

STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

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

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, and
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,

(caption continued on next page)

Civil Action
File No. 11-CV-562

Three-judge panel
28 U.S.C. § 2284

JOINT FINAL PRETRIAL REPORT

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This action for declaratory and injunctive relief challenges 2011 Wisconsin Acts 43 and 44, which adopted new boundaries for the state's legislative and congressional districts,¹ and codified them in chapters 4 and 3 of the Wisconsin Statutes, respectively. The case is scheduled for trial on February 21 with a final pretrial conference on February 16, 2012. In accordance with the Court's December 15, 2011 Trial Scheduling Order (Dkt. 79) and Civil L.R. 16(c)(1), the parties through their respective counsel submit the following pretrial report.

ELEMENTS OF CLAIMS AND DEFENSES

I. BALDUS PLAINTIFFS

The original plaintiffs with several additional plaintiffs (collectively, "the Baldus Plaintiffs") filed their Second Amended Complaint (Dkt. 48) on November 18, 2011. In the recitation of elements that follows, separate claims from the Second Amended Complaint are merged where appropriate. Plaintiffs have also divided claims to ensure that violations of the U.S. Constitution and Wisconsin Constitution are alleged separately, and that allegations related to Acts 43 and 44 are distinct. Any one claim would invalidate the statute at issue.

A. **Failure To Justify Population Deviations With Established Redistricting Criteria Violates The Equal Protection Clause (First, Second, And Eighth Claims) (Act 43).**

1. The Equal Protection Clause requires "substantially equal state legislative representation for all citizens." *Reynolds v. Sims*, 377 U.S. 533, 568 (1964). Regardless of size, however, population deviations that cannot be justified by traditional redistricting criteria violate the Equal Protection Clause.

2. Deviations from population equality in legislative districts can only be based on "legitimate considerations incident to the effectuation of a rational state policy," *Reynolds v.*

¹ Unless otherwise noted, the term "legislative districts" refers to state legislative districts and does not include congressional districts.

election is to be held in 2014, deprives those voters of the constitutional right to vote in a regular election for two additional years.

9. Deprivation of the right to vote in a regular election temporarily disenfranchises voters—notwithstanding the rare ability, for some, to vote in extraordinary recall elections.

10. The Equal Protection Clause “requires that a State make an honest and good faith effort” to avoid vote dilution. *Reynolds v. Sims*, 377 U.S. at 577. A vote is diluted when, gratuitously, the delay between regular elections in which a citizen can vote is increased through redistricting.

11. The disenfranchisement of more voters than necessary to reconfigure legislative districts violates the Equal Protection Clause. See *Republican Party of Wisconsin v. Elections Bd.*, 585 F. Supp. 603, 606 (E.D. Wis. 1984) (allowing temporary disenfranchisement only when it is an “absolute necessity” or when it is “unavoidable”), *vacated and remanded for dismissal of complaint, Wisconsin Elections Bd. v. Republican Party of Wisconsin*, 469 U.S. 1081 (1984).

12. Act 43 moves at least three plaintiffs from an even- to an odd-numbered district, depriving them of the ability to vote for a state senator in 2012.

13. The transfer of voters from district to district through Act 43—without justification—violates the Equal Protection Clause.

D. Congressional Districts: Failure To Conform To The Principles Of Compactness, Core Retention, And Preservation Of Communities Of Interest (Fourth Claim) (Act 44).

14. The state has a duty to make congressional districts compact, to retain core district populations, and to preserve communities of interest.

15. Act 44 makes Wisconsin’s congressional districts less compact than the previous plan, fails to honor the principle of core retention, and fails to preserve communities of interest.

guarantees set forth in section 1973b(f)(2) of this title, as provided by subsection (b) of this section.

- (b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

42 U.S.C. § 1973.

23. Plaintiffs must meet three threshold requirements to establish a violation of section 2 of the Voting Rights Act:

- a. the minority groups at issue are sufficiently large and geographically compact enough to permit the creation of a majority-minority district, or more majority-minority districts than the redistricting plan created; and,
- b. the minority groups are “politically cohesive,” meaning that their members vote in a similar fashion; and,
- c. there must be evidence of racial-bloc voting (*i.e.*, racially polarized voting) in which the majority tends to vote as a bloc, usually allowing majority voters to defeat the minority’s preferred candidates. *See Thornburg v. Gingles*, 478 U.S. 30, 48-51 (1986); *see also Growe v. Emison*, 507 U.S. 25, 401-41 (1993).

24. The *Gingles* requirements “cannot be applied mechanically and without regard to the nature of the claim.” *See Voinovich v. Quilter*, 507 U.S. 146, 158 (1993).

g. the extent to which members of the minority groups have been elected to public office in the jurisdiction. *See Gingles*, 478 U.S. at 44-45.

H. Use of Race as Predominant Redistricting Factor in Violation of the Equal Protection Clause (Seventh Claim) (Act 43).

28. To prove a constitutional violation in redistricting, plaintiffs must show that “race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.” *See Miller v. Johnson*, 515 U.S. 900, 916 (1995).

29. Plaintiffs bear the burden of proving impermissible motives and may do so either through “circumstantial evidence of a district’s shape and demographics,” including the redistricting process, or through “more direct evidence going to legislative purpose.” *See id.*

30. When race is the predominant consideration in drawing district lines, such that the legislature subordinated race-neutral districting principles (for example, compactness, contiguity, and respect for political subdivisions or communities defined by actual shared interests) to racial considerations, the challenged majority-minority districts are subject to strict scrutiny. *See Miller*, 515 U.S. at 920; *see also Shaw v. Reno*, 509 U.S. 630, 646 (1993) (*Shaw I*).

31. After race is shown to be the predominant consideration in drawing district lines, the burden shifts to the defendants to demonstrate that the redistricting plan is in pursuit of a compelling state interest, narrowly tailored to serve that interest. *See Miller*, 515 U.S. at 920; *Shaw I*, 509 U.S. at 646.

I. Conduct of Special or Recall Elections Under Act 43 (Ninth Claim) (Act 43).

32. Section 10 of 2011 Act 43 states: “(1) This act first applies, with respect to regular elections, to offices filled at the 2012 general election. (2) This act first applies, with respect to special or recall elections, to offices filled or contested concurrently with the 2012 general election.” 2011 Wis. Act 43.

A. Section 2 Voting Rights Act Claim.

37. The Voces Plaintiffs join in and adopt the Baldus Plaintiffs' statement of their claim under Section 2 of the Voting Rights Act.

III. INTERVENOR PLAINTIFFS

The Intervenor Plaintiffs (the Democratic members of the Wisconsin Congressional delegation) filed a motion to intervene and a complementary pleading on November 17, 2011 (Dkt. 44, 45), which the Court granted in an order on November 21, 2011 (Dkt. 56).

A. The 2011 Congressional Redistricting Plan Does Not Conform To The Principle Of Compactness.

38. States have a duty to make congressional districts compact. *Prosser v. Elections Bd.*, 793 F. Supp. 859 (W.D. Wis. 1992); *Bush v. Vera*, 517 U.S. 952, 1048 (1996) (Souter, J., with J. Ginsburg and J. Breyer, dissenting).

39. Wisconsin's 2011 Congressional Redistricting plan, as enacted by 2011 Wisconsin Act 44, makes Wisconsin's Congressional districts less compact than the previous plan.

40. There is no legitimate governmental interest in making the districts less compact.

41. Less compact districts are not rationally related to any legitimate governmental interest.

B. The 2011 Congressional Redistricting Plan Does Not Conform To The Principle Of Community Of Interest.

42. States have a duty to preserve communities of interest in forming Congressional Districts. *Prosser v. Elections Bd.*, 793 F. Supp. 859 (W.D. Wis. 1992); *Bush v. Vera*, 517 U.S. 952, 1048 (1996) (Souter, J., with J. Ginsburg and J. Breyer, dissenting).

43. Wisconsin's 2011 Congressional Redistricting plan, as enacted by 2011 Wisconsin Act 44, fails to preserve communities of interest.

IV. GAB DEFENDANTS

A. GAB Defendants' Response To Baldus Plaintiffs' Elements.

54. The GAB Defendants join the Intervenor-Defendants' responses to the elements of claims put forward by the Baldus Plaintiffs and Intervenor-Plaintiffs.

1. "Legislative boundaries unconstitutionally sacrifice redistricting principles."

i. State Legislative Districts

55. A party challenging the population equality of Assembly and Senate Districts must demonstrate: (1) a population deviation between districts that is not a close approximation to exactness; and (2) the deviation is not the result of considering the boundaries of local political units.²

ii. Congressional Districts

56. The Constitutional directive that members of the House of Representatives be chosen "by the People of the Several States," U.S. CONST, art. I, § 2, cl. 1, has been interpreted to "mean [] that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's." *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964).

57. A party challenging Congressional redistricting must demonstrate: (1) The existence of a population disparity that (2)"could have been reduced or eliminated altogether by (3) a good-faith effort to draw districts of equal proportion." *Karcher v. Daggett*, 462 U.S. 725, 730 (1983); *see also Tennant v. Jefferson County Commission*, 565 U.S. ___ (Jan. 20, 2012) (ordering stay of district-court ruling that struck down map for nonconformance with population-disparity principles).

² "[A] mathematical equality of population in each senate and assembly district is impossible to achieve, given the requirement that the boundaries of local political units must be considered in the execution of the standard of per capita equality of representation. . . . [A] valid reapportionment 'should be as close an approximation to exactness as possible, and that this is the utmost limit for the exercise of legislative discretion.'" *Reynolds v. Zimmerman*, 22 Wis.2d 544, 565, 126 N.W.2d 551 (1964).

State ex rel. Attorney General v. Cunningham, 81 Wis. 440, 468, 51 N.W. 724 (1892).

62. Further, plaintiffs must first prove that this Court has jurisdiction to instruct state officials on how to conform to state law. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984).

63. Even if the plaintiffs had alleged a violation of the United States Constitution, “delayed voting” as a consequence of redistricting is not, as a matter of law, a violation of the equal protection clause. “Temporary disenfranchisement resulting from the combined effect of reapportionment and a staggered election system meets the rational-basis test and therefore does not violate the Equal Protection Clause.” *Donatelli v. Mitchell*, 2 F.3d 508, 515 (3rd Cir. 1993). “In the context of reapportionment, a temporary dilution of voting power that does not unduly burden a particular group does not violate the equal protection clause.” *Republican Party of Oregon v. Keisling*, 959 F.2d 144, 145-46 (9th Cir. 1992).

4. “Congressional districts are not compact and fail to preserve communities of interest.”

64. There is no such federal claim. “[C]ompactness, contiguity, and respect for political subdivisions ... are important not because they are constitutionally required—they are not—but because they are objective factors that may serve to defeat a claim [of unconstitutional redistricting].” *Shaw v. Reno*, 509 U.S. 630, 647 (1993) (internal citation to *Gaffney v. Cummings*, 412 U.S. 735, 752, n. 18 (1973)).

65. Wis. Const. art IV § 4 requires that Wisconsin state legislative boundaries, “be bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable.” However, no provision of the Wisconsin Constitution or any state statute requires that congressional boundaries comply with any particular principles. Plaintiffs

Town of Hempstead, 956 F. Supp. 326, 329 (E.D.N.Y. 1997). Judicial assessment of the totality of the circumstances requires a “searching practical evaluation of the past and present reality.” *Gingles*, 478 U.S. at 45. Central to this assessment is an examination of the following seven factors, which were set forth in the Senate Judiciary Committee Report accompanying the 1982 amendments to Section 2 of the Voting Rights Act:

- a. the extent of any history of official discrimination in the state or political subdivision that touched the right of members of the minority group to register, vote, or otherwise to participate in the democratic process;
- b. the extent to which voting in the elections of the state or political subdivision is racially polarized;
- c. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
- d. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
- e. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder the ability to participate effectively in the political process;
- f. whether political campaigns have been characterized by overt or subtle racial appeals; [and]
- g. the extent to which members of the minority group have been elected to public office in the jurisdiction.

9. “Any special or recall elections cannot be conducted under Act 43.”

72. This is a claim premised solely on the Wisconsin Constitution. To establish a violation of a Wisconsin State Constitution provision, plaintiffs must first prove that this Court has jurisdiction to instruct state officials on how to conform to state law. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984).

73. Further, there is no case or controversy with respect to this claim because the Wisconsin Government Accountability Board does not intend to conduct recall elections in accord with the legislative districts created by Act 43.

B. GAB Defendants’ Response To Voces Plaintiffs’ Elements.

1. Section 2 voting rights claim.

74. In order to establish a violation of § 2 of the Voting Rights Act, a minority group must prove (1) that it is “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) that it is also “politically cohesive”; and (3) that the “white majority votes sufficiently as a bloc to enable it — in the absence of special circumstances, such as the minority candidate running unopposed, . . . to defeat the minority’s preferred candidate.” *Thornburg v. Gingles*, 478 U.S. 30, 50-51(1986).

75. Failure to establish any one of the Gingles factors by a preponderance of the evidence precludes a finding of vote dilution, because “[t]hese circumstances are necessary preconditions for multimember districts to operate to impair minority voters’ ability to elect representatives of their choice.” *Id.* at 50.

76. If a minority group can establish these three elements, the court must then “consider whether, under the totality of the circumstances, the challenged practice impairs the ability of the minority voters to participate equally in the political process.” *Goosby v. Bd. of the Town of Hempstead*, 956 F. Supp. 326, 329 (E.D.N.Y. 1997). Judicial assessment of the totality

See S. Rep. No. 97-417, 97th Cong. 2nd Sess. 28 (1982) (the “Senate Report”). The Senate Report recognized two further factors that, in some cases, warrant consideration as part of plaintiffs’ evidence to establish a violation: (1) “whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group;” and (2) whether “the policy underlying the state or political subdivision’s use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.” *Id.* at 29 (footnotes omitted).

C. GAB Defendants’ Response To Intervenor Plaintiffs’ Elements.

1. Congressional districts are not compact and fail to preserve communities of interest.

77. There is no such federal claim. “[C]ompactness, contiguity, and respect for political subdivisions ... are important not because they are constitutionally required—they are not—but because they are objective factors that may serve to defeat a claim [of unconstitutional redistricting].” *Shaw v. Reno*, 509 U.S. 630, 647 (1993) (internal citation to *Gaffney v. Cummings*, 412 U.S. 735, 752, n. 18 (1973)).

2. Congressional and Legislative Districts Constitute Unconstitutional Gerrymandering.

78. “The relevant question is not whether a partisan gerrymander has occurred, but whether it is so excessive or burdensome as to rise to the level of an actionable equal-protection violation.” *Radogno v. Illinois State Bd. of Elections*, 2011 WL 5025251, *2 (N.D. Ill. Oct. 21, 2011). No judicially discernible and manageable standards for adjudicating political gerrymandering claims have emerged.” *Veith v. Jubilerer*, 541 U.S. 267, 281 (2004)(Scalia, J., plurality opinion).

standard with which to measure any purported burden upon their representational rights under the Equal Protection Clause by any political considerations that may have affected the drawing of congressional districts embodied in Act 44.

84. The plaintiffs and the intervenor-plaintiffs have failed to state a claim upon which relief can be granted as to Act 44 under the First Amendment, because the provisions of Act 44 do not implicate any recognized First Amendment right of the plaintiffs or the intervenor-plaintiffs.

85. The intervenor-plaintiffs have failed to state a claim upon which relief can be granted for any purported “damage to representative democracy,” because such an assertion does not support any independent claim for relief.

86. No provision in the U.S. Constitution (or the Wisconsin Constitution) requires that congressional districting lines adopted by the Wisconsin Legislature conform with the so-called redistricting “principles” of compactness, communities of interest, or core retention.

87. Even if the Wisconsin Constitution did contain any such general mandate to consider some such so-called “principles,” enforcement by this federal Court of that or any other provision of state law against agents of the state of Wisconsin would be barred by the teaching of *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1983) and subsequent cases.

