

**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 DEE ANN KIMBRO, and
PEARL GARCIA,**

Plaintiffs,

v.

Cause 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.

**EMERGENCY MOTION TO QUASH TRIAL SUBPOENAS ISSUED TO
LEGISLATORS AND STAFF AND FOR PROTECTIVE ORDER**

COME NOW Legislative Defendants 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, and Non-Party Legislators Senator Joseph Cervantes, Senator Peter Wirth, Former Speaker Brian Egolf, and pursuant to Article IV, Section 13 of the New Mexico Constitution, respectfully move the Court on an emergency basis to quash the trial subpoenas issued by Plaintiffs on September 20, 2023 to Sen. Stewart, Sen. Cervantes, Sen. Wirth, Mr. Egolf, and legislative staff member Leanne Leith for their appearance at trial on September 27, 2023 and production of documents 48 hours before then.

A Request for Emergency Hearing is filed with this Motion. As grounds for this Emergency Motion, movants state as follows:

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiffs' strategy throughout the discovery period and now as trial looms is to mount a head-on assault on the New Mexico Constitution's Speech and Debate Clause, which affords our state's legislators an absolute privilege against being questioned "for any speech or debate or for any vote cast in either house." N.M. Const. art. IV, § 13. Plaintiffs began their full-scale attack by subpoenaing the personal email and text message communications of more than 70 legislators. They then began subpoenaing individual legislators for depositions and targeting legislative staff members and legislative consultants for their documents and testimony. Plaintiffs continued these tactics even after counsel for the Legislative Defendants and Non-Party Legislators had moved to quash those subpoenas and for protective orders, based on ample case law from jurisdictions throughout the country holding that Speech and Debate Clauses like New Mexico's afford legislators—and those acting on their behalf—a broad and absolute privilege against disclosure of legislative acts and communications, including the motivation for those acts. *See* Part II, Factual and Procedural History, *infra*. Plaintiffs have yet to come forward with any applicable legal authorities that would allow this Court to arrive at a different conclusion.

Despite all this, Plaintiffs have now issued trial subpoenas for testimony and documents to Sen. Stewart, Sen. Cervantes, Sen. Wirth, Mr. Egolf, and legislative staff member Leanne Leith.¹ The document requests contained in these trial subpoenas are virtually identical to those

¹ As of this writing, undersigned counsel do not know whether these subpoenaed individuals have been validly served with the subject subpoenas. This Emergency Motion is being filed proactively,

Plaintiffs already issued to these same individuals on multiple prior occasions, when Plaintiffs issued document subpoenas, notices of deposition duces tecum, written discovery, and then deposition subpoenas duces tecum.² Besides constituting an abuse of the subpoena power, by subpoenaing the same items over and over again after motions asserting privilege have been filed, Plaintiffs' tactic underscores that the information they seek goes to the heart of the legislative privilege, by asking these individuals to disclose their thoughts, communications and opinions about legislation as it was being developed, debated and voted on.

Perhaps even more troubling than Plaintiffs' wholesale disregard for a constitutional privilege is the fact that their antics are a completely unnecessary sideshow that has nothing to do with their ability to put on their case. New Mexico law is clear that the thoughts, opinions and motivations of individual lawmakers are not relevant for purposes of discerning legislative intent. And neither Justice Kagan's dissent in *Rucho* nor the New Mexico Supreme Court's Amended Order in this case suggest that information protected by the legislative privilege is relevant or required to prove the "intent" element of the test for egregious partisan gerrymandering. Tellingly, Plaintiffs have already announced in their submissions to this Court that they already have ample evidence of legislative intent to prove up their claims—without having deposed any legislators or forced them to disclose privileged communications. Indeed, Plaintiffs contend that several legislators' non-privileged public comments about congressional redistricting already constitute "smoking gun" evidence of an egregious partisan gerrymander.

without waiver of any issues relating to service of the same, based on the notice provided by Plaintiffs' having emailed copies of the trial subpoenas to counsel on September 20, 2023.

² See Plaintiffs' *Certificate of Service* filed Aug. 5, 2023 (document subpoenas, requests for production); see also Plaintiffs' *Amended Certificate of Service* filed Aug. 10, 2023 (notices of deposition); Plaintiffs' *Certificate of Service* filed Aug. 16, 2023 (request for production); see also Aug. 29, 2023 Subpoena for Deposition and Documents to Leanne Leith.

It is thus all too clear that Plaintiffs' continual harassment of these legislators and staff member with subpoena after subpoena is designed to create theatrics and distract everyone—the Court included—from the real issues at hand.

Plaintiffs' decision to take this nuclear approach (after having initially promised a narrowly tailored, reasonable discovery practice) now runs the risk of derailing the already compressed timeframe of this case. Given the constitutional issues at play here—including application of a privilege enshrined in our Constitution, critical separation of powers issues, and the functioning of the Legislature as an institution—if the legislative privilege is not enforced, the Legislative Defendants will have no choice but to ask the New Mexico Supreme Court to decide this issue (and stay the proceedings in this Court) on an emergency basis before any holder of the legislative privilege is compelled to produce documents or testify at trial or otherwise. Again, the evidence Plaintiffs seek is—by their own admission and pursuant to established case law—not relevant and not necessary to their case. But if Plaintiffs persist in forcing this issue, it will have the unfortunate result of letting the sideshow take over the trial and determination of the real and substantive issues that matter in this case.

For all the reasons stated herein and in the previous five (5) fully briefed motions to quash on the basis of legislative privilege, the movants respectfully urge this Court to quash these subpoenas in full, enter a protective order, and such other and further relief the Court deems appropriate.

