

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

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

**Plaintiffs,**

**v.**

**Case No. 3:23cv10385-TKW-ZCB**

**ESCAMBIA COUNTY SCHOOL  
DISTRICT and ESCAMBIA  
COUNTY SCHOOL BOARD,**

**Defendants.**

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**ORDER**

Non-parties Carissa Bergosh and Tom Harrell (“new school board members”) filed separate motions to quash subpoenas and for protective orders based on “legislative privilege” (Docs. 234, 235) and a joint motion for protective order based on the “apex doctrine” (Doc. 237). Plaintiffs filed a consolidated response in opposition to all three motions. *See* Doc. 244.

The Court previously denied similar “legislative privilege” motions filed by Defendant and the other school board members. *See* Doc. 155, 226. The new school board members’ motions make essentially the same arguments that were raised and rejected in the prior motions. Thus, the new school board members’ motions will be denied for the same reasons that the prior motions were denied. The new school

board members' depositions will, however, be stayed pending the disposition of their anticipated appeal of this order.

The "apex doctrine" motion will be referred to the magistrate judge for disposition in accordance with the Court's standard practice for discovery motions. If, as appears to be the case, that motion does not raise any new issues that were not considered by the magistrate judge when he ruled on the similar motions filed with respect to the existing school board members, *see* Docs. 98, 201, it is anticipated that the magistrate judge's disposition of the new school board members' motion will be in accord with the prior rulings. However, that is an issue for the magistrate judge to decide in the first instance.

Accordingly, it is **ORDERED** that:

1. The new school board members' motions to quash and for protective orders (Docs. 234, 235) are **DENIED** on the merits for the reasons stated in the amended order denying Defendant's motion for protective order. *See* Doc. 155 at 5-7.
2. The new school board members' joint motion for protective order (Doc. 237) is referred to the magistrate judge for disposition under Local Rule 72.3.
3. The new school board members' depositions are stayed for 14 days to allow them to appeal, and if they appeal, the depositions are stayed until the Eleventh Circuit issues its mandate.

**DONE and ORDERED** this 17th day of October, 2025.

A handwritten signature in blue ink, appearing to read "T. Kent Wetherell, II", with a stylized flourish at the end.

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**T. KENT WETHERELL, II**  
**UNITED STATES DISTRICT JUDGE**