88. The plaintiffs and the intervenor-plaintiffs cannot show that Act 44 embodies excessive and unconstitutional, rather than permissible and constitutional, political considerations.

89. The intervenor-plaintiffs had input into the congressional district boundaries embodied in Act 44, and those boundaries reflect certain preferences of both the Republican and the Democratic incumbent members of the House of Representatives.

96. Recall petitions have been filed to require elections, on a date in 2012 to be determined by GAB, if sufficient signatures have been certified by the GAB, in the following state senate districts: 13, 21, 23 and 29.

97. Defendants have approved a guideline stating that any special or recall elections scheduled before the fall 2012 general elections shall be conducted under the boundaries established by this Court in 2002 and in effect since then. *See* Tr. Ex. 166.

98. At least one plaintiff has signed a state senate recall petition.

II. STATUTORY HISTORY

99. The state legislature has the responsibility—under Article I, sections 2 and 4, and the Fourteenth Amendment, section 2, of the U.S. Constitution, and under 2 U.S.C. § 2c—to enact a constitutionally valid plan establishing the boundaries for the state’s eight congressional districts based on the 2010 Census.

100. Article IV, section 3, of the Wisconsin Constitution imposes a specific responsibility on the legislature to enact statutes after each decennial census redrawing the lines of the state’s legislative districts.

101. The bill that would become Act 43, and a companion bill that would become Act 39, were released to the public on July 8, 2011.

102. The bill that would become Act 44 was based on maps drafted at the direction of Wisconsin’s Republican members of the House of Representatives, following some consultation with the Democratic members of the House, and was introduced by the Republican leadership of the Wisconsin Legislature. The bill was also made public on July 8, 2011.

103. On July 13, 2011, the legislature held a public hearing to take testimony on the bills that would become Acts 43 and 44. A transcript of the hearing appears as Trial Exhibit 19.

110. On September 21, 2011, the Chief Judge of the U.S. Court of Appeals entered an order designating the members of the three-judge Court under 28 U.S.C. § 2284 (Dkt. 24).

111. The panel entered an order denying the Motion to Dismiss on October 21, 2011 (Dkt. 25), and immediately scheduled an initial conference, which it conducted on October 24, 2011 (Dkt. 26). There followed an order on scheduling and discovery entered on November 14, 2011 (Dkt. 35) and, on December 15, 2011, a superseding Trial Scheduling Order (Dkt. 79).

112. In response to two motions to intervene with accompanying pleadings, the Court entered an order on November 21, 2011 permitting the intervention of Republican members of Congress and, separately, Democratic member of Congress. Voces De La Frontera, Inc. filed a separate redistricting action (Case No. 11-CV-1011) on October 31, 2011 and the Court consolidated it with this case in a November 22, 2011 order (Dkt. 55).

113. On December 8, 2011, the intervenor-defendants filed a Motion for Judgment on the Pleadings requesting the dismissal of all of the claims related to Act 44's establishment of boundaries for the state's eight congressional districts (Dkt. 75). That motion, fully briefed, remains pending.

114. On January 24, 2012, six individuals filed a Motion for Leave to Appear as Amicus Curiae and submitted a brief and a proposed state legislative redistricting map (Dkt. 126). That motion, which the defendants oppose, remains pending.

115. On February 10, 2012, defendants filed a motion for summary judgment on counts 2-6 and 8 of the plaintiffs' Second Amended Complaint, counts 4 and 5 of the Intervenor Plaintiffs, and the single count of the Complaint filed by the consolidated Voces de la Frontera plaintiffs. That motion remains pending.

his residence in the 2nd Congressional District, 79th Assembly District and 27th Senate District as those districts have been established by law.

e. Ross Boone, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the Village of Twin Lakes, Kenosha County, Wisconsin, with his residence in the 1st Congressional District, 61st Assembly District and the 21st Senate District as those districts have been established by law.

f. Vera Boone, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the Village of Twin Lakes, Kenosha County, Wisconsin, with her residence in the 1st Congressional District, 61st Assembly District and the 21st Senate District as those districts have been established by law.

g. Elvira Bumpus, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the City of Racine, Racine County, Wisconsin, with her residence in the 1st Congressional District, 66th Assembly District and 22nd Senate District as those districts have been established by law.

h. Evanjelina Cleereman, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the City of Milwaukee, Milwaukee County, Wisconsin, with her residence in the 4th Congressional District, 8th Assembly District and 3rd Senate District as those districts have been established by law.

i. Sheila Cochran, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the City of Milwaukee, Milwaukee County, Wisconsin, with her residence in the 4th Congressional District, 17th Assembly District and the 4th Senate District as those districts have been established by law.

Wisconsin, with his residence in the 7th Congressional District, 73rd Assembly District and 25th Senate District as those districts have been established by law.

p. Gladys Manzanet, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the City of Milwaukee, Milwaukee County, Wisconsin, with her residence in the 4th Congressional District, 9th Assembly District and 3rd Senate District as those districts have been established by law.

q. Rochelle Moore, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the City of Kenosha, Kenosha County, Wisconsin, with her residence in the 1st Congressional District, 64th Assembly District and the 22nd Senate District as those districts have been established by law.

r. Amy Risseuw, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the Town of Menasha, Outagamie County, Wisconsin, with her residence in the 8th Congressional District, 3rd state Assembly District and 1st Senate District as those districts have been established by law.

s. Judy Robson, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the City of Beloit, Rock County, Wisconsin, with her residence in the 2nd Congressional District, 31st Assembly District and 11th Senate District as those districts have been established by law.

t. Gloria Rogers, a citizen of the United States and of the State of Wisconsin, is a resident and registered voter of the City of Racine, Racine County, Wisconsin, with her residence in the 1st Congressional District, 64th Assembly District and the 22nd Senate District as those districts have been established by law.

c. Jose Perez is a Latino citizen of the United States of Puerto Rican national origin and a registered voter of the City of Milwaukee, Milwaukee County, with his residence in the 8th Assembly District as that district has been established by law.

d. Erica Ramirez is a Latina citizen of the United States of Mexican American national origin and a registered voter of the City of Milwaukee, Milwaukee County, with her residence in the 8th Assembly District as that district has been established by law.

120. Michael Brennan, resident of Marshfield, Wisconsin; David G. Deininger, resident of Monroe, Wisconsin; Gerald C. Nichol, resident of Madison, Wisconsin; Thomas Cane, resident of Wausau, Wisconsin; and, Thomas Barland, resident of Eau Claire, Wisconsin, each named as a defendant personally and individually but only in his official capacity, are all members of the GAB. Kevin Kennedy, resident of Dane County, Wisconsin, also named only in his official capacity, is the Director and General Counsel for the GAB. Timothy Vocke, whose name appears in the caption, is no longer a GAB member, and there remains a vacancy on the six-member GAB

a. The GAB is an independent state agency under section 15.60 of the Wisconsin Statutes. The GAB has “general authority” over and the “responsibility for the administration of ... [the state’s] laws relating to elections and election campaigns,” Wis. Stat. § 5.05(1) (2009-10), including the election every two years of Wisconsin’s representatives in the assembly and every four years its representatives in the senate. It also has general responsibility for the administration of laws involving the election, every two years, of the eight members of the Wisconsin congressional delegation.

are all of Wisconsin's incumbent Republican Members of the United States House of Representatives, representing five of Wisconsin's Congressional districts.

- a. Congressperson Paul D. Ryan, Jr. represents Wisconsin's First Congressional District.
- b. Congressperson F. James Sensenbrenner, Jr. represents Wisconsin's Fifth Congressional District.
- c. Congressperson Thomas E. Petri represents Wisconsin's Sixth Congressional District.
- d. Congressperson Sean P. Duffy represents Wisconsin's Seventh Congressional District.
- e. Congressperson Reid J. Ribble represents Wisconsin's Eighth Congressional District.

123. In 1981-82, 1991-92 and 2001-02, the Wisconsin Legislature, because of partisan divisions between its houses or between the Legislature and the Governor, failed to redraw its legislative districts in order to comply with the Constitution's "one-person, one-vote" rule. *See Georgia v. Ashcroft*, 539 U.S. 461, 488 n.2 (2003). In each instance, a federal district court adopted and enforced a redistricting map for Wisconsin's state legislative districts. *AFL CIO v. Elections Board*, 543 F. Supp. 630 (E.D. Wis. 1982); *Prosser v. Elections Board*, 793 F. Supp. 859 (W.D. Wis. 1992); *Baumgart v. Wendelberger*, Nos. 01 121 and 02 366, 2002 WL 34127471 (E.D. Wis. May 30, 2002) (*per curiam*), amended by 2002 WL 34127473 (E.D. Wis. July 11, 2002). In 1971-72, the Legislature had enacted its own legislative redistricting plan. 1971 Wis. L. chs. 304, 305.

a. African Americans comprise 61.79 percent of the voting age population living in AD 10.

b. African Americans comprise 61.94 percent of the voting age population living in AD 11.

c. African Americans comprise 51.48 percent of the voting age population living in AD 12.

d. African Americans comprise 61.34 percent of the voting age population living in AD 16.

e. African Americans comprise 61.33 percent of the voting age population living in AD 17.

f. African Americans comprise 60.43 percent of the voting age population living in AD 18.

129. **Table 7** shows the racial demographic data on population and voting age population characteristics of Act 43 African American majority-minority legislative districts, using 2010 census data.

130. Act 43 creates two Senate Districts on the north side of Milwaukee in which African-Americans of voting age comprise more than 50 percent of the voting age population of those districts. Those two Senate Districts are SD 4 and 6.

a. African Americans comprise 58.4 percent of the voting age population living in SD 4.

b. African Americans comprise 61.0 percent of the voting age population living in SD 6.

139. **Table 13 (partial stipulation)** describes the Hispanic population in Wisconsin as a whole and in Milwaukee County in particular in 2000 and in 2010. **Table 14 (partial stipulation)** describes age-related information about the Hispanic community in Wisconsin as a whole, and more specifically in Milwaukee County, and Assembly Districts 8 and 9.

140. Latinos comprise 60.52 percent of the voting age population living in AD 8.

141. Latinos comprise 34,647 of the total population living in AD 9, or 60.54 percent of the total population living in AD 9.

142. Latinos comprise 54.03 percent of the voting age population living in AD 9.

143. The voting-age population of Latinos living in AD 8 and 9 consists of all Latinos above the age of 18 who live in those districts, as measured by the U.S. Census.

144. The actual number of Latinos living in AD 8 and 9 who are eligible to vote consists of the Latino voting-age population who are U.S. citizens. The percentage of the voting-age population of Latinos living in AD 8 and 9 and who are citizens is lower than the overall percentage of Latinos living in AD 8 and 9 who are of voting age.

145. **Tables 16(a)-(f) (partial stipulation)** reflect election data in Assembly District 8 from 1998 to 2010.

146. Milwaukee's Latino community bears the socioeconomic effects of historic discrimination in employment, education, health, and other areas, and its depressed socioeconomic status hinders the ability to participate in the electoral process on an equal basis with other members of the electorate.

147. Jesus "Zeus" Rodriguez (of Hispanics for Leadership) was consulted about the map drawing between July 8 and July 12, 2011 and submitted a written statement at the Legislature's public hearing on July 13, 2011. Tr. Ex. 1002. During the course of the map

Assembly districts in 2002, 77 districts were within +/- 0.5 percent of the ideal population; in the Senate, 32 of 33 districts fell in this range.

154. Act 43 creates 99 Assembly districts with populations falling within a range of 0.76 percent (+0.39 percent to -0.37 percent) of the ideal population; 56 districts are above the ideal population, 41 are below the ideal, and two districts are perfectly apportioned. In the Senate, population variations fall within a range of 0.62 percent (+0.35 percent to -0.27 percent); 17 districts are above the ideal population, 14 are below the ideal, and two districts are perfectly apportioned.

155. Population deviation in Assembly districts (both under Act 43 and historically, appear in **Table 4**.

156. Population deviation in Senate districts (both under Act 43 and historically, appear in **Table 5**.

C. Delayed Voting / Disenfranchisement.

157. Each state Senate district is composed of three entire state Assembly districts. Changes in the Assembly districts will necessarily carry through to the Senate districts.

158. Assembly members serve two-year terms. Senators serve four-year, staggered terms with half elected in presidential years and the other half coincident with gubernatorial elections.

159. Redistricting results in shifts of voters among Senate districts in such a way that some voters will experience delayed voting or disenfranchisement. Voters who previously resided in even-numbered Senate districts (which vote in presidential years) but who are moved to odd-numbered Senate districts (which vote in midterm years) by redistricting will go six years between opportunities to vote for a state senator.

168. The 1992 Federal Court map split 47 counties in the Assembly and 35 in the Senate.
169. In 2002, the Federal Court divided 51 counties in the Assembly and 42 in the Senate.
170. Act 43 splits 58 counties in the Assembly and 46 in the Senate, which continues a pattern of greater numbers of counties getting split over time.
171. Act 43 splits the City of Beloit into two Assembly Districts, AD 45 and 31.
172. According to the 2010 Census, the City of Beloit has a population of 36,966.
173. Act 43 splits the City of Marshfield into two Assembly Districts, AD 69 and 86.
174. According to the 2010 Census, the City of Marshfield has a population of 19,118.
175. Act 43 splits the City of Appleton into four Assembly Districts, AD 3, 55, 56, and 57.
176. Act 43 splits the City of Racine into three Assembly Districts, AD 62, 64, and 66.
177. Act 43 combines portions of the City of Racine and the City of Kenosha into the same Assembly District, AD 64.

E. Compactness.

178. A variety of statistical measures has evolved to assess compactness, though they usually fall into two categories: those that indicate how closely a district resembles a circle (the most compact shape), and those that measure circular filling. Richard G. Niemi, Bernard Grofman, Carl Carlucci, and Thomas Hofeller. 1990. "Measuring Compactness and the Role of Compactness Standard in a Test for Partisan and Racial Gerrymandering." *Journal of Politics* 52: 1155-1181; see also H. P. Young. 1988. "Measuring the Compactness of Legislative Districts." *Legislative Studies Quarterly* 13: 105-115.

187. For the ten least compact districts (as measured by the Smallest Circumscribing Circle method), **Table 22** lists their compactness scores using other compactness equations.

F. Incumbent Pairing.

188. The Act 43 map contained ten pairings when adopted. An additional pairing occurred when Rep. Chris Taylor (D) was elected to Assembly District 48 in a July 2011 special election.

189. Of the 11 Assembly pairings, three involve two Democrats, three involve two Republicans, and five involve bipartisan pairings. Until Rep. Taylor's election, more Republicans than Democrats were paired under Act 43.

VI. CONGRESSIONAL DISTRICTS (ACT 44)

190. The populations of the congressional districts created by Act 44, according to the 2010 Census, are either 710,874 (the 1st and 2nd districts) or 710,873 (the remaining districts). Thus, there is no population deviation from the ideal.

A. Equal Population.

191. Act 44 apportions the 2010 census population of the state of Wisconsin perfectly, into eight districts with a variance of one person. Districts 3, 4, 5, 6, 7, and 8 have a population of 710,873, while Districts 1 and 2 have a population of 710,874.

B. Treatment Of Political Subdivisions.

192. The congressional map crafted under Act 44 contains 26 splits in 12 counties. Of the 72 counties in the state, only Milwaukee County (947,735) is large enough to wholly contain a congressional district. The county splits are as follows:

Chippewa: 3, 7
Dodge: 5, 6
Jackson: 3, 7
Juneau: 3, 7
Milwaukee: 1, 4 (wholly in the county), 5, 6

C. Communities Of Interest.

194. Stipulations (a)-(f) that follow are given in lieu of the testimony of Professor Randy Cray, a consulting economist hired by the Intervenor-Plaintiffs:

a. Centergy Inc. is an economic development organization located in Wausau that is supported by most of the economic development agencies in central Wisconsin. Centergy, among many other things, lobbies on the behalf of central Wisconsin's economic development.

b. The commuting patterns of workers suggest there is a common labor pool in the region.

c. In 2010, of Wisconsin's 72 counties, The University of Wisconsin Stevens Point drew 27% of its students from Marathon, Portage and Wood Counties.

d. Wausau is the retail hub of central Wisconsin. The Wausau Mall and the Rib Mountain shopping area draw heavily from the area population. The Crossroads Commons in Stevens Point-Plover also serves as a regional shopping area.

e. The agricultural base of the area is predicated on potatoes, green beans, ginseng, corn, cranberries and dairy/cheese production. Moreover, food manufacturing is a large employer in the area.

f. Attached as Trial Exhibit 181 is a portion of a Wisconsin highway map that includes Marathon, Portage, and Wood Counties and portions of surrounding counties.

