

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

DR. DOROTHY NAIRNE, REV. CLEE
EARNEST LOWE, DR. ALICE
WASHINGTON, STEVEN HARRIS,
BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, and THE
LOUISIANA STATE CONFERENCE OF
THE NAACP,

Plaintiffs,

v.

R. KYLE ARDOIN, in his official capacity
as Secretary of State of Louisiana

Defendant.

CIVIL ACTION NO. 3:22-cv-00178
SDD-SDJ

**PLAINTIFF'S OPPOSITION IN RESPONSE TO DEFENDANT'S MOTION
TO REVIEW AND OBJECTIONS TO THE MAGISTRATE JUDGE'S ORDER
DENYING DEFENDANT'S MOTION TO COMPEL**

Plaintiff Louisiana NAACP submits this memorandum in Opposition to Defendant's Motion to Review and Objections to the Magistrate Judge's Order Denying Defendant's Motion to Compel. As detailed herein, the Magistrate Judge's order denying Defendant's Motion to Compel entered on September 8, 2023, ECF No. 136 (hereinafter, the "Order"), was proper and should be sustained.

BACKGROUND

On July 22, 2022, Plaintiffs received Defendant Ardoin's first set of discovery requests. Interrogatory No. 3 requests the identification of Louisiana NAACP members and the production of "any and all" communications between the Louisiana

NAACP and its members in each challenged district. ECF No. 119-3 at 11. In particular, Interrogatory No. 3 sought, in relevant part, the following information:

As to each Louisiana State House and State Senate District at issue in the Complaint, and for each Organizational Plaintiff, state the following identifying to which district the response relates:

(a) Identify the members of your organization living in each challenged district;

...

(d) identify and produce any and all communications between your organization and its members in each challenged district.

Id. The interrogatories define the term “identify” as follows:

The words “identify” or “specify” as related to a person mean, in each instance, to state his or her full name, present or last known address and telephone number, date of birth, and present or last known job classification or position.

Id. at 4.

In its timely response to Interrogatory No. 3, Plaintiff Louisiana NAACP stated, in relevant part, as follows:

Plaintiff further objects to Interrogatory No. 3 on the grounds that it seeks information protected by Plaintiff’s and its members’ First Amendment rights to freedom of speech and freedom of association.

Subject to and without waiving these objections, Plaintiff responds as follows:

(a) The Louisiana NAACP has approximately 5,000 members throughout the state, including Black Louisianians who are registered voters. The Louisiana NAACP has over 40 local branches comprising adult members and 16 youth and college chapters across Louisiana. Members of the Louisiana NAACP live in nearly every region of the state, including all the disputed areas in this matter—those areas where the State’s enacted legislative maps dilute the voting strength of Black voters, including in Bossier, Caddo, Jefferson, St. Charles, East Baton Rouge, West Baton Rouge, Iberville, Point Coupee, DeSoto, Natchitoches, Red River, Ascension, and East Feliciana Parishes.

Specifically, Plaintiff has identified members who reside in each of the districts challenged in this litigation.

ECF No. 119-4 at 8–9.

In responding to the request for communications with its members and other requests for production, Plaintiff provided responsive documents with the personally identifiable information concerning individual members redacted. Plaintiff's interrogatory responses were signed under penalty of perjury by its President, Michael McClanahan. ECF No. 119-1 at 3.

On July 20, 2023, Plaintiffs received a letter from counsel for Defendant Secretary of State Ardoin asserting a number of purported deficiencies in Plaintiff's responses. *Id.* The letter asserted, among other things, that Plaintiff's response to Interrogatory No. 3, was deficient because it "fail[ed] to identify the district-specific membership information requested." The letter contended that this information was "critical for Defendant Ardoin to adequately assess the standing of the Organizational Plaintiffs in this matter." Defendant understood that Plaintiff's response was an indication that specific individual members had been identified in each of the districts, but asserted that Plaintiff's statement "is not a sufficient response that would allow Defendant Ardoin to adequately address Louisiana NAACP's standing," and went on to contend, without any supporting legal authority, that "[i]dentification of particular members in each particular state House and Senate district challenged here is required." *Id.* at 3–4. Defendant threatened that if Plaintiff Louisiana NAACP failed to provide the information, Defendant would subpoena the individual NAACP branches throughout the state in an attempt to obtain the information from those

entities. Defendant also challenged eight documents produced by Plaintiff Louisiana NAACP as having “inappropriate redactions [...] of various individual identities” *Id.* at 4. Plaintiff responded to the July 20, 2023 Letter on July 25, 2023, explaining in more detail the constitutional basis for the objection to disclosure of member information and offering to meet and confer. *Id.* Plaintiffs received no response to their letter. *Id.*

On Wednesday, August 9, 2023, Plaintiff filed a Motion for Protective Order seeking to prevent disclosure of protected, personally identifiable information of its members. ECF No. 119. The motion was denied on August 17, 2023 without prejudice. ECF No. 123. In the order denying the Motion for Protective Order, the Magistrate Judge required the parties to continue meeting and conferring before 5:00 p.m. CST on Monday, August 21, 2023. *Id.* Following the order, Plaintiffs and Defendants attempted in good faith over several weeks to resolve this issue—including exchanging numerous emails with opposing counsel, drafting a proposed stipulated agreement, as well as participating in three meet and confers and two status conferences. Despite their efforts, the parties were unable to reach a resolution of their discovery dispute.

On September 1, 2023, Plaintiff provided a supplemental response to Defendant Ardoin’s Interrogatory No. 3. ECF No. 135-1. The supplemental response identified, with greater specificity, districts in which NAACP members reside in the parts of the state in which the challenged 2022 redistricting dilutes the votes of Black Louisianans and where new majority-Black districts would be created in the

illustrative plan prepared by Plaintiffs' expert Bill Cooper. In its supplemental response to Interrogatory No. 3, Plaintiff Louisiana NAACP stated, in relevant part, as follows:

Plaintiff has identified at least one member who resides in, among others, each of the following Louisiana Senate Districts 2, 5, 7, 8, 10, 14, 15, 17, 19, 31, 36, 38 and 39.

Plaintiff has identified at least one member who lives in, among others, each of the following Louisiana House Districts: 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 22, 25, 29, 34, 35, 36, 37, 47, 57, 58, 59, 60, 61, 62, 63, 65, 66, 67, 68, 69, 70, 81, 88, and 101.

Plaintiff has identified at least one member who would reside in each of the newly created majority-Black districts or the districts or the newly unpacked majority-Black districts in Bill Cooper's June 2023 illustrative plans, including, among others, illustrative House Districts 1, 3, 4, 29, 34, 38, 57, 58, 60, 61, 63, 65, 68, 69, and 101, and illustrative Senate Districts 2, 7, 15, 17, 19, 38, 39.¹

Id. at 1–2. On September 1, 2023 Defendant Ardoin moved to compel a response to Interrogatory No. 3 that includes personally identifying information of NAACP members, and on September 6, 2023, Plaintiff opposed that motion. On Friday, September 8, 2023, the Magistrate Judge entered an order denying Defendant's Motion to Compel. ECF No. 136.

