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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 of the State of Idaho, *Defendant*.	Case No. 1:23-cv-00323-DKG **RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT [Dkt. 136]**

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INTRODUCTION

Idaho Code § 18-623 protects the rights of parental care, custody, and control, for the only parties who have any legal right to make decisions for a minor girl: the parents or guardian of that girl, or in the most unfortunate cases, the State. It protects those rights by prohibiting an adult from procuring an abortion or abortion-inducing drug for an unemancipated pregnant minor by recruiting, harboring, or transporting the pregnant minor within Idaho, with the intent to conceal that abortion from the parents or guardian of the pregnant minor. Plaintiffs have filed this federal lawsuit asking the Court to declare that they, as "trusted adults," have a constitutional right to isolate a pregnant minor girl from her parents and procure an abortion for her with the intent to conceal it from her parents. And in pressing their case, Plaintiffs are asking this Court to grant them a constitutional right to "cut out the primary protectors of children's best interests: their parents." *Mirabelli v. Bonta*, 146 S. Ct. 797, 802 (2026). The Court should reject that attempt.

Whatever label Plaintiffs concoct for themselves, be it "trusted adult"[1] or something else, this mere label gives them the exact same right to interfere in the parental right to the care, custody and control of that parent's child, including the right to make certain decisions for that child, as any other person on the street, i.e., *none whatsoever*. Plaintiffs seek to extend their rights into an excuse for intervention in the family lives of unrelated Idahoans. Not only is this an outrageously inequitable use of Court powers, Plaintiffs' motion is startlingly devoid of authority where it is most essential: nothing connects their generic statements about fundamental rights to circumstances where an unrelated party is seeking to procure an abortion *for an unrelated minor*. Plaintiffs' discussion about the rights *of adults* is irrelevant here.

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[1] Plaintiffs, of course, have the constitutional right to call themselves whatever they want to call themselves. *See United States v. Alvarez*, 567 U.S. 709, 713–14 (2012).

Plaintiffs' motion for summary judgment largely fails for reasons described in the Attorney General's motion for summary judgment. Plaintiffs plainly lack standing since they have nothing more than mere "someday intentions." The Ninth Circuit already ended their claims based on vagueness or First Amendment overbreadth as to the harboring and transportation prongs of the statute by issuing binding legal conclusions that cannot be altered by (in the end, unconvincing) citations to the record. Because the scope of recruiting is likely narrower under state law canons of interpretation than under federal canons, certification to the Idaho Supreme Court on the question of the scope of the "recruiting" prong remains necessary to avoid a federal-state conflict. The interstate travel claim fails, primarily because Plaintiffs omit the most important distinction from their right to travel caselaw: minors' rights to travel without the consent of parents *do not exist*, and so no corollary right to *take* minors exists. Framed as a facial or as-applied challenge, Plaintiffs' claims fail, and to the extent the Court is inclined to award any relief as to the statute's recruiting prong, the Court should first certify the question of that provision's scope to the Idaho Supreme Court. *See* Dkt. 138. The Court should deny Plaintiffs' summary judgment motion.

BACKGROUND AND PROCEDURAL HISTORY

The Idaho Legislature passed Idaho Code § 18-623, which became effective on May 5, 2023. The statute makes it illegal for a person to, with the specific intent of concealing an abortion from the parents or guardian of a pregnant unemancipated minor, procure such an abortion or obtain an abortion inducing drug by recruiting, harboring or transporting the minor within Idaho. Plaintiffs, a lawyer, an abortion fund, and an Idaho 501(c)(3), sued to enjoin the Attorney General from enforcing the statute on July 11, 2023, bringing four claims: that the statute is void for vagueness (Count I), violates the right to interstate travel (Count II), violates a purported right to intrastate travel (Count III), and violates the First Amendment (Count IV). This Court dismissed Count III but granted a preliminary injunction on the basis of Count I and Count IV. Dkts. 40, 41.

The Ninth Circuit reversed this Court in part and remanded in December 2024. *Matsumoto v. Labrador*, 122 F.4th 787 (9th Cir. 2024). The Ninth Circuit held as a matter of law that the statute was not unconstitutionally vague, and as to harboring and transportation, did not implicate First Amendment protected speech, association or expressive conduct. As to recruitment, the Ninth Circuit found the statute overbroad but severed the provision. Discovery commenced on remand, following the entry of a revised preliminary injunction. Dkt. 58. Discovery closed on March 16, 2026. The parties filed opposing motions for summary judgment on April 16, 2026. Dkts. 136, 137.

LEGAL STANDARD

"A party challenging the constitutionality of a statute bears a heavy burden of proof." *Perez v. Marshall*, 946 F. Supp. 1521, 1531 (S.D. Cal. 1996) (citing *New York State Club Ass'n v. City of New York*, 487 U.S. 1 (1988)). "[S]ummary judgment will not lie if the dispute about a material fact is 'genuine,' that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). "[A]t summary judgment, the judge must view the evidence in the light most favorable to the nonmoving party: if direct evidence produced by the moving party conflicts with direct evidence produced by the nonmoving party, the judge must assume the truth of the evidence set forth by the nonmoving party with respect to that fact." *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630–31 (9th Cir. 1987). In contrast to cases where the non-moving party bears the burden of proof at trial, summary judgment *can* be defeated when the *moving* party bears the burden at trial based on attacks on the credibility of the evidence offered by the movant. *Cabral v. State Farm Fire and Cas. Co.*, 582 F. Supp. 3d 701, 707 (D. Ariz. 2022).

Neither experts nor lay witnesses can provide legal conclusions. *Nationwide Transp. Fin. v. Cass Info. Sys., Inc.*, 523 F.3d 1051, 1058 (9th Cir. 2008); *United States v. Crawford*, 239 F.3d

1086, 1090 (9th Cir. 2001).[2] And a "party's separate statement of . . . material facts is not evidence" but is instead a tool designed to assist the Court with determining whether the moving party has met their burden." *BME Fire Trucks LLC v. Cincinnati Cas. Co.*, No. 1:23-cv-00321-AKB, 2025 WL 3443532 at *5 (D. Idaho Dec. 1, 2025) (citation omitted). Courts rely on the underlying evidence, not the statement itself, in granting or denying summary judgment. *Id.*

ARGUMENT

I. Plaintiffs are not entitled to summary judgment because they lack standing.

Plaintiffs place standing at the end of their analysis rather than the beginning, even though the Court needs to assure itself of jurisdiction, and thus standing, before proceeding any further. *LA All. for Hum. Rts. v. County of Los Angeles*, 14 F.4th 947, 956 (9th Cir. 2021). This sheepishness is revealing. Plaintiff must support standing with the manner and degree of evidence required at each stage of the proceeding. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021). Again, Plaintiffs must offer evidence and specific facts showing Article III standing. *Ctr. for Biological Diversity v. Exp.-Imp. Bank of the U.S.*, 894 F.3d 1005, 1012 (9th Cir. 2018).

The Attorney General incorporates his standing (and unclean hands) arguments made in his affirmative motion for summary judgment. Dkt. 137-1 at 11–20. To briefly recap, Plaintiffs testified themselves out of standing in deposition. *See generally* Dkt. 137-1. Plaintiff Matsumoto directly contradicted the allegations in the Complaint that she works with pregnant minors by testifying that she has never knowingly worked with pregnant minors. Dkt. 1 ¶ 1; Dkt. 137-1 at

[2] Consequently, Plaintiffs' statement of facts which purport to construe Idaho Code § 18-623 or provide legal conclusions (such as characterizing conduct as speech, or statutory language as vague) are irrelevant. Dkt. 136-1 ¶¶ 1-9 (legislative facts and history), 28-30, 34-35, 39-40, 74 (claiming conduct as speech or expressive), 47-52 (characterizing effects of Idaho Code § 18-623), 53-61 (characterizing Idaho Code § 18-623 as a parental consent law and its effects), 73 (importing irrelevant non-statutory language to construe a statute).

14. Plaintiff IIA also incorrectly stated in the Complaint that it provides direct assistance to minors to obtain abortions, when in fact it has only provided assistance to others, after which IIA *inferred* based on conversation after the aid was provided that it was used to obtain abortions for Idaho minors. Dkt. 1 ¶ 55; Dkt. 137-1 at 16. As with Matsumoto, IIA testified that it does not procure abortions and does not plan to do so. *Id.* Last, Plaintiff NWAAF does not procure abortions for Idaho minors, whether by recruiting, harboring or transporting them. *Id.* at 17. For those reasons, as well as others stated in the affirmative motion, Plaintiffs lack standing and therefore should receive no relief. *See* Dkt. 137-1 at 11–20; AG Material Facts in Dispute ¶¶ 7-9 ("Dispute").

II. Plaintiffs are not entitled to summary judgment on their vagueness claim. (Count I)

Plaintiffs contend that they are entitled to summary judgment on their void for vagueness claim. Dkt. 136-2 at 44–49. But Plaintiffs' challenge to Idaho's abortion trafficking statute as being unconstitutionally vague fails as a matter of law. The Ninth Circuit previously held that Idaho's abortion trafficking statute, applying ordinary meanings to its terms, is not unconstitutionally vague. *Matsumoto*, 122 F.4th at 805–06, 815; *see also Planned Parenthood of Idaho, Inc. v. Wasden*, 376 F.3d 908, 920 (9th Cir. 2004) ("The constitutionality of a state statute is a question of law ….") (citation omitted). This determination is the law of the circuit and binds this Court. *Ranchers Cattlemen Action Legal Fund United Stockgrowers of Am. v. U.S. Dep't of Agriculture*, 499 F.3d 1108, 1114 (9th Cir. 2007) ("Any of our conclusions on pure issues of law, however, are binding.") (citations omitted); 18B Fed. Prac. & Proc. Juris. § 4478.5 (3d Ed. Apr. 2026 update) ("A fully considered appellate ruling on an issue of law made on a preliminary injunction appeal, however, does become the law of the case for further proceedings in the trial court on remand ….").
This is enough to short-circuit Plaintiff's motion as to this issue. Dkt. 136-2 at 44–49.

Plaintiffs argue, despite the law of the circuit, the abortion trafficking statute is still unconstitutionally vague based on the development of the record. Dkt. 136 at 48–49. To the

contrary, what the record demonstrates is that these claims are based on 1) plainly unreasonable interpretations of the statute; 2) the unwillingness to interpret the statute; and/or 3) bad faith. "The Court must assess a constitutional challenge based on vagueness in a common sense manner." *Lane v. Salazar*, 911 F.3d 942, 950 (9th Cir. 2018) (citing *U.S. Civil Serv. Comm'n v. Nat'l Ass'n of Letter Carriers, AFL-CIO*, 413 U.S. 548, 578–79 (1973)). Even where there are "quibbles" about what a term means, "there are limitations in the English language with respect to being both specific and manageably brief," and it is enough that a law is "set out in terms that the ordinary person exercising ordinary common sense can sufficiently understand and comply with . . . ." *U.S. Civil Serv. Comm'n*, 413 U.S. at 578–79. And contrary to Plaintiffs' contention that the "intent to conceal" scienter requirement somehow makes the statute *more* vague (Dkt. 136-2 at 45–46), "a scienter requirement in a statute 'alleviates vagueness concerns, narrows the scope of its prohibition and limits prosecutorial discretion'"—not the reverse. *McFadden v. United States*, 576 U.S. 186, 197 (2015) (quoting *Gonzales v. Carhart*, 550 U.S. 124, 149 (2007) (cleaned up)).

Vagueness is a pure question of law, *United States v. Ninety-Five Firearms*, 28 F.3d 940, 941 (9th Cir. 1994), so "a developed record" (Dkt. 136-2 at 44) can't save the claim. But even if it could, the "uncontested evidence" is that Plaintiffs' quibbles with the statute are unconvincing. While Plaintiffs raise the "intent to conceal" mens rea as a basis for a finding of vagueness, neither NWAAF nor IIA mentioned it as a source of confusion, despite being asked in Rule 30(b)(6) depositions to identify any sources of vagueness in the statute. Dispute ¶ 6 ("Q: So you understand the rest of the statute? A: Yes."). When asked directly about whether they had ever acted with the intent to conceal a minor's abortion, or whether they had plans to do so in the future, NWAAF stated that it had not, IIA admitted it doesn't know in advance if it is helping an abortion at all, and Plaintiff Matsumoto testified that she has never worked with pregnant minors. Dispute ¶¶ 7-9. A

reasonable person understands what the phrase means. The contention that "intent to conceal"—unlike every other mens rea requirement in a criminal statute, *McFadden*, 576 U.S. at 197—makes Idaho Code § 18-623 *more* vague is frivolous.