D. Core Retention.

195. All of the congressional districts retain their incumbents.

196. The Largest Constituency Core Retention and the Incumbent Core Retention scores for the Act 44 Congressional Districts are identical.

f. Before the 2011 redistricting, the 8th Congressional District deviated from the ideal population by 4,031 people under the 2010 Census. Act 44 shifted 59,752 people into the District and shifted 55,721 people out of the District.

g. **Table 29, Table 30, and Table 31** accurately depict the population movements in the Districts. Table 29 examines the population for each congressional district using the 2010 census. Tables 30 and 31 reflect actual population shifts from one congressional district to another under Act 44.

h. Using the Smallest Circle method of measurement, the boundaries of Wisconsin Congressional District Three pursuant to Act 44 are as compact as they previously were, but less compact using the Perimeter-to-Area method.

i. Using the Smallest Circle method of measurement, the boundaries of Wisconsin Congressional District Seven pursuant to Act 44 are as compact as they previously were, but less compact using the Perimeter-to-Area method.

j. Using the Smallest Circle method of measurement, the boundaries of Wisconsin Congressional District Eight pursuant to Act 44 are more compact than they previously were, but less compact using the Perimeter-to-Area method.

k. It is further stipulated that Professor Nordheim would dispute the rebuttal report of Professor Gaddie, a consultant for the Defendants and the Intervenor-Defendants regarding the relevance of the Iowa redistricting in 2002 and his statistical methods in analyzing compactness. (Nordheim Deposition page 58 line 6 to page 64 line 23). The parties agree that the court may consider the deposition testimony, but the Defendants and the Intervenor-Defendants do not agree with Dr. Nordheim's analysis presented in those pages.

208. Mr. Speth's primary contact person with Wisconsin's Democratic delegation to the House of Representatives was Erik Olson, chief of staff to Congressman Ronald Kind.

209. In early May 2011, Mr. Speth met individually with the chief of staff for each member of Wisconsin's Republican delegation to the House of Representatives to solicit their input into the new congressional boundaries. Congressman Duffy's primary concern, as communicated by his chief of staff, was to shift the Seventh Congressional District from a strong Democratic district closer to being a Republican district. The chiefs of staff to Congressmen Ribble, Sensenbrenner, and Petri also expressed preferences for changes to their respective district boundaries.

210. Mr. Speth did not have individual meetings with the chiefs of staff for Wisconsin's Democratic delegation at that time.

211. Congressman Ryan consulted the three Democratic members of Wisconsin's delegation about their preferences for their respective district boundaries, which he communicated to Mr. Speth. These expressed preferences included, for example, Congresswoman Baldwin's concerns with the size of her district and commute times from Madison to certain parts of her district, specifically as to Jefferson County, as well as Congresswoman Moore's interest in representing the north shore of Milwaukee, given that her district had to grow.

212. In May and June 2011, Mr. Speth created several successive drafts of new congressional districting lines, the first of which was completed on or about May 13, 2011.

213. The May 13 draft incorporated what Mr. Speth understood to be specific preferences and features favorable to both Republican and Democratic members of Wisconsin's delegation to the House of Representatives.

draft of the congressional district map. These individual sessions were followed by a meeting of the entire Wisconsin congressional delegation.

220. Congressman Ronald Kind asked whether the revised boundaries of the Third Congressional District, which he represents, still contained the Fort McCoy military base. He expressed his preference that Fort McCoy be retained as part of that district. Mr. Speth told Congressman Kind that he would determine the location of Fort McCoy under the draft map by making a closer inspection of the map details.

221. Congressman Kind also expressed concern about the shift of Portage and Wood Counties from the Seventh District to the Third District, because he believed this shift contributed to the Third District having an unusual look. Congressman Ryan explained in response that those changes were intended to create a better political balance in the Seventh District.

222. The addition of Ozaukee County to the Sixth Congressional District was intended to lessen the change in the political balance of the district for Congressman Petri caused by the district's shift to the west.

223. On June 2, Erik Olson sent an email to Bill Murat (chief of staff to Congresswoman Baldwin) and Andrew Stevens (deputy chief of staff to Congresswoman Moore). In the email, Mr. Olson stated: "The map isn't too unreasonable. We have some tweaks we want to see. Five counties in our district are chopped up."

224. On June 3, Andrew Stevens sent an email discussing various features of the map shared by Congressman Ryan and Mr. Speth, and attaching the Democratic members' draft counterproposal. In that email, "GSM" refers to Congresswoman Moore.

230. In drawing up the drafts and the final version of the congressional districting lines in 2011, Mr. Speth did not consult at any time with Mr. David Obey, a former member of the House of Representatives.

231. The congressional redistricting map and boundary lines enacted as Act 44 are substantially identical to those circulated by Mr. Speth on June 8.

provisions, as construed by the U.S. Supreme Court, establish a minimum constitutional guarantee of “one-person, one-vote.”

236. The Equal Protection Clause provides, in pertinent part:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

237. Article IV, section 3, of the Wisconsin Constitution requires that the legislature “apportion and district anew” its senate and assembly districts following each federal census “according to the number of inhabitants.”

238. The Wisconsin Constitution also requires that legislative districts be “bounded by county, precinct, town or ward lines, [] consist of contiguous territory and be in as compact form as practicable.” Wis. Const. art. IV, § 4. It further requires that state senators “shall be chosen alternately from the odd and even numbered districts for the term of 4 years.” It also gives citizens, in article XIII, section 12, the right to “petition for the recall of any incumbent elective officer.” Upon a recall election, the person receiving the “highest number of votes in the recall election shall be elected for the remainder of the term.”

239. The Wisconsin Constitution contains no provision addressing the creation of congressional districts.

240. Pursuant to 2 U.S.C. § 2a, the President transmits to Congress, based on the decennial census, “the number of persons in each State” and “the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives....” Under 2 U.S.C. § 2c, “there shall be established by law a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only from districts so established....”

STATEMENTS OF CONTESTED FACTS

I. BALDUS PLAINTIFFS

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.

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.

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.

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*.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

District 56, which stretches west beyond the Outagamie County line and to the Winnebago County line. Tr. Ex. 20 (Act 43 Assembly map)

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).

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.

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).

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.

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

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

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)”).

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)”).

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)”).

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

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.

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.

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.

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.

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.

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.

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

voters with total voter turnout in these newly joined communities of interest during the 2008 presidential election).

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).

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.

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.

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.

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.

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

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.

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.

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.

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

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.

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.

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

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.

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.

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

differences, and other barriers to electoral participation. *See* Grofman Depo. (Dkt. 150) at 208:23-209:17.

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.

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.

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.

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.

c. The census is outdated as soon as it is released to the public. In the intervening period between when the census is released and redistricting maps are drawn by either the State Legislature or federal three-judge panel, as in 1982, 1992, and 2002 (which can be almost two years in some cases), some people have moved, other people have died, babies have been born, non-voting age citizens have become of voting age, and some boundary lines have shifted through annexations.

348. It is impossible to have precise equal population for all citizens of the United States because congressional boundaries cannot cross state lines. This means that the citizens of some states will be underrepresented and the citizens of other states will be overrepresented. For example the average congressional district in Minnesota has a population of 662,990 while the average congressional district in Wisconsin has a population of 710,874. This is a deviation of 6.7%. This means that the citizens of Wisconsin are underrepresented if precise average population figures are required.

349. The boundaries for the Congressional Districts that became Act 44 were prepared by Andrew Speth, Chief of Staff for Intervening Defendant Congressman Paul Ryan. Speth Depo. (Dkt. 143) at 32:3-9.

350. The only legal principle that guided Mr. Speth in drawing the Congressional Boundaries that were enacted in Act 44 was zero deviation. *Id.* at 50:22-51:20.

B. Core Retention.

351. Trial Exhibit 1014 is the Congressional boundary map that was adopted in 2002 as a result of the 2000 census.

352. Trial Exhibit 1015 is the Congressional boundary map that was adopted by the passage of Act 44 following the 2010 census.

c. Parties form organizations that are based upon district boundaries.

Unnecessarily moving voters disrupts those organizations, and their ability to provide useful information.

d. Unnecessarily disrupting the link between constituents and their districts of residence will lower voter turnout and participation because of a lack of information. Voter turnout in U.S. elections is already lower than in many countries – not something to be desired in the world’s oldest democracy. Obey Aff., ¶ 17.

355. Mr. Speth was not familiar with the concept of core retention and did not use the concept of core retention in preparing the map that was enacted as Act 44. Speth Depo. (Dkt. 143) at 104:4-20, 105:19-22.

356. The 7th Congressional District and the 3rd Congressional District share a common boundary. Tr. Ex. 1014.

357. In the boundaries drawn in 2002, Clark County was divided between the 7th Congressional District and the 3rd Congressional District. Tr. Ex. 1014.

358. According to the 2010 census the population of Clark County was 34,690 and Clark County had grown by 3.4% from 2000. (2010 Census Data, available at: <http://quickfacts.census.gov/qfd/states/55/55019.html>)

359. By maintaining the same boundaries for the 7th and 3rd Congressional Districts as had been approved by Wisconsin Legislature and signed into law by the Wisconsin Governor in 2002, but placing all of Clark County in the 7th Congressional District, the 3rd and 7th Congressional District would have largely accomplished equal population with the other Wisconsin Congressional Districts. Obey Aff., ¶ 19.

363. Compactness makes it easier for democracy to work because it facilitates communications between the representative and the public. Since Marathon, Wood, and Portage Counties are one media market, communications by a member of Congress can be broadcast throughout those three counties. The new district boundaries reduces the ability of the Seventh District representative to communicate with the public since all of Portage County and much of Wood County have been moved from the Seventh Congressional District, to the Third Congressional District which receives most of its news from La Crosse television outlets. Little information about Third district affairs will reach Portage County residents under this arrangement. *Id.* ¶ 24.

364. Mr. Speth did not consider media markets when he prepared the Congressional Boundaries for the map that was enacted in Act 44. Speth Depo. (Dkt. 143) at 145:8-13.

365. The new boundaries further reduce compactness by snaking the district boundary around Portage and part of Wood County and appending portions of Juneau, Jackson, and Monroe Counties so that these fractional counties could be added to the Seventh District. This makes no sense. Obey Aff., ¶ 25.

366. In the northern portion of the district the new boundary line now extends to Florence County. This increases travel time from west to east by about an hour as the community of Florence in Florence County is about a five hour drive from Superior in Douglas County whereas formerly it was about a four hour drive from Superior to Three Lakes which was on the eastern boundary of the former district. The addition of territory as far southeast as Monroe County unnecessarily adds an hour's drive time to get from Superior to Monroe County and even more to get from the northeast regions of the new district to the southwest regions of Monroe and Juneau Counties. This will reduce communications between the representative and

b. In later years the river became a great source of hydro-electric power.

Today hydropower is still used to power paper mills on the river including:

- i. Rhinelander Paper Co. in Rhinelander,
- ii. Packaging Corp. of America in Tomahawk,
- iii. Wausau Papers in Brokaw,
- iv. Weyerhaeuser Papers in Rothschild,
- v. Mosinee Papers in Mosinee,
- vi. Stora Enso (Consolidated Paper) in:
 - (1) Stevens Point,
 - (2) Whiting,
 - (3) Biron,
 - (4) Wisconsin Rapids,
- vii. Georgia Pacific in Nekoosa and Port Edwards.

c. All of the above 11 sites were located in the Seventh Congressional District for decades before the most recent redistricting.

d. Today the six latter sites have been taken out of the Seventh District and placed in the Third.

e. The river and the numerous impoundments are also a major source of recreation.

f. The industrial development of the river has brought with it a number of related community interests relating to water quality, water levels, air quality, real estate, shoreland zoning, and tourism.

d. Wausau is the regional shopping hub of Central Wisconsin. The Cross Road Commons in Stevens Point also serves the region.

e. Major Insurance Companies are headquartered in Wausau and Stevens Point.

f. The region has highly integrated medical services. Ministry Health Care and Aspirus and their affiliates are major providers and major employers in the region.

g. The same ABC, CBS, NBC, Fox and Public Television affiliates serve all three counties. Gannett Newspapers owns all four local newspapers.

375. Mr. Speth never considered the above factors set out in paragraph 41 when he prepared the Congressional Boundaries that were enacted into law as Act 44. (Speth Dep., p. 148, lines 16-22.)

376. High Schools from Wausau, Marshfield, Stevens Point, and Wisconsin Rapids all are members of the Wisconsin Valley Conference. Obey Aff., ¶ 30.

377. For many decades the Third Congressional District has been considered the Mississippi River valley district. The economic development of that area has been tied to the Mississippi River in ways similar to the Wisconsin River. *Id.* ¶ 31.

378. Monroe and Jackson counties have now been unnecessarily split between the Third and the Seventh District. These counties are more closely connected economically to La Crosse which is in the Third District than to any community in the Seventh District. *Id.* ¶ 32.

379. The Eighth Congressional District has always been considered the Fox River, Green Bay, and northwestern Lake Michigan area. Its development has likewise been tied to these waterways. *Id.* ¶ 33.

383. Historically, the Wisconsin Congressional delegation, following the decennial census, would recommend a Congressional map to the Wisconsin Legislature based upon considerations of:

- a. Core retention;
- b. Communities of interest;
- c. Compactness;
- d. One man one vote.

384. From at least 1972 until 2002 the Wisconsin Legislature and the Governor adopted Congressional District boundaries based upon the above four considerations.

385. The boundaries drawn for Act 44 did not include consideration of core retention.

386. The boundaries drawn for Act 44 did not include consideration of compactness.

387. The boundaries drawn for Act 44 did not include consideration of communities of interest except for political boundaries.

388. The redistricting of Iowa in 2002 was based upon the Iowa Constitution (Article III, Sec. 37) and Iowa Statute Sec. 42.4. The constitution and statute requires a population which varies by no more than one per cent of the ideal district population. It also required keeping counties together to the greatest extent possible.

389. The requirement of keeping counties together requires a greater shift of populations to obtain equal population than if counties could be divided.

390. Wisconsin does not have the same statute as Iowa.

391. Act 44 divides several counties.

399. In 1992, the map drawn by the Federal District Court moved 257,000 persons (or about 5.25 percent of all persons in Wisconsin according to the 1990 census) into districts where voters would wait six years between opportunities to vote for state senator.

400. In 2002, the Federal District Court map moved 171,163 persons (3.14% of the state population according to the 2000 census) into districts where voters would wait six years between opportunities to vote for state senator.

B. Core Retention.

401. Core retention measures the extent to which constituencies are maintained or disrupted by a proposed map. There are several ways to measure core constituency retention, including the following:

a. *Largest Constituency Core Retention:* In the new district, what is the largest proportion in the district that was previously together in one particular, previous district?

b. *Incumbent Core Retention:* In the Incumbent's new district, what proportion of the population comes from their old district? Gaddie Report at ¶ 8 (Tr. Ex. 58).

402. Under Act 43, the average Largest Constituency Core Retention is 66.30 percent in the Assembly, with a low of 30.88 percent and a high of 99.91 percent. The average Senate Largest Constituency Core Retention is 78.82 percent with a low of 57.89 percent and a high of 99.92 percent. **Table 23** illustrates the Largest Core Retention scores for the Assembly and Senate districts created by Act 43. Gaddie Report at ¶ 1 (Tr. Ex. 58).

