

STATE OF MICHIGAN
COURT OF CLAIMS

GARY MICHAEL VORIS, and
ST. MICHAEL'S MEDIA,
a/k/a/ CHURCH MILITANT,
A Michigan nonprofit corporation,

Case Number: 20-000003 -MZ

Plaintiffs,

Hon. Murray

v.

DANA NESSEL, in her official capacity as the
Attorney General of the State of Michigan,

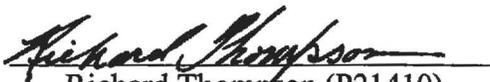
Defendant.

2020 JAN -9 AM 11:07

Richard Thompson (P21410)
Brandon Bolling (P60195)
THOMAS MORE LAW CENTER
Attorney for Plaintiffs
24 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
(734) 827-2001
rthompson@thomasmore.org

VERIFIED COMPLAINT

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the Verified Complaint.


Richard Thompson (P21410)

NOW COME Plaintiffs, Gary Michael Voris and St. Michael Media Inc., a/k/a Church Militant,
by and through their attorneys, and state the following:

INTRODUCTION

1. This case challenges the Michigan Attorney General Dana Nessel's ("Nessel") flagrant violation of the Michigan Freedom of Information Act MCL 15.231, et seq. ("FOIA"). The proper functioning and public control of government in a representative democracy require that the people have full and complete information regarding the affairs of government and the official acts of those who represent them as public officials. Disregarding her responsibilities under FOIA, Nessel has deprived Plaintiffs of their rights under it.

THE PARTIES

2. Plaintiff Gary Michael Voris ("Voris") is a resident of Oakland County, Michigan, and serves as President of St. Michael's Media a/k/a Church Militant.

3. Plaintiff St. Michael's Media a/k/a Church Militant ("Church Militant") is a Michigan nonprofit corporation headquartered in Oakland County, Michigan.

4. Church Militant is a lawful person. (See generally MCL 15.232(g)).

5. Plaintiffs' mission is to promote the religious teachings of the Catholic Church by providing all people with the means to increase their personal holiness through catechesis and evangelization concerning the eternal truths of the Christian faith. Plaintiffs publicly achieve their mission by bringing the message of Jesus Christ and the Gospels using all forms of communication, including the internet and digital media.

6. Plaintiffs are faithful to the traditional belief and teaching of the Catholic Church that marriage as instituted by God is solely the union of one man and one woman.

7. Defendant Nessel is sued in her official capacity as the elected head of the Department of the Attorney General of the State of Michigan ("AG"), a part of the executive branch of the Michigan state government.

8. The AG is a “public body” as defined in MCL 15.232(h)(i) and it creates and maintains “public records” as defined in MCL 15.232(i).

9. Nessel is responsible for the actions of the AG’s Hate Crimes Unit—which she created.

10. At all times relevant herein, Christy Wendling-Richards (“Wendling-Richards”) was the duly appointed FOIA Coordinator authorized by Nessel to process FOIA requests on behalf of the AG.

JURISDICTION

11. Venue is proper pursuant to MCL 15.240(1)(b).

12. This action should be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way. (See generally MCL 15.240(5)).

13. The Court of Claims has jurisdiction over this action. (See generally MCL 600.6419(1)(a)).

STATEMENT OF FACTS

14. On February 22, 2019, Nessel issued a joint press release with the Michigan Department of Civil Rights (“MDCR”) following, and in response to, a press release issued by the Southern Poverty Law Centers (“SPLC”) which included an annual Hate Map report. [Exhibit 1].

15. A hyperlink to the SPLC’s Hate Map report was contained in the AG’s joint press release with MDCR of February 22, 2019. (Found at: Department of Attorney General (<https://www.michigan.gov/ag>) at <https://www.splcenter.org/states/michigan>; https://www.michigan.gov/mdcr/0,4613,7-138-4952_4995-490247,00.html; last accessed by Plaintiffs on January 6, 2020).

16. Church Militant is listed in this Hate Map report as an anti-lesbian, gay, bisexual, and transgender (“LGBT”) organization in Michigan.

17. In the February 22, 2019, joint press release Nessel stated that she would establish a Hate Crimes Unit to “fight against hate crimes and the many hate groups which have been allowed to proliferate in our state.” (Found at: Department of Attorney General (<https://www.michigan.gov/ag>) at <https://www.splcenter.org/states/michigan>; https://www.michigan.gov/mdcr/0,4613,7-138-4952_4995-490247,00.html; last accessed by Plaintiffs on January 6, 2020).

18. On May 15, 2019, as a result of Nessel’s public announcement citing the SPLC Hate Map report, the Thomas More Law Center, on behalf of Voris and Church Militant, filed a FOIA request with the AG’s FOIA Coordinator. [Exhibit 2].

19. Attached to Plaintiffs’ FOIA request was an Authorization for Release of Records, signed by Voris, seeking any records that may relate to him personally. [Exhibit 3].

20. Plaintiffs’ FOIA request included, inter alia: a request for all AG records relating to Voris and Church Militant; any AG communications with the SPLC regarding the classification of Church Militant as a hate group; and all information relating to the criteria used by the AG and SPLC to designate an organization as a “hate group.” [Exhibit 2].

21. On May 23, 2019, the FOIA Coordinator requested an extension to respond to Plaintiffs’ FOIA Request until June 6, 2019.

22. On June 6, 2019, the FOIA Coordinator requested Plaintiffs pay a deposit of \$394.27 for the requested records and indicated that the AG would complete processing Plaintiffs’ FOIA request within an estimated 21 business days after receipt of the deposit.

23. On June 10, 2019, Plaintiffs sent the requested deposit of \$394.27 by mail to the

FOIA Coordinator.

24. On June 25, 2019, the AG cashed Plaintiffs' \$394.27 check for the requested deposit.

25. On July 11, 2019, the FOIA Coordinator requested an additional extension to complete the processing of the FOIA request until July 18, 2019.

26. On July 18, 2019, the FOIA Coordinator sent a response regarding a partial granting and partial denial of Plaintiffs' FOIA request, coupled with a request for payment of a fee balance before "nonexempt" records would be provided. The response letter denied requests 1 through 3, part of request 4, and claimed it does not possess records responsive to request numbers 5, 8, 9, 10, 11, 12, 15, 16, and 17. No response was provided for request numbers 13 and 14. [Exhibit 4].

27. Stunningly, the FOIA response indicated that Plaintiffs were now under investigation by the AG's Hate Crimes Unit. However, as of the date of this filing, the AG has not made Plaintiffs aware of the status of any pending investigation into their conduct.

28. The July 18, 2019, FOIA response letter also indicated that the AG "possess[es] a complaint, an internal investigative report, and approximately 73 emails with a date range of February 2, 2019 through June 17, 2019." [Exhibit 4]

29. On July 19, 2019, consistent with the AG's demands for additional funds, Plaintiffs mailed a check in the amount of \$88.91 to the FOIA Coordinator.

30. On September 6, 2019, the AG cashed Plaintiffs' \$88.91 check for the requested additional funds.

31. On July 24, 2019, Plaintiffs' received a letter enclosing records relating to *only three of Plaintiffs' seventeen records requests*. Furthermore, the records provided by the AG were

unresponsive—they were merely compiled from other organizations and not the policies, procedures or guidelines developed by the AG’s Hate Crimes Unit.

32. On October 4, 2019, in a futile attempt to amicably resolve this matter, Plaintiffs sent a letter to the FOIA Coordinator objecting to the FOIA response as insufficient under FOIA and asked that the requested records be produced in accordance with the law. [Exhibit 5].

