Q The e-mail states, "The African-American districts we are talking about Assembly Districts 10, 11, 12, 16, 17 and 18." Do you see that?
A Yes.

Q You say in the e-mail We are talking about. What did you mean by that?
A That those were the districts with the applicable minority percentages, voting-age percentages listed below.

Q Why did you say We are talking about? Who is talking about these districts?
A I believe that was from my conversation with Mr. Randall.

Q With Mr. Randall?
A Yes.

Q So you and Mr. Randall discussed Assembly Districts 10, 11, 12, 16, 17 and 18?
A Yes.

Q Why were you talking about those districts?
A I was talking to him to see if he or others may be interested in testifying about those districts at the hearing, at the public hearing.

Q Did Mr. Randall end up testifying at the public hearing?
A I don't recall.
Q Did anyone end up talking, testifying about Assembly Districts 10, 11, 12, 16, 17 and 18 at the public hearing?

A I don't recall.

Q And by public hearing, I assume you mean the July 13, 2011 hearing, correct?

A That's correct.

Q Do you know whether Mr. Troupis had conversations with Gerard Randall about those assembly districts?

A I don't know.

Q Were you privy to any conversations between Mr. Troupis and Mr. Randall with respect to those assembly districts?

A No.

Q You go on to state in there, "The Hispanic districts are Assembly Districts 7, 8 and 9." Do you see that?

A Yes.

Q Did you have conversations with Mr. Randall about Assembly Districts 7, 8 and 9?

A I don't recall.

Q Further down in the e-mail, you say, "Under SB 148, below are listed the voting-age percentages." Do you see that?
A Yes.

Q And then you've got Assembly District 10, Assembly District 11, and Assembly District 12, correct?

A Correct.

Q And there are percentages next to each of those, correct?

A Correct.

Q What do those percentages signify?

A Those are the black voting-age percentages for those districts.

Q It was under the proposed new districts, correct?

A Correct.

Q Because this is July 12, and the Act 43 hadn't yet been passed, correct?

A That's correct.

Q Senate District 4 has a percentage attached to it as well, 58.4 percent, correct?

A That's correct.

Q And is that, again, that is the percentage of African-Americans in Senate District 4?

A Of voting age.

Q Of voting age?

A Uh-huh.

Q And Senate District 4 as configured under SB 148?

A That's correct.
Q And then we also have Assembly Districts 16, 17 and 18 and Senate District 6. Again, are the percentages identified next to those districts, that's the voting-age population of African-Americans in those districts?

A That's correct.

Q Under Senate Bill -- I'm sorry -- yes, under Senate Bill 148?

A Correct.

Q Did you have conversations with any of these recipients, Mr. Rivera, Mr. Spindell or Mr. Randall, about the e-mail and the attached Excel spreadsheet after the time that you sent the e-mail?

A I don't recall.

Q Did you have any follow-up communications of any nature with Mr. Rivera, Mr. Spindell or Mr. Randall after the time you sent this e-mail?

A Not that I recall.

Q The next document is a printout of a Gmail from you, and this one is a little bit different in that it says, tad.ottman@legis.wisconsin.gov. Do you see that?

A Yes.

Q And so this is an e-mail that came from your state
e-mail account, correct?
A Correct.

Q And that's an e-mail that you have by virtue of your employment with the State of Wisconsin?
A That's correct.

Q And you sent that to yourself at your Gmail account, correct?
A Correct.

Q Is there a reason that you sent this e-mail from your state e-mail account to your Gmail account?
A Yes, it was easier to track and maintain in my Gmail account.

Q Is that just the nature of the software or the way that the e-mails are kept track of?
A It's more of a personal preference.

Q Just like working with Gmail more than the state e-mail?
A Correct.

Q So you're forwarding to your Gmail account a message from Tony Van Der Wielen that he had sent to you and to Mr. Ottman on March 17th, correct?
A Yes.

Q And the subject says Field Calculations?
A Yes.

Q Mr. Van Der Wielen says, "Here is how the data was
calculated." Do you see that?
A Yes.
Q What is the data that Mr. Van Der Wielen is referring to?
A He is referring to the demographic data that is included with the autoBound software.
Q The demographic data that's included with the autoBound software?
A Yes.
Q When you say included with the autoBound software, what do you mean by that?
A It's the labels that that software generates for the census data.
Q So you have to actually plug the census into the autoBound database, correct?
A Yes. I don't know if that's done by the autoBound folks, I believe that's who does it.
Q So when you receive the autoBound software, it already had a database that was attached to it or incorporated in some way?
A That's correct.
Q Where did you get your autoBound software and database from?
A The legislature ordered the software.
Q Who provided it to you?
Q On the second page of this printout, after a note, there's a number 18. Do you see that?
A Yes.

Q And then after it, there's a line that says, "This is based on the DOJ guidance that is attached to this e-mail." Do you see that statement?
A Yes.

Q And what is the DOJ guidance that's attached to the e-mail from Mr. Van Der Wielen?
A That is attached on the next page.

Q All right. And so that's the Department of Justice guidance concerning redistricting and retrogression under Section 5 of the Voting Rights Act?
A Yes.

Q Why was Mr. Van Der Wielen sending this to you?
A I believe it was an explanation of the categories that were referenced earlier in the e-mail.

Q Had you asked Mr. Van Der Wielen to send this to you?
A I had asked him for the distinction between some of the categories as to why -- what the labels meant.

Q Those were the labels that were assigned by the
autoBound software?
A Correct.
Q Did you ask him specifically for DOJ guidance on the Voting Rights Act?
A No.
Q Did you make any determinations on your own about whether the Voting Rights Act applied to the redistricting that you were performing?
A I did not.
Q I'd like you to flip forward a few more pages until you come to a document that looks like this. It's got several columns of numbers that are printed out. There you go.
A Yes.
Q And for the record, this is a -- on my copy it's a two-page stapled document. Is yours two pages as well, Mr. Ottman?
A It is.
Q And across the top there are a number of headings, Year, Senate Seats, Dem Inc, I-n-c, GOP Inc, I-n-c, Dem Uncontested, GOP Uncontested, Third Party. Do you see that?
A Yes.
Q What is this document?
A This was a document that Professor Gaddie asked me...
to prepare, reflecting election results and state senate races through the decade.

Q Why did Dr. Gaddie ask you to prepare this document?
A I don't know.

Q When did Dr. Gaddie ask you to prepare this document?
A I don't recall exactly.

Q Was it before the time that there was a final map that was sent to the legislature?
A I believe so.

Q Did Dr. Gaddie ask you to prepare this by an e-mail or were you together in person or was this by telephone?
A He asked me in a conversation to prepare this.

Q Was that a conversation in person?
A I believe so.

Q How many times have you met Dr. Gaddie?
A I don't recall exactly.

Q With respect to the 2011 redistricting, how many times did you meet with him personally?
A Perhaps two or three.

Q Were those meetings always at the Michael, Best & Friedrich offices?
A Yes.
Q Dr. Gaddie did not tell you why he wanted you to produce this particular document or prepare this document?
A If he did, I don't recall.

Q Was anyone else present with you and Dr. Gaddie when he asked you to prepare this particular document?
A Adam Foltz I believe was there.

Q And so, let's take a look at, for example, the 2010 election. There is a column that says Senate Seats, correct?
A Correct.

Q And what do those numbers below, in that column, what do they signify?
A Those are the numbers of the senate seats that were up for election in that year.

Q And Dem Inc column, what do those numbers signify?
A I don't recall what the notations in those columns signify.

Q What the numbers mean, you don't recall what they mean?
A I don't recall.

Q What about GOP Inc, do you recall what that number means?
A I don't recall what that number means.
Q Dem Uncontested, do you know what that signifies?
A I believe the title refers to a state senate race
that was not -- which a democrat was elected and
uncontested.

Q And what about the GOP Uncontested column, what
does that refer to?
A That I believe refers to an election in which a
GOP senator was elected uncontested.

Q And how about third party?
A That I believe reflects races in which there was a
third-party candidate.

Q Did you make any use of this particular document
that you prepared?
A No.

Q You just gave it to Dr. Gaddie?
A Yes.

Q Were there other versions of this particular
document?
A Not that I recall.

Q Did Dr. Gaddie instruct you to prepare any other
docs?
A Not that I recall.

Q Did Dr. Gaddie use this particular document in any
way while you were present?
A No.
MR. POLAND: We need to take a break so we can change the videotape.

(Recess)

By Mr. Poland:

Q Mr. Ottman, I'm going to hand you two pages that I have taken from an exhibit that was marked at Mr. Handrick's deposition on Tuesday. For the record, these are two pages that have numbers on them in red and in black, and I'd like you to take a look at that printout. Is that a document that you've seen before?

A Yes.

Q And what is that document?

A I believe that this is a document, as the final map was being drafted, of which districts had been checked to see if there were inaccuracies.

Q And so at the top of that first page, it says districts that have been cleaned up through Thursday night. Do you see that?

A Yes.

Q Do you know what the reference to cleaned up means?

A I believe that means that they have been looked at to see if there are any errors, discontiguities, unassigned blocks, that sort of thing.
1 Q Who was involved in the process of checking for those errors?
2 A I believe Joe Handrick, Adam Foltz and I were all involved in that process.
3
4 Q Did you perform that analysis, those checks over at the Michael, Best & Friedrich offices?
5 A Yes.
6
7 Q Was anyone else present while you were performing that assessment?
8 A I don't recall.
9
10 Q Were there questions that came up while you were going through that process of cleaning up the districts where judgments had to be made about whether anything on the maps would be changed?
11 A I'm sorry, could you repeat that question?
12
13 MR. POLAND: Can you read the question back.
14
15 (Question read)
16
17 A Yes.
18
19 Q And when there was a decision that had to be made about whether a change would be made to the maps, who made the decision about whether to make a change?
20 A If I was working on the map, I would make that decision.
Q Did Mr. Handrick make other decisions?
A I don't know.
Q Did Mr. Foltz make other decisions?
A Yes.
Q Do you remember decisions that you made about changing the maps as you were going through this cleaning up process?
A Nothing specific.
Q I note on the two pages you have in front of you, and this is just from my own looking at it, it appears to me that the only difference between the two, is that the number 91 is black on the first page, the number 91 is red on the second page. Do you see that?
A Yes.
Q Does that indicate that a change was made to District 91?
A I don't know.
Q And there are 99 districts in here. Does that indicate the 99 assembly districts?
A That's correct.
Q So as you sit here today, you don't know whether there was a change made to the boundaries of Assembly District 91?
A Correct.
Q You can hand that back to me.

