

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

WILLIAM A. LINK, et al.,

Plaintiffs,

v.

MANNY DIAZ, JR., in his official capacity  
as the Florida Commissioner of Education,  
et al.,

Defendants.

Case No. 4:21-cv-00271-MW-MAF

**JOINT STATUS REPORT**

Pursuant to this Court's Initial Scheduling Order dated September 8, 2021 (ECF No. 41), Plaintiffs United Faculty of Florida, March for Our Lives Action Fund, William A. Link, Barry C. Edwards, Jack Fiorito, Robin Goodman, David Price, Julie Adams, and Blake Simpson ("Plaintiffs"); Defendants Manny Diaz, Jr., in his official capacity as the Florida Commissioner of Education ("Corcoran" or "Diaz"); Timothy M. Cerio, Richard Corcoran, Aubrey Edge, Patricia Frost, Edward Haddock, Craig Mateer, Ken Jones, Darlene Luccio Jordan, Alan Levine, Charles H. Lydecker, Steven M. Scott, William Self, and Kent Stermon in their official capacity as Members of the Florida Board of Governors; Brian Lamb in his official capacity as Chair of the Florida Board of Governors; and Eric Silagy in his official capacity as Vice Chair of the Florida Board of Governors ("BOG Defendants"); Tom

Grady in his official capacity as Chair of the Florida Board of Education; Ben Gibson in his official capacity as Vice-Chair of the Florida Board of Education; and Monesia Brown, Esther Byrd, Grazie Pozo Christie, Ryan Petty and Joe York in their official capacity as Members of the Florida Board of Education (“BOE Defendants”; and together with BOG Defendants, “Defendants”) (hereinafter collectively referred to as the “Parties”), respectfully submit their Joint Status Report and state:

**Discovery Period**

1. The discovery period closed on September 21, 2022, except as partially modified in the Court’s Order Extending Discovery Deadline to conduct a single deposition, which was conducted on September 23, 2022 (ECF No. 152).

**Initial Disclosures**

2. On October 19, 2021, Plaintiffs and Defendants served their respective initial disclosures. Defendants also produced documents in connection with their initial disclosures, bates labeled Link 00001–0159.

3. On June 24, 2022, Plaintiffs filed Amended Initial Disclosures (ECF No. 121), on July 8, 2022, Plaintiffs filed Second Amended Initial Disclosures (ECF No. 124), on July 29, 2022, Plaintiffs filed Third Amended Initial Disclosures (ECF No. 134), on August 30, 2022, Plaintiffs filed their Fourth Amended Initial Disclosures (ECF No. 146), and on September 21, 2022, Plaintiffs filed their Fifth Amended Initial Disclosures (ECF No. 158).

4. On August 24, 2022, Defendants served Amended Initial Disclosures on August 29, 2022, Defendants served Second Amended Initial Disclosures, on September 15, 2022, Defendants filed their Third Amended Initial Disclosures (ECF No. 156), and on September 21, 2022, Defendants filed their Fourth Amended Initial Disclosures (ECF No. 159).

### **Plaintiffs' Discovery**

#### **Discovery to Defendants**

5. Plaintiffs issued their First Requests for Production to Defendant Corcoran, BOG Defendants, and BOE Defendants on September 10, 2021. Defendants served written responses on October 25, 2021. Plaintiffs issued their Second Requests for Production of Documents to Defendant Corcoran, BOG Defendants, and BOE Defendants on April 1, 2022. Defendants served written responses on May 9, 2022. Plaintiffs issued their Third Requests for Production of Documents to the BOE Defendants and BOG Defendants on July 12, 2022. Defendants responded on August 11, 2022. Plaintiffs issued their Fourth Requests for Production of Documents to the BOG Defendants on August 3, 2022. Defendants responded on September 2, 2022.

