

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

JAKE MAGGARD, et al.,
Plaintiffs,
v.
STATE OF MISSOURI, et al.,
Defendants.

Case No. 25AC-CC09120

**STATE DEFENDANTS’ MOTION TO COMPEL ANSWER TO THEIR
DEPOSITION QUESTION BY PLAINTIFF JAKE MAGGARD**

State Defendants move to compel Plaintiff Jake Maggard to respond to State Defendants’ deposition question about the identity of the anonymous third party funding the attorney’s fees of counsel from Perkins Coie and any other litigation expenses.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.

When the State Defendants' counsel asked this question during Maggard's deposition, Maggard's counsel objected based on attorney-client privilege and First Amendment privilege under *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958). Maggard's counsel also instructed him not to answer the question. During the deposition, the State informed Maggard's counsel that, if he did not answer the question, the State would move to compel an answer to its deposition question. Counsel maintained her position, which merits this Motion to Compel.

Maggard's objection and counsel's instruction are wrong for all the reasons stated in the State's February 3, 2026 Motion to Compel. The State incorporates by reference all the arguments in that Motion. Furthermore, controlling precedent establishes that the State's deposition question does not seek attorney-client privileged information. The Western District Court of Appeals has expressly held that "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).

First Amendment privilege is also inapplicable because *N.A.A.C.P. v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958), is nothing like 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, 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.

Comparatively here, 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* clashes 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.").

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

Date: February 5, 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

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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 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

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