On September 8, Defendant took the deposition of NAACP President Michael McClanahan pursuant to Fed. R. Civ. P. 30(b)(6). Much of the questioning at the deposition probed the basis of Mr. McClanahan's knowledge that the NAACP has

¹ Although Plaintiffs dispute that the Louisiana NAACP is required to show individual members in every district that might be impacted by remedying the vote dilution Plaintiffs allege in order to establish associational standing, Plaintiff's supplemental discovery responses identifies districts that would be directly impacted by the reconfiguration of districts in Plaintiffs' June 2023 illustrative plans to create additional majority-Black districts in the House and Senate. It is not a list of all districts in the State of Louisiana in which Plaintiff has members.

members in the districts identified in the supplemental interrogatory response, and NAACP's counsel permitted Mr. McClanahan to freely answer those questions. However, counsel instructed Mr. McClanahan not to answer questions that sought privileged personally identifying information of individual Louisiana NAACP members, which defense counsel posed repeatedly, despite the fact that mere hours earlier, the Magistrate Judge had issued a decision denying Defendant's motion to compel this sensitive information and making clear that it was protected by the First Amendment. Ex. A (Michael McClanahan Dep. Tr. Excerpts) at 61:14–94:19.

ARGUMENT

I. Legal Standard

Rule 72(a) of the Federal Rules of Civil Procedure permits a court to review the ruling of a magistrate judge on a non-dispositive matter only to determine whether it is “clearly erroneous or contrary to law.” Fed. R. Civ. P. 72(a); *see* 28 U.S.C. § 636(b)(1)(A); *Castillo v. Frank*, 70 F.3d 382, 385 (5th Cir. 1995). “It is well established that with regard to discovery disputes, the Magistrate Judge is afforded broad discretion, and [his] rulings will be overturned only if such discretion is abused.” *DirecTV, Inc. v. Brady*, No. Civ.03-1450, 2005 WL 256465, at *1 (E.D. La. Jan. 31, 2005); *Exxon Corp. v. St. Paul Fire & Marine Ins.*, 903 F. Supp. 1007 (E.D. La. 1995).

Under this deferential standard, a magistrate judge's decision must be affirmed unless “on the entire evidence [the court] is left with a definite and firm conviction that a mistake has been committed.” *Blackmon v. Bracken Constr. Co.*, No. 18-00142, 2021 WL 3824819, at *1 (M.D. La. Aug. 26, 2021) (quoting *Ordemann v. Unidentified Party*, No. 06-4796, 2008 WL 695253, at *1 (E.D. La. Mar. 12, 2008); *See*

also *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948) (“A finding is ‘clearly erroneous’ when [...] the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.”) “Similarly, a magistrate judge’s order is ‘contrary to law’ only if it fails to apply or misapplies relevant statutes, case law, or rules of procedure.” *Blackmon v. Bracken Constr. Co.*, 2021 WL 3824819, at *1 (citation omitted).

The party challenging the magistrate’s actions has the burden of showing that the magistrate’s ruling was clearly erroneous or contrary to law. *See, e.g., Johnston v. Dillard Dep’t Stores, Inc.*, 152 F.R.D. 89 (E.D. La. 1993). For the reasons discussed below, Defendant has failed to meet this burden here.

II. Defendant Does Not Challenge the Magistrate Judge’s Determination That the Interrogatory is Overly Broad.

The Magistrate Judge based his decision denying Defendant’s Motion to Compel on two independent grounds, either of which would be sufficient on its own to support the denial. First, the Court held that the state had not shown a need for the information sufficient to overcome the First Amendment interests of the NAACP and its members. Second, the Court held that the request as written was overly broad because it sought personally identifying information beyond what was necessary to assess standing and it sought this information with respect to every member in every district at issue in the litigation when associational standing requires only one member who would have standing to maintain each of the claims for relief asserted in the complaint, and on that basis, the Court held that it would not compel a response *even if* the state had established a need. In his Motion to Review, Defendant does not

even discuss this second ground for the Magistrate Judge's decision, let alone challenge it. On that basis alone, the Motion for Review must be denied, and this Court need not even address Defendant's challenge to the Magistrate Judge's determination with respect to Defendant's need for the information. As explained below, however, the Magistrate Judge also correctly determined that there is no valid basis for seeking the personal information of NAACP members, much less such a strong need for the information that it can overcome the members' First Amendment protected associational rights.

III. The Magistrate Judge Correctly Determined That the Defendant Has Not Established a Need for NAACP Members' Personal Information.

Contrary to Defendant's assertions, the Order does not contain incorrect factual statements and thus is not clearly erroneous or contrary to the law. The Magistrate Judge found that "[t]he NAACP also maintains that it has produced all evidence it intends to rely on for associational standing" and that "Defendant has not provided any reason to justify its request for the name, address, age, phone number, and occupation of every single member in every challenged district." ECF No. 136 at 2–3.² In considering the evidence on the record, it is clear that the Order correctly applies the law and thus the Magistrate Judge's ruling should be affirmed.

² Defendants also dispute the Magistrate Judge's finding that there has been no challenge to associational standing. Even if that contention were correct, for the reasons explained below, the Defendant has failed to establish that the names, addresses, birth dates, and employment details of any individual member are necessary for it to maintain its challenge standing, and the Magistrate Judge's order must be sustained.

A. Plaintiff Intends to Rely Only on Non-Privileged Information to Establish Standing.

The record does not show that the “Louisiana NAACP intends to put forth additional, undisclosed evidence at trial relating to its members’ identities and the alleged harm those individuals purportedly suffered.” ECF No. 144-1 at 9. Throughout this process, the Louisiana NAACP has consistently maintained that it intends to rely on the testimony of its President, Mr. McClanahan. ECF No. 135-1; ECF No. 135 at 5; ECF No. 119-1 at 1–2; Sept. 1, 2023 Status Conf. Tr. at 11:15–14:21. As Defendant states, “Plaintiffs have maintained that President McClanahan will testify at trial regarding the purported harm suffered by Louisiana NAACP’s members.” ECF No. 144-1 at 8–9. However, Defendant incorrectly suggests that Plaintiff intends to elicit testimony revealing the names, or addresses, or birth dates of individual members whose identities were never disclosed in discovery.³ ECF No. 144-1 at 9. Plaintiffs have been consistent that they believe they can establish associational standing based on Mr. McClanahan’s personal knowledge of individual members and which districts they reside in, which he can testify to without disclosing the personal information of those members. *E.g.*, Sept. 1, 2023 Status Conf. Tr. at 40:6-8, 43:8-15.

³ Defendants have asserted that Plaintiffs seek a trial by ambush, in which legions of NAACP members would suddenly waive their associational privilege and appear at trial. ECF No. 144-1 at 8–9. Plaintiffs have stated that they are not currently seeking waivers from any individual members and would not seek such waivers unless the court orders the NAACP to produce members’ personally identifying information. Sept. 1, 2023 Status Conf. Tr. at 40:6-8; *see also id.* at 34:11-13 (“[Counsel for Plaintiff] has very clearly stated repeatedly that their proposal is not designed to allow them to ambush you.”). Moreover, as the Magistrate Judge observed, even if Plaintiffs attempted to offer such evidence, it would be unlikely the court would admit it. *Id.* at 33:16-19.

Defendant attempts to paint this as a selective waiver, claiming that Plaintiff protects some privileged information while revealing others, using privilege as a “sword and a shield.” ECF No. 132-1 at 6–7. This is untrue. As stated, Plaintiff has already provided *non-privileged* evidence that is sufficient to meet the burden of proof for associational standing—specifically, Mr. McClanahan’s personal knowledge of members who reside in specific districts. Defendants have had ample opportunity to probe the basis of Mr. McClanahan’s knowledge, and they have done so. Likewise, they were free to take the deposition of the individual plaintiffs, but they chose not to. The reliance on non-privileged information on a topic concerning which privileged information may also exist is not a selective waiver. *Cf., Ritchie Risk-Linked Strategies Trading (Ireland), Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 368 (S.D.N.Y. 2010) (“Defendants did not . . . waive their attorney-client privilege by having one of their attorneys testify at deposition about non-privileged communications, or by summarizing in ‘conclusory and unrevealing terms’ certain advice or impressions of their counsel.”).

