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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 official capacity
as the Attorney General of the State of Idaho,

Defendant.

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

**RESPONSE TO NON-PARTY RIGHT
TO LIFE OF IDAHO, INC.'S, MOTION
FOR STAY PENDING DISPOSITION
OF PETITION FOR WRIT
OF MANDAMUS [DKT. 119]**

Defendant Labrador in his capacity as the Attorney General of the State of Idaho supports Idaho Right to Life's Motion for Stay.

The Court has the inherent power to stay proceedings. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). In the Ninth Circuit, the Court may generally exercise this power in two ways. The first is applying the *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987) factors which govern stays pending appeal. See *Victor v. Sw. Wine & Spirits, LLC*, No. 2:23-cv-00690-MEMF-PD, 2025 WL 3540864 at *3 (C.D. Cal. Nov. 21, 2025). These are: whether the petitioner has a likelihood of success on the merits, whether there is irreparable harm to the applicant if the stay is denied, whether there is injury to the other parties, and the public interest in granting or denying the stay. *Id.*

The second alternative is to use the sliding scale test under *Golden Gate Restaurant Ass'n v. City and County of San Francisco*, 512 F.3d 1112, 1115–16 (9th Cir. 2008). This test sets successful motions to stay within “a single continuum.” *Id.* at 1115 (citing *Lopez v. Heckler*, 713 F.2d 1432, 1435–36 (9th Cir. 1983)). At one end, a party can show “a probability of success . . . and the possibility of irreparable injury.” *Id.* (quoting *Lopez, supra*). At the other, a party can show “serious legal questions are raised and that the balance of hardships tips sharply in its favor.” *Id.* (quoting *Lopez, supra*).

Under either test, Defendant Labrador supports Idaho Right to Life's Motion with the following observations:

Likelihood of Success/Serious Questions:

The Court incorrectly held that documents going to legislative motivation were relevant to a right to travel claim. They are not. The sole support for this proposition from a binding court was drawn from a plurality opinion, *Attorney General of New York v. Soto-Lopez*, 476 U.S. 898, 903

(1986) (plurality opinion)¹ which is not binding precedent. *City of Lakewood v. Plain Dealer Publ'g. Co.*, 486 U.S. 750, 764 n.9 (1988) (noting that a holding of the Supreme Court is the “position taken by those Members who concurred in the judgment[t] on the narrowest grounds.”) (citation omitted).

Because two justices essential to the majority concurred only on equal protection grounds, and *expressly not* right to travel grounds, the relevance of discovery directed to Idaho Right to Life was based on an incorrect understanding of the controlling law pertaining to right to travel challenges. *Soto-Lopez*, 476 U.S. at 916 (Burger, C.J., concurring in judgment) (White, J., concurring in judgment); Dkt. 108 at 12–13. The other legislative motivation cases cited by the Court are racial discrimination cases which the Supreme Court has historically (and expressly) treated differently under the *Arlington Heights* framework. A subpoena for evidence that is not relevant should have been quashed. *See, e.g., Gonzales v. Google, Inc.*, 234 F.R.D. 674, 680 (N.D. Cal. 2006).

Injury to Other Parties:

Defendant Labrador supported the Motion to Quash and is not harmed by an associated stay pending mandamus. Any discovery directed to Idaho Right to Life is irrelevant.

CONCLUSION

For these reasons, Defendant Labrador supports the Motion for Stay [Dkt. 119].

¹ Plaintiffs continue, troublingly, to refuse to acknowledge the fact that their cited authority did not command a majority of the Court. Dkt. 121 at 9.

DATED: January 22, 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 January 22, 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:

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