

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

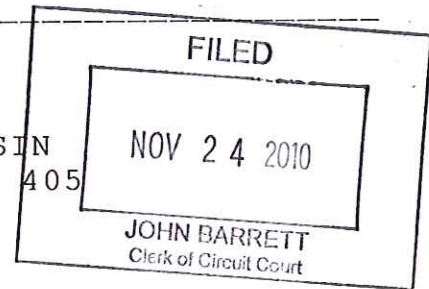
IN RE THE MATTER OF:

JOHN DOE PROCEEDINGS

Case No. 10JD000007

ORIGINAL

NOVEMBER 1, 2010
MILWAUKEE, WISCONSIN
SAFETY BUILDING-ROOM 405



BEFORE:

THE HONORABLE NEAL NETTESHEIM
RETIRED CIRCUIT JUDGE

APPEARANCES:

BRUCE LANDGRAF and HANNA KOLBERG, Assistant District Attorneys, appeared on behalf of the State of Wisconsin.

Also present:

CHIEF INVESTIGATOR DAVID BUDDE and INVESTIGATOR ROBERT STELTER from the Milwaukee County District Attorney's Office.

Lori J. Cunico
Official Court Reporter

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1 TRANSCRIPT OF PROCEEDINGS:

2 (Exhibits SW-1 through SW-71 marked
3 for identification.)

4 THE COURT: The court calls the
5 matter of In the Matter of a John Doe Proceeding.
6 This is Case Number 10JD000007. Could I have the
7 appearances for the record please.

8 ATTORNEY LANDGRAF: Judge, on behalf
9 of the State of Wisconsin Bruce Landgraf appears
10 together this morning with Hanna Kolberg, Assistant
11 District Attorney. Also present in the room would
12 be Chief Investigator David Budde and Investigator
13 Robert Stelter, S-T-E-L-T-E-R.

14 THE COURT: Thank you. Those
15 appearances are noted for the record and I would
16 also note that all of the persons in the courtroom
17 have previously been made the subject of secrecy
18 orders issued in this proceeding.

19 Mr. Landgraf, would you just briefly
20 summarize the nature of the anticipated proceedings
21 this morning.

22 ATTORNEY LANDGRAF: Yes, Judge. Our
23 intention this morning is to apply for several
24 court orders. First we will, based on testimony
25 that the court is about to hear, request that the

1 court enlarge the scope of the Doe proceeding to
2 extend to four additional County Executive Office
3 employees. Deputy Chief of Staff Kelly
4 Rindfleisch, R-I-N-D-F-L-E-I-S-C-H; Chief of Staff
5 Thomas Nardelli, N-A-R-D-E-L-L-I; Communications
6 Director I believe is the title, Fran McLaughlin,
7 M-C-L-A-U-G-H-L-I-N; and then a staff person who
8 serves as the scheduler for the County Executive,
9 Dorothy Moore. I'm submitting for the court's
10 review at present, although obviously he won't be
11 prepared to have you consider signing an order, the
12 petition, and then the proposed order.

13 THE COURT: Very well. The sixth
14 petition to enlarge the scope of the John Doe
15 proceeding is in the hands of the court at this
16 time, and also a proposed order accomplishing the
17 goals of the petition, and I'll hold that in
18 abeyance pending the hearing of the evidence and
19 the testimony here this morning -- or here today.

20 ATTORNEY LANDGRAF: Tied in with the
21 request for expanded scope will be a request for
22 three search warrants this morning. We are also
23 going to ask the court to sign a John Doe subpoena
24 duces tecum for the telephone records of
25 Mr. Timothy Russell. We have received back from

AT & T an indication that they require us in their view of the law to state on the face of the subpoena that the subpoena is issued pursuant to Wisconsin Statute Section 968.375, and we will do that this morning.

We expect, although we won't be able to apply for a search warrant for the phone that is the subject of that subpoena duces tecum until we get the information back from AT & T, but we will lay the groundwork for a search warrant for that cell phone for reasons that I think will be obvious by the time we finish the testimony.

And then we have a series of subpoenas that we would ask the court to consider issuing, and we will be basing our request upon the sworn statement of Investigator Budde. And then lastly we have some requests for subpoenas that are based exclusively on my application. And that is the extent of what I would like to accomplish today.

THE COURT: Very well. Thank you for that summary. I believe we're ready to proceed with the taking of evidence and testimony. Who would be your initial witness?

ATTORNEY LANDGRAF: I intend to call

Chief Investigator David Budde as being my only witness today.

THE COURT: Very well. I'd ask our clerk to swear Mr. Budde in.

DAVID BUDDE, called as a witness herein, having been first duly sworn, was examined and testified as follows.

THE COURT: Proceed, Mr. Landgraf.

DIRECT EXAMINATION:

BY ATTORNEY LANDGRAF:

Q. Would you state your name and spell it for the record please.

A. David Budde. D-A-V-I-D, B-U-D-D-E.

Q. What is your title, sir?

A. I'm employed as the Chief Investigator at the Milwaukee County District Attorney's Office.

Q. And you are assisting the John Doe judge and the John Doe investigators in Case Number 10JD007; are you not?

A. Yes, I am.

Q. And in fact you have filed a number of sworn statements in this John Doe proceeding up to this date and time?

A. Yes, I have.

Q. And is it correct to say that you would like to

1 incorporate by reference your former sworn
2 statements that you've already submitted to Judge
3 Nettesheim as part of this application today?

4 A. Yes.

5 Q. We are here today to request the court to extend
6 the scope of the John Doe proceeding as I just
7 stated on the record; correct?

8 A. Yes.

9 Q. And we are also going to apply for a number of
10 search warrants that we believe are important to
11 the investigation; correct?

12 A. Yes.

13 Q. The first of those search warrants is intended to
14 be for specified records and information found in
15 the offices of the Milwaukee County Courthouse,
16 room 306; correct?

17 A. Yes.

18 Q. And that you know to be the Milwaukee County
19 Courthouse offices of the County Executive;
20 correct?

21 A. Yes.

22 Q. And that is in the City and County of Milwaukee,
23 State of Wisconsin; right?

24 A. Yes, it is.

25 Q. The second search warrant that we are going to ask

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1 the court to consider is a search warrant for the
2 premises occupied by Kelly Rindfleisch in West
3 Allis, Wisconsin; correct?

4 A. Yes.

5 Q. And the address there is 1331 South 93rd Street,
6 City of West Allis, County of Milwaukee; correct?

7 A. Yes.

8 Q. We are also going to apply for a search warrant for
9 Ms. Rindfleisch's vehicle; are we not?

10 A. Yes.

11 Q. And that will be described in more detail during
12 the course of your testimony this morning?

13 A. Yes, it will.

14 Q. And then thirdly we are asking the court to
15 consider issuing a search warrant at 331 West
16 Harrison in the City of Columbus, County of
17 Columbia, State of Wisconsin; correct?

18 A. Yes.

19 Q. And we believe that that is property that's owned
20 as well by Kelly Rindfleisch; correct?

21 A. Yes.

22 Q. And then we will be asking the court as well to
23 issue a 968.375 subpoena duces tecum for AT & T
24 records related to an Apple phone in the possession
25 of Tim Russell; will we not?

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1 A. Yes.

2 Q. And we are hoping then later today to get that

3 information and then submit it to the court for his

4 consideration in connection with a search of that

5 Apple iPhone; correct?

6 A. Yes.

7 Q. Have I asked you to research the residences of the

8 persons that I've named as the proposed persons

9 subject to the expansion of the scope of this John

10 Doe hearing?

11 A. Yes, you have.

12 Q. Have you looked into the addresses of Mr. Thomas --

13 strike that.

14 Have you looked into the address of

15 Mr. Thomas Nardelli?

16 A. Yes, I have.

17 Q. And have you done research that allows you to tell

18 the court where Mr. Nardelli lives?

19 A. Yes, I have.

20 Q. What is it you're looking at right now?

21 A. There are several documents. The first is a City

22 of Milwaukee assessment detail and listing

23 characteristic that was prepared yesterday on

24 October 31, 2010. It shows that Mr. Nardelli

25 resides with a woman named Marcia, M-A-R-C-I-A,

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1 Nardelli at 6811 North Coventry, C-O-V-E-N-T-R-Y,
2 Court in Milwaukee, 53224. The second document is
3 a printout from the Wisconsin Department of
4 Transportation also obtained yesterday on October
5 31, 2010, which shows that Mr. Nardelli has a
6 Wisconsin driver's license that is valid and it
7 lists his home address as 6811 North Coventry
8 Court, Milwaukee, Wisconsin, 53224.

9 Q. Have you done similar research with respect to
10 Dorothy Moore?

11 A. Yes, I have.

12 Q. Have you looked at her DMV information?

13 A. I looked at her -- the same information for Dorothy
14 Moore also obtained on October 31, 2010, the
15 Wisconsin Department of Transportation reports that
16 she holds a valid driver's license with the address
17 1102 North 120th Street in the City of Wauwatosa,
18 Wisconsin, 53226.

19 Q. You have also served her husband earlier in this
20 John Doe proceeding; have you not?

21 A. Yes, her husband, Edmondal Moore, was served at
22 that address by me personally.

23 Q. And have you done research regarding Fran
24 McLaughlin's residence?

25 A. Yes, I have. The Wisconsin Department of

Transportation also on October 31, 2010 has records showing that a driver's license for Frances E. McLaughlin is listing at 1837 North 84th Street in the City of Wauwatosa, Wisconsin, 53226.

Q. For reasons that we will explain during your testimony we believe that Kelly Rindfleisch is also a resident of Milwaukee County; do we not?

A. We do.

Q. And she resides at the address of 1331 South 93rd Street for reasons that you will explain?

A. Yes.

Q. We also believe that she has a residence that she owns in Columbia County that you also will explain?

A. Yes.

Q. Mr. Budde, last week did we receive any information that was responsive to a search warrant that Judge Nettesheim signed a while back?

A. Yes, we did.

Q. Would you explain that for the record please.

A. We received a CD from Google which contained a Gmail for Kelly Rindfleisch that had been previously subpoenaed in this John Doe.

Q. And that CD had on it the e-mails that related to the account that I think we have come to identify as krindfleisch@gmail.com?

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1 A. I believe the exact name is
2 kmrindfleisch@gmail.com.

3 Q. And if I understand things correctly, there were
4 thousands of e-mails that were on the CD that were
5 provided to us; correct?

6 A. That is correct.

7 Q. Okay. And one of the reasons that we are applying
8 for the search warrants that we are applying for
9 here today relates to our review of the information
10 on that CD; correct?

11 A. Yes, that's correct.

12 Q. Is it fair to say that based upon -- strike that.
13 Our review of that information,
14 having just received it, is a work in progress; is
15 it not?

16 A. Yes, it is.

17 Q. Nevertheless, based on your review and the review
18 of others working with you, do you think that at
19 this time you have reason to believe that the
20 deputy chief of staff was active in fund-raising in
21 the County Executive's Office in the last ten
22 months?

23 A. Yes, I do.

24 Q. I am going to place before you what has been marked
25 as SW-1. This is an e-mail from Kelly Rindfleisch

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1 to Brett Davis. It's dated February 4, 2010, and
2 it's sent at 3:40 p.m. Would you confirm that
3 please.

4 A. Yes, that is correct.

5 Q. And we have in the course of this investigation
6 subpoenaed Ceridian records for the various
7 employees that we're going to talk about today;
8 have we not?

9 A. Yes, we have.

10 Q. Would you just briefly explain the significance of
11 those Ceridian records for those purposes.

12 A. Milwaukee County uses a timekeeping system software
13 program called Ceridian. Ceridian enables
14 employees to record their time officially and
15 that's how the employees are paid for their
16 employment by Milwaukee County. Ceridian records
17 show the days that employees work, they also show
18 the time off employees take. And in some cases
19 from employees who are not in executive
20 compensation positions it actually shows the hours
21 that they are working.

22 Q. Looking at SW-1 -- and for purposes of the record
23 today I'm going to stop referring to them as SW,
24 I'm just going to start calling them 1 or 2 or 3 --
25 looking at Number 1, can you tell the judge whether

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1 with you. That way we don't have to worry about
2 the mail or anything. I will talk to you tomorrow
3 on the conf, C-O-N-F, call, and signed Kelly.

4 The attachment which we printed out
5 is a two-page document which title is, Agreement
6 Between JVS Consulting LLC and Brett Davis for
7 Lieutenant Governor. And the two-page document
8 is -- appears to be a contract whereby Brett Davis
9 for Governor engages JVS Consulting, represented by
10 Kelly Rindfleisch in a fund-raising endeavor.

11 THE COURT: You said Brett Davis for
12 Governor, I presume you meant Lieutenant Governor?

13 THE WITNESS: I'm sorry. Yes, sir.

14 Yes sir.

15 BY ATTORNEY LANDGRAF:

16 Q. Mr. Budde, I'd like to direct your attention to the
17 two lines on page 1 of that document. Have I
18 directed your attention?

19 A. Yes.

20 Q. Thank you. Are we telling the judge that we
21 believe that this -- that we know for certain that
22 this document was sent using a County computer?

23 A. No, we don't know for certain.

24 Q. Let me just tell -- just if you wouldn't mind, tell
25 the judge a little bit about the significance of

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1 that e-mail address. Is that a County e-mail
2 address or is that not a County e-mail address?

3 A. No, it's not a County e-mail address.

4 Q. And based upon your experience as a County employee
5 is it fairly easy to identify an authorized
6 Milwaukee County e-mail address?

7 A. Yes.

8 Q. And how would you do that?

9 A. The Milwaukee County e-mail address is for County
10 employees who work in offices other than the
11 DA's Office are -- typically they have a file
12 extension of milwcnty.com. And in my experience
13 that has been the case with all the employees I've
14 dealt with other than in this office. In the DA's
15 Office our e-mail extensions are different, but
16 they also identify people as government employees.

17 Q. Based upon our investigation so far, including
18 statements that Darlene Wink made to Dan Bice and
19 were published in the Milwaukee Journal Sentinel,
20 do we have reason to believe that private non
21 County computers were used in the County
22 Executive's Office?

23 A. Yes, we do.

24 Q. Would you explain that a little bit.

25 A. An article published in May of 2010, shortly after

Darlene Wink resigned from County employment, indicated that Darlene Wink was using a private laptop computer to post political-related blogs during the workday.

Q. And in that article did she not state that she had brought a laptop to work that was a personal laptop?

A. Yes, she did.

Q. So as far as we know based on our investigation so far, this was sent during the workday but we are not exactly sure of the device that was used to send it, that would be Number 1?

A. Yes, that is correct.

Q. I'm going to hand you what is marked as Number 2 in this investigation. Why don't you keep -- off the record.

(Off the record.)

BY ATTORNEY LANDGRAF:

Q. Back on the record. Have you had a chance to see Number 2 at this point in time?

A. Yes, I have.

Q. And this also has the private e-mail address that you were telling us about a few minutes ago?

A. Yes, it does.

Q. Would you just briefly describe for the record what

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this is please.

A. This is an e-mail sent from Kelly Rindfleisch at her Gmail address that we've referred to previously on Wednesday, February 10, 2010, at 2:16 p.m. It's an e-mail that is sent to brett.davis@charter.net, and emily@votebrettdavis.com. And the subject line is Invoice, and the attachment says, JVS Consulting dot. The attachment is what -- a document titled Invoice, dated -- the date is actually October 29, 2010 on this piece of paper. I believe that's because it is a -- in my experience it's a software that auto dates when you print the document. The due date of this is noted as February 28, 2010. And I believe that the date the invoice was generated was prior to February 28, 2010, coincident with the date of the e-mail, even though it doesn't state that.

