

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

-----x
O. JOHN BENISEK, et al., :
 :
 :
 Plaintiffs, :
 : Case No.
 :
 vs. :
 : 13-cv-3233
 :
 LINDA H. LAMONE, et al., :
 :
 :
 Defendants. :
-----x

Bethesda, Maryland
Monday, April 24, 2017

VIDEOTAPED Deposition of:

SENATE PRESIDENT THOMAS V. MIKE MILLER,
the witness, was called for examination by counsel
for the Plaintiffs, pursuant to notice, commencing
at 9:57 a.m., at the law offices of Lerch, Early &
Brewer, Chtd., 3 Bethesda Metro, Suite 460,
Bethesda, Maryland 20814, before Dawn A. Jaques,
CSR, CLR, and Notary Public in and for the State
of Maryland.

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

1 A-P-P-E-A-R-A-N-C-E-S
 2 ON BEHALF OF THE PLAINTIFFS:
 3 STEPHEN M. MEDLOCK, ESQ.
 4 MICAH D. STEIN, ESQ.
 5 KARIANNE JONES, ESQ.
 6 KATHERINE E. MONKS, ESQ.
 7 Mayer Brown LLP
 8 1999 K Street, NW
 9 Washington, D.C. 20006
 10 PHONE: (202) 263-3127
 11 FAX: (202) 263-3300
 12 EMAIL: smedlock@mayerbrown.com
 13 mstein@mayerbrown.com
 14 kjones@mayerbrown.com
 15 kmonks@mayerbrown.com
 16
 17
 18
 19
 20
 21
 22

Page 2

1 APPEARANCES (Continued):
 2 ON BEHALF OF THE DEFENDANTS:
 3 BRIAN E. FROSH, ESQ.
 4 Attorney General
 5 - and -
 6 JENNIFER KATZ, ESQ.
 7 SARAH RICE, ESQ.
 8 Assistant Attorney General
 9 Office of the Attorney General
 10 200 St. Paul Place
 11 Baltimore, Maryland 21202
 12 PHONE: (410) 576-6300 (Mr. Frosh)
 13 (410) 576-7005 (Ms. Katz)
 14 (410) 576-7847 (Ms. Rice)
 15 FAX: (410) 576-6404 (Mr. Frosh)
 16 (410) 576-6955 (Ms. Katz)
 17 (410) 576-6955 (Ms. Rice)
 18 EMAIL: oag@oag.state.md.us
 19 jkatz@oag.state.md.us
 20 srice@oag.state.md.us
 21
 22 VIDEOGRAPHER: Daniel Holmstock

Page 3

1 I-N-D-E-X
 2 WITNESS: PAGE:
 3 SENATE PRESIDENT THOMAS V. MIKE MILLER
 4 Examination by Mr. Medlock 9
 5
 6 E-X-H-I-B-I-T-S
 7 EXHIBIT NUMBER: PAGE:
 8 Exhibit 121 2011 congressional map 29
 9 Exhibit 122 January 14, 1994, legal
 10 opinion 37
 11 Exhibit 123 Map, Congressional Election
 12 Districts, 1992-2000 45
 13 Exhibit 124 Baltimore Sun article,
 14 "Redistricting options grow
 15 with technology" 48
 16 Exhibit 125 MD8: State Senate President
 17 Says Morella is "Gone" 54
 18 Exhibit 126 2002 congressional
 19 districting map 58
 20 Exhibit 127 Maryland Reporter article,
 21 "Collins: Legislature may
 22 step up partisan warfare at
 State House" 60
 Exhibit 128 Calvert County Democratic
 Club, Wednesday, May 11,
 6:30 p.m. meeting notes 64
 Exhibit 129 July 4, 2011, e-mail to
 Takirra Winfield from
 Takirra Winfield, SUBJECT:
 GOVERNOR MARTIN O'MALLEY
 ANNOUNCES MEMBERS OF THE
 GOVERNORS REDISTRICTING
 ADVISORY COMMITTEE 71

Page 4

1 E-X-H-I-B-I-T-S (Continued)
 2 EXHIBIT NUMBER: PAGE:
 3 Exhibit 130 July 6, 2011, GRAC meeting
 4 agenda 76
 5 Exhibit 131 July 6, 1:00 p.m.,
 6 Redistricting Advisory
 7 Committee meeting notes 85
 8 Exhibit 132 December 29, 2016, e-mail
 9 to Sandra Brantley from
 10 Jeremy Baker, SUBJECT:
 11 talked with MB 108
 12 Exhibit 133 March 25, 2011 e-mail chain
 13 SUBJECT: Redistricting Issues
 14 (with attachments) 114
 15 Exhibit 134 August 18, 6:30 p.m.,
 16 Maryland Democratic Party
 17 Trustees Reception
 18 meeting notes 118
 19 Exhibit 135 September 2, 2011, e-mail
 20 chain, (No Subject) 124
 21 Exhibit 136 September 30 - October 2, 2011,
 22 e-mail chain, SUBJECT:
 Map adjustments 129

Page 5

1 E-X-H-I-B-I-T-S (Continued)
2 EXHIBIT NUMBER: PAGE:
3 Exhibit 137 October 4, 2011, e-mail
4 chain, SUBJECT: FOR
5 IMMEDIATE RELEASE**
6 Redistricting Advisory
7 Committee Submits Recommended
8 Congressional Redistricting
9 Plan to Governor, Releases
10 Map 133
11 Exhibit 138 October 3, 7:00 P.M., Senate
12 Democratic Caucus Meeting
13 Agenda 148
14 Exhibit 139 October 3, 7:00 P.M.,
15 Democratic Caucus Meeting
16 meeting notes 152
17 Exhibit 140 Senate Bill 252 170
18
19
20
21
22
Page 6

1 P R O C E E D I N G S
2 THE VIDEOGRAPHER: Good morning.
3 We're on the record. This is Video No. 1 in the
4 video recorded deposition of Senate President
5 Thomas Mike Miller, taken by the plaintiff in the
6 mark of O. John Benisek, et al., verse Linda H.
7 Lamone, et al. The case is pending before the
8 United States District Court in the District of
9 Maryland, Case No. 13-cv-3233.
10 This deposition is being held at the
11 law offices of Lerch, Early & Brewer, at
12 3 Bethesda Metro Center in Bethesda, Maryland, on
13 April 24th, 2017. The time on the video screen is
14 9:57 a.m.
15 My name is Daniel Holmstock, and I am
16 the legal videographer from Digital Evidence
17 Group; and our court reporter this morning is
18 Dawn Jaques, also in association with Digital
19 Evidence Group.
20 For the record now, will counsel
21 please introduce themselves and whom they
22 represent?
Page 7

1 MR. MEDLOCK: Good morning, sir. My
2 name is Steve Medlock. I'm with the law firm
3 Mayer Brown LLP. I represent the plaintiffs in
4 this case.
5 And with me to my left, in order, is
6 Micah Stein, Karianne Jones and Kate Monks, also
7 with Mayer Brown LLP, and also representing the
8 plaintiffs.
9 MR. FROSH: I'm Brian Frosh. I
10 represent the State of Maryland. With me is
11 Jennifer Katz and Sarah Rice.
12 THE VIDEOGRAPHER: Will the court
13 reporter please administer the oath?
14 THE REPORTER: Raise your right hand,
15 sir.
16 (The witness was sworn in by the reporter.)
17 Whereupon,
18 SENATE PRESIDENT THOMAS V. MIKE MILLER,
19 was called as a witness, after having been
20 first duly sworn by the Notary Public,
21 was examined and testified as follows:
22
Page 8

1 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS
2 BY MR. MEDLOCK:
3 Q Good morning, sir. Can you please
4 state and spell your name for the record?
5 A Thomas Miller. T-H-O-M-A-S,
6 M-I-L-L-E-R.
7 Q What's your current home address?
8 A 4505 Camp Roosevelt Drive, Chesapeake
9 Beach, Maryland 20732.
10 Q What's your current office address?
11 A 8808 Old Branch Avenue, Clinton,
12 Maryland 20735.
13 Q Is that for your law practice, or is
14 that for your --
15 A That's my law practice.
16 Q Okay. What's your address at the
17 State House in Maryland?
18 A The State House, Annapolis, Maryland.
19 Q Okay. Have you ever heard the term
20 "partisan gerrymandering" before?
21 A Absolutely.
22 Q Do you have an understanding of what
Page 9

1 the term "partisan gerrymandering" means?
2 A I do.
3 Q What does partisan gerrymandering mean
4 to you?
5 A It means where one political group or
6 another works to put a block of votes together
7 based upon partisan politics rather than sheer
8 numbers.
9 Q Do you believe that Republicans have
10 engaged in partisan gerrymandering outside of
11 Maryland?
12 A Yes.
13 Q In what states do you believe
14 Republicans have engaged in partisan
15 gerrymandering?
16 A North Carolina, for one. I don't
17 really know the other ones.
18 Q How about Wisconsin, do you think
19 they've engaged in --
20 A Really, I don't follow the other
21 states.
22 Q You've mentioned North Carolina. How

Page 10

1 can you tell that North Carolina was subject to a
2 partisan gerrymandering?
3 A It's only what I've read in the
4 New York Times.
5 Q Do you believe that Democrats lost
6 seats in the U.S. House of Representatives
7 following the 2010 Census --
8 A They did.
9 Q -- due to partisan gerrymandering?
10 A I do.
11 Q What makes you believe that?
12 A I've read articles that millions more
13 people voted for Democrats than voted for
14 Republicans, and yet there are more Republicans in
15 the House of Representatives than the Democrats.
16 Q Do you believe that partisan
17 gerrymandering in the Republican states harmed
18 Democrats after the 2010 Census?
19 A You know, I believe that, yes.
20 Q Do you believe that partisan
21 gerrymandering in Republican states following the
22 2010 Census left some Democrats without a voice in

Page 11

1 congressional elections?
2 A I don't know that.
3 Q You don't know that one way or the
4 other?
5 A No.
6 Q Do you believe that partisan
7 gerrymandering can swing an election in favor of a
8 particular political party?
9 A It could.
10 Q Under what circumstances do you
11 believe that partisan gerrymandering could swing
12 an election in favor of a particular political
13 party?
14 A I'd have to -- you'd have to rely on
15 other people for that.
16 Q Okay. Do you believe that voters can
17 be harmed by partisan gerrymandering?
18 MR. FROSH: Objection. It's vague and
19 ambiguous.
20 BY MR. MEDLOCK:
21 Q Go ahead, sir.
22 A It's possible.

Page 12

1 Q Do you believe that voters can lose
2 their voice in congressional elections due to
3 partisan gerrymandering?
4 MR. FROSH: Objection, vague and
5 ambiguous.
6 THE WITNESS: They wouldn't lose their
7 voice -- their voice, no.
8 BY MR. MEDLOCK:
9 Q Do you believe that Democrats should
10 attempt to maximize the number of Democrats
11 elected to the U.S. House of Representatives?
12 A No.
13 Q Why not?
14 A I -- I think that the -- I think there
15 are many factors drawing lines, and -- well,
16 communities of interest, corridors,
17 municipalities, county lines, demographic groups.
18 You know, there's a lot of factors that enter
19 into --
20 Q So I wasn't talking about drawing
21 lines yet. I was just talking about do you think
22 that Democrats should try and get as many

Page 13

1 Democrats as possible into the --
 2 A No.
 3 Q -- U.S. House?
 4 A No, no.
 5 Q Okay. Do you believe that state
 6 legislatures should draw congressional lines in a
 7 way that maximizes the number of Democratic
 8 representatives in the U.S. House of
 9 Representatives?
 10 A I think that state legislators should
 11 draw the lines fairly, reflecting both parties.
 12 Q When you say reflecting both parties,
 13 can you explain what you mean there?
 14 A Reflecting both parties, but mostly
 15 reflecting the -- like I told you, the population,
 16 the communities of interest, the counties, the
 17 exact number of people in districts.
 18 You know, it's -- you know, for
 19 example, Southern Maryland should have
 20 representation, the Washington metropolitan area
 21 should have representation, Western Maryland
 22 should have representation.

Page 14

1 You know, those are important
 2 regardless of party.
 3 Q After the 2010 Census, did you
 4 personally want to maximize the number of
 5 Democrats elected to the U.S. House of
 6 Representatives from Maryland?
 7 A No.
 8 Q And is that because of the factors
 9 that you stated earlier?
 10 A I'm old school. I would believe the
 11 parties work together.
 12 Q Uh-hmm.
 13 A It's been stated in the papers that --
 14 publicly -- that I'm not afraid of hiring -- I've
 15 been drawing lines because I think he'd be a fair
 16 person. He's a nice Republican.
 17 Q As you define the term, was Maryland's
 18 2011 congressional map the result of a partisan
 19 gerrymander?
 20 A No.
 21 MR. FROSH: Objection.
 22 THE WITNESS: No.

Page 15

1 BY MR. MEDLOCK:
 2 Q Why not?
 3 A I was there for the hearings, and I
 4 saw the maps, saw the areas that made sense, and
 5 the only areas that I was really concerned about,
 6 because they were my areas that I'm familiar with,
 7 was the area going from St. Mary's County on up to
 8 Cumberland.
 9 I'm a product of the Washington
 10 metropolitan area. I know the area well. I
 11 know -- my wife's from Bethesda, I'm from Southern
 12 Maryland. I know both areas very well.
 13 Q Uh-hmm.
 14 A I'm very familiar with Western
 15 Maryland and Southern Maryland, and I was
 16 concerned particularly with those areas.
 17 Q What was your concern particularly
 18 with Western Maryland?
 19 A Well, 1962, I was the driver for the
 20 Republican candidate for governor, and we traveled
 21 all through Western Maryland: Frederick,
 22 Hagerstown, Cumberland. I enjoyed my stays there.

Page 16

1 And like I say, my wife is from
 2 Bethesda, and we traveled extensively in that
 3 area. We dated for almost five years. And I
 4 belong to the Congressional Country Club in
 5 northern Montgomery County, and I'm very familiar
 6 with those areas.
 7 Q What specifically concerned you
 8 regarding Western Maryland during the 2011
 9 redistricting process?
 10 A Like I told you before, in 1962,
 11 Montgomery County was in the 6th Congressional
 12 District.
 13 Q Uh-hmm.
 14 A I was part of it, help elected people
 15 in that district. I'm familiar with the areas.
 16 And when I saw a map that looked like the area
 17 that I was mostly familiar with in 1962, I like
 18 that -- like that area. Not for Democrats or
 19 Republicans, but it just made sense. It made
 20 sense.
 21 Gilbert Gude used to be the
 22 congressman, and he used to walk the Potomac River

Page 17

1 from -- from the top of the District all the way
 2 to south.
 3 Mac Mathias, I visited his home in
 4 Frederick, had my picture taken with Eisenhower
 5 and him, front page of the Baltimore Sun. That
 6 was part of that district, and the district made
 7 sense then, it makes sense now.
 8 Q Why does it make sense to you now?
 9 A When you look at a map, you see the
 10 270 Corridor is protected, the Potomac River area
 11 is protected -- is together, just like you see in
 12 the southern part of the state. St. Mary's,
 13 Charles, Calvert, Prince George's, they're
 14 all together. It's traditionally been Southern
 15 Maryland.
 16 And, for example, when I first started
 17 in the House of Delegates, the Montgomery County
 18 Caucus would caucus with Western Maryland group.
 19 Montgomery County -- most of the Montgomery County
 20 delegates were Republicans at that time.
 21 Q Uh-hmm. And you first started in the
 22 legislature in what year?

Page 18

1 A '67.
 2 Q Has Montgomery County changed at all
 3 since 1967?
 4 A Yes.
 5 Q Has Western Maryland changed since
 6 1967?
 7 A The whole state has.
 8 Q You mentioned the I-270 Corridor.
 9 A Right.
 10 Q Do you recall that?
 11 Did you review any data concerning
 12 commuting patterns on I-270 before you voted on
 13 the proposed congressional map in 2011?
 14 A I drive it every second week or so. I
 15 spoke to the people in Frederick last week. I was
 16 in traffic over an hour on 270, plus. Plus I'm
 17 familiar with economic development part of the
 18 state.
 19 My job is to bring jobs to the state
 20 and improve economic development, and I-270 is
 21 very important to link areas that need economic
 22 development with the Washington metropolitan area,

Page 19

1 where we get most of our jobs from.
 2 Q So I guess my question was did you
 3 review any data concerning commuting patterns on
 4 Interstate 270 --
 5 A No, no.
 6 Q -- prior to voting on the
 7 congressional map?
 8 A No, no.
 9 Q Was any data concerning commuting
 10 patterns on Interstate 270 made available before
 11 you voted on the 2011 congressional map?
 12 MR. FROSH: Objection.
 13 THE WITNESS: It might have been. I
 14 don't remember it.
 15 BY MR. MEDLOCK:
 16 Q Do you recall asking for any such
 17 data?
 18 A No.
 19 Q Was that --
 20 A I knew -- I knew -- I just know the
 21 area. I don't go to Congressional Country Club
 22 because it's too -- too -- too far to travel and

Page 20

1 too expensive once you get there.
 2 Q I was going to add the second part.
 3 That's key.
 4 Besides driving on I-270, did you look
 5 at any data or demographic information to satisfy
 6 yourself that there was some sort of link between
 7 Montgomery County and Frederick County based on
 8 the I-270 Corridor?
 9 A I'm sure there was data available. I
 10 don't remember it.
 11 Q Do you recall looking at it?
 12 A I recall looking at every piece of
 13 data that was in front of us, including
 14 information from the State Planning Commission,
 15 but I don't remember what that data was at this
 16 present time.
 17 Q So you can't recall whether there was
 18 data made available to you regarding any link
 19 between Montgomery County and Frederick County
 20 based on the I-270 Corridor?
 21 MR. FROSH: Objection. It's compound
 22 and complex.

Page 21

1 THE WITNESS: I don't recall.
 2 BY MR. MEDLOCK:
 3 Q Do you believe that states should be
 4 prevented from engaging in partisan
 5 gerrymandering?
 6 A I think we need a national solution.
 7 Q Do you believe that states should be
 8 prevented from using voter history data when
 9 drawing congressional lines?
 10 A Again, I think we need a national
 11 solution to the issue.
 12 Q Do you believe that states should be
 13 prevented from using political party affiliation
 14 data when drawing congressional lines?
 15 A Again, I think it should be solved by
 16 another agency, particularly the -- possibly the
 17 Supreme Court.
 18 Q Do you believe that states should be
 19 prohibited by -- from drawing congressional lines
 20 with the intent to favor a political party?
 21 A I'm not going to answer that.
 22 Q Why not?

Page 22

1 A Well, I think -- like I said before,
 2 this should be answered by the Supreme Court, or
 3 somebody where there's a -- just like they did in
 4 Baker v. Carr.
 5 I think that if there's going to be a
 6 change, it should be done by -- it should be done
 7 nationally by the Supreme Court so that all
 8 states -- all 50 states are affected.
 9 Q Understood.
 10 Do you believe that it is wrong for
 11 Democrats to target a congressional district held
 12 by a Republican during congressional
 13 redistricting?
 14 MR. FROSH: Objection.
 15 THE WITNESS: Yeah, I don't -- I don't
 16 believe in unfairness under any circumstances in
 17 the electoral process.
 18 BY MR. MEDLOCK:
 19 Q Do you believe that Democratic state
 20 legislatures should be prohibited from drawing
 21 congressional boundaries to minimize the voice of
 22 Republican voters?