II. FACTUAL AND PROCEDURAL HISTORY

1. On or about July 29, 2023, Plaintiffs issued document subpoenas to seventy-four (74) members of the New Mexico Legislature, seeking their emails and text messages directly related to legislative activity. On August 8, 2023, the Legislative Defendants and all the Non-

Party Legislators who were issued those subpoenas timely moved to quash them on legislative privilege and other grounds. *See Motion to Quash Subpoenas to 74 Non-Party Legislators and for Protective Order*, filed August 8, 2023 (the “First Motion to Quash”). The arguments and authorities presented in the First Motion to Quash are hereby incorporated by reference as if fully set forth herein.

2. On or about August 2, 2023, Plaintiffs issued a document subpoena to legislative staff Leith (among others), again seeking production of documents and communications squarely protected by the legislative privilege. On August 14, 2023, the Legislative Defendants timely moved to quash that subpoena, based on well-established United States Supreme Court precedent applying the legislative privilege to legislative staff performing legislative functions. *See Legislative Defendants’ Motion to Quash Subpoenas Served on Legislative Staff and Consultants*, filed August 14, 2023 (the “Second Motion to Quash”). The arguments and authorities presented in the Second Motion to Quash, and the facts presented regarding Ms. Leith’s employment and legislative functions, are hereby incorporated by reference as if fully set forth herein.

3. On or about August 10, 2023, Plaintiffs issued new deposition notices and subpoenas for six (6) current and former members of the New Mexico Legislature. On August 16, 2023, the Legislative Defendants moved for a protective order and to quash those subpoenas on legislative privilege grounds. *See Legislative Defendants’ Motion to Quash Subpoenas for Deposition and for Protective Order*, filed August 16, 2023 (the “Third Motion to Quash”). The arguments and authorities presented in the Third Motion to Quash are hereby incorporated by reference as if fully set forth herein.

4. On August 29, 2023, Plaintiffs issued a subpoena to legislative staff member Leith for a deposition on September 12, 2023. The deposition subpoena includes the same document

requests that Plaintiffs included in their previous document subpoena to Ms. Leith, which is the subject of the pending Second Motion to Quash. On September 5, 2023, the Legislative Defendants moved to quash the deposition subpoena issued to Ms. Leith. *See Legislative Defendants' Motion to Quash Deposition Subpoena to Legislative Staffer and for Protective Order*, filed Sept. 5, 2023 (the "Fourth Motion to Quash").

5. Also on August 29, 2023, Plaintiffs served document subpoenas on two former members of the Citizens Redistricting Committee ("CRC"), demanding that they produce communications with legislators that were already the subject of the aforementioned First and Second Motions to Quash. On September 11, 2023, the Legislative Defendants moved to quash the CRC member subpoenas. *See Legislative Defendants' Motion to Quash Document Subpoenas to Non-Parties Lisa Curtis and Michael Sanchez*, filed Sept. 11, 2023 ("Fifth Motion to Quash").

6. On September 20, 2023 (exactly one week before trial), Plaintiffs' counsel emailed undersigned counsel copies of trial subpoenas issued to Sen. Stewart, Sen. Cervantes, Sen. Wirth, Mr. Egolf, and legislative staff Leanne Leith. See Exhibits A, B, C, D, and E, attached hereto. Each subpoena commands attendance at trial in Lovington, New Mexico, starting on September 27, 2023 at 9:00 a.m. and demands production of documents 48 hours before trial. *Id.*

7. The subpoena states "The documents commanded by the previous subpoena served on you should be produced at least 48 hours before the beginning of trial. These documents are being re-requested here and are listed in the attached Exhibit A." *Id.* Just like the previous document and deposition subpoenas Plaintiffs served on these individuals, the requests here require extensive searches of multiple email accounts, as well as cell phone text messages, and in some cases, Plaintiffs demand that individuals create or obtain from third parties "cell phone call logs." *Id.*

8. Rule 1-045(C) NMRA instructs that the Court “shall quash or modify [a] subpoena if it...requires disclosure of privileged or other protected matter and no exception or waiver applies” or if it “subjects a person to undue burden.” Rule 1-45(C)(iii) and (iv) NMRA.

9. For all the reasons stated in the First, Second, Third, Fourth and Fifth Motions to Quash, the trial subpoenas (and document requests included therein) should likewise be quashed.

III. ARGUMENT

A. The Documents and Testimony Sought by these Subpoenas are Protected by the Legislative Privilege under Article IV, Section 13 of the New Mexico Constitution.

Because New Mexico’s legislative privilege has been thoroughly briefed for the Court now in multiple motions, the Legislative Defendants and Non-Party Legislators expressly incorporate by reference herein and rely upon the arguments and authorities presented in their First, Second, Third, Fourth and Fifth Motions to Quash, *see supra* ¶¶ 1-5. Those Motions show that every state court to have construed a constitutional provision similar to New Mexico’s Speech and Debate Clause has determined that the legislative privilege afforded by such a provision is absolute, extends to all matters within the legislature’s jurisdiction, and applies with equal force to legislative staff and consultants who act on a legislator’s behalf. In response to those Motions, Plaintiffs misdirected the Court to inapposite case law and provided no basis for the Court to compel the disclosures Plaintiffs seek. For all the same reasons, the trial subpoenas should be quashed as well.

B. The Document Requests Contained in the Subpoenas are Grossly Overbroad and Unduly Burdensome.

Just like their document subpoenas and their deposition subpoenas, Plaintiffs’ trial subpoenas contain extensive, overbroad and extremely burdensome document requests that would require these individuals to search multiple email accounts and text messages going back

at least two years (sometimes more) for dozens if not hundreds of key words and phrases. In addition to seeking each individual's communications, views and opinions about congressional redistricting and the development of SB-1 in particular, the subpoenas include requests for documents "extending back as far as you have been a Member of the Legislature and forward to the present day," for example, and for all text messages (regardless of subject matter) that were "sent or received by you between December 7, 2021 and December 11, 2021 and were sent to at least one individual who is not either yourself or an immediate family member of yours." The Legislative Defendants briefed these issues of overbreadth and burdensomeness in the previous Motions, see especially First Motion to Quash at pp. 11-14, which are incorporated as if fully set forth herein. All those same arguments apply here, and with even greater force, as now Plaintiffs have demanded production of documents within less than 5 calendar days. See Ex. A-E (subpoenas issued on September 20, 2023, demanding production of documents 48 hours before a trial set to commence on September 27, 2023).

