

EXHIBIT V

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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

-----x

Bethesda, Maryland
Friday, February 3, 2017

Deposition of:

 ROBERT J. GARAGIOLA,
the witness, was called for examination by counsel
for the Plaintiffs, pursuant to notice, commencing
at 9:32 a.m., at the law offices of Lerch, Early &
Brewer, Chtd., 3 Bethesda Metro Center, Suite 460,
Conference Room 1, Bethesda, Maryland 20814,
before Dawn A. Jaques, CSR, CLR, and Notary Public
in and for the State of Maryland.

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1 PROCEEDINGS
 2 MR. MEDLOCK: Just so we have the
 3 record clear, my name is Stephen Medlock. I'm
 4 from the law firm of Mayer Brown LLP. I represent
 5 the Plaintiffs in this case.
 6 With me at the table are my two
 7 colleagues and co-counsel, Micah Stein and Michael
 8 Kimberly. Your lawyer can introduce herself.
 9 MS. RICE: I'm Sarah Rice. I'm an
 10 Assistant Attorney General, and I'm representing
 11 Mr. Garagiola for purposes of this deposition.
 12 Whereupon,
 13 ROBERT GARAGIOLA,
 14 was called as a witness, after having been
 15 first duly sworn by the Notary Public, was
 16 examined and testified as follows:
 17 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS
 18 BY MR. MEDLOCK:
 19 Q All right, sir. I know we were
 20 introduced off the record, but if you could please
 21 state and spell your name for the record.
 22 A Sure. Full name, Robert J. Garagiola.

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1 R-O-B-E-R-T, J., Garagiola, G-A-R-A-G-I-O-L-A.
2 Q What's your current address, sir?
3 A 89 Shipwright Street, Annapolis,
4 Maryland 21401.
5 Q I know you're an attorney; is that
6 right?
7 A That's correct.
8 Q Have you ever sat for a deposition
9 before, sir?
10 A No.
11 Q Have you ever attended a deposition
12 before?
13 A Might have.
14 Q Far back?
15 A Distant memory. You know, it's
16 possible.
17 Q Okay. Have you ever testified at
18 trial?
19 A No.
20 Q Have you ever testified before a
21 government body?
22 A Yes, but rare instance and years ago.

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1 Q Okay. Have you ever testified at an
2 arbitration?
3 A I don't recall.
4 Q You're currently a member of the
5 Maryland Bar; is that correct?
6 A That's correct.
7 Q And you practice at Alexander &
8 Cleaver, P.A.; is that right?
9 A That's correct.
10 Q All right. I hesitate to give a
11 lawyer instructions on how to comport oneself at a
12 deposition, but I'll go through the usual
13 background just so we're all on the same page
14 here.
15 A Sure.
16 Q As you can see, there's a court
17 reporter to your right. She's taking down
18 everything I say and everything you say. That has
19 a few implications.
20 You need to give audible answers.
21 Simple nods of the head or "uh-huh" or "uh-uh"
22 will not do.

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1 A Okay.
2 Q And it's important that we don't talk
3 over each other. That sometimes happens
4 naturally, that's okay, but there are times when I
5 can take a little time to formulate my question,
6 and I assume there may be times where you may take
7 a little time to formulate your answer. I'll try
8 and give you the same courtesy if you give me
9 that, okay?
10 A Sure.
11 Q All right. The most important thing
12 today is if you don't understand any of my
13 questions, please say so and I'll try to clarify,
14 but if I hear you answer the question, I'll assume
15 that you heard it and understood it, okay?
16 A Okay.
17 Q And from time to time, your attorney
18 may object during this deposition. That's fine,
19 and that's her right. Unless she instructs you to
20 not answer the question, I'm going to ask you to
21 answer the question, okay?
22 A Okay.

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1 Q And, finally, regarding breaks, we'll
2 take a break every hour. If you want to take a
3 break sooner than that, my only request is that
4 you answer my question before taking the break,
5 okay?
6 A Okay.
7 Q All right. Other than attorneys, have
8 you met with anyone to help prepare for this
9 deposition?
10 A No.
11 Q Did you meet with your attorney to
12 prepare for this deposition?
13 A Yes.
14 Q When did you meet with your attorney
15 to prepare for the deposition?
16 A This morning.
17 Q How long did you meet with your
18 attorney to prepare for the deposition?
19 A Half hour.
20 Q When I say "your attorney," I'm
21 referring to Ms. Rice. Was there anyone else
22 present at your preparation session?

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1 A No.
2 Q Were you shown any documents during
3 your preparation session?
4 A My documents that I provided.
5 Q And did reviewing those documents
6 refresh your recollection or jog your memory about
7 any facts regarding the 2011 congressional
8 redistricting?
9 A I just merely thumbed through them
10 this morning.
11 Q Okay. Besides thumbing through the
12 documents and speaking to your attorney for about
13 30 minutes this morning, is there anything else
14 you did to prepare for today's deposition?
15 A No.
16 Q Okay. When did you first learn that
17 you were being represented in this matter by the
18 Office of the Attorney General?
19 A When I received a call from the Office
20 of the Attorney General a month ago maybe.
21 Q So a month ago, that would put us at
22 roughly the beginning of January; is that right?

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1 A That sounds about right.
2 Q So prior to the beginning of
3 January 2017, you were unaware that you were being
4 represented by the Office of the Attorney General
5 in this action?
6 A That's correct.
7 Q Were you aware prior to January 2017
8 that you were being represented by the Office of
9 the Attorney General with respect to anything that
10 had to do with the 2011 congressional
11 redistricting?
12 A Not until I received that first phone
13 call.
14 Q Were you told that you had the option
15 to seek your own legal counsel for this
16 deposition?
17 A I'm sure I was.
18 Q When you say you're sure you were, do
19 you have a specific recollection of it, or is that
20 a guess?
21 A A guess, I would say. I don't
22 specifically recall.

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1 Q So you can't tell me one way or the
2 other whether you were told you could have your
3 own attorney for today's deposition?
4 A I don't recall that, no.
5 Q Okay. And besides receiving a phone
6 call from the Office of the Attorney General in, I
7 would say, early January 2017, did you receive any
8 written communication from the Office of the
9 Attorney General informing you that you were being
10 represented in this case?
11 A By the Attorney General's office? I
12 don't recall.
13 Q Okay. Without going into the
14 substance of the discussions that you've had with
15 your attorneys, are you aware that you may be able
16 to exercise what's called the legislative
17 privilege in connection with your deposition
18 today?
19 A I'm aware of that.
20 Q Have you chosen to waive that
21 legislative privilege and testify fully today?
22 A Yes.

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1 Q So you were a member of the Maryland
2 General Assembly in 2011; is that right?
3 A That's correct.
4 Q In 2011, the Maryland General Assembly
5 was considering changes to the existing
6 congressional map, correct?
7 A Yes.
8 Q Those proposed changes were first
9 drafted by an organization called the Governor's
10 Redistricting Advisory Committee, or GRAC,
11 correct?
12 A Correct.
13 Q And then from the GRAC, those proposed
14 changes went to Governor O'Malley, correct?
15 A That sounds right.
16 Q But you don't know for sure; is that
17 right?
18 A I just don't recall, truthfully.
19 Q Okay. But you do recall that the GRAC
20 was the entity that first drafted the
21 congressional map?
22 A I'm aware there was a committee that

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1 comprised five individuals, three appointed by the
2 governor.
3 Q So is it your testimony that only
4 three of the members of the GRAC were appointed by
5 the governor?
6 A My understanding is that the president
7 or an appointee of the president of the senate and
8 similarly for the speaker comprised the five.
9 Q Okay.
10 A But I don't recall if the president
11 himself served or the speaker himself served.
12 Q I see. So from the GRAC, that map
13 eventually, or some form, something similar to
14 that map, was voted on by the Maryland General
15 Assembly, correct?
16 A That's correct.
17 Q Okay. And you voted in favor of the
18 proposed congressional map that was created by the
19 GRAC, correct?
20 A Yes.
21 Q But the General Assembly took partisan
22 political considerations into account when it

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1 assessed the proposed congressional map, correct?
2 A I didn't fully hear what you said.
3 Q Sure. When the General Assembly was
4 considering the proposed congressional map, one of
5 the factors they considered was partisan political
6 advantage, correct?
7 A I don't know if I can speak on behalf
8 of the entirety of the General Assembly's
9 considerations.
10 Q Okay. How about yourself? Were you
11 considering partisan political advantage when you
12 voted in favor of the proposed congressional map
13 in 2011?
14 A I don't recall. I don't.
15 Q So you can't tell me one way or the
16 other?
17 A I don't recall what the considerations
18 were on that particular vote.
19 Q So it could have been that that was
20 one of the factors that you considered that you
21 just can't recall as you sit here today; is that
22 right?

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1 A I would imagine there were a number of
2 factors, but I don't recall what those factors
3 were.
4 Q Okay. So you can't tell me any
5 specific factor that you considered in that vote?
6 A That was, what, six years ago?
7 Q So you can't --
8 A That's correct, I cannot.
9 Q That's correct? Okay.
10 And at the time, you were the senate
11 majority leader, correct, in 2011?
12 A That's correct.
13 Q And you were a member of the senior
14 leadership team in the senate; is that right?
15 A I was a member of the leadership team.
16 Q That's a yes?
17 A Yes.
18 Q And you were also the chairman of the
19 Senate Democratic Caucus at the time, correct?
20 A I don't think I was at the time,
21 because I don't think I served as the caucus chair
22 at the same time I served as majority leader. I

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1 think it was sequential.
2 Q And as a senate majority leader, what
3 was your role? What were your duties?
4 A To help shepherd certain legislation
5 through the senate.
6 I would say there weren't necessarily
7 specific enumerated duties. You know, helping
8 with messaging on general issues, helping senators
9 with general constituent issues, helping them with
10 addressing legislative questions.
11 Q You said part of your role is to
12 shepherd certain legislation through the senate.
13 What do you mean by that?
14 A So there were certain high-profile
15 issues, like same-sex marriage or the Dream Act,
16 and on issues like those, I would work to help get
17 support among colleagues in the senate, both
18 Republican and Democrat, for these different types
19 of initiatives.
20 Q Have you ever heard the term "whip
21 votes"?
22 A I have. There was a whip in the

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1 senate. That wasn't the role I had.
2 Q So your role was to get people to
3 support the legislation, but not necessarily to
4 whip the votes for the legislation?
5 A Well, you know, in conversations, that
6 would occur. It wasn't for most bills. It was
7 for very few bills, I would say.
8 I would say, generally, you know, it
9 was for higher profile issues, and, you know,
10 whip -- you know, like on the senate floor, hey, I
11 need your vote, that was not necessarily the
12 dynamic. You know, it was more like conversations
13 that occurred in committee or in other types of
14 settings.
15 Q You mentioned higher profile issues.
16 Was the 2011 congressional map one of the higher
17 profile issues that you were responsible for?
18 A That was in a special session, and I
19 don't recall needing to be engaged in whipping
20 votes on that or, you know, engaging colleagues to
21 get votes on that.
22 Q Why didn't you need to engage

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1 colleagues to get votes on that?
2 A I can't say why I didn't, but I can
3 say that I didn't.
4 Q So you just can't tell me why you
5 weren't involved in getting colleagues on board?
6 A Well, I mean, it was not an issue that
7 I did that for that particular issue. It was
8 not -- that issue was not an issue that I did that
9 type of engagement for. There were other issues
10 during the regular session and the prior regular
11 session and the session before that where I would
12 do that, but I didn't do it for that.
13 Q So it was a special legislative
14 session, but it wasn't necessarily a higher
15 profile issue to you; is that your testimony?
16 A I'm not saying it wasn't a higher
17 profile or a lower profile issue. It just wasn't
18 something that I was engaging colleagues on to
19 vote for or against.
20 Q Did you speak to any of your
21 colleagues regarding the 2011 congressional map?
22 A I don't recall conversations on that.

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1 Q Did you e-mail any colleagues
2 regarding the 2011 congressional map?
3 A I don't recall e-mail correspondence
4 in regard to that.
5 Q Did you ever pick up the phone and
6 call any of your colleagues regarding the
7 2011 congressional map?
8 A Honestly, I don't recall.
9 Q So you can't recall any specific
10 communication you had with any of your colleagues
11 regarding the 2011 congressional map; is that
12 correct?
13 A That is correct, I do not recall any
14 specific conversations with colleagues regarding
15 that.
16 Q Do you recall, just generally, any
17 conversation you had with any of your colleagues
18 in the General Assembly regarding the
19 2011 congressional map?
20 A I would say that there were probably
21 general conversations with enumerable people about
22 it because it was well known in the media. It may

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1 have included colleagues, it may have included my
2 parents, it may have included my children, it may
3 have included friends, but I don't recall specific
4 conversations related to it.
5 Q So there may have been conversations,
6 you just can't tell me right now; is that right?
7 A What I'm saying is I don't recall the
8 specific conversations.
9 Q Okay. Was this something that you
10 would have spoken with Senate President Miller
11 about?
12 A It's possible.
13 Q But you can't tell?
14 A I don't recall.
15 Q Is it something that you would have
16 spoken to Senate President Miller's staff about?
17 A It's possible.
18 Q But you still can't recall, correct?
19 A I don't recall.
20 Q Was one of the purposes in your mind
21 behind the proposed congressional map to move
22 Maryland's congressional delegation from six

Page 21

1 Democrats and two Republicans to seven Democrats
2 and one Republican?
3 A I would say that four years before the
4 redistricting, it was -- one could surmise, if
5 it's a Democratic-controlled legislature, that
6 there would be -- that would be something that
7 would be looked at. Whether or not that would
8 have occurred or not, up until it occurred, would
9 not have known.
10 Q Okay. I don't think I quite
11 understood the answer to my question.
12 A Sure.
13 Q So let me just ask it again.
14 Was one of the purposes in your mind
15 behind the proposed congressional map to move
16 Maryland's congressional delegation from six
17 Democrats and two Republicans to seven Democrats
18 and one Republican?
19 MS. RICE: Objection, asked and
20 answered.
21 MR. MEDLOCK: Go ahead.
22 MS. RICE: Go ahead.

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1 THE WITNESS: Oh, okay, so I answer
2 it?
3 MS. RICE: Yeah.
4 THE WITNESS: I'm sorry, the procedure
5 aspect.
6 MR. MEDLOCK: That's fine.
7 THE WITNESS: So I would say that I
8 think it was common knowledge that it was the goal
9 to make it a more competitive district that a
10 Democrat could prevail in, but I don't -- I
11 can't -- I wouldn't characterize it necessarily as
12 a definitive make it seven to one versus six to
13 two.
14 BY MR. MEDLOCK:
15 Q Did you ever hear any of your
16 colleagues say that one of the goals of the
17 proposed congressional map was to change the
18 composition of the Maryland congressional
19 delegation from six Democrats and two Republicans
20 to seven Democrats and one Republican?
21 A My recollection was that it was to
22 make one of the other -- make the

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1 Sixth Congressional District more competitive.
2 Q When you say "more competitive," how
3 do you define the phrase "more competitive"?
4 A More competitive that a Republican or
5 a Democrat could prevail in.
6 Q Isn't it true that one of the purposes
7 of making the map was to actually make the
8 Sixth Congressional District have 53 percent
9 Democratic performance?
10 A Having reviewed the documents again, I
11 recall that. My recollection is that, until after
12 the election, the result could have been that a
13 Republican could have prevailed in it, and I think
14 that's been evidenced by subsequent elections
15 after the 2012 election where a Republican almost
16 took the seat back.
17 Q I see. So can you name me a single
18 election in the Sixth Congressional District since
19 redistricting where a Republican actually won the
20 Sixth Congressional District seat?
21 A That has not happened to date. There
22 have been 2012, 2014 and 2016 elections.