403. In the Assembly, average Incumbent Core Retention is 61.72 percent, with a low of 8.55 percent and a high of 99.91 percent. The average Incumbent Core Retention for Democratic incumbents is 54.74 percent, and 65.88 percent for Republican incumbents. The

Moreover, all major candidates in the Democratic primary in those districts have been black and the winner of the Democratic primary has then gone on to win the general election with between 91 percent and 100 percent of the vote—most commonly with 100 percent of the vote. *Id.* at ¶ 12(b).

410. Under the 2002 court-drawn plan, in Assembly District 12, which has not been a majority black voting age population district during the decade (having begun at 32.77 percent black VAP according to the 2000 census, and ending up at 48.99 percent Black VAP according to the 2010 census), all winners of the Democratic primary have been white (with the last contested Democratic primary in 2004). All winners of the Democratic primary in Assembly District 12 over the past decade have gone on to win the general election with vote shares ranging from 67 percent to 100 percent, with the last contested general election in 2004. *Id.* at ¶ 12(c).

411. During the period 2002 to 2010, an African American won every primary and general election in Senate Districts 4 and 6, and the included Assembly Districts, in which there was an African American candidate with only one exception. *Id.* at ¶ 12(a).

412. In 2002, the federal court created five majority African American Assembly Districts where minority voters elect a candidate of choice (5.05 percent of seats statewide); of the Senate districts created by the court in 2002, two are majority African American districts where minority voters elect a candidate of choice (6.06 percent of seats statewide). Gaddie Report at 3.

413. 2011 Wisconsin Act 43 created six majority African American Assembly districts and two majority African American Senate districts. Of the six Assembly districts, five are between 60.4 percent and 61.9 percent African American voting age population (VAP), and the

418. Act 43 had thirteen Assembly districts wholly within the county, and another eight districts that crossed the county line; the county population (947,735) would have accommodated sixteen whole districts plus half of another. African-American majority districts constitute 36.4 percent of the potential whole districts that could have been crafted in Milwaukee County, compared to 26.8 percent African-Americans in the county population. African-American majority districts are 28.6 percent of all districts that are wholly or partially in Milwaukee County. *Id.*

D. Treatment of Political Subdivisions.

419. Table 20 reflects the present and historical local governments split by assembly or senate districts.

E. Incumbent Pairings.

420. The incumbent pairings and the associated core retentions of the involved incumbents appear in Table 25.

F. Hispanic Majority-Minority Assembly Districts.

421. The state population is 5.9 percent Hispanic origin, and Milwaukee County is 13.3 percent Hispanic. Milwaukee County comprises 37.5 percent of the 335,532 Hispanic Wisconsinites, and that population has its greatest concentration south of the East-West Freeway. *Id.* at 3.

422. The Milwaukee area is the only part of the state with a sufficiently large and concentrated Hispanic population that would allow creation of Assembly districts that contain a Hispanic population or voting age population majority. Grofman Report at ¶ 16.

423. Based on data from the 2010 census, the Hispanic population is not large enough and geographically concentrated enough to create a Hispanic population majority Senate district. *Id.* at ¶ 17(b).

431. The Census Bureau's American Community Survey ("ACS") documents an annual influx of 1,812 Hispanic in-migrants to Milwaukee County from another state plus a further 1,140 Hispanic in-migrants from elsewhere in Wisconsin, for a total Hispanic influx of 2,952 domestic in-migrants into Milwaukee County. The ACS data also register a further annual influx of 1,500 Hispanic in-migrants from abroad. The corresponding domestic outflow of Hispanics moving from Milwaukee County to a different county or state totals 2,791. *Id.* at ¶¶ 16-17.

432. The net effect of these two domestic migration counterflows (4,452 minus 2,791) increases the County's resident population by 1,661 Hispanics each year. *Id.*

433. This net addition of as many as 1,661 incoming Hispanics to Milwaukee County's population of 126,039 resident Hispanics accounts for what is at most a 1.3 percent annual increase in the number of resident Hispanics. That numerical increase translates into a 0.16 percentage-point increase per year in Hispanics' share of Milwaukee County's population (assuming no foreign-bound out-migration). That is, if net migration continues at its present level, Hispanics' current share of population countywide would grow from 13.3 percent in 2010 to 14.9 percent by 2020. *Id.* at ¶ 18.

434. Proportionally more Hispanics are in the under-18 age range relative to non-Hispanics (39 percent compared with 23 percent). Conversely, proportionally fewer Hispanics are in the over-65 age range relative to non-Hispanics (3 percent compared with 13 percent), ages at which significant numbers of eligible voters die off. Furthermore, Hispanics under age 18 are predominantly citizens, whereas many adult Hispanics have yet to become citizens. *Id.* at ¶ 21.

the Latino community by the boundaries of Assembly Districts 8 and 9. *Id.* at 98:20-99:17. He does not believe that Assembly Districts 8 and 9 fracture the Latino community's voting strength. *Id.* at 152:23-154:10.

441. On July 13, 2011, Mr. Rodriguez went to Madison, Wisconsin to attend the hearing on what became Acts 43 and 44, to testify on behalf of Hispanics for Leadership in support of the 60.54 percent/50 percent map for the 8th and 9th Assembly Districts. *Id.* at 158:13-159:3. He was unable to remain to testify in person, but he did submit written testimony in support. (*Id.*, pp. 159-160). Deposition Exhibit 1002. *Id.*

442. Mr. Rodriguez was concerned that if you decreased the HVAP in Assembly District 8 to compensate for the lower Citizen Hispanic Voting Age Population, that you would also decrease the HVAP in Assembly District 9 and potentially decrease the Latino influence in that second district. *Id.* at 131:11-132:20. His primary concern was that the Hispanic community be able to elect a candidate of their choice. *Id.* at 132:25-133:8. Due to his belief that the Hispanic community was increasing in number, Mr. Rodriguez was comfortable with a lower CVAP in Assembly District 8. *Id.* at 133:9-20. It was equally important that the HVAP numbers for Assembly District 9 increase. *Id.* at 137:22-25.

443. Based upon Mr. Rodriguez's knowledge of the Latino community, the following candidates for office are Latino: Victor Huyke, Patricia Zamarripa, H. Nelson Goodson, Robert Escamilla, Laura Manriquez, Jose Guzman, JoCasta Zamarripa, Angel Zanchez and Romona Rivas. *Id.* at 165:2-166:17.

444. On behalf of the Latino community, Mr. Rodriguez was also involved in the redistricting process in Milwaukee County. *Id.* at 17:11-18:8; 154:11-24. In that process, there was much more time to evaluate the maps. However, even though he was given five days to

450. When trying to compensate for this ripple effect, and by taking Voter Rights Act concerns into account, compactness of districts will be adversely impacted. *Id.* at 404:11-405:7.

451. Several other redistricting principles could have an impact on the number of delayed voters. *Id.* at 405:8-406:14. For instance, taking communities of interest or compactness into account may change the number of delayed voters. *Id.* at 406:15-25.

452. Core retention reports for Assembly District 81 are incomplete in that they don't take into account the fact that Assembly District 81 switched numbers with Assembly District 42. *Id.* at 277:2-10.

453. Pursuant to the figures in the 2010 decennial census, Milwaukee County had to lose an Assembly District and Dane County had to add one. *Id.* at 282:6-9. Three Assembly Districts that had historically been inside the boundaries of Milwaukee County were stretched into Waukesha County due to the ripple/domino effect caused by the malapportionment in Milwaukee and Dane County which caused lines to shift between those two counties. *Id.* at 300:22-302:9.

454. As one of the map drawers, Joseph Handrick considered population equality, municipal splits, compactness, contiguity, and communities of interest when drawing the maps. *Id.* at 282:16-22; 322:12-17. He also considered core retention. *Id.* at 285:24-286:6.

455. With respect to communities of interest, Mr. Handrick considered municipalities and tribal boundaries. *Id.* at 287:5-11.

456. The City of Racine was too large to be contained in one Assembly District which is why it was split into two Assembly Districts. *Id.* at 289:3-292:7. Mr. Handrick had a conversation with Senator Robert Wirch (Democrat from Kenosha) who mentioned that he felt safe in all future races in his district. *Id.* at 334:7-335:12.

African-American majority districts and that number must not decrease; (2) if the African-American population had grown relative to the total population enough to create a sixth majority African-American district without violating traditional redistricting principles, it would be acceptable to draw another majority-minority district; and (3) unless dictated by greater forces of population malapportionment, African-American incumbents ideally would not be paired with each other or with a white incumbent. *Id.* at 310:22-311:24. In addition, Mr. Handrick was advised to stay within the ranges for minority voting age population established in the maps drawn by the federal courts in 1992 and 2002. *Id.* at 371:19-372:4.

463. A sixth majority African-American district was drawn in Milwaukee. *Id.* at 312:16-19.

464. When drawing maps inside Milwaukee, Mr. Handrick was given several guidelines to consider when drawing the Latino districts in Milwaukee County, including but not limited to the following: (1) there was a majority Hispanic district in Milwaukee County, and therefore, any new map would, at the very least, have to maintain that district, (2) if population growth of the Hispanic community relative to the total community would permit the creation of a second Hispanic majority district, it would be acceptable to draw another district; and (3) unless dictated by greater forces of population malapportionment, Hispanic incumbents ideally would not be paired with another incumbent. *Id.* at 314:11-315:4. In addition, Mr. Handrick was advised to stay within the ranges for minority voting age population established in the maps drawn by the federal courts in 1992 and 2002. *Id.* at 371:19-372:4.

465. To address the Latino community, Mr. Handrick drew a larger Senate District and then worked on creating Assembly Districts inside that boundary. *Id.* at 316:25-317:11. Mr. Handrick drew two alternatives for Assembly Districts 8 and 9; they had a HVAP of

471. Prior to Act 43, the urban and rural areas of Racine were paired in one Senate district (District 21), as were the urban and rural areas of Kenosha in another Senate district (District 22). Act 43 pairs the two urban areas of Racine and Kenosha counties in one Senate district (District 21), and the more rural parts of each county together in another Senate district (District 22).

472. The Legislature was presented with the option of keeping the urban areas of Racine and Kenosha Counties in one district and the rural parts of Racine and Kenosha Counties in another district. The Legislature chose to keep the urban areas together and the rural parts together. *Id.* at 448:25-449:22.

473. This results in two districts which now each share more in common—urban with urban, rural with rural—throughout each Senate district. *Id.* at 350:19-351:4, and Exhibit 121.

474. A significant portion of the “delayed voting” relates to the Racine/Kenosha area. This results from the Legislative decision to combine urban areas from Racine and Kenosha Counties into one Senate District, and the rural areas of those Counties in a different Senate District. *Id.* at 449:7-450:12.

475. During the development of the maps, the effects of the map on “delayed voting” were considered. When the initial “delayed voting” numbers were calculated, the Legislature made some changes to the map in order to reduce the number of persons who would be delayed. *Id.* at 450:3-451:9.

H. Congressional Districts.

1. Population movement.

476. In 2002, Iowa adopted a new congressional district map in which 1,226,004 people were assigned to a new district. Based on 2000 census data, Iowa needed to “move” only

enriches communities, fosters economic development, and expands employment opportunities.”

<http://www.nicoletcollege.edu/currentstudents/aboutnicolet/mission/index.html>

482. NorthwoodsWisconsin.com serves the Northwoods region, including municipalities such as Manitowish Waters, Boulder Junction, Lac du Flambeau, Minocqua, Rhinelander, and Eagle River. NorthwoodsWisconsin.com.

3. Core retention.

483. The congressional districts created by Act 44 maintain an average core of 84.33 percent, as reflected in **Table 26**.

4. Compactness.

484. Compactness scores for both Act 44 Congressional Districts and the 2002 districts appear in **Table 27**.

I. Partisan Issues.

1. Participation in redistricting process.

485. Mr. Joel Gratz worked for the Senate Democratic Caucus in 2000-2002. Gratz Dep. (Dkt. 146) at 22:7-9; 23:9-10. During that time, he drew the legislative boundary map that was ultimately passed by the Democratic State Senate. *Id.* at 23:13-16. The Senate and Assembly in 2000-2002 could not agree on maps, so there was federal litigation. *Id.* at 23:16-19.

486. Mr. Gratz gave a presentation on redistricting and Acts 43 and 44 to the Wisconsin Association of Lobbyists in Spring, Green, Wisconsin on August 2011. *Id.* at 32:21-24. At that meeting, Gratz advised the audience that it was going to be a more difficult year for Democrats to be elected under the new maps, but that the maps did not leave Democrats without opportunities for election. *Id.* at 66:2-7. He also mentioned that there were some districts—in Green Bay and Eau Claire—which were now tremendously or much more Democratic. *Id.* at 66:8-15.

492. Previously, The Shop Consulting had been retained by the Senate Democrats in 2001-2002 to assist in drafting a legislative redistricting plan. *Id.* at 26:21-27:12.

493. Autobound is a software program used to draw legislative maps. It was used to draw 19 maps that eventually became Acts 43 and 44. The software was provided to the majority and minority caucuses in the Senate and Assembly. The Assembly Democratic Caucus and the Senate 21 Democratic Caucus had the program available for use on a computer, as of approximately December 2010. Training on the use of Autobound was available through the Legislative Technology Services Bureau. There is no known work product indicating that either the Assembly Democratic Caucus or the Senate Democratic Caucus took the opportunity to use Autobound during the redistricting process. Ottman Depo. (Dkt. 141) at 439:11-442:7.

494. Following the introduction of the bills which became Acts 43 and 44, there were numerous editorials written on the proposed redistricting maps and their impact on various communities, cities and counties. Barca Depo. at 21:19-22.

495. There was at least one amendment passed with respect to Act 43. *Id.* at 22:4-6.

496. Despite the republicans having majorities in both the Senate and Assembly, the democrats did continue to submit amendments to proposed legislation. *Id.* at 43:1-44:5.

497. At least some democratic legislators were aware of an alternative Wisconsin legislative redistricting map, drawn by Wisconsin Democracy Campaign, after the introduction of redistricting legislation and prior to the passage of Acts 43 and 44. *Id.* at 40:3-22; 42:3-5. The democratic caucus was in communication with the Wisconsin Democracy Campaign regarding its alternative maps prior to the enactment of Acts 43 and 44. *Id.* at 47:16-48:3. But they did not introduce the maps. *Id.* at 124:5-9.

503. All of the democrats in the 2011 legislature signed on as authors of Substitute Amendment 1 to Senate Bill 149, dated July 20, 2011. *Id.* at 88:16-22; 98:7-99:10; see also Exhibit 1039. Substitute Amendment 1 would shift redistricting duties to the unelected Government Accountability Board, with assistance from the Legislative Reference Bureau. The redistricting maps would be presented to the legislature which would have to vote on them within 7 days. No substantive amendments would be allowed. If the maps were not passed, the GAB would re-draw and resubmit them under the same time and procedure rules. If the maps were not acceptable after a third attempt, there were no provisions for further maps. *Id.* at 91:17-98:6; see also Exhibit 1039.

2. 1983 Legislative Redistricting.

504. Democratic legislators introduced the 1983 Legislative maps as Assembly Bill 1 on July 11, 1983 (“the bill”). A single public hearing was held that same day. The Assembly passed the bill on July 13, the Senate did so on July 14, and the Governor signed it into law on July 15.

505. On July 11, 1983, Assembly Bill 1 was introduced by the Committee on Assembly Organization. It was read for the first time and referred to the Committee on Elections the same day.

506. On July 11, 1983 – the same day it was introduced—the first and only public hearing also was held.

507. On July 12, 1983, the Committee on Elections recommended its passage, by a vote of 7 to 3.

508. On July 13, 1983, it was read a second time.

509. On July 13, 1983, the rules were suspended; it was read a third time; it passed the Assembly by a vote of 51 to 44; and it was ordered immediately messaged to the Senate.

asserted that the Democrats would not be passing a map and that everything they do “is about positioning both from a message and legal perspective.” *Id.* at 190. The next bullet point indicated that they should “stick to the bigger picture message – the GOP map is unconstitutional, divisive, and a blatant attempt to reduce accountability and secure political advantage for republicans.” *Id.* at 195-196. All of these decisions and talking points were made before the Democrats had even seen a redistricting map. *Id.* at 196.

