

S196493, S196852

**IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA**

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**JULIE VANDERMOST,**

**GEORGE RADANOVICH, ET AL.,**

*Petitioners,*

v.

**DEBRA BOWEN, SECRETARY OF STATE OF  
CALIFORNIA,**

*Respondent,*

**CITIZENS REDISTRICTING COMMISSION.**

*Real Party in Interest.*

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Filed Pursuant to Cal. Const., Art. XXI, § 3(b)(1)  
and the Court's Order dated September 16, 2011

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**CONSOLIDATED MOTION TO STRIKE AND OBJECTIONS  
TO DECLARATIONS OF T. ANTHONY QUINN;  
DECLARATION OF JAMES J. BROSNAHAN**

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*Attorneys for Real Party in Interest*  
**CITIZENS REDISTRICTING COMMISSION**

## MOTION TO STRIKE

To the Honorable Tani Gorre Cantil-Sakauye, Chief Justice, and the Honorable Associate Justices of the Court:

Real party in interest Citizens Redistricting Commission objects to and requests that the Court strike the Declarations of T. Anthony Quinn, filed on September 15 and 30 in *Vandermost v. Bowen*, No. S196493, and on September 29 in *Radanovich v. Bowen*, No. S196852.

The three declarations are comprised almost exclusively of legal arguments and legal opinion, which are not the proper subject of expert testimony. (*Sheldon Appel Co. v. Albert & Oliker* (1989) 47 Cal.3d 863, 884 [“[I]t is thoroughly established that experts may not give opinions on matters which are essentially within the province of the court to decide.” [quotations omitted]; *Los Angeles Teachers Union v. Los Angeles City Bd. of Educ.* (1969) 71 Cal.2d 551, 556 [declarations containing administrators’ contentions as to the First Amendment’s application to activities on school grounds was not a proper subject for “expert” testimony].)

The declarations also contain conclusions that are unsupported by facts sufficient to show that an adequate foundation exists for the opinions. (Evid. Code, § 801; *Easley v. Cromartie* (2001) 532 U.S. 234, 249 [a purported redistricting expert’s “statement of the conclusion is no stronger than the evidence that underlies it.”]; *Korsak v. Atlas Hotels, Inc.* (1992) 2 Cal.App.4th 1516, 1523 [“[T]he courts have the obligation to . . . require adequate foundation for the opinion.”].) Indeed, Quinn’s declarations submitted for petitioner Vandermost do not contain a single citation to evidence contained in the voluminous public record of the Commission’s

work. His declaration for petitioner Radanovich cites just three documents in the Commission's public records. All three declarations lack any analysis of statistical or social science research (or similar support) that could form the basis of an admissible expert declaration.

The lack of supporting citations to the voluminous public record also renders Quinn's declarations inadmissible based on speculation. (Evid. Code, § 702.) Quinn offers no facts to establish he has reviewed the many weeks of public testimony and comment during the public-input process or the many hundreds of hours of the Commission's public deliberations. His opinions about the public's views concerning local communities of interest, for example, are utterly lacking in factual support. (E.g., Quinn Decl. in Vandermost case ¶¶ 23-24, 27, 30, 32-34, 40-41, 44, 46, 48, 50.)

In addition, Quinn's opinions are inadmissible on relevancy grounds because Petitioners' burden in challenging the certified maps cannot be satisfied merely by showing (as Quinn attempts to do) that there are reasonable alternatives to the Commission's maps. (*Legislature of Cal. v. Reinecke* ("Reinecke II") (1973) 10 Cal.3d 396, 403 [the maps should not be disturbed where "they appear to reflect reasonable applications of the [applicable] criteria, even though alternatives urged upon [the Court] may appear equally reasonable"]; see also *Wilson v. Eu* ("Wilson IV") (1992) 1 Cal.4th 707, 729 [all "reasonable applications of the recommended criteria" by the map drawers should be accepted]; *Nadler v. Schwarzenegger* (2006) 137 Cal.App.4th 1327, 1340 [same].)

