

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>IOWA ATHEISTS AND FREETHINKERS, INC., Plaintiff, v. KIM REYNOLDS, in her official capacity as Governor of the State of Iowa, et al., Defendants.</p>	<p>Case No. CVCV069066 RESISTANCE TO DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT</p>
---	--

Plaintiff, Iowa Atheists and Freethinkers, Inc., by and through undersigned counsel and pursuant to Iowa Rule of Civil Procedure 1.981(3), respectfully resists Defendants’ Motion for Summary Judgment, stating the following:

1. In support of this Resistance, Plaintiff submits a Memorandum of Authorities, Response to Defendants’ Statement of Facts, a Statement of Additional Material Facts, and an Appendix. Plaintiff incorporates each of these as if set out in full here.

2. As shown in these supporting materials, Defendants have not met their burden to establish either the absence of a genuine issue of material fact or that they are entitled to judgment as matter of law. *See* Iowa R. Civ. P. 1.981(3). They are not entitled to summary judgment.

3. In brief, Defendants’ Motion relies on an exemption from the Iowa Open Records Act that does not exist. An “executive privilege” cannot be found in Iowa Code chapter 22 or anywhere in Iowa’s statutes, and this Court does not have the ability to grant such a privilege. Even if this Court were to recognize such a privilege, it would neither take the form Defendants have proposed nor provide them with any relief here. In the end, the documents they seek to conceal from the public are not entitled to an executive privilege as and where such a thing is established.

4. At a minimum, many genuine issues of material fact remain as to whether, assuming a form of executive privilege were created, Defendants have established adequate foundation on which to meet its prerequisites. Moreover, where executive privilege exists, regardless of form, it is qualified and may be overcome. Defendants have not proven undisputed material facts would preclude Plaintiff from overcoming such a privilege.

5. Defendants' Motion for Summary Judgment is premature and reliant on this Court departing not only from Iowa law, but also from the weight of even that authority from other jurisdictions which is favorable to Defendants' position. Defendants urge the Court to adopt an unprecedented legal position on the barest of factual records. Defendants' Motion should be denied.

For these reasons and those more fully set out in the supporting materials, Plaintiff respectfully requests this Court deny Defendants' Motion for Summary Judgment in its entirety and grant all such other and further relief as it deems just.

Respectfully submitted,

/s/ Thomas D. Story

Thomas D. Story, AT0013130

Rita Bettis Austen, AT0011558

ACLU of Iowa Foundation, Inc.

505 Fifth Ave., Ste. 808

Des Moines, IA 50309-2317

Telephone: (515) 243-3988

Fax: (515) 243-8506

Email: thomas.story@aclu-ia.org

Email: rita.bettis@aclu-ia.org

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties of record via EDMS on February 20, 2026.

/s/ Thomas D. Story
Thomas D. Story