517. The Assembly Democrat Caucus had decided on July 1, 2011, prior to the introduction of any redistricting map, that they would not be offering any alternative maps. (*Id.* 190-191.

518. At least one Democrat assemblyman contacted LRB because he was considering drafting an amendment to the redistricting map legislation. *Id.* at 198-99. No amendments were ever offered.

527. “[R]espect for the prerogatives of the Wisconsin Constitution dictate that . . . municipalities be kept whole where possible.” *Baumgart*, 2002 WL 34127471, at *3.

528. By splitting municipalities without any rational basis for doing so, Act 43 violates the Equal Protection Clause.

529. Legislative districts that unnecessarily divide municipalities or are not compact violate the Wisconsin Constitution.

530. Act 43 unnecessarily divides municipalities between assembly districts in violation of the Wisconsin Constitution.

531. To the extent it relies exclusively on Act 39’s permissive use of other boundaries (including census blocks), Act 43 violates Article IV, § 4 of the Wisconsin Constitution.

532. A *prima facie* case of unconstitutional gerrymandering is established by showing that the redistricting legislation moved significantly more people than necessary to achieve the ideal population, and no traditional redistricting criteria can justify the movement.

533. Defendants can rebut the *prima facie* case by showing that the movement was necessitated by justified changes in other district boundaries or by traditional redistricting criteria.

534. Plaintiffs can sustain their burden of proving an unconstitutional gerrymander by establishing that defendants’ explanations are pretextual or unfounded.

535. Acts 43 and 44 move significantly more people than necessary to achieve the ideal population, and no traditional redistricting criteria can justify the movement.

536. The movement of significantly more people than necessary to achieve population equality was not necessitated by justified changes in other district boundaries or by traditional redistricting criteria.

544. The fact that some of these voters had or may have an opportunity to vote in an extraordinary recall election does not cure the constitutional violation. The Wisconsin constitution guarantees the right to vote in a regularly scheduled state senate election every four years. The right to vote every four years for a state senator cannot be denied based on the exercise of the separate constitutional right to petition for the recall of an incumbent elected official.

545. Section 2 of the Voting Rights Act, as amended, provides:

- (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right . . . to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, as provided by subsection (b) of this section.
- (b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

42 U.S.C. § 1973.

546. The Latino citizen voting age population in the City of Milwaukee is sufficiently large and geographically compact to permit the creation of a majority-minority district. The Latino citizen voting age population in the City of Milwaukee is “politically cohesive,” meaning that its members vote in a similar fashion, and there is evidence of racial-bloc voting (*i.e.*,

552. The process by which Act 43 was created and the legislature's disregard for traditional redistricting criteria, such as communities of interest, demonstrate intentional dilution of minority voting strength for African-Americans and Latinos. *See Bartlett v. Strickland*, 556 U.S. 1, 19-20 (2009); *see Ketchum*, 740 F.2d at 1406.

553. Latinos are less likely to participate in elections as demonstrated by the disparity in voter registration rates, socioeconomic differences, and other barriers to electoral participation—including Wisconsin's newly enacted voter identification law. *See Gingles*, 478 U.S. at 44-45; *see* 2011 Wis. Act 23.

554. African-Americans in Milwaukee and Wisconsin are less likely to participate in election as demonstrated by the disparity in voter registration rates, socioeconomic differences, and other barriers to electoral participation. *See id.*

555. Based on the totality of the circumstances, Latinos have been denied an equal opportunity to participate in the political process and elect legislators of their choice because Act 43 dilutes the voting power of Latinos by reducing their concentration in the newly drawn Assembly District 8, especially as compared with Assembly District 8 created by the 2002 judicially-imposed plan. *See* 42 U.S.C. § 1973(b); *see also Gingles*, 478 U.S. at 46.

556. Based on the totality of the circumstances, African-Americans in the City of Milwaukee and in Wisconsin have been denied an equal opportunity to participate in the political process and elect legislators of their choice because Act 43 dilutes their voting power by packing them into a smaller number of districts than is necessary. *See id.*

557. Although the Voting Rights Act necessitates, under narrow circumstances, that the legislature consider race in the redistricting context, the Equal Protection Clause of the 14th Amendment generally requires racial neutrality in governmental decision-making. *See* U.S.

563. With respect to race, Act 43 is not justified by any compelling state interest, and is not narrowly tailored to achieve that interest. *See Miller*, 515 U.S. at 920; *Shaw I*, 509 U.S. at 646.

564. Section 10 of 2011 Act 43 states: “(1) This act first applies, with respect to regular elections, to offices filled at the 2012 general election. (2) This act first applies, with respect to special or recall elections, to offices filled or contested concurrently with the 2012 general election.” 2011 Wis. Act 43.

565. The Wisconsin Constitution permits legislative redistricting only after a decennial census. Wis. Const. art. IV, § 3.

566. Where a state statute provides for redistricting after a decennial census, it may not impose an interim remedy to address subsequent population changes that allegedly render the redistricting invalid. *See Mississippi State Conf. of N.A.A.C.P. v. Barbour*, No. 11-cv-159, 2011 WL 1870222, *2, *6-*8 (S.D. Miss. May 16, 2011), *summarily aff'd*, 132 S. Ct. 542 (Oct. 31, 2011); *see also Holt v. 2011 Legislative Reapportionment Comm'n*, No. 7 MM 2012 (Pa. Jan. 25, 2012).

567. The Government Accountability Board has concluded, based on the plain language of Act 43, that 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* Tr. Ex. 186 (Memorandum Regarding Legislative Redistricting: Effective Date and Use of State Funds from Kevin J. Kennedy, Dir. and Gen. Counsel, Gov't Accountability Bd., to Robert Marchant, Senate Chief Clerk, and Patrick Fuller, Assembly Chief Clerk (Oct. 19, 2011), *available at* http://wispolitics.com/1006/111019_Chief_Clerk_Guidance.pdf.)

574. The division of the Latino community into two separate adjacent but diluted assembly districts divides the Latino community's established business district in a way that fractures the cohesiveness of the community and ignores natural community boundaries.

575. The Voting Rights Act of 1965, 42 U.S.C. § 1973, precludes the State of Wisconsin from minimizing the opportunities for minority groups, including Latino citizens, to participate in the political process and in the context of the recent reapportionment, said statute precludes the State from fracturing minorities into several districts to deprive them of an effective voting majority in situations where there exists a history of racially polarized voting.

576. The redistricting plan adopted by the Wisconsin Legislature on July 20, 2011, fails to create any assembly district with an effective Latino voting majority, despite the significant growth of the Latino community to such a degree that the creation of geographically compact district with an effective Latino voter majority is possible.

577. The redistricting plan adopted by the Wisconsin Legislature on July 20, 2011, fractures the Latino community's voting strength by dividing the Latino community into two districts in which the Latino citizen voting age population is substantially below 50 percent of the voting age population.

III. INTERVENOR PLAINTIFFS

A. Zero Deviation.

578. Census data accuracy has always been a legal fiction. (Defendant GAB Memorandum In Support of Motion For Protective Order, filed 01/16/12, page 4.)

579. Exact population equality is unattainable and is not the only goal of redistricting. *Prosser v. Elections Bd.*, 793 F. Supp. 859, 864 (W.D. Wis. 1992).

580. A deviation of 1% of population between congressional districts is not legally or politically relevant. *Prosser, supra*, 793 F. Supp. at 866.

(1993); *Wisconsin State AFL-CIO v. Elections Bd.*, 543 F. Supp. 630, 636 (E.D. Wis. 1982); Stephen J. Malone, "Note: Recognizing Communities of Interest in a Legislative Apportionment Plan," 83 Va. Law Rev. 461, 465-466 (1997).

587. Act 44 violates the redistricting concept of community of interest regarding the Third Congressional District and the Seventh Congressional District.

588. There is no rational basis for violating the principle of community of interest for these districts.

E. Representative Democracy.

589. Redistricting plans should be designed to promote representative democracy. *Prosser*, 793 F. Supp. at 864.

590. By violating the redistricting principles of retention of core populations, compactness, and communities of interest Act 44 diminishes representative democracy in Congressional Districts Three, Seven, and Eight.

591. Act 44 is arbitrary and capricious and has no rational basis since it ignores the redistricting principles of core retention, compactness, and communities of interest.

IV. GAB DEFENDANTS

A. Count I: "Legislative Boundaries Unconstitutionally Sacrifice Redistricting Principles"

592. Population deviation amongst the new Assembly or Senate Districts created by 2011 Wisconsin Act 43 is a close approximation to exactness when considering the need to respect boundaries of local political units.

593. Plaintiffs did not demonstrate any population deviation capable of reduction amongst the new Congressional Districts created by 2011 Wisconsin Act 44.

F. Count VI: "Legislative Districts Violate the Federal Voting Rights Act."

601. Act 43 did not violate section two of the Voting Rights Act because, with respect to Wisconsin's African American community, the Baldus plaintiffs failed to satisfy the threshold requirement described in *Thornburg v. Gingles*.

602. Act 43 did not violate section two of the Voting Rights Act because, with respect to Wisconsin's Hispanic community, the Baldus plaintiffs failed to satisfy the threshold requirement described in *Thornburg v. Gingles*.

G. Count VII: "Legislative Districts Unconstitutionally Use Race as a Predominant Factor."

603. Plaintiffs have failed to demonstrate either through circumstantial evidence of any particular districts shape or demographics, or direct evidence of legislative intent, that race was the predominant motivating factor in placing a significant number of voters within or without particular voting districts.

H. Count VIII: "New Congressional and Legislative Districts Are Not Justified By Any Legitimate State Interest."

604. The Baldus Plaintiffs' eighth cause of action, "Congressional Districts Are Not Compact and Fail to Preserve Communities of Interest" fails to state a cause of action upon which relief might be granted.

I. Count IX: "Any Special or Recall Elections Cannot Be Conducted Under Act 43."

605. This court does not have subject matter jurisdiction over this claim because, based on defendants' representation that they do not intend to conduct the recall elections within the legislative districts created by Act 43, there is no case or controversy.

606. This court also does not have jurisdiction over this claim because it seeks injunctive and declaratory relief that consists entirely of requiring state officials to comply with a

614. The plaintiffs and the intervenor-plaintiffs have failed to state a claim upon which relief can be granted as to Act 44, because they have failed to provide the Court with a workable standard with which to measure any purported burden upon their representational rights under the Equal Protection Clause by any political considerations that may have affected the drawing of congressional districts embodied in Act 44.

615. The plaintiffs and the intervenor-plaintiffs have failed to show that the provisions of Act 44 could be termed an “excessive political gerrymander” under the U.S. Constitution, even if a workable standard for evaluating such claims were to exist.

616. Act 44 complies with the Equal Protection Clause and the requirement of “one-person, one-vote” as interpreted by the United States Supreme Court.

617. Act 44 does not implicate any recognized First Amendment right of the plaintiffs and intervenor-plaintiffs.

618. The purported “damage to representative democracy” claimed by the intervenor-defendants cannot and does not support any independent claim for relief.

619. Act 44 is constitutional.

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Representative 8th Assembly District
1624 South 12th Street
Milwaukee, Wisconsin

Hon. Pedro Colón
Milwaukee County Circuit Court
Judge Branch 18, Children's Division
10201 Watertown Plank Road
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Christine Neumann Ortiz
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1027 South Fifth Street
Milwaukee, WI 53204

John Bartkowski
Executive Director
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Milwaukee, WI 5320

3. Intervenor plaintiffs.

624. The Intervenor Plaintiffs expect to call the following witness to testify, in addition to witnesses listed by the Baldus plaintiffs:

Congressman David Obey
3920 N. 36th Street
Arlington, VA 22207

4. GAB defendants and Intervenor-Defendants

625. The GAB defendants and Intervenor-Defendants expect to call the following witnesses to testify:

Dr. Keith Gaddie
Professor of Political Science
The University of Oklahoma
455 West Lindsey Street, Room

Dr. Bernard Grofman
University of California Irvine
2291 Social Sciences Plaza B
Irvine, CA 92697

Mr. Peter Morrison
3 Eat Fire Springs Rd.
Nantucket, MA 02554

Mr. John Diez
12491 Plantation Creek Drive
Geismar, Louisiana 70734

Mr. Tad Ottman

Mr. Joseph Handrick

Mr. Andrew Speth

voting rights and redistricting. He has acted as a consultant to the Republican Parties of Colorado and Hawaii, the Democratic Party of Rhode Island, the NAACP Legal Defense Fund, the Republican National Committee, the Mexican American Legal Defense Fund and on multiple occasions, the U.S. Department of Justice. He has served as an expert witness in several landmark voting rights and redistricting cases, including *Thornburg v. Gingles*, *Bandemer v. Davis* and *Garza v. County of Los Angeles Bd. Of Supervisors*. Dr. Grofman has co-authored four books and over 250 articles and research notes on topics in comparative electoral systems, voting behavior, behavioral social choice, public choice, jury decision making, research methodology, the U.S. Congress and race and politics. He received his B.S. in mathematics, a M.A. in political science and a Ph.D. in political science, all from the University of Chicago and has received an honorary doctorate from the University of Copenhagen for his lifetime contributions to political science in the area of electoral systems and representation.

629. **Dr. Peter Morrison** is an expert witness for defendants. He was the founding director of the RAND Corporation's Population Research Center and for forty years was a Senior Demographer for the RAND Corporation. The RAND Corporation is a global policy think tank first established to provide research and analysis to the U.S. military. Dr. Morrison has taught at the RAND Graduate School, has lectured to Congressional, academic and business audiences and has participated on advisory committees and working groups for the U.S. Census Bureau. He has a Ph.D. from Brown University and a B.A. degree from Dartmouth College, both in the field of sociology.

630. **John Diez** is an expert witness for Defendants. He is a principal and founder of Magellan Strategies BR, LLC, a firm recently awarded a contract to build the redistricting database used by 18 states. Magellan specializes in redistricting, polling and voter data and over

634. Congressman Obey is testifying as a fact witness. The preceding is biographical data submitted for the purpose of giving context to Congressman Obey's testimony.

E. A List Of Exhibits To Be Offered At Trial.

635. See Exhibit F to the Joint Pretrial Report for a listing of exhibits to be offered at trial by each party.

F. A Designation Of All Depositions Or Portions Of Transcripts To Be Read Into The Record Or Played At Trial As Substantive Evidence.

636. See Exhibits B, C, D, and E to the Joint Pretrial Report for a listing of all depositions excerpts designated as substantive evidence. The parties do not intend for depositions or portions of transcripts to be read into the record or played at trial.

G. An Estimate Of The Time Needed To Try The Case.

637. The Court has allocated four days for the trial of this case.

H. Proposed Findings Of Fact And Conclusions Of Law.

638. See *supra*.

Dated: February 14, 2012.

