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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,

Plaintiffs,

v.

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

Defendant.

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

**NON-PARTY IDAHO STATE
REPRESENTATIVE BARBARA
EHARDT'S MOTION TO QUASH
THIRD PARTY SUBPOENA DUCES
TECUM, FOR PROTECTIVE
ORDER, AND FOR EXPENSES**

Plaintiffs have served a subpoena duces tecum on an Idaho legislator who, according to Plaintiffs' Complaint, introduced H.B. 98 in the Idaho Legislature in 2023 and later testified in a Senate State Affairs Committee hearing on the bill, which became the law that Plaintiffs challenge in this lawsuit. Dkt. 1 ¶¶ 11-12. The subpoena purports to require production of twelve categories of documents "concerning potential or conceptual state-level legislation relating to interstate

**NON-PARTY IDAHO STATE REPRESENTATIVE BARBARA EHARDT'S MOTION TO QUASH THIRD
PARTY SUBPOENA DUCES TECUM, FOR PROTECTIVE ORDER, AND FOR EXPENSES**

‘abortion trafficking’ and H.B. 242 and H.B. 98.” It is not entirely clear from the subpoena whether Plaintiffs also seek a deposition of Representative Ehardt, but that will be assumed for purposes of this motion. Either way, the subpoena is a direct assault on Representative Ehardt’s legislative immunity and legislative privilege. The subpoena should be quashed, Representative Ehardt should be granted a protective order against such discovery efforts, and she should be awarded her reasonable expenses in opposing the subpoena, including attorney’s fees.

MOTION TO QUASH SUBPOENA DUCES TECUM

Background

Plaintiffs personally served a subpoena duces tecum on Representative Ehardt, Idaho Legislature District 33(A), on Sunday, November 30, 2025. Declaration of Counsel, Ex. 1.) At a minimum, the subpoena purports to command production of twelve categories of documents on December 18, 2025. Eleven of the twelve requests for production seek “[a]ll documents” or “[a]ll materials” “concerning potential or conceptual state-level legislation relating to interstate ‘abortion trafficking’ and H.B. 242 and H.B. 98.” *Id.* (Request Nos. 1-9, 11-12) (emphasis added). The remaining request seeks “[a]ll documents . . . relating to Abortion Trafficking Legislation in Idaho or in any other jurisdiction.” *Id.* (Request No. 10) (emphasis added).

Due to a number of deficiencies, it is not entirely clear whether the subpoena also commands Rep. Ehardt’s appearance for a deposition (in Idaho Falls) on December 18. While the cover letter accompanying the subpoena speaks of a deposition, the “Testimony” paragraph on the subpoena served on Rep. Ehardt is badly garbled and unintelligible. This contrasts with the copy of the subpoena Plaintiffs served on the Attorney General’s office. Decl. of Counsel, Ex. 2. Plaintiffs did not check the box for “Testimony” on either version of the subpoena form, checking only the box for “Production.” Plaintiffs did not indicate on either version of the form the method

by which the deposition would be recorded, as they “must” do under Fed. R. Civ. P. 45(a)(1)(B), instead leaving that line blank. Finally, the subpoena was served without the required tender of appearance fees under Fed. R. Civ. P. 45(b)(1). *See Tedder v. Odel*, 890 F.2d 210, 211 (9th Cir. 1989); *Wood v. Yordy*, No. CV07-350-S-EJL, 2009 WL 10706016, at *1 (D. Idaho Feb. 2, 2009).

While not required under the Federal Rules of Civil Procedure, attorneys with the Office of the Attorney General met and conferred with Plaintiff’s attorneys by email on December 3 and then by video conference on December 4, 2025, requesting that Plaintiffs withdraw the subpoena because of Rep. Ehhardt’s legislative immunity. As of the date this motion is filed, Plaintiffs have not withdrawn the subpoena.

In addition to this motion, Representative Ehhardt has separately provided Plaintiffs with her written objections to the document requests under Fed. R. Civ. P. 45(d)(2)(B). Decl. of Counsel, Ex. 3.

The subpoena duces tecum to Representative Ehhardt violates legislative immunity and legislative privilege

Rule 45(d)(3)(A)(iii) and (iv) requires the Court to quash a subpoena where it “requires disclosure of privileges or other protected matter” or where it “subjects a person to undue burden.” Quashing the subpoena is required under both of those subsections because it violates Representative Ehhardt’s legislative immunity and legislative privilege. The Ninth Circuit has made clear that, “[t]he doctrine of legislative immunity protects state legislators from criminal, civil, or evidentiary process that interferes with their legitimate¹ legislative activity. Legislative privilege is a corollary to legislative immunity and is a qualified privilege that generally shields legislators

¹ “The use of the term ‘legitimate’ in this context” does not require that the legislation be “constitutional or otherwise proper,” but requires “only that the legislator was engaged in a bona fide attempt to enact legislation.” *Puente Arizona v. Arpaio*, 314 F.R.D. 664, 669 n.3 (D. Ariz. 2016).

from compulsory evidentiary process.” *Mi Familia Vota v. Fontes*, 129 F.4th 691, 731 (9th Cir. 2025) (cleaned up).