Page 23

1 A Again --
 2 MR. FROSH: Objection.
 3 THE WITNESS: Again --
 4 MR. FROSH: It's vague and ambiguous.
 5 THE WITNESS: Again, I -- you know,
 6 really, this is a 50-state problem. It needs a
 7 50-state solution.
 8 BY MR. MEDLOCK:
 9 Q Was the goal of Maryland's 2011
 10 congressional map to take out Republicans?
 11 A No.
 12 Q Was one of the goals of Maryland's
 13 2011 congressional map to give Republicans -- to
 14 give Democrats I should say -- let me back up.
 15 Was one of the goals of Maryland's
 16 2011 congressional map to give Democrats a real
 17 opportunity to pick up a seventh seat in the
 18 U.S. House of Representatives?
 19 A No.
 20 Q Did Maryland's 2011 congressional map
 21 target Roscoe Bartlett?
 22 A Not that I know of.

Page 24

1 Q Was a goal of Maryland's 2011
 2 congressional map to hit Roscoe Bartlett pretty
 3 hard?
 4 MR. FROSH: Objection.
 5 THE WITNESS: Again, not that I know
 6 of.
 7 BY MR. MEDLOCK:
 8 Q Was moving from a congressional
 9 delegation with six Democrats to a congressional
 10 delegation with seven Democrats a goal of the 2011
 11 congressional map?
 12 A Not that I know of.
 13 Q Did partisan factors play a role in
 14 Maryland's 2011 congressional map?
 15 A Again, I was only familiar with the
 16 western side of the state; and whether factors
 17 were in any of the other four or five districts, I
 18 don't know.
 19 I just -- I looked at -- I was a -- I
 20 was a vote on the Commission. I looked at -- I
 21 looked at -- with redistricting, what you do is
 22 you start from the extremities, and then you go to

Page 25

1 the middle. And then as far as the extremities
 2 are concerned, Western Maryland, like I say,
 3 Southern Maryland, they were fine, and, you know,
 4 I can't answer for other areas of the state.
 5 Q With regard to Western Maryland, did
 6 partisan factors play a role in drawing the
 7 boundaries of Western Maryland's congressional
 8 districts?
 9 A Not that I know of.
 10 Q Did partisan factors play a role in
 11 the GRAC's -- the GRAC -- or Redistricting
 12 Advisory Committee's consideration of Maryland's
 13 2011 congressional map?
 14 A Not that I know of.
 15 Q Did partisan factors play a role --
 16 A There was a Republican member on the
 17 committee, and I didn't -- I don't remember him
 18 objecting to any part of it that. He might have,
 19 but I don't remember.
 20 Q Okay. Did partisan factors play a
 21 role in your consideration --
 22 A No.

Page 26

1 Q -- of the 2011 congressional map?
 2 A No.
 3 Q To your knowledge, did partisan
 4 factors play a role in the Maryland Senate's
 5 consideration of the 2011 congressional map?
 6 A I don't believe so.
 7 Q Did partisan factors play a role in
 8 the Maryland General Assembly's consideration of
 9 Maryland's 2011 congressional map?
 10 A I don't believe so.
 11 Q Did partisan factors play a role in
 12 your vote on Maryland's 2011 congressional map?
 13 A No.
 14 Q To your knowledge, did partisan
 15 factors play a role in any member of the General
 16 Assembly --
 17 A I can't --
 18 Q -- voting --
 19 A I can't speak for other people.
 20 Q Okay. Did you ever ask anyone else in
 21 the Maryland General Assembly what factors they
 22 were considering?

Page 27

1 A No.
 2 Q Did anyone tell you?
 3 A No.
 4 Q In the 2011 congressional map, does
 5 the 6th Congressional District --
 6 A I -- I -- strike that. I mean --
 7 MR. FROSH: There's no --
 8 THE WITNESS: If I --
 9 MR. FROSH: There's no question
 10 pending.
 11 THE WITNESS: I know, but I just --
 12 obviously, there was some African-American
 13 concerns. People gave concerns about the map.
 14 I -- I --
 15 BY MR. MEDLOCK:
 16 Q Okay. In the --
 17 A The way to comply with the Voting
 18 Rights Act, you know, so that --
 19 Q Understood.
 20 A That's obviously a concern.
 21 Q Yes. I completely understand.
 22 A All right.

Page 28

1 MR. MEDLOCK: Go ahead and mark this.
 2 (Miller Exhibit 121 was marked
 3 for identification.)
 4 BY MR. MEDLOCK:
 5 Q I put in front of you what we've
 6 marked as Exhibit 121.
 7 A Right.
 8 Q Does this appear to you to be
 9 Maryland's 2011 congressional map?
 10 A Yes.
 11 Q Okay. I want to focus on the
 12 6th Congressional District.
 13 A Okay.
 14 Q Do you see that?
 15 A Yes.
 16 Q Okay. In this 2011 congressional map,
 17 does the 6th Congressional District combine rural
 18 agrarian parts of Maryland with wealthy
 19 non-agrarian parts of Maryland?
 20 A It does.
 21 Q In the 2011 congressional map -- well,
 22 let me back up.

Page 29

1 In 2011, did Maryland Democrats have
2 the ability to look at the State of Maryland
3 gerrymandered in such a way as to make the
4 congressional map result in seven Democrats and
5 one Republican?
6 MR. FROSH: Objection. It's vague and
7 ambiguous.
8 THE WITNESS: No, no, no.
9 BY MR. MEDLOCK:
10 Q In 2011, did Maryland Democrats have a
11 choice between whether the seventh Democratic
12 district would come from the Eastern Shore or
13 Western Maryland?
14 A I don't remember the maps.
15 Q Do you remember having that choice?
16 A I remember, you know, six, seven,
17 eight maps on platforms. I just don't remember
18 what they were right now.
19 Q Okay. In 2011, to your knowledge, did
20 Maryland Democrats choose to gerrymander Western
21 Maryland?
22 MR. FROSH: Objection.

Page 30

1 THE WITNESS: No.
2 BY MR. MEDLOCK:
3 Q In 2011, was Maryland's
4 6th Congressional District developed for the
5 purpose of disadvantaging an incumbent Republican
6 legislator?
7 A No.
8 Q In 2011, did Maryland Democrats use
9 their political power to pass a congressional map
10 that was more favorable to Democrats?
11 A They voted on this map right here.
12 Q Understood. From your perspective, in
13 2011, did Maryland Democrats use their political
14 power to pass a congressional map that was more
15 favorable to Democrats?
16 MR. FROSH: Objection. He's answered
17 that question.
18 THE WITNESS: Yeah, I don't know. I
19 mean, I don't -- I don't know what's -- you know,
20 what each district was. I just -- I just -- like
21 I say, I'm familiar with 6, I'm familiar with 5.
22 I think they're beautiful. I drew 5. I think 5

Page 31

1 is beautiful. I mean, that's where I live. It's
2 compact, it's gorgeous. So is 6. It looks like
3 it was in '62 when I -- when I worked there.
4 BY MR. MEDLOCK:
5 Q Do you believe that the
6 6th Congressional District in the 2011 map is
7 gorgeous?
8 A I do.
9 Q Do you believe it's compact?
10 A I think it --
11 THE REPORTER: Wait, can you --
12 THE WITNESS: I think if we had taken
13 a little of --
14 MR. MEDLOCK: Hold on one second.
15 THE REPORTER: My power -- can we --
16 Dan?
17 THE VIDEOGRAPHER: The time is
18 10:18 a.m. We're going off the record.
19 (Pause in the proceedings.)
20 THE VIDEOGRAPHER: The time is
21 10:18 a.m. We're back on the record.
22

Page 32

1 BY MR. MEDLOCK:
2 Q Do you believe that the
3 6th Congressional District in the 2011
4 congressional map is compact?
5 A I think it is.
6 Q Do you believe that the
7 6th Congressional District in the 2011
8 congressional map preserves communities of
9 interest?
10 A It does.
11 Q Do you believe the 6th congressional
12 map in the -- 6th Congressional District in the
13 2011 congressional map keeps counties together?
14 A It does.
15 Q Have you ever heard the term
16 "Democratic performance" before?
17 A I have.
18 Q Do you have an understanding of what
19 the term "Democratic performance" means?
20 A I know what Democratic performance is,
21 yes.
22 Q What does Democratic performance mean

Page 33

1 to you?
2 A It means how well Democrats do, how
3 well they perform.
4 Q In what?
5 A Wherever.
6 Q Is it an electoral performance
7 measurement? What -- what does it refer to?
8 A It can refer to any -- in any county,
9 anywhere, just how the Democrats perform.
10 Q Have you ever had access to data
11 regarding Democratic performance when making
12 decisions regarding congressional redistricting?
13 A I haven't, no.
14 Q Have you ever used data regarding
15 Democratic performance when making decisions
16 regarding congressional redistricting?
17 A I haven't, no.
18 Q Have you ever used data regarding
19 Democratic performance in the congressional
20 redistricting process?
21 A No, I have not.
22 Q To your knowledge, has the Governor's

Page 34

1 Redistricting Advisory Committee, or GRAC, ever
2 used data concerning Democratic performance in the
3 congressional redistricting process?
4 MR. FROSH: Objection, that's
5 overbroad.
6 THE WITNESS: As far as I know, it was
7 never discussed.
8 BY MR. MEDLOCK:
9 Q In your experience, what percentage of
10 the vote do Republican candidates get in statewide
11 races in Maryland?
12 A I don't know.
13 Q Do you know on average?
14 A No, I don't.
15 Q You served, I think you mentioned, in
16 the Governor's Redistricting Advisory Committee in
17 2011, correct?
18 A Right.
19 Q That was not your first experience on
20 the Redistricting Advisory Committee, right?
21 A That's correct.
22 Q Did you serve on the Redistricting

Page 35

1 Advisory Committee in 1991?
2 A Probably so.
3 Q Did you serve on the Redistricting
4 Advisory Committee in 2001?
5 A Probably so.
6 Q Do you recall serving on the
7 Redistricting Advisory Committee before 1991?
8 A No. I was very active in '80, but I
9 wasn't on a committee. I don't know that there
10 was -- I don't think there was a committee in '80.
11 Q Okay. Do you recall being --
12 A Actually, I was back -- I was involved
13 in '70. '70.
14 Q Oh, okay.
15 A But I don't think it was -- it wasn't
16 a committee. It was just the Governor's staff.
17 Q I see.
18 Do you recall Governor Schaefer
19 appointing you to a committee in 1991 to look at
20 redistricting?
21 A I don't recall, but I'm sure he did.
22 Q Okay. All right, mark the next

Page 36

1 exhibit.
2 (Miller Exhibit 122 was marked
3 for identification.)
4 BY MR. MEDLOCK:
5 Q All right, so I've put in front of you
6 what we've marked as Exhibit 122 to your
7 deposition.
8 A Uh-hmm.
9 Q It's an opinion from a federal court,
10 which is quite lengthy. The opinion is from
11 Marylanders -- Marylanders For Fair Representation
12 v. Schaefer, which is from the District of
13 Maryland in 1994.
14 All right, take your time to peruse
15 it, but I'm going to have specific questions for
16 particular areas.
17 A Okay.
18 Q Do you recall being named as a
19 defendant in this case?
20 A No, but I'm sure I was if you say I
21 was.
22 Q Okay. All right. I'd like to direct

Page 37

1 you to the page that begins, let's see, 1038 at
2 the top left-hand corner of the document -- of the
3 page. It should be about ten pages in.
4 Do you see that?
5 A "POLITICAL GERRYMANDERING"?
6 Q Yes, it should say "POLITICAL
7 GERRYMANDERING" at the top.
8 A Okay.
9 Q And do you see a paragraph -- there's
10 two columns here. I'm on the right column, and
11 there's a paragraph that begins, "Drawing all
12 inferences from the underlying facts."
13 Do you see that?
14 A I see that paragraph.
15 Q Okay. I am moving down to the bottom
16 of that column. Do you see a sentence that begins
17 with, "The evidence is undisputed"?
18 A Yes.
19 Q Okay. That sentence reads, "The
20 evidence is undisputed that the GRAC was provided
21 with a binder entitled 'Democratic Voting
22 Performance and Strength' which contained

Page 38

1 comprehensive information on Democratic voter
2 distribution throughout the State and ranked each
3 precinct by Democratic strength."
4 Did I read that correctly?
5 A Yes.
6 Q Do you have any reason to doubt the
7 accuracy of the Court's recitation of the facts
8 there?
9 A I have no -- I have no recollection of
10 what happened. But, again, the committee -- the
11 committee deals with maps that were handed to us
12 drawn up by the State Planning Commission, and I'm
13 sure people in the Governor's Office -- that
14 might -- that might have been utilized by the
15 people in the Governor's Office, but I don't
16 believe that the Committee themselves used these
17 numbers or discussed them.
18 Q Do you recall you personally having
19 access to those numbers?
20 A No. And I, quite frankly, wouldn't
21 really be cared -- I wouldn't -- wouldn't -- I
22 wouldn't care to, quite frankly.

Page 39

1 Q How about information regarding voting
2 history? Do you recall having access to that?
3 A No, I don't.
4 Q Okay. Can you turn to the next page?
5 A Right.
6 Q It should be on the back -- oh, sorry,
7 you have single-sided.
8 Do you see the paragraph beginning, "A
9 top administrative aide"?
10 A Right.
11 Q I'm going to read that first sentence
12 of that paragraph to you.
13 A Okay.
14 Q It reads, "A top administrative aide
15 to Senator Thomas V. 'Mike' Miller, President of
16 the Senate and a member of the Committee, was
17 provided with a computer database (the 'voter
18 file') --
19 A Okay.
20 Q -- "that had the capability of showing
21 any precinct's voting history," and there's a
22 citation to a deposition here.

Page 40

1 "Thomas Cowley, former executive
2 director of the Maryland Democratic Party, stated
3 that the voter file was created specifically to
4 aid in redistricting and to give Democratic
5 candidates a partisan advantage."
6 Did I read those two sentences
7 correctly?
8 A Okay.
9 Q Do you have any reason to doubt the
10 accuracy of the Court's recitation of the facts?
11 A I don't know. I have no idea who the
12 aide was.
13 Q I'm sorry, I missed -- I missed what
14 you said. Sorry.
15 A I said I have no idea who the aide
16 that this refers to was. I mean, I have no idea
17 who that was.
18 Q Okay.
19 A But I -- I didn't use the information.
20 Some aide might have used the information. What
21 he or she got on that computer, I have no idea.
22 Q Okay. So it was the aide that used

Page 41

1 the information, not you?
 2 A I'm not -- I didn't say that. I just
 3 said that this says aide had it on his/her
 4 computer. I'm not saying they used it. It just
 5 said they had it. I don't know.
 6 Q Okay.
 7 A I didn't use it. I didn't review it.
 8 It wasn't important to me.
 9 Q Okay. Can you explain to me why your
 10 aide had it on their computer if it wasn't
 11 important to you?
 12 A I have several aides. But, again, you
 13 credit me with having too much say in these things
 14 than I actually say -- I actually do. Since I
 15 don't run for Congress, I'm not a member of
 16 Congress, I want lines that are drawn that are
 17 fair to everybody.
 18 And like I said before, I'm
 19 bipartisan. I work for Republicans and Democrats.
 20 And I'm very close to Harry Lerch; we go back to
 21 the Republican campaign, '62. I'm very close to
 22 Bob Ehrlich, very close to Larry Hogan.

Page 42

1 And like I say, I like the
 2 6th District because it looks like the district
 3 that I worked in and represented in '62. And you
 4 talk about urban rural areas, upper Montgomery
 5 County, it was Barnesville, Poolesville and
 6 Gaithersburg. Gaithersburg has changed a lot, but
 7 it's not much different than Frederick County,
 8 because now Montgomery County is moving to
 9 Frederick and changing the politics of Frederick.
 10 But the key is jobs, jobs, and more
 11 jobs, economic development. That's the key.
 12 These counties right here are among the wealthiest
 13 counties in the United States. The only
 14 counties --
 15 Q Can you show the camera, sir? Sorry.
 16 A Yes, yes, yes.
 17 Montgomery, Prince George's, Charles,
 18 St. Mary's. And, of course, the other side of the
 19 river, they're equally wealthy, Alexandria,
 20 Fairfax, et cetera.
 21 The key is to take -- to take your
 22 opponent's votes away from them or people away

Page 43

1 from them and jobs away from them and bring it to
 2 Maryland. So, for example, I brought MGM to
 3 Prince George's County. Now that's called the --
 4 this is called the MGM Corridor right here. This
 5 area right here, MGM, 4,000 jobs right here, okay?
 6 This is a corridor right here. This
 7 is the 270 Corridor. It's about jobs, jobs. It's
 8 about having these people have access to the
 9 economic development on 270.
 10 I brought University of Maryland to
 11 Frederick. I brought a library to Hagerstown.
 12 It's a commonality of interest in these areas.
 13 Q I'm sorry, what question were you
 14 answering there, sir?
 15 A You're going to have to ask another
 16 question.
 17 Q Okay. All right.
 18 So you mentioned an I-270 Corridor
 19 that's about, I think you said jobs, jobs, jobs,
 20 correct?
 21 A Right, right.
 22 Q When you were voting on the 2011

Page 44

1 congressional map, did you look at any measure of
 2 economic growth?
 3 A I'm very -- I'm very familiar with the
 4 economic growth in Bethesda, Silver Spring, and
 5 I-270 Corridor. Very familiar with it. I brought
 6 University College to Gaithersburg. I mean, I'm
 7 familiar with it.
 8 Q Sure, I understand you're familiar
 9 with it. Did you look at any data regarding
 10 economic development in that area?
 11 A No, I don't think I did.
 12 Q All right. Mark the next exhibit.
 13 (Miller Exhibit 123 was marked
 14 for identification.)
 15 THE WITNESS: University of Maryland
 16 rather to Gaithersburg.
 17 BY MR. MEDLOCK:
 18 Q All right, sir. I've marked
 19 Exhibit 123 --
 20 A Right.
 21 Q -- in front of you.
 22 Does this appear to be a copy of

Page 45

1 Maryland's congressional map as it existed from
2 1992 to 2000?
3 A Okay.
4 Q Does it appear to be that?
5 A It appears to be that way.
6 Q Okay. And in the map between 1992 and
7 2000, all of Garrett County, Allegany County,
8 Washington County, Frederick County and
9 Carroll County are part of the 6th Congressional
10 District --
11 A Right.
12 Q -- correct?
13 A Right.
14 Q Okay.
15 A What are these dotted lines between
16 Frederick and Carroll? I don't know what they
17 are.
18 Q I couldn't tell you, sir.
19 A Okay. I don't know what they are.
20 Q Okay. I think we talked about this,
21 but your recollection is you served on the
22 Governor's Redistricting Advisory Committee in

Page 46

1 2001 as well, correct?
2 A Right.
3 Q And you were appointed by
4 Governor Glendening to that post?
5 A I'm confused whether it's Glendening
6 or Schaefer.
7 Q Okay. It would have been one way or
8 the other?
9 A Okay.
10 Q Do you recall anyone else who served
11 with you in 2011 on the Governor's Redistricting
12 Advisory Committee?
13 A Probably whoever the Speaker was at
14 that time would have served with me.
15 Q Would it have been Taylor?
16 A Probably so.
17 Q Okay. Do you recall whether Secretary
18 of State John Willis served with you on the
19 Redistricting Advisory Committee?
20 A I don't remember.
21 Q How about Ike Leggett, do you recall
22 whether he was on the committee?