The address of JVS Consulting is listed at 331 West Harrison, Columbus, Wisconsin, 53925, with a phone number of 608-444-2826, and the 'to' is listed as Brett Davis for Lieutenant Governor at PO Box 56071, Madison, Wisconsin, 53705, and the 'for' says Consulting Services. The description of the invoice shows the month of February and the amount \$1,000.

1 Q. Mr. Budde, in your experience in everyday life is
2 it common when one is paying an invoice to send
3 papers relating to the payment to the address that
4 is on the invoice?

5 A. Yes, it is.

6 Q. Therefore, do you think that you have reason to
7 believe that records relating to JVS Consulting,
8 including possibly payments relating to this
9 contract, might be found in Columbus, Wisconsin at
10 331 West Harrison?

11 A. Yes, I do.

12 Q. Now, Mr. Budde, I noticed on a couple of copies
13 there are redactions on the top of the page using
14 like a black magic marker. I'd just like you to
15 take a moment to explain why those redactions are
16 there.

17 A. When we analyze the e-mail in its electronic form
18 and we want to print it, it will print the name of
19 whichever person is analyzing the e-mail. So for
20 the sake of clarity and to preserve how it would
21 have originally looked in the evidence, we blocked
22 that out, otherwise it would show my name or
23 Investigator Stelter or some other person
24 authorized to look at the e-mail.

25 Q. And we are actually looking at copies of the

1 records supplied to us; correct?

2 A. Yes, we are.

3 Q. We're not looking at original records?

4 A. Exactly.

5 Q. I'm going to put before you Number 3, and I'm going
6 to ask you to take a look at that document and
7 then -- let me just take one step back though.

8 Relating to a Number 2, would it be
9 fair to say that for the e-mails that we are going
10 to be submitting to the court today, that if the
11 times and dates of the e-mails are between the time
12 of 8:00 and 5:00 that you have checked -- strike
13 that. Let me just ask you generally.

14 Tell the court so that we don't have
15 to keep on asking questions after questions, what
16 you've done to insure that the e-mails that we're
17 going to talk about today related to a working day
18 for the employees we're going to talk about.

19 A. As I've explained before about the Ceridian
20 analysis, we have analyzed the Ceridian records for
21 the employees involved in this investigation for a
22 designated time period. And unless I would state
23 otherwise, the e-mails that have been sent and that
24 we're going to be presenting have some sort of
25 activity during a workday when we have verified

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1 that the Ceridian records show that the employees
2 were at work. Some long chains of e-mail may
3 involve non workdays, but somewhere within the
4 chain there would be a workday.

5 Q. Now directing you back to Number 3, would you just
6 generally tell us what this -- what significance
7 this document has?

8 A. This is an e-mail that is from -- originally it's
9 from Kelly Rindfleisch -- I'm sorry, originally
10 it's from Joseph Fadness at an e-mail address of
11 jfadness@gmail.com. It's sent on Thursday,
12 February 11, 2010, at 1:44 p.m. It's sent to Kelly
13 Rindfleisch's Gmail address and the subject line is
14 Maxed Donors. M-A-X-E-D, donors. There's an
15 attachment that is an Excel spread sheet, the title
16 of it is maxeddonors_2.11.10.xls.

17 Q. Go ahead.

18 A. It -- it -- the body of the e-mail says, Attached
19 you will find the requested list of maxed donors.
20 It includes employer information, several phone
21 numbers and a mailing address. Let me know if you
22 have any questions, and it's signed Joe, J-O-E.
23 Joe Fadness is known to me, based on my
24 investigation, as the operations manager for the
25 Scott Walker gubernatorial campaign.

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1 Q. Based upon your review of the Rindfleisch e-mails
2 is it at all uncommon to see correspondence between
3 Miss Rindfleisch and representatives of the Scott
4 Walker campaign?

5 A. No, it's not unusual whatsoever.

6 Q. Is it at all unusual to see that correspondence in
7 e-mails -- let me withdraw the question and ask it
8 this way.

9 Does Miss Rindfleisch frequently use
10 the Gmail address?

11 A. Yes.

12 Q. Do you know of any reason why she could not have
13 used the Milwaukee County authorized address to
14 communicate with anyone she chose?

15 A. There's no technical reason why she couldn't use
16 the Milwaukee County address, but there are rules
17 prohibiting her from using that for purposes that
18 would violate the law or County ethics codes or
19 ordinances.

20 Q. Have you looked at the attachment that is part of
21 Exhibit 3?

22 A. Yes. It is a spread sheet that lists the names of
23 persons, their employer, sometimes their e-mail
24 address if it's listed, phone numbers and
25 addresses.

1 Q. You are generally familiar with the name of William
2 Gardner that appears on this list; are you not?
3 A. Yes, I am.
4 Q. And he is actually the part of a different segment
5 of this John Doe; is he not?
6 A. Yes, he is.
7 Q. And in this context do you understand 'maxed out'
8 to mean someone who has given the maximum possible
9 amount already to Governor -- or Governor-to-Be or
10 Governor-Want-to-Be Scott Walker?
11 A. That's what I believe it to be.
12 Q. Okay. And in that context I meant that Mr. Walker
13 was a candidate, you understood that; did you not?
14 A. Yes. Yes, I did.
15 Q. Okay. I'm going to hand you what has been marked
16 as Number 4 -- oh, is there anything else of
17 significance that you want to review on Exhibit
18 Number 3?
19 A. Yes. There is a reply from Kelly Rindfleisch to
20 Joe Fadness dated -- sent on Thursday, February 11,
21 2010, at 3:54 p.m. And it's the same subject line
22 regarding maxed out -- maxed donors and Rindfleisch
23 writes, Thank you, that's exactly what I needed.
24 Q. That's page 3 of Exhibit 3; correct?
25 A. Yes, sir.

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1 Q. Number 4 is being placed before you now. This too
2 appears to have been sent from Kelly Rindfleisch to
3 Mike Prentiss during a workday; does it not?

4 A. Yes.

5 Q. Would you review with Judge Nettesheim the
6 significance of this e-mail.

7 A. This e-mail starts with an e-mail from Mike
8 Prentiss on Thursday, February 11, 2010, at
9 1:38 p.m. to Kelly Rindfleisch. And the subject
10 line is regarding No Quarter, hyphen, Watchdog
11 Online, hyphen, jsonline. It talks about -- I will
12 just read the contents of the e-mail. Prentiss
13 says, Thanks, I saw that earlier. I had heard from
14 Graul, G-R-A-U-L, a couple of months ago that this
15 was going down, but didn't know the extent or
16 whether or not charges had actually or would
17 actually be filed. Very weird and kind of sad.
18 Speaking of Graul, hyphen, he e-mailed me a couple
19 weeks asking about you. I said, All right, nice
20 things and mentioned I had talked about you with
21 Brett. Graul is helping Brett out a bit on the
22 side, so I'm wondering if the two might be
23 related. I'll keep you posted.

24 This e-mail had actually started with
25 an e-mail sent at 2:36 p.m. on February 11, 2010,

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1 from Rindfleisch at her Gmail address to Prentiss.
2 So I misspoke in my first comment, but it starts
3 with an e-mail from Rindfleisch to Prentiss.
4 Prentiss just responded as I explained, and then
5 Rindfleisch replies to Prentiss at 3:52 p.m. on
6 February 11, 2010, stating, Yes, they are related.
7 I'm doing FR for him on the side. I'm working for
8 Walker at the County in his office now. I couldn't
9 remember if I told you that.

10 Q. In this context what do you understand the phrase
11 'I'm doing FR for him' to mean?

12 A. I believe that to mean fund-raising.

13 Q. For whom?

14 A. For Brett Davis.

15 Q. I'm going to put before what has been marked as
16 Number 5. Does this also appear to be an e-mail
17 exchange occurring during the workday for Miss
18 Rindfleisch?

19 A. Yes, it does.

20 Q. Would you summarize this e-mail please.

21 A. Starts with an e-mail from Rindfleisch to Keith
22 Gilkes.

23 Q. Who is Keith Gilkes?

24 A. Keith Gilkes is the campaign manager for Scott
25 Walker's gubernatorial campaign. This e-mail was

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1 sent originally by Kelly Rindfleisch on Wednesday,
2 March 24, 2010, at 2:21 p.m., subject line is
3 Question, and she asks Gilkes if he knows who the
4 best person to contact at the M -- Milwaukee Police
5 Association is. And she references that they've
6 had a lot of turnover and says, being convicted and
7 all. Gilkes replies on the same day at 2:40 p.m.
8 to Rindfleisch and says that he goes to Mark
9 Sikora, S-I-K-O-R-A. And then Rindfleisch replies
10 back to Gilkes -- I'm sorry, Rindfleisch replies to
11 brett.davis@charter.net on Wednesday, March 24,
12 2010, at 2:44 p.m., forwarding this chain of
13 e-mails and saying, He's not a registered lobbyist,
14 and then there's a phone number provided.

15 Q. I'm going to put before you what is marked as
16 Number 6. Would you describe the significance of
17 Exhibit 6 please.

18 A. This is an e-mail that contains information about a
19 fund-raiser cocktail reception for Brett Davis, the
20 lieutenant governor candidate, that's going to take
21 place on Tuesday, April 27, 2010, in Madison,
22 Wisconsin. It starts with an e-mail from
23 emily@votebrettdavis.com, and sent to Kelly
24 Rindfleisch, Mark Gaul, G-R-A-U-L, and Brett
25 Davis. The subject is PAC fund-raiser, and it

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1 talks about -- Emily's e-mail talks about
2 rescheduling the fund-raiser to Tuesday, April 27th
3 from 5:00 to 7:00 p.m. at a place called
4 Madison's. It also mentions five different dates
5 for fund-raisers in April.

6 And then the e-mail is responded
7 to by Kelly Rindfleisch on Thursday, March 25,
8 2010, at 9:32 a.m., saying, Hey, Emily, I've
9 attached the PAC event invite and the e-mail list
10 it needs to go to. I put Wispolitics and Wheeler
11 in there too, so just e-mail it to the list.
12 Thanks, Kelly. And the attachment that Kelly sends
13 is the actual invite to the -- to the reception.
14 It lists hosts at \$2,500 for gold, \$1,000 for
15 silver. It says PAC and Conduit Accepted. And
16 then attached also is a two-page list of e-mail
17 addresses which I believe to be people that she is
18 inviting to this event.

19 Q. What is Number 7?

20 A. Number 7 is an e-mail list that appears to be for
21 people wanting to attend a Brett Davis event in
22 Green Bay. It was sent by Kelly Rindfleisch to
23 czeuske@taxpayersnetwork.org on Monday, March 29,
24 2010, at 12:30 p.m. Subject line is Davis event.
25 And I believe the recipients of this to be former

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1 state treasurer -- Republican state treasurer Cate
2 Zeuske. Z-E-U-S-K-E, and Cate in this context is
3 spelled C-A-T-E.

4 In this e-mail Kelly is asking Cate
5 if she had gotten anyone to agree to be a host for
6 the Davis event in Green Bay. And then Zeuske
7 replies to Rindfleisch on March 29th -- Monday,
8 March 29, 2010, at 1:01 p.m., Could you please send
9 me the list to look over. And on Monday, March 29,
10 2010, at 1:11 p.m. Rindfleisch replies to Zeuske
11 saying, Here is the list, thank you again for your
12 help. And the list appears to be a five -- I'm
13 sorry, six-page list of names giving first name,
14 last name, address, city, state, work phone and
15 home phone. And I believe this to be associated
16 with a fund-raising event for Brett Davis in Green
17 Bay.

18 Q. And this, like the other e-mails, came from the
19 Rindfleisch Gmail account; did they not?

20 A. Yes, that is correct.

21 Q. Handing you what has been marked as Number 8, would
22 you review that and its significance with Judge
23 Nettesheim.

24 A. This is another e-mail from
25 emily@votebrettdavis.com. It's originally sent on

Monday, March 29, 2010, at 11:40 a.m., and it's sent to Kelly Rindfleisch, and also someone with the e-mail address of cullenwerwie@gmail.com. The subject is Fond du Lac, and the e-mail basically talks about two RSVP's coming in for an event I believe to be taking place in Fond du Lac. It lists the name of two subjects who sent in \$50 checks, and it asks Kelly how these donations should be tracked. The sender Emily also is asking for an update on the invite -- invites for Green Bay and whether or not she needs to do mailings that week.

Rindfleisch replies to Emily on Monday, March 29, 2010, at 1:48 p.m. that she's sending the labels for Green Bay so that she can get started on that part. And she also mentions that when they're entered into the complete campaigns you tag them as the Green Bay event. We don't need to keep track of who paid already. Attached to this is a sample page, there was 17 pages total, but the sample shows mailing labels for 30 people -- appears to be about 30 people per page. And these are standard mailing letters showing name, address and city, state and zip code.

Q. What is Number 9?

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1 A. Number 9 is also -- it's a series of e-mails that
2 start with the e-mail I just referenced in Exhibit
3 8, but then it continues with another e-mail from
4 emily@votebrettdavis also to Kelly Rindfleisch on
5 Tuesday, March 30, 2010, at 2:18 p.m. They have a
6 discussion about the invitations to the Green Bay
7 event, and further e-mail exchanges back and forth
8 about the labels getting there. And basically it
9 ends up with an e-mail from Rindfleisch to Emily.

10 The last one in this chain is sent on
11 Tuesday, March 30, 2010, at 3:54 p.m., but she
12 sends an attachment and says, If you could check
13 through -- check it through one more time to make
14 sure I didn't mess up a date or anything I would be
15 forever grateful.

16 And what she's sending is the flyer
17 inviting people to a luncheon on behalf of Brett
18 Davis, the Republican candidate for lieutenant
19 governor, and it's for an event to be held on
20 Monday, April 12, 2010, in Green Bay, Wisconsin,
21 and it's a request for donations for this fund-
22 raising event.

23 Q. What is Number 10?

24 A. This is a series of e-mails that takes place
25 between April 9, 2010, at 1:17 p.m., when it starts

I'm sorry -- strike that. It starts on April 8, it's a Thursday, 2010, at 5:57 p.m., and it's an e-mail from someone identified as Bronwyn Glojek. B-R-O-N-W-Y-N, last name is Glojek, G-L-O-J-E-K. And it's sent to Emily Loe, L-O-E, and her e-mail address is the emily@votebrettdavis.com. The subject is Fund-raiser.

These e-mails go back and forth, but the relevant e-mail here is an exchange, the one that takes place on Friday, April 9, 2010, at 1:17 p.m. This is an e-mail from emily@votebrettdavis.com, to Bronwyn Glojek, cullen@votebrettdavis.com, cullenwerwie@gmail.com and Kelly Rindfleisch. The subject is re Fund-raiser, and it says, Hi Bronwyn, and it talks about the fund-raising for the Davis campaign. And it mentions that Cullen and Kelly Rindfleisch, our fund-raiser, will be the best people to plan out these final details. I copied both of them on this e-mail and will give Kelly your contact information. She is great with invites and guest lists.

And this continues to go back and forth. Kelly Rindfleisch responds to Emily, Glojek and Cullen on Friday, April 9, 2010 at 1:24 p.m.,

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1 that she was thinking about sending an invitation
2 to another event to see about if the format's okay,
3 and she talks about putting together an invite for
4 her to approve. The sample one is actually on my
5 home computer so I can send that to you tonight.
6 And that's from Kelly Rindfleisch.