The Supreme Court has explained the reasons for the legislative privilege:

In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offense.

Tenney v. Brandhove, 341 U.S. 367, 373 (1951) (citation omitted).

The Ninth Circuit has therefore recognized that “state and local officials undoubtedly share an interest in minimizing the ‘distraction’ of ‘divert[ing] their time, energy, and attention from their legislative tasks to defend the litigation.’” *Lee v. City of Los Angeles*, 908 F.3d 1175, 1187 (9th Cir. 2018) (barring depositions of mayor and city council members regarding redistricting ordinance) (quoting *Eastland v. U.S. Servicemen’s Fund*, 421 U.S. 491, 503 (1975)). “The rationale for the privilege [is] to allow duly elected legislators to discharge their public duties without concern of adverse consequences outside the ballot box.” *Id.* “[The exercise of legislative discretion should not be inhibited by judicial interference.” *Id.* (quoting *Bogan v. Scott-Harris*, 523 U.S. 44, 52 (1998)). The privilege and immunity extend to the legislator’s communications with third parties about legislation or legislative strategy. *See Puente Arizona*, 314 F.R.D. at 670 (citing *Jewish War Veterans of the U.S. of Am., Inc. v. Gates*, 506 F.Supp.2d 30, 57 (D.D.C. 2007) (communications with executive branch, constituents, interested organizations, and members of the public are protected by legislative privilege if these communications “constitute information gathering in connection with or in aid of . . . legislative acts”) (and collecting cases). “[A]ll of a legislator’s communications “that bear on potential legislation” are privileged, “regardless of their motivation.” *Id.* at 671 (citations omitted).

The Ninth Circuit also recognized that the Supreme Court “has repeatedly stressed that ‘judicial inquiries into legislative or executive motivation represent a substantial intrusion’ such that calling a decision maker as a witness ‘is therefore usually to be avoided.’” *Lee*, 908 F.3d at 1187 (cleaned up) (quoting *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 268 n.18 (1977)). “Applying this precedent, we have likewise concluded that plaintiffs are generally barred from deposing local legislators, *even in ‘extraordinary circumstances.’*” *Id.* at 1187-88 (quoting *City of Las Vegas v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984) (emphasis added) (citing *Vill. of Arlington Heights*, 429 U.S. at 268)).

Thus, even in a case involving claims of racial gerrymandering in violation of the plaintiffs’ equal protection rights—“putting the government’s intent directly at issue”—the Ninth Circuit, following *Village of Arlington Heights*, held that “such a claim was not, in and of itself, within the subset of ‘extraordinary instances’ that might justify an exception to the privilege.” *Id.* at 1188.

Likewise, no such extraordinary circumstances exist in this case. Rep. Ehardt is protected from compulsory process to quiz her on her legislative activity, and her legislative records are protected by legislative immunity. Plaintiffs’ subpoena duces tecum should therefore be quashed under Fed. R. Civ. P. 45(d)(3)(A)(iii)-(iv).

MOTION FOR PROTECTIVE ORDER

For the same reasons, the Court should grant Representative Ehardt a protective order under Fed. R. Civ. P. 26(c)(1)(A), forbidding the discovery sought by the subpoena duces tecum.

Representative Ehardt has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action, including an email to Plaintiffs’ counsel on December 3, 2025, asserting the legislative privilege and a telephone conference with Plaintiffs’ counsel on December 4, 2025, discussing the same. *See* Fed. R. Civ. P. 26(c)(1).

MOTION FOR EXPENSES

Because the subpoena duces tecum was not substantially justified and other circumstances do not make an award of expenses unjust, the Court should award Representative Ehardt her reasonable expenses incurred in opposing the subpoena, including attorney's fees, from Plaintiffs, their attorneys, or both, under Fed. R. Civ. P. 26(c)(3) and 37(a)(5)(B).

CONCLUSION

For the foregoing reasons, the Court should grant Representative Ehardt's motions to quash the subpoena duces tecum, for a protective order, and for her expenses in opposing the subpoena.

DATED: December 10, 2025

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

/s/ David J. Myers

DAVID J. MYERS
Deputy Attorney General

*Attorney for Non-Party Idaho State Representative
Barbara Ehardt*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on December 10, 2025, 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:

Cristina Sepe
cristina.sepe@atg.wa.gov

Jamila Asha Johnson
jjohnson@lawyeringproject.org

Emily A MacMaster
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emily@macmasterlaw.com

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Counsel for Plaintiffs

/s/ David J. Myers

DAVID J. MYERS

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ABORTION ACCESS FUND, and
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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 COUNSEL

I, DAVID J. MYERS, declare as follows:

1. I am a Deputy Attorney General for the Office of the Attorney General and serve as an attorney within the Civil Litigation and Constitutional Defense Division. I am one of the attorneys for Representative Ehhardt in this action.

