

RAÚL R. LABRADOR  
ATTORNEY GENERAL

JOSHUA N. TURNER, ISB #12193  
Acting Solicitor General

JAMES E. M. CRAIG, ISB #6365  
Acting Division Chief, Civil Litigation  
and Constitutional Defense  
Office of the Attorney General  
P. O. Box 83720  
Boise, ID 83720-0010  
Telephone: (208) 334-2400  
Facsimile: (208) 854-8073  
james.craig@ag.idaho.gov  
josh.turner@ag.idaho.gov

*Attorney for Defendant*

**UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO**

LOURDES MATSUMOTO, NORTHWEST  
ABORTION ACCESS FUND, and INDIGE-  
NOUS IDAHO ALLIANCE,

Plaintiffs,

v.

RAÚL LABRADOR, in his capacity as the At-  
torney General for the State of Idaho,

Defendant.

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

**NOTICE OF APPEAL**

**PRELIMINARY  
INJUNCTION APPEAL**

**ELEVENTH AMENDMENT  
IMMUNITY APPEAL**

Defendant Raúl Labrador, in his capacity as Attorney General for the State of Idaho, hereby appeals the district court’s November 8, 2023 Memorandum Decision and Order [Dkt. 40], granting Plaintiffs’ motion for preliminary injunction against him to the Ninth Circuit Court of Appeals. *See* 28 U.S.C. § 1292(a)(1). The Attorney General also appeals the district court’s November 8, 2023 Memorandum Decision and Order [Dkt. 41] denying Attorney General Labrador Eleventh Amendment Immunity to the Ninth Circuit Court of Appeals. *See Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 147 (1993) (“We hold that States and state entities that claim to be ‘arms of the State’ may take advantage of the collateral order doctrine to appeal a district court order denying a claim of Eleventh Amendment immunity.”).

#### **FORM 1 INFORMATION**

- Date case was first filed in U.S. District Court: July 11, 2023.
- Date of judgment or order being appealed: November 8, 2023 (for both orders).
- Docket entry number of judgment or order appealed from: 40 (Memorandum Decision and Order); 41 (Memorandum Decision and Order).
- Docketing fee of \$505 paid to the U.S. District Court for the District of Idaho.
- Appellant: Defendant Raúl Labrador.
- This is not a cross-appeal.

- A representation statement follows on the next page.

DATED: November 22, 2023

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By: /s/ James E. M. Craig  
JAMES E. M. CRAIG  
Acting Division Chief, Civil Litigation and  
Constitutional Defense

*Attorney for Defendant Attorney General Raúl Labrador*

## REPRESENTATION STATEMENT

### I. Counsel for Appellant

JOSHUA N. TURNER  
Acting Solicitor General  
josh.turner@ag.idaho.gov

JAMES E. M. CRAIG  
Acting Division Chief, Civil Litigation  
and Constitutional Defense  
james.craig@ag.idaho.gov

Idaho Office of the Attorney General  
PO Box 83720  
Boise, ID 83720-0010  
(208) 334-2400

### II. Counsel for Appellees

WENDY J. OLSON  
wendy.olson@stoel.com  
STOEL RIVES LLP  
101 S. Capitol Boulevard, Suite 1900  
Boise, ID 83702  
Telephone: 208.389.9000

WENDY S. HEIPT  
wheipt@legalvoice.org  
LEGAL VOICE  
907 Pine Street, #500  
Seattle, WA 98101  
Telephone: 206.954.6798

KELLY O'NEILL  
koneill@legalvoice.org  
LEGAL VOICE  
P.O. Box 50201  
Boise, ID 83705  
Telephone: 208.649.4942

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

PAIGE SUELZLE  
psuelzle@lawyeringproject.org  
THE LAWYERING PROJECT  
2501 SW Trenton Street #1097  
Seattle, WA 98106  
Telephone: 347.515.6073

### **III. Counsel for Amici States**

EMMA GRUNBERG  
emma.grunberg@atg.wa.gov

CRISTINA SEPE  
christina.sepe@atg.wa.gov

Washington Attorney General's Office  
1125 Washington Street SE  
P.O. Box 40100  
Olympia, WA 98504-0100  
Telephone: 360.753.6200

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 22, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Cristina Sepe  
cristina.sepe@atg.wa.gov

Jamila Asha Johnson  
jjohnson@lawyeringproject.org

Emily A MacMaster  
emacmaster07@gmail.com  
emily@macmasterlaw.com

Kelly O'Neill  
koneill@legalvoice.org

Emma Grunberg  
emma.grunberg@atg.wa.gov

Paige Butler Suelzle  
psuelzle@lawyeringproject.org

Wendy Olson  
wendy.olson@stoel.com  
docketclerk@stoel.com  
emina.hasonovic@stoel.com  
hillary.bibb@stoel.com  
karissa.armbrust@stoel.com  
kelly.tonikin@stoel.com  
tracy.horan@stoel.com

Wendy S. Heipt  
wheipt@legalvoice.org

*Counsel for Appellees*

By:  /s/ James E. M. Craig  
JAMES E. M. CRAIG