

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

WILLIAM WHITFORD, et al.,

Plaintiffs,

v.

No. 15-cv-421-jdp

BEVERLY R. GILL, et al.,

Defendants;

and

THE WISCONSIN STATE ASSEMBLY,

Intervenor-Defendant.

**DECLARATION OF RUTH M. GREENWOOD IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL DEPOSITION AND PRODUCTION OF
DOCUMENTS BY ROBIN J. VOS**

I, Ruth M. Greenwood, declare, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am one of the attorneys representing the Plaintiffs in the above-captioned action.

I make this Affidavit on personal knowledge of the facts and circumstances set forth herein.

2. Attached as Exhibit 1 is a true and correct copy of a Proposed Subpoena for Deposition and Production of Documents addressed to Wisconsin Assembly Speaker Robin J. Vos.

3. Attached as Exhibit 2 is a true and correct copy of the Subpoena for Deposition and Production of Documents addressed to Robin J. Vos, an accompanying cover letter sent to Speaker Vos' counsel, Attorney St. John (and copied to defendants' counsel in this action), and a check with the witness fee, all dated February 13, 2019.

4. Attached as Exhibit 3 is a true and correct copy of a Notice of Subpoena to Robin J. Vos for Production of Documents and Deposition, dated February 11, 2019, addressed to Speaker Vos' counsel, Attorney St. John, and defendants' other counsel in this action.

5. Attached as Exhibit 4 is a true and correct copy of a letter sent by Attorney St. John to Plaintiffs' counsel (and copied to counsel of record in this action) dated February 20, 2019, subject: "Plaintiffs' Non-Party Subpoenas for Wisconsin Speaker Robin Vos."

6. Attached as Exhibit 5 is a true and correct copy of a letter sent by Plaintiffs' counsel to Attorney St. John (and copied to attorneys for the Plaintiffs and Defendants in this action) dated February 27, 2019, subject: "Plaintiffs' Non-Party Subpoena for Wisconsin Speaker Robin Vos."

7. Attached as Exhibit 6 is a true and correct copy of a letter sent by Attorney St. John to Plaintiffs' counsel (and copied to counsel of record in this action) dated March 5, 2019, subject: "Plaintiffs' Non-Party Subpoenas for Wisconsin Speaker Robin Vos."

8. Attached as Exhibit 7 is a true and correct copy of a Subpoena for Deposition and Production of Documents under Fed. R. Civ. P. 30(b)(6) addressed to the Wisconsin State Assembly, an accompanying cover letter sent to Defendants' counsel, all dated February 13, 2019, and a Notice of Subpoena to Wisconsin State Assembly for Production of Documents and Deposition, dated February 11, 2013.

9. Attached as Exhibit 8 is a true and correct copy of "The Wisconsin State Assembly's Response to Plaintiffs' Requests for Production" dated March 15, 2019.

10. Attached as Exhibit 9 is a true and correct copy of the document produced by the Assembly on March 15, 2019 with Bates numbers WSA_00000001 and WSA_00000002.

11. Attached as Exhibit 10 is a true and correct copy of the Subpoena for Deposition and Production of Documents addressed to Robin J. Vos, an accompanying cover letter addressed to Speaker Vos, and a check with the witness fee, all dated March 18, 2019.

12. Attached as Exhibit 11 is a true and correct copy of an affidavit from the process server, Troy Burch, dated March 19, 2019.

Dated this 19th day of March, 2019.

/s/ Ruth M. Greenwood
Ruth M. Greenwood

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 1

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Wisconsin

WILLIAM WHITFORD, et al.

Plaintiff

v.

BEVERLY R. GILL, et al.

Defendant

Civil Action No. 15-cv-421-jdp

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: ROBIN J. VOS

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place (Rathje Woodward LLC, 10 E Doty St, Suite 507, Madison WI 53703) and Date and Time (Tuesday May 14, 2019, at 9:00AM)

The deposition will be recorded by this method: videographic and stenographic means

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: See Exhibit A

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs, William Whitford, et al.

Ruth M. Greenwood, 73 W Monroe St, Suite 302, Chicago IL 60603, rgreenwood@campaignlegalcenter.org, (312) 561-5508

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 15-cv-421-jdp

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

DOCUMENTS TO BE PRODUCED BY ROBIN J. VOS

On or before May 7, 2019, please produce the following documents, communications, electronically stored information, objects and/or materials (collectively “documents” or “materials”) that are in your actual or constructive possession, custody, or control, and permit the inspection, copying, testing and/or sampling of the materials, that were created or used during the period June 1, 2010 to September 30, 2018:

1. All documents, including but not limited to email, concerning any analyses, data, plans, procedures, memos and/or reports used by state legislative staff, state legislators, and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
2. All documents, including but not limited to email, concerning the objectives and/or motives relied on by – or available to – state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
3. All documents, including but not limited to email, concerning the objective facts that legislative staff and/or any experts or consultants references, used or relied upon – or had available to them – in the planning, development negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
4. Any and all requests that you, your office, or anyone employed by you or your office received to provide to the requesting person or to release to the public a copy of any engagement letter, contract, agreement, or other document reflecting the Wisconsin State Assembly’s retention or engagement of Bartlit Beck LLP to serve as its legal counsel in *Whitford v. Gill*, case no. 15-cv-421-jdp, pending in the U.S. District Court for the Western District of Wisconsin.
5. Copies of any and all documents that you, your office, or anyone employed by you or your office provided to the requesting person or released to the public in response to any request identified in Paragraph 4, above.
6. Copies of any and all documents prepared by or transmitted by the Republican National Committee, that relate or refer to legislative redistricting, including but not limited to the document attached hereto as Exhibit 1.
7. Copies of any and all communications, including email, that relate or refer to legislative redistricting, reflecting or referring to any of the following people or email addresses:
 - a. Tom Hofeller, thofeller@rnchq.org
 - b. Dale Oldham, doldham@rnchq.org
 - c. Mike Wild, mwild@rnchq.org
 - d. John Phillippe, jphillippe@rnchq.org

e. Leslie Rutledge, lrutledge@rnchq.org

8. Any and all materials reflecting or relating or referring to the April 2010 Republican National Committee's GOP Redistricting Conference, including any and all notes, summaries, minutes, agendas, papers, documents, data, computer files, CDs, training materials, or any other written or electronic material prepared for, distributed at, created at, or otherwise related to that conference.
9. Any and all documents reflecting or relating or referring to the Redistricting Majority Project, commonly referred to as "REDMAP."
10. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to recruiting Republican candidates for Wisconsin State Assembly.
11. Any and all documents reflecting or relating or referring to communications made by the RPW that solicited campaign contributions to the RPW or to any individual Republican candidate for the Wisconsin State Assembly from 2002 to the present. The categories of communications as used in this request includes but is not limited to emails, mailings, phone solicitations, person-to-person solicitations, and fundraising events.
12. Any and all documents reflecting or relating or referring to volunteer activities in support of Republican campaigns for the Wisconsin State Assembly that were coordinated by, arranged by, carried out by, or funded by the RPW from 2002 to the present.
13. Any and all documents reflecting or relating or referring to voter registration activities that were coordinated, arranged, carried out, or funded by the RPW or Wisconsin Republican Assembly Campaign Committee ("WRACC") from 2002 to the present.
14. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to advocating for or implementing legislative policies preferred by the RPW or the Republican Assembly Caucus.
15. Any and all documents reflecting or relating or referring to communications the RPW has had with any current or former Republican Wisconsin State Assembly member or candidate about the impact of Act 43 would on Assembly elections across the State of Wisconsin as a whole or in any one or more particular Assembly districts from 2010 to the present.

Redistricting Essentials

CONSOLIDATING THE RESULT OF THE 2010 ELECTION

November 12, 2010

I. Timeline:

- a. On November 12th, there are only 78 days until the 2010 Decennial Census data becomes available and the redistricting begins.
- b. **Now that we had a spectacular election outcome, it's time to make sure the Democrats cannot take it away from us in 2011 and 2012**

II. Technology/Data:

- a. You must have identified all the political data you need to draw the lines and to prevail in any litigation.
- b. You need to identify the source of all required data and make provisions to collect what additional data is required. Primary elections will be required in some states for Voting Rights Act issues. Particular emphasis should be placed on elections involving minority versus non-minority contests – even including county and local elections were appropriate. This underscores the need for a legal strategy (see below).
- c. **You need to complete work on your election history precinct-level database as quickly as possible and be prepared to incorporate the results of the 2010 election into your redistricting database.**
- d. All the stakeholders in your state need to identify what software system they will use and what hardware is required to host it. Will public funds be available? Will other resources be required from GOP sources?

III. Legal Preparations:

- a. Most states will have litigation of some type.
- b. Litigation is expensive. Will litigation be paid for using public or private sources, or both?
- c. Litigation could even start right now, directly after the elections. Is funding available?
- d. **You should already have a legal strategy and access to experienced redistricting counsel.**
- e. Your redistricting legal record has already begun. Avoid misstatements in public or emails: (Keep it simple, such as “We want a FAIR process that follows all the requirements of the law.”)

IV. Training:

- a. The RNC can train you on the use of Maptitude for Redistricting, but you will need to pay the travel expenses to come to Washington, DC.
- b. CD's with the training materials from the April 2010 RNC's GOP Redistricting Conference are available on request.
- c. **If you have questions, please call us at the RNC. That's what we're here for.**

Tom Hofeller	Redistricting Coordinator	(202) 863-8816 or (703) 623-0764	thofeller@rnchq.org
Dale Oldham	Redistricting Counsel	(202) 863-8323 or (803) 237-0586	doldham@rnchq.org
Mike Wild	Redistricting Deputy	(202) 863-8783 or (202) 309-1529	mwild@rnchq.org
John Phillippe	Chief Counsel	(202) 863-8638 or (202) 863-8702	jphillippe@rnchq.org
Leslie Rutledge	Associate Counsel	(202) 863-8638 or (202) 863-5109	lrutledge@rnchq.org

**Paid for by the Republican National Committee * Not authorized
by any candidate or candidate's committee * www.gop.com**

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 2



February 13, 2019

Kevin St. John
Bell Giftos St. John LLC
5325 Wall Street, Suite 2200
Madison, WI 53718-7980
kstjohn@bellgiftos.com

Wisconsin Department of Justice
Brian P. Keenan
Assistant Attorney General
17 West Main Street, Room 622
Madison, WI 53703
keenanbp@doj.state.wi.us

Adam K. Mortara
Joshua P. Ackerman
Bartlit Beck LLP
54 W. Hubbard Street
Chicago, IL 60654
adam.mortara@bartlitbeck.com
joshua.ackerman@bartlitbeck.com

By U.S. Mail and Email

Counsel,

We are writing to you on behalf of Plaintiffs in *Whitford v. Nichol*, Case No. 15-cv-421-jdp. We enclose by way of service a subpoena for Robin J. Vos to appear for a deposition to be taken in accordance with the Federal Rules of Civil Procedure, accompanying Exhibit A, and Exhibit 1 to Exhibit A and a notice of deposition. Accordingly:

- The subpoena is for Robin J. Vos to appear for a deposition at the RATHJE WOODWARD, 10 E. Doty St., Ste. 507, Madison, WI 53703 on March 12, 2019 at 9:00 AM.

Please feel free to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ruth M. Greenwood". The signature is fluid and cursive, with a large loop at the end.

/s/ Ruth M. Greenwood
Ruth M. Greenwood
Annabelle E. Harless
CAMPAIGN LEGAL CENTER
73 W. Monroe St., Ste. 302

Chicago, IL 60603
(312) 561-5508
rgreenwood@campaignlegalcenter.org
aharless@campaignlegalcenter.org

/s/ Douglas M. Poland

Douglas M. Poland
State Bar No. 1055189
Alison E. Stites
State Bar. No. 1104819
RATHJE WOODWARD LLC
10 East Doty St., Ste. 507
Madison, WI 53703
(608) 960-7430
dpoland@rathjewoodward.com
astites@rathjewoodward.com

Attorneys for Plaintiffs William Whitford, et al.