2. Attached as **Exhibit 1** is a true and correct copy of the subpoena duces tecum served on Representative Ehardt on November 30, 2025, including a cover letter and blank affidavit of records custodian.

3. Attached as **Exhibit 2** are true and correct copies of (i) a Notice of Third-Party Subpoena Duces Tecum served by Plaintiffs on attorneys in my office on November 26, 2025, including a copy of a subpoena duces tecum to be served on Representative Ehardt, which was accompanied by (ii) a cover letter and blank affidavit of records custodian to be served on Representative Ehardt.

4. Attached as **Exhibit 3** is a true and correct copy of a letter that I sent to counsel for Plaintiffs, via email on December 10, 2025, stating Representative Ehardt's objections to the document requests in the subpoena duces tecum under Fed. R. Civ. P. 45(d)(2)(B).

5. I certify that the movant has in good faith conferred with other affected parties in an effort to resolve the dispute without court action under Fed. R. Civ. P. 45(c)(1).

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

DATED: December 10, 2025

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

/s/ David J. Myers
DAVID J. MYERS
Deputy Attorney General

*Attorney for Non-Party Representative
Barbara Ehardt*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on December 10, 2025, 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:

Cristina Sepe
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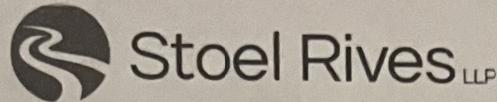
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Counsel for Plaintiffs

/s/ David J. Myers

DAVID J. MYERS



November 26, 2025

Wendy J. Olson
101 S. Capitol Boulevard, Suite 1900
Boise, ID 83702
D. 208.387.4291
wendy.olson@stoel.com

Barbara Ehardt, Seat 33A
Idaho State House of Representatives
961 J. St
Idaho Falls, ID 83402

**Re: Subpoena Duces Tecum
Matsumoto et. al v. Labrador, Case No. 1:23-cv-00323-DKG**

Dear Representative Ehardt:

Enclosed please find a Subpoena Duces Tecum issued in the matter of *Matsumoto et. al v. Labrador*, Case No. 1:23-cv-00323-DKG, *United States District Court for the District of Idaho*. The subpoena requests certain documents and electronically stored information.

Although the subpoena specifies that the documents are to be produced at the time of your deposition, you may, if you prefer, provide the requested documents in advance of the deposition date.

If you choose to produce the materials early, please send them to the undersigned at the address below (or contact us to arrange secure electronic transfer). Please produce the documents in full and in the manner described in Attachment A to the subpoena.

Whether you choose to produce the documents early or at the deposition itself, please be assured that the subpoena remains in effect and that all rights and obligations under the Federal Rules of Civil Procedure apply. If you have any questions or concerns—including about timing, form of production, or privilege—please do not hesitate to contact me.

Thank you for your cooperation and attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Wendy J. Olson".

Wendy J. Olson

Barbara Ehardt, Seat 33A
November 26, 2025
Page 2

Records Affidavit
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

AFFIDAVIT OF RECORDS CUSTODIAN

I, [Name of Custodian], being first duly sworn, state as follows:

1. I am employed by [Name of Organization] as [Title/Position], and I am authorized and qualified to make this affidavit regarding the records described below.
2. In response to the Subpoena Duces Tecum issued in the above-captioned matter, I have caused a diligent search to be made for records responsive to the requests set forth in Exhibit A to the subpoena.
3. The documents produced herewith are true and complete copies of records kept by [Name of Organization].
4. Such records:
 - o (a) were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
 - o (b) were kept in the course of regularly conducted activity of [Name of Organization]; and
 - o (c) were made as a regular practice of [Name of Organization].

Barbara Ehhardt, Seat 33A
November 26, 2025
Page 3

5. To the best of my knowledge, the attached records are authentic and have not been altered, except for any redactions made to protect privileged or confidential information, which have been identified accordingly.
6. I make this affidavit in lieu of personal appearance at a deposition, with the understanding that the records produced may be used in evidence subject to the Federal Rules of Evidence.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this _____ day of _____, 20, at _____.
[Name of Custodian]
[Title/Position]
[Organization]

UNITED STATES DISTRICT COURT
for the

Lourdes MATSUMOTO, et al.

<p style="margin: 0;">Plaintiff</p> <p style="margin: 0;">v.</p> <p style="margin: 0;">Raul LABRADOR</p> <p style="margin: 0;">Defendant</p>	<p style="margin: 0;">)</p> <p style="margin: 0;">)</p> <p style="margin: 0;">)</p> <p style="margin: 0;">)</p>	<p style="margin: 0;">Civil Action No. 1:23-cv-00323-DKG</p>
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SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Representative Barbara EHARDT, Idaho Leg. District 33(A)

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the deposition to be taken in this civil action. If you are a party serving this subpoena, you must appear at the deposition of the other party or parties, or more officers, directors, or managing agents, or these matters:

Place: Home2Suites Conference Room
1160 Whitewater Drive
Idaho Falls, IDAHO 83402

Date and Time:
Thursday, Dec. 18, 2025, 1pm-5pm MT

The deposition will be recorded by this method:

✓ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: See Attachment A, incorporated by reference herewith.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: Nov. 26, 2025

CLERK OF COURT

OR

s _____
Wendy Olson

Signature of Clerk or Deputy Clerk

Attorney's signature

MATSUMOTO, et al.

