

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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

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

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE  
MOORE, and RONALD KIND,

Intervenor-Plaintiffs,

v.

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

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

v.

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

Defendants.

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DEFENDANTS' RESPONSES TO STATEMENTS OF CONTESTED FACTS

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The Defendants, members of the Wisconsin Government Accountability Board, each only in his official capacity ("GAB"), by their attorneys, the Wisconsin Department of Justice and Reinhart Boerner Van Deuren s.c., respond to the Statement of Contested Facts of Plaintiffs Alvin Baldus et al., Voces de la Frontera, Inc.,<sup>1</sup> and the Intervenor-Plaintiffs in accord with the Court's pretrial order as follows:

**STATEMENTS OF CONTESTED FACTS**

243. On January 4, 2011, the Republican legislative leadership announced to members of the Democratic minority, including Assembly Minority Leader Peter Barca, that the Republican majority would be provided unlimited funds to hire counsel and consultants for purposes of redistricting legislative districts based on the 2010 census. The Democratic minority was denied any funding for use in the redistricting process. Barca Depo. (Dkt. 152) at 13:12-14:13.

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<sup>1</sup> The Baldus group of Plaintiffs filed Statements of Contested Facts, and the Voces group joined in those statements.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB will cross-examine Minority Leader Barca, and may rely on testimony from Joseph Handrick or Tad Ottman in contradiction.

244. Representative Barca and Senate Minority Leader Mark Miller requested that the legislative majority reconsider its decision on redistricting funds by sending a letter to Assembly Speaker Jeff Fitzgerald and Senate Majority Leader Scott Fitzgerald. That request was denied. Barca Depo. (Dkt. 152) at 14:14-18.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, no such letter has been produced by the Plaintiffs and the Defendants therefore deny this contested statement of fact.

245. The Republican majority in the assembly and senate retained the law firm of Michael Best & Friedrich LLP (“Michael Best”) to advise the assembly and senate in the redistricting process. Handrick Depo. (Dkt. 136) at 175:9-14; Declaration of Eric M. McLeod (Dkt. 78) ¶ 1.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

246. The redistricting legislation was drafted on behalf of the assembly and senate at the direction of the majority party’s political leadership in the assembly and senate. *See infra*.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

247. The legislative district boundaries codified in Act 43 were drafted by Adam Foltz, a staff member to Assembly Speaker Fitzgerald; Tad Ottman, a staff member to Senate Majority Leader Fitzgerald; and Joseph Handrick, a consultant with the law firm of Reinhart Boerner Van Deuren s.c. Foltz Depo. (Dkt. 138) at 11:25-12:1, 106:10-108:21, 285:11-12; Ottman Depo. (Dkt. 140) at 105:11-106:4, 151:8-156:3, 185:4-23; Handrick Depo. (Dkt. 136) at 96:19-99:3, 101:16-21, 102:6-9.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted with respect to Mr. Foltz and Mr. Ottman. The statements are denied with respect to Mr. Handrick. The GAB may rely on testimony from Mr. Handrick or Mr. Ottman in contradiction.

248. Attorneys from Michael Best and Troupis Law Office LLC, consultants retained

by Michael Best, and Republican leadership of the assembly and senate met regularly with Foltz, Ottman, and Handrick at the offices of Michael Best to provide guidance on drawing the legislative districts. Foltz Depo. (Dkt. 138) at 32:25-36:2; Handrick Depo. (Dkt. 136) at 41:15-42:20; Gaddie Depo. (Dkt. 148) at 176:12-179:18.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

249. The bill that would become Act 43 was drafted in the offices of the law firm of Michael Best where Foltz and Ottman had offices. Foltz Depo. (Dkt. 138) at 13:16-14:2; Ottman Depo. (Dkt. 140) at 204:10-16; Handrick Depo. (Dkt. 136) at 32:9-24.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB admits that Messrs. Foltz and Ottman were provided with office space as stated in this paragraph. The bill was drafted by the Legislative Reference Bureau, and testimony will be provided by Mr. Handrick or Mr. Ottman if necessary.

250. Foltz, Ottman, and Handrick began their work on the redistricting process at Michael Best in early 2011. Foltz Depo. (Dkt. 138) at 32:10-33:15; Handrick Depo. (Dkt. 136) at 33:23-37:9; Tr. Ex. 4.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

251. Meetings with Republican legislators about the redistricting process were held at the Michael Best offices. Foltz Depo. (Dkt. 139) at 263:6-265:5. Democratic lawmakers were not invited to participate in this process. Foltz Depo. (Dkt. 139) at 269:19-270:13.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

252. At those meetings, Republican legislators were provided with preliminary maps or a description of their respective legislative districts, along with a table showing the results of past elections in their districts and the results of those same races had they been held in the proposed new districts. Foltz Depo. (Dkt. 139) at 263:6-270:13; Ottman Depo. (Dkt. 141) at 265:22-274:5; Tr. Ex. 100.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

253. The Republican legislators who participated in the meetings were shown or

informed of “talking points” prepared by Foltz and Ottman. Among the “talking points” expressed to Republican members of the assembly were that they should not believe public comments about the new districts and that the real basis for the new districts was expressed to them in the meetings. Foltz Depo. (Dkt. 139) at 337:5-19, 340:16-344:12; Ottman Depo. (Dkt. 141) at 275:15-281:16; Tr. Ex. 113.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB will rely on Tr. Ex. 113 which does not contain the alleged "talking points" as characterized in this contested statement of fact, and may rely as well as the testimony of Mr. Ottman or Mr. Foltz.

254. Republican legislators who participated in meetings at Michael Best signed confidentiality agreements concerning the content of those meetings. Foltz Depo. (Dkt. 139) at 353:5-20; Ottman Depo. (Dkt. 141) at 274:6-275:14.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, it is admitted that some (but not all) Republican legislators signed such agreements.

