

**IN THE UNITED STATE DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

BRIANNA BOE, et al.)	
)	
Plaintiffs,)	
)	
and)	
)	
UNITED STATES OF AMERICA,)	
)	CIVIL ACTION NO.
v.)	2:22-CV-00184-LCB-SRW
)	
)	
Hon. STEVE MARSHALL, in his)	
Official capacity as Attorney General)	
of the State of Alabama, et al.)	
)	
Defendants.)	

**NON-PARTY ALABAMA CITIZEN’S ACTION PROGRAM OBJECTION
TO AND MOTION TO QUASH SUBPOENA FROM
PLAINTIFFS, AND FOR SANCTIONS**

A Subpoena was issued by private plaintiffs in the above styled case to the Alabama Citizen’s Action Program (“ALCAP”) with a response date of February 23, 2024. ALCAP files this motion to quash the subpoena and sanctions. A copy of the subpoena is attached as Exhibit “A”.

ALCAP reminds the court that a similar subpoena was issued in this case for other non-party entities, which subpoena was quashed. That subpoena was very broad in its request, while the instant subpoena is limited in its demand.

Nevertheless, parties in this litigation continue to harass non-parties who previously engaged in a legal and commendable effort in the Alabama Legislature based on their legitimate and sincere practical, legal and political beliefs.

Filed with this motion is the Declaration of Greg Davis, President and Chief Executive Director of ALCAP, attached as Exhibit “B”. As Mr. Davis explains, ALCAP has been in existence for almost ninety years engaging in commentary in the public square. After Prohibition, it worked and continues to work to limit the negative effects of alcohol consumption. Later, it opposed and continues to oppose gambling expansion in Alabama.

ALCAP also takes a public position on various other issues. This included its support of the Vulnerable Child Compassion and Protection Act (“VCAP”) during its legislative process. The position of ALCAP as a Section 501 (c) (4) organization is based on Biblical teaching. As an organization essentially representing Southern Baptist Churches, as well as other denominations, ALCAP takes a strictly Biblical position on pertinent issues.

VCAP is one such issue. Today’s culture has expanded into many sexual related issues, including for example, same sex marriage, issues of transgenderism, and, in this case, gender dysphoria and its proper treatment.

As Mr. Davis’s Declaration explains, ALCAP does not write legislation or give legal advice. It contends in the public square for its Biblical support or

opposition on contemporary issues. In so doing, ALCAP is exercising its rights of freedom of speech, freedom of assembly, and the freedom to petition government for its grievances. These are all protected constitutional rights.

However, the instant subpoena attempts to violate those rights by questioning ALCAP's rights in a court of law by subpoenaing whatever records may exist related to ALCAP's first amendment protected participation in government.

ALCAP objects in constitutional principle to this demand, inferring that it has somehow acted inappropriately. For the following reasons, the demand of this subpoena must be denied.

Subpoena History of the Case

The court will call the earlier subpoena demands by the United States Department of Justice to Eagle Forum of Alabama and Southeast Law Institute of a wide ranging and intrusive unlawful attempt burdening their constitutional rights. Motions to quash were filed, which were granted. A motion for sanctions to reimburse the significant time and expense those organizations had in defending themselves still pending before the court for determination.

Apparently, the individual plaintiffs in the case failed to recognize the significance of the court's early order quashing the subpoenas. The arguments were much the same there. ALCAP does not want to burden the court with detailed legal arguments, all of which were previously made. However, since

ALCAP was not involved in that earlier effort, it wishes to briefly argue its constitutional rights to the court.

Argument

The subpoena to ALCAP improperly seeks documents outside the scope of permissible discovery as limited by Fed. R. Civ. P. 26 (b)(1). The only issue before the case is whether VCAP is constitutional. Whether or to what extent ALCAP may or may not have advocated one way or the other, is not relevant to a determination of the language of the statute itself. Consequently, the non-party subpoena is not relevant and should be quashed.

