UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

PEN AMERICAN CENTER, INC., et al., Case No. 3:23cv10385-TKW-ZCB

Plaintiffs,

v.

ESCAMBIA COUNTY SCHOOL BOARD,

Defendant.

PLAINTIFF PEN AMERICAN CENTER, INC.'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT'S MOTION TO COMPEL PLAINTIFF, PEN AMERICAN CENTER, INC. TO PROVIDE BETTER RESPONSES TO FIRST REQUEST FOR PRODUCTION

Plaintiff PEN American Center, Inc. ("PEN" or "Plaintiff") respectfully submits this Memorandum of Law in Opposition to Defendant Escambia County School Board's (the "Board" or "Defendant") Motion to Compel PEN to Provide Better Responses to First Request for Production (the "Motion").

INTRODUCTION

On the final evening of an extended discovery period, more than a year after the Board received PEN's responses to Request Numbers 1 and 2 of the Board's First Set of Requests for Production of Documents to PEN (the "At Issue Requests"), and without ever issuing a deficiency letter or raising any concern with PEN's responses to the At Issue Requests or the scope of PEN's production until days

before, the Board filed its Motion requesting that the Court compel PEN to produce all versions of a "content analysis spreadsheet" maintained by PEN and any and all related documents. (ECF No. 255.) PEN's "content analysis" is an internal programmatic initiative to track and categorize books that are restricted or removed from public school libraries nationwide. The analysis principally is reduced to form in a Google spreadsheet, consisting of thousands of rows across dozens of columns of data. Other than providing redundant and generally publicly-available information about the settings, characters, and themes of thousands of books, the documents compiling PEN's content analysis work product are irrelevant to the *Board's* decision-making with respect to the at-issue books, which ultimately forms the basis of Plaintiffs' claims. In other words, the documents the Board seeks are not responsive to the At Issue Requests and the Board's Motion should be denied on this basis alone.

Additionally, because of the duplicative nature and limited relevance of these documents, the burden of producing them at this late stage far outweighs what negligible value the Board may hope to glean from them. PEN's book-ban tracking project is dynamic, involves multiple staff, and has evolved since it began in around 2022. Tracking down and searching through all documents—drafts, edits, notes, emails, and all the rest—relating to PEN's content analysis efforts would be a significant intrusion, and identifying and segregating only those documents relating

to the books at issue in this litigation would be technically infeasible in light of the nationwide scope of PEN's work. PEN should not be made to undertake this substantial effort after the discovery period has come and gone, especially for documents that will provide only redundant and almost entirely irrelevant information.

Most frustratingly, Defendant *already has this information*, and has since near the beginning of discovery. PEN produced spreadsheets containing its content analysis work as early as June 14, 2024; and PEN's first corporate representative testified at her deposition in 2024 about PEN's efforts to analyze and categorize banned books. Moreover, in an effort to compromise and avoid this Motion, PEN produced 17 prior draft versions of its most recent content analysis work product, and recently offered, at the parties' Court-ordered meet-and-confer, to produce an additional 21 similar documents. Defendant rejected the offer, however, without explaining why it needs to see tens of thousands of more rows of duplicative spreadsheet data, and any and all communications or other documents about them.

Accordingly, the Board's purported surprise that such information exists is squarely undermined by the record and does not explain why the Board chose to wait until the close of discovery to protest PEN's document production. The Court should not condone such conduct, nor should it punish PEN for the Board's complacency. The Motion to Compel should be denied.

BACKGROUND

On February 8, 2024, the Board served its first Set of Requests for Production on PEN. (ECF No. 255-1.) PEN timely served its responses and objections on April 10, 2024. (ECF No. 255-2.) As set forth in those responses, PEN objected to the requests and did not agree to produce documents in response to them, instead pointing to documents already cited in Plaintiffs' pleadings as well as within Defendant's own custody. (*See* ECF No. 255-2 at 5–6.) At no point during the *561 days* between PEN serving its objections on April 10, 2024, and counsel for the Board first stating its concern in an October 23, 2025 email did the Board issue a deficiency letter or demand to meet and confer alleging that PEN's objections were improper or that its document production in response to the At Issue Requests was deficient. (Declaration of Lynn Oberlander ("Oberlander Decl.") ¶ 10.)