- a. BOG Defendants produced documents in response to Plaintiffs' Requests for Production on: (1) November 24, 2021, bates labeled Defendants\_000001 – 006861; (2) February 25, 2022, bates labeled

Defendants\_006862 – 007635; (3) March 29, 2022, bates labeled Defendants\_007636 – 007730; (4) May 3, 2022, bates labeled Defendants\_007730–011678; (5) May 9, 2022, bates labeled Defendants\_0011679–012910; (6) May 17, 2022, bates labeled Defendants\_012911–030291; (7) July 7, 2022, bates labeled Defendants\_086925–098659; (8) July 10, 2022, bates labeled Defendants\_098660–109861; (9) July 15, 2022, bates labeled Defendants\_109862–129797; (10) August 1, 2022, bates labeled Defendants\_130048–138536 and Defendants\_138611–138653; (11) August 11, 2022, bates labeled Defendants\_138683–160184;<sup>1</sup> (12) on September 12, 2022, bates labeled Defendants\_160256–161303; (13) on September 15, 2022, bates labeled Defendants\_161304–161878; (14) on September 21, 2022, bates labeled Defendants\_161879–161918; and (15) on September 21, 2022 bates labeled Defendants\_161919–161988.

b. Defendant Board of Education produced documents in response to Plaintiffs’ Requests for Production on: (1) May 20, 2022, bates labeled Defendants\_030292–030474; (2) June 1, 2022, bates labeled Defendants\_040478–041304; (3) June 6, 2022, bates labeled

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<sup>1</sup> On August 26, 2022, Defendants produced native versions of Defendants\_063214 and Defendants\_052982.

Defendants\_030475-77, correcting bates labeling; (4) June 27, 2022, bates labeled Defendants\_041305-081040; (5) June 30, 2022, bates labeled Defendants\_081041-085939; (6) July 7, 2022, bates labeled Defendants\_085940-086924; (7) July 21, 2022, bates labeled Defendants\_129798-130047; (8) August 1, 2022, bates labeled Defendants\_138537-138610 and Defendants\_138654-138682; (9) August 11, 2022, bates labeled Defendants\_138683-160184; (10) August 16, 2022, bates labeled Defendants\_160185-160255; (13) on September 15, 2022, bates labeled Defendants\_161304-161878; and (14) on September 21, 2022, bates labeled Defendants\_161879-161918.

c. After counsel for the Parties conferred regarding Defendants' response to request numbers 2 and 6 of the First Requests for Production, Plaintiffs filed a Motion to Compel Discovery from Defendants ("Motion") on March 31, 2022 related to these requests as well as to certain interrogatories, as referenced below. On April 20, 2022, the Court granted in part and denied in part the Motion and required Plaintiffs to narrow the scope of request numbers 2 and 6 (ECF No. 102). On April 27, 2022, the Parties conferred regarding the scope of request numbers 2 and 6, and on April 29, 2022, Plaintiffs sent

Defendants' revisions to request numbers 2 and 6. On May 6, 2022, Defendants provided a response to Plaintiffs' proposed revisions. The parties conferred on the scope of Defendants' productions responsive to request number 2, including Plaintiffs' obligations to narrow that request as required by the Court's Order (ECF no. 102), and Defendants' obligation to produce the data and assessments related to the survey in response to that request or in response to a new request. Defendants produced records responsive to request numbers 2 and 6.

6. On July 1, 2022, Plaintiffs requested a meet and confer on (1) the status of ongoing production of Defendant Board of Education and Defendant Corcoran's production of documents in response to Plaintiffs' First Requests for Production, (2) supplementation of Defendants' privilege log describing redactions made to documents; and (3) Defendant Board of Governors' privilege log, which was produced on November 24, 2021. On July 1, 2022, Defendant Board of Governors produced a supplemental privilege log, which included information about communications containing privileged redactions. On July 18, 2022, Defendants produced an updated privilege log.

