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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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## Exhibit 37

Transcript of Charles Leander Walen  
December 7, 2022

1 (1 to 4)

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

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Transcript of Charles Leander Walen  
December 7, 2022

2 (5 to 8)

<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>	5	<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>	7
<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>	6	<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>	8

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3 (9 to 12)

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

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4 (13 to 16)

13	<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>	15
14	<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>	16
14	<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>	16

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5 (17 to 20)

<p>1 Q And how long have you been the Northwest 2 regional chair for the party? 3 <b>A Four years.</b> 4 Q Is that also elected? 5 <b>A Yes.</b> 6 Q Do you have any other positions with the 7 North Dakota Republican party? 8 <b>A No.</b> 9 Q What about the national Republican party; 10 do you have any involvement there? 11 <b>A No, none.</b> 12 Q And any other political organizations? 13 <b>A No.</b> 14 Q Have you worked on political campaigns? 15 <b>A Yes; in my district.</b> 16 Q And which types of campaigns? 17 <b>A The legislative for Senator and for 18 Congress for North Dakota.</b> 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 <b>A I don't -- he just asked if there's any 23 way he could help.</b> 24 Q Did you speak with him by phone in 25 addition to the text exchange?</p>	<p>1 <b>redistricting process, yes.</b> 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 <b>A Myself, Terry Jones, Donita Bye, and 8 Jordan Kannianen were the executive committee of 9 District 4. We discussed what options would be.</b> 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 <b>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.</b> 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 <b>A It would be after the bill was passed.</b> 25 Q And aside from Representative Jones and</p>
<p>1 <b>A Other than his reaching out to me by his 2 text, I talked to him by phone.</b> 3 Q And what did you discuss in that 4 conversation? 5 <b>A I don't remember. That's over a year 6 ago.</b> 7 Q Have you run for office other than the 8 party positions? 9 <b>A Yes.</b> 10 Q What offices? 11 <b>A West Fargo School Board. I won.</b> 12 Q Anything else? 13 <b>A No.</b> 14 Q How did you become involved in this 15 lawsuit? 16 <b>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.</b> 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 <b>A He reached out to me after seeing the</b></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 <b>A No.</b> 5 Q And Jordan, is it Kannianen? 6 <b>A Kannianen.</b> 7 Q Jordan K, is he a member of the state 8 legislature? 9 <b>A He is the state Senator.</b> 10 Q Okay. 11 <b>A District 4.</b> 12 Q When did you first get in touch with your 13 attorneys in this case? 14 <b>A I will defer to them on that question.</b> 15 <b>Don't remember the date exactly.</b> 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 <b>A It would be short -- very shortly after 21 the redistricting.</b> 22 Q And did you reach out to them or did they 23 reach out to you? 24 <b>MR. SANDERSON: Object to the form, to 25 the extent it calls for attorney-client</b></p>

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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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7 (25 to 28)

25	<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 <b>Yeah.</b></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 <b>American, Caucasian.</b></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 <b>I'm American, Caucasian.</b></p> <p>19 Q And white would be another way to</p> <p>20 describe you?</p> <p>21 A <b>Yes.</b></p> <p>22 Q Do you consider yourself to be Native</p> <p>23 American?</p> <p>24 A <b>I am an American native. I was born in</b></p> <p>25 <b>this country.</b></p>	27	<p>1 A <b>Yes.</b></p> <p>2 Q And all other state-wide elections?</p> <p>3 A <b>Yes.</b></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 <b>Own.</b></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 <b>I live here all year round.</b></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 <b>Correct.</b></p> <p>13 Q Have you ever lived in the subdistrict</p> <p>14 that's known as Subdistrict 4B?</p> <p>15 A <b>No.</b></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 <b>Yes.</b></p> <p>23 Q And did you sign at the bottom of those</p> <p>24 answers?</p> <p>25 A <b>Yes.</b></p>
26	<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 <b>Correct.</b></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 <b>Yes.</b></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 <b>Approximately -- well, it would be in the</b></p> <p>14 <b>1990s.</b></p> <p>15 Q For how many years?</p> <p>16 A <b>Four years.</b></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 <b>Yes.</b></p> <p>21 Q Were all of those elections in the State</p> <p>22 of North Dakota?</p> <p>23 A <b>Yes.</b></p> <p>24 Q And would that include all state</p> <p>25 legislative elections?</p>	28	<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 <b>No.</b></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 <b>Only to the extent to know what the</b></p> <p>12 <b>boundaries were.</b></p> <p>13 Q In other words, looking at the boundary</p> <p>14 maps?</p> <p>15 A <b>Correct.</b></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 <b>No.</b></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 <b>Yes. I try to look at them when they're</b></p> <p>23 <b>in session.</b></p> <p>24 Q Which documents would those have been?</p> <p>25 A <b>Daily -- it would be the videos of the</b></p>

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8 (29 to 32)

29	<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>	31	<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>
30	<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>	32	<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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9 (33 to 36)

33	<p>1 debates on redistricting in 2021?</p> <p>2 <b>A No.</b></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 <b>A I have not.</b></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 <b>A You'll have to ask the attorneys.</b></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 <b>A No.</b></p> <p>20 Q Do you keep all of your text messages</p> <p>21 without ever deleting them?</p> <p>22 <b>A They're -- after a period of time they're</b></p> <p>23 <b>automatically deleted. I don't know what that</b></p> <p>24 <b>time frame is.</b></p> <p>25 Q From your Samsung phone?</p>	35
34	<p>1 <b>A Correct.</b></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 <b>A Not that I'm aware of.</b></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 <b>A I will send those to the attorney, to our</b></p> <p>21 <b>attorneys.</b></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>	36

1 MR. GABER: Nothing further from me.

2 Thank you, Mr. Walen, I appreciate it.

3 MR. SANDERSON: And, Chuck, you have the

4 right to read and sign your deposition or you can

5 waive that right. It's up to you. Paul waived

6 his earlier, if that's what you want to do.

7 THE WITNESS: I can waive it.

8 MR. SANDERSON: All right. Chuck, thank

9 you for your time.

10 COURT REPORTER: Mr. Phillips, same order

11 as earlier?

12 MR. PHILLIPS: Yes.

13 COURT REPORTER: Mr. Sanderson, same

14 order as earlier?

15 MR. SANDERSON: Same order, please.

16 COURT REPORTER: Thank you.

17 (Off the record at 2:57 p.m. EST.)

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, CHARLES LEANDER WALEN, do hereby

3 acknowledge that I have read and examined the

4 foregoing testimony, and the same is a true,

5 correct and complete transcription of the

6 testimony given by me, and any corrections appear

7 on the attached Errata sheet signed by me.

8

9

10 (DATE) (SIGNATURE)

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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>	