

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

ORDER

Before the Court is a Motion to Stay Pending Disposition of Petition for Writ of Mandamus filed by Right to Life of Idaho, Inc., an entity not named as a party in this action. (Dkt. 119). The motion is fully briefed. (Dkt. 121, 122, 123). The facts and legal arguments are adequately presented in the record. Accordingly, in the interest of avoiding delay, and because the decisional process would not be significantly aided by oral argument, the motion will be decided on the record. For the reasons that follow, the motion will be denied.

BACKGROUND

This case challenges the constitutionality of Idaho Code Section 18-623, which “criminalizes ‘abortion trafficking’ defined as ‘[a]n adult who, with the intent to conceal an abortion from the parents or guardian of a pregnant, unemancipated minor, either procures an abortion,...or obtains an abortion-inducing drug...by recruiting, harboring, or transporting the pregnant minor within’ the state of Idaho.” *Matsumoto v. Labrador*, 122 F.4th 787, 796 (9th Cir. 2024) (quoting I.C. § 18-623(1)); (Dkt. 1). Plaintiffs are an individual and two advocacy organizations who seek to counsel pregnant minors in Idaho and provide material support to access legal abortion in other states. *Id.* at 795. Defendant is the Idaho Attorney General. Plaintiffs assert claims alleging Idaho Code Section 18-623 is void for vagueness under the Fourteenth Amendment, violates their First Amendment rights, and infringes on their right to interstate travel. (Dkt. 1, 41).

On September 12, 2025, Plaintiffs served a subpoena duces tecum on Right to Life of Idaho, Inc. (RLI) requesting production of five categories of documents and materials. (Dkt. 72-3).¹ RLI filed a Motion to Quash the subpoena. (Dkt. 72). The Court issued an Order granting in part and denying in part the Motion to Quash, wherein deadlines were set for RLI to submit any objections, for the parties to confer, and for RLI to either file an appropriate motion or otherwise respond to the subpoena as narrowed by the Court. (Dkt.

¹ Plaintiffs issued a similar subpoena to the National Right to Life Committee, Inc. (NRLC), which is the subject of a separate motion to quash pending in the District Court for the District of Columbia. (Dkt. 72-1 at 4 n.2; Dkt. 87 at 3 n.1; Dkt. 121 at 2 n.1).

108). Thereafter, the Court granted RLI's request for a limited stay of the discovery deadlines relevant to the subpoena served on RLI to allow time for RLI to file a Petition for Writ of Mandamus contesting the Court's Order to the extent it denied RLI's Motion to Quash. (Dkt. 113, 114). Notably, all other deadlines and case management dates set in this case remain in effect. (Dkt. 114). On January 16, 2026, RLI filed a Notice of Petition for Writ of Mandamus and the instant Motion to Stay. (Dkt. 116, 119). The Court finds as follows.

STANDARD OF LAW

District courts have inherent power to stay proceedings. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). "A stay is an 'intrusion into the ordinary processes of administration and judicial review,' and accordingly 'is not a matter of right, even if irreparable injury might otherwise result.'" *Nken v. Holder*, 556 U.S. 418, 433 (2009) (quoting *Virginia Petroleum Jobbers Assn. v. FPC*, 259 F.2d 921, 925 (C.A.D.C. 1958) (per curiam); and *Virginian R. Co. v. United States*, 272 U.S. 658, 672 (1926)). Whether to issue a stay is instead "an exercise of judicial discretion," "guided by sound legal principles," and "[t]he propriety of its issue is dependent upon the circumstances of the particular case." *Id.* (citations omitted).

Four factors guide this analysis: "(1) whether the stay applicant has made a strong showing that he [or she] is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest

lies.” *Id.* at 434 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)); *see also Powertech Tech. Inc. v. Tessera, Inc.*, 2013 WL 1164966, *1 (N.D. Cal. 2013) (applying this standard to stays pending petition for writ of mandamus). “The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.” *Id.* at 433-434 (citations omitted).

The first two factors – likelihood of success on the merits and irreparable injury – are the “most critical.” *Nken*, 556 U.S. at 434. “These two factors fall on ‘a sliding scale in which the required degree of irreparable harm increases as the probability of success decreases.’” *Mi Familia Vota v. Fontes*, 111 F.4th 976, 981 (9th Cir. 2024) (applying *Nken* factors to stay pending appeal) (quoting *Humane Soc’y of U.S. v. Gutierrez*, 523 F.3d 990, 991 (9th Cir. 2008)); *see also Cal. by and through Harrison v. Express Scripts, Inc.*, 139 F.4th 763, 772 n.8 (9th Cir. 2025). One end of the scale requires the proponent to demonstrate a “strong likelihood of success on the merits” and at least “the possibility of irreparable injury” to the proponent in the absence of a stay. *Mi Familia Vota*, 111 F.4th at 981 (quoting *Golden Gate Restaurant Ass’n v. City & Cnty. of San Francisco*, 512 F.3d 1112, 1116–17 (9th Cir. 2008)). At the other end of the scale, the movant “must demonstrate that serious legal questions are raised and that the balance of hardships tips sharply in its favor.” *Id.*

DISCUSSION

On this motion, RLI requests a stay of the discovery schedule set in the December 19, 2025 Order relevant to the subpoena issued by Plaintiffs pending resolution of RLI’s

Petition for Writ of Mandamus. (Dkt. 119, 123). Defendant filed a response in support of the motion, and Plaintiffs filed an opposition. (Dkt. 121, 122). After considering the relevant factors based on the standard set forth above, the Court finds RLI has not shown that a stay pending resolution of its Petition for a Writ of Mandamus is warranted, for the reasons explained below.

