

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA, and
ROSE TORRES

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K. LINNABARY,
WILLIAM J. CADIGAN, LAURA K. DONAHUE,
WILLIAM R. HAINE, WILLIAM M.
MCGUFFAGE, KATHERINE S. O'BRIEN, and
CASANDRA B. WATSON in their official
capacities as members of the Illinois State Board of
Elections, DON HARMON, in his official capacity
as President of the Illinois Senate, and THE OFFICE
OF THE PRESIDENT OF THE ILLINOIS
SENATE, EMANUEL CHRISTOPHER
WELCH, in his official capacity as Speaker of the
Illinois House of Representatives, and the OFFICE
OF THE SPEAKER OF THE ILLINOIS HOUSE
OF REPRESENTATIVES,

Defendants.

Case No. 1:21-cv-3139

Circuit Judge Michael B. Brennan
Chief Judge Jon E. DeGuilio
Judge Robert M. Dow, Jr.,
Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO
COMPEL**

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL

Defendants Don Harmon, in his official capacity as President of the Illinois Senate, the Office of the President of the Illinois Senate, Emanuel “Chris” Welch, in his official capacity as Speaker of the Illinois House of Representatives, and the Office of the Speaker of the Illinois House of Representatives (collectively, “Defendants”) hereby submit this Opposition to Plaintiffs’ Motion to Compel Legislative Defendants to Respond to Plaintiffs’ Discovery Requests (ECF No. 94) (the “Motion”).

I. INTRODUCTION

Plaintiffs’ Motion is marked by overreach, disregard for the law, and a refusal to compromise, and is thus illustrative of their conduct over the three weeks since they served their Category 1 discovery.¹ Defendants have worked quickly and tirelessly to respond to voluminous discovery, answer follow up questions via email, attend multiple meet and confers, make multiple productions, and create and twice update their privilege log to provide additional information, all with the explicit stated intention of avoiding motion practice. Unfazed by Defendants’ compromises and the extensive, *pre-complaint* discovery they have received, Plaintiffs filed the present Motion, which should be denied in its entirety because the category of evidence it seeks is unquestionably protected by legislative privilege under the very authorities Plaintiffs rely on. Most notably, the court in *Committee for a Fair & Balanced Map v. Illinois State Board of Elections* denied the plaintiffs’ motion to compel almost identical materials on legislative privilege grounds. No. 11 C 5065, 2011 WL 4837508, at *11 & n. 11 (N.D. Ill. Oct. 12, 2011).

Plaintiffs move to compel any “previous drafts” of the legislative maps embodied in Senate Bill 927, now signed into law at Public Act 102-663 (“the August Map”). Herrera Decl., Ex. A,

¹ “Categories” are those established in the Court’s September 8, 2021 Order. *See* ECF No. 76.

ECF No. 94-2 at 18. As Defendants repeatedly explained to Plaintiffs, they have already produced the complete drafts of the August Map. The materials Plaintiffs move to compel are not completed drafts, but rather the legislative staffers' unfinished work product in creating the August Map. Specifically, Plaintiffs seek the partial, incomplete versions of the map that exist as separate documents only because, unlike most software programs that save over past changes with each hit of the "save" button, the redistricting software creates a separate "version" of the under-development map each time the user hits "save." Therefore, each time any legislative staffer hit "save" while creating the August Map—whether because the day was over, it was time to leave for lunch, or just to be careful—a separate version of a partial, incomplete map was created. These versions are all pre-decisional work product by legislative staff, and inherently contain legislative staff opinions, all of which makes them subject to legislative privilege. *See Comm. for a Fair & Balanced Map*, 2011 WL 4837508, at *2 n. 2, 11 & n. 11 (denying plaintiffs' motion to compel "any draft drawings of any Districts of the 2011 Map" and "data files and drafts of data files used to formulate the composition of Districts" because such materials were protected by legislative privilege). Plaintiffs' motion should be denied.

II. RELEVANT BACKGROUND

The Illinois General Assembly passed the August Map with a supermajority in both chambers on August 31, 2021. Governor Pritzker signed the August Map into law on September 24, 2021, as Public Act 102-663. After a hearing the following day, the Panel indicated that Plaintiffs would be entitled to some pre-complaint discovery—"with the objective of clarifying the legal challenges to and defenses of the new map by the 10/1/2021 deadline for filing an amended complaint[.]" ECF No. 72 at 2.

Pursuant to the Panel's order, Defendants provided, or offered to provide in short order when available, all discovery and responses that they provided or were ordered to provide related to Public Act 102-0010 ("the June Map"). Given that a plaintiff usually is entitled to no pre-complaint discovery, Defendants hoped this would streamline the Category 1 discovery process, eliminate the need for lengthy meet and confers and motion practice, and conserve the Parties' resources.

Plaintiffs did not serve any new discovery requests until eleven days later on September 13—the last day such discovery was allowed under the Court's Order. ECF No. 76 at 2. This inexplicable delay consumed nearly half the time Plaintiffs were granted to conduct discovery, and thereby created an unmanageable rush, the burden of which has fallen on Defendants as they have strived to answer Plaintiffs' discovery and subsequent demands in a matter of days.

Despite Defendants' earlier productions, Plaintiffs propounded voluminous discovery on September 13. In doing so, they took the position that the Court's order, ECF No. 72 at 2, licensed them to full-blown discovery into any claim that might possibly exist in a redistricting context, and rebuked Defendants' position that their overbroad, voluminous discovery offended established limits on relevance and proportionality "at this [pre-complaint] stage of the case" under Federal Rule of Civil Procedure 26. Plaintiffs were unwavering in this position, despite Defendants pointing to several indications that the Court intended their pre-complaint discovery to be limited, including: (i) the extremely expedited schedule for Defendants to respond and produce; (ii) the existence of subsequent Categories after their Second Amended Complaint was filed; (iii) the Court's clear statements that discovery on the then-operative amended complaints was closed, *see* Sept. 7, 2021 Hr'g Tr. at 5:15-17, 8:3-8; and (iv) the Court's limitation on the number of Interrogatories Plaintiffs could propound to just five. Despite this, Plaintiffs served eight Requests

for Admission and twenty-five Requests for Production of Documents—which called for the production of “all documents and communications” rather than that which would be sufficient “to clarify” their claims, and documents dating back to January 1, 2021.²

Defendants responded to all of Plaintiffs discovery on the ordered deadline, September 20, 2021. On September 21, Plaintiffs requested a meet and confer, and Defendants made themselves available on September 22. *See* ECF No. 76 at 2 (“[C]ounsel must make themselves available to engage in meet and confer conversations . . . within 48 hours of a request for such a conversation[.]”). The Parties’ September 22 conferral lasted nearly two hours. Both sets of Plaintiffs demanded that Defendants respond in full to all of their requests, despite Defendants’ position that the Court had not intended such overbroad, limitless discovery during Category 1, and that in any event, the volume of Plaintiffs’ discovery was unduly burdensome on Defendants on such a compact schedule. After refusing to defer *any* of their discovery until after the Second Amended Complaints were filed, Plaintiffs agreed to defer ten requests only after Defendants stated their intent to move the Court for a protective order.³ *See* Yandell Decl., Ex. C. These “deferrals” were meaningless, however, as Defendants had already fully responded to eight of the ten deferred requests, and the other two requests are undeniably irrelevant to any potential claim Plaintiffs could have brought (and indeed are not be relevant to the claims in the Second Amended Complaint).

Defendants provided substantive responses to the issues raised by Plaintiffs during the meet

² The McConchie Plaintiffs similarly served four interrogatories and sixteen requests for production.

³ At Defendants’ request, Plaintiffs also agreed to narrow their discovery—which initially requested discovery related to all 177 legislative districts in Illinois—to priority districts. Plaintiffs’ priority districts were still overbroad, however, requesting discovery into thirty-six districts. Plaintiffs’ Amended Complaint challenges seven districts. *See* Yandell Decl., Ex. C.

and confer the next morning, September 23, and served formalized, supplemental discovery responses later that day. *See* Yandell Decl., Ex. A.⁴ Over the next several days, Defendants would make two supplemental productions, create and twice update their privilege log, attend a second conferral with Plaintiffs, and answer multiple questions via email. Defendants have now responded to, produced, or provided access to the following discovery:

- 2020 Census (P.L. 94-171) Redistricting Data;
- Senate Bill 927;
- House Resolution 443;
- Shape files and block equivalency files that comprise the August Map;
- Additional precinct shape files used to disaggregate from the precinct to the block level;
- A list of elections that were used to create Plaintiffs' priority districts in the August Map;
- Senate Resolution 3 of the 1st Special Session of the 102nd General Assembly;
- Transcript of House Floor Debate on Senate Bill 927 and House Resolution 443;
- Transcripts of House Redistricting Committee Hearings;
- Transcripts of Senate Redistricting Committee Hearings;
- House Redistricting Plan Data Matrix;
- Senate Redistricting Plan Data Matrix;
- Written testimony submitted to the House Redistricting Committee;
- Written testimony submitted to the Senate Redistricting Committee;
- Proposed map submissions from redistricting hearing witnesses;

⁴ Defendants note that Plaintiffs provided only Defendants' initial discovery responses with their Motion. Defendants have therefore attached hereto their September 23, 2021 supplemental responses, which are the current responses. *See* Yandell Decl., Exs. A, B.