C. The Testimony and Documents Sought are Not Relevant to Plaintiffs' Case.

As set forth in the Legislative Defendants' recently filed Proposed and Annotated Findings of Fact and Conclusions of Law, the thoughts, opinions and personal motivations of individual legislators are not relevant to determining the legislative intent behind a statute or other piece of legislation. Accordingly, in addition to seeking information that is protected by the legislative privilege, and propounding grossly overbroad and burdensome document requests, the subpoenas should be quashed because they seek evidence not relevant to the issues before the Court.

When reviewing legislation, the Court's "guiding principle is to determine and give effect to legislative intent." *Albuquerque Bernalillo Cnty. Water Util. Auth. v. N.M. Pub. Regul. Comm'n*, 2010-NMSC-013, ¶ 52, 148 N.M. 21, 229 P.3d 494. "In New Mexico, legislative

intent must be determined primarily by the *legislation itself*.” *U.S. Brewers Ass’n, Inc. v. Dir. of the New Mexico Dept. of Alcoholic Beverage Control*, 1983-NMSC-059, ¶ 10, 100 N.M. 216, 219, 668 P.2d 1093, 1096 (emphasis in original); *Badilla v. Wal-Mart Stores E. Inc.*, 2015-NMSC-029, ¶ 12, 357 P.3d 936 (“To discern the Legislature’s intent, the Court looks first to the plain language of the statute.”).

To prove a constitutional violation for discriminatory intent, Plaintiffs must show that that the predominant, invidious partisan intent rises to the level of “mak[ing] the political system systematically unresponsive to a particular segment of the voters based on their political preference.” *Whitford v. Gill*, 218 F. Supp. 3d 837, 909 (W.D. Wis. 2016), *vacated and remanded*, *Gill v. Whitford*, 138 S. Ct. 1916, 201 L. Ed. 2d 313 (2018). Statements of legislators after the passage of legislation are inadmissible to determine the intent of the legislative body at the time of enactment. *Whitely v. New Mexico State Pers. Bd.*, 1993-NMSC-019, ¶ 16, 115 N.M. 308, 313, 850 P.2d 1011, 1016. “[T]he views of individual legislators are not controlling ...because the sovereign authority of the legislature is instilled in the representative body, not its individual members.” *Id.* ¶ 17.

The Legislature speaks and demonstrates its intent as a body through its vote. *See Brewers Ass’n, Inc.* 1983-NMSC-059, ¶¶ 8 & 9 (viewing testimony of individual legislators as “incompetent” evidence of intent of the legislative body because “that body speaks solely through its concerted action as shown by its vote.”) (quoting *Haynes v. Caporal*, 571 P.2d 430, 434 (Okla.1977)); *Cf. Fann v. Kemp in & for Cnty. of Maricopa*, 253 Ariz. 537, 547, 515 P.3d 1275, 1285 (2022) (in review of legislation, court looks to action and effect of the legislation as a whole, not to legislator’s individual motive). “The sponsoring legislator’s motives or communications with staff are not probed - or even considered relevant; after all, it is the body,

not the individual legislator, that ultimately adopts legislation.” *Matter of 2022 Legislative Districting of State*, 481 Md. 507, 590, 282 A.3d 147, 197 (2022). *See also id.* at 196-97 (describing past redistricting decisions which “analyzed the plan in question in the same manner that this Court typically analyzes other pieces of legislation - looking to the actual terms of the plan and at the effect of the plan and any alternative plans offered by challengers, without inquiry into the specific motives of any individual drafter.”).

IV. CONCLUSION

For the above reasons and those set forth in the First, Second, Third, Fourth and Fifth Motions to Quash, application of Article IV, Section 13 of the New Mexico Constitution and Rules 1-045 and 1-026 NMRA 2023 requires this Court quash the trial subpoenas issued to Sen. Stewart, Sen. Cervantes, Sen. Wirth, Former Speaker Egolf, and legislative staff Leanne Leith in their entirety and enter a Protective Order, and for any further relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that as of September 21, 2023, I caused a true and correct copy of the foregoing motion to be e-mailed to all parties or counsel of record as follows and caused a copy of the motion and this Certificate of Service to be filed electronically through the Tyler Tech System, which caused all parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Sara N. Sanchez
Sara N. Sanchez

EXHIBIT A

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 [**X**] TRIAL

TO: Brian Egolf
761 Calle Picacho
Santa Fe, NM 87505

YOU ARE HEREBY COMMANDED TO APPEAR as follows:

Place: Lea County Judicial Complex, Courtroom 402
100 North Love Street
Lovington, NM 88260

Date: September 27, 2023 Time: 9:00 a.m. (Mountain Time)
*(Your obligation to be present
continues through the 3-day setting.)*

to

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

[**X**] testify at trial.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

The documents commanded by the previous subpoena served on you should be produced at least 48 hours before the beginning of trial. These documents are being re-requested here and are listed in the attached **Exhibit A**.

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment. Pursuant to Rule 1-032(A)(3)(c) NMRA, the Plaintiffs intend to use this deposition at trial.

September 20, 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

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. 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.

