

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
DR. ANDREA WESLEY; DR. JOSEPH
WESLEY; ROBERT EVANS; GARY
FREDERICKS; PAMELA HAMNER;
BARBARA FINN; OTHO BARNES;
SHIRLINDA ROBERTSON; SANDRA SMITH;
DEBORAH HULITT; RODESTA TUMBLIN;
DR. KIA JONES; ANGELA GRAYSON; MARCELEAN
ARRINGTON; VICTORIA ROBERTSON,**

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:22-cv-734-DPJ-HSO-LHS

**STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, *in his
official capacity as Governor of Mississippi;*
LYNN FITCH, *in her official capacity as
Attorney General of Mississippi;* MICHAEL
WATSON, *in his official capacity as Secretary
of State of Mississippi,***

DEFENDANTS

AND

**MISSISSIPPI REPUBLICAN
EXECUTIVE COMMITTEE**

INTERVENOR-DEFENDANT

**DEFENDANTS' MOTION TO COMPEL
DOCUMENTS WITHHELD FROM PRODUCTION**

Defendants State Board of Election Commissioners, Governor Tate Reeves, Attorney General Lynn Fitch, and Secretary of State Michael Watson (collectively, "Defendants") respectfully move this Court for an order compelling Plaintiffs to produce documents withheld from production on the grounds of the First Amendment Associational privilege. In support of this motion, the Defendants would show as follows:

1. Certain of the Plaintiffs, including the NAACP and five of the individual Plaintiffs, have withheld otherwise discoverable documents on the grounds that they are protected under the First Amendment Associational privilege.

2. Plaintiffs advance an overbroad application of this privilege such that, if accepted, shields litigants from otherwise reasonable and necessary discovery requests.

3. This is not the purpose underpinning the First Amendment Associational privilege. Because these documents are not protected under this privilege, this Court should enter an order compelling the Plaintiffs to produce those documents.

4. Defendants incorporate in further support of this Motion their accompanying Memorandum of Authorities and the following exhibits:

Exhibit A: Defendants' Amended First Set of Interrogatories to Plaintiffs;

Exhibit B: Defendants' Amended First Set of Requests for Production of Documents to Plaintiffs;

Exhibit C: 10/3/23 E-mail from J. Tom to Ryan Beckett and attached privilege logs; and

Exhibit D: 11/2/23 E-mail thread between counsel.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request the Court grant this Motion and enter an order compelling Plaintiffs to produce documents withheld from production on the grounds of the First Amendment Associational privilege. Defendants further request all such other, further and additional relief as to which they may be entitled.

THIS the 10th day of November, 2023.

Respectfully submitted,

STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF
MISSISSIPPI; LYNN FITCH, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
MISSISSIPPI; MICHAEL WATSON, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
STATE, DEFENDANTS

By: /s/ P. Ryan Beckett
P. Ryan Beckett (MB #99524)

ONE OF THEIR COUNSEL

OF COUNSEL:

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STATE OF MISSISSIPPI

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CIVIL LITIGATION DIVISION

Post Office Box 220

Jackson, Mississippi 39205-0220

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rex.shannon@ago.ms.gov

CERTIFICATE OF SERVICE

I, P. Ryan Beckett, one of the attorneys for the Defendants, do hereby certify that I have this day filed the above and foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

This the 10th day of November, 2023.

/s/ P. Ryan Beckett

P. Ryan Beckett

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
DR. ANDREA WESLEY; DR. JOSEPH
WESLEY; ROBERT EVANS; GARY
FREDERICKS; PAMELA HAMMER
BARBARA FINN; ORHO BARNES;
SHIRLINDA ROBERTSON; SANDRA
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WATSON, *in his official capacity as Secretary
of State of Mississippi*

DEFENDANTS

DEFENDANTS' AMENDED FIRST SET OF INTERROGATORIES TO PLAINTIFFS

Defendants State Board of Election Commissioners (“SBEC”), Governor Tate Reeves, Attorney General Lynn Fitch, and Secretary of State Michael Watson (hereinafter collectively “Defendants”), by and through undersigned counsel, propound the following *amended* first set of interrogatories to each Plaintiff to be answered individually, pursuant to Rule 33 of the Federal Rules of Civil Procedure:

I. DEFINITIONS AND INSTRUCTIONS

As used in these interrogatories, the following definitions shall apply:



a. The words “Plaintiff,” “you,” or “your” mean the individual natural person plaintiffs and his/her agents, representatives, attorneys and all other persons acting on its/his/her behalf, and/or the Mississippi State Conference of the National Association for the Advancement of Colored People and its agents, representatives, attorneys and all other persons acting on its/his/her behalf.

b. The term “document” is defined to include all that is encompassed in the usage of the term in Federal Rule of Civil Procedure 34(a)(1)(A). Without limiting the generality of the foregoing, the word “document” means the original and each non-identical copy of any written, reported or graphic matter, however produced or reproduced, in the possession, custody or control of, or known to, the plaintiff, its agents, representatives, attorneys or other persons acting on his behalf. It includes text messages, E-mail, electronic mail, voice mail, electronic bulletin board postings, and any information stored on and reproducible in documentary form from a computer or other electronic, magnetic, optical or laser-based information storage device, including but not limited to floppy disks, hard disks, tapes or CD-ROM.

c. The terms “identify” or “identity” mean, with respect to persons, to state the full name, present or last known address, current or last known employment and position or title therein, and telephone number; and with respect to documents, said terms shall mean to state the general nature of the document (for example, letter, telegram, photograph or memorandum), the date, the author, the addressee, and the location and custodian of the document.

d. The term “communication(s)” means any written or oral transfer or exchange between two or more persons of any information, including, but not limited to, personal conversations, correspondence, electronic mail, telephone calls, voice mail, telegrams, facsimile transmissions, computer data transmissions, telexes, and inter-office memoranda.

e. The term “person(s)” means any natural individual in any capacity whatsoever or any entity or organization.

f. The terms “relate to,” “regarding,” “refer to,” “reflecting,” “describing,” and “concerning” are intended broadly, but not in a way designed to seek information that is irrelevant, or beyond the scope authorized by Rule 26(b)(1). Accordingly, the terms should be understood and read in their common, dictionary-sense as meaning “to have to do with, to be of importance to, to involve, or to in some manner, direct or indirect, to evidence, define, describe, or explain.” Any objection to an Interrogatory on the ground that it is overbroad, based solely on the use of one or the other of these terms, is therefore not appropriate.

g. “Complaint” means the Amended Complaint for Declaratory Judgment and Injunctive Relief filed in this matter against Defendants.

II. SUPPLEMENTATION OF RESPONSES

Answers to the Interrogatories hereby propounded are sought on a continuing basis during the pendency of this action in accordance with the Federal Rules of Civil Procedure.

III. INTERROGATORIES

INTERROGATORY NO. 1: Please identify by name and address all persons believed or known by you to have knowledge concerning the subject matter of this action and the allegations and averments of the Complaint, and specify the facts, events, issues, and subject matter about which each such person has knowledge.