Most importantly, United States citizens have the constitutional rights to assemble, speak and petition government on issues important to them. This was recognized again most recently by the United States Supreme Court in *Dobbs v. Jackson Woman's Health Organization*, 142 S. Ct. 2228, 2255-56 (2022):

This court has long disfavored arguments based on alleged legislative motives.... The court has recognized that inquiries into legislative motives are “a hazardous matter.”.... Even when an argument about legislative motive is backed by statements made by legislators who voted for the law, we have been reluctant to attribute those motives to a legislative body as a whole. “What motivates one legislator to make a speech about his statute is not necessarily what motivates scores of others to enact it.”

See also, *CBS Inc. the PrimeTime 24 Joint Venture*, 245 F.3d1217, 1222 (11th Cir. 2001): “Where the import of words congress has used is clear... we need not resort to legislative history, and we certainly should not do so to undermine the plain meaning of the statutory language.” ALCAP is not aware that any discriminatory intent related to VCAP has been sufficiently plead in this case. The private plaintiffs, the ones requesting the instant subpoena, acknowledged to the Eleventh Circuit on appealing this case that “[t]here is no need to do a pretext analysis; the [Legislature] intent is clear on the face of the act.” Response Brief of Plaintiffs-Appellees to the Eleventh Circuit (Filed 8-10-22), p. 56. Since the subpoenaing party understands the intent that the legislature is clear on its face, of what difference is it that ALCAP may or may not have had an opinion that varied from said plaintiffs?

Of course, this leads immediately to the law of legislative privilege in *Pernell v. Fla. Bd of Governors of State Univ.*, 84 F.4th 1339, 1343 (11th Cir. 2023). There was an improper purpose of a subpoena “to support the lawsuit’s inquiry into the motivation behind [a statute], an inquiry which strikes at the heart of legislative privilege.”

The issuance to a non-party organization requesting privileged information under the First Amendment implicating free speech, assembly, and a petition to redress grievances before the government, has a chilling effect on those rights. It

is important that churches have a voice in government. ALCAP presents such a voice. However, if ALCAP and those churches for whom it speaks believe that their integrity will be impugned by intrusive requests for personal and confidential information, they may be fearful of exercising those constitutional rights in the future. It is important the court protect those rights. See, *National Association for the Advancement of Colored People v. Alabama*. 357 U.S. 449, 460-61 (1958). While the instant subpoena has not requested a membership list, it requests whether ALCAP made communications to legislators, which might necessarily implicate who and for whom those communications were made. A simple idea of requesting what comments ALCAP made in the public square chills those first amendment privileges.

Request for Sanctions

As noted earlier, a previous DOJ subpoena was quashed, requesting some of the same information as the instant subpoena. The private plaintiffs have now abused the subpoena process under rule 45(d)(1) Fed. R. Civ. P. by making an unconstitutional and burdensome request, seeking to put ALCAP to an undue burden and expense in protecting its rights. Accordingly, reasonable attorney's fees and costs should be awarded.

WHEREFORE, PREMISES CONSIDERED, non-party ALCAP respectfully requests relief as follows:

1. Quashing the subpoena;
2. Impose appropriate sanctions on the plaintiffs, including reasonable attorney's fees and costs; and
3. Such other and further relief to which it may be entitled in the premises.

Respectfully submitted this 22nd day of February, 2024.

/s/ A. Eric Johnston

Attorney for the Alabama Citizen's Action Program

A. Eric Johnston

ASB-2574-H38A

OF COUNSEL:

A. Eric Johnston

1200 Corporate Drive, Ste 107

Birmingham, Alabama 35242

(205) 408-8893 *telephone*

(205) 408-8894 *facsimile*

Email: eric@aericjohnston.com

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of February, 2024, the foregoing document was electronically filed with the Clerk of Court using the CM/ECF System which will send a notification and content of such filing to counsel of record in this case.

/s/ A. Eric Johnston

OF COUNSEL

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

REV. PAUL A. EKNES-TUCKER, *et al.*,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

STEVE MARSHALL, *et al.*,

Defendants.

Case No. 2:22-cv-00184-LCB-SRW

Honorable Liles C. Burke

NOTICE OF SUBPOENA TO ALABAMA CITIZEN'S ACTION PROGRAM

Pursuant to Federal Rules of Civil Procedure Rules 26, 34, and 45, and the applicable Local Civil Rules of the United States District Court for the Middle District of Alabama, Private Plaintiffs, through their undersigned counsel, will serve the enclosed subpoena to Alabama Citizen's Action Program, for the production of documents, information, or objects, on or after January 31, 2024.

