

EXHIBIT 52

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

-----x

O. JOHN BENISEK, et al.,

Case No. 13-cv-3233

Plaintiff(s),

v.

LINDA H. LAMONE, et al.,

Defendant(s).

-----x

VIDEOTAPED DEPOSITION OF JOHN T. WILLIS

Washington, D.C.

May 24, 2017

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

DIGITAL EVIDENCE GROUP

1730 M Street, NW, Suite 812

Washington, D.C. 20036

(202) 232-0646

1 JOHN T. WILLIS
2 May 24, 2017
3 10:44 a.m.
4
5 The following is the transcript of the
6 videotaped deposition of JOHN T. WILLIS held at the
7 offices of Mayer Brown LLP, 1999 K Street, NW,
8 Washington, DC 20006, and reported by Linda S.
9 Kinkade, RDR, CRR, RMR, RPR, CSR, and Notary Public
10 within and for the District of Columbia.
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21
22

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1 APPEARANCES:
2 On Behalf of Plaintiff:
3 Mayer Brown LLP
4 1999 K Street, NW
5 Washington, DC 20006
6 T 202.263.3221
7 By: Stephen M. Medlock
8 smedlock@mayerbrown.com
9 By: Katherine E. Monks
10 kmonks@mayerbrown.com
11 By: Michael B. Kimberly
12 mkimberly@mayerbrown.com
13
14 On Behalf of the State of Maryland and the Witness:
15 Office of the Attorney General
16 200 St. Paul Place
17 Baltimore, Maryland 21202
18 T 410.576.7005
19 By: Jennifer L. Katz
20 jkatz@oag.state.md.us
21
22 Also present:
21 Dan Pearson, Mayer Brown LLP
22 Nhat Pham, Video Specialist

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1 P R O C E E D I N G S
2 VIDEO SPECIALIST: We're now on the
3 record. This is the videotaped deposition of John T.
4 Willis, in the matter of O. John Benisek, et al.
5 versus Linda H. Lamone, et al., in the United States
6 District Court for the District of Maryland, case
7 number 13-CV-3233.
8 This deposition is being held at 1999 K
9 Street, northwest, Washington, D.C. Today's date is
10 May 24th, 2017. The time is 10:44. My name is Nhat
11 Pham on behalf of Digital Evidence Group. Our court
12 reporter is Linda Kinkade also on behalf of Digital
13 Evidence Group.
14 Will counsel please introduce themselves and
15 state who you represent.
16 MR. MEDLOCK: Yes. I'm Stephen Medlock
17 from Mayer Brown LLP representing the plaintiffs.
18 Also with me at table is Kate Monks, Daniel Pearson
19 and Michael Kimberly, all on behalf of plaintiffs.
20 MS. KATZ: Jennifer Katz, Office of the
21 Attorney General, on behalf of the defendants.
22 VIDEO SPECIALIST: Will the court reporter

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1 please swear in the witness and we can proceed.
2 JOHN T. WILLIS,
3 having been first duly sworn, was
4 thereafter examined and testified as follows:
5 EXAMINATION
6 BY MR. MEDLOCK:
7 Q. Good morning, sir.
8 A. Good morning.
9 Q. Can you please state and spell your full
10 name for the record?
11 A. John Twigg Willis, T-W-I-G-G, middle name,
12 Willis, W-I-L-L-I-S.
13 Q. All right. John with an H or without an
14 H?
15 A. With an H.
16 Q. Okay. Sir, have you -- I'm going to skip
17 the normal deposition instructions every attorney
18 seems to use at the beginning of their deposition,
19 but the main thing today is, if you don't understand
20 any of my questions, please say so and I'll try and
21 rephrase it. Okay?
22 A. Okay.

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1 Q. All right. Have you met with anyone to
2 prepare for your deposition today?
3 A. Other than counsel, no.
4 Q. Okay. And when you say counsel, who are
5 you referring to?
6 A. Sarah Rice and Jennifer Katz, the Office
7 of the Attorney General.
8 Q. How many times did you meet with Ms. Katz
9 or Ms. Rice to prepare for your deposition today?
10 A. Oh, twice, I think, last Friday and
11 briefly on Monday.
12 Q. Okay. And --
13 A. Right, this week, Monday.
14 Q. Between last Friday and this Monday, how
15 much total time did you spend preparing for your
16 deposition today?
17 A. Probably a half dozen hours, if I combine
18 my reading time and my ...
19 Q. Mm-hmm. When you say "reading time," what
20 are you referring to?
21 A. Oh, referring to publications I've
22 written, other publications, searching, fact-checking

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1 things on the web, rereading my report.
2 Q. Right.
3 A. Reading other -- some of the other expert
4 reports.
5 Q. When you say reading some of the other
6 expert reports, what other expert reports did you
7 read to prepare for the deposition today?
8 A. Well, I -- I read two reports from the
9 plaintiffs, and then I read Cooper's report from
10 the -- and I did not have a chance to read all of
11 Lichtman's report, so I skimmed, but I did not read
12 it in its entirety.
13 Q. When you say you read two of the
14 plaintiffs' expert reports, are you referring to
15 expert reports that were submitted by Professor
16 McDonald and Dr. Morrison?
17 A. Correct, Morrissey and McDonald.
18 Q. Right. And for -- were those the reply
19 reports that they submitted on May 8th or the
20 original reports that they submitted in April?
21 A. Both.
22 Q. So you read all four of their reports?

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1 A. Correct.
2 Q. Okay. Did you review any documents
3 besides the expert reports and your own -- and the
4 academic writing that you're referring to, to prepare
5 for your deposition today?
6 A. No other outside reports. I mean, I --
7 those -- my reports contain information from the
8 Maryland Department of Planning, the Maryland
9 Archives online, but all publicly available
10 documents.
11 Q. Did you review any deposition transcripts
12 to prepare for your deposition today?
13 A. No, only insofar as they were mentioned in
14 the reply briefs of your experts.
15 Q. Right. So --
16 A. So I did not review any of the
17 deposition -- other depositions -- that have been
18 taken in the case.
19 Q. Okay. Have you spoken to any other
20 testifying experts in this case?
21 A. No.
22 Q. Have you spoken to Dr. Lichtman at all?

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1 A. No. I assume you mean in the last year or
2 so.
3 Q. Well, in connection with this litigation.
4 A. Correct.
5 Q. You're currently employed as senior
6 counsel at the Office of the Attorney General of
7 Maryland; is that right?
8 A. Correct.
9 Q. When did you take that position?
10 A. January 6th, 2015.
11 Q. Who asked you to take that position?
12 A. The Attorney General.
13 Q. When you say "the Attorney General," are
14 you referring --
15 A. Attorney General of Maryland, Brian Frosh.
16 Q. Frosh. Okay. How long have you known
17 Attorney General Frosh?
18 A. Oh, over 30 years.
19 Q. How would you describe your relationship
20 with Attorney General Frosh?
21 A. Well, we had a working relationship and a
22 personal relationship that grew over those 30 years,

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1 and then as a professional relationship. When I was
2 in office, he was also in the Maryland General
3 Assembly when I was Secretary State of Maryland.
4 Q. Okay. So you have a professional
5 relationship with Attorney General Frosh, a working
6 relationship and a personal relationship; is that
7 correct?
8 A. Correct. The personal relationship grew
9 and evolved over time, but -- but I've known him and
10 interacted with him since he was first elected to the
11 General Assembly.
12 Q. Would you consider Attorney General Frosh
13 to be a friend?
14 A. Yes.
15 Q. Who -- what are your job duties as senior
16 counsel in the Office of Attorney General?
17 A. Well, I participate in all the senior
18 executive meetings. Basically I have a part-time
19 contractual relationship with the office, and the
20 executive meetings generally take place on Mondays,
21 so I'm in the office on Mondays.
22 I assist with working with the communications

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1 office. I assist with the administrative part of the
2 office. I represent the Attorney General when he's
3 unable to go to certain things, whether it be a
4 school appearance, a public appearance, an
5 association appearance, something -- I will sometimes
6 represent him there. I talk with other counsel as
7 they may seek my advice on things I may have been
8 involved in, particularly as it relates to elections,
9 so kind of topics as assigned.
10 Q. Sure. Understood. And I don't want to
11 get into legal advice that you're giving as part of
12 your work at the Office of Attorney General.
13 A. Right. Right.
14 Q. But, generally, one of the things you
15 mentioned that is part of your portfolio of duties at
16 the Office of Attorney General is advising regarding
17 election-related matters; is that correct?
18 A. Correct.
19 Q. And do you advise regarding
20 election-related litigation or election-related legal
21 consulting?
22 A. Well, it's more I'm a reference.

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1 Q. Okay.
2 A. Because I've participated in a number of
3 the commissions over the last 30 years related to
4 changes in the law or in a number of subject matters,
5 and so attorneys will sometimes come and ask me for
6 background. I don't deal with the client.
7 Q. Sure.
8 A. In other words, I'm not representing any
9 of the state agencies. I don't do the litigation. I
10 don't do the direct client involvement. But I'm
11 there as a resource and a reference.
12 Q. This is just a "yes" or "no" question. I
13 don't want to get into substance of advice.
14 Before you were retained as a testifying
15 expert in this case, did you offer any advice to
16 attorneys in the Office of the Attorney General
17 regarding this litigation?
18 A. The answer would be no, if it was with
19 regard to advice. No, I never gave any advice.
20 Q. Okay. So let's take the word "advice"
21 out. Did you consult with attorneys in the Office of
22 the Attorney General regarding this litigation before

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1 you were retained as a testifying expert in this
2 case?
3 A. I would have -- may have had conversations
4 with attorneys in the office that are near me,
5 physically near me, who represent the Maryland State
6 Board of Elections --
7 Q. Okay.
8 A. -- and the City Board of Elections. And I
9 publish a newsletter on election administration, so
10 we're often sharing information about whether it's a
11 redistricting matter, ballot access issues, ballot
12 design issues, early voting issues, disability
13 issues, all kinds of issues that I talk with them
14 about, and -- but with regard to this case just that
15 I was aware it was filed. I knew it was filed. I'm
16 aware of redistricting cases around the country that
17 have been filed but nothing particular.
18 Q. Okay. You mentioned that you were
19 physically close in the office -- in the work space
20 to people who represent the State Board of Elections.
21 A. Right.
22 Q. Is your work space --

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1 A. In the same corner of an office building.
2 Q. Okay.
3 A. All right.
4 Q. So if I'm imagining the -- and you work in
5 the Baltimore office, correct?
6 A. Correct.
7 Q. So if I'm imagining the Baltimore office,
8 there's a suite of work spaces in the corner for the
9 State Board -- people who work on State Board of
10 Elections matters, and you're close to them.
11 A. They're not in the corner. That's the
12 head of the opinion section.
13 Q. Okay. Got it.
14 A. They're down the -- they are two down --
15 Q. Okay.
16 A. -- on the west side of the building.
17 Q. Okay.
18 A. And I'm probably one, two, three, four
19 offices away from them --
20 Q. Okay. So --
21 A. -- on a different side of the building.
22 I'm on the north side and they're on the west side.

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1 Q. I see. So you're four offices down from
2 the attorneys who are regularly advising the State
3 Board of Elections.
4 A. Correct.
5 Q. So how far is that in feet?
6 A. Probably 25, 30 feet, something.
7 Q. Okay. So you see them every day.
8 A. If they're in.
9 Q. If they're in.
10 A. And I'm not there every day.
11 Q. So every day that you're in, you have a
12 chance to interact with them and you walk by their
13 offices?
14 A. I walk by their office. Right. I don't
15 stop and talk to them every time I go to the office,
16 but ...
17 Q. All right. You mentioned that you have
18 sort of a part-time contract with the Office of the
19 Attorney General.
20 A. Correct.
21 Q. How much are you paid per year under that
22 contract?

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1 A. It's roughly about -- you can look it up
2 in the budget documents -- probably about \$25,000 a
3 year probably.
4 Q. Besides --
5 A. I average -- the payroll system is set up
6 that I do ten hours a week at the AG.
7 Q. Okay. Do you receive any other benefits
8 besides that base pay?
9 A. No.
10 Q. During the time that you're working
11 part-time as a senior counsel at the Office of the
12 Attorney General, you've continued to teach at the
13 University of Baltimore?
14 A. Correct.
15 Q. Okay.
16 A. Yeah, I spend a good three-quarters of my
17 work week at the University of Baltimore.
18 Q. Okay. How close is your work space to
19 Ms. Rice's office?
20 A. She is -- they're in the opposite corner
21 of my office on the same 20th floor.
22 Q. Same floor?

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1 A. Same floor, but they're in the northeast
2 corner.
3 Q. And how about --
4 A. I'm like --
5 Q. Sorry. Go ahead.
6 A. Go ahead.
7 Q. How about Ms. Katz' office, same floor?
8 A. Yes. They're together. They're next to
9 each other.
10 Q. Understood. And you mentioned that you
11 have -- you have a friendship with Attorney General
12 Frosh. How often do you interact with him socially?
13 A. Not that -- I mean, he's a very busy
14 person, so every time -- I mean, we may go to, you
15 know, sit down and have lunch together. Occasionally
16 we may go to Bethesda sometimes for events. If he's
17 in Baltimore at events I may see him. But he's a
18 biker, a bike rider. I play golf. They don't
19 really -- we don't do the same, you know ...
20 Q. I gotcha. With respect to this case, do
21 you have any sort of written retention agreement with
22 the Office of Attorney General?

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1 A. No.
2 Q. Did you think it was necessary to
3 formalize your retention as an expert in this case?
4 A. No.
5 Q. And you're not being compensated
6 separately for your work as a testifying expert in
7 this case?
8 A. No.
9 Q. Did you ask to be compensated?
10 A. No.
11 Q. Why didn't you think it was necessary to
12 be compensated for your work in this case?
13 A. I've been doing this for 40 years, so I
14 have in my course of work in the State, you know,
15 I've been doing this. I mean, so when someone asks
16 me something about a subject matter related to this
17 field of elections, I give them an answer. I have
18 made the conscious decision not to become a
19 consultant, not to be in that business, if you will,
20 of being an expert --
21 Q. Okay.
22 A. -- witness, as many of the people I know

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1 have who are around the country.
2 Q. Absolutely no judgment against them.
3 A. No, not at all.
4 Q. How many total hours have you spent
5 working on your expert reports and preparing to
6 testify in this case?
7 A. Oh, probably -- well, probably a good 40
8 to 50 hours probably.
9 Q. So that's 40 -- sorry. Go ahead.
10 A. No.
11 Q. That's 40 to 50 hours that you could have
12 otherwise spent on your teaching career or in your
13 part-time work advising the Office of Attorney
14 General, correct?
15 A. Yeah, but I'm not a -- maybe a little
16 old-fashioned, but I'm not a clock person.
17 Q. I understand.
18 A. So I do a lot of work at night, a lot of
19 reading, a lot of fact-checking any time of the day
20 on any day.
21 Q. I gotcha. I guess my question is, you're
22 taking 40 to 50 hours that you -- could have been

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1 spent on endeavors that you were actually getting
2 paid for. Why did you choose to spend 40 to 50 hours
3 putting together an expert report for the Attorney
4 General of Maryland at no cost?
5 A. Well, they asked me, and I said sure.
6 Q. When were you retained as a testifying
7 expert in this case?
8 A. It would have been mid April.
9 Q. Who from the Office of Attorney General
10 reached out to you regarding you testifying?
11 A. Jennifer Katz and Sarah Rice came into my
12 office and said we think you would -- could add
13 something and would you be willing to answer the
14 following questions that I put on page 2 of my
15 report, and I said sure --
16 Q. Okay.
17 A. -- I could do that. They said, well, the
18 bad news is we have a very short time frame in which
19 to get this together, but that I could draw on, you
20 know, reports I've done and research I've already
21 done.
22 Q. If a plaintiff in a redistricting case

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1 came to you and asked you to testify for them at
2 no -- at no cost whatsoever, would you do it?
3 A. Well, I probably -- in this type of a
4 matter where the State was a party?
5 Q. Mm-hmm.
6 A. No, but I wouldn't be -- I wouldn't
7 probably decline to do it.
8 Q. I'm sorry. You probably wouldn't decline?
9 A. I would decline to do it, as I've made --
10 since I left State government in 2003, I've made a
11 conscious decision not to do fee for hire with
12 anything related to government. Now I have done --
13 so in terms of courts or lobbying ...
14 Q. Prior to being retained as a testifying
15 expert in this case, did you ask to see any of the
16 documents that have been produced in this case?
17 A. No.
18 Q. Prior to being retained as a testifying
19 expert in this case, did you ask to see any of the
20 deposition testimony that had been given in this
21 case?
22 A. No.

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1 Q. Prior to being retained as a testifying
2 expert in this case, did you ask to see any of the
3 pleadings that have been filed in this case?
4 A. No.
5 Q. Prior to being retained as a testifying
6 expert in this case, did you ask anyone at the Office
7 of Attorney General any factual questions about the
8 case?
9 A. I think -- I'm trying to recall a
10 conversation I might have had earlier than when
11 attorneys Rice and Katz came to my office. I was
12 aware that the litigation had been filed.
13 Q. Sure.
14 A. And I was aware of media accounts of it.
15 I was aware and had read previous decisions involving
16 the matter, but I had not examined any pleadings or
17 depositions or anything like that.
18 So I don't know if that fully answered your
19 question the way --
20 Q. I think -- I think that answers it. Thank
21 you.
22 When did you begin drafting your expert report

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1 in this case?
2 A. Almost immediately.
3 Q. It sounds like you were under the gun.
4 A. Right. Almost immediately beginning to
5 make outline, you know, just an outline, and then
6 immediately thinking about, well, where was the
7 material that I would need to support what my opinion
8 and conclusions were. And so I started immediately,
9 and ...
10 Q. You referred to the material that you
11 would need to support your conclusions. When you
12 started outlining your report, what material did you
13 think you needed to support your conclusions?
14 A. Well, having been involved in this process
15 previously and having -- being aware -- working with
16 State agencies and working with Department of
17 Planning and working with Archives for years,
18 decades, I knew where things were. So I was fully
19 aware of what the composition of the Sixth
20 Congressional District had been since its creation,
21 and I immediately thought, well, a nice set of maps
22 would be good. And so that was part of what I set

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1 out to create was the congressional district maps.
2 Q. Okay.
3 A. And having experience with what they --
4 resources were available at the Department of
5 Planning, I reached out to them and went over to
6 visit with them to see how they could help
7 demonstrate through using the maps what I knew I was
8 going to research.
9 Q. Did you ask the Maryland Department of
10 Planning for any information other than the maps that
11 you were going to research?
12 A. The only other information -- I asked them
13 for population data for congressional districts as
14 far back as they had it -- population data as of the
15 date for every census, in other words, what was the
16 population for each congressional district.
17 That information is also available -- you have
18 to go look for it, but it's available from the U.S.
19 Census Bureau has that information. And then the
20 current year population count.
21 And so I asked another person who works at
22 the -- I'm trying to remember his name now -- to pull

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1 together whatever population data he had. So those
2 are the only -- I talked to two people -- three
3 people -- at the Department of Planning, two of the
4 people that were doing the maps, the cartographers,
5 and the person with the population data.
6 Q. Did you ask for any information from the
7 Maryland Department of Legislative Services that
8 would be relevant to your report?
9 A. No.
10 Q. Did you ask the State Archives for any
11 information that would be relevant --
12 A. No, I searched --
13 (Clarification by reporter.)
14 A. The answer with Legislative Services was
15 no. I spoke to no one in Legislative Services.
16 And State Archives, I'm very familiar with --
17 when they opened their building in 1984, I had a
18 research office there when I was doing research for
19 one of my publications. So I'm fully aware of what
20 they have.
21 Q. Did you ask Senate President Miller's
22 office for any information that would be relevant to

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1 your report?
2 A. No. No.
3 Q. Did you ask Speaker Busch's office for any
4 information that would be relevant to your report?
5 A. No.
6 Q. Did you ask Congressman Steny Hoyer, his
7 office, for any information that would be relevant to
8 your report?
9 A. No.
10 Q. How about Congressman John Sarbanes, did
11 you ask his office for any information?
12 A. No.
13 Q. How about the office of Congressman Chris
14 Van Hollen?
15 A. No.
16 Q. Did you ask his office for any
17 information?
18 Did you ask anyone in the Maryland General
19 Assembly whether they had any information that would
20 be relevant to your report?
21 A. No.
22 Q. Did you ask anyone who worked for former

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1 Governor Martin O'Malley whether they would have any
2 information relevant to your report?
3 A. No.
4 Q. Do you know of a consulting firm called
5 NCEC Services?
6 A. Yes.
7 Q. Did you ask them for any information --
8 A. No.
9 Q. -- that would be relevant to your report?
10 A. I want to clarify to be sure. You're
11 asking me did I ever talk with them from the time
12 that I was asked to do this?
13 Q. Yes, that's correct.
14 A. Okay. Then the answer is no.
15 Q. All right. Do you know a man by the name
16 of Eric Hawkins?
17 A. Yes.
18 Q. Did you ask him for any information --
19 A. No.
20 Q. -- that would be relevant to your report?
21 (Exhibit 160 marked for
22 identification.)