7 The chain of e-mails continues,
8 there's a discussion about further invitations and
9 fund-raisers, location in Waukesha, Wisconsin,
10 County of Waukesha, for another fund-raiser. And
11 the chain continues until Tuesday, April 20, 2010,
12 11:02 a.m. when Rindfleisch e-mails to Bronwyn
13 Glojek, again the subject is regarding fund-
14 raiser. And she talks about having a response rate
15 of about 5 percent on fund-raising events that
16 invite people. It's been higher for the events
17 with Brett Davis. They've had wonderful
18 participation from the host at the fund-raiser.
19 She talks about attaching a list with Pewaukee
20 residents from her master list for the fund-
21 raiser. She talks about his events averaging 30 to
22 50 people, and she says, Let me know what else I
23 can do.

24 Q. Number 11 is before you now. What is the
25 significance in your judgment of this e-mail from

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1 the Rindfleisch Gmail account?

2 A. The interesting thing about this e-mail is that it
3 is from Brett Davis to Kelly Rindfleisch. It's --
4 the first e-mail starts with name -- from Kelly
5 actually to Brett on July 6, 2010, that's a
6 Tuesday, sent at 1:42 p.m., and Kelly talks about
7 redoing her contract and reducing the charge that
8 she would charge to a monthly retainer of \$500 per
9 month. She suggests that she could take on more
10 administrative functions that Cullen, C-U-L-L-E-N,
11 is doing now.

12 She also makes reference to paying
13 someone named Dan to do things on a percentage
14 basis on the event that he put together. I believe
15 based on my investigation that this reference to
16 Dan is to Dan Morse, M-O-R-S-E. He is a fund-
17 raiser who is also associated with the Walker
18 gubernatorial campaign and he's listed in an
19 announcement from April of 2010 -- I'm sorry, April
20 2009, as a fund-raiser for the Walker campaign.
21 The e-mails goes back and forth and it talks about
22 amending Kelly's contract with Brett Davis.

23 Q. I'd just like to call your attention to the entry
24 which is immediately below, Sounds great, sent from
25 my iPhone. Do you see that?

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1 A. Yes, I do.

2 Q. And would you read the first couple of sentences

3 what Miss Rindfleisch wrote in that e-mail on July

4 8th at 9:32 a.m.?

5 A. She wrote, quote, I just wanted to make sure I have

6 a conference call set up with Dan and Bridget at

7 2:00 today. I updated the spread sheet based on

8 your conversation with Dan. The three of us will

9 go through that. Dan and Cullen are meeting

10 today. I also got access to your calendar so we

11 can start scheduling and take that off Cullen's

12 hands. I also want to take the call list off of

13 his hands. He just needs to get me the notes and I

14 can get up to speed. I think this will work well.

15 Q. Based upon your review of the Ceridian information,

16 was Miss Rindfleisch working as a Milwaukee County

17 employee in July 8th?

18 A. Yes, she was.

19 Q. That would include the 2:00 p.m. in the afternoon

20 when that conference call was scheduled?

21 A. Yes.

22 Q. And this is the last exhibit relating to Miss

23 Rindfleisch. What is Number 12?

24 A. Number 12 is an e-mail from Kelly Rindfleisch at

25 her Gmail account sent on Sunday, July 11, 2010, at

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1 11:18 a.m. to an account Kelly --
2 kRindfleisch@charter.net. It -- the subject line
3 is Contract extension, with the number 2 in
4 parentheses. And there's an attachment which we
5 opened, and it is a draft of an agreement between
6 JVS Consulting LLC and Brett Davis for Lieutenant
7 Governor. And it indicates a -- a contract between
8 those two entities for the period July 1, 2010
9 through September 30, 2010. And it states that as
10 compensation for the services rendered by JVS
11 Consulting, Brett Davis for Lieutenant Governor
12 would pay JVS Consulting \$1,500 payable in
13 increments of \$500 per month for those three
14 months.

15 Q. Now, Mr. Budde, I would infer that Miss Rindfleisch
16 was not working, according to Ceridian records, on
17 Sunday, July 11th, at 11:18; correct?

18 A. Correct.

19 Q. This appears to be an e-mail that is transferred
20 between an Internet based Gmail account and an
21 account at krindfleisch@charter.net; does it not?

22 A. Yes, it does.

23 Q. Mr. Budde, I would like to now turn your attention
24 to information that we have gathered in connection
25 with Mr. Thomas Nardelli. And Miss Rindfleisch is

the current deputy chief of staff in the County Executive's Office; correct?

A. Yes, she is.

Q. Who is Mr. Thomas Nardelli?

A. Thomas Nardelli is the chief of staff for Milwaukee County Executive Scott Walker.

Q. Does he too have offices in 306 of the Milwaukee County Courthouse?

A. Yes, he does.

Q. In the course of -- I'm going to place before you -- let me strike all that and start over.

I'm going to put Number 13 before you right now. Mr. Budde, you are generally aware, are you not, that Judge Nettesheim has signed subpoenas that were issued to the Information Management Services Division of Milwaukee County as part of this investigation?

A. Yes, I am.

Q. And you are also generally aware that information was requested relating to the County network accounts that are owned, if you will, by representatives or employees of the Milwaukee County Executive's Office; correct?

A. Yes.

Q. And you have been in contact with and dialogue with

1 Mr. James Krueger of the Milwaukee County District
2 Attorney's Office; have you not?
3 A. Yes, I have.
4 Q. Mr. Krueger is the information technology manager
5 for the Milwaukee County District Attorney's
6 Offices; is he not?
7 A. Yes, he is.
8 Q. Has he asked -- strike that.
9 Has he been asked to analyze or
10 review the data that was turned over by the IMSD
11 people to our office?
12 A. Yes, he has.
13 Q. Has he been able to identify information that was
14 taken from the County network relating to Thomas
15 Nardelli?
16 A. Yes, he has.
17 Q. And Number 13 is a printout of a DAT file; is it
18 not?
19 A. Yes, it is.
20 Q. And it purports to be a cookie cache; does it not?
21 A. Yes, it is.
22 Q. Is it your understanding, based upon your
23 conversations with Mr. Krueger, that this is a
24 record of various Internet sites that Thomas
25 Nardelli has visited using his County computer?

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1 A. Yes, that is correct.

2 Q. Of interest to this investigation do you see

3 indications that Mr. Nardelli has used any

4 particular -- strike that -- has visited any

5 particular web sites?

6 A. Yes. I've seen a record here showing that on June

7 4, 2010, at 12:38 p.m. he visited the Yahoo mail

8 web site.

9 Q. That's the date and time of the cookie; correct?

10 A. Yes, that's the date and time of the cookie.

11 Q. And in this context why is Mr. Nardelli's access to

12 the Yahoo mail site important?

13 A. We have -- our investigation has uncovered multiple

14 non County e-mail addresses for Mr. Nardelli and

15 other employees of the County Executive's Office.

16 And these e-mail addresses are routinely used

17 during the workday to communicate amongst this

18 group of people. And these e-mail addresses would

19 not normally show up in the County e-mail system.

20 Q. And Mr. Nardelli, like Miss Rindfleisch, has an

21 official Milwaukee County e-mail address; does he

22 not?

23 A. Yes, he does.

24 Q. What is Number 14?

25 A. Number 14 is an e-mail sent by Thomas Nardelli from

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1 the e-mail account thomasnardelli@yahoo.com. It's
2 sent on Friday, September 24, 2010, at 2:07 p.m.
3 It's sent to Scott Walker, and then various names
4 include Tim Russell, Kelly Rindfleisch, Keith
5 Gilkes, R.J. Johnson, Fran McLaughlin, Cheryl
6 Berdan, B-E-R-D-A-N, and Jill Bader, B-A-D-E-R.

7 THE COURT: Just for the record, I
8 don't know if Gilkes was referred to earlier, but
9 it's G-I-L-K-E-S. Go ahead.

10 BY ATTORNEY LANDGRAF:

11 Q. You've identified Mr. Gilkes as the campaign
12 manager for Scott Walker; correct?

13 A. Yes.

14 Q. Do you also know if Mr. R.J. Johnson is associated
15 with any organization or group?

16 A. He is. He is listed as a general consultant to the
17 Scott Walker for Governor campaign.

18 Q. And Jill Bader is in that CC list, do you know who
19 she is?

20 A. She's the communications director for the campaign.

21 Q. You have now reviewed large sections of the Tim
22 Russell Gmail account; have you not?

23 A. Yes.

24 Q. And you have reviewed substantial sections of the
25 Kelly Rindfleisch Gmail account as well; correct?

1 A. Yes.

2 Q. Is it at all uncommon to see County Executive
3 employees like Mr. Nardelli communicating using
4 private e-mail addresses with members of the Scott
5 Walker campaign?

6 A. It's very common.

7 Q. And this is an example of that?

8 A. Yes, it is.

9 Q. And as we sit here right now, although we know that
10 Mr. Nardelli did at least on occasion use his
11 computer to go to Yahoo mail, we don't know
12 specifically how he managed to send this particular
13 e-mail; do we?

14 A. That is correct. And I would also point out that
15 this is beyond the period that we've analyzed for
16 Ceridian, so I don't know if he was on -- this was
17 a workday for him.

18 Q. This is just an example of the type of
19 communications we've seen --

20 A. Yes.

21 Q. -- in many, many e-mails across this investigation?

22 A. Yes, it is.

23 Q. What is Number 15?

24 A. This is an e-mail that is sent from
25 thomasnardelli@yahoo.com on Friday, April 23, 2010,

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1 at 4:17 p.m. It's sent to Kelly Rindfleisch;
2 Cynthia Archer, who I know to be the director of
3 Administrative Services for Milwaukee County; Fran
4 McLaughlin; Jonathan Myhre, spelled
5 J-O-N-A-T-H-A-N, M-Y-H-R-E; Tim Russell; and copied
6 to R.J. Johnson, Keith Gilkes and Jill Bader. The
7 subject is Daily conference calls. And this is an
8 e-mail where Nardelli informs this group of people
9 that the County Executive has asked that we conduct
10 a daily conference call 8:00 a.m. to review events
11 of the day or a previous or future date so we can
12 better coordinate sound timely responses so we all
13 know what the others are doing. We will begin
14 these conference calls on Monday, April 26th.
15 These will not be long duration calls as we have
16 much work on our plates, but good coordination will
17 help is resolve issues before they blow out of
18 proportion. I'm looking forward to your input and
19 support.

20 He further -- Nardelli continues,
21 When possible these calls will be conducted for
22 staff in the County Executive's Office, although
23 that is not an absolute, as I know there will be
24 conflicts. It may take a few minutes to get this
25 going for the first few days, as I have no idea how

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1 to conduct a conference call with so many parties.
2 I'm hoping Tim will help, he's our expert. The
3 effects of these calls will be analyzed as to the
4 effectiveness on an ongoing basis. And it's
5 signed, Tom.

6 Q. In this context do you have an opinion as to who
7 Tim would be?

8 A. Yes, I believe Tim is Tim Russell who is addressed
9 in the e-mail.

10 Q. Okay.

11 A. And this e-mail continues. There's a response to
12 that e-mail from Keith Gilkes at the e-mail address
13 kgilkes@scottwalker.org. And that response is sent
14 on Sunday, April 25, 2010, at 6:40 p.m. to all the
15 same people who were on the original e-mail. And
16 it says that Gilkes has established a conference
17 call telephone number specifically for this call
18 that will only be used for these conferences. It
19 will be the same number and access code going
20 forward for every call. And then it lists the
21 dial-in number and the access code. And it's
22 signed with the address slog, Keith Gilkes, Friends
23 of Scott Walker, and an office telephone number.

24 Q. And we have already asked and will continue to ask
25 at the end of today's proceeding for a subpoena to

1 get more information regarding these conference
2 calls; correct?

3 A. Correct.

4 Q. And that would be because based on this e-mail it
5 looks like there's a campaign coordination
6 conference call in the County Executive's Office
7 daily of 8:00 a.m.; correct?

8 A. Yes.

9 Q. Or could be, in any event; correct?

10 A. Yes.

11 Q. What is Number 16?

12 A. Number 16 is a continuation of the e-mail that was
13 discussed in Exhibit 15, but this includes a
14 response from Gilkes to Tim Russell. And it's a
15 reference, Gilkes sends an e-mail to Tim Russell on
16 Sunday, April 25, 2010, at 6:53 p.m., indicating
17 that Nardelli had the wrong e-mail address for
18 Russell, and so he's -- Gilkes is forwarding this
19 chain of e-mails to Russell.

20 Q. In that first e-mail we see a confirmation
21 8:00 a.m. daily for the portion --

22 A. Yes, it says, quote, We have a call-in number and
23 access code below, dash, 8:00 a.m. daily for the
24 foreseeable future. And that's signed again, Keith
25 Gilkes, Friends of Scott Walker.

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1 Q. I'm placing before you what is marked as Number
2 17. The face sheet of this document was prepared
3 by IT manager Jim Krueger; was it not?
4 A. Yes, it is.
5 Q. And the information that you have from Mr. Krueger
6 is that this attachment was taken from
7 Mr. Nardelli's data supplied to us by IMSD in
8 response to earlier subpoenas; correct?
9 A. Yes.
10 Q. So this is -- as far as we understand, based upon
11 the data that IMSD supplied to us taken from a file
12 that was created by Mr. Nardelli's County
13 computer?
14 A. Yes, that is correct.
15 Q. And if I read Mr. Krueger's notes correctly, he
16 indicates that he found this as a result of a hit
17 for the word 'campaign'; correct?
18 A. Yes, it is.
19 Q. And this is an indication, according to
20 Mr. Krueger, as -- strike that.
21 This is an indication for Mr. Krueger
22 of Adobe PDF files that Mr. Nardelli had opened on
23 his County work station; correct?
24 A. Yes, on his C drive.
25 Q. And in the middle of the page there is some

1 highlighting that is pertinent to our
2 investigation; is it not?

3 A. Yes, that is correct.

4 Q. First of all, would you review the pertinent part
5 of the middle section of page 2 of Exhibit 17.

6 A. I have done that.

7 Q. Okay.

8 A. It -- it says --

9 Q. Tell us about it.

10 A. It says -- it indicates that this resides on --
11 some sort of document that resides on the C drive
12 of this computer for Mr. Nardelli, and the text
13 says 5 hyphen 14 hyphen 10, CEX, all in capitals,
14 on staff campaigning on County time dot PDF.

15 Q. Let me just stop you and ask you several
16 questions. Generally speaking, based upon your
17 experience with computers, where is the C drive
18 normally located?

19 A. C drive is normally located on the machine itself
20 as a hard drive installed in the machine.

21 Q. Have we asked Mr. Krueger if there's some way to
22 see if the file that's referenced on this page 2 is
23 available in the data that IMSD supplied to us?

24 A. We have, and he replied it is not available. We
25 would need to have the physical computer itself.

1 Q. Just explain for the record the significance of the
2 name of this file and the date of the file in the
3 context of the overall investigation please.

4 A. This coincides with the date that Darlene -- or the
5 date I believe -- the date directly after Darlene
6 Wink resigned from County service on May 13, 2010,
7 after she was caught blogging on County time using
8 her private laptop computer. On the 14th our
9 office executed a search warrant in the afternoon
10 on the County Executive's Office and seized Darlene
11 Wink's computer. Campaigning on County time would
12 indicate activities that are prohibited and which
13 we would be interested in based on the totality of
14 the e-mails we've examined.

