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UNITED STATES DISCTRICT COURT
DISTRICT OF ARIZONA

Arizona Democratic Party, et al., Plaintiffs, v. Arizona Secretary of State's Office, et al., Defendants.	Case No. CV-16-01065-PHX-DLR **STATE DEFENDANTS' MOTION TO COMPEL PLAINTIFFS TO PRODUCE RELEVANT DOCUMENTS AND 30(b)(6) WITNESS**

Pursuant to Fed. R. Civ. P. 26(b)(5), 30(b)(6), and 37(a), (c), and (d), Defendants Michele Reagan and Mark Brnovich (collectively, the "State Defendants") hereby move for an order compelling Plaintiffs the Arizona Democratic Party (the "ADP" or the "Party"), the Democratic National Committee, and the Democratic Senatorial Campaign Committee (collectively, "Plaintiffs") to (1) disclose documents and information withheld for First Amendment reasons and (2) produce a witness or witnesses who are

adequately prepared to testify on certain topics outlined in the Rule 30(b)(6) Notice of Deposition of the Arizona Democratic Party. In addition, Plaintiffs should be required to pay the costs of the continued 30(b)(6) deposition. This Motion is supported by the following Memorandum of Points and Authorities.[1]

MEMORANDUM OF POINTS AND AUTHORITIES

Introduction

In this voting rights case, Plaintiffs have failed to produce documents and witnesses as required by the Federal Rules of Civil Procedure. Instead, they have inappropriately asserted that a First Amendment privilege permits them to withhold information that goes to the heart of their claims. By asserting that certain of Arizona's election laws and procedures disparately impact minority voters, Plaintiffs have placed demographic information about voters squarely in issue. Having done so, they cannot withhold from Defendants information within their possession, custody, and control that bears directly on Arizona voter demographics and the effect of the challenged laws on voters. *See Chevron Corp. v. Pennzoil Co.*, 974 F.2d 1156, 1162 (9th Cir. 1992) ("Where a party raises a claim which in fairness requires disclosure of the protected communication, the privilege may be implicitly waived."); *see also Bittaker v. Woodford*, 331 F.3d 715, 720 (9th Cir. 2003).

In addition to withholding documents on First Amendment grounds, Plaintiffs have failed to produce a Rule 30(b)(6) witness who has been adequately prepared to testify about ADP's knowledge of the demographics of its voters, voter turnout, voting patterns, and the effects of the challenged election laws on voters. Neither of the two witnesses that the ADP designated, the Chair of the Party and its former Voter Protection Director, has been able to testify in any detail about the foregoing topics. Instead, each referred to the other and a third witness, the ADP's Data Director, as the person who had

[1] Intervenor-Defendants have informed the State Defendants that they take no position on this Motion.

the requested information. Rule 30(b)(6) is designed specifically to prevent an organization from doing what the ADP has done here – *i.e.*, "shunt[ing] a discovering party from 'pillar to post' by presenting deponents who each disclaims knowledge of facts clearly known to someone in the organization." *Great Am. Ins. Co. of N.Y. v. Vegas Constr. Co., Inc.*, 251 F.R.D. 534, 538 (D. Nev. 2008) (quoting *Federal Deposit Ins. Corp. v. Butche*r, 116 F.R.D. 196, 199 (E.D.Tenn.1986)).

On June 6, 2017, during the deposition of the second ADP 30(B)(6) witness, this Court ordered Plaintiffs to produce the Data Director to testify. [Doc. 300 ("The Court further orders that plaintiffs shall produce the third 30(b)(6) witness who has been referred to in the second 30(b)(6) witness deposition."); Ex. A, June 6, 2017 Hr'g Tr. at 21:5-18] After the parties met and conferred, and the State Defendants pointed to the specific areas of testimony still needed, Plaintiffs took the position that they need not produce another witness and that they had met their obligations under Fed. R. Civ. P. 30(b)(6). [See Ex. B, June 12, 2017 email from S. Gonski][2] Despite taking the position that the 30(b)(6) deposition is complete, on June 22, 2017, Plaintiffs asked the Defendants to stipulate to submission of errata by the first 30(b)(6) witness. Specifically, ADP Chair Alexis Tameron seeks to change her testimony regarding turnout of Hispanic voters in the 2016 General Election so that it conforms to information on which Plaintiffs' experts relied. [*See* Ex. C, June 22, 2017 email from A. Callais] Defendants offered to allow Ms. Tameron to continue her deposition and supplement her testimony if the ADP would produce her and another witness with sufficient knowledge to answer the remaining questions, but Plaintiffs have not responded. [*See* Ex. D, June 23, 2017 email from J. LaRue]