VIOLATION OF THE MICHIGAN FREEDOM OF INFORMATION ACT

33. On October 30, 2019, the FOIA Coordinator responded to Plaintiffs’ October 4, 2019, letter stating that the AG *now had 73 less documents than it originally had identified as relevant to Plaintiffs’ FOIA request.* [Exhibit 6].

34. With her letter, the FOIA Coordinator produced copies of eight e-mails with the entirety of all text completely redacted rendering them useless and unreadable. [Exhibit 7].

35. The AG’s derelict response to Plaintiffs’ FOIA request is not in compliance with the law, addresses neither the nature of the AG investigation nor its connection with the SPLC’s annual update report listing Church Militant as a hate group, and fails to address Nessel’s public response that she would “fight” against these “groups.”

36. The AG has made no effort to either separate exempt from the nonexempt records or to make the nonexempt records available to Plaintiffs.

37. Defendant’s justification to withhold public records from Plaintiffs was based solely on conclusionary and boiler-plate language without even attempting to explain how any particular record would interfere with any law enforcement proceeding.

38. The Affidavit of Assistant Attorney General in charge of the Hate Crimes Unit Sunita Doddamani (“Doddamani”) accompanying Defendant’s October 30, 2019, letter also failed to factually particularize and detail how the AG’s response to the Plaintiffs’ FOIA request would

interfere with any investigation. [Exhibit 8].

39. The AG failed to follow the proper procedures for withholding records under FOIA and failed to assert any proper basis for exemption from disclosure. The AG has merely opined that disclosing records in response to Plaintiffs' FOIA request *could* interfere with law enforcement proceedings. However, to justify an exemption, the public body must give a detailed and particularized description of how release of the records *would* interfere with an open investigation, not that it *could* interfere with a law enforcement investigation. See *Evening News Ass'n v. Troy*, 417, Mich. 481, 503 (1983); see also Mich. Comp. Laws § 15.243(1)(b)(i).

40. Furthermore, the public's interest in governmental accountability prevails over an individual or group expectation of privacy. Plaintiffs have a right to know whether they are being unfairly targeted for investigation as a "hate group" because of their religious beliefs solely because they are listed on SPLC's Hate Map report.

41. Defendant's response to Plaintiffs' FOIA request numbers 10, 11, and 12 that *no* records can be found concerning the relationship and communications between the AG and the SPLC is questionable in view of:

- a) Nessel's testimony to the House Judiciary Committee on February 19, 2019;
- b) Nessel's comments in reference to the SPLC's "Intelligence Report" and "Hate Map" which both list Church Militant as a hate group;
- c) Nessel's February 22, 2019, joint press release with the Director of the MDCR;
and
- d) Nessel's comments, and those of her spokeswoman, Kelly Rossman-McKinney ("Rossman-McKinney"), in a Detroit News article dated February 22, 2019.
(Found at: Detroit News (<https://www.detnews.com>))

<https://www.detroitnews.com/story/news/local/michigan/2019/02/22/ag-department-civil-rights-document-prosecute-hate-crimes/2954169002/>; last accessed by Plaintiffs on January 6, 2020).

42. The AG has not provided sufficient support for its refusal to disclose certain e-mails identified as “work product.” Moreover, any assertion that documents constitute “work product” were waived by (a) Nessel’s public comments in a joint press release with the Director of the MDCR on February 22, 2019; (b) Nessel’s comments, and those on her behalf by Rossman-McKinney, in the February 22, 2019, Detroit News article; and (c) Nessel’s testimony to the House Judiciary Committee on February 19, 2019.

43. On October 31, 2019, Plaintiffs sent a Notice to Preserve Records requested under FOIA, addressed to Nessel and the FOIA Coordinator. [Exhibit 9].

44. Plaintiffs adopt by reference and incorporate fully herein all attached Exhibits. [Exhibits 1 – 9].

PRAYER FOR RELIEF

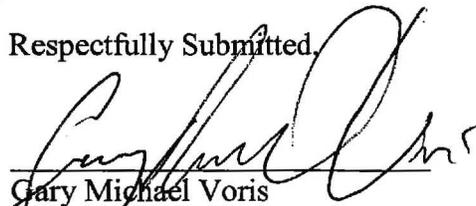
WHEREFORE, Plaintiffs pray this Court to:

- A) assign this action for hearing at the earliest practicable date and expedite it in every way in accordance with MCL 15.240(5);
- B) order the Department of Attorney General to provide a bill of particulars to Plaintiffs listing and describing each document withheld from production in response to our FOIA request;
- C) schedule an In-Camera Review by Plaintiffs’ Attorney and this Court of documents withheld from production by the Department of the Attorney General in response to our FOIA request;

- D) order the Department of the Attorney General to preserve all records pertaining to Plaintiffs;
- E) award attorney fees, costs and disbursements to Plaintiffs in accordance with MCL 15.240(6); and
- F) award such other and further relief as this Court determines is just and equitable.

I declare that this Verified Complaint has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Respectfully Submitted,



Gary Michael Voris
President, St. Michael's Media,
a/k/a Church Militant

Subscribed and sworn to before me on this 8th day of January, 2020

Signature: FRANCIA S MORELLO

Notary Public, Oakland County, Michigan,

My Commission expires: July 5, 2022

FRANCIA S. MORELLO Notary Public, State of Michigan County of Oakland My Commission Expires Jul. 05, 2022 Acting in the County of <u>Oakland</u>
--

Respectfully Submitted,

THOMAS MORE LAW CENTER



Richard Thompson (P21410)
24 Frank Lloyd Wright Dr.
P.O. Box 393
Ann Arbor, MI 48106
(734) 827-2001
rthompson@thomasmore.org

Dated: January 8, 2020

EXHIBIT 1



IN 2018, 31 HATE GROUPS WERE TRACKED IN MICHIGAN

GROUPS IN MICHIGAN

There are 9 statewide hate groups in Michigan not displayed on the map

AMERICAN FREEDOM LAW CENTER

MUS AMERICAN GUARD

GENERAL HATE
STATEWIDE

AMERICAN NAZI PARTY

NEO-NAZI
WESTLAND

ATOMWAFFEN DIVISION

NEO-NAZI
STATEWIDE

CHURCH MILITANT/ST. MICHAEL'S MEDIA

ANTI-LGBT
FERNDALE

CREATIVITY MOVEMENT, THE

NEO-NAZI
STATEWIDE

DAILY STORMER, THE

NEO-NAZI
STATEWIDE

FOUNDATION FOR THE MARKETPLACE OF IDEAS

WHITE NATIONALIST
CLINTON TOWNSHIP

GALLOWS TREE WOTANSVOLK ALLIANCE

GENERAL HATE
GRAND RAPIDS

GREAT MILLSTONE

BLACK NATIONALIST
DETROIT

IDENTITY EVROPA

WHITE NATIONALIST
STATEWIDE

ISRAEL UNITED IN CHRIST

BLACK NATIONALIST
DETROIT

ISRAELITE SCHOOL OF UNIVERSAL PRACTICAL KNOWLEDGE

BLACK NATIONALIST
DETROIT

NATION OF ISLAM

2 chapters

BLACK NATIONALIST

DETROIT NATIONAL SOCIALIST MOVEMENT

NEO-NAZI
DETROIT

NORTHERN HAMMERSKINS

RACIST SKINHEAD
DETROIT

NS PUBLICATIONS

NEO-NAZI
WYANDOTTE

NSM88 RECORDS

HATE MUSIC
DETROIT

PACIFIC COAST KNIGHTS OF THE KU KLUX KLAN

KU KLUX KLAN
ALPENA

PATRIOT FRONT

WHITE NATIONALIST
STATEWIDE

PROUD BOYS

GENERAL HATE
STATEWIDE

REVOLUTIONARY BLACK PANTHER PARTY

BLACK NATIONALIST
FLINT

SHARIA CRIME STOPPERS

ANTI-MUSLIM
MOUNT CLEMENS

SOCIAL CONTRACT PRESS

WHITE NATIONALIST
PETOSKEY

SOUTHEAST MICHIGAN TEA PARTY

ANTI-MUSLIM
UTICA

THE RIGHT STUFF

WHITE NATIONALIST
STATEWIDE

THE UNITED NUWAUPIANS WORLDWIDE/ALL EYES ON EGIPT

BLACK NATIONALIST
DETROIT

EXHIBIT 2



May 15, 2019

Via E-mail Only

Department of Attorney General
Attn. FOIA Coordinator
P.O. Box 30754
Lansing, MI 48909

