

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

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

Plaintiffs,

v.

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

Defendants.

Case No. 1:21-cv-03139

Magistrate Judge Jantz

Three-Judge Panel
Pursuant to 28 U.S.C. § 2284(a)

**PLAINTIFFS' MOTION TO COMPEL LEGISLATIVE DEFENDANTS TO RESPOND
TO PLAINTIFFS' DISCOVERY REQUESTS**

I. INTRODUCTION

As a result of productive meet-and-confers, Plaintiffs Julie Contreras, Irvin Fuentes, Abraham Martinez, Irene Padilla, and Rose Torres (collectively, “Plaintiffs”) narrowly move this Court to compel Defendants Don Harmon, in his official capacity as President of the Illinois Senate; the Office of the President of the Illinois Senate; Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives; and the Office of the Speaker of the Illinois House of Representatives (collectively, “Legislative Defendants”) to produce thirty discrete documents over a claim of legislative privilege.

These documents are thirty draft maps related to the amendment of Public Act 102-0010 that was passed by the General Assembly as Senate Bill 927 (the “Enacted Plans”). They are identified by Legislative Defendants’ privilege log as “Pre-decisional, incomplete version[s] of geographic area[s] or partial map[s] drawn by staff.” Counsel for Legislative Defendants have explained that these files were created each time changes to the redistricting map were “save[d]” leading up to the final map in the Enacted Plans. Despite these documents being a clear record of the iterative, step-by-step process of how the Enacted Plans came to be, Legislative Defendants claim that they are irrelevant to the claims at issue and protected by the legislative privilege.

Both objections must fail. Courts in this district clearly rejected a similar relevance argument by the Illinois legislature during the last redistricting cycle: “to the extent that the plans, reports and procedures used by lawmakers to draw the 2011 [redistricting] Map shed light on the sequence of events leading up to its enactment, this information may be relevant to plaintiffs’ claims.” *Id.* at *4. And here, the file names of the draft maps on Legislative Defendants’ privilege log show that they will be directly relevant to Plaintiffs’ anticipated federal Voting Rights Act, 52 U.S.C. § 10301, Section 2 (“Section 2”) and racial gerrymandering claims.

The legislative privilege also should not apply here because the evidence is relevant and

unavailable elsewhere and because of the profound seriousness of the issues raised and the direct role the legislature played in the unconstitutional conduct. Production is especially appropriate here, where the interest that vitiates the legislative privilege—the potential for “future timidity” among lawmakers as a result of disclosure—is largely absent. As counsel for Legislative Defendants themselves explained during the process of meet-and-confers, the maps do not necessarily embody any legislative communication or opinion. And to the extent they do, production of these documents is unlikely to have a “chilling effect” on debate among lawmakers because those communications and opinions will not be directly attributable to any particular legislator or staffer. The Court should order the production of these documents.

II. BACKGROUND

A. The Status of the Legislative Redistricting

Plaintiffs filed their original complaint on June 10, 2021 (ECF 1), and then amended their complaint as a matter of course under Federal Rule of Civil Procedure 15 (ECF 37). In the Amended Complaint, each Plaintiff alleged that under the May 2021 legislative-redistricting plan, he or she lived in a malapportioned district under the 2010 decennial census data and that because of the inherent unreliability of American Community Survey data, on information and belief, he or she lived in a malapportioned district according to the 2020 decennial census data. ECF 37 ¶¶ 10–14.

Since then, the U.S. Census Bureau has released the 2020 decennial census data.¹ Rather than defend the existing redistricting plan against Plaintiffs’ charges of malapportionment,

¹ See Press Release, U.S. Census Bureau Delivers Data for States to Begin Redistricting Efforts, U.S. CENSUS BUREAU (Aug. 12, 2021 *available at* <https://www.census.gov/newsroom/press-releases/2021/population-changes-nations-diversity.html> (last accessed Sep. 8, 2021)); Press Release.

Legislative Defendants have passed new redistricting maps, which have since been signed by Governor J.B. Pritzker.² As a result, the Panel has ordered Plaintiffs to file a second amended complaint bringing any issues with the new map to the Court's attention. ECF 72.

B. Legislative Defendants' Initial Production

On September 13, 2021, Plaintiffs served Defendants with twenty-five Requests for Production. *See* Herrera Decl. ¶ 2, Ex. A.³ Legislative Defendants responded on September 20, 2021, interposing several objections. *Id.* On September 22, 2021, the Parties met and conferred to discuss the status of discovery. *See Id.* ¶ 8. After the meet-and-confer the Parties exchanged emails outlining, among other things, the issues on which they still disagreed, including the Request for "draft maps." *See* Ex. B.

With regard to RFP 6 for the draft maps, counsel for Legislative Defendants stated, "It is estimated the universe size would be [approximately] 30 'drafts.'" *Id.* Email from A. Vaught (Sept. 23, 2021, 10:43 a.m.). Given this relatively small number, counsel for Legislative Defendants confirmed that the "objection is based on privilege, not on volume." *Id.* Email from A. Vaught (Sept. 23, 2021, 3:45 p.m.). Indeed, Legislative Defendants crystallized the legal dispute at issue as being whether the maps are "legislative work product and protected by legislative privilege." *Id.* Counsel for Legislative Defendants also explained, "The redistricting software saves a copy of

² *See* H.R. Res. 443, 102nd Gen. Assemb., 1st Spec. Sess. (Ill. 2021), *available at* https://www.ilga.gov/legislation/votehistory/102/house/10200HR0443_08312021_003000.pdf (last accessed Sep. 8, 2021); S. Res. 3, 102nd Gen. Assemb., 1st Spec. Sess. (Ill. 2021), *available at* https://www.ilga.gov/legislation/votehistory/102/senate/10201SR0003_08312021_004000D.pdf (last accessed Sept. 8, 2021); Press Release, Gov. Pritzker Signs Revised Legislative Maps that Preserve Minority Representation and Reflect Illinois' Diversity, ILLINOIS.GOV (Sep. 24, 2021), *available at* <https://www.illinois.gov/news/press-release.23924.html> (last accessed Sep. 28, 2021).

³ All exhibit citations reference the Declaration of Ernest Herrera filed concurrently herewith.

the under-development, incomplete map document each time the user hits ‘save.’ So every time the group left for lunch, left for the night, etc., and hit ‘save’ there is a . . . partially drawn version of the map that . . . would later become what was filed as Senate Bill 927.” *Id.*

C. Legislative Defendants’ Second Production

Legislative Defendants timely made supplemental productions. Ex. C. With that production, Legislative Defendants produced a privilege log. Ex. D. After reviewing that production, the parties scheduled another meet-and-confer to discuss outstanding discovery issues. Herrera Decl. ¶ 9. Among other things, the Parties discussed assertions of privilege as to the draft maps and documents identified on Legislative Defendants’ privilege log. *See* Ex. E.

Specifically, the parties discussed Legislative Defendants’ assertion of privilege as to the draft maps. Herrera Decl. ¶ 11. Plaintiffs again explained that these documents were clearly relevant to their claims and likely to be exempt from the legislative privilege under the balancing test of this district. *Id.* Legislative Defendants disagreed, but they offer to identify the draft maps that they claim are protected from the legislative privilege on an updated privilege log. Ex. E; Ex. F.

The file names of these maps are dates and indicate they show the iterative step-by-step process through which the Enacted Plans came to be. *See* Ex. F. Additionally some of the file names indicate that they contain “fix[es]” for Districts 7 and 8. *See* Ex. F at DemDefsPriv-00223; DemDefsPriv-00224. House District 8 is adjacent to House District 4, which is a district of interest to Plaintiffs for their Section 2 claims. Herrera Decl. ¶¶ 17–18. Additionally, another draft map is identified as containing “Senate Nests.” *See* Ex. F at DemDefsPriv-00222. Nesting is the delimitation of voting districts for one elected body in order to define the voting districts for another body. Herrera Decl. ¶ 19. Contreras Plaintiffs believe that changes in the nesting of House Districts within Senate Districts may have prevented the creation of one or more Latino-

opportunity Senate Districts. *Id.*

In the end, and despite the parties' best efforts—indeed, an appreciated and substantial effort by Legislative Defendants to make several productions on a compressed time frame—the Parties remained at an impasse over a narrow legal issue, the scope of the legislative privilege, and its application to a discrete set of thirty documents.

III. LEGAL STANDARD

“A party may file a motion to compel under Federal Rule of Civil Procedure 37 whenever another party fails to respond to a discovery request or when its response is insufficient.” *Sols. Team v. Oak St. Health, MSO, LLC*, 2021 U.S. Dist. LEXIS 132847, at *6 (N.D. Ill. July 16, 2021). “In ruling on a motion to compel, the discovery standard set forth in [Federal Rule of Civil Procedure] 26(b) applies.” *Eternity Mart, Inc. v. Nature’s Sources, LLC*, 2019 U.S. Dist. LEXIS 198880, at *4 (N.D. Ill. Nov. 15, 2019). “Rule 26(b)(1) allows ‘discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.’” *Id.* (quoting Fed. R. Civ. P. 26(b)(1)). “Once the moving party has made a preliminary showing that the discovery it seeks is relevant . . . and proportional . . . , the party opposing discovery has the burden of proving that the requested discovery should be disallowed.” *Sols. Team*, 2021 U.S. Dist. LEXIS 132847, at *7. If that party fails to carry its burden, a court “may grant . . . the motion in whole or in part, and . . . may fashion a ruling appropriate for the circumstances of the case.” *Yahnke v. Cnty. of Kane*, 2013 U.S. Dist. LEXIS 121573, *4–5 (N.D. Ill. 2013) (quotation omitted).

IV. ARGUMENT

In recognizing legislative immunity for state legislators under federal common law, the Supreme Court analogized it to the immunity granted to federal legislators under the Speech and Debate Clause of the U.S. Constitution. *See Tenney v. Brandhove*, 341 U.S. 367, 373 (1951). The

Court subsequently identified two justifications for the clause: (1) to protect against intrusion into congressional affairs by the executive and judicial branches, thereby promoting separation of powers, and (2) to protect legislative independence. *See United States v. Gillock*, 445 U.S. 360, 369 (1980).

But it is clear that voting-rights cases represent an important federal interest that overrides state legislative immunity because voting rights are not private rights. *See United States v. Carolene Products Co.*, 304 U.S. 144, 152 n.4 (1938); *United States v. Marengo Cty. Comm'n*, 731 F.2d 1546, 1554 (11th Cir. 1984) (“There is no question that this case is a public matter, concerning the most fundamental of public rights, the right to participate in the political process.”); *Machesky v. Bizzel*, 414 F.2d 283, 288-89 (11th Cir. 1969) (citing *Carolene Products*, 304 U.S. at 152)) (“The most important public rights and the ones involved here, however, are political rights which determine the composition of government and the direction of government policy.” (citing *Carolene Products*, 304 U.S. at 152)); *Comm. for a Fair & Balanced Map*, 2011 WL 4837508, at *6 (“Voting rights cases, although brought by private parties, seek to vindicate public rights. In this respect, they are akin to criminal prosecutions.”).

Northern District courts, in determining whether and to what extent a state lawmaker may invoke legislative privilege, consider (i) the relevance of the evidence sought to be protected; (ii) the availability of other evidence; (iii) the seriousness of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable. *Comm. for a Fair & Balanced Map*, 2011 WL 4837508, at *7 (citing *Gillock*, 445 U.S. at 373).

