

# **EXHIBIT 40**



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# Transcript of Dr. Peter A. Morrison

**Date:** June 2, 2017

**Case:** Benisek, et al. -v- Lamone, et al.

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Conducted on June 2, 2017

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT</p> <p style="text-align: center;">FOR THE DISTRICT OF MARYLAND</p> <p>-----X</p> <p>O. JOHN BENISEK, et al.,                    )</p> <p style="padding-left: 40px;">Plaintiffs,                                    )</p> <p style="padding-left: 40px;">V    ) Case No.</p> <p>LINDA H. LAMONE, et al.,                 ) 13-cv-3233</p> <p style="padding-left: 40px;">Defendants,                                    )</p> <p>-----X</p> <p style="text-align: center;">Deposition of DOCTOR PETER A. MORRISON</p> <p style="padding-left: 40px;">Baltimore, Maryland</p> <p style="padding-left: 40px;">Friday, June 2, 2107</p> <p style="padding-left: 40px;">9:37 a.m.</p> <p>Job No.: 145288</p> <p>Pages 1 - 183</p> <p>Reported by: Dianna C. Kilgalen</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>ON BEHALF OF THE PLAINTIFFS:</p> <p style="padding-left: 40px;">STEPHEN M. MEDLOCK, ESQUIRE</p> <p style="padding-left: 40px;">MAYER BROWN, LLP</p> <p style="padding-left: 40px;">1999 K Street, Northwest</p> <p style="padding-left: 40px;">Washington, DC 20006</p> <p style="padding-left: 40px;">202.263.3000</p> <p>ON BEHALF OF THE DEFENDANTS:</p> <p style="padding-left: 40px;">SARAH W. RICE, ESQUIRE</p> <p style="padding-left: 40px;">JENNIFER L. KATZ, ESQUIRE</p> <p style="padding-left: 40px;">OFFICE OF THE ATTORNEY GENERAL</p> <p style="padding-left: 40px;">200 St. Paul Place</p> <p style="padding-left: 40px;">20th Floor</p> <p style="padding-left: 40px;">Baltimore, Maryland</p> <p style="padding-left: 40px;">410.576.6324</p> <p>Also present:</p> <p style="padding-left: 40px;">Samone Ijoma</p> <p style="padding-left: 40px;">Charles Kassir</p>																																																			
<p style="text-align: center;">2</p> <p>Deposition of DOCTOR PETER A. MORRISON,</p> <p>held at:</p> <p style="padding-left: 40px;">OFFICE OF THE ATTORNEY GENERAL</p> <p style="padding-left: 40px;">200 St. Paul Place</p> <p style="padding-left: 40px;">20th Floor</p> <p style="padding-left: 40px;">Baltimore, Maryland</p> <p style="padding-left: 40px;">410.576.6324</p> <p>Pursuant to Notice, before Dianna C.</p> <p>Kilgalen, Notary Public for the State of Maryland.</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">C O N T E N T S</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">EXAMINATION OF DOCTOR PETER A. MORRISON</td> <td style="text-align: right;">PAGE</td> </tr> <tr> <td>By MS. RICE:</td> <td style="text-align: right;">6</td> </tr> <tr> <td>By MR. MEDLOCK:</td> <td style="text-align: right;">176</td> </tr> </table> <p style="text-align: center;">E X H I B I T S</p> <p style="text-align: center;">(Attached to the transcript.)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">MORRISON</td> <td style="width: 75%;">DEPOSITION EXHIBIT</td> <td style="width: 20%; text-align: right;">PAGE</td> </tr> <tr> <td>190</td> <td>Reply Expert Report</td> <td style="text-align: right;">6</td> </tr> <tr> <td>192</td> <td>Opening Expert Report</td> <td style="text-align: right;">6</td> </tr> <tr> <td>192</td> <td>Opening Expert Report of</td> <td></td> </tr> <tr> <td></td> <td>Professor McDonald</td> <td style="text-align: right;">68</td> </tr> <tr> <td>193</td> <td>HOY 000001-18</td> <td style="text-align: right;">92</td> </tr> <tr> <td>194</td> <td>HOY 000129-131</td> <td style="text-align: right;">105</td> </tr> <tr> <td>195</td> <td>HOY 000052</td> <td style="text-align: right;">108</td> </tr> <tr> <td>196</td> <td>HOY 000023-28</td> <td style="text-align: right;">112</td> </tr> <tr> <td>197</td> <td>HOY 000223-226</td> <td style="text-align: right;">116</td> </tr> <tr> <td>198</td> <td>HOY 000035-38</td> <td style="text-align: right;">122</td> </tr> <tr> <td>199</td> <td>Census Bureau website printout</td> <td style="text-align: right;">132</td> </tr> <tr> <td>200</td> <td>Census Bureau website printout</td> <td style="text-align: right;">138</td> </tr> <tr> <td>201</td> <td>Census Bureau website printout</td> <td style="text-align: right;">142</td> </tr> <tr> <td>202</td> <td>Census Bureau website printout</td> <td style="text-align: right;">152</td> </tr> </table>	EXAMINATION OF DOCTOR PETER A. MORRISON	PAGE	By MS. RICE:	6	By MR. MEDLOCK:	176	MORRISON	DEPOSITION EXHIBIT	PAGE	190	Reply Expert Report	6	192	Opening Expert Report	6	192	Opening Expert Report of			Professor McDonald	68	193	HOY 000001-18	92	194	HOY 000129-131	105	195	HOY 000052	108	196	HOY 000023-28	112	197	HOY 000223-226	116	198	HOY 000035-38	122	199	Census Bureau website printout	132	200	Census Bureau website printout	138	201	Census Bureau website printout	142	202	Census Bureau website printout	152
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Conducted on June 2, 2017

<p style="text-align: center;">5</p> <p>1 EXHIBITS CONTINUED</p> <p>2 MORRISON DEPOSITION EXHIBIT PAGE</p> <p>3 203 2012 Congressional District Places</p> <p>4 draft map 153</p> <p>5 204 2012 Congressional District Places</p> <p>6 draft map 154</p> <p>7 205 2012 Congressional draft map 162</p> <p>8 206 Wikipedia website printout of</p> <p>9 definition of Census-designated</p> <p>10 places 172</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: center;">7</p> <p>1 attached to the transcript.)</p> <p>2 BY MS. RICE:</p> <p>3 Q. To develop these reports, what material</p> <p>4 was provided to you by the Plaintiffs' attorneys to</p> <p>5 form the basis of your opinions?</p> <p>6 <b>A. To develop the reports, I assumed a lot of</b></p> <p>7 <b>information. You want to know what they provided</b></p> <p>8 <b>to me?</b></p> <p>9 MS. RICE: Correct.</p> <p>10 <b>A. Okay. What I was provided was a large</b></p> <p>11 <b>body of deposition testimony by various people, and</b></p> <p>12 <b>it just was a whole lot -- a whole lot of stuff</b></p> <p>13 <b>which I saved in one -- one file -- in one folder.</b></p> <p>14 <b>And I believe -- well, they also provided a copy of</b></p> <p>15 <b>the Complaint.</b></p> <p>16 <b>And over the course of my work, I guess, I</b></p> <p>17 <b>got also copies of deposition testimony by the</b></p> <p>18 <b>opposing expert, Doctor Lichtman, and two others.</b></p> <p>19 <b>I think I also obtained from them a link</b></p> <p>20 <b>to the website where I could obtain voting -- voter</b></p> <p>21 <b>registration data. That's my recollection. They</b></p> <p>22 <b>either sent me the link to the website or -- I'm</b></p>
<p style="text-align: center;">6</p> <p>1 PROCEEDINGS</p> <p>2 DOCTOR PETER A. MORRISON, having been</p> <p>3 duly sworn, testified as follows:</p> <p>4 EXAMINATION BY COUNSEL FOR THE DEFENDANTS</p> <p>5 BY MS. RICE:</p> <p>6 Q. Okay. I'm just -- let's do a round of</p> <p>7 introductions. I'm Sarah Rice. I'm Assistant</p> <p>8 Attorney General, and I represent the Defendants in</p> <p>9 this case. And with me at counsel table is</p> <p>10 Jennifer Katz, Assistant Attorney General, also</p> <p>11 representing the Defendants. And we have with us</p> <p>12 our summer law clerks, Samone Ijoma and</p> <p>13 Charles Kassir.</p> <p>14 MR. MEDLOCK: I'm Stephen Medlock from</p> <p>15 Mayer Brown, LLC, representing the Plaintiffs and</p> <p>16 the witness.</p> <p>17 MS. RICE: Okay. I'm just going to get</p> <p>18 out of the way -- I'm giving you a copy of the --</p> <p>19 your opening and reply expert report. And we will</p> <p>20 mark those Exhibits 190 and 191.</p> <p>21 (Whereupon, Morrison Deposition Exhibits</p> <p>22 190 and 191 were marked for identification and</p>	<p style="text-align: center;">8</p> <p>1 <b>pretty sure it was a link to the website, not the</b></p> <p>2 <b>actual data.</b></p> <p>3 Q. Okay. And were you -- you mentioned</p> <p>4 depositions. Were you provided any other discovery</p> <p>5 material in the case?</p> <p>6 MR. MEDLOCK: Objection. Vague.</p> <p>7 <b>A. Could you tell me what you mean</b></p> <p>8 <b>specifically by discovery material?</b></p> <p>9 Q. Sure. Did you receive any documents, for</p> <p>10 example, with Bates numbers?</p> <p>11 <b>A. I don't recall seeing Bates numbers --</b></p> <p>12 <b>what I understand to be Bates numbers, although</b></p> <p>13 <b>they may have had a thing along the top that</b></p> <p>14 <b>said -- you know, that had some kind of identifying</b></p> <p>15 <b>thing that I don't understand. I know it's part</b></p> <p>16 <b>of, you know, the case.</b></p> <p>17 <b>But give me a -- just give me some</b></p> <p>18 <b>categories, and then it will bring back my</b></p> <p>19 <b>recollection, because I have been working on a lot</b></p> <p>20 <b>of stuff that I got. And I wasn't thinking so much</b></p> <p>21 <b>about the stuff that they furnished.</b></p> <p>22 Q. Sure. Were you provided any spreadsheets</p>

9	<p>1 by the attorneys?</p> <p>2 <b>A. Spreadsheets? No.</b></p> <p>3 <b>What I did request was access to a person</b></p> <p>4 <b>who was doing technical GIS work for one of the</b></p> <p>5 <b>other experts in this case. And I said if this</b></p> <p>6 <b>person can process or organize the data that I want</b></p> <p>7 <b>to have in the form that I want it for me, which</b></p> <p>8 <b>would require GIS skills and technology, basically,</b></p> <p>9 <b>he could be fulfilling my needs for data at the</b></p> <p>10 <b>same time he was fulfilling the needs for another</b></p> <p>11 <b>expert in the case.</b></p> <p>12 <b>Q. And who was that expert? Who was that</b></p> <p>13 <b>person?</b></p> <p>14 <b>A. That was the political scientist,</b></p> <p>15 <b>Michael McDonald.</b></p> <p>16 <b>Q. Sorry. Who was the GIS expert?</b></p> <p>17 <b>A. Oh, the GIS expert, I'm blocking on his</b></p> <p>18 <b>name. His name was -- his last name was Amos.</b></p> <p>19 <b>First name, I'm trying to remember.</b></p> <p>20 <b>Q. Did he end up providing you with material?</b></p> <p>21 <b>A. He did. He is a Ph.D. student who works</b></p> <p>22 <b>with Professor McDonald and had -- based on my</b></p>	11	<p>1 <b>So they say this community known as, let's</b></p> <p>2 <b>say, Silver Springs [sic], Maryland, is a census</b></p> <p>3 <b>place. It is defined as the incorporated city, if</b></p> <p>4 <b>it's an incorporated city. It has these</b></p> <p>5 <b>boundaries. These boundaries can go into a GIS</b></p> <p>6 <b>system. You can see exactly what the city limits</b></p> <p>7 <b>are for that census place.</b></p> <p>8 <b>And I told him I wanted him to classify</b></p> <p>9 <b>every census place in terms of which district it</b></p> <p>10 <b>was in prior to redistricting and which district it</b></p> <p>11 <b>was in after redistricting and whether it had been</b></p> <p>12 <b>split in any way and, if so, where the pieces went.</b></p> <p>13 <b>So it's a perfect thing for a GIS person to do, and</b></p> <p>14 <b>it's quite labor intensive. That's the first</b></p> <p>15 <b>category.</b></p> <p>16 <b>The second category was: I asked him to</b></p> <p>17 <b>arrange the registered voter data -- I believe it</b></p> <p>18 <b>was by precinct -- so that I could tell which</b></p> <p>19 <b>registrants were in which district prior to and</b></p> <p>20 <b>after redistricting.</b></p> <p>21 <b>So census data, kind of stuff I work with,</b></p> <p>22 <b>and voter data -- voter registration data, the kind</b></p>
10	<p>1 <b>discussions with him, I could tell that he had</b></p> <p>2 <b>extensive experience extracting the data that I</b></p> <p>3 <b>normally use and organizing it in the form that I</b></p> <p>4 <b>normally want it.</b></p> <p>5 <b>In this case I wanted it organized in a</b></p> <p>6 <b>particular form that I would have normally gone to</b></p> <p>7 <b>my GIS guy, because it required GIS skills that I</b></p> <p>8 <b>understand but don't actually possess. So I gave</b></p> <p>9 <b>him detailed instructions on how to do it.</b></p> <p>10 <b>MS. RICE: Okay.</b></p> <p>11 <b>A. And that was the person I guess that was</b></p> <p>12 <b>arranged through the attorneys. So you could</b></p> <p>13 <b>consider that to be something that they arranged</b></p> <p>14 <b>for me to have.</b></p> <p>15 <b>Q. And what data did you request?</b></p> <p>16 <b>A. For my purposes, the data that I requested</b></p> <p>17 <b>fall into two categories, as I think about it. One</b></p> <p>18 <b>category was arranging data on census places. That</b></p> <p>19 <b>would be incorporated cities, towns, villages and</b></p> <p>20 <b>unincorporated places that the Census Bureau</b></p> <p>21 <b>recognizes, has data for and defines in terms of</b></p> <p>22 <b>specific geographic boundaries.</b></p>	12	<p>1 of stuff political scientists work with, both</p> <p>2 organized and arranged in terms of geographic</p> <p>3 entities and then fully documented exactly how he</p> <p>4 did it, exactly what the sources of the data were</p> <p>5 so that I could basically publish an article and</p> <p>6 have all the information I needed to document it</p> <p>7 scientifically.</p> <p>8 <b>Q. What is all the information that you</b></p> <p>9 <b>needed to document it scientifically?</b></p> <p>10 <b>A. Just how the -- you know, the procedures</b></p> <p>11 <b>that were followed, whatever caveats there might</b></p> <p>12 <b>be, what -- when a -- when a place was divided</b></p> <p>13 <b>among two districts or more than two districts,</b></p> <p>14 <b>whether the predominant part of the place was in</b></p> <p>15 <b>one district or the other so that I could say:</b></p> <p>16 <b>Well, if you want to know where most of the people</b></p> <p>17 <b>were, they were in District X, but there were some</b></p> <p>18 <b>in District Y after -- you know, following</b></p> <p>19 <b>redistricting.</b></p> <p>20 <b>So it's kind of all the technical detail</b></p> <p>21 <b>that a scientific study would need to back up what</b></p> <p>22 <b>was done for purposes of replication. If someone</b></p>

Conducted on June 2, 2017

<p style="text-align: right;">13</p> <p>1 <b>wanted to replicate it, they could replicate</b>                  2 <b>exactly what I did.</b>                  3 Q. Did you include those technical details in                  4 your report?                  5 <b>A. I did not, but I have them -- I have them</b>                  6 <b>saved in case I need them.</b>                  7 Q. Going back to the first category of data                  8 that you got from -- I guess it's Mr. Amos?                  9 <b>A. Yeah, Brian Amos.</b>                  10 MS. RICE: Brian.                  11 <b>A. Brian Amos.</b>                  12 Q. In what format did you receive the data?                  13 <b>A. I believe I received them in the form of a</b>                  14 <b>spreadsheet. That's my recollection. It was</b>                  15 <b>something that I -- I'm quite sure it was a</b>                  16 <b>spreadsheet that I could then manipulate so that I</b>                  17 <b>could tabulate the data the way I wanted to.</b>                  18 Q. And did Mr. Amos share with you any maps                  19 related to that data?                  20 <b>A. I don't believe he shared any maps. I</b>                  21 <b>don't believe he shared any maps. But I referenced</b>                  22 <b>maps that I access on the Census Bureau's website</b></p>	<p style="text-align: right;">15</p> <p>1 Q. Okay. And do you know where on the                  2 website he obtained that data?                  3 <b>A. Yes.</b>                  4 Q. Where?                  5 <b>A. You just go to American FactFinder. That</b>                  6 <b>would be the -- kind of the retail outlet for it.</b>                  7 <b>The wholesale outlet, which one might want</b>                  8 <b>to just -- say I want you to provide this</b>                  9 <b>information for every census place in the state of</b>                  10 <b>Maryland and then I will sort out the ones I want.</b>                  11 <b>I call that the wholesale source.</b>                  12 <b>That is the place where a GIS person would</b>                  13 <b>go and say: Give it to me. I think it's called --</b>                  14 <b>some other name of the file. The wholesale place,</b>                  15 <b>they just dump it into one big file, and they dump</b>                  16 <b>it right into the GIS thing.</b>                  17 The retail place, I click on it and say:                  18 I want to see this place. Then it gives me the                  19 same number one by one.                  20 Q. And so that data was in a GIS-compatible                  21 format?                  22 <b>A. Yes. That's the way -- it's GIS</b></p>
<p style="text-align: right;">14</p> <p>1 <b>and in other places -- I guess the Maryland</b>                  2 <b>Department of Planning.</b>                  3 Q. Okay. In relation to that same data, or                  4 just other --                  5 <b>A. Yeah. The maps would show representations</b>                  6 <b>of the places that I was having the data tabulated</b>                  7 <b>for. So if there was a place, like I say, known as</b>                  8 <b>Silver Springs, I could see it on the maps. I</b>                  9 <b>could see it in the spreadsheet. I could see the</b>                  10 <b>numbers that corresponded to it that I wanted to</b>                  11 <b>know about.</b>                  12 Q. And do you know what the source of the                  13 data that Mr. Amos --                  14 <b>A. Yes. That's part of the documentation.</b>                  15 <b>I mean, I don't know offhand. But it's the</b>                  16 <b>official -- it's the official source of those kind</b>                  17 <b>of data which would come from what I would think of</b>                  18 <b>as generically the Elections Department of the --</b>                  19 Q. Sorry. Again, with respect to the census-                  20 designated places?                  21 <b>A. Oh, the census, that comes from the Census</b>                  22 <b>Bureau, their website.</b></p>	<p style="text-align: right;">16</p> <p>1 <b>compatible for him. For me, it's something I can</b>                  2 <b>pull up on the screen and look at the number and</b>                  3 <b>see, you know, if I want to see the numbers on the</b>                  4 <b>map.</b>                  5 Q. I see. But was it a shape file?                  6 <b>A. Yeah. A shape file is the kind -- a shape</b>                  7 <b>file is the type of file that a GIS person wants.</b>                  8 <b>That's not the type of file that I want for my</b>                  9 <b>purposes as a, quote, retail consumer where I just</b>                  10 <b>go in and say: I want to see the number. Show it</b>                  11 <b>to me.</b>                  12 Q. And do you know if the data related to                  13 census-designated places that Mr. Amos used was a                  14 shape file?                  15 <b>A. I assume it was. Whether it was or not, I</b>                  16 <b>don't really -- it would be immaterial to me, as</b>                  17 <b>long as it's the kind of file that he needs for his</b>                  18 <b>GIS purposes.</b>                  19 Q. And you talked about receiving technical                  20 documentation from Mr. Amos that went step by step                  21 through the methodology with respect to the                  22 Category 2, the time voter data.</p>

Conducted on June 2, 2017

<p style="text-align: right;">17</p> <p>1 <b>A. Uh-huh.</b></p> <p>2 Q. Did you receive the same type of data for</p> <p>3 the census -- or the same type of technical</p> <p>4 documentation for the census-designated places?</p> <p>5 <b>A. Yes. And when I say the same type, what I</b></p> <p>6 <b>mean is I said: I don't want you to just give me</b></p> <p>7 <b>the data I asked for and say here are the data. I</b></p> <p>8 <b>want you to tell me step by step how you got from</b></p> <p>9 <b>the data that I know from the Census Bureau, what</b></p> <p>10 <b>you did with it, how you tabulated it, how you</b></p> <p>11 <b>turned it into the spreadsheet that you gave me so</b></p> <p>12 <b>that, when I see this number here in this cell, I</b></p> <p>13 <b>know exactly how it was derived and I can replicate</b></p> <p>14 <b>what you did.</b></p> <p>15 MS. RICE: Okay.</p> <p>16 <b>A. So the technical documentation is,</b></p> <p>17 <b>Number 1, where did you get the data from? And</b></p> <p>18 <b>that is a particular place where another GIS person</b></p> <p>19 <b>could say: Well, I went back to that same place.</b></p> <p>20 <b>Yes, those data were the same ones, except a year</b></p> <p>21 <b>from now they might be updated.</b></p> <p>22 <b>And then I understand exactly how you put</b></p>	<p style="text-align: right;">19</p> <p>1 <b>A. Yeah. I would say that I spot-checked</b></p> <p>2 <b>some of the numbers. I didn't replicate</b></p> <p>3 <b>everything. But I checked to see whether I could</b></p> <p>4 <b>derive the number on the retail end and get the</b></p> <p>5 <b>same number that he had gotten using, as I say, the</b></p> <p>6 <b>wholesale data he got from the Census Bureau.</b></p> <p>7 Q. What did you spot-check?</p> <p>8 <b>A. I spot-checked a few particular census</b></p> <p>9 <b>places to see whether I came up with the same</b></p> <p>10 <b>number that he had come up with.</b></p> <p>11 Q. Okay. Was there any reason that you chose</p> <p>12 the census places that you chose?</p> <p>13 MR. MEDLOCK: Objection. Vague.</p> <p>14 <b>A. I chose all the census places that were</b></p> <p>15 <b>within the former Congressional District 6 and the</b></p> <p>16 <b>subsequent Congressional District 6 so that I would</b></p> <p>17 <b>have all census places that had anything to do with</b></p> <p>18 <b>the pre or post redistricting entity known as</b></p> <p>19 <b>District 6.</b></p> <p>20 Q. I'm sorry. I wasn't very careful with my</p> <p>21 question. Did you -- was there a reason that you</p> <p>22 chose the census places you chose to spot-check?</p>
<p style="text-align: right;">18</p> <p>1 <b>it together, and then I understand exactly how you</b></p> <p>2 <b>derived the spreadsheet that you gave me. So I</b></p> <p>3 <b>know how -- I could replicate what he did if I</b></p> <p>4 <b>wanted to.</b></p> <p>5 <b>But I wouldn't -- I probably wouldn't do</b></p> <p>6 <b>it as fast as he could, and I didn't want to</b></p> <p>7 <b>replicate it. I just wanted to know he could tell</b></p> <p>8 <b>me how he did it, because that assured me that he</b></p> <p>9 <b>had done it the way I wanted. It's kind of like</b></p> <p>10 <b>tell me exactly what you did. Don't just tell me</b></p> <p>11 <b>you did it.</b></p> <p>12 Q. Right. So just so I understand you</p> <p>13 correctly, you had the information to replicate,</p> <p>14 but you did not replicate his method?</p> <p>15 MR. MEDLOCK: Mischaracterizes the</p> <p>16 testimony.</p> <p>17 <b>A. I had no need to replicate it. What I</b></p> <p>18 <b>wanted to know was that he had done it as I had</b></p> <p>19 <b>instructed him to.</b></p> <p>20 Q. You did not replicate the method?</p> <p>21 MR. MEDLOCK: Same objection.</p> <p>22 Mischaracterizes the testimony.</p>	<p style="text-align: right;">20</p> <p>1 <b>A. I'm sorry? Was there a reason that I</b></p> <p>2 <b>chose --</b></p> <p>3 Q. You said you spot-checked census places.</p> <p>4 Is that right?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Was there a reason that you picked the</p> <p>7 ones that you chose to spot-check?</p> <p>8 <b>A. I picked them at random.</b></p> <p>9 Q. Okay. Okay. Let's turn to page 4 of your</p> <p>10 report.</p> <p>11 <b>A. Of the opening report?</b></p> <p>12 Q. Opening report. I'm looking at</p> <p>13 paragraph 11. In the third line down, you mention</p> <p>14 legitimate districting considerations.</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. What are legitimate districting</p> <p>17 considerations?</p> <p>18 <b>A. I will give you some examples. Continuity</b></p> <p>19 <b>is obviously one. A district has to be composed of</b></p> <p>20 <b>contiguous territory or at least territory that is</b></p> <p>21 <b>accessible from anywhere within the district.</b></p> <p>22 <b>Compactness is another consideration.</b></p>

Conducted on June 2, 2017

21	23
<p>1 That is to say boundaries that are not excessively 2 irregular or bizarre in shape. An important 3 consideration is respecting existing established 4 communities of interest.</p> <p>5 Another consideration is to -- in the case 6 of congressional redistricting, I believe the 7 requirement is that the total populations should be 8 just about exactly equal.</p> <p>9 In local redistricting, for example, 10 county election districts or city election 11 districts, the understood threshold is that the 12 populations of individual districts should be 13 closely equal, and their total deviation from the 14 ideal population should not exceed -- should not 15 equal or exceed 10 percentage points unless there 16 is a valid, legitimate explanation, such as a river 17 running through something that divides the 18 territory or a mountain range or something that 19 requires a district to be configured so that it has 20 as much population as it can or as little 21 population as need be. So that's -- what I'm 22 saying is the adherence to closely equal</p>	<p>1 A. It's a semantic issue. Legitimate I would 2 think would be, in layman's terms, a matter of 3 alignment with existing law.</p> <p>4 Traditional might be considered reflecting 5 historical values, the past possibly, the length 6 of -- or the duration of some existing 7 consideration. So, as I say, I think the two 8 overlap, but I don't think they are synonymous.</p> <p>9 Q. Okay. Bearing that in mind, could 10 eliminating a major water body crossing at a bridge 11 be a legitimate districting consideration?</p> <p>12 MR. MEDLOCK: Objection. Incomplete 13 hypothetical.</p> <p>14 A. Could you give me a little clearer picture 15 of what you are talking about?</p> <p>16 Q. Sure. Say that a prior map contained a 17 district that -- we were talking a little bit about 18 contiguity.</p> <p>19 A. Yeah.</p> <p>20 Q. -- that maintain contiguity only via a 21 bridge over a large body of water.</p> <p>22 A. Like over a lake or a river?</p>
22	24
<p>1 populations is another traditional redistricting 2 consideration.</p> <p>3 Further consideration is respecting 4 political boundaries. Another one is addressing 5 issues of incumbency. That is to say avoiding 6 placing two incumbents in the same district if that 7 can be avoided without interfering with other 8 considerations.</p> <p>9 And, of course, there is a whole racial 10 ethnic dimension, which is to protect the voting 11 rights of protected groups -- protected groups.</p> <p>12 Those are, I think, among the most widely 13 understood traditional redistricting 14 considerations -- legitimate redistricting 15 considerations.</p> <p>16 Q. That was a question that I was going to 17 ask you. Do you think that legitimate 18 redistricting considerations is synonymous with 19 traditional redistricting considerations?</p> <p>20 A. I think they largely overlap. I don't 21 think they are exactly synonymous.</p> <p>22 Q. What are the differences?</p>	<p>1 MS. RICE: Like over a lake or a bay.</p> <p>2 A. All right.</p> <p>3 MS. RICE: Something bigger than a --</p> <p>4 A. Yeah.</p> <p>5 MS. RICE: I guess it could be a river if 6 that was the only point, not the border.</p> <p>7 A. Yeah.</p> <p>8 Q. Could eliminating the need for that thin 9 connection over a body of water be a legitimate 10 districting consideration?</p> <p>11 MR. MEDLOCK: Same objection. Incomplete 12 hypothetical.</p> <p>13 A. You are saying closing the bridge? I 14 mean, when you say eliminating the bridge --</p> <p>15 MS. RICE: Not eliminating the bridge. 16 Eliminating the need to connect two parts of a 17 district which would otherwise be discontinuous via 18 a bridge.</p> <p>19 A. So you are saying if --</p> <p>20 MR. MEDLOCK: Same objection. 21 Go ahead.</p> <p>22 A. Okay. This is a hypothetical, and there</p>



Conducted on June 2, 2017

25	<p>1 are some assumptions that I don't understand. So I 2 can't say I agree.</p> <p>3 MS. RICE: That's fine.</p> <p>4 A. I'm going to say it sounds to me like what 5 you are saying is: If there were pieces of 6 discontinuous territory that were not connected by 7 a bridge so that you couldn't get from -- you 8 couldn't walk from one part of the district to the 9 other because there was no bridge across the river 10 that divided them, you are saying if -- would it be 11 okay to ignore that because there was no bridge? 12 In other words, say we just have to cancel 13 it out and say it doesn't matter? Or are you 14 saying there was a bridge?</p> <p>15 MS. RICE: The bridge remains.</p> <p>16 A. Right.</p> <p>17 Q. If it was possible to reconfigure a 18 district --</p> <p>19 A. Yeah.</p> <p>20 Q. -- such that it was no longer comprised of 21 two disparate parts connected by a bridge and 22 instead one district wholly encompassed: The parts</p>	27	<p>1 and forth to the two different parts, I would say 2 that is fine as well if there is a need to do that 3 because of other considerations.</p> <p>4 In other words, it all depends on what 5 effect it has on the other -- on the -- on how one 6 is balancing the other legitimate districting 7 considerations. I see this as a number of 8 different factors that come into play, and the only 9 thing that would matter here would be whether or 10 not there was a bridge.</p> <p>11 If there was no bridge, it would be hard 12 to justify calling the two pieces of territory 13 connected. If there were a bridge, one could say 14 well, they are connected, or they don't need to be 15 connected because of some other consideration. So 16 it's all a matter of the interplay of that decision 17 on other considerations that come into play.</p> <p>18 Do you understand what I'm saying? It's 19 a --</p> <p>20 MS. RICE: I do understand what you are 21 saying.</p> <p>22 A. -- a balancing. It's a balancing --</p>
26	<p>1 of the district on one side of the bridge and 2 another district wholly encompassed --</p> <p>3 A. Okay. I got you.</p> <p>4 Q. -- the other parts of the district on the 5 other side of the bridge.</p> <p>6 Would it be a legitimate districting 7 consideration to eliminate the need for connecting 8 the district over a bridge?</p> <p>9 A. I see what you mean.</p> <p>10 MR. MEDLOCK: Objection. Vague. 11 Incomplete hypothetical.</p> <p>12 A. Okay. Under that hypothetical condition, 13 I would say it would depend entirely on other 14 considerations. In other words, I would view -- I 15 would view the river over which there is a bridge 16 as either a natural feature that could be a natural 17 dividing line for two districts. That would be a 18 natural -- a natural thing to consider, other 19 things equal.</p> <p>20 Or if it were necessary to connect the two 21 pieces of discontinuous territory and say, well, at 22 least there is a bridge so that people can get back</p>	28	<p>1 Q. So are you saying in every -- well, let me 2 check.</p> <p>3 Are you saying that whether or not a 4 particular consideration is a legitimate 5 districting consideration must always be considered 6 in conjunction with the other considerations at 7 play during the mapmaking?</p> <p>8 MR. MEDLOCK: Objection. Mischaracterizes 9 testimony.</p> <p>10 A. What I'm saying is that contiguity is a 11 legitimate districting consideration, and one 12 balances that against other traditional legitimate 13 districting considerations.</p> <p>14 And so there is no hard and fast rule 15 about: Is it or is it not a legitimate 16 consideration? All of them are legitimate 17 considerations, all of them at once. So there is 18 no question that contiguity is a legitimate 19 districting consideration.</p> <p>20 Q. Is respect for natural features a 21 legitimate districting consideration?</p> <p>22 A. Yes.</p>

29

1 Q. Is reducing the number of counties a  
 2 district spans a legitimate districting  
 3 consideration?  
 4 MR. MEDLOCK: Objection. Vague.  
 5 **A. Not necessarily. It would depend on the**  
 6 **other considerations that operate.**  
 7 Q. Is there a difference between the kinds of  
 8 considerations that are dependent on other  
 9 considerations and the kinds of considerations  
 10 where you would give a yes or no answer about  
 11 whether they are a legitimate redistricting  
 12 consideration?  
 13 MR. MEDLOCK: Objection. Vague.  
 14 **A. I'm having -- see if you can ask it a**  
 15 **different way. I'm having trouble understanding**  
 16 **the question.**  
 17 Q. Sure. For some of the items we have been  
 18 talking about, you have said: Yes, that is a  
 19 legitimate districting consideration. And for some  
 20 of the items that we have been talking about, you  
 21 have said: I don't know. Maybe. It's dependent  
 22 on other considerations.

30

1 Is there a difference between those two  
 2 categories of things?  
 3 MR. MEDLOCK: Objection. Mischaracterizes  
 4 his testimony.  
 5 **A. I think I may have led you to**  
 6 **misunderstand what I'm saying.**  
 7 MS. RICE: Okay.  
 8 **A. All of the considerations I mentioned are**  
 9 **legitimate considerations. None of them is:**  
 10 **Sometimes it is legitimate, sometimes it's not.**  
 11 **All are legitimate.**  
 12 **When boundaries are drawn, it is important**  
 13 **to balance those considerations so that each is**  
 14 **respected insofar as is possible or feasible given**  
 15 **the circumstances, where the circumstances are**  
 16 **natural features, rivers that may run through the**  
 17 **district, the layout of the population, the**  
 18 **existence of established communities of interest.**  
 19 **So as you draw boundaries, you are**  
 20 **respecting all of those considerations all the time**  
 21 **except when it's impossible to do so because one**  
 22 **directly conflicts with another.**

31

1 **So you are kind of walking this tight rope**  
 2 **and saying: Can I draw the boundaries so that I'm**  
 3 **not -- I'm not -- can I draw the boundary and**  
 4 **completely ignore any one of these considerations?**  
 5 **The answer is: No, you cannot. You have to**  
 6 **respect each and every consideration insofar as is**  
 7 **possible.**  
 8 **Does that clarify what I'm saying?**  
 9 MS. RICE: Yes. But maybe you are now  
 10 misunderstanding my question.  
 11 THE WITNESS: Okay. Try it again.  
 12 Q. Yes. So when I am asking if something  
 13 could be a legitimate districting consideration, I  
 14 mean only: Does it fit the characteristics of the  
 15 other legitimate districting considerations that  
 16 you listed? Not whether it would be a sufficient  
 17 consideration to create what you would think of as  
 18 an adequate district.  
 19 MR. MEDLOCK: Objection. Vague.  
 20 Compound.  
 21 Q. So does that bring us closer?  
 22 **A. No. I don't understand what you are**

32

1 **asking me.**  
 2 MS. RICE: Sure. Okay.  
 3 **A. I'm trying to clarify it by saying all of**  
 4 **them are legitimate, and there is the obligation to**  
 5 **respect each and every legitimate districting**  
 6 **consideration insofar as possible to the extent**  
 7 **that it is feasible.**  
 8 **And as an illustration, I would say the**  
 9 **populations of each district should be exactly**  
 10 **equal insofar as is feasible. And it may be**  
 11 **infeasible at the county level to draw, let's say,**  
 12 **county supervisor districts that are equal in**  
 13 **population because of a river that runs through the**  
 14 **center of the county.**  
 15 **So insofar as is feasible, as is possible,**  
 16 **while respecting established communities of**  
 17 **interest, the concentrations of one or another**  
 18 **protected group, one balances those and respects**  
 19 **each consideration.**  
 20 MS. RICE: Okay.  
 21 **A. And that's the clearest I can state it.**  
 22 Q. Could projections of demographic growth in

Conducted on June 2, 2017

33	<p>1 the future be a legitimate districting 2 consideration? 3 <b>A. Under some circumstances, projections are 4 legitimate.</b> 5 Q. Is national origin a legitimate 6 districting consideration? 7 MR. MEDLOCK: I'm sorry? Did you say 8 natural or national? 9 MS. RICE: National. 10 <b>A. By national origin -- tell me exactly what 11 you mean by national origin, because that has a 12 very specific meaning demographically.</b> 13 Q. Sure. Does whether or not somebody was 14 born inside or outside of the United States -- is 15 that a legitimate districting consideration? 16 <b>A. In and of itself, no.</b> 17 Q. Are partisan considerations ever 18 legitimate districting considerations? 19 MR. MEDLOCK: Objection. Vague. 20 <b>A. Could you tell me exactly what you mean by 21 partisan considerations, just so I know exactly 22 what we are talking about?</b></p>	35	<p>1 <b>A. I would give the same answer. It's -- you 2 would have to ask that question to a political 3 scientist. I understand what you are talking about 4 generally as a lay person, but it's outside my area 5 of expertise.</b> 6 Q. So are all nondemographic districting 7 considerations that may or may not be legitimate 8 similarly outside your area of expertise? 9 MR. MEDLOCK: Objection. Vague. 10 <b>A. I wouldn't make a generic statement like 11 that. There -- there -- considerations don't fall 12 into demographic versus nondemographic. 13 Demographers count people and their characteristics 14 and their locations. So that kind of encompasses 15 everything all at once. So I wouldn't agree with 16 that statement that you made.</b> 17 Q. There are characteristics that may or may 18 not be legitimate districting considerations -- I'm 19 sorry. Let me rephrase that. 20 There are considerations that may or may 21 not be legitimate districting considerations in 22 which you are not an expert?</p>
34	<p>1 Q. Sure. Is there any type of consideration 2 related to republicans, democrats or other 3 political parties? Is there any consideration that 4 would fall within that rubric? Could that ever be 5 a legitimate districting consideration? 6 MR. MEDLOCK: Objection. Same objection. 7 <b>A. The only one that I'm aware of as a 8 demographer is incumbency. There may be others, 9 but incumbency is the only one that I know of.</b> 10 Q. Okay. Is making a noncompetitive district 11 competitive ever a legitimate districting 12 consideration? 13 MR. MEDLOCK: Objection. Vague. 14 <b>A. The term noncompetitive and competitive, 15 those are not precise terms. They are continuums. 16 And I -- that's really a political science 17 question. I'm a demographer. I'm not -- that's 18 outside my area of expertise.</b> 19 Q. How about just considering the 20 competitiveness of a district? Is that a 21 legitimate districting consideration? 22 MR. MEDLOCK: Objection. Vague.</p>	36	<p>1 MR. MEDLOCK: Objection. Vague. 2 <b>A. I'm trying to think of the semantic logic 3 of what you just said. And I think -- I think it's 4 true by logic that what you have said, there are 5 some things that are outside my area of expertise, 6 because what you have described is everything else 7 in the universe.</b> 8 <b>And some things in the universe are 9 outside my area of expertise, but I'm not clear 10 which ones you are talking about. There is a 11 hypothetical assumption there that -- I guess maybe 12 it's referred to as an incomplete hypothetical.</b> 13 Q. Well, let's make it a little bit more 14 concrete. 15 Could response to constituent concerns be 16 a legitimate districting consideration? 17 MR. MEDLOCK: Objection. Vague. 18 <b>A. Are you saying that -- when you say 19 response to constituents' concerns, what do you 20 mean by that? Do you mean if an elected official 21 had not been responsive to any constituents at all 22 that there was something I could do that was</b></p>

Conducted on June 2, 2017

<p style="text-align: right;">37</p> <p><b>1 different than hadn't happened?</b></p> <p>2 Q. No. I mean is responding to constituent</p> <p>3 concern as expressed by constituents in public</p> <p>4 comments on a proposed plan a legitimate</p> <p>5 districting consideration?</p> <p><b>6 A. I don't --</b></p> <p>7 MR. MEDLOCK: Objection. Vague.</p> <p><b>8 A. I don't see -- I don't see how I could</b></p> <p><b>9 answer that question the way you framed it. I'm</b></p> <p><b>10 not -- it doesn't fit into categories that</b></p> <p><b>11 demographers use.</b></p> <p>12 Q. Okay. So that relates back to whether --</p> <p>13 just so I understand, are you saying that you would</p> <p>14 not have the expertise to evaluate whether</p> <p>15 constituent concern is a -- response to expressed</p> <p>16 constituent concerns about the shapes of districts</p> <p>17 is a legitimate districting consideration?</p> <p><b>18 A. No. I'm not saying that.</b></p> <p>19 MR. MEDLOCK: Also objection. Vague.</p> <p>20 MS. RICE: Okay. Then I don't understand</p> <p>21 why you couldn't answer the question.</p> <p>22 MR. MEDLOCK: I object to that statement</p>	<p style="text-align: right;">39</p> <p><b>1 I understand to be legitimate districting</b></p> <p><b>2 considerations when I draw boundaries of districts.</b></p> <p>3 Q. Sure. I guess what I'm trying to</p> <p>4 understand is -- it was in response to your</p> <p>5 response. Who is holding these legitimate</p> <p>6 districting considerations, in your mind?</p> <p>7 MR. MEDLOCK: Objection. Vague.</p> <p><b>8 A. Do you mean what is it that makes them</b></p> <p><b>9 legitimate districting considerations?</b></p> <p>10 Q. No. That is why I asked my question</p> <p>11 slightly differently. I did not ask legitimate</p> <p>12 districting consideration. I asked: What are</p> <p>13 districting considerations?</p> <p><b>14 A. All right. What are -- what I'm trying to</b></p> <p><b>15 understand is: Are you asking me what is the</b></p> <p><b>16 source of the legitimacy of legitimate districting</b></p> <p><b>17 considerations?</b></p> <p>18 Q. No. I'm asking you what would be a</p> <p>19 districting consideration as opposed to not a</p> <p>20 districting consideration? Because you had</p> <p>21 responded to me that a legislature considering</p> <p>22 whether to approve or disapprove a plan is not</p>
<p style="text-align: right;">38</p> <p>1 as argumentative.</p> <p>2 Q. I'm just trying to see how I can pose it</p> <p>3 better. If a legislator is contemplating how they</p> <p>4 should vote in approving or disapproving a plan, is</p> <p>5 it legitimate for them to, at the time they make</p> <p>6 their decision, to bear in mind the comments that</p> <p>7 their constituents have made to them about the</p> <p>8 plan?</p> <p><b>9 A. You are asking me now about whether it's</b></p> <p><b>10 legitimate for a legislator to behave in one or</b></p> <p><b>11 another way. This is not about redistricting, is</b></p> <p><b>12 it?</b></p> <p>13 MS. RICE: Yes.</p> <p>14 Q. In -- okay. What do you think a</p> <p>15 districting consideration is? Let's back up.</p> <p><b>16 A. Districting --</b></p> <p>17 MR. MEDLOCK: I'm just going to object as</p> <p>18 asked and answered.</p> <p><b>19 A. Yeah. I think I have. When you asked me</b></p> <p><b>20 what are legitimate districting considerations, I</b></p> <p><b>21 gave you a number of examples. I don't know if I</b></p> <p><b>22 gave you an exhaustive inventory, but that is what</b></p>	<p style="text-align: right;">40</p> <p>1 dealing with whether -- districting considerations.</p> <p>2 So I just don't -- I'm not sure that I understand</p> <p>3 you when you are talking about districting</p> <p>4 considerations. I'm just trying to understand what</p> <p>5 you mean by that term.</p> <p>6 MR. MEDLOCK: Hold on.</p> <p>7 Compound. Mischaracterizes his prior</p> <p>8 testimony.</p> <p>9 Go ahead.</p> <p><b>10 A. Let me -- let me just say what I think is</b></p> <p><b>11 all that I can say in response to what I think that</b></p> <p><b>12 you are asking me. I am not aware of a legitimate</b></p> <p><b>13 districting consideration that applies to me as a</b></p> <p><b>14 demographer drawing a plan that has anything to do</b></p> <p><b>15 with the behavior of an elected official, other</b></p> <p><b>16 than whether that elected official happens to have</b></p> <p><b>17 chosen to remain at his or her residence a block</b></p> <p><b>18 away from another elected official such that the</b></p> <p><b>19 two of them are going to end up in the same</b></p> <p><b>20 district I'm drawing.</b></p> <p>21 Their behavior with respect to how they</p> <p>22 vote or what they do with respect to their</p>

Conducted on June 2, 2017

41	<p>1 constituents has nothing to do -- I don't see any</p> <p>2 connection between that and what I understand in my</p> <p>3 role as a demographer drawing district boundaries</p> <p>4 do.</p> <p>5 <b>Does that clarify what I'm --</b></p> <p>6 MS. RICE: Yes, that does clarify it.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 Q. When you talk about legitimate districting</p> <p>9 considerations in the report, are you talking about</p> <p>10 the legitimate districting considerations that you</p> <p>11 as a demographer could hold while drawing a plan?</p> <p>12 <b>A. I believe that that's a much closer</b></p> <p>13 <b>statement of what I'm trying to say. It is what</b></p> <p>14 <b>people who draw district lines and districting</b></p> <p>15 <b>plans understand to apply to their efforts to draw</b></p> <p>16 <b>those boundaries.</b></p> <p>17 <b>That's why they are called traditional and</b></p> <p>18 <b>legitimate. It's what we all understand when we</b></p> <p>19 <b>draw plans and when we evaluate them in terms of</b></p> <p>20 <b>the legal requirements that apply.</b></p> <p>21 Q. Does that answer presume that a legislator</p> <p>22 is not drawing the plan?</p>	43	<p>1 <b>precise definition of that census place in terms of</b></p> <p>2 <b>census block geography.</b></p> <p>3 Q. Do communities of interest ever change</p> <p>4 over time?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Are recognition of those changes a</p> <p>7 legitimate districting consideration?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Moving down to paragraph 12, on the second</p> <p>10 line -- starting on the second line and going over</p> <p>11 to the third, you mention specifically intended to</p> <p>12 burden the representational rights of Maryland</p> <p>13 republicans.</p> <p>14 Do you see that?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Okay. What do you understand the term</p> <p>17 specifically intended to mean?</p> <p>18 MR. MEDLOCK: I'm just going to object to</p> <p>19 the extent that this is being taken out of context</p> <p>20 from the entire sentence.</p> <p>21 Q. Well, we can read the entire sentence.</p> <p>22 Paragraph 12 says: I have also been asked to</p>
42	<p>1 MR. MEDLOCK: Objection. Vague.</p> <p>2 Mischaracterizes testimony.</p> <p>3 <b>A. It makes no presumption one way or the</b></p> <p>4 <b>other.</b></p> <p>5 Q. Okay. Going back to paragraph 11, the</p> <p>6 fifth line down, sort of halfway through, you</p> <p>7 say -- you mention maintenance of communities of</p> <p>8 interest. Is that right?</p> <p>9 <b>A. Paragraph 11, yeah, last line.</b></p> <p>10 Q. Okay. As you use that term in that</p> <p>11 paragraph, what is a community of interest?</p> <p>12 <b>A. A community of interest, as demographers</b></p> <p>13 <b>operationalize that concept, would be a census</b></p> <p>14 <b>place, and a census place has a very specific</b></p> <p>15 <b>referent in terms of what the Census Bureau</b></p> <p>16 <b>publishes.</b></p> <p>17 Q. Okay. And then what do you understand</p> <p>18 then maintenance of communities of interest to</p> <p>19 mean?</p> <p>20 <b>A. By that, I mean maintaining intact the</b></p> <p>21 <b>entire census place as it is currently bounded by</b></p> <p>22 <b>the Census Bureau, either the city limits or the</b></p>	44	<p>1 determine whether there is subjective demographic</p> <p>2 evidence supporting the conclusion that the</p> <p>3 Maryland General Assembly specifically intended to</p> <p>4 burden the representational rights of Maryland</p> <p>5 republicans because of how they had voted in the</p> <p>6 past and the political party with which they had</p> <p>7 affiliated.</p> <p>8 Did I read that correctly?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. So in that context, what do you understand</p> <p>11 specifically intended to mean?</p> <p>12 MR. MEDLOCK: I'm going to object to the</p> <p>13 extent that it calls for a legal conclusion.</p> <p>14 MS. RICE: I'm not asking for a legal</p> <p>15 conclusion. I'm asking for your understanding of</p> <p>16 what the term specifically intended means.</p> <p>17 MR. MEDLOCK: All right. I will make the</p> <p>18 same objection, though.</p> <p>19 <b>A. All right. I'm going to give you my</b></p> <p>20 <b>layman's understanding of the term here. The issue</b></p> <p>21 <b>in this case is about retaliation. And, again,</b></p> <p>22 <b>my -- my layman's understanding is retaliation, to</b></p>