Email: AG-FOIA@michigan.gov

Re: Freedom of Information Act Request

Dear FOIA Coordinator:

Pursuant to the provisions of the Michigan Freedom of Information Act (FOIA), Mich. Comp. Laws §§ 15.231 et seq., as amended, the undersigned Thomas More Law Center (TMLC) requests that the Department of Attorney General produce copies of the following described public records in its possession, whether initiated by the Department of Attorney General, the Attorney General or officers, agents or employees of the Department of Attorney General, or any outside agency or person not connected with said Department.

This FOIA request is made on behalf of TMLC clients: Gary Michael Voris (see Exhibit 1), St. Michael's Media, Inc. and Church Militant.

The Thomas More Law Center (TMLC) is a national, nonprofit public interest law firm based in Ann Arbor, Michigan. Its mission includes educating the public about the operations and activities of government, particularly as it pertains to U.S. Constitution and national security. TMLC is a 501(c)(3), not-for-profit, public interest law firm and educational organization, and, by definition, has no commercial purpose.

To facilitate record production within the statutorily prescribed time of five (5) business days, please provide the requested records in electronic format (e.g. email) whenever possible. It is also requested that all records produced in response to this FOIA indicate the number of the request to which it is being produced. Where practicable, all communications, including the delivery of the requested public records, take place via email to brice@thomasmore.org.

DEFINITIONS

- A. "Writing," under the Michigan Freedom of Information Act, means: "handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content."
- B. As used herein, the term "correspondence" includes all letters, e-mails, telegrams, notices, messages, or other written communications or memoranda, or other records of conversations, meetings, conferences, or other oral communications.
- C. The words "and" and "or," as used herein, shall be construed either conjunctively or disjunctively, as required by the context, to bring within the scope of these FOIA requests any information that might be deemed outside their scope by any other construction.
- D. As used herein, the term "relating to" means and includes "constituting," "referring to," "pertaining to," "evidencing," "reflecting," "describing," or "has anything to do with," and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which provides information with respect to the subject of inquiry.
- E. As used herein, the terms "pertaining to," "relating to," "related," "related to," "relates to," "regarding," "referring to," or "concerning" are used in the broadest sense to mean in any way, whether directly or indirectly, involving, concerning, relating to, referring to, being appropriate for, considering, underlying, modifying, amending, confirming, endorsing, evidencing, representing, supporting, qualifying, terminating, revoking, canceling, or negating.
- F. As used herein, the terms "any" and "all" shall both mean "any and all" as appropriate to bring within the scope of these FOIA requests information and documents that might otherwise be beyond their scope.
- G. The term "policy," as used herein, includes, but is not limited to, any document that describes a principle, plan, or course of action to guide decisions. "Policy" shall also mean each rule, procedure, or directive, formal or informal, written or unwritten, and each common understanding of course of conduct that was recognized as such by your present and former officers, agents, employees, or other persons acting or purporting to act on your behalf.
- H. The term "including" as used herein means "including but not limited to."
- I. "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function from the time it is created. A public record or writing includes e-mails transmitted in the performance of an official

function. See *Howell Educ. Ass'n MEA/NEA v. Howell Bd. of Educ.*, 287 Mich. App. 228, 247 n.10.

REQUEST FOR PUBLIC RECORDS

The Thomas More Law Center requests the following public records:

1. A copy of all records, documents, e-mails, correspondence or other writings relating to or referring to Gary Michael Voris (aka Michael Voris). See Exhibit 1 for authorization.
2. A copy of all records, documents, e-mails, correspondence or other writings relating to or referring to St. Michael's Media, Inc.
3. A copy of all records, documents, e-mails, correspondence or other writings relating to or referring to Church Militant.
4. A copy of all policies, documents, records, procedures, e-mails, correspondence, or other writings relating to the operation of the Hate Crimes Unit established by Attorney General Dana Nessel and announced in her press release dated March 8, 2019.
5. A copy of all policies, documents, records, procedures, e-mails, correspondence, or other writings relating to the criteria the Department of the Attorney General and the Hate Crimes Unit will use to determine whether an organization or individual will be listed in the Hate Crime Unit or the Department of the Attorney General data base relating to "Hate Crimes".
6. A copy of all records, policies, e-mails, correspondence or other writings relating to or referring to the definition of "hate crime" which is used to guide the operation and jurisdiction of the Hate Crimes Unit.
7. A copy of all statutes and court decisions the Department of the Attorney General relied upon as the basis for establishing the Hate Crimes Unit described in the Attorney General's press release dated March 8, 2019.
8. A copy of all records, policies, e-mails, correspondence or other writings relating to or referring to the creation of a data base within the Department of the Attorney General containing the names of individuals and organizations Department of the Attorney General suspects of hate and bias, but which do not rise to the level of a crime or civil infraction under Michigan laws.
9. A copy of all records, correspondence, e-mails, or other writings relating to communications between Michigan Attorney General Dana Nessel or the Department of the Attorney General, its agent and employees, and the Department of Civil Rights, its Director, agents and employees, relating to the development of a data base of hate and bias incidents which do not rise to the level of a crime or civil infraction.
10. A copy of all records, correspondence, e-mails, or other writings relating to communications between the Michigan Attorney General or Department of the Attorney General, its agent and

employees, and the Southern Poverty Law Center, its officers, agents and employees, relating to the cooperation between the Southern Poverty Law Center's data base of hate groups in Michigan.

11. A copy of all records, correspondence, e-mails, or other writings relating to information Michigan Attorney General Dana Nessel or the Department of the Attorney General, its agent and employees, received from the Southern Poverty Law Center, its Director, officers, agents and employees, referring to Michael Voris, St. Michael's Media Center, Inc and Church Militant.

12. A copy of all records, correspondence, e-mails, or other writings relating to information Michigan Attorney General Dana Nessel or the Department of the Attorney General, its agent and employees, received from the Southern Poverty Law Center explaining the reasons why Church Militant was placed on the Southern Poverty Law Center's list of Michigan hate groups and the sources of its information for doing so.

13. A copy of all records, policies, e-mails, correspondence or other writings defining the word "hate" which will be used by the Department of the Attorney General in the implementation of its policy and directives to the Hate Crimes Unit.

14. A copy of all records, policies, e-mails, correspondence or other writings defining the word "bias" which will be used by the Department of the Attorney General in the implementation of its policy and directives to the Hate Crimes Unit.

15. A copy of all records, policies, e-mails, correspondence or other writings relating to the notification of individuals and groups that they have been listed in a data base relating to hate and bias.

16. A copy of all records, policies, e-mails, correspondence or other writings relating to the right to appeal by individuals and groups that have been placed on the Department of the Attorney General's data base relating to hate and bias.