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____, who issues or requests this subpoena, are: Wendy J. Olson, Partner and Lead Counsel, Stoel Rives LLP, 101 South Capitol Boulevard, Suite 1900, Boise, ID 83202, wendy.olson@stoel.com, (208) 389-9000

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information, or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

6

6

INSTRUCTIONS

ATTACHMENT A

6

6

DOCUMENTS TO BE PRODUCED

6

ATTACHMENT A

ATTACHMENT A**DEFINITIONS**

1. "Abortion Trafficking Legislation" means any statute, bill, resolution, proposed law, or regulation introduced or enacted in any jurisdiction within the United States that purports to restrict, regulate, or criminalize adults assisting in the movement of minors or young people across city, county, or state lines for purposes of obtaining an abortion, or for purposes related to facilitating, assisting, or supporting an abortion, including laws framed or described as measures to prevent "trafficking" or "abortion trafficking." This definition encompasses legislation whether enacted, proposed, or pending, regardless of whether it has been titled or justified as protecting parental rights, preventing human trafficking, or safeguarding minors.
2. "Document" means any writing, record, or electronically stored information (ESI) including and without limitation, correspondence, emails, text messages, instant messages, social media content, postings on collaborative platforms, memoranda, notes, reports, drafts, contracts, meeting minutes, calendars, recordings, photographs, and any other data or compilation, whether stored on paper, electronically, or in any other medium from which information can be obtained.
3. "H.B. 98" shall mean House Bill 98, introduced in the Idaho Legislature on February 7, 2023, prior to its amendment and reintroduction as H.B. 242.
4. "H.B. 242" shall mean House Bill 242, passed by the Idaho Legislature on March 30, 2023, reported signed by the Governor on April 5, 2023, and effective May 5, 2023, later codified at Idaho Code § 18-623.
5. "Idaho Legislature" shall mean the Legislature of the State of Idaho, including both its Senate and House of Representatives.
6. "Legislator" shall mean any current or former member of the Idaho Legislature, including Senators or Representatives, in their official capacity, including their official legislative staff as well as their agents, representatives, and attorneys, and in the departments or subdivisions of the State of Idaho at which the Legislator is employed, including any officers, directors, employees, agents, subdivisions, affiliates, or any other person acting in concert, whether directly or indirectly.
7. "Relating to" or "Concerning" means consisting of, reflecting, referring to, describing, discussing, evidencing, or in any way connected with the subject matter identified.
8. "Right to Life of Idaho" refers to Right to Life of Idaho, Inc., and any of its directors, members, trustees, officers, employees, agents, representatives, lobbyists, and volunteers (when volunteering on behalf of Right to Life of Idaho, Inc.), including attorneys, and each of its parent companies, subsidiaries, affiliates, divisions, successors, assignees, and predecessors.
9. Timeframe: Unless otherwise specified, the requests herein seek documents created, sent, or received from January 1, 2021 to the present.
10. "You" or "Your" refers to the person or entity to whom this subpoena is directed, including all present and former officers, employees, agents, representatives, and anyone acting on their behalf.

INSTRUCTIONS

1. Produce all responsive documents in your possession, custody, or control, as those terms are defined the Federal Rules of Civil Procedure.
2. Documents maintained electronically shall be produced in their native electronic format

Commented [BH1]: I added this, but it might be too broad? The reason I added "volunteer" and well as "lobbyist" is that attorney Megan Wold, who presented the bill to the Idaho Legislature, introduced herself as a

ATTACHMENT A

(including metadata), or in another reasonably usable form if native format is not feasible.

3. If any document is withheld under a claim of privilege, provide a privilege log that complies with Federal Rule of Civil Procedure 26(b)(5).
4. If you claim that no responsive documents exist, state that fact in writing.
5. The singular includes the plural, and vice versa. The present tense includes the past tense, and vice versa.
6. The connectors "and" and "or" shall be interpreted either disjunctively or conjunctively as necessary to bring within the scope of the Requests for Production all responses that might otherwise be outside of its scope.
7. Each Document is to be produced in its entirety, without abbreviation or limitation, or redaction, except as otherwise specifically permitted by the Federal Rules of Civil Procedure or Order of this Court.

