the
 22 software to be able to print a disenfranchisement
 23 report?
 24 A No.
 25 Q And when we're talking about the software, we're

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1 Q After that stapled packet, there is a single page,
 2 up at the top it says Hi Ted and Adam. It starts
 3 out by saying, "We will be clipping the
 4 Great Lakes and Lake Winnebago water from the
 5 entire statewide 10 database." Do you see that?
 6 A Yes.
 7 Q And this comes from Ryan Squires at the LTSB?
 8 A That's correct.
 9 Q What is the statewide 10 database that Mr. Squires
 10 is referring to?
 11 A That is the file folder containing the census
 12 information.
 13 Q Do you know the date of this e-mail that
 14 Mr. Squires sent?
 15 A I do not.
 16 Q Do you know whether this e-mail came out before
 17 the census data were released?
 18 A It came out after.
 19 Q Do you know when the census data were made
 20 available?
 21 A I don't recall the exact date.
 22 Q Do you know roughly, which month at least it was?
 23 A I believe it was in March.
 24 Q The next page is another e-mail from Mr. Van Der
 25 Wielen at the LTSB. Do you see that? And up at

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1 the top, it says Tad and Adam. It starts out,
 2 "Can you run through the following steps in
 3 autoBound"?
 4 A Yeah.
 5 Q The next sentence at the top of the e-mail says,
 6 "This will prepare your database for the 2010
 7 state senate election data." Do you see that?
 8 A Yes.
 9 Q Do you know whether this e-mail was sent to you
 10 before the census data became available?
 11 A Yes. It came after.
 12 Q It came after?
 13 A Yes.
 14 Q Why were -- why did you need to have the database
 15 prepared for the 2010 state senate election data?
 16 A The database was not set up to receive the data in
 17 the form that LTSB had it.
 18 Q Why did you need the 2010 state senate election
 19 data?
 20 A To evaluate some of the maps that we were working
 21 on.
 22 Q And in what way did you need to evaluate some of
 23 the maps that you were working on using the -- by
 24 using the 2010 state senate election data?
 25 A We would look at maps that had been drawn and then

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1 just evaluate them looking at election statistics
 2 to see how they may perform based on old election
 3 data.
 4 Q And why did you need to do that?
 5 A It was part of the analysis that we provided.
 6 Q Why did you engage in that analysis?
 7 A It was in preparation for discussion with
 8 legislators about map alternatives.
 9 Q Did you and Mr. Ottman both work with the 2010
 10 state senate election data?
 11 A Yes.
 12 MR. POLAND: Did I say Ottman or
 13 Foltz? I said Ottman.
 14 THE REPORTER: (Indicating)
 15 Q Did you and Mr. Foltz both work with the 2010
 16 state senate election data?
 17 A Yes.
 18 Q Did anyone else work with that data along with you
 19 and Mr. Foltz?
 20 A Not that I recall.
 21 Q Did Mr. Handrick ever work with the 2010 state
 22 senate election data?
 23 A Not that I recall.
 24 Q Did you ever have any discussions with
 25 Mr. Handrick about the use of the 2010 state

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1 senate election data?
 2 A I may have had a conversation that it was
 3 available.
 4 Q And what was the nature of that conversation?
 5 A Just informing him that that data was included as
 6 part of the software.
 7 Q Why would you have told Mr. Handrick that?
 8 A As part of general discussions of what tools were
 9 available to evaluate different maps.
 10 Q Did you and Mr. Handrick have other discussions
 11 about using previous election data in the
 12 redistricting process?
 13 A Yes.
 14 Q What was the nature of those discussions?
 15 A It was discussions related to what data do we have
 16 available to evaluate the maps that we produce.
 17 Q And what was the use that was being made of the
 18 previous election data?
 19 A We would look at draft maps that had been
 20 prepared, and then look at what the election data,
 21 had those maps been in existence, may have
 22 provided.
 23 Q What kind of information or insight could the
 24 previous election data give you about the maps
 25 that you were drawing?

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1 A It could tell you whether or not the maps were
 2 responsive to previous election cycles.
 3 Q In other words, if you were drawing lines in
 4 certain places for districts, it could tell you
 5 how those districts might perform in the next
 6 round of elections?
 7 A I don't know that it could -- I don't have enough
 8 expertise to say how future elections might
 9 perform.
 10 Q Did you ever have that kind of a conversation with
 11 Mr. Handrick?
 12 A About future election performance?
 13 Q Correct.
 14 A Not that I recall.
 15 Q Did you ever have any conversations with anyone
 16 about how districts that you were drawing might
 17 perform based on past election results?
 18 A Yes.
 19 Q Who did you discuss that issue with?
 20 A Legislators.
 21 Q Which legislators did you discuss that with?
 22 A The leadership legislators, Senator Fitzgerald and
 23 Senator Zipperer, Representative Fitzgerald,
 24 Representative Vos, Representative Suder.
 25 Q And what was the nature of those conversations

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1 that you had with the legislators?

2 MR. McLEOD: I'm going to assert a

3 legislative privilege. If you're looking for

4 the substance of those conversations, I think

5 it's subject to the legislative privilege for

6 the reasons we've articulated in the prior

7 objections. The fact of conversations I

8 think are outside of the scope of that

9 privilege, but if you're going to go further,

10 then I'm going to have to instruct Mr. Ottman

11 not to answer on grounds of legislative

12 privilege.

13 Q Are you going to decline to answer the question

14 based on counsel's instruction?

15 A I am.

16 Q How many times did you speak with the legislators

17 about the use of prior election data in drawing

18 the 2011 maps?

19 A I don't recall.

20 Q Do you recall when those conversations occurred?

21 A I don't recall exactly.

22 Q Do you know how many conversations you had with

23 the legislators about the use of prior election

24 results?

25 A I don't recall.

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1 A Yes.

2 Q And so those previous election results were

3 ultimately included in the autoBound database that

4 you used to draw the map that was reflected in

5 Wisconsin Act 43?

6 A It was used to evaluate maps that had been drawn.

7 Q Do you know whether that data were actually used

8 to draw the final map that resulted in Act 43?

9 A Not that I'm aware of.

10 Q Did you produce drafts or versions of a

11 redistricting plan for assembly districts that

12 used the previous election data included in your

13 autoBound database?

14 MR. McLEOD: I'm going to object to

15 the form of the question, I think it's vague

16 and ambiguous. To the extent you understand

17 it, please answer.

18 A I don't understand what you're asking for.

19 MR. POLAND: Can you read the

20 question back?

21 (Question read)

22 A I'm not clear.

23 Q There were -- the previous election data were

24 included in your autoBound database, correct?

25 A Yes.

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1 Q In addition to the 2010 state senate election

2 data, were there other election result data that

3 you received and that were included in your

4 autoBound database?

5 A Yes.

6 Q What data were those?

7 A I believe that was statewide election results from

8 2002 through 2010.

9 Q Have you produced any of those materials today?

10 A I don't believe so. The software that Adam

11 produced yesterday I believe had that information.

12 Q Was it actually on the disk produced in electronic

13 form?

14 A I believe so.

15 Q I'm going to refer again to Exhibit 25 that

16 Mr. Foltz produced yesterday, and the very last

17 page, there were some printouts. Actually, I

18 don't think -- let me hand you a copy of that

19 document. This is the last page of Exhibit 25

20 from yesterday. Does that reflect previous

21 election results?

22 A Yes.

23 Q There is data, in addition to that data though,

24 that were produced, at least as far as you know,

25 yesterday by Mr. Foltz?

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1 Q And did you produce any maps, whether they were

2 drafts or some kind of a version of a map, based

3 on the previous election data?

4 A It was used for evaluation purposes of draft maps.

5 Q So did you actually produce a map either on a

6 screen or in a printed version that was generated

7 at least in part using the previous election data?

8 MR. McLEOD: I think the question

9 is vague and ambiguous, but to the extent

10 that you can answer it, please do so.

11 A There were maps that we produced, and then there

12 was evaluation that we did of the maps. The maps

13 were drawn using, you know, population and

14 demographic information.

15 Q So when you actually drew a map, created a map,

16 and either looked at it on a computer screen or

17 printed out a copy of it, the actual lines that

18 were drawn, the boundaries that were drawn, were

19 not based on previous election data; is that

20 correct?

21 A Previous election data was used to analyze it.

22 Q And so how did you go about that analysis, is what

23 I'm trying to get at, using the previous election

24 data?

25 A Once you had a draft map, then you could look at

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1 what the election data would have been in those
2 draft districts.

3 Q Did you have to print out a copy of the election
4 data? Did you look at it on a computer screen?
5 How did you do that analysis, that comparison
6 between the map and the election data?

7 A It was available both electronically and by
8 printout.

9 Q Was that an analysis that you personally made?
10 A Yes.

11 Q How many times did you make that analysis or
12 evaluation?
13 A I don't recall.

14 Q Did Mr. Foltz also participate in that analysis?
15 A Yes.

16 Q Did anyone else participate in that analysis?
17 A Not that I'm aware of.

18 Q Just the two of you?
19 A Uh-huh.

20 Q Were you instructed by anyone to engage in that
21 analysis?
22 A No.

23 Q You decided on your own to do that?
24 A Yes.

25 Q Did you discuss the results of that analysis with

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1 anyone?

2 A The draft maps that were discussed with
3 legislators included discussion of that analysis.

4 Q Which legislators did you discuss the -- that
5 analysis with?
6 A Senator Fitzgerald, Senator Zipperer,
7 Representative Fitzgerald, Representative Vos,
8 Representative Suder.

9 Q And so those are the same legislators you
10 identified previously, correct?
11 A That's correct.

12 Q What was the substance of those discussions that
13 you had with those legislators about the analysis
14 that you performed using the voting data?
15 MR. McLEOD: I'm going to assert
16 the same legislative privilege objection. If
17 you're talking about the substance of those
18 communications, I think it falls within the
19 scope of that privilege. The fact of the
20 communication may not, but the substance
21 does, and I'll instruct Mr. Ottman not to
22 answer accordingly.

23 Q And you're going to follow counsel's instruction
24 not to answer the question?
25 A I am.

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1 Q If you turn two pages later in the documents that
2 are in front of you, you'll see an e-mail, it
3 starts at the top Hi Adam and Tad. Then down at
4 the bottom it has a number of addresses, correct?
5 This was the one that Mr. Hassett was asking you
6 about before. It might have been put out of place
7 in the stack that I have or perhaps the stack that
8 you have. I just want to make sure we're looking
9 at the right thing, the same thing.

10 A What does it start with?
11 Q This is the one that Mr. Hassett was asking you
12 about before, the e-mail starts out Hi Adam and
13 Tad.

14 A Oh. Is this regarding the congressmen's
15 addresses?
16 Q Correct.

17 MR. POLAND: Did Scott, he didn't
18 mark it as a separate exhibit, did he?
19 MR. SHRINER: (Indicating)

20 A Is this the e-mail?
21 Q That's the right one, yes. And that is, I just
22 wanted to confirm, that's the e-mail that
23 Mr. Hassett had asked you about before; is that
24 correct?
25 A Yes.

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1 Q All right. You can set that to the side.
2 The next document that I have is a Gmail
3 printout from your Gmail account, it says Assembly
4 map 2010 versus 2000. Do you see that?
5 A Yes.

6 Q And it says to tottman@gmail.com, and then below
7 it says from Dana Wolff. Do you see that?
8 A Yes.

9 Q Who is Dana Wolff?
10 A She works for the Legislative Technology Services
11 Bureau.

12 Q And there is a file attached, as indicated at the
13 bottom of the page, correct?
14 A Yes.

15 Q PDF file. Is that printout that's attached to
16 this e-mail the same file?
17 A Yes, it is.

18 Q If you turn then to the next document, again, this
19 is a printout of a Gmail, appears to be from your
20 Gmail account; is that correct?
21 A Which document?
22 Q Okay. I should identify that. The top, there's a
23 caption, it says tottman@gmail.com. It says to
24 Joseph Handrick, Jim Troupis, Eric McLeod, with a
25 CC to Adam Foltz, and the date is

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<p>1 February 24, 2011. Do you see that?</p> <p>2 A Yes.</p> <p>3 Q When was the first time that you worked with</p> <p>4 Mr. Handrick on the redistricting?</p> <p>5 A I worked with him on the districting --</p> <p>6 redistricting following the 1990 census.</p> <p>7 Q Okay. And we'll get back to that. For the</p> <p>8 purpose of the 2011 redistricting, when was the</p> <p>9 first time that you worked with Mr. Handrick for</p> <p>10 the purpose of that redistricting?</p> <p>11 A I -- I'm not clear exactly on what you mean.</p> <p>12 Q Well, this is an e-mail dated February 24, 2011,</p> <p>13 correct?</p> <p>14 A Uh-huh.</p> <p>15 Q And I see that there's an exchange between you and</p> <p>16 Mr. Handrick, correct?</p> <p>17 A Yes.</p> <p>18 Q And that's -- this e-mail correspondence is for</p> <p>19 the purpose of redistricting, correct?</p> <p>20 A Correct.</p> <p>21 Q Had you corresponded, communicated or worked with</p> <p>22 Mr. Handrick on the 2011 redistricting before</p> <p>23 February 24, 2011?</p> <p>24 A Yes.</p> <p>25 Q When did you begin working or corresponding with</p>	<p>1 you still?</p> <p>2 A Yes.</p> <p>3 Q And if you turn to the second page, you'll see an</p> <p>4 e-mail from Catherine Clark McCully, appears to be</p> <p>5 at the Census Bureau, to Tony Van Der Wielen. Do</p> <p>6 you see that?</p> <p>7 A Yes.</p> <p>8 Q There's a reference to shipping Wisconsin on</p> <p>9 Tuesday by next day Fed Ex. What is she referring</p> <p>10 to there, if you know?</p> <p>11 A I believe that was the census data for Wisconsin.</p> <p>12 Q And that's the census data that ultimately was</p> <p>13 made available and that you relied on and used in</p> <p>14 the redistricting process?</p> <p>15 A That's correct.</p> <p>16 Q There are references to different files. If you</p> <p>17 turn the page, there's a reference to TIGER data</p> <p>18 and PL data. Do you see that?</p> <p>19 A Yes.</p> <p>20 Q Up at the top of the page where it says subject.</p> <p>21 Just below that there are some blank space. Do</p> <p>22 you see that?</p> <p>23 A Uh-huh.</p> <p>24 Q Do you know whether that was material that was</p> <p>25 redacted from this e-mail?</p>
<p>77</p> <p>1 Mr. Handrick about the 2011 redistricting?</p> <p>2 A I don't recall exactly when.</p> <p>3 Q Do you know whether it was in the month of</p> <p>4 January?</p> <p>5 A No. I believe it was earlier than that.</p> <p>6 Q Was it before, was it before Christmas a year ago?</p> <p>7 A I believe so.</p> <p>8 Q Do you know whether he was still employed with his</p> <p>9 position up at the town of Minocqua when you</p> <p>10 started working with him?</p> <p>11 A I don't recall.</p> <p>12 MR. SHRINER: Doug, I could use a</p> <p>13 break when you reach a convenient point.</p> <p>14 MR. POLAND: That's fine. We could</p> <p>15 break here. Peter, have you received --</p> <p>16 sorry, let me stop there. Why don't we go</p> <p>17 off the record.</p> <p>18 (Recess)</p> <p>19 By Mr. Poland:</p> <p>20 Q Mr. Ottman, just before we broke, we were talking</p> <p>21 about an e-mail. I think you still have it in</p> <p>22 front of you. There are a few pages stapled</p> <p>23 together. The first page of that document is an</p> <p>24 e-mail from you to Mr. Handrick and some others</p> <p>25 dated February 24th. Do you have that in front of</p>	<p>79</p> <p>1 A I don't believe so.</p> <p>2 Q What's the difference between TIGER data and PL</p> <p>3 data?</p> <p>4 A I don't know.</p> <p>5 Q Do you know whether the data that you used in the</p> <p>6 census -- strike that. Do you know whether the</p> <p>7 census data that you used for the purpose of</p> <p>8 redistricting was TIGER data or PL data?</p> <p>9 A I believe it was both, but I don't know for sure.</p> <p>10 Q If you -- you can turn to the next document in the</p> <p>11 stack, which is a single page. Up at the top --</p> <p>12 again, this is a Gmail printout. Up at the top it</p> <p>13 says Map printing assistance. Do you see that?</p> <p>14 A Yes.</p> <p>15 Q And this is from you to Mr. Van Der Wielen on</p> <p>16 May 3, 2011, correct?</p> <p>17 A Correct.</p> <p>18 Q And there's a P.S. line here that says, "P.S., I</p> <p>19 know Adam has talked to you about the difficulty</p> <p>20 in switching districts, but it's become a real</p> <p>21 annoyance working on any new map. If I have to</p> <p>22 assign a new district from the toolbar, it crashes</p> <p>23 the program nearly every time once the map is</p> <p>24 filled with just a handful of districts." Do you</p> <p>25 see that?</p>
<p>78</p>	<p>80</p>

1 A Yes.
2 Q What do you mean here difficulty in switching
3 districts?
4 A When you are drawing a map, you select which
5 district you are drawing, and then when you want
6 to move to another district, you click on it and
7 try and switch to a different district.
8 Q So that was for the purpose of just drawing each
9 individual district?
10 A That's correct.
11 Q Was that the same problem that you had for
12 assembly districts and for senate districts?
13 A Yes.
14 Q If you look at the next e-mail that's printed out
15 in this stack, it appears to be an e-mail from you
16 to Mr. Squires at the LTSB, and this is dated
17 Wednesday, May 4th. Do you see that?
18 A Yes.
19 Q And you say, "Ryan, this is a picture of what I
20 get when autoBound crashes on me. I was working
21 on a map that has effectively eight assembly
22 districts assigned," and then it goes on from
23 there. Why were you working on a map that had
24 eight assembly districts assigned?
25 A It was the early process of creating a map.

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1 Q So you only had eight assigned as of that
2 particular time?
3 A That's correct.
4 Q It wasn't a map that was going to be limited to
5 just eight assembly districts?
6 A That's correct.
7 Q When you started working on your maps, how did you
8 decide which assembly district to start with?
9 A I don't know that there was any particular reason.
10 Sometimes I would start in one place, sometimes
11 another.
12 Q Was there any type of criteria that you considered
13 in trying to decide where to start in configuring
14 assembly districts?
15 A Just the basic redistricting criteria.
16 Q What are the basic redistricting criteria?
17 A Equal population, sensitivity to minority
18 concerns, and compact and contiguous districts.
19 Q And what about those criteria would cause you to
20 start with a specific assembly district in a
21 specific area of the state?
22 A Well, sensitivity to minority concerns would cause
23 you to start in Milwaukee.
24 Q Are there any other assembly districts in the
25 state of Wisconsin that impact minority concerns?

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1 A I'm not aware of the legal requirements elsewhere.
2 Q Did you have any discussions with anyone about how
3 to accommodate sensitivity to minority concerns?
4 A There were discussions with counsel.
5 Q Which counsel did you have those discussions with?
6 A Jim Troupis, Eric McLeod.
7 Q And what was the substance of those conversations
8 that you had with Mr. Troupis and Mr. McLeod?
9 MR. McLEOD: I'm going to assert
10 the attorney-client privilege regarding the
11 substance of communications between
12 Mr. Ottman and counsel, instruct him not to
13 answer.
14 Q Are you going to follow counsel's instruction and
15 not answer the question?
16 A Yes.
17 Q Other than Mr. McLeod and Mr. Troupis, did you
18 have any discussions with anyone else about how to
19 accommodate sensitivity to minority concerns in
20 drawing assembly districts?
21 A There were discussions with Keith Gaddie.
22 Q And Keith Gaddie is a professor; is that correct?
23 A Professor at Oklahoma, yes.
24 Q What was the nature of your discussions with
25 Dr. Gaddie?