- Any analysis related to racially polarized voting;
- Communications between Defendants and their redistricting consultants related to the August Map;
- All data provided by Defendants to their consultants related to the August Map;
- All data provided by Defendants to their consultants related to racially polarized voting;
- Communications between Defendants and members of the legislature identified by Plaintiffs' requests related to the August Map; and
- The identities of legislative staffers that worked on the August Map, *despite such information being protected by legislative privilege.*

Defendants also confirmed, following an investigation, that no documents exist in response to several of Plaintiffs' requests. *See* Yandell Decl., Ex. A. At Plaintiffs' request, Defendants also revisited their privilege log and agreed to withdraw their privilege assertion as to one document, and explained in detail that the remaining documents Plaintiffs were pushing for related only to the June Map, and thus were not relevant.

Defendants were explicit that their efforts, compromises, and agreements to provide almost everything Plaintiffs asked for were to one end: avoiding motion practice. Still, Plaintiffs moved to compel one category of evidence that is plainly protected by legislative privilege, including under their primary authority.⁵ *See Comm. for a Fair & Balanced Map*, 2011 WL 4837508, at *11 & n. 11.

⁵ Plaintiffs' Motion was due Thursday, September 30 by 12:00 p.m. Central Time—an extension of six days from their original due date that Plaintiffs themselves requested. *See* ECF No. 92. Plaintiffs did not file their Motion until 6:30 p.m. Central Time that day, without so much as a notice to Defendants that their Motion would be late or was still forthcoming, or an explanation (or any mention) of their missed deadline to the Court. Defendants request the Court admonish Plaintiffs' brazen disregard for its deadlines, especially in light of Defendants' short window to respond.

III. LEGAL STANDARD

The legislative privilege “shields from disclosure pre-decisional, non-factual communications that contain opinions, recommendations or advice about public policies or possible legislation.” *Id.* at *10. The legislative privilege exists because:

[T]he need for confidentiality between lawmakers and their staff is of the utmost importance. Legislators face competing demands from constituents, lobbyists, party leaders, special interest groups and others. They must be able to confer with one another without fear of public disclosure. In this respect, the legislature is not unlike other branches of government. As noted by the Third Circuit, a “legislator’s need for confidentiality is similar to the need for confidentiality in communications between judges, between executive officials, and between a President and his aides.

Id. at *8-9 (citing *In re Grand Jury*, 821 F.2d 946, 957 (3d Cir. 1987)). The legislative privilege can be overcome only by a showing of need. Courts consider five factors when determining whether the privilege applies: “(i) the relevance of the evidence sought; (ii) the availability of other evidence; (iii) the seriousness of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable.” *Id.* at *7.

IV. ARGUMENT

A. The Materials Plaintiffs Seek Are Pre-Decisional, Unfinished Work Product

Plaintiffs’ Request for Production No. 6 seeks “[a]ll documents relating to the development, creation, revision, or purpose of previous drafts of the S.B. 927 plans.” Herrera Decl., Ex. A, ECF No. 94-2 at 18. “Draft maps” in the redistricting context typically refer to completed, alternate versions of a challenged map—created by defendants, plaintiffs, or others—that Plaintiffs can point to as a reasonable alternative that would support their claims of vote dilution. For instance, Plaintiffs cite to *Luna v. County of Kern*, which addressed completed alternate map “options.” 291 F. Supp. 3d 1088, 1105-06 (E.D. Cal. 2018) (explaining that a Voting Rights § 2 plaintiff must “postulate a reasonable alternative voting practice to serve as the

benchmark ‘undiluted’ voting practice”) (citations omitted). Typically, it is plaintiffs who “present illustrative redistricting plans as evidence of vote dilution” because their burden of demonstrating a constitutional alternative often involves “the creation of hypothetical districts.”⁶ *Id.* at 1106 (citations omitted).

In the present case, Plaintiffs have not presented any alternative proposals to the August Map—neither currently nor during the deliberative process, of which they were a part. Defendants only created two such complete, alternate versions of the August Map, and have produced those maps along with the corresponding shape files and block equivalency files. To the extent community groups or other witnesses submitted proposed alternate maps to the General Assembly, Defendants have also made those available to Plaintiffs.

The materials Plaintiffs seek are not completed maps that could serve as constitutional alternatives and therefore help Plaintiffs prove their Voting Rights Act § 2 claims, as described above. Rather, they seek production of the legislative staffers’ work product—presuming the staffers created a step-by-step guide that will show how they arrived at a complete draft August Map. As Defendants described them to Plaintiffs during their conferral, they are:

[C]opies of the under-development, incomplete map document each time the user hits ‘save.’ So every time the group left for lunch, left for the night, etc., and hit ‘save’ there is a work-product-protected, incomplete, partially drawn version of the map that became would later become what was filed as Senate Bill 927. They are pre-decisional, non-factual documents prepared by or in consultation with legislators that contain opinion (not facts), recommendations, or potential advice about the development of policies or possible legislation (ie, the redistricting plan).

⁶ Plaintiffs’ suggestion that the *Luna* court considered the government-created “options” maps under *Thornburg v. Gingles*, 478 U.S. 30 (1986), is incorrect. *See* Mot. at 7. In discussing *Gingles*, the court considered *plaintiffs’* proposed alternative maps. *See Luna*, 291 F. Supp. 3d at 1105-1123 (evaluating “Illustrative Map 1” and “Illustrative Map 2” developed by plaintiffs’ “demography expert, David R. Ely”).

Herrera Decl., Ex. B, ECF No. 94-2 at 32. Using a judicial opinion as an analogy, producing these materials would be the same as producing the version of the opinion after the “Introduction” was written, and then another version once the “Factual Background” had been added, and so on, all before a judge had made a final decision as to the holding. These materials are privileged because they represent legislative work product, they inherently contain the authors’ opinions (or such opinions can be deduced therefrom), because better and copious evidence of the legislative process exists and has been produced, and because disclosure would have a chilling effect on this necessary legislative process.

B. Legislative Privilege Protects the Materials Plaintiffs Seek

Committee for a Fair & Balanced Map, 2011 WL 4837508, is a decision of the three-judge panel of this Court which adjudicated challenges to Illinois’s 2011 redistricting map (passed following the 2010 Census). *Committee for a Fair & Balanced Map* is directly on point because the plaintiffs there brought similar claims pleaded in Plaintiffs’ Second Amended Complaint, and the court considered whether the legislative privilege protected the same type of evidence at issue in this Motion, namely, “any draft drawings of any Districts of the 2011 Map” and “data files and drafts of data files used to formulate the composition of Districts” *Id.* at *2 n.2. Though cited heavily in Plaintiffs’ Motion, the case supports Defendants’ position, as it explicitly holds that the draft drawings, as well as “a plethora of documents concerning the planning, development, negotiation, and drawing of the 2011 [legislative redistricting] Map” were protected by legislative privilege. *Id.* at *2, *11 & n.11.

The *Committee for a Fair & Balanced Map* court engaged in a thorough analysis of the five factors to determine whether legislative privilege protected the materials: “(i) the relevance of the evidence sought; (ii) the availability of other evidence; (iii) the seriousness of the litigation and

the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable.” *Id.* at *7. Although the second and third factors weighed in favor of disclosure, *id.* at *8, the court held that the remaining factors dictated that legislative privilege protected the materials.

Specifically, the court considered the relevance of the evidence sought in conjunction with the availability of other evidence. *Id.* at *8. Though the materials at issue had some relevance to the plaintiffs’ claims, the Court explained that the evidence, which the plaintiffs sought to prove “the individual motives and objectives of those who drafted the 2011 Map,” was “not critical to the outcome of the case.” *Id.* at *4. Rather, “the most important events [] are those undertaken by the legislative body, such as public hearings, committee meetings and floor debates.” *Id.* Because the plaintiffs already had this and “considerable other information at their fingertips, [] includ[ing] public hearing minutes, special interest group position papers, statements made by lawmakers during debate, committee reports, press releases, newspaper articles, census reports, registered voter data and election returns” the first and second factors weighed in favor of applying the privilege. *Id.* at *8.

The court then found that the fifth factor favored the privilege because disclosure would cause future timidity by government employees. Like here, the materials at issue were “likely to contain the motives, impressions, and/or opinions of those responsible for drafting the 2011 Map.” *Id.* at *3. The court explained that disclosure of such materials would “discourage earnest discussion within government walls,” and rejected the plaintiffs’ position that the infrequency of redistricting cut against the legislative privilege. *Id.* at *8-9. To the contrary, “in the redistricting context, full public disclosure would hinder the ability of party leaders to synthesize competing interests of constituents, special interest groups and lawmakers, and draw a map that has enough

support to become law.” *Id.* at *9. The privilege was therefore necessary because “the need for confidentiality between lawmakers and their staff is of utmost importance. Legislators face competing demands from constituents, lobbyists, party leaders, special interest groups and others. They must be able to confer with one another without fear of public disclosure.”⁷ *Id.* at *8.

The evidence Plaintiffs seek in with this Motion is unquestionably protected by legislative privilege under *Committee for a Fair & Balance Map*. As discussed above, that case was decided during the most recent redistricting in Illinois, and the Court considered the privilege’s application to the *same type of evidence* in a case that brought *the same claims* as do Plaintiffs here. Like they did in 2011, the first, second, and fifth factors dictate that the materials at issue are protected by legislative privilege.