EXHIBIT A

This subpoena requests certain emails and text messages. The email searches requested below can be conducted using the search function of most common email clients and websites. All date ranges are ‘inclusive,’ meaning a range of “January 1 to 7” includes messages sent on the 1st, as well as those sent on the 7th. If an email account does not support the ‘asterisk’ Boolean operator, please run separate searches for all permutations of the word listed in the Merriam-Webster free online dictionary, as well as the possessive form of the word. Please ensure that all searches are non-case sensitive (*e.g.*, a search for “GOP” should capture “GOP”, “gop”, and “Gop”). An email is sent “to” a person if that person is listed in any of the “TO,” “CC,” or “BCC” fields. Although this subpoena requests production of emails from all accounts to which you have access, you need not conduct all searches across all accounts if you know to a certainty there will be no relevant and responsive emails in a given account.

Once a search is conducted, the easiest way to separate the responsive emails for production is typically to ‘select all’ emails shown as responsive to the search (using Control + A in an application like Outlook, or clicking the select-all checkbox at the top-left of the results in an online interface like Gmail) and then save the selected emails in a folder in their native format (usually .pst, .ost, or .eml). Printing the emails to .pdf files is also acceptable, but please ensure that attachments are also opened, printed to .pdf, and produced along with the email itself.

Emails

Please produce all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — in the time period:

- (1) beginning January 21, 2022 and extending to the date of service of this subpoena, and that either:
 - (a) are captured by one or more of the following searches conducted on all emails (including the attachments thereto):
 - (i) searches for emails that contain *either* of the following terms: the Boolean search term Gerrymander* or “D-506-CV-2022-00041”; and/or

- (ii) searches for emails that contain *both* the term “Lawsuit” *and* one or more of the following Boolean search terms: Republican*, RPNM*, GOP*; or
 - (b) were sent by you to any person who is not a Member or staffer of the Legislature (regardless of whether one or more Members/staffers were also recipients of the same email), and that mentions *both* the redistricted congressional map (whether by the name “S.B. 1,” “the new map,” “the redrawn district,” or any other clearly discernible reference) *and* the prospects for Democratic Party victory in the 2022 CD 2 race (whether framed as a numerical partisan advantage, a prediction regarding Yvette Herrell’s ability to retain the seat, a discussion of Gabe Vasquez’s campaign or odds of success, etc.);
- (2) beginning December 1, 2021 and ending December 18, 2021, and that contain one or more of the following: “S.B.1”, “SB1”, “S.B. 1”, “SB 1”, “Senate Bill 1”, “Concept H”, “Concept E”, “CCP Map”, “People’s Map”, “Center for Civic”, “Chavez’ Map”, “Chavez’s Map”, “CD”, “C.D.”, “CD2”, “SJC Sub”, “Southern Congressional”, “Second Congressional”, “Gerrymander”, “Gerrymandering”, “Majority-Minority”, “Hispanic”, “Yvette”, and/or “Herrell”;
- (3) beginning July 1, 2021 and ending December 18, 2021, and that were sent by or to any one or more of the following individuals: Joseph Cervantes, Lisa Curtis, Kyra Ellis-Moore, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Georgene Louis, Michael Sanchez (the former state senator), Oriana Sandoval, Melanie Stansbury, Peter Wirth, and/or any person you know to have been retained or employed by any Democratic party, caucus, or campaign committee (at any level of government) to serve as a consultant, demographer, or expert on the 2021 New Mexico congressional-redistricting bill (N.B.: You may exclude from your production messages with Ms. Leith, Ms. Louis, and Governor Lujan Grisham that are *wholly unrelated in every way* to redistricting.);

- (4) extending back as far as you have been a Member of the Legislature and forward to the present day,¹ and that are not captured by the searches outlined above, but which you recall (after committing a reasonable amount of thought) sending/receiving and which relate to one or more of the following subject matters:
- (a) any discussion or mention of how the 2021 redistricting process would affect the partisan composition of New Mexico's congressional delegation, including any supposition about the then-Congresswoman Herrell's electoral prospects, that pre-dates S.B. 1 being signed into law; and/or
 - (b) any views or opinions expressed on, or the results of any analysis conducted by, any non-New Mexico-based consultant, political operative, or political organization regarding any of the concept-maps adopted by the Citizen Redistricting Committee or proposed by any legislator, regardless of whether you were the direct recipient of these communications or were forwarded them or had them described to you second-or-more-hand (you may limit your response to views/opinions that were originally expressed, and analyses that were originally conducted, before December 17, 2021).

Text Messages

Please produce copies of all text messages (including SMS messages, iMessages, and other messages sent through the same cell-phone application as either or both of the foregoing) that:

- (A) were sent or received by you any time in 2021, and were between you and one or more of the following individuals: Lisa Curtis, Kyra Ellis-Moore, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Oriana Sandoval, and/or Melanie Stansbury;
- (B) were sent or received by you between November 1, 2021 and December 7, 2021, and were between you and one or more of the following individuals:

¹ In actuality the date ranges implicated are much narrower, given the topics described in ¶¶ (4)(a)-(c).

Joseph Cervantes, Mimi Stewart, Peter Wirth, Daniel Ivey-Soto, and/or
Georgene Louis; and/or

- (C) were sent or received by you between December 7, 2021 and December 11, 2021, and were sent to at least one individual who is not either yourself or an immediate family member of yours.

Screenshots are acceptable, but please produce these messages in a manner where the sender and parties to the messages, as well as the date and time of the messages, are visible. For each category (A)-(C) above, you may exclude from your production messages that are *wholly unrelated in every way* to redistricting, provided all messages within a week of the excluded message in the same conversation are likewise wholly unrelated.

RETURN FOR COMPLETION BY PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ____ day of September, 2023, in _____ County, I served this subpoena on Brian Egolf by delivering to the person named a copy of the subpoena, the statutory witness fee of \$190.00 and mileage in the amount of \$393 (*\$0.655/mile x 600 miles*).

