

**STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT**

FILED  
5th JUDICIAL DISTRICT COURT  
Lea County  
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NELDA CUELLAR  
CLERK OF THE COURT  
Cory Hagedoorn

REPUBLICAN PARTY OF NEW MEXICO,  
DAVID GALLEGOS, TIMOTHY  
JENNINGS, DINAH VARGAS, MANUEL  
GONZALES, JR., BOBBY AND DEANN  
KIMBRO, and PEARL GARCIA,

Plaintiffs,

v.

Cause No. D-506-CV-2022-00041

MAGGIE TOULOUSE OLIVER as New  
Mexico Secretary of State, MICHELLE  
LUJAN GRISHAM as Governor of New  
Mexico, HOWIE MORALES as New Mexico  
Lieutenant Governor and President of the  
New Mexico Senate, MIMI STEWART as  
President Pro Tempore of the New Mexico  
Senate, and JAVIER MARTINEZ as Speaker  
of the House of Representatives,

Defendants.

**CENTER FOR CIVIC POLICY’S FIRST AMENDED MOTION TO QUASH SUBPOENA  
AND FOR PROTECTIVE ORDER<sup>1</sup>**

COMES NOW non-party Center for Civic Policy, by and through its counsel of record, Sutin, Thayer & Browne, APC (Lynn Mostoller, Esq.), and hereby moves the Court to quash the subpoena *duces tecum* issued by Plaintiffs to Center for Civic Policy (attached as **Ex. 1**), enter a protective order, and award the costs and fees Center for Civic Policy incurred to secure this relief.

**BACKGROUND**

The Center for Civic Policy (“CCP”) is a nonpartisan New Mexico nonprofit corporation tax-exempt under Section 501(c)(3) of the Internal Revenue Code. CCP’s charitable and educational purposes are: to research, develop and analyze current and future public policies that impact the health and welfare of New Mexicans, such as health care, energy, natural resources, the economy and jobs,

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<sup>1</sup> This Amended Motion corrects for the title of Ex. 4, herein noted as the Declaration of Matthew Henderson and so labeled on the accompanying attached exhibit.

and voting rights issues; to educate the public about health and welfare issues in New Mexico; and to increase civic participation in New Mexico. **Ex. 2, Declaration of Oriana Sandoval, ¶ 3.** In furtherance of these purposes, CCP works to empower and amplify the voices of everyday New Mexicans, especially those who experience oppression, to shape a more inclusive, responsive, and accountable democracy—using a racial, gender, class, and equity lens to build transformative power through collective responsibility and build thriving communities in New Mexico. **Ex. 2, ¶ 4.** As the convener of the NM Civic Engagement Table, CCP also works with like-minded organizations to incubate campaigns and foster strategic partnerships, rooted in the power and experience of multiracial, LGBTQ+, and historically and systematically excluded communities, activists, and organizers, ensuring intersectional, cross-movement power-building strategies and grassroots organizing, to achieve a more just and equitable New Mexico where everyone can live in their full dignity. **Ex. 2, ¶ 5.**

In 2020, CCP spearheaded a civic engagement campaign around the National Census, engaging historically undercounted communities around New Mexico. **Ex. 2, ¶ 7.** In 2021 CCP continued its advocacy, working with political allies, *i.e.*, a subset of the NM Civic Engagement Table referred to as the People’s Power Map Coalition, regarding the formulation of strategy and messaging related to the redistricting campaign. **Ex. 2, ¶ ¶8-9.** During these confidential meetings CCP’s officers, employees, volunteers, and political allies would candidly discuss policy issues, recruitment efforts, and political strategy. **Ex. 2, ¶ ¶ 9, 11.** The People’s Power Map Coalition used nonpartisan federal census data provided by the Citizen’s Redistricting Committee (“CRC”) to draw Concept Map H, which sought to address concerns CCP and its allies heard during the Census process. **Ex. 2, ¶ 12.** Consistent with CCP’s charitable and educational goals of empowering historically excluded communities, the goal of the map concept was to create a Hispanic, voting-age majority district, and make all of the Congressional districts in New Mexico accountable to the large Hispanic population in southeast New Mexico. **Ex. 3, Commentary on Map Concept H submitted to the Citizen Redistricting Committee.**

CCP had no access to partisan data while exercising its fundamental First Amendment rights to advocate for a historically excluded racial-minority, nor did CCP have any ability to adopt a congressional map (only the legislature can do that). **Ex. 2, ¶ 12.** CCP and its nonprofit allies were a group engaged in “core” First Amendment activities as part of their nonpartisan advocacy. CCP therefore enjoys broad protection against compelled search or disclosure of documents, communications, or information related to their political strategy, advocacy on proposed legislation and matters of public concern, and formulation of policy positions, including on redistricting. *See NAACP v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1163 (9th Cir. 2010); *Int’l Action Ctr. v. United States*, 207 F.R.D. 1, 3 (D.D.C. 2002).

The map CCP supported was not adopted by the Legislature and, thus, has no bearing on this litigation. Nonetheless, Plaintiffs have propounded a subpoena on CCP that goes straight to the heart of CCP’s protected First Amendment activities.

Plaintiffs’ subpoena seeks to depose a representative of CCP regarding:

- CCP's 2021 efforts to recruit, mobilize, and/or support individuals giving testimony or written input to either the Citizen Redistricting Committee ("CRC") or the Legislature (including individual committees and/or members thereof) on the subject of redistricting, including any incentives or financial stipends offered and/or paid, *see Ex. 1 at 2, Topic (2)*; and
- The process by which the CCP designed Congressional Concept H, and any individuals or groups whose feedback/input on the map was solicited before its submission to the CRC — including specifically any mapping or demographic professionals, experts, or consultants, *see Ex. 1 at 2, Topic (3)*.

Plaintiffs also seek the following documents from CCP:

- All 2022 and 2023 emails, text messages, and other written communications sent by or to (including those CC'd to) a paid or executive-level CCP official or employee that specifically discuss or relate to this litigation, *see Ex. 1 at 3, Topic (C)*; and
- All emails and other written communications sent on behalf of the CCP advertising, offering, or advising of the availability of funds (whether denominated as stipends, reimbursements, or anything else) to be paid to individuals appearing at or giving testimony to the CRC and/or the

Legislature (including committees thereof), and any direct replies to said communications, *see Ex. 1 at 3, Topic (D)*.<sup>2</sup>

At its core, Plaintiffs' subpoena is a demand that CCP provide deposition testimony and documentation about formulation of strategy and messaging related to advocacy activities, allocation of resources for advocacy activities, and its internal processes, including internal communications and communications with allies. CCP requests the Court grant a protective order for at least two reasons. *First*, Plaintiffs' subpoena strikes at the heart of, and threatens a "chilling effect" on, CCP's First Amendment-protected activities. *Perry*, 591 F.3d at 1164. At a minimum, Plaintiffs must satisfy a "heightened relevance standard" and show that the discovery they seek is "crucial" to their case. *Id.*; *Black Panther Party v. Smith*, 661 F.2d 1243, 1268 (D.C.Cir.1981), *cert. granted and vacated as moot*, 458 U.S. 1118, 102 S.Ct. 3505, 73 L.Ed.2d 1381 (1982). Plaintiffs, however, have not even attempted to make that showing, nor can they because, *second*, Plaintiffs' subpoena seeks information that is not relevant, much less highly relevant, to Plaintiffs' claim. Plaintiffs' central claim is that "Senate Bill 1 created a politically gerrymandered congressional map." Complaint, ¶ 98. CCP is not the New Mexico Legislature, it did not enact SB 1, and the concept map they proposed to the CRC was not adopted by the Legislature. *Id.*, ¶ 72 ("The State Legislature did not adopt any of the congressional map concepts proposed by the Citizen Redistricting Committee.") At best, the information sought by Plaintiffs might provide insight into CCP's thought process, but CCP's intentions or purpose are not what is at issue here. To meet their burden under the three-part test articulated by Justice Kagan in her dissent in *Rucho*