Turning back again to the document that we were looking at before I asked you about Exhibit No. 2. Were there any other versions or iterations of this two-page document that identifies the information from previous elections?

A This document?

Q Correct. Yes. Did you create any other versions or iterations of this document?

A Not that I recall.

Q Did you use it at all in the process of redistricting?

A No.

Q The next document in your stack is an e-mail, this one's on your Gmail account. This is from you to Dr. Gaddie, copying Mr. Foltz, Mr. Troupis, Mr. McLeod, Mr. Taffora, and it's dated July 17th. Do you see that?

A I have two e-mails to Professor Gaddie dated the 17th.

Q Okay. So let's take a look at the one on the first page. Those two are stapled together; is that correct?

A Yes.
Q Let's take a look at the e-mail on the first page?
A Okay.
Q And this is dated Sunday, July 17th, at 11:40 a.m. Do you see that?
A Yes.
Q You state in your e-mail, "Keith, Jim Troupis asked that I have you take a look at the amendment that was adopted in the committee on the Hispanic districts." Do you see that?
A Yes.
Q Did -- do you know why Mr. Troupis was asking you to send this e-mail to Dr. Gaddie?
A I don't recall.
Q Did you have a conversation with Mr. Troupis about sending this e-mail to Dr. Gaddie?
A There was a conversation in which he asked me to send this e-mail to Dr. Gaddie.
Q Did he tell you why he wanted you to send it to Dr. Gaddie?
MR. McLEOD: I'm going to assert --
MR. SHRINER: He said he didn't remember. You asked him the same question a minute ago.
MR. POLAND: I asked him a
MR. McLLOD: Can you repeat the
last two questions for me.
(Questions and answer were read)
MR. McLLOD: And I'm going to
assert the attorney-client privilege as to
the substance of that communication between
counsel and client here, and instruct the
witness not to answer accordingly.

Q Are you going to follow counsel's instruction not
to answer the question?
A I am.

MR. McLLOD: And just so the record
is clear, a lot of questions, Doug, are
going at specific communications between
the attorneys here and the client. The
question, as I understand it, is do you know
why Mr. Troupis asked you to send it. Is
that correct? Was that the question?
I'm trying to be as -- I'm trying to
follow your questions as specifically as
possible. If the question was do you know
why, I don't think that's subject to the
privilege. If you're asking for the specific
content of that communication, I'm trying to
make sure that we're asserting the privilege appropriately under those circumstances. But the questions that you're asking of a layperson related to attorney-client privilege communications is creating a lot of problems with respect to the appropriate assertion of the attorney-client privilege. And I want to make sure that the information that you were -- that you're seeking does not elicit the substance of those communications.

That's the nature of sort of my concern here at the moment. I think that the last question simply said do you know why. I think that's either a yes or no, he does or does not. But again, to the extent that what you're seeking is some further description of the content of that communication, I'm going to object on that basis.

MR. POLAND: I'm trying to ask the foundational question first, which should be a non-objectionable question, and depending on -- and I understand. I understand. We're going to disagree about what is covered and what isn't covered. I assume that will be resolved by a court. So to be clear, why
don't you read back the last question.

(Question read)

A I don't recall.

Q Do you know if Dr. Gaddie requested that information?

A I don't know.

Q You say, in the third paragraph, "There was testimony by two different Hispanic groups in favor of the configuration in amendment 2." Do you see that?

A Yes.

Q Who are the two different Hispanic groups that testified?

A I don't recall.

Q The last sentence there, you state Jim was -- I assume that was intended to be going to call you?

A I believe that's what it was intended to be.

Q All right. Let me read it the way I think you intended it to be. Jim was going to call you later today to get your thoughts if you have a chance to take a look at that, at the amendment. Do you see that language?

A Yes.

Q Do you know what thoughts Mr. Troupis was going to call Dr. Gaddie to get?
A: I don't know.

Q: Did you and Mr. Troupis have a discussion at all about that?

A: Not that I recall.

Q: And the next page of these two e-mails is an e-mail from Dr. Gaddie back to you, correct?

A: Correct.

Q: Dated the same day, at 1:18 p.m.?

A: Yes.

Q: Dr. Gaddie says, "I will look at them and can talk after 5 p.m." Do you see that?

A: Yes.

Q: Did you speak with Dr. Gaddie that day?

A: I did not.

Q: Do you know whether Dr. Gaddie spoke with Mr. Troupis that day?

A: I don't know.

Q: Next group of e-mails that are stapled together are dated the same day, Sunday July 17th, and this is at 1:33 p.m. Do you see that e-mail?

A: Yes.

Q: And this is, the heading at the top says Revised Timing. Dr. Gaddie says, "I am ready to talk."

A: Yes.
Q And again, this pertains to that same conversation that we were looking at in the previous document?
A Yes.
Q And you were not a part of any conversation with Dr. Gaddie on Sunday, July 17th?
A I was not.
Q All right. Turn to the last stapled group of documents that are in that stack. And this is a Gmail header again, correct?
A Uh-huh.
Q And this is your Gmail account?
A Yes.
Q And the header at the top says Alternative, is that supposed to be configuration of ADs 8 and 9?
A Yes.
Q Do you know the date of that e-mail?
A I believe it was July 8th.
Q Now, I note there is a bit of white space there at the top. Do you know whether that was anything that was redacted?
A Yes.
Q It was redacted?
A Yes.
Q There is no indication of who, it simply says Alternative Configuration of ADs 8 and 9 at the
top, 13 messages, and then under there is all blank space. There's no indication of who that was to or who it was from, it would appear. Is that correct?

A Yes.

Q So what's been deleted there is the address of anyone who sent or received at least that first part of that e-mail; is that correct?

A I believe so.

Q Do you recall who sent that e-mail?

A I don't.

Q Do you recall who the recipient of that e-mail was?

A I don't.

Q Do you recall whether there was anyone CC'd on that e-mail?

A I don't recall.

Q Now, it identifies a file attached to it that says Alternative ADs 8 and 9.PDF. Do you see that?

A Yes.

Q Is that a file that you've produced on the disk that you're giving to us today?

A Yes.

Q Is that the same as the previous file that we looked at that was attached to an e-mail that I
identified alternatives for Districts 8 and 9?

A It may be. I'm not certain.

Q Might be different?

A Might be different.

Q Do you know what the nature of the e-mail was that's been redacted?

A I believe it was communications with counsel.

Q Between --

MR. POLAND: Peter, you're going for the refrigerator again.

MR. EARLE: I'm sorry. Okay. How about now?

MR. SHRINER: It's because you won't give him a lunch break. We're getting hungry.

MR. POLAND: That's right.

Q When you say communications with counsel, communications between you and counsel?

A Correct.

Q Do you know which counsel specifically you were communicating with in that e-mail?

A I don't recall.

MR. McLEOD: Doug, can I interject briefly?

MR. POLAND: Yes.
MR. McLEOD: Obviously, my understanding is the e-mail is attorney-client privilege communication, which is why it was redacted. The to and from designation should not have been redacted. I'll provide you, after the lunch break, with a different version that identifies that information to which you're entitled. So that was an error on our part in the manner in which this was produced. But the assertion of privilege is attorney-client.

MR. EARLE: That will include the date too?

MR. McLEOD: It will include, yeah, it will include the date.

MR. EARLE: And the CC's?

MR. McLEOD: It will include all of that relevant information.

Q Just below that, Mr. Ottman, is, there's an e-mail dated Friday, July 8, 2011, that you sent to Scott Jensen, correct?

A That's correct.

Q Why did you send this e-mail to Mr. Jensen?

A Senator Zipperer mentioned that he may have some
contacts in the Hispanic community who could
review the proposal.

Q And who is Mr. Jensen?

A He's a former legislator.

Q You state in that first e-mail, you state -- you
say, "Scott, Rich Zipperer mentioned he had been
talking to you about the Hispanic districts in
Milwaukee." Do you see that?

A Yes.

Q And that's what you just referred to when you made
the reference to Mr. Zipperer?

A Correct.

Q You go on to say, "I wanted to get you a shapefile
of the amendment with an alternative configuration
of the two districts that was introduced along
with the bill on legislative districts." Do you
see that?

A Yes.

Q What do you mean by a shapefile?

A A shapefile is just a picture of the districts
without any information attached.

Q Is that the PDF that's attached, is that the
shapefile?

A Yes.

Q And again, that's something that's in the
information that you've provided for us today?

A That's correct.

Q So Mr. Zipperer asked you to send this to Mr. Jensen; is that correct?

A I believe so, yes.

Q Did you have any conversations with Mr. Jensen after you sent this e-mail to him?

A Yes.

Q When did you have those conversations with Mr. Jensen?

A I don't recall exactly. It was around the time of the e-mail.

Q And what was the nature of that conversation with Mr. Jensen?

A I was asking for contact information for the Hispanic contest -- contact, who turned out to be Zeus Rodriguez.

Q So you learned of Mr. Rodriguez through Mr. Jensen?

A That's correct.

Q Was Mr. Zipperer the one who asked you specifically to make this contact with Mr. Jensen?

A I believe so.

Q Did you have any other conversations with Mr. Jensen -- strike that. Did you discuss
anything with Mr. Jensen other than the contact
information for the person that turned out to be
Mr. Rodriguez?

A No.

Q How many times did you talk to Mr. Jensen about
the Hispanic districts in Milwaukee?

A Once, I believe.