Person making service

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2023 (date).

Judge, notary or other officer
authorized to administer oaths

My commission expires: _____
(*if notarized*)

THIS SUBPOENA issued by or at request of:

Carter B. Harrison IV
Name of attorney of party

924 Park Avenue SW
Albuquerque, NM 87102
Address

(505) 295 3261
Telephone

EXHIBIT B

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 [X] TRIAL

TO: Joseph Cervantes
5075 Wind Summit Place
Las Cruces, NM 88011

YOU ARE HEREBY COMMANDED TO APPEAR as follows:

Place: Lea County Judicial Complex, Courtroom 402
100 North Love Street
Lovington, NM 88260

Date: September 27, 2023 Time: 9:00 a.m. (Mountain Time)
*(Your obligation to be present
continues through the 3-day setting.)*

to

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

[**X**] testify at trial.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

The documents commanded by the previous subpoena served on you should be produced at least 48 hours before the beginning of trial. These documents are being re-requested here and are listed in the attached **Exhibit A**.

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment. Pursuant to Rule 1-032(A)(3)(c) NMRA, the Plaintiffs intend to use this deposition at trial.

September 20, 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

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. 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.

EXHIBIT A

This subpoena requests emails, text messages, and certain records obtainable from your cell-phone carrier. The email searches requested below can be conducted using the search function of most common email clients and websites. All date ranges are ‘inclusive,’ meaning a range of “January 1 to 7” includes messages sent on the 1st, as well as those sent on the 7th. If an email account does not support the ‘asterisk’ Boolean operator, please run separate searches for all permutations of the word listed in the Merriam-Webster free online dictionary, as well as the possessive form of the word. Please ensure that all searches are non-case sensitive (*e.g.*, a search for “GOP” should capture “GOP”, “gop”, and “Gop”). An email is sent “to” a person if that person is listed in any of the “TO,” “CC,” or “BCC” fields. Although this subpoena requests production of emails from all accounts to which you have access, you need not conduct all searches across all accounts if you know to a certainty there will be no relevant and responsive emails in a given account.

Once a search is conducted, the easiest way to separate the responsive emails for production is typically to ‘select all’ emails shown as responsive to the search (using Control + A in an application like Outlook, or clicking the select-all checkbox at the top-left of the results in an online interface like Gmail) and then save the selected emails in a folder in their native format (usually .pst, .ost, or .eml). Printing the emails to .pdf files is also acceptable, but please ensure that attachments are also opened, printed to .pdf, and produced along with the email itself.

Emails

Please produce all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — in the time period:

- (1) beginning January 21, 2022 and extending to the date of service of this subpoena, and that either:
 - (a) are captured by one or more of the following searches conducted on all emails (including the attachments thereto):
 - (i) searches for emails that contain *either* of the following terms: the Boolean search term Gerrymander* or “D-506-CV-2022-00041”; and/or

Ellis-Moore, Brian Egolf, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Michael Sanchez (the former state senator), Oriana Sandoval, Melanie Stansbury, Peter Wirth, and/or any person you know to have been retained or employed by any Democratic party, caucus, or campaign committee (at any level of government) to serve as a consultant, demographer, or expert on the 2021 New Mexico congressional-redistricting bill;

- (4) extending back as far as you have been a Member of the Legislature and forward to the present day,¹ and that are not captured by the searches outlined above, but which you recall (after committing a reasonable amount of thought) sending/receiving and which relate to one or more of the following subject matters:
- (a) any discussion or mention of how the 2021 redistricting process would affect the partisan composition of New Mexico's congressional delegation, including any supposition about the then-Congresswoman Herrell's electoral prospects, that pre-dates S.B. 1 being signed into law;
 - (b) any views or opinions expressed on, or the results of any analysis conducted by, any non-New Mexico-based consultant, political operative, or political organization regarding any of the concept-maps adopted by the Citizen Redistricting Committee or proposed by any legislator, regardless of whether you were the direct recipient of these communications or were forwarded them or had them described to you second-or-more-hand (you may limit your response to views/opinions that were originally expressed, and analyses that were originally conducted, before December 17, 2021); and/or
 - (c) any documents created before 2015 that either were written by you or quote you, and that broadly describe your goals for congressional redistricting generally, or for redistricting the Second Congressional District specifically, in past (pre-2020) redistricting cycles.

¹ In actuality the date ranges implicated are much narrower, given the topics described in ¶¶ (4)(a)-(c).

Text Messages

Please produce copies of all text messages (including SMS messages, iMessages, and other messages sent through the same cell-phone application as either or both of the foregoing) that:

- (A) were sent or received by you any time in 2021, and were between you and one or more of the following individuals: Lisa Curtis, Kyra Ellis-Moore, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Oriana Sandoval, and/or Melanie Stansbury;
- (B) were sent or received by you between November 1, 2021 and December 7, 2021, and were between you and one or more of the following individuals: Mimi Stewart, Peter Wirth, Brian Egolf, Daniel Ivey-Soto, and/or Georgene Louis; and/or
- (C) were sent or received by you between December 7, 2021 and December 11, 2021, and were sent to at least one individual who is not either yourself or an immediate family member of yours.

Screenshots are acceptable, but please produce these messages in a manner where the sender and parties to the messages, as well as the date and time of the messages, are visible. For each category (A)-(C) above, you may exclude from your production messages that are *wholly unrelated in every way* to redistricting, provided all messages within a week of the excluded message in the same conversation are likewise wholly unrelated.