1. Likelihood of Success on the Merits

RLI argues it has shown a high likelihood of success on its Petition for a Writ of Mandamus, citing clear error in the Court's conclusions regarding the need for a privilege log, the sufficiency of the Declaration, and the relevance of the material requested. (Dkt. 119). Similarly, Defendant maintains that documents of legislative motivation are irrelevant to the right to travel claim. (Dkt. 122). Plaintiffs argue RLI is unlikely to succeed on the merits, as it cannot meet the high bar for a writ of mandamus. (Dkt. 121).

A Writ of mandamus “is an ‘extraordinary’ remedy limited to ‘extraordinary’ causes.” *In re Anonymous Online Speakers*, 661 F.3d 1168, 1173 (9th Cir. 2011) (quoting *Burlington N. & Santa Fe Ry. Co. v. U.S. Dist. Court*, 408 F.3d 1142, 1146 (9th Cir. 2005) (quoting *Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380 (2004))). The Ninth Circuit has observed that “this limit on our mandamus power is particularly salient in the discovery context, ... although ‘we have exercised mandamus jurisdiction to review discovery orders raising particularly important questions of first impression, especially when called upon to define the scope of an important privilege.’” *Id.* (quoting *Perry v. Schwarzenegger*, 591 F.3d 1147, 1157 (9th Cir. 2010)). In evaluating mandamus

petitions, the Ninth Circuit considers the following factors: “(1) whether the petitioner has no other means, such as a direct appeal, to obtain the desired relief; (2) whether the petitioner will be damaged or prejudiced in any way not correctable on appeal; (3) whether the district court’s order is clearly erroneous as a matter of law; (4) whether the district court’s order is an oft repeated error or manifests a persistent disregard of the federal rules; and (5) whether the district court’s order raises new and important problems or issues of first impression.” *Perry*, 591 F.3d at 1156 (citing *Bauman v. U.S. Dist. Court*, 557 F.2d 650, 654-655 (9th Cir. 1977)). The Court will address the factors in turn below and, for the reasons that follow, finds RLI has not shown it is likely to succeed on its petition for mandamus relief and, even if serious questions going to the merits are shown, there is no irreparable harm.

On the first factor, RLI can show that it does not have other means for its desired relief, at least in so far as that relief would come from the Ninth Circuit. However, as discussed below, RLI could proceed in the routine discovery process before this Court and make its objections to discovery of particular materials that it claims are privileged. While that suggestion is contrary to RLI’s position that it should not be obligated to “undergo” this burden or “be forced to continue in the litigation at all,” it nevertheless is available. (Dkt. 119 at 5). Therefore, a writ of mandamus is not the only avenue of relief for RLI to assert a First Amendment privilege as to particular materials that are subject to the subpoena request as narrowed by the Court. (Dkt. 108).

Next, RLI has not shown it will be damaged or prejudiced in a way not correctable

on appeal by having to participate in the routine discovery process. Importantly, as discussed herein, RLI has not been ordered to produce any documents, let alone any privileged documents. (Dkt. 108).

RLI's assertions of clear error are based on the same arguments the Court considered in ruling on the Motion to Quash Subpoena. (Dkt. 119, 123). Clear error is a "necessary condition for granting a writ of mandamus." *In re Klamath Irrigation Dist.*, 69 F.4th 934, 941 (9th Cir. 2023) (quoting *In re Van Dusen*, 654 F.3d 838, 841 (9th Cir. 2011)). "Clear error is a deferential standard, requiring a 'firm conviction' that the district court 'misinterpreted the law' or 'committed a clear abuse of discretion.'" *Id.* (quoting *In re Perez*, 749 F.3d 849, 855 (9th Cir. 2014)). For the reasons stated in the Order, the Court finds RLI has not shown clear error. (Dkt. 108). For the same reasons, the Court also finds RLI is unlikely to establish that its Petition for Writ of Mandamus raises often repeated errors or new and important problems or legal issues of first impression.

2. Irreparable Injury

RLI argues it will be irreparably harmed absent a stay because it will "effectively deprive" RLI of its ability to seek mandamus review, and will "force" RLI to engage in compelled discovery from which it asserts it is shielded under the First Amendment. (Dkt. 119 at 6-7). Respectfully, the Court disagrees with the general contention that requiring compliance with routine discovery procedures shows irreparable injury and, more specifically, finds that the circumstances here do not demonstrate irreparable harm.

