No. 26-346

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RIGHT TO LIFE OF IDAHO, INC.,

Petitioner,

v.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO,

Respondent,

and

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

Real Parties in Interest.

On Petition for a Writ of Mandamus to the United States District Court for the District of Idaho (No. 1:23-cv-00323-DKG)

EMERGENCY MOTION FOR STAY PENDING DISPOSITION OF PETITION FOR WRIT OF MANDAMUS

Emergency Motion Under Circuit Rule 27-3
Relief needed by no later than January 30, 2026

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The facts showing the existence and nature of the claimed emergency are as follows. On January 16, 2026, movant Right to Life of Idaho, Inc. ("**RLI**"), filed a petition for writ of mandamus that asked this Court to protect its First Amendment rights by requiring the district court to grant RLI's motion to quash the subpoena served upon it, D. 72, which demanded RLI's private, strategic documents that concern subject matter at the heart of the First Amendment and are protected by First Amendment privilege. ECF 1.1. The same day, pursuant to Federal Rule of Appellate Procedure 8(a)(1)(A), RLI filed a motion for stay pending disposition of the Petition ("**District Stay Motion**"), and memorandum in support, in the district court. D. 119; D. 119-1. Following briefing, the district court denied the District Stay Motion late in the afternoon on Friday, January 23, 2026, ordering non-party RLI to engage in the same burdensome discovery proceedings that RLI has objected to as contravening its First Amendment rights by this Friday, January 30, 2026. Order, D. 124, 10–11. Because that is only four days from the present date, RLI has no other recourse for relief aside from emergency relief, and it will be irreparably harmed absent such relief, as further explained in the Motion. **Accordingly, RLI seeks emergency relief from this Court and asks that it be issued prior to, and certainly no later than, January 30, 2026.**

The present Motion could not have been filed earlier. The district court denied RLI's Motion for Stay Pending Disposition of Petition for Writ of Mandamus late in the afternoon of Friday, January 23, 2026. The present date,

Monday, January 26, 2026, is one business day thereafter. The Motion could not have been prepared sufficiently in less than one day.

Counsel for movant Right to Life of Idaho, Inc., ("**RLI**"), on January 8, 2026, provided notice to the district court and all parties below of RLI's intent to file the present Motion in the event the district court denied RLI's motion to stay pending resolution of its petition for mandamus. D. 113, 2–3; D. 113-1, 2–3, 5. Subsequently, counsel for RLI again provided notice to counsel for all parties via email at approximately 1:43pm Mountain Time on January 26, 2026. Earlier in the afternoon that same day, counsel for RLI had called the phone numbers of all counsel for real parties in interest and gave said notice via telephone conference or voicemail.

Counsel will serve the Motion on all parties via the district court's electronic filing system on January 26, 2026.

Counsel for real parties in interest oppose the stay requested in this Motion. *See* D. 121. Counsel for Defendant below support the Motion. *See* D. 122.

The relief sought in the Motion was first sought in the district court. D. 119.

Dated: January 26, 2026

/s/Joseph D. Maughon

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Motion

On January 16, 2026, Right to Life of Idaho, Inc. ("**RLI**"), filed a petition for writ of mandamus that asked this Court to protect its First Amendment rights by requiring the district court to grant RLI's motion to quash the subpoena served upon it, D. 72 ("**Motion**"), which demanded documents protected by First Amendment privilege. ECF 1.1 ("**Petition**").[1] The same day, pursuant to Federal Rule of Appellate Procedure 8(a)(1)(A), RLI filed a motion for stay pending disposition of the Petition ("**District Stay Motion**"), and memorandum in support, in the district court. D. 119; D. 119-1. Following briefing, the district court denied the District Stay Motion late in the afternoon on Friday, January 23, 2026, ordering non-party RLI to engage in the same burdensome discovery proceedings that RLI has objected to as contravening its First Amendment rights by this Friday, January 30, 2026. Order, D. 124, 10–11 ("**Stay Denial**").[2] Accordingly, RLI hereby respectfully asks this court to grant the present emergency motion and stay the district court's discovery proceedings against RLI.

[1]RLI uses "ECF" to refer to entries in this Court's docket and "D." to refer to entries in the district court's docket.