Plaintiffs also argue that the terms "procure," "recruit," "harbor," and "transport," are vague. Dkt. 136-2 at 46–47. But these terms are all susceptible to plain dictionary definitions, and at no point in their briefing do Plaintiffs ever explain what it is about the abortion context that makes these terms any more vague than their usage in another context. For instance, to "procure" something means to "to obtain something by particular care and effort" or "to bring about or achieve something by care and effort." *Procure*, Merriam-Webster Online Dictionary. The meaning of the word in the context of this statute is thus straightforward: obtaining an abortion by particular care or effort, or bringing about an abortion by particular care or effort in the form of recruiting, harboring or transporting a minor, with the intent to conceal such abortion from her parents.

To be sure, NWAAF indeed testified that it doesn't understand what "procuring" means in the context of abortion—but the transcript shows that either 1) NWAAF was not taking the deposition seriously, or 2) has a wildly eccentric definition of procurement that lacks any credibility:

> **Q by Plaintiffs' Counsel: Ms. Alatorre, what do you understand "procure an abortion" to mean?**
> A. I - - it's - - it sounds like - - I mean, the term "procure," I have never really heard in reference to this work. I understand the word "procure" to mean, like, something related to, like, an industry or, like - - like, obtaining materials, et cetera.
>
> So if I were to try to think of what that means related to abortion, I, like, envision procuring an abortion being, like, me calling up an abortion provider and trying to buy abortions from them. So that is, I guess, how I'm defining "procuring an abortion," is *calling big abortion and saying, 'Hey, we want to buy this many pallets of abortion.'*

Dkt. 137-6 at 76:9-24.

To suggest that "procuring an abortion" can only be understood as calling up "Big Abortion" and ordering "pallets of abortion" is *risible*. *See also* Dkt. 137-5 at 58:18-23 (testifying that IIA understands "procuring an abortion" to require "a representative of IIA to stand at a healthcare facility and pay directly for an abortion for a minor."). Plaintiffs know what it means to procure something, they know what recruiting, harboring, and transporting means generally, and it is no great leap of common sense to apply those definitions to the context of abortion, as the Ninth Circuit already did. *Matsumoto*, 122 F.4th at 805–06; Dispute ¶ 6. Common sense definitions, not whatever contortions Plaintiffs can conjure, are what matters in a vagueness challenge. *See Arnett v. Kennedy*, 416 U.S. 134, 159-60 (1974). The statute prescribes sufficient guidelines for enforcement by county prosecutors, and so, as the Ninth Circuit held, it is not vague. *Matsumoto*, 122 F.4th at 805-06.

* * *

Plaintiffs' void-for-vagueness arguments, in addition to being barred by the law of the circuit, are, at this point, frivolous word games. The Court should reject them; Plaintiffs are not entitled to summary judgment on Count II.

III. Plaintiffs are not entitled to summary judgment on their First Amendment claims. (Count IV)

Plaintiffs contend the Court should grant summary judgment because Idaho Code § 18-623 restricts their speech, expressive conduct, and association. Dkt. 136-2 at 13–35. Plaintiffs make these arguments despite the Ninth Circuit's holding as a matter of law that "harboring" and "transporting" as proscribed by Idaho Code § 18-623 do not implicate the First Amendment. Even if the law of the circuit did not bar the arguments, they would fail.

A. Plaintiffs are not entitled to summary judgment as to "harboring" and "transporting" on any First Amendment basis.

Plaintiffs' challenge on First Amendment overbreadth and association, Dkt. 136-2 at 21–22, fails for the same reasons their vagueness challenge fails—the Ninth Circuit already answered the question as a matter of law. *Ranchers Cattlemen Action Legal Fund United Stockgrowers of Am. v. U.S. Dep't of Agriculture*, 499 F.3d 1108, 1114 (9th Cir. 2007) (legal questions answered on preliminary posture are law of the circuit); *Robles v. Domino's Pizza, LLC*, 913 F.3d 898, 904 (9th Cir. 2019) (constitutionality of a statute is a question of law). While Plaintiffs attempt to combine all three methods of abortion trafficking into one argument,[3] (*see* Dkt. 136-2 at 13–21), the Ninth Circuit already clarified that, as a matter of law, neither "harboring" nor "transporting" as proscribed by Idaho's abortion trafficking statute proscribe First Amendment protected speech, association, or expressive conduct. *Matsumoto*, 122 F.4th at 806–08. This categorically ends the claim as to those two prongs of the statute.

B. Plaintiffs' commingled arguments fail.

Contrary to the Ninth Circuit's holding, *Matsumoto*, 122 F.4th at 806–08, Plaintiffs offer a muddled argument that the statute's recruitment, harboring, and transportation provisions are altogether violative of the First Amendment without distinguishing the conduct prohibited by recruiting from the conduct prohibited by transportation and harboring—despite the fact that the latter two do not implicate the First Amendment as a matter of law. Even if these arguments weren't barred, they would fail on their own. Plaintiffs proceed down three steps. First, they try to show that the statute either implicates pure protected speech, expressive conduct, or association. Second,

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[3] The Ninth Circuit already held that *even if* components of Idaho Code § 18-623 are unconstitutional, such provisions should be severed. *Matsumoto*, 122 F.4th at 815–16.

they try to show that the statute engages in viewpoint discrimination. And last, they attempt to show that the statute does not meet strict scrutiny. Plaintiffs' arguments fall flat at each stage.

1. Speech and Expressive Conduct are not at issue.

As to pure speech, Plaintiffs argue that their communications with minors are protected, Dkt. 136-2 at 15–16, although the Ninth Circuit already held that the statute does not reach speech under its harboring or transporting prongs. *Matsumoto*, 122 F.4th at 806–08. They ignore that states can help parents protect children from harmful speech. They ignore that parents, not Plaintiffs, have custody of their children, and states can keep interlopers and strangers from enticing them away from parental control. Separately, they also ignore that the statute on its plain terms proscribes actions that are conduct rather than speech.

As to expressive conduct, Plaintiffs start from the premise that the "context" in which they would hypothetically engage with minors is enough to transform what they concede is conduct, Pls. SOF ¶¶ 51-52, into expressive conduct or association. Dkt. 136-2 at 16–18. But the authority Plaintiffs cite does not support Plaintiffs' position. *Spence v. Washington*, 418 U.S. 405 (1974), a case involving a peace-symbol affixed to an American flag, reaffirms what the Supreme Court said in *United States v. O'Brien*: "[courts] cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in the conduct intends thereby to express an idea." *Spence*, 418 U.S. at 409 (quoting *O'Brien*, 391 U.S. 367, 376 (1968)). *Spence* recognized that context matters *after* the nature of the activity is considered. Here, Plaintiffs describe pure conduct: funding travel (which is nothing more than contracting for goods and services), providing transportation, or going with someone to get an abortion. Dkt. 136-2 at 17. This is not activity with "communicative connotations" but is instead pure conduct. *See B & L Prods., Inc. v. Newsom*, 104 F.4th 108, 114 (9th Cir. 2024) (collecting cases). Thus, even if Plaintiffs could overcome the Ninth Circuit's ruling, the claim fails. Plaintiff's oft-repeated

discomfort and policy disagreement with Idaho's abortion laws adds nothing to this analysis. *E.g.*, Dkt. 136-2 at 17–18.

Context also includes the ends proscribed by the statute as well as the means. The end is an abortion that was procured for the minor with the specific intent to conceal that abortion from the minor's parents or guardian. Whatever is communicated about abortion to the minor, none of the communication about the abortion is actually prohibited by the statute. And because the statute prohibits the conduct of procuring an abortion, anything communicated to the minor is purely incidental to the *conduct* of procuring the abortion. Of course, one can find "some kernel of expression in almost every activity a person undertakes—for example, walking down the street or meeting one's friends at a shopping mall—but such a kernel is not sufficient to bring the activity within the protection of the First Amendment." *City of Dallas v. Stanglin*, 490 U.S. 19, 25 (1989).

Plaintiffs' expressive association argument is baseless. Dkt. 136-2 at 18–19. Not every interaction constitutes an expressive association. Membership in an identifiable group is a prerequisite, as is the intent to either 1) communicate an identifiable message outside the group or 2) engage in intimate social relations. *See Freeman v. City of Santa Ana*, 68 F.3d 1180, 1188 (9th Cir. 1995); *IDK, Inc. v. Clark County*, 836 F.2d 1185, 1194 (9th Cir. 1988). The second falls flat because Plaintiffs have no intimate connection with minors that they may encounter and are not the parents of. The first also fails—the statute only prohibits the procuring of an abortion with the intent to conceal the abortion from the minor's parents or guardian. Putting aside that the Ninth Circuit swiftly disposed of this argument already, the contemplated conduct is just that—conduct.

2. The statute does not engage in viewpoint discrimination.

Plaintiffs next argue that Idaho Code § 18-623 is unconstitutional viewpoint discrimination. Dkt. 136-2 at 19–20. This argument requires little comment given that the Ninth Circuit held that harboring and transportation constitutes conduct, not speech. *Matsumoto*, 122 F.4th at 806–08.

Moreover, under Idaho Code § 18-623, it is not the case that *speech* addressing a particular viewpoint is dissuaded. Indeed, anyone can say anything they like under the statute about abortion or abortion options. What cannot be done is procuring an abortion for a pregnant minor by recruiting her with the intent to conceal such an abortion from her parents. The problem with the counter examples offered by Plaintiff, of abortion opponents dissuading someone from getting an abortion, is that there is no end conduct. Nothing is procured, obtained or done by such opponents—except for speaking. *See* Dkt. 136-2 at 19. And as for pro-abortion advocates offering "specialized care" or "financial assistance," that's conduct, not speech, and so a prohibition in only one direction is not viewpoint discrimination under the First Amendment. *B & L Productions, Inc.*, 104 F.4th at 113–14; Dkt. 136-2 at 20.

Plaintiffs next make a separate assertion that the statute covers *more* speech because of its strict mens rea requirement that a defendant's intent must be to conceal an abortion from the parents or guardian of a minor. Dkt. 136-2 at 21. Plaintiffs are wrong as a matter of law. "By reducing an honest speaker's fear that he may accidentally or erroneously incur liability, a mens rea requirement provides breathing room for more valuable speech." *Counterman v. Colorado*, 600 U.S. 66, 75 (2023) (quoting *Alvarez*, 567 U.S. at 733 (Breyer, J. concurring) (cleaned up)); *accord Marquez-Reyes v. Garland*, 36 F.4th 1195, 1205–06 (9th Cir. 2022) (upholding criminal statute barring "encouraging" illegal immigration as not overbroad where mens rea required "specific intent" to facilitate the crime of illegal immigration). Here, the specific intent is to conceal the abortion from the parents or guardian of a minor, an act of interference in the parent-child relationship and an infringement on the parents' right to direct the care, custody and control of their child. There is no "abstract advocacy of illegality" proscribed here—the only speech at issue, if any, is speech used to procure an abortion for a pregnant minor girl with the intent to conceal

the abortion from the girl's parents. *See Marquez-Reyes*, 36 F.4th at 1206 (discussing *United States v. Williams*, 553 U.S. 285, 293 (2008) and *Brandenburg v. Ohio*, 395 U.S. 444, 447–48 (1969) (per curiam)).

But even supposing speech was implicated by the statute, states are free to enact aids to parental control. *Ginsberg v. New York*, 390 U.S. 629, 639 (1968). A state can assist a parent in keeping a minor from communicating with an unrelated adult to procure an abortion, a procedure over which, at least in Idaho, the parent has the final say in every case unless the state has intervened in a case of abuse. *Parham v. J.R.*, 442 U.S. 584, 602–03 (1979). The State has a valid interest in securing the right of Idaho's "parents' claim to authority in their own household to direct the rearing of . . . children," *Ginsberg*, 390 U.S. at 639 and protecting "the lawfully exercised authority of their parents" in prohibiting (or even simply having knowledge of) an abortion performed on a child. *Calabretta v. Floyd*, 189 F.3d 808, 820 (9th Cir. 1999).

Cases cited by Plaintiffs, *see* Dkt. 136-2 at 16, all deal with adult decision making around abortion, *e.g.*, *Bigelow v. Virginia*, 421 U.S. 809, 824–25 (1975), and are irrelevant—speech, if any, prohibited by Idaho Code § 18-623 is not communication about lawful activity in another state, but recruiting a minor girl to leave the protection and control of her parents and unlawfully interfering in that relationship *in* Idaho. Under the common law, parents control the information their children receive and who their children interact with. *See Nat'l Rifle Ass'n v. Bondi*, 133 F.4th 1108, 1116–18 (11th Cir. 2025) (collecting historical discussion on the rights of minors and noting minors "were subject to the power of their parents and depended on their parents' consent to exercise rights and deal with others in society" at the Founding). This is not *Erznoznik v. City of Jacksonville*, 422 U.S. 205 (1975) either—a case where a potential display of nudity to the general public could result in prosecution, ostensibly in order to protect minors. Any communication

prohibited by Idaho's statute is communication directed to procuring an abortion with an intent to conceal the abortion from the parents when a parent would otherwise have the right to know and forbid it. That is conduct interfering in someone else's parent-child relationship.