Conducted on June 2, 2017

<p style="text-align: right;">45</p> <p>1 a lay person, is someone did something to someone  2 else to get back at them -- in this case, to get  3 back at them -- to get back at that person because  4 that person was either registered as a republican  5 or voted for a republican candidate.  6 <b>Retaliation, in the lay understanding that</b>  7 <b>I have, implies -- really requires that there was</b>  8 <b>an intent to do so, that it didn't happen by</b>  9 <b>accident, that one was trying to draw a district so</b>  10 <b>that it, let's say, took account of a river that</b>  11 <b>was running through the middle of some place and</b>  12 <b>inadvertently caused a republican voter's vote to</b>  13 <b>be changed from one that used to be politically</b>  14 <b>effective to one that is completely wasted, that</b>  15 <b>there was -- that there was a conscious intent.</b>  16 <b>I recognize that you can't look inside</b>  17 <b>people's minds and understand what their true</b>  18 <b>intent was. But using the scientific approach that</b>  19 <b>demographers use, which is to formulate a null</b>  20 <b>hypothesis and then subject it to the hard</b>  21 <b>demographic evidence that one has, one can examine</b>  22 <b>a null hypothesis and say is there sufficient --</b></p>	<p style="text-align: right;">47</p> <p>1 <b>been either burdened, compromised or affected --</b>  2 <b>adversely affected.</b>  3 MR. MEDLOCK: I'm just going to amend my  4 objection to include calling for a legal  5 conclusion.  6 But you can continue.  7 Q. How did you come to that understanding?  8 A. <b>I would say it's based on my experience</b>  9 <b>with a number of cases in which there has been --</b>  10 <b>where the representational rights of voters have</b>  11 <b>been affected by the boundaries of districts that</b>  12 <b>have been drawn.</b>  13 Q. Can you name any of those cases?  14 A. <b>No, I can't. I can just say it's based on</b>  15 <b>my experience in innumerable instances where</b>  16 <b>representational rights, which are a function of</b>  17 <b>how many persons there are in a district -- in one</b>  18 <b>district versus another -- representational rights</b>  19 <b>can be inflated or degraded depending on whether --</b>  20 <b>depending on how equal or unequal the total</b>  21 <b>populations are in different districts. So that is</b>  22 <b>kind of a fundamental consideration when one draws</b></p>
<p style="text-align: right;">46</p> <p>1 are there sufficient facts to cause one to reject  2 the null hypothesis and consider the alternative,  3 which is that there was an effect and then to  4 narrow down the plausible explanations for that  5 effect.  6 <b>So I hope that helps you understand kind</b>  7 <b>of the approach that I take as a demographer based</b>  8 <b>on quantitative data.</b>  9 Q. What do you understand burden the  10 representational rights of Maryland republicans to  11 mean?  12 MR. MEDLOCK: I'm going to object to the  13 extent that has been asked and answered.  14 Go ahead.  15 A. <b>Representational rights are the rights, in</b>  16 <b>this case, of a republican to cast a ballot that</b>  17 <b>counts for something politically. When a voter had</b>  18 <b>that right, had a vote that did count for something</b>  19 <b>in a district, and then the district was</b>  20 <b>transformed so that the vote no longer had any</b>  21 <b>significance -- that is to say it was wasted --</b>  22 <b>then that person's representational rights have</b></p>	<p style="text-align: right;">48</p> <p>1 <b>districts.</b>  2 MR. MEDLOCK: Sarah, I don't mean to  3 interrupt your flow. But if you are moving on to  4 another line of questioning, we have been about an  5 hour. Would it be already to stretch our legs?  6 MS. RICE: If we can do one more thing.  7 MR. MEDLOCK: Sure. That is fine.  8 Q. Is making it more likely for a democrat to  9 be elected equivalent to an intent to burden a  10 republican voter's representational rights?  11 MR. MEDLOCK: Objection. Calls for a  12 legal conclusion.  13 A. <b>I do think that is a legal issue. My lay</b>  14 <b>person's understanding is it's not -- it's not --</b>  15 <b>it's not clearly a yes or no answer.</b>  16 MS. RICE: Fair enough. Sure. Let's take  17 a break.  18 (Thereupon, there was a recess taken at  19 10:32 a.m.)  20 (Thereupon, the proceedings were resumed  21 at 10:39 a.m.)  22 BY MS. RICE:</p>

Conducted on June 2, 2017

49	<p>1 Q. The next couple of questions I have are</p> <p>2 just about kind of the structure of your report to</p> <p>3 make sure that I understand.</p> <p>4 <b>A. All right.</b></p> <p>5 Q. So your opinions are set forth on pages 6</p> <p>6 and 7 of your opening report. Is that right?</p> <p>7 <b>A. That's correct.</b></p> <p>8 Q. Is that the only place that your opinions</p> <p>9 are set forth, or are there others?</p> <p>10 <b>A. I say that these are the central core</b></p> <p>11 <b>opinions. There are other observations and factual</b></p> <p>12 <b>statements that are -- you know, that are scattered</b></p> <p>13 <b>throughout the report along with a lot of facts</b></p> <p>14 <b>that I recount which form the basis for my opinion.</b></p> <p>15 <b>So I wouldn't -- I wouldn't say that there</b></p> <p>16 <b>are no opinions expressed beyond page 7, but the</b></p> <p>17 <b>central ones I have tried to highlight in one place</b></p> <p>18 <b>so that they are not missed.</b></p> <p>19 Q. Okay. That is helpful. So what's the</p> <p>20 relation between -- sort of at the end of your</p> <p>21 report, skipping to the end, Part 7, starting on</p> <p>22 page 78, you have a section called conclusions.</p>	51	<p>1 <b>beginning.</b></p> <p>2 Q. Okay. So I'm sorry to skip around. But</p> <p>3 going back to pages 6 and 7, the opinions</p> <p>4 expressed, I think it's in paragraphs 20 and 21, do</p> <p>5 you still hold those opinions today?</p> <p>6 <b>A. Yes, I do.</b></p> <p>7 Q. And then on page 7, moving down, you can</p> <p>8 see you have titled Section 3 Bases For Opinions.</p> <p>9 Is that right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. Do you -- so moving to the other</p> <p>12 sections in your report, Section 4, 5 and 6, do you</p> <p>13 reference any of the material in Section 3 in those</p> <p>14 later sections?</p> <p>15 <b>A. You are saying do I reference -- just</b></p> <p>16 <b>restate the question.</b></p> <p>17 Q. Sure. Do you reference any of the</p> <p>18 materials in Section 3 in the remainder of your</p> <p>19 report outside of Section 3?</p> <p>20 MR. MEDLOCK: Let me just object. Vague</p> <p>21 as to materials.</p> <p>22 MS. RICE: Sure.</p>
50	<p>1 <b>A. Yeah.</b></p> <p>2 Q. And I just want to make sure I understand</p> <p>3 what the relation of the conclusions and the</p> <p>4 opinions are.</p> <p>5 <b>A. Let me just review this quickly, and I</b></p> <p>6 <b>will see if I can give you a specific answer. One</b></p> <p>7 <b>way of distinguishing the opinions at the beginning</b></p> <p>8 <b>and the conclusions that you are referring to --</b></p> <p>9 <b>which I'm trying to figure out where they begin.</b></p> <p>10 MR. MEDLOCK: Right here.</p> <p>11 <b>A. Yeah. The conclusions that begin at</b></p> <p>12 <b>paragraph 164 I would generally characterize as</b></p> <p>13 <b>statements of hard demographic fact that are the</b></p> <p>14 <b>supporting facts from which I derived my opinions</b></p> <p>15 <b>highlighted at the beginning of the report.</b></p> <p>16 <b>Interspersed with the facts are more</b></p> <p>17 <b>specific facets of those conclusions, I guess I</b></p> <p>18 <b>would say. In other words, how the facts relate to</b></p> <p>19 <b>the conclusions so one can see the facts that I</b></p> <p>20 <b>found viewing this from a demographic perspective,</b></p> <p>21 <b>the hard data, and then how those facts led me to</b></p> <p>22 <b>the conclusions and opinions that I state at the</b></p>	52	<p>1 <b>A. I honestly wouldn't know unless I went</b></p> <p>2 <b>through and checked each one. It wouldn't surprise</b></p> <p>3 <b>me if I did.</b></p> <p>4 Q. Let me put it maybe a different way. How</p> <p>5 does the material in Section 3 form a basis for</p> <p>6 your opinion?</p> <p>7 <b>A. Say that again. How is Section 3 --</b></p> <p>8 Q. Sure. So you called it Bases For</p> <p>9 Opinions.</p> <p>10 <b>A. Right.</b></p> <p>11 Q. But I'm just a little bit unclear, because</p> <p>12 I don't understand how Section 3, Bases For</p> <p>13 Opinions, is different from Section 4, 5 and 6.</p> <p>14 That might be a better way to frame that.</p> <p>15 <b>A. Tell me again where Section 4 begins.</b></p> <p>16 MS. RICE: I'm sorry.</p> <p>17 MR. MEDLOCK: There is a table of contents</p> <p>18 at the beginning. That may be more helpful.</p> <p>19 MS. RICE: Yes.</p> <p>20 <b>A. Sorry. All right. The Section 3 entitled</b></p> <p>21 <b>Bases For Opinions is a summary of -- in most</b></p> <p>22 <b>instances, a summary of a broad spectrum of</b></p>

Conducted on June 2, 2017

<p style="text-align: right;">53</p> <p>1 testimony -- deposition testimony and other factors  2 that I used to validate my conclusion based on hard  3 demographic evidence contained in Section 4.  4 In other words, Section 4 is the --  5 Sections 4 and 5 and 6 are the demographic analyses  6 I did. Section 3 summarizes factors that I looked  7 at that validated my conclusion that the only  8 plausible explanation for why the district -- why  9 District 6 was drawn as it was was to retaliate  10 against republican registrants and voters.  11 So Section 3 is a summary of things that  12 validated my conclusion based on hard demographic  13 evidence outlined in Sections 4 through 6. And  14 then in Section 7, I state my conclusions.  15 Q. Did you conduct the analyses in  16 Sections 4, 5 and 6 before you considered the  17 material in Section 3?  18 A. Yes, I did.  19 Q. Okay. Based on the material that you  20 reviewed in preparing your report, do you think  21 that Eric Hawkins drafted the map that would become  22 Maryland's 2011 redistricting plan?</p>	<p style="text-align: right;">55</p> <p>1 it's comparing what was before and what is after  2 and then saying could it have happened perhaps by  3 accident or as an artifact of drawing boundaries to  4 respect other considerations.  5 MS. RICE: Okay.  6 A. So in that sense, it's a professional  7 judgment call based on my own demographic  8 experience in drawing districts.  9 Q. If you constructed your analysis that you  10 set forth here related to census-designated places  11 and it had resulted in an equal number of census  12 places that were split between districts in the  13 prior plan and the current plan, would you have  14 rejected this null hypothesis?  15 MR. MEDLOCK: Objection. Incomplete  16 hypothetical.  17 A. If everything else -- you know, the  18 implicit assumption is that everything else was the  19 same as well. I would not have rejected the null  20 hypothesis based on that single fact that there had  21 been no change in the proportion of places that  22 were split.</p>
<p style="text-align: right;">54</p> <p>1 MR. MEDLOCK: Objection. Calls for  2 speculation.  3 A. I don't remember the individual testimony  4 of every single person that is referenced in the  5 report. I would have to review -- if you can point  6 to where I have mentioned that person, I might or  7 might not be able to answer your question.  8 Q. We will come back to that one. I'm going  9 to return to the reply report for a second on  10 page 11. So I'm looking particularly at paragraph  11 17 where you say: My next step was to formulate  12 the null hypothesis to be challenged by the census  13 place data. The newly configured CD 6 respects  14 existing communities of interest.  15 Is that correct?  16 A. Correct.  17 Q. Okay. I don't see it mentioned here, but  18 did you set a threshold for what evidence would  19 reject your null hypothesis before you performed  20 your analysis?  21 A. There's -- there's no concept of a  22 threshold here. It's not a -- well, it's not --</p>	<p style="text-align: right;">56</p> <p>1 MS. RICE: Okay.  2 A. But that assumes that everything else was  3 equal. In other words, no other factor differed.  4 Q. Did you evaluate -- with respect to the  5 null hypothesis -- I just am trying to understand  6 the structure of your analysis -- did you evaluate  7 any other factors than the number of census-  8 designated places that were split?  9 A. Well, with respect to this specific null  10 hypothesis, which is the newly configured CD 6,  11 respects existing communities of interest. It was  12 clear that I could reject that null hypothesis  13 based on the vastly higher proportion and number of  14 communities that were split.  15 So with respect to that particular null  16 hypothesis, I could say this could not have  17 happened just by accident. It could not have  18 happened -- one could not say we respected existing  19 communities of interest when they weren't split --  20 when they weren't generally split before, but now,  21 in most instances, they are. That null hypothesis  22 is rejected by the data.</p>



Conducted on June 2, 2017

57	<p>1 Q. All right. So what would you have done</p> <p>2 had the data not led you to reject your null</p> <p>3 hypothesis?</p> <p>4 A. I would say I can't confidently conclude</p> <p>5 that existing communities of interest were ignored</p> <p>6 or subordinated to some other purpose. I cannot</p> <p>7 confidently state that whoever drew the boundaries,</p> <p>8 whatever they did for whatever person -- whatever</p> <p>9 purpose, even if they were retaliating, I would</p> <p>10 still have to concede that in whatever they did,</p> <p>11 whatever their motive was, they were respecting</p> <p>12 existing communities of interest had the</p> <p>13 hypothetical you laid out been the case. That is</p> <p>14 to say that there was no evidence that they had</p> <p>15 split more communities of interest than had been</p> <p>16 the case before.</p> <p>17 The concept behind it being that you</p> <p>18 always have to split some of them to make the lines</p> <p>19 fit and to balance other considerations. And if</p> <p>20 you did no more of it than you did before, then you</p> <p>21 can't conclude anything about -- you can't reject</p> <p>22 the null hypothesis. That's the logic of posing</p>	59	<p>1 But the fact that it was split was the predominant</p> <p>2 factor. It was the predominant fact that I noted.</p> <p>3 Q. I --</p> <p>4 A. Because the number of communities whose</p> <p>5 boundaries were not respected for some reason is</p> <p>6 what matters.</p> <p>7 Q. Okay. Did you consider whether those</p> <p>8 splits involved assignment of areas of no</p> <p>9 population to one district or the other?</p> <p>10 A. I did not specifically look to see if the</p> <p>11 splits were unpopulated territory, but I am quite</p> <p>12 confident that that would not account for the</p> <p>13 pattern that I saw. In other words, one could not</p> <p>14 attribute the splits to just carving out pieces of</p> <p>15 unpopulated territory.</p> <p>16 And even if they were unpopulated, that</p> <p>17 still would be violating the criterion that while</p> <p>18 they may not be populated now, they may be -- the</p> <p>19 fact that they are within the census-defined place</p> <p>20 means that they could well be territory in which</p> <p>21 developments are underway -- housing developments,</p> <p>22 cul-de-sacs, housing constructed but not yet</p>
58	<p>1 the null hypothesis and subjecting it to the</p> <p>2 challenge of empirical data.</p> <p>3 MS. RICE: Okay.</p> <p>4 A. And I just want to reiterate that that is</p> <p>5 the standard demographic approach that I use in my</p> <p>6 field using quantitative data, and it's distinct</p> <p>7 from other methodologies that a historian or a</p> <p>8 political scientist might use. Each of us in our</p> <p>9 respective fields has our own accepted scientific</p> <p>10 standards and scientific methods that we use.</p> <p>11 Mine is tailored to quantitative data.</p> <p>12 And no one has challenged the data that I have</p> <p>13 used, and no one has challenged the conclusions</p> <p>14 that I have drawn based on the data, so far as I</p> <p>15 can determine in anything I have read from any of</p> <p>16 the opposing experts.</p> <p>17 Q. Am I right that you only examined whether</p> <p>18 a certain census place was split or whether it was</p> <p>19 not split? Is that --</p> <p>20 A. I observed whether it was split, and if it</p> <p>21 was split, I observed whether most of it was in one</p> <p>22 district or most of it was in the other district.</p>	60	<p>1 occupied by people when this 2010 census was taken.</p> <p>2 So even if they were unpopulated territory, it</p> <p>3 would have no material bearing on my conclusion.</p> <p>4 Q. Okay. When you looked at these splits,</p> <p>5 did you look at any other legal geographic</p> <p>6 boundaries like precinct boundaries?</p> <p>7 A. I don't recall looking at -- I don't</p> <p>8 recall bringing the same frame of reference to bear</p> <p>9 on precinct boundaries. I don't believe I did, no.</p> <p>10 Q. Okay. So my next question is really to</p> <p>11 Part 4 which begins on 57 of your opening report.</p> <p>12 Did you pose a null hypothesis for the analysis</p> <p>13 that was conducted in Part 4?</p> <p>14 A. I have not explicitly stated a null</p> <p>15 hypothesis in my report, but one could view it in</p> <p>16 that framework and say: Could this have come about</p> <p>17 by chance?</p> <p>18 And so if I said: Well, could it simply</p> <p>19 be a chance effect of interchanging 50 percent of</p> <p>20 the population when one only needed to make a net</p> <p>21 adjustment of 5 percent, something in that order?</p> <p>22 Could that have been something that just had to be</p>

Conducted on June 2, 2017

<p style="text-align: center;">61</p> <p>1 done because there were so many rivers and bridges 2 and things in the way that you just couldn't make 3 it fit when all you had to do was -- I can't 4 remember. I think it was just you had to change 5 the population by 2 or 3 percentage points. 6 It's inconceivable that you would have to 7 rearrange 50 percent of the population to achieve 8 that net change. So I would say the implicit null 9 hypothesis would be there was no other way you 10 could have drawn the boundaries to equalize the 11 population. And the answer is it's preposterous 12 given the 20-fold increase in how many people were 13 moved about relative to what you had to accomplish. 14 Based on my experience, I would say it's 15 totally implausible that that null hypothesis could 16 remain intact. It was so obviously rejected by the 17 sheer magnitude of interchange of population. 18 Does that answer your question? I mean, 19 that is the implicit null hypothesis that I would 20 have formulated -- or that I did formulate, but I 21 didn't actually put it in the report. 22 Q. That's my question. Did you formulate a</p>	<p style="text-align: center;">63</p> <p>1 percentage of people -- the people who were in 2 District 6 prior to redistricting and ask the 3 question how many of those people were in that 4 district after the boundaries were redrawn in order 5 to adjust the population of the district so that it 6 equaled the ideal population, the answer is, as I 7 recall -- and these are just round numbers -- 8 something like half of the people who were in the 9 district were no longer in the district. They were 10 in some other district. 11 And yet -- and they had been replaced by 12 an approximately equal number of people from other 13 districts who happened to be predominantly 14 democrats replacing people who were removed who 15 were predominantly republicans. 16 So it's not the same people. Half of the 17 people, roughly speaking, in the new district are 18 different than the people who were there before 19 redistricting. That is what interchange means. 20 Q. Okay. Is it right that interchange is the 21 sum of those moved out plus those who moved in? 22 A. Think of it as empty chairs. Think of it</p>
<p style="text-align: center;">62</p> <p>1 null hypothesis before you conducted your analysis? 2 A. Yes, I did. And I think I have just 3 described for you how that null hypothesis was 4 overwhelmingly rejected by the objective 5 demographic data. 6 Q. Before you conducted your analysis, did 7 you set forth what evidence would reject the null 8 hypothesis? 9 A. Again, that's a judgment call. I looked 10 at the data, and it was clear to me and would be 11 clear to anyone who looked at it that there was no 12 way this could have happened by chance or as an 13 artifact of necessary -- necessary balancing of 14 legitimate redistricting criteria. 15 There weren't factors that made it 16 necessary to draw the boundaries this way such that 17 there was no -- it was unavoidable that you had to 18 rearrange 50 percent of the population. That 19 clearly was not the case. 20 Q. Can you explain what you mean by 21 interchange of population? 22 A. Yes. If you take -- let's just say the</p>	<p style="text-align: center;">64</p> <p>1 as 100 chairs on which -- or 100 houses in which 2 the people in the old district lived. 50 percent 3 of those houses now have occupants who live in some 4 other district, and the people who were former 5 occupants themselves live in houses in other 6 districts. 7 They have changed seats. They have 8 changed places. They have been -- their places 9 have been changed by the conscious decisions made 10 by those who change the boundaries of the district. 11 Q. Did you examine the interchange of 12 population in any district other than the 6th? 13 A. There was no need to. 14 Q. Why not? 15 A. Because I already knew that there was no 16 ripple effect between District 6 and all the other 17 districts. There was a simple ripple effect 18 between District 6 and, I think, the adjoining 19 district, which I can't remember the number of. It 20 may have been District 8. 21 But the analysis by Professor McDonald 22 demonstrated that it would have been possible to</p>

Conducted on June 2, 2017

<p style="text-align: right;">65</p> <p>1 equalize the population of District 6 by simply  2 interchanging residents with one other district  3 neighboring -- adjacent to it and in a way that did  4 not interchange anywhere -- like anywhere as much  5 as 50 percent of the residents.  6 So I knew that there was no need to  7 examine the question was this done because it was  8 the only way to do it or because there had to be a  9 massive interchange of population.  10 Professor McDonald's plan demonstrates  11 that it was totally unnecessary to do what was  12 done, in fact, in drawing the boundaries.  13 Q. Do you believe that Professor McDonald's  14 plan keeps Carroll, Baltimore and Harford Counties  15 in the 6th district?  16 A. The only thing I know about his plan and  17 the only reason that I care about his plan is that  18 it allows me to reject the null hypothesis here  19 unstated in my report, but I will state it here  20 now. The null hypothesis that it was necessary to  21 interchange 50 percent or thereabouts of the  22 residents in order to achieve a balance of</p>	<p style="text-align: right;">67</p> <p>1 Q. Okay. So in the prior map, Carroll,  2 Baltimore and Harford County is -- and the entirety  3 of Frederick County were in Congressional  4 District 6. Is that correct?  5 A. Yeah. Parts of Baltimore, parts of  6 Harford, all of Carroll and all of Frederick.  7 Q. Let's flip to page 60, which is your  8 Figure 2. Now, none of Carroll, Baltimore or  9 Harford Counties are in Congressional District 6,  10 correct?  11 A. I will take your word for it. It's not  12 that easy to tell from the map. But assuming  13 that's true hypothetically, go ahead with your  14 question.  15 Q. So do you not know what counties comprise  16 current Congressional District 6?  17 A. I do, but I can't offhand, you know, tell  18 from this map exactly, you know, what's what. I  19 haven't looked at it in quite a while.  20 And as I say, the only reason that I care  21 about Professor McDonald's plan is that it  22 demonstrates that it would have been feasible to</p>
<p style="text-align: right;">66</p> <p>1 legitimate redistricting criteria.  2 The only thing I cared about in his plan  3 was that he proved that it was possible to do so  4 without interchanging anywhere near as many people.  5 And that's all I know about his plan. I haven't  6 studied it. I don't know anything further about  7 it. And I don't have any reason to care anything  8 further about it, other than it is one basis for  9 rejecting that null hypothesis.  10 Q. If you don't know whether Professor  11 McDonald's plan retained, like the 2002  12 configuration of District 6, Carroll, Baltimore and  13 Harford Counties, how do you know that the  14 interchange, as you calculated it, would not be of  15 the same magnitude?  16 MR. MEDLOCK: Objection. Mischaracterizes  17 testimony.  18 Q. Let's back up. Let's take a look at your  19 Figure 1 that is on page 58.  20 A. All right.  21 Q. And this the prior map. Is that right?  22 A. Correct.</p>	<p style="text-align: right;">68</p> <p>1 draw a legitimate district without interchanging  2 anywhere near as many people was done.  3 Q. How does it demonstrate that?  4 A. By showing there was a plan -- it showed  5 that the hypothetical possibility of such a plan  6 being drawn could, in fact, be realized by what he  7 did. He showed that there was one way to do it.  8 Q. Why do you think Professor McDonald showed  9 that?  10 A. I don't know what he was asked to do. The  11 fact that he showed it was all I needed to know.  12 MS. RICE: Let's take a very quick break.  13 MR. MEDLOCK: Okay.  14 (Thereupon, there was a recess taken at  15 11:11 a.m.)  16 (Whereupon, Morrison Deposition Exhibit  17 192 was marked for identification and attached to  18 the transcript.)  19 (Thereupon, the proceedings were resumed  20 at 11:17 a.m.)  21 BY MS. RICE:  22 Q. Doctor Morrison, have you seen this</p>

69

1 document before?

2 **A. Yes, I have. I didn't read it thoroughly,**

3 **though.**

4 Q. Okay. This is the opening expert report

5 of Professor Michael P. McDonald, right?

6 **A. Yes.**

7 Q. Okay. I think this might give us a little

8 bit clearer map of the current 6th Congressional

9 District. It is on page 20.

10 Does that make it more clear the current

11 Congressional District 6? So parts of Baltimore,

12 Harford Counties are no longer included, and

13 Carroll County is not included?

14 **A. Yes, I see that.**

15 Q. Let's take a look at page 25. Is page 25

16 the alternative plan that you were referencing?

17 **A. Is this -- is Figure 8 showing the plan**

18 **that McDonald created?**

19 MS. RICE: Yes. Well, here it's labeled

20 Alternative 6th Congressional District, and we can

21 look back in this report at page 15.

22 **A. Let me just see.**

70

1 MS. RICE: Paragraph 3.

2 MR. MEDLOCK: Actually, it starts on

3 page 14 and goes over to 15.

4 MS. RICE: Yeah.

5 **A. All right.**

6 Q. Figure 8 -- as described in paragraph 3 on

7 page 15, Figure 8 presents an alternative

8 configuration of the 6th and 8th Congressional

9 District that affects only the boundaries of these

10 two districts?

11 **A. Right.**

12 Q. Did you understand -- what did you

13 understand Professor McDonald to mean when he said

14 that affects only the boundaries of these two

15 districts?

16 **A. Tell me where that is again. Page 15?**

17 MS. RICE: Page 15, the second line of the

18 paragraph -- second full paragraph.

19 **A. Let me just review this. As I say, I just**

20 **scanned it.**

21 Q. Take the time that you need.

22 **A. Your question is: The statement that it**

71

1 **affects only the boundaries of these two districts?**

2 **Is that what you asked me?**

3 MS. RICE: Yes.

4 Q. What do you understand that to mean?

5 **A. What I understand is it means that there**

6 **was a simple interchange of population between**

7 **District 6 and 8 that allowed him to equalize the**

8 **populations as necessary and that it did not have**

9 **any ripple effect to the rest of the plan.**

10 Q. I'm sorry. I just want to make sure

11 that --

12 MR. MEDLOCK: Can you let him finish his

13 answer?

14 MS. RICE: Sure.

15 **A. And that the rebalancing of total**

16 **populations in the two districts, Number 6 and 8,**

17 **could be accomplished by -- in a very**

18 **straightforward fashion that did not cause or did**

19 **not inevitably result in a massive interchange of**

20 **population as is the case in the enacted plan.**

21 Q. When you are talking -- when you were just

22 speaking about Congressional District 6 and 8, were

72

1 you talking about the 2002 Congressional District 6

2 and 8 or the 2011 Congressional District 6 and 8?

3 **A. I guess whatever he refers to in this**

4 **paragraph that begins: Figure 8 represents an**

5 **alternative configuration.**

6 **He is saying there was a way to do this**

7 **that was -- that entailed a far less extreme**

8 **interchange of people in the territory, and that**

9 **only affected those two districts. That's all I**

10 **needed to know.**

11 Q. You didn't find it important whether

12 Professor McDonald was speaking about the 6th and

13 8th Congressional Districts as they existed in 2002

14 or as they existed in 2011?

15 MR. MEDLOCK: Mischaracterizes his

16 testimony.

17 **A. All I said was he said there was a way to**

18 **do it that did not have the collateral damage, as I**

19 **would refer to it, incurred by the enacted plan.**

20 **All I need to know is that he made that statement.**

21 Q. Okay. Let's look at -- back at page 58 of

22 your report and page 25 of Professor McDonald's

Conducted on June 2, 2017

<p style="text-align: right;">73</p> <p>1 report.</p> <p>2 MR. MEDLOCK: When you say your report,</p> <p>3 are you talking about the original report?</p> <p>4 MS. RICE: I'm talking about the original</p> <p>5 opening report.</p> <p>6 <b>A. Okay. What page of my original report?</b></p> <p>7 MS. RICE: Page 58.</p> <p>8 THE WITNESS: All right.</p> <p>9 MS. RICE: It's for Figure 1.</p> <p>10 THE WITNESS: Yep. Okay.</p> <p>11 Q. Does Professor McDonald propose 6th</p> <p>12 District retain the portions of Harford, Baltimore,</p> <p>13 Carroll -- or I'll make it simpler.</p> <p>14 Does Professor McDonald's alternative map</p> <p>15 retain the portions of Harford and Baltimore</p> <p>16 Counties that were present in the 2002</p> <p>17 Congressional District 6 map?</p> <p>18 <b>A. No, it does not.</b></p> <p>19 Q. Okay. And does Professor McDonald's map</p> <p>20 contain the entirety of Carroll County?</p> <p>21 <b>A. No, it does not.</b></p> <p>22 Q. Did you examine any population figures</p>	<p style="text-align: right;">75</p> <p>1 the 6th District in the 2002 congressional plan?</p> <p>2 <b>A. It appears that it was according to</b></p> <p>3 <b>Figure 1 in my report, a tiny portion of it, yes.</b></p> <p>4 Q. When you list the districts included in</p> <p>5 6th District in the 2002 congressional plan, is</p> <p>6 there a reason you do not mention Montgomery</p> <p>7 County?</p> <p>8 <b>A. I don't know that I had any reason to</b></p> <p>9 <b>mention it.</b></p> <p>10 Q. Okay. Do you know if Montgomery --</p> <p>11 MR. MEDLOCK: Let me object to the extent</p> <p>12 it misstates what's in his report.</p> <p>13 Go ahead.</p> <p>14 Q. Do you know if Montgomery County was</p> <p>15 included in the 6th District in any year other than</p> <p>16 2002?</p> <p>17 <b>A. I haven't looked into that. I had no need</b></p> <p>18 <b>to.</b></p> <p>19 Q. Okay. Referring back to Doctor McDonald's</p> <p>20 alternative plan, is Montgomery County included in</p> <p>21 the 6th District in Doctor McDonald's plan?</p> <p>22 <b>A. It appears to be, if I read the plan</b></p>
<p style="text-align: right;">74</p> <p>1 related to Doctor McDonald's alternative plan?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Did you consider the elimination of</p> <p>4 Chesapeake Bay over water crossing between the 2002</p> <p>5 and 2011 redistricting plan when you were looking</p> <p>6 at the interchange of population in District 6?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Did you read the reports of Doctor</p> <p>9 Lichtman and Mr. Cooper? Let me rephrase.</p> <p>10 Did you read the opening expert report of</p> <p>11 Doctor Lichtman?</p> <p>12 <b>A. I recall doing that, yes.</b></p> <p>13 Q. Did you look at Mr. Cooper's report?</p> <p>14 <b>A. I looked at it just briefly, yes.</b></p> <p>15 Q. Okay. Did you consider the information</p> <p>16 about the population that was eliminated from the</p> <p>17 Anne Arundel County portion of District 1 in those</p> <p>18 two reports?</p> <p>19 <b>A. I had no need to take that into account --</b></p> <p>20 MS. RICE: Okay.</p> <p>21 <b>A. -- based on the facts that I had.</b></p> <p>22 Q. Okay. Was Montgomery County included in</p>	<p style="text-align: right;">76</p> <p>1 <b>correctly, yes.</b></p> <p>2 Q. Do you know if Frederick and Carroll</p> <p>3 Counties voted the same way on same sex marriage in</p> <p>4 2012?</p> <p>5 <b>A. I do not know.</b></p> <p>6 Q. What about expansion of gaming?</p> <p>7 <b>A. I do not know.</b></p> <p>8 Q. Turning to page 69, did you create any</p> <p>9 kind of experimental design or framework for your</p> <p>10 analysis in Part 6?</p> <p>11 MR. MEDLOCK: I'm going to object as</p> <p>12 vague.</p> <p>13 <b>A. Could you tell me what you mean by</b></p> <p>14 <b>framework?</b></p> <p>15 Q. Sure. Let's make it more particular.</p> <p>16 Did you formulate, prior to conducting</p> <p>17 your analysis, a null hypothesis related to your</p> <p>18 analysis in Part 6?</p> <p>19 <b>A. Yes. I have not stated explicitly the</b></p> <p>20 <b>null hypothesis every time I formulated it, but I</b></p> <p>21 <b>used the same null hypothesis framework that I</b></p> <p>22 <b>described earlier in this instance.</b></p>

Conducted on June 2, 2017

77

1 Q. And in this instance, did you, before  
 2 conducting the analysis, set forth the evidence  
 3 that would be required to reject the null  
 4 hypothesis?  
 5 MR. MEDLOCK: I'm going to object as vague  
 6 as well.  
 7 **A. I used the null hypothesis framework to**  
 8 **establish a null hypothesis and then subject it to**  
 9 **actual empirical data. And based on the data, I**  
 10 **evaluated the null hypothesis.**  
 11 Q. Did you set a threshold for rejection of  
 12 the null hypothesis?  
 13 **A. Once again, there is no specific**  
 14 **threshold. It's a judgment call based on my**  
 15 **experience in redistricting, applying demographic**  
 16 **concepts and understanding the -- when you get**  
 17 **outside the bounds of what is plausibly chance**  
 18 **or -- it is a judgment call.**  
 19 Q. Let's turn to Table 4 for a second.  
 20 MR. MEDLOCK: Page 75 of your report?  
 21 MS. RICE: Yes.  
 22 Q. Do you find the difference in farms per

78

1 thousand residents of .3 farms per thousand  
 2 residents to be significant?  
 3 MR. MEDLOCK: Objection. Vague.  
 4 **A. You say a difference of 0.3? Is that what**  
 5 **you --**  
 6 MS. RICE: Yes.  
 7 **A. Where is that number, farms per thousand?**  
 8 Q. Looking in the column farms per  
 9 thousand --  
 10 **A. Yes.**  
 11 Q. -- Montgomery County has .5, correct?  
 12 **A. Correct.**  
 13 Q. Baltimore County has .8, correct?  
 14 **A. Correct. And you are asking me just**  
 15 **comparing Baltimore County alone with Montgomery**  
 16 **County, 0.5, 0.8, I would characterize that as an**  
 17 **unremarkable difference.**  
 18 MS. RICE: Okay.  
 19 **A. But the purpose of the table was to**  
 20 **compare the median of all counties, 0.5 with 5.5,**  
 21 **which I would regard as definitely remarkable.**  
 22 Q. How did you choose a median as an

79

1 appropriate basis for comparison?  
 2 **A. Based on my statistical understanding of**  
 3 **the appropriate metric to use.**  
 4 Q. What is your statistical understanding of  
 5 the appropriate metric to use?  
 6 **A. My understanding is that the mid point**  
 7 **would be the preferable measure here, rather than**  
 8 **the arithmetic mean.**  
 9 Q. Why?  
 10 **A. Because it gives you a more representative**  
 11 **metric and is not heavily influenced by one**  
 12 **extreme, such as in the column you are referring to**  
 13 **here, Garrett with 22.3. In comparisons involving**  
 14 **these numbers under the heading farms per thousand**  
 15 **residents, it's my professional judgment that the**  
 16 **median is a preferable measure than the arithmetic**  
 17 **mean.**  
 18 Q. Is that true for all of the columns in the  
 19 table?  
 20 **A. Not necessarily.**  
 21 Q. For which columns would a different  
 22 comparator be more appropriate?

80

1 **A. I don't think that there is any column in**  
 2 **which the arithmetic mean would be preferable to**  
 3 **the median. In data such as these, I would -- I**  
 4 **would prefer to use the median as the metric**  
 5 **because it is not heavily influenced by one extreme**  
 6 **value.**  
 7 **I don't see any extreme values here except**  
 8 **in the farms per -- well, the density, the column**  
 9 **to the left, also has an extreme, which is 13.59 at**  
 10 **one extreme and 47 at the other. So the median is**  
 11 **kind of the default measure that I would choose**  
 12 **unless there was a basis for favoring some other**  
 13 **measure.**  
 14 Q. Did you make any statistical analysis of  
 15 significance when making comparisons in this  
 16 report?  
 17 **A. There is no need to do a test of the**  
 18 **statistical significance of differences. This is**  
 19 **simply a pattern that one looks at, and the pattern**  
 20 **here is quite clear. One doesn't need to test**  
 21 **whether these are random fluctuations that could be**  
 22 **attributed to statistical variance alone.**

Conducted on June 2, 2017

81	<p>1 Q. Turning to paragraph 155, I want to turn</p> <p>2 your attention to the first sentence which states:</p> <p>3 Reconfigured 113th CD 6 switched out many of these</p> <p>4 small-town native-born Marylanders and replaced</p> <p>5 them with outsiders with more varied and dissimilar</p> <p>6 interests.</p> <p>7 What's the basis for your statement that</p> <p>8 outsiders have more varied and dissimilar</p> <p>9 interests?</p> <p>10 <b>A. I looked at the composition of outsiders.</b></p> <p>11 <b>Some of them are people who moved into Maryland</b></p> <p>12 <b>from other places who bring with them a more varied</b></p> <p>13 <b>set of background. Some of them are foreign-born</b></p> <p>14 <b>persons who come from other cultures, other</b></p> <p>15 <b>countries.</b></p> <p>16 <b>And it stands to reason that the more</b></p> <p>17 <b>homogenous small-town native-born Maryland</b></p> <p>18 <b>population is more homogeneous and less varied than</b></p> <p>19 <b>outsiders who join them in the sense that, if you</b></p> <p>20 <b>take the former category, small-town native-born</b></p> <p>21 <b>Marylanders, and imagine sprinkling into that</b></p> <p>22 <b>population a cross section of people from the</b></p>	83	<p>1 I was looking for what kinds of things would they</p> <p>2 have in common --</p> <p>3 MR. MEDLOCK: Objection asked and</p> <p>4 answered.</p> <p>5 Q. -- or not have in common?</p> <p>6 <b>A. I think I mentioned income, occupation,</b></p> <p>7 <b>stake in the status quo, interest in change,</b></p> <p>8 <b>possibly political predispositions.</b></p> <p>9 <b>I'm sure a political scientist could --</b></p> <p>10 <b>would have the expertise and insight to offer a</b></p> <p>11 <b>more thorough answer. But I'm looking at it purely</b></p> <p>12 <b>from my experience as an applied demographer.</b></p> <p>13 Q. Okay. Please turn to page 77. In</p> <p>14 paragraphs 160 through 163, I think --</p> <p>15 MR. MEDLOCK: I don't think that is 77.</p> <p>16 It's pages 77 through 78?</p> <p>17 MS. RICE: Yes. Pages 77 through 78.</p> <p>18 Q. Am I right that you, in these paragraphs,</p> <p>19 calculate the dissimilarity index -- or index of</p> <p>20 dissimilarity, I guess, which you abbreviate DI,</p> <p>21 for native-born and foreign-born Maryland? Let me</p> <p>22 rephrase the question.</p>
82	<p>1 <b>United States and abroad, it stands to reason that</b></p> <p>2 <b>the latter will be more varied and dissimilar than</b></p> <p>3 <b>the former.</b></p> <p>4 Q. What kind of interests are you talking</p> <p>5 about here?</p> <p>6 <b>A. You would have to ask a political</b></p> <p>7 <b>scientist about that. But I know, just from a lay</b></p> <p>8 <b>standpoint, that demographically when you take a</b></p> <p>9 <b>cross section of the American population and</b></p> <p>10 <b>compare it with -- or a cross section -- yes, a</b></p> <p>11 <b>cross section of the American population, including</b></p> <p>12 <b>those who are foreign-born residents of the United</b></p> <p>13 <b>States and compare its attributes and interests,</b></p> <p>14 <b>occupations, income levels, stakes in the</b></p> <p>15 <b>status quo versus stakes in change with the</b></p> <p>16 <b>population that I have described as native-born</b></p> <p>17 <b>small-town Marylanders, I know from my own</b></p> <p>18 <b>experience comparing those populations in any</b></p> <p>19 <b>setting, that they would have -- they would have</b></p> <p>20 <b>less in common than the small-town native-born</b></p> <p>21 <b>Marylanders themselves would have with each other.</b></p> <p>22 Q. I don't think that answered my question.</p>	84	<p>1 What are the two groups that you are</p> <p>2 comparing in your calculation of dissimilarity</p> <p>3 index in these paragraphs?</p> <p>4 MR. MEDLOCK: Objection. Mischaracterizes</p> <p>5 the report.</p> <p>6 <b>A. Let me just review it here. I have</b></p> <p>7 <b>referred to native-born Marylanders compared with</b></p> <p>8 <b>everyone else in the population. That would be</b></p> <p>9 <b>anyone who was not a native-born Marylander, which</b></p> <p>10 <b>means they could be born -- they would be born</b></p> <p>11 <b>somewhere other than Maryland. And I have used the</b></p> <p>12 <b>term outsider just to capture that concept.</b></p> <p>13 Q. Okay. So that term includes those who</p> <p>14 were born both outside of the United States and</p> <p>15 outside of Maryland but within the United States?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. Okay. Do you know of any other instances</p> <p>18 in the literature where the dissimilarity index is</p> <p>19 calculated for groups that are not racial groups?</p> <p>20 <b>A. I know I have used it in other contexts.</b></p> <p>21 <b>It's a very general measure that is useful for</b></p> <p>22 <b>comparing any category of the population. It's</b></p>

Conducted on June 2, 2017

<p style="text-align: right;">85</p> <p>1 most widely used to be a measure of racial 2 segregation or separation, but it's perfectly 3 applicable to any two groups of the population. 4 It's just that the most common application is race 5 or ethnicity. 6 Q. Do you know what the typical metric for 7 value for the dissimilarity index is in other 8 geographic regions of Maryland? 9 A. No. I haven't calculated it for any other 10 regions. All I needed to know was that it was one 11 value before redistricting, and it was a higher -- 12 a noticeably higher value after redistricting. 13 That's all that mattered to me. 14 Q. Before you calculated those two values, 15 did you set a change that would be a cause for 16 concern? 17 A. No. But, again, this is a judgment call. 18 I would say that if it had gone from 21.0 to 21.2, 19 I would have regarded that as unremarkable. Going 20 from 21.0 to 29.3 is, without question, remarkable 21 and meaningful, particularly since it is a change 22 that occurred, one could say, instantaneously when</p>	<p style="text-align: right;">87</p> <p>1 than a racial comparison. 2 MS. RICE: Okay. 3 A. But my sense -- my sense is that in a 4 racial context, you would not see a change of this 5 magnitude in a year or two, unless there was a 6 wholesale white flight from an area in which blacks 7 had begun to settle. That would be a pronounced, I 8 would call it, massive turnover of people coming in 9 and other people leaving over a short period of a 10 year or two. 11 This is the kind of change that one 12 observes over periods of time on the order of a 13 decade or two in a racial context. And that's 14 the -- kind of the benchmark that I used to say you 15 don't see something -- you don't see a change this 16 big just because a few people change residence. 17 This was a de facto administrative change 18 of residence brought about by a realignment of 19 boundaries that was remarkable for the amount of 20 change that it produced by administrative fiat. 21 That is the purpose of the comparison. It is a 22 remarkable change that occurred instantaneously</p>
<p style="text-align: right;">86</p> <p>1 the districts -- when the new districts were 2 enacted. 3 The day before they were enacted, it was 4 21. The day after they were enacted, it was 29.3. 5 That kind of change in applications that I have 6 seen elsewhere would take a decade or more to occur 7 in a racial context where you were comparing the 8 racial separation of blacks and whites, let's say, 9 just as a benchmark for comparison. 10 So it is without question a remarkable and 11 decidedly instantaneous change that has -- that has 12 significance for me in weighing the facts that I 13 have been looking at. 14 Q. I just want to make sure I understood the 15 answer. You referenced examples where it would 16 take a decade or more. And then you said: For 17 instance, in the case of race. 18 Can you think of an example that was not 19 in the case of race where such a change took a 20 decade or more? 21 A. I have never seen -- I have never seen 22 that kind of comparison set up in anything other</p>	<p style="text-align: right;">88</p> <p>1 when the new lines were enacted. 2 When I say remarkable, I mean it's a 3 noteworthy change and one of the facts that I took 4 into consideration in forming my opinion. 5 Q. Let's go to the data that you used to 6 calculate the dissimilarity index. Are the 7 percentage of Maryland-born and, let's just say, 8 non-Maryland-born taken from the 2010 census data? 9 A. Yes. That's my recollection. 10 Q. Okay. The next set of questions are going 11 to relate to Part 3. So we can turn to the 12 beginning of that, which is -- 13 MR. MEDLOCK: I just have a quick 14 question. We are coming up on noon. I don't know 15 how long these questions are going to be. Do you 16 want to break for lunch? Do you want to go 17 through? It's up to the witness. 18 THE WITNESS: I'm fine to keep going. 19 MS. RICE: Let's go a little bit longer, 20 and you let me know when you get hungry. 21 THE WITNESS: All right. It's going to be 22 a while.</p>



Conducted on June 2, 2017

89	<p>1 MS. RICE: Okay. You let me know, too.</p> <p>2 MR. MEDLOCK: That's fine. I'm trying to</p> <p>3 be --</p> <p>4 THE WITNESS: You don't count for lunch.</p> <p>5 MR. MEDLOCK: I don't count for a great</p> <p>6 deal.</p> <p>7 BY MS. RICE:</p> <p>8 Q. Do you know how the 1966 Maryland</p> <p>9 congressional map was drawn?</p> <p>10 <b>A. The 19 --</b></p> <p>11 MS. RICE: -- 66.</p> <p>12 <b>A. No, I don't.</b></p> <p>13 Q. Turning to page 10, paragraph 27, you</p> <p>14 state that the residents of the five northwestern</p> <p>15 counties have well-established conservative</p> <p>16 political views, correct?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. There is no citation on that sentence.</p> <p>19 What's the basis for your statement?</p> <p>20 <b>A. I think it would follow from the</b></p> <p>21 <b>subsequent words that say: For example, from 1961</b></p> <p>22 <b>through 2013, then the recounts individuals who</b></p>	91	<p>1 Q. Is Beverly Byron a conservative democrat?</p> <p>2 MR. MEDLOCK: I'm going to object. It</p> <p>3 mischaracterizes the report to the extent you are</p> <p>4 calling that an opinion.</p> <p>5 Q. Sure. Your statement that Beverly Byron</p> <p>6 is a conservative democrat, what is the basis for</p> <p>7 that opinion?</p> <p>8 <b>A. I see footnote 12, joint stipulation, and</b></p> <p>9 <b>I also see a deposition transcript footnoted. That</b></p> <p>10 <b>would be the basis.</b></p> <p>11 Q. Okay. What does it mean to be a</p> <p>12 conservative democrat?</p> <p>13 <b>A. I would use -- I would say it's used in</b></p> <p>14 <b>the layman's term -- layman's understanding of the</b></p> <p>15 <b>term. That is to say generally voting to keep</b></p> <p>16 <b>things the same rather than to change them. That</b></p> <p>17 <b>would be kind of the lay -- the simple lay person's</b></p> <p>18 <b>understanding of that term.</b></p> <p>19 Q. Is it unusual for a congressional</p> <p>20 delegation to provide draft maps in congressional</p> <p>21 redistricting?</p> <p>22 MR. MEDLOCK: Objection. Calls for</p>
90	<p>1 <b>were elected.</b></p> <p>2 Q. Is there any basis not in the remainder of</p> <p>3 that paragraph for your statement -- you have for</p> <p>4 your statement?</p> <p>5 <b>A. I'm sorry? Is there what?</b></p> <p>6 Q. Sorry. Do you have any basis for your</p> <p>7 statement that is not set forth in the remainder of</p> <p>8 that paragraph?</p> <p>9 <b>A. I don't believe I do, no.</b></p> <p>10 Q. What do you mean by conservative political</p> <p>11 views?</p> <p>12 <b>A. A layman's understanding of the term.</b></p> <p>13 Q. Have you made any assessment of John</p> <p>14 Delaney's political views?</p> <p>15 <b>A. No, I have not.</b></p> <p>16 Q. What is the basis for your opinion that --</p> <p>17 and this is expressed in the -- one, two, three,</p> <p>18 four -- it's like seven lines -- or the second</p> <p>19 to -- counting upwards from --</p> <p>20 <b>A. Paragraph 27, you mean?</b></p> <p>21 MS. RICE: Yes, paragraph -- the -- on --</p> <p>22 just one -- just one line up.</p>	92	<p>1 speculation.</p> <p>2 <b>A. I don't really have any direct knowledge</b></p> <p>3 <b>about that.</b></p> <p>4 Q. Do you know if it's unusual for law makers</p> <p>5 to employ consulting groups during redistricting?</p> <p>6 MR. MEDLOCK: Same objection. Calls for</p> <p>7 speculation.</p> <p>8 <b>A. I don't know.</b></p> <p>9 (Whereupon, Morrison Deposition Exhibit</p> <p>10 193 was marked for identification and attached to</p> <p>11 the transcript.)</p> <p>12 MR. MEDLOCK: Is there a particular page</p> <p>13 you would like him to focus on?</p> <p>14 MS. RICE: No.</p> <p>15 MR. MEDLOCK: Take your time and review</p> <p>16 it.</p> <p>17 MS. RICE: Yeah. You can look through it.</p> <p>18 MR. MEDLOCK: When you turn it through,</p> <p>19 some of these are upside down.</p> <p>20 MS. RICE: Yeah. I'm sorry. We were</p> <p>21 mandated by executive order to preserve trees when</p> <p>22 possible.</p>