INTERROGATORY NO. 2: For each individual Plaintiff, please state your full name, nicknames and any aliases, present address, the date and place of your birth, your social security number, and if you have a driver’s license, the state of issuance and your driver’s license number.

INTERROGATORY NO. 3: For each individual Plaintiff, state the address of each

residence you have occupied from the time you reached the age of 18 to the present, including the dates you resided at each location.

INTERROGATORY NO. 4: For each individual Plaintiff, please identify each and every election, including party primaries, you voted in since the year 2000.

INTERROGATORY NO. 5: For each individual Plaintiff, state whether you have ever been convicted of a crime or imprisonment in excess of one year or more, and/or which crime involved dishonesty of false or false statement, and if so, identify the crime for which you were convicted, the date of the conviction, and the court in which the conviction was obtained.

INTERROGATORY NO. 6: For each Plaintiff, please identify your political party affiliation, if any.

INTERROGATORY NO. 7: Please identify each and every person from whom you or anyone acting on your behalf (including, without limitation, your attorneys, any investigator working for your attorneys, or you, or any other person) have obtained a statement (e.g. written, recorded or otherwise) or affidavit concerning any fact, matter or event having any connections or relevance to the claims or defenses in this lawsuit.

INTERROGATORY NO. 8: If you contend that any employee and/or agent of Defendants, or any other person for whose admission Defendants might be chargeable, has made any admission, within the meaning of Federal Rule of Evidence 801, in relation to any of the allegations in the Complaint, please:

- (1) Identify the substance of such admission(s);
- (2) Identify the person allegedly making the admission(s);
- (3) Identify the place and date when made;
- (4) Name all witnesses to the alleged admission(s); and

(5) Describe the circumstances under which you believe the statement was made.

INTERROGATORY NO. 9: Please identify all persons whom you will call, or may call, as fact witnesses in the trial of this Action, and for each person state whether you will call, or only may call, the person to testify at trial.

INTERROGATORY NO. 10: Please identify each document, electronic or otherwise, and thing in your possession, custody, or control that you may use to support your claims or defenses in this matter.

INTERROGATORY NO. 11: Please identify each and every fact on which you rely in support of your allegation that there was a violation of Section 2 of the Voting Rights Act, as alleged in the Complaint in the failure to draw each of the following: a Senate District in (1) the Desoto County area, (2) the Golden Triangle area, (3) the South-Central Mississippi area near Copiah, Simpson, and Jefferson Davis Counties, and (4) the Hattiesburg area; a House District in (1) the Western Hinds County area, (2) the area north of the Golden Triangle between West Point and Tupelo, and (3) the area between Laurel and Meridian in and around Jasper and Clark counties.

INTERROGATORY NO. 12: Please identify each and every fact on which you rely in support of your allegation that race was the predominant factor, and thus a racial gerrymander in violation of the Fourteenth Amendment to the U.S. Constitution, in the drawing of each of the following: Senate District 2, Senate District 48, House District 22, House District 34 and House District 64.

INTERROGATORY NO. 13: Please identify all alternative maps created and all persons involved in the creation of any alternative House district maps, including the redistricting map proposed by Representative Robert Johnson during the House floor debate on March 29,

2022, as referenced in paragraph 76 of the Complaint.

INTERROGATORY NO. 14: Please identify the exact criteria used in the creation of any alternative House district maps, including but not limited to the proposed House Districts in (1) the Western Hinds County area, (2) the area north of the Golden Triangle between West Point and Tupelo, and (3) the area between Laurel and Meridian in and around Jasper and Clark counties, and (4) redistricting map proposed by Representative Robert Johnson during the House floor debate on March 29, 2022, as referenced in paragraph 76 of the Complaint.

INTERROGATORY NO. 15: Please identify all alternative maps created and all persons involved in the creation of any alternative Senate district maps, including the redistricting map proposed by Senator Derrick Simmons, during the Senate floor debate on March 29, 2022, as referenced in paragraph 77 of the Complaint.

INTERROGATORY NO. 16: Please identify the exact criteria used in the creation of any alternative Senate district maps, including but not limited to the proposed Senate Districts in (1) the Desoto County area, (2) the Golden Triangle area, (3) the South-Central Mississippi area near Copiah, Simpson, and Jefferson Davis Counties, (4) the Hattiesburg area, and (5) the redistricting map proposed by Senator Derrick Simmons, during the Senate floor debate on March 29, 2022, as referenced in paragraph 77 of the Complaint.

INTERROGATORY NO. 17: Please identify any grounds or basis *other than race* used by the Plaintiffs or their representatives in connection with the drawing of the 10 new districts sought in the Complaint.

INTERROGATORY NO. 18: Please identify by name and date any individual Plaintiff and any representative of the Mississippi State Conference of the NAACP who attended any of the nine public meetings held throughout the State by the Standing Joint Legislative Committee

on Reapportionment and Redistricting.

INTERROGATORY NO. 19: Please identify by name and date any individual Plaintiff and any representative of the Mississippi State Conference of the NAACP who attended any of the four public, open meetings held by the Standing Joint Legislative Committee on Reapportionment and Redistricting.

INTERROGATORY NO. 20: Please identify the date and substance of any and all communications between or among Plaintiffs, or their representatives, and any member of the Mississippi House of Representatives or of the Mississippi Senate relating or pertaining to the redistricting process or any other fact alleged in the Complaint.

INTERROGATORY NO. 21: Please identify the date and substance of any and all communications between or among Plaintiffs, or their representatives, and the U.S. Department of Justice (including, but not limited to, the Voting Rights Section of the Civil Rights Division) relating or pertaining to the allegations contained in the Complaint.

INTERROGATORY NO. 22: Please identify the date and substance of any and all communications related to legislative redistricting in Mississippi between or among Plaintiffs, or their representatives, and the Office of the Governor, the Office of the Lieutenant Governor, the Office of the Secretary of State, the Office of the Attorney General, any Legislator, the Standing Joint Legislative Committee on Reapportionment and Redistricting, any campaign or candidate for the Mississippi State Senate, any campaign or candidate for the Mississippi House of Representatives, any national political party, any state political party organizations, any local political party organization, any national organization dedicated to supporting state legislative candidates, the National Republican Redistricting Trust, the National Democratic Redistricting Committee, the Mississippi Republican Executive Committee, the Mississippi Democratic Party,

Fair Lines American, any political action committee, any lobbyist, any political activist or operative, any other governmental entity, any local elected official in Mississippi, any consultant, any expert, any law firm or attorney, any vendor, any other political or community group or organization, or any member of the public.

INTERROGATORY NO. 23: Please identify all contracts related to and all payments made or money spent on the creation of any alternative maps, including but not limited to money spent or received for services, agreements of representation, consultation, employment, legal services, political operatives, experts, consultants or any other vendor.

INTERROGATORY NO. 24: Please identify all communications between any of the Plaintiffs, or their representatives, and any Mississippi State Senator or Mississippi House Representative whose districts will be impacted by the relief requested in the Complaint, including all Senators and Representatives whose districts share boundaries with the ten districts challenged or proposed in your Complaint.

