IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

JAKE MAGGARD, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 25AC-CC09120
	)	
STATE OF MISSOURI, et al.,	)	
	)	
Defendants.	)	

STATE DEFENDANTS' MOTION TO COMPEL PRODUCTION FROM PLAINTIFFS

State Defendants move to compel Plaintiffs to respond to State Defendants' Interrogatories 8 and 17. *See* Ex. 1; Ex. 2. State Defendants also move to compel Plaintiff Gregg Lombardi to answer the State's deposition questions about the identity of the anonymous third party funding the attorney's fees of counsel from Perkins Coie.[1] This discovery goes to the heart of the State Defendants' judicial estoppel defense. Indeed, showing that identical or closely related groups are funding both this case and *Missouri General Assembly v. Von Glahn*, No. 4:25-cv-1535 (E.D. Mo.), would show a relationship suggesting that Plaintiffs' lawsuit here should be estopped. *See, e.g.*, *Grochocinski v. Mayer Brown Rowe & Maw, LLP*, 719 F.3d 785, 796–97 (7th Cir. 2013) (estopping a plaintiff because of non-party—who was using the plaintiff as a proxy—"agreed to lend" the plaintiff litigation-related funding and was "involved in the genesis and the hoped-for end of th[e] suit").

[1] A transcript of this deposition is currently unavailable. The State has requested an expedited transcript due no later than Friday, February 6, 2026. The State will provide a transcript of the deposition to the Court as soon as it is available.

Moreover, controlling precedent also establishes that this discovery does not seek privileged information: "[T]he nature of the fee arrangements between the attorney and a client are not attorney-client privileged communications." *State ex rel. Koster v. Cain*, 383 S.W.3d 105, 119 (Mo. App. W.D. 2012). Accordingly, the State is entitled to this discovery under Rule 56.01(b), Mo. S. Ct. R. ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party . . .").

BACKGROUND

At this point, the Court is already familiar with many of the relevant facts. Plaintiffs' argument in this case depends on a legal theory that People Not Politicians ("PNP")—the proponents of the referendum petition at issue—expressly disclaimed in federal court. Two months ago, PNP told a federal court that HB1 would not become suspended until the Secretary of State certified PNP's referendum petition or a court ordered the Secretary to certify the petition. *See* Ex. 4; Ex. 5; Ex. 6. Based on these representations, the federal court "expressly found that PNP affirmatively waived these points, precluding any argument to the contrary in future litigation." *Missouri Gen. Assembly v. Von Glahn*, No. 4:25-CV-1535-ZMB, 2025 WL 3514277, at *4 n.4 (E.D. Mo. Dec. 8, 2025).

However, the day after the federal court's decision, PNP switched positions in its press releases and interviews with the media. For example, a December 9 press release from PNP states: "Once signatures are submitted, HB1 must be paused until

Missourians vote on it at the ballot box. . . . If the Secretary of State refuses to certify the referendum or attempts to put HB1 into effect prematurely, People Not Politicians is prepared to take immediate action in state court." Ex. 7, Press Release, *People Not Politicians* (Dec. 9, 2025).[2] Then, just a week before Plaintiffs filed this lawsuit, PNP's executive director told that the media that when state officials "actually takes steps to implement [HB1] . . . — yeah, *there will be a lawsuit*." Ex. 8, Jason Rosenbaum, *Missouri's stack of redistricting lawsuits expected to grow over whether new map is in effect*, St. Louis Public Radio (Dec. 16, 2025) (emphasis added).[3]

Despite these representations, PNP has never sued in its own name. Instead, a week after promises of a lawsuit by PNP's executive director, Plaintiffs Gregg Maggard and Jake Lombardi appeared, advancing the very claims that PNP is estopped from raising itself. From the start of this case, the State has noted its belief these Individual Plaintiffs are proxies of PNP or one of its agents. *See* State's SIS MTD at 3–4 n.1 (filed Jan. 7, 2026).