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1 I know that in the 2014 election, from
2 my recollection, the candidate nearly defeated the
3 then incumbent and current incumbent Democratic
4 officeholder for that district.
5 Q In the end, that candidate,
6 Dan Bongino, lost the election, correct?
7 A That's right, it was Dan Bongino.
8 Q He lost the election?
9 A He did lose the election.
10 Q So the answer to my question is that
11 there never has been a Republican who's won that
12 seat since redistricting; is that right?
13 A That's my understanding.
14 Q Okay. I just want to make sure I get
15 a clear answer to this question:
16 One of the purposes behind the
17 2011 congressional map was to make the
18 Sixth Congressional District have 53 percent
19 Democratic performance, correct?
20 MS. RICE: Asked and answered.
21 THE WITNESS: Okay, and now I answer.
22 I'm getting the hang of this.

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1 The result of the redistricting was a
2 district that was 53 percent Democratic
3 performance.
4 BY MR. MEDLOCK:
5 Q And that was one of the purposes, not
6 just the result? That was one of the purposes of
7 the redistricting?
8 MS. RICE: Objection, asked and
9 answered.
10 MR. MEDLOCK: It hasn't been answered
11 yet. Please answer.
12 THE WITNESS: So one of the purposes,
13 because there were multiple parties involved, you
14 know, again, I don't -- it's hard for me to answer
15 what the GRAC's thinking was or what other
16 legislators' votes were, so it's hard.
17 I'm not sure how to answer that,
18 because when you say "one of the purposes," it
19 wasn't as if something was enumerated like these
20 are the four reasons why you should vote for this,
21 and this is one of them. I don't recall that.
22

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1 BY MR. MEDLOCK:
2 Q Well, I'm not asking if it was written
3 down in stone. I'm just asking, in your mind, was
4 that one of the purposes, to make the
5 Sixth Congressional District have 53 percent
6 Democratic performance?
7 MS. RICE: Objection, asked and
8 answered.
9 THE WITNESS: Yes.
10 BY MR. MEDLOCK:
11 Q Okay. To your knowledge, did any
12 other members of the Maryland General Assembly
13 believe that the purpose of the 2011 congressional
14 map was to make the Sixth Congressional District
15 have 53 percent Democratic performance?
16 A You would have to ask other members.
17 I don't recall.
18 Q To your knowledge, did other members
19 of the General Assembly vote for the proposed
20 congressional map because they believed that it
21 would result in 53 percent Democratic performance
22 in the Sixth Congressional District?

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1 A I can't speak to their motivations.
2 Q Did you even ask them?
3 A I don't recall.
4 Q Do you have any documents in your
5 possession that would shed any light on their
6 motivations?
7 A No, other than what I've provided.
8 Q So you can't tell me one way or the
9 other whether other members of the
10 General Assembly intended to turn the
11 Sixth Congressional District into a Democratic
12 seat?
13 MS. RICE: Objection, asked and
14 answered.
15 You can answer.
16 THE WITNESS: I can't address what
17 their motivations were. I don't know what their
18 motivations were.
19 BY MR. MEDLOCK:
20 Q You can't tell me why any other member
21 of the General Assembly voted for the
22 congressional map?

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1 A That's correct.
2 MS. RICE: Objection, asked and
3 answered.
4 MR. MEDLOCK: You can say it louder;
5 I'm just trying to get answers.
6 BY MR. MEDLOCK:
7 Q In 2011 --
8 MS. RICE: These are the exact same
9 questions.
10 MR. MEDLOCK: Okay. I mean, I think
11 we're actually supposed to not have speaking
12 objections, so you can offer editorial comments,
13 but I think they're improper.
14 MS. RICE: Only in response to yours.
15 BY MR. MEDLOCK:
16 Q To your knowledge, did members of the
17 General Assembly consider the number of Republican
18 and Democratic voters in the 2008 General Election
19 for President when they were evaluating the
20 proposed congressional map?
21 A I'm sorry, can you repeat that again?
22 Q Sure. That's a longer question, so no

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1 problem.
2 To your knowledge, did any member of
3 the General Assembly consider the number of
4 Republican and Democratic votes in the
5 2008 General Election for President when
6 evaluating the proposed congressional map?
7 A Not to my knowledge.
8 Q Did you ever see any document that
9 looked at the number of Democratic and Republican
10 votes in the 2008 General Election for President
11 in the newly constituted Sixth Congressional
12 District?
13 A I don't recall.
14 Q To your knowledge, did members of the
15 General Assembly consider the number of Republican
16 and Democratic voters in the 2010 General Election
17 for Governor when evaluating the proposed
18 congressional map?
19 A I don't recall that either.
20 Q So when you're saying you don't
21 recall, you don't recall --
22 A I don't remember.

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1 Q -- one way or the other --
2 A I don't remember. I don't -- no, I
3 don't remember.
4 Q So it could have happened, you just
5 don't know?
6 A It could have happened and it could
7 have not happened.
8 Q Okay, just want to make sure.
9 To your knowledge, did members of the
10 GRAC consider Maryland voters' political party
11 affiliations when drawing the boundaries of the
12 Sixth Congressional District?
13 A I don't know.
14 Q Did you consider Maryland voters'
15 political party affiliations when evaluating the
16 boundaries of the Sixth Congressional District
17 during the special session?
18 A I don't recall if I was aware of what
19 the number of votes were at that time, you know,
20 Republican, Democrat, Independent.
21 Q Okay. To your knowledge, did members
22 of the GRAC consider Maryland voters' political --

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1 I'm sorry, voting histories when drawing the
2 boundaries of the Sixth Congressional District?
3 A I don't have knowledge of that.
4 Q Did you take that into consideration
5 when voting during the special session?
6 A Can you repeat the question again?
7 Q Did you take into account Maryland
8 voters' political histories when you voted during
9 the special session in 2011?
10 A I don't think I looked at that.
11 Q Can you recall anything that you
12 looked at to educate yourself prior to the vote in
13 the 2011 special session?
14 A My recollection is that it made the
15 Sixth District more competitive, and that would
16 have been, from a Democratic standpoint, a
17 desirable thing, and that was probably an
18 influence during my decision.
19 Q Anything else that you can recall that
20 you considered?
21 A I don't recall. You know, if we had
22 numbers, I don't recall. In fact, I don't

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1 recall -- I did not recall prior to going through
2 the documents recently the 53 percent performance.
3 I mean, I don't recall.
4 Q So besides the fact that it would make
5 the Sixth District more competitive, you can't
6 recall any other factor that you considered when
7 voting in the 2011 special session?
8 A I don't.
9 Q Okay. Are you familiar with the term
10 political gerrymandering?
11 A I am.
12 Q Do you know what that means?
13 A Generally.
14 Q What does it mean, generally?
15 A To draw districts in a favorable
16 manner for one party or another. I think it goes
17 back to the early 1800s.
18 Q Do you believe that political
19 gerrymandering is improper?
20 A Do I believe it's improper? I would
21 favor, if I were in office, you know, a
22 nonpartisan redistricting, but I think it would

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1 have to be done not one state at a time, but
2 probably regionally or nationally.
3 Q Do you believe that political
4 gerrymandering is a problem in this country?
5 A I would prefer -- I think it's Iowa's
6 approach where it's a non-partisan group that
7 draws -- if I remember correctly, it's Iowa --
8 draws the lines in the state of Iowa. I think it
9 would lend for better government. That's my
10 personal opinion.
11 Q Sure. I wasn't actually asking about
12 solutions, I was just asking whether you think
13 it's a problem in the country. Let's get to the
14 problem before we get to the solution.
15 A Sure, yeah.
16 I think that -- so my opinion, you
17 know, today, you know, personal view on it is
18 you've got very partisan districts that are, you
19 know, very strongly Democratic or very strongly
20 Republican. At the same time, I do think the
21 Sixth is a district that a Republican could win,
22 even though we only have three elections of data

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1 at this point.
2 Q And those three data points all show a
3 Republican loss, right?
4 MS. RICE: Objection, asked and
5 answered.
6 THE WITNESS: Yes, that's correct. It
7 was a close election in 2014, but it was also --
8 if I remember correctly, 2014 was a relatively --
9 aside from the election of Governor Hogan, a
10 pretty good Democratic year otherwise.
11 BY MR. MEDLOCK:
12 Q So what's wrong with just Maryland
13 moving to a non-partisan commission? Why do you
14 believe it has to be done on a regional basis?
15 A If you have other states throughout
16 the country that -- and, again, I don't have data
17 for this. Texas comes to mind, where there were
18 districts drawn up that were very Republican.
19 I think for good governance
20 nationally, it would make sense to address this
21 issue on a regional or national basis to balance
22 out the partisan nature in Congress.

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1 Q Do you believe that political
2 gerrymandering in one state like Texas in favor of
3 Republicans justifies political gerrymandering in
4 another state in favor of Democrats?
5 A I don't think that traditionally
6 Democratic states should solely resort to an
7 apolitical manner of redistricting unless you have
8 a traditionally Republican state, you know, either
9 doing the same thing, kind of one for one, or,
10 again, looking at a national solution.
11 Q All right. When was the first time
12 you ran for political office?
13 A The 2002 election.
14 Q And what office were you seeking in
15 the 2002 election?
16 A State senate.
17 Q And what legislative district?
18 A 15.
19 Q Who was your primary opponent in that
20 instance?
21 A I didn't have a primary opponent.
22 Q And in the general election, who was

Page 36

1 your opponent?
2 A Her name was Jean Roesser. She was
3 the incumbent Republican senator.
4 Q And what was the result of that
5 election, if you can remember the exact breakdown
6 of votes?
7 A It was, I want to say, like decimal,
8 you know, less than a percent, if memory serves me
9 correct. I want to say 40,000 votes, roughly
10 speaking, total, and in the few hundred was the
11 difference.
12 Q In your experience, is it difficult
13 politically to upset an incumbent that's been in
14 the seat in a while?
15 A Well, I've only had one experience,
16 and that was it.
17 Q That was a squeaker.
18 A So, you know, reframe your question
19 again.
20 Q Sure.
21 A In my experience --
22 Q In your experience, both as running

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1 for election and also observing other elections
2 and as a member of the Maryland General Assembly
3 and being plugged into Maryland politics, it's
4 generally difficult to unseat a sitting incumbent,
5 right?
6 A Well, there's a lot of factors that go
7 into that. In the 2010 election, in the district
8 just north of me, an incumbent was defeated. I
9 mean, there were incumbents in primary elections,
10 I want to say, in each of the races -- each of the
11 years that I've run for office, and I'm sure even
12 in the last election, where incumbents lost.
13 So maybe more challenging, but there's
14 too many factors to say that's the isolating
15 factor.
16 Q And one of the factors that could make
17 it more difficult for an incumbent to win is if
18 the map changes, correct?
19 A I suppose.
20 Q So you were elected in 2002. It was a
21 four-year term, correct?
22 A That's correct.

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1 Q And you ran for re-election in 2006,
2 correct?
3 A Yes.
4 Q And it's the same district,
5 Legislative District 15?
6 A Correct.
7 Q And who was your opponent then?
8 A In 2006?
9 Q Yes.
10 A Bill Askinazi.
11 Q And do you recall what the result of
12 that election was besides you winning, if you know
13 the exact breakdown?
14 A I mean, obviously, I recall winning.
15 I don't recall what the vote breakdown was.
16 Q If I said that you had 65 percent,
17 65.8 percent of the vote, would that sound
18 accurate?
19 A I would say that's probably in the
20 range. I mean, I wouldn't dispute that.
21 Q I think you ran for re-election in
22 2010, correct?

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1 A I did.
2 Q And your district was the same, the
3 15th Legislative District?
4 A That's correct.
5 Q And you were unopposed in the primary
6 that year, correct?
7 A Yes.
8 Q And who was your opponent?
9 A I don't recall.
10 Q If I said it was Dwight Patel?
11 A That's right, yeah.
12 Q Okay. And do you recall what the
13 breakdown was in that election besides winning it,
14 what percentage of the vote you garnered?
15 A I don't.
16 Q If I said it was 63 percent, would you
17 dispute that?
18 A I wouldn't, but, you know, I never met
19 the guy, so it was not an election I was
20 particularly focused on. If I lost that, I would
21 have really been in trouble.
22 Q Understood. Understood.

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1 A You know, the editorial boards of the
2 newspaper never met him either, so it was just a
3 phantom candidate, but I remember Patel. I do
4 recall that.
5 Q So in your mind, it was sort of a
6 token Republican candidate that you were facing?
7 A Yeah. In fact, if I remember
8 correctly, he was appointed by the Republican
9 Central Committee after the filing deadline.
10 Q I see.
11 Where is the 15th Legislative District
12 located?
13 A In Montgomery County.
14 Q What part of Montgomery County?
15 A Western and northern Montgomery
16 County.
17 Q What towns are located in the
18 15th Legislative District?
19 A Incorporated, Poolesville and
20 Barnesville; unincorporated communities, which
21 would include parts of Potomac, North Potomac,
22 Clarksburg, Germantown, Dickerson, Darnestown,

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1 Boyds, Hyattstown. That kind of covers the range,
2 I think.
3 Q You know your district well.
4 Will you describe the 15th Legislative
5 District as generally affluent?
6 A I would say that there are areas of it
7 that are affluent, more so in the southern part of
8 the district, but I often consider kind of
9 Germantown to be more of a Main Street -- you
10 know, there were different issues in that
11 community than in, say, certain areas of Potomac,
12 but then there was a lot of agricultural areas of
13 the district, and those issues were very
14 different, and the socioeconomic was very
15 different there as well.
16 Q What are the agricultural areas of the
17 15th Legislative District?
18 A Probably about 50 to 60 percent of the
19 district, as it was then, because it has been
20 redrawn, as you know, comprised the Montgomery
21 County Ag Reserve. You had horse farms, but you
22 also had corn, soy, pumpkin. I mean, just a range

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1 of agricultural interests, peaches.
2 Q Would you describe the community as --
3 A Is this relevant?
4 Q It is.
5 A I'm sorry.
6 Q No, no, it is.
7 A I think there were blueberries and
8 strawberries, some had Christmas trees, you know,
9 is my recollection of the district.
10 Q Okay.
11 A I've been to many of those farms, got
12 some awards from the Farm Bureau.
13 Q Do a large percentage of the residents
14 in the 15th Legislative District commute into
15 D.C.?
16 A I wouldn't say a majority. I think,
17 you know, the further north you go, they were
18 probably like me, commuting to Rockville or
19 Bethesda or Silver Spring as much as they were
20 commuting into D.C., or, you know, staying local
21 in their communities.
22 Q How about the percentage of residents

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1 in the 15th Legislative District who commuted
2 north to Frederick County or Carroll County? What
3 percentage would you say that is?
4 A There were probably a fair amount
5 actually that did what many would call the reverse
6 commute.
7 Q Is that smaller than the number who
8 were doing the normal commute into D.C.?
9 A I would say -- and this is not based
10 on the district.
11 Q Uh-hmm.
12 A I would say based on going north and
13 south on 270 in the mornings and in the evenings
14 that there were probably more people traveling
15 south, but that may be inclusive of people coming
16 from Pennsylvania, Washington County,
17 Frederick County. I know people who worked in
18 Rockville that lived in Pennsylvania.
19 So, you know, by evidence of
20 Interstate 270, I would say more people were
21 probably heading south while I was serving than
22 were heading north. That may have changed.

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1 Q Do you know what percentage of the
2 your --
3 A I don't.
4 Q -- community was using I-270?
5 A What percentage was using that? No, I
6 don't.
7 Q Do you know if it was even a majority
8 of your community that was using I-270?
9 A I'd be speculating.
10 Q Okay. So you can't tell me one way or
11 the other?
12 A No, I never did an analysis of that.
13 Q Did you look at any sort of analysis
14 of commuting patterns on I-270 before you voted in
15 the special legislative session in 2011?
16 A No.
17 Q Did you see any sort of analysis of
18 commuting patterns on I-270 given to any other
19 member of the General Assembly before they voted
20 on the proposed congressional map in 2011?
21 A I don't think so. I don't recall
22 that.