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[2] Pursuant to Fed. R. Civ. P. 37(a)(1) and the Court's June 6 Order, the parties met and conferred on June 9, 2017, and exchanged email communications regarding the 30(b)(6) deposition and First Amendment Privilege issues on June 11 and 12, 2017. [*See* Ex. A, J]

Argument

I. Plaintiffs Cannot Withhold Relevant Documents on First Amendment Privilege Grounds.

Plaintiffs have improperly invoked a broad First Amendment privilege to shield from disclosure potentially important information that goes to the heart of this case. [*See* Ex. E-I, Plaintiff's 1st Amendment Privilege Logs] Plaintiffs have collectively produced multiple privilege logs describing thousands of documents. [*See id.*] Among those documents withheld on the basis of a broad First Amendment privilege are those that may include highly relevant demographic information.[3] Plaintiffs have indicated that the allegedly privileged documents contain "information that was clearly called in from election observers," information regarding "incidents that arose at the polls," and "information about individual voters." [Ex. J, June 12, 2017 email from J. Kaul] Plaintiffs attempt to withhold these documents, despite the fact that they brought this case on grounds that Arizona election laws and procedures disproportionately affect minority

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[3] Specifically, the State Defendants request the following documents described in their privilege logs. Ex. E, Plaintiff ADP's 1st Amendment Privilege Log: All documents described as "CD 7 Hispanic Crosstab," "RE: 2012 demographics," "Fwd: Data on Native Vote in Arizona," "RE: Precinct by precinct voter analysis," and "Fwd: Latino vote plan update;" Ex. F, Plaintiff ADP's 1st Amendment Privilege Log – Addendum: All documents described as "2012 Demographic Canvass Report," "2014 Post Election Analysis," "2012 Voted Report – Arizona," "Congressional District Voted Report 2012 (and 2014)," "County Voted Report 2012 (and 2014)," "Legislative District Voted Report 2012 (and 2014)," "AZ Early Ballot Report," and "HB 2305 Walk List;" Ex. G, Plaintiff ADP's 1st Amendment, Attorney-Client, and Work Product Privilege Log -Addendum 2: All documents described as "Incident Data;" Ex. H, Plaintiff ADP's 1st Amendment Privilege Log - Addendum 3: All documents described as "Incident Data;" and Ex. I, Plaintiff DNC's 1st Amendment Privilege Log Addendum: All documents described as "Incident Data," "General 2012 Voting Incidents," "Copy of General Voting Incidents," "LBJ Data," and "State Incident Data 2012." The State Defendants also request any additional documents not otherwise noted that include voter demographic information.

voters. Based on Plaintiffs' descriptions, these documents may go to the crux of their claims. Asserting a privilege over this information prevents the State Defendants from fully forming their defense in this case.

A. Plaintiffs Cannot Use the First Amendment Privilege as Both a Sword and a Shield.

Federal law prohibits a party from using a privilege "both as a sword and a shield." *See Chevron Corp.*, 974 F.2d at 1162; s*ee also Salazar v. Basic*, No. CV 05-283-TUC-FRZ, 2006 WL 3802094, at *5 (D. Ariz. Dec. 22, 2016) ("Plaintiffs cannot have their cake and eat it too."). Courts have applied this principle specifically in the First Amendment context. "Plaintiff is attempting to use the First Amendment simultaneously as a sword and a shield . . . . He cannot have it both ways." *Anderson v. Nixon*, 444 F. Supp. 1195, 1199 (D.D.C. 1978); *see also Driscoll v. Morris*, 111 F.R.D. 459, 463-64 (D. Conn. 1986) ("Thus, the plaintiff, by asserting a [First Amendment] privilege against disclosure, is attempting to use the shield of privilege as a sword to undermine the defendant's preparation of her defense.").

1. Plaintiffs May Not Use Relevant Data for Their Benefit While Shielding it From Other Parties.

A party may not withhold information after it raises a claim "which in fairness requires disclosure of the protected communication." *Chevron Corp.*, 974 F.2d at 1162. In those cases, "the privilege may be implicitly waived." *Id.*; *see also Bittaker*, 331 F.3d at 720 ("The court thus gives the holder of the privilege a choice: If you want to litigate this claim, then you must waive your privilege to the extent necessary to give your opponent a fair opportunity to defend against it."); *Driscoll*, 111 F.R.D. at 463-64 ("The party bearing the burden of proof, usually the plaintiff, cannot 'eat his cake and have it too,' 'have it both ways,' or 'stack the deck' against the defending party. Asserting a privilege under these circumstances unfairly prejudices the defendant's ability to prepare a defense and thwarts the chances of settlement." (internal citations omitted)).