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of

Plaintiff

v.

Defendant

Civil Action No.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Date and Time:

The deposition will be recorded by this method:

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR

Attorney's signature

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party), who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

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(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
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(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
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- (iv) subjects a person to undue burden.

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(i) disclosing a trade secret or other confidential research, development, or commercial information; or

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(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

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(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

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(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

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(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

DOCUMENTS TO BE PRODUCED BY ROBIN J. VOS

On or before March 5, 2019, please produce the following documents, communications, electronically stored information, objects and/or materials (collectively “documents” or “materials”) that are in your actual or constructive possession, custody, or control, and permit the inspection, copying, testing and/or sampling of the materials, that were created or used during the period June 1, 2010 to September 30, 2018:

1. All documents, including but not limited to email, concerning any analyses, data, plans, procedures, memos and/or reports used by state legislative staff, state legislators, and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
2. All documents, including but not limited to email, concerning the objectives and/or motives relied on by – or available to – state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
3. All documents, including but not limited to email, concerning the objective facts that legislative staff and/or any experts or consultants references, used or relied upon – or had available to them – in the planning, development negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
4. Any and all requests that you, your office, or anyone employed by you or your office received to provide to the requesting person or to release to the public a copy of any engagement letter, contract, agreement, or other document reflecting the Wisconsin State Assembly’s retention or engagement of Bartlit Beck LLP to serve as its legal counsel in *Whitford v. Gill*, case no. 15-cv-421-jdp, pending in the U.S. District Court for the Western District of Wisconsin.
5. Copies of any and all documents that you, your office, or anyone employed by you or your office provided to the requesting person or released to the public in response to any request identified in Paragraph 4, above.
6. Copies of any and all documents prepared by or transmitted by the Republican National Committee, that relate or refer to legislative redistricting, including but not limited to the document attached hereto as Exhibit 1.
7. Copies of any and all communications, including email, that relate or refer to legislative redistricting, reflecting or referring to any of the following people or email addresses:
 - a. Tom Hofeller, thofeller@rnchq.org
 - b. Dale Oldham, doldham@rnchq.org
 - c. Mike Wild, mwild@rnchq.org
 - d. John Phillippe, jphillippe@rnchq.org

e. Leslie Rutledge, lrutledge@rnchq.org

8. Any and all materials reflecting or relating or referring to the April 2010 Republican National Committee's GOP Redistricting Conference, including any and all notes, summaries, minutes, agendas, papers, documents, data, computer files, CDs, training materials, or any other written or electronic material prepared for, distributed at, created at, or otherwise related to that conference.
9. Any and all documents reflecting or relating or referring to the Redistricting Majority Project, commonly referred to as "REDMAP."
10. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to recruiting Republican candidates for Wisconsin State Assembly.
11. Any and all documents reflecting or relating or referring to communications made by the RPW that solicited campaign contributions to the RPW or to any individual Republican candidate for the Wisconsin State Assembly from 2002 to the present. The categories of communications as used in this request includes but is not limited to emails, mailings, phone solicitations, person-to-person solicitations, and fundraising events.
12. Any and all documents reflecting or relating or referring to volunteer activities in support of Republican campaigns for the Wisconsin State Assembly that were coordinated by, arranged by, carried out by, or funded by the RPW from 2002 to the present.
13. Any and all documents reflecting or relating or referring to voter registration activities that were coordinated, arranged, carried out, or funded by the RPW or Wisconsin Republican Assembly Campaign Committee ("WRACC") from 2002 to the present.
14. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to advocating for or implementing legislative policies preferred by the RPW or the Republican Assembly Caucus.
15. Any and all documents reflecting or relating or referring to communications the RPW has had with any current or former Republican Wisconsin State Assembly member or candidate about the impact of Act 43 would on Assembly elections across the State of Wisconsin as a whole or in any one or more particular Assembly districts from 2010 to the present.

Redistricting Essentials

CONSOLIDATING THE RESULT OF THE 2010 ELECTION

November 12, 2010

I. Timeline:

- a. On November 12th, there are only 78 days until the 2010 Decennial Census data becomes available and the redistricting begins.
- b. **Now that we had a spectacular election outcome, it's time to make sure the Democrats cannot take it away from us in 2011 and 2012**

II. Technology/Data:

- a. You must have identified all the political data you need to draw the lines and to prevail in any litigation.
- b. You need to identify the source of all required data and make provisions to collect what additional data is required. Primary elections will be required in some states for Voting Rights Act issues. Particular emphasis should be placed on elections involving minority versus non-minority contests – even including county and local elections were appropriate. This underscores the need for a legal strategy (see below).
- c. **You need to complete work on your election history precinct-level database as quickly as possible and be prepared to incorporate the results of the 2010 election into your redistricting database.**
- d. All the stakeholders in your state need to identify what software system they will use and what hardware is required to host it. Will public funds be available? Will other resources be required from GOP sources?

III. Legal Preparations:

- a. Most states will have litigation of some type.
- b. Litigation is expensive. Will litigation be paid for using public or private sources, or both?
- c. Litigation could even start right now, directly after the elections. Is funding available?
- d. **You should already have a legal strategy and access to experienced redistricting counsel.**
- e. Your redistricting legal record has already begun. Avoid misstatements in public or emails: (Keep it simple, such as “We want a FAIR process that follows all the requirements of the law.”)

IV. Training:

- a. The RNC can train you on the use of Maptitude for Redistricting, but you will need to pay the travel expenses to come to Washington, DC.
- b. CD’s with the training materials from the April 2010 RNC’s GOP Redistricting Conference are available on request.
- c. **If you have questions, please call us at the RNC. That’s what we’re here for.**

Tom Hofeller	Redistricting Coordinator	(202) 863-8816 or (703) 623-0764	thofeller@rnchq.org
Dale Oldham	Redistricting Counsel	(202) 863-8323 or (803) 237-0586	doldham@rnchq.org
Mike Wild	Redistricting Deputy	(202) 863-8783 or (202) 309-1529	mwild@rnchq.org
John Phillippe	Chief Counsel	(202) 863-8638 or (202) 863-8702	jphillippe@rnchq.org
Leslie Rutledge	Associate Counsel	(202) 863-8638 or (202) 863-5109	lrutledge@rnchq.org

**Paid for by the Republican National Committee * Not authorized
by any candidate or candidate’s committee * www.gop.com**



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4901 S WOODLAWN AVE
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15-7011
2540 901

102

Date 2-13-19

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William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, et al.,

Plaintiffs,

v.

15-cv-421-jdp

BEVERLY R. GILL, et al.,

Defendants.

**PLAINTIFFS' NOTICE OF SUBPOENA TO ROBIN J. VOS
FOR PRODUCTION OF DOCUMENTS AND DEPOSITION**

TO: Wisconsin Department of Justice
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PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, plaintiffs William Whitford, et al., by their undersigned attorneys, have issued the attached third-party subpoena to Robin J. Vos for the production of documents on or before March 5, 2019, and for the deposition of Robin J. Vos at the place and time indicated on the subpoena. The deposition will be videotaped and recorded stenographically before a person duly authorized to administer oaths who is not counsel of record or interested in the events of this case. The oral examination is to be taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the Federal Rules of Evidence, the Federal Rules of Civil Procedure, and any other orders entered by the Court. The deposition shall continue from time to time until completed.

Issued this 11 day of February, 2019.

By: /s/ Ruth M. Greenwood
One of the Attorneys for Plaintiffs

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*Attorneys for Plaintiffs William
Whitford, et al.*

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 4



BELL GIFTOS
ST. JOHN LLC

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February 20, 2019

VIA U.S. MAIL AND EMAIL

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rgreenwood@campaignlegalcenter.org

Re: Plaintiffs' Non-Party Subpoenas for Wisconsin Speaker Robin Vos,
Whitford v. Gill, No. 3:15-cv-0421 (W.D. Wis.)

Counsel:

Thank you for your time today to discuss your interest in deposing the Speaker of the Wisconsin State Assembly, Robin Vos, and requiring him to produce various documents. Because we do not accept service of the subpoenas, please find enclosed a return of the witness fee. But as we shared on the call, we'd like to better understand why you believe discovery from Speaker Vos is necessary so that we can attempt to resolve our disagreement without involving the Court. In the meantime, we are also working on responses to your discovery requests of the State Assembly and propose a timeline for those responses at the end of this letter.

Based on today's call, we understand that you would like to depose Speaker Vos (and seek documents) regarding two general topics: (1) an explanation of districts created by 2011 Wisconsin Act 43, including involvement of others such as the national GOP; and (2) "associational" effects on the Republican party, such as Republican efforts to recruit candidates or solicit campaign contributions. Regarding the latter, you stated that the success or failure of Republican campaign-related activities are relevant to the individual plaintiffs' claims that their First Amendment associational rights are burdened. From today's call, we also understand that you think your discovery requests are permissible because they are likely to lead to the discovery of relevant information and because the "ship has sailed," as Mr. Poland put it, on legislative privilege or immunity. Additionally, you stated that seeking discovery from Speaker Vos is permissible given his leadership position, while acknowledging that he may not have unique or relevant information.

As we shared on the call, we disagree for at least four reasons. First, both state and federal law protect high-ranking public officials including Speaker Vos from civil process and discovery. Subpoenaing Speaker Vos diverts his time, energy, and attention away from legislative tasks and disrupts the important work of the Wisconsin legislature. Second, any legislative privilege or immunity rulings in *Baldus* do not bind the *Whitford* court, and they

Ruth Greenwood

Page 2

certainly do not bind a sitting legislator of the Wisconsin State Assembly who was never subpoenaed in *Baldus*. And as you mentioned on the call, those earlier rulings pertained to documents that you already have in your possession; they did not address your proposed deposition of the Speaker. Third, plaintiffs already have extensive factual materials relating to redistricting culminating in Act 43 from the *Baldus* litigation. These materials include all of the information on the hard drives of the redistricting computers used to draft the maps that would become Act 43. This data was imaged by your expert, and all parties (including the State Assembly) stipulated to the authenticity of those materials for purposes of this litigation nearly three years ago. Additionally, in both *Baldus* and in the first phase of this case, you called as witnesses the legislative employees involved in the redistricting. Both *Baldus* and the original trial in this case proceeded on that evidence, and without resorting to the unusual, unnecessary, and generally impermissible step of subpoenaing a sitting legislator. Fourth, we do not understand how Republican campaign-related activity has any bearing on the associational claims of the individual plaintiffs' allegation that Act 43 burdened their ability to affiliate with like-minded Democrats and to pursue Democratic associational goals.

For at least these reasons, we cannot conceive of what unique and relevant information you now expect to obtain from Speaker Vos that you do not already have or cannot obtain elsewhere. Nor can we understand how obtaining any such information would be proportional to the needs of the case, or how the benefit of obtaining such information would outweigh the burden imposed on Speaker Vos.

Finally, as we discussed, you have concurrently noticed a 30(b)(6) deposition for the Wisconsin State Assembly and issued related document requests. Without waiving the Assembly's many arguments regarding the propriety of those requests and the privileges afforded to the State Assembly, we are working with you on those requests. As we proposed on today's call, we think it makes sense to wait until the Assembly responds to those requests and then reevaluate whether plaintiffs believe it is necessary to attempt to subpoena Speaker Vos.

