

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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O. JOHN BENISEK, et al.,

Case No. 13-cv-3233

Plaintiffs,

v.

LINDA H. LAMONE, et al.,

Defendants.

-----x

VIDEOTAPED DEPOSITION OF MARTIN O'MALLEY

Baltimore, Maryland

April 26, 2017

Reported by: Linda S. Kinkade RDR CRR RMR RPR CSR

DIGITAL EVIDENCE GROUP

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1 MARTIN O'MALLEY
 2 April 26, 2017
 3 10:22 a.m.
 4 The following is the transcript of the
 5 videotaped deposition of MARTIN O'MALLEY held at the
 6 offices of Hogan Lovells LLP, 100 international Drive,
 7 Suite 20000, Baltimore, Maryland 21202, and reported
 8 by Linda S. Kinkade, RDR, CRR, RMR, RPR, CSR, and
 9 Notary Public within and for the State of Maryland.
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 9 Winfield to T Winfield sent
 10 7/4/2011 re Governor's
 11 Redistricting Advisory Committee
 12 Exhibit 142 Letter dated 10/6/2011 to 31
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 18 20, 2011
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 21 Exhibit 145 Email correspondence from 95
 22 MG2590@aol.com to
 brianromick@gmail.com dated
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1 PROCEEDINGS
 2 VIDEO SPECIALIST: Good morning. We're on
 3 the record. This is video number one in the
 4 video-recorded deposition of Governor Martin O'Malley,
 5 taken in the matter of O. John Benisek, et al. v.
 6 Linda H. Lamone, et al. The case is pending before
 7 the United States District Court for the District of
 8 Maryland, case number 13-CV-3233.
 9 This deposition is being held at the law
 10 offices of Hogan Lovells LLP at 100 International
 11 Drive in Baltimore, Maryland, on April 26th, 2017.
 12 The time on the video screen is 10:22 a.m.
 13 My name is Daniel Holmstock, and I'm the legal
 14 videographer from Digital Evidence Group. The court
 15 reporter is Linda Kinkade, also in association with
 16 Digital Evidence Group.
 17 For the record now will counsel please
 18 introduce themselves and whom they represent.
 19 MR. RYAN: Mark Ryan from the Mayer Brown
 20 law firm on behalf of the plaintiffs.
 21 MR. MEDLOCK: Stephen Medlock also from
 22 Mayer Brown also on behalf of the plaintiffs.

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1 MR. KIMBERLY: Michael Kimberly from Mayer
2 Brown on behalf of plaintiffs.
3 MS. KATZ: Jennifer Katz, the Attorney
4 General's Office, on behalf of the Governor and the
5 State of Maryland.
6 MS. RICE: Sarah Rice, Assistant Attorney
7 General, on behalf of the Governor and the State of
8 Maryland.
9 VIDEO SPECIALIST: Will the court reporter
10 please administer the oath.
11 MARTIN O'MALLEY,
12 having been first duly sworn, was thereafter
13 examined and testified as follows:
14 EXAMINATION
15 BY MR. RYAN:
16 Q. Could you state your name for the record,
17 please?
18 A. Sure. My name is Martin O'Malley,
19 O-apostrophe-M-A-L-L-E-Y. I'm the 61st Governor of
20 Maryland.
21 Q. And, Governor O'Malley, what years were you
22 the governor of the state?

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1 A. I was governor from 2007 through 2000 --
2 through January, I believe, 21st, 2015.
3 Q. And just a few background questions. Where
4 do you live today?
5 A. I live here in the land of the free and the
6 home of the brave.
7 Q. What part of Maryland do you live in?
8 A. Baltimore City.
9 Q. Okay. And are you employed?
10 A. I am. I'm doing a number of things. I
11 just got done teaching up at Boston College at the law
12 school this semester, a course on leadership and
13 performance management, and I'm also leading a "Smart
14 Cities" initiative for serving on the advisory board,
15 and then I do a little consulting here and there.
16 Q. I'd like to --
17 A. I'm advising, hopefully, promising
18 technology companies -- hopefully.
19 Q. I'd like to turn your attention to the
20 congressional redistricting in Maryland that took
21 place following the 2010 census, so the 2011
22 congressional redistricting.

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1 A. Right.
2 Q. Okay? And could you describe generally for
3 us what your role was in the redistricting process in
4 Maryland?
5 A. Sure. 2000 -- 2010 was the census, and
6 after every census the process unfolds for
7 redistricting and apportionment and making sure that
8 the district borders respect the principle of One
9 Person, One Vote. It was a process I had been through
10 a couple of times before as a chief executive, as
11 mayor of Baltimore. In fact we had to go from having
12 six districts with 18 members to 14 with a single
13 member. And this was the first time I had gone
14 through it, but I was chief executive and the Governor
15 of Maryland, so I was the primary driver, as in our
16 country most governors are, in the redistricting
17 process such as exists today in the United States.
18 Q. And what goals, if any, did you have with
19 respect to the redistricting process?
20 A. Yeah, our goals were -- our goals were
21 several. I mean, number one was that we had to abide
22 by the legal requirement and the responsibility of

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1 accommodating the growth that had happened in Maryland
2 and making sure that the borders honored that
3 principle of One Person, One Vote, and that we did
4 not -- and that we did not, you know, violate any of
5 the other constitutional prohibitions established
6 through case law and the like in terms of
7 representation, fairness, packing of underrepresented
8 minority citizens and the like.
9 We also had the motive and in fact campaigned
10 on it that, because redistricting in our country is a
11 process that is driven by our elected officials -- and
12 currently in our country most of them are either
13 Democrats or Republicans -- it was -- it was something
14 that everyone was aware of in redistricting that, if
15 there were a Republican governor, he or she would be
16 drawing those borders in a way that was more
17 advantageous to the Republican Party, and, if we had a
18 Democratic governor, that I would be drawing those
19 districts in a way that was more advantageous to our
20 party, and that's what I did, constitutionally and
21 legally.
22 Q. So you set out to draw the borders in a way

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1 that was favorable to the Democratic Party.
2 A. Yes, among other considerations, first and
3 foremost being our statutory obligations, and -- and
4 constitutional prohibitions against, you know, or
5 constitutional mandates about One Person, One Vote,
6 and the other case law I mentioned.
7 Q. And One Person, One Vote refers
8 principally, am I correct, to the number of citizens
9 in each congressional district?
10 A. Correct, yeah, that we -- right -- or, I
11 mean, it was kind of a three-layered process, right.
12 So we had the House -- the legislative districts, the
13 state legislative and the Senate, and the members of
14 Congress, and in all of those you have to be mindful
15 not to deviate from -- I forget what the actual math
16 is, but there's some standard mathematical deviation
17 that you're not supposed to stray from based on the
18 latest census and the best count we have on the
19 numbers of people living in various places,
20 neighborhoods, jurisdictions.
21 Q. And did you put a process in place to
22 advise you on redistricting matters? And we're

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1 talking here about just the congressional
2 redistricting, not the state legislative districts.
3 A. Okay. You don't want to talk about the
4 state?
5 Q. Well, maybe if we have time we'll do that.
6 A. All right. The process was set out, I
7 believe, in state law, and I believe that was state
8 law that preceded my term of office, and that's the
9 process we followed, so yes.
10 Q. Did you appoint a commission, an advisory
11 commission?
12 A. I did. I appointed some of them. In other
13 words, some of them were there by operation of state
14 statute. I do believe that on that commission the
15 statute lays out who shall be on that commission and
16 which ones are at my discretion.
17 The Senate president, I believe, is on there by
18 statutory mandate. That's a shall -- it's not a
19 may -- and the speaker as well. And then I had the
20 ability and I believe the discretion to appoint
21 others. I believe it was also required that one of my
22 appointees be a registered Republican, and that was a

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1 former delegate, a man that served on our Small
2 Business Commission for the state, James King from
3 Annapolis, restaurant owner.
4 I appointed -- I believe Jeanne Hitchcock was
5 on that as well. She was our appointment secretary
6 and had some experience in redistricting having had to
7 have gone through -- I think we did two redistrictings
8 in the city, come to think of it. I think we did one
9 after the census, and then I think we were forced to
10 do another one when a petition was sent to the voters
11 to downsize the size of the city council.
12 So but Jeanne's experience and because Jeanne
13 was always somebody that did intergovernmental affairs
14 for me as mayor and continued some of those duties as
15 a deputy chief of staff, Jeanne was on it.
16 Joe Bryce, our legislative director, he was the
17 man -- my chief of all of our legislative agenda, so
18 marriage equality, gun-safety legislation, restoring
19 voting rights, abolishing the death penalty. It was
20 Joe who had to work day in and day out with the
21 Speaker's office, the Senate's President's office, and
22 everyone else.

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1 I believe we also had -- I don't know if John
2 McDonough was on the committee, but he certainly --
3 but he certainly was involved in the process. And
4 Richard Stewart, a businessman from Prince George's
5 County, was also on the commission.
6 And, Mr. Ryan, I could be leaving somebody out,
7 so you'd have to -- this was, like, six, going on
8 seven years ago. So which of those people was
9 actually on the commission and which weren't on but
10 went to the meetings because that's what I asked them
11 to do, I'm a little vague on.
12 Q. That's okay. We've got the names of the
13 commission members. I'm just --
14 A. Did I leave anybody out?
15 Q. I'm just trying to test -- I don't think
16 so. I'm trying to test your memory a little bit --
17 A. It used to be better.
18 Q. -- to help us with some future questions.
19 Well, that happens.
20 So let me -- what was the mission of the
21 commission?
22 A. The mission -- I'm sorry. Can you hand me

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1 that?
2 (Cell phone)
3 A. Sorry. Time out. I used to have 27,000
4 people who would take care of this. Let me turn this
5 off, gentlemen, so that doesn't happen again.
6 Q. That's all right.
7 A. Witness with you -- I'm sorry. What was
8 the last question?
9 Q. What was the mission of the commission?
10 A. The mission of the commission --
11 Q. Yes.
12 A. -- was to fulfill the statutory mandate of
13 reapportioning congressional districts, mindful of the
14 mandate of One Person, One Vote, making sure that
15 there was not a greater -- that it was as balanced as
16 it could possibly be based on the latest census
17 results.
18 Their mission was also to solicit public input
19 on the map, hold a number of public hearings all
20 around the state, and allow people to voice their
21 concerns, their desires, and to work with the Senate
22 president, the Speaker, as well as our members of

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1 Congress, and liaise between them and me, as we rushed
2 towards whatever the statutory deadline was within
3 which to submit a map.
4 So that was their mission. And having done
5 this before, it, you know, it's not a process that
6 makes anybody happy anywhere. People whose districts
7 aren't changed are disappointed that their district
8 wasn't somehow made better from their individual
9 perspective, and those whose districts are changed
10 decide that it was a great injustice done to them. So
11 people are never happy with this, but they are a
12 process.
13 And the mission of the commission was to be as
14 collaborative as possible and knowing that in our
15 state, because it is still a partisan exercise, one
16 that has to muster consensus support in both the
17 Senate and the House, they were also -- they were also
18 doing their very best to be as collaborative as they
19 could be knowing that, ultimately, it had to, not only
20 pass the Maryland General Assembly, it would also
21 likely be taken to court, and it could well be
22 petitioned to public referendum.