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<sup>2</sup> The Subpoena also seeks communications between CCP and members or staff of the state legislature and federal delegation. *See Ex. 1 at 2 ((1)(a)-(b)), and 3 ((A)(i)-(ii) and B)*. CCP questions whether these requests are an attempt to make an end-run around legislative privilege (*See La Union Del Pueblo Entero v. Abbott*, 68 F.4th 228, 236 (5th Cir. 2023)(Court held that legislators did not waive the legislative privilege when they communicated with parties outside the legislature, such as party leaders and lobbyists, and an exception for communications "outside the legislature" would swallow the rule almost whole, because meeting with interest groups is a part and parcel of the modern legislative procedures through which legislators receive information); *Arizona v. Arpaio*, 314 F.R.D. 664 (D. Ariz. 2016)(E-mail messages between state senator and various third party attorneys, lobbyists, and constituents regarding anti-illegal immigration legislation that senator was sponsoring were created in connection with bona fide legislative activity, and thus were protected by legislative privilege); *Edwards v. Vesilind*, 292 Va. 510, 535, 790 S.E.2d 469, 483 (2016); *Miller v. Transamerican Press, Inc.*, 709 F.2d 524, 530 (9th Cir.1983); *Trunk v. San Diego*, No. 06cv1597 LAB (WMC), 2007 WL 2701356, at \*6 (S.D. Cal. Sept. 13, 2007); *Bruce v. Riddle*, 631 F.2d 272 (4th Cir. 1980) (federal Speech or Debate Clause protects communications between local legislators and interest groups).

*v. Common Cause*, 139 S.Ct. 2484, 2516 (2019) Plaintiffs must prove *the Legislature's* predominant purpose in drawing the map that was adopted, not CCP's, and the actual impact of the map drawn, which does not involve CCP whatsoever.

## ARGUMENT

### A. *The Information Sought by the Subpoena Is Protected by First Amendment Privilege*

New Mexico Rule of Civil Procedure 1-026(B)(1) provides that “[p]arties may obtain discovery of any information, *not privileged*, which is relevant to the subject matter involved in the pending action.” (Emphasis added.) First Amendment privilege protects against the compelled disclosure of affiliation with groups engaged in advocacy and organizational/associational political activity and has been recognized and enforced by the Supreme Court for sixty-five years. *NAACP v. Alabama*, 357 U.S. 449 (1958). The Supreme Court “has recognized the vital relationship between freedom to associate and privacy in one’s associations.” *Id.* at 462. “Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association.” *Id.* “[T]he First Amendment safeguards an individual’s right to participate in the public debate through political expression and political association.” *McCutcheon v. Federal Electric Comm’n*, 572 U.S. 185, 203, 134 S.Ct. 1434, 1448 (2014) (citing *Buckley v. Valeo*, 424 U.S. 1, 64-65 (1976)). “The Supreme Court has long recognized that compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation.” *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003).<sup>3</sup> “Disclosures of political affiliations and activities that have a ‘deterrent effect on the exercise of First Amendment rights’ are therefore subject to this same ‘exacting scrutiny.’” *Perry*, 591 F.3d at 1160-61 (quoting *Buckley*, 424 U.S. at 64-65).

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<sup>3</sup> “Although the First Amendment does not normally restrict the actions of purely private individuals, the amendment may be applicable in the context of discovery orders, even if all of the litigants are private entities,” because a trial court’s order compelling discovery “[p]rovide[s] the requisite governmental action that invokes the First Amendment scrutiny.” *Grandbouche v. Clancy*, 825 F.2d 1463, 1466 (10th Cir. 1987).

The First Amendment privilege applies to all organizations, not just dissident groups. *See Pleasant v. Lowell*, 876 F.2d 787, 795 (10th Cir. 1989) (First Amendment protection extended to “advocacy concerning the lawful modification or elimination of the federal tax system”).<sup>4</sup> The First Amendment privilege also protects against the production of all association political activity, not just membership lists.<sup>5</sup> The First Amendment’s protection “extends not only to the organization itself, but also to its staff, members, contributors, and others who affiliate with it.” *Wyoming*, 208 F.R.D. at 454–55 (citing *Int’l Union v. Nat’l Right to Work Legal Defense and Ed. Found., Inc.*, 590 F.2d 1139, 1147 (D.C.Cir.1978)). In a case involving requests for internal communications and communications among various groups, the D.C. Circuit ruled that releasing the information would have a potential “for chilling the free exercise of political speech and association guarded by the First Amendment.” *Id.* (citing *Fed. Election Comm’n v. Machinists Non-Partisan Political League*, 655 F.2d 380, 388 (D.C.Cir.1981)).

While it does not appear that New Mexico courts have established a clear framework for evaluating First Amendment privilege claims in cases similar to the one at hand, courts that have generally apply a two-part framework: First, the party asserting the privilege must show an “arguable” infringement on First Amendment rights. *Perry*, 591 F.3d at 1160. “Federal courts have consistently held that disclosure of internal associational activities (i.e., membership lists, volunteer lists, financial contributor lists, and past political activities of members) satisfy this prima facie showing because

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<sup>4</sup> “[I]t is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.” *NAACP*, 357 U.S. at 460-61.

<sup>5</sup> *Wyoming v. U.S. Dep’t of Agric.*, 208 F.R.D. 449, 454 (D.D.C. 2002) (“Membership lists are not the only information afforded First Amendment protection. In blocking the government’s discovery request of political action groups, this court recently stated, it is crucial to remember that we are considering the essence of First Amendment freedoms—the freedom to protest policies to which one is opposed, and the freedom to organize, raise money, and associate with other like-minded persons so as to effectively convey the message of the protest.”); *see also Degregory v. Att’y Gen. of N.H.*, 383 U.S. 825, 828 (1966) (applying the First Amendment privilege to discussions at political party meetings); *Dole v. Service Employees Union, AFL-CIO, Local 280*, 950 F.2d 1456, 1459 (9th Cir. 1991) (First Amendment privilege prevented disclosure of union members’ discussions at a union meeting).

disclosure of these associational activities chills freedom of association.” *Wyoming v. USDA*, 239 F.Supp.2d 1219, 1237 (D.Wyo.2002), *appeal dismissed as moot*, 414 F.3d 1207 (2005) (citing *NAACP*, 357 U.S. at 462). If a discovery request seeks disclosure of internal associational activity, some federal courts assume, sometimes implicitly, that the party seeking protection has automatically made their *prima facie* showing.<sup>6</sup>

In *Heartland Surgical Specialty Hospital, LLC v. Midwest Div., Inc.*, *supra*, the district court denied a motion to compel seeking internal association communications regarding legislative and lobbying efforts on the basis of the First Amendment privilege. There, the plaintiff sought documents related to the Kansas Hospital Association’s (KHA) lobbying efforts, meeting minutes, agendas, and draft legislative bills. 2007 WL 852521 at \*2. The court found that KHA’s advocacy relating to Kansas statutes concerning hospitals was the type of “political or economic association” protected from compelled disclosure by the First Amendment privilege. *Id.* at \*3. And forcing production of KHA’s internal evaluations of possible legislation and legislative strategy is exactly the type of action that “would have a ‘chilling effect’ on [KHA] and its members.” *Id.* at \*4. (citing *Austl./E. USA Shipping Conf. v. United States*, 537 F. Supp. 807, 810-11 (D.C. Cir. 1982) (concluding that “[a] factual showing of actual chilling is not a necessity for a decision forbidding disclosure” and it is for the court to evaluate the likelihood of a chilling effect under the circumstances)). Thus, the court found that KHA had met its *prima facie* burden of showing a chilling effect and the First Amendment privilege applied preventing disclosure. *Id.*

Other courts recognize a *prima facie* showing when the party demonstrates that the production would have a chilling effect on their associational activity, *see In re Motor Fuel Temperature Sales*

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<sup>6</sup> See *Wyoming v. USDA*, 239 F.Supp.2d at 1237; *Heartland Surgical Specialty Hospital, LLC v. Midwest Div., Inc.*, Case No. 05-2164-MLW-DWB, 2007 WL 852521 at \*5 (D. Kan. Mar. 16, 2007); *Beinin v. Ctr. for Study of Popular Culture*, No. C 06-02298 JW, 2007 WL 1795693, at \*3 (N.D.Cal. June 20, 2007) (apparently assuming chilling effect of disclosing names or groups which supported lawsuit); *Int’l Action Ctr. v. United States*, 207 F.R.D. 1, 3-4 (D.D.C.2002) (apparently assuming chilling effect of disclosing membership and volunteer lists, contributor lists and past political activities and names of individuals who planned to attend political protests).

