

EXHIBIT 7

Walen Depo. Tr.



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Transcript of Charles Leander Walen

Date: December 7, 2022

Case: Walen, et al. -v- Burgum, et al.

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Transcript of Charles Leander Walen
December 7, 2022

1 (1 to 4)

1	3
1 IN THE UNITED STATES DISTRICT COURT	1 A P P E A R A N C E S
2 FOR THE DISTRICT OF NORTH DAKOTA	2 ON BEHALF OF PLAINTIFFS:
3 EASTERN DIVISION	3 PAUL R. SANDERSON, ESQUIRE
4 ----- x	4 RYAN J. JOYCE, ESQUIRE
5 CHARLES WALEN, an individual; :	5 EVENSON SANDERSON
6 and PAUL HENDERSON, an :	6 1100 College Drive, Suite 5
7 individual, :	7 Bismarck, North Dakota 58501
8 Plaintiffs, :	8 (701) 751-1243
9 v. : Case No.	9
10 DOUG BURGUM, in his official : 1:22-CV-00031-CRH	10 ON BEHALF OF DEFENDANTS:
11 capacity as Governor of the :	11 DAVID R. PHILLIPS, ESQUIRE
12 State of North Dakota; and :	12 BAKKE GRINOLDS WIEDERHOLT
13 ALVIN JAEGER, in his official :	13 300 West Century Avenue
14 capacity as Secretary of :	14 Bismarck, North Dakota 58503
15 State of North Dakota, :	15 P.O. Box 4247
16 Defendants, :	16 Bismarck, North Dakota 58502-4247
17 ----- x	17 (701) 751-8188
18 (Caption continued on next page)	18
19 Deposition of CHARLES LEANDER WALEN	19
20 Conducted Virtually	20
21 Wednesday, December 7, 2022	21
22 2:02 p.m. EST	22
23 Job No.: 473885	23
24 Pages 1 - 37	24
25 Reported by: Debra A. Whitehead	25
2	4
1 (Caption continued from previous page)	1 A P P E A R A N C E S C O N T I N U E D
2 ----- x	2 ON BEHALF OF INTERVENOR-DEFENDANTS:
3 and :	3 MARK P. GABER, ESQUIRE
4 MANDAN, HIDATSA AND ARIKARA :	4 MOLLY E. DANAHY, ESQUIRE
5 NATION, CESAR ALVAREZ, and :	5 NICOLE HANSEN, ESQUIRE
6 LISA DEVILLE, :	6 CAMPAIGN LEGAL CENTER
7 Intervenor-Defendants. :	7 1101 14th Street, NW, Suite 400
8 ----- X	8 Washington, DC 20005
9 Deposition of CHARLES LEANDER WALEN, conducted	9 (202) 716-2200
10 virtually.	10 - and -
11	11 ALLISON NESWOOD, ESQUIRE
12	12 MICHAEL S. CARTER, ESQUIRE
13 Pursuant to notice, before Debra Ann Whitehead,	13 NATIVE AMERICAN RIGHTS FUND
14 E-Notary Public in and for the State of Maryland.	14 1506 Broadway
15	15 Boulder, Colorado 80301
16	16 (303) 447-8760
17	17 - and -
18	18 SAMANTHA B. KELTY, ESQUIRE
19	19 NATIVE AMERICAN RIGHTS FUND
20	20 1514 P Street, NW, Suite D
21	21 Washington, DC 20005
22	22 (202) 785-4166
23	23
24	24
25	25

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Transcript of Charles Leander Walen

2 (5 to 8)

December 7, 2022

<p>1 APPEARANCES CONTINUED</p> <p>2 ALSO PRESENT:</p> <p>3 KRISTIN HOERTER, Paralegal, NARF</p> <p>4 LAURIE STIRLING, Paralegal, NARF</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>7</p> <p>1 PROCEEDINGS</p> <p>2 CHARLES LEANDER WALEN,</p> <p>3 having been duly sworn, testified as follows:</p> <p>4 EXAMINATION BY COUNSEL FOR</p> <p>5 INTERVENOR-DEFENDANTS</p> <p>6 BY MR. GABER:</p> <p>7 Q Mr. Walen, my name is Mark Gaber. I'm a</p> <p>8 lawyer for the intervenor-defendants in this case,</p> <p>9 and I will be asking you some questions.</p> <p>10 I'll start, can you state your name, for</p> <p>11 the record.</p> <p>12 A Charles Walen.</p> <p>13 Q And have you been deposed before?</p> <p>14 A Yes.</p> <p>15 Q How many times?</p> <p>16 A One time that I can remember, and it was</p> <p>17 for a work-related reason.</p> <p>18 Q About how long ago was that?</p> <p>19 A Fifteen-plus years ago.</p> <p>20 Q All right. So I'll spend just a couple</p> <p>21 of minutes here with some ground rules since it's</p> <p>22 been a while since you've done this. The main one</p> <p>23 is to be cognizant that we have a court reporter</p> <p>24 who is taking down all of our words. So that</p> <p>25 makes it important that we endeavor to talk slowly</p>
<p>6</p> <p>1 CONTENTS</p> <p>2 EXAMINATION OF CHARLES LEANDER WALEN PAGE</p> <p>3 By Mr. Gaber 7</p> <p>4 By Mr. Phillips 25</p> <p>5</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 (none)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>8</p> <p>1 and that we not talk over each other. That, you</p> <p>2 know, can be awkward sometimes because that's not</p> <p>3 how one has a normal conversation. But for her</p> <p>4 benefit please keep that in mind, and I'll also do</p> <p>5 my best not to talk over you when you're giving an</p> <p>6 answer.</p> <p>7 Does that make sense?</p> <p>8 A Yes, that does.</p> <p>9 Q And then another is that you have to give</p> <p>10 verbal responses to my questions. She can't take</p> <p>11 down, you know, head nods and the like. And since</p> <p>12 we're doing this remotely, that's even harder, I</p> <p>13 imagine, than it might be if we were in the same</p> <p>14 room with one another. So do try, though again at</p> <p>15 times it can be awkward to give a verbal response</p> <p>16 to each question. Okay?</p> <p>17 A Understand.</p> <p>18 Q I will assume that you understand my</p> <p>19 questions unless you say something. So, you know,</p> <p>20 if I ask you a question and you don't understand</p> <p>21 it or I do a poor job of asking it, please just</p> <p>22 let me know, and I will clarify so that we are</p> <p>23 both on the same page.</p> <p>24 Okay?</p> <p>25 A I will do so.</p>

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Transcript of Charles Leander Walen

3 (9 to 12)