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1 A Just kind of general discussions about what legal
2 principles apply, what we should look for in
3 Milwaukee.
4 Q What did Dr. Gaddie say to you on those issues?
5 A I don't recall specifics.
6 Q Did he tell you what legal principles apply?
7 A I don't recall.
8 Q Do you recall whether he told you what principles
9 apply?
10 A He made reference to the Voting Rights Act.
11 Q Did he tell you the Voting Rights Act applies in
12 Milwaukee County?
13 A I don't recall.
14 Q Did Dr. Gaddie work with you on drawing any
15 assembly districts?
16 A No.
17 Q If you turn to the next set of stapled documents,
18 there is an e-mail. This is, again, it's a Gmail
19 from your Gmail account. The header says How to
20 Project, p-r-o-j-e-c-t, the plans. Do you see
21 that?
22 A Yes.
23 Q And it attaches an original message from
24 Ryan Squires to you, Mr. Foltz, and then Mr. Van
25 Der Wielen, and -- I guess it's just Mr. Van Der

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<p>1 Wielen is the CC. Do you see just below the 2 subject line, it says, "To project old autoBound 9 3 plan into autoBound 10 projection." Do you see 4 that? 5 A Yes. 6 Q Does that refresh your recollection about which 7 version of autoBound you were working at on the 8 redistricting? 9 A There were periodic updates to the software. I 10 believe some version of autoBound 10 was used, but 11 I don't know if there were subsequent updates. 12 Q Do you know whether the map that you eventually 13 produced or maps that you eventually produced were 14 produced in autoBound 9 or autoBound 10? 15 A I believe it was autoBound 10. 16 Q How many times did you need to update the 17 autoBound software during the redistricting 18 process? 19 A I don't recall. 20 Q If you updated the software, would it have been 21 with the assistance of someone from the LTSB? 22 A Sometimes. 23 Q Did anyone else assist you with technical 24 questions about the autoBound software? 25 A No.</p> <p style="text-align: center;">85</p>	<p>1 P-r-o-s-p-e-c-t-r -- 2 A I'm not certain of the spelling of his name. 3 Q And the last name is Rivera? 4 A I believe so. 5 Q Who is Mr. Rivera? 6 A I'm not certain. The third person on the list I 7 believe was Gerard Randall, and he gave me a 8 couple of e-mails that he requested that I forward 9 this identical information to that are listed 10 here. 11 MR. EARLE: What exhibit number are 12 we on? 13 MR. POLAND: Peter, this is 14 Exhibit 33-A. What I did, we took the stack 15 of materials that Mr. Ottman brought with him 16 this morning. The very first document in 17 that was, that we marked as Exhibit 33, was 18 the documents produced in response to 19 subpoena issued by plaintiffs to Tad Ottman. 20 That was essentially Eric's privilege log. 21 Then marked as 33-A -- 22 MR. EARLE: Okay. These are marked 23 differently, I guess, what I had received in 24 the e-mail. Okay. I'll figure it out. 25 MR. POLAND: It simply is marked as</p> <p style="text-align: center;">87</p>
<p>1 Q Did you receive updates from -- on the autoBound 2 software from anyone other than employees of the 3 LTSB? 4 A There were a couple of downloadable patches, that 5 LTSB directed us to. 6 Q So they provided a link for you, and you followed 7 those links to the software manufacturer's 8 website, presumably? 9 A That's correct. 10 Q If you would turn to the next document that's in 11 this stack. Again, it's a printout from the Gmail 12 account. The header says Voting-age Populations. 13 Do you see that? 14 A Yes. 15 Q And this is an e-mail from your account, and it's 16 to a number of different people, it would appear. 17 The first e-mail address that this is sent to it 18 appears is Prospectre, spelled 19 P-r-o-s-p-e-c-t-r-e, @aol.com. Do you see that? 20 A Yes. 21 Q Who is that? 22 A I believe that's Prospectre Rivera. 23 Q And who is Pro -- I'm sorry, who is that? 24 A Prospectre Rivera. 25 Q How do you -- is that, Prospectre, is that</p> <p style="text-align: center;">86</p>	<p>1 a stack of documents that's 33-A, is the rest 2 of the paper copies. And I'm just working 3 through them, so it's not separately numbered 4 or paginated. 5 MR. SHRINER: The one we're looking 6 at right now, Peter, has got the Gmail symbol 7 at the top left, Tad Ottman and his e-mail 8 address on the top right, and then it's got a 9 heading in rather large type Voting-Age 10 Populations. 11 MR. EARLE: Okay. 12 MR. SHRINER: And it attaches 13 e-mails July 12, 2011, or at least one 14 e-mail. 15 MR. EARLE: Okay. Okay. I'm fine. 16 Thank you. 17 Q Who is Gerard Randall? 18 A I'm not certain what he does. 19 Q But who is he? 20 A He was a gentleman I was asked to forward this 21 information to to see if he would be interested in 22 testifying. 23 Q Who asked you to forward this e-mail to 24 Mr. Randall? 25 A I believe it was Jim Troupis.</p> <p style="text-align: center;">88</p>

1 Q Did Mr. Troupis tell you why he wanted you to
2 forward this e-mail to Mr. Randall?
3 MR. McLEOD: I'm going to assert
4 the attorney-client privilege as to any
5 substance regarding such communication. I
6 instruct the witness not answer.
7 Q Are you going to follow counsel's instruction not
8 to answer?
9 A Yes.
10 Q Do you know who Mr. Randall was affiliated with?
11 A I do not.
12 Q And so, I had asked you before about
13 Prospectre Rivera?
14 A Uh-huh.
15 Q Who is Mr. Rivera?
16 A I'm not sure who he is affiliated with.
17 Q You were simply asked to forward this e-mail to
18 him?
19 A That's correct.
20 Q And Mr. Troupis asked you to forward that e-mail
21 to Mr. Rivera as well?
22 A Either Mr. Troupis or Mr. Randall.
23 Q Mr. Randall might have asked you to forward this
24 e-mail to Mr. Rivera?
25 A That's possible, yes.

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1 Q Did Mr. Randall tell you why he wanted you to
2 forward this to Mr. Rivera?
3 A I don't recall.
4 Q Do you know what Mr. Rivera's affiliation is, who
5 he's affiliated with?
6 A I don't recall.
7 Q Do you know where Mr. Randall or Mr. Rivera
8 physically are located?
9 A I believe Mr. Randall is in Milwaukee.
10 Q And how about Mr. Rivera, do you know why he is
11 physically located?
12 A I believe he's in Milwaukee as well.
13 Q I might have already asked you this. Do you know
14 who Mr. Rivera is affiliated with?
15 A I don't know.
16 Q There is another address in this e-mail,
17 rspindell, and that's r-s-p-i-n-d-e-l-l. The
18 e-mail address is rspindell@gottesman-company.com.
19 Do you see that?
20 A Yes.
21 Q Who is that person?
22 A I believe that's Robert Spindell.
23 Q Who is Robert Spindell?
24 A I believe he's a Milwaukee County supervisor.
25 Q Why were you sending this e-mail to

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1 Robert Spindell?
2 A I was asked to send it to him.
3 Q Who asked you to send it to Mr. Spindell?
4 A I believe Jim Troupis did.
5 Q Why did Mr. Troupis ask you to send this e-mail to
6 Mr. Spindell?
7 MR. McLEOD: I'm going to assert
8 the attorney-client privilege to the extent
9 the question seeks the substance of any
10 communication between Mr. Troupis and
11 Mr. Ottman. I'm instructing Mr. Ottman not
12 to answer.
13 Q Are you going to follow counsel's instruction and
14 not answer the question?
15 A Yes.
16 Q You state in this e-mail, "Attached is the file
17 with voting populations from the court drawn map
18 in 2002. The African-American districts we are
19 talking about are Assembly Districts 10, 11, 12,
20 16, 17 and 18." Do you see that?
21 A Yes.
22 Q Did you personally draft the text of this e-mail?
23 A Yes.
24 Q Did Mr. Troupis give you the language to include
25 in the text of the e-mail?

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1 A I don't believe so.
2 Q Attached then at the bottom, there's an indication
3 of an Excel spreadsheet that's attached; is that
4 correct?
5 A That's correct.
6 Q Is that spreadsheet among the materials that
7 you've produced today?
8 A It's on the electronically reproduced disk.
9 Q So it's contained on the disk that is Exhibit 34?
10 A That's correct.
11 Q What is contained in the Excel spreadsheet that is
12 attached to this e-mail?
13 A I believe it's population and demographic
14 information for those districts.
15 Q And that was from the, as you indicate in the
16 e-mail, from the court drawn map in 2002?
17 A Correct.
18 Q The statement that reads -- or the sentence that
19 reads, "The African-American" --
20 A Let me correct that. I think these percentages,
21 it says they're under SB 148. So I think, I think
22 that is what the table is. I would have to look
23 at the table again to refresh my memory.
24 Q At the Excel spreadsheet itself?
25 A Yes. Yeah.

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1 Q The e-mail states, "The African-American districts
2 we are talking about Assembly Districts 10, 11,
3 12, 16, 17 and 18." Do you see that?
4 A Yes.
5 Q You say in the e-mail *We are talking about*. What
6 did you mean by that?
7 A That those were the districts with the applicable
8 minority percentages, voting-age percentages
9 listed below.
10 Q Why did you say *We are talking about*? Who is
11 talking about these districts?
12 A I believe that was from my conversation with
13 Mr. Randall.
14 Q With Mr. Randall?
15 A Yes.
16 Q So you and Mr. Randall discussed Assembly
17 Districts 10, 11, 12, 16, 17 and 18?
18 A Yes.
19 Q Why were you talking about those districts?
20 A I was talking to him to see if he or others may be
21 interested in testifying about those districts at
22 the hearing, at the public hearing.
23 Q Did Mr. Randall end up testifying at the public
24 hearing?
25 A I don't recall.

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1 Q Did anyone end up talking, testifying about
2 Assembly Districts 10, 11, 12, 16, 17 and 18 at
3 the public hearing?
4 A I don't recall.
5 Q And by public hearing, I assume you mean the
6 July 13, 2011 hearing, correct?
7 A That's correct.
8 Q Do you know whether Mr. Troupis had conversations
9 with Gerard Randall about those assembly
10 districts?
11 A I don't know.
12 Q Were you privy to any conversations between
13 Mr. Troupis and Mr. Randall with respect to those
14 assembly districts?
15 A No.
16 Q You go on to state in there, "The Hispanic
17 districts are Assembly Districts 7, 8 and 9." Do
18 you see that?
19 A Yes.
20 Q Did you have conversations with Mr. Randall about
21 Assembly Districts 7, 8 and 9?
22 A I don't recall.
23 Q Further down in the e-mail, you say, "Under SB
24 148, below are listed the voting-age percentages."
25 Do you see that?

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1 A Yes.
2 Q And then you've got Assembly District 10, Assembly
3 District 11, and Assembly District 12, correct?
4 A Correct.
5 Q And there are percentages next to each of those,
6 correct?
7 A Correct.
8 Q What do those percentages signify?
9 A Those are the black voting-age percentages for
10 those districts.
11 Q It was under the proposed new districts, correct?
12 A Correct.
13 Q Because this is July 12, and the Act 43 hadn't yet
14 been passed, correct?
15 A That's correct.
16 Q Senate District 4 has a percentage attached to it
17 as well, 58.4 percent, correct?
18 A That's correct.
19 Q And is that, again, that is the percentage of
20 African-Americans in Senate District 4?
21 A Of voting age.
22 Q Of voting age?
23 A Uh-huh.
24 Q And Senate District 4 as configured under SB 148?
25 A That's correct.

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1 Q And then we also have Assembly Districts 16, 17
2 and 18 and Senate District 6. Again, are the
3 percentages identified next to those districts,
4 that's the voting-age population of
5 African-Americans in those districts?
6 A That's correct.
7 Q Under Senate Bill -- I'm sorry -- yes, under
8 Senate Bill 148?
9 A Correct.
10 Q Did you have conversations with any of these
11 recipients, Mr. Rivera, Mr. Spindell or
12 Mr. Randall, about the e-mail and the attached
13 Excel spreadsheet after the time that you sent the
14 e-mail?
15 A I don't recall.
16 Q Did you have any follow-up communications of any
17 nature with Mr. Rivera, Mr. Spindell or
18 Mr. Randall after the time you sent this e-mail?
19 A Not that I recall.
20 Q The next document is a printout of a Gmail from
21 you, and this one is a little bit different in
22 that it says, tad.ottman@legis.wisconsin.gov. Do
23 you see that?
24 A Yes.
25 Q And so this is an e-mail that came from your state

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1 e-mail account, correct?
 2 A Correct.
 3 Q And that's an e-mail that you have by virtue of
 4 your employment with the State of Wisconsin?
 5 A That's correct.
 6 Q And you sent that to yourself at your Gmail
 7 account, correct?
 8 A Correct.
 9 Q Is there a reason that you sent this e-mail from
 10 your state e-mail account to your Gmail account?
 11 A Yes, it was easier to track and maintain in my
 12 Gmail account.
 13 Q Is that just the nature of the software or the way
 14 that the e-mails are kept track of?
 15 A It's more of a personal preference.
 16 Q Just like working with Gmail more than the state
 17 e-mail?
 18 A Correct.
 19 Q So you're forwarding to your Gmail account a
 20 message from Tony Van Der Wielen that he had sent
 21 to you and to Mr. Ottman on March 17th, correct?
 22 A Yes.
 23 Q And the subject says Field Calculations?
 24 A Yes.
 25 Q Mr. Van Der Wielen says, "Here is how the data was

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1 calculated." Do you see that?
 2 A Yes.
 3 Q What is the data that Mr. Van Der Wielen is
 4 referring to?
 5 A He is referring to the demographic data that is
 6 included with the autoBound software.
 7 Q The demographic data that's included with the
 8 autoBound software?
 9 A Yes.
 10 Q When you say included with the autoBound software,
 11 what do you mean by that?
 12 A It's the labels that that software generates for
 13 the census data.
 14 Q So you have to actually plug the census into the
 15 autoBound database, correct?
 16 A Yes. I don't know if that's done by the autoBound
 17 folks, I believe that's who does it.
 18 Q So when you receive the autoBound software, it
 19 already had a database that was attached to it or
 20 incorporated in some way?
 21 A That's correct.
 22 Q Where did you get your autoBound software and
 23 database from?
 24 A The legislature ordered the software.
 25 Q Who provided it to you?

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1 A Legislative Technology Services Bureau.
 2 Q On the second page of this printout, after a note,
 3 there's a number 18. Do you see that?
 4 A Yes.
 5 Q And then after it, there's a line that says, "This
 6 is based on the DOJ guidance that is attached to
 7 this e-mail." Do you see that statement?
 8 A Yes.
 9 Q And what is the DOJ guidance that's attached to
 10 the e-mail from Mr. Van Der Wielen?
 11 A That is attached on the next page.
 12 Q All right. And so that's the Department of
 13 Justice guidance concerning redistricting and
 14 retrogression under Section 5 of the Voting Rights
 15 Act?
 16 A Yes.
 17 Q Why was Mr. Van Der Wielen sending this to you?
 18 A I believe it was an explanation of the categories
 19 that were referenced earlier in the e-mail.
 20 Q Had you asked Mr. Van Der Wielen to send this to
 21 you?
 22 A I had asked him for the distinction between some
 23 of the categories as to why -- what the labels
 24 meant.
 25 Q Those were the labels that were assigned by the

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1 autoBound software?
 2 A Correct.
 3 Q Did you ask him specifically for DOJ guidance on
 4 the Voting Rights Act?
 5 A No.
 6 Q Did you make any determinations on your own about
 7 whether the Voting Rights Act applied to the
 8 redistricting that you were performing?
 9 A I did not.
 10 Q I'd like you to flip forward a few more pages
 11 until you come to a document that looks like this.
 12 It's got several columns of numbers that are
 13 printed out. There you go.
 14 A Yes.
 15 Q And for the record, this is a -- on my copy it's a
 16 two-page stapled document. Is yours two pages as
 17 well, Mr. Ottman?
 18 A It is.
 19 Q And across the top there are a number of headings,
 20 Year, Senate Seats, Dem Inc, I-n-c, GOP Inc,
 21 I-n-c, Dem Uncontested, GOP Uncontested, Third
 22 Party. Do you see that?
 23 A Yes.
 24 Q What is this document?
 25 A This was a document that Professor Gaddie asked me

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VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

1 to prepare, reflecting election results and state
 2 senate races through the decade.
 3 Q Why did Dr. Gaddie ask you to prepare this
 4 document?
 5 A I don't know.
 6 Q When did Dr. Gaddie ask you to prepare this
 7 document?
 8 A I don't recall exactly.
 9 Q Was it before the time that there was a final map
 10 that was sent to the legislature?
 11 A I believe so.
 12 Q Did Dr. Gaddie ask you to prepare this by an
 13 e-mail or were you together in person or was this
 14 by telephone?
 15 A He asked me in a conversation to prepare this.
 16 Q Was that a conversation in person?
 17 A I believe so.
 18 Q How many times have you met Dr. Gaddie?
 19 A I don't recall exactly.
 20 Q With respect to the 2011 redistricting, how many
 21 times did you meet with him personally?
 22 A Perhaps two or three.
 23 Q Were those meetings always at the Michael, Best &
 24 Friedrich offices?
 25 A Yes.

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1 Q Dem Uncontested, do you know what that signifies?
 2 A I believe the title refers to a state senate race
 3 that was not -- which a democrat was elected and
 4 uncontested.
 5 Q And what about the GOP Uncontested column, what
 6 does that refer to?
 7 A That I believe refers to an election in which a
 8 GOP senator was elected uncontested.
 9 Q And how about third party?
 10 A That I believe reflects races in which there was a
 11 third-party candidate.
 12 Q Did you make any use of this particular document
 13 that you prepared?
 14 A No.
 15 Q You just gave it to Dr. Gaddie?
 16 A Yes.
 17 Q Were there other versions of this particular
 18 document?
 19 A Not that I recall.
 20 Q Did Dr. Gaddie instruct you to prepare any other
 21 documents?
 22 A Not that I recall.
 23 Q Did Dr. Gaddie use this particular document in any
 24 way while you were present?
 25 A No.

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1 Q Dr. Gaddie did not tell you why he wanted you to
 2 produce this particular document or prepare this
 3 document?
 4 A If he did, I don't recall.
 5 Q Was anyone else present with you and Dr. Gaddie
 6 when he asked you to prepare this particular
 7 document?
 8 A Adam Foltz I believe was there.
 9 Q And so, let's take a look at, for example, the
 10 2010 election. There is a column that says Senate
 11 Seats, correct?
 12 A Correct.
 13 Q And what do those numbers below, in that column,
 14 what do they signify?
 15 A Those are the numbers of the senate seats that
 16 were up for election in that year.
 17 Q And Dem Inc column, what do those numbers signify?
 18 A I don't recall what the notations in those columns
 19 signify.
 20 Q What the numbers mean, you don't recall what they
 21 mean?
 22 A I don't recall.
 23 Q What about GOP Inc, do you recall what that number
 24 means?
 25 A I don't recall what that number means.

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1 MR. POLAND: We need to take a
 2 break so we can change the videotape.
 3 (Recess)
 4 By Mr. Poland:
 5 Q Mr. Ottman, I'm going to hand you two pages that I
 6 have taken from an exhibit that was marked at
 7 Mr. Handrick's deposition on Tuesday. For the
 8 record, these are two pages that have numbers on
 9 them in red and in black, and I'd like you to take
 10 a look at that printout. Is that a document that
 11 you've seen before?
 12 A Yes.
 13 Q And what is that document?
 14 A I believe that this is a document, as the final
 15 map was being drafted, of which districts had been
 16 checked to see if there were inaccuracies.
 17 Q And so at the top of that first page, it says
 18 districts that have been cleaned up through
 19 Thursday night. Do you see that?
 20 A Yes.
 21 Q Do you know what the reference to cleaned up
 22 means?
 23 A I believe that means that they have been looked at
 24 to see if there are any errors, discontiguities,
 25 unassigned blocks, that sort of thing.

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1 Q Who was involved in the process of checking for
2 those errors?
3 A I believe Joe Handrick, Adam Foltz and I were all
4 involved in that process.
5 Q Did you perform that analysis, those checks over
6 at the Michael, Best & Friedrich offices?
7 A Yes.
8 Q Was anyone else present while you were performing
9 that assessment?
10 A I don't recall.
11 Q Were there questions that came up while you were
12 going through that process of cleaning up the
13 districts where judgments had to be made about
14 whether anything on the maps would be changed?
15 A I'm sorry, could you repeat that question?
16 MR. POLAND: Can you read the
17 question back.
18 (Question read)
19 A Yes.
20 Q And when there was a decision that had to be made
21 about whether a change would be made to the maps,
22 who made the decision about whether to make a
23 change?
24 A If I was working on the map, I would make that
25 decision.

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1 Q You can hand that back to me.
2 Turning back again to the document that we
3 were looking at before I asked you about
4 Exhibit No. 2. Were there any other versions or
5 iterations of this two-page document that
6 identifies the information from previous
7 elections?
8 A This document?
9 Q Correct. Yes. Did you create any other versions
10 or iterations of this document?
11 A Not that I recall.
12 Q Did you use it at all in the process of
13 redistricting?
14 A No.
15 Q The next document in your stack is an e-mail, this
16 one's on your Gmail account. This is from you to
17 Dr. Gaddie, copying Mr. Foltz, Mr. Troupis,
18 Mr. McLeod, Mr. Taffora, and it's dated July 17th.
19 Do you see that?
20 A I have two e-mails to Professor Gaddie dated the
21 17th.
22 Q Okay. So let's take a look at the one on the
23 first page. Those two are stapled together; is
24 that correct?
25 A Yes.

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1 Q Did Mr. Handrick make other decisions?
2 A I don't know.
3 Q Did Mr. Foltz make other decisions?
4 A Yes.
5 Q Do you remember decisions that you made about
6 changing the maps as you were going through this
7 cleaning up process?
8 A Nothing specific.
9 Q I note on the two pages you have in front of you,
10 and this is just from my own looking at it, it
11 appears to me that the only difference between the
12 two, is that the number 91 is black on the first
13 page, the number 91 is red on the second page. Do
14 you see that?
15 A Yes.
16 Q Does that indicate that a change was made to
17 District 91?
18 A I don't know.
19 Q And there are 99 districts in here. Does that
20 indicate the 99 assembly districts?
21 A That's correct.
22 Q So as you sit here today, you don't know whether
23 there was a change made to the boundaries of
24 Assembly District 91?
25 A Correct.

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1 Q Let's take a look at the e-mail on the first page?
2 A Okay.
3 Q And this is dated Sunday, July 17th, at 11:40 a.m.
4 Do you see that?
5 A Yes.
6 Q You state in your e-mail, "Keith, Jim Troupis
7 asked that I have you take a look at the amendment
8 that was adopted in the committee on the Hispanic
9 districts." Do you see that?
10 A Yes.
11 Q Did -- do you know why Mr. Troupis was asking you
12 to send this e-mail to Dr. Gaddie?
13 A I don't recall.
14 Q Did you have a conversation with Mr. Troupis about
15 sending this e-mail to Dr. Gaddie?
16 A There was a conversation in which he asked me to
17 send this e-mail to Dr. Gaddie.
18 Q Did he tell you why he wanted you to send it to
19 Dr. Gaddie?
20 MR. McLEOD: I'm going to assert --
21 can you --
22 MR. SHRINER: He said he didn't
23 remember. You asked him the same question a
24 minute ago.
25 MR. POLAND: I asked him a

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1 different question.
 2 MR. McLEOD: Can you repeat the
 3 last two questions for me.
 4 (Questions and answer were read)
 5 MR. McLEOD: And I'm going to
 6 assert the attorney-client privilege as to
 7 the substance of that communication between
 8 counsel and client here, and instruct the
 9 witness not to answer accordingly.
 10 **Q** Are you going to follow counsel's instruction not
 11 to answer the question?
 12 **A** I am.
 13 MR. McLEOD: And just so the record
 14 is clear, a lot of questions, Doug, are
 15 getting at specific communications between
 16 the attorneys here and the client. The
 17 question, as I understand it, is do you know
 18 why Mr. Troupis asked you to send it. Is
 19 that correct? Was that the question?
 20 I'm trying to be as -- I'm trying to
 21 follow your questions as specifically as
 22 possible. If the question was do you know
 23 why, I don't think that's subject to the
 24 privilege. If you're asking for the specific
 25 content of that communication, I'm trying to

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1 don't you read back the last question.
 2 (Question read)
 3 **A** I don't recall.
 4 **Q** Do you know if Dr. Gaddie requested that
 5 information?
 6 **A** I don't know.
 7 **Q** You say, in the third paragraph, "There was
 8 testimony by two different Hispanic groups in
 9 favor of the configuration in amendment 2." Do
 10 you see that?
 11 **A** Yes.
 12 **Q** Who are the two different Hispanic groups that
 13 testified?
 14 **A** I don't recall.
 15 **Q** The last sentence there, you state *Jim was -- I*
 16 *assume that was intended to be going to call you?*
 17 **A** I believe that's what it was intended to be.
 18 **Q** All right. Let me read it the way I think you
 19 intended it to be. *Jim was going to call you*
 20 *later today to get your thoughts if you have a*
 21 *chance to take a look at that, at the amendment.*
 22 Do you see that language?
 23 **A** Yes.
 24 **Q** Do you know what thoughts Mr. Troupis was going to
 25 call Dr. Gaddie to get?