*Practices Litig.*, 641 F.3d 470, 488 (10th Cir. 2011). In courts requiring such a demonstration, a party can make a *prima facie* showing of infringement if disclosure may result in “(1) harassment, membership withdrawal, or discouragement of new members, or (2) other consequences which objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights.” *Perry*, 591 F.3d at 1160. The burden of making this showing is not a heavy one. A party “need not prove to a certainty that its First Amendment rights will be chilled by disclosure.” *Black Panther Party*, 661 F.2d at 1267-68. It need only show “some probability” of a chilling effect. *Id.* at 1268.<sup>7</sup> “First Amendment chilling affect meets its burden by submitting, for example, affidavits which ‘describe harassment and intimidation of [a group’s] known members, and the resulting reluctance of people sympathetic to the goals of [the group] to associate with [it] for fear of reprisals.’ *In re Motor Fuel*, 641 F.3d at 491 (quoting *In re First Nat’l Bank, Englewood, Colo.*, 701 F.2d 115, 116–17). Other courts, including the Supreme Court, have held that the *prima facie* burden is satisfied by similar proof of a chilling effect.<sup>8</sup>

Courts have recognized that compelled disclosure of confidential documents and information of an advocacy group or political association can have a “deterrent effect” on “participation in campaigns” and on “the free flow of information within campaigns.” *Perry*, 591 F.3d at 1162. Consequently,

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<sup>7</sup> See also *Blankenship v. Fox News Network, LLC*, 2020 WL 5308515, at \*4 (S.D.W. Va. Sept. 4, 2020) (Court found objectively reasonable probability that requiring production of internal communications among staff members of National Republican Senatorial Committee concerning their impressions of the nationwide U.S. Senate race would chill associational rights to the extent that those members may be subjected to harassment or reprisal because of their political activities); *Pulte Home Corp. v. Montgomery Cnty. Maryland*, No. GJH-14-3955, 2017 WL 1104670, at \*4 (D. Md. Mar. 24, 2017) (party “need only show that there is some probability that disclosure will lead” to a chilling effect); *Flynn v. Square One Distribution, Inc.*, No. 6:16-MC-25-ORL-37TBS, 2016 WL 2997673, at \*3 (M.D. Fla. May 25, 2016) (The “burden [of the proponent of the privilege] is ‘light,’ given ‘the crucial place speech and associational rights occupy under our constitution.’”).

<sup>8</sup> See *NAACP*, 357 U.S. at 462, 78 S.Ct. 1163 (“Petitioner has made an uncontroverted showing that on past occasions revelation of the identity of its rank-and-file members has exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility.”); see also *Perry*, 591 F.3d at 1143 (quoting one of multiple declarations from group’s members that “I can unequivocally state that if the personal, non-public communications I have had regarding this ballot initiative ... are ordered to be disclosed through discovery in this matter ... I will be less willing to engage in such communications ... [and] I ... would have to seriously consider whether to even become an official proponent again.”).



compelled disclosure can chill First Amendment rights because it “mut[es]” this “internal exchange of ideas.” *Id.* at 1163.<sup>2</sup> This infringement on First Amendment rights is particularly severe when a group is forced to disclose its internal communications “to a public policy opponent.” *Whole Woman’s Health v. Smith*, 896 F.3d 362, 373 (5th Cir. 2018), *as revised* (July 17, 2018).

Compelled disclosure can also discourage participation in an organization’s activities. *See Perry*, 591 F.3d at 1160. “[A] person who belongs to a group that is required to disclose its internal communications in civil litigation may decide that the invasiveness of the disclosure outweighs the benefit of belonging to or participating in the group.” *Pulte*, 2017 WL 1104670, at \*8. This is especially true where the party resisting disclosure has a reasonable basis to fear retaliation or reprisal as a result of the disclosure. *See, e.g., NAACP*, 357 U.S. at 462-63; *Ass’n of Equip. Mfrs. v. Burgum*, 427 F. Supp. 3d 1082, 1098 (D.N.D. 2019); *All. of Auto. Mfrs., Inc. v. Jones*, No. 08-cv-555, 2013 WL 4838764, at \*4 (N.D. Fla. Sept. 11, 2013).

Moreover, public disclosure of an organization’s “confidential internal materials ... intrudes on the ‘privacy of association and belief guaranteed by the First Amendment’” and “seriously interferes with internal group operations and effectiveness.” *AFL-CIO v. FEC*, 333 F.3d 168, 177-78 (D.C. Cir. 2003) (quoting *Buckley*, 424 U.S. at 64). The documents at issue in *AFL-CIO* included “detailed descriptions of training programs, member mobilization campaigns, polling data, and state-by-state strategies.” *Id.* at 176-77. The parties claimed that disclosure would “directly frustrate” their “ability to pursue their political goals effectively” because it would reveal to their opponents “activities, strategies and tactics” that would likely be used in future election cycles. *Id.* The D.C. Circuit agreed, holding that compelled disclosure of such materials would “frustrate those groups’ decisions as to ‘how to organize

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<sup>2</sup> *See also Pulte*, 2017 WL 1104670, at \*8 (“If a person knows that her communications will be disclosed to an unintended audience in the future, she may be more cautious in her statements or refrain from speaking entirely.”); *Wal-Mart Stores, Inc. v. Texas Alcoholic Beverage Comm’n*, No. A-15-CV-134-RP, 2016 WL 5922315, at \*9 (W.D. Tex. Oct. 11, 2016) (finding that a group’s “ability to communicate with its members--fundamental to the right to associate--would be chilled if its internal newsletters were discoverable”); *Blankenship*, 2020 WL 5308515, at \*4 (finding that compelled disclosure of political party’s “internal communications concerning opinions as to campaign strategies” would cause it “to reassess or even modify how its membership can work, associate, communicate and provide any guidance on campaign strategies”).

... [themselves], conduct ... [their] affairs, and select ... [their] leaders,' as well as their selection of a 'message and ... the best means to promote that message.'" *Id.* at 177 (quoting *Eu v. San Francisco Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 230-31 & n. 21, 109 S. Ct. 1013, 103 L. Ed. 2d 271 (1989)). Consequently, the D.C. Circuit held that compelled disclosure of the parties' internal materials implicated "substantial First Amendment interests." *Id.* at 178.

The First Amendment privilege against compelled disclosure also applies to communications with other organizations for the purposes of promoting shared political goals.<sup>10</sup> After all, "implicit in the right to engage in activities protected by the First Amendment" is "a corresponding right to associate with others" in those activities. *Roberts v. United States Jaycees*, 468 U.S. 609, 622 (1984); *see also Perry*, 591 F.3d at 1162.