December 7, 2022

<p>9</p> <p>1 Q I don't anticipate us taking much of your</p> <p>2 time today. But if we do need a break or if you</p> <p>3 need a break, please let me know, and we can go</p> <p>4 ahead and take one. The only thing that I ask is</p> <p>5 if that's the case, that you answer any question</p> <p>6 that is pending, and then we can go ahead and take</p> <p>7 a break.</p> <p>8 Does that sound good?</p> <p>9 A That sounds good. And I am at work, so</p> <p>10 just bear that in mind.</p> <p>11 Q Okay.</p> <p>12 A I'm in a private office.</p> <p>13 Q All right. Well, I'll try not to keep</p> <p>14 you too long from your job.</p> <p>15 Someone, one of the other attorneys might</p> <p>16 object to a question that I ask. If they do, you</p> <p>17 know, let them state that objection, but then you</p> <p>18 can go ahead and answer my question.</p> <p>19 Does that make sense?</p> <p>20 A Yes.</p> <p>21 Q And is there any reason that you can't</p> <p>22 answer my questions today truthfully and fully?</p> <p>23 A No.</p> <p>24 Q Now, you mentioned you're at your office.</p> <p>25 Is there anyone else in the room there</p>	<p>11</p> <p>1 problem.</p> <p>2 MR. GABER: Okay. That sounds good.</p> <p>3 Q And, Mr. Walen, other than the Zoom</p> <p>4 screen that's open, are there any other screens,</p> <p>5 e-mail, anything like that, that are open on your</p> <p>6 computer?</p> <p>7 A My company e-mail is open because I</p> <p>8 cannot -- I'm not supposed to close it.</p> <p>9 Q That's fine with me. I just ask that you</p> <p>10 not, like, e-mail someone to get answers to</p> <p>11 questions during the deposition. But I don't want</p> <p>12 to get you in trouble with your job.</p> <p>13 What did you do to prepare for today's</p> <p>14 deposition?</p> <p>15 A I read through the interrogatories that I</p> <p>16 had before, and then I watched the deposition this</p> <p>17 morning.</p> <p>18 Q Did you meet with your counsel before</p> <p>19 today's deposition?</p> <p>20 A By phone only.</p> <p>21 Q And when was that?</p> <p>22 A Yesterday and today.</p> <p>23 Q Did you meet with your counsel after this</p> <p>24 morning's deposition?</p> <p>25 A For one question only.</p>
<p>10</p> <p>1 with you?</p> <p>2 A No.</p> <p>3 Q And did you bring any notes with you</p> <p>4 today?</p> <p>5 A Yes.</p> <p>6 Q What's the nature of those notes?</p> <p>7 A They were from the deposition this</p> <p>8 morning with Paul. I just took some notes then so</p> <p>9 that any questions that might be similar, I'll</p> <p>10 have the answer.</p> <p>11 Q Well, I would -- it's probably best if --</p> <p>12 I know you were present this morning. You know, I</p> <p>13 don't know, maybe I'll direct this to your</p> <p>14 counsel. Typically if someone has notes, you</p> <p>15 know, we are entitled to see those. I don't know</p> <p>16 if you would rather he not have those notes or if</p> <p>17 you're fine producing them.</p> <p>18 THE WITNESS: The only thing that's on</p> <p>19 the notes are names and dates.</p> <p>20 MR. GABER: So then it sounds like you</p> <p>21 may be fine producing them.</p> <p>22 I don't know, Paul, if you have a</p> <p>23 preference.</p> <p>24 MR. SANDERSON: I don't -- doesn't</p> <p>25 matter. You can make a request. Shouldn't be a</p>	<p>12</p> <p>1 Q And I don't want to know what the</p> <p>2 question and answer were.</p> <p>3 Did you review any documents in</p> <p>4 preparation for the deposition?</p> <p>5 A Yes.</p> <p>6 Q And when were those documents?</p> <p>7 A I -- as because of this morning's</p> <p>8 deposition I looked at my e-mail and my text</p> <p>9 messages so that I could answer that question.</p> <p>10 Q And can you just be a little bit more</p> <p>11 specific. What in particular were you looking</p> <p>12 for?</p> <p>13 A To see if I had anything in those areas</p> <p>14 that pertained to this case.</p> <p>15 Q And what did you do to make that</p> <p>16 determination? Did you run a search, or what was</p> <p>17 your process?</p> <p>18 A I did a -- just I did a search based on</p> <p>19 lawsuit and I did a search based on redistricting.</p> <p>20 Q And that was in your personal e-mail?</p> <p>21 A Correct.</p> <p>22 Q What's that e-mail address?</p> <p>23 A ChuckWalen@Gmail.com.</p> <p>24 Q And did you find documents?</p> <p>25 A The only documents that are in there are</p>

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December 7, 2022

4 (13 to 16)

<p style="text-align: right;">13</p> <p>1 between my attorney and myself.</p> <p>2 Q And what about with respect to your text</p> <p>3 messages?</p> <p>4 A There was only one outside of the</p> <p>5 attorney.</p> <p>6 Q And what was that text message?</p> <p>7 A Paraphrasing, it said, I understand that</p> <p>8 you're -- that we redistricted, there may be a</p> <p>9 lawsuit, I'm willing to help.</p> <p>10 Q Who was that communication with?</p> <p>11 A Jay Sandstrom.</p> <p>12 Q Jay Sandstrom?</p> <p>13 A Yes.</p> <p>14 Q And who is he?</p> <p>15 A He is a member of our district.</p> <p>16 Q Did you say a member of your district?</p> <p>17 A Yes. Or constituent of our district.</p> <p>18 Q You reached out to him?</p> <p>19 A No; he reached out to me.</p> <p>20 Q When you say a constituent of your</p> <p>21 district, is he like -- is he affiliated with the</p> <p>22 Republican party, or is he -- what's his role?</p> <p>23 A He is a member of the Republican party.</p> <p>24 Q Does he hold any official position with</p> <p>25 the party?</p>	<p style="text-align: right;">15</p> <p>1 Q And what county is that in?</p> <p>2 A Mountrail.</p> <p>3 Q How long have you lived there?</p> <p>4 A Eleven years.</p> <p>5 Q Did you say seven or 11?</p> <p>6 A Eleven.</p> <p>7 Q Where did you live before that?</p> <p>8 A West Fargo, North Dakota.</p> <p>9 Q And do you have any other residences</p> <p>10 besides the House in New Town?</p> <p>11 A No.</p> <p>12 Q And you're registered to vote at that</p> <p>13 address?</p> <p>14 A We're not required to register in North</p> <p>15 Dakota.</p> <p>16 Q I'm sorry, I actually knew that. That is</p> <p>17 the address you use to vote?</p> <p>18 A Yes.</p> <p>19 Q And that -- am I right that that's in</p> <p>20 Legislative District 4 for the state Senate and in</p> <p>21 District 4A for the State House?</p> <p>22 Is that right?</p> <p>23 A Correct.</p> <p>24 Q What do you do for work?</p> <p>25 A I am an accountant.</p>
<p style="text-align: right;">14</p> <p>1 A No.</p> <p>2 Q When was that text message? Or when was</p> <p>3 that text exchange?</p> <p>4 A I don't know the date. I'd have to look</p> <p>5 back at the records.</p> <p>6 Q Okay.</p> <p>7 A It was after the redistricting.</p> <p>8 Q And for both your texts and your e-mail,</p> <p>9 that was by searching for the word "lawsuit" and</p> <p>10 searching for the word "redistricting"?</p> <p>11 A Correct.</p> <p>12 Q Besides those two search terms, did you</p> <p>13 search for anything else?</p> <p>14 A No.</p> <p>15 Q What kind of cellphone do you use?</p> <p>16 A Smartphone, Samsung.</p> <p>17 Q Samsung? Okay.</p> <p>18 So other than looking through and</p> <p>19 searching through your e-mail and your text</p> <p>20 messages, did you review any other documents to</p> <p>21 prepare for today?</p> <p>22 A Other than the deposition, no. The</p> <p>23 interrogatories that were asked.</p> <p>24 Q And where do you live?</p> <p>25 A 422 Eagle Drive, New Town.</p>	<p style="text-align: right;">16</p> <p>1 Q And where do you work?</p> <p>2 A At United Quality Cooperative.</p> <p>3 Q And what's the nature of that business?</p> <p>4 A Restate question.</p> <p>5 Q What's the nature of that business?</p> <p>6 A It is a truck stop, fuel, bulk fuel,</p> <p>7 grocery store, lumberyard, elevator. It's a Cenex</p> <p>8 place.</p> <p>9 Q And how long have you worked there?</p> <p>10 A Eleven years.</p> <p>11 Q What's your educational background?</p> <p>12 A High school graduate and come college.</p> <p>13 Q Do you hold any positions with any</p> <p>14 political parties?</p> <p>15 A Yes.</p> <p>16 Q And what are those?</p> <p>17 A I'm the District chair for District 4,</p> <p>18 I'm the Northwest regional chair for the state</p> <p>19 party, Republican party.</p> <p>20 Q How long have you been the District 4</p> <p>21 Republican chair?</p> <p>22 A Approximately ten years.</p> <p>23 Q And that's a position elected by the</p> <p>24 local party members?</p> <p>25 A Yes.</p>

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December 7, 2022

5 (17 to 20)