Regarding the timeline of the Assembly's responses to your discovery requests, we intend to respond to your discovery requests on March 15, which is 30 days after they were issued. At that point, or before if you would like, we can discuss scheduling the 30(b)(6) deposition. Please let us know if you are agreeable to that timeline.

We look forward to your response.

Sincerely,

BELL GIFTOS ST. JOHN LLC



Kevin St. John

Enclosure

Ruth Greenwood

Page 3

cc: Joshua Ackerman
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Annabelle Harless
J. Gerald Herbert
Karla Keckhaver
Brian P. Keenan
Danielle Lang
Taylor Meehan
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Michele Odorizzi
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Anthony Russomanno
Stephen Schulhofer
Nicholas Stephanopoulos
Allison Stites
Peter Strauss

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 5



February 27, 2019

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By Email

**Re: Plaintiffs' Non-Party Subpoena for Wisconsin Speaker Robin Vos,
Whitford v. Gill, No. 3:15-cv-0421 (W.D. Wis.)**

Counsel:

We received Attorney St. John's letter of February 20, 2019, which purports to summarize the meet-and-confer telephone call among counsel to discuss, among other things, the Plaintiffs' subpoena to Wisconsin State Assembly Speaker Robin Vos. Although we agree that Attorney St. John's letter fairly characterizes much of the discussion, there are statements in the letter that reflect either a misunderstanding, or mischaracterization, of the positions the Plaintiffs are taking with respect to the subpoena. In responding to Attorney St. John's letter, as an initial matter, we want to clear up those statements and positions.

First, your letter states that we acknowledged in the call that Speaker Vos "may not have unique or relevant information." To the contrary, as described in more detail below, it is clear from other evidence that Speaker Vos – for example, through his leadership role and deep involvement in the redistricting process in 2011 – has information that is both unique *and* relevant to the claims in this case. *Second*, your letter states that our interest in questioning Speaker Vos as to associational effects relates entirely to his understanding of the associational effects of Act 43 on Republicans. The scope of Speaker Vos' knowledge and our questioning is

not so narrow, however. Given the Plaintiffs' claims of the associational burdens that Act 43 places on individuals and entities that seek to support the election of Democrats to the Wisconsin Legislature and the implementation of policies favored by Democrats through the adoption of state laws and regulations, we seek to understand Speaker Vos' (and the Wisconsin General Assembly's) knowledge of any such effects, as well as any actions that he or others affiliated with the Assembly took to mitigate or amplify those effects.

To summarize, the topics on which we seek to depose Speaker Vos are:

- (1) How the Legislature (including those responsible for drawing and evaluating the districts) reached its decision on the boundaries for each district in the 2011 redistricting maps (Act 43), including its motives, objective facts it relied on, and the involvement of others in the process, including the Redistricting Majority Project (REDMAP), the Republican National Committee, or other national Republican Party entities.
- (2) Any information or knowledge relating to the potential or actual associational effects of Act 43 on the Democratic Party of Wisconsin or its supporters, Democratic incumbents or candidates for office, Democratic voters, the Republican Party of Wisconsin or its supporters, Republican incumbents or candidates for office, or Republican voters.

We also dispute your characterization of some of the evidence that already has been discovered. You state that the materials already available to Plaintiffs include "all of the information on the hard drives of the redistricting computers used to draft the maps that would become Act 43." Even if that statement were true, it would not be dispositive of whether Mr. Vos has relevant, discoverable information. But, as a factual matter, your assertion is incorrect: as you know, only eight of the nine hard drives were able to be imaged by the forensic expert. The forensic expert found with respect to the ninth hard drive, an external hard drive capable of holding one terabyte of data, that it:

"bore marks, including scratches and denting of the external metal housing and a stripped screw, indicating that the housing previously had been removed from the drive in a manner that damaged the outer housing. Moreover, this external hard drive could not be read. Although the disk will spin when the drive is powered up, it is unable to be read, indicative of damage, physical or otherwise.

Decl'n of Mark Lanterman dated March 11, 2013, dkt #297 at ¶ 3 in *Baldus v. Brennan*, 2:11-cv-00562-JPS-DPW-RMD (E.D. Wis.).

In addition, the forensic expert found, with respect to multiple of the hard drives:

"my analysis revealed that software designed to "wipe" data – that is, to permanently destroy data on a hard drive, overwrite free space, or permanently delete files so that they can no longer be recovered – was downloaded onto some of the hard drives within the last year."

Id. at ¶ 5.

The ninth, damaged and unreadable, hard drive was associated with the computer used by Joseph Handrick, a consultant who worked along with the two legislative aides to draw the individual districts, regional maps, and state-wide map. Both Mr. Handrick and Speaker Vos had “Full map access” during the drafting process, which meant that they could both review complete maps and could access the “Map Room” when a legislative aide or member of the legal team were present. Tr. Ex. 463; Whitford Trial Transcript May 24, 2016, 77:24-75:4. Mr. Handrick and Speaker Vos were also both present during the “regional meetings” to discuss which of a number of possible map options should be chosen for inclusion in Act 43. Videotape Deposition of Joseph W. Handrick, February 1, 2012, 329:4-331:16.

Moving to the question of whether you can accept service on behalf of Speaker Vos, we understand your letter to assert that although you confirmed during our meet and confer that you represent Speaker Vos, you will not accept service of the subpoena because you believe he is protected from testifying at a deposition due to legislative immunity or legislative privilege. As we explain below, legal authority does not bear out your claim that Speaker Vos has legislative immunity or legislative privilege that shields him from Plaintiffs’ subpoena. Consequently, the law is clear Speaker Vos may be served with a subpoena to testify at a deposition and to produce documents. We ask that you reconsider your position and accept service on behalf of Speaker Vos so that we can avoid asking the Court to (re)issue the subpoena.

Legislative immunity

Notably, your letter cites no legal authority for your claim that “state and federal law protect high-ranking public officials including Speaker Vos from civil process and discovery.” The controlling authority, which is set out below, demonstrates that Speaker Vos cannot avoid Plaintiffs’ subpoena on the basis of any claim of legislative immunity.

Wisconsin State Assembly members, including Speaker Vos, have waived any claim to legislative immunity in this case by intervening as a defendant and actively participating in the litigation, including filing motions and discovery requests. *Powell v. Ridge*, 247 F.3d 520, 525 (3d Cir. 2001) (holding that “Legislative Leaders” of the Pennsylvania General Assembly were not entitled to assert legislative immunity because they “voluntarily joined” the suit (as intervening defendants), and a “proper invocation of legislative immunity would typically call for the dismissal of a legislator from the lawsuit,” and therefore could not be made by parties that voluntarily joined and “continue[d] to actively participate in this litigation”).

Qualified legislative privilege

Wisconsin State Assembly members, including Speaker Vos, may assert a claim to a qualified legislative privilege (rather than absolute legislative immunity), but “whether and to what extent a state lawmaker may invoke [that] legislative privilege,” will be a question the Court will review according to a five factor test: “(i) the relevance of the evidence sought to be protected; (ii) the availability of other evidence; (iii) the seriousness of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future

timidity by government employees who will be forced to recognize that their secrets are violable.” *Comm. for a Fair & Balanced Map v. Illinois State Bd. of Elections*, No. 11 C 5065, 2011 WL 4837508, at *7 (N.D. Ill. Oct. 12, 2011), citing *Rodriguez v. Pataki*, 280 F. Supp.2d 89, 101 (S.D.N.Y. 2003), (*cited with approval in Baldus v. Brennan*, No. 11-CV-1011 JPS-DPW, 2011 WL 6122542, at *3 (E.D. Wis. Dec. 8, 2011), *order clarified*, No. 11-CV-1011 JPS-DPW, 2011 WL 6385645 (E.D. Wis. Dec. 20, 2011)) (hereafter the “*Rodriguez* factors”).

Evidence relating to the two topics on which we intend to question Speaker Vos is relevant because the Amended Complaint alleges that the intent of the Legislature in drawing individual Assembly districts included in Act 43 was to pursue partisan gain for legislative Republicans to the detriment of legislative Democrats and their supporters, and that Democratic voters and the Democratic Party have suffered associational harms as a result. Amended Complaint, dkt. #210 at ¶¶ 17,114.

The information and documents that Speaker Vos might possess are also unique because he was the only member of the legislative leadership that was present at both the regional meetings (to choose between different possible boundaries for Act 43) and the meetings with individual members of the Republican Assembly caucus (to consider any final changes the individual legislators wanted made to “their” assembly districts). Legislative aide Adam Foltz was also present at these meetings but has testified that the decision as to the final district boundaries was left for legislative leadership. Adam Foltz, Trial Testimony May 24, 2016, 95:15-96:17, 99:25-100:3, 162:20-164:19; Deposition of Adam Foltz, dated March 31, 2016, 74:5-11.

Moreover, the three-judge federal panel that presided over the challenge to Act 43 in *Baldus v. Brennan* already found that when evaluating the claim of legislative privilege invoked to prevent discovery of the Wisconsin Legislature, the issues and information sought were sufficiently serious to outweigh any claim to legislative privilege. *Baldus*, 2011 WL 6122542, at *2.

Members of the Wisconsin State Assembly, including Speaker Vos, have not only a direct but voluntary role in this case and therefore “as a matter of fairness, the defendants’ claim of privilege against compelled disclosure must be weakened.” *Favors v. Cuomo*, 285 F.R.D. 187, 211 (E.D.N.Y. 2012).

Finally, any claim that future legislative deliberation will be chilled by the disclosure of testimony by Speaker Vos simply cannot stand because he will merely be providing additional district-specific information to augment state-wide information that has already been judged by the Court in this case to be relevant and necessary to the claim of partisan gerrymandering under the First and Fourteenth Amendments.

Given that all five factors of the *Rodriguez* factors weigh in favor of disclosure of Speaker Vos’ testimony, in our view there is no legislative privilege that Speaker Vos can invoke to protect him against testifying as to the two topics outlined at the top of this letter.

Other factors the Court may weigh in limiting discovery

The Court in *Powell* noted that, as in any civil case, the District Court has power to limit discovery which is unreasonably cumulative, more easily obtainable from another source, or unduly burdensome. Fed. R. Civ. P 26(b)(2); *Powell*, 247 F.3d at 527. Though the Court will assess these factors in the event of a motion to quash, the information set out above shows that the evidence from Speaker Vos would not be cumulative or obtainable from another source (in actual fact it will be unique and only obtainable from Speaker Vos).

As to the question of burden, you state in your letter that “[s]ubpoenaing Speaker Vos diverts his time, energy, and attention away from legislative tasks and disrupts the important work of the Wisconsin legislature.” We note that this so-called “burden” is one that Speaker Vos has chosen to carry by intervening as a defendant in the current case. We further note that on numerous occasions Speaker Vos has found the time to discuss the question of Act 43 and gerrymandering, such as his recent statements at a WisPolitics.com luncheon on February 21, 2019,¹ and quotes reported by the New York Magazine on December 9, 2018.²

Communications with national Republican entities

There is a final point of law that we wish to explain with respect to the testimony and document production requests served on Speaker Vos. Communications between Speaker Vos and outsiders to the legislative process (including, for example, national Republican entities like REDMAP and the RNC) are not protected by legislative privilege (and therefore not subject to a weighing of the *Rodriguez* factors). *Comm. for a Fair & Balanced Map*, 2011 WL 4837508, at *10 (“Although these groups may have a heightened interest in the outcome of the redistricting process, they could not vote for or against the Redistricting Act, nor did they work for someone who could. As such, the legislative privilege does not apply.”)

We look forward to your response.