These exact factors have been considered by a court in this district in almost exactly the same circumstances. *See id.* (analyzing scope of legislative privilege with respect to allegations

that redistricting maps unconstitutionally discriminated against, among others, Latino voters). In that case, the court held that the seriousness of the litigation (factor iii) and the role of the government (factor iv) “weigh in favor of disclosure.” *Id.* at 7–8. The court noted that “Plaintiffs raise profound questions about the legitimacy of the redistricting process and the viability of the [] Map.” *Id.* And that concern is all the graver because “the legislators’ role in the allegedly unlawful conduct is direct. The General Assembly, through its members, aides and consultants, was primarily responsible for drafting, revising and approving the [] Map.” *Id.*

The evidence that Plaintiffs seek is “relevant” (factor i). Draft plans are relevant to potential Section 2 claims because they provide additional documentation about alternate plans considered by legislators that could have provided minorities with an opportunity to elect candidates of their choice and the kind of data that may have been considered in drafting such plans. *See Perez v. Abbott*, 250F. Supp. 3d 123, 147–149 (W.D. Tex. 2017) (finding that evidence of alternate maps contradicted defendants’ contention that map was drawn in a county delegation-driven process and showed intentional dilution of Latino vote); *see also Perez v. Abbott*, No. 11-cv-360, 2017 WL 1406379, at *35 ¶¶ 205–230 (W.D. Tex. Apr. 20, 2017) (finding saved draft maps were evidence of alternative drawing process that made district less effective for Latino candidates of choice); *see also Luna v. Cty. of Kern*, 291 F. Supp. 3d 1088, 1101–1105, 1142 (E.D. Cal. 2018) (map “options” drawn in computer program by county official part of findings of fact and relevant to *Gingles* prong 1 and tenuousness of policy senate factor considerations). Indeed, courts in this district have held that “to the extent that the plans, reports and procedures used by lawmakers to draw the 2011 Map shed light on the sequence of events leading up to its enactment, this information may be relevant to plaintiffs’ claims.” *Comm. for a Fair & Balanced Map*, 2011 WL 4837508 at *4.

Furthermore, the filenames of the draft maps on Legislative Defendant’s privilege log demonstrate their relevance. Some of the file names indicate that they contain “fix[es]” for Districts 7 and 8. *See* Ex. F at DemDefsPriv-00223; DemDefsPriv-00224. House District 8 is adjacent to House District 4, which is a district of interest to Plaintiffs for their Section 2 claims. Herrera Decl. ¶¶ 17–18. These “fixes” would therefore be directly relevant to any Section 2 claims Plaintiffs bring with respect to District 4.

Additionally, another draft map is identified as containing “Senate Nests.” *See* Ex. F at DemDefsPriv-00222. Nesting is the delimitation of voting districts for one elected body in order to define the voting districts for another body. Herrera Decl. ¶ 19. Nesting changes may have prevented the creation of one or more Latino opportunity districts. *See id.* Once again, Legislative Defendants’ nesting strategy would also be directly relevant to Plaintiffs’ Section 2 claims.

The evidence is unavailable elsewhere (factor ii). Herrera Decl. ¶ 14. The process through which the Enacted Plans were finalized was rushed—a process that normally takes months and has multiple rounds of public comment instead occurred in days. *Id.* ¶ 15. As a direct result of this rushed process, there is a paucity of public materials available to Plaintiffs when compared to other redistricting litigation. *Id.* ¶ 16. Indeed, even in cases where there is a far more developed public record, courts have held that the unavailability of evidence can favor disclosure. *See Favors v. Cuomo*, 285 F.R.D. 187, 219 (E.D.N.Y. 2012) (noting that although plaintiffs had access to “substantial” public information, including “maps, analyses, data, and memoranda,” “such evidence may provide only part of the story” and the second factor thus “militate[d] in favor of disclosure”); *see also Bethune-Hill v. Va. State Bd. of Elections*, 114 F. Supp. 3d 323, 341 (E.D. Va. 2015); *accord, e.g., Veasey v. Perry*, No. 13-cv-193, 2014 WL 1340077, at *3 (S.D. Tex. Apr. 3, 2014).

Finally, the concern that vitiates the legislative privilege, “the possibility of future timidity by government employees,” is largely absent under these unique circumstances. First, Plaintiffs are not requesting direct communications between legislators and their staffers. *See Bethune-Hill*, 114 F. Supp. 3d at 343 (“The legislative privilege is strongest as applied to communications among legislators and between legislators and their immediate aides.”). Instead, they seek approximately thirty documents that will show the step-by-step, iterative process through which the Enacted Plans came to be. *See Baldus v. Brennan*, No. 11-cv-1011, 2011 WL 6122542, at *2 (E.D. Wis. Dec. 8, 2011) (legislative privilege “does not protect any documents or other items that were used by the Legislature in developing the redistricting plan”). And as discussed, “to the extent that the plans, reports and procedures used by lawmakers to draw the 2011 Map shed light on the sequence of events leading up to its enactment, this information may be relevant to plaintiffs’ claims.” *Comm. for a Fair & Balanced Map*, 2011 WL 4837508 at *4.

Furthermore, these are not the types of “plans, reports and procedures” likely to reveal the opinions expressed of any one legislator, which mitigates the possibility that disclosure will result in “future timidity by government employees.” *See id.* at 4, 7–8. Counsel for Legislative Defendants has represented that “[t]he redistricting software saves a copy of the under-development, incomplete map document each time the user hits ‘save.’ So every time the group left for lunch, left for the night, etc., and hit ‘save’ there is a[n] . . . incomplete, partially drawn version of the map that . . . would later become what was filed as Senate Bill 927.” Ex. B, Email from A. Vaught (Sept. 23, 2021, 3:45 p.m.). During the meet-and-confer, counsel for Legislative Defendants—in attempting to argue the irrelevance of the draft maps—even represented that as a result of the process by which they were saved, they did not necessarily embody a legislative opinion.

Other purposes cited by the courts as motivating the legislative privilege are also absent. Some courts applying this fifth factor have spoken of an anti-“distraction” purpose for the privilege that “guards legislators from the burdens of compulsory process.” *Bethune-Hill*, 114 F. Supp. 3d at 341. Any such concern about “distraction” here is minimal. Plaintiffs ask only for the production of thirty documents that were (1) relied on during the redistricting process, (2) already identified, and (3) indeed catalogued. *See* Ex. F.

Similarly, any concern here about legislative independence is minor at best. Numerous courts have recognized that where legislators are not themselves defendants, the threat to legislative independence is minimal or nonexistent. *See, e.g., Bethune-Hill*, 114 F. Supp. 3d at 342 (“[T]he threat to [the legislative-independence] interest is substantially lowered when individual legislators are not subject to liability.”); *see also Owen v. City of Indep., Mo.*, 445 U.S. 622, 656 (1980) (noting that the threat is “significantly reduced, if not eliminated, . . . when the threat of personal liability is removed”); *Gillock*, 445 U.S. at 372 (suggesting that legislative independence is implicated only in a “civil action brought by a private plaintiff to vindicate private rights”).

Therefore, the motivating forces that drive the legislative privilege are diminished (if not absent) here. *See also Baldus*, 2011 WL 6122542, at *2 (holding that “chilling effect” of disclosure “outweighed by the highly relevant and potentially unique nature of the evidence”). Given these unique circumstances, disclosure of the thirty documents that Legislative Defendants have already identified and catalogued is appropriate.

V. CONCLUSION

For the reasons above, Plaintiffs respectfully request that this Court enter an order compelling Legislative Defendants to produce the thirty draft maps that were created during the redistricting process for the Enacted Plans.

Dated: September 30, 2021

/s/ Nathan R. Gilbert

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Respectfully submitted,

/s/ Ernest Herrera

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2021, a copy of the foregoing document was filed electronically in compliance with Local Rule 5.9. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing.

/s/ Ernest Herrera
Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
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Defendants.

Case No. 1:21-cv-03139

Magistrate Judge Jantz

Three-Judge Panel
Pursuant to 28 U.S.C. § 2284(a)

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL
LEGISLATIVE DEFENDANTS TO RESPOND TO PLAINTIFFS' DISCOVERY
REQUESTS**

The Court, having considered Plaintiffs' Motion to Compel Legislative Defendants to Respond to Plaintiffs' Discovery Requests, finds that the Motion should be GRANTED. It is therefore ORDERED that Legislative Defendants provide to Plaintiffs in full the thirty draft redistricting maps identified by Plaintiffs in their Motion to Compel.

Dated: _____

Hon. Beth W. Jantz
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2021, a copy of the foregoing document was filed electronically in compliance with Local Rule 5.9. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing.

/s/ Griselda Vega Samuel
Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
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WILLIAM J. CADIGAN, LAURA K. DONAHUE,
WILLIAM R. HAINE, WILLIAM M.
MCGUFFAGE, KATHERINE S. O'BRIEN, and
CASANDRA B. WATSON, in their official
capacities as members of the Illinois State Board of
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OFFICE OF THE PRESIDENT OF THE
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OF REPRESENTATIVES,

Defendants.

Case No. 1:21-cv-3139

**DECLARATION OF ERNEST I. HERRERA IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL LEGISLATIVE DEFENDANTS TO RESPOND
TO PLAINTIFFS' DISCOVERY REQUESTS**

I, Ernest I. Herrera, declare:

1. I am a staff attorney at the Mexican American Legal Defense and Educational Fund and represent Plaintiffs in the above-captioned matter. I submit this declaration in support of Plaintiffs' Motion to Compel Legislative Defendants to Respond to Plaintiffs' Discovery Requests.

2. Attached as **Exhibit A** to this declaration is a true and correct copy of Legislative Defendants' Responses and Objections to Plaintiffs' Second Set of Requests for Production in the above-captioned matter, dated September 20, 2021.
3. Attached as **Exhibit B** to this declaration is a true and correct copy of an email exchange between counsel of record in the above-captioned matter dated from September 20, 2021, to September 23, 2021.
4. Attached as **Exhibit C** to this declaration is a true and correct copy of an email from counsel for Legislative Defendants to Plaintiffs' counsel of record in the above-captioned matter providing a link to download their supplemental production to Plaintiffs' Second Set of Requests for Production.
5. Attached as **Exhibit D** to this declaration is a true and correct copy of Legislative Defendants' privilege log, served September 27, 2021.
6. Attached as **Exhibit E** to this declaration is a true and correct copy of an email exchange between counsel of record in the above-captioned matter dated September 28, 2021.
7. Attached as **Exhibit F** to this declaration is a true and correct copy of Legislative Defendants' supplemental privilege log, dated September 28, 2021.
8. The Parties met and conferred on September 22, 2021, following the receipt of Legislative Defendant's response to Plaintiffs' Second Set of Requests for Production.
9. The Parties met and conferred on September 28, 2021, following the receipt of Legislative Defendants' supplemental response to Plaintiffs' Second Set of Requests for Production.
10. During the September 28, 2021 meet-and-confer, Plaintiffs' counsel explained that Legislative Defendants do not have a valid claim of legislative privilege as to email communications with outside consultant Kim Brace. Plaintiffs' counsel explained that there

was ample precedent, including precedent in this district and circuit, that so held. Plaintiffs' counsel offered to provide Legislative Defendants' counsel with this authority, and Legislative Defendants' counsel agreed they would consider their position in light of this authority. Despite this authority, Legislative Defendants are maintaining their privilege assertion.

11. During the September 28, 2021 meet-and-confer, Plaintiffs' counsel also explained that Legislative Defendants do not have a valid claim of legislative privilege as to draft maps created during the August 2021 redistricting process. Plaintiffs' counsel explained that these maps were relevant because they showed the step-by-step process through which the map that was ultimately enacted came to be. Plaintiffs' counsel also explained that the balancing test used to measure the scope of the legislative privilege in this district would favor disclosure.
12. Counsel for Legislative Defendants disagreed and stated their belief that the map was privileged. Counsel for Legislative Defendants also argued that the maps are not relevant and explained that some of the maps would have been created by staffers while they were learning how to use the software. Therefore, counsel for Legislative Defendants explained that it is not even necessarily the case that these draft maps embody legislators' thoughts, communications, or opinions.
13. As a result of my litigation experience with the Mexican American Legal Education and Defense Fund, I have experience and am knowledgeable about redistricting processes in various jurisdictions.
14. The draft maps that Plaintiffs seek in their Motion to Compel are not publicly available. Often in redistricting, a jurisdiction or legislative body will provide data or maps associated

with draft plans that the jurisdiction or legislative body is considering and presenting at public hearings. Legislative Defendants disclosed to Plaintiffs draft plans in final or near-final form less than two days before voting on them.