[2]RLI attempted to avoid the result of needing a ruling on this Motion in a matter of mere days, having requested that the district court "provide adequate time for RLI to request a stay in the Ninth Circuit, *see* Fed. R. App. P. 8(a), and receive a decision on same," i.e., at least "two weeks after th[e district] [c]ourt rule[d]." D. 119-1, 2 n.1.

Legal Standard

Courts within the Ninth Circuit use the "same factors" that "inform [] the decision to stay pending appeal" in determining whether to grant a "stay pending a petition for a writ of mandamus, which in turn are . . . [the factors] applicable to a motion for a preliminary injunction." *Morgan Tire of Sacramento. Inc. v. Goodyear Tire & Rubber Co.*, No. 2:15-CV-00133-KJM-AC, 2015 U.S. Dist. LEXIS 74600, at *2 (E.D. Cal. June 8, 2015); Order, *Perry v. Schwarzenegger*, Nos. 09-17241, 09-17551, Dkt. 31 (9th Cir. Dec. 3, 2009); *see also Perry*, 591 F.3d 1147, 1154 (9th Cir. 2010).

This test considers four factors: whether the "party seeking a stay . . . is likely to succeed on the merits" ("**Merits Factor**"), whether he is "likely to suffer irreparable harm" absent relief ("**Harm Factor**"), whether "the balance of equities tip[s] in his favor" ("**Equities Factor**"), and whether "a stay is in the public interest" ("**Public Interest Factor**"). *Humane Soc. of U.S. v. Gutierrez*, 558 F.3d 896, 896 (9th Cir. 2009) (citing *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). A stay may also be warranted, alternatively, under the "sliding scale" test, in which the movant must, at the very least, show that it raised "serious questions going to the merits," in which case the movant must demonstrate that "the balance of hardships tips sharply in [its] favor." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–32 (9th Cir. 2011) (citation omitted).

Argument[3]

The Stay Denial highlights the underlying errors at issue in RLI's Petition. For example, to date, the district court has offered no explanation for why it characterized the Declaration of Emily Naugle, ECF 5.1 (Ex. 4) ("**Naugle Declaration**"), as overly "conclusory" or "general" and thus found it insufficient to demonstrate First Amendment privilege. *See* Order, ECF 2.1, 8 ("**Order**") (so characterizing the Naugle Declaration without explanation); *see also, e.g.*, Stay Denial, D. 124, 8–9 (same contentions; no explanation). Neither the district court nor Plaintiffs below Lourdes Matsumoto, Northwest Abortion Access Fund, and Indigenous Idaho Alliance (collectively, "**Challengers**") have ever alleged that the declarant might not, in fact, have had the requisite knowledge, nor that any of the declaration's statements were mere speculation or constituted a legal conclusion. *See generally, e.g.*, Order, ECF 2.1; Pls.' Opp'n Mot. of RLI to Quash, D. 87 ("**Opp'n**"); *see also* Petition, ECF 1.1, 18–19 (discussing meaning of "conclusory").

RLI, on the other hand, has shown that (**1**) the Naugle Declaration established the private and strategic nature of the documents at issue, Petition, ECF 1.1, 18–19, and (2) such documents, when at the core of the First

[3]Pursuant to Federal Rule of Appellate Procedure 8(a)(2)(B), RLI discusses herein "the reasons for granting the relief requested and the facts relied on."

Amendment,[4] are privileged under the First Amendment when compelled disclosure of same would result in chilling of speech or association, *id.* at 11–12, 36 n.19. Troublingly, the Stay Denial characterized this argument as a claim that there is some "sweeping, all-encompassing First Amendment privilege[.]" D. 124, 7–8. RLI has never made such an argument; it has never claimed that *all* documents possessed by RLI are privileged. *See generally* Mem. Supp. Non-Party RLI's Mot. Quash, D. 72-1 ("**Quash Memorandum**").

Additionally, the Stay Denial claims RLI is not irreparably injured by having to participate in what it characterizes as a "routine discovery procedure." *Id.* at 9. But there is nothing routine about denying a constitutional privilege by brushing aside as "conclusory" the facts supporting that privilege, with no substantive explanation as to that characterization and when binding precedent dictates that declarations like the Naugle Declaration are *not* conclusory, Petition, D. 1.1, 18–19. How, other than by facts, is a claim of privilege to be supported? If the factual showing of a claim of privilege can be swept aside as merely "conclusory" when, under clear and binding caselaw, it is not, then that privilege is meaningless. Ordering a non-party to participate in discovery that should have been quashed on the basis of clearly supported privilege is the opposite of routine.