Alabama Citizen's Action Program shall produce documents and things to Lightfoot, Franklin & White LLC, The Clark Building, 400 20th Street North, Birmingham, AL 35203, or another mutually agreeable location. The requested documents and things are identified in Exhibit A to the subpoena. A copy of the Subpoena to Produce Documents is attached as Exhibit 1.

A

Dated: January 31, 2024

Respectfully submitted,

/s/ Brent P. Ray

Melody H. Eagan
Jeffrey P. Doss
Amie A. Value
LIGHTFOOT, FRANKLIN & WHITE LLC
The Clark Building
400 20th Street North
Birmingham, AL 35203
meagan@lightfootlaw.com
jdoss@lightfootlaw.com
avague@lightfootlaw.com

J. Andrew Pratt
Misty L. Peterson
Adam Reinke
KING & SPALDING LLP
1180 Peachtree Street Northeast, Suite 1600
Atlanta, GA 30309
apratt@kslaw.com
mpeterson@kslaw.com
areinke@kslaw.com

Brent P. Ray
Abigail Hoverman Terry
KING & SPALDING LLP
110 North Wacker Drive, Suite 3800
Chicago, IL 60606
bray@kslaw.com
ahoverman@kslaw.com

Scott D. McCoy
SOUTHERN POVERTY LAW CENTER
P.O. Box 12463
Miami, FL 33101
scott.mccoy@splcenter.org

Diego A. Soto
SOUTHERN POVERTY LAW CENTER
400 Washington Avenue
Montgomery, AL 36104
diego.soto@splcenter.org

Counsel for Plaintiffs

Sarah Warbelow
Cynthia Weaver
HUMAN RIGHTS CAMPAIGN
FOUNDATION
1640 Rhode Island Ave., NW
Washington, DC 20036
sarah.warbelow@hrc.org
cynthia.weaver@hrc.org

Jennifer L. Levi
GLBTQ LEGAL ADVOCATES &
DEFENDERS
18 Tremont, Suite 950
Boston, MA 02108
jlevi@glad.org

Jessica L. Stone
SOUTHERN POVERTY LAW CENTER
150 E. Ponce de Leon Ave., Suite 340
Decatur, GA 30030
jessica.stone@splcenter.org

CERTIFICATE OF SERVICE

I certify that I served the forgoing via electronic mail on January 31, 2024 on all
counsel of record.

/s/ Brent P. Ray

Exhibit 1

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Alabama

Rev. Paul A. Eknes-Tucker, et al.

Plaintiff

v.

Steve Marshall, et al.

Defendant

Civil Action No. 2:22-cv-00184-LCB-SRW

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Alabama Citizen's Action Program
120 Summit Parkway, Suite 100, Birmingham, AL 35209

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Exhibit A

Place: Lightfoot, Franklin & White LLC,
The Clark Building, 400 20th Street North
Birmingham, AL 35203

Date and Time:
02/23/2024 5:00 pm

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/31/2024

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Brent P. Ray

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Rev. Paul Ecknes-Tucker, et al., who issues or requests this subpoena, are:

Brent Ray, 110 N Upper Wacker Dr Suite 3800, Chicago, IL 60606, bray@kslaw.com, (312) 995-6333

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 2:22-cv-00184-LCB-SRW

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A TO SUBPOENA TO PRODUCE DOCUMENTS & THINGS

Private Plaintiffs request that You produce or make available for inspection the documents and things requested below at the time and place specified in this subpoena.

I. DEFINITIONS

1. The terms “You” and “Your” refer to Alabama Citizen’s Action Program.

2. “Alabama Citizen’s Action Program” means the business or organization located at 120 Summit Parkway Suite 100, Birmingham, AL and includes any and all past or present officers, directors, partners, employees, agents, representatives, attorneys, accountants, advisors, consultants, divisions, subsidiaries, parents, affiliates, successors-in- interest, predecessors, or other persons or entities acting or purporting to act for, on behalf of, or with Alabama Citizen’s Action Program as defined herein.