255. The public aspects of the redistricting process were completed in 12 days. Act 43 and Act 44 were first made public on July 8, 2011, and the legislature adopted both bills on July 19 and 20, 2011. *See supra* ¶¶ 101-107; Barca Depo. (Dkt. 152) at 15:21-16:3.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted, and the GAB affirmatively states that Act 43 and 434 were signed into law on August 9, 2011.

256. The Democratic minority in the state legislature was not aware of the meetings at Michael Best and were not aware that the majority’s redistricting bills would be introduced in July 2011. Barca Depo. (Dkt. 152) at 41:8-19.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB will cross-examine Minority Leader Barca.

257. In the months preceding the passage of Acts 43 and 44, the state legislative agenda was focused on public employees’ collective bargaining rights and, in June, the budget process. Barca Depo. (Dkt. 152) at 58:18-60:23, 63:23-65:14.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB will cross-examine Minority Leader Barca.

258. Historically and by law, the Wisconsin legislature has waited for municipalities to develop new ward boundaries before introducing the new state legislative district boundaries, because wards are the traditional building blocks used to develop assembly and senate districts. *See* Wis. Stats. §§ 5.15(1)(b) and 59.10(3)(b) (2009-10). In light of this requirement, members of the Democratic minority in the state legislature did not expect any statewide redistricting legislation to be introduced until after municipalities had developed their ward boundaries. Barca Depo. (Dkt. 152) at 57:2-16.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB admits that prior versions of Wis. Stats. §§ 5.15(1)(b) and 59.10 used wards in the creation of state legislative districts, and otherwise denies the characterizations in this contested statement of fact, and will cross-examine Minority Leader Barca.

259. As was later publicly revealed, Foltz and Ottman began drafting the legislative districts around April of 2011 using census blocks. Foltz Depo. (Dkt. 138) at 138:4-140:6; Ottman Depo. (Dkt. 140) at 58:23-61:2.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

260. The bill that would become Act 39, introduced concurrently with Act 43, requires municipalities to draw or re-draw their local ward boundaries to conform with state legislative redistricting. *See supra* ¶ 246. This change in law allowed the statewide redistricting legislation to be introduced and passed in July 2011, before municipalities had drawn their ward boundaries. Barca Depo (Dkt. 152) at 57:2-16.

*Response:* The GAB admits these statements, except that it denies that Act 39 requires municipalities to "re-draw" such boundaries.

261. The rushed, unprecedented, and secretive procedure used by the Legislature to create legislative and congressional districts resulted in discrepancies, including discrepancies between district and municipal boundaries, that the GAB addressed in a series of internal memorandums beginning in the fall of 2011. Those "anomalies" have caused considerable confusion among municipal and count clerks, voters, and the GAB itself. Kennedy Depo. (Dkt. 144) at 19:12-21, 74:1-76:11.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent determined to be material, the GAB will rely on documents relating to the 1983 Legislative Redistricting process.

262. Although the GAB has and local clerks have resolved most of those anomalies,

some have yet to be resolved. Kennedy Depo. (Dkt. 144) at 60:10-64:25, 132:25-135:12.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

263. The 12-day period between the public introduction of Acts 43 and 44 and their passage by the legislature was insufficient time for the Democratic minority to develop an alternative map, in particular given the absolute denial of any funding to hire consultants or legal counsel. Barca Depo. (Dkt. 152) at 44:6-45:3, 48:12-49:1. The limited time and lack of resources also made it impossible for the Democratic minority to thoroughly analyze a map proposed by the Wisconsin Democracy Campaign to determine whether it presented a viable and constitutional alternative to Act 43. Barca Depo. (Dkt. 152) at 122:3-17, 124:5-16.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB will cross-examine Minority Leader Barca.

264. It would not have been feasible for the Democratic minority to organize and conduct informational meetings about redistricting between the legislation's introduction and its ultimate passage. Barca Depo. (Dkt. 152) at 76:2-77:1.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB will cross-examine Minority Leader Barca and may rely on documents relating to the 1983 Legislative Redistricting process.

265. The legislature held a single public hearing on Acts 43 and 44, on July 13, 2011. *See supra* ¶ 103. No other public hearing was held. Unlike during previous redistricting cycles, the public was denied access to redistricting software during the 2011 redistricting process. White Depo. (Dkt. 145) at 35:9-36:1.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB admits the statements.

266. Technological advances in the past two decades have facilitated the redistricting process. Modern computers allow districts to be drawn with greater precision and in more configurations than was possible in previous cycles of redistricting. Barca Depo. at 39:2-16.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case, and states that technological advances have facilitated the redistricting process for longer than two decades. *See, e.g., Karcher v. Daggett*, 462 U.S. 725, 733 (1983) (“The rapid advances in computer technology and

education during the last two decades make it relatively simple to draw contiguous districts of equal population and at the same time to further whatever secondary goals the State has.”); *Prosser v. Elections Bd.*, 793 F. Supp. 859, 863 (1992) (“With the right computer program a complete reapportionment map for the state can be created in days and modified in hours . . .”).