Sincerely,



Ruth M. Greenwood

cc: Peter G. Earle
Mark P. Gaber
Annabelle E. Harless
J. Gerald Hebert

¹ <https://twitter.com/patrickdmarley/status/1098654911817043975?s=21>

² <http://nymag.com/intelligencer/2018/12/when-republicans-lose-they-work-harder-to-rig-the-game.html>

Douglas M. Poland
Alison E. Stites
Nicholas O. Stephanopoulos
Cecilia Aguilera

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 6



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March 5, 2019

VIA U.S. MAIL AND EMAIL

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Re: Plaintiffs' Non-Party Subpoenas for Wisconsin Speaker Robin Vos,
Whitford v. Gill, No. 3:15-cv-0421 (W.D. Wis.)

Counsel:

Thank you for your response regarding your discovery demands of Speaker Vos. We cannot agree that this case warrants deposing and subpoenaing documents from the Speaker of the Wisconsin State Assembly. Speaker Vos cannot be deposed about how "the Legislature" came to enact Act 43. Nor is a deposition warranted to explore "[a]ny information or knowledge" Speaker Vos might have about associational effects on Republicans, Democrats, their parties or candidates. Finally, no member of the Wisconsin State Assembly is a party to this litigation, and no member has waived his or her legislative immunity or privilege.

Public officials like Speaker Vos "should not be taken away from his work to spend hours or days answering lawyers' questions unless there is a real need." *Olivieri v. Rodriguez*, 122 F.3d 406, 409 (7th Cir. 1997). For that reason, high-ranking public officials cannot be deposed when information is available using other means. *See City of Fort Lauderdale v. Scott*, 2012 WL 760743, at *2-4 (S.D. Fla. Mar. 7, 2012) (collecting cases); *see, e.g., LaPorta v. City of Chicago*, 2016 WL 4429746, at *2 (N.D. Ill. Aug. 22, 2016). Applied here, it does not appear that you have entertained the idea that the information you seek from Speaker Vos could be obtained elsewhere. For example, we have stated that the State Assembly, as the intervening party, is cooperating with your unprecedented discovery requests. We asked that you await the Assembly's responses to those discovery requests before speculating that your discovery demands of Speaker Vos are remotely justified. You refused.

No extraordinary circumstances justify deposing Speaker Vos about how the legislature came to enact Act 43. As your letter acknowledges, others were in the very same meetings as Speaker Vos. You have their testimony. You state that testimony is insufficient because "the decision as to the final district boundaries" was "left for legislative leadership," not the deposed legislative staffers. Of course, such information regarding Speaker Vos's ultimate decision would be privileged even in jurisdictions applying your preferred test for legislative privilege.

Ruth Greenwood

Page 2

See, e.g., Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections, 2011 WL 4837508, at *10 (N.D. Ill. Oct. 12, 2011) (“This court therefore concludes that the legislative privilege shields from disclosure pre-decisional, non-factual communications that contain opinions, recommendations or advice about public policies or possible legislation.”); *see also Biblia Abierta v. Banks*, 129 F.3d 899, 903-04 (7th Cir. 1997). Your letter further acknowledges that you have volumes of documents from the *Baldus* litigation. You were content to rely on that evidence for the first trial of plaintiffs’ claims, never once attempting to subpoena an individual member of the Wisconsin State Assembly. You have yet to offer any explanation about why—at this eleventh hour—the needs of the case require an unprecedented deposition of a sitting member of the State Assembly. Nor have you explained why you must hear from Speaker Vos in particular, rather than other individuals or groups that could have the same information.

For similar reasons, you have failed to establish that extraordinary circumstances justify deposing and demanding documents from Speaker Vos about either Republican or Democratic associational activities. As an initial matter, surely this information can be obtained elsewhere. The ADCC, for example, must have far more information about campaign-related associational activities of Wisconsin Democrats than someone like Speaker Vos. More broadly, it is not clear what relevance such information has for plaintiffs’ individual claims or—even if relevant—how seeking such information from sitting legislators is proportionate to the needs of the case or sufficiently important to outweigh the burden of sitting legislators’ responding to subpoenas. As we understand plaintiffs’ associational claims, those claims are not predicated on the successes or failures of Democrats vis-à-vis Republicans. Indeed, we do not even understand plaintiffs’ theory to be predicated on the associational activities of Democrats generally. Both theories are contrary to the Supreme Court’s statement in this very case: The judiciary “is not responsible for vindicating generalized partisan preferences. The Court’s constitutionally prescribed role is to vindicate the individual rights of the people appearing before it.” *Gill v. Whitford*, 138 S. Ct. 1916, 1933 (2018); *see also id.* (criticizing the efficiency gap as a measure of “the fortunes of the political parties”). Rather, as we understand it, the forty individual plaintiffs in this case claim that Act 43 has burdened their efforts to associate in ways particular to each plaintiff. Please tell us what information you believe Speaker Vos has regarding these forty individual plaintiffs’ allegedly individualized associational claims, and why Speaker Vos alone has such information.

You have also repeatedly asserted that your discovery requests are justified because Speaker Vos is party. He is not. And neither he nor any other member of the State Assembly has waived any privilege or immunity. (Surely the minority leader of the State Assembly would be surprised to hear that he has waived his legislative privilege!) For this reason alone, the Third Circuit’s *Powell* decision is inapposite. There, Pennsylvania State House Representatives Matthew Ryan and Jess Stairs and State Senators Robert Jubelirer and James Rhoades *individually* intervened. By contrast here the Wisconsin State Assembly intervened, not individual members. Just as you would have no right to depose the Speaker of the U.S. House of Representatives when the U.S. Congress intervenes to defend federal legislation, you have no right to depose the Speaker of Wisconsin now that the State Assembly has intervened to defend Act 43.

Relatedly, your continued invocation of *Baldus* ignores that *Baldus* was a different case in a different court. And again, the *Baldus* plaintiffs did not depose sitting legislators, let alone the Speaker of the Wisconsin Assembly.

Ruth Greenwood
Page 3

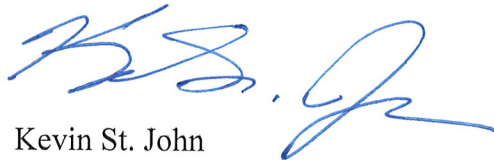
Finally with respect to Speaker Vos, you have also asked us to reconsider our position with respect to accepting service of the subpoenas. We continue to maintain that Speaker Vos is immune from civil process, including subpoenas. *See, e.g.,* Wis. Const. Art. IV § 15; *Tenney v. Brandhove*, 341 U.S. 367, 377-78 (1951). Reissuing subpoenas will not address that deficiency.

Regarding your discovery requests of the Assembly, your letter does not object to our proposed timeline to respond to those separate discovery requests. We therefore assume that you are agreeable to the timeline proposed in our last letter. We have also received your request to schedule the Assembly 30(b)(6) for March 29, 2019 in Madison. That is acceptable; please reach out to me to confirm a specific time and location for the deposition.

We look forward to your response.

Sincerely,

BELL GIFTOS ST. JOHN LLC



Kevin St. John

Enclosure

cc: Joshua Ackerman
Peter Earle
Annabelle Harless
J. Gerald Herbert
Karla Keckhaver
Brian P. Keenan
Danielle Lang
Taylor Meehan
Adam Mortara
Michele Odorizzi
Lester Pines
Douglas Poland
Anthony Russomanno
Stephen Schulhofer
Nicholas Stephanopoulos
Allison Stites
Peter Strauss

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 7



February 13, 2019

Kevin St. John
Bell Giftos St. John LLC
5325 Wall Street, Suite 2200
Madison, WI 53718-7980
kstjohn@bellgiftos.com

Wisconsin Department of Justice
Brian P. Keenan
Assistant Attorney General
17 West Main Street, Room 622
Madison, WI 53703
keenanbp@doj.state.wi.us

Adam K. Mortara
Joshua P. Ackerman
Bartlit Beck LLP
54 W. Hubbard Street
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joshua.ackerman@bartlitbeck.com

By Email

Counsel,

We are writing to you on behalf of Plaintiffs in *Whitford v. Nichol*, Case No. 15-cv-421-jdp. We refer to our letter of February 11 in this matter. In that letter, sent by email, we attached a subpoena requiring the Wisconsin State Assembly to produce the documents identified in Exhibit 1 to Exhibit A to the subpoena, and to appear for a deposition to be taken pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure on the topics identified in Exhibit A to the subpoena. We also attached a notice of that subpoena and deposition. Those documents are attached again.

Although our February 11 cover letter mistakenly referred to the subpoena as being issued to the "Wisconsin Republican Campaign Committee" rather than the "Wisconsin State Assembly," the attached documents are the same as those sent on February 11, namely, a subpoena for the Wisconsin State Assembly to produce documents no later than March 6, 2019, and to appear for a deposition on the topics indicated in the subpoena on March 13, 2019.

In our letter of February 11, we also asked if you would accept service of a subpoena on behalf of Wisconsin State Assembly Speaker Robin J. Vos. In a telephone call earlier today, the Assembly's counsel Attorney St. John indicated to Attorney Greenwood that he would need to see the subpoena to Speaker Vos before consenting to service. Accordingly, we are providing in a separate communication today a subpoena, exhibits, and notice of deposition for Speaker Vos.

Please feel free to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth M. Greenwood', with a long horizontal line extending from the end of the signature.

/s/ Ruth M. Greenwood

Ruth M. Greenwood
Annabelle E. Harless
CAMPAIGN LEGAL CENTER
73 W. Monroe St., Ste. 302
Chicago, IL 60603
(312) 561-5508
rgreenwood@campaignlegalcenter.org
aharless@campaignlegalcenter.org

/s/ Douglas M. Poland

Douglas M. Poland
State Bar No. 1055189
Alison E. Stites
State Bar. No. 1104819
RATHJE WOODWARD LLC
10 East Doty St., Ste. 507
Madison, WI 53703
(608) 960-7430
dpoland@rathjewoodward.com
astites@rathjewoodward.com

Attorneys for Plaintiffs William Whitford, et al.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, et al.,

Plaintiffs,

v.

15-cv-421-jdp

BEVERLY R. GILL, et al.,

Defendants.

**PLAINTIFFS' NOTICE OF SUBPOENA TO WISCONSIN STATE ASSEMBLY
FOR PRODUCTION OF DOCUMENTS AND DEPOSITION**

TO: Wisconsin Department of Justice
Brian P. Keenan
Assistant Attorney General
17 West Main Street, Room 622
Madison, WI 53703
keenanbp@doj.state.wi.us

Adam K. Mortara
Joshua P. Ackerman
Bartlit Beck LLP
54 W. Hubbard Street
Chicago, IL 60654
adam.mortara@bartlitbeck.com
joshua.ackerman@bartlitbeck.com

Kevin St. John
Bell Giftos St. John LLC
5325 Wall Street, Suite 2200
Madison, WI 53718-7980
kstjohn@bellgiftos.com

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, plaintiffs William Whitford, et al., by their undersigned attorneys, have issued the attached subpoena to the Wisconsin State Assembly for the production of documents on or before March 6, 2019, and for the deposition of a person designated by the Wisconsin State Assembly at the place and time indicated on the subpoena. The deposition will be videotaped and recorded stenographically before a person duly authorized to administer oaths who is not counsel of record or interested in the events of this case. The oral examination is to be taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the Federal Rules of Evidence, the Federal

Rules of Civil Procedure, and any other orders entered by the Court. The deposition shall continue from time to time until completed.

Issued this 11th day of February, 2019.

By: /s/ Ruth M. Greenwood
One of the Attorneys for Plaintiffs

/s/ Ruth M. Greenwood
Annabelle E. Harless
Ruth M. Greenwood
CAMPAIGN LEGAL CENTER
73 W. Monroe St., Ste. 302
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(312) 561-5508
rgreenwood@campaignlegalcenter.org
aharless@campaignlegalcenter.org

/s/ Douglas M. Poland
Douglas M. Poland
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Alison E. Stites
State Bar. No. 1104819
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astites@rathjewoodward.com

*Attorneys for Plaintiffs William
Whitford, et al.*

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of

Plaintiff

v.