The very nature of CCP – a charitable and educational advocacy group engaged in non-partisan good-government campaigns and public policy speech – underscores that materials relating to their activities are entitled to the strongest level of First Amendment protection. Plaintiffs broadly seek sensitive and confidential documents and information from CCP regarding issues of public policy, campaign strategies and tactics, and formulation of advocacy and messaging. *See Ex. 1 at 2-3*. That they are being asked to turn over confidential documents to groups that are often "public policy opponent[s]" heightens their First Amendment injury. *Whole Woman's Health*, 896 F.3d at 373. Moreover, CCP has submitted declarations from CCP's CEO (**Ex. 2 – Declaration of Oriana Sandoval**), the Executive Director of one of the groups in the NM Civic Engagement Table/People's Power Map Coalition (**Ex. 4 – Declaration of Matthew Henderson**), and a CCP volunteer (**Ex. 5 – Declaration of Josué de Luna Navarro**), that more than make the required showing of "some probability" of a chilling effect. *Pulte*,

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<sup>10</sup> *See Int'l Union v. Nat'l Right to Work Legal Defense and Educ. Found., Inc.*, 590 F.2d 1139, 1147 (D.C. Cir. 1978) (First Amendment protection "extends not only to the organization itself, but also to its staff, members, contributors and others who affiliate with it"); *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 388 (D.C. Cir. 1981) (demand for "communications among various [draft-Kennedy] groups" had "potential for chilling the free exercise of political speech and association guarded by the [F]irst [A]mendment"); *Wyoming*, 208 F.R.D. at 454 (First Amendment protects "strategic communications on policy issues with other environmental advocacy groups"); *Pulte*, 2017 WL 1104670, at \*11 ("The citizen groups have an interest in the non-disclosure of the communications it had with third parties.").

2017 WL 1104670, at \*4. These declarations show that compelled disclosure of these documents and information will chill the candor of CCP's internal deliberations, discourage participation in CCP's activities, and publicly reveal CCP's confidential campaign strategies and tactics.

Specifically, the declarants attest to the chilling effect that compelled disclosure of CCP's confidential materials would have. Among the types of information and documents that would have to be disclosed are internal communications and communications with public policy allies regarding policy issues, recruitment efforts, and advocacy campaign strategy. **Ex. 2 ¶¶ 9, 11, 15; Ex. 4, ¶¶ 5, 8, 9; Ex. 5, ¶¶ 6, 7.** These documents and communications would contain candid opinions and advice from CCP's officers, staff, consultants, and volunteers regarding the formulation of strategy and messaging related to campaigns and policy issues. **Ex. 2 ¶¶ 9, 16; Ex. 4, ¶ 9; Ex. 5, ¶ 6.** They would include information about the allocation of resources for campaign expenditures and community engagement activities. **Ex. 2 ¶ 16; Ex. 4, ¶ 9.** Others would contain drafts of press releases and media strategies, communications regarding media outreach and information for reporters, documents regarding the recruitment and training of volunteers, and discussions of current events and advocacy campaign developments, including SB 1 and other redistricting legislation that is not at issue in this case. *Id.* Disclosure would cause CCP's officers, staff, consultants, and volunteers, as well as the allies they work with via the NM Civic Engagement Table/People's Power Map Coalition, to hesitate to offer candid thoughts about advocacy strategy and messaging in the future and to sometimes refrain entirely from offering their opinions. **Ex. 2 ¶¶ 19, 22-24; Ex. 4, ¶¶ 12, 15; Ex. 5, ¶¶ 8, 10.** These individuals would also be more cautious with respect to the views and advice they express if those communications can be compelled to become public. *Id.* As the Fifth Circuit has recognized, an advocacy organizations' internal communications "must be permitted to be broad, uninhibited, and fearless," and "protecting such deliberations is a seminal aspect of the freedom to associate." *Whole Woman's Health*, 896 F.3d at 372.

Compelled disclosure would also harm CCP's ability to recruit volunteers, allies, and others to

participate in its advocacy activities protected by the First Amendment. **Ex. 2 ¶ 25; Ex. 4, ¶ 16; Ex. 5, ¶¶ 8, 10.** These volunteers and others routinely participate in confidential communications related to sensitive advocacy-related topics and reasonably believed that these communications would remain confidential. *Id.* Disclosure of such communications would provide a disincentive for volunteers and allies to participate in civic engagement activities and undoubtedly lead to lower levels of participation in such activities with CCP in the future. *See Perry*, 591 F.3d at 1160; *Pulte*, 2017 WL 1104670, at \*8. CCP, its allies, and its volunteers also have a reasonable basis to fear retaliation or reprisal as a result of the disclosure. **Ex. 2, ¶¶ 19-21; Ex. 4, ¶¶ 12-14; Ex. 5, ¶¶ 8, 9;** *see, e.g., NAACP*, 357 U.S. at 462-63; *Burgum*, 427 F. Supp. 3d at 1098; *All. of Auto. Mfrs., Inc.*, 2013 WL 4838764, at \*4.

Finally, the compelled disclosure sought here would reveal confidential “strategies and tactics” that would harm the effectiveness of CCP’s advocacy activities. *AFL-CIO*, 333 F.3d at 177. The requested materials and information include confidential discussions regarding the formulation of strategy and messaging related to advocacy activities as well as documents regarding the allocation of resources for advocacy activities. **Ex. 2 ¶¶ 9, 11, 15, 16; Ex. 4, ¶¶ 5, 8, 9;** Requiring CCP to publicly disclose such materials would “frustrate” their ability to develop and deploy effective strategies in future redistricting cycles. *AFL-CIO*, 333 F.3d at 177. CCP has satisfied their burden to show “some probability” of a chilling effect on First Amendment rights. *Black Panther Party*, 661 F.2d at 1268; *see also Perry*, 591 F.3d at 1160 (party resisting disclosure need show only an “arguable” infringement).

*B. The Information Sought by the Subpoena Is Not Relevant, Let Alone Highly Relevant*

Once a *prima facie* showing has been made, the burden then shifts to the party seeking disclosure to “show a substantial need for the documents that outweighs the intrusion into [the opposing party’s] constitutional rights.” *Whole Woman’s Health*, 896 F.3d at 374. “In making this showing, plaintiffs must demonstrate more than simply that the information is relevant.” *Burgum*, 427 F. Supp. 3d at 1098 (citations omitted). That party must satisfy a “heightened relevance standard” and

show that the discovery is “highly relevant to the claims or defenses in the litigation--a more demanding standard of relevance than that under [Rule] 26(b)(1).” *Perry*, 591 F.3d at 1161, 1164. In other words, the party seeking disclosure must “prove that the information sought is of crucial relevance to its case; that the information is actually needed to prove its claims; that the information is not available from an alternative source; and that the request is the least restrictive way to obtain the information.” *Pulte*, 2017 WL 1104670, at \*4. “The interest in disclosure will be relatively weak unless the information goes to ‘the heart of the matter,’ that is, unless it is crucial to the party’s case.” *Black Panther Party*, 661 F.2d at 1268.

In this case, Plaintiffs have made a partisan gerrymandering claim. In its July 24, 2023 Order, the New Mexico Supreme Court stated that this claim is subject to the three-part test articulated by Justice Kagan in her dissent in *Rucho v. Common Cause*, 139 S.Ct. 2484, 2516 (2019). “First, the plaintiffs challenging a districting plan must prove that *state officials*’ ‘predominant purpose’ in drawing a district’s lines was to ‘entrench [their party] in power’ by diluting the votes of citizens favoring its rival.” *Id.* (citation omitted)(emphasis added). “Second, the plaintiffs must establish that the lines drawn in fact have the intended effect by ‘substantially’ diluting their votes. *Id.* (citation omitted). “And third, if the plaintiffs make those showings, the State must come up with a legitimate, non-partisan justification to save its map.” *Id.* (citation omitted). To meet their burden, Plaintiffs need to prove state officials’ (not CCP’s) “predominant purpose” and the actual impact of the map drawn.

Plaintiffs’ subpoena nonetheless seeks documents, communications, and information that have no bearing on the “predominant purpose” of the Legislature and no relevance whatsoever to the actual impact of the congressional map that was adopted by the Legislature. Instead, Plaintiffs’ subpoena seeks to abuse the discovery process by seeking materials protected by legislative privilege (despite the fact that the non-party legislators’ motion on that topic is still pending), and otherwise seeks CCP’s internal documents and information or communications with political allies. *See Ex. 1 at 2-3*. These documents and information are not relevant to the question whether the New Mexico Legislature’s

predominant purpose in enacting SB 1 was to entrench one party in power, nor is it relevant to the impact of the map adopted since the 2021 redistricting session.<sup>11</sup> Because the documents and information sought from CCP do not bear on either the predominant purpose of the Legislature or the impact of the redistricting map enacted through SB 1, they will not aid in resolution of the issues in the case, they are not highly relevant, and Plaintiffs’ subpoena should be quashed.

