

UNITED 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,  
and TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE,  
and RONALD KIND,

Intervenor-Plaintiffs,

v.

File No. 11-CV-562

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,

---

[Caption Continued]

**VIDEOTAPE DEPOSITION - VOLUME II**

**TAD M. OTTMAN**

Madison, Wisconsin  
February 2, 2012

Brandé A. Browne, RPR, CRR  
Registered Professional Reporter

---

P.O. Box 5254 | Madison, WI 53705

T (608) 833-0392 | (888) 892-0392 | F (608) 833-0682

office@fortherecordmadison.com

www.fortherecordmadison.com

For The **Record** Inc.

Excellence In Court Reporting

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.

---

VOCES DE LA FRONTERA, INC.,  
RAMIRO VARA, OLGA VARA,  
JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

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

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.

---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

<u>Witness</u>	<u>Pages</u>
TAD M. OTTMAN	
Examination by Mr. Poland	259, 451
Examination by Mr. Earle	428, 452
Examination by Mr. Kelly	439

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Identified</u>
115	Packet of e-mails and heat maps	289
116	Packet of e-mails	291
117	Ottman 000095 - 000096	298
118	Ottman 000117 - 000120	311
119	E-mail from Leah Vukmir	330
120	Ottman 000144	342
121	Talking points	349
122	Ottman 000145 - 000161	352
123	Privileged Attorney-Client Communication	379
124	Privileged Attorney-Client Communication	385
125	Troupis 000064 - 000070	391
126	E-mail from Jim Troupis	411
127	Salon.com article	412
128	Outline for Tad Ottman testimony	420

(The original exhibits were attached to the original transcript and copies were provided to counsel)

(The original deposition transcript was filed with Attorney Douglas M. Poland)

1 VIDEOTAPE DEPOSITION of TAD M. OTTMAN,  
2 a witness of lawful age, taken on behalf of the  
3 Plaintiffs, wherein Alvin Baldus, et al., are  
4 Plaintiffs, and Members of the Wisconsin Government  
5 Accountability Board, et al., are Defendants, pending  
6 in the United States District Court for the  
7 Eastern District of Wisconsin, pursuant to subpoena,  
8 before Brandé A. Browne, a Registered Professional  
9 Reporter and Notary Public in and for the State of  
10 Wisconsin, at the offices of Godfrey & Kahn, S.C.,  
11 Attorneys at Law, One East Main Street, Suite 500,  
12 City of Madison, County of Dane, and State of  
13 Wisconsin, on the 2nd day of February 2012,  
14 commencing at 9:23 in the forenoon.

15  
16  
17 A P P E A R A N C E S

18  
19 DOUGLAS M. POLAND, Attorney,  
20 for GODFREY & KAHN, S.C., Attorneys at Law,  
21 One East Main Street, Suite 500, Madison,  
22 Wisconsin 53703, appearing on behalf of  
23 Plaintiffs Alvin Baldus, et al.

24 PETER G. EARLE, Attorney,  
25 for LAW OFFICE OF PETER EARLE, LLC, Attorneys at Law,  
839 North Jefferson Street, Suite 300,  
Milwaukee, Wisconsin 53202, appearing  
telephonically on behalf of Plaintiffs  
Voces De La Frontera, Inc., et al.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

TAD M. OTTMAN,

called as a witness, testified on oath  
as follows:

EXAMINATION

By Mr. Poland:

Q Good morning, Mr. Ottman.

A Good morning.

Q If you recall from the last time that we are here sitting for your deposition, I'm Doug Poland. I represent the plaintiffs in the Baldus litigation, one of the groups of plaintiffs in the Baldus litigation, and we are continuing your deposition from where we left off in December. I wanted to hand you a copy of what we had marked at your deposition in December as Exhibit No. 35. And you recall that Exhibit 35 is a subpoena for you to testify at your deposition?

A Yes.

Q All right. So I just want to remind you that you are still under subpoena and still under oath from the previous deposition, okay?

A Okay.

Q Would you please turn to the last page of Exhibit 35? You will see that's Exhibit A, which

09:24AM

09:24AM

09:24AM

09:25AM

1 is a request for you to look for and produce  
2 documents, correct?

3 A Correct.

09:25AM

4 Q I believe that you testified at your previous  
5 deposition that you did look for and give to  
6 counsel documents responsive to Exhibit A,  
7 correct?

8 A Correct.

09:25AM

9 Q Now, is it your recollection as well that there  
10 were documents that you produced before your  
11 deposition in December?

12 A Yes.

09:25AM

13 Q I'm going to hand you a copy of what we marked at  
14 your previous deposition as Exhibit No. 33. Do  
15 you recall that you produced documents in  
16 December, and there were also some documents that  
17 were withheld from production?

18 A Yes.

09:26AM

19 Q And that was on an assertion of legislative  
20 privilege and attorney-client privilege; do you  
21 recall that?

22 A Yes.

09:26AM

23 Q And do you understand or has it been made known to  
24 you that on January 3rd, the Court in this case  
25 did issue an order that ruled that those materials

1 had to be produced; do you understand that?

2 A Yes.

3 MR. MCLEOD: Object to the form of  
4 the question.

09:26AM

5 Q Did you, as a result of the court order on  
6 January 3rd or after January 3rd, did you look for  
7 any additional materials that might be responsive  
8 to Exhibit A?

9 A Yes.

09:26AM

10 Q And did you find any additional materials that  
11 might be responsive to Exhibit A?

12 A I'm not sure if additional materials were found,  
13 or if it were the materials that had previously  
14 been turned over to counsel.

09:26AM

15 Q Have you now, as of February 2nd, the date of this  
16 deposition, have you now searched for and provided  
17 to counsel all documents in your possession,  
18 custody, or control that are responsive to  
19 Exhibit A?

09:26AM

20 A Yes.

21 Q And you did not make any -- you didn't withhold  
22 anything on the basis of the assertion of any  
23 privilege; is that correct?

24 MR. MCLEOD: Objection to the form  
25 of the question.

09:27AM

1 A I did not.

2 Q Sitting in front of you are two exhibits that are  
3 marked as Exhibit Nos. 88 and 89. I'd like you to  
4 take a look at those, please. Have you seen  
5 Exhibits 88 or 89 before?

09:27AM

6 A Yes.

7 Q And is it your understanding that those exhibits  
8 consist of letters from Mr. McLeod to myself  
9 attaching either CDs or DVDs that contain  
10 documents?

09:27AM

11 A Yes.

12 Q Is it your understanding that between the  
13 documents that were produced at the time of your  
14 first deposition in December and then the  
15 documents that are included with -- on the CDs or  
16 DVDs attached to Exhibits 88 and 89, that all  
17 documents that you have in your possession,  
18 custody, or control that are responsive to  
19 Exhibit A, your subpoena, have now been produced?

09:27AM

09:28AM

20 MR. MCLEOD: Object to the form of  
21 the question. Free to answer.

22 A That's my understanding.

23 Q Thank you. Now, at your last deposition, we had  
24 documents that we marked as Exhibit 33A that were  
25 documents you produced; do you recall that?

09:28AM

1 A Yes.

2 Q I'm going to hand a copy of 33A to you because  
3 we're going to take a look at some of those  
4 documents.

09:29AM

5 MR. POLAND: I'm going to have to  
6 go off the record for just a minute.

7 THE VIDEOGRAPHER: The time is  
8 9:28. We are off the record.

9 (Recess taken)

09:35AM

10 THE VIDEOGRAPHER: The time is  
11 9:35. We are back on the record.

12 Q Mr. Ottman, when did you begin working with  
13 Mr. Handrick on the redistricting?

14 A Sometime late 2010, early 2011.

09:36AM

15 Q Can you peg the date a little bit more precisely  
16 for me when you actually began doing the work on  
17 redistricting with Mr. Handrick?

18 A I'm not sure I understand the question.

19 Q You knew Mr. Handrick before 2010; is that  
20 correct?

09:36AM

21 A Correct.

22 Q So when did you first start working with him on  
23 the maps or on the plans that eventually became  
24 Acts 43 and 44?

09:36AM

25 A I don't recall exactly when.

1 Q There's a stack of exhibits in front of you there.  
2 We can set these to the side. I don't think we're  
3 going to need to refer back to those, but I'd like  
4 to ask you to take a look at Exhibit No. 93 that's  
09:36AM 5 in the stack in front of you. Do you have Exhibit  
6 No. 93 in front of you?

7 A Yes.

8 Q Do you see at the top of the Exhibit No. 93  
9 there's an e-mail from Mr. Handrick to you; do you  
09:37AM 10 see that?

11 A Yes.

12 Q And there's a reference to a meeting that  
13 apparently it looks like you were going to have  
14 with Mr. Handrick; is that correct?

09:37AM 15 A That's correct.

16 Q Did that meeting occur on January 25th?

17 A I don't recall. I assume so.

18 Q What was discussed at that meeting with  
19 Mr. Handrick?

09:37AM 20 A Just general redistricting principles, kind of  
21 what he did 10 years ago.

22 Q Had you participated in redistricting previously?

23 A Yes.

24 Q Why were you asking Mr. Handrick for redistricting  
09:38AM 25 principle --

1 MR. MCLEOD: Object to the form of  
2 the question.

3 Q Or what had happened 10 years before in  
4 redistricting?

09:38AM

5 MR. MCLEOD: Object to the form.

6 A He was more principally involved 10 years ago, so  
7 I wanted to see kind of how he approached it.

8 Q Was this the first time that you had met with  
9 Mr. Handrick about redistricting?

09:38AM

10 A I don't recall.

11 Q You think you might have met with him earlier than  
12 January 25th to discuss the redistricting?

13 A Possibly.

09:38AM

14 Q Do you recall with any more specificity as you  
15 look at this when you and Mr. Handrick actually  
16 started to work on the maps that eventually became  
17 Acts 43 and 44?

18 A I don't.

09:39AM

19 Q Did you ever have any meetings with Mr. Handrick  
20 where you talked about meeting with legislators?

21 A I don't recall.

22 Q Would you take a look at Exhibit 95, please. Do  
23 you see that Exhibit No. 95 is an e-mail exchange  
24 between you and Mr. Handrick?

09:40AM

25 A Yes.

1 Q That occurred on February 14th of 2011, correct?

2 A Yes.

3 Q If you look at the e-mail, the second one, it  
4 appears to be an e-mail from you to Mr. Handrick;  
5 is that right?

09:40AM

6 A Yes.

7 Q The e-mail states *Joe, you should be getting the*  
8 *contract assigned from Troupis hopefully today or*  
9 *tomorrow. Is there a time you can sit down with*  
10 *Adam and I later this week. And then you go on to*  
11 *say We'd like to get going on legislator meetings*  
12 *next week, and it would be helpful to see what you*  
13 *included in your packet; do you see that?*

09:40AM

14 A Yes.

15 Q What are the legislator meetings that are referred  
16 to in your e-mail with Mr. Handrick?

09:40AM

17 A Those are the meetings with individual  
18 legislators.

19 Q When did those meetings occur?

20 A I don't recall exactly.

09:40AM

21 Q Did you attend meetings with Mr. Handrick and  
22 Mr. Foltz and legislators?

23 A Yes.

24 Q When did you -- how many times did you -- strike  
25 that question. Which legislators did you meet

09:41AM

1 with where Mr. Foltz and Mr. Handrick were both  
2 present?

09:41AM 3 A That would have been the meetings with legislative  
4 leadership, Senator Fitzgerald, Senator Zipperer,  
5 Representatives Fitzgerald, Vos, and Suder.

6 Q And those are the legislator meetings that are  
7 referred to in this e-mail?

8 A No.

09:41AM 9 Q What are the -- what are the meetings that are  
10 referred to in this e-mail?

11 A Those are individual legislator meetings.

12 Q Did you participate in those individual legislator  
13 meetings?

14 A With senators.

09:41AM 15 Q With senators, so not with any members of the  
16 Assembly; is that correct?

17 A Correct.

18 Q When did those individual legislator meetings with  
19 senators occur?

09:41AM 20 A In the spring. I don't recall exactly when.

21 Q Who was present at the individual meetings with  
22 legislators?

23 A Myself and the individual legislators.

24 Q It was just you and the individual legislators?

09:42AM 25 A Senator Zipperer may have sat in on some of those.

1 Q Do you recall whether those meetings occurred  
2 before the census data were released or after?

3 A I believe after.

4 Q Do you recall whether you had any draft maps at  
5 that time that you were showing to any of the  
6 individual legislators that you met with?

7 A I did not.

8 Q How many of the meetings with -- how many senators  
9 did you meet with?

10 A I believe I met with all 19 republican senators.

11 Q Did you have individual meetings with any of the  
12 democrat members of the Senate?

13 A I only met with Senator Miller's chief of staff.  
14 None of the other democrat senators requested me.

15 Q Did all 19 republican senators request a meeting  
16 with you and Senator Zipperer?

17 A I believe so, yes.

18 Q Do you recall how many of the meetings with the 19  
19 republican senators Senator Zipperer participated  
20 in?

21 A I don't recall.

22 Q Was it more than half, ballpark guess?

23 A Maybe around that.

24 Q Mr. Foltz testified yesterday that he participated  
25 in meetings with republican members of the

1 Assembly and Representative Vos, and that there  
2 were two sets of meetings that they had. Did you  
3 have two sets of meetings with the republican  
4 senators?

09:44AM

5 A Yes.

6 Q When did the second senator meetings occur?

7 A Early -- I think they occurred in June.

09:44AM

8 Q At the time that that second set of meetings  
9 occurred, did you have draft maps that you had  
10 prepared to show the republican senators that you  
11 were meeting with?

12 A Yes.

13 Q Do you know whether the draft maps that you showed  
14 at that time in those meetings have been produced  
15 in this litigation?

09:44AM

16 A Yes, I believe so.

17 Q Show you something that was marked yesterday. Can  
18 you find Exhibit No. 100 in the stack? Exhibit  
19 No. 100 is a document that we marked as an exhibit  
20 yesterday, and what we've done with the production  
21 of documents that we've received since the  
22 beginning of the year is we've put what we call a  
23 Bates number on the document. It just makes it  
24 easier to identify during a deposition where they  
25 came from. On this document, you'll see a Bates

09:45AM

09:45AM

1 number on the front of Exhibit No. 100 that says  
2 Foltz 000689; do you see that?

3 A Yes.

09:46AM

4 Q And that simply indicates that it came from  
5 Mr. Foltz's file when it was produced, and I note  
6 that your name isn't on this. What I wanted to  
7 ask you about this particular document is to ask  
8 whether there were similar memorandums prepared  
9 that were given to any of the republican senators?

09:46AM

10 You can take a minute to look at the document.

11 A There was something not identical but in a similar  
12 vein shown to republican senators.

09:46AM

13 Q I don't recall seeing documents like this among  
14 the production that was given to us. Do you know  
15 whether the memorandums that were prepared for the  
16 republican senators were produced?

17 A I believe so, yes.

09:47AM

18 Q Have you seen Exhibit 100 before or anything  
19 similar that was prepared for members --  
20 republican members of the Assembly?

21 A I have not, no.

22 Q You didn't participate at all in the drafting of  
23 any of these memorandums from Mr. Foltz?

24 A I did not.

09:47AM

25 Q The memorandums that were prepared for republican

1 senators that you met with, were those documents  
2 that you personally prepared?

3 A Yes.

09:47AM

4 Q And they were given to the individual republican  
5 members of the Senate, correct?

6 A They were shown to them.

7 Q Shown. Did anyone else receive copies of those  
8 memorandums?

9 A No.

09:47AM

10 Q Did Senator Zipperer participate in the second  
11 round of meetings with the republican senators?

12 A Some of them.

13 Q Any idea how many?

14 A I don't recall.

09:48AM

15 Q Again, about half or so, can you ballpark it?

16 A I really don't recall.

17 Q More than one?

18 A More than one.

19 Q But less than all?

09:48AM

20 A Correct.

21 Q Did any -- anyone else participate in that second  
22 round of meetings with the republican senators  
23 other than you and Senator Zipperer, at least at  
24 some of them?

09:48AM

25 A I don't believe so.

1 Q Where did those meetings -- the first set of  
2 meetings going back to the early ones in the  
3 spring, where did those occur?

4 A At Michael Best & Friedrich.

09:48AM

5 Q What about the second set of meetings?

6 A Also at Michael Best & Friedrich.

7 Q Were any of the legal counsel present when the  
8 meetings were occurring?

9 A Not that I recall, no.

09:48AM

10 Q Was anyone on the telephone during those meetings?

11 A No.

12 Q The memorandums that you showed to the republican  
13 senators, did they contain a comparison of key  
14 races similar to what's depicted in Exhibit 100?