The State has vigorously pursued discovery to support its estoppel defense. Among other things, the State served interrogatories on January 7, 2026, and Plaintiffs responded on January 16, 2026. *Se* Ex. 1; Ex. 2. Plaintiffs' responses to interrogatories 8 and 17 are of particular note to this motion. Interrogatory 8 asked Plaintiffs to "Identify any individuals or entities providing funding for this lawsuit."

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[2] https://peoplenotpoliticiansmo.org/missouri-voters-mobilize-in-defense-of-core-democratic-rights-with-historic-referendum-submission-halting-missouris-super-gerrymander/

[3] https://www.stlpr.org/government-politics-issues/2025-12-16/missouris-redistricting-lawsuits-whether-new-map-effect

See Ex. 1 at 9–10; Ex. 2 at 9–10. Plaintiffs submitted identical responses disclaiming any funding by PNP or its agents:

> **Response:** Funding for this lawsuit has not been provided by People Not Politicians or any entities or individuals affiliated with People Not Politicians or acting on behalf of People Not Politicians; Richard Von Glahn or any entities or individuals affiliated with Richard Von Glahn or acting on behalf of Richard Von Glahn; Stinson LLP, Charles ("Chuck") Hatfield, or any entities or individuals affiliated with Stinson LLP or Charles ("Chuck") Hatfield or acting on behalf of Stinson LLP or Charles ("Chuck") Hatfield; or Jenner & Block LLP, or any entities or individuals affiliated with Jenner & Block LLP or acting on behalf of Jenner & Block LLP.

Ex. 1 at 9–10; Ex. 2 at 9–10. Plaintiffs also objected to responding to Interrogatory 8 as to any other entity or individual providing funding for their lawsuit. *See* Ex. 1 at 9–10; Ex. 2 at 9–10.

The State's Interrogatory 17 also asked both Plaintiffs to "[i]dentify all persons or entities who provided you with legal advice, funding, or resources (e.g., investigators, expert witnesses) relating to this lawsuit." Ex. 1 at 16–17; Ex. 2 at 16–17. Plaintiffs responded with materially similar information and objections to Interrogatory 17 and as they responded and objected to Interrogatory 8.

That brings us to today's deposition of Plaintiff Gregg Lombardi. (Plaintiff Jake Maggard will be deposed on February 5, 2026.) During Mr. Lombardi's deposition, the State's counsel asked Lombardi who is paying his attorney's fees in this litigation. Lombardi stated that an anonymous third party is paying for his counsel from Perkins Coie, and that his *retainer agreement* specifies this. *See* Ex. 3. Lombardi also stated that he did not know who was paying for his lawsuit. *Id.* Obviously, this contradicted Lombardi's responses to Interrogatories 8 and 17. When

the State's counsel highlighted this to Lombardi, he explicitly acknowledged that he did not have personal knowledge supporting his answers to Interrogatories 8 and 17. An expedited transcript of Mr. Lombardi's deposition is forthcoming. The State's counsel also documented Lombardi's admissions in an email to Plaintiffs' counsel. *See* Ex. 3. Lombardi made four important admissions:

> (1) An anonymous third party is paying for [Mr. Lombardi's] representation by counsel from Perkins Coie.
>
> (2) This anonymous third party is unknown even to Mr. Lombardi. Moreover, Perkins Coie's *retainer agreement* with Mr. Lombardi specifies that counsel from Perkins Coie will be paid by an anonymous third party unknown to Mr. Lombardi.
>
> (3) Mr. Lombardi's answers to interrogatories 8 and 17 are largely based on the representations of counsel to Mr. Lombardi. They are not based on Mr. Lombardi's personal knowledge.
>
> (4) Mr. Lombardi cannot verify that his responses to interrogatories 8 and 17 are truthful. He cannot, for example, verify that funding [for this lawsuit] has not been provided by People Not Politicians, Richard Von Glahn, Chuck Hatfield, Stinson, and Jenner & Block.

Ex. 3 (emphasis in original). Consistent with its deposition questions and Interrogatories 8 and 17, the State demanded that Plaintiffs "identify all third parties who are paying for the attorney's fees of counsel from Perkins Coie and for any other litigation-related expenses." *Id.* Plaintiffs have not responded to the State's email, creating the need for this motion to compel.