Q So if you turn to the second page then, you'll see
there is an e-mail from Scott Jensen to
Jesus Rodriguez and a copy to you on Friday,
July 8th, correct?

A That's correct.

Q And Jesus Rodriguez, the e-mail address is
zeus@rodriguezwi.com; is that correct?

A That's correct.

Q And is Zeus a nickname for Jesus, do you know?

A That's my understanding.

Q So Mr. Jensen in this e-mail, it appears, is
instructing Zeus Rodriguez that he can contact you
for an explanation of both options, correct?

A That's correct.

Q Did Mr. Rodriguez contact you for an explanation
of the two options?

A He did.

Q When did he contact you?
1 A I don't recall exactly.
2 Q What was -- did you and Mr. Rodriguez have a
3    conversation about the two options?
4 A Yes.

12:07PM
5 Q Was this by phone?
6 A By phone and by e-mail.
7 Q How many times did you talk with Mr. Rodriguez by
8    phone?
9 A I don't recall exactly.

12:08PM
10 Q What was the conversation that you had with him?
11 A It related to a description of the alternatives, a
12    discussion of the voting-age percentages in the
13    district, and then he had information requests
14    that he wanted to see if I could provide him to
15    evaluate the districts and to consider testifying
16    in talking to other Hispanic groups about the
17    maps.
18 Q What information did he request from you?
19 A He requested, along with the district maps and the
20    overlays, he requested heat maps for the districts
21    in question as well as some heat maps for some
22    other communities he identified in the state.
23 Q And when you refer to heat maps, what do you mean
24    by that?
25 A They're a graphical representation of
concentration of minority populations.

Q And you said Mr. Rodriguez requested those heat maps for Districts 8 and 9; is that correct?

A That's correct.

Q And for any other districts in the state?

A For other communities.

Q What other communities did he ask you for heat maps of?

A Madison, Waukesha, and Racine.

Q And did you provide those to Mr. Rodriguez?

A I did.

Q Were those heat maps that you created?

A They were.

Q Did you use those heat maps in any way during the redistricting process?

A I did not.

Q Did you create heat maps for any other areas of the state other than Madison, Waukesha, Racine, and then Milwaukee?

A I don't believe so.

Q Mr. Jensen's e-mail also indicates that Mr. Rodriguez can contact Joe Handrick. Do you see that?

A Yes.

Q Did you ever have a conversation with Mr. Handrick
about the Hispanic districts?
A I don't recall.

Q If you turn the page, there is a reference and an
e-mail from Mr. Rodriguez about some materials
that he's requesting from you. Do you see that?
A At the top of the page?
Q Correct, at the top of the page?
A Yes.
Q Where he says What I really need is a comparison
of the new maps and the current map, along with
the actual demographics and percentages of the new
and the old districts, preferably in PDF. Do you
see that?
A That's correct.
Q And that's the information that was contained in
the PDFs that you sent to Mr. Rodriguez?
A That's correct.
Q I'm going to ask you to turn a couple of pages
back. There is an e-mail from you to
Mr. Rodriguez, the date is Saturday, July 9, 2011,
at 7:41 p.m. And in that e-mail you say, "Here is
the Milwaukee heat map." Do you see that?
A Yes.
Q Is that Milwaukee heat map produced in the
materials that you've brought with you today?
Q Below that is an e-mail from you to Mr. Jensen, also on July 9th at 7:43. Do you see that?
A Yes.

Q And you say Scott, if you could give me a call at your convenience, I would appreciate it. I'm at home the rest of the night or you can reach me tomorrow, and he gives you telephone numbers. Correct?
A Yes.

Q I'm sorry, I should say this is from you to Mr. -- from you to Mr. Jensen, correct?
A That's correct.

Q And Mr. Jensen did in fact give you a call?
A Yes.

Q And is that the conversation that you testified about before?
A That's correct.

Q And the e-mail that follows below that, that's dated Saturday, July 9, 2011, at 8:15 p.m., from Mr. Rodriguez, he refers there to the heat maps for Waukesha, Racine, and Madison. And are those the heat maps that you testified about a minute ago?
A That's correct.
Q All right. If you look at the next paragraph of Mr. Rodriguez's e-mail, he says, "Last but not least, when and who do I speak with about making actual changes to the proposal. I spoke with Joe and he said that we would be able to work with someone." Do you see that?

A Yes.

Q Is the Joe that he refers to there Joe Handrick?

A I don't know.

Q Did you ever have a conversation with Mr. Rodriguez that Mr. Handrick also was involved in?

A No.

Q If you turn the page. Up at the top is an e-mail from Mr. Rodriguez -- I'm sorry, that's an e-mail from you; is that correct?

A That's correct.

Q And you state in there, "In terms of a contact for information about changes to the proposal, you should contact Ray Taffora with Michael, Best & Friedrich," and it gives a telephone number. Do you see that?

A Yes.

Q Why did you instruct Mr. Rodriguez to contact Ray Taffora?
A He had requested a person to contact. I consulted with counsel and asked who he should contact, and they suggested Ray Taffora.

Q Who told you to tell Mr. Rodriguez that he should contact Ray Taffora?

A I don't recall.

Q But it was legal counsel?

A Yes.

Q Do you recall whether it was an attorney with Michael, Best & Friedrich?

A I believe so.

Q Do you know whether Mr. Rodriguez ever did speak with Ray Taffora?

A I don't know.

Q And the rest of the conversation in that e-mail on that page refers to heat maps, it would appear; is that correct?

A That's correct.

Q And those heat maps that you transmitted, those are attached to the, to the printout of this e-mail chain?

A Yes.

Q They are also produced in electronic format in the disk that you provided today?

A Correct.
Q Before we break -- we'll break in just a minute here for lunch.

MR. SHRINER: Promises, promises.

Q I have just one more question. Just one more document I wanted to have you take a look at. I'm going to direct you to Exhibit No. 28. Let me ask you before that. Mr. Ottman, have you seen copies of any orders entered by the Court in this case regarding claims of privilege that were asserted by your counsel over materials related to the redistricting work that you performed?

A Could you repeat the question?

(Question read)

A Yes.

Q What orders did you see?

A I saw the orders from Judge Stadtmeuller in response to the motions to quash.

Q I'm going to hand you document that's been marked as Deposition Exhibit 28. We marked that at Mr. Foltz's deposition. Have you seen a copy of Exhibit 28 before?

A Yes.

Q Who gave you a copy of Exhibit 28?

A I believe counsel provided it.

Q Is it a document that you had reviewed then with
legal counsel previously?

A I have skimmed through it. I don't know that I've reviewed it with counsel.

Q I'd like you to turn to the second page of Exhibit 28, and draw your attention to the third paragraph. It starts out several days later?

A Yes.

Q It states, "Several days later, on December 4, 2011, Tad Ottman, a legislative aid to Wisconsin State Senate Majority Scott L. Fitzgerald, was served with a subpoena by the plaintiffs." Do you see that?

A Yes.

Q And then it goes on and it describes documents that were requested in the subpoena, correct?

A Yes.

Q Then the next paragraph down, the one immediately following, the sentence states, "The Wisconsin Assembly and Senate ("the nonparties") have moved to quash both Mr. Handrick's and Mr. Ottman's respective subpoenas." Do you see that?

A Yes.

Q Then I'd like you to turn to page 4 of the order. And I'm going to draw your attention to about halfway down the page, there is a citation to a
case called Committee for a Fair & Balanced Map
and a citation. Do you see that?
A Yes.
Q Do you see then the Court goes on and states,
"And, even without that waiver, the Court would
still find that legislative privilege does not
apply in this case." Do you see that language?
A Yes.
Q Did you ever have any discussion with counsel
about the application of legislative privilege in
this case?
A Yes.
Q And what were you told about the application of
legislative privilege in this case?
MR. McLEOD: Well, can you read the
question back?
(Question read)
MR. McLEOD: As specifically asked
for in the substance of communication between
attorney and client, I'm going to instruct
the witness not to answer on grounds of
attorney-client privilege.
Q Are you going to follow counsel's instruction and
not answer that question?
A I am.
Q You have not made a determination on your own, is it true, about whether legislative privilege does or does not apply in this particular case?

A That's correct.

Q And you've not withheld any documents on your own outside of counsel's determinations about what is or is not subject to a legislative privilege in this case?

A That is correct.

MR. POLAND: Why don't we break for lunch.

(Lunch recess)

(Exhibit No. 36 marked for identification)

By Mr. Poland:

Q Mr. Ottman, at the lunch break did you meet with anyone other than Mr. McLeod, your counsel in this case?

A I talked to Adam Foltz.

Q I'm sorry, you talked to Adam Foltz?

A Yes.

Q And what did you and Mr. Foltz discuss?

A He asked me how the deposition was going. We talked a little bit about Doug LaFollette running against Walker.
Q Did you talk at all about redistricting or the issues involving redistricting that are involved in this litigation?

A Other than just asking how the deposition was going, no.

Q Did you talk about any specific testimony you gave this morning?

A Just a couple of -- what questions did they ask you, that sort of thing.

Q Did Mr. -- did you talk to Mr. Foltz about his testimony yesterday?

A No.

Q I'm handing you a copy that's been marked as Deposition Exhibit 36. I don't have a copy in front of me, so I'm going to do my best here I can without having it. Do you recall this morning there were a string of e-mails that --

MR. POLAND: Thank you. Mr. McLeod has given me a copy.

Q This morning we looked at some e-mails that were included within Exhibit 33-A, and it was a number of stapled pages reflecting e-mail correspondence between you and Mr. Foltz and some other people. Do you recall that?

A Yes.
Q All right. And I'm going to get more specific here. And specifically there was an e-mail that had come from your Gmail account, there was some information that had been inadvertently deleted at the top. Do you recall that?

A It had been redacted, yes.

Q It had been redacted. And there was an additional amount of information that was inadvertently reacted, correct?

A That's correct.

Q And that information that was inadvertently redacted appears on Exhibit 36, correct?