09:49AM

15 A Some of the races, yes.

16 Q And why were only some of the races depicted?

17 A I just chose to go over different data than Adam  
18 apparently did.

09:49AM

19 Q I see. So the past races you're referring to that  
20 were depicted on those memorandums?

21 A Correct.

22 Q You simply selected past races as a basis of  
23 comparison?

24 A That's correct.

09:49AM

25 Q Why did you prepare memorandums similar to

1 Exhibit 100 and show them to the individual  
2 members, republican members, of the Senate?

3 A It was part of the process of getting votes for  
4 the redistricting plan.

09:50AM

5 Q And when you say *part of the process of getting*  
6 *votes for the redistricting plan*, what do you mean  
7 by that?

09:50AM

8 A We were asking legislators to vote for the  
9 redistricting plan showing them their district and  
10 kind of giving them an idea of what some of the  
11 past races that had occurred in there would have  
12 been.

09:50AM

13 Q Did you get any feedback from any of the  
14 individual members, republican members, of the  
15 Senate in these meetings about the proposed new  
16 districts?

17 A I don't recall.

09:50AM

18 Q Did you, as a result of the meetings that you had  
19 with the republican members of the Senate, did the  
20 proposed districts change at all?

21 A I don't believe any of the Senate districts  
22 changed.

23 Q I should be more specific. Did any of the  
24 boundaries of the Senate districts change?

09:51AM

25 A I don't believe so.

1 Q What about Assembly districts; did any of the  
2 boundaries of the Assembly districts change as a  
3 result of the meetings that you had with the  
4 individual republican members of the Senate?

09:51AM

5 A No.

6 Q Mr. Foltz had testified yesterday that the members  
7 of the Assembly who participated in the meetings  
8 with he and Representative Vos signed a  
9 confidentiality agreement before the meetings.

09:51AM

10 Did you have a similar confidentiality agreement  
11 that the individual republican members of the  
12 Senate had to sign before the meetings you held  
13 with them?

14 A Yes.

09:51AM

15 Q Has that confidentiality agreement been produced?

16 A I'm not sure.

17 Q Do you know whether it still exists?

18 A I don't know.

09:52AM

19 Q Do you recall seeing it when you were looking for  
20 documents?

21 A I don't recall.

22 Q Was that confidentiality agreement something that  
23 you personally drafted?

24 A No.

09:52AM

25 Q Do you know who did draft it?

1 A It was prepared by counsel.

2 Q And when you say *counsel*, you mean legal counsel?

3 A Correct.

4 Q Do you know who, which of the legal counsel  
5 prepared it?

09:52AM

6 A I believe Attorney McLeod.

7 Q Were the confidentiality agreements that were  
8 signed, were they returned to you or given to you?

9 A I believe so, yes.

09:52AM

10 Q And so you had, at least at some point in time,  
11 you were the one who had custody of them?

12 A At some point.

13 Q What did the confidentiality agreements provide?

14 A I don't recall.

09:52AM

15 Q Take a look at Exhibit No. 113 that's in that  
16 stack. Exhibit 113 is a document we marked  
17 yesterday during Mr. Foltz's deposition, and I'd  
18 like you to -- well, up at the top, you see it  
19 states general talking points; do you see that?

09:54AM

20 A Yes.

21 Q Is this a document that you've seen before?

22 A I don't recall.

23 Q Do you recall working on any kind of set of  
24 talking points with Mr. Foltz?

09:54AM

25 A No.

1 Q Did you prepare any talking points for your  
2 meetings with the individual republican members of  
3 the Senate?

4 A Yes.

09:54AM

5 Q Do you know whether those talking points are  
6 anything that have been produced to us?

7 A I believe so, yes.

8 Q Did the talking points that you prepared have  
9 any of the same points or language as are in  
10 Exhibit 113?

09:54AM

11 A I don't recall.

12 Q Did anyone else work on the talking points with  
13 you?

14 A I don't believe so.

09:54AM

15 Q Have you seen the talking points that you prepared  
16 recently?

17 A Not recently.

18 Q When is the last time that you saw the talking  
19 points that you prepared?

09:55AM

20 A I don't recall.

21 Q Have you seen them since -- since you received  
22 your deposition subpoena?

23 A Yes.

24 Q You saw them specifically when you were going  
25 through looking for documents?

09:55AM

1 A That's correct.

2 Q And those are documents that you provided to  
3 counsel?

4 A Yes.

09:55AM

5 Q There is, the last bullet point as you'll see on  
6 Exhibit 113 refers to the confidentiality  
7 agreement; do you see that?

8 A Yes.

09:55AM

9 Q And it says this -- recognizing again this came  
10 from Mr. Foltz's file, that states that previously  
11 signed agreement applies to this meeting.

12 Question for you, do the confidentiality  
13 agreements that you had presented and obtained  
14 from the individual members, republican members,  
15 of the Senate, pertain to both meetings that you  
16 held with them?

09:56AM

17 A That's my recollection.

18 Q Did Senator Zipperer also sign a confidentiality  
19 agreement?

09:56AM

20 A Yes.

21 Q Did you have to sign a confidentiality agreement  
22 as well?

23 A Yes.

09:56AM

24 Q The bullet points that Mr. Foltz prepared has a  
25 reference to the map that was being shown as a

1 placeholder map, and it states if the Senate comes  
2 back in the majority, we may come back and adjust,  
3 and that's one of the bullet points that's on  
4 Exhibit 113. Is that a principle or a sentiment  
09:57AM 5 that was expressed in the talking points that you  
6 prepared as well?

7 A I don't recall.

8 Q Was there a discussion that you had with any of  
9 the members, the individual republican members of  
09:57AM 10 the Senate, about the proposed map being a  
11 placeholder map?

12 A We may have talked about it.

13 Q Did you talk about the potential impact of any of  
14 the Senate recall elections in these meetings?

09:57AM 15 A Not that I recall.

16 Q What was discussed generally in the meetings that  
17 you had with the individual members of the  
18 republican Senate, in the first set of meetings?

19 A Talked about census data, the changes that were  
09:58AM 20 required to occur in their district, but mostly,  
21 it was just to get their impressions of their  
22 district.

23 Q What kinds of impressions were you obtaining from  
24 them?

09:58AM 25 A It was pretty much an open-ended question and

1           however they chose to describe it.

2       Q   Were you asking them about information they were  
3           providing to you for the purpose of assisting you  
4           in drafting the new districts?

09:58AM

5       A   Yes.

6       Q   And did any of them provide you with information  
7           about their existing districts that assisted you  
8           in drafting the new districts?

9       A   I don't recall.

09:59AM

10      Q   What about the second set of meetings; you  
11           mentioned that you did have proposed maps at that  
12           second set of meetings?

13      A   Yes.

09:59AM

14      Q   Do you recall how long before the legislation was  
15           introduced those meetings occurred?

16      A   I don't recall exactly.

09:59AM

17      Q   There is a reference in Exhibit 113, you'll see  
18           there's a bullet that says timeline and process,  
19           it's the second one, and then the second bullet  
20           down from there says set of plans to introduce the  
21           bill late next week, and the one after that says  
22           for action by the middle of next -- the middle of  
23           the month. Do you know whether the second set of  
24           meetings that you had with the individual

09:59AM

25           republican members of the Senate were around the

1 same time as Mr. Foltz was meeting with the  
2 republican members of the Assembly?

3 A His meetings spread out over a much greater time  
4 than my meetings just based on the number of  
10:00AM 5 members. So it was over a number of days. I'm  
6 not sure the exact timelines.

7 Q How many days did your meetings with the  
8 individual republican senators last?

9 A I don't recall.

10:00AM 10 Q Were they -- did they take place within a week,  
11 within three weeks; do you remember?

12 A Probably within three, three to four weeks.

13 Q Did Mr. Foltz give you any input into the talking  
14 points that you prepared?

10:00AM 15 A I don't believe so.

16 Q Did Senator Zipperer give you input into the  
17 talking points that you prepared?

18 A No.

19 Q Do you remember whether anyone else gave you any  
10:01AM 20 input into the talking points that you prepared?

21 A Not that I recall.

22 Q You prepared them entirely on your own?

23 A Yes.

24 Q Did you get any guidance from anyone on what to  
10:01AM 25 include in the talking points?

1 A Not that I recall.

2 Q Other than those two sets of meetings with  
3 republican members of the Senate that you just  
4 testified about, were there any other meetings  
10:01AM 5 that you had other than with the legislative  
6 leadership regarding redistricting?

7 A Yes.

8 Q What other meetings did you have?

9 A We had meetings with counsel and meetings with  
10:02AM 10 consultants.

11 Q And there were members of the legislature who were  
12 present at those meetings as well?

13 MR. MCLEOD: Object to the form of  
14 the question. You can answer if you're able  
10:02AM 15 to.

16 A I don't recall.

17 Q So before going on and asking you about those, I  
18 wanted to limit the question just to meetings with  
19 actual legislators as opposed to meetings where  
10:02AM 20 they weren't present, okay?

21 A Okay.

22 Q And I understand there were meetings that you  
23 attended where the legislative leadership was  
24 present, and there were some other members of the  
10:02AM 25 legislature were present. And I also understand

1 from your testimony that there were these two sort  
2 of sets of meetings that you and Senator Zipperer  
3 had with individual members of the --

4 THE VIDEOGRAPHER: Mr. Poland, I'm  
5 sorry.

10:03AM

6 Q Strike the question. I'll just ask it again. I  
7 understand there were meetings that you had with  
8 the legislative leadership, and I understand that  
9 there were these two sets of meetings that you've  
10 testified to where you and Senator Zipperer met  
11 with individual republican members of the  
12 legislature, and I want to ask whether beyond  
13 those meetings you had meetings with any of the  
14 legislators regarding redistricting?

10:03AM

15 A Not that I recall.

10:03AM

16 Q Now, did you have any meetings with legislative  
17 leadership where legal counsel was also present?

18 A Yes.

19 Q How many times did you meet with legislative  
20 leadership where legal counsel was also present?

10:03AM

21 A I don't recall.

22 Q Was it more than 10?

23 A I don't believe so.

24 Q Were those meetings all over at Michael Best &  
25 Friedrich?

10:04AM

1 A I believe so.

2 Q And what was discussed at those meetings that you  
3 had?

4 MR. MCLEOD: Object to the form.

10:04AM

5 Let me back up. If you're asking for the  
6 content of discussions that occurred between  
7 legal counsel and Mr. Ottman or Mr. Foltz or  
8 the client here, legislative leaders, I think  
9 that falls squarely within the scope of

10:04AM

10 attorney-client privilege. If the question  
11 relates to a meeting where the privilege  
12 doesn't apply because others that the Court  
13 has held are outside of the scope of the  
14 privilege that were present, that's a  
15 different matter.

10:04AM

16 But to our understanding, the Court has  
17 not held that there is no longer an  
18 attorney-client privilege that applies to  
19 communications between counsel and the  
20 client. So to the extent the question, Doug,  
21 seeks the content of communications between  
22 attorney and client that are privileged,  
23 we're going to assert the objection, and  
24 we're going to have to instruct Mr. Ottman  
25 not to answer the question.

10:05AM

1 MR. POLAND: All right. Let's take  
2 a break and go off the record then because I  
3 want to take a look again at the January 3rd  
4 order. I don't want to waste anybody's time.  
5 So I want to look at that order. We need to  
6 get clarification on the scope of the Court's  
7 holding. If we feel we need to call  
8 Judge Stadtmueller, let's do that. But we're  
9 just running out of time with the discovery  
10 schedule, so we just need to clear it up.

11 MR. MCLEOD: Okay.

12 THE VIDEOGRAPHER: The time is  
13 10:05. We are going off the record.

14 (Recess taken)

11:25AM 15 THE VIDEOGRAPHER: The time is  
16 11:24. We are back on the record.

17 MR. POLAND: Brandé, could you read  
18 maybe the last two questions.

19 (Question read)

11:26AM 20 MR. MCLEOD: And are you asking for  
21 the topic of what was discussed, or are you  
22 asking for --

23 MR. POLAND: I'm going to rephrase  
24 the question. I'm going to come back and I'm  
11:26AM 25 going to ask for the topics.

1 Q Can you identify for me, Mr. Ottman, what the  
2 topics were that you discussed with legislative  
3 leadership and then legal counsel?

4 A We discussed general redistricting topics.

11:26AM

5 Q What were the general redistricting topics you  
6 discussed?

7 A I don't recall specifically.

11:26AM

8 Q Did you discuss, for example, the layout of maps  
9 that were part of the redistricting process that  
10 led to the creation of Acts 43 and 44?

11 MR. MCLEOD: I'm going to object to  
12 the form of the question. If you can answer,  
13 please do so.

14 A I don't believe so.

11:27AM

15 MR. POLAND: Peter, we're getting  
16 some pretty loud noise coming from your  
17 microphone, and it's interfering. Thank you.

18 Q You did not discuss with legal counsel present  
19 specific maps?

11:27AM

20 A Not at those meetings.

21 Q Did you discuss with legal counsel general  
22 redistricting principles?

23 A I believe so, yes.

11:27AM

24 Q Did you discuss a topic of what redistricting  
25 principles ought to guide the efforts to draw the

1 maps that resulted in Acts 43 and 44?

2 A I believe so.

3 Q I'm looking back at your previous deposition  
4 because there were some specific objections that  
5 were raised at that time, and there were some  
6 specific instructions not to answer. What I'm  
7 trying to do is go back and look at those  
8 questions in the context of the discussion we have  
9 here. This might not be perfectly -- the  
10 questions might be over some disparate topics. I  
11 asked you at your deposition --

12 MR. POLAND: And Peter, for your  
13 information, I'm looking at pages 38 and 39  
14 of Mr. Ottman's first deposition.

15 Q And this was a discussion about Assembly  
16 Districts 8 and 9 and MALDEF's consideration of  
17 maps for Assembly Districts 8 and 9. And the  
18 question that I asked was in relation to e-mail  
19 correspondence back and forth between you,  
20 Mr. Ottman, and Mr. Troupis relating to MALDEF.  
21 Do you recall that discussion that we had at your  
22 deposition in December on that topic?

23 A I do.

24 Q I asked a question, the following question, *What*  
25 *did Mr. Troupis say about MALDEF's review of*

1           *proposed districts, Assembly District 8 and 9? At*  
2           that point, there was a privilege that was  
3           asserted and an instruction not to answer. I'd  
4           like to pose that question to you again now. What  
11:30AM 5           did Mr. Troupis say to you about MALDEF's review  
6           of proposed Assembly Districts 8 and 9?

7           A I don't recall anything more than what was in the  
8           e-mails that were produced.

9           Q So let's take a look at those, and that's  
11:30AM 10           Exhibit 33A.

11                           MR. POLAND: Did I hand that out  
12                           before?

13                           MS. LAZAR: Yes.

14           Q Unfortunately, these pages were not Bates stamped,  
11:30AM 15           and so this is the *confitureation* one. Was the  
16           nonredacted version of this e-mail produced?  
17           That's not going to be clear on the record. Let  
18           me withdraw that question and ask a different  
19           question.

11:31AM 20                           MR. EARLE: Exhibit 33A you're  
21                           talking about?

22                           MR. POLAND: Exhibit 33A, for the  
23           record. And these documents were not Bates  
24           stamped, and so we can't refer to a Bates  
11:31AM 25           number.

1 Q In the copy that I had, there were two different  
2 stapled packets of e-mails, and one was an e-mail  
3 communication, that alternative confitureation of  
4 ADs 8 and 9. It was a typo, but it was dated  
5 July 8th, 2011, and I believe that we were talking  
6 about that page.

11:31AM

7 MR. POLAND: You know what will be  
8 easier, let's go off the record so I can make  
9 a separate copy of these, and we'll just file  
10 them separately.

11:32AM

11 THE VIDEOGRAPHER: The time is  
12 11:31. We are going off the record.

13 (Recess taken)

14 THE VIDEOGRAPHER: The time is  
15 11:40. We are back on the record.

11:41AM

16 MR. POLAND: Brandé, I'm going to  
17 ask you to mark that as whatever the next  
18 exhibit number is.

19 (Exhibit No. 115 marked for  
20 identification)

11:41AM

21 Q Mr. Ottman, the court reporter has handed you a  
22 document that has been marked as Exhibit No. 115;  
23 do you have that in front of you?

24 A Yes.

11:41AM

25 Q I'm going to represent for the record that this is

1 a portion of what we previously had marked as  
2 Exhibit 33A, and 33 were the documents that were  
3 marked at your first deposition as the documents  
4 you produced, okay?

11:42AM

5 A Okay.

6 Q Now, looking at Exhibit No. 115, if you just page  
7 through it, you'll see there are portions of that  
8 that were redacted?

9 A Yes.

11:42AM

10 Q Do you know whether the unredacted version of  
11 Exhibit No. 115 was among the materials that you  
12 produced?

13 A I don't know.

11:42AM

14 Q Now, the top part of Exhibit 115, that first  
15 message which has an attachment to it, alternative  
16 ADs 8 and 9, do you see that that portion is  
17 redacted right there?

18 A Yes.

19 Q Do you know what that discussion was?

11:43AM

20 A I don't recall.

21 Q Do you know whether that discussion was with any  
22 counsel?

23 A I believe this was the e-mail that we -- that  
24 Attorney McLeod provided you after the break last  
25 time with the attorney's name on the top of this

11:43AM

1 message that was inadvertently redacted.