7. Plaintiffs issued their First Set of Interrogatories to Defendant Corcoran, BOG Defendants and BOE Defendants on September 10, 2021. Defendants served responses on October 25, 2021. Plaintiffs' Motion sought to

compel Defendants to supplement their responses to Interrogatory numbers 1, 2, 7, 8, and 9. On April 20, 2022, the Court granted the Motion as to Interrogatory numbers 2, 7, and 8 and denied the Motion as to Interrogatory numbers 1 and 9 (ECF No. 102). On May 9, 2022, Defendants served amended answers to Interrogatory numbers 2, 7, and 8. On August 17, 2022, the BOE Defendants and BOG Defendants served amended answers to Plaintiffs' First Set of Interrogatories. On July 12, 2022, Plaintiffs issued their Second Set of Interrogatories to BOG Defendants and BOE Defendants. Defendants responded on August 11, 2022. On August 22, 2022, Plaintiffs issued their Third Set of Interrogatories to BOG Defendants and BOE Defendants and their Second Set of Interrogatories to Defendant Diaz, Jr. Defendants served their responses on September 21, 2022.

8. On April 1, 2022, Plaintiffs issued their First Requests for Admission to Defendant Corcoran, BOG Defendants, and BOE Defendants. On May 9, 2022, Defendants served written responses. On August 22, 2022, Plaintiffs issued their Second Requests for Admission to BOG Defendants and BOE Defendants. Defendants served their responses on September 21, 2022. On September 28, 2022 and September 30, 2022, counsel for the parties conferred by email regard Defendants' responses to Plaintiffs' Second Requests for Admission.

9. On August 24, 2022, Plaintiffs moved to compel Defendant BOE to amend its response to Interrogatory No. 2. (ECF No. 141). Defendants responded on

September 1, 2022. (ECF No. 147). On August 28, 2022, Plaintiffs moved to expedite responses to August 22 interrogatories regarding Alex Kelly's involvement in the creation of the surveys required by HB 233. (ECF No. 143). The Court denied this request, but stated it would permit Plaintiffs to compel responses, if necessary, beyond the 30-day cutoff in its scheduling order. (ECF No. 144 at 1–2).

### **Third-Party Discovery**

10. Plaintiffs have issued non-party subpoenas to the Governor of Florida, members of the Florida House of Representative, members of the Florida Senate, Education and Employee Committee, House Majority Office, Office of the House Speaker, Office of the Senate President, Office of the Senate Secretary, Senate Majority Office, the Senate Appropriations Committee, and Florida Atlantic University Board of Trustee Member Barbara Feingold. All of the foregoing non-party subpoenas were accepted by counsel on September 28, 2021, with the exception of the non-party subpoena to Governor DeSantis, which was accepted by Chief Deputy General Counsel on September 30, 2021, and the non-party subpoena to Trustee Feingold, which was accepted on her behalf by General Counsel for Florida Atlantic University on November 4, 2021. Objections to the non-party subpoenas to the members, committees, and offices of the Florida House of Representatives were received on October 11, 2021. Objections to the non-party subpoenas to the members, committees, and offices of the Florida Senate were



received on October 12, 2021. Objection to the non-party subpoena to Governor DeSantis was received on October 14, 2021. Objection to the non-party subpoena to Barbara Feingold, in her individual capacity and as a Member of the Board of Trustees for Florida Atlantic University was received on November 11, 2021.

11. On October 12, 2021, Plaintiffs issued public records requests to members of the Florida House of Representatives, members of the Florida Senate, Education and Employee Committee, House Majority Office, Office of the House Speaker, Office of the Senate President, Office of the Senate Secretary, Senate Majority Office, and the Senate Appropriations Committee. The Florida House of Representatives made productions on November 3, 2021, November 19, 2021, December 6, 2021, December 8, 2021, December 10, 2021, December 14, 2021, and December 17, 2021. The Florida Senate made productions on October 29, 2021 (Ray Rodrigues), November 19, 2021 and November 22, 2021. Counsel for the Florida Senate confirmed documents responsive to Plaintiffs' public records requests are not being withheld. Counsel for the Florida House likewise confirmed that documents responsive to Plaintiffs' public records requests are not being withheld. For these non-parties to whom Plaintiffs also served subpoenas, as referenced above, Plaintiffs do not intend to seek enforcement of the respective subpoenas based on productions to the public records requests.

12. On October 18, 2021, Plaintiffs issued public records requests to Governor DeSantis and to the University of Florida. The University of Florida made a production on December 14, 2021. Governor DeSantis made partial, but incomplete productions on May 19, 2022, July 8, 2022, July 22, 2022, and August 5, 2022, and Plaintiffs await the production of the Governor's remaining documents. Plaintiffs are processing the documents received on August 5, 2022 for production to Defendants this week pursuant to their Second Request for Production.

