IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF IOWA, **Plaintiff,** **v.** **IOWA SECRETARY OF STATE PAUL PATE, in his official capacity, and IOWA ATTORNEY GENERAL THOMAS MILLER, in his official capacity,** **Defendants,** **and** **REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN SENATORIAL COMMITTEE, NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE, and REPUBLICAN PARTY OF IOWA,** **Intervenor-Defendants.**	**CASE NO. CVCV061476** **ORDER REGARDING MOTIONS TO COMPEL DISCOVERY**

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Hearing was held on 1/21/2022 by videoconference on multiple pending discovery motions. The Parties appeared through counsel.

I. Background Facts and Procedural Posture.

Plaintiff League of United Latin American Citizens (LULAC) of Iowa filed suit challenging Senate File 413 (2021) and Senate File 568 (2021). These bills enacted changes to Iowa's voting laws, including changes to procedures involving voter registration, absentee ballots, and voting hours. Plaintiff alleges the laws are an unconstitutional violation of the Right to Vote under Article II, Section 1 of the Iowa Constitution (Count I); violation of Free Speech and

Association under Article I, Section 7 of the Iowa Constitution (Count II); violation of Equal Protection under Article I, Section 6, of the Iowa Constitution (Count III); and Viewpoint Discrimination in violation of Article I, Sections 6 and 7 of the Iowa Constitution (Count IV). The Republican Party of Iowa and various Republican National Committees intervened (Intervenors).

LULAC served discovery on the Intervenors and served subpoenas on certain non-party Legislators. The Intervenors and Legislators object to discovery and have asserted various privileges.

II. <u>Motion to Compel Legislator's Responses to Subpoena.</u>

LULAC served document subpoenas on non-party Legislators: Senators Jim Carlin, Chris Cournoyer, Adrian Dickey, Jason Schultz, Roby Smith, Dan Zumbach, and Zach Whiting and Representatives Brook Boden, Bobby Kaufmann, Carter Nordman, and Jeff Shipley (collectively Legislators). The subpoenas seek production of communications regarding SF 413, SF 568, and/or HF 590 with anyone who is not a legislator. Legislator is defined to include the Legislators' employees, staff, agents, and representatives: therefore, the subpoenas do not seek communications internal to a Legislator's staff. The Legislators have refused to respond to the subpoenas and have invoked legislative privilege and the privacy interests of the third parties with whom they communicated about SF 413, SF 568, and/or HF590, citing Article I, Section 20 of the Iowa Constitution. The Legislators have not collected responsive documents or prepared a privilege log and, instead, ask for a generalized ruling preventing any discovery.

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A. Legislative Privilege.

The Legislators assert a legislative privilege exists that shields the requested discovery. This Court finds that a legislative privilege exists, but also finds that the privilege is qualified.

Federal legislators are protected by the Speech and Debate Clause in the U.S. Constitution. (U.S. Const. Art. I, §6). However, by its terms, that clause protects only federal legislators. Benisek v. Lamone, 241 F.Supp.3d 566, 573 (D. Md. 2017). Federal Courts have developed a common law legislative immunity and legislative privilege that protects state legislators. Id. Under federal common law, state legislators are immune from civil liability based on actions taken in "the sphere of legitimate legislative activity." Id. (citing Tenney v. Brandhove, 341 U.S. 367, 376 (1951)). Legislative immunity is not at issue here, as LULAC does not seek any civil liability against the Legislators.

Federal common law also recognizes a qualified legislative privilege for state legislators. "While legislative privilege is undoubtedly robust, the Supreme Court's decisions make clear that the privilege does not *absolutely* protect state legislative officials from discovery into communications made in their legislative capacity." Benisek, 241 F. Supp. 3d at 574 (emphasis in original). Therefore, Federal Courts "balance the significance of the federal interests at stake against the intrusion of the discovery sought and its possible chilling effect on legislative action." Id. at 574. Federal Courts apply a five-factor standard that evaluates: 1) the relevance of the evidence sought, 2) the availability of other evidence, 3) the seriousness of the litigation, 4) the role of the State, as opposed to individual legislators in the litigation, and 5) the extent to which the discovery would impede legislative action. Id. at 575.