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1 A. Oh, that's mine. Okay.
2 Q. That's going to be my first question.
3 Look through it. I believe this is your entire
4 report with all of the maps and appendices, but
5 please flip through it and confirm that it's
6 complete, and then let me know that.
7 A. I love these maps. You know they don't
8 exist anywhere else in the world.
9 Q. But this report?
10 A. But this report. Okay.
11 Q. It's all there?
12 A. It looks there.
13 Q. Okay. So am I correct that your report
14 cites all the documents and data that support the
15 opinions that you offer, correct?
16 A. I want to be careful --
17 Q. Sure.
18 A. -- how I answer that because I teach this
19 material. I've been working with this material for
20 40 years, so there's all kinds of things in my mind
21 that may have come from a secondary source or
22 whatever that -- or work that I have previously done

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1 that may not be cited in here, but I've cited --
2 what's cited in here is everything that is relied on
3 to form the opinion.
4 Q. I see.
5 A. So if that's ...
6 Q. That's exactly what I was getting at. So
7 if you don't cite a document or cite a document or
8 piece of information, you're not relying upon that to
9 come to your opinions in this report; is that right?
10 A. Right. Correct.
11 Q. Okay.
12 A. If you gave me another 30 days I could
13 triple the size of this.
14 Q. Well, I think expert reports are too long
15 already, so I appreciate --
16 A. No, I was happy to see -- to find I didn't
17 have to do a book, so ...
18 Q. Good. In your report am I correct you
19 don't cite former Governor Martin O'Malley's
20 deposition testimony?
21 A. Correct. I have not read it.
22 Q. You know it exists, but you haven't read

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1 it?
2 A. Correct. And I only know what he said
3 from reading the reply document from Morrison.
4 Q. So if you hadn't read Dr. Morrison's
5 report, you wouldn't know anything that was in
6 Mr. O'Malley's testimony.
7 A. I knew he had a deposition --
8 Q. Sure.
9 A. -- but I didn't ...
10 Q. Did you ever ask to see a copy of the
11 deposition transcript of former Governor O'Malley?
12 A. No.
13 Q. Can you -- as you sit here today, do you
14 know whether anything that former Governor O'Malley
15 said in his deposition has any bearing on the
16 opinions you offer in your report?
17 A. I can't imagine they would.
18 Q. That would be speculation on your part,
19 right?
20 A. Yeah.
21 Q. Because you never read it.
22 A. Right.

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1 Q. Did you review the -- well, let me back
2 up.
3 Am I correct that you don't cite the
4 deposition of Senate President Miller anywhere in
5 your report?
6 A. Correct.
7 Q. And so you didn't rely upon it to come to
8 your opinions?
9 A. Correct.
10 Q. And you can't tell me whether anything
11 that Senate President Miller said in his deposition
12 has any bearing on the opinions you offer in your
13 report.
14 A. I have not read his deposition.
15 Q. And so you can't tell me if it had any
16 bearing on your report.
17 A. Correct.
18 Q. And you haven't read the deposition of --
19 well, let me back up.
20 You don't rely upon the deposition of Speaker
21 Busch in your report.
22 A. Correct, I don't rely on any -- any of the

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1 depositions in this case.
2 Q. That's right. You didn't -- so you don't
3 -- you don't know, as you sit here today, whether
4 your opinions are consistent with the deposition
5 testimony --
6 A. I have not compared them.
7 Q. Do you think it's a best practice for an
8 expert to compare the opinions he is offering to the
9 factual record?
10 A. Yeah, I think it would probably be useful,
11 but I didn't, quite frankly, have the time to do
12 that.
13 Q. If you had more time, would you have done
14 that?
15 A. I would have used whatever factual
16 documents there were. I'm not sure that -- but I
17 can't say right now whether they would have changed
18 -- I'm confident they wouldn't have changed my
19 opinion.
20 Q. So you're confident without even looking
21 at the depositions that they wouldn't have changed
22 your opinion; is that right?

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1 A. Correct.
2 Q. Okay. And do you think that that's solid
3 science to say that I haven't read something but it
4 wouldn't change my opinion anyway?
5 A. Well, that's kind of like -- I've got to
6 parse that out because I'm not sure. That's like
7 have you been beating anybody recently.
8 There could be a fact, I suppose, that if I
9 discovered a fact that would alter, but I know -- I
10 know this geography and I know this area very well,
11 and I'm -- I'm confident that the statements I made
12 here, and I can't imagine the information changing.
13 Q. Did you --
14 A. And I --
15 Q. Sorry.
16 A. I know the participants, so ...
17 Q. Okay. Did you ask to see any of the
18 deposition testimony in this case?
19 A. No. I was focused on answering the
20 questions that were posed to me and to staying within
21 the thesis and the statement that I outlined here.
22 Q. On page 2 of your report, correct --

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1 A. Correct.
2 Q. -- under Statement of Report?
3 A. That was where I was focused was ...
4 Q. And so your statement of inquiry --
5 A. I mean, I wasn't doing this as, you know,
6 as counsel or --
7 Q. Sure. I understand. Let's -- let's focus
8 on your statement of inquiry.
9 A. Okay.
10 Q. I'm on the first -- second page of your
11 report. The first sentence, it reads, quote:
12 I have been asked to describe and
13 explain the origin and development
14 of congressional district boundary
15 lines in the state of Maryland and
16 to state whether the boundary lines
17 for the Sixth Congressional District
18 are appropriate and consistent with
19 redistricting principles and
20 objectives.
21 Did I read that sentence correctly?
22 A. Correct.

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1 Q. Okay. So you don't, as you sit here
2 today, you don't believe that any of the deposition
3 testimony would shed any light on whether the
4 boundary lines for the Sixth Congressional District
5 are appropriate and consistent with redistricting
6 principles and objectives; is that right?
7 A. When I look at the Sixth Congressional
8 District as drawn, just looking at the data, looking
9 at the history of the state, the history of
10 congressional districts of the state, I -- and what I
11 know about the jurisdictions and the economy, the
12 demographics of the state, I don't think that there's
13 anything inconsistent that I don't know. It would be
14 speculation. I mean, I'm happy to read all the
15 depositions, but I -- I have not yet. I don't want
16 to speculate about that.
17 Q. Am I correct that in your report you don't
18 cite any of the documents that any of the parties or
19 third parties produced in this case?
20 A. Correct.
21 Q. And do you know, as you sit here today,
22 whether those documents would shed any light on

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1 whether the boundary lines for the Sixth
2 Congressional District are appropriate and consistent
3 with redistricting principles and objectives?
4 A. Well, I've read the reports and I've
5 looked at their exhibits in those reports, you know,
6 the numbers that they did and the alternative maps
7 and all of that. I did read all of those things.
8 Q. Sure.
9 A. And they don't change my opinion.
10 Q. I understand that. Did you actually read
11 the -- any of the documents that were produced in
12 this case?
13 A. No.
14 Q. Do you --
15 A. I mean, I may -- first of all, I don't
16 know what they are.
17 Q. Okay.
18 A. So I'd have to have a list of them to be
19 able to answer that question.
20 Q. Okay.
21 A. Some of them may be material that I
22 regularly review in the course of what I do in the

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1 subject matter. I mean, for example, I look at
2 election results every year, all right, so I'm aware
3 of statewide and county election results, voter
4 turnout, registration numbers, the whole -- I
5 regularly review the documents produced by the state
6 and county governments or county election boards
7 after every election cycle.
8 Q. Okay. Let's turn into your report.
9 There's -- beginning on page 5, there's section 4,
10 "The Evolution of the Sixth Congressional District."
11 A. Right.
12 Q. And that continues for several pages.
13 A. Correct.
14 Q. But it generally talks about the
15 historical development --
16 A. Correct.
17 Q. -- of the Sixth Congressional District,
18 correct?
19 A. Correct.
20 Q. Do you know whether the GRAC in 2011
21 considered the historical development of the Sixth
22 Congressional District when they were drawing the new

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1 boundaries of that district?
2 A. I was not -- I do not know, no.
3 Q. Do you know whether the Maryland General
4 Assembly considered the historical development of the
5 Sixth Congressional District when it was deliberating
6 on and voting on Senate Bill 1?
7 A. That's -- I know a lot of the people in
8 the General Assembly --
9 Q. Sure.
10 A. -- and I know what they know. And so I
11 don't know how to answer that question because I
12 believe some of them know that.
13 Q. Okay. Do you know whether it was a factor
14 that they were considering?
15 A. I don't know that. I did not discuss it
16 with any member of -- well, gosh, I go to so many
17 meetings and give so many -- talk a lot around the
18 state. I may have said something, whether a delegate
19 or a senator was there in the audience, I don't know.
20 Q. Okay.
21 A. I'd have to check that out.
22 Q. As you sit here, can you think of any

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1 delegate or -- state delegate or state senator that
2 you know that has told you that they considered the
3 historical development --
4 A. Nobody has -- nobody has said that phrase
5 to me --
6 Q. Okay.
7 A. -- that you have --
8 Q. Has anybody said that -- said words to
9 that effect to you?
10 A. I know, you know, this is somewhat -- I'm
11 pausing because during the time of deliberation when
12 the Bill was introduced from the time -- or, yeah,
13 the Bill was introduced until its approval during the
14 special session -- I did not participate in that
15 session. I was not there, did not talk to anybody
16 during that session period.
17 In the years before -- and I'm talking
18 literally years before -- at various meetings,
19 conferences, et cetera, conversations about what
20 Montgomery -- the composition of the districts and
21 where it used to be and whether Carroll was with
22 Baltimore County or when did it start to be -- those

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1 conversations probably occurred, but with specificity
2 right now I can't tell you, I mean --
3 Q. Okay.
4 A. -- but during the time of the special
5 session, no, I didn't talk to anybody.
6 Q. Okay. So you weren't at the October 2011
7 special session?
8 A. No, I was not at the session. Did not go.
9 Q. You did not offer any testimony at the
10 special session?
11 A. Correct.
12 Q. You did not speak to anybody during the
13 time -- any of the state senators or state delegates
14 during the time they were deliberating during the
15 special session.
16 A. Correct.
17 Q. You have not since then asked them what
18 they were -- what factors they were considering.
19 A. No.
20 Q. And you haven't reviewed any documents
21 regarding what the state delegates and state
22 senators -- factors they were considering during this

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1 special session, have you?
2 A. No. I did look at the alternative plans
3 that were submitted to the Redistricting Commission,
4 you know, so I did look at some of the plans, but not
5 with an eye toward, you know, impacting what was the
6 bill or anything like that. I just -- it's kind of
7 what I do. If there's an election matter, I'll look
8 at it, and -- I'll go look at it.
9 And prior to the GRAC -- during the GRAC
10 public hearings, you know, I would follow what they
11 were doing and I would -- if there were public
12 documents, I would have looked at those public
13 documents.
14 Q. So do you believe that the historical
15 development of the Sixth Congressional District is a
16 plausible explanation for the current boundaries of
17 the Sixth Congressional District?
18 A. I'm not sure what you mean ... I don't
19 want to be lawyer with you, but I'm not sure what you
20 mean by "plausible."
21 Q. Well, how would you define the term?
22 A. Well, meaning is there a rational basis --

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1 Q. Right.
2 A. -- for the drawing of lines, the answer is
3 yes.
4 Q. Okay. So if this were --
5 A. And -- and if -- and if the question were
6 can it be defended, the answer is yes, because based
7 on the historical development of the district and the
8 current economic, demographic, social interactions
9 among the districts, yes.
10 Q. Do you have any evidence that the Maryland
11 legislature or its mapmakers specifically intended to
12 redraw the lines of the Sixth Congressional District
13 based on the historical development of Western
14 Maryland?
15 A. Well, I do know that members of the
16 General Assembly are as aware of the history as I am,
17 and I am aware that -- but to what extent their
18 intent was, I don't know. I don't know the answer to
19 that.
20 Q. Okay. Let me clarify. Setting aside what
21 you think the members of the Maryland General
22 Assembly were aware of, do you have any actual

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1 evidence that the Maryland legislature or its
2 mapmakers specifically intended to draw the lines of
3 the Sixth Congressional District to recognize the
4 historical development of Western Maryland?
5 A. Well, again, I don't know what's in their
6 mind. I do know that they were aware of it, you
7 know. If you were to talk to the state senators and
8 the delegates and, you know, about the way things
9 were and the way things used to be, they would know
10 that.
11 Q. Right. So you know that Maryland
12 legislators were aware of the historical development
13 of Western Maryland, correct?
14 A. I think many of them, were, yeah.
15 Q. Not all of them but many of them.
16 A. Right. Depends on their length of service
17 and where they're from in the state and what they had
18 done prior to being -- becoming a member of the
19 General Assembly.
20 Q. But you can't tell me whether that was a
21 factor that those legislators took into account when
22 deliberating and voting --

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1 A. No.
2 Q. -- on the bill?
3 A. I can't tell you that.
4 Q. And you can't tell me whether that was a
5 factor that was considered by the GRAC when they were
6 drawing their 2011 congressional map.
7 A. I was not privy to their discussions or
8 their conversations. I do know that they were aware
9 and I do know -- I do know that, when I chaired the
10 commission in 2001, we had a proposal that had a
11 Western Maryland, Montgomery County district
12 connection.
13 So this is not new. It wasn't new to me, and
14 I'm sure it wasn't new to other people in the General
15 Assembly.
16 Q. So I understand that you believe that
17 members of the GRAC were aware of the historical
18 development of Western Maryland.
19 A. I don't know about all of them, but ...
20 Q. You believe that some of them were.
21 A. Correct.
22 Q. But you can't tell me what factors they

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1 actually considered.
2 A. Not in the special session in 2011.
3 Q. Okay.
4 A. I don't know the answer to that. I was
5 not involved.
6 Q. You mentioned earlier that the GRAC in
7 2001 had a proposal that had Western Maryland
8 connected to Montgomery County, correct? That was --
9 that was a proposal that was considered in 2001?
10 A. There were -- it was part of many, many
11 proposals, you know. There was a series of 12 public
12 hearings all around the state. There were lots of
13 proposals that were submitted and discussed, and that
14 option was an option. Not any -- not looking like --
15 exactly like the map that got approved in 2011, but
16 that reconnection was obvious because it had been
17 done before.
18 Q. So that was an option that was considered
19 in 2001 when you were the chair of the GRAC.
20 A. Mm-hmm.
21 Q. And the GRAC decided not to adopt that
22 option as its map.

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1 A. Well, you say the GRAC. It was the
2 governor's decision.
3 Q. Sure. But that wasn't actually -- the
4 GRAC did not put that option forward to the governor.
5 A. Correct.
6 Q. And the --
7 A. Well --
8 Q. Go ahead. Go ahead. You can clarify.
9 Sorry.
10 A. I don't know. Is there anything about
11 conversations with the governor that --
12 MS. KATZ: Yeah, I mean, there has been no
13 waiver of that privilege from the governor or the
14 court. Setting that aside --
15 MR. MEDLOCK: I think my question is a
16 little bit simpler.
17 Q. You had an option on the table in 2001
18 that would have connected Montgomery County with
19 Western Maryland.
20 A. The process is --
21 Q. Correct?
22 A. Correct.

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1 Q. Okay. And that was not the option that
2 the governor put forward to the legislature.
3 A. Correct. Correct.
4 Q. And that's not what the 2001 map became.
5 A. Correct.
6 Q. So is it fair for me to assume, then, that
7 either the GRAC or the governor did not -- did not
8 adopt that option that connected Western Maryland
9 with Montgomery County?
10 A. Correct.
11 Q. Okay. Do you recall there being any
12 discussion in the GRAC amongst the members of the
13 GRAC in 2001 regarding that option?
14 MS. KATZ: Well, again, I think we're
15 getting into the deliberations.
16 MR. MEDLOCK: Okay.
17 Q. That's fine. I'd like to go back to page
18 2 of your report. And I'm looking again at the
19 Statement of Inquiry. Are you with me on that?
20 A. Mm-hmm.
21 Q. Okay. You state that you've been asked to
22 determine whether the boundary lines of the Sixth

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1 Congressional District are appropriate and consistent
2 with redistricting principles, correct?
3 A. Right.
4 Q. And you don't state that you've been asked
5 to determine whether appropriate or inappropriate,
6 correct? You just used the word "appropriate."
7 A. Well, my statement there would assume that
8 I'm supposed to answer yes or no to that.
9 Q. Okay.
10 A. And so I think they are appropriate and
11 consistent. And if my opinion were they were not,
12 then that would be my conclusion that they are not.
13 Q. Sure.
14 A. So ...
15 Q. Are you familiar with the term "null
16 hypothesis"?
17 A. Generally, not specifically.
18 Q. Okay. But generally you understand that
19 null hypothesis is a hypothesis you can answer yes or
20 no to, right?
21 A. Correct.
22 Q. And that's what you've set out here in

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1 your report.
2 A. Correct.
3 Q. Do you think that there's anything wrong
4 with setting this out -- your statement of inquiry
5 out as a null hypothesis?
6 A. I don't think given the scope of what I
7 was asked to do that there is.
8 Q. Do you think there's anything unscientific
9 about stating it that way?
10 A. Well, I'm not a scientist.
11 Q. Sure.
12 A. So in terms of my knowledge and expertise
13 and what I've been working with for my professional
14 career, I think that's an appropriate question.
15 Q. Okay. So in your report you focus on the
16 Sixth Congressional District, correct?
17 A. Correct.
18 Q. Okay. You weren't asked to look at
19 whether the boundary lines of the other seven
20 congressional districts in Maryland are appropriate
21 and consistent with redistricting principles, were
22 you?