Plaintiffs are challenging certain Arizona election laws and procedures on the

grounds that they disproportionately affect minority voters. [*See generally* Doc. 233, 2d Am. Compl.] Any information reflecting the impact of the challenged laws is relevant, if not crucial, to the outcome of this case. Plaintiffs have disclosed information regarding the impact on minority voters of the laws at issue through their expert reports. Having used that information as a sword to support their claims, Plaintiffs should not be allowed to withhold relevant (and potentially contradictory or inconsistent) information on the "shield" of First Amendment privilege. *See Driscoll*, 111 F.R.D. at 64 ("By strategically withholding information vital to the defense at the pretrial stage, the plaintiff who initiated this suit is attempting to have it both ways. This he cannot do."). The demographic and other information that Plaintiffs possess is relevant to central issues in the case: to what extent, if any, did the challenged laws and procedures impact minority voters? Plaintiffs cannot assert these claims, but then withhold the information about that impact that they alone possess. *See Chevron Corp.*, 974 F.2d at 1162; s*ee also Indep. Prods. Corp v. Loew's, Inc.*, 22 F.R.D. 266, 277 (S.D.N.Y.) ("Plaintiffs in this civil action have initiated the action and forced defendants into court. If plaintiffs had not brought the action, they would not have been called on to testify . . . . Defendants ought not be denied a possible defense because plaintiffs seek to invoke an alleged [First Amendment] privilege.").

2. Plaintiffs Have Already Disclosed the Information and Destroyed the Privilege.

Additionally, a fundamental feature of a privilege is that a party may not disclose information to an outside party, then subsequently claim that the material is privileged. In *Valle del Sol v. Whiting*, this Court held that documents shared by a party with the government could not also later be protected from disclosure by claiming a First Amendment privilege. No. CV-10-01061-PHX-SRB, 2013 WL 12098752, at *2-3 (D. Ariz. Dec. 11, 2013). The plaintiffs "argue[d] that they 'have a protected . . . right to communicate with Arizona officials on a matter of public concern without having to fear

forced disclosure from their records of communications sent on behalf of themselves and their members.'" *Id.* at *3. This Court disagreed, finding that plaintiffs "through their own actions, have already disclosed the contents of their communications to the public. As a result, upholding the subpoenas would not force Movants to disclose information that is otherwise secret." *Id*.

Plaintiffs have likewise waived any First Amendment privilege by disclosing the same or similar information noted in their privilege logs to the news media. A November 2, 2016 *Arizona Republic* article titled "What we know about Arizona early voting in 5 charts" provides voter data originating from the ADP. [Ex. K, Scharff Dep. Tr., at 85:10-19 & Ex. 4] The article states, "Here's a window into who has voted and where they live, as tabulated by Arizona's Democratic Party."[4] The article includes demographic voter information, including race-based figures ("Hispanics are a rising share of early voters"). Plaintiffs may not share this information only when convenient. *See Valle del Sol*, 2013 WL 12098752, at *2-3. Plaintiffs have waived First Amendment protection as it pertains to the data informing the *Arizona Republic* article. They must produce any documents that relate to this information.

3. This Court Has Previously Required Disclosure of this Type of Information in this Case.

Plaintiffs' attempt to withhold documents on First Amendment grounds also ignores this Court's July 18, 2016 ruling. During a telephonic conference regarding a discovery dispute, this Court rejected Intervenor-Defendant the Arizona Republican Party's request to limit the scope of 30(b)(6) testimony to exclude "research analysis, reports, studies, documents, communications, strategies, and information relating to voting patterns of Latinos and other minority populations in Arizona." [Ex. L, July 18,

[4] Spencer Scharff, one of the ADP's 30(b)(6) witnesses, was unable to confirm or deny if the ADP had, in fact, provided this information to the *Arizona Republic* and was uncertain who would have this information. [Ex. K, at 86:1-9]

2016 Hr'g Tr., at 17:18-18:2] Plaintiffs' counsel objected to this attempt to limit the record:

> It's our view that the voting patterns of minority voters are at the heart of this case. They're a central issue both in terms of figuring out whether these laws impose a disparate burden on minority voters, which is centrally relevant to the Voting Rights Act claim, and because they go to the question of whether there is racially polarized [voting], which is another central issue in assessing the totality of the circumstances here. So frankly, we don't understand the relevance objection at all with respect to this evidence.