2 Q Oh, that's right. Let me look back at the  
3 transcript and see. Do you recall who the  
4 communication was with?

11:43AM

5 A I believe it was Jim Troupis.

6 Q Do you recall what Mr. Troupis said about the  
7 alternative configuration of ADs 8 and 9?

8 A I don't recall.

11:43AM

9 Q Did you ever discuss with Mr. Troupis generally  
10 the topic of the alternative configuration of  
11 Assembly Districts 8 and 9?

12 A Yes.

13 Q What did you and Mr. Troupis discuss with respect  
14 to the configuration of Districts 8 and 9?

11:44AM

15 A I don't recall.

16 Q You talked to Mr. Jensen about the configuration  
17 of these two districts, 8 and 9; is that correct?

18 A No.

11:44AM

19 Q There is a mention in Exhibit 115, on the very  
20 first page of Exhibit 115.

21 A Okay.

22 Q There's an e-mail that you sent to Mr. Jensen,  
23 correct?

24 A Yes.

11:44AM

25 Q And you mentioned a conversation that between

1 Senator Zipperer and Mr. Jensen relating to  
2 Hispanic districts in Milwaukee, correct?

3 A Correct.

11:44AM

4 Q So did you ever have any discussions directly with  
5 Mr. Jensen about the configuration of Districts 8  
6 and 9?

7 A I did not.

11:45AM

8 Q Do you know why you were speaking with Mr. Troupis  
9 about the configuration of Districts 8 and 9 with  
10 respect to the issues raised in your e-mail to  
11 Mr. Jensen?

12 A I don't recall.

13 Q Why did you forward the -- your communication with  
14 Mr. Jensen to Mr. Troupis?

11:45AM

15 A I don't recall.

16 Q I'd like you to --

17 (Exhibit No. 116 marked for  
18 identification)

11:46AM

19 Q Mr. Ottman, the court reporter has handed you a  
20 document that we've marked as Exhibit 116; do you  
21 have that in front of you?

22 A Yes.

11:46AM

23 Q And again, I will represent for the record that  
24 this is a portion of what previously had been  
25 marked as Exhibit 33A at your deposition in

1 December, okay?

2 A Okay.

3 Q Do you see, paging through Exhibit No. 116, that  
4 there are several areas where the text of the  
5 e-mail has been redacted?

11:46AM

6 A Yes.

7 Q Do you know whether this particular e-mail chain  
8 that's contained within Exhibit 116 was -- strike  
9 that question. Do you know whether the unredacted  
10 version of this e-mail chain contained in  
11 Exhibit 116 was among the documents that you  
12 produced?

11:46AM

13 A I don't know.

14 Q The first e-mail, it appears it's in reverse chron  
15 order here, or at least some portions of it are.  
16 The very first e-mail is from Mr. Troupis to you  
17 and Mr. Foltz, copies to Mr. McLeod and then  
18 Mr. Taffora, correct?

11:47AM

19 A Yes.

20 Q And the header says MALDEF; do you see that?

11:47AM

21 A Yes.

22 Q Do you know what Mr. Troupis -- do you recall what  
23 Mr. Troupis was saying in this e-mail  
24 communication?

11:47AM

25 A I don't recall.

1 Q Did you ever communicate with Mr. Troupis directly  
2 about MALDEF's proposals for Assembly Districts 8  
3 and 9?

4 A By e-mail, yes.

11:48AM

5 Q Did you ever speak with Mr. Troupis directly about  
6 MALDEF's proposals for Assembly Districts 8 and 9?

7 A I don't recall.

11:48AM

8 Q There is, if you turn to the second page of  
9 Exhibit 116, and if you look at the bottom, you'll  
10 see an e-mail from Elisa Alfonso to Mr. Troupis;  
11 do you see that?

12 A Yes.

13 Q And then if you continue over to the next page, it  
14 appears that there is an area there that's  
15 redacted; do you see that?

11:48AM

16 A What area are you referring to?

17 Q I'm right below the signature that says Elisa?

18 A Okay.

11:49AM

19 Q It appears there's an area that's redacted. Do  
20 you know whether there was commentary there that  
21 was redacted?

22 A I'm not sure if that's redacted, or if that was  
23 just blank space.

11:49AM

24 Q Okay. If you look below that, there is an e-mail  
25 dated Monday, July 11th, and that's from you to

1 Mr. Troupis, Mr. Foltz, and Mr. McLeod and  
2 Mr. Taffora, correct?

3 A Yes.

4 Q And that has been redacted, correct?

11:49AM

5 A Yes.

6 Q Do you know what the substance of that  
7 communication was?

8 A I don't recall.

11:49AM

9 Q Did you ever have any communications with --  
10 with Mr. Troupis about the MALDEF map that is  
11 attached to that Monday, July 11th e-mail from  
12 Elisa Alfonso to Mr. Troupis?

13 A Yes.

14 Q And what did you discuss about that map?

11:50AM

15 A I don't recall.

16 Q Did you ever personally review the map that MALDEF  
17 proposed?

18 A I did.

11:50AM

19 Q Do you know whether that map was considered in  
20 formulating Districts 8 and 9?

21 A The MALDEF map?

22 Q Yes.

23 A Yes.

24 Q How was it considered?

11:50AM

25 A We looked at what they had proposed and then used

1 that as a starting point for an amendment that was  
2 eventually adopted and signed into law.

3 Q Why didn't you use the map that MALDEF proposed?

4 A The boundaries of the district that MALDEF had  
11:50AM 5 proposed would have required revising several  
6 other Assembly districts. The alternative we sent  
7 back to them confined the changes to two Assembly  
8 districts.

9 Q Why did it confine the changes to two Assembly  
10 districts?

11 A Because that was all that was necessary.

12 Q Necessary for what?

13 A To make the changes.

14 Q Well, MALDEF's proposal would have required  
11:51AM 15 changes to the outer bounds of existing -- of  
16 Districts 8 and 9 as they had been proposed as of  
17 that time; is that correct?

18 A MALDEF's proposal would have required alterations  
19 to those boundaries as well as to other Assembly  
11:51AM 20 districts.

21 Q And so why was that not done?

22 A It appeared that we could accomplish what we  
23 thought MALDEF was trying to do and not require  
24 extensive revisions to the maps outside of those  
11:51AM 25 two Assembly districts.

1 Q And who communicated to you what MALDEF was trying  
2 to do?

3 A The -- it was communicated through this e-mail  
4 change with their proposed map.

11:51AM

5 Q Did they ever -- did MALDEF ever characterize for  
6 you or did you ever learn of their  
7 characterization of what they were trying to  
8 accomplish with their proposed map?

9 A Not outside of these e-mail communications.

11:52AM

10 Q Did you ever talk with Mr. Troupis about what  
11 MALDEF was trying to do?

12 A I don't recall.

11:52AM

13 Q I had asked you also at the deposition in December  
14 a question that relates directly to a statement  
15 made in one of the e-mails in Exhibit No. 116. So  
16 if you turn to the one, two, three, four, fifth  
17 page, and there is a statement in the paragraph  
18 under the Monday, July 11th, 2011 e-mail where  
19 Mr. Troupis appears to be saying to Elisa Alfonso  
20 and Alonzo Rivas, the quote is "I like your  
21 proposal. We've taken it a bit further. Here is  
22 a comparison of MALDEF's proposal to a suggestion  
23 we think might work a bit better." Do you see  
24 that?

11:53AM

25 A Yes.

11:53AM

1 Q And did you have any discussions with Mr. Troupis  
2 about why he believed that that suggestion might  
3 work a little bit better?

4 A I don't recall.

11:53AM

5 Q Did you ever have any discussions with Mr. Troupis  
6 where you made any evaluation of MALDEF's proposal  
7 versus the map that you had drawn for Districts 8  
8 and 9 at the time?

9 A Yes.

11:54AM

10 Q And what did you say?

11 A I don't recall.

12 Q Did you have any discussions with Mr. Troupis  
13 about having a representative of MALDEF testify at  
14 the July 13th, 2011 hearing?

11:55AM

15 A I don't recall.

16 Q Did you ever speak with anybody at MALDEF about  
17 testifying at the July 13th, 2011 committee  
18 hearing?

19 A I did not.

11:55AM

20 Q You can set that document to the side.

21 Mr. Ottman, you testified earlier that you had  
22 prepared some talking points for meetings that you  
23 had with individual members, republican members of  
24 the Senate, correct?

11:56AM

25 A Yes.

1 MR. POLAND: Let's mark this.

2 (Exhibit No. 117 marked for

3 identification)

11:56AM

4 Q Mr. Ottman, the court reporter is handing you a  
5 document that has been marked as Exhibit 117; do  
6 you have that in front of you?

7 A Yes.

8 Q Is Exhibit 117 a document that you have seen  
9 before?

11:56AM

10 A Yes.

11 Q If you look in the lower right-hand corner of the  
12 document, you'll see that there's a Bates number  
13 that identifies it as coming from your files,  
14 correct?

11:56AM

15 A I do.

16 Q Is that a document that you prepared?

17 A It is.

18 Q Is this the document -- is this document the  
19 talking points that you referred to before?

11:57AM

20 A No.

21 Q What is this document?

22 A This document is talking points I prepared for my  
23 testimony before the committee, the public  
24 hearing.

11:57AM

25 Q That was on July 13th, 2011?

1 A Yes.

2 Q Set that to the side. Did you ever have any  
3 conversations with anyone about how districts that  
4 you were drawing might perform based on past  
5 election results?

11:58AM

6 A I don't -- I don't recall.

7 Q In the -- we were looking before at Exhibit 100,  
8 which was the memorandum that Mr. Foltz had  
9 prepared for his meetings with the republican  
10 members of the Assembly; do you recall that?

11:58AM

11 A Yes.

12 Q And you testified that there was a similar  
13 memorandum that you had prepared for your meetings  
14 with republican members of the Senate, correct?

11:58AM

15 A Right.

16 Q And that did have performances of old district  
17 configurations versus new district configurations  
18 based on past races, correct?

19 A Yes.

11:58AM

20 Q Where did you get the information, the data, that  
21 you used to prepare those comparisons?

22 A It was from the elections data provided to us by  
23 the Legislative Technology Services Bureau.

24 Q Is that a comparison or an analysis that you  
25 performed on your own?

11:59AM

1 A Some of it is.

2 Q And did you receive any assistance from anyone  
3 else in preparing those analyses?

4 A No.

11:59AM 5 Q Did you ever have any communications with  
6 Mr. Handrick about those analyses?

7 A I don't recall.

8 Q What about Dr. Gaddie, did you have any  
9 communications with Dr. Gaddie about those  
10 analyses?

11 A Yes.

12 Q What did you and Dr. Gaddie discuss about those  
13 analyses?

11:59AM 14 A We discussed what races we were looking at, and  
15 whether it might approximate reliable measurement  
16 of how those districts may have performed in the  
17 past.

18 Q Did Dr. Gaddie provide you with any data or any  
19 analyses that you used to prepare your own  
11:59AM 20 analysis that you provided to the republican  
21 members of the Senate?

22 A No.

23 Q I'd like you to take a look at -- this will be in  
24 the stack of exhibits over to your right. Exhibit  
12:00PM 25 No. 67 should be in there. Have you seen Exhibit

1 No. 67 before?

2 A Yes.

3 Q So you'll see at the top, there is an e-mail from  
4 Mr. Handrick to you and to Mr. Foltz dated  
12:00PM 5 Wednesday, April 20th; do you see that?

6 A Yes.

7 Q And Mr. Handrick is forwarding to you and  
8 Mr. Foltz an e-mail from Dr. Gaddie, correct?

9 A Yes.

12:01PM 10 Q Why did Mr. Handrick forward this to you?

11 A I don't know.

12 Q Did you ask Mr. Handrick to forward it to you?

13 A I did not.

14 Q Did you make any use of the information that is  
12:01PM 15 provided in Dr. Gaddie's e-mail?

16 A I don't believe so.

17 Q Did you ever talk with Dr. Gaddie about the  
18 information contained in his April 20th, 2011  
19 e-mail?

12:01PM 20 A Not that I recall.

21 Q I'd like to you look at the first paragraph of  
22 Dr. Gaddie's e-mail right after he says *Hey Joe*,  
23 it says *I went ahead and ran the regression models*  
24 *for 2006, 2008, 2010 to generate open seat*  
12:01PM 25 *estimates on all of the precincts; do you see*

1 that?

2 A Yes.

3 Q Did you ever review or use the regression models  
4 that Dr. Gaddie ran?

12:02PM

5 A No.

6 Q Dr. Gaddie also refers in that same e-mail, and  
7 this is the second line from the bottom of this  
8 e-mail, he says *This seems to pretty much wraps*  
9 *up, I think it's a typo there, the partisanship*  
10 *measure debate*; do you see that?

12:02PM

11 A Yes.

12 Q Do you know what Dr. Gaddie meant by the  
13 partisanship measure debate?

14 A I'm not sure.

12:02PM

15 Q Did you ever talk to Dr. Gaddie about that term?

16 A I don't believe so.

17 Q Did you ever talk to Mr. Handrick or Mr. Foltz  
18 about that term?

19 A I don't believe so.

12:02PM

20 Q The last sentence has a reference to Dr. Gaddie  
21 tweaking the polarization analysis; do you see  
22 that?

23 A Yes.

24 Q Do you know what Dr. Gaddie means by polarization  
25 analysis?

12:02PM

1 A I don't know.

2 Q Did you ever look at any polarization analysis  
3 that Dr. Gaddie prepared?

4 A I don't believe so.

12:02PM

5 Q Did you ever prepare any polarization analysis  
6 yourself?

7 A I did not.

8 Q Did you use any polarization analysis in any of  
9 the work that you did on the redistricting  
10 program?

12:03PM

11 A I don't believe so.

12 Q Nothing that Dr. Gaddie provided to you then  
13 figured into the analysis that you prepared that  
14 was reflected in the memorandums that you gave to  
15 the individual republican members of the Senate?

12:03PM

16 A It did not.

17 Q You can set that document to the side. I'd like  
18 you to -- there are two documents in the stack  
19 there I'd like you to pull out, Exhibit 111 and  
20 Exhibit 112. I'd like you to take a look at  
21 Exhibit 111 first, please. Is Exhibit 111 a  
22 document that you have seen before?

12:03PM

23 MS. LAZAR: No. Sorry, I was  
24 looking at something else.

12:04PM

25 MR. POLAND: For the record, that

1 was not the witness's answer.

2 A I believe so.

3 Q Can you identify this document for me,  
4 Exhibit 111?

12:04PM 5 A I'm not sure I understand the question.

6 Q What is it?

7 A It is a comparison of how districts may have  
8 performed in the past under the old configuration  
9 and under the new configuration.

12:04PM 10 Q And both for Assembly and Senate districts,  
11 correct?

12 A Correct.

13 Q Did you prepare Exhibit 111?

14 A I did not.

12:04PM 15 Q I note on the bottom of the page that it came from  
16 Mr. Foltz's files; do you see that from the Bates  
17 number?

18 A Yes.

12:05PM 19 Q Did you contribute at all to the preparation of  
20 Exhibit 111?

21 A I don't believe so.

22 Q Is Exhibit 111 a document that you referred to or  
23 considered in any way when you were preparing  
24 memorandums that you gave to or showed to the  
12:05PM 25 individual republican members of the Senate?

1 A No.

2 Q If you look at the second page of Exhibit 111,  
3 you'll see a reference at the top of the page, it  
4 says *Milwaukee Gaddie 4/16/11*; do you see that?

12:05PM 5 A Yes.

6 Q Do you know what that refers to?

7 A I do not.

8 Q Do you know when you would have looked at  
9 Exhibit 111, when you would have seen it  
10 previously?

12:05PM

11 A Sometime after the map was, I believe, finished or  
12 sent to drafting.

13 Q What purpose did you use Exhibit 111 for when you  
14 saw it previously?

12:06PM

15 A Just to -- just to look at analysis of how the  
16 districts, old and new, may have performed.

17 Q Is that information that you conveyed to any of  
18 the members of the legislative leadership?

19 A I don't recall.

12:06PM

20 Q Is that information that you would have -- that  
21 you conveyed to any of the individual republican  
22 senators?

23 A I may have conveyed it to Senator Fitzgerald and  
24 Senator Zipperer.

12:06PM

25 Q This would have been information that the

1 individual republican senators would have been  
2 interested in in determining whether to support  
3 the proposed Act 43, correct?

4 A I don't know.

12:06PM

5 Q Was the performance of the newly configured  
6 district something that you discussed with the  
7 individual republican senators in your meetings  
8 with them?