3. All three prongs of the statute survive strict scrutiny.

Lastly, Plaintiffs' attempt to show that Idaho Code § 18-623 fails under strict scrutiny, Dkt. 136-2 at 21–26, is not successful. First, because the Ninth Circuit held that the law does not burden a fundamental right as to the harboring and transporting prongs, *Matsumoto*, 122 F.4th at 805–06, those prongs cannot be subject to strict scrutiny as "a statute is required to bear only a rational relationship to a legitimate state interest, unless it makes a suspect classification or implicates a fundamental right." *Nat'l Ass'n for Advancement of Psychoanalysis v. Calif. Bd. of Psychology*, 228 F.3d 1043, 1049 (9th Cir. 2000) (citations omitted). These prongs are appropriately reviewed for rational basis, which Plaintiffs do not contest.

As for recruiting, even assuming that prong of the statute implicates speech, *but see* Dkt. 137-1 at 21–31, it still survives strict scrutiny. Strict scrutiny requires a showing that a law is narrowly tailored to serve a compelling government interest. *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015). Three compelling government interests are borne out by the record here: 1) protecting parental rights to care, custody, and control of their children, including medical decision-making; 2) protecting unborn life; and 3) preventing both reproductive coercion and sexual abuse of children that is hidden by an abortion obtained with the specific intent to conceal it. The statute is narrowly tailored to support each of these interests.

a. Idaho has a compelling interest in protecting parental rights.

Parents have the right to the care, custody, and control of their children, *Troxel v. Granville*, 530 U.S. 57 (2000) (plurality op.).[4] This includes both "a right to limit visitation of their children with third persons," *id.* at 63 (quoting decision below), and the right to make medical decisions for their children, *Parham*, 442 U.S. at 603–04. Further, parents are "the primary protectors of children's best interests." *Mirabelli*, 146 S. Ct. at 802. These parental rights are in service of the broader parental prerogative of "preparation for obligations the state can neither supply nor hinder" and a legislature may conclude, with respect to abortion in particular, parents "are entitled to the support of laws designed to aid discharge of that responsibility." *Ginsberg*, 390 U.S. at 639 (first quote quoting *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944)).

The protection of parental rights against the interference of strangers is a compelling state interest. *See Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (holding that parental interests "undeniably warrant[] deference and, absent a powerful countervailing interest, protection"); *see also Calabretta*, 189 F.3d at 820. Evidence produced by Plaintiffs' own experts supports finding that Idaho Code § 18-623 is narrowly tailored to protect the interests of parents. Plaintiffs' expert, Dr. Stevenson, necessarily acknowledges that to notify or require parental consent for an abortion (or, in this case, simply not attempting to conceal the abortion from the parents or guardian of a minor) allows the parent, rather than some stranger, to exercise the authority to make medical decisions. Dkt. 136-21 (Dr. Stevenson) ¶ 14 (noting parental rejection of abortion as an option when parents are notified), ¶ 15 (same for parents not supporting abortion), ¶ 20 (noting parental

[4] In *Troxel*, Justice Thomas concurred with the four-justice plurality on the grounds that the fundamental right to parent encompassed a right to deny access to children by third parties under the Court's precedent under *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). *See Troxel*, 530 U.S. at 80 (Thomas, J. concurring). Consequently, the plurality does express the views of a majority of the Court on this issue and is binding authority.

involvement can thwart an abortion). To the extent Dr. Stevenson, and Plaintiffs' other expert, Dr. Taylor, offer counterpoints, i.e., the wishes of a minor or the abstract existence of some abusive parents (Dkt. 136-22 ¶ 17), these arguments are foreclosed by binding law. *Parham*, 442 U.S. at 603 (rejecting argument that parental disagreement with child over medical treatment removes discretion from a parent); *id.* at 602–03 (rejecting notion that because "some parents abuse and neglect children" common law presumption "that natural bonds of affection lead parents to act in the best interests of their children" should yield).

Under First Amendment strict scrutiny, the government does not need to adopt the literal "least restrictive means" to further its interest, but rather "[must] not burden substantially more speech than necessary to further" its interests. *Menotti v. City of Seattle*, 409 F.3d 1113, 1130–31 (9th Cir. 2005) (citation omitted). Idaho's statute does exactly this: contrary to Plaintiffs' expansive and unreasonable view of the statute, the prohibition on recruiting[5] covers, at most, speech incident to removing a minor from the lawful authority of parents to make decisions about the medical procedures their child will undergo, and acting with the specific intent to conceal an abortion from parents.

Plaintiffs argue that parental rights are only negative rights, i.e., rights against government interference. Dkt. 136-2 at 23.[6] But they offer no authority for this (patently incorrect) assertion. "The interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by [the Supreme Court]." *Troxel*, 530 U.S. at 65. Both the Supreme Court and the Ninth Circuit have recognized that states have a role in "not only

[5] Again, harboring and transporting don't involve speech at all. *Matsumoto*, 122 F.4th at 806–08. Even if they did, the same point would apply.

[6] Plaintiffs' citation to *Troxel* says absolutely nothing about parental rights being purely negative.

protecting children from physical abuse, but also protecting children's interest in the privacy and dignity of their homes and in the lawfully exercised authority of their parents." *Calabretta*, 189 F.3d at 820; *Stanley*, 405 U.S. at 651–52. "[T]he State is entitled to adjust its legal system to account for children's vulnerability." *Bellotti v. Baird*, 443 U.S. 622, 635 (1979) (plurality op.). And, even under the now-abrogated regime of *Roe v. Wade*, the Supreme Court recognized "an important state interest in encouraging . . . family . . . resolution of a minor's abortion decision." *Id.* at 648. As the Supreme Court observed in *Bellotti*, "[t]he State commonly protects its youth from adverse governmental action and from their own immaturity by requiring parental consent to or involvement in important decisions by minors." *Id.* at 637. These interests are furthered here.

Separately, Plaintiff argues that because some minors allegedly "cannot safely involve" their parents the law is not narrowly tailored. Dkt. 136-2 at 25. But the State is not required to presume that a parent is unfit in acting to protect parental rights—indeed, the law assumes the opposite and the U.S. Supreme Court recognizes that parents are the primary protectors of their children's best interests. *Parham*, 442 U.S. at 602–03; *Mirabelli*, 146 S. Ct. at 802. Plaintiff offers no evidence of specific minors in this circumstance that they wish to assist. And even if Idaho was required to consider such circumstances in drafting its law, there is a way to ensure that any pregnant minor Plaintiffs encounter who is subject to abuse or neglect receives help: Plaintiffs can fulfill their statutory obligation to report this abuse or neglect to the Idaho Department of Health and Welfare or local law enforcement. Idaho Code § 16-1605(1).

Plaintiffs also argue the law isn't narrowly tailored because it doesn't simply require that parents or guardians consent to the abortion. Dkt. 136-2 at 26. But this misunderstands the problems raised by underinclusivity in narrow tailoring. "Underinclusivity creates a First Amendment concern when the State regulates one aspect of a problem while declining to regulate

a different aspect of the problem that affects its stated interest *in a comparable way*," *Victory Processing LLC v. Fox*, 937 F.3d 1218, 1228 (9th Cir. 2019), but even still "[courts] do not require the government to address all aspects of a problem in one fell swoop." *Id.* While Plaintiffs charge that the asserted underinclusivity suggests that the statute was intended to disfavor a speaker or viewpoint, Dkt. 136-2 at 26, they never explain how they draw this inference from the supposed underinclusivity. Here, an open attempt to get an abortion for a minor, where a parent can seek legal recourse or seek to influence his or her child, and an abortion which is intended to be concealed—thwarting the efforts of even a diligent parent to exercise his or her rights—are distinguishable enough to show the law is narrowly tailored.

* * *

The State can protect a parent's right to the care, custody and control of his or her children, and this compelling interest is served by a statute that narrowly attacks unlawful interference in that relationship which is accomplished by procuring an abortion for a minor girl with the intent to conceal that abortion from those parents.

b. Idaho has a compelling interest in protecting unborn life.

It is incontestable as a matter of law that states have a compelling interest in protecting life within their borders. *See United States v. Salerno*, 481 U.S. 739, 745 (1987) (noting general "compelling interests in public safety"). This compelling interest in public safety includes unborn life, whose special disadvantage during the *Roe* era has been overruled. *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 301 (2022); *Satanic Temple v. Labrador*, 716 F. Supp. 3d 989, 1005 (D. Idaho 2024), *aff'd and remanded on different grounds* 149 F.4th 1047 (9th Cir. 2025) (recognizing Idaho's compelling interest in protecting unborn life). Obviously, a law prohibiting abortion furthers that interest with respect to unborn children. *Id.*; Dispute ¶ 4. Idaho's prohibition

is narrowly tailored, as again, no speech other than that (at most) incidental to procuring an abortion intended to be concealed is at issue. Abstract advocacy isn't encompassed by the statute.

Plaintiffs' only argument against this interest is that, since abortion may take place in a state which permits the abortion, a state has "no legitimate interest," in regulating the speech incident to procuring the abortion. Dkt. 136-2 at 24. But this framing begs a related question—whether—whatever the lawful status of the *abortion*, in another state—the *interference* in the parent-child relationship in the home state is unlawful. A juvenile in Idaho has no right to leave to get an abortion in another state on their own, as "juveniles, unlike adults, are always in some form of custody" and "where the custody of the parent or legal guardian fails, the government may (indeed, [the Supreme Court has] said *must*) either exercise custody itself or appoint someone else to do so."[7] *Reno v. Flores*, 507 U.S. 292, 302 (1993) (internal quotation omitted). Parents' rights at common law include controlling a minor's contacts and communications with others, and the government can protect this interest just as with other elements of the parent-child relationship. *See Bondi*, 133 F.4th at 1118. Thus, interference by a third party, being never lawful *in Idaho*, cannot serve to negate the State's compelling interest in protecting the unborn even if, under other circumstances, the abortion would be lawful in the state in which it is performed. For the reasons discussed *supra*, the statute is narrowly tailored to serve this interest.

Moreover, Plaintiffs do not address how their theory applies where an abortion would take place in a state, such as Idaho, where the abortion, in addition to the interference, *is* illegal. *E.g.* Utah Code § 76-7-304.5 (requiring parental notice and consent for abortions); Tenn. Code § 39-

[7] Notably absent from this formulation is the involvement of busybodies and interlopers like Plaintiffs. Indeed, one question in *Reno*, framed as "the alleged right of a child . . . to be placed in the custody of a willing-and-able private custodian rather than . . . a government-operated . . . institution," rhymes with this case—the Supreme Court found no such right. 507 U.S. at 302.

15-201(a)(1) (prohibiting abortion trafficking). Consequently, Plaintiffs fail to show, with respect to the First Amendment, how the statute is substantially overbroad in comparison to its plainly legitimate sweep, *United States v. Hansen*, 599 U.S. 762, 770 (2023), or (as to interstate travel) that the law is invalid in all its applications. *Salerno*, 481 U.S. at 745.

c. Idaho has a compelling interest in preventing child abuse by preventing abortions that are done with the intent to conceal them.

Separate from parental rights interests, the State's own "traditional and transcendent interest in acting as parens patriae to protect children," *Mueller v. Auker*, 700 F.3d 1180, 1186 (1993) (quoting *J.B. v. Washington County*, 127 F.3d 919, 925 (10th Cir. 1997) (cleaned up)), includes the obligation to protect the general well-being of children. *Ginsberg*, 390 U.S. at 640. *Sable Commc'ns of Cal., Inc. v. FCC*, 492 U.S. 115, 126 (1989) (States have a "compelling interest in protecting the physical and psychological well-being of minors."). This includes protection against abuse, including concealed sexual abuse and reproductive coercion. *See Humphries v. County of Los Angeles*, 554 F.3d 1170, 1193–94 (9th Cir. 2008) (rev'd and remanded on other grounds by 562 U.S. 29 (2010)).

The statute at issue advances this compelling government interest. As the Legislature heard, child abusers, including sex traffickers and statutory rapists, will act to conceal their crime by assisting or forcing the minor girl to obtain an abortion and will act with an intent to conceal that abortion from the minor girl's parents. *See* Dkt. 137-1 at 40 (collecting testimony). Plaintiffs' experts agree that forcing a minor girl to undergo an abortion constitutes reproductive coercion and that this happens in circumstances of abuse and sex trafficking. Dispute ¶ 5. In fact, as IIA organizer Jason Pretty Boy recounted, with a personal anecdote concerning a cousin who underwent a horrific ordeal, a rapist may try to conceal the fact of a rape by forcing the woman to undergo an abortion. *Id.* As the law understands, and as Plaintiffs' experts concede, a minor girl is

not in a position to determine what is in her best interest by herself and requires the guidance of parents. Dispute ¶¶ 3-5; *see also Parham*, 442 U.S. at 602–03. Idaho's law narrowly works to prevent this hidden abuse from being perpetrated on minors.