<p style="text-align: right;">17</p> <p>1 Q And how long have you been the Northwest 2 regional chair for the party? 3 A Four years. 4 Q Is that also elected? 5 A Yes. 6 Q Do you have any other positions with the 7 North Dakota Republican party? 8 A No. 9 Q What about the national Republican party; 10 do you have any involvement there? 11 A No, none. 12 Q And any other political organizations? 13 A No. 14 Q Have you worked on political campaigns? 15 A Yes; in my district. 16 Q And which types of campaigns? 17 A The legislative for Senator and for 18 Congress for North Dakota. 19 Q I'm going to circle back to your 20 conversation that you had with Mr. Sandstrom. 21 What did he say on that conversation? 22 A I don't -- he just asked if there's any 23 way he could help. 24 Q Did you speak with him by phone in 25 addition to the text exchange?</p>	<p style="text-align: right;">19</p> <p>1 redistricting process, yes. 2 Q I guess did you generate the idea or did 3 someone come to you as a group or, you know -- 4 kind of just give me the sort of your explanation 5 of who talked to who and who was involved and how 6 that came about, please. 7 A Myself, Terry Jones, Donita Bye, and 8 Jordan Kannianen were the executive committee of 9 District 4. We discussed what options would be. 10 Q So I think it would be helpful for the 11 court reporter if you could spell those, the last 12 two names at least. I think Terry Jones, and then 13 I believe there were two other names of the 14 executive committee folks? 15 A Donita Bye is D-O-N-I-T-A, B-Y-E. Jordan 16 Kannianen is J-O-R-D-A-N, K-A-N-N-I-A-N-E-N. He's 17 also my son-in-law. 18 Q Well, it's good that you got his name 19 spelled right. 20 So the four of you -- was this while 21 redistricting was still ongoing in the 22 legislature, or was this after the bill had been 23 passed? 24 A It would be after the bill was passed. 25 Q And aside from Representative Jones and</p>
<p style="text-align: right;">18</p> <p>1 A Other than his reaching out to me by his 2 text, I talked to him by phone. 3 Q And what did you discuss in that 4 conversation? 5 A I don't remember. That's over a year 6 ago. 7 Q Have you run for office other than the 8 party positions? 9 A Yes. 10 Q What offices? 11 A West Fargo School Board. I won. 12 Q Anything else? 13 A No. 14 Q How did you become involved in this 15 lawsuit? 16 A I did not like the fact that I lost a 17 representative to represent me, so talking with 18 people within my district, we decided that I 19 should be the one to represent the people of 20 District 4. 21 Q And did someone -- I know you had this 22 text exchange with Mr. Sandstrom. 23 He reached out to you. 24 Is that right? 25 A He reached out to me after seeing the</p>	<p style="text-align: right;">20</p> <p>1 the other two folks you mentioned, was anyone else 2 involved in conversations about the potential to 3 file a lawsuit? 4 A No. 5 Q And Jordan, is it Kannianen? 6 A Kannianen. 7 Q Jordan K, is he a member of the state 8 legislature? 9 A He is the state Senator. 10 Q Okay. 11 A District 4. 12 Q When did you first get in touch with your 13 attorneys in this case? 14 A I will defer to them on that question. 15 Don't remember the date exactly. 16 Q So if you don't know exactly, sort of 17 roughly when would that have been? Was it during 18 the legislative process or afterwards, this year, 19 last year? 20 A It would be short -- very shortly after 21 the redistricting. 22 Q And did you reach out to them or did they 23 reach out to you? 24 MR. SANDERSON: Object to the form, to 25 the extent it calls for attorney-client</p>

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Transcript of Charles Leander Walen
December 7, 2022

6 (21 to 24)

21	<p>1 communications.</p> <p>2 And, Charles, I'd instruct you not to</p> <p>3 discuss or testify to any communications you've</p> <p>4 had with counsel in this deposition.</p> <p>5 Q And just to be clear, I only mean -- I</p> <p>6 don't want you to tell me what was said or</p> <p>7 anything like that. I just mean, you know, who</p> <p>8 generated the -- who initiated the contact?</p> <p>9 A I don't remember.</p> <p>10 Q Who is paying for your legal counsel?</p> <p>11 A I'm not sure who is all paying. I know a</p> <p>12 few that are.</p> <p>13 Q Who can you identify?</p> <p>14 A Paul Henderson, Terry Jones, Jay</p> <p>15 Sandstrom. Those are the ones I remember.</p> <p>16 Q And is there an agreement among that</p> <p>17 group of people to split, it's like an equal</p> <p>18 share, or what's the arrangement?</p> <p>19 A I don't know what the arrangement is.</p> <p>20 Q Are you aware of -- whether or not you</p> <p>21 know the name, are you aware that if there are</p> <p>22 other people or groups who are contributing?</p> <p>23 A I don't know if there are or not.</p> <p>24 Q What members of the legislature have you</p> <p>25 discussed this litigation with?</p>	23
22	<p>1 A Terry Jones, Jordan Kannianen</p> <p>2 and (inaudible.)</p> <p>3 Q We missed the third one.</p> <p>4 A Clayton Fegley, who is the 4B</p> <p>5 representative currently.</p> <p>6 Q And what have you -- I guess roughly when</p> <p>7 have you spoken with those three people?</p> <p>8 A I talk to them regularly, as I'm the</p> <p>9 District chair.</p> <p>10 Q And what form does that communication</p> <p>11 take? Do you ever text with those folks?</p> <p>12 A All -- it's always verbal. Terry lives</p> <p>13 one -- about three houses away from me, and</p> <p>14 Jordan, I see him very often.</p> <p>15 Q Makes sense. Family.</p> <p>16 A Right.</p> <p>17 Q Any other legislators that you have</p> <p>18 spoken with about this lawsuit?</p> <p>19 A No.</p> <p>20 Q Why did you decide to become a plaintiff?</p> <p>21 A Decide to become a what?</p> <p>22 Q Why did you decide to become a plaintiff?</p> <p>23 A Because I feel that someone needs to</p> <p>24 represent District 4.</p> <p>25 Q And you're cutting out a little bit. It</p>	24
	<p>1 looks like you said something after "someone needs</p> <p>2 to represent District 4."</p> <p>3 A No. That was the end.</p> <p>4 Q So your objection is that you have -- you</p> <p>5 get to vote for one state representative rather</p> <p>6 than two state representatives.</p> <p>7 Is that correct?</p> <p>8 A Correct. And now I'm not -- I'm not</p> <p>9 being represented by two, like I have been in the</p> <p>10 past. When the rest of the state gets two, I only</p> <p>11 get one.</p> <p>12 Q So that's your complaint, that you think</p> <p>13 you should be able to have two representatives,</p> <p>14 not just one?</p> <p>15 A Yes, that is the complaint.</p> <p>16 Q Is there anything else about the</p> <p>17 redistricting plan that you object to?</p> <p>18 A No.</p> <p>19 Q And the extent of the unequal treatment</p> <p>20 that you think the plan has is that you're</p> <p>21 represented by one person rather than two?</p> <p>22 A Correct.</p> <p>23 Q And that's the sole reason why you'd like</p> <p>24 to see the district changed to be one full</p> <p>25 district?</p>	

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Transcript of Charles Leander Walen

7 (25 to 28)

December 7, 2022

<p>25</p> <p>1 THE WITNESS: Okay.</p> <p>2 EXAMINATION BY COUNSEL FOR DEFENDANTS</p> <p>3 BY MR. PHILLIPS:</p> <p>4 Q Thank you, Mr. Walen. I'm -- did we lose</p> <p>5 him? Oh.</p> <p>6 A Yeah.</p> <p>7 Q Mr. Walen, I am David Phillips. I'm the</p> <p>8 attorney representing the defendants in this case,</p> <p>9 Governor Burgum and Secretary Jaeger. And I have</p> <p>10 just a few followup questions for you and we'll</p> <p>11 get you out of here.</p> <p>12 Mr. Walen, what is your race or</p> <p>13 ethnicity?</p> <p>14 A American, Caucasian.</p> <p>15 Q I think the very beginning of there cut</p> <p>16 off. I'm sorry, could you just repeat your</p> <p>17 answer?</p> <p>18 A I'm American, Caucasian.</p> <p>19 Q And white would be another way to</p> <p>20 describe you?</p> <p>21 A Yes.</p> <p>22 Q Do you consider yourself to be Native</p> <p>23 American?</p> <p>24 A I am an American native. I was born in</p> <p>25 this country.</p>	<p>27</p> <p>1 A Yes.</p> <p>2 Q And all other state-wide elections?</p> <p>3 A Yes.</p> <p>4 Q The home that you're in in New Town, do</p> <p>5 you own or rent that home?</p> <p>6 A Own.</p> <p>7 Q And do you live there all year round, or</p> <p>8 do you leave for part of the year?</p> <p>9 A I live here all year round.</p> <p>10 Q The home that you live in now, is that in</p> <p>11 the subdistrict that's known as Subdistrict 4A?</p> <p>12 A Correct.</p> <p>13 Q Have you ever lived in the subdistrict</p> <p>14 that's known as Subdistrict 4B?</p> <p>15 A No.</p> <p>16 Q In this case the defendants and the</p> <p>17 intervenors have served what's known as written</p> <p>18 discovery. Those are interrogatories and requests</p> <p>19 for production of documents.</p> <p>20 Do you remember participating in</p> <p>21 answering those?</p> <p>22 A Yes.</p> <p>23 Q And did you sign at the bottom of those</p> <p>24 answers?</p> <p>25 A Yes.</p>
<p>26</p> <p>1 Q Would it be fair to say you don't</p> <p>2 consider yourself to be an American Indian?</p> <p>3 A Correct.</p> <p>4 Q I may jump around here a little bit, my</p> <p>5 apologies in advance. I just wanted to clarify a</p> <p>6 few things that you testified to earlier.</p> <p>7 You had talked earlier about running and</p> <p>8 winning a seat on the West Fargo School Board.</p> <p>9 Is that correct?</p> <p>10 A Yes.</p> <p>11 Q I just want to follow up briefly.</p> <p>12 What years were you on the school board?</p> <p>13 A Approximately -- well, it would be in the</p> <p>14 1990s.</p> <p>15 Q For how many years?</p> <p>16 A Four years.</p> <p>17 Q And a few other clarifications.</p> <p>18 If I recall correctly, did you say you</p> <p>19 voted in every election since you were 18?</p> <p>20 A Yes.</p> <p>21 Q Were all of those elections in the State</p> <p>22 of North Dakota?</p> <p>23 A Yes.</p> <p>24 Q And would that include all state</p> <p>25 legislative elections?</p>	<p>28</p> <p>1 Q Earlier today you talked about some</p> <p>2 searching that you did today on your phone and</p> <p>3 your e-mail.</p> <p>4 Did you do any searching of electronic</p> <p>5 records before today for purposes of responding to</p> <p>6 discovery requests?</p> <p>7 A No.</p> <p>8 Q Have you reviewed the legislative record</p> <p>9 about the 2021 redistricting that's found on the</p> <p>10 website of our state legislature?</p> <p>11 A Only to the extent to know what the</p> <p>12 boundaries were.</p> <p>13 Q In other words, looking at the boundary</p> <p>14 maps?</p> <p>15 A Correct.</p> <p>16 Q Have you watched any of the videos in the</p> <p>17 legislative record dealing with the 2021</p> <p>18 redistricting?</p> <p>19 A No.</p> <p>20 Q Other than the maps, have you looked at</p> <p>21 any other documents in the legislative record?</p> <p>22 A Yes. I try to look at them when they're</p> <p>23 in session.</p> <p>24 Q Which documents would those have been?</p> <p>25 A Daily -- it would be the videos of the</p>