15 Q. We'd would be interested in seeing what
16 Mr. Nardelli had to say about campaigning on County
17 time?

18 A. Yes, we would. And I would add that we would be
19 interested in that based on e-mails that we have
20 not yet reviewed but we're about to review, that
21 indicate other interaction among the County
22 Executive staff in regard to that same subject at
23 the same time.

24 Q. I'm going to put 18 before you right now. This is
25 also a document that was given to you by James

1 Krueger; correct?

2 A. Yes.

3 Q. And it is based upon -- strike that.

4 It's a report based upon his review
5 of network data that was supplied to this
6 investigation by IMSD; correct?

7 A. Yes.

8 Q. And it relates to Mr. Nardelli's use of his County
9 computer based upon Mr. Krueger's understanding;
10 correct?

11 A. Yes.

12 Q. And it also is relative to a search hit for the
13 word 'campaign;' is it not?

14 A. Yes, it is.

15 Q. And according to the notes on the front of the
16 page, Mr. Krueger advises us that this was found in
17 a part of the user profile that would suggest that
18 it related to web browsing using Lotus notes;
19 correct?

20 A. Yes, that is correct.

21 Q. And what is it that Mr. Krueger called to our
22 attention that's attached to this report?

23 A. It's a web site, a web hit indicating a web site
24 campaigner, and it says, Campaigner E-Mail
25 marketing, and it's a sign-in page for that.

1 Q. And then Number 19 is being placed before you right
2 now. What is Number 19?
3 A. Number 19 is a -- is like the home page for the web
4 site campaigner, and it describes a web site that
5 is useful for creating and sending e-mail
6 campaigns.
7 Q. And this is just --
8 A. E-mail marketing.
9 Q. I'm sorry. Were you finished?
10 A. Yes.
11 Q. This is based on our personal research?
12 A. Yes, it is. It was done on October 29, 2010.
13 Q. Not anything that came off of any computers that we
14 were searching?
15 A. No, that's correct. But it is for the same web
16 site that the hit reveals.
17 Q. I'm now going to turn your attention to Dorothy
18 Moore, and I'm going to ask you generally, who is
19 Dorothy Moore?
20 A. Dorothy Moore is an employee of the County
21 Executive's Office. She is the scheduler for
22 County Executive Scott Walker. She's also the wife
23 of Edmondal Moore, who previously testified in this
24 John Doe.
25 Q. And Mr. Moore was subpoenaed to testify in this

1 John Doe proceeding because we found records
2 indicating that I believe he was paying for a cell
3 phone used by Darlene Wink; correct?

4 A. Yes, that's correct.

5 Q. Okay. I'm going to place before you what has been
6 marked as Number 20. Once again, this is a report
7 that you have received from Mr. Jim Krueger;
8 correct?

9 A. Yes, it is.

10 Q. And it is based upon network data that was received
11 in the course of this investigation from IMSD;
12 correct?

13 A. Yes, it was.

14 Q. And this is a report that documents information
15 that was found on the documents and settings file
16 for Dorothy Moore; correct?

17 A. Yes.

18 Q. And it is basically a D.J. Moore Yahoo account web
19 page, according to Mr. Krueger's report; right?

20 A. Yes, it is.

21 Q. Would you just discuss the significance of this
22 particular exhibit please.

23 A. Under the listing for folders on this Yahoo mail
24 account there is a listing for Campaign 2010, which
25 I believe relates to the Walker gubernatorial

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1 campaign based on the other information we've
2 examined.

3 Q. And that is on which page of this exhibit?

4 A. It's on page 3 of the attachment under that
5 listing, My Folders.

6 Q. It's the third page of the attachment, fourth page
7 overall?

8 A. Yes, that's correct.

9 THE COURT: Got it.

10 BY ATTORNEY LANDGRAF:

11 Q. Based upon your conversations with Mr. Krueger,
12 this is an indication of usage by Ms. Moore of
13 Yahoo mail and Yahoo accounts generally; correct?

14 A. Yes, it is.

15 Q. And it's an indication of the usage by Ms. Moore of
16 a County computer for those -- for the -- strike
17 that.

18 It's a -- Ms. Moore was using a
19 County computer to get the Yahoo mail based upon
20 Mr. Krueger's statements; correct?

21 A. Yes.

22 Q. And is it your general understanding that these
23 folders are areas on the Yahoo web site where
24 information can be stored?

25 A. Yes.

Q. And we do have a preservation order -- or strike that.

We have a preservation request outstanding right now for this account, but we have not received information on it; is that right?

A. That's correct.

Q. What is Number 21?

A. Number 21 is also a report from Mr. Krueger, and it comes from the documents and settings, network data, network information from IMSD for Dorothy Moore. This shows a page from her Yahoo mail account, and it includes reference again in her folders -- her mail folders for campaign stuff, all in capital letters, and it also shows a reference to Scott Walker and Joe Fadness on the -- under the heading, Connection Suggestions. Joe Fadness is the operations manager for the Walker gubernatorial campaign.

Q. And again, this is evidence in your view, based upon what Mr. Krueger has told you, of usage of a County computer to keep this sort of data; correct?

A. Yes, that is correct.

Q. All right. I'm going to turn my attention now to Fran McLaughlin. If I didn't already ask you, Miss Moore is an employee in room 306 of the County

1 Courthouse; is she not?

2 A. Yes, she is.

3 Q. And the same thing is true of Ms. Fran McLaughlin;

4 is she not?

5 A. Yes, she is also.

6 Q. And who is Fran McLaughlin?

7 A. Fran McLaughlin is the communications director for

8 the Milwaukee County Executive Scott Walker.

9 Q. I'm going to place before you Number 22, and do you

10 recognize that as information that Mr. Krueger has

11 supplied to you?

12 A. Yes, it is.

13 Q. And do you -- did Mr. Krueger tell you that this is

14 a history file that indicates web sites that

15 Ms. McLaughlin may have visited using her County

16 computer; correct?

17 A. Yes, he did.

18 Q. Now, would you review for Judge Nettesheim those

19 web sites of interest to this investigation.

20 A. This shows two different types of web sites that

21 are of interest to this investigation. One is a

22 Yahoo mail web site, there are references to that

23 in May of 2010. And then the other is a Google

24 mail web site, and the references there are also

25 from May 2010. And these are different, they're

both to Fran McLaughlin.

Q. What is Number 23?

A. This is an e-mail that originated from the e-mail address gopfran@yahoo.com and the subject is Draft letter and edited version. It's sent to Tom Nardelli at an e-mail account of tomnardelli@wi.rr.com; and Tim Russell, at the Tim Russell WI Gmail account. The date is Thursday, February 11, 2010, at 1:46 p.m. And the -- I believe from my investigation that gopfran is actually Fran McLaughlin. She says that she is included a draft letter from the gov.blunt followed with her edited version.

She also makes a reference -- this e-mail -- that original e-mail is also forwarded on Thursday, February 11th at 2:00 p.m., 2010, 2:00 p.m. to Kelly Rindfleisch. And gopfran makes the comment, I think the last line should be changed to include the accountability/transparency line without the campaign slogany sound. The last line of the e-mail is -- or the last line of the letter is, Fortunately for Milwaukee County citizens Scott Walker has decided that government in secret is not in the best interests of taxpayers.

1 Q. What is Number 24?

2 A. Number 24 is an e-mail that was sent from --
3 originally from Tonette Walker, at
4 tonette@supportscottwalker.com. That was sent to
5 gopfran@yahoo.com on Friday, February 12, 2010, at
6 7:30 p.m. And the subject line is Happy
7 Valentine's Day. It's an e-mail that references
8 Tonette's husband, Scott Walker, and it solicits a
9 donation for Scott of \$17 towards his campaign for
10 governor, \$1 for every year that they've been
11 married. This appears to be the sort of e-mail
12 that is sent to a mass group of people, but the way
13 it's written and the solicitation, it doesn't
14 appear to be necessarily a personal e-mail. And
15 the -- this e-mail itself is then forwarded by
16 gopfran on Monday, February 15, 2010, at 2:22 p.m.
17 to Kelly Rindfleisch and with gopfran's comment,
18 There's a familiar paragraph in this campaign
19 piece.

20 Q. What is 25?

21 A. 25 is an e-mail sent from gopfran to a large group
22 of people, many of whom, if not all of whom are
23 associated with the campaign. It's sent on Tuesday
24 February 16, 2010, at 10:29 a.m. The subject is
25 Update Neumann Weissgerber release. And it talks

about Mark Neumann who I know from my investigation to be a candidate at that time for the Republican nomination for governor.

Q. And the recipients of this e-mail -- strike that.

You've confirmed that Tuesday, February 16th at 10:29 I take it was a workday for Ms. McLaughlin; correct?

A. Yes, I have.

Q. And what is the significance of the to list here, in your judgment?

A. Many of these people are directly associated with the campaign. And some of these people are County employees, yet the e-mail addresses are not county employee addresses. For example, the Cindy Archer address is not a County e-mail address for Cindy Archer. The RRdennik address, I believe Dennik is a County employee, but this is an AOL address. John Hiller is the campaign manager -- or I'm sorry, the treasurer for the Scott Walker gubernatorial campaign.

This is also sent to Scott Walker at his skw@Scottwalker.org e-mail address. It's sent to Ed Eberle, who was formerly on the staff in the County Executive's Office. It's sent to a Yahoo account for Mr. Eberle. It's sent to

djmoore2004@yahoo.com. That address I believe is the e-mail address for Dorothy Moore, and it's not her County e-mail address. It's sent to Tim Russell at a Gmail account which we have previously subpoenaed. It's sent to truerepublicano@yahoo.com. Our investigation has revealed that that that address belongs to Domingo Leguizamon. I don't know how to spell Domingo's last name, but he is a County employee who was formerly with the Veteran's Services Office and now is a supervisor at a Facilities Management.

And other people included on this are Joseph Fadness, who I discussed previously as the operations manager for the Scott Walker gubernatorial campaign; and R.J. Johnson, who's a senior campaign adviser; and Keith Gilkes, who is the campaign manager. There's also a reference to B. Pierick, P-I-E-R-I-C-K. And that is I believe Brian Pierick. He is the roommate of Tim Russell, and he's also been involved with blog postings that were political in nature. This was also sent to Jim Villa, who is a real estate person who is associated with the campaign; Jill Bader, who's the campaign communications director; and Kelly Rindfleisch.

Q. Number 26. Also -- strike that.

THE COURT: 27.

(Off the record.)

BY ATTORNEY LANDGRAF:

Q. What is Number 26?

A. 26 is another e-mail from gopfran@yahoo.com. This one is sent on Thursday, February 18, 2010, at 10:57 a.m. And the subject line is Update Neumann, GMI ranks 10, Barrett's hand and MCTS ridership. It's to many of the same people that were addressed in the previous exhibit. These are people who are associated with the campaign in one form or another.

Q. And it's sent using the private e-mail address of gopfran@yahoo.com?

A. Yes, it is. This is an example of many, many e-mails that are sent during the workday by gopfran@yahoo.com to people associated with the campaign. This is a pattern that has continued over many months.

Q. Number 27?

A. Number 27 is actually two e-mails, the first is dated February 25, 2010, at 7:57 Pacific Standard Time, which would make it 9:57 Central Standard Time. That's a Thursday. It's from

gopfran@yahoo.com to Bob Dennik, D-E-N-N-I-K. I believe from my investigation that Bob Dennik is a County employee. But this is sent to his rrdennik@aol.com address. The subject is County Jobs question, and gopfran writes, Hi Bob, our friendly blogger, hyphen, the Hispanic conservative, Aaron Rodriguez, R-O-D-R-I-G-U-E-Z, just e-mailed the following question. And then it provides a question regarding the County Executive's activities in terms of attracting jobs to Milwaukee County.

Gopfran goes on to talk about responding to this and whether or not Tim may have already sent something. She also sends the same e-mail -- forwards this e-mail -- gopfran does -- on February 25, 2010, at 10:58 a.m. to Kelly Rindfleisch, commenting, Well, not exactly the answer I was hoping for, just an FYI.

We found another e-mail sent by gopfran@yahoo.com, on Tuesday, March 2, 2010, at 3:27 p.m. to Kelly Rindfleisch, that provides a link to a blog. And the blog is www.thehispanicconservative.com. And based on our investigation I believe this is a person who's posting blog posts relating to the campaign.

1 Q. And at least according to gopfran, who is Fran
2 McLaughlin, he is a friendly blogger?

3 A. Yes.

4 Q. And just so that we're clear, the March 2nd e-mail
5 that you just described for Judge Nettesheim is
6 actually page 2?

7 A. Yes, that is page 2 of this two-page exhibit,
8 Number 27.

9 Q. And on both of these days it's based upon your
10 review of Ceridian records Ms. McLaughlin was
11 working as a County employee?

12 A. Yes.

13 Q. What is Number 28?

14 A. Number 28 is an e-mail from Fran McLaughlin using
15 the gopfran address to Kelly Rindfleisch, sent on
16 Monday, March 8, 2010 at 4:13 p.m. Subject line is
17 Late, hyphen, but if you missed it. And it appears
18 to be a news article that is titled, Brett Davis
19 wins Fifth District GOP Straw Poll in Landslide.
20 The significance of this is that based on my
21 investigation and earlier testimony today, this is
22 the same Brett Davis who Kelly Rindfleisch is
23 working for as a fund-raiser at this time.

24 Q. Okay. And I know we said this several times, but
25 if we're presenting the e-mail like this one to

Judge Nettesheim that has had date that is between 8:00 and 5:00 Monday through Friday, that means you've checked the Ceridian records and according to the Ceridian records the employee was working as a County worker on that day; correct?

A. Yes.

Q. What is Number 29?

A. Number 29 is an e-mail from Fran McLaughlin at the gopfran address to Scott Walker, and then copying Nardelli, Tom Nardelli, Tim Russell, Kelly Rindfleisch, Keith Gilkes and Jill Bader. It's sent on Wednesday, March 17, 2010 at 2:17 p.m. and the subject is, Mayor, hyphen Air Tran event. It talks about a person from Air Tran named John Feld, F-E-L-D, leaving a voicemail letting McLaughlin know that Air Tran is going to be doing an event with the Mayor on March 18th. And it discusses the fact that Air Tran is trying to be even-handed and not play favorites, and they're looking forward to working with both the County Executive and the Mayor for opportunities to work together. And McLaughlin writes at the end, quote, We just provided them with a quote a week or so ago, they need it right away, ellipsis dot, better not be for this event. I'll check with Pat.

Q. In this context, the reference to the Mayor is a reference to whom, do you believe?

A. I believe it's a reference to Tom Barrett, who is the Mayor of Milwaukee and who's also a candidate for the Democratic nomination for governor.

Q. What is Number 30?

A. Number 30 is another e-mail. It starts -- it's a chain of e-mails, it starts on the same day, Wednesday, March 17, 2010, at 12:21 p.m. Pacific Daylight Time, which converts to 2:21 p.m. Central Daylight Time. This is to Scott Walker at a non County e-mail address. And it's copied to Tom Nardelli, Tim Russell, Kelly Rindfleisch, Keith Gilkes and Jill Bader, all at private e-mail addresses. The subject line is Air Tran event info, and it talks about the Mayor being at a hotel to attend an Air Tran job fair.

Then that e-mail is attached to another e-mail that's sent to the same people, and talks about -- it's also -- this is from Walker replying to the same people and it says, Two different events, Air Tran is just having a job fair and it basically discusses the events. This e-mail from Walker to those people is sent on Wednesday, March 17th, at 5:16 p.m.