[*Id.* at 18:19-19:3] The Court agreed, stating, "I think it is relevant. I think it's something that I will allow the 30(b)(6) deposition to go into, and so the objection to that is overruled." [*Id.* at 19:7-9] In 2016, this Court determined that the ARP's internal demographic information and strategy was a legitimate subject of discovery. Today, the Court should similarly reject Plaintiffs' claim of First Amendment privilege and require disclosure of the very type of information that Plaintiffs previously admitted was "central" to the case.

II. Plaintiffs Must Produce a Third Rule 30(b)(6) Witness Who Is Adequately Prepared to Testify.

In addition to the failure to produce the necessary documents, Plaintiffs have not produced a 30(b)(6) witness who has been adequately prepared to testify regarding the topics listed in the Notice of Deposition to the ADP. Instead, Plaintiffs have produced two witnesses who were not appropriately prepared, deferred to each other to answer many questions, and repeatedly referenced other individuals who were better suited to respond.

A. Rule 30(b)(6) Is Designed to Avoid Precisely this Situation.

An entity deposed under Fed. R. Civ. P. 30(b)(6) has "a duty to provide a witness who is knowledgeable in order to provide 'binding answers on behalf of the'" organization. *Great Am. Ins.*, 251 F.R.D. at 538. In response to a 30(b)(6) subpoena, an organization must provide one or more representatives to testify on its behalf, and these

individuals "must testify about information known or reasonably available to the organization." Fed. R. Civ. P. 30(b)(6). As the representative is testifying on behalf of the entire organization, the rule requires the witness be fully prepared to testify about any information reasonably known not only to herself, but also as to information known by the organization. *See Great Am. Ins.*, at 539 (quoting *Alliance v. D.C.*, 437 F. Supp. 2d 32, 37 (D.D.C. 2006)) ("By its very nature, a Rule 30(b)(6) deposition notice requires the responding party to prepare a designated representative so that he or she can testify on matters not only within his or her personal knowledge, but also on matters reasonably known by the responding entity."); *see also Doe v. Swift Transp. Co., Inc.*, 2:10-CV-00899-JWS, 2015 WL 11110892, at *2 (D. Ariz. Nov. 13, 2015) (clarifying that a witness for a 30(b)(6) deposition does not have to have personal knowledge in order to testify, as she is testifying on behalf of the organization about what the organization knows).

The rule also explicitly allows an organization to designate multiple individuals to testify as representatives. As a result, the organization must produce additional individuals to testify when the deponent cannot adequately address certain topics stated in the deposition notice or subpoena. *See Prostollo v. City of Scottsdale*, CV-12-1815-PHX-SMM, 2013 WL 12174690, at *2 (D. Ariz. July 3, 2013). "If one individual cannot provide testimony to all the designated topics, the corporation must name more than one representative." *Id.*; *see also Great Am. Ins.*, 251 F.R.D. at 540 (citing cases for the proposition that if it becomes apparent to an organization during the deposition that a witness, designated in good faith to provide knowledgeable responsive testimony, is unable to respond to the topics in the deposition notice, the organization "has a duty to designate an additional knowledgeable deponent").

Depositions held pursuant to Fed. R. Civ. P. 30(b)(6) are designed to streamline discovery, reducing the number of depositions necessary, while also giving the organization being deposed more control by enabling it to designate and prepare specific

witnesses to testify on its behalf. *See Great Am. Ins.*, 251 F.R.D. at 538; *see also Moore v. Comput. Assocs. Int'l, Inc.*, 653 F. Supp. 2d 955, 960 (D. Ariz. 2009) ("The purpose [of Fed. R. Civ. P. 30(b)(6)] is to reduce the burden on both parties, by not requiring the movant to guess which corporate officer or agent has the desired information and not requiring the respondent to expose all of its officers or agents to the burdens of discovery."). However, the rule is also designed to "curb the bandying" by which an organization's agents are deposed in turn, "but each disclaims knowledge of facts that are clearly known to persons in the organization" and thereby should be disclosed during the deposition. *Moore*, 653 F. Supp. 2d at 960 n.1 (quoting 1970 Amendments, Fed. R. Civ. P. 30(b)(6)) (internal quotation marks removed).