B. Defendant Has Not Established a Need for NAACP Members’ Personally Identifying Information.

The Magistrate Judge correctly found that Defendant failed to provide “any reason to justify its request for the name, address, age, phone number, and occupation of every single member in every challenged district.” ECF No. 136 at 3. Defendant asserts that to show that Plaintiff Louisiana NAACP has members that would have standing in their own right, Plaintiff must establish that it has a member in every challenged district. Whether or not that is a correct statement of the law, it still does

not establish that the personally identifiable information of those members must be disclosed or offered into evidence.

On the contrary, Plaintiff is only required to proffer sufficient evidence to establish that “at least one identified member had suffered or would suffer harm.” *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009). Again, Plaintiff has done so: Plaintiff’s Supplemental Interrogatory Response states that there *are* specific, identified members in specific enacted districts that are reconfigured in Mr. Cooper’s illustrative map to create additional majority-Black districts. ECF No. 135 at 5. That is information Louisiana NAACP President Michael McClanahan can testify to at trial based upon his personal knowledge. Defendants have had the opportunity to test the basis for that knowledge at Mr. McClanahan’s deposition, and they may use that information to challenge the sufficiency of Plaintiff’s standing evidence at trial.

Moreover, Defendants have failed to explain how they would use personally identifiable information of NAACP members to further test the associational standing of the NAACP if it were provided to them. There is no need for individual members to testify or otherwise participate in the lawsuit. *See Hunt v. Washington State Apple Advertising Comm’n*, 432 U.S. 333, 343 (1977). And indeed, Defendant disclaimed any intent to take the depositions of individual members, and they have identified no other way they would verify that the individuals they ask Plaintiff to identify are bona fide NAACP members or how they would verify the individuals reside in a challenged district. In the end, they would have to take Mr. McClanahan’s word for it that the named individuals are who Mr. McClanahan says they are, that

they live where Mr. McClanahan says they live, and that they really are members of the NAACP. But Mr. McClanahan has already given his word under penalty of perjury that there are specific members who he has identified who live in the specific districts identified in the supplemental interrogatory response. Defendants have identified nothing in the personally identifiable information of members that would render that evidence more probative or reliable than it already is or that would allow Defendants to test the basis of Mr. McClanahan's knowledge any more than they have already done.⁴

IV. The Order Is Consistent with Legal Precedent.

Defendant asserts, without evidence, that the Order “fails to conduct any balancing test to determine whether Louisiana NAACP or its members would suffer a substantial restraint on their First Amendment associational rights.” ECF No. 144-1 at 13. In fact, the Order itself states that Defendant failed to make any “showing to overcome Plaintiff's First Amendment objections.” ECF No. 136 at 3. Moreover, a balancing of the interests here shows clearly that Defendants cannot establish a need for individual NAACP members to be named that would be sufficient to overcome First Amendment privilege.

As courts have repeatedly recognized, the identity of Plaintiff's members is protected by the “associational and privacy rights guaranteed by the First and Fourteenth Amendments.” *Hastings v. Ne. Indep. Sch. Dist.*, 615 F.2d 628, 631 (5th

⁴ Defendant asserts that the need for members' birthdates is to allow them to distinguish between, for example, John Smith Jr. and John Smith Sr., but they fail utterly to explain how knowing whether the NAACP claims the elder or the younger John Smith as a member would better allow them to challenge the NAACP's associational standing.

Cir. 1980); *see NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958) (“compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association”); *Hastings*, 615 F.2d at 631–33 (compelled disclosure exposed members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility and abridged plaintiffs’ associational and privacy rights under the First and Fourteenth Amendments).

In *NAACP*, the Supreme Court recognized an associational privilege under the First Amendment because public disclosure of membership lists “entail[s] the likelihood of a substantial restraint upon the exercise by [a party’s] members of their right to freedom of association.” 357 U.S. at 462. Based on this associational privilege, courts in this Circuit have routinely granted protection to membership lists of advocacy organizations. *See, e.g., Young Conservatives of Texas Found. v. Univ. of N. Texas*, No. 4:20-CV-973-SDJ, 2022 WL 2901007, at *4 (E.D. Tex. Jan. 11, 2022) (recognizing the First Amendment right to the confidentiality of membership lists); *League of United Latin Am. Citizens v. Abbott*, No. EP-21-CV-00259-DCG-JES-JVB, 2022 WL 2806850, at *3 (W.D. Tex. July 18, 2022) (granting plaintiffs “leave to pseudonymously identify members of their organizations that they allege have suffered the requisite harm”); *Hastings*, 615 F.2d at 632–33 (reversing discovery sanctions for failure to disclose labor union membership lists); *cf. Gibson v. Fla. Legis. Investigation Comm.*, 372 U.S. 539, 542–44 (1963) (denying state legislative committee subpoena for NAACP branch’s membership list on First and Fourteenth

Amendment grounds where a representative of the NAACP had answered questions based on his own personal knowledge of branch's members).

To show that the First Amendment privilege against disclosure of membership lists applies, a party “need only demonstrate an objectively reasonable probability that disclosure of the information may expose its ‘members to economic reprisal, loss of employment, threat of physical coercion, [or] other manifestations of public hostility.’” *Young Conservatives of Texas Found.*, 2022 WL 2901007, at *2 (citations omitted). The threatened harm need not rise to any particular level of severity. For example, in *Bright Response, LLC v. Google Inc.*, the court found the privilege applied to prevent disclosure of Google's lobbying activities because disclosure of those activities threatened to chill the company's First Amendment rights. No. 2:07CV371, 2009 WL 10741629, at * 1 (E.D. Tex. Sept. 29, 2009).

Here, Plaintiff Louisiana NAACP's interest in the confidentiality of its membership is at minimum as strong as in the many other contexts where this First Amendment right has been protected. As explained in the declaration of Louisiana NAACP President Michael McClanahan, Louisiana NAACP leadership and members have been harassed, threatened, and retaliated against due to their affiliations with the NAACP. Declaration of Michael McClanahan ¶¶ 4–11, ECF No. 135-2. Mr. McClanahan has received hate mail and intimidating letters that threaten the membership broadly due to their affiliation with a racial justice organization. *Id.* ¶ 8–11. Disclosure of members' identities and private information could induce them to withdraw from their membership in the organization and discourage others from

joining. *Id.* ¶ 12. Subjecting Louisiana NAACP members to the risk of such reprisals through the public disclosure of their personally identifiable information would impede the Louisiana NAACP’s work, including advocacy efforts on sensitive issues. *Id.* Furthermore, Plaintiff’s members are not themselves party to this lawsuit and therefore have not consented to public disclosure of their personally identifying information. Compelled disclosure here will harm Plaintiff’s ability to engage in advocacy, as involuntary disclosure of member information will discourage current and prospective members from engaging with the Louisiana NAACP.⁵

Once the party asserting the privilege makes “a *prima facie* showing that it applies, then the burden shifts to the party seeking the information to demonstrate a compelling need for the information and that the information cannot be obtained from other sources.” *Bright Response*, 2009 WL 10741629, at * 1 (citations omitted). To balance the substantial restraint on associational rights against the interest in disclosure, courts typically apply a balancing test of certain factors, including: “(1) the importance of the information sought to the issues in the case, (2) the availability of the information from alternative sources, (3) the substantiality of the First Amendment interests at stake, and (4) whether the request is carefully tailored to avoid unnecessary interference with protected activities.” *Young Conservatives of Texas Found. v. Univ. of N. Texas*, No. 4:20-CV-973-SDJ, 2022 WL 2901007, at *3

⁵ Defendant contends that these risks can be mitigated through an attorneys’-eyes-only designation and filing under seal, but as Mr. McClanahan’s declaration makes clear, NAACP members have been targeted by government as well as private actors.

