

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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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.

Civil Action  
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,

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[Caption Continued]

**30(b)(6) VIDEOTAPE DEPOSITION**

**JEFFREY R. YLVISAKER**

Madison, Wisconsin  
April 29, 2013

Susan C. Milleville, Court 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.

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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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I N D E X

<u>Witness</u>	<u>Pages</u>
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E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Identified</u>
1	Subpoena issued to the Wisconsin State Senate	6
2	Chart made by witness	43
3	Subpoena issued to the Wisconsin State Assembly	66
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(The original exhibits were attached to the original transcript and copies were provided to counsel)

(The original deposition transcript was filed with Attorney Peter G. Earle)

1           VIDEOTAPE DEPOSITION of JEFFREY R. YLVISAKER,  
2           as a 30(b)(6) witness of lawful age, taken on behalf  
3           of the Plaintiffs, wherein Alvin Baldus, et al., are  
4           Plaintiffs, and Members of the Wisconsin Government  
5           Accountability Board, et al., are Defendants, pending  
6           in the United States District Court for the  
7           Eastern District of Wisconsin, pursuant to subpoena,  
8           before Susan C. Milleville, a Court Reporter and  
9           Notary Public in and for the State of Wisconsin, at  
10          the offices of Godfrey & Kahn, S.C., Attorneys at  
11          Law, One East Main Street, in the City of Madison,  
12          County of Dane, and State of Wisconsin, on the 29th  
13          day of April 2013, commencing at 9:09 in the  
14          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,  
                          Wisconsin 53703, appearing on behalf of  
                          Plaintiffs Alvin Baldus, et al.

22

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

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

MARIA S. LAZAR, Assistant Attorney General,  
for STATE OF WISCONSIN DEPARTMENT OF JUSTICE,  
17 West Main Street, Madison, Wisconsin 53703,  
appearing on behalf of Defendant Members of  
the Wisconsin Government Accountability Board.

AYAD P. JACOB, Attorney,  
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appearing on behalf of Michael Best &  
Friedrich LLP.

CYNTHIA L. BUCHKO, Attorney,  
for WHYTE HIRSCHBOECK DUDEK S.C., Attorneys at Law,  
33 East Main Street, Suite 300, Madison,  
Wisconsin 53701-1379, appearing on behalf of  
the Wisconsin Senate, Wisconsin Assembly,  
Wisconsin Senate Chief Clerk Jeff Renk,  
Wisconsin Assembly Chief Clerk Patrick E.  
Fuller and the Wisconsin Legislative Technology  
Services Bureau.

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

1 (Exhibit No. 1 marked for  
2 identification)

3 JEFFREY R. YLVISAKER,  
4 called as a witness, being first duly sworn,  
5 testified on oath as follows:

6 EXAMINATION

7 By Mr. Earle:

8 Q Sir, would you state your name and spell your last  
9 name for the record.

09:09AM

10 A Yes. My name is Jeff Ylvisaker. My last name is  
11 spelled Y-l-v-i-s-a-k-e-r.

12 Q Showing you what's been marked as Exhibit No. 1.  
13 This is a subpoena issued to the Wisconsin State  
14 Senate pursuant to Federal Rule of Civil Procedure  
15 Rule 30(b)(6). Have you seen Exhibit 1 before?

09:09AM

16 A Yes. I have.

17 Q When was the first time you saw Exhibit No. 1?

18 A I believe a week ago.

19 Q You understand that you have been designated  
20 pursuant to Rule 30(b)(6) to testify on behalf of  
21 the Wisconsin State Senate on the first eight  
22 topics listed on Exhibit A; is that correct?

09:10AM

23 A Correct. One of. I'm not the only person who  
24 would be testifying on behalf of the Senate. I'm  
25 a witness for the Senate.

09:11AM

1 Q You are a witness for the Senate with regards to  
2 each of those topics?

3 A Correct.

4 Q Are you aware of any other witnesses on behalf of  
09:11AM 5 the Senate for the first eight topics listed on  
6 Exhibit A?

7 A As I understand it, there will be another witness  
8 that may be able to offer comments on these  
9 different topics.

09:11AM 10 Q I guess I must have misunderstood counsel. I  
11 understood the representation of counsel prior to  
12 the commencement of this deposition that you would  
13 be the designee testifying on the first eight  
14 topics and someone else would be testifying on  
09:11AM 15 Topic Number Nine.

16 MR. EARLE: Perhaps you should  
17 clarify.

18 MS. BUCHKO: No. Mr. Ylvisaker is  
19 a witness with respect to the first eight.  
09:11AM 20 He is not the only witness. He is not  
21 testifying with respect to Number Nine.

22 MR. EARLE: Are we going to have  
23 present today other witnesses with respect to  
24 the topics listed on Exhibit A on behalf of  
09:12AM 25 the Wisconsin State Senate?

1 MS. BUCHKO: Yes.

2 MR. EARLE: Would you please  
3 identify who those witnesses will be.

4 MS. BUCHKO: They will be  
5 Tad Ottman and Adam Foltz.

09:12AM

6 MR. EARLE: Are they going to be  
7 here present this morning?

8 MS. BUCHKO: They will be here when  
9 you are done with this witness. We can just  
10 go on to the next.

09:12AM

11 Q You are required to testify about all matters, all  
12 information, known or reasonably available to the  
13 Wisconsin State Senate regarding the topics  
14 enumerated for which you have been designated. I  
15 guess what I'm going to do is inventory your  
16 preparation and information gathering processes  
17 before we get into the substance.

09:12AM

18 MS. BUCHKO: I'm going to interpose  
19 an objection if I could. Foundation and  
20 competency, number one, with respect to  
21 30(b)(6) for this witness. Secondly, he's  
22 not the only witness. I believe the way you  
23 phrased the comment -- he is not the only  
24 witness, so he can't testify with respect to  
25 all matters known to the Senate. He can

09:13AM



1 testify with respect to what he knows  
2 concerning the Senate concerning the topics  
3 that we have identified that he would testify  
4 on.

09:13AM

5 MR. EARLE: Counsel, the problem of  
6 foundation and competency is a problem for  
7 the Wisconsin State Senate not for  
8 plaintiffs' counsel. We have noticed the  
9 Wisconsin State Senate to present here today

09:13AM

10 a designee prepared to testify about all  
11 information known to the Senate and all  
12 information reasonably available to the  
13 Senate on these enumerated topics. Now  
14 you're telling me that the designee you have

09:14AM

15 produced lacks a foundation and lacks  
16 competency on those subjects.

17 MS. BUCHKO: Counsel, I'm not going  
18 to argue on the record. I said objection  
19 with respect to foundation and competency  
20 concerning construction of Rule 30(b)(6). He  
21 is not a lawyer. Secondly, it does not say a  
22 witness. We can produce more than one  
23 witness in response to a 30(b)(6), and that's  
24 what we're doing.

09:14AM

09:14AM

25 If the witness is able to answer the

1 last question, he should go ahead.

2 MR. EARLE: Will you read the last  
3 question.

4 (Question read)

09:15AM

5 Q Will you answer that?

6 A Yes. There will be more representatives or more  
7 witnesses for the Senate.

8 Q Did you meet with any other witnesses for the  
9 Senate prior to your presence here today?

09:15AM

10 A I had a very brief phone conversation where I was  
11 asked if I had information on these topics if that  
12 constitutes a meeting.

13 Q Who did you have that conversation with?

14 A Tad in Senator Fitzgerald's office, Tad Ottman.

09:15AM

15 Q When did that conversation occur?

16 A Sometime last week. I couldn't say for sure  
17 the -- possibly mid week.

18 Q How long did that conversation last?

19 A Maybe five minutes.

09:15AM

20 Q What topics did you discuss?

21 A We just went through the list. He asked if I  
22 might have information on these topics listed here  
23 because they're the same as the ones that are  
24 issued to LTSB. I said that I did have some  
09:15AM 25 information on or I could say something about each

1 topic even if it was no I don't have information,  
2 for example, on the last one, Nine. That's what  
3 I --

09:16AM

4 Q Was anybody else participating in that  
5 conversation you had with Tad Ottman last week?

6 A Not that I'm aware of. It should have been Tad  
7 talking to me on the phone. We were not on a  
8 conference call that I was aware of.

09:16AM

9 Q Did you take any notes of that conversation?

10 A No. I think I just reviewed -- I picked up the  
11 Senate one, double-checked that the Senate topics  
12 were the same as the ones that were on the LTSB,  
13 and they are, and then I referred to this document  
14 here with these topics.

09:16AM

15 Q As best as you can remember, please describe for  
16 me exactly what Mr. Ottman said to you.

17 A All right. Just a moment. He must have said  
18 something to the effect of he's calling to see if  
19 I have any information regarding these topics

09:17AM

20 because I could be a witness for -- one of  
21 multiple witnesses for the Senate. I said yes I  
22 think that I do have some information though it's  
23 from the perspective of LTSB but it's information  
24 that LTSB has. My testimony for LTSB would be the  
25 same as if I were here as a witness, one of

09:17AM

1 multiple witnesses, for the Senate.

2 Q Did Mr. Ottman say anything else?

3 A I don't remember the conversation word for word.

4 I remember the gist of the conversation was he was

09:17AM

5 inquiring as to whether or not I would be able to

6 present information on these topics, and I said

7 that I would.

8 Q Did he describe the quality of the information he

9 had about these topics?

09:18AM

10 A No. I don't believe that we covered his topics or

11 I don't think that I asked him anything about what

12 he had, and I don't believe that he offered

13 anything to me about what he had. He just was

14 curious if I had some knowledge on some of these

09:18AM

15 topics.

16 Q Did he discuss anybody else having any other

17 information?

18 A I don't believe so.

19 Q Did he say why he was calling you?

09:18AM

20 A Well, I understood that the reason was because we

21 were being deposed -- the Senate had received the

22 30(b)(6) and that he was inquiring as to whether

23 or not I would have information that --

24 Q I wasn't asking you what you understand. I was

09:18AM

25 asking you what he said about why he was calling.

1 A Just to find out if I had any information on these  
2 topics.

3 Q Did he say who told him to call you, if anybody?

4 A I didn't ask him that. He didn't say that.

09:19AM

5 Q Did you talk to anybody else besides Todd Ottman?

6 A Could you be more specific when you say anybody  
7 else? Anybody else in Senator Fitzgerald's  
8 office?

09:19AM

9 Q Anybody else anywhere about this deposition and  
10 the topics listed on Exhibit A.

11 A Exhibit A being the one for the Senate? Aside  
12 from just confirming that I'm coming here today  
13 with my legal counsel, I did not talk with anyone  
14 else in the Senate about this document.

09:19AM

15 Q Did you describe to anybody else what you knew  
16 about the topics contained in Exhibit A --

17 MS. BUCHKO: Objection.

18 Q -- other than Tad Ottman?

19 MS. BUCHKO: Object to the extent  
20 it requests information concerning attorney  
21 client-privileged communications.

09:19AM

22 Q You may answer the question.

23 MS. BUCHKO: But don't disclose  
24 attorney-client privileged communication.

09:19AM

25 MR. EARLE: Excuse me. Listen

1 carefully to the question I asked. I don't  
2 think the objection is proper to the question  
3 I asked.

4 (The following was read by the reporter:

09:19AM

5 Q "Did you describe to anybody else what you  
6 knew about the topics contained in  
7 Exhibit A other than Tad Ottman?")

8 MR. EARLE: That's a yes or no  
9 question.

09:20AM

10 MS. BUCHKO: Okay.

11 Q You may answer.

12 A The question is did I describe to anybody else  
13 what I know about these topics here?

14 Q Yes.

09:20AM

15 A In addition to Tad? Probably just briefly  
16 mentioned that I'm able to talk about these topics  
17 with my legal counsel. Yes. The answer to the  
18 question is yes.

09:20AM

19 Q Thank you. Is it your testimony that the other  
20 person to whom you described what you knew about  
21 these topics was legal counsel?

22 A Yes.

09:21AM

23 Q Was there anybody other than legal counsel to whom  
24 you have described what you knew in Exhibit A  
25 other than Tad Ottman and legal counsel?

1 A I don't believe so. The reason why I say that is  
2 because in the subpoena that's issued -- the same  
3 subpoena that's issued to LTSB has the same  
4 topics. With respect to those topics and with  
09:21AM 5 respect to the LTSB subpoena, I sure did talk to a  
6 lot of people. If you're limiting it to the scope  
7 of just the Senate, then it should have -- it  
8 should be limited to just those two people or  
9 those two entities that I mentioned.

09:21AM 10 Q What did you tell Tad Ottman you knew about the  
11 topics on Exhibit A?

12 A Well, what I did is he said *Do you have any*  
13 *information on any of these topics?* And I  
14 basically just said -- went down the list. Would  
09:22AM 15 you like me to do that now?

16 Q Yes.

17 A And gave a sense, not a complete story, but a  
18 sense that my staff -- my staff, LTSB staff, did  
19 not delete any end user work product off of the  
09:22AM 20 computers. However, we would have modified the  
21 computers in a different way, system files,  
22 application files, data files; that we didn't to  
23 my knowledge restore any data; that I did have  
24 information on the location, possession, custody,  
09:22AM 25 and control.

1 Q Did you tell him what that information was?

2 A I did not enumerate what my knowledge of that was.

3 That we had some information on the users of the  
4 computers; that we had some idea of what

09:23AM

5 maintenance was or should have been performed on

6 the computers; that we do have information

7 regarding Point Six which is wondering the

8 location of the custody of documents, logs,

9 invoices, receipts, other records regarding the

09:23AM

10 maintenance, movement, storage, repair, and/or

11 custody of these three redistricting computers.

12 Regarding Point Seven that per the plaintiffs'

13 legal counsel and the legislature's legal counsel

14 that I authorized -- I didn't authorize. I

09:23AM

15 coordinated with PLA to take a forensic copy

16 regarding Point Seven of the data. That would

17 have been within the time frame. I probably also

18 noted that per the court order on February 25th

19 that I turned over those same hard drives on the

09:24AM

20 26th to my legal counsel who in turn turned them

21 over to Poland as I understand that. On Number

22 Eight that -- the only thing that really could be

23 possibly considered an attempt to preserve data

24 was that -- from LTSB's point of view is that we

09:24AM

25 built the computers with redundant hard drives



1 inside and with an external hard drive that has a  
2 scheduled task to back things up.

3 Since I spoke with a number of people in my  
4 office last week, as I tell you what I just said,  
09:24AM 5 I believe that's approximately the amount of  
6 information that I relayed to Tad Ottman. But  
7 since I spent a lot of time last week preparing  
8 with my staff, it's possible that I didn't say  
9 every word that I said. That's the gist of it.

09:25AM 10 Q Okay. On Topic Number Nine --

11 A Sorry.

12 Q -- you have no information?

13 A LTSB staff didn't turn over data or participate in  
14 the process of turning over data beyond the  
09:25AM 15 forensic copy for PLA.

16 MS. BUCHKO: Counsel, could I just  
17 correct one thing? This is my error. I  
18 apologize. Item Number Six. Mr. Ylvisaker  
19 is the only witness for the Senate, the  
09:25AM 20 Assembly, or LTSB. I apologize. I forgot  
21 that he's the only witness for that.

22 MR. EARLE: Thank you. That's  
23 helpful.

24 Q Okay. Did you bring any documents with you today?

09:25AM 25 A I did.

1 Q Please show me the documents you brought.

2 A Sure.

3 Q Is this one set?

4 MS. BUCHKO: It is one set. I

09:26AM

5 didn't know what you would like. If you want  
6 to --

7 MR. EARLE: Do you want to shoot  
8 them out to somebody?

9 MR. POLAND: Yes.

09:26AM

10 A Could I see those as they go past me? I just want  
11 to make sure she didn't pull an extra piece of  
12 paper or something else of hers out. I would just  
13 like to be sure that --

14 Q Your thoroughness is appreciated.

09:26AM

15 A I brought copies of the subpoenas, the Excel  
16 spreadsheet.

17 MR. EARLE: Just so the record is  
18 clear, the witness is reviewing the packet of  
19 documents that have been tendered as having  
20 been brought by the deponent to this  
09:26AM  
21 deposition.

22 Q Mr. Ylvisaker, what I'm going to do is have  
23 these -- I'm going to pass them off and have  
24 copies made. Then we will revisit them in a  
09:26AM  
25 little bit. Okay?

1 A Okay.

2 Q You placed something on top.

3 A I might have changed the order as I scanned  
4 through them.

09:27AM

5 Q Got it. Okay.

6 A I think when she handed them to me the subpoenas  
7 were on top.

8 Q Okay. Let's dig into the business here at hand.  
9 Drawing your attention to Topic Number One. Would  
10 you read it into the record, please.

09:27AM

11 A Me?

12 Q Yes.

13 A "The deletion or attempted deletion of any records  
14 or data from any of the three redistricting  
15 computers between January 1, 2011 and January 31,  
16 2013."

09:27AM

17 Q Would you describe for me what you did to gather  
18 information responsive to Topic One.

19 MS. BUCHKO: Counsel, before he  
20 answers, can we agree that he is testifying  
21 for all three entities if the answer is the  
22 same? If the answer is any different,  
23 whether it's the Senate, the Assembly or the  
24 LTSB, the witness can designate so he doesn't  
25 have to answer the same question three times?

09:27AM

09:28AM

1 MR. EARLE: I think that's a  
2 helpful suggestion, and I don't have a  
3 problem with it. But because we may tend to  
4 create a little bit of a spaghetti bowl of  
09:28AM 5 testimony that at times may become difficult  
6 to track, I would expect some collegial  
7 liberality on your part with regards to asked  
8 and answered questions and redundancy of  
9 testimony as we try to sort it all out.

09:28AM 10 MS. BUCHKO: Understood. If the  
11 witness understands that he's only got  
12 knowledge with respect to one, he should so  
13 designate at the beginning of his answer. If  
14 it's the same with respect to all three  
09:28AM 15 entities, he will give it with respect to all  
16 three entities.

17 MR. EARLE: And presumably with  
18 regards to Topic Number One, the deletion or  
19 attempted deletion of any records or data  
09:28AM 20 from any of the three redirecting computers  
21 between January 1, 2011 and January 31 of  
22 2013, that knowledge that he gathered would  
23 be the same for all three entities.

24 Q Correct?

09:29AM 25 A That is correct.

1 Q So we will plumb the full depth of your knowledge  
2 on that topic. Okay?

3 A Okay. That sounds good.

09:29AM

4 Q Why don't you tell me what you did to gather  
5 information known by those three entities with  
6 regards to Topic Number One.

09:29AM

7 A Okay. So I spent the vast majority of last week  
8 in preparation for today. What I did was once I  
9 received the subpoenas and realized I would be  
10 having to designate someone from LTSB and possibly  
11 one of multiple witnesses for the Senate and  
12 Assembly, I spoke with everyone in my office  
13 except for one person. The one person I didn't  
14 speak to is out of the country. Also, she happens

09:30AM

15 to be the human resources manager and doesn't do  
16 any type of work on end user computers. So I felt  
17 comfortable with the fact that she was out of the  
18 country. I spoke with everybody else at my  
19 agency. In particular I sat them down in groups

09:30AM

20 and told them what this was, what a 30(b)(6)  
21 meant, what my objective was, which is to see if I  
22 can either have or get during last week the  
23 necessary information to be able to come to this  
24 event. I sat down and talked to the different

09:30AM

25 teams at my bureau during the week and told them

1 that. I also then read the questions aloud to  
2 them while I was looking at them and asked if they  
3 had any information in these different areas and  
4 asked them to do some research. People went out.  
09:31AM 5 Everyone was doing some research. And then we met  
6 again in small groups because I have different  
7 teams. I have five teams. I met with the  
8 different teams and had conversations about what  
9 information is available at LTSB for all of these  
09:31AM 10 topics. So I feel like I spent quite a bit of  
11 time making sure that I know the sum total of  
12 knowledge of my staff.

13 MR. EARLE: Let's pause for a  
14 second. We will go off the record.

09:31AM 15 THE VIDEOGRAPHER: The time is  
16 9:30. We are going off the record.

17 (Recess)

18 THE VIDEOGRAPHER: The time is  
19 9:35. We are back on the record.

09:36AM 20 Q All right. Mr. Ylvisaker, you were describing the  
21 five teams. We got to the existence of five teams  
22 on your staff. You had had meetings with  
23 everybody. There had been some research  
24 assignments given. And then you met with each of  
09:37AM 25 the five teams as I understood your testimony,

1 correct?

2 A Correct. Multiple times.

3 Q Would you describe those five teams for me,  
4 please.

09:37AM

5 A One of the teams is called the administration  
6 team. One of them is called the technical support  
7 team. One is called the GIS team which stands for  
8 Geographical Information Systems. Another one is  
9 called the enterprise team. And another one is  
10 called the software development team.

09:37AM

11 Q Okay. Are these teams that pre-existed this task  
12 or were these teams that were put together for the  
13 purposes of pursuing this task?

14 A These teams pre-existed.

09:38AM

15 Q Okay. What research assignments were given to  
16 each team with regards to this task?

17 A The administration team doesn't have very much to  
18 do with it. Only one person was given one  
19 request, and that was to see if we have any  
20 documentation on the specialized redistricting  
21 software.

09:38AM

22 The technical support team was tasked with --  
23 well, their responsibility is to support the end  
24 user computers. So in trying to figure out if we  
25 deleted or attempted to delete any records or

09:38AM

1 data, I wanted to know if we modified the  
2 computers in any way and in which case then I  
3 asked them to look at their documentation and  
4 think of anything that might have happened outside  
09:39AM 5 of the normal documentation process. So they  
6 spent time researching that.

7 The GIS team -- that is the team that is  
8 primarily responsible for building those  
9 particular computers, supporting those computers,  
09:39AM 10 and providing data for the redistricting process.  
11 So I had many questions for them which I can come  
12 to.

13 The software development team --

14 Q What about the enterprise team?

09:39AM 15 A The enterprise team is responsible for the  
16 physical infrastructure and the legislative-wide  
17 software systems and services like E-mail,  
18 printing, and updating. I asked them to research  
19 the update technology that we use to push updates  
09:40AM 20 to computers.

21 And then the software development team --  
22 they write custom software for the legislature.  
23 They did not provide any technology services to  
24 the redistricting end users. One person  
09:40AM 25 contributed to something for the LRB for bill



1 drafting to integrate a redistricting plan into a  
2 bill draft. But that person doesn't interact with  
3 the end users. So the software development team  
4 didn't have any special assignments, just asked if  
5 they had any information on any of these topics.

09:41AM

6 Q Okay. Let's go back to the administrative team.  
7 You indicated there was just one request to one  
8 person for specialized redistricting software.

9 A I would like to add to that.

09:41AM

10 Q You want to add to that?

11 A Yes. One of the members of the team is one of my  
12 managers. Each team has a manager. One of the  
13 members of the team is a manager. I think of her  
14 differently. She's also on the administration

09:41AM

15 team. I asked her to look into a purchase order,  
16 when we received a bill for the computers, the  
17 specification for the computers themselves, and  
18 then reviewed some of the documents that I gave  
19 you with her.

09:42AM

20 Q Okay. Anything else?

21 A The admin team -- that should be limited to that.

22 Q What's a special order? What was that or special  
23 purchase order?

24 A Well, we had to have purchased the specialized  
25 redistricting software. Is that maybe what you

09:42AM

1 mean?

2 Q I don't know. I was just following up on what you  
3 were saying?

4 A Okay. One person was looking into the software  
5 part because we had to buy software.

09:42AM

6 Q I see.

7 A And then another person, the manager, was looking  
8 into the hardware components because I wanted to  
9 see what kind of documentation I had on Six.

09:42AM

10 Q Got you. Is the information you gathered from  
11 your team reflected on any of the documents you  
12 brought here today?

13 A Yes. Yes. If that's the Excel spreadsheet you're  
14 holding, that relates to Question Number Three --

09:43AM

15 Q Got you.

16 A -- and Six insofar as I used documentation that we  
17 have at the agency to build that spreadsheet.

18 Q We will hold off on that for a second. You got  
19 information from each of these five teams and you  
20 brought it here today, correct?

09:43AM

21 MS. BUCHKO: Objection,  
22 mischaracterizes his testimony.

23 Q Strike that. I will withdraw that question. You  
24 received information from each of the five teams  
25 and gathered documents relative to that

09:43AM

1 information and brought those documents here  
2 today, correct?

3 A I brought -- yes. What I got from them was  
4 information and making sure that I understood  
09:44AM 5 different things, and then I did bring some  
6 documentation to help me with some questions.

7 Q Okay. All right. Besides these five teams, did  
8 you do anything else -- and meeting with these  
9 five teams and assigning research projects to  
09:44AM 10 these five teams -- did you do anything else to  
11 gather information responsive to the topics on  
12 Exhibit A?