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Transcript of Charles Leander Walen
December 7, 2022

8 (29 to 32)

<p style="text-align: right;">29</p> <p>1 sessions, and then I just watch bits and pieces.</p> <p>2 Q Those videos, did you watch those live as</p> <p>3 they were taking place during the redistricting</p> <p>4 process?</p> <p>5 A No.</p> <p>6 Q Other than the videos, have you reviewed</p> <p>7 any documentation, either before or after the</p> <p>8 commencement of this lawsuit, generated at the</p> <p>9 legislature relating to redistricting?</p> <p>10 A No.</p> <p>11 Q You had testified earlier about some</p> <p>12 conversations that you had with North Dakota</p> <p>13 legislators. And you had mentioned Terry Jones,</p> <p>14 Clayton Fegley. My handwriting is horrible and</p> <p>15 the spelling was difficult. Who were the other</p> <p>16 names again?</p> <p>17 A Jordan Kannianen.</p> <p>18 Q And if I --</p> <p>19 A (Inaudible.)</p> <p>20 Q Say that one more time?</p> <p>21 A Senator Jordan Kannianen.</p> <p>22 Q And was there one more?</p> <p>23 A No; it was just those three.</p> <p>24 Q Correct me if I'm wrong. If I remember</p> <p>25 your testimony, I believe you said that those</p>	<p style="text-align: right;">31</p> <p>1 A How the process was going.</p> <p>2 Q Do you remember anything that Clayton</p> <p>3 told you about how the process was going?</p> <p>4 A No.</p> <p>5 Q Do you remember anything that you told to</p> <p>6 Clayton during those conversations?</p> <p>7 A Yes.</p> <p>8 Q What did you tell Clayton, that you can</p> <p>9 recall?</p> <p>10 A That depending on how the redistricting</p> <p>11 turned out, that we'd look at what legal action we</p> <p>12 could take to keep it together, if they decided to</p> <p>13 split it.</p> <p>14 Q When you say "keep it together," do you</p> <p>15 mean not subdistricted?</p> <p>16 A Correct.</p> <p>17 Q How many conversations during the</p> <p>18 redistricting process did you have with Jordan,</p> <p>19 and I won't attempt the last name.</p> <p>20 A Regarding the lawsuit, not that many. He</p> <p>21 is my son-in-law, so I communicate with him daily.</p> <p>22 Q And during the redistricting process you</p> <p>23 had multiple conversations with him?</p> <p>24 A Yes.</p> <p>25 Q And do you remember anything that he told</p>
<p style="text-align: right;">30</p> <p>1 conversations all took place after the</p> <p>2 redistricting was completed at the state in 2021.</p> <p>3 Is that correct?</p> <p>4 A I talk with them regularly as the</p> <p>5 district chair.</p> <p>6 Q Did you talk with them --</p> <p>7 A Only related to this lawsuit, it would be</p> <p>8 after.</p> <p>9 Q Related to the lawsuit, after.</p> <p>10 What conversations did you have with</p> <p>11 Terry Jones during the redistricting process?</p> <p>12 A Just discussed bound -- you know, asking</p> <p>13 what our boundaries would be.</p> <p>14 Q Did you have any discussions about the</p> <p>15 issues you're raising in this lawsuit?</p> <p>16 A Yes, we could have.</p> <p>17 Q Do you know how many times you talked to</p> <p>18 Terry Jones during the redistricting process?</p> <p>19 A I talked to him almost four or five times</p> <p>20 a week.</p> <p>21 Q What about Clayton Fegley; how many times</p> <p>22 did you talk to Clayton during the redistricting</p> <p>23 process?</p> <p>24 A Two, three times, maybe four at most.</p> <p>25 Q And what did you talk about with Clayton?</p>	<p style="text-align: right;">32</p> <p>1 you in those conversations during the</p> <p>2 redistricting process about the redistricting</p> <p>3 process?</p> <p>4 A No.</p> <p>5 Q Do you remember anything that you told</p> <p>6 him during the redistricting process about the</p> <p>7 redistricting process?</p> <p>8 A That if -- that if the district got</p> <p>9 split, that we'd look at what legal actions we</p> <p>10 could take to keep it together.</p> <p>11 Q Did you have any conversations with any</p> <p>12 of those three individuals during the</p> <p>13 redistricting process about the Voting Rights Act?</p> <p>14 A No.</p> <p>15 Q Have you ever had a conversation with</p> <p>16 anyone employed with the North Dakota Legislative</p> <p>17 Council about the 2021 redistricting process?</p> <p>18 A No.</p> <p>19 Q Have you ever had a conversation with</p> <p>20 anyone else who's employed by or is an agent of</p> <p>21 the State of North Dakota about the 2021</p> <p>22 redistricting process?</p> <p>23 A No.</p> <p>24 Q Did you, personally, attend or provide</p> <p>25 any testimony at any of the committee hearings or</p>

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Transcript of Charles Leander Walen

9 (33 to 36)

December 7, 2022


<p>1 debates on redistricting in 2021?</p> <p>2 A No.</p> <p>3 Q Have you hired an expert to testify at</p> <p>4 trial about the Voting Rights Act in this case?</p> <p>5 A I have not.</p> <p>6 Q Were you aware of whether or not the</p> <p>7 plaintiffs have done so, including you or your</p> <p>8 co-plaintiffs?</p> <p>9 A You'll have to ask the attorneys.</p> <p>10 MR. PHILLIPS: Let's take a short break.</p> <p>11 We'll go off the record for just a few minutes.</p> <p>12 (A recess was taken.)</p> <p>13 BY MR. PHILLIPS:</p> <p>14 Q You testified earlier about going through</p> <p>15 and searching your e-mails and texts today.</p> <p>16 Since the commencement of this lawsuit,</p> <p>17 have you deleted any texts that have been deleted</p> <p>18 and wouldn't have shown up in your results?</p> <p>19 A No.</p> <p>20 Q Do you keep all of your text messages</p> <p>21 without ever deleting them?</p> <p>22 A They're -- after a period of time they're</p> <p>23 automatically deleted. I don't know what that</p> <p>24 time frame is.</p> <p>25 Q From your Samsung phone?</p>	<p>33</p> <p>1 MR. GABER: Nothing further from me.</p> <p>2 Thank you, Mr. Walen, I appreciate it.</p> <p>3 MR. SANDERSON: And, Chuck, you have the</p> <p>4 right to read and sign your deposition or you can</p> <p>5 waive that right. It's up to you. Paul waived</p> <p>6 his earlier, if that's what you want to do.</p> <p>7 THE WITNESS: I can waive it.</p> <p>8 MR. SANDERSON: All right. Chuck, thank</p> <p>9 you for your time.</p> <p>10 COURT REPORTER: Mr. Phillips, same order</p> <p>11 as earlier?</p> <p>12 MR. PHILLIPS: Yes.</p> <p>13 COURT REPORTER: Mr. Sanderson, same</p> <p>14 order as earlier?</p> <p>15 MR. SANDERSON: Same order, please.</p> <p>16 COURT REPORTER: Thank you.</p> <p>17 (Off the record at 2:57 p.m. EST.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>34</p> <p>1 A Correct.</p> <p>2 Q And what about your e-mails; are they --</p> <p>3 have they been deleted either automatically or by</p> <p>4 you since the commencement of this lawsuit?</p> <p>5 A Not that I'm aware of.</p> <p>6 Q So we will likely be making a followup</p> <p>7 request in this case. And so I would ask that you</p> <p>8 preserve and don't make any deletions, to the</p> <p>9 extent it's already happened don't do any further</p> <p>10 deletions of any texts on your phone or any</p> <p>11 e-mails so that we can make that request and that</p> <p>12 they don't get inadvertently deleted.</p> <p>13 And additionally, I would also ask, we'll</p> <p>14 likely make a request for the notes that you</p> <p>15 discussed earlier that you took in the last</p> <p>16 deposition today, the first deposition today, I</p> <p>17 should say. I'd request that you keep those and</p> <p>18 hold on to them, too, because we'll likely be</p> <p>19 making a request for a copy of those.</p> <p>20 A I will send those to the attorney, to our</p> <p>21 attorneys.</p> <p>22 Q Perfect.</p> <p>23 MR. PHILLIPS: Thank you. I have no</p> <p>24 further questions.</p> <p>25 Mr. Gaber?</p>	<p>36</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, CHARLES LEANDER WALEN, do hereby</p> <p>3 acknowledge that I have read and examined the</p> <p>4 foregoing testimony, and the same is a true,</p> <p>5 correct and complete transcription of the</p> <p>6 testimony given by me, and any corrections appear</p> <p>7 on the attached Errata sheet signed by me.</p> <p>8</p> <p>9 _____</p> <p>10 (DATE) (SIGNATURE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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Transcript of Charles Leander Walen
December 7, 2022

