

**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)

**CONTRERAS PLAINTIFFS' REPLY IN SUPPORT OF THEIR
MOTION TO COMPEL LEGISLATIVE DEFENDANTS TO RESPOND TO
PLAINTIFFS' DISCOVERY REQUESTS**

Plaintiffs Julie Contreras, et al. (collectively, “Plaintiffs”) respectfully file this reply in support of their motion to compel Defendants Don Harmon, in his official capacity as President of the Illinois Senate; the Office of the President of the Illinois Senate; Emanuel 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. Plaintiffs request that Defendants be ordered to respond fully to Request 6 in their Second Set of Requests for Production.¹

Legislative Defendants spend half of their response on a background section that goes beyond reciting efforts to confer on the issue raised by Plaintiffs’ motion and seems to take issue with the Court allowing discovery. *See* Defendants’ Opposition [Dkt. 100] at 1-6. In that section, Defendants feel the need to mention that “a plaintiff usually is entitled to no pre- complaint discovery,” despite this Court’s orders. *See id.* at 4. However, Plaintiffs’ propounded discovery was reasonable, timely, and limited in number of requests. *See* Ex. A to Decl. of Ernest Herrera in Support of Motion to Compel (“Herrera Decl.”) [Dkt. 94-2]. Moreover, the discovery requests sought information relevant to the maps enacted by Legislative Defendants in August. *See id.* For example, all requests for production that mentioned discovery about a specific plan, including Request 6 at issue in Plaintiffs’ motion, refer to “S.B. 927,” which is the bill with which Legislative Defendants approved the August plans. *See id.* at 10-14.

Plaintiffs also vehemently disagree with Legislative Defendants’ characterization of the requests as seeking discovery related to the “then-operative complaint,” meaning Plaintiffs’ complaint that only raised malapportionment claims. *See* Defendants’ Opposition [Dkt. 100] at 3.

¹ Plaintiffs incorporate by reference their arguments from their motion to compel. *See* Plaintiffs’ Motion to Compel Legislative Defendants to Respond to Plaintiffs’ Discovery Requests, Dkt. 94.

Plaintiffs only sought discovery relevant to then-potential claims regarding the August 2021 maps, as the requests themselves illustrate. To the extent that Plaintiffs' claims sought information pre-dating the August 2021 redistricting legislative sessions, it was directed at information relevant to potential claims to be filed in an amended complaint. *See, e.g.*, Ex. A to Herrera Decl. at 18 (requesting communications with Senator Steven M. Landek, whose district Plaintiffs sought to challenge, from January 1, 2021, to the present); *see also* Contreras Plaintiffs' Second Amended Complaint at ¶¶ 91-98 (challenging Sen. Landek's district in the S.B. 927 plans). The Court's order and statements at the September 7 hearing limit allowable discovery in terms of issues raised in the then-operative complaint, not in terms of which maps or part of the redistricting process Plaintiffs could seek relevant discovery. *See* Discovery Order [Dkt. 76] at 1 ("Fact discovery on the operative complaints has closed"); *see also* Sept. 7, 2021 Hr'g Tr. at 5:12-16 ("The one thing that seemed close to me at this point other than discovery that impacts those other two buckets is fact discovery with respect to the claims at issue in the current operative complaints, particularly as it goes to pending dispositive motions").

As for the relevant request to which Plaintiffs seek to compel a full response, Legislative Defendants downplay the relevance draft map files would have to Plaintiffs' then-potential claims. *See* Defendants' Opposition at 7-9. They argue that the "materials Plaintiffs seek are not completed maps that could serve as constitutional alternatives and therefore help Plaintiffs prove their Voting Rights Act § 2 claims." *See id.* at 8. However, Plaintiffs cannot simply take Legislative Defendants at their word that these maps would not demonstrate such a constitutional alternative, and the map files are relevant to Plaintiffs' claims as Plaintiffs argued in their motion because the behind-closed-doors process may contradict what legislators state in public. *See* Motion [Dkt. 94] at 7 (citing *Perez v. Abbott*, 250F. Supp. 3d 123, 147-149 (W.D. Tex. 2017)). For example, Legislative

Defendants also defended the May 2021 maps as constitutional and stated to Plaintiffs that they were not malapportioned. However, soon after Census P.L. file data was released in August and the maps turned out to be unquestionably unconstitutionally malapportioned, Defendants stopped defending those maps and enacted new redistricting plans in S.B. 927. *See* Plaintiffs Memorandum of Law in Support of Their Motion for Summary Judgment [Dkt. 65] at 2, 5-6. Therefore, Plaintiffs seek the requested information, which is not available elsewhere, in order to investigate their claims against the August plans.

For the foregoing reasons, Plaintiffs respectfully request that their motion to compel be granted and that Legislative Defendants be ordered to produce 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”).

Dated: October 6, 2021

Respectfully submitted,

/s/ Ernest Herrera

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CERTIFICATE OF SERVICE

I hereby certify that on October 6, 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