3. “SB184” means Alabama Senate Bill 184, titled “Public health, minors, biological male or female, sexual state, practices to alter or affirm minor’s sexual identity or perception such as prescribing puberty blocking medication or surgeries, prohibited, exceptions, nurses and school personnel not to withhold information from parents, violations a Class C felony,” passed April 7, 2022.

4. “HB266” means Alabama House of Representatives Bill 266, titled “Public health, minors, biological male or female, sexual state, practices to alter or affirm minor's sexual identity or perception such as prescribing puberty blocking medication or surgeries, prohibited, exceptions, nurses and school personnel not to withhold information from parents, violations a Class C felony,” introduced February 3, 2022.

5. “Predecessor legislative bill” refers to any legislation, draft legislation, proposed legislation, or model legislation predating SB184 relating to the provision of gender affirming care to minors in Alabama, including Senate Bill 5 (2022), House of Representatives Bill 150 (2022), Senate Bill 10 (2021), House of Representatives Bill 1 (2021), Senate Bill 219 (2020), and House of Representatives Bill 303 (2020).

6. “Document” or “Documents” shall have the broadest meaning ascribed to it by Fed. R. Civ. P. 34(a)(1)(A) and Fed. R. Evid. 1001, including, without limitation, electronic or computerized data compilations. A draft or non-identical copy of a document is a separate document within the meaning of this term.

7. The terms “Communication” and “Communications” shall mean, without limitation, any transmission, conveyance, or exchange of a word, statement, fact, thing, idea, document, instruction, information, demand, or question by any medium, whether by written, oral or other means, including but not limited to electronic communications and electronic mail (“e-mail”).

8. The terms “Person” and “Persons” shall refer to any individual, corporation, proprietorship, association, joint venture, company, partnership or other business or legal entity, including governmental bodies and agencies.

9. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of each request all responses that might otherwise be construed outside the scope.

10. “Any” shall include “all” and “all” shall include “any.”

11. “Including” shall mean including without limitation.

12. “Referring to,” “relating to,” “related to,” “regarding,” or any variation

thereof, means concerning, containing, describing, discussing, embodying, commenting upon, identifying, incorporating, summarizing, constituting, comprising, or otherwise pertinent to the matter or any aspect thereof.

13. The use of the singular form of any word includes the plural and vice versa.

II. INSTRUCTIONS

The following instructions supplement those contained in the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Middle District of Alabama, both of which are incorporated herein by reference:

1. In responding to this document request, please furnish all information that is available to You or subject to Your control, including information in the possession, custody, or control of Your officers, directors, employees, representatives, consultants, agents, servants, attorneys, accountants, or any person who has served in any such role at any time, as well as corporate parents, subsidiaries, affiliates, divisions, predecessor companies or proprietorships, any joint venture to which You are a party, and other persons acting on Your behalf.

2. Electronic records and computerized information must be produced in an intelligible format.

3. Each request seeks production of each document in its entirety, including all attachments or other matters affixed thereto. To the extent these documents are maintained in both hard copy and electronic form, provide both forms.

4. Documents are to be produced in their full and unredacted form; redacted documents shall not constitute compliance with this request, unless such documents are redacted pursuant to a claim of privilege, as set forth below.

5. If You withhold any document responsive to this request based on a claim of privilege or immunity from production, please submit a schedule at the time of the production setting forth and identifying the following information for each document so withheld:

- a) The type of document (e.g., letter, memorandum, account statements, etc.);
- b) The date the document was prepared, and the date of any meeting or conversation reflected or referred to in the document;
- c) The name of each author, co-author, or preparer of the document and the name of each recipient or addressee, including each recipient of a copy of the document;
- d) If the document reflects or refers to a meeting or conversation, the name of each Person who was present at or was a party to the meeting or conversation;
- e) The subject matter of the information contained in the document;
- f) The nature of the privilege or immunity asserted; and
- g) A brief explanation of why the document is believed to be privileged or immune from production.

6. Please produce the originals of any document requested and all copies thereof if any copy is other than identical with the original.

7. If You object to any portion of any request herein, produce the document(s) and thing(s) relating to any portion of that request to which You have no objection and identify which document(s) and thing(s) are being withheld and the reason for such refusal to produce.