Regarding the first and second factors—relevance and the availability of other evidence—the same circumstances exist in this case as in *Committee for a Fair & Balance Map*: (i) the draft drawings of the August Map contain and would reveal “the individual motives and objectives of those who drafted the [August] Map, *id.* at *4; (ii) the “most important” evidence of the legislative process are “the public hearings, committee meetings and floor debates,” *id.*; and (iii) Defendants have already produced or provided access to all such evidence and more, including all data and facts used to create the August Map, *id.* at *8. *See also supra* at 5-6 (listing Defendants’ productions). Because Plaintiffs have the best available evidence to prove their claims, and plenty of it, the first and second factors weigh in favor of applying the privilege.⁸

⁷ The Court’s order also sustained the objection to, for example, Plaintiff’s request No. 2, which asked for “[a]ll Documents, including, but not limited to, reports, analyses, election results or other election data, and Communications pertaining or relating to the planning, development, negotiation, drawing, revision or re-drawing of the Proposed Congressional Plan.” *See id.* at 2 n.2.

⁸ Much of the work product Plaintiffs request is not relevant at all because it does not relate to the seven districts they now challenge in the Second Amended Complaint. *See* ECF No. 98 ¶¶ 76-98.

The fifth factor also weighs strongly in favor of the privilege. Should this Court reverse course from the 2011 *Committee for a Fair & Balanced Map* decision, legislators and their staff will be “forced to recognize that their secrets are violable.” *Id.* at *7. Knowledge that any work product might be discoverable—no matter how preliminary, incomplete, incorrect, or subject to input it may be—would chill legislative staffers’ willingness to save their work along the way. But map drawing requires trial and error to achieve the ideal population for each district, and redrawing a single district line can cause demographic shifts and affect multiple communities of interest or minority groups. Those adjustments are necessary means to an end, and indeed, most changes are not incorporated into the final map. As the *Committee for a Fair & Balanced Map* court recognized, redistricting legislators and staffers’ work product must be protected if they are to “synthesize competing interests of constituents, special interest groups and lawmakers, and draw a map that has enough support to become law.” *Id.* at *9. Any contrary ruling would create timidity by government employees not only during future redistricting, but in their current, ongoing Congressional redistricting efforts. The Court should find, consistent with its precedent, that the legislative work product at issue here is protected by legislative privilege, and deny the Motion.⁹

V. CONCLUSION

Defendants respectfully request that the Court deny Plaintiffs’ Motion in its entirety.

⁹ The other cases Plaintiffs rely on are distinguishable on important grounds. *See* Mot. at 7. Neither opinion from *Perez v. Abbott* were motions to compel, there is no indication there was ever any dispute over the production of any draft maps, and there is no mention of legislative privilege. *See Perez v. Abbott*, 250 F. Supp. 3d 123 (W.D. Tex. 2017); *Perez v. Abbott*, No. 11-cv-360, 2017 WL 1406379, at *35 (W.D. Tex. Apr. 20, 2017). The same in true of *Luna*, 291 F. Supp. 3d 1088, which was a final determination after a bench trial (not a motion to compel) in which draft maps were already in the findings of fact. Importantly, unlike here, the draft maps were complete, alternate map “options” most of which had been created during public workshops, thereby undercutting any claim to privilege (had it been raised). *Id.* at 1101–05.

Dated: October 5, 2021

Respectfully submitted,

/s/ Sean Berkowitz

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OFFICE OF THE PRESIDENT OF THE
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Defendants.

Case No. 1:21-cv-3139

Circuit Judge Michael B. Brennan
Chief Judge Jon E. DeGuilio
Judge Robert M. Dow, Jr.,
Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

**DECLARATION OF ELIZABETH H.
YANDELL IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO
COMPEL**

I, Elizabeth H. Yandell, declare as follows:

1. I am an attorney with the law firm of Latham & Watkins LLP, counsel of record for Defendants Harmon and the Office of the President in the above-captioned matter. I am licensed to practice law in the State of California. I submit this Declaration in Support of Defendants' Opposition to Plaintiffs' Motion to Compel. I have personal knowledge of the information set forth below and, if called as a witness in a court of law, could and would testify competently thereto.

2. Attached hereto as Exhibit A is a true and correct copy of Defendants' Supplemental Responses and Objections to Plaintiffs' Second Set of Requests for Production, dated September 22, 2021, and served September 23, 2021.

3. Attached hereto as Exhibit B is a true and correct copy of Defendants' Supplemental Objections and Responses to Plaintiffs' Second Set of Interrogatories, dated September 22, 2021, and served September 23, 2021.

4. Attached hereto as Exhibit C is a true and correct copy of an email exchange between counsel of record, beginning with an email dated September 20, 2021, and concluding with an email dated September 22, 2021.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 5, 2021, in San Francisco County, California.



Elizabeth H. Yandell

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
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WELCH, in his official capacity as Speaker of the
Illinois House of Representatives, and the OFFICE
OF THE SPEAKER OF THE ILLINOIS HOUSE
OF REPRESENTATIVES,

Defendants.

**DEFENDANTS' SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
PLAINTIFFS' SECOND SET OF REQUESTS FOR PRODUCTION**

PROPOUNDING PARTY: Julie Contreras, et al.

RESPONDING PARTY: Emanuel Christopher Welch, Office of the Speaker of the
Illinois House of Representatives, Don Harmon, Office of
the President of the Illinois Senate

SET NUMBER: Two (Nos. 1-25)

PRELIMINARY STATEMENT

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendants Don Harmon, in his official capacity as President of the Illinois Senate, the Office of the President of the Illinois Senate, Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, and the Office of the Speaker of the Illinois House of Representatives (“Defendants”), by and through their counsel, hereby submit the following supplemental responses and objections to Plaintiffs Second Set of Requests for Production, dated September 13, 2021.

The responses set forth below are based upon a reasonable and diligent search of the information and documents presently in the possession of Defendants, and except for explicit acts stated herein, no incidental or implied admissions are intended. These responses are provided without prejudice to Defendants’ right to modify, amend or supplement these responses if additional facts or information come to its attention in the course of Defendants’ continuing investigation. This reservation, however, is not to be construed as an undertaking by Defendants of an affirmative duty to change or supplement these responses, except as otherwise required by law or the Federal Rules of Civil Procedure. The fact that Defendants have responded to one or more of the Requests is not intended and shall not be construed as a waiver of all or any part of any objection to any such Request. By making these responses, Defendants do not concede that the information sought is relevant or reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTIONS

1. Defendants object to the definitions and instructions set forth in the Requests on the grounds that those definitions and instructions call for a legal conclusion or purport to impose

obligations on Defendants that exceed the obligations imposed upon a responding party under the Federal Rules of Civil Procedure and/or other applicable law.

2. Defendants further object to the Requests on the grounds that they seek information protected from disclosure by the attorney-client privilege, the work-product doctrine, legislative privilege, the common interest privilege, the protections afforded by Federal Rule of Civil Procedure 26(b)(4)(B) and/or any other applicable privilege, doctrine or protection.

3. Defendants further object to the Requests on the grounds that they are unduly burdensome, vague, ambiguous and/or incapable of reasonable ascertainment.

4. Defendants further object to the Requests on the grounds that they are overly broad, seek information not reasonably limited in time or scope and/or would require undue expense to answer.

5. Defendants further object to the Requests on the grounds that they seek information that is not relevant to the claims pleaded in the currently operative First Amended Complaint or the defense of any party, is not reasonably calculated to lead to the discovery of admissible evidence, and/or would not be admissible at trial.

6. Defendants further object to the Requests on the grounds that they assume facts not in evidence and/or facts that do not exist or are otherwise incorrect.

7. Defendants further object to the Requests on the grounds that they seek information which is equally available to Plaintiffs in the public domain or available from sources other than Defendants, or that is equally available to or already in the possession, custody or control of Plaintiffs or their attorneys and for which the burden on Plaintiffs to obtain the information is no greater than the burden on Defendants.

8. Defendants further object to the Requests on the grounds that they are cumulative and/or duplicative.

9. Defendants further object to the Requests on the grounds that they seek information and identification of facts not in the possession, custody or control of Defendants and/or in the possession, custody or control of non-parties.

10. Defendants further object to the Requests on the grounds that they seek the confidential information of third parties that Defendants is under an obligation to not disclose.

11. Defendants further object to the Requests on the grounds that they purport to require production of “all” documents under circumstances in which a subset of all documents would be sufficient to show the relevant information, on the grounds that such requests for production of “all” documents are overbroad, unduly burdensome, and not proportional to the needs of the case. Defendants cannot, and do not, represent that they will or can locate and produce “all” requested documents following a reasonable search for responsive documents in their possession, custody or control.

12. Defendants interpret each Request as intending to exclude from its scope correspondence between Defendants’ personnel or representatives and their counsel. If this interpretation is not correct, Defendants object to identifying and/or producing such correspondence on the grounds of the attorney-client privilege, attorney work product, and that such identification or production is not reasonably likely to lead to the discovery of admissible evidence and poses undue burden and expense.

13. Defendants further object to the Requests on the grounds that they seek confidential information. Such information, to the extent it is not privileged or otherwise objectionable, will be provided pursuant to protective order.

14. No response to these Requests by Defendants shall be deemed to constitute any agreement or concession that the subject matter thereof is relevant to this action, and any information provided by Defendants shall be made without in any way waiving or intending to waive any objection thereto, including but not limited to relevance, privilege or admissibility.

15. Any response stating that Defendants will produce responsive documents does not indicate that such documents in fact exist but only that Defendants will produce—subject to and without waiving its other objections—such non-privileged, non-work product documents in their possession, custody, and/or control as may be located after a reasonable, good faith search, without undue burden, and in accordance with the response.