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	10 Total	192,647	172,332	11.79%	20,315
31	11	61,755	57,444	7.50%	4,311
32	11	60,157	57,444	4.72%	2,713
33	11	59,460	57,444	3.51%	2,016
	11 Total	181,372	172,332	5.25%	9,040
34	12	53,812	57,444	-6.32%	-3,632
35	12	52,716	57,444	-8.23%	-4,728
36	12	50,788	57,444	-11.59%	-6,656
	12 Total	157,316	172,332	-8.71%	-15,016
37	13	58,965	57,444	2.65%	1,521
38	13	59,797	57,444	4.10%	2,353
39	13	56,515	57,444	-1.62%	-929
	13 Total	175,277	172,332	1.71%	2,945
40	14	55,223	57,444	-3.87%	-2,221
41	14	55,581	57,444	-3.24%	-1,863
42	14	57,975	57,444	0.92%	531
	14 Total	168,779	172,332	-2.06%	-3,553
43	15	57,584	57,444	0.24%	140
44	15	53,057	57,444	-7.64%	-4,387
45	15	59,610	57,444	3.77%	2,166
	15 Total	170,251	172,332	-1.21%	-2,081
46	16	65,835	57,444	14.61%	8,391
47	16	61,700	57,444	7.41%	4,256
48	16	61,400	57,444	6.89%	3,956
	16 Total	188,935	172,332	9.63%	16,603
49	17	55,456	57,444	-3.46%	-1,988
50	17	59,182	57,444	3.03%	1,738
51	17	57,753	57,444	0.54%	309
	17 Total	172,391	172,332	0.03%	59
52	18	56,377	57,444	-1.86%	-1,067
53	18	59,677	57,444	3.89%	2,233
54	18	54,863	57,444	-4.49%	-2,581
	18 Total	170,917	172,332	-0.82%	-1,415
55	19	54,157	57,444	-5.72%	-3,287
56	19	67,841	57,444	18.10%	10,397
57	19	53,999	57,444	-6.00%	-3,445
	19 Total	175,997	172,332	2.13%	3,665
58	20	60,111	57,444	4.64%	2,667
59	20	58,855	57,444	2.46%	1,411
60	20	57,434	57,444	-0.02%	-10
	20 Total	176,400	172,332	2.36%	4,068
61	21	51,968	57,444	-9.53%	-5,476
62	21	55,886	57,444	-2.71%	-1,558

95	32	53,998	57,444	-6.00%	-3,446
96	32	55,740	57,444	-2.97%	-1,704
	32 Total	172,379	172,332	0.03%	47
97	33	57,299	57,444	-0.25%	-145
98	33	56,450	57,444	-1.73%	-994
99	33	63,750	57,444	10.98%	6,306
	33 Total	177,499	172,332	3.00%	5,167

(Source: Wisconsin Legislative Reference Bureau)

*Plaintiffs stipulate to defendants' Table 1.

			0.36%	
32	57524	57,444	0.14%	80
33	57565	57,444	0.21%	121
			-	
34	57387	57,444	0.10%	-57
35	57562	57,444	0.20%	118
			-	
36	57432	57,444	0.02%	-12
37	57507	57,444	0.11%	63
38	57493	57,444	0.08%	49
			-	
39	57387	57,444	0.10%	-57
			-	
40	57366	57,444	0.14%	-78
			-	
41	57337	57,444	0.19%	-107
			-	
42	57285	57,444	0.28%	-159
43	57443	57,444	0.00%	-1
			-	
44	57395	57,444	0.09%	-49
45	57658	57,444	0.37%	214
46	57458	57,444	0.02%	14
47	57465	57,444	0.04%	21
48	57506	57,444	0.11%	62
			-	
49	57346	57,444	0.17%	-98
50	57624	57,444	0.31%	180
51	57580	57,444	0.24%	136
			-	
52	57232	57,444	0.37%	-212
			-	
53	57240	57,444	0.36%	-204
			-	
54	57250	57,444	0.34%	-194
55	57460	57,444	0.03%	16
56	57478	57,444	0.06%	34
57	57638	57,444	0.34%	194
			-	
58	57227	57,444	0.38%	-217
			-	
59	57391	57,444	0.09%	-53
			-	
60	57385	57,444	0.10%	-59
61	57614	57,444	0.30%	170
62	57345	57,444	-	-99

			-	
95	57372	57,444	0.13%	-72
96	57484	57,444	0.07%	40
			-	
97	57279	57,444	0.29%	-165
98	57513	57,444	0.12%	69
99	57496	57,444	0.09%	52

(Source: Wisconsin Legislative Reference Bureau)

*Plaintiffs stipulate to defendants' Table 2.

(Source: Wisconsin Legislative Reference Bureau)

*Plaintiffs stipulate to defendants' Table 3.

Population deviation in Senate districts (both under Act 43 and historically) appear in Table 5*:

Population Deviations Under Act 43 for the Wisconsin Senate

	Senate			
Deviation	1992 Court*	2002 Court**	2002 Court***	2011 Act 43***
>10.0%	0	0	2	0
5.0 to 10.0%	0	0	3	0
.5 to 4.99%	0	1	9	0
0-.499	15	14	2	56
No deviation	0	1	0	2
0 to -.499	18	17	2	41
-.5 to -4.99	0	0	9	0
-5.0 to -10.0%	0	0	5	0
< -10.0%	0	0	1	0
Low	-0.29%	-0.47%	-11.36%	-0.27%
High	+0.23%	+0.51	+14.82%	+0.35%
Range	0.52	0.98	26.18	0.62
*1990 Census				
**2000 Census				
***2010 Census				

*Plaintiffs stipulate to defendants' Table 5.

Table 7* shows the racial demographic data on population and voting age population characteristics of ACT 43 African American majority-minority legislative districts, using 2010 census data.

Act 43	BPOP	BVAP	Non-White Pop	Non-White VAP
10	65.55%	61.79%	73.23%	68.63%
11	66.31%	61.94%	78.19%	71.84%
12	57.99%	51.48%	69.26%	61.29%
16	67.64%	61.34%	77.67%	70.76%
17	65.14%	61.33%	74.19%	69.13%
18	65.09%	60.43%	77.86%	72.08%

*Plaintiffs stipulate to defendants' Table 7.

Table 9* reflects available data related to the racial composition of the Hispanic majority-minority districts in Milwaukee County, as drawn by federal courts in 1992 and 2002:

District	1992 Court		2002 Court	
	Hispanic VAP		Hispanic VAP	
8	[32.8%]		58.3%	
9			[22.9%]	
[Bracketed] data are notable concentrations of minority voters illuminated by the court.				
Sources: <i>Prosser et al. v. Elections Board et al.</i> , 793 F Supp. 859 (W.D. Wis. 1992). <i>Baumgart et al v. Wendelberg et al and Jensen et al</i> , 02-C-0366 (E.D. Wis. 2002).				

(Source: Gaddie, Grofman)

* Plaintiffs stipulate in part to defendants' Table 9: plaintiffs stipulate to the Hispanic VAP percentages from the 2002 decision. However, plaintiffs do not stipulate to the Hispanic VAP percentage from the 1992 decision.

Table 11* shows the Hispanic demographic data on population and voting age population characteristics of Act 43 Hispanic majority-minority legislative districts, using 2010 census data.

Act 43	HPOP	HVAP	Non-White Pop	Non-White VAP
8	65.94%	60.52%	77.17%	70.53%
9	60.54%	54.03%	74.07%	66.74%

* Plaintiffs stipulate in part to defendants' Table 11: plaintiffs stipulate to the percentages listed. However, the calculations for the percentages listed in "Non-White Pop" and "Non-White VAP" were performed by defendants, and plaintiffs do not stipulate to the relevance of such percentages.

Table 13* describes the Hispanic population in Wisconsin as a whole and in Milwaukee County in particular in 2000 and in 2010:

Population Base	Wisconsin		Milwaukee County	
	2000	2010	2000	2010
Total population, all ages	5,363,675	5,686,986	940,164	947,735
Hispanics	192,921	336,056	82,406	126,039
% Hispanic	3.6%	5.9%	8.8%	13.3%
Voting-age population (VAP)	3,994,919	4,347,494	692,339	711,358
Hispanics	117,682	199,822	49,981	77,116
%Hispanic	2.9%	4.6%	7.2%	10.8%
Citizen voting-age population (CVAP)	3,900,470	4,219,723	659,183	670,124
Hispanics	--	127,139	--	50,738
%Hispanic	--	3.0%	--	7.6%

Source: US Census Bureau, 2000 Census, Tables QT-P1, P12H, QT-PL, PCT044; 2010 American Community Survey, Tables B05003 and B050031.

(Source: Morrison)

* Plaintiffs stipulate in part to defendants' Table 13: plaintiffs stipulate to the numbers and percentages for "Total Population" and "Voting Age Population" (for both WI and Milwaukee County). Plaintiffs do not stipulate to the numbers for "Citizen Voting Age Population" (for both WI and Milwaukee County).

Table 15* describes the growth of the Hispanic community in Assembly Districts 8 and 9.

Population Change, 2000-2010 for Area Encompassing Assembly Districts 8 and 9 Combined				
	Number		Change	
	2000	2010	Number	% change
Total population, all ages	107,475	114,479	7,004	7%
Hispanics	48,809	72,397	23,588	48%
Non-Hispanics	58,666	42,082	-16,584	-28%

Sources: US Census Bureau, 2000 and 2010 Census Redistricting Data. The combined area is approximated using whole census tracts.

(Source: Morrison)

*Plaintiffs do not stipulate to defendants' Table 15.

Table 16c							
Assembly		Election					
District	Year	Type	Candidates	Hispanic	Vote	Percent	Winner
8	2002	Democrat primary	Pedro Colon	yes	1,482	100%	winner
8	2002	general election	Pedro Colon	yes	3,291	100%	winner

Source: State of Wisconsin Blue Book 2003-2004, pages 919 and 922

www.legis.wisconsin.gov/lrb/bb/03bb/index.htm

Table 16d							
Assembly		Election					
District	Year	Type	Candidates	Hispanic	Vote	Percent	Winner
8	2004	Democrat primary	Pedro Colon	yes	1,311	100%	winner
8	2004	general election	Pedro Colon	yes	8,815	100%	winner

Source: State of Wisconsin Blue Book 2005-2006, pages 924 and 928

www.legis.wisconsin.gov/lrb/bb/05bb/index.htm

Table 16e							
Assembly		Election					
District	Year	Type	Candidates	Hispanic	Vote	Percent	Winner
8	2006	Democrat primary	Pedro Colon	yes	705	100%	winner
8	2006	general election	Pedro Colon	yes	4,605	100%	winner

Source: State of Wisconsin Blue Book 2007-2008, pages 918 and 921

www.legis.wisconsin.gov/lrb/bb/07bb/index.htm

Table 16f							
Assembly		Election					
District	Year	Type	Candidates	Hispanic	Vote	Percent	Winner

The delayed voting effects of the last three redistricting efforts appear in Table 17*:

Senate Delayed Voting Effects from Redistricting Under Act 43

	1992 Court	2002 Court	2011 Act 43	2011 Act 43, Net**
Total Displaced Persons	257,000	171,613	299,704	134,861
% of State	5.25%	3.14%	5.26%	2.37%
Per district*	15,117	10,726	17,630	16,857***
Sources: <i>Prosser et al. v. Elections Board et al.</i> , 793 F Supp. 859 (W.D. Wis. 1992). <i>Baumgart et al v. Wendelberg et al and Jensen et al</i> , 02-C-0366 (E.D. Wis. 2002).				

*N = 17 for 1992 and 2011; N = 16 for 2002.

**Net delayed voting accounting for persons in areas that voted in the July and August 2011 recalls.

***Average for the eight districts that did not participate in the 2011 recall elections.

(Source: Gaddie)

* Plaintiffs do not stipulate to defendants' Table 17.

Table 19* reflects delayed voting effects in other states in the present redistricting cycle:

Delayed Voting in Six States, 2012 Apportionment Cycle						
State	Votes in 2012	% Delayed	Odd-to-Even	Even-to-Odd	Unchanged	Total Pop.
Oregon	Even	3.02%	132,720	<u>115,769</u>	3,582,585	3,831,074
Wisconsin	Even	5.27%	313,540	<u>299,688</u>	5,073,758	5,686,986
Ohio	Even	7.48%	807,835	<u>862,773</u>	10,728,669	11,536,504
Oklahoma	Odd	7.98%	<u>299,511</u>	304,977	3,146,863	3,751,351
Missouri	Odd	9.89%	<u>592,586</u>	674,786	4,721,555	5,988,927
California	Odd	10.66%	<u>3,972,984</u>	3,895,767	29,385,205	37,253,956
Source: Data compiled by John Diez/Magellan Strategies BR, January 11 2012.						

(Source: Gaddie Rebuttal)

* Plaintiffs do not stipulate to defendants' Table 19.

Compactness scores for Act 43 appear in Table 21*:

Compactness Scores Under Act 43, Wisconsin Assembly and Wisconsin Senate

	Assembly	Assembly	Senate	Senate
	2002 Map	2011 Map	2002 Map	2011 Map
Smallest Circle				
Average	.41	.39		
Low	.18	.20		
High	.63	.61		
Perimeter-to-area				
Average	.29	.28		.29
Low	.06	.05		.06
High	.58	.56		.58

(Source: Gaddie)

* Plaintiffs stipulate to defendants' Table 21.

Table 23* illustrates the Largest Core Retention scores for the Assembly and Senate districts created by Act 43.

Largest Core Retention Under Act 43, Assembly and Senate Districts

	Assembly	Senate
Average	66.30	78.82
Low	30.88	57.89
High	99.91	99.92

(Source: Gaddie, Gaddie Rebuttal)

* Plaintiffs do not stipulate to defendants' Table 23.

The incumbent pairings and the associated core retentions of the involved incumbents appear in Table 25*:

Incumbent Pairings Under Act 43, Wisconsin Assembly and Senate

Act 43 District	Incumbent / 2002 District	% Deviation*	% Inc. Core**
Assembly 92	Danou-D, 91	-1.38%	70.84%
	Radcliffe-D, 92	+2.52%	29.16%
Assembly 7	Kiusick-D, 7	-2.82%	30.88%
	Zepnick-D, 9	+5.98%	13.92%
Assembly 76	Pocon-D, 78	-4.20%	67.96%
	Taylor-D, 48	+6.89%	10.45%
Assembly 31	Loudenbeck-R, 45	+3.77%	45.44%
	August-R, 32	+4.72%	26.20%
Assembly 88	Klenke-R, 88	+1.12%	47.89%
	Jacque-R, 2	+6.21%	34.23%
Assembly 89	Nygren-R, 89	+6.21%	82.26%
	Van Roy-R, 90	+2.71%	17.74%
Assembly 33	Jorgensen-D, 37	+2.65%	45.31%
	Nass-R, 31	+7.50%	29.85%
Assembly 14	Cullen-D, 13	-6.23%	31.81%
	Kooyenga-R, 14	-8.34%	35.80%
Assembly 22	Kessler-D, 12	-3.78%	11.79%
	Pridemore-R, 99	+10.98%	35.66%
Assembly 23	Pasch-D, 22	-7.71%	36.14%
	Ott-R, 23	-3.82%	36.92%
Assembly 61	Steinbrink-D, 65	+7.25%	36.07%
	Kerkman-R, 66	+7.18%	63.93%

The congressional districts created by Act 44 maintain an average core of 84.33%, as reflected in Table 26*:

Core Retention, Congressional Districts, Act 44			
District	Total Pop.	Retained Core	Core Percent
1	710,874	686,159	96.52
2	710,874	633,024	89.05
3	710,873	539,603	75.91
4	710,873	647,764	91.12
5	710,873	533,051	74.99
6	710,873	565,950	79.61
7	710,873	538,884	75.81
8	710,873	651,119	91.59
Average	710,873	599,444	84.33
Dem. Avg.	710,873	606,797	83.70
Rep. Avg.	710,873	595,033	85.36

(Source: Gaddie, Gaddie Rebuttal)

* Plaintiffs do not stipulate to defendants' Table 26.

Table 28* shows the number of persons shifted into each odd-numbered district from an even-numbered district by Act 43.

Senate District (Odd)	Persons Shifted Into District from Even-Numbered District
1	19965
3	1646
5	22542
7	8540
9	17238
11	17805
13	21220
15	5699
17	3713
19	133
21	72431
23	16969
25	7290
27	49867
29	9241
31	19360
33	5980
Total	299639

(Source: Mayer)

* Defendants stipulate to plaintiffs' Table 28.

Table 30*

The tabulations of the actual population shifts (transfers) from each district to each other district from the implementation of Act 44's map are given below in Table 30.