A That's correct.

Q So the information that was inadvertently redacted that now appears on Exhibit 36 identifies Mr. Foltz as the sender of an e-mail on July 8, 2011, correct?

A That's correct.

Q And Mr. Foltz's e-mail was going to Mr. Taffora, correct?

A That's correct.

Q And Mr. McLeod was also a recipient?

A That's correct.

Q And you were copied on that e-mail, correct?

A Correct.
Q All right. The other information that was
redacted from the earlier version of this e-mail
is -- continues to be redacted, correct?
A That's correct.
01:41PM Q And is it your understanding that that redacted
information has been omitted from this document
based on an assertion of privilege?
A That's correct.
01:41PM Q You can set that document -- actually, one more
question. Is there anything else that was added
to Exhibit 36, to your knowledge, that -- strike
that question. To your knowledge, is there
anything else in Exhibit 36 that can now be seen
that could not be seen on the earlier version of
the same document that we looked at?
A Not to my knowledge.
01:41PM Q You can set that document to the side.
Mr. Ottman, where do you currently live?
A I live in Madison.
01:42PM Q How long have you lived in Madison?
A I've lived in Madison since 1983.
01:42PM Q Do you have a curriculum vitae or resume?
A I do.
01:42PM Q Is it an updated version, or is there an updated
version?
I haven't updated it in some time.

So it's not a current CV or resume that you have?

That's correct.

Do you have a college degree?

Yes.

Where did you graduate from?

University of Wisconsin.

What year did you graduate?

'87.

What's your degree in?

Political science and English.

Do you have any other degrees?

No.

Never -- did you ever attend any other educational institutions after college?

No.

Never took any classes at law school?

No.

And you're not a lawyer, correct?

That's correct.

Your current position is with the Senate Majority Leader Fitzgerald; is that correct?

That's correct.

What year were you hired for that job?

I believe it was 2005.
Q: What are the tasks that you perform in that role?
A: I perform legislative analysis, work with other senators on budget legislation or other legislation before the senate. I attend meetings. I prepare information for him on legislation.

Q: Did Mr. Fitzgerald hire you for that position himself?
A: He did.

Q: Do you have an office over at the state capitol building?
A: Yes.

Q: Do you have your own office or do you share an office with others?
A: I share it with the media equipment.

Q: Do you have a computer that is located in that office?
A: Yes.

Q: Do you have an e-mail account that is accessible from that computer?
A: There is a state legislative e-mail account I --

Q: I'm sorry.
A: -- that I access on my computer.

Q: And an example of that e-mail is one I think that we saw in some of the earlier e-mails that we looked at; is that correct?
A That's correct.
Q Do you also access your Gmail account from that computer?
A Occasionally, yes.
Q For the purposes of work?
A Yes.
Q Do you have offices anywhere other than in the state capitol building?
A There are offices that have been provided to the legislature -- or office provided space provided to the legislature within Michael, Best & Friedrich.
Q And when was that space provided?
A I believe last December or January.
Q Meaning December of 2010, a year ago?
A Correct.
Q When was the first time that you accessed that space?
A I think December of 2010.
Q When were you assigned to work on the 2011 redistricting?
A Shortly after the 2010 elections.
Q Who gave you that assignment?
A Senator Fitzgerald.
Q So it was sometime between November election and
then December when you started in that office?

A That's correct.

Q Now, you had done redistricting previously, correct?

A I had worked on it previously.

Q And I should have used a better word than done. You had worked on redistricting previously?

A Yes.

Q And the first time was following the 1990 decennial census; is that correct?

A That's correct.

Q What position did you hold at that time when you worked on redistricting following the 1990 decennial census?

A I was a legislative aide to, at that time I believe it was State Representative Mary Panzer.

Q What did Representative Panzer ask you to do with respect to the redistricting in 1990?

A She asked me to just kind of help out with the redistricting actions that the legislature was undertaking at that time.

Q And Representative Panzer is a republican, correct?

A That is correct.

Q Do you know whether the republicans were in
control of the legislature at that time?
A It was a split legislature at that time.
Q Republicans controlled the assembly, democrats controlled the senate?
A I believe that's the split at that time.
Q Were you asked to assist with the redistricting of one of the two, either the senate or the assembly districts?
A They're all kind of tied together, so it was working on assembly districts that are then combined into the senate districts.
Q And what did you do specifically with respect to assisting on the redistricting following the 1990 decennial census?
A I don't recall a lot of the work, specific work I did in the early Nineties.
Q Did you draw any maps?
A I drew some portions of them.
Q Did you have any particular area of specialty that you developed as part of that process?
A No.
Q Did you work with any computers in drawing maps after the 1990 decennial census?
A Yes.
Q I think you testified earlier you don't recall
whether you used autoBound software at that time?

A That's correct.

Q What other people did you work with in the
redistricting following the 1990 decennial census?

A I worked with Joe Handrick, obviously
Representative Panzer. I can't remember who else
was involved at that point.

Q When did you meet Mr. Handrick for the first time?

A Sometime in the mid-1980s, I believe.

Q What work did you and Mr. Handrick perform
together in the redistricting following the 1990
decennial census?

A We worked on the redistricting software drawing
different districts.

Q Did you receive any instructions from anyone at
that time as to how to draw legislative districts?

A Not that I recall.

Q Did you receive any training in, at that time, and
I'm talking specifically following the 1990
decennial census, on redistricting generally?

A Not -- no.

Q Now, you also worked on redistricting following
the 2000 decennial census, correct?

A That's correct.

Q Let me back up and ask you one other thing. Are
you aware there was litigation following the 1990
decennial census?
A I am.
Q And relating to the redistricting?
A Yes.
Q And eventually there was a court-ordered plan,
correct?
A That's correct.
Q Did you work on the litigation at all following
the 1990 decennial census?
A I did not.
Q What job or what position did you hold in 2000
when you worked on the redistricting following
that decennial census in that year?
A I was working for then State Senator Mary Panzer
as a legislative aide.
Q So continuing the job that you had held after the
1990 decennial census?
A That's correct.
Q Had your duties changed from the duties that you
had performed in 2000 with respect to
redistricting -- strike that question. I said
2000. In the 2000 redistricting, did your duties
change from what they had been during the
redistricting following the 1990 decennial census?
A It was similar tasks, I would say.

Q Were there different or additional tasks that you performed in the 2000 redistricting versus the 1990 redistricting?

A Not specific additional tasks that I recall.

Q In 2000, you did have new tools at your disposal in the form of the autoBound software; is that correct?

A It was improved software, yes.

Q Do you recall whether it was autoBound that you used for the 2000 redistricting?

A Yes, I believe it was autoBound.

Q Did you receive training on the software at that time?

A Informal training.

Q Who gave you that training?

A Joe Handrick.

Q So you worked with Mr. Handrick again in the 2000 redistricting; is that correct?

A That's correct.

Q Did you work with Mr. Handrick at all between the work that you performed together for the 1990 redistricting and then the work you performed together in the 2000 redistricting?

A I guess I don't entirely understand the question.
Q In the years between those two redistricting efforts, did you work with Mr. Handrick at all?
A Yes.
Q In what capacity did you work with Mr. Handrick during that intervening time period?
A For a portion of that time, he was a state representative, so I may have worked with him on talking about legislative items that were moving through both houses.
Q But it wouldn't have been anything specifically relating to redistricting given that it was between decennial censuses; is that a correct statement?
A That's correct.
Q Did you work on the litigation following the 2000 decennial census?
A I guess I'm not clear on what that means.
Q Sure. There was a litigation following the redistricting -- strike that. The redistricting following the 2000 decennial census wound up going to court, correct?
A Correct.
Q And there was a court-ordered redistricting plan, correct?
A Correct.
Q Did you work at all in that litigation?
A I worked on some of the maps that were submitted as part of that litigation.
Q Who did you work with on those maps?
A I worked with Joe Handrick and Greg Hubbard.
Q Who is Mr. Hubbard?
A He at the time was working for the, I believe it was for the assembly caucus on redistricting.
Q Anyone else that you worked with in the litigation in 2000?
A Senator Panzer. I believe Representative Jensen was involved in that litigation.
Q Did you work with the lawyers who were representing the republicans in that litigation?
A Yes.
Q And who were the lawyers that you worked with?
A Jim Troupis, Eric McLeod. I don't recall others.
Q Did you perform any specific tasks in working on the maps that were submitted to the Court in 2000?
A Yes. I believe I worked on some exercises of looking for ways to reduce populations to closer to ideal in certain areas, or to check maps for -- to make sure that all blocks had been assigned, that sort of thing.
Q And when you say populations closer to ideals,
what do you mean by that?

A Checking to see if adding to or subtracting to neighboring districts would bring the population of both districts closer to the ideal population for assembly seats.

Q And what is an ideal population?

A It's whatever the population of the state is, total population of the state is for that census divided by 99 seats.

Q And is there a goal when you're looking at population deviation? A goal that you're trying to achieve in terms of the population deviations?

A There can be. For that, I believe there was a range of deviations that they were considering as part of the Court submittal.

Q And this is for the purpose of the litigation following, the redistricting litigation following the 2000 decennial census, correct?

A That's correct.

Q Is it a goal to try to achieve a 0 percent population deviation if you can?

A I don't recall if that was a goal for that redistricting cycle.

Q Generally speaking, do you try to attempt to get the population deviation as low as you can?
1 A It's one of the standards that you look at in
reapportionment.
2 Q In your experience, is there some deviation from
the 0 percent population deviation when engaging
in redistricting?
3 01:57PM
4 A That's my experience.
5 Q Have you ever been able to achieve or have you
ever seen anyone achieve a 0 percent population
deviation in legislative districts?
6 01:57PM
7 A In legislative districts? I believe there was a
submittal after either the 1990 or the 2000, I
don't recall which, that was at zero population
deviation.
8 Q Did you have any other specific tasks in the
litigation, the redistricting litigation following
the 2000 decennial census other than looking at
the population deviations and ways to reduce them?
9 01:58PM
10 A Not that I recall.
11 Q Between the time that you finished working on the
redistricting litigation and following the 2000
decennial census and the time that you started
working for Senator Fitzgerald in 2005, what did
you do in that time frame?
12 01:58PM
13 A I continued to work for State Senator Mary Panzer.
14 Q Right up until the time that you started working

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for Senator Fitzgerald?