DOCUMENTS TO BE PRODUCED

1. All documents sent to and received from any lawmaker concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
2. All documents relating to potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98, including any meeting notes, memoranda, or minutes concerning H.B. 242 and H.B. 98.
3. All documents sent to and received from Right to Life of Idaho concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
4. All documents sent to and received from National Right to Life concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
5. All documents sent to and received from Idaho Chooses Life, or its agents, employees, or attorneys, or David Ripley concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
6. All documents sent to and received from David Ripley concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
7. All documents sent to and received from the Alliance Defending Freedom, or its agents, employees, or attorneys, concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
8. All documents sent to and received from the Bopp Law Firm; or its agents, employees, or attorneys; James Bopp, Jr.; Richard F. Coleson; Jeffrey P. Gallant; or Joseph D. Maughon concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
9. All documents sent to and received from Cooper & Kirk, PLLC; or its agents, employees, or attorneys including but not limited to Megan M. Wold, concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
10. All documents including drafts, relating to Abortion Trafficking Legislation in Idaho or in any other jurisdiction.
11. All materials submitted to, received from, or exchanged with any agent, employee, or attorney of the Idaho Attorney General's Office concerning potential or conceptual state-level legislation relating to interstate "abortion trafficking" and H.B. 242 and H.B. 98.
12. All materials submitted to, received from, or exchanged with any other Idaho state agency or

ATTACHMENT A

government employee concerning potential or conceptual state-level legislation relating to
interstate "abortion trafficking" and H.B. 242 and H.B. 98.

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

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

Plaintiffs,

v.

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

Defendant.

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

**NOTICE OF THIRD-PARTY
SUBPOENA DUCES TECUM**

TO: All Counsel of Record

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 45(a)(4), the above listed Plaintiffs will serve the attached Subpoena Duces Tecum upon Barbara Ehardt, Idaho State Representative for District 33 (Seat A), at her home address, as follows:

Barbara Ehardt, Seat 33A
Idaho State House of Representatives
961 J Street
Idaho Falls, ID 83402

The subpoena commands the production of documents, electronically stored information, and/or tangible things as more fully described in **Attachment A** to the subpoena. The documents are to be produced to the attention of Wendy J. Olson, Stoel Rives LLP, 101 S. Capitol Blvd., Suite 1900, Boise, ID 83702-7705 on or before December 18, 2025; or at the time of Ms. Ehardt's deposition.

A true and correct copy of the subpoena, including Attachment A, is attached hereto.

DATED: November 26, 2025.

STOEL RIVES LLP

/s/ Wendy J. Olson
Wendy J. Olson

LEGAL VOICE

/s/ Wendy S. Heipt
Wendy S. Heipt
Kelly O'Neill

THE LAWYERING PROJECT

/s/ Jamila A. Johnson
Jamila A. Johnson
Paige Suelzle

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 26, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

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

Aaron M. Green
aaron.green@ag.idaho.gov

Brian V. Church
brian.church@ag.idaho.gov

/s/ Wendy J. Olson

Wendy J. Olson

UNITED STATES DISTRICT COURT
for the

Lourdes MATSUMOTO, et al.

<hr/> <p style="text-align: center;"><i>Plaintiff</i></p> <p style="text-align: center;">v.</p> <hr/> <p style="text-align: center;"><i>Defendant</i></p> <hr/>	<p style="text-align: right;">)</p>
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Civil Action No. 1:23-cv-00323-DKG

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Representative Barbara EHARDT, Idaho Leg. District 33(A)

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must promptly confer in good faith with the party serving this subpoena about the following matters, or those set forth in an attachment, and you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about these matters:

Place: Home2Suites Conference Room 1160 Whitewater Drive Idaho Falls, IDAHO 83402	Date and Time: Thursday, Dec. 18, 2025, 1pm-5pm MT
---	---

The deposition will be recorded by this method: _____

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: See Attachment A, incorporated by reference herewith.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: Nov. 26, 2025

CLERK OF COURT

OR

/s/ Wendy J. Olson

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____ MATSUMOTO, et al.

Wendy J. Olson, Partner and Lead Counsel, Stoel Rives LLP, 101 South Capitol Boulevard, Suite 1900, Boise, ID 83202, wendy.olson@stoel.com, (208) 389-9000 who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:23-cv-00323-DKG**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (*name of individual and title, if any*) _____
on (*date*) _____.

I served the subpoena by delivering a copy to the named individual as follows: _____

on (*date*) _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____
Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

- (i) is a party or a party's officer; or
- (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A**DEFINITIONS**