13 A No. For clarification, when we say Exhibit A,  
14 since -- the work that I'm describing that I've  
09:44AM 15 done now is part of work that -- I did that work  
16 all week just to respond to these topics on behalf  
17 of LTSB because a lot of the answers are the same.

18 Q Okay. I understand that.

19 A Okay.

09:44AM 20 Q My question is a little bit different than that.

21 A Okay.

22 Q I think what you have described to me, and correct  
23 me if I'm wrong, is that in gathering information  
24 known by the Senate or reasonably available to the  
09:45AM 25 Senate and the Assembly and the LTSB you went

1 through this process of meeting with your staff at  
2 the LTSB, assigning research projects to each of  
3 these five teams, and gathering information  
4 pursuant to those research projects from each of  
5 the five teams in response to these topics,  
6 correct?

09:45AM

7 A Correct.

8 Q Did you do anything else other than that to gather  
9 information responsive to the topics listed in  
10 Exhibit A?

09:45AM

11 A I spent time thinking about all of this, looking  
12 at -- I guess perhaps reading the legal documents  
13 related to the case. Because of some topics that  
14 were brought up in some of the declarations and  
15 motions there were some things that I researched  
16 online to understand a little bit more about how  
17 they worked. In order to confirm that some of  
18 the -- we did not turn on the end user devices  
19 that are in question because we didn't want to  
20 alter them. Just turning them on will change  
21 them. But in order to confirm something that we  
22 believe to be the case, we got some information  
23 from our forensic people indicating that the  
24 Windows update is configured to be on. That's one  
25 of the -- that's related to a couple of the topics

09:46AM

09:46AM

09:47AM

1 here, maintenance and deletions. I was interested  
2 to know whether or not in fact the Windows update  
3 service was in fact set to be on. We were able to  
4 get some information from them that indicated that  
09:47AM 5 it was.

6 Q All right. You have described for me some  
7 thinking that you did, some reading of legal  
8 documents, and some Internet searches that you did  
9 separate and apart from the work of your five  
09:47AM 10 teams and that you confirmed that the Windows  
11 update --

12 A Service.

13 Q -- service was programmed to be on. Okay?  
14 Anything else?

09:47AM 15 A I don't believe so. I talked to my team  
16 throughout the entire week, did some of my own  
17 research, read documents, and confirmed that the  
18 Windows update service was on. I believe that's  
19 the extent of what I did.

09:48AM 20 Q So you didn't talk to anybody else outside of the  
21 LTSB outside of this process?

22 MS. BUCHKO: Objection.

23 Q Other than counsel?

24 MS. BUCHKO: Thank you.

09:48AM 25 A No. The --

1 Q Let me rephrase the question.

2 A Okay.

3 Q As I understand your testimony, your testimony is  
4 that you did not speak to anybody else outside  
09:48AM 5 your staff at the LTSB and counsel and Tad Ottman,  
6 correct?

7 A As part of my research?

8 Q Yes.

9 A Correct. As part of my research.

09:49AM 10 Q Okay. How about as part of your preparation?

11 A Well, yes. I'll just -- Nick Probst asked if I  
12 might have answers to some of these questions.

13 The conversation was much the same as the one that  
14 I had with Tad. Nick Probst is a staff person in  
09:49AM 15 the Vos office.

16 Q In the who?

17 A The Assembly. Speaker Vos. The assembly received  
18 the same subpoena. So I spoke with him briefly  
19 because he asked me if I was able to talk on some  
09:49AM 20 of these topics and asked if I would be able to be  
21 a witness on these. So that -- but he didn't help  
22 me with any research which is what you're asking.  
23 I did speak with someone else, and that would be  
24 who I spoke with.

09:49AM 25 Q When did you speak to Nick Probst in relationship

1 to your conversation with Tad Ottman?

2 A I think that -- I spoke with Tad first. I know I  
3 spoke with Tad first, and then it was I think a  
4 day later -- so it must have been Wednesday Tad,  
09:50AM 5 Thursday Nick.

6 Q These conversations that you had with Ottman and  
7 Probst that you have described, they occurred  
8 before you engaged your staff, the five teams, in  
9 the research projects you assigned to them,  
09:50AM 10 correct?

11 A No. I began research -- I believe I received this  
12 on Monday morning. By Monday afternoon I began  
13 the research on these topics and I think it was a  
14 day or so later that Tad talked to me and it was a  
09:50AM 15 day or so later that Nick talked to me. So my  
16 research was going on through the whole week.

17 Q Did you provide any tangible information about  
18 your findings to either Tad Ottman or Nick Probst  
19 during those conversations that you had with them?

09:51AM 20 A When you say tangible, do you mean did I give them  
21 any paper documentation?

22 Q Information.

23 A I would have said the same thing, I think even  
24 less, to Nick. When Nick asked if I could talk  
09:51AM 25 about these topics, he was more interested in a

1 yes or no response to the questions. Tad didn't  
2 specify he wanted information. I just happened to  
3 be in the mode where I said I have a little bit of  
4 this and a little bit of that. You can decide if  
09:51AM 5 it was tangible.

6 Q I appreciate you working with me here to try to  
7 answer my questions. I guess the last question  
8 I'll have in this category is after you received  
9 and gathered the information that was generated by  
09:51AM 10 your five teams, did you provide that information  
11 to anybody else outside the LTSB other than to  
12 counsel?

13 A No.

14 Q Okay. Just so I can close the door on this, your  
09:52AM 15 only conversations about your findings have been  
16 with counsel, correct, other than the answers to  
17 the questions you gave to Ottman and Probst when  
18 they called you?

19 A Yes. That is correct. And my staff. Yes.

09:52AM 20 Q Let's go back to Topic Number One. What  
21 information do you in fact have regarding Topic  
22 Number One?

23 A Okay. When reading this topic, I see that it says  
24 deletion or attempted deletion of any records or  
09:52AM 25 data. I really latched onto the word data and



1 less record. I interpret the word data to mean  
2 basically anything that's on the computer at all.  
3 So then what I did is I broke that into different  
4 categories in order to make sure that I covered  
09:53AM 5 each category. The first and most important  
6 perhaps category is the end user work product. I  
7 define that as something that the end user has  
8 created or has received on their computer and it's  
9 something that they manipulate. Regarding that,  
09:53AM 10 end user work product, end user created work  
11 product, LTSB staff did not delete or attempt to  
12 delete any of that data. I asked everyone, except  
13 for the one person who is in Brazil, straight *Did*  
14 *you delete any end user work product?* And the  
09:54AM 15 answer is no. So that's one category. But then  
16 there was other categories.

17 Q Before we go on to the other categories, with  
18 regards to end user created work product, you can  
19 testify here with absolute certitude that no one  
09:54AM 20 at the LTSB deleted any such records or data?

21 A Of the end user created work product.

22 Q And we're talking about all nine hard drives,  
23 correct?

24 A Yes. The three computers have two internal, so  
09:54AM 25 there's six. And then there's three external.

1 That is correct. So yes my research has indicated  
2 to me that -- my staff has said to me, and I  
3 believe them, that none of them have deleted any  
4 of the end user work product.

09:54AM

5 Q So that was your first category of records or data  
6 with regards to Topic Number One.

7 A Yes.

8 Q What was the next category?

09:55AM

9 A Well, I guess there's another category of end user  
10 work product, but that's LTSB created end user  
11 work product. My team did create, modify, and  
12 delete data in that category. I can describe  
13 that.

09:55AM

14 Q That's my next question. You anticipated it. Go  
15 ahead.

09:55AM

16 A In support of the redistricting computers that  
17 were deployed to all of the caucuses -- the end  
18 users would create redistricting plans and reports  
19 and stuff. That's the type of thing that I'm  
20 considering their work product. When we would go  
21 over and modify their workstations, the data, the  
22 programs of which other categories I'll describe  
23 in a moment -- in order to test that we have  
24 patched it, the program, correctly, in order to  
09:56AM 25 show them how to run a report, we didn't show them

1 on their documents. We would create our own test  
2 redistricting plans, and then we would either test  
3 to make sure a patch we applied worked or an  
4 update or an upgrade that we made to the software.

09:56AM

5 And then when we were done most of the time,  
6 though I guess -- I heard they told me not all of  
7 the time, my staff would delete those test plans.  
8 So it's end user created work product, but they're  
9 test plans that we created for a particular

09:56AM

10 purpose and that was to make sure the thing that  
11 we were doing on the computer worked. I guess  
12 sometimes they think they may have left a couple  
13 of those test plans there. So we didn't always  
14 apparently delete every one of our test plans.

09:56AM

15 Q Did you track the specific dates and times and  
16 devices upon which those test plans were created  
17 by your staff in Category Number Two here, that  
18 being the LTSB created end user work product?

09:57AM

19 A No. I have some -- we have good ideas on when  
20 about we did certain things, but they did not  
21 record each time they went and supported a  
22 computer for this project. They were supporting  
23 all four caucuses at the same time, the LRB, the  
24 legislature at large, and the public for the

09:57AM

25 legislative -- the local redistricting. And it

1 was all we could do just to support everything we  
2 did. I wish they would have recorded everything  
3 they did and when they did it, but that team did  
4 not use the same documentation system that another  
5 team does.

09:58AM

6 Q Which team is this that falls in Category Number  
7 Two here?

8 A The GIS team.

9 Q And when the GIS team goes and provides the  
10 support, do your staff log on with any kind of  
11 nomenclature that would identify them as your  
12 staff?

09:58AM

13 A No. We could have. They would go to the computer  
14 and in this case Tad and Adam would move over a  
15 little bit and then they would close what they  
16 had. They would turn over any documents they had  
17 in their room. And then my team would act on the  
18 computer as whoever was logged on to the computer.  
19 So if it were Tad that was logged on, my team  
20 would as Tad make changes to the computer.

09:58AM

09:58AM

21 There was another question. There was an  
22 account that could have been used, but, due to the  
23 I guess fragility of the redistricting software  
24 packages, things would become corrupt. It was a  
25 challenge just to keep them running in a good way,

09:59AM

1 so we wanted to make sure that exactly how we had  
2 a person's profile configured was working whereas  
3 if we logged Tad off and we had gone on as us, as  
4 one of my end users to make modifications, then  
5 it's -- there's no guarantee when Tad logged back  
6 on five minutes later that everything would work  
7 for him. We were in a mode where we just wanted  
8 to make sure things worked for the people using  
9 it. That's often times how we do things

09:59AM

10 throughout the entire legislature. We do work on  
11 people's computers. If we need to elevate our  
12 permissions, we can by typing something to elevate  
13 our permissions to do some things that say a user  
14 couldn't do.

09:59AM

10:00AM

15 Q Who are the individuals who are part of your GIS  
16 team?

17 A I can list their names.

18 Q Would you?

19 A Yes. The team manager is Tony. His last name is  
20 Van Der Wielen. He is someone who has been  
21 deposed in this matter before. He's the team  
22 manager. There's a woman named Dana Wolf.

10:00AM

23 There's a fellow named Ryan Squires. And there's  
24 a fellow named Joel Ylvisaker, Y-l-v-i-s-a-k-e-r.

10:00AM

25 Q No relation?

1 A No. Actually, he is my brother. He started there  
2 when I was just a software developer.

3 Q And of those -- Tony, Dana, Ryan, and Joel that  
4 you just identified. Is there anybody else?

10:01AM

5 A From time to time a person on the -- well, those  
6 are the members of the GIS team. That's the  
7 answer to the question. Those are the members of  
8 the GIS team.

10:01AM

9 Q Of those four people you have just identified, did  
10 all of them provide support services on the nine  
11 hard drives that are the subject of this inquiry?

12 A Yes. At varying -- different people interact with  
13 them a different number of times. All together we  
14 estimate at least 40 individual visits during the  
15 project many of which would have been in the first  
16 half of 2011. Some of them would have been  
17 outside of the time frame but in 2010. Tony went  
18 over approximately 35 times. I know this because  
19 we talked on Friday at length. Ryan approximately  
20 25 times, Joel approximately 12 times, and Dana  
21 just a couple of times.

10:02AM

22 Q I want to understand that, how many times each  
23 individual went over there, when they went over  
24 there, and what kind of records you have about  
25 that. It's my understanding that most service

10:02AM

1 providers -- in this context your agency is a  
2 service provider.

3 A That is correct.

4 Q It's my understanding that service providers  
5 ranging from building maintenance folks to the  
6 most sophisticated of service providers track  
7 their activities and maintain logs so you, as a  
8 supervisor, would know that your employees are  
9 doing what they're supposed to be doing in

10 response to service requests as opposed to going  
11 to a football game.

12 A Right.

13 MS. BUCHKO: Object to form.

14 MR. EARLE: Well, that wasn't a  
15 question.

16 MS. BUCHKO: He was giving an  
17 answer.

18 Q I say that by way of background so you  
19 understand what I'm asking here. So I want you  
20 to -- you have enumerated an approximate number of  
21 times that each of these individuals have gone to  
22 provide services to these nine hard drives. What  
23 kinds of records do you have in that regard?

24 A We don't have very good records regarding that.

25 This team didn't do a very good job of recording

1 all of their activity during the period of time  
2 where we were all running around. It was a very  
3 busy period. I wish that we would have had more  
4 documentation.

10:03AM

5 Q What processes did your office have in place to  
6 track the activities of the individuals on the GIS  
7 team during this period of time?

8 THE WITNESS: Could you read the  
9 question again. I'm sorry.

10:04AM

10 (Question read)

11 A Well, we have a time reporting system where people  
12 record -- it's a sign in/sign out system like a  
13 time clock. It doesn't tell you what a person has  
14 done, but it tells you that a person is there. We  
15 have multiple meetings per week, two typically for  
16 sure. One of them is a Monday morning manager's  
17 meeting during which we talk about what we have  
18 done and what we're going to do, another meeting  
19 we have on Tuesday, typically Tuesday afternoons,  
20 where we take a little bit more of a longer look  
21 and deal with individual sort of threats. So we  
22 have -- we talk is basically some of the processes  
23 that we do.

10:04AM

10:04AM

10:05AM

24 The GIS team I would say perhaps doesn't do  
25 some of the same documentation that the technical



1 support team does which we will cover when we see  
2 some of the documents that I brought. They  
3 should, but --

4 Q Why don't they?

10:05AM

5 A Too busy. During that time period I would say  
6 they were too busy and we I think just got --  
7 allowed it to become out of habit for that group  
8 of people to record everything they did.

9 Q How did you log service requests?

10:05AM

10 MS. BUCHKO: Objection, asked and  
11 answered.

12 Q Strike that. How did you log service requests  
13 from end users on these nine hard drives?

10:06AM

14 A I would say that we probably don't have very much  
15 in the way of logging for service requests for any  
16 of the redistricting end users.

17 Q What do you have?

10:06AM

18 A When I asked them the other day, they said they  
19 didn't really have anything. The way we know what  
20 we did when would be we know when the data set was  
21 updated from the census bureau, and we know  
22 when -- we know when the software -- the two  
23 software packages used for the redistricting were  
24 updated right after that. Why I know I can tell  
25 you that they went in and modified certain things

10:06AM

1 during a certain time frame is by the release of  
2 certain data sets and program updates. But in  
3 terms of having documentation in my office  
4 regarding the calls and then the activity, that is  
5 unfortunately not available for the GIS team.

10:07AM

6 Q A few moments ago you told me approximately how  
7 many times each employee visited and provided  
8 service to these computers. I would like you to  
9 go through that for me by employee with as much  
10 evidentiary detail as possible.

10:07AM

11 A Okay. So the beginning is that the computers were  
12 deployed in July of 2010, mid July of 2010. They  
13 went from LTSB to the Michael Best building.  
14 That's something -- if you didn't mind -- if I  
15 could have my document, that would help.

10:08AM

16 Q Would this document help you with your testimony?

17 A Yes. That's why I brought it.

18 MR. EARLE: Let's mark this as  
19 Exhibit No. 2.

20 (Exhibit No. 2 marked for  
21 identification)

22 Q I'm showing you what has been marked as Exhibit  
23 No. 2. Would you describe it for me, please.

24 A This is a document that I created in preparation  
25 for coming here today. It helps me respond to a

10:08AM

1 couple of the questions, and it summarizes  
2 basically where the redistricting computers were  
3 when and a little bit of information about how.  
4 So when you asked for me to review my staff's  
10:08AM 5 support visits, it would start with the July of  
6 2010. The staff members took the computers over  
7 there so all four of them went so they could see  
8 where the computers are going to be in case they  
9 need to come back for subsequent service calls.

10:09AM 10 Q Did you find unusual that computers owned by the  
11 State of Wisconsin and managed and maintained by  
12 your office were being deployed to a private law  
13 firm's premises?

14 MS. BUCHKO: Objection; form,  
10:09AM 15 competency, and outside the scope of the  
16 designated items.

17 Q Subject to the objection, you may answer the  
18 question.

19 A I guess I've heard of it happening before and with  
10:09AM 20 other caucuses this last round. It seemed par for  
21 redistricting. It's not typical for computers to  
22 be deployed off site.

23 Q Was there any paper generated by your office or  
24 received by your office in the course of placing  
10:10AM 25 these computers at Michael Best & Friedrich?

1 A I don't believe that there is. There's some of  
2 the -- may I review some of the other  
3 documentation that I brought?

4 Q It's off getting copied right now.

10:10AM

5 A Oh, okay.

6 Q We will have it here shortly.

7 A The response to the question you just asked me --  
8 there may be some information inside those  
9 documents. Those are documents from our service  
10 desk system that record information about when  
11 people call up and said *I would like you to do  
12 this for me.*

10:11AM

13 Q Okay. So you recall no requisition forms being  
14 generated?

10:11AM

15 A We issue -- we should have issued, and I believe  
16 that we did, a document outlining the equipment  
17 that we were deploying to Tad and Adam. I  
18 couldn't at this moment, because I don't have it  
19 in front of me, say if it specifies the location.  
20 But it specifies -- it should exist and I'm pretty  
21 sure it exists and it would specify what equipment  
22 was now under their control.

10:11AM

23 Q Did you obtain those records in preparation for  
24 this deposition?

10:12AM

25 A I don't happen to have them with me. That's

1 something that I can look for.

2 Q Would you agree to look for them and provide  
3 copies to counsel so they could be provided to the  
4 plaintiffs in this case?

10:12AM

5 MS. BUCHKO: I'm going to object.

6 I'll note your request. I'll speak with my  
7 client about it. If we can produce them, we  
8 will.

10:12AM

9 MR. EARLE: What's the basis of  
10 your objection?

10:12AM

11 MS. BUCHKO: Because this is not a  
12 document subpoena duces tecum. He brought  
13 documents with him today because he can't  
14 memorize everything, but this was not a  
15 subpoena duces tecum. He is not representing  
16 that every piece of documents that he  
17 reviewed in preparation for his deposition  
18 was brought with him. He is not representing  
19 that.

10:12AM

20 Q How do you know that the Ottman and Foltz  
21 computers were deployed to Michael  
22 Best & Friedrich on July 15, 2010?

23 A Because my staff told me that that's the date they  
24 took them over there.

10:13AM

25 Q How do they know?

1 MR. JACOB: Can I interpose an  
2 objection just for purposes of clarification.  
3 You're referring to the computers as the  
4 Ottman and Foltz computers being deployed on  
5 July 15th, but the chart reflects a later  
6 deployment in 2011 for a different computer  
7 that is also designated as an Ottman  
8 computer. So this is getting a little  
9 confusing at least from my perspective.

10:13AM

10:13AM

10 Q I will modify the question. Drawing your  
11 attention to Exhibit No. 2. The computer that's  
12 designated as WRK32587, Tad Ottman, HP 4600 -- it  
13 indicates that was deployed to Michael  
14 Best & Friedrich on July 15, 2010, and the  
15 computer WRK32586, Adam Foltz, HP 4600 also  
16 deployed to Michael Best on July 15, 2010. How do  
17 you know that?

10:13AM

18 A Because when I talked to my team members, that's  
19 what they told me that they did. I didn't ask  
20 them to produce all documentation to support each  
21 of these claims because I knew I wasn't supposed  
22 to bring all of these documents or I was here to  
23 bring testimony. Maybe -- I'm suggesting the  
24 possibility. Maybe one of them has a calendar  
25 appointment that doesn't say -- it probably

10:14AM

10:14AM

1 wouldn't say I took this computer and all of these  
2 details, but they might have said go to Michael  
3 Best or something like that that would be in their  
4 memory or that would allow them to remember that.

10:14AM

5 We also -- Oh. I do want my other stack of -- I  
6 do need my other stack of paper in order to  
7 continue this particular line of questioning  
8 because, as I recall, there's information in there  
9 on this topic to tell you how I know.

10:15AM

10 Q The question I asked about how you know when they  
11 went to Michael Best?

12 A Yes. That is correct.

13 Q Okay. All right.

14 A I thought they would be in front of me.

10:15AM

15 Q I notice on Exhibit No. 2 that you have in the  
16 middle column for HD32574 -- you have in May of  
17 2012, May 1 of 2012, a service call related to  
18 Network Connection-121W. What does that mean?

19 A Well, I would like to have my documents in order

10:15AM

20 to answer some of these questions because I  
21 thought that I would be able to -- I didn't bring  
22 the documents to have them go away. I brought  
23 them so I could reference them. I can tell you,  
24 because I have a lot of this memorized now, that

10:16AM

25 in trying to piece together a timeline regarding

1 Question Number Three or Topic Number Three, the  
2 location, possession, custody, control of the  
3 documents -- I'm sorry the redistricting  
4 computers. What I did was I read through the  
5 service calls that my tech support team records in  
6 the service desk application to see, one, what  
7 service calls came in for these computers and  
8 these names. And then I noticed that one of them  
9 on 5/1/2012 -- the date of the service call I  
10 believe is 5/1/2012, and it was a service call  
11 related to Adam Foltz's computer. I would like to  
12 make sure I have this thing in front of me so I  
13 can say for sure. But 121 West would have been  
14 the room number that it was in. So then I  
15 realized that there's a good chance that that  
16 computer came back to the capitol around that time  
17 because the network problem he was having probably  
18 made it hard for him to work until we fixed it.  
19 But he did not ask us to bring that computer back  
20 to the capitol whereas in June of 2012 I have  
21 information regarding a request made to us to move  
22 computers for Tad. That's also part of the  
23 documentation that you guys have being copied  
24 right now.

10:16AM  
10:16AM  
10:17AM  
10:17AM  
10:17AM  
Q Okay. Let's go back to your GIS team and the



1 number of times they serviced the computer. These  
2 individuals, Tony Van Der --

3 A Van Der Wielen.

4 Q Dana Wolf, Ryan Squires, and your brother, Joel --  
5 I can't pronounce your name. I'm sorry.

6 A Ylvisaker.

7 Q Okay. The Y throws me.

8 A Yes.

9 Q Do they maintain calendars?

10:18AM 10 A I'm sure that they probably do maintain calendars.  
11 To what level of detail or what they keep in their  
12 calendars I couldn't say because I haven't looked  
13 at their calendars.

14 Q Did you ask them to search their calendars for  
10:18AM 15 indications of when they provided service on these  
16 nine hard drives?

17 A I asked them to review the documentation that they  
18 had available to them. I didn't particularly say  
19 search -- I didn't enumerate all of the things  
10:18AM 20 they should search. I told them what I needed and  
21 asked them to look at what they had.

22 Q Do you have any knowledge about whether any of  
23 those individuals have calendars upon which they  
24 record work-related activity?

10:18AM 25 A They should. I couldn't say for sure that they do

1           though it's standard protocol for people in my  
2           office to use calendars to coordinate meetings  
3           which each other specifically and perhaps other  
4           things from time to time like block off time so no  
5           one will meet with you or try to meet with you.

10:19AM

6           Q   Does your brother have such a calendar?

7           A   I don't know. I would suppose that he would,  
8           but -- if I haven't gone up and looked -- I  
9           couldn't tell you for sure that they have

10:19AM

10          calendars and how they use them just how we  
11          typically use them.

12          Q   Do the people in your office including the GIS  
13          team have electronically linked calendaring  
14          software?

10:19AM

15          A   Yes. Everyone in my office has available to them  
16          Microsoft Outlook which includes E-mail and a  
17          calendaring system. The standard protocol is for  
18          us to send appointments to each other when we want  
19          to meet with each other on topics. That doesn't  
20          always happen. Sometimes there's impromptu  
21          meetings. Like last week I probably called people  
22          and said *Come here, sit down with me, and we're*  
23          *going talk for a while.* I might not have  
24          scheduled all of the meetings I had last week with  
25          my staff. I couldn't say if I scheduled many, if

10:20AM

10:20AM

1 any, because I was really more focused on trying  
2 to wrap my mind around these topics.