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1 A. No.
2 Q. Do you think there's anything
3 inappropriate about focusing on one congressional
4 district instead of looking at the entire map?
5 A. Well, it depends on what your job is. If
6 your job is to draw the entire map, then obviously
7 it's a puzzle that you piece together.
8 I think I made comments further in the report
9 just -- that a district is not in isolation from
10 other districts, and so what happens in one district
11 affects another district, you know, because it is a
12 state boundary line and you're not expanding the
13 boundary line, so -- but I didn't render an opinion
14 on any of the other districts.
15 Q. If your job is not to draw a new map, is
16 there anything wrong with just focusing on one
17 congressional district and looking at whether the --
18 A. Well --
19 Q. -- boundaries of that district are
20 appropriate or inappropriate?
21 A. -- I think you need to restate that
22 because I'm thinking as you're asking as opposed

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1 to ...
2 Q. That's fine. That's fine. You stated in
3 your last answer that it depends -- whether you focus
4 on a single congressional district or the entire map
5 depends on the job that you're asked -- that you're
6 asked to do.
7 A. Correct.
8 Q. So if you aren't asked to draw a new map
9 or critique the entire map but rather to look at the
10 boundaries of one congressional district and why they
11 are the way they are, is there anything wrong with
12 looking at just that congressional district?
13 MS. KATZ: Objection, vague.
14 A. Pardon?
15 MS. KATZ: You can answer. You should
16 answer the question.
17 A. There's nothing wrong, but when you're
18 looking at it and you're trying to analyze, well, why
19 were changes made or why were choices made, and then
20 you're going to look certainly at the adjacent
21 districts to see what impact they had on the subject
22 district. And then being very, very aware of the

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1 subject matter, if you know that changes are made
2 elsewhere, then you know how that's going to impact
3 this district, but I -- I could draw dozens of
4 different maps, you know, to, you know, and have --
5 and I have --
6 Q. Okay.
7 A. -- but there's nothing wrong with, you
8 know, nothing wrong with focusing on a district.
9 Q. Have you -- you said you've looked at
10 Dr. -- I'm sorry -- Professional McDonald's reply
11 report, correct?
12 A. Mm-hmm.
13 Q. And he -- and you've looked at his opening
14 report as well, correct?
15 A. Correct.
16 Q. And in his opening report he proposes
17 an -- alternative boundaries for the Sixth
18 Congressional District, correct?
19 A. Correct.
20 Q. Did you look at whether those alternate
21 boundaries would affect any congressional district
22 other than Congressional District Six and

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1 Congressional District Eight?
2 A. Well, depends on the chunk of population.
3 I mean, you know, in mapmaking, and given the tools
4 that are available now and you're trying to obtain
5 equal population, you know, you're going to have an
6 impact. It's going to ripple through everywhere.
7 But the real question for the Sixth
8 Congressional District is you have 252,000 people in
9 Garrett, Allegany, Washington Counties, you know,
10 they're surrounded on three sides by other states,
11 and you have 252,000, and the basic question is where
12 do you gain the next 500,000 people to make a
13 district -- or 475,000 people to make a district.
14 And the question is do you go south or do you
15 go across the top of Maryland and you go east. And
16 that's basically the decision that mapmakers since
17 1789 have confronted, and, more times than not, they
18 have gone with south into the Potomac River -- with
19 good reason and with knowledge.
20 So there's always on the eastern boundary line
21 at least, you know, a decision of what -- for a
22 mapmaker, any -- any legislative body that's doing

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1 this, there's a decision of what to do as it
2 confronts the core population of the state.
3 Q. Okay. My question was a little bit
4 simpler. And my question was: Did you analyze
5 whether Professor McDonald's proposed alternate map
6 made any changes to any congressional district's
7 boundaries other than the boundaries of Congressional
8 District Six and Congressional District Eight?
9 A. Well, I don't think I did examine it in
10 that detail, so I'd want to look at it again to
11 answer your question.
12 Q. Okay. So you can't tell me as you sit
13 here today --
14 A. No.
15 Q. -- whether his map would actually create
16 the ripple effects you were talking about?
17 A. Well, I'm sure it does, but to tell you
18 how I'd want to look at it again.
19 Q. Okay. But you can't -- can you explain to
20 me what the ripple effects of the map are as you sit
21 here?
22 A. Well, it depends on -- it depends on the

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1 amount of the population he's shifting. Because it
2 would, I think, have an impact on Seven, you know,
3 Congressional District Seven and Three potentially.
4 I'm not -- I'm trying to think in my mind here how
5 far he went down into Baltimore County and the Howard
6 area. So One, Seven and three are -- and then if you
7 impact One, Seven and Three, you're potentially
8 impacting Two and Four.
9 Q. And so you think that Professor McDonald's
10 alternate map affects Congressional Districts Six,
11 Eight, One, Seven and Three.
12 A. Potentially.
13 Q. Potentially.
14 A. Again, I'd want to look at it again. I
15 could give you specificity on it. But I'd have to
16 look at it again.
17 Q. Okay. All right.
18 MR. MEDLOCK: Why don't we take --
19 A. And I'm happy to do that.
20 MR. MEDLOCK: Why don't we take a break.
21 We'll get the map and I'll show it to you.
22 VIDEO SPECIALIST: Going off the record at

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1 11:40 a.m.
2 (Proceedings recessed)
3 VIDEO SPECIALIST: Back on the record at
4 12:04.
5 (Exhibit 161 marked for
6 identification.)
7 BY MR. MEDLOCK:
8 Q. All right, sir. I've put in front of you
9 Exhibit 161, which are excerpts from Professor
10 McDonald's opening report in this litigation. And if
11 you turn in to the second page, which is page 14 --
12 are you with me?
13 A. Correct.
14 Q. -- there's a title that says "An
15 Alternative Approach to the Sixth and Eighth
16 Congressional Districts," correct?
17 A. Correct.
18 Q. And then flipping in to the next page,
19 which is page 15, the first full paragraph on that
20 page, Professor McDonald states, quote:
21 A Sixth Congressional District can
22 be constructed that is more compact

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1 and results in fewer county splits
2 in the entire plan by assigning to
3 the Sixth District portions of
4 Frederick County and the split
5 portion of Carroll County, which are
6 currently assigned to the Eighth
7 Congressional District. Population
8 traded to the Sixth can easily be
9 balanced back in Montgomery County,
10 where the Sixth and Eighth
11 Congressional Districts also share a
12 common border.
13 Did I read that correctly?
14 A. Correct.
15 Q. So -- and then in the next page in this
16 exhibit, which is page 25 from his report, contains a
17 map that purports to show the alternative Sixth and
18 Eighth Congressional Districts, correct?
19 A. Correct.
20 Q. So in Professor McDonald's report the
21 alternative map that he proposes only changes the
22 Sixth and Eighth Congressional Districts, not the

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1 other congressional districts of Maryland, correct?
2 A. Correct.
3 Q. Okay. All right. I want to turn back to
4 the Statement of Inquiry, which is in Exhibit 160 at
5 the top.
6 A. You didn't want to ask me --
7 Q. No.
8 A. -- based on --
9 Q. No. So you were -- in this case you
10 weren't asked to rule out the possibility that the
11 boundaries of the Sixth Congressional District were
12 the product of an intent to burden a particular group
13 of voters, were you?
14 A. No, I was not asked to conduct that.
15 Q. Okay. And you weren't asked to determine
16 what the predominant factor was in the drawing of the
17 new configuration of the Sixth Congressional
18 District, were you?
19 A. No.
20 Q. Isn't it true that your report contains no
21 analysis of whether the individuals that drew the
22 2011 congressional map took into account data

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1 reflecting Maryland citizens voting history?
2 A. My difficulty in giving -- in trying to
3 make sure I give you a correct answer is that,
4 knowing who the members are of the committee and
5 knowing their experience level, I would not be
6 surprised if they, you know, factors that they
7 considered, but I don't have any personal knowledge.
8 Q. So you -- I just want to make sure I
9 understand your answer. You wouldn't be surprised if
10 in 2011 the GRAC took into consideration data
11 reflecting Maryland citizens voting history; is that
12 correct?
13 A. I would not be surprised.
14 Q. Would you -- you wouldn't be surprised
15 either if in 2011 the GRAC took into account
16 information regarding party affiliation.
17 A. No, that would not be a surprise.
18 Q. In your report do you do any analysis of
19 vote dilution?
20 A. No, sir.
21 Q. Are you offering any opinion in this case
22 regarding vote dilution?

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1 A. Not in my report. Nobody has asked me
2 that question.
3 Q. Okay. As a general matter, do you expect
4 to offer any opinions in this case regarding vote
5 dilution?
6 A. I have not been asked.
7 Q. So it would be beyond the scope of your
8 report to offer an opinion about vote dilution.
9 A. Well, I'm very aware of voting behavior in
10 the state, and I'm very aware of, you know, both
11 election history and registration data and turnout
12 data and results data, so I would be aware of it, you
13 know.
14 Q. But you don't offer an opinion in your
15 report --
16 A. I haven't been asked to do so.
17 Q. Sure. And regardless of whether you've
18 been asked to, you don't -- you don't offer that
19 opinion in your report.
20 A. Well, I don't offer that opinion in this
21 report.
22 Q. If --

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1 A. If somebody asked me, I could do it, but I
2 haven't been asked.
3 Q. Understood.
4 A. I mean, on any map -- or any map proposal.
5 Q. Sure.
6 A. You could draw all kinds of maps.
7 Q. Okay. Were you asked to review the -- for
8 purposes of your report that you offered, were you
9 asked to review the opening expert report of
10 Professional McDonald?
11 A. I was not asked to review it. I'm trying
12 to remember the sequence of when it may have been --
13 I may have obtained a copy of it. I had already
14 started on my report by the time I looked at --
15 looked at any of the other reports.
16 Q. Okay. In your report do you offer any
17 criticism of the analysis that Professor McDonald
18 uses in his report?
19 A. No. I didn't view that as part of my
20 assignment to parse everything that was said by
21 Morrissey or McDonald.
22 Q. I think this is implied in your last

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1 answer, but I want to make sure I understand it. It
2 also wasn't part of your charge in this case to offer
3 any criticism of Dr. Morrison's report.
4 A. Correct. No, I did not view my assignment
5 as critiquing anything.
6 Q. When you performed your analysis in this
7 case, did you look at any data from the U.S. Census
8 Bureau?
9 A. Yes.
10 Q. What datasets did you use from the U.S.
11 Census Bureau?
12 A. Well, the -- both the Population Summary
13 Data, which, you know, comes in the initial reports,
14 and then form 1, form 2, 3, different detailed
15 reports for each county. The Census also has
16 American Community Survey studies that they do --
17 well, they're during it now a rolling period. Used
18 to do it on a five-year period; now it's a rolling
19 five-year period. So I look at the community survey
20 data.
21 Q. Do you find the American Community Survey
22 data to be reliable?

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1 A. It's kind of like investigative reporting.
2 You always want to check things.
3 Q. Sure.
4 A. I'd much rather -- I love Census data. I
5 wish we had the level of -- that we have with that as
6 opposed to survey data. I mean, survey data is not
7 as, in my opinion, as reliable as actual data, but
8 it's useful, particularly spread out over time, you
9 know, you can see trend lines, but ...
10 Q. Okay. Do you --
11 A. I tend to make my decisions based on
12 actual results as opposed to projected results.
13 Q. Certainly. Understood. In reviewing
14 Professor McDonald's report and Dr. Morrison's
15 reports, do you find them to be anything
16 inappropriate with the relying on U.S. Census and
17 American Community Survey data?
18 A. Well, to the -- the only thing that would
19 be concerned about is ascribing certain political
20 ideologies or ascribing certain -- like, I found that
21 Professor Morrissey's comment about who the people in
22 Cumberland root for as sports fans to be irrelevant

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1 and probably wrong, but I didn't view that as part of
2 my job, you know. And his definitions of communities
3 of interest I disagreed with, but that wasn't my job
4 to critique all of that.
5 In terms of Professor McDonald's use of the
6 election data, their use of election data and census
7 data was with material that I've examined and worked
8 with, and the numbers are the numbers, you know. I
9 have no real quarrel with that. In terms of, you
10 know, producing a particular political result, you
11 know, we could draw the Sixth District any way you
12 want.
13 Q. What do you mean, in terms of producing a
14 particular political result, you could draw --
15 A. Meaning if you were to use, based on prior
16 performance -- prior performance and census data, you
17 could draw the boundary lines which would potentially
18 have an impact on the result --
19 Q. Okay.
20 A. -- you know. I mean, that happens in
21 every redistricting process, whether it's a local
22 level, a state level, or federal level.

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1 Q. What do you mean by "prior performance
2 data"?

3 A. Meaning election results from previous
4 elections combined with registration data, both
5 current and trend lines. People make a mistake
6 sometimes in that analysis, and I think -- my other
7 general comment about the reports -- and, again, I
8 didn't do a critique -- was, oftentimes, if you focus
9 just on high-profile races, you're not looking at the
10 entire constituency. You need to look at other level
11 of races and other level of competition, and so --
12 but that's --

13 Q. Understood.

14 A. -- that's just a choice for whoever the
15 legislative body is making the decision.

16 Q. So are you familiar with a type of prior
17 performance data called the Democratic Performance
18 Index --

19 A. Yes.

20 Q. -- DPI?

21 A. Yes.

22 Q. That's a -- DPI is a measure of electoral

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1 performance that's put out by NCEC, right?

2 A. Correct.

3 Q. And have you seen NCEC Services DPI data
4 before in your work in redistricting?

5 A. I've seen it before, yeah. I don't rely
6 on it because I -- it's data, but it's not in my
7 opinion the entire set of data you need to look at.
8 You need to be looking at additional races.

9 And oftentimes, just as a general -- I'm
10 probably saying too much -- but as an academic thing,
11 congressional races are not always the best races to
12 look at because the incumbent wins regardless of
13 whether they're one party or another. An incumbent
14 winning -- typically runs over 90%, and incumbency is
15 a huge factor in the success of or the outcome of a
16 congressional race, so --

17 Q. So you need to look at a bigger basket of
18 elections, correct?

19 A. Correct. Yes. And the NC --

20 Q. And maybe the presidential elections and
21 things like that?

22 A. State elections, U.S. Senate elections,

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1 governor, all kinds of races. You just can't look at
2 one set of races.

3 Q. Okay. Would it surprise you if the GRAC
4 in 2011 had NCEC Services DPI data?

5 A. No, it wouldn't surprise me.

6 Q. Why not?

7 A. Because it's been commonly available since
8 NCEC was created, I think, 30 some years ago. It's
9 been used and available and certainly by the
10 congress -- congress persons in Maryland.

11 Q. Okay. So it also wouldn't surprise you if
12 Congressman Steny Hoyer's office had access to NCEC
13 Services data?

14 A. Not at all. Not at all.

15 Q. Let's go back to your report. You
16 mentioned -- let me find the exact page. On page 16
17 of your report -- oh, do you need a second?

18 A. No, I'll just get my copy.

19 Q. Okay. That may be easier. On page 16 of
20 your report --

21 A. I just find binders are easier than
22 tabbing, the way you're doing it.

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1 Q. Fair enough. And so what you have in
2 front of you is a binder with your report in it.

3 A. Correct.

4 Q. Same thing as 160. Okay. I'm on page 16.
5 At the top there's a big bold B that says "Geography
6 and Topography," correct?

7 A. Correct.

8 Q. And in your report you conclude that the
9 current boundaries of the Sixth Congressional
10 District are justified by the geography and
11 topography of the state.

12 A. Correct.

13 Q. Am I correct that in this Geography and
14 Topography section, from pages 16 and 17 of your
15 report, you don't mention the Appalachian Mountains
16 once?

17 A. Correct, nor do I mention the Blue Ridge
18 Mountains or the -- any of the other regions, right.

19 Q. Right.

20 A. There's a series of ridge lines that start
21 at Parris Ridge, which is Route 27, runs from the
22 Westminster to Silver Spring, and then there's a

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1 series of ridge lines that extend out to the Eastern
2 Continental Divide in Garrett County.
3 (Exhibit 162 marked for
4 identification.)
5 Q. All right. So I've put in front of you
6 Exhibit 162, which is a copy of a page from the
7 Maryland State Manual entitled "Land." Take a moment
8 to review it, but I'm going to direct you to
9 particular passages in this exhibit. Okay?
10 A. Okay.
11 Q. Let me know when you're done reviewing it.
12 A. Okay.
13 Q. All right. So I'm on page 2 under
14 "Geology and Geography," and there's a reference to
15 the Appalachian Plateaus. Do you see that in
16 italics?
17 A. Correct.
18 Q. Okay. And the Appalachian Plateaus only
19 occur in Western Maryland, correct?
20 A. Correct.
21 Q. Okay. And in fact they're primarily in
22 Garrett and Allegany Counties, correct?

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1 A. Correct. In fact many -- many people
2 consider Garrett and Allegany really true Western
3 Maryland.
4 Q. Right. Exactly.
5 A. And then everything else is just kind of
6 added nomenclature over the years, but Western
7 Maryland, from a geographic point of view a
8 topographic point of view is as presented in this
9 publication.
10 Q. Right. So from your -- from your
11 perspective, topographically, geographically, you
12 think that only Allegany and Garrett Counties --
13 A. Starts at Sideling Hill.
14 Q. Okay. So flip to page 3, if you will --
15 actually one more page, page 4. Sorry. This is sort
16 of a byproduct of what you were just saying. Garrett
17 County has a number of hills and mountains that are
18 over a thousand feet, correct?
19 A. Correct.
20 Q. And, for example, there's Mount Nebo and
21 Backbone Mountain?
22 A. Correct.

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1 Q. Roman Nose Mountain as well. And then if
2 you flip to the page before it, Allegany also has
3 several hills and mountains that are over a thousand
4 feet as well --
5 A. Correct.
6 Q. -- correct, such as Breakneck, Town Hill,
7 Dans Mountain. Those are all in Allegany, correct?
8 A. Correct.
9 Q. And this publication also lists several
10 hills and mountains that are over a thousand feet in
11 Washington County as well, right?
12 A. Correct.
13 Q. And same with Frederick, correct?
14 A. Correct.
15 Q. Am I correct that in this publication from
16 the Maryland State government, there's no listing of
17 a hill or mountain in Montgomery County that's over a
18 thousand feet?
19 A. Well, that's what this document says, but
20 I --
21 Q. Is that correct? It's not in this
22 document.

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1 A. It's not in this document.
2 Q. Okay. I'd like to turn to page 17 of your
3 report. You, from page 17 through page 21, you lay
4 out your conclusion that the boundaries of the Sixth
5 Congressional District are justified by demographic,
6 economic and transportation factors, correct?
7 A. Correct.
8 Q. In addition, I should also add you think
9 that these boundaries also are justified by migration
10 patterns, economic connections, agricultural
11 preservation and cultural tourism, correct?
12 A. Correct.
13 Q. All right. I'd like to show you the next
14 exhibit, which will be 163.
15 (Exhibit 163 marked for
16 identification.)
17 Q. All right. Exhibit 163 is an excerpt from
18 the opening report of Dr. Morrison. And I want to
19 focus on the second page of it, which is actually
20 page 75 of his report, Table 4.
21 Did you review Table 4 when you were preparing
22 your report?