1. “Abortion Trafficking Legislation” means any statute, bill, resolution, proposed law, or regulation introduced or enacted in any jurisdiction within the United States that purports to restrict, regulate, or criminalize adults assisting in the movement of minors or young people across city, county, or state lines for purposes of obtaining an abortion, or for purposes related to facilitating, assisting, or supporting an abortion, including laws framed or described as measures to prevent “trafficking” or “abortion trafficking.” This definition encompasses legislation whether enacted, proposed, or pending, regardless of whether it has been titled or justified as protecting parental rights, preventing human trafficking, or safeguarding minors.
2. “Document” means any writing, record, or electronically stored information (ESI) including and without limitation, correspondence, emails, text messages, instant messages, social media content, postings on collaborative platforms, memoranda, notes, reports, drafts, contracts, meeting minutes, calendars, recordings, photographs, and any other data or compilation, whether stored on paper, electronically, or in any other medium from which information can be obtained.
3. “H.B. 98” shall mean House Bill 98, introduced in the Idaho Legislature on February 7, 2023, prior to its amendment and reintroduction as H.B. 242.
4. “H.B. 242” shall mean House Bill 242, passed by the Idaho Legislature on March 30, 2023, reported signed by the Governor on April 5, 2023, and effective May 5, 2023, later codified at Idaho Code § 18-623.
5. “Idaho Legislature” shall mean the Legislature of the State of Idaho, including both its Senate and House of Representatives.
6. “Legislator” shall mean any current or former member of the Idaho Legislature, including Senators or Representatives, in their official capacity, including their official legislative staff as well as their agents, representatives, and attorneys, and in the departments or subdivisions of the State of Idaho at which the Legislator is employed, including any officers, directors, employees, agents, subdivisions, affiliates, or any other person acting in concert, whether directly or indirectly.
7. “Relating to” or “Concerning” means consisting of, reflecting, referring to, describing, discussing, evidencing, or in any way connected with the subject matter identified.
8. “Right to Life of Idaho” refers to Right to Life of Idaho, Inc., and any of its directors, members, trustees, officers, employees, agents, representatives, lobbyists, and volunteers (when volunteering on behalf of Right to Life of Idaho, Inc.), including attorneys, and each of its parent companies, subsidiaries, affiliates, divisions, successors, assignees, and predecessors.
9. Timeframe: Unless otherwise specified, the requests herein seek documents created, sent, or received from January 1, 2021 to the present.
10. “You” or “Your” refers to the person or entity to whom this subpoena is directed, including all present and former officers, employees, agents, representatives, and anyone acting on their behalf.

INSTRUCTIONS

1. Produce all responsive documents in your possession, custody, or control, as those terms are defined the Federal Rules of Civil Procedure.
2. Documents maintained electronically shall be produced in their native electronic format

ATTACHMENT A

(including metadata), or in another reasonably usable form if native format is not feasible.

3. If any document is withheld under a claim of privilege, provide a privilege log that complies with Federal Rule of Civil Procedure 26(b)(5).
4. If you claim that no responsive documents exist, state that fact in writing.
5. The singular includes the plural, and vice versa. The present tense includes the past tense, and vice versa.
6. The connectors “and” and “or” shall be interpreted either disjunctively or conjunctively as necessary to bring within the scope of the Requests for Production all responses that might otherwise be outside of its scope.
7. Each Document is to be produced in its entirety, without abbreviation or limitation, or redaction, except as otherwise specifically permitted by the Federal Rules of Civil Procedure or Order of this Court.

DOCUMENTS TO BE PRODUCED

1. All documents sent to and received from any lawmaker concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
2. All documents relating to potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98, including any meeting notes, memoranda, or minutes concerning H.B. 242 and H.B. 98.
3. All documents sent to and received from Right to Life of Idaho concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
4. All documents sent to and received from National Right to Life concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
5. All documents sent to and received from Idaho Chooses Life, or its agents, employees, or attorneys, or David Ripley concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
6. All documents sent to and received from David Ripley concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
7. All documents sent to and received from the Alliance Defending Freedom, or its agents, employees, or attorneys, concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
8. All documents sent to and received from the Bopp Law Firm; or its agents, employees, or attorneys; James Bopp, Jr.; Richard E. Coleson; Jeffrey P. Gallant; or Joseph D. Maughon concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
9. All documents sent to and received from Cooper & Kirk, PLLC; or its agents, employees, or attorneys including but not limited to Megan M. Wold, concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
10. All documents including drafts, relating to Abortion Trafficking Legislation in Idaho or in any other jurisdiction.
11. All materials submitted to, received from, or exchanged with any agent, employee, or attorney of the Idaho Attorney General’s Office concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.
12. All materials submitted to, received from, or exchanged with any other Idaho state agency or

ATTACHMENT A

government employee concerning potential or conceptual state-level legislation relating to interstate “abortion trafficking” and H.B. 242 and H.B. 98.



November 26, 2025

Wendy J. Olson
101 S. Capitol Boulevard, Suite 1900
Boise, ID 83702
D. 208.387.4291
wendy.olson@stoel.com

Barbara Ehardt, Seat 33A
Idaho State House of Representatives
961 J. St
Idaho Falls, ID 83402

Re: Subpoena Duces Tecum
Matsumoto et. al v. Labrador, Case No. 1:23-cv-00323-DKG

Dear Representative Ehardt:

Enclosed please find a Subpoena Duces Tecum issued in the matter of *Matsumoto et. al v. Labrador*, Case No. 1:23-cv-00323-DKG, *United States District Court for the District of Idaho*. The subpoena requests certain documents and electronically stored information.