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The Iowa Constitution does not have a corollary to the Speech and Debate Clause of the Federal Constitution. However, common law, as well as the separation of powers enshrined in the Iowa Constitution, require recognition of a legislative privilege. See Tenney, 341 U.S. at 372-76 (identifying roots of common law legislative privilege); Iowa Const. Art. III, §1 ("The powers of the government of Iowa shall be divided into three separate departments—the legislative, the

executive, and the judicial: and no person charged with the exercise of powers properly belonging to one of these department shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted."). In League of Women Voters of Florida v. Florida House of Representatives et al, 132 So.3d 135 (Fla. 2013) the Florida Supreme Court recognized a qualified legislative privilege based on the separation of powers, despite the lack of a speech and debate clause in the Florida Constitution. League of Women Voters of Florida, 132 So.3d at 145-46. The Florida Supreme Court further held, however, that such privilege is qualified when balancing against "another compelling, competing interest." Id. at 146 ("Although separation of powers principles require deference to the Legislature in refusing to provide compelled testimony in a judicial action, we emphasize that the legislative privilege is not absolute.").

There are two steps to a legislative privilege analysis: first, whether the information sought falls within the scope of the privilege, and second, whether the purposes underlying the legislative privilege are outweighed by a compelling, competing interest. League of Women Voters of Florida, 132 So.3d at 147.

i. Applicability of Legislative Privilege.

LULAC asserts that it seeks communication only between Legislators and non-legislators. LULAC defined Legislators to include their staff, so the issue of the Legislators freedom to debate ideas within their staff is not implicated. See Benisek, 241 F.Supp.3d 577 (noting that legislator-staff communications may test the soundness of ideas by positing wide-ranging positions, but ultimately finding the competing interest compelled production of such communications in that case). The preliminary question here is whether Legislators' communications with individuals who are not other legislators or staff members are encompassed by the legislative privilege.

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Some federal caselaw suggests that communications with third parties cannot be protected by legislative privilege. See Rodriguez, 280 F.Supp.2d at 101 ("a conversation between legislators and knowledgeable outsiders, such as lobbyists, to mark up legislation [is] a session for which no one could seriously claim privilege.); Committee for a Fair and Balanced Map v Illinois State Board of Elections, 2011 WL 4837508, at *10 (N.D. Ill. Oct. 12, 2011) (holding communications between non-parties and outsiders, including lobbyists and the Democratic Congressional Campaign Committee were not protected by the legislative privilege).

Some more recent decisions have taken a more nuanced approach. See Bethune-Hill v. Virginia State Bd. of Elections, 114 F.Supp.3d 323 (E.D.Va. 2015) ("[W]hether the privilege should … extend in varying concentric degrees to third parties [is a question] to be addressed with the qualified balancing analysis rather than with any kind of 'per se' rule."); Puente Arizona v. Arpaio, 314 F.R.D. 664, 670 (D. Ariz. 2016) (holding emails with third-parties, lobbyists, and constituents were in connection with bona fide legislative activity and, therefore, legislative privilege was applicable); Edwards v. Vesilind, 790 S.E.2d 469, 483 (Va. 2016) (analyzing communications of third-parties based on whether the third party was acting as an "alter ego" to legislators or providing unsolicited communications and rejecting lower court's blanket conclusion that, as a matter of law, communications between legislators and third parties cannot be protected by legislative privilege).

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Here, LULAC seeks Legislators' communications about the consideration and enactment of laws: Senate File 413 (2021), Senate File 568 (2021), and proposed HF 590. Even if communications were held with third-parties (non-legislators and non-staff members), they were generally part of the Legislators' legislative process. Therefore, the Court finds that the qualified legislative privilege will apply, subject to the balancing of competing interests.

ii. Balancing of Interests.

The federal common law has established a five-factor balancing test that this Court finds persuasive.

1) Relevance.

The first factor is the relevance of the evidence sought. Generally, an individual legislator's opinion on the interpretation of a statute and the legislative intent is not admissible. "Accordingly we are usually unwilling to rely upon the interpretations of individual legislators for statutory meaning." Iowa State Ed. Association-Iowa Higher Ed. Ass'n v. Public Employment Relations Bd., 269 N.W.2d 446 (Iowa 1978) (declining to discuss or rely on testimony of legislators and turning to traditional tools of statutory construction).