C. The Court should certify the question posed in the motion for certification before any determination that "recruiting" covers constitutionally protected speech.

Before making any determination about whether the "recruiting" prong of Section 18-623 covers constitutionally protected speech, the Court should certify the question presented by the Attorney General's certification motion and allow the Idaho Supreme Court to weigh in. Dkt. 138. For the reasons stated in the Attorney General's briefing, there's good reason to think the Idaho Supreme Court would come to a different conclusion on the scope of the "recruiting" prong. Dkt. 137-1 at 26–28. But even if the Court disagrees with the Attorney General as to his view of Idaho law or finds his construction implausible, certification should still be granted so that the Idaho Supreme Court, rather than a federal court, can decide the issue. *See Arizonans for Off. Eng. v. Arizona*, 520 U.S. 43, 76–78 (1997) (noting, in contrast to district and circuit courts' rejection of certification, state attorney general's request was entitled to "more respectful consideration").

D. Plaintiffs are not entitled to as-applied relief.

For the first time in this case, Plaintiffs urge the Court to provide them with "as-applied relief." Plaintiffs' contentions are best sorted into two buckets. First, they argue that to the extent they have stated speech or protected association that they think falls under the proscriptions in the statute, they urge the Court to grant them relief, regardless of what prong of the statute is at issue. This fails because the Ninth Circuit has already rejected their arguments on this point. Second, they argue with respect to expressive conduct that they are entitled to relief.

1. The Ninth Circuit's resolution of the speech and association claims bars as-applied relief on those issues.

As previously noted, the Ninth Circuit's resolution that, as a matter of law, the statute does not apply to certain conduct binds this Court. *Ranchers Cattlemen*, 499 F.3d at 1114; *e.g. United States v. Stephens*, 237 F.3d 1031, 1033 (9th Cir. 2001) (holding proper interpretation of a statute is a question of law). The Ninth Circuit held that the statute, construed under federal methods of interpretation, does not burden the right of association. *Matsumoto*, 122 F.4th at 806. Because this determination was made as a matter of statutory construction, it is the law of the circuit and precludes both a facial and as-applied challenge on both association and pure speech grounds—the conduct simply isn't regulated by Section 18-623. *Id.* at 807–08 (rejecting free association claims and noting harboring and transportation proscribe conduct, not speech).

2. Plaintiffs fail to make the necessary showing for as-applied relief as to expressive conduct.

In litigating a challenge on the basis of expressive conduct, the inquiry proceeds in two steps: the "first task is to determine whether [harboring or transportation] is (1) purely expressive activity or (2) conduct that merely contains an expressive component." *Anderson v. City of Hermosa Beach*, 621 F.3d 1051, 1059 (9th Cir. 2010). In rejecting Plaintiffs' facial challenge to these same provisions, the Ninth Circuit necessarily rejected the premise that these prongs regulate purely expressive activity.

Instead, if regulated conduct conceivably contains an expressive component, "then it is entitled to constitutional protection only if it is 'sufficiently imbued with elements of communication to fall within the scope of the First and Fourteenth Amendments.'" *Id.* (quoting *Spence*, 418 U.S. at 409). If it doesn't—rational basis review applies. *Id.* "[T]he First Amendment does not protect 'an apparently limitless variety of conduct . . . whenever the person engaging in the conduct intends thereby to express an idea.'" *Olympus Spa v. Armstrong*, 169 F.4th 817, 829

(9th Cir. 2026) (quoting *O'Brien*, 391 U.S. at 376). "Examples of expressive conduct include burning the American flag, burning a draft card, affixing a peace sign to the American flag, and wearing a military medal." *Imperial Sovereign Ct. of Mont. v. Knudsen*, 170 F.4th 820, 847 (9th Cir. 2026) (internal citations omitted). By contrast, acts like paying for goods or services, *B&L*, 104 F.4th at 114, "processing a booking," *HomeAway.com, Inc. v. City of Santa Monica*, 918 F.3d 676, 685 (9th Cir. 2019), and transporting people or assisting with travel, *Marquez-Reyes*, 36 F.4th at 1205 (citing cases), are per se non-expressive conduct. This is the only conduct for which Plaintiffs seek as-applied relief and so their as-applied challenge fails. Dkt. 136-2 at 29–31.

Separately, the legislation only implicates the First Amendment if the *expressive nature* of the conduct drew the legal remedy. *Uber Techs., Inc. v. Seattle*, 168 F.4th 1202, 1211 (9th Cir. 2026) (citing *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 706 (1986)). "When determining whether a law regulates sufficiently expressive conduct, a court may consider both the 'inevitable effect of a [law] on its face' and the law's 'stated purpose.'" *Id.* (quoting *HomeAway.com*, 918 F.3d at 685). Here, the regulations on harboring and transportation are directed at the procurement of an abortion for a minor girl with the intent to conceal that abortion from the girl's parents, and the associated harms to the parent-child relationship. The stated purpose of the law is to "prohibit[ ] anyone from trafficking a minor for a criminal abortion with the intent of concealing the crime from the minor's parents."[8] By contrast, the proposed expressive elements that Plaintiffs urge communicate a proposition: that "people seeking abortion are entitled to dignity, solidarity and practical support." Dkt. 136-2 at 28, 29–32. Nothing about that purported expression drew the legal remedy—the abortion and intent to conceal did. Indeed, since Plaintiffs have either disclaimed an intent to

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[8] Statement of Purpose, Idaho House Bill 242 (2024) https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2023/legislation/H0242SOP.pdf.

conceal or don't know in advance what it is they are doing (Dispute ¶¶ 7-9), their intended expression *couldn't* have drawn the legal remedy. Because the legal remedy was directed at conduct, not expression, the challenge similarly fails at this prong. *B & L*, 104 F.4th at 114.

IV. Plaintiffs are not entitled to summary judgment as to interstate travel. (Count II).

Plaintiffs next contend that the Court should grant summary judgment on their right to travel claim. Dkt. 136-2 at 35–44. Plaintiffs are not entitled to summary judgment on their right to travel claim as a matter of law. Additionally, the right to travel does not include the right to take unrelated minors anywhere—let alone for the purpose of an abortion that they intend to conceal. Plaintiffs try to elide this straightforward problem with their claim by talking about the rights of adults. *Id.* at 35–44. But this evades the elephant in the room, and the Court should deny their request for summary judgment.

A. Minors don't have the right to interstate travel without their parents' or guardians' consent, and so Plaintiffs lack the right to take them.

Plaintiffs begin their argument with pages of general discussion of the right to interstate travel—for adults. Dkt. 136-2 at 35–40 *see also* Dispute ¶ 2. Pregnant minor girls have no right to travel without the consent of their parents or guardians, let alone travel interstate, and so Plaintiffs have no right to take them anywhere.

"[J]uveniles, unlike adults, are always in some form of custody." *Schall v. Martin*, 467 U.S. 253, 265 (1984) (citation omitted). "Children, by definition, are not assumed to have the capacity to take care of themselves. They are assumed to be subject to the control of their parents, and if parental control falters, the State must play its part as parens patriae." *Id.* (collecting cases). Owing to the fact that minors "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them," *Baird*, 443 U.S. at 635, minors "[t]raditionally at common law, and still today . . . lack some of the most fundamental rights of self-determination—

including even the right of liberty in its narrow sense, i.e., the right to come and go at will. They are subject, even as to their physical freedom, to the control of their parents or guardians." *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 654 (1995). "Not only is it anomalous to say that juveniles have a right to be unsupervised when they are always in some form of custody, but the recognition of such a right would fly in the face of the state's well-established powers of parens patriae in preserving and promoting the welfare of children." *Hutchins v. Dist. of Columbia*, 188 F.3d 531, 539 (D.C. Cir. 1999) (holding there was no fundamental right of juveniles to be in a public place without adult supervision during curfew hours).

The application of this general principle is straightforward: if pregnant minors have no right to travel without their parents' permission, then Plaintiffs have no right to take them. By contrast, the common presumption behind every single one of Plaintiffs' cited interstate travel cases, Dkt. 136-2 at 35–40 is the *unrestricted* right *of adults* to travel.[9] The same is true of the right to participate in lawful activities in other states – certainly true of adults, but only parents and guardians have the right to authorize such activities for their children. Consequently, citation to cases like *Doe v. Bolton*, 410 U.S. 179 (1973) or the non-binding holding in *Yellowhammer Fund v. Marshall*, 776 F. Supp. 3d 1071, 1098 (M.D. Ala. 2025) is not helpful—none of these cases contemplate a minor, who lacks "even the right of liberty in its narrow sense," as opposed to an adult who can freely travel out of state.[10]

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[9] Though, as noted in the Attorney General's motion, this too has its limits. *See Jones v. Helms*, 452 U.S. 412, 422–23 (1981). As with the fugitive, a minor has no right to travel anywhere.

[10] *Doe v. Bolton* is separately irrelevant for the fact that it concerned *a Georgia* statute restricting adults *from entering* Georgia for abortion, not going out of the State to seek an abortion elsewhere. 410 U.S. at 200.

To illustrate this point, if a parent were to discipline his or her fifteen-year-old child for some form of disobedience by grounding the child and prohibiting the child from leaving the family home, a parent can certainly do so. This child has no right to travel when the child's parents prohibit it. And, if an unrelated "trusted adult" with no authority from the parents were to lead or entice that fifteen-year-old child from the child's family home without authority from the parents and with the intent to conceal the child from the child's parents, that is kidnapping. *See* Idaho Code § 18-4501(2). Continuing that action across state lines does not magically transform it into constitutionally protected conduct. *See Jones*, 452 U.S. at 422–23.

Thus, Plaintiffs' follow-on proposition—that the right to travel includes the right to facilitate others' travel—may very well be true *for adults*. Dkt. 136-2 at 40 (citing *Edwards v. California*, 314 U.S. 160, 177 (1941)). *Edwards*, like nearly all of Plaintiffs' cited cases involved adults, not children: specifically, the third-party transportation of *adult* indigents, who of course held all the rights to travel that any other adult would have. Plaintiffs' corollary, that, "the travel itself is lawful," is false—the "travel" precluded by Idaho Code § 18-623 is custodial interference or kidnapping under Idaho law, which is not challenged in this litigation. *See* Idaho Code §§ 18-4501(2); -4506. Such interference becomes a felony *on its own*, without *any* reference to the out-of-state intentions of the unauthorized interloper, simply by virtue of crossing state lines. *See* Idaho Code § 18-4506(3), *see also Jones*, 452 U.S. at 422–23. It burdens no fundamental right to prevent a third party from shipping *someone else's children* out of state when the parent doesn't approve, let alone when the third party intends to conceal the end result of the transportation.

The consequences of the alternative view are worth stating bluntly: Plaintiffs propose a right to travel interstate with someone else's kids while concealing the destination and purpose from the parents of a minor, *solely because* they plan to travel interstate. Put another way, they

want to baptize custodial interference and kidnapping by crossing state lines. In *any* context, that's absurd. A parent has the exclusive right to determine when and where a minor will travel and with whom that child will travel. That doesn't change when the minor disagrees with a parent's decision to forbid an abortion, doesn't change if some "trusted adult" disagrees, and Plaintiffs cannot bootstrap their way into someone else's parent-child relationship by just pleading that the right to travel is somehow involved. The comment that "*Idahoans*" routinely cross state lines is perfectly irrelevant, and not at issue in this case—the issue is whether *minor* Idahoans have the right to travel and whether, therefore, Plaintiffs have the tagalong right to facilitate that travel. Minor Idahoans do not have the right to travel, and so Plaintiffs do not have the right to take them.

* * *

Purportedly good intentions do not give Plaintiffs the right to recruit, harbor, or transport someone else's children. Plaintiffs have no greater right to the custody and control of someone else's kids than the statutory rapists and sex traffickers who were directly in the crosshairs of this legislation, *see* Dkt. 137-1 at 38-41—let alone if *all three* of those groups plan to travel *for the same purpose* of intending to conceal an abortion. That Plaintiffs' theory of the right to interstate travel is just as applicable to the low-minded sex trafficker as to allegedly high-minded meddlers who bestow themselves with the title of "trusted adult" is an inescapable *reductio ad absurdum* of Plaintiffs' claim that crossing state lines with someone else's kids is a fundamental right. The Court should reject Plaintiffs' claim out of hand.

B. Plaintiffs' "primary purpose" theory fails because that theory is not the law, and separately fails on its own terms anyway.

Plaintiffs lack a cognizable theory for why the right to interstate travel includes the right to transport minors who lack such a right themselves. *See* discussion *supra*. Thus, Plaintiffs argue that a bad motive to impede interstate travel can taint a statute and render it unconstitutional. This

argument fails, both because that standby is not the law, and because even taking the argument by the horns the claim lacks persuasive force based on legislative history.