2001 / Act 44		1	2	3	4	5	6	7	8
District /	District								
1		686,159	3,764	NA	63	38,056	NA	NA	NA
2		1,322	633,024	0	NA	59,990	56,833	NA	NA
3		NA	74,086	539,603	NA	NA	0	116,268	NA
4		0	NA	NA	647,764	21,251	NA	NA	NA
5		23,393	0	NA	63,046	533,051	88,090	NA	NA
6		NA	0	20,875	NA	58,525	565,590	0	59,752
7		NA	NA	150,395	NA	NA	0	538,884	0
8		NA	NA	NA	NA	NA	0	55,721	651,121

Table 30: Population shifts between districts required for Act 44 to be implemented. (NA indicates that the districts were not adjacent and hence there could be no shift.)

To interpret this table, consider the first row. This means that for the population residing in the previous CD1, 686,159 remain in CD1, 3,764 transferred into CD2, 63 transferred into CD4, and 38,056 transferred to CD5. The "NA" entries in this row indicate that the other previously existing districts (3, 6, 7, 8) were not adjacent to the previous CD1.

In some cases there are transfers in "both directions" for two adjacent districts. For example, Act 44 required a population of 3,764 to shift from CD1 to CD2 and a population of 1,322 to shift from CD2 to CD1. In some other cases the transfers are in one direction only. For example, Act 44 required a population of 0 to shift from CD2 to CD3 whereas the required shift from CD3 to CD2 was 74,086.

The largest shifts were from CD7 to CD3 and from CD3 to CD7. The required population shift under Act 44 was 150,395 from CD7 to CD3 and 116,268 from CD3 to CD7.

* Defendants stipulate to plaintiffs' Table 30.

Table 32* reflects the population shifted into and out of each assembly district. The sum of shifts is 4,727,667. The total number of people who changed assembly districts—determined by dividing the sum of shifts by two (to eliminate double-counting)—is 2,363,834. The total change required to achieve equal population was 322,726, and the net population change in the assembly districts was 321,915.

[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]
AD	2002 District Population	Population Shift Required	Actual Population Change	Population Added	Population Subtracted	Total Population Shift	Ratio of Total Pop. Shift to Required Shift	New District Population
1	54,189	-3,255	3,031	3,044	13	3,057	1.0	57,220
2	61,009	3,565	-3,360	20,115	23,475	43,590	13.0	57,649
3	65,789	8,345	-8,345	3,014	11,359	14,373	1.7	57,444
4	54,953	-2,491	2,533	25,464	22,931	48,395	19.1	57,486
5	61,133	3,689	-3,663	11,883	15,546	27,429	7.5	57,470
6	55,963	-1,481	1,542	23,324	21,782	45,106	29.3	57,505
7	55,825	-1,619	1,673	39,742	38,069	77,811	46.5	57,498
8	54,616	-2,828	2,642	25,590	22,948	48,538	18.4	57,258
9	60,880	3,436	-3,659	28,689	32,348	61,037	16.7	57,221
10	51,419	-6,025	6,009	19,333	13,324	32,657	5.4	57,428
11	52,178	-5,266	5,325	30,013	24,688	54,701	10.3	57,503
12	55,275	-2,169	2,219	27,680	25,461	53,141	23.9	57,494
13	53,867	-3,577	3,585	43,406	39,821	83,227	23.2	57,452
14	52,656	-4,788	4,941	36,975	32,034	69,009	14.0	57,597
15	53,448	-3,996	3,924	30,223	26,299	56,522	14.4	57,372
16	52,510	-4,934	4,948	18,097	13,149	31,246	6.3	57,458
17	51,861	-5,583	5,493	22,128	16,635	38,763	7.1	57,354
18	48,387	-9,057	9,093	23,770	14,677	38,447	4.2	57,480
19	56,827	-617	719	6,698	5,979	12,677	17.6	57,546
20	54,999	-2,445	2,429	11,661	9,232	20,893	8.6	57,428
21	60,177	2,733	-2,728	1,842	4,570	6,412	2.4	57,449
22	53,017	-4,427	4,478	57,495	53,017	110,512	24.7	57,495

				1,340	2,898	4,238		57,624
51	57,753	309	-173	18,280	18,453	36,733	212.3	57,580
52	56,377	-1,067	855	10,006	9,151	19,157	22.4	57,232
53	59,677	2,233	-2,437	9,230	11,667	20,897	8.6	57,240
54	54,863	-2,581	2,387	2,443	56	2,499	1.0	57,250
55	54,157	-3,287	3,336	27,880	24,544	52,424	15.7	57,493
56	67,841	10,397	-10,259	20,057	30,316	50,373	4.9	57,582
57	53,999	-3,445	3,502	24,544	21,042	45,586	13.0	57,501
58	60,111	2,667	-2,884	6,629	9,513	16,142	5.6	57,227
59	58,855	1,411	-1,464	30,720	32,184	62,904	43.0	57,391
60	57,434	-10	-49	17,594	17,643	35,237	719.1	57,385
61	51,968	-5,476	5,646	57,614	51,968	109,582	19.4	57,614
62	55,886	-1,558	1,459	52,442	50,983	103,425	70.9	57,345
63	58,881	1,437	-1,516	34,205	35,721	69,926	46.1	57,365
64	56,844	-600	426	29,244	28,818	58,062	136.3	57,270
65	61,608	4,164	-4,153	28,818	32,971	61,789	14.9	57,455
66	61,567	4,123	-4,022	57,545	61,567	119,112	29.6	57,545
67	58,722	1,278	-1,600	3,529	5,129	8,658	5.4	57,122
68	59,129	1,685	-1,868	31,611	33,479	65,090	34.8	57,261
69	59,102	1,658	-1,453	17,855	19,308	37,163	25.6	57,649
70	53,904	-3,540	3,648	32,418	28,770	61,188	16.8	57,552
71	57,415	-29	104	6,298	6,194	12,492	120.1	57,519
72	55,764	-1,680	1,685	14,960	13,275	28,235	16.8	57,449
73	54,962	-2,482	2,491	4,440	1,949	6,389	2.6	57,453
74	52,623	-4,821	4,871	18,777	13,906	32,683	6.7	57,494
75	54,961	-2,483	2,501	6,724	4,223	10,947	4.4	57,462
76	61,547	4,103	-3,930	50,653	54,583	105,236	26.8	57,617
77	51,957	-5,487	5,476	34,916	29,440	64,356	11.8	57,433

Table 33* reflects the population shifted into and out of each senate district by Act 43. The sum of shifts into and out of each assembly district is 2,410,549. The total number of people who changed senate districts—determined by dividing the sum of shifts by two (to eliminate double-counting)—is 1,205,275. The total change required to achieve equal population in the senate districts was 231,341, and the net population change in the senate districts was 231,501.

[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]
SD	2002 District Population	Population Change Required	Actual Population Change	Population Added	Population Subtracted	Total Population Shift	Shift/change ratio	New District Population
1	180,989	8,656	8,676	20,117	28,793	48,910	5.7	172,313
2	172,047	(286)	(414)	49,705	49,291	98,996	346.1	172,461
3	171,321	(1,012)	(656)	40,209	39,553	79,762	78.8	171,977
4	158,872	(13,461)	(13,553)	38,717	25,164	63,881	4.7	172,425
5	159,971	(12,362)	(12,450)	54,659	42,209	96,868	7.8	172,421
6	152,758	(19,575)	(19,534)	22,795	3,261	26,056	1.3	172,292
7	172,003	(330)	(420)	13,741	13,321	27,062	82.0	172,423
8	165,331	(7,002)	(7,025)	46,064	39,039	85,103	12.2	172,356
9	162,200	(10,133)	(10,239)	23,152	12,913	36,065	3.6	172,439
10	192,647	20,314	20,402	2,809	23,211	26,020	1.3	172,245
11	181,372	9,039	9,043	72,563	81,606	154,169	17.1	172,329
12	157,316	(15,017)	(15,065)	24,705	9,640	34,345	2.3	172,381
13	175,277	2,944	2,890	40,182	43,072	83,254	28.3	172,387
14	168,779	(3,554)	(3,209)	55,689	52,480	108,169	30.4	171,988
15	170,251	(2,082)	(2,245)	30,919	28,674	59,593	28.6	172,496
16	188,935	16,602	16,506	60,283	76,789	137,072	8.3	172,429
17	172,391	58	(159)	19,666	19,507	39,173	675.4	172,550
18	170,917	(1,416)	(805)	805	-	805	0.6	171,722
19	175,997	3,664	3,421	133	3,554	3,687	1.0	172,576
20	176,400	4,067	4,397	31,816	36,213	68,029	16.7	172,003
21	166,735	(5,598)	(5,589)	72,431	66,842	139,273	24.9	172,324
22	180,019	7,686	7,749	66,837	74,586	141,423	18.4	172,270
23	176,953	4,620	4,921	32,335	37,256	69,591	15.1	172,032
24	167,083	(5,250)	(5,437)	42,379	36,942	79,321	15.1	172,520
25	162,546	(9,787)	(9,863)	24,604	14,741	39,345	4.0	172,409
26	168,528	(3,805)	(4,068)	29,547	25,479	55,026	14.5	172,596
27	197,874	25,541	25,425	69,372	94,797	164,169	6.4	172,449
28	177,466	5,133	5,248	38,832	44,080	82,912	16.2	172,218
29	167,331	(5,002)	(4,961)	24,385	19,424	43,809	8.8	172,292
30	173,432	1,099	634	31,847	32,481	64,328	58.5	172,798
31	173,367	1,034	1,029	50,132	51,161	101,293	98.0	172,338
32	172,379	46	257	3,458	3,715	7,173	155.9	172,122
33	177,499	5,166	5,211	70,328	75,539	145,867	28.2	172,288
TOTALS		231,341	231,501			2410549	55.0	

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EXHIBIT B TO JOINT PRETRIAL REPORT: BALDUS PLAINTIFFS' DEPOSITION DESIGNATIONS

Foltz, Adam		
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	185:4	191:3
	194:17	195:7
	207:19	208:17
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	210:2	212:11
	213:1	213:19
	213:20	214:5
	217:25	219:7
	224:16	226:22
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Ottman, Tad		
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	151:8	156:3
	158:11	161:3
	169:7	170:12
	176:1	177:7
	181:13	185:3
	185:4	185:23
	187:4	188:12
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	282:6	283:1
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	289:14	291:15
	293:24	297:19
	299:2	303:16
	306:10	310:18
	310:21	317:9

	194:23	195:17
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EXHIBIT D TO JOINT PRETRIAL REPORT: VOCES PLAINTIFFS' DEPOSITION DESIGNATIONS

Foltz, Adam		
Depo. Date	Trn. From (page:line)	Trn. To (page:line)
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	216:18	216:25
	228:13	243:13
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	378:23	389:25
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	403:9	404:25
	407:1	410:17
	414:1	415:17

	161:2	161:23
	169.9	169.22
	172.15	173.23
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	194.23	195.17

Foltz, Adam		
Depo. Date	Trn. From (page:line)	Trn. To (page:line)
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	94:5	94:23
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	212:20	215:11
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Ottman, Tad		
Depo. Date	Trn. From (page:line)	Trn. To (page:line)
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Rodriguez, Jesus		
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	97:24	99:17
	105:7	105:15
	111:1	111:22
	118:16	121:8
	130:16	135:5
	136:25	141:12
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Exhibit F

AO 187 (Rev. 7/87)

PARTIES' EXHIBIT LIST - CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
5					February 17, 2011 letter to Eric M. McLeod from Don M. Millis, Deposition Ex. 5 to the December 20, 2011 Deposition of Joseph W. Handrick
6					February 18, 2011 letter to Eric M. McLeod from Don M. Millis, Deposition Ex. 6 to the December 20, 2011 Deposition of Joseph W. Handrick
7					Bio of Joseph W. Handrick from the website of Reinhart, Deposition Ex. 7 to the December 20, 2011 Deposition of Joseph W. Handrick
8					Joe Handrick's lobbyist license dated November 30, 2011, Deposition Ex. 8 to the December 20, 2011 Deposition of Joseph W. Handrick
9					Excerpts from the book, <i>Born to Run</i> by Ronald Keith Gaddie, Deposition Ex. 9 to the December 20, 2011 Deposition of Joseph W. Handrick
10					Defendants' Amended Initial Rule 26(a) Disclosures dated November 25, 2011, Deposition Ex. 10 to the December 20, 2011 Deposition of Joseph W. Handrick
11					Second Amended Complaint for Declaratory and Injunctive Relief dated November 18, 2011, Docket No. 48, Deposition Ex. 11 to the December 20, 2011 Deposition of Joseph W. Handrick
12					Defendants' Answer and Affirmative Defenses to Second Amended Complaint for Declaratory and Injunctive Relief dated November 25, 2011, Docket No. 57, Deposition Ex. 12 to the December 20, 2011 Deposition of Joseph W. Handrick
12A					Defendants' Amended Answer and Affirmative Defenses to Second Amended Complaint for Declaratory and Injunctive Relief dated November 30, 2011, Docket No. 66
13					Plaintiffs' First Set of Interrogatories and First Request for Production of Documents to Defendants dated November 22, 2011, Deposition Ex. 13 to the December 20, 2011 Deposition of Joseph W. Handrick
14					Chapter 801.17, Commencement of Action and Venue, Deposition Ex. 14 to the December 20, 2011 Deposition of Joseph W. Handrick
15					Chapter 751, Supreme Court, Deposition Ex. 15 to the December 20, 2011 Deposition of Joseph W. Handrick

PARTIES' EXHIBIT LIST – CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
27					DVD identified as Adam Foltz Statewide Data Base, Deposition Ex. 27 to the December 21, 2011 Deposition of Adam R. Foltz
28					Order dated December 8, 2011 (by U.S. District Judge J. P. Stadtmueller), Docket No. 74, Deposition Ex. 28 to the December 21, 2011 Deposition of Adam R. Foltz
29					Order dated December 20, 2011 (by U.S. District Judge J.P. Stadtmueller), Docket No. 82, Deposition Ex. 29 to the December 21, 2011 Deposition of Adam R. Foltz
30					December 13, 2011 Expert Report of Ronald Keith Gaddie, Ph.D., Deposition Ex. 30 to the December 21, 2011 Deposition of Adam R. Foltz
31					December 14, 2011 Expert Report of John Diez of Magellan Strategies BR, Deposition Ex. 31 to the December 21, 2011 Deposition of Adam R. Foltz
32					December 14, 2011 Expert Report of Peter A. Morrison, Ph.D., Deposition Ex. 32 to the December 21, 2011 Deposition of Adam R. Foltz
33					Documents Produced in Response to Subpoena Issued by Plaintiffs to Tad Ottman dated December 22, 2011, Deposition Ex. 33 to the December 22, 2011 Deposition of Tad M. Ottman
33A					Documents Produced by Tad M. Ottman at Deposition, Deposition Ex. 33A to the December 22, 2011 Deposition of Tad M. Ottman
34					DVD identified as Tad Ottman Documents Responsive to December 13, 2011 Subpoena, Deposition Ex. 34 to the December 22, 2011 Deposition of Tad M. Ottman
35					December 13, 2011 Subpoena Issued to Tad Ottman, Deposition Ex. 35 to the December 22, 2011 Deposition of Tad M. Ottman
36					July 8, 9 and 11, 2011 Emails re: Alternative Configuration of Ads 8 and 9 (containing information that was inadvertently redacted), Deposition Ex. 36 to the December 22, 2011 Deposition of Tad M. Ottman
37					January 4, 2012 Subpoena issued to Jesus "Zeus" Rodriguez, Deposition Ex. 37 to the January 11, 2012 Deposition of Jesus "Zeus" Rodriguez
38					July 21-22, 2011 Emails re: "Rep. Zamarripa floor speech on redistricting" and maps, Deposition Ex. 38 to the January 11, 2012 Deposition of Jesus "Zeus" Rodriguez

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PARTIES' EXHIBIT LIST – CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
49A					ACS 2006 2010 Analysis.xls, Deposition Ex. 49A to the January 18, 2012 Deposition of Peter A. Morrison, Ph.D.
50					Thumb drive produced by Dr. Morrison at Deposition, Deposition Ex. 50 to the January 18, 2012 Deposition of Peter A. Morrison, Ph.D.
51					December 22, 2011 letter from Attorney Poland to Defendants' Counsel re: Dr. Morrison's Expert Report, Deposition Ex. 51 to the January 18, 2012 Deposition of Peter A. Morrison, Ph.D.
52					December 28, 2011 letter from Attorney Kelly to Plaintiffs' Counsel responding to their December 22, 2011 letter re: Dr. Morrison's Expert Report, Deposition Ex. 52 to the January 18, 2012 Deposition of Peter A. Morrison, Ph.D.
53					January 13, 2012 Rebuttal Expert Report by Dr. Morrison, Deposition Ex. 53 to the January 18, 2012 Deposition of Peter A. Morrison, Ph.D.
54					Building a Spanish Surname List for the 1990's—A New Approach to an Old Problem by the Population Division of the U.S. Bureau of the Census dated March 1996, Deposition Ex. 54 to the January 18, 2012 Deposition of Peter A. Morrison, Ph.D.
55					December 13, 2011 Rule 26 Expert Report of Dr. Kenneth R. Mayer, Deposition Ex. 55 to the January 18, 2012 Deposition of Peter A. Morrison, Ph.D.
56					January 1, 2012 Subpoena issued to Ronald Keith Gaddie, Ph.D., Deposition Ex. 56 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
57					Flash drive produced by Dr. Gaddie at Deposition, Deposition Ex. 57 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
58					January 13, 2011 Rebuttal Expert Report of Ronald Keith Gaddie, Ph. D., Deposition Ex. 58 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
59					Defendants' Answer and Affirmative Defenses to <i>Voces de la Frontera</i> Plaintiffs' Original Complaint for Declaratory and Injunctive Relief Under the Voting Rights Act of 1965 dated December 2, 2011, Docket No. 69, Deposition Ex. 59 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.