16. Defendants assume that any reference to “redistricting” refers to (i) redistricting of Illinois state Legislative and Representative Districts, and not federal Congressional redistricting; and (ii) the redistricting process related to the amendment of Public Act 102-0010 that was passed by the General Assembly on August 31, 2021 as Senate Bill 927.

17. Defendants object to the extent that any Request does not relate to any claim or allegation in the currently operative First Amended Complaint or defense thereto, is being used to investigate and develop claims and allegations for Plaintiffs’ forthcoming Second Amended Complaint, and/or does not relate to any claim or allegation in Plaintiffs’ forthcoming Second Amended Complaint or any defense thereto.

18. Defendants expressly reserves the right to modify, amend or supplement their responses to the Requests, including expressly in response to Plaintiffs’ expected forthcoming Second Amended Complaint.

19. Defendants object to the extent any request seeks “election results” because such results are publically available and therefore equally available to all parties, and will, pursuant to

the parties' September 22, 2021 meet and confer, respond to such requests by identifying the relevant elections.

20. Any response, objection, or production made in these supplemental responses relates only to the list of priority districts identified by Plaintiffs on September 22, 2021.

21. Each of the foregoing General Objections shall be deemed to apply to Defendants' specific objections and responses set forth below, notwithstanding the fact that Defendants have responded to all or part of any Request.

OBJECTIONS TO DEFINITIONS

1. Defendants object to each paragraph of the "Definitions" section to the extent the definitions purportedly set forth therein would: (a) expand the definition of a term beyond its ordinary use in the English language; (b) create an undue burden for Defendants when propounding their responses and objections to the Interrogatories; and/or (c) impose obligations on Defendants that exceed, or are inconsistent with, the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules of the Northern District of Illinois, or other applicable law.

2. Defendants object to the defined term "AGENT" as overbroad, vague, and ambiguous.

3. Defendants object to the definition of "DOCUMENT" to the extent it calls for the production of any information subject to any privilege, including the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also objects to the extent it requires the production of unduly burdensome discovery or items that are not reasonably calculated to lead to discovery of matter that is relevant to any party's claim or defense. Defendant further objects to the extent it

seeks information outside of Defendants' "control" as defined by the Federal Rules and relevant case law.

4. Defendants object to the definition of "DATASET" as overbroad, unduly burdensome, seeking information that is irrelevant to the subject matter at issue in this case, and not reasonably calculated to lead to discovery of matter that is relevant to any party's claim or defense, including because it is not limited to certain years or types of information.

5. Defendants object to the defined term "S.B. 927 PLANS" as incorrect because Senate Bill 927 was passed by a majority of both chambers of the Illinois General Assembly on August 31, 2021.

RESPONSES AND SPECIFIC OBJECTIONS

REQUEST NO. 1:

Any and all documents referenced, described, or identified by you in your disclosures under Federal Rules of Civil Procedure, Rule 26, if they have not already been produced.

RESPONSE TO REQUEST NO. 1:

Defendants object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to the Defendants' Rule 26 disclosures that were made in reference to Plaintiffs' previous complaint, fact discovery on which has closed. To the extent that this Request refers to initial disclosures that might be amended in response to any forthcoming second amended complaint, Defendants object to this Request as premature. Subject to and without waiving the foregoing objections, and in addition to prior productions of relevant documents, Defendants provide publicly

available links (due to the volume of materials) to the following materials related to the creation and passage of Senate Bill 927:

- 2020 Census (P.L. 94-171) Redistricting Data (https://www2.census.gov/programs-surveys/decennial/2020/data/01-Redistricting_File--PL_94-171/Illinois/)
- Senate Bill 927 (<https://ilga.gov/legislation/102/SB/PDF/10200SB0927lv.pdf>)
- House Resolution 443 (<https://ilga.gov/legislation/102/HR/PDF/10200HR0443lv.pdf>)
- Senate Resolution 3 of the 1st Special Session of the 102nd General Assembly (<https://ilga.gov/legislation/102/SR/PDF/10201SR0003lv.pdf>)
- Transcript of House Floor Debate on Senate Bill 927 and House Resolution 443 (<https://ilga.gov/house/transcripts/htrans102/10201001.pdf>)
- Transcripts of House Redistricting Committee Hearings (<https://ilga.gov/house/committees/RedistrictingHearingsTranscripts.asp?CommitteeID=2800&Description=Redistricting%20Committee&Code=HRED&GA=102>)
- Transcripts of Senate Redistricting Committee Hearings (<https://ilga.gov/senate/committees/RedistrictingTranscripts.asp?CommitteeID=2742&Description=Redistricting&Code=SRED&GA=102>)
- House Redistricting Plan Data Matrix (<https://ilhousedems.com/redistricting/wp-content/uploads/2021/08/House-data.pdf>)
- Senate Redistricting Plan Data Matrix (https://www.ilsenateredistricting.com/images/Matrix_For_Online_Data_Alone_-_3_08312021.pdf)
- Written testimony submitted to the House Redistricting Committee (<https://ilga.gov/house/committees/Redistricting%20Hearings.asp?CommitteeID=2800&Description=Redistricting%20Committee&Code=HRED&GA=102>)
- Written testimony submitted to the Senate Redistricting Committee (<https://ilga.gov/senate/committees/Redistricting%20Hearings.asp?CommitteeID=2742&Description=Redistricting&Code=SRED&GA=102>)

Defendants further agree to produce audio recordings, and/or transcripts where applicable, of the General Assembly's hearings and debates related to the August Map, and documents submitted by witnesses, when available.

REQUEST NO. 2:

Any and all documents referenced, identified, or described by you in response to Plaintiffs' second set of interrogatories.

RESPONSE TO REQUEST NO. 2:

Defendants incorporate their objections to Plaintiffs' Second Set of Interrogatories, served September 20, 2021. Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it is duplicative of other Requests.

Subject to and without waiving any foregoing objections, Defendants provide the following supplemental response: there are no documents responsive to this Request.

REQUEST NO. 3:

Any and all datasets, studies, or analyses you identify in response to Interrogatory No. 1.

RESPONSE TO REQUEST NO. 3:

Defendants incorporate their objections to Plaintiffs' Interrogatory No. 1, served September 20, 2021. Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the

attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it is duplicative of other Requests, including Request No. 2.

Subject to and without waiving any foregoing objections, Defendants provide the following supplemental response: there are no documents responsive to this Request.

REQUEST NO. 4:

Any and all datasets, studies, or analyses you identify in response to Interrogatory No. 3.

RESPONSE TO REQUEST NO. 4:

Defendants incorporate their objections to Plaintiffs' Interrogatory No. 3, served September 20, 2021. Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence.

Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it is duplicative of other Requests, including Request No. 2.

Subject to and without waiving any foregoing objections, Defendants provide the following supplemental response: there are no documents responsive to this Request.

REQUEST NO. 5:

All documents relating to the development, creation, revision, or purpose of the S.B. 927 plans.

RESPONSE TO REQUEST NO. 5:

Defendants object to this Request as overbroad and unduly burdensome for requesting “all” documents when a subset would be sufficient. Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to this Request as not relevant to any currently pleaded claims and therefore, as not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request as premature. To the extent that Plaintiffs file a second amended complaint, to which information responsive to this Request would be relevant, Defendants are willing to meet and confer at that time regarding a supplemental response. Subject to and without waiving the foregoing objections, Defendants respond that they have already produced documents relevant to this Request, the 2020 census geography data, voter registration data from the Illinois Board of Elections, and the shape files and block equivalency files for Senate Bill 927. Defendant further respond with publicly available links (due to volume) to the following responsive materials:

- 2020 Census (P.L. 94-171) Redistricting Data (https://www2.census.gov/programs-surveys/decennial/2020/data/01-Redistricting_File--PL_94-171/Illinois/)
- Senate Bill 927 (<https://ilga.gov/legislation/102/SB/PDF/10200SB0927lv.pdf>)
- House Resolution 443 (<https://ilga.gov/legislation/102/HR/PDF/10200HR0443lv.pdf>)
- Senate Resolution 3 of the 1st Special Session of the 102nd General Assembly (<https://ilga.gov/legislation/102/SR/PDF/10201SR0003lv.pdf>)
- Transcript of House Floor Debate on Senate Bill 927 and House Resolution 443 (<https://ilga.gov/house/transcripts/htrans102/10201001.pdf>)
- Transcripts of House Redistricting Committee Hearings (<https://ilga.gov/house/committees/RedistrictingHearingsTranscripts.asp?CommitteeID=2800&Description=Redistricting%20Committee&Code=HRED&GA=102>)

- Transcripts of Senate Redistricting Committee Hearings (<https://ilga.gov/senate/committees/RedistrictingTranscripts.asp?CommitteeID=2742&Description=Redistricting&Code=SRED&GA=102>)
- House Redistricting Plan Data Matrix (<https://ilhousedems.com/redistricting/wp-content/uploads/2021/08/House-data.pdf>)
- Senate Redistricting Plan Data Matrix (https://www.ilsenateredistricting.com/images/Matrix_For_Online_Data_Alone_-_3_08312021.pdf)
- Written testimony submitted to the House Redistricting Committee (<https://ilga.gov/house/committees/Redistricting%20Hearings.asp?CommitteeID=2800&Description=Redistricting%20Committee&Code=HRED&GA=102>)
- Written testimony submitted to the Senate Redistricting Committee (<https://ilga.gov/senate/committees/Redistricting%20Hearings.asp?CommitteeID=2742&Description=Redistricting&Code=SRED&GA=102>)

Defendants further agree to produce audio recordings, and/or transcripts where applicable, of the General Assembly's hearings and debates related to the August Map, and documents submitted by witnesses, when available.