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1 Q Would you doubt that that data was
2 made available?
3 A Yes, actually. I mean, I would doubt
4 that that data was made available. I mean, I just
5 don't recall looking at commuting patterns.
6 Q Do you recall anybody speaking on the
7 floor of the senate when you were getting ready to
8 vote on the proposed congressional map about
9 commuting patterns on I-270?
10 A No. In fact, I don't recall any
11 debate on the senate floor about it.
12 MR. MEDLOCK: All right. We're not
13 quite an hour, but let's take a break here. I
14 think we're at a logical breaking point.
15 THE WITNESS: All right.
16 MR. MEDLOCK: Thanks. Maybe five, ten
17 minutes.
18 THE WITNESS: Okay, yeah.
19 (A break was taken at 10:10 a.m.)
20 (Resume at 10:20 a.m.)
21 BY MR. MEDLOCK:
22 Q Did you have any conversations with

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1 your attorney during the break?
2 A Yes.
3 Q Did you have any conversations about
4 this case with your attorney during the break?
5 A I don't think we did, actually.
6 Q Okay.
7 A Learned about her children, and -- I
8 didn't know that, you know, if you attended
9 Baltimore City high schools, you can get tuition
10 free for Johns Hopkins.
11 Q That's good to know.
12 MR. MEDLOCK: All right. We'll mark
13 the next exhibit -- or the first exhibit, I should
14 say.
15 (Exhibit 14 was marked
16 for identification.)
17 BY MR. MEDLOCK:
18 Q So I have in front of you what we've
19 marked as Exhibit 14 to your deposition.
20 A Okay.
21 Q You can take a second to flip through
22 it if you'd like, but I'm going to focus on a

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1 block quote on page 40. I'll just tell you that
2 right off the bat.
3 A Page 40?
4 Q Yes. And --
5 MR. MEDLOCK: Sorry, we're still
6 printing copies, Sarah, so I'll get you a copy.
7 BY MR. MEDLOCK:
8 Q And my first question to you will be
9 whether you recognize the document.
10 A May I write on this?
11 Q Certainly. You can write whatever you
12 like.
13 A So you're talking about this print
14 here; is that what you're asking?
15 Q Yes.
16 A Okay.
17 Q Have you had a chance to review the
18 block quote yet?
19 A No, I haven't yet.
20 Q All right. Please review it, and then
21 let me know audibly when you have.
22 A Okay.

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1 (Witness reviewing Exhibit 14.)
2 And, I'm sorry, your question again?
3 Q Have you reviewed it?
4 A I just reviewed the quote.
5 Q Okay. All right.
6 So this is a quote coming from an
7 October 31st, 2012, speech given by then
8 Attorney General Douglas Gansler, and I'll just --
9 have you ever heard about this speech before
10 today?
11 A No.
12 Q Have you ever read a transcript of the
13 speech?
14 A No.
15 Q Ever seen a video --
16 A Well --
17 Q -- of the speech?
18 A -- just reading it now, but before
19 now? No.
20 Q Okay. So going into the block quote,
21 after the first ellipses, it reads, "So many
22 people have a problem with the way in which the

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1 state was gerrymandered this last time."
2 Did I read that correctly?
3 A Those are the words that appear to be
4 in front of me. Is it correctly read? You know,
5 your enunciation was off a little bit. What I
6 would have intoned might be a little different.
7 Q But that's what it says; is that
8 right?
9 A That's what it says.
10 Q Okay. Do you agree with
11 Attorney General Gansler's statement that the
12 state of Maryland was gerrymandered in 2011?
13 A I would venture to say it's probably
14 been gerrymandered every decade.
15 Q Understood. My question to you is
16 whether you agree with Attorney General Gansler's
17 statement that the state of Maryland was
18 gerrymandered in 2011.
19 MS. RICE: Objection, asked and
20 answered.
21 THE WITNESS: The district lines were
22 changed in 2012.

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1 BY MR. MEDLOCK:
2 Q But do you agree with his comment that
3 they were gerrymandered?
4 MS. RICE: Objection, asked and
5 answered.
6 THE WITNESS: I would characterize it
7 as it made it a more competitive district.
8 BY MR. MEDLOCK:
9 Q Would you characterize it as
10 gerrymandering?
11 MS. RICE: Objection, asked and
12 answered.
13 THE WITNESS: Sure.
14 BY MR. MEDLOCK:
15 Q Okay. Let's move down. Next
16 Attorney General Gansler says, "For example, in
17 the Sixth District ... Garrett County, Maryland, a
18 very rural, agrarian part of the state is couple
19 with Potomac, Maryland in Montgomery County, which
20 is perhaps the most wealthy and lest agrarian part
21 of the state." Do you see that?
22 A I see that.

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1 Q Do you agree with Attorney
2 General Gansler's statement that Montgomery County
3 and Garrett County are different?
4 A I would say that his characterization
5 of Garrett County being agrarian, I'm not sure
6 it's an agrarian county per se; and I would say
7 that there's about 20 percent of Montgomery County
8 that is agrarian. So I would not -- I would
9 actually disagree with his characterization.
10 Q Is there any portion of that
11 characterization that you would agree with?
12 A "a very rural, agrarian part of the
13 state is couple with Potomac, Maryland ...
14 I would say that Potomac is among the
15 more wealthy parts of the state.
16 Q Would you agree --
17 A There are areas of Garrett County that
18 are also very affluent, Deep Creek.
19 Q Understood. That's sort of a resort
20 community, correct?
21 A Exactly, yeah.
22 Q So let's put Deep Creek aside for a

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1 second and just talk about the areas of
2 Garrett County that are not part of that resort
3 community.
4 A Sure.
5 Q Are they as affluent?
6 A The tax base in Garrett County has
7 gone up quite a bit. I think it may even be
8 perhaps more than the Deep Creek area.
9 Q Okay.
10 A I would disagree with the
11 characterization regarding Garrett County --
12 Q Okay. Did you --
13 A -- but I don't disagree with the
14 characterization regarding Potomac being affluent.
15 Q Would you agree that Potomac,
16 Maryland, is more affluent than Garrett County?
17 A You know, I don't know. There's a
18 fair amount of wealth up in the Garrett County
19 region as well.
20 Q You don't dispute that Montgomery
21 County is one of the wealthiest counties in the
22 United States, correct?

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1 A Sure. I don't dispute that.
2 Q Do you know if Garrett County is one
3 of the wealthiest counties in the United States?
4 A I don't think so.
5 Q Is Washington County one of the
6 wealthiest counties in the United States?
7 A I don't think so.
8 Q How about Carroll County, is it one of
9 the wealthiest counties in the United States?
10 A I don't think so.
11 Q And how about Allegany County, is it
12 one of the wealthiest counties in the
13 United States?
14 A No. I would say Allegany County is
15 one of the more depressed counties, at least in
16 Maryland.
17 Q Okay. Next Attorney General Gansler
18 states, "They were looking" -- oh, sorry. I'm
19 moving up.
20 Next Attorney General Gansler states,
21 "So, what happened, we have eight congressional
22 districts, ... the Democrats had the ability ...

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1 to look at the state gerrymandered in such a way
2 to make it 7 [Democratic representatives] to 1
3 [Republican representative]."
4 Did I read that correctly?
5 A You read it correctly.
6 Q Okay. And do you agree with
7 Attorney General Gansler's statement that Maryland
8 Democrats had the opportunity to gerrymander the
9 state in a way to make the congressional
10 delegation 7 to 1?
11 A Again, I would say that, you know,
12 it's not a foregone conclusion, it really isn't,
13 because elections have a lot of variables.
14 As I said at the beginning, and I'll
15 say it again here, it certainly made the
16 Sixth Congressional District more competitive.
17 That's my view. It may differ from the statement
18 of former Attorney General Gansler, but that's how
19 I would characterize what occurred.
20 Q Do you agree with his
21 characterization? Do you think it's true that the
22 effect of the redistricting was to actually --

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1 A I think a Republican --
2 Q -- move it so that it was 7 to 1?
3 A I think a Republican could still win
4 that district.
5 Q How many Democratic members are there
6 in the Maryland delegation today?
7 A There are seven, if you're not
8 including the two senators.
9 Q Correct. And then there's one member
10 of the U.S. House of Representatives who's a
11 Republican from Maryland, correct?
12 A That's correct.
13 Q So it is, in fact, 7 to 1 now?
14 A Well, I would look back historically
15 when the district did not look dissimilar to what
16 it looks today prior to, I think it was, the
17 1990 redistricting, when you had Democrats and you
18 had Republicans representing a very similar type
19 of district that came into Montgomery County in a
20 similar fashion.
21 I say that because, to me, it does
22 make it competitive. I still believe a Republican

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1 could win that district. It's not a foregone
2 conclusion that it would be 7 to 1, and I think,
3 all things being equal in the 2018 or the 2020
4 election, a Republican could win that seat.
5 Q So I'm struggling to figure out how
6 that's actually responsive to my question.
7 My question was --
8 A Do I agree --
9 Q -- the congressional delegation is, in
10 fact, 7 to 1, right?
11 A That's correct. Today it is 7 to 1,
12 that's right.
13 Q And you believe that, hypothetically,
14 it could become less than 7 to 1 sometime in the
15 future. Is that your testimony?
16 A My testimony is that a Republican
17 could win the Congressional Sixth District.
18 Q What research have you done to
19 determine that a Republican could win the Sixth
20 Congressional District?
21 A I'm relying on the basis of the 2014
22 election as one of the data points. There's only

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1 been three elections since it was redistricted,
2 and there are, if I recall, a 600 to 700,000 range
3 of voters in these Congressional Districts, and it
4 was within a thousand or 2,000 votes, if I recall.
5 Q What evidence do you have besides
6 Dan Bongino losing an election to support your
7 contention that in future elections a Republican
8 could win?
9 A I don't have empirical data, but
10 you've asked me about my experience in other
11 questions based on my election, as well as
12 observations of other elections, and it's my
13 belief, with that experience, that a Republican,
14 the right candidate, could win in Congressional
15 District 6.
16 Q So it's simply your belief that a
17 Republican could win the Sixth District?
18 A It is my belief based on two decades
19 of experience in the political world.
20 Q And can you name me anything other
21 than Dan Bongino's loss in the Sixth District as
22 evidence supporting your contention that a

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1 Republican could win the Sixth District?
2 A I don't have empirical evidence. I
3 don't think one could produce empirical evidence
4 because there are a multitude of variables that
5 aren't empirical, the right candidate, the right
6 message.
7 And so a Republican -- it is my
8 belief, based on my experience, having served in
9 office, having been involved in elective politics,
10 that a Republican could win the Sixth. That's my
11 belief.
12 Do I have empirical data? No, but I
13 don't think one could say there's empirical data
14 to disprove that either.
15 Q I understand you're saying you don't
16 have empirical data.
17 Do you have any evidence or any data
18 to back up your contention that a Republican could
19 win the Sixth Congressional District other than
20 your experience?
21 A Here's what I would posit. If you
22 looked at -- I think you said the number was

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1 53 percent Democratic performing?
2 Q Yes.
3 A I think if you looked at the
4 435 Congressional Districts across the country,
5 and you combed through all of them that were
6 53 percent Democratic performing, I would bet
7 money that there are Republicans in those
8 districts that are the incumbent. I would use
9 that as the basis.
10 Q Can you name me one of those
11 districts? Can you give me a 53 percent --
12 A Would the record be open? I mean, is
13 that an obligation of me to pursue? I mean, I
14 can't right now.
15 Q Okay. So as you sit here, you can't
16 actually name a district with 53 percent
17 Democratic performance --
18 A Correct.
19 Q -- that is actually held by a
20 Republican?
21 A I did not bring analysis with me today
22 of the 435 Congressional Districts that prove my

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1 point of there being a Democratic 53 percent
2 performing district where there's a seat held by a
3 Republican today.
4 And I would argue in prior elections
5 you could probably find that data as well.
6 Q Regardless of whether you brought it
7 with you today, can you point me to any evidence?
8 A I don't have it in front of me. No,
9 not presently.
10 Q So as you sit here today, you're
11 simply relying on your own political --
12 A Experience and political judgment --
13 MS. RICE: Objection, asked and
14 answered.
15 THE WITNESS: -- and experience,
16 correct.
17 BY MR. MEDLOCK:
18 Q I'm still on the block quote --
19 A Sure.
20 Q -- so I'll direct you right back to
21 it.
22 A I'll try to follow along.

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1 Q And just follow along with me, if you
2 can.
3 A Uh-hmm.
4 Q Attorney General Gansler states, "They
5 were looking to do" -- sorry, let me start over
6 again.
7 So Attorney General Gansler states
8 towards the bottom of the quote, "They were
9 looking do they want to make the Eastern Shore,
10 try that again, to make it even more Democratic
11 and make that the seventh Democratic district, or
12 Western Maryland. They chose Western Maryland,
13 and its actually a 53% Democratic district."
14 Did I read that correctly?
15 A You read the words of the quote, yes.
16 Q Okay. So Attorney General Gansler
17 came to the conclusion that the Sixth District
18 would have 53 percent Democratic performance,
19 correct?
20 A It looks like his quote was after the
21 district was formed, so I would imagine that he
22 had access to the same data that everybody else

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1 had access to.
2 Q What's the same data that everyone
3 else had access to?
4 A The 53 percent that you mentioned
5 earlier would have been the result of the new
6 district. The district was voted on, so I'm
7 assuming that he saw that, and that's what he's
8 referring to.
9 But, I mean, I didn't have a
10 conversation with him.
11 Q Okay. You say the 53 percent you
12 mentioned earlier, he would have seen that and
13 that's what he was referring to?
14 A You had mentioned that when the
15 district was voted on, that it was a 53 percent
16 Democratic-performing district, so I'm relying on
17 the earlier statement that you mentioned at the
18 beginning of this process, and it looks like
19 Gansler is using the same data point that you
20 referenced.
21 Q Right, and the --
22 A So --

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1 Q Right. So was it generally known
2 amongst members of the Democratic Caucus of the
3 O'Malley administration that the result of the
4 redistricting was that this would be a 53 percent
5 Democratic district?
6 A I can't speak to what others knew or
7 didn't know.
8 Q Did you have any conversations or
9 evidence -- any conversations or any
10 communications with anyone in the Democratic
11 Caucus or in the O'Malley administration that
12 would have led you to believe that they thought
13 that the Sixth District would have 53 percent
14 Democratic performance?
15 A We're talking after the vote on the
16 district?
17 Q I'm talking at any point.
18 A I don't recall what the percentage
19 was. I looked at the documents that I've
20 produced, and I think in one of the documents it
21 referenced me mentioning the 53 percent. So
22 relying on that document, I was aware, based on

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1 that, of the 53 percent. I don't recall, based on
2 the documents, what the date was, but we could go
3 back to that document, that I became aware of it.
4 Q Okay.
5 A I'm not aware to what extent other
6 legislators or the O'Malley administration had
7 knowledge of the 53 percent performance.
8 Does that answer the question?
9 Q I think it does.
10 So Attorney General Gansler is a
11 member of the O'Malley administration, right?
12 A Not technically.
13 MS. RICE: Objection.
14 THE WITNESS: He's a constitutional
15 officer in his own right, and he's independent of
16 the governor.
17 BY MR. MEDLOCK:
18 Q He's a Democrat, correct?
19 A For example, Attorney General Frosh is
20 not a member of the Hogan administration.
21 Q I understand that, but --
22 A No more than Gansler was a member of

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1 the O'Malley administration.
2 Q Attorney General Gansler was a
3 Democrat, correct, Democratic candidate?
4 A He was a Democrat, may still be a
5 Democrat.
6 Q As was Governor O'Malley, right?
7 A He was a Democrat. They were not
8 friends.
9 Q I'm aware of that.
10 A I don't think they were -- you know,
11 in conversations about this, there was not a lot
12 of love between them.
13 Q So this comment occurred on
14 October 31st, 2012, correct --
15 A Yeah.
16 Q -- this speech from Gansler?
17 A I imagine the data point of 53 percent
18 came out once the lines were drawn or voted on,
19 and he's repeating a fact that was probably in the
20 media and well known, but that's speculation on my
21 part.
22 Q So you don't know where he got that

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1 53 percent from?
2 A I don't.
3 Q You've never asked him?
4 A No, I have not.
5 Q So that's just a guess on your part?
6 A That is a guess.
7 Q Okay. I think we've talked about the
8 document without seeing it, so let's mark it.
9 (Exhibit 15 was marked
10 for identification.)
11 BY MR. MEDLOCK:
12 Q I'm showing you what we've marked as
13 Exhibit 15. It's a one-page e-mail.
14 Please review it and let me know
15 audibly when you're done reviewing it.
16 A (Witness reviewing Exhibit 15.)
17 Okay, I've reviewed it.
18 Q Okay. So let's start at the top.
19 Do you see the Gmail logo at the top
20 left of the document?
21 A I see it.
22 Q And to the right of that you see your

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1 name?
2 A I do.
3 Q Is this an e-mail that came from your
4 Gmail account?
5 A Yes.
6 Q And this was a Gmail account that you
7 used separate and apart from your state-issued
8 e-mail account; is that correct?
9 A That's correct.
10 Q For what purposes did you use this
11 Gmail account?
12 A Personal.
13 Q Did you use it for campaign purposes?
14 A Yes.
15 Q Did you use it even before you had a
16 campaign to sort of organize what would become
17 your congressional campaign in 2012?
18 A I used the Gmail for all things other
19 than -- I mean, for all things basically, so yes.
20 There was not other account, if that's what you're
21 asking.
22 Q Okay. And do you have any reason to

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1 doubt that this e-mail came from your Gmail
2 account?
3 A I don't have reason to doubt that.
4 Q All right. Let's start at -- as you
5 see, it's sort of an e-mail chain, so let's start
6 at the bottom of the e-mail chain.
7 A Okay.
8 Q Do you see an e-mail that was sent
9 from you to Elizabeth Paul on October 4th, 2011,
10 at 8:20 a.m.?
11 A I do.
12 Q And what's the subject line of that
13 e-mail?
14 A CD6.
15 Q What does CD6 mean?
16 A Congressional District 6.
17 Q And who's Elizabeth Paul?
18 A She is -- was -- let me think here --
19 Washington County. She was from Washington
20 County. She was involved in Democratic politics
21 in Washington County, but I don't recall what role
22 or title she had at the time.