Conducted on June 2, 2017

93

1 THE WITNESS: Okay. I went through all of  
 2 them.  
 3 BY MS. RICE:  
 4 Q. Have you seen this document before?  
 5 A. **No, I haven't.**  
 6 Q. Would you turn to page 20 of your report?  
 7 A. **Sure. All right.**  
 8 Q. I'm looking at footnote 65 after the  
 9 semicolon.  
 10 A. **Yeah.**  
 11 Q. Do you see where it says HOY 000001?  
 12 MR. MEDLOCK: Where are you, actually?  
 13 Sorry.  
 14 MS. RICE: Sorry. Page 20. Footnote 65.  
 15 There's two citations, and this is the third one.  
 16 So it's after the semicolon.  
 17 MR. MEDLOCK: Got it.  
 18 A. **Okay. Yeah. I see. The one in the**  
 19 **second line all the way to the right?**  
 20 MS. RICE: Correct.  
 21 A. **All right.**  
 22 Q. Can you look at --

94

1 A. **Do you want me to look at --**  
 2 MS. RICE: On the front of Exhibit 193.  
 3 A. **I see. I got you.**  
 4 MS. RICE: -- there's a number.  
 5 A. **You want me to look at that. This is the**  
 6 **document that is being referenced there, right?**  
 7 MS. RICE: Yes. That was my question.  
 8 Q. Is this the document that is being  
 9 referenced there?  
 10 A. **Yes.**  
 11 Q. Okay. Does that change your answer about  
 12 whether or not you have reviewed this document in  
 13 the past?  
 14 A. **No, it doesn't. I actually was just -- I**  
 15 **wanted to have the citation to the information from**  
 16 **the mapmaking consultant, and that citation**  
 17 **referenced all of these documents. But I have not**  
 18 **really -- I think I have them, but I haven't really**  
 19 **looked through them. I just wanted to know that**  
 20 **they were referenced properly.**  
 21 **And I don't really know what all the**  
 22 **columns refer to. I mean, the only thing that is**

95

1 **clear to me is that these are a bunch of different**  
 2 **plans that were considered and put forth during the**  
 3 **redistricting process.**  
 4 **But all I know is that -- what is said**  
 5 **here in footnote 65, and the reference to that is**  
 6 **that in paragraph 45 I have stated that in March**  
 7 **2011 -- et cetera, et cetera, et cetera -- a**  
 8 **mapmaking consultant from NCEC Services -- they had**  
 9 **a closed-door meeting. And my understanding is**  
 10 **that this is simply backing up that statement in my**  
 11 **report.**  
 12 Q. How did you come to that understanding?  
 13 A. **This was all information that was the -- a**  
 14 **recounting of what had happened that was furnished**  
 15 **to me as background information on how the**  
 16 **redistricting process had unfolded when I asked --**  
 17 **you know, I would like to understand more about**  
 18 **what the -- what happened during the process. And**  
 19 **these statements encapsulate my understanding of**  
 20 **what happened during the process of formulating**  
 21 **alternative plans and their being considered by the**  
 22 **various actors in the process.**

96

1 **I have simply documented that, you know,**  
 2 **as part of the factual basis of my understanding of**  
 3 **what went on.**  
 4 Q. Who provided you with that?  
 5 A. **Mayer Brown.**  
 6 Q. And did you write paragraph 45?  
 7 A. **I believe I picked it up from a factual**  
 8 **summary of events. And I said: I want to include**  
 9 **this as a statement with the appropriate footnotes**  
 10 **to say that -- who it was that made the maps.**  
 11 **And the fact that was presented to me was**  
 12 **that all congressional staff were barred from**  
 13 **attending the meeting, and the senior staffers who**  
 14 **were aware of the meeting discussed it via their**  
 15 **personal e-mail accounts. That was represented to**  
 16 **me as truthful.**  
 17 Q. Okay. Can you -- is that true in the  
 18 other paragraphs? In Part 3 of your report?  
 19 A. **It's true of some of the other paragraphs.**  
 20 **I wouldn't say it's true of all of them.**  
 21 MS. RICE: Sure.  
 22 A. **Let me just see which is Part 3. I would**

Conducted on June 2, 2017

97	<p>1 say that many of the details of what went on are</p> <p>2 details that were furnished to me, and my</p> <p>3 understanding is that they are statements that are</p> <p>4 supported by facts that were either agreed to by</p> <p>5 Plaintiffs and Defendants or are facts that derive</p> <p>6 from deposition testimonies.</p> <p>7 I haven't kept track of each and every</p> <p>8 footnote, but it's my understanding that the</p> <p>9 footnotes document the sources of all the</p> <p>10 information.</p> <p>11 Q. Okay. I just want to understand how much</p> <p>12 of Part 3 this method applies to. Let's just start</p> <p>13 Section B. It's on page 14, paragraph 33.</p> <p>14 A. Sure.</p> <p>15 Q. Are paragraphs -- is paragraph 33 derived</p> <p>16 from the factual -- the summary of facts that you</p> <p>17 received from Mayer Brown?</p> <p>18 A. I believe it was, yes; although I -- I</p> <p>19 mean, I knew it beforehand, but I believe they told</p> <p>20 me that. And it was a concise statement of what I</p> <p>21 already knew. So I included it as paragraph 33,</p> <p>22 and I footnoted it because it was a joint</p>	99	<p>1 Q. Can you provide us with a copy of that</p> <p>2 document?</p> <p>3 MR. MEDLOCK: I'm going to object to that</p> <p>4 as it is privileged and also our work product.</p> <p>5 MS. RICE: Not privileged insofar as it</p> <p>6 forms the bases of his report.</p> <p>7 MR. MEDLOCK: I will again make that</p> <p>8 objection. The -- what I would like to point out</p> <p>9 here is that he has stated that it's something you</p> <p>10 are mischaracterizing about the bases of his</p> <p>11 report.</p> <p>12 What he said is he used demographic data</p> <p>13 to prove or disprove a null hypothesis, and then he</p> <p>14 used this information to verify that. He is not</p> <p>15 saying this is the basis for the demographic</p> <p>16 opinions that are in his report.</p> <p>17 (Thereupon, Ms. Katz left the conference</p> <p>18 room.)</p> <p>19 Q. Let me back up, Doctor Morrison.</p> <p>20 A. All right.</p> <p>21 Q. Do you rely on the information in Part 3</p> <p>22 to form the opinions that you have expressed both</p>
98	<p>1 stipulation.</p> <p>2 Q. Did you independently examine the</p> <p>3 documents?</p> <p>4 A. You mean the joint stipulation?</p> <p>5 MS. RICE: Correct. In that case.</p> <p>6 A. I don't know that I -- I know that I</p> <p>7 have -- I know that I have the joint stipulation on</p> <p>8 my hard drive, and I know I glanced through it. I</p> <p>9 don't know that I verified every single footnote.</p> <p>10 It referenced the joint stipulation, and I</p> <p>11 don't think that I referenced the joint stipulation</p> <p>12 myself. I think that was cited as the source, and</p> <p>13 I took it as a truthful citation.</p> <p>14 Q. Did you make an independent investigation</p> <p>15 of the facts that were provided to you?</p> <p>16 A. I -- not in every case. And I didn't feel</p> <p>17 it was necessary to because it was being furnished</p> <p>18 to me on the basis of my request of I want to have</p> <p>19 an objective recounting of what is factually true</p> <p>20 about what happened and what the sources of that</p> <p>21 information were. That was furnished to me, and I</p> <p>22 used it.</p>	100	<p>1 in your opening expert report and in your reply</p> <p>2 expert report?</p> <p>3 A. I do not rely on it. I only use it to</p> <p>4 validate independently the opinions that I formed</p> <p>5 based on hard demographic data.</p> <p>6 (Thereupon, Ms. Katz re-entered the</p> <p>7 conference room.)</p> <p>8 Q. Can you explain to me how you can use</p> <p>9 information to validate something without relying</p> <p>10 upon it?</p> <p>11 MR. MEDLOCK: I object as vague.</p> <p>12 A. I can only say that the numerous specific</p> <p>13 statements that are contained in -- specific things</p> <p>14 that are footnoted in the section we are discussing</p> <p>15 here, which is information which is -- are facts</p> <p>16 that lie outside of what I call hard demographic</p> <p>17 facts, numbers.</p> <p>18 This information is corroborating the</p> <p>19 conclusions that I drew from my demographic</p> <p>20 analysis. It is -- it is offering insight into</p> <p>21 what people were doing and what they appeared --</p> <p>22 what appeared to be motivating them. And I saw</p>

Conducted on June 2, 2017

<p style="text-align: right;">101</p> <p>1 <b>nothing in what appeared to be motivating them that</b>                  2 <b>would cause me to doubt or would cast doubt on the</b>                  3 <b>conclusions that I have drawn based on the</b>                  4 <b>demographic information alone, which was the basis</b>                  5 <b>for my conclusions.</b>                  6 <b>Does that answer your question?</b>                  7 Q. If you were to find that the information                  8 provided by Mayer Brown and contained -- was false,                  9 would it change the -- could it change the opinions                  10 expressed in your opening and reply reports?                  11 A. <b>You would have to tell me what you mean by</b>                  12 <b>false. If you mean if I -- if I found that it was</b>                  13 <b>all fabricated and that none of it actually</b>                  14 <b>existed, it would not change my opinion. It would</b>                  15 <b>simply not have strengthened my confidence in the</b>                  16 <b>opinion based on the demographic data.</b>                  17 Q. But taking it as true, your opinion was                  18 strengthened by the summary that was provided to                  19 you by Mayer Brown?                  20 A. <b>I wouldn't say it was strengthened. I</b>                  21 <b>would say it corroborated independently the opinion</b>                  22 <b>that I have formed, which is there was no plausible</b></p>	<p style="text-align: right;">103</p> <p>1 MS. RICE: Okay. Steve, I would therefore                  2 refer you to Rule 26(4)(C)(2): Regardless of the                  3 form of the communications, except to the extent                  4 that the communications -- (ii) identify facts or                  5 data that the party's attorney provided and that                  6 the expert considered in forming the opinions to be                  7 expressed.                  8 MR. MEDLOCK: Yes. And I think he has                  9 been quite clear that he did not consider them in                  10 forming the opinions. He referred to it as                  11 independent corroboration. It's something that we                  12 will, if you want to give us further correspondence                  13 on this, give us some case law besides the rule                  14 itself, will consider it.                  15 But based solely on his testimony and the                  16 rule that you have cited, I can't agree to produce                  17 anything.                  18 MS. RICE: Okay.                  19 BY MS. RICE:                  20 Q. Let's get back to page 20. Let's look at                  21 Exhibit 193. Do you know who generated this                  22 spreadsheet?</p>
<p style="text-align: right;">102</p> <p>1 <b>explanation for the intent other than retaliation,</b>                  2 <b>as I tried to define it, which is getting back at</b>                  3 <b>someone -- someone getting back at someone else for</b>                  4 <b>how they voted.</b>                  5 Q. And that corroboration was important                  6 enough to you that you included that information in                  7 your report?                  8 MR. MEDLOCK: Objection. Asked and                  9 answered.                  10 A. <b>I think that goes without saying. I would</b>                  11 <b>not have included it if I didn't think it was</b>                  12 <b>relevant.</b>                  13 Q. So did you rely on that information,                  14 therefore, in forming your opinions?                  15 A. <b>Not in forming my opinions.</b>                  16 Q. Did you consider these facts when forming                  17 your opinions?                  18 MR. MEDLOCK: Asked and answered.                  19 A. <b>I think I have answered that question. I</b>                  20 <b>formed my opinion, and these facts confirmed my</b>                  21 <b>opinion that there was no plausible explanation</b>                  22 <b>other than retaliation.</b></p>	<p style="text-align: right;">104</p> <p>1 A. <b>Not offhand, no. I guess it was my -- my</b>                  2 <b>understanding or my recollection -- and I may be</b>                  3 <b>wrong here -- is that it was the mapmaker person</b>                  4 <b>referenced in here somewhere, the -- at the outset</b>                  5 <b>I believe there was -- I was trying to see where</b>                  6 <b>that was.</b>                  7 MR. MEDLOCK: Paragraph 45, I think, is                  8 what she is referring to.                  9 A. <b>Oh, all right. Okay. There was a</b>                  10 <b>reference early on. Oh, Eric Hawkins is my -- my</b>                  11 <b>understanding or my recollection is that Eric</b>                  12 <b>Hawkins was the one who would have prepared these</b>                  13 <b>spreadsheets. That's to the best of my</b>                  14 <b>recollection.</b>                  15 Q. Did you read the deposition of                  16 Eric Hawkins?                  17 A. <b>No, I did not.</b>                  18 Q. Let's turn to page 22. Looking at the map                  19 depicted there, do you know when this map was                  20 prepared?                  21 A. <b>Not offhand, no. I would have to read</b>                  22 <b>through the text here.</b></p>

Conducted on June 2, 2017

<p style="text-align: right;">105</p> <p>1 Q. Do you know for what purpose this was 2 prepared?</p> <p>3 <b>A. Yes. It's -- it's -- it's a map that</b> 4 <b>shows basically the concentration of greater or</b> 5 <b>lesser demographic -- greater or lesser democratic</b> 6 <b>performance, which is one of the metrics that</b> 7 <b>political scientists use -- or I guess people who</b> 8 <b>do redistricting use to describe -- you know, it's</b> 9 <b>an objective way of getting at democratic</b> 10 <b>performance.</b></p> <p>11 MS. RICE: I'm sorry to skip around. This 12 is going to be Exhibit 194.</p> <p>13 (Whereupon, Morrison Deposition Exhibit 14 194 was marked for identification and attached to 15 the transcript.)</p> <p>16 Q. In paragraph 46 on page 21 there, you 17 state: During the meeting, members of U.S. 18 Representative Hoyer's office received a printout 19 from NCEC's Services, Inc., that calculated the 20 anticipated state democratic performance and 21 federal democratic performance in each of 22 Maryland's current congressional districts.</p>	<p style="text-align: right;">107</p> <p>1 <b>A. It says it was generated March 3rd, 2011,</b> 2 <b>at the lower left-hand corner.</b></p> <p>3 Q. Okay. How do you know that this printout 4 was given to members of U.S. Representative Hoyer's 5 office?</p> <p>6 <b>A. It says in paragraph 45 on March -- in</b> 7 <b>March 2011, there was a closed-door meeting with</b> 8 <b>Eric Hawkins, the mapmaker. During the meeting,</b> 9 <b>they received a printout which is the referenced</b> 10 <b>printout.</b></p> <p>11 <b>So this is, again, information that was</b> 12 <b>furnished to me which I believed to be truthful,</b> 13 <b>and I have included it in my report as part of my</b> 14 <b>general effort to validate the opinions that I had</b> 15 <b>formed prior to reviewing this material, opinions</b> 16 <b>based on hard demographic data.</b></p> <p>17 <b>Paragraph 45 and 46 pertains to my</b> 18 <b>opinions in that it would appear to validate the</b> 19 <b>conclusions that I had reached before I ever saw</b> 20 <b>this.</b></p> <p>21 Q. Why did you characterize the material in 22 Part 3 as bases of your opinions -- for my</p>
<p style="text-align: right;">106</p> <p>1 Is that right?</p> <p>2 <b>A. That is what it says, yes.</b></p> <p>3 Q. Okay. And then you have a footnote there.</p> <p>4 <b>A. Uh-huh.</b></p> <p>5 Q. And it says: Data HOY 000130. Sorry. 6 Sorry. So 68 says: ID. And if you move back, it 7 says: 67, HOY 000129 through 131.</p> <p>8 <b>A. Correct. I see that.</b></p> <p>9 Q. Okay. Looking at Exhibit 194, do you see 10 on the bottom right-hand corner, if you hold it how 11 it's stapled rather than how it makes sense to hold 12 it, do you see at the bottom corner it says --</p> <p>13 <b>A. Yes. It has it identified as ending in</b> 14 <b>129.</b></p> <p>15 MS. RICE: Okay.</p> <p>16 <b>A. So this is the document that is being</b> 17 <b>referenced in that footnote, yes.</b></p> <p>18 Q. Have you seen this document before?</p> <p>19 <b>A. I don't recall looking through it, but I</b> 20 <b>think I can pretty much understand what it is.</b></p> <p>21 Q. Do you know when this document was 22 generated?</p>	<p style="text-align: right;">108</p> <p>1 opinions -- bases for opinions?</p> <p>2 MR. MEDLOCK: Objection. Objection. 3 Asked and answered.</p> <p>4 <b>A. One could have used other words. It</b> 5 <b>didn't necessarily have to be entitled that. I</b> 6 <b>would say it was an arbitrary choice of words.</b></p> <p>7 MS. RICE: Let's go to page 23. 8 (Whereupon, Morrison Deposition Exhibit 9 195 was marked for identification and attached to 10 the transcript.)</p> <p>11 MR. MEDLOCK: May I have a copy, please? 12 Sorry. I didn't see it.</p> <p>13 Q. In paragraph 50, you state: On May 4th, 14 2011, NCEC Services circulated a spreadsheet that 15 measured federal democratic performance and state 16 democratic performance in each of Maryland's 17 counties.</p> <p>18 Is that right?</p> <p>19 <b>A. Correct. And it references Exhibit 195</b> 20 <b>that you just handed me.</b></p> <p>21 Q. Why do you believe that NCEC Services 22 created this spreadsheet?</p>

Conducted on June 2, 2017

109

1 **A. I can only say that the focus on**  
2 **democratic performance and the note that it was**  
3 **particularly low suggests that there was a concern**  
4 **when this was being considered with -- something to**  
5 **do with changing the effect of a vote cast by**  
6 **republicans or democrats by altering district**  
7 **boundaries.**  
8 **This is just another fact -- another fact**  
9 **that is consistent with the conclusions that I drew**  
10 **based on my demographic evidence.**  
11 Q. That didn't answer my question. My  
12 question was: Why do you state that NCEC Services  
13 circulated this spreadsheet?  
14 MR. MEDLOCK: Asked and answered.  
15 **A. I think I have answered it. Because**  
16 **there -- somebody was concerned about what the**  
17 **democratic performance was. They had an interest**  
18 **in that metric.**  
19 Q. Was this paragraph also taken from the  
20 material from Mayer Brown?  
21 **A. It is -- it was represented to me that**  
22 **this had happened on that date, and I took it to be**

110

1 **truthful given the citations.**  
2 Q. Did you examine this document before I  
3 showed it to you today?  
4 **A. I may have it on my hard drive, but I**  
5 **can't say that I paid any attention to it. All I**  
6 **needed to know was that it was a focus of interest**  
7 **at that meeting.**  
8 Q. Let's turn to paragraph 52. Let me know  
9 when you have reviewed it.  
10 **A. All right. I have reviewed it.**  
11 Q. Do you know what the subject matter of the  
12 meeting between Brian Romick and John Willis was?  
13 **A. No.**  
14 Q. Do you have any assumption about what it  
15 was?  
16 MR. MEDLOCK: Objection. Calls for  
17 speculation.  
18 **A. One can only speculate about that. And I**  
19 **would be going outside my area of expertise as a**  
20 **demographer to speculate on what the motives for**  
21 **the meeting were.**  
22 Q. Was this information also included in the

111

1 facts that you got from Mayer Brown?  
2 **A. Yes.**  
3 MR. MEDLOCK: I object to the statement.  
4 That mischaracterizes the prior testimony regarding  
5 the facts.  
6 Q. Summary of facts that you got from Mayer  
7 Brown.  
8 **A. It's information that I was furnished, and**  
9 **I regard it as factually correct.**  
10 Q. In what form were you furnished this  
11 information?  
12 MR. MEDLOCK: I'm going to object to the  
13 extent that that is getting into communications  
14 between a testifying expert and counsel, and it's  
15 both privileged and is our work product.  
16 Q. Okay. Turn to the next page, paragraph  
17 55.  
18 **A. Page 55?**  
19 MR. MEDLOCK: Paragraph 55.  
20 **A. Oh, okay.**  
21 MS. RICE: Sorry.  
22 Q. First sentence says: Shortly afterwards

112

1 NCEC Services assisted the democratic  
2 representatives of Maryland's delegation to the  
3 U.S. House of Representatives in creating a formal  
4 proposal that was transmitted to the GRAC.  
5 Do you see that?  
6 **A. I see that, yes.**  
7 (Whereupon, Morrison Deposition Exhibit  
8 196 was marked for identification and attached to  
9 the transcript.)  
10 MS. RICE: It's footnote 83.  
11 MR. MEDLOCK: Object as vague.  
12 Q. Footnote 83 follows the sentence I just  
13 read. Is that correct, in paragraph 55?  
14 **A. Yes, it does.**  
15 Q. Footnote 83 references HOY 000004. If you  
16 get Exhibit 193 back out -- you might want to keep  
17 193 handy. I think it comes up a couple of times.  
18 **A. Yeah, that is 193. Okay. That is 004.**  
19 **Okay. Yeah. I'm with you.**  
20 Q. It contains 004?  
21 **A. That's correct. That is at the lower**  
22 **right.**

Conducted on June 2, 2017

<p style="text-align: right;">113</p> <p>1 Q. Okay. And then 196 that I just handed you 2 contains 24 and 25?</p> <p>3 <b>A. Correct.</b></p> <p>4 Q. Why do you think that these two documents 5 were cited in support of your opinion?</p> <p>6 <b>A. I believe, for the same reason that I 7 stated before, that the performance metric for 8 these plans or these plan variants was a matter of 9 concern to people considering the plans.</b></p> <p>10 Q. What's the basis in that sentence for your 11 statement that NCEC Services assisted the 12 democratic members of Maryland's delegation to the 13 U.S. House of Representatives in creating a formal 14 proposal that was transmitted to the GRAC?</p> <p>15 MR. MEDLOCK: Asked and answered.</p> <p>16 <b>A. I think I have answered it. They were 17 being assisted by the mapmaker to form plans that 18 had a focus on something that they were concerned 19 with that had to do with performance.</b></p> <p>20 Q. Who is being assisted.</p> <p>21 <b>A. Whoever was referenced in these 22 paragraphs. Tell me the paragraph you are</b></p>	<p style="text-align: right;">115</p> <p>1 Q. What is the basis of that statement?</p> <p>2 <b>A. That statement was represented to me as 3 truthful by Mayer Brown.</b></p> <p>4 MR. MEDLOCK: How much longer do you have 5 on this line of questioning?</p> <p>6 MS. RICE: I have a bit longer.</p> <p>7 MR. MEDLOCK: I'm just going to make an 8 objection. This is cumulative and asked and 9 answered. He has explained to you the process 10 through which he drafted this portion of the report 11 and what he relied upon and what his purpose is.</p> <p>12 I don't understand what going through 13 every single citation in the report is going to do 14 to change his testimony or to test further than 15 what you have already tested. So I just object to 16 this as cumulative.</p> <p>17 MS. RICE: Sure. I just have a short 18 answer to that. And it is that you have refused to 19 provide us with a copy of the material on which 20 Doctor Morrison relied. And for that reason, we 21 have no way of knowing which assertions were 22 contained in that material and which were not other</p>
<p style="text-align: right;">114</p> <p>1 referring to.</p> <p>2 MS. RICE: 55.</p> <p>3 <b>A. 55. Okay. Which says: Shortly 4 afterward -- let me just read this again. 5 Would you restate your question for me to 6 answer? I have read paragraph 55. I'm ready to 7 answer your question about it.</b></p> <p>8 Q. What is the basis for your statement that 9 a formal proposal -- and it says that there, but 10 for purposes of this question, let's bracket that 11 and call it was -- a formal proposal was 12 transmitted to the GRAC?</p> <p>13 <b>A. My basis for that statement is that 14 Mayer Brown represented to me that that was true.</b></p> <p>15 Q. Okay. Let's now look at paragraph 56. In 16 the first sentence there, it says: Throughout this 17 process staffers to U.S. Representatives Hoyer and 18 Sarbanes funneled maps created by NCEC Services to 19 the GRAC and senior members of Governor O'Malley's 20 administration.</p> <p>21 Did I read that correctly?</p> <p>22 <b>A. Correct.</b></p>	<p style="text-align: right;">116</p> <p>1 than going question by question like this.</p> <p>2 MR. MEDLOCK: Sure. And if I could just 3 respond very quickly, then we can move on. Look, 4 there is nothing unusual with counsel providing 5 information to experts, and you are trying to make 6 this in to something unusual. Experts are 7 entitled --</p> <p>8 MS. RICE: This is now --</p> <p>9 MR. MEDLOCK: -- to get information from 10 their clients and counsel and rely upon that. 11 There is nothing unusual about this. And this is 12 just cumulative questioning.</p> <p>13 MS. RICE: Steve, this is now getting into 14 impermissible speaking objections. But what I 15 would like to say is that we have purposes for 16 doing this in the way we are doing it. We will 17 continue.</p> <p>18 MR. MEDLOCK: It is your examination. 19 That is fine.</p> <p>20 (Whereupon, Morrison Deposition Exhibit 21 197 was marked for identification and attached to 22 the transcript.)</p>

Conducted on June 2, 2017

<p style="text-align: right;">117</p> <p>1 THE WITNESS: Just so I'm clear, 197 is</p> <p>2 the three papers not stapled?</p> <p>3 MS. RICE: Yes. I apologize they are not</p> <p>4 stapled. That would be easier to have this as just</p> <p>5 one exhibit.</p> <p>6 BY MS. RICE:</p> <p>7 Q. Have you seen the documents in Exhibit 197</p> <p>8 before?</p> <p>9 <b>A. I may have, but they all look alike. In</b></p> <p>10 <b>just scanning through them, I can't tell you</b></p> <p>11 <b>whether or not I have actually examined this</b></p> <p>12 <b>particular document. They all have the same</b></p> <p>13 <b>format.</b></p> <p>14 Q. Paragraph 56, you state: Throughout this</p> <p>15 process, staffers to U.S. Representatives Hoyer and</p> <p>16 Sarbanes funneled maps created by NCEC Services to</p> <p>17 GRAC and members of Governor O'Malley's</p> <p>18 administration.</p> <p>19 Is that right?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. What do you mean there by throughout this</p> <p>22 process?</p>	<p style="text-align: right;">119</p> <p>1 understand that to mean any particular date range</p> <p>2 or period of time?</p> <p>3 <b>A. I don't understand it -- to me, the date</b></p> <p>4 <b>range and the elapsed time are less interesting</b></p> <p>5 <b>than the sequence of considering one variant after</b></p> <p>6 <b>another after another that suggests that there was</b></p> <p>7 <b>something going on other than addressing what I</b></p> <p>8 <b>would regard as traditional redistricting criteria.</b></p> <p>9 <b>There was something political going on.</b></p> <p>10 Q. Sure. But when would that sequence occur?</p> <p>11 <b>A. I -- I don't really know exactly. I</b></p> <p>12 <b>would -- I would guess it would be tied to some of</b></p> <p>13 <b>the dates on some of these spreadsheets, which I</b></p> <p>14 <b>haven't really examined. I mean, they do carry</b></p> <p>15 <b>dates on them.</b></p> <p>16 Q. Okay. Would it include dates after the</p> <p>17 passage of the plan?</p> <p>18 <b>A. I don't know. I haven't looked into that.</b></p> <p>19 Q. Okay. Do you see the first page of 197,</p> <p>20 HOY 000223?</p> <p>21 MR. MEDLOCK: They got a little jumbled.</p> <p>22 She is referring to this page.</p>
<p style="text-align: right;">118</p> <p>1 <b>A. What I mean is on repeated instances and</b></p> <p>2 <b>during this process, an ongoing flow of maps was</b></p> <p>3 <b>created and passed on in each instance, it appears,</b></p> <p>4 <b>focusing, again, on a metric that seemed -- that by</b></p> <p>5 <b>any reasonable judgment would be a focus on</b></p> <p>6 <b>democratic performance or on some kind of</b></p> <p>7 <b>performance measure or other plan summaries. These</b></p> <p>8 <b>are all variants of plans apparently.</b></p> <p>9 <b>And I -- the statement that I make in that</b></p> <p>10 <b>paragraph is a statement that is taken directly</b></p> <p>11 <b>from what I was informed by Mayer Brown, and I take</b></p> <p>12 <b>to be truthful.</b></p> <p>13 Q. Okay. Do you have any understanding about</p> <p>14 what this process encompasses?</p> <p>15 <b>A. I can only speculate. It's -- you know,</b></p> <p>16 <b>looking at it as a lay person, it sounds like</b></p> <p>17 <b>somebody was really awfully concerned about</b></p> <p>18 <b>something going on here when there was a simple --</b></p> <p>19 <b>simple way to adjust CD 6, and there is a whole lot</b></p> <p>20 <b>of effort being focused on something else.</b></p> <p>21 Q. Sorry. I think my question wasn't clear.</p> <p>22 When paragraph 56 says this process, do you</p>	<p style="text-align: right;">120</p> <p>1 <b>A. I see it, yes.</b></p> <p>2 Q. Do you see the date line on this e-mail</p> <p>3 correspondence?</p> <p>4 <b>A. Yes. It looks like January 4th, 2017.</b></p> <p>5 <b>I'm sorry.</b></p> <p>6 MS. RICE: Up in the actual body.</p> <p>7 <b>A. October 24th, 2011.</b></p> <p>8 Q. Okay. Let's turn to page 31.</p> <p>9 MR. MEDLOCK: Which paragraph are you on?</p> <p>10 MS. RICE: Paragraph 69.</p> <p>11 MR. MEDLOCK: Okay.</p> <p>12 Q. It says there: According to a September</p> <p>13 15th, 2011, spreadsheet created by NCEC Services,</p> <p>14 GRAC considered at least six options for the</p> <p>15 proposed boundaries of Maryland's congressional</p> <p>16 districts as well as proposals made by outside</p> <p>17 groups.</p> <p>18 Is that correct?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. How do you know what the GRAC considered?</p> <p>21 <b>A. This statement was given to me as</b></p> <p>22 <b>something I might want to consider given to me by</b></p>



Conducted on June 2, 2017

121	<p>1 <b>Mayer Brown. And I took it to be a truthful</b></p> <p>2 <b>statement, and I recorded it here because it</b></p> <p>3 <b>pertained to what I referred to earlier as</b></p> <p>4 <b>information that validated the opinions that I had</b></p> <p>5 <b>previously formed.</b></p> <p>6 <b>And I would like to say that I'm referring</b></p> <p>7 <b>to the entire paragraph 69 which continues on in</b></p> <p>8 <b>saying that -- referencing the fact that each of</b></p> <p>9 <b>the options would result in the 6th Congressional</b></p> <p>10 <b>District having 51 percent or greater federal</b></p> <p>11 <b>democratic performance based on the results of the</b></p> <p>12 <b>2006/2010 Maryland gubernatorial races and the 2004</b></p> <p>13 <b>and 2008 presidential elections.</b></p> <p>14 <b>So, again, this is a -- these are facts</b></p> <p>15 <b>about what was being focused on by those who were</b></p> <p>16 <b>considering alternative options. Their focus was</b></p> <p>17 <b>on democratic performance.</b></p> <p>18 <b>That's a fact that is documented in this</b></p> <p>19 <b>statement, and I take these facts to be truthful</b></p> <p>20 <b>because they were represent -- they were given to</b></p> <p>21 <b>me by Mayer Brown and represented to be truthful.</b></p> <p>22 <b>I considered them after I had formed my opinion.</b></p>	123	<p>1 Q. Okay. Are you ready?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Great. I think we left off looking</p> <p>4 at paragraph 69. Is that right?</p> <p>5 A. <b>That's where I am.</b></p> <p>6 Q. Great. Okay. I think what I'm going to</p> <p>7 do is ask you to look through -- between paragraph</p> <p>8 69 and 123. So that is page 57. And take as long</p> <p>9 as you need to look through them. But out of these</p> <p>10 paragraphs, if you could identify any paragraph for</p> <p>11 which you made an independent factual</p> <p>12 investigation.</p> <p>13 A. Sure.</p> <p>14 MS. RICE: Thank you.</p> <p>15 A. Will do.</p> <p>16 MR. MEDLOCK: While he is doing that, I</p> <p>17 will object. The question is vague.</p> <p>18 A. <b>The only thing I can say, I'm up to</b></p> <p>19 <b>paragraph 88, and I do recall paragraph 88 --</b></p> <p>20 <b>reading that in several places. It says basically</b></p> <p>21 <b>Governor O'Malley announced he would submit to the</b></p> <p>22 <b>legislature a proposed congressional map that was</b></p>
122	<p>1 (Whereupon, Morrison Deposition Exhibit</p> <p>2 198 was marked for identification and attached to</p> <p>3 the transcript.)</p> <p>4 Q. Just looking at Exhibit 198, is there any</p> <p>5 indication that NCEC Services generated this</p> <p>6 spreadsheet?</p> <p>7 MR. MEDLOCK: Asked and answered.</p> <p>8 Cumulative.</p> <p>9 A. <b>Other than the format, there's nothing</b></p> <p>10 <b>indicated who generated it. I can't say who</b></p> <p>11 <b>generated it based on what I see here.</b></p> <p>12 Q. And is there any indication to whom this</p> <p>13 spreadsheet was provided?</p> <p>14 A. <b>Not on Exhibit 198, no.</b></p> <p>15 MS. RICE: Why don't we take a five-minute</p> <p>16 break?</p> <p>17 MR. MEDLOCK: Sure.</p> <p>18 (Thereupon, there was a recess taken at</p> <p>19 12:40 p.m.)</p> <p>20 (Thereupon, the proceedings were resumed</p> <p>21 at 1:40 p.m.)</p> <p>22 BY MS. RICE:</p>	124	<p>1 <b>substantially the same as the map proposed by the</b></p> <p>2 <b>GRAC.</b></p> <p>3 <b>This gets down to what I think I read</b></p> <p>4 <b>somewhere else -- it's like the last day or two.</b></p> <p>5 <b>Things started happening really fast. And it</b></p> <p>6 <b>was -- I noted -- well, it's substantially the</b></p> <p>7 <b>same. I guess everybody agreed there wasn't really</b></p> <p>8 <b>any material difference.</b></p> <p>9 <b>Then I remember reading independently and</b></p> <p>10 <b>validating paragraph 89 and the fact that no</b></p> <p>11 <b>republican voted for Senate Bill 1. 88 and 89 are</b></p> <p>12 <b>the only ones I see so far. I'm now into heading</b></p> <p>13 <b>down through the rest of this.</b></p> <p>14 <b>I remember independently reading</b></p> <p>15 <b>paragraph 91, that after they adopted the technical</b></p> <p>16 <b>amendments that had nothing to do with the</b></p> <p>17 <b>6th District, which satisfied me that I didn't need</b></p> <p>18 <b>to be concerned about that. That is one that, I</b></p> <p>19 <b>guess, I independently validated.</b></p> <p>20 <b>And I have seen the repeated reference to</b></p> <p>21 <b>this quotation in paragraph 93 that -- statements</b></p> <p>22 <b>about adopting congressional districts reflecting a</b></p>

Conducted on June 2, 2017

125	<p>1 number of considerations including, dot, dot, dot,  2 partisan consideration. So I have seen that in  3 several places. Paragraph 93, I guess you could  4 say I independently validated that.  5 In paragraph 96, I believe I reviewed the  6 deposition testimony that is cited there. I saw  7 that, and I recognized it and included it here.  8 The same applies to paragraph 97.  9 So I'm now up through paragraph 107, and  10 everything subsequent to what I just mentioned up  11 to paragraph 107, I just have taken that --  12 Mayer Brown furnished that to me, and I have taken  13 it to be truthful based on their representation.  14 Paragraph 108, I have seen before  15 separately, and I know paragraph 109 is a very  16 well-quoted statement. I have seen that in several  17 places. It's not a well-kept secret. Paragraph  18 110, I have seen that as well. As a matter of  19 fact, I think that comes from the prior case in  20 which I had done a report.  21 And on paragraph 111, the then-Attorney  22 General Douglas Gansler, that lengthy paragraph</p>	127	<p>1 from Mayer Brown.  2 So that goes through paragraph 123. I  3 think that's what your question referred to, right?  4 MS. RICE: Yes, that is. Thank you.  5 THE WITNESS: Sure.  6 Q. Let's go back to paragraph 96 and 97 --  7 A. Sure.  8 Q. -- on 47 and 48.  9 A. You want to start at -- yeah, okay.  10 Paragraph 96.  11 Q. Did Rob Garagiola have a role as a map  12 drawer in the 2011 congressional redistricting  13 process?  14 A. I have no idea.  15 Q. You identified paragraph 97 before. Is  16 that right?  17 A. Yeah. I was -- what caught my attention  18 was that these were people who were talking about  19 whether or not they considered I-270 at all and  20 whether they had analyzed any data. I was, you  21 know, curious to know whether anybody else had done  22 an analysis like the one I had already done when I</p>
126	<p>1 that starts at the top of page 53 where he was  2 saying he actually had to defend the legislature, I  3 remember seeing that in several places, reviewing  4 that independently.  5 Paragraph 112, I remember seeing that  6 separately. Paragraph 113 and 114, I remember  7 reviewing the quotations that follow 114 and taking  8 that -- you know, taking notice of that.  9 And let's see. Paragraph 116, I remember  10 seeing that, and I took note of the fact that  11 Senator Muse said he couldn't support the map  12 because he was talking about it in the end -- the  13 letter of the law versus the spirit of the law.  14 And it left me with the impression that this is a  15 person who recognized some of the tradeoffs that  16 were being made here.  17 Then paragraph 117, the idea that this is  18 not just a Maryland problem, but it's an American  19 problem that caught my attention. I read that  20 somewhere else. I think that -- all the subsequent  21 paragraphs up through paragraph 123, I don't recall  22 independently verifying, but I took them on faith</p>	128	<p>1 encountered this.  2 I completed my analysis of the commuting  3 patterns, and then here people were being asked:  4 Hey, did you look at commuting data? So that kind  5 of caught my eye.  6 Q. Did the NC -- or the map referred to in  7 paragraph 97 as his congressional map, did that map  8 follow I-270?  9 A. I have no idea.  10 Q. Okay. Going forward to page 51, paragraph  11 108, you had identified this. Do you mean the  12 footnote attached to paragraph 108 or the text of  13 108?  14 A. Both.  15 MS. RICE: Okay.  16 A. I mean, paragraph 108 was a paragraph that  17 I recall reading somewhere, and the fact that there  18 is a footnote attached documenting the statement is  19 kind of what I was looking for. Somebody said  20 this. And that is the basis for the statement in  21 paragraph 108. So it was backed up by someone's  22 testimony.</p>

Conducted on June 2, 2017

129

1 Q. Okay. Great. The next set of questions  
 2 is going to relate to Section 5.  
 3 **A. All right.**  
 4 Q. Oh, actually, it will relate to Section 5,  
 5 but the specific question I wanted to ask you  
 6 appears in the introduction. So page 5.  
 7 MR. MEDLOCK: Can he also refer to  
 8 Section 5 to answer it?  
 9 MS. RICE: He can if he would like to.  
 10 MR. MEDLOCK: Okay.  
 11 Q. In paragraph 17, you talk about your  
 12 methodology with regard to census-designated  
 13 places.  
 14 **A. Yes.**  
 15 Q. Who draws the borders of the census-  
 16 designated places?  
 17 **A. Who draws the borders?**  
 18 MS. RICE: Yes.  
 19 **A. The Census Bureau does. They establish**  
 20 **them.**  
 21 Q. And how do they do that?  
 22 **A. It's my understanding that they establish**

130

1 **them, first of all, based on corporate limits --**  
 2 **that is to say an incorporated city would be the**  
 3 **incorporated city of X.**  
 4 MS. RICE: Uh-huh.  
 5 **A. And in the case of unincorporated places,**  
 6 **which are called census places, they have a**  
 7 **standard methodology -- which I think it is really**  
 8 **based on the way they look at the geography of a**  
 9 **region, and they say: Here is a place that people**  
 10 **refer to by its name. There is a common**  
 11 **understanding of the residents of what the place**  
 12 **is. It doesn't have a corporate established limit,**  
 13 **but everybody knows what we are talking about.**  
 14 **And so they will approximate that with**  
 15 **census geography which would be census blocks, and**  
 16 **say for purposes of identifying this unincorporated**  
 17 **place, this is what it is. And, in essence, it's**  
 18 **the impartial objective Census Bureau with all the**  
 19 **data at their command and all the resources at**  
 20 **their command when they do an enumeration. And**  
 21 **remember, they are going out to figure out how many**  
 22 **people live everywhere.**

131

1 And they say: Well, there is a place that  
 2 everybody refers to as Jones Corners. It has a gas  
 3 station, a grocery store and a couple of  
 4 establishments. It's not incorporated, but  
 5 everybody knows what they are talking about.  
 6 They will draw -- they will approximate  
 7 that objectively based on their best knowledge  
 8 which is more knowledge than anybody else has about  
 9 the place. So that kind of establishes the  
 10 standard for demographers such as myself to use.  
 11 I wouldn't go out and say: Well, I have a  
 12 better way of delineating it. I would say: I  
 13 would prefer to use the standard that is used by  
 14 the official agency that enumerates the population.  
 15 Q. On page 5, paragraph 17, if you count up  
 16 one, two, three from the bottom, there is a  
 17 sentence that begins: CDPs are the statistical  
 18 counterpart.  
 19 **A. Yes.**  
 20 Q. What does statistical counterpart mean?  
 21 **A. Statistical counterpart means it is the**  
 22 **Census Bureau's -- exactly what I just described,**

132

1 **the Census Bureau's definition of a piece of**  
 2 **territory occupied by people as residents. And for**  
 3 **purposes -- the word statistical here means for**  
 4 **purposes of enumerating population, they will be**  
 5 **classified as residents of that census-designated**  
 6 **place.**  
 7 Q. If you turn the page and look at the last  
 8 sentence of that, it says: Census Bureau criteria  
 9 require that a CDP name be one that is recognized  
 10 and used in daily communications by the residents  
 11 of the community.  
 12 **A. Yes.**  
 13 Q. Okay. And to that, you cite to a website?  
 14 **A. Yes.**  
 15 (Whereupon, Morrison Deposition Exhibit  
 16 199 was marked for identification and attached to  
 17 the transcript.)  
 18 Q. Is this the website that you were  
 19 referring to?  
 20 **A. This is the one.**  
 21 Q. I didn't see here a reference to the  
 22 Census Bureau criteria about daily communication.