INTERROGATORY NO. 25: Please identify all communications related to Mississippi legislative redistricting between, among, with or within any of the Plaintiffs and any other voting rights groups, including the American Civil Liberties Union, the Southern Poverty Law Center, the National Association for the Advancement of Colored People, the Mississippi Center for Justice, or any similar organization.

INTERROGATORY NO. 26: Please identify each person, not being offered as an expert, who will offer opinions within the scope of Rule 701 of the Federal Rules of Evidence and provide the substance and basis of each such opinion.

This the 18th day of July, 2023.

STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF
MISSISSIPPI; LYNN FITCH, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
MISSISSIPPI; MICHAEL WATSON, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
STATE, DEFENDANTS

/s/ P. Ryan Beckett

P. Ryan Beckett (MB #99524)

COUNSEL FOR DEFENDANTS

OF COUNSEL:

Tommie S. Cardin (MB #5863)

P. Ryan Beckett (MB #99524)

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Rex M. Shannon III (MB #102974)

STATE OF MISSISSIPPI

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CIVIL LITIGATION DIVISION

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Jackson, Mississippi 39205-0220

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rex.shannon@ago.ms.gov

CERTIFICATE OF SERVICE

I, P. Ryan Beckett, do certify that on this day I caused to be served a true and correct copy of the foregoing pleading by electronic mail to all counsel of record.

This the 18th day of July, 2023.

/s/ P. Ryan Beckett

P. Ryan Beckett

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
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STATE BOARD OF ELECTION
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LYNN FITCH, *in her official capacity as
Attorney General of Mississippi*; MICHAEL
WATSON, *in his official capacity as Secretary
of State of Mississippi*

DEFENDANTS

**DEFENDANTS' AMENDED FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS TO PLAINTIFFS**

Defendants State Board of Election Commissioners (“SBEC”), Governor Tate Reeves, Attorney General Lynn Fitch, and Secretary of State Michael Watson (hereinafter collectively “Defendants”), by and through undersigned counsel, propound the following *amended* first set of requests for production of documents to each Plaintiff to be answered individually, pursuant to Rule 34 of the Federal Rules of Civil Procedure:

I. DEFINITIONS AND INSTRUCTIONS

As used herein, the terms listed below are defined as follows:



(a) The words “Plaintiff,” “you,” or “your” mean the natural person individual plaintiffs and his/her agents, representatives, attorneys and all other persons acting on his/her behalf, and/or the Mississippi State Conference of the National Association for the Advancement of Colored People and its agents, representatives, attorneys and all other persons acting on its/his/her behalf.

(b) The term “document” is defined to include all that is encompassed in the usage of the term in Federal Rule of Civil Procedure 34(a)(1)(A). Without limiting the generality of the foregoing, the word “document” means the original and each non-identical copy of any written, reported or graphic matter, however produced or reproduced, in the possession, custody or control of, or known to, the plaintiff, its agents, representatives, attorneys or other persons acting on his behalf. It includes text messages, E-mail, electronic mail, voice mail, electronic bulletin board postings, and any information stored on and reproducible in documentary form from a computer or other electronic, magnetic, optical or laser-based information storage device, including but not limited to floppy disks, hard disks, tapes or CD-ROM.

(c) The terms “identify” or “identity” mean, with respect to persons, to state the full name, present or last known address, current or last known employment and position or title therein, and telephone number; and with respect to documents, said terms shall mean to state the general nature of the document (for example, letter, telegram, photograph or memorandum), the date, the author, the addressee, and the location and custodian of the document.

(d) The term “communication(s)” means any written or oral transfer or exchange between two or more persons of any information, including, but not limited to, personal conversations, correspondence, electronic mail, telephone calls, voice mail, telegrams, facsimile transmissions, computer data transmissions, telexes, and inter-office memoranda.

(e) The term “person(s)” means any natural individual in any capacity whatsoever or any entity or organization.

(f) The terms “relate to,” “regarding,” “refer to,” “reflecting,” “describing,” and “concerning” are intended broadly, but not in a way designed to seek information that is irrelevant, or beyond the scope authorized by Rule 26(b)(1). Accordingly, the terms should be understood and read in their common, dictionary-sense as meaning “to have to do with, to be of importance to, to involve, or to in some manner, direct or indirect, to evidence, define, describe, or explain.” Any objection to an Interrogatory on the ground that it is overbroad, based solely on the use of one or the other of these terms, is therefore not appropriate.

(g) “Complaint” means the Amended Complaint for Declaratory Judgment and Injunctive Relief filed in this matter against Defendants.

II. SUPPLEMENTATION OF RESPONSES

Answers to the Requests for Production hereby propounded are sought on a continuing basis during the pendency of this action in accordance with the Federal Rules of Civil Procedure.

III. REQUESTS FOR PRODUCTION

REQUEST NO. 1: Please produce each document or communication identified, or requested to be identified, in your responses to any interrogatories or which you referred to or relied upon in preparing your responses to any interrogatories.

REQUEST NO. 2: Please produce a copy of all documents you may use as an exhibit or demonstrative aide during the trial of this matter.

REQUEST NO. 3: Please produce all documents or reports provided to, reviewed by, or relied upon by any witness expected to be called at trial about the facts, circumstances, or allegations contained in your Complaint, including factual observations, tests, supporting data,

calculations, photographs, treatises, articles, periodicals, or pamphlets and opinions prepared in connection with this lawsuit by or for all expert witnesses.

REQUEST NO. 4: Please produce all reports, statements, drawings, photographs, or other documents provided to, created by, reviewed by, or relied upon any expert retained or consulted in this matter.

REQUEST NO. 5: Please produce a current and complete copy of the curriculum vitae of any expert witness expected to testify on behalf of Plaintiffs.

REQUEST NO. 6: For each expert witness who will testify on behalf of Plaintiffs, please produce copies of all expert reports, written reports, and FRCP 26 expert reports prepared by each such expert in any prior actions filed or pending within the past 10 years in which the plaintiff(s) therein alleged any violation of (1) Section 2 of the Voting Rights Act of 1965, as amended; and/or (2) the Fourteenth or Fifteenth Amendments to the U.S. Constitution predicated on intentional racial discrimination and/or racial gerrymandering.

REQUEST NO. 7: Please produce copies of any documents you have obtained in response to any formal or informal public records request that you have made in connection with this matter, including but not limited to any requests you have made pursuant to the Mississippi Public Records Act of 1983 for records pertaining to Mississippi elections, Mississippi electoral districting, and/or Mississippi legislative history.

REQUEST NO. 8: To the extent not produced in response to any previous request for production, please produce copies of any documents you have obtained in response to any Freedom of Information Act request that you have made in connection with this matter, including but not limited to any requests you have made to the U.S. Department of Justice for records pertaining to

Mississippi elections, Mississippi electoral districting, and/or legislative bills submitted by or on behalf of the State of Mississippi for Section 5 preclearance.