Page 47

1 A Ike Leggett was.
2 Q How about County Commissioner Louise
3 Gulyas, G-U-L-Y-A-S, do you recall whether --
4 A Possibly.
5 Q Okay. Can I get the next exhibit?
6 (Miller Exhibit 124 was marked
7 for identification.)
8 BY MR. MEDLOCK:
9 Q I apologize for the size of the print
10 here, sir.
11 A Okay.
12 Q So I'm showing you what we've marked
13 as Exhibit 124. It's a newspaper article from
14 May 8th, 2011 [sic], titled "Redistricting options
15 grow with technology." 2001, I should say.
16 A Right.
17 Q Do you recall using any redistricting
18 software to draw the 2001 congressional map?
19 A I don't recall any.
20 Q Have you ever used any redistricting
21 software to draw a congressional map?
22 A No.

Page 48

1 Q Has your staff ever used --
2 A I'm sure they have.
3 Q Do you know what the name of that
4 software is?
5 A I don't.
6 Q Have you ever heard of --
7 THE VIDEOGRAPHER: Excuse me a second.
8 Does anyone have a cell phone on right now? If
9 they were near the microphones, they seem to
10 cause -- if not, if you can turn it off.
11 THE WITNESS: Mine's off.
12 THE VIDEOGRAPHER: It went away.
13 MR. MEDLOCK: All right.
14 THE VIDEOGRAPHER: Sorry about that.
15 I just wanted to make sure your audio is clear.
16 MR. MEDLOCK: That's all right.
17 BY MR. MEDLOCK:
18 Q Have you ever heard of a redistricting
19 software program called Maptitude?
20 A No, I'm not familiar with that term.
21 Q Okay. I direct you to the first page,
22 the second paragraph, where it says, "All it

Page 49

1 takes." Do you see that?
2 A No. Oh, yeah, okay.
3 Q Okay. That paragraph states, "All it
4 takes is \$3,500 and a computer, and you can play
5 God -- or governor, a position that" the state --
6 "that in this state is almost as powerful -- with
7 the careers of Maryland's legislators.
8 "That's what it costs to purchase the
9 software" the "state leaders are using to carve
10 Maryland into eight congressional and 47
11 legislative districts."
12 Did I read that correctly?
13 A Yes.
14 Q Okay. And then if you move down,
15 there's sort of a space where an ad would be in
16 the middle of this. Do you see the paragraph that
17 begins "with the click of a mouse"?
18 A Yes.
19 Q Okay. That reads, "With the click of
20 a mouse, you can pick up precincts and move them
21 from one district to another, getting instant
22 population recalculations. It's the same program

Page 50

1 Gov. Parris N. Glendening has on a terminal on his
2 desk - although the cost does not include the
3 high-tech, swivelling projection screen the
4 governor uses when he wants to make visiting
5 legislators feel faint."
6 Did I read that correctly?
7 A You did.
8 Q Did you ever see the software program
9 on Governor Glendening's computer?
10 A No.
11 Q Were you aware that he had one?
12 A No.
13 Q Okay. So further down the page, there
14 is a quote from Karl Aro. Do you know who
15 Karl Aro is?
16 A I do.
17 Q Who is he?
18 A He was an employee of the
19 General Assembly.
20 Q Do you know what he did in the
21 General Assembly?
22 A He worked for State Planning.

Page 51

1 Q What was his role with respect to
2 congressional redistricting?
3 A You know, he would put things
4 together, he would hear from various elected
5 officials, Republicans, Democrats, and others.
6 And we're unique in Maryland. We have
7 a bicameral or nonpartisan staff. And so
8 everybody who serves in the legislative -- in the
9 General Assembly staff, they have equal access to
10 Republicans and Democrats.
11 So individual legislators would go and
12 present ideas to him, and he would come up with
13 compilations.
14 Q Uh-hmm. Okay.
15 So moving down to Mr. Aro's quote, he
16 states, "It's light years ahead. The software
17 can do so much more, so much more quickly," he
18 said. 'It's much more powerful than we had 10
19 years ago.'" Did I read that correctly?
20 A Right, yes. So what? I mean, in '70
21 they were using paper and pencil to do this. I
22 mean, this is -- this is common knowledge.

Page 52

1 Q So you -- you don't attach any
2 significance to the fact --
3 A No.
4 Q -- that the computer programs for
5 redistricting have gotten faster and better?
6 A No, nothing. Same reason I'm trying
7 to bring jobs to 270 and economic development.
8 Things change. They weren't there in '62, but
9 they are there now.
10 Q I see. Prior to 2001, into the 2001
11 redistricting, was Maryland's congressional
12 delegation split between four Republicans and four
13 Democrats?
14 A I don't remember.
15 Q Do you recall whether, prior to the
16 2001 redistricting, Montgomery County was
17 represented by a Republican?
18 A I think it was Gilbert Gude. Is that
19 the one?
20 Q Do you think that -- do you believe
21 that that's the case with -- that Maryland's 8th
22 Congressional District in Montgomery County was

Page 53

1 represented by a Republican prior to 2001?
 2 A I don't remember.
 3 Q In 2001, was one of your goals as a
 4 GRAC member to create two additional congressional
 5 seats for Democrats in Maryland?
 6 A No.
 7 Q In 2001, did you target specific
 8 Republican representatives with the intent of
 9 flipping their congressional districts --
 10 A No.
 11 Q -- from Republican to Democrat
 12 control?
 13 A No.
 14 Q Okay. Mark the next exhibit.
 15 (Miller Exhibit 125 was marked
 16 for identification.)
 17 BY MR. MEDLOCK:
 18 Q Sir, I've put in front of you a fairly
 19 short article --
 20 A Right.
 21 Q -- from The Bulletin's Fronrunner,
 22 dated July 4th -- 24th, 2001. You can take a

Page 54

1 second to read it, but I'll direct you to specific
 2 portions of it.
 3 A Right.
 4 Q The title of the article is "MD8:
 5 State Senate President Says Morella is 'Gone.'"
 6 Did I read that correctly?
 7 A You've got to read that -- ahead of
 8 that where it says Miller was shown things. I
 9 don't want to lose Democratic seats on my watch.
 10 I'm not in it to hurt Republicans.
 11 Q Uh-hmm.
 12 A But at the same, I'm not going to hurt
 13 Democrats. That's my philosophy.
 14 Q Okay. I'd like to take you to the
 15 sentence immediately following that.
 16 A This is all hearsay. Honestly and
 17 truly, this is double and triple hearsay.
 18 Q Okay. I mean, you're the witness,
 19 sir. It's not your opportunity to object.
 20 A I'm not telling you as a lawyer, I'm
 21 just telling you what it is.
 22 Q All right. That's fine, sir. I just

Page 55

1 want to go through it with you.
 2 A Go ahead.
 3 Q I'm just here to ask you questions,
 4 okay?
 5 A Okay, good.
 6 Q All right. That sentence reads, "CNN
 7 added Miller has 'already picked his targets,'
 8 including Rep. Connie Morella, 'who has been
 9 elected to Congress eight times in the suburban
 10 area just outside Washington.' Miller was shown
 11 saying, 'She's gone. She's gone. Lost and found
 12 in the border town, looking for the diamond ring,
 13 she is gone.'"
 14 Did I read that correctly?
 15 A You might have read it correctly. I'm
 16 sure I said that -- I love that song. I'm sure I
 17 said, but I don't remember it.
 18 Q It's a Brooks & Dunn song, right?
 19 A That's a great song.
 20 Q All right. So you dispute the
 21 accuracy of this quote?
 22 A Connie Morella is a friend of mine,

Page 56

1 and a good friend of mine, and times change,
 2 demographics change, Montgomery County changed.
 3 And like I said before, I was there before
 4 Montgomery County had Republican majority of the
 5 House members in the legislature, and it just
 6 changed, just like Frederick County is changing
 7 right now.
 8 Q Uh-hmm.
 9 A And sometimes you stay in a
 10 legislative district and it changes on you, and
 11 that happened with Connie.
 12 Q Uh-hmm. Did CNN get this wrong?
 13 A They didn't quote me. They say, "CNN
 14 added Miller ..."
 15 Q Uh-hmm.
 16 A I mean, you know, I never -- they
 17 never -- nobody -- I didn't tell anybody I picked
 18 out any targets.
 19 Q Is this report wrong?
 20 MR. FROSH: Objection. That's
 21 overbroad.
 22 THE WITNESS: I just said that I

Page 57

1 didn't say that.
2 BY MR. MEDLOCK:
3 Q Okay.
4 A They said, "CNN added Miller." They
5 didn't say Miller said he's picked out a target.
6 Q Okay. When it says, "Miller was shown
7 saying, 'She's gone. She's gone. Lost and found
8 in the border town, looking for the diamond ring,
9 she is gone'" --
10 A I'm sure -- I'm sure I said that.
11 MR. FROSH: Wait for a question.
12 BY MR. MEDLOCK:
13 Q You're sure you said that?
14 A I'm pretty sure.
15 Q Okay. But you dispute the accuracy of
16 the rest of the report?
17 A Right.
18 Q Okay. Can I get the next exhibit?
19 (Miller Exhibit 126 was marked
20 for identification.)
21 BY MR. MEDLOCK:
22 Q All right, so I put in front of you,

Page 58

1 marked as 126 to your deposition, it's a one-page
2 document that at the top says "2002 Congressional
3 Redistricting Plan." Do you see that?
4 A Right.
5 Q And does this appear to be the 2002
6 congressional map that passed the Maryland Senate?
7 A Possibly it is.
8 Q So if you look at the
9 6th Congressional District, do you see that?
10 A I do.
11 Q Does that appear to contain all of
12 Garrett, Allegany, Washington, Frederick and
13 Carroll Counties?
14 A It does.
15 Q Okay. In 2002, six Democrats and two
16 Republicans won congressional seats from Maryland,
17 correct?
18 A I don't remember.
19 Q Okay. Do you recall whether in 2002
20 Roscoe Bartlett was a representative of the
21 6th Congressional District?
22 A I don't remember, but I believe so.

Page 59

1 Q Okay. Do you recall whether
2 Wayne Gilchrest was representing
3 the 1st Congressional District?
4 A I believe he was.
5 Q Okay. And he was a Republican too,
6 right?
7 A In name only.
8 Q So you believe he's a RINO?
9 A He's a good guy.
10 Q Okay. Let's mark the next exhibit.
11 A He was a house painter, got elected to
12 Congress.
13 (Miller Exhibit 127 was marked
14 for identification.)
15 BY MR. MEDLOCK:
16 Q All right, sir, I've put in front of
17 you what we've marked as Exhibit 127 to your
18 deposition.
19 A Right.
20 Q It's a commentary piece, three pages,
21 from the MarylandReporter, dated January 2nd,
22 2017.

Page 60

1 A Right.
2 Q Do you see that?
3 A Right.
4 Q Do you ever read the MarylandReporter?
5 A This guy is a Republican hack. He
6 hates me, this guy, Michael Collins.
7 Q Okay.
8 A He's a partisan hack.
9 Q What makes you think he's a partisan
10 hack?
11 A He writes diatribe about me constantly
12 on everything.
13 Q Okay.
14 A He's just a -- he's a Republican hack.
15 Q All right. Let's turn to the third
16 page. It says, "Partisan warfare."
17 A He's -- he's the most partisan -- he's
18 not a -- he's just a guest columnist. He's just a
19 Republican hack.
20 Q Okay.
21 A You know, it's just fake news. This
22 is fake news. This guy's a fake news partisan.

Page 61

1 Q Fake news? Do you --
2 A Yes.
3 Q So you think this commentary piece is
4 fake news?
5 A Everything he writes is fake news.
6 Q Okay. All right. So I'm below
7 "Partisan warfare," and I want to read the first
8 sentence to you there.
9 It says, "When Bob Ehrlich won
10 election in 2002, Senate President Miller said"
11 that "they would play nice for the first three
12 years, but they'd break out the machine guns in
13 year four."
14 A That's true.
15 Q Is that true?
16 A I said that.
17 Q Okay. Let's move to the next
18 sentence. "In 2006 he bragged, 'We're going to
19 bury the Republicans six feet deep, faces up, so
20 they won't come out for 20 years.'"
21 Did I read that correctly?
22 A You did.

Page 62

1 Q Is that a true quote?
2 A Again, you've got to take these things
3 where they come from. This is at a Democratic
4 luncheon for Democrats only --
5 Q Uh-hmm.
6 A -- and it was said. There was a
7 reporter in the room. It's simple campaign
8 rhetoric. It's campaign rhetoric.
9 Q Regardless of whether it's campaign
10 rhetoric --
11 A I mean, burying somebody face down so
12 they come out on the other side of the world --
13 that's what I said -- it's campaign rhetoric.
14 Q You did say that though, didn't you?
15 A I'm sure I did.
16 Q Okay. All right.
17 A I said this, but this is like pure --
18 MR. FROSH: There's no question
19 pending.
20 THE WITNESS: It's pure speculation,
21 this guy.
22

Page 63

1 BY MR. MEDLOCK:
2 Q So his article is speculation, but you
3 did say that?
4 A I did.
5 Q Okay. You were appointed to the GRAC
6 by Former Governor Martin O'Malley in 2011, right?
7 A Yes.
8 Q Okay. Mark the next exhibit.
9 (Miller Exhibit 128 was marked
10 for identification.)
11 BY MR. MEDLOCK:
12 Q All right, sir, I put in front of
13 you what we've marked as --
14 A Can I say something even though
15 there's no question pending?
16 MR. FROSH: No, let's -- if you want
17 to --
18 MR. MEDLOCK: Go ahead.
19 MR. FROSH: -- tell me, we can --
20 THE WITNESS: No, I just --
21 MR. FROSH: No, there's no question
22 pending.

Page 64

1 BY MR. MEDLOCK:
2 Q All right, I'll ask you a question.
3 What do you want to say?
4 MR. FROSH: Objection. That's
5 overbroad.
6 THE WITNESS: Let me just answer this.
7 Here's the issue. I work well with
8 Republicans, okay? What this three years meant --
9 you know, Democrats want to fight them all four
10 years. They want to fight all four years
11 constantly. Everything they propose, they want to
12 fight. I don't want to -- I want to make
13 government work for everybody.
14 And so for the three years,
15 non-election years, I want government to work. I
16 want to pass their bills. I want to work
17 together. That's what I meant. That's the way I
18 am.
19 BY MR. MEDLOCK:
20 Q Okay. Understood. All right, so
21 let's --
22 A But the last year I've got to yield to

Page 65

1 my Democrat colleagues who want to make war.
2 Q How often do you feel you need to
3 yield to your Democrat colleagues who want --
4 A Often. They elect me.
5 Q Fair enough. We're all beholden to
6 our base, right?
7 A Right.
8 Q So I put in front of you what we've
9 marked as Exhibit 128. Do you still have that in
10 front of you?
11 A I do.
12 Q All right. This is a copy of a
13 document that at the top says Calvert County
14 Democratic Club, May 11th at 6:30, Mama Lucia's in
15 Prince Frederick. Do you see that?
16 A Right.
17 Q Are these -- what purpose does this
18 document serve?
19 MR. FROSH: Objection.
20 THE WITNESS: I have no idea what it
21 is.
22

Page 66

1 BY MR. MEDLOCK:
2 Q Have you ever seen it before?
3 A I don't know.
4 Q Have you ever seen a document in this
5 format before?
6 MR. FROSH: Objection.
7 THE WITNESS: May 11 what year? I
8 don't even know what year this is.
9 BY MR. MEDLOCK:
10 Q Does your staff ever prepare talking
11 points or speaking notes for you?
12 A They do, but like I say, I don't even
13 know what year this is. When was this?
14 Q Well, I'll represent to you that it
15 was produced from your files, and it references
16 the 2011 legislative session and the 2012
17 elections. Do you see that at the top?
18 A Okay.
19 Q Okay. I don't know if I got an answer
20 on this. From time to time, does your staff
21 prepare talking points for you to use at various
22 events?

Page 67

1 A They do.
2 MR. FROSH: Objection.
3 THE WITNESS: They do.
4 BY MR. MEDLOCK:
5 Q Okay. Do those talking points take
6 this sort of format?
7 A I don't know.
8 Q Okay. All right, turn to page 2 of
9 the document. Do you see at the very bottom there
10 is a paragraph that begins with, "If asked about
11 redistricting"?
12 A Yes.
13 Q Okay. That paragraph reads, "If asked
14 about redistricting, keep it simple. We're going
15 to do our best to help Democrats, while following
16 all of the applicable federal and state
17 constitutional and statutory requirements. The
18 Governor will appoint a commission which will hold
19 a series of hearings around the state - we
20 anticipate a very open and public process."
21 Did I read that correctly?
22 A You did.

Page 68

1 Q Do you agree that you did your best to
2 help Democrats during that --
3 A No. These weren't my words. Somebody
4 wrote these. You know, I speak extemporaneously.
5 People give me lines, but -- you know, I look
6 through them, I read them, usually in the car on
7 the way to the place, and then I just speak off
8 the top of my head, but these are not my words.
9 Q Okay. Do you ever tell your staff
10 that you didn't -- that this was not --
11 A I tell them everyday.
12 Q -- this paragraph was incorrect?
13 MR. FROSH: Wait, hold on. Objection.
14 The question is complex and vague and ambiguous.
15 MR. MEDLOCK: Did you ever tell
16 your --
17 MR. FROSH: And there's a lack of
18 foundation.
19 BY MR. MEDLOCK:
20 Q That's fine.
21 Did you ever tell your staff that this
22 paragraph was incorrect?

Page 69

1 MR. FROSH: Objection, lack of
2 foundation.
3 THE WITNESS: I don't remember this
4 document at all.
5 BY MR. MEDLOCK:
6 Q Do you recall ever telling your
7 staff that this paragraph --
8 A No, I don't remember telling them --
9 MR. FROSH: Objection, lack of
10 foundation.
11 THE WITNESS: I don't remember
12 discussing this with anybody.
13 THE REPORTER: I'm sorry?
14 THE WITNESS: I don't remember
15 discussing this document with anybody.
16 Again, this is innocuous. You speak
17 to 20 people. This is a restaurant room smaller
18 than this, it's 20 people. You've got to do your
19 job, you've got to speak to them, and they tell
20 you what to talk to them about.
21 BY MR. MEDLOCK:
22 Q Okay. But you view this statement as

Page 70

1 innocuous?
2 MR. FROSH: Objection.
3 THE WITNESS: I didn't read it. I'm
4 telling you, I didn't read this. I don't -- this
5 is not something I said. I didn't even -- I never
6 even read this thing.
7 MR. MEDLOCK: Oh, okay.
8 Mark the next exhibit.
9 (Miller Exhibit 129 was marked
10 for identification.)
11 THE WITNESS: What do you want to do
12 with the exhibits that have been marked?
13 MR. MEDLOCK: Oh, you can just keep
14 them in front of you.
15 THE REPORTER: You can just put them
16 here. I'll take them at the end.
17 THE WITNESS: Thank you.
18 MR. MEDLOCK: Give them to the court
19 reporter.
20 THE WITNESS: Okay, thank you.
21 BY MR. MEDLOCK:
22 Q All right. I've put in front of you

Page 71

1 what we've marked as 129 to your deposition.
2 A Uh-hmm.
3 Q It is a two-page press release dated
4 July 4th, 2011. Do you see that?
5 A Okay.
6 Q And the title of the press release is
7 "GOVERNOR MARTIN O'MALLEY ANNOUNCES MEMBERS OF
8 GOVERNOR'S REDISTRICTING ADVISORY COMMITTEE."
9 A Right.
10 Q And then immediately below that,
11 there's a subheading that says, "Five-member
12 committee will hold first meeting on Wednesday,
13 July 6th." Do you see that?
14 A No, but that -- I believe you're
15 right.
16 Q Okay. Do you see sort of halfway down
17 the first page there is a listing of the members
18 of the Governor's Redistricting Advisory
19 Committee.
20 A I see that.
21 Q There's a reference to
22 Jeanne Hitchcock.