Quinn's opinions also improperly consider the effect of redistricting on incumbent politicians—a criterion that the California Constitution

expressly prohibited the Commission from considering—and his opinions are therefore irrelevant for that additional reason. (Cal. Const., art. XXI, § 2, subd. (e); compare, e.g., Quinn Decl. in Vandermost case ¶ 85 and Quinn Decl. in Radanovich case ¶¶ 27, 28, 30.)

Finally, Quinn has not demonstrated that he is qualified to provide an expert opinion on the Commission’s application of Article XXI of the California Constitution or the Voting Rights Act. (Evid. Code, § 702; *People v. Ramos* (1997) 15 Cal.4th 1133, 1175 [affirming disqualification of purported expert based on lack of an adequate basis for relevant expert testimony, notwithstanding general high-level credentials].) Quinn has not made any showing that he has any specialized skill in areas relevant to his proffered opinions, including e.g. political demography, statistical analysis of voting patterns, or mathematical measures of compactness. The prior matters he cites in his qualifications concerned unrelated topics such as the open primary system or the “single subject” initiative rule. (See, e.g. *Senate v. Jones* (1999) 21 Cal.4th 1142 and *California Democratic Party v. Jones* (E.D. Cal. 1997) 984 F.Supp. 1288.) In at least one instance in which Quinn claims to have given expert testimony, he merely submitted an amicus brief; there is no indication in the court record that he was qualified as an expert.<sup>1</sup>

Moreover, in prior litigation, Quinn has testified in deposition that he is not an expert on subjects covered in his current declarations, including the Voting Rights Act. (See, e.g. attached Quinn Dep. at p. 33,

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<sup>1</sup> Quinn asserts he “prepared an expert declaration . . . in *Senate v. Jones*, 1999, in the California Supreme Court.” (Quinn Decl. in Support of Vandermost Pet. at p. 3.) Based on the public record, it appears that Quinn submitted a *pro per* amicus brief only.

lines 5-7 [“I do not consider myself an expert on the Voting Rights Act”] and p. 144, lines 18-22 [same].) Notwithstanding these admissions, his current declarations are replete with unsubstantiated assertions about the application of the Voting Rights Act. (See, e.g., Supp. V’most Decl. at p. 5; and R’vich Decl. at pp. 7-16.)

### **SPECIFIC OBJECTIONS TO QUINN’S DECLARATIONS**

**Improper legal opinions.** The Commission specifically objects to the following paragraphs of Quinn’s declaration as containing improper legal argument and “expert” testimony on legal issues that are within the exclusive province of the Court:

In *Vandermost*: Paragraphs 1-18, 21, 23 (first sentence), 25 (first sentence), 26-28 (second and third sentences), 30-94.

In Quinn’s “Supplemental Declaration” in *Vandermost*: Paragraphs 3, 4, Senate District 3 (last sentence), Senate District 11 (second sentence), Senate District 14 (first sentence), Senate District 15 (first and last sentence), Senate District 17 (fourth sentence), Senate District 18 (first, second, and third sentences), Senate District 19; Senate District 20 (first sentence), Senate Districts 22, 24, 32, 33, Senate District 23 (second sentence), Senate District 29 (last sentence), and Senate District 31 (second sentence).

In *Radanovich*: Paragraphs 8, 9, 18, 19, 20, 21, 23, 24, 26, 31, 32, 34 (second sentence), 35, 36, 38, 40, 41, 43, 55, 56, 58 (second and third sentences), 59 (third sentence), 60, 62 (third and fourth sentences), 64 (second and third sentences), 65 (second and third sentences), 66 (first and second sentences), and 69.

**Lack of foundation.** The Commission further objects to the following paragraphs on the ground they contain — in addition to improper legal argument and legal opinions — conclusions that lack foundation:

In *Vandermost*: Paragraphs 16-18, 27, 28 (second sentence), 32-33, 34 (last sentence), 40-41, 44, 46, 51-53, 57, 64, 66 (last sentence), 69 (last sentence), 71, 72 (last sentence), 73 (last sentence), 75, 77, 80, 84, 85, and 89-95.