(E.D. Tex. Jan. 11, 2022) (internal citations omitted). A balancing of the interests here demonstrates that Defendants cannot make such a showing.

As explained above, the only need Defendant has identified for seeking this information is to “assess [Plaintiff’s] standing” to assert the causes of action outlined in the complaint on behalf of its members. However, the names and other personal information of individual members is not required to establish associational standing. Rather, Plaintiff must proffer sufficient evidence to establish that “at least one identified member had suffered or would suffer harm.” *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009). While some language in *Summers* might suggest that a plaintiff must name names to establish associational standing, *Summers* does not go so far. The issue in *Summers* was not whether the members with sufficiently concrete harms had been named, but whether such members could be identified at all beyond a mere probability that they existed. 555 U.S. at 497–99 (rejecting a test that would rely on a statistical probability that at least one member would be harmed by the challenged activity). While naming names might be one way of establishing more than the mere probability that such members exist, nothing in *Summers* requires a particular type or quantum of evidence to establish that an identifiable member has been harmed.

Here, Plaintiffs do not rely on the probability that one or more of their members reside in the challenged districts. Rather, Mr. McClanahan signed interrogatory responses under penalty of perjury stating that the organization had identified specific members who reside in each of the challenged districts. ECF No. 135-1. That

is information Louisiana NAACP President Michael McClanahan testified to during his 30(b)(6) deposition and could testify to again at trial. Ex. A (Michael McClanahan Dep. Tr.) at 94:3-8. That is sufficient to establish there are real, identified members who have suffered an injury-in-fact for standing purposes from residing in districts that dilute their right to vote. *See, e.g., United States v. Hays*, 515 U.S. 737, 745 (1995); *Shaw v. Hunt*, 517 U.S. 899, 904 (1996); *Miller v. Johnson*, 515 U.S. 900, 909 (1995). There is no need for individual members to testify or otherwise participate in the lawsuit, nor be compelled to disclose their identifying information or their association with the NAACP.

Defendant lists several websites that have information regarding NAACP members who serve as officers of the Louisiana NAACP or one of its local branches. This is irrelevant – that an officer of the organization is publicly identified does not mean that a member of the state conference who has not chosen to participate in the litigation nor consented to public identification should be named. As discussed earlier individual NAACP members have a right to have their privilege protected at their own discretion and their privilege is not waived merely because another member has chosen to waive theirs.

As the Magistrate Judge properly balanced these interests, the Order is not erroneous and is consistent with well-established legal precedent. The denial of the Motion to Compel should be sustained.

CONCLUSION

For the foregoing reasons, Plaintiff Louisiana NAACP respectfully requests that this Court affirm the Magistrate Judge's order denying Defendant's Motion to Compel.

DATED: October 13, 2023

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**Pro Hac Vice Motion Forthcoming

EXHIBIT A



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Transcript of Michael McClanahan, Designated Representative

Date: September 8, 2023

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

DR. DOROTHY NAIRNE, : CIVIL ACTION NO.:
et al., : 3:22-cv-00178-SDD-SDJ
Plaintiffs, :
v. : Chief Judge
R. KYLE ARDOIN, in his : Shelly D. Dick
official capacity as : Magistrate Judge
Secretary of State of : Scott D. Johnson
Louisiana, :
Defendant. :

-----x

30 (b) (6) DEPOSITION
OF LOUISIANA STATE CONFERENCE OF THE NAACP
through their representative
MICHAEL McCLANAHAN
CONDUCTED VIRTUALLY
FRIDAY, SEPTEMBER 8, 2023
10:04 a.m. EST

Job No.: 506194
Pages 1 - 137
Reported by: APRIL REID

1 Deposition of MICHAEL McCLANAHAN, held
2 virtually. All appeared remotely.

3
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1 A P P E A R A N C E S cont'd

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Transcript of Michael McClanahan, Designated Representative
Conducted on September 8, 2023

4

1 A P P E A R A N C E S cont'd

2

3 ALSO PRESENT:

4

5 AMANDA LAGROUE,

6 Louisiana Attorney General's Office

7

8 ROB CLARK, ESQ.

9 AMANDA GIGLIO, ESQ.

10 DAKOTA KNEHANS, ESQ.

11 Cozen O'Connor - observing only

12

13 ALORA THOMAS-LUNDBORG, ESQ.

14 ACLU

15

16 JACK ADCOCK

17

18 JACKSON SCHUELER,

19 Remote Technician

20

21

22

23

24

25

1 MS. HOLT: Oh, Exhibit 4. Excuse me.
2 (Exhibit 4 was marked for identification
3 and is attached to the transcript.)

4 REMOTE TECHNICIAN: Yes. The Amended
5 Complaint was Exhibit 3.

6 MS. HOLT: Thank you. Thank you.
7 Counting is not a lawyer's strong suit.

8 Okay. And if we can please scroll
9 through this entire document for Mr.
10 McClanahan.

11 BY MS. HOLT:

12 Q. Okay. Mr. McClanahan, do you recognize
13 this document?

14 A. Yes.

15 MS. HOLT: And if we can go back to the
16 top.

17 Q. And what is this document?

18 A. It is the Plaintiff, NAACP Louisiana
19 State Conference's Supplemental Responses and
20 Objections to Defendant Ardoin's First Set of
21 Interrogatories and First Set of Requests for
22 Production of Documents to the Organizational
23 Plaintiffs.

24 Q. Thank you. I know that's a long title.

25 MS. HOLT: If we can turn to the very

1 last page of this Exhibit 4, please.

2 BY MS. HOLT:

3 Q. Mr. McClanahan, do you recall signing
4 that verification?

5 A. Yes.

6 Q. So you understand that these responses
7 you've sworn to answer in the best of your
8 knowledge and belief?

9 A. Yes.

10 MS. HOLT: Now, if we can turn back to
11 the bottom of page 1. And if we can include
12 the top of page 2 in this view we're
13 looking -- yeah. Great.

14 Q. Mr. McClanahan, can you please read that
15 Interrogatory No. 3 to yourself and let me know
16 when you're finished.

17 A. Okay. Read the --

18 Q. Perfect.

19 A. -- first and the -- okay.

20 Q. Okay. Do you see part (a) there?

21 A. Right.

22 Q. And can you read that out loud for the
23 record.

24 A. "Identify the members of your
25 organization living in each challenged district."

1 Q. Thank you.

2 MS. HOLT: And if we can look down on
3 page 2 to the response. Great.

4 Q. Can you please read that first paragraph
5 in the response to paragraph (a). I'm sorry.
6 It's the second paragraph down under Supplemental
7 Response, starting with -- it starts with the
8 subsection (a).

9 A. Do I read it silently or out loud?

10 Q. If you can read it out loud for the
11 record, please.

12 A. "Plaintiff has identified at least one
13 member who resides in, among others, each of the
14 following Louisiana senate districts: 2, 5, 7, 8,
15 10, 14, 15, 17, 19, 31, 36, 38 and 39."