9 A Yes.

12:07PM

10 Q I'd like you to look at paragraph -- Exhibit  
11 No. 112, please. Have you seen Exhibit 112  
12 before?

13 A I don't believe so.

12:07PM

14 Q Have you seen documents that look like Exhibit 112  
15 before?

16 A Similar, yes.

17 Q Do you know the software program that Exhibit 112  
18 was created on?

19 A I believe it's Excel, Microsoft Excel.

12:07PM

20 Q Did you ever create any document similar to  
21 Exhibit 112?

22 MR. MCLEOD: Object to the form of  
23 the question. Please answer if you're able  
24 to.

12:07PM

25 A I did.

1 Q Did you create any for Senate districts?

2 A Yes.

3 Q If you look at the middle of the page in  
4 Exhibit 112, you'll see that there are, at the top  
12:08PM 5 column in the middle, left to right, you'll see  
6 there are two columns. There is one that has a  
7 heading 3RaceAve, and then another one that says  
8 ALL0410; do you see those headings?

9 A Yes.

10 Q Do you know what those refer to?

11 A I believe those refer to different composite  
12 measurements.

13 Q What do you mean by *different composite*  
14 *measurements*?

15 A Averages composed of different races.

16 Q Those would have been past elections, past races;  
17 is that correct?

18 A Yes.

19 Q Did you work at all with Mr. Foltz on creating any  
12:08PM 20 composites of previous races?

21 A Yes.

22 Q For Assembly districts?

23 A The composite was just a general composite, and  
24 then it could be applied to different districts.

12:09PM 25 Q Did you make a determination in what races would

1 go into the composite?

2 A Yes.

3 Q And did you apply that to Senate districts?

4 A Yes.

12:09PM

5 Q Did you run analyses that are similar to the ones  
6 that are portrayed in Exhibit 112?

7 A Yes.

8 Q Was that solely for the Senate districts or also  
9 for Assembly districts?

12:09PM

10 A Both.

11 Q And who did you -- strike that question. Why did  
12 you prepare those analyses?

13 A It was part of the analysis of how different  
14 districts may have performed in using past  
15 election data.

12:10PM

16 Q Attempting to project how the districts that you  
17 were creating might perform in the future based on  
18 past election data?

19 A I don't know that you can project future  
20 performance, but it was used to analyze how past  
21 elections may have performed.

12:10PM

22 Q Under the new --

23 A Under different configurations.

24 Q Did anybody ask you to prepare that analysis?

12:10PM

25 A I don't recall.

1 Q Did you provide this analysis that you created to  
2 anyone?

3 A Yes.

4 Q Who did you -- did you transmit or give that  
5 analysis to?

12:10PM

6 A I gave it to Senator Fitzgerald and  
7 Senator Zipperer.

8 Q Did you ever give that information to any of the  
9 individual republican senators?

12:10PM

10 A I did not.

11 Q Was that conveyed to them in the meetings that you  
12 had with them and Senator Zipperer?

13 A It was not.

14 Q Senator Zipperer didn't convey that to the  
15 individual republican senators in those meetings?

12:11PM

16 A No.

17 Q Do you know what Senator Fitzgerald and  
18 Senator Zipperer did with that, with the analysis  
19 of the information when you gave it to them?

12:11PM

20 A I do not.

21 Q At the time that you conveyed the information  
22 about these analyses to Senator Fitzgerald and  
23 Senator Zipperer, did you discuss the analysis  
24 with them?

12:11PM

25 A Yes.

1 Q What was the substance of the discussions that you  
2 had with them?

3 A Basically, it was a description of what races we  
4 used for the composite and an explanation of what  
5 the data on the chart represented.

12:12PM

6 Q Did they tell you how they intended to use that  
7 information or what they intended to do with it?

8 A No.

9 Q Did you make any suggestions to them about what it  
10 might be used for, or could they provide it to  
11 you?

12:12PM

12 A No.

13 Q Did you have any conversations with anyone about  
14 how the districts that you were drawing that ended  
15 up in Act 43 might perform based on the past  
16 election results?

12:12PM

17 A I don't know that it's possible to predict future  
18 performance.

19 (Exhibit No. 118 marked for  
20 identification)

12:14PM

21 Q Mr. Ottman, the court reporter has handed you a  
22 copy of a document that has been marked  
23 Exhibit 118; do you have that in front of you?

24 A Yes.

12:14PM

25 Q If you look in the lower right-hand corner of the

1 document, you'll see each of the pages has a Bates  
2 number on it indicating that it came from your  
3 files; do you see that?

4 A Yes.

12:15PM

5 Q And this is the way that these documents were  
6 produced to us. Do you know -- do you know what  
7 Exhibit 118 is?

8 A Yes.

9 Q What is it?

12:15PM

10 A It is a printout of an Excel sheet with analysis  
11 of how the -- I believe it's the current districts  
12 would perform using past election formula.

13 Q And by current districts, you mean the districts  
14 at the court during 2002?

12:16PM

15 A Yes, at the time, yes, the court map.

16 MR. EARLE: I can't find it on my  
17 directory here. Which document is that  
18 coming from? Do you have that handy? Is it  
19 by 2000?

12:16PM

20 MR. POLAND: I don't, Peter. It's  
21 not on the top of the document itself. We  
22 have them Bates labeled, but I believe that  
23 we Bates labeled them as they came in.

12:16PM

24 MR. EARLE: There are four or five  
25 Excel sheets there. It would be helpful to

1 me if you could have him describe the  
2 document so I can click on it because there's  
3 only four or five of them here. There's one,  
4 for example, that's called Senate final  
12:16PM 5 political numbers, and on the top it has old  
6 district Walker, McCain, Van Hollen, Bush.  
7 Is that the one?

8 MR. POLAND: I will say for the  
9 record, the titles for the columns across the  
12:16PM 10 top says TA persons, difference, black 18  
11 percent, Hispanic 18 percent --

12 MR. EARLE: I got it. That was the  
13 one that was -- okay.

14 Q Mr. Ottman, why did you prepare the table that's  
12:17PM 15 on the first page of Exhibit 118?

16 A It was part of the analysis that we prepared.

17 Q And why did you engage in that analysis?

18 A It was just an indicator of how elections, using  
19 the measurement that we were using may have been  
12:17PM 20 reflected in the old districts.

21 Q Was there any comparison that was made between  
22 those and then the districts that you were  
23 creating under Act 43?

24 A The same analysis was prepared for the new  
12:17PM 25 districts, yes.

1 Q And then was there a comparison of those two?

2 A Yes.

3 Q Was that included in the memorandums that were  
4 shown to the individual republican senators when  
12:17PM 5 you met with them?

6 A No.

7 Q What was the comparison used for?

8 A Comparison was used for analysis of map  
9 alternatives for meetings with the leadership.

12:18PM 10 Q Were any decisions made based on those  
11 comparisons?

12 A Not that I am aware of.

13 Q Were you present for any discussion where the map  
14 alternatives were discussed with respect to a  
12:18PM 15 comparison between performance of 2002 districts  
16 and performance of the newly-configured districts?

17 A Yes.

18 Q And what was the substance of those discussions?

19 A It was an explanation of what the races we were  
12:18PM 20 measuring were and an explanation of what the  
21 document represented.

22 Q Who did you have those conversations with?

23 A With Senators Fitzgerald, Zipperer, and  
24 Representatives Fitzgerald, Vos, Suder.

12:19PM 25 Q There has been testimony, both by Mr. Handrick and

1 Mr. Foltz, about meetings where there were  
2 regional options that were presented where  
3 legislative leadership was present for those; do  
4 you recall any such meetings?

12:19PM

5 A Yes.

6 Q When did those meetings occur?

7 A I don't recall exactly.

8 Q How many days did those meetings last?

9 A I don't -- I don't recall how many days.

12:19PM

10 Q Was it at those meetings to consider regional  
11 options that you discussed comparisons between  
12 2002 districts and newly-configured districts with  
13 Senators Fitzgerald and Zipperer and  
14 Representatives Fitzgerald and Vos and Suder?

12:20PM

15 A I believe so.

16 Q When did you have the discussions with  
17 Senators Fitzgerald and Zipperer and  
18 Representatives Fitzgerald, Vos, and Suder about  
19 the comparisons between the 2002 district  
20 performance and new districts?

12:20PM

21 A I believe it was after the map had been put  
22 together for submittal to the LRB.

23 Q But before it was actually tendered to the LRB?

24 A No, I believe it had already been tendered to the  
25 LRB at that point.

12:20PM

1 Q Did you have any discussions on that topic with  
2 any of the legislative leadership or individual  
3 legislators before the time the map was tendered  
4 to the LRB?

12:20PM

5 A I don't recall.

6 Q Going back to the question I asked about meetings  
7 where regional options were discussed. Can you  
8 identify for me who was present at those meetings?

12:21PM

9 A At various points, Senator Fitzgerald,  
10 Senator Zipperer, Representative Fitzgerald,  
11 Representative Vos, Representative Suder,  
12 Joe Handrick, Adam Foltz, myself, and counsel may  
13 have been present for some portion of them.

12:21PM

14 Q Do you remember how many -- well, strike that  
15 question. You don't recall when exactly those  
16 meetings occurred; is that correct?

17 A Not off the top of my head.

18 Q Was it over more than one day?

19 A Yes.

12:21PM

20 Q It was before the maps were submitted to the LRB;  
21 is that correct?

22 A That's correct.

12:22PM

23 Q This was to make a final decision, at least about  
24 the regional maps that would be proposed to the  
25 legislature?

1 A It was to get some general direction, yes.

2 Q I'd like you to take a look at Exhibit No. 101.

3 It's in the stack there. Have you seen

4 Exhibit 101 before?

12:22PM

5 A Yes.

6 Q What is Exhibit 101?

7 A I believe it's headers for different regional  
8 areas of the state.

12:23PM

9 Q Are these the regional maps that were presented at  
10 the meeting we were just discussing or meetings  
11 where regional options were considered?

12 A This is just the headers.

13 Q And when you say it's *just the headers*, what do  
14 you mean by just the headers?

12:23PM

15 A It contains no more information other than what  
16 districts are included in each region.

17 Q So it simply identifies the region; it doesn't,  
18 for example, contain any other information about  
19 them other than identify which districts are  
20 contained within the regions?

12:23PM

21 A That's correct.

22 Q Did you go through at these meetings and make a  
23 determination on a region-by-region basis of  
24 which maps would be advanced and included in  
25 Wisconsin -- 2011 Wisconsin Act 43?

12:24PM

1 A We got some general guidance from legislative  
2 leaders on a region-by-region basis.

3 Q So there were various options for each region that  
4 were presented to the people who assembled at  
5 these meetings, correct?

6 A For some regions, yes.

7 Q And there were regions where there weren't  
8 multiple options presented; is that correct?

9 A That's correct.

10 Q Which regions didn't have multiple options  
11 presented?

12 A Milwaukee.

13 Q So as I look at the -- as I look at Exhibit 101, I  
14 see the heading, it says Milwaukee, and it says  
15 Senate Districts 3, 4, 6, 7, 5, and 8, correct?

16 A Correct.

17 Q That would include the Assembly Districts 7, 8,  
18 and 9?

19 A That's correct.

20 Q Was there only one regional map that was presented  
21 for the Milwaukee region?

22 A There was only one map presented for, I believe,  
23 Senate Districts 4 and 6. Senate District 3 was  
24 presented as one Senate district with two

25 alternatives for Assembly district configurations,

1 both of which were introduced.

2 Q Alternatives for Assembly Districts 8 and 9?

3 A 8 and 9.

4 Q And from those alternatives that were presented

12:25PM

5 for Assembly Districts 8 and 9, one was selected  
6 at that point in time?

7 A No.

8 Q There were two options presented, correct?

9 A Two options were presented to the legislature --

12:25PM

10 legislators, and both options were introduced.

11 One is part of the bill. One is a separate

12 amendment.

13 Q Did this meeting occur before the time that the

14 communications with MALDEF occurred?

12:26PM

15 A Yes.

16 Q And did this also occur before any communications

17 with Zeus Rodriguez happened?

18 A Yes.

19 Q At the time that these options were presented to

12:26PM

20 the legislative leadership, had there been any

21 communications with any members of the Latino

22 community in Milwaukee about the makeup of

23 Assembly Districts 8 or 9?

24 A I don't recall.

12:26PM

25 Q At the time that these regional options were

1 presented to legislative leadership, had there  
2 been any communications with any leaders of the  
3 African-American community in Milwaukee about the  
4 makeup of the African-American majority districts?

12:27PM

5 A I don't recall.

6 Q Did you ever discuss the composition of the  
7 African-American majority districts in Milwaukee  
8 with anyone during the redistricting process?

9 A Yes.

12:27PM

10 Q Who did you discuss it with?

11 A We discussed it with counsel.

12 Q And when you say *counsel*, who was the counsel you  
13 discussed it with?

12:27PM

14 A I believe Attorney McLeod, Attorney Troupis,  
15 possibly Attorney Taffora.

16 Q And what was the subject matter of the discussions  
17 that you had with Mr. McLeod, Mr. Troupis, or  
18 Mr. Taffora about the African-American districts?

12:28PM

19 A We talked about what the appropriate legal  
20 guidelines were for those districts.

21 Q Would that be legal guidelines under the  
22 Voting Rights Act?

23 A I believe so.

24 Q When did those discussions occur?

12:28PM

25 A I don't recall.

1 Q Did you ever talk with anyone other than legal  
2 counsel about the makeup of the African-American  
3 districts in Milwaukee?

4 A I don't recall.

12:28PM

5 Q Did you ever talk to Mr. Handrick about it?

6 A Possibly.

7 Q What about Mr. -- Dr. Gaddie?

8 A I don't recall.

12:28PM

9 Q Was Mr. Handrick ever involved in the discussions  
10 that you had with Mr. McLeod or Troupis or Taffora  
11 about the African-American districts in Milwaukee?

12 A I don't recall.

13 Q What about the Latino districts, did you talk with  
14 Mr. McLeod, Mr. Troupis, or Mr. Taffora about the  
15 makeup of the Latino districts in Milwaukee?

12:29PM

16 A Yes.

17 Q And again, did you talk about the appropriate  
18 legal guidelines?

19 A That's correct.

12:29PM

20 Q Under the Voting Rights Act?

21 A I believe so.

22 Q Did you talk with Mr. Handrick at all about the  
23 makeup of the Latino districts?

24 A I believe so.

12:29PM

25 Q Was Mr. Handrick involved in any discussions that

1 you had about the Latino districts with  
2 Mr. McLeod, Mr. Troupis, or Mr. Taffora?

3 A I don't recall.

12:29PM

4 Q Did you talk to Dr. Gaddie about the makeup of the  
5 Latino districts?

6 A I don't recall.

12:30PM

7 Q Now, there are also references in Exhibit 101 to  
8 other districts. One of them I'd like to focus on  
9 for a minute is the Racine/Kenosha region; do you  
10 see that reference?

11 A Yes.

12 Q There were options that were considered for Racine  
13 and Kenosha; is that correct?

14 A That's correct.

12:30PM

15 Q Was there one option that was chosen from those  
16 presented that was included in what eventually  
17 became Act 43?

18 A I don't recall what the exact option that was  
19 discussed there was identical to what turned up in  
20 Act 43.

12:30PM

21 Q Do you know how many options were presented at  
22 these meetings for Racine/Kenosha area?

23 A I don't recall.

12:31PM

24 Q Did you personally draw up any options for  
25 Racine/Kenosha?

1 A I did.

2 Q Was the option that you -- strike that question.  
3 How many options did you prepare for Racine and  
4 Kenosha?

12:31PM 5 A I don't recall how many.

6 Q Did Mr. Handrick and Mr. Foltz also prepare  
7 options for districts covering Racine and Kenosha?

8 A I believe so.

9 Q Do you know whether all of them were presented at  
10 this meeting where legislative leadership was  
11 considering the regional options?

12 A I don't know.

13 Q Before the time that the options for Racine and  
14 Kenosha were presented to legislative leadership,  
15 had you ever had any discussions with any of the  
16 members of the legislature from the Racine or  
17 Kenosha areas about the configuration of those  
18 districts?

19 A Yes.

12:31PM 20 Q Who did you speak with?

21 A I spoke with Senator Wanggaard.

22 Q What was the substance of those discussions?

23 A That discussion was just a discussion with him  
24 about the changing demographics of his district in  
12:32PM 25 terms of where I needed to gain or lose population

1 and to hear from him his impressions of the  
2 district as well as to verify exactly where his  
3 house was.

12:32PM

4 Q Did that discussion take place in one of the  
5 meetings that you had with Mr. Vos and then the  
6 individual members of the Senate?

7 A No.

8 Q That was outside of that meeting?

12:32PM

9 A I never had any meetings with Vos and members of  
10 the Senate other than those leadership meetings.

11 Q The ones that you testified to earlier?

12 A Correct.

12:32PM

13 Q All right. So just trying to understand whether  
14 that, the meeting you were referring to, was one  
15 of the meetings that you had along with, I thought  
16 it was Senator Zipperer that you had testified  
17 before?

18 A Yes.

12:33PM

19 Q All right. Was that at that same meeting with  
20 Senator Zipperer?

21 A I can't recall if Senator Zipperer was there, but  
22 it was at that meeting with Senator Wanggaard that  
23 I discussed earlier.