In his “Supplemental Declaration” in *Vandermost*: Paragraph 3 and all paragraphs regarding Senate Districts.

In *Radanovich*: Paragraph 1 (last two sentences); 10, 11, 12, 19- 21, 23-25 (first sentence), 26, 28 (last sentence), 29- 31, 33 (second sentence), 35, 37 (first sentence), 38, 39 (first sentence), 40, 41, 43, 55, 58, 59 (second and third sentence), 60, 62, 64, 65, 68, and 69.

**Relevancy.** The Commission specifically objects to the following paragraphs on the ground they are irrelevant in light of the applicable, highly deferential standards for assessing the certified maps, as set forth in *Reineke II, supra*, 10 Cal.3d at p. 403, *Wilson IV, supra*, 1 Cal.4th at p. 729, and *Nadler, supra*, 137 Cal.App.4th at p. 1340.

In *Vandermost*: Paragraphs 1-95.

In his “Supplemental Declaration” in *Vandermost*: Paragraphs 1-6 and all paragraphs regarding Senate Districts.

In *Radanovich*: Paragraphs 1-70.

Application of the wrong criteria. The Commission further specifically objects to the following paragraphs of Quinn’s declarations on the ground that—in addition to constituting improper legal opinions—his opinions do not apply the current criteria for redistricting mandated by Article XXI of the California Constitution.

In *Vandermost*: Paragraphs 6-18, 34, 71, 75, and 90-93.

In his “Supplemental Declaration” in *Vandermost*: Paragraphs 2-4.

In *Radanovich*: Paragraphs 37-43, 56 and 59.

\* \* \*

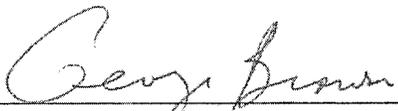
The defects in Quinn’s proffered opinion testimony are so pervasive and fundamental that all three declarations should be disregarded in their entirety.

Dated: October 11, 2011

Respectfully submitted,

GIBSON DUNN & CRUTCHER LLP

MORRISON & FOERSTER LLP

By:   
George H. Brown

By:   
James J. Brosnahan

Attorneys for Real Party in Interest  
CITIZENS REDISTRICTING COMMISSION

**DECLARATION OF JAMES J. BROSNAHAN**

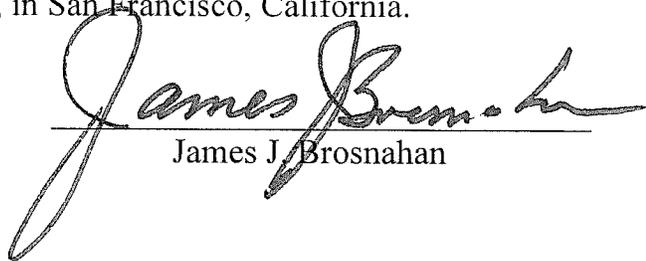
I, James J. Brosnahan, state and declare:

1. I am a senior partner in Morrison & Foerster LLP, counsel for the Citizens Redistricting Commission in this action. I have personal knowledge of the matters stated herein, and if called upon to do so, I would testify competently to them.

2. Attached hereto as Exhibit A is a true and correct copy of selected pages from a transcript of Anthony T. Quinn's deposition in *Andal v. Davis*, Sacramento Superior Court Case No. 01CS01397.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 11, 2011, in San Francisco, California.

