

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ALABAMA
 (Southern Division)

EVAN MILLIGAN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:21-cv-01530-AMM
)	
WES ALLEN, <i>et al.</i> ,)	THREE-JUDGE PANEL
)	
Defendants.)	

REDSTATE STRATEGIES, LLC’S RESPONSE AND PARTIAL OBJECTION TO, AND MOTION TO QUASH, SUBPOENA

Pursuant to Rule 45, Fed. R. Civ. P., RedState Strategies, LLC (“RedState”) hereby objects to the subpoena served on April 5 on its President Christopher R. Brown, and moves to quash in part the subpoena issued by the Plaintiffs on the ground that it requests documents or electronic communications protected by legislative privilege. In seeking protection against production, RedState adopts the grounds for legislative privilege identified in the filing made by the Non-Party Legislators. (See Doc. 346)(citing *Pernell v. Florida Bd. Of Govenors*, 84 F. 4th 1339 (11th Cir. 2023) and *La Union del Puerto Entero v. Abbott*, 98 F.4th 310 (5th Cir. 2024)). RedState also objects to the extent that the subpoena seeks information protected by the attorney client privilege and adds the following:

1. RedState has served an agent/consultant for each of the Non-Party Legislators on subject matters covered by the subpoena. RedState is an Alabama political consulting business with a focus on State legislative elections. In addition to providing services related to State legislative elections, RedState provides policy-related services to persons who have used RedState for election services. The RedState post-election communications included individualized advice to elected legislators about legislation, and extends to advice about legislation that redraws their election districts. In some cases, following the release of the 2020 census, this advice has extended to the redrawing of Congressional district lines. The object is to assist these RedState clients in the performance of legislative duties. Those legislators receiving this advice were Senator Roberts, Senator Scofield (now retired), Senator Barfoot, Representative Carns, Representative Kiel, Representative Butler, Representative Mooney, Representative Yarbrough, and Representative Rehm.

2. In addition, RedState has electronic communications with its client Senator Steve Livingston that are responsive to the subpoena. RedState understands the Livingston is not a NonParty Legislator, but is a party to this action. The RedState communications with Livingston are being delivered to the issuer of the subpoena separately from this Response.

3. RedState also has documents of and/or communications a non-attorney

third party that are responsive to Request 4 of the subpoena, and that were used in formulating communication to legislator clients of RedState, but were not delivered to any other person.

4. RedState has not included for the Court or the parties an actual log of each of the communications with the Non-Party Legislators, but enough description and precision to enable the parties to assess the claim of legislative privilege, especially given the objection filing made by the Non-Party Legislators. (Doc. 346) *See In re Hubbard*, 803 F. 3d 1298, 1309 (11th Cir. 2015). If the Court directs, RedState can produce such a log.

5. RedState also objects to the extent that the requests are vague or overbroad and may seek information about the private political meetings of the members of the Jefferson County Alabama Republican Party. The Party includes both Chris Brown and persons who are members of the legislature, and their discussions among Party members may relate to the litigation or the 2023 Congressional district plan or a predecessor plan developed in June or July of 2023 (Request No. 4). The privacy and associational rights of the Jefferson County Alabama Republican Party are implicated by the request seeking such information.

6. RedState also objects to the subpoena to the extent it seeks communications between RedState personnel and RedState (or Chris Brown's)

attorney protected by the attorney client privilege. A log of such communications responsive to the subpoena is being submitted separately to the issuer.

Respectfully submitted this 26th day of April 2024.

s/ Albert L. Jordan

Albert L. Jordan

bjordan@wallacejordan.com

Attorney for RedState Strategies, LLC

OF COUNSEL:

Wallace, Jordan, Ratliff & Brandt, LLC

800 Shades Creek Parkway, Suite 400

Birmingham, AL 35209

Phone: (205) 870-0555

CERTIFICATE OF SERVICE

I certify that on April 26, 2024, I served a copy of the foregoing on all counsel of record either by the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Albert L. Jordan

OF COUNSEL