3 Q Tell me individual by individual how many times  
4 they went, the GIS team, they went to provide  
10:20AM 5 service on these nine hard drives and when that  
6 occurred.

7 MS. BUCHKO: Objection, asked and  
8 answered.

9 Go ahead.

10:20AM 10 Q She will occasionally make objections for legal  
11 reasons, but then you're still obligated to answer  
12 the question.

13 MS. BUCHKO: Unless I instruct you  
14 not to.

10:20AM 15 Q Which she can only do on a matter of privilege.

16 A I met with the GIS team twice on Friday and  
17 earlier in the week. But from a conversation from  
18 Friday afternoon, which is why I still have the  
19 numbers in my head -- I asked them each to  
10:21AM 20 estimate the number of times they went over to  
21 provide some form of service to the redistricting  
22 end users, the ones in question. Tony estimated  
23 35 times. All of us were sitting around the room  
24 and talking about it. Tony estimated 35 times for  
10:21AM 25 himself, Ryan estimated 25 times, Joel estimated

1 12 times, and Dana I think just 2 times. The way  
2 that we arrived at the number of 40 for individual  
3 visits was that I took the number of most -- the  
4 person who had the most, which is Tony. He said  
10:22AM 5 there's approximately 35 visits. And then I asked  
6 the other people because they didn't always go  
7 over alone because otherwise I would have added up  
8 all of them. How many times did they go over  
9 without Tony, and they estimated at least five  
10:22AM 10 times. So that's how I arrived at an estimated 40  
11 unique visits from LTSB staff during the project.  
12 So some of those would have been in 2010, but a  
13 lot of them would have been in 2011. The way  
14 we know that is because the census is done  
10:22AM 15 in April of 2010. The census bureau has to  
16 provide the wrangled data, the data that is  
17 prepared for the states in order to do the  
18 redistricting, within one year. So they would  
19 have to give the states data by April 1st of 2011.  
10:23AM 20 But they did it beforehand. They did it in mid to  
21 late March. So the Census Bureau said *Here is*  
22 *your data*. Once that happened, then the software  
23 companies that provide the specialized  
24 redistricting software -- they release versions to  
10:23AM 25 work together with that data. And then we would

1 have gone out to all of the redistricting end  
2 users, but specifically these ones, and upgraded  
3 their data and then upgraded the -- in this case I  
4 would use the word upgrade the software  
5 applications. And now they had for the first time  
6 in say March of 2011 the real data set with  
7 programs. Now they could do I guess work. Prior  
8 to that they were using -- prior to that they were  
9 using data from the previous census just to  
10 understand how the systems worked from July of  
11 2010 up until when we got the updated data. So  
12 while there may have been some service calls and  
13 stuff going on probably in July-August when we  
14 first deployed, a lot of it was really happening  
15 after that March data was released up until the  
16 summer, July of 2011, when the redistricting  
17 legislation was passed.

18 Q Okay. What percentage of the 40 visits do you  
19 estimate occurred prior to July of 2011?

20 A Prior to July of 2011?

21 Q Correct.

22 A My estimate is most of them should have occurred  
23 prior to the enactment of the legislative  
24 redistricting proposals.

25 Q So of the 40 how many?

1 A This is just -- this is just a guess. Maybe to  
2 say 90 percent. I guess it's possible that there  
3 were a few visits afterwards. I did not  
4 specifically ask them that question, how many came  
5 after the enactment.

10:25AM

6 Q What are you able to do to determine with  
7 certainty if you can how many of the visits from  
8 the GIS team to any of the nine hard drives  
9 occurred after July of 2011?

10:26AM

10 THE WITNESS: Could you repeat that  
11 question.

12 (Question read)

13 A Unfortunately I probably wouldn't be able to do it  
14 with certainty because that team hadn't been using  
15 the service desk tool or program to record all of  
16 their visits. I would only be able to give an  
17 estimate, and that would be based on asking my  
18 team what they recall and what would have brought  
19 them there. The way we understood why a lot of  
20 this happened in the post March time frame is  
21 because that's when we received the data from the  
22 Census Bureau and the updated software programs.  
23 And then after that they recall that they were  
24 patching them and trying to get them to work up  
25 until the enactment. So I wouldn't be able to

10:26AM

10:26AM

10:27AM

1 answer it with certainty. I would only be able to  
2 talk to them based on their memories of why they  
3 would have gone over post July.

10:27AM

4 Q Okay. Hypothesize that a forensic expert is able  
5 to make a determination that mapping data was  
6 deleted on a certain date. Hypothesize that that  
7 mapping data was recovered. Would we be able to  
8 determine from that whether that mapping data was  
9 mapping data generated by your team and then  
10 deleted according to the procedures you described  
11 in Category Two, LTSB created end user work  
12 product?

10:27AM

13 MS. BUCHKO: Objection; form  
14 foundation, competency.

10:27AM

15 Q You can answer.

16 MS. BUCHKO: If you're able.

17 A May I just ask you to repeat the question because  
18 it was a little long. I want to make sure I have  
19 an understanding of it.

20 (The following was read by the court reporter:

10:27AM

21 Q "Hypothesize that a forensic expert is able  
22 to make a determination that mapping data was  
23 deleted on a certain date. Hypothesize that  
24 that mapping data was recovered. Would we be  
25 able to determine from that whether that

1 mapping data was mapping data generated by your  
2 team and then deleted according to the  
3 procedures you described in Category Two, LTSB  
4 created end user work product?")

10:28AM

5 MS. BUCHKO: Additional objection,  
6 calls for speculation.

7 MR. EARLE: I'm asking him whether  
8 he would be able to make the determination.

9 Q Would we be able to make such a determination?

10:28AM

10 MS. BUCHKO: It was a hypothetical  
11 question.

12 A I would say that it's possible and that the way  
13 that one might try to do that would be to have  
14 perhaps Tony or some of these people look not from  
15 memory on what they did to create a test plan but  
16 whether or not the test plan was complete enough  
17 because what you should -- I'm hypothesizing here  
18 right now, right? A real plan would perhaps have  
19 more data in it. I don't know to what level the  
20 GIS team created test plans. They very well may  
21 have created very thorough test plans. I guess  
22 I -- it's possible.

10:29AM

10:29AM

23 Q Is it your testimony that the only way we would  
24 know the answers to these questions about the  
25 nature and characteristics of the test plans

10:29AM



1 created by the GIS team would be to depose members  
2 of the GIS team?

3 MS. BUCHKO: Objection; foundation,  
4 mischaracterizes his previous testimony.

10:30AM

5 MR. EARLE: I asked him a question.  
6 I didn't characterize his prior testimony.

7 MS. BUCHKO: My objection stands.  
8 I understand, counsel. Let me state my  
9 objection.

10:30AM

10 Answer the question if you're able.

11 THE WITNESS: Would you ask the  
12 question, please.

13 (The following was read by the reporter:

10:29AM

14 Q "Is it your testimony that the only way  
15 we would know the answers to these questions  
16 about the nature and characteristics of the  
17 test plans created by the GIS team would be to  
18 depose members of the GIS team?")

10:31AM

19 A No. I think that -- I don't know that a  
20 deposition would be necessary. It's possible that  
21 it could be described in an affidavit, some kind  
22 of declaration. Is that what I mean to say? A  
23 person could perhaps make a statement describing  
24 the steps that were taken and the level of detail  
10:31AM 25 and maybe even differentiating attributes between

1 what would be a test plan and what would be a plan  
2 created by an end user. So I think that -- no.

3 Q How, if at all, could we tell the difference  
4 between a test plan created by your staff in this  
10:31AM 5 Category Two and a plan actually created by the  
6 end user?

7 A At this moment I couldn't say that -- I can't say  
8 that you could and I couldn't direct you how to.  
9 My speculation from before --

10 MS. BUCHKO: Don't speculate.

11 I'm instructing him not to speculate.

12 Q You don't have to speculate, but I would ask you  
13 to give me your thoughts on how such a distinction  
14 could be made if at all.

10:32AM 15 A Well, could we have you reread what I said? Is  
16 that a --

17 Q If it would assist you in answering the question,  
18 we can have that done.

19 A I think I did. Didn't I answer it already that  
10:32AM 20 you that might be able to compare the level of  
21 detail between the two? That's --

22 Q Okay. I think your prior testimony was that most  
23 of the test plans created by the GIS team were  
24 deleted but not all, correct?

10:32AM 25 A As I asked my staff if they -- correct. Most but

1 not all.

2 Q And you don't know whether there's any calendaring  
3 information in the possession of the members of  
4 the GIS team that would indicate when they  
10:33AM 5 provided that type of service to the users of the  
6 nine hard drives, correct?

7 MS. BUCHKO: Objection,  
8 mischaracterizes his previous testimony.  
9 Go ahead and answer.

10:33AM 10 THE WITNESS: I'm sorry. Could you  
11 ask the question again.

12 (Question read)

13 A Correct. I think it's unlikely that they would  
14 have appropriate documentation in their calendars  
10:34AM 15 to indicate when they created these things and  
16 deleted them.

17 MS. BUCHKO: Could we take a break?

18 MR. EARLE: Sure. It's a good  
19 time.

10:34AM 20 MS. BUCHKO: Thank you.

21 THE VIDEOGRAPHER: The time is  
22 10:33. We are going off the record.

23 (Recess)

24 THE VIDEOGRAPHER: The time is  
10:41AM 25 10:40. We are back on the record.

1 Q Could you tell me what the circumstances would be  
2 under which a member of the GIS team would create  
3 a test map.

4 A They would create a test map when they would alter  
10:42AM 5 the redistricting software, altering meaning they  
6 upgraded it or if they applied a patch to it. It  
7 was kind of a buggy software, so we received  
8 patches. When they would make a change to the  
9 redistricting software, they would make a test  
10:42AM 10 plan in order to validate that things were  
11 working. That's one category.

12 Another category would be if an end user  
13 called and said *I don't know how to do this thing*,  
14 then we would go over, and, instead of showing  
10:42AM 15 them on their work product -- they didn't show us,  
16 my staff, their work product. We created our own  
17 test documents and then showed them, for example,  
18 how to run a special report or something like that  
19 in the software. So in some cases it was as we  
10:43AM 20 modified the software to validate that it worked.  
21 In other cases it was to show -- to train. To  
22 show them how it worked.

23 And then along with that when we would modify  
24 data sets, they could have in that case -- I can't  
10:43AM 25 remember at this very moment if that were the

1 category as well, that they would validate. I'm  
2 sure that they had to actually. Modifying the  
3 software, modifying the data set and showing  
4 people how to use the software they would create  
5 test plans.

10:43AM

6 Q Is there any record of when you received updates?  
7 Upgrades. I'm sorry.

8 A Well, we have both. I don't know that we -- I  
9 don't know the answer to that question. It's  
10 possible that -- I'm sure we could go to the  
11 company and find out when they released  
12 Version 10. In terms of whether or not we have  
13 documentation about today we received Version 10,  
14 I don't know the answer to that question. And the  
15 same with patches. The company probably released  
16 lots of little patches. We may be able to see on  
17 their website a history of patch releases. We  
18 probably would have received them a couple days  
19 after that or even minutes after that based on the  
20 nature of the patch.

10:43AM

10:44AM

10:44AM

21 Q And it's your testimony that that information, a  
22 log of the history of the receipt of patches,  
23 would be available in the business records of your  
24 office?

10:44AM

MS. BUCHKO: Objection,

1 mischaracterizes his testimony.

2 MR. EARLE: I asked him if that was  
3 his testimony.

10:44AM

4 MS. BUCHKO: Also objection leading  
5 question.

6 A I'm sorry. I think I heard the question  
7 incorrectly.

8 THE WITNESS: Could you repeat the  
9 question.

10:45AM

10 (Question read)

11 A No. It's possible that some of that information  
12 would be available. However, I think it's more  
13 likely not and that the way we would have to get  
14 it is by going to the company who supplies the  
15 software's website. At that company's website  
16 we -- companies', because there's multiple  
17 companies, we may be able to look at their website  
18 and then say maybe it was March 15th, 2011 that  
19 they released Version 10 of their software and  
20 then we would know that we got that within days.  
21 So not our records but records from the provider,  
22 the vendor.

10:45AM

10:45AM

23 Q I'm going back to Topic Number One. I guess we  
24 covered Topic Number one with regards to the GIS  
25 team?

10:45AM

1 A Yes. Category One and Two.

2 Q Category One and Two? Okay. Anybody else?

3 MS. BUCHKO: I'm sorry. Could I  
4 ask for clarification. Are you talking  
10:46AM 5 Topics One and Two or --

6 MR. EARLE: I'm withdrawing the  
7 question.

8 MS. BUCHKO: Okay. I got lost.

9 Q It's my understanding that we just went through  
10:46AM 10 Topic Number One with regards to records and data  
11 that were deleted from any of the three  
12 redistributing computers by the LTSB created end  
13 user work product process. You said that only the  
14 GIS team would have done that, correct?

10:46AM 15 A Correct.

16 Q So no other team within the LTSB would have  
17 deleted LTSB created end user work product?

18 A Correct.

19 Q All right.

10:46AM 20 MR. EARLE: I think I'm going to  
21 turn it over to Doug to ask questions at this  
22 point because I represent Voces de la  
23 Frontera and Doug has some questions in this  
24 area as well.

10:47AM 25 MS. BUCHKO: I have a question.

1 We're going to just keep going back and forth  
2 versus you ask all of your questions and then  
3 Attorney Poland asks all of his questions?

10:47AM

4 MR. EARLE: So we don't have to go  
5 back. It's easier that way as we go through  
6 on this unit of it.

7 MS. BUCHKO: Can we go off the  
8 record and have a discussion and see if we  
9 can have a procedure here.

10 THE VIDEOGRAPHER: Agreed?

11 MR. EARLE: Yes.

12 THE VIDEOGRAPHER: The time is  
13 10:46. We are off the record.

14 (Discussion off the record)

10:50AM

15 THE VIDEOGRAPHER: The time is  
16 10:50. We are back on the record.

17 MS. BUCHKO: This is  
18 Cynthia Buchko. We have had a discussion off  
19 of the record concerning how plaintiffs'  
20 counsel demands that this witness be  
21 presented. Mr. Earle has asked questions  
22 with respect to Topic Number One in  
23 Exhibit 1. He now wants to turn over  
24 questioning to Mr. Poland who has indicated  
25 off the record that he intends on asking all

10:51AM

10:51AM



1 questions with respect to all topics, One  
2 through Nine, on Exhibit 1 for the Senate,  
3 the Assembly, and the LTSB's noticed 30(b)(6)  
4 deposition and the only questions he will ask  
10:51AM 5 after his questioning are follow-up  
6 questions.

7 I've objected to this process. They  
8 have demanded that this is how they turn over  
9 the witness to each other. Once Mr. Poland  
10:51AM 10 is done, I understand Mr. Earle wants to  
11 continue questioning. I think that that's an  
12 unusual procedure and it's not the general  
13 procedure and I'm objecting despite  
14 plaintiffs' counsels' demand that's how the  
10:52AM 15 questioning proceed.

16 MR. POLAND: This is Doug Poland on  
17 behalf of the Baldus plaintiffs, one group of  
18 plaintiffs, and I'm going ask my questions  
19 now.

20 EXAMINATION

21 By Mr. Poland:

22 Q Mr. Ylvisaker, I'm going to hand you a copy of a  
23 document that we will ask the court reporter to  
24 mark now. I think it's Exhibit No. 3.

25

1 (Exhibit No. 3 marked for  
2 identification)

10:52AM

3 Q Mr. Ylvisaker, have you seen before the document  
4 that we have marked as Exhibit No. 3 to your  
5 deposition? Do you have that in front of you?

6 A I have it in front of you. I just want to examine  
7 it for one moment.

8 Q Sure. Of course. Please take a look at it.

9 A I have seen this document before.

10:53AM

10 Q Can you identify it for the record, please.

11 A This is the subpoena for the Wisconsin State  
12 Assembly.

13 Q That's the 30(b)(6) deposition of the Wisconsin  
14 State Assembly noticed for today, correct?

10:53AM

15 A That is correct.

16 Q I'm going to hand the court reporter another  
17 document and ask her to mark that as Exhibit  
18 No. 4.

19 (Exhibit No. 4 marked for  
20 identification)

21 Q Mr. Ylvisaker, you have Exhibit No. 4 in front of  
22 you?

23 A I do.

10:54AM

24 Q I know you're taking a moment to look at it.  
25 Please do. When you're ready, if you would

1 identify that document for the record, please.

2 A This is a subpoena issued for the 30(b)(6) for  
3 LTSB for today.

4 Q And I believe your testimony that you previously  
10:54AM 5 gave is that you did examine Exhibit No. 1, which  
6 is the 30(b)(6) deposition subpoena for the  
7 Senate, correct?

8 A That is correct.

9 Q Before today you took a look at the topics that  
10:54AM 10 are set forth in Exhibit No. 1, Exhibit No. 3, and  
11 Exhibit No. 4; is that correct?

12 A Yes.

13 Q Did you determine that the topics as they were  
14 stated in those three different deposition  
10:54AM 15 subpoenas were the same?

16 A Yes.

17 Q Did you prepare any differently to testify on  
18 behalf of the Senate, the Assembly, or LTSB with  
19 respect to the topics in a different way?

10:54AM 20 A Well, really I -- since I am a witness for the  
21 Senate and a witness for the Assembly, what I've  
22 done is I've prepared -- I am the witness for  
23 LTSB, so all of my preparation has really been  
24 with LTSB for LTSB. It's just that I have answers  
10:55AM 25 to the same topics that are listed in the Senate

1 and Assembly.

2 Q So the responses that you have to the topics as  
3 identified in the LTSB 30(b)(6) deposition  
4 subpoena might also in certain instances apply to  
10:55AM 5 topics in the Assembly and the Senate 30(b)(6)  
6 deposition notices.

7 A That is correct.

8 Q I would like to also now mark as an exhibit -- we  
9 have had some copies made.

10:55AM 10 MR. POLAND: Let's go ahead and  
11 have this marked as an exhibit.

12 MS. LAZAR: Just for the record,  
13 Exhibit 2 was part of the record you're  
14 probably marking as 5.

10:55AM 15 MR. POLAND: We will get that  
16 clarified.

17 (Exhibit No. 5 marked for  
18 identification)

19 Q Mr. Ylvisaker, the court reporter is marking or  
10:56AM 20 has handed you a copy of what's been marked as  
21 Deposition Exhibit No. 5. Do you have that in  
22 front of you?

23 A I do.

24 Q Would you identify Exhibit -- and it consists of a  
10:56AM 25 number of different documents clipped together,

1 correct?

2 A It does.

3 Q Would you identify Exhibit No. 5 as a package for  
4 the record, please.

10:56AM 5 A The documentation I brought for myself here today  
6 to help me answer questions.

7 Q So this is to assist you in testifying as a  
8 30(b)(6) designee today?

9 A That is correct.

10:56AM 10 Q Let's go through here just -- I know some of the  
11 documents are clipped together. There were a few  
12 sort of I guess broader categories of documents  
13 contained in Exhibit No. 5. The very first  
14 document it looks to me appears to be a copy of  
10:56AM 15 the Senate 30(b)(6) deposition subpoena; is that  
16 correct?

17 A Correct.

18 Q And the second stapled document in Exhibit No. 5  
19 appears to be the 30(b)(6) deposition subpoena for  
10:57AM 20 the Assembly?

21 A Correct.

22 Q The next document appears to be the 30(b)(6)  
23 notice for LTSB, correct?

24 A Correct.

10:57AM 25 Q The next set that I have that's paper clipped

1 together -- the very first page says Configuration  
2 Item. Do you have that set in front of you?

3 A I do.

4 Q Now let's take a look at that paper clipped set.

10:57AM

5 Okay? The document you should have in front of  
6 you, the very first one, should say page 1 of 5 at  
7 the top and then says Configuration Item and then  
8 February 14, 2007. Do you see that?

9 A Yes.

10:57AM

10 Q Can you identify what this document is, please.

11 A This document is called a -- it's a printout, it's  
12 a report, from our service desk application which  
13 we use to handle user requests, service calls,  
14 work orders that we may send to each other and  
15 then asset management insofar as it refers to  
16 hardware. And what you're looking at right here  
17 is a configuration item which is a piece of  
18 hardware.

10:58AM

19 Q So this relates to a specific piece of hardware,  
20 is that correct, this first configuration item?

10:58AM

21 A Yes. It does.

22 Q Now, I notice that there is an ID on there,  
23 there's a search code, there's a folder, and then  
24 there's some other information, correct?

10:58AM

25 A Correct.

1 Q Can you tell me what piece of equipment this  
2 particular configuration item, this very top  
3 one -- to what piece of equipment it pertains?

4 A In a moment. To be sure or just to be clear, the  
10:59AM 5 first one we're looking at has the search code  
6 HDD32574. Is that --

7 Q Okay. That's what I'm looking at too. Yes.

8 A Okay. This is the external hard drive that  
9 appears to be assigned to or it appears to have  
10:59AM 10 been given to Adam Foltz.

11 Q Let me just quickly ask a question. How do you  
12 know that this is the one that appears to have  
13 been given to Adam Foltz?

14 A If you go to page 4 of 5, about two-thirds to  
10:59AM 15 three-quarters of the way down where there's a  
16 record where it says Primary User Has Been Cleared  
17 and then following over it says September 13,  
18 2012 -- that is the date when the redistricting  
19 equipment that was in Adam Foltz's possession came  
11:00AM 20 back to the LTSB and was locked in our inventory  
21 cage.

22 Q How do you know that? It's not reflected on this  
23 page, is it?

24 A Well, the event -- I know that on September 13th  
11:00AM 25 that these came -- that this came back. But I can

1 tell -- if you look where it says Primary User:  
2 Cleared; Location: Cleared; Owner Organization:  
3 Cleared. That's a step that the inventory manager  
4 took when she noted that it was no longer deployed  
11:00AM 5 out somewhere meaning it was back at LTSB. So at  
6 that point I know that it's back at LTSB by  
7 looking at that. But I also was the one who  
8 locked it in the cage.

9 Q How do you know that this was the hard drive that  
11:01AM 10 was assigned to Adam Foltz, specifically to Adam?

11 A When you say assigned, this one actually shows  
12 assignment -- I guess on the same page if you go  
13 up a little bit, maybe about one-third of the way  
14 down.

11:01AM 15 Q You're on page 4 of 5?

16 A I'm still on page 4 of 5.

17 Q Okay.

18 A If you go about one-third, almost halfway down, it  
19 says Primary User Set to Ottman Tad.

11:01AM 20 Q Yes.

21 A That was on July 15, 2010. Even though this shows  
22 it being assigned to Tad, I believe that -- well,  
23 I know that we got this back and put it in our  
24 cage on September 13th because it shows that it  
11:01AM 25 was and because that's the day we locked up the



1 equipment that we took from Adam Foltz's office.

2 Q So you were personally involved with taking the  
3 equipment from Adam Foltz's office and locking it  
4 up on September 13, 2012?

11:02AM

5 A I was involved in it. It wasn't me who actually  
6 went over to the capitol and took it. But it was  
7 me who when it came back I looked at it and said  
8 *Okay. We have it*, put it in the cage. I made  
9 sure that the inventory manager and me were the

11:02AM

10 only two people with keys to the cage.

11 Q Is Brenda Roach the inventory manager?

12 A She is.

13 Q What a guess.

14 A Yes.

11:02AM

15 Q Was it an LTSB employee that went over and took  
16 the equipment from Mr. Foltz and brought it to the  
17 cage?

18 A Yes.

19 Q Who from LTSB did that?

11:02AM

20 A Tony Van Der Wielen and Jared Bender.

21 Q Who is Mr. Bender?

22 A Jared Bender is a member of the technical support  
23 team. Typically a technical support person might  
24 do something like that. I specifically wanted

11:03AM

25 Tony to go with to make sure he saw that we were

1 picking up the right equipment.

2 Q Do you know why if the primary user was set to  
3 Tad Ottman that this equipment ended up in  
4 Mr. Foltz's possession?

11:03AM

5 A I don't know why for sure, but I have an idea.

6 Q And what's your idea?

7 A That when the equipment was deployed on July 15,  
8 2010 or at least recorded here as being deployed  
9 on that day what probably happened is the

11:03AM

10 inventory manager said *Here is a stack of things*  
11 *for Tad. Here is a stack of things for Adam.* And

12 then when the carts with the equipment rolled over  
13 to Michael Best -- some time from that point in  
14 time where it was recorded as Tad -- one of my

11:03AM

15 staff or somehow Adam or Tad might have, well,  
16 must have, moved them. So my staff could have  
17 just deployed the wrong hard drive because they  
18 look identical. They could have just said *Here is*  
19 *yours, Tad; here is yours, Adam.* So it could have

11:04AM

20 happened at the very beginning. However, some  
21 time between when the inventory manager assigned  
22 it to when it came back to me, it had to have been  
23 in Adam 's possession.