12:33PM

24 Q All right. Did that meeting with  
25 Senator Wanggaard take place at the time that you

1 had already prepared an option for the Assembly  
2 and Senate districts encompassing the  
3 Racine/Kenosha areas?

4 A No.

12:33PM

5 Q It was before the time that you actually drew a  
6 map to cover those areas?

7 A That's correct.

8 Q Did he give you any guidance on how those  
9 districts should be configured?

12:33PM

10 A Not that I recall.

11 Q Did you ever speak with about how the Racine and  
12 Kenosha districts should be configured?

13 A Discussed it with Adam Foltz.

12:34PM

14 Q What did you and Mr. Foltz discuss with respect to  
15 the configuration of the Assembly and Senate  
16 districts encompassing Racine and Kenosha?

17 A We just discussed different options for  
18 configuration, different ways to draw that area.

12:34PM

19 Q Do you know who drew the configuration that ended  
20 up being included in Act 43?

21 A I don't.

22 Q Would it have been either you or Mr. Foltz?

23 A Yes.

12:34PM

24 Q But you just don't recall whether you were the  
25 person whose configuration was included in Act 43?

1 A That's right.

2 Q You understand how Act 43 configures Racine and  
3 Kenosha in terms of the Assembly and Senate  
4 districts?

12:34PM

5 A Yes.

6 Q You understand that there are parts of Racine and  
7 Kenosha there included within one Assembly  
8 district?

9 A Yes.

12:34PM

10 Q By that I mean in the same Assembly district?

11 A Yes.

12 Q Do you know whose decision it was to include parts  
13 of Racine and Kenosha in the same Assembly  
14 district?

12:35PM

15 A I don't.

16 Q Did you ever speak with anyone from Racine or  
17 Kenosha or who represents Racine or Kenosha about  
18 including parts of both of those cities in the  
19 same Assembly district?

12:35PM

20 A I don't believe so.

21 Q I've heard reference to reuniting communities of  
22 interest in drawing some of the districts in  
23 Act 43. Have you heard those references as well?

24 A I've heard the term.

12:35PM

25 Q Do you know whether drawing the parts of Racine

1 and Kenosha in the same Assembly district was an  
2 attempt to reunite communities of interest?

3 A I don't know.

4 Q Did you ever any communications with anybody about  
5 that?

12:35PM

6 A Not that I recall.

7 Q Are there any areas state-wide in Wisconsin that  
8 you can identify as having been reunited  
9 communities of interest under Act 43?

12:35PM

10 A I don't recall.

11 Q Do you recall ever drawing any districts that you  
12 believed were reuniting communities of interest?

13 A I don't recall specifically.

14 Q What about generally?

12:36PM

15 A We drew different variations of different maps  
16 that combined or split up all kinds of different  
17 communities, so I can't remember anything specific  
18 that jumps to mind, no.

19 Q As you sit here today, do you recall any  
20 communities of interest that were reunited under  
21 Act 43?

12:36PM

22 A I don't recall.

23 Q Did you ever have any conversations with anyone  
24 about dividing communities of interest?

12:36PM

25 A Yes.

1 Q Which communities of interest did you discuss  
2 being divided?

3 A Nothing specific, just kind of an analysis of the  
4 splits, community splits.

12:37PM

5 Q Which community splits did you discuss?

6 A We discussed all of the community splits that were  
7 generated by the Autobound report.

8 Q And that was discussions that you had with  
9 Mr. Foltz and Mr. Handrick?

12:37PM

10 A With Mr. Foltz certainly. I can't remember if  
11 Mr. Handrick was part of any discussion.

12 Q Did you and Mr. Foltz ever talk with any  
13 individual legislators about splits of communities  
14 of interest?

12:37PM

15 A I don't recall.

16 Q Did you and Mr. Foltz ever discuss with anyone  
17 outside of the legislature splits of communities  
18 of interest?

19 A I don't recall.

12:37PM

20 Q Did you attempt to seek or obtain any feedback  
21 from any members of communities of interest that  
22 were split under Act 43?

23 A I don't recall.

12:38PM

24 Q Do you recall making any changes to configurations  
25 of senator Assembly districts in response to

1 feedback that you received from any members of the  
2 legislature?

3 A Yes.

4 Q What changes were made in response to feedback you  
5 received?

12:38PM

6 A There was some changes made, I believe, to the  
7 55th and 56th Assembly District.

8 Q Who were the representatives of those districts?

9 A Representatives Kaufert and Litjens.

12:39PM

10 Q Did representatives Kaufert and Litjens request  
11 that you make those changes?

12 A I'm not sure.

13 Q Did the request -- did you ever receive any  
14 request from Senator Ellis to make any changes to  
15 those districts?

12:39PM

16 A He asked us to look at some different options  
17 there.

18 Q Could you take a look at Exhibit No. 105, please.  
19 Have you seen Exhibit 105 before?

12:40PM

20 A Parts of it.

21 Q What parts have you seen?

22 A I've seen the attachment.

23 Q I'd like you to look at -- there's an e-mail  
24 dated Thursday, July 7th from Adam Foltz to  
25 Michelle Litjens; do you see that?

12:40PM

1 A Yes.

2 Q Have you seen that document -- that e-mail before?

3 A I don't believe so.

4 Q Did you speak with Michelle Litjens at all about  
5 the attachments that are attached to this e-mail?

12:40PM

6 A I did not.

7 Q Why did you forward these attachments or send  
8 these attachments to Mr. Foltz?

9 A So that he could have discussions with Assembly  
10 republicans in those areas.

12:41PM

11 Q Did you ever discuss Districts 55 and 56 with  
12 Senator Ellis?

13 A Yes.

14 Q What was the substance of those discussions?

12:41PM

15 A We discussed different ways to configure those  
16 districts.

17 Q Was this before the time -- before July 7th, 2011?

18 A I'm not sure exactly when I spoke with him.

19 Q You don't know if it was before or after

12:41PM

20 Mr. Foltz's communication with Michelle Litjens?

21 A I don't recall.

22 Q Were there any other changes that were made to  
23 proposed districts based on communications that  
24 you had with any members of the Senate or the  
25 Assembly?

12:42PM

1 A Outside of this, not that I can.

2 (Exhibit No. 119 marked for  
3 identification)

12:42PM

4 Q Mr. Ottman, the court reporter has handed you a  
5 document that has been marked as Exhibit 119; do  
6 you have that in front of you?

7 A Yes.

8 Q And I note that the Bates stamp indicates that  
9 this came from your files; do you see that?

12:42PM

10 A Yes.

11 Q Can you identify Exhibit No. 119, please?

12 A It's an e-mail from Senator Vukmir to me.

13 Q Now, Senator Vukmir -- this is dated May 4th,  
14 2011, correct?

12:43PM

15 A Yes.

16 Q And Senator Vukmir says in the first sentence of  
17 her e-mail, "Thanks for the meeting today." Do  
18 you see that?

19 A Yes.

12:43PM

20 Q Do you know what meeting she's referring to?

21 A This is one of those legislator meetings that I  
22 had described earlier.

23 Q Would this have been before the time that you had  
24 prepared any proposed maps?

12:43PM

25 A Yes.

1 Q This was a meeting that Senator Zipperer attended  
2 as well; is that correct?

3 A I'm not sure if he attended that one or not.

4 Q Do you recall whether you met alone with  
5 Senator Vukmir or if anyone else was at that  
6 meeting?

7 A Senator Zipperer may have been there. He would  
8 have been the only other one that might have been  
9 there.

10 Q Where did these meetings occur?

11 A In the offices of Michael Best & Friedrich.

12 Q Senator Vukmir includes a summary, she says, of  
13 what you talked about and a few other things that  
14 she thought about, correct?

15 A Yes.

16 Q And you see the references to a number of  
17 different areas?

18 A Yes.

19 Q Do you know why she was providing you with that  
20 feedback?

21 A I don't know.

22 Q Did you use that feedback in any way to configure  
23 Senator Vukmir's district?

24 A No.

25 Q Now, Senator Vukmir has, after each area, she has

1 some comments. So for example, she says  
2 *Brookfield, yes, my hometown.* What does she mean  
3 by that?

12:44PM

4 A I believe she had indicated to me that she was  
5 born there.

6 Q All right. And why does it say yes after  
7 Brookfield?

8 A I don't know.

12:45PM

9 Q Does that mean that was an area she wanted  
10 included in her district?

11 A I don't know.

12 Q The next line down, first, *Elm Grove*, and again,  
13 it says yes; do you see that?

14 A Yes.

12:45PM

15 Q Do you know what she meant by yes next to  
16 Elm Grove?

17 A I don't know.

12:45PM

18 Q And it goes on and says in parenthesis *Brookfield*  
19 *and Elm Grove have combined schools, joint holiday*  
20 *parades, et cetera*; do you see that?

21 A Yes.

22 Q Why was she mentioning that fact in her e-mail to  
23 you?

12:45PM

24 A I'm not sure. Part of the discussion was for an  
25 open-ended question to describe your district. So

1 it may have been in response to that portion of  
2 our discussion at the meeting.

3 Q But she has the words yes next to these; that  
4 doesn't indicate that these are areas she wanted  
5 included in her district?

12:45PM

6 A I don't know.

7 Q Was there a significance that you ascribed to the  
8 fact that she said Brookfield and Elm Grove have  
9 combined schools, joint holiday parades, et  
10 cetera?

12:46PM

11 A I'm sorry, what was the question?

12 Q Was there any significance you ascribed to her  
13 inclusion of that statement in her e-mail to you?

14 A No.

12:46PM

15 Q Is that an indication to you or did you interpret  
16 it as meaning that Brookfield and Elm Grove ought  
17 to remain in the same district?

18 A I don't know.

19 Q The next line down, Senator Vukmir says *Western*  
20 *Wauwatosa*, and again she says *yes* after that, and  
21 then in parens it says *More GOP*; do you see that?

12:46PM

22 A Yes.

23 Q Do you know what she's referring to there?

24 A No.

12:46PM

25 Q By more GOP, would you understand that reference

1 to be to the republican party?

2 A I assume that's what GOP stands for.

3 Q But you don't know why she was mentioning western  
4 Wauwatosa in the context of more GOP?

12:46PM 5 A I don't know.

6 Q Next line down says *West Allis*, and again says *yes*  
7 next to; do you see that?

8 A Uh-huh, yes.

9 Q Do you know what the reference to *yes* next to  
12:46PM 10 *West Allis* means?

11 A I don't.

12 Q And then in parens it says *Western more GOP, but I*  
13 *am okay with all of it*; do you see that?

14 A Yes.

12:47PM 15 Q Do you know what that means?

16 A I don't know.

17 Q Did you have a discussion about that in your  
18 meeting with Senator Vukmir?

19 A I don't recall.

12:47PM 20 Q The next line down says *West Milwaukee*, and then  
21 it says *no*; do you see that?

22 A Yes.

23 Q Do you know what she meant by *no* after *west*  
24 *Milwaukee*?

12:47PM 25 A I don't know.

1 Q Do you know whether west Milwaukee was included  
2 within the reconfigured Senate district that  
3 Senator Vukmir represents?

4 A I don't recall.

12:47PM

5 Q In parens, after the word no, it says *Forgot to*  
6 *mention this part of current district, VERY dem,*  
7 and the very is in all caps; do you see that?

8 A Yes.

12:47PM

9 Q And by dem, do you understand her to mean  
10 democrat?

11 A That's my understanding.

12 Q That paren where she says forgot to mention this  
13 part of district, do you know whether that refers  
14 to a discussion you had with her in your meeting?

12:48PM

15 A I don't know.

16 Q The next line down says *Milwaukee, cop wards if*  
17 *needed*; do you see that?

18 A Yes.

12:48PM

19 Q There's no yes or no after Milwaukee; do you see  
20 that?

21 A Yes.

22 Q Do you know why she did not include a yes or a no  
23 after Milwaukee?

24 A I don't know.

12:48PM

25 Q She says cop wards if needed. Do you know what

1 she's referring to when she makes that statement?

2 A I'm not sure.

3 Q Next line down says *Menomonee Falls* and then *no*,  
4 do you see that?

12:48PM 5 A Yes.

6 Q Do you know what she meant by including *no* after  
7 *Menomonee Falls*?

8 A I don't know.

9 Q Was *Menomonee Falls* included within  
10 Senator Vukmir's Senate district under Act 43?

11 A I don't recall.

12 Q Do you see after that she states *Fits* better with  
13 *Germantown, Sussex, Lannon, and Butler*; do you see  
14 that?

12:48PM 15 A Yes.

16 Q Did you discuss at all with Senator Vukmir in her  
17 meeting whether *Menomonee Falls* ought to be in her  
18 district or in a different district?

19 A I don't recall.

12:48PM 20 Q Below that is *Greenfield*, and then it says *Please*  
21 *no*; do you see that?

22 A Yes.

23 Q Do you know what she meant by *please no*?

24 A I don't know.

12:49PM 25 Q Was *Greenfield* included within Senator Vukmir's

1 Senate district?

2 A I don't recall.

3 Q Then in parens after the please no, it says *It*  
4 *hates West Allis*; do you see that?

5 A Yes.

6 Q Do you know what she meant by it hates West Allis?

7 A Other than what it means on its face, I don't  
8 know.

9 Q Did you and Senator Vukmir discuss at all whether  
10 Greenfield and West Allis ought to be within the  
11 same Senate district or Assembly district?

12:49PM

12 A I don't recall.

13 Q After that paren, it says *Stone owns Greenfield*  
14 *and I think that really helps him*; do you see  
15 that?

12:49PM

16 A Yes.

17 Q What is the reference to Stone?

18 A I believe that's to Representative Stone.

19 Q Do you know why Senator Vukmir says Stone owns  
20 Greenfield?

12:49PM

21 A I don't know.

22 Q Do you know what her reference to I think that  
23 really helps him means?

24 A I don't know.

12:49PM

25 Q Did you have a discussion at all with

1 Senator Vukmir about Representative Stone?

2 A I don't recall.

3 Q And then under that, there's a reference to  
4 New Berlin, and Senator Vukmir says *Sure, parts of*  
5 *it work okay with West Allis and Brookfield*; do  
6 you see that?

12:50PM

7 A Yes.

8 Q Do you know whether parts of New Berlin were  
9 included within Senator Vukmir's Senate district?

12:50PM

10 A I believe so, yes.

11 Q Do you know what she meant there when she said  
12 parts of it work okay with West Allis and  
13 Brookfield?

14 A I don't know.

12:50PM

15 Q Did you have a discussion with Senator Vukmir  
16 about that topic when you met with her?

17 A Not that I recall.

18 Q And then the parenthetical at the end of that says  
19 *Also, the West Allis School District oddly*  
20 *includes a small part of NB*; do you see that?

12:50PM

21 A Yes.

22 Q And that NB is a reference to New Berlin?

23 A I don't know. I assume so.

24 Q Is that a topic you discussed with Senator Vukmir?

12:50PM

25 A Not that I recall.

1 Q Do you know why she is including that in her  
2 e-mail to you?

3 A I don't know.

12:50PM

4 Q The next paragraph down Senator Vukmir says *If you*  
5 *need a way to take*, and I'm going to butcher the  
6 names, *Staskunas*; did I get that wrong?

7 A No, I think that's pretty close.

12:51PM

8 Q *Put a little bit of my Senate seat into New Berlin*  
9 *(2-3 wards could make that a GOP Assembly seat)*;  
10 do you see that?

11 A Yes.

12 Q Did you put a little bit of Senator Vukmir's  
13 Senate seat into New Berlin?

14 A I don't recall.

12:51PM

15 Q Did you discuss that topic with Senator Vukmir  
16 when you met with her?

17 A I did not.

12:51PM

18 Q The next sentence states *Western*  
19 *West Allis/Eastern BKFD and New Berlin are areas*  
20 *of like interest*; do you see that?

21 A Yes.

22 Q Do you know whether by BKFD, she meant Brookfield?

23 A I don't know.

12:51PM

24 Q Do you know what she meant, they are of light  
25 interest?

1 A I don't know.

2 Q Was that a topic you discussed with  
3 Senator Vukmir?

4 A Not that I recall.

12:52PM

5 Q The final sentence, which is in parentheses  
6 states *The previous Duff seat had parts of*  
7 *New Berlin, Elm Grove, BKFD and West Allis*; do you  
8 see that?

9 A Yes.

12:52PM

10 Q Do you know what she meant by the previous Duff  
11 seat?

12 A I believe that's a reference to former  
13 Representative Mark Duff.

14 Q And what's the seat she's referring to there?

12:52PM

15 A I believe that was the Assembly seat he held when  
16 he was in the legislature.

17 Q Do you know why she's including that statement  
18 there?

19 A I don't know.

12:52PM

20 Q Did you talk with her about that at the meeting  
21 you had with her?

22 A No.

23 Q The end, the last statement she makes in the  
24 e-mail, *Hope that helps*; do you see that?

12:52PM

25 A Yes.

1 Q Having gone through this now, do you know why  
2 Senator Vukmir sent this e-mail to you?

3 A I don't.

12:52PM

4 Q Did you use any of the information that she  
5 provided in drawing a map or configuring the  
6 Senate district that Senator Vukmir represents or  
7 any of the Assembly districts included within?