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1 I don't know how unusual that is, but there was
2 a case -- not to go down this rabbit hole -- but there
3 was a case that happened in Maryland that allowed --
4 that made it a lot easier because of the Internet for
5 citizens to petition any item to a public referendum
6 if it were not connected to the budget.
7 So it became a great organizational tool for
8 our brothers and sisters in The Party of Lincoln, and
9 they petitioned to referendum all in the same year
10 marriage equality, what else was on -- The Dream Act,
11 which, you know, I had a lot of enthusiasts signing up
12 for the falsehood that they were peddling that we were
13 giving free tuition to illegal immigrants, and
14 redistricting was on the ballot at the same time.
15 And then through our own, you know, through our
16 own mosh pit of compromise, we sent -- I believe
17 gaming was on the ballot that year in 2012 -- so we
18 anticipated, Mr. Ryan, that the map would go through a
19 tremendous amount of scrutiny. And that's without
20 even mentioning the editorial, and, you know, the
21 natural journalistic criticisms and critiques that
22 would -- that would come.

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1 So that was their -- that was their mission, to
2 do it as collaboratively as possible with as broad of
3 a consensus as possible, being very, very mindful that
4 we must obey all laws and obey the constitutional
5 mandate as well as the latest interpretations in case
6 law when it applies to redistricting.
7 Q. Okay. So I'm going to ask the court
8 reporter to mark --
9 (Exhibit 141 marked for
10 identification.)
11 Q. So we're going to hand you some exhibits
12 today, Governor O'Malley. This has been marked as
13 Exhibit 141, and it appears to be a press release
14 concerning key appointments to your -- or to the --
15 well, your Governor's Redistricting Advisory
16 Committee. And do those look like the names on the
17 first page of the people that you appointed to the
18 commission?
19 A. Yes, they do.
20 Q. Okay. Now once the committee, the GRAC,
21 G-R-A-C, began its work, did you -- did you meet with
22 them during the course of their work?

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1 A. I don't recall. I probably didn't, but I
2 would have been aware of the progress of their work
3 and the schedule of hearings, because some of the
4 people on this commission, in particular, Joe Bryce
5 and Jeanne Hitchcock, were very trusted members of my
6 administration. Our offices were all on the same
7 floor. We were at the -- we were at frequent meetings
8 week in and week out, especially during the
9 legislative session, as -- as it rolled forward. I
10 don't recall -- I could be -- I could be wrong. I
11 don't recall ever meeting with the commission as the
12 Commission.
13 Q. Okay. Did you make an effort -- so you
14 worked with Ms. Hitchcock on a regular basis, correct?
15 A. Every day.
16 Q. Right. And did you keep up with her what
17 was going on with the Commission?
18 A. Yes, in a sense, and -- and Joe Bryce and
19 probably the Speaker and the Senate President and Joe
20 McDonough, though I see Joe McDonough isn't on here,
21 but he -- but he was involved as well, having worked,
22 you know, being from Prince George's and I think

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1 having worked at one time for Steny Hoyer, if I'm not
2 incorrect, or at least ...
3 Anyway, so I kept in touch with them, Mr. Ryan,
4 but it was more on a sort of, you know, I had a sense
5 of when their meetings were coming up, sometimes
6 perhaps Joe Bryce would say to me, hey, people in this
7 city, a lot of people turned out, they don't want
8 their city split between two state legislative
9 districts, they want one. And then at other times,
10 you know, some people in other cities would rather
11 have had their city split in three different ways
12 because they had more voting strength.
13 So they report on things like that vaguely, but
14 I trusted, because they're very capable people, I
15 trusted that, you know, if there were a problem they
16 would let me know, and, if there were some feedback I
17 needed to hear, they would, you know, they could keep
18 me abreast of it.
19 I don't recall any -- I don't recall any sort
20 of -- I don't recall in the course of developing the
21 House map or the Senate map any occasion where they
22 said, hey, we all really need to meet with you right

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1 away and talk with you about this, that or the other
2 thing, or there has been a breakdown or something, or
3 something we need to reconsider. They were working
4 ... the Senate president was also somebody I spoke
5 with every day.
6 Keep in mind that in a 90-day session, I mean,
7 it's like -- it's like you have plates spinning on a
8 bunch of different sticks, you know, so there are many
9 things that are chugging down that 90-day session, and
10 this was one of them.
11 Q. So the committee, The Advisory Committee,
12 was going to give you advice on where to draw the
13 congressional districts, correct?
14 A. Yes, and then -- I never sat down with my
15 pen and drew a border, but the purpose of the
16 commission was to solicit that, distill it. They were
17 some of my most trusted people, and they kept me
18 regularly updated as to how the meetings went that
19 they were holding.
20 I don't recall how many meetings they had. I'm
21 guessing that they probably had at least a half dozen
22 around the state, perhaps more, and the goal was to

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1 spread the meetings out over a sufficient cut and
2 swath of a diverse little state to get the feedback.
3 The most -- most of the feedback I received was
4 not about the congressional map. It was more -- it
5 was more about -- the kind of running feedback I
6 received had more to do with members of the Maryland
7 Municipal League wanting their city to be represented
8 by this senator or that senator or this House member
9 or that House district, you know. So that's -- that's
10 what I vaguely recall, is that, to the extent people
11 turned out for these hearings and in the greatest
12 numbers and with strong opinions, it was on how the
13 state borders would affect municipal representation in
14 Annapolis. There was not a whole lot of feedback that
15 I can recall seven years later about the congressional
16 map with the exception of the anticipation that, you
17 know, because of the population flow in our state
18 being on this side of the largest estuary in North
19 America, that the borders would change the most out
20 that 270 Corridor in a kind of west-northwesterly
21 direction from the nation's capital.
22 Q. So with respect to the congressional

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1 redistricting, did there come a time when you decided
2 that there would be a goal of increasing the Maryland
3 congressional delegation from six Democrats to seven?
4 MS. KATZ: Objection, lack of foundation.
5 A. Excuse me?
6 MS. KATZ: You can answer the question.
7 A. What did you say?
8 MS. KATZ: I just made an objection, but
9 you can answer the question.
10 Q. No, there's no judge, so she makes the
11 objection and the judge rules on it later.
12 A. I understand. I just wanted to hear her
13 basis so I could better answer your question.
14 Q. She hasn't -- I haven't established that
15 you know -- that you know enough to answer that
16 question, but I think I'll -- I think I'm comfortable
17 with that one.
18 A. Yeah, look, the redistricting process in
19 the United States of America and most states -- some
20 notable exceptions of late, and, hopefully, more
21 states will follow suit and go to bipartisan,
22 nonpartisan redistricting commissions -- that's what

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1 they do in Iowa. They have found other ways to do it
2 in a couple other states. -- but most of the states,
3 I understood, from having been a lifelong Democrat and
4 having served on the Baltimore City Council for eight
5 years, having served as mayor, having run twice for
6 governor, that in our state I understood very well
7 that the redistricting process was still a partisan
8 process, one that allowed, provided, the parameters of
9 legality, statutory, case law, constitutional,
10 provided those parameters were observed, that ours was
11 a state where that partisan motive was allowable.
12 So in running for governor probably many times
13 people in the audience would ask me, you know, in
14 Democratic circles, about redistricting and how many
15 Congress people we might lose if Governor Ehrlich were
16 to win the reelection and if we were not to win.
17 So that was something that everyone -- you
18 asked me when did I -- when did I arrive at that
19 decision. It was not a decision I made. It was a
20 decision that was made by those that set up the
21 statutory process that put the pen for redistricting
22 in the hand of whichever man or woman the people

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1 elected to be governor during that period of time in
2 which redistricting happens.
3 Q. But there did come a time when that
4 decision was made specifically to flip the Sixth
5 Congressional District from Republican to Democrat,
6 correct?
7 MS. KATZ: Objection, leading.
8 A. The -- the -- in this sense: we knew that
9 our population had shifted and grown; we knew that
10 that growth was mostly out West; we knew, to
11 accommodate that growth, the borders would change most
12 on the western side of the Eastern Shore. There were
13 some who said, oh, we should extend -- we should do
14 all we can, One Person, One Vote, and the other legal
15 parameters being observed, we should actually create
16 some way to jump the Chesapeake Bay and draw a line in
17 such a way that puts more voters in the Eastern
18 Shore -- more Democratic voters on the Eastern
19 Shore -- but that -- that -- I mean, it's a pretty big
20 body of water, and the -- and so we didn't go in that
21 direction.
22 So, yes, there came a -- there came a decision,

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1 which everybody kind of -- I don't know that there was
2 any meeting. It became apparent from the growth
3 patterns on the map, particularly the growth that 270
4 and into Frederick where actually they have more
5 biotech jobs than in all of Baltimore now, because the
6 growth was mostly westerly out of the Washington
7 suburbs, most everybody understood that that would
8 be -- that the entire map on the Western Shore would
9 kind of shift a little bit to the north and to the
10 west.
11 Q. Right, but in your capacity as governor of
12 the state, you made a decision that what you'd like to
13 see is the Sixth District converted from a majority of
14 Republican voters to a majority of Democratic voters;
15 is that a fair statement?
16 MS. KATZ: Objection, leading.
17 A. Well, I think it's fair to say that, as we
18 did the redistricting, that we knew it would impact
19 the Sixth, and our hope was -- my intention was --
20 that it would impact it in -- all things being
21 equal -- in a more positive way for our nominee,
22 whoever that might be.

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1 There was thoughts at the time that a state
2 senator named Rob Garagiola, who lived out that way,
3 depending on how the borders fell -- were drawn, that
4 he would run for Congress there, but, as you guys --
5 as you gentlemen probably know, you don't have to live
6 in a congressional district to run for Congress from
7 there. So the man who actually ran was a
8 self-financed millionaire, pretty conservative
9 Democrat who votes frequently with Wall Street
10 interests and didn't even live in the district, but he
11 ran for Congress there.
12 But, yes, it was apparent that, as we move west
13 and along with the population, just as Frederick has
14 grown in the natural migration -- the County of
15 Frederick, which is due northwest of Montgomery
16 County -- just as Frederick has grown with the growth
17 of the Washington suburbs, and in that growth become
18 more Democratic as well as more Independent, that
19 the -- that the Sixth District, when the borders were
20 drawn, however they were drawn, would likely pick up
21 more Democratic votes and more Independent votes.
22 So, yes, that was -- that was something

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1 well-known, acknowledged. Was a decision made? I
2 suppose in the sense that we decided not to try to
3 cross the Chesapeake Bay, that a decision was made to
4 go for the Sixth. But, Mr. Ryan, keep in mind that on
5 the Western Shore of Maryland that's where seven of
6 the eight congressional districts are, and there was
7 only one that was -- that was Republican. The
8 other -- the other six -- did I say seven? That's
9 where seven of the eight congressional districts are.
10 Six of them were already Democratic, and so, yes,
11 we -- everybody pretty much knew that, as we redrew
12 the lines, it would put more Democrats and
13 Independents into the Sixth District. And, hopefully,
14 in the course of the campaign, I hoped, as a Democrat,
15 that that would mean the election of another Democrat.
16 Q. Do you recall that approximately 350,000
17 residents from Montgomery County were moved into the
18 Sixth District?
19 A. I don't recall that, but I wouldn't deny
20 that.
21 Q. Why was that done?
22 A. For redistricting and the borders, I mean