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1 Then the following day, on Thursday,
2 March 18, 2010, at 6:45 a.m., which would be before
3 the window of 8:00 a.m. to 5:00 p.m., McLaughlin
4 sends a response to that series of e-mails I've
5 just described, and it goes to Scott Walker, Tom
6 Nardelli, Tim Russell, Kelly Rindfleisch, Keith
7 Gilkes and Jill Bader. And it says, They are
8 having a news conference with the Mayor to
9 highlight the job fair. And in parentheses it
10 says, The two events just happened to be at the
11 Hilton, just letting you know of the Mayor's -- of
12 the Mayor's involvement.

13 Q. What is Number 31?

14 A. This again is another e-mail from McLaughlin using
15 the address gopfran, it's sent on Friday, March 19,
16 2010, at 4:28 p.m. and the significance of this is
17 that it's titled, Update Barrett on Air Tran job
18 fair and Talgo. The Barrett reference to Air Tran
19 is the job fair that Mayor Barrett attended. The
20 reference to Talgo is a reference to a large
21 company from Spain that is going to come to
22 Milwaukee to build train parts. And -- I'm
23 sorry -- and other manufacturing things like wind
24 generating -- renewable wind resource things.

25 And the significance of this e-mail

1 to Kelly Rindfleisch with this e-mail forwarding
2 it, saying, Address looks right, hyphen, question
3 mark. And this is sent by McLaughlin to
4 Rindfleisch on Tuesday, March 30, 2010, at
5 3:42 p.m.

6 And the significance of this is that
7 Jill Bader is the communications director for the
8 campaign, and it appears that she is asking
9 McLaughlin and Rindfleisch to proofread some sort
10 of document related to the campaign.

11 Q. What is Number 33?

12 A. 33 is a continuation of the same e-mail that
13 originated with the Jill Bader to Rindfleisch,
14 McLaughlin and Gilkes e-mail that started on
15 Tuesday, March 30, 2010, at 2:28 p.m. This is
16 McLaughlin's response directly to Jill, and she
17 also sends it to Keith Gilkes and Kelly
18 Rindfleisch. And the -- I'll read this because
19 it's significant. Hi Jill, hyphen, I'm supposed to
20 go through Kelly and Tom, and due to the high
21 volume we have here I don't get a chance to see
22 everything. Just thought the bulleted item on the
23 column should be corrected since it's likely going
24 to other outlets or posted on the web site. I
25 understand how things can get by in the rush of

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1 events, so I'll draft a release on WisPol, that's
2 W-I-S-P-O-L, and hope there was a good proofreader
3 on hand to help.

4 And I believe the significance of
5 this is that she's replying to the campaign's
6 communication director about some item that's
7 apparently related to the campaign. And it also
8 references her going through Kelly and Tom, who I
9 believe to be Kelly Rindfleisch, the deputy chief
10 of staff for the County Executive, and Tom
11 Nardelli, the chief of staff for the County
12 Executive.

13 Q. What is the significance of Number 34?

14 A. Significance of Number 34 is that it's an e-mail --
15 it's a series of e-mails where Jill Bader, the
16 communications director for the Walker
17 gubernatorial campaign, sends an e-mail on Thursday
18 April 8, 2010, at 10:48 a.m. to Tom Nardelli, Tim
19 Russell, Kelly Rindfleisch, Fran McLaughlin, and
20 copies Stephan, S-T-E-P-H-A-N, Thompson,
21 T-H-O-M-P-S-O-N. The subject is, Backgrounder, and
22 the exact quotation that Bader writes is, Hello
23 friends, see below. Can we get some info on this.
24 Thank you. And this originated as a series of
25 e-mails between Keith Gilkes, the campaign manager

for the gubernatorial campaign, and Bader, talking about preparing the candidate for the Park East issues for an April 15th appearance between Barrett -- with Barrett and Walker.

And then there's an interchange between Bader and Gilkes. And Gilkes, on Thursday, April 8, 2010, at 10:44 a.m. tells Bader, I would get a brief update from the CE Office and a backgrounder on it. Scott needs to be prepared for the issue as it will come up. In this context I believe that the CE Office is the County Executive's Office. And also in this chain Bader writes, What other Park East issues do we need to get stuff from the CE Office? Again that's referring to the County Executive's Office.

Q. I'm placing Number 35 before you. What is the significance of that exhibit?

A. This is an e-mail that was sent on Thursday, May 13, 2010, at 1:54 p.m. from Fran McLaughlin using the gopfran@yahoo.com address to Kelly Rindfleisch. And it says subject, Contacts for your event. The significance of this is that there's a reference to someone named Patti, and that Patti is supporting another candidate but really likes Brett. And that Patti sent a

suggestion that was being passed on by McLaughlin to Rindfleisch. This is coincident during the time frame that Rindfleisch is working as a that fundraiser for Brett Davis. The significance is that Kelly is working as a fund-raiser for Brett Davis during this time.

Q. I'm placing Number 36 before you. What is the significance of that?

A. The significance of this e-mail that was sent on Thursday, June 24, 2010, at 9:39 a.m. from Fran McLaughlin using the gopfran address to Jill Bader, carbon copy to Kelly Rindfleisch, is that it's passing on a -- what appears to be a column that was written for the Commercial Association of Realtors of Wisconsin organization in September 2009. And McLaughlin writes to Bader, This might be useful. And she then forwards this information. It's from Milwaukee County.

It appears, based on the way it's read, that it was purportedly written by Scott Walker. It talks about, This is the eighth consecutive year that I have not increased the property tax levy, and there are similar personal pronoun references that make me believe it was written by Scott Walker. The Commercial

1 Association of Realtors of Wisconsin is also an
2 association that is associated with Jim Villa, who
3 works on the campaign.

4 Q. There is a search warrant outstanding with
5 Yahoo.com at this moment for the account gopfran;
6 is there not?

7 A. Yes, there is.

8 Q. Have we received a gopfran return as of this time?

9 A. Not as of 9:00 a.m. this morning.

10 Q. Okay. So where are these e-mails coming from?

11 A. These e-mails are coming from the Kelly Rindfleisch
12 e-mails that were subpoenaed -- or that were
13 taken. And these -- the reason that we're seeing
14 these is that McLaughlin happens to copy
15 Rindfleisch, so it's showing up in Rindfleisch's
16 e-mail.

17 Q. So we haven't seen a gopfran's account itself yet;
18 correct?

19 A. That is absolutely correct.

20 Q. What is Number 37?

21 A. Number 37 is an example of e-mail being forwarded
22 from a Milwaukee County address up to private
23 e-mail addresses. This involves an e-mail that
24 originated --

25 Q. Let me just stop you, and when you say forwarding,

what section of the e-mail are you highlighting for the judge?

A. On the very first page of this two-page exhibit it says, on Thursday, 8-26-10, Fran McLaughlin wrote, and then there are two different address slogs, and it starts with, from fran.mclaughlin@milwcnty.com to Fran McLaugh, no L-I-N, just franmclaugh@gmail.com. And then the address slog directly above indicates that a forward from franmclaugh@gmail.com to gopfran@yahoo.com. Then the original e-mail at the top shows gopfran@yahoo.com sending this e-mail -- this forwarded e-mail to Scott Walker, Tom Nardelli, Kelly Rindfleisch, Keith Gilkes, Jill Bader and R.J. Johnson.

So the significance there is she's forwarding something that was received on our Milwaukee County account to two different private e-mail accounts associated with her name, and then finally from the gopfran address to these various people in the County.

Q. Do you know of any reason why she couldn't have, if she chose, forwarded the Bice article directly from her milwcnty.com account to the people in the campaign?

1 A. There's no technical reason why she couldn't have
2 done that.

3 Q. That you know of?

4 A. That I know of.

5 Q. What is Number 38?

6 A. Number 38 is another example of an e-mail where the
7 communications director for the campaign, Jill
8 Bader, sends an e-mail requesting assistance or
9 proofreading. It starts out with an e-mail sent by
10 Bader on October 15, 2010, at 8:51 a.m. And
11 Bader's message is, I'm about to send out this
12 release. Triple checking -- and that's all in
13 capitals, triple is misspelled with two p's --
14 triple checking that you guys are not sending it
15 out before I click send. ASAP please let me know.

16 The e-mail above that forwards that
17 e-mail I just referenced is from Fran McLaughlin at
18 gopfran, and it's sent to Jill Bader and copied to
19 Kelly Rindfleisch, Tom Nardelli, and Keith. Keith
20 in this context I believe to be Keith Gilkes, the
21 campaign manager for the Walker campaign. It's
22 sent on Friday, October 15, 2010, at 9:05 a.m., as
23 I said, from the gopfran address.

24 I've checked with another Milwaukee
25 County official who's part of this John Doe, and

that official advised me this morning that Ceridian records for October 15th in particular indicate that Fran McLaughlin worked an eight-hour day that day. This e-mail says, Regarding public policy report, and it -- it indicates McLaughlin commenting on the report that's being sent out and making comments about changing the wording to avert criticism of spin. The significance is that she's commenting on campaign material on a workday.

Q. I'm putting before you the last item relating to Ms. McLaughlin, it's marked Number 39. Would you discuss the significance of that.

A. This is an e-mail that was sent on Monday, October 18, 2010, at 3:41 p.m. from Fran McLaughlin at the gopfran address to Scott Walker; Tom Nardelli; Kelley Cell, where Kelly is spelled K-E-L-L-E-Y; Keith, which I believe to be Keith Gilkes; Jill Bader; and R.J. Johnson. And there's a reference here to a corrected letter from Matt Blunt, and it talks about the Contract Sunshine group. This refers to an e-mail that we discussed earlier in this testimony where members of the staff comments on the wording for the -- for the response in the letter. And it references a letter again that has the phrase, Fortunately for Milwaukee County

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1 citizens Scott Walker has decided that government
2 in secret is not in the best interests of
3 taxpayers. That's the last line.

4 THE COURT: Might this be a good
5 point, Mr. Landgraf, to take a short break.

6 ATTORNEY LANDGRAF: Yes, it certainly
7 would.

8 (Break taken.)

9 THE COURT: We are again in session,
10 the appearance are as previously noted. Inspector
11 Budde remains on the witness stand and remains
12 subject to his oath. Mr. Landgraf.

13 ATTORNEY LANDGRAF: Thank you,
14 Judge.

15 BY ATTORNEY LANDGRAF:

16 Q. Mr. Budde, I'm going to place before you what I've
17 marked as Number 40. Do you have that document?

18 A. Yes, I do.

19 Q. We are today asking the judge to authorize the
20 seizure of a number of computers based in a number
21 of locations in Milwaukee County and Columbia
22 County; correct?

23 A. Yes.

24 Q. And in the past you have relied upon prior
25 affidavits submitted in this John Doe to justify

1 your belief that there is probable cause to think
2 that evidence may remain on a computer; correct?

3 A. Yes.

4 Q. Number 40 is really an incorporation by reference
5 of an affidavit by DCI Agent Brad Montgomery;
6 correct?

7 A. Yes.

8 Q. And it is an affidavit I think that has been
9 referred to a number of times throughout these
10 proceedings; correct?

11 A. Yes, it has.

12 Q. And basically it stands for the proposition that
13 computers can be searched and files can be
14 recovered months or even years after they've been
15 placed on a hard drive; correct?

16 A. Yes.

17 Q. And also a user can delete files, and those files
18 aren't really deleted, but they may in fact be
19 subject to recovery by an expert; correct?

20 A. Yes.

21 Q. And in fact, even this morning we've seen some
22 indication that data files from a computer can be
23 searched and information that's important to the
24 investigation can be found; correct?

25 A. Yes.

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1 Q. And you are incorporating in your application today
2 those computer provisions that are contained in
3 Brad Montgomery's affidavit; correct?

4 A. Yes, I am.

5 Q. I'd like to --

6 THE COURT: Just for the record,
7 during the break I did take the time to read the
8 affidavit from Mr. Montgomery, so I'm familiar with
9 its contents.

10 ATTORNEY LANDGRAF: Thank you.

11 BY ATTORNEY LANDGRAF:

12 Q. Mr. Budde, I --

13 THE COURT: I should have said to
14 reread, because this has previously been submitted.

15 ATTORNEY LANDGRAF: It's been
16 referred to many times.

17 THE COURT: Yes.

18 BY ATTORNEY LANDGRAF:

19 Q. Mr. Budde, I'd like to turn your attention to the
20 search warrant that pertains to the County
21 Executive's Office in room 306 of the Courthouse.
22 Okay?

23 A. Yes.

24 Q. We are interested in having the court consider a
25 search warrant authorizing the seizure of the

1 County computers in that office space; correct?

2 A. Yes.

3 Q. And we are also interested in having the court
4 authorize the seizure of any personal laptops that
5 might be found in that office; right?

6 A. Yes.

7 Q. And then lastly, we are interested in a warrant
8 that would allow us to seize networking devices
9 that we found there; correct?

10 A. Yes.

11 Q. I'd like to spend a few moments talking about the
12 IMSD computers. We've already told the judge about
13 instances where we believe that those computers
14 will have evidence pertinent to this investigation
15 in your testimony earlier today; have we not?

16 A. Yes.

17 Q. Now, we are ultimately going to ask the judge to
18 authorize the seizure of all of the computers in
19 that office; are we not?

20 A. Yes, we are.

21 Q. And we believe we have a reasonable --

22 A. With the exception of the County Executive's
23 computer.

24 Q. With the exception of the County Executive's
25 computer. We believe that there -- that there's an

1 indication that people have signed on to more than
2 one computer in that office suite; correct?

3 A. Yes, based on representations made to me by
4 Mr. Krueger, our IT manager.

5 Q. And he has analyzed data that IMSD has supplied to
6 him from network file, and he's concluded that
7 multiple people have signed into multiple computers
8 in that office space; correct?

9 A. Yes.

10 Q. And you yourself -- strike that.

11 We have a network that we use in the
12 DA's office; do we not?

13 A. Yes, we do.

14 Q. And you know it is physically impossible to unplug
15 one machine at one location and move it to a
16 different office and use it there; correct?

17 A. Yes, that is true.

18 Q. We really have no way of knowing whether or not
19 there's been movement between the offices in the
20 County Executive's Office; do we?

21 A. No, we don't.

22 Q. Why is it that we believe that it's important we be
23 authorized to seize personal laptops that we might
24 find in the County Executive's Office?

25 A. Based on our previous activity in this

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1 investigation involving Darlene Wink, we believe
2 that Darlene Wink was using a personal laptop
3 computer in her work space in the County
4 Executive's suite to do campaign-related blogging
5 and work involving the Republican party of
6 Milwaukee County.

7 Q. She said as much in an article published in the
8 Journal Sentinel; did she not?

9 A. Yes, she did. And we searched her home eventually
10 and recovered a laptop computer. We also, when we
11 searched her office, recovered -- and her e-mail we
12 recovered evidence that she used a Cricket wireless
13 network card.

14 Q. Based upon your search of the Rindfleisch e-mails
15 is there any reason to believe that there may have
16 been general use of laptops in the County
17 Executive's Office?

18 A. Yes, there is.

19 Q. Did you find any e-mails written by the County
20 Executive himself suggesting that there may have
21 been use of County laptops in the -- personal
22 laptops in the County Executive's Office?

23 A. Yes.

24 ATTORNEY LANDGRAF: This one was
25 unmarked, we will just make it 72.

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1 (Exhibit Number 72 was marked for
2 identification.)