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1 A. Yes. I had a question about it, but ...
2 Q. Okay. In your report you don't offer any
3 criticism of the calculations that Dr. Morrison
4 offers in Table 4, correct?
5 A. Correct. I did not consider my report to
6 be a critique of his report.
7 Q. And you don't offer any opinion in your
8 report regarding the demographic measurements
9 contained in Table 4.
10 A. Not in my report.
11 Q. And so you don't dispute the measurements
12 that are contained in Table 4 anywhere in your
13 report, do you.
14 A. Not in my report.
15 Q. Okay. So in your report, for example, you
16 don't dispute that Dr. -- that Table 4 shows that
17 Garrett County is demographically different from
18 Montgomery County.
19 MS. KATZ: Objection, vague. You can
20 answer.
21 A. Oh, no, Garrett County has different
22 demographics than Montgomery County --

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1 Q. Okay.
2 A. -- but --
3 Q. Go ahead. I'm sorry.
4 A. -- what I don't know from this chart, are
5 these Montgomery County characteristics or the Sixth
6 District portion of Montgomery County. So that's not
7 clear to me from either his narrative or from this
8 table.
9 Q. Okay.
10 A. And I -- before I offer an opinion, I'd
11 want to look at that. I'm sure there are variances,
12 but the density of Northwest Montgomery County, which
13 is in the Sixth Congressional District, is not 2000
14 people per square mile. It's not all. That's why I
15 think I made reference to a larger density map that
16 the state has that will show you exactly what the
17 density is at each census track.
18 Q. But you don't dispute the fact that
19 Garrett County and Montgomery County, as a general
20 matter, are demographically very different.
21 A. I'm not sure I'm going to agree. They're
22 different. You said "very," so I don't --

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1 Q. All right.
2 A. -- to say that.
3 Q. Socioeconomically, Garrett County is
4 different from Montgomery County.
5 A. Garrett County is different than virtually
6 every county in the state of Maryland.
7 Q. And socioeconomically, Allegany County is
8 different from Montgomery County as well, correct?
9 A. Correct.
10 Q. Allegany County is less dense, it has more
11 farms, it has less per-capita income, and less of its
12 residents have a college degree than in Montgomery
13 County, correct?
14 A. Correct.
15 Q. And the same would be true of Garrett
16 County. It's less dense, it has more farms, less
17 per-capita income, less of its residents obtain a
18 college degree, and less of them speak a language
19 other than English at home when compared to
20 Montgomery County, correct?
21 A. Well, again, I don't know whether this is
22 the -- just the Sixth Congressional District portion

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1 of Montgomery or entirety.
2 Q. I wasn't making that distinction. I was
3 just saying as a general matter. That's true,
4 correct?
5 A. But that's in my mind very different,
6 because when you look at the Sixth Congressional
7 District portion of Montgomery County, as currently
8 drawn, it's not the densely populated parts of
9 Montgomery County.
10 Q. Okay. So North Potomac is in the newly
11 drawn Sixth Congressional District, correct?
12 A. The northern portion of it, not all of it.
13 Q. Yeah, North Potomac.
14 A. Above the Great Falls.
15 Q. Exactly. The town of North Potomac is in
16 the Sixth Congressional District in the 2011 version
17 of the map, correct?
18 A. I'd want to look at the map when you say
19 "the town" ...
20 (Clarification by reporter.)
21 A. I'm just thinking to myself real quick.
22 Q. Hold on. I've got to mark an exhibit.

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1 A. Excuse me.
2 (Exhibit 164 marked for
3 identification.)
4 Q. All right. I've put in front of you
5 marked as Exhibit 164 to your deposition, it's a copy
6 of zooms from an interactive map.
7 MS. KATZ: Do you have another copy?
8 MR. MEDLOCK: Oh, I'm sorry. I got
9 carried away.
10 Q. So Exhibit 164 is a copy of zooms from the
11 interactive map on the Maryland Department of
12 Planning website, and you can flip through it, but I
13 want to focus on the second page for now.
14 A. Okay.
15 Q. And the second page, the Sixth
16 Congressional District is depicted in green, correct?
17 A. Correct.
18 Q. And the --
19 A. Well, so is the Third.
20 Q. A light green, I should say.
21 A. So is the Third. It gets darker green.
22 Q. Exactly. And the Eighth Congressional

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1 District is in sort of a light purple color, correct?
2 A. Correct.
3 Q. Okay. If you look at this map, it shows
4 that a portion of Potomac, Maryland is within the
5 Sixth Congressional District, correct?
6 A. Correct. I want to explain my -- if I
7 may.
8 Q. Sure.
9 A. When you -- when you use the word -- I was
10 thinking actual incorporated municipality as opposed
11 to a place.
12 Q. I see.
13 A. And so there's -- there are distinctions.
14 Q. Okay.
15 A. There are 156 little municipalities which
16 have their own local governments that are very
17 different than many of the places that are referenced
18 on this map.
19 Q. Understood. So but my question being,
20 portions of what we would call Potomac, Maryland --
21 A. Correct.
22 Q. -- is in the Sixth Congressional

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1 District --
2 A. Correct.
3 Q. -- as is Gaithersburg, Maryland, correct?
4 A. Correct.
5 Q. Okay. Potomac, Maryland and Gaithersburg,
6 Maryland are very different socioeconomically from
7 Garrett County, correct?
8 A. And from each other.
9 Q. But generally they're different than
10 Garrett County?
11 A. Both are different than Garrett County,
12 but they are not the same.
13 Q. Sure. I'm not saying that they're carbon
14 copies of each other --
15 A. Okay.
16 Q. -- but they're different from Garrett
17 County, correct?
18 A. Correct.
19 Q. And Potomac and Gaithersburg are also very
20 different from Allegany County, correct?
21 A. Correct.
22 Q. And Potomac and Gaithersburg are also

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1 different, very different from Washington County,
2 correct?
3 A. Parts of it.
4 Q. What part of Washington County is like --
5 A. Hagerstown.
6 Q. Hagerstown is very similar to Potomac,
7 Maryland?
8 A. Not Potomac, but Gaithersburg.
9 Q. Okay.
10 A. I mean, you have diversity in Hagerstown,
11 you know --
12 Q. Is there any --
13 A. -- same thing in Frederick. Frederick and
14 Gaithersburg are very similar in demographic
15 composition maybe.
16 Q. You're talking about Frederick City or
17 Frederick County in that last answer?
18 A. Well, Frederick City is in Frederick
19 County.
20 Q. Right. I want to make a distinction,
21 though.
22 A. Right.

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1 Q. So outside of Hagerstown, Maryland, is
2 there any other part of Washington County that is
3 similar to Gaithersburg?
4 A. I'm running through my head the municipal
5 data from some of the small towns, but not in any
6 large numbers, no.
7 Q. Okay. Turn to the next page, if you will,
8 in the zooms.
9 A. Perhaps a little bit of Williamsport,
10 which is along the Potomac, and had old industrial
11 factories that aren't there anymore, but ...
12 Q. Okay. Can you turn to the next page of
13 the exhibit? It's a zoomed-in portion of the map,
14 again, with the green being the Sixth Congressional
15 District and the purple being the Eighth, correct?
16 A. Right.
17 Q. And do you see a reference to Aspen Hill
18 there?
19 A. Yes.
20 Q. Can you think of any prior -- well, let me
21 back up. Aspen Hill and Aspen Hill Park are in
22 separate congressional districts, correct?

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1 A. Correct.
2 Q. Can you explain to me the rationale for
3 why Aspen Hill and Aspen Hill Park are in separate
4 congressional districts?
5 MS. KATZ: Objection. Answer. Sorry.
6 Answer any question unless I direct you not to answer
7 for reasons of privilege, but otherwise --
8 A. What did you say?
9 MS. KATZ: I just said objection, but you
10 should answer the question.
11 A. But I can still answer?
12 MS. KATZ: Absolutely.
13 A. Oh, okay. My guess is it's simply trying
14 to achieve population equality, and you probably
15 couldn't include both -- I mean, I'd have to go in
16 and look at the population numbers for each of those
17 census tracks, but my guess is at some point in a
18 line drawing, if you include an area, you're going to
19 be over your ideal amount and -- or you're going to
20 be short, and so along the edges of any district
21 you're going to be adjusting to assure population
22 equality.

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1 Now whether or not whoever physically drew
2 this map, that's -- my guess is that could be a
3 reason.
4 Q. That's a guess, right?
5 A. Right.
6 Q. You don't know for certain why this --
7 A. No. I was not the map drawer and I was
8 not the person ... but that's -- that's --
9 Q. Do you know who drew the map?
10 A. I do not know who physically -- I mean, I
11 know the members of the committee, but in terms of
12 the person that actually did this, I don't know.
13 Q. Okay. And so you can't look at the
14 boundaries -- and this may short-circuit a few
15 questions -- you can't look at the boundaries of the
16 Sixth Congressional District and the Eighth
17 Congressional District and tell me why particular --
18 the GRAC -- the GRAC and the governor and the
19 legislature -- decided to keep particular communities
20 in the Sixth or move particular communities to the
21 Eighth?
22 A. No. I was not a part of that conversation

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1 nor did anybody ask me about that.
2 Q. Okay.
3 A. There are very few places in the country
4 like Potomac, Maryland.
5 Q. I live in Fairfax, so I'll dispute it, but
6 that's fine. Okay.
7 A. Afterwards I'll tell you something.
8 Q. Okay. Very well. All right. Let's move
9 to pages 14 and 15 of your report. And on page 14 --
10 A. Excuse me. You asked me --
11 MS. MONKS: Of your report, not of the --
12 A. No, I know that, but he asked me -- I
13 wanted to make sure, and I just -- I noticed Route
14 190, River Road divides the -- River Road is a
15 common, you know, transportation boundary line.
16 Whether that was in the mind of the mapmakers, I
17 don't know, but just when I examined the detail of
18 this Exhibit 164, I noticed that River Road -- and
19 that would be, you know, in a mapmaker's mind a
20 potential line.
21 Q. Sure. Let me just go follow up on that,
22 then. When you were looking at River Road, Route

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1 190, you were looking at --
2 A. These are not numbered.
3 Q. They're not numbered, but it's a zoom of
4 Potomac, Maryland.
5 A. It's a zoom, and when I zoomed out I
6 noticed the River Road.
7 Q. Okay. Understood.
8 A. And also the curvature on the 195, which
9 is -- so there are -- appear to be, based on these
10 exhibits, some transportation routes that may have
11 been considered, but I -- I can't say.
12 Q. You can't say for certain.
13 A. I can't say for certain.
14 Q. Okay. All right.
15 A. But they would be something that a
16 mapmaker might look at.
17 Q. Okay. Let's look at pages 14 and 15 of
18 your report, and I'm on -- I'll start with page 14.
19 Three-quarters of the way down in the report there's
20 a subsection titled "Population Migration and
21 Demographic Changes." Do you see that?
22 A. Correct.

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1 Q. And in pages 14 and 15 of your report you
2 conclude that population migration across the state
3 offer a rational basis for the boundaries of the
4 Sixth Congressional District, correct?
5 A. Correct.
6 Q. Am I correct that in your discussion of
7 population migration you don't cite any deposition
8 testimony or documents that were produced in this
9 case?
10 A. Correct.
11 Q. Okay.
12 A. My knowledge of that is based on the
13 agencies and the Census data that's available, plus
14 my own 40 years worth of research. I mean, I know --
15 you didn't ask me about these little maps I used, the
16 1800 and 2000 maps, and the reason I included those
17 maps is because every -- if you look at that every
18 50-year growth pattern in the state, that -- those
19 dramatic changes were accompanied by reapportionment
20 decisions at the state level and sometimes adjustment
21 of congressional boundary lines. And I use -- I use
22 these often in public comments to demonstrate how

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1 population changes. And so in preparing those, those
2 center line population maps, you know, I examined a
3 lot of Census data to produce those.
4 Q. Do you know whether in 2011 the GRAC
5 considered population migration when drawing the
6 boundaries of the Sixth Congressional District?
7 A. Again, I don't know what they considered.
8 I know -- I'm confident that they were aware of the
9 continual changes in Maryland's population shifts.
10 Q. Okay. And you don't know whether the
11 governor's office or Governor O'Malley himself
12 considered migration flows when putting together the
13 boundaries of the Sixth Congressional District and
14 the map that he proposed to the General Assembly.
15 A. I can't answer what the governor thought.
16 I know he's very experienced and grew up in
17 Montgomery County and became mayor of Baltimore, so I
18 know he's very familiar with changes in both
19 jurisdictions over the last 50, 60 years.
20 Q. Do you know whether the governor, one of
21 the things in his mind was an intent to flip the
22 Sixth Congressional District during the 2011

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1 congressional redistricting?
2 A. I only know from whatever media accounts I
3 may have read or from the deposition that I read in
4 the reply brief, those comments he made and were
5 quoted by, I guess, Morrissey.
6 Q. Do you have -- you didn't review those
7 quotes --
8 A. No.
9 Q. -- when you were doing your report?
10 A. I just looked at those last night.
11 Q. Okay. On pages 18 and 19 of your report
12 you talk about commuting patterns as being a rational
13 basis --
14 A. Correct.
15 Q. -- for current boundaries of the Sixth
16 Congressional District; is that right?
17 A. Correct.
18 Q. Okay. And you base that conclusion in
19 part on U.S. Census Journey To Work Report from 2000,
20 correct?
21 A. Well, and as compiled and reported by the
22 Maryland Department of Labor and Licensing

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1 Regulation.
2 Q. Sure. But the original source of that
3 administrative data came from a U.S. Census report
4 from 2000, correct?
5 A. 2000? Oh, one of them did. One of the
6 datasets came from 2000, correct.
7 Q. Okay.
8 A. There was later data than that, but yes.
9 Q. Do you believe that the 2000 dataset from
10 the U.S. Census Bureau was sufficient to come to the
11 conclusions you did regarding commuting patterns?
12 A. Well, I'm very aware that that pattern has
13 been going on for decades.
14 Q. Okay.
15 A. And I'm not surprised at all. I mean, had
16 I had time, a substantial percentage of the Frederick
17 County population previously resided in Montgomery
18 County. Now I can't tell you right now exactly what
19 that was. If I had another month, I could figure
20 that out for you. But there is an extensive
21 relationship.
22 Most of the growth, particularly in the

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1 southern Frederick County area, all the way through
2 to Frederick and Walkersville and that whole corridor
3 has been out-migration from Montgomery County over
4 the past several decades.
5 Q. There was out-migration in the period from
6 1990 to 2000, correct?
7 A. Correct.
8 Q. And as you stated, in the 2001
9 redistricting cycle, you had a proposal that would
10 connect Montgomery County and Frederick County, and
11 that was rejected.
12 A. "Rejected" seems like a harsh word.
13 Q. I'm a lawyer. Sometimes I use harsh
14 words.
15 A. Yeah. The governor did not submit a
16 proposal that made that connection to the way it was
17 made in either 1992 or 2011.
18 Q. Okay. And there was -- you said --
19 A. A little portion up there by Damascus.
20 Q. Sure. Other than that portion by
21 Damascus, there wasn't a larger connection between
22 the two.

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1 A. Right. Right. But part of that -- and
2 this is just numbers and it's all available -- is
3 increased population growth in Prince George's
4 County, Howard, Montgomery. Because you'll notice
5 that the Fourth Congressional District expanded into
6 Montgomery.
7 Q. Can you flip to map 14 in your report? I
8 just want to clarify something you just said.
9 A. Right. 14. Okay.
10 Q. All right. So in map 14 the Eighth
11 Congressional District comprises almost all of
12 Montgomery County except for a portion in, let's say,
13 Southeastern Montgomery County, correct?
14 A. Correct.
15 Q. And the actual split between the Sixth
16 Congressional District and the Eighth Congressional
17 District is the Frederick-Montgomery County line,
18 correct?
19 A. Correct, for that -- that year --
20 Q. For that year.
21 A. -- which was Governor Schaefer's plan.
22 Q. And even during the time Governor

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1 Schaefer's plan was being considered, there was
2 out-migration flow from Montgomery County to
3 Frederick County, correct?
4 A. Correct.
5 Q. And then turning to map 15, the next one,
6 this is the map from 2002 to 2010. This is the one
7 that you would have worked on in the 2001
8 redistricting cycle, correct?
9 A. Correct.
10 Q. And this is the map that has the portion
11 of the Sixth Congressional District going into the
12 Damascus area of Montgomery County, correct?
13 A. Right. Correct.
14 Q. And there was -- during that period there
15 was out-migration flow as well --
16 A. Correct.
17 Q. -- from Montgomery County to Frederick
18 County.
19 A. Correct.
20 Q. Okay.
21 A. And you'll notice that the relationship
22 between Four and Eight changes during this last

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1 30-year period, you know, and as well as the
2 Six-Eight relationship. And not only is there
3 migration pattern but population increase, you know.
4 The Western part of the state is continuing to
5 increase in its population, which causes adjustments
6 in the lines. I mean, if all the congressional
7 districts all grew at the same rate, you wouldn't
8 have to change any lines.
9 Q. Of course, there's One Person, One Vote,
10 so --
11 A. They don't grow. They grow at disparate
12 rates, and that, then, mandates changes in the lines,
13 and so -- I didn't mean to get away from your
14 migration question, but --
15 Q. That's okay.
16 A. -- in terms of when we're looking at the
17 maps you say, well, why, and it's because there's
18 additional population increase.
19 For example, Montgomery County grew an entire
20 legislative district in one of these cycles. So that
21 legislative district from the city got transported to
22 Montgomery County. The number is still there --

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1 well, 47 went into Prince George's County and 39 went
2 into Montgomery County. So they give you a sense of
3 the dramatic changes in the population.
4 Q. Do you know whether changes -- disparate
5 population growth -- was a factor that the GRAC
6 considered in 2011 when drawing --
7 A. Well, they did produce a document on that.
8 In other words, there is a document, I think, that's
9 in everybody's reports, including the plaintiff's
10 reports, about population, the increases and
11 decreases, for each of the congressional districts.
12 Q. Do you know if that --
13 A. They had to consider those population
14 increases and decreases.
15 Q. Certainly under One Person, One Vote they
16 had to do that.
17 A. Right. Right.
18 Q. Do you know whether that was the
19 predominant factor in how the lines of the Sixth
20 Congressional District were drawn in 2011?
21 A. Well, I can't speak for them on what was
22 their biggest weighter, but it would have been a

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1 significant factor.
2 Q. Okay. Let's go back to page 18 of your
3 report. On page 18 you note that 23.3% of commuters
4 in Frederick County travel to Montgomery County,
5 right?
6 A. Right. Correct.
7 Q. That means that 76.7% of commuters in
8 Frederick County don't travel to Montgomery County,
9 right?
10 A. Correct.
11 Q. That's just a simple math issue.
12 A. Right. But Frederick County, when you
13 look at the chart, when you look at the citation
14 source, is like four to five times bigger than any
15 other jurisdiction. Most of the commuting is done
16 within a locale's own jurisdiction and county, so ...
17 Q. Right.
18 (Exhibit 165 marked for
19 identification.)
20 Q. So I've put in front of you Exhibit 165 to
21 your deposition, which follows up on something you
22 were just discussing. It's Table 2 from

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1 Dr. Morrison's report.
2 A. Right.
3 Q. And Dr. Morrison -- Dr. Morrison's report
4 shows that 57.7% of people who commute to a workplace
5 in Frederick County commute to a workplace in the
6 county, correct?
7 A. Correct.
8 Q. And that's consistent with what you just
9 said that most commuting happens inter-county.
10 A. Correct.
11 Q. Or I should say intra-county.
12 A. Intra-county, correct.
13 Q. What scientific standard, if any, did you
14 use to determine whether commuting patterns on I-270
15 justify the current boundaries of the Sixth
16 Congressional District?
17 A. Well, when I think about -- when I think
18 about the subject matter, if there's connection
19 between jurisdictions, either by the fact that people
20 have moved from one place to another, or if there are
21 work connections, meaning people live one place, work
22 another place, have businesses that service those