15. The passage of Senate Bill 927 occurred over an unusually compressed timeline. Whereas this process usually takes place over several weeks or months, Senate Bill 927 was considered and voted on in a matter of days.

16. As a result of this unusually compressed timeline, there is less publicly available information related to Senate Bill 927 than there is for other similar redistricting litigations.

17. House District 8 is adjacent to House District 4.

18. House District 4 is a district of interest to Plaintiffs for their Section 2 claims.

19. Nesting is the delimitation of voting districts for one elected body in order to define the voting districts for another body. Contreras Plaintiffs believe that changes in the nesting of House Districts within Senate Districts may have prevented the creation of one or more Latino-opportunity Senate Districts.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 30, 2021, in Los Angeles, California.

/s/ Ernest I. Herrera
Ernest I. Herrera

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2021, a copy of the foregoing document was filed electronically in compliance with Local Rule 5.9. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing.

/s/ Ernest Herrera
Attorney for Plaintiffs

Ex. A

IN THE UNITED STATES DISTRICT COURT
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capacities as members of the Illinois State Board of
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as President of the Illinois Senate, and THE OFFICE
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SENATE, EMANUEL CHRISTOPHER
WELCH, in his official capacity as Speaker of the
Illinois House of Representatives, and the OFFICE
OF THE SPEAKER OF THE ILLINOIS HOUSE
OF REPRESENTATIVES,

Defendants.

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

PROPOUNDING PARTY: Julie Contreras, et al.

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

SET NUMBER: Two (Nos. 1-25)

PRELIMINARY STATEMENT

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

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

GENERAL OBJECTIONS

1. Defendants object to the definitions and instructions set forth in the Requests on the grounds that those definitions and instructions call for a legal conclusion or purport to impose obligations on Defendants that exceed the obligations imposed upon a responding party under the Federal Rules of Civil Procedure and/or other applicable law.

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

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

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

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

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

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

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

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

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

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

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

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

14. No response to these Requests by Defendants shall be deemed to constitute any agreement or concession that the subject matter thereof is relevant to this action, and any

information provided by Defendants shall be made without in any way waiving or intending to waive any objection thereto, including but not limited to relevance, privilege or admissibility.

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

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

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

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

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

OBJECTIONS TO DEFINITIONS

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

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

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

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

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

RESPONSES AND SPECIFIC OBJECTIONS

REQUEST NO. 1:

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

RESPONSE TO REQUEST NO. 1:

Defendants object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to the Defendants’ Rule 26 disclosures were made in reference to Plaintiffs’ previous complaint, fact discovery on which has closed. To the extent that this Request refers to initial disclosures that might be amended in response to any forthcoming second amended complaint, Defendants object to this Request as premature. Subject to and without waiving the foregoing objections, and in addition to prior productions of relevant documents, Defendants provide links (due to the volume of materials) to the following materials related to the creation and passage of Senate Bill 927, all of which have been made public:

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

- Transcript of House Floor Debate on Senate Bill 927 and House Resolution 443 (<https://ilga.gov/house/transcripts/htrans102/10201001.pdf>)
- Transcripts of House Redistricting Committee Hearings (<https://ilga.gov/house/committees/RedistrictingHearingsTranscripts.asp?CommitteeID=2800&Description=Redistricting%20Committee&Code=HRED&GA=102>)
- Transcripts of Senate Redistricting Committee Hearings (<https://ilga.gov/senate/committees/RedistrictingTranscripts.asp?CommitteeID=2742&Description=Redistricting&Code=SRED&GA=102>)
- House Redistricting Plan Data Matrix (<https://ilhousedems.com/redistricting/wp-content/uploads/2021/08/House-data.pdf>)
- Senate Redistricting Plan Data Matrix (https://www.ilsenateredistricting.com/images/Matrix_For_Online_Data_Alone_-_3_08312021.pdf)
- Written testimony submitted to the House Redistricting Committee (<https://ilga.gov/house/committees/Redistricting%20Hearings.asp?CommitteeID=2800&Description=Redistricting%20Committee&Code=HRED&GA=102>)
- Written testimony submitted to the Senate Redistricting Committee (<https://ilga.gov/senate/committees/Redistricting%20Hearings.asp?CommitteeID=2742&Description=Redistricting&Code=SRED&GA=102>)

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

REQUEST NO. 2:

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

RESPONSE TO REQUEST NO. 2:

Defendants incorporate their objections to Plaintiffs' Second Set of Interrogatories, served September 20, 2021. Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence.

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

REQUEST NO. 3:

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

RESPONSE TO REQUEST NO. 3:

Defendants incorporate their objections to Plaintiffs' Interrogatory No. 1, served September 20, 2021. Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it is duplicative of other Requests, including Request No. 2.

REQUEST NO. 4:

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

RESPONSE TO REQUEST NO. 4:

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

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

REQUEST NO. 5:

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

RESPONSE TO REQUEST NO. 5:

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

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

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

REQUEST NO. 6:

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

RESPONSE TO REQUEST NO. 6:

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

REQUEST NO. 7:

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

RESPONSE TO REQUEST NO. 7:

Defendants object to this Request overbroad and unduly burdensome to the extent it seeks “all” documents or datasets related to “each” district, when Plaintiffs claims, if any, will be district-specific. Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to the extent that much of the requested information is publicly available. Subject to and without waiving the foregoing objections, Defendants respond that they have already produced

documents responsive to this Request, including: the 2020 Census Bureau geography data, and the shape files and block equivalency files for Senate Bill 927. Defendants additionally identify the following materials which are responsive to this Request:

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

REQUEST NO. 8:

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

RESPONSE TO REQUEST NO. 8:

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

REQUEST NO. 9:

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

but not limited to documents relating to election data, or data relating to partisan affiliation or voting history.

RESPONSE TO REQUEST NO. 9:

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

REQUEST NO. 10:

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

RESPONSE TO REQUEST NO. 10:

Defendants object to this Request to the extent that it seeks information or material that is overly broad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request because it calls for information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Subject to and without waiving the foregoing objections, Defendants respond that they have already produced documents relevant to this Request in previous productions. Subject to and without waiving the foregoing objections, Defendants agree to produce outstanding documents responsive to this Request that are within Defendants' possession, custody, or control, not privileged, and the production of which does not create an undue burden.

REQUEST NO. 11:

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

RESPONSE TO REQUEST NO. 11:

Defendants object to this Request to the extent that it seeks information or material that is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request on the grounds that it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Subject to and without waiving the foregoing objections, Defendants respond that the software used in performing the map drawing process was AutoBound EDGE 2020, but because of licensing and ownership restrictions, Defendants cannot provide a copy of the actual software.

REQUEST NO. 12:

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

RESPONSE TO REQUEST NO. 12:

Defendants object to this Request to the extent it calls for legal conclusions. Defendants object to this Request to the extent that it is overbroad and unduly burdensome, and to the extent it seeks material not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to this request on the grounds that it is vague, ambiguous, and undefined, including as to the terms and

phrases “traditional redistricting criteria.” Subject to and without waiving the foregoing objections, Defendants direct Plaintiffs to their response to Request No. 5, which provides links to materials responsive to this Request, including Senate Bill 927 and the related Resolutions, which contain the requested information.

REQUEST NO. 13:

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

RESPONSE TO REQUEST NO. 13:

Defendants object to this Request as overbroad and unduly burdensome to the extent it seeks “all” documents, and as not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Defendants direct Plaintiffs to their response to Request No. 5, which provides links to materials responsive to this Request.

REQUEST NO. 14:

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

RESPONSE TO REQUEST NO. 14:

Defendants object to this Request to the extent it calls for legal conclusions. Defendants object to this Request overbroad and unduly burdensome, as not relevant to the claim or defense of any party, and as not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to this Request because it seeks information protected by legislative privilege, and to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law. Defendants further object to this request on the grounds that it is vague, ambiguous, and

undefined, including as to the terms and phrases “responsible for developing” and “implementing.” Subject to and without waiving the foregoing objections, Defendants respond that they are willing to meet and confer regarding the meaning of this Request and what documents would be responsive to it.

REQUEST NO. 15:

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

RESPONSE TO REQUEST NO. 15:

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

REQUEST NO. 16:

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

RESPONSE TO REQUEST NO. 16:

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

REQUEST NO. 17:

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

RESPONSE TO REQUEST NO. 17:

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

REQUEST NO. 18:

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

RESPONSE TO REQUEST NO. 18:

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

REQUEST NO. 19:

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

RESPONSE TO REQUEST NO. 19:

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

REQUEST NO. 20:

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

RESPONSE TO REQUEST NO. 20:

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

to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, or any other privilege or protection from disclosure provided by law.

REQUEST NO. 21:

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

RESPONSE TO REQUEST NO. 21:

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

REQUEST NO. 22:

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

RESPONSE TO REQUEST NO. 22:

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

REQUEST NO. 23:

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

RESPONSE TO REQUEST NO. 23:

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

REQUEST NO. 24:

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

RESPONSE TO REQUEST NO. 24:

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

REQUEST NO. 25:

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

RESPONSE TO REQUEST NO. 25:

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

Dated: September 20, 2021

Respectfully submitted,
/s/ Adam R. Vaught

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Ex. B

From: Ernest Herrera
To: Vaught, Adam R.; Panoff, Thomas; Elizabeth.Yandell@lw.com
Cc: McMahon, Cheryl E.; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco.Fernandez-del.Castillo; Griselda.Vega.Samuel; Harris.II.Charles.E.; Gilbert.Nathan; pal@lbgalaw.com; bja@lbgalaw.com; rmeza@meza.law; Comstock, Christopher; Holzrichter, Mitchell D.; Denise.Hulett
Subject: RE: Contreras et al v. Illinois State Board of Elections et al
Date: Thursday, September 23, 2021 6:49:10 PM

Thanks, Tom and Adam. We agree that this approach is a good way to move forward, but we would like to discuss the details in the morning.

Ernest I. Herrera
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From: Vaught, Adam R. <AVaught@hinshawlaw.com>
Sent: Thursday, September 23, 2021 4:30 PM
To: Panoff, Thomas; Ernest Herrera; Elizabeth.Yandell@lw.com
Cc: McMahon, Cheryl E.; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco.Fernandez-del.Castillo; Griselda.Vega.Samuel; Harris.II.Charles.E.; Gilbert.Nathan; pal@lbgalaw.com; bja@lbgalaw.com; rmeza@meza.law; Comstock, Christopher; Holzrichter, Mitchell D.; Denise.Hulett
Subject: RE: Contreras et al v. Illinois State Board of Elections et al

Tom,

We appreciate your suggestion. This seems to be reasonable path forward to us as well. We're in the process of finishing our formal responses now, which I will send. And we're preparing docs and going through emails as we speak. Does it make sense to talk in the morning about how specifically to proceed? We'll have a better idea (I hope) on what timing would look like on our side.

Also, Ernest (or MALDEF team), does this seem reasonable to you as well?