267. The average core population retention of the assembly districts—calculated as the simple mean of the core population retention of each district—is 64.8 percent. This means that, on average, less than two-thirds of each district was preserved in the redistricting plan. Tr. Ex. 55 (Mayer Report) at 12; Tr. Ex. 1019 (corrected pages to Mayer Report) at 12.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

268. Act 43 shifts, on average, 53.5 times as many people as necessary to achieve population equality in every assembly district. Tr. Ex. 55 (Mayer Report) at 11.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

269. In 90 percent of the assembly districts, at least twice as many people as necessary were shifted from one district to another. In 11 districts, at least 100 times as many people as necessary were moved to achieve population equality. Tr. Ex. 55 (Mayer Report) at 10.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

270. The new populations of the assembly districts represent a net change of 321,915 people. To achieve this, Act 43 shifted 2,363,834 individuals from one assembly district to another (after controlling for double counting). Table 32 reflects the population shifted into and out of each assembly district.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

271. The new populations of the senate districts represent a net change of 231,501 people. To achieve this, Act 43 shifted 1,205,275 individuals from one senate district to another (after controlling for double counting). Table 33 reflects the population shifted into and out of each senate district.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

272. Assembly districts represented by Democrats after the 2010 election have an average core population retention more than 9 percentage points less than that of Republican districts: the average core population retention for Democrat districts was 59.1 percent, and 68.2 percent for districts represented by Republicans. Tr. Ex. 55 (Mayer Report) at 12; Tr. Ex. 1019 (corrected pages to Mayer Report) at 12.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

273. The City of Racine is split into three different assembly districts, including one that stretches into the City of Kenosha (AD 64) and another that stretches west to Wind Lake and the Racine County line (AD 62). *See supra* ¶ 177; Tr. Ex. 20 (Act 43 Assembly map).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

274. Act 43 combines parts of the cities of Racine and Kenosha in a single assembly district (AD 64), even though the two cities are separate communities of interest and have not traditionally been included in the same assembly district. Tr. Ex. 20 (Act 43 Assembly map). No rationale has been advanced for combining parts of Racine and Kenosha into a single assembly district. Handrick Depo. (Dkt. 137) at 293:8-13.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The GAB admits that Act 43 combines parts of the cities of Racine and Kenosha in a single assembly district (AD 64) and denies there is no related rationale, and may rely on the testimony of Mr. Ottman or Mr. Handrick.

275. Act 43 combines the City of Racine and the City of Kenosha into a single senate district (SD 22), and combines the rural parts of Racine County and Kenosha County into a separate senate district (SD 21). Tr. Ex. 22 (Act 43 Senate map).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

276. The City of Appleton, a majority of which has traditionally been within one assembly district (AD 57), is split in half with the northern half of the city now in the Assembly District 56, which stretches west beyond the Outagamie County line and to the Winnebago County line. Tr. Ex. 20 (Act 43 Assembly map).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The City of Appleton was split into four assembly districts under the 2002 court plan.

277. The City of Beloit, which has been contained traditionally and historically within one assembly district (AD 45), is split in half with the western part of the city falling within AD 45 and the eastern portion within AD 31, placing the City of Beloit in separate senate districts (SD 15 on the west and SD 11 on the east). Tr. Ex. 20 (Act 43 Assembly map).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The GAB admits that the City is "split in half" only geographically, and denies that the city is so split with respect to population.

278. Act 43 splits the City of Beloit between two assembly districts even though Beloit, with a population of 36,966, could be contained within a single district. *See supra* ¶ 172-173. No rationale has been advanced for splitting Beloit between two assembly districts. Foltz Depo. (Dkt. 138) at 207:19-208:17; Ottman Depo. (Dkt. 140) at 229:17-231:2; Handrick Depo. (Dkt. 137) at 299:4.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The GAB admits that the City of Beloit is not contained within a single district under Act 43, denies there is no related rationale, and may rely on the testimony of Mr. Ottman or Mr. Handrick..

279. Act 43 splits the City of Marshfield, which has been part of Senate District 24 for a century, between two assembly districts (AD 69 and 86) and two senate districts (SD 23 and 29). Tr. Ex. 20 (Act 43 Assembly map), Tr. Ex. 22 (Act 43 Senate map).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The GAB admits that the City of Marshfield is not contained within a single assembly or senate district under Act 43, and denies that Tr. Ex. 20 and Tr. Ex. 22 established the history of Senate District 24.

280. Act 43 splits the City of Marshfield between two assembly and two senate districts even though Marshfield—with a population of 19,118—could be contained within a single assembly and single senate district. *See supra* ¶ 174-175. No rationale has been advanced for splitting Marshfield between two assembly and two senate districts. Foltz Depo. (Dkt. 138) at 217:25-219:7; Ottman Depo. (Dkt. 140) at 232:12-233:14.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The GAB admits that the City of Marshfield is not contained within a single assembly or senate district under Act 43, denies there is no related rationale, and may rely on the testimony of Mr. Ottman or Mr. Handrick.

281. Act 43 also divides Sheboygan into separate districts (AD 26 and AD 27). Tr. Ex. 20 (Act 43 Assembly map).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

282. In Milwaukee, three assembly districts that historically have been within Milwaukee County are now stretched from the edge of the city well into Waukesha County. As a result, Milwaukee voters in up to six Milwaukee assembly seats will lose their influence in choosing who represents them to voters outside of Milwaukee. Tr. Ex. 20 (Act 43 Assembly map).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB admits the assembly districts cover portions of both counties, and denies that Tr. Ex. 20 indicates that voters will lose their influence.

283. By splitting municipalities into more than one Assembly and/or Senate district, Act 43 imposes significant additional burdens on those municipalities. (Trial testimony of Steve Barg, City Administrator, City of Marshfield)

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case.

284. Act 44 shifts substantially more people to different congressional districts than necessary for population equality. Act 44 shifts (a) 171,270 people into District 3, and 190,354 people out of the district, for a net loss of 19,084; (b) 177,822 people into District 5, and 174,529 people out of the district, for a net gain of 3,293; (c) 144,923 people into District 6, and 139,152 out of the district, for a net gain of 5,771; and (d) 171,989 into District 7, and 150,395 out of the district, for a net gain of 21,594. *See* Ex. A to Joint Pretrial Report, Table 31; Tr. Ex. 45 (Nordheim Report), Ex. B at 5.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent determined to be material, the GAB may rely on the testimony of Dr. Gaddie.