24 Q Now, this particular record we're looking at, this  
25 is for HDD32574, correct?

11:04AM

1 A Correct.

2 Q The information here on this page indicates that's  
3 a La Cie make hard drive, correct?

4 A Correct.

11:04AM

5 Q What is the capacity of this particular hard  
6 drive?

7 A That's a good question. It's probably one  
8 terabyte. I would say probably one terabyte. It  
9 could be two terabytes. But it's probably one  
10 terabyte. I don't have that information with me.

11:05AM

11 Q And this is an external hard drive, correct?

12 A That is correct.

13 Q Now, I note looking at what appears to be this log  
14 that begins at the bottom of page 3 and continues  
15 on to page 4, it appears that there is an entry  
16 here on a date that's probably about  
17 three-quarters of the way down that says Inventory  
18 from No to Yes, May 12, 2011, 12:01 p.m. Do you  
19 see that?

11:05AM

11:05AM

20 MS. BUCHKO: I'm sorry, counsel.

21 What page are we on?

22 MR. POLAND: This is on page 4 of  
23 5.

24 MS. BUCHKO: I thought you said 3.

11:05AM

25 I'm sorry.

1 MR. EARLE: 2012?

2 MR. POLAND: It says Inventory From

3 No to Yes, May 12, 2011 at 12:01 p.m.

4 A From No to Yes?

11:06AM

5 Q Correct.

6 A I see that.

7 Q What does that indicate, Inventory From No to Yes?

11:06AM

8 A Well, that is in combination with the one above it  
9 which is Inventory from Yes to No. Every two

10 years at the beginning of an odd year we do what's

11 called a physical inventory where we go around and

12 make sure that the equipment is where we think it

13 is. So the protocol for the person who

14 coordinates that, which is the inventory

11:06AM

15 manager -- she will clear, basically change, the

16 field that says Inventory from a Yes value to a No

17 value meaning that we have yet to physically

18 locate that. If she could generate a report, an

19 on-screen report, that would just show which ones

11:07AM

20 are set to Yes and which ones are set to No. When

21 she then finds out where it is, then she switches

22 it from the No state to the Yes state. These

23 field names we didn't get to select, so the field

24 names don't always make a lot of sense. That's

11:07AM

25 what that means. That means basically we're

1 starting an inventory process and completing an  
2 inventory process.

3 Q Why would Inventory have been set from Yes to No  
4 on February 24, 2011?

11:07AM

5 A That would have been when she would have noted  
6 that the inventory process on this particular  
7 piece of equipment would start. I think what she  
8 does is she interacts with the system and she  
9 switches everything from Yes to No and then she  
10 organizes people to go out, find it. When they  
11 come back and they report on these 100 pieces of  
12 equipment with their clipboard or whatever, then  
13 she goes in and she sets them from No to Yes and  
14 possibly changes the location if she has to.

11:07AM

11:08AM

15 Q Did that indicate anything -- that particular  
16 switching of inventory from Yes to No on  
17 February 24, 2011, did that relate to anything  
18 specifically that was being done with this piece  
19 of equipment at that time?

11:08AM

20 A No. To the best of my knowledge no. It would  
21 have been -- that just would have been when she  
22 started the inventory process at the beginning of  
23 an odd year.

11:08AM

24 Q All right. And then this is the same year, just a  
25 couple of months later, on May 12, 2011 that the

1 inventory is switched from No to Yes. Do you see  
2 that?

3 A Yes. I do.

4 Q Do you know why that occurred?

11:08AM

5 A Well, what would normally happen is she would go  
6 through at the beginning of an odd year and then  
7 she would mark everything No, she would send  
8 people off to the capitol or to the service  
9 agencies with a checklist, and then when they come

11:09AM

10 back and they say *We found it and it's where it*  
11 *belongs* or *We found it and they moved it to an*  
12 *adjacent conference room or something*, perhaps she  
13 would then go through and update the location and  
14 then switch it from No to Yes. In this particular

11:09AM

15 case, since these were off site, at some point --  
16 because the inventory process doesn't actually  
17 take this long. It takes a couple weeks. She  
18 must have gone in and checked her records and saw  
19 that she had not completed the inventory process

11:09AM

20 on that one or a small collection probably that  
21 has the same things on it and then changed  
22 knowing -- that those are the ones that are -- she  
23 probably said to herself *Those are the ones that*  
24 *are deployed off site* and just marked it as

11:09AM

25 they're still not here.

1 Q All right.

2 A That's probably the process she went through.

3 Q And then below that entry there's an entry that  
4 says Location Set to Cap 206 South. Do you see  
5 that?

11:09AM

6 A I do.

7 Q And it says July 24, 2012?

8 A Yes.

9 Q Do you see that? Do you know what prompted the  
10 inventory manager to make that entry?

11:10AM

11 A I need just one moment.

12 Q Yes.

13 A Just make sure I have the right one here. Okay.  
14 You're talking about the July 24, 2012 Location  
15 Set to Cap 206 South?

11:11AM

16 Q Correct.

17 A What these locations mean -- the location is kind  
18 of a -- you might see above here it says -- a  
19 couple rows above it says Owner Organization Set  
20 to Sen 13 like five or six up.

11:11AM

21 Q Yes.

22 A So Sen 13 is the Senate district number associated  
23 with the office that the primary user is in, in  
24 this case Tad. So Tad is in the Senate 13 office.

11:11AM

25 The location of that office, not necessarily the

1 location of the equipment but the location of the  
2 office is Cap 206 South or at least was at the  
3 time. When you look at the first July 15, 2010  
4 entry, it says Primary User Set to Tad Ottman.  
11:12AM 5 That's because we gave this piece of equipment to  
6 him or at least thought we were handing it to him.  
7 Then what we did is we set the location to the  
8 room of that office because we don't have  
9 random -- we don't have off site locations listed  
11:12AM 10 as selectable items. So we set it to Senator  
11 Fitzgerald's office at the time which was Cap 206  
12 South. And then we set the Owner Organization to  
13 Sen 13 which is -- Senator Fitzgerald must be in  
14 the 13th District. When I go down to this  
11:12AM 15 July 24th and I see that the location is set for  
16 Cap 206 South -- there was an election, and the  
17 Senate switched from majority -- the  
18 minority/majority switched. So then the Cap 206  
19 South must be the minority leader's office and Cap  
11:13AM 20 315 South is probably the annex to the Senate  
21 majority leader's office. So I think -- this  
22 should not be representing where -- this is  
23 July '12. There should have been an office move  
24 at the end of July of 2012. When the Senate  
11:13AM 25 switched and the republicans went from majority to



1 minority then what we do is we move them when they  
2 tell us to. Well, we move their equipment. As  
3 part of moving the equipment what the inventory  
4 manager does is just note that they're now in the  
5 new room that the office is assigned to. So the  
6 Cap 206 South is what she had noted that to be or  
7 where she noted them to be at that time.

11:14AM

8 Q So that would have been the physical location of  
9 where that hard drive was at the time?

11:14AM

10 A Well, it would have been the physical location of  
11 the office that it was assigned to. The computer  
12 could have been in an adjacent room. In this  
13 particular case with an office move what we're not  
14 doing is we're not noting the exact room number on  
15 the outside. We're noting the room number that  
16 the office is assigned to.

11:14AM

17 Q So this is really tracking the office and it's  
18 tying the hard drive to the office rather than to  
19 a person or a location?

11:14AM

20 A Yes. That's an easier way of saying that.

21 Q So this wouldn't help me to know exactly where  
22 that hard drive physically was at the time. It  
23 could have been in that specific office, but it  
24 might have been someplace else.

11:15AM

25 A Correct.

1 Q Let's go to the next document that's paper clipped  
2 together. Again, using the search code here as  
3 our key for which document we're looking at, I  
4 note that this one has HDD32575. Do you see that?

11:15AM

5 A I do.

6 Q And this is also a La Cie external hard drive; is  
7 that correct?

8 A It is.

11:15AM

9 Q Can you tell me to whom this particular hard drive  
10 was issued.

11 A Well, to answer your question as you ask it, it  
12 was issued to Adam Foltz, and the same type of  
13 information would be there. Cap 201 West must  
14 have been the Speaker's office at the time.

11:16AM

15 Assembly District 39 must have been the district  
16 number. However, if you scroll down a little  
17 ways, in early January of 2013 the primary user  
18 got switched from Adam Foltz to Tad Ottman which  
19 means to me that my inventory manager figured out  
20 that she actually had -- that this one was  
21 actually with Tad.

11:16AM

22 Q We didn't see a similar switch in the previous  
23 inventory or configuration item sheet that we  
24 looked at, correct?

11:16AM

25 A Not to my knowledge we did not because what

1 happened is it came back. It came back to LTSB in  
2 September of 2012 and she just took the device and  
3 looked at the number and cleared it as being in  
4 the cage as opposed to saying *I'm going to look up*  
5 *Adam Foltz or Tad* and comparing the two. But  
6 something happened where she figured out in early  
7 January that the Hard Drive 575 must be with Tad.  
8 I agree with that because, as I mentioned earlier,  
9 we brought Adam's back or the one that Adam had  
10 with him back.

11:16AM

11:17AM

11 Q I like your way of referring to it which is the  
12 last three numbers are different. The first one  
13 we looked at is 574, right? So it's HDD32574?

14 A That's correct.

11:17AM

15 Q And then the second one we were looking at is  
16 HDD32575, correct?

17 A Correct.

18 Q So the 574 external hard drive, that's the one  
19 that you -- that was taken from Adam Foltz and  
20 that was put in the cage in September of 2012,  
21 correct?

11:17AM

22 A That is correct.

23 Q And so 575, the record indicates -- let me ask  
24 you. What does the record indicate was done with  
25 that hard drive that caused this change in the

11:18AM

1 primary user from Foltz to Ottman?

2 A I'm not sure why she -- why this occurred to her

3 to make this change from Foltz to Ottman except

4 for maybe she had realized that we had Adam's

11:18AM

5 equipment, we didn't have Tad's, and maybe she was

6 doing some kind of a survey and she realized that

7 this one in fact was issued or with Tad. I can't

8 say. I can't say for sure why she made that

9 change.

11:18AM

10 Q Let me go on to the next configuration item that's

11 in this package then. That has a search code of

12 HDD32579. Do you see that?

13 A I do.

14 Q Is this similarly to the best of your belief at

11:18AM

15 least a one terabyte La Cie external hard drive?

16 A Yes.

17 Q What does this configuration item document tell us

18 about to whom Hard Drive 579 was assigned?

19 A On page 1 two-thirds of the way down it says

11:19AM

20 Remark --

21 Q Yes.

22 A -- it says for GIS redistricting project, Ottman,

23 Tad. That's one clue to me that this went to Tad.

24 The other clue to me is that on page 4 of 4 on

11:19AM

25 January 28th, the second to the last entry, it

1 says Name One Set to In Cage January 28th.

2 Q Yes.

3 A That is the day that I was asked to put these  
4 things, Tad's equipment, in the cage. So even

11:20AM

5 though this one doesn't have as many entries  
6 indicating who it was assigned to and when, for me  
7 the two things that tell me -- actually, the most

8 important one is January 28th because that is the  
9 day when we brought back Tad's equipment. When I

11:20AM

10 say Tad's equipment, I mean two redistricting  
11 computers and two external hard drives.

12 Q So that would have been -- Hard Drive 575 was one  
13 that you retrieved from Tad and put into the cage  
14 on January 28th?

11:20AM

15 A I believe that answer is yes. If you look at the  
16 last few entries, it shows that the Primary User  
17 has been cleared, the Owner Organization has been  
18 cleared. In this case she set the location to  
19 LTSB in building 17 West Main, 208. That's the

11:21AM

20 room with the cage. And then the Name One is set  
21 to In Cage. So that indicates to me that this  
22 piece of equipment, 575, came back to LTSB on  
23 January 28, 2013.

24 Q And that was taken from Mr. Ottman?

11:21AM

25 A Correct.

1 Q Similarly Hard Drive 579 was also retrieved from  
2 Mr. Ottman and also put in the cage on January 28,  
3 2013?

4 A Correct.

5 Q We'll go to the next page in the configuration  
6 items.

7 MR. POLAND: We're going to have to  
8 change the tapes now, so let's go off the  
9 record.

11:21AM

10 THE VIDEOGRAPHER: The time is  
11 11:20 a.m. This marks the end of DVD 1 of  
12 Mr. Jeff Ylvisaker.

13 (Recess)

11:28AM

14 THE VIDEOGRAPHER: We are back on  
15 the record. The time is 11:27. This marks  
16 the beginning of Disc No. 2 in the deposition  
17 of Mr. Jeff Ylvisaker.

11:28AM

18 Q Mr. Ylvisaker, just before we broke we were  
19 talking about two different hard drives, Numbers  
20 575 and 579. Do you recall that?

21 A Yes.

22 Q Both those hard drives were ones that were  
23 recovered from Mr. Ottman, correct?

24 A Correct.

11:28AM

25 Q Now, is it your understanding that one of those

1 hard drives no longer is able to be read?

2 A That is my understanding.

3 Q Do you know which one of those two it is?

4 A I can't say off the top of my head which one of  
5 the two it is.

11:28AM

6 Q Do you know the purpose for which those hard  
7 drives were used when they were issued to  
8 Mr. Foltz and Mr. Ottman?

9 A Yes.

11:28AM

10 Q What is the purpose for which they were used?

11 A Given the size of the redistricting plans, that  
12 they would be large, when we deployed the  
13 redistricting computers to all of the caucuses we  
14 deployed them with an external hard drive and we  
15 set up a backup, a scheduled backup task, so  
16 something that runs in the middle of the night  
17 automatically. And it would back up certain areas  
18 of the computer to the external hard drive.

11:29AM

19 Q So they would need to leave those computers on so  
20 they could be backed up at night; is that correct?

11:29AM

21 A Yes. They would be backed up to the external hard  
22 drive. If the computer was on, then it would  
23 occur or should occur.

24 Q How often were those backups set to occur?

11:29AM

25 A I think they were set to occur daily at 3:00 a.m.

1 Q Was there any way for any of the end users to put  
2 other data onto those hard drives if they chose to  
3 do so?

4 A Yes.

11:29AM

5 Q Was it connected by a USB interface?

6 A Yes.

7 Q So if somebody, an end user, wanted to save  
8 something to one of those external hard drives  
9 outside of the normal backup procedures, the end  
10 user could do that?

11:29AM

11 A Yes.

12 Q Do you know when the last time the external hard  
13 drives were used to back up any of the  
14 redistributing computers?

11:30AM

15 A No. I don't know that.

16 Q And specifically speaking to the one hard drive  
17 that's no longer operable, do you know the last  
18 time that that hard drive was used to back up any  
19 of the files from the computer to which it was  
20 attached?

11:30AM

21 A I do not.

22 Q Did you make any attempts to read the hard drive  
23 that's no longer functional?

24 A I did not.

11:30AM

25 Q I want to draw your attention to the -- excuse me



1 one second. We will get to this in a little bit  
2 more detail when we get to the service calls in a  
3 minute. There's a stack of sheets you have hear  
4 called service calls. But do you know whether  
5 there were ever any service calls that were made  
6 to LTSB regarding the hard drive that's no longer  
7 operable?

11:30AM

8 A I would have to -- I'm pretty sure that -- well,  
9 if there is, it's here.

11:31AM

10 Q All right. We will get to those in just a minute.  
11 There are three remaining sheets in these  
12 configuration items. I'm going to assume that  
13 these were the computers that were actually  
14 issued, and we will move through them quickly.  
15 Let's go ahead and confirm that.

11:31AM

16 A Okay.

17 Q The first configuration item I see has a Search  
18 Code WRK32586. Do you see that?

19 A I do.

11:31AM

20 Q Can you identify what piece of equipment that is  
21 for me, please.

22 A This is the redistricting workstation model that  
23 we deployed to all of the redistricting users.

24 Q So was this particular computer assigned or  
25 deployed to any particular user?

11:31AM

1 A Yes. This one was assigned to Adam Foltz. And I  
2 can confirm that by, one, the Remark which I've  
3 noted is not always 100 percent accurate. But the  
4 real thing is the Owner Organization being cleared  
11:32AM 5 and the Location being cleared on September 13th  
6 in addition to the Primary User being set to  
7 Adam Foltz on July 15th of 2010. So the three  
8 reasons -- the biggest one perhaps being that it  
9 came back on September 13th. This came back from  
10 Adam Foltz.

11 Q I want to draw your attention to the entry  
12 directly above that September 13, 2012 entry.  
13 Just above that do you see there was a Subject  
14 column that says Category From HP Desktop to HP  
11:33AM 15 Redistricting. Do you see that? That's May 10,  
16 2012.

17 A I see it.

18 Q Does that have any meaning to you? Do you know  
19 what that means?

11:33AM 20 A No. It doesn't mean anything special to me. It's  
21 not -- no. It doesn't mean anything special to  
22 me. I'm not sure why she did it.

23 Q Do you know of anything in particular -- there's a  
24 date associated with that of May 10, 2012. Do you  
11:33AM 25 know anything specifically that happened on or

1 around May 10, 2012 that might have caused the  
2 inventory manager to make that entry?

3 A Not necessarily. The only thing that's near that  
4 is the 5/1/2012 service call.

11:33AM

5 Q I'm sorry. The --

6 A The service call related to the network  
7 connection.

8 Q Now you're pointing to Exhibit No. 2.

9 A That's correct.

11:34AM

10 Q Correct? And so that's in the column, HDD32574  
11 column?

12 A Yes.

13 Q And you have noted a date of May 1, 2012, correct?  
14 So you're just noting the proximity of those two?

11:34AM

15 A Yes. I'm not sure what this Category field is  
16 really used for in general. It doesn't  
17 specifically mean anything to me. I'm not sure  
18 why she did it.

19 Q I would like to go to the next configuration item  
20 that was in the stack, and this is for -- the  
21 Search Code is WRK32587. Do you see that?

11:34AM

22 A I do.

23 Q What piece of equipment is this?

24 A This is another one of the same model workstation  
25 as the 586 that we just spoke of. This one

11:34AM

1 appears to be the one that was issued to Tad based  
2 on the primary user and the July 15, 2010 date.  
3 And then it indicates that it came back to LTSB by  
4 seeing that the Primary User is cleared, the Owner  
5 Organization is cleared, and the Location is set  
6 to LTSB at the end of January of 2013. So I would  
7 understand this one to be the one that was issued  
8 and came back from Tad Ottman.

11:35AM

9 Q And then the last of the configuration items has  
10 an equipment number or search code I should say of  
11 WRK32864, correct?

11:35AM

12 A Correct.

13 Q Can you identify this particular computer for me.

14 A This is a different model. This one was not  
15 deployed at the same time. In fact, it looks like  
16 it was purchased in March of 2011 and then  
17 deployed a few days later to Tad and I presume at  
18 the bank or the MBF location.

11:35AM

19 Q Do you know why this particular computer was  
20 purchased and deployed in March of 2011?

11:36AM

21 A No. Only that we were asked to build -- to buy  
22 and build another redistricting machine.

23 Q Who asked you to buy and build another  
24 redistricting machine?

11:36AM

25 A That request probably came from Tad.

1 Q Did Mr. Ottman tell you why he was making this  
2 request?

3 A No. I'm just thinking for a moment about my  
4 previous answer. I can't with 100 percent  
5 certainty say that it was Tad. I think it was  
6 Tad, though, because we issued it to Tad. So I'm  
7 pretty sure that it was Tad who asked for it and  
8 he just asked for another redistricting computer.

9 Q Do you know whether this was a computer that  
10 Mr. Handrick, Joe Handrick, worked on?

11 A I couldn't say whether he did or didn't. We  
12 didn't set it up -- we set it up for Tad because  
13 Tad is a staff person for the legislature. We  
14 prepared it for Tad. What he did with it after  
15 that I don't know.

16 Q I would like to go to your Exhibit No. 2 now that  
17 you prepared. We're going to work back and forth  
18 with these things for just a minute here. What  
19 was your purpose in preparing Exhibit No. 2?

20 A Well, so that I could answer questions today is  
21 why I prepared this document.

22 Q And specifically with respect to what's been  
23 identified as Topic Number Three on the different  
24 subpoenas and that was the location, possession,  
25 custody, and control --

1 A This is correct.

2 Q -- of the redistricting computers?

3 A Yes. I prepared this primarily for Topic Number  
4 Three.

11:38AM

5 Q I note on Exhibit No. 2 -- before I ask you a  
6 question, let me make it clear. Ms. Lazar had  
7 raised this question before. What we have marked  
8 as Exhibit No. 2 is also contained in Exhibit  
9 No. 5 that I just marked, correct, at the very end  
10 of that?

11:38AM

11 A It is.

12 Q I just want to make sure you have everything you  
13 brought with you together.

14 A Okay.

11:38AM

15 Q So let's look at Exhibit No. 2. I would like to  
16 draw your attention to the first two columns. The  
17 first is headed HDD32575. The second column is  
18 headed HDD32574. Do you see those?

19 A I do.

11:38AM

20 Q Both of those indicate that that equipment was  
21 purchased on December 18, 2009, correct?

22 A Yes.

23 Q And both of those columns indicate that the  
24 equipment was deployed to Michael

11:39AM

25 Best & Friedrich's offices on July 15, 2010,

1 correct?

2 A Yes. It lists that. The date on the CIs, as you  
3 guys noted, does indicate July 15th. I presume it  
4 happened that day. But if it wasn't a Monday, it  
11:39AM 5 may have happened the day before. This is an  
6 approximate date. I wrote approximate on a number  
7 of these, but I apparently didn't write  
8 approximately on that.

9 Q That's fine. That's an approximate date?

10 A Yes.

11 Q Who physically from LTSB set up those computers?

12 A When you say set up, do you mean set up inside  
13 Michael Best's office?

14 Q Correct.

11:39AM 15 A The GIS team. Probably all four of them.

16 Primarily, though, Tony Van Der Wielen.

17 Q When they set them up, did they connect them to  
18 any networks within Michael Best & Friedrich?

19 A Well, they must have connected to something  
11:40AM 20 because the computers could print. I think there  
21 was a service call related to a print issue or at  
22 least I was told of a print issue that happened  
23 early on.

24 Q Do you know whether these computers were connected  
11:40AM 25 to the Internet?

1 A I don't know whether they were. I can't say for  
2 sure that they were or they weren't.

3 Q Do you know whether the printers they were  
4 connected to were local printers working off, for  
11:40AM 5 example, a USB connection or whether they were  
6 network printers?

7 A I would have to review the service calls, but I  
8 know that there was some issue -- there was  
9 something going on with the printer and being able  
11:40AM 10 to print. I think it might have been a local  
11 printer that they were trying to -- more than one  
12 computer printing to one local computer. But I  
13 would have to review the service call which I  
14 could do for a few moments.

11:41AM 15 Q I know we have a stack of service call printouts  
16 here. If there's one in there you want to refer  
17 to, why don't you do that. I would like to talk  
18 about this more in just a minute.

19 A I think that I was thinking of a work order that  
11:42AM 20 referred to just bringing -- it looks like it's  
21 the date when they came back from Michael Best and  
22 as I was reviewing these last week that there was  
23 a printer that was no longer working. I think  
24 that might have been one of the things I was  
11:42AM 25 thinking of in terms of whether I have



1 documentation on a printer problems while over  
2 there. But I had report of doing some initial  
3 setup with the printer over in the office back in  
4 probably July of 2010 making sure that someone  
5 could print to a printer.

11:42AM

6 Q Let's take a look. Since you mentioned the  
7 service calls, let's look at the very first  
8 service call that's in the packet that you brought  
9 with you. It's ID 46,484. Do you see that?

11:43AM

10 A Yes.

11 Q And do you see the caller it identifies as  
12 Adam Foltz?

13 A I'm sorry. Yes. I do.

14 Q And just below that there's a classification. It  
15 says Outlook Exchange.

11:43AM

16 A Okay.

17 Q Do you see that?

18 A Yes.

19 Q All right. Now, I want you to jump down to the  
20 bottom where it says General. See Description and  
21 it says Outlook Over VPN?