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1 make sure that we're asserting the privilege
 2 appropriately under those circumstances. But
 3 the questions that you're asking of a
 4 layperson related to attorney-client
 5 privilege communications is creating a lot of
 6 problems with respect to the appropriate
 7 assertion of the attorney-client privilege.
 8 And I want to make sure that the information
 9 that you were -- that you're seeking does not
 10 elicit the substance of those communications.
 11 That's the nature of sort of my concern
 12 here at the moment. I think that the last
 13 question simply said do you know why. I
 14 think that's either a yes or no, he does or
 15 does not. But again, to the extent that what
 16 you're seeking is some further description of
 17 the content of that communication, I'm going
 18 to object on that basis.
 19 MR. POLAND: I'm trying to ask the
 20 foundational question first, which should be
 21 a non-objectionable question, and depending
 22 on -- and I understand. I understand. We're
 23 going to disagree about what is covered and
 24 what isn't covered. I assume that will be
 25 resolved by a court. So to be clear, why

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1 **A** I don't know.
 2 **Q** Did you and Mr. Troupis have a discussion at all
 3 about that?
 4 **A** Not that I recall.
 5 **Q** And the next page of these two e-mails is an
 6 e-mail from Dr. Gaddie back to you, correct?
 7 **A** Correct.
 8 **Q** Dated the same day, at 1:18 p.m.?
 9 **A** Yes.
 10 **Q** Dr. Gaddie says, "I will look at them and can talk
 11 after 5 p.m." Do you see that?
 12 **A** Yes.
 13 **Q** Did you speak with Dr. Gaddie that day?
 14 **A** I did not.
 15 **Q** Do you know whether Dr. Gaddie spoke with
 16 Mr. Troupis that day?
 17 **A** I don't know.
 18 **Q** Next group of e-mails that are stapled together
 19 are dated the same day, Sunday July 17th, and this
 20 is at 1:33 p.m. Do you see that e-mail?
 21 **A** Yes.
 22 **Q** And this is, the heading at the top says Revised
 23 Timing. Dr. Gaddie says, "I am ready to talk."
 24 Do you see that?
 25 **A** Yes.

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1 Q And again, this pertains to that same conversation
2 that we were looking at in the previous document?
3 A Yes.
4 Q And you were not a part of any conversation with
5 Dr. Gaddie on Sunday, July 17th?
6 A I was not.
7 Q All right. Turn to the last stapled group of
8 documents that are in that stack. And this is a
9 Gmail header again, correct?
10 A Uh-huh.
11 Q And this is your Gmail account?
12 A Yes.
13 Q And the header at the top says Alternative, is
14 that supposed to be configuration of ADs 8 and 9?
15 A Yes.
16 Q Do you know the date of that e-mail?
17 A I believe it was July 8th.
18 Q Now, I note there is a bit of white space there at
19 the top. Do you know whether that was anything
20 that was redacted?
21 A Yes.
22 Q It was redacted?
23 A Yes.
24 Q There is no indication of who, it simply says
25 Alternative Configuration of ADs 8 and 9 at the

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1 top, 13 messages, and then under there is all
2 blank space. There's no indication of who that
3 was to or who it was from, it would appear. Is
4 that correct?
5 A Yes.
6 Q So what's been deleted there is the address of
7 anyone who sent or received at least that first
8 part of that e-mail; is that correct?
9 A I believe so.
10 Q Do you recall who sent that e-mail?
11 A I don't.
12 Q Do you recall who the recipient of that e-mail
13 was?
14 A I don't.
15 Q Do you recall whether there was anyone CC'd on
16 that e-mail?
17 A I don't recall.
18 Q Now, it identifies a file attached to it that says
19 Alternative ADs 8 and 9.PDF. Do you see that?
20 A Yes.
21 Q Is that a file that you've produced on the disk
22 that you're giving to us today?
23 A Yes.
24 Q Is that the same as the previous file that we
25 looked at that was attached to an e-mail that I

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1 identified alternatives for Districts 8 and 9?
2 A It may be. I'm not certain.
3 Q Might be different?
4 A Might be different.
5 Q Do you know what the nature of the e-mail was
6 that's been redacted?
7 A I believe it was communications with counsel.
8 Q Between --
9 MR. POLAND: Peter, you're going
10 for the refrigerator again.
11 MR. EARLE: I'm sorry. Okay. How
12 about now?
13 MR. SHRINER: It's because you
14 won't give him a lunch break. We're getting
15 hungry.
16 MR. POLAND: That's right.
17 Q When you say communications with counsel,
18 communications between you and counsel?
19 A Correct.
20 Q Do you know which counsel specifically you were
21 communicating with in that e-mail?
22 A I don't recall.
23 MR. McLEOD: Doug, can I interject
24 briefly?
25 MR. POLAND: Yes.

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1 MR. McLEOD: Obviously, my
2 understanding is the e-mail is
3 attorney-client privilege communication,
4 which is why it was redacted. The to and
5 from designation should not have been
6 redacted. I'll provide you, after the lunch
7 break, with a different version that
8 identifies that information to which you're
9 entitled. So that was an error on our part
10 in the manner in which this was produced.
11 But the assertion of privilege is
12 attorney-client.
13 MR. EARLE: That will include the
14 date too?
15 MR. McLEOD: It will include, yeah,
16 it will include the date.
17 MR. EARLE: And the CC's?
18 MR. McLEOD: It will include all of
19 that relevant information.
20 Q Just below that, Mr. Ottman, is, there's an e-mail
21 dated Friday, July 8, 2011, that you sent to
22 Scott Jensen, correct?
23 A That's correct.
24 Q Why did you send this e-mail to Mr. Jensen?
25 A Senator Zipperer mentioned that he may have some

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1 contacts in the Hispanic community who could
2 review the proposal.
3 Q And who is Mr. Jensen?
4 A He's a former legislator.
5 Q You state in that first e-mail, you state -- you
6 say, "Scott, Rich Zipperer mentioned he had been
7 talking to you about the Hispanic districts in
8 Milwaukee." Do you see that?
9 A Yes.
10 Q And that's what you just referred to when you made
11 the reference to Mr. Zipperer?
12 A Correct.
13 Q You go on to say, "I wanted to get you a shapefile
14 of the amendment with an alternative configuration
15 of the two districts that was introduced along
16 with the bill on legislative districts." Do you
17 see that?
18 A Yes.
19 Q What do you mean by a shapefile?
20 A A shapefile is just a picture of the districts
21 without any information attached.
22 Q Is that the PDF that's attached, is that the
23 shapefile?
24 A Yes.
25 Q And again, that's something that's in the

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1 information that you've provided for us today?
2 A That's correct.
3 Q So Mr. Zipperer asked you to send this to
4 Mr. Jensen; is that correct?
5 A I believe so, yes.
6 Q Did you have any conversations with Mr. Jensen
7 after you sent this e-mail to him?
8 A Yes.
9 Q When did you have those conversations with
10 Mr. Jensen?
11 A I don't recall exactly. It was around the time of
12 the e-mail.
13 Q And what was the nature of that conversation with
14 Mr. Jensen?
15 A I was asking for contact information for the
16 Hispanic contest -- contact, who turned out to be
17 Zeus Rodriguez.
18 Q So you learned of Mr. Rodriguez through
19 Mr. Jensen?
20 A That's correct.
21 Q Was Mr. Zipperer the one who asked you
22 specifically to make this contact with Mr. Jensen?
23 A I believe so.
24 Q Did you have any other conversations with
25 Mr. Jensen -- strike that. Did you discuss

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1 anything with Mr. Jensen other than the contact
2 information for the person that turned out to be
3 Mr. Rodriguez?
4 A No.
5 Q How many times did you talk to Mr. Jensen about
6 the Hispanic districts in Milwaukee?
7 A Once, I believe.
8 Q So if you turn to the second page then, you'll see
9 there is an e-mail from Scott Jensen to
10 Jesus Rodriguez and a copy to you on Friday,
11 July 8th, correct?
12 A That's correct.
13 Q And Jesus Rodriguez, the e-mail address is
14 zeus@rodriguezwi.com; is that correct?
15 A That's correct.
16 Q And is Zeus a nickname for Jesus, do you know?
17 A That's my understanding.
18 Q So Mr. Jensen in this e-mail, it appears, is
19 instructing Zeus Rodriguez that he can contact you
20 for an explanation of both options, correct?
21 A That's correct.
22 Q Did Mr. Rodriguez contact you for an explanation
23 of the two options?
24 A He did.
25 Q When did he contact you?

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1 A I don't recall exactly.
2 Q What was -- did you and Mr. Rodriguez have a
3 conversation about the two options?
4 A Yes.
5 Q Was this by phone?
6 A By phone and by e-mail.
7 Q How many times did you talk with Mr. Rodriguez by
8 phone?
9 A I don't recall exactly.
10 Q What was the conversation that you had with him?
11 A It related to a description of the alternatives, a
12 discussion of the voting-age percentages in the
13 district, and then he had information requests
14 that he wanted to see if I could provide him to
15 evaluate the districts and to consider testifying
16 in talking to other Hispanic groups about the
17 maps.
18 Q What information did he request from you?
19 A He requested, along with the district maps and the
20 overlays, he requested heat maps for the districts
21 in question as well as some heat maps for some
22 other communities he identified in the state.
23 Q And when you refer to heat maps, what do you mean
24 by that?
25 A They're a graphical representation of

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1 concentration of minority populations.
2 Q And you said Mr. Rodriguez requested those heat
3 maps for Districts 8 and 9; is that correct?
4 A That's correct.
5 Q And for any other districts in the state?
6 A For other communities.
7 Q What other communities did he ask you for heat
8 maps of?
9 A Madison, Waukesha, and Racine.
10 Q And did you provide those to Mr. Rodriguez?
11 A I did.
12 Q Were those heat maps that you created?
13 A They were.
14 Q Did you use those heat maps in any way during the
15 redistricting process?
16 A I did not.
17 Q Did you create heat maps for any other areas of
18 the state other than Madison, Waukesha, Racine,
19 and then Milwaukee?
20 A I don't believe so.
21 Q Mr. Jensen's e-mail also indicates that
22 Mr. Rodriguez can contact Joe Handrick. Do you
23 see that?
24 A Yes.
25 Q Did you ever have a conversation with Mr. Handrick

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1 A It is.
2 Q Below that is an e-mail from you to Mr. Jensen,
3 also on July 9th at 7:43. Do you see that?
4 A Yes.
5 Q And you say *Scott*, if you could give me a call at
6 your convenience, I would appreciate it. I'm at
7 home the rest of the night or you can reach me
8 tomorrow, and he gives you telephone numbers.
9 Correct?
10 A Yes.
11 Q I'm sorry, I should say this is from you to Mr. --
12 from you to Mr. Jensen, correct?
13 A That's correct.
14 Q And Mr. Jensen did in fact give you a call?
15 A Yes.
16 Q And is that the conversation that you testified
17 about before?
18 A That's correct.
19 Q And the e-mail that follows below that, that's
20 dated Saturday, July 9, 2011, at 8:15 p.m., from
21 Mr. Rodriguez, he refers there to the heat maps
22 for Waukesha, Racine, and Madison. And are those
23 the heat maps that you testified about a minute
24 ago?
25 A That's correct.

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1 about the Hispanic districts?
2 A I don't recall.
3 Q If you turn the page, there is a reference and an
4 e-mail from Mr. Rodriguez about some materials
5 that he's requesting from you. Do you see that?
6 A At the top of the page?
7 Q Correct, at the top of the page?
8 A Yes.
9 Q Where he says *What I really need is a comparison*
10 *of the new maps and the current map, along with*
11 *the actual demographics and percentages of the new*
12 *and the old districts, preferably in PDF.* Do you
13 see that?
14 A That's correct.
15 Q And that's the information that was contained in
16 the PDFs that you sent to Mr. Rodriguez?
17 A That's correct.
18 Q I'm going to ask you to turn a couple of pages
19 back. There is an e-mail from you to
20 Mr. Rodriguez, the date is Saturday, July 9, 2011,
21 at 7:41 p.m. And in that e-mail you say, "Here is
22 the Milwaukee heat map." Do you see that?
23 A Yes.
24 Q Is that Milwaukee heat map produced in the
25 materials that you've brought with you today?

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1 Q All right. If you look at the next paragraph of
2 Mr. Rodriguez's e-mail, he says, "Last but not
3 least, when and who do I speak with about making
4 actual changes to the proposal. I spoke with Joe
5 and he said that we would be able to work with
6 someone." Do you see that?
7 A Yes.
8 Q Is the Joe that he refers to there Joe Handrick?
9 A I don't know.
10 Q Did you ever have a conversation with
11 Mr. Rodriguez that Mr. Handrick also was involved
12 in?
13 A No.
14 Q If you turn the page. Up at the top is an e-mail
15 from Mr. Rodriguez -- I'm sorry, that's an e-mail
16 from you; is that correct?
17 A That's correct.
18 Q And you state in there, "In terms of a contact for
19 information about changes to the proposal, you
20 should contact Ray Taffora with Michael, Best &
21 Friedrich," and it gives a telephone number. Do
22 you see that?
23 A Yes.
24 Q Why did you instruct Mr. Rodriguez to contact
25 Ray Taffora?

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VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

1 A He had requested a person to contact. I consulted
 2 with counsel and asked who he should contact, and
 3 they suggested Ray Taffora.
 4 Q Who told you to tell Mr. Rodriguez that he should
 5 contact Ray Taffora?
 6 A I don't recall.
 7 Q But it was legal counsel?
 8 A Yes.
 9 Q Do you recall whether it was an attorney with
 10 Michael, Best & Friedrich?
 11 A I believe so.
 12 Q Do you know whether Mr. Rodriguez ever did speak
 13 with Ray Taffora?
 14 A I don't know.
 15 Q And the rest of the conversation in that e-mail on
 16 that page refers to heat maps, it would appear; is
 17 that correct?
 18 A That's correct.
 19 Q And those heat maps that you transmitted, those
 20 are attached to the, to the printout of this
 21 e-mail chain?
 22 A Yes.
 23 Q They are also produced in electronic format in the
 24 disk that you provided today?
 25 A Correct.

1 legal counsel previously?
 2 A I have skimmed through it. I don't know that I've
 3 reviewed it with counsel.
 4 Q I'd like you to turn to the second page of
 5 Exhibit 28, and draw your attention to the third
 6 paragraph. It starts out several days later?
 7 A Yes.
 8 Q It states, "Several days later, on
 9 December 4, 2011, Tad Ottman, a legislative aid to
 10 Wisconsin State Senate Majority Scott L.
 11 Fitzgerald, was served with a subpoena by the
 12 plaintiffs." Do you see that?
 13 A Yes.
 14 Q And then it goes on and it describes documents
 15 that were requested in the subpoena, correct?
 16 A Yes.
 17 Q Then the next paragraph down, the one immediately
 18 following, the sentence states, "The Wisconsin
 19 Assembly and Senate ("the nonparties") have moved
 20 to quash both Mr. Handrick's and Mr. Ottman's
 21 respective subpoenas." Do you see that?
 22 A Yes.
 23 Q Then I'd like you to turn to page 4 of the order.
 24 And I'm going to draw your attention to about
 25 halfway down the page, there is a citation to a

1 Q Before we break -- we'll break in just a minute
 2 here for lunch.
 3 MR. SHRINER: Promises, promises.
 4 Q I have just one more question. Just one more
 5 document I wanted to have you take a look at.
 6 I'm going to direct you to Exhibit No. 28.
 7 Let me ask you before that. Mr. Ottman, have you
 8 seen copies of any orders entered by the Court in
 9 this case regarding claims of privilege that were
 10 asserted by your counsel over materials related to
 11 the redistricting work that you performed?
 12 A Could you repeat the question?
 13 (Question read)
 14 A Yes.
 15 Q What orders did you see?
 16 A I saw the orders from Judge Stadtmeuller in
 17 response to the motions to quash.
 18 Q I'm going to hand you document that's been marked
 19 as Deposition Exhibit 28. We marked that at
 20 Mr. Foltz's deposition. Have you seen a copy of
 21 Exhibit 28 before?
 22 A Yes.
 23 Q Who gave you a copy of Exhibit 28?
 24 A I believe counsel provided it.
 25 Q Is it a document that you had reviewed then with

1 case called Committee for a Fair & Balanced Map
 2 and a citation. Do you see that?
 3 A Yes.
 4 Q Do you see then the Court goes on and states,
 5 "And, even without that waiver, the Court would
 6 still find that legislative privilege does not
 7 apply in this case." Do you see that language?
 8 A Yes.
 9 Q Did you ever have any discussion with counsel
 10 about the application of legislative privilege in
 11 this case?
 12 A Yes.
 13 Q And what were you told about the application of
 14 legislative privilege in this case?
 15 MR. McLEOD: Well, can you read the
 16 question back?
 17 (Question read)
 18 MR. McLEOD: As specifically asked
 19 for in the substance of communication between
 20 attorney and client, I'm going to instruct
 21 the witness not to answer on grounds of
 22 attorney-client privilege.
 23 Q Are you going to follow counsel's instruction and
 24 not answer that question?
 25 A I am.

1 Q You have not made a determination on your own, is
2 it true, about whether legislative privilege does
3 or does not apply in this particular case?
4 A That's correct.
5 Q And you've not withheld any documents on your own
6 outside of counsel's determinations about what is
7 or is not subject to a legislative privilege in
8 this case?
9 A That is correct.
10 MR. POLAND: Why don't we break for
11 lunch.
12 (Lunch recess)
13 (Exhibit No. 36 marked for
14 identification)
15 By Mr. Poland:
16 Q Mr. Ottman, at the lunch break did you meet with
17 anyone other than Mr. McLeod, your counsel in this
18 case?
19 A I talked to Adam Foltz.
20 Q I'm sorry, you talked to Adam Foltz?
21 A Yes.
22 Q And what did you and Mr. Foltz discuss?
23 A He asked me how the deposition was going. We
24 talked a little bit about Doug LaFollette running
25 against Walker.

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1 Q All right. And I'm going to get more specific
2 here. And specifically there was an e-mail that
3 had come from your Gmail account, there was some
4 information that had been inadvertently deleted at
5 the top. Do you recall that?
6 A It had been redacted, yes.
7 Q It had been redacted. And there was an additional
8 amount of information that was inadvertently
9 reacted, correct?
10 A That's correct.
11 Q And that information that was inadvertently
12 redacted appears on Exhibit 36, correct?
13 A That's correct.
14 Q So the information that was inadvertently redacted
15 that now appears on Exhibit 36 identifies
16 Mr. Foltz as the sender of an e-mail on
17 July 8, 2011, correct?
18 A That's correct.
19 Q And Mr. Foltz's e-mail was going to Mr. Taffora,
20 correct?
21 A That's correct.
22 Q And Mr. McLeod was also a recipient?
23 A That's correct.
24 Q And you were copied on that e-mail, correct?
25 A Correct.

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1 Q Did you talk at all about redistricting or the
2 issues involving redistricting that are involved
3 in this litigation?
4 A Other than just asking how the deposition was
5 going, no.
6 Q Did you talk about any specific testimony you gave
7 this morning?
8 A Just a couple of -- what questions did they ask
9 you, that sort of thing.
10 Q Did Mr. -- did you talk to Mr. Foltz about his
11 testimony yesterday?
12 A No.
13 Q I'm handing you a copy that's been marked as
14 Deposition Exhibit 36. I don't have a copy in
15 front of me, so I'm going to do my best here I can
16 without having it. Do you recall this morning
17 there were a string of e-mails that --
18 MR. POLAND: Thank you. Mr. McLeod
19 has given me a copy.
20 Q This morning we looked at some e-mails that were
21 included within Exhibit 33-A, and it was a number
22 of stapled pages reflecting e-mail correspondence
23 between you and Mr. Foltz and some other people.
24 Do you recall that?
25 A Yes.

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1 Q All right. The other information that was
2 redacted from the earlier version of this e-mail
3 is -- continues to be redacted, correct?
4 A That's correct.
5 Q And is it your understanding that that redacted
6 information has been omitted from this document
7 based on an assertion of privilege?
8 A That's correct.
9 Q You can set that document -- actually, one more
10 question. Is there anything else that was added
11 to Exhibit 36, to your knowledge, that -- strike
12 that question. To your knowledge, is there
13 anything else in Exhibit 36 that can now be seen
14 that could not be seen on the earlier version of
15 the same document that we looked at?
16 A Not to my knowledge.
17 Q You can set that document to the side.
18 Mr. Ottman, where do you currently live?
19 A I live in Madison.
20 Q How long have you lived in Madison?
21 A I've lived in Madison since 1983.
22 Q Do you have a curriculum vitae or resume?
23 A I do.
24 Q Is it an updated version, or is there an updated
25 version?