Conducted on June 2, 2017

<p style="text-align: right;">133</p> <p>1 <b>A. It may not be on this page, but this is</b>  2 <b>where I would think it would be.</b>  3 MR. MEDLOCK: Do you want him to review  4 it?  5 <b>A. Yeah. Let me see.</b>  6 MS. RICE: Yes.  7 <b>A. Let me see. I know that the words at the</b>  8 <b>top of page 6, just before paragraph 18, where I</b>  9 <b>have said a CDP name -- criteria requires a CDP</b>  10 <b>name be one that is recognized and used in daily</b>  11 <b>communication by the residents of the community,</b>  12 <b>is, if not the exact wording, at least a close</b>  13 <b>paraphrasing of text that I did pick up from</b>  14 <b>somewhere on the Census Bureau -- somewhere in the</b>  15 <b>Census Bureau.</b>  16 <b>And it may be that my reference to this</b>  17 <b>particular website does not contain those words.</b>  18 <b>But I know that it is -- these words or</b>  19 <b>substantially the same words are memorialized</b>  20 <b>somewhere in the Census Bureau website, I mean,</b>  21 <b>because I check very carefully.</b>  22 <b>There's probably another -- another place</b></p>	<p style="text-align: right;">135</p> <p>1 <b>about the term census place.</b>  2 Q. Do you know if there are other criteria?  3 <b>A. Other criteria for?</b>  4 MS. RICE: For a census-designated place,  5 other than --  6 <b>A. No. The criteria exactly -- I mean, this</b>  7 <b>is a consistent way that they do business, a</b>  8 <b>consistent way that they define census places. And</b>  9 <b>if you don't like their definition, you can use</b>  10 <b>another one. They are just saying for purposes of</b>  11 <b>collecting objective demographic data and</b>  12 <b>publishing objective demographic data, this is what</b>  13 <b>they are using. They tell you exactly what it is</b>  14 <b>and what it's intended to correspond to.</b>  15 <b>So if you are talking about some other</b>  16 <b>concept that you have in mind, you are free to</b>  17 <b>assemble that out of the pieces of geography that</b>  18 <b>they distinguish, which are census blocks. You can</b>  19 <b>add on more territory, but that will not be the</b>  20 <b>official census-designated place.</b>  21 MS. RICE: Okay.  22 <b>A. Just for the record, I would say that when</b></p>
<p style="text-align: right;">134</p> <p>1 <b>in the Census Bureau that contains that exact</b>  2 <b>phraseology. I mean, I know it to be. I have no</b>  3 <b>doubt about it, because I was not aware of it until</b>  4 <b>I looked into it. And I said: They really have a</b>  5 <b>tight set of criteria. I mean, it has to be</b>  6 <b>something that people talk about in daily</b>  7 <b>communication.</b>  8 It's not just they go out and say: Well,  9 we will do it this way. We don't have to talk to  10 the people there. It has to be the people who  11 acknowledge and themselves recognize in their daily  12 communication a place that has a name that they  13 use. That's the concept behind it. They recognize  14 it.  15 Q. And did you first look into what criteria  16 they used for purposes of preparing this report?  17 <b>A. Yes. That was one of the first things</b>  18 <b>that I did. I -- as a matter of fact, I think it</b>  19 <b>was, in fact, among the first things I did, was I</b>  20 <b>was trying to be sure I had a valid concept of an</b>  21 <b>established community of interest. So I researched</b>  22 <b>everything I could on the Census Bureau website</b></p>	<p style="text-align: right;">136</p> <p>1 you come up with a one-page description like this  2 about anything the Census Bureau has, there is  3 typically a 10-page or 20-page document behind it.  4 And they simply put this up so that if you want a  5 concise summary of what it is, this is it. I'm  6 sure there is another -- there is another source.  7 Q. Okay. Let's turn to page 67, Table 3.  8 <b>A. All right. So we don't need to go back</b>  9 <b>over the testimony that you already gave about what</b>  10 <b>Mr. Amos provided you with. But I was wondering:</b>  11 <b>Is there anything else about -- to say about how</b>  12 <b>you came up with the data in Table 3?</b>  13 MR. MEDLOCK: Objection. Vague.  14 <b>A. I have nothing further to add other than</b>  15 <b>to say I took the data and I tabulated it in the</b>  16 <b>way that I wanted to tabulate it. And I identified</b>  17 <b>the total number of census places, and I</b>  18 <b>distinguish between the incorporated and the</b>  19 <b>unincorporated so that I could get some sense of</b>  20 <b>what kinds of places were being split.</b>  21 There is a very stark pattern throughout.  22 There is no doubt in my mind that established</p>

Conducted on June 2, 2017

<p style="text-align: right;">137</p> <p><b>1 communities of interest were split to a remarkable</b>  <b>2 degree far more than they were before redistricting</b>  <b>3 occurred and far more than could possibly have been</b>  <b>4 necessary in order to simply equalize the</b>  <b>5 population.</b>  6 Q. Were you aware that the Census prepares  7 tables of census-designated places by congressional  8 district?  9 A. Yes, I'm aware of that.  10 Q. And did you examine those tables?  11 A. I did not examine those tables on the  12 retail side because I knew that I needed them both  13 with respect to the congressional districts that  14 existed -- would have existed in the present --  15 that is to say, when I would have looked at the  16 retail side of the Census Bureau's data provision.  17 But I also needed to know where they were  18 before the census -- before they were in the  19 current district. In other words, the Census  20 Bureau will tell me, for this particular census  21 place: What is its current congressional district?  22 And the answer is: It's the 113th Congressional</p>	<p style="text-align: right;">139</p> <p>1 review it.  2 Is this page on the Census Bureau website  3 where congressional districts by places text files  4 are available?  5 A. Yes.  6 Q. Okay. And I see here it says: 113th  7 Congressional District. It doesn't seem to be  8 anything for 111th, but there's 109th and 108th.  9 Is that right?  10 A. I -- I -- that's what it says. But let me  11 just maybe enlighten you that this is what I'm  12 referring to as the wholesale side.  13 MS. RICE: Uh-huh.  14 A. This is the side that I don't deal with.  15 This is the side that a GIS person would deal with  16 or a person who has technical facility and  17 experience and routinely downloads massive files of  18 data. This is where they provide those people with  19 the data they want so that they can then do the  20 kind of thing that Brian Amos did.  21 And I suspect, in his documentation, this  22 is probably where Brian Amos went to get his data,</p>
<p style="text-align: right;">138</p> <p><b>1 District.</b>  2 And I say: But I want to know what was it  3 before that. The answer would be: Well, that is a  4 historical fact that we don't publish on our  5 website. That is something you have to assemble  6 yourself with a GIS system and go through the  7 tedious task of showing where it was with respect  8 to prior boundaries.  9 So I wouldn't normally think of going to  10 the Census Bureau for both parts of the table. I  11 could only get half of what the table was. And  12 even then, it would not be an effective use of my  13 time because I was not a GIS person. I would have  14 to do it place by place. It would be a very  15 tedious task.  16 MS. RICE: Okay. Mark this as 200.  17 (Whereupon, Morrison Deposition Exhibit  18 200 was marked for identification and attached to  19 the transcript.)  20 A. Did you want to ask me a question about  21 it?  22 Q. Sure. I was just waiting for you to</p>	<p style="text-align: right;">140</p> <p><b>1 whereas I would be going in the front retail side</b>  <b>2 and saying I just want to see what is on the</b>  <b>3 screen.</b>  4 Q. What year was the 111th Congress elected?  5 A. I don't really recall.  6 MS. RICE: Okay.  7 A. It was before the 113th. I know that.  8 Q. And what year was the 113th Congress  9 elected?  10 A. Again, it's not something that comes to  11 mind immediately.  12 Q. Okay. Why did you choose those two  13 congresses?  14 A. Because that was, it's my understanding,  15 the pre-redistricting and post-redistricting.  16 Q. There were several congresses  17 pre-redistricting. Is that correct?  18 A. Right. Right. Right. The -- this -- I'm  19 trying to remember why we picked that. That may be  20 it was closer to the 2010 census. There was a  21 reason for doing that. I don't recall exactly why.  22 But this is the way it was, and this is the way it</p>

Conducted on June 2, 2017

<p style="text-align: right;">141</p> <p>1 is now.</p> <p>2 <b>So it is a comparison of pre-redistricting</b></p> <p>3 <b>at whatever point in time, one or two congressional</b></p> <p>4 <b>elections before, and post-redistricting, which</b></p> <p>5 <b>shows how the splits increased with the new</b></p> <p>6 <b>redistricting and the massive reshuffling of</b></p> <p>7 <b>population. That is the main point that I wanted</b></p> <p>8 <b>to get at.</b></p> <p>9 Q. And when are census-designated places set?</p> <p>10 A. My -- I'm speculating here based on what I</p> <p>11 recall from the Census Bureau's technical</p> <p>12 documentation. But typically what they will do is</p> <p>13 they will -- before they do a decennial census,</p> <p>14 they will try to go out and identify where they may</p> <p>15 find people living, which would be dwelling units.</p> <p>16 That could be anything from a mobile home to a</p> <p>17 home, whatever, a place where people live if they</p> <p>18 are not homeless.</p> <p>19 In the process of doing that inventory of</p> <p>20 places where people might answer the door if you</p> <p>21 knocked on it, as it were, they will then be</p> <p>22 classifying those dwelling units as to what piece</p>	<p style="text-align: right;">143</p> <p>1 Maryland, hit go, you will get this document</p> <p>2 without the highlights.</p> <p>3 A. Uh-huh.</p> <p>4 Q. The highlights are only here for ease of</p> <p>5 reading. They highlight every congressional</p> <p>6 district in the column where the number 6 appears.</p> <p>7 A. Uh-huh.</p> <p>8 Q. But if you want to take the time and look</p> <p>9 at this document, you can see the URL down here is</p> <p>10 from Census.gov.</p> <p>11 A. Yeah. I see what you are talking about.</p> <p>12 And I wouldn't be surprised at all if this was the</p> <p>13 document that Brian Amos started with, because it</p> <p>14 has the same kind of information.</p> <p>15 And anything where the number -- anything</p> <p>16 where 6 appears and is highlighted, that was what</p> <p>17 interested me.</p> <p>18 Q. That's just for demonstrative --</p> <p>19 demonstration purposes.</p> <p>20 A. Sure. Just so I'm clear, this is</p> <p>21 referencing places that were associated with</p> <p>22 Congressional District 6 at what point in time?</p>
<p style="text-align: right;">142</p> <p>1 of geography they fall in. Are they part of a</p> <p>2 census-designated place? Or are they simply in</p> <p>3 some non -- in a non-census place, just a census</p> <p>4 block? They have to assign it to a piece of</p> <p>5 geography where they are going to enumerate the</p> <p>6 population.</p> <p>7 So to answer your question, I'm pretty</p> <p>8 sure that they do it sometime in advance of a</p> <p>9 decennial census. That might -- when I say in</p> <p>10 advance, that might be four years before they even</p> <p>11 do the census, or even five years, getting prepared</p> <p>12 to say this is where we want to go knock on doors</p> <p>13 two years from now or send out forms to people and</p> <p>14 get ready with the address so that we know where to</p> <p>15 send things. That is my understanding.</p> <p>16 (Whereupon, Morrison Deposition Exhibit</p> <p>17 201 was marked for identification and attached to</p> <p>18 the transcript.)</p> <p>19 Q. I'm going to represent to you that</p> <p>20 Exhibit 201 is the output of -- if you look at</p> <p>21 Exhibit 200, if you go to the 113th Congressional</p> <p>22 District, download text file, select the state,</p>	<p style="text-align: right;">144</p> <p>1 Q. So if we go down here to the URL, this is</p> <p>2 the 113th Congress.</p> <p>3 A. Okay. So this is the 113th, yeah.</p> <p>4 Q. So it says -- if you look at the /georail</p> <p>5 styles, it says: CD -- I don't know what the SLD</p> <p>6 is -- and then 13.</p> <p>7 A. 13. Okay. So I could assume that that is</p> <p>8 the 113th. Okay.</p> <p>9 MS. RICE: Yes.</p> <p>10 A. So this is as it were one side of my</p> <p>11 Table 3 on page 67. It's the ones that were wholly</p> <p>12 or only partly in CD 6.</p> <p>13 Q. Right. And it would be both those that</p> <p>14 are wholly and those that are partly in CD 6?</p> <p>15 A. Right.</p> <p>16 Q. Are there more than 22 places listed in</p> <p>17 Exhibit 201?</p> <p>18 MR. MEDLOCK: I object. It's vague.</p> <p>19 Q. Are there more than -- the reason that I</p> <p>20 say places here, is if you look in the place column</p> <p>21 at the top, there are census-designated places,</p> <p>22 city and towns.</p>

Conducted on June 2, 2017

<p style="text-align: right;">145</p> <p>1 <b>A. These are -- yeah. These are for all --</b>  2 <b>these are for all places in the state of Maryland.</b>  3 <b>Is that correct?</b>  4 Q. The table --  5 <b>A. Yeah.</b>  6 Q. Let's look at what these columns say. The  7 heading is: Maryland congressional districts by  8 place. Is that correct?  9 <b>A. Yes.</b>  10 Q. And then there is a column for place.  11 <b>A. Uh-huh.</b>  12 Q. A column for county/independent city.  13 <b>A. Uh-huh.</b>  14 Q. And then a column for congressional  15 district.  16 <b>A. Right. I get you.</b>  17 Q. Just for -- are there more than 22 places  18 where the congressional district is listed as 6?  19 <b>A. Yes. There certainly appear to be.</b>  20 Q. Okay. Can you explain why there is a  21 difference in the total number of census-designated  22 places?</p>	<p style="text-align: right;">147</p> <p>1 <b>represent. I mean, I see what you are talking</b>  2 <b>about. And I see that you have highlighted every</b>  3 <b>number that has a 6 in it in the right column. I</b>  4 <b>can't answer your question without further</b>  5 <b>comparing this with what I have in my files.</b>  6 Q. Okay. My just previous question was  7 related to your Table 3.  8 <b>A. Yeah.</b>  9 Q. I just wanted to make sure I understood  10 what Table 3 represents. When the heading here  11 says number or established communities of interest  12 split by redistricting, does established  13 communities of interest mean cities, towns and  14 census-designated places in their entirety?  15 MR. MEDLOCK: Objection. Vague.  16 <b>A. The only -- all I can tell you based on</b>  17 <b>what I see here is that in my Table 3 under the</b>  18 <b>unincorporated heading, there is census-designated</b>  19 <b>places, and then there is other. And there must be</b>  20 <b>some distinction here between unincorporated</b>  21 <b>census-designated places and other unincorporated</b>  22 <b>places.</b></p>
<p style="text-align: right;">146</p> <p>1 <b>A. I have no explanation for why there seem</b>  2 <b>to be so many places in the table you have given me</b>  3 <b>as Exhibit 201 and Table 3 where I show the count</b>  4 <b>as being far fewer than the number that are</b>  5 <b>highlighted in yellow here. I would have to check</b>  6 <b>back and see what the source of the difference is.</b>  7 MR. MEDLOCK: I'm going to object to that  8 question as mischaracterizing the report.  9 You can answer.  10 Q. Does the report state that there are 9  11 whole and 13 portions of places in the 113th  12 Congressional District 6?  13 <b>A. That's what it says, yes.</b>  14 MR. MEDLOCK: Objection. Mischaracterizes  15 the report.  16 Q. Is there a difference in your report  17 between the number of communities of interest  18 within 113th Congressional District 6 and the  19 number of places within 113th Congressional  20 District 6?  21 <b>A. I can't answer the question until I look</b>  22 <b>more thoroughly at what this table is purporting to</b></p>	<p style="text-align: right;">148</p> <p>1 <b>And I would have to check to see what</b>  2 <b>definition is used in my Table 3 relative to what</b>  3 <b>is shown in Exhibit 201. It would appear that the</b>  4 <b>row entitled other in my Table 3 must consist of</b>  5 <b>some large number of unincorporated places that</b>  6 <b>were not defined possibly in the 111th CD 6 but may</b>  7 <b>have been recognized in the 113th CD 6.</b>  8 <b>So as I say, I can't answer your question.</b>  9 <b>I see what you are getting at, but I can't answer</b>  10 <b>the question without comparing this with what my</b>  11 <b>data show.</b>  12 Q. Certainly. That might lead to a question  13 that I had in understanding the table. Are the  14 cities, towns and census-designated places the ones  15 that were identified in connection with the 2000  16 census or the 2010 census?  17 <b>A. My understanding is that they were</b>  18 <b>identified with reference to the 2010 census. But,</b>  19 <b>again, I would have to check and see how -- what</b>  20 <b>the -- you know, what the documentation shows that</b>  21 <b>Mr. Amos has provided me with.</b>  22 MS. RICE: Okay.</p>

Conducted on June 2, 2017

149	<p>1 <b>A. I would point out that in sort of</b></p> <p>2 <b>descending order of significance would be cities,</b></p> <p>3 <b>followed by towns, followed by unincorporated CDPs.</b></p> <p>4 <b>And the fact that no cities and no towns were</b></p> <p>5 <b>divided prior to redistricting, but that</b></p> <p>6 <b>three-quarters of cities were divided -- I'm</b></p> <p>7 <b>sorry -- two-thirds of cities and one-quarter of</b></p> <p>8 <b>cities -- one quarter of towns were divided after</b></p> <p>9 <b>redistricting and that with reference to</b></p> <p>10 <b>unincorporated CDPs in Table 3, only 22 percent</b></p> <p>11 <b>were divided prior to redistricting and 67 percent</b></p> <p>12 <b>were divided after redistricting, those three rows</b></p> <p>13 <b>of data, cities, towns and CDPs, along with the</b></p> <p>14 <b>total at the bottom of these more significant</b></p> <p>15 <b>settlements of people, still strike me as</b></p> <p>16 <b>extraordinary in terms of the small amount of</b></p> <p>17 <b>adjustment that had to be made to bring District 6</b></p> <p>18 <b>into population balance.</b></p> <p>19 <b>I don't see any -- I don't see any way in</b></p> <p>20 <b>which the data in my Table 3, even if it were</b></p> <p>21 <b>supplemented with many more very, very small places</b></p> <p>22 <b>that are highlighted in this table that you have</b></p>	151	<p>1 <b>I can't say without seeing what the data show.</b></p> <p>2 <b>Right now, the pattern that I see in Table 3</b></p> <p>3 <b>strikes me as a remarkable difference prior to and</b></p> <p>4 <b>after redistricting.</b></p> <p>5 <b>I don't have any way of foreseeing how</b></p> <p>6 <b>this table would change if there were some</b></p> <p>7 <b>additions to be made to it.</b></p> <p>8 <b>MS. RICE: Okay.</b></p> <p>9 <b>A. I'm sorry. I can't answer your question</b></p> <p>10 <b>without really taking a look -- comparing your</b></p> <p>11 <b>definition based on what you have downloaded with</b></p> <p>12 <b>the definition that I have used in this table. And</b></p> <p>13 <b>that was one of the first tables I put together</b></p> <p>14 <b>quite a while ago. So it's not fresh in my</b></p> <p>15 <b>recollection.</b></p> <p>16 <b>Q. But you can't provide me now with the</b></p> <p>17 <b>definition that you used to prepare that table?</b></p> <p>18 <b>A. Not without going back and reviewing</b></p> <p>19 <b>Brian Amos' technical documentation, which I would</b></p> <p>20 <b>want to do first.</b></p> <p>21 <b>Q. And did you bring that technical</b></p> <p>22 <b>documentation with you today?</b></p>
150	<p>1 <b>shown me here under the hypothetical circumstance</b></p> <p>2 <b>that I could have included them -- I don't know why</b></p> <p>3 <b>they are not there -- but under that hypothetical</b></p> <p>4 <b>condition, I don't see how my opinion would change,</b></p> <p>5 <b>given the data that are shown in Table 3 presently.</b></p> <p>6 <b>Q. So just so that I understand what you are</b></p> <p>7 <b>saying, your opinion wouldn't change were</b></p> <p>8 <b>percentages in the total all places number, those</b></p> <p>9 <b>percentages were revised? Your opinion would not</b></p> <p>10 <b>change?</b></p> <p>11 <b>A. I do not foresee that anything beyond what</b></p> <p>12 <b>is shown in Table 3 would have a significant</b></p> <p>13 <b>bearing on my opinion based on what I see in</b></p> <p>14 <b>Table 3 now, because these are the most populace</b></p> <p>15 <b>areas and the most prominent ones and the ones</b></p> <p>16 <b>whose boundaries would be most important to</b></p> <p>17 <b>respect.</b></p> <p>18 <b>Q. Okay. If the percentage, say, of the</b></p> <p>19 <b>number of towns changed, would that change your</b></p> <p>20 <b>opinion?</b></p> <p>21 <b>MR. MEDLOCK: Objection. Vague.</b></p> <p>22 <b>A. I can't -- I can't say with any certainty.</b></p>	152	<p>1 <b>A. No.</b></p> <p>2 <b>MS. RICE: Would you mark this?</b></p> <p>3 <b>(Whereupon, Morrison Deposition Exhibit</b></p> <p>4 <b>202 was marked for identification and attached to</b></p> <p>5 <b>the transcript.)</b></p> <p>6 <b>Q. And I'm going to represent that this is</b></p> <p>7 <b>from the same source but the 108th Congress.</b></p> <p>8 <b>A. Right.</b></p> <p>9 <b>Q. I'm going to further represent that the</b></p> <p>10 <b>108th Congress was elected in the 2002 election.</b></p> <p>11 <b>A. Uh-huh.</b></p> <p>12 <b>Q. Taking your time to look at this, are</b></p> <p>13 <b>there more than 35 places where Congressional</b></p> <p>14 <b>District 6 appears in the congressional district</b></p> <p>15 <b>column --</b></p> <p>16 <b>A. Yes.</b></p> <p>17 <b>Q. -- of Exhibit 202?</b></p> <p>18 <b>Do you know which cities were included</b></p> <p>19 <b>within the 111th Congressional District 6?</b></p> <p>20 <b>A. Not offhand. I would have to check back</b></p> <p>21 <b>with the spreadsheet that I used to assemble the</b></p> <p>22 <b>data that I used that went into Table 3. I don't</b></p>



Conducted on June 2, 2017

153	<p><b>1 have that with me.</b></p> <p>2 Q. Is that also true for the 113th</p> <p>3 Congressional District 6?</p> <p><b>4 A. Yes, it is.</b></p> <p>5 Q. And is that the same answer for towns?</p> <p><b>6 A. Correct.</b></p> <p>7 MS. RICE: Okay.</p> <p>8 (Whereupon, Morrison Deposition Exhibit</p> <p>9 203 was marked for identification and attached to</p> <p>10 the transcript.)</p> <p>11 MR. MEDLOCK: While he is reviewing that,</p> <p>12 I have a question about this document.</p> <p>13 MS. RICE: Yes.</p> <p>14 MR. MEDLOCK: It looks like there is a</p> <p>15 purple circle here that does not correspond to</p> <p>16 anything in the legend. Is that something that was</p> <p>17 added by your office, or is that something that is</p> <p>18 actually in the legend?</p> <p>19 MS. RICE: That is something that is by</p> <p>20 the mapmaker of this map. But I will give you what</p> <p>21 I will have marked as Exhibit 204.</p> <p>22 MR. MEDLOCK: Maybe that will help.</p>	155	<p><b>1 A. So I'm looking for pink inside of -- say</b></p> <p><b>2 that again. You want to know where --</b></p> <p>3 MS. RICE: The yellow or the hatched.</p> <p>4 It's sort of bounded by yellow and filled with</p> <p>5 hatch there on the side.</p> <p><b>6 A. Point on your map. Then I can see where</b></p> <p><b>7 you are looking. You were just pointing to it.</b></p> <p>8 MS. RICE: On the legend.</p> <p><b>9 A. Oh, yeah, on the legend. Okay. The</b></p> <p><b>10 hatch. I see, yeah.</b></p> <p>11 Q. The yellow is the boundaries of Frederick,</p> <p>12 Maryland, the city?</p> <p><b>13 A. Right. Yes.</b></p> <p>14 Q. So --</p> <p><b>15 A. And then you are saying that there is a</b></p> <p><b>16 hatched area?</b></p> <p>17 Q. The hatched areas are incorporated cities,</p> <p>18 towns and village?</p> <p><b>19 A. And I see the hatched area above</b></p> <p><b>20 Walkersville, Maryland.</b></p> <p>21 MS. RICE: Right.</p> <p><b>22 A. And where else is the hatched area? Is</b></p>
154	<p>1 THE WITNESS: Are you talking about the</p> <p>2 hatched --</p> <p>3 MR. MEDLOCK: I'm actually talking about</p> <p>4 this here.</p> <p>5 THE WITNESS: Oh, the red. I see it, the</p> <p>6 circle. I got you.</p> <p>7 (Whereupon, Morrison Deposition Exhibit</p> <p>8 204 was marked for identification and attached to</p> <p>9 the transcript.)</p> <p>10 BY MS. RICE:</p> <p>11 Q. On Exhibit -- I'm going to represent to</p> <p>12 you that Exhibit 203 is a map of the municipal</p> <p>13 boundaries of Frederick, Maryland, coupled with</p> <p>14 Maryland precinct boundaries and the congressional</p> <p>15 district boundaries which are delineated by these</p> <p>16 different colors of districts here.</p> <p>17 Can you see where -- on 203 without</p> <p>18 reference to 204, can you perceive where District 8</p> <p>19 is present inside of municipal boundaries of</p> <p>20 Frederick, Maryland?</p> <p><b>21 A. District 8 would be the pink.</b></p> <p>22 MS. RICE: Pink.</p>	156	<p><b>1 that the one you are --</b></p> <p>2 MS. RICE: I think it's harder to</p> <p>3 perceived. It just fills in the yellow boundaries</p> <p>4 of Frederick, Maryland.</p> <p><b>5 A. I'm having a little difficulty visualizing</b></p> <p><b>6 this, and I prefer not to do analysis on the fly.</b></p> <p>7 MS. RICE: Yeah.</p> <p><b>8 A. I will do my best. So what is your</b></p> <p><b>9 question?</b></p> <p>10 Q. My question is: Can you see where</p> <p>11 District 8 is present inside the boundaries of</p> <p>12 Frederick, Maryland?</p> <p>13 MR. MEDLOCK: I object as vague and</p> <p>14 calling for speculation to the extent that he can't</p> <p>15 actually see it as of right now.</p> <p>16 MS. RICE: Well, then the answer would be</p> <p>17 yes or no.</p> <p><b>18 A. Show me an example of one place where</b></p> <p><b>19 District 8 is inside of Frederick. Just point to</b></p> <p><b>20 it on your map, and then maybe I can figure out the</b></p> <p><b>21 logic of this.</b></p> <p>22 Q. Oh, I'm asking can you point it out? The</p>

Conducted on June 2, 2017

157

1 answer may be no.  
2 **A. I prefer not to say yes, I can or no, I**  
3 **can't without trying to visualize all of the**  
4 **different layers that you are showing here. You**  
5 **have one, two, three -- you have three separate**  
6 **layers I'm trying to get my mind around.**  
7 **One is the green, which is District 6, and**  
8 **8 is pink. And the boundaries of Frederick,**  
9 **Maryland, the city, are the yellow boundaries.**  
10 **All right. So I think I'm beginning to**  
11 **get the picture here. It actually looks as though**  
12 **there are, by and large -- you want to know if I**  
13 **see any part of District 8 in Frederick --**  
14 **Frederick being in District 8?**  
15 MS. RICE: Yes. Yes.  
16 MR. MEDLOCK: You want him to look at 203  
17 and not 204?  
18 MS. RICE: Just by looking at 203.  
19 **A. There isn't anything obvious to me right**  
20 **now, but I wouldn't rule out the possibility that**  
21 **there is something here or that there is a**  
22 **misalignment of the lines here. The GIS systems do**

158

1 **not always approximate things -- do not always**  
2 **measure things according to exact census geography.**  
3 **It may well be that what you have going on**  
4 **here is -- if you look at the tiny numbers in the**  
5 **pink area -- like, in the upper left-hand corner,**  
6 **the big pink thing in the tiny 21-001 -- I believe**  
7 **that is designating a census tract and a block**  
8 **within it.**  
9 Q. So if you look at that, it's outlined in  
10 red?  
11 **A. Yeah.**  
12 Q. If you look at the legend, the red lines  
13 are --  
14 **A. Those are precincts. Okay. So those are**  
15 **precincts.**  
16 **Now, what I'm saying is that behind all of**  
17 **these -- behind the questions that you are asking**  
18 **with the census geography -- which is not precinct**  
19 **geography. That is political geography. So I**  
20 **guess my answer would be: Without you showing me**  
21 **an overlay with the census geography, I can't**  
22 **really answer your question because what you have**

159

1 **shown me here is precinct geography. I don't see**  
2 **any census block geography.**  
3 MS. RICE: Okay.  
4 **A. So I can't -- I can't -- that is where**  
5 **some of the discrepancies can enter in, where you**  
6 **have a census block group or a block, part of which**  
7 **is in Frederick, Maryland, and part of which is**  
8 **outside of it.**  
9 **And the boundary that the Census Bureau**  
10 **uses to identify an incorporated place or an**  
11 **unincorporated place is defined in terms of census**  
12 **geography. And you are not -- you haven't shown me**  
13 **the census geography.**  
14 So I really -- my answer is: Without the  
15 census geography on Exhibit 203, I cannot answer  
16 your question definitively.  
17 Q. Okay. That is fair enough.  
18 So Frederick, Maryland, however, is an  
19 incorporated place, correct?  
20 **A. Yes.**  
21 Q. So the geography is defined by the  
22 political boundaries. Is that right?

160

1 **A. It should be according to Census Bureau**  
2 **practice.**  
3 Q. Okay. Let's look at 204.  
4 **A. All right.**  
5 Q. And 204 is the inset of what Mr. Medlock  
6 had pointed out is a purple circle on the district.  
7 **A. Yes.**  
8 Q. And there is a circle there?  
9 MR. MEDLOCK: Is there going to be a  
10 further inset?  
11 MS. RICE: There is no further inset. We  
12 have zoomed in as far as we can.  
13 MR. MEDLOCK: Okay. I thought you were  
14 going to get to the Doctor Seuss levels of zooming  
15 in on things.  
16 Q. Is that a place where Congressional  
17 District 8 is present inside of Frederick,  
18 Maryland?  
19 **A. According to the legend you have shown**  
20 **here, it appears that that little crosshatch wedge,**  
21 **above which is the word Bowers Road, appears to be**  
22 **a portion of Frederick, Maryland, that lies in**

Conducted on June 2, 2017

<p style="text-align: right;">161</p> <p><b>1 District 8, if I understand this correctly.</b></p> <p>2 Q. Okay. Do you take -- do you know -- is</p> <p>3 that the type of split that would be counted in</p> <p>4 your Table 3 as a portion of a city?</p> <p><b>5 A. It's an example of what would be tabulated</b></p> <p><b>6 in my table, to the best of my understanding of the</b></p> <p><b>7 data that I have. I don't know whether this is the</b></p> <p><b>8 only place where Frederick, Maryland, lies in</b></p> <p><b>9 District 8.</b></p> <p><b>10 Without -- without looking at the census</b></p> <p><b>11 geography and examining all of the details of where</b></p> <p><b>12 there may be splits, I can't really say if this is</b></p> <p><b>13 the only reason that Frederick County would be</b></p> <p><b>14 represented in Table 3. There may be multiple</b></p> <p><b>15 reasons.</b></p> <p>16 Q. I understand. Just hypothetically if it</p> <p>17 were the only place where District 8 was present</p> <p>18 inside the borders of Frederick, Maryland, would</p> <p>19 you find that to be significant?</p> <p>20 MR. MEDLOCK: Objection. Vague.</p> <p><b>21 A. It's a split, and a split is a split</b></p> <p><b>22 according to my definition. I mean, that is the</b></p>	<p style="text-align: right;">163</p> <p>1 the transcript.)</p> <p>2 BY MS. RICE:</p> <p>3 Q. So I have marked this as Exhibit 205. I'm</p> <p>4 going to represent to you that this is a map of</p> <p>5 Rockville, Maryland, the city, and sort of the</p> <p>6 adjacent geography here.</p> <p>7 Can you see from this map where District 6</p> <p>8 is present within Rockville?</p> <p><b>9 A. If I understand the legend correctly, you</b></p> <p><b>10 are asking me: Is there any place where the green</b></p> <p><b>11 overlaps with the hatched territory?</b></p> <p>12 MS. RICE: Right.</p> <p><b>13 A. And my answer would be: At the scale that</b></p> <p><b>14 is shown here, I don't see any place where it</b></p> <p><b>15 overlaps on your map.</b></p> <p>16 Q. This is actually quite difficult to see.</p> <p>17 But if you look at what is labeled as</p> <p>18 Precinct 04020 in the left --</p> <p><b>19 A. Can you point it to it on your version</b></p> <p><b>20 just so I can see?</b></p> <p>21 Q. -- left lower corner, this precinct, if</p> <p>22 you follow that border --</p>
<p style="text-align: right;">162</p> <p><b>1 definition I use. It may be a tiny split, but it</b></p> <p><b>2 is a split. I would wonder was there some reason</b></p> <p><b>3 why that piece of Frederick, Maryland, was left</b></p> <p><b>4 out.</b></p> <p><b>5 I have no idea who lives there. I have no</b></p> <p><b>6 idea how many people live there. I don't have any</b></p> <p><b>7 idea what the scale is on this. There is no</b></p> <p><b>8 mileage scale. I mean, if it's -- but a split is a</b></p> <p><b>9 split under the -- under the objective criteria</b></p> <p><b>10 that I use.</b></p> <p>11 MS. RICE: Okay. Do you guys want to take</p> <p>12 another five-minute break?</p> <p>13 MR. MEDLOCK: That is up to you.</p> <p>14 MS. RICE: Just like two minutes.</p> <p>15 MR. MEDLOCK: Sure. Absolutely. No</p> <p>16 problem.</p> <p>17 (Thereupon, there was a recess taken at</p> <p>18 2:41 p.m.)</p> <p>19 (Thereupon, the proceedings were resumed</p> <p>20 at 2:46 p.m.)</p> <p>21 (Whereupon, Morrison Deposition Exhibit</p> <p>22 205 was marked for identification and attached to</p>	<p style="text-align: right;">164</p> <p><b>1 A. 04020.</b></p> <p>2 MS. RICE: The red border.</p> <p><b>3 A. Yeah.</b></p> <p>4 MS. RICE: I can see --</p> <p><b>5 A. You are saying you see --</b></p> <p>6 MS. RICE: -- that there is overlap of 6</p> <p>7 with the yellow in kind of the corner. Go from the</p> <p>8 corner, Precinct 420.</p> <p><b>9 A. I'm afraid I don't see it here.</b></p> <p>10 Q. Okay. Would it --</p> <p><b>11 A. Oh, I see. I see. The tiny little --</b></p> <p><b>12 it's maybe a quarter of a millimeter that is</b></p> <p><b>13 colored green?</b></p> <p>14 MS. RICE: Yes.</p> <p><b>15 A. Yes, I see it. It looks like it might be</b></p> <p><b>16 a very tiny -- actually, there is one, and then</b></p> <p><b>17 following the boundary down, there is a second one.</b></p> <p><b>18 There are a couple little kind of tiny, tiny things</b></p> <p><b>19 about a quarter of a millimeter in size. Yes, I</b></p> <p><b>20 see that.</b></p> <p><b>21 And those sorts of things could appear as</b></p> <p><b>22 a function of the geographic approximation that is</b></p>

Conducted on June 2, 2017

165

1 being used. As a matter of fact, I see another one  
 2 up here, if there is a little dot of green on maybe  
 3 just the -- I'm not sure if that is representing  
 4 it's truly green or what it is. But this is the  
 5 sort of thing that you get -- this could be  
 6 genuine, or it could be an artifact of the GIS  
 7 layers that are being used here.  
 8 I will accept for purposes of what you  
 9 said that, yes, I see what you are pointing to,  
 10 although I'm not prepared to base any statements on  
 11 it because I really can't tell what's going on with  
 12 this map.  
 13 Q. Okay. Well, let's take a general case  
 14 then. If -- would it be a legitimate districting  
 15 consideration to keep a precinct intact if it only  
 16 resulted in a small incursion into an incorporated  
 17 place?  
 18 MR. MEDLOCK: Objection. Vague.  
 19 Incomplete hypothetical.  
 20 A. That would depend on every other  
 21 legitimate redistricting factor that was being  
 22 affected. One consideration that comes to mind is

166

1 that you can change a precinct boundary slightly,  
 2 but then the people who run elections have to redo  
 3 the whole place. And they have to change the  
 4 people who are registered to vote.  
 5 Even if there is only a couple of  
 6 households, they have to say: You no longer vote  
 7 here; you have to vote in other precincts. They  
 8 have to change their software. It does make a  
 9 difference even if it's a small piece of geography.  
 10 Q. But you would -- in that case you were  
 11 talking about, it would make a difference to keep  
 12 the precinct intact. Is that right?  
 13 MR. MEDLOCK: Objection. Vague and  
 14 incomplete hypothetical.  
 15 A. Based on the hypothetical, other things  
 16 equal, one of the traditional redistricting  
 17 principles is to respect political geography and to  
 18 respect established boundaries for whatever  
 19 purpose, simply because it's better if you don't  
 20 change them at all.  
 21 So other things equal in the hypothetical  
 22 you present, if nothing else was affected, it would

167

1 be preferable not to change the boundary.  
 2 MS. RICE: Okay. I won't strain your eyes  
 3 any further.  
 4 MR. MEDLOCK: Or mine.  
 5 MS. RICE: I know. Let's turn to page 65,  
 6 paragraph 138.  
 7 THE WITNESS: All right.  
 8 Q. And I'm looking at a sentence that is  
 9 about midway down the paragraph. It's eight lines  
 10 from the beginning of the paragraph that begins:  
 11 CDPs are populated areas.  
 12 A. I have got it.  
 13 Q. It says: CDPs are populated areas that  
 14 generally include one officially designated but  
 15 currently unincorporated small community for which  
 16 the CDP is named plus surrounding inhabited  
 17 countryside of varying dimensions and occasionally  
 18 other smaller unincorporated communities, as well.  
 19 A. I see it.  
 20 Q. Did you make an examination of whether any  
 21 of the CDPs that you listed in Table 3 as only  
 22 having a portion in CD 6, whether they included

168

1 more than one unincorporated community?  
 2 A. No, I did not. It may well be that that  
 3 is the explanation for the inconsist -- the  
 4 apparent inconsistency that you pointed out between  
 5 my Table 3 and, for example, Exhibit 201 and the  
 6 other one. I have taken this text in paragraph 138  
 7 directly from the Census Bureau's description of  
 8 how it measures things.  
 9 Census-designated places are populated  
 10 areas that generally include one officially  
 11 designated but currently unincorporated small  
 12 community. So that would be the unincorporated CDP  
 13 row in my Table 3, plus surrounding uninhabit --  
 14 inhabited countryside, designated --  
 15 officially designated for which the CDP is named,  
 16 plus uninhabited countryside and occasionally other  
 17 smaller unincorporated communities as well.  
 18 So this -- I think the statement other  
 19 smaller unincorporated communities as well may well  
 20 be the explanation to why there are so many items  
 21 highlighted in yellow in your Exhibit 201, for  
 22 example. Many of these highlighted areas may well

Conducted on June 2, 2017

169	<p>1 correspond to what I refer to as the other smaller</p> <p>2 unincorporated communities.</p> <p>3 And those other smaller unincorporated</p> <p>4 communities may well be folded into the CDPs in my</p> <p>5 Table 3. That -- I'm just speculating. That may</p> <p>6 explain why there is an apparent discrepancy</p> <p>7 between what I have shown in Table 3 and what is</p> <p>8 shown, for example, in your Exhibit 201. That may</p> <p>9 resolve what we are both seeing as an apparent</p> <p>10 inconsistency.</p> <p>11 Q. All right. If you take a look at</p> <p>12 Exhibit 201, just take a second, as long as you</p> <p>13 need to. Do you see any entry in the column place</p> <p>14 that is not labeled city, town or CDP?</p> <p>15 A. I will accept that you are correct that</p> <p>16 everything has one of those three names. But what</p> <p>17 I'm saying is that if you take, for example, a</p> <p>18 place that has the suffix CDP, that could mean that</p> <p>19 it is one of several small unincorporated</p> <p>20 communities that are part of an individual CDP.</p> <p>21 Now, again, I can't say whether the CDP</p> <p>22 would bear the name of what is shown as the place,</p>	171	<p>1 goes onto the other page, footnote 217, that I</p> <p>2 understand to be the same Exhibit 199 that we</p> <p>3 looked at before, the website?</p> <p>4 A. I'm not sure that is the case, because</p> <p>5 there obvious -- the text that I have in</p> <p>6 paragraph 138 toward the end leading up to the</p> <p>7 citation to footnote 217 is text that I recall</p> <p>8 taking directly from the Census Bureau's website.</p> <p>9 MS. RICE: Okay.</p> <p>10 A. And the fact that it does not appear on</p> <p>11 the exhibit that you gave me means that either the</p> <p>12 website that I looked at had more information than</p> <p>13 the website you looked at, even though they may be</p> <p>14 the same link. It may be that we looked at it at</p> <p>15 different points in time.</p> <p>16 But I know that what is referenced in</p> <p>17 footnote 217 was taken directly from a Census</p> <p>18 website because I didn't know that until I read all</p> <p>19 the details. This is something I learned in the</p> <p>20 process, and I wanted to be sure it was fully</p> <p>21 stated.</p> <p>22 MS. RICE: Okay. This will be 206. Oh,</p>
170	<p>1 but I need to check on exactly what the</p> <p>2 definition -- what it is that falls into the</p> <p>3 category other in my Table 3, which may well be</p> <p>4 those other unincorporated places that are parts of</p> <p>5 CDPs.</p> <p>6 So I guess we are kind of back where we</p> <p>7 were before. I can't resolve the discrepancy that</p> <p>8 you are pointing to the apparent discrepancy that</p> <p>9 you are pointing to as we sit here today, but I'm</p> <p>10 sure that if I go back over the documentation of my</p> <p>11 files, I will be able to do that in light of the</p> <p>12 phrase you have just shown to me.</p> <p>13 So did you want to continue your question</p> <p>14 on -- that was paragraph 138, I believe.</p> <p>15 Q. Sure. And the next sentence says: CDPs</p> <p>16 include small rural communities, colonias located</p> <p>17 along the U.S. Border with Mexico and</p> <p>18 unincorporated resort and retirement communities</p> <p>19 and their environs.</p> <p>20 Is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. That whole paragraph has one citation that</p>	172	<p>1 shoot. Never mind.</p> <p>2 Q. Is it possible that you got this</p> <p>3 information from somewhere other than the Census</p> <p>4 Bureau?</p> <p>5 A. I can't rule it out as being impossible.</p> <p>6 But whatever source I got it from, I know it was a</p> <p>7 reputable source. And I -- to the best of my</p> <p>8 recollection, it was from somewhere on the Census</p> <p>9 Bureau's website.</p> <p>10 (Whereupon, Morrison Deposition Exhibit</p> <p>11 206 was marked for identification and attached to</p> <p>12 the transcript.)</p> <p>13 MR. MEDLOCK: I object to the fact it</p> <p>14 looks like this is part of a printout from a</p> <p>15 website. Maybe it's a screen grab. But it looks</p> <p>16 like portions of the website are missing.</p> <p>17 MS. RICE: Yes, it's a screen grab. I can</p> <p>18 go get the whole thing. The headers didn't print.</p> <p>19 MR. MEDLOCK: Okay. I understand. I just</p> <p>20 wanted to put that on the record. That is fine.</p> <p>21 A. This is starting to look like what I have</p> <p>22 in my text. And I see it comes from Wikipedia,</p>

Conducted on June 2, 2017

173	<p>1 definition of a census-designated place. And this</p> <p>2 was a historical -- an additional site I looked at</p> <p>3 in addition to what the Census Bureau has up now in</p> <p>4 the thing that you printed off that gives kind of a</p> <p>5 history of how census-designated places came to be</p> <p>6 defined. Yeah. This looks familiar to me.</p> <p>7 Q. Okay. So this is the source of your</p> <p>8 statement?</p> <p>9 A. Well, it amplifies on what I got from the</p> <p>10 Census Bureau website. It simply gives a history</p> <p>11 of this so I could understand how the concept</p> <p>12 evolved over time at the Census Bureau.</p> <p>13 And I have -- I don't dispute that the</p> <p>14 website you printed off from the Census Bureau is</p> <p>15 certainly one of the correct places to go on their</p> <p>16 website.</p> <p>17 MS. RICE: Okay.</p> <p>18 A. I suspect that what we have here with the</p> <p>19 Wikipedia thing is a -- well, they are citing the</p> <p>20 designations -- they are citing the way the Census</p> <p>21 Bureau defined places -- census-designated places</p> <p>22 at earlier times. So this is recounting a history</p>	175	<p>1 that I have examined the Census Bureau's website</p> <p>2 directly itself to get the current definition.</p> <p>3 This gave me some historical perspective on it.</p> <p>4 And sometimes there is a simpler, more</p> <p>5 straightforward wording of things in Wikipedia that</p> <p>6 say the same thing the Census Bureau says in highly</p> <p>7 technical language that would be perhaps less</p> <p>8 appropriate for my report.</p> <p>9 Q. Okay. Just one more question. If we go</p> <p>10 back to Exhibit 199, if you look kind of at the</p> <p>11 footer but above the URL and the date that it was</p> <p>12 printed --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- do you see a last-revised date?</p> <p>15 A. A last what?</p> <p>16 MS. RICE: Last-revised.</p> <p>17 A. Oh, yes.</p> <p>18 MS. RICE: I told you I wouldn't strain</p> <p>19 your eyes.</p> <p>20 A. I see revised December 6th, 2012.</p> <p>21 MS. RICE: Okay.</p> <p>22 A. Yes, I see that.</p>
174	<p>1 of what the Census Bureau did. And they have, in</p> <p>2 fact, footnoted the 1980 census and then the 1990</p> <p>3 census.</p> <p>4 So if you look at the Wikipedia article</p> <p>5 under history, that's where they are getting --</p> <p>6 that is where they are getting their information.</p> <p>7 Q. Okay. And I would like to point you, just</p> <p>8 on the Wikipedia document, to the -- in the first</p> <p>9 paragraph the second line halfway through, there is</p> <p>10 a sentence that starts: CDPs are populated areas.</p> <p>11 A. Yes.</p> <p>12 Q. If you read after that sentence, the next</p> <p>13 sentence.</p> <p>14 A. Yeah. That -- those sentences are exactly</p> <p>15 what are in my report. Yeah. That's where I got</p> <p>16 this information from.</p> <p>17 Q. Is it your normal practice to copy from</p> <p>18 Wikipedia without attribution?</p> <p>19 MR. MEDLOCK: Objection. Mischaracterizes</p> <p>20 the report. Argumentative.</p> <p>21 A. I would say I have no reason not to rely</p> <p>22 on this for historical perspective. But I do know</p>	176	<p>1 MS. RICE: Okay. Great. That was it. We</p> <p>2 are done.</p> <p>3 MR. MEDLOCK: Okay. I have a few</p> <p>4 questions if you give me a second.</p> <p>5 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS</p> <p>6 BY MR. MEDLOCK:</p> <p>7 Q. Sir, I would like to direct you to</p> <p>8 Exhibits 203, 204 and 205. Those were the maps</p> <p>9 that were provided to you by defense counsel.</p> <p>10 A. Yes.</p> <p>11 Q. All right. Looking at 203, 204 and 205,</p> <p>12 what information, if any, is provided regarding the</p> <p>13 scale of those maps?</p> <p>14 A. I don't see any referent to a scale</p> <p>15 marker. That is to say there is no way to tell</p> <p>16 whether we are talking feet, meters, yards, miles,</p> <p>17 whatever. I don't have any reference for that --</p> <p>18 MS. RICE: Okay.</p> <p>19 A. -- on any one of these three exhibits.</p> <p>20 Q. Okay. And do you see -- in each of the</p> <p>21 three exhibits, there is a reference to the word</p> <p>22 draft 5/31, and there is another one that says</p>

Conducted on June 2, 2017

<p style="text-align: right;">177</p> <p>1 draft 5/30 in Exhibit 205.</p> <p>2 <b>A. Yes, I see that.</b></p> <p>3 Q. What information, if any, did defense</p> <p>4 counsel provide you regarding other drafts of these</p> <p>5 maps, if they exist?</p> <p>6 <b>A. None.</b></p> <p>7 Q. The Exhibits 203, 204 and 205, what</p> <p>8 information, if any, do they contain regarding the</p> <p>9 source of the data that is displayed in the map?</p> <p>10 <b>A. I do not see any source information in any</b></p> <p>11 <b>of the maps.</b></p> <p>12 Q. Okay. And what information, if any, did</p> <p>13 defense counsel give you regarding who put these</p> <p>14 maps together?</p> <p>15 <b>A. They gave me none -- no information</b></p> <p>16 <b>whatsoever.</b></p> <p>17 Q. What information, if any, did defense</p> <p>18 counsel give you regarding the type of software, if</p> <p>19 any, that was used to put these maps together?</p> <p>20 <b>A. None.</b></p> <p>21 Q. Going to Exhibit 206, which is the</p> <p>22 Wikipedia entry that defense counsel showed you</p>	<p style="text-align: right;">179</p> <p>1 different. After that sentence, do you see what</p> <p>2 looks to be a reference to an end note after the</p> <p>3 sentence involving the colonias?</p> <p>4 <b>A. Let me see where we are here.</b></p> <p>5 MR. MEDLOCK: Right here.</p> <p>6 <b>A. I see the word environs followed by a</b></p> <p>7 <b>footnote. It looks like 5.</b></p> <p>8 Q. There is nothing on Exhibit 206 that says</p> <p>9 where footnote 5 was taken from, correct?</p> <p>10 <b>A. I don't see any place, no. I don't see</b></p> <p>11 <b>anything on the exhibit that corresponds to</b></p> <p>12 <b>footnote 5.</b></p> <p>13 Q. As we sit here today, can you tell me</p> <p>14 whether that sentence that corresponds to</p> <p>15 footnote 5, whether Wikipedia is simply repeating</p> <p>16 whatever is in footnote 5 word for word?</p> <p>17 <b>A. I have no way of knowing.</b></p> <p>18 MR. MEDLOCK: Okay.</p> <p>19 <b>A. I just state for the record that none of</b></p> <p>20 <b>the footnotes referenced are shown on this exhibit.</b></p> <p>21 <b>So I have no way of telling what else Wikipedia was</b></p> <p>22 <b>providing by way of information on any of these</b></p>
<p style="text-align: right;">178</p> <p>1 that is titled Census-Designated Place, correct?</p> <p>2 <b>A. Correct.</b></p> <p>3 Q. Okay. Defense counsel directed you to a</p> <p>4 statement on the page that included, amongst other</p> <p>5 things, the following: CDPs include small rural</p> <p>6 communities colonias located along the U.S. border</p> <p>7 with Mexico and unincorporated resort and</p> <p>8 retirement communities and their environs.</p> <p>9 Did I read that correctly?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. What, if anything, is located after</p> <p>12 that sentence?</p> <p>13 <b>A. After that sentence is the statement: The</b></p> <p>14 <b>Census Bureau states that census-designated places</b></p> <p>15 <b>are not considered incorporated places and that it</b></p> <p>16 <b>includes only census-designated places in its city</b></p> <p>17 <b>population list for Hawaii because that state has</b></p> <p>18 <b>no incorporated cities. In addition, census city</b></p> <p>19 <b>lists from 2007, including -- include Arlington</b></p> <p>20 <b>County, Virginia's CDP on the list with that --</b></p> <p>21 <b>with the incorporated places.</b></p> <p>22 Q. Okay. I was getting at something slightly</p>	<p style="text-align: right;">180</p> <p>1 <b>statements.</b></p> <p>2 Q. Okay. Let's go to Exhibits 201 and 202.</p> <p>3 <b>A. All right.</b></p> <p>4 Q. And there was some discussion regarding</p> <p>5 these two exhibits and, as you referenced in your</p> <p>6 testimony, they refer to town, CDP and then city</p> <p>7 names, correct?</p> <p>8 <b>A. Correct.</b></p> <p>9 Q. What, if any, information is located in</p> <p>10 Exhibits 201 or 202 to explain the definition of</p> <p>11 the term CDP as it is used in Exhibit 201 and 202?</p> <p>12 <b>A. There's no reference in either of the</b></p> <p>13 <b>exhibits to what the term refers to. I don't know</b></p> <p>14 <b>if there are any footnotes or not. But there is</b></p> <p>15 <b>nothing in the Exhibit 201 or 202 that I can see</b></p> <p>16 <b>that would give me anything about the definition</b></p> <p>17 <b>here of CDP.</b></p> <p>18 MR. MEDLOCK: All right. That's all I</p> <p>19 got.</p> <p>20 MS. RICE: Okay. Just a statement -- no</p> <p>21 further questions. Before we conclude, because we</p> <p>22 had the disagreement about the provision of the</p>

Conducted on June 2, 2017


181

1 statement of facts that Doctor Morrison referenced,  
 2 we would like to hold the deposition open for  
 3 purposes of questioning him about that statement if  
 4 we are to be provided with it at the resolution of  
 5 that dispute.  
 6 MR. MEDLOCK: And I will make just my own  
 7 kind of statement to preserve the record from our  
 8 position. Our position is that Doctor Morrison  
 9 came here. He testified fully regarding all  
 10 nonprivileged matters to the extent that he could  
 11 recall them regarding information that he was  
 12 provided.  
 13 It's not unusual for experts to be  
 14 provided information that they assume or are asked  
 15 to assume, and it is also not unusual for that  
 16 information to not be material to the formation of  
 17 their opinions.  
 18 In this case, he has testified that he was  
 19 provided certain facts and assumptions and that  
 20 those did not have any bearing on his opinion that  
 21 he reached in his report. And he was consistent  
 22 about that throughout his testimony.