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1 areas, that provides connections. That's what people
2 do every day. They may, you know, eat lunch, have
3 breakfast, have dinner where they're going. And so
4 those kinds of indices indicate to me connections
5 that -- communities of interest is a vague term, as
6 we all know, but certainly people where they work,
7 where they live, how they recreate, all of those
8 things go into that consideration.
9 Q. Sure. My question is a bit more focused.
10 What scientific standard did you use to determine
11 whether those --
12 A. Well, I --
13 (Clarification by reporter.)
14 Q. Sorry. Let me just finish. We'll try not
15 -- I'll try not to step on you --
16 A. No, I'm --
17 Q. -- if you try not to step on me.
18 What scientific standard did you use to
19 determine whether those connections that you
20 mentioned were sufficient to create a community of
21 interest?
22 A. I just used my own personal knowledge and

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1 experience. I didn't -- I can't tell you that
2 there's any specific standard. It just looked -- I
3 examined the data, and I know the area, I know the
4 pattern and I know the history, and that's the basis
5 of my conclusion.
6 Q. In your report you don't offer an opinion
7 on the level of connection that would be sufficient
8 between two different geographic areas to create a
9 community of interest, do you.
10 A. I think you've asked a couple different
11 questions. When I see the data that I examined, and
12 it is so overwhelmingly points to a connection
13 between Frederick County and Montgomery County, I can
14 assuredly tell you that that is much more connection
15 than there is with Harford County, Garrett County,
16 Allegany County, whatever. So you don't need to
17 really do much when the weight of the evidence is so
18 overwhelming in one direction.
19 Q. Okay. So what you do --
20 A. I mean, we used the word intra-state
21 before. The intra-state commute -- migration
22 pattern, intra-state, over some -- some of the

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1 cycles, survey cycles, Frederick -- over 50% of the
2 in-migration was from Montgomery County, far dwarfing
3 any other adjacent county, far dwarfing any other
4 jurisdiction in the state of Maryland. You can make
5 an assumption.
6 Q. Okay.
7 A. And there's other datasets you could
8 explore. I didn't have a chance to explore to add to
9 that.
10 Q. When you say that you looked at the data
11 and it was -- it overwhelmingly showed migration
12 from --
13 A. Compared to other jurisdictions.
14 Q. -- from Frederick to Montgomery County, as
15 compared to other districts, so what your methodology
16 was, you looked at the data, you determined that
17 there was in your mind an overwhelming connection.
18 A. Right.
19 Q. And then based on that you concluded that
20 there was a community of interest. Do I have that
21 right?
22 A. That combined with businesses, services,

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1 all kinds of connection.
2 Q. Sure. That would all be in the data that
3 you were looking at, correct?
4 A. Right. Correct. Correct.
5 Q. Okay. When you looked at the commuting
6 data that was available to you, when you saw people
7 were commuting from Frederick to Montgomery County,
8 could you determine where -- where they were
9 commuting to in Montgomery County?
10 A. Some -- there is some of that available at
11 the Department of Licensing, Labor Licensing and
12 Regulation, about destination and employment centers,
13 but to the precision you asked your question, no --
14 Q. Okay.
15 A. -- you know, but we know where the nodes
16 of employment are, and they're -- but I don't know --
17 at least right now I can't give you the --
18 Q. Okay.
19 A. --
20 Q. One of the nodes of --
21 (Clarification by reporter.)
22 Q. Sorry.

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1 A. Excuse me. I'm sorry.
2 I said I don't know with the specificity to
3 answer his question, but we do know NIH, you know,
4 Shady Grove, some of the major industries up and down
5 the 270 Corridor.
6 Q. Mm-hmm.
7 A. Fort Detrick.
8 Q. Is Rockville a major employment center in
9 Montgomery County?
10 A. Well, Rockville is the seat of county
11 government of a jurisdiction with over a million
12 people. There's a lot of employment opportunity
13 there. You got Montgomery College, you have various,
14 you know, other health organizations that are in
15 Montgomery County, aircraft industry, defense
16 industry, technology industry.
17 Q. Yeah. Is Bethesda an employment center in
18 Montgomery County?
19 A. Oh, yeah. It has a combination of
20 professional services, retail services, all kinds of
21 services. It's very densely populated.
22 Q. Is Silver Spring an employment center, an

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1 employment node in the Sixth Congressional District?
2 A. Yes, and it has mass transit. Both
3 Bethesda, Rockville and Silver Spring have mass
4 transit.
5 Q. Mm-hmm. And Rockville, Bethesda and
6 Silver Spring are all in the Eighth Congressional
7 District, correct?
8 A. Correct.
9 Q. When you look at data showing commuting
10 patterns from Frederick to Montgomery County, can you
11 tell me what percentage of the commuters are going
12 from Frederick County to Rockville?
13 A. No, I -- based on what I've been able to
14 do in the last several weeks, I can't give you that
15 with precision.
16 Q. Can you give me any precision regarding
17 the number of commuters from Frederick County that
18 are going to Bethesda in Montgomery County?
19 A. I'd have to examine the labor data a
20 little more to give you the destination points.
21 Q. Would the same answer apply to Silver
22 Spring as well?

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1 A. Yes.
2 Q. Okay. So when you conclude that there is
3 a substantial flow of commuters from Frederick to
4 Montgomery County, you can't tell me whether those
5 commuters are ending their commute in the Sixth
6 District or the Eighth District; is that right?
7 A. Based on the data I've reviewed, no, I
8 cannot.
9 Q. And yet you still concluded that there was
10 a substantial connection that justified the exact
11 boundaries of the Sixth Congressional District; is
12 that right?
13 A. Well, I don't want to use the word "exact"
14 boundaries. I'm just saying that connections between
15 the Eighth and Sixth are common, and that many of
16 those people -- they could be school teachers, they
17 could be healthcare workers, they could be, you know,
18 working in any of the employment centers, NIH or
19 whatever. There's a lot of -- and the connection the
20 other way, it's easier to do with Fort Detrick. We
21 could find out how many people are employed by Fort
22 Detrick and what's going on there, but I haven't had

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1 the time to give you the detail you're looking for.
2 Q. Okay. Let's mark the next exhibit.
3 (Exhibit 166 marked for
4 identification.)
5 Q. So I've put in front of you Exhibit 166,
6 which is a zoom, again, from the Maryland Department
7 of Planning's website of the Sixth Congressional
8 District and the Eighth Congressional District around
9 the Frederick City area.
10 A. Right.
11 Q. Do you see that?
12 A. Mm-hmm.
13 Q. And do you see sort of north -- north into
14 this sort of green bubble around Frederick City
15 there's an area labeled Fort Detrick?
16 A. Correct.
17 Q. Okay. And Fort Detrick is, if you just go
18 just a little bit north of that, you're in the Eighth
19 District, correct?
20 A. Correct.
21 Q. Okay. So can you tell me with any
22 certainty whether individuals who are employed in

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1 Fort Detrick live in the Eighth Congressional
2 District or the Sixth Congressional District?
3 A. I can tell you that they live in both.
4 Q. Okay. What portion of --
5 A. I don't have a percentage.
6 Q. Okay.
7 A. I don't have -- I don't have an -- haven't
8 examined enough data to tell you percentage of which
9 of the people that work at Fort District -- Fort
10 Detrick -- are from the Sixth or from the Eighth, but
11 I can assuredly tell you that there are some people
12 from both congressional districts.
13 Q. So the current map splits the individuals
14 that are employed at Fort Detrick. Some are in the
15 Sixth and some are in the Eighth.
16 A. Correct.
17 Q. That would be your assumption.
18 A. I know -- well, I know that. I mean, I
19 know people, but I don't know -- I know people that
20 work at Fort Detrick.
21 Q. Okay.
22 A. But in terms of the numbers you're looking

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1 for, I don't -- I don't have those. I have not ...
2 Q. You're aware of the Intercounty Connector,
3 right?
4 A. Yes.
5 Q. The Intercounty Connector runs from
6 Montgomery County to Prince George's County, right?
7 A. Almost. Yes.
8 Q. Well, it runs from --
9 A. No, I'm smiling because I've been chief of
10 staff --
11 Q. -- it does now.
12 A. It's been on the map for a long time.
13 Q. Right. And a lot of the Intercounty
14 Connector was built between 2000 and 2011, correct?
15 A. Correct.
16 Q. Did you analyze whether the Intercounty
17 Connector creates a community of interest?
18 A. No, I did not -- did not look at the
19 traffic -- it assuredly will when it's fully built
20 and fully built out on both -- on -- particularly on
21 the Prince George's end.
22 Q. Did you weigh in your report the community

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1 of interest that was -- that would be created by the
2 Intercounty Connector versus the community of
3 interest that you claim is created on I-270?
4 A. No. No.
5 Q. Okay.
6 A. I can tell you, though, that 270 is
7 substantially larger.
8 Q. Mm-hmm. How about Interstate 495, the
9 Capital Beltway? You're aware of that.
10 A. It's a mess.
11 Q. We all are, right?
12 A. I've been commuting on it since 1971.
13 Q. My condolences. I-495 connects Montgomery
14 County and Prince George's County in addition to
15 other areas, correct?
16 A. In non-traffic hours it's a connection.
17 Q. In traffic hours it's a parking lot,
18 right?
19 Did you perform any analysis of commuting
20 patterns on I-495 --
21 A. No.
22 Q. -- in this litigation? No?

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1 A. No.
2 Q. In your report do you come to any
3 conclusions regarding whether I-495 creates a
4 community of interest between Montgomery County and
5 Prince George's County?
6 A. Well, there -- and, again, it depends on
7 how we define community of interest. There are
8 connections between the counties, there are
9 substantial connections. And it is interesting, you
10 know, the Washington Council of Regional Governments
11 includes -- and the Maryland Department of
12 Planning -- the Maryland Department of Planning
13 includes in the capital region Frederick, Montgomery,
14 Prince George's, which describes all of your
15 connections that you just individually asked me
16 about.
17 The Maryland Department of Planning has had
18 that classification for a number of years now, and
19 the Washington Council of Government does too. So
20 I'm very well aware of the Montgomery, Prince
21 George's connections. I was chief of staff in Prince
22 George's County for five years.

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1 Q. Sure. So, as you said, there are
2 substantial connections between Montgomery County and
3 Prince George's County, correct?
4 A. Correct.
5 Q. There's economic connections, correct?
6 A. Correct.
7 Q. Transportation connections?
8 A. (Nodding head up and down.)
9 Q. Including, not only I-495, but mass
10 transit, heavy rail; is that right?
11 A. Well, coming out of the spoke center, but
12 the purple line is in limbo right now, so ...
13 Q. Right. Right. And Judge Leon can do
14 whatever Judge Leon wants. And I want that on the
15 record.
16 But the -- but did you make any attempt to
17 compare the substantial connections between Prince
18 George's County and Montgomery County --
19 A. No.
20 Q. -- and the connection between Frederick
21 and Montgomery County?
22 A. No. No.

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1 Q. And do you know whether, as you sit here
2 today, whether there's a stronger community of
3 interest created by the connection between Prince
4 George's and Montgomery or between the -- the
5 connection between Montgomery and Frederick?
6 A. Well, in absolute numbers, I mean, it will
7 follow population. You have 900,000 people in Prince
8 George's and a million plus in Montgomery and 270,000
9 in Frederick. So it would be proportional.
10 Q. Okay. Let's turn to page 20 of your
11 report. You can have those exhibits back, if you
12 need to refer to them during the course of your
13 deposition.
14 MS. KATZ: We just can't walk out with
15 them.
16 Q. That's right. That's the biggest rule
17 today. Don't take the exhibits.
18 A. Only take my stuff.
19 Q. Okay. On page 20 there's a bold section
20 header D that talks about Agricultural Heritage and
21 Preservation. Do you see that?
22 A. Yes.

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1 Q. And to summarize this section, you state
2 that agricultural heritage and preservation trends in
3 both Montgomery and Frederick County create a
4 rational basis for the current boundaries of the
5 Sixth Congressional District; is that right?
6 A. Correct.
7 Q. On page 20 you state that the, quote, the
8 portion of Maryland of the Sixth Congressional
9 District has significant agricultural areas. Did I
10 read that correctly?
11 A. The Montgomery County portion.
12 Q. That's correct.
13 A. Right.
14 Q. And the only document that you cite to, to
15 support that statement, is a map prepared by the --
16 by Montgomery County, the Office of Agriculture,
17 correct?
18 A. Correct. That was the -- it was, I
19 thought, Montgomery County Agriculture Office -- they
20 actually have an agriculture office in Montgomery
21 County -- prepared this map, and it shows the types
22 of land preservation that exists in their -- and

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1 there's 70,000 acres in Montgomery County, one of the
2 largest preserved areas in the country, not just in
3 Maryland, but in the country. And, you know, as I
4 said in my book that I wrote on land use in my
5 Maryland government book, five out of the top 12 or
6 14 counties in the country in terms of preservation
7 exist in Maryland, and Montgomery County is one of
8 those, and that, along with Frederick, is a
9 substantial identity. If you did an area -- you
10 could do this. You go to the Department of Natural
11 Resources or Planning, even some of the zoom-in maps
12 you've given -- you've shown me today, and look at
13 the Frederick-Montgomery line and look at the land
14 use along that border, you'll see the connections.
15 Q. Do you know whether land use was something
16 that the GRAC considered in 2011?
17 A. Again, I cannot -- don't know what was in
18 their mind. I know what I know about the area, and I
19 know -- I'm confident that the others knew what was
20 in the area, but I don't have any personal knowledge
21 of it.
22 Q. Do you have any evidence of personal

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1 knowledge that the Maryland legislature, General
2 Assembly, or its mapmakers considered land use when
3 drafting the map?
4 A. The legislators -- I'm confident that the
5 state senators and delegates from those areas knew,
6 you know, that if you, you know, if you talk to
7 Senator Young or senators from District 15 they would
8 know about that connection.
9 Q. Well, regardless of whether legislators
10 knew, do you have any evidence that in 2011 the
11 Maryland General Assembly intended to draw the lines
12 of the Sixth Congressional District to respect
13 existing agricultural heritage and preservation
14 areas?
15 A. No. Well, I don't know about anybody's
16 intentions in that special session in 2011, but I
17 know from looking at this that -- and I know many of
18 the legislators and GRAC members are very aware of
19 Maryland, and that when you come out and you get
20 252,000 people at Washington County, you decide where
21 to go, your decision is based on population
22 groupings. And that, if you decide to come south,

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1 the connection is obvious. You use the Potomac River
2 as the boundary line.
3 Q. Right. So one obvious connection would be
4 to go south; another obvious connection would be to
5 go east, correct?
6 A. Correct. And then in order to get the
7 population going south, it's easier to get population
8 than it is going across the northeast.
9 Q. Right.
10 A. And it actually makes the Sixth District
11 more compact than going all the way to the
12 Susquehanna River. And I can state with terms of
13 contrast, because that was part of it here too, is
14 that there's much more in common with northern
15 Montgomery County to Frederick than there is with the
16 water that flows into the Susquehanna River in
17 Harford County than Frederick.
18 Q. So a Mapmaker, looking at the Sixth
19 Congressional District, would have sort of a
20 fundamental decision once you got out of what I would
21 call the panhandle of Maryland.
22 A. Correct.

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1 Q. You either go south along the Potomac or
2 you go east along the Mason-Dixon Line, right?
3 A. Correct.
4 Q. And if you go south you go into Montgomery
5 County, correct?
6 A. Correct.
7 Q. And Montgomery County has traditionally
8 been a liberal Democratic area of the state, correct?
9 A. Well, that term gets bandied about in
10 these reports and gets bandied about with media as
11 well, but, historically, if you look at the state
12 history, you know, that loses its -- its kind of
13 meaning, you know, because historically the
14 representation in the Sixth District has included
15 congressmen from Montgomery County in the 19th
16 century and early 20th century. So Allegany
17 dominated -- Allegany dominated the representation
18 because Allegany in 1950 was the second largest city
19 in Maryland.
20 Q. Okay.
21 A. I mean not Allegany. Cumberland was --
22 Q. Cumberland, right.

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1 A. -- the second largest city in Maryland
2 with a substantial industrial base.
3 Q. Okay.
4 A. And so it just depends on your time frame
5 when you start using --
6 Q. My time frame is 2011. If I go south --
7 A. No, but some of --
8 Q. -- I'm going into Montgomery County, which
9 is a liberal area of the state. There's no denying
10 that, right?
11 A. But not every precinct, not every -- every
12 area.
13 Q. Okay. All right. We'll mark the next
14 exhibit.
15 A. I'm just cautioning that --
16 Q. I understand.
17 A. -- not every place in Frederick is
18 conservative.
19 Q. Oh, sure.
20 A. Not every place in Washington County is
21 conservative or Allegany County is conservative.
22 Q. Sure. We'll mark the next exhibit --

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1 (Exhibit 167 marked for
2 identification.)
3 Q. -- which is 167 to your deposition. These
4 are excerpts from a book that you wrote in 2012, I
5 believe, called "Maryland Politics and Government,"
6 correct?
7 A. Right.
8 Q. And you wrote that with Herbert Smith; is
9 that right?
10 A. Correct.
11 Q. And the subtitle of that book is
12 "Democratic Dominance," correct?
13 A. The publisher wanted to put that in there.
14 Q. Regardless whether you selected it or not,
15 that's the subtitle, right?
16 A. Right. Correct.
17 Q. This is not your entire book. We have a
18 version of it, if you want it.
19 A. Correct. No, I brought one too.
20 Q. Okay. Let's turn to page 12 of your book.
21 On page 12 --
22 A. Did you get it from a library or did you

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1 buy it? I'm glad if you bought it.
2 Q. Well, I'll tell you we bought it. I don't
3 know if that makes --
4 A. Oh, that's good. That's good.
5 Q. Okay. I'm on page 12.
6 A. Right.
7 Q. There's the second paragraph that begins
8 with "Central Maryland."
9 A. Yeah.
10 Q. And I'm on the last sentence of that --
11 A. Right.
12 Q. -- the last two sentences of that section.
13 A. Right.
14 Q. And that reads, "Montgomery County
15 liberalism is a given in Maryland politics."
16 A. Right.
17 Q. "Montgomery prizes an exacting rectitude
18 in political morality above all else in its elected
19 officials and consistently supports, quote, civil
20 rights, welfare, consumer and environmentalist
21 legislation."
22 Did I read that correctly?