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1 for the redistricting process.
2 Q. Fair enough. And what -- when you say "for
3 the redistricting process," what specific goals were
4 advanced by moving 350,000 Montgomery County residents
5 into the Sixth District?
6 A. The Congressional representation of
7 Montgomery County improved, the number of Democrats
8 and Independents living in -- and progressive-minded
9 people living in the Sixth Congressional District
10 probably increased, and, as I said before, a couple of
11 times, and as I, you know, it was also my hope that we
12 would -- that the people would elect a Democratic
13 Congressperson rather than a Republican at the end of
14 this process. I felt that was, not only my
15 responsibility, but my duty, provided we obeyed the
16 dictates of the law constitutionally, statutorily, and
17 the latest case law when it comes to fair
18 representation in congressional redistricting
19 process -- in the congressional redistricting process.
20 Q. Was it fair to the Republicans in the Sixth
21 District the redistricting that occurred in your view?
22 A. Yeah, well, that's interesting. You know,

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1 if the goal -- if the goal, Mr. Ryan, is to
2 increase -- if the goal is to increase the voting
3 strength proportionally of Republican voters, and to
4 reduce the Democratic advantage by Congressional
5 District, the map actually resulted in, I do believe,
6 reducing the Democratic margin in probably six --
7 maybe seven -- at least six of the eight congressional
8 districts, and, as I -- and people in the Sixth
9 District were free to vote for whatever Congressperson
10 they felt best represented their interests.
11 I mentioned that the election of John Delaney,
12 I mean, he was -- he's probably one of the more
13 conservative members of Congress in the delegation,
14 especially when it comes to, you know, his opinion
15 with regard to Wall Street and -- and some of -- and a
16 lot of those sort of issues, so --
17 So, look, let me state unequivocally,
18 categorically, I believe that our whole country needs
19 to develop a better process for congressional
20 redistricting. That was a position I took as a
21 presidential candidate. It was a position often
22 repeated, even probably in the course of this

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1 redistricting. But the process I had and the statute
2 I had was one that allowed for that -- that set this
3 up as a partisan exercise by statute, and, as the
4 elected governor, I did my duty within the metes and
5 bounds of that statute. And I am glad that Maryland
6 elected another Democratic Congressperson, even though
7 I frequently disagree with him on many, many issues.
8 That's -- he doesn't represent my congressional
9 district.
10 Q. If I might, Governor, I want to explore a
11 little bit with you. When you say the statute set up
12 a partisan process, what do you mean by that?
13 A. I mean that the people on the Commission
14 are all appointed by the elected governor, and that in
15 our state we have partisan primary process for
16 selecting, not only our nominees for governor, but
17 also their lieutenant governor, and that the result of
18 that partisan election is to put the chief elected
19 executive directly in charge of running the
20 congressional redistricting process. So that's what I
21 mean by in statute.
22 It is designed -- I might also add that, by

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1 statute, they put the Speaker on, who is also a person
2 elected by the members of that body, each of whom runs
3 in partisan elections after they get through their
4 primaries, and the same with the Senate President.
5 So this is not a commission that's chaired by a
6 judge. It is not -- though often -- they are always
7 subject to judicial scrutiny -- it's a -- that's what
8 I mean by partisan commission, partisan statutory
9 framework, as it is probably in, I think, 46 of the 50
10 states right now -- at last count. I could be off on
11 that. I can't swear to that.
12 (Exhibit 142 marked for
13 identification.)
14 A. Thank you, Linda.
15 Q. Governor, you've been handed Deposition
16 Exhibit 142, and just take a quick look at that. Do
17 you recognize this document?
18 A. I do not.
19 Q. Okay. And do you know --
20 A. But I might have seen it at the time.
21 Q. Okay.
22 A. I saw a lot of documents.

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1 Q. Fair enough. Do you know who Blaine Young
2 is?
3 A. Sure do.
4 Q. And do you recall if Mr. Young had
5 objections to the proposed redistricting?
6 A. This particular Mr. Young, unlike his
7 parents, had objections to everything I did while I
8 was governor.
9 Q. Okay. And this particular letter, which is
10 dated October 6th, 2011, concerns putting the citizens
11 of Frederick County into different congressional
12 districts. Is that a fair statement?
13 A. Hold on here.
14 Q. Sure.
15 A. (Reading from the document.)
16 (Clarification by reporter.)
17 A. I'll read silently.
18 Yep, that's what it says. He says he doesn't
19 want Frederick County split. It was thought that he
20 would run for Congress, but I think he has since
21 developed other problems.
22 Q. Did you respond to Mr. Young's concerns?

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1 A. I hope so.
2 Q. Do you remember?
3 A. I tried to respond to everybody. We had a
4 policy of writing back to everybody, even people that
5 made a habit of leveling personal ad hominem attacks
6 on a daily basis over the radio waves at me, but we
7 tried to respond to everybody.
8 Q. Okay. And --
9 A. I'm sure my -- I'm sure the Board saw this.
10 I'm sure Joe Bryce saw it, and he probably would have
11 told me, you know, probably would have told me, but,
12 again, it wouldn't -- it wouldn't have surprised me
13 from this particular Mr. Young. Now his father is a
14 prince, a senator from Frederick and was the mayor of
15 Frederick, but this particular Mr. Young was a radio
16 personality, prided himself as being a right wing sort
17 of firebrand in the vein of a Rush Limbaugh, kind of
18 county version.
19 Q. Did Mr. Young's letter that's marked as
20 142, did that change anything in terms of the
21 redistricting?
22 A. I would -- I don't know. I would doubt it.

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1 Q. Were there complaints from people in
2 Frederick County other than Mr. Young that you recall
3 about splitting the county?
4 A. I don't recall. Probably. There
5 probably -- you know, there -- probably. I don't
6 recall, though. I don't recall. Whenever -- there's
7 always two schools of thought, and this was true in
8 city council as well when it came to city council
9 lines in neighborhoods.
10 There were always two schools of thought. One
11 group of neighbors didn't want their neighborhood
12 split between two councilmen or councilpeople, and
13 another group of neighbors absolutely wanted it split
14 between two councilpeople because they wanted to
15 double their odds of actually getting stuff done if
16 they had a problem by having their neighborhood
17 represented by two people.
18 So one of the frequent debates in any
19 redistricting, whether it's city council, whether it's
20 the House seats, the Senate seats or congressional is:
21 will my neighborhood or county or city or town be
22 represented by one person or two people -- or in some

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1 cases three.
2 And there is -- and people have differences of
3 opinions on that. People, like Mr. Young, who was
4 probably looking at running for Congress, was
5 purported to be running for Congress before he
6 developed other problems, he would advocate for his
7 home county because he was an elected official from
8 Frederick County. He would, of course, naturally want
9 his entire base to be within a new congressional
10 district wherein, as one of the most partisan
11 Republicans in this state, he might seek one day to
12 run.
13 Q. Well, did you take his concerns seriously
14 or did you just dismiss them as the rantings of a
15 political partisan?
16 A. No, of course, I took his -- I took his --
17 I took his feedback seriously. I took everybody's
18 feedback seriously. When you're governor, you listen
19 to all and you have agreed to serve all, and I did my
20 very best throughout my time as governor to treat
21 every person with dignity and respect. How they
22 treated others was their choice, but for my part, I

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1 mean, we -- we treated everybody with dignity and
2 respect, and I hope that he got a letter in response.
3 I don't know if he did. But we -- unless it bypassed
4 our correspondence process, he would have received
5 some reply from me, especially since he was also an
6 elected official.
7 Q. And the purpose of putting Frederick County
8 to two different congressional districts was to
9 advance the goal of a Democrat being elected from the
10 Sixth District, correct?
11 MS. KATZ: Objection.
12 A. One goal among many.
13 Q. Okay.
14 A. The primary goal was to reapportion the
15 congressional district lines in a way that was fair,
16 especially in respect -- in respect to the principle
17 of One Person, One Vote.
18 The greatest population growth, the migration
19 of development, housing, jobs that happened in our
20 state in the prior ten-year period was mostly out west
21 from Montgomery County into Frederick and even into
22 Hagerstown in some -- in some sense. So that was

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1 the -- that was the pattern of population growth.
2 I grew up in Montgomery County, in Rockville,
3 Maryland, and going home there now, when I go back to
4 see my mom and bring the grandkids down there, it's
5 hard to recognize some of those suburbs north of
6 Rockville compared to the place it was when I grew up
7 there, and even more dramatic is the pattern of
8 development and population march that's gone right
9 from Montgomery County right into Frederick. So
10 that's where the population is.
11 Charles County also, in fairness, Charles
12 County has also seen some of a southern migration, but
13 because of the peninsular effect of that Southern
14 Maryland piece and probably the highway quality that
15 is 270, more of the sort of bedroom community
16 migration of population has been right into Frederick
17 and right into the Sixth Congressional District --
18 Q. Okay.
19 A. -- out of Montgomery County.
20 (Exhibit 143 marked for
21 identification.)
22 Q. So you've been handed Exhibit 143, which is

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1 a map of the Fifth Congressional District.
2 A. Right.
3 Q. Okay. And you would have looked at this --
4 A. Yep, at some point.
5 Q. Right. And you agree that this was an
6 appropriate -- these were appropriate boundaries for
7 the Sixth Congressional District, correct?
8 A. Yes. I will note, though, also for the
9 record that this is the panhandle of Maryland. This
10 little thin part up here that's only about a mile and
11 a half wide was not of my making. That was the result
12 of the Calvert boys going to a border dispute with the
13 king with bad maps. We used to go up as high as
14 Southern Philly and Harrisburg, so that little thin
15 part out here, that's been there for three hundred
16 years.
17 Q. All right. No, I got that. You haven't
18 redrawn the borders of the state.
19 A. Right.
20 Q. We're just talking about the congressional
21 districts here, right?
22 A. Right, but, I mean, the map you've shown me

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1 is, I mean, in terms of the shape of the states, it's
2 one of those parts of our state, not unlike many of
3 the peninsulas created by our rivering geography,
4 that's one of those parts of the state that people,
5 I'm sure when they drive through, ask themselves how
6 the heck did this state ever get to have this border
7 out here, you know.
8 Q. Right.
9 A. So, I mean, in other words, it's
10 impossible -- it's impossible from Frederick to
11 Garrett to make that a square unless I took over
12 Pennsylvania. That's all I was pointing out.
13 Q. Or Virginia.
14 A. Or Virginia. Truthfully, the other thing
15 that they screwed up on, the Calverts, they were using
16 the northern branch of the Potomac rather than the
17 southern branch. So our original border, not only
18 went all the way up to Harrisburg in the grant from
19 King Charles, but it also went down -- instead of the
20 northern fork here, it actually went much more south,
21 and it did take up a big chunk of Virginia, and
22 they -- they went -- they went to the border dispute