Logs of Cell-Phone Communications

Please contact the carrier(s) for all cell phones that you use regularly (whether for personal, work, or legislative purposes) and produce logs of your phone calls and text messages over the period from November 1, 2021 to December 17, 2021. These logs should contain entries showing the phone number being communicated with and the date, time, and (for calls) duration of the communication; they should not show the content of text messages. Most carriers provide this information online to subscribers who login to the secure portion of the carrier's website; these logs can typically be exported to a .csv or .xls file (*i.e.*, an Excel spreadsheet). You may redact entries pertaining to communications with individuals you know in a exclusively personal capacity, who are your employer, employee, or co-worker, or with whom you have an attorney-client relationship.

RETURN FOR COMPLETION BY PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ____ day of September, 2023, in _____ County, I served this subpoena on Joseph Cervantes by delivering to the person named a copy of the subpoena, the statutory witness fee of \$190.00 and mileage in the amount of \$341 (*\$0.655/mile x 520 miles*).

Person making service

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2023 (date).

Judge, notary or other officer
authorized to administer oaths

My commission expires: _____
(if notarized)

THIS SUBPOENA issued by or at request of:

Carter B. Harrison IV
Name of attorney of party

924 Park Avenue SW
Albuquerque, NM 87102
Address

(505) 295 3261
Telephone

EXHIBIT C

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 [X] TRIAL

TO: Leanne Leith
333 Riverside Drive SW
Albuquerque, NM 87105

YOU ARE HEREBY COMMANDED TO APPEAR as follows:

Place: Lea County Judicial Complex, Courtroom 402
100 North Love Street
Lovington, NM 88260

Date: September 27, 2023 Time: 9:00 a.m. (Mountain Time)
*(Your obligation to be present
continues through the 3-day setting.)*

to

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

[**X**] testify at trial.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

The documents commanded by the previous subpoena served on you should be produced at least 48 hours before the beginning of trial. These documents are being re-requested here and are listed in the attached **Exhibit A**.

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment. Pursuant to Rule 1-032(A)(3)(c) NMRA, the Plaintiffs intend to use this deposition at trial.

September 20, 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

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. 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.

EXHIBIT A

Please produce all emails and text messages (including those in your personal, work, and/or campaign email account(s) and/or cell phone(s)) and other written communications (including hardcopy letters and memos, and messages sent through Facebook, Microsoft Teams, WhatsApp, Kik, etc.) that were sent by or to you in the year 2021 and that either:

- (1) were between you and any one or more of the following individuals (regardless of whether other individuals were also on the distribution list): Joseph Cervantes, Kyra Ellis-Moore, Brian Egolf, Dominic Gabello, Daniel Ivey-Soto, Teresa Leger Fernandez, Georgene Louis, Melanie Stansbury, Mimi Stewart, or Peter Wirth, or any person you know to have been specifically handling congressional-redistricting issues on behalf of any of the foregoing individuals; and/or
- (2) relate to the subject of congressional redistricting in New Mexico, including its predicted electoral effects in the 2022 election, regardless of who the communication is from or to; and/or
- (3) contain one or more of the following non-case-sensitive search terms: “Concept H”, “People’s Map,” “Concept E”, “S.B. 1”, “Senate Bill 1”, “Redistricting Committee”, “Yvette”, or “Herrell”.

RETURN FOR COMPLETION BY PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ____ day of September, 2023, in _____ County, I served this subpoena on Leanne Leith by delivering to the person named a copy of the subpoena, the statutory witness fee of \$190.00 and mileage in the amount of \$403 (*\$0.655/mile x 615 miles*).

Person making service

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2023 (date).

Judge, notary or other officer
authorized to administer oaths

My commission expires: _____
(if notarized)

THIS SUBPOENA issued by or at request of:

Carter B. Harrison IV
Name of attorney of party

924 Park Avenue SW
Albuquerque, NM 87102
Address

(505) 295 3261
Telephone

EXHIBIT D

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 [X] TRIAL

TO: Mimi Stewart
313 Moon Street NE
Albuquerque, NM 87123

YOU ARE HEREBY COMMANDED TO APPEAR as follows:

Place: Lea County Judicial Complex, Courtroom 402
100 North Love Street
Lovington, NM 88260

Date: September 27, 2023 Time: 9:00 a.m. (Mountain Time)
*(Your obligation to be present
continues through the 3-day setting.)*

to

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

[X] testify at trial.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

The documents requested from you during discovery in this case (and not produced) should be produced at least 48 hours before the beginning of trial. These documents are being re-requested here and are listed in the attached **Exhibit A**.

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment. Pursuant to Rule 1-032(A)(3)(c) NMRA, the Plaintiffs intend to use this deposition at trial.

September 20, 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

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. 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.

EXHIBIT A

Please produce electronic copies of all of the following documents:

- (1) all text messages (including SMS messages, iMessages, and other messages sent through the same cell-phone application as either or both of the foregoing) that were sent or received by you any time in 2021, and were between you and one or more of the following individuals: Lisa Curtis, Kyra Ellis-Moore, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Oriana Sandoval, and/or Melanie Stansbury;
- (2) all text messages (including SMS messages, iMessages, and other messages sent through the same cell-phone application as either or both of the foregoing) that were sent or received by you between November 1, 2021 and December 7, 2021, and were between you and one or more of the following individuals: Joseph Cervantes, Peter Wirth, Brian Egolf, Daniel Ivey-Soto, and/or Georgene Louis;
- (3) all text messages (including SMS messages, iMessages, and other messages sent through the same cell-phone application as either or both of the foregoing) that were sent or received by you between December 7, 2021 and December 11, 2021, and were sent to at least one individual who is not either yourself or an immediate family member of yours;
- (4) all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — in the time period beginning January 21, 2022 and extending to the date of service of this subpoena, and that are captured by one or more of the following searches conducted on all emails (including the attachments thereto):
 - (i) searches for emails that contain either of the following terms: the Boolean search term Gerrymander* or “D-506-CV-2022-00041”; and/or
 - (ii) searches for emails that contain both the term “Lawsuit” and one or more of the following Boolean search terms: Republican*, RPNM*, and/or GOP*;