For example, Plaintiffs broadly seek information about “[t]he process by which the CCP designed Congressional Concept H, and any individuals or groups whose feedback/input on the map was solicited before its submission to the [Citizen’s Redistricting Committee]” and “[a]ll 2022 and 2023 emails, text messages, and other written communications sent by or to (including those CC’d to) a paid or executive-level CCP official or employee that specifically discuss or relate to this litigation.” **Ex. 1 at 2-3.** Such information and communications between private organizations or individuals does not reveal any information that was before the New Mexico Legislature that could be relevant to the Legislature’s intent in passing SB 1. Likewise, documents concerning the availability of funds to reimburse individuals for mileage and child care expenses incurred in connection with appearing at or giving testimony to the CRC or the Legislature do not help establish that the lines drawn have the intended effect by ‘substantially’ diluting Plaintiffs’ votes. *See United States v. Kellogg Brown & Root*

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<sup>11</sup> This situation is similar to that in *CMDS Residential, LLC v. Mayor & City Council of Baltimore*, 2022 WL 16715985 (D. Md. Nov. 4, 2022). There, CMDS Residential brought an action against the Mayor and City Council of Baltimore after the City declined to allow CMDS to open a residential drug treatment facility. CMDS claimed the City’s decision relied on allegedly discriminatory views from community members, and subpoenaed and sought to depose a neighborhood association concerning discussions it had with the City about CMDS and the drug treatment facility. The court granted the neighborhood association a protective order for two reasons: First, it found that depositions, in particular, present an increased risk of a chilling effect and create obligations that may make community members think twice about joining their local neighborhood associations. And second, the information sought was not relevant, in part, because “[w]hile a deposition may illuminate the group’s internal motivations and thoughts, that information does not show how *the City* acted with discriminatory intent.” 2022 WL 16715985, at \*2 (emphasis in original). *See also, Apple Inc. v. Match Grp., Inc.*, No. 21-mc-80184-YGR-TSH, 2021 WL 3727067, at \*4 (N.D. Cal. Aug. 19, 2021) (concluding that “discussions of lobbying activities, recruitment efforts, public education efforts, and so on, that are unlikely to be relevant” to the merits of antitrust claims).

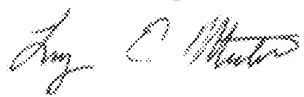
*Servs., Inc.*, 284 F.R.D. 22, 36 (D.D.C. 2012) (discovery may not “stray too far away from the core facts of the case”). The same is true with respect to Plaintiffs’ remaining topics in Plaintiffs’ subpoena; the discovery they seek from CCP will not help resolve the issues in this case, and does not meet the heightened relevancy standard that applies to a subpoena seeking documents and information at the heart of First Amendment protection.

### CONCLUSION

WHEREFORE CCP respectfully requests that the Court quash Plaintiffs’ subpoena and enter a protective order that (1) prohibits Plaintiffs from taking a 1-030(B)(6) deposition of CCP, specifically the deposition noticed on August 25, 2023; (2) permits CCP to withhold the documents and information sought in Plaintiffs’ subpoena in deposition topics (2) and (3) and document categories (C) and (D), except where such documents and information have been shared with the public; and (3) grants CCP until five days after it enters its order on this Motion to complete production of any such documents, and for such other relief as the Court may deem just and proper.

Respectfully submitted,


SUTIN, THAYER & BROWNE  
A Professional Corporation

By:   
\_\_\_\_\_

Lynn Mostoller, Esq.  
P.O. Box 1945  
Albuquerque, NM 87103  
Telephone: (505) 883-3433  
[lem@sutinfirm.com](mailto:lem@sutinfirm.com)

I hereby certify that on August 18, 2023,

the foregoing pleading was electronically filed and served through the Odyssey File & Serve system, which caused all counsel of record to be served by electronic means.

By:   
\_\_\_\_\_

Lynn Mostoller, Esq.



STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT COURT

REPUBLICAN PARTY OF NEW MEXICO,  
DAVID GALLEGOS, TIMOTHY JENNINGS,  
DINAH VARGAS, MANUEL  
GONZALES, JR., BOBBY AND DEE ANN  
KIMBRO, and PEARL GARCIA,

Plaintiffs,

vs.

Case No. D-506-CV-2022-00041

MAGGIE TOULOUSE OLIVER, in her official  
capacity as New Mexico Secretary of State,  
MICHELLE LUJAN GRISHAM, in her official  
capacity as Governor of New Mexico, HOWIE  
MORALES, in his official capacity as New  
Mexico Lieutenant Governor and President of  
the New Mexico Senate, MIMI STEWART, in  
her official capacity as President Pro Tempore  
of the New Mexico Senate, and JAVIER  
MARTINEZ, in his official capacity as Speaker  
of the New Mexico House of Representatives,

Defendants.

**SUBPOENA**

SUBPOENA FOR APPEARANCE OF PERSON FOR  DEPOSITION  TRIAL

TO: The Center for Civic Policy  
625 Silver Avenue SW, Suite 320  
Albuquerque, NM 87102

YOU ARE HEREBY COMMANDED TO APPEAR as follows:

Place: Harrison & Hart, LLC  
924 Park Avenue SW, Suite E  
Albuquerque, NM 87102

Date: August 25, 2023

Time: 12:30 p.m.

to

testify at the taking of a deposition in the above case.

testify at trial.

YOU ARE ALSO COMMANDED, pursuant to Rule 1-030(B)(6) NMRA, to designate and fully prepare one or more persons (who consent to testify on your office's behalf) to testify as to all information known or reasonably available to the Center for Civic Policy ("CCP") as a whole on the following matters:

- (1) All communications — including emails, text messages, phone calls, and in-person conversations — that took place in the year 2021 *between*
  - (a) any CCP executive, director, official, employee, and/or volunteer, on the one hand, *and*
  - (b) any individual who was at the time a member of, or a staffer to a member of, either the New Mexico Legislature or New Mexico's congressional delegation, on the other, andthat relates to congressional redistricting, the Congressional Concept H map, and/or the partisan breakdown of New Mexico's congressional delegation.
- (2) The CCP's 2021 efforts to recruit, mobilize, and/or support individuals giving testimony or written input to either the Citizen Redistricting Committee ("CRC") or the Legislature (including individual committees and/or members thereof) on the subject of redistricting, including any incentives or financial stipends offered and/or paid.
- (3) The process by which the CCP designed Congressional Concept H, and any individuals or groups whose feedback/input on the map was solicited before its submission to the CRC — including specifically any mapping or demographic professionals, experts, or consultants.
- (4) The processes by which you prepared your designee(s) to testify about the topics above, the process by which CCP collected and produced the documents requested below, and the factual bases for any objections interposed (including, for burden-based objections, detailed information regarding the costs and/or time that given record-collection step would have required).

If your office elects to prepare and produce multiple designees to give testimony, you must be prepared to state the matters on which each person will testify.

YOU ARE ALSO COMMANDED to produce, by no later than **noon two business days before your deposition**, the following documents:

- (A) All 2021 emails exchanged *between*
  - (i) any email address that either is an @civicpolicy.com email address, or is controlled by a paid (full- or part-time) official/employee of the CCP, on one hand, *and*
  - (ii) any email address that either is an @nmlegis.gov email address, or is known or believed by the CCP to belong to a member of, or staffer to a member of, either the New Mexico Legislature or New Mexico's congressional delegation, on the other,

that relate in any way to redistricting, the Congressional Concept H map, and/or the partisan composition of New Mexico's congressional delegation.