Thanks,
Adam

Adam R. Vaught
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From: Panoff, Thomas <TPanoff@mayerbrown.com>
Sent: Thursday, September 23, 2021 5:37 PM
To: Vaught, Adam R. <AVaught@hinshawlaw.com>; Ernest Herrera <eherrera@MALDEF.org>; Elizabeth.Yandell@lw.com
Cc: McMahon, Cheryl E. <cmcmahon@hinshawlaw.com>; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco.Fernandez-del.Castillo <FFernandez-delCastillo@MALDEF.org>; Griselda.Vega.Samuel <Gvegasamuel@MALDEF.org>; Harris.II.Charles.E. <CHarris@mayerbrown.com>; Gilbert.Nathan <NRGilbert@winston.com>; pal@lbgalaw.com; bja@lbgalaw.com; rmeza@meza.law; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Denise.Hulett <dhulett@MALDEF.org>
Subject: RE: Contreras et al v. Illinois State Board of Elections et al

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Adam,

Thanks for your responses earlier in the *McConchie* case and the clarifications below. While we understand that gathering certain documents can take some time, it's also important to realize that our requests were served 10 days ago and plaintiffs are trying to be mindful of the deadlines set by the Court. Speaking on behalf of the *McConchie* plaintiffs, since defendants' production won't be complete until some future date (and the precise timing is unknown) perhaps the best path forward might be a stipulation or agreed/joint motion noting that plaintiffs would have X number of days (maybe 3 days) after your production is complete and a privilege log is provided to raise any remaining issues with the Court, though hopefully there will not be any. Given the Court's prior instructions that the parties try to work through their discovery disputes, this strikes us as a reasonable path forward. It will give your side a few additional days to complete things and us a couple of days to review what is produced.

Tom

From: Vaught, Adam R. <AVaught@hinshawlaw.com>
Sent: Thursday, September 23, 2021 3:45 PM
To: Ernest Herrera <eherrera@MALDEF.org>; Elizabeth.Yandell@lw.com
Cc: McMahon, Cheryl E. <cmcmahon@hinshawlaw.com>; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com;

Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Harris II, Charles E. <CHarris@mayerbrown.com>; Gilbert, Nathan <NRGilbert@winston.com>; Panoff, Thomas <TPanoff@mayerbrown.com>; pal@lbgalaw.com; bja@lbgalaw.com; rmeza@meza.law; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Denise Hulett <dhulett@MALDEF.org>

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

****EXTERNAL SENDER****

Ernest, thank you for the opportunity to clarify. I've copied your questions in red and respond in black text.

- For RFP 6:
 - How are draft maps subject to legislative privilege?
 - You say that there is a "large amount of data." 30 drafts are certainly not the "10,000 drafts" example you gave yesterday. In addition to privilege, are you refusing to produce these data because the amount of data is unduly burdensome to produce?

Let me first explain what these "drafts," to the extent they can be called that, are. What we identified are not completed "drafts" of a complete map. The redistricting software saves a copy of the under-development, incomplete map document each time the user hits "save." So every time the group left for lunch, left for the night, etc., and hit "save" there is a work-product-protected, incomplete, partially drawn version of the map that became would later become what was filed as Senate Bill 927.

These are unquestionably legislative work product and protected by legislative privilege. They are pre-decisional, non-factual documents prepared by or in consultation with legislators that contain opinion (not facts), recommendations, or potential advice about the development of policies or possible legislation (ie, the redistricting plan). The Plaintiffs have (or will) receive all documents or information that discloses factual information available to legislators and staff at the time the legislative plan was developed (including geography, Census data, election data possibly used in the process). Both federal and state courts have long held that pre-decisional communications or documents between legislators or legislators and their staff to develop policy recommendations or legislation is shielded from discovery to prevent a chilling effect or discussions related to the development of policy. See, e.g. *Committee for a Fair & Balanced Map v. Illinois State Board of Elections*, No. 11 C 5065, 2011 U.S. Dist. LEXIS 117656, at *24-34 (N.D. Ill. Oct. 12, 2011). Additionally, Plaintiffs have been provided copies of every legislative plan that was considered by the General Assembly, thus any pre-decisions "draft maps" would be irrelevant.

Just so I'm clear, there are no completed drafts of full maps, such that "Map X" was considered against "Map Y." (We are not conceding those would not be subject to privilege, if they existed.) But there was only one completed draft map for August, and that is the one that became Senate Bill 927, which was later amended through the legislative process. Therefore, our objection is based on privilege, not on volume. That said, these are large files as well as they contain lot of data.

- For RFP 16-22: Your email states that you will produce non-privileged documents relevant to the August maps.
 - What privileges are you asserting specifically? I am not sure whether you are asserting the same privileges for all of those requests as 16 and 17 are different than 18-22.

We are still in the process of collecting these emails, and therefore do not yet know precisely what protections and privileges apply to each set. We expect some documents will be subject to legislative privilege, and potentially work product protection or attorney client privilege, as some may have been made in anticipation of litigation.

- When you say that you are producing documents "relevant to the August maps," are you limiting responsive documents to those reflecting communications in August? Our requests ask for documents going back to January 1, 2021.

We are collecting documents from January 1, 2021 through the completion of the August Map pursuant to your request, though we do not waive our objection that your demanded time period is overbroad and creating undue burden on defendants, especially in light of Judge Jantz's clear statement that discovery on the June Map is closed and current discovery should only be aimed at "clarifying the legal challenges and defenses of the new map." Nonetheless, because some communications dating back further than August might be relevant to the August Map, we are reviewing documents in your requested timeframe. Because you are insisting we review this larger volume, the review will, of course, take longer than if we could do a targeted review of emails from August. Regardless, we will produce non-privileged communications that are relevant to the August Map, once we can collect and review them. In the spirit of transparency, we already have collected many, but not all of the necessary communications. We sincerely hope this resolves these requests, as we're not sure what else Plaintiffs can expect on this timeframe.

- For RTP 24 and 25: what is your timeline for requesting and producing materials from Allan Lichtman and Kimball Brace?
 - If you're not able to produce materials today, then we need to at least know what privilege or relevance objections that you maintain for any materials as we have a MTC deadline of tomorrow at noon.

We have already requested the materials from both Lichtman and Brace. We have received some, but not all, materials. We are also doing internal collections of emails with these individuals, pursuant to your RFPs 16, 17. It has been approx 24 hours since the parties' meet and confer. We have not yet reviewed these materials and so cannot say with certainty which privileges or protections will apply. We expect the same privileges and protections listed above might apply, for the same reasons.

Defendants have been working around the clock to try to accommodate your requests and those of the McConchie plaintiffs. Though both Plaintiffs purported to defer some discovery requests after we explained we believed a protective order was necessary and merited, we note that most deferred requests are those Defendants had already answered, or are duplicative of/subsumed in other requests, such that Plaintiffs' deferrals are largely meaningless. Defendants ask that Plaintiffs be reasonable in understanding that collecting, reviewing, and producing materials takes time, and we are working in good faith to get you materials as soon as possible. We plan to make an initial production later tonight, with subsequent productions to follow.

Adam

Adam R. Vaught
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AVaught@hinshawlaw.com
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From: Ernest Herrera <eherrera@MALDEF.org>
Sent: Thursday, September 23, 2021 1:46 PM

To: Vaught, Adam R. <AVaught@hinshawlaw.com>; Elizabeth.Yandell@lw.com
Cc: McMahon, Cheryl E. <cmcmahon@hinshawlaw.com>; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Harris II, Charles E. <CHarris@mayerbrown.com>; Gilbert, Nathan <NRGilbert@winston.com>; Panoff, Thomas <TPanoff@mayerbrown.com>; pal@lbgalaw.com; bjal@lbgalaw.com; rmeza@meza.law; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Denise Hulett <dhulett@MALDEF.org>
Subject: Re: Contreras et al v. Illinois State Board of Elections et al

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Thank you for the additional responses and materials, Adam. Please clarify the following points:

- For RFP 6:
 - How are draft maps subject to legislative privilege?
 - You say that there is a "large amount of data." 30 drafts are certainly not the "10,000 drafts" example you gave yesterday. In addition to privilege, are you refusing to produce these data because the amount of data is unduly burdensome to produce?
- For RRP 16-22: Your email states that you will produce non-privileged documents relevant to the August maps.
 - What privileges are you asserting specifically? I am not sure whether you are asserting the same privileges for all of those requests as 16 and 17 are different than 18-22.
 - When you say that you are producing documents "relevant to the August maps," are you limiting responsive documents to those reflecting communications in August? Our requests ask for documents going back to January 1, 2021.
- For RTP 24 and 25: what is your timeline for requesting and producing materials from Allan Lichtman and Kimball Brace?
 - If you're not able to produce materials today, then we need to at least know what privilege or relevance objections that you maintain for any materials as we have a MTC deadline of tomorrow at noon.

Thank you.

Ernest I. Herrera
Staff Attorney
Pronouns: he/him/his
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634 S. Spring Street - 11th Floor
Los Angeles, CA 90014
(213) 629-2512 Ext. 114
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From: Vaught, Adam R. <AVaught@hinshawlaw.com>
Sent: Thursday, September 23, 2021 10:43 AM
To: Ernest Herrera; Panoff, Thomas; Elizabeth.Yandell@lw.com; bjal@lbgalaw.com; pal@lbgalaw.com; Comstock, Christopher; Holzrichter, Mitchell D.; rmeza@meza.law
Cc: McMahon, Cheryl E.; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco Fernandez-del Castillo; Griselda Vega Samuel; Harris II, Charles E.
Subject: RE: Contreras et al v. Illinois State Board of Elections et al

Ernest,

We're working on formal responses and gathering documents, but as of right now, here is where we are (subject to objections made in formal responses. This email does not waive anything).

Rog 1: We verified Allan Lichtman's testimony is everything in possession.

Rog 2: Defendants disclose the following, though do not assert those named are document custodians for current or future discovery requests: Justin Cox, Marissa Jackson-Donnell, Aaron Lowe, John Maxson, Allie McNamara, Darrin Reinhardt, Craig Willert, Joseph Sodowski, Magen Straz, Jake Butcher, Giovanni Randazzo. Defendants further respond that each incumbent member participated in the redistricting process for their respective district.

Rog 3: See Rog 1.

RTP 2: No responsive documents.

RTP 3: No responsive documents.

RTP 4: No responsive documents.

RTP 6: We are determining the number of drafts. It is estimated the universe size would be approx 30 "drafts" (which means documents available through autobound, though its unclear if they could be considered "drafts" at this point) and these documents would involve a large amount of data. Additionally, all would be subject to legislative privilege. The draft publicly filed as the bill or amendments are publicly available.

RTP 16: The documents requested are being compiled. We will produce non-privileged responsive documents relevant to the August plan.

RTP 17: Same as 16, but for Lichtman.

RTP 18: Same as 16, but for Sen. Landek.

RTP 19: Same as 16, but for Sen. Aquino.

RTP 20: Same as 16, but for Rep. Gonzalez.

RTP 21: Same as 16, but for Rep. Ortiz.

RTP 22: Same as 16, but for Rep. Zaleski.

RTP 23: No documents are responsive.

RTP 24: Defendants agree to inquire with Allan Lichtman regarding whether documents responsive to this Request are in his possession, custody, or control, and produce those documents, to the extent they exist, are not subject to privilege or other protection, and are relevant to the August Map. Kimball Brace has not performed any racially polarized voting analysis on behalf of Defendants and therefore will not be in possession of any responsive documents.

RTP 25: Will produce shape files in possession, and will produce shape files in Brace's possession once received (Brace said we should have those tomorrow).

Documents (same as produced to McConchie plaintiffs)

Senate election results to Allan Lichtman are here: <https://www.dropbox.com/sh/nfysm2tgn3afjml/AAB20l0nB83xcpKw3jcUYZTza?dl=0>

House election results and demographic data to Lichtman, additional shape files in possession, and additional documents previously produced are here: <https://drive.google.com/drive/folders/1KEdV07p755AXJ7ikGi2vEN6zHXm8zYBP?usp=sharing>

CVAP data as identified in the answers above attached in the SB 927 matrix.xlsx

Additionally, additional documents are:

A pdf of the emails received by the Senate redistricting Committee from August 12 to the present will be produced, but it is a 20 MB file that will have to be sent by a link to follow.