The Attorney General explained in his summary judgment motion why the "bad motive" theory is not law and incorporates that discussion by reference. Dkt. 137-1 at 36–38. Suffice it to say again that the sole authority for the proposition that a statute can be declared unconstitutional if "impeding travel is its primary objective," *Attorney Gen. of N.Y. v. Soto-Lopez*, 476 U.S. 898 (1986), is a four-justice plurality opinion that does not represent the views of the Court. Neither the Supreme Court nor the Ninth Circuit has applied this purported bar to invalidate a state law, and this Court should decline to be the first. With the exception of racial discrimination, with its uniquely odious history in our country, *see Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252 (1977), the Supreme Court made clear that attempts to divine legislative intent (as Plaintiffs' test demands) from "excerpts from committee hearings and scattered floor statements by individual lawmakers" that are "among the least illuminating forms of legislative history," *Advoc. Health Care Network v. Stapleton*, 581 U.S. 468, 481 (2017) (citation omitted), are a "long disfavored" and "hazardous matter." *Dobbs*, 597 U.S. at 253 (collecting cases).

Even if such an inquiry were the law, Idaho Code § 18-623 does not fail the "bad motive test." As recounted in much more detail in the Attorney General's summary judgment motion, Dkt. 137-1 at 39–41, the primary purpose of the statute was the protection of parental rights. As Idaho House of Representatives sponsor Representative Barbara Ehardt put it, "this gives [the State] the tools to go after those who would subvert . . . a parent's right to be able to make those decisions in conjunction with their child." Plaintiffs' contrary narrative account, Dkt. 137-1 at 41–43, starts with the faulty premise that non-legislator motives can bear on the constitutionality of legislation. The only cases cited by Plaintiff for this proposition either 1) did not actually determine that a

statute was unconstitutional because of the motivations of outsiders[11] or 2) is, again, a racial discrimination case in which a different rule applies.[12]

Plaintiff then attempts to construct a tainted family history of Idaho Code § 18-623, starting with a misrepresentation of a National Right to Life Memorandum's plain text. The memorandum in question from 2022, does indeed discuss suggested legislative strategy for pro-life legislators moving forward after *Dobbs*. *See generally* Dkt. 136-20 at 6–9. But Plaintiffs disingenuously quote from the memorandum, implying that the partial sentence "the abortion industry can be expected to exploit . . . the proximity of States with less protective laws to circumvent pro-life laws in a particular State," references an intent "to prevent travel of *people* across state borders for the purpose of obtaining lawful abortion[s]." Dkt. 136-2 at 41–42. That's false, the statement is plainly referring 1) to *telehealth* providers of abortion pills and 2) prohibitions to prevent the trafficking of *minors* for *illegal* abortions. Dispute ¶ 1.

Plaintiffs then claim that Idaho Right to Life then "solicited [sic] the model legislation to members of the Idaho Legislature," and that the resulting "bill was designed to respond to Idaho's geographic reality." Dkt. 136-2 at 42. This doesn't make sense for two reasons. First, on Plaintiffs' telling, the bill was a *national* model, that Idaho Right to Life essentially adopted wholesale with

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[11] Dkt. 136-2 at 41 (citing *Animal Legal Def. Fund v. Wasden*, 878 F.3d 1184 (9th Cir. 2018)). *Animal Legal Def. Fund* is not clear what role motivations, rather than the text of the statute, played in the analysis of overbreadth or equal protection. *See* 878 F.3d at 1196–97 (noting in the alternative that "*if*" the motivation of the statute were to quash reporting that would be impermissible but severing an offending provision rather than striking the whole statute); *id.* at 1199–1200 (*rejecting* the district court's use of motivation on equal protection grounds). Indeed, if *Wasden* was decided on motive grounds as to its First Amendment challenge, it would be difficult to square with the older (and therefore controlling, *see Koerner v. Grigas*, 328 F.3d 1039, 1050 (9th Cir. 2003)) panel precedent in *Las Vegas v. Foley*, 747 F.2d 1294, 1296–97 (9th Cir. 1984) (holding legislative motive irrelevant in First Amendment challenge).

[12] *Mi Familia Vota v. Fontes*, 129 F.4th 691, 725–28 (9th Cir. 2025) (applying *Arlington Heights* to claim of racial discrimination).

respect to abortion trafficking. Dkt. 136-2 at 41–42, Plaintiff's SOF ¶ 6. Second, Plaintiffs' (citation-less) statement of the "geographic reality" in early 2024 is simply wrong. Dkt. 136-2 at 42 ("[A]ll six of its bordering states continued to permit and provide abortion[s]"). Utah also prohibited abortion or required parental consent for abortion at the time of H.B. 242's passage.[13]

The remaining recitation of the legislative history eschews most of the talk of parental rights, discussion of human trafficking, and the other commentary that would accompany a fair presentation of the bill's history. *Compare* Dkt. 136-2 at 42, *with* Dkt. 137-1 at 38–41. Plaintiffs' conclusion that the "extensive, unrebutted" evidence suggests that the bill was intended to impede interstate travel is both false and question-begging. It is false because the record, is replete with legislators' express concern for protecting the rights of parents to make decisions about abortion for minors who lack the right to make such decisions on their own. Dkt. 137-1 at 38–41.

It is question begging for the reason identified in the previous section of this discussion: just *whose* right to travel is purportedly targeted? It cannot be Plaintiffs' rights—adult rights are uninhibited based on the plain text of the statute. Idaho Code § 18-623. And it cannot matter if minors *who lack the right to go anywhere at all* without the consent of their parents are impeded from travelling in circumstances where the object of that travel is intended to be concealed. *E.g.*, *Vernonia Sch. Dist.* 515 U.S. at 654; *Schall*, 467 U.S. at 265. If minors cannot travel on their own, the statute does not impede a non-existent right to assist such travel by minors.

[13] Utah enacted an abortion statute prohibiting abortion at all stages of pregnancy that has been preliminarily enjoined, *see Planned Parenthood Ass'n of Utah v. State*, 554 P.3d 998 (Utah 2024), but it expressly requires parental consent for a minor to receive an abortion to this day. Utah Code § 76-7-304.5 (2023). Other nearby state legislatures did not passively permit abortion either, but had their efforts to protect minors and the unborn enjoined by state courts. Wyoming for example repealed its parental consent law on March 16, 2023 (as House Bill 242 was being debated) as part of a bill to recodify and restate its abortion prohibitions that had been enjoined. *See* 2023 Wyo. Sess. Laws Ch. 184 § 5.

* * *

To the extent H.B. 242's legislative history reveals anything, it reveals a predominant concern with a parent's indisputable and complete right to make medical decisions for minor children. As Representative Ehardt put it, "[t]his would deal with the actions that we're able to control within Idaho," i.e., custodial interference that eventually results in an intentionally concealed abortion, whether in or outside of Idaho. Stmt. of Rep. Ehardt, House Chambers, Mar. 7, 2023 [1:05:48-1:05:52]. "It's the activity that occurs within the state, not the transport across state lines." *Id.* [35:13-37]. Even if the Court concluded that the bill expressly or implicitly targeted the ability of *minors* to travel interstate without their parents, this would be irrelevant. Minors have no such right, and Plaintiffs cannot emancipate someone else's children *sua sponte*. Plaintiffs' right to travel claim fails and they are not entitled to summary judgment.

CONCLUSION

For the foregoing reasons, the Court should deny Plaintiffs' motion for summary judgment and/or certify the Attorney General's controlling question of law to the Idaho Supreme Court. *See* Dkt. 138.

DATED: May 7, 2026

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

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Deputy Attorney General

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CERTIFICATE OF SERVICE

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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 of the State of Idaho,

Defendant.

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

ATTORNEY GENERAL'S APPENDIX OF EVIDENTIARY OBJECTIONS

Attorney General Labrador makes the following objections to Plaintiffs' evidence offered in Plaintiffs' Statement of Undisputed Material Facts, Dkt. 136-1, pursuant to F.R.C.P. 56(c)(2) and the Court's instructions on motion practice.[1]

Plaintiffs' Statement and Record Citation	Objection
10. Idahoans routinely cross state lines as part of their economic and social lives, as is their right. K.O. Decl., Ex. 18; Stevenson Decl., ¶¶ 76-83.	Foundation as to minor travel.
11. NWAAF is a nonprofit that provides emotional, financial, practical, and informational support to individuals, including minors, considering abortion. K.O. Decl., Ex. 1, NWAAF Tr. 8:21-22, 29:20-30:13, 32:4-24; Ex. 13, Alatorre Decl., ¶¶ 5-6; Ex. 14, Snyder Decl. ¶¶ 5-6.	Foundation and Hearsay as to Minor Consideration of Abortion
15. Since 2021, as part of its mission, NWAAF has assisted at least eight Idaho minors seeking abortion care, sometimes in situations where a parent may not have been aware of the pregnancy or abortion. K.O. Decl., Ex. 13, Alatorre Decl., ¶ 22; Ex. 1, NWAAF Tr. 77:8-16.	Hearsay as to awareness; speculation as to awareness
17. IIA also provides financial assistance through community networks in which trusted adults seek help on behalf of young people, including survivors of gender-based violence. K.O. Decl., Ex. 2, IIA Tr. 20:25-22:10; Ex. 15, Simpson Decl., ¶¶ 11-12, 22, 24.	Hearsay and Foundation as to whether an adult is "trusted" and by whom
18. In some instances, it has been understood that a parent was unaware of the minor's abortion that IIA funded. K.O. Decl., Ex. 2, IIA Tr. 33:6-13, 35:24-37:3; Ex. 15, Simpson Decl., ¶ 22.	Foundation as to understanding, Hearsay as to understanding
23. While she has not directly counseled minor pregnant survivors on abortion-related legal rights, she has counseled individuals of unknown pregnancy status and trusted adults assisting survivors accessing abortion care. She wants to serve as a trusted adult for young people in her community and anticipates advising individuals on legal reproductive options in her legal practice. K.O. Decl., Ex. 11, Matsumoto Tr. 29:16-21, 33:6-22, 55:9-23, 57:21-58:4, 60:20-62:3; Ex. 16, Matsumoto Decl., ¶¶ 4, 6, 8, 13.	Speculation as to "anticipates", Hearsay as to discussions with others, Hearsay and Foundation as to whether an adult is trusted and by whom.
24. But for this law, Matsumoto would serve as a trusted adult for pregnant minors seeking abortion. K.O. Decl., Ex 11, Matsumoto Tr. 55:9-23, 56:21-57:20; Ex. 16, Matsumoto Decl., ¶ 33.	Hearsay and Foundation as to "trusted adult" as no person is indicated as trusting Plaintiff, Speculation
26. Through those relationships, Plaintiffs collectively convey a shared message: personal autonomy matters, abortion is lawful medical care in other states, and communities will support those who seek it. K.O. Decl., Ex. 1, NWAAF Tr. 32:10-24; Ex. 11 Matsumoto	Speculation, Foundation, and Hearsay as to community support

[1] https://idd.uscourts.gov/district/judges/grasham/Motion_Practice.cfm

Tr. 34:15-36:8, 60:20-61:7; Ex. 13, Alatorre Decl., ¶¶ 20, 24; Ex. 14, Snyder Decl., ¶ 9; Ex. 9, Snyder Tr. 23:20-24:9.	
30. Observers—including patients, volunteers, and the public—readily understand this conduct as solidarity with those seeking abortions and support for access to care. K.O. Decl., Ex. 14, Snyder Decl., ¶ 16; Ex. 1, NWAAF Tr. 7:16-20, 32:10-24; Ex. 13, Alatorre Decl., ¶¶ 33, 45.	Hearsay, Foundation as to how this is understood.
31. NWAAF's assistance is undertaken to convey and advance its viewpoint, and that message is readily understood by those who observe or benefit from the conduct. K.O. Decl., Ex. 14, Snyder Decl., ¶18; Ex. 1, NWAAF Tr.7:14-21, 32:10-24; Ex. 13, Alatorre Decl., ¶¶ 42, 46.	Hearsay, Foundation as to how this is understood.
34. Those acts communicated solidarity with abortion seekers and affirmed their right to obtain lawful medical care. K.O. Decl., Ex. 13, Alatorre Decl., ¶ 18, 20.	Hearsay, Foundation as to how this is understood.
35. IIA similarly participates in expressive conduct rooted in cultural traditions of community care. K.O. Decl., Ex. 2, IIA Tr. 21: 6-15, 46:4-21, 48:6-20; Ex. 10, Simpson Tr. 17:23-18:9; Ex. 15, Simpson Decl., ¶ 36.	Hearsay, Foundation as to culture.
36. IIA is motivated by its desire to serve the storied culture of their people through trust-based mutual care and aid, led by those who need the care and those in the community already providing other care, which includes ensuring access to abortions, including access for minors. K.O. Decl., Ex. 2, IIA Tr. 21:6-15, 25:5-9, 30:3-6, 40:22-41:4, 60:11-18; Ex. 10, Simpson Tr. 27:5-28:6; Ex. 15, Simpson Decl., ¶¶ 3, 9, 19, 23.	Hearsay and Foundation as to "storied culture", Hearsay and Foundation as to "trust-based"
37. IIA's words and actions reflect these beliefs. In the communities it serves, trusted adults, including extended family members and aunties, often provide transportation, housing, or other assistance to young people seeking medical care. K.O. Decl., Ex. 2, IIA Tr. 23:13-24:4, 29:23-25, 32:2-5, 44:10-18; Ex. 10, Simpson Tr. 50:10-18; Ex. 15, Simpson Decl., ¶ 31.	Hearsay and Foundation as to whether an adult is trusted and by whom, Foundation
38. When IIA supports those efforts, it expresses the community's shared commitment to protecting vulnerable youth. K.O. Decl., Ex. 2, IIA Tr.28:16-22,61:4-13;Ex. 10, Simpson Tr.43:13-16; Ex. 15, Simpson Decl.,¶ 31.	Hearsay and Foundation as to how this is understood.
39. Matsumoto likewise seeks to express support for vulnerable young people through acts of accompaniment and care, such as driving them to medical appointments or providing a safe place to recover. K.O. Decl., Ex. 11, Matsumoto Tr. 55:9-23; Ex. 16, Matsumoto Decl.,¶ 23.	Hearsay and Foundation as to how this is understood.
40. Her actions will convey that young people have trusted adults who will stand with them during difficult moments, they are not alone, and they can make decisions they desire for themselves. K.O. Decl., Ex. 11, Matsumoto Tr. 34:9-36:8;Ex. 16, Matsumoto Decl.,¶ 24.	Hearsay and Foundation as to how this is understood, Hearsay to the extent this understanding is communicated to her;