REQUEST NO. 6:

All documents relating to the development, creation, revision, or purpose of previous drafts of the S.B. 927 plans.

RESPONSE TO REQUEST NO. 6:

Defendants object to this as not relevant to any pleaded claims or reasonably calculated to lead to the discovery of admissible evidence to the extent it requests materials related to “drafts” of Senate Bill 927. Defendants further object to this request as overbroad and unduly burdensome, including because it requests “all” documents. Defendants also object to this Request on the grounds that it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. To the extent that Plaintiffs’ file a second amended complaint, to which

information responsive to this Request would be relevant, Defendants are willing to meet and confer at that time regarding a supplemental response.

REQUEST NO. 7:

All documents or datasets relating to the demographic composition of each district.

RESPONSE TO REQUEST NO. 7:

Defendants object to this Request overbroad and unduly burdensome to the extent it seeks “all” documents or datasets related to “each” district, when Plaintiffs claims, if any, will be district-specific. Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to the extent that much of the requested information is publicly available. Subject to and without waiving the foregoing objections, Defendants respond that they have already produced documents responsive to this Request, including: the 2020 Census Bureau geography data, and the shape files and block equivalency files for Senate Bill 927. Defendants additionally identify the following materials which are responsive to this Request:

- 2020 Census (P.L. 94-171) Redistricting Data as responsive to this Request (https://www2.census.gov/programs-surveys/decennial/2020/data/01-Redistricting_File--PL_94-171/Illinois/).
- Senate Bill 927 (<https://ilga.gov/legislation/102/SB/PDF/10200SB0927lv.pdf>)
- House Resolution 443 (<https://ilga.gov/legislation/102/HR/PDF/10200HR0443lv.pdf>)
- Senate Resolution 3 of the 1st Special Session of the 102nd General Assembly (<https://ilga.gov/legislation/102/SR/PDF/10201SR0003lv.pdf>)

REQUEST NO. 8:

All documents or datasets relating to the partisan composition of each district.

RESPONSE TO REQUEST NO. 8:

Defendants object to this Request overbroad and unduly burdensome to the extent it seeks “all” documents or datasets related to “each” district, when Plaintiffs claims, if any, will be district-specific. Defendants also object to this Request on the grounds that it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to the extent that much of the requested information is publicly available. Defendants also object to this Request because it calls for materials that could relate only to a partisan gerrymandering claim that is not judicable in federal court.

REQUEST NO. 9:

All documents relating to datasets used, considered, evaluated or consulted in the creation, development, negotiation, or evaluation of the S.B. 927 plans, previous versions of the S.B. 927 plans, or other legislative redistricting plans not ultimately passed or enacted, including but not limited to documents relating to election data, or data relating to partisan affiliation or voting history.

RESPONSE TO REQUEST NO. 9:

Defendants incorporate their objections to Requests Nos. 5 and 6, and object to this Request as duplicative of Requests Nos. 5 and 6. Defendants further object to this Request to the extent it calls for materials that could relate only to a partisan gerrymandering claim that is not judicable in federal court. Defendants direct Plaintiffs to their response to Requests Nos. 5 and 6 in response to this Request.

REQUEST NO. 10:

All documents relating to the retention of demographers or other individuals for purposes of creating the S.B. 927 plans.

RESPONSE TO REQUEST NO. 10:

Defendants object to this Request to the extent that it seeks information or material that is overly broad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence.

Defendants also object to this Request because it calls for information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving the foregoing objections, Defendants respond that they have already produced documents relevant to this Request in previous productions. Subject to and without waiving the foregoing objections, Defendants agree to produce outstanding documents responsive to this Request that are within Defendants' possession, custody, or control, not privileged, and the production of which does not create an undue burden.

REQUEST NO. 11:

All documents relating to programs or software used for purposes of creating the S.B. 927 plans.

RESPONSE TO REQUEST NO. 11:

Defendants object to this Request to the extent that it seeks information or material that is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request on the grounds that it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Subject to and

without waiving the foregoing objections, Defendants respond that the software used in performing the map drawing process was AutoBound EDGE 2020, but because of licensing and ownership restrictions, Defendants cannot provide a copy of the actual software.

REQUEST NO. 12:

All documents relating to the potential or actual criteria, including but not limited to traditional redistricting criteria, used, or considered to guide the creation of the S.B. 927 plans.

RESPONSE TO REQUEST NO. 12:

Defendants object to this Request to the extent it calls for legal conclusions. Defendants object to this Request to the extent that it overbroad and unduly burdensome, and to the extent it seeks material not reasonably calculated to lead to the discovery of admissible evidence.

Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to this request on the grounds that it is vague, ambiguous, and undefined, including as to the terms and phrases “traditional redistricting criteria.” Subject to and without waiving the foregoing objections, Defendants direct Plaintiffs to their response to Request No. 5, which provides links to materials responsive to this Request, including Senate Bill 927 and the related Resolutions, which contain the requested information.

REQUEST NO. 13:

All documents relating to the potential or actual use of all community feedback from Redistricting Committee public hearings in the S.B. 927 plans.

RESPONSE TO REQUEST NO. 13:

Defendants object to this Request as overbroad and unduly burdensome to the extent it seeks “all” documents, and as not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Subject to and without waiving the foregoing objections, Defendants direct Plaintiffs to their response to Request No. 5, which provides links to materials responsive to this Request.

REQUEST NO. 14:

All documents relating to the person(s) responsible for developing and implementing redistricting standards, practices, or protocols for drawing the S.B. 927 plans.

RESPONSE TO REQUEST NO. 14:

Defendants object to this Request to the extent it calls for legal conclusions. Defendants object to this Request overbroad and unduly burdensome, as not relevant to the claim or defense of any party, and as not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request because it seeks information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Defendants further object to this request on the grounds that it is vague, ambiguous, and undefined, including as to the terms and phrases “responsible for developing” and “implementing.” Subject to and without waiving the foregoing objections, Defendants respond that they are willing to meet and confer regarding the meaning of this Request and what documents would be responsive to it.

REQUEST NO. 15:

All documents relating to the 2021 redistricting process and the Latino population in Illinois from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 15:

Defendants object to this Request as overbroad and unduly burdensome, as not relevant to the claim or defense of any party, and as not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to the extent that some of the requested information is publicly available and is therefore equally available to both parties. Subject to and without waiving the foregoing objections, Defendants respond that they have already produced documents relevant to this Request, including: 2020 Census Bureau geography data, and the shape files and block equivalency files for Senate Bill 927. Subject to and without waiving the foregoing objections, Defendants direct Plaintiffs to their response to Request No. 5, which provides publicly available links to materials responsive to this request, including specifically the 2020 Census (P.L. 94-171) Redistricting Data, available at https://www2.census.gov/programs-surveys/decennial/2020/data/01-Redistricting_File--PL_94-171/Illinois/.

REQUEST NO. 16:

All documents relating to communications between you and Kimball Brace concerning the 2021 redistricting process from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 16:

Defendants object to the Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants object to this Request overbroad as to scope and time, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the phrase “documents relating to communications” as vague and ambiguous.

Subject to and without waiving any foregoing objections, Defendants agree to produce non-privileged documents in their possession, custody, or control in response to this Request that are relevant to the August Map.

REQUEST NO. 17:

All documents relating to communications between you and Allan Lichtman, concerning the 2021 redistricting process from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 17:

Defendants object to the Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants object to this Request overbroad as to scope and time, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the phrase “documents relating to communications” as vague and ambiguous.

Subject to and without waiving any foregoing objections, Defendants agree to produce non-privileged documents in their possession, custody, or control in response to this Request that are relevant to the August Map.

REQUEST NO. 18:

All documents relating to communications between you and Senator Steven M. Landek, relating to the 2021 redistricting process from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 18:

Defendants object to this Request overbroad as to scope and time, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the Request because it seeks information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Defendants further object to the phrase “documents relating to communications” as vague and ambiguous.

Subject to and without waiving any foregoing objections, Defendants agree to produce non-privileged documents in their possession, custody, or control in response to this Request that are relevant to the August Map.

REQUEST NO. 19:

All documents relating to communications between you and Senator Omar Aquino, relating to the 2021 redistricting process from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 19:

Defendants object to this Request overbroad as to scope and time, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the Request because it seeks information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Defendants further object to the phrase “documents relating to communications” as vague and ambiguous.

Subject to and without waiving any foregoing objections, Defendants agree to produce non-privileged documents in their possession, custody, or control in response to this Request that are relevant to the August Map.

REQUEST NO. 20:

All documents relating to communications between you and Representative Edgar Gonzalez, relating to the 2021 redistricting process from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 20:

Defendants object to this Request overbroad as to scope and time, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the Request because it seeks information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Defendants further object to the phrase “documents relating to communications” as vague and ambiguous.

Subject to and without waiving any foregoing objections, Defendants agree to produce non-privileged documents in their possession, custody, or control in response to this Request that are relevant to the August Map.