PEN began making rolling productions of documents responsive to the Board's 50 other requests for production soon after their receipt. *Id.* ¶ 5. As early as June 14, 2024, PEN produced spreadsheets containing its "content analysis" data. (*See id.* ¶ 6.) The "content analysis" results from PEN's efforts to track book bans in communities across the country. (Lopez Tr.[1] at 118:23–119:22; *see also* Friedman

[1] A true and correct copy of the cited excerpts of Summer Lopez's August 1 and 2, 2024 deposition is attached hereto as Exhibit A.

Tr.[2] at 10:18–25; 17:11–18:1; 18:6–19:10.) When PEN learns that a book has been banned or restricted, it catalogues the ban and employs staff to categorize the book across numerous metrics, including the book's setting, whether it features characters of color or who are LGBTQ, its genre, and so on. (Lopez Tr. at 249:3–18; 310:17–311:15; 421:2–422:23.) The analysis, aside from its value preserving incidents of book banning nationwide, informs PEN's annual Book Ban Report and other programmatic work. (*Id.* at 90:20–91:5; *see also* Friedman Tr. at 20:12–21:4.) The process has evolved since the effort began in 2022, and the data generated by the content analysis has been carried over across multiple spreadsheets existing on PEN's internal shared drive. (*Id.* at 25:14–26:2; 77:24–79:6.)

Summer Lopez, PEN's Chief Program Officer, Free Expression, and corporate representative, testified about this process on August 1 and 2, 2024, when the Board deposed her. The Board asked several questions regarding an index maintained by PEN related to book bans. By way of non-exhaustive example, the following exchanges occurred during the deposition:

> Q: (By Ms. Smith) And we've talked about the index, but the index you're referring to is the index of school book bans that PEN prepares; correct?
>
> A: Yes. So these are books that we understood were either in some form of restriction or had been removed in contradiction of the recommendations by the review

[2] A true and correct copy of the cited excerpts of Jonathan Friedman's October 14, 2025 deposition is attached hereto as Exhibit B.

> committees – intervention of the recommendations by the review committees.
>
> . . .
>
> Q: Okay and I think you told me that the internal version is like a live document that is continually updated; is that correct?
>
> A: It's not necessarily sort of being updated in realtime (*sic*), but it is something we are working on constantly to update for the next public iteration of it.

(Lopez Tr. at 303:1–10, 304:5–11.)

And:

> Q: (By Ms. Smith) Okay. And it [a segment of PEN's Book Ban Report] shows here that 41 percent of the books were banned based on LGBTQ+ teams, protagonists or prominent secondary characters; correct?
>
> A: Well, it's the subject matter of the banned content. I don't think this is necessarily saying what the basis was for each ban, but it also – books might fall into more than one category, as well. So this is based on a consent (*sic*) analysis of the books themselves that are on the list.
>
> . . .
>
> I can say a bit more about it. . . . [B]asically this is something that Tasslyn [a PEN employee] helped develop for us, in terms of kind of, we're looking at the content analysis. It's conducted by her and some of the others who are expert librarians in our networks. They look at, you know, information from publishing websites, from book seller book sites, from the, sort of software and resources the librarians utilize to make selections and territorial decisions to assess the content of the books.

(*Id.* at 147:15–148:19.)

PEN produced additional iterations of the content analysis throughout discovery, including the most recent document containing PEN's "Master List" of banned books and the organization's categorization of them. (Oberlander Decl. ¶ 8 (citing PLAIN0009078).) Jonathan Friedman, PEN's second corporate representative, also testified extensively about the content analysis at his October 14, 2025 deposition in response to Defendant's questioning. Additionally, PEN has produced its annual Book Ban Reports—which contain data and statistics the content analysis informs—and an internal document explaining the process for analyzing a book and the meaning of the various categories PEN uses. (Oberlander Decl. ¶ 9 (citing PLAIN0009079); *see also* Friedman Tr. at 20:12–21:4.)

Despite having access to documents and testimony about PEN's efforts to track and analyze the content of banned books across the country since near the beginning of discovery, the Board did not supplement its discovery requests, send a deficiency letter, or otherwise demand that PEN produce all versions of the "content analysis spreadsheet" and related documents until the close of discovery. (Oberlander Decl. ¶ 10.) Indeed, Defendant did not even raise a concern until October 23, 2025, in an email from the Board's counsel. (*Id*.) As a good faith effort to compromise and in order to avoid unnecessary motion practice, PEN offered to produce, and did produce on October 24, 17 prior draft versions of PLAIN0009078, the document containing PEN's most recent, and comprehensive, content analysis

data. (*Id*. ¶ 11.) In response, Defendant filed its Motion.