A That's correct.

Q In that -- would that have been -- that would have been about a 2002 to 2000 time frame; is that correct?

A I'm sorry, what was the time frame?

Q When did you stop working on the litigation, the redistricting litigation following the 2000 decennial census?

A I think my work concluded when the maps were submitted to the Court.

Q Do you recall was that approximately sometime in 2002?

A Yes.

Q So between then and the time that you started with Senator Fitzgerald in 2005, what kinds of tasks were you performing for Representative Panzer?

A Similar to the task I had performed to her prior and performed for Senator Fitzgerald, legislative analysis, working with budget, working with caucus members on legislation moving through the body.

Q And that had nothing to do with redistricting; is that correct?

A That's correct.

Q Was there -- were there any types of
reapportionment issues that you looked at between the time that you stopped working on the litigation in 2002 and the time you started with Senator Fitzgerald in 2005?

A Not that I recall.

Q Did you receive any kind of training at all in that time frame on redistricting or reapportionment?

A No.

Q You mentioned you graduated from college in 1987, was it?

A Yes.

Q What did you do between the time you graduated from college and the time you started with Representative Panzer?

A I worked in the legislature during that period of time.

Q So that would have been when you graduated from the UW in 1987 up until what time?

A I believe I started working for Senator Panzer in 1989 or 1990.

Q What was your job in the legislature between 1987 and the time that you started working for Representative Panzer?

A I was a legislative aide for Senator Harsdorf,
Representative Berndt, and Representative Harsdorf.

Q And in that time frame, from 1987 until the time you started working for Representative Panzer, did you have any training or education with respect to reapportionment or redistricting?

A Not that I recall.

Q During the time you've been working for Senator Fitzgerald, have you received any formal training in reapportionment or redistricting?

A Yes.

Q When did you receive that training?

A Late last year, early this year.

Q So late 2010 or early 2011?

A Yes.

Q And what did that training consist of?

A Consisted of LTSB offering training on the software that was selected for the legislature to use.

Q Was that individual training or was it -- did you train together with other people?

A It was with Adam Foltz.

Q Have you ever had any training on redistricting or reapportionment generally outside of that training that you received from LTSB?
A No.

Q Are there any professional positions or jobs that you've held after graduating from college that I haven't asked you about or you haven't testified about?

A No.

Q Mr. Ottman, in preparing for this deposition, did you meet with anyone?

A I met with counsel.

Q Is that Mr. McLeod?

A Yes.

Q Did you meet with any other counsel?

A Yes.

Q Who else did you meet with?

A I met with Joe Olson.

Q Any other counsel that you met with?

A I don't believe so.

Q Was anyone else present during the time you were meeting with Mr. McLeod and Mr. Olson?

A Adam Foltz was present for some.

Q Anyone else present other than Mr. Foltz?

A No.

Q Did you discuss this deposition with anyone other than Mr. McLeod or Mr. -- strike that question.

Other than your legal counsel, did you discuss
this deposition with anyone else?
A No.
Q You mentioned before, you do have a computer in your office at the, over at the state capitol building, correct?
A That's correct.
Q Do you have an employer-issued cell phone that you use for your work?
A No.
Q Do you use your own personal cell phone for your business work?
A Yes.
Q And is that number still (608) 209-0219?
A That's correct.
Q Is that cell phone a Blackberry device or capable of sending e-mail?
A It's an Android device.
Q And is it capable of sending e-mail?
A Yes.
Q Do you send e-mail and receive e-mail on it?
A Yes.
Q And can you text message from it?
A Yes.
Q Do you text -- send and receive text messages from it?
A Yes.

Q Did you review any documents to prepare for your deposition today?

A Yes.

Q What documents did you review?

A The documents requested in the subpoena.

Q Okay. Did you review all documents that you found that were in your possession that were responsive to the subpoena?

A Yes.

Q Regardless of whether they were produced today or whether they were withheld pursuant to a claim of privilege?

A That's correct.

Q All the documents that you reviewed either would have been produced today or described in the privilege log that Mr. McLeod provided this morning; is that correct?

A That's correct.

Q And that's Exhibit 33, for the record.

Mr. Ottman, were you ever told by anyone that you might be deposed in this lawsuit?

A I don't recall.

Q Were you ever told by anyone that you wouldn't be deposed in this lawsuit?
Q: Do you understand you've been identified as a potential trial witness in this lawsuit?

A: I don't believe so.

Q: You can answer the question.

A: I was not aware.

Q: I'm going to ask you -- why don't I just get it here for you. I'm going to hand you a document that has been marked as Exhibit No. 10. I'm going to ask you to turn to the second page of Exhibit No. 10. Do you see it states Defendants' Amended Initial Rule 26(a) Disclosures?

A: Yes.

Q: Do you see that? I'd like you to take a look at -- turn to page 5, and look at paragraph No. 10. And before I ask you a question about that, let me ask you, have you seen Exhibit 10 before?

A: I have not.

Q: No one has ever shown this document to you?

A: No.

Q: You see paragraph No. 10 states, "Individuals from the legislature, and/or its various bodies, or
those individuals on a legislature's behalf, who were involved in drawing the redistricting maps that were signed into law on August 9, 2011, including without limitation, those individuals who reviewed the 2010 decennial census and assisted in determining the appropriate, constitutional boundaries for the state and Congressional districts as memorialized in Acts 43 and 44." And then your name is mentioned after that paragraph, correct?

A That's correct.

Q Did you in fact review the 2010 decennial census and assist in determining the appropriate constitutional boundaries for the state and Congressional districts as memorialized in Acts 43 and 44?

A No.

Q And what is incorrect about the statement that I just made?

A I did not review the boundaries for the Congressional districts.

Q So is it a true statement with respect to the constitutional boundaries for the state district, and I assume it's state senate and assembly districts, as memorialized in Act 43?
A That's correct.

Q And as you testified this morning, you did not do anything to prepare any of the maps that were reflected in Act 44, correct?

A That's correct.

Q And if you turn the page, to paragraph 11, do you see the statement -- strike that question. Were you in fact involved in reviewing census and population data from the 2010 decennial census to ensure a minimum population deviation for the new districts?

A Yes.

Q I'd like you to look at paragraph No. 12. And that's on the same page. If you flip it, you'll see that your, to the next page, you'll see your name appears at the top of page 7?

A Okay.

Q And then turn back to page 6. I'm going to read from paragraph 12. Did you -- were you involved in reviewing population and other data so as to preserve, to the extent possible and practicable, the core population of prior districts as well as communities of interest?

A Yes.

Q And that would have been with respect to Act 43,
A That is correct.
Q And not Act 44?
A Correct.
Q All right. Turn to page 7. I'd like to direct your attention to paragraph 13. Do you see your name is mentioned after paragraph 13?
A Yes.
Q Did you in fact assist the legislature in ensuring that the new redistricting maps, to the extent possible, kept wards and municipalities whole within legislative district boundaries, and to the extent possible recognized local government boundaries?
A Yes.
Q And the next paragraph is paragraph 14, and I would just ask you for the moment to turn over to page 8, and do you see your name appears after paragraph 14?
A Yes.
Q Did you in fact assist the legislature to ensure that if voters were shifted from odd to even set of districts, they were not unnecessarily disenfranchised by being deprived of the opportunity to vote?
Q Paragraph No. 15. Again, your name appears after that paragraph, correct?
A Yes.
Q And did you review the 2010 decennial census data and the previous districting maps to ensure that the new districts were as geographically compact as practicable?
A Yes.
Q Paragraph 16. Your name appears after that paragraph as well?
A Yes.
Q Did you assist the legislature to prevent unnecessary and unconstitutional voter dilution of minority voters?
A I guess I'm not entirely clear on what that means.
Q Okay. Do you have an understanding of what unconstitutional voter dilution of minority voters means?
A I'm not familiar with specific legal, or I should say federal criteria.
Q Okay. Did you -- did any of the tasks that you performed in the course of redistricting address dilution of minority voter interests?
A Yes.
Q And what was that?
A We worked with legal counsel and their consultants to review maps that affected minority voters.
Q And who were the legal counsel that you worked with?
A Jim Troupis, Eric McLeod.
Q Anyone else you can recall?
A Not that I recall.
Q And you also mentioned consultants, would that be Mr. Handrick?
A Professor Gaddie.
Q Was I correct in using the statement Mr. Handrick, or no?
A Not specifically to minority voters, no.
Q Okay. Professor Gaddie?
A Yes.
Q Anyone else?
A Not that I recall.
Q And what did you do -- what kind of work did you perform working with legal counsel and Professor Gaddie relating to minority voters?
A We presented map alternatives with different configurations for districts affecting minority voters.
Q And that would be African-American and Hispanic...
1 voters; is that correct?

2 A That's correct.

3 Q In what ways did you present those alternatives?

4 And by that I mean, did you present them as maps on a computer screen, were they maps that were printed out?

5 A Both.

6 Q How many different versions of maps did you present to legal counsel and Professor Gaddie?

7 A I don't recall.

8 Q On how many occasions did you present maps regarding minority interests to legal counsel and Professor Gaddie?

9 A I don't recall.

10 Q Was Adam Foltz a part of that process as well?

11 A Yes.

12 Q Did you save any of the -- those maps that you developed?

13 A Yes.

14 Q Are they still in existence?

15 A I believe so.

16 Q Do you know where they would be on a computer?

17 A Yes.

18 Q Are there also hardcopy printouts of those maps still in existence?
A: I don't recall.

Q: Did you discard any of those maps that you created relating to minority interests?

A: Yes.

Q: Did anyone ever tell you to discard maps that you created relating to the interests of minority voters?

