

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

BRIANNA BOE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:22-cv-0184-LCB
)	
STEVE MARSHALL, et al.,)	
)	
Defendants.)	

NOTICE OF COMPLIANCE

Respondents **James Esseks, Carl Charles, LaTisha Faulks, and Kathleen Hartnett** hereby give notice of their compliance with the Court’s order of June 14, 2024 (doc. 573) (“June 14 Order”).

1. A copy of the final Q&A document that was “circulated to each member of the team,” *id.* at 1, has been sent to the Court’s chambers email for *in camera* review. The document has been provided in the native Word format from Ms. Hartnett’s files. Ms. Hartnett downloaded this document on the morning of May 20, 2022, from a Lambda Legal SharePoint site on which the document resided, shortly before the Panel’s May 20, 2022 hearing. A link to a final version of that SharePoint document had been circulated to all *Walker* counsel the night before, May 19, 2022, at the direction of their counsel. As the produced document reflects, there were earlier drafts of this document. The final version “circulated to each

member of the team” is the Word version that has been submitted to the Court. Mr. Esseks, Mr. Charles, and Ms. Faulks did not download the final version of the Q&A document, so they do not personally have possession, custody, or control of a copy of that document in its native Word format.

2. Respondents’ compliance with the June 14 Order is without waiver of Respondents’ contention that the subject document is protected by the attorney-client privilege and work product doctrine and not subject to the crime-fraud exception. Further, as this Court has held, “[t]his submission ‘does not destroy the privileged nature of the contested communications.’” *Id.* at 49.

2. The Respondents’ compliance with the June 14 Order is without prejudice to Respondents’ objections to that order and the Court’s finding that a *prima facie* case for application of the crime-fraud exception exists. Respondents respectfully submit that the June 14 Order and all material findings therein are contrary to the law and the facts. Nonetheless, Respondents submit the Q&A Document to confirm that their attorney-client privileged communications with their counsel were proper, to resolve this collateral issue as promptly as possible, and to dispense with the reputationally harmful allegations that they sought legal advice in furtherance of a crime or fraud.

3. Respondents’ compliance with the Court’s order is in reliance on the Court’s assurances that the *in camera* submission is “for the limited purpose of

determining whether the crime-fraud exception would defeat any protections the Q&A Document might otherwise enjoy; it would not be disclosed to anyone nor used in these proceedings unless the in camera review—and further briefing and argument from the Respondents—confirmed that the crime-fraud exception defeated the protections of the attorney-client privilege and work-product doctrine” and that if “the Court finds that the crime-fraud exception defeats the attorney-client privilege and work-product protections that the Respondents have asserted, [the Court] will give them full opportunity to brief the issue as they see fit and set the matter for further argument.” (Doc. 573 at 16, 49).

4. Respondents reserve their right to seek relief from the Eleventh Circuit Court of Appeals if the Court’s review of the Q&A Document does not confirm—as will be readily apparent—that there has been no crime and no fraud, but rather good-faith preparation for a court hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on June 18, 2024, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which will provide notice of such filing to all counsel of record.

/s/ Barry A. Ragsdale

OF COUNSEL