Although the subpoena specifies that the documents are to be produced at the time of your deposition, you may, if you prefer, provide the requested documents in advance of the deposition date.

If you choose to produce the materials early, please send them to the undersigned at the address below (or contact us to arrange secure electronic transfer). Please produce the documents in full and in the manner described in Attachment A to the subpoena.

Whether you choose to produce the documents early or at the deposition itself, please be assured that the subpoena remains in effect and that all rights and obligations under the Federal Rules of Civil Procedure apply. If you have any questions or concerns—including about timing, form of production, or privilege—please do not hesitate to contact me.

Thank you for your cooperation and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Wendy J. Olson".

Wendy J. Olson

Barbara Ehardt, Seat 33A
November 26, 2025
Page 2

Records Affidavit

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

AFFIDAVIT OF RECORDS CUSTODIAN

I, [Name of Custodian], being first duly sworn, state as follows:

1. I am employed by [Name of Organization] as [Title/Position], and I am authorized and qualified to make this affidavit regarding the records described below.
2. In response to the Subpoena Duces Tecum issued in the above-captioned matter, I have caused a diligent search to be made for records responsive to the requests set forth in Exhibit A to the subpoena.
3. The documents produced herewith are true and complete copies of records kept by [Name of Organization].
4. Such records:
 - o (a) were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
 - o (b) were kept in the course of regularly conducted activity of [Name of Organization]; and
 - o (c) were made as a regular practice of [Name of Organization].

Barbara Ehardt, Seat 33A
November 26, 2025
Page 3

5. To the best of my knowledge, the attached records are authentic and have not been altered, except for any redactions made to protect privileged or confidential information, which have been identified accordingly.
6. I make this affidavit in lieu of personal appearance at a deposition, with the understanding that the records produced may be used in evidence subject to the Federal Rules of Evidence.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this _____ day of _____, 20, at _____.

[Name of Custodian]

[Title/Position]

[Organization]



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

RAÚL R. LABRADOR

December 10, 2025

Wendy J. Olson
 STOEL RIVES LLP
 101 S. Capitol Boulevard, Suite 1900
 Boise, ID 83702

Via Email: wendy.olson@stoel.comRe: *Matsumoto v. Labrador* – Subpoena Duces Tecum to Rep. Barbara Ehardt

Dear Wendy:

As you discussed last week with Jim Craig and Aaron Green, the Attorney General is representing Idaho State Representative Barbara Ehardt on the subpoena duces tecum you served on her on November 30, 2025. As was discussed, we are filing today a motion to quash the subpoena to Rep. Ehardt, for a protective order, and for fees. For this reason, and due to deficiencies in the subpoena to the extent it is intended to seek a deposition, Rep. Ehardt does not at this time plan to attend any deposition on December 18, 2025. The deficiencies are that: (a) the subpoena does not command attendance and testimony under Fed. R. Civ. P. 45(a)(1)(A)(iii) because Plaintiffs did not check the box for “Testimony” on the subpoena form, checking only the box for “Production” (and the “Testimony” paragraph for some reason is badly garbled on the subpoena Rep. Ehardt received); (b) the subpoena does not state “the method for recording the testimony,” as it “must” do under Fed. R. Civ. P. 45(a)(1)(B)—Plaintiffs left that line blank; and (c) the subpoena was served without the required tender of “fees for 1 day’s attendance and the mileage allowed by law,” under Fed. R. Civ. P. 45(b)(1). *See Tedder v. Odel*, 890 F.2d 210, 211 (9th Cir. 1989); *Wood v. Yordy*, No. CV07-350-S-EJL, 2009 WL 10706016, at *1 (D. Idaho Feb. 2, 2009).

Pursuant to Fed. R. Civ. P. 45(d)(2)(B), Rep. Ehardt objects to the document requests in Plaintiffs’ subpoena duces tecum as follows:

Request No. 1.

- a. The request does not define “lawmaker.” Respondent will assume Plaintiffs meant “legislator,” which Plaintiffs define in their Definitions ¶ 6.
- b. The request is overbroad, unduly burdensome, and expensive given Plaintiffs’ unrestricted definition of “relating to or concerning” in their Definitions ¶ 7.
- c. The request is overbroad, unduly burdensome, and expensive in seeking documents “concerning potential or conceptual . . . legislation.” Absent definitions from Plaintiffs,

December 10, 2025

Page — 2

Respondent understands potential legislation to mean legislation “existing in possibility” and understands conceptual legislation to mean “of, relating to, or consisting of concepts of legislation.” (Merriam-Webster Dictionary) There is no way to collect documents to or from “any lawmaker” concerning legislation existing in possibility or concerning concepts of legislation.

d. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

e. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 2.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs’ unrestricted definition of “relating to or concerning” in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive in seeking documents “concerning potential or conceptual . . . legislation.” Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation “existing in possibility” and understands conceptual legislation to mean “of, relating to, or consisting of concepts of legislation.” (Merriam-Webster Dictionary) There is no way to collect documents to or from “any lawmaker” concerning legislation existing in possibility or concerning concepts of legislation.

c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 3.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs’ unrestricted definition of “relating to or concerning” in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive in seeking documents “concerning potential or conceptual . . . legislation.” Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation “existing in possibility” and understands conceptual legislation to mean “of, relating to, or consisting of concepts of legislation.” (Merriam-Webster Dictionary) There is no way to collect documents to or from “any lawmaker” concerning legislation existing in possibility or concerning concepts of legislation.

c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 4.