REQUEST NO. 9: Please produce copies of any documents you have received in response to any subpoena duces tecum that you have caused to be served on any individual or entity related to this litigation or the matters raised in the Complaint.

REQUEST NO. 10: Please produce all documents involving communications between or among Plaintiffs, or their representatives, and the U.S. Department of Justice (including, but not limited to, the Voting Rights Section of the Civil Rights Division) relating or pertaining to the allegations contained in the Complaint.

REQUEST NO. 11: To the extent not produced in response to any previous request for production, please produce copies of any documents you have obtained from any federal, state, or local government agency, department, commission, board, clerk, office, entity, and/or employee in connection with this matter, including but not limited to any records pertaining to Mississippi elections, Mississippi electoral districting, and/or Mississippi legislative history obtained from the Mississippi Department of Archives and History.

REQUEST NO. 12: Please produce copies of any documents that you have received from any current or former member of the Mississippi Legislature related to this matter, including but not limited to any such documents pertaining to Mississippi elections, Mississippi electoral districting, and/or Mississippi legislative history.

REQUEST NO. 13: Please produce all documents involving communications between or among Plaintiffs, or their representatives, and any member of the Mississippi Legislature relating or pertaining to the 2022 redistricting process or any other fact alleged in the Complaint.

REQUEST NO. 14: To the extent not produced in response to any previous request for production, please produce copies of any campaign and/or election finance documents you have obtained in connection with this matter, including but not limited to any such documents pertaining to any candidates for state or county office in Mississippi in any election occurring from January 1, 1990.

REQUEST NO. 15: Please produce any and all statistical compilations, statistical estimates, shape files, drawings, maps, plans, digital photographs, documents, other evidentiary materials, charts, diagrams, videotapes, and other illustrations of any geographical location, sites, places, or things related to the allegations in your Amended Complaint.

REQUEST NO. 16: Please produce all alternative House district maps and all documents (including any drafts and any racial “heat map”) used in the creation of any alternative House district maps, including but not limited to the proposed House Districts in (1) the Western Hinds County area, (2) the area north of the Golden Triangle between West Point and Tupelo, and (3) the area between Laurel and Meridian in and around Jasper and Clark counties, and (4) the redistricting map proposed by Representative Robert Johnson during the floor House debate on March 29, 2022, in the possession, custody or control of Plaintiffs, as referenced in paragraph 76 of the Complaint.

REQUEST NO. 17: Please produce all alternative Senate district maps and all documents (including any drafts and any racial “heat map”) used in the creation of any alternative Senate district maps, including but not limited to the proposed Senate Districts in (1) the Desoto County area, (2) the Golden Triangle area, (3) the South-Central Mississippi area near Copiah, Simpson, and Jefferson Davis Counties, (4) the Hattiesburg area, and (5) the redistricting map proposed by

Senator Derrick Simmons during the floor Senate debate on March 29, 2022, in the possession, custody or control of Plaintiffs, as referenced in paragraph 77 of the Complaint.

REQUEST NO. 18: Please produce all documents acquired or any notes taken by any of the individual Plaintiffs and any representative of the Mississippi State Conference of the NAACP at any of the nine public meetings held throughout the state by the Joint Legislative Committee on Reapportionment and Redistricting.

REQUEST NO. 19: Please produce all documents acquired or any notes taken by any of the individual Plaintiffs and any representative of the Mississippi State Conference of the NAACP at any of the four public open meetings of the Standing Joint Legislative Committee on Reapportionment and Redistricting.

REQUEST NO. 20: Please produce all copies of all communications related to legislative redistricting in Mississippi between or among Plaintiffs, or their representatives, and the Office of the Governor, the Office of the Lieutenant Governor, the Office of the Secretary of State, the Office of the Attorney General, any Legislator, the Standing Joint Legislative Committee on Reapportionment and Redistricting, any campaign or candidate for the Mississippi State Senate, any campaign or candidate for the Mississippi House of Representatives, any national political party, any state political party organizations, any local political party organization, any national organization dedicated to supporting state legislative candidates, the National Republican Redistricting Trust, the National Democratic Redistricting Committee, the Mississippi Republican Executive Committee, the Mississippi Democratic Party, Fair Lines American, any political action committee, any lobbyist, any political activist or operative, any other governmental entity, any local elected official in Mississippi, any consultant, any expert, any law firm or attorney, any vendor, any other political or community group or organization, or any member of the public.

REQUEST NO. 21: Please produce all documents that relate to or reflect all contracts and all payments made or money spent on the creation of any alternative maps, including but not limited to money spent or received for services, agreements of representation, consultation, employment, legal services, political operatives, experts, consultants or any other vendor.

REQUEST NO. 22: Please produce all communications related to Mississippi legislative redistricting between, among, with or within any of the Plaintiffs and any other state and national voting rights groups, including the American Civil Liberties Union, the Southern Poverty Law Center, the National Association for the Advancement of Colored People, the Mississippi Center for Justice, or any similar organization.

REQUEST NO. 23: Please produce all communications between any of the Plaintiffs, or their representatives, and any Mississippi State Senator or Mississippi House Representative whose districts will be impacted by the relief requested in the Complaint, including all Senators and Representatives whose districts share boundaries with the ten districts challenged or proposed in your Complaint.

REQUEST NO. 24: Please produce all documents supporting any claim for damages of any type, including any claim for attorneys' fees.

REQUEST NO. 25: Please produce all documents that support or relate to any allegation in your Complaint and which have not previously been requested.

This the 18th day of July, 2023.

STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF
MISSISSIPPI; LYNN FITCH, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
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STATE, DEFENDANTS

/s/ P. Ryan Beckett
P. Ryan Beckett (MB #99524)

COUNSEL FOR DEFENDANTS

OF COUNSEL:

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Rex M. Shannon III (MB #102974)
STATE OF MISSISSIPPI
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CIVIL LITIGATION DIVISION
Post Office Box 220
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Tel.: (601) 359-4184
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rex.shannon@ago.ms.gov

CERTIFICATE OF SERVICE

I, P. Ryan Beckett, do certify that on this day I caused to be served a true and correct copy of the foregoing pleading by electronic mail to all counsel of record.

This the 18th day of July, 2023.

/s/ P. Ryan Beckett

P. Ryan Beckett

From: Joshua Tom <JTom@aclu-ms.org>
Sent: Tuesday, October 3, 2023 4:46 PM
To: Ryan Beckett
Cc: Tommie Cardin; Parker Berry; Rex Shannon; Cindy Grantham; 'Mike Wallace'; Charles Cowan; 'Esterkin, Jeremy B.'; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd; Ari Savitzky; Ming Cheung; Robert B. McDuff; Carroll Rhodes; Lavelle, Jr., John P.; Jordan, Drew Cleary; Bhamdeo, Benjamin; Antonellis, Celina
Subject: MS NAACP v. SBEC - Plaintiffs' privilege logs
Attachments: MS NAACP Privilege Log FINAL.xlsx; Gary Fredericks Privilege Log FINAL.xlsx; Pam Hamner Privilege Log FINAL.xlsx; Andrea Wesley Privilege Log FINAL.xlsx; Joseph Wesley Privilege Log FINAL.xlsx; Barbara Finn Privilege Log FINAL.xlsx

Dear Ryan:

Please find attached privilege logs from Plaintiffs The Mississippi State Conference of the NAACP, Gary Fredericks, Pam Hamner, Andrea Wesley, Joseph Wesley, and Barbara Finn.