- (5) all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — in the time period beginning January 21, 2022 and extending to the date of service of this subpoena (the same time period searched in the first topic in this Exhibit), and that were sent by you to any person who is not a Member or staffer of the Legislature (regardless of whether one or more Members/staffers were also recipients of the same email), and that mentions both the redistricted congressional map (whether by the name “S.B. 1,” “the new map,” “the redrawn district,” or any other clearly discernible reference) and the prospects for Democratic Party victory in the 2022 CD 2 race (whether framed as a numerical partisan advantage, a prediction regarding Yvette Herrell’s ability to retain the seat, a discussion of Gabe Vasquez’s campaign or odds of success, etc.);
- (6) all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — in the time period beginning December 1, 2021 and ending December 18, 2021, and that contain one or more of the following: “S.B.1”, “SB1”, “S.B. 1”, “SB 1”, “Senate Bill 1”, “Concept H”, “Concept E”, “CCP Map”, “People’s Map”, “Center for Civic”, “Chavez’ Map”, “Chavez’s Map”, “CD”, “C.D.”, “CD2”, “SJC Sub”, “Southern Congressional”, “Second Congressional”, “Gerrymander”, “Gerrymandering”, “Majority-Minority”, “Hispanic”, “Yvette”, and/or “Herrell”;
- (7) all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — in the time period beginning July 1, 2021 and ending December 18, 2021, and that were sent by or to any one or more of the following individuals: Joseph Cervantes, Lisa Curtis, Kyra Ellis-Moore, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Georgene Louis, Michael Sanchez (the former state senator), Oriana Sandoval, Melanie Stansbury, Peter Wirth, and/or any person you know to have been retained or employed by any Democratic party, caucus, or

campaign committee (at any level of government) to serve as a consultant, demographer, or expert on the 2021 New Mexico congressional-redistricting bill; and

- (8)** all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — that are not responsive to any of the previous topics in this Exhibit, but which you recall (after committing a reasonable amount of thought) sending/receiving and which relate to one or more of the following subject matters: (a) any discussion or mention of how the 2021 redistricting process would affect the partisan composition of New Mexico’s congressional delegation, including any supposition about the then-Congresswoman Herrell’s electoral prospects, that pre-dates S.B. 1 being signed into law; and/or (b) any views or opinions expressed on, or the results of any analysis conducted by, any non-New Mexico-based consultant, political operative, or political organization regarding any of the concept-maps adopted by the Citizen Redistricting Committee or proposed by any legislator, regardless of whether you were the direct recipient of these communications or were forwarded them or had them described to you second-or-more-hand (you may limit your response to views/opinions that were originally expressed, and analyses that were originally conducted, before December 17, 2021).

RETURN FOR COMPLETION BY PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ____ day of September, 2023, in _____ County, I served this subpoena on Mimi Stewart by delivering to the person named a copy of the subpoena, the statutory witness fee of \$190.00 and mileage in the amount of \$403 (*\$0.655/mile x 615 miles*).

Person making service

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2023 (date).

Judge, notary or other officer
authorized to administer oaths

My commission expires: _____
(if notarized)

THIS SUBPOENA issued by or at request of:

Carter B. Harrison IV
Name of attorney of party

924 Park Avenue SW
Albuquerque, NM 87102
Address

(505) 295 3261
Telephone

EXHIBIT E

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 [**X**] TRIAL

TO: Peter Wirth
1035 Camino De Cruz Blanca
Santa Fe, NM 87505

YOU ARE HEREBY COMMANDED TO APPEAR as follows:

Place: Lea County Judicial Complex, Courtroom 402
100 North Love Street
Lovington, NM 88260

Date: September 27, 2023 Time: 9:00 a.m. (Mountain Time)
*(Your obligation to be present
continues through the 3-day setting.)*

to

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

[**X**] testify at trial.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

The documents commanded by the previous subpoena served on you should be produced at least 48 hours before the beginning of trial. These documents are being re-requested here and are listed in the attached **Exhibit A**.

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment. Pursuant to Rule 1-032(A)(3)(c) NMRA, the Plaintiffs intend to use this deposition at trial.

September 20, 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

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. 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.

EXHIBIT A

This subpoena requests emails, text messages, and certain records obtainable from your cell-phone carrier. The email searches requested below can be conducted using the search function of most common email clients and websites. All date ranges are ‘inclusive,’ meaning a range of “January 1 to 7” includes messages sent on the 1st, as well as those sent on the 7th. If an email account does not support the ‘asterisk’ Boolean operator, please run separate searches for all permutations of the word listed in the Merriam-Webster free online dictionary, as well as the possessive form of the word. Please ensure that all searches are non-case sensitive (*e.g.*, a search for “GOP” should capture “GOP”, “gop”, and “Gop”). An email is sent “to” a person if that person is listed in any of the “TO,” “CC,” or “BCC” fields. Although this subpoena requests production of emails from all accounts to which you have access, you need not conduct all searches across all accounts if you know to a certainty there will be no relevant and responsive emails in a given account.

Once a search is conducted, the easiest way to separate the responsive emails for production is typically to ‘select all’ emails shown as responsive to the search (using Control + A in an application like Outlook, or clicking the select-all checkbox at the top-left of the results in an online interface like Gmail) and then save the selected emails in a folder in their native format (usually .pst, .ost, or .eml). Printing the emails to .pdf files is also acceptable, but please ensure that attachments are also opened, printed to .pdf, and produced along with the email itself.