	Speculation as to future acts, Hearsay and Foundation as to whether an adult is "trusted" and by whom
41. Plaintiffs wish to accompany young people through Idaho, transport them across state lines, and provide temporary lodging while they travel to obtain abortion care that is lawful in the destination state. K.O. Decl., Ex. 2, IIA Tr. 17:10-18; Ex.11, Matsumoto Tr.61:8-62:2;Ex. 1, NWAAF Tr.29:12-19,32:10-24; Ex. 15, Simpson Decl., ¶ 43; Ex. 13, Alatorre Decl., ¶¶ 29, 30; Ex. 16, Matsumoto Decl., ¶¶23, 33.	Hearsay and Foundation as to how this is understood, Speculation as to future acts
42. Plaintiffs NWAAF and IIA have staff and volunteers who wish to travel with young people from Idaho to help them obtain abortion care where it is lawful. K.O. Decl., Ex. 9, Snyder Tr. 20:23-25; Ex. 2, IIATr.53:21-54:13, Ex. 1, NWAAFTr.7:16-21, 29:12-19, 34:24-25:3; Ex. 15, Simpson Decl., ¶43; Ex. 13, Alatorre Decl., ¶¶29, 30.	Hearsay and Foundation as to how this fact is understood, Speculation as to future acts
43. Plaintiffs NWAAF and IIA wish to advance their mission by offering the support of staff and volunteers to travel with young people from Idaho seeking abortion care. K.O. Decl., Ex. 9, Snyder Tr.13:19-21; Ex. 2, IIA Tr.20:5-13, 53:21-54:13; Ex. 1, NWAAF Tr. 7:16-21, 29:20-30:13, 34:24-25:3; Ex. 15, Simpson Decl., ¶¶45, 46; Ex. 13, Alatorre Decl., ¶ 30	Speculation as to future acts
46. IIA's organizer has driven patients to abortion appointments across state lines in the past, as have community advocates to whom IIA provides financial support. K.O. Decl., Ex. 2, IIA Tr. 29:23-25, 53:21-25, 54:1-13; Ex. 15, Simpson Decl., ¶¶ 28, 38, 44.	Hearsay and Foundation as to community advocates' communication with IIA
48. Matsumoto would like to volunteer to drive young people to medical appointments and had been planning to volunteer to do so before the legislation. K.O. Decl., Ex. 11, Matsumoto Tr. 55:12-23; Ex. 16, Matsumoto Decl., ¶¶ 23, 33.	Speculation as to future acts
50. Plaintiffs testified § 18-623 targets and criminalizes their desired activities—assisting with travel for lawful abortion care, offering accommodations, providing information and advice to domestic violence, intimate partner violence, and sexual assault survivors, and those who advocate for them on abortion rights. K.O. Decl., Ex. 1, NWAAF Tr. 76:25-78:6; Ex. 13, Alatorre Decl., ¶¶ 15, 19, 21, 24; Ex. 2, IIA Tr. 26:24-27:5; Ex., 11, Matsumoto Tr. 60:20-61:7.; Ex. 15, Simpson Decl., ¶¶ 34, 40, 43; Ex. 16, Matsumoto Decl. ¶¶ 26, 36.	Foundation as to targeting; Speculation as to future acts.
51. Section 18-623 threatens criminal penalties for conduct that conveys a clear and important message, especially in instances of domestic violence where the impacts of the message are profound. K.O. Decl., Ex. 19-A, Taylor Decl., ¶¶ 20-25; Ex. 16, Matsumoto Decl., ¶¶ 8, 13.	Hearsay and Foundation as to messages other than those communicated by Plaintiffs

52. Section 18-623 threatens to criminalize these culturally grounded acts of care and solidarity by putting them within the radius of aiding and abetting and the “transporting” and “harboring” prongs. K.O. Decl., Ex. 2, IIA Tr. 58:25-59:21; Ex. 15, Simpson Decl., ¶¶ 34, 40.	Foundation as to message, Foundation as to “culturally grounded”
57. Such laws isolate vulnerable young people from trusted adults and support networks precisely when they most need assistance. K.O. Decl. Ex. 18-A, Stevenson Decl., ¶¶ 28, 31, 37.	Foundation and Hearsay as to who is a “trusted adult” or member of a “support network” Foundation that Idaho Code § 18-623 is a “parental involvement” statute under the research examined
58. Parental involvement laws do not improve parent-child relationships or increase parental participation in abortion decisions. K.O. Decl., Ex. 18-A, Stevenson Decl., ¶¶ 10, 17, 22.	Foundation that Idaho Code § 18-623 is a “parental involvement” statute under the research examined
59. Forcing disclosure where a minor fears harm has resulted in abuse, abandonment, and long-term damage to family relationships. K.O. Decl., Ex. 18-A, Stevenson Decl., ¶¶ 4, 12-16.	Foundation that Idaho Code § 18-623 is a “parental involvement” statute under the research examined
66. Idaho Code § 18-623 fractures and isolates those networks and as a result, individuals and organizations who would otherwise collaborate to assist minors must withdraw from those relationships and community support networks, or refrain from engaging in them altogether. K.O. Decl., Ex. 9, Snyder Tr.20:23-25; Ex. 11, Matsumoto Tr.39:4-43:4, 60:20-61:7; Ex. 15, Simpson Decl., ¶¶32, 40-41; Ex. 13, Alatorre Decl., ¶ 21; Ex. 16, Matsumoto Decl., ¶¶34-35.	Hearsay and Foundation for “withdraw[al] from relationships and community support networks” or engagement
68. For IIA, it threatens the community caregiving networks through which young people access medical care, including abortion. K.O. Decl., Ex. 10, Simpson Tr.50:10-18, 27:9-16; Ex. 15, Simpson Decl.,¶¶32, 34, 37, 40.	Foundation for premise that abortion is “medical care”
69. For Matsumoto, it chills her ability to communicate with advocates and trusted adults for fear she may learn a parent is unaware or a young person does not want to disclose abortion plans. K.O. Decl., Ex. 11, Matsumoto Tr. 36:13-15, 60:20-61:7; Ex. 16, Matsumoto Decl., ¶ 31.	Foundation, Speculation as to what she has not yet learned; Hearsay, Double Hearsay and Foundation as to whether an adult is trusted and by whom.

DATED: May 7, 2026

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

/s/ *Aaron M. Green*
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Deputy Attorney General

Attorney for Defendant

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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 of the State of Idaho, *Defendant*.	Case No. 1:23-cv-00323-DKG **ATTORNEY GENERAL'S STATEMENT OF MATERIAL FACTS IN DISPUTE IN RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT [Dkt. 136]**

Attorney General Labrador contends pursuant to Idaho Local Civil Rule 7.1(c)(2) that the following material facts are in dispute. Evidentiary objections to Plaintiffs' Statement of Facts are contained in the Appendix to this document.

1. Paragraphs 3-4 of Plaintiffs' statement of facts are disputed. The full statement in the National Right to Life Committee memo reads: "Finally, the abortion industry can be expected to exploit existing State laws on telehealth and the proximity of States with less protective laws to circumvent pro-life laws in a particular State. Laws preventing telehealth laws from being exploited for illegal abortions and new laws to prevent trafficking of minors for illegal abortions will be needed." Dkt. 136-20 at 8-9.
2. Paragraph 10 of Plaintiffs' statement of facts is disputed. No research presented by Plaintiffs' experts was disaggregated to show travel by or with minors. Decl. of Green Ex. 2 at 52:16-22; 53:20-55:5.
3. Paragraphs 53-59, 61 and 63 of Plaintiffs' statement of facts are disputed. In the absence of abuse, a pregnant minor girl will need the assistance of her parents or guardians to determine what is in her best interest. Decl. of Green Ex. 1 at 56:1-57:19.
4. Paragraph 62 of Plaintiffs' statement of facts is disputed. Every successful abortion results in the death of the unborn child and therefore is not safer than childbirth for the unborn child. Decl. of Green Ex. 2 at 56:18-25. Additionally, there are risks to women, including mortality, when undergoing an abortion. Decl. of Green Ex. 4 at ¶¶ 91-94.
5. Paragraphs 61 and 63 of Plaintiffs' statement of facts are disputed. Reproductive coercion includes coerced abortion, which can be used by a criminal to conceal sexual abuse. Decl. of Green Ex. 1 at 47:17-48:4; 59:25-60:8; Decl. of Green Ex. 3 at 40:9-21.

6. Paragraphs 70, and 72-73 of Plaintiffs' statement of facts are disputed. Plaintiffs NWAAF and IIA understand the words used in Idaho Code § 18-623. Dkt. 137- 5 at 12:1-13:11; 14:16-22. Dkt. 137-6 at 23:7-24:8; 25:9-13.
7. Paragraphs 19-26, 39-40, 48-52, 69-71 of Plaintiffs' statement of facts are disputed. Plaintiff Matsumoto lacks standing and has nothing more than mere some-day intentions to engage in conduct arguably proscribed by Idaho Code § 18-623 with respect to Idaho minors. Dkt. 137-2 ¶¶ 1-7.
8. Paragraphs 16-18, 25-26, 35-38, 41-43, 46-47, 50-52, 65-66, and 68 in Plaintiffs' statement of facts are disputed. Plaintiff IIA lacks standing and has nothing more than mere some-day intentions to engage in conduct arguably proscribed by Idaho Code § 18-623 with respect to Idaho minors. Dkt. 137-2 ¶¶ 8-17.
9. Paragraphs 11, 14-15, 25-26, 27, 29-34, 41-45, 50-52, 64, and 66-67 in Plaintiffs' statement of facts are disputed. Plaintiff NWAAF lacks standing and has nothing more than mere some-day intentions to engage in conduct arguably proscribed by Idaho Code § 18-623 with respect to Idaho minors. Dkt. 137-2 ¶¶ 18-26.
10. Paragraph 74 in Plaintiffs' statement of facts is disputed. The cited language does not describe "those who hold opposing views" as "radicals" nor does it describe "speech" as "pernicious."

DATED: May 7, 2026

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

/s/ *Aaron M. Green*
AARON M. GREEN
Deputy Attorney General

Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on May 7, 2026, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Wendy Olson
wendy.olson@stoel.com
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karissa.armbrust@stoel.com
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psuelzle@lawyeringproject.org

Counsel for Plaintiffs

/s/ *Aaron M. Green*
AARON M. GREEN

RAÚL R. LABRADOR
ATTORNEY GENERAL

JAMES E. M. CRAIG, ISB #6365
Chief, Civil Litigation and
Constitutional Defense

BRIAN V. CHURCH, ISB #9391
Lead Deputy Attorney General
AARON M. GREEN, ISB #12397
Deputy Attorney General
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Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

LOURDES MATSUMOTO, NORTHWEST ABORTION ACCESS FUND, and INDIGENOUS IDAHO ALLIANCE, *Plaintiff*, v. RAÚL LABRADOR, in his capacity as the Attorney General of the State of Idaho, *Defendant*.	Case No. 1:23-cv-00323-DKG **DECLARATION OF AARON M. GREEN**

I, AARON M. GREEN, declare and state as follows:

1. I am a Deputy Attorney General for the State of Idaho Office of the Attorney General, serving in the Civil Litigation and Constitutional Defense Division. I am an attorney of record for Defendant Labrador in his official capacity.
2. Attached as **Exhibit 1** is a true and correct copy of selections of the Deposition of Dr. Rae Taylor taken in this action.
3. Attached as **Exhibit 2** is a true and correct copy of selections of the Deposition of Dr. Amanda Stevenson taken in this action.
4. Attached as **Exhibit 3** is a true and correct copy of selections of the Deposition of Jason Pretty Boy taken in this action.
5. Attached as **Exhibit 4** is a true and correct copy of selections of the Expert Disclosure of Dr. Amanda Stevenson submitted by Plaintiffs in this action.