182

1 So we see no reason, unless you provide me  
 2 with some authority to show otherwise, why we  
 3 should provide trial preparation materials under  
 4 Rule 26 that had nothing to do with the opinions  
 5 that he reached.  
 6 All right. Otherwise, have a good  
 7 weekend.  
 8 (Thereupon, there was a recess taken at  
 9 3:13 p.m.)  
 10 (Thereupon, the proceedings were resumed  
 11 at 3:14 p.m.)  
 12 THE REPORTER: Counsel, do you want a  
 13 copy?  
 14 MR. MEDLOCK: Yes. Can we get a rough?  
 15 THE REPORTER: Yes.  
 16 (Off the record at 3:14 p.m.)  
 17  
 18  
 19  
 20  
 21  
 22

183

1 CERTIFICATE OF SHORTHAND REPORTER  
 2 NOTARY PUBLIC  
 3 I, Dianna C. Kilgalen, the officer before  
 4 whom the foregoing deposition was taken, do hereby  
 5 certify that the foregoing transcript is a true  
 6 and correct record of the testimony given; that  
 7 said testimony was taken by me stenographically and  
 8 thereafter reduced to typewriting under my  
 9 direction; that reading and signing was not  
 10 requested; and that I am neither counsel for,  
 11 related to, nor employed by any of the parties to  
 12 this case and have no interest, financial or  
 13 otherwise, in its outcome.  
 14 IN WITNESS WHEREOF, I have hereunto set my  
 15 hand and affixed my notarial seal this 5th day of  
 16 June, 2017.  
 17 My commission expires June 28th, 2021.  
 18  
 19   
 20 \_\_\_\_\_  
 21 NOTARY PUBLIC  
 22 IN AND FOR THE STATE OF MARYLAND  
 COUNTY OF HARFORD



## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

47

<b>A</b>			
<b>abbreviate</b>	167:9, 180:16,	94:14, 101:13,	<b>affects</b>
83:20	180:22, 181:3,	117:11, 126:2,	70:9, 70:14,
<b>able</b>	181:22	129:4, 153:18,	71:1
54:7, 170:11	<b>above</b>	154:3, 156:15,	<b>affiliated</b>
<b>about</b>	155:19, 160:21,	157:11, 163:16,	44:7
8:21, 10:17,	175:11	164:16	<b>affixed</b>
14:11, 16:19,	<b>abroad</b>	<b>add</b>	183:15
21:8, 23:15,	82:1	135:19, 136:14	<b>afraid</b>
23:17, 28:15,	<b>absolutely</b>	<b>added</b>	164:9
29:10, 29:18,	162:15	153:17	<b>after</b>
29:20, 33:22,	<b>accept</b>	<b>addition</b>	11:11, 11:20,
34:19, 35:3,	165:8, 169:15	173:3, 178:18	12:18, 55:1,
36:10, 37:16,	<b>accepted</b>	<b>additional</b>	63:4, 85:12,
38:7, 38:9,	58:9	173:2	86:4, 93:8,
38:11, 40:3,	<b>access</b>	<b>additions</b>	93:16, 119:5,
41:8, 41:9,	9:3, 13:22	151:7	119:6, 119:16,
44:21, 48:4,	<b>accessible</b>	<b>address</b>	121:22, 124:15,
49:2, 57:21,	20:21	142:14	149:8, 149:12,
60:16, 61:13,	<b>accident</b>	<b>addressing</b>	151:4, 174:12,
65:16, 65:17,	45:9, 55:3,	22:4, 119:7	178:11, 178:13,
66:2, 66:5,	56:17	<b>adequate</b>	179:1, 179:2
66:6, 66:8,	<b>accomplish</b>	31:18	<b>afterward</b>
67:21, 71:22,	61:13	<b>adherence</b>	114:4
72:1, 72:12,	<b>accomplished</b>	21:22	<b>afterwards</b>
73:3, 73:4,	71:17	<b>adjacent</b>	111:22
74:16, 76:6,	<b>according</b>	65:3, 163:6	<b>again</b>
82:5, 82:7,	75:2, 120:12,	<b>adjoining</b>	14:19, 31:11,
87:18, 92:3,	158:2, 160:1,	64:18	44:21, 52:7,
94:11, 95:17,	160:19, 161:22	<b>adjust</b>	52:15, 62:9,
98:20, 99:10,	<b>account</b>	63:5, 118:19	70:16, 77:13,
109:16, 110:14,	45:10, 59:12,	<b>adjustment</b>	85:17, 99:7,
110:18, 114:7,	74:19	60:21, 149:17	107:11, 114:4,
116:11, 118:13,	<b>accounts</b>	<b>administration</b>	118:4, 121:14,
118:17, 121:15,	96:15	114:20, 117:18	140:10, 148:19,
124:18, 124:22,	<b>achieve</b>	<b>administrative</b>	155:2, 169:21
126:12, 127:18,	61:7, 65:22	87:17, 87:20	<b>against</b>
129:11, 130:13,	<b>acknowledge</b>	<b>adopted</b>	28:12, 53:10
131:5, 131:8,	134:11	124:15	<b>agency</b>
132:22, 134:3,	<b>across</b>	<b>adopting</b>	131:14
134:6, 135:1,	25:9	124:22	<b>ago</b>
135:15, 136:2,	<b>actors</b>	<b>advance</b>	151:14
136:9, 136:11,	95:22	142:8, 142:10	<b>agree</b>
138:20, 143:11,	<b>actual</b>	<b>adversely</b>	25:2, 35:15,
147:2, 153:12,	8:2, 77:9,	47:2	103:16
154:1, 154:3,	120:6	<b>affected</b>	<b>agreed</b>
164:19, 166:11,	<b>actually</b>	47:1, 47:2,	97:4, 124:7
	10:8, 61:21,	47:11, 72:9,	<b>ahead</b>
	70:2, 93:12,	165:22, 166:22	24:21, 40:9,

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

48

46:14, 67:13, 75:13 <b>al</b> 1:4, 1:7 <b>alignment</b> 23:3 <b>alike</b> 117:9 <b>all</b> 12:6, 12:8, 12:20, 19:14, 19:17, 24:2, 27:4, 27:16, 28:16, 28:17, 30:8, 30:11, 30:20, 32:3, 35:6, 35:15, 36:21, 39:14, 40:11, 41:18, 44:17, 44:19, 49:4, 52:20, 57:1, 61:3, 64:16, 66:5, 66:20, 67:6, 68:11, 70:5, 72:9, 72:17, 72:20, 73:8, 78:20, 79:18, 85:10, 85:13, 88:21, 93:1, 93:7, 93:19, 93:21, 94:17, 94:21, 95:4, 95:13, 96:12, 96:20, 97:9, 99:20, 101:13, 104:9, 110:5, 110:10, 117:9, 117:12, 118:8, 126:20, 127:19, 129:3, 130:1, 130:18, 130:19, 136:8, 143:12, 145:1, 145:2, 147:16, 150:8, 157:3, 157:10, 158:16, 160:4, 161:11, 166:20,	167:7, 169:11, 171:18, 176:11, 180:3, 180:18, 181:9, 182:6 <b>allowed</b> 71:7 <b>allows</b> 65:18 <b>alone</b> 78:15, 80:22, 101:4 <b>along</b> 8:13, 49:13, 149:13, 170:17, 178:6 <b>already</b> 48:5, 64:15, 97:21, 115:15, 127:22, 136:9 <b>also</b> 3:18, 6:10, 7:14, 7:17, 7:19, 37:19, 43:22, 80:9, 91:9, 99:4, 109:19, 110:22, 129:7, 137:17, 153:2, 181:15 <b>altering</b> 109:6 <b>alternative</b> 46:2, 69:16, 69:20, 70:7, 72:5, 73:14, 74:1, 75:20, 95:21, 121:16 <b>although</b> 8:12, 97:18, 165:10 <b>always</b> 28:5, 57:18, 158:1 <b>amend</b> 47:3 <b>amendments</b> 124:16 <b>american</b> 15:5, 82:9,	82:11, 126:18 <b>among</b> 12:13, 22:12, 134:19 <b>amongst</b> 178:4 <b>amos</b> 9:18, 13:8, 13:9, 13:11, 13:18, 14:13, 16:13, 16:20, 136:10, 139:20, 139:22, 143:13, 148:21, 151:19 <b>amount</b> 87:19, 149:16 <b>amplifies</b> 173:9 <b>analyses</b> 53:5, 53:15 <b>analysis</b> 54:20, 55:9, 56:6, 60:12, 62:1, 62:6, 64:21, 76:10, 76:17, 76:18, 77:2, 80:14, 100:20, 127:22, 128:2, 156:6 <b>analyzed</b> 127:20 <b>anne</b> 74:17 <b>announced</b> 123:21 <b>another</b> 9:10, 17:18, 20:22, 21:5, 22:1, 22:4, 26:2, 30:22, 32:17, 38:11, 40:18, 47:18, 48:4, 109:8, 119:6, 133:22, 135:10, 136:6, 162:12, 165:1, 176:22 <b>answer</b> 29:10, 31:5,	35:1, 37:9, 37:21, 41:21, 48:15, 50:6, 54:7, 61:11, 61:18, 63:6, 71:13, 83:11, 86:15, 94:11, 101:6, 109:11, 114:6, 114:7, 115:18, 129:8, 137:22, 138:3, 141:20, 142:7, 146:9, 146:21, 147:4, 148:8, 148:9, 151:9, 153:5, 156:16, 157:1, 158:20, 158:22, 159:14, 159:15, 163:13 <b>answered</b> 38:18, 46:13, 82:22, 83:4, 102:9, 102:18, 102:19, 108:3, 109:14, 109:15, 113:15, 113:16, 115:9, 122:7 <b>anticipated</b> 105:20 <b>any</b> 8:4, 8:9, 8:22, 11:12, 13:18, 13:20, 13:21, 19:11, 31:4, 34:1, 34:3, 36:21, 41:1, 46:20, 47:13, 51:13, 51:17, 56:7, 58:15, 60:5, 64:12, 66:7, 71:9, 73:22, 75:8, 75:15, 76:8, 80:1, 80:7, 80:14, 82:18, 84:17, 84:22, 85:3, 85:9, 90:2, 90:6,
---	---	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

49

<p>90:13, 92:2, 110:5, 110:14, 118:5, 118:13, 119:1, 122:4, 122:12, 123:10, 124:8, 127:20, 149:19, 150:22, 151:5, 157:13, 159:2, 162:6, 163:10, 163:14, 165:10, 167:3, 167:20, 169:13, 176:12, 176:14, 176:17, 176:19, 177:3, 177:8, 177:10, 177:12, 177:17, 177:19, 179:10, 179:22, 180:9, 180:14, 181:20, 183:11 <b>anybody</b> 127:21, 131:8 <b>anyone</b> 62:11, 84:9 <b>anything</b> 19:17, 40:14, 57:21, 58:15, 66:6, 66:7, 86:22, 103:17, 136:2, 136:11, 139:8, 141:16, 143:15, 150:11, 153:16, 157:19, 178:11, 179:11, 180:16 <b>anywhere</b> 20:21, 65:4, 66:4, 68:2 <b>apologize</b> 117:3 <b>apparent</b> 168:4, 169:6, 169:9, 170:8 <b>apparently</b> 118:8 <b>appear</b> 107:18, 145:19, 148:3, 164:21,</p>	<p>171:10 <b>appeared</b> 100:21, 100:22, 101:1 <b>appears</b> 75:2, 75:22, 118:3, 129:6, 143:6, 143:16, 152:14, 160:20, 160:21 <b>applicable</b> 85:3 <b>application</b> 85:4 <b>applications</b> 86:5 <b>applied</b> 83:12 <b>applies</b> 40:13, 97:12, 125:8 <b>apply</b> 41:15, 41:20 <b>applying</b> 77:15 <b>approach</b> 45:18, 46:7, 58:5 <b>appropriate</b> 79:1, 79:3, 79:5, 79:22, 96:9, 175:8 <b>approve</b> 39:22 <b>approving</b> 38:4 <b>approximate</b> 130:14, 131:6, 158:1 <b>approximately</b> 63:12 <b>approximation</b> 164:22 <b>arbitrary</b> 108:6 <b>area</b> 34:18, 35:4, 35:8, 36:5,</p>	<p>36:9, 87:6, 110:19, 155:16, 155:19, 155:22, 158:5 <b>areas</b> 59:8, 150:15, 155:17, 167:11, 167:13, 168:10, 168:22, 174:10 <b>argumentative</b> 38:1, 174:20 <b>arithmetic</b> 79:8, 79:16, 80:2 <b>arlington</b> 178:19 <b>around</b> 51:2, 105:11, 157:6 <b>arrange</b> 11:17 <b>arranged</b> 10:12, 10:13, 12:2 <b>arranging</b> 10:18 <b>article</b> 12:5, 174:4 <b>artifact</b> 55:3, 62:13, 165:6 <b>arundel</b> 74:17 <b>asked</b> 11:16, 17:7, 38:18, 38:19, 39:10, 39:12, 43:22, 46:13, 68:10, 71:2, 83:3, 95:16, 102:8, 102:18, 108:3, 109:14, 113:15, 115:8, 122:7, 128:3, 181:14 <b>asking</b> 31:12, 32:1, 38:9, 39:15,</p>	<p>39:18, 40:12, 44:14, 44:15, 78:14, 156:22, 158:17, 163:10 <b>assemble</b> 135:17, 138:5, 152:21 <b>assembly</b> 44:3 <b>assertions</b> 115:21 <b>assessment</b> 90:13 <b>assign</b> 142:4 <b>assignment</b> 59:8 <b>assistant</b> 6:7, 6:10 <b>assisted</b> 112:1, 113:11, 113:17, 113:20 <b>associated</b> 143:21 <b>assume</b> 16:15, 144:7, 181:14, 181:15 <b>assumed</b> 7:6 <b>assumes</b> 56:2 <b>assuming</b> 67:12 <b>assumption</b> 36:11, 55:18, 110:14 <b>assumptions</b> 25:1, 181:19 <b>assured</b> 18:8 <b>attached</b> 4:7, 7:1, 68:17, 92:10, 105:14, 108:9, 112:8, 116:21, 122:2, 128:12, 128:18, 132:16, 138:18, 142:17,</p>
--	---	--	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

50

152:4, 153:9, 154:8, 162:22, 172:11 <b>attending</b> 96:13 <b>attention</b> 81:2, 110:5, 126:19, 127:17 <b>attorney</b> 2:3, 3:11, 6:8, 6:10, 103:5 <b>attorneys</b> 7:4, 9:1, 10:12 <b>attribute</b> 59:14 <b>attributed</b> 80:22 <b>attributes</b> 82:13 <b>attribution</b> 174:18 <b>authority</b> 182:2 <b>available</b> 139:4 <b>avoided</b> 22:7 <b>avoiding</b> 22:5 <b>aware</b> 34:7, 40:12, 96:14, 134:3, 137:6, 137:9 <b>away</b> 40:18 <b>awfully</b> 118:17	99:19, 102:2, 102:3, 103:20, 106:6, 112:16, 127:6, 136:8, 146:6, 151:18, 152:20, 170:6, 170:10, 175:10 <b>backed</b> 128:21 <b>background</b> 81:13, 95:15 <b>backing</b> 95:10 <b>balance</b> 30:13, 57:19, 65:22, 149:18 <b>balances</b> 28:12, 32:18 <b>balancing</b> 27:6, 27:22, 62:13 <b>ballot</b> 46:16 <b>baltimore</b> 1:12, 2:6, 3:14, 65:14, 66:12, 67:2, 67:5, 67:8, 69:11, 73:12, 73:15, 78:13, 78:15 <b>barred</b> 96:12 <b>base</b> 165:10 <b>based</b> 9:22, 46:7, 47:8, 47:14, 53:2, 53:12, 53:19, 55:7, 55:20, 56:13, 58:14, 61:14, 74:21, 77:9, 77:14, 79:2, 100:5, 101:3, 101:16, 103:15, 107:16, 109:10, 121:11, 122:11,	125:13, 130:1, 130:8, 131:7, 141:10, 147:16, 150:13, 151:11, 166:15 <b>bases</b> 51:8, 52:8, 52:12, 52:21, 99:6, 99:10, 107:22, 108:1 <b>basically</b> 9:8, 12:5, 105:4, 123:20 <b>basis</b> 7:5, 49:14, 52:5, 66:8, 79:1, 80:12, 81:7, 89:19, 90:2, 90:6, 90:16, 91:6, 91:10, 96:2, 98:18, 99:15, 101:4, 113:10, 114:8, 114:13, 115:1, 128:20 <b>bates</b> 8:10, 8:11, 8:12 <b>bay</b> 24:1, 74:4 <b>bear</b> 38:6, 60:8, 169:22 <b>bearing</b> 23:9, 60:3, 150:13, 181:20 <b>because</b> 8:19, 10:7, 18:8, 25:9, 25:11, 27:3, 27:15, 30:21, 32:13, 33:11, 36:6, 39:20, 44:5, 45:3, 52:11, 59:4, 61:1, 64:15, 65:7, 65:8, 79:10, 80:5,	87:16, 97:22, 98:17, 109:15, 121:2, 121:20, 126:12, 133:21, 134:3, 137:12, 138:13, 140:14, 143:13, 150:14, 158:22, 165:11, 166:19, 171:4, 171:18, 178:17, 180:21 <b>become</b> 53:21 <b>been</b> 6:2, 8:19, 11:11, 29:17, 29:20, 36:21, 43:22, 46:13, 47:1, 47:9, 47:11, 47:12, 48:4, 55:21, 57:13, 57:15, 60:22, 63:11, 64:8, 64:9, 64:20, 64:22, 67:22, 86:13, 103:9, 137:3, 148:7 <b>before</b> 2:10, 53:16, 54:19, 55:1, 56:20, 57:16, 57:20, 62:1, 62:6, 63:18, 69:1, 77:1, 85:11, 85:14, 86:3, 93:4, 106:18, 107:19, 110:2, 113:7, 117:8, 125:14, 127:15, 133:8, 137:2, 137:18, 138:3, 140:7, 141:4, 141:13, 142:10, 170:7, 171:3, 180:21, 183:3 <b>beforehand</b> 97:19
<b>B</b>			
<b>back</b> 8:18, 12:21, 13:7, 17:19, 26:22, 37:12, 38:15, 42:5, 45:2, 45:3, 51:3, 54:8, 66:18, 69:21, 72:21, 75:19,			

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

51

<p><b>begin</b> 50:9, 50:11</p> <p><b>beginning</b> 50:7, 50:15, 51:1, 52:18, 88:12, 157:10, 167:10</p> <p><b>begins</b> 52:15, 60:11, 72:4, 131:17, 167:10</p> <p><b>begun</b> 87:7</p> <p><b>behalf</b> 3:2, 3:8</p> <p><b>behave</b> 38:10</p> <p><b>behavior</b> 40:15, 40:21</p> <p><b>behind</b> 57:17, 134:13, 136:3, 158:16, 158:17</p> <p><b>being</b> 43:19, 57:17, 68:6, 94:6, 94:8, 95:21, 98:17, 106:16, 109:4, 113:17, 113:20, 118:20, 121:15, 126:16, 128:3, 136:20, 146:4, 157:14, 165:1, 165:7, 165:21, 172:5</p> <p><b>believe</b> 7:14, 11:17, 13:13, 13:20, 13:21, 21:6, 41:12, 60:9, 65:13, 90:9, 96:7, 97:18, 97:19, 104:5, 108:21, 113:6, 125:5, 158:6, 170:14</p> <p><b>believed</b> 107:12</p>	<p><b>benchmark</b> 86:9, 87:14</p> <p><b>benisek</b> 1:4</p> <p><b>besides</b> 103:13</p> <p><b>best</b> 104:13, 131:7, 156:8, 161:6, 172:7</p> <p><b>better</b> 38:3, 52:14, 131:12, 166:19</p> <p><b>between</b> 29:7, 30:1, 41:2, 49:20, 55:12, 64:16, 64:18, 71:6, 74:4, 110:12, 111:14, 123:7, 136:18, 146:17, 147:20, 168:4, 169:7</p> <p><b>beverly</b> 91:1, 91:5</p> <p><b>beyond</b> 49:16, 150:11</p> <p><b>big</b> 15:15, 87:16, 158:6</p> <p><b>bigger</b> 24:3</p> <p><b>bill</b> 124:11</p> <p><b>bit</b> 23:17, 36:13, 52:11, 69:8, 88:19, 115:6</p> <p><b>bizarre</b> 21:2</p> <p><b>blacks</b> 86:8, 87:6</p> <p><b>block</b> 40:17, 43:2, 142:4, 158:7, 159:2, 159:6</p> <p><b>blocking</b> 9:17</p>	<p><b>blocks</b> 130:15, 135:18</p> <p><b>body</b> 7:11, 23:10, 23:21, 24:9, 120:6</p> <p><b>border</b> 24:6, 163:22, 164:2, 170:17, 178:6</p> <p><b>borders</b> 129:15, 129:17, 161:18</p> <p><b>born</b> 33:14, 84:10, 84:14</p> <p><b>both</b> 12:1, 84:14, 99:22, 111:15, 128:14, 137:12, 138:10, 144:13, 169:9</p> <p><b>bottom</b> 106:10, 106:12, 131:16, 149:14</p> <p><b>boundaries</b> 10:22, 11:5, 21:1, 22:4, 30:12, 30:19, 31:2, 39:2, 41:3, 41:16, 47:11, 55:3, 57:7, 59:5, 60:6, 60:9, 61:10, 62:16, 63:4, 64:10, 65:12, 70:9, 70:14, 71:1, 87:19, 109:7, 120:15, 138:8, 150:16, 154:13, 154:14, 154:15, 154:19, 155:11, 156:3, 156:11, 157:8, 157:9, 159:22, 166:18</p> <p><b>boundary</b> 31:3, 159:9,</p>	<p>164:17, 166:1, 167:1</p> <p><b>bounded</b> 42:21, 155:4</p> <p><b>bounds</b> 77:17</p> <p><b>bowers</b> 160:21</p> <p><b>bracket</b> 114:10</p> <p><b>break</b> 48:17, 68:12, 88:16, 122:16, 162:12</p> <p><b>brian</b> 13:9, 13:10, 13:11, 110:12, 139:20, 139:22, 143:13, 151:19</p> <p><b>bridge</b> 23:10, 23:21, 24:13, 24:14, 24:15, 24:18, 25:7, 25:9, 25:11, 25:14, 25:15, 25:21, 26:1, 26:5, 26:8, 26:15, 26:22, 27:10, 27:11, 27:13</p> <p><b>bridges</b> 61:1</p> <p><b>briefly</b> 74:14</p> <p><b>bring</b> 8:18, 31:21, 81:12, 149:17, 151:21</p> <p><b>bringing</b> 60:8</p> <p><b>broad</b> 52:22</p> <p><b>brought</b> 87:18</p> <p><b>brown</b> 3:4, 6:15, 96:5, 97:17, 101:8, 101:19,</p>
---	--	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

52

109:20, 111:1, 111:7, 114:14, 115:3, 118:11, 121:1, 121:21, 125:12, 127:1 <b>bunch</b> 95:1 <b>burden</b> 43:12, 44:4, 46:9, 48:9 <b>burdened</b> 47:1 <b>bureau</b> 4:19, 4:20, 4:21, 4:22, 10:20, 14:22, 17:9, 19:6, 42:15, 42:22, 129:19, 130:18, 132:8, 132:22, 133:14, 133:15, 133:20, 134:1, 134:22, 136:2, 137:20, 138:10, 139:2, 159:9, 160:1, 172:4, 173:3, 173:10, 173:12, 173:14, 173:21, 174:1, 175:6, 178:14 <b>bureau's</b> 13:22, 131:22, 132:1, 137:16, 141:11, 168:7, 171:8, 172:9, 175:1 <b>business</b> 135:7 <b>byron</b> 91:1, 91:5	<b>calculation</b> 84:2 <b>call</b> 15:11, 55:7, 62:9, 77:14, 77:18, 85:17, 87:8, 100:16, 114:11 <b>called</b> 15:13, 41:17, 49:22, 52:8, 130:6 <b>calling</b> 27:12, 47:4, 91:4, 156:14 <b>calls</b> 44:13, 48:11, 54:1, 91:22, 92:6, 110:16 <b>came</b> 19:9, 136:12, 173:5, 181:9 <b>can't</b> 25:2, 45:16, 47:14, 57:4, 57:21, 61:3, 64:19, 67:17, 103:16, 110:5, 117:10, 122:10, 146:21, 147:4, 148:8, 148:9, 150:22, 151:1, 151:9, 151:16, 156:14, 157:3, 158:21, 159:4, 161:12, 165:11, 169:21, 170:7, 172:5 <b>cancel</b> 25:12 <b>candidate</b> 45:5 <b>cannot</b> 31:5, 57:6, 159:15 <b>capture</b> 84:12 <b>care</b> 65:17, 66:7,	67:20 <b>cared</b> 66:2 <b>careful</b> 19:20 <b>carefully</b> 133:21 <b>carroll</b> 65:14, 66:12, 67:1, 67:6, 67:8, 69:13, 73:13, 73:20, 76:2 <b>carry</b> 119:14 <b>carving</b> 59:14 <b>case</b> 1:6, 6:9, 8:5, 8:16, 9:5, 9:11, 10:5, 13:6, 21:5, 44:21, 45:2, 46:16, 57:13, 57:16, 62:19, 71:20, 86:17, 86:19, 98:5, 98:16, 103:13, 125:19, 130:5, 165:13, 166:10, 171:4, 181:18, 183:12 <b>cases</b> 47:9, 47:13 <b>cast</b> 46:16, 101:2, 109:5 <b>categories</b> 8:18, 10:17, 30:2, 37:10 <b>category</b> 10:18, 11:15, 11:16, 13:7, 16:22, 81:20, 84:22, 170:3 <b>caught</b> 126:19, 127:17, 128:5 <b>cause</b> 46:1, 71:18,	85:15, 101:2 <b>caused</b> 45:12 <b>caveats</b> 12:11 <b>cd</b> 54:13, 56:10, 81:3, 118:19, 144:5, 144:12, 144:14, 148:6, 148:7, 167:22 <b>cdp</b> 132:9, 133:9, 167:16, 168:12, 168:15, 169:14, 169:18, 169:20, 169:21, 178:20, 180:6, 180:11, 180:17 <b>cdps</b> 131:17, 149:3, 149:10, 149:13, 167:11, 167:13, 167:21, 169:4, 170:5, 170:15, 174:10, 178:5 <b>cell</b> 17:12 <b>census</b> 4:19, 4:20, 4:21, 4:22, 10:18, 10:20, 11:2, 11:7, 11:9, 11:21, 13:22, 14:19, 14:21, 15:9, 17:3, 17:9, 19:6, 19:8, 19:12, 19:14, 19:17, 19:22, 20:3, 42:13, 42:14, 42:15, 42:21, 42:22, 43:1, 43:2, 54:12, 55:11, 56:7, 58:18, 60:1, 88:8, 129:15, 129:19,
<b>C</b>			
<b>calculate</b> 83:19, 88:6 <b>calculated</b> 66:14, 84:19, 85:9, 85:14, 105:19			

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

53

<p>130:6, 130:15, 130:18, 131:22, 132:1, 132:8, 132:22, 133:14, 133:15, 133:20, 134:1, 134:22, 135:1, 135:8, 135:18, 136:2, 136:17, 137:6, 137:16, 137:18, 137:19, 137:20, 138:10, 139:2, 140:20, 141:11, 141:13, 142:3, 142:9, 142:11, 143:10, 148:16, 148:18, 158:2, 158:7, 158:18, 158:21, 159:2, 159:6, 159:9, 159:11, 159:13, 159:15, 160:1, 161:10, 168:7, 171:8, 171:17, 172:3, 172:8, 173:3, 173:10, 173:12, 173:14, 173:20, 174:1, 174:2, 174:3, 175:1, 175:6, 178:14, 178:18</p> <p><b>census-defined</b> 59:19</p> <p><b>census-designated</b> 5:9, 16:13, 17:4, 55:10, 129:12, 132:5, 135:4, 135:20, 137:7, 141:9, 142:2, 144:21, 145:21, 147:14, 147:18, 147:21, 148:14, 168:9, 173:1, 173:5, 173:21, 178:1, 178:14, 178:16</p> <p><b>center</b> 32:14</p>	<p><b>central</b> 49:10, 49:17</p> <p><b>certain</b> 58:18, 181:19</p> <p><b>certainly</b> 145:19, 148:12, 173:15</p> <p><b>certainty</b> 150:22</p> <p><b>certificate</b> 183:1</p> <p><b>certify</b> 183:5</p> <p><b>cetera</b> 95:7</p> <p><b>chairs</b> 63:22, 64:1</p> <p><b>challenge</b> 58:2</p> <p><b>challenged</b> 54:12, 58:12, 58:13</p> <p><b>chance</b> 60:17, 60:19, 62:12, 77:17</p> <p><b>change</b> 43:3, 55:21, 61:4, 61:8, 64:10, 82:15, 83:7, 85:15, 85:21, 86:5, 86:11, 86:19, 87:4, 87:11, 87:15, 87:16, 87:17, 87:20, 87:22, 88:3, 91:16, 94:11, 101:9, 101:14, 115:14, 150:4, 150:7, 150:10, 150:19, 151:6, 166:1, 166:3, 166:8, 166:20, 167:1</p> <p><b>changed</b> 45:13, 64:7, 64:8, 64:9, 150:19</p>	<p><b>changes</b> 43:6</p> <p><b>changing</b> 109:5</p> <p><b>characteristics</b> 31:14, 35:13, 35:17</p> <p><b>characterize</b> 50:12, 78:16, 107:21</p> <p><b>charles</b> 3:20, 6:13</p> <p><b>check</b> 28:2, 133:21, 146:5, 148:1, 148:19, 152:20, 170:1</p> <p><b>checked</b> 19:3, 52:2</p> <p><b>chesapeake</b> 74:4</p> <p><b>choice</b> 108:6</p> <p><b>choose</b> 78:22, 80:11, 140:12</p> <p><b>chose</b> 19:11, 19:12, 19:14, 19:22, 20:2, 20:7</p> <p><b>chosen</b> 40:17</p> <p><b>circle</b> 153:15, 154:6, 160:6, 160:8</p> <p><b>circulated</b> 108:14, 109:13</p> <p><b>circumstance</b> 150:1</p> <p><b>circumstances</b> 30:15, 33:3</p> <p><b>citation</b> 89:18, 94:15, 94:16, 98:13, 115:13, 170:22, 171:7</p> <p><b>citations</b> 93:15, 110:1</p>	<p><b>cite</b> 132:13</p> <p><b>cited</b> 98:12, 103:16, 113:5, 125:6</p> <p><b>cities</b> 10:19, 147:13, 148:14, 149:2, 149:4, 149:6, 149:7, 149:8, 149:13, 152:18, 155:17, 178:18</p> <p><b>citing</b> 173:19, 173:20</p> <p><b>city</b> 11:3, 11:4, 11:6, 21:10, 42:22, 130:2, 130:3, 144:22, 145:12, 155:12, 157:9, 161:4, 163:5, 169:14, 178:16, 178:18, 180:6</p> <p><b>clarify</b> 31:8, 32:3, 41:5, 41:6</p> <p><b>classified</b> 132:5</p> <p><b>classify</b> 11:8</p> <p><b>classifying</b> 141:22</p> <p><b>clear</b> 36:9, 56:12, 62:10, 62:11, 69:10, 80:20, 95:1, 103:9, 117:1, 118:21, 143:20</p> <p><b>clearer</b> 23:14, 69:8</p> <p><b>clearest</b> 32:21</p> <p><b>clearly</b> 48:15, 62:19</p> <p><b>clerks</b> 6:12</p>
---	--	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

54

<p><b>click</b> 15:17</p> <p><b>clients</b> 116:10</p> <p><b>close</b> 133:12</p> <p><b>closed-door</b> 95:9, 107:7</p> <p><b>closely</b> 21:13, 21:22</p> <p><b>closer</b> 31:21, 41:12, 140:20</p> <p><b>closing</b> 24:13</p> <p><b>collateral</b> 72:18</p> <p><b>collecting</b> 135:11</p> <p><b>colonias</b> 170:16, 178:6, 179:3</p> <p><b>colored</b> 164:13</p> <p><b>colors</b> 154:16</p> <p><b>column</b> 78:8, 79:12, 80:1, 80:8, 143:6, 144:20, 145:10, 145:12, 145:14, 147:3, 152:15, 169:13</p> <p><b>columns</b> 79:18, 79:21, 94:22, 145:6</p> <p><b>come</b> 14:17, 19:10, 27:8, 27:17, 47:7, 54:8, 60:16, 81:14, 95:12, 136:1</p> <p><b>comes</b> 14:21, 112:17, 125:19, 140:10, 165:22, 172:22</p> <p><b>coming</b> 87:8, 88:14</p>	<p><b>command</b> 130:19, 130:20</p> <p><b>comments</b> 37:4, 38:6</p> <p><b>commission</b> 183:17</p> <p><b>common</b> 82:20, 83:2, 83:5, 85:4, 130:10</p> <p><b>communication</b> 132:22, 133:11, 134:7, 134:12</p> <p><b>communications</b> 103:3, 103:4, 111:13, 132:10</p> <p><b>communities</b> 21:4, 30:18, 32:16, 42:7, 42:18, 43:3, 54:14, 56:11, 56:14, 56:19, 57:5, 57:12, 57:15, 59:4, 137:1, 146:17, 147:11, 147:13, 167:18, 168:17, 168:19, 169:2, 169:4, 169:20, 170:16, 170:18, 178:6, 178:8</p> <p><b>community</b> 11:1, 42:11, 42:12, 132:11, 133:11, 134:21, 167:15, 168:1, 168:12</p> <p><b>commuting</b> 128:2, 128:4</p> <p><b>compactness</b> 20:22</p> <p><b>comparator</b> 79:22</p> <p><b>compare</b> 78:20, 82:10, 82:13</p> <p><b>compared</b> 84:7</p>	<p><b>comparing</b> 55:1, 78:15, 82:18, 84:2, 84:22, 86:7, 147:5, 148:10, 151:10</p> <p><b>comparison</b> 79:1, 86:9, 86:22, 87:1, 87:21, 141:2</p> <p><b>comparisons</b> 79:13, 80:15</p> <p><b>compatible</b> 16:1</p> <p><b>competitive</b> 34:11, 34:14</p> <p><b>competitiveness</b> 34:20</p> <p><b>complaint</b> 7:15</p> <p><b>completed</b> 128:2</p> <p><b>completely</b> 31:4, 45:14</p> <p><b>composed</b> 20:19</p> <p><b>composition</b> 81:10</p> <p><b>compound</b> 31:20, 40:7</p> <p><b>comprise</b> 67:15</p> <p><b>comprised</b> 25:20</p> <p><b>compromised</b> 47:1</p> <p><b>concede</b> 57:10</p> <p><b>concentration</b> 105:4</p> <p><b>concentrations</b> 32:17</p> <p><b>concept</b> 42:13, 54:21, 57:17, 84:12, 134:13, 134:20, 135:16, 173:11</p> <p><b>concepts</b> 77:16</p>	<p><b>concern</b> 37:3, 37:15, 85:16, 109:3, 113:9</p> <p><b>concerned</b> 109:16, 113:18, 118:17, 124:18</p> <p><b>concerns</b> 36:15, 36:19, 37:16</p> <p><b>concise</b> 97:20, 136:5</p> <p><b>conclude</b> 57:4, 57:21, 180:21</p> <p><b>conclusion</b> 44:2, 44:13, 44:15, 47:5, 48:12, 53:2, 53:7, 53:12, 60:3</p> <p><b>conclusions</b> 49:22, 50:3, 50:8, 50:11, 50:17, 50:19, 50:22, 53:14, 58:13, 100:19, 101:3, 101:5, 107:19, 109:9</p> <p><b>concrete</b> 36:14</p> <p><b>condition</b> 26:12, 150:4</p> <p><b>conduct</b> 53:15</p> <p><b>conducted</b> 60:13, 62:1, 62:6</p> <p><b>conducting</b> 76:16, 77:2</p> <p><b>conference</b> 99:17, 100:7</p> <p><b>confidence</b> 101:15</p> <p><b>confident</b> 59:12</p> <p><b>confidently</b> 57:4, 57:7</p>
--	--	--	---



## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

55

<p><b>configuration</b> 66:12, 70:8, 72:5</p> <p><b>configured</b> 21:19, 54:13, 56:10</p> <p><b>confirmed</b> 102:20</p> <p><b>conflicts</b> 30:22</p> <p><b>congress</b> 140:4, 140:8, 144:2, 152:7, 152:10</p> <p><b>congresses</b> 140:13, 140:16</p> <p><b>congressional</b> 5:3, 5:5, 5:7, 19:15, 19:16, 21:6, 67:3, 67:9, 67:16, 69:8, 69:11, 69:20, 70:8, 71:22, 72:1, 72:2, 72:13, 73:17, 75:1, 75:5, 89:9, 91:19, 91:20, 96:12, 105:22, 120:15, 121:9, 123:22, 124:22, 127:12, 128:7, 137:7, 137:13, 137:21, 137:22, 139:3, 139:7, 141:3, 142:21, 143:5, 143:22, 145:7, 145:14, 145:18, 146:12, 146:18, 146:19, 152:13, 152:14, 152:19, 153:3, 154:14, 160:16</p> <p><b>conjunction</b> 28:6</p> <p><b>connect</b> 24:16, 26:20</p> <p><b>connected</b> 25:6, 25:21,</p>	<p>27:13, 27:14, 27:15</p> <p><b>connecting</b> 26:7</p> <p><b>connection</b> 24:9, 41:2, 148:15</p> <p><b>conscious</b> 45:15, 64:9</p> <p><b>conservative</b> 89:15, 90:10, 91:1, 91:6, 91:12</p> <p><b>consider</b> 10:13, 26:18, 46:2, 59:7, 74:3, 74:15, 102:16, 103:9, 103:14, 120:22</p> <p><b>consideration</b> 20:22, 21:3, 21:5, 22:2, 22:3, 23:7, 23:11, 24:10, 26:7, 27:15, 28:4, 28:5, 28:11, 28:16, 28:19, 28:21, 29:3, 29:12, 29:19, 31:6, 31:13, 31:17, 32:6, 32:19, 33:2, 33:6, 33:15, 34:1, 34:3, 34:5, 34:12, 34:21, 36:16, 37:5, 37:17, 38:15, 39:12, 39:19, 39:20, 40:13, 43:7, 47:22, 88:4, 125:2, 165:15, 165:22</p> <p><b>considerations</b> 20:14, 20:17, 22:8, 22:14, 22:15, 22:18, 22:19, 26:14,</p>	<p>27:3, 27:7, 27:17, 28:6, 28:13, 28:17, 29:6, 29:8, 29:9, 29:22, 30:8, 30:9, 30:13, 30:20, 31:4, 31:15, 33:17, 33:18, 33:21, 35:7, 35:11, 35:18, 35:20, 35:21, 38:20, 39:2, 39:6, 39:9, 39:13, 39:17, 40:1, 40:4, 41:9, 41:10, 55:4, 57:19, 125:1</p> <p><b>considered</b> 23:4, 28:5, 53:16, 95:2, 95:21, 103:6, 109:4, 120:14, 120:20, 121:22, 127:19, 178:15</p> <p><b>considering</b> 34:19, 39:21, 113:9, 119:5, 121:16</p> <p><b>consist</b> 148:4</p> <p><b>consistent</b> 109:9, 135:7, 135:8, 181:21</p> <p><b>constituent</b> 36:15, 37:2, 37:15, 37:16</p> <p><b>constituents</b> 36:19, 36:21, 37:3, 38:7, 41:1</p> <p><b>constructed</b> 55:9, 59:22</p> <p><b>consultant</b> 94:16, 95:8</p> <p><b>consulting</b> 92:5</p> <p><b>consumer</b> 16:9</p>	<p><b>contain</b> 73:20, 133:17, 177:8</p> <p><b>contained</b> 23:16, 53:3, 100:13, 101:8, 115:22</p> <p><b>contains</b> 112:20, 113:2, 134:1</p> <p><b>contemplating</b> 38:3</p> <p><b>contents</b> 52:17</p> <p><b>context</b> 43:19, 44:10, 86:7, 87:4, 87:13</p> <p><b>contexts</b> 84:20</p> <p><b>contiguity</b> 23:18, 23:20, 28:10, 28:18</p> <p><b>contiguous</b> 20:20</p> <p><b>continue</b> 47:6, 116:17, 170:13</p> <p><b>continues</b> 121:7</p> <p><b>continuity</b> 20:18</p> <p><b>continuums</b> 34:15</p> <p><b>cooper</b> 74:9</p> <p><b>cooper's</b> 74:13</p> <p><b>copies</b> 7:17</p> <p><b>copy</b> 6:18, 7:14, 99:1, 108:11, 115:19, 174:17, 182:13</p> <p><b>core</b> 49:10</p> <p><b>corner</b> 106:10, 106:12,</p>
--	---	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

56

107:2, 158:5, 163:21, 164:7, 164:8 <b>corners</b> 131:2 <b>corporate</b> 130:1, 130:12 <b>correct</b> 7:9, 49:7, 54:15, 54:16, 66:22, 67:4, 67:10, 78:11, 78:12, 78:13, 78:14, 84:16, 89:16, 93:20, 98:5, 106:8, 108:19, 111:9, 112:13, 112:21, 113:3, 114:22, 120:18, 140:17, 145:3, 145:8, 153:6, 159:19, 169:15, 170:20, 173:15, 178:1, 178:2, 179:9, 180:7, 180:8, 183:6 <b>correctly</b> 18:13, 44:8, 76:1, 114:21, 161:1, 163:9, 178:9 <b>correspond</b> 135:14, 153:15, 169:1 <b>corresponded</b> 14:10 <b>correspondence</b> 103:12, 120:3 <b>corresponds</b> 179:11, 179:14 <b>corroborated</b> 101:21 <b>corroborating</b> 100:18 <b>corroboration</b> 102:5, 103:11 <b>could</b> 7:20, 8:7, 9:9,	10:1, 10:12, 11:18, 12:5, 12:15, 13:1, 13:16, 13:17, 14:8, 14:9, 17:19, 18:3, 18:6, 18:7, 19:3, 23:9, 23:14, 24:5, 24:8, 26:16, 27:13, 31:13, 32:22, 33:20, 34:4, 36:15, 36:22, 37:8, 41:11, 55:2, 56:12, 56:16, 56:17, 56:18, 59:13, 59:20, 60:15, 60:16, 60:18, 60:22, 61:10, 61:15, 62:12, 68:6, 71:17, 76:13, 80:21, 83:9, 84:10, 85:22, 101:9, 108:4, 116:2, 123:10, 125:3, 134:22, 136:19, 137:3, 138:11, 141:16, 144:7, 150:2, 164:21, 165:5, 165:6, 169:18, 173:11, 181:10 <b>couldn't</b> 25:7, 25:8, 37:21, 61:2, 126:11 <b>counsel</b> 6:4, 6:9, 111:14, 116:4, 116:10, 176:5, 176:9, 177:4, 177:13, 177:18, 177:22, 178:3, 182:12, 183:10 <b>count</b> 35:13, 46:18,	89:4, 89:5, 131:15, 146:3 <b>counted</b> 161:3 <b>counterpart</b> 131:18, 131:20, 131:21 <b>counties</b> 29:1, 65:14, 66:13, 67:9, 67:15, 69:12, 73:16, 76:3, 78:20, 89:15, 108:17 <b>counting</b> 90:19 <b>countries</b> 81:15 <b>countryside</b> 167:17, 168:14, 168:16 <b>counts</b> 46:17 <b>county</b> 21:10, 32:11, 32:12, 32:14, 67:2, 67:3, 69:13, 73:20, 74:17, 74:22, 75:7, 75:14, 75:20, 78:11, 78:13, 78:15, 78:16, 145:12, 161:13, 178:20, 183:22 <b>couple</b> 49:1, 112:17, 131:3, 164:18, 166:5 <b>coupled</b> 154:13 <b>course</b> 7:16, 22:9 <b>court</b> 1:1 <b>create</b> 31:17, 76:8 <b>created</b> 69:18, 108:22,	114:18, 117:16, 118:3, 120:13 <b>creating</b> 112:3, 113:13 <b>criteria</b> 62:14, 66:1, 119:8, 132:8, 132:22, 133:9, 134:5, 134:15, 135:2, 135:3, 135:6, 162:9 <b>criterion</b> 59:17 <b>cross</b> 81:22, 82:9, 82:10, 82:11 <b>crosshatch</b> 160:20 <b>crossing</b> 23:10, 74:4 <b>cul-de-sacs</b> 59:22 <b>cultures</b> 81:14 <b>cumulative</b> 115:8, 115:16, 116:12, 122:8 <b>curious</b> 127:21 <b>current</b> 55:13, 67:16, 69:8, 69:10, 105:22, 137:19, 137:21, 175:2 <b>currently</b> 42:21, 167:15, 168:11 <b>cv</b> 1:7 <hr/> <b>D</b> <hr/> <b>daily</b> 132:10, 132:22, 133:10, 134:6, 134:11 <b>damage</b> 72:18 <b>data</b> 7:21, 8:2, 9:6,
---	---	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

57

<p>9:9, 10:2, 10:15, 10:16, 10:18, 10:21, 11:17, 11:21, 11:22, 12:4, 13:7, 13:12, 13:17, 13:19, 14:3, 14:6, 14:13, 14:17, 15:2, 15:20, 16:12, 16:22, 17:2, 17:7, 17:9, 17:17, 17:20, 19:6, 46:8, 50:21, 54:13, 56:22, 57:2, 58:2, 58:6, 58:11, 58:12, 58:14, 62:5, 62:10, 77:9, 80:3, 88:5, 88:8, 99:12, 100:5, 101:16, 103:5, 106:5, 107:16, 127:20, 128:4, 130:19, 135:11, 135:12, 136:12, 136:15, 137:16, 139:18, 139:19, 139:22, 148:11, 149:13, 149:20, 150:5, 151:1, 152:22, 161:7, 177:9</p> <p><b>date</b> 109:22, 119:1, 119:3, 120:2, 175:11, 175:14</p> <p><b>dates</b> 119:13, 119:15, 119:16</p> <p><b>day</b> 86:3, 86:4, 124:4, 183:15</p> <p><b>dc</b> 3:6</p> <p><b>de</b> 87:17</p>	<p><b>deal</b> 89:6, 139:14, 139:15</p> <p><b>dealing</b> 40:1</p> <p><b>decade</b> 86:6, 86:16, 86:20, 87:13</p> <p><b>december</b> 175:20</p> <p><b>decennial</b> 141:13, 142:9</p> <p><b>decidedly</b> 86:11</p> <p><b>decision</b> 27:16, 38:6</p> <p><b>decisions</b> 64:9</p> <p><b>default</b> 80:11</p> <p><b>defend</b> 126:2</p> <p><b>defendants</b> 1:8, 3:8, 6:4, 6:8, 6:11, 97:5</p> <p><b>defense</b> 176:9, 177:3, 177:13, 177:17, 177:22, 178:3</p> <p><b>define</b> 102:2, 135:8</p> <p><b>defined</b> 11:3, 148:6, 159:11, 159:21, 173:6, 173:21</p> <p><b>defines</b> 10:21</p> <p><b>definitely</b> 78:21</p> <p><b>definition</b> 5:9, 43:1, 132:1, 135:9, 148:2, 151:11, 151:12, 151:17, 161:22, 162:1, 170:2, 173:1, 175:2, 180:10, 180:16</p>	<p><b>definitively</b> 159:16</p> <p><b>degraded</b> 47:19</p> <p><b>degree</b> 137:2</p> <p><b>delaney's</b> 90:14</p> <p><b>delegation</b> 91:20, 112:2, 113:12</p> <p><b>delineated</b> 154:15</p> <p><b>delineating</b> 131:12</p> <p><b>democrat</b> 48:8, 91:1, 91:6, 91:12</p> <p><b>democratic</b> 105:5, 105:9, 105:20, 105:21, 108:15, 108:16, 109:2, 109:17, 112:1, 113:12, 118:6, 121:11, 121:17</p> <p><b>democrats</b> 34:2, 63:14, 109:6</p> <p><b>demographer</b> 34:8, 34:17, 40:14, 41:3, 41:11, 46:7, 83:12, 110:20</p> <p><b>demographers</b> 35:13, 37:11, 42:12, 45:19, 131:10</p> <p><b>demographic</b> 32:22, 35:12, 44:1, 45:21, 50:13, 50:20, 53:3, 53:5, 53:12, 55:7, 58:5, 62:5, 77:15, 99:12, 99:15, 100:5, 100:16, 100:19,</p>	<p>101:4, 101:16, 105:5, 107:16, 109:10, 135:11, 135:12</p> <p><b>demographically</b> 33:12, 82:8</p> <p><b>demonstrate</b> 68:3</p> <p><b>demonstrated</b> 64:22</p> <p><b>demonstrates</b> 65:10, 67:22</p> <p><b>demonstration</b> 143:19</p> <p><b>demonstrative</b> 143:18</p> <p><b>density</b> 80:8</p> <p><b>department</b> 14:2, 14:18</p> <p><b>depend</b> 26:13, 29:5, 165:20</p> <p><b>dependent</b> 29:8, 29:21</p> <p><b>depending</b> 47:19, 47:20</p> <p><b>depends</b> 27:4</p> <p><b>depicted</b> 104:19</p> <p><b>deposition</b> 1:11, 2:1, 4:8, 5:2, 6:21, 7:11, 7:17, 53:1, 68:16, 91:9, 92:9, 97:6, 104:15, 105:13, 108:8, 112:7, 116:20, 122:1, 125:6, 132:15, 138:17, 142:16, 152:3, 153:8, 154:7, 162:21, 172:10, 181:2, 183:4</p> <p><b>depositions</b> 8:4</p>
---	--	--	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

