

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00609-PAB-MEH

THE INDEPENDENCE INSTITUTE,  
JON CALDARA,  
DENNIS POLHILL,  
MASON TVERT,  
RUSSELL HAAS,  
DOUGLAS CAMPBELL,  
LOUIS SCHROEDER,  
SCOTT LAMM,  
DANIEL KENNEDY, and  
ALBIE HURST,

Plaintiffs,

v.

SCOTT GESSLER, in his official capacity as Colorado Secretary of State,

Defendant.

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**MINUTE ORDER**

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**Entered by Michael E. Hegarty, United States Magistrate Judge, on May 17, 2013.**

Pending before the Court are Defendant's Motion for Protective Order Pursuant to Fed. R. Civ. P. 26(c) and Expedited Ruling and/or Hearing Re: the Relief Requested Herein [[filed April 16, 2013; docket #371](#)] ("Motion I") and Defendant's Second Motion for Protective Order [[docket #380](#)] ("Motion II"). The Court held a hearing on Motion I on April 17, 2013, during which Plaintiffs agreed to withdraw their Colorado Open Records Act ("CORA") requests and tender traditional discovery requests under the Federal Rules of Civil Procedure. The Court suggested that Plaintiffs move to extend the deadline for filing a fee petition, which Plaintiffs did on April 22, 2013. Upon referral from Judge Brimmer, the Court granted the motion for extension and continued the deadline through and including July 1, 2013. (Docket #377.)

In declining to issue a decision on Motion I during the hearing, the Court noted it would construe Motion I as though it pertained to a discovery request under the Federal Rules. The Court believed Plaintiffs would file a response to Motion I; however, as of this date, they have not done so. Instead, Defendant submitted Motion II on May 15, 2013, seeking protection of what appear to be the same category of documents.

In light of the apparently overlapping discovery requests, Plaintiffs' failure to file a timely response to Motion I, and Defendant's failure to comply with D.C. Colo. LCivR 37.1, which requires all motions filed under Fed. R. Civ. P. 26 to "set forth in the text of the motion the specific

interrogatory, request, or response to which the motion is directed,” or to attach “an exhibit that contains the interrogatory, request, or response,” Motion I is **denied as moot**. Defendant shall file a supplement to Motion II on or before May 20, 2013 in conformity with D.C. Colo. LCivR 37.1. Plaintiffs shall file a response to Motion II on or before May 24, 2013, and Defendant may file a reply in support of Motion II no later than May 29, 2013.