17. A copy of all records, policies, e-mails, correspondence or other writings initiated by the Department of the Attorney General which will ensure protection of the constitutional right to freedom of speech, religion and association of individuals and groups considered for placement in the Hate Crimes Unit data base.

We are prepared to pay reasonable costs for the requested copies.

If you deny this request in whole or in part, we request that you do so by reference to the appropriate section and paragraph of the Michigan Freedom of Information Act, together with a complete explanation for the basis of your denial.

We look forward to receiving the requested records within five (5) business days. Please email the records to Brooke Rice at brice@thomasmore.org.

If you have any questions, please do not hesitate to contact me or Ms. Rice (734-827-2001).

Sincerely,

THOMAS MORE LAW CENTER

A handwritten signature in cursive script that reads "Richard Thompson".

Richard Thompson
President and Chief Counsel
24 Frank Lloyd Wright Drive
PO Box 393
Ann Arbor, MI 48106
734-827-2001 (Office)
734-930-7160 (Fax)

EXHIBIT 3

Authorization for Release of Personal Records

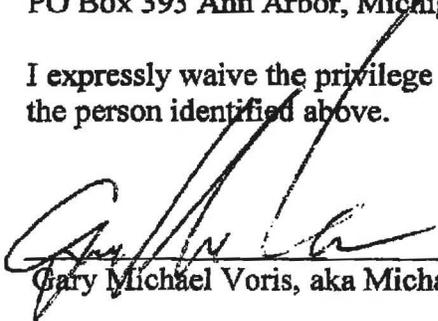
To: Department of the Attorney General
From: Gary Michael Voris (aka Michael Voris)
Date: May 6, 2019

I, Gary Michael Voris, hereby request that you immediately release, disclose, and provide a copy of all records, documents, e-mails, correspondence or other writings relating to or referring to Gary Michael Voris (aka Michael Voris) whether prepared by officers, agents and employees of the Department of the Attorney General or by an external entity to: the following attorney: Richard Thompson, Chief Counsel of the Thomas More Law Center:

email: rtompson@thomasmore.org

Richard Thompson
24 Frank Lloyd Wright Drive
PO Box 393 Ann Arbor, Michigan 48106

I expressly waive the privilege of confidentiality of the requested records, with respect to the person identified above.



Gary Michael Voris, aka Michael Voris

This instrument was sworn to and acknowledged before me, the undersigned authority, by Gary Michael Voris, also known as Michael Voris on this the 8th day of May 2019.

County/City of Oakland
Commonwealth/State of Michigan
The foregoing instrument was subscribed and
sworn before me this 8th day of May, 2019,
by Gary Michael Voris
(name of person seeking acknowledgement)
Pho Hoang
Notary Public
My Commission Expires: July 13, 2021

EXHIBIT 4

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



DANA NESSEL
ATTORNEY GENERAL

P.O. BOX 30754
LANSING, MICHIGAN 48909

July 18, 2019

Richard Thompson
Thomas More Law Center
24 Frank Lloyd Wright Drive
Ste. J 3200
P.O. Box 393
Ann Arbor, MI 48106

Sent by email
rthompson@thomasmore.org

Dear Mr. Thompson:

This notice supplements the Department of Attorney General's (Department) May 23, June 6, and July 11, 2019 notices issued in response to your law firm's May 15, 2019 request for information, under the Freedom of Information Act (FOIA), MCL 15.231 *et seq*, identified in the request as item Nos. 1-17. (Copies of the FOIA request and the Department's notices are attached and incorporated in this notice.)

In its June 6, 2019 notice, the Department stated that it would complete the processing of the request after receiving the good-faith deposit in the amount of one-half of the total estimated fee. The notice further indicated that the Department would notify the requester in writing of the balance due, the statutory basis for exemptions, if any, and the statutory remedial rights, if applicable.

The Department received the deposit in the amount of \$394.27 and the request is granted in part and denied in part. Because processing the request took less time than initially estimated, the balance due is \$88.91.

Upon receipt of the \$88.91 balance, by check payable to the State of Michigan and sent to the FOIA Coordinator, Department of Attorney General, P.O. Box 30754, Lansing, MI 48909, copies of the nonexempt records will be provided.

As to the partial grant, the Department states as follows:

Quoting from the numbered items in the request, the following information will be provided:

4. A copy of all [] documents [] e-mails, correspondence, or other writings relating to the operation of the Hate Crimes Unit established by

Attorney General Dana Nessel and announced in her press release dated March 8, 2019.

6. A copy of all records [] e-mails, correspondence or other writings relating to or referring to the definition of "hate crime" which is used to guide the operation and jurisdiction of the Hate Crimes Unit.
7. A copy of all statutes [] the Department of the Attorney General relied upon as the basis for establishing the Hate Crimes Unit described in the Attorney General's press release dated March 8, 2019.

As to the partial denial, the Department states as follows:

Referring to and quoting from the numbered items in the request, the following information is not provided for the reasons stated:

MCL 15.243(1)(a). As to item Nos. 4 and 6, the parts of the records composed of personal information have been redacted under section 13(1)(a) of the FOIA, MCL 15.243(1)(a), which provides for the nondisclosure of "[i]nformation of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy."

In this instance, individuals' email addresses and cell phone numbers have been redacted, as well as direct landline numbers.

In raising this exemption, the Department relies on *Mager v Dep't of State Police*, 460 Mich 134, 145-146 (1999), where the Supreme Court observed that the FOIA's core purpose is not promoted by disclosure of personal information "accumulated in various governmental files but that reveals little or nothing about an agency's own conduct."

MCL 15.243(1)(b)(i), (ii), (iii), and (v). Item Nos. 1 through 3 and part of item No. 4 seek information related to an open Department investigation; specifically, the Department possesses a complaint, an internal investigative report, and approximately 73 emails with a date range of February 2, 2019 through June 17, 2019.¹ Accordingly, the public disclosure of the information must be denied at this time.

¹ The nondisclosure determination also encompasses the information referred to in what is styled as a release executed by Mr. Gary Michael Voris on May 8, 2019 and included with the FOIA request.

Section 13(1)(b)(i), (ii), (iii), and (v) of the FOIA, MCL 15.243(1)(b)(i), (ii), (iii), and (v), provide, respectively, for the nondisclosure of “[i]nvestigating records compiled for law enforcement purposes [] to the extent that disclosure [] would [i]nterfere with law enforcement proceedings [;] [d]eprive a person of the right to a fair trial or impartial administrative adjudication [;] [c]onstitute an unwarranted invasion of personal privacy [;] [or] [d]isclose law enforcement investigative techniques or procedures.”

The FOIA does not permit a public body to consider the requesting person’s identity and motivation or purpose for making the request or the intended use of the information. *State Employees Ass’n v Dep’t of Mgt and Budget*, 428 Mich 104, 121, 126 (1987). Further, the FOIA provides no mechanism to prevent the ongoing dissemination of the information after an initial disclosure under the act. *Kestenbaum v Michigan State Univ*, 414 Mich 510, 528 (1982); *State Employees Ass’n*, 428 Mich at 125-126.

The public disclosure of the material composing the open investigation would adversely impact the investigation by having a chilling effect on the Department’s ability to conduct an unhindered and thorough investigation and would interfere with any prosecutorial determinations yet to be made. Disclosure further would jeopardize a constitutional right to a fair and impartial adjudication, and would result in the unwarranted invasion of the personal privacy of persons involved in the investigation by making public their names, addresses, and other personal information. The nondisclosure of witness information protects the integrity of evidence by preventing witness tampering and witness harassment by third parties.