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1 A I haven't updated it in some time.
 2 Q So it's not a current CV or resume that you have?
 3 A That's correct.
 4 Q Do you have a college degree?
 5 A Yes.
 6 Q Where did you graduate from?
 7 A University of Wisconsin.
 8 Q What year did you graduate?
 9 A '87.
 10 Q What's your degree in?
 11 A Political science and English.
 12 Q Do you have any other degrees?
 13 A No.
 14 Q Never -- did you ever attend any other educational
 15 institutions after college?
 16 A No.
 17 Q Never took any classes at law school?
 18 A No.
 19 Q And you're not a lawyer, correct?
 20 A That's correct.
 21 Q Your current position is with the Senate Majority
 22 Leader Fitzgerald; is that correct?
 23 A That's correct.
 24 Q What year were you hired for that job?
 25 A I believe it was 2005.

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1 A That's correct.
 2 Q Do you also access your Gmail account from that
 3 computer?
 4 A Occasionally, yes.
 5 Q For the purposes of work?
 6 A Yes.
 7 Q Do you have offices anywhere other than in the
 8 state capitol building?
 9 A There are offices that have been provided to the
 10 legislature -- or office provided space provided
 11 to the legislature within Michael, Best &
 12 Friedrich.
 13 Q And when was that space provided?
 14 A I believe last December or January.
 15 Q Meaning December of 2010, a year ago?
 16 A Correct.
 17 Q When was the first time that you accessed that
 18 space?
 19 A I think December of 2010.
 20 Q When were you assigned to work on the 2011
 21 redistricting?
 22 A Shortly after the 2010 elections.
 23 Q Who gave you that assignment?
 24 A Senator Fitzgerald.
 25 Q So it was sometime between November election and

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1 Q What are the tasks that you perform in that role?
 2 A I perform legislative analysis, work with other
 3 senators on budget legislation or other
 4 legislation before the senate. I attend meetings.
 5 I prepare information for him on legislation.
 6 Q Did Mr. Fitzgerald hire you for that position
 7 himself?
 8 A He did.
 9 Q Do you have an office over at the state capitol
 10 building?
 11 A Yes.
 12 Q Do you have your own office or do you share an
 13 office with others?
 14 A I share it with the media equipment.
 15 Q Do you have a computer that is located in that
 16 office?
 17 A Yes.
 18 Q Do you have an e-mail account that is accessible
 19 from that computer?
 20 A There is a state legislative e-mail account I --
 21 Q I'm sorry.
 22 A -- that I access on my computer.
 23 Q And an example of that e-mail is one I think that
 24 we saw in some of the earlier e-mails that we
 25 looked at; is that correct?

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1 then December when you started in that office?
 2 A That's correct.
 3 Q Now, you had done redistricting previously,
 4 correct?
 5 A I had worked on it previously.
 6 Q And I should have used a better word than *done*.
 7 You had worked on redistricting previously?
 8 A Yes.
 9 Q And the first time was following the 1990
 10 decennial census; is that correct?
 11 A That's correct.
 12 Q What position did you hold at that time when you
 13 worked on redistricting following the 1990
 14 decennial census?
 15 A I was a legislative aide to, at that time I
 16 believe it was State Representative Mary Panzer.
 17 Q What did Representative Panzer ask you to do with
 18 respect to the redistricting in 1990?
 19 A She asked me to just kind of help out with the
 20 redistricting actions that the legislature was
 21 undertaking at that time.
 22 Q And Representative Panzer is a republican,
 23 correct?
 24 A That is correct.
 25 Q Do you know whether the republicans were in

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1 control of the legislature at that time?
 2 A It was a split legislature at that time.
 3 Q Republicans controlled the assembly, democrats
 4 controlled the senate?
 5 A I believe that's the split at that time.
 6 Q Were you asked to assist with the redistricting of
 7 one of the two, either the senate or the assembly
 8 districts?
 9 A They're all kind of tied together, so it was
 10 working on assembly districts that are then
 11 combined into the senate districts.
 12 Q And what did you do specifically with respect to
 13 assisting on the redistricting following the 1990
 14 decennial census?
 15 A I don't recall a lot of the work, specific work I
 16 did in the early Nineties.
 17 Q Did you draw any maps?
 18 A I drew some portions of them.
 19 Q Did you have any particular area of specialty that
 20 you developed as part of that process?
 21 A No.
 22 Q Did you work with any computers in drawing maps
 23 after the 1990 decennial census?
 24 A Yes.
 25 Q I think you testified earlier you don't recall

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1 you aware there was litigation following the 1990
 2 decennial census?
 3 A I am.
 4 Q And relating to the redistricting?
 5 A Yes.
 6 Q And eventually there was a court-ordered plan,
 7 correct?
 8 A That's correct.
 9 Q Did you work on the litigation at all following
 10 the 1990 decennial census?
 11 A I did not.
 12 Q What job or what position did you hold in 2000
 13 when you worked on the redistricting following
 14 that decennial census in that year?
 15 A I was working for then State Senator Mary Panzer
 16 as a legislative aide.
 17 Q So continuing the job that you had held after the
 18 1990 decennial census?
 19 A That's correct.
 20 Q Had your duties changed from the duties that you
 21 had performed in 2000 with respect to
 22 redistricting -- strike that question. I said
 23 2000. In the 2000 redistricting, did your duties
 24 change from what they had been during the
 25 redistricting following the 1990 decennial census?

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1 whether you used autoBound software at that time?
 2 A That's correct.
 3 Q What other people did you work with in the
 4 redistricting following the 1990 decennial census?
 5 A I worked with Joe Handrick, obviously
 6 Representative Panzer. I can't remember who else
 7 was involved at that point.
 8 Q When did you meet Mr. Handrick for the first time?
 9 A Sometime in the mid-1980s, I believe.
 10 Q What work did you and Mr. Handrick perform
 11 together in the redistricting following the 1990
 12 decennial census?
 13 A We worked on the redistricting software drawing
 14 different districts.
 15 Q Did you receive any instructions from anyone at
 16 that time as to how to draw legislative districts?
 17 A Not that I recall.
 18 Q Did you receive any training in, at that time, and
 19 I'm talking specifically following the 1990
 20 decennial census, on redistricting generally?
 21 A Not -- no.
 22 Q Now, you also worked on redistricting following
 23 the 2000 decennial census, correct?
 24 A That's correct.
 25 Q Let me back up and ask you one other thing. Are

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1 A It was similar tasks, I would say.
 2 Q Were there different or additional tasks that you
 3 performed in the 2000 redistricting versus the
 4 1990 redistricting?
 5 A Not specific additional tasks that I recall.
 6 Q In 2000, you did have new tools at your disposal
 7 in the form of the autoBound software; is that
 8 correct?
 9 A It was improved software, yes.
 10 Q Do you recall whether it was autoBound that you
 11 used for the 2000 redistricting?
 12 A Yes, I believe it was autoBound.
 13 Q Did you receive training on the software at that
 14 time?
 15 A Informal training.
 16 Q Who gave you that training?
 17 A Joe Handrick.
 18 Q So you worked with Mr. Handrick again in the 2000
 19 redistricting; is that correct?
 20 A That's correct.
 21 Q Did you work with Mr. Handrick at all between the
 22 work that you performed together for the 1990
 23 redistricting and then the work you performed
 24 together in the 2000 redistricting?
 25 A I guess I don't entirely understand the question.

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1 Q In the years between those two redistricting
2 efforts, did you work with Mr. Handrick at all?
3 A Yes.
4 Q In what capacity did you work with Mr. Handrick
5 during that intervening time period?
6 A For a portion of that time, he was a state
7 representative, so I may have worked with him on
8 talking about legislative items that were moving
9 through both houses.
10 Q But it wouldn't have been anything specifically
11 relating to redistricting given that it was
12 between decennial censuses; is that a correct
13 statement?
14 A That's correct.
15 Q Did you work on the litigation following the 2000
16 decennial census?
17 A I guess I'm not clear on what that means.
18 Q Sure. There was a litigation following the
19 redistricting -- strike that. The redistricting
20 following the 2000 decennial census wound up going
21 to court, correct?
22 A Correct.
23 Q And there was a court-ordered redistricting plan,
24 correct?
25 A Correct.

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1 Q Did you work at all in that litigation?
2 A I worked on some of the maps that were submitted
3 as part of that litigation.
4 Q Who did you work with on those maps?
5 A I worked with Joe Handrick and Greg Hubbard.
6 Q Who is Mr. Hubbard?
7 A He at the time was working for the, I believe it
8 was for the assembly caucus on redistricting.
9 Q Anyone else that you worked with in the litigation
10 in 2000?
11 A Senator Panzer. I believe Representative Jensen
12 was involved in that litigation.
13 Q Did you work with the lawyers who were
14 representing the republicans in that litigation?
15 A Yes.
16 Q And who were the lawyers that you worked with?
17 A Jim Troupis, Eric McLeod. I don't recall others.
18 Q Did you perform any specific tasks in working on
19 the maps that were submitted to the Court in 2000?
20 A Yes. I believe I worked on some exercises of
21 looking for ways to reduce populations to closer
22 to ideal in certain areas, or to check maps for --
23 to make sure that all blocks had been assigned,
24 that sort of thing.
25 Q And when you say populations closer to ideals,

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1 what do you mean by that?
2 A Checking to see if adding to or subtracting to
3 neighboring districts would bring the population
4 of both districts closer to the ideal population
5 for assembly seats.
6 Q And what is an ideal population?
7 A It's whatever the population of the state is,
8 total population of the state is for that census
9 divided by 99 seats.
10 Q And is there a goal when you're looking at
11 population deviation? A goal that you're trying
12 to achieve in terms of the population deviations?
13 A There can be. For that, I believe there was a
14 range of deviations that they were considering as
15 part of the Court submittal.
16 Q And this is for the purpose of the litigation
17 following, the redistricting litigation following
18 the 2000 decennial census, correct?
19 A That's correct.
20 Q Is it a goal to try to achieve a 0 percent
21 population deviation if you can?
22 A I don't recall if that was a goal for that
23 redistricting cycle.
24 Q Generally speaking, do you try to attempt to get
25 the population deviation as low as you can?

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1 A It's one of the standards that you look at in
2 reapportionment.
3 Q In your experience, is there some deviation from
4 the 0 percent population deviation when engaging
5 in redistricting?
6 A That's my experience.
7 Q Have you ever been able to achieve or have you
8 ever seen anyone achieve a 0 percent population
9 deviation in legislative districts?
10 A In legislative districts? I believe there was a
11 submittal after either the 1990 or the 2000, I
12 don't recall which, that was at zero population
13 deviation.
14 Q Did you have any other specific tasks in the
15 litigation, the redistricting litigation following
16 the 2000 decennial census other than looking at
17 the population deviations and ways to reduce them?
18 A Not that I recall.
19 Q Between the time that you finished working on the
20 redistricting litigation and following the 2000
21 decennial census and the time that you started
22 working for Senator Fitzgerald in 2005, what did
23 you do in that time frame?
24 A I continued to work for State Senator Mary Panzer.
25 Q Right up until the time that you started working

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1 for Senator Fitzgerald?
 2 A That's correct.
 3 Q In that -- would that have been -- that would have
 4 been about a 2002 to 2000 time frame; is that
 5 correct?
 6 A I'm sorry, what was the time frame?
 7 Q When did you stop working on the litigation, the
 8 redistricting litigation following the 2000
 9 decennial census?
 10 A I think my work concluded when the maps were
 11 submitted to the Court.
 12 Q Do you recall was that approximately sometime in
 13 2002?
 14 A Yes.
 15 Q So between then and the time that you started with
 16 Senator Fitzgerald in 2005, what kinds of tasks
 17 were you performing for Representative Panzer?
 18 A Similar to the task I had performed to her prior
 19 and performed for Senator Fitzgerald, legislative
 20 analysis, working with budget, working with caucus
 21 members on legislation moving through the body.
 22 Q And that had nothing to do with redistricting; is
 23 that correct?
 24 A That's correct.
 25 Q Was there -- were there any types of

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1 reapportionment issues that you looked at between
 2 the time that you stopped working on the
 3 litigation in 2002 and the time you started with
 4 Senator Fitzgerald in 2005?
 5 A Not that I recall.
 6 Q Did you receive any kind of training at all in
 7 that time frame on redistricting or
 8 reapportionment?
 9 A No.
 10 Q You mentioned you graduated from college in 1987,
 11 was it?
 12 A Yes.
 13 Q What did you do between the time you graduated
 14 from college and the time you started with
 15 Representative Panzer?
 16 A I worked in the legislature during that period of
 17 time.
 18 Q So that would have been when you graduated from
 19 the UW in 1987 up until what time?
 20 A I believe I started working for Senator Panzer in
 21 1989 or 1990.
 22 Q What was your job in the legislature between 1987
 23 and the time that you started working for
 24 Representative Panzer?
 25 A I was a legislative aide for Senator Harsdorf,

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1 Representative Berndt, and Representative
 2 Harsdorf.
 3 Q And in that time frame, from 1987 until the time
 4 you started working for Representative Panzer, did
 5 you have any training or education with respect to
 6 reapportionment or redistricting?
 7 A Not that I recall.
 8 Q During the time you've been working for
 9 Senator Fitzgerald, have you received any formal
 10 training in reapportionment or redistricting?
 11 A Yes.
 12 Q When did you receive that training?
 13 A Late last year, early this year.
 14 Q So late 2010 or early 2011?
 15 A Yes.
 16 Q And what did that training consist of?
 17 A Consisted of LTSB offering training on the
 18 software that was selected for the legislature to
 19 use.
 20 Q Was that individual training or was it -- did you
 21 train together with other people?
 22 A It was with Adam Foltz.
 23 Q Have you ever had any training on redistricting or
 24 reapportionment generally outside of that training
 25 that you received from LTSB?

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1 A No.
 2 Q Are there any professional positions or jobs that
 3 you've held after graduating from college that I
 4 haven't asked you about or you haven't testified
 5 about?
 6 A No.
 7 Q Mr. Ottman, in preparing for this deposition, did
 8 you meet with anyone?
 9 A I met with counsel.
 10 Q Is that Mr. McLeod?
 11 A Yes.
 12 Q Did you meet with any other counsel?
 13 A Yes.
 14 Q Who else did you meet with?
 15 A I met with Joe Olson.
 16 Q Any other counsel that you met with?
 17 A I don't believe so.
 18 Q Was anyone else present during the time you were
 19 meeting with Mr. McLeod and Mr. Olson?
 20 A Adam Foltz was present for some.
 21 Q Anyone else present other than Mr. Foltz?
 22 A No.
 23 Q Did you discuss this deposition with anyone other
 24 than Mr. McLeod or Mr. -- strike that question.
 25 Other than your legal counsel, did you discuss

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1 this deposition with anyone else?
 2 A No.
 3 Q You mentioned before, you do have a computer in
 4 your office at the, over at the state capitol
 5 building, correct?
 6 A That's correct.
 7 Q Do you have an employer-issued cell phone that you
 8 use for your work?
 9 A No.
 10 Q Do you use your own personal cell phone for your
 11 business work?
 12 A Yes.
 13 Q And is that number still (608) 209-0219?
 14 A That's correct.
 15 Q Is that cell phone a Blackberry device or capable
 16 of sending e-mail?
 17 A It's an Android device.
 18 Q And is it capable of sending e-mail?
 19 A Yes.
 20 Q Do you send e-mail and receive e-mail on it?
 21 A Yes.
 22 Q And can you text message from it?
 23 A Yes.
 24 Q Do you text -- send and receive text messages from
 25 it?

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1 A Yes.
 2 Q Did you review any documents to prepare for your
 3 deposition today?
 4 A Yes.
 5 Q What documents did you review?
 6 A The documents requested in the subpoena.
 7 Q Okay. Did you review all documents that you found
 8 that were in your possession that were responsive
 9 to the subpoena?
 10 A Yes.
 11 Q Regardless of whether they were produced today or
 12 whether they were withheld pursuant to a claim of
 13 privilege?
 14 A That's correct.
 15 Q All the documents that you reviewed either would
 16 have been produced today or described in the
 17 privilege log that Mr. McLeod provided this
 18 morning; is that correct?
 19 A That's correct.
 20 Q And that's Exhibit 33, for the record.
 21 Mr. Ottman, were you ever told by anyone that
 22 you might be deposed in this lawsuit?
 23 A I don't recall.
 24 Q Were you ever told by anyone that you wouldn't be
 25 deposed in this lawsuit?

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1 A I don't believe so.
 2 Q Do you understand you've been identified as a
 3 potential trial witness in this lawsuit?
 4 MR. KELLY: Objection, form, to the
 5 extent it mischaracterizes the disclosures
 6 that were made.
 7 Q You can answer the question.
 8 A I was not aware.
 9 Q I'm going to ask you -- why don't I just get it
 10 here for you. I'm going to hand you a document
 11 that has been marked as Exhibit No. 10. I'm going
 12 to ask you to turn to the second page of Exhibit
 13 No. 10. Do you see it states Defendants' Amended
 14 Initial Rule 26(a) Disclosures?
 15 A Yes.
 16 Q Do you see that? I'd like you to take a look
 17 at -- turn to page 5, and look at paragraph
 18 No. 10. And before I ask you a question about
 19 that, let me ask you, have you seen Exhibit 10
 20 before?
 21 A I have not.
 22 Q No one has ever shown this document to you?
 23 A No.
 24 Q You see paragraph No. 10 states, "Individuals from
 25 the legislature, and/or its various bodies, or

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1 those individuals on a legislature's behalf, who
 2 were involved in drawing the redistricting maps
 3 that were signed into law on August 9, 2011,
 4 including without limitation, those individuals
 5 who reviewed the 2010 decennial census and
 6 assisted in determining the appropriate,
 7 constitutional boundaries for the state and
 8 Congressional districts as memorialized in Acts 43
 9 and 44." And then your name is mentioned after
 10 that paragraph, correct?
 11 A That's correct.
 12 Q Did you in fact review the 2010 decennial census
 13 and assist in determining the appropriate
 14 constitutional boundaries for the state and
 15 Congressional districts as memorialized in Acts 43
 16 and 44?
 17 A No.
 18 Q And what is incorrect about the statement that I
 19 just made?
 20 A I did not review the boundaries for the
 21 Congressional districts.
 22 Q So is it a true statement with respect to the
 23 constitutional boundaries for the state district,
 24 and I assume it's state senate and assembly
 25 districts, as memorialized in Act 43?

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1 A That's correct.
 2 Q And as you testified this morning, you did not do
 3 anything to prepare any of the maps that were
 4 reflected in Act 44, correct?
 5 A That's correct.
 6 Q And if you turn the page, to paragraph 11, do you
 7 see the statement -- strike that question. Were
 8 you in fact involved in reviewing census and
 9 population data from the 2010 decennial census to
 10 ensure a minimum population deviation for the new
 11 districts?
 12 A Yes.
 13 Q I'd like you to look at paragraph No. 12. And
 14 that's on the same page. If you flip it, you'll
 15 see that your, to the next page, you'll see your
 16 name appears at the top of page 7?
 17 A Okay.
 18 Q And then turn back to page 6. I'm going to read
 19 from paragraph 12. Did you -- were you involved
 20 in reviewing population and other data so as to
 21 preserve, to the extent possible and practicable,
 22 the core population of prior districts as well as
 23 communities of interest?
 24 A Yes.
 25 Q And that would have been with respect to Act 43,

1 A Yes.
 2 Q Paragraph No. 15. Again, your name appears after
 3 that paragraph, correct?
 4 A Yes.
 5 Q And did you review the 2010 decennial census data
 6 and the previous districting maps to ensure that
 7 the new districts were as geographically compact
 8 as practicable?
 9 A Yes.
 10 Q Paragraph 16. Your name appears after that
 11 paragraph as well?
 12 A Yes.
 13 Q Did you assist the legislature to prevent
 14 unnecessary and unconstitutional voter dilution of
 15 minority voters?
 16 A I guess I'm not entirely clear on what that means.
 17 Q Okay. Do you have an understanding of what
 18 unconstitutional voter dilution of minority voters
 19 means?
 20 A I'm not familiar with specific legal, or I should
 21 say federal criteria.
 22 Q Okay. Did you -- did any of the tasks that you
 23 performed in the course of redistricting address
 24 dilution of minority voter interests?
 25 A Yes.

1 correct?
 2 A That is correct.
 3 Q And not Act 44?
 4 A Correct.
 5 Q All right. Turn to page 7. I'd like to direct
 6 your attention to paragraph 13. Do you see your
 7 name is mentioned after paragraph 13?
 8 A Yes.
 9 Q Did you in fact assist the legislature in ensuring
 10 that the new redistricting maps, to the extent
 11 possible, kept wards and municipalities whole
 12 within legislative district boundaries, and to the
 13 extent possible recognized local government
 14 boundaries?
 15 A Yes.
 16 Q And the next paragraph is paragraph 14, and I
 17 would just ask you for the moment to turn over to
 18 page 8, and do you see your name appears after
 19 paragraph 14?
 20 A Yes.
 21 Q Did you in fact assist the legislature to ensure
 22 that if voters were shifted from odd to even set
 23 of districts, they were not unnecessarily
 24 disenfranchised by being deprived of the
 25 opportunity to vote?

1 Q And what was that?
 2 A We worked with legal counsel and their consultants
 3 to review maps that affected minority voters.
 4 Q And who were the legal counsel that you worked
 5 with?
 6 A Jim Troupis, Eric McLeod.
 7 Q Anyone else you can recall?
 8 A Not that I recall.
 9 Q And you also mentioned consultants, would that be
 10 Mr. Handrick?
 11 A Professor Gaddie.
 12 Q Was I correct in using the statement Mr. Handrick,
 13 or no?
 14 A Not specifically to minority voters, no.
 15 Q Okay. Professor Gaddie?
 16 A Yes.
 17 Q Anyone else?
 18 A Not that I recall.
 19 Q And what did you do -- what kind of work did you
 20 perform working with legal counsel and
 21 Professor Gaddie relating to minority voters?
 22 A We presented map alternatives with different
 23 configurations for districts affecting minority
 24 voters.
 25 Q And that would be African-American and Hispanic

1 voters; is that correct?
 2 A That's correct.
 3 Q In what ways did you present those alternatives?
 4 And by that I mean, did you present them as maps
 5 on a computer screen, were they maps that were
 6 printed out?
 7 A Both.
 8 Q How many different versions of maps did you
 9 present to legal counsel and Professor Gaddie?
 10 A I don't recall.
 11 Q On how many occasions did you present maps
 12 regarding minority interests to legal counsel and
 13 Professor Gaddie?
 14 A I don't recall.
 15 Q Was Adam Foltz a part of that process as well?
 16 A Yes.
 17 Q Did you save any of the -- those maps that you
 18 developed?
 19 A Yes.
 20 Q Are they still in existence?
 21 A I believe so.
 22 Q Do you know where they would be on a computer?
 23 A Yes.
 24 Q Are there also hardcopy printouts of those maps
 25 still in existence?