Page 72

1 A Right.
2 Q Do you know Ms. Hitchcock?
3 A I do.
4 Q How did you come to know
5 Ms. Hitchcock?
6 A She was the governor's deputy mayor in
7 Baltimore City.
8 Q Is that when you first met her?
9 A Yes. When he was mayor of Baltimore,
10 she was deputy mayor.
11 Q Uh-hmm. Had Ms. Hitchcock ever served
12 with you on the GRAC prior to 2011?
13 A No.
14 Q To your knowledge, did Ms. Hitchcock
15 have any prior experience with congressional
16 redistricting?
17 A I have no idea.
18 Q To your knowledge, did Ms. Hitchcock
19 have any prior experience with congressional
20 redistricting software?
21 A I have no idea.
22 Q Okay. Then the next person listed is

Page 73

1 you, correct?
2 A Right.
3 Q Then below that is Speaker Busch?
4 A Right.
5 Q To your knowledge, had Speaker Busch
6 ever served on the Governor's Redistricting
7 Advisory Committee before 2011?
8 A I don't know. I don't remember.
9 Q Okay. And then below Speaker Busch is
10 James King.
11 A Right.
12 Q Is he the Republican that you were
13 referencing earlier?
14 A Right.
15 Q In 2011, was James King a member of
16 the House of Delegates?
17 A I don't know.
18 Q Okay. Do you know whether James King
19 had any prior experience regarding congressional
20 redistricting?
21 A No.
22 Q You don't know one way or the other?

Page 74

1 A I have no idea.
2 Q Okay. Below James King is Richard
3 Stewart. Do you see that?
4 A Right.
5 Q And Richard Stewart was not a
6 politician; is that right?
7 A I have no idea.
8 Q Okay. Had you ever met Richard
9 Stewart prior to serving on the GRAC?
10 A Not that I know of.
11 Q Do you know whether Richard Stewart
12 had any prior experience with congressional
13 redistricting?
14 A I don't know.
15 Q Were you consulted on who
16 Governor O'Malley should appoint to the GRAC in
17 2011?
18 A No.
19 Q Do you know whether any of your staff
20 were consulted on that question?
21 A I doubt it.
22 Q Why do you doubt it?

Page 75

1 A You know, it's a Governor's
2 commission. The Governor will make their own
3 decisions.
4 MR. MEDLOCK: Mark the next one.
5 (Miller Exhibit 130 was marked
6 for identification.)
7 BY MR. MEDLOCK:
8 Q I've put in front of you marked
9 Exhibit 130. Before I get to that, I have one
10 question that I forgot.
11 Do you know whether the Maryland
12 Republican Party was consulted regarding
13 James King being appointed to the GRAC?
14 A I don't know.
15 Q Do you know whether the Republican
16 Leadership of the Maryland General Assembly was
17 consulted regarding his appointment?
18 A I don't know.
19 Q All right. Let's move to Exhibit 130.
20 A I didn't know James King well at all.
21 He was in the House of Delegates.
22 Q Uh-hmm.

Page 76

1 A I never served with him.
2 Q Okay. How many times outside of the
3 GRAC public meetings did you attend meetings with
4 James King?
5 MR. FROSH: Object.
6 THE WITNESS: Rarely.
7 BY MR. MEDLOCK:
8 Q Okay. So I put in front of you
9 Exhibit 130, which is a document that at the top
10 says "Governor's Redistricting Advisory
11 Committee," and it appears to have an agenda below
12 that. Have you seen this document before?
13 A I don't know.
14 Q Do you recall attending this meeting
15 on July 6th, 2011?
16 A I don't.
17 Q You don't have a recollection of that
18 meeting?
19 A No.
20 Q Do you have any reason to doubt that
21 you attended the meeting?
22 A I have no idea.

Page 77

1 Q So you can't say one way or the
2 other whether you were at --
3 A I have no idea.
4 Q -- this --
5 A I don't remember.
6 MR. FROSH: Objection. It's been
7 asked and answered.
8 BY MR. MEDLOCK:
9 Q Prior to this July 6th, 2011, meeting,
10 did you discuss congressional redistricting with
11 anyone?
12 A I don't know.
13 Q Do you know whether any of your
14 staffers attended this July 6, 2011, meeting?
15 A I don't know.
16 Q Do you know a gentleman by the name of
17 Jake Weissman?
18 A I do. I do.
19 Q Who is Jake Weissman?
20 A He's a young aide. He's from
21 Baltimore City, one of ten kids, brother is an
22 orthodox rabbi, parents are teachers.

Page 78

1 Q How long has Mr. Weissman been one of
2 your aides?
3 A I don't remember. Probably five or
4 six years.
5 Q Do you know whether he was your aide
6 in 2011?
7 A He would have worked with me. I'm not
8 sure he was the chief aide, but he would have
9 worked in my office.
10 Q What were his responsibilities in
11 2011, if you recall?
12 A Everything.
13 Q Was congressional redistricting --
14 A Everything, everything. Everybody
15 that works for me is cross trained. Everything.
16 Everything.
17 Q So he would have worked on
18 congressional redistricting during the special
19 session?
20 A He would have.
21 Q Did he work on congressional
22 redistricting prior to the special session in

Page 79

1 2011?
2 A I don't remember.
3 Q Do you recall whether he was charged
4 to do anything specific with regard to
5 congressional redistricting in 2011?
6 A No. Again, most of this stuff was
7 handled by the Governor's Office.
8 Q Can we go back for a second to the
9 first exhibit we marked, which was 121? That's
10 the congressional map for 2011. Do you have that
11 in front of you, sir? I can find it for you.
12 A Okay.
13 Q There you go.
14 A Thank you.
15 Q No problem.
16 Can you tell me who actually drew that
17 map?
18 A I think it was probably a consensus of
19 people in the Governor's Office, but I don't know.
20 Q You don't know specifically?
21 A I don't.
22 Q Okay.

Page 80

1 A I'm sure it was a compilation of
2 people.
3 Q Okay. But you don't know who those
4 people would be or who --
5 A No.
6 Q Okay. And when you say that you're
7 sure it was from the Governor's Office --
8 A I'm talking about the final map. The
9 final map, I mean, just like you -- this is the
10 Governor's planning. The Governor's in charge of
11 the congressional plan. Just like you said
12 Glendening had something on his desk to help him,
13 I'm sure that Governor O'Malley had people in his
14 office helping him.
15 Q Uh-hmm.
16 A His -- see --
17 MR. FROSH: Let him ask a question.
18 THE WITNESS: Okay. All right.
19 BY MR. MEDLOCK:
20 Q So do you know with any certainty,
21 besides saying that you're sure that someone in
22 the Governor's Office drew that map, who

Page 81

1 specifically drew that map?
2 A Well, I said it's a compilation. So,
3 for example, the congressional people would have
4 had input to this. The Governor's job is to
5 mediate among the congressional people to try to
6 listen to their concerns, who wants College Park,
7 who wants Fort Meade, you know, who feels best
8 representing areas.
9 Q Uh-hmm.
10 A Plus, you take into consideration all
11 the testimony that the public puts in. You know,
12 what do they need and what do they feel best?
13 Q Uh-hmm.
14 A You hear from both parties, and you
15 make a decision after hearing all the evidence,
16 all the communications, and it's a combination of
17 voices that brings you to the final map.
18 Q I see. You said that congressional
19 people would have had input on this map. What
20 makes you say they would have had input on the
21 map?
22 A They've always had input on the map.

Page 82

1 Q Do you know what sort of input the
2 Maryland Congressional Delegation had on the 2011
3 congressional map?
4 A I don't know.
5 Q Would you have been privy to that
6 information?
7 A I don't remember.
8 Q Would your staff have been privy to
9 that information?
10 A Possibly.
11 Q Who on your staff would have possibly
12 been privy to that information?
13 A Probably Mr. Weissman.
14 Q Okay.
15 A But it could have been anyone on my
16 staff.
17 Q How about Patrick Murray, would he
18 have possibly been privy to this information?
19 A If he was on my staff at that time, he
20 would have had the information on it.
21 Q Okay. When Mr. Murray was on your
22 staff, what position did he hold?

Page 83

1 A Again, he was an aide.
2 Q Okay. Do you have -- do you
3 distinguish between levels of --
4 A (Witness shaking head back and forth.)
5 Q I see.
6 A I just have one chief, that's -- her
7 name is Victoria Gruber. Everybody else works for
8 her, including myself.
9 Q Okay.
10 A It's true. Hire somebody brighter
11 than yourself, you work for them, right?
12 Q Look, you see the people down the
13 table. I work for them.
14 A That's it. That's what it's all
15 about.
16 Q Yeah, I understand.
17 A And he knows that, too.
18 Q I just want the record to reflect that
19 we're all at least smiling in the room.
20 A Okay. That's true.
21 MR. MEDLOCK: Okay, can I get the next
22 one?

Page 84

1
2 (Miller Exhibit 131 was marked
3 for identification.)
4 BY MR. MEDLOCK:
5 Q All right, sir, I've put in front of
6 you what we've marked as Exhibit 131 to your
7 deposition.
8 A Okay.
9 Q It's a document at the top that says
10 Redistricting Advisory Committee, Governor's
11 Reception Room. Do you see that?
12 A Okay.
13 Q If you compare Exhibit 130, which is
14 right here, to Exhibit 131 --
15 A Okay.
16 Q The agenda in 130 says that the
17 meeting is going to happen on July 6, 2011 --
18 A Right.
19 Q -- in the Governor's Reception Room,
20 correct?
21 A Right.
22 Q And if you go to 131 at the top, it

Page 85

1 says that -- it says Redistricting Advisory
 2 Committee, Governor's Reception Room, July 6 at
 3 1:00 p.m. Do you see that?
 4 A Okay.
 5 Q So does this lead you to believe that
 6 these are talking points or meeting notes for this
 7 July 6, 2011, meeting?
 8 A I have no idea what this is.
 9 Q You have no idea what Exhibit 131 is?
 10 A No, I don't.
 11 Q Have you ever seen it before?
 12 A I don't remember.
 13 Q So you may have seen it, but you don't
 14 recall?
 15 A That's correct.
 16 Q Okay. I want to take you down to --
 17 do you see the header that says "Suggested
 18 Comments"?
 19 A Right.
 20 Q Would these have been comments that
 21 were suggested by your staff?
 22 MR. FROSH: Objection, lack of

Page 86

1 foundation.
 2 THE WITNESS: Let me read this thing.
 3 BY MR. MEDLOCK:
 4 Q Sure, please do.
 5 A It's six years ago.
 6 Q Understood. Why don't you do this,
 7 take a moment to review it --
 8 A That's right.
 9 Q -- and then when you're done, tell me
 10 orally on the record that you're done reviewing
 11 it.
 12 A Okay. (Witness reviewing document.)
 13 Okay.
 14 Q Okay, you've read it? Okay.
 15 Did reading it refresh your
 16 recollection about this document?
 17 A No, but --
 18 Q Okay. Do you have any reason to doubt
 19 that your staff prepared this document for you?
 20 A No, no.
 21 Q Okay. So under the Suggested
 22 Comments, do you see a paragraph that begins with,

Page 87

1 "Your comments should not fuel"? It should be on
 2 the first page.
 3 A Okay.
 4 Q Do you see that, sir?
 5 A Right.
 6 Q Okay. That paragraph reads, "Your
 7 comments should not fuel speculation about who is
 8 'on the chopping block,' which will feed the
 9 media's fascination with the 'winners and losers'
 10 aspect of this process. Please see the attached
 11 articles from the Baltimore Sun and the Annapolis
 12 Capital for examples of the flames you do not want
 13 to flame today."
 14 Did I read that correctly?
 15 A Yes.
 16 Q Do you believe that anyone was on the
 17 chopping block in 2011 during the redistricting
 18 process?
 19 A I don't remember.
 20 Q Do you believe that there would be
 21 winners and losers from the 2011
 22 congressional redistricting?

Page 88

1 A There's winners and losers in every
 2 electoral process.
 3 Q Certainly. Are there winners and
 4 losers in every redistricting process?
 5 A I think probably so.
 6 Q Were you conscious of who the winners
 7 and losers would be in the 2011 redistricting
 8 process?
 9 A No. I just -- like I say, I primarily
 10 focused on District 5, District 6.
 11 Q Uh-hmm.
 12 A But it's always a challenge when you
 13 get to the middle of the state, where you've got
 14 to bring the extremities together. That's where
 15 it's most challenging. Who gets Pikesville?
 16 Q So when you looked at Exhibit 121, the
 17 2011 congressional map, you couldn't tell who the
 18 winners and losers would be from that
 19 congressional map?
 20 A No, not at the present time, I
 21 couldn't.
 22 Q You couldn't now?

Page 89

1 A I don't have the map in front of me.
2 Q Okay. Here, I can show it to you.
3 Here's Exhibit 121.
4 A Okay.
5 Q Looking at that congressional map --
6 A Okay.
7 Q -- can you tell who the winners and
8 losers are from that congressional map?
9 A No.
10 Q Okay.
11 A The middle of the state is a jumble,
12 which it always is.
13 Q Uh-hmm. So you can't tell me whether
14 Republicans in Western Maryland are losers under
15 that congressional map?
16 A I can tell you that Western Maryland
17 gets a fair shot, Southern Maryland gets a fair
18 shot, Eastern Shore gets a fair shot.
19 Q Uh-hmm.
20 A This District 2, if that's what it is,
21 gets a fair shot, and the middle I'm not sure.
22 Q Okay. So you think that Republicans

Page 90

1 in Western Maryland got a fair shot under this
2 2011 congressional map?
3 A I think the people got a fair shot.
4 It's a -- it would be a very competitive district.
5 Q Okay. How do you determine when a
6 district is competitive?
7 A You know, I usually won by 65 percent,
8 okay. They call that a landslide, okay?
9 Q Uh-hmm.
10 A Now I've dropped below 65, but anyway,
11 63 percent. But I would say in the 50s. If it's
12 like 50 percent, 52 percent, 53 percent,
13 54 percent, either way is very competitive.
14 I have a Democratic seat that wins on
15 the Eastern Shore with 38 percent, you know, but
16 it's hard. It just depends on who the candidates
17 are, how much -- what are the resources, how hard
18 they work. Do they knock on doors? Do they have
19 enthusiasm.
20 Hillary Clinton had everything last
21 election -- everything, everything, everything.
22 90 percent of the newspaper endorsements,

Page 91

1 everything. Everybody knew she was going to win,
2 and she lost. She couldn't sell. She couldn't
3 sell. Her message didn't take. And it's a crap
4 shoot. The 6th District is a crap shoot who's
5 going to win that district.
6 Q So you think that the 6th District is
7 a crap shoot; is that right?
8 A It is.
9 Q In that crap shoot since 2012, how
10 many times has a Democrat won that crap shoot?
11 A In 2012?
12 Q Since 2012.
13 A I don't know. I think -- two times, I
14 think.
15 Q So is there any -- has there been any
16 instance in which that -- in that crap shoot a
17 Republican has won the 6th Congressional District
18 since the 2011 congressional redistricting
19 process?
20 A They won legislative races.
21 Q So I'm not asking you about
22 legislative races. I'm talking about U.S. House

Page 92

1 of Representatives, 6th Congressional District.
2 A Again, I think the election was -- is
3 very close in terms of a Democratic primary, very
4 close in terms of a general election.
5 Q Which election are you talking about?
6 A 6th election district, the last two.
7 Q When you say Democratic primary, are
8 you talking about for U.S. House of
9 Representatives?
10 A Yes, yes.
11 Q Okay.
12 A For the 6th Congressional District.
13 Q Okay. So what sort of measurement do
14 you look at when determining whether a
15 congressional district is more competitive?
16 MR. FROSH: Objection.
17 THE WITNESS: I don't know.
18 BY MR. MEDLOCK:
19 Q Did you look at any type of data to
20 determine whether the 6th Congressional District
21 was going to be more competitive after the 2011
22 redistricting process?

Page 93

1 A If you're involved in business like I
2 am, or politics and government, you know -- you
3 know -- you have a feel for towns, counties,
4 municipalities, and you just try to give everybody
5 a fair shot.
6 Q Uh-hmm.
7 A Staying within the -- you know, the
8 voting rights, staying -- respecting municipal
9 boundaries, trying to keep county lines intact.
10 Q Uh-hmm.
11 A Like I say, aesthetics also comes in
12 play. Like I say, aesthetically, I think the
13 6th District looks fine.
14 Q So do you find -- do you think the
15 6th District is aesthetically pleasing?
16 A It is. It's the Montgomery -- it's
17 Potomac Corridor, it's the 270 Corridor.
18 Q Okay. So what -- if you look at this
19 map, Exhibit 121, what congressional district does
20 I-270 go through on this map?
21 A Well, it starts off in Montgomery
22 County.

Page 94

1 Q Would it start out in the 8th?
2 A I don't know where it starts out,
3 quite frankly.
4 Q Okay.
5 A I don't know where it starts.
6 Q Okay. Where does it end on this map?
7 A I don't know.
8 Q Does it end in the 6th or in the 8th?
9 A I -- I don't know.
10 Q Does it -- is it in the 6th the entire
11 time, or is it in the 8th for part of the time?
12 A I don't know.
13 Q Okay. As you've defined the term
14 "I-270 Corridor," is part of that in the
15 8th District, or is all of it in the 6th District?
16 A Again, I'm looking at a map, but I
17 don't know where the 8th District is, okay?
18 Q So it's -- I'm sorry, I can point it
19 out to you.
20 A Okay, okay.
21 Q It's this pink area right here.
22 A Probably some of it's in the

Page 95

1 8th District.
2 Q Oh, okay. Okay.
3 You know, we've been going for a
4 little over an hour. Why don't we take a break.
5 A I'm ready to keep going. I've got a
6 busy day.
7 Q Okay, let me get a quick -- another
8 water bottle. We can take maybe five minutes.
9 A All right.
10 Q Okay.
11 THE VIDEOGRAPHER: The time is
12 11:11 a.m. We're going off the record.
13 (A break was taken.)
14 THE VIDEOGRAPHER: The time is
15 11:18 a.m. on April 24th, 2017. On the record
16 with Video 2.
17 BY MR. MEDLOCK:
18 Q Okay. So you have in front of you
19 Exhibit 131, which was the --
20 A 121.
21 Q Sorry. I should have --
22 A 131, okay.