Thus, to ensure a thorough investigation; to protect evidence; to encourage the cooperation of witnesses; to give due deference to privacy considerations; and to assure fairness, including the right to fair and impartial adjudication, the Department must withhold the information from public disclosure at this time.

MCL 15.243(1)(h). As to item No. 4, seven emails between and among Department staff dated March 21, and 28, 2019 are composed of attorney work product. Section 13(1)(h) of the FOIA, MCL 15.243(1)(h), provides for the nondisclosure of “[i]nformation or records subject to . . . privilege recognized by statute or court rule.” The privilege based on the attorney work product doctrine is recognized under Michigan Court Rule 2.302(B)(3)(a). See also, *Messenger v Ingham County Prosecutor*, 232 Mich App 633 (1998).

MCL 15.243(1)(s)(v) and (vi). As to item No. 6, in addition to MCL 15.243(1)(b)(v), the Department is withholding law enforcement operational instructions under section 13(1)(s)(v) and (vi) of the FOIA, MCL 15.243(1)(s)(v) and (vi), which provide, respectively, for the nondisclosure of “operational instructions for law enforcement officers or agents” and the nondisclosure of “the contents of staff manuals provided for law enforcement officers or agents.”

In this instance, the public interest in the nondisclosure of the Department’s internal written instructions for staff concerning the investigation and prosecution of alleged criminal offenses against individuals or property motivated by prejudice outweighs a public interest in disclosure, where public disclosure would interfere with and otherwise obstruct the Department in fulfilling its investigative and prosecutorial duties.

MCL 15.235(5)(b). As required under section (5)(b) of the FOIA, MCL 15.235(5)(b), the Department certifies that, after a search for records, to the best of the Department’s knowledge, information, and belief, the Department does not possess records responsive to the following descriptions or by other descriptions reasonably known to the Department:

4. A copy of all policies . . . records, procedures . . . relating to the operation of the Hate Crimes Unit established by Attorney General Dana Nessel and announced in her press release dated March 8, 2019.
6. A copy of all policies [] relating to or referring to the definition of “hate crime” which is used to guide the operation and jurisdiction of the Hate Crimes Unit.
7. A copy of all . . . court decisions the Department of the Attorney General relied upon as the basis for establishing the Hate Crimes Unit described in the Attorney General’s press release dated March 8, 2019.

The Department further certifies that, after a search for records, to the best of the Department’s knowledge, information, and belief, the Department does not possess records responsive to the descriptions contained in item Nos. 5, 8 through 12, and 15 through 17 or by other descriptions reasonably known to the Department.

As to the partial denial of the request, under section 10 of the FOIA, MCL 15.240, the Department is obligated to inform the requester that it may do the following:

Richard Thompson
Thomas More Law Center
Page 5
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1) Appeal this decision in writing to the Attorney General, Department of Attorney General, 525 W. Ottawa, P.O. Box 30754, Lansing, MI 48909. The writing must specifically state the word "appeal" and must identify the reason or reasons the requester believes the partial denial should be reversed. The head of the Department or her designee must respond to the appeal within 10 business days after its receipt. Under unusual circumstances, the time for response to the appeal may be extended by 10 business days.

2) Commence an action in the Court of Claims within 180 days after the date of the final determination to partially deny the request. If the requester prevails in such an action, the court is to award, where applicable, reasonable attorney fees, costs, and disbursements, and possible damages.

The Department's FOIA Procedures and Guidelines can be accessed at www.michigan.gov/foia-ag.

Sincerely,



Christy Wendling-Richards
FOIA Coordinator
Department of Attorney General
517-335-7573

Encs.

EXHIBIT 5



October 4, 2019

VIA EMAIL ONLY

Christy Wendling-Richards
FOIA Coordinator
Department of Attorney General
P.O. Box 30754
Lansing, MI 48909

Email: AG-FOIA@michigan.gov

Re: Objections to Attorney General's denial and partial denial of FOIA Requests by the
Thomas More Law Center

Dear Ms. Wendling-Richards:

I write you regarding the Freedom of Information Act ("FOIA") requests which the Thomas More Law Center ("TMLC") filed with your office on May 15, 2019, on behalf of Gary Michael Voris, St. Michaels Media, Inc. and Church Militant. The FOIA request contained 17 separate public record requests.

The purpose of this letter is to bring to your attention a list of legally insufficient responses and denials by the Department of the Attorney General Office ("Department") to our FOIA request in the hopes of avoiding litigation.

On May 23, June 6, and June 11, 2019, TMLC received notices regarding time extensions and fee requests. On July 18, TMLC received a response letter regarding the Department's partial grant and partial denial of our request, along with a request for payment of a fee balance for records. TMLC paid fees of \$394.27 and \$88.91. On July 24, 2019, TMLC received a letter from you enclosing "nonexempt responsive records," as well as partial records concerning our requests. Regarding several requests, the Department indicated that none could be found.

Accordingly, demand is hereby made that the FOIA requests specified below be responded to in accordance with the applicable statutes and case law within ten (10) business days of receipt of this letter. Of course, we would consider extending the time to a reasonable specified date should you require additional time to respond. If the Department does not respond or fails to provide an acceptable legal explanation for its refusals within the specified time, my clients will have no alternative but to seek a remedy in the Court of Claims.

List of legally insufficient denials of the FOIA Requests

General Requirements of FOIA responses: All our objections to the Department's response to our FOIA requests are informed and based on the Michigan Supreme Court's ruling in *Evening News Ass'n v. Troy*, 417, Mich. 481, 503 (1983). In that case the Court held that it was not sufficient to demonstrate an exemption under Mich. Comp. Laws § 15.243(1)(b)(i) by simply claiming that disclosure of the requested records would interfere with law enforcement proceedings. The Court identified six factors for analyzing a claimed exemption:

1. The burden of proof is on the party claiming exemption from disclosure.
2. Exemptions must be interpreted narrowly.
3. The public body must separate the exempt and nonexempt material and make the nonexempt material available.
4. Detailed affidavits describing the matters withheld must be supplied by the agency.
5. Justification of exemption must be more than conclusory, i.e., simple repetition of statutory language. A bill of particulars is in order. Justification must indicate factually how a particular document, or category of documents, interferes with law enforcement proceedings.
6. The mere showing of a direct relationship between records sought and an investigation is inadequate. *Evening News*, 417 Mich. at 503.

To justify an exemption, the public body must give a detailed and particularized description of how release of the records would actually interfere with an open investigation.

In responding to our FOIA requests, the Department, made no effort to redact portions of the requested material claimed as exempt, so that additional documents could be provided.

Furthermore, in those instances where refusal to provide records on the grounds of invasion of privacy, the Department must be guided by *Rataj v. City of Romulus*, 306 Mich. App. 735 (2014). See also *Payne v. Grand Rapids Police Chief*, 178 Mich. App. 193 (1989).

Denial of Request Numbers 1 through 3: These record requests were denied as being exempt as investigating records that would interfere with law enforcement proceedings and constitute an unwarranted invasion of privacy. TMLC objects to the denial of these requests.

The justification of exemption must be more than conclusory, i.e., simple repetition of statutory language. Justification must indicate factually how a particular document, or category of documents, interferes with law enforcement proceedings. Moreover, a specific "ongoing investigation" must exist and particularized details of the investigation must be indicated.

Christy Wendling-Richards

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Request number 4 was also denied to the extent that seven e-mails consisted of attorney work product. Regarding policies, records, and procedures relating to the operation of the Department's Hate Crimes Unit, the Department represented that it has no records. TMLC objects to these denials.