13. On November 16, 2021, Plaintiffs issued a public records request to Florida Atlantic University Board of Trustee Member Barbara Feingold. Plaintiffs have not received any documents from Member Feingold.

14. On December 23, 2021, Plaintiffs issued public records requests to Florida State University and the University of Florida. The University of Florida made productions on January 26, 2022 and April 28, 2022. Florida State University made productions on February 8, 2022 and March 22, 2022. These documents have been produced to Defendants pursuant to their Second Request for Production.

15. On January 14, 2022, Plaintiffs issued a public records request to Florida Atlantic University. Plaintiffs have not received any documents from Florida Atlantic University responsive to the public records request.

16. On February 21, 2022, Plaintiffs issued a non-party subpoena to Florida Atlantic University. On March 22, 2022 Plaintiffs received Objections and

Responses to Plaintiffs' Non-Party Subpoena from Florida Atlantic University along with 21 documents that were not bates labeled. These documents have been produced to Defendants pursuant to their Second Request for Production.

17. On April 20, 2022, Plaintiffs issued non-party subpoenas to Broward College, Chipola College, Florida A&M University, Florida Atlantic University, Florida International University, Florida Gulf Coast University, Florida Polytechnic University, Florida State University, Hillsborough Community College, New College of Florida, Palm Beach State College, Santa Fe College, Seminole State College, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida. Plaintiffs received documents responsive to these non-party subpoenas from each non-party. Plaintiffs represent these documents have been produced to Defendants pursuant to their Second Request for Production.

18. On April 27, 2022, Plaintiffs issued a public records request to Florida State University. Florida State University made a production in response to Plaintiffs' April 20, 2022 subpoena that includes some, but not all of the documents requested by Plaintiffs' April 27, 2022 public records request. Florida State University produced the remaining documents on July 12, 2022.

19. On July 19, 2022, Plaintiffs served a non-party deposition subpoena on Senator Ray Rodrigues. On July 27, 2022, Senator Rodrigues invoked the legislative

privilege as grounds to refuse to sit for deposition or to provide testimony in this action. On August 22, 2022, Plaintiffs served a non-party deposition subpoena for Representative Roach at the District Office of Representative Roach, 3436 Marina Town Lane, Unit 6, Fort Myers, FL 33903, by hand delivery to Elaina Cosentina, Legislative Aide as Designated Person. On April 29, 2022, through counsel, Representative Roach invoked the legislative privilege as grounds to refuse to sit for deposition or to provide testimony in this action.

20. On July 22, 2022, Plaintiffs issued non-party subpoenas to the Executive Office of Governor Ron DeSantis and J. Alex Kelly, Deputy Chief of Staff for the Office of Governor Ron DeSantis, and the recipients responded on August 19, 2022. J. Alex Kelly produced documents in response to the subpoena on August 19, 2022, bates labeled Kelly\_000001-760.

21. On August 3, 2022, Plaintiffs issued a public records request to the Florida Board of Governors and received documents in response on August 5, 2022. On August 23, 2022, Plaintiffs issued public records requests to the Florida Board of Governors and Florida Board of Education. The Florida Board of Education produced documents in response on September 27, 2022. The Florida Board of Governors produced documents in response on September 30, 2022.

22. Defendants are not in a position to confirm when the various public entities produced documents to Plaintiffs in response to their various public records

requests. Defendants have received the following productions from Plaintiffs in response to Defendants' Second Request for Production:

- a. January 21, 2021: FL\_HOU000001-FL\_HOU235386
- b. January 21, 2022: FL\_SEN001259-3737
- c. January 21, 2022: PL\_000511-PL\_002472
- d. February 2, 2022: FL\_SEN000001-FL\_SEN001258
- e. February 10, 2022: FSU\_000001-000237
- f. March 25, 2022: FSU\_000238-002023
- g. April 8, 2022: FAU\_0000001-FAU\_0000803
- h. June 10, 2022: Governor\_PRR\_00002184-00007726
- i. July 15, 2022: FSU\_002024-FSU\_002103
- j. July 15, 2022: Governor\_PRR\_00007727-00008125
- k. August 3, 2022: Governor\_PRR\_00008126-00009077