Page 96

1 Q Okay. What I'd like to focus on is
2 the first sentence of the Suggested Comments
3 section. Do you see that?
4 A Right.
5 Q That reads, "As you know (probably
6 better than I do), the redistricting process is
7 going to be closely scrutinized by the media and
8 interest groups across the spectrum, primarily
9 because the process itself is inherently
10 political."
11 Did I read that correctly?
12 A Yeah.
13 Q Do you agree that the redistricting
14 process itself is inherently political?
15 A I have no idea.
16 Q From your experience on the -- in the
17 redistricting process, do you believe it's --
18 A Like I told you, it's drawn -- it
19 primarily was drawn by the congressional people,
20 so in that sense, it will be political.
21 Q Okay, understood.
22 What I'd like to focus on then is the

Page 97

1 last paragraph on the second page.
 2 A Okay.
 3 Q It reads, "Above all else, downplay
 4 politics." That's underlined. "This process is
 5 going to be open and transparent. It's going to
 6 provide ample opportunity for the citizens of
 7 Maryland to participate. It will result in
 8 districts that reflect the changes that have
 9 occurred over the past decade."
 10 Did I read that correctly?
 11 A Yes.
 12 Q Why was it necessary to downplay
 13 politics, if at all?
 14 MR. FROSH: Objection, lack of
 15 foundation.
 16 THE WITNESS: Again, I didn't write
 17 this.
 18 BY MR. MEDLOCK:
 19 Q Okay. Do you believe that it was
 20 necessary to downplay politics entering the
 21 congressional redistricting process in 2011?
 22 A Again, I didn't write this.

Page 98

1 Q Sure. I'm asking for your belief.
 2 A I think it's important that factors
 3 other than politics play into this.
 4 Q Do you think it's important to
 5 downplay politics in the congressional
 6 redistricting process?
 7 MR. FROSH: Objection, asked and
 8 answered.
 9 THE WITNESS: Everything's important
 10 political -- in redistricting.
 11 BY MR. MEDLOCK:
 12 Q Okay. I'd like to focus on the first
 13 page. There's an underlined section that says,
 14 "If you are asked about the Maryland GOP's
 15 proposed redistricting map."
 16 Do you see that underlined section?
 17 A Uh-huh.
 18 Q There's a suggested comment after that
 19 that reads, Maryland Republicans are putting the
 20 cart before the horse. It's great that they've
 21 produced a map that we've -- before we've held our
 22 first public meeting - but this process is going

Page 99

1 to gather input from the citizens of Maryland
 2 before we produce a map.
 3 Did I read that correctly?
 4 A Right.
 5 MR. FROSH: No, it says public
 6 hearing -- it says public hearing, not public
 7 meeting.
 8 MR. MEDLOCK: I'm sorry, public
 9 hearing. Thank you. I appreciate it.
 10 BY MR. MEDLOCK:
 11 Q With that one correction from your
 12 counsel, did I read that correctly?
 13 A Right.
 14 Q Okay. All right.
 15 Do you recall ever seeing a map that
 16 was produced by the Maryland Republican Party?
 17 A I'm sure I did.
 18 Q Do you recall evaluating that map?
 19 A No.
 20 Q Do you recall how the congressional
 21 lines were drawn in that map?
 22 A No.

Page 100

1 Q Do you recall reviewing draft maps
 2 from other sources besides the Maryland
 3 Republican Party?
 4 A Yes.
 5 Q Where did those maps come from?
 6 A From citizens.
 7 Q Do you recall maps that came from
 8 sources other than Maryland citizens and the
 9 Maryland Republican Party?
 10 A I'm sure there were.
 11 Q But you can't recall who drew those?
 12 A Like I said, anybody that has a
 13 computer can draw a map now.
 14 Q Sure. Do you recall anyone who drew a
 15 map besides Maryland citizens and the Maryland
 16 Republican Party?
 17 A There were other maps, I know. You
 18 know, the African-Americans had a map.
 19 Q Okay.
 20 A There were maps -- certain civic
 21 associations had maps.
 22 Q Did the U.S. House Delegation have a

Page 101

1 map?
 2 A They had many maps.
 3 Q Okay. Did particular members of
 4 Maryland's U.S. House Delegation have draft maps?
 5 A I would certainly -- I don't know.
 6 Q You don't know one way or the other?
 7 A No.
 8 Q Do you recall reviewing any of those
 9 maps that came from Maryland's U.S. House
 10 Delegation?
 11 A I'm sure I did, but I don't recall.
 12 Q Do you know whether your staff did?
 13 A I'm sure they did, but I don't know.
 14 Q Do you know whether Mr. Weissman did?
 15 A I don't know.
 16 Q Okay. Do you recall ever speaking to
 17 your staff regarding any of the maps that were
 18 created by Maryland's U.S. House Delegation?
 19 A There would have been some technical
 20 changes my staff might have been involved in.
 21 Q What do you mean by technical changes?
 22 A Making certain that a district

Page 102

1 included every precinct. Maybe it split a
 2 municipality or something like that.
 3 Again, our delegates -- we didn't draw
 4 lines. We're just making the map correct and
 5 presentable.
 6 Q When you say we didn't draw lines, who
 7 are you referring to with "we" in that sentence?
 8 A I would say the staff, the Governor's
 9 staff, Speaker's staff, and myself.
 10 In other words, before the final
 11 product was put before the House or the Senate, it
 12 was the -- it was -- it was made to be -- each --
 13 each -- each congressional district had to have
 14 the exact same number of people in it --
 15 Q Uh-hmm.
 16 A -- and so there was always some
 17 changes, some minor -- minor technical changes.
 18 Q Who made the minor technical changes
 19 you're referring to?
 20 A Probably Mr. Weissman or Mr. Murray,
 21 or my office.
 22 Q Okay.

Page 103

1 A Or a staff person in the Speaker's
 2 office.
 3 Q Possibly Jeremy Baker from the
 4 Speaker's office?
 5 A Possible.
 6 Q Do you know where Mr. Weissman --
 7 well, let me ask you this.
 8 To your knowledge, did Mr. Weissman
 9 have any prior experience using congressional
 10 redistricting software?
 11 A He was involved in a mayor's race in
 12 Baltimore, so, I mean, I have no idea what he's
 13 done before.
 14 Q Okay. Do you know whether he did have
 15 that sort of experience --
 16 A No, I don't know.
 17 Q -- prior to 2011?
 18 A I don't know.
 19 Q How about Mr. Murray, did he have any
 20 prior experience with congressional redistricting
 21 software prior to 2011?
 22 A Probably so, but I don't know.

Page 104

1 Q Okay. And how about Mr. Baker, do you
 2 know whether he had any prior experience?
 3 A I don't know his background.
 4 Q Okay. Did you ever see Mr. Weissman
 5 using congressional redistricting software during
 6 the 2011 redistricting cycle?
 7 A I don't remember honestly. I'm sure
 8 he did, but I don't remember.
 9 Q Okay. You just can't tell me one way
 10 or the other?
 11 A I assume you got this stuff off his --
 12 off his computer, because I've never seen this
 13 stuff before, so I have no idea. Whatever is on
 14 his computer he saw.
 15 Q Okay. But it's an assumption; is that
 16 right?
 17 A Half -- this all stuff is assumption.
 18 Q Okay. All right. Well -- all right.
 19 How about Mr. Baker, did you ever see
 20 him have --
 21 A No.
 22 Q Okay.

Page 105

1 A No.

2 Q And I don't know if I asked this.

3 Did you ever see Mr. Murray with

4 congressional redistricting software running on

5 his computer?

6 A No, but I'm sure -- I'm sure he used

7 it.

8 Q Okay. Do you know whether Mr. Murray

9 had any assistance from any outside source using

10 congressional redistricting software?

11 A I have no idea.

12 Q How about Mr. Weissman, do you know

13 whether he had any assistance from any outside

14 source?

15 A I don't know. I have no idea.

16 Q How about Mr. Baker, do you know

17 whether he had any assistance from any outside

18 source?

19 A I have no idea.

20 Q Do you know whether Mr. Weissman ever

21 spoke to members of Maryland's U.S. House

22 Delegation regarding their draft maps?

Page 106

1 A Like I say, these maps are staff

2 driven. He probably would have spoke to a staff

3 member of the Congress.

4 Q Do you know whether he did?

5 A I'm sure he did, but I don't know

6 that.

7 Q Okay. How about Mr. Murray, do you

8 know whether he spoke to staffers in the

9 U.S. House of Representatives regarding the map?

10 A Probably so. Probably so.

11 Q Do you know which staffers Mr. Murray

12 would have spoken with?

13 A Whoever worked for Congressman Steny

14 Hoyer.

15 Q Have you ever heard the name

16 Brian Romick before?

17 A That's who it would be.

18 Q Brian Romick works for

19 Congressman Hoyer?

20 A I believe so.

21 Q Did Mr. Murray speak to Mr. Romick

22 regarding the 2011 congressional map?

Page 107

1 A I -- I don't know. I'm not aware of

2 any conversations they had.

3 Q So you just -- you don't know one way

4 or the other whether he did or not?

5 A Well, he's not going to talk to the

6 congressman, so I'm sure he's going to talk to the

7 staff person.

8 Q Oh, okay. That was my question

9 actually. Do you know whether Mr. Murray spoke to

10 Mr. Romick regarding any drafts of the 2011

11 congressional map?

12 MR. FROSH: Objection. It's been

13 asked and answered.

14 THE WITNESS: No, I don't know.

15 MR. MEDLOCK: Okay. Can I get the

16 next one?

17 (Miller Exhibit 132 was marked

18 for identification.)

19 BY MR. MEDLOCK:

20 Q All right, sir, I put in front of you

21 what we've marked as Exhibit 132 to your

22 deposition. It's a one-page e-mail --

Page 108

1 A Okay.

2 Q -- dated July 6, 2011.

3 Do you see that?

4 A Okay.

5 Q And it's between Jeremy Baker and

6 Patrick Murray, correct?

7 A Okay.

8 Q Okay. And Patrick Murray is the

9 person we were discussing earlier who was a

10 staffer for you, correct?

11 A Right.

12 Q And Jeremy Baker was a staffer for

13 House Speaker Michael Busch, correct?

14 A Right.

15 Q Okay. You see here Mr. Murray sent

16 this e-mail from his Yahoo account, correct?

17 A I suppose.

18 Q Or it was sent to Mr. Murray at his

19 Yahoo account, I should say.

20 Does your staff have state-issued

21 e-mail addresses?

22 A We do, but I don't know them.

Page 109

1 Q Okay. When Mr. Murray transacts
2 business, does he usually use his state-issued
3 e-mail address or his Yahoo account?
4 A I have no idea.
5 Q Do you know whether individuals that
6 work for the Maryland General Assembly are
7 supposed to use their state-issued e-mail
8 addresses?
9 MR. FROSH: Objection. It's vague and
10 ambiguous.
11 THE WITNESS: No, I have no idea.
12 BY MR. MEDLOCK:
13 Q Okay. The subject line of this --
14 well, actually, let's move to the date. It says
15 July 6, 2011, at 4:14 p.m. Do you see that?
16 A Okay.
17 Q Okay. Now, if you compare that to
18 Exhibit 130 and 131 --
19 A Okay.
20 Q -- which you also have in front of
21 you, according to the agenda and the -- according
22 to Exhibit 130 and 131, there was a meeting of the

Page 110

1 Governor's Redistricting Advisory Committee from
2 July 6 -- on July 6, 2011, from 1:00 p.m. to
3 2:00 p.m. Do you see that?
4 A Okay.
5 Q And then this e-mail was sent at
6 4:14 p.m., correct?
7 A Okay.
8 Q On the same day; is that right?
9 A All right.
10 Q Okay. And the e-mail reads, "He needs
11 to see Steny's map before we figure out what
12 direction we want to go in. But I don't think he
13 wants to have to whip votes for the congressional
14 map when our map is around the corner."
15 Did I read that correctly?
16 A Right.
17 Q Reading this document, do you have any
18 understanding of what that means?
19 A This was the Speaker's staff
20 communicating to a person on my staff the views of
21 the Speaker.
22 Q Okay. And do you have an

Page 111

1 understanding of what he means by Steny's map?
2 A I don't.
3 Q Does Steny refer to Steny Hoyer?
4 A Right.
5 Q Did you ever see a map that was
6 created by Congressman Hoyer's staff?
7 A Again, I've seen maps -- maps. The
8 congressional -- there were eight different
9 Congress persons, and they had different views in
10 terms of what they wanted, which consisted of
11 different maps.
12 Q Uh-hmm.
13 A But I imagine they were trying to work
14 toward a consensus. I think that's what it is,
15 but I don't know.
16 Q Did you ever see a map that was
17 drafted by Congressman Roscoe Bartlett's staff?
18 A Probably so. I don't know.
19 Q You don't know one way or the other?
20 A I don't remember. It was probably
21 presented to the GRAC.
22 Q Do you know whether a map from

Page 112

1 Congressman Steny Hoyer was presented to the GRAC?
2 A I don't know.
3 Q Do you know whether a map from
4 Congressman Donna Edwards was presented to the
5 GRAC?
6 A I don't know.
7 Q Do you know whether a map from the
8 Democratic members of Maryland's U.S. House
9 Delegation was presented to the GRAC?
10 A I don't know.
11 Q Do you see the sentence that says,
12 "But I don't think he wants to have to whip votes
13 for the congressional map when our map is around
14 the corner"?
15 Do you have an understanding of what
16 that sentence means?
17 A No.
18 Q Do you have an understanding what it
19 means to whip votes?
20 A I don't know the difference between
21 the congressional map and the map around the
22 corner.

Page 113

1 Q Okay. In 2011, did the GRAC draft
 2 both a congressional map and a legislative map?
 3 A I believe so, but I don't know, again,
 4 what our map is around the corner. I don't know
 5 the difference between these two.
 6 Q Okay. Let's get the next exhibit.
 7 (Miller Exhibit 133 was marked
 8 for identification.)
 9 BY MR. MEDLOCK:
 10 Q All right, sir. This is a compilation
 11 of exhibits -- of documents that were produced.
 12 A Okay.
 13 Q But I want to focus on the last
 14 document in the -- last page, last document in the
 15 set.
 16 A Okay.
 17 Q Keep flipping, actually. It's the
 18 very, very last page.
 19 A Okay.
 20 Q Okay, but you can take your time to
 21 familiarize yourself with the document if you'd
 22 like. Just let me know when you're done.

Page 114

1 A That's all right, go ahead.
 2 Q Okay. All right.
 3 So the last page of this document is a
 4 one-page -- the last page of this exhibit is a
 5 one-page document that has at the top "MARYLAND
 6 DRAFT 2011 PLAN SUMMARIES." Do you see that?
 7 A Okay.
 8 Q Then there's a reference here to
 9 Edwards Plan and Current Districts.
 10 Do you see that?
 11 A No -- oh, yeah, okay, I see that.
 12 Okay.
 13 Q Okay. Do you recall whether
 14 Congresswoman Donna Edwards ever submitted a plan
 15 to the GRAC?
 16 A I'm sure she did.
 17 Q Okay. Do you recall receiving
 18 demographic information about draft congressional
 19 plans?
 20 A No, I don't remember, but I'm sure --
 21 I'm sure everything we did involved demographics.
 22 Q Okay. Do you recall whether your

Page 115

1 staff received demographic information?
 2 A I'm sure the committee did, but -- I'm
 3 sure the GRAC committee got it.
 4 Q Okay. Do you have any reason to doubt
 5 that the GRAC received this document?
 6 A This document?
 7 Q Yes, this page.
 8 A I doubt it. This is from AFL-CIO.
 9 Q Sir, I'm looking at the last page,
 10 sir, and they're not necessarily attachments.
 11 A It's not?
 12 Q No.
 13 A This doesn't go with this?
 14 Q So if you look at the prior page, do
 15 you see any reference to an attachment?
 16 A I don't know. I don't know. I just
 17 assume it came together. I don't know.
 18 Q Okay. Assume for the moment they
 19 don't come together.
 20 A Okay.
 21 Q Do you have any reason to doubt that
 22 the GRAC received this sort of demographic

Page 116

1 information regarding plans that were submitted to
 2 the GRAC?
 3 A I don't know.
 4 MR. FROSH: Objection.
 5 THE WITNESS: I don't know.
 6 BY MR. MEDLOCK:
 7 Q You don't know one way or the other?
 8 A I don't remember. It was six years
 9 ago. I don't remember.
 10 Q So the GRAC could have received this
 11 information, but you just don't recall?
 12 A That's correct.
 13 Q Okay. And do you have any
 14 recollection of seeing documents in this format
 15 before?
 16 A I'm sure I have at some point in time.
 17 Q Okay. Okay, you can put that document
 18 aside.
 19 A Where did this come from, this
 20 document?
 21 MR. FROSH: There's no question
 22 pending.

Page 117

1 THE WITNESS: Okay, okay. I believe I
2 saw it in a --
3 MR. MEDLOCK: Mark the next exhibit.
4 (Miller Exhibit 134 was marked
5 for identification.)
6 BY MR. MEDLOCK:
7 Q Okay, sir, I put in front of you the
8 exhibit marked as 134.
9 A Okay.
10 Q It's a two-page document that's
11 entitled "Maryland Democratic Party Trustees
12 Reception, Thursday, August 18 at 6:30 p.m.,
13 Harry Brown's in Annapolis."
14 Take a moment to look at it, let me
15 know when you've finished looking at it.
16 A (Witness reviewing Exhibit 134.) Okay.
17 Q Okay. What is the Maryland Democratic
18 Trustees? Who are the trustees of the party?
19 A I think -- I think those are the
20 donors, but I'm not sure.
21 Q Okay. Have you attended receptions
22 for the Maryland Democratic Party Trustees before?

Page 118

1 A I have. I have.
2 Q Do you recall attending this trustees
3 reception at Harry Brown's?
4 A I don't.
5 Q Okay. Do you have any reason to doubt
6 that you attended it?
7 A No.
8 Q I'd like to --
9 A (Witness coughing.)
10 Q Do you need a drink of water?
11 A No, I'm fine. I've just got a bad
12 cold. It's allergy, actually, is what it is.
13 Q They're bad today.
14 A Yeah.
15 Q I'd like to focus on the second page.
16 A Okay.
17 Q The third paragraph.
18 A All right.
19 Q Actually, the fourth paragraph, my
20 apologies, the one that begins with, "If you speak
21 about congressional redistricting."
22 Do you see that?