16 Q. Great. Thank you.

17 Is every senate district listed in this
18 response?

19 MS. ROHANI: Objection, calls for a
20 legal conclusion.

21 You can answer.

22 A. Now repeat your question again.

23 Q. Sure.

24 How many senate districts does Louisiana
25 have?

1 MS. ROHANI: Objection.

2 You can answer.

3 A. I don't know. Off the top of my head, I
4 don't know. I know --

5 Q. That's totally fine.

6 Do you see the number 1 in this
7 response?

8 A. I see 1 down by the house districts.

9 Q. Okay.

10 A. But I don't see nothing by the senate.

11 Q. So what I'm getting at is: Can we agree
12 that there are numbers missing between 1 and 39 in
13 this response?

14 A. Okay. All right. We can.

15 Q. So what does the Louisiana State
16 Conference mean when it says it has identified at
17 least one member?

18 MS. ROHANI: Objection.

19 You can answer.

20 A. Okay. It means that we have at least
21 one member living in these identified senatorial
22 districts, 2, 5, 7, 8, 10, 14, 15, 17, 19, 31, 36,
23 38, and 39.

24 Q. And how do you know that?

25 MS. ROHANI: Objection.

1 A. Well, what we've done is looked at these
2 maps, the legal maps of the -- that were passed,
3 looked at the illustrative maps. And I'm from
4 Louisiana. I'm a -- I'm from north Louisiana, the
5 best part of Louisiana. It's Sabine Parish in
6 Zwolle, Louisiana. But I've been all over the
7 state of Louisiana as the NAACP State Conference
8 president. And as I -- as I cross-reference
9 these, I do know that we have members residing in
10 all of these -- these senatorial districts.

11 Q. Sir, I believe you testified earlier
12 that you don't receive any reports on membership
13 from the branches; is that correct?

14 A. I don't receive a report about member --
15 about membership, but I receive -- you know, they
16 tell me what they're doing. I receive -- I
17 receive activity reports.

18 Q. So how do you know the members or
19 what -- what members are in which house -- or
20 which senate district? Excuse me.

21 MS. ROHANI: Objection.

22 A. Okay. I'm a native. I'm a native
23 Louisianan. I've been all over the state.

24 I've gone to many of these parishes
25 where they have branches and they have Freedom

1 Fund banquets.

2 I've gone to many of these areas where
3 we've had to deal with police brutality.

4 I've gone to many of these areas where
5 we've had to deal with voter registration.

6 I've gone to many of these areas where
7 they've had an issue with school systems, the
8 desegregation suits.

9 I've gone to many of these areas where
10 we had to go talk to the senate -- the senator for
11 that particular area.

12 I've gone to many of these areas because
13 I've gone to the football games with members.

14 And we've had rallies at these various
15 places.

16 I've attended parades in these various
17 areas.

18 I'm familiar with leadership. I might
19 not be familiar with every member, but I'm
20 familiar with the leadership of those various
21 areas.

22 And so -- and sometime members come up
23 to me and say, Mr. McClanahan, how you doing, I'm
24 a member. I might remember that day. I might not
25 remember his face, but I remember I met them

1 there.

2 So I'm familiar with having members
3 in -- at least one member that reside in each one
4 of these questioned senatorial districts.

5 Q. Do you know those members' home
6 addresses?

7 MS. ROHANI: Objection, to the extent
8 that this is protected by attorney-client
9 privilege.

10 But you can answer.

11 A. I've gone to some of their homes. I
12 haven't -- probably haven't gone to all of them,
13 but I've gone to a lot of homes. And not only
14 eaten gumbo, but crackers. I'm telling you.

15 I was up in Cottonport last night.
16 That's right outside of Marksville, right.

17 And I've gone to those places and I've
18 sat down.

19 And I've also attended funerals.

20 But I might not have gone to each home,
21 but I've gone to enough of them to understand that
22 we have members that reside there.

23 Q. So let me -- let me try it this way. So
24 do you see how it lists Senate District 2?

25 A. Yes.

1 Q. The member identified in that
2 district -- I'm not asking for their identity, but
3 do you know their home address?

4 MS. ROHANI: Objection.

5 A. I know they live there, yes.

6 Q. How do you know that?

7 A. Because I've already looked at that
8 particular area, and I know we have at least one.
9 I might not know every one at -- at that
10 particular senatorial dist- -- address, but I know
11 at least one of the membership that stays in that
12 area. And I know -- I've been to the homes. I've
13 been -- most of these homes I've been to.

14 And Louisiana is a welcoming state.
15 We -- we love to bring you in, watch some LSU,
16 southern football and eat some barbecue and some
17 dirty rice and some -- so I've been to many of
18 those homes. And so I -- I can get to most of
19 their homes from -- just on memory alone.

20 Q. Okay. Now, Mr. McClanahan, I'm -- I'm
21 not doubting that you go to certain members'
22 homes.

23 What I'm getting at is: This response
24 says that plaintiff has identified at least one
25 member who resides in Senate District 2. Now, I

1 want to know how you know that.

2 MS. ROHANI: Objection.

3 You can answer.

4 A. Okay. So as I alluded to earlier, the
5 senate districts are a whole lot larger than the
6 house representative districts, right. So I do
7 know, based upon looking -- and looking at the
8 maps that have the parishes -- Louisiana has
9 parishes, not counties. So looking at the
10 parishes, cross-referencing them with our
11 branches, where our branch is located, it's easy.
12 I know that easily, that we have branches in and
13 the members that make up the branches in these
14 particular senatorial districts.

15 Q. Does "member" mean member in good
16 standing?

17 MS. ROHANI: Objection.

18 A. Either you're a member or you're not.
19 Either you're a member -- paid dues member or
20 you're not. I don't know if there's a quasi -- a
21 place where members go until they get in good
22 standing. I'm not aware of anything like that.

23 So if your \$30 paid up, then I want
24 everybody on the call, on this Zoom, that paid
25 their \$30 to become a member of the oldest and the

1 boldest civilized organization in the country.

2 Q. So how did you verify that the
3 identified member was, in fact, a member?

4 MS. ROHANI: Objection.

5 I want to make sure that none of these
6 answers Mr. McClanahan gives invites
7 discussions or consultation with counsel, he
8 or the NAACP had with counsel.

9 A. Repeat your question.

10 Q. Sure.

11 So how did you verify that the
12 identified member in Senate District 2 was
13 actually a member of the NAACP?

14 A. Well, I do know that we have at least
15 one member -- several members. And so I looked at
16 the -- I know the leadership of the various
17 branches, and I know that somebody from the
18 leadership lives in that area. And if they're not
19 part of the leadership, then the branch would know
20 because national would tell them that, you know,
21 this -- this person or that person cannot be part
22 of the leadership because they're not a member.
23 But I haven't -- I haven't gotten anything saying
24 that the leadership as the branch has it is not in
25 good standing.

1 So when I look around and go to these
2 places, I speak to the presidents, vice
3 presidents, or some -- somebody in leadership.
4 And they're situated, living in these questioned
5 senatorial districts.

6 Q. Mr. McClanahan, did you have a
7 conversation with a local branch president whose
8 jurisdiction covers Senate District 2 before this
9 litigation?

10 MS. ROHANI: Objection.

11 Apologies, Cassie.

12 A. Okay. So what I've done, you know, I
13 have these calls, the quarterly meetings, I have
14 the state convention, and we talk about issues
15 that affect them.

16 So we know -- we know that, once we
17 talked about how the state looks like, they were
18 going to -- going to vote. We decided as a group.
19 And it included members from all of these
20 questioned senatorial districts. And we -- we
21 decided as a group, as a -- to -- to agree to a
22 lawsuit.