As ordered by the Court, the parties met and conferred on Thursday, November 6, 2025, at 10:00 a.m. ET to attempt to resolve the issues raised in the Board's Motion. (*Id*. ¶ 12.) In a further good-faith effort to resolve the dispute, PEN stated that if Defendant were to withdraw its Motion, PEN would produce all the documents in PEN's relevant programmatic shared drive consisting of spreadsheets containing content analysis material, a total of 21 additional documents. (*Id.* ¶ 13.) The Board wholly rejected PEN's offer of compromise. (*Id*. ¶ 14.) Despite objecting to its relevance and otherwise, PEN remains willing to produce these documents to the Board in order to resolve the instant dispute.[3] (*Id*. ¶ 15.)

[3] The other discovery dispute pending before this Court is related. In Defendant's Motion to Compel Better Responses from PEN and Penguin Random House, LLC (ECF No. 241), the Board seeks additional information in response to its interrogatories, which request, generally, information about the viewpoint or content the Board discriminated against when removing or restricting each at-issue book. (*See generally, e.g.*, ECF No. 241-6.) Attempting to resolve that motion, Plaintiffs offered to produce a chart to the Board, which identifies for each of the 161 at-issue books: the viewpoints, ideologies, and/or themes that PEN contends motivated the Board's decisions to remove or restrict the book; non-exhaustive examples of documents produced in discovery or that are otherwise publicly available and that support PEN's position; and other relevant information. (ECF No. 257 at 5.) The Board rejected that offer, even though the information Plaintiffs agreed to provide would encompass and identify documents supporting Plaintiffs' claim that the Board removed books "based on its disagreements with the ideas expressed in those books"—information the At Issue Requests, and this Motion, supposedly seek.

ARGUMENT

I. LEGAL STANDARD.

Rule 37(a) of the Federal Rules of Civil Procedure and Rule 26.1(D) of the Local Rules of this Court permit a party to move for an order compelling discovery if the party upon whom discovery is served fails to make disclosure or discovery as required by the Federal Rules of Civil Procedure. Fed. R. Civ. P. 37(a)(3)(B); N.D. Fla. R. 26.1(D). As is relevant to the Board's Motion, Rule 34 of the Federal Rules of Civil Procedure permits a party to serve requests for the production or inspection of documents or tangible things on any other party. Fed. R. Civ. P. 34(a).

The right to request documents pursuant to Rule 34, however, is not absolute. For example, a party is not permitted to obtain discovery that is disproportionate to the needs of the case when considering the parties' access to the information and whether the burden or expense of the requested discovery outweighs its benefit. Fed. R. Civ. P. 26(b)(1); *see also* Fed. R. Civ. P. 26(b)(2)(C) (stating that the Court must limit discovery if it is "unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive . . . or the proposed discovery is outside the scope permitted by Rule 26(b)(1).").

II. THE BOARD'S MOTION TO COMPEL SHOULD BE DENIED.

Through its Motion, the Board requests that the Court enter an order requiring PEN to produce "all versions of [PEN's] 'content analysis' spreadsheet, prior iterations, communications between the researchers regarding the spreadsheet, their

notes, the documents relied upon by the researchers in forming their opinions as to the books' content, and documents that were created with the data contained in these spreadsheets."[4] (ECF No. 255 at 9.) This information, the Board claims, is responsive to two of its document production requests:

> Documents supporting [PEN's] allegation that Defendant removed and restricted books from public school libraries "based on its disagreements with the ideas expressed in those books[ ]"

and

> Documents supporting [PEN's] allegation that Defendant ordered the "district-wide removal of books based on the openly ideological, political, and discriminatory views of a small minority."

(ECF No. 255-2 at 5–6.)