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1 with the wrong maps.
2 Q. So just looking at Exhibit 143, and you go
3 pretty far -- the Sixth District goes pretty far into
4 Montgomery County.
5 A. It sure does, sir.
6 Q. Not -- even all the way, maybe even
7 including part of Chevy Chase there, right?
8 A. It follows mostly the east side of the 270
9 Corridor, yes, sir, until it gets to Washington
10 County, and then it follows the county border due
11 north.
12 Q. So could you just explain to the person on
13 the street why not -- why not put Frederick County all
14 in the Sixth District? Wouldn't that make more sense
15 just geographically?
16 A. Not when you consider so many people that
17 live in Frederick now live -- rather work -- in that
18 270 Corridor. MedImmune, who has their
19 headquarters -- if they haven't been gobbled up in the
20 concentration of corporations -- but MedImmune, who is
21 one of our leading biotech companies, was
22 headquartered in Montgomery County. Their next campus

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1 was out in Frederick.
2 So that corridor, that 270 Corridor, does unite
3 a lot of people along that -- along that route, as
4 does -- as does the biotech industry, NIH, that whole
5 research corridor. As I mentioned earlier, Frederick
6 now has more -- even with Johns Hopkins' presence here
7 in Baltimore City, Frederick now has more biotech jobs
8 than Baltimore does, so ...
9 Q. So in drawing the -- in redistricting in
10 2011, you looked at commuting patterns along 270; is
11 that -- is that right?
12 A. Among many other factors. Among many other
13 factors, yes, growth patterns. Generally the, yes, we
14 looked at the growth patterns, growth being jobs,
15 where people sleep, commuting patterns, all of that
16 sort of stuff, yes, sir.
17 Q. Is it possible for you to describe for us
18 the relative importance of converting the Sixth
19 District to a Democratic-majority district compared to
20 the other factors that you looked at in redistricting?
21 MS. KATZ: Objection, mischaracterizes and
22 is vague and ambiguous. You can answer.

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1 A. Like hot to warm? One to ten?
2 Q. Yes, relative, relative considerations. A
3 lot of considerations you took into account, right?
4 A. Right. There was a, yeah, it was -- it was
5 certainly -- it was certainly a consideration. As
6 governor, I was also leader of the Democratic Party.
7 Q. Right.
8 A. That's also a responsibility. It's a trust
9 placed in me by -- by the people that voted for me and
10 gave me my party's nomination to carry into the
11 general, and then -- and then given to me by all
12 people, Democrats, Independents and Republicans alike.
13 And I'm sure those Independents and Republicans that
14 did vote for me understood that I was a Democrat.
15 And so, first and foremost, our obligation was
16 to fulfill our mandate by law to do the redistricting
17 process and to do it in a timely way immediately
18 following the census.
19 Second was to make sure we obeyed all of the
20 statutory, constitutional and case law as it has
21 developed with regard to balancing those districts and
22 making sure that -- that it was done particularly

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1 respectful of One Person, One Vote and mindful not
2 to -- not to -- not to discriminate in any way against
3 underrepresented minority groups.
4 And then a third factor was, when we redrew
5 this, yes, we wanted to do it in a way, all things
6 being equal and legal and constitutional, that will
7 make it more likely rather than less likely that a
8 Democrat, whoever he or she is that wins the party's
9 nomination in any of the congressional districts, is
10 able to prevail in the general election.
11 So those were all part of the consideration
12 that went into the map, along with other things, like
13 the desire of local county officials, the desire of
14 the mayors, the men and women that govern the 123
15 municipalities in our state. Some wanted to be split
16 between districts; some didn't want to be split
17 between districts.
18 And all of those things had to be fine-tuned
19 and done with -- mindful always of the actual -- the
20 best -- the best population data that we could muster
21 from the census. No census is completely accurate,
22 but it's the best we've done as a people.

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1 So all of those things worked into this, and it
2 was a collaborative process. I asked the House
3 leadership to do their best to work on it, be mindful,
4 backup from the deadline, make sure you get people's
5 input, make sure we have the votes to pass it, make
6 sure in the Senate. And the same process I had asked
7 our congressional delegation to engage in as well.
8 They engaged in that less successfully, and I in the
9 end had to allocate more of my own office and staff
10 time to getting the maps finalized, bringing in the
11 members of Congress, hearing their -- each of their
12 individual concerns, to the extent they were willing
13 to share them with me, and then moving forward by the
14 deadline with a map.
15 Q. When you say "collaborative process," to
16 what extent did Republicans participate in that
17 process?
18 A. Well, the -- you might ask the question did
19 Democrats or Republicans participate in that -- and by
20 that you mean the members of Congress?
21 Q. No, Republicans in the Maryland
22 legislature, Republicans, former Republican

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1 officeholders, Republican voters, just Republicans
2 generally. Because you said it was a collaborative
3 process, and then you mentioned the leadership of
4 the --
5 A. Right.
6 Q. And those are Democrats, right?
7 A. James King is a Republican.
8 Q. Mr. King being?
9 A. James King. Let me go back to --
10 Q. Right.
11 A. James King served as a member of the House
12 of Delegates from 2007 to 2011, reading from Exhibit
13 141.
14 Q. All right?
15 A. He represented District 33A, Anne Arundel
16 County, small business owner who employs more than a
17 hundred Maryland residents. Recently named Business
18 Owner of the Year by the West County Chamber of
19 Commerce and in 2008 named Taxpayers Advocate of the
20 Year by the Maryland Taxpayers Association.
21 So James was on the Commission, and James --
22 and at the town halls, depending on where the town

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1 halls or the hearings were held, there were numerous
2 people, Republicans, Independents as well as Democrats
3 at all of those.
4 Q. So, I guess, in my own mind I'm drawing a
5 distinction between participation and collaboration.
6 Collaboration was your word, okay, so let me see if I
7 can get at it a different way.
8 What compromises did you make in the
9 redistricting process to satisfy concerns that were
10 expressed to you, if any, by Republicans?
11 A. To the extent those happened, it was
12 mostly -- I would think that it was at the commission
13 level and with Joe Bryce and James King and the others
14 on the borders. I don't recall particulars of that,
15 partly because those maps went smoothly, but I'm sure
16 that there were probably numerous accommodations and
17 manners in which the map was informed by and advice
18 taken from Democrats as well as Republicans, but
19 always mindful. And I was clear with this, that I am
20 the elected governor; I'm also the leader of the
21 Democratic Party.
22 Q. Right.

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1 A. And as I've said many, many times here
2 before, part of my intent was to create a map that,
3 all things being legal and equal, would, nonetheless,
4 be more likely to elect more Democrats rather than
5 less.
6 Q. With respect to the Sixth Congressional
7 District, were there any compromises with the
8 Republicans on the boundaries of that district?
9 A. Yeah, look, the -- I had asked Congressman
10 Hoyer, as the dean of the House delegation --
11 Q. Yes.
12 A. Senator Mikulski and Senator Cardin were
13 not about to get involved in redistricting. They're
14 legislators. They run at wide -- I mean at large --
15 and they didn't want to go near this with a ten-foot
16 pole. This was one of the things that never popular,
17 nobody ever likes the map. Nobody ever likes the
18 map -- no, I shouldn't say that. Nobody ever likes
19 the map.
20 So I had asked Congressman Hoyer, knowing he
21 had many times been through the redistricting process,
22 and since he was the dean of the House delegation, I

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1 said, Congressman, would you please, mindful of our
2 deadline, lead the effort here to inform the
3 Commission about congressional redistricting, and do
4 your best to come up with a map that a majority of the
5 congressional delegation supports.
6 I'm sure we had conversations about, look, the
7 natural migration is north and west out of the
8 Washington suburbs. I told him that the Chesapeake
9 Bay seems like a pretty natural geographic border, and
10 I told -- and so in those conversations both of us
11 kind of understood that the redistricting and the
12 change in the lines would mostly be affecting the
13 Western Shore where the greatest numbers of people
14 live and where the population growth was best.
15 Now, as we came up on the deadline for
16 submitting it, I asked either Joe Bryce or John
17 McDonough or somebody what sort of input are we
18 getting from Congressman Hoyer and the congressional
19 delegation. I'll check. They checked. Come back.
20 We're not hearing much back from them
21 So I got on the phone and reminded Congressman
22 Hoyer that we have a constitutional -- state

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1 constitution -- is it constitution? I'm not allowed
2 to ask questions. -- we have a deadline coming up. I
3 said, do you guys have any sort of draft map, any
4 ideas, any input? Because I'm on a deadline here. He
5 said, yeah, I've been meaning to come and talk with
6 you about that.
7 So he came in the next day, and, in essence,
8 reported that, despite his best efforts, that some
9 members of our own delegation refused to even discuss
10 what they, you know, even discuss what redistricting
11 might look like. They didn't want their district
12 changed at all.
13 And so I had to kind of jump-start and go into
14 a hurry-up offense, and I invited each of the members
15 of Congress to come to Annapolis. I would have gone
16 to them. We were not in session and the deadline all
17 of a sudden upon us. And so I met with each of them
18 individually and kind of looked over the map,
19 explained which way the population was moving, asked
20 them for their thoughts, their input, if they felt
21 there were communities of interest that were important
22 to them to keep together. Some of those -- and all of

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1 those conversations ultimately informed the map some
2 kind of way.
3 Roscoe Bartlett, who I came to really like and
4 respect and in many ways admire, was -- came prepared
5 with three different maps and laid them out, and we
6 had -- we had a long conversation, and I looked at his
7 map.
8 And others, Congresswoman Edwards was not
9 willing to discuss anything about the map and felt
10 that whatever we do in any other district is fine by
11 her, but she did not want a single precinct of her
12 district moved anywhere.
13 And then Andy Harris, who served -- we served
14 for a time together in Annapolis before he was elected
15 to Congress out of the State Senate -- I believe it
16 was -- was he minority leader of the Senate or deputy
17 minority leader? He was in leadership in the
18 Republican Party in the State Senate. Anyway, he came
19 in and he was just -- he really didn't have much
20 input. He -- except to reiterate what all of us
21 already knew, which was the real growth was happening
22 on the Western Shore and not the Eastern Shore. It

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1 was moving in a westerly and northwesterly direction,
2 and he was very happy to be -- to have the Chesapeake
3 Bay's borders, in essence, followed and respected
4 where his congressional district is concerned.
5 So he didn't have a lot of input. Congressman
6 Ruppertsburger, because he serves on intelligence,
7 though he represents the other side of the Patapsco
8 mostly, very much wanted to continue to have NSA and
9 its -- the neighborhoods around NSA in his
10 congressional district, which was not easy to
11 accommodate. So those were some of the conversations
12 I recall at this juncture.
13 Q. So Congressman Bartlett had three maps that
14 he presented?
15 A. I think. He may even had more. He came
16 prepared. He had a staff person with him too, I
17 think.
18 Q. And as a result of his maps were any
19 changes made in the maps that you ended up
20 recommending?
21 A. Possibly.
22 Q. Do you recall any specific changes that