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1 Q If I told you she was at the time a
2 member of the Washington County Democratic Central
3 Committee, does that ring a bell?
4 A Yeah, that makes sense.
5 Q Okay. And your 15th Legislative
6 District was not in Washington County, correct?
7 A That's correct.
8 Q And one of the reasons that you were
9 communicating with her was because, at the time,
10 you were considering potentially running for
11 Congress in CD6, correct?
12 A Depending on what was adopted, I was
13 contemplating it.
14 Q So on October 4th, 2011, you were
15 contemplating it potentially based on the map?
16 A Yes.
17 Q All right. Let's go to the -- before
18 I go into the bottom of your e-mail, it says,
19 "Sent from my Verizon Wireless BlackBerry" at the
20 footer to the e-mail.
21 A Uh-hmm.
22 Q Did you use your BlackBerry to

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1 communicate when you weren't at your computer?
2 Was that your practice?
3 A Yeah, right, exactly.
4 Q So --
5 A Much like a smartphone.
6 Q Exactly. So you would have been
7 traveling or otherwise away from your computer
8 when you sent this e-mail?
9 A It's possible the computer was on the
10 desk and I was on my BlackBerry. I can't say
11 whether -- you know, honestly.
12 Q So the beginning of the e-mail says,
13 "The map will be public today."
14 Do you see that?
15 A I do.
16 Q And the map refers to the
17 2011 congressional map, correct?
18 A I presume.
19 Q So at the time you sent this e-mail,
20 the Governor's Redistricting Advisory Committee
21 had not yet made the draft congressional map
22 public; is that correct?

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1 A It looks like, based on the e-mail,
2 that it was going to be public sometime on
3 October 4th.
4 Q But it was not yet public? Is that
5 what you implied by, "The map will be public
6 today"?
7 A Other than looking at this, I don't
8 recall. I'm relying on this. So I don't have a
9 memory of whether it, in fact, was October 4th or
10 not. I just don't recall what date it was made
11 public.
12 So relying on this e-mail, it appears
13 that it was going to be made public on the 4th.
14 Q All right. So in relying on the
15 e-mail, it appears that it was October 4th, but it
16 had not yet been made public because it was
17 8:20 a.m.
18 A Okay.
19 Q Is that right?
20 A That's -- that's --
21 Q Is that what you're taking from this
22 e-mail?

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1 A That's what I'm taking from the
2 e-mail, exactly. My read of the e-mail is that at
3 8:20 a.m., the map may not have been public at
4 that time, but would be public at some point
5 during the day.
6 Q Prior to the map being made public,
7 did you see a copy of it?
8 A I don't recall.
9 Q Does this e-mail lead you to believe
10 that you saw a copy of the map before it was
11 public?
12 A I don't think so.
13 Q Did you receive any information about
14 what the map would look like prior to it being
15 made public?
16 A I don't recall -- I see other
17 sentences in here. I don't recall how I obtained
18 that information that I put in this e-mail.
19 Q Do you recall whether you personally
20 obtained the information or whether your staff
21 obtained the information?
22 A I don't recall that.

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1 Q And you don't recall who you obtained
2 the information from?
3 A I don't.
4 Q You don't recall whether you obtained
5 it over e-mail or over the phone or in person?
6 A I don't. I don't recall.
7 Q And you don't recall when you actually
8 obtained the information that's in this e-mail?
9 A I don't.
10 Q Is there any document that I could
11 show you that would refresh your recollection as
12 to when you actually received the information that
13 is referenced in this e-mail to Elizabeth Paul?
14 A It's possible.
15 Q But you can't think of one as you sit
16 here today?
17 A No, I cannot.
18 Q All right. Let's move to the next
19 sentence.
20 A All right.
21 Q You say, "There still may be minor
22 changes before the General Assembly convenes in

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1 less than two weeks." Let's stop there.
2 Did I read that correctly?
3 A You did.
4 Q When you say, "the General Assembly
5 convenes in less than two weeks," that refers to
6 the special session?
7 A Yes.
8 Q Okay. Going on you state, "The
9 6th District would comprise about 40% of
10 Montgomery County, including northern and western
11 parts. It would include southern Frederick and
12 the City of Frederick. The rest of Frederick
13 would be in Van Hollen's district."
14 Did I read that correctly?
15 A You did read that correctly.
16 Q And Van Hollen refers to Christopher
17 Van Hollen, correct?
18 A Correct.
19 Q And when you say, "The rest of
20 Frederick would be in Van Hollen's district,"
21 you're referring to the Eighth Congressional
22 District, correct?

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1 A Yes.
2 Q And northern and western parts of
3 Montgomery County, would that include the
4 15th Legislative District?
5 A Yes.
6 Q So your legislative district was --
7 prior to the redistricting, what Congressional
8 District was it in?
9 A The Eighth.
10 Q And it moved from the Eighth to the
11 Sixth; is that correct?
12 A Back into the Sixth.
13 Q Okay. And then you go on to say, "All
14 of Washington, Allegheny, and Garrett would remain
15 in the 6th. The Dem performance would be 53%.
16 All good news."
17 Did I read that correctly?
18 A You did.
19 Q When you say, "The Dem performance,"
20 what does "performance" mean in that sentence?
21 A If I recall, Dem performance means if
22 you have a generic ballot of a Democrat and a

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1 Republican candidate, I don't know what statistic
2 it is, but generally there's a 53 percent
3 likelihood that the Democrat would prevail.
4 Q How do you go about calculating that?
5 A I don't know.
6 Q Do you know who made that calculation
7 that you reference here?
8 A No.
9 Q Do you know how you found out about
10 the 53 percent Democratic performance?
11 A I don't recall.
12 Q Do you recall whether the 53 percent
13 Democratic performance was public information at
14 the time you shared it with Ms. Paul?
15 A I don't recall.
16 Q Can you recall anything regarding how
17 you came to know the 53 percent Dem performance
18 that's referenced in this e-mail?
19 A I don't recall how I obtained that
20 information.
21 Q And when you say, "All good news,"
22 what did you mean by that?

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1 A It's hard for me to look back to what
2 I was thinking five and a half years ago, but I
3 presume that I was happy that it was a competitive
4 district that a Democrat could win in.
5 Q Does that mean it was all good news
6 because you were considering running in the
7 Sixth Congressional District, and this map would
8 potentially be more favorable to you than the
9 prior map?
10 A I would say that, as I was weighing
11 whether to run, the good news that a Dem would
12 have a shot, whether it was me or someone else,
13 would have been what would have been positive news
14 to me.
15 Q If a Democrat didn't have a shot at
16 winning the Sixth Congressional District, you
17 wouldn't have run, correct?
18 A It's hard to say, like, you know, what
19 would the range have been. It's possible that I
20 would have considered running if it was a lower
21 percentage.
22 Q A lower percentage being a lower

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1 percentage of Democratic performance?
2 A Exactly.
3 Q If it was 51 percent Democratic
4 performance, would you have run?
5 A Potentially even if it were in the
6 high 40s. But, again, this is one factor that one
7 considers out of a multitude of factors.
8 Q What was the purpose of e-mailing
9 Elizabeth Paul this information?
10 A I don't recall.
11 Q Was Elizabeth Paul someone that you
12 wanted to work on your campaign?
13 A I don't know if she could have because
14 if she was on the Central Committee, she would
15 have only -- she would have had to remain neutral.
16 Q Fair point. Is she someone that you
17 would have wanted to work on your general election
18 campaign after the primary?
19 A Perhaps, but, honestly, I don't
20 recall.
21 Q Can you recall anything about why you
22 sent this e-mail to Elizabeth Paul?

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1 A No, actually. I mean, other than the
2 fact that she was, as you say, on the Central
3 Committee. I mean, there was communication with
4 her. I met with her, as I was reaching out to
5 other people, just to kind of get a lay of the
6 land.
7 We're done with this document?
8 Q We are, I think. You can put it
9 aside.
10 (Exhibit 16 was marked
11 for identification.)
12 BY MR. MEDLOCK:
13 Q So, sir, you've had put in front of
14 you what we've marked as Exhibit 16 to your
15 deposition.
16 Again, it's a one-page e-mail, and,
17 again, I'd just like you to review the e-mail, and
18 then let me know audibly when you're done.
19 A (Witness reviewing Exhibit 16.)
20 It looks to be an identical e-mail.
21 Q When you say "an identical e-mail,"
22 you're comparing it to Exhibit 15?

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1 A To the prior exhibit, yes, I am, as
2 far as what I had -- what was sent from me.
3 Q I see. So that the actual body of the
4 e-mail --
5 A It appears to be that the body of the
6 e-mail is identical.
7 Q I see. Okay. So let's start at the
8 top of the e-mail again.
9 This is an e-mail from your Gmail
10 account; is that correct?
11 A Yes.
12 Q And you titled this e-mail
13 Redistricting, correct?
14 A Yes.
15 Q And you sent the e-mail to -- is that
16 Myrna?
17 A I think it's Myrna.
18 Q Myrna Whitworth?
19 A Yeah.
20 Q And then copied on the e-mail is Bob
21 Kresslein and Tom Slater, correct?
22 A Uh-hmm.

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1 Q Do you know who Myrna Whitworth was at
2 the time?
3 A These folks were involved in
4 Democratic politics in Frederick County. I mean,
5 I forget exactly what her role was.
6 Q So whereas Ms. Paul was involved in
7 Democratic politics in Washington County, the
8 people who received this e-mail, Exhibit 16, were
9 involved in politics in Frederick County; is that
10 correct?
11 A Yes.
12 Q All right. And this e-mail was sent
13 on October 4th, 2011, at 8:18 a.m., correct?
14 A Correct.
15 Q So it's sent two minutes before the
16 e-mail to Elizabeth Paul, right?
17 A Looks like I managed to copy and paste
18 in that two-minute interval.
19 Q So in two minutes, you copied and
20 pasted information about the --
21 A That's the way it appears. I don't
22 recall if I, in fact, copied and pasted or

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1 retyped.
2 Q Okay. Depends, I guess, on how
3 efficient you are.
4 A Yeah. Perhaps it should have been
5 like the same minute if I was truly copying and
6 pasting.
7 Q Well, regardless, in two minutes, you
8 send the same e-mail --
9 A Correct.
10 Q -- regarding the proposed
11 congressional map to officials in Frederick County
12 and officials in Washington County that are with
13 the Democratic Party; is that right?
14 A Yes.
15 Q And as you say in your e-mail,
16 Frederick and Washington Counties would be
17 counties that would be part of the new
18 Sixth Congressional District, correct?
19 A That's correct, parts of Frederick.
20 Q That's a good point. So it was
21 Frederick City that would be part of the new
22 Sixth Congressional District, correct?

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1 A And southern and I guess southwestern
2 parts of it.
3 Q But northern Frederick would be taken
4 out of the Sixth Congressional District; is that
5 right?
6 A That's correct.
7 Q And that would be moved into Chris
8 Van Hollen's district, the Eighth District,
9 correct?
10 A That's what happened.
11 Q And prior to this, Frederick
12 County had been one -- all of Frederick County had
13 been part of the Sixth Congressional District,
14 correct?
15 A I think that's correct.
16 Q Did you ever have any conversation
17 with anyone in the General Assembly regarding why
18 Frederick County was split in two in the
19 congressional redistricting?
20 A I don't know.
21 Q Did you ever have any conversation
22 with anyone in the Governor's Redistricting

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1 Advisory Committee regarding why Frederick County
2 was split in two?
3 A I don't recall those conversations.
4 Q So you don't know if those
5 conversations actually occurred or not?
6 A I don't remember any of those. I
7 don't remember such conversations.
8 Q Do you recall any conversations
9 amongst the Democratic leadership in the
10 General Assembly regarding why Frederick County
11 had been split in two?
12 A I don't.
13 Q Do you recall anyone referencing
14 Frederick County being split in two during the
15 floor debate during the special session?
16 A I don't.
17 Q Do you, as you sit here today, have
18 any justification for why Frederick County was
19 split in two in the 2011 congressional
20 redistricting?
21 A I don't.
22 Q You can put 16 aside as well.

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1 A All right.
2 Q Your phone's been quiet. Did you tell
3 your clients you're not available?
4 A A few. I've got staff that are
5 fielding e-mails and other things for me.
6 Q Junior associates?
7 A Executive assistant.
8 Q There you go.
9 MS. RICE: Where can I get some of
10 those?
11 (Discussion held off the record.)
12 (Exhibit 17 was marked
13 for identification.)
14 BY MR. MEDLOCK:
15 Q Sir, I've put in front of you what
16 we've marked as Exhibit 17 to your deposition.
17 It's a three-page document, but in reality, when
18 you flip through it, it's really a three-paragraph
19 story that appeared in Maryland Juice 2.0 on
20 October 3rd, 2011.
21 A Okay.
22 Q And I'm just going to have questions

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1 for you about the three paragraphs on the first
2 page.
3 A Sure. So the day before the e-mails,
4 okay, just to put it in context.
5 Q Exactly. So if you take a second to
6 review that, and then we can ask some questions
7 about it. Just let me know audibly when you're
8 done reviewing it.
9 A Uh-hmm.
10 (Witness reviewing Exhibit 17.)
11 Okay, I've read the three paragraphs.
12 Q Okay. So I'd like to focus on the
13 first paragraph first.
14 A Okay.
15 Q Do you see right after the red UPDATE,
16 there's a reference to, "A source with knowledge
17 of the final maps confirms the following facts."
18 And the phrase "final maps," that
19 refers to the 2011 Congressional map that was
20 proposed by the GRAC, correct?
21 A I'm assuming that's what he's talking
22 about.