  
James J. Brosnahan

# Exhibit A

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 IN AND FOR THE COUNTY OF SACRAMENTO  
 --oOo--  
 DEAN ANDAL, et al., )  
 ) Case No. 01CS01397  
 Plaintiffs and Petitioners, )  
 vs. ) Consolidated Cases:  
 )  
 GRAY DAVIS, BILL JONES, ) Kennedy v. Davis  
 ASSEMBLY OF THE STATE OF ) No. 02CS01045  
 CALIFORNIA, SENATE OF THE )  
 STATE OF CALIFORNIA, et al., ) Nadler v. Davis  
 ) No. 02CS01046  
 Defendants, Respondents and  
 Real Parties in Interest. )

DEPOSITION OF T. ANTHONY QUINN  
 VOLUME 1, PAGES 1 THROUGH 184  
 Monday, February 24, 2003

REPORTED BY: MARYANN H. VALENOTI, RPR, CSR #11266

JOB NO. 01-329021

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 2 IN AND FOR THE COUNTY OF SACRAMENTO  
 3 --oOo--  
 4 DEAN ANDAL, et al., )  
 ) Case No. 01CS01397  
 5 Plaintiffs and Petitioners, )  
 vs. ) Consolidated Cases:  
 )  
 7 GRAY DAVIS, BILL JONES, ) Kennedy v. Davis  
 ASSEMBLY OF THE STATE OF ) No. 02CS01045  
 8 CALIFORNIA, SENATE OF THE )  
 STATE OF CALIFORNIA, et al., ) Nadler v. Davis  
 9 ) No. 02CS01046  
 Defendants, Respondents and )  
 Real Parties in Interest. )  
 11 --oOo--  
 12 BE IT REMEMBERED that, pursuant to Notice, and  
 13 on Monday, February 24, 2003, commencing at 10:29 a.m.  
 14 thereof, at Downey, Brand, Seymour & Rohwer, LLP, 555  
 15 Capitol Mall, 10th Floor, Sacramento, California  
 16 95814, before me, MARYANN H. VALENOTI, RPR, CSR, a  
 17 Registered Professional Reporter and Certified  
 18 Shorthand Reporter, personally appeared  
 19  
 20 T. ANTHONY QUINN,  
 21 -----  
 22 called as a witness by the Defendant, Respondent and  
 23 Real Party in Interest, Assembly of the State of  
 24 California, who, having been duly sworn, was examined  
 25 and testified as follows:

1 INDEX  
 2 INDEX OF EXAMINATIONS  
 3 EXAMINATION BY MS. PURCELL 5  
 4 EXHIBITS MARKED FOR IDENTIFICATION  
 5 1 Assembly of the State of California's 5  
 Notice of Deposition of Nadler  
 6 Petitioners' Witnesses  
 7 2 Assembly of the State of California's 5  
 Notice of Deposition of Kennedy  
 8 Petitioners' Witnesses  
 8 3 Assembly of the State of California's 5  
 Notice of Deposition of Andal  
 9 Petitioners' Witnesses  
 10 4 Documents, first page letter, 9/19/02, 5  
 to Bill Wood from T. Anthony Quinn,  
 Bates stamped 000001 through 000392  
 11 5 Document headed "Nadler case (Santa 9  
 Clara)"  
 12 6 Analysis of the 1990 Census in 62  
 California  
 13 7 The Regions of California 67  
 8 State Assembly Plan-California 88  
 14 Secretary of State, District,  
 Population, Registration  
 15 9 Copy of article from The Mercury News, 138  
 "Assembly Members Back Plan to Split  
 16 Neighborhood"  
 10 Declaration of William L. Cavala 150  
 11 Map of Assembly A District 15 159  
 12 Map of Assembly B District 5 159  
 13 13 Letter, 4/5/02, to Marc Robinson from 169  
 T. Anthony Quinn, with attached  
 14 documents  
 15 Document entitled "AD 24 Contested Area 169  
 20 Reg."  
 15 Handwritten document, nine pages total 169  
 21 16 Document headed "City of Santa Clara" 169  
 with handwriting, four pages total  
 22 17 1991 Special Masters Assembly Plan 169  
 2001 California Legislature Assembly  
 23 Plan City Comparison, 2001 Cities with  
 Split Population  
 24 18 Vita of T. Anthony Quinn 169  
 19 Declaration of James F. Wisley 178  
 25