58

<p><b>derive</b> 19:4, 97:5</p> <p><b>derived</b> 17:13, 18:2, 50:14, 97:15</p> <p><b>descending</b> 149:2</p> <p><b>describe</b> 105:8</p> <p><b>described</b> 36:6, 62:3, 70:6, 76:22, 82:16, 131:22</p> <p><b>description</b> 136:1, 168:7</p> <p><b>design</b> 76:9</p> <p><b>designated</b> 14:20, 56:8, 129:16, 167:14, 168:11, 168:14, 168:15</p> <p><b>designating</b> 158:7</p> <p><b>designations</b> 173:20</p> <p><b>detail</b> 12:20</p> <p><b>detailed</b> 10:9</p> <p><b>details</b> 13:3, 97:1, 97:2, 161:11, 171:19</p> <p><b>determine</b> 44:1, 58:15</p> <p><b>develop</b> 7:3, 7:6</p> <p><b>developments</b> 59:21</p> <p><b>deviation</b> 21:13</p> <p><b>di</b> 83:20</p> <p><b>dianna</b> 1:22, 2:10, 183:3</p> <p><b>differed</b> 56:3</p>	<p><b>difference</b> 29:7, 30:1, 77:22, 78:4, 78:17, 124:8, 145:21, 146:6, 146:16, 151:3, 166:9, 166:11</p> <p><b>differences</b> 22:22, 80:18</p> <p><b>different</b> 27:1, 27:8, 29:15, 37:1, 47:21, 52:4, 52:13, 63:18, 79:21, 95:1, 154:16, 157:4, 171:15, 179:1</p> <p><b>differently</b> 39:11</p> <p><b>difficult</b> 163:16</p> <p><b>difficulty</b> 156:5</p> <p><b>dimension</b> 22:10</p> <p><b>dimensions</b> 167:17</p> <p><b>direct</b> 92:2, 176:7</p> <p><b>directed</b> 178:3</p> <p><b>direction</b> 183:9</p> <p><b>directly</b> 30:22, 118:10, 168:7, 171:8, 171:17, 175:2</p> <p><b>disagreement</b> 180:22</p> <p><b>disapprove</b> 39:22</p> <p><b>disapproving</b> 38:4</p> <p><b>discontiguous</b> 24:17, 25:6</p> <p><b>discontinuous</b> 26:21</p> <p><b>discovery</b> 8:4, 8:8</p>	<p><b>discrepancies</b> 159:5</p> <p><b>discrepancy</b> 169:6, 170:7, 170:8</p> <p><b>discussed</b> 96:14</p> <p><b>discussing</b> 100:14</p> <p><b>discussion</b> 180:4</p> <p><b>discussions</b> 10:1</p> <p><b>disparate</b> 25:21</p> <p><b>displayed</b> 177:9</p> <p><b>disprove</b> 99:13</p> <p><b>dispute</b> 173:13, 181:5</p> <p><b>dissimilar</b> 81:5, 81:8, 82:2</p> <p><b>dissimilarity</b> 83:19, 83:20, 84:2, 84:18, 85:7, 88:6</p> <p><b>distinct</b> 58:6</p> <p><b>distinction</b> 147:20</p> <p><b>distinguish</b> 135:18, 136:18</p> <p><b>distinguishing</b> 50:7</p> <p><b>districting</b> 20:14, 20:16, 23:11, 24:10, 26:6, 27:6, 28:5, 28:11, 28:13, 28:19, 28:21, 29:2, 29:19, 31:13, 31:15, 32:5, 33:1, 33:6, 33:15, 33:18, 34:5, 34:11,</p>	<p>34:21, 35:6, 35:18, 35:21, 36:16, 37:5, 37:17, 38:15, 38:16, 38:20, 39:1, 39:6, 39:9, 39:12, 39:13, 39:16, 39:19, 39:20, 40:1, 40:3, 40:13, 41:8, 41:10, 41:14, 43:7, 165:14</p> <p><b>districts</b> 12:13, 21:10, 21:11, 21:12, 26:17, 32:12, 37:16, 39:2, 47:11, 47:21, 48:1, 55:8, 55:12, 63:13, 64:6, 64:17, 70:10, 70:15, 71:1, 71:16, 72:9, 72:13, 75:4, 86:1, 105:22, 120:16, 124:22, 137:13, 139:3, 145:7, 154:16</p> <p><b>divided</b> 12:12, 25:10, 149:5, 149:6, 149:8, 149:11, 149:12</p> <p><b>divides</b> 21:17</p> <p><b>dividing</b> 26:17</p> <p><b>doctor</b> 1:11, 2:1, 4:2, 6:2, 7:18, 68:22, 74:1, 74:8, 74:11, 75:19, 75:21, 99:19, 115:20, 160:14, 181:1, 181:8</p>
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## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

59

<p><b>document</b> 12:6, 12:9, 69:1, 93:4, 94:6, 94:8, 94:12, 97:9, 99:2, 106:16, 106:18, 106:21, 110:2, 117:12, 136:3, 143:1, 143:9, 143:13, 153:12, 174:8</p> <p><b>documentation</b> 14:14, 16:20, 17:4, 17:16, 139:21, 141:12, 148:20, 151:19, 151:22, 170:10</p> <p><b>documented</b> 12:3, 96:1, 121:18</p> <p><b>documenting</b> 128:18</p> <p><b>documents</b> 8:9, 94:17, 98:3, 113:4, 117:7</p> <p><b>doing</b> 9:4, 74:12, 100:21, 116:16, 123:16, 140:21, 141:19</p> <p><b>done</b> 12:22, 18:9, 18:18, 57:1, 61:1, 65:7, 65:12, 68:2, 125:20, 127:21, 127:22, 176:2</p> <p><b>door</b> 141:20</p> <p><b>doors</b> 142:12</p> <p><b>dot</b> 125:1, 165:2</p> <p><b>doubt</b> 101:2, 134:3, 136:22</p> <p><b>douglas</b> 125:22</p>	<p><b>down</b> 20:13, 42:6, 43:9, 46:4, 51:7, 92:19, 124:3, 124:13, 143:9, 144:1, 164:17, 167:9</p> <p><b>download</b> 142:22</p> <p><b>downloaded</b> 151:11</p> <p><b>downloads</b> 139:17</p> <p><b>draft</b> 5:4, 5:6, 5:7, 91:20, 176:22, 177:1</p> <p><b>drafted</b> 53:21, 115:10</p> <p><b>drafts</b> 177:4</p> <p><b>draw</b> 30:19, 31:2, 31:3, 32:11, 39:2, 41:14, 41:15, 41:19, 45:9, 62:16, 68:1, 131:6</p> <p><b>drawer</b> 127:12</p> <p><b>drawing</b> 40:14, 40:20, 41:3, 41:11, 41:22, 55:3, 55:8, 65:12</p> <p><b>drawn</b> 30:12, 47:12, 53:9, 58:14, 61:10, 68:6, 89:9, 101:3</p> <p><b>draws</b> 47:22, 129:15, 129:17</p> <p><b>drew</b> 57:7, 100:19, 109:9</p> <p><b>drive</b> 98:8, 110:4</p>	<p><b>duly</b> 6:3</p> <p><b>dump</b> 15:15</p> <p><b>duration</b> 23:6</p> <p><b>during</b> 28:7, 92:5, 95:2, 95:18, 95:20, 105:17, 107:8, 118:2</p> <p><b>dwelling</b> 141:15, 141:22</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>e-mail</b> 96:15, 120:2</p> <p><b>each</b> 30:13, 31:6, 32:5, 32:9, 32:19, 52:2, 58:8, 82:21, 97:7, 105:21, 108:16, 118:3, 121:8, 176:20</p> <p><b>earlier</b> 76:22, 121:3, 173:22</p> <p><b>early</b> 104:10</p> <p><b>ease</b> 143:4</p> <p><b>easier</b> 117:4</p> <p><b>easy</b> 67:12</p> <p><b>effect</b> 27:5, 46:3, 46:5, 60:19, 64:16, 64:17, 71:9, 109:5</p> <p><b>effective</b> 45:14, 138:12</p> <p><b>effort</b> 107:14, 118:20</p> <p><b>efforts</b> 41:15</p> <p><b>eight</b> 167:9</p>	<p><b>either</b> 7:22, 26:16, 42:22, 45:4, 47:1, 97:4, 171:11, 180:12</p> <p><b>elapsed</b> 119:4</p> <p><b>elected</b> 36:20, 40:15, 40:16, 40:18, 48:9, 90:1, 140:4, 140:9, 152:10</p> <p><b>election</b> 21:10, 152:10</p> <p><b>elections</b> 14:18, 121:13, 141:4, 166:2</p> <p><b>eliminate</b> 26:7</p> <p><b>eliminated</b> 74:16</p> <p><b>eliminating</b> 23:10, 24:8, 24:14, 24:15, 24:16</p> <p><b>elimination</b> 74:3</p> <p><b>else</b> 36:6, 45:2, 55:17, 55:18, 56:2, 84:8, 102:3, 118:20, 124:4, 126:20, 127:21, 131:8, 136:11, 155:22, 166:22, 179:21</p> <p><b>elsewhere</b> 86:6</p> <p><b>empirical</b> 58:2, 77:9</p> <p><b>employ</b> 92:5</p> <p><b>employed</b> 183:11</p> <p><b>empty</b> 63:22</p> <p><b>enacted</b> 71:20, 72:19,</p>
--	---	---	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

60

86:2, 86:3, 86:4, 88:1 <b>encapsulate</b> 95:19 <b>encompassed</b> 25:22, 26:2 <b>encompasses</b> 35:14, 118:14 <b>encountered</b> 128:1 <b>end</b> 9:20, 19:4, 40:19, 49:20, 49:21, 126:12, 171:6, 179:2 <b>ending</b> 106:13 <b>enlighten</b> 139:11 <b>enough</b> 48:16, 102:6, 159:17 <b>entailed</b> 72:7 <b>enter</b> 159:5 <b>entire</b> 42:21, 43:20, 43:21, 121:7 <b>entirely</b> 26:13 <b>entirety</b> 67:2, 73:20, 147:14 <b>entities</b> 12:3 <b>entitled</b> 52:20, 108:5, 116:7, 148:4 <b>entity</b> 19:18 <b>entry</b> 169:13, 177:22 <b>enumerate</b> 142:5 <b>enumerates</b> 131:14 <b>enumerating</b> 132:4	<b>enumeration</b> 130:20 <b>environs</b> 170:19, 178:8, 179:6 <b>equal</b> 21:8, 21:13, 21:15, 21:22, 26:19, 32:10, 32:12, 47:20, 55:11, 56:3, 63:12, 166:16, 166:21 <b>equaled</b> 63:6 <b>equalize</b> 61:10, 65:1, 71:7, 137:4 <b>equivalent</b> 48:9 <b>eric</b> 53:21, 104:10, 104:11, 104:16, 107:8 <b>esquire</b> 3:3, 3:9, 3:10 <b>essence</b> 130:17 <b>establish</b> 77:8, 129:19, 129:22 <b>established</b> 21:3, 30:18, 32:16, 130:12, 134:21, 136:22, 147:11, 147:12, 166:18 <b>establishes</b> 131:9 <b>establishments</b> 131:4 <b>et</b> 1:4, 1:7, 95:7 <b>ethnic</b> 22:10 <b>ethnicity</b> 85:5 <b>evaluate</b> 37:14, 41:19,	56:4, 56:6 <b>evaluated</b> 77:10 <b>even</b> 57:9, 59:16, 60:2, 138:12, 142:10, 142:11, 149:20, 166:5, 166:9, 171:13 <b>events</b> 96:8 <b>ever</b> 33:17, 34:4, 34:11, 43:3, 107:19 <b>every</b> 11:9, 15:9, 28:1, 31:6, 32:5, 54:4, 76:20, 97:7, 98:9, 98:16, 115:13, 143:5, 147:2, 165:20 <b>everybody</b> 124:7, 130:13, 131:2, 131:5 <b>everyone</b> 84:8 <b>everything</b> 19:3, 35:15, 36:6, 55:17, 55:18, 56:2, 125:10, 134:22, 169:16 <b>everywhere</b> 130:22 <b>evidence</b> 44:2, 45:21, 53:3, 53:13, 54:18, 57:14, 62:7, 77:2, 109:10 <b>evolved</b> 173:12 <b>exact</b> 133:12, 134:1, 158:2 <b>exactly</b> 11:6, 12:3,	12:4, 13:2, 17:13, 17:22, 18:1, 18:10, 21:8, 22:21, 32:9, 33:10, 33:20, 33:21, 67:18, 119:11, 131:22, 135:6, 135:13, 140:21, 170:1, 174:14 <b>examination</b> 4:2, 6:4, 116:18, 167:20, 176:5 <b>examine</b> 45:21, 64:11, 65:7, 73:22, 98:2, 110:2, 137:10, 137:11 <b>examined</b> 58:17, 117:11, 119:14, 175:1 <b>examining</b> 161:11 <b>example</b> 8:10, 21:9, 86:18, 89:21, 156:18, 161:5, 168:5, 168:22, 169:8, 169:17 <b>examples</b> 20:18, 38:21, 86:15 <b>exceed</b> 21:14, 21:15 <b>except</b> 17:20, 30:21, 80:7, 103:3 <b>excessively</b> 21:1 <b>executive</b> 92:21 <b>exhaustive</b> 38:22 <b>exhibit</b> 4:8, 5:2, 68:16, 92:9, 94:2, 103:21,
---	--	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

61

105:12, 105:13, 106:9, 108:8, 108:19, 112:7, 112:16, 116:20, 117:5, 117:7, 122:1, 122:4, 122:14, 132:15, 138:17, 142:16, 142:20, 142:21, 144:17, 146:3, 148:3, 152:3, 152:17, 153:8, 153:21, 154:7, 154:11, 154:12, 159:15, 162:21, 163:3, 168:5, 168:21, 169:8, 169:12, 171:2, 171:11, 172:10, 175:10, 177:1, 177:21, 179:8, 179:11, 179:20, 180:11, 180:15 <b>exhibits</b> 6:20, 6:21, 176:8, 176:19, 176:21, 177:7, 180:2, 180:5, 180:10, 180:13 <b>exist</b> 177:5 <b>existed</b> 72:13, 72:14, 101:14, 137:14 <b>existence</b> 30:18 <b>existing</b> 21:3, 23:3, 23:6, 54:14, 56:11, 56:18, 57:5, 57:12 <b>expansion</b> 76:6 <b>experience</b> 10:2, 47:8, 47:15, 55:8, 61:14, 77:15, 82:18, 83:12,	139:17 <b>experimental</b> 76:9 <b>expert</b> 4:9, 4:10, 4:11, 6:19, 7:18, 9:11, 9:12, 9:16, 9:17, 35:22, 69:4, 74:10, 100:1, 100:2, 103:6, 111:14 <b>expertise</b> 34:18, 35:5, 35:8, 36:5, 36:9, 37:14, 83:10, 110:19 <b>experts</b> 9:5, 58:16, 116:5, 116:6, 181:13 <b>expires</b> 183:17 <b>explain</b> 62:20, 100:8, 145:20, 169:6, 180:10 <b>explained</b> 115:9 <b>explanation</b> 21:16, 53:8, 102:1, 102:21, 146:1, 168:3, 168:20 <b>explanations</b> 46:4 <b>explicitly</b> 60:14, 76:19 <b>expressed</b> 37:3, 37:15, 49:16, 51:4, 90:17, 99:22, 101:10, 103:7 <b>extensive</b> 10:2 <b>extent</b> 32:6, 43:19, 44:13, 46:13,	75:11, 91:3, 103:3, 111:13, 156:14, 181:10 <b>extracting</b> 10:2 <b>extraordinary</b> 149:16 <b>extreme</b> 72:7, 79:12, 80:5, 80:7, 80:9, 80:10 <b>eye</b> 128:5 <b>eyes</b> 167:2, 175:19 <hr/> <b>F</b> <hr/> <b>fabricated</b> 101:13 <b>facets</b> 50:17 <b>facility</b> 139:16 <b>fact</b> 50:13, 55:20, 59:1, 59:2, 59:19, 65:12, 68:6, 68:11, 96:11, 109:8, 121:8, 121:18, 124:10, 125:19, 126:10, 128:17, 134:18, 134:19, 138:4, 149:4, 165:1, 171:10, 172:13, 174:2 <b>factfinder</b> 15:5 <b>facto</b> 87:17 <b>factor</b> 56:3, 59:2, 165:21 <b>factors</b> 27:8, 53:1, 53:6, 56:7, 62:15 <b>facts</b> 46:1, 49:13,	50:14, 50:16, 50:18, 50:19, 50:21, 74:21, 86:12, 88:3, 97:4, 97:5, 97:16, 98:15, 100:15, 100:17, 102:16, 102:20, 103:4, 111:1, 111:5, 111:6, 121:14, 121:19, 181:1, 181:19 <b>factual</b> 49:11, 96:2, 96:7, 97:16, 123:11 <b>factually</b> 98:19, 111:9 <b>fair</b> 48:16, 159:17 <b>faith</b> 126:22 <b>fall</b> 10:17, 34:4, 35:11, 142:1 <b>falls</b> 170:2 <b>false</b> 101:8, 101:12 <b>familiar</b> 173:6 <b>far</b> 58:14, 72:7, 124:12, 137:2, 137:3, 146:4, 160:12 <b>farms</b> 77:22, 78:1, 78:7, 78:8, 79:14, 80:8 <b>fashion</b> 71:18 <b>fast</b> 18:6, 28:14, 124:5 <b>favoring</b> 80:12 <b>feasible</b> 30:14, 32:7,
--	--	--	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

62

32:10, 32:15, 67:22 <b>feature</b> 26:16 <b>features</b> 28:20, 30:16 <b>federal</b> 105:21, 108:15, 121:10 <b>feel</b> 98:16 <b>feet</b> 176:16 <b>few</b> 19:8, 87:16, 176:3 <b>fewer</b> 146:4 <b>fiat</b> 87:20 <b>field</b> 58:6 <b>fields</b> 58:9 <b>fifth</b> 42:6 <b>figure</b> 50:9, 66:19, 67:8, 69:17, 70:6, 70:7, 72:4, 73:9, 75:3, 130:21, 156:20 <b>figures</b> 73:22 <b>file</b> 7:13, 15:14, 15:15, 16:5, 16:6, 16:7, 16:8, 16:14, 16:17, 142:22 <b>files</b> 139:3, 139:17, 147:5, 170:11 <b>filled</b> 155:4 <b>fills</b> 156:3	<b>financial</b> 183:12 <b>find</b> 72:11, 77:22, 101:7, 141:15, 161:19 <b>fine</b> 25:3, 27:2, 48:7, 88:18, 89:2, 116:19, 172:20 <b>finish</b> 71:12 <b>first</b> 9:19, 11:14, 13:7, 81:2, 111:22, 114:16, 119:19, 130:1, 134:15, 134:17, 134:19, 151:13, 151:20, 174:8 <b>fit</b> 31:14, 37:10, 57:19, 61:3 <b>five</b> 89:14, 142:11 <b>five-minute</b> 122:15, 162:12 <b>flight</b> 87:6 <b>flip</b> 67:7 <b>floor</b> 2:5, 3:13 <b>flow</b> 48:3, 118:2 <b>fluctuations</b> 80:21 <b>fly</b> 156:6 <b>focus</b> 92:13, 109:1, 110:6, 113:18, 118:5, 121:16 <b>focused</b> 118:20, 121:15 <b>focusing</b> 118:4	<b>fold</b> 61:12 <b>folded</b> 169:4 <b>folder</b> 7:13 <b>follow</b> 89:20, 126:7, 128:8, 163:22 <b>followed</b> 12:11, 149:3, 179:6 <b>following</b> 12:18, 164:17, 178:5 <b>follows</b> 6:3, 112:12 <b>footer</b> 175:11 <b>footnote</b> 91:8, 93:8, 93:14, 95:5, 97:8, 98:9, 106:3, 106:17, 112:10, 112:12, 112:15, 128:12, 128:18, 171:1, 171:7, 171:17, 179:7, 179:9, 179:12, 179:15, 179:16 <b>footnoted</b> 91:9, 97:22, 100:14, 174:2 <b>footnotes</b> 96:9, 97:9, 179:20, 180:14 <b>foregoing</b> 183:4, 183:5 <b>foreign-born</b> 81:13, 82:12, 83:21 <b>foresee</b> 150:11 <b>foreseeing</b> 151:5 <b>form</b> 7:5, 9:7, 10:3,	10:6, 13:13, 49:14, 52:5, 99:22, 103:3, 111:10, 113:17 <b>formal</b> 112:3, 113:13, 114:9, 114:11 <b>format</b> 13:12, 15:21, 117:13, 122:9 <b>formation</b> 181:16 <b>formed</b> 100:4, 101:22, 102:20, 107:15, 121:5, 121:22 <b>former</b> 19:15, 64:4, 81:20, 82:3 <b>forming</b> 88:4, 102:14, 102:15, 102:16, 103:6, 103:10 <b>forms</b> 99:6, 142:13 <b>formulate</b> 45:19, 54:11, 61:20, 61:22, 76:16 <b>formulated</b> 61:20, 76:20 <b>formulating</b> 95:20 <b>forth</b> 27:1, 49:5, 49:9, 55:10, 62:7, 77:2, 90:7, 95:2 <b>forward</b> 128:10 <b>found</b> 50:20, 101:12 <b>four</b> 90:18, 142:10 <b>frame</b> 52:14, 60:8 <b>framed</b> 37:9
---	--	--	--



## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

63

<p><b>framework</b> 60:16, 76:9, 76:14, 76:21, 77:7</p> <p><b>frederick</b> 67:3, 67:6, 76:2, 154:13, 154:20, 155:11, 156:4, 156:12, 156:19, 157:8, 157:13, 157:14, 159:7, 159:18, 160:17, 160:22, 161:8, 161:13, 161:18, 162:3</p> <p><b>free</b> 135:16</p> <p><b>fresh</b> 151:14</p> <p><b>friday</b> 1:13</p> <p><b>front</b> 94:2, 140:1</p> <p><b>fulfilling</b> 9:9, 9:10</p> <p><b>full</b> 70:18</p> <p><b>fully</b> 12:3, 171:20, 181:9</p> <p><b>function</b> 47:16, 164:22</p> <p><b>fundamental</b> 47:22</p> <p><b>funneled</b> 114:18, 117:16</p> <p><b>furnished</b> 8:21, 95:14, 97:2, 98:17, 98:21, 107:12, 111:8, 111:10, 125:12</p> <p><b>further</b> 22:3, 66:6, 66:8, 103:12, 115:14, 136:14, 147:4, 152:9, 160:10, 160:11,</p>	<p>167:3, 180:21</p> <p><b>future</b> 33:1</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>gaming</b> 76:6</p> <p><b>gansler</b> 125:22</p> <p><b>garagiola</b> 127:11</p> <p><b>garrett</b> 79:13</p> <p><b>gas</b> 131:2</p> <p><b>gave</b> 10:8, 17:11, 18:2, 38:21, 38:22, 136:9, 171:11, 175:3, 177:15</p> <p><b>general</b> 2:3, 3:11, 6:8, 6:10, 44:3, 84:21, 107:14, 125:22, 165:13</p> <p><b>generally</b> 35:4, 50:12, 56:20, 91:15, 167:14, 168:10</p> <p><b>generated</b> 103:21, 106:22, 107:1, 122:5, 122:10, 122:11</p> <p><b>generic</b> 35:10</p> <p><b>generically</b> 14:18</p> <p><b>genuine</b> 165:6</p> <p><b>geographic</b> 10:22, 12:2, 60:5, 85:8, 164:22</p> <p><b>geography</b> 43:2, 130:8, 130:15, 135:17, 142:1, 142:5,</p>	<p>158:2, 158:18, 158:19, 158:21, 159:1, 159:2, 159:12, 159:13, 159:15, 159:21, 161:11, 163:6, 166:9, 166:17</p> <p><b>georail</b> 144:4</p> <p><b>getting</b> 102:2, 102:3, 105:9, 111:13, 116:13, 142:11, 148:9, 174:5, 174:6, 178:22</p> <p><b>gis</b> 9:4, 9:8, 9:16, 9:17, 10:7, 11:5, 11:13, 15:12, 15:16, 15:22, 16:7, 16:18, 17:18, 138:6, 138:13, 139:15, 157:22, 165:6</p> <p><b>gis-compatible</b> 15:20</p> <p><b>give</b> 8:17, 15:13, 17:6, 20:18, 23:14, 29:10, 35:1, 44:19, 50:6, 69:7, 103:12, 103:13, 153:20, 176:4, 177:13, 177:18, 180:16</p> <p><b>given</b> 30:14, 61:12, 107:4, 110:1, 120:21, 120:22, 121:20, 146:2, 150:5, 183:6</p> <p><b>gives</b> 15:18, 79:10, 173:4, 173:10</p> <p><b>giving</b> 6:18</p>	<p><b>glanced</b> 98:8</p> <p><b>go</b> 11:5, 15:5, 15:13, 16:10, 24:21, 40:9, 46:14, 67:13, 75:13, 88:5, 88:16, 88:19, 108:7, 127:6, 131:11, 134:8, 136:8, 138:6, 141:14, 142:12, 142:21, 143:1, 144:1, 164:7, 170:10, 172:18, 173:15, 175:9, 180:2</p> <p><b>goes</b> 70:3, 102:10, 127:2, 171:1</p> <p><b>going</b> 6:17, 13:7, 22:16, 25:4, 38:17, 40:19, 42:5, 43:10, 43:18, 44:12, 44:19, 46:12, 47:3, 51:3, 54:8, 76:11, 77:5, 85:19, 88:10, 88:15, 88:18, 88:21, 91:2, 99:3, 105:12, 110:19, 111:12, 115:7, 115:12, 115:13, 116:1, 118:18, 119:7, 119:9, 123:6, 128:10, 129:2, 130:21, 138:9, 140:1, 142:5, 142:19, 146:7, 151:18, 152:6, 152:9, 154:11, 158:3, 160:9, 160:14, 163:4, 165:11,</p>
--	--	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

64

177:21 <b>gone</b> 10:6, 85:18 <b>good</b> 182:6 <b>gotten</b> 19:5 <b>gov</b> 143:10 <b>governor</b> 114:19, 117:17, 123:21 <b>grab</b> 172:15, 172:17 <b>grac</b> 112:4, 113:14, 114:12, 114:19, 117:17, 120:14, 120:20, 124:2 <b>great</b> 89:5, 123:3, 123:6, 129:1, 176:1 <b>greater</b> 105:4, 105:5, 121:10 <b>green</b> 157:7, 163:10, 164:13, 165:2, 165:4 <b>grocery</b> 131:3 <b>group</b> 32:18, 159:6 <b>groups</b> 22:11, 84:1, 84:19, 85:3, 92:5, 120:17 <b>growth</b> 32:22 <b>gubernatorial</b> 121:12 <b>guess</b> 7:16, 10:11, 13:8, 14:1, 24:5, 36:11, 39:3, 50:17, 72:3, 83:20,	104:1, 105:7, 119:12, 124:7, 124:19, 125:3, 158:20, 170:6 <b>guy</b> 10:7 <b>guys</b> 162:11 <hr/> <b>H</b> <hr/> <b>half</b> 63:8, 63:16, 138:11 <b>halfway</b> 42:6, 174:9 <b>hand</b> 183:15 <b>handed</b> 108:20, 113:1 <b>handy</b> 112:17 <b>happen</b> 45:8 <b>happened</b> 37:1, 55:2, 56:17, 56:18, 62:12, 63:13, 95:14, 95:18, 95:20, 98:20, 109:22 <b>happening</b> 124:5 <b>happens</b> 40:16 <b>hard</b> 27:11, 28:14, 45:20, 50:13, 50:21, 53:2, 53:12, 98:8, 100:5, 100:16, 107:16, 110:4 <b>harder</b> 156:2 <b>harford</b> 65:14, 66:13, 67:2, 67:6, 67:9, 69:12, 73:12, 73:15,	183:22 <b>hatch</b> 155:5, 155:10 <b>hatched</b> 154:2, 155:3, 155:16, 155:17, 155:19, 155:22, 163:11 <b>hawaii</b> 178:17 <b>hawkins</b> 53:21, 104:10, 104:12, 104:16, 107:8 <b>headers</b> 172:18 <b>heading</b> 79:14, 124:12, 145:7, 147:10, 147:18 <b>heavily</b> 79:11, 80:5 <b>held</b> 2:2 <b>help</b> 153:22 <b>helpful</b> 49:19, 52:18 <b>helps</b> 46:6 <b>here</b> 17:7, 17:12, 27:9, 44:20, 50:10, 54:17, 54:22, 55:10, 65:18, 65:19, 69:19, 79:7, 79:13, 80:7, 80:20, 82:5, 84:6, 95:5, 99:9, 100:15, 104:3, 104:4, 104:22, 118:18, 121:2, 122:11, 125:7, 126:16, 128:3, 130:9, 132:3, 132:21, 139:6, 141:10,	143:4, 143:9, 144:1, 144:20, 146:5, 147:10, 147:17, 147:20, 150:1, 153:15, 154:4, 154:16, 157:4, 157:11, 157:21, 157:22, 158:4, 159:1, 160:20, 163:6, 163:14, 164:9, 165:2, 165:7, 166:7, 170:9, 173:18, 179:4, 179:5, 179:13, 180:17, 181:9 <b>hereby</b> 183:4 <b>hereunto</b> 183:14 <b>hey</b> 128:4 <b>higher</b> 56:13, 85:11, 85:12 <b>highlight</b> 49:17, 143:5 <b>highlighted</b> 50:15, 143:16, 146:5, 147:2, 149:22, 168:21, 168:22 <b>highlights</b> 143:2, 143:4 <b>highly</b> 175:6 <b>historian</b> 58:7 <b>historical</b> 23:5, 138:4, 173:2, 174:22, 175:3 <b>history</b> 173:5, 173:10, 173:22, 174:5 <b>hit</b> 143:1 <b>hold</b> 40:6, 41:11,
---	---	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

65

51:5, 106:10, 106:11, 181:2 <b>holding</b> 39:5 <b>home</b> 141:16, 141:17 <b>homeless</b> 141:18 <b>homogeneous</b> 81:18 <b>homogenous</b> 81:17 <b>honestly</b> 52:1 <b>hope</b> 46:6 <b>hour</b> 48:5 <b>house</b> 112:3, 113:13 <b>households</b> 166:6 <b>houses</b> 64:1, 64:3, 64:5 <b>housing</b> 59:21, 59:22 <b>however</b> 159:18 <b>hoy</b> 4:13, 4:14, 4:15, 4:16, 4:17, 4:18, 93:11, 106:5, 106:7, 112:15, 119:20 <b>hoyer</b> 114:17, 117:15 <b>hoyer's</b> 105:18, 107:4 <b>hungry</b> 88:20 <b>hypothesis</b> 45:20, 45:22, 46:2, 54:12, 54:19, 55:14, 55:20, 56:5, 56:10, 56:12,	56:16, 56:21, 57:3, 57:22, 58:1, 60:12, 60:15, 61:9, 61:15, 61:19, 62:1, 62:3, 62:8, 65:18, 65:20, 66:9, 76:17, 76:20, 76:21, 77:4, 77:7, 77:8, 77:10, 77:12, 99:13 <b>hypothetical</b> 23:13, 24:12, 24:22, 26:11, 26:12, 36:11, 36:12, 55:16, 57:13, 68:5, 150:1, 150:3, 165:19, 166:14, 166:15, 166:21 <b>hypothetically</b> 67:13, 161:16 <hr/> <b>I</b> <hr/> <b>id</b> 106:6 <b>idea</b> 126:17, 127:14, 128:9, 162:5, 162:6, 162:7 <b>ideal</b> 21:14, 63:6 <b>identification</b> 6:22, 68:17, 92:10, 105:14, 108:9, 112:8, 116:21, 122:2, 132:16, 138:18, 142:17, 152:4, 153:9, 154:8, 162:22, 172:11 <b>identified</b> 106:13, 127:15, 128:11, 136:16, 148:15, 148:18 <b>identify</b> 103:4, 123:10,	141:14, 159:10 <b>identifying</b> 8:14, 130:16 <b>ignore</b> 25:11, 31:4 <b>ignored</b> 57:5 <b>ii</b> 103:4 <b>ijoma</b> 3:19, 6:12 <b>illustration</b> 32:8 <b>imagine</b> 81:21 <b>immaterial</b> 16:16 <b>immediately</b> 140:11 <b>impartial</b> 130:18 <b>impermissible</b> 116:14 <b>implausible</b> 61:15 <b>implicit</b> 55:18, 61:8, 61:19 <b>implies</b> 45:7 <b>important</b> 21:2, 30:12, 72:11, 102:5, 150:16 <b>impossible</b> 30:21, 172:5 <b>impression</b> 126:14 <b>inadvertently</b> 45:12 <b>inc</b> 105:19 <b>include</b> 13:3, 47:4, 96:8, 119:16, 167:14, 168:10, 170:16, 178:5, 178:19	<b>included</b> 69:12, 69:13, 74:22, 75:4, 75:15, 75:20, 97:21, 102:6, 102:11, 107:13, 110:22, 125:7, 150:2, 152:18, 167:22, 178:4 <b>includes</b> 84:13, 178:16 <b>including</b> 82:11, 125:1, 178:19 <b>income</b> 82:14, 83:6 <b>incomplete</b> 23:12, 24:11, 26:11, 36:12, 55:15, 165:19, 166:14 <b>inconceivable</b> 61:6 <b>inconsist</b> 168:3 <b>inconsistency</b> 168:4, 169:10 <b>incorporated</b> 10:19, 11:3, 11:4, 130:2, 130:3, 131:4, 136:18, 155:17, 159:10, 159:19, 165:16, 178:15, 178:18, 178:21 <b>increase</b> 61:12 <b>increased</b> 141:5 <b>incumbency</b> 22:5, 34:8, 34:9 <b>incumbents</b> 22:6 <b>incurred</b> 72:19 <b>incursion</b> 165:16
--	---	--	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

66

<b>independent</b> 98:14, 103:11, 123:11, 145:12 <b>independently</b> 98:2, 100:4, 101:21, 124:9, 124:14, 124:19, 125:4, 126:4, 126:22 <b>index</b> 83:19, 84:3, 84:18, 85:7, 88:6 <b>indicated</b> 122:10 <b>indication</b> 122:5, 122:12 <b>individual</b> 21:12, 54:3, 169:20 <b>individuals</b> 89:22 <b>inevitably</b> 71:19 <b>infeasible</b> 32:11 <b>inflated</b> 47:19 <b>influenced</b> 79:11, 80:5 <b>information</b> 7:7, 12:6, 12:8, 15:9, 18:13, 74:15, 94:15, 95:13, 95:15, 97:10, 98:21, 99:14, 99:21, 100:9, 100:15, 100:18, 101:4, 101:7, 102:6, 102:13, 107:11, 110:22, 111:8, 111:11, 116:5, 116:9, 121:4, 143:14, 171:12, 172:3, 174:6, 174:16, 176:12, 177:3,	177:8, 177:10, 177:12, 177:15, 177:17, 179:22, 180:9, 181:11, 181:14, 181:16 <b>informed</b> 118:11 <b>inhabited</b> 167:16, 168:14 <b>innumerable</b> 47:15 <b>inset</b> 160:5, 160:10, 160:11 <b>inside</b> 33:14, 45:16, 154:19, 155:1, 156:11, 156:19, 160:17, 161:18 <b>insight</b> 83:10, 100:20 <b>insofar</b> 30:14, 31:6, 32:6, 32:10, 32:15, 99:5 <b>instance</b> 76:22, 77:1, 86:17, 118:3 <b>instances</b> 47:15, 52:22, 56:21, 84:17, 118:1 <b>instantaneous</b> 86:11 <b>instantaneously</b> 85:22, 87:22 <b>instead</b> 25:22 <b>instructed</b> 18:19 <b>instructions</b> 10:9 <b>intact</b> 42:20, 61:16, 165:15, 166:12 <b>intended</b> 43:11, 43:17, 44:3, 44:11,	44:16, 135:14 <b>intensive</b> 11:14 <b>intent</b> 45:8, 45:15, 45:18, 48:9, 102:1 <b>interchange</b> 61:17, 62:21, 63:19, 63:20, 64:11, 65:4, 65:9, 65:21, 66:14, 71:6, 71:19, 72:8, 74:6 <b>interchanging</b> 60:19, 65:2, 66:4, 68:1 <b>interest</b> 21:4, 30:18, 32:17, 42:8, 42:11, 42:12, 42:18, 43:3, 54:14, 56:11, 56:19, 57:5, 57:12, 57:15, 83:7, 109:17, 110:6, 134:21, 137:1, 146:17, 147:11, 147:13, 183:12 <b>interested</b> 143:17 <b>interesting</b> 119:4 <b>interests</b> 81:6, 81:9, 82:4, 82:13 <b>interfering</b> 22:7 <b>interplay</b> 27:16 <b>interrupt</b> 48:3 <b>interspersed</b> 50:16 <b>introduction</b> 129:6	<b>introductions</b> 6:7 <b>inventory</b> 38:22, 141:19 <b>investigation</b> 98:14, 123:12 <b>involved</b> 59:8 <b>involving</b> 79:13, 179:3 <b>irregular</b> 21:2 <b>issue</b> 23:1, 44:20, 48:13 <b>issues</b> 22:5 <b>items</b> 29:17, 29:20, 168:20 <b>itself</b> 33:16, 103:14, 175:2 <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <b>january</b> 120:4 <b>jennifer</b> 3:10, 6:10 <b>job</b> 1:20 <b>john</b> 1:4, 90:13, 110:12 <b>join</b> 81:19 <b>joint</b> 91:8, 97:22, 98:4, 98:7, 98:10, 98:11 <b>jones</b> 131:2 <b>judgment</b> 55:7, 62:9, 77:14, 77:18, 79:15, 85:17, 118:5 <b>jumbled</b> 119:21
--	--	---	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

67

<p><b>june</b> 1:13, 183:16, 183:17 <b>justify</b> 27:12</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>kassir</b> 3:20, 6:13 <b>katz</b> 3:10, 6:10, 99:17, 100:6 <b>keep</b> 88:18, 91:15, 112:16, 165:15, 166:11 <b>keeps</b> 65:14 <b>kept</b> 97:7 <b>kilgalen</b> 1:22, 2:11, 183:3 <b>kind</b> 8:14, 11:21, 11:22, 12:20, 14:16, 15:6, 16:6, 16:17, 18:9, 31:1, 35:14, 46:6, 47:22, 49:2, 76:9, 80:11, 82:4, 86:5, 86:22, 87:11, 87:14, 91:17, 118:6, 128:4, 128:19, 131:9, 139:20, 143:14, 164:7, 164:18, 170:6, 173:4, 175:10, 181:7 <b>kinds</b> 29:7, 29:9, 83:1, 136:20 <b>knew</b> 64:15, 65:6, 97:19, 97:21, 137:12</p>	<p><b>knock</b> 142:12 <b>knocked</b> 141:21 <b>knowing</b> 115:21, 179:17 <b>knowledge</b> 92:2, 131:7, 131:8 <b>known</b> 11:1, 14:7, 19:18 <b>knows</b> 130:13, 131:5</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>labeled</b> 69:19, 163:17, 169:14 <b>labor</b> 11:14 <b>laid</b> 57:13 <b>lake</b> 23:22, 24:1 <b>lamone</b> 1:7 <b>language</b> 175:7 <b>large</b> 7:10, 23:21, 148:5, 157:12 <b>largely</b> 22:20 <b>last</b> 9:18, 42:9, 124:4, 132:7, 175:15 <b>last-revised</b> 175:14, 175:16 <b>later</b> 51:14 <b>latter</b> 82:2 <b>law</b> 6:12, 23:3, 92:4, 103:13, 126:13</p>	<p><b>lay</b> 35:4, 45:1, 45:6, 48:13, 82:7, 91:17, 118:16 <b>layers</b> 157:4, 157:6, 165:7 <b>layman's</b> 23:2, 44:20, 44:22, 90:12, 91:14 <b>layout</b> 30:17 <b>lead</b> 148:12 <b>leading</b> 171:6 <b>learned</b> 171:19 <b>least</b> 20:20, 26:22, 120:14, 133:12 <b>leaving</b> 87:9 <b>led</b> 30:5, 50:21, 57:2 <b>left</b> 80:9, 99:17, 123:3, 126:14, 162:3, 163:18, 163:21 <b>left-hand</b> 107:2, 158:5 <b>legal</b> 41:20, 44:13, 44:14, 47:4, 48:12, 48:13, 60:5 <b>legend</b> 153:16, 153:18, 155:8, 155:9, 158:12, 160:19, 163:9 <b>legislator</b> 38:3, 38:10, 41:21</p>	<p><b>legislature</b> 39:21, 123:22, 126:2 <b>legitimacy</b> 39:16 <b>legitimate</b> 20:14, 20:16, 21:16, 22:14, 22:17, 23:1, 23:11, 24:9, 26:6, 27:6, 28:4, 28:11, 28:12, 28:15, 28:16, 28:18, 28:21, 29:2, 29:11, 29:19, 30:9, 30:10, 30:11, 31:13, 31:15, 32:4, 32:5, 33:1, 33:4, 33:5, 33:15, 33:18, 34:5, 34:11, 34:21, 35:7, 35:18, 35:21, 36:16, 37:4, 37:17, 38:5, 38:10, 38:20, 39:1, 39:5, 39:9, 39:11, 39:16, 40:12, 41:8, 41:10, 41:18, 43:7, 62:14, 66:1, 68:1, 165:14, 165:21 <b>legs</b> 48:5 <b>length</b> 23:5 <b>lengthy</b> 125:22 <b>less</b> 72:7, 81:18, 82:20, 119:4, 175:7 <b>lesser</b> 105:5</p>
--	--	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

68

<p><b>let's</b> 6:6, 11:1, 20:9, 32:11, 36:13, 38:15, 45:10, 48:16, 62:22, 66:18, 67:7, 68:12, 69:15, 72:21, 76:15, 77:19, 86:8, 88:5, 88:7, 88:19, 97:12, 103:20, 104:18, 108:7, 110:8, 114:10, 114:15, 120:8, 126:9, 127:6, 136:7, 145:6, 160:3, 165:13, 167:5, 180:2</p> <p><b>letter</b> 126:13</p> <p><b>level</b> 32:11</p> <p><b>levels</b> 82:14, 160:14</p> <p><b>lichtman</b> 7:18, 74:9, 74:11</p> <p><b>lie</b> 100:16</p> <p><b>lies</b> 160:22, 161:8</p> <p><b>light</b> 170:11</p> <p><b>likely</b> 48:8</p> <p><b>limit</b> 130:12</p> <p><b>limits</b> 11:6, 42:22, 130:1</p> <p><b>linda</b> 1:7</p> <p><b>line</b> 20:13, 26:17, 42:6, 42:9, 43:10, 48:4, 70:17, 90:22,</p>	<p>93:19, 115:5, 120:2, 174:9</p> <p><b>lines</b> 41:14, 57:18, 88:1, 90:18, 157:22, 158:12, 167:9</p> <p><b>link</b> 7:19, 7:22, 8:1, 171:14</p> <p><b>list</b> 75:4, 178:17, 178:20</p> <p><b>listed</b> 31:16, 144:16, 145:18, 167:21</p> <p><b>lists</b> 178:19</p> <p><b>literature</b> 84:18</p> <p><b>little</b> 21:20, 23:14, 23:17, 36:13, 52:11, 69:7, 88:19, 119:21, 156:5, 160:20, 164:11, 164:18, 165:2</p> <p><b>live</b> 64:3, 64:5, 130:22, 141:17, 162:6</p> <p><b>lived</b> 64:2</p> <p><b>lives</b> 162:5</p> <p><b>living</b> 141:15</p> <p><b>llc</b> 6:15</p> <p><b>llp</b> 3:4</p> <p><b>local</b> 21:9</p> <p><b>located</b> 170:16, 178:6, 178:11, 180:9</p> <p><b>locations</b> 35:14</p>	<p><b>logic</b> 36:2, 36:4, 57:22, 156:21</p> <p><b>long</b> 16:17, 88:15, 123:8, 169:12</p> <p><b>longer</b> 25:20, 46:20, 63:9, 69:12, 88:19, 115:4, 115:6, 166:6</p> <p><b>look</b> 16:2, 45:16, 59:10, 60:5, 66:18, 69:15, 69:21, 72:21, 74:13, 92:17, 93:22, 94:1, 94:5, 103:20, 114:15, 116:3, 117:9, 123:7, 123:9, 128:4, 130:8, 132:7, 134:15, 142:20, 143:8, 144:4, 144:20, 145:6, 146:21, 151:10, 152:12, 157:16, 158:4, 158:9, 158:12, 160:3, 163:17, 169:11, 172:21, 174:4, 175:10</p> <p><b>looked</b> 53:6, 60:4, 62:9, 62:11, 67:19, 74:14, 75:17, 81:10, 94:19, 119:18, 134:4, 137:15, 171:3, 171:12, 171:13, 171:14, 173:2</p> <p><b>looking</b> 20:12, 54:10, 60:7, 74:5, 78:8, 83:1, 83:11, 86:13,</p>	<p>93:8, 104:18, 106:9, 106:19, 118:16, 122:4, 123:3, 128:19, 155:1, 155:7, 157:18, 161:10, 167:8, 176:11</p> <p><b>looks</b> 80:19, 120:4, 153:14, 157:11, 164:15, 172:14, 172:15, 173:6, 179:2, 179:7</p> <p><b>lot</b> 7:6, 7:12, 8:19, 49:13, 118:19</p> <p><b>low</b> 109:3</p> <p><b>lower</b> 107:2, 112:21, 163:21</p> <p><b>lunch</b> 88:16, 89:4</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>made</b> 35:16, 38:7, 62:15, 64:9, 72:20, 90:13, 96:10, 120:16, 123:11, 126:16, 149:17, 151:7</p> <p><b>magnitude</b> 61:17, 66:15, 87:5</p> <p><b>main</b> 141:7</p> <p><b>maintain</b> 23:20</p> <p><b>maintaining</b> 42:20</p> <p><b>maintenance</b> 42:7, 42:18</p> <p><b>major</b> 23:10</p> <p><b>make</b> 35:10, 36:13,</p>
---	---	---	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