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Here, some of Plaintiff's claims allege a discriminatory intent to pass laws targeting a particular group of citizens. Count IV alleges a violation of Equal Protection and Free Speech under the Iowa Constitution, alleging the SF413 and SF 568 target "individuals who are more likely to vote for Democratic Party candidates, including Latino voters and other voters of color." (6/10/2021 2nd Am. Pet. ¶105). This claim alleges the Legislature's intent was to impose unjustified barriers on those groups' ability to vote and participate in the political process. (Id. ¶¶ 105-06).

The claim at issue in Count IV is not based on the interpretation of the statutes, but instead, a claim against the law-making process itself. Therefore, legislative intent is relevant to this type of claim. "Unlike other cases, where the deliberative process or the legislative privilege may be employed to prevent the government's decision-making process from being swept up unnecessarily into the public domain, this is a case where the decisionmaking process is the case." Bethune-Hill v. Virginia State Bd. of Elections, 114 F. Supp.3d 323 (E.D. Va. 2015) (citing Comm.

For a Fair & Balanced Map v. Illinois State Board of Elections, 2011 WL 4837508 (N.D. Ill. Oct. 12, 2011)).

"In an Equal Protection Clause case, proof of a legislative body's discriminatory intent is relevant and extremely important as direct evidence." Bethune-Hill, 114 F. Supp. 3d at 339. Further, recent Federal Court decisions have recognized that a claim of legislative action taken with "the purpose and effect of burdening a group of voters' representational rights" can be analyzed within the framework of First Amendment's free speech protections. Shapiro v. McManus, 203 F. Supp. 3d 579, 596 (D. Md. 2016). Shapiro recognizes a claim for a law drafted with the specific intent to impose a burden on a citizen because of the political party with which they are affiliated. Id. (denying motion to dismiss claim brought by Republican Maryland voters alleging redistricting done with the purpose of diluting their votes based on political expression/party registration violates the First Amendment). In the context of Shapiro, the burden was in the form of vote dilution. Here the alleged burdens are the alleged restriction or elimination of voting methods disproportionately used by a certain group of citizens. (6/10/21 2d. Am. Pet. at ¶105). This analysis under a free speech framework requires proof of specific intent. Therefore, the relevance factor weighs in favor of granting discovery.

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The Parties' briefing makes some references to the ultimate standards applicable to the Plaintiff's claims. This ruling makes no decision regarding admissibility of evidence. It appears there is disagreement between the Parties regarding the parameters of Plaintiff's claims and the applicable legal standards. At this stage in the case, it would be inappropriate for the Court to announce, in the abstract, conclusions regarding legal standards that have not been fully briefed. Therefore, decisions about future admissibility and confidential treatment of documents at trial will be addressed in future proceedings. See Nashville Student Organizing Committee v. Hargett,

123 F. Supp. 3d 967 (2015) (Allowing discovery under an "attorney eyes only" protective order and noting that the decision as to admissibility "will likely turn on the applicable legal standard(s), how probative the testimony is relative to that standard (or standards), and the degree to which the testimony intrudes upon legislative deliberations. Under the circumstances of this case, these are considerations that are not suitable for resolution in the abstract.").

2) Availability of other evidence.

The Legislators have not identified other means of obtaining this information. Legislator's communications seem likely to be a primary source of determining whether the laws at issue were enacted with discriminatory intent. "[A]s numerous district courts have stated, the practical reality is that officials seldom, if ever, announce that they are pursuing a course of action because of an invidious discriminatory intent (as opposed to a legitimate policy reason)." Nashville Student Organizing Committee v. Hargett, 123 F. Supp. 3d 967, 970 (M.D. Tenn. 2015). This factor weighs in favor of discovery.

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3) Seriousness of the litigation.

The claims at issue here invoke the important public right of voting and whether voting has been burdened for certain groups of citizens based on discriminatory intent. Although most of the caselaw addresses federal interests in voting rights, the significance of the public interest is equally serious when based on state constitutional claims. The claims here are based on Iowa constitutional provisions securing the right to vote, the right to free speech and association, and the right to equal protection. Whether secured by federal or state constitutional provisions, voting remains of fundamental importance in our state constitutional system. "Voting is a fundamental right in Iowa, indeed in the nation." Chiodo v. Section 43.24 Panel, 846 N.W.2d 845, 848 (Iowa 2014). Courts emphasize the unique importance of voting rights in a representative system. "The

right to vote is found at the heart of representative government and is preservative of other basic civil and political rights." Id. "Few issues could be more serious to preserving our system of representative democracy." Benisek, 241 F. Supp. 3d at 576 (allowing discovery of legislative communications in case where the Republican plaintiffs alleged redistricting plan purposefully diluted Republican voters in Maryland). Here, "the issues presented also implicate – as do redistricting cases – the potential that a majority political party has attempted to entrench its own power by limiting the ability of certain voters to influence (or, here, participate in) the election process." Nashville Student Organizing Committee, 123 F. Supp. 3d at 971 (allowing discovery in case alleging Tennessee passed a law intended to suppress the voting rights of Tennessee college students). This factor weighs in favor of discovery.