3 (Off the record.)

4 THE COURT: We're back on the record.

5 ATTORNEY LANDGRAF: Judge, there was
6 a bit of confusion with the -- with the exhibits.
7 I had referred to the marking of an exhibit as 72,
8 and that appears to have been a mistaken
9 designation. I am not offering anything at this
10 time marked 72.

11 THE COURT: Very well.

12 ATTORNEY LANDGRAF: And instead I am
13 going to hand Mr. Budde what has been marked as
14 Number 41.

15 BY ATTORNEY LANDGRAF:

16 Q. Mr. Budde, before the exhibit confusion I
17 referenced an e-mail that was written by the County
18 Executive. Do you now have Number 41 in front of
19 you?

20 A. Yes, I do.

21 Q. Would you discuss that exhibit and the significance
22 for Judge Nettesheim please.

23 A. This is a series of e-mails that are sent to
24 various people, and I will go slowly and carefully
25 because it's important to understand exactly how

this went. It starts with an e-mail that is sent from Brian Pierick, P-I-E-R-I-C-K, to Tim Russell. That e-mail is originally sent on May 14, 2010, which is a Friday, at 6:45 a.m. The e-mail subject line is, Walker staffer quits after admitting she posted web comments while at work. And the e-mail contains the text of a Dan Bice column that bears the same title as the subject line of the e-mail.

This e-mail from Pierick to Russell is then forwarded by Russell from the timrussellwi@gmail.com account to Scott Walker at skw@scottwalker.org, Tom Nardelli at tom.nardelli@paratechambulance.com, and Kelly Rindfleisch at kmrindfleisch@gmail.com. That forwarding takes place on Friday, May 14, 2010, at 7:01 a.m. And the subject line remains, Walker staffer quits after admitting she posted web comments while at work.

The County Executive replies to Russell at 8:46 a.m. on Friday, May 14, 2010. So the County Executive's replying only to Russell and says, and I will quote the entire e-mail, I talked to her at home last night. Feel bad. She feels worse. We cannot afford another story like this one. No one can give them any reason to do another

story. That means no laptops, no web sites, no time away during the workday, et cetera.

Then that e-mail itself is forwarded by Jim Villa from the e-mail address jim@carw.com to Kelly Rindfleisch at her Gmail account. And that forwarding takes place on Friday, May 14, 2010, at 10:37 a.m. The subject line remains, Walker staffer quits after admitting she posted web comments while at work. The body of the message contains only one word, and that word is 'confidential,' all in caps. Rindfleisch replies within four minutes to Villa, and she replies from her Gmail account. And the reply is in complete -- the whole thing, I'll quote it, is, Already broken down and put away. Laptop is packed. I already saw this e-mail.

Then Villa replies a minute later --
or I'm sorry, actually at the same exact time, you
know, seconds later, to her, Great. And then
Rindfleisch sends another e-mail back to Villa
saying, One more reason for a new PR person.

The significance of this e-mail is that it shows that the County Executive would appear to be aware that laptops were used in the County Executive's Office for accessing things on

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1 non County networks. And it also is very
2 significant because it shows that the various
3 members of the County Executive staff worked in
4 concert to conceal laptops and/or networks --
5 wireless networks that were in existence in that
6 office suite, and these items were not present when
7 we did our search warrant later in the day on May
8 14, 2010.

9 Q. And notwithstanding this e-mail directing no more
10 laptops, in your review of the evidence do you
11 continue to see usage of private e-mail accounts by
12 County Executives employees?

13 A. Yes, we do.

14 Q. What is Number 42?

15 A. Number 42 is a fragment of a Yahoo chat that was
16 found in the deleted files on a County computer.
17 And this County computer belonged to Tim Russell,
18 and it was seized at the Department of Health and
19 Human Services pursuant to a search warrant issued
20 in this investigation in August of 2010. The
21 computer was examined by DA Information Technology
22 Manager James Krueger, and it revealed a piece of
23 chat, which -- which is page 2 of this exhibit.
24 The date this took place on was May 14, 2010. It
25 involves Tim -- it involves people I believe to be

Tim Russell, Brian Pierick, Kelly Rindfleisch and someone named Sholty, who I believe to be a person working for the campaign doing opposition research. So there are several different threads of conversation in this chat.

Q. Why don't you summarize the most significant as it relates to the search warrants.

A. Well, in one -- the most significant is Kelly Rindfleisch replies to Russell, Tim Russell, quote, I took down the wireless, it's in my bag for now. Russell replies to Kelly, What does that do to Dorothy? Russell then says to Kelly, She going back to the other one? Question. That series of exchanges I believe relates to Dorothy Moore, who works in the County Executive's Office. And the fact that there's a reference to wireless I believe relates to a wireless network that would allow these people to use laptop computers to access the Internet without going through the County Internet connection.

Going through the County Internet connection would subject them to scrutiny if anyone would check what activity they were doing. Using a wireless modem or router they can do this without any scrutiny.

Q. In combination with a laptop?

A. Yes. And then the other phrase in this chat, the fact that Russell has communication with Sholty, talks about -- Sholty talks to Russell and says, Paul Giusti, G-I-U-S-T-I, is tied at the hip with Neumann and he is also involved with the aforementioned. Then Russell says to Sholty, We'll have to look into him and his foibles. I know from my investigation that Sholty has done opposition research at Russell's direction. The fact that this is found in this format means that it occurred on a County computer at some point.

Q. And I think you've indicated that this particular evidence was taken from Mr. Russell's DHS computer?

A. Yes, that is correct.

Q. And you talked about Kelly Rindfleisch, but I don't see any Rindfleisch e-mail address or moniker in this exhibit. Can you explain that?

A. The reference here is rellyk, and it's R-E-L-L-Y-K. We have found in our investigation that another e-mail address that we believe is used by Rindfleisch is rellyk, and this could be created by a juxtaposition of the letters Kelly R, Relly K.

Q. What is Number 43?

A. And I'd also add that this ties -- the comment, I

took down the wireless, it's in my bag for now,
ties into Exhibit 41 and the comment that
Rindfleisch makes to Villa, Already broken down and
put away.

Q. And just so that we are clear, that other page to
this Exhibit 42, not the text but the other page,
is an evidence report given to you by Mr. Krueger;
correct?

A. Yes, that is correct. The evidence sticker's on
the second page of the exhibit.

Q. What is Number 43?

A. 43 is an e-mail that is sent by carcher,
C-A-R-C-H-E-R, using the address
carcher1@wi.rr.com. I believe carcher to be
Cynthia Archer, the head of the Milwaukee County
Department of Administrative Services, based on my
investigation and voluminous other e-mails that I
have reviewed. This e-mail is sent on Tuesday, May
18, 2010, at 6:13 p.m. It's sent to the following
e-mail addresses, gopfran@yahoo.com; Jill Bader,
without a long address; Jim Villa, without a long
address; Kelly Rindfleisch, which I know to be the
Kelly Rindfleisch Gmail address; K. Gilkes,
kgilkes@champllc.com; R.J. at rjjohnson@org; Tim
Russell, timrussellwi@gmail.com;

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1 tom.nardelli@paratechambulance.com; and Scott
2 Walker. The subject is e-mail access. And I'll
3 quote this in its entirety. In light of recent
4 events I will no longer be checking this e-mail
5 account during the workday. We discussed this
6 among CEX staff this morning and were unable to
7 find alternatives. We can discuss more on
8 Friday a.m., but for now if something is urgent
9 please reach me on my personal cell phone,
10 414-881-4482. And it's signed Cindy.

11 The significance of this e-mail is
12 that it shows that the people addressed on this
13 e-mail are acting in concert and the County
14 Executive staff to find alternative ways to
15 communicate using private e-mail during the
16 workday. This also is a direct admission that
17 Archer was using private e-mail during the workday
18 and this account, carcher1, is an example.

19 Q. Now, directly related to the proposed search
20 warrant for the County Executive's Office, I'm
21 going to hand you what has been marked as 44. Is
22 that a description of the premises that we would
23 like to search?

24 A. Yes, it is.

25 Q. Is it accurate?

1 A. Yes, it is.

2 Q. And are the two pictures that are attached as A and
3 B true and accurate images of the outside of the
4 County Executive's Office, room 306?

5 A. Yes, they are, based on my personal examination of
6 that office on Sunday, October 31, 2010.

7 Q. And you have had occasion in the past to be in the
8 offices; have you not?

9 A. On numerous occasions.

10 Q. And in fact it is a suite of offices?

11 A. Yes, it is.

12 Q. Number 45 is a description of the objects of the
13 search that we would ask the court to authorize us
14 to seize or to look for?

15 A. Yes.

16 Q. And we are asking permission to search for evidence
17 of misconduct in public office and certain campaign
18 violations for the people that are named on here;
19 correct?

20 A. Yes.

21 Q. And we are looking for authorization to seize all
22 wireless networking devices as well?

23 A. Yes.

24 Q. And we would also ask for authority to conduct a
25 forensic search of anything that we would take out

1 of the County Executive's Office; correct?

2 A. Yes.

3 Q. I'd like to spend a little time with you now

4 discussing the plan that we have to execute a

5 warrant on the computers in the County Executive's

6 Office. Okay?

7 A. Yes.

8 Q. First of all, we are concerned, are we not, that we

9 not unduly interrupt business in the County

10 Executive's Office, an interruption that might

11 result from taking all of their computers away from

12 them; correct?

13 A. Yes, that is correct.

14 Q. Would you describe to Judge Nettesheim what the

15 plan is so that we can limit business interruption

16 to the County Executive's Office?

17 A. Our plan is to execute the search warrant if it's

18 granted at a time later in the afternoon, perhaps

19 as early as today, so that we can take the

20 computers at say 4:00 and only disrupt their

21 operations for approximately one hour. We can also

22 -- what we are intending to do is take the hard

23 drives from each computer, bring them back to our

24 office here, image them, copy them basically, and

25 then take that copy and reinstall the copy back on

the machines.

So we estimate that within three hours from the original time of seizure we can have all of them reinstalled in the machines in the County Executive's Office and the computers would still be usable. This would require someone from the County Executive's Office to allow us back into the office three hours after we started so that we could reinstall the drives.

We could also image a drive immediately and reinstall it within about a half hour if we did it on a one-for-one basis, if they needed a computer immediately. This would apply only to the County computers. Any personal laptops or other storage devices that were taken we would not image right away.

Q. And we are also interested in seizing things like thumb drives and other portable storage devices; correct?

A. Yes, we are.

Q. I'd now like to turn your attention to the search warrant that we are asking the judge to consider for the address of 1331 South 93rd Street in the City of West Allis. I'm going to place before you what has been marked as Number 46, and I'm

1 basically going to ask you a series of questions
2 with a series of exhibits that tend to establish
3 that Ms. Rindfleisch resides at the address of 1331
4 South 93rd Street. Are you with me?

5 A. Yes.

6 Q. What is Number 46?

7 A. Number 46 is a printout of a page from the Ceridian
8 Human Resources payroll web. It shows personal
9 information on Milwaukee County employee Kelly
10 Rindfleisch.

11 Q. And was this given to us in response to a subpoena
12 that Judge Nettesheim signed late last week?

13 A. Yes, it was.

14 Q. And does it give a residence address for Miss
15 Rindfleisch?

16 A. It shows a residence address for her of 1331 South
17 93rd Street in the City of West Allis, zip code
18 53214.

19 Q. According to Milwaukee County employee records
20 that's where Miss Rindfleisch lives?

21 A. Yes.

22 Q. What is Number 47?

23 A. Number 47 is a printout of a DOT, Department of
24 Transportation, record for a vehicle. It's a 2008
25 Mercury Mariner Premier sport utility truck, blue

in color, with the VIN number 4M2CU97168KJO8931.
The owner is listed as Kelly M. Rindfleisch. It
bears a Wisconsin registration plate of 280GCT
expiring on August 31, 2011. And it lists the home
address of Miss Rindfleisch as 331 West Harrison
Street in Columbus, Wisconsin, 53925.

Q. Have you and your investigators undertaken
surveillance at the address of 1331 South 93rd
Street to determine whether or not Ms. Rindfleisch
is residing there?

A. Yes.

Q. Would you describe that for the judge.

A. Surveillance was conducted by myself and other
investigators on Friday October 29th, and Saturday
October 30th and Sunday October 31st. On Friday
the vehicle -- I'm sorry correction -- on Thursday
the vehicle -- on Thursday October 28th, the
vehicle was observed at that address overnight.
The vehicle was observed at that address on Friday
morning at approximately 8:00 in the morning -- I'm
sorry, strike that -- at approximately 7:00 in the
morning. On Friday evening the vehicle was not
observed at that address, and the vehicle was not
observed at that address on Saturday or Sunday. So
it was observed there Thursday night overnight, and

1 then not on Friday night, Saturday or Sunday.

2 Q. Have we researched who the owner of the property at
3 1331 --

4 A. Yes, we have.

5 Q. -- is? And who is that?

6 A. The owner is Jim Villa. V-I-L-L-A.

7 Q. And that is a name that we've seen on a number of
8 the e-mails so far; is it not?

9 A. Yes, it is.

10 Q. What is Number 48 please?

11 A. Number 48 is a series of e-mails from an e-mail
12 chain between Kelly Rindfleisch using her Gmail
13 account and apparently a friend of hers named Kelly
14 Teelin, T-E-E-L-I-N.

15 Q. And what is the significance of this e-mail to this
16 part of your testimony?

17 A. The significance here is that Rindfleisch is
18 talking about traveling back and forth from
19 commuting to her job here in Milwaukee.

20 Q. Well, let me direct your attention to the second
21 last paragraph from the bottom of the page in the
22 second line.

23 A. She says that Rindfleisch says that even when I
24 stay at Villa's, 'cuz he stays at Mark's, she talks
25 about working. In fact, if I could I'd like to

read that whole paragraph because I think it's relevant. Kelly says, I'm good, just busy, work, school and fund-raising and family. That's all I do. No fun at all, not even when I stay at Villa's because he stays at Mark's. Steve got an adorable lab puppy mix, she's a doll. And that e-mail was sent originally sent on April 22, 2010, at 3:43 p.m. And I would observe that that is sent during a period when we know that Rindfleisch was working as a fund-raiser for the Brett Davis for Lieutenant Governor campaign.

Q. What is Number 49?

A. 49 is a series of e-mails between Rindfleisch and Kelly Teelin. The significance of this is that in one of the e-mails in this chain sent on Thursday, September 2, 2010, at 3:11 p.m. from Kelly Rindfleisch at her Gmail account to Kelly Teelin, T-E-E-L-I-N, Rindfleisch makes reference to quote, Villa and I pretty much watch episodes of Arrested Development and sit on the couch. And I believe that to be a reference to her staying at the residence of Villa on 1331 South 93rd Street in West Allis, Wisconsin.

Q. Did you read the date into the record?

A. Yes, I did.

1 Q. What is Number 50?

2 A. Number 50 is a description of the premises at 1331

3 South 93rd Street in West Allis, Wisconsin.

4 Q. Have you personally visualized the premises?

5 A. I have.

6 Q. Is the description accurate?

7 A. Yes, it is.

8 Q. And the Mercury Mariner is also named in the

9 premises description; is it not?

10 A. Yes, it is.

11 Q. That's consistent with the information you just

12 read into the record; is it not?

13 A. Yes, it is.

14 Q. What is Number 51?

15 A. 51 is a description of the object of search for the

16 house.

17 Q. And you are requesting the ability to seize any

18 sort of records and information that might relate

19 to the investigation we're conducting; correct?

