

EXHIBIT 2

UNITED STATES DISTRICT COURT

for the

Eastern District of Arkansas

THE CHRISTIAN MINISTERIAL ALLIANCE, et al.

Plaintiff

v.

JOHN THURSTON, in his official capacity as the
Secretary of State of Arkansas*Defendant*

Civil Action No. 4:23-cv-471-DPM-DRS-JM

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Arkansas State Senator Jane English

(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must promptly confer in good faith with the party serving this subpoena about the following matters, or those set forth in an attachment, and you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about these matters:

Place:

MAYS, BYRD & ASSOCIATES, P.A.;
202 Center Street, Suite 700, Little Rock, AR 72202

Date and Time:

06/27/2024 9:00 am

The deposition will be recorded by this method: Stenographer / Court Reporter

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Exhibit A

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 06/06/2024

CLERK OF COURT

OR

/s/ Chris A. Hollinger

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs,
THE CHRISTIAN MINISTERIAL ALLIANCE, et al.

, who issues or requests this subpoena, are:
Chris Hollinger, O'Melveny & Myers LLP; Two Embarcadero Center 28th Fl.; San Francisco, CA 94111; (415) 984-8906

chollinger@omm.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:23-cv-471-DPM-DRS-JM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Exhibit A

For a statement of your obligation in producing documents pursuant to this subpoena, *see* Rules 45(e) and (g) of the Federal Rules of Civil Procedure, which appear on the final page of the subpoena. Documents should be produced on or before June 27, 2024 at 9:00 a.m. (Central). To make arrangements for electronic or other production of documents, please contact Arkie Byrd; 212 Center Street, Suite 700, Little Rock, AR 72202; Abyrd@maysbyrdlaw.com; (501) 372-6303.

DEFINITIONS

As used herein, the following terms have the following meanings:

1. “2021 Congressional Redistricting Plan” refers to HB 1982 and SB 743, enacted as Act 1116 of the Arkansas General Assembly.
2. “2021 Proposed Congressional Redistricting Maps” means any proposed District or District Boundaries which were, in whole or in part, considered, created, developed, or proposed by any member of the Arkansas General Assembly, including the proposed redistricting maps published by the Arkansas House of Representatives at <https://www.arkansashouse.org/news/post/15077/2021-proposed-congressional-redistricting-maps>.
3. “Legislative Redistricting Process” refers to the technical, administrative, and legal procedures through which State legislatures generally, and the Arkansas General Assembly specifically, enact a new redistricting map, including the timelines to follow, the technical aspects of map-drawing, and the laws that inform map-drawing.
4. “All,” “Any,” and “Each” shall each be construed as encompassing any and all.
5. “And” and “Or” shall be construed either disjunctively or conjunctively, as necessary, to

bring within the scope of the Request all information or material which might otherwise be construed to be outside of the scope of the Request.

6. “Arkansas General Assembly” means the Arkansas Senate and/or the Arkansas House of Representatives; any current or former committee, office, or unit of the Arkansas Senate or Arkansas House of Representatives; and/or any current or former member, employee, contractor, advisor, agent, or representative of the Arkansas Senate and/or the Arkansas House of Representatives.
7. “Communication” means the transmittal of information of any kind by and/or through any means, including, but not limited to, e-mails, e-mail attachments, text messages, calendar invitations, PowerPoint presentations, written reports, memoranda, radio and television interviews, and letters.
8. “District” means any of the designated areas within the State of Arkansas from which members of the United States House of Representative are or would be elected, including the four 2021 Congressional districts enacted by Act 1116 of the Arkansas State Legislature. See https://www.sos.arkansas.gov/uploads/elections/20_21Congressional_Custom_36x40.pdf.
9. “District Boundaries” refers to the borders drawn to delineate a District, including the borders enacted by Act 1116 of the Arkansas State Legislature. See https://www.sos.arkansas.gov/uploads/elections/2021Congressional_Custom_36x40.pdf.
10. “Document” or “Documents” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 of the Federal Rules of Civil Procedure, namely, any “documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data

compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form,” and the phrase “writings and recordings” is defined to be synonymous in meaning and the same in scope as defined in Rule 1001 of the Federal Rules of Evidence, including, without limitation, notes, text messages e-mails, public or private posts on Facebook, Truth Social, X/Twitter, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms, including, without limitation, Facebook Messenger, Teams, Signal, Slack, Parler or other such platforms.

11. “Legislative Employee” is defined to mean an employee of the Arkansas House of Representatives, the Arkansas Senate, the Arkansas Bureau of Legislative Research, the Arkansas Legislative Audit, or the Arkansas Code Revision Commission.
12. “Legislator” is defined to mean a member of the Arkansas General Assembly, a member-elect of the Arkansas General Assembly, or a former member of the Arkansas General Assembly if a Communication or Document requested herein was made or transmitted at a time when the former member was serving in the Arkansas General Assembly.
13. “Person” means any natural person or legal entity, including, but not limited to, any business or governmental entity or association.
14. “Plaintiffs” refers to The Christian Ministerial Alliance, Patricia Brewer, Carolyn Briggs, Lynette Brown, Mable Bynum, and Velma Smith.
15. “Related To,” “Concerning,” or “Including” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject

matter of the Request.

16. “Third Party” or “Third Parties” refers to any persons or entities who are not a Legislator or Legislative Employee.
17. “You,” or “Your” refers to Jane English and any person or entity acting or purporting to act on her behalf or subject to her control.