8. If no documents are responsive to any request herein, state in Your response that no responsive documents exist.

9. If for any reason, any of the documents or tangible things to be produced

pursuant to any request have been destroyed, lost, or otherwise disposed of, please state and identify for each category the following information:

- a) The date the document or tangible thing was lost, destroyed, or disposed of;
- b) All individuals who have knowledge of the loss, destruction, or disposal;
- c) All documents which refer or relate to the loss, destruction, or disposal of the object or tangible thing; and
- d) All circumstances concerning the loss of such documents.

10. Each document produced by You in response to these requests should include a unique production number.

III. DOCUMENTS TO BE PRODUCED

1. Communications (including any attachments thereto) sent or received between Alabama Citizen's Action Program and any of (i) a current or former member of the Alabama Legislature, (ii) his or her staff, or (iii) any other Alabama public official, regarding SB184, HB266, or any related or predecessor legislative bill in Alabama, sent or received between January 1, 2018 and April 7, 2022.

**IN THE UNITED STATE DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

REV. PAUL A. EKNES-TUCKER, et al.,)	
)	
Plaintiffs,)	
)	
and)	
)	
UNITED STATES OF AMERICA,)	Civil Action No.
)	2:22-CV-00184-LCB-SRW
Plaintiff-Intervenor,)	
)	
v.)	Honorable Liles C. Burke
)	
)	
Hon. STEVE MARSHALL, et al.)	
)	
Defendants.)	

DECLARATION OF GREG DAVIS

I, Greg Davis, pursuant to 28 USCA Section 1746 (pertaining to Declarations), declares under penalty of perjury the following statements by me are true and correct to the best of my knowledge:

1. I am Greg Davis. I am over the age of nineteen (19) years and a resident citizen of Alabama. I am in no way disqualified from making this declaration, which is made from personal knowledge.

2. I am the President and Chief Executive Officer of the Alabama Citizens Action Program. (“ALCAP”).

3. ALCAP began as a temperance organization in the mid 1930’s. Since then, it has continued to oppose the legalization of alcohol and its various developments following the end of prohibition.

4. ALCAP’s other primary issue is gambling expansion. Since the 1980’s, with the advent of amendments to the Alabama Constitution permitting bingo, ALCAP has opposed gambling expansion in all forms.

5. ALCAP also advocates for the family. While alcohol and gambling are its primary issues, ALCAP supports the sanctity of life, religious freedom, parental rights, Biblical sexuality, and other issues affecting the family.

6. ALCAP is a tax-exempt organization approved by the Internal Revenue Service under Section 501 (c)(4). As such, it is qualified to lobby on political issues.

7. Primarily, ALCAP’s goal is to involve the churches and citizens of the state of Alabama in these issues. It sends ALCAP Alerts to churches and the public on a periodic basis involving these issues. The Alerts are available to anyone who wants them. The purpose of the Alerts is to notify churches and citizens of issues before the Alabama Legislature and to request their opposition or support on those issues. ALCAP does not engage in bill writing or providing legal advice or services

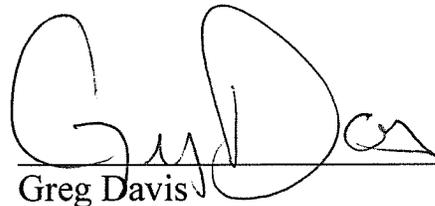
to any public official. ALCAP's emphasis is to advocate for those issues listed above.

8. ALCAP believes in the First Amendment rights of freedom of speech, assembly and to petition the government for redress of grievances. Motivated by our Christian ethic, ALCAP expresses its opinion on these issues and encourages others to do so. In an ever-evolving culture, we believe it is important to have a presence on the morality of these issues.

9. ALCAP is aware there are many opinions on these issues. Everyone is entitled to believe and advocate as they are led. No action should be taken to chill or deny those rights. I believe the subpoena directed ALCAP is an effort to quiet our voice. I am not aware that any one has ever attempted to deter ALCAP as the Plaintiffs seek to do here.

10. Finally, ALCAP believes the subpoena for its communications of whatever description violates its constitutional rights and therefore supports its motion to quash this subpoena and for sanctions.

Respectfully signed this 2/21 day of February, 2024.


Greg Davis