20 A. Yes.

21 Q. As described here in Number 51; correct?

22 A. Yes.

23 Q. And why is it that you think that you may find

24 evidence relevant to this investigation at that

25 residence?

1 A. Based on my training and experience, people who
2 engage in a business activity with a listed address
3 typically maintain business records in their
4 personal custody at their residence, including
5 financial records, records of business activity and
6 things such as that.

7 Q. Now, based upon our review of evidence so far, do
8 you believe that reviewing cell phone records,
9 especially records indicating who Miss Rindfleisch
10 was calling during the business day, will be
11 important?

12 A. Yes, I do.

13 Q. Is that the reason you're asking to have access to
14 cell phone records?

15 A. Yes.

16 Q. And is it also possible that there may be remote
17 places that data may be stored on the Internet or
18 some sort of web site somewhere?

19 A. Yes, it's possible based on our review of records
20 so far, e-mails so far, that Rindfleisch may have
21 availed herself of such remote data storage
22 capability and there might be records indicating
23 where those records are located.

24 Q. And people who use computers also tend to have
25 computers in their house; do they not?

1 A. Yes, they do.

2 Q. And that would extend to laptop computers as well?

3 A. That is correct.

4 Q. I'd now like to turn your attention to the search
5 warrant as it relates to 331 West Harrison in the
6 City of Columbus. Have I focused you?

7 A. Yes.

8 Q. What is Number 52?

9 A. It's a printout from the Columbia County land
10 records system for tax parcel information for
11 property described with a mailing address of 331
12 Harrison Street, Columbus, Wisconsin.

13 Q. And who lives at that address?

14 A. This shows that Kelly M --

15 Q. I'm sorry, let with me withdraw that question and
16 ask you, who owns the property?

17 A. The owner is listed as Kelly M. Rindfleisch.

18 Q. Okay. What is Number 53?

19 A. This is a printout that was made on october 28,
20 2010 of the driver's license records from the
21 Wisconsin Department of Transportation for Kelly M.
22 Rindfleisch. It indicates that her license shows a
23 home address of 331 West Harrison Street in
24 Columbus, Wisconsin, 53925.

25 Q. What is Number 54?

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1 A. Number 54 is a document that I obtained over the
2 Internet from the Wisconsin Department of Financial
3 Institutions. It is a corporate record for JVS
4 Consulting LLC. It shows the registered agent as
5 Kelly Rindfleisch at -- and the office address of
6 331 West Harrison Street, Columbus, Wisconsin,
7 53925. This business was organized on January 22,
8 2010.

9 Q. And this consulting business is the same consulting
10 business that we saw earlier in the exhibits;
11 correct?

12 A. Yes. It's the consulting business that was listed
13 on the invoices for the Brett Davis for Lieutenant
14 Governor fund-raising consulting.

15 Q. I'm going to hand you Number 55 and ask you to
16 generally identify it and discuss the significance
17 in the context of our request for a search in
18 Columbus, Wisconsin.

19 A. This is an e-mail again that takes place between
20 Kelly Rindfleisch at her Gmail address, and her
21 friend Kelly Teelin, T-E-E-L-I-N. The significance
22 is that on Monday, August 2, 2010, at 11:03 a.m.
23 Rindfleisch sends an e-mail to Kelly Teelin that
24 says, Yah, Y-A-H, my alarm goes off at 4:00. I
25 really hope he wins because I'm sick of the

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1 commuting and staying down here. I believe that
2 that indicates that she is commuting from Columbus,
3 Wisconsin to Milwaukee and staying on a temporary
4 basis at 1331 South 93rd Street.

5 The significance of the, My alarm
6 goes off at 4:00, would indicate that it's a
7 significant drive from Columbus, Wisconsin to
8 Milwaukee. I really hope he wins is a reference to
9 Scott Walker.

10 Q. Number 56, is that another e-mail that tends to
11 suggest that Ms. Rindfleisch is commuting between
12 Milwaukee and Columbus, at times at least?

13 A. Yes, it is. It's an e-mail from Kelly Rindfleisch
14 that she sends on Monday, March 1, 2010, at
15 3:47 p.m. to someone named Scott Hoerth,
16 H-O-E-R-T-H, at the Summit Credit Union, and it's
17 regarding a checking account issue. Kelly writes,
18 My difficulty is that I commute from Columbus to
19 Milwaukee so it's difficult for me to get to one of
20 the branches to open the account.

21 Q. I'm going to provide you with what has been marked
22 as Number 57 at this time. Is that a description
23 of the premises as you understand it?

24 A. Yes, it is, of 331 West Harrison Street in
25 Columbus, Wisconsin.

Q. And how did you come by this description?

A. This information was obtained by Investigator Robert Stelter who works as an investigator for the District Attorney's Office, upon whose reports I've relied on in the past and I find to be truthful and reliable.

Q. And did you also receive from Investigator Stelter a picture that was attached as Exhibit A?

A. Yes, I did.

Q. Number 58 is a description of the request for objects of the search?

A. Yes, it is.

Q. And it tracks, does it not, the request for 1331 South 93rd?

A. Yes, it does. I believe it -- yeah, it tracks that request, the same request, and the same request that's also made for the vehicle.

Q. Correct.

ATTORNEY LANDGRAF: Judge, at this time we are going to move into the area of testimony that concerns the -- our request to have you consider a search warrant for an iPhone.

THE COURT: Very well.

ATTORNEY LANDGRAF: The most we are going to be accomplishing this morning is having

you consider a -- the request of a -- of the issuance of a subpoena to AT & T, and that will be the factual basis for further information that we will submit to you. And at that time we'll ask you to consider a search warrant. We're going to incorporate by reference a number of affidavits that you have already reviewed in the past, and between this time and the time that you will be requested to sign the search warrant I think you'll have an opportunity to refresh your recollection with regard to those affidavits.

BY ATTORNEY LANDGRAF:

Q. So now, Mr. Budde, I'd like to focus you on our request to seize an iPhone. Can you tell us a little bit more about the iPhone?

A. The iPhone in question is an iPhone that's owned by Tim Russell, who is currently a Milwaukee County employee also associated with the Walker gubernatorial campaign.

Q. I'm going to hand you what has been marked as Numbers 59 through 63, and just confirm that those are the face pages of affidavits you would like to incorporate by reference into this part of your testimony.

A. Yes, that is correct.

1 Q. Do we have reason to believe that Mr. Russell does
2 indeed own an iPhone?
3 A. Yes, we do.
4 Q. Have we seen references to an Apple IP -- strike
5 that -- an Apple model 4 in his e-mails?
6 A. Yes, we have.
7 Q. Is Number 64 an example of such a reference?
8 A. Yes, it is. It's an e-mail from the Apple
9 Company -- or from AT & T Customer Care to Russell
10 at a Gmail address indicating that he is -- he has
11 purchased such a phone.
12 Q. Have we seen an account number in at least one of
13 the e-mails that we've reviewed in Tim Russell's
14 Gmail account?
15 A. Yes.
16 Q. I'm handing you Exhibit Number 65. What is that?
17 A. That is an e-mail also sent from AT & T
18 Customer Care and it -- it's regarding an account
19 number for Russell.
20 Q. And the account number appears as 236750926?
21 A. Yes, that's correct.
22 Q. Mr. Budde, I'm going to hand you a series of
23 e-mails that's marked SW-66 through SW-70, and I'm
24 just going to ask you to confirm that this -- these
25 are examples of e-mails showing that Mr. Russell

1 was using an iPhone to send e-mail messages.

2 A. That is correct, these are all examples of that.

3 They all bear the mark, Sent from my iPhone, at the

4 bottom.

5 Q. And lastly I'm going to hand you what has been

6 marked as Number 71. What is that?

7 A. This is an e-mail from Investigator Robert Stelter

8 of our office to the members of this investigative

9 team, and it summarizes his conversation with

10 Special Agent Brad Montgomery of the Wisconsin

11 Department of Justice, Division of Criminal

12 Investigation, who is a computer forensic expert.

13 Q. And just by way of reference, the affidavit that

14 you submitted earlier today was authored by Brad

15 Montgomery; was it not?

16 A. Yes, it was.

17 Q. And his qualifications were set forth in that

18 affidavit?

19 A. Yes, it was.

20 Q. Please continue.

21 A. Basically Special Agent Montgomery informed

22 Investigator Stelter that an iPhone is essentially

23 a miniaturized computer that consists of a storage

24 drive, memory and operating system, and it operates

25 as a phone, but it has the capability to send and

receive e-mails and other documents that are created or saved on the phone, including photos and videos and text that's sent to or from the phone, as well as the browsing history of the phone, sent or received phone calls, text messages and chats.

What can be done is the phone's drive -- hard drive can be cloned and then processed with forensic software so that anything that can be done with a typical computer hard drive, like you might see in a desktop or laptop, could also be done with an iPhone. It's essentially a mini computer, and the same information that's exploitable in a forensic analysis on a desktop or laptop can be done to an iPhone.

Q. There's a reference to en-case, E-N hyphen C-A-S-E,
an e-mail; correct?

A. Yes, and that is a forensic computer program that our information technology manager, James Krueger, is trained to use. It allows the user to forensically exploit the presence of data on a hard drive on a computer.

Q. And in fact he's been using that software to examine evidence that has been produced in this case thus far; correct?

1 A. Yes, he has.

2 ATTORNEY LANDGRAF: That's all I
3 have, Judge. Off the record for a second.

4 (Off the record.)

5 ATTORNEY LANDGRAF: Judge, at this
6 time I would propose to submit to you the search
7 warrant that we have prepared for your
8 consideration regarding the County Executive's
9 Office.

10 THE COURT: Very well. Before ruling
11 on this I just want to make a record that in light
12 of the testimony that I have heard today from
13 Inspector Budde and based upon the petition before
14 me from Assistant District Attorney Hanna Kolberg,
15 I now grant the request placed on the record at the
16 opening of these proceedings for execution of a
17 proposed order to enlarge the scope of the John Doe
18 proceeding. I've dated those orders today and I
19 have executed them and I've returned them to you
20 now, Mr. Landgraf, for purposes of filing.

21 With respect to the request before
22 the court to execute the proposed search warrant of
23 the County Executive's Office, based upon the
24 testimony of Inspector Budde and the record
25 otherwise made at these proceedings, and for the

record, Mr. Landgraf, I -- I -- presupposing that
you are now and wish to offer Exhibits SW-1 through
SW-71; correct?

ATTORNEY LANDGRAF: That is correct,
Judge. Thank you for reminding me.

(Exhibits Number SW-1 through SW-71
were received in evidence.)

THE COURT: Very well. Based upon that evidentiary documentation and the testimony of Inspector Budde, I authorize the search of the premises of the offices of the Milwaukee County Executive located on the third floor of the Milwaukee County Courthouse. It is located behind a glass door through which the words "Offices of the County Executive" can be seen on the eastern wall of the reception area. A sign reading "County Executive 306" appears to the north of the glass door.

And this search shall extend to all offices, rooms and enclosures within the offices of the County Executive. It shall include certain goods, chattels and property as follows. All records and information relating to alleged violations of Wisconsin Statute Sections 946.12, 11.36 and 11.61 since January 1, 2009, in any form

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1 relating directly or indirectly to political
2 activity in violation of said statutes and
3 involving Kelly Rindfleisch, Thomas Nardelli, Fran
4 McLaughlin, Dorothy Moore, Tim Russell and Darlene
5 Wink.

6 And the terms "records" and
7 "information" include all items of evidence in
8 whatever form and by whatever means they may have
9 been created or stored, including any form of
10 computer or electronic storage (such as hard disks
11 or other media that can store data), any handmade
12 form (such as writing, drawing, painting), any
13 mechanical form (such as printing or typing), and
14 any photographic form (such as microfilm,
15 microfiche, prints, slides, negatives, video tapes,
16 motion pictures, photocopies). And the term
17 "political activity" means campaign activities, the
18 making or soliciting of campaign contributions,
19 fund-raising, and/or lobby activities. And this
20 warrant authorizes the seizure additionally of all
21 wireless network devices.

22 And this warrant further authorizes a
23 forensic search of all information and records
24 after seizure. This search warrant pertains to the
25 commission or alleged commission of crime or crimes

involving misconduct in public office, and political solicitation involving public officials and employees committed in violation of Sections 946.12, 11.36 and 11.61 of the Wisconsin Statutes.

Based upon the evidentiary record presented to me I am satisfied that probable cause has been shown as to these alleged violations and that probable cause exists to warrant the issuance of this search warrant and to command the search of the property indicated and to seize the items of property recited.

Let the record show that I am therefore executing the search warrant at 12:15 p.m. on November 1st of 2010, and that I am handing the search warrant and return the search warrant to -- as executed to Mr. Landgraf at this time.

ATTORNEY LANDGRAF: Judge, the next search warrant that we would present for your consideration would be the one related to the premises of 1331 South 93rd Street in West Allis.

THE COURT: Thank you. I find based upon the testimony offered here today and the documentary evidence submitted and the prior totality of evidence presented in these John Doe

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1 proceedings that probable cause supports the
2 issuance of this requested warrant, and therefore I
3 authorize the search of the following premises
4 occupied by Kelly Rindfleisch, having a street
5 address of 1331 South 93rd Street, West Allis,
6 Wisconsin, and more particularly described as a
7 single-story ranch style home, having tan siding on
8 the upper half of the east side of the home and
9 light tan brick on the lower half of the east side
10 of the home. There is also tan siding on the north
11 and south sides of the home and the number "1331"
12 is clearly affixed to the east side of the home.

13 This search shall include the blue-
14 on-blue Mercury Mariner sport vehicle bearing plate
15 280GCT, with a Vehicle Identification Number of 4 M
16 as in mother, 2CU97168KJ08931, registered to Kelly
17 Rindfleisch. Further, the search shall include all
18 storage areas accessible to 1331 South 93rd Street
19 and all persons present on the premises and all
20 certain goods, chattels and property.

21 Specifically, and to wit, all records and
22 information relating to violations of Sections
23 946.12, 11.36 and 11.61 of the Wisconsin Statutes
24 covering misconduct in public office and political
25 solicitation involving public officials and

employees for the time period since January 1, 2009 relating directly or indirectly to political activity while a County employee.

And as used in this warrant the terms "records" and "information" to include all items of evidence in whatever form and by whatever means they may have been created or stored, including any form of computer or electronic storage, such as hard drives, jump drives, thumb drives, CD's, DVD's, external USB drives, 3.5 disks and other media that can store data; any handmade form such as writing, drawing, painting; any mechanical form such as printing or typing; and any photographic form such as microfilm, microfiche, prints, slides, negatives, video tapes, motion pictures and photocopies.

This warrant extends to and authorizes the seizure of all laptop and desktop computers. It further authorizes the seizure and extends to financial records, including bank records and statements on the premises for Kelly Rindfleisch and/or JVS Consulting.

In addition, this warrant extends to financial records, including bank records and statements on the premises for Kelly Rindfleisch

1 and/or JVS Consulting. And I believe that I am
2 repeating what I have just uttered. Also cell
3 phones, cell phone records and records relating to
4 remote data storage.

5 And for purposes of this process the
6 term "political activity" means campaign
7 activities, the making or soliciting of campaign
8 contributions, fund-raising and/or lobby
9 activities. And this warrant authorizes forensic
10 examination of computer equipment and peripheral
11 devices seized during execution. And this warrant
12 constitutes or is based upon evidence of commission
13 of crimes, to wit, misconduct in public office and
14 political solicitation involving public officials
15 and employees in violations of Sections 946.12,
16 11.36 and 11.61 of the Wisconsin Statutes.