[4] RLI explained that its speech advocating for legislation concerning abortion is at the heart of the First Amendment. *See* Petition, D. 1.1, 11–12 (citing district court record). Neither Challengers nor the district court substantively disputed that. *See generally, e.g.*, Discovery Order, D. 108; Opp'n, D. 87.

For these reasons and others, as shown below, RLI easily satisfies the four-factor test, so a stay should issue.

I. The Merits Factor favors a stay.

In light of this Court's sliding scale approach, the Merits Factor "does not require the petitioners to show that it is more likely than not that they will win on the merits." *Lair v. Bullock*, 697 F.3d 1200, 1204 (9th Cir. 2012) (internal quotation marks and citation omitted). Instead, the threshold showing has been "interchangeabl[y]" described as a showing of "reasonable probability, fair prospect, [or] substantial case on the merits," or that "serious legal questions" are raised. *Id.* (internal quotation marks and citation omitted); *see also Canchola v. Allstate Ins. Co.*, No. 8:23-cv-00734-FWS-ADS, 2025 U.S. Dist. LEXIS 91483, at *7, 11 (C.D. Cal. Apr. 17, 2025).

In any event, the Petition not only raises serious questions, but carries a high likelihood of success. Thus, however the Merits Factor is analyzed, it is satisfied.

First, RLI has plainly shown that many of the Order's determinations were clearly erroneous, the most essential factor for mandamus petitions. *See Perry*, 591 F.3d at 1156. To highlight just four of these many showings:

1. RLI showed that under *Perry*—which found an unrebutted case of First Amendment privilege without a privilege log having been submitted—a privilege log plainly is not required before First Amendment privilege may be

found. Petition, ECF 1.1, 14–17. Accordingly, the district court clearly erred in holding exactly the opposite, viz., that under *Perry*, "'some form of privilege log is required' to assert the First Amendment privilege," a holding on which the denial of the Motion was based. *See* Order, D. 108, 7 ("**Discovery Order**") (quoting *Perry*, 591 F.3d at 1160).

2. RLI showed that under *Perry*, the Naugle Declaration was clearly sufficient to establish a prima facie case of First Amendment privilege, and that the district court clearly erred in holding that it was not, a holding on which the denial of the Motion was based. Petition, ECF 1.1, 17–18.

3. Alternatively, RLI showed that under *Orsini v. O/S Seabrooke O.N.*, 247 F.3d 953, 960 n.4 (9th Cir. 2001), a declaration's statements are not conclusory if they are factual (i.e., neither legal conclusion nor speculation) and based on personal knowledge. Petition, ECF 1.1, 18–21. Because the Discovery Order found statements in the Naugle Declaration to be conclusory although they were factual and based on personal knowledge—a holding on which the denial of the Motion was based—the district court clearly erred. *Id.* (citing Discovery Order, D. 108, 8).

4. RLI showed that the subjective motivations of individual legislators generally are not relevant and may not be discovered; that only in cases concerning invidious discrimination may they *potentially* be discovered; and that

Challengers have made no attempt to show why that bar on discovery and relevance should be lifted in this right to travel case, in which no invidious discrimination has been alleged, nor any claim raised that might make charges of invidious discrimination relevant. Petition, ECF 1.1, 23–26. Accordingly, by finding that documents concerning the subjective motivations of individual legislators are both relevant and discoverable, a holding on which the denial of the Motion was based, the district court clearly erred. *Id.*

Notably, even in their response in opposition to RLI's District Stay Motion, which raised this same issue, D. 119-1, 6, Challengers *still* did not attempt to offer support for the notion that legislative motives are relevant in this right to travel case. *See generally* D. 121. Instead, rather than offer any argument whatsoever, they simply proffered the conclusory statements that the district court "was correct" in relying on a case in which legislative motives were relevant *on equal protection grounds*, *id.* at 9 n.2 (citing *Att'y Gen. of New York v. Soto-Lopez*, 476 U.S. 898, 901 (1986)); and repeated the district court's statement that the discovery "is directly relevant," *id.* at 8 (quoting Discovery Order D. 108, 14–15). Nor did the district court offer any explanation of the relevance, but instead simply stated that the "reasons stated in the [Discovery] Order" showed there was no clear error. Stay Denial, D. 124, 7. But the Discovery Order offered no explanation of the documents' relevance in this *right to travel* case, either—it merely states that