- a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs' unrestricted definition of "relating to or concerning" in their Definitions ¶ 7.
- b. The request is overbroad, unduly burdensome, and expensive in seeking documents "concerning potential or conceptual . . . legislation." Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation "existing in possibility" and understands conceptual legislation to mean "of, relating to, or consisting of concepts of legislation." (Merriam-Webster Dictionary) There is no way to collect documents to or from "any lawmaker" concerning legislation existing in possibility or concerning concepts of legislation.
- c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.
- d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 5.

- a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs' unrestricted definition of "relating to or concerning" in their Definitions ¶ 7.
- b. The request is overbroad, unduly burdensome, and expensive in seeking documents "concerning potential or conceptual . . . legislation." Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation "existing in possibility" and understands conceptual legislation to mean "of, relating to, or consisting of concepts of legislation." (Merriam-Webster Dictionary) There is no way to collect documents to or from "any lawmaker" concerning legislation existing in possibility or concerning concepts of legislation.
- c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.
- d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 6.

- a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs' unrestricted definition of "relating to or concerning" in their Definitions ¶ 7.
- b. The request is overbroad, unduly burdensome, and expensive in seeking documents "concerning potential or conceptual . . . legislation." Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation "existing in possibility" and understands conceptual legislation to mean "of, relating to, or consisting of concepts of legislation." (Merriam-Webster Dictionary) There is no way to collect documents to or from "any lawmaker" concerning legislation existing in possibility or concerning concepts of legislation.
- c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed,

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pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 7.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs' unrestricted definition of "relating to or concerning" in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive in seeking documents "concerning potential or conceptual . . . legislation." Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation "existing in possibility" and understands conceptual legislation to mean "of, relating to, or consisting of concepts of legislation." (Merriam-Webster Dictionary) There is no way to collect documents to or from "any lawmaker" concerning legislation existing in possibility or concerning concepts of legislation.

c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 8.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs' unrestricted definition of "relating to or concerning" in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive in seeking documents "concerning potential or conceptual . . . legislation." Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation "existing in possibility" and understands conceptual legislation to mean "of, relating to, or consisting of concepts of legislation." (Merriam-Webster Dictionary) There is no way to collect documents to or from "any lawmaker" concerning legislation existing in possibility or concerning concepts of legislation.

c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 9.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs' unrestricted definition of "relating to or concerning" in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive in seeking documents "concerning potential or conceptual . . . legislation." Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation "existing in possibility" and

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understands conceptual legislation to mean “of, relating to, or consisting of concepts of legislation.” (Merriam-Webster Dictionary) There is no way to collect documents to or from “any lawmaker” concerning legislation existing in possibility or concerning concepts of legislation.

c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 10.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs’ unrestricted definition of “relating to or concerning” in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

c. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Request No. 11.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs’ unrestricted definition of “relating to or concerning” in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive in seeking documents “concerning potential or conceptual . . . legislation.” Absent definitions from Plaintiffs, Respondent understands potential legislation to mean legislation “existing in possibility” and understands conceptual legislation to mean “of, relating to, or consisting of concepts of legislation.” (Merriam-Webster Dictionary) There is no way to collect documents to or from “any lawmaker” concerning legislation existing in possibility or concerning concepts of legislation.

c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

e. The request calls for documents protected by the attorney-client privilege and attorney work product doctrine.

Request No. 12.

a. The request is overbroad, unduly burdensome, and expensive given Plaintiffs’ unrestricted definition of “relating to or concerning” in their Definitions ¶ 7.

b. The request is overbroad, unduly burdensome, and expensive in seeking documents “concerning potential or conceptual . . . legislation.” Absent definitions from Plaintiffs,

Respondent understands potential legislation to mean legislation “existing in possibility” and understands conceptual legislation to mean “of, relating to, or consisting of concepts of legislation.” (Merriam-Webster Dictionary) There is no way to collect documents to or from “any lawmaker” concerning legislation existing in possibility or concerning concepts of legislation.

c. The request is overbroad, unduly burdensome, and expensive because it applies without limitation to any statute, bill, resolution, proposed law, or regulation introduced, proposed, pending, or enacted in any jurisdiction (local, state, or federal) within the United States, regardless of title.

d. To the extent documents exist that Respondent could discern are responsive to the request and could gather with reasonable effort, such documents are protected by legislative immunity and the legislative privilege as, among other things, legislative drafting materials.

Sincerely,



David J. Myers
Deputy Attorney General