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1 Q Where is that, the Michael, Best & Friedrich
 2 office located?
 3 A In the glass bank.
 4 Q And that's across the street from the state
 5 capitol building?
 6 A That's correct.
 7 Q You and Mr. Foltz could have met with legal
 8 counsel over at the capitol building, correct?
 9 A Yes.
 10 Q Do you know why it was those meetings were held
 11 over at Michael, Best & Friedrich offices instead
 12 of the capitol building?
 13 A I don't know.
 14 Q Do you know who made the decision to establish an
 15 office at Michael, Best & Friedrich for the
 16 purpose of redistricting?
 17 A I don't recall.
 18 Q What did the office look like that you occupied
 19 over at Michael, Best & Friedrich during the
 20 redistricting process?
 21 A It was an interior office with three workstations
 22 and a conference table, as well as printing
 23 equipment.
 24 Q Is that office still set up in that fashion?
 25 A Yes.

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1 A I don't recall.
 2 Q Did you discard any of those maps that you created
 3 relating to minority interests?
 4 A Yes.
 5 Q Did anyone ever tell you to discard maps that you
 6 created relating to the interests of minority
 7 voters?
 8 A No.
 9 Q Did anyone ever tell you not to discard them?
 10 A Not that I recall.
 11 Q Where were you physically located when you showed
 12 maps relating to the interests of minority voters
 13 to local counsel and Professor Gaddie?
 14 A Physically, I was in the office space provided to
 15 the legislature within Michael, Best & Friedrich.
 16 Q And that's the space that you mentioned before you
 17 had access for the first time in December of 2010,
 18 approximately?
 19 A That's correct.
 20 Q Do you know why there is an office that was
 21 created at Michael, Best & Friedrich for the
 22 redistricting process?
 23 A I believe it was to facilitate Adam and my's
 24 ability to work together on the project as well as
 25 to provide ease of access for -- to legal counsel.

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1 Q Did you have your own computer in that office?
 2 A Yes.
 3 Q Did anyone else have access to that computer?
 4 A Physical access, yes, but it was typically locked
 5 when I was not at it.
 6 Q It was password protected, in other words?
 7 A That's correct.
 8 Q Anyone else have a password to be able to access
 9 that computer, to your knowledge?
 10 A No.
 11 Q Did Mr. Foltz also have his own computer that was
 12 password protected?
 13 A Yes.
 14 Q And then there was a third workstation as well?
 15 A That's correct.
 16 Q And who accessed that third workstation?
 17 A Joe Handrick.
 18 Q Do you know if that workstation was password
 19 protected for Mr. Handrick's use?
 20 A It was logged in with my name and a password I
 21 created.
 22 Q Did you set up that computer for Mr. Handrick?
 23 A I set up the password and the login.
 24 Q Do you know whether anyone other than you and
 25 Mr. Foltz and Mr. Handrick had access to the

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1 computers that were in that office at
 2 Michael, Best & Friedrich?
 3 A I'm not aware of anyone else.
 4 Q Did you have any file cabinets or file drawers in
 5 that office at Michael, Best & Friedrich?
 6 A Yes.
 7 Q So there were paper copies of materials that were
 8 stored in that office; is that correct?
 9 A Yes.
 10 Q And are there still paper copies of materials
 11 stored in that office now?
 12 A I believe so, yes.
 13 Q Do you know whether Michael, Best & Friedrich has
 14 a document management system, and by that I mean
 15 some kind of a centralized computer system that
 16 documents can be saved to?
 17 A I'm not aware.
 18 Q Did you save documents on the hard drive of your
 19 computer at Michael, Best & Friedrich?
 20 A Yes.
 21 Q Was there a separate hard drive that you saved --
 22 external to the computer that you saved any
 23 materials to when you were working at
 24 Michael, Best & Friedrich?
 25 A Just a backup drive of what was on the hard drive.

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1 Q You obviously have produced to us today some
 2 Gmail, correct?
 3 A Correct.
 4 Q Were there other Gmail messages that you received
 5 or sent relating to redistricting that you did not
 6 retain?
 7 A Not that I recall.
 8 Q So everything you would have received or sent on
 9 your Gmail account relating to redistricting you
 10 would have saved?
 11 A There may have been some e-mails over the course
 12 of the last year that I deleted.
 13 Q And same question with respect to your state
 14 e-mail account. Did you retain all e-mail that
 15 you sent or received regarding redistricting?
 16 A No.
 17 Q So some of it you did not save; is that correct?
 18 A That's correct.
 19 Q Did anyone ever tell you not to save any of your
 20 e-mail either from your Gmail or your state e-mail
 21 accounts relating to redistricting?
 22 A No.
 23 Q Did anyone ever specifically instruct you to
 24 retain those materials?
 25 A Not that I recall.

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1 Q Do you recall ever saving anything to some kind of
 2 a network drive at all?
 3 A No.
 4 Q Did you receive any e-mail on your computer at
 5 Michael, Best & Friedrich?
 6 A Yes.
 7 Q And was that through your Gmail account?
 8 A Through -- yes.
 9 Q Was it received through -- did you receive e-mail
 10 at Michael, Best & Friedrich through any other
 11 e-mail account?
 12 A My state legislative account.
 13 Q Are your state -- the e-mails you receive and send
 14 through your state legislative account, are they
 15 maintained on any kind of a computer system or a
 16 network drive or hard drive that you know of?
 17 A I believe they are stored on a legislative drive.
 18 Q Do you know where that legislative drive is
 19 located?
 20 A It's -- I believe LTSE maintains that server.
 21 Q And what about your Gmail account, do you save
 22 e-mails that you send and receive on your Gmail
 23 account on any particular computer or in any
 24 particular location?
 25 A No.

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1 Q So those would have been decisions you would have
 2 made as to whether to retain an e-mail or not?
 3 A That's correct.
 4 Q Do you communicate at all -- strike that. Did
 5 you, for the purposes of redistricting,
 6 communicate with anyone by text messaging?
 7 A Not that I recall.
 8 Q Do you have the ability to save the text messages
 9 that you receive and send, generally?
 10 A I'm not sure.
 11 Q Do you do much text messaging for work purposes?
 12 A No.
 13 Q Do you ever use any instant-messaging features of
 14 any computer or web-based program?
 15 A Sometimes.
 16 Q What -- when do you use instant messaging?
 17 A There's no particular time.
 18 Q Did you use instant-messaging services at all for
 19 purposes of redistricting?
 20 A No.
 21 Q Never communicated with anybody for the purpose of
 22 redistricting by instant messaging?
 23 A No.
 24 Q I want to go back to what we were discussing on
 25 paragraph 16 in Exhibit No. 10, and we were

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1 talking about your work with Professor Gaddie and
 2 legal counsel relating to minority voters. Do you
 3 recall that discussion we were having?
 4 A Yes.
 5 Q All right. You testified that you presented
 6 different map alternatives to Professor Gaddie and
 7 legal counsel, correct?
 8 A That's correct.
 9 Q Was there any other way that you had involvement
 10 in redistricting with respect to minority
 11 interests?
 12 A Outside of my outreach in those e-mails described
 13 earlier this morning to discuss testimony
 14 regarding the map.
 15 Q Okay. So as far as minority interests are
 16 concerned in the redistricting, we saw the e-mails
 17 this morning relating to Latino voters and also
 18 some African-American voters in the Milwaukee
 19 area, correct?
 20 A That's correct.
 21 Q And then you just testified about map alternatives
 22 that you presented to Professor Gaddie and to
 23 legal counsel with respect to minority interests,
 24 correct?
 25 A That's correct.

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1 A Yes.
 2 Q And just below that, it says, "Defendants may use
 3 the following documents to support their defenses
 4 in this matter." Do you see that?
 5 A Yes.
 6 Q I'd like to jump down and ask you about
 7 paragraph 6. It says, "Documents in the
 8 possession of the legislature, and/or its various
 9 bodies, that were utilized to draft the 2011
 10 legislative maps at issue." Do you see that?
 11 A Yes.
 12 Q Now I'd like you to turn to the last page of
 13 Exhibit 10. And you'll see that this document is
 14 signed by -- on behalf of J.B. Van Hollen, the
 15 attorney general, by Maria Lazar, assistant
 16 attorney general?
 17 A Yes.
 18 Q And that's attorneys for the defendants; do you
 19 see that?
 20 A Yes.
 21 Q Did anyone from the AG's office ask you
 22 specifically for documents that were used to draft
 23 the 2011 legislative maps at issue?
 24 A I don't believe so, no.
 25 Q Did anyone from the Reinhart law firm ask you to

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1 Q The maps that you created, did they relate to
 2 Hispanic voter interests and African-American
 3 voter interests in Milwaukee?
 4 A Some of them, yes.
 5 Q Did they -- did some of the maps relate to
 6 minority voter interests in any area other than
 7 Milwaukee?
 8 A Not that I recall.
 9 Q So your involvement with minority voter interests
 10 in the redistricting process related exclusively
 11 to voters in Milwaukee?
 12 A I believe so, yes.
 13 Q In paragraph 16, it does use the term *voter*
 14 *dilution*. Do you -- unnecessary and
 15 unconstitutional voter dilution. Do you know what
 16 voter dilution means?
 17 A I'm not certain what it means in that context.
 18 Q Paragraph 17, your name also is associated with
 19 that in Exhibit No. 10. Did you in fact assist
 20 the legislature to ensure that the new districts
 21 reflected communities of interest?
 22 A Yes.
 23 Q I'd also like you to take a look at page 12. And
 24 you see that there is a heading B that says
 25 Potentially Relevant Documents?

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1 look for and give copies to them of documents that
 2 were in your possession that were used to draft
 3 the 2011 legislative maps at issue?
 4 A Not that I recall.
 5 Q Look at paragraph 7. Do you see that identifies,
 6 "Expert reports and analysis, if any, in the
 7 possession of legislature, and/or its various
 8 bodies, that were utilized to draft the 2011
 9 legislative maps at issue." Do you see that?
 10 A Yes.
 11 Q Same question. Did anybody at the attorney
 12 general's office or the Reinhart law firm ask you
 13 to look for and give them copies of expert reports
 14 and analysis that were in your possession that
 15 were used to draft the 2011 legislative maps at
 16 issue?
 17 A Not that I recall.
 18 Q Mr. Ottman, have you ever seen a copy of the
 19 complaint that was filed in this case?
 20 A I believe so, yes.
 21 Q Were you ever asked to provide any comments on the
 22 complaint?
 23 A I don't recall.
 24 Q When was the first time that you saw the
 25 complaint?

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1 A I believe -- the Baldus complaint we're talking
 2 about?
 3 Q That's right, the Baldus complaint.
 4 A I believe shortly after it was filed.
 5 Q Do you recall when it was filed?
 6 A I don't.
 7 Q Was there any specific action that you took once,
 8 with respect to redistricting, once you were
 9 informed that the Baldus complaint had been filed?
 10 A Nothing specific that I recall.
 11 Q Did it have any impact at all in the redistricting
 12 process?
 13 A It may have played into the timing.
 14 Q And how so?
 15 A Given that there was an allegation that the
 16 districts were unconstitutionally malapportioned
 17 and that the legislature had not yet acted, there
 18 was concerns that the -- and the federal court was
 19 being asked to step in ahead of the legislature,
 20 there was concerns that the legislature should act
 21 on its own prior to that happening.
 22 Q And did that speed up the process of the
 23 legislature considering Acts 43 and 44?
 24 A The timing was up to legislative leadership.
 25 Q To your knowledge, or has anyone told you, did the

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1 legislature speed up their consideration of
 2 Acts 43 and 44 because of the filing of the Baldus
 3 complaint?
 4 A I can't speak to the timing.
 5 Q Did you ever have a discussion with anyone about
 6 that issue?
 7 A Only to the extent of Senator Fitzgerald asking me
 8 if a map would be ready to go.
 9 Q Did Senator Fitzgerald express any concerns to you
 10 about the timing of the map being ready to go in
 11 light of the filing of the Baldus litigation?
 12 A I don't recall specifically.
 13 Q Were you asked to provide any comments on the
 14 complaint to legal counsel who was hired to
 15 represent the state in this litigation?
 16 A Not that I recall.
 17 Q Have you ever seen a copy of the answer that the
 18 defendants filed to the complaint in this case?
 19 A Yes, I believe so.
 20 Q Do you recall when you saw that?
 21 A I don't recall when.
 22 Q Do you remember who gave it to you?
 23 A I believe it was legal counsel at Michael Best.
 24 Q Did you see a copy of that answer when it was in
 25 draft form?

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1 A I don't believe so.
 2 Q You saw something that had already been filed?
 3 A That's my recollection, yes.
 4 Q Were you asked by legal counsel at Michael Best to
 5 comment at all on the answer that was filed?
 6 A I don't recall.
 7 Q Have you ever had any discussions with legal
 8 counsel at Michael, Best & Friedrich about the
 9 allegations in the Baldus complaint?
 10 MR. McLEOD: Let me just interject.
 11 The question asks for whether or not such
 12 discussions occurred, which is not in and of
 13 itself subject to attorney-client privilege.
 14 That understood, you may answer the question,
 15 but be mindful of not disclosing the subject
 16 of any -- or the content of any communication
 17 between attorney and client.
 18 A There were discussions with counsel.
 19 Q What was, generally speaking, what was the subject
 20 matter or the nature -- the subject matter of
 21 those conversations?
 22 MR. McLEOD: And again, if you're
 23 asking for -- I think the prior question
 24 addressed the subject matter of those
 25 conversations, discussions about the answer.

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1 If you're asking for anything concerning the
 2 substance or the actual communications that
 3 occurred between attorney and client, that's
 4 subject to the attorney-client privilege. I
 5 mean, can you clarify your question as to
 6 what you're trying to get at?
 7 MR. POLAND: Well, I don't know how
 8 else to say it other than the subject matter
 9 or the conversations.
 10 Q Were you asked -- did local counsel at
 11 Michael, Best & Friedrich ask you for your
 12 assessment of the allegations in the complaint?
 13 A Not that I recall, no.
 14 Q Did they ask you for your assessment of statements
 15 that were made in the answer or any of the
 16 defenses that were raised?
 17 A Not that I recall.
 18 Q Were you asked at all about the truth or falsity
 19 of any statements that were made in the complaint?
 20 A Not that I recall.
 21 Q Generally speaking, what did the discussions that
 22 you had with counsel at Michael, Best & Friedrich
 23 regarding the complaint or the answer address?
 24 MR. McLEOD: I think what you're
 25 asking for is for Mr. Ottman to describe

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1 attorney-client communications, which goes
 2 beyond the fact of communications that may
 3 have occurred with respect to the answer to
 4 the Baldus complaint. And because of that,
 5 I'm going to instruct Mr. Ottman not to
 6 answer to the extent his answer may disclose
 7 the content of any communications between
 8 attorney and client. If he understands the
 9 question to allow him to answer in a way that
 10 doesn't disclose the content of those
 11 communications, he may answer, but otherwise
 12 I will instruct him not to answer.
 13 Q Are you going to follow counsel's instructions and
 14 not answer that question?
 15 A I am.
 16 Q Are you aware of -- there's a term lawyers use
 17 called discovery and discovery requests. Have you
 18 heard that term before?
 19 A Yes.
 20 Q Have you ever heard anything referred to
 21 specifically as an interrogatory?
 22 A I've heard the term.
 23 Q Okay. And what about document production
 24 requests, have you heard that term before?
 25 A I have.

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1 interrogatories?
 2 A Yes.
 3 Q All right. And then if you turn to page 3, you'll
 4 see Interrogatory No. 1. Do you see that?
 5 A Yes.
 6 Q All right. And then if you flip over to page 5,
 7 you'll see there are a total of nine
 8 interrogatories, correct?
 9 A Yes.
 10 Q Did anyone ever ask you to give them input on any
 11 of these interrogatories?
 12 A Not that I recall.
 13 Q And then if you look at page 5, you'll see it
 14 states Requests for Production of Documents. Do
 15 you see that?
 16 A Yes.
 17 Q And then if you look at pages 6, 7 and 8, you'll
 18 see there are 13 specific document requests that
 19 are made?
 20 A Yes.
 21 Q Did anyone ever give you a copy of this document
 22 and ask you to look specifically for documents
 23 responsive to those 13 document requests?
 24 A Not that I recall.
 25 Q You can put that document to the side.

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1 Q Were you aware that there were interrogatories and
 2 document production requests that the plaintiffs
 3 in the Baldus litigation served on the defendants?
 4 A I don't recall specifically, no.
 5 MS. LAZAR: Exhibit 13.
 6 Q Exhibit 13, Maria informs me.
 7 Mr. Ottman, I'm handing you a copy of a
 8 document that's been marked as Exhibit No. 13. Do
 9 you have that in front of you?
 10 A Yes.
 11 Q And do you see on the front page, it states, it
 12 says Plaintiffs' First Set of Interrogatories and
 13 First Request for Production of Documents?
 14 A Yes.
 15 Q And I'd like you to turn to the very back page,
 16 and draw your attention to the date,
 17 November 22, 2011. Do you see that date?
 18 A Yes.
 19 Q Have you ever seen a copy of Exhibit 13 before?
 20 A I don't recall.
 21 Q Did anyone -- you recall anyone ever giving you a
 22 copy of this document?
 23 A Not that I recall.
 24 Q I'd like you to look at page No. 2. Into the
 25 middle of the page, do you see it states

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1 Do you know how it was decided what role you
 2 would play in the 2011 redistricting?
 3 A Yes.
 4 Q And how was it decided?
 5 A Senator Fitzgerald asked me to work on
 6 redistricting.
 7 Q And then, but specifically with respect to the
 8 tasks that you would have as part of the
 9 redistricting process, do you know how it was
 10 decided what tasks you would handle?
 11 A No.
 12 Q Were you told specifically what your involvement
 13 would be, the extent of your involvement and the
 14 tasks that you would perform?
 15 A Only generally.
 16 Q And what were you generally told?
 17 A I was generally told to work with the assembly and
 18 prepare a redistricting plan.
 19 Q Do you know why you were tasked with that role?
 20 A I presume it was because of my past involvement
 21 with redistricting.
 22 Q Now, there was a public hearing on July 13th as
 23 we've discussed previously, correct?
 24 A That's correct.
 25 Q And you testified at that hearing, correct?

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1 A That's correct.
 2 Q I'm going to hand you a copy of a document that's
 3 been marked as Exhibit No. 19.
 4 A Okay.
 5 Q Was the testimony that you gave at the hearing on
 6 July 13th true and correct testimony?
 7 A Yes.
 8 Q Have you had an opportunity to review the
 9 transcript of that hearing?
 10 A I have not reviewed the transcript.
 11 Q So Exhibit 19 is a copy of that transcript; is
 12 that correct?
 13 A It appears to be, yes.
 14 Q But you've not reviewed this before?
 15 A I have not.
 16 Q Do you know whether your testimony was videotaped?
 17 A Yes.
 18 Q Did you watch the videotape?
 19 A I did, yes.
 20 Q And did you identify anything that you testified
 21 to in the videotape that you now believe to be
 22 incorrect?
 23 A I don't believe so.
 24 MR. SHRINER: Doug, I've been
 25 waiting for a break. I've got to go. I

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1 testified about the senate districts, I think, and
 2 Mr. Foltz testified about, more about the assembly
 3 districts; is that correct?
 4 A That's correct.
 5 Q Is there a reason that you divided up the
 6 testimony in that way?
 7 A He works for the assembly, I work for the senate.
 8 Q Okay. But other than that, there was no specific
 9 division of responsibilities along task lines; is
 10 that correct?
 11 A That's correct.
 12 Q Turning back again to Exhibit 19, your testimony.
 13 Did you consult with anyone before the July 13th
 14 hearing?
 15 A Yes.
 16 Q Who did you consult with?
 17 A Consulted with counsel.
 18 Q And is that Mr. McLeod?
 19 A And Mr. Troupis.
 20 Q Anyone else?
 21 A Ray Taffora.
 22 Q Anyone else?
 23 A Not that I recall.
 24 Q Generally speaking, what was the subject matter of
 25 the conversations or the consultations that you

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1 appreciate your hospitality. Please go along
 2 without me. I lasted a little longer than
 3 Hassett, but, Merry Christmas.
 4 MR. POLAND: Before you go, I
 5 actually do have a --
 6 MR. SHRINER: Subpoena?
 7 MR. POLAND: No, I'm not
 8 subpoenaing you, but I've got a copy of a
 9 letter that --
 10 MR. SHRINER: Thank you.
 11 MR. POLAND: Thanks, Tom. Take
 12 care.
 13 MR. SHRINER: See you all later,
 14 I'm sure.
 15 Q You mentioned that you worked with -- before I get
 16 to the transcript, a couple other questions -- you
 17 worked with Mr. Foltz on the redistricting,
 18 correct?
 19 A That's correct.
 20 Q Did you divide up the work with Mr. Foltz in some
 21 particular way?
 22 A Not particularly, no.
 23 Q Did Mr. Foltz take charge of any particular tasks?
 24 A No, not particularly.
 25 Q I noticed at the hearing that you primarily

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1 had with legal counsel before the hearing?
 2 MR. McLEOD: I'm going to point out
 3 that the question appears to seek information
 4 that would include the content of
 5 conversations between and client. To the
 6 extent that you can answer describing merely
 7 the subject of the conversations without
 8 disclosing the actual content of the
 9 communications, you may answer, but otherwise
 10 I would advise you not to.
 11 A Conversations were generally about what the
 12 testimony should cover.
 13 Q And what was discussed about what the testimony
 14 should cover?
 15 MR. McLEOD: I'm going to assert
 16 the attorney-client privilege and direct
 17 Mr. Ottman not to answer the question.
 18 Q And you're going to follow counsel's instruction
 19 and not answer the question?
 20 A I am.
 21 Q Did you consult with anyone other than legal
 22 counsel? This is before the hearing.
 23 A Not that I recall.
 24 Q Was anyone else present when you were speaking
 25 with Mr. McLeod, Mr. Troupis and Mr. Taffora?