11:43AM

22 A Yes.

23 Q Can you please describe what VPN means.

24 A Yes. Virtual private network. That is what  
25 allows -- that's one mechanism that allows a

11:43AM

1 person who was outside of domain, a network, to  
2 connect into the network. So --

3 Q All right. And then if we look at the Ticket  
4 History -- this is on January 26, 2011, correct?

11:44AM

5 A Yes.

6 Q And so Jared Bender -- is Jared Bender somebody at  
7 LTSB who provides service?

8 A Yes. He's a member of the technical support team.

11:44AM

9 Q So Jared Bender records in this document, "I  
10 couldn't log onto his machine despite it being  
11 provided by LTSB and on VPN, so I walked him  
12 through the steps. He is now connected to Outlook  
13 and can access the Rep's mailbox as requested."  
14 Do you see that?

11:44AM

15 A I do.

16 Q What does that indicate in terms of a network  
17 connection of Mr. Foltz's computer?

18 A That indicates that he was able to connect over  
19 VPN from Michael Best.

11:44AM

20 Q And so VPN -- that's a virtual private network to  
21 LTSB, correct?

22 A To the Wisconsin legislature's network. Yes. If  
23 you have a computer -- you can connect to it and  
24 now he's connected to -- in this case it indicates  
25 that he is able to connect via VPN to the

11:44AM

1 legislature's network. In this particular case it  
2 looks like he was interested in accessing the  
3 representative's mailbox.

11:45AM

4 Q Do you know where that connection also could be  
5 used to connect to the Internet?

6 A Yes.

7 Q Do these computers come with a pre-installed  
8 browser?

9 A They should.

11:45AM

10 Q What would the pre-installed browser have been?

11 A At a minimum Internet Explorer. And then we  
12 typically -- we offer three browsers. Internet  
13 Explorer comes standard, and then people can have  
14 Firefox and Google Chrome.

11:45AM

15 Q Can the end users of the computers install those  
16 browsers themselves if they choose?

17 A Yes and no.

18 Q They're not supposed to but sometimes they do  
19 anyway?

11:45AM

20 A Well, for most of the users in the legislature  
21 permissions are locked down such that a person  
22 could not alter the computer in a certain way, for  
23 example installing certain types of things. Over  
24 the years we have discovered that our users are  
25 clever and they figure out sometimes how to get

11:46AM

1 around that. So that's way one. And then way two  
2 is that some of the users are given what's called  
3 local administrator privileges in which case they  
4 could.

11:46AM

5 Q Were the computers that were issued to Mr. Foltz  
6 and Mr. Ottman locked down as you just described  
7 them?

8 A No.

11:46AM

9 Q Were these computers or were Mr. Foltz and  
10 Mr. Ottman given local administrative privileges  
11 over these computers?

12 A Yes. It was required in order to run the  
13 redistributing software. It wouldn't work without  
14 the elevated permissions.

11:46AM

15 Q While we're on that subject, let me ask you a  
16 question about accounts, user accounts on the  
17 computers themselves.

18 A Okay.

11:47AM

19 Q All right? If I'm jumping to a different topic  
20 here, let's just note that for the record because  
21 we ought to do that. That is one of the topics  
22 that we identified. I think we had identified it  
23 as Topic Number Four, "All users of the three  
24 redistributing computers between January 1, 2011  
25 and January 31, 2013," correct? It's possible to

11:47AM

1 create different user accounts for each computer,  
2 correct?

3 A Yes.

4 Q Do you know how many user accounts were created  
5 for Mr. Foltz's computer?

11:47AM

6 A There's a distinction to be made. There's  
7 something called a domain account, and that's an  
8 account -- everyone who is a member of the  
9 Wisconsin legislature's domain has a domain  
10 account. Any one of those users can log on to any  
11 one of the computers with their domain account if  
12 the computer is connected to the domain. So Tad  
13 could come over to my office, he did not, and log  
14 on --

11:48AM

11:48AM

15 MS. BUCHKO: Hypothetical.

16 A Bad example. Jared Bender could come to my office  
17 and he could log on to my computer because he has  
18 a domain account. If I gave him my user name and  
19 password, he could log on as me. There's one type  
20 of account, a domain account. Anyone with the  
21 credentials for a domain account could log on to  
22 any legislative computer. When you say account  
23 created on the computer, we did create additional  
24 accounts called local accounts, a distinction to  
25 be made between a domain account and a local

11:48AM

11:48AM

1 account. A local account is something you have to  
2 create on the computer specifically. We create  
3 per standard operating procedure -- for all  
4 legislative computers we create some kind of  
5 administrator account that only LTSB, only a  
6 couple people at LTSB, know the credentials for  
7 that. And that is sort of a moment of last resort  
8 if you need to do some kind of service and it's  
9 not connecting to the domain correctly. So  
10 there's a local account that is a local  
11 administrator account that we put on there. No  
12 one has access to that except for a couple of LTSB  
13 people. In the case of these computers, Tad and  
14 Adam, since they were going to be off site, were  
15 given local accounts or a local account each on  
16 the computer so they could connect to the computer  
17 without it being connected to the domain.

18 Q Could they create additional local accounts if  
19 they so chose?

20 A Possibly. Since they should have had local admin  
21 rights to run the specialized software, the local  
22 admin rights grant them certain elevated  
23 permissions. But I couldn't say with certainty  
24 whether they were able to create new accounts or  
25 not.

1           There's one additional account that was on  
2           there that we created, a GIS admin account, which  
3           was a local account that -- the original intention  
4           of that was to use it to do support on the  
5           machines. But, as noted earlier in this  
6           conversation today, we ended up using the end  
7           user's local account to do that because of the  
8           stability of the software.

11:50AM

9           Q    You mentioned domain accounts just a minute ago.  
10           Is it your testimony that anyone who has a domain  
11           account can log on to any other computer that's  
12           been issued by LTSB using that domain account?

11:50AM

13           A    As long as it's connected to -- as long as it's  
14           already connected to the legislative network.

11:50AM

15           That is to say, I couldn't go over to a computer  
16           that's off the domain and log on to it because  
17           that computer doesn't know who I am and it can't  
18           talk to the network to find out who I am so it  
19           won't let me. But if the computer were connected  
20           to the domain, I could go to it and it would check  
21           the domain and would say does this person get to  
22           come on here. The domain would say yes. I know  
23           who that is. And then I can get on.

11:51AM

24           Q    Who is issued domain accounts?

11:51AM

25           A    Every user has a domain account. Every user in

1 the legislature has a domain account.

2 Q Who is a user in the legislature? What does that  
3 encompass?

11:51AM

4 A All of the legislators, all of their staff, and  
5 all of the personnel from the legislative service  
6 agencies. And then some -- LTSB has test user  
7 accounts and things like that for various  
8 purposes.

11:51AM

9 Q Is this full-time permanent staff or all staff  
10 period?

11 A In order to -- all staff period. In order to do  
12 work on the legislative network, you must have --  
13 all of the users are issued a computer and a  
14 domain account, and that's how they do the work on  
15 the legislative network.

11:52AM

16 Q Are interns also issued domain accounts?

17 A Well, they wouldn't be issued local accounts, so  
18 they should be issued domain accounts.

11:52AM

19 Q Would you have to have a local account to be able  
20 to go onto a legislative computer and use your  
21 domain account?

11:52AM

22 A No. If you have like a JSmith -- a domain account  
23 would be -- our domain is called WISLEG,  
24 W-I-S-L-E-G. That is the name of the network. So  
25 WISLEG/JSmith is a domain account. And a person,



1 John Smith, could use that. But we could put a  
2 local account called JSmith without the WISLEG on  
3 that same computer. So J. Smith could log on as  
4 just JSmith or J. Smith could log on to the  
5 computer as WISLEG/JSmith.

11:53AM

6 Q How do you secure a computer then? If I'm a  
7 legislator or and I have a computer over at the  
8 capitol building and I have some private  
9 information on my computer that I don't want  
10 anybody else to be able to access, is there a way  
11 that I can password protect my computer either  
12 through my local account or through my domain  
13 account so that somebody else can access it?

11:53AM

14 A Yes. Well, local accounts are rare. 99 percent  
15 of the people have domain accounts. If I were to  
16 log on to my computer, my regular account because  
17 that's all I have, and do work on my computer,  
18 that work is done under my name. If I store  
19 things to my desktop and my folder, my documents  
20 folder, and things like that, then that's where  
21 it's stored on my computer. Now, if someone else,  
22 Jared Bender, were to come over and log on to my  
23 computer with his credentials, then what it will  
24 do is it will create a world for him. If he tries  
25 to access my data, he will not be able to because

11:53AM

11:54AM

11:54AM

1 it's locked down. So even though we both can log  
2 on to the computer, my data on the local computer  
3 is locked away from Jared.

4 Q All right. I understand.

11:54AM

5 A Okay.

6 Q Did the GIS team -- when they set up these first  
7 two computers at Michael Best & Friedrich in July  
8 2010, did they password protect those computers?

11:55AM

9 A Well, by setting up -- I guess yes. By setting up  
10 a local account on the computer and having a user  
11 name and password for that computer, then no one  
12 could log on as that local account unless they had  
13 that user name and password. In that sense they  
14 set up a password or security on the computer at  
15 the beginning.

11:55AM

16 Q Now, I would like to on exhibit -- using Exhibit  
17 No. 2 again, I would like to jump down in that  
18 middle column, HDD32574, to that May 2012 entry  
19 that says, "Approximately May 1, 2012: Service  
20 call related to network connection 121W." Do you  
21 see that?

11:55AM

22 A I do.

23 Q That indicates to you that at least as of May 1,  
24 2012 that that particular computer was back over  
25 in the capitol building?

11:56AM

1 A It does.

2 Q Do you know when that particular computer was  
3 moved from Michael Best & Friedrich's offices back  
4 over to the capitol building?

11:56AM

5 A I don't. My documentation indicates that it was  
6 there as of 5/1/2012 and apparently in Room 121  
7 West, but I couldn't say how it got there.

8 Q Do you know whether LTSB ever received any request  
9 from anyone to move Mr. Foltz's computer from the  
10 Michael Best & Friedrich offices back over to the  
11 capitol building?

11:56AM

12 A As far as -- I asked everyone there. They did not  
13 receive a request nor did they assist in moving  
14 Adam's computer back to the capitol.

11:57AM

15 Q Is it the best of your belief, though, as you sit  
16 here today that as of May 1, 2012 that computer,  
17 Mr. Foltz's computer, was back over at the capitol  
18 building?

11:57AM

19 A Yes. Based on the service call, 55,738, and  
20 reading the description. One, it says the GIS  
21 machine is now in 121 West. The problem that they  
22 describe, help to find a network drop that worked,  
23 turn off static IP addressing, remap network  
24 drives. Yes. To me it sounds like the computer

11:57AM

25 wasn't ready to be used in the capitol on our

1 domain until we did something to it.

2 Q Mr. Ylvisaker, you were just looking at one of the  
3 service call printouts that's in Exhibit No. 5,  
4 correct?

11:57AM

5 A That is correct.

6 Q That has an ID of 55,738?

7 A Correct.

8 Q And you were just reading from down at the bottom.

9 The Description says, "GIS machine now in 121W,  
10 needs help."

11:58AM

11 A Yes.

12 Q So that's what you were reading from when we were  
13 just --

14 A Correct. Yep. And based on that it seems like  
15 the computer was definitely in the capitol as of  
16 that date.

11:58AM

17 Q Under the Ticket History description on page 2 of  
18 3 there's an entry that says, "Adam is using a  
19 local user account to log in, still. He knows the  
20 difference between his local user account and his  
21 network account." Do you see that?

11:58AM

22 A I do.

23 Q Do you know what that reference there -- what it  
24 means?

11:58AM

25 A I assume that to mean that since the computer was

1 deployed with a local account for Adam that it  
2 means he could log on to that local account no  
3 matter where the computer was. But everyone in  
4 the legislature has a domain account, and Adam  
5 would have a choice. He could log on using his  
6 local user account, or he could log on using his  
7 network. When they say network account, I think  
8 that also means domain account.

9 Q That means domain account? Okay.

10 A It seems that -- just noting that.

11 Q All right. Now, there was another computer -- I'm  
12 going to go back to Exhibit No. 2 here in this  
13 last column, the column that's headed HDD32579.  
14 Do you see that?

15 A I do.

16 Q Now, that column indicates that computer was  
17 purchased on March 17, 2011 and deployed on  
18 March 21, 2011, correct?

19 A Yes. That should be the date that we purchased  
20 the actual computer. I believe that that La Cie  
21 hard drive that has the top column may have been  
22 purchased earlier than that.

23 Q Do you know where that computer was deployed to?

24 A The WRK32864?

25 Q Correct.

1 A Yes. That appears to be deployed to the Michael  
2 Best location as well.

3 MR. POLAND: We're going to take a  
4 break for just a minute.

12:00PM

5 MS. BUCHKO: Please.

6 THE VIDEOGRAPHER: The time is  
7 11:59. We are going off the record.

8 (Discussion off the record)

12:04PM

9 THE VIDEOGRAPHER: The time is  
10 12:03. We are back on the record.

11 Q Mr. Ylvisaker, just before we broke we were  
12 talking about the third computer and hard drive  
13 referenced in the third column of Exhibit No. 2  
14 that you prepared. Do you recall that?

12:04PM

15 A Yes.

16 Q So that computer and hard drive indicated in that  
17 column were set up at Michael Best & Friedrich's  
18 offices on or about March 21, 2011, correct?

19 A Correct.

12:04PM

20 Q Now, if we stay within that column, the next entry  
21 in that column identifies approximately June 4,  
22 2012, and it states, "LTSB assisted in move from  
23 MBF to Senator Fitzgerald's office." Do you see  
24 that?

12:04PM

25 A I do.

1 Q And that also is the entry that's in the first  
2 column pertains to HDD32575 and another computer  
3 there, correct?

4 A Correct.

12:04PM

5 Q Can you tell me what happened on or about June 4,  
6 2012 that caused you to put that information in  
7 there.

8 A Yes. The service call -- to I think Exhibit 5 and  
9 then Service Call 56,377.

12:05PM

10 Q So 377 -- I'm sorry. You said there was another  
11 one as well?

12 A No. I had the wrong one in my hand.

13 Q All right. So Service Call 56,377 that's in  
14 Exhibit 5, what does that indicate?

12:05PM

15 A Hold on. One moment actually. I need to correct  
16 myself. Still Exhibit 5 but not Service Call  
17 56,377. Work Order 26,096.

18 Q So this is a different category of documents.  
19 It's distinct from the configuration items and the  
20 service calls. There is a work order, correct?

12:06PM

21 A Correct.

22 MR. EARLE: Which one?

23 THE WITNESS: Work Order 26,096.

24 Q What does Work Order 26,096 indicate?

12:06PM

25 A It indicates that on June 4th of 2012 that two

1 computers, and the WRK numbers are listed,  
2 WRK32587 and WRK32864, were brought back to the  
3 capitol and it looks like placed in Room 315  
4 South. So that's why on my Exhibit 2 I put an  
5 entry in the Column One and Column Three  
6 indicating that that's when they came back.

12:06PM

7 Q Do you know when the request was placed with LTSB  
8 to move the computers from Michael Best's office  
9 back over to the capitol building?

12:07PM

10 A I don't have documentation saying when, but this  
11 was a Monday, June 4th, so it probably would have  
12 been sometime the week prior.

13 Q Do you know how that request would have come in,  
14 if it would have come in by phone call or by  
15 E-mail or how it would have been done?

12:07PM

16 A Probably by phone call calling to say *I would like*  
17 *to coordinate having my equipment brought back to*  
18 *the capitol.*

19 Q Would that request have been logged in any  
20 particular way either as a service call or a work  
21 order or a configuration item?

12:07PM

22 A Well, what you're looking at here, the 26,096 I  
23 guess is the work order for the action. In terms  
24 of service call indicating that the request was  
25 made, I don't believe that we have anything.

12:08PM



1 Q Do you know who at LTSB took the request from  
2 Senator Fitzgerald's office to move the computers  
3 from Michael Best over to the capitol building?

4 A I would just guess that it was Tony who was  
12:08PM 5 contacted to coordinate. When I read the  
6 information here, I can see that it's referring to  
7 a person named Marco. And then down below there's  
8 a name -- still inside the information on the top  
9 part of the first page there's a person named  
10 Nate.

11 Q Who is Marco Santilli?

12 A Marco is a member of the technical support team  
13 just like Jared Bender. And Nate Rohan is the  
14 manager for the technical support team. So from  
12:09PM 15 this it looks like Tony, Marco, and Nate -- at  
16 least those people participated in bringing back  
17 this equipment.

18 Q So the equipment that was brought back at the  
19 time -- there's a reference in the Information  
12:09PM 20 section of this work order that it consisted of  
21 two computers, and it specifically identifies them  
22 as 32587 and 32864, correct?

23 A Correct.

24 Q And then it also identifies an HP color laser jet  
12:09PM 25 printer, correct?

1 A It does.

2 Q Was that a printer that was issued by LTSB?

3 A I'm pretty sure that it was.

4 Q It's not reflected --

12:10PM

5 A I couldn't say for sure from my documentation that  
6 I brought today, but I'm pretty sure that it was  
7 issued by LTSB.

8 Q And we haven't seen any documents, have we, work  
9 orders or configuration items or anything that  
10 pertains to that printer?

12:10PM

11 A No. I didn't.

12 MS. BUCHKO: Objection, outside of  
13 the scope of the topics listed for today.

14 Q By the way, is that HP color laser jet printer --  
15 is that a printer that would have internal storage  
16 on it? If a file was sent to be printed, does it  
17 store anything internally?

12:10PM

18 A I don't know the answer to that question.

19 Q The last sentence in that Information field  
20 states, "Each computer has two monitors which  
21 totaled four monitors moved into that room." Do  
22 you see that?

12:10PM

23 A I see that.

24 Q Do you know whether the monitors were brought back  
25 over as well?

12:10PM

1 A I believe that they probably were based on how  
2 it's phrased.

3 Q And then there's a statement that says, "Finally,  
4 we recouped an HP 1320n printer that Tad said was  
12:11PM 5 no longer working." Do you see that?

6 A I do.

7 Q Do you know what printer that was?

8 A I couldn't say.

9 Q Do you know if it was a printer issued by LTSB?

10 A Based on the naming convention I would suggest  
11 that it probably is and just based on standard  
12 operating procedure. Users don't tend to bring in  
13 their own printers.

14 Q Now, there's no mention on this particular work  
12:11PM 15 order of any external hard drives, is there?

16 A No. No.

17 Q Do you know whether the external hard drives were  
18 brought back over at the same time as the  
19 computers, the monitors, and the printer?

12:11PM 20 A I don't know for sure.

21 Q So then going back to your Exhibit No. 2. There's  
22 an entry in the first and the third columns of  
23 approximately July 31, 2012. Let's go to the  
24 first column. It says, "LTSB assisted in office  
12:12PM 25 move when the senate switched majority party.

1 Computer moved from senate majority leader's  
2 office to senate minority leader's office,"  
3 correct?

4 A Correct.

12:12PM

5 Q And that indicates that LTSB helped move that  
6 particular computer and hard drive referred to in  
7 that column?

8 A Yes.

12:12PM

9 Q And that move -- that was in Senator Fitzgerald's  
10 office, correct?

11 A Right. To be sure -- since these notes were  
12 really for me, I don't mean to say that the  
13 computer went from -- switched senators. They  
14 switched rooms.

12:13PM

15 Q Right.

16 A Just to be sure.

17 Q Yes. It stayed with Senator Fitzgerald's staff,  
18 right?

19 A That is correct.

12:13PM

20 Q Do you know who at LTSB assisted in that move?

21 A I don't. I don't know. It would be -- I don't  
22 know who it was.

23 Q Do you know if there was a work order or a service  
24 call that was issued for that particular move?

12:13PM

25 A I don't know if there is or not. It's possible

1 that there is, but office moves are generally not  
2 coordinated by LTSB. They're coordinated by the  
3 Senate or the Assembly, and then we're told to  
4 move equipment on a day when other people are  
12:13PM 5 moving furniture. So our role is just to move the  
6 equipment, and someone is telling us what to do.

7 Q Who is it who tells you what to do, to move it?

8 A In that case it probably would have been someone  
9 in the Senate chief clerk's office or the Senate  
12:14PM 10 sergeant's office because there probably would  
11 have been a few moves around that time with the  
12 majority switching.

13 Q So that might not have been a request that came in  
14 specifically from Mr. Ottman or Senator  
12:14PM 15 Fitzgerald's office?

16 A Right. It was probably something coming from  
17 sergeant's or the clerks's office saying *Here is*  
18 *the move schedule for the next two weeks.*  
19 *Taylor's office is going here first, and then two*  
12:14PM 20 *hours later someone else is going into Taylor's*  
21 *office.* It's a spaghetti thing. I couldn't say  
22 for sure, but that's how those things are  
23 generally run.

24 Q In the middle column of Exhibit 2 then, the next  
12:14PM 25 entry -- this is for Adam Foltz's computer. It

1 says, "Approximately September 13, 2012 computer  
2 returned to LTSB per Patrick Fuller, Assembly  
3 Chief Clerk, locked in inventory cage," correct?

4 A It does.

12:15PM

5 Q And that's what you were referring to before when  
6 we were looking at the configuration items?

7 A Yes. To identify that this computer was Adam's  
8 and this hard drive, even though it is listed as  
9 being issued to Tad, was actually coming back from

12:15PM

10 Adam's. Yes. That's the date.

11 Q And then if we go down to the next item in Columns  
12 One and Three, it identifies in November of 2012  
13 -- I think these entry are the same.

14 A They are.

12:15PM

15 Q "Approximately November 28, 2012 LTSB assisted in  
16 office move when the Senate switched majority  
17 party. Computer moved from Senate minority  
18 leader's office to senate majority leader's  
19 office," correct?

12:15PM

20 A Yes. Again, that's the room numbers.

21 Q It stays with Senator Fitzgerald's --

22 A Yes.

23 Q -- staff at that time?

24 A Yes. And that would have been after -- so there

12:15PM

25 was an election -- the thing that happened at the

1 end of July -- there was an election and the  
2 majority switched and so the room switched. And  
3 then the end of November is post the fall  
4 election. The majority switched and so the rooms  
5 switched.

12:16PM

6 Q Again, this is something that just happens with  
7 all of the other switches that are going on?

8 A Yes. That gets kind of crazy.

9 Q Let's go to the second page then of Exhibit No. 2.

12:16PM

10 You have an entry there that says, "January 31,  
11 2013 starting at 9:00 a.m. Chris Tragasz,"  
12 T-r-a-g-a-s-z, "PLA, starts imaging process. I  
13 moved the computers and external hard drives from  
14 the locked inventory cage to locked conference  
15 room." Do you see that?

12:16PM

16 A I do.

17 Q What does that indicate?

18 A Based on authorization from my legal counsel and  
19 your legal counsel, you, PLA was going to take a  
20 forensic copy of the computers in question. So I  
21 was -- the meeting was coordinated for this fellow  
22 named Chris to come by on 1/31 and start the  
23 process and that it would take approximately one  
24 day because of the size and the read speeds from  
25 the external hard drives. So I took the stuff out

12:17PM

12:17PM

1 of the locked inventory cage and moved them to a  
2 conference room that was then also locked.

3 Q Do you know when a decision was made to retain PLA  
4 to do this work?

12:17PM

5 MS. BUCHKO: Objection,  
6 attorney-client privilege.

7 MR. POLAND: I just asked when they  
8 were retained.

12:17PM

9 MS. BUCHKO: And if he was retained  
10 by counsel you're requesting attorney-client  
11 privilege communication.

12 MR. POLAND: No. Not at all. It's  
13 a fact. When they were retained. It's not a  
14 communication.

12:17PM

15 MR. EARLE: It's not a  
16 communication at all.

17 A I don't know the answer to the question anyway.

18 MS. BUCHKO: There we go.

19 Q Do you know who retained PLA to perform this work?

12:18PM

20 A To perform the forensic copy?

21 Q Correct. That's referred to here in this entry on  
22 your sheet.

23 A Can you ask me the question again.

24 Q Do you know who retained PLA to perform this work?

12:18PM

25 A I guess I'm not exactly sure who retained PLA.



1 Q You don't --

2 A Our legal counsel. I guess my legal counsel did.

3 Q Do you know who made the decision to retain PLA to  
4 do this work?

12:18PM

5 MS. BUCHKO: Objection to the  
6 extent it calls for attorney-client  
7 privileged communication. I'm going to  
8 instruct him not to answer that.

12:18PM

9 MR. POLAND: You're instructing him  
10 not to answer if he knows? It's a  
11 foundational question, Cindy. It's very  
12 simple. Do you know. And, if he knows, he  
13 can answer.

12:18PM

14 MS. BUCHKO: Can you read it back,  
15 please.

16 (Question read)

17 MS. BUCHKO: Okay. All right.

18 A Do I know who made the decision to retain PLA to  
19 do this work. My legal counsel.

12:19PM

20 MR. POLAND: I'm going to note that  
21 it's 12:20 and we need to take a break.

22 MR. EARLE: We can go a few  
23 minutes. If you want to go five more  
24 minutes --

12:19PM

25 MR. POLAND: All right. You can do

1 that?