ARGUMENT

This Court should compel Plaintiffs to fully—and truthfully—answer Interrogatories 8 and 17. The Court should also compel Mr. Lombardi to fully—and truthfully—answer the State's deposition question about the identity of the third

party paying for his counsel from Perkins Coie. These matters go to the heart of the State's judicial estoppel defense. Plaintiffs' counsel is going to extraordinary (and ethically dubious) lengths to hide *who* is funding this lawsuit.[4] Lombardi testified during his deposition that he was recruited by attorneys from Missouri ACLU to serve as a Plaintiff, and that attorneys from the Missouri ACLU connected him with counsel from Perkins Coie. Lombardi also testified that his *retainer agreement* specifies that some anonymous third party—unknown even to him—will pay for his attorney's fees from Perkins Coie. *See* Ex. 3. Lombardi also testified that his responses to Interrogatories 8 and 17 are not within his personal knowledge. *Id.* Instead, he relied solely on his counsel's representations to him in disclaiming that PNP or PNP's agents are funding this litigation. *Id.*

The withheld information is highly relevant to the State's judicial estoppel defense. Several courts have held that proxies of an estopped third party cannot advance litigation positions that the third party is estopped from advancing itself. *See, e.g.*, *Grochocinski v. Mayer Brown Rowe & Maw, LLP*, 719 F.3d 785, 796–97 (7th

[4] When a third party pays for an individual's legal bills, ethical questions arise concerning whether the lawyer will be loyal to his client or the third party. In such cases, informed consent by the client is required. *See, e.g.*, Mo. S. Ct. Rules of Prof. Conduct Rule 4-1.8(f); *United States v. Duran-Benitez*, 110 F.Supp.2d 133, 152 (E.D.N.Y. 2000) ("The Model Code of Professional Responsibility explicitly warns lawyers of the risks associated with accepting legal fees from someone other than a client. Disciplinary Rule 5-107(A) forbids the acceptance of 'compensation for legal services from one other than the client,' unless the client consents after the details of the arrangement have been fully disclosed." (quoting *New York Code of Professional Responsibility* DR 5-107(A) (Oct.1999)). Here, Mr. Lombardi obviously did not provide informed consent for the third-party funding arrangement because he does not know who is paying his lawyers.

Cir. 2013) (estopping a plaintiff because of non-party—who was using the plaintiff as a proxy—"agreed to lend" the plaintiff litigation-related funding and was "involved in the genesis and the hoped-for end of th[e] suit"); *Toyo Tire & Rubber Co. v. Hong Kong Tri-Ace Tire Co.*, 281 F. Supp. 3d 967, 983 (C.D. Cal. 2017) (estopping a plaintiff where a non-party—who was using the plaintiff as a proxy—stood to "receive the lion's share of the recovery"); *Deutsche Bank Nat'l Tr. Co. as Tr. for Am. Home Mortg. Inv. Tr. 2006-3 v. Luna*, 655 S.W.3d 820, 832 n.8 (Mo. App. W.D. 2022) (corporation estopped based on representations of shareholders in prior litigation); *see also Taylor v. Sturgell*, 553 U.S. 880, 895 (2008) ("[A] party bound by a judgment may not avoid its preclusive force by relitigating through a proxy."); *St. Louis Typographical Union No. 8, AFL-CIO v. Herald Co.*, 402 F.2d 553, 556 (8th Cir. 1968) (After 154 individuals lost an action to compel an award of severance pay, their union could not bring an action to compel the same award.).

To support its estoppel defense, the State is entitled to know who is funding this litigation. Lombardi has admitted that he has no personal knowledge supporting his interrogatory responses on this issue. *See* Ex. 3. And, even if PNP or its agents are not themselves providing funding, some other third party may be funding this litigation. That third party—or two closely related third parties—could very easily be funding *both* PNP and the Individual Plaintiffs in this case. Such a close relationship would help show the sort of proxy relationship between Plaintiffs and PNP that would result in Plaintiffs being bound by PNP's concessions in federal court. *See, e.g.*, *Grochocinski*, 719 F.3d at 796–97. Thus, contrary to Plaintiffs' objection,

this discovery is likely to "lead to the discovery of relevant information." *Contra* Ex. 1 at 9–10, 16–17; Ex. 2 at 9–10, 16–17.