10 (37 to 40)

<p>37</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC</p> <p>2 I, Debra A. Whitehead, the officer before whom the</p> <p>3 foregoing proceedings were taken, do hereby certify</p> <p>4 that the foregoing transcript is a true and correct</p> <p>5 record of the proceedings; that said proceedings</p> <p>6 were taken by me stenographically and thereafter</p> <p>7 reduced to typewriting under my supervision; that</p> <p>8 reading and signing was not requested; and that I am</p> <p>9 neither counsel for, related to, nor employed by any</p> <p>10 of the parties to this case and have no interest,</p> <p>11 financial or otherwise, in its outcome.</p> <p>12 IN WITNESS WHEREOF, I have hereunto set my hand and</p> <p>13 affixed my notarial seal this 16th day of December,</p> <p>14 2022.</p> <p>15</p> <p>16 My commission expires:</p> <p>17 April 30, 2023</p> <p>18 </p> <p>19 <u>Debra A. Whitehead</u></p> <p>20 _____</p> <p>21 E-NOTARY PUBLIC IN AND FOR THE</p> <p>22 STATE OF MARYLAND</p> <p>23</p> <p>24</p> <p>25</p>	

Transcript of Charles Leander Walen

December 7, 2022

11

A			
able 23:13 about 7:18, 13:2, 17:9, 19:6, 20:2, 22:13, 22:18, 23:16, 26:7, 28:1, 28:9, 29:11, 30:14, 30:21, 30:25, 31:3, 32:2, 32:6, 32:13, 32:17, 32:21, 33:4, 33:14, 34:2 accountant 15:25 acknowledge 36:3 acknowledgment 36:1 act 32:13, 33:4 action 31:11 actions 32:9 actually 15:16 addition 17:25 additionally 34:13 address 12:22, 15:13, 15:17 advance 26:5 affiliated 13:21 affixed 37:13 after 11:23, 14:7, 18:25, 19:22, 19:24, 20:20,	23:1, 29:7, 30:1, 30:8, 30:9, 33:22 afterwards 20:18 again 8:14, 29:16 agent 32:20 ago 7:18, 7:19, 18:6 agreement 21:16 ahead 9:4, 9:6, 9:18 all 7:20, 7:24, 9:13, 21:11, 22:12, 24:16, 26:21, 26:24, 27:2, 27:7, 27:9, 30:1, 33:20, 35:8 allison 4:11 almost 30:19 already 34:9 also 5:2, 8:4, 17:4, 19:17, 24:2, 34:13 alvarez 2:5 alvin 1:13 always 22:12 american 4:13, 4:19, 25:14, 25:18, 25:23, 25:24, 26:2 among 21:16 ann 2:13	another 8:9, 8:14, 25:19 answer 8:6, 9:5, 9:18, 9:22, 10:10, 12:2, 12:9, 25:17 answering 27:21 answers 11:10, 27:24 anticipate 9:1 any 9:5, 9:21, 10:3, 10:9, 11:4, 12:3, 13:24, 14:20, 15:9, 16:13, 17:6, 17:10, 17:12, 17:22, 21:3, 22:17, 24:22, 28:4, 28:16, 28:21, 29:7, 30:14, 32:11, 32:25, 33:17, 34:8, 34:9, 34:10, 36:6, 37:9 anyone 9:25, 20:1, 32:16, 32:20 anything 11:5, 12:13, 14:13, 18:12, 21:7, 23:16, 31:2, 31:5, 31:25, 32:5 apologies 26:5 appear 36:6 appreciate 35:2 approximately 16:22, 26:13 april 37:17	areas 12:13 arikara 2:4 around 26:4 arrangement 21:18, 21:19 aside 19:25 asked 14:23, 17:22 asking 7:9, 8:21, 30:12 assume 8:18 attached 36:7 attempt 31:19 attend 32:24 attorney 13:1, 13:5, 25:8, 34:20 attorney-client 20:25 attorneys 9:15, 20:13, 33:9, 34:21 automatically 33:23, 34:3 avenue 3:13 aware 21:20, 21:21, 33:6, 34:5 away 22:13 awkward 8:2, 8:15 <hr/> B <hr/> b-y-e 19:15 back 14:5, 17:19

Transcript of Charles Leander Walen
December 7, 2022

12

background 16:11	26:4	can't 8:10, 9:21	clarifications 26:17
bakke 3:12	bits 29:1	cannot 11:8	clarify 8:22, 26:5
based 12:18, 12:19	board 18:11, 26:8,	capacity 1:11, 1:14	clayton 22:4, 29:14,
bear 9:10	26:12	caption 1:18, 2:1	30:21, 30:22,
because 8:2, 11:7,	born 25:24	carter 4:12	30:25, 31:2,
12:7, 22:23,	both 8:23, 14:8	case 1:9, 7:8, 9:5,	31:6, 31:8
34:18	bottom 27:23	case 12:14, 20:13,	clear 21:5
become 18:14, 22:20,	boulder 4:15	25:8, 27:16,	close 11:8
22:21, 22:22	bound 30:12	33:4, 34:7,	co-plaintiffs 33:8
been 7:3, 7:13,	boundaries 28:12, 30:13	37:10	cognizant 7:23
7:22, 16:20,	boundary 28:13	caucasian 25:14, 25:18	college 3:6, 16:12
17:1, 19:22,	box 3:15	cellphone 14:15	colorado 4:15
20:17, 23:9,	break 9:2, 9:3, 9:7,	cenex 16:7	com 12:23
28:24, 33:17,	24:18, 33:10	center 4:6	come 16:12, 19:3
34:3	briefly 26:11	century 3:13	commencement 29:8, 33:16,
before 2:13, 7:13,	bring 10:3	certificate 37:1	34:4
11:16, 11:18,	broadway 4:14	certify 37:3	commission 37:16
15:7, 28:5,	bulk 16:6	cesar 2:5	committee 19:8, 19:14,
29:7, 37:2	burgum 1:10, 25:9	chair 16:17, 16:18,	32:25
beginning 25:15	business 16:3, 16:5	16:21, 17:2,	communicate 31:21
behalf 3:2, 3:10, 4:2	bye 19:7, 19:15	22:9, 30:5	communication 13:10, 22:10
being 23:9		changed 23:24	communications 21:1, 21:3
believe 19:13, 29:25		charles 1:5, 1:19, 2:9,	company 11:7
benefit 8:4		6:2, 7:2, 7:12,	complaint 23:12, 23:15
besides 14:12, 15:10		21:2, 36:2	complete 36:5
best 8:5, 10:11		chuck 35:3, 35:8	completed 30:2
between 13:1	calls 20:25	chuckwalen@gmail 12:23	computer 11:6
bill 19:22, 19:24	came 19:6	circle 17:19	
bismarck 3:7, 3:14, 3:16	campaign 4:6		
bit 12:10, 22:25,	campaigns 17:14, 17:16		