B. Plaintiffs Failed to Comply with Their Duty Under Rule 30(b)(6) to Produce Witnesses Sufficiently Knowledgeable to Testify to the Topics in the Deposition Notice.

On April 28, 2017, the State Defendants served a Notice of Deposition on Plaintiff the ADP. [Ex. M, Notice of Deposition of the Arizona Democratic Party] In the Notice, State Defendants identified nine separate topics about which a witness for the ADP should be prepared to testify during the deposition. Plaintiffs designated two individuals, ADP Chair Alexis Tameron and former Voter Protection Director Spencer Scharff, as its witnesses.

During her May 10, 2017 deposition, Ms. Tameron repeatedly deferred to other individuals stating that they would be the most appropriate person to answer the questions. Through counsel, Ms. Tameron frequently indicated that Mr. Scharff could address questions regarding 2016. [*See, e.g.*, Ex. N, Tameron Dep. Tr., at 53:4-54:2; 57:14-58:7 ("Ms. Callais: Karen, can I just note to the extent you're asking about 2016 . . . Mr. Scharff is our 30(b)(6) deponent for that.")] However, Ms. Tameron also repeatedly deferred to a third individual, ADP's Data Director Sam Almy, indicating that he would know the answers to the State Defendants' questions. [*See, e.g., id.*, at 25:16-

24 ("Q: Do you have similar demographic information regarding the primary language spoken by your members? . . . The Witness: I'm not certain. I do think that we attempt to do that, but our data director would know.") (objection omitted); 26:10-27:23] Ms. Tameron was unable to provide any type of information about the demographic makeup of ADP members or Democratic voters, even when asked basic questions. [*See, e.g., id.*, at 26:10-28:10 ("Q: So based on the demographic information that you've received from your data director or from any other source, what percentage of your membership is Hispanic or Latino? A: I couldn't tell you. I don't know off the top of my head."] Instead, she had to refresh her recollection during a break by relying on a document provided by Mr. Almy. [*Id.*, at 173:4-174:12 (stating that Ms. Tameron spoke with Sam Almy during the lunch break about "demographics, data, the modeling," and that "[h]e provided me with the numbers that I provided you when we came back from the break.")] Plaintiffs did not produce a copy of the document that Ms. Tameron received from Mr. Almy until May 19, nine days after her deposition. [*See* Ex. O, May 19, 2017 Email from A. Callais] As such, the State Defendants were unable to question Ms. Tameron about the source of the document or its content.

During Spencer Scharff's June 6, 2017 deposition, he made similar statements, deferring to Ms. Tameron or to Mr. Almy as the persons with knowledge. [*See, e.g.*, Ex., K, at 48:18-25 ("Q: Do you know who would be best situated to testify to demographic information the ADP maintains regarding voting patterns? A: Sam Almy."); 51:2-55:2 (alternatively indicating Sam Almy or Alexis Tameron would be the appropriate person to address certain topics listed in the Notice of Deposition); 83:11-17] When asked about the electorate breakdown document used by Ms. Tameron, Mr. Scharff was unable to testify about it, and was unfamiliar with it. [*Id.*, at 26:2-5 ("Q: And did you review the electorate breakdown that Sam Almy provided to Alexis Tameron a few weeks ago in preparation for this deposition? A: I did not."; 41:16-44:22 (stating that he did not recognize the document, and when asked who at the ADP would have the most

knowledge about the information in the document, he stated "it would be the individual charged with data . . . . My understanding is that Sam Almy is still the data director.")] Mr. Scharff had no knowledge of the demographic data put at issue by Plaintiffs' claims. [*See, e.g., id.* at 80:9-82:19] Mr. Scharff was also unable to testify regarding the information publicly disclosed to the *Arizona Republic*, even though the ADP provided the information to the *Republic* during the time frame for which he was designated as the 30(b)(6) witness. [*Id.*, at 85:15-86:9]

In response to Mr. Scharff's repeated deferrals to other individuals as those with the appropriate knowledge, this Court ruled on June 6, 2017, that Plaintiffs must produce Mr. Almy for a 30(b)(6) deposition. [Ex. A, at 21:5-18 ("[L]et's get that third witness there. . . . [T]his is a search for the truth. . . .So I'm going to order that the . . . plaintiffs produce the third 30(b)(6) witness who has been referred to in the second 30(b)(6) deposition."] Plaintiffs' counsel also indicated to the Court that "if it's true that there are topics that are in the notice that we haven't been able to provide an answer on, we are absolutely happy to work with defendants." [*Id.*, at 21:1-4]