- (B) All text messages and other non-email written communications — including messages sent through Facebook, Microsoft Teams, WhatsApp, Kik Messenger, etc. — exchanged in 2021 *between* any paid or executive-level CCP official or employee *and* any member of, or staffer to a member of, the New Mexico Legislature, that relate in any way to redistricting, the Congressional Concept H map, and/or New Mexico's congressional delegation.
- (C) All 2022 and 2023 emails, text messages, and other written communications sent by or to (including those CC'd to) a paid or executive-level CCP official or employee that specifically discuss or relate to this litigation.
- (D) All emails and other written communications sent on behalf of the CCP advertising, offering, or advising of the availability of funds (whether denominated as stipends, reimbursements, or anything else) to be paid to individuals appearing at or giving testimony to the CRC and/or the Legislature (including committees thereof), and any direct replies to said communications.

Please produce these documents in the format in which they exist currently (*e.g.*, please do not print out hardcopies of emails). Please produce these documents either by emailing them to [carter@harrisonhartlaw.com](mailto:carter@harrisonhartlaw.com) or by delivering them to 924 Park Avenue SW, Suite E, Albuquerque NM 87102.

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

August 2, 2023  
Date of Issuance



Judge, Clerk or Attorney

Carter B. Harrison IV  
HARRISON & HART, LLC  
924 Park Avenue SW  
Albuquerque, NM 87102  
Tel: (505) 295-3261  
Fax: (505) 341-9340  
Email: [carter@harrisonhartlaw.com](mailto:carter@harrisonhartlaw.com)

*Attorneys for the Plaintiffs*

### INFORMATION FOR PERSONS RECEIVING SUBPOENA

1. This subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.
2. A command to produce evidence or to permit inspection may be joined with a command to appear for a deposition or trial.
3. If a person's attendance is commanded, one full day's per diem must be tendered with the subpoena, unless the subpoena is issued on behalf of the state or an officer or agency thereof. *See* Section 38-6-4 NMSA 1978 for per diem and mileage for witnesses. *See* Paragraph A of Section 10-8-4 NMSA 1978 for per diem and mileage rates for nonsalaried public officers. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act. Payment of per diem and mileage for subpoenas issued by the state is made pursuant to regulations of the Administrative Office of the Courts. *See* Section 34-9-11 NMSA 1978 for payments from the jury and witness fee fund.
4. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose on the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney fees.

### PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

Subject to Subparagraph (2) of Paragraph D below, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may file a motion to quash the subpoena and serve the motion on all parties to the action. An exception in this specific case is that assertions of legislative privilege must be made within ten (10) days. If an objection is served or a motion to quash is filed and served on the parties, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance,

- (2) requires a person who is not a party or an officer of a party to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If a subpoena:

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

#### **DUTIES IN RESPONDING TO SUBPOENA**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT**

REPUBLICAN PARTY OF NEW MEXICO,  
DAVID GALLEGOS, TIMOTHY  
JENNINGS, DINAH VARGAS, MANUEL  
GONZALES, JR., BOBBY AND DEANN  
KIMBRO, and PEARL GARCIA,

Plaintiffs,

v.

Cause No. D-506-CV-2022-00041

MAGGIE TOULOUSE OLIVER as New  
Mexico Secretary of State, MICHELLE  
LUJAN GRISHAM as Governor of New  
Mexico, HOWIE MORALES as New Mexico  
Lieutenant Governor and President of the  
New Mexico Senate, MIMI STEWART as  
President Pro Tempore of the New Mexico  
Senate, and JAVIER MARTINEZ as Speaker  
of the House of Representatives,

Defendants.

**DECLARATION OF ORIANA SANDOVAL**

I, Oriana Sandoval, state as follows:

1. I am of legal age and competent to testify in court. I have personal knowledge of the facts stated herein. I could and would testify to these facts in a court of law if asked to do so.
2. I am the Chief Executive Officer of the Center for Civic Policy ("CCP").
3. CCP is a New Mexico nonprofit corporation tax exempt under Section 501(c)(3) of the Internal Revenue Code. CCP's charitable and educational purposes are: to research, develop and analyze current and future public policies that impact the health and welfare of New Mexicans, such as health care, energy, natural resources, the economy and jobs, and voting rights issues;

to educate the public about health and welfare issues in New Mexico, and; to increase civic participation in New Mexico.

4. In furtherance of these purposes, CCP works to empower and amplify the voices of everyday New Mexicans, especially those who experience oppression, to shape a more inclusive, responsive, and accountable democracy —using a racial, gender, class, and equity lens to build transformative power through collective responsibility and build thriving communities in New Mexico.

5. As the convener of the NM Civic Engagement Table, CCP also works to incubate campaigns and foster strategic partnerships, rooted in the power and experience of multiracial, LGBTQ+, and historically and systematically excluded communities, activists, and organizers, ensuring intersectional, cross-movement power-building strategies and grassroots organizing, to achieve a more just and equitable New Mexico where everyone can live in their full dignity.

6. To further these interests, CCP directly lobbies the New Mexico Legislature, and in the case of redistricting, the Citizen’s Redistricting Committee (“CRC”).

7. In 2020, CCP spearheaded a civic engagement campaign around the 2020 Census, engaging historically undercounted communities around New Mexico to encourage 2020 Census responses and ensure a complete and accurate count.

8. Once the 2020 Census was completed, CCP continued its civic engagement program by creating a redistricting campaign that would reflect and advocate for the historically excluded populations at the heart of CCP’s work.

9. To do this, CCP had internal meetings, and confidential meetings with allied nonprofit organizations, *i.e.*, a subset of the NM Civic Engagement Table referred to as the People’s Power Map Coalition, regarding the formulation of strategy and messaging related to the redistricting



campaign. During these meetings CCP's officers, employees, volunteers, and nonprofit allies would candidly discuss policy issues, recruitment efforts, and civic engagement strategy.

10. CCP frequently has meetings like these outside of the redistricting context as well, both internal and with nonprofit allies, *i.e.*, the NM Civic Engagement Table, to discuss pending legislation, whether to engage in the legislative process with respect to particular legislation, whether to lobby the Legislature on legislation, and other aspects regarding the legislative process with respect to which CCP has an interest.

11. These meetings are not open to the public and information discussed during these meetings is confidential.

12. Based upon confidential discussions with other members of the NM Civic Engagement Table/People's Power Map Coalition, CCP used nonpartisan federal 2020 Census data provided by the Citizen's Redistricting Committee ("CRC") via Districtr, the nonpartisan online map drawing tool provided by the CRC, to create map concept H.

13. Plaintiffs in this case have now subpoenaed CCP seeking deposition testimony regarding "CCP's 2021 efforts to recruit, mobilize, and/or support individuals giving testimony or written input to either the Citizen Redistricting Committee ("CRC") or the Legislature (including individual committees and/or members thereof) on the subject of redistricting, including any incentives or financial stipends offered and/or paid," as well as "the process by which the CCP designed Congressional Concept H, and any individuals or groups whose feedback/input on the map was solicited before its submission to the CRC — including specifically any mapping or demographic professionals, experts, or consultants."

14. Plaintiffs also seek the following documents from CCP:

- All 2022 and 2023 emails, text messages, and other written communications sent by or to (including those CC'd to) a paid or executive-level CCP official or employee that specifically discuss or relate to this litigation; and

- All emails and other written communications sent on behalf of the CCP advertising, offering, or advising of the availability of funds (whether denominated as stipends, reimbursements, or anything else) to be paid to individuals appearing at or giving testimony to the CRC and/or the Legislature (including committees thereof), and any direct replies to said communications.

15. The deposition testimony and documents requested seek confidential information that is either solely internal to CCP or is borne of confidential communications with nonprofit allies regarding policy issues, recruitment efforts, and civic engagement strategy.

16. These documents and communications would contain candid opinions and advice from CCP's staff, consultants, and volunteers regarding the formulation of strategy and messaging related to campaigns and policy issues; documents regarding the allocation of resources for campaign expenditures and community engagement activities; drafts of press releases and other communications; documents regarding the recruitment and training of volunteers; communications regarding media outreach and information for reporters; and discussions of current events and legislative developments, including SB 1 and other redistricting legislation that is not at issue in this case.