2 Let's just go five more minutes because  
3 I think we can finish up this part right  
4 here.

12:19PM

5 MS. BUCHKO: Sure.

6 Q Did Mr. Tragasz -- am I pronouncing that  
7 correctly?

8 A I don't know. I couldn't say.

12:19PM

9 Q Well, we will call him Mr. Tragasz. Do you know,  
10 did Mr. Tragasz perform this imaging process  
11 within LTSB's offices?

12 A That's correct. In a locked conference room at  
13 LTSB.

12:19PM

14 Q When Mr. Tragasz was done with this imaging  
15 process, did he then return the computers and hard  
16 disc drives to you?

12:20PM

17 A No. What happened is I moved the computers and  
18 the hard drives to the conference room, showed  
19 Chris where they were, and told him the door is  
20 going to lock whenever he leaves. And then he  
21 basically spent a little bit of time, started the  
22 process. The process took overnight. And then  
23 someone else from PLA, John Evans, the next day  
24 came to collect the copies and tell me that

12:20PM

25 they're done.

1 Q So they started the process going and it just ran  
2 on its own then, the imaging process, overnight?

3 A Yes. For about 24 hours or so.

4 Q And then Mr. Evans came back the next day and  
5 retrieved the images?

6 A Correct.

7 Q At that point in time then did you return the hard  
8 drives to the storage locker or whenever they were  
9 locked?

10 A Yes. I took them from the locked conference room  
11 and put them back into the locked inventory cage.

12 Q Did either Mr. Tragasz or Mr. Evans tell you at  
13 that time that one of the external hard drives  
14 could not be read?

15 A Yes.

16 Q Did you check the hard drives when they were given  
17 to you by Mr. Ottman or Mr. Foltz to see if those  
18 drives could be read?

19 A No.

20 Q You didn't check the integrity of the drives when  
21 you took possession of them from Mr. Ottman and  
22 Mr. Foltz?

23 A No. We didn't turn on any -- me and my staff did  
24 not turn on the computers or the hard drives. I  
25 just had glanced at them as I looked -- I just

12:20PM

12:21PM

12:21PM

12:21PM

12:21PM

1 looked at them. That's it. I didn't do any  
2 turning on of the equipment.

3 Q With respect to the external hard drive that is  
4 inoperable, when was the first time that LTSB  
5 learned that that hard drive was inoperable?

12:22PM

6 A Well, I believe it would be on 1/31 in the morning  
7 when Chris was starting the process. Unless it's  
8 possible there's some kind of reference to it in  
9 here that -- but otherwise I think that that's --  
10 that's the first I learned of it for sure. Maybe  
11 someone else heard that the hard drive wasn't  
12 working prior to that, but that's the first I  
13 heard of it for sure.

12:22PM

14 MR. JACOB: Just so the record is  
15 clear, can anyone identify which external  
16 hard drive we're talking about? We keep  
17 referring to the --

12:22PM

18 MR. POLAND: We're going to take a  
19 break in a few minutes. Why don't we look at  
20 that over the lunch hour and we can put it on  
21 the record.

12:22PM

22 MR. JACOB: I know that  
23 Mark Lanterman has it in his declaration.

24 Q Staying with Exhibit No. 2, Mr. Ylvisaker -- we  
25 will just finish up this sheet, and then we're

12:23PM

1 going to take a break. There's a reference on  
2 February 1, 2013, "John Evans PLA comes to LTSB  
3 late morning to collect the copies. I returned  
4 all of the computers and external hard drives to  
5 the locked inventory cage." Do you see that?

12:23PM

6 A I do.

7 Q And is that what you were just describing for us a  
8 minute ago?

9 A Yes.

12:23PM

10 Q The next entry says, "2/26/2013. I removed all  
11 six internal hard drives, packed them up with the  
12 three external hard drives, and delivered them to  
13 WHD." Do you see that?

14 A I do.

12:23PM

15 Q The WHD there, that's Whyte Hirschboeck Dudek?

16 A Yes.

17 Q That's Ms. Buchko's firm?

18 MS. BUCHKO: Buchko.

19 MR. POLAND: I'm sorry.

12:23PM

20 Q Ms. Buchko's firm?

21 A Yes.

22 Q And Mr. Pyper's firm, correct?

23 A Correct.

12:24PM

24 Q That came after the Court's order of February 25,  
25 2013, correct?

1 A Correct.

2 Q And then the last -- actually, let me back up and  
3 ask you one question there. Between the time that  
4 Mr. Evans had collected the copies on  
5 February 1st -- between that date and between  
6 February 26th, had you done anything to alter the  
7 hard drives in any way?

12:24PM

8 A No.

9 Q And then the final entry under Exhibit No. 2 is  
10 March 12, 2013. You state, "I received the  
11 package of hard drives from WHD and returned them  
12 to the locked inventory cage." Do you see that?

12:24PM

13 A Yes.

14 MR. POLAND: Why don't we go ahead  
15 and take a break there.

12:24PM

16 THE WITNESS: Okay.

17 MR. POLAND: Let's go off the  
18 record.

19 THE VIDEOGRAPHER: The time is  
20 12:23. We are going off the record.

12:24PM

21 (Recess)

22 THE VIDEOGRAPHER: The time is  
23 1:16. We are back on the record.

24 Q Mr. Ylvisaker, before the break we were talking  
25 about Exhibit No. 2. Do you recall that?

01:17PM

1 A I do.

2 Q A question for you about the numbers that are at  
3 the very top of the three columns in Exhibit  
4 No. 2. The first one says HDD32575, correct?

01:18PM

5 A Correct.

6 Q The middle column is 32574, correct?

7 A Correct.

8 Q And then the third column is 32579, correct?

9 A Correct.

01:18PM

10 Q How did you come up with those numbers or where  
11 are those numbers reflected on the drives  
12 themselves?

13 A Those numbers are the search code or -- asset tag  
14 is what we call them. It's also the asset tag.

01:18PM

15 Those should be on little stickers. And the  
16 little stickers should be placed somewhere on the  
17 drive. Probably on the back or the bottom of the  
18 drive.

19 Q So that's on the outside of the case? They're  
20 someplace on the drive?

01:18PM

21 A Correct.

22 Q I want to turn your attention back to Exhibit  
23 No. 5. This morning we were taking a look at the  
24 documents that are included within Exhibit No. 5.

01:19PM

25 I believe we talked about the configuration items.

1 We talked about the first of the service calls,  
2 46,484. We talked a little bit about Service Call  
3 55,738. I wanted to ask you about the next  
4 service call which has 56,377. Do you have that  
5 in front of you?

01:19PM

6 A Yes, I do.

7 Q Which computer does this particular service call  
8 pertain to?

9 A I can't say which of the two redistricting  
10 computers. I can't say which computer that is  
11 referring to based on the information in this  
12 call. I guess I can't say -- it doesn't have the  
13 machine name in the ticket.

01:20PM

14 Q It would have been one of the two computers that  
15 were identified in Exhibit No. 2 that had been  
16 assigned to Mr. Ottman? Is that your belief?

01:20PM

17 A That is my belief based on the idea that we  
18 brought the computers back on 6/4 and then there's  
19 a reference, "Tad logged in with his WISLEG  
20 account and all of his stuff is missing." It's  
21 probably because he logged on with his domain  
22 account and it can't see the local account because  
23 the security protections that we talked about  
24 earlier this morning. So he was probably logging  
25 on with a domain account instead of his local

01:20PM

01:21PM



1 account.

2 Q So the WISLEG account, that's what you're  
3 referring to as the domain account, correct?

4 A That's correct.

01:21PM

5 Q Now, your response to the last question makes me  
6 think that when Mr. Ottman was working on this  
7 particular computer when it was at Michael  
8 Best & Friedrich he was using the local account,  
9 is that correct, or logging on to the local

01:21PM

10 account?

11 A I believe that -- that's the reason why we made  
12 the accounts local. So it seems that -- based on  
13 this, it seems like he would do -- at least some  
14 of the work was being done via his local account.

01:21PM

15 Q Was there a way for Mr. Ottman or Mr. Foltz to log  
16 on to their domain accounts when the computers  
17 were located over at Michael Best & Friedrich?

18 A I don't think so. There's two ways that come to  
19 my mind. One is they would have to have logged on  
20 as their domain account when the computer was

01:22PM

21 connected to the domain in order for cache  
22 credentials to be stored on the computer. That's  
23 one way. When you do that, you get cache  
24 credentials on the computer. Another way would be

01:22PM

25 if you configured the VPN in a certain way to

1 automatically log on. I don't know. I don't know  
2 the answer to the question.

3 Q All right. Let's continue taking a look at this  
4 service call. It say in the Description, "Tad  
01:22PM 5 logged on with his WISLEG account and all of his  
6 stuff is missing." What is the all of his stuff  
7 is missing? What does that refer to?

8 A I can only guess that it might mean data from his  
9 previous account. When I say previous account, I  
01:23PM 10 really mean local account because the next thing  
11 in the ticket history says, "Copied over desktop,  
12 downloads, and documents. If he notices anything  
13 else missing, he will let us know." It looks like  
14 one of my staff members took data from the local  
01:23PM 15 account and moved it so it's now inside the domain  
16 account.

17 Q All right. Would this have been done -- would  
18 your staff member have been sitting at  
19 Mr. Ottman's computer when he did this or was this  
01:23PM 20 done over the network over a network connection?

21 A I'm pretty sure it could have been done from LTSB.  
22 My staff member probably would not have had to go  
23 over to do that.

24 Q Is there sort of a remote help feature? For  
01:23PM 25 example, here at my law firm I can call my tech

1 people who are in Milwaukee -- I give them  
2 authorization, and then from Milwaukee they're  
3 moving the cursor around on my desktop.

4 A Yes.

01:24PM

5 Q Is that something that you have got as well?

6 A We can do that as well.

7 Q When it says, "Copied over desktop, downloads, and  
8 documents," what is actually involved in that  
9 process?

01:24PM

10 A Well, I can guess that since Tad's domain account  
11 didn't have access to Tad's local account that --  
12 what this seems to be referring to is that one of  
13 my staff members with elevated permissions moved  
14 stuff from one account to make it visible from  
15 Tad's domain account. So it would be copy.

01:24PM

16 Q As a result of that process, would there have been  
17 any data that would have been deleted or altered  
18 as part of that process?

19 A I don't see why there would be.

01:24PM

20 Q The next sentence says, "If he notices anything  
21 else missing, he will let us know." Do you see  
22 that?

23 A I do.

24 Q I'm focusing there on the word anything else. Do  
25 you know whether there was something that was

01:25PM

1 missing specifically?

2 A I do not. I assume that it just was a statement  
3 that my team member made. I think I've satisfied  
4 his request. If he notices he needs help moving  
01:25PM 5 over other data, he will let us know. But not  
6 that anything was necessarily deleted or missing.  
7 Just he couldn't access it from one account to the  
8 other is how I read that.

9 Q The next paragraph down says, "Also he wants  
01:25PM 10 Chrome, which was not available from run  
11 advertised programs but I ran a machine policy  
12 update so he may see it pop up later today." Do  
13 you see that?

14 A I do.

01:25PM 15 Q What does that reflect?

16 A Chrome is a browser. It's the browser from  
17 Google. I mentioned earlier today that we allow  
18 three different browsers to run. We basically  
19 support three browsers, Internet Explorer, Chrome,  
01:26PM 20 and Firefox. In this case it looks like what Tad  
21 is asking for is he's asking to have Chrome  
22 installed on this particular computer. This run  
23 advertised programs -- that's one of the ways we  
24 can push updates to computers is that we can -- if  
01:26PM 25 we package up the software deployment -- if we

1 make a little package that a person can click to  
2 have it installed, then that's part of our  
3 advertised programs. So we can advertise it and  
4 then a user could say *I'll take Firefox. I'll*  
01:26PM 5 *take Chrome.* And they can hit the go button or  
6 update or install and then it will be there. In  
7 this case apparently Chrome wasn't available as an  
8 advertised program. And then I feel it relevant  
9 to point out in the next service call, which  
01:27PM 10 happens to be the next day, again with Tad  
11 contacting about a Google Chrome install. I'm now  
12 looking at Exhibit 5, Service Call 56,386.

13 Q Yes.

14 A He called and this time he spoke to someone other  
01:27PM 15 than Marco. Marco was the person on 6/4.  
16 Cade Gentry is the person on 6/5. It says,  
17 "Chrome is not in his advertised programs. Had to  
18 have Nate add him to the collection since his PC  
19 was built as static as possible." It looks like  
01:27PM 20 in these two service calls what he was attempting  
21 to do was get Google Chrome installed which seems  
22 to indicate that he did not install it himself  
23 previous to this.

24 Q Do you know, was there a browser -- there was a  
01:27PM 25 browser installed on this particular computer

1 before this time, correct?

2 A There should have been. Internet Explorer should  
3 come by default and then the Chrome and Firefox  
4 should be an election, a choice that a user makes.

01:28PM

5 Q Even though we don't know which of the computers  
6 that was assigned to Mr. Ottman these two service  
7 calls pertain to, they should have been for the  
8 same computer, correct?

01:28PM

9 A I reckon that it was -- if he had two computers --  
10 if he brought back two computers, it could be a  
11 call for each. But it seems like it's a  
12 continuation. I guess I can't say which computer  
13 or computers it was for sure. Because the move  
14 occurred on 6/4, I assumed it was one of the  
15 computers that got moved.

01:28PM

16 Q And the second service ticket or service call that  
17 you referred us to, the 56,386, the second  
18 sentence you read said, "Had to have Nate add him  
19 to the collection since his PC was built as static  
20 as possible." What does the collection refer to  
21 there?

01:29PM

22 A I'm not 100 percent sure what Nate means, but we  
23 do -- I suspect that he is referring to -- we have  
24 different collections of users that -- if you put  
25 a person in a collection, then it will change

01:29PM

1 what's advertised to them.

2 Q Things that are -- okay.

3 A What programs might be available. So maybe the  
4 Audit Bureau would be in an LAB, Legislative Audit

01:29PM

5 Bureau, collection in which case we would offer  
6 some kind of statistical package for them. This  
7 is an example. I'm not saying this is what's

8 happening. But that they would be able to select  
9 something. But that statistical package would not

01:29PM

10 be advertised to the entire legislature, and we  
11 would control that using collections.

12 Q Do you know if Chrome eventually was installed on  
13 Mr. Ottman's computer?

14 A I do know that it was installed on one, at least  
15 one of the computers.

01:30PM

16 Q Do you know which day it was installed on one of  
17 the computers?

18 A It was on either 6/4 or 6/5. But based on this  
19 I'm guessing it was 6/5 because this call came  
20 through in the morning of 6/5 and in my research I  
21 was able to find something that indicated that  
22 Chrome was on the computer and that was a report  
23 that was generated around noon on that particular  
24 day.

01:30PM

01:30PM

25 Q When new software applications or programs are

1 installed on computers, they are written on to the  
2 disc drive, correct?

3 A Correct.

4 Q When that process occurs, are there sectors and  
5 tracks on the hard drives that are overwritten  
6 with the new data from the new applications being  
7 written?

01:31PM

8 MS. BUCHKO: Objection; foundation,  
9 competency.

01:31PM

10 Answer if you are able.

11 Q Are you competent to answer that question?

12 A Could I have the question re-asked?

13 Q Sure. Hard drive. The hard drive is made up of  
14 sectors and tracks where data is written on the  
15 hard drive?

01:31PM

16 A Okay.

17 Q When a new software package such as Chrome is  
18 installed, that program is written or there's data  
19 from the application that's written to sectors and  
20 tracks on the hard drive, correct?

01:31PM

21 A Okay. Yes.

22 Q Is that correct?

23 A As I understand it. The details of this are not  
24 my specialty. These words aren't something I use  
25 every day in my job --

01:31PM



1 Q Okay.

2 A The details of the hard drive itself.

3 Q Do you know whether -- when a new software package  
4 is installed on a computer whether there is other  
5 data existing on the hard drives that is  
6 overwritten?

01:31PM

7 A Well, it depends. Data -- as I understand it, if  
8 you have a document or electronic file on your  
9 computer and you mark it as deleted, then that  
10 space, however much space it took up, is now  
11 marked as free. And then the computer could  
12 decide -- if this table were the hard drive, and  
13 this is something that was deleted, it could write  
14 in any free space. So it could overwrite a place  
15 that was never written to, and I guess it could  
16 overwrite a place that had been written to. I  
17 just want to say this isn't my specialty. But  
18 that's my understanding of how things work.

01:32PM

01:32PM

19 Q Is there somebody at LTSB who would have a better  
20 understanding of that process than you?

01:32PM

21 MS. BUCHKO: I'm going to object  
22 that it's outside the scope of the list of  
23 designated items. I think we've gone pretty  
24 far afield.

01:32PM

25 MR. POLAND: It's actually dead

1 center included in one of the topics, and I  
2 can tell you exactly which one it is.

3 MS. BUCHKO: Okay.

4 MR. POLAND: It's Topic Number One,  
5 the deletion or attempted deletion of any  
6 records or data from any of the redistricting  
7 computers.

8 MS. BUCHKO: I understand that.  
9 The way I understood your question, you're  
10 asking for expert opinion as to how these  
11 computers rewrite the data. I'm saying  
12 that's an expert opinion question that you  
13 have just asked as opposed to whether  
14 deletions or attempted deletions occurred.

15 MR. POLAND: I will disagree with  
16 you.

17 Q So I ask the question. Is there anybody at LTSB  
18 who would know more about the process of how  
19 deletions occur on the redistricting computers  
20 than you?

21 MS. BUCHKO: Same objection.  
22 Go ahead and answer.

23 A I suppose that there could be some people who  
24 happen to have more technical knowledge in this  
25 area than I do. However, I would also say that

1 these people -- my staff don't specialize in this  
2 part of technology. Maybe by chance but not by  
3 position.

4 Q Was there any maintenance performed on the  
5 redistributing computers themselves during the time  
6 they were at Michael Best & Friedrich's offices?

7 A Maybe. The computers are configured -- when LTSB  
8 deploys a computer, they are initially set up to  
9 receive Windows updates from the Wisconsin  
10 legislature. When a home user buys a computer  
11 like a Windows operating system computer, chances  
12 are their computer's default is set up to receive  
13 updates. It will be one of the things that it  
14 asks you. Do you want to get updates? It will  
15 probably get them from Microsoft. We specifically  
16 build our computers to get the updates from the  
17 Wisconsin legislature. That way we can control  
18 the updates. So the computers are configured  
19 to when they're connected to the network. So if  
20 the computer is off -- if a computer that we made  
21 is not connected to our network and when it tries  
22 to get an update, then it won't be able to.  
23 However, if a user happened to be connected to our  
24 network directly or over VPN, then updates should  
25 occur.

1 Q Do you know in the situation of the three  
2 redistricting computers when they were at Michael  
3 Best & Friedrich whether updates did occur to  
4 those computers?

01:35PM

5 A I feel as though some probably did though I can't  
6 say with certainty what or when. The reason why I  
7 feel like some probably did is because that's how  
8 we have our system configured. The computers will  
9 ask us for updates when they can see us when

01:35PM

10 they're connected. If someone's VPN'd in for just  
11 a minute, they may not get it. But if they're  
12 VPN'd in for a long enough time at the right time,  
13 they may be able to complete a download of some  
14 updates. It depends on how often they VPN'd in.

01:36PM

15 That's how they're configured.

16 Q Were there any updates that were made to these  
17 computers after the time that they went from  
18 Michael Best & Friedrich's offices back to the  
19 capitol building?

01:36PM

20 A Yes. There's two categories of updates that can  
21 occur. One of them is what I just described,  
22 Windows update. That's a setting that we set on  
23 the computer as I just mentioned. And then  
24 there's another mechanism we use to put updates  
25 on. And that's the thing we talked about in these

01:36PM

1 service calls with Chrome. Chrome isn't one --  
2 it's not a Microsoft product, so it doesn't come  
3 on to the computer from a Microsoft update  
4 process. It comes on to the computer from a  
5 different process. We can advertise the programs  
6 and we can push things. So a user could select a  
7 program to have installed or we can force a  
8 program to be installed. So the computers should  
9 have been receiving updates for Windows updates.

01:37PM

10 Once they came back and they were connected, they  
11 should have been receiving Windows updates on a  
12 regular basis and anything else we're pushing.

01:37PM

13 Q As part of the process of updating the software  
14 that's on these computers, whether it's Windows  
15 updates or whether it's other types of updates  
16 like the Chrome installation, did that alter or  
17 write over any data that existed on the hard  
18 drives on those computers or the external hard  
19 drives?

01:37PM

20 A Well, I guess kind of back to the question you  
21 asked before. It certainly is -- it should have  
22 only altered things that were free. When I say  
23 altered, I mean -- if you're saying data is now  
24 also data marked as free to be overwritten -- to  
25 the best of my knowledge then it should be able to

01:37PM

01:38PM

1 do that.

2 Q It should be able to do what?

3 A To write on any free space on the hard drive.

4 Q Any space that's designated as being free,  
5 correct?

01:38PM

6 A Yes. It should never nor have I ever heard of  
7 it -- I'm going to install Google Chrome and then  
8 someone's Microsoft Office disappeared because  
9 Microsoft Office hadn't been noted as deleted. If  
10 there were something else, it could have to the  
11 best of my knowledge.

01:38PM

12 Q For example, if there were an E-mail or a file or  
13 something that Mr. Ottman had clicked delete and  
14 then the computer would indicate that the track,  
15 the sector, the part of the hard drive on which  
16 that file resided is now free to be overwritten,  
17 correct?

01:38PM

18 MS. BUCHKO: Objection, competency.

19 A Can you ask the question again?

01:39PM

20 Q Sure. If there were a file that Mr. Ottman  
21 clicked delete, he was going to delete it, the  
22 computer then indicates that where that file had  
23 existed on the hard drive is now free to be  
24 overwritten, correct?

01:39PM

25 A That's my understanding of how that works.

1 Q And so that's now a part of the hard drive that if  
2 there's an update or an installation of new  
3 software that could be overwritten because it's  
4 indicated to be free, correct?

01:39PM

5 A That's my understanding.

6 Q Was there ever any kind of a litigation hold or a  
7 freeze that was issued covering these computers so  
8 that they wouldn't be changed or altered?

01:40PM

9 A I can't say -- I don't know except for when the  
10 computers -- when the computers came to me per our  
11 previous conversation that LTSB locked them up and  
12 didn't turn them on. That be would be the extent  
13 of what I know.

01:40PM

14 Q And what date was that? That was September 13,  
15 2012 in the case of Mr. Ottman's computer? I'm  
16 sorry. Mr. Foltz's computer.

01:40PM

17 A Yes. The day when the computer came back to LTSB  
18 and we locked it in the cage and didn't turn it  
19 on. For Adam Foltz's computer it would have been  
20 September 13th. And then the ones that were  
21 issued to Tad at the end of January of 2013.

01:41PM

22 Q Did you or anyone else at LTSB ever receive  
23 instructions from anyone not to delete or alter  
24 any files on the redistricting computers and the  
25 external hard drives?

1 A During what time?

2 Q At any time.

3 A I think I just had a clear understanding that when  
4 I take these computers I should make sure that  
01:41PM 5 they stay in the exact state that they're in when  
6 I got them.

7 Q That was September 13 of 2012 in the case of  
8 Mr. Foltz's computer?

9 A Correct.

01:41PM 10 Q And that was January 28, 2013 in the case of  
11 Mr. Ottman's computer?

12 A Correct.

13 Q Other than your understanding, did you ever  
14 receive an E-mail, a memo, a letter, any other  
01:41PM 15 kind of a written or verbal instruction from  
16 anyone that these computers are not to be altered,  
17 changed, no deletions of files and they're to be  
18 maintained in the way they are?

19 A I don't think so. I say that because the only  
01:42PM 20 thing that it could possibly be in my mind is that  
21 something from legal counsel had indicated that.  
22 Otherwise it was just an understanding that I had  
23 that I'm putting these things and I'm keeping them  
24 exactly in the way they are.

01:42PM 25 Q Did you ever get any instruction from legal



1 counsel to that effect?

2 MS. BUCHKO: Objection. Can we  
3 identify which legal counsel.

01:42PM

4 MR. POLAND: He used the term legal  
5 counsel. We will get there and I will ask  
6 that.

7 THE WITNESS: Can you read the  
8 question one more time.

9 (Question read)

01:42PM

10 A To what effect?

11 Q Not to change, alter, delete, destroy, erase any  
12 files, electronic data files, on these computers.

13 MS. BUCHKO: Object to form. If we  
14 can identify whose legal counsel you mean, I  
15 think that may help move this along.