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1 Q Okay. Do you -- I guess I should back
2 up for a second.
3 Do you ever read Maryland Juice?
4 A I did.
5 Q Do you see a reference at the bottom
6 to david@marylandjuice.com?
7 A I do.
8 Q That's David Moon, correct?
9 A That's correct.
10 Q He's currently a member of the
11 General Assembly, correct?
12 A Yes.
13 Q Why did you read Maryland Juice 2.0?
14 A Just political gossip.
15 Q And did you find Maryland Juice 2.0 to
16 generally be accurate when it relayed political
17 gossip?
18 A Not always.
19 Q Looking at this article, do you find
20 it to be inaccurate?
21 A You know, the 53 percent that we've
22 referenced today and with other documents appears

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1 to be accurate. Based on what has since occurred,
2 it appears that we have a 7 to 1 Democratic
3 delegation to Republican delegation at present.
4 Beyond that, it's hard for me to --
5 Q Well, do you have any reason to
6 dispute the accuracy of anything that's in this
7 article?
8 A No, I don't. I mean, there's a lot of
9 information points in here.
10 Q Certainly, certainly, and we'll go
11 through those.
12 So after UPDATE, in the first
13 paragraph, it refers to a source with knowledge of
14 the final maps, correct?
15 A Uh-hmm.
16 Q And then moving down further in the
17 first paragraph it says, "She says the new
18 district will be 53% Democratic, but
19 Maryland Juice is trying to confirm whether that
20 is 53% Dem by registration, presidential
21 performance, or some other metric."
22 Do you see that?

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1 A I do.
2 Q When we were talking about 53 percent
3 Dem performance earlier, do you know whether that
4 was by registration, presidential performance, or
5 some other metric?
6 A I don't. In fact, that's true, I
7 forgot that it could be a multitude of metrics.
8 Q Right. So it could be, for example,
9 53 percent of the voters that voted in the
10 2008 presidential election, the new Sixth District
11 voted for President Obama, correct?
12 A Yeah, it could have been by
13 presidential, it could have been by registration,
14 it could have been by gubernatorial. It could
15 have been by any number of breakdowns, I suppose.
16 Q When you say "gubernatorial," it could
17 have been 53 percent Dem performance based on the
18 2010 gubernatorial election between Mr. Ehrlich
19 and Mr. O'Malley, correct?
20 A I think -- and again, I'm not a
21 hundred percent sure on this, but I think when you
22 look at Dem performance, I'm not sure you'd look

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1 at just one election.
2 Q Okay. How many elections would you
3 look at?
4 A I'm not sure. I think it might be a
5 blend of elections, but I'm not a hundred percent
6 sure about that. My point is that it may not have
7 been just one election in isolation that
8 determines how to get Dem performance, but I'm not
9 an expert on that.
10 Q Okay.
11 A And I don't recall looking back at
12 which one it was. I just don't remember.
13 Q Certainly. But it could have been a
14 blend of, say, the presidential election, the
15 gubernatorial election?
16 A Possible, or it could have been a
17 blend of gubernatorial elections.
18 Q All right, let's move to the second
19 paragraph. It says, "Maryland Juice has been
20 following the evolving discussions surrounding the
21 State's 2012 Congressional District maps."
22 Do you see that?

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1 A I do.
2 Q Do you recall there being evolving
3 discussions regarding the 2012 Congressional
4 District maps?
5 A I don't recall what evolving
6 discussions he's referring to.
7 Q All right, let's move down to the next
8 sentence.
9 "Three maps have been leaked in recent
10 weeks, but they revealed conflicting strategies:
11 1) an early map showed a 7-1 plan with fairly
12 compact boundaries, but, 2) a more recent set of
13 maps revealed no decision on whether to create a
14 7-1 or 8-0 plan." Did I read that correctly?
15 A You read that correctly.
16 Q So we talked about what 7-1 means.
17 8-0 would mean eight Democrats and zero
18 Republicans in the U.S. House delegation, correct?
19 A If the result of the elections
20 produced that.
21 Q Correct. But that's what 8-0 --
22 A Right. I just want to be clear that

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1 my reference to the 7-1 is the aftermath of a
2 election, not a predictive of what might occur.
3 Q Certainly, I understand that. And
4 that's how you would define 8-0 as well?
5 A Exactly.
6 Q Okay. Did you ever see an early map
7 that had a 7-1 plan in it prior to October 4th,
8 2011?
9 A There were a lot of people who had
10 programs that you could upload on your phone or
11 your computer, so I recall there being all types
12 of maps out there that were floating. I may have
13 seen a map that was on Maryland Juice.
14 So it's likely that there were maps
15 that I saw prior to that date. I don't think that
16 they were GRAC maps that were provided to me, but
17 certainly, you know, either maps that were
18 produced in someone's basement or -- along those
19 lines.
20 Q Is that a Donald Trump reference,
21 someone's basement, a 400-pound person on their
22 computer?

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1 A I mean, all of the time, that's what I
2 thought David Moon was doing.
3 Q We can seal the transcript if you
4 want. Okay. Let me break down your answer a bit.
5 A I'm sorry.
6 Q That's okay. That's all right.
7 A I did have that vision of him in his
8 basement at the time.
9 Q Okay.
10 A I have a different perspective of him.
11 Q Certainly.
12 A He's an honorable delegate.
13 Q Certainly, certainly.
14 When you say a lot of people were
15 creating maps, can you name for me people that you
16 recall that were creating maps?
17 A I don't. In fact, I think on, you
18 know, a laptop, personal laptop, there were so
19 many things out there that -- you know, the guy
20 uploaded, you know, a program where you can move
21 things around and look at things.
22 So there were any number, but they

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1 were all kind of people's fantasy and
2 prognostications, and, you know, everybody thought
3 they could cut a map, I think.
4 Q Do you recall anyone working for
5 Senate President Miller who created a potential
6 congressional map?
7 A I don't recall that.
8 Q Do you recall whether there was ever a
9 series of Democratic options that were created as
10 sort of like a Dem Option 1, Dem Option 2, Dem
11 Option 3?
12 A I don't recall.
13 Q Do you --
14 A I don't think I was privy to any of
15 that, if there was.
16 Q So you don't know if there was one way
17 or the other?
18 A Yeah, yeah. I wasn't involved in
19 those discussions if there were.
20 Q And you can't name me a person who
21 actually created a map that was circulated amongst
22 the Democratic Caucus?

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1 A No. I don't recall there being a map
2 circulated, you know, prior to coming out to the
3 Democratic Caucus.
4 Q Okay. You said you uploaded a program
5 to look at various maps.
6 Do you recall when you did that?
7 A I don't.
8 Q Do you know what the name of that
9 program was?
10 A I don't.
11 Q If I said it was Maptitude, would that
12 refresh your recollection?
13 A I don't know if it was that or not.
14 Q Did you actually go about trying to
15 draw your own map in that program?
16 A I drew -- yes. You characterize it as
17 my own map. I drew different Congressional
18 Districts on that map.
19 Q Okay. And in particular for the
20 Sixth Congressional District, did you have
21 variations of the Sixth that you drew on that map?
22 A The way the program worked, if my

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1 memory serves me, is that you needed to do it
2 where it was all eight districts. So it would
3 have been all eight districts.
4 Q Did you do various versions of all
5 eight districts?
6 A Probably, but I couldn't recall the
7 versions.
8 Q What computer did you install this
9 software on?
10 A A laptop that I had three generations
11 ago.
12 Q Was it at your home, or was it at your
13 office?
14 A It was at my home.
15 Q And do you still own that computer
16 today?
17 A No.
18 Q Do you know what happened to that
19 computer?
20 A I don't.
21 Q Were you ever asked to save that
22 computer in any way?

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1 A No.
2 Q Were you ever asked to preserve any
3 documents that were on that computer?
4 A No.
5 Q Were you ever asked to preserve any
6 documents related to the maps that you drew of the
7 Eighth Congressional District on that computer?
8 A No.
9 Q Can you tell me where that computer is
10 today?
11 A I have no idea.
12 Q Did you ever receive any instruction
13 that you were to save any documents that were on
14 your home computer?
15 A No -- well, no. I mean, the home
16 computer -- so that particular computer was a
17 computer that I've probably bought two or three
18 personal laptops since, so I have idea where that
19 is, and no one told me before I disposed of that
20 laptop that I should save it.
21 No one told me with the subsequent
22 laptop that I no longer own that I should save

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1 anything on that either, and it's possible there
2 was another laptop before the one I have today.
3 Q Okay. So there could have been three
4 laptops before the one you have today?
5 A There very well could have been.
6 Q And no one ever told you --
7 A Usually every two to three years I'm
8 buying another laptop.
9 Q Fair enough. You run out of space,
10 whatever.
11 Those three laptops --
12 A I don't have that BlackBerry either.
13 Q I'm going to get to that.
14 Those three laptops, you don't know
15 where they are today?
16 A I don't.
17 Q And regarding the laptop or computer
18 that you had the redistricting or map drawing
19 software on, do you recall when you disposed of
20 that laptop?
21 A I don't.
22 Q Would it have been sometime after

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1 2011?
2 A After 2011? It could have been even
3 by the end of 2011. I don't recall, to be honest
4 with you. I can't say it was after 2011. You
5 know, it could have been that year.
6 Q It would have been sometime after the
7 redistricting plan was adopted?
8 A It may have even been before,
9 truthfully.
10 Q But you can't tell me --
11 A I don't know.
12 Q -- one way or the other?
13 A No, I can't. I don't recall.
14 Q So your BlackBerry, do you recall when
15 you got rid of that BlackBerry that's referenced
16 in the e-mails that we looked at earlier?
17 A I don't, and it's almost embarrassing.
18 I may have had one more after that --
19 Q Wow.
20 A -- before I got a smartphone.
21 Q Look, I like BlackBerry too. You've
22 got to give it up at some point.

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1 A That's why I don't recall, truthfully.
2 Q Okay. Did you ever get any sort of
3 notice telling you you were supposed to preserve
4 that BlackBerry?
5 A No. Just you.
6 Q How about did you ever get any written
7 notice from any attorney saying that you were
8 supposed to preserve any documents or electronic
9 files from -- that you generated regarding the
10 2011 redistricting?
11 A No.
12 Q And did you ever, on your own, take
13 any steps to preserve any documents that you had
14 regarding the 2011 redistricting?
15 A No.
16 Q So those documents, to the extent you
17 can't find them, would have been either deleted or
18 on computers that have since been disposed of,
19 correct?
20 A Correct.
21 MR. MEDLOCK: We've been about an
22 hour. Why don't we take a break?

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1 THE WITNESS: Okay.
2 (A break was taken at 11:10 a.m.)
3 (Resume at 11:46 a.m.)
4 (Exhibit 18 was marked
5 for identification.)
6 BY MR. MEDLOCK:
7 Q All right, sir. We've marked what is
8 Exhibit 18 to your deposition. It's a one-page
9 letter with an attachment to it.
10 You can take your time and read the
11 whole thing, but I'm really just going to have
12 questions about the attachment.
13 A Okay.
14 Q As we've done before, just tell me
15 audibly when you're done reading.
16 A (Witness reviewing Exhibit 18.)
17 Okay.
18 Q This is a letter from Sandra Benson
19 Brantley, counsel to the General Assembly, to
20 myself on January 17, 2017. Do you see that?
21 A I do.
22 Q Have you seen this letter before?

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1 A I have not.
2 Q Were you aware that this letter had
3 been sent to me?
4 A Not specifically, no.
5 Q Okay. Is it your testimony that you
6 knew you were represented by the Office of the
7 Attorney General by January 17, 2017?
8 A Yes.
9 Q All right. Let's move to the
10 attachment. It's called Privilege Log of former
11 Senator Rob Garagiola, and there's one document
12 called Document No. 1. Do you see that?
13 A I do.
14 Q Are you somewhat familiar with
15 privilege logs from back in practice?
16 A I'm not.
17 Q All right. The date of this Document
18 No. 1 is July 8th, 2011. Do you see that?
19 A I do.
20 Q And it says, "Description, Email to
21 State delegate re congressional redistricting."
22 Do you see that?

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1 A I do.
2 Q Do you know who that state delegate
3 was?
4 A If it's the document I'm thinking of,
5 yes.
6 Q Who is that state delegate?
7 A Delegate Aruna, A-R-U-N-A, Miller.
8 Q What area of the state does
9 Delegate Miller represent?
10 A District 15.
11 Q So the same legislative district you
12 represent?
13 A Yes.
14 Q And is Ms. Miller a Republican or a
15 Democrat?
16 A Democrat.
17 Q And what was the content of your
18 e-mail to Delegate Miller?
19 A I don't recall. I don't know if you
20 have a copy of it, or somewhere we have a copy of
21 it.
22 Q Well, I was going to ask --

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1 MR. MEDLOCK: Sarah, do you have a
2 copy of it here today?
3 MS. RICE: I do have a copy of it.
4 MR. MEDLOCK: If you wouldn't mind
5 producing it to us, that would be helpful.
6 All right. Let's mark this as
7 Exhibit 19.
8 (Exhibit 19 was marked
9 for identification.)
10 BY MR. MEDLOCK:
11 Q The top of the e-mail is from July 8,
12 2011, at 5:28 p.m., and it's the e-mail from you
13 to Aruna Miller; is that correct?
14 A Correct.
15 Q And you write, "Thx."
16 That's short for thanks, correct?
17 A Yes.
18 Q And then you go on to write, "At some
19 point, wil want to catch up on congressional
20 stuff. Are you going to be at Tufail's tomorrow?"
21 Is that correct?
22 A Yes.

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1 Q Okay. What's Tufail's?
2 A It's an individual. He's an
3 individual.
4 Q And what's his full name?
5 A Tufail Ahmad, A-H-M-A-D.
6 Q And Tufail is his last name?
7 A First name.
8 Q Oh, Tufail Ahmad, I see.
9 And what does the reference to "going
10 to be at Tufail's tomorrow" mean?
11 A I'm sorry, repeat the question.
12 Q You say you're going to be at Tufail's
13 tomorrow. What does that mean?
14 A Reading that, it looks like I -- well,
15 I'm asking -- I guess I don't know if I actually
16 went. I'm asking her if she's going to go to
17 his -- I presume it's his home tomorrow. Maybe he
18 was having people over.
19 Q What's his occupation, Mr. Tufail's?
20 A I know he's involved in business.
21 Q Was he a supporter of yours when you
22 were --

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1 A Yeah, he had been a supporter.
2 Q Did he donate to your campaigns?
3 A Yes, I'm fairly certain he did.
4 Q Did he donate to your 2012
5 congressional campaign?
6 A I don't recall.
7 Q Was he involved at all in setting up
8 your 2012 congressional campaign?
9 A No.
10 Q Did he volunteer at all for your 2012
11 congressional campaign?
12 A I'm sorry, say again?
13 Q Did he volunteer for your 2012
14 congressional campaign?
15 A It's possible.
16 Q Do you recall having any conversations
17 at Mr. Tufail's home regarding your 2012
18 congressional campaign?
19 A I do not.
20 Q Okay. In the prior sentence you say,
21 "wil want to catch up on congressional stuff."
22 What does "congressional stuff" mean

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1 in this context?
2 A I have no idea.
3 Q Do you see anything in this e-mail
4 chain that relates to the 2011 congressional
5 redistricting?
6 A Let's see. I don't see anything in
7 this e-mail that relates to the congressional
8 redistricting, other than the possible reference
9 of the first sentence in the e-mail to
10 Delegate Miller.
11 Q Other than the possible reference in
12 the first sentence, I didn't hear the last part of
13 your sentence.
14 A To Delegate Miller.
15 Q Oh, I see.
16 A It appears there's nothing in here
17 referencing the redistricting process. It
18 mentions congressional stuff; that could be
19 related to something going on with
20 Congressman Van Hollen, or it could have been
21 related to the redistricting, it could have been
22 related to me considering it. It could have been

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1 who knows what, to be honest with you.
2 Q You just don't know as you sit here
3 today?
4 A I really have no idea --
5 Q Okay.
6 A -- what that references.
7 Q Turning to the back of the page, it's
8 sort of a front-and-back document, you see
9 there's -- at the very end it says, "By Authority
10 of Friends of Rob Garagiola."
11 Do you see that?
12 A I do.
13 Q This is sort of a campaign e-mail that
14 was sent regarding your run for the
15 15th Legislative District, correct?
16 A Yeah. I mean, that's an authority
17 line for my state legislative campaign account,
18 and it looks like there was -- I don't know what
19 you call it -- an e-newsletter that went out
20 about -- I'm just reading this -- about a --
21 Q TV appearance?
22 A Yeah, exactly. That's what it looks

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1 like.
2 Q And at the bottom it says, "Powered by
3 NGP VAN, Inc." Do you see that on the back of the
4 second page?
5 A Yes.
6 Q NGP VAN, Incorporated, they provide
7 services to political campaigns, correct?
8 A Yes.
9 Q Including marketing services, correct?
10 A I mean, is this considered a marketing
11 service?
12 Q I guess I would say sort of e-mail
13 list management services.
14 A Yeah, yeah.
15 Q Is that a better way to describe it?
16 A Yeah.
17 Q All right.
18 Okay. You can put 19 aside.
19 A All right.
20 MR. MEDLOCK: I'll mark this as 20.
21 (Exhibit 20 was marked
22 for identification.)