1 DOWNEY, BRAND, SEYMOUR & ROHWER, LLP,  
 2 555 CAPITOL MALL, 10TH FLOOR, SACRAMENTO, CALIFORNIA  
 3 95814-4686, represented by JEFFREY S. GALVIN, Attorney  
 4 at Law, appeared as counsel on behalf of Plaintiffs and  
 5 Petitioners Kennedy and Nadler.  
 6 REMCHO, JOHANSEN & PURCELL, ESQS., P.O. BOX 189,  
 7 201 DOLORES AVENUE, SAN LEANDRO, CALIFORNIA 94577,  
 8 represented by KATHLEEN J. PURCELL, Attorney at Law,  
 9 appeared as counsel on behalf of Defendant, Respondent  
 10 and Real Party in Interest, Assembly of the State of  
 11 California.  
 12 OLSON, HAGEL & FISHBURN, LLP,  
 13 555 CAPITOL MALL, SUITE 1425, SACRAMENTO, CALIFORNIA  
 14 95814-4602, represented by LANCE OLSON, Attorney at  
 15 Law, appeared as counsel on behalf of Respondent,  
 16 California State Senate.  
 17 HARTMANN & ROBINSON, ESQS., 3255 WEST MARCH  
 18 LANE, SUITE 310, STOCKTON, CALIFORNIA 95219,  
 19 represented by MARC ROBINSON, Attorney at Law, appeared  
 20 as counsel on behalf of Plaintiffs and Petitioners,  
 21 Andal.  
 22 STATE OF CALIFORNIA, DEPARTMENT OF JUSTICE,  
 23 OFFICE OF ATTORNEY GENERAL, 1300 I STREET, SUITE 1101,  
 24 SACRAMENTO, CALIFORNIA 94244-2550, represented by  
 25 CHRISTOPHER E. KRUEGER, Deputy Attorney General,

1 four California counties that were part of the  
 2 preclearance section of the Voting Rights Act.  
 3 Q. And that was in regard to Section 5 of the  
 4 Voting Rights Act?  
 5 A. I believe it is Section 5. I am knowledgeable  
 6 about the Voting Rights Act, but I do not consider  
 7 myself an expert on the Voting Rights Act.  
 8 Q. Would you please define "community of  
 9 interest."  
 10 A. Community of interest is a sameness within an  
 11 urban or a rural area. It is best defined anecdotally.  
 12 Rural areas have a certain community of interest  
 13 because we have water issues that are unique to rural  
 14 areas that are different from urban areas. Communities  
 15 of interest certainly are the ethnic, historical ethnic  
 16 neighborhoods of California. Communities of interest  
 17 certainly can be defined as suburban areas which  
 18 develop largely as bedroom communities at a time when  
 19 this state was more of an industrial state. We have  
 20 the communities of interest of our historical urban  
 21 areas. We certainly have communities of interest that  
 22 are driven by such things as the requirement that the  
 23 state divide into air districts because some areas of  
 24 California have very bad ambient air quality, that  
 25 becomes a community of interest where you have bad

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1 population development in California reflects the  
 2 geographic regions of the state reasonably well.  
 3 Cities are a product of the largely local agency  
 4 formation bodies. They basically cover the urbanized  
 5 parts of California, although there are some major  
 6 exceptions. No city extends beyond a county, and in  
 7 California we have a structure in which some of  
 8 California is incorporated as cities. All of  
 9 California is divided by counties. We do not have the  
 10 township divisions that you find elsewhere. So my  
 11 sense of those concepts is that they are found in a  
 12 historical basis and they can be applied, but the  
 13 historical bases differ based on the -- based on  
 14 historical decisions of how you form the original  
 15 cities and counties of the state.  
 16 Q. Now, you mentioned county lines were at one  
 17 time the building blocks used.  
 18 A. That is correct.  
 19 Q. For Senate districts?  
 20 A. For Senate districts, also for in a modified  
 21 manner Congressional districts, and Congressional  
 22 districts were at one time made up of full Assembly  
 23 districts, in the larger counties at least as I recall.  
 24 Q. Was the use of counties for Senate districts  
 25 written into the Constitution?