Transcript of Charles Leander Walen
December 7, 2022

13

conducted 1:20, 2:9 congress 17:18 consider 25:22, 26:2 constituent 13:17, 13:20 contact 21:8 continued 1:18, 2:1 contributing 21:22 conversation 8:3, 17:20, 17:21, 18:4, 32:15, 32:19 conversations 20:2, 29:12, 30:1, 30:10, 31:6, 31:17, 31:23, 32:1, 32:11 cooperative 16:2 copy 34:19 correct 12:21, 14:11, 15:23, 23:7, 23:8, 23:22, 24:1, 26:3, 26:9, 27:12, 28:15, 29:24, 30:3, 31:16, 34:1, 36:5, 37:4 corrections 36:6 correctly 26:18 could 12:9, 17:23, 19:11, 25:16, 30:16, 31:12, 32:10 council 32:17	counsel 7:4, 10:14, 11:18, 11:23, 21:4, 21:10, 25:2, 37:9 country 25:25 county 15:1 couple 7:20 court 1:1, 7:23, 19:11, 35:10, 35:13, 35:16 currently 22:5 cut 25:15 cutting 22:25 <hr/> <p style="text-align: center;">D</p> <hr/> d-o-n-i-t-a 19:15 daily 28:25, 31:21 dakota 1:2, 1:12, 1:15, 3:7, 3:14, 3:16, 15:8, 15:15, 17:7, 17:18, 26:22, 29:12, 32:16, 32:21 danahy 4:4 date 14:4, 20:15, 36:10 dates 10:19 david 3:11, 25:7 day 37:13 dc 4:8, 4:21	dealing 28:17 debates 33:1 debra 1:25, 2:13, 37:2 december 1:21, 37:13 decide 22:20, 22:21, 22:22 decided 18:18, 31:12 defendants 1:16, 3:10, 25:2, 25:8, 27:16 defer 20:14 deleted 33:17, 33:23, 34:3, 34:12 deleting 33:21 deletions 34:8, 34:10 depending 31:10 deponent 36:1 deposed 7:13 deposition 1:19, 2:9, 10:7, 11:11, 11:14, 11:16, 11:19, 11:24, 12:4, 12:8, 14:22, 21:4, 34:16, 35:4 describe 25:20 determination 12:16 deville 2:6 difficult 29:15	direct 10:13 discovery 27:18, 28:6 discuss 18:3, 21:3 discussed 19:9, 21:25, 30:12, 34:15 discussions 30:14 district 1:1, 1:2, 13:15, 13:16, 13:17, 13:21, 15:20, 15:21, 16:17, 16:20, 17:15, 18:18, 18:20, 19:9, 20:11, 22:9, 22:24, 23:2, 23:24, 23:25, 24:2, 30:5, 32:8 division 1:3 documentation 29:7 documents 12:3, 12:6, 12:24, 12:25, 14:20, 27:19, 28:21, 28:24 doing 8:12 done 7:22, 33:7 donita 19:7, 19:15 doug 1:10 down 7:24, 8:11, 24:11 drive 3:6, 14:25 duly 7:3 during 11:11, 20:17,
---	--	---	--

Transcript of Charles Leander Walen

December 7, 2022

14

29:3, 30:11, 30:18, 30:22, 31:6, 31:17, 31:22, 32:1, 32:6, 32:12	16:10 else 9:25, 14:13, 18:12, 20:1, 23:16, 32:20 employed 32:16, 32:20, 37:9 end 23:3 endeavor 7:25 entitled 10:15 equal 21:17 errata 36:7 esquire 3:3, 3:4, 3:11, 4:3, 4:4, 4:5, 4:11, 4:12, 4:18 est 1:22, 35:17 ethnicity 25:13 even 8:12 evenson 3:5 ever 22:11, 27:13, 32:15, 32:19, 33:21 every 24:9, 26:19 exactly 20:15, 20:16 examination 6:2, 7:4, 25:2 examined 36:3 exchange 14:3, 17:25, 18:22 executive 19:8, 19:14 expert 33:3	expires 37:16 explanation 19:4 extent 20:25, 23:19, 28:11, 34:9	followup 25:10, 34:6 foregoing 36:4, 37:3, 37:4 form 20:24, 22:10 found 28:9 four 17:3, 19:20, 26:16, 30:19, 30:24 frame 33:24 frequently 24:15 fuel 16:6 full 23:24 fully 9:22 fund 4:13, 4:19 further 24:22, 34:9, 34:24, 35:1
E		F	G
e-mail 11:5, 11:7, 11:10, 12:8, 12:20, 12:22, 14:8, 14:19, 28:3 e-mails 33:15, 34:2, 34:11 e-notary 2:14, 37:21 each 8:1, 8:16 eagle 14:25 earlier 26:6, 26:7, 28:1, 29:11, 33:14, 34:15, 35:6, 35:11, 35:14 eastern 1:3 educational 16:11 either 29:7, 34:3 elected 16:23, 17:4 election 24:6, 24:9, 26:19 elections 24:8, 26:21, 26:25, 27:2 electronic 28:4 elevator 16:7 eleven 15:4, 15:6,		fact 18:16 fair 26:1 family 22:15 fargo 15:8, 18:11, 26:8 feel 22:23 fegley 22:4, 29:14, 30:21 few 21:12, 25:10, 26:6, 26:17, 33:11 fifteen-plus 7:19 file 20:3 financial 37:11 find 12:24 fine 10:17, 10:21, 11:9 first 20:12, 34:16 five 30:19 folks 19:14, 20:1, 22:11 follow 26:11 follows 7:3	gabber 4:3, 6:3, 7:6, 7:7, 10:20, 11:2, 24:17, 24:21, 34:25, 35:1 generate 19:2 generated 21:8, 29:8 give 8:9, 8:15, 19:4 given 36:6 giving 8:5 go 9:3, 9:6, 9:18,

Transcript of Charles Leander Walen

December 7, 2022

15

33:11 going 17:19, 24:17, 31:1, 31:3, 33:14 good 9:8, 9:9, 11:2, 19:18 governor 1:11, 24:23, 25:9 graduate 16:12 grinolds 3:12 grocery 16:7 ground 7:21 group 19:3, 21:17 groups 21:22 guess 19:2, 22:6	26:4, 27:9 hereby 36:2, 37:3 hereunto 37:12 hidatsa 2:4 high 16:12 hired 33:3 hoerter 5:3 hold 13:24, 16:13, 34:18 home 27:4, 27:5, 27:10 horrible 29:14 house 15:10, 15:21, 24:4, 24:11 houses 22:13	initiated 21:8 instruct 21:2 interest 37:10 interrogatories 11:15, 14:23, 27:18 intervenor-defen- dants 2:7, 4:2, 7:5, 7:8 intervenors 27:17 involved 18:14, 19:5, 20:2 involvement 17:10 issues 30:15	jump 26:4
H	I	J	K
hand 37:12 handwriting 29:14 hansen 4:5 happened 34:9 harder 8:12 head 8:11 hearings 32:25 help 13:9, 17:23 helpful 19:10 henderson 1:6, 21:14 here 7:21, 25:11,	idea 19:2 identify 21:13 imagine 8:13 important 7:25 inadvertently 34:12 include 26:24 including 33:7 indian 26:2 individual 1:5, 1:7 individuals 32:12	j-o-r-d-a-n 19:16 jaeger 1:13, 25:9 jay 13:11, 13:12, 21:14 job 1:23, 8:21, 9:14, 11:12 jones 19:7, 19:12, 19:25, 21:14, 22:1, 24:11, 29:13, 30:11, 30:18 jordan 19:8, 19:15, 20:5, 20:7, 22:1, 22:14, 29:17, 29:21, 31:18 joyce 3:4	k-a-n-n-i-a-n-e-n 19:16 kannianen 19:8, 19:16, 20:5, 20:6, 22:1, 29:17, 29:21 keep 8:4, 9:13, 31:12, 31:14, 32:10, 33:20, 34:17 kelty 4:18 kind 14:15, 19:4 knew 15:16 know 8:2, 8:11, 8:19, 8:22, 9:3, 9:17, 10:12, 10:13, 10:15, 10:22, 12:1, 14:4, 18:21, 19:3, 20:16, 21:7, 21:11, 21:19, 21:21, 21:23, 28:11, 30:12, 30:17, 33:23 known 27:11, 27:14, 27:17 kristin 5:3
			L
			last 19:11, 20:19, 31:19, 34:15 laurie 5:4 lawsuit 12:19, 13:9,