285. Act 43 moves more than 49,000 individuals on the western edge of Madison from the 26th senate district into the new 27th senate district. The last regular election in which residents of the 26th district voted for a state senator was in 2008; the next regular senate election in the 27th district will take place in 2014. Tr. Ex. 31 (Diez Report, "Core Constituencies Report: Senate Districts (Act 43)"); Ex. A to Joint Pretrial Report, Table 28.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB may rely on the testimony of Dr. Gaddie as well John Diez.

286. The population of the 27th senate district under the 2002 boundaries is 197,874, or 25,541 greater than the ideal population. Its population as redrawn in Act 43 is 172,449. The net population decrease of 25,425 was achieved by shifting 69,372 people into the 27th district—including more than 49,000 individuals formerly in SD 14, 16, and 26—and shifting another 94,797 people out of the district. Tr. Ex. 55 (Mayer Report), Ex. 3 (“Population Shifts in Senate Districts”); Tr. Ex. 31 (Diez Report, “Core Constituencies Report: Senate Districts (Act 43)”).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB may rely on the testimony of Dr. Gaddie.

287. In the 2002 court-drawn plan, Racine County comprised most of the 21st senate district, and Kenosha County most of the 22nd senate district. Act 43 combines the cities of Kenosha and Racine into the 22nd senate district, placing the remainder of Kenosha and Racine counties into the 21st senate district. As a result, 72,431 voters are shifted into the 21st senate district from the 22nd senate district. The last regular election in which residents of the 22nd district voted for a state senator was in 2008; the next regular senate election in the 21st district will take place in 2014. Tr. Ex. 31 (Diez Report, “Core Constituencies Report: Senate Districts (Act 43)”).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

288. The population of the 21st senate district under the 2002 boundaries is 166,735, or 5,598 less than the ideal population. Its population as redrawn in Act 43 is 172,324. The net population increase of 5,589 was achieved by shifting 72,431 people into the 21st district—all of whom were formerly in the 22nd district—and shifting another 66,842 people out of the district, all but five of whom were moved into the 22nd district. Tr. Ex. 55 (Mayer Report), Ex. 3 (“Population Shifts in Senate Districts”); Tr. Ex. 31 (Diez Report, “Core Constituencies Report: Senate Districts (Act 43)”).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB may rely on the testimony of Dr. Gaddie.

289. The boundaries of the senate districts were not intended to minimize disenfranchisement. In drawing the district boundaries, Foltz and Ottman targeted a disenfranchisement rate of 5.25 percent, a figure derived from the percentage of people disenfranchised by the 1992 court-drawn senate map. As a result, rather than reducing

disenfranchisement to the extent possible—which, in light of technological advances over the past two decades, would likely have resulted in a disenfranchisement rate far lower than that achieved in 1992—Foltz and Ottman affirmatively sought to disenfranchise 5.25 percent of the population. Tr. Ex. 19 at 30-31; Foltz Depo. (Dkt. 138) at 185:4-191:3; Ottman Depo. (Dkt. 140) at 190:15-193:2.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB may rely on the testimony of Dr. Gaddie, Mr. Ottman or Mr. Foltz.

290. Recall elections occur in a very specific constitutional and political context that differs substantially from the fixed elections held every four years. Tr. Ex. 55 (Mayer Report) at 8.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent determined to be material, the GAB may cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

291. In the 2011 senate recall elections, all nine candidates who faced recalls attempted to stop the recall elections through litigation. Tr. Ex. 55 (Mayer Report) at 8.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent determined to be material, the GAB may cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

292. The recall campaigns were unusually chaotic, with both parties running “fake” or “placeholder” candidates to force primaries in the other party, giving incumbents more time to campaign by further delaying the date of the final recall. Tr. Ex. 55 (Mayer Report) at 8.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent determined to be material, the GAB may cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

293. Turnout in the recall elections was, on average, 35 percent lower than in the 2008 elections, even though two senators who faced recalls previously ran unopposed. Tr. Ex. 55 (Mayer Report) at 8.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent determined to be material, the GAB may cross-examine Dr. Mayer and may rely on testimony from Dr. Gaddie.

294. An action has been filed in the Circuit Court for Waukesha County against GAB seeking a judicial determination of the appropriate districts under which recall elections must be held. *Clinard et al. v. Brennan et al.*, Case No. 11-cv-03995. In its answer to the

Amended Complaint for Declaratory and Other Relief, *see* Tr. Ex. 167, GAB answered the paragraphs of the complaint as follows:

a. “Summary Paragraph 1: Following the enactment of 2011 Wisconsin Acts 43 and 44 by the State Legislature (‘2011 Redistricting Plan’), the Government Accountability Board (‘GAB’), which is the state agency responsible for administering the laws concerning the conduct of elections in the State of Wisconsin, issued formal guidance that any recall elections which may be initiated and held prior to the general election in November of 2012, are to be conducted in the old legislative districts established by the 2002 court-adopted redistricting plan (the ‘2002 Court Plan’). GAB issued this formal guidance despite the fact there is no dispute that the prior legislative districts are unconstitutionally malapportioned.

b. “Answer to Summary Paragraph 1: Defendants ADMIT the allegations of the first sentence in Summary Paragraph 1. Defendants ADMIT that the legislative districts created in the 2002 Court Plan are malapportioned. The remainder of this paragraph consists of plaintiffs’ conclusions of law, so no response is necessary. To the extent any court should construe the remainder of this paragraph to contain allegations of fact, defendants lack information sufficient to form a belief as to the truth of the matters asserted and so DENY the same.”

c. \* \* \* “[Paragraph No.] 32. There is no dispute that based on the 2010 Census data the legislative districts established under the 2002 Court Plan are unconstitutionally malapportioned and violate the central principle of one-person, one vote.”

d. “Answer to Paragraph No. 32: Defendants ADMIT that, based on the 2010 Census data, the legislative districts established by the 2002 Court Plan are now malapportioned. The remainder of this paragraph consists of plaintiffs’ conclusions of law, so no response is necessary. To the extent any court should construe the remainder of this paragraph to contain allegations of fact, defendants lack information sufficient to form a belief as to the truth of the matters asserted and so DENY the same.” Tr. Ex. 167.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, the GAB admits that Tr. Ex. 167 contains these statements.