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1 were made in response to presentations by Congressman
2 Bartlett?
3 A. I don't -- all of the presentations and the
4 druthers of -- of our congressional delegation,
5 Democrats and Republicans alike, those were solicited
6 before -- before borders were drawn. So I don't mean
7 to -- I'm not evading your question, but what I can
8 honestly say is, quite possibly, perhaps even
9 probably, as all of that input came down and Joe Bryce
10 and whoever the staffers were from the planning
11 department had to sit down and actually reduce it to
12 paper and decide this precinct there, that precinct
13 there, and work the models and massage it, probably
14 since Roscoe was one of the few that actually came in
15 with a map, it probably did inform it in some kind of
16 way.
17 John Delaney was irate after the eventual map
18 came out and was absolutely positively convinced that
19 we went out of our way to carve his million-dollar
20 home out of the Sixth District. And I said, John,
21 look, man, A, I had no idea you were even interested
22 in running for Congress, and, B, we're just not

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1 capable of that degree of follow-through and awareness
2 here. I mean, this is a big process with a lot of
3 input and collaboration. I'm sure if John had gone to
4 one of the meetings and said, hey, I really want my
5 neighborhood in there, I'm sure that would have been
6 something along with a mix of a million other factors
7 that also informed the map, so ...
8 Q. So you end up sending maps in your bill to
9 the Maryland Legislature, correct?
10 A. Yes, sir.
11 Q. And who drew those maps?
12 A. To the -- to the best of my knowledge,
13 information and belief, I believe it would have
14 ultimately -- since Joe Bryce was the head of my
15 legislative office, this was -- had to be reduced to a
16 bill in print with all of that indecipherable left by
17 this mete and right of that bound and north and
18 northwest and all of those things, he ultimately -- it
19 was his responsibility to make sure that the map was
20 accurate, that it was done right, and that -- and that
21 it observed all of the constitutional and legal
22 requirements and did not have a deviation from the One

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1 Person, One Vote thing.
2 So, ultimately, it would have been Joe. I'm
3 guessing, Mr. Ryan, that he probably had staff people,
4 cartographers, mapmakers, from our department of
5 planning, I think, and because the department of
6 planning is also responsible for so many other things
7 regarding census and that sort of stuff.
8 So, ultimately, in this hurry-up offense, after
9 we listened to members of Congress -- I believe I had
10 Joe with me on those meetings with the Congress
11 people. If not Joe, I had Jeanne Hitchcock. So there
12 was probably some -- it was either Joe or Jeanne
13 Hitchcock, probably both, with me in that sort of
14 hurry-up solicitation of input from all the members of
15 Congress.
16 Q. You were presented with proposed maps,
17 correct?
18 A. Congressman Hoyer might have come in a map
19 to which he confessed nobody supported. So when you
20 say was I given a map, I was given a map with the
21 caveat that -- that there's no consensus supporting
22 the congressional delegation for this map. So, in a

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1 sense, yes, Congressman Hoyer I do believe or his
2 staff person showed us a map, but it was not a map for
3 which he had any support or consensus from anybody in
4 the congressional delegation.
5 Q. Not to -- not to cut you off, but your
6 advisory committee provided you with maps, did it not?
7 A. Probably.
8 Q. Okay.
9 A. At some point, yeah. I mean, yeah, sure.
10 I mean, by the end, everybody had a map because we had
11 to reduce it to a bill and go with it.
12 Q. And did you know -- did your advisory
13 committee, the Governor's Redistricting Advisory
14 Committee, rely on outside consultants in any way to
15 come up with the maps that it presented to you?
16 A. I don't -- I'm not aware of that. My guess
17 is they probably got input from a lot of different
18 people. I don't know in the hindsight of six and a
19 half years whether we as a state paid for any sort of,
20 you know, GIS work or math work. I thought it was
21 mostly handled by the planning -- by the Planning
22 Department. I could be wrong on that. I don't

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1 recall. I don't remember who the -- who the
2 professional help was in terms of the, you know, maps
3 or numbers or those sorts of things, but it's my -- my
4 best recollection is that it was staff people at the
5 Department of Planning, but I could be wrong.
6 I didn't -- I don't go to that level of the --
7 it was in the middle of the legislative session. We
8 were spinning plates. We had a lot of things we were
9 trying to get done, including marriage equality and
10 repealing the death penalty, and there was a lot of
11 things going on. This was one of them, and I tended
12 to it with actually more time than I might have liked
13 to where the congressional map was concerned, but I
14 did not -- I was not in the room with the Department
15 of Planning people or those that were drawing the
16 maps. They would have come back to me at some point
17 before we submitted, and at some point I told them,
18 look, you can't let members of Congress read about
19 this in the paper. You got to share with our whole
20 delegation, Democrats and Republicans alike, the
21 borders of the map that we -- whenever we arrive at
22 it, you got to share it with them ahead of time

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1 because I'm not having them read it in the paper.
2 Q. Did you ever hear or were you ever told
3 that there was a consulting firm that assisted with
4 the drawing of the congressional district maps and
5 that that congressional firm -- I mean that that
6 consulting firm was a firm that specialized in helping
7 Democrats?
8 MS. KATZ: Objection, compound.
9 A. I don't recall having heard that, but it
10 would not surprise me that -- it would not surprise me
11 that -- that that would happen, nor would it surprise
12 me that there is a consulting firm that specialized in
13 helping Republicans that would have been helping the
14 House Republicans with their effort to either beat the
15 map or prevent it from getting the requisite number of
16 amount of support. So I know -- so I don't recall
17 that, but it would surprise me if that didn't happen
18 at some level.
19 Q. Okay.
20 (Exhibit 144 marked for
21 identification.)
22 Q. You've been handed what's been marked as

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1 Exhibit 144, and if you could take a look at it.
2 A. Is it the talk I gave right at the
3 beginning of Boston College that got your attention?
4 Q. Yes.
5 A. Yeah. I've seen it. I gave it. I wrote
6 it -- every word of it.
7 Q. And could you just confirm for me this is a
8 speech that you wrote?
9 A. Every page? You didn't slip in a false
10 one, did you?
11 Q. I did not.
12 MR. MEDLOCK: I'll represent I didn't
13 either.
14 A. Okay. Accepting that this is what you
15 printed out, this, I do believe, is a version of that
16 talk, which I had posted on a Medium site. Yes, I
17 hadn't -- I actually hadn't seen the pictures on it.
18 With some good pictures -- yes.
19 Q. So you gave this --
20 A. I sure did. I was -- I was asked to come
21 to the Rappaport Center for Public Policy and the Law,
22 which is at Boston College Law School. I taught a

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1 course at Boston College this semester. I fly up on
2 Sundays, come back Wednesday mornings. And the course
3 to about 25 young, aspiring American lawyers was about
4 performance management and leadership in the
5 information age. They gave me the title of this sort
6 of first talk they wanted me to give there, which was
7 an open forum. That's the Dean Rougeau behind there.
8 So that was open to the entire school. And they asked
9 me to address the topic of restoring the integrity of
10 our Democracy, that is to say, improvements that we
11 can make to perfect this union, especially when it
12 comes to protecting the constitutional right to vote,
13 which is not in the constitution, things like perhaps
14 abandoning the Electoral College since we have now
15 elected two presidents that lost the vote in just 16
16 years, public financing of elections. And one of them
17 I also addressed was about congressional
18 redistricting. It was a topic I have addressed many
19 times before. I do believe, and I've left it up for
20 your convenience, if you were to peruse my
21 presidential campaign website, you would see -- you
22 would see similar positions and -- laid out, namely

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1 this, in the context of this deposition today.
2 That while allowing for a partisan motive in
3 congressional redistricting is legal and
4 constitutional, it's not what's best for our
5 democracy. And I believe that we would be better as a
6 country if we had nonpartisan redistricting
7 commissions. I believe that that would -- I believe
8 that that would be the better way for our country to
9 go. In my own state that was not the reality that I
10 was dealing with during my time as governor, but,
11 hopefully, another governor will be able to sign a
12 bill that does that.
13 Q. So if you could turn to page 14 of 26.
14 We're looking at the page numbers in the upper
15 right-hand corner.
16 A. Yes, sir.
17 Q. And then at the bottom of the page where it
18 says No. 4, there's bold language that says, "We must,
19 on a state-by-state basis, push for an end to
20 gerrymandered congressional districts," and that's
21 just the first sentence of that.
22 Let me just ask you: By "gerrymandered," do

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1 you mean what?
2 A. By gerrymandered I mean districts that are
3 drawn with a partisan motive -- that are drawn, in
4 part, with a partisan motive.
5 Q. And partisan in this context means to favor
6 one political party over another; is that fair?
7 A. Correct.
8 Q. Okay.
9 A. Correct. And that's -- which leads to the
10 anomalous situation that you have in states like
11 Florida, Michigan, Pennsylvania where a majority of
12 people cast votes for Democratic Congress people, but
13 a majority of their delegations are Republicans.
14 Q. And you attribute that to gerrymandering.
15 A. Yes, and by gerrymandering, again, I mean
16 to -- allowing for a partisan motive in the
17 redistricting process provided one obeys the other
18 constitutional and legal requirements. Some of those,
19 although some of those have been -- so yes.
20 Q. Okay. Now if you could turn to page 16 of
21 26, please.
22 A. You're skipping the North Carolina maps?

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1 Q. No, we can --
2 A. That's all right.
3 Q. So page 16 of 26 you say, at the top, "As a
4 governor, I held that redistricting pen in my own
5 Democratic hand," right?
6 A. Mm-hmm, right. I am a Democrat.
7 Q. Right. And you said, "I was convinced that
8 we should use our political power to pass a map that
9 was more favorable for the election of Democratic
10 candidates," correct?
11 A. Mm-hmm.
12 Q. And --
13 A. Yes.
14 Q. And with respect to drawing a map that was
15 more favorable to the election of Democratic
16 candidates for the -- for Congress, that was
17 accomplished by redrawing the borders of the Sixth
18 District, correct?
19 A. It was accomplished by redrawing virtually
20 all of the borders except the first to accommodate the
21 patterns of growth and population shift, and while at
22 the same time abiding by the constitutional and legal

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1 frameworks creating, yes, creating a -- part of -- one
2 of the considerations I had was to create a district
3 that was more favorable rather than less favorable to
4 Democratic nominees, and that was true both at the --
5 not only at the Congressional level, but in the House
6 and the Senate map as well.
7 Q. Right, but focusing on the Congressional
8 level, and when you say more favorable to Democratic
9 candidates than Republican candidates, how do you
10 determine that favorability? What are the criteria
11 that you look at? What I'm driving at, of course,
12 party registration might be one.
13 A. Right.
14 Q. What in addition to party registration do
15 you look at?
16 MS. KATZ: Objection, leading.
17 Q. Well, let me back up. Do you look at party
18 registration?
19 A. Sure.
20 Q. And what else do you look at?
21 A. We look at -- I mean, you look at so many
22 factors when you put together the map. I mean, it's

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1 not only party registration, it's also -- I mean,
2 there are many factors that go into -- geography, the
3 desires of municipalities. All of it has to also be
4 done, mindful always, of One Person, One Vote. It's
5 like a Rubik's Cube.
6 You know, Mr. Ryan, when you move one precinct
7 here and one district, it changes -- it ripples
8 through all the others, let alone if you move an
9 entire corridor or if you move, you know, half the
10 city. If you accede to the desire of a mayor to only
11 be represented within one district or two, I mean,
12 that can -- they're all connected, you know. They're
13 all connected, so you can't really move one without
14 the other.
15 So there are many factors that go into it,
16 including party registration, but also there's other
17 considerations as well. I mean, there's a lot of
18 people in our state who register as Independents, and
19 in this part of our state -- we sit here in Baltimore,
20 Maryland -- in this part of our state, when people
21 register as Independents, they have a greater
22 propensity to actually vote Republican. In other

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1 parts of the state people who register as Independents
2 are federal employees fearful of being whacked or
3 unfairly targeted by a Republican administration, and
4 so they register as Independents for deniability, but
5 they're inclined to be Democrats, and they have given
6 their life's work to building up our country's
7 government, not to wrecking it or tearing it apart,
8 or, as Mr. Bannon said, what was the phrase,
9 "dismantling The Administrative State."
10 Q. Right. So in looking at -- in looking at
11 precincts, neighborhoods, sections of congressional
12 districts, you look at voting histories in addition to
13 voting registration -- party affiliation, correct?
14 MS. KATZ: Objection, leading.
15 A. Yes. I say yes, and by "you" I understand
16 you to mean one. I mean, I didn't get to a level
17 of -- I did not -- yes, one would look at all of those
18 things when one puts together a map. Whether that one
19 is a staffer, a member of Congress, a governor, a
20 member of the Commission, these are all factors that
21 come into the redistricting map.
22 Q. Right.

