

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LEAGUE OF WOMEN VOTERS)	
OF MICHIGAN, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:17-cv-14148
)	
RUTH JOHNSON, in her official)	ORDER
capacity as Michigan Secretary of)	
State,)	
)	
Defendant.)	
)	
)	

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS’ MOTION FOR CONTEMPT**

Before the Court is a Motion for Contempt [Dkt. No. 66]. On or around February 21, 2018, Plaintiffs served the Legislative Personnel and Legislative Bodies¹ with subpoenas to produce certain documents. [Dkt. No. 27-2.] On March 8, 2018, the Legislative Bodies and Legislative Personnel moved to quash Plaintiffs’ subpoenas. [R. 27.] On May 23, 2018, this Court granted in part and denied in part the motion to quash subpoenas. [Dkt. No. 58.] Discovery in this case is scheduled to conclude on August 24, 2018. [R. 53.]

¹ The terms “Legislative Personnel” and “Legislative Bodies” are defined in Docket Entry 58 at PageID #985, footnotes 1–2.

Plaintiffs filed the present motion on June 29, 2018, asserting that the Legislative Personnel and Legislative Bodies had “produced nothing in response to the subpoenas” [Dkt. No. 66 at PageID #1143] and requesting an order of civil contempt pursuant to Fed. R. Civ. P. 45(g). A response was filed on July 3, 2018. [Dkt. No. 67.] On July 6, 2018, Plaintiffs asked this Court to defer its ruling on the motion. [Dkt. No. 68.] On July 31, 2018, Plaintiffs filed a supplemental brief requesting a ruling on the motion and modifying their request for relief. [Dkt. Nos. 82, 83.] A supplemental response was filed on August 1, 2018. [Dkt. No. 84.]

Plaintiffs are no longer requesting an order of civil contempt against the Legislative Bodies and Legislative Personnel and instead request, in addition to any other relief the Court deems appropriate, an order directing the Legislative Bodies and Legislative Personnel to (1) complete all document production in response to Plaintiffs’ subpoenas; (2) serve a complete privilege log; and (3) “certify, under oath, the steps they took to collect, review, and produce responsive documents, and to the extent that they believe responsive documents existed and can now no longer be located, the reason those documents no longer exist or cannot be located.” [Dkt. No. 83 at PageID #2011.]

Nearly six months have passed since Plaintiffs served their subpoenas on the Legislative Personnel and the Legislative Bodies, and nearly three months have passed since this Court delineated the obligations of the Legislative Personnel and

the Legislative Bodies to comply with the subpoenas. On August 1, 2018, the Legislative Bodies and Legislative Personnel stated that they had “nearly completed” the steps necessary to produce the requested documents, were “finalizing production” of those documents, [Dkt. No. 84 at PageID #2020], and would produce the requested information “[w]ithin a few days,” [*id.* at 2022]. More than a few days have now passed. The Court will therefore order immediate compliance with Plaintiffs’ subpoenas to the extent that production is required under the Court’s previous order granting in part and denying in part the motion to quash subpoenas [Dkt. No. 58]. If any information requested in the subpoenas is unavailable or subject to a claim of privilege or protection, the parties shall comply with all applicable laws, including but not limited to Federal Rules of Civil Procedure 45(e)(2) (“Claiming Privilege or Protection”) and 37(e) (“Failure to Preserve Electronically Stored Information”).

ORDER

It is hereby ORDERED that Plaintiffs’ motion is granted in part. The Legislative Bodies and Legislative Personnel must complete their production in response to Plaintiffs’ subpoenas by August 17, 2018, at 5:00 p.m. The production must include a complete privilege log and must comply with all applicable rules and orders of the Court.

ENTERED: August 17, 2018

/s/Eric L. Clay

Signed for and on behalf of the panel:

HONORABLE ERIC L. CLAY
United States Circuit Judge

HONORABLE DENISE PAGE HOOD
United States District Judge

HONORABLE GORDON J. QUIST
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 17, 2018, by electronic and/or ordinary mail.

S/Diane R. Marion

Administrative Manager