REQUEST NO. 21:

All documents relating to communications between you and Representative Aaron M. Ortiz, relating to the 2021 redistricting process from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 21:

Defendants object to this Request overbroad as to scope and time, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the Request because it seeks information protected by legislative privilege, and

to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Defendants further object to the phrase “documents relating to communications” as vague and ambiguous.

Subject to and without waiving any foregoing objections, Defendants agree to produce non-privileged documents in their possession, custody, or control in response to this Request that are relevant to the August Map.

REQUEST NO. 22:

All documents relating to communications between you and Representative Michael J. Zalewski, relating to the 2021 redistricting process from January 1, 2021 to the present.

RESPONSE TO REQUEST NO. 22:

Defendants object to this Request overbroad as to scope and time, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to the Request because it seeks information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Defendants further object to the phrase “documents relating to communications” as vague and ambiguous.

Subject to and without waiving any foregoing objections, Defendants agree to produce non-privileged documents in their possession, custody, or control in response to this Request that are relevant to the August Map.

REQUEST NO. 23:

All documents relating to precinct-level voter registration Spanish-surname, demographic and ethnic data as of each Illinois election from 2012 to the present.

RESPONSE TO REQUEST NO. 23:

Defendants object to this request as overbroad and unduly burdensome, including to the extent it seeks “all” documents related to “each” district, which Plaintiffs claims, if any, would be district-specific. Defendants further object to this request on the grounds that it is vague, ambiguous, and undefined, including as to the meaning and scope of the phrase “Spanish-surname.” Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object because it is not relevant to any currently pleaded claim. To the extent that Plaintiffs file a second amended complaint, to which information responsive to this Request would be relevant, Defendants are willing to meet and confer at that time regarding a supplemental response.

Subject to and without waiving any foregoing objections, Defendants provide the following supplemental response: there are no documents responsive to this Request.

REQUEST NO. 24:

All documents from January 1, 2021, to the present, relating to precinct-level voter registration Spanish-surname, demographic and ethnic data as of each Illinois election from 2012 to the present that Allan Lichtman or Kimball Brace used to analyze racially polarized voting.

RESPONSE TO REQUEST NO. 24:

Defendants object to the Request as duplicative of Request No. 23, and incorporate their objections to Request No. 23. Defendants further object to this Request as vague and ambiguous, including as to the undefined term “racially polarized voting.”

Subject to and without waiving any foregoing objections, Defendants provide the following supplemental response: Defendants agree to inquire with Allan Lichtman regarding whether documents responsive to this Request are in his possession, custody, or control, and

produce those documents, to the extent they exist, are not subject to privilege or other protection, and are relevant to the August Map. Kimball Brace has not performed any racially polarized voting analysis on behalf of Defendants and therefore will not be in possession of any responsive documents.

REQUEST NO. 25:

All documents and data relating to election precinct geography for every Illinois election from the 2012 primary to the present.

RESPONSE TO REQUEST NO. 25:

Defendants object to the Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to this Request as overbroad and unduly burdensome including to the extent it seeks “all” documents and data for every Illinois election since 2012, and to the extent it does not tailor its request to those used to create Senate Bill 927. Defendants also object to the extent this Request is not relevant to the claim or defense of any party, and/or reasonably calculated to lead to the discovery of admissible evidence. To the extent that Plaintiffs file a second amended complaint, to which information responsive to this Request would be relevant, Defendants are willing to meet and confer at that time regarding a supplemental response related to the specific districts challenged therein.

Subject to and without waiving any foregoing objections, Defendants agree to produce documents responsive to this Request that are in their possession, custody, and control and which are relevant to the August Map. Defendants further agree to inquire with Allan Lichtman regarding whether additional responsive documents that relate to the August Map are in his

possession, custody, or control and to produce such documents to the extent they are not subject to privilege or other protection.

Dated: September 22, 2021

Respectfully submitted,
/s/ Adam R. Vaught

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EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA,
and ROSE TORRES,

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K.
LINNABARY, WILLIAM J. CADIGAN,
LAURA K. DONAHUE, WILLIAM R. HAINE,
WILLIAM M. MCGUFFAGE, KATHERINE S.
O'BRIEN, and CASANDRA B. WATSON in
their official capacities as members of the
Illinois State Board of Elections, DON
HARMON, in his official capacity as President
of the Illinois Senate, and THE OFFICE OF
THE PRESIDENT OF THE ILLINOIS
SENATE, EMANUEL CHRISTOPHER
WELCH, in his official capacity as Speaker of
the Illinois House of Representatives, and the
OFFICE OF THE SPEAKER OF THE
ILLINOIS HOUSE OF REPRESENTATIVES,

Defendants.

Case No. 1:21-CV-03139

Circuit Judge Michael B. Brennan
Chief Judge Jon E. DeGuilio
Judge Robert M. Dow, Jr.,
Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

**DEFENDANTS' SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
PLAINTIFFS' SECOND SET OF INTERROGATORIES**

PROPOUNDING PARTY: Julie Contreras, et al.

RESPONDING PARTY: Emanuel Christopher Welch, Office of the Speaker of the
Illinois House of Representatives, Don Harmon, Office of
the President of the Illinois Senate

SET NUMBER: Two (Nos. 1-5)

PRELIMINARY STATEMENT

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendants Don Harmon, in his official capacity as President of the Illinois Senate, the Office of the President of the Illinois Senate, Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, and the Office of the Speaker of the Illinois House of Representatives (“Defendants”), by and through their counsel, hereby submit the following supplemental responses and objections to Plaintiffs’ Julie Contreras, Irvin Fuentes, Abraham Martinez, Irene Padilla, and Rose Torres (“Plaintiffs”) Second Set of Interrogatories dated September 13, 2021 (the “Interrogatories”).

The responses to these Interrogatories are prepared based on information known to the Defendants as of the date of these responses. Defendants reserve the right to make use of or introduce into evidence at the trial of this matter any information disclosed or developed through investigation or discovery subsequent to the date of these responses. Defendants reserve the right to correct, amend, or supplement these responses should it become aware of any inadvertent omission, error, or additional information that they may subsequently discover and determine to be relevant.

Defendants will make reasonable efforts to respond to every Interrogatory to the extent that it has not been objected to and to the extent that Defendants understand the Interrogatory. If Plaintiffs subsequently assert an interpretation of an Interrogatory which differs from that given to it by Defendants, then Defendants reserve the right to correct, amend or supplement their objections and responses, as necessary.

The fact that Defendants have responded to any specific Interrogatory does not indicate that information responsive to that Interrogatory actually exists or ever existed. Defendants may

provide information they believe may be responsive to a particular Interrogatory and reserve the right to assert subsequently that such information is not of the type called for by any particular Interrogatory.

Any responses Defendants provide to these Interrogatories are subject to the Parties' agreement to be bound by the terms of a negotiated stipulated protective order approved by the Court. Defendants hereby designate any responses to these Interrogatories as CONFIDENTIAL, and reserve the right to designate them as HIGHLY CONFIDENTIAL, under the terms of such protective order. Defendants reserve all of their rights and applicable objections with respect to their private, confidential, or other similarly protected materials.

In responding to the Interrogatories, Defendants do not concede that any of the information requested or provided is relevant, material, or admissible in evidence. Defendants reserve the right to challenge on evidentiary grounds any information provided in response to the Interrogatories.

GENERAL OBJECTIONS

The following General Objections are hereby incorporated by reference with the same force and effect as if fully set forth in the specific response and objections to each Interrogatory.

1. Defendants object to the Interrogatories to the extent they impose any requirement or discovery obligation other than or beyond that set forth in the Federal Rules of Civil Procedure, the Local Rules for the United States District Court for the Northern District of Illinois, or any other applicable rules.
2. Defendants object to the Interrogatories to the extent they purport to call for production of information protected from disclosure by the attorney-client privilege, the work product doctrine, legislative privilege, the right to privacy, or any other legally-cognizable

privilege or immunity. Defendants hereby claim such privileges, immunities, and protections to the extent implicated by the Interrogatories. Defendants will exclude privileged and protected information when responding to the Interrogatories. Nothing contained in Defendants' responses are intended to be, or in any way shall be deemed to be, a waiver of any such applicable privilege, immunity, or protection. Any disclosure of such protected or privileged information is inadvertent and is not intended to waive those privileges, immunities, or protections or any other ground for objection to discovery or use of any such document.

3. Defendants object to the Interrogatories on the ground that they seek information of a confidential nature. Defendants reserve the right to redact any confidential information that is not relevant to the subject matter of this action or not reasonably calculated to lead to the discovery of admissible evidence.

4. Defendants object to the Interrogatories to the extent that they seek information or material that is not relevant to the claims pleaded in the currently operative First Amended Complaint or the defense of any party, is not reasonably calculated to lead to the discovery of admissible evidence, and/or would not be admissible at trial.

5. Defendants object to the Interrogatories to the extent that they are overly broad, unduly burdensome, or seek information not reasonably limited in time or scope.

6. Defendants object to the Interrogatories to the extent that they may be construed as calling for information and/or the identification of information subject to Defendants' or third parties' rights of privacy and/or confidentiality.

7. Defendants object to the Interrogatories to the extent they seek information not within their possession, custody, or control.

8. Defendants object to the Interrogatories to the extent that they call for, or can be

interpreted as calling for, legal conclusions.

9. Defendants object to the Interrogatories to the extent they are premature.

10. Defendants object to the Interrogatories as compound and to the extent they count as separate interrogatories pursuant to Federal Rules of Civil Procedure. Defendants reserve the right to object to further interrogatories from Plaintiffs in excess of the number provided for by Federal Rule of Civil Procedure 33(a)(1) or by the Court in any order.