Defendant

Civil Action No.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Date and Time:

The deposition will be recorded by this method:

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR

Attorney's signature

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party), who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

DEFINITIONS

In the topics listed below, the following terms shall have the meaning as specified:

- A. The terms “you” or “your” refers to the Republican Assembly Caucus of the Wisconsin State Assembly.
- B. “Act 43” refers to 2011 Wisconsin Act 43.
- C. “Assembly” refers to the Wisconsin State Assembly
- D. “Assembly Persons” shall mean members, employees, agents, affiliates, or volunteers of the Wisconsin State Assembly.
- E. “Current Map” shall mean the Assembly district map in force as of 2011.
- F. “Document” means all materials within the scope of Rule 34 of the Federal Rules of Civil Procedure, including but not limited to writings, correspondence, electronic mail, text messages (e.g., SMS), memoranda, records, reports, notes, notebooks, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations. The term “Document” includes the original document (or a copy in the event the original is not available), as well as all copies that differ in any respect from the original, including those that have notations, underlining, or other markings. The term “Document” also includes all forms of electronically stored information, whether stored on personal or employer- owned electronic equipment, including but not limited to electronic mail and all attachments (whether sent or received by a business or personal account), word processing documents, electronic spreadsheets, electronic images of any kind, audio files, and database material.

G. “Communication” means any transmission or exchange of information by one or more persons and between two or more persons by any means, whether verbal or written.

H. “Associational activity” means recruiting candidates, registering voters, raising campaign funds for Republican Assembly candidates or the Republican Party of Wisconsin persuading independents and other voters to vote for Republican Assembly candidates, advocating and implementing preferred legislative policies, and organizing volunteers.

I. “RPW” refers to the Republican Party of Wisconsin.

TOPICS

Pursuant to the provisions of Rule 30(b)(6) of the Federal Rules of Civil Procedure, the Wisconsin State Assembly is required to designate one or more persons who consent to testify on its behalf about all information known or reasonably available to the Assembly regarding the matters set forth in the Topics listed below:

1. The objectives and/or motivations for the drawing of each district in 2011 Wisconsin Act 43, including earlier drafts.
2. The identity of the persons involved in the drawing of each district in 2011 Wisconsin Act 43, including earlier drafts.
3. The objective facts that any Assembly Persons had access to or relied on when drawing each district in 2011 Wisconsin Act 43, including earlier drafts.
4. Your involvement, if any, with the drawing, passage, and/or enactment of 2011 Wisconsin Act 43.

5. Information about any communications or other interactions between the Assembly and the Republican National Committee's GOP Redistricting Conference or the organization known as the Redistricting Majority Project ("REDMAP").

6. The identity and duties of all Assembly Persons who were involved in your associational activities from 2002 to the present.

7. The identity of Assembly Persons who were involved in recruiting Republican candidates for the Assembly from 2002 to the present, the prospective candidates those persons contacted for recruitment purposes, and whether such recruitment was successful or unsuccessful.

8. Meetings, communications, or conversations from 2002 to the present relating to recruiting Republican candidates for Assembly.

9. Any criteria you have used from 2002 to the present to assess whether a candidate is qualified or highly qualified to run for office.

10. The identity and role of all Assembly Persons who solicited campaign contributions for the Assembly or individual Republican candidates for the Assembly from 2002 to the present.

11. The nature and number of communications made by any Assembly Persons between 2002 and the present that solicited campaign contributions to you, the RPW or to any individual Republican candidate. The categories of communications as used in this request includes but is not limited to emails, mailings, phone solicitations, person-to-person solicitations, and fundraising events.

12. The ability and efforts of you to fundraise for Republican Assembly candidates from 2002 to the present.

13. The identity and role of all Assembly Persons who were responsible for organizing volunteers in each Assembly election between 2002 and the present.

14. All associational activities engaged in by you or any Assembly Persons from 2002 to the present.

EXHIBIT B

DOCUMENTS TO BE PRODUCED BY THE WISCONSIN STATE ASSEMBLY (“Assembly”)

On or before March 6, 2019, you or your representatives must produce the following documents, communications, electronically stored information, objects and/or materials (collectively “documents” or “materials”) that are in your actual or constructive possession, custody, or control, and permit the inspection, copying, testing and/or sampling of the materials, that were created or used during the period June 1, 2010 to September 30, 2018:

1. All documents, including but not limited to email, concerning any analyses, data, plans, procedures, memos and/or reports used by state legislative staff, state legislators, and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
2. All documents, including but not limited to email, concerning the objectives and/or motives relied on by – or available to – state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
3. All documents, including but not limited to email, concerning the objective facts that legislative staff and/or any experts or consultants references, used or relied upon – or had available to them – in the planning, development negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
4. Any and all requests that you, your office, or anyone employed by you or your office received to provide to the requesting person or to release to the public a copy of any engagement letter, contract, agreement, or other document reflecting the Wisconsin State Assembly’s retention or engagement of Bartlit Beck LLP to serve as its legal counsel in *Whitford v. Gill*, case no. 15-cv-421-jdp, pending in the U.S. District Court for the Western District of Wisconsin.
5. Copies of any and all documents that you, your office, or anyone employed by you or your office provided to the requesting person or released to the public in response to any request identified in Paragraph 4, above.
6. Copies of any and all documents prepared by or transmitted by the Republican National Committee, that relate or refer to legislative redistricting, including but not limited to the document attached hereto as Exhibit 1.
7. Copies of any and all communications, including email, that relate or refer to legislative redistricting, reflecting or referring to any of the following people or email addresses:
 - a. Tom Hofeller, thofeller@rnchq.org
 - b. Dale Oldham, doldham@rnchq.org
 - c. Mike Wild, mwild@rnchq.org

d. John Phillipe, jphillippe@rnchq.org

e. Leslie Rutledge, lrutledge@rnchq.org

8. Any and all materials reflecting or relating or referring to the April 2010 Republican National Committee's GOP Redistricting Conference, including any and all notes, summaries, minutes, agendas, papers, documents, data, computer files, CDs, training materials, or any other written or electronic material prepared for, distributed at, created at, or otherwise related to that conference.
9. Any and all documents reflecting or relating or referring to the Redistricting Majority Project, commonly referred to as "REDMAP."
10. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to recruiting Republican candidates for Wisconsin State Assembly.
11. Any and all documents reflecting or relating or referring to communications made by the RPW that solicited campaign contributions to the RPW or to any individual Republican candidate for the Wisconsin State Assembly from 2002 to the present. The categories of communications as used in this request includes but is not limited to emails, mailings, phone solicitations, person-to-person solicitations, and fundraising events.
12. Any and all documents reflecting or relating or referring to volunteer activities in support of Republican campaigns for the Wisconsin State Assembly that were coordinated by, arranged by, carried out by, or funded by the RPW from 2002 to the present.
13. Any and all documents reflecting or relating or referring to voter registration activities that were coordinated, arranged, carried out, or funded by the RPW or Wisconsin Republican Assembly Campaign Committee ("WRACC") from 2002 to the present.
14. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to advocating for or implementing legislative policies preferred by the RPW or the Republican Assembly Caucus.
15. Any and all documents reflecting or relating or referring to communications the RPW has had with any current or former Republican Wisconsin State Assembly member or candidate about the impact of Act 43 would on Assembly elections across the State of Wisconsin as a whole or in any one or more particular Assembly districts from 2010 to the present.

Redistricting Essentials

CONSOLIDATING THE RESULT OF THE 2010 ELECTION

November 12, 2010

I. Timeline:

- a. On November 12th, there are only 78 days until the 2010 Decennial Census data becomes available and the redistricting begins.
- b. **Now that we had a spectacular election outcome, it's time to make sure the Democrats cannot take it away from us in 2011 and 2012**

II. Technology/Data:

- a. You must have identified all the political data you need to draw the lines and to prevail in any litigation.
- b. You need to identify the source of all required data and make provisions to collect what additional data is required. Primary elections will be required in some states for Voting Rights Act issues. Particular emphasis should be placed on elections involving minority versus non-minority contests – even including county and local elections were appropriate. This underscores the need for a legal strategy (see below).
- c. **You need to complete work on your election history precinct-level database as quickly as possible and be prepared to incorporate the results of the 2010 election into your redistricting database.**
- d. All the stakeholders in your state need to identify what software system they will use and what hardware is required to host it. Will public funds be available? Will other resources be required from GOP sources?

III. Legal Preparations:

- a. Most states will have litigation of some type.
- b. Litigation is expensive. Will litigation be paid for using public or private sources, or both?
- c. Litigation could even start right now, directly after the elections. Is funding available?
- d. **You should already have a legal strategy and access to experienced redistricting counsel.**
- e. Your redistricting legal record has already begun. Avoid misstatements in public or emails: (Keep it simple, such as “We want a FAIR process that follows all the requirements of the law.”)

IV. Training:

- a. The RNC can train you on the use of Maptitude for Redistricting, but you will need to pay the travel expenses to come to Washington, DC.
- b. CD's with the training materials from the April 2010 RNC's GOP Redistricting Conference are available on request.
- c. **If you have questions, please call us at the RNC. That's what we're here for.**

Tom Hofeller	Redistricting Coordinator	(202) 863-8816 or (703) 623-0764	thofeller@rnchq.org
Dale Oldham	Redistricting Counsel	(202) 863-8323 or (803) 237-0586	doldham@rnchq.org
Mike Wild	Redistricting Deputy	(202) 863-8783 or (202) 309-1529	mwild@rnchq.org
John Phillippe	Chief Counsel	(202) 863-8638 or (202) 863-8702	jphillippe@rnchq.org
Leslie Rutledge	Associate Counsel	(202) 863-8638 or (202) 863-5109	lrutledge@rnchq.org

**Paid for by the Republican National Committee * Not authorized
by any candidate or candidate's committee * www.gop.com**

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 8

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, et al.,

Plaintiffs,

Case No. 3:15-CV-00421-jdp

v.

BEVERLY R. GILL, et al.,

Defendants.

**THE WISCONSIN STATE ASSEMBLY'S RESPONSE TO PLAINTIFFS'
REQUESTS FOR PRODUCTION**

Pursuant to 34 of the Federal Rules of Civil Procedure, the Wisconsin State Assembly hereby responds to Plaintiffs' Requests for Production of Documents, served February 13, 2019. The Assembly's objections and responses to Plaintiffs' requests for production are not intended to waive or prejudice any objections that the Assembly may assert now or in the future, including, without limitation, objections as to the relevance of the subject matter of any request for production, the admissibility of any response at trial, or testimonial privileges. Nor should the Assembly's responses to specific requests for production be construed to admit plaintiffs' characterizations of any documents, facts, theories, or conclusions.

First, the Assembly's cooperation with plaintiffs' requests is not intended to be and should not be construed as a waiver of the Assembly's legislative immunity or privilege. The Assembly reserves its right to move for a protective order on these or other grounds. Legislators—and by extension a legislative body—are free from

such civil process. And legislative privilege protects lawmakers' actions in the proposal, formulation, and passage of legislation. *See Tenney v. Brandhove*, 341 U.S. 367, 372 (1951); *Biblia Abierta v. Banks*, 129 F.3d 899, 903-04 (7th Cir. 1997); *see also, e.g.*, Wis. Const. Art. IV, § 15 (Assembly members shall not “be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session”). Nor should the Assembly's responses be construed as a waiver of the attorney-client privilege, the attorney work-product doctrine, or any other applicable law, privilege, or immunity.