Plaintiffs state that the productions made on May 20, 2022 and May 27, 2022, bates labeled PL 003311-7562, and PL 007635-10092, include the remainder of the documents received from the public entities and the other third parties up to the date of these productions, with the exception of the University of Florida's productions made on January 26, 2022 and April 28, 2022, which were produced to Defendants on June 8, 2022 and are bates labeled PL\_010093-PL\_010219.

**Defendants' Discovery**

23. Defendants issued their First Sets of Interrogatories and First Requests for Production to Plaintiffs on November 8, 2021. Plaintiffs' responses were served on Defendants on January 7, 2022 and January 14, 2022, respectively. Plaintiffs made productions of documents responsive to this request on January 11, 2022; January 24, 2022; February 4, 2022; February 17, 2022; March 1, 2022; March 25, 2022; March 28, 2022; March 29, 2022; March 31, 2022; April 8, 2022; May 4, 2022; May 20, 2022; May 25, 2022; May 27, 2022; June 10, 2022; July 8, 2022; July 15, 2022; August 3, 2022; August 29, 2022; and September 20, 2022 bates labeled PL 000001-000510, PL FIORITO 000001-000246, PL GOODMAN 000001-000289, PL EDWARDS 000001-712, PL GOODMAN 000290-000345, PL UFF 000001-001135, PL 002708-3310, PL MFOL 0000001-130, PL SIMPSON 0000001, PL ADAMS 0000001, PL PRICE 0000001-64, PL UFF 001136-1290, PL ADAMS 0000002-16, PL LINK 0000001-225, PL UFF 001291-1556, PL 002473-2707, PL 003311-007634, PL UFF 001557-1689, PL LINK 0000226-232, PL GOODMAN 000346-354, PL 007635-10092, PL ADAMS 0000017-23, PL EDWARDS 000713-715, PL GOODMAN 000355-366, PL MFOL 0000131-135, PL MFOL 0000136-349, PL UFF 001690-1784, PL UFF 001785-001879, PL UFF

001880–001882, PL UFF 001883–001944, PL UFF 001945–001961,<sup>2</sup> PL 010493–010636, PL FIORITO\_0000259–268, PL LINK\_0000233–239, PL EDWARDS\_000716–66, PL 010637–010640, and PL EDWARDS\_000767–000770.

24. Defendants issued their Second Request for Production of Documents to Plaintiffs on December 20, 2021, requesting copies of records obtained through public records requests and subpoenas. Plaintiffs responded to Defendants' Second Request for Production of Documents on January 14, 2022. Plaintiffs made productions on January 21, 2022, February 2, 2022, February 10, 2022, March 25, 2022, April 8, 2022, June 8, 2022, June 10, 2022, July 15, 2022, August 3, 2022, August 10, 2022, August 18, 2022, and August 22, 2022, bates labeled PL 000511-2472, FL HOU000001-235386, FL SEN000001-001258, FL SEN001259-003737, FSU000001-000237, FSU000238-2023, FAU0000001-0000803, PL\_010093-PL\_010219, FSU002024-002103, Governor\_PRR\_00002184-7726, Governor\_PRR\_00007727-8125, Governor\_PRR\_00008126-9077, PL\_010220–010492, BOG\_PRR\_00000001–285, Governor\_PRR\_00009078–10381, and Governor\_PRR\_00010382–10455 responsive to Defendants Second Request for Production. On May 20, 2022, Plaintiffs produced documents bates labeled PL

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<sup>2</sup> PL MFOL 0000136-349, PL UFF 001785–001879, PL\_UFF\_001880–001882, and PL\_UFF\_001945–001961 were responsive to Defendants' First Requests for Production and Third Requests for Production.