Yet instead of producing this court-ordered third 30(b)(6) witness, Plaintiffs now argue that they have no obligation to produce Mr. Almy, and assert that they have already provided all required testimony, and any testimony Mr. Almy would provide is protected by the same First Amendment privilege addressed above regarding their privilege logs. [*See* Ex. P, June 12, 2017 Hr'g Tr., at 5:25-6:3]

As set forth in the State Defendants June 11, 2017 email to counsel, Plaintiffs have failed to provide substantive testimony on four of the topics listed in the Notice of Deposition, which all address crucial demographic information underlying Plaintiffs' claims:

- Topic 2: demographic information the ADP maintains regarding . . . voting patterns, use of mail-in ballots (including any increase in use by specific groups of minority voters), [and] access to mail service . . . ;

- Topic 4: any differences in early voting for Democratic voters between 2016 and previous elections in Arizona, including any anecdotal or statistical evidence about party members who do not have a qualified person who could return an early ballot under HB 2023, differences in the number of minority voters who used mail-in ballots from 2016 compared to other years, complaints from party members about the early voting process compared to earlier years;
- Topic 6: research, such as internal or commissioned reports and analyses, information, and communications relating to voting patterns of Native American, Latino, African American, and all other minority voters in Arizona; and
- Topic 7: information concerning the Permanent Early Voting List ("PEVL"), including the number and demographics of Democratic voters who use PEVL, ADP's outreach to sign-up Democratic voters to PEVL, public outreach regarding PEVL, and volunteer and staff training on communicating to voters about PEVL.

[Ex. B; *see also* Ex. M]

Plaintiffs clearly have not provided sufficiently prepared witnesses, as nearly half of the topics in the Notice of Deposition remain unaddressed. [*See* Ex. M] Plaintiffs have pointed to general testimony on the foregoing Rule 30(b)(6) topics, and have complained that Defendants have not identified specific questions that remain unanswered. [*See* Ex. B] Yet Plaintiffs' witnesses disclaimed knowledge about entire areas of testimony. [*See, e.g.*, Ex. K, at 43:2-44:23; 46:3-12; 49:8-14; 51:14-23; 53:4-24; 80:2-23; Ex. N, at 103:18-104:9] Consequently, the State Defendants did not waste deposition time asking questions that the witnesses had testified they could not answer. Moreover, Plaintiffs cannot assert a broad, generic privilege to avoid responding to un-asked deposition questions. *See Unknown Parties v. Johnson*, CV-15-00250-TUC-DCB, 2016 WL 8199308, at *4 (D. Ariz. July 21, 2016) ("No determination can be made about the applicability of the privilege until the privilege is asserted in response to specific questions at the deposition."). Instead, Plaintiffs must produce a knowledgeable 30(b)(6)

witness to testify on the remaining topics, and appropriately object to a specific question asked of the witness during the deposition if they believe a privilege protects the disclosure of that information. *See Great Am. Ins.*, 251 F.R.D. at 538-39; *Unknown Parties*, 2016 WL 8199308, at *4.

Plaintiffs' actions, where each witness refers to the other as the person with the answers, are the reason why Rule 30(b)(6) depositions are permitted – to ensure that an organization cannot hide the ball from the deposing party by allowing each witness to say that someone else must answer the question. *See Great Am. Ins.*, 251 F.R.D. at 538.

Conclusion

For the foregoing reasons, the State Defendants request that the Court compel Plaintiffs to produce the allegedly-privileged documents described on their privilege logs, and produce a knowledgeable and appropriately-prepared 30(b)(6) witness to testify regarding the remaining topics on the Notice of Deposition to the Arizona Democratic Party.

RESPECTFULLY SUBMITTED this 28th day of June, 2017.

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RULE 37(a)(1) CERTIFICATE OF CONFERRAL

Pursuant to Fed. R. Civ. P. 37(a)(1), I certify that counsel for the State Defendants conferred with Plaintiffs' counsel regarding the disputed issues in the foregoing motion by telephone on June 9, 2017 and in email communications on June 11 and 12, 2017. [*See* Ex. B]

I declare under penalty of perjury under the laws of the United States that the foregoing statement is true and correct.

s/ Karen J. Hartman-Tellez

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2017, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a notice of electronic filing to the EM/ECF registrants.

s/ Karen J. Hartman-Tellez

General Information

Court	United States District Court for the District of Arizona; United States District Court for the District of Arizona
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	2:16-cv-01065
Status	CLOSED