in *some* cases, "evidence of legislative motives" is not "irrelevant or undiscoverable," and proceeds to cite cases that either stand for the proposition that such evidence generally *isn't* relevant or discoverable or for the proposition that it *might* be in equal protection cases only. *Id.* at 12–13 (citing *Soto-Lopez*; *DoorDash, Inc. v. City of New York*, 754 F.Supp.3d 556, 567–68 (S.D.N.Y. 2024); *City of Las Vegas v. Foley*, 747 F.2d 1294 (9th Cir. 1987)); *see also* D. 109-1 (explaining why the cited cases do not support the proposition that individual legislators' subjective motives are relevant in a right to travel case).[5]

Because "misinterpret[ing] the law" constitutes clear error, *Walsh v. United States Dist. Court (In re Walsh)*, 15 F.4th 1005, 1009 (9th Cir. 2021), RLI has shown that this factor warrants granting mandamus based on these clear errors of well-established law.[6]

Second, RLI has shown that the remaining criteria for issuing a writ of mandamus are clearly satisfied, as follows.

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[5]The Defendant below, Raúl Labrador, in his capacity as the Attorney General for the State of Idaho, submitted a response in support of the District Stay Motion, further explaining the total lack of relevance of the documents at issue. D. 122, 2–3 ("**Labrador Stay Response**").

[6]RLI has also shown that the district court clearly erred by using *protective order* analysis as a basis to deny a *motion to quash*, Petition, D. 1.1, 21–23, by finding that the demands were the least intrusive means for Challengers to obtain the information at issue, *id.* at 26–28, and by issuing a revised demand that continues to suffer from overbreadth and imposes an undue burden, *id.* at 28–30.

RLI "has no other means . . . to obtain the desired relief," *Perry*, 591 F.3d at 1156, ("**Other Means Factor**"), in light of this Court's assumption that collateral order review is not available for First Amendment privilege objections against discovery orders. Petition, ECF 1.1, 30–31. While the district court contended in its Stay Denial that "RLI could proceed" by simply "mak[ing] its objections to discovery of particular materials that it claims are privileged," D. 124, 6, that misapprehends the question. The question is not whether a party *could* simply comply with the very thing that will harm it. (While that question is relevant to the factor that considers irreparable harm, the district court's analysis is equally unavailing when considered under that factor, as explained in the following paragraph). The question is whether a discovery order is appealable prior to final judgment on the merits. *Perry* assumed it was not and therefore found this factor satisfied. That remains true here.

Additionally, absent mandamus, RLI "will be damaged . . . in a way not correctable on appeal," *Perry*, 591 F.3d at 1156, since it would either have to produce the privileged documents at issue or undergo the burden of combing through and cataloguing years of irrelevant documents for a privilege log when it should not be forced to continue in the litigation at all. Petition, ECF 1.1, 31–35. Again, the district court's contention that RLI could simply comply with the latter option misses the import of this factor. Like the Other Means Factor, the question

considered by this factor is *not* whether a party *could* simply comply with the very thing that will harm it. Instead, it is whether a "post-judgment appeal would [] provide an effective remedy" by preventing the harm that RLI "'allege[s] [it] will suffer or afford[ing] effective relief therefrom.'" *Perry*, 591 F.3d at 1157 (quoting *In re Cement Antitrust Litig.*, 688 F.2d 1297, 1302 (9th Cir. 1982)). As RLI has explained, the "loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020). Petition, ECF 1.1, 32. RLI has also explained that the Order, by denying RLI's First Amendment privilege based on clear error, deprives it of First Amendment freedoms. *Id.* at 31–35. Moreover, compliance with the Order will result in the very chill that RLI wishes to avoid. *Id.* at 34–35. Compliance followed by a post-judgment appeal would not prevent or mitigate that *irreparable* harm, so this factor is satisfied.

And the errors contested in the Petition are new issues likely to be oft-repeated, since *Perry* did not address the application of First Amendment privilege to documents that, though private and strategic, are not strictly internal, nor its application to motions to quash. *Id.* at 35–36.