003311-007562 in response to Defendants First Request for Production; Plaintiffs now represent that this set of 4,251 pages includes documents “responsive to [Plaintiffs’ April 20, 2022] subpoena to the universities and colleges,” but they do not identify which documents among the 4,251 pages were produced by the universities and colleges. Likewise, on May 27, 2022, Plaintiffs produced bates labeled PL 007635-10092 in response to Defendants First Request for Production; Plaintiff represent that this set of 2,457 pages includes documents from Governor DeSantis’s office responsive to Plaintiffs’ October 18, 2021 public records request, but they do not identify which documents among the 2,457 pages were produced by Governor DeSantis. Plaintiffs state that Defendants have requested and received a load file in conjunction with every production which identifies the custodian of each document within the production.

25. On April 25, 2022, Defendants requested to meet and confer on Plaintiffs’ objections and responses to the First Requests for Production. On April 27, 2022, the Parties conferred regarding Plaintiffs’ objections, responses and claims of privilege. Plaintiffs produced their privilege log on May 4, 2022. On May 6, Defendants requested to meet and confer on Plaintiffs’ privilege log. On May 27, 2022, Plaintiffs followed up to the meet and confer on Plaintiffs’ privilege log by letter. Counsel for Plaintiffs and counsel for Defendants further conferred on Plaintiffs’ privilege log throughout June 2022. On June 29, 2022, Plaintiffs produced



a revised privilege log. On July 7, 2022, Defendants made an additional conferral attempt on Plaintiffs' revised privilege log, requesting the production of specific records from the log. Plaintiffs produced a supplemental privilege log on July 15, 2022, identifying privilege documents bates labeled Priv\_UFF\_001334–001413. On July 26, 2022, Defendants filed a Motion to Compel Discovery and Overrule First Amendment Privilege Objections. (ECF No. 133). Plaintiffs responded on August 9, 2022 (ECF No. 138) and filed supplemental support in opposition on August 15, 2022 (ECF No. 139).

26. On April 28, 2022, Defendants requested to meet and confer on Plaintiffs' objections and responses to the First Sets of Interrogatories. On May 6, 2022, Plaintiffs provided a response to Defendants' request to meet and confer on Plaintiffs' objections and responses to the First Sets of Interrogatories.

27. On May 11, 2022, Defendants issued their Third Requests for Production on Plaintiffs United Faculty of Florida and March for Our Lives Action Fund. Plaintiffs responded to Defendants' Third Request for Production on June 10, 2022. Plaintiffs made productions on June 10, 2022, bates labeled PL\_UFF\_001785–PL\_UFF\_001879; July 8, 2022, bates labeled PL\_UFF\_001880–001882 and PL\_MFOL\_0000136–0000349; and August 3, 2022, bates labeled

PL\_UFF\_001945–001961.<sup>3</sup>

28. On June 12, 2022, Defendants requested a meet and confer on Plaintiff United Faculty of Florida’s and March for Our Lives Action Fund’s production of documents related to the diversion of resources. On June 22, 2022, Plaintiffs provided a response to Defendants’ request to meet and confer. Counsel for Plaintiffs and counsel for Defendants further conferred on June 22, 2022 and June 24, 2022.

29. On May 23, 2022, Defendants issued their Fourth Request for Production on Plaintiff United Faculty of Florida. Plaintiff United Faculty of Florida responded to Defendants’ Fourth Request for Production on June 22, 2022.

30. On August 19, 2022, the parties conferred regarding Plaintiff United Faculty of Florida’s response and objection to Defendant’s request for production no. 28 for “All surveys, polls, or questionnaires that UFF or any UFF campus chapter has distributed to faculty members in the last five (5) years.”

### **Depositions**

31. Defendants have deposed William A. Link, Robin Goodman, Julie Adams, David Price, Blake Simpson, Jack Fiorito, Barry C. Edwards, the corporate representative of March for Our Lives Action Fund, Dr. Isaac Kamola, Ralph Wilson, the corporate representative of United Faculty of Florida, Emily Anderson,

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<sup>3</sup> PL MFOL 0000136-349, PL UFF 001785–001879, PL\_UFF\_001880–001882, and PL\_UFF\_001945–001961 were responsive to Defendants’ First Requests for Production and Third Requests for Production.