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1 BY MR. MEDLOCK:
2 Q All right. This is a one-page e-mail
3 that seems to be entirely dated September 28,
4 2011.
5 Take a look at it, read it, let me
6 know when you're done doing so. I'll have some
7 questions for you.
8 A (Witness reviewing Exhibit 20.)
9 Okay, I've reviewed it.
10 Q Okay. So at the top is an e-mail from
11 Matthew Bohle -- is that how you pronounce his
12 last name?
13 A "Bohle."
14 Q "Bohle" -- to you, and then there's a
15 CC to what looks like another e-mail address of
16 yours and Erin Robertson. Do you see that?
17 A I do.
18 Q And that was sent to you on
19 September 28, 2011, at 6:08 p.m., correct?
20 A Yes.
21 Q All right. And the two e-mails here,
22 is one your Gmail and one a different e-mail

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1 address that you use?
2 A You know, I don't know, actually. It
3 might be -- it's possible that it was my then law
4 firm e-mail address, if he was trying to get my
5 attention and I might have been at the law office.
6 But looking at that, I don't know.
7 Q Okay. And who's Matthew Bohle?
8 A Matt was someone who helped out with
9 the congressional race.
10 Q Okay. And he helped out with the
11 2012 congressional race?
12 A Yes.
13 Q Did he help out with any of your
14 legislative races for the General Assembly?
15 A He helped out in 2010, and -- I mean,
16 we covered this before. I really didn't have much
17 of a race, so technically I guess he helped me
18 out, but he also -- at that time, and I mentioned
19 this before as well, I was the caucus chair, so he
20 was also helping out in other legislative races as
21 well in 2010.
22 Q I see, okay.

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1 This is a -- he's forwarding an
2 invoice from NGP VAN, Incorporated, correct?
3 A Yes.
4 Q And that's the same NGP VAN that we
5 were talking about that provides sort of e-mail
6 management services to congressional campaigns,
7 correct?
8 A Yeah, state and congressional.
9 Q State and congressional, okay.
10 A Right.
11 Q And based on the timing of this
12 invoice, this appears to relate to your then
13 planned run for the 2012 congressional race,
14 correct?
15 A It looks like, and the only thing that
16 I can say that would evidence that is the --
17 there's a CD6 at the bottom, and so there were
18 folders when I was culling through the e-mails,
19 and there was a CD6 folder.
20 Q I see.
21 A So I would presume that this is
22 related to that as opposed to my state legislative

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1 stuff.
2 Q I see. And when you say "CD6 at the
3 bottom" -- I just want to make this really clear
4 for the record -- there's a secure HTTP URL at the
5 bottom, and if you sort of dig into that, about
6 halfway through, it says, "cat=CD6."
7 Do you see that?
8 A Yes.
9 Q And that's what you were referring to
10 as CD6?
11 A Correct.
12 Q Okay. So you believe, looking at this
13 document -- let me back up. Strike that.
14 Looking at this document and the way
15 you categorized it, you have nothing to dispute
16 that this invoice related to running for the
17 Sixth Congressional District?
18 A What I would say is that in addition
19 to me having access to the Gmail, at that time,
20 Matt may have been the only other person. There
21 were other people that had access to it, so it
22 would appear that the e-mail was coming from me,

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1 but others were, in fact, you know, doing the
2 e-mail.
3 So I did not put anything in a CD6
4 folder to my recollection ever. So Matt was
5 likely the individual who put this e-mail in that
6 folder, and I presume he appropriately classified
7 what folder it should go to.
8 Q I see.
9 A So I'm only relying on that. I don't
10 know if the PDF attachment made it into the same
11 folder or not.
12 Q Okay. Let's go back, if we could, to
13 Exhibits 15 and 16. You have those in front of
14 you.
15 A 15 and 16.
16 Q That's the e-mail titled Redistricting
17 and the e-mail titled CD6.
18 A Okay.
19 Q Do you have any reason to think that
20 Matt Bohle wrote either of these e-mails?
21 A I think because they were from my
22 BlackBerry, these were from me.

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1 Q Okay. Did Matt ever have access to
2 your BlackBerry?
3 A No, he would not have. I mean, you
4 know, unless the tag -- if he had a BlackBerry, it
5 would show the same thing. That's the only
6 unknown.
7 Q Okay. But you have no reason to
8 believe that he sent these two e-mails?
9 A Yeah. I think it was probably likely
10 that I sent them.
11 Q All right. You can go back to 20.
12 In the top e-mail, Matt Bohle says,
13 "This is total cost of web development plus
14 support for one year, not all due within next
15 30days."
16 Do you know what he's referring to
17 with the "total cost of web development"?
18 A It may be that he was talking about a
19 congressional website.
20 Q Okay.
21 You seemed to pause there.
22 A Yeah. I mean, I went to look at the

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1 date because, you know, I know we did a rebrand of
2 my state senate website as well, and so the pause
3 was could it have been that? But, again, based on
4 the dates, it would make sense that it was
5 probably for a congressional website.
6 Q Okay. At some point, did you register
7 website addresses for your 2012 congressional
8 race?
9 A Not personally. I think Matt may have
10 done that, or someone else may have done that. I
11 mean, I think it was done by someone supporting me
12 or volunteering.
13 MR. MEDLOCK: Okay. Let's mark this
14 as 21.
15 (Exhibit 21 was marked
16 for identification.)
17 BY MR. MEDLOCK:
18 Q This is a two-page e-mail that is from
19 support@godaddy.com to your Gmail account.
20 Take a second to review it, and when
21 you're done, let me know.
22 A I'm done.

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1 Q Okay. This e-mail is dated Monday,
2 September 26th, 2011, at 8:36 p.m., correct?
3 A Correct.
4 Q And it says that -- in the sort of
5 graphic here, it says "Domain Registration was
6 successful on the domain(s) listed below,"
7 correct?
8 A Correct.
9 Q And then those domains listed below
10 include GARAGIOLAFORCONGRESS.ORG,
11 ROBGARAGIOLAFORCONGRESS.ORG,
12 GARAGIOLAFORCONGRESS.US,
13 ROBGARAGIOLAFORCONGRESS.US, and there's several
14 others that are sort of variations of that,
15 correct?
16 A Correct.
17 Q So does this refresh your recollection
18 that on September 26th, 2011, you or somebody
19 working for you registered these web addresses for
20 a potential congressional run?
21 A Yeah. I -- you know, I would have
22 advised someone to have done this much earlier.

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1 Q So why would you have asked someone to
2 do it much earlier?
3 A Because if one is contemplating
4 running for office, usually by the time, you know,
5 a decision is put forward, others -- you know, I
6 don't know what you call it, a troll or
7 something like that?
8 Q You don't want somebody to park your
9 URL?
10 A Yeah, exactly, exactly. So, I mean,
11 I'm looking at the date, I'm thinking, geez,
12 someone didn't think of this much earlier. I
13 mean, it was like, obviously, there was going to
14 be a redistricting, and, you know, I mean, this
15 would be wise. It doesn't cost a lot of money.
16 Q How early were you actually
17 considering running for Congress in the
18 Sixth Congressional District?
19 A Well, clearly not early enough if I
20 was getting domain names in late September.
21 Q Were you doing it before -- was that
22 under active consideration before late

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1 September 2011?
2 A I don't honestly recall, like, when I
3 started thinking about it enough to tell somebody.
4 You know what I mean?
5 Q I think you said one of the reasons
6 that you were considering running and that you
7 were registering these web addresses was because
8 you were anticipating that the results of the
9 2011 congressional redistricting may make it
10 possible for you to run in the Sixth District?
11 A I would say that it was likely that in
12 the event there was a district that was going to
13 get drawn up that may make it competitive, you
14 know, and then with other considerations, that I
15 would look at it.
16 And so in anticipation of that, or in
17 planning stages for that possibility, we
18 registered domain names.
19 Q Okay. I'll mark one more for you.
20 A Okay.
21 MR. MEDLOCK: This is No. 22.
22 (Exhibit 22 was marked

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1 for identification.)
2 BY MR. MEDLOCK:
3 Q This is another e-mail to your Gmail
4 address from sales@godaddy.com. It's dated
5 Monday, September 26th, 2011, at 8:22 p.m.
6 You can take a second to peruse it.
7 I'm going to have some very general questions.
8 A Well, it certainly isn't very
9 expensive, like I said.
10 Q Other than your .TV one on the second
11 page.
12 A What is that? Is that for like
13 YouTube or something like that? ME? What's
14 a .ME?
15 Okay. Well, I mean, I think I have
16 the general sense of what this --
17 MS. RICE: Steve, did you intend to
18 only have two or three?
19 MR. MEDLOCK: I don't think that we
20 intended to only have two or three. We can
21 supplement this later, if you like.
22 MS. RICE: That's fine.

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1 MR. MEDLOCK: Okay.
2 THE WITNESS: Okay. I've looked at
3 it.
4 BY MR. MEDLOCK:
5 Q Okay. And this is another e-mail from
6 godaddy.com indicating that you've registered
7 various .COM, .CO, .NET, .US, .TV addresses that
8 have some combination of your name and
9 FORCONGRESS, or some sort of idea like that,
10 correct?
11 A Correct.
12 Q And these were all addresses, again,
13 that you would have registered in anticipation of
14 potentially running for the Sixth Congressional
15 District; is that right?
16 A That's correct.
17 Q Okay.
18 A What is .WS?
19 Q You tell me.
20 A I mean, really. I have a campaign
21 before it even starts to spend money on.
22 MR. MEDLOCK: All right. Let's mark

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1 the next exhibit, 23.
2 (Exhibit 23 was marked
3 for identification.)
4 BY MR. MEDLOCK:
5 Q You can take a second to peruse
6 through this document, which is a four-page
7 document entitled Plaintiffs' First Set of
8 Requests for Production, and let me know when
9 you've done it. My first question when you're
10 done with that is whether you've seen it before.
11 A (Witness reviewing Exhibit 23.)
12 I've reviewed it.
13 Q Okay. Have you ever seen this
14 document entitled Plaintiffs' First Set of
15 Requests for Production before?
16 A It looks familiar.
17 MS. RICE: It's the First.
18 MR. MEDLOCK: Yeah. Is that what you
19 have?
20 MS. RICE: I have Second.
21 MR. MEDLOCK: Oh. Use my copy.
22 Sorry.

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1 MS. RICE: Okay.
2 MR. MEDLOCK: Sorry.
3 THE WITNESS: I have First.
4 MR. MEDLOCK: Yeah, I handed you the
5 wrong document. Sorry.
6 THE WITNESS: It looks familiar. It
7 looks like some of the questions or the items on
8 here, the instructions, are what was included in
9 the document request to me, but I feel like I
10 received a different document than this when I was
11 asked to produce documents.
12 BY MR. MEDLOCK:
13 Q Was what you received a subpoena
14 instead of a request for documents?
15 A Perhaps. That might have been it. I
16 think it was more -- more than -- different
17 items -- I recall there being -- I don't know why
18 I recall there being less than 11 items, but I
19 could be --
20 Q Okay. So you don't have a specific
21 recollection of ever seeing Plaintiffs' First Set
22 of Requests for Production before?

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1 A I don't.
2 Q Did anyone ever explain to you that
3 the Plaintiffs in this case had made a request for
4 production --
5 A Yes.
6 Q -- to the Defendants?
7 A To the Defendants? I would think so.
8 Q Okay. Were you ever asked to find any
9 of the documents listed in this request for
10 production?
11 A Let me go back to that.
12 I mean, it would be helpful just to --
13 do we have my -- what was requested?
14 Q Sure. I can mark that too. I don't
15 want to keep you in suspense. We'll mark the next
16 one.
17 (Exhibit 24 was marked
18 for identification.)
19 BY MR. MEDLOCK:
20 Q So you have in front of you
21 Exhibit 24, which is entitled Subpoena to Produce
22 Documents, Information, or Objects or to Permit

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1 Inspection of Premises in a Civil Action.
2 A Uh-hmm.
3 Q Take a second to review it, and then
4 once you're done reviewing it, let me know if
5 you've seen it before.
6 A I have seen it before. This looks
7 more familiar.
8 Q Is Exhibit 24 the subpoena that you
9 received in this case for documents?
10 A Yes.
11 Q And so that's different than
12 Exhibit 23, the First Request for Production,
13 correct?
14 A It is different.
15 Q Now that you've seen the two, do you
16 think you've ever seen Exhibit 23, the First Set
17 of Requests for Production, before?
18 A I don't recall. If it was sent to me,
19 I don't recall seeing it.
20 Q Okay. Do you recall ever discussing
21 the Plaintiffs' First Set of Requests for
22 Production with anyone from the Office of the

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1 Attorney General?
2 A I don't.
3 Q Do you recall ever being asked by
4 anyone working for the Office of the Attorney
5 General to find any documents that were responsive
6 to any of the requests in the First Set of
7 Requests for Production of Documents?
8 A My recollection is that the
9 discussions I had with the Office of Attorney
10 General dealt with this document here --
11 Q Exhibit 24?
12 A -- Exhibit 24, which enumerated
13 document requests specific to me.
14 Q Okay. So you don't recall ever
15 discussing --
16 A I don't.
17 Q -- Exhibit 23 with the Office of the
18 Attorney General?
19 A I don't.
20 Q You can move on from Exhibit 23, and
21 I'll mark what will be Exhibit 25.
22 (Exhibit 25 was marked

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1 for identification.)
2 BY MR. MEDLOCK:
3 Q So Exhibit 25 is entitled Plaintiffs'
4 Second Set of Requests for Production. Flip
5 through it, and then once you're done doing that,
6 if you can let me know if you've ever seen it
7 before.
8 A I don't think I've seen this one
9 before.
10 Q Okay. Has anyone from the Office of
11 Attorney General ever -- this is just a
12 yes-or-no question.
13 Has anyone from the Office of Attorney
14 General ever discussed Exhibit 25, the Second Set
15 of Requests for Production, with you?
16 A No.
17 Q Were you ever instructed by anyone
18 working for the Office of the Attorney General to
19 look for documents that could be responsive to the
20 Second Set of Requests for Production?
21 A No.
22 Q All right. Let's move back to

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1 Exhibit 24, which is the subpoena for documents
2 that you have in front of you.
3 When did you receive -- when, if ever,
4 did you receive a copy of Exhibit 24?
5 A Is there a date on here? It would
6 have been January. I know I didn't get it in
7 December. I'm just looking at the date here, 27th
8 of 2016, December. Early January.
9 Q Okay. And when you received it, who
10 provided it to you?
11 A I received it from the Office of the
12 Attorney General, and then eventually the subpoena
13 was delivered.
14 Q Okay. Going back for just a second on
15 the First and Second Sets of Requests for
16 Production, which are Exhibits 23 and 25 I
17 believe, if you had been asked to find documents
18 responsive to Exhibits 23 and 25, would you have
19 looked for them?
20 A Would it have been my obligation to?
21 Q I'm just asking simply, if you were
22 asked, would you have looked for them?