8 A I did not.

12:53PM

9 Q One other question about that document. Did you  
10 forward Exhibit 119 to anyone?

11 A I don't believe so.

12 Q Did you show it to Mr. Foltz at all?

13 A No.

12:53PM

14 Q Did you and Mr. Foltz discuss any of the comments  
15 Senator Vukmir made -- strike that question. Did  
16 you and Mr. Foltz discuss any of the comments that  
17 Senator Vukmir made in Exhibit 119 in the process  
18 of drawing Assembly or Senate districts?

19 A Not that I recall.

20 (Exhibit No. 120 marked for  
21 identification)

22 Q Mr. Ottman, the court reporter has put in front of  
23 you an exhibit numbered 120; do you see this  
24 document?

12:54PM

25 A Yes.

1 Q And you'll note for the record, it has a Bates  
2 number in the lower right-hand corner indicating  
3 it came from your file, correct?

4 A Correct.

12:54PM 5 Q What is Exhibit No. 120?

6 A This is a comparison of the old map versus a draft  
7 map and how many seats would fall into various  
8 statistical categories based on the measurement we  
9 were using.

12:55PM 10 Q By *old map*, you mean the map that was configured  
11 in 2002 by the Court?

12 A That's correct.

13 Q So the existing districts even as they exist  
14 today, correct?

12:55PM 15 A The existing districts today are the Act 43  
16 districts.

17 Q Is it your testimony that the Act 43 districts  
18 have gone into effect for the purpose of  
19 elections?

12:55PM 20 A It's my understanding that the GAB has said that  
21 they are the existing districts for  
22 representation.

23 Q That's a debate we can have later. Let me ask  
24 you, the draft map, do you know which draft map  
12:55PM 25 this is referring to here?

1 A I don't know which one.

2 Q All right. There's a title, *MayQandD*; do you see  
3 that?

4 A Yes.

12:56PM 5 Q Does that help you to recall what draft map you're  
6 talking about in Exhibit 120?

7 A Other than it's something I started working on in  
8 May. I'm not sure which of those maps it is.

12:56PM 9 Q If we take the table that's on the top, it says  
10 *Safe GOP 55 plus*; do you see that?

11 A Yes.

12 Q What does the safe GOP 55 plus mean?

13 A It simply means a seat under which using the  
14 election data that we were using would return a 55  
15 percent or greater republican number.

12:56PM 16 Q Does this analysis stem from the same kind of  
17 procedure you went through with some of the  
18 exhibits we had looked at earlier; for example,  
19 looking at Exhibit 118?

12:56PM 20 A I believe so, yes.

21 Q And then right under that line that states  
22 *Lean GOP*; do you see that?

23 A Yes.

24 Q What does lean GOP refer to?

12:57PM 25 A It refers to any district in which the percentage

1 would be between 52 and 55.

2 Q And then *Toss-up* below that, that's the percentage  
3 that would range between 48 and 52 percent?

4 A That's correct.

12:57PM

5 Q And *Lean Dem*, under that is where 45 to 48 percent  
6 of the percentage of the vote would have been for  
7 republican candidates in previous elections?

8 A That's correct.

12:57PM

9 Q And then finally *Safe Dem*, 45 less means elections  
10 where 45 percent of the vote or less would have  
11 gone to republican candidates in previous  
12 elections, correct?

13 A That's correct.

12:57PM

14 Q What use did you make of the analysis in  
15 Exhibit 120?

16 A Basically to produce documents like this, to  
17 compare different map alternatives.

12:57PM

18 Q And when you created an analysis like this and a  
19 district would have been identified as being safe  
20 dem or lean dem or toss-up, how did that inform  
21 the process of drawing the maps?

22 A It was used for analysis after the fact.

12:58PM

23 Q Did there ever come a time where you ran an  
24 analysis after the fact, and based on that  
25 analysis, you went back and altered a district

1 that you had drawn?

2 A Not that I recall.

3 THE VIDEOGRAPHER: The time is  
4 12:58. We are going off the record,  
5 12:58PM concluding Disk No. 1 of the continuation of  
6 the video deposition of Tad Ottman, No. 4 in  
7 the series.

8 (Recess taken)

9 THE VIDEOGRAPHER: We are on the  
10 02:26PM record. The time is 2:25 p.m. This marks  
11 the beginning of Disk No. 2 in the  
12 continuation of Mr. Tad Ottman and Disk No. 5  
13 in the series of deposition DVDs. We are on  
14 the record.

15 02:26PM MR. MCLEOD: Doug, before we begin,  
16 can I just for the record say we, in response  
17 to the request that was made by Mr. Earle  
18 concerning the confidentiality agreements  
19 that were testified to by Adam Foltz  
20 02:26PM yesterday and Tad Ottman today, we provided  
21 copies of those confidentiality agreements  
22 that had been previously executed. It's our  
23 position that those documents are not  
24 particularly responsive to the subpoenas that  
25 02:26PM were previously issued. But rather than have

1 an argument about that, we're producing them  
2 now. We would note for the record that each  
3 of the confidentiality agreements, at the top  
4 it states privilege, attorney-client  
02:27PM 5 communication. We do not take the position  
6 that these documents are privileged  
7 attorney-client communications.

8 MR. EARLE: What was that you just  
9 said, Eric?

02:27PM 10 MR. MCLEOD: It is our position  
11 that these specific documents do not fall  
12 within the scope of privileged  
13 attorney-client communications because they  
14 do not convey legal advice. They were  
02:27PM 15 executed in the context of the engagement  
16 that existed at the time and that is ongoing.  
17 They are not privileged in the same sense  
18 that an engagement letter itself is not  
19 privileged. It, again, does not constitute  
02:27PM 20 the dissemination of information for the  
21 purposes of providing legal advice. So we're  
22 providing those here and you're welcome to  
23 make use of them at today's depositions. I  
24 would note that to the extent you think it's  
02:28PM 25 necessary, rather than reconvene at another

1 date, that if you have questions of  
2 Adam Foltz about any of these documents, I  
3 can't imagine what they would be, but if you  
4 did, we could make him available yet today  
02:28PM 5 for the convenience of everybody involved so  
6 that we don't have to further delay the  
7 conclusion of these -- these particular  
8 depositions.

9 MR. EARLE: Eric, I'm handicapped  
02:28PM 10 by not being there.

11 MR. MCLEOD: Yep, sure is.

12 MR. EARLE: You're producing a  
13 signed copy of each agreement?

14 MR. MCLEOD: I am.

02:28PM 15 MR. POLAND: Peter, what I can do  
16 is I can take it over to my assistant right  
17 now, have her scan it and e-mail copies to  
18 you.

19 MR. EARLE: That would be fabulous.

02:28PM 20 MR. POLAND: Let me do that.

21 Before I leave, is there anything else that  
22 needs to be put on the record at this point?  
23 No, all right. Let's go off the record for a  
24 moment.

02:28PM 25 THE VIDEOGRAPHER: The time is

1 2:28. We are going off the record.

2 (Recess taken)

3 THE VIDEOGRAPHER: The time is

4 2:30. We are back on the record.

02:31PM

5 Q Mr. Ottman, do you recall this morning we were  
6 talking about meetings that you had with  
7 Senator Zipperer and with individual republican  
8 members of the Senate to discuss the draft  
9 districts or proposed districts for Act 43?

02:31PM

10 A Yes.

11 Q Do you recall that you testified to talking points  
12 that you had created for those meetings?

13 A Yes.

02:31PM

14 Q And I asked you whether those were produced or  
15 among the materials that you had produced to us;  
16 do you recall that?

17 A Yes.

18 Q It was your recollection that they were produced?

19 A I thought they were, yes.

02:31PM

20 Q Okay. I went back through the produced documents  
21 at lunch time, trying to see if I can identify  
22 what those were. So I'm going to have a document  
23 marked for the record and let's see if we can see  
24 what you were talking about.

02:31PM

25

1 (Exhibit No. 121 marked for  
2 identification)

02:32PM

3 Q Mr. Ottman, the court reporter has handed you a  
4 document that has been marked as Exhibit 121. As  
5 you'll see from the Bates label on the lower  
6 right-hand, this came from your files. Can you  
7 identify 121 for me?

8 A Yes.

9 Q What is Exhibit 121?

02:32PM

10 A It's some talking points that I had worked on.

11 Q These are the talking points that we were  
12 discussing this morning?

13 A No.

14 Q What are these talking points?

02:32PM

15 A These are talking points that I prepared. It may  
16 have been in preparation for discussion with the  
17 full caucus or with legislative leadership. I  
18 can't recall what specific meeting this was  
19 prepared for.

02:32PM

20 Q Taking a look at the -- at the -- there are three  
21 pages to this document, correct?

22 A Correct.

23 Q Paging through all three, is there anything that  
24 you can identify in Exhibit 121 that gives you an  
02:33PM 25 indication about when this document might have

1           been prepared?

2    A    I'm not sure that this was prepared as a single  
3           document.

02:33PM

4    Q    Oh, you think this might have been three separate  
5           pages?

6    A    Yes.

02:33PM

7    Q    I will just note for the record, it's the way it  
8           was produced to us. I'm not going to say it was  
9           stapled, but at least in this page order. When we  
10          printed it out, it was in this page order.

11   A    Okay.

12   Q    You don't see anything, though, that gives you an  
13          indication whether one document or separate  
14          documents might have been prepared?

02:33PM

15   A    I'm not certain when the first page of the  
16          document was prepared. The second and third  
17          pages, at least portions of them, were prepared, I  
18          believe, after the map had been submitted to LRB.

02:34PM

19   Q    I'd like you to turn to the third page of  
20          Exhibit 121, and you see there's a Roman Numeral 1  
21          there, and then it goes on to state, "Currently,  
22          the urban areas of Racine and Kenosha are paired  
23          in two Senate districts with the more rural parts  
24          of each county. This map pairs the two urban  
25          areas in one Senate district, and the more rural

1 parts of each county together in another Senate  
2 district. This results in two districts which  
3 each share more in common throughout the Senate  
4 seat." Do you see that?

02:34PM

5 A Yes.

6 Q Do you know who wrote that?

7 A I wrote that.

02:34PM

8 Q What's the basis for your statement in the last  
9 sentence, *This results in two districts, which*  
10 *each share more in common throughout the Senate*  
11 *seat?*

12 A The basis is the previous two sentences.

02:34PM

13 Q All right. The fact that Racine and Kenosha  
14 contain urban areas, and other parts of the county  
15 are more rural areas?

16 A That's correct.

17 Q And that was an observation that you made?

18 A That's correct.

02:35PM

19 Q Did anyone else tell you that the map should be  
20 paired in that way for these reasons?

21 A Not that I recall.

22 Q This is something that you yourself came up with?

23 A Yes.

02:35PM

24 Q So these are not the talking points in Exhibit 121  
25 that you prepared for your meetings with the

1 republican members of the Senate?

2 A Not the meetings to discuss the map, no.

3 Q The individual meetings?

4 A Correct.

02:35PM

5 Q Let me try another document and see if this is it.

6 (Exhibit No. 122 marked for  
7 identification)

02:35PM

8 Q Mr. Ottman, the court reporter has handed you a  
9 copy of a document that has been marked as  
10 Exhibit 122. It consists of a number of different  
11 pages. Again, they were produced from your file  
12 in this order, and each sheet, I should say,  
13 refers to a specific Senate district; do you see  
14 that?

02:36PM

15 A Yes.

16 Q Is Exhibit 122 a document that you prepared?

17 A It is.

18 Q And what is Exhibit 122?

02:36PM

19 A This is a description of the proposed map that was  
20 used for meeting with individual legislators prior  
21 to introduction.

22 Q Is this the -- are these the talking points that  
23 we were discussing before?

24 A Yes.

02:36PM

25 Q They are, all right. So we hit on the right

1 document. So let's take a look at the first one,  
2 the very first page of Exhibit 122. For the  
3 record, the Bates number is Ottman 000145. This  
4 pertains to Senate District 11, correct?

02:36PM

5 A Correct.

6 Q And there's a statement in there where you  
7 identify the district being 9,039 people over the  
8 ideal population, correct?

9 A Yes.

02:37PM

10 Q And then there's a description of the new  
11 constituents?

12 A Yes.

13 Q Is that data that came right out of the census?

14 A That is data that was produced from an Autobound  
15 report.

02:37PM

16 Q And that was based on census data that was  
17 received from the LTSB?

18 A Yes.

19 Q The next sentence states, "Southern Milwaukee  
20 County held its population fairly well compared to  
21 central and northern Milwaukee County. This  
22 pushed Milwaukee-based districts north and west."  
23 Do you see that statement?

02:37PM

24 A Yes.

02:37PM

25 Q Was that your observation?

1 A It was.

2 Q Was it an observation that you discussed with  
3 anyone else before you had the meeting with who  
4 represents District 11?

02:37PM 5 A Not that I recall.

6 Q What's the significance of including that fact in  
7 the talking points for the meeting with the  
8 individual senator?

02:38PM 9 A It was, in part, to explain why his district  
10 changed in the way that it did.

11 Q And then you continue on in the next sentences  
12 down, and you identify results of previous races,  
13 correct?

14 A That's correct.

02:38PM 15 Q And these were -- these were results from that  
16 particular Senate district in those races?

17 A That's correct.

02:38PM 18 Q In the last line, you state, "Added East Troy and  
19 part of the town, as well as Mukwonago." Do you  
20 see that?

21 A Yes.

22 Q What does that refer to?

23 A That refers to portions that were added to the  
24 Senate district.

02:38PM 25 Q Is it added as a result of annexation, or this is

1 in the new district versus the old district?

2 A The new district versus the old.

3 Q When you met with the individual senators, did you  
4 explain why you had added new areas or taken areas  
5 away from the districts?

02:39PM

6 A No, not in particular.

7 Q When you prepared for the meetings with the  
8 individual senators and Senator Zipperer, who did  
9 you consult with?

02:39PM

10 A I don't know that I consulted with anyone.

11 Q You believe that you prepared these on your own  
12 from your own analysis or investigation?

13 A That's correct.

14 Q When I say *this*, I mean the talking points?

02:39PM

15 A Correct.

16 Q Did you talk with Senator Zipperer before you held  
17 these meetings with the individual senators about  
18 the meetings themselves?

19 A Only briefly.

02:40PM

20 Q Was there some preparation that occurred for the  
21 meetings?

22 A Not that I recall.

23 Q Did you discuss these talking points with  
24 Senator Zipperer before you met with the  
25 individual republican senators?

02:40PM

1 A No.

2 Q Did Mr. Handrick or Mr. Foltz assist you in  
3 preparing these talking points?

4 A No.

02:40PM 5 Q Did any legal counsel assist you in preparing the  
6 talking points?

7 A No.

8 Q If my count is right, I think there are -- are  
9 there 17 pages, or we have 16 here?

02:41PM 10 A I count 17.

11 Q Okay, 17. And are there currently 17 republican  
12 senators?

13 A Yes.

02:41PM 14 Q Strike that. Let me ask you the question. Were  
15 there, at the time that you created these talking  
16 points, 17 republican senators?

17 A No.

18 Q How many were there at the time?

19 A 19.

02:41PM 20 Q All right. Which republican senators had  
21 districts that you did not prepare talking points  
22 for?

23 A I believe Senator Zipperer and Senator Fitzgerald.

02:42PM 24 Q I assume that means then that you and  
25 Senator Zipperer did not sit down with

1 Senator Fitzgerald and have an individual meeting  
2 with him like you did with the other republican  
3 senators, correct?

4 A That's correct.

02:42PM

5 Q We're going to set that to the side for now. I'm  
6 going to have some questions for you once we get  
7 the other documents that are being scanned right  
8 now. Mr. Ottman, you recall this morning I had  
9 questions for you about Exhibits 115, 116; should  
10 be there in your stack. Those were the printouts  
11 of e-mail communications from July 2011. Do you  
12 have those in front of you?

02:43PM

13 A Yes.

14 Q And do you recall, there was some conversation or  
15 discussion about the fact that there had been some  
16 redaction, and then later on, there was a new copy  
17 that Mr. McLeod provided that identified the  
18 recipients --

02:43PM

19 A Yes.

02:43PM

20 Q -- of those e-mails? And I believe that Ms. Lazar  
21 even mentioned it was Exhibit 36. I'm going to  
22 hand a copy of Exhibit 36 to you. And if you look  
23 at Exhibit 115 and then Exhibit No. 36, does it  
24 appear that Exhibit 36 is the -- at least a  
25 portion of Exhibit 115 identifies the parties to

02:44PM

1 the e-mail, at least on the first page of  
2 Exhibit 115?

3 A Yes, it appears so.

4 Q Now, I note on Exhibit 36, as it was produced to  
5 us, that there was a redaction certainly on the  
6 first page at least; do you see that?