295. According to the 2010 Census, the Latino population of the city of Milwaukee is 103,001 (17.3 percent of the total), and the Latino voting age population (VAP) is 63,202 (14.6 percent of the total VAP). *See* Tr. Ex. 55 (Mayer Report) at 18.

*Response:* The GAB admits these statements.

296. Of the 103,007 Latinos in Milwaukee County, 70,779 (68.1 percent) are concentrated within 939 contiguous census blocks on the near south side. The Latino population makes up 65.6 percent of the population within those census blocks. The area

of concentration is roughly square—approximately bounded by I-94 on the north, 1st Street and I-94/43 on the east, Howard Street to the south and 42nd Street to the west. In this area, the Latino community is both sufficiently large and geographically compact to meet the first prong of the *Gingles* test. *See* Tr. Ex. 55 (Mayer Report) at 18.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case, as Assembly District 8 and District 9, as created by Act 43, each have a sufficient Latino voting age citizen populations to create effective Latino majorities. The GAB also may cross-examine Dr. Mayer and may rely on testimony from Dr. Grofman.

297. The statistical analysis by the Wisconsin Legislative Reference Bureau of the 8th Assembly District, as promulgated on May 30, 2002, by U.S. District Court for the Eastern District of Wisconsin, indicated a total population in the year 2000 of 54,074 of which 33,602 were Latino for a Latino population percentage of 62 percent at that time. *See* Tr. Ex. 55 (Mayer Report) at 18.

*Response:* The GAB stipulates to these statements.

298. Assembly Districts 8 and 9, as created by Act 43, do not have a sufficient Latino voting age citizen populations to create effective Latino majorities. *See* Tr. Ex. 55 (Mayer Report) at 22; *see* Tr. Ex. 60 (Mayer Rebuttal) at 11-12.

*Response:* The GAB denies these contested statements. The GAB may cross-examine Dr. Mayer and may rely on testimony from Dr. Grofman.

299. Assembly District 8 purports to have a Latino voting age population of 60.54 percent, and Assembly District 9 purports to have a Latino voting age population of 54.0 percent. The Latino population spread between the two districts is diluted. *See* Tr. Ex. 55 (Mayer Report) at 22.

*Response:* The GAB admits the first sentence of this statement. As to the second sentence of this statement, the GAB denies that the Latino population is "diluted" and may cross-examine Dr. Mayer and may rely on testimony from Dr. Grofman.

300. The data from the April 2010 census and the annual American Community Survey indicate that the current population of the Latino community on Milwaukee's near south side in the vicinity of the re-apportioned 8th and 9th Assembly Districts as adopted by the Legislature is now sufficiently large and geographically compact to allow for one Assembly District with an effective voting majority of voting age Latinos who are United States citizens. *See, e.g.,* Tr. Ex. 55 (Mayer Report) at 18, 19, 22-23, and Ex. 6; *see* Tr. Ex. 60 (Mayer Rebuttal) at 12-15.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

301. Voting age population percentages significantly overstate the appearance of effective political influence of any minority group, and this is especially true for Latinos. *See* Tr. Ex. 60 (Mayer Rebuttal) at 11.

*Response:* The GAB denies this contested statement, and may cross-examine Dr. Mayer as well as rely on testimony from Dr. Grofman.

302. Given the historically low voter registration for Latinos, the actual concentration of eligible Latino voters must be well above 50 percent to insure that Latinos have a meaningful opportunity to elect candidates of their choice. *See* Tr. Ex. 60 (Mayer Rebuttal) at 11, 15.

*Response:* The GAB denies this contested statement, and may cross-examine Dr. Mayer as well as rely on testimony from Dr. Grofman.

303. The percentage of non-Latino whites of voting age who turn out to vote is larger than the percentage of Latino citizens of voting age who turn out to vote in AD 8 and AD 9. *See* Tr. Ex. 1025 (spreadsheet produced by Mayer); *see* Grofman Depo. (Dkt. 150) at 178:10-179:24, Gaddie Depo. (Dkt. 148) at 139:17-140:16.

*Response:* The GAB denies this contested statement, and may cross-examine Dr. Mayer as well as rely on testimony from Dr. Grofman.

304. The percentage of non-Latino whites of voting age who register to vote is larger than the percentage of Latino citizens of voting age who register to vote in AD 8 and AD 9. *See* Tr. Ex. 1019 (corrected Exhibit 8 to Mayer Report); *see* Morrison Depo. (Dkt. 149) at 154:10-13.

*Response:* The GAB denies this contested statement, and may cross-examine Dr. Mayer as well as rely on testimony from Dr. Morrison.

305. The areas of the predecessor AD 9 that were added to AD 8 pursuant to Act 43 had larger percentages of non-Latino whites of voting age than the areas of the predecessor AD 8 that were retained with the new AD 8 pursuant to Act 43. *See* Tr. Ex. 184 (Map of AD 8 and 9 with Turnout Rate).

*Response:* The GAB denies this contested statement, and may cross-examine Dr. Mayer as well as rely on testimony from Dr. Grofman.

306. The areas of the predecessor AD 9 that were added to AD 8 pursuant to Act 43 have a higher percentage of voter turnout than the areas of the predecessor AD 8 that were retained with the new AD 8 pursuant to Act 43. *See* Tr. Ex. 184 (Map of AD 8 and 9 with Turnout Rate); *see* Grofman Depo. (Dkt. 150) at 182:13-22.