RLI broadly asserts the existence of a sweeping, all-encompassing First

Amendment privilege shields it from producing any discovery. However, RLI's Motion to Quash provided no materials supporting its assertion of the privilege. (Dkt. 72).² It was not until the reply brief that RLI submitted a Declaration, which mirrored the broad, non-specific allegations made in its briefing. (Dkt. 93). Nevertheless, the Court considered the Declaration and granted the Motion to Quash to the extent the Declaration demonstrated that purely internal communications and documents were protected by the First Amendment privilege. (Dkt. 108). However, as to external communications, documents, and materials, RLI's conclusory assertions failed to establish the prima facie showing for a First Amendment privilege. To that end, the Court proceeded to evaluate the second part of the analysis where it limited and carefully tailored the subpoena request to allow only discovery of external materials relevant to this litigation. (Dkt. 108). Most notably and pertinent to the question of irreparable harm, the Court did not order RLI to produce anything. Indeed, the Order plainly states that the Court was not deciding whether any particular materials are discoverable, nor could it because there were no materials presented to the Court. (Dkt. 108 at 9, n. 5).

Rather, the Order narrowed the scope of the subpoena and then set deadlines for RLI and the parties to proceed with the routine discovery process relevant to the subpoena, which includes RLI submitting objections to disclosure of particular materials

² RLI's opening brief attached only a declaration of counsel with copies of the subpoena and communications between counsel regarding the same.

and the process for resolving the same. The Court anticipated having the opportunity to address objections to particular materials, including evaluating whether certain materials were protected by the First Amendment privilege, as it is within the routine and broad authority of the trial court to manage discovery. *See, e.g., Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1211-12 (9th Cir. 2002) (“[T]he trial court is in the best position to weigh the fairly competing needs and interests of the parties affected by discovery. The unique character of the discovery process requires that the trial court have substantial latitude to fashion protective orders.”) (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984)); *Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002) (“Broad discretion is vested in the trial court to permit or deny discovery[.]”); *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988).

RLI’s disagreement with the Court’s ruling and contention that it need not participate in the discovery process is not a basis for finding irreparable harm. RLI had the initial burden to establish a First Amendment infringement, and it failed to do so as to external materials. It cannot now claim irreparable injury by having to engage in the routine discovery process. Were it otherwise, every opponent of a discovery request could simply refuse to participate in discovery by making conclusory, unsupported, and broad sweeping assertions of privilege. For these reasons, the Court finds there is no irreparable injury to RLI and, alternatively, that any injury or hardship does not tip sharply in favor of RLI.

3. Injury to the Other Parties

Further delaying this discovery will cause injury to Plaintiffs who have diligently pursued this particular discovery since September, and are facing discovery and case management deadlines that expire relatively soon. The discovery requested is highly relevant to Plaintiffs' right to travel claim and may be available only from RLI. (Dkt. 121 at 10). This factor weighs against entering a stay.

4. Public Interest

The Court finds the public interest factor is somewhat neutral. There are important interests favoring both sides of this issue. (Dkt. 119, 121, 123). Thus, this factor is not determinative of the motion.

ORDER

THEREFORE IT IS HEREBY ORDERED that the Motion to Stay (Dkt. 119) is **DENIED**.

IT IS FURTHER ORDERED that the stay of the discovery deadlines relevant to Plaintiffs' discovery requests served on Right to Life of Idaho, Inc. (Dkt. 108, 114) shall be **LIFTED effective January 26, 2026**, and the following discovery deadlines shall apply thereafter:

On or before **February 6, 2026**, Right to Life Idaho, Inc. must produce discovery responsive to the following:

Communications with Idaho legislators or legislative staff concerning H.B. 242 or H.B. 98, including any attachments, talking points, or materials actually disseminated to Idaho legislators or legislative staff concerning H.B. 242 or H.B. 98.

Alternatively, if Right to Life Idaho, Inc. has objections to the discovery request, it must provide any objections to Plaintiffs no later than **January 30, 2026**. The parties must thereafter meaningfully confer regarding the objections and attempt to resolve the same in good faith by **February 4, 2026**. If, after conferring, the parties are unable to resolve any objections, Right to Life Idaho, Inc. may file an appropriate motion that includes all supporting materials on or before **February 6, 2026**.³ Any response briefs must be filed no later than **February 13, 2026**. Any reply is due by **February 20, 2026**. If necessary, the parties may jointly request to extend the dates set herein.⁴



DATED: January 23, 2026

A handwritten signature in black ink, appearing to read "Debora K. Grasham".

Honorable Debora K. Grasham
United States Magistrate Judge

³ Failure to include supporting materials with the opening motion and briefing may result in any late filed materials not being considered or other sanctions.

⁴ The discovery deadlines relevant to the subpoena served on RLI are reset herein for approximately two weeks from the original dates, consistent with the Order granting the limited stay (Dkt. 114), and to allow time for RLI to object, for the parties to confer, for RLI to respond to the discovery request, and/or for RLI to pursue further relief from the Ninth Circuit. The Court finds, in its discretion, that these deadlines are appropriate and reasonable given the ruling stated herein, the fact that the subpoena has been pending unanswered since September 12, 2025, the close of fact discovery is currently set for March 16, 2026, and dispositive motions are due on April 16, 2026. (Dkt. 92).