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1 A Well, I guess the way I would frame it
2 is my understanding is that -- you know, just
3 looking at the words commanded -- I don't have
4 time, frankly, to do this, but I did it because it
5 was court ordered.
6 Q Right.
7 A So I wouldn't be -- if this were
8 something that I'm obligated to do, I would do it,
9 but if it's not, I wouldn't.
10 Q Okay. If you were obligated to do it,
11 would you do it --
12 A Yeah. If the law requires me to do
13 something, I'm going to do it.
14 Q Okay. And if you did search for
15 documents responsive to those requests, would you
16 hand them over to the Office of the Attorney
17 General for production in this case?
18 A If I were subpoenaed to do it, I would
19 then go through my documents again and produce
20 them, if I had them.
21 Q Okay. Moving back to Exhibit 24, when
22 you said earlier you had searched through your

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1 documents in response to a request, how did you
2 search through your documents in response to this
3 subpoena?
4 A So I have no files, no hard copies,
5 nothing from my congressional campaign in my
6 possession.
7 So as I pondered, like, what would be
8 some, you know, device or someplace where there
9 might be something related to the congressional
10 campaign, I concluded that the Gmail account might
11 have something, and I went and looked through the
12 archives of the Gmail account, and those are the
13 documents I produced.
14 Q Did you ever have paper files relating
15 to your congressional campaign that you could
16 access?
17 A Ever?
18 Q Yes.
19 A Possibly, but, you know --
20 Q What happened to those? Where are
21 they today?
22 A In the trash somewhere, recycled under

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1 the ground. You know, trees are growing now as a
2 result. I have no idea.
3 Q Were you ever instructed to preserve
4 those paper files related to your campaign?
5 A No, no, no. Those are long history.
6 The office closed in, whatever, April of 2012, and
7 I would imagine the documents and anything related
8 to it was gone by May.
9 Q I think we covered this earlier. You
10 had a state-issued e-mail account, correct?
11 A I did.
12 Q What was the e-mail address you had at
13 the State of Maryland?
14 A So there were -- when you say
15 "state-issued," so my senate office -- so if you
16 were to -- if I were in the senate and you
17 e-mailed me -- I'm trying to remember what it was.
18 If you go online and you look up
19 another senator, like Brian Feldman, whatever the
20 pattern is with his name would be the same thing
21 for me.
22 There would also be a pattern for his

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1 name, as well as any other senator, for a second
2 e-mail that the staff would have, which would have
3 the word "district" in it somewhere. So if you
4 had a second staffer, they would have that.
5 And then there would be a third e-mail
6 that -- and I forget exactly the format of it --
7 that would go to a senator's state-issued laptop.
8 Q I see.
9 A Those would be the three e-mails.
10 I might have had access to the two
11 e-mails, but if I did, I never knew that I did
12 because staff -- you know, you contact your
13 senator, and it came from a staff person.
14 Q I see. No, I know how that is.
15 A Yeah.
16 Q You said you had a state-issued
17 laptop.
18 A Uh-huh.
19 Q Did you receive that at the time you
20 were elected in 2002?
21 A Well, it would have been after I
22 became a senator in 2003.

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1 Q So from 2003 until the time you left
2 or retired, you had a state-issued laptop?
3 A Correct. There might have been gaps
4 in there, but yeah.
5 Q Okay. And were you ever instructed to
6 preserve any information regarding the
7 2011 congressional redistricting that was on your
8 state-issued laptop?
9 A I received no instruction with regard
10 to any of the e-mail on that laptop.
11 Q Did you receive instruction with
12 regard to any data -- to preserve any data that
13 was on that laptop for any purpose?
14 A I don't recall.
15 Q Did you receive any instruction to
16 preserve any data on that laptop with respect to
17 the 2011 congressional redistricting?
18 A I don't think so.
19 Q When you say you don't think so --
20 A No. I mean, I didn't receive any
21 instructions related to that.
22 Q Okay.

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1 A I would have remembered that.
2 Q Do you know where that state-issued
3 laptop is today?
4 A If it's not with another senator, then
5 it's probably in a heap somewhere. You know, it's
6 been destroyed.
7 Q When you left state service, was it in
8 2013?
9 A 2013, that's correct.
10 Q Okay. So when you left state service
11 in 2013, did you have some sort of offloading
12 process where you gave your laptop to a technician
13 or something like that?
14 A Yeah, and there are probably -- it may
15 be, similarly, there were different generations of
16 laptops that were received as well, so they're --
17 I don't recall exactly what the -- I don't recall
18 the process, to be honest with you.
19 Q Do you have any knowledge of that
20 laptop ever being forensically imaged or copied in
21 any way?
22 A I don't recall any of that. I mean,

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1 no, I don't.
2 Q When you say "I don't recall," is it
3 that you don't recall it didn't happen, or you
4 don't recall one way or the other?
5 A I don't think that that ever happened.
6 Q Okay.
7 A Not to my knowledge.
8 Q Did anyone from the Office of Attorney
9 General ever advise you to have that laptop or any
10 iteration of that laptop forensically imaged or
11 copied in any way?
12 A I don't think there was any
13 conversation with the OAG regarding the laptop.
14 Q Okay. How about the other e-mail
15 addresses that you had, the District e-mail
16 address and the other e-mail address that wasn't
17 associated with your state-issued laptop? Did you
18 ever receive any instruction from the Office of
19 Attorney General to preserve any e-mails or data
20 or attachments in those e-mail accounts with
21 respect to the 2011 redistricting?
22 A I specifically didn't, but I can't --

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1 you know, it's possible there were communications
2 with my staff that I'm unaware of.
3 Q Who were your staffers?
4 A At the time of the redistricting, or
5 throughout the tenure --
6 Q Let's say 2011, 2012.
7 A Diane Yeager and Erin Robertson.
8 Q What was Diane's position?
9 A I mean, the people are so goofy. Some
10 people call them chiefs of staff, but I don't know
11 if I gave her that title, because there's only two
12 people.
13 Q You have one chief of staff, you have
14 a deputy.
15 A You know, some legislators have, you
16 know, one staff and they call them chief of -- I
17 mean, you know this. Respectfully, this is also
18 confidential? You'll get me in trouble here.
19 You know, Diane was the person who ran
20 the office. She was, you know, chief of staff, I
21 guess. I don't know.
22 Q So when you say "ran the office," it's

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1 more than sort of an administrative assistant
2 running the office, it's sort of running all
3 aspects?
4 A I mean, Diane was my assistant on
5 legislative matters, scheduling, addressing
6 constituent issues. She was the full-time staffer
7 year round, and then the dearth of budgeting.
8 The second person in the office is
9 full time during session, but only part time the
10 other nine months of the year, and she would help
11 Diane on all those things as well, or sometimes,
12 if Diane were on vacation, would do them. I mean,
13 it's not like there's a lot going on during the
14 day.
15 Q So Erin Robertson was the other person
16 that you're referring to?
17 A Yes.
18 Q And you don't recall her exact title
19 at this point, do you?
20 A I don't know. I mean, no, I don't,
21 frankly. I mean, titles never matter to me.
22 Q Do you have any knowledge of Diane

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1 Yeager or Erin Robertson ever being asked by
2 anyone from the Office of the Attorney General to
3 preserve or save any information related to the
4 2011 --
5 A I have no knowledge of it.
6 Q -- congressional redistricting?
7 A I have no knowledge of it.
8 Q Okay. From your work as a lawyer, do
9 you know what a litigation hold is?
10 A No.
11 Q Have you ever received a document
12 either in your congressional work or in your
13 personal work that was titled Litigation Hold?
14 A I don't recall.
15 Q Okay. Did you ever receive any
16 instruction, whether written or oral, from anyone
17 at the Office of the Attorney General asking you
18 to preserve any documents related to the
19 2012 congressional redistricting referendum?
20 A I don't recall.
21 Q When you say "I don't recall," is it a
22 no or is it you just don't know one way or the

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1 other?
2 A I don't think I received any
3 instruction related -- I don't think I had
4 communication with the Attorney General's office
5 on the redistricting until January, whatever day
6 that they reached out to me, because of this.
7 Q So prior --
8 A I would say prior to that, related to
9 congressional redistricting, zero communication
10 with me prior to January whatever.
11 Q Regarding anything prior to January --
12 A The redistricting. Did I have
13 conversations with the Attorney General's office
14 on other things? Sure.
15 Q But not on redistricting?
16 A No. The only time it became an issue
17 was because of this.
18 Q Understood.
19 A Hopefully, that will address --
20 Q I think that makes it very clear.
21 A Good. I see you flipping through
22 those pages. I'll let my office know that the

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1 meetings are back on for 1:00, now that my
2 afternoon's free.
3 (Exhibit 26 was marked
4 for identification.)
5 BY MR. MEDLOCK:
6 Q So we've marked what's in front of you
7 as Exhibit 26. It's an article from Annie
8 Linskey, The Baltimore Sun, on October 3rd, 2011.
9 A Okay.
10 Q You can take a second to review it.
11 I'm going to focus on just a couple of
12 snippets of the article.
13 A All right. I mean, it's not necessary
14 for me to read the entire article right now, is
15 it?
16 Q No, it's not.
17 A Okay. So I've looked at it, have an
18 idea of what it is.
19 Q Do you recall ever being interviewed
20 by The Baltimore Sun regarding congressional
21 redistricting?
22 A It's possible. I can't say

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1 definitively. Am I in here?
2 Q You are.
3 A Okay. Well, then maybe I have. I'm
4 sorry I didn't read it close enough.
5 Q Let's move to the second page, and
6 then we can maybe jog your memory.
7 All right. So second page, I guess
8 second full paragraph that begins with, "The map"?
9 A Okay, "The map."
10 Q All right. That sentence there reads,
11 "The map, however, would put the western half of
12 Montgomery County into the 6th District. That
13 would mean the new congressional district would
14 include all of state Sen. Rob Garagiola's
15 General Assembly district. Garagiola, a favorite
16 of Senate President Thomas V. Mike Miller, has
17 said he would consider running for Congress if a
18 favorable map were drawn."
19 Did I read that correctly?
20 A You did read that correctly.
21 Q Do you dispute anything about the
22 clause saying that you would consider running for

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1 Congress if a favorable map were drawn?
2 A The last clause? No, I don't disagree
3 with that.
4 Q Okay. Do you think it's an accurate
5 characterization that you were a favorite of
6 Senate President Thomas V. Mike Miller?
7 A I would say that's probably overblown.
8 Q Why is it overblown?
9 A I mean, you know, a lot of times myth
10 and folklore get created in the media, and people
11 just stick with it. We had a good relationship.
12 He had probably a lot of favorites.
13 Q You say a good relationship. Can you
14 sort of give me some more color around that?
15 Like, what makes you say it was a good
16 relationship?
17 A He respected my work ethic, he thought
18 I was smart. I was the majority leader, so we
19 worked together on things.
20 Q Did you consider him a mentor?
21 A Yeah, in some respects.
22 Q In what respects?

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1 A He was a man who had been in this for
2 many, many years, and he's a reader of history,
3 and, you know, in parts, there's a good
4 perspective that he brings on a lot of issues, you
5 know, and a historical reference to the problems
6 that we're facing today.
7 I read more biographies as a result of
8 him now. Did Hamilton on the way here in my car.
9 Q Did you ever interact with Senate
10 President Miller socially?
11 A Not -- yes. So yes. Did I interact
12 with him socially? Yes.
13 Q And how often did you interact with
14 him socially?
15 A Not often.
16 Q When you say "not often," can you give
17 me an idea, like, how many times per year you
18 would interact with him socially?
19 A Like outside of legislative business,
20 maybe half dozen, maybe half dozen to a dozen.
21 Q Have you ever been to his house?
22 A Yes.

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1 Q Have you met his family?
2 A I've met some members of his family.
3 He frequently brought a number of them to opening
4 day of session. Every senator had the opportunity
5 to meet his family.
6 Q That's fair enough.
7 Have you ever met his family at his
8 house, I guess I should say?
9 A He's hosted senators at his home for
10 fundraisers that he's held, and most senators have
11 met his family and probably most have been to his
12 house.
13 Q Has Senate President Miller ever given
14 you political advice?
15 A I'm sure he has.
16 Q Did he give you any advice with regard
17 to your 2012 congressional campaign?
18 A Once the campaign was underway?
19 Q Yes.
20 A I don't recall specific advice. I'm
21 sure everybody thought they had good advice to
22 give me, whether I took it or not.

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1 Q Did Senate President Miller encourage
2 you to run for the Sixth Congressional District?
3 A No. Actually, I think I approached
4 him to let him know that it was something I was
5 contemplating. I don't think he was, like,
6 seeking to, hey, we're going to do this. You
7 know, none of that conversation ever transpired.
8 Q When did you approach Senate
9 President Miller to say that you were
10 contemplating running for the Sixth Congressional
11 seat?
12 A Geez, I don't actually recall when it
13 would have been. Before the redistricting vote.
14 Q Was it before the October 4th date
15 when the GRAC published its map?
16 A Yeah, I would think so. I would have
17 probably mentioned it to him.
18 Q Was it before late September when you
19 were registering the web domains?
20 A I would say that -- it's hard for me
21 to recall exactly when. I would think it would
22 have been earlier than that, but, again, I don't

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1 remember the date.
2 It wouldn't have been like years
3 ahead, but I would think it's -- you know, could
4 have been the summer of --
5 Q 2011?
6 A Yeah, 2011, I guess, or spring of
7 2011, possibly it could have been that. You know,
8 it might have been after -- I mean, like I'm
9 thinking about it now, and I'm thinking if I were
10 doing it again, it would make sense probably after
11 the session sometime, but I don't know immediately
12 after or in the summer. You know, I don't recall
13 exactly when.
14 Q When did the session end in 2011?
15 A It always ends on the second Monday of
16 April, so whatever that date was.
17 Q So it could have been anytime after
18 mid-April?
19 A I am saying that if I were doing it
20 now, yeah.
21 Q Now, okay. I understand what you're
22 saying.

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1 A So it's possible it was before that
2 date. I just don't recall.
3 Q Okay. I understand, okay.
4 Where did that conversation between
5 you and Senate President Miller occur?
6 A That I don't recall.
7 Q Was it in person or over the phone or
8 over e-mail?
9 A I'm sure I would have done it in
10 person. I mean, you know, something like that --
11 again, I don't recall exactly, but something like
12 that would have been a conversation where I would
13 have said let's have lunch or let me come to your
14 law office, you know, and I want to show you what
15 I might be contemplating.
16 Q Would it have been a one-on-one
17 conversation, or would staff have been present?
18 A Probably one-on-one, you know, more
19 out of -- you know, he -- and there's a number of
20 people, so it's not just me that he looks at as,
21 you know -- I'm trying to think of the right
22 word -- you know, like value added to state

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1 service. I think if it were a concern, my concern
2 would be that he would want me to stay in the
3 senate, you know.
4 So in my mind, I'm thinking through
5 how I would have dealt with the situation, again,
6 which is probably how I dealt with it. You know,
7 it would have been more along the lines just to
8 make sure that he -- if I decided to move forward
9 with something like that, you know, that he would
10 not, you know, try to -- no, you need to stay in
11 the senate, that type of dynamic.
12 Q Do you recall what his reaction was?
13 A I don't from that conversation. I
14 know generally, you know, he was generally
15 supportive, but I don't know what the initial
16 reaction was.
17 Q Do you recall him ever discouraging
18 you from making a run for the Sixth Congressional
19 District?
20 A I don't recall. I mean, honestly,
21 it's possible, but overall, you know, once he knew
22 I -- you know, at a later date, probably around

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1 this date, he was probably 100 percent supportive,
2 but there may have been, you know, you sure? You
3 know what I mean?
4 Q Fair enough. Would there be anyone
5 else in leadership you would have talked to about
6 these plans besides Senate President Miller?
7 A I mean -- at what point in time, I
8 guess?
9 Q Well, around the same time.
10 A So late --
11 Q Well, I think you said it may have
12 been spring or summer.
13 A I would have given him, as a courtesy,
14 as the presiding officer, you know, a heads-up,
15 this is what I'm thinking, I haven't decided yet.
16 Obviously, I need to talk to my family, and
17 there's a lot of things to contemplate and
18 consider, but I want you to know that I'm thinking
19 about it.
20 I don't know if I necessarily needed
21 to have that conversation with anyone else.
22 Q Did you ever have that conversation

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1 with Speaker Busch?
2 A Probably not. I mean --
3 Q What makes you say probably not?
4 A Because, one, I never served in the
5 House. Two, while, you know, I respect the
6 speaker, it's just a different dynamic. I was not
7 a delegate.
8 Q Fair enough. Do you have any notes or
9 day planners or calendars that would show when
10 this meeting in the spring or summer of 2011 with
11 Senate President Miller took place?
12 A And, again, spring, summer. No, I
13 don't.
14 Q Did you keep a day planner at that
15 time to sort of --
16 A No.
17 Q For your meetings?
18 A No.
19 Q Did any of your staff keep a day
20 planner like that?
21 A So from a scheduling standpoint,
22 during session, and a little bit outside of

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1 session, my staff would have had something in
2 Outlook on one of the senate desktops.
3 Q Uh-hmm.
4 A I was practicing law, and to maybe
5 keep my life straight, I'm thinking I had an
6 arrangement with Diane, like, invite my law firm
7 address so I don't double-book a client meeting
8 when you've scheduled me a meeting with
9 Constituent A or going to an Eagle Scout ceremony.
10 So it would have been on the law firm Calendar
11 Outlook.
12 Q I see. So you had a law firm e-mail
13 address as well at this time?
14 A I did.
15 Q Did you ever search that law firm
16 e-mail address for documents responsive to our
17 subpoena?
18 A I did not.
19 Q Did anyone instruct you --
20 A That was an old law firm. That was
21 two law firms ago.
22 Q Fair enough. Do you still have access

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1 to that?
2 A I left that law firm in 2012.
3 Q And what law firm was that?
4 A Stein Sperling.
5 Q Okay. Did anyone ever instruct you to
6 preserve your Stein Sperling e-mail address with
7 respect to the redistricting?
8 A No one instructed me, and I had no
9 conversations with the Attorney General's office
10 related to redistricting concerning the
11 Stein Sperling e-mail address.
12 Q Okay. Is there anything, any sort of
13 Outlook invite, paper planner, paper calendar,
14 that you still have today that you could go to
15 to refresh your recollection about when this meeting
16 with Senate President Miller occurred?
17 A I doubt it. I don't think so. I
18 mean, no.
19 Q Did you ever keep like written notes
20 when you had meetings --
21 A No, no. I'm not like a journal
22 person, yeah.