Under 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED: May 7, 2026

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

/s/ *Aaron M. Green*
AARON M. GREEN
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on May 7, 2026, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Wendy Olson
wendy.olson@stoel.com
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emina.hasonovic@stoel.com
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koneill@lagalvoice.org

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psuelzle@lawyeringproject.org

Counsel for Plaintiffs

/s/ *Aaron M. Green*
AARON M. GREEN

Exhibit 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

LOURDES MATSUMOTO, NORTHWEST ABORTION ACCESS FUND, and INDIGENOUS IDAHO ALLIANCE,	)	**Case No. 1:23-cv-00323-DKG**
Plaintiffs,	)	
vs.	)	
RAUL LABRADOR, in his capacity as the Attorney General of the State of Idaho,	)	
Defendant.	)	

REMOTE DEPOSITION OF DR. RAE TAYLOR

December 8, 2025

Reported by:
Rebecca Martin, CSR #1108, RPR, CRR

1 A. Did you say because it might "hide"?
2 Q. Correct.
3 A. Yes, that would be another reason.
4 Q. It might also prevent the minor from
5 reporting the abuse to law enforcement?
6 A. Isolation would likely prevent the minor
7 from reporting to law enforcement, yes.
8 Q. Okay. And because of that isolation, it
9 might allow the abuse to continue; is that correct?
10 A. Yes.
11 Q. So in paragraph 8, you talk about
12 reproductive coercion.
13 What exactly is reproductive coercion?
14 A. Well, as I note here, it refers to
15 behaviors that strip those capable of reproduction
16 of a key aspect of their bodily autonomy.
17 Q. Why is reproductive coercion a concern?
18 A. Reproductive coercion is a concern
19 because it is a form of deceit, it's a form of
20 physical harm, risk to health, physically and
21 emotionally. It puts in jeopardy the health and
22 perhaps the life of the victim of the reproductive
23 coercion. And, again, it jeopardizes or altogether
24 removes a person's ability to make informed
25 decisions about their own body and health.

1 Q. Do you agree that reproductive coercion
2 also includes forcing a female partner to terminate
3 a pregnancy when she does not want to?
4 A. Yes.
5 Q. In paragraph 11, you write that Idaho
6 Code Section 18-623 restricts "trusted adults from
7 traveling with young people or assisting them in
8 obtaining lawful abortion care."
9 Do you see that?
10 A. Yes.
11 Q. Did I read that accurately?
12 A. Yes.
13 Q. So where does Idaho Code Section 18-623
14 make it illegal for a trusted adult to travel with
15 young people?
16 MS. JOHNSON: Object to form.
17 THE WITNESS: I believe it refers to
18 "transporting." So traveling would be
19 transporting.
20 Q. (BY MR. CRAIG) Does it make the act of
21 travel by itself illegal?
22 A. Can you clarify your question, please?
23 Q. Sure.
24 Does the statute, Idaho Code 18-623,
25 make the travel by itself illegal?

1 Q. (BY MR. CRAIG) So is it your position
2 that abortion is always in a minor child's best
3 interest?
4 A. No.
5 Q. Is it your position that the minor girl
6 is always able to determine her own best interest
7 by herself?
8 A. Can you repeat that one?
9 Q. Sure.
10 Is a minor girl who is pregnant always
11 able to determine what is in her best interest on
12 her own?
13 A. No, I don't think so.
14 Q. And so she would need the assistance
15 from trusted family or other people to help her
16 make those decisions?
17 A. I believe frequently a girl would need
18 the assistance of a trusted other to help make a --
19 understand what her options are, understand what
20 her condition is, and to help with decision-making,
21 yes.
22 Q. And unless there is abuse or neglect,
23 that trusted family person should be the parents,
24 correct?
25 A. Not necessarily.

1 Q. Why is that?
2 A. There may not be abuse or neglect in
3 place, but what we know from the scientific
4 literature, what I know from my experience with
5 these cases that I've worked on and as a victim
6 advocate, is that abuse can -- abuse -- often there
7 is the onset of abuse when there's a pregnancy
8 where there was not previously abuse, and that is
9 both intimate partner and parental or guardian.
10 Q. So, again, in cases of abuse, then the
11 parents may not be acting in the child's best
12 interest, but in the absence of abuse, the law
13 assumes that the parents will act in the best
14 interest of their children, correct?
15 MS. JOHNSON: Object to form.
16 THE WITNESS: I believe the law assumes that
17 parents will act in the best interests of their
18 child. I do believe that is the assumption of the
19 law.
20 Q. (BY MR. CRAIG) And Idaho law has a
21 comprehensive child protection system to handle
22 situations where a parent abuses or neglects their
23 children, correct?
24 MS. JOHNSON: Object to form.
25 THE WITNESS: I know there is a state agency

1 services that those trusted adults in those
2 organizations that exist to guide young people, it
3 criminalizes their work and therefore reduces --
4 and indeed has reduced the availability of services
5 for young people seeking their help.
6 Q. In paragraph 24, you write that Idaho
7 Code Section 18-623 "has the impact of exacerbating
8 isolation through removal of critical resources and
9 perpetuating the problematic silence of victims of
10 abuse."
11 Did I read that properly?
12 A. "Silencing of victims of abuse."
13 Otherwise, yes.
14 Q. Okay. So what does the statute do to
15 exacerbate isolation?
16 A. Again, my interpretation of the statute
17 is that it criminalizes the professional activities
18 of the critical -- those providing critical
19 resources, and as such those providers are reducing
20 or eliminating their services, which then leave the
21 minor without resources, without trusted
22 professionals to turn to, therefore exacerbating
23 isolation if there is isolation there. If not, it
24 would then be the onset of isolation.
25 Q. Would you agree that men who sexually

1 abuse women will sometimes force the woman to have
2 an abortion in order to hide that sexual abuse?
3 A. I would agree that that happens, yes.
4 Q. Would you agree that women and girls who
5 are subjected to sex trafficking are sometimes
6 forced to have an abortion by their abusers or
7 traffickers?
8 A. I would agree that, yes, that happens.
9 MR. CRAIG: I think I'm done, but before I
10 rest, let's take a 10-minute break, and then I'll
11 come back and I'll probably rest, but I just want
12 to review my notes before I formally rest.
13 MS. JOHNSON: Sounds good.
14 MR. CRAIG: All right. So let's come back
15 at a little more than 10 minutes. How about 11:55,
16 Mountain Time?
17 MS. JOHNSON: Sure.
18 (A recess was taken from 11:42 a.m. to 11:57 a.m.)
19 Q. (BY MR. CRAIG) So, Dr. Taylor, have you
20 ever worked for or volunteered for Planned
21 Parenthood?
22 A. No.
23 Q. Have you ever worked for or volunteered
24 for any other abortion advocacy group?
25 A. No.

1 REPORTER'S CERTIFICATE

2

3 STATE OF IDAHO)
) ss.
4 COUNTY OF ADA)

5 I, REBECCA MARTIN, Certified Shorthand Reporter and
6 Notary Public in and for the State of Idaho, do hereby
7 certify:
8 That prior to being examined, the witness named in
9 the foregoing deposition was duly sworn remotely by me to
10 testify to the truth, the whole truth and nothing but
11 the truth;
12 That said deposition was taken down by me in
13 shorthand at the time and place therein named and
14 thereafter reduced to text under my direction, and that
15 the foregoing transcript contains a full, true
16 and verbatim record of said deposition.
17 I further certify that I have no interest in the
18 event of the action.
19 WITNESS my hand and seal this 17th day of December,
20 2025.

REBECCA MARTIN NOTARY PUBLIC Comm No. 47068 STATE OF IDAHO

21
22 REBECCA MARTIN
RPR and Notary
23 Public in and for the
State of Idaho
24
25 My Commission Expires: 08-27-2030

Exhibit 2

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF IDAHO

3

4

LAURDES MATSUMOTO, NORTHWEST)
5 ABORTION ACCESS FUND, and)
INDIGENOUS IDAHO ALLIANCE,)
6)
Plaintiffs,) Case No.
7) 1:23-cv-00323-DKG
vs.)
8)
RAUL LABRADOR, in his)
9 capacity as the Attorney)
General of the State of)
10 Idaho,)
)
11 Defendant.)
____________________________________)
12

13

14

15

16

17 REMOTE DEPOSITION OF DR. AMANDA STEVENSON

18 December 9, 2025

19

20

21

22

23

24
Reported by:
25 Vanessa S. Gosney, CSR, RPR, CRR

1 then severe maternal morbidity, which is a near
2 miss for maternal death.
3 Q. And you discuss distinctions among
4 populations based on race, I think you use a
5 slightly different term, but effectively the urban
6 rural divide and socioeconomic status and other
7 factors; is that correct?
8 A. Yeah. I don't know if I talk about
9 socioeconomic status. I didn't notice that, but
10 maybe I do. I was trying to read it fast. I am a
11 pretty slow reader when it is something with a lot
12 of numbers.
13 Q. I think it is actually in Paragraph 57,
14 "race and socioeconomic status."
15 A. Okay.
16 Q. And you use the term "stratified" in
17 Paragraph 57?
18 A. Yep.
19 Q. What do you mean by "stratified" in
20 laymen's terms?
21 A. It means that the levels are different
22 across these categories.
23 Q. Did you examine whether
24 pregnancy-related death was stratified by age in
25 preparing your report?

1 A. I am familiar with that, but I didn't
2 specifically examine it because I didn't have to.
3 I am just familiar with it.
4 Q. Okay. But you don't cite any studies
5 pertaining to age in your report, right?
6 A. I do --
7 Q. Strike that. That was incredibly broad
8 and a bad question.
9 Did you cite any studies that stratify
10 maternal death or severe maternal morbidity by age
11 in preparing your report?
12 A. Some of these studies do describe
13 differences across age, but I don't summarize them
14 in my report.
15 Q. Okay. Do any stratify between minors
16 and adults generally?
17 A. Some.
18 Q. But you don't summarize any of those?
19 A. No, I do not.
20 Q. In paragraphs -- I am going to ask you
21 to do some more skimming. Paragraphs 62 through
22 75, you discuss travel out of state for abortion by
23 Idahoans and citizens in other states with abortion
24 restrictions.
25 Is that fair?

1 A. Yes, that is fair.
2 Q. Okay. Do any of the statistics you
3 summarize stratify travel out of state by age?
4 A. I don't think so.
5 Q. Between minors and adults?
6 A. I don't think there is any source of
7 data that disaggregates this systematically. It
8 would be quite small numbers. I have seen some
9 states that used to do that and I think they now
10 don't.
11 Q. You said some states used to.
12 Do you recall what states those are?
13 A. I think Texas used to.
14 Q. Any others you can remember?
15 A. Not that I can recall right now.
16 Q. Okay. I will just ask you, for any of
17 the statistics related to interstate travel, do any
18 of them, anywhere in your report, stratify the data
19 based on age?
20 And I will represent that I think you
21 talk more about interstate travel in Paragraphs 76
22 through 83 if you want to take a minute to review
23 those.
24 A. Okay. I will do that. Thank you.
25 Yeah, as I recalled, this isn't

1 something that we typically have data on
2 disaggregated by age.
3 Q. And is it also true that it's data you
4 don't have disaggregated by minor status?
5 A. Yeah. Because that's age.
6 Q. And I will ask you the same questions
7 related to Paragraphs 90 through 105. And again,
8 take a minute to review and see if I am summarizing
9 this right.
10 In those paragraphs it seems you discuss
11 the risk of remaining pregnant and consequences if
12 a person is denied an abortion?
13 You can just let me know if that's a
14 fair summary.
15 A. Yes. That's the general topic of these
16 paragraphs.
17 Q. Okay. And again, is it fair -- excuse
18 me, is it true that you don't have disaggregated
19 data for those topics that you discussed by age?
20 A. No. Abortion safety is only assessed
21 for groups of years for the whole population.
22 Because abortion deaths are so rare we have to
23 aggregate the entire population across five or
24 seven years before we can establish a reliable rate
25 that's not subject to too much random variation due

1 to noise. So it's not possible to generate
2 age-specific rates in the context of such a rare
3 outcome. And they haven't been published for a
4 very long time since, I think, the '80s. Maybe
5 there was one in the '90s. Over which time we have
6 seen pretty substantial changes in the incidence
7 and distribution of abortions. So we can do some
8 work to try to use those rates, but that's not
9 published regularly.
10 And then when it comes to abortion
11 denial, the best evidence on this comes from the
12 turn-away study, which did not include minors.
13 However, abortion denial evidence from the
14 turn-away study allows us to understand the
15 mechanisms by which abortion denial impacts
16 peoples' lives and to infer from those mechanisms
17 possible consequences for minors.
18 Q. In terms of consequences of successful
19 abortions, one universal consequence of a
20 successful abortion is the death of the unborn
21 child, correct?
22 MS. SUELZLE: Object to form.
23 THE WITNESS: I mean, it is true that
24 abortion ends the life of a fetus. So I guess,
25 yes, if that's what you're asking.