17 And the record will show that I am at
18 this time executing this search warrant at
19 12:22 p.m. On November 1, 2010, and that I'm
20 returning the executed warrant to Mr. Landgraf.

21 ATTORNEY LANDGRAF: Thank you,
22 Judge.

23 Judge, before I present to you the
24 search warrant for 331 West Harrison, I'm just
25 going to ask Investigator Budde if he would just

update the court on any recent information regarding Miss Rindfleisch at that address in Columbus.

A. Well, we have determined that her vehicle is in the parking structure today here in Milwaukee. We also have determined that a vehicle matching the description in general terms of her vehicle was seen at that address in Columbus last night, approximately 6:00 p.m.

BY ATTORNEY LANDGRAF:

Q. How did you get that information?

A. We got that information from an agent at the -- special agent at the Division of Criminal investigation who communicated it to Investigator Stelter and we asked them to assist us in our investigation.

Q. Thank you.

ATTORNEY LANDGRAF: Judge, with that I would present the court with the search warrant for the address in Columbus, Wisconsin.

THE COURT: Thank you. I determine based upon the testimony today of Inspector Budde, the documentary evidence presented at this proceeding, and the totality of the evidence previously presented in this John Doe proceeding,

that probable cause supports the requested issuance of this search warrant. And I determine that there is now located and concealed and upon the premises indicated located within the City of Columbus in Columbia County, and more particularly described as follows, the premises occupied and/or owned by Kelly Rindfleisch, having a street address of 331 West Harrison Street in Columbus, Wisconsin, and more particularly described as a two-story single-family home, having yellow siding, white trim and a gray-shingle roof, the numbers 331 are clearly affixed above the door facing West Harrison Street.

This search shall include the blue-on-blue Mercury Mariner sport utility vehicle bearing plate 280CGT with a vehicle identification number of 4 M as in mother, 2CU971168KJ08931 registered to Kelly Rindfleisch.

Further, this vehicle -- this search rather shall include all storage areas accessible to 331 West Harrison Street, and all persons present on those premises and certain goods, chattels and property, more specifically described as follows. All records and information relating to violations of Sections 946.12, 11.36 and 11.61

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1 of the Wisconsin Statutes governing misconduct in
2 public office and political solicitation involving
3 public officials and employees for the time period
4 since January 1 of 2009, relating directly or
5 indirectly to political activity while a County
6 employee.

7 And as used in this warrant, the
8 terms "records" and "information" to include all
9 items of evidence in whatever form and by whatever
10 means they may have been created or stored,
11 including any form of computer or electronic
12 storage such as hard drives, jump drives, thumb
13 drives, CD's, DVD's, external USB devices, 3.5
14 disks or other media that can store data; any
15 handmade form such as writings, drawings,
16 paintings; any mechanical form, such as printing or
17 typing; and any photographic form such as
18 microfilm, microfiche, prints, slides, negatives,
19 video tapes, motion pictures, photocopies.

20 And this warrant extends to and
21 authorizes the seizure of all laptop and desktop
22 computers, and extends to financial records,
23 including bank records and statements on the
24 premises for Kelly Rindfleisch and/or JVS
25 Consulting. And it extends to cell phone records

1 and records relating to remote data storage.

2 The term political activity for
3 purposes of this search warrant means campaign
4 activities, the making or soliciting of campaign
5 contributions, fund-raising, and/or lobby
6 activities. And this warrant authorizes a forensic
7 examination of computer equipment and peripheral
8 devices seized during the execution pertaining to
9 evidence of the commission of the crimes of
10 misconduct in public office and/or political
11 solicitation involving public officials and
12 employees committed in violation of Sections
13 946.12, 11.36 and 11.61 of Wisconsin Statutes.

14 ATTORNEY KOLBERG: Judge, before you
15 sign the warrant, I'd like to confirm with you the
16 VIN number that you recited. I believe an extra
17 digit was recited in the description.

18 THE COURT: Let me recite it again
19 and double check if I am misspeaking, Miss
20 Kolberg. VIN number 4 M as in mother,
21 2CU97168KJ08931.

22 ATTORNEY KOLBERG: That's correct. I
23 believe there was an extra 1 that was recited in
24 the original recitation.

25 THE COURT: Very well. The latter

recitation is the one which governs and it's the one that's set out in the search warrant. The record will show that at 12:30 p.m. on this date of November 1st I am executing the requested warrant, I'm returning the requested warrant to the custody of Mr. Landgraf.

Mr. Landgraf, you have further request?

ATTORNEY LANDGRAF: Yes, Judge. The next request is for a 968.375 subpoena based on the record today for the model numbers, ESN numbers and IMSI numbers for the cell phone in the possession of Tim Russell.

THE COURT: Thank you. And based upon the evidence submitted here today I am executing the John Doe subpoena duces tecum at this time and returning the same to Mr. Landgraf.

ATTORNEY LANDGRAF: Judge, the second is also directed to AT & T for the same account. This one is designed to get further information, the first one was designed to get a quick return. It asks for information, including cell site information, which typically takes longer to research.

THE COURT: Thank you. I have

1 executed this additional John Doe subpoena duces
2 tecum and returning the same to Mr. Landgraf's
3 custody at this time.

4 ATTORNEY LANDGRAF: Judge, the last
5 item of business relates to an application for
6 subpoenas and it would require Mr. Budde to offer
7 testimony to the court.

8 THE COURT: Very well. Mr. Budde,
9 will you acknowledge you're still under oath?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: Proceed, Mr. Landgraf.

12 ATTORNEY LANDGRAF: Thank you.

13 BY ATTORNEY LANDGRAF:

14 Q. Mr. Budde, we are first of all requesting that the
15 court issue a subpoena to the Friends of Scott
16 Walker. Specifically we are asking that the Walker
17 campaign designate the person or persons best
18 qualified to testify to the e-mail system, and
19 we're asking that they produce records as defined
20 in Wisconsin Statutes 968.13(2) relating to all
21 electronic mail communications that are stored in
22 the normal course of business as of the time of
23 service of the John Doe subpoena. And we are also
24 asking that that designee provide copies of
25 periodic backups of the electronic mail

communication data from January 2009 to the present. Would you explain why you believe that's relevant and important to the investigation please.

A. In many of the e-mails that we've examined from Kelly Rindfleisch's Gmail account and Tim Russell's Gmail account we see people in the campaign who are the direct recipients of e-mails from Milwaukee County employees in the County Executive's Office, or who are copied on those e-mails. What we don't always see are the replies from those people, and those people have e-mail accounts through the campaign. Particularly, the County Executive has an e-mail account through the campaign, and his replies would be very relevant to this inquiry, since they would indicate his involvement or lack of involvement with the activities that have been described in the totality of the testimony today and in previous appearances and previous affidavits.

THE COURT: Any other questions,
Mr. Landgraf?

ATTORNEY LANDGRAF: No, Judge.

THE COURT: Thank you. Based upon the application before the court signed by -- under oath by Detective Budde and based upon his further

statement just made on the record, I'm satisfied that the -- such grounds exist for issuance of a John Doe subpoena duces tecum to the entity or persons named in the subpoena is warranted and I am executing the same.

ATTORNEY LANDGRAF: Judge --

THE COURT: Yes.

ATTORNEY LANDGRAF: -- the next one --

THE COURT: I'm sorry. And I'm executing the subpoena at this time, returning the same to Mr. Landgraf.

ATTORNEY LANDGRAF: Thank you.

THE COURT: And did you have any questions regarding the others? I noticed the record has pertained to all or the remaining subpoenas beforehand.

ATTORNEY LANDGRAF: No, it does not, Judge. The other thing that I think -- well, I'll withdraw that statement.

The next is a subpoena that's directed to Mr. Tyrone Johnson. Judge, you've issued a number of subpoenas to Mr. Tyrone Johnson for various forms of data. Mr. Budde, is it not correct that we would like to speak in person with

1 Mr. Johnson concerning questions that we have about
2 the IMSD data produced thus far?

3 THE WITNESS: That is correct.

4 ATTORNEY LANDGRAF: Judge, the next
5 subpoena -- I acknowledge receipt of the signed
6 subpoena to Mr. Johnson.

7 THE COURT: I have signed that
8 subpoena and tendered it to Mr. Landgraf.

9 BY ATTORNEY LANDGRAF:

10 Q. Mr. Budde, the next is a subpoena directed to
11 Ms. Susan Walker of the Milwaukee County Accounts
12 Payable Department. The request here is for
13 information relating to contract -- a contract with
14 Mid America Cleaning. Would you explain to Judge
15 Nettesheim why you believe this is relevant to the
16 investigation.

17 A. We -- in our examination of the e-mails thus far,
18 we have seen e-mails that involve non County
19 employees with the cleaning contract that is --
20 exists between the County and Mid America
21 Cleaning. In particular, we've seen e-mails that
22 reference the bidding -- the bidding process for
23 this contract. We've seen e-mails that reference
24 the -- certain information that was provided to the
25 County that these non County employees wished to

keep confidential. And we think that there -- it is relevant as far as whether or not violations of County ordinances or the County ethics policy has occurred in regard to sharing information outside of the County's normal chain of doing business.

THE COURT: Thank you. Based upon the sworn application for the corporations of the requested subpoena and the statement of Detective Budde, I have executed the John Doe subpoenas duces tecum for that -- to that person.

ATTORNEY LANDGRAF: Thank you. The next is a request to Kelly Solomon of Facilities Management for key card information relating to persons named on the face of the subpoena. Those would be Mr. Nardelli, Miss Rindfleisch, Mr. Russell, Miss McLaughlin and Miss Moore. We're also requesting the court to issue a subpoena for the records relating to key card access to the County Annex parking structure.

BY ATTORNEY LANDGRAF:

Q. Would you explain, Mr. Budde, to the judge why we believe that's relevant.

A. We believe that Kelly Moore -- is that her last name?

Q. Kelly Solomon.

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1 A. Kelly Solomon is the operations -- or the office
2 manager for the Facilities Management section of
3 the Milwaukee County Department of Transportation
4 of Public Works, and that office maintains a
5 surface parking lot that is located just west of
6 the courthouse. It's referred to as the Annex
7 parking. They also maintain a lot that is located
8 to the west of the Milwaukee Public Museum, that's
9 called the Museum west parking lot. These parking
10 lots allow employees of Milwaukee County to park,
11 and they require access with a key card to get a
12 car in and out.

13 We believe that this witness will
14 have records relating to the entrance and exit from
15 the parking lots of the targets of this
16 investigation. That's relevant because we're
17 trying to determine whether or not they were at
18 work during certain specified times.

19 Q. And present within county government buildings?

20 A. And present within government buildings, yeah.

21 THE COURT: Based upon that testimony
22 and the application before the court I am satisfied
23 that grounds exist for the requested subpoena duces
24 tecum and I'm executing the same.

25 ATTORNEY LANDGRAF: I acknowledge

receipt of the executed document, Judge.

BY ATTORNEY LANDGRAF:

Q. The next, Mr. Budde, is a request for a subpoena to be issued to Mr. Russell Weber for access records for Mr. Nardelli, Ms. Rindfleisch, Mr. Russell, Ms. McLaughlin and Ms. Moore for electronic card key -- excuse me, electronic key card readers 2101 and 2102 for the time period of January 1, 2009 through the present relating to the Milwaukee County Annex parking structure. First of all, what's the nature of those records and just explain how they're relevant.

A. The key card records are personal key cards that are carried by County employees. They allow these County employees to get through doors that have electronic locks. The Annex parking lot is surrounded by a fence. The pedestrians get through the fence or through the barrier by using a key-carded door. If someone parked their car in that parking lot they would use their parking card to get into the lot. Then when they are out on foot, unless they go around the parking gate, they would have to use an electronic key card to get through the pedestrian access way. And those two card readers would show entrance and exit from the

access for the parking. Well, the second paragraph asked for additional information. Could you explain those two paragraphs and the relevance thereof.

A. Not every Milwaukee County employee is able to park in a Milwaukee County lot. Many Milwaukee County employees park in the MacArthur Square parking lot, which is a public parking lot that is administered by CPS Parking. I have relied on these records in the past and I know that they keep records of who they issue parking cards to, and the in and out of those parking cards that are issued to specific individuals.

I also have received information in this investigation that Kelly Rindfleisch probably parks in MacArthur Square. And I know based on information I received this morning that she is parked today inside MacArthur Square, and I believe she may in fact have a key card or access to MacArthur Square.

THE COURT: Thank you. Based upon the same grounds as with the two previous subpoenas I'm satisfied that grounds exist for the issuance of this subpoena duces tecum. I've executed the same and tendered it to Mr. Landgraf.

1 ATTORNEY LANDGRAF: Thank you,
2 Judge. I acknowledge receipt.

3 Mr. Budde, I believe I understand
4 from Miss Kolberg that the basis for the last two
5 are actually contained in the application for
6 issuance itself. If the court wants to review
7 those, I think the reasons will be set forth
8 therein.

9 THE COURT: Just give me a moment.

10 And the current and final request
11 before the court are for issuance of the subpoena
12 duces tecums to Sue Drummond, D-R-U-M-M-O-N-D, and
13 David Erickson, and based upon the recital set out
14 in paragraphs G and H of Detective Budde's
15 application, sworn application before the court,
16 and indeed based upon a significant portion of the
17 testimony offered today, there obviously are
18 abundant grounds for issuance of these two
19 subpoenas, and I am executing the same at this time
20 and tendering the same to Mr. Landgraf as executed.

21 ATTORNEY LANDGRAF: Judge, finally, I
22 have an application which I myself have signed
23 relating to a separate segment of this John Doe
24 investigation, and that relates to the Wisconsin
25 Southern and Railroad portion of the

1 investigation. Certain individuals have been
2 contacted -- or rather their attorneys have been
3 contacted and we have tentatively set up dates for
4 them to come in on November 17th of 2010. We've
5 cleared that, I believe, with your calendar.

6 THE COURT: Yes.

7 ATTORNEY LANDGRAF: All of the people
8 that are named in my application are individuals
9 who we are informed were employees of WSOR. They
10 are all people who were contributors to the Scott
11 Walker campaign and they were all reimbursed by the
12 corporation. For those reasons as set forth in the
13 application I believe, I think, that testimony
14 would be in each case relevant.

15 THE COURT: Thank you. Take just a
16 moment to review the written application,
17 Mr. Landgraf.

18 I have reviewed the application of
19 Mr. Landgraf and I am satisfied that grounds exist
20 for issuance of requested subpoenas and I'm
21 executing them at this time.

22 ATTORNEY LANDGRAF: Judge, that
23 concludes my presentation for this morning.

24 Is there anything that I have
25 omitted?

1 ATTORNEY KOLBERG: Nothing that needs
2 to go on the record.

3 THE COURT: Thank you all very much.

4 ATTORNEY LANDGRAF: Thank you.

5 THE COURT: That concludes the
6 proceedings for today.

7 (End of proceedings.)

1 STATE OF WISCONSIN)

2
3 MILWAUKEE COUNTY)

4
5 I, Lori J. Cunico, do hereby certify that
6 I am a Registered Professional Reporter,
7 that as such I recorded the foregoing proceedings
8 later transcribed by me, and that it is true and
9 correct to the best of my abilities.

10
11 Dated this 25th day of November, 2010, at
12 Milwaukee, Wisconsin.

13
14
15 

16 _____
Lori J. Cunico - Court Reporter