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1 A. That's correct. Professor Smith loves
2 that sentence.
3 Q. And you didn't strike that out of your
4 book either, though.
5 A. No, because --
6 Q. You believe that to be true.
7 A. It reflects the -- how the Montgomery
8 County delegation votes.
9 Q. So you could -- so going back to my --
10 where I started my line of questioning, if you're a
11 mapmaker and you're coming out of -- drawing the
12 Sixth Congressional District, coming out of the
13 panhandle of Maryland, you can either go south along
14 the Potomac to an area where you describe in your
15 book liberalism is a given, or you can go east along
16 the Mason-Dixon Line. Those are your two basic
17 options, correct?
18 A. Right. And over the -- well, there's been
19 a -- remember, up until 1964 it always went south.
20 So when you -- it was only in 1966 did it go further
21 east, and then, based on population pressures and
22 changes over the last five census, there have been

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1 adjustments on that eastern boundary line, you know.
2 Q. So for the last 50 years the way the
3 mapmakers did this was they went east more than they
4 went south, correct?
5 A. Well, they also went south --
6 Q. Correct.
7 A. -- during that time.
8 Q. But they picked up areas in the east like
9 Carroll County --
10 A. Correct.
11 Q. -- and other areas along the Mason-Dixon
12 Line when they were drawing the Sixth Congressional
13 District.
14 A. Correct. That's been done in some of the
15 decades. It's all spelled out in the maps here.
16 Q. Right. Right. But that's traditionally
17 the way it's been done from 1966 until 2011 was that
18 Carroll --
19 A. Being a real traditionalist, I don't like
20 the word traditional because historical that's not
21 accurate.
22 Q. Okay. From 1966 to 2011, isn't it the

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1 case that all of Carroll County was included in the
2 Sixth Congressional District?
3 A. Since '66, correct, until 2000 --
4 Q. '11.
5 A. Right.
6 Q. Is that right?
7 A. Correct.
8 Q. Okay. And from 1966 until 2011 all of
9 Frederick County was also part of the Sixth
10 Congressional District.
11 A. Correct.
12 Q. In fact you'd actually have to go back
13 to -- let me find one -- to 1840 to find --
14 A. Yeah.
15 Q. -- a congressional map --
16 A. And that was -- those early 19th centuries
17 were strange because we actually had a two-member
18 district, which then the Congress outlawed --
19 Q. Right.
20 A. -- so it put different pressures. But
21 Frederick and Carroll and Montgomery -- Frederick,
22 Carroll and Montgomery were together in 1840, a

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1 portion of Carroll was together. That's what that
2 little note says on the map that you have your finger
3 on.
4 Q. Right. Exactly.
5 A. Because Carroll was -- actually came out
6 of part of Baltimore County and part of Frederick
7 County.
8 Q. Right. So just to make sure because I
9 think we stepped on each other in talking.
10 A. That's fine.
11 Q. That's okay.
12 A. No, I love some of your analysis. I like
13 it. It's great.
14 Q. Thank you. I try.
15 It's correct, right, that from 1840 onwards,
16 1840 until 2011, Frederick County was always in the
17 same congressional district.
18 A. Correct.
19 Q. Okay.
20 A. Ever since that split that was caused,
21 again, by apportionment decisions made at the federal
22 level and creation of a new district.

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1 Q. Right. Okay. Let's turn back to your
2 book, page 16.
3 A. I like this paper too.
4 Q. Thank you. Are you with me there on page
5 16?
6 A. Yeah.
7 Q. You have a section there called "Two
8 Marylands," right, and you state, politically, quote:
9 Politically there are two Marylands
10 today. Democratic Maryland is
11 multiracial and multiethnic and
12 spans all socioeconomic classes.
13 This Maryland straddles the I-95
14 corridor that transects the most
15 heavily populated and racially
16 integrated sections and connects the
17 Baltimore and Washington
18 metropolitan areas.
19 Did I read that correctly?
20 A. Correct.
21 Q. Okay. And then you go on in the next
22 paragraph to state, quote:

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1 Republican Maryland is predominantly
2 rural or suburban, predominantly
3 white, and increasingly
4 conservative. Much of the Maryland
5 Tidewater and Western Maryland
6 counties now fall within this
7 category in statewide elections. In
8 Central Maryland, Carroll County and
9 Harford County are virtual citadels
10 of Republican strength in county,
11 state and federal elections.
12 Did I read that correctly?
13 A. That's correct.
14 Q. Okay. So to go back to this fundamental
15 decision that a mapmaker has to make, if they go
16 south, they go into an area that you describe in your
17 book as an area where liberalism is a given. If they
18 go east, they're going into Carroll and Harford
19 counties into an area where you state is a citadel of
20 Republican voters, correct?
21 A. That's correct. There's one complicating
22 factor to your thesis, however, and that's Frederick.

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1 Q. Right.
2 A. Because Frederick has moderated over the
3 last 20 years, and since this book has been written,
4 you know, Frederick elected -- has elected Democratic
5 members of the General Assembly, elected a Democratic
6 woman county exec. The marginal differences between
7 Democratic vote performance have changed over the
8 last decade or so.
9 And so Frederick's -- that corridor that runs
10 from Rockville to Frederick votes -- Frederick is
11 voting a lot more -- Frederick City, in that
12 environs, are voting a lot more like northern
13 Montgomery votes.
14 So Frederick interrupts that scenario that you
15 describe and query whether or not Frederick is
16 becoming part of the core. And you see an expansion
17 of that on the southern side of Maryland too with
18 Charles County and Northern Anne Arundel County
19 changing their patterns and behavior. So maps change
20 all the time --
21 Q. Sure.
22 A. -- and -- but what you stated is correct,

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1 except that you've got this big Frederick node in the
2 middle that kind of interrupts that, that analysis
3 that you -- that you posited.
4 Q. Let's talk about the Frederick node then.
5 (Exhibit 168 marked for
6 identification.)
7 Q. So I've put in front of what you we've
8 marked as Exhibit 168 to your deposition. It's
9 another portion of Professor McDonald's opening
10 report.
11 A. Right. It's in color. I saw it in black
12 and white.
13 Q. Oh, okay. So the version you saw --
14 A. The version I saw --
15 Q. -- previously was in black and white.
16 A. I have it maybe on an electronic version
17 in color.
18 Q. Okay. So I want to focus on page 22
19 first. This is a depiction in Professor McDonald's
20 report showing the Frederick County and Frederick
21 City area as it relates to the lines of the Sixth
22 Congressional District and the Eighth Congressional

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1 District, correct?
2 A. Correct.
3 Q. And as you noted, Frederick City sort of
4 has a cutout going around it. That Frederick City is
5 in the Sixth Congressional District, correct?
6 A. Correct.
7 Q. While suburban areas around Frederick City
8 such as Walkersville are in the Eighth Congressional
9 District, correct?
10 A. Correct.
11 Q. All right. Flip to the next page, page
12 23. Page 23 shows a zoomed-in area around Frederick
13 City this time with the Democratic registration share
14 in a two-party vote, correct?
15 A. Correct.
16 Q. And if you look at the areas that were in
17 this Frederick City cutout that are in the Sixth
18 Congressional District, those have Democratic
19 registration share in many areas of 50% or greater,
20 correct?
21 A. Correct.
22 Q. And is that what you meant earlier when

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1 you said -- when you look at the performance of
2 Frederick City, it's starting to look like the
3 performance of Rockville and other areas; is that
4 what you were getting at?
5 A. Yes. Yeah. In other words, you just
6 can't say Frederick is this. No. Frederick is
7 becoming, as a county, is becoming a very competitive
8 area, and you see that in all kinds of levels of
9 results.
10 And the other thing that you got -- I think
11 you should be careful about when you look at these
12 VTTs, these precinct lines here is to look at the
13 municipal boundary lines, because the Frederick --
14 this probably -- I don't know if it tracks exactly,
15 but I would want to look at where the municipal
16 boundary lines are, and it may be that they
17 included --
18 Q. So the city of Frederick on this map is
19 represented by a dark green line.
20 A. Okay. So it looks like they included --
21 not quite -- maybe one -- one precinct on this east
22 side I see maybe outside the District, right ...

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1 Q. Right. That's correct.
2 A. But the majority of Frederick City is in
3 here. Okay.
4 Q. Right. So can you explain to me why
5 specifically the GRAC in 2011 decided to put the
6 Democratic-leaning areas of Frederick City into the
7 Sixth Congressional District but kept
8 Republican-leaning suburbs, like Walkersville, out of
9 the Sixth Congressional District?
10 A. Well, again --
11 MS. KATZ: Objection.
12 A. I don't know what's in anybody's mind, but
13 attaching the city of Frederick would -- in its
14 entirety -- would be consistent with what the
15 practice had been particularly at the -- when you do
16 state legislative lines, you know, we try to keep
17 municipalities -- incorporated municipalities intact
18 which are different in places -- and the other
19 pressure on the exact nature of this line is going to
20 be population-based pressure to try to achieve
21 population equality.
22 And so if you have to borrow -- try to get to

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1 the number, you have a couple options. You either
2 trade precincts back and forth along the line of a
3 boundary to get to population equality, or you have
4 to split a precinct, but splitting a precinct, you
5 try to avoid splitting a precinct, but if you have to
6 split it to get -- you could. The local governments
7 and everybody likes if you can avoid splitting
8 precincts. And so you get swaps with the VTDs going
9 on.
10 Q. But you can't tell me specifically --
11 A. No --
12 Q. -- why the GRAC drew the map this way with
13 respect to Frederick City?
14 A. My guess is population and the decision to
15 grab Frederick.
16 Q. Again, that's a guess, right?
17 A. Yeah.
18 Q. And you described a corridor earlier that
19 would go from Frederick down to Rockville, right?
20 A. Correct. Basically follows the I-270 when
21 it gets to -- no longer becomes 270 when it gets to
22 the Frederick line.

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1 Q. Right. And Frederick City is in the Sixth
2 Congressional District, correct, as we just saw?
3 A. Correct.
4 Q. Rockville is the Eighth Congressional
5 District.
6 A. Correct.
7 Q. So this corridor you've described actually
8 spans the Sixth and the Eighth, correct?
9 A. Correct, but Gaithersburg is in the Sixth.
10 Q. Sure. So if I started driving on I-270, I
11 would actually start in the Eighth, go to the Sixth,
12 come back to the Eighth, and then go to the Sixth; is
13 that right?
14 A. It's possible.
15 Q. So let me show you again --
16 A. I don't have --
17 Q. -- the zooms -- okay. Exhibit 164.
18 All right. So if I am coming up on the
19 Capital Beltway -- I'm on the second page of Exhibit
20 164 -- if I came on the Capital Beltway coming on
21 I-495 North from Tysons Corner, across the American
22 Legion Bridge, I am then in the Eighth Congressional

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1 District.
2 A. We don't start in Virginia, but anyway.
3 Q. Well, some of us do. And then I come
4 across the American Legion Bridge. I'm in the Eighth
5 Congressional District.
6 A. Correct.
7 Q. Correct? And then if I go further up, hit
8 the I-270 spur --
9 A. Right.
10 Q. -- on the left side of that, I'm in the
11 Sixth, on the right side of that I'm in the Eighth,
12 correct?
13 A. Correct.
14 Q. And then that trend continues until I
15 approach Rockville.
16 A. Correct.
17 Q. And then I'm all in the Sixth -- in the
18 Eighth Congressional District, as I'm in I-270 near
19 the Rockville exits.
20 A. Correct.
21 Q. And then if I stay in the express lanes,
22 don't go into the local lanes around Gaithersburg, I

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1 am in the Sixth Congressional District.
2 A. Correct.
3 Q. Correct? So depending on where I am on
4 I-270, I could be in the Sixth or the Eighth
5 Congressional District; is that right?
6 A. Correct.
7 Q. So it's not as simple as saying that the
8 I-270 corridor justifies the drawing of the map the
9 way it is because portions of the I-270 corridor are
10 in the Sixth and portions of the I-270 corridor are
11 in the Eighth.
12 A. Your observations are correct. The
13 problem comes with the fact that Montgomery County is
14 a very large urban population, and it has over a
15 million people in it.
16 Q. Right.
17 A. And so it is going to have more than one
18 congressional district in it.
19 Q. Regardless.
20 A. Regardless.
21 Q. Right.
22 A. And so then the question just is where do

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1 I draw that line.
2 Q. Again, so, again, there's a fundamental
3 choice a mapmaker is faced with.
4 A. Correct.
5 Q. I can go north into Frederick or I could
6 go over into Prince George's.
7 A. No, but on the -- oh, with Montgomery?
8 Q. Yes.
9 A. You could go into Prince George's, you
10 could go into Howard, you could go into Frederick.
11 So those are your adjacent -- those are your adjacent
12 subdivisions.
13 Q. Right. Okay. And if I go -- if I go out
14 of Montgomery into Frederick, I am combining a area
15 that you described as an area where liberalism is a
16 given with an area that goes up towards an area that
17 you said is a increasingly conservative part of the
18 state.
19 A. Well, no, because Frederick is not an
20 increasingly part -- conservative part of the state.
21 Q. Well, if I use -- let me suppose --
22 A. You're taking -- you're taking --

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1 Q. If I use -- you're right.
2 A. -- the big and trying to make it into --
3 apply to the narrow, and that's not correct. Just
4 like not all parts of Montgomery, the northwest part
5 of Montgomery, is not, you know, as liberal as Takoma
6 Park, you know, or Silver Spring or something. So
7 even within those jurisdictions you're going to
8 have --
9 Q. Sure.
10 A. -- you know, different -- different
11 behavior patterns, political behavior patterns and
12 ideologies.
13 Q. Sure. I understand that Gaithersburg is
14 different from the People's Republic of Silver
15 Spring.
16 A. Right.
17 Q. But let me improve my question a bit. If
18 I -- if I'm a mapmaker and I realize that I have over
19 a million people in Montgomery County and I need to
20 create two congressional districts out of Montgomery
21 County, and I use some of the population from -- some
22 of the population from Montgomery County with

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1 Frederick, Allegany, Garrett, Washington Counties,
2 then I have combined an area of Montgomery County, an
3 area that -- a county where you say liberalism is a
4 given, with a portion of the state that is
5 increasingly conservative.
6 A. Well, but not the entire portion of the
7 state, you know. Garrett is what Garrett is. All
8 right? Allegany has changed over the years.
9 Washington County is moderate and changed, and
10 Frederick is changing.
11 And so I don't know that you could take our
12 three -- the two Maryland political theory, which is
13 in the Maryland government book, and start dissecting
14 the congressional districts that way. I don't think
15 that's appropriate to do.
16 It is fair to say that the political behavior
17 and patterns of Montgomery -- I mean of Garrett
18 County -- are different than the -- than most of
19 Montgomery, but they're also different than
20 Frederick. Frederick City is very different than
21 Garrett County. Hagerstown is different than Garrett
22 County. Cumberland is different than Garrett County.

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1 So we could find differences within and among the
2 jurisdictions.
3 Q. Do you know whether it was necessary to
4 exchange 300,000 voters from the old Sixth
5 Congressional District to the new -- the new Sixth
6 Congressional District to achieve the rational bases
7 that are laid out in your report?
8 A. There were two other pressures on the --
9 on the Sixth District that the mapmakers had to deal
10 with, or one pressure that they had to deal with,
11 which was the fact that the other congressional
12 districts did not grow in the proper proportion or
13 actually in fact lost population like the Seventh
14 Congressional District.
15 So if they're all trying to get to a new
16 ideal, a new denominator, the Seventh District had to
17 grow substantially. And when it grew out into
18 Baltimore, that's going to chop into what was the
19 First District created in 2002.
20 Same thing if the decision about -- if your
21 First District doesn't cross the Bay, you don't have
22 enough population on the nine counties on the shore

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1 to create a congressional district because it was
2 so -- that's what got us a lot into this issue
3 because they were so malapportioned in 1966 with
4 having very little population in the first district,
5 so -- but it has to cross somewhere. So where does
6 it cross. And if it crosses at the top, it's going
7 to push into Harford and potentially into Baltimore,
8 depending on what happens to the Second District.
9 And so if you take population out of one area, that's
10 going to push the northern boundary.
11 So that's about one hundred and some thousand,
12 five or six seven thousand, and you have seventy some
13 thousand, so you got that -- 250. Montgomery is kind
14 of -- when you have a large jurisdiction, it's kind
15 of easy because you know you can get numbers in it.
16 So it's relatively easy to put Montgomery with
17 anybody to create a congressional district.
18 Q. Okay. So my question was a little bit
19 more focused. Did you do any analysis in your report
20 to determine whether it was necessary to exchange
21 300,000 voters from the old Sixth Congressional
22 District to the new Sixth Congressional District to

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1 achieve the rational bases set out in your report?
2 A. Well, I don't know that -- you know, I
3 didn't -- I didn't set out to redraw maps. All
4 right. I mean, that was not my assignment. I could
5 have prepared with a dozen different scenarios for
6 you, if that was my assignment, but my assignment was
7 to look at this and say is this consistent, is this
8 rational, is there a rationale, and my answer to that
9 is yes. So I did not do what you're asking --
10 Q. Okay.
11 A. -- to do.
12 Q. Okay. That was my -- that was my
13 question. Thank you.
14 A. I'm sorry.
15 Q. That's okay. Maybe I didn't ask it --
16 A. No, no. I'm used to having
17 two-and-a-half-hour classes.
18 Q. Well, that reminds me. We've been going
19 for a bit. Why don't we take a five-minute break.
20 Okay?
21 A. It's up to you.
22 Q. I've got maybe 30 minutes more of

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1 questioning.
2 A. What time is it?
3 Q. It's 1:38.
4 A. As long as I leave here by 2:30.
5 MS. KATZ: Do you want to keep going or do
6 you need to --
7 MR. MEDLOCK: It's up to you guys.
8 A. I can keep going.
9 MR. MEDLOCK: Okay. That's fine.
10 MS. KATZ: If you think it's only 30
11 minutes.
12 THE REPORTER: We need to do a tape change
13 anyway.
14 MR. MEDLOCK: Oh, okay.
15 VIDEO SPECIALIST: Going off the record at
16 13:38.
17 (Proceedings recessed.)
18 VIDEO SPECIALIST: Back on the record at
19 13:47.
20 BY MR. MEDLOCK:
21 Q. I want to focus for a second, if I may, on
22 the 2001 congressional map that you worked on.

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1 A. Okay.
2 Q. Did the 2001 congressional map respect
3 existing communities of interest?
4 A. Again, I don't know what you mean by
5 "community of interest"?
6 Q. Well, when you worked on it, were you
7 personally satisfied that the map respected existed
8 communities of interest?
9 A. Well, that's a good question.
10 Q. Right.
11 A. It was the governor's decision, not mine.
12 So I don't know -- what I was very conscious of is
13 municipal boundary lines, population equality, and
14 previous -- the history of the maps, you know, from
15 their inception.
16 So I was extraordinarily well aware of that
17 when that happened, you know, when this map was
18 drawn. I mean, I personally drew all those lines.
19 Q. When you say you personally drew all those
20 lines --
21 A. I sat at the Maptitude -- using Maptitude
22 software to make the adjustments to help the

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1 legislative services people draft the legislation
2 that was introduced the first day of the 1994
3 session.
4 Q. When you were using the Maptitude
5 software -- was it 2001 or 2002?
6 A. It would have been -- well, up till, you
7 know, right before the General Assembly started in
8 2002, so 2001-2002.
9 Q. Okay. Did you have any assistance from
10 consultants that helped you with Maptitude?
11 A. The owners from the Caliper Corporation.
12 Who is Howard's last name? Lives out in Montgomery
13 County. I don't know if he is still a salesman there
14 or not.
15 Q. Okay. So besides Caliper Corporation --
16 A. No, the corporation itself.
17 Q. Did you use any data from third-party
18 consultants that you put into Maptitude?
19 MS. KATZ: I want to object because I'm
20 not sure that this is -- isn't legislatively
21 privileged. We haven't gotten waivers of privilege
22 from the governor.

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1 MR. MEDLOCK: So I want to respect what
2 you're saying, but I just need to understand the
3 basis of the privilege, if you could lay it out.
4 MS. KATZ: Well, as we would have -- as
5 has been held in the federal district court
6 redistricting, the process of redistricting is
7 legislative activity, so the work that the GRAC would
8 have done on behalf of Governor Schaefer at the
9 time --
10 MR. MEDLOCK: Glendening.
11 MS. KATZ: -- excuse me, Glendening, would
12 be subject to his and their legislative privilege.
13 And this district court didn't set that aside in
14 terms of what the plaintiffs could explore in
15 deposition and other discovery.
16 So I just want to be very careful about, you
17 know, not getting into motives, purposes. And I
18 think that, you know, sources of information are
19 considered can fall within the privilege that existed
20 at the time and hasn't been waived.
21 MR. MEDLOCK: All right. And I guess,
22 bottom line, your position is that the opinion did

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1 not revoke or waive or find that the legislative
2 privilege did not apply to the 2001 redistricting
3 cycle, is that --
4 MS. KATZ: There has been no challenge.
5 There is not a challenge here to that, in other
6 words, that the specific intent of the mapmakers, the
7 people who worked on drawing the map, is at issue,
8 which is the -- was the rationale for why this
9 particular cause of action in this case, the
10 legislative privilege didn't apply.
11 MR. MEDLOCK: Okay. All right. Let me
12 ask you a different question.
13 Q. Well, let me ask you this. Are you going
14 to stand by that privilege objection and not testify
15 about the data that you used in Maptitude in 2001 and
16 2002? Are you going to refuse to answer that
17 question?
18 A. Golly.
19 MS. KATZ: We may have to have a short
20 conversation, Steve.
21 MR. MEDLOCK: Yeah. Do you want to have a
22 conversation with him about privilege? That's fine.