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1 ambient air quality, for instance. The state has  
 2 attempted to address those communities in the manner in  
 3 which it has divided districts.  
 4 Coastal communities of interest dealing with  
 5 the beaches are different than communities of interest  
 6 within the Central Valley, for instance. Northern  
 7 California's communities of interest are different from  
 8 Southern California's, certainly historically over  
 9 water issues. So community of interest I think is more  
 10 defined by examples.  
 11 MR. GALVIN: I'm going to object to the prior  
 12 question as it calls for a legal conclusion.  
 13 Q. In your opinion do concepts of city  
 14 boundaries, county boundaries, communities of interest  
 15 and geographic regions overlap?  
 16 MR. GALVIN: Objection, vague and compound.  
 17 A. What do you mean by "overlap"?  
 18 Q. Are they all of the same sort?  
 19 A. No, they're not, obviously not all of the same  
 20 sort. Communities of interest may extend beyond county  
 21 lines. As I indicated earlier, I am aware that most  
 22 counties in California date from the 19th century.  
 23 California had a dramatically smaller population;  
 24 however, the regional makeup of California I do think  
 25 both is historic and easily defined and that the

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1 A. Yes, it was.  
 2 Q. And was that aspect of the California  
 3 Constitution eventually ruled unconstitutional under  
 4 the Federal law by the California Supreme Court?  
 5 A. Yes, it was.  
 6 Q. When was that?  
 7 A. That would have been in the decisions of the  
 8 middle 1960s, I believe it was 1965, 1966 when the  
 9 county, the Federal county system as it was called that  
 10 gave control of the California Senate to the small  
 11 Northern California counties was declared to be in  
 12 violation of the United States Supreme Court's  
 13 decisions, primarily Reynolds versus Simms as I recall.  
 14 Q. And the California Supreme Court decisions  
 15 that ruled to that effect, do you remember what the  
 16 names was?  
 17 A. Well, there is a case called Silver versus  
 18 Jordan that I recall. I have read those cases. It has  
 19 been a while. There were three or four different  
 20 cases. The culmination was the decision of the  
 21 Legislature in 1966 to abandon the county Federal  
 22 Senate system for the equally populated Senate  
 23 districts that we have today.  
 24 Q. How long has it been since you read the  
 25 Reinecke cases?

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1 Mr. Diridon was not favored?  
 2 A. The fact that a number of the major  
 3 independent expenditure groups that are close to the  
 4 Assembly democratic leadership, primarily trial  
 5 lawyers, nurses, some in the environmental groups ran  
 6 campaign independent expenditures on behalf of  
 7 Ms. Lieber that were highly critical of Mr. Diridon.  
 8 It is my view that these independent expenditure groups  
 9 would not have run those campaigns, but for the fact  
 10 that the Assembly democratic leadership did not want  
 11 him to be reelected.  
 12 Q. Now, those campaigns were run in the 2002  
 13 election; right?  
 14 A. That is correct.  
 15 Q. And based upon that, you are going back to the  
 16 preceding redistricting and saying that based on those  
 17 facts, in your opinion the drawing of Assembly District  
 18 22 in September and August of 2001 was designed to  
 19 favor Ms. Lieber and disfavor Mr. Diridon; is that  
 20 correct?  
 21 A. That is correct.  
 22 Q. Do you know who else was running in that race?  
 23 A. There was a third council member from  
 24 Mountainview. I cannot recall the name right now.  
 25 Q. Do you know who The San Jose Mercury endorsed

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1 in that race?  
 2 A. I believe The San Jose Mercury endorsed Sally  
 3 Lieber. I cannot be sure, I seem to recall that is the  
 4 case, but I can't be sure.  
 5 Q. And you didn't not produce your Target Book  
 6 today; did you?  
 7 A. No, but I would be happy to.  
 8 Q. Because in your view it didn't relate to  
 9 redistricting; right?  
 10 A. It does not relate to redistricting.  
 11 Q. Now, you said that in your view District 21 is  
 12 a non-contiguous district; is that correct?  
 13 A. Yes.  
 14 Q. Is there a map of District 21 that you are  
 15 relying on for that?  
 16 A. I believe we have the map in the other room  
 17 that had all those Assembly districts. The one that --  
 18 can we go off the record and I could find this map?  
 19 Q. We could certainly take a pause, but if it's  
 20 in the room I'd certainly like to know about it.  
 21 A. Maybe it's in this material here.  
 22 MR. GALVIN: District 21. You looked at some  
 23 of this stuff on line on the website.  
 24 THE WITNESS: I looked at some of the stuff on  
 25 line.