01:43PM

16 MR. POLAND: I would first ask  
17 legal counsel.

18 A I wouldn't mind -- when I had -- as working with  
19 Whyte Hirschboeck Dudek it's possible that I  
20 received something in writing saying *Here is what*  
21 *you are to do with these things*. But right now  
22 what I'm going on is my understanding through  
23 verbal conversations that I'm going to take these  
24 computers when they came to me and not change  
25 them.

01:43PM

01:43PM

1 Q Let's talk about Whyte Hirschboeck Dudek first.

2 That's Ms. Buchko's firm, correct?

3 A Correct.

4 Q I'm not going to ask you for the substance of the

01:43PM

5 communications. All right? I'm not going to ask

6 you for the substance of those. But I'm going to

7 ask you about the topic and I'm going ask you a

8 date and I'm going ask you who was involved. When

9 did you first meet with any lawyer from Whyte

01:44PM

10 Hirschboeck Dudek regarding the redistricting

11 computers?

12 A Probably early September.

13 Q And I just --

14 A Of 2012.

01:44PM

15 Q I just said met. I should have said communicate.

16 When did you first communicate with anybody from

17 Whyte Hirschboeck Dudek about the restricting

18 computers?

19 A That's what I interpreted you to mean. Early

01:44PM

20 September of 2012.

21 Q Is it your recollection that at that time it was

22 communicated to you that nothing should be done to

23 alter these computers?

24 A Sorry. Could you ask the question one more time.

25 MR. POLAND: Can you read it back?

1 (Question read)

2 A Well, LTSB doesn't do work on the computers.  
3 They're not our primary computers to do work on,  
4 and we don't assert any control or authority over  
01:45PM 5 those computers like I would my staff, but I  
6 wouldn't to other people in the capitol as their  
7 computers. So I guess I was -- now I'm sorry.  
8 I've lost the question again. I apologize.

9 Q Asking about any instructions that you received  
01:45PM 10 not to alter or delete or destroy any data that  
11 exists on the redistricting computers.

12 A So the question is did I receive information like  
13 that or did I not receive information like that.

14 Q Did you receive an instruction like that from the  
01:45PM 15 lawyers at Whyte Hirschboeck when you communicated  
16 with them in September of 2012?

17 A I can answer?

18 MS. BUCHKO: You can answer yes or  
19 no. Beyond that -- the substance of our  
01:45PM 20 communications are subject to attorney-client  
21 privilege. He's been very careful in how he  
22 crafts the question. Don't go into the  
23 substance of any of our communications.

24 A Then I believe the answer to the question is yes,  
01:46PM 25 but I -- yes.

1 Q Did you ever receive any instructions from any  
2 lawyer for the legislature other than the lawyers  
3 at Whyte Hirschboeck Dudek not to alter or destroy  
4 any of the data on the computers?

01:46PM

5 A I did not.

6 Q Now, I'm going to ask you this because you have  
7 been designated as a witness to testify on behalf  
8 of the Senate and the Assembly as well as to the  
9 topic of the deletion or attempted deletion of any

01:46PM

10 records and also Topic Number Eight, all efforts  
11 taken to preserve data and records on the  
12 redistricting computers. As a representative or  
13 as a designee of the Senate and the Assembly, did  
14 the Senate or the Assembly ever issue any

01:47PM

15 instructions not to delete or alter any data on  
16 the redistricting computers?

17 A I would say no. I would say I had an  
18 understanding once the computer came back to me  
19 that it was not going to change state. We weren't  
20 going to turn it on or anything. I had an

01:47PM

21 understanding and maybe -- I might have said *Okay.*  
22 *We won't change this in any way, shape, or form.*

23 But I don't remember having received any sort of  
24 communication, verbal or written, instructing me

01:47PM

25 to do anything.

1 Q Do you recall ever seeing any instruction, verbal  
2 or written, or hearing about any instruction,  
3 verbal or written, that was issued by attorneys at  
4 Michael Best & Friedrich regarding the  
5 preservation of all data on the redistricting  
6 computers?

01:47PM

7 A I did not receive anything as LTSB.

8 Q I want to finish taking a look at these service  
9 calls. I'm looking at the service call that's  
10 56,393. Do you have that in front of you?

01:48PM

11 A I do.

12 Q You see that the caller is identified as  
13 Mr. Ottman, correct?

14 A Yes.

01:48PM

15 Q And if we look down at the Ticket History, it  
16 indicates June 5, 2012, correct?

17 A Correct.

18 Q Again, we don't know which computer this was for?

19 A Correct.

01:48PM

20 Q The Ticket History states it's an entry by  
21 Cade Gentry?

22 A It does.

23 Q And Mr. Gentry is with which of your groups?

24 A He's on the technical support team.

01:49PM

25 Q Technical support team. Thank you. He says in

1 this report, "Walked over with Tony and got Tad  
2 all set up." Do you see that?

3 A I do.

4 Q Do you know what that means?

01:49PM

5 A Let me read just a little further.

6 Q Sure.

7 A Your question was do I know what that means?

8 Q Correct.

01:50PM

9 A It looks like this is a day later, you know,  
10 within the first two days. It looks like a  
11 similar phone call to the one that happened one of  
12 the days early in these earlier service tickets,  
13 the one from the afternoon of 6/4. "Set  
14 permissions on his old account folder so he can

01:50PM

15 log in." It looks like there's an entry from Liz  
16 from earlier in the morning. Perhaps the call  
17 came through at 11:31 and then was handled just a  
18 little bit later on what we call a field call if  
19 someone has to go somewhere. The time stamp is

01:50PM

20 3:01 for this other entry from Cade. So it looks  
21 like this is again an issue between a domain  
22 account and a local account and the fact that  
23 they're separate things and trying to make sure  
24 that the domain account user can access the data

01:50PM

25 within the local account. So it looks like in

1 this case Cade and Tony walked over and helped him  
2 being able to access his local account from his  
3 domain account.

01:51PM

4 Q There's a sentence in there that says, "Tony  
5 helped him with the GIS stuff." Do you see that?

6 A I do.

7 Q Do you know what the GIS stuff is that's being  
8 referred to there?

9 A I do not.

01:51PM

10 Q GIS -- what do those initials stand for?

11 A Geographic information systems.

12 Q And the GIS materials are used as part of the  
13 redistricting, correct?

14 A Correct.

01:51PM

15 Q Do you know why in June of 2012 there would have  
16 been work going on with the "GIS stuff"?

17 A No. Only that since it's the redistricting  
18 computer or presumably it's the redistricting  
19 computer that in order to make sure that the  
01:51PM 20 domain account could access the stuff from the  
21 local account may have required copying certain  
22 things from one to the other. It's just a guess.

23 Q I would like you to turn to the next service call,  
24 56,608. Again, this is Mr. Ottman's computer,  
01:52PM 25 correct?

1 A It does appear to be. Yes.

2 Q Again, we don't know which of the computers?

3 A Well, in this case, and maybe possibly other cases  
4 here, but let me check -- if you look on page 1.

01:52PM

5 We're Exhibit 5 Service Call 56,608. There's a  
6 configuration item number listed, WRK32587. I'm  
7 going to just --

8 Q That matches up with the first column in your  
9 Exhibit No. 2; is that correct?

01:53PM

10 A Correct.

11 Q That's the HP 4600 that was issued to Mr. Ottman?

12 A Yes. So in this case that CI is identified here.

13 Q If we look at the second page under Ticket  
14 History, we see that there's addition of a .PAB  
15 file on June 19, 2012, correct?

01:53PM

16 A I see the first entry by Chris Sewell, "Adding  
17 .PAB file. Update Tad to 2010 and then add .PAB  
18 file."

19 Q Yes.

01:53PM

20 A I see that.

21 Q What is a .PAB file?

22 A I don't know. I reckon it has something to do  
23 with -- I would say it probably is a personal  
24 address book. Because update Tad to 2010 -- that  
25 probably is referring to the Microsoft Office

01:54PM



1 Suite.

2 Q So just above -- if we look just above that, we  
3 see that there was an uninstall performed of 2007.

4 Do you see that?

01:54PM

5 A Yes.

6 Q Is that Office 2007 that's uninstalled?

7 A I'm pretty confident that it is because the --  
8 most of the legislature is now on if not all is on  
9 2010. So this would have been Tad getting up to  
10 the level.

01:54PM

11 Q So then Outlook 2010 -- well, the entry above that  
12 says, "Outlook 2010 went on just fine. Tad is  
13 using it right now. Sent him this link to see if  
14 that gives him what he's looking for." Do you see  
15 that entry?

01:54PM

16 A I see that entry.

17 Q And so that indicates to you that Outlook -- do  
18 you know whether it was Outlook or Office 2007 was  
19 uninstalled?

01:55PM

20 A What I reckon happened is that we uninstalled  
21 Office 2007 and installed Office 2010. We don't  
22 typically and may not even be able to run some of  
23 Office 2007 with some of Office 2010. They don't  
24 get along well or -- the different year versions  
25 of Office don't like to play well together. So it

01:55PM

1 would have been just probably a full uninstall of  
2 Office 2007 with an install of Office 2010.

3 Q Do you know whether as a result of that process  
4 whether any data was lost or overwritten?

01:55PM

5 A You used the word data. I'm not sure exactly what  
6 you mean. Zeros and ones on the hard drive --

7 Q Yes.

8 A -- could have changed state? Yes.

9 Q Do you know whether there could have been any

01:56PM

10 E-mails or other files that were maintained within  
11 Outlook or within Office generally that could have  
12 been lost as a result of that updating process?

13 A The updates shouldn't have deleted any live  
14 non-user deleted things. So if you have a bunch  
15 of E-mails or Word documents and then we perform  
16 this upgrade or uninstall this and install that,  
17 your work product should still be intact.

01:56PM

18 Q If there had been any E-mails that had been marked  
19 for deletion as a result of this process, would  
20 those have been deleted?

01:56PM

21 MS. BUCHKO: Objection; foundation,  
22 competency.

23 THE WITNESS: Can I go ahead and  
24 say something?

01:56PM

25 MS. BUCHKO: Go ahead and answer.

1 A Per my statement from before, my understanding is  
2 that if something was marked as free and then  
3 another process wants to come and write some data  
4 to the hard drive, it could use some of the free  
5 space.

01:57PM

6 Q The next service call is 56,991. Do you see that?

7 A I do.

8 Q And we have the caller as Mr. Ottman, correct?

9 A Yes.

01:57PM

10 Q And this time we don't have a configuration item  
11 identified, correct?

12 A Correct.

13 Q If we look down at the bottom of the ticket  
14 history on July 16th, Liz Aschebrook -- is that  
15 right?

01:57PM

16 A Yes.

17 Q Says, "I worked with Tad Ottman to get vdi viewer  
18 installed on his legislative workstation." What  
19 is the vdi viewer?

01:57PM

20 A I'm glad you asked. Typical computers are -- the  
21 operating system runs locally and it's -- like all  
22 of these presumably. One of the things that the  
23 legislature is considering in the future is called  
24 a virtual desktop. So we, LTSB, sought and asked  
25 people to take a look at some of the technology to

01:58PM

1 see what they thought. So we started asking some  
2 people about a year ago -- a number of people at  
3 LTSB are using this technology ourselves. So this  
4 right here, this vdi viewer, would be something  
5 that a person would install. It's a little piece  
6 of software, and that would allow a person to  
7 connect to a virtual desktop.

01:58PM

8 Q Similar to -- I'm sorry. Go ahead. Do you want  
9 to finish?

01:58PM

10 A Well, the virtual desktop is a separate instance  
11 of Windows 7 in this case.

12 Q Is it similar to what -- I know Citrix Systems  
13 offers a virtual desktop and there are law firms  
14 that use that. Do you know if it's a similar kind  
15 of a thing?

01:59PM

16 A I've heard the term. It probably is. I don't  
17 have experience with Citrix myself. I guess I've  
18 heard people use the word Citrix in the same  
19 context of this. VM is what we use, VM ware.

01:59PM

20 Yes. I think it's similar to that.

21 Q The ticket history also says, "Got Google Chrome  
22 installed." Do you see that?

23 A I do see that.

24 Q So does this indicate to you that it was not until  
25 July 16th that Google Chrome was installed?

01:59PM

1 A But this probably is not one of the redistricting  
2 computers. The Google Chrome, this occurrence of  
3 the installation of Google Chrome, is probably  
4 referring to the virtual desk top.

01:59PM

5 Q I see. Okay.

6 A I think based on Tad's call on the 4th and again  
7 the 5th about getting Chrome installed that it  
8 probably was successfully installed on the 5th  
9 because he called a couple times to say it's not  
10 there yet. This one here just probably would have  
11 been knowing that he would want to have Google  
12 Chrome if we wanted him to try out the desktop to  
13 see if he can access it and things like that. So  
14 I think this is probably more likely on the

02:00PM

15 virtual desktop. In fact, I'm pretty confident  
16 because of all of the talk about the virtualized,  
17 the vdi and the VM. That's the classification.

02:00PM

18 Q I want to move on then to the work orders. We  
19 have two of them here. The first one, 26,096, I  
20 believe we have already talked about.

02:00PM

21 A Yes.

22 Q Let's look at the last one which is 29,180. Do  
23 you see that?

24 A Yes.

02:00PM

25 Q And this is one that you yourself initiated,

1 correct?

2 A Yes.

3 Q This was on January 28, 2013?

4 A Yes.

02:00PM

5 Q This indicates that -- there's an entry on 12:54  
6 -- I'm sorry. Let's move back. The first entry  
7 is by Nate Rohan at 11:07 a.m., correct?

8 A Yes.

02:01PM

9 Q And then if we look down two entries further,  
10 11:25 a.m., Nate Rohan says, "Running updates,"  
11 correct?

12 A Yes.

13 Q And then those were finished at 11:58?

14 A Yes.

02:01PM

15 Q Do you know what the updates were that were run  
16 there?

17 A Well, see the entry that says Yes -- well, if we  
18 start at the top, "Tad called me. Asked if it  
19 would be possible to replace two computers in  
02:01PM 20 their office with" -- HP 8000 is the standard  
21 computer. You might have noted that I list the  
22 model sometimes because it helps me keep track of  
23 what these things are.

24 Q Yes.

02:01PM

25 A The HP 8000s are the standard issue computers. So

1 we were trying to get two HP 8000. The next one  
2 down here says yes and it identifies two  
3 workstation numbers, WRK34415 and WRK34055 all  
4 ready to go. Brenda probably brought those  
02:02PM 5 computers to Nate. Nate then -- when those  
6 computers are first built, they have whatever  
7 version of everything was available at that time.  
8 And then Nate saying here he's running updates is  
9 probably referring to running updates on the 34415  
02:02PM 10 and the 055 devices because it's not nice to take  
11 them and give them to the end user and then the  
12 end user turns them on and they run updates for  
13 however long it takes to run updates, in this case  
14 30 minutes.

02:02PM 15 Q So it's your understanding that those updates  
16 reflected on this document were to the new  
17 computers, not to the ones used for redistricting?

18 A I'm pretty confident. Yes. That's protocol.

19 Q The next entry down says, "I retrieved WRK32587"  
02:02PM 20 and then in parens Tad was using this one and  
21 "WRK32864" and then in parens from their  
22 conference room. And also HDD32575 and HDD32579.  
23 And then in parens it says, "Unfortunately I  
24 didn't record which computers these were attached  
02:03PM 25 to." Do you see that?

1 A I do.

2 Q And this is an entry by Mr. Rohan as well?

3 A I see that. Yes. Agreed.

4 Q When he says he retrieved, that means he was

02:03PM

5 actually the one who went over and picked them up?

6 A Yes. I asked him to go.

7 Q But he didn't record which hard drive was attached  
8 to which computer?

9 A Referring to the external hard drives -- he must  
10 not have since he noted it in here that he didn't.  
11 The way that people think of these external hard  
12 drives are interchangeable. I see that they're  
13 not.

02:03PM

14 Q How did you then decide to determine which  
15 external hard drive matched up with which computer  
16 as you have them identified on Exhibit No. 2?

02:04PM

17 A When we looked at the CIs earlier today --

18 Q CI?

19 A I'm sorry. The configuration items earlier today.  
20 Sorry. And then we saw that HDD32575 was  
21 originally listed as being deployed to Adam in  
22 July of 2010 but then through reasons we discussed  
23 I believe that we brought it back from Tad. The  
24 reason I associate it with this workstation is  
25 because they were issued on the same day. That's

02:04PM

02:04PM



1 why. But that doesn't mean that they -- clearly  
2 our notes on how they got used were not correct.

3 Q Were either of these or any of these three  
4 redistricting computers ever backed up to LTSB's  
5 backup tapes?

02:05PM

6 A No. The end user devices don't get backed up into  
7 our backup tapes. And in this particular case for  
8 all of the caucuses all of the redistricting users  
9 received the dual hard drives inside, the mirrored  
10 hard drives inside, and the external hard drive in  
11 order to accomplish I guess data redundancy

02:05PM

12 because we wouldn't back up things that are that  
13 large anyway. But the end user devices don't get  
14 backed up into our backup tapes. So we mirrored  
15 the hard drives and provided that scheduled task  
16 to the backup or to the external hard drive in  
17 order to give them as much sort of safety on their  
18 plans as we could.

02:05PM

19 Q Mr. Ylvisaker, you submitted a declaration as part  
20 of the filing that was submitted last week,  
21 correct?

02:06PM

22 A Yes.

23 MR. POLAND: Let's mark that as an  
24 exhibit.

02:06PM

25 THE WITNESS: Could we take a break

1 for the restroom after this question or  
2 before?

3 MR. POLAND: Let's do that now.

4 THE VIDEOGRAPHER: The time is

02:06PM

5 2:05. We are going off the record.

6 (Exhibit No. 6 marked for

7 identification)

8 (Recess)

9 THE VIDEOGRAPHER: The time is 2:10

02:11PM

10 p.m. We are back on the record.

11 Q Mr. Ylvisaker, the court reporter has handed you a

12 document that we have had marked as Exhibit No. 6.

13 Do you have that in front of you?

14 A I do.

02:12PM

15 Q Can you identify that document for the record,

16 please.

17 A This is a declaration that I made last week.

18 Q Who asked you to prepare Exhibit No. 6?

19 THE WITNESS: Am I able to answer

02:12PM

20 that question?

21 MS. BUCHKO: You can answer who.

22 Beyond the who into what you're instructed

23 not to answer on the grounds of

24 attorney-client privilege.

02:12PM

25 A My legal counsel.

1 Q When you say your legal counsel --

2 A WHD.

3 Q And that's legal counsel to the LTSB, correct?

4 A And to the Senate and to the Assembly.

02:12PM

5 Q Not referring to you yourself personally, correct?

6 A Correct. Sorry.

7 Q I just wanted to make sure.

8 A I am glad that you did.

02:12PM

9 Q I would like to draw your attention to Paragraph  
10 Number Two, the third sentence. It states, "Once  
11 computers are delivered to the legislature, the  
12 LTSB does not maintain possession or control of  
13 the computers or related equipment." Do you see  
14 that?

02:13PM

15 A I do.

16 Q Is it true then that once these redistricting  
17 computers and hard drives were delivered to  
18 Mr. Ottman and Mr. Foltz as reflected on Exhibit  
19 No. 2 LTSB no longer had possession or control of  
20 the computers and hard drives?

02:13PM

21 MS. BUCHKO: Objection, competency  
22 to the extent you're asking him to draw a  
23 legal conclusion.

02:13PM

24 MR. POLAND: It's stated in his  
25 declaration.

1 MS. BUCHKO: I understand that.

2 A I guess the intent or the -- when we deploy a  
3 computer to someone, that's now their computer.  
4 They get to put their data on it. And they get --  
02:13PM 5 it's theirs. I think of myself or not myself but  
6 LTSB as a service provider because that's how  
7 we're defined in the statutes. We provide a  
8 service which is providing the technology. So  
9 once the technology goes, leaves us and goes into  
02:14PM 10 the hands of the legislative personnel, then we  
11 consider that their technology and their data and  
12 then it's under their control in a legal way.

13 Q So in other words, after July 15, 2010 Computer  
14 WRK32587 and HDD32575 were in the possession or  
02:14PM 15 control of Mr. Ottman; is that correct?

16 A I would say so. Yes.

17 Q And similarly as of approximately July 15, 2010  
18 Computer WRK32586 and HDD32574 were in the  
19 possession and control of Mr. Foltz?

02:15PM 20 A I would say that is true. Yes.

21 Q Okay. And then beginning approximately March 21,  
22 2011 WRK32864 and HDD32579 were in the possession  
23 and control of Mr. Ottman; is that correct?

24 A That is correct.

02:15PM 25 Q And possession and custody of those computers

1 didn't come back to you until September 13, 2012  
2 in the case of Mr. Foltz and January 28, 2013 in  
3 the case of Mr. Ottman?

4 A Correct.

02:15PM

5 Q The last sentence of Paragraph Two in your  
6 declaration states that LTSB services the  
7 computers or related equipment and maintains and  
8 operates the computer systems to which the  
9 computers are connected. Do you see that?

02:15PM

10 A Yes.

11 Q Is that as we have discussed here in conjunction  
12 with the items that we have seen in Exhibit No. 5?

13 A I'm sorry?

02:16PM

14 Q Sure. Let me withdraw the question. The LTSB's  
15 servicing of the computers and related equipment,  
16 was that done as reflected in the documents  
17 collected in Exhibit No. 5? Exhibit No. 5 being  
18 the configuration items, the service calls, and  
19 the work orders?

02:16PM

20 A Maybe I have been doing this for a while. I'm  
21 sorry. Could you state the question over again.

22 Q Yes. What did you mean by that sentence when you  
23 say LTSB services the computers or related  
24 equipment and maintains and operates the computer  
25 systems to which the computers are connected?

02:16PM

1 A Okay. So like the network, the physical  
2 infrastructure that they connect to. The network,  
3 the update system, our service desk, our tools  
4 that we use to interact with them. Anything else  
02:17PM 5 that they're required to run the -- to provide the  
6 legislature.

7 Q And you service the specific computers themselves  
8 that were issued to Mr. Ottman and Mr. Foltz,  
9 correct?

02:17PM 10 A Yes.

11 Q And that service is reflected in the documents  
12 collected in Exhibit 5, correct? We just went  
13 through those.

14 A Yes. Some of the service -- the service primarily  
02:17PM 15 done by the technical support team is identified  
16 in the service calls and work orders related to  
17 Google Chrome and some other stuff like that.  
18 However, as discussed during the earlier part of  
19 the today, the GIS team also provided services to  
02:17PM 20 the computers. I just didn't have a stack of  
21 documents to bring over to reflect that.

22 Q Going back to the topic of the external hard  
23 drives and the backing up of the computers while  
24 they were at Michael Best & Friedrich. If a hard  
02:18PM 25 drive stops operating, one of the external hard

1 drives that was doing the backing up of the  
2 internal drives -- if that stops operating, is  
3 there a message that the user receives, some kind  
4 of an error code or something to notify the end  
5 user that this backup is no longer working because  
6 this external hard drive is broken?

02:18PM

7 A I don't know the answer to that question. It's  
8 possible. But it's also possible that they  
9 wouldn't know.

02:18PM

10 Q That the user wouldn't know?

11 A Correct. The user may not be notified of that.

12 Q Were the computers configured in such a way as  
13 that they would send -- remotely they would send  
14 any kind of error codes back to LTSB?

02:18PM

15 A No. Not to my knowledge. We wouldn't have been  
16 relying on that kind of mechanism to be in place  
17 because we wouldn't have known when or if they  
18 would be connected to our network over VPN. So I  
19 don't think we would have tried to set anything up  
20 like that at all.

02:19PM

21 Q Were there any periodic checks that LTSB made of  
22 the redistricting computers when they were at  
23 Michael Best's offices? For example, did anybody  
24 from your staff ever just walk over there and say  
25 *Let's take a look at the computers and see if*

02:19PM

1           *they're working okay?*

2       A    I don't think anyone -- no. I don't think that  
3           happened. I think the only thing that would come  
4           close to this is when the GIS team would say *I*  
02:19PM 5           *have a new patch for this thing, let me come over*  
6           *or You called about a problem yesterday. I will*  
7           *have a patch for them tomorrow. We will come*  
8           *over.* That would be the closest thing that would  
9           probably come to that.

02:19PM 10       Q    Paragraph Number Four of your declaration. In the  
11           first sentence you identified that the legislative  
12           redistricting computers used by the legislature  
13           required additional support and maintenance due to  
14           the specialized software and data used for  
02:20PM 15           redistricting, correct?