*Response:* The GAB denies this contested statement, and may rely on the testimony of Dr. Grofman.

307. In every general election since 1998, including 2000, 2002, 2004, 2006, 2008, 2010, AD 8 had the fewest total votes cast of any regular general assembly election held in those years. *See* Wis. Bluebook 1997-1998, 1999-2000, 2001-2002, 2003-2004, 2005-2006, 2007-2008.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. To the extent the statements are determined to be material, these statements are admitted.

308. The areas of the predecessor AD 9 that were added to AD 8 pursuant to Act 43 constitute a different community of interest than the areas of the predecessor AD 8 that were retained under new AD 8, created pursuant to Act 43. The residents of the Wilson Park area do not consider themselves to be part of Milwaukee's near south side Latino community. The areas from the predecessor AD 9 added to the new AD 8 represent a different neighborhood known as Wilson Park which has a lower percentage of Latinos who are eligible voters and a higher percentage of non-Latino white voters who have higher voter registration rates and higher turnout rates than do the Latinos who are eligible voters in those portions of the predecessor AD 8 that were retained in the new AD 8. (Anticipated testimony of John Bartkowski and Christine Neuman-Ortiz. Defendants opted not to depose these witnesses.)

*Response:* The GAB denies this contested statement, and states that the Plaintiffs have provided no documentary evidence supporting these statements. Plaintiff Voces de la Frontera did not provide any documents supporting these statements in response to the GAB's requests for all documents related to Voces' claims.

309. Act 43 divides the predecessor AD 8 almost in half along Cesar Chavez Drive (16th Street) retaining a mere 55% of the predecessor district in the new AD 8 and adding the Wilson Park areas from the predecessor AD 9. *See* Tr. Ex. 144 (comparing total registered voters with total voter turnout in these newly joined communities of interest during the 2008 presidential election).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The GAB may cross-examine Dr. Mayer as well as rely on testimony from Dr. Grofman.

310. The area of most rapid growth of Milwaukee's Latino community has been on the city's near south side, centered in the area of the 8th Assembly District. *See* Tr. Exs. 55 (Mayer Report), 1019 (corrected Exhibit 8 from Mayer Report).

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. The GAB may cross-examine Dr. Mayer as well as rely on testimony from Dr. Grofman.

311. A comparison of the voter registration rates between Latino and non-Latino individuals demonstrates a large disparity within the City of Milwaukee. The data obtained from the Statewide Voter Registration System (SVRS) for the City of Milwaukee show that more than 76 percent of non-Latinos are registered to vote versus 26 percent of Latinos. *See* Tr. Ex. 55 (Mayer Report) at 21 and Ex. 8.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

312. Voter registration rates for Latinos lag far behind non-Latinos everywhere in the City of Milwaukee due to demographic characteristics (lower income, higher poverty levels, less formal education), and because significant numbers of Latinos in Wisconsin and the City of Milwaukee are ineligible to vote because they are not citizens. *See* Tr. Ex. 55 (Mayer Report) at 21.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

313. The noncitizenship rate for Latinos in the City of Milwaukee, using the 2005-2009 five-year American Community Survey (ACS) data, is 42 percent. *See* Tr. Ex. 60 (Mayer Rebuttal) at 11.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

314. The noncitizenship rate for Latinos in the City of Milwaukee, using the 2008 ACS data, is 35.75 percent. *See* Tr. Ex. 55 (Mayer Report) at 22.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

315. When the noncitizenship rate of 35.75 percent is taken into account (as it must), as well as the historic low rates of registration even among otherwise eligible Latinos, the percentage of *eligible* Latinos constituting the voting age population in Assembly District 8 is 49.6 percent and is 43.02 percent in Assembly District 9. *See* Tr. Ex. 55 (Mayer Report) at 22; *see* Tr. Ex. 60 (Mayer Rebuttal) at 11.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

316. Using the 42 percent noncitizen rate derived from the five-year ACS data reduces the eligible Latino majorities in Assembly Districts 8 and 9 to 47.07 percent and 40.53 percent, respectively. *See* Tr. Ex. 60 (Mayer Rebuttal) at 11.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

317. Latinos who are U.S. citizens comprise between 47.07 percent and 49.6 percent of the voting age population living in AD 8. *See* Tr. Ex. 55 (Mayer Report) at 22; Tr. Ex. 60 (Mayer Rebuttal) at 11.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

318. Latinos who are U.S. citizens comprise between 40.53 percent and 43.02 percent of the voting age population living in AD 9. *See* Tr. Ex. 55 (Mayer Report) at 22; Tr. Ex. 60 (Mayer Rebuttal) at 11.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

319. As created by Act 43, Assembly Districts 8 and 9 do not contain enough citizen voting age Latinos to constitute a numerical majority. *See* Tr. Ex. 55 (Mayer Report) at 21; *see* Tr. Ex. 60 (Mayer Rebuttal) at 11-12.

*Response:* The GAB denies this contested statement of fact, and will cross-examine Dr. Mayer in this regard, and will solicit the testimony of Dr. Grofman and Dr. Morrison.

320. It is possible to construct an alternative Assembly District 8 with a Latino voting age population of 70.07 percent and a Latino citizen voting age population of 60.06 percent. *See* Tr. Ex. 55 (Mayer Report) at 19, 22-23, and Ex. 6; *see* Tr. Ex. 60 (Mayer Rebuttal) at 12-15. It is possible and, therefore, necessary to construct a compact Assembly District with a sufficiently large and effective Latino voting population. *Id.*

*Response:* The GAB states that Assembly District 8 and Assembly District 9 each contain a sufficiently large and effective Latino voting population and will solicit the testimony of Dr. Grofman and Dr. Morrison.

