

WENDY J. OLSON, Bar No. 7634
wendy.olson@stoel.com
STOEL RIVES LLP
101 S. Capitol Boulevard, Suite 1900
Boise, ID 83702
Telephone: 208.389.9000

WENDY S. HEIPT (admitted pro hac vice)
wheipt@legalvoice.org
LEGAL VOICE
907 Pine Street, #500
Seattle, WA 98101
Telephone: 206.954.6798

KELLY O'NEILL, Bar No. 9303
koneill@legalvoice.org
LEGAL VOICE
P.O. Box 50201
Boise, ID 83705
Telephone: 208.649.4942

JAMILA A. JOHNSON (admitted pro
hac vice)
jjohnson@lawyeringproject.org
THE LAWYERING PROJECT
3157 Gentilly Blvd. #2231
New Orleans, LA 70122
Telephone: 347.706.4981

PAIGE SUELZLE (admitted pro hac
vice)
psuelzle@lawyeringproject.org
THE LAWYERING PROJECT
2501 SW Trenton Street #1097
Seattle, WA 98106
Telephone: 347.515.6073

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

LOURDES MATSUMOTO, NORTHWEST
ABORTION ACCESS FUND, and
INDIGENOUS IDAHO ALLIANCE,

Plaintiffs,

v.

RAÚL LABRADOR, in his capacity as the
Attorney General for the State of Idaho,

Defendant.

Case No. 1:23-cv-00323-DKG

MOTION TO MODIFY INJUNCTION

Plaintiffs move this Court to modify the preliminary injunction entered in this case based on the decision of the Ninth Circuit Court of Appeals in *Matsumoto v. Labrador*, 122 F.4th 787 (2024). In *Matsumoto*, the Ninth Circuit affirmed in part and reversed in part this Court’s preliminary injunction. Notably, the Ninth Circuit held that this Court correctly enjoined enforcement of the “recruitment” prong of Idaho Code § 18-623. *Id.* at 808-15. The Ninth Circuit concluded that the recruitment provision of I.C. § 18-623 was—on its face—likely to be found unconstitutionally overbroad and therefore unenforceable. *Id.* Because of the partial affirmance and partial reversal of this Court’s preliminary injunction, the Ninth Circuit has remanded the matter with instructions to modify the preliminary injunction in this case. *Id.* at 816.

A district court has wide discretion to modify a preliminary injunction in light of changed circumstances or in consideration of new facts. *A&M Records, Inc. v. Napster*, 284 F.3d 1091, 1098 (9th Cir. 2002). The purpose behind this requirement is to prevent uncertainty or confusion on the part of those subject to the injunctive order. *See, e.g., Melendres v. Skinner*, 113 F.4th 1126, 1139 (9th Cir. 2024). The Plaintiffs ask this Court to enter the attached proposed modified preliminary injunction (**Exhibit A**) because it meets the specificity requirements of Federal Rule of Civil P. 65(d), its language complies with the holding of the Ninth Circuit as to what conduct falls within “recruitment” for purposes of enforcement of I.C. § 18-623, and because it will prevent uncertainty or confusion on the part of those subject to the injunctive order.

Plaintiffs have also attached an annotated version of the proposed modified preliminary injunction as an exhibit to this motion. *See (Exhibit B)*. These annotations provide pinpoint citations to where the proposed language at issue can be found in the *Matsumoto* decision. Because this proposed injunction contains both reasonable detail of the acts covered and follows

the Ninth Circuit decision in this matter, Plaintiffs ask that this Court enter their proposed modified preliminary injunction.

DATED: January 23, 2025.

STOEL RIVES LLP

/s/ Wendy J. Olson

Wendy J. Olson

LEGAL VOICE

/s/ Wendy S. Heipt

Wendy S. Heipt

Kelly O'Neill

THE LAWYERING PROJECT

/s/ Jamila A. Johnson

Jamila A. Johnson

Paige Suelzle

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 23, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following person:

James E.M. Craig
james.craig@ag.idaho.gov

Cristina Sepe
cristina.sepe@atg.wa.gov

Emma Grunberg
Emma.grunberg@atg.wa.gov

Emily MacMaster
emily@macmasterlaw.com

/s/ Wendy J. Olson _____

Wendy J. Olson