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1 A. To be entirely truthful, I never sat down
2 at that level of granularity that you would suggest.
3 I relied on -- I relied on really capable staff people
4 to do that --
5 Q. Right.
6 A. -- and they knew that my order was clear.
7 You had better make sure that we obey every
8 constitutional and legal requirement in putting this
9 map forward because it will be challenged, as, indeed,
10 almost all of them are everywhere in the
11 United States.
12 Q. Okay.
13 A. We also kind of expected it to go to
14 referendum too, I think, just because that had been
15 made so much easier by the judicial -- by the judicial
16 decision that electronic signatures work as well as
17 paper signatures for petitioning things to referendum.
18 And it did go to referendum, and it passed, I think,
19 with -- was it 69% of the vote? I think it was 69%.
20 Q. And what do you conclude from that, that
21 69% of the people -- of the voters approved it?
22 A. I don't know how frequently these things go

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1 to referendum. That was the first time I can remember
2 it go to referendum. And it was certainly -- The
3 Washington Post's editorial powers, I think, printed
4 three lead editorials with, you know, pictures of the
5 map and urged everyone to vote against it because this
6 wasn't, in their opinion, good government.
7 So it was -- it was not a referendum question
8 that -- how do I say this positively -- it was
9 certainly a topic of conversation among the public.
10 Q. And was -- was the map that was drawn
11 ultimately, the congressional map, was that good
12 government in your view?
13 A. Yes.
14 Q. Okay. And was the Sixth --
15 A. It's not the best government, though.
16 Q. Was the Sixth --
17 A. The best government, as I've said many
18 times before, as I said on the campaign, as I said in
19 this talk at Boston College, the best way to do it
20 would be to have nonpartisan redistricting
21 commissions, but, yes, from the standpoint of -- and
22 keeping in mind -- keeping in mind that the estuary

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1 that runs through the center of our state, yes, we did
2 our very best with the process that we had and the map
3 from which we began.
4 It's easy for people to look at our -- at
5 our -- at the unique shape of our state and then look
6 at the congressional districts within it and conclude
7 that these are not squares, but should also look at
8 the map that we began with, which was also not
9 squares.
10 Q. So on page 16 of your speech, Exhibit 144,
11 there's a paragraph that says in the middle of the
12 page, quote:
13 "But that doesn't mean that the
14 antiquated partisan redistricting
15 process -- now combined with big
16 data, geographic information systems,
17 and micro-targeting of precinct by
18 precinct voting trends -- is good for
19 our country as a whole, or for our
20 country's future," end quote.
21 A. Right.
22 Q. And so in the 2011 redistricting process,

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1 was -- did big data, Geographic Information Systems,
2 and micro-targeting of precinct by precinct voting
3 trends play a role in the recommendations or the bill
4 that you sent to the Maryland Legislature?
5 A. I'm sure that and many other things did,
6 yes.
7 Q. Okay. And who -- who was it that compiled
8 and examined the big data, the Geographic Information
9 Systems, and the micro-targeting of precinct by
10 precinct voting trend, who did all that?
11 A. I imagine it was done at a staff level and
12 the refining of these maps and with the staff at the
13 Department of Planning and my own legislative
14 director, Joe Bryce, and the input of all of those
15 that were on the Congressional Redistricting
16 Commission, and taking into account other factors as
17 well, sort of historically where had a neighborhood or
18 a county, you know, what district had they been in,
19 what are the natural borders. I've mentioned several
20 times about our desire not to cross the Chesapeake
21 Bay. All of those things informed it. And I'm
22 also -- yeah, so all of those things, all of those

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1 things informed the process.
2 Q. And how granular were you able to get with
3 respect to where the Republican voters are? When I
4 say "Republican voters," I mean voters who vote for
5 Republican candidates as opposed to registration.
6 A. Yeah, I mean, the map had to go down to a
7 precinct-by-precinct level.
8 Q. Right.
9 A. So we at least went down to the precinct
10 level. I mean, that's in the metes and bounds in the
11 language of the map. So I don't think we ran through
12 a precinct. I could be wrong in that. I didn't get
13 to that level of detail myself in my involvement with
14 this.
15 Q. When you split Frederick County in two --
16 A. Well, we definitely split many counties in
17 different congressional districts, especially the big
18 ones where all the people live.
19 Q. Right. Well, of course, Montgomery County
20 has more people than one congressional district would
21 permit, right?
22 A. Right. It's the largest -- I think it's

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1 the largest -- I think it's the most populous county
2 in the state.
3 Q. Frederick County does not, though. You
4 could put Frederick County in -- keep it in the same
5 congressional district, correct?
6 A. Technically perhaps you could.
7 Q. Right.
8 A. Perhaps. Perhaps.
9 Q. And the decision to split it was
10 principally driven by denying Republicans that Sixth
11 Congressional District seat, correct?
12 MS. KATZ: Objection, leading.
13 A. No, I wouldn't say primarily, but I would
14 say, as I've said many times before, that our primary
15 motive was to abide by our duty in statute and within
16 the metes and bounds of the constitution -- or maybe I
17 should say constitutions -- to do redistricting, but
18 among the motives we had was, yes, drawing a map that
19 would be more favorable rather than less favorable to
20 potential Democratic nominees at the House level, at
21 the Senate level, and at the Congressional level.
22 Your question -- the call of your question

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1 about Frederick, if you look at the counties that have
2 grown by the greatest in terms of population, I do
3 believe Frederick would be way up there, certainly --
4 in percentage, I mean, the population growth in
5 Frederick has been pretty big, so the population move,
6 since, again, remembering we had decided not to go
7 east jumping the Chesapeake Bay and going over the Bay
8 Bridge with a little sliver, as once happened in a
9 congressional district map -- Tom McMillen could tell
10 you about it -- you know, the movement of
11 population -- the movement of congressional borders
12 would follow the movement of population and the growth
13 in population, and that was west, and it was west up
14 through Frederick, out of Montgomery County and into
15 Frederick, like-minded corridors of people in many
16 respects, especially when it, you know, you hug that
17 east side of the 270 Corridor.
18 Q. Okay. So if you turn to page 15 of your
19 speech, the one with the North Carolina map -- maps --
20 on it, okay, and you say -- you say here -- there's a
21 paragraph, "a system that digs ideological trenches
22 around incumbents -- incumbents whose approval

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1 ratings, as a group, have hovered below 20% for nearly
2 a decade," and then immediately below that you have
3 two examples of how gerrymandering can swing
4 elections, correct?
5 A. Yes. I think three -- no, two.
6 Q. Right. The third is --
7 A. Hypothetical.
8 Q. -- nonpartisan, a non-gerrymandered map, I
9 take it, correct?
10 A. I guess so. I'm not sure. I didn't -- I
11 don't think I --
12 Q. But your point here is that the first two
13 maps reflect how it's done today in the majority of
14 states, correct, the gerrymandered process?
15 A. Well, you know, in a majority of states,
16 yeah, in a majority of states it is a partisan
17 exercise. I'm not sure how many; I think it's north
18 of 40. My guess is probably 45 states. And some
19 states are starting to move to nonpartisan
20 redistricting commissions, and I think that would be a
21 positive and healthy and good thing for our nation.
22 I didn't have the ability to get that done

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1 while I was governor. There would not have been
2 support in my chambers to do that. But maybe, as
3 people come to understand and become rightly and more
4 deeply concerned about the non -- the unrepresentative
5 nature of our House of Representatives, not to mention
6 the unrepresentative nature of the Electoral College,
7 I think that reforms are called for, and a better one
8 on this, which I also advocated during my
9 all-too-brief run for President was that we move to
10 nonpartisan redistricting commissions, and I still
11 believe that.

12 Q. So do I understand you, Governor,
13 correctly, that, look, you would prefer nonpartisan
14 over gerrymandered congressional districts, but during
15 the 2011 process you had no choice, you had to do --
16 you had to take the gerrymandered approach.

17 MS. KATZ: Objection, mischaracterizes
18 testimony.

19 A. Yeah, you -- and maybe -- the process that
20 we had in our state, I don't believe I would have had
21 the ability -- now I could be wrong. Sometimes issues
22 move quickly than any of us can judge.

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1 Q. Right.

2 A. And part of the judgment of any leader is
3 to pray for the wisdom to know when the seeds of
4 change will actually take root and flourish. So we
5 were way -- we were ahead of the curve on marriage
6 equality, we were the first state south of the
7 Mason-Dixon to repeal the death penalty, one of the
8 first states to pass the DREAM Act, you know, in-state
9 tuition for kids of undocumented parents. So on a lot
10 of those we were able to get that done.

11 It was my judgment on this one that I wasn't
12 going to be able to change this one in my time, and so
13 we had -- our process was the process that had been in
14 place for long preceding me that allows for whoever
15 the executive is to drive this. And I did it as best
16 I could with as much respect for all of the
17 stakeholders as I could. And that's why I met with
18 each member of the congressional delegation as well.

19 None of us -- nobody ever likes the
20 redistricting process, but we -- the -- certainly as a
21 nation, especially when we lost all of those
22 Democratic state legislatures and all of those

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1 Democratic governorships, it has had -- it has had a
2 debilitating effect on our -- on our Congress. And I
3 did the very best, given where we were, with the map
4 we had, to accommodate growth patterns, to -- and also
5 to respect the constitutional guidelines and the legal
6 parameters and to have a process where we solicited a
7 lot of input from a lot of people.

8 I don't think there's anybody that says we
9 didn't return their call if they had input. Lots of
10 people had lots of input. And then we did our very
11 best to put forward a map. And, yes, that map, I
12 hope, because this was part of our intent, was more
13 favorable to Democrats rather than -- rather than less
14 favorable to Democrats. I suppose the reason why the
15 staff person put North Carolina there is because, you
16 know, that's another case in point of a -- of a huge
17 swing.