321. Over the course of the last decade, the political and electoral conduct of Latino voters on Milwaukee's near south side in the vicinity of the predecessor 8th Assembly District demonstrates that the Latino community is politically cohesive. *See* Gaddie Depo. (Dkt. 148) at 90:9-20; Grofman Depo. (Dkt. 150) at 165:5-15.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman.

322. Minority cohesion and racial bloc voting are evidenced by analyzing voting percentages in elections where one or more Latino candidates ran against one or more white candidates. For example, in the 2011 primary for Milwaukee County Circuit Court Judge in which Latino candidate Pedro Colón ran against multiple white candidates, it

was estimated that 58.2 percent of Latinos voted for Colón and 68 percent of white voters cast their ballots for one of the white candidates (*i.e.*, only 32 percent of white voters cast their ballots for Colón). The percentage difference in support was 26.2 percent. In the general election, 66.2 percent of Latinos voted for Colón while 54.7 percent of white voters cast their ballot for the white candidate. *See* Tr. Ex. 55 (Mayer Report) at 19-20, and Ex. 7. These results demonstrate a high rate of racially polarized voting. *See id.* at 19.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman.

323. A very high degree of racially polarized voting is again demonstrated by analyzing the results of the 2008 general election for State Superintendent of Public Instruction where Spanish-surnamed Rose Fernandez ran against Tony Evers. 95.7 percent of Latino voters in Milwaukee County voted for Fernandez versus 40.5 percent of white voters. The difference in support, 55.2 percent, evidences a high degree of racial polarization. *See* Tr. Ex. 55 (Mayer Report) at 19-20, and Ex. 7.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman.

324. Latinos in the City of Milwaukee are less likely to participate in an election as demonstrated by the disparity in voter registration rates between non-Latinos (over 76 percent) and Latinos (26 percent). *See* Tr. Ex. 55 (Mayer Report) at 21, and Ex. 8.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

325. Barriers to electoral participation also include Wisconsin's newly enacted voter identification law. 2011 Wis. Act 23; *see* Tr. Ex. 60 (Mayer Rebuttal) at 15-16. These photographic identification requirements will disproportionately affect Latino citizens and thereby further hinder the ability of Latino citizens to participate in the electoral process on an equal basis with other members of the electorate.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman and Dr. Morrison.

326. Socioeconomic differences between non-Latinos and Latinos—such as lower income, higher poverty levels, and less formal education—all interfere with the ability of Latinos in the City of Milwaukee and Wisconsin to fully participate in the electoral process and elect candidates of their choice. *See* Grofman Depo. (Dkt. 150) at 172:15-172:24; *see also* Rodriguez Depo. (Dkt. 142) at 178:7-179:1, 179:17-180:5.

*Response:* The GAB will cross-examine Dr. Mayer in this regard, and may solicit the testimony of Dr. Grofman or Mr. Rodriguez.

327. Voces de la Frontera is the largest membership-based Latino organization in the

State of Wisconsin with over 3,000 members who are concentrated mostly in the near-southside area of Milwaukee in the vicinity of the AD 8 and AD 9. Each year, Voces de la Frontera sponsors May Day marches on May 1st in Milwaukee with attendance ranging from 20,000 to over 65,000 members of the Latino community. Voces de la Frontera has focused on Get-Out-The-Vote campaigns and in 2004 successfully registered 5,100 new voters in the predecessor AD 8 and increased voter turnout by 6% in 10 of the wards in that district. In 2006, the civic participation program increased the voter turnout by 32 percent in Milwaukee targeted wards and by 20 percent in Racine targeted wards. (Anticipated testimony of Christine Neumann-Ortiz).

*Response:* The GAB denies this contested statement, and states that the Plaintiffs have provided no documentary evidence supporting these statements. Plaintiff Voces de la Frontera did not provide any documents supporting these statements in response to the GAB's requests for all documents related to Voces' claims.

328. Voces de la Frontera actively participated in the redistricting process for the City of Milwaukee and joined with a number of other Latino organizations to form the Latino Redistricting Committee, a bipartisan coalition to advocate on behalf of the Latino community's interests during the redistricting process. Neither organization was contacted by persons involved in the legislative redistricting process that led to the passage of Act 43. Neither organization was provided with an opportunity to provide input regarding the legislative redistricting process. (Anticipated testimony of Christine Neumann-Ortiz).

*Response:* The GAB denies this contested statement, and states that the Plaintiffs have provided no documentary evidence supporting these statements. Plaintiff Voces de la Frontera did not provide any documents supporting these statements in response to the GAB's requests for all documents related to Voces' claims.

329. Hispanics for Leadership is not a formal organization and consists of a couple of dozen individuals. *See* Rodriguez Depo. (Dkt. 142) at 19:21-20:2.

*Response:* The GAB stipulates to this statement.

330. Between July 8, 2011, and July 13, 2011, Jesus ("Zeus") Rodriguez consulted with two individuals regarding the legislative redistricting plan that resulted in Act 43, but he does not recall providing the two individuals with copies of the proposed maps, rather he just "explained to them." *See* Rodriguez Depo. (Dkt. 142) at 73:20-74:10, 194:23-195:17.

*Response:* The GAB denies this characterization of Mr. Rodriguez' testimony, and may rely on the transcript of the deposition or live testimony from Mr. Rodriguez.

331. Hispanics for Leadership does not speak for the entire Latino community. *See* Rodriguez Depo. (Dkt. 142) at 187:22-187:24.

*Response:* The GAB stipulates to this statement.