The Department has not provided any factual information to demonstrate that the seven e-mails identified as work product were prepared or obtained in contemplation of any specific litigation.

The work-product privilege in the Michigan FOIA is engendered by MCR 2.302(B)(3)(a). This rule makes a distinction between factual and deliberative work product. To the extent that the e-mails contain relevant, nonprivileged facts (as opposed to opinions, judgments and thought processes of counsel), TMLC requests that withheld emails be provided.

To the extent that the work product e-mails contain relevant nonprivileged facts, the requesting party is not required to demonstrate a substantial need. Under FOIA, a substantial need test is inapplicable because the words of the Michigan FOIA require disclosure to *all persons*. All members of the public have equal rights under the Act and the general public has a right to information under the Act.

Moreover, any attorney work product privilege was waived by 1) the public comments of the Attorney General in a joint press release with the Director of the Michigan Department of Civil Rights dated February 22, 2019; 2) comments made by the Attorney General and her spokeswoman, Kelly Rossman-McKinney, in a Detroit News article dated February 22, 2019; and testimony of the Attorney General to the House Judiciary Committee on February 19, 2019.

Requests 10 through 12 alleging no records not found: The response to FOIA requests relating to the relationship and communications between the Department and the Southern Poverty Law Center that no records can be found is contradicted by 1) public comments of the Attorney General in a joint press release with the Director of the Michigan Department of Civil Rights dated February 22, 2019; 2) comments made by the Attorney General and her spokeswoman, Kelly Rossman-McKinney, in a Detroit News article dated February 22, 2019; and testimony of the Attorney General to the House Judiciary Committee on February 19, 2019.

Additionally, the joint press release with the Director of the Michigan Department of Civil Rights contained a hyperlink to the Southern Poverty Law Center's "Hate Map," which lists Church Militant as a hate group.

Requests 13 and 14: The Department does not specifically respond to these requests.

Christy Wendling-Richards
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Conclusion

It is the public policy of this state that *all persons* are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees.

I trust that the Department, when deciding these FOIA requests at issue, will narrowly construe the exemptions and balance any perceived exemption with the rights of the public to know and our cherished First Amendment rights.

If you have any questions, please do not hesitate to call or email me.

Sincerely,

THOMAS MORE LAW CENTER



Richard Thompson
President and Chief Counsel
24 Frank Lloyd Wright Drive
PO Box 393
Ann Arbor, MI 48106
734-827-2001
rthompson@thomasmore.org

cc: fnorello@thomasmore.org
brice@thomasmore.org

EXHIBIT 6

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



DANA NESSEL
ATTORNEY GENERAL

P.O. Box 30754
LANSING, MICHIGAN 48909

October 30, 2019

Richard Thompson
Thomas More Law Center
24 Frank Lloyd Wright Drive
Ste. J 3200
P.O. Box 393
Ann Arbor, MI 48106

Sent by email
rthompson@thomasmore.org

Dear Mr. Thompson:

This notice responds to your law firm's October 4, 2019 emailed letter (the law firm's letter), which the Department of Attorney General (Department) received on October 7, 2019. The law firm's letter is styled as, "Objections to Attorney General's denial and partial denial of FOIA Requests by the Thomas More Law Center." The law firm's letter refers to the Department's July 18, 2019 written notice granting in part and denying in part the law firm's request for information under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.* The law firm's letter also acknowledges receiving 103 pages of nonexempt responsive records. (Copies of the law firm's May 15, 2019 FOIA request and October 4, 2019 letter and the Department's May 23, June 6, July 11, July 18, and July 24, 2019 written notices are attached and incorporated herein.)

The law firm's letter does not constitute an appeal of the Department's final determination of partial denial because the letter does not comply with section 10(1)(a) of the FOIA, MCL 15.240(1)(a), which provides that, "If a public body makes a final determination to deny all or a portion of a request, the requesting person may . . . [s]ubmit to the head of the public body a written appeal that specifically states the word 'appeal' and identifies the reason or reasons for reversal of the denial."

The law firm's letter, however, alleges, "a list of legally insufficient responses and denials by the Department [] to our FOIA request" and states that it is brought, "in hopes of avoiding litigation."

The law firm's letter refers to the 17 items composing the law firm's FOIA request and alleges that the law firm was not satisfied with the Department's responses to nine of the items; namely, item Nos. 1, 2, 3, 4, 10, 11, 12, 13, and 14. Thus, the Department's responses to item Nos. 5, 6, 7, 8, 9, 15, and 17 are not in dispute.

In the spirit of cooperation, the Department responds seriatim to the allegations composing the law firm's four stated objections.

As to item Nos. 1, 2, and 3, the law firm's first objection alleges:

Denial of Request Numbers 1 through 3: These record requests were denied as being exempt as investigating records that would interfere with law enforcement proceedings and constitute an unwarranted invasion of privacy. TMLC objects to the denial of these requests.

The justification of exemption must be more than conclusory, i.e., simple repetition of statutory language. Justification must indicate factually how a particular document, or category of documents, interferes with law enforcement proceedings. Moreover, a specific "ongoing investigation" must exist and particularized details of the investigation must be indicated.

The Department's response to the first objection:

In response, the Department notes that the law firm sought information that it described as copies of, "1. [] all records, documents, e-mails, correspondence or other writings to or referring to Gary Michael Voris (aka Michael Voris) [] 2. all records, documents, e-mails, correspondence or other writings to or referring to St. Michaels Media, Inc. 3. all records, documents, e-mails, correspondence or other writings to or referring to Church Militant."

Where the information requested is part of an ongoing Department investigation, the Department raised MCL 15.243(1)(b)(i), (ii), (iii), and (v). The Department informed the law firm that the Department possesses a complaint, an internal investigative report, and approximately 73 emails with a date range of February 2, 2019 through June 17, 2019.

Upon reviewing documents as part of its response to the law firm's letter, the Department discovered that it mistakenly counted records that are not related to the individuals' names quoted above. The correct number of emails is eight; not 73. Copies of the emails, redacted in part under the stated exemptions, are enclosed.

The Department's written notice contained section 13(1)(b)(i), (ii), (iii), and (v) of the FOIA, MCL 15.243(1)(b)(i), (ii), (iii), and (v), which provide, respectively, for the nondisclosure of "[i]nvestigating records compiled for law enforcement purposes [] to the extent that disclosure [] would [i]nterfere with law enforcement proceedings [;] [d]eprive a person of the right to a fair trial or impartial administrative adjudication [;] [c]onstitute an unwarranted invasion of personal privacy [;] [or] [d]isclose law enforcement investigative techniques or procedures."

The Department denies the law firm's allegation that the Department's written notice merely gave a, "simple repetition of statutory language." Consistent with *Evening News Ass'n v Troy*, 417 Mich 481 (1983), the Department's written notice articulated specifically that the public disclosure, at this time, of the material composing the open investigation would adversely impact the investigation by having a chilling effect on the Department's ability to conduct an unhindered and thorough investigation and would interfere with prosecutorial determinations yet to be made.

The Department further provided justification for protecting open investigation records from premature public disclosure by explaining the particulars in this case; i.e., that such disclosure would jeopardize a constitutional right to a fair and impartial adjudication and would result in the unwarranted invasion of the personal privacy of persons involved in the investigation by making public their names, addresses, and other personal information; the nondisclosure of witness information protects the integrity of evidence by preventing witness tampering and witness harassment by third parties.

Furthermore, to protect the integrity of the Department's investigative methods and procedures and to prevent jeopardizing the Department's investigative functions, this information is properly withheld from public disclosure under MCL 15.243(1)(b)(v) and MCL 15.243(1)(s)(v) and (vii).