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1 A Yes.
 2 Q Who else was present?
 3 A Adam Foltz.
 4 Q Where did that -- where did those meetings occur?
 5 A At Michael Best.
 6 Q Did you consult with anyone after the hearing
 7 about your testimony?
 8 A Not that I recall.
 9 Q Let me change the word instead of consult. Did
 10 you speak with anyone after the hearing about your
 11 testimony?
 12 A Not that I recall.
 13 Q Okay. Turning your attention to the transcript.
 14 I'm going to ask you to turn to page 4. And I'd
 15 like to draw your attention to lines 9 through 12.
 16 And you testified there are three core principles
 17 to any reapportionment plan: equal population,
 18 sensitivity to minority concerns, and compact and
 19 contiguous districts. Do you see that?
 20 A Yes.
 21 Q Are there any other core principles to
 22 reapportionment or redistricting?
 23 A No.
 24 Q What's the standard that you use -- well, strike
 25 that question. We had a discussion before about

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1 equal population, correct?
 2 A Correct.
 3 Q And what is the standard that you used
 4 specifically in the 2011 redistricting for equal
 5 population?
 6 A There's not a particular standard. It's a
 7 balancing of core principles that sometimes do not
 8 work in conjunction together.
 9 Q Is it essentially a judgment call when you're
 10 engaged in the redistricting process?
 11 MR. McLEOD: I'm going to assert
 12 objection to the form of the question. To
 13 the extent you understand the question,
 14 please answer.
 15 A There is judgment required.
 16 Q And in terms of balancing those core principles in
 17 arriving at an equal population, who made those
 18 determinations as part of the 2011 redistricting
 19 process?
 20 A The legislature.
 21 Q They were looking at a map that had been prepared
 22 for them, correct?
 23 A Correct.
 24 Q And so there were determinations that had to be
 25 made in drawing that map, correct?

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1 A That's correct.
 2 Q And who made the determinations in the process of
 3 drawing the map regarding whether the equal
 4 population standard was met?
 5 A There were alternatives considered, and when the
 6 map -- when the legislation was created, those
 7 alternatives were weighed against each other.
 8 Q All right. And who ultimately decided which
 9 alternative was chosen?
 10 A The legislators involved, those legislators I
 11 previously identified.
 12 Q Did they all make that determination in
 13 conjunction together?
 14 A Yes.
 15 Q Was there a final version of the map, before it
 16 was sent to the legislature, that was agreed on by
 17 all those legislators at one time?
 18 A I believe --
 19 MR. McLEOD: I'm going to assert an
 20 objection to the form of the question. To
 21 the extent you understand it, please answer.
 22 A I believe all those legislators were present to
 23 review the map that was ultimately submitted.
 24 Q Did everybody -- did all the legislators gather at
 25 one time over at Michael, Best & Friedrich's

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1 offices and everybody sign off on the final map at
 2 one time?
 3 A I'm not sure what you mean.
 4 Q All right. Did there come a point in time where
 5 you arrived at a point where you presented what
 6 ended up being a final map to the legislators at
 7 the Michael, Best & Friedrich office?
 8 A Who do you mean by legislators?
 9 Q All right. We're just not understanding each
 10 other. When you're talking about legislators,
 11 were you referring to the legislature as a whole?
 12 A I was referring to the five legislators I
 13 identified previous.
 14 Q Okay. Yep. All right. So we're on the same page
 15 there. Was there a time that they were all
 16 together over at the Michael Best offices and they
 17 all said, Yep, this looks good, this is a map that
 18 can be submitted to the legislature?
 19 A I believe so, yes.
 20 Q Do you know when that occurred?
 21 A I don't recall exactly.
 22 Q Do you know whether it was before or after the
 23 July 13th hearing?
 24 A It was before.
 25 Q Who else was present at the time when all the

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1 legislators signed off on a final version of the
2 map?
3 A I don't recall who was in the room at that time.
4 Q Did you make adjustments to any versions of the
5 map based on equal population concerns?
6 MR. McLEOD: I'm going to assert an
7 objection to form. At what time?
8 Q At any time.
9 A Yes.
10 Q What specific kinds of adjustments did you make to
11 the map to address equal population concerns?
12 A There were changes to the boundaries of districts
13 to bring it closer to ideal populations.
14 Q Did -- who made those decisions about how to
15 change the boundaries?
16 A Adam and I each made decisions.
17 Q Did anyone else guide you or assist you in making
18 those decisions?
19 A Joe Handrick would sometimes offer advice.
20 Q Did any of the legal counsel ever give you advice
21 or guidance on adjusting boundaries for the
22 purpose of equal population considerations?
23 A Not that I recall.
24 Q Do you know what the overall population deviation
25 is for Act 43?

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1 between counsel and Professor Gaddie on that
2 issue?
3 A I don't recall.
4 Q I'd like to your draw your attention, Mr. Ottman,
5 to the top of page 27 of the transcript, and
6 specifically lines 2 through 5. You testified,
7 "So over the course of the next decade you could
8 see that senate" -- "you could see that senate
9 district grow in Hispanic voting-age population to
10 the point where it may tip over to a majority
11 minority district." Do you see that?
12 A Yes.
13 Q And who made that assessment?
14 A I did.
15 Q How did you make that assessment?
16 A I looked at what the Hispanic voting-age
17 population was in that senate district at the
18 beginning of the decade, I looked at where it was
19 at the end of the decade, and under the proposed
20 plan, and then just basically added the same
21 number to where we wound up.
22 Q Did you work with any demographer in making that
23 determination?
24 A I did not.
25 Q Did you consult any data other than the data you

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1 A I don't recall off the top of my head what it is
2 exactly.
3 Q Do you know under what conditions race or other
4 protected class may be taken into account when
5 drawing legislative district boundaries?
6 A I don't know the exact legal standard.
7 Q Did you make any kind of an assessment of whether
8 it was appropriate to take race into account in
9 drawing legislative district boundaries?
10 A No.
11 Q Do you know anyone on the redistricting team who
12 did?
13 A Counsel and outside consultant.
14 Q And the outside consultant, would that be
15 Professor Gaddie?
16 A That's correct.
17 Q Is it your understanding that counsel worked with
18 Professor Gaddie to make that determination?
19 A That's my understanding.
20 Q Did you ever observe counsel working with
21 Professor Gaddie with respect to race or protected
22 class issues in drawing legislative district
23 boundaries?
24 A Not that I recall.
25 Q Were you ever involved in any conversations

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1 just identified in making that determination?
2 A I did not.
3 Q Did that analysis take into account citizenship of
4 Hispanics?
5 A It did not.
6 Q Is there a reason why you did not take citizenship
7 into account when making that assessment?
8 A I don't believe I had any data related to
9 citizenship.
10 Q The data that you looked at, was that simply
11 census data?
12 A That is correct.
13 Q Since the time of your testimony, have you had any
14 discussions on this particular topic with anyone?
15 A No.
16 Q At the -- draw your attention to page 28. And
17 your testimony, on lines 13 to 15, you say,
18 "Pairings are sometimes an inevitable consequence,
19 and that is why you see those pairings here." Do
20 you see that testimony?
21 A I do.
22 Q Why do you say pairings are an inevitable
23 consequence of redistricting?
24 A Population shifts require movement of district
25 boundaries, and sometimes moving those boundaries

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1 necessitates drawing a district that happens to
 2 have more than one incumbent in the resulting
 3 district.
 4 Q And how many incumbent pairings were created by
 5 Act 43?
 6 A I believe there were 22 legislators paired.
 7 Q So there were 11 total pairings; is that correct?
 8 A That's my recollection.
 9 Q Do you know how many pairings involved
 10 republicans?
 11 A I don't recall the breakdown.
 12 Q Did you have any discussions with any of the
 13 republican incumbents who were paired under
 14 Act 43?
 15 A Yes.
 16 Q How many of them did you speak with?
 17 A I believe one or maybe two.
 18 Q Did you make any changes to district boundaries as
 19 a result of your conversations with any
 20 republicans that you spoke with about pairings?
 21 A Not that I recall.
 22 Q Did you speak with any of the democrats who were
 23 paired as a result of Act 43?
 24 A I did not.
 25 Q And if turn to the next page, 29. Do you see that

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1 Q What's the standard that you and Mr. Foltz used
 2 for disenfranchisement under Act 43?
 3 A I don't know that there was a particular standard.
 4 Q I'd like you to take a look at -- first have you
 5 take a look at page 30, lines 16 through 18. And
 6 do you see your statement, "What we've done here
 7 is tried to the best of our ability to minimize
 8 that displacement." Do you see that?
 9 A Yes.
 10 Q Now, there are you talking about
 11 disenfranchisement?
 12 A Yes.
 13 Q And then Mr. -- it states Mr. Holtz. It's
 14 Mr. Foltz, correct?
 15 A Correct.
 16 Q Mr. Foltz then runs through the numbers of voters
 17 who were disenfranchised under Act 43, correct?
 18 A Yes.
 19 Q So first, he, Mr. Foltz identifies the 1992 court
 20 decision, and then if you turn over to page 31,
 21 you'll see that it worked out to five and a
 22 quarter percent of the state's population,
 23 correct?
 24 A Yes.
 25 Q And in line 3, do you see Mr. Foltz's testimony,

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1 you're discussing, just generally on that page,
 2 you're testifying about the issue of
 3 disenfranchisement. And your testimony on lines
 4 13 to 16, you state, "Disenfranchisement occurs
 5 when -- essentially when a voter goes six years
 6 between the opportunity to vote for a state
 7 senate -- state senator." Do you see that
 8 testimony?
 9 A I do.
 10 Q And then lines 22 to 23, you state, "Under any
 11 reapportionment plan a certain amount of
 12 disenfranchisement is inevitable and unavoidable."
 13 Do you see that?
 14 A Yes.
 15 Q Is it a goal, generally, to minimize the amount of
 16 disenfranchisement?
 17 A It's one of the goals that you weigh against the
 18 other redistricting principles.
 19 Q Should you try to minimize the disenfranchisement
 20 to the best you can?
 21 A It's a factor to consider in conjunction with
 22 other principles.
 23 Q Were you -- did you make any attempts to minimize
 24 the disenfranchisement of voters under Act 43?
 25 A It is something that I looked at.

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1 "We used that as a benchmark, and then what we did
 2 is we took that five and a quarter percent and
 3 applied it to the new population of Wisconsin,"
 4 and he goes on?
 5 A Yes.
 6 Q Does that refresh your recollection that you used
 7 five and a quarter percent as a benchmark for
 8 disenfranchisement?
 9 A That was an evaluation of the plans we created,
 10 how it compared to previous court plans.
 11 Q And you compared -- that was on par with the 1992
 12 court decision, correct?
 13 A Yes.
 14 Q Do you know what the percentage of
 15 disenfranchisement was under the 2002 court plan?
 16 A I don't recall.
 17 Q Do you know if it was lower than five and a
 18 quarter percent?
 19 A Yes.
 20 Q If it was lower than five and a quarter percent,
 21 why did you not use the 2002 percentage of
 22 disenfranchisement under that court plan as a
 23 standard?
 24 A As I mentioned, disenfranchisement was only one of
 25 the principles that we looked at, and to

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1 prioritize that would necessarily mean that you
 2 may be sacrificing other principles.
 3 Q Did you have any discussions with anyone as to
 4 whether disenfranchisement could be kept below
 5 five and a quarter percent?
 6 A Yes.
 7 Q And who did you discuss that with?
 8 A With counsel.
 9 Q Which counsel was that?
 10 A Jim Troupis.
 11 Q And what did you and Mr. Troupis discuss with
 12 respect to an appropriate percentage of the
 13 population, voting population that would be
 14 disenfranchised?
 15 MR. McLEOD: I'm going to assert an
 16 objection on the grounds of attorney-client
 17 privilege. The subject matter or the fact of
 18 the conversation about the issue of
 19 disenfranchisement is not privileged but the
 20 content of that communication is. So to the
 21 extent that your question seeks to elicit the
 22 substance of that conversation, I'm going to
 23 direct the witness not to answer.
 24 Q Are you going to follow counsel's instructions and
 25 not answer the question?

1 the form of the question. You can answer it.
 2 A It may create some difficulties for them,
 3 depending on how they are drawing them and how far
 4 along in the process they may or may not have
 5 been.
 6 Q At what point did you start constructing the maps
 7 out of the census blocks?
 8 A As we were working on the maps, the first part of
 9 last year, we had the previous decade's wards to
 10 work with, as well as blocks, block level. So for
 11 that entire process, that's the data that we were
 12 using. The municipal wards were not completed
 13 prior to the legislature's actions.
 14 Q As I understand it, in the autoBound software, you
 15 actually can take a mouse and you have a pointer
 16 on the screen or a cursor on the screen and you
 17 put it on a specific census block and you can
 18 assign it to a specific legislative district; is
 19 that correct?
 20 A That's correct.
 21 Q In that process for redistricting, who actually
 22 did that sitting down at a computer? Did you do
 23 that yourself?
 24 A Yes.
 25 Q And did Mr. Foltz do that too?

1 A I am.
 2 MR. POLAND: Let's take a break so
 3 we can change the videotape.
 4 (Recess)
 5 By Mr. Poland:
 6 Q Mr. Ottman, I'd like to draw your attention to
 7 page 36 of the July 13th transcript. And I'd like
 8 you to look at lines 20 through 22. And do you
 9 see you testified that, "Technology has moved to
 10 the point where it is much easier to draw these
 11 maps in advance of the locals completing their
 12 process." Do you see that?
 13 A Yes, I do.
 14 Q What did you mean by that statement?
 15 A I meant that technology, as it relates to
 16 redistricting, had evolved to the point where you
 17 could draw fairly easily on a computer down to the
 18 census block level.
 19 Q And that is, as opposed to drawing districts based
 20 on wards; is that correct?
 21 A Wards or without computers.
 22 Q Drawing the districts based on census blocks as
 23 opposed to wards, does that create difficulties
 24 for any of the local governments?
 25 MR. McLEOD: Assert an objection to

1 A Yes.
 2 Q Did Mr. Handrick do that as well?
 3 A I believe he did that as well.
 4 Q Do you know anyone else who actually did that
 5 sitting down at a computer and actually putting
 6 their hand on a mouse and maneuvering a cursor on
 7 the screen and assigning a census block to a
 8 district?
 9 A No one else that I recall.
 10 Q Was anyone else present in the room when you were
 11 doing that, undergoing -- doing that process of
 12 assigning census blocks to districts?
 13 A Not that I recall.
 14 Q Did anyone ever instruct you which census blocks
 15 to include in certain districts?
 16 A No.
 17 Q That was a decision that you made?
 18 A That's correct.
 19 Q Did anybody ever give you guidelines about which
 20 census blocks ought to be included in certain
 21 districts?
 22 A No.
 23 Q I'd like to turn your attention to pages 45
 24 through 47 of the transcript, and specifically, on
 25 page 45, line 21. And do you see there's a

1 statement by Senator -- attributed to
 2 Senator Erpenbach where he says, "First question
 3 is did you look at the partisan makeup of the
 4 districts." Do you see that question?
 5 A Yes.
 6 Q Do you recall Senator Erpenbach asking that
 7 question of you?
 8 A I do.
 9 Q And your response in the transcript starts on the
 10 bottom of page 45, you say, "That information was
 11 made available to all four caucuses by the," and
 12 then your response is cut off there, correct?
 13 A That's correct.
 14 Q What specifically is the partisan makeup of
 15 district's information that you're referring to
 16 there that was made available?
 17 A That is the election data for the decade that was
 18 provided by the Government Accountability Board to
 19 the Legislative Technology Services Bureau, and
 20 then that they made available to all four
 21 caucuses.
 22 Q And that's what we discussed this morning in your
 23 testimony; is that correct?
 24 A That's correct.
 25 Q And then down at the bottom of page 46, your

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1 testimony in the transcript says, "That
 2 information was available. I do not have that
 3 information here with you," or with me. "It was
 4 available, but the principles by which the map
 5 were drawn were those that I enumerated earlier,
 6 equal population, sensitivity to minority
 7 concerns, and compact and contiguous districts."
 8 Do you see that?
 9 A I do.
 10 Q Is that a correct statement?
 11 A It is.
 12 Q Then Senator Erpenbach comes back and says, "Did
 13 the partisan makeup of the districts come into
 14 play at all when drawing the maps?" And you
 15 responded, "The principles were ones I enumerated.
 16 Those were the ones that drove drawing the map."
 17 Do you see that?
 18 A I do.
 19 Q And is that a correct statement?
 20 A It is.
 21 Q Did partisan makeup of the districts come into
 22 play at any time or at all when drawing the maps?
 23 A It was used to evaluate draft maps.
 24 Q How was it used to evaluate draft maps?
 25 A We looked at it to see how various proposals, had

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1 those maps been in place in past elections, how
 2 those districts may have performed under those
 3 elections.
 4 Q And what were the conclusions that you drew when
 5 you looked at that information?
 6 A The conclusions we drew was that -- we drew were
 7 that they were responsive to changing election
 8 cycles, and if you looked at different election
 9 data, you would come up with different outcomes.
 10 Q And as a result of doing that analysis, did you
 11 change any of the district boundaries?
 12 A No.
 13 Q Did the final map reflected in Act 43 reflect any
 14 partisan makeup of the districts?
 15 MR. McLEOD: Object to the form.
 16 Q Strike the question. Did the final map that was
 17 enacted in Act 43 reflect, however, decisions made
 18 with respect to partisan makeup of the districts?
 19 A It reflected the different alternatives we
 20 considered. The election information that I
 21 discussed was used to evaluate different map
 22 proposals.
 23 Q Right. And then in the final version of what was
 24 presented to the legislature as part of Act 43,
 25 did the choices that were made about those

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1 districts, did those reflect partisan decisions
 2 that were made?
 3 A I guess I'm not sure what you mean by partisan
 4 decisions.
 5 Q Were the districts drawn in a way so as to
 6 maximize republican representation in the
 7 assembly?
 8 A No.
 9 Q Did that come into play at all?
 10 A Partisan election analysis was something that we
 11 evaluated different map proposals on.
 12 Q Was it a goal, though, of the redistricting
 13 process to maximize to the extent possible
 14 republican representation in the assembly?
 15 A The goal was to draft a fair map, and those three
 16 principles I talked about was the mechanism we
 17 used to determine that.
 18 Q You weren't attempting and drawing the map that
 19 ended up enacted as Act 43 to maximize republican
 20 representation in the assembly; is that correct?
 21 A It was used to evaluate it, but I wouldn't say
 22 that it was a decision item.
 23 Q So decisions about where the boundaries were drawn
 24 in the map that was eventually enacted as Act 43
 25 were not based on maximizing republican

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<p>1 representation in the assembly and senate? 2 A They considered -- they evaluated partisan 3 outcomes, but the decisions were those three core 4 principles I talked about in determining 5 boundaries. 6 Q You can set Exhibit 19 to the side. 7 Now, we've talked about some of the people 8 who were present with you at the Michael, Best & 9 Friedrich offices during the redistricting 10 process, correct? 11 A Yes. 12 Q And Mr. McLeod was there from time to time; is 13 that correct? 14 A That's correct. 15 Q And Mr. Taffora, correct? 16 A That's correct. 17 Q And Mr. Taffora is a lawyer at Michael, Best & 18 Friedrich? 19 A Yes. 20 Q Someone we have not yet talked about today is 21 Scott Screnock. Was he ever present? 22 A Not that I recall. 23 Q Do you know who Mr. Screnock is; have you ever met 24 him before? 25 A I believe so, yes.</p>	<p>1 A Yes. 2 Q And Professor Gaddie you already have mentioned, 3 correct? 4 A That's correct. 5 Q Is there anyone, other than those people, that you 6 can recall being present in the offices at 7 Michael, Best & Friedrich for the purpose of the 8 redistricting work that you performed? 9 A Was Mr. Handrick mentioned? 10 Q I didn't mention Mr. Handrick. Mr. Handrick as 11 well, correct. Anyone other than those people 12 that we've just discussed? 13 A Adam Foltz. 14 Q All right. Anyone else? 15 A Not that I recall. 16 Q Were you ever given any instructions with respect 17 to drawing district boundaries by any of the 18 legislators? 19 A Nothing specific. 20 Q Were you given any instructions generally? 21 A Generally, the instruction was to draw a good map 22 that would survive legal challenge. 23 Q Were there any ever decisions about specific 24 assembly district boundaries where any of the 25 legislators instructed you to draw a district</p>
<p>201</p> <p>1 Q Who is he? 2 A I believe he's an attorney or associate at 3 Michael Best. 4 Q But he wasn't present while you were there during 5 the redistricting process? 6 A That's correct. 7 Q Did you work with Mr. Screnock at all in the 8 redistricting process? 9 A No. 10 Q Mr. Troupis was there, correct? 11 A That's correct. 12 Q And did you ever see Sarah Troupis at 13 Michael Best's offices during the redistricting 14 work that you did? 15 A Yes. 16 Q Were you ever present in Michael Best's offices 17 with Speaker Fitzgerald? 18 A Yes. 19 Q And with Senator Fitzgerald? 20 A Yes. 21 Q Representative Vos? 22 A Yes. 23 Q Senator Zipperer? 24 A Yes. 25 Q Representative Suder?</p> <p>202</p>	<p>203</p> <p>1 boundary differently than it was drawn in the map 2 that you were looking at? 3 A Not that I recall. 4 Q What about the legal counsel, did any of the legal 5 counsel ever instruct you to draw a boundary on an 6 assembly district or -- assembly district 7 different than it was drawn on a map that you had 8 presented to them? 9 A Not that I recall. 10 Q Did you ever engage in any of the redistricting 11 work outside of Michael, Best & Friedrich's 12 offices? 13 A Other than the testimony in the capitol, no. 14 Q Didn't do any of it in your office over in the 15 capitol building? 16 A I did not. 17 Q I want to ask you about Professor Gaddie's work. 18 How many times did you meet with Professor Gaddie 19 over at Michael, Best & Friedrich? 20 A I don't recall exactly. 21 Q Can you give me a ballpark? Was it more than one 22 time? 23 A Yes. 24 Q Was it more than five times? 25 A I don't believe so.</p> <p>204</p>

1 Q Someplace between one and four times?
 2 A Yes.
 3 Q Or one in five times, I should say?
 4 A Yes.
 5 Q Do you recall when it was that you met with
 6 Professor Gaddie?
 7 A In the spring, I believe, but I can't say exactly
 8 when.
 9 Q Had the snow melted at that point yet, do you
 10 know?
 11 A I believe so.
 12 Q What was the nature of the work that you performed
 13 with Professor Gaddie with respect to
 14 redistricting?
 15 A He looked at some of the minority district
 16 configurations that we had prepared and kind of
 17 evaluated them, and he asked us to produce for him
 18 election data from the past ten years.
 19 Q And that was the data we talked about earlier this
 20 morning in your testimony?
 21 A Yes. And then as well that document that we
 22 discussed this morning about election results.
 23 Q Did you assist him in making any calculations at
 24 all based on that data?
 25 A No.