Floor Audio for the Map and the Resolution:
<https://www.dropbox.com/s/27iiveihsof05qu/8--31-2021%20SB927%20Conc.wma?dl=0>
SB927 Concurrence

<https://www.dropbox.com/s/ecdqw4ytlma3yy/8-31-2021%20SR3%201stSS.wma?dl=0>
SR3 1st Special Session

Staff Presentation for the Joliet hearing:
<https://www.ilga.gov/senate/committees/Redistricting/102Redistricting/SRED/20210827/8.27.2021%20Population%20Presentation.pdf>

Staff Presentation for the Peoria hearing:
<https://www.ilga.gov/senate/committees/Redistricting/102Redistricting/SRED/20210828/8.28.2021%20Peoria%20Population%20Presentation.pdf>

Staff Presentation for the Carbondale hearing:
<https://www.ilga.gov/senate/committees/Redistricting/102Redistricting/SRED/20210828%200300pm/8.28.2021%20Carbondale%20Population%20Presentation.pdf>

Thanks,
Adam

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From: Ernest Herrera <eherrera@MALDEF.org>

Sent: Wednesday, September 22, 2021 7:49 PM

To: Vaught, Adam R. <AVaught@hinshawlaw.com>; Panoff, Thomas <TPanoff@mayerbrown.com>; Elizabeth.Yandell@lw.com; bjalbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law

Cc: McMahon, Cheryl E. <cmcmahon@hinshawlaw.com>; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com;

Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Harris II, Charles E. <CHarris@mayerbrown.com>

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

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Yes, we request the data for Senate District 42.

Ernest I. Herrera
Staff Attorney
Pronouns: he/him/his
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(213) 629-2512 Ext. 114

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From: Vaught, Adam R. <AVaught@hinshawlaw.com>
Sent: Wednesday, September 22, 2021 5:43 PM
To: Panoff, Thomas; Elizabeth.Yandell@lw.com; bjalbgalaw.com; pal@lbgalaw.com; Comstock, Christopher; Holzrichter, Mitchell D.; rmeza@meza.law
Cc: McMahon, Cheryl E.; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; Ernest Herrera; Francisco Fernandez-del Castillo; Griselda Vega Samuel; Harris II, Charles E.
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

Ernest, just to confirm, do you also want Senate District 42 instead of 43?

Thanks,
Adam

Adam R. Vaught
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From: Panoff, Thomas <TPanoff@mayerbrown.com>
Sent: Wednesday, September 22, 2021 7:27 PM
To: Vaught, Adam R. <AVaught@hinshawlaw.com>; Elizabeth.Yandell@lw.com; bjalbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law
Cc: McMahon, Cheryl E. <cmcmahon@hinshawlaw.com>; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; eherrera@MALDEF.org; FFernandez-delCastillo@MALDEF.org; Gvegasamuel@MALDEF.org; Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

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Thanks, Adam. Correct – Senate District 42, not 43. Sorry for any confusion.

Tom

From: Vaught, Adam R. <AVaught@hinshawlaw.com>
Sent: Wednesday, September 22, 2021 6:34 PM
To: Panoff, Thomas <TPanoff@mayerbrown.com>; Elizabeth.Yandell@lw.com; bjalbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law
Cc: McMahon, Cheryl E. <cmcmahon@hinshawlaw.com>; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; eherrera@MALDEF.org; FFernandez-delCastillo@MALDEF.org; Gvegasamuel@MALDEF.org; Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

****EXTERNAL SENDER****

Tom,

I'm going through the Districts. Did you mean Senate District 42, rather than 43?

Thanks,
Adam

Adam R. Vaught
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From: Panoff, Thomas <TPanoff@mayerbrown.com>
Sent: Wednesday, September 22, 2021 4:51 PM
To: Elizabeth.Yandell@lw.com; bjalbgalaw.com; pal@lbgalaw.com; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D.

<MHolzrichter@mayerbrown.com>; rmeza@meza.law

Cc: Vaught, Adam R. <AVaught@hinshawlaw.com>; McMahon, Cheryl E. <cmcmahon@hinshawlaw.com>; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com; eherrera@MALDEF.org; FFernandez-delCastillo@MALDEF.org; Gvegasamuel@MALDEF.org; Harris II, Charles E. <CHarris@mayerbrown.com>
Subject: RE: McConchie et al v. Illinois State Board of Elections et al

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

- Districts for narrowing second set of discovery requests:
 - House Districts: 1, 2, 3, 4, 6, 7, 8, 19, 21, 22, 23, 24, 32, 39, 40, 49, 50, 77, 83, 84, 113, 114
 - Senate Districts: 1, 2, 3, 4, 10, 11, 12, 16, 20, 25, 39, 43, 57
- RFP Deferral:
 - We'll agree to defer RFP Nos. 2, 3, 4, 11 and 16 by placing them on the track and timing for Category No. 3 in the Court's Sept. 8 Order (Dkt. 97). Since we chose not to serve any Category No. 3 RFPs or interrogatories to make the discovery process as efficient as possible, this proposal seems more than reasonable to us.

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

Tom

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

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

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

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

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

****EXTERNAL SENDER****

Hi all,

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

Thank you,
Libby

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

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

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

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

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

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

Hi Tom,

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

Thanks very much and we look forward to discussing.

Libby

From: Panoff, Thomas <TPanoff@mayerbrown.com>

Date: Tuesday, Sep 21, 2021, 7:53 AM

To: Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>; bja@lbgalaw.com <bja@lbgalaw.com>; pal@lbgalaw.com <pal@lbgalaw.com>; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; rmeza@meza.law <rmeza@meza.law>

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

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

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

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

Tom

Thomas V. Panoff

Partner

Mayer Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606 United States of America
T +1 312 701 8821
mayerbrown.com

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

Sent: Monday, September 20, 2021 11:10 PM

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

Cc: AVaught@hinshawlaw.com; cohagan@hinshawlaw.com; mjkasper60@mac.com; Sean.Berkowitz@lw.com; Colleen.Smith@lw.com; Elizabeth.Yandell@lw.com; heather@wiervaught.com; Sheridan.Caldwell@lw.com; Miri.Gold@lw.com; Tyler.Bridegan@lw.com; dbruce@powerrogers.com; sdalton@powerrogers.com

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

****EXTERNAL SENDER****

Counsel,

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

Best,

Libby

Libby Yandell

Pronouns: she/her/hers

LATHAM & WATKINS LLP

505 Montgomery Street
Suite 2000
San Francisco, CA 94111-6538
Direct Dial: +1.415.646.7822
Email: elizabeth.yandell@lw.com
<https://www.lw.com>

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Ex. C

Re:McConchie et. al. v. Illinois State Board of Elections, et. al., 2021-cv-3091; 2021-cv-3091 & Contreras v. Ill. State Bd. of Elections, et al., 1:21-cv-3139

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Cc: elizabeth.yandell@lw.com; sean.berkowitz@lw.com; sheridan.caldwell@lw.com; colleen.smith@lw.com; avaught@hinshawlaw.com; heather@wiervaught.com; dbruce@powerrogers.com; ...

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Counsel,

Please find attached Defendants' additional production of documents in response to Plaintiffs' second set of discovery requests. Any production of privileged documents is inadvertent and does not constitute a waiver of privilege of that document or any subject. We have applied bates-numbering to documents where possible, but are otherwise producing many of these materials in their native format for your ease of access and use.

Ex. D

| Privilege Log | | | | | | | | |
|-------------------------|------------------|-----------|------------------------------|------------------------------|---|------------------------------|--|--|
| Privilege Identifier | Information Type | Date | Author | From | To | Copyee(s) | Privilege Type | Privilege Description |
| DemDefsPriv-00001-00002 | Memorandum | 4/1/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Senate members | | Attorney Client; legislative privilege | Memorandum from G. Randazzo containing legal and other advice for use by members in redistricting hearings and meetings |
| DemDefsPriv-00003 | Email | 4/26/2021 | House Speaker Staffer | House Speaker Staffer | House Speaker Staffer | | Legislative privilege | Discussion related to use of data for redistricting; contains identities of persons who participated in discussions regarding the 2021 Map |
| DemDefsPriv-00004-00015 | Email | 4/16/2021 | Assistant Counsel to Speaker | Assistant Counsel to Speaker | Justin Cox | Assistant Counsel to Speaker | Legislative; Attorney Client; Work Product | Discussion of legal research related to redistricting process and use of data |
| DemDefsPriv-00016-00017 | Analysis | 5/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by Senate attorney |
| DemDefsPriv-00018-00019 | Analysis | 5/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by Senate attorney |
| DemDefsPriv-00020-00023 | Analysis | 8/31/2021 | Hartmann, James | Hartmann, James | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by House attorney |
| DemDefsPriv-00024 | Analysis | 8/31/2021 | Randazzo, Giovanni | Randazzo, Giovanni | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by House attorney |
| DemDefsPriv-00025-00028 | Analysis | 4/28/2021 | Klein-Rodick, David | Klein-Rodick, David | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by Senate attorney |
| DemDefsPriv-00029-00032 | Analysis | 5/6/2021 | Hartmann, James | Hartmann, James | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by House attorney |
| DemDefsPriv-00033 | Email | 8/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Sims, Elgie, Hunter, Mattie; Castro, Cristina; Cunningham, Bill; Bennett, Scott; Jones III, Emil; Murphy, Laura; Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Ryan, Magen; Tandon, Reena; Hoffmann, Michael | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |
| DemDefsPriv-00034 | Email | 8/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Sims, Elgie, Hunter, Mattie; Bennett, Scott; Cunningham, Bill; Murphy, Laura; Jones III, Emil; Castro, Cristina; Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Tandon, Reena; Hoffmann, Michael | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |

| | | | | | | | | |
|-------------------------|-------------------------------|-----------|--------------------|--------------------|--|--|--|---|
| DemDefsPriv-00035 | Email | 8/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Sims, Elgie, Hunter, Mattie; Bennett, Scott; Cunningham, Bill; Murphy, Laura; Jones III, Emil; Castro, Cristina; Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Tandon, Reena; Hoffmann, Michael | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |
| DemDefsPriv-00036 | Email; word document attached | 8/27/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Sims, Elgie | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |
| DemDefsPriv-00037 | Email; word document attached | 8/27/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative hearing |
| DemDefsPriv-00038-00039 | Email; word document attached | 8/26/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative hearing |
| DemDefsPriv-00040 | Email; word document attached | 8/24/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative hearing |
| DemDefsPriv-00041-00042 | Email; word document attached | 8/24/2021 | Aquino, Omar | Aquino, Omar | Randazzo, Giovanni | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative correspondence; includes draft correspondence |
| DemDefsPriv-00043 | Email; word document attached | 8/24/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative correspondence; includes draft correspondence |
| DemDefsPriv-00044-00045 | Email | 3/9/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake | | Work Product; Legislative privilege | Email from consultant to chiefs of staff re: pre-decisional inquiry related to 2012 and 2014 election data |
| DemDefsPriv-00046 | Email | 2/1/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake | | Work Product; Legislative privilege | Email from consultant to chiefs of staff re: pre-decisional information related to data collection |
| DemDefsPriv-00047 | Email | 5/22/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake; Randazzo, Giovanni | | Attorney Client; Work Product; Legislative privilege | Email from consultant seeking guidance and legal opinion regarding production of shape files |
| DemDefsPriv-00048-00049 | Email | 5/22/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake; Cox, Justin; Randazzo, Giovanni | | Attorney Client; Work Product; Legislative privilege | Email from consultant seeking guidance and legal opinion regarding production of shape files |
| DemDefsPriv-00050-00051 | Email | 5/22/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Basham, Jessica; Butcher, Jake; Brace, Kim; Cox, Justin | | Attorney Client; Work Product; Legislative privilege | Response from Senate attorney to email from consultant seeking guidance and legal opinion regarding production of shape files |
| DemDefsPriv-00052 | Email; PDF attachment | 5/28/2021 | Brace, Kim | Brace, Kim | Butcher, Jake; Basham, Jessica; Randazzo, Giovanni; Cox, Justin; Sodowski, Miles; Maxson, Jon | | Attorney Client; Work Product; Legislative privilege | Email from consultant containing recommendations based on Census bureau release of county and city population estimates |
| DemDefsPriv-00053-00209 | Email; PDF attachment | 8/14/2021 | Brace, Kim | Brace, Kim | Randazzo, Giovanni; Cox, Justin; Sodowski, Miles; Maxson, Jon | | Attorney Client; Work Product; Legislative privilege | Email from consultant to attorney containing recommendations |
| DemDefsPriv-00210 | Email | 8/26/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Hunter, Mattie; Cunningham, Bill; Bennett, Scott; Sims, Elgie; Castro, Cristina; Jones III, Emil | Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Tandon, Reena | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |

Ex. E

From: Elizabeth.Yandell@lw.com
To: [Gilbert, Nathan](mailto:Gilbert,Nathan); TPanoff@mayerbrown.com; eherrera@MALDEF.org; heather@wiervaught.com; mjkasper60@me.com; AVaught@hinshawlaw.com
Cc: Gvegasamuel@MALDEF.org; FFernandez-delCastillo@MALDEF.org; dhulett@MALDEF.org; LSaucedo@MALDEF.org; [Bauer, Julie](mailto:Bauer,Julie); [Randall, James](mailto:Randall,James); bjalbgalaw.com; pal@lbgalaw.com; JGN@LBGALAW.COM; CComstock@mayerbrown.com; MHolzrichter@mayerbrown.com; CHarris@mayerbrown.com; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Mary.Johnston@ilag.gov; dbruce@powerrogers.com; sdalton@powerrogers.com
Subject: RE: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)
Date: Tuesday, September 28, 2021 10:01:59 PM
Attachments: [2021-09-28 Leadership Defs Privilege Log\(126048399.3\).pdf](#)

Dear Nathan and all,

We have inquired with Dr. Lichtman regarding your question on his algorithm runs, but have not heard back. We will respond on that issue, and your questions regarding our privilege assertions to the documents identified below, tomorrow.