11. Defendants object to the use of the term “redistricting” except as it refers to (i) redistricting of Illinois state Legislative and Representative Districts; and (ii) the redistricting process related to the amendment of Public Act 102-0010 that was passed by the General Assembly on August 31, 2021 as Senate Bill 927.

12. Defendants object to the extent that any Interrogatory does not relate to any claim or allegation in the currently operative First Amended Complaint or defense thereto, is being used to investigate and develop claims and allegations for Plaintiffs’ forthcoming Second Amended Complaint, and/or does not relate to any claim or allegation in Plaintiffs’ forthcoming Second Amended Complaint or any defense thereto.

13. Any response, objection, or production made in these supplemental responses relates only to the list of priority districts identified by Plaintiffs on September 22, 2021.

OBJECTIONS TO DEFINITIONS

Defendants object to each paragraph of the “Definitions” section to the extent the definitions purportedly set forth therein would: (a) expand the definition of a term beyond its ordinary use in the English language; (b) create an undue burden for Defendants when propounding their responses and objections to the Interrogatories; and/or (c) impose obligations on Defendants that exceed, or are inconsistent with, the obligations imposed by the Federal Rules of Civil

Procedure, the Local Rules of the Northern District of Illinois, or other applicable law.

1. Defendants object to the definition of “DOCUMENT” to the extent it calls for the production of any information subject to any privilege, including the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also objects to the extent it requires the production of unduly burdensome discovery or items that are not reasonably calculated to lead to discovery of matter that is relevant to any party’s claim or defense. Defendant further objects to the extent it seeks information outside of Defendants’ “control” as defined by the Federal Rules and relevant case law.

2. Defendants object to the definition of “DATASET” as overbroad, unduly burdensome, seeking information that is irrelevant to the subject matter at issue in this case, and not reasonably calculated to lead to discovery of matter that is relevant to any party’s claim or defense, including because it is not limited to certain years or types of information.

3. Defendants object to the defined term “S.B. 927 PLANS” as incorrect because Senate Bill 927 was passed by a majority of both chambers of the Illinois General Assembly on August 31, 2021.

RESPONSES AND SPECIFIC OBJECTIONS

INTERROGATORY NO. 1:

Please specifically identify all studies or analyses that you or your agents conducted or caused to be conducted within the last five years to determine whether racially polarized voting occurs in Illinois by date, author, description of content, recipient(s), and custodian of any written copy or record of such study or analysis.

RESPONSE TO INTERROGATORY NO. 1:

Defendants object to this Interrogatory as overbroad as to subject matter and time, and unduly burdensome. Defendants further object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to the Interrogatory as not related to any pleaded claim or allegation or defense thereto. Subject to and without waiving any foregoing objections, Defendants direct Plaintiffs to the May 2021 testimony of Allan Lichtman before the Illinois General Assembly, which Defendants have previously made public and provided Plaintiffs a link to, which contains his racial polarization analysis. Any additional racial polarization analysis will be performed and disclosed in Defendants' expert disclosures, to the extent such analysis is necessary in response to new claims in Plaintiffs' forthcoming Second Amended Complaint.

Subject to and without waiving any foregoing objections, Defendants provide the following supplemental response: Defendants confirm the response they provided during the parties' September 22, 2021 meet and confer, which identified Allan Lichtman's May 2021 testimony, which Defendants have already produced, as the only responsive material.

INTERROGATORY NO. 2:

Identify all Defendants, their agents, employees, or other persons acting on their behalf who participated in the development of the S.B. 927 plans, in whole or in part, as part of the 2021 redistricting process. For each person listed, describe the person's title and job description at that time and responsibilities with regard to the General Assembly's redistricting; the

person's duties; the person's role or contribution in developing proposed redistricting plans; the educational, employment or other experience that specially qualified that person to provide assistance and advice; the dates of service rendered; any compensation or consideration received by that person in exchange for their services; which person, persons, or departments provided payment to each person identified.

RESPONSE TO INTERROGATORY NO. 2:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants further object to this Interrogatory as overbroad, unduly burdensome, and irrelevant to the extent it asks Defendants to identify "all" individuals who contributed to the process, and to the extent it requests excessive and irrelevant details regarding each individual. Defendants also object to this Interrogatory because it seeks information protected by legislative privilege, and to the extent it seeks information protected by other privileges or protections, including the attorney-client privilege and/or work product doctrine. Defendants object to the phrase "participated in the development" as vague, ambiguous, and undefined. Subject to and without waiving the foregoing objections, Defendants identify Kimball Brace, and refer Plaintiffs to their Rule 26 initial disclosures. Defendants further respond that Defendants and their "agents, employees, and others acting on their behalf" are not the only participants in the redistricting process; many members of the Illinois General Assembly who are not defendants to this action contributed to the 2021 redistricting process to some degree. To that end, Defendants direct Plaintiffs to the Illinois House and Senate websites, which provide the members of each chamber's redistricting committees: <https://www.ilga.gov/senate/committees/members.asp?CommitteeID=2742>;

<https://www.ilga.gov/house/committees/members.asp?CommitteeID=2800&GA=102>.

INTERROGATORY NO. 3:

Identify all datasets, if any, used by you to calculate levels of racially polarized voting, including but not limited to turnout data, registration data, and CVAP data.

RESPONSE TO INTERROGATORY NO. 3:

Defendants object to this Interrogatory as overbroad and unduly burdensome, and as vague as to time. Defendants further object to the extent this Interrogatory would require the production of documents outside of their possession, custody, or control. Defendants also object to the Interrogatory as not relevant to any party's claims or defenses. Defendants also object to this Interrogatory as duplicative of Interrogatory No. 1. Subject to and without waiving the foregoing objections, Defendants direct Plaintiffs to the May 2021 testimony of Allan Lichtman before the Illinois General Assembly, which Defendants have previously made public and provided Plaintiffs a link to. Further details as to the process behind Mr. Lichtman's racial polarization analysis are properly addressed through expert discovery, to the extent the requested information is, at that time, relevant to Plaintiffs' claims.

Subject to and without waiving any foregoing objections, Defendants provide the following supplemental response: Defendants confirm the response they provided during the parties' September 22, 2021 meet and confer, which identified Allan Lichtman's May 2021 testimony, which Defendants have already produced, as the only material Defendants relied on related to racially polarized voting.

INTERROGATORY NO. 4:

Identify each person, organization, agency or department which you, your agents or employees contacted for technical or legal assistance in the 2021 redistricting process and provide the date and reason for the contact.

RESPONSE TO INTERROGATORY NO. 4:

Defendants object to this Interrogatory as overbroad as to subject matter and time, and unduly burdensome. Defendants further object to this Interrogatory on the grounds that it is vague, ambiguous, and undefined, including as to the phrase “technical [] assistance.”

Defendants also object to the extent that this Interrogatory is not reasonably calculated to lead to discovery of matter that is relevant to any party’s claim or defense. Defendants further object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules’ prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory because it seeks information subject to legislative privilege, and to the extent it seeks information protected by any other applicable privilege or protection, including the attorney-client privilege and/or work product doctrine.

INTERROGATORY NO. 5:

Describe in detail any and all efforts made or actions taken by you, your employees or agents to ensure that the S.B. 927 plans complied with Section 2 of the Voting Rights Act of 1965.

RESPONSE TO INTERROGATORY NO. 5:

Defendants object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other

privilege or protection from disclosure provided by law. Defendants further object to this Interrogatory as overbroad and unduly burdensome to the extent it seeks information related to all Legislative and Representative districts, when presumably Plaintiffs will challenge only a few specific districts, if any, under the Voting Rights Act. Defendants also object to this Interrogatory as premature, and not relevant to any party's claims or defenses. Subject to and without waiving the foregoing objections, Defendants respond that their forthcoming expert disclosures will provide information responsive to this Interrogatory.

Dated: September 22, 2021

Respectfully submitted,

/s/ Adam R. Vaught

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*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

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Speaker, Harmon, and Office of the President*

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San Diego, CA 92130
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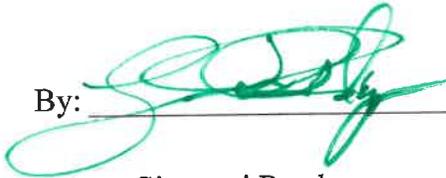
*Counsel for Defendants Harmon and Office of
the President*

Verification

I, Giovanni Randazzo, declare under penalty of perjury, under the laws of the United States, that I have reviewed the foregoing supplemental responses and objections to Plaintiffs' Second Set of Interrogatories and that those responses and objections made on behalf of the Defendants Harmon and the Office of the President of the Illinois Senate are based on my understanding, information derived from Illinois Senate records, and/or for facts as to which I do not have personal knowledge, information provided by others, and that to the best of my knowledge, information, and belief the responses and objections are true and correct.

Executed at the Illinois State Capitol in Springfield, Illinois on September 23, 2021.

By: _____



Giovanni Randazzo

Verification

I, Justin Cox, declare under penalty of perjury, under the laws of the United States, that I have reviewed the foregoing supplemental responses and objections to Plaintiffs' Second Set of Interrogatories and that those responses and objections made on behalf of the Defendants Welch and the Office of the Speaker of the Illinois House of Representatives are based on my understanding, information derived from Illinois House records, and/or for facts as to which I do not have personal knowledge, information provided by others, and that to the best of my knowledge, information, and belief the responses and objections are true and correct.