Page 119

1 A Okay.
2 Q That paragraph states, If you speak
3 about congressional redistricting, talk about the
4 fact that we aren't just drawing a map for one
5 election cycle - it has to last a decade. It's
6 challenging to know how trends will evolve over
7 ten years, but we believe the Eastern Shore will
8 continue to grow more Republican, and we believe
9 Montgomery County, Frederick County and even
10 Washington County will grow more Democratic.
11 Did I read that correctly?
12 A Right.
13 Q Do you agree with that statement that
14 the Eastern Shore was going -- is projected to get
15 more Republican over time?
16 A Yes.
17 Q And do you agree that Montgomery
18 County, Frederick County, and even Washington
19 County are projected to get more Democratic over
20 time?
21 A Yes.
22 Q Okay. The next part of that paragraph

Page 120

1 reads, "There's no such thing as a 7-1 map - our
2 goal is to protect our six incumbents and create
3 an opportunity for a strong Democratic candidate
4 to compete for a seventh seat."
5 Did I read that correctly?
6 A Okay.
7 Q Do you agree with that statement?
8 A I agree there's no such thing as a
9 7-1 map.
10 Q Do you agree that the goal is to
11 protect the six Democratic incumbents?
12 A Probably so.
13 Q Do you agree that the goal is to
14 create an opportunity for a strong Democratic
15 candidate to compete for the seventh seat?
16 A The goal was to create a competitive
17 seat, not necessarily a Democratic candidate.
18 Q Well, do you agree with the actual
19 clause in this sentence that says that one of the
20 goals was to create an opportunity for a strong
21 Democratic candidate to compete for a seventh
22 seat?

Page 121

1 A That might have been the goal of
2 whoever drafted the map, but -- or the maps in
3 question, but that wasn't my goal.
4 Q Okay. But it might have been the map
5 maker's goal?
6 A Right.
7 Q Okay. Are you familiar with a
8 political action committee called the National
9 Committee for an Effective Congress?
10 A No.
11 Q NCEC?
12 A No.
13 Q Are you familiar with the
14 redistricting consulting group called
15 NCEC Services?
16 A I've heard of them.
17 Q How have you heard of it before?
18 A I've heard of them.
19 Q What do you know about NCEC Services?
20 A Again, this was a group that compiles
21 statistics, and I think sells them to interested
22 parties, Republicans and Democrats.

Page 122

1 Q Have you ever purchased services or
2 information from NCEC Services?
3 A I don't believe so.
4 Q Do you know if your staff has
5 ever done it on your behalf?
6 A They might have. They might have. I
7 don't know.
8 Q Have you ever seen any data from
9 NCEC Services?
10 A I'm sure I have.
11 Q Do you know whether your staff has
12 seen data from NCEC Services?
13 A I'm sure they have.
14 Q Okay. Do you know a redistricting
15 consultant named Mark Gersh? The last name is
16 G-E-R-S-H, if that helps.
17 A I've heard the name, but I don't -- I
18 couldn't recall him.
19 Q Do you know whether you've ever spoken
20 to him before?
21 A No, I don't.
22 Q Do you know whether he's ever spoken

Page 123

1 to your staff before?
2 A I don't know.
3 Q Do you know a redistricting consultant
4 named Eric Hawkins?
5 A No.
6 Q Do you know whether your staff has
7 ever spoken with Mr. Hawkins?
8 A I don't know.
9 Q Have you ever seen any data that came
10 from Mr. Hawkins?
11 A I haven't that I know of.
12 Q Okay. So you may have, but you
13 just might not -- you don't know it right now?
14 A Again, this is -- what you're dealing
15 with, you've got this off of somebody's computer
16 in a staff person, and this is beneath my pay
17 grade.
18 Q Okay, understood.
19 Next document.
20 (Miller Exhibit 135 was marked
21 for identification.)
22

Page 124

1 BY MR. MEDLOCK:
2 Q All right, sir. I put in front of you
3 what we've marked as Exhibit 135 to your
4 deposition. It's a one-page e-mail chain. Take a
5 moment to review it, let me know when you're done
6 reviewing it.
7 A Okay.
8 (Witness reviewing Exhibit 135.) Okay.
9 Q All right. You've reviewed it?
10 A I have.
11 Q Okay. So if you start at the very
12 bottom, there's an e-mail from Brian Romick, and
13 that's the individual you said works for
14 Congressman Hoyer, correct?
15 A Right.
16 Q Okay. And below that there's a --
17 he's sending an e-mail to MG2590@aol.com.
18 Do you see that?
19 A Right.
20 Q Do you know whose e-mail that is?
21 A No.
22 Q Okay. I'll represent to you, just for

Page 125

1 purposes of my question, that that's Mark Gersh's
2 e-mail, okay?
3 A Okay.
4 Q All right. And then if you move up,
5 there's the e-mail from Mr. Gersh on
6 September 1st, 2011, at 2:31 p.m.
7 Do you see that?
8 A Okay.
9 Q He states, "Brian: O.K. Have to come
10 back" -- "have to come back to NCEC after meeting
11 with the Governor, as I have much to do on the
12 first day with" everything -- "with everyone
13 returning." Do you see that?
14 A Right.
15 Q Then moving up from there, there's an
16 e-mail from Brian Romick on September 1st, 2011,
17 at 2:43 p.m. Do you see that?
18 A Right.
19 Q And he writes, "if we can get you
20 parking, you mind driving separately then? We
21 need to do 3 meetings, if Miller and Busch are in
22 Annapolis." Did I read that correctly?

Page 126

1 A That's what it says.
2 Q Do you recall meeting with
3 Brian Romick in September 2001?
4 A I do not.
5 Q Do you recall discussing congressional
6 redistricting with Brian Romick?
7 A No, I do not.
8 Q Do you recall discussing congressional
9 redistricting with anyone from Congressman Hoyer's
10 office?
11 A Probably Congressman Hoyer.
12 Q Do you have a specific recollection of
13 that?
14 A No, but we're good friends.
15 Q Do you have any reason to doubt that
16 you would have discussed -- wouldn't have
17 discussed redistricting with him?
18 MR. FROSH: Objection.
19 THE WITNESS: No.
20 BY MR. MEDLOCK:
21 Q Okay. Do you recall meeting with
22 Mr. Gersh?

Page 127

1 A I don't recall.
2 Q Okay. Do you have any reason to doubt
3 that this meeting didn't occur?
4 MR. FROSH: Objection --
5 THE WITNESS: I don't --
6 MR. FROSH: -- two negatives in there.
7 THE WITNESS: I don't recall.
8 MR. FROSH: It's been asked and
9 answered.
10 BY MR. MEDLOCK:
11 Q Let me ask you it to you this way:
12 Are you aware of any evidence showing
13 that this meeting did not occur?
14 MR. FROSH: Objection.
15 THE WITNESS: I don't remember the
16 meeting at all.
17 BY MR. MEDLOCK:
18 Q Okay.
19 A I don't remember Mr. Gersh.
20 Q Okay. So the meeting could have
21 happened, but you just don't recall it?
22 MR. FROSH: Objection, asked and

Page 128

1 answered.
2 THE WITNESS: Could have.
3 MR. MEDLOCK: Okay. Do you have the
4 next exhibit?
5 (Miller Exhibit 136 was marked
6 for identification.)
7 BY MR. MEDLOCK:
8 Q Okay, I'm showing you what we've
9 marked as Exhibit 136 to your deposition. It's a
10 three-page e-mail chain between Brian Romick,
11 Jason Gleason and Eric Hawkins at certain points.
12 A I don't --
13 Q Take a moment --
14 A I don't know those last two people.
15 Q Okay. I was going to ask you that,
16 but let's take a moment to review it, and then let
17 me know when you're done reviewing it.
18 A Go ahead.
19 Q Okay. So you stated you don't know
20 who Jason Gleason is; is that correct?
21 A No, no.
22 Q Okay. All right.

Page 129

1 So I want to look at the bottom e-mail
2 on the first page, and it's sent Saturday,
3 October 1st, 2011, at 2:09 p.m. Do you see that?
4 A Okay.
5 Q And in Mr. Hawkins' e-mail, he refers
6 to configuration changes that leaves MD04 at
7 53.75 percent NHAAA -- or in HAAVAP percentage.
8 Do you see that?
9 A Okay.
10 Q And then moving up from that,
11 Mr. Gleason writes, "Brian? What do you think?
12 Pitch it to the Gov's crowd?"
13 Did I read that correctly?
14 A Right.
15 Q And then the top e-mail in the chain,
16 very top of the page, is from Brian Romick to
17 Jason Gleason. Do you see that?
18 A Okay.
19 Q And it says, "They need to run it by
20 Miller and Busch and they haven't yet."
21 Did I read that correctly?
22 A Okay.

Page 130

1 Q Do you recall changes to the
2 congressional map being run by you in
3 October 2011?
4 A I don't know any of these three
5 individuals.
6 Q I'm not asking you about that. I'm
7 just asking do you recall changes to the
8 congressional map being run by you in October of
9 2011?
10 A No.
11 Q Do you recall any technical changes to
12 the map being discussed with you in October 2011?
13 A No.
14 Q Do you recall your staff discussing
15 with you anything that Maryland's U.S. House
16 Delegation wanted to change in the congressional
17 map?
18 A I don't.
19 Q So you have no recollection of any of
20 the information in this e-mail being run by you?
21 A No.
22 Q I think you made reference to this

Page 131

1 earlier, but the GRAC held public meetings around
2 Maryland in 2011, correct?
3 A Right.
4 Q Did you attend those meetings?
5 A I did.
6 Q Did you attend all of them?
7 A I did.
8 Q Did you take any notes during those
9 meetings?
10 A I don't remember.
11 Q Did you review the transcripts of
12 those meetings after you attended them?
13 A No.
14 Q Did you ask your staff to review the
15 transcripts?
16 A No. I listened attentively, though.
17 Q Did you receive any materials that
18 were submitted to the GRAC during those hearings?
19 A We did.
20 Q Did you review any of those materials?
21 A Well, while the presentation was being
22 made.

Page 132

1 Q After the presentation was being made,
2 did you ever go back and review those materials
3 again?
4 A No.
5 Q Can you think of specific feedback
6 that you received during these public meetings
7 that you asked be incorporated into the final
8 congressional map?
9 A Legislatively, but not
10 congressionally.
11 Q Can you think of any specific feedback
12 that you received during those public meetings
13 that you asked your staff to make sure was
14 incorporated into the final congressional map?
15 A No.
16 Q Okay. Can I get the next one?
17 (Miller Exhibit 137 was marked
18 for identification.)
19 BY MR. MEDLOCK:
20 Q Okay, sir, I've put in front of you
21 what we've marked as Exhibit 137 to your
22 deposition. It's a two-page press release. Take

Page 133

1 a moment to review it, then let me know when
 2 you're done reviewing it.
 3 A (Witness reviewing Exhibit 137.) Okay.
 4 Q So I'd like to start at the very top
 5 in the e-mail header. This e-mail was sent
 6 October 4th, 2011, at 2:49 p.m., correct?
 7 A Okay.
 8 Q And one of the individuals who
 9 received this e-mail is LJaney@mdp.state.md.us.
 10 Do you know who L. Janey is?
 11 A No.
 12 Q Do you know whether this L. Janey
 13 worked on the GRAC or not?
 14 A I don't know who L. Janey is.
 15 Q Okay. And then the next person in
 16 this e-mail header is jmcdonough@sos.state.md.us.
 17 Do you know who that is?
 18 A I assume it's John McDonough. I know
 19 who that is, yes.
 20 Q Who is John McDonough?
 21 A He was Secretary of State.
 22 Q What role did John McDonough play, if

Page 134

1 any, in the congressional redistricting process?
 2 A Well, like I say, he was Secretary of
 3 State, and he -- you know, he would've had
 4 whatever role the governor assigned to him, but I
 5 don't know exactly what that was.
 6 Q Okay. The next person listed is
 7 Joe Bryce.
 8 A Right.
 9 Q Do you know who Joe Bryce is?
 10 A Very well.
 11 Q What is Joe -- at this time in 2011,
 12 what was Joe Bryce's role in Maryland state
 13 government?
 14 A He had been my chief of staff, and
 15 then I think he was working as chief of staff for
 16 the governor.
 17 Q Okay. Do you know what role -- well,
 18 are you close with Mr. Bryce?
 19 A Yes.
 20 Q How long did Mr. Bryce work for you
 21 before he went to work for the governor?
 22 A I know he doesn't want me to say this.

Page 135

1 He was number one in his class in Georgetown Law
 2 School, got tired of doing billable hours, came to
 3 work for me.
 4 Q Okay. Well, I always appreciate
 5 finding Hoyas in federal state government, sir.
 6 A Right, right.
 7 Q How long did -- and I understand it
 8 must have been difficult for you as a Terp to
 9 employee a Hoya.
 10 A No. Number one in -- number one at
 11 Maryland, number one at Georgetown Law School.
 12 Q Uh-hmm. And how long did he work for
 13 you, do you recall?
 14 A Several years.
 15 Q Okay. Do you know what role Mr. Bryce
 16 played in the 2011 congressional redistricting
 17 process?
 18 A I don't.
 19 Q Okay. Did you ever talk to Mr. Bryce
 20 regarding the 2011 congressional --
 21 A I'm sure I did.
 22 Q Do you recall any specifics of those

Page 136

1 conversations?
 2 A No.
 3 Q Do you recall Mr. Weissman holding
 4 meetings in your office to look at draft
 5 congressional maps?
 6 A I don't.
 7 Q Do you recall Mr. Baker ever holding
 8 meetings like that in Speaker Busch's office?
 9 A I don't know.
 10 Q Do you recall Jeanne Hitchcock ever
 11 coming to your office to look at draft
 12 congressional maps?
 13 A I don't remember.
 14 Q Do you ever recall looking at draft
 15 congressional maps with Ms. Hitchcock outside of
 16 GRAC meetings?
 17 A I don't think so, but I don't
 18 remember.
 19 Q Okay. Okay, let's look at the
 20 Exhibit 137.
 21 A Okay.
 22 Q So on October -- the title of this is

Page 137

1 "Advisory Committee Submits Proposed Congressional
2 Redistricting Plan to Governor, Releases Map,"
3 correct?
4 A Right.
5 Q So do you have any reason to doubt
6 that October 4th, 2011, the GRAC released its
7 proposed congressional map?
8 A No.
9 Q To your knowledge, did
10 Jeanne Hitchcock draw any congressional maps the
11 GRAC considered?
12 A I don't know.
13 Q Did Speaker Busch draw any
14 congressional maps that the GRAC considered?
15 A I don't know.
16 Q How about Richard Stewart, did he draw
17 any congressional maps that the GRAC considered?
18 A I don't know.
19 Q Did James King draw any maps that the
20 GRAC -- congressional maps that the GRAC
21 considered?
22 A I don't know.

Page 138

1 Q Did you draw any -- personally draw
2 any congressional maps?
3 A No.
4 Q To your knowledge, did Jake Weissman
5 draw any congressional maps that the GRAC
6 considered?
7 A He might have amended something in the
8 latter stages, but he didn't draw the maps
9 themselves. He might have -- somebody might have
10 pointed at an issue or problem, but he would have
11 gone to the legislative drafting or something and
12 fine-tuned the map.
13 Q When you say latter stages, are you
14 referring to latter stages of the GRAC's process,
15 or the latter stages of the General Assembly's
16 consideration?
17 A Probably both.
18 Q Okay. And do you recall at all what
19 the issue was that required this amendment?
20 A No, I don't.
21 MR. FROSH: Objection.
22

Page 139

1 BY MR. MEDLOCK:
2 Q Do you have an understanding of what
3 the term "compactness" means with respect to
4 congressional redistricting?
5 A Yes.
6 Q What do you understand the term
7 "compactness" to mean?
8 A By it's very definition, being
9 compact.
10 Q Do you recall GRAC members discussing
11 compactness at any GRAC meeting?
12 A I'm sure we did.
13 Q Who discussed compactness at the GRAC
14 meetings?
15 A I think it would be -- it's something
16 that everyone would have been aware of.
17 Q Who brought it up?
18 A I have no idea.
19 Q How long was the -- how long did you
20 discuss compactness at the GRAC meetings?
21 A Compactness is something you strive
22 for in legislative and congressional

Page 140

1 redistricting.
2 Q Sure. How long was it discussed for?
3 A I don't remember.
4 Q Did you take any notes regarding
5 compactness at the GRAC meetings?
6 A No. Compactness is -- you can tell by
7 your eye whether something is compact or not.
8 Q Besides eyeballing the map, did you
9 look at any data or measurements of compactness --
10 A No.
11 Q -- when you were serving on the GRAC?
12 A No. You don't draft that way.
13 Q Okay. Do you understand what the
14 phrase "keeping counties intact" means with
15 respect to congressional redistricting?
16 A Yes.
17 Q What do you understand that phrase to
18 mean?
19 A Exactly as it says.
20 Q Do you recall GRAC members discussing
21 keeping counties intact at GRAC meetings?
22 A Sure.

Page 141

1 Q Who brought it up?
 2 A I'm sure it was common conversation.
 3 Q How long was it discussed for?
 4 A I don't remember.
 5 Q Did you take any notes regarding
 6 keeping counties intact?
 7 A No.
 8 Q Do you recall whether the 2011
 9 congressional map actually keeps counties intact?
 10 A For the most part it does, in terms of
 11 at least three -- at least three or four of the
 12 congressional districts.
 13 Q Does the 6th Congressional District
 14 keep counties intact?
 15 A It does a very good job of it.
 16 Q Does it keep Frederick County intact?
 17 A No.
 18 Q Does it keep Montgomery County intact?
 19 A Montgomery County is 900,000 people.
 20 It's impossible to keep it in one congressional
 21 district.
 22 Q Okay. But does it keep intact?

Page 142

1 A One congressional district, pretty
 2 much. I mean, it's -- you know, can I look at the
 3 map?
 4 Q Yeah, go ahead.
 5 A St. Mary's, Charles, Calvert, they're
 6 compact. These all appear intact.
 7 Q So when you say these appear, you're
 8 referring to Garrett, Allegany and Washington
 9 Counties?
 10 A And lines have to be drawn -- lines
 11 have to be -- county lines have to be broken to
 12 reach the number of people for a congressional
 13 district. Counties are too small.
 14 Q Sure, understood.
 15 Was it necessary to break the county
 16 lines in the 6th Congressional District to get to
 17 the desired population numbers?
 18 A I don't remember.
 19 Q Could the 6th Congressional District
 20 have been drawn in such a way as to keep
 21 Frederick County intact?
 22 A Not if you keep the Potomac River

Page 143

1 Corridor or the 270 Corridor.
 2 Q So it's your testimony that you can't
 3 keep Frederick County intact if you want to keep
 4 the I-270 Corridor or the Potomac River Corridor
 5 intact as well?
 6 A And also enjoy the benefits of
 7 economic development from Montgomery County.
 8 Q When you say enjoy the benefits of
 9 economic development from Montgomery County --
 10 A Right.
 11 Q -- how does this map spur economic
 12 development?
 13 A Well, it creates a community of
 14 interest from the poor areas with those that --
 15 developing areas with those areas that are
 16 developed, and it creates very -- for example,
 17 these areas are very challenged economically.
 18 Q So you're referring to Garrett,
 19 Allegany and Washington?
 20 A Yes.
 21 Q Okay.
 22 A And like I say, I've took the

Page 144

1 University of Maryland to Hagerstown, took
 2 libraries up there to Hagerstown. Up until last
 3 year, they didn't have a public library that had
 4 indoor toilets at Hagerstown.
 5 And so we continue to work to bring
 6 jobs to those areas and economic development, and
 7 tie them with areas where there are jobs.
 8 Q I see. So Hagerstown is very
 9 different than Potomac?
 10 A It's very different than Frederick.
 11 Q Right.
 12 A But it's not that much from
 13 Poolesville and Barnesville.
 14 Q Right. So in your mind, the
 15 6th Congressional District creates a new community
 16 of interest that combines areas like Hagerstown,
 17 Poolesville, Barnesville and Potomac?
 18 A Right.
 19 Q Okay. Do you know whether there were
 20 any preexisting communities of interest in the
 21 6th Congressional District prior to the 2011
 22 congressional map?