Furthermore, controlling precedent expressly holds that the State is not requesting privileged information. As the Western District emphasized in *Cain*, "the great weight of authority on the subject recognizes that with rare exception, the mere fact of the existence of a relationship between an attorney and a client, and the nature of the fee arrangements between the attorney and a client are not attorney-client privileged communications." *State ex rel. Koster v. Cain*, 383 S.W.3d 105, 119 (Mo. App. W.D. 2012). This information is also not privileged by the "work-product doctrine," *contra* Ex. 1 at 9, 16; Ex. 2 at 9, 16, because the State is not requesting any privileged attorney work product. The State is seeking information about who is funding this litigation, and whether they are related to estopped third parties who are likely behind this case and using Plaintiffs as proxies.

Finally, in their Interrogatory Responses (but not during Mr. Lombardi's deposition), Plaintiffs oddly invoked First Amendment privilege under *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958). Ex. 1 at 10, 17; Ex. 2 at 10, 17. But Plaintiffs twist *Patterson* beyond recognition. Unlike this case, *Patterson* involved a suit *brought* by the State of Alabama against the N.A.A.C.P. to enjoin the N.A.A.C.P. from doing any business in Alabama. *Id.* at 451–52. After filing suit, the Alabama moved for the production of the NAACP's membership and donor lists, and a state court held the N.A.A.C.P. in contempt when it failed to comply with Alabama's demand. *Id.* at 453–54. The U.S. Supreme Court found that this violated the

N.A.A.C.P.'s right to freedom of association because the discovery of the lists of members and donors would subject N.A.A.C.P. members to violent threats and retaliation by white supremacists. *Id.* at 462–63, 467.

Patterson is nothing like this case. The State of Missouri did not bring this lawsuit, and it is not seeking to badger a private organization by demanding lists of its members and donors. Here, the State is the Defendant. Additionally, the State is simply attempting to collect discovery to support its judicial estoppel defense. The State is not targeting a disfavored group with a lawsuit, nor is it attempting to drive a disfavored group out of the State. Further, Plaintiffs' reading of *Patterson* would clash with the Western District Court of Appeals' recognition that information about litigation funding is discoverable. *Cain*, 383 S.W.3d at 119; *cf. Citizens United v. Schneiderman*, 882 F.3d 374, 383 (2d Cir. 2018) (distinguishing *Patterson* and emphasizing that "totalitarian tendencies do not lurk behind every instance of a state's collection of information . . . And requiring disclosure is not itself an evil: anonymity can protect . . . those who seek to avoid detection (and consequences) for deceptive or harmful activities that governments have legitimate interests in preventing.").

CONCLUSION

Plaintiffs' attorneys should not be allowed to conceal their financial backers from both their own client and the State, which has articulated a clear reason such information is relevant and discoverable. This Court should grant the State's motion to compel.

Date: February 3, 2026

Respectfully submitted,

CATHERINE L. HANAWAY
ATTORNEY GENERAL

/s/ Louis J. Capozzi III
Louis J. Capozzi III, #77756
Solicitor General
Patrick Sullivan, #42968
Deputy Solicitor General
J. Michael Patton, #76490
Deputy Solicitor General
Office of the Attorney General
815 Olive Street, Suite 200
St. Louis, MO 63101
Tel. (573) 645-9662
Fax (573) 751-0774
Louis.Capozzi@ago.mo.gov
Patrick.Sullivan@ago.mo.gov
Michael.Patton@ago.mo.gov

Counsel for the State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2026, a true and accurate copy of the above was electronically filed by using the Court's CM/ECF system to be served via operation of the Court's electronic filing system upon all counsel of record.

J. Michael Patton