1 REPORTER'S CERTIFICATE

2

STATE OF IDAHO)
3) ss.
COUNTY OF ADA)
4

5 I, VANESSA S. GOSNEY, Certified Shorthand Reporter

6 and Notary Public in and for the State of Idaho, do

7 hereby certify:

8 That prior to being examined, the witness named in

9 the foregoing deposition was by me duly sworn to testify

10 to the truth, the whole truth and nothing but the truth;

11 That said deposition was taken down by me in

12 shorthand at the time and place therein named and

13 thereafter reduced to typewriting under my direction,

14 and that the foregoing transcript contains a full, true

15 and verbatim record of said deposition.

16 I further certify that I have no interest in the

17 event of the action.

18 WITNESS my hand and seal this 22nd day of December,

19 2025.

VANESSA S GOSNEY NOTARY PUBLIC Comm. No. 20192284 STATE OF IDAHO

20

21 VANESSA S. GOSNEY
RPR and Notary
22 Public in and for the
State of Idaho.

23

24

25 My Commission Expires: 10-29-31

Exhibit 3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

LOURDES MATSUMOTO, NORTHWEST ABORTION ACCESS FUND, and INDIGENOUS IDAHO ALLIANCE, **Plaintiffs,** **vs.** **RAUL LABRADOR, in his capacity as the Attorney General of the State of Idaho,** **Defendant.**	**Case No. 1:23-cv-00323-DKG**

DEPOSITION OF JASON PRETTY BOY

February 9, 2026

Boise, Idaho

Reported by:
Rebecca Martin, CSR #1108, RPR, CRR

1 How often have you seen this happen?
2 MS. O'NEILL: Objection; form.
3 THE WITNESS: At a high rate.
4 Q. (BY MR. GREEN) When you say "high rate,"
5 what do you mean?
6 A. I don't know that there's any other
7 thing to say than a high rate.
8 Q. Okay.
9 A. So I have answered that question.
10 Q. Have you seen Indigenous women and girls
11 punished for seeking abortion care?
12 MS. O'NEILL: Objection; form.
13 THE WITNESS: In my personal life or as an
14 individual associated with Indigenous Idaho
15 Alliance?
16 Q. (BY MR. GREEN) Do you have personal
17 knowledge of it, wherever that comes from?
18 A. I do, and it's personal.
19 Q. Okay. What circumstances have you seen
20 that happen?
21 MS. O'NEILL: Objection; form.
22 THE WITNESS: Again, in my personal life or
23 with Indigenous Idaho Alliance?
24 Q. (BY MR. GREEN) From whatever source you
25 have knowledge.

1 A. I have asked you: From my personal life
2 or from Indigenous Idaho Alliance?
3 Q. Either.
4 MS. O'NEILL: Objection; form. Counselor,
5 he's not here as a 30(b)(6) witness. You need to
6 clarify the question for him.
7 MR. GREEN: Well, I'm asking however he has
8 knowledge. He's said -- okay.
9 Q. (BY MR. GREEN) However you have personal
10 knowledge.
11 A. As my individual self?
12 Q. Yes. I'm not -- for all of these
13 questions I'm asking, I'm only asking what's in
14 your head. I'm not asking you to make
15 representations for IIA.
16 A. Okay. My cousin was raped by a white
17 man in Bismarck, North Dakota, who then took her --
18 after he had found out she was pregnant with his
19 child, took her into Canada where he forced her to
20 have an abortion.
21 Is this what you would like to know?
22 Q. Are there any other circumstances you're
23 aware of?
24 MS. O'NEILL: Objection; form.
25 THE WITNESS: From my personal view or from

1 REPORTER'S CERTIFICATE

2

3 STATE OF IDAHO)
) ss.
4 COUNTY OF ADA)

5 I, REBECCA MARTIN, Certified Shorthand Reporter and

6 Notary Public in and for the State of Idaho, do hereby

7 certify:

8 That prior to being examined, the witness named in

9 the foregoing deposition was duly sworn by me to testify

10 to the truth, the whole truth and nothing but the truth;

11 That said deposition was taken down by me in

12 shorthand at the time and place therein named and

13 thereafter reduced to text under my direction, and that

14 the foregoing transcript contains a full, true

15 and verbatim record of said deposition.

16 I further certify that I have no interest in the

17 event of the action.

18 WITNESS my hand and seal this 23rd day of February,

19 2026.

20

21 REBECCA MARTIN NOTARY PUBLIC Comm No. 47068 STATE OF IDAHO

22 REBECCA MARTIN
RPR and Notary
23 Public in and for the
State of Idaho

24

25 My Commission Expires: 08-27-2030

Exhibit 4

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

EXPERT REPORT OF AMANDA STEVENSON, PH.D.

Pursuant to Federal Rule of Civil Procedure 26(a)(2)(B), AMANDA STEVENSON, Ph.D., makes the following disclosures:

1. I am a demographer and sociologist specializing in abortion, contraception, fertility, reproduction, demographic methods, statistics, and policy evaluation. I have done extensive work on the impact of laws mandating parental involvement in adolescents' abortion decisions and the judicial bypass process, including original research on the impacts and scopes of these laws in many states, including Texas, Florida, and Colorado.

2. The facts I state here and the opinions I offer are based on my education, years of practice as a demographer and sociologist, my expertise as a researcher leading and collaborating on interdisciplinary studies of the impact of abortion and contraception policies, and my familiarity with the relevant scientific literature and statistical data and methods for their analysis.

3. I understand that 2023 Idaho Laws Ch. 310 (Idaho Code § 18-623) criminalizes adults who help minors travel for abortion care if the adult intends to conceal the abortion from a parent or guardian.

have Washington destinations. In the Coeur d'Alene, ID zone 93% of trips have Idaho destinations and 6% of trips have Washington destinations.[106]

89. Peer-reviewed analysis of the 2017 National Household Travel Survey[107] finds that on average, rural residents travel about three times as far as urban residents for health services. Data from the same survey also demonstrates that rural residents were 7% as likely (odds ratio 0.07) as urban residents to use public transportation on trips to access health care services.[108] Residents of the western census region were less than one third as likely (odds ratio 0.31) as residents of the northeastern census region to use public transportation on trips to access health care services.[109]

Abortion Safety

90. As described above, pregnancy in the U.S. is risky and has gotten substantially riskier with time. The decision to seek abortion is only made if an individual is pregnant, and as such it is a decision that the alternative of is remaining pregnant. This means the abortion decision includes weighing the relative risk associated with remaining pregnant and that of having an abortion. It is

---

[106] All calculations performed in Excel, data all from Federal Highway Administration. (2022). 2022 NextGen NHTS National Passenger OD Data, U.S. Department of Transportation, Washington, DC. Available online: https://nhts.ornl.gov/od/.

[107] Labban M, Chen CR, Frego N, Nguyen DD, Lipsitz SR, Reich AJ, Rebbeck TR, Choueiri TK, Kibel AS, Iyer HS, Trinh QD. Disparities in Travel-Related Barriers to Accessing Health Care From the 2017 National Household Travel Survey. JAMA Network Open. 2023 Jul 3;6(7):e2325291. https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2807664.

[108] *Id.*

[109] *Id.*

therefore salient that abortion is very safe[110] and more than 30 times safer than remaining pregnant.[111]

91. In the most recent years for which data are available (2013–2021), the crude case-fatality rate for legal induced abortion was 0.46 deaths per 100,000 abortions.[112] Because abortion fatalities are so rare, many years must be aggregated to yield what epidemiologists and demographers call a stable rate, one which is not subject to fluctuations because of anomalies in rare events.

92. High-quality U.S. abortion case-fatality estimates for abortion are generated by the Centers for Disease Control and Prevention Division of Reproductive Health. The division's rigorous system for generating estimates uses all abortion-related deaths from the Pregnancy Mortality Surveillance System's rigorous epidemiological investigations of pregnancy-related deaths and total national abortion incidence estimates from the Guttmacher Institute. The abortion surveillance system in the U.S. does not mandate abortion surveillance reporting and some states (including California) do not collect abortion statistics, so abortion statistics collected from states are incomplete by definition. Therefore, national estimates from the Guttmacher Institute provide the necessary denominators for the case-fatality rates. While Guttmacher provided the only

[110] "During 2013–2021, the national case-fatality rate for legal induced abortion was 0.46 deaths related to legal induced abortions per 100,000 reported legal abortions. This case-fatality rate was lower than the rates for the previous 5-year periods." Division of Reproductive Health. Pregnancy Mortality Surveillance System. Published online March 21, 2024. https://www.cdc.gov/reproductivehealth/maternal-mortality/pregnancy-mortality-surveillance-system.htm.

[111] AJ Stevenson, E Raymond, D Grossman, Comparing mortality risk of induced abortion with mortality risk of staying pregnant, Contraception,Volume 127,2023,110150, https://doi.org/10.1016/j.contraception.2023.110150.

[112] "During 2013–2021, the national case-fatality rate for legal induced abortion was 0.46 deaths related to legal induced abortions per 100,000 reported legal abortions. This case-fatality rate was lower than the rates for the previous 5-year periods." Division of Reproductive Health. Pregnancy Mortality Surveillance System. Published online March 21, 2024. https://www.cdc.gov/reproductivehealth/maternal-mortality/pregnancy-mortality-surveillance-system.htm.

national abortion incidence estimates for many decades, in recent years alternative national abortion incidence estimates have become available[113] and these estimates are quite similar to Guttmacher's, increasing the already-high confidence in the Guttmacher Institute's estimation procedures.

93. The most recent estimates of abortion case fatality by gestational duration are for 1998–2010.[114] In these estimates, the rate of death after abortions at or before 8 weeks since the last menstrual period is 0.3 deaths per 100,000 induced abortions. For abortions at 9 to 13 weeks since last menstrual period, the rate is 0.5 deaths per 100,000 induced abortions. For abortions at 14–17 weeks since last menstrual period, the rate is 2.5 deaths per 100,000 induced abortions. And for abortions at or after 18 weeks since last menstrual period, the rate is 6.7 deaths per 100,000 induced abortions.

94. Abortion has also shifted to earlier gestational durations over recent decades,[115] which likely contributes to observed declines in crude abortion case-fatality rates, since earlier abortions incur less risk than do ones at later gestational durations.[116]

Research on the impact of abortion denial

95. Turnaway Study is a prospective 5-year cohort study of 667 women who received abortion care at 30 facilities in the United States from 2008–2010.[117] The study followed

[113] For example, the #WeCout project of the Society of Family Planning: https://societyfp.org/research/wecount/.

[114] Zane S, Creanga AA, Berg CJ, et al. Abortion-related mortality in the United States 1998–2010. *Obstet Gynecol*. 2015;126(2):258.

[115] Division of Reproductive Health. Pregnancy Mortality Surveillance System. Published online March 21, 2024. https://www.cdc.gov/reproductivehealth/maternal-mortality/pregnancy-mortality-surveillance-system.htm.

[116] Zane S, Creanga AA, Berg CJ, et al. Abortion-related mortality in the United States 1998–2010. *Obstet Gynecol*. 2015;126(2):258.

[117] Biggs MA, Upadhyay UD, McCulloch CE, Foster DG. Women's Mental Health and Well-being 5 Years After Receiving or Being Denied an Abortion: A Prospective, Longitudinal Cohort Study. *JAMA*

Society of Family Planning Research Fund, the University of Texas at Austin, and the University of Colorado Boulder.

112. I have served as a peer reviewer for leading scientific journals, including *Population Research and Policy Review*, *Journal of Marriage and Family*, *Contraception*, *Perspectives in Sexual and Reproductive Health*, *BMJ*, *Annals of Internal Medicine*, and *Women's Health Reports*.

113. My curriculum vitae, which is attached hereto as **Exhibit 2**, provides further details about my education, professional experience, scholarship, and teaching. It contains a complete list of the publications that I have authored or co-authored during the past ten years.

CASES IN WHICH I HAVE TESTIFIED AS AN EXPERT DURING THE PAST FOUR YEARS

114. I have not testified as an expert witness during the past four years.

COMPENSATION

115. I am being compensated $200 an hour for my preparation and $1,000 a day for testimony and travel days.

Dated: August 20, 2025

AMANDA STEVENSON, Ph.D.