A: No.

Q: Did anyone ever tell you not to discard them?

A: Not that I recall.

Q: Where were you physically located when you showed maps relating to the interests of minority voters to local counsel and Professor Gaddie?

A: Physically, I was in the office space provided to the legislature within Michael, Best & Friedrich.

Q: And that's the space that you mentioned before you had access for the first time in December of 2010, approximately?

A: That's correct.

Q: Do you know why there is an office that was created at Michael, Best & Friedrich for the redistricting process?

A: I believe it was to facilitate Adam and my's ability to work together on the project as well as to provide ease of access for -- to legal counsel.
Q Where is that, the Michael, Best & Friedrich office located?
A In the glass bank.
Q And that's across the street from the state capitol building?
A That's correct.
Q You and Mr. Foltz could have met with legal counsel over at the capitol building, correct?
A Yes.
Q Do you know why it was those meetings were held over at Michael, Best & Friedrich offices instead of the capitol building?
A I don't know.
Q Do you know who made the decision to establish an office at Michael, Best & Friedrich for the purpose of redistricting?
A I don't recall.
Q What did the office look like that you occupied over at Michael, Best & Friedrich during the redistricting process?
A It was an interior office with three workstations and a conference table, as well as printing equipment.
Q Is that office still set up in that fashion?
A Yes.
Q Did you have your own computer in that office?
A Yes.
Q Did anyone else have access to that computer?
A Physical access, yes, but it was typically locked when I was not at it.
Q It was password protected, in other words?
A That's correct.
Q Anyone else have a password to be able to access that computer, to your knowledge?
A No.
Q Did Mr. Foltz also have his own computer that was password protected?
A Yes.
Q And then there was a third workstation as well?
A That's correct.
Q And who accessed that third workstation?
A Joe Handrick.
Q Do you know if that workstation was password protected for Mr. Handrick's use?
A It was logged in with my name and a password I created.
Q Did you set up that computer for Mr. Handrick?
A I set up the password and the login.
Q Do you know whether anyone other than you and Mr. Foltz and Mr. Handrick had access to the
computers that were in that office at Michael, Best & Friedrich?
A I'm not aware of anyone else.
Q Did you have any file cabinets or file drawers in that office at Michael, Best & Friedrich?
A Yes.
Q So there were paper copies of materials that were stored in that office; is that correct?
A Yes.
Q And are there still paper copies of materials stored in that office now?
A I believe so, yes.
Q Do you know whether Michael, Best & Friedrich has a document management system, and by that I mean some kind of a centralized computer system that documents can be saved to?
A I'm not aware.
Q Did you save documents on the hard drive of your computer at Michael, Best & Friedrich?
A Yes.
Q Was there a separate hard drive that you saved -- external to the computer that you saved any materials to when you were working at Michael, Best & Friedrich?
A Just a backup drive of what was on the hard drive.
Q: Do you recall ever saving anything to some kind of a network drive at all?
A: No.
Q: Did you receive any e-mail on your computer at Michael, Best & Friedrich?
A: Yes.
Q: And was that through your Gmail account?
A: Through -- yes.
Q: Was it received through -- did you receive e-mail at Michael, Best & Friedrich through any other e-mail account?
A: My state legislative account.
Q: Are your state -- the e-mails you receive and send through your state legislative account, are they maintained on any kind of a computer system or a network drive or hard drive that you know of?
A: I believe they are stored on a legislative drive.
Q: Do you know where that legislative drive is located?
A: It's -- I believe LTSB maintains that server.
Q: And what about your Gmail account, do you save e-mails that you send and receive on your Gmail account on any particular computer or in any particular location?
A: No.
Q You obviously have produced to us today some
  Gmail, correct?

A Correct.

Q Were there other Gmail messages that you received
  or sent relating to redistricting that you did not
  retain?

A Not that I recall.

Q So everything you would have received or sent on
  your Gmail account relating to redistricting you
  would have saved?

A There may have been some e-mails over the course
  of the last year that I deleted.

Q And same question with respect to your state
  e-mail account. Did you retain all e-mail that
  you sent or received regarding redistricting?

A No.

Q So some of it you did not save; is that correct?

A That's correct.

Q Did anyone ever tell you not to save any of your
  e-mail either from your Gmail or your state e-mail
  accounts relating to redistricting?

A No.

Q Did anyone ever specifically instruct you to
  retain those materials?

A Not that I recall.
Q So those would have been decisions you would have made as to whether to retain an e-mail or not?
A That's correct.
Q Do you communicate at all -- strike that. Did you, for the purposes of redistricting, communicate with anyone by text messaging?
A Not that I recall.
Q Do you have the ability to save the text messages that you receive and send, generally?
A I'm not sure.
Q Do you do much text messaging for work purposes?
A No.
Q Do you ever use any instant-messaging features of any computer or web-based program?
A Sometimes.
Q What -- when do you use instant messaging?
A There's no particular time.
Q Did you use instant-messaging services at all for purposes of redistricting?
A No.
Q Never communicated with anybody for the purpose of redistricting by instant messaging?
A No.
Q I want to go back to what we were discussing on paragraph 16 in Exhibit No. 10, and we were
talking about your work with Professor Gaddie and legal counsel relating to minority voters. Do you recall that discussion we were having?

A Yes.

Q All right. You testified that you presented different map alternatives to Professor Gaddie and legal counsel, correct?

A That's correct.

Q Was there any other way that you had involvement in redistricting with respect to minority interests?

A Outside of my outreach in those e-mails described earlier this morning to discuss testimony regarding the map.

Q Okay. So as far as minority interests are concerned in the redistricting, we saw the e-mails this morning relating to Latino voters and also some African-American voters in the Milwaukee area, correct?

A That's correct.

Q And then you just testified about map alternatives that you presented to Professor Gaddie and to legal counsel with respect to minority interests, correct?

A That's correct.
Q The maps that you created, did they relate to Hispanic voter interests and African-American voter interests in Milwaukee?
A Some of them, yes.
Q Did they -- did some of the maps relate to minority voter interests in any area other than Milwaukee?
A Not that I recall.
Q So your involvement with minority voter interests in the redistricting process related exclusively to voters in Milwaukee?
A I believe so, yes.
Q In paragraph 16, it does use the term voter dilution. Do you -- unnecessary and unconstitutional voter dilution. Do you know what voter dilution means?
A I'm not certain what it means in that context.
Q Paragraph 17, your name also is associated with that in Exhibit No. 10. Did you in fact assist the legislature to ensure that the new districts reflected communities of interest?
A Yes.
Q I'd also like you to take a look at page 12. And you see that there is a heading B that says Potentially Relevant Documents?
Q And just below that, it says, "Defendants may use the following documents to support their defenses in this matter." Do you see that?
A Yes.

Q I'd like to jump down and ask you about paragraph 6. It says, "Documents in the possession of the legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue." Do you see that?
A Yes.

Q Now I'd like you to turn to the last page of Exhibit 10. And you'll see that this document is signed by -- on behalf of J.B. Van Hollen, the attorney general, by Maria Lazar, assistant attorney general?
A Yes.

Q And that's attorneys for the defendants; do you see that?
A Yes.

Q Did anyone from the AG's office ask you specifically for documents that were used to draft the 2011 legislative maps at issue?
A I don't believe so, no.

Q Did anyone from the Reinhart law firm ask you to
look for and give copies to them of documents that were in your possession that were used to draft the 2011 legislative maps at issue?

A Not that I recall.

Q Look at paragraph 7. Do you see that identifies, "Expert reports and analysis, if any, in the possession of legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue." Do you see that?

A Yes.

Q Same question. Did anybody at the attorney general's office or the Reinhart law firm ask you to look for and give them copies of expert reports and analysis that were in your possession that were used to draft the 2011 legislative maps at issue?

A Not that I recall.

Q Mr. Ottman, have you ever seen a copy of the complaint that was filed in this case?

A I believe so, yes.

Q Were you ever asked to provide any comments on the complaint?

A I don't recall.

Q When was the first time that you saw the complaint?
<p>| | |</p>
<table>
<thead>
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<tbody>
<tr>
<td>A</td>
<td>I believe -- the Baldus complaint we're talking about?</td>
</tr>
<tr>
<td>Q</td>
<td>That's right, the Baldus complaint.</td>
</tr>
<tr>
<td>A</td>
<td>I believe shortly after it was filed.</td>
</tr>
<tr>
<td>Q</td>
<td>Do you recall when it was filed?</td>
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<tr>
<td>A</td>
<td>I don't.</td>
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<tr>
<td>Q</td>
<td>Was there any specific action that you took once, with respect to redistricting, once you were informed that the Baldus complaint had been filed?</td>
</tr>
<tr>
<td>A</td>
<td>Nothing specific that I recall.</td>
</tr>
<tr>
<td>Q</td>
<td>Did it have any impact at all in the redistricting process?</td>
</tr>
<tr>
<td>A</td>
<td>It may have played into the timing.</td>
</tr>
<tr>
<td>Q</td>
<td>And how so?</td>
</tr>
<tr>
<td>A</td>
<td>Given that there was an allegation that the districts were unconstitutionally malapportioned and that the legislature had not yet acted, there was concerns that the -- and the federal court was being asked to step in ahead of the legislature, there was concerns that the legislature should act on its own prior to that happening.</td>
</tr>
<tr>
<td>Q</td>
<td>And did that speed up the process of the legislature considering Acts 43 and 44?</td>
</tr>
<tr>
<td>A</td>
<td>The timing was up to legislative leadership.</td>
</tr>
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| Q | To your knowledge, or has anyone told you, did the
legislature speed up their consideration of Acts 43 and 44 because of the filing of the Baldus complaint?

A I can't speak to the timing.

Q Did you ever have a discussion with anyone about that issue?

A Only to the extent of Senator Fitzgerald asking me if a map would be ready to go.

Q Did Senator Fitzgerald express any concerns to you about the timing of the map being ready to go in light of the filing of the Baldus litigation?

A I don't recall specifically.