7 A Yes.

8 Q Is it your understanding that the unredacted  
9 version of Exhibit 36 was produced in your  
10 subsequent production?

11 A I don't know.

12 MR. POLAND: I'm going to ask,  
13 Mr. McLeod, do you know -- I looked through  
14 the documents. It's possible it's there. I  
15 didn't see it. Do you know whether an  
16 unredacted version of Exhibit 36 is being  
17 withheld from production for any reason?

18 MR. MCLEOD: On the grounds that it  
19 contains attorney-client communications,  
20 which was the reason why it was redacted in  
21 the first instance.

22 MR. POLAND: So it still is being  
23 withheld on attorney-client communication  
24 grounds?

25 MR. MCLEOD: Uh-huh.

1 MR. POLAND: I assume then the  
2 assertion of attorney-client privilege over  
3 other documents exists as well. Are there  
4 other documents that are being withheld on  
5 attorney-client privilege grounds?

02:45PM

6 MR. MCLEOD: I'd have to check to  
7 see.

8 MR. POLAND: There was in the  
9 response to the subpoena, which was marked as  
10 an exhibit we talked about this morning,  
11 there was an identification of documents then  
12 that had originally been withheld.

02:45PM

13 MR. MCLEOD: Uh-huh.

14 MR. POLAND: And one of the grounds  
15 that was identified in that response was  
16 attorney-client privilege. Yeah, that was  
17 it. So it was Exhibit 33. Actually, could  
18 you get Exhibit 33 out? I know it's getting  
19 harder to find these.

02:45PM

20 MS. LAZAR: 33A?

21 MR. POLAND: No, 33. It was the  
22 response to the subpoena.

02:46PM

23 Q Mr. Ottman, I note on the first page, on the first  
24 paragraph -- first numbered paragraph refers to an  
25 e-mail, and there's a grounds for privilege

02:46PM

1 identified as legislative privilege; do you see  
2 that?

3 A Yes.

02:46PM

4 Q There's not the assertion of attorney-client  
5 privilege over that document, correct?

6 A Correct.

7 Q All right. And if I look at paragraph number 2,  
8 there's a ground asserted for privilege,  
9 legislative privilege; do you see that?

02:47PM

10 A Yes.

11 Q All right. And if we continue down the list, and  
12 we look at paragraph 3, paragraph 4, paragraph 5,  
13 6, 7, 8, and 9, I see that there is a legislative  
14 privilege that's asserted as to all of those  
15 specific documents, correct?

02:47PM

16 A Yes.

17 Q All right. I don't see a specific assertion of  
18 attorney-client privilege as to any of those  
19 documents.

02:47PM

20 MR. MCLEOD: Doug, can I just  
21 interject here?

22 MR. POLAND: Yeah.

23 MR. MCLEOD: Which is as we  
24 discussed at the last deposition, these  
25 portions of these documents that have been

02:47PM

1 redacted were redacted on the grounds that  
2 they contain attorney-client communications  
3 evidenced by the to and the from lines on the  
4 documents themselves.

5 MR. POLAND: Right.

6 MR. MCLEOD: So that we've made a  
7 part of the record. So I don't know if  
8 there's some other --

02:48PM

9 MR. POLAND: Well, I'm just trying  
10 to find -- this was in the formal response  
11 to -- IN the privilege log in the formal  
12 response. I'm looking for the assertion of  
13 the attorney-client privilege in any of these  
14 numbered paragraphs. I understand there was  
15 an assertion of the attorney-client  
16 privilege, but that was back in December, and  
17 that was before the Court ruled. Again, they  
18 have different interpretations of the Court's  
19 ruling, but I wasn't sure whether that  
20 privilege was still being asserted, and  
21 apparently it is with respect to the  
22 document.

02:48PM

02:48PM

23 MR. MCLEOD: It is, and we had a  
24 lengthy conversation off the record obviously  
25 earlier today, but we do take the position

02:48PM

1           that the attorney-client privilege exists and  
2           applies to communications made between  
3           counsel and our client here that involves the  
4           delivery of legal advice. We maintain that  
02:49PM 5           that privilege applies, and we don't think  
6           that the Court in any way has eviscerated the  
7           attorney-client privilege to that extent.

8                           MR. POLAND: All right.

9   Q   Looking at Exhibit 36, Mr. Ottman, that very first  
02:49PM 10   e-mail, the caption is *Alternative Confituration*,  
11   which I think we can probably agree is supposed to  
12   be configuration of Assembly Districts 8 and 9; is  
13   that correct?

14   A   That's correct.

02:49PM 15   Q   And it actually says ADs 8 and 9, but that  
16   indicates Assembly districts, correct?

17   A   That's correct.

18   Q   And that is a document that Mr. Foltz created on  
19   July 8th, correct?

02:49PM 20   A   Yes.

21   Q   He sends it to Mr. Taffora and Mr. McLeod and a  
22   copy to you, correct?

23   A   Correct.

24   Q   There's an attachment to that document, and it's  
02:50PM 25   identified as *Alternative ADs 8 and 9*; do you see

1 that?

2 A Yes.

3 Q And it appears, in turn, if you look at the e-mail  
4 directly below that, there's an e-mail from you to  
02:50PM 5 Mr. Jensen, correct?

6 A Yes.

7 Q And that also attaches a document called  
8 *Alternative ADs 8 and 9.PDF*, correct?

9 A Yes.

02:50PM 10 Q Is that the same document?

11 A I believe so, yes.

12 Q So you forwarded that document to Mr. Jensen,  
13 correct?

14 A It appears so.

02:50PM 15 Q Did you forward the whole e-mail to Mr. Jensen?

16 A I don't believe so.

17 Q Do you know why it's printed out in this way if it  
18 wasn't all forwarded to Mr. Jensen?

19 A I don't know. I believe by date and time the  
02:51PM 20 Jensen e-mail precedes everything except the  
21 Adam Foltz e-mail.

22 Q All right. So the Foltz e-mail is created on  
23 Friday, July -- at 4:30 p.m. And the e-mail from  
24 you to Mr. Jensen follows 37 minutes later,  
02:51PM 25 correct?

1 A That's correct.

2 Q And it sends the same PDF file that Mr. Foltz had  
3 sent to Mr. Taffora, McLeod and copied you on,  
4 correct?

02:51PM 5 A Right. I believe that is the portion of the  
6 e-mail from Adam that I forwarded.

7 Q Generally speaking, what is the subject matter of  
8 the e-mail that Mr. Foltz sent to Mr. Taffora,  
9 Mr. McLeod, and copied you?

02:51PM 10 A I believe it had to do with the configuration of  
11 Assembly Districts 8 and 9.

12 Q Was there -- I want to word this carefully so  
13 Mr. McLeod has an opportunity to raise an  
14 objection if he feels it's appropriate. Was there  
02:52PM 15 any particular aspect of the configuration of  
16 Assembly Districts 8 and 9 that Mr. Foltz was  
17 addressing in his e-mail?

18 A Not that I recall.

02:52PM 19 Q Do you know whether in his e-mail or do you recall  
20 whether in his e-mail Mr. Foltz was asking that  
21 the alternative be forwarded to Mr. Jensen?

22 A I don't believe so, no.

02:53PM 23 Q Can you be any more specific about the subject  
24 matter of the configuration that Mr. Foltz was  
25 addressing in his e-mail?

1 A I don't recall.

2 Q Can you look back at Exhibit 115, please? I'm  
3 sorry, make that 116. Exhibit 116 also contains  
4 redactions, and we've talked about that before,  
5 correct?

02:53PM

6 A Correct.

7 Q If we look at the first e-mail from Mr. Troupis to  
8 you and Mr. Foltz, with copies to Mr. McLeod and  
9 Mr. Taffora. It's dated July 12th, 3:32; do you  
10 see that?

02:54PM

11 A Yes.

12 Q Do you recall the subject matter of the discussion  
13 or the wording that's in the e-mail that  
14 Mr. Troupis sent to you and Mr. Foltz?

02:54PM

15 A I believe it had to do with MALDEF and their  
16 consideration of the alternatives.

17 Q Can you be any more specific than simply that it  
18 had to do with MALDEF and their consideration of  
19 the alternatives? Was there some specific aspect  
20 of MALDEF's consideration of the alternatives that  
21 Mr. Troupis was addressing?

02:54PM

22 A I don't recall the specifics.

23 Q And this was the day before the public hearing on  
24 July 13th, correct?

02:55PM

25 A That's correct.

1 Q Do you know whether Mr. Troupis, in his e-mail,  
2 was addressing potential testimony by MALDEF at  
3 the hearing?

4 A It's possible.

02:55PM

5 Q Does the timing of the e-mail being on July 12th  
6 refresh your recollection at all about the  
7 specificity of the topic Mr. Troupis is discussing  
8 in this e-mail?

9 A It does not.

02:55PM

10 Q Did you have further discussions or communications  
11 with Mr. Troupis outside of these e-mail  
12 communications in Exhibits 36, 115, and 116  
13 regarding MALDEF or the configuration of Assembly  
14 Districts 8 and 9 where other people were present?

02:56PM

15 A Not that I recall.

16 Q Did Mr. Handrick participate in any of these  
17 discussions?

18 A Not that I recall.

02:56PM

19 Q Did Dr. Gaddie participate in any of these  
20 discussions?

21 A No.

22 Q Shift gears slightly here and ask you to take out  
23 three exhibits that are in front of you, 102, 103,  
24 and 104. Do you have those documents in front of  
25 you, Mr. Ottman?

02:57PM

1 A Yes.

2 Q All right. Do you recall in your deposition in  
3 December you testified about communications that  
4 you had with Andy Speth?

02:57PM 5 A Yes.

6 Q And who is Mr. Speth?

7 A He's chief of staff for Congressman Paul Ryan.

8 Q And just generally speaking, I think that you  
9 had -- please correct me if I'm wrong. I'm just  
10 trying to summarize here. You had described your  
11 role, I believe, as essentially facilitating the  
12 transfer of maps, but that you did not participate  
13 in preparing the map that ended up being Act 44;  
14 is that correct?

02:57PM 15 A That's correct.

16 Q I'd like you to look at Exhibit 102, please. Have  
17 you seen Exhibit No. 102 before?

18 A Yes.

19 Q And that's an e-mail communication you received  
20 from Mr. Speth, correct?

02:58PM

21 A That's correct.

22 Q Mr. Speth refers in that e-mail to a call that  
23 afternoon with the speaker of the majority leader  
24 Congressman Ryan; do you see that?

02:58PM 25 A Yes.

1 Q Did you participate in that call?

2 A I believe so, yes.

3 Q What was discussed in that call?

02:58PM

4 A As I recall, it was to discuss the timing for  
5 legislative action on the congressional plan.

6 Q As of June 14th, had a time been fixed yet?

7 A I don't believe so.

02:58PM

8 Q Now, it also identifies in the e-mail Mr. Speth  
9 states the purpose of the call is to get everyone  
10 on the same page as far as the process and timing  
11 of the congressional redistricting map is  
12 concerned; do you see that?

13 A Yes.

02:59PM

14 Q Was there a discussion not only about the timing,  
15 but also the process?

16 A I don't recall.

17 Q You don't recall any discussion in that call about  
18 the process of the congressional redistricting  
19 map?

02:59PM

20 A I don't recall what he's referring to by process.

21 Q Did you have a discussion with Mr. Speth at all  
22 about the process of the preparation and passage  
23 of the congressional redistricting map?

24 A Only to the extent of what software was used.

02:59PM

25 Q Did Mr. Speth ask you to provide any information

1 to him to assist him in preparing the map that  
2 resulted in Act 44?

3 A I believe he had requested some election data or a  
4 reference to where the election data was.

03:00PM 5 Q Did you provide Mr. Speth with election data?

6 A I think I sent him a link to the GAB web page.

7 Q Look at Exhibit 103, please. Have you seen  
8 Exhibit 103 before? You can take a minute to look  
9 at it.

03:00PM 10 A Yes. Yes, I believe so.

11 Q This is an e-mail from Mr. Speth. Again, you're  
12 one of the recipients, correct?

13 A That's correct.

03:00PM 14 Q And this is the day after the e-mail we saw in  
15 Exhibit 102, correct?

16 A Yes.

17 Q I'd like you to take a look through this e-mail  
18 just to see if it refreshes your memory at all  
19 about the conversation of the previous day.

03:00PM 20 A I don't recall anything in addition.

21 Q All right. There is a statement by Mr. Speth in  
22 this e-mail, in Exhibit 103, that says *Please let*  
23 *me know what I can do to help execute the*  
24 *legislative strategy*; do you see that?

03:01PM 25 A Yes.

1 Q Did you have a discussion at all with Mr. Speth  
2 about what he might be able to do to help execute  
3 legislative strategy?

03:01PM

4 A The only thing recall I recall was discussing with  
5 him whether he had talking points on a  
6 congressional map.

7 Q Did he have talking points on the congressional  
8 map?

9 A I believe so.

03:01PM

10 Q Did he provide those to you?

11 A Yes.

12 Q What did you do with those?

13 A I don't recall doing anything with them.

03:01PM

14 Q Did you use them in any way in preparing your own  
15 talking points?

16 A No.

17 Q Did you provide them to anyone else?

18 A I don't recall.

03:01PM

19 Q You see in the next sentence, Mr. Speth states *I*  
20 *will be in Wisconsin all of next week, and I'm at*  
21 *your disposal to assist in any way you deem*  
22 *appropriate; do you see that?*

23 A Yes.

03:02PM

24 Q Did you meet with Mr. Speth when he came back to  
25 Wisconsin in June of 2011?

1 A I don't recall.

2 Q There is a reference, if you look down a couple  
3 sentences further, that there will be talking  
4 points that will be forwarded to you, correct?

03:02PM 5 A Yes.

6 Q And if you take a look at Exhibit 104, are those  
7 the talking points that Mr. Speth provided?

8 A Yes.

9 Q Do you recall whether you sent those to anyone?

03:02PM 10 A I don't recall.

11 Q Did you ever discuss those talking points with  
12 Mr. Foltz?

13 A I don't recall.

14 Q Do you recall discussing with anyone?

03:02PM 15 A I don't recall.

16 Q And back to Exhibit 103, Mr. Speth, he has a  
17 statement where he says *Thanks for all the work*  
18 *you were doing to accomplish a very aggressive*  
19 *legislative agenda this month*; do you see that?

03:03PM 20 A Yes.

21 Q Do you know what he's referring to there?

22 A I assume it's generally working on the  
23 redistricting for the State.

24 Q Do you know why he referred to it as very  
03:03PM 25 aggressive legislative agenda?

1 A I don't.

2 Q Did you ever have any discussions with Mr. Speth  
3 where he characterized the legislative agenda as  
4 being aggressive?

03:03PM 5 A Not that I recall.

6 Q Did you ever discuss that with Mr. Foltz?

7 A No.

8 MR. POLAND: Peter, have you  
9 received the scan yet?

03:03PM 10 MR. EARLE: No. Well, let me hit  
11 send and receive again. It looks like I  
12 might be receiving something. I have not  
13 received it.

03:03PM 14 MR. POLAND: You have not received  
15 it. Okay, that's fine. Come back to it.

16 Q There are a stack of documents in front of you.  
17 There should be a document that's Exhibit No. 96.  
18 Do you have that in front of you?

19 A Yes.

03:04PM 20 Q Have you seen Exhibit No. 96 before?

21 MR. EARLE: I just got them.

22 MR. POLAND: You just got them?

23 MR. EARLE: Yeah.

03:04PM 24 MR. MCLEOD: Could you hold on a  
25 second?

1 MR. POLAND: Yeah.

2 MR. MCLEOD: I can't find 96.

3 MR. POLAND: Peter marked it  
4 yesterday.

03:04PM

5 MR. EARLE: What are you talking  
6 about?

7 MR. POLAND: This is an exhibit you  
8 marked yesterday, Peter, 96.

9 MR. KELLY: What is 96?

03:05PM

10 MR. POLAND: Eric can show it to  
11 you.

12 Q You have 96 in front of you?

13 A Yes.

14 Q Have you seen Exhibit No. 96 before?

03:05PM

15 A Yes.

16 Q And that's an e-mail from Mr. Troupis to various  
17 people, and you are copied on it, correct?

18 A That's correct.

19 Q All right. And do you see that the subject line  
20 says *The Hispanic Community Speaks in Milwaukee*?

03:05PM

21 A Yes.

22 Q If you turn to the second page, you'll see that  
23 there is a wispolitics.com press release?

24 A Yes.

03:05PM

25 Q Do you know whether that is -- well, actually, let

1 me turn back to the first page -- strike that last  
2 question. If you look at the second e-mail in the  
3 chain on the first page, there's an e-mail from  
4 Adam Foltz sent to various people, including you,  
5 on June 6th, 2011?