James Maggio, Yale Olenick, Dr. Daniel Smith, Olivia Solomon, Representatives Geraldine Thompson, Carlos Guillermo Smith, and Anna Eskamani, and Senators Lori Berman, Audrey Gibson, Shevrin Jones, Jason Pizzo, and Tina Polsky. Defendants issued notices of intent to serve subpoenas for deposition on Representative Omari Hardy and Janet Cruz. Through counsel, Senator Cruz asserted the legislative privilege as grounds to refuse to sit for deposition or to provide testimony in this action. On August 30, 2022, Defendants moved for leave to take four additional fact depositions. (ECF No. 145). Plaintiffs responded on September 13, 2022. (ECF No. 153).

32. Plaintiffs have deposed Dr. Tim Chapin, Dean of the College of Social Sciences and Public Policy at Florida State University; Dr. Lonna Atkeson, Political Science & Director of the LeRoy Collins Institute at Florida State University; Dr. Jon Rogers, Assistant Vice Chancellor of Special Project for the State University System of Florida; Dr. Deana Rohlinger, Research Director of the Institute of Politics at Florida State University; J. Alex Kelly, Deputy Chief of Staff for the Office of Governor Ron DeSantis; Defendant Florida Board of Governors; Carrie Henderson, Executive Vice Chancellor of the Division of Florida Colleges for the Florida Department of Education; Henry Mack, Senior Chancellor for the Florida Department of Education; Defendant Florida Board of Education; Austin Boam, Education Chief Analyst at the Executive Office of Governor DeSantis; and Shelby

Cecil, Policy Coordinator at the Executive Office of Governor DeSantis. On August 24, 2022, Plaintiffs moved to compel Defendant Board of Education to designate an alternate witness to testify on its behalf on Topics 1, 3, 9, and 12 of the July 21, 2022 deposition notice. (ECF No. 141). Defendants responded on September 1, 2022. (ECF No. 147).

33. Plaintiffs also noticed the deposition of Defendant Corcoran, but Defendants asserted Corcoran cannot be deposed because of the apex doctrine and deliberative-process privilege and moved for a protective prohibiting his deposition. (ECF No. 122), which the Court granted on July 14, 2022 (ECF No. 131 at 4–5).

34. On July 19, 2022, Plaintiffs served a non-party deposition subpoena on Senator Ray Rodrigues. On July 27, 2022, Senator Rodrigues invoked the legislative privilege as grounds to refuse to sit for deposition or to provide testimony in this action. On August 22, 2022, Plaintiffs contend they properly served a non-party deposition subpoena on Representative Spencer Roach. On August 29, 2022, counsel for Representative Roach responded that the subpoena was improperly served and invoked the legislative privilege as grounds for Representative Roach to refuse to sit for deposition.

### **Expert Discovery**

35. On May 23, 2022, Plaintiffs served their initial expert disclosures of Dr. Sylvia Hurtado; Dr. Michael Bérubé; Dr. Isaac Kamola, joined by co-author Ralph

Wilson; Dr. Allan J. Lichtman; and Dr. Matthew Woessner. (ECF No. 112). On June 10, 2022, Plaintiffs served the Supplemental Expert Report of Allan J. Lichtman, Ph.D. On August 1, 2022, Defendants served their initial expert disclosures for Dr. Wilfred M. McClay. (ECF No. 135). On August 31, 2022, Plaintiffs served reply expert reports of Dr. Sylvia Hurtado, Dr. Michael Bérubé; Dr. Isaac Kamola, joined by co-author Ralph Wilson; Dr. Allan J. Lichtman; and Dr. Matthew Woessner.

36. Defendants deposed Dr. Kamola, Dr. Hurtado; Dr. Michael Bérubé; Ralph Wilson; Dr. Lichtman; and Dr. Woessner. Plaintiffs deposed Dr. McClay.

Respectfully submitted this 6th day of October, 2022.

/s/ Frederick S. Wermuth

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 6, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Frederick S. Wermuth

Frederick S. Wermuth  
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*Counsel for Plaintiffs*