The Motion should be denied because: (i) PEN's content analysis information, and all documents about it, are irrelevant and not responsive to the At

[4] The Board styles its final request more broadly—*i.e.*, an order from the Court "compelling PEN to provide full and complete responses to [the At Issue Requests], including identification of the documents produced which are responsive to these requests." (*See* ECF No. 255 at 15.) But the Board has not identified any other document or information it alleges was improperly withheld and, without having done so, PEN is unable to guess at what else the Board contends would be required to fulfill these Requests. Additionally, and in line with Defendant's own practice, PEN did not identify which discovery requests its document productions were responsive to because the parties agreed in their Stipulated Discovery Order that such exercise would be unnecessary. (*See* ECF No. 80 ¶ 19.) Accordingly, PEN proceeds by challenging the grounds Defendant provides for seeking the specifically identified categories of documents.

Issue Requests; (ii) the information is redundant to documents and data PEN already has produced; (iii) PEN's objections to the At Issue Requests are proper; and (iv) the Board's delay renders any Order in favor of the Board inequitable. Each of these reasons will be discussed in turn.

A. The Information in the Content Analysis Spreadsheet Is Irrelevant to the Board's Decision-making and Not Responsive to the At Issue Requests.

First, the Motion should be denied because PEN's ongoing content analysis of banned books nationwide is irrelevant to the Board's decision-making with respect to the at-issue books in Escambia County and, thus, not responsive to the At Issue Requests.

The At Issue Requests seek documents supporting Plaintiffs' viewpoint-discrimination claims, *i.e.*, that the Board removed books "based on its disagreements with the ideas expressed in those books" and "based on the openly ideological, political, and discriminatory views of a small minority." (ECF No. 255-1.) As the Court is aware, the outcome of this matter turns on whether the Board improperly removed or restricted books based on their discriminatory animus. (ECF No. 219 ¶¶ 228–237.) "Viewpoint discrimination is 'an egregious form of content discrimination' that occurs 'when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the regulation.'" *Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass'n*, 942 F.3d 1215, 1240–41 (11th Cir. 2019)

(quoting *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995)); *Pernell v. Fla. Bd. of Gov. of St. Univ. Sys.*, 641 F. Supp. 3d 1218, 1236 (N.D. Fla. 2022). When determining whether viewpoint discrimination has occurred, courts analyze the *government's* reasoning for restricting speech. *Cambridge Christian Sch., Inc.*, 942 F.3d at 1240–41; *Pernell*, 641 F. Supp. 3d at 1236. A third party's interpretation of the speech is irrelevant; it does not make the government's reason for restricting the speech at issue any more or less likely. *See* Fed. R. Evid. 401 ("Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence[,] and the face is of consequence in determining the action.").

Yet, as acknowledged by the Board, PEN's content analysis is "an internal document that PEN uses in its work to analyze the books that have been removed *around the country* in which *PEN* 'categorized the content of the books, according to a range of variables.'" (ECF No. 255 at 7 (quoting ECF No. 255-4 at 10:18–25) (emphasis added).) "The 'content analysis' spreadsheet is reflective of the researchers of PEN's [*sic*] evaluation of the content of the books as well as a review of published information and reviews." (*Id*. (citing ECF No. 255-4 at 22:6–23:10).) In other words, PEN's content analysis reflects how *PEN*, and other sources which PEN consulted, have categorized books banned throughout the country over time. (*Id*.) It does *not* reflect how the Board or its members view or have viewed the

content of the books removed or restricted in Escambia County.

Accordingly, PEN's content analysis and related documents are irrelevant and non-responsive to the At Issue Requests, and the Motion should be denied.[5]

B. Defendant Already Has the Information It Says PEN Needs to Produce.

The Court should also deny the Board's Motion because PEN has produced documents containing the information Defendant claims is missing and Defendant is unable to explain why it needs to see such information again. By way of example, on June 14, 2024, PEN produced PLAIN0004234, which is a spreadsheet from PEN identifying various books that have been challenged throughout the State of Florida, including in Escambia County, and information about the challenges. (Oberlander Decl. ¶ 6; *id.* Ex. 1) This document also contains PEN's content analysis of each book, including (among many others) data about the books' genre, setting, and depiction of minority characters. (*Id.*) PEN produced additional similar documents throughout discovery, (i*d.* ¶ 7), including the most recent and comprehensive analysis of banned books, (*see id.* ¶ 8; *id.* Ex. 2), and an internal rubric for understanding the categories to which PEN assigned books and the process for doing so. (*See id.* ¶ 9; *id.* Ex. 3).