17. Part of the reason CCP participates in the NM Civic Engagement Table is an understanding that this coalition promotes the interests of the historically excluded populations at the heart of CCP's work, and I and other CCP directors, officers and employees can express our thoughts and concerns in a confidential manner.

18. I communicate with other CCP individuals, and with the NM Civic Engagement Table, regarding civic engagement and policy issues because I have the confidence that those matters will remain confidential and that encourages me to have a full and frank discussion of those issues.

19. The confidentiality of the discussions is vital in order to have full and frank discussions regarding supporting or opposing public policy matters and discussing the merits of both. If that information is released, I will no longer participate in CCP's meetings, and the meetings of the NM Civic Engagement Table, to discuss whether to engage in the legislative process, and no longer engage in such legislative activity with CCP or the NM Civic Engagement Table for fear of reprisal from a variety of sources, including the New Mexico Legislature, and other elected representative opponents who have historically opposed the advocacy CCP performs.

20. Specifically, I have serious concerns about the Republican Party of NM, the Democratic Party of NM, the NM State Legislature, other parties to this lawsuit, and the public at large becoming aware of specific discussions or concerns and exacting reprisal based upon those statements. CCP advocates for policy reform that transforms entrenched economic and governmental systems that are exclusionary and oppressive to our constituent base of historically underrepresented communities in NM. CCP also works to engage historically marginalized constituencies in democratic processes in order to achieve more fair representation and amplify their impact on policy change beneficial to their well-being. This policy and civic engagement work is often at odds with the interests of institutions of power, like political parties and the legislature, as well as the dominant status quo economic and social structures. Maintaining confidentiality of CCP's internal and associational discussions is critical to protect the organization from reprisal from institutions and systems of power whose interests we challenge

through our work. As the CEO of CCP, I regularly interact with New Mexico elected officials with respect to policy matters that interest CCP.

21. Various elected officials and public entities (such as the State Legislature and the New Mexico Federal Delegation) enact policies that govern the work CCP does and has profound impacts on the historically excluded populations for which CCP advocates. If confidential information is released regarding comments about various New Mexico government officials, I have serious concerns that CCP's ability to do its work would suffer as a result of that information.

22. Historically excluded and vulnerable groups – such as undocumented individuals – will often approach me with concerns or issues that they want raised with elected officials. These individuals are extremely sensitive about maintaining their confidential/anonymous status.

23. The ability to identify, discuss, and address concerns in a confidential manner is one of the main elements of my employment with CCP and CCP's ability to perform its mission. Stripping the association of this right will cause great harm to the ability of CCP to serve its core purpose.


24. If confidential and internal CCP information and documents are released I will not be able to engage in confidential discussions within CCP, and on CCP's behalf with the NM Civic Engagement Table, regarding public policy, legislative strategy, and critical issues like redistricting, and I would not be able to offer candid thoughts about civic engagement strategy and messaging in the future. I will be required to seriously consider limiting my involvement with CCP and the NM Civic Engagement Table, which may include my resignation from both.

25. Disclosing the confidential and internal information sought in Plaintiffs' subpoena will also significantly harm CCP's ability to recruit volunteers, allies, and others to participate in

civic engagement activities protected by the First Amendment. These volunteers and others routinely participate in confidential communications related to sensitive education and advocacy-related topics and reasonably believed that these communications would remain confidential. Disclosure of such communications would provide a disincentive for volunteers to participate in legislative activities and undoubtedly lead to lower levels of participation in such activities with CCP in the future.

I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct.

EXECUTED this 17 day of August, 2023.

  
Oriana Sandoval

[← Next](#)

[Previous →](#)

## CCP - Peoples Map / El mapa de la gente

### Basic Info

Submitter: Melanie Aranda  
Location: South Valley resident  
Submitted on: 10/1/2021  
Type: plan  
ID: p5025

### Map

You can pan and zoom in the embedded map with your mouse or the +/- buttons.

### Tags

### More Info

Commentary on Peoples Map / El mapa de la gente

This congressional map was designed by the Center for Civic Policy on behalf of the People's Power, People's Maps Coalition.

The impetus behind this map comes from a coalition of community-based organizations throughout the state. We have joined together in an effort to uplift our respective communities through the citizens' redistricting process. This map concept has been a work in progress, conceived and continuously improved through a process of over 50 community conversations conducted over the past six weeks.

The common goal of the Coalition is fair representation for our communities.

Elected officials make decisions on behalf of their constituents that impact our everyday lives (social services, budget decisions to fund education/healthcare,

[View in Districtr](#)

(To see statistics on this map, or to modify it yourself.)

immigration reform, climate justice.)  
Therefore, communities' input into how their political districts are drawn is critical to ensuring a fair and representative system of government.

The proposed map was developed based on traditional redistricting principles, the Voting Rights Act as amended (VRA) and the provisions of Senate Bill 304.

The total deviation of this congressional map is 0.1%. With minor adjustments, it can be brought down much closer to 0.0%

#### CREATING A SOLID HISPANIC VOTING AGE MAJORITY DISTRICT

This map brings the Hispanic Voting Age Population in CD2 up to 55.9%.

The 2020 Census informs us that, nearly half of New Mexico's population is Hispanic/Latino, ranking it first among all 50 states.

Accordingly, it becomes increasingly difficult to justify New Mexico not having at least one of its three congressional districts with a strong Hispanic majority. Since the creation of a southern NM congressional district over a half century ago, only one out of twenty-six elections has been won by a Hispanic candidate. This is not for lack of trying. A Hispanic major party candidate was the losing candidate in nine of the last fifteen elections in CD2.

#### KEY FEATURES OF THE MAP

The core of CD3 in northern New Mexico is preserved.

At the expressed wishes of the tribal nations, the congressional lines in the northwest quadrant are unchanged, maintaining the status quo.

To'Hajiilee joins its neighboring Navajo chapters of Ramah and Alamo in CD2.

Mescalero has made it known that it wants to have influence in two congressional districts. This map splits Mescalero between CD1 and CD2.

This map uplifts overlooked communities in southeast NM by affording them an opportunity to be heard. In both Roswell in particular, but also in in Hobbs, we heard about the harsh economic realities facing workers and their families from communities located in and on the periphery of the Permian Basin. The challenges facing this region have enormous ripple effects, impacting the entire state economically and environmentally. Yet two-thirds of our congressional delegation is not much engaged with these constituencies. This map addresses this concern by ensuring that the entire NM congressional delegation hears the voices of these impacted communities:

Chaves, Guadalupe, DeBaca, Lincoln counties join CD1.

Roosevelt County, which is currently split between CD2 and CD3 will go entirely into CD3. In this map, Lea County in the farthest corner of the state will have the ear of the representatives of both CD2 and CD3.

Recognizing common concerns and values: Bernalillo County's South Valley becomes part of CD2:



This map recognizes a common cultural, demographic and economic affinity of interests between the Mesilla Valley and Las Cruces in Doña Ana County and the South Valley in Bernalillo County.

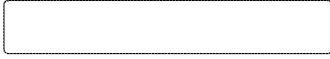
The 2020 Census identifies South Valley as a “Census Designated Town”, ranking it as the 10th largest town in New Mexico, just ahead of Carlsbad, Alamogordo, Gallup, Sunland Park and Chaparral. This map affords long overdue recognition of this fact, precisely because South Valley possesses a unique character and culture. We heard this expressed often in public testimony and community conversations. Indeed, there is clear evidence that for decades South Valley has resisted being swallowed up into the Greater Albuquerque-Rio Rancho metroplex. Twice since 2000, its residents have gone to the ballot box and overwhelmingly defeated ballot initiatives aimed at bringing their South Valley under the control of a centralized unitary city-county government.

