

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

PEN AMERICAN CENTER, INC., et al.,  
Plaintiffs,

vs.

No.: 3:23cv10385/TKW/ZCB

ESCAMBIA COUNTY SCHOOL BOARD,  
Defendant.

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**ORDER**

This matter is before the Court on Plaintiffs' Motion to Compel Discovery (Doc. 141). Defendant has responded (Doc. 148). Although the motion raised five issues, the parties have since resolved all but one of them. (Doc. 148 at 2). The unresolved issue involves the production of communications from the individual School Board members' personal electronic devices. (Doc. 141 at 10-17; Doc. 148 at 2).

Having considered the briefing and various exhibits, the Court will **GRANT the motion in part** and **DENY the motion in part**.<sup>1</sup> The motion will be granted to the extent that the School Board is required to

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<sup>1</sup> Because of the impending discovery deadline in this case and given that the Court is writing for the benefit of the parties, the Court will dispense with a lengthy discussion of the issues presented in the motion.

produce sufficient messages in the text chain preceding and following the responsive messages to ensure a fair presentation of the discussion and to allow the reader to understand the context. To effectuate the purpose of the agreement previously reached by the parties (*See* Doc. 141-1 at 10), the School Board shall ensure that (at a minimum) it has produced one message before and one message after each responsive message. The School Board shall also ensure (1) that responsive messages are produced in their entirety with no part of the messages cut off, illegible, or otherwise not produced in a readable manner, and (2) that the information produced includes the date and time of the messages provided.

The motion will be denied in all other respects. As non-parties, the ESI protocol does not apply to the individual School Board members. (*See* Doc. 80; *see also* Doc. 148-3 at 2) (“Our intention is that this [ESI] protocol would apply only to the institutional plaintiffs and defendant in this action.”). Moreover, the parties had previously agreed that a forensic search of the Board members’ devices need not be performed. (Doc. 141-1 at 10). Thus, the Court will not compel the School Board to conduct a

forensic search or to provide the messages from the individual Board members in a form that complies with the ESI protocol.

**SO ORDERED.** This the 18th day of November 2024.

s/ *Zachary C. Bolitho*

Zachary C. Bolitho

United States Magistrate Judge