Finally, the disclosure of the Department's open investigation records in this matter essentially is the release of such information to the world at large because the FOIA provides no mechanism to prevent the ongoing dissemination of the information after an initial disclosure under the act. *State Employees Ass'n v Dep't of Mgt and Budget*, 428 Mich 104, 125-126 (1987); *Kestenbaum v Michigan State Univ*, 414 Mich 510, 528 (1982). And the FOIA does not permit a public body to consider the requesting person's identity and motivation or purpose for making the request or the intended use of the information. *State Employees Ass'n*, 428 Mich at 121, 126.

In sum, to ensure a thorough investigation; to protect evidence; to encourage the cooperation of witnesses; to give due deference to privacy considerations; and to assure fairness, including the right to fair and impartial adjudication, the Department must withhold the information from public disclosure at this time.

In further support of its invoking the open investigation exemption, the Department has attached the affidavit of Sunita Doddamani, Assistant Attorney General.¹

As to item No. 4, the law firm's second objection alleges:

Request number 4 was also denied to the extent that seven e-mails consisted of attorney work product. Regarding policies, records, and procedures relating to the operation of the Department's Hate Crimes Unit, the Department represented that it has no records. TMLC objects to these denials.

The Department has not provided any factual information to demonstrate that the seven e-mails identified as work product were prepared or obtained in contemplation of any specific litigation.

The work-product privilege in the Michigan FOIA is engendered by MCR 2.302(B)(3)(a). This rule makes a distinction between factual and deliberative work product. To the extent that the e-mails contain relevant, nonprivileged facts (as opposed to opinions, judgments and thought processes of counsel), TMLC requests that withheld emails be provided.

To the extent that the work product e-mails contain relevant nonprivileged facts, the requesting party is not required to demonstrate a substantial need. Under FOIA, a substantial need test is inapplicable because the words of the Michigan FOIA require disclosure to *all persons*. All members of the public have equal rights under the Act and the general public has a right to information under the Act.

Moreover, any attorney work product privilege was waived by 1) the public comments of the Attorney General in a joint press release with the Director of the Michigan Department of Civil Rights dated February 22, 2019; 2) comments made by the Attorney General and her spokeswoman, Kelly Rossman-McKinney, in a Detroit News article dated February 22, 2019; and testimony of the Attorney General to the House Judiciary Committee on February 19, 2019.²

¹ In considering various procedures for a trial court to employ in determining whether the requested information may be withheld from disclosure under the FOIA, the *Evening News* Court referred to the use of affidavits, citing *Ray v Turner*, 190 US App DC 290, 317; 587 F2d 1187 (1978).

² A review of the items identified in this allegation do not bear out the enumerated claims.

The Department's response to the second objection:

In response, the Department notes that the law firm sought, in pertinent part, information that it described as copies of, “. . . e-mails . . . relating to the operation of the Hate Crimes Unit established by Attorney General Dana Nessel and announced in her press release dated March 8, 2019.”

The Department reiterates that the cited exemption properly applies to the emails between and among Department staff dated March 21, and 28, 2019, which are composed of attorney work product. Section 13(1)(h) of the FOIA, MCL 15.243(1)(h), provides for the nondisclosure of “[i]nformation or records subject to . . . privilege recognized by statute or court rule.” The privilege based on the attorney work product doctrine is recognized under Michigan Court Rule 2.302(B)(3)(a).

In *Messenger v Ingham County Prosecutor*, 232 Mich App 633, 641 (1998), the Court determined that both the factual work product and the deliberative work product are exempt from disclosure under MCL 15.243(1)(h). See also, the attached affidavit.

As to item Nos. 10, 11, and 12, the law firm's third objection alleges:

Requests 10 through 12 alleging no records not found: The response to FOIA requests relating to the relationship and communications between the Department and the Southern Poverty Law Center that no records can be found is contradicted by 1) public comments of the Attorney General in a joint press release with the Director of the Michigan Department of Civil Rights dated February 22, 2019; 2) comments made by the Attorney General and her spokeswoman, Kelly Rossman-McKinney, in a Detroit News article dated February 22, 2019; and testimony of the Attorney General to the House Judiciary Committee on February 19, 2019.

Additionally, the joint press release with the Director of the Michigan Department of Civil Rights contained a hyperlink to the Southern Poverty Law Center's "Hate Map," which lists Church Militant as a hate group.

The Department's response to the third objection:

In response, the Department notes that the law firm sought information that it described as copies of, “all records, correspondence, e-mails, or other writings relating to communications between the Michigan Attorney General or Department of the Attorney General, its agent and employees, and the Southern Poverty Law Center, its officers, agents and employees, relating to the cooperation between the

Richard Thompson
Thomas More Law Center
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October 30, 2019

Southern Poverty Law Center's data base of hate groups in Michigan . . . all records, correspondence, e-mails, or other writings relating to information Michigan Attorney General Dana Nessel or the Department of the Attorney General, its agent and employees, received from the Southern Poverty Law Center, its Director, officers, agents and employees, referring to Michael Voris, St. Michael's Media Center, Inc and Church Militant . . . all records, correspondence, e-mails, or other writings relating to information Michigan Attorney General Dana Nessel or the Department of the Attorney General, its agent and employees, received from the Southern Poverty Law Center explaining the reasons why Church Militant was placed on the Southern Poverty Law Center's list of Michigan hate groups and the sources of its information for doing so."

A review of the items identified in the above-quoted allegation do not bear out the enumerated claims and the Department repeats that it does not possess records responsive to the descriptions contained in item Nos. 10, 11, and 12.

As to item Nos. 13 and 14, the law firm's fourth objection alleges:

Requests 13 and 14: The Department does not specifically respond to these requests.

The Department's response to the fourth objection:

In response, the Department notes that the law firm sought information that it described as copies of, "all records, policies, e-mails, correspondence or other writings defining the word 'hate' which will be used by the Department of the Attorney General in the implementation of its policy and directives to the Hate Crimes Unit . . . all records, policies, e-mails, correspondence or other writings defining the word 'bias' which will be used by the Department of the Attorney General in the implementation of its policy and directives to the Hate Crimes Unit."

Upon reviewing documents as part of its response to the law firm's letter, the Department observed that it did not specifically address the above two items in its July 18, 2019 written notice. The Department states that, after a search for records, to the best of its knowledge, information, and belief, the Department does not possess records responsive to the descriptions contained in item Nos. 13 and 14 or by other descriptions reasonably known to the Department.

Richard Thompson
Thomas More Law Center
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The Department's FOIA Procedures and Guidelines can be accessed at www.michigan.gov/foia-ag.

If there are any further questions, please contact the undersigned.

Sincerely,



Christy Wendling-Richards
FOIA Coordinator
Department of Attorney General
517-335-7573

Encs.