Q Were you asked to provide any comments on the complaint to legal counsel who was hired to represent the state in this litigation?

A Not that I recall.

Q Have you ever seen a copy of the answer that the defendants filed to the complaint in this case?

A Yes, I believe so.

Q Do you recall when you saw that?

A I don't recall when.

Q Do you remember who gave it to you?

A I believe it was legal counsel at Michael Best.

Q Did you see a copy of that answer when it was in draft form?
I don't believe so.

Q You saw something that had already been filed?

A That's my recollection, yes.

Q Were you asked by legal counsel at Michael Best to comment at all on the answer that was filed?

A I don't recall.

Q Have you ever had any discussions with legal counsel at Michael, Best & Friedrich about the allegations in the Baldus complaint?

MR. McLEOD: Let me just interject.

The question asks for whether or not such discussions occurred, which is not in and of itself subject to attorney-client privilege. That understood, you may answer the question, but be mindful of not disclosing the subject of any -- or the content of any communication between attorney and client.

A There were discussions with counsel.

Q What was, generally speaking, what was the subject matter or the nature -- the subject matter of those conversations?

MR. McLEOD: And again, if you're asking for -- I think the prior question addressed the subject matter of those conversations, discussions about the answer.
If you're asking for anything concerning the substance or the actual communications that occurred between attorney and client, that's subject to the attorney-client privilege. I mean, can you clarify your question as to what you're trying to get at?

MR. POLAND: Well, I don't know how else to say it other than the subject matter or the conversations.

Q Were you asked -- did local counsel at Michael, Best & Friedrich ask you for your assessment of the allegations in the complaint?
A Not that I recall, no.

Q Did they ask you for your assessment of statements that were made in the answer or any of the defenses that were raised?
A Not that I recall.

Q Were you asked at all about the truth or falsity of any statements that were made in the complaint?
A Not that I recall.

Q Generally speaking, what did the discussions that you had with counsel at Michael, Best & Friedrich regarding the complaint or the answer address?

MR. McLEOD: I think what you're asking for is for Mr. Ottman to describe
attorney-client communications, which goes beyond the fact of communications that may have occurred with respect to the answer to the Baldus complaint. And because of that, I'm going to instruct Mr. Ottman not to answer to the extent his answer may disclose the content of any communications between attorney and client. If he understands the question to allow him to answer in a way that doesn't disclose the content of those communications, he may answer, but otherwise I will instruct him not to answer.

Q Are you going to follow counsel's instructions and not answer that question?

A I am.

Q Are you aware of -- there's a term lawyers use called discovery and discovery requests. Have you heard that term before?

A Yes.

Q Have you ever heard anything referred to specifically as an interrogatory?

A I've heard the term.

Q Okay. And what about document production requests, have you heard that term before?

A I have.
Q Were you aware that there were interrogatories and
document production requests that the plaintiffs
in the Baldus litigation served on the defendants?
A I don't recall specifically, no.

MS. LAZAR: Exhibit 13.

Q Exhibit 13, Maria informs me.

Mr. Ottman, I'm handing you a copy of a
document that's been marked as Exhibit No. 13. Do
you have that in front of you?
A Yes.

Q And do you see on the front page, it states, it
says Plaintiffs' First Set of Interrogatories and
First Request for Production of Documents?
A Yes.

Q And I'd like you to turn to the very back page,
and draw your attention to the date,
November 22, 2011. Do you see that date?
A Yes.

Q Have you ever seen a copy of Exhibit 13 before?
A I don't recall.

Q Did anyone -- you recall anyone ever giving you a
copy of this document?
A Not that I recall.

Q I'd like you to look at page No. 2. Into the
middle of the page, do you see it states
Q All right. And then if you turn to page 3, you'll see Interrogatory No. 1. Do you see that?

A Yes.

Q All right. And then if you flip over to page 5, you'll see there are a total of nine interrogatories, correct?

A Yes.

Q Did anyone ever ask you to give them input on any of these interrogatories?

A Not that I recall.

Q And then if you look at page 5, you'll see it states Requests for Production of Documents. Do you see that?

A Yes.

Q And then if you look at pages 6, 7 and 8, you'll see there are 13 specific document requests that are made?

A Yes.

Q Did anyone ever give you a copy of this document and ask you to look specifically for documents responsive to those 13 document requests?

A Not that I recall.

Q You can put that document to the side.
Do you know how it was decided what role you would play in the 2011 redistricting?

A Yes.

Q And how was it decided?

A Senator Fitzgerald asked me to work on redistricting.

Q And then, but specifically with respect to the tasks that you would have as part of the redistricting process, do you know how it was decided what tasks you would handle?

A No.

Q Were you told specifically what your involvement would be, the extent of your involvement and the tasks that you would perform?

A Only generally.

Q And what were you generally told?

A I was generally told to work with the assembly and prepare a redistricting plan.

Q Do you know why you were tasked with that role?

A I presume it was because of my past involvement with redistricting.

Q Now, there was a public hearing on July 13th as we've discussed previously, correct?

A That's correct.

Q And you testified at that hearing, correct?
A That's correct.

Q I'm going to hand you a copy of a document that's been marked as Exhibit No. 19.

A Okay.

Q Was the testimony that you gave at the hearing on July 13th true and correct testimony?

A Yes.

Q Have you had an opportunity to review the transcript of that hearing?

A I have not reviewed the transcript.

Q So Exhibit 19 is a copy of that transcript; is that correct?

A It appears to be, yes.

Q But you've not reviewed this before?

A I have not.

Q Do you know whether your testimony was videotaped?

A Yes.

Q Did you watch the videotape?

A I did, yes.

Q And did you identify anything that you testified to in the videotape that you now believe to be incorrect?

A I don't believe so.

MR. SHRINER: Doug, I've been waiting for a break. I've got to go. I
appreciate your hospitality. Please go along
without me. I lasted a little longer than
Hassett, but, Merry Christmas.

MR. POLAND: Before you go, I
actually do have a --

MR. SHRINER: Subpoena?

MR. POLAND: No, I'm not
subpoenaing you, but I've got a copy of a
letter that --

MR. SHRINER: Thank you.

MR. POLAND: Thanks, Tom. Take
care.

MR. SHRINER: See you all later,
I'm sure.

Q You mentioned that you worked with -- before I get
to the transcript, a couple other questions -- you
worked with Mr. Foltz on the redistricting,
correct?

A That's correct.

Q Did you divide up the work with Mr. Foltz in some
particular way?

A Not particularly, no.

Q Did Mr. Foltz take charge of any particular tasks?

A No, not particularly.

Q I noticed at the hearing that you primarily
testified about the senate districts, I think, and Mr. Foltz testified about, more about the assembly districts; is that correct?

A That's correct.

Q Is there a reason that you divided up the testimony in that way?

A He works for the assembly, I work for the senate.

Q Okay. But other than that, there was no specific division of responsibilities along task lines; is that correct?

A That's correct.

Q Turning back again to Exhibit 19, your testimony. Did you consult with anyone before the July 13th hearing?

A Yes.

Q Who did you consult with?

A Consulted with counsel.

Q And is that Mr. McLeod?

A And Mr. Troupis.

Q Anyone else?

A Ray Taffora.

Q Anyone else?

A Not that I recall.

Q Generally speaking, what was the subject matter of the conversations or the consultations that you
had with legal counsel before the hearing?

MR. McLEOD: I'm going to point out that the question appears to seek information that would include the content of conversations between and client. To the extent that you can answer describing merely the subject of the conversations without disclosing the actual content of the communications, you may answer, but otherwise I would advise you not to.

A Conversations were generally about what the testimony should cover.

Q And what was discussed about what the testimony should cover?

MR. McLEOD: I'm going to assert the attorney-client privilege and direct Mr. Ottman not to answer the question.

Q And you're going to follow counsel's instruction and not answer the question?

A I am.

Q Did you consult with anyone other than legal counsel? This is before the hearing.

A Not that I recall.

Q Was anyone else present when you were speaking with Mr. McLeod, Mr. Troupis and Mr. Taffora?
1 A Yes.
2 Q Who else was present?
3 A Adam Foltz.
4 Q Where did that -- where did those meetings occur?
5 A At Michael Best.
6 Q Did you consult with anyone after the hearing
7 about your testimony?
8 A Not that I recall.
9 Q Let me change the word instead of consult. Did
10 you speak with anyone after the hearing about your
11 testimony?
12 A Not that I recall.
13 Q Okay. Turning your attention to the transcript.
14 I'm going to ask you to turn to page 4. And I'd
15 like to draw your attention to lines 9 through 12.
16 And you testified there are three core principles
17 to any reapportionment plan: equal population,
18 sensitivity to minority concerns, and compact and
19 contiguous districts. Do you see that?
20 A Yes.
21 Q Are there any other core principles to
22 reapportionment or redistricting?
23 A No.
24 Q What's the standard that you use -- well, strike
25 that question. We had a discussion before about
equal population, correct?

A Correct.

Q And what is the standard that you used specifically in the 2011 redistricting for equal population?

A There's not a particular standard. It's a balancing of core principles that sometimes do not work in conjunction together.

Q Is it essentially a judgment call when you're engaged in the redistricting process?

MR. McLEOD: I'm going to assert objection to the form of the question. To the extent you understand the question, please answer.

A There is judgment required.

Q And in terms of balancing those core principles in arriving at an equal population, who made those determinations as part of the 2011 redistricting process?

A The legislature.

Q They were looking at a map that had been prepared for them, correct?

A Correct.

Q And so there were determinations that had to be made in drawing that map, correct?
Q And who made the determinations in the process of drawing the map regarding whether the equal population standard was met?

A There were alternatives considered, and when the map -- when the legislation was created, those alternatives were weighed against each other.

Q All right. And who ultimately decided which alternative was chosen?

A The legislators involved, those legislators I previously identified.

Q Did they all make that determination in conjunction together?

A Yes.

Q Was there a final version of the map, before it was sent to the legislature, that was agreed on by all those legislators at one time?