Second, plaintiffs' requests instruct that “you or your representatives must produce” the requested documents “that are in your actual or constructive possession, custody, or control....” The Assembly construes the undefined terms “you or your representatives” as used in these instructions to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records. The Assembly will not construe “you or your representatives” to include legislative service agencies or Members of the Wisconsin State Assembly. Documents in the possession, custody, or control of Members and Members' offices, whether in their official or personal capacity, are not in the possession, custody, or control of the Assembly. *See, e.g.*, Wis. Stat. § 19.33. Members are under no obligation to produce documents or their work product to the body. Accordingly, in responding to plaintiffs' requests, counsel has conducted a reasonable search of documents in the possession, custody, or control of the Assembly residing in the office of the Chief Clerk. Counsel has not and will not search or produce any Members' documents, which are not in the Assembly's

possession, custody, or control.

Finally, plaintiffs' requests are premature. The Supreme Court is currently considering whether plaintiffs' claims are even justiciable in *Rucho v. Common Cause*, No. 18-422 and *Lamone v. Benisek*, No. 18-726. It is possible, if not probable, that the Supreme Court rules plaintiffs' claims are not justiciable. Even if the Supreme Court decides plaintiffs' claims are justiciable, the parties cannot assess the relevance or importance of the requested discovery to plaintiffs' claims, or whether the discovery is proportional to the needs of the case, until the Supreme Court announces what legal rule or rules govern plaintiffs' claims. Requiring any party, especially the Assembly, to submit to discovery before the Supreme Court issues its decisions in those cases wastes the parties' resources and is unduly burdensome.

REQUEST NO. 1.

All documents, including but not limited to email, concerning any analyses, data, plans, procedures, memos and/or reports used by state legislative staff, state legislators, and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.

RESPONSE TO REQUEST NO. 1:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or

Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly would make the following three objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure. (2) Such a request would demand information already produced in *Baldus v. Members of the Wisconsin Governmental Accountability Board*, Case No. 11-cv-562 (E.D. Wis.) and is therefore unduly burdensome, intended to harass, and is not proportional to the needs of the case. Plaintiffs are already in possession of the discovery record from *Baldus*, as well as other extensive factual materials relating to the redistricting that ultimately culminated in the passage of 2011 Wisconsin Act 43. Among other things, these materials include all data stored on the hard drives of the redistricting computers used throughout the redistricting process. The parties (including the State Assembly) stipulated to the authenticity of files imaged from those redistricting computers nearly three years ago. *See* Dkt. No. 96, Stipulation Regarding Authenticity of Documents (Apr. 19, 2016). And (3) such a request would demand privileged information relating to the legislative process.

The Assembly maintains the Assembly Journal, which contains information regarding Act 43. The relevant portions of the Journal are publicly available at <https://docs.legis.wisconsin.gov/2011/proposals/sb148>. Because the Assembly

Journal is publicly available, the Assembly is not producing it in response to these Requests.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control except for the Assembly Journal noted above.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 2.

All documents, including but not limited to email, concerning the objectives and/or motives relied on by—or available to—state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.

RESPONSE TO REQUEST NO. 2:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly

would make the following three objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure. (2) Such a request would demand information already produced in *Baldus v. Members of the Wisconsin Governmental Accountability Board*, Case No. 11-cv-562 (E.D. Wis.) and is therefore unduly burdensome, intended to harass, and is not proportional to the needs of the case. Plaintiffs are already in possession of the discovery record from *Baldus*, as well as other extensive factual materials relating to the redistricting that ultimately culminated in the passage of 2011 Wisconsin Act 43. Among other things, these materials include all data stored on the hard drives of the redistricting computers used throughout the redistricting process. The parties (including the State Assembly) stipulated to the authenticity of files imaged from those redistricting computers nearly three years ago. *See* Dkt. No. 96, Stipulation Regarding Authenticity of Documents (Apr. 19, 2016). And (3) such a request would demand privileged information relating to the legislative process.

The Assembly maintains the Assembly Journal, which contains information regarding Act 43. The relevant portions of the Journal are publicly available at <https://docs.legis.wisconsin.gov/2011/proposals/sb148>. Because the Assembly Journal is publicly available, the Assembly is not producing it in response to these Requests.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have

responsive materials in its possession, custody, or control except for the Assembly Journal noted above.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 3.

All documents, including but not limited to email, concerning the objective facts that legislative staff and/or any experts or consultants references, used or relied upon—or had available to them—in the planning, development negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.

RESPONSE TO REQUEST NO. 3:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly would make the following three objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure. (2) Such a request would demand information already produced

in *Baldus v. Members of the Wisconsin Governmental Accountability Board*, Case No. 11-cv-562 (E.D. Wis.) and is therefore unduly burdensome, intended to harass, and is not proportional to the needs of the case. Plaintiffs are already in possession of the discovery record from *Baldus*, as well as other extensive factual materials relating to the redistricting that ultimately culminated in the passage of 2011 Wisconsin Act 43. Among other things, these materials include all data stored on the hard drives of the redistricting computers used throughout the redistricting process. The parties (including the State Assembly) stipulated to the authenticity of files imaged from those redistricting computers nearly three years ago. *See* Dkt. No. 96, Stipulation Regarding Authenticity of Documents (Apr. 19, 2016). And (3) such a request would demand privileged information relating to the legislative process.

The Assembly maintains the Assembly Journal, which contains information regarding Act 43. The relevant portions of the Journal are publicly available at <https://docs.legis.wisconsin.gov/2011/proposals/sb148>. Because the Assembly Journal is publicly available, the Assembly is not producing it in response to these Requests.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control except for the Assembly Journal noted above.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 4.

Any and all requests that you, your office, or anyone employed by you or your office received to provide to the requesting person or to release to the public a copy of any engagement letter, contract, agreement, or other document reflecting the Wisconsin State Assembly's retention or engagement of Bartlit Beck LLP to serve as its legal counsel in *Whitford v. Gill*, case no. 15-cv-421-jdp, pending in the U.S. District Court for the Western District of Wisconsin.

RESPONSE TO REQUEST NO. 4:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly would make the following two objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

The Assembly further objects to this Request for information about the Wisconsin State Assembly's retention of legal counsel as irrelevant to the parties' claims or defenses, not important in resolving the issues, intended to harass, and

not proportional to the needs of the case. The Assembly therefore will not be producing any documents responsive to this request.

REQUEST NO. 5.

Copies of any and all documents that you, your office, or anyone employed by you or your office provided to the requesting person or released to the public in response to any request identified in Paragraph 4, above.

RESPONSE TO REQUEST NO. 5:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly would make the following two objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

The Assembly further objects this Request for information about the Wisconsin State Assembly's retention of legal counsel as irrelevant to the parties'

claims or defenses, not important in resolving the issues, intended to harass, and not proportional to the needs of the case. The Assembly therefore will not be producing any documents responsive to this request.

REQUEST NO. 6.

Copies of any and all documents prepared by or transmitted by the Republican National Committee, that relate or refer to legislative redistricting, including but not limited to the document attached hereto as Exhibit 1.

RESPONSE TO REQUEST NO. 6:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly would make the following two objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 7.

Copies of any and all communications, including email, that relate or refer to legislative redistricting, reflecting or referring to any of the following people or email addresses:

- a. Tom Hofeller, thofeller@rnchq.org**
- b. Dale Oldham, doldham@rnchq.org**
- c. Mike Wild, mwild@rnchq.org**
- d. John Phillippe, jphillippe@rnchq.org**
- e. Leslie Rutledge, lrutledge@rnchq.org**

RESPONSE TO REQUEST NO. 7:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly would make the following two objections to this Request: (1) It would request

documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

Subject to and without waiving these objections, after a reasonable search of documents in the Assembly's possession, custody, or control, the Assembly is contemporaneously producing any documents responsive to this Request.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 8.

Any and all materials reflecting or relating or referring to the April 2010 Republican National Committee's GOP Redistricting Conference, including any and all notes, summaries, minutes, agendas, papers, documents, data, computer files, CDs, training materials, or any other written or electronic material prepared for, distributed at, created at, or otherwise related to that conference.

RESPONSE TO REQUEST NO. 8:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to Request No. 8 to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies,

individual Wisconsin State Assembly Members, or Members' offices, the Assembly would make the following two objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 9.

Any and all documents reflecting or relating or referring to the Redistricting Majority Project, commonly referred to as "REDMAP."

RESPONSE TO REQUEST NO. 9:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs

intend “you or your representatives” to include legislative service agencies, individual Wisconsin State Assembly Members, or Members’ offices, the Assembly would make the following two objections to this Request: (1) It would request documents not in the Assembly’s possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

Subject to and without waiving these objections, after a reasonable search of documents in the Assembly’s possession, custody, or control, the Assembly is contemporaneously producing any documents responsive to this Request.

The Assembly’s investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 10.

Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to recruiting Republican candidates for Wisconsin State Assembly.

RESPONSE TO REQUEST NO. 10:

The Assembly construes plaintiffs’ instruction that “you and your representatives” produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe “you or your representatives” to include legislative service agencies, individual Wisconsin State Assembly Members, or

Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly objects to this Request because it requests documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure.

The Assembly does not participate in campaign-related activities. The Assembly does not construe this request to include Assembly policies prohibiting campaign-related activities, and Assembly Guidelines regarding the same are publicly available at <https://bit.ly/2T1hn39>.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 11.

Any and all documents reflecting or relating or referring to communications made by the RPW that solicited campaign contributions to the RPW or to any individual Republican candidate for the Wisconsin State Assembly from 2002 to the present. The categories of communications as used in this request includes but is not limited to emails, mailings, phone solicitations, person-to-person solicitations, and fundraising events.

RESPONSE TO REQUEST NO. 11:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly objects to this Request because it requests documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure.

The Assembly further objects to this request as vague and ambiguous. The Assembly construes "RPW" to mean the Republican Party of Wisconsin.

The Assembly does not participate in campaign-related activities. The Assembly does not construe this request to include Assembly policies prohibiting campaign-related activities, and Assembly Guidelines regarding the same are publicly available at <https://bit.ly/2T1hn39>.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 12.

Any and all documents reflecting or relating or referring to volunteer activities in support of Republican campaigns for the Wisconsin State Assembly that were coordinated by, arranged by, carried out by, or funded by the RPW from 2002 to the present.

RESPONSE TO REQUEST NO. 12:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to Request No. 12 to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly objects to Request No. 12 because it requests documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure.

The Assembly further objects to this request as vague and ambiguous. The acronym "RPW" is undefined. The Assembly construes "RPW" to mean the Republican Party of Wisconsin.

The Assembly does not participate in campaign-related activities. The Assembly does not construe this request to include Assembly policies prohibiting campaign-related activities, and Assembly Guidelines regarding the same are publicly available at <https://bit.ly/2T1hn39>.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 13.

Any and all documents reflecting or relating or referring to voter registration activities that were coordinated, arranged, carried out, or funded by the RPW or Wisconsin Republican Assembly Campaign Committee ("WRACC") from 2002 to the present.

RESPONSE TO REQUEST NO. 13:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to Request No. 13 to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices. As stated above, these entities' or individuals' documents and other materials are not in the Assembly's possession, custody, or control. If plaintiffs intend "you or your representatives" to include legislative service agencies, individual Wisconsin State Assembly Members, or Members' offices, the Assembly

would make the following two objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

The Assembly further objects to this request as vague and ambiguous. The acronym "RPW" is undefined. The Assembly construes "RPW" to mean the Republican Party of Wisconsin.

The Assembly does not participate in campaign-related activities. The Assembly does not construe this request to include Assembly policies prohibiting campaign-related activities, and Assembly Guidelines regarding the same are publicly available at <https://bit.ly/2T1hn39>.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

REQUEST NO. 14.

Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to advocating for or implementing legislative policies preferred by the RPW or the Republican Assembly Caucus.

RESPONSE TO REQUEST NO. 14:

The Assembly construes plaintiffs' instruction that "you and your representatives" produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe “you or your representatives” to include legislative service agencies, individual Wisconsin State Assembly Members, or Members’ offices. As stated above, these entities’ or individuals’ documents and other materials are not in the Assembly’s possession, custody, or control. If plaintiffs intend “you or your representatives” to include legislative service agencies, individual Wisconsin State Assembly Members, or Members’ offices, the Assembly would make the following two objections to this Request: (1) It would request documents not in the Assembly’s possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

The Assembly further objects to this request as vague and ambiguous. The acronym “RPW” is undefined. Assembly construes “RPW” to mean the Republican Party of Wisconsin. The “Republican Assembly Caucus” is likewise undefined. The Assembly construes the term “Republican Assembly Caucus” to mean a “partisan caucus” commenced by Republicans, as defined in the Rules of the State Assembly: “A conference convened by 2 or more members of a political party to discuss business related to the organization or agenda of that party within the legislature or to discuss any matter pending in or proposed for introduction in the legislature. To facilitate bipartisan leadership meetings, a partisan caucus may also include a conference convened by the members of the elected leadership of one political party with the members of the elected leadership of another political party.” This Request is also vague and ambiguous in requesting “all documents reflecting or relating or

referring to meetings, communications, or conversations . . . regarding or relating to advocating for or implementing legislative policies” The Assembly does not construe this request to include legislative bills.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

The Assembly’s investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

REQUEST NO. 15.

Any and all documents reflecting or relating or referring to communications the RPW has had with any current or former Republican Wisconsin State Assembly member or candidate about the impact of Act 43 would on [sic] Assembly elections across the State of Wisconsin as a whole or in any one or more particular Assembly districts from 2010 to the present.

RESPONSE TO REQUEST NO. 15:

The Assembly construes plaintiffs’ instruction that “you and your representatives” produce documents responsive to this Request to mean the Wisconsin State Assembly or its representatives, including the Chief Clerk of the Assembly, who maintains custody of all official Assembly records.

The Assembly will not construe “you or your representatives” to include legislative service agencies, individual Wisconsin State Assembly Members, or Members’ offices. As stated above, these entities’ or individuals’ documents and other materials are not in the Assembly’s possession, custody, or control. If plaintiffs intend “you or your representatives” to include legislative service agencies, individual Wisconsin State Assembly Members, or Members’ offices, the Assembly

would make the following two objections to this Request: (1) It would request documents not in the Assembly's possession, custody, or control and therefore exceeds the bounds of reasonable and permissible discovery under the Federal Rules of Civil Procedure; (2) such a request would demand privileged information relating to the legislative process.

The Assembly further objects to this request as vague and ambiguous. The acronym "RPW" is undefined. Assembly construes "RPW" to mean the Republican Party of Wisconsin.

Subject to the foregoing objections, the Assembly has conducted a reasonable search for materials responsive to this Request, and states that it does not have responsive materials in its possession, custody, or control.

The Assembly's investigation is ongoing and, if necessary, the Assembly will supplement these responses as permitted under the Rules.

March 15, 2019

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Attorneys for Wisconsin State Assembly

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of March 2019, I caused to be served by email the foregoing document on the following counsel:

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Attorneys for Wisconsin State Assembly

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 9

Subject: Public Records Request- 1.4.2013

Date: Monday, January 21, 2013 at 3:18:25 PM Central Standard Time

From: Probst, Nick

To: brendan@prwatch.org

CC: Fuller, Patrick E.

Brendan Fischer
Staff Counsel
Center for Media and Democracy
Brendan@prwatch.org

January 21, 2013

Mr. Fischer:

This email confirms receipt of your email to Representative Vos on January 4, 2013. You requested access to and a copy of records containing approximately 15 different items.

Your request is being processed and a response will be prepared.

Please contact me via email with any questions.

Nicholas Probst
Legal Counsel
Office of the Assembly Speaker

January 4, 2012

Rep. Robin Vos
Room 211 West
State Capitol
P.O. Box 8953
Madison, WI 53708

Re: Open Records Request, Wis. Stat. §§ 19.31-19.39

Rep. Vos -

Pursuant to the state open records law, Wis. Stat. §§ 19.31-19.39, I request access to and a copy of all records containing the following words:

- "Republican State Leadership Committee"

- “RSLC”
- “Redistricting Majority Project”
- “REDMAP”
- “Mark Braden”
- “Paul Ray”
- “Eric McLeod”
- “Tom Hofeller”
- “Dale Oldham”
- “Mark Jefferson”
- “Mike Wild”
- “American Justice Partnership”
- “Michael Grebe”
- “Ed Gillespie”

I also request any and all correspondence with individuals or organizations whose email address ends with “.rnchq.org”, and those whose email address ends with “mchq.org”.

This request includes, but is not limited to, correspondence, emails sent and received, memoranda, informational materials, and other records, for the period October 1, 2012 through January 4, 2012. Please note that this request includes all emails sent and received on official email accounts as well as any other email accounts that have been used for official business, and also applies to records that may be in the “trash” folder of these email accounts.

Please omit any responsive records that have been sent by news clipping services such as WisPolitics or mass emails such as those sent by the Wheeler Report.

Please produce copies of the records in the most expedient and cost-effective manner possible. If electronic copies on a CD or by email can be produced at a lower cost than paper copies, please provide the copies in such an electronic format.

Please also be aware that the Open Records law “shall be construed in every instance with the presumption of complete public access consistent with the conduct of governmental business. The denial of access generally is contrary to the public interest and only in exceptional cases can access be denied.” If you deny this request, or any part of this request, the law requires you to do so in writing and state what part of the law you believe entitles you to deny this request, or any part of this request. Wis. Stat. § 2219.35(4)(a). As you know, the law requires you to respond to this request “as soon as practicable and without delay.” Please confirm receipt of this request. Thank you for your time and consideration.

--

Brendan M Fischer
Staff Counsel, Center for Media and Democracy
prwatch.org | 608-260-9713 | @prwatch_brendan

William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 10



February 13, 2019

Kevin St. John
Bell Giftos St. John LLC
5325 Wall Street, Suite 2200
Madison, WI 53718-7980
kstjohn@bellgiftos.com

Wisconsin Department of Justice
Brian P. Keenan
Assistant Attorney General
17 West Main Street, Room 622
Madison, WI 53703
keenanbp@doj.state.wi.us

Adam K. Mortara
Joshua P. Ackerman
Bartlit Beck LLP
54 W. Hubbard Street
Chicago, IL 60654
adam.mortara@bartlitbeck.com
joshua.ackerman@bartlitbeck.com

By Email

Counsel,

We are writing to you on behalf of Plaintiffs in *Whitford v. Nichol*, Case No. 15-cv-421-jdp. We refer to our letter of February 11 in this matter. In that letter, sent by email, we attached a subpoena requiring the Wisconsin State Assembly to produce the documents identified in Exhibit 1 to Exhibit A to the subpoena, and to appear for a deposition to be taken pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure on the topics identified in Exhibit A to the subpoena. We also attached a notice of that subpoena and deposition. Those documents are attached again.

Although our February 11 cover letter mistakenly referred to the subpoena as being issued to the "Wisconsin Republican Campaign Committee" rather than the "Wisconsin State Assembly," the attached documents are the same as those sent on February 11, namely, a subpoena for the Wisconsin State Assembly to produce documents no later than March 6, 2019, and to appear for a deposition on the topics indicated in the subpoena on March 13, 2019.

In our letter of February 11, we also asked if you would accept service of a subpoena on behalf of Wisconsin State Assembly Speaker Robin J. Vos. In a telephone call earlier today, the Assembly's counsel Attorney St. John indicated to Attorney Greenwood that he would need to see the subpoena to Speaker Vos before consenting to service. Accordingly, we are providing in a separate communication today a subpoena, exhibits, and notice of deposition for Speaker Vos.

Please feel free to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth M. Greenwood', with a horizontal line underneath.

/s/ Ruth M. Greenwood

Ruth M. Greenwood
Annabelle E. Harless
CAMPAIGN LEGAL CENTER
73 W. Monroe St., Ste. 302
Chicago, IL 60603
(312) 561-5508
rgreenwood@campaignlegalcenter.org
aharless@campaignlegalcenter.org

/s/ Douglas M. Poland

Douglas M. Poland
State Bar No. 1055189
Alison E. Stites
State Bar. No. 1104819
RATHJE WOODWARD LLC
10 East Doty St., Ste. 507
Madison, WI 53703
(608) 960-7430
dpoland@rathjewoodward.com
astites@rathjewoodward.com

Attorneys for Plaintiffs William Whitford, et al.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, et al.,

Plaintiffs,

v.

15-cv-421-jdp

BEVERLY R. GILL, et al.,

Defendants.

**PLAINTIFFS' NOTICE OF SUBPOENA TO WISCONSIN STATE ASSEMBLY
FOR PRODUCTION OF DOCUMENTS AND DEPOSITION**

TO: Wisconsin Department of Justice
Brian P. Keenan
Assistant Attorney General
17 West Main Street, Room 622
Madison, WI 53703
keenanbp@doj.state.wi.us

Adam K. Mortara
Joshua P. Ackerman
Bartlit Beck LLP
54 W. Hubbard Street
Chicago, IL 60654
adam.mortara@bartlitbeck.com
joshua.ackerman@bartlitbeck.com

Kevin St. John
Bell Giftos St. John LLC
5325 Wall Street, Suite 2200
Madison, WI 53718-7980
kstjohn@bellgiftos.com

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, plaintiffs William Whitford, et al., by their undersigned attorneys, have issued the attached subpoena to the Wisconsin State Assembly for the production of documents on or before March 6, 2019, and for the deposition of a person designated by the Wisconsin State Assembly at the place and time indicated on the subpoena. The deposition will be videotaped and recorded stenographically before a person duly authorized to administer oaths who is not counsel of record or interested in the events of this case. The oral examination is to be taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the Federal Rules of Evidence, the Federal

Rules of Civil Procedure, and any other orders entered by the Court. The deposition shall continue from time to time until completed.

Issued this 11th day of February, 2019.

By: /s/ Ruth M. Greenwood
One of the Attorneys for Plaintiffs

/s/ Ruth M. Greenwood
Annabelle E. Harless
Ruth M. Greenwood
CAMPAIGN LEGAL CENTER
73 W. Monroe St., Ste. 302
Chicago, IL 60603
(312) 561-5508
rgreenwood@campaignlegalcenter.org
aharless@campaignlegalcenter.org

/s/ Douglas M. Poland
Douglas M. Poland
State Bar No. 1055189
Alison E. Stites
State Bar. No. 1104819
RATHJE WOODWARD LLC
10 East Doty St., Ste. 507
Madison, WI 53703
(608) 960-7430
dpoland@rathjewoodward.com
astites@rathjewoodward.com

*Attorneys for Plaintiffs William
Whitford, et al.*

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of

Plaintiff

v.