EXHIBIT 7

Doddamani, Sunita (AG)

From: Dwyre, David (AG)
Sent: Tuesday, April 2, 2019 4:47 PM
To: [REDACTED]@gmail.com
Cc: Doddamani, Sunita (AG)
Subject: Attorney General

[REDACTED]

[REDACTED]

David Dwyre

David Dwyre
Supervisory Special Agent
Michigan Department of Attorney General
Criminal Division
(517) 614-7236

Doddamani, Sunita (AG)

From: Dwyre, David (AG)
Sent: Thursday, April 11, 2019 2:48 PM
To: Doddamani, Sunita (AG)
Subject: [REDACTED]
Attachments: [REDACTED]

Sita,

[REDACTED]

Dave

Doddamani, Sunita (AG)

From: Sherman, Ann (AG)
Sent: Wednesday, June 12, 2019 10:51 AM
To: Doddamani, Sunita (AG)
Cc: Hammoud, Fadwa (AG); Restuccia, Eric (AG); Allen, Christopher (AG); AG-SG-Review-Team
Subject: [REDACTED]

Sunita,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Ann

Ann M. Sherman
Deputy Solicitor General
Solicitor General Division
Michigan Department of Attorney General
(517) 335-7628
(517) 241-0367 (Direct)



Doddamani, Sunita (AG)

From: Doddamani, Sunita (AG)
Sent: Monday, June 17, 2019 9:21 AM
To: Dwyre, David (AG)
Cc: Dabaja, Nadine (AG)
Subject: [REDACTED]

Dave,

[REDACTED]

-Sita

From: Dwyre, David (AG) <DwyreD@michigan.gov>
Sent: Thursday, April 11, 2019 2:48 PM
To: Doddamani, Sunita (AG) <DoddamaniS@michigan.gov>
Subject: [REDACTED]

Sita,

[REDACTED]

Dave

Doddamani, Sunita (AG)

From: Dwyre, David (AG)
Sent: Monday, June 17, 2019 10:10 AM
To: Doddamani, Sunita (AG)
Cc: Dabaja, Nadine (AG)
Subject: RE: [REDACTED]
Attachments: [REDACTED]
[REDACTED]

From: Doddamani, Sunita (AG) <DoddamaniS@michigan.gov>
Sent: Monday, June 17, 2019 9:21 AM
To: Dwyre, David (AG) <DwyreD@michigan.gov>
Cc: Dabaja, Nadine (AG) <DabajaN@michigan.gov>
Subject: [REDACTED]

Dave,
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

-Sita

From: Dwyre, David (AG) <DwyreD@michigan.gov>
Sent: Thursday, April 11, 2019 2:48 PM
To: Doddamani, Sunita (AG) <DoddamaniS@michigan.gov>
Subject: [REDACTED]

Sita,
[REDACTED]

Dave

EXHIBIT 8

**In re May 15, 2019, Freedom of Information Act Request – Church Militant,
from Richard Thompson, Thomas More Law Center**

AFFIDAVIT OF SUNITA DODDAMANI

Sunita Doddamani, being first duly sworn, deposes and says as follows:

1. I have been employed by the Department of Attorney as an Assistant Attorney General in the Criminal Division since February 4, 2019.

2. I have been the Assistant Attorney General in charge of the Hate Crimes Unit, housed within the Criminal Division of the Department of Attorney General, since February 24, 2019.

3. I bring this affidavit in support of the Department of Attorney General's July 18, 2019, partial denial, (Ex 1, DAG Letter), of the May 15, 2019, Freedom of Information Act (FOIA) request submitted by Richard Thompson of the Thomas More Law Center, (Ex. 2, FOIA Request).

4. As the Assistant Attorney General in charge of the Hate Crimes Unit, I am personally knowledgeable about the operations of the Unit and all current investigations being conducted by the Unit since its inception in February 2019.

5. I have personal knowledge and can attest to the fact that the Hate Crimes Unit is in the midst of an open and ongoing criminal investigation involving Mr. Gary Michael Voris (aka Michael Voris), and/or St. Michael's Media, Inc., and/or Church Militant, and their possible violation of state criminal statutes.

6. I have reviewed the above-referenced FOIA request, (Ex. 2), and reviewed Item Nos. 1 through 3, which request "all records, documents, e-mails, correspondence or other writings relating to or referring to" Mr. Voris, St. Michael's Media, Inc., and Church Militant.

7. As a result of the open and ongoing criminal investigation into Mr. Voris, St. Michael's Media, Inc., and Church Militant, the Hate Crimes Unit and the Department of Attorney General possess a complaint, an internal investigative report, and approximately 8 emails with a date range of April 2, 2019 through June 17, 2019, pertaining to Mr. Voris, St. Michael's Media, Inc., and Church Militant. (Ex. 1, p 2). These materials are responsive to Item Nos. 1 through 3 of the FOIA request. (Ex. 2.)

8. It is my opinion and belief that releasing these responsive documents would interfere with the Hate Crimes Unit's ongoing investigation, which constitutes a law enforcement proceeding, by disclose investigative techniques and procedures.

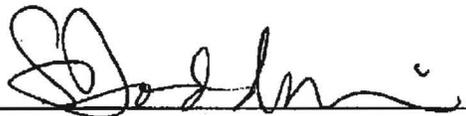
9. It is also my opinion and belief that releasing these responsive documents would deprive the complainant and/or the subjects of the investigation, Mr. Voris, St. Michael's Media, Inc., and Church Militant, of the right to a fair trial by having a chilling effect on the Department's ability to conduct an unhindered and thorough investigation and would interfere with any prosecutorial determination yet to be made.

10. It is my further opinion and belief that releasing these responsive documents would constitute an unwarranted invasion of personal privacy by making public their names, addresses, and other personal information. The nondisclosure of witness information protects the integrity of evidence by preventing witness tampering and witness harassment by third parties.

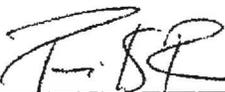
11. And finally, it is my opinion and belief that releasing these responsive records will disclose the Hate Crime Unit's and the Department's investigative techniques or procedures.

12. I am also aware that there are 7 emails dated March 21, 2019 and March 28, 2019, the subject matter of which relate to the creation of the Hate Crimes Unit and the parameters or scope of the Unit's operation. These materials are responsive to Item No. 4 of the FOIA request. (Ex. 2). But these materials reflect my or other attorney's work product and are protected or exempt from disclosure under that privilege.

13. This affidavit is based on personal knowledge. If called as a witness, I can testify competently to the facts stated in this affidavit.


Sunita Doddamani

Subscribed and sworn to before me on
October 30, 2019.



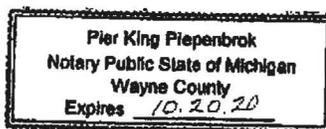


EXHIBIT 9



October 31, 2019

VIA EMAIL & FAX

The Honorable Dana Nessel
Attorney General of Michigan
Email: miag@michigan.gov
Fax: 517-335-7644

VIA EMAIL ONLY

Christy Wendling-Richards
FOIA Coordinator
Email: AG-FOIA@michigan.gov

Re: Notice to Preserve Records Requested Under FOIA

Dear Madam Attorney General and Ms. Wendling-Richards:

The Thomas More Law Center represents Gary Michael Morris, St. Michael's Media, Inc., and Church Militant in a FOIA request filed on the Department of Attorney General FOIA Coordinator on May 15, 2019. The Department of Attorney General acting through the FOIA Coordinator, Christy Wendling-Richards, failed to provide responses to crucial FOIA requests despite our attempts to avoid litigation by subsequently pointing out a list of legally insufficient responses. Consequently, a lawsuit against the Attorney General's Department is likely to be filed.

Please accept this letter as a notice of this dispute and the requirement to undertake steps to affirmatively preserve, and not delete, any and all public records, policies, emails, correspondence or other writings, as well as any attachments thereto, requested in our FOIA request filed on May 15, 2019. This requirement also includes the preservation of a complaint, an internal investigative report, and approximately 73 emails with a date range of February 2, 2019 through June 17, 2019, which were mentioned in the original response to our FOIA request.

Sincerely,

THOMAS MORE LAW CENTER

Richard Thompson
President and Chief Counsel
24 Frank Lloyd Wright Drive
PO Box 393
Ann Arbor, Michigan 48106

cc Fran Morello
Lisa Zulcosky
Brooke Rice