

U.S. HOUSE OF REPRESENTATIVES  
OFFICE OF GENERAL COUNSEL  
219 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6532  
(202) 225-9700  
FAX: (202) 226-1360

March 15, 2013

**BY FIRST CLASS MAIL**

Orly Taitz, Esquire  
LAW OFFICE OF ORLY TAITZ  
29839 Santa Margarita Parkway, Suite 100  
Rancho Santa Margarita, California 92688

**Re: *Grinols, et al. v. Electoral College, et al.*, No. 2:12-cv-02997-MCE-DAD**

Dear Ms. Taitz:

I write on behalf of the following Members of the United States House of Representatives:

- Michele Bachmann, U.S. Representative for the 6th congressional district of Minnesota;
- Spencer Bachus, U.S. Representative for the 6th congressional district of Alabama;
- John Campbell, U.S. Representative for the 45th congressional district of California;
- Steve Chabot, U.S. Representative for the 1st congressional district of Ohio;
- Doug Collins, U.S. Representative for the 9th congressional district of Georgia;
- K. Michael Conaway, U.S. Representative for the 11th congressional district of Texas;
- Ron DeSantis, U.S. Representative for the 6th congressional district of Florida;
- Blake Farenthold, U.S. Representative for the 27th congressional district of Texas;
- J. Randy Forbes, U.S. Representative for the 4th congressional district of Virginia;
- Trent Franks, U.S. Representative for the 8th congressional district of Arizona;
- Louie Gohmert, U.S. Representative for the 1st congressional district of Texas;

- Bob Goodlatte, U.S. Representative for the 6th congressional district of Virginia;
- Trey Gowdy, U.S. Representative for the 4th congressional district of South Carolina;
- Joseph J. Heck, U.S. Representative for the 3rd congressional district of Nevada;
- George Holding, U.S. Representative for the 13th congressional district of North Carolina;
- Darrell Issa, U.S. Representative for the 49th congressional district of California;
- Jim Jordan, U.S. Representative for the 4th congressional district of Ohio;
- Raul Labrador, U.S. Representative for the 1st congressional district of Idaho;
- Ted Poe, U.S. Representative for the 2nd congressional district of Texas;
- Keith Rothfus, U.S. Representative for the 12th congressional district of Pennsylvania;
- F. James Sensenbrenner, Jr., U.S. Representative for the 5th congressional district of Wisconsin; and
- Lamar Smith, U.S. Representative for the 21st congressional district of Texas.

The above-listed Members (the “Members”) are in receipt of substantially-identical subpoenas that you have issued, on behalf of your clients, in connection with the above-referenced case.

The subpoenas to the Members are invalid for at least the following reasons:

- The subpoenas purport to require answers to certain interrogatories, but that is not a proper function of a subpoena. *See* Fed. R. Civ. P. 45(a)(1)(A)(iii) (“Every subpoena must: . . . command each person to whom it is directed to do *the following* at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person’s possession, custody, or control; or permit the inspection of premises . . . .” (emphasis added)).
- The subpoenas each were issued from the United States District Court for the Eastern District of California yet improperly purport to require production of interrogatory responses to an address within a different district. *See* Fed. R. Civ. P. 45(a)(2)(C) (“A subpoena must issue as follows: . . . for production . . . , if separate from a subpoena commanding a person’s attendance, from the court for the district where the production . . . is to be made.”); *see also* Fed. R. Civ. P. 45(e) (“A

nonparty's failure to obey *must* be excused if the subpoena purports to require the nonparty to . . . produce at a place outside the limits of Rule 45(c)(3)(A)(ii) [a circumstance that pertains to many, if not all, of the Members]." (emphasis added)).

- The subpoenas were issued from a court that lacks personal jurisdiction over the Members. *See generally Int'l Shoe Co. v. Wash., Office of Unemp't Comp. & Placement*, 326 U.S. 310, 316 (1945) (due process bars exercise of jurisdiction over person, unless served while within jurisdiction, absent "certain minimum contacts . . . such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice" (quotation marks omitted)); *Appl. to Enforce Admin. Subpoenas Duces Tecum of S.E.C. v. Knowles*, 87 F.3d 413, 414, 416-19 (10th Cir. 1996) (considering whether district court maintained over subpoena recipient "requisite minimum contacts to justify . . . exercise of personal jurisdiction").
- The subpoenas were not properly served on the Members, including because delivery of the subpoenas, each of which was issued out of the United States District Court for the Eastern District of California and purported to require production to an address in California, was accomplished, if at all, in Washington, D.C. or in Texas. *See Fed. R. Civ. P. 45(b)(2)* ("Subject to Rule 45(c)(3)(A)(ii) [not applicable here], a subpoena may be served at any place: (A) within the district of the issuing court; (B) outside that district but within 100 miles of the place specified for the deposition, hearing, trial, production, or inspection; (C) within the state of the issuing court [in particular circumstances]; or (D) that the court authorizes on motion and for good cause, if a federal statute so provides.").
- The subpoenas improperly impose "undue burden or expense" on the Members given the third party status of the Members as to this action, the irrelevance, immateriality, and cumulative nature of the information demanded by the interrogatories, the vague and confusing nature of the interrogatories, the misstatements of law made in the interrogatories, the stage of the litigation (*see, e.g., Fed. R. Civ. P. 26(d)* ("A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except [in circumstances not applicable here].")), the number of interrogatories, the limited response time, Plaintiffs' generally vexatious litigation strategy, and the fact that the interrogatories call for privileged information, including information privileged under the Speech or Debate Clause, U.S. Const. art. I, § 6, cl. 1. *See, e.g., Fed. R. Civ. P. 45(c)(1)* ("A party or attorney responsible for issuing and serving a

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subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.”); *cf.* Fed. R. Civ. P. 45(c)(3)(A)(iv) (noting that, on timely motion, issuing court “must quash or modify” subpoena that “subjects a person to undue burden”); Fed. R. Civ. P. 45(c)(3)(A)(iii) (noting that, on timely motion, issuing court “must quash or modify” subpoena that “requires disclosure of privileged or other protected matter, if no exception or waiver applies”).

Accordingly, the Members do not intend to comply with the subpoenas.

Thank you for your attention.

Sincerely,



William Pittard  
Deputy General Counsel

cc: Hon. Michele Bachmann (*via electronic mail only*)  
Hon. Spencer Bachus (*via electronic mail only*)  
Hon. John Campbell (*via electronic mail only*)  
Hon. Steve Chabot (*via electronic mail only*)  
Hon. Doug Collins (*via electronic mail only*)  
Hon. K. Michael Conaway (*via electronic mail only*)  
Hon. Ron DeSantis (*via electronic mail only*)  
Hon. Blake Farenthold (*via electronic mail only*)  
Hon. J. Randy Forbes (*via electronic mail only*)  
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Hon. Joseph J. Heck (*via electronic mail only*)  
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Hon. Darrell Issa (*via electronic mail only*)  
Hon. Jim Jordan (*via electronic mail only*)  
Hon. Raul Labrador (*via electronic mail only*)  
Hon. Ted Poe (*via electronic mail only*)  
Hon. Keith Rothfus (*via electronic mail only*)  
Hon. F. James Sensenbrenner, Jr. (*via electronic mail only*)  
Hon. Lamar Smith (*via electronic mail only*)