Page 145

1 A I don't remember.
2 Q Did you look at any --
3 A There were in '62 when I was
4 campaigning in that area.
5 Q Sure. What information did the GRAC
6 consider, if any, regarding communities of
7 interest that were preexisting when it was looking
8 at the 2011 congressional map?
9 A I don't remember.
10 Q Do you recall asking for any
11 information regarding preexisting communities of
12 interest when you were looking at the
13 6th Congressional District?
14 A No. I knew the area -- I know the
15 area well.
16 Q Did you ask any of your staff for
17 information regarding --
18 A No, because like I say, I know the
19 area well.
20 Q By knowing the area well, do you feel
21 that you knew all the preexisting communities of
22 interest in the 6th Congressional District?

Page 146

1 A Pretty much so. Like I say, I've
2 campaigned in Thurmont. I've been all through
3 that area, Cumberland. I've been all through
4 there a number of times. Again, I was working for
5 a Republican. We went to Republican areas.
6 Q Sure. And the 6th Congressional
7 District of Western Maryland -- let me back up.
8 Western Maryland has traditionally
9 been a conservative area of the state?
10 A Moderate, yeah.
11 Q When you say moderate, what do you
12 mean?
13 A Beverly Byron was a moderate.
14 Q Every what?
15 A Beverly Bryon was a moderate.
16 Q Sure. Beverly Byron was a moderate
17 conservative, is that fair to say?
18 A She was a moderate, yeah.
19 Q Yeah. Do you know what the phrase
20 "majority-minority districts" means?
21 A I do.
22 Q What do you understand that phrase to

Page 147

1 mean with respect to congressional redistricting?
2 A Exactly as it says.
3 Q Do you recall any discussion of
4 majority-minority districts during the GRAC's
5 deliberations?
6 A No.
7 Q You do not? Okay.
8 Can we get the next exhibit?
9 (Miller Exhibit 138 was marked
10 for identification.)
11 BY MR. MEDLOCK:
12 Q All right, I've put in front of you
13 marked as Exhibit 138 to your deposition. It's a
14 document that at the top says "Senate Democratic
15 Caucus Meeting Agenda, Monday, October 3 at
16 7:00 p.m., Majority Caucus Room." It's a short
17 one-page document, but let me know when you're
18 done reviewing it.
19 A Okay.
20 Q Are you done reviewing it?
21 A Yeah.
22 Q Okay. Do you recall attending a

Page 148

1 Senate Democratic Caucus meeting to discuss the
2 GRAC's proposed 2011 congressional map?
3 A No, I don't.
4 Q Do you recall being present at any
5 caucus meeting where the 2011 congressional map
6 was discussed?
7 A No. I appointed a committee, chaired
8 by Senator Robey, and he did most of the
9 discussions. He handled most of the discussions.
10 Q When you talk -- when you say you had
11 a committee that you appointed with Senator Robey
12 being the chair, that's the Senate Redistricting
13 Committee?
14 A Right, right, right.
15 Q Do you recall being present at a
16 caucus meeting where Jeanne Hitchcock and
17 Joseph Bryce presented information regarding
18 congressional redistricting?
19 A I'm sure I was there.
20 Q Okay. Do you recall what
21 Secretary Hitchcock discussed during that meeting?
22 A No.

Page 149

1 Q Do you recall what Joseph Bryce
2 discussed during that meeting?
3 A No.
4 Q Do you recall receiving any written
5 materials at that meeting?
6 A No.
7 Q Do you recall seeing a PowerPoint or
8 presentation of some sort during that meeting?
9 A No.
10 Q Besides seeing this agenda, do you
11 have any recollection of what was discussed during
12 that meeting?
13 A No.
14 Q Okay. You can put 138 aside.
15 Actually, one question on 138, one more.
16 There's a reference to Welcome, Senate
17 President Michael V. Mike Miller, Jr.
18 A Right.
19 Q And that's from 7:00 to about 7:15.
20 Do you see that?
21 A Right.
22 Q Do you have any recollection of

Page 150

1 speaking prior to Secretary Hitchcock and
2 Mr. Bryce?
3 A No.
4 Q Do you have any reason to doubt that
5 you did?
6 A No. I open every caucus meeting with
7 a welcome.
8 Q Okay. When you open caucus meetings,
9 what do you usually discuss?
10 A A little bit of everything. I say,
11 "Rich Madaleno's lost weight. Congratulations,
12 Rich." You know, whatever. You know, you talk to
13 people, that's all.
14 Q Okay.
15 A Keep them happy.
16 Q Do you ever give sort of an overview
17 of what's going to be discussed at the meeting?
18 A No.
19 Q Okay. Does your staff prepare talking
20 points for you -- potential talking points for
21 you --
22 A They do.

Page 151

1 Q -- at those meetings?
2 A They do.
3 Q Okay. Let's mark the next exhibit.
4 (Miller Exhibit 139 was marked
5 for identification.)
6 BY MR. MEDLOCK:
7 Q I've put in front of you marked as
8 Exhibit 139 to your deposition. You'll notice
9 parts of it are redacted. We redacted some
10 irrelevant material from this document.
11 A Okay.
12 Q Okay? But what I'd like you to do is
13 review the unredacted portions --
14 A Okay.
15 Q -- and let me know when you're done.
16 A Okay. (Witness reviewing document.)
17 Okay, what do you want? Go ahead.
18 Q Okay. So at the top of this document,
19 first page, states Democratic Caucus Meeting,
20 Monday, October 3rd at 7:00 p.m., Majority Caucus
21 Room in James Senate Office Building.
22 Do you see that?

Page 152

1 A I do.
2 Q And if you look at Exhibit 138, which
3 was the prior exhibit, that document, Exhibit 138,
4 refers to a Democratic Caucus meeting taking place
5 on Monday, October 3rd, at 7:00 p.m., correct?
6 A Right.
7 Q Do you have any reason to doubt that
8 these are talking points that your staff prepared
9 for you for that meeting?
10 A No.
11 Q And creating those talking points,
12 that's sort of a regular thing that your staff
13 does for you?
14 A They do.
15 Q Okay. All right, so I'm on the
16 Overview section beneath the redaction, and that
17 first sentence after the Overview section,
18 Overview header reads, "The purpose of the meeting
19 is to give Jeanne Hitchcock (in her role as Chair
20 of the Governor's Redistricting Advisory
21 Committee) and Joe Bryce an opportunity to present
22 the Governor's congressional map to the members of

Page 153

1 your caucus before the map is released tomorrow."
 2 Did I read that correctly?
 3 A Yes.
 4 Q So on October 3rd, the GRAC had not
 5 yet released its map, congressional map, correct?
 6 A I don't know.
 7 Q Okay.
 8 A When were they released, October 4th?
 9 Q October 4th, that's correct.
 10 A Okay.
 11 Q Okay. So this is the day -- this is
 12 the night before the release.
 13 A All right.
 14 Q Okay. And then the -- from the
 15 Redistricting Advisory Committee, they would
 16 release that map, and then the Governor would
 17 review it, correct?
 18 A Right.
 19 Q And then the Governor would send that
 20 map to the General Assembly, who would then vote
 21 yes or no on the map that the Governor presented?
 22 A Right, right.

Page 154

1 Q And you actually presented that
 2 legislation on behalf of the Governor in 2011 at a
 3 special session?
 4 A Right.
 5 Q Okay. Since the map had not been
 6 released and proposed to the Governor, why is
 7 Joe Bryce from the Governor's Office speaking at
 8 this meeting?
 9 A Well, in anything, whether it's a
 10 budget -- so, for example, Governor Hogan has a
 11 budget. Prior to the budget being released, he
 12 has a meeting with the legislators ahead of time
 13 and explains what's in the budget and gives them
 14 an opportunity to say whatever they want to say,
 15 and then he goes present it.
 16 So what you do is you have a briefing
 17 so that -- politics, everybody wants to be
 18 involved. You don't surprise people by
 19 introducing something that they've never seen or
 20 never heard of before. So you make certain that
 21 they're aware of exactly what's -- so when a
 22 newspaper reporter goes, "Oh, yeah, I'm familiar

Page 155

1 with it," they get it the day before.
 2 Q Okay. How could Joe Bryce speak on
 3 the map if it had not yet been released to the
 4 Governor's Office yet?
 5 A Like I say, Joe -- the map would have
 6 gone to the Governor, and Joe Bryce was the chief
 7 of staff of the Governor.
 8 Q So you think that the Governor's
 9 Office knew about the map prior to it being
 10 released --
 11 A Yes.
 12 Q -- on October 4th?
 13 A It's his map.
 14 Q Okay.
 15 A It comes from the Governor.
 16 Q Okay. So you -- so the GRAC got the
 17 draft map from the Governor; is that correct?
 18 A No. We help -- we draft the map.
 19 Q Uh-hmm.
 20 A The Governor makes the actual
 21 presentation.
 22 Q Right. So how could the Governor make

Page 156

1 the presentation if the GRAC was not done drafting
 2 the map?
 3 A You give it to all the -- just like I
 4 gave it to the legislators. You show them a copy
 5 before it's released to the press.
 6 Q Okay. So did the Governor's Office,
 7 based on this document, have a copy of the draft
 8 congressional map prior to this meeting?
 9 A I don't know, but I'm sure he did.
 10 Q Okay.
 11 A He certainly should have.
 12 Q Why do you say that?
 13 A It's his job to -- on a congressional
 14 map, we follow what the Governor comes up with.
 15 Just like Governor Hogan is going to come up with
 16 a map for -- if he wins this next election cycle.
 17 Q Okay. Do you see the header that says
 18 "TOPICS TO ADDRESS" on the first page?
 19 A I do.
 20 Q And then there is three bullets on the
 21 first page.
 22 A Right.

Page 157

1 Q And the second one says, "Speak
 2 briefly about the GRAC process."
 3 Do you see that?
 4 A Right.
 5 Q Okay. And the last sentence of that
 6 section reads, "One of the challenges that we face
 7 in creating a map is balancing the agendas of our
 8 members of Congress against the expressed will of
 9 the people who testified during the GRAC process."
 10 Did I read that correctly?
 11 A I'm sure you did.
 12 Q Do you agree with that sentence?
 13 A Where -- which paragraph are you
 14 reading? Paragraph 1, "Thank your colleagues,"
 15 right in there?
 16 Q No, no. See where it says, "Speak
 17 briefly about the GRAC process"?
 18 A Oh, okay, okay. All right, I'm there.
 19 Q I'm at the last sentence, and it says,
 20 "One of the challenges that we face in creating a
 21 map is balancing the agendas of our members of
 22 Congress --

Page 158

1 Q So when you say 70 percent of Maryland
 2 citizens remained in their current congressional
 3 districts --
 4 A That's what the press release said.
 5 Q Right. Was it necessary to move
 6 30 percent of Maryland citizens to another
 7 congressional district?
 8 A I don't know. I don't know.
 9 Q Did you ever ask anyone that question?
 10 A No, I did not.
 11 Q Do you think it was relevant to ask
 12 that question?
 13 A I don't know.
 14 Q Let's turn to page 2. Do you see --
 15 page 2 of the exhibit.
 16 Do you see a header that reads,
 17 "Acknowledge that the map does some good things"?
 18 A Yes.
 19 Q Okay. And there are several bullet
 20 points below that, correct?
 21 A Right.
 22 Q Okay. The first bullet point states,

Page 160

1 A Right.
 2 Q -- "against the expressed will of the
 3 people --
 4 A Right.
 5 Q -- "who testified during the GRAC
 6 process."
 7 A Right.
 8 Q Do you agree with that sentence?
 9 A Yes.
 10 Q Do you agree that the GRAC was
 11 balancing input from members of Congress against
 12 the expressed will of the people?
 13 A No. It's a balancing of everything.
 14 Q Uh-hmm.
 15 A It's a balancing of everything. But,
 16 again, in politics, there are winners and losers,
 17 and there are people who want their town in a
 18 certain district, it winds up in another map. You
 19 know, people want their municipalities whole.
 20 Like I say, what this says is that
 21 70 percent of the people remain in their current
 22 congressional districts, which is a laudable goal.

Page 159

1 "It creates an opportunity for Montgomery County
 2 to control two congressional districts, an
 3 opportunity for Prince George's County to control
 4 two congressional districts, and an opportunity
 5 for the Baltimore region to preserve its existing
 6 representatives."
 7 A Right.
 8 Q Do you see that?
 9 A Right.
 10 Q Do you agree with that statement?
 11 A I do.
 12 Q What two congressional districts would
 13 Montgomery County control under the 2011 map?
 14 A Well, it's in two districts, so it's
 15 an opportunity to control two districts.
 16 Q So if you look at the map,
 17 Exhibit 121, would the 2011 congressional map give
 18 Montgomery County the opportunity to control the
 19 8th Congressional District?
 20 A I don't see that.
 21 Q It's the pink right here (indicating).
 22 A No, I don't think so.

Page 161

1 Q Okay. How about the 6th Congressional
2 District, does it give it --
3 A That's a possibility. It's a close
4 call, very close call.
5 Q When you say it's a close call, what
6 are you saying? What are you referring to?
7 A It's 50/50.
8 Q It's 50/50 that Montgomery County can
9 control the 6th Congressional District?
10 A Right, yeah. 50/50 that -- not that
11 Montgomery County can control, but 50/50 that a
12 Democrat or Republican can get elected in
13 Montgomery County.
14 Q Understood. I'm actually just
15 referring to the sentence here that says it
16 gives -- it creates an opportunity for Montgomery
17 County to control two congressional districts.
18 A Right.
19 Q Regardless of Democrat or Republican,
20 what are the two congressional districts that
21 Montgomery County can control under the 2011 map?
22 A See, again, this is drafted by a staff

Page 162

1 person, and it's political rhetoric drafted for a
2 caucus.
3 Q Okay.
4 A So this is trying to sell a plan.
5 Because there are going to be Democrats, as well
6 as Republicans, aggrieved by this plan, so you
7 have to say, well, these are positive things about
8 the plan.
9 Q Okay, I understand. But you stated
10 you agreed with this paragraph, so I want to
11 understand what it means.
12 When it says that it creates an
13 opportunity for Montgomery County to control two
14 congressional districts, what are those two
15 congressional districts that it has the
16 opportunity to control?
17 A Six and another one.
18 Q Do you know what the other one is?
19 A No.
20 Q Okay. Let's move down to the third
21 subbullet under "Acknowledge that the map does
22 some good things." It says -- it begins with, "It

Page 163

1 preserves all six." Do you see that?
2 A Yes.
3 Q Okay. That paragraph reads, It
4 preserves all six incumbent Democrats in "safe"
5 districts. Not one of our incumbents will have a
6 district with less than 58% Democratic --
7 MR. FROSH: That's not what it says.
8 BY MR. MEDLOCK:
9 Q Not one of our -- let me start over
10 again. Thank you.
11 The third paragraph, the third
12 subparagraph under "Acknowledge that the map does
13 some good things," it reads, "It preserves all six
14 incumbent Democrats in 'safe' districts. Not one
15 of our incumbents will be in a district with less
16 than 58% Democratic performance. By way of
17 comparison, 9 Democratic Senators represent
18 districts where Barack Obama received less than
19 58% of the vote and 10 Democratic Senators
20 represent districts where Martin O'Malley received
21 less than 58% of the vote."
22 Did I read that correctly?

Page 164

1 A Yes.
2 Q Okay. Do you agree with that
3 paragraph?
4 A That's what they say. I don't know.
5 Q Okay. Do you know where this data
6 regarding Democratic performance came from?
7 A No.
8 Q Do you know where your staff would
9 have gotten data regarding Democratic performance?
10 MR. FROSH: Objection, lack of
11 foundation.
12 THE WITNESS: Like I say, I don't --
13 I'm not sure who wrote this, and I'm not sure what
14 the redacted stuff was. I mean, I really -- well,
15 this would have been seven years ago. I don't
16 remember seeing this document.
17 BY MR. MEDLOCK:
18 Q Okay. So you don't know one way or
19 the other whether you agree with that third
20 paragraph?
21 A No.
22 Q Okay. Let's move down to the fourth

Page 165

1 subbullet. It goes from one page to the other.
 2 A Okay.
 3 Q It reads, "It gives Democrats a real
 4 opportunity to pick up a seventh seat in the
 5 delegation by targeting Roscoe Bartlett. In the
 6 face of Republican gains in redistricting in other
 7 states around the nation, we have a serious
 8 obligation to create this opportunity."
 9 Did I read that correctly?
 10 A That's correct.
 11 Q Do you agree that in the face of
 12 Republican redistricting -- Republican gains in
 13 redistricting, Democrats in Maryland had a serious
 14 obligation to create an opportunity for a seventh
 15 Democratic seat?
 16 A No.
 17 Q Do you agree that Democrats had a real
 18 opportunity to pick up a seventh seat under the
 19 2011 map?
 20 A I'm sure they had an opportunity.
 21 Q Do you agree with --
 22 A I'm not sure it was a real

Page 166

1 opportunity. It was an opportunity.
 2 Q Why aren't you sure it was a real
 3 opportunity?
 4 A Because it depends. Again, it depends
 5 on voter turnout. It depends upon resources. It
 6 depends on message. It's an opportunity.
 7 Q Who won the 2012 election in the
 8 6th Congressional District?
 9 A I think Delaney.
 10 Q Who won the 2014 election?
 11 A Delaney.
 12 Q Who one the 2016 election?
 13 A It was Delaney, but I thought he only
 14 won twice. Was it three times? Okay, okay.
 15 Q I'd like to direct your attention to
 16 the third page, the last paragraph on the
 17 entire -- on the page.
 18 Do you need a second?
 19 A No, just my daughter.
 20 Q We can take a break if you need it.
 21 A No, let's move on.
 22 Q All right. So last paragraph, third

Page 167

1 page, begins with, "After your remarks."
 2 Do you see that?
 3 A Right.
 4 Q It says, "After your remarks, give the
 5 floor to Jeanne Hitchcock and Joe Bryce."
 6 A Right.
 7 Q "Again, let them do the heavy lifting
 8 on this map - the more you interject, the more it
 9 will appear less like the Governor's map and more
 10 like your map."
 11 A Right.
 12 Q Did I read that correctly?
 13 A Right.
 14 Q Okay. Do you have any understanding
 15 as to why it was important to make it look less
 16 like the Governor's -- not to make it look less
 17 like the Governor's map and more like yours?
 18 MR. FROSH: Objection. It's vague and
 19 ambiguous and lacks foundation.
 20 THE WITNESS: They know I have a big
 21 mouth, and I -- it's just saying, look, it's not
 22 your map, it's not your deal, let them tell them

Page 168

1 what it is.
 2 BY MR. MEDLOCK:
 3 Q Okay. Why do you -- do you have any
 4 understanding as to why this paragraph said it was
 5 the Governor's map and not the GRAC's map?
 6 MR. FROSH: Objection, lack of
 7 foundation.
 8 THE WITNESS: Again, I have -- some
 9 people are for me on the Senate, some people are
 10 against me, and this is telling them to let them
 11 take their grief with the map to the Governor, not
 12 me.
 13 BY MR. MEDLOCK:
 14 Q Uh-hmm. Can I get the next one?
 15 How many years have you been a
 16 legislator, sir?
 17 A More than 40.
 18 Q Okay. And one of the reasons that you
 19 proposed legislation is to solve a problem; is
 20 that right?
 21 A It can be, or create a problem, one or
 22 the other.