RLI has therefore demonstrated a very high likelihood of success. However, even if this Court finds that RLI has demonstrated only "serious questions," that is still sufficient to warrant a stay since, as discussed below, the "balance of

hardships tips sharply in [RLI's] favor." *See Wild Rockies*, 632 F.3d at 1131–32 (internal quotation marks and citation omitted).

II. The Harm Factor favors a stay.

RLI will be irreparably injured absent a stay, so the Harm Factor is also satisfied. RLI seeks mandamus against an order imposing discovery burdens and will, absent a stay, be subjected to those discovery burdens prior to resolution of the Petition. This would effectively deprive RLI "of its ability to seek [mandamus] review of the [challenged] Order." *See Canchola v. Allstate Ins. Co.*, No. 8:23-cv-00734-FWS-ADS, 2025 U.S. Dist. LEXIS 91483, at *8 (C.D. Cal. Apr. 17, 2025) (citing various cases) (finding stay warranted in similar context of pending review under Federal Rule of Civil Procedure 72); *see also* Petition, ECF 1.1., 31–32 (citing cases). Because this Court has already demonstrated its willingness to grant mandamus in the context of discovery orders impinging on First Amendment rights, *Perry*, 591 F.3d at 1165, this is a very real injury.

Under the revised deadlines of the Stay Denial, RLI must provide its objections by January 30, 2026. D. 121, 11. By the Discovery Order's terms, a privilege log is necessary to preserve such objections. D. 108, 7. Absent a stay, RLI would therefore be required, at the very least, to comb through several years worth of documents, and produce a privilege log sufficiently "describ[ing] the nature of the documents, communications, or tangible things not produced or

disclosed," Fed. R. Civ. P. 26(b)(5)(A)(ii), certainly before the Petition is resolved. RLI would also likely be forced, prior to such resolution, to "confer regarding the objections" and potentially to "file an [additional] motion" concerning its objections to the discovery required in the Discovery Order, and to file a reply brief. Stay Denial, D. 124, 11.

Accordingly, RLI easily satisfies the Injury Factor. However, the particular facts of this case make that injury even more egregious. "It is axiomatic that '[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.'" *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 694 (9th Cir. 2023) (en banc) (alteration in original) (quoting *Roman Cath. Diocese*, 592 U.S. at 19). Because the Discovery Order denies RLI's claim of First Amendment privilege even though that claim was plainly sufficient under *Perry*, it imposes on RLI the burden of engaging in compelled discovery procedures from which it should be shielded under the First Amendment. Under the Supreme Court's binding precedent, such a burden, even if it were temporally "minimal," "*unquestionably* constitutes irreparable injury." *Roman Cath. Diocese*, 592 U.S. at 19 (emphasis added). This factor therefore weighs with immense gravity in RLI's favor.

The district court denied a stay on the basis that, because the district court had permitted RLI to submit objections and a privilege log, RLI might not

ultimately be required to produce anything. Stay Denial, D. 124, 8–9. There are two problems with this contention. First, it glosses over the fact that the only reason RLI would be required to do so in the first place is the district court's erroneous analysis of its First Amendment privilege, which, as discussed in the Petition, did not require a privilege log and was not established in overly general or conclusory fashion. For non-party RLI to be required to continue with discovery—or any litigation at all—in the first place, despite the fact that the district court should have upheld its First Amendment rights by quashing the subpoena, is a clear harm to RLI's First Amendment rights.

Second, the district court had already overruled RLI's objection concerning documents shared with legislators or legislative staff. The district court considered the Naugle Declaration, including its statement that the documents at issue are "private communications with legislators or their staff" that "lie at the heart of [RLI's] strategy", *see* Ex. 4, ¶¶ 7–8; it found that the declaration did "not demonstrate an arguable First Amendment infringement as to" RLI's private, strategic communications with legislators about the bills at issue. Order, D. 108, 8 (noting Naugle Declaration statements concerning the "private" and "strategic" nature of the documents in question).[7] Because neither the Supreme Court nor the

[7] The Stay Denial highlights the fact that the Naugle Declaration was submitted with RLI's reply brief, D. 124, 8, but that does not alter the analysis. The district court considered it, as was proper, D. 108, 8 n.4, and Challengers never objected to same or requested an opportunity to further respond to it.