In response to your other requests from the meet & confer:

- We have confirmed that the documents we produced or logged in response to Contreras RFPs 16-22 were those “through present.” To the extent there are none that post-date the passage of the August map, that would mean none exist.
- Attached here is an updated privilege log that lists the file names from the pre-decisional, incomplete versions of partial maps or geographic areas. To reiterate, we disagree that that these are “draft maps” in the relevant sense, and do not waive our objection to the relevance of this legislative work product, which again, do not constitute complete maps or alternate versions of maps that could be relevant to any claim you might assert. We are logging these solely in an effort to be cooperative and avoid burdening the court with motion practice over this clearly privileged material.

Best,
Libby

From: Gilbert, Nathan <NRGilbert@winston.com>
Sent: Tuesday, September 28, 2021 3:59 PM
To: Panoff, Thomas <TPanoff@mayerbrown.com>; Ernest Herrera <eherrera@MALDEF.org>; Heather Wier Vaught <heather@wiervaught.com>; Michael Kasper <mjkasper60@me.com>; Vaught, Adam R. <AVaught@hinshawlaw.com>; Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>
Cc: Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Denise Hulett <dhulett@MALDEF.org>; Leticia Saucedo <LSaucedo@MALDEF.org>; Bauer, Julie <JBauer@winston.com>; Randall, James <JWRandall@winston.com>; Brian Armstrong <bjalbgalaw.com>; Phil Luetkehans <pal@lbgalaw.com>; Jessica Nosalski <JGN@LBGALAW.COM>; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Harris II, Charles E. <CHarris@mayerbrown.com>; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Smith, Colleen (SD)

<Colleen.Smith@lw.com>; Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>; Gold, Miri (CC) <Miri.Gold@lw.com>; Johnston, Mary <Mary.Johnston@ilag.gov>; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: RE: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Counsel,

Thank you for your time and attention during the meet and confer, and for your efforts to date.

As discussed on the call, we do not think your assertion of the legislative privilege is valid for the following documents on your privilege log:

- DemDefsPriv-00044-00045
- DemDefsPriv-00046
- DemDefsPriv-00047
- DemDefsPriv-00048—00049
- DemDefsPriv-00052
- DemDefsPriv-00053-00209

We do not think the legislative privilege can apply to documents with outside consultants. Below is a non-exhaustive list of the several courts, including courts in this district and circuit, that have reached the same conclusion:

- *Committee for a Fair & Balanced Map v. Illinois State Board of Elections*, No. 11 C 5065, 2011 WL 4837508, at *10 (N.D. Ill. Oct. 12, 2011) (holding to the extent legislators “relied on reports or recommendations generated by outside consultants to draft the [] Map, they waived their legislative privilege as to these documents”);
- *Baldus v. Brennan*, No. 11-CV-1011, 2011 WL 6122542, at *2 (E.D. Wis. Dec. 8, 2011) (“[T]he Court finds it all but disingenuous for the Legislature to argue that these items be subject to privilege in a Court proceeding determining the constitutionality of the Legislature's actions, when the Legislature clearly did not concern itself with maintaining that privilege when it hired outside consultants to help develop its plans.”) (citing *Committee for a Fair & Balanced Map* 2011 WL 4837508, at *10)
- *Page v. Virginia State Bd. of Elections*, 15 F. Supp. 3d 657, 664 (E.D. Va. 2014) (“Moreover, a requirement that a legislative assistant or aide be directly employed and paid by an individual legislator, a legislative committee, or the legislature as a whole provides a sensible and defensible bulwark against excessive use of the legislative privilege.”);
- *Hall v. Louisiana*, No. CIV.A. 12-657-BAJ, 2014 WL 1652791, at *10 (M.D. La. Apr. 23, 2014) (“Information, reports or recommendations provided by outside consultants, experts or lobbyists utilized in consideration of the legislation and any contractual agreements related thereto” are not “shielded”);
- *Perez v. Perry*, No. SA-11-CV-360, 2014 WL 106927, at *2 (W.D. Tex. Jan. 8, 2014) (“To the extent, however, that any legislator, legislative aide, or staff member had conversations or communications with any outsider (e.g. party representatives, non-legislators, or non-legislative staff), any privilege is waived as to the contents of those specific communications.”)
- *N. Carolina State Conf. of the NAACP v. McCrory*, No. 1:13CV658, 2014 WL 12526799, at

*4 (M.D.N.C. Nov. 20, 2014) (“The Court is left unpersuaded by Defendants’ assertion that, because the legislators communicated with third parties with an expectation of privacy, the privilege should apply”).

We would ask that you consider retracting your assertion of privilege as to these documents in light of this authority.

Nathan

Nathan Gilbert

Winston & Strawn LLP

D: +1 312-558-8907

winston.com



From: Panoff, Thomas <TPanoff@mayerbrown.com>

Sent: Tuesday, September 28, 2021 1:09 PM

To: Ernest Herrera <eherrera@MALDEF.org>; Heather Wier Vaught <heather@wiervaught.com>; Michael Kasper <mjkasper60@me.com>; Vaught, Adam R. <AVaught@hinshawlaw.com>; Elizabeth.Yandell@lw.com

Cc: Gilbert, Nathan <NRGilbert@winston.com>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Denise Hulett <dhulett@MALDEF.org>; Leticia Saucedo <LSaucedo@MALDEF.org>; Bauer, Julie <JBauer@winston.com>; Randall, James <JWRandall@winston.com>; Brian Armstrong <bja@lbgalaw.com>; Phil Luetkehans <pal@lbgalaw.com>; Jessica Nosalski <JGN@LBGALAW.COM>; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Harris II, Charles E. <CHarris@mayerbrown.com>; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Johnston, Mary <Mary.Johnston@ilag.gov>; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: RE: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Thanks, Ernest. We plan to participate on behalf of the McConchie plaintiffs as well.

From: Ernest Herrera <eherrera@MALDEF.org>

Sent: Tuesday, September 28, 2021 12:59 PM

To: Heather Wier Vaught <heather@wiervaught.com>; Michael Kasper <mjkasper60@me.com>; Vaught, Adam R. <AVaught@hinshawlaw.com>; Elizabeth.Yandell@lw.com

Cc: Gilbert, Nathan <NRGilbert@winston.com>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Denise Hulett <dhulett@MALDEF.org>; Leticia Saucedo <LSaucedo@MALDEF.org>; Bauer, Julie <JBauer@winston.com>; Randall, James

<JWRandall@winston.com>; Brian Armstrong <bjal@lbgalaw.com>; Phil Luetkehans <pal@lbgalaw.com>; Jessica Nosalski <JGN@LBGALAW.COM>; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Panoff, Thomas <TPanoff@mayerbrown.com>; Harris II, Charles E. <CHarris@mayerbrown.com>; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Johnston, Mary <Mary.Johnston@ilag.gov>; dbruce@powerrogers.com; sdalton@powerrogers.com
Subject: Re: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

****EXTERNAL SENDER****

Thanks, Heather. Here is a conference line number for 4 pm CST:

Call - [1-877-366-0711](tel:1-877-366-0711)

Participant – 22308005#

Ernest I. Herrera
Staff Attorney
Pronouns: he/him/his
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634 S. Spring Street - 11th Floor
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From: Heather Wier Vaught <heather@wiervaught.com>

Sent: Tuesday, September 28, 2021 9:57 AM

To: Ernest Herrera; Michael Kasper; Vaught, Adam R.; Elizabeth.Yandell@lw.com

Cc: Gilbert, Nathan; Griselda Vega Samuel; Francisco Fernandez-del Castillo; Denise Hulett; Leticia Saucedo; Bauer, Julie; Randall, James; Brian Armstrong; Phil Luetkehans; Jessica Nosalski; Comstock, Christopher; Holzrichter, Mitchell D.; Panoff, Thomas; Harris II, Charles E.; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Johnston, Mary; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: Re: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Ernest,

On behalf of the legislative leader Defendants, we are available at 4pm today.

Heather

815-762-2629

From: Ernest Herrera <eherrera@MALDEF.org>

Date: Tuesday, September 28, 2021 at 11:23 AM

To: Michael Kasper <mjkasper60@me.com>, "Vaught, Adam R." <AVaught@hinshawlaw.com>, "Elizabeth.Yandell@lw.com" <Elizabeth.Yandell@lw.com>

Cc: "Gilbert, Nathan" <NRGilbert@winston.com>, Griselda Vega Samuel <Gvegasamuel@MALDEF.org>, Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>, Denise Hulett <dhulett@MALDEF.org>, Leticia Saucedo <LSaucedo@MALDEF.org>, "Bauer, Julie" <JBauer@winston.com>, "Randall, James" <JWRandall@winston.com>, Brian Armstrong <bj@lbgalaw.com>, Phil Luetkehans <pal@lbgalaw.com>, Jessica Nosalski <JGN@LBGALAW.COM>, "Comstock, Christopher" <CComstock@mayerbrown.com>, "Holzrichter, Mitchell D." <MHolzrichter@mayerbrown.com>, "Panoff, Thomas" <TPanoff@mayerbrown.com>, "Harris II, Charles E." <CHarris@mayerbrown.com>, "meza@meza.law" <meza@meza.law>, "dbruce@powerrogers.com" <dbruce@powerrogers.com>, "sdalton@powerrogers.com" <sdalton@powerrogers.com>, "cohagan@hinshawlaw.com" <cohagan@hinshawlaw.com>, "Colleen.Smith@lw.com" <Colleen.Smith@lw.com>, "Sean.Berkowitz@lw.com" <Sean.Berkowitz@lw.com>, "Miri.Gold@lw.com" <Miri.Gold@lw.com>, "heather@wiervaught.com" <heather@wiervaught.com>, "Johnston, Mary" <Mary.Johnston@ilag.gov>, "dbruce@powerrogers.com" <dbruce@powerrogers.com>, "sdalton@powerrogers.com" <sdalton@powerrogers.com>

Subject: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Dear Counsel:

On behalf of Contreras Plaintiffs, I'd like to request a meet and confer today or early tomorrow to discuss the supplemental discovery responses to our second round of written discovery.

We are available today from 4 pm and 6 pm, and after 7 pm.