Transcript of Charles Leander Walen

December 7, 2022

16

14:9, 18:15, 20:3, 22:18, 29:8, 30:7, 30:9, 30:15, 31:20, 33:16, 34:4 lawyer 7:8 leander 1:19, 2:9, 6:2, 7:2, 36:2 least 19:12 leave 27:8 legal 4:6, 21:10, 31:11, 32:9 legislative 15:20, 17:17, 20:18, 26:25, 28:8, 28:17, 28:21, 32:16 legislators 22:17, 29:13 legislature 19:22, 20:8, 21:24, 28:10, 29:9 let's 33:10 likely 34:6, 34:14, 34:18 lisa 2:6 litigation 21:25 little 12:10, 22:25, 26:4 live 14:24, 15:7, 27:7, 27:9, 27:10, 29:2 lived 15:3, 27:13 lives 22:12, 24:16	local 16:24 long 7:18, 9:14, 15:3, 16:9, 16:20, 17:1 look 14:4, 28:22, 31:11, 32:9 looked 12:8, 28:20 looking 12:11, 14:18, 28:13 looks 23:1 lose 25:4 lost 18:16 lumberyard 16:7 <hr/> M <hr/> main 7:22 make 8:7, 9:19, 10:25, 12:15, 34:8, 34:11, 34:14 makes 7:25, 22:15 making 34:6, 34:19 mandan 2:4 many 7:15, 26:15, 30:17, 30:21, 31:17, 31:20 maps 28:14, 28:20 mark 4:3, 7:7 maryland 2:14, 37:22 matter 10:25	maybe 10:13, 24:18, 30:24 mean 21:5, 21:7, 31:15 meet 11:18, 11:23 member 13:15, 13:16, 13:23, 20:7 members 16:24, 21:24 mentioned 9:24, 20:1, 29:13 message 13:6, 14:2 messages 12:9, 13:3, 14:20, 33:20 michael 4:12 might 8:13, 9:15, 10:9 mind 8:4, 9:10 minutes 7:21, 24:18, 33:11 missed 22:3 molly 4:4 more 12:10, 29:20, 29:22 morning 10:8, 10:12, 11:17 morning's 11:24, 12:7 most 30:24 mountrail 15:2 much 9:1	multiple 31:23 myself 13:1, 19:7 <hr/> N <hr/> name 7:7, 7:10, 19:18, 21:21, 31:19 names 10:19, 19:12, 19:13, 29:16 narf 5:3, 5:4 nation 2:5 national 17:9 native 4:13, 4:19, 25:22, 25:24 nature 10:6, 16:3, 16:5 need 9:2, 9:3 needs 22:23, 23:1 neither 37:9 neswood 4:11 new 14:25, 15:10, 27:4 next 1:18 nicole 4:5 nods 8:11 none 6:8, 17:11 normal 8:3 north 1:2, 1:12,
---	---	--	--

Transcript of Charles Leander Walen

December 7, 2022

17

1:15, 3:7, 3:14, 3:16, 15:8, 15:14, 17:7, 17:18, 26:22, 29:12, 32:16, 32:21 northwest 16:18, 17:1 notarial 37:13 notary 37:1 notes 10:3, 10:6, 10:8, 10:14, 10:16, 10:19, 34:14 nothing 35:1 notice 2:13 nw 4:7, 4:20	20:10, 24:18, 24:19, 25:1 one 7:16, 7:22, 8:3, 8:14, 9:4, 9:15, 11:25, 13:4, 18:19, 22:3, 22:13, 23:5, 23:11, 23:14, 23:21, 23:24, 29:20, 29:22 ones 21:15 ongoing 19:21 only 9:4, 10:18, 11:20, 11:25, 12:25, 13:4, 21:5, 23:10, 28:11, 30:7 open 11:4, 11:5, 11:7 options 19:9 order 35:10, 35:14, 35:15 organizations 17:12 other 8:1, 9:15, 11:3, 11:4, 14:18, 14:20, 14:22, 15:9, 17:6, 17:12, 18:1, 18:7, 19:13, 20:1, 21:22, 22:17, 26:17, 27:2, 28:13, 28:20, 28:21, 29:6, 29:15 otherwise 37:11 out 13:18, 13:19,	18:1, 18:23, 18:25, 20:22, 20:23, 22:25, 25:11, 31:11 outcome 37:11 outside 13:4 over 8:1, 8:5, 18:5 own 27:5, 27:6 <hr/> P <hr/> page 1:18, 2:1, 6:2, 8:23 pages 1:24 paralegal 5:3, 5:4 paraphrasing 13:7 part 27:8 participating 27:20 particular 12:11 parties 16:14, 37:10 party 13:22, 13:23, 13:25, 16:19, 16:24, 17:2, 17:7, 17:9, 18:8 passed 19:23, 19:24 past 23:10 paul 1:6, 3:3, 10:8, 10:22, 21:14, 35:5 paying 21:10, 21:11 pending 9:6	people 18:18, 18:19, 21:17, 21:22, 22:7 perfect 34:22 period 33:22 person 23:21 personal 12:20 personally 24:5, 32:24 pertained 12:14 phillips 3:11, 6:4, 24:23, 25:3, 25:7, 33:10, 33:13, 34:23, 35:10, 35:12 phone 11:20, 17:24, 18:2, 28:2, 33:25, 34:10 pieces 29:1 place 16:8, 29:3, 30:1 plaintiff 22:20, 22:22 plaintiffs 1:8, 3:2, 33:7 plan 23:17, 23:20 please 8:4, 8:21, 9:3, 19:6, 35:15 political 16:14, 17:12, 17:14 poor 8:21 position 13:24, 16:23 positions 16:13, 17:6,
<hr/> O <hr/> object 9:16, 20:24, 23:17 objection 9:17, 23:4 office 9:12, 9:24, 18:7 officer 37:2 offices 18:10 official 1:10, 1:13, 13:24 often 22:14 oh 25:5 okay 8:16, 8:24, 9:11, 11:2, 14:6, 14:17,			

Transcript of Charles Leander Walen
December 7, 2022

18

18:8 potential 20:2 preference 10:23 preparation 12:4 prepare 11:13, 14:21 present 5:2, 10:12 preserve 34:8 previous 2:1 private 9:12 probably 10:11 problem 11:1 proceedings 37:3, 37:5 process 12:17, 19:1, 20:18, 29:4, 30:11, 30:18, 30:23, 31:1, 31:3, 31:18, 31:22, 32:2, 32:3, 32:6, 32:7, 32:13, 32:17, 32:22 producing 10:17, 10:21 production 27:19 provide 32:24 public 2:14, 37:1, 37:21 purposes 28:5 pursuant 2:13 <hr/> Q <hr/> quality 16:2	question 8:16, 8:20, 9:5, 9:16, 9:18, 11:25, 12:2, 12:9, 16:4, 20:14 questions 7:9, 8:10, 8:19, 9:22, 10:9, 11:11, 24:22, 24:25, 25:10, 34:24 <hr/> R <hr/> race 25:12 raising 30:15 rather 10:16, 23:5, 23:21 reach 20:22, 20:23 reached 13:18, 13:19, 18:23, 18:25 reaching 18:1 read 11:15, 35:4, 36:3 reading 37:8 reason 7:17, 9:21, 23:23 recall 26:18, 31:9 recess 24:20, 33:12 record 7:11, 28:8, 28:17, 28:21, 33:11, 35:17, 37:5 records 14:5, 28:5 redistricted 13:8	redistricting 12:19, 14:7, 14:10, 19:1, 19:21, 20:21, 23:17, 28:9, 28:18, 29:3, 29:9, 30:2, 30:11, 30:18, 30:22, 31:10, 31:18, 31:22, 32:2, 32:6, 32:7, 32:13, 32:17, 32:22, 33:1 reduced 37:7 regarding 31:20 regional 16:18, 17:2 register 15:14 registered 15:12 regularly 22:8, 24:8, 30:4 related 30:7, 30:9, 37:9 relating 29:9 remember 7:16, 18:5, 20:15, 21:9, 21:15, 27:20, 29:24, 31:2, 31:5, 31:25, 32:5 remotely 8:12 rent 27:5 repeat 25:16 reported 1:25 reporter 7:23, 19:11,	35:10, 35:13, 35:16, 37:1 represent 18:17, 18:19, 22:24, 23:2 representative 18:17, 19:25, 22:5, 23:5 representatives 23:6, 23:13 represented 23:9, 23:21, 24:3 representing 24:23, 25:8 republican 13:22, 13:23, 16:19, 16:21, 17:7, 17:9 republicans 24:3 request 10:25, 34:7, 34:11, 34:14, 34:17, 34:19 requested 37:8 requests 27:18, 28:6 required 15:14 residences 15:9 respect 13:2 responding 28:5 response 8:15 responses 8:10 rest 23:10 restate 16:4 results 33:18 review 12:3, 14:20
---	---	--	---