Defendant

Civil Action No.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Date and Time:

The deposition will be recorded by this method:

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR

Attorney's signature

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party), who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

DEFINITIONS

In the topics listed below, the following terms shall have the meaning as specified:

A. The terms “you” or “your” refers to the Republican Assembly Caucus of the Wisconsin State Assembly.

B. “Act 43” refers to 2011 Wisconsin Act 43.

C. “Assembly” refers to the Wisconsin State Assembly

D. “Assembly Persons” shall mean members, employees, agents, affiliates, or volunteers of the Wisconsin State Assembly.

E. “Current Map” shall mean the Assembly district map in force as of 2011.

F. “Document” means all materials within the scope of Rule 34 of the Federal Rules of Civil Procedure, including but not limited to writings, correspondence, electronic mail, text messages (e.g., SMS), memoranda, records, reports, notes, notebooks, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations. The term “Document” includes the original document (or a copy in the event the original is not available), as well as all copies that differ in any respect from the original, including those that have notations, underlining, or other markings. The term “Document” also includes all forms of electronically stored information, whether stored on personal or employer- owned electronic equipment, including but not limited to electronic mail and all attachments (whether sent or received by a business or personal account), word processing documents, electronic spreadsheets, electronic images of any kind, audio files, and database material.

G. “Communication” means any transmission or exchange of information by one or more persons and between two or more persons by any means, whether verbal or written.

H. “Associational activity” means recruiting candidates, registering voters, raising campaign funds for Republican Assembly candidates or the Republican Party of Wisconsin persuading independents and other voters to vote for Republican Assembly candidates, advocating and implementing preferred legislative policies, and organizing volunteers.

I. “RPW” refers to the Republican Party of Wisconsin.

TOPICS

Pursuant to the provisions of Rule 30(b)(6) of the Federal Rules of Civil Procedure, the Wisconsin State Assembly is required to designate one or more persons who consent to testify on its behalf about all information known or reasonably available to the Assembly regarding the matters set forth in the Topics listed below:

1. The objectives and/or motivations for the drawing of each district in 2011 Wisconsin Act 43, including earlier drafts.
2. The identity of the persons involved in the drawing of each district in 2011 Wisconsin Act 43, including earlier drafts.
3. The objective facts that any Assembly Persons had access to or relied on when drawing each district in 2011 Wisconsin Act 43, including earlier drafts.
4. Your involvement, if any, with the drawing, passage, and/or enactment of 2011 Wisconsin Act 43.

5. Information about any communications or other interactions between the Assembly and the Republican National Committee's GOP Redistricting Conference or the organization known as the Redistricting Majority Project ("REDMAP").

6. The identity and duties of all Assembly Persons who were involved in your associational activities from 2002 to the present.

7. The identity of Assembly Persons who were involved in recruiting Republican candidates for the Assembly from 2002 to the present, the prospective candidates those persons contacted for recruitment purposes, and whether such recruitment was successful or unsuccessful.

8. Meetings, communications, or conversations from 2002 to the present relating to recruiting Republican candidates for Assembly.

9. Any criteria you have used from 2002 to the present to assess whether a candidate is qualified or highly qualified to run for office.

10. The identity and role of all Assembly Persons who solicited campaign contributions for the Assembly or individual Republican candidates for the Assembly from 2002 to the present.

11. The nature and number of communications made by any Assembly Persons between 2002 and the present that solicited campaign contributions to you, the RPW or to any individual Republican candidate. The categories of communications as used in this request includes but is not limited to emails, mailings, phone solicitations, person-to-person solicitations, and fundraising events.

12. The ability and efforts of you to fundraise for Republican Assembly candidates from 2002 to the present.

13. The identity and role of all Assembly Persons who were responsible for organizing volunteers in each Assembly election between 2002 and the present.

14. All associational activities engaged in by you or any Assembly Persons from 2002 to the present.

EXHIBIT B

DOCUMENTS TO BE PRODUCED BY THE WISCONSIN STATE ASSEMBLY ("Assembly")

On or before March 6, 2019, you or your representatives must produce the following documents, communications, electronically stored information, objects and/or materials (collectively "documents" or "materials") that are in your actual or constructive possession, custody, or control, and permit the inspection, copying, testing and/or sampling of the materials, that were created or used during the period June 1, 2010 to September 30, 2018:

1. All documents, including but not limited to email, concerning any analyses, data, plans, procedures, memos and/or reports used by state legislative staff, state legislators, and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
2. All documents, including but not limited to email, concerning the objectives and/or motives relied on by – or available to – state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
3. All documents, including but not limited to email, concerning the objective facts that legislative staff and/or any experts or consultants references, used or relied upon – or had available to them – in the planning, development negotiation, drawing, revision, or redrawing of the maps codified in 2011 Wisconsin Act 43 or any other potential state assembly plan that was not adopted.
4. Any and all requests that you, your office, or anyone employed by you or your office received to provide to the requesting person or to release to the public a copy of any engagement letter, contract, agreement, or other document reflecting the Wisconsin State Assembly's retention or engagement of Bartlit Beck LLP to serve as its legal counsel in *Whitford v. Gill*, case no. 15-cv-421-jdp, pending in the U.S. District Court for the Western District of Wisconsin.
5. Copies of any and all documents that you, your office, or anyone employed by you or your office provided to the requesting person or released to the public in response to any request identified in Paragraph 4, above.
6. Copies of any and all documents prepared by or transmitted by the Republican National Committee, that relate or refer to legislative redistricting, including but not limited to the document attached hereto as Exhibit 1.
7. Copies of any and all communications, including email, that relate or refer to legislative redistricting, reflecting or referring to any of the following people or email addresses:
 - a. Tom Hofeller, thofeller@rnchq.org
 - b. Dale Oldham, doldham@rnchq.org
 - c. Mike Wild, mwild@rnchq.org

d. John Phillippe, jphillippe@rnchq.org

e. Leslie Rutledge, lrutledge@rnchq.org

8. Any and all materials reflecting or relating or referring to the April 2010 Republican National Committee's GOP Redistricting Conference, including any and all notes, summaries, minutes, agendas, papers, documents, data, computer files, CDs, training materials, or any other written or electronic material prepared for, distributed at, created at, or otherwise related to that conference.
9. Any and all documents reflecting or relating or referring to the Redistricting Majority Project, commonly referred to as "REDMAP."
10. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to recruiting Republican candidates for Wisconsin State Assembly.
11. Any and all documents reflecting or relating or referring to communications made by the RPW that solicited campaign contributions to the RPW or to any individual Republican candidate for the Wisconsin State Assembly from 2002 to the present. The categories of communications as used in this request includes but is not limited to emails, mailings, phone solicitations, person-to-person solicitations, and fundraising events.
12. Any and all documents reflecting or relating or referring to volunteer activities in support of Republican campaigns for the Wisconsin State Assembly that were coordinated by, arranged by, carried out by, or funded by the RPW from 2002 to the present.
13. Any and all documents reflecting or relating or referring to voter registration activities that were coordinated, arranged, carried out, or funded by the RPW or Wisconsin Republican Assembly Campaign Committee ("WRACC") from 2002 to the present.
14. Any and all documents reflecting or relating or referring to meetings, communications, or conversations from 2002 to the present regarding or relating to advocating for or implementing legislative policies preferred by the RPW or the Republican Assembly Caucus.
15. Any and all documents reflecting or relating or referring to communications the RPW has had with any current or former Republican Wisconsin State Assembly member or candidate about the impact of Act 43 would on Assembly elections across the State of Wisconsin as a whole or in any one or more particular Assembly districts from 2010 to the present.

Redistricting Essentials

CONSOLIDATING THE RESULT OF THE 2010 ELECTION

November 12, 2010

I. Timeline:

- a. On November 12th, there are only 78 days until the 2010 Decennial Census data becomes available and the redistricting begins.
- b. **Now that we had a spectacular election outcome, it's time to make sure the Democrats cannot take it away from us in 2011 and 2012**

II. Technology/Data:

- a. You must have identified all the political data you need to draw the lines and to prevail in any litigation.
- b. You need to identify the source of all required data and make provisions to collect what additional data is required. Primary elections will be required in some states for Voting Rights Act issues. Particular emphasis should be placed on elections involving minority versus non-minority contests – even including county and local elections were appropriate. This underscores the need for a legal strategy (see below).
- c. **You need to complete work on your election history precinct-level database as quickly as possible and be prepared to incorporate the results of the 2010 election into your redistricting database.**
- d. All the stakeholders in your state need to identify what software system they will use and what hardware is required to host it. Will public funds be available? Will other resources be required from GOP sources?

III. Legal Preparations:

- a. Most states will have litigation of some type.
- b. Litigation is expensive. Will litigation be paid for using public or private sources, or both?
- c. Litigation could even start right now, directly after the elections. Is funding available?
- d. **You should already have a legal strategy and access to experienced redistricting counsel.**
- e. Your redistricting legal record has already begun. Avoid misstatements in public or emails: (Keep it simple, such as “We want a FAIR process that follows all the requirements of the law.”)

IV. Training:

- a. The RNC can train you on the use of Maptitude for Redistricting, but you will need to pay the travel expenses to come to Washington, DC.
- b. CD's with the training materials from the April 2010 RNC's GOP Redistricting Conference are available on request.
- c. **If you have questions, please call us at the RNC. That's what we're here for.**

Tom Hofeller	Redistricting Coordinator	(202) 863-8816 or (703) 623-0764	thofeller@rnchq.org
Dale Oldham	Redistricting Counsel	(202) 863-8323 or (803) 237-0586	doldham@rnchq.org
Mike Wild	Redistricting Deputy	(202) 863-8783 or (202) 309-1529	mwild@rnchq.org
John Phillippe	Chief Counsel	(202) 863-8638 or (202) 863-8702	jphillippe@rnchq.org
Leslie Rutledge	Associate Counsel	(202) 863-8638 or (202) 863-5109	lrutledge@rnchq.org

**Paid for by the Republican National Committee * Not authorized
by any candidate or candidate's committee * www.gop.com**

1081 17153860 90

MONEY ORDER NUMBER
R108117153860

CALL 1-800-542-3590 TO VERIFY

MoneyGram

Valid Money Order Includes: 1. Heat sensitive, red stop sign AND 2. Contains a True Watermark hold up to light to view.

INTERNATIONAL MONEY ORDER 76-1618 918

To Validate: Touch the stop sign, then watch it fade and reappear

PAY TO THE ORDER OF / PAGAR A LA ORDEN DE: *Robin Flores*

IMPORTANT - SEE BACK BEFORE CASHING

PURCHASER SIGNER FOR DRAWER / COMPRADEUR: FIRMA DEL LIBRADOR: *[Signature]*

ADDRESS / DIRECCION: *2028342077138386*

Payable Through Citizens Alliance Bank, Clara City, MN

ISSUER/DRAWER: *Subpoena*
 MONEYGRAM PAYMENT SYSTEMS, INC.

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 MONEY ORDER
 03/18/2019

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MoneyGram

R108117153860

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William Whitford et al., v. Beverly R. Gill et al.,
No. 15-cv-421-jdp

Declaration of Ruth Merewyn Greenwood
March 19, 2019

Exhibit 11

Civil Action No. 15-cv-421-jdp

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* Robin J. Vos on *(date)* 2/18/19.

I served the subpoena by delivering a copy to the named individual as follows: _____ on
(date) _____; or

I returned the subpoena unexecuted because: I was informed Robin Vos was not in the office today. I then spoke to a member of the legal staff, Steve Fawcette, who stated he nor anyone there would accept service of this subpoena. I inquired if Robin would accept once he returns to the office and Steve said he would not accept the subpoena either.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$

_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ \$0.00.

I declare under penalty of perjury that this information is true.

Date: 3/19/19



Server's signature

Troy Burch

Printed name and title

PO Box 121, Madison , WI 53701

Server's address

Additional information regarding attempted service, etc.:

1) Unsuccessful Attempt: Mar 18, 2019, 3:25 pm CDT at State Capitol Building Room 211 West, Madison, WI 53708

I was informed Robin Vos was not in the office today. I then spoke to a member of the legal staff, Steve Fawcette, who stated he nor anyone there would accept service of this subpoena. I inquired if Robin would accept once he returns to the office and Steve said he would not accept the subpoena either.