332. According to the 2010 Census, the City of Milwaukee had a population of 594,833 and a voting age population of 433,442. The African-American population in the city of Milwaukee is 239,923 (40.3 percent of the total population) and the African-American voting age population is 156,153 (36 percent of the total voting age population). *See* Tr. Ex. 55 (Mayer Report) at 23.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB contends that the City of Milwaukee African American population is 239,920 and the voting age population for the City of Milwaukee is 433,486 and the voting age African American population there is 156,151. *See* pg. 28, <http://legis.wisconsin.gov/ltsb/redistricting/PDFs/2010%20WI%20Pop%20Counts.pdf>; pg. 29 [http://legis.wisconsin.gov/ltsb/redistricting/PDFs/2010%20wisconsin%20census%20population%20counts%20with%20race\\_va.pdf](http://legis.wisconsin.gov/ltsb/redistricting/PDFs/2010%20wisconsin%20census%20population%20counts%20with%20race_va.pdf)

333. The African-American population is concentrated in the north-central portion of Milwaukee, and a large part lives in areas that are at least 75 percent African-American. 85.7 percent (217,551) of the total African-American population in Milwaukee County (253,764) resides in 3790 contiguous census blocks (of 13,231 blocks within the county). Within these blocks, the African-American population represents 70.6 percent of the total population. *See* Tr. Ex. 55 (Mayer Report) at 23.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer.

334. This area of high concentration is generally in the northern half of the county, and more specifically runs to the northwest away from downtown Milwaukee—broadly bounded by the Milwaukee County line on the north edge, variously the Milwaukee river and the Canadian National Rail line on the east, I-94 on the southern edge and Highway 41 and the NW county line to the west. *See* Tr. Ex. 55 (Mayer Report) at 23-24.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB stipulates to this statement.

335. The depressed socioeconomic status of Milwaukee's African-American community hinders the ability to participate in the electoral process on an equal basis with other members of the electorate. *See* Grofman Depo. (Dkt. 150) at 208:23-209:17.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will rely on the trial testimony of Dr. Grofman.

336. Minority cohesion and racial bloc voting are evidenced by analyzing voting percentages in elections where one or more African-American candidates ran against one or more white candidates. *See* Tr. Ex. 55 (Mayer Report) at 24, and Ex. 9. In all of these races, African-American voters were almost always close to unanimous in their support for the African-American candidate, and white voters were uniformly less likely to support the African-American candidate by large margins. These results show a high rate of racially polarized voting. *See id.*

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely upon the testimony of Dr. Grofman.

337. In Assembly Districts 10, 11, 16, 17, and 18, the concentration of African-American voters is excessive, far above the threshold (typically, 55 percent) commonly accepted as necessary to achieve effective majority status for African-American voters. *See* Tr. Ex. 55 (Mayer Report) at 25; *see also* Grofman Depo. (Dkt. 150) at 90:2-17.

*Response:* The GAB denies this characterization, and may cross-examine Dr. Mayer as well as rely upon testimony from Dr. Grofman.

338. If the percentage of African-American voting age population is reduced to 55 percent in each of these districts, 12,919 African-American voters would be available for other districts, increasing African-American influence while still retaining effective majorities in the existing majority-minority districts and enhancing the influence of African-Americans in other districts. *See* Tr. Ex. 55 (Mayer Report) at 25.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely upon the testimony of Dr. Grofman.

339. African-Americans in Milwaukee and Wisconsin are less likely to participate in an election as demonstrated by the disparity in voter registration rates, socioeconomic differences, and other barriers to electoral participation. *See* Grofman Depo. (Dkt. 150) at 208:23-209:17.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will rely upon testimony from Dr. Grofman.

340. Traditional race-neutral redistricting criteria, such as compactness, contiguity, and respect for political subdivisions or communities defined by actual shared interests, were subordinated to race when the legislative majority decided to redraw the district lines under Act 43 so that an unnecessarily large number of African-American voters were concentrated in Assembly Districts 10, 11, 16, 17, and 18, and Latino voters were

dispersed into Assembly Districts 8 and 9. There is no race-neutral justification for the creation of these districts under Act 43.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will rely upon testimony from Dr. Grofman.

341. District lines could have been drawn in a way that reduces the African-American voting age population to more appropriate levels (*i.e.*, 55 percent) and enhances the influence of African-Americans in other districts, and creates a compact Assembly District 8 with a sufficiently large and effective Latino voting population. *See* Tr. Ex. 55 (Mayer Report) at 19, 22-23, 25, and Ex. 6; *see* Tr. Ex. 60 (Mayer Rebuttal) at 12-15.

*Response:* The GAB states that Assembly District 8 does contain a sufficiently large and effective Latino voting population. The GAB denies that the remaining statements in this paragraph are material to the resolution of the claims in this case. If determined to be material, the GAB will cross-examine Dr. Mayer and may rely upon the testimony of Dr. Grofman.

342. The explicit mandate of Act 43, establishing the effective date for redistricting, means any special or recall elections to offices filled or contested prior to the fall 2012 elections are to be conducted in the legislative districts established by the 2002 judicially-approved redistricting plan. *See* 2011 Wis. Act 43.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case.

343. Nine (9) recall elections were held in July and August 2011 under the 2002 district boundaries, and the Governor issued an Executive Order on September 2 to conduct a special election in the 95th Assembly District, which was conducted under the 2002 boundary.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case.

344. Recall petitions have been filed in Senate Districts 13, 21, 23, and 29, and the defendants are reviewing them for sufficiency to determine a date for recall elections under the 2002 boundaries.

*Response:* The GAB denies that the statements in this paragraph are material to the resolution of the claims in this case.

## **VOCES PLAINTIFFS**

345. The Voces plaintiffs join in those foregoing statements of contested facts

proffered by the Baldus plaintiffs including those that relate to AD 8 and AD 9 and the Latino community on Milwaukee's near southside.

*Response:* The GAB incorporates its responses to the foregoing statement of contested facts proffered by the Baldus plaintiffs as if fully set forth herein.

### **INTERVENOR PLAINTIFFS**

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*Response:* The GAB adopts and incorporates the responses of the Intervenor Defendants to the Intervenor Plaintiffs' statement of contested facts.

Dated this 20th day of February, 2012.

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