All the best,

Josh

Joshua F. Tom

Pronouns: he/him/his

Legal Director

American Civil Liberties Union of Mississippi

101 South Congress St., Jackson, MS 39201

601.354.3408 ext. 112 | jtom@aclu-ms.org

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Begin Bates	End Bates	Date	Attachment	Filename/Subject	Author / From	To / Recipients	CC	BCC	Document Type	Privilege Basis	Privilege Description
MSNAACP_0000016	MSNAACP_0000016	8/2/2023	No	Privileged Discovery Responses in MS Legislative Redistricting	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to redistricting litigation discovery requests
MSNAACP_0000017	MSNAACP_0000017	3/21/2023	No	Hold Notice for MS NAACP	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to appropriate litigation holds
MSNAACP_0000018	MSNAACP_0000018	2/14/2023	Yes	MS State Legislative Districts - Identifying	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to how lawsuit affects clients' members
MSNAACP_0000019	MSNAACP_0000019	2/14/2023	Attachment to "MS State Legislative Districts - Identifying affected voters"	2.14 MS Leg Districts Voter Search Memo - Confidential	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to how lawsuit affects clients' members
MSNAACP_0000020	MSNAACP_0000020	NO DATE	No	Mississippi State Legislature - Close-to-Final Complaint for NAACP Review	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing a draft complaint
MSNAACP_0000021	MSNAACP_0000021	12/13/2022	No	MS State Leg Filing - Communications	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing a draft complaint
MSNAACP_0000022	MSNAACP_0000022	11/15/2022	No	Redistricting Case: Template for reaching out to NAACP	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege and First Amendment / Associational Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to how lawsuit affects clients' members. Also involves internal strategic communications protected by the First Amendment.
MSNAACP_0000023	MSNAACP_0000023	NO DATE	No	State Legislative Districting Matter	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to how lawsuit affects clients' members and discussing retainer agreement
MSNAACP_0000024	MSNAACP_0000024	10/6/2022	Yes	Engagement Letter from Rev James	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to how lawsuit affects clients' members and discussing retainer agreement
MSNAACP_0000025	MSNAACP_0000025	10/6/2022	Attachment to "Engagement Letter from Rev James"	221006_ACLU, ACLU MS, NAACP Engagement (fully executed)	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs with counsel providing legal advice as to how lawsuit affects clients' members and discussing retainer agreement
MSNAACP_0000026	MSNAACP_0000026	3/15/2022	Yes	Legislative Redistricting Challenge -	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs discussing retainer agreement review
MSNAACP_0000027	MSNAACP_0000027	3/15/2022	Attachment to Potential State Legislative Redistricting Challenge -	Engagement Agreement	Ari Savitzky	Plaintiffs and Co-Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiffs discussing retainer agreement review
MSNAACP_0000028	MSNAACP_0000028	3/4/2023	No	Mississippi Legislative Redistricting Case	Carroll Rhodes	NAACP Board Members			Email	Attorney Client Privilege and First Amendment / Associational Privilege	Confidential internal strategic communication sent by counsel regarding MS NAACP's advocacy and litigation strategy related to redistricting, including copy of litigation documents as protected by the First Amendment and the attorney client privilege.

MSNAACP_0000029	MSNAACP_0000029	3/28/2022	Yes	Analysis of Proposed MS Legislative Maps	Charles Taylor	NAACP leadership and staff, consultants, counsel, and members involved in the redistricting			Email	Attorney Client Privilege and First Amendment / Associational Privilege	Confidential communication between NAACP leadership and staff, consultants, counsel, and members involved in the redistricting process regarding advocacy activities and strategy, including potential litigation strategy, with respect to redistricting in exercise of First Amendment speech and associational rights.
MSNAACP_0000030	MSNAACP_0000030	3/28/2022		Attachment to "Analysis of Proposed MS Legislative Maps"	HPM1_1_Full_Report	Charles Taylor	and staff, consultants, counsel, and members involved in the redistricting process		Email	Attorney Client Privilege and First Amendment / Associational Privilege	Confidential communication between NAACP leadership and staff, consultants, counsel, and members involved in the redistricting process regarding advocacy activities and strategy, including potential litigation strategy, with respect to redistricting in exercise of First Amendment speech and associational rights.
MSNAACP_0000031	MSNAACP_0000031	8/5/2022	No	FWD: MS NAACP	Jarvis Dortch	Charles Taylor			Email	Attorney Client Privilege	Confidential communication between counsel, plaintiffs, and staff of plaintiff organizations discussing retainer agreement
MSNAACP_0000032	MSNAACP_0000032	9/13/2022	Yes	MS NAACP State Leg Redistricting Engagement Letter Updated	Ari Savitzky	Charles Taylor	NAACP Board Members		Email	Attorney Client Privilege	Confidential communication between counsel, plaintiffs, and staff of plaintiff organizations discussing retainer agreement
MSNAACP_0000033	MSNAACP_0000033	9/13/2022		NAACP State Leg Redistricting Engagement Letter Updated 9.13"	Leg Redistricting Engagement Letter Updated	Ari Savitzky	Charles Taylor	NAACP Board Members	Email	Attorney Client Privilege	Confidential communication between counsel, plaintiffs, and staff of plaintiff organizations discussing retainer agreement
MSNAACP_0000034	MSNAACP_0000034	7/13/2022	Yes	Matters to Mississippians Article Edits and New Version	Brenda Hyde	NAACP Board Members and strategic partners			Email	First Amendment / Associational Privilege	Confidential communication between MS NAACP and strategic partners regarding joint advocacy activities and strategy with respect to redistricting in exercise of First Amendment speech and associational rights.
MSNAACP_0000035	MSNAACP_0000035	7/13/2022		Attachment to "Why Redistricting Matters to Mississippians Article Edits and New Version"	Why Redistricting Matters to Mississippians (3) Draft	Brenda Hyde	NAACP Board Members and strategic partners		Email	First Amendment / Associational Privilege	Confidential communication between MS NAACP and strategic partners regarding joint advocacy activities and strategy with respect to redistricting in exercise of First Amendment speech and associational rights.
MSNAACP_0000036	MSNAACP_0000036	5/27/2022	No	Redistricting Messaging	Aisha Carson	Charles Taylor			Email	First Amendment / Associational Privilege	regarding joint advocacy activities and strategy with respect to redistricting in exercise of First Amendment speech and associational rights.
MSNAACP_0000037	MSNAACP_0000037	3/15/2022	No	Potential State Legislative Redistricting Challenge -	Jarvis Dortch	Ari Savitzky, Charles Taylor			Email	Attorney Client Privilege	Confidential communication between counsel, plaintiffs, and staff for plaintiffs discussing retainer agreement and possible representation
MSNAACP_0000038	MSNAACP_0000038	NO DATE	No	USM Public Hearing Statement	MS NAACP				PDF	First Amendment / Associational Privilege	Internal strategic communication regarding draft of MS NAACP's planned communications regarding redistricting in exercise of First Amendment speech and associational rights.