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1 I just want to know if he's going to stand on the
2 objection. Okay.
3 VIDEO SPECIALIST: Going off the record at
4 13:52 p.m.
5 (Brief interruption.)
6 VIDEO SPECIALIST: Back on the record at
7 13:54.
8 Q. All right. Sir, before we went off the
9 record, I had a question pending to you, which was, I
10 asked you a question regarding the sources of data
11 that you put into Maptitude when drawing the lines in
12 2001 and 2002. Your attorney objected to that
13 question on the grounds of privilege and instructed
14 you not to testify. Are you going to follow that
15 instruction and not answer that question?
16 A. Yes.
17 Q. Okay. All right. From your perspective,
18 just you personally, do you believe that the
19 2001-2002 Maryland congressional map respected the
20 historical development of the congressional districts
21 in Maryland?
22 A. Well, there were variances from the

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1 historical development that -- that were made
2 primarily because of population shifts that occurred.
3 Q. Do you believe it was -- the 2001-2002 map
4 was consistent with the historical development of
5 Maryland's congressional districts?
6 A. It was different, so I don't know that I
7 would use the word "consistent." It reflected some
8 earlier connection but not all earlier connections.
9 Q. Do you believe that Maryland's 2001-2002
10 congressional map was consistent with the past 50
11 years of development of Maryland's congressional
12 districts?
13 A. Well, the exhibits that I prepared for my
14 report show you what the connections have been,
15 but -- and I can, if you -- I can give you a
16 comparison. I think the connection to Montgomery is
17 more consistent with historical than the connection
18 with Harford and northern, you know, eastern --
19 northeast Baltimore County.
20 Q. All right.
21 A. So it's really a question of comparison
22 more than -- and the population numbers are

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1 different, you know, significantly different when you
2 go south as opposed to going east.
3 Q. Did Maryland's 2001-2002 congressional map
4 respect the One Person, One Vote principle?
5 A. Yes.
6 Q. Did the 2001-2002 map respect existing
7 majority-minority communities?
8 A. Yes.
9 Q. Did the 2001-2002 congressional map
10 respect the principle of contiguity in congressional
11 districts?
12 A. Yes.
13 Q. Did the 2001-2002 congressional map
14 respect the principle of compactness in congressional
15 redistricting?
16 A. That term, since we've had these pop --
17 population explosions, if you will, in Maryland over
18 the last 50 years has been challenged under all maps.
19 Q. Understood. I understand --
20 A. Both in terms of no clear guidance from
21 the courts on that issue and accommodating, you know,
22 factors of incumbency and other characteristics.

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1 There were -- in some cases there was an
2 expansion of population base from the earlier map.
3 As I mentioned before, I think the Fourth
4 Congressional District and the same thing, the
5 variances with the Third, First and Second Districts,
6 all of which were affected by that continual general
7 increase of population increase on the western side
8 of the half of the state and the declining, relative
9 declining population on the portions of the eastern
10 part of the state. And not just the city, but also
11 Baltimore County and other smaller, rural counties on
12 the shore were not growing at the same rate and
13 were -- so population pressures have, I would say,
14 challenged compactness over the last several cycles.
15 Q. Sure. I understand that population
16 densities in different areas can challenge
17 compactness, but from your perspective, as a member
18 of the GRAC, as the mapmaker, do you believe that the
19 2001-2002 congressional map did as good a job
20 adhering to the principle of compactness as could
21 reasonably be expected?
22 A. I'm not sure that can be a yes or no

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1 answer. I think we adequately took into
2 consideration everybody's -- everybody's input and
3 what the demands were on the map --
4 Q. From your perspective --
5 A. -- and it met --
6 Q. Sorry. Go ahead.
7 A. It met, you know, I think there was a
8 brief legal challenge, but there was no substantial
9 legal challenge to the map.
10 Q. From your perspective, as the mapmaker who
11 put together the 2001-2002 map, did that
12 congressional map comply with all existing
13 constitutional and statutory requirements for
14 redistricting?
15 A. As I was advised at the time and as I
16 think it did comply with the standards --
17 Q. Okay. Okay.
18 A. -- with -- I mean, there are things I
19 could just point out to you, but, as I said, given
20 the small -- the geography of Maryland --
21 Q. Right.
22 A. -- and this heavy concentration of people

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1 up and down the I-95 corridor, which is really more
2 like a funnel, as I've described before, and with now
3 Charles and Frederick as part of the funnel as it
4 heads up toward the northeast, you have a lot of
5 people in a small space, and that is what distorts
6 some of the appearance of those congressional
7 districts.
8 Q. Understood.
9 A. That combined with things like people want
10 to know, well, if you look at the evolution of the
11 Third and the Second and the First, one of the
12 decisions that is apparent is that you connected Fort
13 Meade with Aberdeen, so you connected military
14 establishments in the Second District, which changed,
15 and, you know, which worked well. Congressman
16 Ruppertsberger served years on the Armed Services
17 Committee and intelligence committee, and those were
18 conscious ties, but ...
19 Q. You mentioned that there is an I-95
20 corridor, correct?
21 A. Mm-hmm.
22 Q. And that there's sort of a funnel that

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1 goes into that corridor, correct?
2 A. Correct.
3 Q. So if I was looking at the ends of that
4 funnel, that would be --
5 A. Elkton.
6 Q. -- it would sort of be towards D.C., and
7 the end of the funnel would face up towards
8 Baltimore, correct?
9 A. The end of the funnel would be in Elkton.
10 Q. I'm sorry. Fair enough.
11 A. You know, and then the base of it would
12 be -- would be around the D.C. Metro area.
13 Q. And that base would go from Frederick all
14 the way down into, would you say, Charles?
15 A. Bowie and Charles now.
16 Q. Bowie? Okay.
17 A. Yeah, given what's happened to Charles.
18 Q. So --
19 A. Even further south than Bowie, going on
20 Route 3.
21 Q. So you would consider part of -- Frederick
22 to be part of the I-95 corridor, correct?

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1 A. Well, we're using the I-95 because in that
2 descriptive term ten years ago because everybody
3 understood that corridor, and the expansion of it
4 that we've seen over the last decade or so is caused
5 by population, economics, you know.
6 Q. So which is it? Is it that Frederick
7 is -- Frederick County is part of this funnel that
8 you've described or --
9 A. It's becoming there. It's becoming there.
10 Q. -- towards Elkton, or is it part of the --
11 part of the community that you've described
12 connecting Montgomery and Frederick?
13 A. Well, I'm not sure that they're
14 comparable. In terms of the two Maryland theory that
15 is posited in the book, it's becoming part of one of
16 those two Marylands, which is not necessarily the
17 same as the -- as the corridor, you know, because we
18 were talking about changing political behavior in
19 jurisdictions. They don't remain the same forever.
20 They do change.
21 And so Frederick and Charles have -- their
22 behavior has changed. Same thing with Howard and

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1 Anne Arundel. Anne Arundel, you're starting to see
2 that change a little bit, less so on the northeast
3 side of Baltimore. But the two Maryland theory is
4 like a political theory, not a geographic theory.
5 Q. Right. So which set of economic and
6 transportation connections is stronger in Frederick?
7 Is it this funnel you've described or is it this
8 connection from Frederick to Montgomery?
9 A. Well, it's the -- it would be the
10 Frederick-Montgomery connection economics -- people,
11 meaning people who have similar backgrounds, similar
12 identities, who they, you know, haven't done the
13 survey, but when you tend to move from one
14 jurisdiction to another, you retain friendships,
15 professional service relationships, shopping,
16 patterns. All of that tends to stay with you for a
17 period -- or gets recreated where you live -- and
18 that's happening in that, you know, Frederick -- up
19 and down that 270 Corridor, just as it's happening
20 down Route 4 into Charles County.
21 Q. Did you do any analysis in your report to
22 compare the connections created by the I-270 Corridor

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1 between Frederick and Montgomery to the connections
2 created by what you've described as the I-95 Corridor
3 that Frederick is part of?
4 A. Well, Frederick gets to I-95 two ways. It
5 gets there through 70 and it gets there through 270
6 in the interstate context.
7 Q. Right.
8 A. So it's -- its connection, though, in
9 terms of political behavior is coming predominantly
10 from Montgomery County.
11 Q. Okay. Set political behavior aside.
12 A. And economic connection and personal
13 social connection is predominantly coming from
14 Montgomery County expansion.
15 Q. Right. My question is a bit different.
16 In your report do you compare the economic and
17 migratory --
18 A. No.
19 Q. -- demographic --
20 A. Did I do that?
21 Q. -- up 270 to 95 with respect to Frederick
22 County?

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1 A. No.
2 Q. You don't do that.
3 A. Correct.
4 Q. And you don't offer an opinion on that in
5 your report, correct?
6 A. Correct. I didn't go that far.
7 Q. Okay. I think you mentioned before that
8 you -- that you've known former Governor O'Malley for
9 some time; is that right?
10 A. Correct.
11 Q. How long have you known him?
12 A. Since 19 -- well, I first met him in 1984.
13 Q. Okay. In what context was that?
14 A. He was the field director for the Gary
15 Hart campaign.
16 Q. Was that in Iowa?
17 A. No, here in Maryland.
18 Q. Okay.
19 A. As a young student.
20 Q. And you've known him all since -- since
21 1984?
22 A. Through his entire political career.

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1 Q. Okay. Describe -- can you describe your
2 relationship with him as it exists today?
3 A. Well, we've always had a good
4 relationship, and he calls me when he has a question,
5 and we'll have good conversations when we see each
6 other, but we're of different generations so we
7 don't -- we don't recreate together. We have many
8 common friends, many common -- at every stage of his
9 career I've talked with him.
10 Q. So you have many friends in common with
11 Governor O'Malley. Do you consider Governor O'Malley
12 to be a personal friend of yours?
13 A. Well, we're not close. We're friends and
14 we're -- politically have always, you know, worked
15 well with each other.
16 Q. So is it more than just a working
17 relationship; there's also some friendship there?
18 A. I would think so. I mean, again, there's
19 a certain generational difference.
20 Q. Sure.
21 A. But when he, you know, obviously when he
22 was mayor, I was Secretary of State, so we had a

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1 governmental relationship, an intergovernmental
2 relationship, and the city was important, you know.
3 When he -- many people that I worked with in state
4 government also worked in the O'Malley
5 administration, you know, at various levels in the
6 state government, so there's lots of connections with
7 people.
8 Q. How about Senate President Miller? Do you
9 know him?
10 A. Yes.
11 Q. How long have you known Senate President
12 Miller?
13 A. Since the '70s.
14 Q. Okay. Can you describe your relationship
15 with Senate President Miller?
16 A. We have a very cordial but not close
17 relationship, meaning, again, when I was Secretary of
18 State I had to be confirmed by the state Senate.
19 Q. So it was a necessary relationship as
20 well.
21 A. Necessary relationship. And I'm very
22 proud of the fact I had a unanimous, you know,

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1 election by the state Senate. So we share interest
2 in terms of Maryland history, we share interest in
3 terms -- I see him frequently at events. We don't go
4 out to dinner. We don't do that. But we have
5 interacted together at countless things over the last
6 forty years.
7 Q. Would you consider -- call it sort of a
8 working relationship?
9 A. Well, working/professional/political but
10 not, you know, many of his -- I mean, he has been in
11 Annapolis so long now -- the longest serving Senate
12 president in the country -- he's got a lot of young
13 folks who I know and who have -- I've worked with
14 over the years, so there's a --
15 Q. So you've worked with his staffers in the
16 past --
17 A. Right.
18 Q. -- correct?
19 A. Right.
20 Q. Do you know a staffer by the name of Jacob
21 Yaakov Weissman?
22 A. Yes, I know Jake.

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1 Q. Do you have a relationship with
2 Mr. Weissman?
3 A. No. We've only had -- when he was working
4 for Senator Miller, you know, I would talk with him,
5 but I don't -- I can't remember the last time I've
6 seen Jake.
7 Q. Can you remember speaking to Mr. Weissman
8 regarding congressional redistricting?
9 A. No, I don't think we did. I mean, and I
10 don't -- when they were creating their commission,
11 they may -- somebody may have asked me questions
12 about how we did it, but I think most of those
13 answers they got from the Department of Planning.
14 Q. Okay. How about Patrick Murray? Do you
15 know him? He's another staffer to Senate Miller --
16 President Miller.
17 A. Yeah, I know who he is. Again, there's a
18 big generational difference between myself and
19 Patrick, but ...
20 Q. Sure. How would you describe your
21 relationship with him regardless of the generational
22 difference?

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1 A. We have a good relationship, but, again,
2 we don't work on any daily basis or even weekly or
3 monthly basis, you know.
4 Q. Did you -- have you ever spoken to Patrick
5 Murray regarding congressional redistricting?
6 A. That's hard to say because when you get a
7 political -- you know, I've had -- we never spoke
8 during the consideration of this bill. Now since
9 then --
10 Q. Sure.
11 A. -- I don't think we've made any -- we
12 haven't talked about this case at all. We haven't --
13 I don't think we've talked about congressional
14 redistricting. We've talked -- he ran for office in,
15 what, 2014, I think, and we did talk about that with
16 him.
17 Q. Outside of your work at the Office of the
18 Attorney General, have you spoken to anyone in
19 Maryland government regarding this case?
20 A. The planners.
21 Q. When you say "the planners" --
22 A. The person who helped me create these

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1 maps, but not about the case.
2 Q. Oh, for your work.
3 A. Yeah.
4 Q. For your work that's in your expert
5 submission?
6 A. No, no, no. I did this all an my own. I
7 didn't --
8 Q. Okay. Got it. How about House of
9 Delegate Speaker Michael Busch? Do you have a
10 relationship with him?
11 A. Yeah. I have a good relationship with
12 him. I mean, even before he was speaker, when he was
13 a member of the General Assembly.
14 Q. And how would you --
15 A. And my high school football team beat his
16 high school football team.
17 Q. Do you remember the score?
18 A. I think we beat them pretty bad. We were
19 undefeated.
20 Q. What position did you play?
21 A. Oh, Mike was a very good football player.
22 He played at Temple in the big --

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1 Q. Oh, I know that. What position did you
2 play?
3 A. Oh, I was a basketball player, but I was
4 bragging on our football team. Our football team was
5 undefeated.
6 Q. You made it sound like you were on the
7 field. Okay.
8 A. Actually I did statistics for the football
9 team.
10 Q. Of course you did.
11 A. Yeah.
12 Q. So how would you describe your
13 relationship with Speaker Busch today?
14 A. It was good. I mean, I can -- if -- saw
15 him last at a function a couple weeks ago, and on
16 issues that have come up from time to time, I mean,
17 when I was -- obviously when you're working in
18 Annapolis, you run into people a lot more than you do
19 when you're not, but on issues that have come up, for
20 example, I helped the state with various voting
21 system issues, voting procedure issues, election
22 procedure. I testify in front of legislative

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1 committees all the time and I would brief the speaker
2 on what we were doing as part of our work at the
3 Schaefer Center, so ...
4 Q. Do you know a former congresswoman by the
5 name of Constance or Connie Morella?
6 A. I know Connie. I've met Connie, but we're
7 not -- we don't engage socially or politically.
8 Q. Connie Morella, prior to the 2001-2002
9 redistricting, was a congresswoman representing the
10 Eighth Congressional District, right?
11 A. Correct.
12 Q. And she was unseated by congressman --
13 then Congressman now Senator Van Hollen, correct?
14 A. Correct.
15 Q. From your perspective personally, was one
16 of the purposes of the 2001-2002 congressional
17 redistricting to flip Congresswoman Morella's Eighth
18 Congressional District from Republican controlled to
19 Democratic controlled?
20 MS. KATZ: I'm going to object on the
21 basis of privilege.
22 A. Well, I don't know that I'm the person

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1 that can answer that.
2 MS. KATZ: I'll object -- hold on.
3 MR. MEDLOCK: I'm asking from him
4 personally.
5 MS. KATZ: He was working --
6 THE WITNESS: Well, I don't know --
7 MS. KATZ: Hold on. He was working on
8 behalf of the governor leading the GRAC, so I don't
9 think it's appropriate to inquire about even his
10 purposes or motivations.
11 Q. So are you going to stand on that
12 objection and not answer the question?
13 A. Yes, because I was appointed by the
14 governor, working for the governor, and I
15 communicated directly with the governor.
16 Q. Okay. How about Congressman Steny Hoyer?
17 Do you have a relationship him?
18 A. Yes.
19 Q. Can you describe that relationship?
20 A. Again, it's cordial. He's -- fortunately,
21 he's the older one this time, but ever since I've
22 been involved in government and politics I've known

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1 Congressman Hoyer and have worked with him,
2 particularly we worked closely on the Help America
3 Vote Act when we were -- post 2000 election, we
4 supplied a lot of information and worked with them on
5 that. Since then a couple of -- well, one of my
6 staff members now works with him.
7 Q. Who's that?
8 A. I think she's still there, but she's
9 married now.
10 Q. What was her name when she worked for you?
11 A. Jane Sung, S-U-N-G.
12 Q. Thank you. Would you describe your
13 relationship with --
14 A. And I see Steny. He will be sitting at a
15 table and we'll talk.
16 Q. Would you describe the relationship
17 between you and Congressman Hoyer as friendly?
18 A. Oh, yes.
19 Q. Do you have a friendly relationship with
20 his congressional staff besides Ms. Sung?
21 A. Yeah, with his staff because we work -- I
22 work -- have talked to them over the years on

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1 election matters, not this redistricting one.
2 Q. Can you think -- you can't think of any
3 instance where you've ever spoken to a member of
4 Congressman Hoyer's staff about congressional
5 redistricting?
6 A. I was approached -- the only time I would
7 have is I had a relationship with Congressman
8 Kratovil, and Congressman Kratovil was a former
9 student at McDaniel College, which was then Western
10 Maryland College when I was there, and he -- when
11 he -- I helped Congressman Kratovil when he first ran
12 and organized his running in 2007-2008. And when he
13 lost his reelection in 2010, he called me up and said
14 Steny has an idea of a proposal for a map and would I
15 talk to him about it. And I've known Frankie since
16 he was in college, and I said, sure, I'll talk with
17 you, and so --
18 Q. Okay. When did that conversation occur?
19 A. 2000 -- the winter of 2000 --
20 Q. 2011?
21 A. 2010-2011, sometime in that time frame.
22 Q. So in the winter of 2010 --

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1 A. 2010.
2 Q. -- 2011 you were told that Steny Hoyer had
3 an idea or a proposal for a new congressional map?
4 A. Correct.
5 Q. Do you know --
6 A. With the idea of how that might better
7 enable Congressman Kratovil to regain his seat.
8 Q. Okay. And that idea would have meant that
9 the First Congressional District in the Eastern Shore
10 area primarily would flip from Republican-controlled
11 to Democratic-controlled, correct?
12 A. Well, Congressman Kratovil is kind of a
13 unique person. He was a state's attorney in Queen
14 Anne's County, and then when he ran for office the
15 first time in 2008 he won every county on the Eastern
16 Shore. All right.
17 Then in 2010, when the tide flipped the other
18 way, he lost a close election to Congressman Harris.
19 All right. And so the question was, what would the
20 new map look like in 2012 and would that provide him
21 a better opportunity. Because the new -- the map,
22 the 2002-2010 map had a substantial population in