In testimony and in community meetings, we heard it expressed that in so many ways the South Valley has more in common with the Mesilla Valley. They have more in common with each other than the lower Rio Grande valley has with eastern NM. Doña Ana County’s population is almost 70% Hispanic, yet as has been demonstrated, the current configurations of CD2 ensures that their voices largely go unheard and under-represented. This map attempts to address these nagging racial equity concerns. This map brings these two areas together in CD2.

Similar concerns have been heard from residents of southwestern New Mexico. Communities in the Gila River watershed are quite different culturally and economically from those in the Permian

Basin. The new CD2 configuration in this map makes more sense to them as well.

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**STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT**

REPUBLICAN PARTY OF NEW MEXICO,  
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Mexico, HOWIE MORALES as New Mexico  
Lieutenant Governor and President of the  
New Mexico Senate, MIMI STEWART as  
President Pro Tempore of the New Mexico  
Senate, and JAVIER MARTINEZ as Speaker  
of the House of Representatives,

Defendants.

**DECLARATION OF MATTHEW HENDERSON**

I, Matthew Henderson state as follows:

1. I am of legal age and competent to testify in court. I have personal knowledge of the facts stated herein. I could and would testify to these facts in a court of law if asked to do so.
2. I am the Executive Director of Olé Education Fund.
3. Olé Education Fund is a nonpartisan, nonprofit advocacy organization that provides educational training programs to community organizers, promotes policies and programs that

empower low-income New Mexicans, and provides resources and programs to low-income individuals and communities.

4. Olé Education Fund is a member of the NM Civic Engagement Table, and was part of the People's Map Coalition during the redistricting process.

5. Olé Education Fund's participation in the Coalition was critical to the nonpartisan advocacy Olé Education Fund engaged in around redistricting. This participation included confidential meetings regarding the formulation of strategy and messaging related to the redistricting campaign, including discussion of policy issues, recruitment efforts, and political strategy.

6. Olé Education Fund frequently has meetings like these outside of the redistricting context as a part of the NM Civic Engagement Table, to discuss pending legislation, whether to engage in the legislative process with respect to particular legislation, whether to lobby the Legislature on legislation, and other aspects regarding the legislative process with respect to which Olé Education Fund has an interest.

7. These meetings are not open to the public and information discussed during these meetings is confidential.

8. I understand that Plaintiffs in this case are seeking deposition testimony and documents that would reveal confidential information and communications from these confidential meetings regarding policy issues, recruitment efforts, and advocacy strategy.

9. These documents and communications would contain candid opinions and discussion from myself, on behalf of Olé Education Fund, and the other members of the Coalition, regarding the formulation of strategy and messaging related to advocacy campaigns and policy

issues; documents regarding the allocation of resources for expenditures and community engagement activities; drafts of press releases and other communications; documents regarding the recruitment and training of volunteers; communications regarding media outreach and information for reporters; and discussions of current events and political developments, including SB 1 and other redistricting legislation that is not at issue in this case.

10. Part of the reason Olé Education Fund participates in the NM Civic Engagement Table and, during redistricting, participated in the People's Map Coalition, is an understanding that this coalition promotes the interests of the historically excluded populations at the heart of Olé Education Fund's work, and I and other Olé Education Fund employees can express our thoughts and concerns in a confidential manner.

11. I communicate with CCP, and with the NM Civic Engagement Table, regarding advocacy and policy issues because I have the confidence that those matters will remain confidential and that encourages me to have a full and frank discussion of those issues.

12. The confidentiality of the discussions is vital in order to have full and frank discussions regarding supporting or opposing public policy matters and discussing the merits of both. If that information is released, I will no longer participate in meetings of the NM Civic Engagement Table to discuss whether to engage in the political process, and no longer engage in such political activity with CCP or the NM Civic Engagement Table for fear of reprisal from a variety of sources, including the New Mexico Legislature, and political opponents who have historically opposed the advocacy Olé Education Fund performs.

13. As the Executive Director of Olé Education Fund, I regularly interact with New Mexico elected officials with respect to policy matters that interest Olé Education Fund.

14. Various elected officials and public entities (such as the State Legislature and the New Mexico Federal Delegation) enact policies that govern the work Olé Education Fund does and has profound impacts on the historically excluded populations for which Olé Education Fund advocates. If confidential information is released regarding comments about various New Mexico government officials, I have serious concerns that Olé Education Fund's ability to do its work would suffer as a result of that information.

15. If the confidential information sought by Plaintiffs is released I will not be able to engage in confidential discussions with CCP, and on Olé Education Fund's behalf with the NM Civic Engagement Table, regarding public policy, advocacy strategy, and critical issues like redistricting, and I would not be able to offer candid thoughts about advocacy strategy and messaging in the future. I will be required to seriously consider limiting Olé Education Fund involvement with CCP and the NM Civic Engagement Table and Olé Education Fund's efforts to collaborate on advocacy strategies will be deterred for fear that our collaborative efforts will be subject to future public disclosure.

16. Disclosing the confidential information sought in Plaintiffs' subpoena will also significantly harm Olé Education Fund's ability to recruit volunteers, allies, and others to participate in political activities protected by the First Amendment. These volunteers and others routinely participate in confidential communications related to sensitive advocacy-related topics and reasonably believed that these communications would remain confidential. Disclosure of such communications would provide a disincentive for volunteers to participate in advocacy activities and undoubtedly lead to lower levels of participation in such activities with Olé Education Fund's in the future.

I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct.

EXECUTED this 17<sup>th</sup> day of August, 2023.



A handwritten signature in black ink, appearing to be 'M. S. 2', is written above a solid horizontal line.

**STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT**

REPUBLICAN PARTY OF NEW MEXICO,  
DAVID GALLEGOS, TIMOTHY  
JENNINGS, DINAH VARGAS, MANUEL  
GONZALES, JR., BOBBY AND DEANN  
KIMBRO, and PEARL GARCIA,

Plaintiffs,

v.

Cause No. D-506-CV-2022-00041

MAGGIE TOULOUSE OLIVER as New  
Mexico Secretary of State, MICHELLE  
LUJAN GRISHAM as Governor of New  
Mexico, HOWIE MORALES as New Mexico  
Lieutenant Governor and President of the  
New Mexico Senate, MIMI STEWART as  
President Pro Tempore of the New Mexico  
Senate, and JAVIER MARTINEZ as Speaker  
of the House of Representatives,

Defendants.

**DECLARATION OF JOSUE LUNA NAVARRO**

I, Josué Luna Navarro, state as follows:

1. I am of legal age and competent to testify in court. I have personal knowledge of the facts stated herein. I could and would testify to these facts in a court of law if asked to do so.
2. I am a private citizen who is concerned about issues impacting historically excluded populations in New Mexico, and wants engage in political advocacy that reflects my beliefs.
3. During the 2021 redistricting process I provided testimony before the Citizens Redistricting Committee in support of Map Concept H, the People's Power Map.
4. This was my first time testifying before a state committee on redistricting issues.



5. The Center for Civic Policy (“CCP”) helped me understand how to effectively advocate for my political beliefs and participate in the redistricting process.

6. I communicated with CCP regarding my political and policy beliefs because I had the confidence that those matters would remain confidential and that encouraged me to have a full, candid and frank discussion of those issues.

7. I understand that Plaintiffs in this case are seeking deposition testimony and documents that could reveal my confidential information and communications.

8. The confidentiality of my discussions with CCP was vital in order to have full and frank discussions. If that information is released, I will no longer engage in such political activity with CCP for fear of reprisal from a variety of sources, including the New Mexico Legislature.

9. Elected officials and public entities in New Mexico (such as the State Legislature and the New Mexico Federal Delegation) enact policies that have profound impacts on my life. If confidential information is released regarding comments about various New Mexico government officials, I have serious concerns that I would suffer a negative consequence as a result of that information.

10. If the confidential information sought by Plaintiffs is released I will not volunteer with, or engage in political advocacy or discussions with, CCP, and I will seriously reconsider becoming involved political issues, in the future.

I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct.

EXECUTED this 18<sup>th</sup> day of August, 2023.

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be the name of the declarant.