Begin Bates	Date	Attachment	Filename/Subject	Author / From	To / Recipients	CC	BCC	Document Type	Privilege Basis	Privilege Description
FredericksG_0000022	1/9/2023	No	MS Redistricting - data protection	Gary Fredericks	Strategic partners(s)			Email	First Amendment Privilege / Attorney Client Privilege	Confidential communication regarding the associational plans or strategies of Plaintiff and allied association(s) regarding redistricting. The document also contains confidential communications with counsel providing legal advice as to document retention.
FredericksG_0000023	11/15/2022	No	State legislative redistricting	Gary Fredericks	Strategic partners(s)			Email	First Amendment Privilege / Attorney Client Privilege	Confidential communication regarding the associational plans or strategies of Plaintiff and allied association(s) regarding redistricting. The document also contains confidential communications with counsel providing legal advice as to document retention.
FredericksG_0000021	2/1/2021	No	Harrison County Redistricting	Strategic Partner	Gary Fredericks; Strategic partners(s)			Email	First Amendment Privilege	Confidential communication regarding the associational plans or strategies of Plaintiff and allied association(s) regarding redistricting.

Begin Bates	Date	Attachment	Filename/ Subject	Author / From	To / Recipients	CC	BCC	Document Type	Privilege Basis	Privilege Description
HamnerP_0000029	4/10/2023	No	Timeline for Redistricting	Pam Hamner	Strategic Partner(s)			Email	First Amendment	Confidential communication regarding the associational plans or strategies of Plaintiff and allied association(s) regarding redistricting.
HamnerP_0000026	8/3/2023	No	Redistricting Desoto County 2021	Pam Hamner	Counsel			Email	Attorney Client Privilege	Confidential communication between counsel and plaintiff about discovery request

Begin Bates	End Bates	Date	Attachment	Filename/Subject	Custodian	Author / From	To / Recipients	CC	BCC	Document Type	Privilege Basis	Privilege Description
WesleyA_0000002	WesleyA_0000003	7/29/2021	No	7.29.2021 Political Action Committee Report	Andrea Wesley					PDF	First Amendment Privilege	Confidential communication regarding the associational plans or strategies of the MS NAACP Plaintiffs and allied associations regarding redistricting and voting in MS.
WesleyA_0000004	WesleyA_0000005	8/12/2021	No	8.12.2021 Political Action Committee Report	Andrea Wesley					PDF	First Amendment Privilege	Confidential communication regarding the associational plans or strategies of the MS NAACP Plaintiffs and allied associations regarding redistricting and voting in MS.

Begin Bates	End Bates	Date	Attachment	Filename/Subject	Custodian	Author / From	To / Recipients	CC	BCC	Document Type	Privilege Basis	Privilege Description
WesleyJ_0000002	WesleyJ_0000003	7/29/2021	No	7.29.2021 Political Action Committee Report	Joseph Wesley					PDF	First Amendment Privilege	Confidential communication regarding the associational plans or strategies of the MS NAACP Plaintiffs and allied associations regarding redistricting and voting in MS. Confidential communication regarding the associational plans or strategies of the MS NAACP Plaintiffs and allied associations regarding redistricting and voting in MS.
WesleyJ_0000004	WesleyJ_0000005	8/12/2021	No	8.12.2021 Political Action Committee Report	Joseph Wesley					PDF	First Amendment Privilege	

Begin Bates	Date	Attachment	Filename/Subject	Author / From	To / Recipients	CC	BCC	Document Type	Privilege Basis	Privilege Description
FinnB_0000001	8/12/2023	Yes	Revised Report from the Political Action Report	Strategic Partner	Barbara Finn; Strategic Partner			Email	First Amendment Privilege	Confidential communication regarding the associational plans or strategies of Plaintiff Finn and allied association(s) regarding redistricting and voting in MS.
FinnB_0000002	8/12/2023	Attachment to "Revised Report from the Political Action Report"	2023 Primary ElectionSummary8.pdf	Strategic Partner	Barbara Finn; Strategic Partner			PDF	First Amendment Privilege	Confidential communication regarding the associational plans or strategies of Plaintiff Finn and allied association(s) regarding redistricting and voting in MS.
FinnB_0000003	8/12/2023	Attachment to "Revised Report from the Political Action Report"	August 2023 Revised Report of the [Redacted to preserve First Amendment privilege]	Strategic Partner	Barbara Finn; Strategic Partner			.docx	First Amendment Privilege	Confidential communication regarding the associational plans or strategies of Plaintiff Finn and allied association(s) regarding redistricting and voting in MS.

From: Ari Savitzky <asavitzky@aclu.org>
Sent: Thursday, November 2, 2023 2:35 PM
To: Ryan Beckett; Joshua Tom
Cc: Tommie Cardin; Parker Berry; Rex Shannon; Cindy Grantham; 'Mike Wallace'; Charles Cowan; Jeremy Esterkin; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd; Ming Cheung; Robert B. McDuff; Carroll Rhodes; John Lavelle; Jordan, Drew Cleary; Benjamin.Bhamdeo; Celina Antonellis; 'Mike Wallace'; Charles Cowan
Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Thanks, Ryan. I appreciate your response. Two follow ups.

First, I would note that, inasmuch as you are seeking the disclosure of internal communications between/among/involving particular members of the State Conference and containing their particular identifying information, you are in effect seeking information about the identity of State Conference members. That is not the only basis for our assertion of an associational privilege, but I point it out in light of your statement that you are not seeking such information.

Second, while we understand that you are not challenging our privilege assertions with respect to documents withheld pursuant to the attorney-client and work-product privileges, are you challenging our assertion of privilege as all of other documents on our logs? And if not, can you provide a list of which documents from our logs you are challenging? That would be helpful to understand whether any further discussion is warranted.

Thanks,

Ari

Ari Savitzky

Senior Staff Attorney, Voting Rights Project
American Civil Liberties Union
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Pronouns: he, him, his

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From: Ryan Beckett <Ryan.Beckett@butlersnow.com>
Sent: Wednesday, November 1, 2023 3:57 PM
To: Ari Savitzky <asavitzky@aclu.org>; Joshua Tom <JTom@aclu-ms.org>
Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace'



<mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; Jeremy Esterkin <Jeremy.Esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; John Lavelle <John.Lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Celina Antonellis <celina.antonellis@morganlewis.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>

Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Ari,

We intend to bring a motion to compel disclosure and production of the following categories of communications and documents related to the 2022 Mississippi legislative redistricting: (1) communications and documents shared by the NAACP with its members, (2) communications and documents shared by and between members, and (3) communications and documents between the NAACP and other organizations. We are not seeking communications or documents not related to the 2022 Mississippi legislative redistricting.