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1 Q Did you ever see any results that Professor Gaddie
 2 generated by analyzing that data?
 3 A Not that I recall.
 4 Q Did he produce any kind of a report that used that
 5 data, to your knowledge?
 6 A Not that I recall.
 7 Q Did you ever work with Dr. Gaddie outside of the
 8 Michael, Best & Friedrich offices on
 9 redistricting?
 10 A No.
 11 Q Did you ever speak with Dr. Gaddie by phone about
 12 redistricting?
 13 A I don't believe so, no.
 14 Q So all of your work with Dr. Gaddie was done over
 15 at Michael Best's offices face-to-face?
 16 A Or that e-mail.
 17 Q Or by e-mail?
 18 A Correct.
 19 Q Did you ever discuss redistricting with any
 20 democratic member of the legislature?
 21 A No.
 22 Q Did you ever get any input from any democrats
 23 about the makeup of the assembly districts?
 24 A Not that I recall.
 25 Q Have you ever discussed the question of district

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1 boundaries for senate recall elections with
 2 anyone?
 3 A Yes.
 4 Q Who did you discuss that topic with?
 5 A With legal counsel.
 6 Q And which legal counsel is that?
 7 A I believe Jim Troupis, Eric McLeod, Ray Taffora.
 8 Q And what's the nature of those conversations that
 9 you had with Mr. Troupis, Mr. McLeod and
 10 Mr. Taffora?
 11 MR. McLEOD: I'm going to assert
 12 the attorney-client privilege to the extent
 13 that the question seeks the content of any
 14 conversations with counsel. To the extent
 15 that the question simply seeks the subject
 16 manner, which I believe has already been
 17 disclosed, you can answer the question. But
 18 I'll instruct him not to answer insofar as it
 19 involves disclosure of the substance or
 20 content of the communications.
 21 Q Are you going to follow counsel's instruction and
 22 not respond to the question?
 23 A I am.
 24 Q Was there anyone other than legal counsel --
 25 strike that question. When you spoke with legal

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1 counsel about district boundaries for senate
 2 recall elections, was anyone else present?
 3 A Adam Foltz may have been present.
 4 Q Anyone else?
 5 A Not that I recall.
 6 Q Where did those conversations occur?
 7 A At the offices of Michael, Best & Friedrich.
 8 Q Outside of the offices of Michael, Best &
 9 Friedrich and conversations with counsel, have you
 10 had any other conversations about the district
 11 boundaries for senate recall elections?
 12 A I -- yes.
 13 Q And who did you discuss that with?
 14 A With Senator Fitzgerald.
 15 Q Were you involved in drafting the provision that
 16 established the effective date for Act 43?
 17 A Yes.
 18 Q Who did you -- you were involved. What was your
 19 role in that?
 20 A I transmitted the map file to LRB for the purpose
 21 of drafting the legislation that became SB 148.
 22 Q But in terms of the specific effective date, did
 23 you have anything to do with the determining what
 24 the effective date should be?
 25 A I don't recall discussing that, no.

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1 Q Don't recall discussing with anyone?
2 A I don't recall, no.
3 Q Do you know who was involved in drafting the
4 provision that established the effective date
5 itself?
6 A I believe it was boilerplate language that the LRB
7 provided in their draft.
8 Q Were you ever asked to look at that boilerplate
9 language and comment on it, specifically with
10 respect to the effective date?
11 A I don't recall.
12 Q Now, you understand that Professor Gaddie has been
13 identified as an expert witness in this case?
14 A Yes.
15 Q When did you learn about that?
16 A I don't recall exactly when.
17 Q Were you involved at all in the engagement of
18 Professor Gaddie to serve as an expert witness in
19 this case?
20 A I was not.
21 Q Have you talked to Professor Gaddie specifically
22 about his work in the litigation as opposed to the
23 redistricting process?
24 A I don't recall talking to him about it, no.
25 Q When was the last time you spoke with

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1 report?
2 A I did not.
3 Q Were you asked to provide any comments on the
4 final version of Professor Gaddie's report?
5 A No.
6 Q Who gave you a copy of Professor Gaddie's report?
7 A I believe that was provided by legal counsel.
8 Q And did they tell you why they were giving you a
9 copy of his report?
10 A I believe just as a courtesy.
11 Q They didn't ask you for any comments or analysis
12 of his report?
13 A No.
14 Q When was the first time that you worked with
15 Professor Gaddie in any capacity?
16 A Early this year.
17 Q You didn't work with him at all in the 2002
18 redistricting litigation?
19 A I did not, no.
20 Q Did you receive a copy of any other expert reports
21 that were submitted in this case by the
22 defendants?
23 A I believe so, yes.
24 MS. LAZAR: 30, 31, 32.
25 Q I'm going to hand you a copy as soon as I find it

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1 Professor Gaddie?
2 A I don't recall.
3 Q Or communicated with him in any way, whether it
4 was by e-mail or phone or otherwise?
5 A I think I -- he was here subsequent to the date on
6 the e-mail. I don't recall what that date was.
7 Q Did you meet with him when he was here subsequent
8 to the date on the e-mail?
9 A I believe so, yeah.
10 Q Do you remember what that meeting was about?
11 A I don't, I don't recall.
12 Q Are you aware that Professor Gaddie has filed an
13 expert report in this case?
14 A I'm aware.
15 Q Have you seen that report?
16 A Yes.
17 Q When did you see the report?
18 A Sometime shortly after it was filed.
19 Q Was it final at the time that you saw it, do you
20 know?
21 A Yes.
22 Q Were you ever asked to comment on a draft of
23 Professor Gaddie's report?
24 A I was not.
25 Q Did you ever see a draft of Professor Gaddie's

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1 here. I'm going to hand you a copy of a document
2 that's been marked as Exhibit No. 31. Have you
3 seen a copy of Exhibit 31 before?
4 A I'm not certain.
5 Q If you look at the top of Exhibit 31, you'll see
6 there's a date December 14, 2011?
7 A Uh-huh.
8 Q And under that it says To: Daniel Kelly/Reinhart
9 Attorneys at Law. Do you see that?
10 A Yes.
11 Q And then it says From: John Diez/Magellan
12 Strategies BR?
13 A Yes.
14 Q And Subject: Wisconsin Districting; do you see
15 that?
16 A Yes.
17 Q Have you ever had any communications at all with
18 John Diez?
19 A No.
20 Q Have you ever had any communications with anyone
21 at Magellan Strategies BR?
22 A No.
23 Q To your knowledge, were you ever asked to provide
24 any information or materials to Mr. Diez or
25 Magellan Strategies?

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1 A Not to my knowledge.
 2 Q Did you ever see a copy of a draft of Exhibit 31?
 3 A No.
 4 Q Have you been asked to provide any comments on
 5 Exhibit 31?
 6 A I have not.
 7 Q You can set that document to the side.
 8 Handing you a copy of a document that's been
 9 marked as Exhibit No. 32. And you'll see that
 10 document, the title on the front page states that
 11 it's the Declaration and Expert Report of
 12 Peter A. Morrison, Ph.D.?
 13 A Yes.
 14 Q Have you seen Exhibit 32 before?
 15 A Yes.
 16 Q When did you see Exhibit 32?
 17 A Sometime after it was filed.
 18 Q So that would have been sometime within the past
 19 week?
 20 A Yes.
 21 Q Do you know who gave you a copy of Exhibit 32?
 22 A I believe it was provided by counsel.
 23 Q Do you know why counsel gave it to you?
 24 A I believe it was just as a courtesy.
 25 Q They didn't ask you to comment on it or provide

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1 any feedback to them on it?
 2 A No.
 3 Q Have you ever spoken with or otherwise
 4 communicated with Peter Morrison before?
 5 A I have not.
 6 Q Do you know whether Mr. Morrison -- Dr. Morrison
 7 was involved in any way in the redistricting
 8 process in the spring and early summer?
 9 A Not that I'm aware of.
 10 Q If you look at page 2, it says Declaration of
 11 Peter Morrison. If you look under paragraph, the
 12 number -- paragraph that's numbered 1, you'll see
 13 that in the third sentence, he says, "I have been
 14 retained as an expert to undertake a demographic
 15 analysis of Hispanic population growth in
 16 Wisconsin and within Milwaukee County and adopted
 17 Assembly Districts 8 and 9." Do you see that?
 18 A Yes.
 19 Q Do you know whether anyone was ever engaged to
 20 undertake a demographic analysis for the purposes
 21 of the redistricting itself?
 22 A I am not aware.
 23 Q Not aware of any expert who is involved in
 24 redistricting with respect to performing a
 25 demographic analysis?

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1 A Not that I'm aware.
 2 Q Set that to the side.
 3 I'd like to give you copies of what
 4 previously has been marked as Exhibits 14 and 15.
 5 On Exhibit 14, I'd like to draw your attention to
 6 Statute Section 801.50(4m).
 7 A Okay.
 8 Q Have you seen this statute before? This
 9 particular provision, (4m)?
 10 A Yes.
 11 Q Did you see it before it was passed by the
 12 legislature?
 13 A I did.
 14 Q Were you involved in drafting it?
 15 A Yes.
 16 Q What was your involvement in drafting it?
 17 A I discussed the provision with legal counsel, and
 18 I worked with LRB drafting -- to facilitate the
 19 drafting of the legislation.
 20 Q And which legal counsel did you discuss the
 21 drafting of the provision with?
 22 A I believe Ray Taffora.
 23 Q What was the goal of Section 801.50(4m)?
 24 A I believe it's stated on its face.
 25 Q Is there any goal other than what you believe is

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1 stated on the text of the statute, in the text of
 2 the statute?
 3 A Not that I'm aware of.
 4 Q Did you discuss the draft with anyone other than
 5 legal counsel?
 6 A I discussed it with legislative leaders.
 7 Q Which legislative leaders did you discuss it with?
 8 A I discussed it with Senator Fitzgerald and
 9 Senator Zipperer.
 10 Q Did you discuss with them anything about the goal
 11 of Statute Section (4m) other than what's stated
 12 on the expressed text of the statutory provision
 13 itself?
 14 A Not that I recall.
 15 Q Did anyone ever tell you why they wanted to have
 16 801.50(4m) enacted?
 17 A Not that I recall.
 18 Q All right. I'd like to have you turn your
 19 attention to Exhibit No. 15. And Section 751.035,
 20 Assignment to a judicial panel; appeals. Do you
 21 see that?
 22 A Yes.
 23 Q And that was part of the same bill as the
 24 provision that was passed in 801.50(4m), correct?
 25 A Correct.

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1 Q And so you were also involved in the drafting of
 2 Section 751.035?
 3 A Yes.
 4 Q Did you discuss that provision with legal counsel
 5 as well?
 6 A I did.
 7 Q And that would have been Mr. Taffora; is that
 8 correct?
 9 A That's correct.
 10 Q Same conversation that you had with respect to
 11 801.50(4m)?
 12 A That's correct.
 13 Q Do you know who actually drafted the text of the
 14 two statutes we're looking at in Exhibit 14 and
 15 15?
 16 A I believe it was Jeff Kuesel at the LRB, but there
 17 may have been other drafters, I don't know.
 18 Q Who -- do you know who spoke with Jeff Kuesel
 19 about what language to include in these two
 20 statutes?
 21 A I conveyed the intent to Jeff Kuesel.
 22 Q And when you say conveyed intent, does that mean
 23 that you gave him the specific language?
 24 A I don't recall if there was specific language.
 25 Q What was the intent that you conveyed to

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1 Mr. Kuesel?
 2 A To accomplish what is on the page here.
 3 Q And that was a topic that you had discussed with
 4 Mr. Taffora previously; is that correct?
 5 A That's correct.
 6 Q And you had also discussed that with
 7 Senator Fitzgerald and Senator Zipperer, correct?
 8 A That's correct.
 9 Q Was there anyone else that you discussed these
 10 provisions with or their intent?
 11 A Not that I recall.
 12 Q Are you aware that there are lawsuits regarding
 13 redistricting that are pending in the Supreme
 14 Court currently?
 15 A I am aware.
 16 Q Have you seen copies of the original petition
 17 jurisdiction?
 18 A Yes.
 19 Q When did you see a copy of the original petition
 20 jurisdiction?
 21 A Shortly after it was filed.
 22 Q Did you ever see a copy of it before it was filed?
 23 A I did not.
 24 Q Were you aware that that complaint, that petition
 25 was going to be filed before it was filed?

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1 A I was not.
 2 Q How did you become aware that that petition had
 3 been filed?
 4 A Counsel provided me with a copy.
 5 Q And when you say counsel, is that counsel at
 6 Michael, Best & Friedrich?
 7 A That's correct.
 8 Q Did you discuss the filing of the original
 9 petition jurisdiction -- strike that question.
 10 Did you discuss the filing of the petition for
 11 original jurisdiction with anyone?
 12 A No.
 13 Q Are you aware as well that there was a lawsuit
 14 that was filed regarding redistricting in
 15 Waukesha County?
 16 A I am aware.
 17 Q Did you see a copy of either of the complaints
 18 that was filed in the Waukesha County action?
 19 A Yes.
 20 Q When did you see those complaints?
 21 A Shortly after they were filed.
 22 Q Were you aware that those complaints were going to
 23 be filed before they were actually filed?
 24 A Not that I am aware of.
 25 Q Did you ever see any drafts of those complaints?

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1 A I did not.
 2 Q Did you discuss those complaints with anyone?
 3 A No.
 4 Q Who gave copies to you?
 5 A Counsel provided copies.
 6 Q And again, that's counsel at Michael, Best &
 7 Friedrich?
 8 A That's correct.
 9 Q Were you in the Michael, Best & Friedrich offices
 10 at the time they provided copies to you of the
 11 complaints and the original jurisdiction petition?
 12 A I was.
 13 Q Did they tell you why they were giving you copies
 14 of those documents?
 15 A No.
 16 Q Did they ask you to give copies to anyone?
 17 A They did not.
 18 Q Mr. Ottman, between the time that you started
 19 working on the redistricting approximately a year
 20 ago in December of 2010, and the time that the
 21 legislation was passed in August, were you working
 22 on anything other than the redistricting?
 23 A Yes.
 24 Q How much of your time, in a percentage basis, did
 25 the redistricting take up over that time frame?

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1 A Probably 90 to 95 percent.
 2 Q Almost a full-time job for you in and of itself
 3 during that time frame?
 4 A That's correct.
 5 Q Is there any way to estimate how many hours you
 6 spent working on the redistricting plan before it
 7 was enacted?
 8 A I'm not sure how I would estimate that.
 9 Q Do you typically work 40 hours a week?
 10 A Typically.
 11 Q Sometimes more, sometimes a little less?
 12 A Correct.
 13 Q How many different maps did you draw before
 14 settling on the final version of what was
 15 introduced at the legislature as Act 43?
 16 A There were probably a couple of statewide maps
 17 that I drafted.
 18 Q Do you still have copies of those?
 19 A I believe so.
 20 Q Do you know where those would be?
 21 A Yes.
 22 Q Where would they be?
 23 A They would be on my computer.
 24 Q Were any of those -- were either of those among
 25 the materials that you produced here today?

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1 A They were not.
 2 Q Do you know why they weren't produced today?
 3 A I believe they were subject to the privilege.
 4 Q During the course of the redistricting process,
 5 did you ever travel outside of the state of
 6 Wisconsin for the purpose of meeting with anyone
 7 about redistricting?
 8 A I did not.
 9 Q Did anyone outside the state of Wisconsin ever
 10 show you any proposed or existing legislative
 11 redistricting plans for Wisconsin?
 12 A No.
 13 Q Before Act 43 was passed, did you ever meet with
 14 or talk to any representatives or officials of the
 15 Republican National Committee about the new
 16 Wisconsin legislative districts?
 17 A I did not.
 18 Q Before Act 43 was passed, did you ever meet with
 19 or talk to any representative or official of the
 20 American Legislative Exchange Council about the
 21 new Wisconsin legislative districts?
 22 A No.
 23 Q Do you know whether anyone at the RNC has been
 24 tasked with tracking the redistricting process in
 25 Wisconsin?

222

1 A Not that I'm aware.
 2 MR. POLAND: Let's take about a
 3 five-minute break. I'm going to look through
 4 my notes. I probably don't have that much
 5 more.
 6 (Recess)
 7 By Mr. Poland:
 8 Q Mr. Ottman, I've put in front of you a document
 9 that's been marked as Exhibit No. 20. Do you know
 10 what this document is? You can look at the top of
 11 it if you want to know.
 12 A Yes.
 13 Q And what is it?
 14 A It's an assembly map of Act 43.
 15 Q Is this a document that you personally created?
 16 A I worked on the creation of this.
 17 Q And so, but it was -- this is a copy of Act 43 as
 18 adopted by the legislature, correct?
 19 A That's correct.
 20 Q And this reflects the redistricting map that you
 21 had worked on during the process we've discussed
 22 today, correct?
 23 A That's correct.
 24 Q This is a map that you're fairly familiar with; is
 25 that a fair statement?

223

1 A Yes.
 2 Q I'm going to have some specific questions for you
 3 about particular areas on the map. I'd like to
 4 draw your attention down to the legend. Do you
 5 see under source, it states, "U.S. Census Bureau's
 6 TIGER 2010 data was used in the creation of these
 7 districts"?
 8 A Yes.
 9 Q And we had a discussion before about TIGER data.
 10 Do you recall that?
 11 A Yes.
 12 Q Does this refresh your recollection about TIGER
 13 data?
 14 A I know it's a census term. I'm not -- I don't
 15 know what it stands for.
 16 Q Do you see also the statement in there that says,
 17 "The districts will be used for the fall of 2012
 18 elections." Do you see that?
 19 A Yes.
 20 Q Do you know why that was included in the legend?
 21 A I'm not sure who produced this legend, so I don't
 22 know.
 23 Q I'd like to draw your attention to the Kenosha and
 24 Racine counties. And I have some questions for
 25 you about the assembly districts drawn in these

224

1 two counties.
2 A Okay.
3 Q Do you know why Racine, portions of the city of
4 Racine and portions of the city of Kenosha were
5 combined in the same assembly district?
6 A It reflects decisions that were made in that area,
7 that resulted in portions of them being in that
8 district.
9 Q Do you know specifically why the assembly district
10 was drawn with the boundaries that were used?
11 A The city of Kenosha is required to be split
12 because of its population.
13 Q So the city of Kenosha could not fit entirely
14 within one assembly district, correct?
15 A That's correct.
16 Q Could the city of Racine fit entirely within one
17 assembly district?
18 A I believe so.
19 Q Do you know why it was not included within one
20 single assembly district?
21 A That was a decision ultimately made by the
22 legislator -- legislature.
23 Q Legislature. Was there anyone particular in the
24 legislature who decided that the city of Racine
25 should not be in one assembly district?

225

1 A Not that I can recall.
2 Q Did past election results come into play at all in
3 determining how to configure Assembly District 64?
4 A Not that I recall.
5 Q Did partisan political concerns come into play or
6 into your consideration in drawing the boundaries
7 for Assembly District 64?
8 A Not that I recall, no.
9 Q Did you solicit comments from legislators
10 representing areas that were significantly changed
11 by the new redistricting plan?
12 A No.
13 Q I'm sorry, I didn't hear you.
14 A No.
15 Q Was there any specific reason why portions of the
16 city of Racine and Kenosha were aggregated
17 together in the same assembly district?
18 A Could you repeat that question?
19 MR. POLAND: Could you read it
20 back.
21 (Question read)
22 A Yes.
23 Q And why is that?
24 A It was necessary to reach the appropriate
25 population for the district.

227

1 A Not that I'm aware of.
2 Q Do you know who actually drew the physical lines
3 outlining the boundaries of Assembly District 64?
4 A I don't recall. Adam Foltz or myself.
5 Q Do you know why you drew those lines specifically
6 in that particular configuration?
7 A It was to reflect the decisions made by the
8 legislature -- the legislators involved in
9 creating the bill.
10 Q Did -- well, you drew those lines for District 64
11 before the bill was presented to the legislature,
12 correct?
13 A Correct.
14 Q Did you consult with anyone in drawing the
15 boundaries of Assembly District 64?
16 A No.
17 Q Did you receive direction from anyone about how to
18 draw the lines of Assembly District 64?
19 A No.
20 Q So you made those decisions on your own about how
21 to draw those lines; is that correct?
22 A Either I or Adam Foltz.
23 Q Were there any considerations, other than the
24 redistricting criteria, that you used in
25 determining the configuration of District 64?

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1 Q You could have moved the boundaries further north
2 in the city of Racine and further north in the
3 city of Kenosha for that same purpose, correct?
4 A Yes.
5 Q It could have been drawn a number of different
6 ways to reach the population requirements,
7 correct?
8 A Yes.
9 Q In the previous assembly -- strike that. In the
10 previous court drawn redistricting plan in 2002,
11 do you know whether portions of the city of Racine
12 and portions of the city of Kenosha were combined
13 in the same assembly district?
14 A I don't believe they were.
15 Q And so why did that occur for the redistricting in
16 2011?
17 A That was a choice ultimately made by the
18 legislature to do that.
19 Q By the legislature?
20 A Yes.
21 Q T-u-r-e, as a whole?
22 A Yes.
23 Q And that was as part of the bill when it was
24 considered by the legislature, correct?
25 A It was.