Ernest I. Herrera
Staff Attorney

Pronouns: he/him/his

Mexican American Legal Defense and Educational Fund

634 S. Spring Street - 11th Floor

Los Angeles, CA 90014

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Ex. F

| Leadership Defendants' Privilege Log | | | | | | | | |
|---|------------------|-----------|------------------------------|------------------------------|---|------------------------------|--|--|
| McConchie & Contreras Redistricting Actions | | | | | | | | |
| Dated: September 28, 2021 | | | | | | | | |
| Privilege Identifier | Information Type | Date | Author | From | To | Copyee(s) | Privilege Type | Privilege Description |
| DemDefsPriv-00001-00002 | Memorandum | 4/1/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Senate members | | Attorney Client; legislative privilege | Memorandum from G. Randazzo containing legal and other advice for use by members in redistricting hearings and meetings |
| DemDefsPriv-00003 | Email | 4/26/2021 | House Speaker Staffer | House Speaker Staffer | House Speaker Staffer | | Legislative privilege | Discussion related to use of data for redistricting; contains identities of persons who participated in discussions regarding the 2021 Map |
| DemDefsPriv-00004-00015 | Email | 4/16/2021 | Assistant Counsel to Speaker | Assistant Counsel to Speaker | Justin Cox | Assistant Counsel to Speaker | Legislative; Attorney Client; Work Product | Discussion of legal research related to redistricting process and use of data |
| DemDefsPriv-00016-00017 | Analysis | 5/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by Senate attorney |
| DemDefsPriv-00018-00019 | Analysis | 5/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by Senate attorney |
| DemDefsPriv-00020-00023 | Analysis | 8/31/2021 | Hartmann, James | Hartmann, James | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by House attorney |
| DemDefsPriv-00024 | Analysis | 8/31/2021 | Randazzo, Giovanni | Randazzo, Giovanni | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by House attorney |
| DemDefsPriv-00025-00028 | Analysis | 4/28/2021 | Klein-Rodick, David | Klein-Rodick, David | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by Senate attorney |
| DemDefsPriv-00029-00032 | Analysis | 5/6/2021 | Hartmann, James | Hartmann, James | | | Attorney Client; Work Product; Legislative privilege | Bill analysis by House attorney |
| DemDefsPriv-00033 | Email | 8/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Sims, Elgie, Hunter, Mattie; Castro, Cristina; Cunningham, Bill; Bennett, Scott; Jones III, Emil; Murphy, Laura; Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Ryan, Magen; Tandon, Reena; Hoffmann, Michael | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |
| DemDefsPriv-00034 | Email | 8/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Sims, Elgie, Hunter, Mattie; Bennett, Scott; Cunningham, Bill; Murphy, Laura; Jones III, Emil; Castro, Cristina; Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Tandon, Reena; Hoffmann, Michael | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |

Leadership Defendants' Privilege Log
McConchie & Contreras Redistricting Actions
Dated: September 28, 2021

| Privilege Identifier | Information Type | Date | Author | From | To | Copyee(s) | Privilege Type | Privilege Description |
|-------------------------|-------------------------------|-----------|--------------------|--------------------|--|-----------|--|---|
| DemDefsPriv-00035 | Email | 8/28/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Sims, Elgie, Hunter, Mattie; Bennett, Scott; Cunningham, Bill; Murphy, Laura; Jones III, Emil; Castro, Cristina; Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Tandon, Reena; Hoffmann, Michael | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |
| DemDefsPriv-00036 | Email; word document attached | 8/27/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Sims, Elgie | | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |
| DemDefsPriv-00037 | Email; word document attached | 8/27/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative hearing |
| DemDefsPriv-00038-00039 | Email; word document attached | 8/26/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative hearing |
| DemDefsPriv-00040 | Email; word document attached | 8/24/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative hearing |
| DemDefsPriv-00041-00042 | Email; word document attached | 8/24/2021 | Aquino, Omar | Aquino, Omar | Randazzo, Giovanni | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative correspondence; includes draft correspondence |
| DemDefsPriv-00043 | Email; word document attached | 8/24/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar | | Attorney Client; Legislative privilege; Work Product | Email from Senate attorney to legislator re: preparation for legislative correspondence; includes draft correspondence |
| DemDefsPriv-00044-00045 | Email | 3/9/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake | | Work Product; Legislative privilege | Email from consultant to chiefs of staff re: pre-decisional inquiry related to 2012 and 2014 election data |
| DemDefsPriv-00046 | Email | 2/1/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake | | Work Product; Legislative privilege | Email from consultant to chiefs of staff re: pre-decisional information related to data collection |
| DemDefsPriv-00047 | Email | 5/22/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake; Randazzo, Giovanni | | Attorney Client; Work Product; Legislative privilege | Email from consultant seeking guidance and legal opinion regarding production of shape files |
| DemDefsPriv-00048-00049 | Email | 5/22/2021 | Brace, Kim | Brace, Kim | Basham, Jessica; Butcher, Jake; Cox, Justin; Randazzo, Giovanni | | Attorney Client; Work Product; Legislative privilege | Email from consultant seeking guidance and legal opinion regarding production of shape files |
| DemDefsPriv-00050-00051 | Email | 5/22/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Basham, Jessica; Butcher, Jake; Brace, Kim; Cox, Justin | | Attorney Client; Work Product; Legislative privilege | Response from Senate attorney to email from consultant seeking guidance and legal opinion regarding production of shape files |
| DemDefsPriv-00052 | Email; PDF attachment | 5/28/2021 | Brace, Kim | Brace, Kim | Butcher, Jake; Basham, Jessica; Randazzo, Giovanni; Cox, Justin; Sodowski, Miles; Maxson, Jon | | Attorney Client; Work Product; Legislative privilege | Email from consultant containing recommendations based on Census bureau release of county and city population estimates |
| DemDefsPriv-00053-00209 | Email; PDF attachment | 8/14/2021 | Brace, Kim | Brace, Kim | Randazzo, Giovanni; Cox, Justin; Sodowski, Miles; Maxson, Jon | | Attorney Client; Work Product; Legislative privilege | Email from consultant to attorney containing recommendations |

Leadership Defendants' Privilege Log

McConchie & Contreras Redistricting Actions

Dated: September 28, 2021

| Privilege Identifier | Information Type | Date | Author | From | To | Copyee(s) | Privilege Type | Privilege Description |
|----------------------|--|-----------|--------------------|--------------------|--|--|--|---|
| DemDefsPriv-00210 | Email | 8/26/2021 | Randazzo, Giovanni | Randazzo, Giovanni | Aquino, Omar; Hunter, Mattie; Cunningham, Bill; Bennett, Scott; Sims, Elgie; Castro, Cristina; Jones III, Emil | Butcher, Jake; Jenkins, Ashley; Sodowski, Miles; Tandon, Reena | Attorney Client; Work Product; Legislative privilege | Email from Senate attorney regarding redistricting hearing speakers |
| DemDefsPriv-00211 | Autobound file titled "MS Edits 8.17" | 8/17/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00212 | Autobound file titled "MS Draft 1 PL Dataa 8112021" | 8/17/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00213 | Autobound file titled "08192021 ReReMap" | 8/19/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00214 | Autobound filed titled "08192021 ReReMap Senate Version" | 8/19/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00215 | Autobound filed titled "08192021 ReReMap Senate Plan with Edits" | 8/20/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00216 | Autobound filed titled "08202021 ReRemap" | 8/20/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00217 | Autobound filed titled "Amended Senate Version 8.22.21" | 8/22/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00218 | Autobound filed titled "8.21.2021 Senate Amended" | 8/22/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00219 | Autobound filed titled "08232021 ReReMap" | 8/23/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00220 | Autobound filed titled "08232021 Senate Version Un Edited" | 8/23/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00221 | Autobound filed titled "08232021 Senate Version Night Edits" | 8/23/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00222 | Autobound filed titled "08242021 ReRemap Senate Nests" | 8/24/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00223 | Autobound filed titled "08252021 District 7 fix" | 8/25/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00224 | Autobound filed titled "8252021 District 8 fix" | 8/25/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00225 | Autobound filed titled "D1 Changes Senate" | 8/27/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00226 | Autobound filed titled "08282021 Noon Senate Version" | 8/28/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |

Leadership Defendants' Privilege Log

McConchie & Contreras Redistricting Actions

Dated: September 28, 2021

| Privilege Identifier | Information Type | Date | Author | From | To | Copyee(s) | Privilege Type | Privilege Description |
|----------------------|---|-----------|--------|------|----|-----------|--|---|
| DemDefsPriv-00227 | Autobound filed titled "829 midn" | 8/28/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00228 | Autobound filed titled "08292021 Morning" | 8/29/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00229 | Autobound filed titled "08292021 720 Night House Version" | 8/29/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00230 | Autobound filed titled "08292021 813PM Senate Version" | 8/29/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00231 | Autobound filed titled "08292021 ReReMap (Final)" | 8/29/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00232 | Autobound filed titled "08292021 Senate Map Final" | 8/29/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00233 | Autobound filed titled "08302021 Senate Plan 1am" | 8/30/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00234 | Autobound filed titled "Final Final 08302021 HB 1953" | 8/30/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00235 | Autobound filed titled "Senate_Final_8-30_7:03pm" | 8/30/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00236 | Autobound filed titled "Senate_Final_V2_08302021 9pm" | 8/30/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00237 | Autobound filed titled "Senate_Final_V2_08312021 930am" | 8/31/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00238 | Autobound filed titled "final senate plan" | 8/31/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00239 | Autobound filed titled "House Final HFA 2 SB927" | 8/31/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |
| DemDefsPriv-00240 | Autobound filed titled "Senate Final HFA 2 SB927" | 8/31/2021 | | | | | Attorney Client; Work Product; Legislative privilege | Pre-decisional, incomplete version of geographic area or partial map drawn by staff |

Ex. G

From: Elizabeth.Yandell@lw.com
To: eherrera@MALDEF.org; Gilbert.Nathan; TPanoff@mayerbrown.com; heather@wiervaught.com; mjkasper60@me.com; AVaught@hinshawlaw.com
Cc: Gvegasamuel@MALDEF.org; FFernandez-delCastillo@MALDEF.org; dhulett@MALDEF.org; LSaucedo@MALDEF.org; [Bauer, Julie](mailto:Bauer,Julie); [Randall, James](mailto:Randall,James); bjalbgalaw.com; pal@lbgalaw.com; JGN@LBGALAW.COM; CComstock@mayerbrown.com; MHolzrichter@mayerbrown.com; CHarris@mayerbrown.com; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Mary.Johnston@ilag.gov; dbruce@powerrogers.com; sdalton@powerrogers.com
Subject: RE: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)
Date: Wednesday, September 29, 2021 7:42:12 PM
Attachments: [2021-09-29 Leadership Defs" Privilege Log\(126048399.4\).pdf](#)
[DemDefsPriv-00044-00046 \(redacted\).pdf](#)

Dear all,

Below we provide answers to the remaining two requests from yesterday's meet and confer:

(1) In response to the question regarding whether Dr. Lichtman has any drafts or documents related to any algorithm runs, the answer is no such documents exist. This response is not a waiver of any objection to our production of such materials, had they existed.

(2) At your request, we also reexamined the documents at DemDefsPriv-00044-00049, and -00052-00209, to determine whether we should rescind our privilege assertions as to any. Upon a closer review of those documents, most are not responsive in the first place because they relate only to the June 4, 2021 map that has been amended by the August map, Public Act 102-663. Judge Jantz was clear that discovery on the June map has closed; we hope you agree. See Sept. 7, 2021 Hr'g Tr. at 5:15-17, 8:3-8. To avoid confusion and to maintain a clean record, however, we have updated those entries on our privilege log to indicate which documents are not responsive, and updated the privilege narrative that would apply, had they been responsive. Regarding the only of these documents that arguably relates to the current map, Defendants will agree to withdraw their privilege assertion. See DemDefsPriv-00046. That document is attached here, as is the email at DemDefsPriv-00044-45, which we are producing in redacted form, without waiving any objections, so you can review the unprivileged portion of the document.