PARTIES' EXHIBIT LIST - CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
71					June 6, 2011 Email from Adam Foltz to Dr. Gaddie, Jim Troupis, Eric McLeod, Tad Ottman and Joe Handrick, Re: The Hispanic Community Speaks in Milwaukee, and June 7, 2011 Email from Jim Troupis to Adam Foltz, Eric McLeod, Tad Ottman and Joseph Handrick - Attorney Client Privileged Communication, Deposition Ex. 71 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
72					Chart labeled, "Milwaukee_Gaddie_4_16_11_V1_B", Deposition Ex. 72 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
73					July 17, 2011 Email chain between Dr. Gaddie, Tad Ottman, Adam Foltz, Jim Troupis, Eric McLeod, Raymond Taffora, Subject: Wisconsin Hispanic Districts, Deposition Ex. 73 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
74					July 17, 2011 Email chain between Dr. Gaddie and Jim Troupis, Subject: MUST TALK TODAY IF POSSIBLE, Deposition Ex. 74 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
VOL. IV					
75					July 17, 2011 Email chain between Dr. Gaddie and Jim Troupis, Subject: Revised timing, and July 17, 2011 Email to Dr. Gaddie from Tad Ottman, Subject: Wisconsin Hispanic Districts, Deposition Ex. 75 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
76					July 17, 2011 Email from Dr. Gaddie to Jim Troupis, Subject: Revised timing with attached Assembly_Labels_v1(2).pdf; July 17, 2011 Email chain between Dr. Gaddie and Jim Troupis, Subject: Revised timing; and July 17, 2011 Email to Dr. Gaddie from Tad Ottman, Subject: Wisconsin Hispanic Districts, Deposition Ex. 76 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
77					July 17, 2011 Email chain between Dr. Gaddie and Jim Troupis, Subject: Revised Timing, Deposition Ex. 77 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
78					July 29, 2011 Email from Dr. Gaddie to Eric McLeod with attached August 1, 2011 invoice, Deposition Ex. 78 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.
79					November 10, 2011 Memo, Subject: Census Blocks Conflicting with Municipal Boundaries, Deposition Ex. 79 to the January 20, 2012 Deposition of Ronald Keith Gaddie, Ph.D.

PARTIES' EXHIBIT LIST - CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
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94					Series of e-mails, Deposition Ex. 94 to the February 1, 2012 Deposition of Joseph W. Handrick, Vol. II
95					Two e-mails, Deposition Ex. 95 to the February 1, 2012 Deposition of Joseph W. Handrick, Vol. II
96					Series of e-mails, Deposition Ex. 96 to the February 1, 2012 Deposition of Joseph W. Handrick, Vol. II
97					Assembly District 8 map, Deposition Ex. 97 to the February 1, 2012 Deposition of Joseph W. Handrick, Vol. II
98					Printout of menu of a disk, Deposition Ex. 98 to the February 1, 2012 Deposition of Joseph W. Handrick, Vol. II
99					E-mail from Jim Troupis, Deposition Ex. 99 to the February 1, 2012 Deposition of Joseph W. Handrick, Vol. II
100					Memorandum to Representative Garey Bies, Deposition Ex. 100 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
100A					Memorandums prepared by Adam Foltz, produced responsive to subpoenas, FOLTZ000689-932
101					Breakdown of regions, Deposition Ex. 101 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
102					June 14, 2011 E-mail from Andy Speth, Deposition Ex. 102 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
103					June 15, 2011 E-mail from Andy Speth, Deposition Ex. 103 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
104					June 21, 2011 E-mail from Andy Speth, Deposition Ex. 104 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
105					Foltz 001043 - 001044, Deposition Ex. 105 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
106					E-mail from Andrew Welhouse, Deposition Ex. 106 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
107					Foltz 001046 - 001047, Deposition Ex. 107 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
108					Heat map, Deposition Ex. 108 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II
109					Heat map, Deposition Ex. 109 to the February 1, 2012 Deposition of Adam R. Foltz, Vol. II

PARTIES' EXHIBIT LIST – CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
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127					Salon.com article, Deposition Ex. 127 to the February 2, 2012 Deposition of Tad M. Ottman, Vol. II
128					Outline for Tad Ottman testimony, Deposition Ex. 128 to the February 2, 2012 Deposition of Tad M. Ottman, Vol. II
129					Subpoena issued to Bernard Grofman, Deposition Ex. 129 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
130					December 27, 2011 E-mail re: Raw population data, Deposition Ex. 130 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
131					Invoice, Deposition Ex. 131 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
132					Excerpts from Dr. Mayer's Expert Report, Deposition Ex. 132 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
133					Excerpts from Expert Reports, Deposition Ex. 133 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
134					Spreadsheet prepared by Dr. Mayer, Deposition Ex. 134 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
135					Act 43 data sent by Mr. Hodan, Deposition Ex. 135 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
136					Legislative plan with respect to 2010 census, Deposition Ex. 136 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
137					January 24, 2011 E-mails between Joseph Handrick and Jim Troupis re: Memo, Deposition Ex. 137 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
138					February 7, 2011 and February 14, 2011 E-mails between Dr. Gaddie, Jim Troupis, and Eric McLeod re: Current Address, Deposition Ex. 138 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.
139					June 13, June 15, June 27 and July 7, 2011 E-mails between Bernard Grofman, Sarah Troupis, and Jim Troupis re: Wisconsin—Ground Zero materials, Deposition Ex. 139 to the February 3, 2012 Deposition of Bernard N. Grofman, Ph.D.

PARTIES' EXHIBIT LIST - CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
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152					January 23, 2012 Letter to Joint Committee on Legislative Organization Co-Chairs, President Ellis and Speaker Fitzgerald, from Jeff Ylvisaker, Director Legislative Technology Services Bureau, cc: Senate and Assembly Caucus Leaders, Senate and Assembly Chief Clerks re: Government Accountability Board Memorandum of January 13, 2012, Deposition Ex. 152 to the February 7, 2012 Deposition of Tony Van Der Wielen
153					Wisconsin Legislature Redistricting Staff Working Group, Meeting of January 14, 2011, Deposition Ex. 153 to the February 7, 2012 Deposition of Tony Van Der Wielen
154					Defendants' Supplement to the Amended Initial Rule 26(a) Disclosures dated December 19, 2011, Deposition Ex. 154 to the February 7, 2012 Deposition of Tony Van Der Wielen
155					December 6, 2011 Letter from Tony J. Van Der Wielen to Ronald Keith Gaddie enclosing requested materials related to the 2010 census data, Deposition Ex. 155 to the February 7, 2012 Deposition of Tony Van Der Wielen
156					December 6, 2011 Letter from Tony J. Van Der Wielen to John Diez enclosing requested materials related to the 2010 census data, Deposition Ex. 156 to the February 7, 2012 Deposition of Tony Van Der Wielen
157					Notice of Deposition issued to Kevin Kennedy, in his capacity as Director and General Counsel for the Wisconsin Government Accountability Board, Deposition Ex. 157 to the February 8, 2012 Deposition of Kevin Kennedy
158					Defendants' Answer to Plaintiffs' First Set of Interrogatories and First Request for Production of Documents dated December 12, 2011, Deposition Ex. 158 to the February 8, 2012 Deposition of Kevin Kennedy
159					LTSB County Shape File Analysis, Deposition Ex. 159 to the February 8, 2012 Deposition of Kevin Kennedy
160					SVRS 8.0 - Redistricting Key Changes, Deposition Ex. 160 to the February 8, 2012 Deposition of Kevin Kennedy
161					Defendants' Responses to Plaintiffs' Second Set of Interrogatories and Second Request for Production of Documents dated February 2, 2012, Deposition Ex. 161 to the February 8, 2012 Deposition of Kevin Kennedy

PARTIES' EXHIBIT LIST – CONTINUATION

BALDUS, et al. vs. BRENNAN, et al.					CASE NO. 11-CV-562; 11-CV-1101 (Consolidated)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
175					2011 Wisconsin Act 44 (statutory text), Ex. B to Plaintiffs' Second Amended Complaint filed on November 18, 2011, Docket No. 48-2
176					Maps of Assembly Districts 8 and 9 produced by Joel Gratz showing the new districts 8 and 9 outlined in yellow
177					Map showing Marshfield split
178					Map showing Kenosha/Racine split
179					Congressional Comparison 2001 v. 2011 Districts
180					Map of Several Counties in Central Wisconsin, Ex. 4 to the Intervenor-Plaintiffs' Brief in Opposition to Intervenor-Defendants' Motion for Judgment on the Pleadings, Docket No. 99-4 filed on January 3, 2012
181					Highway Map
182					Latino voting age population chart based on data from Plaintiffs' Expert Dr. Kenneth R. Mayer
183					Redistricting population movement by district.xls, materials relied upon by Dr. Mayer, produced on December 14, 2011
184					Map of Assembly Districts 8 and 9 with Turnout rate
185					Map of Assembly District 8 and Latino VAP Density by 2002 Wards
186					Memorandum Regarding Legislative Redistricting: Effective Date and Use of State Funds from Kevin J. Kennedy, Dir. and Gen. Counsel, Gov't Accountability Bd., to Robert Marchant, Senate Chief Clerk, and Patrick Fuller, Assembly Chief Clerk dated October 19, 2011
187					CD of Kenneth Mayer corrected expert materials produced January 9, 2012
188					January 12, 2011 Correspondence from Attorney Eric M. McLeod, Michael Best & Friedrich LLP to Majority Leader Scott L. Fitzgerald of the Wisconsin State Senate re: Reapportionment Counsel for the Wisconsin State Senate by its Majority Leader, Scott L. Fitzgerald
189					July 27, 2010 Correspondence from Attorney Eric M. McLeod, Michael Best & Friedrich LLP to Tad Ottman, Office of State Senator Scott Fitzgerald re: Confidentiality and Nondisclosure Related to Reapportionment

INDEX OF DEFENDANTS' TRIAL EXHIBITS

Deponent	Exhibit
Jesus ("Zeus) Rodriguez 1/16/12	1001. Plaintiffs' original complaint
	1002. Testimony of Jesus "Zeus" Rodriguez
Randy F. Cray 1/25/12	1003. Notice of deposition and subpoena
	1004. Packet of e-mails
	1005. Expert disclosures
	1006. Map and expert disclosures
	1007. County-to-County Worker Flow
	1008. Students by geographic location
Erik V. Nordheim, Ph.D. 1/26/12	1009. Notice of Videotaped Deposition and Subpoena
	1010. CD - Nordheim Production Materials
	1011. Printout of Exhibit 1010 (CD materials)
	1012. Report of Erik V. Nordheim
	1013. Materials from Professor Nordheim's file - handwritten notes, Compactness Analysis Reports and Summary Core Constituency Report
	1014. State of Wisconsin Congressional Districts map for 2002 redistricting
Kenneth R. Mayer, Ph.D. 1/27/12	1015. State of Wisconsin Act 44 Congressional Districts map
	1016. Handwritten notes
	1017. December 14, 2011 expert report
	1018. January 13, 2012 rebuttal report
	1019. January 9, 2012 letter with attachments
	1020. Spreadsheet comparing data
	1021. Affidavit (Baumgart v. Wendelberger)
	1022. Second Amended Complaint for Declaratory and Injunctive Relief
	1023. Notice
	1024. DVD containing documents responsive to subpoena
1025. Spreadsheet	
Joel A. Gratz 1/30/12	1026. Deposition notice and subpoena
	1027. Response to subpoena in CD form
	1028. PowerPoint Redistricting Overview
	1029. Memo to Representative Peter Barca
	1030. Discussion points
	1031. Memo to Scott Adrian
	1032. Packet of e-mails
Michael J. White 1/30/12	1033. Deposition notice and subpoena
	1034. Packet of documents
	1035. Flash drive

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1057	Governor's Veto Message, 1983 Wisconsin Act 27
1058	Additional Speth Documents
1059	Rebuttal/Responsive Affidavit of Kenneth R. Mayer on behalf of Intervenor-Plaintiffs Baumgart, et al.
1060	(Baldus Plaintiffs) Responses to Defendants' January 12, 2012 Interrogatories, Requests for Production of Documents and Request for Admission to Plaintiffs
1061	(Voces Plaintiffs) Plaintiffs' Answers to Defendants' First Set of Interrogatories and First Request for Production of Documents
1062	Defendants' Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents
1063	Defendants' Supplemental Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents
1064	Defendants' Responses to Plaintiffs Second Set of Interrogatories and Request for Production of Documents
1065	Intervenor-Plaintiff Gwendolynne Moore's Responses to Defendant's Interrogatories, Requests for Production of Documents and Request for Admissions
1066	Intervenor-Plaintiff Ronald Kind's Responses to Defendant's Interrogatories, Requests for Production of Documents and Request for Admissions
1067	Intervenor-Plaintiff Tammy Baldwin's Responses to Defendant's Interrogatories, Requests for Production of Documents and Request for Admissions
1068	Bulletin of Proceedings of the Wisconsin Legislature, 1983-1984 Session
1069	1983 Wisconsin Assembly Bill 1 (1983 Wisconsin Act 29), along with its Legislative History (Because the referenced bill and legislative history is extremely voluminous, a copy is not included as an exhibit. Defendants will provide a copy at trial if requested to do so by the Court.)
1070	1983 Wisconsin Senate Bill 83 (1983 Wisconsin Act 27), along with its Legislative History (Because the referenced bill and legislative history is extremely voluminous, a copy is not included as an exhibit. Defendants will provide a copy at trial if requested to do so by the Court.)
1071	Eastern District of Wisconsin Case No. 82-C-0113, docket report and associated documents (<i>Wisconsin State AFL-CIO v. Elections Board</i>)
1072	The Capital Times, July 2, 1983
1073	<i>Milwaukee Journal</i> , May 27, 1984
1074	<i>Wisconsin State Journal</i> , December 11, 1984

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1116	Table 33
1117	Act 43 Demographic Data
1118	Selected Pages from Wisconsin Blue Book regarding Elections in Assembly District 8 from 1998 through 2010
1119	CD containing Kenneth Mayer's Expert Materials dated 12/14/2011
1120	Election Results 2010