

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

ALVIN BALDUS, ET. AL

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE,
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Case No. 11-CV-562
JPS-DPW-RMD

Members of the Wisconsin Government Accountability
Board, each only in his official capacity: et, al
Defendants,

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

Intervenor-Defendants.

VOCES DE LA FRONTERA, INC., et al
Plaintiffs,

v.

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

Members of the Wisconsin Government Accountability
Board, each only in his official capacity: et, al

Defendants.

**INTERVENOR-PLAINTIFFS' RESPONSE TO DEFENDANTS' AND INTERVENOR-
DEFENDANTS' STATEMENTS OF CONTESTED FACTS**

Tammy Baldwin, Gwendolynne Moore and Ronald Kind, the Intervenor-Plaintiffs, by their counsel, Lawton & Cates S.C., respectfully submit these responses to the Defendants' and Intervenor-Defendants' Statements of Contested Facts. The Intervenor-Plaintiffs have only

responded to those facts which are relevant to their claims and defenses and make no statement as to any other Statement of the Contested Facts by either the Defendants or the Intervenor-Defendants.

476. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 476: The Iowa example is immaterial to the issues before the Court. Iowa has state constitutional and statutory requirements that make it distinguishable. Iowa Const. Art. III, § 37; Iowa Stat. § 42.4. The constitution and statute require keeping counties together to the greatest extent possible, which requires a greater shift of populations. Wisconsin does not share these statutory or state constitutional requirements. (Nordheim Deposition, 58: 6 - 64:23.) Neither the Defendants nor the Intervenor-Defendants have presented any expert or lay evidence regarding the Northwoods region or whether it was considered during the Congressional redistricting process. (Speth Deposition, 148:6 - 15.)

477. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 477: The materials offered in support of paragraph 477 are immaterial to the discussion of the constitutional rights of voters in Wisconsin. As for the material found at Northwoodswisconsin.com, its authenticity and authorship are unknown and no foundation has been provided for that evidence. The website is directed primarily to tourists and the tourism industry of the Northwoods region and would not pertain to the rights of its permanent citizens to fair and effective representation. Finally, the material is not exclusively directed to the residents of Wisconsin nor to the area. The map found on the front page of Northwoodswisconsin.com clearly includes part of the Upper Peninsula of Michigan and links to Michigan attractions and sites.. Neither the Defendants nor the Intervenor-Defendants have presented any expert or lay

evidence regarding the Northwoods region or whether it was considered during the Congressional redistricting process. (Speth Deposition, 148:6 - 15.)

478. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 478: Intervenor-Plaintiffs do not dispute the location and size of the Chequamegon-Nicolet National Forest. The size and location of this national forest, however, is not material to any claim or defense raised in this case. In fact, the same website contains a page on Michigan's Ottawa National Forest. Neither the Defendants nor the Intervenor-Defendants have presented any expert or lay evidence regarding the Northwoods region or whether it was considered during the Congressional redistricting process. (Speth Deposition, 148:6 - 15.)

479. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 479: Intervenor-Plaintiffs do not dispute the organization or membership of the Great Northern Conference, which is apparently a high school athletic conference. As for the material found at www.greatnorthernconference.org/g5-bin/client.cgi?G5button=7, its authenticity and authorship are unknown and no foundation has been provided for that evidence. Furthermore, the website appears to provide calendaring of local sporting events. Neither the Defendants nor the Intervenor-Defendants have presented any expert or lay evidence regarding the Northwoods region or whether it was considered during the Congressional redistricting process. (Speth Deposition, 148:6 - 15.)

480. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 480: The location of Nicolet Area Technical College is wholly immaterial to this proceeding. Furthermore, Nicolet Area Technical College is one of sixteen technical colleges in the Wisconsin Technical College System, located throughout the state: (<http://www.wtcsystem.edu/colleges.htm>). Neither the Defendants nor the Intervenor-Defendants

have presented any expert or lay evidence regarding Nicolet Area Technical College or whether it was considered during the Congressional redistricting process. (Speth Deposition, 148:6 - 15.)

481. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 481: See response to paragraph 480.

482. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 482: Northwoodswisconsin.com is a tourist website apparently designed to reach well beyond the people and voters of Wisconsin or the Seventh or Eighth Congressional District in Northern Wisconsin. Northwoodswisconsin.com. It offers, among other things, temporary lodging for non-resident tourists. Furthermore, the authenticity and authorship of the materials are completely unknown and no foundation has been provided. Neither the Defendants nor the Intervenor-Defendants have presented any expert or lay evidence regarding Nicolet Area Technical College or whether it was considered during the Congressional redistricting process. (Speth Deposition, 148:6 - 15.)

483. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 483: Intervenor-Plaintiffs do not dispute the accuracy of the Tables as reflected in Table 26. These tables, however, paint an incomplete picture, as demonstrated by Professor Erik Nordheim during his deposition of January 26, 2012. Discussion of core retention without reference to underlying facts and assumptions is incomplete and potentially misleading. (Nordheim Dep. 58:3 – 59:22.) Furthermore, comparison based strictly on the total average core retained statewide is potentially misleading when, for example, the Third, Seventh and Fifth Congressional Districts have core retention rates of 75.91, 75.81 and 74.99, respectively. (Table 26.)

484. Responding to Defendants' and Intervenor-Defendants' Proposed Findings of Fact paragraph 484: Intervenor-Plaintiffs do not dispute the accuracy of the tables as reflected in Table 27. These tables, however, paint an incomplete picture, as demonstrated by Professor Erik Nordheim during his deposition of January 26, 2012. First of all, the information produced by Professor Gaddie relies on an assumption that the individual entities, the compactness scores for each district, are independent, when they are clearly not, as one cannot adjust one district without affecting the others. (Nordheim Dep. 60:4 – 61:2.) Second, to the extent that Table 27 is used to present a correlation in the compactness of districts before and after Act 44, Professor Nordheim stated that such correlation is immaterial, as it is more reflective of constant features of geography. (Nordheim Dep. 61:17 – 62:9.) Finally, the numbers produced by Professor Gaddie are immaterial as they are unresponsive to Professor Nordheim's assertions regarding, in particular, changes in compactness in Congressional District Three. (Nordheim Dep. 62:10 - 63:23.)

Dated this 20th day of February, 2012.

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