228

1 Q But in terms of drawing the map, why is it that if
2 it wasn't included in the same assembly district
3 in 2002, that you included those two cities in the
4 same assembly district this time around?
5 A It was a result of the redistricting principles we
6 used to draw the entire state map. We looked at
7 different alternatives, and this was the
8 alternative ultimately selected.
9 Q Was there anything specific about the city of
10 Kenosha that caused you to include part of it in
11 Assembly District 64?
12 A Not that I recall.
13 Q Anything specific about the city of Racine that
14 caused you to include a portion of it in
15 Assembly District 64?
16 A Not that I recall.
17 Q I'd like to draw your attention to the city of
18 Beloit. And under the court drawn 2002
19 redistricting plan, the city of Beloit was
20 contained in a single assembly district, correct?
21 A Yes.
22 Q And under the map that you drew, it's split into
23 two separate assembly districts, correct?
24 A That's correct.
25 Q Why was that done?

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1 A I don't recall a specific reason.
2 Q Could the city of Beloit have fit entirely within
3 the same assembly district?
4 A Yes.
5 Q Do you know of any justification, as you sit here
6 today, for splitting the city of Beloit between
7 two different assembly districts?
8 A It goes back to those redistricting principles I
9 talked about earlier, equal population, compact
10 and contiguous, and sensitivity to minority
11 concerns.
12 Q Were there minority concerns within the city of
13 Beloit that affected where you drew the district
14 lines?
15 A Not that I'm aware of.
16 Q So it would have had to be compactness and
17 population concerns that have dictated where you
18 drew the assembly district lines?
19 A Those could have played a role in it.
20 Q As you sit here today, do you recall exactly why
21 you split Beloit into two different assembly
22 districts?
23 A I don't recall.
24 Q Did you solicit any input from any representatives
25 of the city of Beloit when you were deciding

230

1 where -- whether to split Beloit or not?
2 A No.
3 Q I'd like to draw your attention up to the city of
4 Appleton. Did you participate in drawing the
5 assembly districts that encompass the city of
6 Appleton?
7 A Yes.
8 Q And size the Appleton precluded it from being
9 included in a single assembly district, correct?
10 A I believe that's correct.
11 Q Do you know how many assembly districts the city
12 of Appleton is split among?
13 A I don't recall exactly, if it's three or four.
14 Q Do you know why it was split among multiple
15 assembly districts?
16 A I don't recall the exact decision there.
17 Q Do you know the justification for splitting it?
18 A I don't recall the exact justification.
19 Q Did you solicit the input of any representatives
20 of the city of Appleton before splitting it in the
21 way that's reflected in Act 43 among multiple
22 assembly districts?
23 A No.
24 Q Did you receive any input from any legislators
25 whose districts encompass the city of Appleton

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1 before determining to split it in that way?
2 A No.
3 Q Do you know whether you or Mr. Foltz actually drew
4 the assembly districts that encompass the city of
5 Appleton?
6 A I'm not sure which of us drew those.
7 Q One of you would have drawn them, you just don't
8 recall --
9 A Yes.
10 Q -- which of the two of you did?
11 A That's correct.
12 Q I'd like to draw your attention to the city of
13 Marshfield. In the 2002 court drawn plan, the
14 city of Marshfield was included in a single
15 assembly district, correct?
16 A Correct.
17 Q And it's split under 2011 Wisconsin Act 43,
18 correct?
19 A That's correct.
20 Q Did you actually draw the assembly districts that
21 split Marshfield?
22 A I don't recall.
23 Q Don't recall -- you or Mr. Foltz would have done
24 it, but you don't recall which of you did?
25 A That's correct.

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VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

1 Q Did you solicit any input from any representatives
 2 of the city of Marshfield before splitting it
 3 between two different assembly districts?
 4 A No.
 5 Q Did you solicit the input of any legislators whose
 6 districts encompass the city of Marshfield before
 7 splitting it into two different assembly
 8 districts?
 9 A No.
 10 Q Do you know the justification for splitting
 11 Marshfield?
 12 A No.
 13 Q Could it have fit into a single assembly district?
 14 A Yes.
 15 Q I'd like to draw your attention to the city of
 16 Madison. Madison historically has covered -- has
 17 had three senate districts, correct?
 18 A At least for the last ten years.
 19 Q Why was Madison combined into two senate districts
 20 when it historically had had three senate
 21 districts?
 22 A It was a choice that the legislators made.
 23 Q Did -- either you or Mr. Foltz would have drawn
 24 the assembly districts encompassing the city of
 25 Madison, correct?

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1 Act 43?
 2 A Yes.
 3 Q What are those districts?
 4 A Assembly Districts 8 and 9.
 5 Q In Milwaukee, correct?
 6 A That's correct.
 7 Q And why is it your belief that those are majority
 8 Latino districts?
 9 A Because according to the census data, a majority
 10 of the population of those districts is Latino.
 11 Q And that's only -- that only takes into account
 12 the fact that they're Latino, correct, in other
 13 words, it doesn't take into account citizenship,
 14 correct?
 15 A The census data does not reflect citizenship.
 16 Q Do you know what percentage of the 8th Assembly
 17 District has Latino residents who are of voting
 18 age and are also citizens?
 19 A I do not.
 20 Q And what about in the 9th Assembly District, do
 21 you know what percentage of the residents in the
 22 9th Assembly District are Latinos of voting age
 23 who are also citizens?
 24 A I do not.
 25 Q How many African-American assembly -- majority

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1 A That's correct.
 2 Q And therefore the senate districts also, correct?
 3 A That's correct.
 4 Q Did you receive any input from anyone on how many
 5 assembly or senate districts to include in the
 6 city of Madison?
 7 A No.
 8 Q As you sit here today, do you know the
 9 justification for drawing the assembly and senate
 10 districts encompassing the city of Madison in the
 11 way they're reflected in Act 43?
 12 A Not that I recall.
 13 Q Were there any cities that you split for the
 14 purpose of maintaining compactness in assembly
 15 districts?
 16 A Nothing that I specifically recall.
 17 Q Would that be reflected anywhere in any of the
 18 materials that you created during the course of
 19 the redistricting process?
 20 A I don't recall.
 21 Q Do you know whether 2011 Wisconsin Act 43 creates
 22 any Latino majority districts?
 23 A I guess I'm not clear on the question.
 24 Q Okay. Are there any majority Latino assembly
 25 districts that are created by 2011 Wisconsin

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1 assembly districts are created by 2011 Wisconsin
 2 Act 43?
 3 A Six.
 4 Q Do you know why it was determined only to draw
 5 six?
 6 A I don't recall.
 7 Q Did you ever consider creating more than six
 8 African-American majority assembly districts?
 9 A Not that I recall.
 10 Q Did you talk to anyone about whether it was
 11 possible to create more than six African-American
 12 majority assembly districts?
 13 A No.
 14 Q Do you know of anyone who did an analysis of
 15 whether more African-American majority assembly
 16 districts could be created for the purpose of 2011
 17 Wisconsin Act 43?
 18 A Not that I'm aware.
 19 Q We've talked about some of the municipalities that
 20 were split in 2011 Wisconsin Act 43. Did you take
 21 any steps to minimize splitting municipalities?
 22 A The splits on the entire map was something that we
 23 looked at when we analyzed various draft maps,
 24 yes.
 25 Q And what did you do to minimize the number of

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1 municipal splits?
 2 A The software generates a report of communities
 3 that are split under draft plans. So we would
 4 look at the draft report, and then go back and
 5 look at the map and see if there were
 6 opportunities to reduce those splits that did not
 7 compromise the other core principles that we were
 8 drafting by.
 9 Q Are those generally referred to as splits reports?
 10 A That's correct.
 11 Q Who looked at and analyzed splits reports?
 12 A I looked at them. Adam Foltz looked at them.
 13 Joe Handrick helped us out with that as well.
 14 Q Did the three of you look at those splits reports
 15 independently or together?
 16 A Independently.
 17 Q When you found a split municipality, what did you
 18 do to analyze whether it didn't need to be split?
 19 A You would look at putting the community in one
 20 district, and then seeing what the ripple effect
 21 would be on the population and other redistricting
 22 criterias with the surrounding districts.
 23 Q Did you do that with respect to every municipality
 24 that was split in the state of Wisconsin?
 25 A No.

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1 Q Why did you not look at every municipality that
 2 was split?
 3 A Some -- there's a number of municipalities that
 4 are required to be split based on population.
 5 Q So for those that were required to be split based
 6 on population, you did not go back and look and
 7 see whether they could be configured in a
 8 different way to minimize splits?
 9 A No.
 10 Q Did you save copies of the splits reports that you
 11 generated?
 12 A I believe so.
 13 Q Would those still be in hardcopy format or located
 14 on a computer?
 15 A They may be -- some may be in hardcopy, some may
 16 be on the computer.
 17 Q At times did you print splits reports and at other
 18 times simply look at them on a computer screen?
 19 A Yes.
 20 Q How did you evaluate core population retention of
 21 the 2002 districts?
 22 A There is a report that the autoBound software
 23 generates that reflects core retention.
 24 Q How many times did you take a look at core
 25 population retention of the 2002 districts?

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1 A I'm not certain how many times.
 2 Q In other words, is it something that you waited
 3 until you got to the end of the process to look at
 4 or is it something that you evaluated throughout
 5 the entire process?
 6 A It's difficult to evaluate absent a completed map.
 7 Q Do you know how many core population retention
 8 reports you would have created in the process of
 9 redistricting?
 10 A I don't know.
 11 Q Are any of those reports still in existence?
 12 A I believe so.
 13 Q Would those also be either in printed copy or on
 14 your computer at the Michael, Best & Friedrich
 15 office?
 16 A Yes.
 17 Q Did you take into account communities of interest
 18 when you were drawing the map that became 2011
 19 Wisconsin Act 43?
 20 A Yes.
 21 Q Did you evaluate any historical data on how
 22 communities of interest had been housed in senate
 23 and assembly districts previous to 2010?
 24 A Not that I recall.
 25 Q How did you take into account or into

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1 consideration the communities of interest?
 2 A It's a rather nebulous term that I don't know that
 3 it's specifically defined. So we looked at just
 4 kind of different map alternatives, and if there
 5 were alternatives that may indicate communities
 6 that have some sort of, you know, interest in
 7 being together or not.
 8 Q Did you solicit input from any of the
 9 municipalities themselves with respect to what
 10 they considered communities of interest to be?
 11 A No.
 12 Q So, for example, if we look at the city of
 13 Marshfield, what did you specifically look at in
 14 taking into account communities of interest in
 15 that city?
 16 A I don't recall specific consideration there.
 17 Q All right. What about city of Beloit?
 18 A I don't recall anything specific there.
 19 Q What about the city of Appleton?
 20 A I don't recall specific discussions there.
 21 Q What about Racine and Kenosha?
 22 A Aside from the fact that Kenosha had to be split,
 23 I don't recall anything specific.
 24 Q In the city of Milwaukee, did you take into
 25 account any information with respect to

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1 communities of interest?
 2 A Not that I can recall.
 3 Q Do you know how many residents in Wisconsin needed
 4 to be moved to new districts from existing
 5 districts to comply with equal population
 6 requirements?
 7 A I'm not aware that there's a way to measure that.
 8 Q Do you know how many people were actually moved to
 9 new districts from old districts?
 10 A I don't recall.
 11 Q Do you know whether the number of people that were
 12 moved from old districts to new districts was the
 13 smallest amount necessary to meet equal population
 14 requirements?
 15 MR. McLEOD: Assert an objection to
 16 the form of the question. You can answer if
 17 you're able to.
 18 A I don't know that there's a way to measure that.
 19 Q Was there an assessment at all that you did about
 20 the number of people that were moved from old
 21 districts to new districts?
 22 A I looked at that in terms of state senate seats
 23 where there would be delayed voting.
 24 Q And that's for the purpose of disenfranchisement?
 25 A Yes.

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1 Q And do you know how many -- this is a discussion
 2 we had before about the number of people who were
 3 disenfranchised; is that correct?
 4 A Yes.
 5 Q But in terms of statewide, how many people were
 6 moved from old districts to new districts, that's
 7 not anything that you looked at?
 8 A Not that I recall, no.
 9 Q And again, jumping down to the key in the map that
 10 says the districts were -- will be used for the
 11 fall of 2012 elections. Act 43 specifically
 12 states that the districts don't go into effect
 13 until the general election in 2012, correct?
 14 A That's correct.
 15 Q Do you know why that language is included in the
 16 statute?
 17 A I don't know specifically.
 18 MR. POLAND: That's all the
 19 questions I have at this time. Peter.
 20 MR. EARLE: Okay. Thanks. I only
 21 have very, very few questions just to clarify
 22 a few loose ends, Mr. Ottman.
 23
 24
 25

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1 EXAMINATION
 2 By Mr. Earle:
 3 Q There was an exhibit that was shown to you, an
 4 e-mail that was captioned, from your Gmail
 5 account, captioned voting-age population that was
 6 sent from you to various -- the three different
 7 people, including Gerard Randall?
 8 A Yes.
 9 Q Can you grab that real quickly for me?
 10 A Okay, I have it.
 11 Q You identified the first person on that address
 12 stream, it says Prospectreaol. Who was that?
 13 A I'm not entirely certain. I thought it may be
 14 Prospectre Rivera.
 15 Q How is it that you remember Prospectre Rivera's
 16 name?
 17 A I seem to recall that he had been involved in
 18 redistricting ten years ago in some capacity.
 19 Q Okay. And, but you don't recall whether he got
 20 back ahold of you; is that a true statement?
 21 A That's correct.
 22 Q As a result of this e-mail?
 23 A That's correct.
 24 Q And did he do anything to precipitate you putting
 25 him on this e-mail address list?

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1 A He did not, no.
 2 Q Where did you get his name again from?
 3 A I believe it was provided to me by Gerard Randall.
 4 Q Did Gerard Randall give you the names of any other
 5 Latino pop individuals?
 6 A Not that I recall.
 7 Q All right. You testified during -- you testified
 8 after lunch that you had a conversation with Adam
 9 during lunch; is that accurate?
 10 A Yes.
 11 Q Did you talk about Zeus Rodriguez at all in that
 12 conversation with Adam?
 13 A We did not.
 14 Q Have you covered every communication you had with
 15 Zeus Rodriguez during the course of this
 16 deposition today?
 17 A I believe so.
 18 Q Did you delete any e-mails that involved
 19 Zeus Rodriguez?
 20 A Not that I recall.
 21 Q The -- how many e-mail accounts do you have?
 22 A Two.
 23 Q And so you have no other e-mail accounts other
 24 than the Gmail account and your work account?
 25 A I have a Yahoo account, but I don't use that.

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1 Q So you've never used the Yahoo account for
2 redistricting purposes?
3 A That's correct.
4 Q Okay. This computer that you have at
5 Michael, Best & Friedrich, is it a self-standing
6 computer? I want to make sure I understood your
7 testimony accurately.
8 A Yes, it is.
9 Q So it's not linked to any other computer?
10 A It is not.
11 Q Are you the only person who has access to that
12 computer?
13 A Yes.
14 Q Have you shared the use of that computer with
15 anybody else?
16 A I have not.
17 Q Have you used that computer for any purpose other
18 than redistricting?
19 A I've prepared legislative documents on unrelated
20 issues.
21 Q On unrelated issues?
22 A Yes.
23 Q What percentage of the material on that computer
24 hard drive are legislative documents on unrelated
25 issues?

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1 A Probably less than 5 percent.
2 Q And if you can clarify for me the testimony you
3 gave earlier about helping Mr. Handrick set up his
4 computer at Michael, Best & Friedrich. Can you
5 describe that for me again?
6 A Yes. I set up a user name and password for him to
7 get on to the computer.
8 Q Now, that computer is located in the same room at
9 Michael Best as your computer?
10 A That's correct.
11 Q Is Mr. Handrick the only person with access to
12 that computer?
13 A No, Adam and I can access that.
14 Q Did you access Mr. Handrick's computer during the
15 course of the redistricting process?
16 A I may have, yes.
17 Q And why would you have accessed Mr. Handrick's
18 computer?
19 A If he were having software issues, sometimes he
20 would ask me to see if I could figure out why the
21 software wasn't working.
22 Q Any other reason?
23 A Not that I recall.
24 Q Do you ever access it when he's not there?
25 A Not that I recall.

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1 Q Did you have permission from Mr. Handrick to
2 access that computer?
3 A It was --
4 Q Let me rephrase the question. Did you need
5 permission from Mr. Handrick to access that
6 computer?
7 A No.
8 Q So any time you wanted to access that computer,
9 you could go ahead and access that computer?
10 A Yes.
11 Q And did you without him being present and without
12 him giving you explicit permission at any point?
13 A Yes.
14 Q About how many times did you do that?
15 A Maybe three or four.
16 Q What was the purpose of that?
17 A There were times when we had to update software or
18 login passwords had expired or there was
19 additional information that LTSB wanted to put on
20 all three computers.
21 Q Did the attorneys at Michael, Best & Friedrich
22 have access to the computers that you,
23 Mr. Handrick and Adam Foltz had there?
24 A No.
25 Q Okay. Do you know whether it was -- it is

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1 demographically possible to create an assembly
2 district in which Latinos are a majority of the
3 eligible voters?
4 MR. McLEOD: I'm going to object to
5 the form of the question. I think it's vague
6 and ambiguous. Answer if you're able.
7 A I believe those districts have been created.
8 Q Well, I want you to listen carefully to every word
9 I use, okay? Let me ask you this then. Are you
10 saying that the 8th Assembly District consists of
11 a majority of voter-eligible Latinos?
12 A To my knowledge, it consists of a majority of
13 voter-age Hispanics.
14 Q I'm asking you whether it consists of a majority
15 of voter-eligible Latinos?
16 MR. KELLY: Objection, form.
17 MR. EARLE: I'm sorry, what was the
18 objection?
19 MR. KELLY: Form. If you would
20 like to know the specifics, I would be happy
21 to tell you.
22 MR. EARLE: That's okay.
23 MR. KELLY: You may answer if you
24 believe you can.
25 A I'm not aware of that statistic, no.

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VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

1 Q So you don't know whether the 8th Assembly
 2 District consists of a majority of Latinos who are
 3 voter eligible; is that correct?
 4 MR. KELLY: Objection, form. You
 5 may answer if you believe you can.
 6 A I don't.
 7 Q Okay. Do you know whether any effort was made at
 8 any point in time during the redistricting process
 9 to ascertain whether it is possible to draw an
 10 assembly district in which the Latinos in that
 11 district constitute a majority of the
 12 voter-eligible residents?
 13 MR. KELLY: Objection, form. You
 14 may answer if you believe you can.
 15 A I assumed that's what MALDEF was attempting to do,
 16 but other than that, I don't know.
 17 Q Did you have any direct contact with MALDEF?
 18 A No.
 19 Q So is it accurate to say that all your knowledge
 20 about MALDEF's participation is in that e-mail
 21 that was produced at Mr. Foltz's deposition?
 22 A The e-mail and the document they forwarded.
 23 Q Okay. Let me just look very quickly. I think I'm
 24 done here.
 25 Do you know whether any other person on

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1 the -- I guess -- well, let me ask you this way.
 2 Do you know whether any person on the
 3 redistricting team other than -- well, why don't
 4 you list for me the people on the redistricting
 5 team that had contact with Zeus Rodriguez.
 6 A I believe it was me, and I don't know if he spoke
 7 with counsel or not.
 8 Q You asked him to speak with counsel; is that
 9 correct?
 10 A He had asked for a contact person to talk to, and
 11 I provided the name of Ray Taffora.
 12 Q Did you follow up with Mr. Taffora about whether
 13 Zeus had contacted him?
 14 A I did not.
 15 Q Did Mr. Taffora ever tell you or give you any
 16 indications whether Zeus had contacted him?
 17 A I don't recall.
 18 Q Okay. Who is your carrier for your Android
 19 device?
 20 A Sprint.
 21 Q And that is an account that you have in your name?
 22 A That's correct.
 23 Q Excuse me?
 24 A That's correct.
 25 MR. EARLE: Okay. I have no

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1 further questions.
 2 MR. POLAND: We're done. Off the
 3 record.
 4 (Adjourning at 4:40 p.m.)
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1 STATE OF WISCONSIN)
) ss.
 2 COUNTY OF DANE)
 3 I, SARAH FINLEY PELLETTER, a Registered
 4 Professional Reporter and Notary Public duly
 5 commissioned and qualified in and for the State of
 6 Wisconsin, do hereby certify that pursuant to
 7 subpoena, there came before me on the 22nd day of
 8 December 2011, at 9:24 in the forenoon, at the
 9 offices of Godfrey & Kahn, S.C., Attorneys at Law,
 10 One East Main Street, in the City of Madison, County
 11 of Dane, and State of Wisconsin, the following named
 12 person, to wit: TAD M. OTTMAN, who was by me duly
 13 sworn to testify to the truth and nothing but the
 14 truth of his knowledge touching and concerning the
 15 matters in controversy in this cause; that he was
 16 thereupon carefully examined upon his oath and his
 17 examination reduced to typewriting with
 18 computer-aided transcription; that the deposition is
 19 a true record of the testimony given by the witness;
 20 and that reading and signing was not waived.
 21 I further certify that I am neither
 22 attorney or counsel for, nor related to or employed
 23 by any of the parties to the action in which this
 24 deposition is taken and further that I am not a
 25 relative or employee of any attorney or counsel

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1 employed by the parties hereto or financially
2 interested in the action.
3 In witness whereof I have hereunto set my
4 hand and affixed my notarial seal this 23rd day of
5 December 2011.
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Notary Public, State of Wisconsin
Registered Professional Reporter

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9 My commission expires
10 July 15, 2012
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VIDEOTAPE DEPOSITION OF TAD M. OTTMAN 12/22/2011

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