69

<p>38:5, 44:17, 49:3, 50:2, 57:18, 60:20, 61:2, 69:10, 71:10, 73:13, 76:15, 80:14, 86:14, 98:14, 99:7, 115:7, 116:5, 118:9, 147:9, 166:8, 166:11, 167:20, 181:6 <b>makers</b> 92:4 <b>makes</b> 39:8, 42:3, 106:11 <b>making</b> 34:10, 48:8, 80:15 <b>mandated</b> 92:21 <b>manipulate</b> 13:16 <b>many</b> 47:17, 61:1, 61:12, 63:3, 66:4, 68:2, 81:3, 97:1, 130:21, 146:2, 149:21, 162:6, 168:20, 168:22 <b>map</b> 5:4, 5:6, 5:7, 16:4, 23:16, 53:21, 66:21, 67:1, 67:12, 67:18, 69:8, 73:14, 73:17, 73:19, 89:9, 104:18, 104:19, 105:3, 123:22, 124:1, 126:11, 127:11, 128:6, 128:7, 153:20, 154:12, 155:6, 156:20, 163:4, 163:7, 163:15,</p>	<p>165:12, 177:9 <b>mapmaker</b> 104:3, 107:8, 113:17, 153:20 <b>mapmaking</b> 28:7, 94:16, 95:8 <b>maps</b> 13:18, 13:20, 13:21, 13:22, 14:5, 14:8, 91:20, 96:10, 114:18, 117:16, 118:2, 176:8, 176:13, 177:5, 177:11, 177:14, 177:19 <b>march</b> 95:6, 107:1, 107:6, 107:7 <b>mark</b> 6:20, 138:16, 152:2 <b>marked</b> 6:22, 68:17, 92:10, 105:14, 108:9, 112:8, 116:21, 122:2, 132:16, 138:18, 142:17, 152:4, 153:9, 153:21, 154:8, 162:22, 163:3, 172:11 <b>marker</b> 176:15 <b>marriage</b> 76:3 <b>maryland</b> 1:2, 1:12, 2:6, 2:11, 3:14, 11:2, 14:1, 15:10, 43:12, 44:3, 44:4, 46:10, 81:11, 81:17, 83:21, 84:11, 84:15, 85:8, 89:8, 121:12, 126:18,</p>	<p>143:1, 145:2, 145:7, 154:13, 154:14, 154:20, 155:12, 155:20, 156:4, 156:12, 157:9, 159:7, 159:18, 160:18, 160:22, 161:8, 161:18, 162:3, 163:5, 183:21 <b>maryland's</b> 53:22, 105:22, 108:16, 112:2, 113:12, 120:15 <b>maryland-born</b> 88:7 <b>marylander</b> 84:9 <b>marylanders</b> 81:4, 81:21, 82:17, 82:21, 84:7 <b>massive</b> 65:9, 71:19, 87:8, 139:17, 141:6 <b>material</b> 7:3, 8:5, 8:8, 9:20, 51:13, 52:5, 53:17, 53:19, 60:3, 107:15, 107:21, 109:20, 115:19, 115:22, 124:8, 181:16 <b>materials</b> 51:18, 51:21, 182:3 <b>matter</b> 23:2, 25:13, 27:9, 27:16, 110:11, 113:8, 125:18, 134:18, 165:1 <b>mattered</b> 85:13 <b>matters</b> 59:6, 181:10</p>	<p><b>maybe</b> 29:21, 31:9, 36:11, 52:4, 139:11, 153:22, 156:20, 164:12, 165:2, 172:15 <b>mayer</b> 3:4, 6:15, 96:5, 97:17, 101:8, 101:19, 109:20, 111:1, 111:6, 114:14, 115:3, 118:11, 121:1, 121:21, 125:12, 127:1 <b>mcdonald</b> 4:12, 9:15, 9:22, 64:21, 68:8, 69:5, 69:18, 70:13, 72:12, 73:11 <b>mcdonald's</b> 65:10, 65:13, 66:11, 67:21, 72:22, 73:14, 73:19, 74:1, 75:19, 75:21 <b>mean</b> 8:7, 14:15, 17:6, 24:14, 26:9, 31:14, 33:11, 33:20, 36:20, 37:2, 39:8, 40:5, 42:19, 42:20, 43:17, 44:11, 46:11, 48:2, 61:18, 62:20, 70:13, 71:4, 76:13, 79:8, 79:17, 80:2, 88:2, 90:10, 90:20, 91:11, 94:22, 97:19, 98:4, 101:11, 101:12, 117:21, 118:1, 119:1, 119:14, 128:11,</p>
---	---	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

70

128:16, 131:20, 133:20, 134:2, 134:5, 135:6, 147:1, 147:13, 161:22, 162:8, 169:18 <b>meaning</b> 33:12 <b>meaningful</b> 85:21 <b>means</b> 44:16, 59:20, 63:19, 71:5, 84:10, 131:21, 132:3, 171:11 <b>measure</b> 79:7, 79:16, 80:11, 80:13, 84:21, 85:1, 118:7, 158:2 <b>measured</b> 108:15 <b>measures</b> 168:8 <b>median</b> 78:20, 78:22, 79:16, 80:3, 80:4, 80:10 <b>meeting</b> 95:9, 96:13, 96:14, 105:17, 107:7, 107:8, 110:7, 110:12, 110:21 <b>members</b> 105:17, 107:4, 113:12, 114:19, 117:17 <b>memorialized</b> 133:19 <b>mention</b> 20:13, 42:7, 43:11, 75:6, 75:9 <b>mentioned</b> 8:3, 30:8, 54:6, 54:17, 83:6, 125:10	<b>meters</b> 176:16 <b>method</b> 18:14, 18:20, 97:12 <b>methodologies</b> 58:7 <b>methodology</b> 16:21, 129:12, 130:7 <b>methods</b> 58:10 <b>metric</b> 79:3, 79:5, 79:11, 80:4, 85:6, 109:18, 113:7, 118:4 <b>metrics</b> 105:6 <b>mexico</b> 170:17, 178:7 <b>michael</b> 9:15, 69:5 <b>mid</b> 79:6 <b>middle</b> 45:11 <b>midway</b> 167:9 <b>might</b> 12:11, 15:7, 17:21, 23:4, 52:14, 54:6, 54:7, 58:8, 69:7, 112:16, 120:22, 141:20, 142:9, 142:10, 148:12, 164:15 <b>mileage</b> 162:8 <b>miles</b> 176:16 <b>millimeter</b> 164:12, 164:19 <b>mind</b> 23:9, 38:6, 39:6, 135:16, 136:22, 140:11,	157:6, 165:22, 172:1 <b>minds</b> 45:17 <b>mine</b> 58:11, 167:4 <b>minutes</b> 162:14 <b>misalignment</b> 157:22 <b>mischaracterizes</b> 18:15, 18:22, 28:8, 30:3, 40:7, 42:2, 66:16, 72:15, 84:4, 91:3, 111:4, 146:14, 174:19 <b>mischaracterizing</b> 99:10, 146:8 <b>missed</b> 49:18 <b>missing</b> 172:16 <b>misstates</b> 75:12 <b>misunderstand</b> 30:6 <b>misunderstanding</b> 31:10 <b>mobile</b> 141:16 <b>montgomery</b> 74:22, 75:6, 75:10, 75:14, 75:20, 78:11, 78:15 <b>more</b> 12:13, 36:13, 48:6, 48:8, 50:16, 52:18, 57:15, 57:20, 69:10, 76:15, 79:10, 79:22, 81:5, 81:8, 81:12, 81:16, 81:18, 82:2, 83:11, 86:6,	86:16, 86:20, 95:17, 131:8, 135:19, 137:2, 137:3, 144:16, 144:19, 145:17, 146:22, 149:14, 149:21, 152:13, 168:1, 171:12, 175:4, 175:9 <b>morrison</b> 1:11, 2:1, 4:2, 4:8, 5:2, 6:2, 6:21, 68:16, 68:22, 92:9, 99:19, 105:13, 108:8, 112:7, 115:20, 116:20, 122:1, 132:15, 138:17, 142:16, 152:3, 153:8, 154:7, 162:21, 172:10, 181:1, 181:8 <b>most</b> 12:16, 22:12, 52:21, 56:21, 58:21, 58:22, 85:1, 85:4, 150:14, 150:15, 150:16 <b>motivating</b> 100:22, 101:1 <b>motive</b> 57:11 <b>motives</b> 110:20 <b>mountain</b> 21:18 <b>move</b> 106:6, 116:3 <b>moved</b> 61:13, 63:21, 81:11 <b>moving</b> 43:9, 48:3, 51:7, 51:11 <b>much</b> 8:20, 21:20,
---	---	---	---



## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

71

41:12, 65:4, 97:11, 106:20, 115:4 <b>multiple</b> 161:14 <b>municipal</b> 154:12, 154:19 <b>muse</b> 126:11 <b>must</b> 28:5, 147:19, 148:4 <b>myself</b> 98:12, 131:10	120:13, 122:5 <b>ncec's</b> 105:19 <b>near</b> 66:4, 68:2 <b>necessarily</b> 29:5, 79:20, 108:5 <b>necessary</b> 26:20, 62:13, 62:16, 65:20, 71:8, 98:17, 137:4 <b>need</b> 12:21, 13:6, 18:17, 21:21, 24:8, 24:16, 26:7, 27:2, 27:14, 64:13, 65:6, 70:21, 72:20, 74:19, 75:17, 80:17, 80:20, 123:9, 124:17, 136:8, 169:13, 170:1 <b>needed</b> 12:6, 12:9, 60:20, 68:11, 72:10, 85:10, 110:6, 137:12, 137:17 <b>needs</b> 9:9, 9:10, 16:17 <b>neighboring</b> 65:3 <b>neither</b> 183:10 <b>net</b> 60:20, 61:8 <b>never</b> 86:21, 172:1 <b>new</b> 63:17, 86:1, 88:1, 141:5 <b>newly</b> 54:13, 56:10 <b>next</b> 49:1, 54:11,	60:10, 88:10, 111:16, 129:1, 170:15, 174:12 <b>non</b> 142:3 <b>non-census</b> 142:3 <b>non-maryland-born</b> 88:8 <b>noncompetitive</b> 34:10, 34:14 <b>nondemographic</b> 35:6, 35:12 <b>none</b> 30:9, 67:8, 101:13, 177:6, 177:15, 177:20, 179:19 <b>nonprivileged</b> 181:10 <b>noon</b> 88:14 <b>normal</b> 174:17 <b>normally</b> 10:3, 10:4, 10:6, 138:9 <b>northwest</b> 3:5 <b>northwestern</b> 89:14 <b>notarial</b> 183:15 <b>notary</b> 2:11, 183:2, 183:20 <b>note</b> 109:2, 126:10, 179:2 <b>noted</b> 59:2, 124:6 <b>noteworthy</b> 88:3 <b>nothing</b> 41:1, 101:1, 116:4, 116:11, 122:9, 124:16, 136:14, 166:22,	179:8, 180:15, 182:4 <b>notice</b> 2:10, 126:8 <b>noticeably</b> 85:12 <b>null</b> 45:19, 45:22, 46:2, 54:12, 54:19, 55:14, 55:19, 56:5, 56:9, 56:12, 56:15, 56:21, 57:2, 57:22, 58:1, 60:12, 60:14, 61:8, 61:15, 61:19, 62:1, 62:3, 62:7, 65:18, 65:20, 66:9, 76:17, 76:20, 76:21, 77:3, 77:7, 77:8, 77:10, 77:12, 99:13 <b>number</b> 15:19, 16:2, 16:10, 17:12, 17:17, 19:4, 19:5, 19:10, 27:7, 29:1, 38:21, 47:9, 55:11, 56:7, 56:13, 59:4, 63:12, 64:19, 71:16, 78:7, 94:4, 125:1, 136:17, 143:6, 143:15, 145:21, 146:4, 146:17, 146:19, 147:3, 147:11, 148:5, 150:8, 150:19 <b>numbers</b> 8:10, 8:11, 8:12, 14:10, 16:3, 19:2, 63:7, 79:14,
<b>N</b>			
<b>name</b> 9:18, 9:19, 15:14, 47:13, 130:10, 132:9, 133:9, 133:10, 134:12, 169:22 <b>named</b> 167:16, 168:15 <b>names</b> 169:16, 180:7 <b>narrow</b> 46:4 <b>national</b> 33:5, 33:8, 33:9, 33:10, 33:11 <b>native-born</b> 81:4, 81:17, 81:20, 82:16, 82:20, 83:21, 84:7, 84:9 <b>natural</b> 26:16, 26:18, 28:20, 30:16, 33:8 <b>nc</b> 128:6 <b>ncec</b> 95:8, 108:14, 108:21, 109:12, 112:1, 113:11, 114:18, 117:16,			

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

72

100:17, 158:4 <b>numerous</b> 100:12 <hr/> <b>O</b> <b>o'malley</b> 123:21 <b>o'malley's</b> 114:19, 117:17 <b>object</b> 37:22, 38:17, 43:18, 44:12, 46:12, 51:20, 75:11, 76:11, 77:5, 91:2, 99:3, 100:11, 111:3, 111:12, 112:11, 115:15, 123:17, 144:18, 146:7, 156:13, 172:13 <b>objection</b> 8:6, 18:21, 19:13, 23:12, 24:11, 24:20, 26:10, 28:8, 29:4, 29:13, 30:3, 31:19, 33:19, 34:6, 34:13, 34:22, 35:9, 36:1, 36:17, 37:7, 37:19, 39:7, 42:1, 44:18, 47:4, 48:11, 54:1, 55:15, 66:16, 78:3, 83:3, 84:4, 91:22, 92:6, 99:8, 102:8, 108:2, 110:16, 115:8, 136:13, 146:14, 147:15, 150:21, 161:20, 165:18, 166:13, 174:19 <b>objections</b> 116:14	<b>objective</b> 62:4, 98:19, 105:9, 130:18, 135:11, 135:12, 162:9 <b>objectively</b> 131:7 <b>obligation</b> 32:4 <b>observations</b> 49:11 <b>observed</b> 58:20, 58:21 <b>observes</b> 87:12 <b>obtain</b> 7:20 <b>obtained</b> 7:19, 15:2 <b>obvious</b> 157:19, 171:5 <b>obviously</b> 20:19, 61:16 <b>occasionally</b> 167:17, 168:16 <b>occupants</b> 64:3, 64:5 <b>occupation</b> 83:6 <b>occupations</b> 82:14 <b>occupied</b> 60:1, 132:2 <b>occur</b> 86:6, 119:10 <b>occurred</b> 85:22, 87:22, 137:3 <b>october</b> 120:7 <b>offer</b> 83:10 <b>offering</b> 100:20 <b>offhand</b> 14:15, 67:17, 104:1, 104:21, 152:20	<b>office</b> 2:3, 3:11, 105:18, 107:5, 153:17 <b>officer</b> 183:3 <b>official</b> 14:16, 36:20, 40:15, 40:16, 40:18, 131:14, 135:20 <b>officially</b> 167:14, 168:10, 168:15 <b>oh</b> 9:17, 14:21, 104:9, 104:10, 111:20, 129:4, 154:5, 155:9, 156:22, 164:11, 171:22, 175:17 <b>old</b> 64:2 <b>once</b> 28:17, 35:15, 77:13 <b>one</b> 7:13, 9:4, 10:17, 12:15, 15:7, 15:15, 15:19, 20:19, 22:4, 25:8, 25:22, 26:1, 27:5, 27:13, 28:11, 30:21, 31:4, 32:17, 32:18, 34:7, 34:9, 38:10, 42:3, 45:9, 45:13, 45:14, 45:21, 46:1, 47:17, 47:22, 48:6, 49:17, 50:6, 50:19, 52:2, 54:8, 56:18, 58:12, 58:13, 58:21, 59:9, 59:13,	60:15, 60:20, 65:2, 66:8, 68:7, 79:11, 80:5, 80:10, 80:19, 80:20, 85:10, 85:22, 87:11, 88:3, 90:17, 90:22, 93:15, 93:18, 104:12, 105:6, 108:4, 110:18, 117:5, 119:5, 124:18, 127:22, 131:16, 132:9, 132:20, 133:10, 134:17, 135:10, 141:3, 144:10, 149:8, 151:13, 156:1, 156:18, 157:5, 157:7, 164:16, 164:17, 165:1, 165:22, 166:16, 167:14, 168:1, 168:6, 168:10, 169:16, 169:19, 170:22, 173:15, 175:9, 176:19, 176:22 <b>one-page</b> 136:1 <b>one-quarter</b> 149:7 <b>ones</b> 15:10, 17:20, 20:7, 36:10, 49:17, 124:12, 144:11, 148:14, 150:15 <b>ongoing</b> 118:2 <b>only</b> 23:20, 24:6, 27:8, 31:14, 34:7, 34:9, 49:8, 53:7, 58:17, 60:20, 65:8, 65:16, 65:17, 66:2,
---	--	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

73

<p>67:20, 70:9, 70:14, 71:1, 72:9, 94:22, 100:3, 100:12, 109:1, 110:18, 118:15, 123:18, 124:12, 138:11, 143:4, 144:12, 147:16, 149:10, 161:8, 161:13, 161:17, 165:15, 166:5, 167:21, 178:16 <b>open</b> 181:2 <b>opening</b> 4:10, 4:11, 6:19, 20:11, 20:12, 49:6, 60:11, 69:4, 73:5, 74:10, 100:1, 101:10 <b>operate</b> 29:6 <b>operationalize</b> 42:13 <b>opinion</b> 49:14, 52:6, 88:4, 90:16, 91:4, 91:7, 101:14, 101:16, 101:17, 101:21, 102:20, 102:21, 113:5, 121:22, 150:4, 150:7, 150:9, 150:13, 150:20, 181:20 <b>opinions</b> 7:5, 49:5, 49:8, 49:11, 49:16, 50:4, 50:7, 50:14, 50:22, 51:3, 51:5, 51:8, 52:9, 52:13, 52:21, 99:16, 99:22, 100:4, 101:9, 102:14,</p>	<p>102:15, 102:17, 103:6, 103:10, 107:14, 107:15, 107:18, 107:22, 108:1, 121:4, 181:17, 182:4 <b>opposed</b> 39:19 <b>opposing</b> 7:18, 58:16 <b>options</b> 120:14, 121:9, 121:16 <b>order</b> 60:21, 63:4, 65:22, 87:12, 92:21, 137:4, 149:2 <b>organize</b> 9:6 <b>organized</b> 10:5, 12:2 <b>organizing</b> 10:3 <b>origin</b> 33:5, 33:10, 33:11 <b>original</b> 73:3, 73:4, 73:6 <b>other</b> 8:4, 9:5, 12:15, 14:1, 14:4, 15:14, 22:7, 25:9, 25:12, 26:4, 26:5, 26:13, 26:14, 26:18, 27:3, 27:4, 27:5, 27:6, 27:15, 27:17, 28:6, 28:12, 29:6, 29:8, 29:22, 31:15, 34:2, 40:15, 42:4, 49:11, 50:18, 51:11, 53:1, 53:4,</p>	<p>55:4, 56:3, 56:7, 57:6, 57:19, 58:7, 58:22, 59:9, 59:13, 60:5, 61:9, 63:10, 63:12, 64:4, 64:5, 64:12, 64:16, 65:2, 66:8, 75:15, 80:10, 80:12, 81:12, 81:14, 82:21, 84:11, 84:17, 84:20, 85:7, 85:9, 86:22, 87:9, 96:18, 96:19, 102:1, 102:22, 108:4, 115:22, 118:7, 119:7, 122:9, 135:2, 135:3, 135:5, 135:15, 136:14, 137:19, 147:19, 147:21, 148:4, 165:20, 166:7, 166:15, 166:21, 167:18, 168:6, 168:16, 168:18, 169:1, 169:3, 170:3, 170:4, 171:1, 172:3, 177:4, 178:4 <b>others</b> 7:18, 34:8, 49:9 <b>otherwise</b> 24:17, 182:2, 182:6, 183:13 <b>out</b> 6:18, 15:10, 25:13, 43:19, 50:9, 57:13, 59:14, 63:21, 81:3, 99:8, 112:16, 123:9, 130:21, 131:11, 134:8, 135:17,</p>	<p>141:14, 142:13, 149:1, 156:20, 156:22, 157:20, 160:6, 162:4, 168:4, 172:5 <b>outcome</b> 183:13 <b>outlet</b> 15:6, 15:7 <b>outlined</b> 53:13, 158:9 <b>output</b> 142:20 <b>outset</b> 104:4 <b>outside</b> 33:14, 34:18, 35:4, 35:8, 36:5, 36:9, 51:19, 77:17, 84:14, 84:15, 100:16, 110:19, 120:16, 159:8 <b>outsider</b> 84:12 <b>outsiders</b> 81:5, 81:8, 81:10, 81:19 <b>over</b> 7:16, 23:21, 23:22, 24:1, 24:9, 26:8, 26:15, 43:4, 43:10, 70:3, 74:4, 87:9, 87:12, 136:9, 170:10, 173:12 <b>overlap</b> 22:20, 23:8, 164:6 <b>overlaps</b> 163:11, 163:15 <b>overlay</b> 158:21 <b>overwhelmingly</b> 62:4 <b>own</b> 55:7, 58:9,</p>
---	--	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

74

82:17, 181:6	95:6, 96:6,	96:22, 97:12,	26:22, 35:13,
<b>P</b>	97:13, 97:15,	99:21, 107:13,	41:14, 60:1,
<b>page</b>	97:21, 104:7,	107:22, 142:1,	61:12, 63:1,
4:2, 4:8, 5:2,	105:16, 107:6,	157:13, 159:6,	63:3, 63:8,
20:9, 49:16,	107:17, 108:13,	159:7, 169:20,	63:12, 63:14,
49:22, 51:7,	109:19, 110:8,	172:14	63:16, 63:17,
54:10, 66:19,	111:16, 111:19,	<b>particular</b>	63:18, 64:2,
67:7, 69:9,	112:13, 113:22,	10:6, 17:18,	64:4, 66:4,
69:15, 69:21,	114:6, 114:15,	19:8, 28:4,	68:2, 72:8,
70:3, 70:7,	117:14, 118:10,	56:15, 76:15,	81:11, 81:22,
70:16, 70:17,	118:22, 120:9,	92:12, 117:12,	87:8, 87:9,
72:21, 72:22,	120:10, 121:7,	119:1, 133:17,	87:16, 100:21,
73:6, 73:7,	123:4, 123:7,	137:20	105:7, 113:9,
76:8, 77:20,	123:10, 123:19,	<b>particularly</b>	127:18, 128:3,
83:13, 89:13,	124:10, 124:15,	54:10, 85:21,	130:9, 130:22,
92:12, 93:6,	124:21, 125:3,	109:3	132:2, 134:6,
93:14, 97:13,	125:5, 125:8,	<b>parties</b>	134:10, 139:18,
103:20, 104:18,	125:9, 125:11,	34:3, 183:11	141:15, 141:17,
105:16, 108:7,	125:14, 125:15,	<b>partisan</b>	141:20, 142:13,
111:16, 111:18,	125:17, 125:21,	33:17, 33:21,	149:15, 162:6,
119:19, 119:22,	125:22, 126:5,	125:2	166:2, 166:4
120:8, 123:8,	126:6, 126:9,	<b>partly</b>	<b>people's</b>
126:1, 128:10,	126:17, 126:21,	144:12, 144:14	45:17
129:6, 131:15,	127:2, 127:6,	<b>parts</b>	<b>perceive</b>
132:7, 133:1,	127:10, 127:15,	24:16, 25:21,	154:18
133:8, 136:3,	128:7, 128:10,	25:22, 26:4,	<b>perceived</b>
136:7, 139:2,	128:12, 128:16,	27:1, 67:5,	156:3
144:11, 167:5,	128:21, 129:11,	69:11, 138:10,	<b>percent</b>
171:1, 178:4	131:15, 133:8,	170:4	60:19, 60:21,
<b>pages</b>	167:6, 167:9,	<b>party</b>	61:7, 62:18,
1:21, 49:5,	167:10, 168:6,	44:6	64:2, 65:5,
51:3, 83:16,	170:14, 170:22,	<b>party's</b>	65:21, 121:10,
83:17	171:6, 174:9	103:5	149:10, 149:11
<b>paid</b>	<b>paragraphs</b>	<b>passage</b>	<b>percentage</b>
110:5	51:4, 83:14,	119:17	21:15, 61:5,
<b>papers</b>	83:18, 84:3,	<b>passed</b>	63:1, 88:7,
117:2	96:18, 96:19,	118:3	150:18
<b>paragraph</b>	97:15, 113:22,	<b>past</b>	<b>percentages</b>
20:13, 42:5,	123:10, 126:21	23:5, 44:6,	150:8, 150:9
42:9, 42:11,	<b>paraphrasing</b>	94:13	<b>perfect</b>
43:9, 43:22,	133:13	<b>pattern</b>	11:13
50:12, 54:10,	<b>part</b>	59:13, 80:19,	<b>perfectly</b>
70:1, 70:6,	8:15, 12:14,	136:21, 151:2	85:2
70:18, 72:4,	14:14, 25:8,	<b>patterns</b>	<b>performance</b>
81:1, 89:13,	49:21, 60:11,	128:3	105:6, 105:10,
90:3, 90:8,	60:13, 76:10,	<b>paul</b>	105:20, 105:21,
90:20, 90:21,	76:18, 88:11,	2:4, 3:12	108:15, 108:16,
	96:2, 96:18,	<b>people</b>	109:2, 109:17,
		7:11, 12:16,	

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

75

<p>113:7, 113:19, 118:6, 118:7, 121:11, 121:17 <b>performed</b> 54:19 <b>perhaps</b> 55:2, 175:7 <b>period</b> 87:9, 119:2 <b>periods</b> 87:12 <b>person</b> 9:3, 9:6, 9:13, 10:11, 11:13, 15:12, 16:7, 17:18, 35:4, 45:1, 45:3, 45:4, 54:4, 54:6, 57:8, 104:3, 118:16, 126:15, 138:13, 139:15, 139:16 <b>person's</b> 46:22, 48:14, 91:17 <b>personal</b> 96:15 <b>persons</b> 47:17, 81:14 <b>perspective</b> 50:20, 174:22, 175:3 <b>pertained</b> 121:3 <b>pertains</b> 107:17 <b>peter</b> 1:11, 2:1, 4:2, 6:2 <b>ph</b> 9:21 <b>phrase</b> 170:12 <b>phraseology</b> 134:2 <b>pick</b> 133:13 <b>picked</b> 20:6, 20:8,</p>	<p>96:7, 140:19 <b>picture</b> 23:14, 157:11 <b>piece</b> 132:1, 141:22, 142:4, 162:3, 166:9 <b>pieces</b> 11:12, 25:5, 26:21, 27:12, 59:14, 135:17 <b>pink</b> 154:21, 154:22, 155:1, 157:8, 158:5, 158:6 <b>place</b> 2:4, 3:12, 11:3, 11:7, 11:9, 12:12, 12:14, 14:7, 15:9, 15:12, 15:14, 15:17, 15:18, 17:18, 17:19, 42:14, 42:21, 43:1, 45:11, 49:8, 49:17, 54:13, 58:18, 59:19, 130:9, 130:11, 130:17, 131:1, 131:9, 132:6, 133:22, 134:12, 135:1, 135:4, 135:20, 137:21, 138:14, 141:17, 142:2, 142:3, 144:20, 145:8, 145:10, 156:18, 159:10, 159:11, 159:19, 160:16, 161:8, 161:17, 163:10, 163:14, 165:17, 166:3, 169:13, 169:18, 169:22, 173:1, 178:1, 179:10 <b>places</b> 5:3, 5:5, 5:10,</p>	<p>10:18, 10:20, 14:1, 14:6, 14:20, 16:13, 17:4, 19:9, 19:12, 19:14, 19:17, 19:22, 20:3, 55:10, 55:12, 55:21, 56:8, 64:8, 81:12, 123:20, 125:3, 125:17, 126:3, 129:13, 129:16, 130:5, 130:6, 135:8, 136:17, 136:20, 137:7, 139:3, 141:9, 141:20, 143:21, 144:16, 144:20, 144:21, 145:2, 145:17, 145:22, 146:2, 146:11, 146:19, 147:14, 147:19, 147:21, 147:22, 148:5, 148:14, 149:21, 150:8, 152:13, 168:9, 170:4, 173:5, 173:15, 173:21, 178:14, 178:15, 178:16, 178:21 <b>placing</b> 22:6 <b>plaintiffs</b> 1:5, 3:2, 6:15, 7:4, 97:5, 176:5 <b>plan</b> 37:4, 38:4, 38:8, 39:22, 40:14, 41:11, 41:22, 53:22, 55:13, 65:10, 65:14, 65:16, 65:17, 66:2, 66:5, 66:11, 67:21, 68:4, 68:5, 69:16, 69:17, 71:9,</p>	<p>71:20, 72:19, 74:1, 74:5, 75:1, 75:5, 75:20, 75:21, 75:22, 113:8, 118:7, 119:17 <b>planning</b> 14:2 <b>plans</b> 41:15, 41:19, 95:2, 95:21, 113:8, 113:9, 113:17, 118:8 <b>plausible</b> 46:4, 53:8, 101:22, 102:21 <b>plausibly</b> 77:17 <b>play</b> 27:8, 27:17, 28:7 <b>please</b> 83:13, 108:11 <b>plus</b> 63:21, 167:16, 168:13, 168:16 <b>point</b> 24:6, 54:5, 79:6, 99:8, 141:3, 141:7, 143:22, 149:1, 155:6, 156:19, 156:22, 163:19, 174:7 <b>pointed</b> 160:6, 168:4 <b>pointing</b> 155:7, 165:9, 170:8, 170:9 <b>points</b> 21:15, 61:5, 171:15 <b>political</b> 9:14, 12:1, 22:4, 34:3, 34:16, 35:2, 44:6, 58:8, 82:6, 83:8,</p>
--	---	---	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

76

83:9, 89:16, 90:10, 90:14, 105:7, 119:9, 158:19, 159:22, 166:17 <b>politically</b> 45:13, 46:17 <b>populace</b> 150:14 <b>populated</b> 59:18, 167:11, 167:13, 168:9, 174:10 <b>population</b> 21:14, 21:20, 21:21, 30:17, 32:13, 59:9, 60:20, 61:5, 61:7, 61:11, 61:17, 62:18, 62:21, 63:5, 63:6, 64:12, 65:1, 65:9, 71:6, 71:20, 73:22, 74:6, 74:16, 81:18, 81:22, 82:9, 82:11, 82:16, 84:8, 84:22, 85:3, 131:14, 132:4, 137:5, 141:7, 142:6, 149:18, 178:17 <b>populations</b> 21:7, 21:12, 22:1, 32:9, 47:21, 71:8, 71:16, 82:18 <b>portion</b> 74:17, 75:3, 115:10, 160:22, 161:4, 167:22 <b>portions</b> 73:12, 73:15, 146:11, 172:16 <b>pose</b> 38:2, 60:12 <b>posing</b> 57:22	<b>position</b> 181:8 <b>possess</b> 10:8 <b>possibility</b> 68:5, 157:20 <b>possible</b> 25:17, 30:14, 31:7, 32:6, 32:15, 64:22, 66:3, 92:22, 172:2 <b>possibly</b> 23:5, 83:8, 137:3, 148:6 <b>post</b> 19:18 <b>post-redistricting</b> 140:15, 141:4 <b>practice</b> 160:2, 174:17 <b>pre</b> 19:18 <b>pre-redistricting</b> 140:15, 140:17, 141:2 <b>precinct</b> 11:18, 60:6, 60:9, 154:14, 158:18, 159:1, 163:18, 163:21, 164:8, 165:15, 166:1, 166:12 <b>precincts</b> 158:14, 158:15, 166:7 <b>precise</b> 34:15, 43:1 <b>predispositions</b> 83:8 <b>predominant</b> 12:14, 59:1, 59:2 <b>predominantly</b> 63:13, 63:15 <b>prefer</b> 80:4, 131:13,	156:6, 157:2 <b>preferable</b> 79:7, 79:16, 80:2, 167:1 <b>preparation</b> 182:3 <b>prepare</b> 151:17 <b>prepared</b> 104:12, 104:20, 105:2, 142:11, 165:10 <b>prepares</b> 137:6 <b>preparing</b> 53:20, 134:16 <b>preposterous</b> 61:11 <b>present</b> 3:18, 73:16, 137:14, 154:19, 156:11, 160:17, 161:17, 163:8, 166:22 <b>presented</b> 96:11 <b>presently</b> 150:5 <b>presents</b> 70:7 <b>preserve</b> 92:21, 181:7 <b>presidential</b> 121:13 <b>presume</b> 41:21 <b>presumption</b> 42:3 <b>pretty</b> 8:1, 106:20, 142:7 <b>previous</b> 147:6 <b>previously</b> 121:5 <b>principles</b> 166:17 <b>print</b> 172:18	<b>printed</b> 173:4, 173:14, 175:12 <b>printout</b> 4:19, 4:20, 4:21, 4:22, 5:8, 105:18, 107:3, 107:9, 107:10, 172:14 <b>prior</b> 11:10, 11:19, 23:16, 40:7, 55:13, 63:2, 66:21, 67:1, 76:16, 107:15, 111:4, 125:19, 138:8, 149:5, 149:11, 151:3 <b>privileged</b> 99:4, 99:5, 111:15 <b>probably</b> 18:5, 133:22, 139:22 <b>problem</b> 126:18, 126:19, 162:16 <b>procedures</b> 12:10 <b>proceedings</b> 48:20, 68:19, 122:20, 162:19, 182:10 <b>process</b> 9:6, 95:3, 95:16, 95:18, 95:20, 95:22, 114:17, 115:9, 117:15, 117:22, 118:2, 118:14, 118:22, 127:13, 141:19, 171:20 <b>produce</b> 103:16 <b>produced</b> 87:20 <b>product</b> 99:4, 111:15
---	---	---	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

77

<b>professional</b> 55:6, 79:15	96:4, 98:15, 101:8, 101:18, 103:5, 122:13, 136:10, 148:21, 176:9, 176:12, 181:4, 181:12, 181:14, 181:19	172:20, 177:13, 177:19	<b>quickly</b> 50:5, 116:3
<b>professor</b> 4:12, 9:22, 64:21, 65:10, 65:13, 66:10, 67:21, 68:8, 69:5, 70:13, 72:12, 72:22, 73:11, 73:14, 73:19	<b>providing</b> 9:20, 116:4, 179:22	<hr/> <b>Q</b> <hr/>	<b>quite</b> 11:14, 13:15, 59:11, 67:19, 80:20, 103:9, 151:14, 163:16
<b>projections</b> 32:22, 33:3	<b>provision</b> 137:16, 180:22	<b>quantitative</b> 46:8, 58:6, 58:11	<b>quo</b> 82:15, 83:7
<b>prominent</b> 150:15	<b>public</b> 2:11, 37:3, 183:2, 183:20	<b>quarter</b> 149:8, 164:12, 164:19	<b>quotation</b> 124:21
<b>pronounced</b> 87:7	<b>publish</b> 12:5, 138:4	<b>question</b> 19:21, 22:16, 28:18, 29:16, 31:10, 34:17, 35:2, 37:9, 37:21, 39:10, 51:16, 54:7, 60:10, 61:18, 61:22, 63:3, 65:7, 67:14, 70:22, 82:22, 83:22, 85:20, 86:10, 88:14, 94:7, 101:6, 102:19, 109:11, 109:12, 114:5, 114:7, 114:10, 116:1, 118:21, 123:17, 127:3, 129:5, 138:20, 142:7, 146:8, 146:21, 147:4, 147:6, 148:8, 148:10, 148:12, 151:9, 153:12, 156:9, 156:10, 158:22, 159:16, 170:13, 175:9	<b>quotations</b> 126:7
<b>properly</b> 94:20	<b>publishes</b> 42:16	<b>questions</b> 49:1, 88:10, 88:15, 129:1, 158:17, 176:4, 180:21	<b>quote</b> 16:9
<b>proportion</b> 55:21, 56:13	<b>publishing</b> 135:12	<b>quick</b> 68:12, 88:13	<hr/> <b>R</b> <hr/>
<b>proposal</b> 112:4, 113:14, 114:9, 114:11	<b>pull</b> 16:2		<b>race</b> 85:4, 86:17, 86:19
<b>proposals</b> 120:16	<b>purely</b> 83:11		<b>races</b> 121:12
<b>propose</b> 73:11	<b>purple</b> 153:15, 160:6		<b>racial</b> 22:9, 84:19, 85:1, 86:7, 86:8, 87:1, 87:4, 87:13
<b>proposed</b> 37:4, 120:15, 123:22, 124:1	<b>purporting</b> 146:22		<b>random</b> 20:8, 80:21
<b>protect</b> 22:10	<b>purpose</b> 57:6, 57:9, 78:19, 87:21, 105:1, 115:11, 166:19		<b>range</b> 21:18, 119:1, 119:4
<b>protected</b> 22:11, 32:18	<b>purposes</b> 10:16, 12:22, 16:9, 16:18, 114:10, 116:15, 130:16, 132:3, 132:4, 134:16, 135:10, 143:19, 165:8, 181:3		<b>rather</b> 79:7, 91:16, 106:11
<b>prove</b> 99:13	<b>prove</b> 10:16, 12:22, 16:9, 16:18, 114:10, 116:15, 130:16, 132:3, 132:4, 134:16, 135:10, 143:19, 165:8, 181:3		<b>re-entered</b> 100:6
<b>proved</b> 66:3	<b>purposes</b> 10:16, 12:22, 16:9, 16:18, 114:10, 116:15, 130:16, 132:3, 132:4, 134:16, 135:10, 143:19, 165:8, 181:3		<b>reached</b> 107:19, 181:21, 182:5
<b>provide</b> 15:8, 91:20, 99:1, 115:19, 139:18, 151:16, 177:4, 182:1, 182:3	<b>purposes</b> 10:16, 12:22, 16:9, 16:18, 114:10, 116:15, 130:16, 132:3, 132:4, 134:16, 135:10, 143:19, 165:8, 181:3		<b>read</b> 43:21, 44:8, 58:15, 69:2, 74:8, 74:10, 75:22, 104:15, 104:21, 112:13, 114:4, 114:6, 114:21, 124:3,
<b>provided</b> 7:4, 7:7, 7:10, 7:14, 8:4, 8:22,	<b>pursuant</b> 2:10		
	<b>put</b> 17:22, 52:4, 61:21, 95:2, 136:4, 151:13,		

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

78

<p>126:19, 171:18, 174:12, 178:9 <b>reading</b> 123:20, 124:9, 124:14, 128:17, 143:5, 183:9 <b>ready</b> 114:6, 123:1, 142:14 <b>realignment</b> 87:18 <b>realized</b> 68:6 <b>really</b> 16:16, 34:16, 45:7, 60:10, 92:2, 94:18, 94:21, 118:17, 119:11, 119:14, 124:5, 124:7, 130:7, 134:4, 140:5, 151:10, 158:22, 159:14, 161:12, 165:11 <b>rearrange</b> 61:7, 62:18 <b>reason</b> 19:11, 19:21, 20:1, 20:6, 59:5, 65:17, 66:7, 67:20, 75:6, 75:8, 81:16, 82:1, 113:6, 115:20, 140:21, 144:19, 161:13, 162:2, 174:21, 182:1 <b>reasonable</b> 118:5 <b>reasons</b> 161:15 <b>rebalancing</b> 71:15 <b>recall</b> 8:11, 60:7, 60:8, 63:7, 74:12, 106:19, 123:19, 126:21,</p>	<p>128:17, 140:5, 140:21, 141:11, 171:7, 181:11 <b>receive</b> 8:9, 13:12, 17:2 <b>received</b> 13:13, 97:17, 105:18, 107:9 <b>receiving</b> 16:19 <b>recess</b> 48:18, 68:14, 122:18, 162:17, 182:8 <b>recognition</b> 43:6 <b>recognize</b> 45:16, 134:11, 134:13 <b>recognized</b> 125:7, 126:15, 132:9, 133:10, 148:7 <b>recognizes</b> 10:21 <b>recollection</b> 7:21, 8:19, 13:14, 88:9, 104:2, 104:11, 104:14, 151:15, 172:8 <b>reconfigure</b> 25:17 <b>reconfigured</b> 81:3 <b>record</b> 135:22, 172:20, 179:19, 181:7, 182:16, 183:6 <b>recorded</b> 121:2 <b>recount</b> 49:14 <b>recounting</b> 95:14, 98:19, 173:22 <b>recounts</b> 89:22</p>	<p><b>red</b> 154:5, 158:10, 158:12, 164:2 <b>redistricting</b> 11:10, 11:11, 11:20, 12:19, 19:18, 21:6, 21:9, 22:1, 22:13, 22:14, 22:18, 22:19, 29:11, 38:11, 53:22, 62:14, 63:2, 63:19, 66:1, 74:5, 77:15, 85:11, 85:12, 91:21, 92:5, 95:3, 95:16, 105:8, 119:8, 127:12, 137:2, 141:6, 147:12, 149:5, 149:9, 149:11, 149:12, 151:4, 165:21, 166:16 <b>redo</b> 166:2 <b>redrawn</b> 63:4 <b>reduced</b> 183:8 <b>reducing</b> 29:1 <b>refer</b> 72:19, 94:22, 103:2, 129:7, 130:10, 169:1, 180:6 <b>reference</b> 51:13, 51:15, 51:17, 60:8, 95:5, 104:10, 124:20, 132:21, 133:16, 148:18, 149:9, 154:18, 176:17, 176:21, 179:2, 180:12 <b>referenced</b> 13:21, 54:4,</p>	<p>86:15, 94:6, 94:9, 94:17, 94:20, 98:10, 98:11, 104:4, 106:17, 107:9, 113:21, 171:16, 179:20, 180:5, 181:1 <b>references</b> 108:19, 112:15 <b>referencing</b> 69:16, 121:8, 143:21 <b>referent</b> 42:15, 176:14 <b>referred</b> 36:12, 84:7, 103:10, 121:3, 127:3, 128:6 <b>referring</b> 50:8, 75:19, 79:12, 104:8, 114:1, 119:22, 121:6, 132:19, 139:12 <b>refers</b> 72:3, 131:2, 180:13 <b>reflecting</b> 23:4, 124:22 <b>refused</b> 115:18 <b>regard</b> 78:21, 111:9, 119:8, 129:12 <b>regarded</b> 85:19 <b>regarding</b> 111:4, 176:12, 177:4, 177:8, 177:13, 177:18, 180:4, 181:9, 181:11 <b>regardless</b> 103:2 <b>region</b> 130:9 <b>regions</b> 85:8, 85:10</p>
--	--	--	--



## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

79

<p><b>registered</b> 11:17, 45:4, 166:4</p> <p><b>registrants</b> 11:19, 53:10</p> <p><b>registration</b> 7:21, 11:22</p> <p><b>reiterate</b> 58:4</p> <p><b>reject</b> 46:1, 54:19, 56:12, 57:2, 57:21, 62:7, 65:18, 77:3</p> <p><b>rejected</b> 55:14, 55:19, 56:22, 61:16, 62:4</p> <p><b>rejecting</b> 66:9</p> <p><b>rejection</b> 77:11</p> <p><b>relate</b> 50:18, 88:11, 129:2, 129:4</p> <p><b>related</b> 13:19, 16:12, 34:2, 55:10, 74:1, 76:17, 147:7, 183:11</p> <p><b>relates</b> 37:12</p> <p><b>relation</b> 14:3, 49:20, 50:3</p> <p><b>relative</b> 61:13, 148:2</p> <p><b>relevant</b> 102:12</p> <p><b>relied</b> 115:11, 115:20</p> <p><b>rely</b> 99:21, 100:3, 102:13, 116:10, 174:21</p> <p><b>relying</b> 100:9</p> <p><b>remain</b> 40:17, 61:16</p>	<p><b>remainder</b> 51:18, 90:2, 90:7</p> <p><b>remains</b> 25:15</p> <p><b>remarkable</b> 78:21, 85:20, 86:10, 87:19, 87:22, 88:2, 137:1, 151:3</p> <p><b>remember</b> 9:19, 54:3, 61:4, 64:19, 124:9, 124:14, 126:3, 126:5, 126:6, 126:9, 130:21, 140:19</p> <p><b>removed</b> 63:14</p> <p><b>repeated</b> 118:1, 124:20</p> <p><b>repeating</b> 179:15</p> <p><b>rephrase</b> 35:19, 74:9, 83:22</p> <p><b>replaced</b> 63:11, 81:4</p> <p><b>replacing</b> 63:14</p> <p><b>replicate</b> 13:1, 17:13, 18:3, 18:7, 18:13, 18:14, 18:17, 18:20, 19:2</p> <p><b>replication</b> 12:22</p> <p><b>reply</b> 4:9, 6:19, 54:9, 100:1, 101:10</p> <p><b>report</b> 4:9, 4:10, 4:11, 6:19, 13:4, 20:10, 20:11, 20:12, 41:9, 49:2,</p>	<p>49:6, 49:13, 49:21, 50:15, 51:12, 51:19, 53:20, 54:5, 54:9, 60:11, 60:15, 61:21, 65:19, 69:4, 69:21, 72:22, 73:1, 73:2, 73:3, 73:5, 73:6, 74:10, 74:13, 75:3, 75:12, 77:20, 80:16, 84:5, 91:3, 93:6, 95:11, 96:18, 99:6, 99:11, 99:16, 100:1, 100:2, 102:7, 107:13, 115:10, 115:13, 125:20, 134:16, 146:8, 146:10, 146:15, 146:16, 174:15, 174:20, 175:8, 181:21</p> <p><b>reported</b> 1:22</p> <p><b>reporter</b> 182:12, 182:15, 183:1</p> <p><b>reports</b> 7:3, 7:6, 74:8, 74:18, 101:10</p> <p><b>represent</b> 6:8, 121:20, 142:19, 147:1, 152:6, 152:9, 154:11, 163:4</p> <p><b>representation</b> 125:13</p> <p><b>representational</b> 43:12, 44:4, 46:10, 46:15, 46:22, 47:10, 47:16, 47:18, 48:10</p> <p><b>representations</b> 14:5</p>	<p><b>representative</b> 79:10, 105:18, 107:4</p> <p><b>representatives</b> 112:2, 112:3, 113:13, 114:17, 117:15</p> <p><b>represented</b> 96:15, 109:21, 114:14, 115:2, 121:21, 161:14</p> <p><b>representing</b> 6:11, 6:15, 165:3</p> <p><b>represents</b> 72:4, 147:10</p> <p><b>republican</b> 45:4, 45:5, 45:12, 46:16, 48:10, 53:10, 124:11</p> <p><b>republicans</b> 34:2, 43:13, 44:5, 46:10, 63:15, 109:6</p> <p><b>reputable</b> 172:7</p> <p><b>request</b> 9:3, 10:15, 98:18</p> <p><b>requested</b> 10:16, 183:10</p> <p><b>require</b> 9:8, 132:9</p> <p><b>required</b> 10:7, 77:3</p> <p><b>requirement</b> 21:7</p> <p><b>requirements</b> 41:20</p> <p><b>requires</b> 21:19, 45:7, 133:9</p> <p><b>researched</b> 134:21</p> <p><b>reshuffling</b> 141:6</p> <p><b>residence</b> 40:17, 87:16,</p>
--	---	---	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