16       A    Correct.

17       Q    Then you go on to say, "To accomplish this, the  
18           LTSB staff periodically added, modified, and  
19           deleted system files, application files, and large  
02:20PM 20           collections of census data used as input to  
21           redistricting plans," correct?

22       A    Correct.

23       Q    Have we talked about those updates today as part  
24           of your previous testimony?

02:20PM 25       A    Yes.



1 Q Is there any kind of addition or modification or  
2 deletion of system files, application files, let's  
3 just leave it at those two, that you know of that  
4 we haven't discussed today?

02:20PM

5 A I missed the first part of what you asked.

6 Q Sure.

7 A Was there any extra?

02:20PM

8 Q In addition to what we have discussed today, are  
9 there any kinds of additions, modifications, or  
10 deletions of system files or application files  
11 that you know were made to the redistricting  
12 computers?

13 A No. I feel like we have covered it.

02:21PM

14 Q Your very last paragraph you say -- in Number Five  
15 you say, "Even in the context of a litigation hold  
16 normal maintenance is required to ensure that a  
17 computer is maintained in good working condition,"  
18 correct?

19 A Correct.

02:21PM

20 Q It's your testimony that there was not a  
21 litigation hold that was put in place on these  
22 computers; is that correct?

23 MS. BUCHKO: Objection to the  
24 extent it mischaracterizes the previous  
25 testimony.

02:21PM

1 Go ahead and answer.

2 THE WITNESS: But I get to  
3 continue? Okay.

02:21PM

4 Q Before September of 2012 is it your understanding  
5 that no litigation hold was issued with respect to  
6 Mr. Foltz's computer and hard drive?

7 A I was not.

02:21PM

8 Q And is it your understanding that before  
9 January 28, 2013 no litigation hold was instituted  
10 over Mr. Ottman's redistricting computers and hard  
11 drives?

12 A Not to me.

02:22PM

13 Q I want to turn your attention back to -- we can  
14 use Exhibit No. 1 although I'm going to -- I'm  
15 going to ask you a series of questions. I do  
16 intend these to pertain to the Senate, the  
17 Assembly, and LTSB. All right? If that is unfair  
18 in any given question, you let me know, and we  
19 will parse them out individually.

02:22PM

20 A Okay.

02:23PM

21 Q To your knowledge is there any -- did any deletion  
22 or attempted deletion of any records or data from  
23 any of the three redistricting computers between  
24 January 1, 2011 and January 31, 2013 occur that we  
25 haven't discussed today?

1 A To my knowledge no.

2 Q Moving on to the second topic. Before I ask you a  
3 more general question, I do want to ask a question  
4 about restoration. Do you have any knowledge  
5 about any restoration from an archived backup or a  
6 ghost image that occurred on any of the  
7 redistricting computers?

02:23PM

8 A I do not.

9 Q Do you have any knowledge about the recovery or  
10 restoration of any records or data from or to any  
11 of the three redistricting computers between  
12 January 1, 2011 and January 31, 2013?

02:23PM

13 A I do not.

14 Q Do you have any information about the location,  
15 possession, custody, and control of any of the  
16 three redistricting computers between January 1,  
17 2011 and January 31, 2013 other than as we have  
18 already discussed today?

02:23PM

19 A I do not.

20 Q So the materials that we have looked at set out  
21 your knowledge about the location, possession,  
22 custody, and control of those computers?

02:24PM

23 A Yes.

24 Q The next page of Exhibit 1 looking at Topic Number  
25 Four, can you identify all users of the three

02:24PM

1           redistricting computers between January 1, 2011  
2           and January 31, 2013?

3       A    The only thing I could do is I could identify the  
4           local accounts and just tell you that any domain  
02:24PM 5           account could access it. But I can't tell you  
6           which ones did access it during that time.

7       Q    So who were the local accounts?

8       A    One of them is the administrator account which I  
9           think -- maybe it's called Admin. And that's the  
02:25PM 10          standard operating procedure for LTSB. All  
11          computers have that account. That's one. GIS  
12          admin would be a second local account. That was  
13          established for the GIS team. The idea was they  
14          were going to use that to do the work. They  
02:25PM 15          didn't as I described earlier. And then, as I  
16          understand it, there was a local account created  
17          for Tad on Tad's computer and Adam on Adam's  
18          computer and Tad on Tad's other computer. So  
19          those would be the local accounts.

02:25PM 20                 And then anyone with the user ID and password  
21          for a domain account, when the computers were  
22          connected to the domain, could have accessed --  
23          could have turned on the computers and connected  
24          to them.

02:25PM 25       Q    But they couldn't have accessed the data that's in

1 the local account, correct?

2 A That's correct. As indicated by the service  
3 calls, even Tad couldn't access his own.

4 Q Any other information you have about users of the  
5 redistributing computers?

02:26PM

6 A I do not.

7 Q Moving on to Topic Number Five which is all  
8 maintenance performed on the three redistributing  
9 computers between January 1, 2011 and January 31,  
10 2013. We have looked at some of the maintenance  
11 performed as reflected in Exhibit 5, correct?

02:26PM

12 A Yes.

13 Q And you have given some testimony this morning  
14 about that, correct?

02:26PM

15 A Yes.

16 Q Is there any maintenance that you know of that was  
17 performed on the three redistributing computers  
18 that we haven't gone over today?

19 A Well, there was a category I just want to be sure  
20 that we're clear on was that the -- that  
21 advertised programs. We would push -- there are  
22 certain things -- we might push a security update  
23 to the .net framework that's different than the  
24 Windows updates. We would be pushing some things  
25 out. So just to be clear, there's tech support,

02:26PM

02:27PM

1 which we covered, GIS, which we talked about this  
2 morning, and then there's Windows updates and  
3 things we push out like Google Chrome and things  
4 like that.

02:27PM

5 Q These are the things that they subscribe to?

6 A There's two kind of categories. Sometimes they  
7 could select and other times we push things out.  
8 But beyond that no.

02:27PM

9 MR. POLAND: Did you say that Jeff  
10 is designated to testify on Topic Number Six  
11 as well?

12 MS. BUCHKO: Yes. He's the only  
13 one on that.

02:27PM

14 Q So let me ask you about that now. On Topic Number  
15 Six --

16 MR. POLAND: Let's take a break.

17 THE VIDEOGRAPHER: Time is 2:27.  
18 We are going off the record and concluding  
19 Disc No. 2.

20 (Recess)

21 THE VIDEOGRAPHER: Time is 2:33.  
22 We are on the record. This marks the  
23 beginning of Disc No. 3 of the deposition of  
24 Mr. Jeff Ylvisaker.

02:34PM

25 Q Mr. Ylvisaker, just before the break we were

1 talking about Topic Number Six on the 30(b)(6)  
2 deposition notices. I have Exhibit No. 1 in front  
3 of you. You can use any of them. That topic is  
4 the current location and custody of all documents,  
5 logs, invoices, receipts, or other records  
6 regarding the maintenance, movement, storage  
7 repair, and/or custody of each of the three  
8 redistricting computers between January 1, 2011  
9 and January 31, 2013. Do you see that?

02:34PM

10 A I do.

02:34PM

11 Q What knowledge do you have about that topic?

12 A Much of the stuff that we spoke of today comes  
13 from the documentation that's identified in Number  
14 Six. If we talked about the life cycle of a  
15 computer, for example, since that's what this is  
16 about, we would have -- LTSB would have a document  
17 with the specifications that we designed the  
18 computer with, this much RAM, these hard drives,  
19 et cetera. So we have that document. We have the  
20 purchase order. The first one we call a quote.  
21 We have a purchase order. We send that to the  
22 company. They send us back an invoice. We pay  
23 them. That's about how we get the equipment. So  
24 that's part of the beginning of the life cycle.  
25 Then we looked at the CIs, the configuration

02:35PM

02:35PM

02:35PM

1 items. Sorry. Those talk about the life cycle of  
2 the computer, the closest we can get to where they  
3 are and who they're deployed to. So we reviewed  
4 those. That's in our service desk application.

02:35PM

5 And then when people call in to have some work  
6 done, you know, if we're talking about --  
7 maintenance I guess and repair I think could fall  
8 under the category of some of these service calls  
9 again inside our service desk application. So

02:36PM

10 then that would be also inside service desk. That  
11 really captures a lot of if not all of the  
12 documentation that we would have. There may be a  
13 calendar appointment here or there saying *I'm*  
14 *going to go to Michael Best to perform an upgrade*

02:36PM

15 or something, but, again, the location would be --  
16 if something like that existed, it would be LTSB  
17 if it were LTSB doing the work.

02:37PM

18 Q Is there any department, agency, or individual  
19 within the State government that would perform  
20 maintenance or repair of these redistricting  
21 computers other than LTSB?

22 A Shouldn't be. It's entirely possible, but it  
23 really shouldn't be.

02:37PM

24 Q Any other locations or kinds of materials you can  
25 think of that would reflect the maintenance,



1 movement, storage, repair, or custody of the  
2 redistributing computers?

3 A There would be -- I guess the end user devices  
4 themselves which I noted we did not turn on would  
5 have information on them you know. It would have  
6 some information on there regarding who's logged  
7 on, regarding updates that have occurred. Some of  
8 the logs may be set to only handle so much  
9 information and then start to overwrite

10 themselves. Some of them may contain a deeper  
11 history or longer history. Another location would  
12 be the end user devices themselves. Another  
13 location is the update server. You know I spoke  
14 about an update. Our update server had some

15 information about two of Tad's machines, and that  
16 is information that was not stored on Tad's  
17 computer though maybe the same information could  
18 be gotten from there. You could probably see from  
19 that that Chrome was installed. That would be  
20 another category related, another source of  
21 documentation related to maintenance.

22 Q Is the update server -- is that located at LTSB's  
23 offices?

24 A Well, yes. I guess so. We have a data center.  
25 It's located in the data center.

1 Q Where is the data center?

2 A Just off the Square.

3 Q Someplace in the downtown area?

4 A Yes. On West Wash.

02:39PM

5 Q Is there a log that's maintained in the data  
6 center that tracks the update server and the  
7 different updates that are made?

8 A What we were able to find is that there's I guess  
9 a software component that is installed on the end

02:39PM

10 user device that's part of the thing that works  
11 with the advertised programs. And this thing,

12 it's a software inventory agent, would report

13 changes to the server. Google Chrome being

14 installed would be a change. A .net framework

02:40PM

15 security update that we pushed to it would be a

16 change. So we have some documentation related to

17 that.

18 Q Would there be documentation, that kind of

19 documentation, relating to changes on any of the

02:40PM

20 redistributing computers that would go back in time  
21 back to last summer?

22 A No. The furthest back that we found anything of

23 the category I'm just describing right now, that

24 is something in our server, is June 4th, and it

02:40PM

25 was just for Tad's two computers. Basically there

1 was a software agent that's reporting whenever  
2 something changes. Once a day it will note *Oh,*  
3 *this changed. Google Chrome was installed.* It  
4 will send back and tell us that Google Chrome was  
02:40PM 5 installed. We have that just going back to June  
6 4th on Tad's computers.

7 Q So you already looked for that?

8 A I looked at that, and that's how I was able to  
9 confirm that some maintenance is occurring, has  
02:41PM 10 occurred on that, at least while it was on the  
11 legislative network proper.

12 Q Back after it was returned from Michael Best's  
13 offices?

14 A Yes.

02:41PM 15 Q What about backups, so backups to LTSB's backup  
16 tapes? Once the Foltz and Ottman computers were  
17 back over at the capitol building and were hooked  
18 back up to the State's network, were there back  
19 ups of any of their computers --

02:41PM 20 A No.

21 Q -- or data on their computers?

22 A No. We don't back up the end user devices.

23 Q For any user?

24 A Correct. Who knows what they put on their  
02:41PM 25 computers. We don't back up the end user devices

1 because you would end up backing up things that we  
2 just don't want to be backing up.

3 Q Anything else you can think about under Topic  
4 Number Six?

02:42PM

5 A No. I covered service desk.

6 Q Yes.

7 A And that has three types of categories; the  
8 configuration item, the service calls, the work  
9 orders. I covered the concept of a purchase

02:42PM

10 order. I covered the paper piece. There's a  
11 little database that kicks out the paper or the  
12 web app that we built that kicks out the paper.

13 Then I mentioned the server logs from the software  
14 inventory for two of the computers. I mentioned  
15 the end user devices. That's it that I can think  
16 of. And my staff because I've talked to my staff.

02:42PM

17 Q You interviewed them --

18 A Yes.

19 Q -- as you described to Mr. Earle this morning?

02:42PM

20 A Yes. And I interviewed them the same way that  
21 you're interviewing me. Beyond what I just told  
22 you about --

23 Q You put them on videotape?

24 A I didn't bring the videotape.

02:42PM

25 Q Let me move to Topic Number Seven then. That's

1 any forensic or other analysis conducted on the  
2 redistricting computers between January 1, 2011  
3 and January 31, 2013. Do you see that topic?

4 A I do.

02:43PM

5 Q Are you aware of any -- let's start with any  
6 forensic analysis. Are you aware of any forensic  
7 analysis that's been conducted on those computers?

8 A I'm not. The closest is the thing that we talked  
9 about in Exhibit 2 which is that PLA took a  
10 forensic copy which is different but related.

02:43PM

11 Q Do you know whether PLA has conducted any kind of  
12 analysis of the forensic images that they made?

13 A I know that they've done some work, but exactly  
14 what they have done and what the results are I do  
15 not know.

02:43PM

16 Q Have you ever spoken with Mr. Evans about any of  
17 the work they're doing on the images that they  
18 took on the redistricting computers?

19 A Not to my knowledge.

02:43PM

20 Q Has Mr. Evans asked you for any information about  
21 the redistricting computers?

22 A I don't believe he has.

23 Q And you yourself and your staff have not conducted  
24 any kind of forensic analysis of the redistricting  
25 computers?

02:44PM

1 A Correct. We have not.

2 Q We distinguished in that topic -- we said forensic  
3 or other analysis. Do you know of any other  
4 analysis that LTSB has conducted of the  
5 redistricting computers during the time frame in  
6 Topic Seven?

02:44PM

7 A No. I do not know of any other analysis. What I  
8 do know is that when they came to us on the  
9 different dates that they came we never turned  
10 them on and so then -- I know that we didn't  
11 perform any analysis. I had one of two keys.  
12 Prior to receiving them I'm not aware of any  
13 analysis that we performed on those.

02:44PM

14 Q Topic Number Eight, which is the last topic I  
15 think that you were designated for today as a  
16 witness, says, "All efforts taken to preserve data  
17 and records on the redistricting computers between  
18 January 1, 2011 and January 31, 2013." Do you see  
19 that?

02:44PM

20 A I do.

02:45PM

21 Q I'm going to change it slightly with respect to  
22 time frame. Okay? I want to do that in the  
23 context of the information you have given us on  
24 Exhibit No. 2. Let's talk about Mr. Foltz's  
25 redistricting computer and the associated hard

02:45PM

1 drive first. I'll let you get that out.

2 A Okay. I have it.

3 Q So you have identified September 13, 2012

4 approximately as the date on which LTSB took

02:45PM

5 possession of Mr. Foltz's redistricting computer

6 and hard drive, correct?

7 A I have. Yes.

8 Q So I want to talk about the period of time before

9 you took possession, all right, and ask before the

02:45PM

10 time that LTSB took possession are you aware of

11 any efforts taken to preserve data and records on

12 Mr. Foltz's redistricting computer or on his hard

13 drive?

14 A I'm not aware of any insofar as LTSB didn't to my

02:46PM

15 knowledge take any steps beyond the ones we have

16 talked about which is that we built the computers

17 with the mirrored hard drives, which I would

18 consider a step that we took, and then the

19 scheduled task and the external hard drive. That

02:46PM

20 would be the extent of what LTSB did in order to

21 try to preserve data and records on the device.

22 Q And after LTSB took possession of Mr. Foltz's

23 computer and hard drive, they have remained in

24 that same condition; is that correct? They have

02:46PM

25 not changed since the time that you took

1 possession of them?

2 MS. BUCHKO: Asked and answered.

3 A Yes.

4 Q Now I want to talk about the two computers and  
5 external hard drives issued to Mr. Ottman. LTSB  
6 took possession of those on or about January 28,  
7 2013, correct?

02:46PM

8 A Correct.

9 Q So before January 28, 2013 are you aware of any  
10 efforts that were taken to preserve data and  
11 records on Mr. Ottman's redistricting computers  
12 and hard drives?

02:47PM

13 A It's the same thing as Adam Foltz. Beyond  
14 mirroring the hard drives and the scheduled tasks  
15 and the external hard drive, I'm not aware of  
16 anything that LTSB did to preserve data or  
17 records.

02:47PM

18 Q What about the Senate or the Assembly? Are you  
19 aware of any steps that they took before that  
20 time, before LTSB took possession, to preserve any  
21 of the data on the redistricting computers or hard  
22 drives?

02:47PM

23 A I'm not aware of any steps.

24 Q And since January 28, 2013 the hard drives, the  
25 external hard drive and the internal hard drives

02:47PM



1 from Mr. Ottman's two computers, have remained  
2 unchanged; is that correct?

3 A Yes.

4 MR. POLAND: Give me one second  
5 here to look at my notes.

02:48PM

6 Q Again, you were not designated to testify on Topic  
7 Number Nine, correct?

8 A I don't have anything to --

9 Q Well, I just want to -- let me ask your counsel.

02:48PM

10 MR. POLAND: He wasn't designated,  
11 right?

12 MS. BUCHKO: No.

13 MR. POLAND: Then I'm not going to  
14 ask him any questions about it.

02:48PM

15 I don't have any further questions at  
16 this time.

17 MR. EARLE: Just a few. We will be  
18 done in just a few minutes.

19 RE-EXAMINATION

02:48PM

20 By Mr. Earle:

21 Q Going back to Topic Number Two which is the  
22 recovery or restoration of any records or data  
23 from or to any of the three redistricting  
24 computers between January 1 of 2011 and January 31  
25 of 2013. The LTSB has -- is it accurate to say

02:49PM

1 that the LTSB has on occasions gone out and  
2 provided service to end users by way of restoring  
3 data from a backup on that computer?

02:49PM

4 A Well, since we -- probably not. That's probably  
5 not -- we probably can't say that because we don't  
6 actually back up the data on a computer.

7 Q But if an end user has a computer and for whatever  
8 reason loses all of their data --

02:49PM

9 A You mean if their computer were to crash or the  
10 hard drive and they hit delete on something?

11 Q Right. They have a digital catastrophe and all of  
12 their data is gone. They would be very grateful  
13 to you because you gave them the synchronized  
14 external hard drive, right?

02:50PM

15 A We only gave those external hard drives to the  
16 redistricting users. We don't give them to a  
17 typical user. I'm not sure if your question  
18 was --

02:50PM

19 Q Well, if Adam Foltz had asked you, not you but the  
20 LTSB, to help him because he's lost all of his  
21 data and he wants to restore it on his computer,  
22 that would be something your service desk would  
23 handle, right?

02:50PM

24 A Well, we would make whatever attempts we could to  
25 help someone. Yes.

1 Q So if your service desk received that request from  
2 Adam Foltz, we would have some kind of a report  
3 reflecting that, correct?

4 A Very likely. If we attempted to do some kind of  
5 restore, we would have information regarding that.

02:51PM

6 Q So if anybody in the LTSB was involved in a  
7 restoration of data on any of these three  
8 computers, there would likely be a corresponding  
9 service call document of some sort or a work order  
10 of some sort, correct?

02:51PM

11 A The idea would be that there should be. However,  
12 in preparation to answer -- in me preparing to  
13 come here today, I asked every person if they  
14 participated -- I literally went around and asked  
15 the people in groups if they did anything to  
16 recover or restore anything and was it documented  
17 outside of service desk, was it in service desk.  
18 And the answer was no.

02:51PM

19 Q So you can conclusively state that no one at the  
20 LTSB assisted any end user to whom these three  
21 computers were assigned with any form of  
22 restoration of data.

02:51PM

23 A That's correct.

24 Q Okay. Did you check with your staffer in France  
25 or --

02:52PM

1 A Brazil? No. The human resource manager? She  
2 wouldn't be doing that.

3 Q Okay.

4 A But she's in Brazil, so it's hard to talk to her.

02:52PM

5 Q Did Eric McLeod ever advise you to preserve any  
6 data?

7 MS. BUCHKO: Objection, asked and  
8 answered.

9 MR. JACOB: Objection as to  
10 foundation.

02:52PM

11 THE WITNESS: But I still --

12 MS. BUCHKO: Yes. You still.

13 A No.

14 Q He asked you Michael Best. I'm just asking McLeod  
15 individually.

02:52PM

16 A No.

17 Q Did Joseph Olson ever ask you to preserve any  
18 data?

19 MS. BUCHKO: Objection, asked and  
20 answered.

02:53PM

21 MR. JACOB: Same objection as to  
22 foundation.

23 Q Go ahead.

24 A No.

02:53PM

25 Q Did Ray Taffora ever ask you to preserve any

1 documents?

2 MS. BUCHKO: Objection, asked and  
3 answered.

4 MR. JACOB: Objection as to  
5 foundation.

02:53PM

6 A No.

7 Q Did Jim Troupis ever make such a request of you?

8 MS. BUCHKO: That one hasn't been  
9 asked and answered. Don't look at me.

02:53PM

10 THE WITNESS: I was waiting for --

11 MR. JACOB: Go ahead.

12 A No.

13 Q Did any of the legislative leadership ask you to  
14 preserve any documents?

02:53PM

15 A No.

16 Q Have you ever discussed the use of the  
17 redistricting computers with Scott Fitzgerald?  
18 Let me restate --

19 A No.

02:53PM

20 Q All right. Did you ever discuss the redistricting  
21 computers with Jeff Fitzgerald?

22 A No.

23 Q How about Robin Vos?

24 A No.

02:54PM

25 Q How about with any member of the legislature?

1 A Did I ever discuss these three redistricting  
2 computers with any member of the legislature?

3 Q Right.

4 A Let me think about it. It's been a couple of  
5 years. I don't believe so. I can't imagine under  
6 what condition I would have. I really don't think  
7 that I talked to any legislator about the use of  
8 these or any of the redistricting computers.

9 Q Okay.

10 (Exhibit No. 7 marked for  
11 identification)

12 Q I'm showing you what's been marked as Exhibit 2000  
13 I think. What is it? Exhibit 7. Have you ever  
14 seen Exhibit 7 before?

15 A No. Not that I'm -- it doesn't look familiar to  
16 me.

17 Q And the second page of Exhibit No. 7? Have you  
18 seen that?

19 A No. It doesn't look familiar to me.

20 Q Okay.

21 MR. EARLE: I guess I'm done.

22 Thank you.

23 THE WITNESS: Thank you.

24 MS. BUCHKO: You're not quite done,  
25 though.

02:54PM

02:55PM

02:56PM

02:56PM

1 MR. JACOB: I have nothing to add.

2 MS. BUCHKO: Maria, do you have  
3 anything?

4 MS. LAZAR: No questions. Thank  
5 you.

02:57PM

6 MS. BUCHKO: No questions.  
7 You're done.

8 THE WITNESS: These all stay here.

9 MS. BUCHKO: These stay. This  
10 doesn't conclude the deposition. This  
11 concludes one designee.

12 MR. POLAND: Fair enough. That's  
13 right.

14 THE VIDEOGRAPHER: The time is  
15 2:56, and we are going off the record.

02:57PM

16 (Adjourning at 2:57 p.m.)

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1 STATE OF WISCONSIN )  
2 COUNTY OF DANE ) ss.  
3

4 I, SUSAN C. MILLEVILLE, a Court Reporter  
5 and Notary Public duly commissioned and qualified in  
6 and for the State of Wisconsin, do hereby certify  
7 that pursuant to subpoena, there came before me on  
8 the 29th day of April 2013, at 9:09 in the forenoon,  
9 at the offices of Godfrey & Kahn, S.C., Attorneys at  
10 Law, One East Main Street, the City of Madison,  
11 County of Dane, and State of Wisconsin, the following  
12 named person, to wit: JEFFREY R. YLVISAKER, who was  
13 by me duly sworn to testify to the truth and nothing  
14 but the truth of his knowledge touching and  
15 concerning the matters in controversy in this cause;  
16 that he was thereupon carefully examined upon his  
17 oath and his 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 I further certify that I am neither  
21 attorney or counsel for, nor related to or employed  
22 by any of the parties to the action in which this  
23 deposition is taken and further that I am not a  
24 relative or employee of any attorney or counsel  
25 employed by the parties hereto or financially  
interested in the action.



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In witness whereof I have hereunto set my  
hand and affixed my notarial seal this 4th day of May  
2013.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My commission expires  
June 23, 2013

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