We have not and are not seeking membership lists, membership information, donor lists, donor information and related materials. We did not ask for that in our discovery and do not seek such information. We do not have any reason to challenge the invocation of the attorney-client or work product privileges. We take counsel at your word about the application of the attorney-client privilege to the materials that have been identified.

Please let me know if you think that there is more to discuss on this issue. If so, I'm happy to find a time to do so. If not, I will send the Court a note about this issue and determine whether Judge Ball wants to have a pre-motion conference or whether we can proceed with filing the motion. Best regards,

P. Ryan Beckett

Butler Snow LLP

D: (601) 985-4557 | F: (601) 985-4500
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Ryan.Beckett@butlersnow.com | [vCard](#) | [Bio](#)

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [YouTube](#)

From: Ari Savitzky <asavitzky@aclu.org>

Sent: Wednesday, October 25, 2023 4:37 PM

To: Joshua Tom <JTom@aclu-ms.org>; Ryan Beckett <Ryan.Beckett@butlersnow.com>

Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace'

<mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.'

<jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org;

David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P.

<john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin

<Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace'

<mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>

Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Ryan:

Nice talking to you yesterday. To summarize my understanding of your question, you are not challenging any assertions of attorney-client privilege and are not seeking any personal identifying information or membership information, but do not necessarily agree that the associational privilege protects (a) communications between/among MS NAACP members and (b) communications between MS NAACP members and other organizations and their members when the organizations are associating with one another on advocacy or other strategic projects relating to the organizations' missions.

Our position is that both (a) and (b) are protected, and that disclosure of such communications would chill First Amendment-protected associational, expressive, and speech activities in myriad ways, including discouraging citizens from becoming members and from engaging in protecting advocacy and mission-oriented work, discouraging members of an association from communicating with one another, and discouraging organizations from associating with one another and engaging in strategic work to express their views on areas of common concern.

With regard to internal communications between/among MS NAACP members, staff, and contractors, we think the authority strongly supports their protection. Courts have recognized that the compelled disclosure of an organization's internal communications can have a chilling effect on participation in protected activities and on the free flow of information within the organization. *E.g.*, *Perry v. Schwarzenegger*, 591 F.3d 1147, 1162 (9th Cir. 2010); *accord Whole Woman's Health v. Smith*, 896 F.3d 362 (5th Cir. 2018) (holding that Catholic organization did not need to disclose internal communications regarding its support of a bill requiring burial of fetal tissue in Texas and concluding that such internal communications "must be permitted to be broad, uninhibited, and fearless, and that protecting such deliberations is a seminal aspect of the freedom to associate"); *The Ohio Org. Collaborative v. Husted*, No. 2:15-CV-01802, 2015 WL 7008530, at *3-4 (S.D. Ohio Nov. 12, 2015) (associational privilege protects from disclosure of any information the disclosure of which would "inhibit[] [the organization's] ability to organize, promote their message(s), and conduct their affairs.").

With regard to communications between organizations who are associating with one another on specific issues/projects, courts have also held that those communications may be protected because disclosure of such communications would chill protected associational activity. *See Puente Arizona v. Arpaio*, 314 F.R.D. 664, 672-73 (D. Ariz. 2016) (Finding an email to a network of members, activists, and legislators to be protected by associational privilege where disclosure of the communication would "undoubtedly induce members and organizations to withdraw their participation" in collaborative strategy sessions); *See Apple Inc. v. Match Grp., Inc.*, 2021 WL 3727067, at *8 (N.D. Cal. Aug. 19, 2021) ("Who in their right mind would want to participate in a public advocacy organization, knowing that all their internal communications about strategy, lobbying, planning, and so on, would be turned over to their principal opponent? Once people realize that the Coalition's documents and internal communications have been turned over to Apple, no one will want to join or remain in the Coalition").

As noted, we feel strongly about these issues, but I do hope we can avoid any motion practice or at least narrow down the dispute here. Let us know what you think. Two additional points.

First, and as I mentioned on the call, if we were to litigate this issue, I think that the applicable balancing test would weigh heavily against disclosure, given (among other things) that the internal communications of MS NAACP and its members are not relevant to the claims asserted in this case, that defendants have no particular need for such information to defend the case, and that plaintiffs have not put any of the communications in issue over the course of the litigation. *E.g.*, *Husted*, WL 7008530, at *3-4 (S.D. Ohio Nov. 12, 2015) (no disclosure where "defendants have not established that the information sought by the challenged requests is highly relevant to either the issue of standing or the merits of plaintiffs' claims"); *see also generally, e.g., Grandbouche v. Clancy*, 825 F.2d 1463, 1466-67 (10th Cir.1987) (setting forth applicable balancing test).

Second, and also as noted, I am going to go back and see whether any of the log entries involving communications with strategic partners should be amended. At least one of the entries you had noted which mentions "strategic partners" is in fact purely internal to NAACP members and contractors.

I am happy to chat again at your convenience. Thanks,

Ari

Ari Savitzky

Senior Staff Attorney, Voting Rights Project

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Pronouns: he, him, his

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From: Joshua Tom <JTom@aclu-ms.org>
Sent: Monday, October 23, 2023 12:07 PM
To: Ryan Beckett <Ryan.Beckett@butlersnow.com>; Ari Savitzky <asavitzky@aclu.org>
Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.' <jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P. <john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>
Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

That works Ryan.

From: Ryan Beckett <Ryan.Beckett@butlersnow.com>
Sent: Monday, October 23, 2023 10:41 AM
To: 'Ari Savitzky' <asavitzky@aclu.org>; Joshua Tom <JTom@aclu-ms.org>
Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.' <jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P. <john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>
Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Ari and Josh,

Can we move this call to 4 pm CT tomorrow, October 24? That time was available before. I inadvertently double-booked myself for 3 pm CT today. Let me know if that works for you. Best,

P. Ryan Beckett
Butler Snow LLP

D: (601) 985-4557 | F: (601) 985-4500
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From: Ari Savitzky <asavitzky@aclu.org>
Sent: Thursday, October 19, 2023 4:52 PM
To: Ryan Beckett <Ryan.Beckett@butlersnow.com>; Joshua Tom <JTom@aclu-ms.org>
Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.' <jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P. <john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>
Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Received. Thanks, Ryan. Talk then!

Ari Savitzky
Senior Staff Attorney, Voting Rights Project
American Civil Liberties Union
125 Broad St., New York, NY 10004
212.549.2681 | 401.529.3982 (cell) | asavitzky@aclu.org
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From: Ryan Beckett <Ryan.Beckett@butlersnow.com>
Sent: Thursday, October 19, 2023 5:47 PM
To: Ari Savitzky <asavitzky@aclu.org>; Joshua Tom <JTom@aclu-ms.org>
Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.' <jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P.