4) Role of the state, as opposed to individual legislators

The fourth factor considers whether individual legislators are the targets of litigation. Here, the Legislators are not parties to the ligation. Instead, Plaintiff has filed suit against State officials in the executive branch in their official capacity. The Legislators "have no personal stake in the litigation and face no direct adverse consequence if the plaintiffs prevail." See Benisek, 241 F. Supp. 3d at 576 (noting lack of personal stake or direct personal consequences to Democrat members of redistricting commission and legislators with regard to challenge to redistricting plan). Therefore, this factor weighs in favor of discovery.

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5) Extent to which discovery would impede legislative action.

There remains a concern that discovery would impede the legislative process. "Because legislators bear significant responsibility for many of our toughest decisions, legislative immunity provides legislators with the breathing room necessary to make these choices in the public's interest without fear of undue judicial interference or personal liability." Bethune-Hill, 114 F.

Supp. 3d at 332-33. "The state legislative privilege protects a 'distraction' interest—to guard legislators form the burdens of compulsory process—and a 'legislative independence' interest—to encourage legislators to engage deeply in the legislative process and act boldly in the public interest without fear of personal consequence." Id. at 341.

Certainly the discovery sought here implicates both the distraction interest and the legislative interest. Therefore, this factor weighs against production. However, this Court finds these concerns can be mitigated and, when balanced against the other competing, serious interests, require production. The concerns are mitigated, first, by LULAC's commitment not to seek discovery of Legislator-Staff communications or Legislator-Legislator communications. Although in some cases courts have ordered disclosure of such communications, this category of communications is not at issue here. See e.g. Benisek, 241 F.Supp.3d at 576-77 (noting "weightier" concerns implicated by legislator-staff communications, yet allowing discovery to proceed).

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The communications here raise a lower interest in the legislative privilege. "The legislative privilege is strongest as applied to communications among legislators and between legislators and their immediate aides." Bethune-Hill, 114 F. Supp.3d at 343. Further, the importance of the issues raised overrides the concerns of disruption and interference. See League of Women Voters of Florida, 132 So.3d at 148 (noting challengers seek to vindicate public and fundamental democratic right to elect representatives of their choice). As the Florida Supreme Court noted, if the Legislature alone is responsible for determining what may be shielded in discovery, in a case such as this, the legislature could "circumvent the constitutional standards regarding intent to favor or disfavor a political party or an incumbent by concealing evidence of that intent from the public." Id. at 149. Although the Florida constitution contains an explicit prohibition on political

gerrymandering, here, the Plaintiff's claims are based on specific rights in the Iowa Constitution (right to vote, equal protection, free speech). Further, the legislative privilege urged by the Legislators is not explicitly referenced in the Iowa Constitution either.

"[T]his case is wholly unlike the traditional lawsuit challenging a statutory enactment, where the testimony of an individual legislator is not relevant to intent in statutory construction …" Id. at 151. A 'chilling effect' is of less concern if the type of communication to be chilled is one that is constitutionally prohibited. Id. at 151 (noting the purpose of the prohibition on partisan political gerrymandering and improper discriminatory intent is in fact to have a chilling effect on such actions). It is still likely that non-discriminatory communications or communications unrelated to the intent behind the challenged laws may be responsive to the discovery requests. However, the Court finds the interests of Legislators in those communications can be protected through the Protective Order entered below.

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B. Third Party Privacy Right.