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1 Harford and Baltimore County, which was Congressman
2 Harris's former state Senate seat to which he had
3 been elected. And so he had a substantial base of
4 support there.
5 And so the question, if -- if a Congressman,
6 if they like their job, is interested in what a
7 potential district might look like. And so
8 Congressman Kratovil wanted to see if he could extend
9 this First Congressional District portion that was in
10 Baltimore -- I mean in Anne Arundel County -- further
11 into the Route 50 Corridor.
12 Q. Which would have picked up more
13 Democratic-leaning voters, correct?
14 A. Could have gone -- yeah. Annapolis is an
15 area, out toward Bowie is another area where you
16 could potentially do that.
17 Q. So Congressman -- former Congressman
18 Kratovil in the 2010-2011 time period was interested
19 in a proposal from Congressman Hoyer that would make
20 the First Congressional District more favorable to
21 him winning it back?
22 A. Yeah. I mean, it would provide an

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1 opportunity.
2 Q. Right.
3 A. Yeah.
4 Q. And that would necessarily mean that there
5 would have to be more Democratic voters added to the
6 First Congressional District, correct?
7 A. Well, I don't know that I can answer that
8 question because the electoral performance, I mean,
9 Frank had his own -- that was a real turnout
10 differential. It's not like -- every election
11 there's a different set of people, and he had
12 performed well in 2008 when the turnout was very,
13 very high, and then when it was very low in 2010 --
14 so part of it is turnout factors, part of it is, you
15 know, voting behavior factors and registration
16 factors, but the general theory was, if population
17 has shifted and changed, why can't in Congressman --
18 add more people here where I would do an opportunity
19 to do better than people at the top part of the
20 district.
21 Q. When you say "here," you referring --
22 A. To the Anne Arundel portion --

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1 Q. -- Anne Arundel --
2 A. Yeah, the 2002-2010 map.
3 Q. Okay. And you said that there was --
4 former Congressman Kratovil wanted you to attend a
5 meeting to discuss this particular proposal.
6 A. Correct. Because I had working knowledge
7 of Maptitude and mapmaking, so I said, sure, I'll go
8 with you.
9 Q. Where did that meeting occur?
10 A. Here in D.C. down at -- I think it was --
11 I don't know whether it was NCEC or DCCC, but some --
12 Q. Near the U.S. Capitol Complex?
13 A. Near the Capitol Complex, where they had
14 an office and they had their --
15 Q. They had GIS software running on a
16 machine?
17 A. Right, and project things up on the wall
18 and everything.
19 Q. Okay. And during that meeting were you
20 shown various options for the way --
21 A. Right, and you could suggest things, you
22 know. You could -- Congressman Kratovil would say

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1 what if you do this or that.
2 Q. Was Congressman Kratovil at the meeting?
3 A. Yes.
4 Q. Who else was at the meeting besides you
5 and Congressman Kratovil?
6 A. Me and I think Eric --
7 Q. Eric Hawkins?
8 A. -- Hawkins, and then there might have been
9 other people popped in and out, but there were no
10 other elected officials or no --
11 Q. Were staffers from Steny Hoyer's office
12 there?
13 A. No, I don't remember any staffers.
14 Q. Okay. Did you take any notes at the
15 meeting?
16 A. I don't think so.
17 Q. Did you --
18 A. I haven't looked.
19 Q. Do you know if anyone else who was at the
20 meeting took any notes?
21 A. I don't know whether when they were
22 playing with different lines whether they retained

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1 any of that or not. I don't know.
2 Q. Okay. So besides there being possibly a
3 draft map --
4 A. A schematic.
5 Q. -- that was created, you don't know if
6 there was any document created as a result of this
7 meeting.
8 A. No. I was not given anything by them.
9 Q. Sure. Did you --
10 A. But, I mean, I can kind of tell you what
11 would happen if you moved these lines.
12 Q. Sure. I'll get there. I just want to get
13 the scope of the meeting.
14 How long did the meeting last for?
15 A. Oh, gosh. Might have been there a couple
16 hours. At least an hour.
17 Q. Who was sort of leading the discussion?
18 Was it Eric Hawkins or was it you? Was it
19 Congressman Kratovil?
20 A. Well, no, I think they told us here's what
21 proposals that -- and, again, this is not GRAC. This
22 is the Congress people.

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1 Q. Understood.
2 A. Because the way, historically, all the 50
3 years that I'm aware of that this process goes on,
4 the Congressman tend to caucus and tend to then
5 endeavor to come upon some consensus to present to
6 the Governor, you know, what their ideas are. And so
7 there weren't any Congressmen present, you know.
8 Q. Okay.
9 A. And there may have been conversations or
10 communications between Hoyer's staff saying, here,
11 we've set this meeting up for you and here's the
12 place to go and here's who to call and contact. And
13 so it was not an unfamiliar --
14 Q. Sure.
15 A. -- thing for me.
16 Q. Have you ever been to NCEC Services
17 offices before that?
18 A. Yes, before that, but not since I haven't
19 been there.
20 Q. Okay. And was that also in connection
21 with the 2011 redistricting?
22 A. No.

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1 Q. Okay. The --
2 A. I mean, literally, when they first got
3 started, I, you know, was aware of them.
4 Q. Sure. Absolutely. Okay. So there's a
5 meeting between you, Eric Hawkins, Frank Kratovil
6 that takes place at either NCEC Services offices or
7 the DCCC Services offices, and that lasts for about
8 two hours, right?
9 A. Mm-hmm.
10 Q. And there's no document that was created
11 as a result of that meeting, right?
12 A. I don't --
13 Q. As far as you know.
14 A. I don't recall having anything. Whether
15 they created something when we left or did some kind
16 of contemporaneous thing, I don't know that. I think
17 I may have had a conversation with Eric subsequent to
18 that meeting.
19 Q. What was the nature of that conversation?
20 A. Just about proposals and line draws, what
21 if you did X, Y and Z.
22 Q. Did that take place over the phone or in

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1 person?
2 A. Phone.
3 Q. Okay. And do you know when approximately
4 that meeting over the phone took place?
5 A. That would have been a week or two, couple
6 of weeks after the in-person meeting probably.
7 Q. How long did that phone call last?
8 A. As I remember it, he was going back up to
9 Maine, and I remember we probably had not long.
10 Probably just a few questions here and there.
11 Q. What did Mr. Hawkins want to know
12 specifically?
13 A. No, it was a matter of Congressman
14 Kratovil, after we left the meeting --
15 Q. Oh, okay.
16 A. -- Congressman Kratovil --
17 Q. Had further input for you to give Eric.
18 A. Had further -- right.
19 Q. Okay.
20 A. And then I gave --
21 Q. Okay. During this meeting between
22 Congressman Kratovil, Mr. Hawkins and you, there was

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1 a map projected onto the wall; is that right?
2 A. Yes. Yes.
3 Q. And that was the output of Maptitude,
4 correct?
5 A. Correct.
6 Q. And was somebody at the computer using
7 Maptitude during the meeting?
8 A. Correct.
9 Q. Was that Eric? Was that Mr. Hawkins or
10 was that you?
11 A. Well, it wasn't my computer, so -- but I
12 would make suggestions about things.
13 Q. Okay.
14 A. And we would -- he would quickly punch in,
15 you know, do the subtract and add, and then we would
16 look at this visual and then we would look at that
17 visual and we would look at a variety of different
18 maps.
19 Q. And when you look at a map on the --
20 projected onto the wall in Maptitude, you see both
21 the geographic area of the map --
22 A. Correct.

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1 Q. -- and you see some data regarding --
2 A. Correct.
3 Q. -- the district, correct?
4 A. Correct. Correct.
5 Q. So you would see demographic data
6 displayed about the new district --
7 A. Population size, racial characteristics,
8 you know.
9 Q. Would that also include --
10 A. Whatever census data was available --
11 Q. Would that also include --
12 A. -- and --
13 Q. Would that also include electoral data?
14 A. Yes.
15 Q. Okay.
16 A. I'm trying to remember whether his maps --
17 they -- they may have been all on one map --
18 Q. Okay.
19 A. -- on one database.
20 Q. I see. And then also would there be --
21 because it's NCEC, I assume there would be some DPI
22 or Democratic Performance Information --

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1 A. Right.
2 Q. -- at the top as well.
3 A. Right. Yeah.
4 Q. Right. So you could see, as you were
5 making changes to this map on the wall, changes in
6 Democratic performance --
7 A. Correct.
8 Q. -- as you made differences -- different
9 changes to it.
10 A. Correct.
11 Q. And as you were making changes to the map,
12 were the changes --
13 A. And you could see -- I don't -- I'd have
14 to look again to see what they put into their
15 performance index because I --
16 Q. I think that's sort of a state secret
17 there, right? How they weight it I guess is, right?
18 A. Yeah.
19 Q. Right.
20 A. It's ...
21 Q. Because Democratic performance is a
22 proprietary number that NCEC Services has, correct?

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1 A. Well, I don't know how they handle it. I
2 mean, you know, most people generate something like
3 that, that inputs results from a level -- a variety
4 of different races, and they come up with a number
5 whatever way they do it.
6 Q. Sure. I know there's a lot of consultants
7 out there who have different measurements --
8 A. Right.
9 Q. -- but DPI is the NCEC Services one.
10 A. Correct. Right.
11 Q. And --
12 A. So whatever it was they were using in
13 2011, 2010.
14 Q. Right. So if I see someone talking about
15 DPI, they're talking about something they got from
16 NCEC Services, right?
17 A. Right.
18 Q. Is that right?
19 A. Correct.
20 Q. Okay. And if I saw someone talking about
21 Democratic performance, that would be data
22 information from NCEC Services as well, correct?

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1 MS. KATZ: Objection.
2 A. Maybe.
3 Q. Okay. It could be; is that right?
4 A. (Nodding head up and down.)
5 Q. Okay. I'm sorry. She can't take down
6 shakes of the head. Is that a yes that it could be
7 data from NCEC Services?
8 A. It could be.
9 Q. Okay. So let's get back to the map on the
10 wall. So you were saying that, as there were changes
11 being made to the map, you could see changes in the
12 demographic information and in Democratic
13 performance, correct?
14 A. Correct.
15 Q. And as you were making the changes, were
16 those changes designed to increase or decrease
17 Democratic performance?
18 A. They were designed to increase performance
19 that would assist Congressman Kratovil --
20 Q. Okay. Understood.
21 A. -- which is not necessarily the same
22 because Congressman -- every -- every political

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1 person has their own basis of support, and
2 Congressman Kratovil grew up in Prince George's
3 County, his, you know, family is from there, so some
4 places were more familiar to him than others, you
5 know. I think he went to Dematha too.
6 Q. Now we're getting into basketball talk.
7 We can talk about this afterwards.
8 A. No, Frank was a soccer player.
9 Q. All right.
10 A. Yeah. So you look at that, but that's not
11 always, you know, because it depends on your own
12 career. And Frank was a prosecutor in Prince
13 George's County, so he had his own basis of support,
14 and being a former prosecutor in Queen Anne's County
15 he had relationships.
16 Q. Okay.
17 (Exhibit 169 marked for
18 identification.)
19 Q. We've put in front of what you we've
20 marked as Exhibits 169 to your deposition. It's a
21 one-page email chain from July 20th, 2011, and at the
22 bottom it bears a Bates number HOY000345.

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1 Before I ask you any questions, can you take a
2 moment to review it and then let me know that you're
3 done reviewing it?
4 A. Yeah. That's fine. That's an email
5 address of mine, and I --
6 Q. Okay.
7 A. It's a little later in the year than I
8 thought, and I thought it was earlier in the year,
9 but ...
10 Q. Okay. Let me --
11 A. It may explain why my subsequent phone
12 calls to Eric were tracking him down in the
13 summertime.
14 Q. Yeah. That's fair. Let me break it down
15 a little bit because you summarized it, but I want to
16 make sure I understand something.
17 The bottom email is from Brian Romick on July
18 20th, 2011 at 3:52 p.m., correct?
19 A. Correct.
20 Q. And Mr. Romick is a staffer to Steny
21 Hoyer, correct?
22 A. Correct.

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1 Q. Is that right?
2 A. Correct.
3 Q. Okay. And it's to jwillis, correct?
4 A. Correct.
5 Q. And that's you?
6 A. That's me.
7 Q. Okay. And the body of the email reads,
8 "John, the meeting tomorrow is at 10:30 at NCEC,
9 probably easier to take the train, unless you want to
10 park at the Union Station Garage, which is a few
11 blocks away," and then he gives you the address.
12 Does this refresh your recollection that the
13 meeting happened at NCEC Services?
14 A. Yes. Correct.
15 Q. And it was in the -- on July 21st, 2011,
16 correct?
17 A. I have no reason to doubt any ...
18 Q. To doubt that? Okay. And then so you
19 had -- you had that meeting in person on July 21st,
20 2011 for two hours, and then sometime a week or two
21 later you had a subsequent follow-up phone call --
22 A. Correct.

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1 Q. -- with Eric Hawkins.
2 A. Correct.
3 Q. Did anyone else from NCEC Services besides
4 Eric Hawkins attend the meeting?
5 A. I don't -- as I say, I remember people in
6 the office, and I think I was looking for -- oh, who
7 was one of the original --
8 Q. Mark Girsch?
9 A. Mark. I ran into Mark and said hello,
10 because I knew Mark and I just said hello to Mark,
11 but he was not in the map -- when we were sitting
12 there looking at the screens or whatever.
13 Q. Okay. Understood.
14 A. But I did went to look with him, you know,
15 because I knew --
16 Q. You knew him personally.
17 A. -- before. Correct.
18 Q. You can put that aside.
19 So you said historically what's happened is
20 that the Democratic members of the House in Maryland
21 would get together and come to a consensus, and
22 however they would do that --

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1 A. Endeavor to come to a consensus.
2 Q. Endeavor to come to a consensus. Well
3 put. And then that consensus and whatever -- however
4 close they have gotten to it will be somehow shared
5 with state legislators, correct?
6 A. Well, the governor -- both, probably
7 legislators and the governor.
8 Q. Okay.
9 A. And in years past Republican members of
10 Congress as well would convey their perspective to
11 their leadership in the state legislature and to the
12 governor --
13 Q. Right.
14 A. -- so --
15 Q. That's the way it's always historically
16 been done, correct?
17 A. Right.
18 Q. The process starts with the members of
19 Congress, and then it flows to the governor and
20 legislators, correct?
21 A. Right. Correct.
22 Q. And do you have any reason to doubt that

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1 that's how it worked in 2011 based on how you were
2 seeing it?
3 A. No, I would -- that's -- some of them have
4 been there since reapportionment started, so
5 Q. So they have always been doing it that
6 way.
7 A. I mean, they've been there -- not
8 reapportionment -- since the -- since the
9 reapportionment decisions.
10 Q. Since the -- since One Person, One Vote.
11 A. Steny has been there for every -- every
12 one.
13 Q. Okay.
14 A. Not in Congress. He was in the
15 legislature in '70.
16 Q. So that's just kind of how it's been done
17 in Maryland, correct?
18 A. Correct.
19 Q. Okay.
20 A. That doesn't mean that the governor always
21 listens to the Congressmen --
22 Q. Sure.

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1 A. -- or the legislators always follow every
2 suggestion and every neighborhood, every precinct,
3 whatever, but, you know, I would say there is, you
4 know, there is -- that communication line has always
5 been there.
6 Q. And it's an important communication line.
7 A. Absolutely.
8 Q. And in your experience do governors and
9 legislators try to do their best to respect the
10 wishes of the -- of the congressional delegation in
11 redistricting?
12 A. For the last -- since 1980, yes.
13 MR. MEDLOCK: Okay. Why don't we take a
14 quick break. I may have no more questions, but I
15 want to just confer with my counsel.
16 A. Gather your thoughts.
17 VIDEO SPECIALIST: Going off the record at
18 13:38.
19 (Proceedings recessed.)
20 VIDEO SPECIALIST: Back on the record at
21 14:42.
22 MR. MEDLOCK: I have no further questions.

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1 Thank you very much for your time.
2 THE WITNESS: Thank you.
3 VIDEO SPECIALIST: Going off the record at
4 2:42.
5 (The deposition of JOHN T. WILLIS
6 adjourned at 2:42 p.m.)
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1 CERTIFICATE
2 I, LINDA S. KINKADE, Registered Diplomat
3 Reporter, Certified Realtime Reporter, Registered
4 Merit Reporter, Certified Shorthand Reporter, and
5 Notary Public, do hereby certify that prior to the
6 commencement of examination the deponent herein was
7 duly sworn by me to testify truthfully under penalty
8 of perjury.
9 I FURTHER CERTIFY that the foregoing is a true
10 and accurate transcript of the proceedings as
11 reported by me stenographically to the best of my
12 ability.
13 I FURTHER CERTIFY that I am neither counsel
14 for nor related to nor employed by any of the parties
15 to this case and have no interest, financial or
16 otherwise, in its outcome.
17 IN WITNESS WHEREOF, I have hereunto set my
18 hand and affixed my notarial seal this 25th day of
19 May 2017. My commission expires July 31, 2017.
20
21 _____
22 NOTARY PUBLIC IN AND FOR
THE DISTRICT OF COLUMBIA

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1 Digital Evidence Group, L.L.C.
2 1730 M Street, NW, Suite 812
3 Washington, D.C. 20036
4 (202) 232-0646
5
6 SIGNATURE PAGE
7 Case: O. John Benisek, et al. v. Linda Lamone, et al.
8 Witness Name: John T. Willis
9 Deposition Date: May 24, 2017
10
11 I do hereby acknowledge that I have read
12 and examined the foregoing pages
13 of the transcript of my deposition and that:
14
15 (Check appropriate box):
16 () The same is a true, correct and
17 complete transcription of the answers given by
18 me to the questions therein recorded.
19 () Except for the changes noted in the
20 attached Errata Sheet, the same is a true,
21 correct and complete transcription of the
22 answers given by me to the questions therein
recorded.

DATE WITNESS SIGNATURE

DATE NOTARY

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1 John T. Willis c/o
2 Office of the Attorney General
3 200 St. Paul Place
4 Baltimore, Maryland 21202
5
6 Case: O. John Benisek, et al. v. Linda Lamone, et al.
7 Date of deposition: May 24, 2017
8 Deponent: John T. Willis
9
10 Please be advised that the transcript in the above
11 referenced matter is now complete and ready for signature.
12 The deponent may come to this office to sign the transcript,
13 a copy may be purchased for the witness to review and sign,
14 or the deponent and/or counsel may waive the option of
15 signing. Please advise us of the option selected.
16 Please forward the errata sheet and the original signed
17 signature page to counsel noticing the deposition, noting the
18 applicable time period allowed for such by the governing
19 Rules of Procedure. If you have any questions, please do
20 not hesitate to call our office at (202)-232-0646.
21
22 Sincerely,
Digital Evidence Group
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express written consent.

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6 ERRATA SHEET
7
8 Case: O. John Benisek, et al. v. Linda Lamone, et al.
9 Witness Name: John T. Willis
10 Deposition Date: May 24, 2017
11 Page No. Line No. Change
12
13
14
15
16
17
18
19
20
21
22 _____
Signature Date
23

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