18 MR. RYAN: Why don't we take a five-minute
19 break.

20 THE WITNESS: Okay.

21 VIDEO SPECIALIST: The time is 11:52 a.m.,
22 and we're going off the record.

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1 (Proceedings recessed.)

2 VIDEO SPECIALIST: The time is 12:06 p.m.,
3 April 26th, 2017, on the record with video 2.

4 BY MR. RYAN:

5 Q. Governor --

6 A. Yes, sir.

7 Q. -- did Congressman Stoyer provide you with
8 maps?

9 A. Hoyer?

10 Q. Yes.

11 A. Probably. He probably had some. As I
12 recall, it was a rough map, and he -- and he didn't
13 have any -- any consensus support really from the
14 congressional delegation for it, so -- I believe,
15 though, that he did -- I did see some map that he had
16 roughly laid out.

17 Q. Did you ask Congressman Hoyer to provide
18 you with maps?

19 A. I asked him to talk to the congressionals
20 and come back to us with some input on -- on how we
21 might -- on how we might do the congressional district
22 borders as part of this process.

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1 So, yes, I was hoping he would have been a
2 little further along, and I was hoping that he would
3 have had more success in getting other members of the
4 congressional delegation on board as to at least
5 some -- some -- at least some parameters of what the
6 redistricting map might look like.
7 Q. And did you speak --
8 A. But he didn't. It was very rough.
9 Q. Sorry.
10 A. I don't know that we even -- yeah, it was
11 very rough. It felt like we were starting from
12 scratch, honestly.
13 Q. Did you talk with Congressman Hoyer about
14 particular districts, congressional districts?
15 A. Yes, I certainly went through feedback,
16 asked him for the feedback he had received from other
17 members of Congress on this, and he -- and he went
18 through that, as I -- yeah, he went through where --
19 what the input was from the various members of the
20 congressional districts.
21 Q. Did you talk to him about the Sixth
22 Congressional District?

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1 A. I talked to him about each one, including
2 the Sixth.
3 Q. And what, if anything, did Congressman
4 Hoyer say about redrawing the boundaries of the Sixth
5 District?
6 A. He agreed that jumping over the Chesapeake
7 Bay didn't make a lot of sense considering that the
8 population shift was out the 270 Corridor, out through
9 Montgomery County and into Frederick. I don't
10 remember any other details of it. I remember --
11 Here's what I remember most: I remember being
12 profoundly disappointed that there wasn't a better --
13 that he -- that there wasn't a consensus from our
14 congressional delegation on the metes and bounds of
15 this, because we had all kind of known that the
16 population shift in our state was out that 270
17 Corridor, and -- and that that's where the
18 congressional lines would change the most.
19 Q. But just so -- just so the record's clear,
20 there was no discussion of jumping the boundaries of
21 the Sixth District over the Chesapeake.
22 A. You'd be surprised at how many crazy-ass

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1 ideas people came up with in the course of this.
2 Q. That was not an idea that was seriously
3 considered by anyone?
4 A. Oh, there were many crazy-ass ideas that
5 were not seriously considered, but there were many
6 crazy-ass ideas.
7 Q. Okay. Let me ask it a better way. Your
8 reference to jumping across the Chesapeake, that
9 doesn't have to do with the boundaries of the Sixth
10 Congressional District, does it?
11 A. It could potentially.
12 Q. Okay.
13 A. It could, but we weren't going to do that.
14 Q. And was --
15 A. I wasn't going to do that.
16 Q. In your discussions with Congressman Hoyer
17 about the boundaries and -- about the congressional
18 boundaries, would it be fair to say he was not looking
19 out for the interests of Republican voters?
20 MS. KATZ: Objection.
21 A. We -- I was -- as the dean of the Maryland
22 delegation and the -- and he too is a lifelong

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1 Democrat, so, yes, we all -- those of us in leadership
2 positions in our party, the Speaker, the Senate
3 President, the Democratic Dean of the Delegation,
4 myself, Lieutenant Governor, we all understood that,
5 while our -- while we must fulfill our responsibility
6 on redistricting, must be mindful of constitutional
7 guidelines, restrictions, case law, statutes, it was
8 also -- part of our intent was to create a map that
9 was more favorable for Democrats over the next ten
10 years and not less favorable to them. Yes, that was
11 clearly one of our many modus. And Congressman Hoyer
12 also had the additional -- I mean, he was a member of
13 one of those districts too, although I guess he said
14 the same thing to the Senate President and the
15 Speaker.
16 Q. He was a member of what districts?
17 A. I mean he was an individual member of
18 Congress.
19 Q. Oh, right.
20 A. So he had his, I'm sure, relationships and
21 people he had been honored to serve for many years
22 from towns and cities and places that are very well

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1 known to him in his own district.
2 Q. When the district -- when the new
3 boundaries were approved and with respect to the Sixth
4 District in -- the Sixth Congressional District -- did
5 you have a view at that time of the likelihood that
6 that district would shift to the Democratic column?
7 A. That was my hope.
8 Q. Right.
9 A. It depends -- look, nobody has a crystal
10 ball. That was certainly my hope, and it was part of
11 my intent, in addition, and primarily to fulfilling my
12 constitutional responsibilities, respecting the law,
13 and doing all of this within the parameters of the law
14 and the appropriate case law, as so developed, it was
15 also my intent to create a map that would be more
16 likely to elect or create -- create a district where
17 the people would be more likely to elect a Democrat
18 than a Republican, yes, this was clearly my intent.
19 Q. Did you have -- and I guess I'm asking
20 about degree of confidence, if you're able to describe
21 it -- that that would be the case after the lines were
22 redrawn in the Sixth District?

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1 A. You know, the degree of confidence ...
2 honestly, Mr. Ryan, everything I thought I knew about
3 politics I no longer know.
4 Q. Okay.
5 A. It's all piled high on my dining room table
6 waiting for the yard sale. I might keep a couple
7 pieces out of sentimental value, but it's hard to say.
8 I mean, we elected a president that's not a
9 Republican. So it's hard to say, and it's also
10 dependent on how our Democratic primary rolled. I
11 mean, a lot of -- there were a lot of people in
12 Annapolis -- Senate President, Speaker and other
13 people in the state legislative circles -- who
14 believed that the nominee would be Senator Garagiola,
15 but people had a different idea, and they elected a
16 very conservative Democratic Congressman who is
17 outspoken in his defense of Wall Street interests and
18 didn't even live in the district. So how confident
19 was I? I don't know. Maybe Garagiola wouldn't have
20 beaten Roscoe Bartlett -- maybe.
21 Congressman Bartlett, who, as I said, you know,
22 I actually -- I came to greatly admire Roscoe

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1 Bartlett. He was one of the few members who went to
2 all of the line-of-duty funerals for our soldiers who
3 came home in boxes from Iraq and Afghanistan, and I
4 actually came to greatly admire him. In fact -- so he
5 had -- he had various maps, and he said -- in fact he
6 said, this is a map, he said, I'm an older guy, so you
7 got to give me at least a couple percentage points
8 head start on Garagiola. And so he -- he had various
9 maps and -- he thought his opponent would be Garagiola
10 too. He didn't think it would be Delaney. Nobody
11 even knew Delaney was considering running for
12 Congress.
13 Q. So did you ever -- in connection with the
14 redistricting -- become familiar or hear about a
15 metric called "Democratic performance"?
16 A. I am long familiar with that, because when
17 I went to law school here back in the day I was very
18 involved in campaigns. I was Barbara Mikulski's field
19 director for her United States Senate race. First
20 woman to ever be elected without succeeding her
21 husband, I do believe, to the United States Senate.
22 And so I was very familiar then with a group called

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1 NCEC, National Committee for an Effective Congress is
2 what they were called then, and as a field director in
3 a campaign, I certainly, you know, a statewide
4 campaign, you know, was familiar with the concept of
5 Democratic performance, which is where they take an
6 amalgam of various candidates over the years and come
7 up with some sort of mathematical number that they
8 attach, which -- which they believe has some sort of
9 predictive value. In this day and age, like I said
10 before, I'm not sure -- I'm not sure -- I'm not sure
11 how much predictive value anything has.
12 Q. And so --
13 A. In other words, they look at past
14 performance of various Democratic candidates, take an
15 average, and I think that's what you're referring to
16 when you say Democratic performance. And the
17 Republicans, I mean, do the same thing, Republican
18 performance, whatever the index is. It's something
19 that I think the members of Congress were much more
20 cognizant of than perhaps I was.
21 Q. Right. And so you mentioned an outfit
22 called NCEC?

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1 A. That's what they were called then.
2 Q. Who -- who were they?
3 A. Back -- back in 1986 it was some sort of, I
4 assume, Democratic group called the National Committee
5 for an Effective Congress. I don't know if they still
6 exist or if they have gone through a different
7 iteration or have a different name, but when I was --
8 when I was a field director, when I was running
9 campaigns, when I was in law school, that was the name
10 of the group that was doing it.
11 Q. And did NCEC have any role in the 2011
12 congressional redistricting in Maryland as far as you
13 know?
14 A. I don't know. I don't know if they still
15 exist. If they still exist or if they exist under a
16 different name, I'm sure they probably sent in numbers
17 or sent in a map, or made data available to us. And
18 I'm sure whoever their Republican counterpart is made
19 the same sort of analysis and numbers available to our
20 Republican brothers and sisters in the House and the
21 Senate and in Congress.
22 Q. So you would expect that in a congressional

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1 redistricting process, not just in Maryland but
2 generally, there are firms that -- consulting firms --
3 that work with Democrats and consulting firms that
4 work with Republicans --
5 A. Right.
6 Q. -- to try to come up with the best possible
7 boundaries for their respective parties.
8 A. Correct.
9 Q. All right. And if -- are you aware whether
10 the Maryland Democratic Congressional Delegation in
11 2011 relied on such a consulting firm, be it NCEC or
12 some other firm?
13 A. I would be -- I would certainly hope so and
14 think so. For all I know it might be something done
15 out of the DNC now, I don't know, but every member of
16 Congress can tell you off the top of their head
17 whatever their -- Democrat or Republican -- would tell
18 you what their performance index is for their -- for
19 their congressional district.
20 So I would -- I would imagine. I mean, I would
21 be shocked if whoever -- yeah, certainly they fired in
22 numbers to us or shared those books. When I was

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1 looking at them -- this was before the Internet and
2 stuff -- it was like a giant three-ring binder of
3 numbers and tabulations, and you had to kind of go
4 make your own map. I'm sure -- I'm sure they're
5 better at it now.
6 Q. And during the 2011 process were you
7 presented with information or data that, on its face,
8 or you were told this was prepared by this consultant
9 or that consultant?
10 A. No, I was not, that I recall.
11 Q. Right.
12 A. I was not, but we were -- but my staff
13 would have been cognizant of the number of Democratic
14 registrants or Democratic performance, Republican
15 performance, likely down to a precinct level. Where
16 the information came from, I don't know.
17 From my involvement in the process, it was
18 more -- from my involvement in the process, I would
19 be -- I would ask a question like that, like, what's
20 the Democratic registration, Republican registration,
21 but I don't -- I don't ever recall seeing that big
22 three-ring binder, and I wouldn't have at my -- at