Executed in Cook County, Illinois on September 23, 2021.

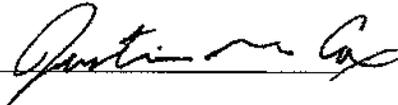
By: 
Justin Cox

EXHIBIT C

From: Ernest Herrera <eherrera@MALDEF.org>
Sent: Wednesday, September 22, 2021 3:59 PM
To: Yandell, Elizabeth (Bay Area); TPanoff@mayerbrown.com; bja@lbgalaw.com; pal@lbgalaw.com; CComstock@mayerbrown.com; MHolzrichter@mayerbrown.com; rmeza@meza.law
Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Berkowitz, Sean (CH); Smith, Colleen (SD); heather@wiervaught.com; Caldwell, Sheridan (Bay Area); Gold, Miri (CC); Bridegan, Tyler (DC); dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco Fernandez-del Castillo; Griselda Vega Samuel; CHarris@mayerbrown.com
Subject: Re: McConchie et al v. Illinois State Board of Elections et al

Hello all:

Districts for narrowing discovery requests: In addition to the districts listed by *McConchie* Plaintiffs, we want the requested data for House District 9.

RFP Deferral: We will agree to defer RFPs 1, 5, 7, 8, 9, 10, 11, 12, 13, and 15 to our Category 3 phase of discovery requests.

I also write to confirm our understanding of the other discovery discussions we had on the call regarding *Contreras* Plaintiffs' requests.

Interrogatories 1 and 3: You will identify any other racially polarized voting analysis made by Defendants besides that cited by Allan Lichtman in his May 2021 testimony.

RFP 6: If there is not an unduly burdensome number of draft maps/plans considered prior to enactment of the August 2021 maps, you will either produce them or produce a privilege log for the data/documents concerning those drafts/plans. If there are too many (such as 10,000) drafts, you will still identify what your assertion of privilege is as to such drafts and describe why you are unable to produce those data now.

RFP 23, 24: You will provide responses to these data after our clarification of the type of data that we are requesting--i.e., voter registration data along with accompanying identification of Latino voters by Spanish-surname or other methodology.

RFP 25: If there are other precinct geographies from elections during the last 10 years, you will provide what you possess.

RFP 16, 17: You will provide communications, or a privilege log insofar as privilege applies, with Lichtman and Brace.

RFP 18-22: After we clarified that our position is that we request this information because we need it in order to clarify our claims, per the Court's orders, you said that you would either produce documents concerning communications for the identified legislators or you would provide a privilege log.

Please let me know if you have any other questions. Thank you.

Ernest I. Herrera
Staff Attorney
Pronouns: he/him/his
Mexican American Legal Defense and Educational Fund
634 S. Spring Street - 11th Floor
Los Angeles, CA 90014
(213) 629-2512 Ext. 114
www.maldef.org
facebook.com/maldef
twitter.com/maldef

From: Elizabeth.Yandell@lw.com <Elizabeth.Yandell@lw.com>
Sent: Wednesday, September 22, 2021 3:51 PM
To: TPanoff@mayerbrown.com; bja@lbgalaw.com; pal@lbgalaw.com; CComstock@mayerbrown.com; MHolzrichter@mayerbrown.com; rmeza@meza.law
Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Ernest Herrera; Francisco Fernandez-del Castillo; Griselda Vega Samuel; CHarris@mayerbrown.com
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Thank you Tom, received. Defendants reserve their rights to object to the scope of the districts and discovery in your email below, including because your list of “narrowed” districts remains unreasonably long and unduly burdensome, and because it includes additional districts that you did not identify during our meet and confer, which served as the basis for any agreements between the parties as to next steps. We also note that during the call, the parties discussed your deferred discovery falling under Category 2 of Judge Jantz’s September 8 order, not Category 3. Defendants reserve all rights on this issue.

Contreras plaintiffs: plaintiffs agreed to send your list of priority districts and any deferred discovery requests within an hour of the call ending, in exchange for Defendants’ agreement to address the issues plaintiffs identified during the call by 9am PT tomorrow. It has now been 1.5 hours since our call ended; please advise on when we can expect this information.

From: Panoff, Thomas <TPanoff@mayerbrown.com>
Sent: Wednesday, September 22, 2021 2:51 PM
To: Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>; bja@lbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law
Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>; Smith, Colleen (SD) <Colleen.Smith@lw.com>; heather@wiervaught.com; Caldwell, Sheridan (Bay Area) <Sheridan.Caldwell@lw.com>; Gold, Miri (CC) <Miri.Gold@lw.com>; Bridegan, Tyler (DC) <Tyler.Bridegan@lw.com>; dbruce@powerrogers.com; sdalton@powerrogers.com; eherrera@MALDEF.org; FFernandez-delCastillo@MALDEF.org; Gvegasamuel@MALDEF.org; Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Following up on our call that ended shortly ago, below are the two categories of what we agreed to provide on behalf of the *McConchie* plaintiffs:

- **Districts for narrowing second set of discovery requests:**

- o House Districts: 1, 2, 3, 4, 6, 7, 8, 19, 21, 22, 23, 24, 32, 39, 40, 49, 50, 77, 83, 84, 113, 114
- o Senate Districts: 1, 2, 3, 4, 10, 11, 12, 16, 20, 25, 39, 43, 57

- **RFP Deferral:**

- o We'll agree to defer RFP Nos. 2, 3, 4, 11 and 16 by placing them on the track and timing for Category No. 3 in the Court's Sept. 8 Order (Dkt. 97). Since we chose not to serve any Category No. 3 RFPs or interrogatories to make the discovery process as efficient as possible, this proposal seems more than reasonable to us.

Please let us know if you have any questions or would like to discuss further.

Tom

From: Elizabeth.Yandell@lw.com <Elizabeth.Yandell@lw.com>

Sent: Tuesday, September 21, 2021 6:50 PM

To: Panoff, Thomas <TPanoff@mayerbrown.com>; bjal@lbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law

Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; eherrera@MALDEF.org; FFernandez-delCastillo@MALDEF.org; Gvegasamuel@MALDEF.org; Harris II, Charles E. <CHarris@mayerbrown.com>

Subject: RE: McConchie et al v. Illinois State Board of Elections et al

****EXTERNAL SENDER****

Hi all,

Defendants are available to meet and confer on our discovery responses tomorrow between 2-3:30 CT. Please let us know if this time works, and if so, send around your preferred dial-in.

Thank you,
Libby

PS: Charles, apologies for our inadvertently missing your email on the service list; we have updated our list for the future.

From: Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>

Sent: Tuesday, September 21, 2021 10:49 AM

To: Panoff, Thomas <TPanoff@mayerbrown.com>; bjal@lbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law

Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>; Smith, Colleen (SD) <Colleen.Smith@lw.com>; heather@wiervaught.com; Caldwell, Sheridan (Bay Area) <Sheridan.Caldwell@lw.com>; Gold, Miri (CC) <Miri.Gold@lw.com>; Bridegan, Tyler (DC) <Tyler.Bridegan@lw.com>; dbruce@powerrogers.com; sdalton@powerrogers.com; Ernest Herrera <eherrera@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Harris II, Charles E. <CHarris@mayerbrown.com>

Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Hi Tom,

Our group won't all be available at 1pm CT today. We're working on identifying times tomorrow and will send those through this afternoon.

Thanks very much and we look forward to discussing.

Libby

From: Panoff, Thomas <TPanoff@mayerbrown.com>
Date: Tuesday, Sep 21, 2021, 7:53 AM
To: Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>, bjalbgalaw.com <bjalbgalaw.com>, pal@lbgalaw.com <pal@lbgalaw.com>, Comstock, Christopher <CComstock@mayerbrown.com>, Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>, rmeza@meza.law <rmeza@meza.law>
Cc: AVaught@hinshawlaw.com <AVaught@hinshawlaw.com>, cohagan@hinshawlaw.com <cohagan@hinshawlaw.com>, mjkasper60@mac.com <mjkasper60@mac.com>, Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>, Smith, Colleen (SD) <Colleen.Smith@lw.com>, heather@wiervaught.com <heather@wiervaught.com>, Caldwell, Sheridan (Bay Area) <Sheridan.Caldwell@lw.com>, Gold, Miri (CC) <Miri.Gold@lw.com>, Bridegan, Tyler (DC) <Tyler.Bridegan@lw.com>, dbruce@powerrogers.com <dbruce@powerrogers.com>, sdalton@powerrogers.com <sdalton@powerrogers.com>, Ernest Herrera <eherrera@MALDEF.org>, Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>, Griselda Vega Samuel <Gvegasamuel@MALDEF.org>, Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Thank you. Copying the MALDEF team as well as my partner, Charles Harris (he has been inadvertently left off the last few emails from Latham).

Please let us know if you are free at 1:00 pm CT today for a meet and confer to discuss your responses.

Tom

Thomas V. Panoff

Partner

Mayer Brown LLP

71 South Wacker Drive

Chicago, Illinois 60606 United States of America

T +1 312 701 8821

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From: Elizabeth.Yandell@lw.com <Elizabeth.Yandell@lw.com>
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Subject: McConchie et al v. Illinois State Board of Elections et al

****EXTERNAL SENDER****

Counsel,

Please find attached Defendants' responses and objections to Plaintiffs' second set of discovery requests. Defendants designate these responses confidential.

Best,
Libby

Libby Yandell

Pronouns: she/her/hers

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