80

87:18 <b>residents</b> 65:2, 65:5, 65:22, 78:1, 78:2, 79:15, 82:12, 89:14, 130:11, 132:2, 132:5, 132:10, 133:11 <b>resolution</b> 181:4 <b>resolve</b> 169:9, 170:7 <b>resort</b> 170:18, 178:7 <b>resources</b> 130:19 <b>respect</b> 14:19, 16:21, 28:20, 31:6, 32:5, 40:21, 40:22, 55:4, 56:4, 56:9, 56:15, 137:13, 138:7, 150:17, 166:17, 166:18 <b>respected</b> 30:14, 56:18, 59:5 <b>respecting</b> 21:3, 22:3, 30:20, 32:16, 57:11 <b>respective</b> 58:9 <b>respects</b> 32:18, 54:13, 56:11 <b>respond</b> 116:3 <b>responded</b> 39:21 <b>responding</b> 37:2 <b>response</b> 36:15, 36:19, 37:15, 39:4, 39:5, 40:11	<b>responsive</b> 36:21 <b>rest</b> 71:9, 124:13 <b>restate</b> 51:16, 114:5 <b>result</b> 71:19, 121:9 <b>resulted</b> 55:11, 165:16 <b>results</b> 121:11 <b>resumed</b> 48:20, 68:19, 122:20, 162:19, 182:10 <b>retail</b> 15:6, 15:17, 16:9, 19:4, 137:12, 137:16, 140:1 <b>retain</b> 73:12, 73:15 <b>retained</b> 66:11 <b>retaliate</b> 53:9 <b>retaliating</b> 57:9 <b>retaliation</b> 44:21, 44:22, 45:6, 102:1, 102:22 <b>retirement</b> 170:18, 178:8 <b>return</b> 54:9 <b>review</b> 50:5, 54:5, 70:19, 84:6, 92:15, 133:3, 139:1 <b>reviewed</b> 53:20, 94:12, 110:9, 110:10, 125:5 <b>reviewing</b> 107:15, 126:3,	126:7, 151:18, 153:11 <b>revised</b> 150:9, 175:20 <b>right</b> 15:16, 18:12, 20:4, 24:2, 25:16, 39:14, 42:8, 44:17, 44:19, 46:18, 49:4, 49:6, 50:10, 51:9, 52:10, 52:20, 57:1, 58:17, 63:20, 66:20, 66:21, 69:5, 70:5, 70:11, 73:8, 83:18, 88:21, 93:7, 93:19, 93:21, 94:6, 99:20, 104:9, 106:1, 108:18, 110:10, 112:22, 117:19, 123:4, 127:3, 127:16, 129:3, 136:8, 139:9, 140:18, 144:13, 144:15, 145:16, 147:3, 151:2, 152:8, 155:13, 155:21, 156:15, 157:10, 157:19, 159:22, 160:4, 163:12, 166:12, 167:7, 169:11, 176:11, 179:5, 180:3, 180:18, 182:6 <b>right-hand</b> 106:10 <b>rights</b> 22:11, 43:12, 44:4, 46:10, 46:15, 46:22, 47:10, 47:16, 47:18, 48:10 <b>ripple</b> 64:16, 64:17,	71:9 <b>river</b> 21:16, 23:22, 24:5, 25:9, 26:15, 32:13, 45:10 <b>rivers</b> 30:16, 61:1 <b>road</b> 160:21 <b>rob</b> 127:11 <b>rockville</b> 163:5, 163:8 <b>role</b> 41:3, 127:11 <b>romick</b> 110:12 <b>room</b> 99:18, 100:7 <b>rope</b> 31:1 <b>rough</b> 182:14 <b>roughly</b> 63:17 <b>round</b> 6:6, 63:7 <b>routinely</b> 139:17 <b>row</b> 148:4, 168:13 <b>rows</b> 149:12 <b>rubric</b> 34:4 <b>rule</b> 28:14, 103:2, 103:13, 103:16, 157:20, 172:5, 182:4 <b>run</b> 30:16, 166:2 <b>running</b> 21:17, 45:11 <b>runs</b> 32:13 <b>rural</b> 170:16, 178:5
--	--	--	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

81

<b>S</b>			
<b>said</b>	24:19, 25:5, 25:10, 25:14, 27:18, 27:21, 28:1, 28:3, 28:10, 30:6, 31:2, 31:8, 32:3, 36:18, 37:13, 37:18, 51:15, 55:2, 72:6, 99:15, 102:10, 121:8, 126:2, 135:10, 140:2, 150:7, 155:15, 158:16, 164:5, 169:17	58:8, 82:7, 83:9 <b>scientists</b> 12:1, 105:7 <b>screen</b> 16:2, 140:3, 172:15, 172:17 <b>seal</b> 183:15 <b>seats</b> 64:7 <b>second</b> 11:16, 43:9, 43:10, 54:9, 70:17, 70:18, 77:19, 90:18, 93:19, 164:17, 169:12, 174:9, 176:4 <b>secret</b> 125:17 <b>section</b> 49:22, 51:8, 51:12, 51:13, 51:18, 51:19, 52:5, 52:7, 52:12, 52:13, 52:15, 52:20, 53:3, 53:4, 53:6, 53:11, 53:14, 53:17, 81:22, 82:9, 82:10, 82:11, 97:13, 100:14, 129:2, 129:4, 129:8 <b>sections</b> 51:12, 51:14, 53:5, 53:13, 53:16 <b>seeing</b> 8:11, 126:3, 126:5, 126:10, 151:1, 169:9 <b>seem</b> 139:7, 146:1 <b>seemed</b> 118:4 <b>seen</b> 68:22, 86:6,	86:21, 93:4, 106:18, 117:7, 124:20, 125:2, 125:14, 125:16, 125:18 <b>segregation</b> 85:2 <b>select</b> 142:22 <b>semantic</b> 23:1, 36:2 <b>semicolon</b> 93:9, 93:16 <b>senate</b> 124:11 <b>senator</b> 126:11 <b>send</b> 142:13, 142:15 <b>senior</b> 96:13, 114:19 <b>sense</b> 55:6, 81:19, 87:3, 106:11, 136:19 <b>sent</b> 7:22 <b>sentence</b> 43:20, 43:21, 81:2, 89:18, 111:22, 112:12, 113:10, 114:16, 131:17, 132:8, 167:8, 170:15, 174:10, 174:12, 174:13, 178:12, 178:13, 179:1, 179:3, 179:14 <b>sentences</b> 174:14 <b>separate</b> 157:5 <b>separately</b> 125:15, 126:6 <b>separation</b> 85:2, 86:8 <b>september</b> 120:12
8:14, 9:5, 17:6, 20:3, 29:18, 29:21, 36:3, 36:4, 60:18, 70:13, 72:17, 86:16, 95:4, 96:8, 99:12, 126:11, 128:19, 133:9, 134:4, 165:9, 183:7 <b>same</b> 9:10, 14:3, 15:19, 17:2, 17:3, 17:5, 17:19, 17:20, 18:21, 19:5, 19:9, 22:6, 24:11, 24:20, 34:6, 35:1, 40:19, 44:18, 55:19, 60:8, 63:16, 66:15, 76:3, 76:21, 91:16, 92:6, 113:6, 117:12, 124:1, 124:7, 125:8, 133:19, 143:14, 152:7, 153:5, 171:2, 171:14, 175:6 <b>samone</b> 3:19, 6:12 <b>sarah</b> 3:9, 6:7, 48:2 <b>sarbanes</b> 114:18, 117:16 <b>satisfied</b> 124:17 <b>saved</b> 7:13, 13:6 <b>saw</b> 59:13, 100:22, 107:19, 125:6 <b>saying</b> 21:22, 24:13,	43:22, 93:11, 106:2, 106:5, 106:6, 106:7, 106:12, 107:1, 107:6, 111:22, 114:3, 114:9, 114:16, 118:22, 120:12, 123:20, 132:8, 139:6, 139:10, 144:4, 144:5, 146:13, 147:11, 167:13, 170:15, 175:6, 176:22, 179:8 <b>scale</b> 162:7, 162:8, 163:13, 176:13, 176:14 <b>scanned</b> 70:20 <b>scanning</b> 117:10 <b>scattered</b> 49:12 <b>science</b> 34:16 <b>scientific</b> 12:21, 45:18, 58:9, 58:10 <b>scientifically</b> 12:7, 12:9 <b>scientist</b> 9:14, 35:3,		

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

82

<p><b>sequence</b> 119:5, 119:10</p> <p><b>services</b> 95:8, 105:19, 108:14, 108:21, 109:12, 112:1, 113:11, 114:18, 117:16, 120:13, 122:5</p> <p><b>set</b> 49:5, 49:9, 54:18, 55:10, 62:7, 77:2, 77:11, 81:13, 85:15, 86:22, 88:10, 90:7, 129:1, 134:5, 141:9, 183:14</p> <p><b>setting</b> 82:19</p> <p><b>settle</b> 87:7</p> <p><b>settlements</b> 149:15</p> <p><b>seuss</b> 160:14</p> <p><b>seven</b> 90:18</p> <p><b>several</b> 123:20, 125:3, 125:16, 126:3, 140:16, 169:19</p> <p><b>sex</b> 76:3</p> <p><b>shape</b> 16:5, 16:6, 16:14, 21:2</p> <p><b>shapes</b> 37:16</p> <p><b>share</b> 13:18</p> <p><b>shared</b> 13:20, 13:21</p> <p><b>sheer</b> 61:17</p> <p><b>shoot</b> 172:1</p> <p><b>short</b> 87:9, 115:17</p>	<p><b>shorthand</b> 183:1</p> <p><b>shortly</b> 111:22, 114:3</p> <p><b>should</b> 21:7, 21:12, 21:14, 32:9, 38:4, 160:1, 182:3</p> <p><b>show</b> 14:5, 16:10, 146:3, 148:11, 151:1, 156:18, 182:2</p> <p><b>showed</b> 68:4, 68:7, 68:8, 68:11, 110:3, 177:22</p> <p><b>showing</b> 68:4, 69:17, 138:7, 157:4, 158:20</p> <p><b>shown</b> 148:3, 150:1, 150:5, 150:12, 159:1, 159:12, 160:19, 163:14, 169:7, 169:8, 169:22, 170:12, 179:20</p> <p><b>shows</b> 105:4, 141:5, 148:20</p> <p><b>sic</b> 11:2</p> <p><b>side</b> 26:1, 26:5, 137:12, 137:16, 139:12, 139:14, 139:15, 140:1, 144:10, 155:5</p> <p><b>signature-2hj6c</b> 183:18</p> <p><b>significance</b> 46:21, 80:15, 80:18, 86:12, 149:2</p> <p><b>significant</b> 78:2, 149:14,</p>	<p>150:12, 161:19</p> <p><b>signing</b> 183:9</p> <p><b>silver</b> 11:2, 14:8</p> <p><b>similarly</b> 35:8</p> <p><b>simple</b> 64:17, 71:6, 91:17, 118:18, 118:19</p> <p><b>simpler</b> 73:13, 175:4</p> <p><b>simply</b> 60:18, 65:1, 80:19, 95:10, 96:1, 101:15, 136:4, 137:4, 142:2, 166:19, 173:10, 179:15</p> <p><b>since</b> 85:21</p> <p><b>single</b> 54:4, 55:20, 98:9, 115:13</p> <p><b>sir</b> 176:7</p> <p><b>sit</b> 170:9, 179:13</p> <p><b>site</b> 173:2</p> <p><b>six</b> 120:14</p> <p><b>size</b> 164:19</p> <p><b>skills</b> 9:8, 10:7</p> <p><b>skip</b> 51:2, 105:11</p> <p><b>skipping</b> 49:21</p> <p><b>sld</b> 144:5</p> <p><b>slightly</b> 39:11, 166:1, 178:22</p> <p><b>small</b> 149:16, 149:21,</p>	<p>165:16, 166:9, 167:15, 168:11, 169:19, 170:16, 178:5</p> <p><b>small-town</b> 81:4, 81:17, 81:20, 82:17, 82:20</p> <p><b>smaller</b> 167:18, 168:17, 168:19, 169:1, 169:3</p> <p><b>software</b> 166:8, 177:18</p> <p><b>solely</b> 103:15</p> <p><b>some</b> 8:14, 8:17, 12:17, 15:14, 19:2, 20:18, 23:6, 25:1, 27:15, 29:17, 29:19, 33:3, 36:5, 36:8, 45:11, 57:6, 57:18, 59:5, 63:10, 64:3, 80:12, 81:11, 81:13, 92:19, 96:19, 103:13, 118:6, 119:12, 119:13, 126:15, 135:15, 136:19, 142:3, 147:20, 148:5, 151:6, 159:5, 162:2, 175:3, 180:4, 182:2</p> <p><b>somebody</b> 33:13, 109:16, 118:17, 128:19</p> <p><b>someone</b> 12:22, 45:1, 102:3</p> <p><b>someone's</b> 128:21</p> <p><b>something</b> 10:13, 13:15,</p>
---	--	--	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

83

16:1, 21:17, 21:18, 24:3, 31:12, 36:22, 45:1, 46:17, 46:18, 60:21, 60:22, 63:8, 87:15, 99:9, 100:9, 103:11, 109:4, 113:18, 116:6, 118:18, 118:20, 119:7, 119:9, 120:22, 134:6, 138:5, 140:10, 153:16, 153:17, 153:19, 157:21, 171:19, 178:22 <b>sometime</b> 142:8 <b>sometimes</b> 30:10, 175:4 <b>somewhere</b> 84:11, 104:4, 124:4, 126:20, 128:17, 133:14, 133:20, 172:3, 172:8 <b>sorry</b> 9:16, 14:19, 19:20, 20:1, 33:7, 35:19, 51:2, 52:16, 52:20, 71:10, 90:5, 90:6, 92:20, 93:13, 93:14, 105:11, 106:5, 106:6, 108:12, 111:21, 118:21, 120:5, 149:7, 151:9 <b>sort</b> 15:10, 42:6, 49:20, 149:1, 155:4, 163:5, 165:5 <b>sorts</b> 164:21 <b>sounds</b> 25:4, 118:16	<b>source</b> 14:12, 14:16, 15:11, 39:16, 98:12, 136:6, 146:6, 152:7, 172:6, 172:7, 173:7, 177:9, 177:10 <b>sources</b> 12:4, 97:9, 98:20 <b>spans</b> 29:2 <b>speaking</b> 63:17, 71:22, 72:12, 116:14 <b>specific</b> 10:22, 33:12, 42:14, 50:6, 50:17, 56:9, 77:13, 100:12, 100:13, 129:5 <b>specifically</b> 8:8, 43:11, 43:17, 44:3, 44:11, 44:16, 59:10 <b>spectrum</b> 52:22 <b>speculate</b> 110:18, 110:20, 118:15 <b>speculating</b> 141:10, 169:5 <b>speculation</b> 54:2, 92:1, 92:7, 110:17, 156:14 <b>spirit</b> 126:13 <b>split</b> 11:12, 55:12, 55:22, 56:8, 56:14, 56:19, 56:20, 57:15, 57:18, 58:18, 58:19, 58:20, 58:21, 59:1,	136:20, 137:1, 147:12, 161:3, 161:21, 162:1, 162:2, 162:8, 162:9 <b>splits</b> 59:8, 59:11, 59:14, 60:4, 141:5, 161:12 <b>spot-check</b> 19:7, 19:22, 20:7 <b>spot-checked</b> 19:1, 19:8, 20:3 <b>spreadsheet</b> 13:14, 13:16, 14:9, 17:11, 18:2, 103:22, 108:14, 108:22, 109:13, 120:13, 122:6, 122:13, 152:21 <b>spreadsheets</b> 8:22, 9:2, 104:13, 119:13 <b>springs</b> 11:2, 14:8 <b>sprinkling</b> 81:21 <b>st</b> 2:4, 3:12 <b>staff</b> 96:12 <b>staffers</b> 96:13, 114:17, 117:15 <b>stake</b> 83:7 <b>stakes</b> 82:14, 82:15 <b>standard</b> 58:5, 130:7, 131:10, 131:13 <b>standards</b> 58:10 <b>standpoint</b> 82:8	<b>stands</b> 81:16, 82:1 <b>stapled</b> 106:11, 117:2, 117:4 <b>stark</b> 136:21 <b>start</b> 97:12, 127:9 <b>started</b> 124:5, 143:13 <b>starting</b> 43:10, 49:21, 172:21 <b>starts</b> 70:2, 126:1, 174:10 <b>state</b> 2:11, 15:9, 32:21, 50:22, 53:14, 57:7, 65:19, 89:14, 105:17, 105:20, 108:13, 108:15, 109:12, 117:14, 142:22, 145:2, 146:10, 178:17, 179:19, 183:21 <b>stated</b> 60:14, 76:19, 95:6, 99:9, 113:7, 171:21 <b>statement</b> 35:10, 35:16, 37:22, 41:13, 70:22, 72:20, 81:7, 89:19, 90:3, 90:4, 90:7, 91:5, 95:10, 96:9, 97:20, 111:3, 113:11, 114:8, 114:13, 115:1, 115:2, 118:9, 118:10, 120:21, 121:2, 121:19, 125:16, 128:18, 128:20, 168:18,
---	---	--	--

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

84

173:8, 178:4, 178:13, 180:20, 181:1, 181:3, 181:7 <b>statements</b> 49:12, 50:13, 95:19, 97:3, 100:13, 124:21, 165:10, 180:1 <b>states</b> 1:1, 33:14, 81:2, 82:1, 82:13, 84:14, 84:15, 178:14 <b>station</b> 131:3 <b>statistical</b> 79:2, 79:4, 80:14, 80:18, 80:22, 131:17, 131:20, 131:21, 132:3 <b>status</b> 82:15, 83:7 <b>stenographically</b> 183:7 <b>step</b> 16:20, 17:8, 54:11 <b>stephen</b> 3:3, 6:14 <b>steve</b> 103:1, 116:13 <b>still</b> 51:5, 57:10, 59:17, 149:15 <b>stipulation</b> 91:8, 98:1, 98:4, 98:7, 98:10, 98:11 <b>store</b> 131:3 <b>straightforward</b> 71:18, 175:5 <b>strain</b> 167:2, 175:18 <b>street</b> 3:5	<b>strengthened</b> 101:15, 101:18, 101:20 <b>stretch</b> 48:5 <b>strike</b> 149:15 <b>strikes</b> 151:3 <b>structure</b> 49:2, 56:6 <b>student</b> 9:21 <b>studied</b> 66:6 <b>study</b> 12:21 <b>stuff</b> 7:12, 8:20, 8:21, 11:21, 12:1 <b>styles</b> 144:5 <b>subject</b> 45:20, 77:8, 110:11 <b>subjecting</b> 58:1 <b>subjective</b> 44:1 <b>submit</b> 123:21 <b>subordinated</b> 57:6 <b>subsequent</b> 19:16, 89:21, 125:10, 126:20 <b>substantially</b> 124:1, 124:6, 133:19 <b>sufficient</b> 31:16, 45:22, 46:1 <b>suffix</b> 169:18 <b>suggests</b> 109:3, 119:6 <b>sum</b> 63:21	<b>summaries</b> 118:7 <b>summarizes</b> 53:6 <b>summary</b> 52:21, 52:22, 53:11, 96:8, 97:16, 101:18, 111:6, 136:5 <b>summer</b> 6:12 <b>supervisor</b> 32:12 <b>supplemented</b> 149:21 <b>support</b> 113:5, 126:11 <b>supported</b> 97:4 <b>supporting</b> 44:2, 50:14 <b>sure</b> 8:1, 8:9, 8:22, 13:15, 23:16, 29:17, 32:2, 33:13, 34:1, 39:3, 40:2, 48:7, 48:16, 49:3, 50:2, 51:17, 51:22, 52:8, 71:10, 71:14, 76:15, 83:9, 86:14, 91:5, 93:7, 96:21, 97:14, 115:17, 116:2, 119:10, 122:17, 123:13, 127:5, 127:7, 134:20, 136:6, 138:22, 142:8, 143:20, 147:9, 162:15, 165:3, 170:10, 170:15, 171:4, 171:20 <b>surprise</b> 52:2 <b>surprised</b> 143:12	<b>surrounding</b> 167:16, 168:13 <b>suspect</b> 139:21, 173:18 <b>switched</b> 81:3 <b>sworn</b> 6:3 <b>synonymous</b> 22:18, 22:21, 23:8 <b>system</b> 11:6, 138:6 <b>systems</b> 157:22 <hr/> <b>T</b> <hr/> <b>table</b> 6:9, 52:17, 77:19, 78:19, 79:19, 136:7, 136:12, 138:10, 138:11, 144:11, 145:4, 146:2, 146:3, 146:22, 147:7, 147:10, 147:17, 148:2, 148:4, 148:13, 149:10, 149:20, 149:22, 150:5, 150:12, 150:14, 151:2, 151:6, 151:12, 151:17, 152:22, 161:4, 161:6, 161:14, 167:21, 168:5, 168:13, 169:5, 169:7, 170:3 <b>tables</b> 137:7, 137:10, 137:11, 151:13 <b>tabulate</b> 13:17, 136:16 <b>tabulated</b> 14:6, 17:10, 136:15, 161:5 <b>tailored</b> 58:11
--	--	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

85

<p><b>take</b> 46:7, 48:16, 62:22, 66:18, 67:11, 68:12, 69:15, 70:21, 74:19, 81:20, 82:8, 86:6, 86:16, 92:15, 118:11, 121:19, 122:15, 123:8, 143:8, 161:2, 162:11, 165:13, 169:11, 169:12, 169:17</p> <p><b>taken</b> 43:19, 48:18, 60:1, 68:14, 88:8, 109:19, 118:10, 122:18, 125:11, 125:12, 162:17, 168:6, 171:17, 179:9, 182:8, 183:4, 183:7</p> <p><b>taking</b> 101:17, 126:7, 126:8, 151:10, 152:12, 171:8</p> <p><b>talk</b> 41:8, 129:11, 134:6, 134:9</p> <p><b>talked</b> 16:19</p> <p><b>talking</b> 23:15, 23:17, 29:18, 29:20, 33:22, 35:3, 36:10, 40:3, 41:9, 71:21, 72:1, 73:3, 73:4, 82:4, 126:12, 127:18, 130:13, 131:5, 135:15, 143:11, 147:1, 154:1, 154:3, 166:11, 176:16</p> <p><b>task</b> 138:7, 138:15</p>	<p><b>technical</b> 9:4, 12:20, 13:3, 16:19, 17:3, 17:16, 124:15, 139:16, 141:11, 151:19, 151:21, 175:7</p> <p><b>technology</b> 9:8</p> <p><b>tedious</b> 138:7, 138:15</p> <p><b>tell</b> 8:7, 10:1, 11:18, 17:8, 18:7, 18:10, 33:10, 33:20, 52:15, 67:12, 67:17, 70:16, 76:13, 101:11, 113:22, 117:10, 135:13, 137:20, 147:16, 165:11, 176:15, 179:13</p> <p><b>telling</b> 179:21</p> <p><b>term</b> 34:14, 40:5, 42:10, 43:16, 44:16, 44:20, 84:12, 84:13, 90:12, 91:14, 91:15, 91:18, 135:1, 180:11, 180:13</p> <p><b>terms</b> 10:21, 11:9, 12:2, 23:2, 34:15, 41:19, 42:15, 43:1, 149:16, 159:11</p> <p><b>territory</b> 20:20, 21:18, 25:6, 26:21, 27:12, 59:11, 59:15, 59:20, 60:2, 72:8, 132:2, 135:19, 163:11</p>	<p><b>test</b> 80:17, 80:20, 115:14</p> <p><b>tested</b> 115:15</p> <p><b>testified</b> 6:3, 181:9, 181:18</p> <p><b>testifying</b> 111:14</p> <p><b>testimonies</b> 97:6</p> <p><b>testimony</b> 7:11, 7:17, 18:16, 18:22, 28:9, 30:4, 40:8, 42:2, 53:1, 54:3, 66:17, 72:16, 103:15, 111:4, 115:14, 125:6, 128:22, 136:9, 180:6, 181:22, 183:6, 183:7</p> <p><b>text</b> 104:22, 128:12, 133:13, 139:3, 142:22, 168:6, 171:5, 171:7, 172:22</p> <p><b>th</b> 2:5, 3:13, 81:3, 120:7, 120:13, 137:22, 139:6, 139:8, 140:4, 140:7, 140:8, 142:21, 144:2, 144:3, 144:8, 146:18, 146:19, 148:6, 148:7, 152:7, 152:10, 152:19, 153:2, 183:17</p> <p><b>thank</b> 41:7, 123:14, 127:4</p> <p><b>themselves</b> 64:5, 82:21,</p>	<p>134:11</p> <p><b>then-attorney</b> 125:21</p> <p><b>thereabouts</b> 65:21</p> <p><b>thereafter</b> 183:8</p> <p><b>therefore</b> 102:14, 103:1</p> <p><b>thereupon</b> 48:18, 48:20, 68:14, 68:19, 99:17, 100:6, 122:18, 122:20, 162:17, 162:19, 182:8, 182:10</p> <p><b>thin</b> 24:8</p> <p><b>thing</b> 8:13, 8:15, 11:13, 15:16, 26:18, 27:9, 48:6, 65:16, 66:2, 94:22, 123:18, 139:20, 158:6, 165:5, 172:18, 173:4, 173:19, 175:6</p> <p><b>things</b> 26:19, 30:2, 36:5, 36:8, 53:11, 61:2, 83:1, 91:16, 100:13, 124:5, 134:17, 134:19, 142:15, 158:1, 158:2, 160:15, 164:18, 164:21, 166:15, 166:21, 168:8, 175:5, 178:5</p> <p><b>think</b> 7:19, 10:17, 14:17, 15:13, 22:12, 22:17, 22:20, 22:21, 23:2, 23:7, 23:8, 30:5,</p>
---	---	--	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

86

<p>31:17, 36:2, 36:3, 38:14, 38:19, 40:10, 40:11, 48:13, 51:4, 53:20, 61:4, 62:2, 63:22, 64:18, 68:8, 69:7, 80:1, 82:22, 83:6, 83:14, 83:15, 86:18, 89:20, 94:18, 98:11, 98:12, 102:10, 102:11, 102:19, 103:8, 104:7, 106:20, 109:15, 112:17, 113:4, 113:16, 118:21, 123:3, 123:6, 124:3, 125:19, 126:20, 127:3, 130:7, 133:2, 134:18, 138:9, 156:2, 157:10, 168:18 <b>thinking</b> 8:20 <b>third</b> 20:13, 43:11, 93:15 <b>thorough</b> 83:11 <b>thoroughly</b> 69:2, 146:22 <b>thought</b> 160:13 <b>thousand</b> 78:1, 78:7, 78:9, 79:14 <b>three</b> 90:17, 117:2, 131:16, 149:12, 157:5, 169:16, 176:19, 176:21 <b>three-quarters</b> 149:6 <b>threshold</b> 21:11, 54:18,</p>	<p>54:22, 77:11, 77:14 <b>through</b> 10:12, 16:21, 21:17, 30:16, 32:13, 42:6, 45:11, 52:2, 53:13, 83:14, 83:16, 83:17, 88:17, 89:22, 92:17, 92:18, 93:1, 94:19, 98:8, 104:22, 106:7, 106:19, 115:10, 115:12, 117:10, 123:7, 123:9, 124:13, 125:9, 126:21, 127:2, 138:6, 174:9 <b>throughout</b> 49:13, 114:16, 117:14, 117:21, 136:21, 181:22 <b>tied</b> 119:12 <b>tight</b> 31:1, 134:5 <b>time</b> 9:10, 16:22, 30:20, 38:5, 43:4, 70:21, 76:20, 87:12, 92:15, 119:2, 119:4, 138:13, 141:3, 143:8, 143:22, 152:12, 171:15, 173:12 <b>times</b> 112:17, 173:22 <b>tiny</b> 75:3, 158:4, 158:6, 162:1, 164:11, 164:16, 164:18 <b>titled</b> 51:8, 178:1 <b>today</b> 51:5, 110:3,</p>	<p>151:22, 170:9, 179:13 <b>together</b> 18:1, 151:13, 177:14, 177:19 <b>told</b> 11:8, 97:19, 175:18 <b>took</b> 45:10, 86:19, 88:3, 98:13, 109:22, 121:1, 126:10, 126:22, 136:15 <b>top</b> 8:13, 126:1, 133:8, 144:21 <b>total</b> 21:7, 21:13, 47:20, 71:15, 136:17, 145:21, 149:14, 150:8 <b>totally</b> 61:15, 65:11 <b>toward</b> 171:6 <b>town</b> 169:14, 180:6 <b>towns</b> 10:19, 144:22, 147:13, 148:14, 149:3, 149:4, 149:8, 149:13, 150:19, 153:5, 155:18 <b>track</b> 97:7 <b>tract</b> 158:7 <b>tradeoffs</b> 126:15 <b>traditional</b> 22:1, 22:13, 22:19, 23:4, 28:12, 41:17, 119:8, 166:16 <b>transcript</b> 4:7, 7:1,</p>	<p>68:18, 91:9, 92:11, 105:15, 108:10, 112:9, 116:22, 122:3, 132:17, 138:19, 142:18, 152:5, 153:10, 154:9, 163:1, 172:12, 183:5 <b>transformed</b> 46:20 <b>transmitted</b> 112:4, 113:14, 114:12 <b>trees</b> 92:21 <b>trial</b> 182:3 <b>tried</b> 49:17, 102:2 <b>trouble</b> 29:15 <b>true</b> 36:4, 45:17, 67:13, 79:18, 96:17, 96:19, 96:20, 98:19, 101:17, 114:14, 153:2, 183:5 <b>truly</b> 165:4 <b>truthful</b> 96:16, 98:13, 107:12, 110:1, 115:3, 118:12, 121:1, 121:19, 121:21, 125:13 <b>try</b> 31:11, 141:14 <b>trying</b> 9:19, 32:3, 36:2, 38:2, 39:3, 39:14, 40:4, 41:13, 45:9, 50:9, 56:5, 89:2, 104:5, 116:5, 134:20, 140:19,</p>
--	---	---	--



## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

87

157:3, 157:6 <b>turn</b> 20:9, 77:19, 81:1, 83:13, 88:11, 92:18, 93:6, 104:18, 110:8, 111:16, 120:8, 132:7, 136:7, 167:5 <b>turned</b> 17:11 <b>turning</b> 76:8, 81:1, 89:13 <b>turnover</b> 87:8 <b>two</b> 7:18, 10:17, 12:13, 22:6, 23:7, 24:16, 25:21, 26:17, 26:20, 27:1, 27:12, 30:1, 40:19, 70:10, 70:14, 71:1, 71:16, 72:9, 74:18, 84:1, 85:3, 85:14, 87:5, 87:10, 87:13, 90:17, 93:15, 113:4, 124:4, 131:16, 140:12, 141:3, 142:13, 157:5, 162:14, 180:5 <b>two-thirds</b> 149:7 <b>type</b> 16:7, 16:8, 17:2, 17:3, 17:5, 34:1, 161:3, 177:18 <b>typewriting</b> 183:8 <b>typical</b> 85:6 <b>typically</b> 136:3, 141:12	<b>U</b>	79:2, 79:4, 79:6, 90:12, 91:14, 91:18, 95:9, 95:12, 95:19, 96:2, 97:3, 97:8, 104:2, 104:11, 118:13, 129:22, 130:11, 140:14, 142:15, 148:13, 148:17, 161:6 <b>understood</b> 21:11, 22:13, 86:14, 147:9 <b>underway</b> 59:21 <b>unequal</b> 47:20 <b>unfolded</b> 95:16 <b>unincorporated</b> 10:20, 130:5, 130:16, 136:19, 147:18, 147:20, 147:21, 148:5, 149:3, 149:10, 159:11, 167:15, 167:18, 168:1, 168:11, 168:12, 168:17, 168:19, 169:2, 169:3, 169:19, 170:4, 170:18, 178:7 <b>uninhabit</b> 168:13 <b>uninhabited</b> 168:16 <b>united</b> 1:1, 33:14, 82:1, 82:12, 84:14, 84:15 <b>units</b> 141:15, 141:22 <b>universe</b> 36:7, 36:8 <b>unless</b> 21:15, 52:1, 80:12, 87:5,	182:1 <b>unnecessary</b> 65:11 <b>unpopulated</b> 59:11, 59:15, 59:16, 60:2 <b>unremarkable</b> 78:17, 85:19 <b>unstated</b> 65:19 <b>until</b> 134:3, 146:21, 171:18 <b>unusual</b> 91:19, 92:4, 116:4, 116:6, 116:11, 181:13, 181:15 <b>updated</b> 17:21 <b>upper</b> 158:5 <b>upside</b> 92:19 <b>upwards</b> 90:19 <b>url</b> 143:9, 144:1, 175:11 <b>use</b> 10:3, 37:11, 42:10, 45:19, 58:5, 58:8, 58:10, 79:3, 79:5, 80:4, 91:13, 100:3, 100:8, 105:7, 105:8, 131:10, 131:13, 134:13, 135:9, 138:12, 162:1, 162:10 <b>useful</b> 84:21 <b>uses</b> 159:10 <b>using</b> 19:5, 45:18, 58:6, 135:13
---	----------	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

88

<b>V</b>			
<b>vague</b>	<b>varying</b>	<b>voter</b>	18:7, 18:9,
8:6, 19:13,	167:17	7:20, 11:17,	18:18, 94:15,
26:10, 29:4,	<b>vastly</b>	11:22, 16:22,	94:19, 129:5,
29:13, 31:19,	56:13	46:17	136:16, 141:7,
33:19, 34:13,	<b>verified</b>	<b>voter's</b>	147:9, 171:20,
34:22, 35:9,	98:9	45:12, 48:10	172:20
36:1, 36:17,	<b>verify</b>	<b>voters</b>	<b>wants</b>
37:7, 37:19,	99:14	47:10, 53:10	16:7
39:7, 42:1,	<b>verifying</b>	<b>voting</b>	<b>washington</b>
51:20, 76:12,	126:22	7:20, 22:10,	3:6
77:5, 78:3,	<b>version</b>	91:15	<b>wasted</b>
100:11, 112:11,	163:19	<b>W</b>	45:14, 46:21
123:17, 136:13,	<b>versus</b>	<b>waiting</b>	<b>water</b>
144:18, 147:15,	35:12, 47:18,	138:22	23:10, 23:21,
150:21, 156:13,	82:15, 126:13	<b>walk</b>	24:9, 74:4
161:20, 165:18,	<b>via</b>	25:8	<b>way</b>
166:13	23:20, 24:17,	<b>walkersville</b>	6:18, 11:12,
<b>valid</b>	96:14	155:20	13:17, 15:22,
21:16, 134:20	<b>view</b>	<b>walking</b>	18:9, 29:15,
<b>validate</b>	26:14, 26:15,	31:1	37:9, 38:11,
53:2, 100:4,	60:15	<b>want</b>	42:3, 50:7,
100:9, 107:14,	<b>viewing</b>	7:7, 9:6, 9:7,	52:4, 52:14,
107:18	50:20	10:4, 12:16,	61:2, 61:9,
<b>validated</b>	<b>views</b>	15:7, 15:8,	62:12, 62:16,
53:7, 53:12,	89:16, 90:11,	15:10, 15:18,	65:3, 65:8,
121:4, 124:19,	90:14	16:3, 16:8,	68:7, 72:6,
125:4	<b>village</b>	16:10, 17:6,	72:17, 76:3,
<b>validating</b>	155:18	17:8, 18:6,	93:19, 105:9,
124:10	<b>villages</b>	50:2, 58:4,	115:21, 116:16,
<b>value</b>	10:19	71:10, 81:1,	118:19, 130:8,
80:6, 85:7,	<b>violating</b>	86:14, 88:16,	131:12, 134:9,
85:11, 85:12	59:17	94:1, 94:5,	135:7, 135:8,
<b>values</b>	<b>virginia's</b>	96:8, 97:11,	136:16, 140:22,
23:5, 80:7,	178:20	98:18, 103:12,	149:19, 151:5,
85:14	<b>visualize</b>	112:16, 120:22,	173:20, 176:15,
<b>variance</b>	157:3	127:9, 133:3,	179:17, 179:21,
80:22	<b>visualizing</b>	136:4, 138:2,	179:22
<b>variant</b>	156:5	138:20, 139:19,	<b>website</b>
119:5	<b>vote</b>	140:2, 142:12,	4:19, 4:20,
<b>variants</b>	38:4, 40:22,	143:8, 151:20,	4:21, 4:22, 5:8,
113:8, 118:8	45:12, 46:18,	155:2, 157:12,	7:20, 7:22, 8:1,
<b>varied</b>	46:20, 109:5,	157:16, 162:11,	13:22, 14:22,
81:5, 81:8,	166:4, 166:6,	170:13, 182:12	15:2, 132:13,
81:12, 81:18,	166:7	<b>wanted</b>	132:18, 133:17,
82:2	<b>voted</b>	10:5, 11:8,	133:20, 134:22,
<b>various</b>	44:5, 45:5,	13:1, 13:17,	138:5, 139:2,
7:11, 95:22	76:3, 102:4,	14:10, 18:4,	171:3, 171:8,
	124:11		171:12, 171:13,

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

89

171:18, 172:9, 172:15, 172:16, 173:10, 173:14, 173:16, 175:1 <b>wedge</b> 160:20 <b>weekend</b> 182:7 <b>weighing</b> 86:12 <b>well-established</b> 89:15 <b>well-kept</b> 125:17 <b>well-quoted</b> 125:16 <b>went</b> 11:12, 16:20, 17:19, 52:1, 93:1, 96:3, 97:1, 139:22, 152:22 <b>weren't</b> 56:19, 56:20, 62:15 <b>whatever</b> 12:11, 57:8, 57:10, 57:11, 72:3, 141:3, 141:17, 166:18, 172:6, 176:17, 179:16 <b>whatsoever</b> 177:16 <b>whereas</b> 140:1 <b>whereof</b> 183:14 <b>whereupon</b> 6:21, 68:16, 92:9, 105:13, 108:8, 112:7, 116:20, 122:1, 132:15, 138:17, 142:16, 152:3, 153:8, 154:7, 162:21, 172:10 <b>whether</b> 11:11, 12:14,	16:15, 19:3, 19:9, 27:9, 28:3, 29:11, 31:16, 33:13, 37:12, 37:14, 38:9, 39:22, 40:1, 40:16, 44:1, 47:19, 58:17, 58:18, 58:20, 58:21, 59:7, 66:10, 72:11, 80:21, 94:12, 117:11, 127:19, 127:20, 127:21, 161:7, 167:20, 167:22, 169:21, 176:16, 179:14, 179:15 <b>white</b> 87:6 <b>whites</b> 86:8 <b>whoever</b> 57:7, 113:21 <b>whole</b> 7:12, 22:9, 118:19, 146:11, 166:3, 170:22, 172:18 <b>wholesale</b> 15:7, 15:11, 15:14, 19:6, 87:6, 139:12 <b>wholly</b> 25:22, 26:2, 144:11, 144:14 <b>widely</b> 22:12, 85:1 <b>wikipedia</b> 5:8, 172:22, 173:19, 174:4, 174:8, 174:18, 175:5, 177:22, 179:15, 179:21 <b>willis</b> 110:12 <b>within</b> 19:15, 20:21,	34:4, 59:19, 84:15, 146:18, 146:19, 152:19, 158:8, 163:8 <b>without</b> 22:7, 66:4, 68:1, 85:20, 86:10, 100:9, 102:10, 143:2, 147:4, 148:10, 151:1, 151:10, 151:18, 154:17, 157:3, 158:20, 159:14, 161:10, 174:18 <b>witness</b> 6:16, 31:11, 41:7, 73:8, 73:10, 88:17, 88:18, 88:21, 89:4, 93:1, 117:1, 127:5, 154:1, 154:5, 167:7, 183:14 <b>wonder</b> 162:2 <b>wondering</b> 136:10 <b>word</b> 67:11, 132:3, 160:21, 176:21, 179:6, 179:16 <b>wording</b> 133:12, 175:5 <b>words</b> 25:12, 26:14, 27:4, 50:18, 53:4, 56:3, 59:13, 89:21, 108:4, 108:6, 133:7, 133:17, 133:18, 133:19, 137:19 <b>work</b> 7:16, 9:4, 11:21, 12:1, 99:4, 111:15 <b>working</b> 8:19	<b>works</b> 9:21 <b>wouldn't</b> 18:5, 35:10, 35:15, 49:15, 52:1, 52:2, 96:20, 101:20, 131:11, 138:9, 143:12, 150:7, 157:20, 175:18 <b>write</b> 96:6 <b>wrong</b> 104:3 <hr/> <b>Y</b> <hr/> <b>yards</b> 176:16 <b>yeah</b> 13:9, 14:5, 16:6, 19:1, 23:19, 24:4, 24:7, 25:19, 38:19, 42:9, 50:1, 50:11, 67:5, 70:4, 92:17, 92:20, 93:10, 93:18, 112:18, 112:19, 127:9, 127:17, 133:5, 143:11, 144:3, 145:1, 145:5, 147:8, 155:9, 155:10, 156:7, 158:11, 164:3, 173:6, 174:14, 174:15 <b>year</b> 17:20, 75:15, 87:5, 87:10, 140:4, 140:8 <b>years</b> 142:10, 142:11, 142:13 <b>yellow</b> 146:5, 155:3, 155:4, 155:11, 156:3, 157:9,
--	--	---	---

## Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

90

164:7, 168:21 <b>yep</b> 73:10 <b>yourself</b> 138:6	<b>004</b> 112:18, 112:20 <b>04020</b> 163:18, 164:1	<b>116</b> 4:17, 126:9 <b>117</b> 126:17 <b>12</b> 43:9, 43:22, 91:8, 122:19 <b>122</b> 4:18 <b>123</b> 123:8, 126:21, 127:2 <b>129</b> 106:14 <b>13</b> 1:7, 144:6, 144:7, 146:11, 182:9 <b>13.59</b> 80:9 <b>131</b> 4:14, 106:7 <b>132</b> 4:19 <b>138</b> 4:20, 167:6, 168:6, 170:14, 171:6 <b>14</b> 70:3, 97:13, 182:11, 182:16 <b>142</b> 4:21 <b>145288</b> 1:20 <b>15</b> 69:21, 70:3, 70:7, 70:16, 70:17, 120:13 <b>152</b> 4:22 <b>153</b> 5:4 <b>154</b> 5:6 <b>155</b> 81:1 <b>160</b> 83:14	<b>162</b> 5:7 <b>163</b> 83:14 <b>164</b> 50:12 <b>17</b> 54:11, 68:20, 129:11, 131:15 <b>172</b> 5:10 <b>176</b> 4:4 <b>18</b> 4:13, 133:8 <b>183</b> 1:21 <b>19</b> 89:10 <b>190</b> 4:9, 6:20, 6:22 <b>191</b> 6:20, 6:22 <b>192</b> 4:10, 4:11, 68:17 <b>193</b> 4:13, 92:10, 94:2, 103:21, 112:16, 112:17, 112:18 <b>194</b> 4:14, 105:12, 105:14, 106:9 <b>195</b> 4:15, 108:9, 108:19 <b>196</b> 4:16, 112:8, 113:1 <b>1961</b> 89:21 <b>1966</b> 89:8 <b>197</b> 4:17, 116:21, 117:1, 117:7, 119:19
<b>z</b>	<b>1</b> 122:21 <b>10</b> 21:15, 48:19, 48:21, 89:13, 136:3 <b>100</b> 64:1 <b>105</b> 4:14 <b>107</b> 125:9, 125:11 <b>108</b> 4:15, 125:14, 128:11, 128:12, 128:13, 128:16, 128:21, 139:8, 152:7, 152:10 <b>109</b> 125:15, 139:8 <b>11</b> 20:13, 42:5, 42:9, 54:10, 68:15, 68:20 <b>110</b> 125:18 <b>111</b> 125:21, 139:8, 140:4, 148:6, 152:19 <b>112</b> 4:16, 126:5 <b>113</b> 81:3, 126:6, 137:22, 139:6, 140:7, 140:8, 142:21, 144:2, 144:3, 144:8, 146:11, 146:18, 146:19, 148:7, 153:2 <b>114</b> 126:6, 126:7		
<b>.3</b> 78:1 <b>.3000</b> 3:7 <b>.5</b> 78:11 <b>.6324</b> 2:7, 3:15 <b>.8</b> 78:13	<b>0</b>		
<b>0.3</b> 78:4 <b>0.5</b> 78:16, 78:20 <b>0.8</b> 78:16 <b>000001</b> 4:13, 93:11 <b>000004</b> 112:15 <b>000023</b> 4:16 <b>000035</b> 4:18 <b>000052</b> 4:15 <b>000129</b> 4:14, 106:7 <b>000130</b> 106:5 <b>000223</b> 4:17, 119:20 <b>001</b> 158:6			

Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

<p><b>198</b> 4:18, 122:2, 122:4, 122:14 <b>1980</b> 174:2 <b>199</b> 4:19, 132:16, 171:2, 175:10 <b>1990</b> 174:2 <b>1999</b> 3:5 <b>1th</b> 146:11</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2</b> 162:18, 162:20 <b>20</b> 2:5, 3:13, 51:4, 61:12, 69:9, 93:6, 93:14, 103:20, 136:3 <b>200</b> 2:4, 3:12, 4:20, 138:16, 138:18, 142:21 <b>2000</b> 148:15 <b>20006</b> 3:6 <b>2002</b> 66:11, 72:1, 72:13, 73:16, 74:4, 75:1, 75:5, 75:16, 152:10 <b>2004</b> 121:12 <b>2006</b> 121:12 <b>2007</b> 178:19 <b>2008</b> 121:13 <b>201</b> 4:21, 142:17,</p>	<p>142:20, 144:17, 146:3, 148:3, 168:5, 168:21, 169:8, 169:12, 180:2, 180:10, 180:11, 180:15 <b>2010</b> 60:1, 88:8, 121:12, 140:20, 148:16, 148:18 <b>2011</b> 53:22, 72:2, 72:14, 74:5, 95:7, 107:1, 107:7, 108:14, 120:7, 120:13, 127:12 <b>2012</b> 5:3, 5:5, 5:7, 76:4, 175:20 <b>2013</b> 89:22 <b>2017</b> 120:4, 183:16 <b>202</b> 4:22, 152:4, 152:17, 180:2, 180:10, 180:11, 180:15 <b>202.263</b> 3:7 <b>2021</b> 183:17 <b>203</b> 5:3, 153:9, 154:12, 154:17, 157:16, 157:18, 159:15, 176:8, 176:11, 177:7 <b>204</b> 5:5, 153:21, 154:8, 154:18, 157:17, 160:3, 160:5, 176:8, 176:11, 177:7 <b>205</b> 5:7, 162:22, 163:3, 176:8,</p>	<p>176:11, 177:1, 177:7 <b>206</b> 5:8, 171:22, 172:11, 177:21, 179:8 <b>21</b> 51:4, 86:4, 105:16, 158:6 <b>21.0</b> 85:18, 85:20 <b>21.2</b> 85:18 <b>2107</b> 1:13 <b>217</b> 171:1, 171:7, 171:17 <b>22</b> 104:18, 144:16, 145:17, 149:10 <b>22.3</b> 79:13 <b>226</b> 4:17 <b>23</b> 108:7 <b>24</b> 113:2, 120:7 <b>25</b> 69:15, 72:22, 113:2 <b>26</b> 103:2, 182:4 <b>27</b> 89:13, 90:20 <b>270</b> 127:19, 128:8 <b>28</b> 4:16, 183:17 <b>29.3</b> 85:20, 86:4</p> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>3</b> 182:9, 182:11, 182:16 <b>30</b> 177:1</p>	<p><b>31</b> 120:8, 176:22 <b>32</b> 48:19 <b>3233</b> 1:7 <b>33</b> 97:13, 97:15, 97:21 <b>35</b> 152:13 <b>37</b> 1:14 <b>38</b> 4:18 <b>39</b> 48:21 <b>3rd</b> 107:1</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4) (c) (2)</b> 103:2 <b>40</b> 122:19, 122:21 <b>41</b> 162:18 <b>410.576</b> 2:7, 3:15 <b>420</b> 164:8 <b>45</b> 95:6, 96:6, 104:7, 107:6, 107:17 <b>46</b> 105:16, 107:17, 162:20 <b>47</b> 80:10, 127:8 <b>48</b> 127:8 <b>4th</b> 108:13, 120:4</p> <hr/> <p style="text-align: center;"><b>5</b></p> <hr/> <p><b>5.5</b> 78:20</p>
--	---	---	---

Transcript of Dr. Peter A. Morrison

Conducted on June 2, 2017

<p><b>50</b> 60:19, 61:7, 62:18, 64:2, 65:5, 65:21, 108:13</p> <p><b>51</b> 121:10, 128:10</p> <p><b>52</b> 110:8</p> <p><b>53</b> 126:1</p> <p><b>55</b> 111:17, 111:18, 111:19, 112:13, 114:2, 114:3, 114:6</p> <p><b>56</b> 114:15, 117:14, 118:22</p> <p><b>57</b> 60:11, 123:8</p> <p><b>58</b> 66:19, 72:21, 73:7</p> <p><b>5th</b> 183:15</p> <hr/> <p style="text-align: center;"><b>6</b></p>	<p>73:11, 75:1, 75:5, 75:15, 75:21, 121:9, 124:17, 175:20</p> <hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p><b>75</b> 77:20</p> <p><b>77</b> 83:13, 83:15, 83:16, 83:17</p> <p><b>78</b> 49:22, 83:16, 83:17</p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p><b>83</b> 112:10, 112:12, 112:15</p> <p><b>88</b> 123:19, 124:11</p> <p><b>89</b> 124:10, 124:11</p> <p><b>8th</b> 70:8, 72:13</p> <hr/> <p style="text-align: center;"><b>9</b></p>	
<p><b>60</b> 67:7</p> <p><b>65</b> 93:8, 93:14, 95:5, 167:5</p> <p><b>66</b> 89:11</p> <p><b>67</b> 106:7, 136:7, 144:11, 149:11</p> <p><b>68</b> 4:12, 106:6</p> <p><b>69</b> 76:8, 120:10, 121:7, 123:4, 123:8</p> <p><b>6th</b> 64:12, 65:15, 69:8, 69:20, 70:8, 72:12,</p>	<p><b>9</b> 1:14</p> <p><b>91</b> 124:15</p> <p><b>92</b> 4:13</p> <p><b>93</b> 124:21, 125:3</p> <p><b>96</b> 125:5, 127:6, 127:10</p> <p><b>97</b> 125:8, 127:6, 127:15, 128:7</p>	