Ninth Circuit has ever limited First Amendment privilege to purely internal documents and because, under *Perry*, private and strategic communications of core First Amendment speech *are* protected by First Amendment privilege if compelled disclosure would result in chill, that was a plain denial of RLI's First Amendment objection. RLI has shown that it was error for the district court to reject the Naugle Declaration on the ground that it was overly general or conclusory, so that cannot justify the overruling of RLI's objection. Making the same objection, in a privilege log or otherwise, will not lead to different results.

Accordingly, RLI will clearly be irreparably harmed absent a stay.

III. The Equities Factor favors a stay.

The Equities Factor also favors RLI. This factor focuses on whether any other party would be harmed by a stay and, if so, whether that harm outweighs the injury to the movant *absent* a stay. *See Winter*, 555 U.S. at 26. A stay would not harm Challengers. The current date for completion of fact discovery is March 16, 2026. Order [Granting Joint Motion to Extend Deadlines], D. 92. The deadline for dispositive motions is April 16, 2026. *Id.* Accordingly, even if a stay is granted but the Discovery Order is ultimately upheld, there will still likely be ample time for the discovery at issue to be completed. This is especially true in light of the fact that the parties have demonstrated willingness to agree to amendments to the case schedule. *See, e.g.*, Second Joint Motion to Extend Deadlines, D. 91. These facts

demonstrate that Challengers do not have a need to receive the discovery at issue with particular haste. Instead, if the Petition is denied, there will remain ample time for Challengers to receive and review same.[8]

Furthermore, Defendant Labrador, in the Labrador Stay Response, has confirmed that he "is not harmed by a[] . . . stay pending mandamus." D. 122, 3.

Therefore, no party would be harmed by a stay—especially not "substantially." *See Nken v. Holder*, 556 U.S. 418, 434 (2009). As there is therefore no weight in favor of denying the stay on the basis of harm to any other party, the balance of the equities weighs in favor of granting a stay since, as discussed, RLI would be gravely harmed absent a stay. Accordingly, the Equities Factor strongly favors RLI.

IV. The Public Interest Factor favors a stay.

Finally, the Public Interest Factor also favors RLI because of the First Amendment interests at stake. Notably, *Perry* itself observed the "heightened public interest" in safeguarding "the First Amendment privilege." 591 F.3d at 1156. Of course, "it is always in the public interest to prevent the violation of a

[8] The district court characterized the discovery deadline as coming "relatively soon" and found Challengers would therefore be harmed by a stay. D. 124, 10. It did not address the fact that the parties have already agreed more than once to extend that deadline, D. 68; D. 91, that the deadline for dispositive motions is even further out, or that a trial date is not even set. In short, it apparently found that delay, in and of itself, constitutes harm, even when no substantive consequences have been adduced. This Court should find otherwise.

party's constitutional rights." *De Jesus Ortega Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (internal quotation marks and citation omitted).

Additionally, the public would be chilled in the exercise of its First Amendment rights as a result of enforcement of the Discovery Order prior to a decision on the Petition. *See* Petition, D. 1.1, 35.

Accordingly, because the Petition seeks to preserve RLI's First Amendment rights, and a stay is necessary to effectuate that goal; and because, absent a stay, the public would be chilled in the exercise of its First Amendment rights, this factor weighs heavily in favor of RLI.

Conclusion

Because all factors weigh heavily in RLI's favor, this Court should stay the Discovery Order pending the resolution of the Petition for all of the foregoing reasons. However, even if the Court finds that RLI has only demonstrated serious questions on the merits of its Petition, the Court should still grant a stay, since all other factors weigh heavily in RLI's favor.

Dated: January 26, 2026

Respectfully submitted,

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Certificate of Compliance

I hereby certify that the foregoing Motion contains 3,971 words as calculated by the word-count function of WordPerfect 2020. It therefore complies with the length limitations of Fed. R. App. P. 27(d)(2)(A) and Ninth Circuit Rule 27-1(1)(d) because, excluding the parts listed by Fed. R. App. P. 21(a)(2)(B) and 32(f), it does not exceed 20 pages or 5,200 words.

Dated: January 26, 2026

/s/Joseph D. Maughon

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Certificate of Service

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the Appellate Case Management System (ACMS) on January 26, 2026.

Dated: January 26, 2026

/s/Joseph D. Maughon

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