23 Q. Mr. McClanahan, I'm a little confused
24 because I believe you testified that you don't get
25 membership lists and that you rely on the local

1 branches to tell you about their members. But how
2 do you -- how do you know, then, what members
3 actually reside in which senate districts?

4 How did you identify those particular
5 members?

6 MS. ROHANI: Objection.

7 Again, I want to make sure that, Mr.
8 McClanahan, the answers you give invite [sic]
9 conversations you've discussed with counsel,
10 including General Counsel.

11 A. As I alluded to you before, I looked --
12 I cross-referenced the legal maps, the
13 illustrative maps with the membership. The
14 state -- the state map had -- with the parishes in
15 it, right, with the parishes. And I
16 cross-referenced that. And I've been to many of
17 these places, and I know the membership and I know
18 the leadership. And they're there, at least one
19 or two.

20 And I know the leadership. That means
21 the president, vice president, secretary,
22 treasurer, the various vice presidents are in
23 those areas. I know that. I know that. I've
24 been to their homes and I know -- I know this area
25 well. I know the terrain of Louisiana, if I don't

1 know anything else.

2 Q. Okay. Now, you said you
3 cross-referenced the map. Did you cross-reference
4 the map of the membership list?

5 A. I --

6 MS. ROHANI: Objection.

7 THE WITNESS: Go ahead.

8 MS. ROHANI: Objection.

9 Please go ahead and answer.

10 A. I cross-referenced the maps with -- with
11 the -- with the vice president and those areas
12 that they represent, the vice president. So
13 the -- so the maps would have the parish. Because
14 that, based upon my knowledge -- I know for a fact
15 that I've been in those towns and I've sat down at
16 those tables. And I know for a fact that I was in
17 2, 5, and I got calls from members in 14 and 15.
18 And I've attended funerals in 38, 39. All over
19 the state of Louisiana I've been. And I've sat
20 down and I've talked to members. And we've
21 rallied together in all of those senatorial
22 districts in question.

23 MS. ROHANI: Counsel, I would like to
24 ask for a quick five-minute break, if
25 possible.

1 MS. HOLT: Okay. We can certainly do
2 that.

3 Would you like to meet back -- I guess
4 we're about -- we can go ahead and do a
5 little bit longer than five because every
6 time I look at the clock, it keeps going up.
7 You want to do 11:55?

8 MS. ROHANI: That's fine.

9 MS. HOLT: 10:55 your time.

10 MS. ROHANI: That's fine.

11 We just need to clarify. We think
12 there's an issue with the attorney-client
13 privilege. That's fine.

14 MS. HOLT: Okay. Do you need to consult
15 with -- well, no. I'll -- that's totally
16 fine. All right.

17 MS. ROHANI: We'll be back at 11:55.

18 (Recess in proceedings.)

19 BY MS. HOLT:

20 Q. Mr. McClanahan, before the break --

21 MS. HOLT: And if we could bring back up
22 Exhibit 4, please.

23 Thank you.

24 Q. Mr. McClanahan, before the break we were
25 talking about the second paragraph there regarding

1 the identification of members in Louisiana senate
2 districts.

3 And do -- do you see the senate
4 districts identified in 3(a), Mr. McClanahan?

5 A. Yes, I do.

6 Q. Did you review any list or document with
7 addresses and names to verify that a branch member
8 lives in each of these districts?

9 A. I didn't -- I didn't look at a list. I
10 didn't have a list. But I do know, and -- and in
11 reviewing this, talked with my lawyers and we took
12 the legal maps and illustrative maps, put
13 together. And based upon our conversations -- and
14 I told them that I've been all over these places,
15 and I could identify where members live in these
16 particular senatorial districts.

17 Q. Did you speak with any branch leaders
18 for the purpose of identifying these districts?

19 MS. ROHANI: Objection.

20 You can answer.

21 A. Did I speak to any -- any leadership
22 about the districts?

23 Q. Any branch leaders.

24 A. What do you mean, "speak with" them?

25 Q. Did you ask any branch leaders whether

1 they had been a member and residing in each of
2 these senate districts?

3 MS. ROHANI: Objection.

4 You can answer.

5 A. Well, besides going to these branch --
6 branches, branches and branch meetings, I know for
7 a fact because I've been to all of them. There's
8 probably not too many branches I haven't visited.
9 And I visited all of these. I know the
10 leadership.

11 And in preparing for this, I speak with
12 my lawyers. I know these. I know this. We have
13 members there. We have branches there in these
14 districts and these areas. And -- and the
15 membership's excited about being a part of the
16 NAACP.

17 Q. So I don't believe you answered my
18 question there.

19 I -- I asked if you spoke with specific
20 branch leaders for the purpose of answering this
21 interrogatory.

22 MS. ROHANI: Objection.

23 You can answer.

24 A. I -- I may have spoke with some, but may
25 have spoke with all. But a good many of them, in

1 terms of our Monday call, in terms of our
2 quarterly meetings, in terms of our state
3 conventions about -- about this litigation. And,
4 you know, they all agreed that we have members in
5 these districts. I know for a fact they have
6 members in these districts. I've been there.

7 And so in terms of the leadership, we
8 know that there's -- somebody lives in each one of
9 those districts from the leadership team.

10 Q. Now, you just said we know individuals
11 live in each of those districts from the
12 leadership team.

13 What particular conversations did you
14 have or documents did you review to come up with
15 that conclusion?

16 MS. ROHANI: Objection, again, with
17 respect that it seeks information covered by
18 attorney-client privilege.

19 But, President McClanahan, anything
20 that's not, you can feel free to answer.

21 A. Well, I do know that I've been to and
22 having these -- all these quarterly meetings,
23 quarterly meetings and conventions, going to all
24 of these Freedom Fund banquets, going to these
25 galas in every -- these towns, in these -- I do

1 know that we have somebody there. And in talking
2 to -- on the calls about this litigation,
3 preparing them for as we go down toward the end of
4 this litigation, I'm aware of members that stay in
5 each one of these districts.

6 Q. Are those members black?

7 A. Our membership is diverse.

8 Q. Yes, but you said you're aware of
9 members in the specific district.

10 Is the member that you're aware of
11 black?

12 A. It all depends. It all depends on where
13 the senatorial district is located at.

14 Q. Okay.

15 A. But most of it's black.

16 Q. So the member that you say you
17 identified for Senate District 2, is that member
18 black?

19 A. I probably -- identify it in my head,
20 probably 2. And yes, that one's probably black.

21 Q. How do you -- you said "probably." What
22 do you -- what do you mean in your -- in your
23 head? What do you mean by "probably" and in your
24 head?

25 A. Because our membership is diverse. I

1 was at a meeting on -- last night where the
2 members were -- where two or three of the members
3 were white. And so it's -- you know. So -- and
4 Louisiana is diverse. And so our membership also
5 refers diversity. And so I can't assume that the
6 member's going to be black because he could have
7 very well been white.

8 Q. Okay. Do you know if that member is
9 registered to vote?

10 A. No, I don't.

11 Q. And would your answer -- I asked you
12 specifically about Senate District 2. Would your
13 answer be the same for the other senate districts
14 listed here?

15 A. Probably so.

16 Q. Okay. So this response to part (a)
17 regarding the senate districts, is that based on
18 your own personal knowledge?

19 A. If I would have to say an answer, yes.

20 Q. I'm sorry, I didn't hear that first
21 part.

22 A. Yes. Yes, it's based upon my personal
23 knowledge, and it's based upon me talking with the
24 lawyers and me looking at the maps, the
25 illustrative maps, me looking at the illegal maps

1 that we looking -- I know where I've been and
2 where the membership resides through the state --
3 the state of Louisiana, yes.