03:06PM

6 A Yes.

7 Q And there is a link there in that e-mail; do you  
8 see that?

9 A Yes.

03:06PM

10 Q And if you turn the page now, you see there is a  
11 wispolitics press release?

12 A Yes.

13 Q I should say a Voces de la Frontera press release  
14 that is printed in wispolitics?

03:06PM

15 A Yes.

16 Q Do you recall receiving this e-mail from Mr. Foltz  
17 containing this link?

18 A Yes.

19 Q And then above is an e-mail from Mr. Troupis; do  
20 you see that?

03:06PM

21 A Yes.

22 Q Do you recall receiving this e-mail?

23 A Yes.

24 Q Now, Mr. Troupis states in his e-mail, *The problem*  
25 *here is that the group want*, and I think it's

03:06PM

1 probably a typo, *70 percent*; do you see that?

2 A Yes.

3 Q Do you know what Mr. Troupis meant when he said  
4 the group wants 70 percent?

03:06PM

5 A I believe it's referring to something in the  
6 attached article.

7 Q What is it referring to in the attached article?

8 A I believe it was to a local Milwaukee  
9 redistricting plan.

03:07PM

10 Q When you say local Milwaukee redistricting plan,  
11 are you referring to a particular district?

12 A No.

13 Q Did it pertain to -- is it your understanding that  
14 he was referring to an Assembly district?

03:07PM

15 A I don't believe so.

16 Q Do you know what district he was referring to?

17 A I don't.

18 Q Did you ever have any discussions with Mr. Troupis  
19 where he referred to 70 percent -- well, strike  
20 that question. Do you know what population he's  
21 referring to when he refers to 70 percent?

03:07PM

22 A I believe it's to Hispanic population.

23 Q Do you know whether that's total population, a  
24 voting age population, or something different?

03:08PM

25 A I don't know.

1 Q Mr. Troupis says *This is classic overkill*. Do you  
2 know what he meant when he says this is classic  
3 overkill?

4 A I do not.

03:08PM

5 Q Did you ever have a discussion with Mr. Troupis  
6 about that statement, this is classic overkill?

7 A Not that I recall.

8 Q Did you ever talk to Mr. Handrick about that or  
9 Mr. Foltz?

03:08PM

10 A Not that I recall.

11 Q Mr. Troupis goes on to say *I am already very*  
12 *worried about the 65 percent*; do you see that?

13 A Yes.

14 Q Do you know what Mr. Troupis meant by that  
15 statement?

03:08PM

16 A I do not.

17 Q Did you ever have any discussions with Mr. Troupis  
18 where he talked about 65 percent figure?

19 A I don't recall.

03:08PM

20 Q Do you know what 65 percent figure he's referring  
21 to in that statement?

22 A I'm not certain.

23 Q Now, Mr. Troupis goes on to say *Can we see what*  
24 *that would look like*; do you see that?

03:09PM

25 A Yes.

1 Q And then it says *I assume it makes the 2nd*  
2 *Assembly District not much better than the 55*  
3 *percent, correct?*

4 A Yes.

03:09PM

5 Q I'd like to focus on the first part of that  
6 sentence first, *Can we see what that would look*  
7 *like; do you see that?*

8 A Yes.

03:09PM

9 Q Did you ever prepare any maps in response to  
10 Mr. Troupis's statement *Can we see what that would*  
11 *look like?*

12 A I don't believe so.

03:09PM

13 Q Did you talk with Mr. Troupis or anyone else about  
14 possibly preparing a map that would show what that  
15 would look like?

16 A Not that I recall.

03:09PM

17 Q Mr. Troupis then goes on to state *I assume it*  
18 *makes the 2nd Assembly District not much better*  
19 *than 50 to 55 percent; do you see that statement?*

20 A Yes.

21 Q Do you know what he means by the 2nd Assembly  
22 District?

23 A I'm not sure.

03:09PM

24 Q Do you know if that's a reference to Assembly  
25 Districts 8 and 9?

1 A It's possible.

2 Q And there is also reference to 50 to 55 percent;  
3 do you see that?

4 A Yes.

03:10PM 5 Q Do you know what the 50 to 55 percent is that he's  
6 referring to there?

7 A I'm not certain.

8 Q Did you ever have any follow-up discussions with  
9 Mr. Troupis about that request to see what that  
03:10PM 10 would look like?

11 A Not that I recall.

12 MR. POLAND: Peter, you said you  
13 did get --

14 MR. EARLE: I just got them.

03:10PM 15 MR. POLAND: Let's go ahead and  
16 mark them. Peter should have them as scans.  
17 Let's mark them. They can just be marked  
18 consecutively. Why don't you go ahead and  
19 mark these, Brandé. Let's go off the record,  
03:11PM 20 and I'll go retrieve my other set.

21 THE VIDEOGRAPHER: The time is  
22 3:10. We are going off the record.

23 (Recess taken)

24 (Exhibit Nos. 123 and 124 marked for  
03:12PM 25 identification)

1 THE VIDEOGRAPHER: The time is  
2 3:12. We are back on the record.

03:13PM 3 Q Mr. Ottman, the court reporter has given you two  
4 documents that have been marked as Exhibit  
5 Nos. 123 and 124; do you have those in front of  
6 you?

7 A Yes.

8 Q I'd like to draw your attention to Exhibit  
9 No. 123, please?

03:13PM 10 A Yes.

11 Q Can you identify that for the record?

12 A Yes, it's a privileged attorney-client  
13 communication document.

14 Q Who prepared Exhibit 123?

03:13PM 15 A Attorney McLeod.

16 Q And what was the purpose in preparing Exhibit 123?

17 A This was prepared in anticipation of meetings with  
18 individual legislators.

03:13PM 19 Q And those are meetings that you've testified to  
20 here in your deposition today?

21 A That is correct.

22 Q So those are the meetings that you had with the  
23 individual republican senators and at least in  
24 some of those meetings, Senator Zipperer too,  
03:14PM 25 correct?

1 A That's correct.

2 Q Did you ask to have Exhibit 123 -- the documents  
3 that are contained within Exhibit 123 prepared?

4 A I don't recall.

03:14PM 5 Q Do you know whether Senator Zipperer made that  
6 request?

7 A I don't believe so.

8 Q When were the pages, each of the individual pages,  
9 that make up Exhibit 123 signed?

03:14PM 10 A I believe they're all dated when they were signed.

11 Q And I should have asked the question a different  
12 way. Were they dated on the dates when the  
13 confidentiality and nondisclosure agreements were  
14 given to each of the individual senators to sign?

03:14PM 15 A That's my recollection, yes.

16 Q So as I flip through the documents, it looks like  
17 they range between April and May; is that correct?

18 A Largely, yes.

03:15PM 19 Q Some of the dates, it's a little hard to tell is  
20 the reason I ask. The first page, it looks like  
21 that first number of the date could be a 7; it  
22 could be a 4. I just can't quite tell. Do you  
23 know whether that is a 7 or a 4?

24 A I believe that's a 4.

03:15PM 25 Q Did you participate at all in the drafting of any

1 of the documents in Exhibit 123?

2 A I do not.

3 Q Do you know who did participate in drafting them?

4 A I don't.

03:15PM

5 Q Were these agreements given to the senators to  
6 sign at the first of the two meetings that you had  
7 with them individually?

8 A Yes.

03:16PM

9 Q After the senators signed them, they gave the  
10 documents back to you; is that correct?

11 A That's correct.

12 Q And then you held them after that point in time?

13 A That's correct.

03:16PM

14 Q There was some testimony yesterday by Mr. Foltz  
15 about where the signed confidentiality agreements  
16 were maintained. I believe he testified they were  
17 maintained in a file cabinet at the Michael Best &  
18 Friedrich offices in Madison. Is that where the  
19 documents that make up Exhibit 123 -- Exhibit 123  
20 were maintained?

03:16PM

21 A I don't believe so.

22 Q Do you know where they were maintained after they  
23 were signed?

24 A I believe they were on my desk.

03:16PM

25 Q And that was over at the -- over at the Capitol

1 building?

2 A No, in the office provided to the state  
3 legislature by Michael Best & Friedrich.

03:17PM

4 Q In the second sentence of -- we'll just look at  
5 the first page of Exhibit 123. Is the substance  
6 of all of the agreements the same?

7 A I believe so.

8 Q The only thing that should be different is the  
9 signatures and the dates; is that correct?

03:17PM

10 A It looks like there's a typo on the top of the  
11 first one. I don't know if any of the others  
12 contain that typo as well.

13 Q I see. So clients is CLEI in the first page and  
14 on some of the pages and not others?

03:17PM

15 A Yes.

16 Q Let's just take the first page as an example. The  
17 second sentence, do you see that it states, "In  
18 connection with the representation, we have  
19 instructed certain individuals, working at our  
20 direction, to meet with certain members of the  
21 Senate for the purpose of discussing matters  
22 within the scope of the representation." Do you  
23 see that?

03:17PM

24 A Yes.

03:17PM

25 Q Do you know who it is who has been instructed to

1 meet with members of the Senate?

2 A I'm not -- I'm not certain exactly who that refers  
3 to.

03:18PM

4 Q All right. Were you ever instructed by anyone to  
5 meet with certain members of the Senate for the  
6 purpose of discussing matters within the scope of  
7 Michael Best & Friedrich's representation?

8 A Not that I recall.

03:18PM

9 Q Now, the agreement goes on to state "Such  
10 discussions shall be conducted for the sole  
11 purpose of assisting MB&F in rendering legal  
12 advice to the Senate, and therefore, are subject  
13 to the attorney-client and attorney work product  
14 privileges. Consistent with those privileges,  
15 such discussions are and shall remain  
16 confidential." Do you see that?

03:18PM

17 A Yes.

03:19PM

18 Q When you provided these agreements to each of the  
19 senators when you met with them, did you have a  
20 discussion about keeping those discussions  
21 confidential?

22 A Yes.

23 Q Did they agree to keep them confidential?

24 A Yes.

03:19PM

25 Q And to the best of your knowledge, did they keep

1           them confidential?

2       A    I don't know.

3       Q    Did you sign a confidentiality agreement?

4       A    Yes.

03:19PM

5       Q    And is that confidentiality agreement in this  
6           stack; do you know?

7       A    I don't believe so.

8       Q    Did you keep confidential the substance of the  
9           discussions that you had with individual members  
10          of the Senate?

03:19PM

11      A    Yes.

12      Q    And by keep confidential, I don't -- I mean  
13          disclose to anyone other than counsel?

14      A    Right.

03:19PM

15      Q    And then other in this deposition and discussions  
16          with counsel, did you not disclose the fact and/or  
17          contents of those discussions or any draft  
18          documents with anyone outside of the privilege  
19          that applies -- that was asserted to apply?

03:20PM

20      A    I believe so, yes.

21      Q    Do you know whether this, the agreements that are  
22          contained within Exhibit 123 remain in effect  
23          today?

24      A    I don't know.

03:20PM

25      Q    Have you discussed the agreement, this

1 confidentiality and nondisclosure agreement with  
2 any of the senators after the time that you met  
3 with them last year as part of the redistricting?

4 A I don't recall now.

03:20PM

5 Q I'd like you to look at Exhibit 124, please. Can  
6 you identify Exhibit 124 for the record?

7 A Yes. It's a identical confidentiality agreements  
8 with signatures from state representatives.

03:21PM

9 Q And you did not participate in the meetings with  
10 the state representatives; is that correct?

11 A That's correct.

12 Q Mr. Foltz met with the state representatives?

13 A Yes.

03:21PM

14 Q Did you at any time take possession of the  
15 documents that are contained within Exhibit 124?

16 A I don't believe so, no.

17 Q Do you know where the documents contained in  
18 Exhibit 124 were maintained?

19 A I don't.

03:21PM

20 Q Turning back again to Exhibit 123, or at least to  
21 the topic of those meetings themselves, I just  
22 want to make sure that I understand. Those  
23 meetings were solely between you, the individual  
24 republican senators, and occasionally

03:22PM

25 Senator Zipperer; that's correct?

1 A That's correct.

2 Q And no one else was physically present for those  
3 meetings?

4 A That's correct.

03:22PM

5 Q And nobody was participating by telephone in those  
6 meetings?

7 A I did have a telephone discussion with  
8 Senator Ellis.

03:22PM

9 Q Was that just between you and Senator Ellis, or  
10 was anybody else involved in that discussion?

11 A There was nobody else on my end.

12 Q What about senator -- well, do you know whether  
13 anybody else was on Senator Ellis's end?

14 A I don't know.

03:22PM

15 Q I'd like you to take a look at Exhibits 107, 108,  
16 and 109. They're in the stack.

17 MR. MCLEOD: Could you say those  
18 numbers again, please?

19 MR. POLAND: Sure, 107, 108, and  
20 109.

03:23PM

21 Q Do you have those in front of you?

22 A I do.

23 Q Turning to Exhibit No. 107, looking at the first  
24 e-mail, that's from you to Mr. Foltz; do you see  
25 that, on Saturday, July 9th?

03:24PM

1 A Yes.

2 Q And you state in there that you spoke to Jensen's  
3 Hispanic contact, Jesus Rodriguez; do you see  
4 that?

03:24PM

5 A Yes.

6 Q Now, when did you speak to Jesus Rodriguez?

7 A I don't recall.

8 Q Was it on or around July 9th?

9 A It was shortly before then.

03:24PM

10 Q What did you and Mr. Rodriguez discuss in that  
11 call?

12 A We discussed the alternatives we had drawn for  
13 Assembly Districts 8 and 9, and he requested  
14 information on -- or maps of the configuration  
15 along with heat maps for those districts as well  
16 as some other areas of the state.

03:24PM

17 Q Would you look at Exhibits 108 and 109, please,  
18 just take a look at them, and I wanted to ask you  
19 whether those relate to your conversations with  
20 Mr. Rodriguez?

03:25PM

21 A Not specifically, but these are similar.

22 Q All right. And so can you identify Exhibit 108,  
23 please?

24 A That is a heat map displaying Hispanic voting age  
25 population in Milwaukee.

03:25PM

1 Q Is that a document that you prepared?

2 A I don't know.

3 Q Do you know, if you turn to the second page, and  
4 again, this is the order they were produced to us.

03:25PM

5 I don't know whether the e-mail is supposed to  
6 come first or the map is supposed to come first,  
7 but that's the way they were produced. Do you  
8 believe that the heat map, that is the first page  
9 of 108 was, in fact, attached to the e-mail that's  
10 on the second page?

03:25PM

11 A I believe so, yes.

12 Q Do you know whether you had requested Mr. Foltz to  
13 send this heat map to you?

14 A I may have.

03:25PM

15 Q Did you ask him to prepare this map in  
16 Exhibit 108?

17 A I don't recall.

18 Q Do you recall just generally asking Mr. Foltz to  
19 prepare any heat maps of the Hispanic districts in  
20 Milwaukee?

03:26PM

21 A Yes.

22 Q And why did you do that?

23 A Because that was one of the areas that  
24 Zeus Rodriguez had requested a heat map for.

03:26PM

25 Q Did Mr. Rodriguez tell you why he wanted the heat

1 maps?

2 A I don't recall.

3 Q Now, back to your e-mail in Exhibit 107, there is  
4 a statement you make to Mr. Foltz. You say *Along*  
5 *with the heat map from Milwaukee, he was*  
6 *interested in heat maps at least from Racine and*  
7 *maybe from Waukesha and Madison to show that those*  
8 *communities aren't fractured*; do you see that?

9 A Yes.

10 Q Did the request regarding or the discussion  
11 fracturing of communities come up with respect to  
12 Districts 8 and 9 in Milwaukee in your  
13 conversation with Mr. Rodriguez?

14 A Not that I recall.

15 Q Did you ever talk to Mr. Rodriguez about the  
16 fracturing of any communities of interest in the  
17 Latino districts in Milwaukee?

18 A Not that I recall.

19 Q Turning to Exhibit No. 109, that's another heat  
20 map of the Hispanic voting age population in  
21 Milwaukee, correct?

22 A Yes.

23 Q And this is a -- I'll just ask you to describe  
24 what this heat map shows?

25 A This is a heat map of the Milwaukee County

1 Hispanic voting age population with an overlay, I  
2 believe, of the 2002 court districts.

3 Q So those are the districts that existed at the  
4 time, correct?

03:27PM 5 A I believe so, yes.

6 Q What was the purpose of having the map in  
7 Exhibit 109 prepared?

8 A I believe it was part of the request of what  
9 Zeus Rodriguez wanted to look at.

03:28PM 10 Q Did he tell you why he wanted to see the 2002  
11 districts versus the draft districts or proposed  
12 districts at the time?

13 A I don't recall.

14 Q Once these -- strike that question. Did you send  
03:28PM 15 these heat maps to Mr. Rodriguez?

16 A I don't know if I sent these heat maps. I sent  
17 heat maps to Mr. Rodriguez.

18 Q And did you have discussions with Mr. Rodriguez  
19 about the heat maps that you forwarded to him?

03:28PM 20 A I don't -- I don't believe so.

21 Q Did you have discussions with anyone other than  
22 Mr. Rodriguez in the Latino community about the  
23 proposed districts, the draft districts?

24 A I don't believe so.

25