Transcript of Charles Leander Walen
December 7, 2022

19

reviewed 28:8, 29:6 right 7:20, 9:13, 15:19, 15:22, 18:24, 19:19, 22:16, 24:13, 35:4, 35:5, 35:8 rights 4:13, 4:19, 32:13, 33:4 role 13:22 room 8:14, 9:25 roughly 20:17, 22:6 round 27:7, 27:9 rules 7:21 run 12:16, 18:7 running 26:7 ryan 3:4 <hr/> <p style="text-align: center;">S</p> <hr/> said 13:7, 21:6, 23:1, 24:10, 24:11, 29:25, 37:5 samantha 4:18 same 8:13, 8:23, 35:10, 35:13, 35:15, 36:4 samsung 14:16, 14:17, 33:25 sanderson 3:3, 3:5, 10:24, 20:24, 35:3, 35:8, 35:13, 35:15	sandstrom 13:11, 13:12, 17:20, 18:22, 21:15 say 8:19, 13:16, 13:20, 15:5, 17:21, 26:1, 26:18, 29:20, 31:14, 34:17 school 16:12, 18:11, 26:8, 26:12 screen 11:4 screens 11:4 seal 37:13 search 12:16, 12:18, 12:19, 14:12, 14:13 searching 14:9, 14:10, 14:19, 28:2, 28:4, 33:15 seat 26:8 secretary 1:14, 24:24, 25:9 see 10:15, 12:13, 22:14, 23:24, 24:2 seeing 18:25 senate 15:20 senator 17:17, 20:9, 29:21 send 34:20 sense 8:7, 9:19, 22:15	served 27:17 session 28:23 sessions 29:1 set 37:12 seven 15:5 share 21:18 sheet 36:7 short 20:20, 24:17, 33:10 shorthand 37:1 shortly 20:20 should 18:19, 23:13, 34:17 shouldn't 10:25 shown 33:18 sign 27:23, 35:4 signature 36:10 signature-mig2k 37:18 signed 36:7 signing 37:8 similar 10:9 since 7:21, 7:22, 8:11, 24:9, 26:19, 33:16, 34:4 slowly 7:25 smartphone 14:16	sole 23:23 some 7:9, 7:21, 10:8, 24:24, 28:1, 29:11 someone 9:15, 10:14, 11:10, 18:21, 19:3, 22:23, 23:1 something 8:19, 23:1 sometimes 8:2 son-in-law 19:17, 31:21 sorry 15:16, 25:16 sort 19:4, 20:16 sound 9:8 sounds 9:9, 10:20, 11:2 speak 17:24 specific 12:11 spell 19:11 spelled 19:19 spelling 29:15 spend 7:20 split 21:17, 31:13, 32:9 spoken 22:7, 22:18 start 7:10 state 1:12, 1:15, 2:14, 7:10,
--	--	---	--

Transcript of Charles Leander Walen

December 7, 2022

20

9:17, 15:20, 15:21, 16:18, 20:7, 20:9, 23:5, 23:6, 23:10, 24:3, 24:24, 26:21, 26:24, 28:10, 30:2, 32:21, 37:22 state-wide 27:2 states 1:1 stay 24:15 stenographically 37:6 still 19:21 stirling 5:4 stop 16:6 store 16:7 street 4:7, 4:20, 24:11 subdistrict 27:11, 27:13, 27:14 subdistricted 31:15 suite 3:6, 4:7, 4:20 supervision 37:7 supposed 11:8 sure 21:11 sworn 7:3 <hr/> T <hr/> take 8:10, 9:4, 9:6, 22:11, 24:17,	31:12, 32:10, 33:10 taken 24:20, 33:12, 37:3, 37:6 taking 7:24, 9:1, 29:3 talk 7:25, 8:1, 8:5, 22:8, 30:4, 30:6, 30:22, 30:25 talked 18:2, 19:5, 26:7, 28:1, 30:17, 30:19 talking 18:17 tell 21:6, 31:8 ten 16:22, 24:18 terms 14:12 terry 19:7, 19:12, 21:14, 22:1, 22:12, 24:11, 29:13, 30:11, 30:18 testified 7:3, 26:6, 29:11, 33:14 testify 21:3, 33:3 testimony 29:25, 32:25, 36:4, 36:6 text 12:8, 13:2, 13:6, 14:2, 14:3, 14:19, 17:25, 18:2, 18:22, 22:11, 33:20 texts 14:8, 33:15, 33:17, 34:10	th 4:7, 37:13 thank 24:22, 25:4, 34:23, 35:2, 35:8, 35:16 thereafter 37:6 thing 9:4, 10:18 things 26:6 think 19:10, 19:12, 23:12, 23:20, 24:10, 24:24, 25:15 third 22:3 three 22:7, 22:13, 29:23, 30:24, 32:12 through 11:15, 14:18, 14:19, 33:14 time 7:16, 9:2, 24:16, 24:23, 29:20, 33:22, 33:24, 35:9 times 7:15, 8:15, 30:17, 30:19, 30:21, 30:24 today 9:2, 9:22, 10:4, 11:22, 14:21, 28:1, 28:2, 28:5, 33:15, 34:16 today's 11:13, 11:19 together 31:12, 31:14, 32:10 told 31:3, 31:5,	31:25, 32:5 took 10:8, 30:1, 34:15 touch 20:12 town 14:25, 15:10, 27:4 transcript 37:4 transcription 36:5 treatment 23:19 trial 33:4 trouble 11:12 truck 16:6 true 36:4, 37:4 truthfully 9:22 try 8:14, 9:13, 28:22 turned 31:11 two 14:12, 19:12, 19:13, 20:1, 23:6, 23:9, 23:10, 23:13, 23:21, 24:3, 30:24 types 17:16 typewriting 37:7 typically 10:14 <hr/> U <hr/> under 37:7 understand 8:17, 8:18,
--	--	---	--

Transcript of Charles Leander Walen

December 7, 2022

21

8:20, 13:7 unequal 23:19 united 1:1, 16:2 unless 8:19 use 14:15, 15:17 <hr/> V <hr/> verbal 8:10, 8:15, 22:12 videos 28:16, 28:25, 29:2, 29:6 virtually 1:20, 2:10 vote 15:12, 15:17, 23:5, 24:6, 24:8 voted 26:19 voting 32:13, 33:4 <hr/> W <hr/> waive 35:5, 35:7 waived 35:5 walen 1:5, 1:19, 2:9, 6:2, 7:2, 7:7, 7:12, 11:3, 24:21, 25:4, 25:7, 25:12, 35:2, 36:2 want 11:11, 12:1, 21:6, 26:11, 35:6 wanted 26:5 washington 4:8, 4:21 watch 29:1, 29:2	watched 11:16, 28:16 way 17:23, 25:19 we'll 25:10, 33:11, 34:13, 34:18 we're 8:12, 15:14 website 28:10 wednesday 1:21 week 30:20 west 3:13, 15:8, 18:11, 26:8 whereof 37:12 whether 21:20, 33:6 white 25:19 whitehead 1:25, 2:13, 37:2 wiederholt 3:12 willing 13:9 winning 26:8 within 18:18 without 33:21 witness 10:18, 24:19, 25:1, 35:7, 37:12 won 18:11 word 14:9, 14:10 words 7:24, 28:13 work 9:9, 15:24,	16:1 work-related 7:17 worked 16:9, 17:14 wouldn't 33:18 written 27:17 wrong 29:24 <hr/> Y <hr/> yeah 25:6 year 18:5, 20:18, 20:19, 27:7, 27:8, 27:9 years 7:19, 15:4, 16:10, 16:22, 17:3, 26:12, 26:15, 26:16 yesterday 11:22 yourself 25:22, 26:2 <hr/> Z <hr/> zoom 11:3 <hr/> 0 <hr/> 00031 1:10 02 1:22 <hr/> 1 <hr/> 11 15:5 1100 3:6 1101 4:7 1243 3:8	14 4:7 1506 4:14 1514 4:20 16 37:13 18 24:9, 26:19 1990 26:14 1:-cv--crh 1:10 <hr/> 2 <hr/> 2 1:22, 35:17 20005 4:8, 4:21 202 4:9, 4:22 2021 28:9, 28:17, 30:2, 32:17, 32:21, 33:1 2022 1:21, 24:6, 37:14 2023 37:17 22 1:10 2200 4:9 25 6:4 <hr/> 3 <hr/> 30 37:17 300 3:13 303 4:16 37 1:24 <hr/> 4 <hr/> 400 4:7
---	---	---	---

Transcript of Charles Leander Walen
December 7, 2022

22

4166 4:22 422 14:25 4247 3:15, 3:16 447 4:16 473885 1:23 4a 15:21, 27:11 4b 22:4, 27:14	
5	
57 35:17 58501 3:7 58502 3:16 58503 3:14	
7	
701 3:8, 3:17 716 4:9 751 3:8, 3:17 785 4:22	
8	
80301 4:15 8188 3:17 8760 4:16	