Emails

Please produce all emails, including attachments thereto — including emails on which you were carbon-copied or blind carbon-copied, and including emails sent/received through your legislative email account, work email account(s), campaign account(s), and/or any personal account(s) — in the time period:

- (1) beginning January 21, 2022 and extending to the date of service of this subpoena, and that either:
 - (a) are captured by one or more of the following searches conducted on all emails (including the attachments thereto):
 - (i) searches for emails that contain *either* of the following terms: the Boolean search term Gerrymander* or “D-506-CV-2022-00041”; and/or

- (ii) searches for emails that contain *both* the term “Lawsuit” *and* one or more of the following Boolean search terms: Republican*, RPNM*, GOP*; or
 - (b) were sent by you to any person who is not a Member or staffer of the Legislature (regardless of whether one or more Members/staffers were also recipients of the same email), and that mentions *both* the redistricted congressional map (whether by the name “S.B. 1,” “the new map,” “the redrawn district,” or any other clearly discernible reference) *and* the prospects for Democratic Party victory in the 2022 CD 2 race (whether framed as a numerical partisan advantage, a prediction regarding Yvette Herrell’s ability to retain the seat, a discussion of Gabe Vasquez’s campaign or odds of success, etc.);
- (2) beginning December 1, 2021 and ending December 18, 2021, and that contain one or more of the following: “S.B.1”, “SB1”, “S.B. 1”, “SB 1”, “Senate Bill 1”, “Concept H”, “Concept E”, “CCP Map”, “People’s Map”, “Center for Civic”, “Chavez’ Map”, “Chavez’s Map”, “CD”, “C.D.”, “CD2”, “SJC Sub”, “Southern Congressional”, “Second Congressional”, “Gerrymander”, “Gerrymandering”, “Majority-Minority”, “Hispanic”, “Yvette”, and/or “Herrell”;
- (3) beginning July 1, 2021 and ending December 18, 2021, and that were sent by or to any one or more of the following individuals: Joseph Cervantes, Lisa Curtis, Kyra Ellis-Moore, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Georgene Louis, Michael Sanchez (the former state senator), Oriana Sandoval, Melanie Stansbury, Mimi Stewart, and/or any person you know to have been retained or employed by any Democratic party, caucus, or campaign committee (at any level of government) to serve as a consultant, demographer, or expert on the 2021 New Mexico congressional-redistricting bill (N.B.: You may exclude from your production messages that are *wholly unrelated in every way* to redistricting.);

- (4) extending back as far as you have been a Member of the Legislature and forward to the present day,¹ and that are not captured by the searches outlined above, but which you recall (after committing a reasonable amount of thought) sending/receiving and which relate to one or more of the following subject matters:
- (a) any discussion or mention of how the 2021 redistricting process would affect the partisan composition of New Mexico's congressional delegation, including any supposition about the then-Congresswoman Herrell's electoral prospects, that pre-dates S.B. 1 being signed into law; and/or
 - (b) any views or opinions expressed on, or the results of any analysis conducted by, any non-New Mexico-based consultant, political operative, or political organization regarding any of the concept-maps adopted by the Citizen Redistricting Committee or proposed by any legislator, regardless of whether you were the direct recipient of these communications or were forwarded them or had them described to you second-or-more-hand (you may limit your response to views/opinions that were originally expressed, and analyses that were originally conducted, before December 17, 2021).

Text Messages

Please produce copies of all text messages (including SMS messages, iMessages, and other messages sent through the same cell-phone application as either or both of the foregoing) that:

- (A) were sent or received by you any time in 2021, and were between you and one or more of the following individuals: Lisa Curtis, Kyra Ellis-Moore, Scott Forrester, Dominic Gabello, Teresa Leger Fernandez, Leanne Leith, Michelle Lujan Grisham, Oriana Sandoval, and/or Melanie Stansbury;
- (B) were sent or received by you between November 1, 2021 and December 7, 2021, and were between you and one or more of the following individuals:

¹ In actuality the date ranges implicated are much narrower, given the topics described in ¶¶ (4)(a)-(c).

Joseph Cervantes, Mimi Stewart, Brian Egolf, Daniel Ivey-Soto, and/or
Georgene Louis; and/or

- (C) were sent or received by you between December 7, 2021 and December 11, 2021, and were sent to at least one individual who is not either yourself or an immediate family member of yours.

Screenshots are acceptable, but please produce these messages in a manner where the sender and parties to the messages, as well as the date and time of the messages, are visible. For each category (A)-(C) above, you may exclude from your production messages that are *wholly unrelated in every way* to redistricting, provided all messages within a week of the excluded message in the same conversation are likewise wholly unrelated.

Logs of Cell-Phone Communications

Please contact the carrier(s) for all cell phones that you use regularly (whether for personal, work, or legislative purposes) and produce logs of your phone calls and text messages over the period from November 1, 2021 to December 17, 2021. These logs should contain entries showing the phone number being communicated with and the date, time, and (for calls) duration of the communication; they should not show the content of text messages. Most carriers provide this information online to subscribers who login to the secure portion of the carrier's website; these logs can typically be exported to a .csv or .xls file (*i.e.*, an Excel spreadsheet). You may redact entries pertaining to communications with individuals you know in a exclusively personal capacity, who are your employer, employee, or co-worker, or with whom you have an attorney-client relationship.

RETURN FOR COMPLETION BY PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ____ day of September, 2023, in _____ County, I served this subpoena on Peter Wirth by delivering to the person named a copy of the subpoena, the statutory witness fee of \$190.00 and mileage in the amount of \$393 (*\$0.655/mile x 600 miles*).

Person making service

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2023 (date).

Judge, notary or other officer
authorized to administer oaths

My commission expires: _____
(*if notarized*)

THIS SUBPOENA issued by or at request of:

Carter B. Harrison IV
Name of attorney of party

924 Park Avenue SW
Albuquerque, NM 87102
Address

(505) 295 3261
Telephone