Our understanding is that Defendants' efforts over the last days—including providing four sets of supplemental discovery responses, collecting, reviewing and making multiple productions, and creating and updating (twice) their privilege log in response to your requests and our meet and confers—paired with our responses from yesterday and those in this email, resolve all of Plaintiffs' concerns regarding the current discovery responses. Defendants have worked quickly and tirelessly to answer and address every concern you have raised—all in an effort, as we have said, to heed the Court's instruction to avoid motion practice. Our understanding is that there are no issues outstanding: all of the Contreras Plaintiffs' questions and requests have now been addressed, and the McConchie Plaintiffs did not raise any issues during the parties' meet and confer, other than to second the Contreras Plaintiffs' questions regarding the then-current (Sept. 27) privilege log, which are addressed by this email. If this is not the case, please let us know so we can further clarify as necessary.

Best,

Libby

From: Ernest Herrera <eherrera@MALDEF.org>

Sent: Tuesday, September 28, 2021 11:29 PM

To: Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>; NRGilbert@winston.com; TPanoff@mayerbrown.com; heather@wiervaught.com; mjkasper60@me.com; AVaught@hinshawlaw.com

Cc: Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Denise Hulett <dhulett@MALDEF.org>; Leticia Saucedo <LSaucedo@MALDEF.org>; JBauer@winston.com; JWRandall@winston.com; bja@lbgalaw.com; pal@lbgalaw.com; JGN@LBGALAW.COM; CComstock@mayerbrown.com; MHolzrichter@mayerbrown.com; CHarris@mayerbrown.com; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Smith, Colleen (SD) <Colleen.Smith@lw.com>; Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>; Gold, Miri (CC) <Miri.Gold@lw.com>; Mary.Johnston@ilag.gov; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: Re: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Thank you, Libby. Understood and appreciate your responses.

Ernest I. Herrera

Staff Attorney

Pronouns: he/him/his

Mexican American Legal Defense and Educational Fund

634 S. Spring Street - 11th Floor

Los Angeles, CA 90014

(213) 629-2512 Ext. 114

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

Sent: Tuesday, September 28, 2021 8:01 PM

To: NRGilbert@winston.com; TPanoff@mayerbrown.com; Ernest Herrera; heather@wiervaught.com; mjkasper60@me.com; AVaught@hinshawlaw.com

Cc: Griselda Vega Samuel; Francisco Fernandez-del Castillo; Denise Hulett; Leticia Saucedo; JBauer@winston.com; JWRandall@winston.com; bja@lbgalaw.com; pal@lbgalaw.com; JGN@LBGALAW.COM; CComstock@mayerbrown.com; MHolzrichter@mayerbrown.com; CHarris@mayerbrown.com; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Mary.Johnston@ilag.gov; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: RE: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Dear Nathan and all,

We have inquired with Dr. Lichtman regarding your question on his algorithm runs, but have not heard back. We will respond on that issue, and your questions regarding our privilege assertions to the documents identified below, tomorrow.

In response to your other requests from the meet & confer:

- We have confirmed that the documents we produced or logged in response to Contreras RFPs 16-22 were those “through present.” To the extent there are none that post-date the passage of the August map, that would mean none exist.
- Attached here is an updated privilege log that lists the file names from the pre-decisional, incomplete versions of partial maps or geographic areas. To reiterate, we disagree that that these are “draft maps” in the relevant sense, and do not waive our objection to the relevance of this legislative work product, which again, do not constitute complete maps or alternate versions of maps that could be relevant to any claim you might assert. We are logging these solely in an effort to be cooperative and avoid burdening the court with motion practice over this clearly privileged material.

Best,
Libby

From: Gilbert, Nathan <NRGilbert@winston.com>

Sent: Tuesday, September 28, 2021 3:59 PM

To: Panoff, Thomas <TPanoff@mayerbrown.com>; Ernest Herrera <eherrera@MALDEF.org>; Heather Wier Vaught <heather@wiervaught.com>; Michael Kasper <mjkasper60@me.com>; Vaught, Adam R. <AVaught@hinshawlaw.com>; Yandell, Elizabeth (Bay Area) <Elizabeth.Yandell@lw.com>

Cc: Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Denise Hulett <dhulett@MALDEF.org>; Leticia Saucedo <LSaucedo@MALDEF.org>; Bauer, Julie <JBauer@winston.com>; Randall, James <JWRandall@winston.com>; Brian Armstrong <bj@lbgalaw.com>; Phil Luetkehans <pal@lbgalaw.com>; Jessica Nosalski <JGN@LBGALAW.COM>; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Harris II, Charles E. <CHarris@mayerbrown.com>; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Smith, Colleen (SD) <Colleen.Smith@lw.com>; Berkowitz, Sean (CH) <Sean.Berkowitz@lw.com>; Gold, Miri (CC) <Miri.Gold@lw.com>; Johnston, Mary <Mary.Johnston@ilag.gov>; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: RE: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Counsel,

Thank you for your time and attention during the meet and confer, and for your efforts to date.

As discussed on the call, we do not think your assertion of the legislative privilege is valid for the

following documents on your privilege log:

- DemDefsPriv-00044-00045
- DemDefsPriv-00046
- DemDefsPriv-00047
- DemDefsPriv-00048—00049
- DemDefsPriv-00052
- DemDefsPriv-00053-00209

We do not think the legislative privilege can apply to documents with outside consultants. Below is a non-exhaustive list of the several courts, including courts in this district and circuit, that have reached the same conclusion:

- *Committee for a Fair & Balanced Map v. Illinois State Board of Elections*, No. 11 C 5065, 2011 WL 4837508, at *10 (N.D. Ill. Oct. 12, 2011) (holding to the extent legislators “relied on reports or recommendations generated by outside consultants to draft the [] Map, they waived their legislative privilege as to these documents”);
- *Baldus v. Brennan*, No. 11-CV-1011, 2011 WL 6122542, at *2 (E.D. Wis. Dec. 8, 2011) (“[T]he Court finds it all but disingenuous for the Legislature to argue that these items be subject to privilege in a Court proceeding determining the constitutionality of the Legislature's actions, when the Legislature clearly did not concern itself with maintaining that privilege when it hired outside consultants to help develop its plans.”) (citing *Committee for a Fair & Balanced Map* 2011 WL 4837508, at *10)
- *Page v. Virginia State Bd. of Elections*, 15 F. Supp. 3d 657, 664 (E.D. Va. 2014) (“Moreover, a requirement that a legislative assistant or aide be directly employed and paid by an individual legislator, a legislative committee, or the legislature as a whole provides a sensible and defensible bulwark against excessive use of the legislative privilege.”);
- *Hall v. Louisiana*, No. CIV.A. 12-657-BAJ, 2014 WL 1652791, at *10 (M.D. La. Apr. 23, 2014) (“Information, reports or recommendations provided by outside consultants, experts or lobbyists utilized in consideration of the legislation and any contractual agreements related thereto” are not “shielded”);
- *Perez v. Perry*, No. SA-11-CV-360, 2014 WL 106927, at *2 (W.D. Tex. Jan. 8, 2014) (“To the extent, however, that any legislator, legislative aide, or staff member had conversations or communications with any outsider (e.g. party representatives, non-legislators, or non-legislative staff), any privilege is waived as to the contents of those specific communications.”)
- *N. Carolina State Conf. of the NAACP v. McCrory*, No. 1:13CV658, 2014 WL 12526799, at *4 (M.D.N.C. Nov. 20, 2014) (“The Court is left unpersuaded by Defendants' assertion that, because the legislators communicated with third parties with an expectation of privacy, the privilege should apply”).

We would ask that you consider retracting your assertion of privilege as to these documents in light of this authority.

Nathan

Nathan Gilbert

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From: Panoff, Thomas <TPanoff@mayerbrown.com>

Sent: Tuesday, September 28, 2021 1:09 PM

To: Ernest Herrera <eherrera@MALDEF.org>; Heather Wier Vaught <heather@wiervaught.com>; Michael Kasper <mjkasper60@me.com>; Vaught, Adam R. <AVaught@hinshawlaw.com>; Elizabeth.Yandell@lw.com

Cc: Gilbert, Nathan <NRGilbert@winston.com>; Griselda Vega Samuel <Gvegasamuel@MALDEF.org>; Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>; Denise Hulett <dhulett@MALDEF.org>; Leticia Saucedo <LSaucedo@MALDEF.org>; Bauer, Julie <JBauer@winston.com>; Randall, James <JWRandall@winston.com>; Brian Armstrong <bj@lbgalaw.com>; Phil Luetkehans <pal@lbgalaw.com>; Jessica Nosalski <JGN@LBGALAW.COM>; Comstock, Christopher <CComstock@mayerbrown.com>; Holzrichter, Mitchell D. <MHolzrichter@mayerbrown.com>; Harris II, Charles E. <CHarris@mayerbrown.com>; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Johnston, Mary <Mary.Johnston@ilag.gov>; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: RE: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Thanks, Ernest. We plan to participate on behalf of the McConchie plaintiffs as well.

From: Ernest Herrera <eherrera@MALDEF.org>

Sent: Tuesday, September 28, 2021 12:59 PM

To: Heather Wier Vaught <heather@wiervaught.com>; Michael Kasper <mjkasper60@me.com>; Vaught, Adam R. <AVaught@hinshawlaw.com>; Elizabeth.Yandell@lw.com

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Subject: Re: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

****EXTERNAL SENDER****

Thanks, Heather. Here is a conference line number for 4 pm CST:

Call - [1-877-366-0711](tel:1-877-366-0711)

Participant – 22308005#

Ernest I. Herrera

Staff Attorney

Pronouns: he/him/his

Mexican American Legal Defense and Educational Fund

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From: Heather Wier Vaught <heather@wiervaught.com>

Sent: Tuesday, September 28, 2021 9:57 AM

To: Ernest Herrera; Michael Kasper; Vaught, Adam R.; Elizabeth.Yandell@lw.com

Cc: Gilbert, Nathan; Griselda Vega Samuel; Francisco Fernandez-del Castillo; Denise Hulett; Leticia Saucedo; Bauer, Julie; Randall, James; Brian Armstrong; Phil Luetkehans; Jessica Nosalski; Comstock, Christopher; Holzrichter, Mitchell D.; Panoff, Thomas; Harris II, Charles E.; meza@meza.law; dbruce@powerrogers.com; sdalton@powerrogers.com; cohagan@hinshawlaw.com; Colleen.Smith@lw.com; Sean.Berkowitz@lw.com; Miri.Gold@lw.com; Johnston, Mary; dbruce@powerrogers.com; sdalton@powerrogers.com

Subject: Re: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Ernest,

On behalf of the legislative leader Defendants, we are available at 4pm today.

Heather

815-762-2629

From: Ernest Herrera <eherrera@MALDEF.org>

Date: Tuesday, September 28, 2021 at 11:23 AM

To: Michael Kasper <mjkasper60@me.com>, "Vaught, Adam R." <AVaught@hinshawlaw.com>, "Elizabeth.Yandell@lw.com" <Elizabeth.Yandell@lw.com>

Cc: "Gilbert, Nathan" <NRGilbert@winston.com>, Griselda Vega Samuel <Gvegasamuel@MALDEF.org>, Francisco Fernandez-del Castillo <FFernandez-delCastillo@MALDEF.org>, Denise Hulett <dhulett@MALDEF.org>, Leticia Saucedo

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Subject: Meet and Confer with Legislative Defendants (Contreras, et al. v. IL SBE, et al.)

Dear Counsel:

On behalf of Contreras Plaintiffs, I'd like to request a meet and confer today or early tomorrow to discuss the supplemental discovery responses to our second round of written discovery.

We are available today from 4 pm and 6 pm, and after 7 pm.

Ernest I. Herrera

Staff Attorney

Pronouns: he/him/his

Mexican American Legal Defense and Educational Fund

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