[5] The documents' irrelevance to Plaintiffs' claims is, by itself, reason enough to deny the Board's Motion. *See* Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any nonprivileged matter *that is relevant to any party's claim or defense* and proportional to the needs of the case." (emphasis added)).

As is apparent from the documents, the data they contain is almost entirely duplicative (not to mention unrelated to the books at issue in this litigation). Take, for example, Exhibit 2. It consists of 5 separate worksheets; the sheet titled "21-24" is the current most comprehensive compilation of PEN's data about banned books and includes 8216 entries; the sheet titled "New Titles 24.25" includes 1627 more. Information about the 161 books removed or restricted by the Board comprises only about 1.6% of the data in these two spreadsheets. At Defendant's request, and as an offer of compromise, PEN produced 17 prior saved versions of this same spreadsheet. (Oberlander Decl. ¶ 11.) Yet the Board still wants more, requesting every version or draft of every spreadsheet containing content analysis information, and every email and other document about every change or edit made over years of work tracking thousands of books.

Defendant provides no reason for needing tens or hundreds of thousands of more rows of spreadsheet data that will contain mostly duplicate information almost entirely about books that are not relevant to this case. The Court should not sustain such a request.[6] Fed. R. Civ. P. 26(2)(b)(C); *see also S. Broward Hosp. Dist. v. Elap*

[6] Defendant contends its demand is no more than what Plaintiffs asked of the Board when Plaintiffs sought different versions of the Board's document tracking its consideration of challenges to books in the Escambia County school libraries. (ECF No. 255 at 14–15.) What Defendant wants here is meaningfully different. Defendant's tracker was the Board's *only record* of when it actually decided to restrict the particular books at issue in this case. (*See generally, e.g.*, ECF No. 141 at 4–10.) Different versions and drafts of PEN's content analysis show nothing about

Servs., LLC, 2021 WL 9347048, at *2 (S.D. Fla. Dec. 17, 2021) (denying a motion to compel production of documents because "[w]hile this information may be tangentially relevant" it was cumulative and duplicative since the moving party had already received "substantial discovery" reflecting the information contained in the requested documents); *Bradfield v. Mid-Continent Cas. Co.*, 2014 WL 4626864, at * 4 (M.D. Fla. Sept. 15, 2014) (denying a motion to compel production of documents because "[i]t is highly probable, if not certain, that the discovery sought would be cumulative or duplicative of what has already been obtained.").

In addition, and as fully set forth in Plaintiffs PEN and Penguin Random House, LLC's prior Memorandum of Law in Opposition to the Board's Motion to Compel (filed and served on October 31, 2025), the Board is already in possession of other information that PEN contends supports its claims in this case—the information ostensibly sought by the At Issue Requests. (ECF No. 257 § B.2. at 18–21.) Given the foregoing, there can be no dispute that the Board already possesses documents sufficient to show the redundant and irrelevant information it seeks here. Therefore, the Court should deny the Board's Motion.

C. PEN's Objections Are Proper.

Furthermore, the Court should deny the Motion because PEN's objections are

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the Board's actions—at most, they *might* show refinement in how *PEN* classified content and objections to books on a nationwide scale, which does not bear on the challenged decision-making here.

proper. The Board contends that PEN should be ordered to provide better responses to the At Issue Requests, because PEN's "boiler plate objections should be ignored." (ECF No. 255 at 11.) The Board provides no argument in support of this contention, but rather hangs its hat on a six-line string cite containing cherry-picked quotations without context. (*Id*. at 12.) Moreover, when the authority relied on by the Board is analyzed more closely, it is apparent that PEN's objections to the At Issue Requests are not improper boilerplate objections.

"In the Eleventh Circuit, objections to discovery must be 'plain enough and specific enough so that the court can understand in what way the [discovery is] alleged to be objectionable.'" *Adelman v. Boy Scouts of Am.*, 276 F.R.D. 681, 688 (S.D. Fla. 2011) (alterations in original) (quoting *Panola Land Buyers Assoc. v. Shuman*, 762 F.2d 1550, 1559 (11th Cir.)). This means that an objecting party must state the particular reasons that a discovery request is, for example, vague, overly broad, or unduly burdensome. *See, e.g.*, *Milinazzo v. State Farm Ins. Co.*, 247 F.R.D. 691, 695 (S.D. Fla. 2007); *Walton Constr. Co. v. Corus Bank*, 2012 WL 13029592, at * 1 (N.D. Fla. Apr. 18, 2012) ("Intoning the overly broad and burdensome litany, without more, does not express a valid objection." (cleaned up)). PEN has satisfied this requirement in its objections to the At Issue Requests.