The Legislators also seek to invoke a third-party right to privacy. The Legislators identify Article I, Section 20 of the Iowa Constitution, which states: "The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives and to petition for a redress of grievances." Iowa Const. Art. I, §20. The language of the provision does not expressly refer to a right of privacy in contacts with Legislators. Instead, it protects the right to make one's opinions known. However, the Iowa Supreme Court has recognized a concern regarding what other courts refer to as a "chilling effect." In Des Moines Register Tribune Co. v. Dwyer, 542 N.W.2d 491 (Iowa 1996), the Iowa Supreme Court referred to: "a citizen's right to contact a legislator in person, by mail, or by telephone without any fear or suspicion that doing so would subject the citizen to inquiries from the press or anyone else

regarding the nature of the conversation." Dwyer, 542 N.W.2d at 501. Federal Courts recognize a similar concern in the context of First Amendment freedoms to associate:

> [T]he government must justify its actions not only when it imposes direct limitations on associational rights, but also when governmental action would have the practical effect of discouraging the exercise of constitutionally protected political rights.
>
> …
>
> The compelled disclosure of political associations can have just such a chilling effect.

Perry v. Schwarzenegger, 591 F.3d 1126, 1139 (9th Cir. 2009). Unlike in Perry, the documents at issue here are not internal communications within a political entity, but third-party communications with Legislators.

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Although the chilling effect is a valid concern, here, the Court finds such concerns can be mitigated. This is not an open records case, such as Dwyer, so the concerns about publicity are less prevalent. Privacy interests of third-parties in the discovery process can be protected by an appropriate protective order. In addition, the compelling and competing interests discussed above must be taken into consideration. Although discovery of a third-party's communication with a Legislator could chill such speech, it may also reveal relevant information regarding an alleged discriminatory intent of the legislation intended to limit the ability of some Iowans to vote. Plaintiff has sought discovery that is rationally related to a compelling government interest and limited its requests in a way that is the least restrict means of obtaining the desired information. See Perry, 591 F.3d at 1140.

IT IS THEREFORE ORDERED that the Motion to Compel Legislators' Discovery Responses is **GRANTED IN PART AND DENIED IN PART.**

With regard to Request No. 1: the motion to compel is granted in part and denied in part. To the extent this request seeks work product of Legislators in the form of meeting summaries or

notes, the request is DENIED. The Court finds Legislators' individual work product is subject to the legislative privilege and Plaintiff has not overcome that privilege. To the extent the request seeks actual communications or documents exchanged between a Legislator and non-Legislator, the request is granted.

With regard to Request No. 2: the motion to compel is granted.

With regard to Request No. 3: the motion to compel is granted.

III. Motion to Compel Intervenor-Defendants' Responses to Discovery.

Intervenors raise aFirst Amendment privilege, invoking Perry, in response to discovery requests. As noted above, this Court recognizes a concern regarding chilling of free speech due to compelled disclosure. Here, LULAC argues such concerns are limited by seeking only communications by Intervenors with Defendants, Iowa Legislators, or Iowa State and local officials. LULAC indicates that it does not seek communications internal to the Intervenors. This is an important limitation, as it avoids government intrusion into the development of political or policy ideas within a political organization.

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A First Amendment privilege applies to the communications sought. However, Plaintiff may overcome the privilege by demonstrating the information is rationally related to a compelling government interest and the least restrictive means of obtaining the desired information. Perry, 591 F.3d at 1140. As discussed above, the Plaintiff's claims relate to a compelling government interest, the validation of constitutional protections for equal protection, free speech, and the right to vote. "Voting is a fundamental right in Iowa, indeed in the nation." Chiodo v. Section 43.24 Panel, 846 N.W.2d 845, 848 (Iowa 2014). "The right to vote is found at the heart of representative government and is preservative of other basic civil and political rights." Id. "Few issues could be

more serious to preserving our system of representative democracy." Benisek, 241 F. Supp. 3d at 576.

Further, the Court finds Plaintiff has narrowed its discovery to avoid the serious free speech concerns at issue in Perry, where the focus of the case was internal discussions. Here, the request is least restrictive because Plaintiff agrees to narrow the request to those targeted at discovering legislative intent, which is consistent with the documents that were produced in Perry.

Perry related to a voter initiative amending the California Constitution to provide that only marriage between a man and a woman was valid in California. In Perry, the Ninth Circuit weighed the First Amendment concerns of the proponents of the voter initiative against the discovery needs of the plaintiffs claiming Due Process and Equal Protection violations. Id. at 1140-41. The Court found that the declarations provided by the proponents made a prima facie showing of infringement. The Court also found the plaintiffs had shown the information sought was reasonably calculated to lead to the discovery of admissible evidence, but had not demonstrated a sufficient need to overcome the First Amendment concern. Notably, the Court emphasized that the proponents had already agreed to produce communications actually disseminated to voters, including communications targeted to discrete voter groups. Therefore, the question of the voters' intent could be gained from other sources. Id. at 1144-45.