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1 my -- at my point of involvement, it would have been
2 different iterations especially in the hurry-up
3 offense of the congressional district map, and then --
4 and then Joe Bryce would have to go back and
5 double-check and triple-check with the bill drafters
6 and everybody else to make sure that they got the
7 right math right, that it didn't deviate from the One
8 Person, One Vote mathematical, you know, whatever that
9 deviation is, which I forget right now, but I would
10 not have gotten involved to that level. I would --
11 when we called our Congressional members back, we
12 would, you know, we would certainly apprise them, and
13 I do believe we called them back before we released
14 the map -- at least I hope so. That was my intent
15 anyway.
16 Q. So just refresh my memory, if you would,
17 please. Joe Bryce is who?
18 A. Joseph Bryce is the head of my -- I believe
19 we call him Director of Legislative Affairs in the
20 Governor's office. So he would be the person, the
21 lawyer, primarily responsible for shepherding, not
22 only the Governor's priority bills through the House,

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1 but also the budget and everything else. He was a man
2 who would work on a daily basis with his counterparts
3 in the Speaker's office and the Senate President's
4 office, if we needed to deploy him to a committee
5 chairman or to monitor hearings. Joe had to manage
6 probably a staff of five or six. This is even in a
7 non-congressional -- I mean non-redistricting year.
8 He would have to manage a staff of five or six spread
9 over various subject matters that would be responsible
10 for articulating the Governor's position on various
11 bills that the legislature would put up, the vast
12 majority of which we don't originate, but we would --
13 there are some things that would be a priority for the
14 administration, like our budget or passing marriage
15 equality, banning assault weapons, repealing the death
16 penalty, those things would be Governor's priorities,
17 as, indeed, this redistricting map would have been in
18 this particular year.
19 Q. And Brian Remick, do you recognize that
20 name?
21 A. No.
22 Q. R-E-M-I-C-K.

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1 A. No.
2 Q. Jason Gleason, is that a name that you
3 recognize?
4 A. No. Did they work for me?
5 Q. I don't think so, or else you'd recognize
6 them, I'm sure. Just names I've seen and I wanted
7 to --
8 A. I don't -- I don't remember their names.
9 Now we would sometimes have interns come through just
10 for the legislative --
11 Q. These aren't interns.
12 A. Okay. No, I don't remember -- neither of
13 those names rings any bell with me.
14 Q. Does Eric Hawkins ring any bells? And this
15 would be in connection with the redistricting process.
16 A. No.
17 Q. Okay. Now just in terms of what you would
18 expect your staff to do in the redistricting -- in the
19 process of coming up with the new districts or
20 redistricting process, it would be -- it would be okay
21 for the staff to meet with the congressional
22 delegation or the staff of the congressional

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1 delegation, right --
2 A. They should meet with everybody they
3 possibly could --
4 Q. -- to collect information?
5 A. -- and return -- and also return all phone
6 calls, yep. Yes, sir.
7 Q. Would that include consultants for the --
8 for the Congressional, Democratic Congressional
9 Delegation or the Republican Delegation?
10 MS. KATZ: Objection, lack of foundation.
11 A. Sure, I guess.
12 Q. Not whether they did. I'm not
13 asking whether they did, but would that be okay?
14 A. Yeah, we were pretty open.
15 Q. No limits on their ability to gather
16 information?
17 A. No. I mean, my understanding of the
18 statute and the reason for having the public hearings
19 was to solicit as much input as possible and not as
20 little as possible.
21 Q. So I'm trying to distinguish between --
22 sure, at public hearings --

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1 A. Mm-hmm.
2 Q. -- but what about -- by the way, I'm not
3 saying this happened and I'm not saying there would be
4 anything wrong if it did happen. I'm just trying to
5 figure out what sort of the boundaries are for how
6 information is gathered.
7 Suppose there's a Democratic consulting firm
8 that's operating out of Capitol Hill that provides
9 information to Democratic Congressional Delegations
10 about Democratic performance or other metrics. Just
11 assume that.
12 A. Right.
13 Q. Would it be okay for your staff to go meet
14 with those folk?
15 A. Yes.
16 Q. Did they?
17 A. Don't know. I would be surprised if they
18 didn't.
19 Q. You would be surprised if they did not?
20 A. Yeah, but I don't know. I would think most
21 of that information is publicly available or posted on
22 a DNC website, isn't it, by now? I mean, that's why

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1 I'm not even sure if NCEC exists anymore. At the time
2 it was considered like state-of-the-art stuff, but ...
3 Q. Have you ever -- are you familiar with a
4 computer program that is used in redistricting called
5 Maptitude? Have you ever heard of that?
6 A. No, sir.
7 Q. Are you a computer guy?
8 A. You know, I'm not a digital native. Dag
9 Hammarskjöld said, "time goes on, reputation
10 increases, ability declines." I have a reputation for
11 being a map guy, but I always relied on smart, young
12 people around me to generate the maps of, you know,
13 whether it was crime patterns or potholes or the
14 Chesapeake Bay, we used GIS maps to great effect, but,
15 no, I don't -- I don't recall -- I don't believe I've
16 heard or ever played with a map called whatever --
17 map --
18 Q. Maptitude.
19 A. Maptitude.
20 Q. Okay. Give me just a second.
21 THE WITNESS: The coffee is cold.
22 MS. KATZ: Yeah.

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1 THE WITNESS: It's probably bad for me.
2 VIDEO SPECIALIST: Keep in mind we're still
3 rolling.
4 (Exhibit 145 marked for
5 identification.)
6 Q. So just showing you what appears to be an
7 email chain marked as Exhibit 145, and I asked you
8 earlier about Brian Romick -- and that's a name I
9 think you said is not familiar to you, correct?
10 A. Right.
11 Q. Okay. And then sort of in the middle of
12 the page there's an email that says, "Brian: OK.
13 Have to come back to NCEC after meeting with the
14 Governor, as I have much to do on the first day with
15 everyone returning," and then "C," the letter C. Do
16 you know who that is?
17 A. No.
18 Q. So nobody comes to mind that would sign
19 their emails "C"?
20 A. No.
21 Q. Okay.
22 A. Nope. I don't know anybody named C.

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1 Q. And just looking at that email, does it
2 refresh -- I know you did a lot of meetings -- does it
3 refresh your recollection about any particular
4 meeting?
5 A. No.
6 Q. Does it refresh your memory as to whether
7 in any of the meetings you had on redistricting NCEC
8 came up?
9 A. I don't have any -- I don't have any
10 particular recollection of that. I know -- I know
11 from my involvement in 1986 of NCEC. I actually
12 didn't even recall that they still exist, but I guess
13 by showing me this email they do still exist and they
14 still call themselves NCEC.
15 It is entirely possible I might have met with
16 them. I have no recollection of it. And sometimes --
17 yeah, I have no recollection of ever meeting with
18 them, but everything -- everything I did was
19 scheduled, and they loaded me up and would give me an
20 hour break in the middle of the day, and, other than
21 that, I did a ton of meetings.
22 I don't recall meeting with them. I think if I

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1 had -- I don't know -- I would probably remember to
2 this day that NCEC still exists, so my guess is
3 that -- no, I don't have any recollection of that, and
4 I don't -- nor do I know who MG2590 is.
5 MR. RYAN: Why don't we take two minutes
6 and see if we have anything else.
7 THE WITNESS: Okay.
8 MS. KATZ: Okay.
9 VIDEO SPECIALIST: The time is 12:30 p.m.
10 We're going off the record.
11 (Proceedings recessed.)
12 VIDEO SPECIALIST: The time is 12:37 p.m.,
13 and we're back on the record.
14 MR. RYAN: Governor, we appreciate your
15 time. We don't have any other questions.
16 THE WITNESS: Sure. Cool. Thank you,
17 Mr. Ryan. Thank you all. Appreciate it.
18 MR. RYAN: Do you have any questions?
19 MS. KATZ: We do not. Thank you.
20
21
22

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1 VIDEO SPECIALIST: The time is 12:38 p.m.
2 on April 26th, 2017. We're going off the record
3 completing the videotaped deposition.
4 (Reservation of signature of deponent not
5 having been discussed, the deposition of MARTIN
6 O'MALLEY adjourned at 12:38 p.m.)
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1 CERTIFICATE
2 I, LINDA S. KINKADE, Registered Diplomate
3 Reporter, Certified Realtime Reporter, Registered
4 Merit Reporter, Certified Shorthand Reporter, and
5 Notary Public, do hereby certify that prior to the
6 commencement of examination the deponent herein was
7 duly sworn by me to testify truthfully under penalty
8 of perjury.
9 I FURTHER CERTIFY that the foregoing is a true
10 and accurate transcript of the proceedings as reported
11 by me stenographically to the best of my ability.
12 I FURTHER CERTIFY that I am neither counsel for
13 nor related to nor employed by any of the parties to
14 this case and have no interest, financial or
15 otherwise, in its outcome.
16 IN WITNESS WHEREOF, I have hereunto set my hand
17 and affixed my notarial seal this 26th day of April
18 2017. My commission expires May 13, 2019.
19
20
21
22

NOTARY PUBLIC IN AND FOR
THE STATE OF MARYLAND

Page 99

1 Martin O'Malley c/o
2 Office of the Attorney General
3 200 St. Paul Place
4 Baltimore, Maryland 21202
5
6 Case: O. John Benisek, et al. v. Linda Lamone, et al.
7 Date of deposition: April 26, 2017
8 Deponent: Martin O'Malley
9
10 Please be advised that the transcript in the above
11 referenced matter is now complete and ready for signature.
12 The deponent may come to this office to sign the transcript,
13 a copy may be purchased for the witness to review and sign,
14 or the deponent and/or counsel may waive the option of
15 signing. Please advise us of the option selected.
16 Please forward the errata sheet and the original signed
17 signature page to counsel noticing the deposition, noting the
18 applicable time period allowed for such by the governing
19 Rules of Procedure. If you have any questions, please do
20 not hesitate to call our office at (202)-232-0646.
21
22

Sincerely,
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1 Digital Evidence Group, L.L.C.
2 1730 M Street, NW, Suite 812
3 Washington, D.C. 20036
4 (202) 232-0646
5
6 SIGNATURE PAGE
7 Case: O. John Benisek, et al. v. Linda Lamone, et al.
8 Witness Name: Martin O'Malley
9 Deposition Date: April 26, 2017
10
11 I do hereby acknowledge that I have read
12 and examined the foregoing pages
13 of the transcript of my deposition and that:
14
15 (Check appropriate box):
16 () The same is a true, correct and
17 complete transcription of the answers given by
18 me to the questions therein recorded.
19 () Except for the changes noted in the
20 attached Errata Sheet, the same is a true,
21 correct and complete transcription of the
22 answers given by me to the questions therein
recorded.

DATE WITNESS SIGNATURE

DATE NOTARY

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<p>Digital Evidence Group, LLC 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202)232-0646</p> <p style="text-align: center;">ERRATA SHEET</p> <p>Case: O. John Benisek, et al. v. Linda Lamone, et al. Witness Name: Martin O'Malley Deposition Date: April 26, 2017 Page No. Line No. Change</p> <p>_____</p> <p>Signature Date</p>	
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