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1 A. This is a set of maps that were drawn from the  
 2 Legislature's web page, but they have District 21 on it  
 3 and it was included with this group of maps.  
 4 MR. GALVIN: I don't see a map of District 21  
 5 here.  
 6 A. That is possible it is somewhere -- I could  
 7 describe it to you, my concern with District 21.  
 8 Q. Please do.  
 9 A. District 21 is historically the district that  
 10 was the northern parts of Santa Clara County and the  
 11 southern part of San Mateo County. This district was  
 12 elongated in the Legislature's 2001 redistricting to  
 13 sweep around much of the populated area of the southern  
 14 Peninsula and to take the Los Gatos area of old  
 15 District 24. In that way the district was made into  
 16 two separate pieces, in my view with 24 and 22  
 17 occupying the large populated areas between the two  
 18 pieces. When that was done District 24 was forced to  
 19 the east. Forcing District 24 to the east made it a  
 20 safe democratic seat, which is what I consider it  
 21 today, rather than the marginal democratic seat to  
 22 which Assemblywoman Cohn was elected in the year 2000.  
 23 Q. Now, what party is Assemblywoman Cohn?  
 24 A. A democrat.  
 25 Q. So Assembly District 24 was held by a democrat

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1 for two years before the redistricting?  
 2 A. That's correct.  
 3 Q. Now, did Assembly District 21 change between  
 4 the August 29 proposal and the final version of the  
 5 plan?  
 6 A. I do not believe that Assembly District 21  
 7 changed. If so, it was very minor, my recall.  
 8 Q. Now, you say that in your view Berryessa is  
 9 divided in violation of the Voting Rights Act.  
 10 A. Yes.  
 11 Q. But you don't hold yourself out as an expert  
 12 in the Voting Rights Act; do you?  
 13 A. I read that in a number of Complaints, matter  
 14 of fact, one which is in front of me here in The San  
 15 Jose Mercury about the dilution of the Asian population  
 16 in that area, which has a long history in that part of  
 17 San Jose, and I believe that that is a unnecessary and  
 18 unjustified dilution of Asian representation. While I  
 19 do not consider myself an expert in the Voting Rights  
 20 Act, I consider myself well aware of seeing and  
 21 discussing dilutions of minority populations within  
 22 California.  
 23 Q. I'm showing you what's been marked as Exhibit  
 24 9. Is this the statement in The San Jose Mercury that  
 25 you just referred to?

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1 A. It is my vita.  
 2 Q. And is it current?  
 3 A. To the best of my knowledge it is.  
 4 Q. Is there anything that pertains to your  
 5 qualifications to testify as an expert in this case  
 6 that does not appear on Exhibit 18?  
 7 A. It's a very hard question for me to answer. I  
 8 mean, it has my vita on it, that's it.  
 9 Q. Is there anything you'd like to add in terms  
 10 of your background or education?  
 11 A. No.  
 12 MS. PURCELL: I think for today we are there.  
 13 Let's end it for today. We will need to plan a  
 14 reconvene. Mr. Galvin has been unable to locate the  
 15 City of Santa Clara material that the witness referred  
 16 to. I assume you will get it to us.  
 17 MR. GALVIN: Yeah, I believe it was produced  
 18 before. I can't find it in the stack of papers in  
 19 front of me today, but I believe it was produced Friday  
 20 with these papers, it was also used as an exhibit in  
 21 prior deposition. I'll make another effort to look for  
 22 it. Thank you.  
 23 (Whereupon, the deposition is adjourned at  
 24 5:19 p.m.)  
 25