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In Perry, the Proponents agreed to produce communications with those who voted on the law to help determine to the intent behind the law: the relevant actors were the voters, because it was a ballot initiative. Therefore, to the extent LULAC seeks the Intervenors' communications with those who voted on the law, such discovery is supported by a stronger interest. However, just as in Perry, the internal communications of political entities (Intervenors) have a stronger basis for protection. Id.

LULAC has argued that it seeks only external communications. However, it appears some of the discovery requests or deposition topics are written broadly enough to cover internal discussions. (See e.g. Deposition Notice ¶1 ("Any and all involvement of Intervenor, including internal and external communications, relating to the drafting, passage, or implementation of SF 413 and/or SF 568")); (Request for Production No. 4, seeking production of "all documents and communications regarding …" without qualifying such request to external communications). Some discovery requests also seek discussions with other Intervenors or political entities, as opposed to Defendants, Legislators, or Iowa State or Local Officials. To the extent LULAC seeks internal communications or communications between the various Republican Intervenor Groups or political entities, the Court finds the balancing of interests weighs against compelled production and the free speech concerns have not been overcome. Documents relating to the intent of various third-parties do not necessarily reflect the intent of Legislators, if they were never communicated with those Legislators. Although the Court finds communications with Defendants, Legislators, and State or Local Officials relating to the laws at issue are supported by a compelling interest sufficient to overcome any First Amendment privilege, this is not the case for internal communications or communications with other political entities. See Perry, 591 F.3d at 1144-45 (noting that the information sought by the plaintiffs could be obtained from messages actually communicated to voters and protecting internal communications).

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IT IS THEREFORE ORDERED that the Plaintiff's Motion to Compel Intervenors' Discovery Responses is **GRANTED IN PART AND DENIED IN PART**.

IT IS FURTHER ORDERED that the Intervenors' Motion for Protective Order is **GRANTED IN PART AND DENIED IN PART**.

Intervenors shall produce responsive discovery regarding the existence of facts (reports, studies) and regarding communications with Legislators, Defendants, and State or Local Officials. Intervenors are not required to produce internal communications or communications with other Intervenors or political entities.

IV. Protective Order.

IT IS HEREBY ORDERED that a Protective Order is entered to protect the confidentiality of documents in discovery production.

Discovery shall proceed through the meet and confer process. Intervenors or Legislators may designate any documents or information they believe is protected by the Legislative Privilege or First Amendment Privilege as "Attorneys' Eyes Only (AEO)" or "Confidential." AEO information shall only be provided to Counsel of Record, Legal Staff, any applicable expert witness who signs an agreement to follow the Protective Order, and Court staff. Confidential information may be shared with the Parties. Documents identified as AEO or Confidential cannot be used for any purpose other than this litigation, shall be held in confidence, and must be filed under seal if filed in the case.

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To the extent any Party believes it is necessary for a client representative to be able to access AEO information to prepare the case, they may file a motion identifying such specific person. Designation of documents as AEO or Confidential does not constitute a final determination and either Party may motion the Court to determine an appropriate level of production for any particular document or information. The Parties shall develop a procedure for protecting privileged information at depositions. Admissibility and confidentiality at trial shall be addressed by the trial judge.

Any objections asserted by Intervenors or Legislators in response to discovery shall specifically identify whether documents are being withheld based on the objection. See Iowa R. Civ. P. 1.503(5)(a) (When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial-preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection."). To the extent Intervenors or Legislators withhold documents within the category the Court finds generally should be produced (for example, based on other discovery objections or privileges not addressed here), Intervenors and Legislators must produce a privilege log. A privilege log is not required for any category of information on which a motion to compel was denied in this order.

IT IS SO ORDERED.

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State of Iowa Courts

Case Number	**Case Title**
CVCV061476	LEAGUE OF UNITED LATIN AMERICAN CITIZENS VS PAUL PATE ET AL
Type:	OTHER ORDER

So Ordered

Sarah Crane, District Court Judge
Fifth Judicial District of Iowa

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