INSTRUCTIONS

1. If any part of a Request is objected to, the ground for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a Request, that part should be specified. Any ground for objection not stated is waived.
2. If you perceive any ambiguities when construing a Request or Definition, set forth in your response to the Request what you find ambiguous and the construction you have used in responding. The documents produced in response to these Requests must include all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or by your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and regardless of whether the documents are maintained at any of your locations, offices, archives, or in other locations.
3. Any reference in these Requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and any other persons or entities acting on his, her, or its behalf or under his, her, or its control.
4. Any reference in these Requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives,

partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, governmental entity or agency, or other entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.

5. In addition to producing a responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
6. If any requested document is not or cannot be produced in full, you shall produce it to the extent possible and indicate what portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
7. Each document produced must include all attachments and enclosures.
8. Documents attached to each other shall not be separated when produced.
9. All documents shall be produced as they are kept in the usual course of business, or shall be organized and labeled to correspond with the categories in these Requests, with identification of the person from whose files the documents were produced.
10. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one Request may be produced for one Request and incorporated by reference in another response, provided that the relevant corresponding portion of the document is so labeled or marked.
11. If any responsive document is withheld, in whole or in part, pursuant to any claim of privilege, including, without limitation, the attorney work-product doctrine, attorney-client privilege, deliberative process privilege, investigative or law enforcement privilege, and legislative privilege, your response must provide the following information in a single

log:

- a. the type of document;
 - b. the date of the document;
 - c. the name(s) of the document's author(s) or preparer(s) and an identification by employment and title of each such person;
 - d. the name of each person who was sent, furnished, received, viewed, or had custody of the document or a copy thereof, together with an identification of each such person;
 - e. the document's title and reference, if any;
 - f. a description of the document in sufficient detail to allow the Court to adjudicate the validity of the claim of privilege;
 - g. the type of privilege asserted; and
 - h. the specific Request(s) to which the document relates.
12. Any Requests propounded in the disjunctive shall be read as if propounded in the conjunctive, and vice versa. Any Request propounded in the singular shall be read as if propounded in the plural, and vice versa. Any Request propounded in the present tense shall also be read as if propounded in the past tense. and vice versa.

DOCUMENTS REQUESTED

REQUEST FOR PRODUCTION NO. 1:

All Documents and Communications related to the Legislative Redistricting Process in connection with the 2021 Congressional redistricting which You received from any Person.

REQUEST FOR PRODUCTION NO. 2:

All Documents and Communications related to the 2021 Congressional Redistricting Plan

and/or any 2021 Proposed Congressional Redistricting Maps, including any related population, political, and racial data, which You received at a public meeting of the House State Agencies and Governmental Affairs Committee or at a public meeting of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All Documents and Communications related to the 2021 Congressional Redistricting Plan and/or any 2021 Proposed Congressional Redistricting Maps, including any related population, political, and racial data, which You provided to any Legislator or other Legislative Employee at a public meeting of the House State Agencies and Governmental Affairs Committee or at a public meeting of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All Documents and Communications, specifically including public social media posts, and statements on television or in radio interviews, and statements to the press, related to the 2021 Congressional Redistricting Plan and/or any 2021 Proposed Congressional Redistricting Maps, including any related population, political, and racial data, which You shared with or disseminated to any Person.

REQUEST FOR PRODUCTION NO. 5:

All Documents or Communications related to the racial composition of Pulaski County which You received from any Third Party prior to the enactment of Act 1116 of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 6:

All Documents or Communications related to the racial composition of Pulaski County which You shared with any Third Party prior to the enactment of Act 1116 of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 7:

All Documents or Communications related to the political composition of Pulaski County which You received from any Third Party prior to the enactment of Act 1116 of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 8:

All Documents or Communications related to the political composition of Pulaski County which You shared with any Third Party prior to the enactment of Act 1116 of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 9:

All Documents or Communications relating to the 2021 Congressional Redistricting Plan and/or any 2021 Proposed Congressional Redistricting Maps which You received from any Person subsequent to the enactment of Act 1116 of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 10:

All Documents or Communications relating to the 2021 Congressional Redistricting Plan and/or any 2021 Proposed Congressional Redistricting Maps which You provided to any Person subsequent to the enactment of Act 1116 of the Arkansas General Assembly.

REQUEST FOR PRODUCTION NO. 11:

All Documents or Communications relating to the 2021 Congressional Redistricting Plan and/or any 2021 Proposed Congressional Redistricting Maps which You created or generated subsequent to the enactment of Act 1116 of the Arkansas General Assembly.

#####

Dated: June 6, 2024.

Leah C. Aden*
John S. Cusick*
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.
40 Rector St, 5th Fl.
NY, NY 10006
Tel.: (212) 965-7715
laden@naacpldf.org
jcusick@naacpldf.org

Michael Skocpol*
Joseph Wong*
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.
700 14th St, Ste. 600
Washington, D.C. 20005
Tel.: (202) 682-1300
mskocpol@naacpldf.org
jwong@naacpldf.org

Chris A. Hollinger*
Daniel Bookin*
O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
San Francisco, California 94111
Tel.: (415) 984-8700
chollinger@omm.com
dbookin@omm.com

Ashley Pavel*
O'MELVENY & MYERS LLP
610 Newport Center Dr., 17th Fl.
Newport Beach, California 92660
Tel.: (949) 823-7138
apavel@omm.com

Arkie Byrd, Arkansas Bar No. 80020
MAYS, BYRD & ASSOCIATES, P.A.
212 Center Street, Suite 700
Little Rock, AR 72202
Tel.: (501) 372-6303
Fax: (501) 399-9280
abyrd@maysbyrdlaw.com

** Admitted Pro Hac Vice*

*Counsel for Plaintiffs Christian Ministerial
Alliance, Patricia Brewer, Carolyn Briggs,
Lynette Brown, Mable Bynum, and Velma
Smith*

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2024, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

/s/ Chris A. Hollinger
Chris A. Hollinger