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1  
 2  
 3  
 4  
 5 CERTIFICATE OF REPORTER  
 6  
 7 I, MARYANN H. VALENOTI, a Registered Professional  
 8 Reporter and Certified Shorthand Reporter, hereby  
 9 certify that the witness in the foregoing deposition  
 10 was by me duly sworn to tell the truth, the whole truth  
 11 and nothing but the truth in the within-entitled cause.  
 12 That said deposition was taken in shorthand by  
 13 me, a disinterested person, at the time and place  
 14 therein stated, and that the testimony of the said  
 15 witness was thereafter reduced to typewriting, by a  
 16 computer, under my direction and supervision.  
 17 I further certify that I am not of counsel or  
 18 attorney for either or any of the parties to the said  
 19 deposition, nor in any way interested in the event of  
 20 this cause, and that I am not related to any of the  
 21 parties thereto.  
 22  
 23 DATED: March 1, 2003  
 24  
 25

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1  
 2  
 3  
 4  
 5  
 6 --oOo--  
 7  
 8 I declare under penalty of perjury that the  
 9 foregoing is true and correct. Subscribed at  
 10 \_\_\_\_\_, California, the \_\_\_\_\_ day of  
 11 \_\_\_\_\_, 2003.  
 12  
 13 \_\_\_\_\_  
 14 SIGNATURE OF WITNESS  
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1 MARYANN VALENOTI, RPR, CSR  
 2 CERTIFIED SHORTHAND REPORTER  
 3 NO. 11266  
 4  
 5 March 1, 2003  
 6 To: T. Anthony Quinn  
 7 c/o Jeffrey S. Galvin, Attorney at Law  
 8 555 Capitol Mall, 10th Floor  
 9 Sacramento, California 95814  
 10  
 11 Re: Andal vs. Davis  
 12 Dear Mr. Quinn:  
 13 Please be advised that the original transcript of your  
 14 deposition taken February 24, 2003 in the  
 15 above-entitled matter is available for reading and  
 16 signing. The original will be held at the offices of  
 17 Combs & Greenley, Inc., 601 Van Ness Avenue, Suite  
 18 2052, San Francisco, California 94102 (800) 869-9132  
 19 for thirty (30) days in accordance with California Code  
 20 of Civil Procedure Section 2025 (q) (1).  
 21  
 22 "For 30 days following this notice the  
 23 deponent, either in person or by a signed  
 24 letter to the deposition officer, may  
 25 change the form or the substance of the  
 answer to any question, and may either  
 approve the transcript of the deposition by  
 signing it, or refuse to approve the  
 transcript by not signing it."  
 If you are represented by counsel in this matter, you  
 may wish to ask your attorney how to proceed. If you  
 are not represented by counsel and wish to review your  
 transcript, please contact our office for a mutually  
 convenient appointment to review your deposition.  
 Thank you for your cooperation in this matter.  
 Sincerely,  
 \_\_\_\_\_

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<p>1 2 Maryann Valenoti, RPR, CSR 3 No. 11266 4 cc: All Counsel 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>Page 185</p>	

## PROOF OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market St., San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on October 11, 2011, I served a copy of:

## REQUEST FOR JUDICIAL NOTICE

BY ELECTRONIC SERVICE [Code Civ. Proc sec. 1010.6; CRC 2.251] by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system from bkeaton@mofo.com to the email addresses stated on the attached service list per instructions of the Court and in accordance with Code of Civil Procedure section 1010.6.

BY OVERNIGHT DELIVERY [Code Civ. Proc sec. 1013(c)] by placing a true copy thereof enclosed in a sealed envelope with delivery fees provided for, addressed as follows, for collection by UPS, at 425 Market St., San Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP's ordinary business practices.

I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited in a box or other facility regularly maintained by UPS or delivered to an authorized courier or driver authorized by UPS to receive documents on the same date that it (they) is are placed at Morrison & Foerster LLP for collection.

Please see attached Service List.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, this 11th day of October, 2011.

---

B. Keaton  
(typed)



(signature)

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