<john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>

Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Ari,

Let's talk at 3 pm CT on Monday, October 23. You can use this dial-in:

Call 866-716-6638

Pw: 601 985 4557

Thanks. Best,

P. Ryan Beckett
Butler Snow LLP

D: (601) 985-4557 | F: (601) 985-4500

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From: Ari Savitzky <asavitzky@aclu.org>

Sent: Thursday, October 19, 2023 3:05 PM

To: Ryan Beckett <Ryan.Beckett@butlersnow.com>; Joshua Tom <JTom@aclu-ms.org>

Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.'

<jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org;

David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P.

<john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin

<Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace'

<mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>

<cec@wisecarter.com>

Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Hi Ryan:

Here are good windows for us (in CST):

Monday: 10-1130, 3-5

Tuesday: 11-12, 2-3, 4-5

Let us know what you think?

Thanks,

Ari

Ari Savitzky

Senior Staff Attorney, Voting Rights Project

American Civil Liberties Union

125 Broad St., New York, NY 10004

212.549.2681 | 401.529.3982 (cell) | asavitzky@aclu.org

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Sent: Thursday, October 19, 2023 12:51 PM

To: Ari Savitzky <asavitzky@aclu.org>; Joshua Tom <JTom@aclu-ms.org>

Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace'

<mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.'

<jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org;

David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff

<rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P.

<john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>

Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs [IWOV-BUTLERSNOW.FID7560002]

Ari,

Thanks for the timely reply. I am in a deposition all day tomorrow so that won't work. I think our team has good availability on Monday and Tuesday. What times might work for you on Monday and Tuesday?

P. Ryan Beckett

Butler Snow LLP

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From: Ari Savitzky <asavitzky@aclu.org>

Sent: Thursday, October 19, 2023 10:27 AM

To: Ryan Beckett <Ryan.Beckett@butlersnow.com>; Joshua Tom <JTom@aclu-ms.org>

Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace'

<mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.'

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<mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>

Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs

Hi Ryan:

We are happy to meet and confer to discuss this issue. How is Friday at 1 pm CST? I can propose some times Monday or Tuesday as well if that would be better.

Thanks,

Ari

Ari Savitzky

Senior Staff Attorney, Voting Rights Project

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From: Ryan Beckett <Ryan.Beckett@butlersnow.com>

Sent: Tuesday, October 17, 2023 6:35 PM

To: Joshua Tom <JTom@aclu-ms.org>; Ari Savitzky <asavitzky@aclu.org>
Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.' <jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P. <john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>
Subject: RE: MS NAACP v. SBEC - Plaintiffs' privilege logs

Josh and Ari,

We write today to propose that we meet and confer with respect to certain matters addressed in certain of the privilege logs produced by Plaintiffs. Specifically, we don't think we have enough information to assess the assertion by some Plaintiffs of "First Amendment Privilege." For instance, Mr. Gary Fredericks asserts an associational privilege of communications between himself and "Strategic Partner(s)" explained as a "Confidential communication regarding the associational plans or strategies of Plaintiff and allied association(s) regarding redistricting." We fail to see how Mr. Fredericks' communications with (non-lawyer) "strategic partners" meets the standard for the associational privilege in the Fifth Circuit.

The First Amendment "privilege protects against a forced '[d]isclosure[] of political affiliations and activities' that would have a deterrent effect on the exercise of free speech or freedom of association rights." *La Union del Pueblo Entero v. Abbott*, No. SA-21-CV-00844, 2022 WL 17574079, at *6 (W.D. Tex. Dec. 9, 2022) (quoting *Perry v. Schwarzenegger*, 591 F.3d 1147, 1160 (9th Cir. 2010)); *see also In re Motor Fuel Temperature Sales Pracs. Litig.*, 641 F.3d 470, 479 (10th Cir. 2011) ("[T]he First Amendment privilege generally guarantees the right to maintain private associations when, without that privacy, there is a chance that there may be no association and, consequently, no expression of the ideas that association helps to foster.").

First Amendment privilege claims are generally evaluated under a two-part test. The party asserting the privilege must first make "a prima facie showing of arguable First Amendment infringement." *La Union del Pueblo Entero*, 2022 WL 17574079, at *6. "This prima facie showing requires the party to prove that enforcement of the discovery requests will result in (1) harassment, membership withdrawal, or discouragement of new members, or (2) other consequences which objectively suggest

an impact on, or chilling of, the members' associational rights." *Id.* Upon a prima facie showing, the burden shifts to the requesting party to establish that the information sought "is sufficient to justify the deterrent effect on the free exercise of the constitutionally protected right of association." *Id.*

Bellard v. Univ. of Texas MD Anderson Cancer Ctr., No. 3:22-CV-00088, 2023 WL 3270902, at *2 (S.D. Tex. May 5, 2023).

Most of the cases upholding associational privilege involve inquiries into an organization's membership, donor lists or related information. We have sought no such information. But, we don't see how a plaintiff's communications with "strategic partners" will result in harassment, membership withdrawal or discouragement of new members or will have an objectively chilling impact on associational rights. The same can be said of the associational privilege asserted by the NAACP over internal communications about planned communications or internal bulletins regarding advocacy and strategy. I won't go through each of the logs' entries in this email, but rather, raise this issue to see if there is room for further discussion.

Please let us know if you would like to meet and further confer on this issue. Best regards,

P. Ryan Beckett

Butler Snow LLP

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From: Joshua Tom <JTom@aclu-ms.org>
Sent: Tuesday, October 3, 2023 4:46 PM
To: Ryan Beckett <Ryan.Beckett@butlersnow.com>

Cc: Tommie Cardin <Tommie.Cardin@butlersnow.com>; Parker Berry <Parker.Berry@butlersnow.com>; Rex Shannon <Rex.Shannon@ago.ms.gov>; Cindy Grantham <Cindy.Grantham@butlersnow.com>; 'Mike Wallace' <mbw@wisecarter.com>; Charles Cowan <cec@wisecarter.com>; 'Esterkin, Jeremy B.' <jeremy.esterkin@morganlewis.com>; erosenberg@lawyerscommittee.org; jnwachukwu@lawyerscommittee.org; David Rollins-Boyd <drollins-boyd@lawyerscommittee.org>; Ari Savitzky <asavitzky@aclu.org>; Ming Cheung <MCheung@aclu.org>; Robert B. McDuff <rmcduff@mscenterforjustice.org>; Carroll Rhodes <crhodes6@bellsouth.net>; Lavelle, Jr., John P. <john.lavelle@morganlewis.com>; Jordan, Drew Cleary <drew.jordan@morganlewis.com>; Bhamdeo, Benjamin <Benjamin.Bhamdeo@morganlewis.com>; Antonellis, Celina <celina.antonellis@morganlewis.com>

Subject: MS NAACP v. SBEC - Plaintiffs' privilege logs

Dear Ryan:

Please find attached privilege logs from Plaintiffs The Mississippi State Conference of the NAACP, Gary Fredericks, Pam Hamner, Andrea Wesley, Joseph Wesley, and Barbara Finn.

All the best,

Josh

Joshua F. Tom

Pronouns: he/him/his

Legal Director

American Civil Liberties Union of Mississippi

101 South Congress St., Jackson, MS 39201

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