4 Q. Mr. McClanahan, who is that member who
5 live -- who's been identified who lives in Senate
6 District 2?

7 MS. ROHANI: Objection.

8 Direct not to answer.

9 Q. Mr. McClanahan, who is that member who
10 has been identified who resides in District 5?

11 MS. ROHANI: Objection.

12 Direct not to answer.

13 MS. HOLT: And, Sara, is your
14 instruction going to be the same for every
15 senate district on this list?

16 MS. ROHANI: Correct.

17 I just want to clarify that there was a
18 motion to compel filed in order to get this
19 information already, and it was denied. So
20 these are questions that shouldn't be asked
21 in this deposition. It's really improper to
22 even ask that.

23 MS. HOLT: Sara, we intend to challenge
24 that.

25 And in addition, the motion -- the

1 denial of the motion to compel didn't say
2 that we couldn't ask these questions at
3 30(b)(6).

4 MS. ROHANI: It is still -- at this
5 current point, it was denied.

6 You -- it's not appropriate to be asking
7 personally-identifiable information from the
8 president.

9 MS. HOLT: Sure. And I understand that
10 it's been denied. I need to ask these
11 questions to create a record, and it is a
12 topic in the 30(b)(6) notice.

13 MS. ROHANI: I just want to get on the
14 record that it is improper to even ask. This
15 is based on First Amendment privileges, and
16 my answers will be exactly the same for every
17 single district.

18 MS. HOLT: And is your objection going
19 to be the same for Senate District 15?

20 MS. ROHANI: Yes.

21 MS. HOLT: Even though Mr. McClanahan
22 lives in Senate District 15?

23 MS. ROHANI: Yes.

24 MS. HOLT: Okay.

25

1 BY MS. HOLT:

2 Q. All right. So let's now go to that
3 second paragraph of this response.

4 Mr. McClanahan, can you please read that
5 out loud, for the record?

6 A. "Plaintiff has identified at least one
7 member who lives in, among others, each of the
8 following Louisiana House Districts: 1, 2, 3, 4,
9 5, 6, 7, 8, 9, 13, 22, 25, 27, 34, 35, 36, 37, 47,
10 57, 58, 59, 60, 61, 62, 63, 65, 66, 67, 68, 69,
11 70, 80, 88, and 101.

12 Q. Thank you, Mr. McClanahan.

13 Is that -- do you know how many house
14 districts Louisiana has?

15 A. No, I don't. Not off the top of my
16 head.

17 Q. Let's see. Do you see number 10 in this
18 response?

19 A. No, I don't.

20 Q. So is it fair to say that not all the
21 Louisiana house districts are listed in this
22 response?

23 A. Right.

24 Q. Okay. Now, did you review any list or
25 documents with names and addresses to verify that

1 a member lives in each of these house districts?

2 A. I didn't have a list.

3 Q. Okay. What did you have?

4 MS. ROHANI: Objection.

5 Q. You can answer, I believe.

6 MS. ROHANI: No. Direct not to answer.

7 MS. HOLT: Direct not to answer? Okay.

8 MS. ROHANI: Yeah. It's confidential.

9 MS. HOLT: Okay.

10 BY MS. HOLT:

11 Q. On -- Mr. McClanahan, do you have
12 personal knowledge of at least one member
13 identified in each of these house districts?

14 A. Yes.

15 Q. And how do you know that?

16 MS. ROHANI: Objection.

17 Direct not to answer.

18 MS. HOLT: Sara, I'm a little confused.

19 MS. ROHANI: My apologies, Cassie. I
20 merely object to the extent that this may be
21 covered by attorney-client privileges;
22 however, Mr. McClanahan can answer how. My
23 apologies.

24 MS. HOLT: Okay.

25 A. Okay. Well, as I alluded to you in the

1 answer to (a), that I'm a native Louisianan. How
2 I travel this whole state, bad roads and all, and
3 I looked at the illustrative maps, I looked at the
4 illegal maps, and I know -- I know that we have
5 members in the house district because the house
6 district is smaller than the senatorial district.

7 So we eat, watch football games. We go
8 to festivals. We go to Freedom Fund banquets. I
9 go to protest police brutality. We go to stand in
10 the school district or -- or kicking our kids out
11 of school for literally nothing. I go there to
12 test medication or -- or healthcare, inadequate
13 healthcare. I've been to these areas and I've
14 stood with members. Stood with members in all of
15 these areas.

16 And so I know, based upon looking at the
17 illustrative maps, looking at the illegal maps,
18 and just knowledge of Louisiana, talked with our
19 lawyers, knowing that we have a plaintiff -- we've
20 identified at least one member in each one of
21 these house districts.

22 Q. Mr. McClanahan, how many house -- do you
23 know how many house districts Baton Rouge has?

24 A. I don't, not off the top of my head.

25 Q. Sure.

1 Is it more than one?

2 A. Yes.

3 Q. How did you verify that at least one
4 member lives in at least two house districts in
5 Baton Rouge?

6 MS. ROHANI: Again, objection, to the
7 extent that there are maybe privileged
8 communications.

9 However, President McClanahan, you can
10 answer.

11 THE WITNESS: Okay.

12 A. You say Baton Rouge?

13 Q. Yes, sir.

14 A. I used to be Baton Rouge vice president,
15 so I know for a fact that we have at least one or
16 two members living in each of the house districts
17 in Baton Rouge area.

18 Q. How do you know that those members
19 didn't move?

20 A. I live in Baton Rouge. I know them
21 personally.

22 Q. Okay.

23 A. On more times than not I've been to
24 their house. And then I've probably helped fix
25 their house, repair their house.

1 Q. Okay.

2 A. You know, we've been through floods and
3 all that, hurricane. So I've been there. I've
4 been the president -- when I was branch
5 president -- branch president, that they can call
6 on me to also pray for them and to welcome them,
7 you know, when they have bursts and to help grieve
8 with them when they've had losses.

9 So I've been to many of the houses.
10 Been on the Southern University branch. I've been
11 to these homes and cheered on the Jaguars. Been
12 to these homes to cheer on the Tigers. And so
13 we're familiar with those here in the Baton Rouge
14 area in the house districts.

15 Q. When you go to a home, do you know which
16 house district you're in when you visit?

17 A. Probably so.

18 Q. Probably so?

19 A. Probably so. In the State of Louisiana,
20 probably. And in Baton Rouge, probably so.

21 Q. Now, there's -- there's other house
22 districts listed outside of Baton Rouge in this
23 response; is that correct?

24 A. Yes.

25 Q. Did you speak with any branch leaders

1 for the purposes of verifying this interrogatory
2 as to the house districts?

3 MS. ROHANI: Objection.

4 You can answer.

5 A. Okay. You know, I've spoke with
6 leadership all over the state through the various
7 means I alluded to earlier. And the response
8 would be the same because, you know, I know, and
9 they would tell me in these various house
10 districts. And so I'm confident that I've spoken
11 with, or they made their voices known. And so
12 they agreed with what we're doing.

13 Q. Did you have a specific meeting with a
14 specific branch president --

15 MS. ROHANI: Objection --

16 Q. -- about these house districts?

17 MS. HOLT: Oh. I apologize, Sara.

18 MS. ROHANI: My apologies, Cassie. I
19 keep doing that.

20 Objection.

21 But you can answer.

22 A. I've had conversation with a number of
23 members about -- about the -- about the methods we
24 were about to employ and the various issues that
25 we deal with. And the leadership, which reflects

1 the membership, agrees that we should employ these
2 methods on these various house districts.