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1 Q Okay. So you would not -- it would
2 not have been your practice to --
3 A I mean, you know, something like that,
4 if it were even on my calendar, would just say
5 lunch with Miller at. It wouldn't get into like I
6 talked to him about my run for Congress, because,
7 you know, other people might see that.
8 Q Yeah. You keep it opaque.
9 A Right, exactly. So, you know, it's
10 possible I had lunch with him three or four times
11 in 2011, if there was even, like, access to the
12 calendar to see, but it's highly doubtful that it
13 would actually say that was the meeting.
14 Q All right.
15 A And it may not have even been over
16 lunch.
17 Q Fair enough. Okay. All right.
18 Let's move back to the document, which
19 is Exhibit 26. The next paragraph below where we
20 were talking about says, "Garagiola said he still
21 wants to see the final congressional borders
22 before he commits to running for the House of

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1 Representatives. If the final map is similar to
2 the one presented, 'there would be a very good
3 chance I would run,' Garagiola said."
4 Do you see that?
5 A I do.
6 Q Do you have any reason to doubt the
7 accuracy of the quote from you in this paragraph?
8 A I don't have reason to doubt the
9 accuracy of the quote.
10 Q And this refers to a final map being
11 similar to the one presented.
12 Is the one presented the GRAC's draft
13 map, do you know?
14 A I have no idea.
15 Q Okay. All right. Put that aside.
16 A All right.
17 MR. MEDLOCK: You know, why don't we
18 take a quick break so I can confer with my counsel
19 about any other lines of inquiry. Maybe we can
20 cut it short.
21 THE WITNESS: Okay.
22 (A break was taken at 12:39 p.m.)

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1 (Resume at 12:45 p.m.)
2 MR. MEDLOCK: Back on the record.
3 We'll mark the next exhibit.
4 (Exhibit 27 was marked
5 for identification.)
6 BY MR. MEDLOCK:
7 Q Same drill as before.
8 A Okay.
9 Q You can read through the entire e-mail
10 chain, which is really just one page, although
11 there's two here, and let me know when you're
12 finished doing it.
13 When you're done doing that, I'm going
14 to focus on the bottom e-mail in the chain from
15 Elizabeth Paul.
16 A (Witness reviewing Exhibit 27.)
17 Well, I hope you've noticed that I'm
18 pretty easygoing and flexible.
19 Q Well said. I take it from that, sir,
20 that you've read the document.
21 Okay. So the bottom e-mail is from
22 Elizabeth Paul to you on July 24th, 2011 --

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1 A Uh-hmm.
2 Q -- and it looks like, if you do the
3 Zulu time, it's 6:25 p.m.
4 A Right.
5 Q And if you look at the bottom, just to
6 confirm, Elizabeth Paul is chair of the Washington
7 County Democratic Committee, correct?
8 A That's what it says.
9 Q All right. So in the body of her
10 e-mail she says, "Good to talk with you briefly
11 today! One thing I meant to bring up with you
12 when we talked by phone and then it slipped my
13 mind as I was focused on redistricting hearings,
14 but I just wanted to clarify one thing."
15 Do you see that?
16 A I do.
17 Q Do you recall speaking to Elizabeth
18 Paul around July 24th, 2011, via phone?
19 A I don't recall what the means was, if
20 it was in person or by phone or -- I mean, I
21 don't -- by reading this, I presume we spoke that
22 day. I don't know by what means we spoke.

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1 Q Okay. So you don't dispute that you
2 spoke to Elizabeth Paul on the 24th?
3 A I don't dispute it, if that's where
4 you're going. No, I don't dispute that we spoke
5 that day.
6 Q Okay. And she mentions that a topic
7 slipped her mind because she was focused on
8 redistricting hearings. Do you recall that?
9 A I do.
10 Q Do you recall whether you spoke to her
11 about redistricting hearings that day?
12 A I don't.
13 Q You just don't know what --
14 A I don't recall, yeah, whether I talked
15 to her.
16 Q All right. And moving down further
17 into the body of her e-mail, she says -- do you
18 see the line that begins "thinking had been that
19 you"? It's maybe four from the bottom.
20 A Fourth from the bottom.
21 "Thinking," okay, right. "Thinking
22 had been," right, I got it.

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1 Q Right. And that says, "My thinking
2 had been that you and Edwards would be a great
3 pairing on the topic of making the 6th district
4 blue from your two perspectives/positions."
5 Do you see that?
6 A I do.
7 Q And when it says "6th district,"
8 that's referring to the Sixth Congressional
9 District of Maryland, correct?
10 A Yes.
11 Q And when it says turning blue -- or
12 making it blue, I should say -- that's referring
13 to transforming the Sixth District from a
14 Republican-held district to a Democratic-held
15 district, correct?
16 A I would assume that's what she means
17 by that.
18 Q And do you recall speaking on this
19 topic?
20 A I don't.
21 Q Is it possible you did?
22 A It's possible.

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1 Q Do you recall ever speaking about this
2 topic prior to the 2011 redistricting?
3 A To the -- when you say --
4 Q Regarding making the Sixth District
5 blue.
6 A Before the special session you mean?
7 Q Yes.
8 A Yeah. I mean, I would say it's
9 probably likely that it came up in conversation in
10 Democratic organizations, and I may have been
11 involved in some of those discussions.
12 Q Can you recall any of those
13 discussions with specificity?
14 A No, I can't.
15 Q Do you recall anyone that you met with
16 in Democratic circles to discuss making the
17 Sixth District blue?
18 A I clearly met with Elizabeth Paul, or
19 at least had a conversation with her regarding it
20 based on this e-mail.
21 I'm sure that the other e-mails, there
22 were conversations with those individuals as well.

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1 Q Did you personally have a plan for how
2 to make the Sixth District blue?
3 A I did not.
4 Q Did any Maryland Democratic Party
5 organization have a plan for how to make the
6 Sixth District blue during this time, to your
7 knowledge?
8 A I have no idea.
9 Q Did you ever ask?
10 A I don't think I did.
11 Q Did anyone ever tell you about such a
12 plan?
13 A No.
14 Q All right. You can put that document
15 aside.
16 A Okay.
17 (Exhibit 28 was marked
18 for identification.)
19 BY MR. MEDLOCK:
20 Q All right, this is a four-page e-mail
21 chain between you and Elizabeth Paul.
22 A Uh-hmm.

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1 Q You can go ahead and read the
2 document. Let me know when you're done perusing
3 it.
4 A (Witness reviewing Exhibit 28.)
5 She's real persistent about ensuring
6 that we have lunch or breakfast plans.
7 Q So I guess you've had a chance to
8 review the document?
9 A I have.
10 Q Okay. Let's focus on the third page
11 of the document. There's an e-mail from you to
12 Ms. Paul on July 25th, 2011, at 4:31 p.m.
13 Do you see that?
14 A I do.
15 Q So if you compare that to Exhibit 27,
16 in Exhibit 27, Ms. Paul is e-mailing on July 24th,
17 2011 --
18 A So the day before.
19 Q -- and she's referencing a
20 redistricting committee hearing, correct --
21 A Right.
22 Q -- in Exhibit 27?

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1 A Yeah. So it looks like that it either
2 occurred the 25th, or maybe the evening or later
3 in the day of the 24th.
4 Q Okay.
5 A Somewhere around -- you know, one of
6 those two days --
7 Q One of those two days.
8 A -- based on this.
9 Q And in Exhibit 28, on page 3, in your
10 July 25th, 2011, e-mail, you write, "Elizabeth,
11 great coverage on the Redistricting Commission
12 hearing. You did great!" Do you see that?
13 A I do.
14 Q Were you aware that Ms. Paul testified
15 at the redistricting committee hearing in
16 July 2011?
17 A I'm just trying to think if I
18 remember -- you know, this would -- this would
19 suggest that she did, and it wouldn't surprise me
20 as the chair of the Washington County Central
21 Committee that she testified, but I don't recall
22 like how that transpired or if she did, in fact,

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1 testify.
2 Q Do you know what the phrase "great
3 coverage" means in this e-mail?
4 A I don't.
5 Q Do you know whether any other members
6 of the Washington County Democratic Central
7 Committee testified at the July 2011 redistricting
8 hearing that's referenced in this e-mail?
9 A I don't recall.
10 Q Do you know whether any Republicans
11 testified at that hearing?
12 A I mean, I would be speculating that
13 there were probably Democrats and Republicans that
14 were testifying there, and probably those that
15 were non-affiliated too, and maybe even Green.
16 Q But that would be speculation, right?
17 A All of it is speculation.
18 Q You don't know one way or the other?
19 A I don't know.
20 Q Is that right?
21 A I don't recall. I mean -- you know,
22 yes. I mean, I'm guessing, and it's probably a

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1 good guess, that there were people there from all
2 persuasions.
3 Q But you have no documents or
4 independent knowledge to back that up?
5 A I don't recall. I certainly don't
6 have documents, and I don't recall. I know there
7 were regional meetings, and I'm guessing this was
8 part of the western Maryland one.
9 Q Going back to that e-mail, why did
10 you find it necessary --
11 A To 28?
12 Q Yes, 28.
13 Why did you find it necessary to
14 congratulate Ms. Paul on the great coverage?
15 A I don't recall.
16 Q Was one of the motivations for the
17 great coverage that you were hoping that the
18 Sixth District would be drawn in a way that would
19 be more competitive or favorable to a Democrat
20 running in that District?
21 A You know, I don't recall.
22 MR. MEDLOCK: All right. That's all

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1 the questions I have. It's possibly your counsel
2 may have questions.
3 MS. RICE: I do. I just have a few.
4 We can go right into that, all right?
5 MR. MEDLOCK: Okay.
6 EXAMINATION BY COUNSEL FOR DEFENDANTS
7 BY MS. RICE:
8 Q So way back in your testimony, at one
9 point we were talking about your former district,
10 Legislative Senate District 15, and you said that
11 it moved back into the Sixth; is that right?
12 A Yes, that's --
13 MR. MEDLOCK: Objection, leading.
14 THE WITNESS: I did say that it moved
15 back into the Sixth.
16 BY MS. RICE:
17 Q And why did you say that?
18 A Earlier in the discussion I had
19 referenced that western and northern Montgomery
20 County had previously been in the Sixth District
21 prior to the 1990 redistricting, and so my former
22 senate district had been in the Sixth District,

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1 was taken out of the Sixth District and put into
2 the Eighth District for two decades -- three
3 decades, two or three decades, two decades I think
4 is right -- and then was put back into the
5 Sixth District.
6 Q And switching to a different topic,
7 when you were in the state senate, did you know
8 that you would be represented by the
9 Attorney General if there were any lawsuit to come
10 up involving you?
11 MR. MEDLOCK: Objection, leading,
12 objection, calls for speculation.
13 THE WITNESS: As a state public
14 servant, my understanding was that the
15 Attorney General would represent and advise me if
16 I needed it as a state senator, as well as others
17 in the legislature.
18 BY MS. RICE:
19 Q And what was your understanding after
20 you left the state senate with respect to the
21 Office of the Attorney General's representation?
22 MR. MEDLOCK: Objection, calls for

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1 speculation.
2 THE WITNESS: If it involved something
3 related to the legislature or my time in the
4 legislature, the Attorney General's office would
5 be counsel for such circumstances.
6 MS. RICE: Thank you. That's it.
7 MR. MEDLOCK: I just have one or two
8 follow-ups based on her questioning.
9 THE WITNESS: Sure.
10 FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFFS
11 BY MR. MEDLOCK:
12 Q You testified that if something
13 involved your work during the legislature, you
14 would expect the Attorney General's office to be
15 advising you on that; is that right?
16 I need a yes or a no.
17 A Yes, I'm sorry.
18 Q Okay. And until January 2017, you
19 received no communication or advice regarding the
20 2011 congressional redistricting from the Office
21 of the Attorney General; is that right?
22 A So prior to the time that I received a

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1 phone call from Sandra -- Sandy Brantley, prior to
2 that --
3 Q Right.
4 A -- I had no conversations with the
5 Attorney General's office regarding the
6 congressional redistricting all the way to the
7 beginning of time.
8 MR. MEDLOCK: All right. That's all
9 I've got.
10 THE REPORTER: Signature?
11 MS. RICE: Yes.
12 (Whereupon, at 12:59 p.m., the taking
13 of the deposition was concluded.
14 Reading and signature were RESERVED.)
15
16
17
18
19
20
21
22

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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
21 Notary Public in and for
22 State of Maryland

My commission expires:
July 9, 2019

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1 Robert Garagiola c/o
2 Office of the Attorney General
3 200 St. Paul Place
4 Baltimore, Maryland 21202
5
6 Case: O. John Benisek, et al. v. Linda Lamone, et al.
7 Date of deposition: February 3, 2017
8 Deponent: Robert Garagiola
9
10 Please be advised that the transcript in the above
11 referenced matter is now complete and ready for signature.
12 The deponent may come to this office to sign the transcript,
13 a copy may be purchased for the witness to review and sign,
14 or the deponent and/or counsel may waive the option of
15 signing. Please advise us of the option selected.
16 Please forward the errata sheet and the original signed
17 signature page to counsel noticing the deposition, noting the
18 applicable time period allowed for such by the governing
19 Rules of Procedure. If you have any questions, please do
20 not hesitate to call our office at (202)-232-0646.
21
22 Sincerely,
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6 SIGNATURE PAGE
7 Case: O. John Benisek, et al. v. Linda Lamone, et al.
8 Witness Name: Robert Garagiola
9 Deposition Date: February 3, 2017
10
11 I do hereby acknowledge that I have read
12 and examined the foregoing pages
13 of the transcript of my deposition and that:
14
15 (Check appropriate box):
16 () The same is a true, correct and
17 complete transcription of the answers given by
18 me to the questions therein recorded.
19 () Except for the changes noted in the
20 attached Errata Sheet, the same is a true,
21 correct and complete transcription of the
22 answers given by me to the questions therein
recorded.

DATE WITNESS SIGNATURE

DATE NOTARY

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6 ERRATA SHEET
7
8 Case: O. John Benisek, et al. v. Linda Lamone, et al.
9 Witness Name: Robert Garagiola
10 Deposition Date: February 3, 2017
11 Page No. Line No. Change
12
13
14
15
16
17
18
19
20
21
22 _____
Signature Date

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