Page 169

1 Q Well, you don't go about proposing
2 legislation that creates new problems? You try to
3 at least pitch it as solving problems?
4 A You would hope so, but that's not the
5 case.
6 Q Sometimes there are unintended
7 consequences?
8 A Right, right, right.
9 Q Okay. Mark the next one.
10 (Miller Exhibit 140 was marked
11 for identification.)
12 BY MR. MEDLOCK:
13 Q Showing you Exhibit 140, sir.
14 A Okay.
15 Q Can you take a moment to review it?
16 A I see it.
17 Q Okay. It's entitled Senate Bill 252?
18 A Okay.
19 Q And it says, By: The President (By
20 Request of the Administration), first read
21 January 20th, 2017. Do you see that?
22 A Okay.

Page 170

1 Q And it's titled "Redistricting Format
2 Act of 2017." Do you see that?
3 A Okay. I do.
4 Q Did you introduce this bill in the --
5 A I did.
6 Q -- 2017 General Session?
7 A I did.
8 Q What problem, if any, does this --
9 does the bill solve?
10 MR. FROSH: I'm going to object to
11 that and any question that relates to the purposes
12 behind this. It's privileged.
13 MR. MEDLOCK: So I disagree. I think
14 that the same five-factor analysis that would --
15 that was -- that the court went through in its
16 most recent opinion would apply equally to this,
17 but I will withdraw the question regarding the
18 purposes of this.
19 BY MR. MEDLOCK:
20 Q I'd like to move to page 5, lines 24
21 through 28 of the bill.
22 Are you with me there, sir?

Page 171

1 A I am. Go ahead.
2 Q It states, "IT IS THE INTENT OF THE
3 GENERAL ASSEMBLY THAT NEITHER THE
4 GENERAL ASSEMBLY" -- "NEITHER THE GENERAL ASSEMBLY
5 LEGISLATIVE DISTRICTS NOR THE DISTRICTS FOR THE
6 STATE'S REPRESENTATIVES IN THE UNITED STATES
7 CONGRESS BE DRAWN FOR THE PURPOSE OF FAVORING OR
8 DISCRIMINATING AGAINST AN INCUMBENT OFFICEHOLDER,
9 A CANDIDATE, OR A POLITICAL PARTY."
10 Did I read that correctly?
11 A Where is that on page 5?
12 Q Page 5, line 24.
13 A Oh, I'm on 4. I'm sorry.
14 Q Oh, that's okay.
15 A Okay, thank you.
16 Q No problem. So that section from
17 lines 24 to 28, that reads, "IT IS THE INTENT OF
18 THE GENERAL ASSEMBLY --
19 A Right.
20 Q -- "THAT NEITHER THE GENERAL ASSEMBLY
21 LEGISLATIVE DISTRICTS --
22 A Right.

Page 172

1 Q -- "NOR THE DISTRICTS WITH THE STATE'S
2 REPRESENTATIVES --
3 A Right.
4 Q -- "AND THE UNITED STATES CONGRESS --
5 A Right.
6 Q -- "BE DRAWN FOR THE PURPOSE OF
7 FAVORING OR DISCRIMINATING AGAINST AN INCUMBENT
8 OFFICEHOLDER, A CANDIDATE --
9 A Right.
10 Q -- "OR POLITICAL PARTY."
11 A Right.
12 Q Did I read that correctly?
13 A Right.
14 Q Do you think that's a good policy?
15 MR. FROSH: Objection. Now you're
16 getting back into the legislative privilege.
17 MR. MEDLOCK: I'm not asking about
18 purpose. I'm asking whether he thinks this is a
19 good policy.
20 THE WITNESS: I think this is for the
21 legislative districts, not the congressional
22 districts.

Page 173

1 BY MR. MEDLOCK:
2 Q Why is it not a good policy for
3 congressional districts?
4 A I mean, it should --
5 MR. FROSH: Same objection.
6 THE WITNESS: This is -- this is a
7 legislative redistricting bill. This deals
8 with the -- you're talking about single-member
9 senate districts. This is -- if you show me the
10 congressional bill, I'll be glad to go over that
11 with you.
12 BY MR. MEDLOCK:
13 Q So when it talks about the state's
14 representatives in the United States Congress, you
15 think that's not referring to -- that's referring
16 only to legislative redistricting?
17 A Does this bill do the congressional
18 districts?
19 Q Yes, it does.
20 A As well as the legislative districts?
21 Q Yes.
22 A I had no idea they were in the same

Page 174

1 bill. Are you sure about that?
2 Q Yes. You didn't know that?
3 A I didn't know that, no.
4 Q Okay. Who on your staff was
5 responsible for drafting the bill?
6 A Legislative --
7 MR. FROSH: Objection --
8 THE WITNESS: Legislative reference.
9 MR. FROSH: -- lack of foundation.
10 THE WITNESS: Legislative reference
11 drafts the bill.
12 THE REPORTER: Legislative?
13 THE WITNESS: Reference. Like I say,
14 it's -- one of the staff people in Annapolis draft
15 it, none of my staff.
16 BY MR. MEDLOCK:
17 Q Okay. Who on your staff was
18 responsible for interacting with them?
19 MR. FROSH: Objection, lack of
20 foundation.
21 THE WITNESS: I assume this was the
22 same language in the last four -- this was called

Page 175

1 a preamble. It's not part of the law.
2 BY MR. MEDLOCK:
3 Q Sure. And it states the purpose of
4 the legislature, correct?
5 A Right.
6 Q Or the intent, I should say, of the
7 legislature.
8 A Right.
9 Q Do you believe that that intent, with
10 respect to the U.S. Congress, is good public
11 policy?
12 MR. FROSH: Objection.
13 THE WITNESS: I think it's good
14 policy.
15 BY MR. MEDLOCK:
16 Q Why is that?
17 A I just think it's good policy, that's
18 all.
19 Q Do you have any specific reasons why
20 you think it's good policy?
21 A No. I think it's good policy.
22 Q All right, go over to page 7, lines 16

Page 176

1 through 25.
2 A Okay.
3 Q And that section of the bill states --
4 well, I'll summarize it a bit, but it calls for
5 the Governor's Redistricting Advisory Committee to
6 consist of nine members, including three
7 registered with the incumbent political party in
8 the state, three coming from the second -- the
9 party that has the second highest number of
10 registered voters in the state, and three that are
11 not registered with any -- with either of those
12 two political parties. Do you see that?
13 A Okay.
14 Q Do you believe that's a good -- do you
15 believe that's a good public policy?
16 MR. FROSH: Objection.
17 THE WITNESS: I suppose.
18 BY MR. MEDLOCK:
19 Q Why do you suppose?
20 A I'm looking at this bill and -- you
21 know, for example, I don't remember this bill. I
22 thought this bill was the actual bill that enacted

Page 177

1 the congressional districts. This bill -- this
2 bill simply created the GRAC Commission.
3 Q So let me just try and clarify for
4 you. This bill is dated January 20th, 2017,
5 correct, if you look at the very fist page? It
6 was introduced and read for the first time in
7 2017?
8 A Where do you see that?
9 Q Sure. Right here beneath the
10 president, it says, "Introduced and read first
11 time."
12 A Okay.
13 Q So that would have been six years
14 after the Special Session where the legislative
15 voted on the map, correct?
16 A This never became law.
17 Q That's correct. I'm asking you
18 about -- I'm asking you about a bill.
19 A I thought he was asking me something
20 with the --
21 Q No, no, no. I'm asking --
22 A -- that happened seven years ago.

Page 178

1 Q No.
2 A I said I don't remember this, I don't
3 know this.
4 Q Sure.
5 A I had nothing to do with it. My staff
6 didn't draft this, I didn't draft this. A
7 Republican governor drafted this.
8 Q Okay.
9 A Okay. Now that -- see, all this whole
10 line of questioning before is BS because I thought
11 you were talking about something that was in two
12 thousand and -- seven years ago. This -- this
13 is -- a partisan Republican drafted this. I had
14 no -- no -- I did nothing to this.
15 My name is on this to save the
16 Governor, period. He had no idea how to introduce
17 a bill.
18 Q Okay.
19 A He came up with all these bills, "What
20 do I do now?" Well, he needed a sponsor. He
21 didn't have a sponsor. "Mr. Governor, I will
22 sponsor for you. I'm a Democrat, but I work with

Page 179

1 Republicans. I'll sponsor your bill for you." I
2 sponsored the Governor's bill.
3 I had nothing to do with this, nor my
4 staff did either. This is not relevant to what
5 this case is all about, not the least bit.
6 Q Why do you think my prior questions
7 were BS?
8 A I have no idea, but this is -- this is
9 outrageous that you asked me about a bill that the
10 Governor -- Republican governor sponsored that
11 didn't become law, and it has nothing to do with
12 what we're talking about in terms of the past
13 GRAC Commission.
14 Q Why do you think my questions are
15 outrageous, sir?
16 A Because you had me confused. I
17 thought this was creating the GRAC Commission. I
18 said -- because when we passed the Senate bill and
19 the House bill, there were two separate bills, and
20 I said I couldn't figure what this bill was even
21 about. This is a bill that never passed. It
22 never even passed.

Page 180

1 Q I understand, sir.
2 Do you believe that redistricting
3 reform has no relevance --
4 A I think you should --
5 Q -- to this case?
6 A I think you need relevant -- relevant
7 information, that's what I think you need to do,
8 relevant. This would not even be admissible in
9 any court of law, from any judge or any court of
10 law, and you're quoting from it.
11 Q Why do you think it's inadmissible,
12 sir?
13 A Because it's not relevant to the issue
14 at hand.
15 Q Why do you think that reforming the
16 GRAC's process is not relevant to the issue at
17 hand?
18 A This is -- this is -- this has nothing
19 to do with why we're here today at all. This is a
20 partisan document drawn by a partisan person for
21 partisan purposes, and it -- again, my name is on
22 there just to help the Governor introduce a bill.

Page 181

1 Q If it was a --
2 A I've never read this bill before.
3 I've never seen this bill before.
4 Q If it was a partisan document,
5 introduced for partisan purposes, why put your
6 name on it?
7 A Well, to help the Governor introduce a
8 bill.
9 Q Okay. So you wanted to help the
10 Governor introduce --
11 A Help a Republican --
12 Q -- a partisan bill that you've never
13 seen before?
14 A Yes, help a Republican governor
15 introduce a bill, that's exactly right. This
16 entire package, I did that for every one of his
17 bills, because he didn't know enough. He's never
18 served in public office before, he didn't know how
19 to introduce a bill.
20 Q Okay. And so you think this whole
21 bill is irrelevant to this case?
22 A To this, it is.

Page 182

1 Q Okay. And you think that --
2 A I know it is.
3 Q Okay. And why do you know that, sir?
4 A Let's move on. Ask your next
5 question.
6 Q No, I --
7 A Ask your next question, Counsel.
8 Let's move on.
9 Q I'd like an answer to my question.
10 A Ask your next question.
11 MR. FROSH: This is just -- this
12 really -- it's getting to an absurd point.
13 THE WITNESS: It's really -- this is
14 very absurd.
15 MR. FROSH: You apparently don't
16 understand how the legislative process works, and
17 we've said that.
18 MR. MEDLOCK: No.
19 THE REPORTER: One at a time.
20 MR. FROSH: But --
21 MR. MEDLOCK: Hold on. Hold one.
22 MR. FROSH: No, I'm not done yet.

Page 183

1 You don't understand how the
2 legislative process works. This is six years
3 after the redistricting bill passed.
4 MR. MEDLOCK: Uh-hmm.
5 MR. FROSH: You're trying to make the
6 point that the President of the Senate somehow
7 endorsed this. He did not, and it has no bearing
8 whatsoever on this case.
9 MR. MEDLOCK: Okay. So first off,
10 Attorney General Frosh, I appreciate your opinion.
11 That's -- you're attributing motives to me that
12 are incorrect.
13 I asked -- I asked Senate
14 President Miller whether he agreed with certain
15 statements that were in the bill, whether he
16 thought they were good policy. I didn't represent
17 to him one way or another whether this was a bill
18 that had been signed into law.
19 I think that I don't need a civics
20 lesson from you. I appreciate it, but I'd like to
21 ask my questions as they come up.
22 MR. FROSH: Well, now that you know

Page 184

1 that he didn't understand your questions, I don't
2 think we need to go back through it.
3 BY MR. MEDLOCK:
4 Q Well, my only question really to you,
5 sir, was do you think that the GRAC's process for
6 drafting the congressional map needed to be
7 reformed?
8 A I don't think it does.
9 Q Do you think it works as it exists
10 now?
11 A I think it does.
12 Q Do you think it creates good results
13 for the citizens of Maryland?
14 A I think it does.
15 Q Do you think it creates good results
16 for Republicans in Maryland?
17 A I think it creates good results for
18 everybody.
19 Q Including Republicans?
20 A Everybody.
21 Q Including individuals in the
22 6th Congressional District?

Page 185

1 A Especially the people in the
2 6th Congressional District.
3 Q Oh, so it would especially help the
4 people in the 6th Congressional District?
5 A Right.
6 Q Okay. Have you ever introduced
7 legislation to reform the GRAC?
8 A I don't know.
9 Q Okay. Do you think that it would be
10 necessary to reform the GRAC in any way
11 legislatively?
12 A Again, this is the Governor's
13 Redistricting Committee, and that's the reason
14 that this bill was introduced by Governor Hogan.
15 Q Uh-hmm.
16 A Each governor has an opportunity to do
17 whatever he wants to do with reference to the
18 GRAC.
19 Q Okay. Why don't we take a quick
20 break. I want to go over my notes. We may
21 have -- I may have just a few more questions.
22 Thank you.

Page 186

1 THE VIDEOGRAPHER: The time is
2 12:34 p.m. We're going off the record.
3 (A break was taken.)
4 THE VIDEOGRAPHER: The time is
5 2:42 p.m., and we're back on the record.
6 BY MR. MEDLOCK:
7 Q Sir, you're aware that the plaintiffs
8 in this case maintain that the 6th Congressional
9 District was subject to a partisan gerrymander in
10 2011, correct?
11 A I'm not aware of that, no.
12 Q Oh, okay. But you maintain that it
13 was not, that there was no partisan gerrymandering
14 with respect to the 6th Congressional District in
15 2011?
16 A I don't engage in it, and like I say,
17 I didn't draw the map, per se. I served on the
18 Commission.
19 Q Okay.
20 A It was a composite of ideas.
21 And, again, as I've said over and over
22 again, it looks very much like the 6th District

Page 187

1 that I campaigned in with Republicans, and they
2 had a congressional -- or it had a Republican
3 congressional district, it had a Republican
4 congress person, and it looks almost exactly like
5 the same map.
6 Q Okay. And do you think you speak with
7 more credibility than the plaintiffs in this case
8 regarding whether the 6th Congressional District
9 was subject to a partisan gerrymandering?
10 MR. FROSH: Objection. It's vague and
11 ambiguous.
12 THE WITNESS: I don't know who the
13 plaintiff is.
14 BY MR. MEDLOCK:
15 Q Do you know who any of them are?
16 A Who?
17 Q Do you know who any of the plaintiffs
18 are in this case?
19 A No.
20 Q Do you know who O. John Benisek is?
21 A No.
22 Q Do you know where he lives?

Page 188

1 A No.
2 Q Do you know who Ned Cueman is?
3 A No.
4 Q Do you know where he lives?
5 A No.
6 Q Do you know what John Benisek's
7 political views are?
8 A No.
9 Q Do you know what Ned Cueman's
10 political views are?
11 A No.
12 Q How about Sharon Strine, do you know
13 her?
14 A No.
15 Q Do you know what her political views
16 are?
17 A No.
18 Q Do you know whether any of them were
19 harmed in this case?
20 A I don't know them.
21 Q Okay. Do you think it's -- their
22 political views are at all relevant?

Page 189

1 A I think everybody's political views
 2 are relevant.
 3 Q Okay. Do you think that you have more
 4 credibility than Ned Cueman, Sharon Strine --
 5 A No, no.
 6 MR. FROSH: Objection.
 7 THE WITNESS: No, no, no.
 8 MR. MEDLOCK: Okay, thank you.
 9 MR. FROSH: We're done?
 10 MR. MEDLOCK: We're done, unless you
 11 have something.
 12 MR. FROSH: Nope.
 13 MR. MEDLOCK: All right.
 14 MR. FROSH: Thank you very much.
 15 MR. MEDLOCK: Thank you.
 16 THE VIDEOGRAPHER: The time is
 17 12:44 p.m., April 24th, 2017. Going off the
 18 record, completing the videotape deposition.
 19 (Whereupon, at 12:44 p.m., the taking
 20 of the deposition was concluded.
 21 Reading and signature RESERVED.)
 22

Page 190

1 CERTIFICATE OF NOTARY PUBLIC
 2 I, DAWN A. JAQUES, a Notary Public in and for
 3 the State of Maryland, before whom the foregoing
 4 deposition was taken, do hereby certify that witness
 5 whose testimony appears in the foregoing pages was
 6 duly sworn by me; that the testimony of said witness
 7 was taken by me in shorthand at the time and place
 8 mentioned in the caption hereof and thereafter
 9 reduced to typewriting under my supervision; that
 10 said deposition is a true record of the testimony
 11 given by said witness; that I am neither counsel
 12 for, related to, nor employed by any of the parties
 13 to the action in which this deposition is taken;
 14 and, further, that I am not a relative or employee
 15 of any attorney or counsel employed by the parties
 16 thereto, nor financially or otherwise interested in
 17 the outcome of the actions.
 18
 19
 20 _____
 Dawn A. Jaques, CSR, CLR
 Notary Public in and for
 State of Maryland
 21 My commission expires:
 22 July 9, 2019

Page 191

1 Senate President Thomas Mike Miller c/o
 Office of the Attorney General
 2 200 St. Paul Place
 Baltimore, Maryland 21202
 3
 4 Case: O. John Benisek, et al. v. Linda Lamone, et al.
 Date of deposition: April 24, 2017
 5 Deponent: Senate President Thomas V. Mike Miller
 6
 7 Please be advised that the transcript in the above
 8 referenced matter is now complete and ready for signature.
 9 The deponent may come to this office to sign the transcript,
 10 a copy may be purchased for the witness to review and sign,
 11 or the deponent and/or counsel may waive the option of
 12 signing. Please advise us of the option selected.
 13 Please forward the errata sheet and the original signed
 14 signature page to counsel noticing the deposition, noting the
 15 applicable time period allowed for such by the governing
 16 Rules of Procedure. If you have any questions, please do
 17 not hesitate to call our office at (202)-232-0646.
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 5 Witness Name: Senate President Thomas V. Mike Miller
 Deposition Date: April 24, 2017
 6
 7 I do hereby acknowledge that I have read
 8 and examined the foregoing pages
 9 of the transcript of my deposition and that:
 10
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 13 attached Errata Sheet, the same is a true,
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Page 194	