3 So I've spoken to them individually, but
4 they speak in global. When they speak through --
5 the membership speak through the leadership.

6 Q. But that -- there wasn't a specific
7 conversation with a branch leader. That was my
8 question.

9 A. If there was, I don't remember. Because
10 a lot of times when we -- when we have these
11 various meetings, these various calls, they'll
12 speak out; they want to be part of this. And so
13 sometimes they're speaking for themselves
14 individually, but -- but when they speak, they
15 speak as -- as a head, so they represent the whole
16 branch.

17 Q. So for the house districts that are in
18 other parts of the state, like New Orleans, how do
19 you -- how did you identify a member who lived in
20 that specific house district?

21 MS. ROHANI: Objection.

22 You can answer.

23 A. Well, I'm a Louisiana native. And I've
24 lived in New Orleans also. And I've known -- I've
25 known each president, branch president of Orleans

1 for the last -- probably the last ten -- ten
2 years. And I've sit with them all. I know New
3 Orleans pretty good now. So, you know, I've spoke
4 with the leadership and the membership when I
5 was -- then.

6 I used to be the administrator for the
7 entire branch. That means when they're -- when
8 the branch president was in between. And so I've
9 spoken with them. And I -- I know Orleans. And I
10 can say that I've spoken to -- not individually,
11 as the administrator. But also in speaking with
12 the membership about -- about this. And we have a
13 member, at least one member in each one of
14 these -- this house district in New Orleans in
15 question.

16 Q. Mr. McClanahan, when did you speak with
17 the New Orleans branch president about this case?

18 MS. ROHANI: Objection.

19 A. I don't know a -- if you're asking for a
20 specific date and time, I'm not that good. I'm
21 sorry. But I spoke with him because he gets on
22 our Monday calls, too. And he and I are friends.
23 I speak with him regularly.

24 Q. Okay. Now, Mr. McClanahan, sitting here
25 today, can you identify which house districts are

1 within New Orleans?

2 A. I'm not -- I'm not that good. I
3 don't -- I don't even know where my kids' rooms
4 are in my own house.

5 Q. Do you know if any of the members
6 identified in these house districts are registered
7 voters?

8 A. No, I don't.

9 Q. Do you know if they are black?

10 A. No, I don't. Because the membership is
11 diverse. And then when you talk about Orleans,
12 you're talking about really diversity, so I
13 wouldn't know.

14 Q. Okay. Now, let's see, house district
15 or -- yeah, House District 1, who is the member
16 who you identified that lives in House District 1?

17 MS. ROHANI: Again, objection.

18 Direct not to answer.

19 MS. HOLT: All right. And, Sara, is
20 your objection and instruction going to be
21 the same for every house district --

22 MS. ROHANI: Yes, ma'am.

23 MS. HOLT: -- listed here?

24 MS. ROHANI: Yes, Cassie.

25 MS. HOLT: All right.

1 So if we can go to the very last
2 paragraph -- oh, we don't need to scroll. I
3 apologize. That's just -- my eyes need to go
4 down.

5 BY MS. HOLT:

6 Q. All right. Mr. McClanahan, can you
7 please read this last paragraph out loud for the
8 record.

9 A. "Plaintiff has identified at least one
10 member who would reside in each of the newly
11 created majority-Black districts or the newly
12 unpacked majority-Black districts in Bill Cooper's
13 June 2023 illustrative plans, including, among
14 others, illustrative House Districts 1, 3, 4, 29,
15 34, 38, 57, 58, 60, 61, 63, 65, 68, 69, and 101,
16 and illustrative Senate Districts 2, 7, 15, 17,
17 19, 38, and 39."

18 Q. Thank you, Mr. McClanahan.

19 And some of these questions are going to
20 be the same as the previous sections.

21 But how did you identify a member that
22 lives in these illustrative districts?

23 A. Well, being a native Louisianan, I
24 looked at the illustrative maps, looked at the
25 illegal -- illegal maps, and I know the areas,

1 spoke with my -- my lawyers, and I know these
2 areas and I know the membership that lives there.
3 And it was easy for me to identify where branches
4 are, where the leadership lives, and members live
5 in these particular districts.

6 Q. Did you review any other documents to
7 make that determination?

8 A. I didn't have a list or anything.

9 I spoke with my lawyers. We got
10 together, and -- and I know -- I looked at the
11 illegal maps, which was the -- I looked at the
12 illustrative maps and, you know, came to the
13 conclusion, based upon the -- the membership,
14 based upon our -- where our branches are located.
15 We came to the conclusion.

16 I've been in these areas. I've been in
17 these homes. I've been in these football
18 stadiums. I've been in these courtrooms. I've
19 been here and I've been there. I've eaten here
20 and I've bought from here.

21 And so we came to the conclusion that we
22 have persons -- because when I would go there, I
23 wouldn't go there by myself. I would go there at
24 the request of the membership. I would go there
25 at the request of the leadership.

1 Q. So is it fair to say that this response
2 is based off your personal knowledge?

3 A. Based upon my personal knowledge, and
4 it's based upon the information that the lawyers
5 and I talked about.

6 Q. And did you speak with any branch
7 presidents to identify members that live in these
8 illustrative districts?

9 MS. ROHANI: Objection.

10 But you can answer.

11 THE WITNESS: Okay.

12 A. So when I would have these quarterly
13 meetings and these state conventions and we would
14 talk about what's -- so I would keep them updated,
15 right. And we would talk about these districts.
16 Literally talk about these districts. And based
17 upon me talking to them about this -- this
18 litigation, about where we're headed with
19 litigation, we all agree -- they agreed with me
20 that we have somebody who lives in each one of
21 these districts in question.

22 Q. Did you show them Mr. Cooper's
23 illustrative districts?

24 MS. ROHANI: Objection.

25 You can answer.

1 A. I didn't show them, per se, but we
2 talked about the districts, the numbers
3 themselves. I probably didn't have the map to
4 show them. If I did, I didn't have -- you know, I
5 didn't pull it up on a particular screen or
6 anything like that. But we talked about the areas
7 in question, as you talk about Orleans, as you
8 talk about Baton Rouge. It's easy for me to say
9 that to them, East Baton Rouge, Orleans Parish, or
10 Caddo Parish or Sabine Parish.

11 Q. Do you know if any of those members
12 identified are registered to vote?

13 A. No, I don't.

14 Q. Do you know if any of those members
15 identified are black?

16 A. Yes.

17 Q. How do you know that?

18 MS. ROHANI: Objection.

19 You can answer.

20 THE WITNESS: Okay.

21 A. Because in talking with some of them, or
22 two or three of them, they identify as black
23 because I know them personally.

24 Q. And who are those members?

25 MS. ROHANI: Objection.

1 Direct not to answer.

2 BY MS. HOLT:

3 Q. Mr. McClanahan, so your sworn testimony
4 today is that you have identified members in each
5 of the districts listed in this interrogatory
6 response; is that correct?

7 A. If the document you're talking about is
8 the one that I signed, yes.

9 Q. Are you aware if any court cases or
10 local branches of the NAACP have been compelled to
11 produce member names?

12 MS. ROHANI: Objection.

13 But you can answer.

14 A. I'm not, because the NAACP is a vast
15 organization, so I wouldn't be aware of that kind
16 of stuff.

17 Q. All right.

18 MS. HOLT: We are done with this exhibit
19 for now.

20 And I'd like to pull up a document
21 called "NAACP's Responses to Defendant's
22 First Set of Discovery," which we -- I would
23 like to have marked as Exhibit 5, please.

24 (Exhibit 5 was marked for identification
25 and is attached to the transcript.)