

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

STANLEY BOIM, et al.,

Plaintiffs,

v.

AMERICAN MUSLIMS FOR PALESTINE,  
ET AL.,

Defendants

Case No. 17 CV 3591

District Judge Wood

Magistrate Judge McShain

**ORDER**

Pending before the Court is plaintiffs motion to compel production of documents withheld from discovery by defendants. [345, 346].<sup>1</sup> The motion is fully briefed. [353, 354]. For the following reasons, the motion is granted.

**Legal Standard**

“In ruling on a motion to compel, the discovery standard set forth in Rule 26(b) applies.” *Mendez v. City of Chicago*, 18-cv-6313, 2020 WL 4736399, at \*3 (N.D. Ill. Aug. 14, 2020). Rule 26 “governs the scope of civil discovery and allows parties to obtain discovery regarding any matter that is: (1) nonprivileged; (2) relevant to any party’s claim or defense; and (3) proportional to the needs of the case.” *Barnes-Staples v. Murphy*, Case No. 20-cv-3627, 2021 WL 1426875, at \*2 (N.D. Ill. Apr. 15, 2021). “The party requesting discovery bears the initial burden to establish its relevancy.” *Mendez*, 2020 WL 4736399, at \*3. “If the discovery appears relevant, the party objecting to the discovery request bears the burden of showing why that request is improper.” *Id.* (internal quotation marks omitted).

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<sup>1</sup> Bracketed numbers refer to entries on the district court docket. Referenced page numbers are taken from the CM/ECF header placed at the top of filings. In resolving this motion, the Court has reviewed the sealed opposition brief and supporting exhibits filed by plaintiffs. [339]. The Court has found it necessary to refer to some of those sealed filings in this decision, but the Court has attempted to do so without revealing any information that could be reasonably deemed confidential. To the extent the Court has discussed confidential information, however, the Court has done so because it is necessary to explain the path of its reasoning. See *In re Specht*, 622 F.3d 697, 701 (7th Cir. 2010); *Union Oil Co. of Cal. v. Leavell*, 220 F.3d 562, 568 (7th Cir. 2000).

## Discussion

Plaintiffs seek an order compelling defendant American Muslims for Palestine (AMP) to produce its donor records from 2011 through 2018. [345] 5. Plaintiffs contend that these records are relevant to their claim that AMP is the alter ego of the Islamic Association for Palestine and the American Muslim Society (collectively, IAP), two now-defunct organizations against whom plaintiffs obtained a \$156 million judgment in the underlying *Boim* litigation. Plaintiffs point out that, in an earlier decision in this litigation, the Seventh Circuit held that one relevant factor for proving the existence of an alter ego relationship in the context of terrorism financing is the similarity of the organizations' operations. *See Boim v. Am. Muslims for Palestine*, 9 F.4th 545, 559 (7th Cir. 2021). Because AMP's donor records may demonstrate that AMP relies on the same or a similar network of donors to continue IAP's mission, plaintiffs contend that the donor records are highly relevant. [346] 5-6. Finally, plaintiffs point to the undisputed fact that AMP stores its donor records using a software program, which should facilitate the production of these records.

AMP responds that the records at issue are not relevant and that producing them would impinge upon the donors' privacy interests. According to AMP, the most relevant donor records are for the period 2005 through 2010—when AMP was formed in the wake of the dissolution of IAP and other entity defendants in the *Boim* litigation—and that AMP has already produced responsive information from this period. [353] 5; *see also* [345] 3. AMP further contends that it has already provided plaintiffs with sufficient information about its donor records in the form of the non-public schedules to its IRS Form 990s and a declaration from one of its founders, Munjed Ahmad. [353] 3. This declaration identifies a handful of individuals and entities that did not donate to AMP, several individuals and entities that did donate to AMP, and the dates and amounts of these donations. *See* [354-2] 4-5. AMP therefore contends that the only documents it has not produced are donor records relating to its small-dollar donors from 2011 through 2018, which are not likely to be relevant to plaintiffs' alter-ego claim. [353] 5-6. Finally, AMP emphasizes that “the right to donate and support nonprofit institutions is a First Amendment right” that cannot be “overridden simply by Plaintiffs' curiosity, hunch or desire to know every last detail about [AMP's] operations.” [*Id.*] 4.

Having considered the parties' arguments, and in the exercise of its “extremely broad discretion in controlling discovery,” *Jones v. City of Elkhart*, 737 F.3d 1107, 1115 (7th Cir. 2013), the Court grants plaintiffs' motion. First, the Court agrees with plaintiffs that AMP's donor records are highly probative of their claim that AMP is an alter ego of IAP. The Seventh Circuit's decision in this case makes clear that any “similarity of operations” between AMP and IAP “would seem to take on added weight” in the alter ego analysis, *Boim*, 9 F.4th at 559, and one way in which these organizations may have similar operations is their alleged reliance on the same or similar network of sponsors or donors. While the Court appreciates that AMP has

already produced a substantial amount of information relating to its donor records, that does not relieve AMP of producing the small-dollar donor records that it admits exist. Whether or not the small-dollar donor records will ultimately support plaintiffs' claims, and whether they are more or less probative of those claims than the large-dollar donor records from 2011 through 2018 or the donor records dating to AMP's formative period, are not dispositive questions when it comes to the relevance of the records for discovery purposes. "Discovery is not a guarantee of success; it is not a matter of mathematics and equations in which certainty and exactness play central roles. It is, by its very nature, an enterprise with uncertain results and no assurance of ultimate success. Thus, because the information that is sought satisfies, in the abstract, the general requirement that the information sought be 'relevant'—and proportional—does not ensure that the results of any given inquiry will yield usable information." *Velez v. City of Chicago*, No. 18 C 8144, 2021 WL 3231726, at \*2 (N.D. Ill. Jul. 29, 2021).

The Court also rejects AMP's arguments that plaintiffs' request is not proportional and unduly impinges on the donors' privacy rights. To begin, there is no dispute that AMP maintains these records on a software program, and AMP does not contend it would be difficult, costly, or time-consuming to access, sort, and produce the records. Indeed, Ahmad appears to have reviewed these records himself and summarized them in his declaration. The Court therefore finds that there is no meaningful burden on AMP to produce this highly relevant information that AMP alone possesses. Moreover, while AMP emphasizes that donating to nonprofits is a First Amendment right, it has not raised a First Amendment objection to complying with plaintiffs' discovery request. *See* [357] 4-5 (discussing and rejecting First Amendment privilege objection to plaintiffs' request to depose Magdi Odeh). Furthermore, the privacy interests of AMP's donors can be addressed by designating the production as "Attorneys' Eyes Only," as has been done with similar information earlier in this case<sup>2</sup> and which AMP requests here, *see* [353] 7, and by redacting the donors' personal contact information. Finally, the Court orders that the production need not be in native format, *i.e.*, AMP is not required to produce the native files contained within the software program that it uses to maintain donor records.

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<sup>2</sup> Magistrate Judge Schenkier previously ruled that a list of email addresses to which AMP sent its newsletters was to be treated by plaintiffs' counsel under an attorneys' eyes only restriction. [127].

**Conclusion**

Plaintiffs' motion to compel [345, 346] is granted. Within fourteen days of the date of this Order, AMP shall produce all donor records for the period 2011 through 2018 in the manner specified in this Order.



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**HEATHER K. McSHAIN**  
**United States Magistrate Judge**

**DATE: January 19, 2024**