PEN did not simply object to these requests for production on the grounds that they are vague, overly broad, and unduly burdensome, which they are. (ECF No.

255-2 at 5-6.) Rather, PEN objected that the Requests were unduly broad and unduly burdensome insofar as they seek documents that are not "relevant to any party's claim or defense and proportional to the needs of the case" and that are "already in Defendant's possession, custody, or control or [are] publicly available," before pointing Defendant to documents in support of PEN's position. (*Id*.) In other words, PEN provided the Board (and the Court) with the specific reasons for its objections. Accordingly, PEN's objections are not improper boilerplate objections, and the Board's Motion should be denied. *See Adelman*, 276 F.R.D. at 688; *Milinazzo*, 247 F.R.D. at 695; *Walton Constr. Co.*, 2012 WL 13029592, at * 1.

Cases cited (but not discussed) by the Board in its Motion warrant brief treatment. In *Rivera v. 2K Clevelander, LLC*, the plaintiff sought an order compelling the defendant to provide better answers and responses to her discovery requests, arguing the defendant's objections were impermissible boilerplate. 2017 WL 5496158, at *1 (S.D. Fla. Feb. 22, 2017). Although the court agreed—explaining that the objections consisted of "no more than two sentences each" and needed "more information on *why* Plaintiff's discovery responses are improper," *id.* at *3 (emphasis in original)—the challenged objections were different from PEN's here, which identify the particular ways in which the At Issue Requests are overly broad and unduly burdensome (*i.e.* they seek documents that are not "relevant to any party's claim or defense and proportional to the needs of the case" and that are

"already in Defendant's possession, custody, or control or [are] publicly available"). (ECF No. 255-2 at 5 & 6.).

And in *Walton Construction Co., LLC v. Corus Bank*, which featured another "boilerplate" challenge, the interrogatories to which the defendant objected sought crucial information about the defendant's citizenship that was necessary to ascertain the court's subject matter jurisdiction. 2012 WL 13029592, at *1. Although the court ultimately held that the defendant was required to supplement its interrogatory answers, *id*. at *3, the basis for this ruling was not that the defendant's objections were improper boilerplate but the jurisdictional nature of the information sought.[7] *See id*. Here, the At Issue Requests are wholly irrelevant to the issue of subject matter jurisdiction and ask for information about Defendant's own state of mind and rationale for engaging in the decision-making Plaintiffs challenge. (ECF No. 255-2 at 5–6.) As such, *Walton* is inapposite.

D. The Board's Delay Renders an Order in Favor of the Board Inequitable.

Finally, the Board's delay in raising the issues in this Motion renders any Order in favor of the Board inequitable. As discussed above, the Board has had access to documents and testimony about PEN's efforts to track and analyze the

[7] The *Walton* Court did characterize Starwood's objections as boilerplate but only in dicta; the basis for the Court's order compelling the production of additional information related to weighty jurisdictional concerns that are not present here. *Id.* at *2–3.

content of banned books since the beginning of discovery. *Supra* at 4–8. Despite having such knowledge, and despite it being obvious that PEN did not produce background notes, drafts, or communications about its *nationwide* content analysis project, the Board did not raise a concern regarding PEN's document production or its objections to the At Issue Requests until the close of discovery. (Oberlander Decl. ¶ 10.) Such delinquency should not be rewarded by this Court, particularly due to the onerous nature of obtaining and producing all versions of the "content analysis spreadsheet," and all attendant emails, drafts, notes, and communications, which has been carried over across multiple documents existing on PEN's internal shared drive since 2022. Therefore, the Court should deny the Board's Motion.

CONCLUSION

Given the foregoing, PEN respectfully requests that the Court deny the Board's Motion to Compel.

Date: November 13, 2025

Respecfully submitted,

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CERTIFICATE OF WORD COUNT

The undersigned certifies that this Memorandum complies with the word count limitation set forth in Local Rule 7.1(f) because it contains 4,613 words, excluding the parts exempted by said Local Rule.

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