A I believe --

MR. McLEOD: I'm going to assert an objection to the form of the question. To the extent you understand it, please answer.

A I believe all those legislators were present to review the map that was ultimately submitted.

Q Did everybody -- did all the legislators gather at one time over at Michael, Best & Friedrich's
offices and everybody sign off on the final map at one time?

A I'm not sure what you mean.

Q All right. Did there come a point in time where you arrived at a point where you presented what ended up being a final map to the legislators at the Michael, Best & Friedrich office?

A Who do you mean by legislators?

Q All right. We're just not understanding each other. When you're talking about legislators, were you referring to the legislature as a whole?

A I was referring to the five legislators I identified previous.

Q Okay. Yep. All right. So we're on the same page there. Was there a time that they were all together over at the Michael Best offices and they all said, Yep, this looks good, this is a map that can be submitted to the legislature?

A I believe so, yes.

Q Do you know when that occurred?

A I don't recall exactly.

Q Do you know whether it was before or after the July 13th hearing?

A It was before.

Q Who else was present at the time when all the
legislators signed off on a final version of the map?

A I don't recall who was in the room at that time.

Q Did you make adjustments to any versions of the map based on equal population concerns?

MR. McLEOD: I'm going to assert an objection to form. At what time?

Q At any time.

A Yes.

Q What specific kinds of adjustments did you make to the map to address equal population concerns?

A There were changes to the boundaries of districts to bring it closer to ideal populations.

Q Did -- who made those decisions about how to change the boundaries?

A Adam and I each made decisions.

Q Did anyone else guide you or assist you in making those decisions?

A Joe Handrick would sometimes offer advice.

Q Did any of the legal counsel ever give you advice or guidance on adjusting boundaries for the purpose of equal population considerations?

A Not that I recall.

Q Do you know what the overall population deviation is for Act 43?
A I don't recall off the top of my head what it is exactly.

Q Do you know under what conditions race or other protected class may be taken into account when drawing legislative district boundaries?

A I don't know the exact legal standard.

Q Did you make any kind of an assessment of whether it was appropriate to take race into account in drawing legislative district boundaries?

A No.

Q Do you know anyone on the redistricting team who did?

A Counsel and outside consultant.

Q And the outside consultant, would that be Professor Gaddie?

A That's correct.

Q Is it your understanding that counsel worked with Professor Gaddie to make that determination?

A That's my understanding.

Q Did you ever observe counsel working with Professor Gaddie with respect to race or protected class issues in drawing legislative district boundaries?

A Not that I recall.

Q Were you ever involved in any conversations
between counsel and Professor Gaddie on that issue?

A I don't recall.

Q I'd like to your draw your attention, Mr. Ottman, to the top of page 27 of the transcript, and specifically lines 2 through 5. You testified, "So over the course of the next decade you could see that senate" -- "you could see that senate district grow in Hispanic voting-age population to the point where it may tip over to a majority minority district." Do you see that?

A Yes.

Q And who made that assessment?

A I did.

Q How did you make that assessment?

A I looked at what the Hispanic voting-age population was in that senate district at the beginning of the decade, I looked at where it was at the end of the decade, and under the proposed plan, and then just basically added the same number to where we wound up.

Q Did you work with any demographer in making that determination?

A I did not.

Q Did you consult any data other than the data you
just identified in making that determination?
A I did not.
Q Did that analysis take into account citizenship of Hispanics?
A It did not.
Q Is there a reason why you did not take citizenship into account when making that assessment?
A I don't believe I had any data related to citizenship.
Q The data that you looked at, was that simply census data?
A That is correct.
Q Since the time of your testimony, have you had any discussions on this particular topic with anyone?
A No.
Q At the -- draw your attention to page 28. And your testimony, on lines 13 to 15, you say, "Pairings are sometimes an inevitable consequence, and that is why you see those pairings here." Do you see that testimony?
A I do.
Q Why do you say pairings are an inevitable consequence of redistricting?
A Population shifts require movement of district boundaries, and sometimes moving those boundaries
necessitates drawing a district that happens to have more than one incumbent in the resulting district.

Q And how many incumbent pairings were created by Act 43?
A I believe there were 22 legislators paired.
Q So there were 11 total pairings; is that correct?
A That's my recollection.
Q Do you know how many pairings involved republicans?
A I don't recall the breakdown.
Q Did you have any discussions with any of the republican incumbents who were paired under Act 43?
A Yes.
Q How many of them did you speak with?
A I believe one or maybe two.
Q Did you make any changes to district boundaries as a result of your conversations with any republicans that you spoke with about pairings?
A Not that I recall.
Q Did you speak with any of the democrats who were paired as a result of Act 43?
A I did not.
Q And if turn to the next page, 29. Do you see that
You're discussing, just generally on that page, you're testifying about the issue of disenfranchisement. And your testimony on lines 13 to 16, you state, "Disenfranchisement occurs when -- essentially when a voter goes six years between the opportunity to vote for a state senate -- state senator." Do you see that testimony?

A I do.

Q And then lines 22 to 23, you state, "Under any reapportionment plan a certain amount of disenfranchisement is inevitable and unavoidable." Do you see that?

A Yes.

Q Is it a goal, generally, to minimize the amount of disenfranchisement?

A It's one of the goals that you weigh against the other redistricting principles.

Q Should you try to minimize the disenfranchisement to the best you can?

A It's a factor to consider in conjunction with other principles.

Q Were you -- did you make any attempts to minimize the disenfranchisement of voters under Act 43?

A It is something that I looked at.
Q What's the standard that you and Mr. Foltz used for disenfranchisement under Act 43?

A I don't know that there was a particular standard.

Q I'd like you to take a look at -- first have you take a look at page 30, lines 16 through 18. And do you see your statement, "What we've done here is tried to the best of our ability to minimize that displacement." Do you see that?

A Yes.

Q Now, there are you talking about disenfranchisement?

A Yes.

Q And then Mr. -- it states Mr. Holtz. It's Mr. Foltz, correct?

A Correct.

Q Mr. Foltz then runs through the numbers of voters who were disenfranchised under Act 43, correct?

A Yes.

Q So first, he, Mr. Foltz identifies the 1992 court decision, and then if you turn over to page 31, you'll see that it worked out to five and a quarter percent of the state's population, correct?

A Yes.

Q And in line 3, do you see Mr. Foltz's testimony,
"We used that as a benchmark, and then what we did is we took that five and a quarter percent and applied it to the new population of Wisconsin," and he goes on?

Q Does that refresh your recollection that you used five and a quarter percent as a benchmark for disenfranchisement?

A That was an evaluation of the plans we created, how it compared to previous court plans.

Q And you compared -- that was on par with the 1992 court decision, correct?

A Yes.

Q Do you know what the percentage of disenfranchisement was under the 2002 court plan?

A I don't recall.

Q Do you know if it was lower than five and a quarter percent?

A Yes.

Q If it was lower than five and a quarter percent, why did you not use the 2002 percentage of disenfranchisement under that court plan as a standard?

A As I mentioned, disenfranchisement was only one of the principles that we looked at, and to
prioritize that would necessarily mean that you
may be sacrificing other principles.

Q Did you have any discussions with anyone as to
whether disenfranchisement could be kept below
five and a quarter percent?

A Yes.

Q And who did you discuss that with?

A With counsel.

Q Which counsel was that?

A Jim Troupis.

Q And what did you and Mr. Troupis discuss with
respect to an appropriate percentage of the
population, voting population that would be
disenfranchised?

MR. McLEOD: I'm going to assert an
objection on the grounds of attorney-client
privilege. The subject matter or the fact of
the conversation about the issue of
disenfranchisement is not privileged but the
content of that communication is. So to the
extent that your question seeks to elicit the
substance of that conversation, I'm going to
direct the witness not to answer.

Q Are you going to follow counsel's instructions and
not answer the question?
MR. POLAND: Let's take a break so we can change the videotape.

(Recess)

By Mr. Poland:

Q Mr. Ottman, I'd like to draw your attention to page 36 of the July 13th transcript. And I'd like you to look at lines 20 through 22. And do you see you testified that, "Technology has moved to the point where it is much easier to draw these maps in advance of the locals completing their process." Do you see that?

A Yes, I do.

Q What did you mean by that statement?

A I meant that technology, as it relates to redistricting, had evolved to the point where you could draw fairly easily on a computer down to the census block level.

Q And that is, as opposed to drawing districts based on wards; is that correct?

A Wards or without computers.

Q Drawing the districts based on census blocks as opposed to wards, does that create difficulties for any of the local governments?
the form of the question. You can answer it.

A It may create some difficulties for them, depending on how they are drawing them and how far along in the process they may or may not have been.

Q At what point did you start constructing the maps out of the census blocks?

A As we were working on the maps, the first part of last year, we had the previous decade's wards to work with, as well as blocks, block level. So for that entire process, that's the data that we were using. The municipal wards were not completed prior to the legislature's actions.

Q As I understand it, in the autoBound software, you actually can take a mouse and you have a pointer on the screen or a cursor on the screen and you put it on a specific census block and you can assign it to a specific legislative district; is that correct?

A That's correct.

Q In that process for redistricting, who actually did that sitting down at a computer? Did you do that yourself?

A Yes.

Q And did Mr. Foltz do that too?
A Yes.
Q Did Mr. Handrick do that as well?
A I believe he did that as well.
Q Do you know anyone else who actually did that sitting down at a computer and actually putting their hand on a mouse and maneuvering a cursor on the screen and assigning a census block to a district?
A No one else that I recall.
Q Was anyone else present in the room when you were doing that, undergoing -- doing that process of assigning census blocks to districts?
A Not that I recall.
Q Did anyone ever instruct you which census blocks to include in certain districts?
A No.
Q That was a decision that you made?
A That's correct.
Q Did anybody ever give you guidelines about which census blocks ought to be included in certain districts?
A No.
Q I'd like to turn your attention to pages 45 through 47 of the transcript, and specifically, on page 45, line 21. And do you see there's a