

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND PRESERVE
THE IDAHO CONSTITUTION, INC.; MORMON
WOMEN FOR ETHICAL GOVERNMENT;
SCHOOL DISTRICT NO. 281, LATAH COUNTY,
STATE OF IDAHO; IDAHO EDUCATION
ASSOCIATION, INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and her
minor children; KRISTINE ANDERSON, on behalf
of herself and her minor children; each of the
foregoing individually and as private attorneys general
on behalf of the public of the State of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the
IDAHO STATE TAX COMMISSION,

Respondent,

and

IDAHO STATE LEGISLATURE,
Intervenor-Respondent.

Docket No. 53264-2025

DECLARATION OF JAMES E. M. CRAIG

RAÚL R. LABRADOR
ATTORNEY GENERAL

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MICHAEL A. ZARIAN, ISB #12418
Solicitor General

JAMES E. M. CRAIG, ISB #6365
Chief, Civil Litigation and
Constitutional Defense

SEAN M. CORKERY, ISB #12350
Assistant Solicitor General

Attorneys for Respondent

I, James E. M. Craig, hereby declare and swear as follows:

1. I am over 18 years of age and am competent to make this declaration.
2. I am an attorney of record for Respondent in this matter, the Idaho State Tax Commission.
3. I graduated *magna cum laude* from the University of Idaho College of Law in 2001. I received an L.L.M. in Law and Government from the Washington College of Law at American University in 2008. I have previously worked as a Deputy Prosecuting Attorney for two different Idaho counties, as an Assistant Chief Counsel for the U.S. Immigration and Customs Enforcement, and as Deputy General Counsel and General Counsel for the University of Idaho.
4. I am the Division Chief of the Office of the Attorney General's ("OAG") Civil Litigation and Constitutional Defense Division. The OAG represents the State of Idaho and its departments and employees pursuant to statute. Idaho Code § 67-1401. The OAG's legal services are billed through the Statewide Cost Allocation Program for accounting purposes, but these bills do not reflect the actual hourly rate billed for litigation. *See Inclusion, Inc. v. Idaho Dep't of Health and Welfare*, 161 Idaho 239, 240 n.1, 385 P.3d 1, 2 n.1 (2016).
5. Attached hereto as Exhibit A is a spreadsheet containing a description of the time spent on this case by OAG attorneys, including the time spent on each task and the reasonable hourly rate associated with each time entry.

6. I am personally acquainted with the attorneys who worked on this case and with their skill and experience handling appellate constitutional litigation. In my opinion, they were all well-qualified to work on this matter.
7. Alan Hurst served as Solicitor General during the merits portion of this case. He began practicing law in August 2014 after graduating from Yale Law School. He worked as a law clerk for the Utah Supreme Court and for the Tenth Circuit Court of Appeals. He then worked in private practice, including as a partner at Akerman LLP until he joined the Office of the Solicitor General (OSG) as Solicitor General in January 2024. His reasonable rate for this proceeding is \$315 per hour. He has since joined Kirton McConkie as a partner, where he bills at a higher rate.
8. Solicitor General Michael Zarian, who served as Deputy Solicitor General during the merits portion of this case, began practicing law in 2019. He graduated with high honors from the University of Chicago Law School, where he served as an editor on the University of Chicago Law Review. He clerked for the Hon. Sandra S. Ikuta of the U.S. Court of Appeals for the Ninth Circuit and the Hon. Gregory G. Katsas of the U.S. Court of Appeals for the D.C. Circuit. He spent 2.5 years practicing at Gibson, Dunn, & Crutcher, LLP in the firm's Dallas office, where he specialized in high-stakes commercial appeals. Mr. Zarian began working as the Deputy Solicitor General of Idaho in January

2024. He became the Solicitor General of Idaho in February 2026. His reasonable rate for this proceeding is \$275 per hour.
9. Assistant Solicitor General Sean M. Corkery graduated from Georgetown University Law Center in June 2022. Prior to joining the OSG in September 2023, he provided risk management consulting services to the federal government for over five years. His reasonable rate for this proceeding is \$225 per hour.
 10. Assistant Solicitor General Gader Wren began practicing law in 2023. He graduated *magna cum laude* from the UNLV Boyd School of Law and clerked for Justice Patricia Lee of the Nevada Supreme Court. He joined the OAG as a Deputy Attorney General assigned to the Civil Litigation and Constitutional Defense Division in August 2024 and became an Assistant Solicitor General in June 2025. His reasonable rate for this proceeding is \$225 per hour.
 11. David H. Leroy Fellow Jaden Steeves graduated *magna cum laude* from BYU Law School in 2024. He then clerked for the Hon. Allen C. Winsor of the U.S. District Court for the Northern District of Florida before beginning his fellowship with the OSG in August 2025. His reasonable rate for this proceeding is \$225 per hour.
 12. Former Deputy Attorney General Caleb Pirc joined the Civil Litigation and Constitutional Defense Division of the OAG in 2024 after graduating from the honors program at Regent University School of Law, where he was awarded

the American Legal Institute Scholarship and Leadership graduate award and served as editor of multiple law journals. His reasonable rate for this proceeding is \$225 per hour. He has since become general counsel for the Idaho Family Policy Center.

13. I believe the rates requested for these attorneys are reasonable for the Boise market and within Idaho. In 2024, attorneys from my division researched the approximate rates charged by attorneys across the State of Idaho. Based on that research, the OAG set standard rates for seeking reasonable attorney fees in litigation in Idaho. Notably, these rates are based on what would be reasonable in all areas of Idaho—if these were based only on attorneys in the Boise area, the rates would be higher. The rates are as follows:

- a. For attorneys with 20+ years of experience, \$335 per hour.
- b. For attorneys with 11-20 years of experience, \$315 per hour.
- c. For attorneys with 6-10 years of experience, \$275 per hour.
- d. For attorneys with 3-5 years of experience, \$250 per hour.
- e. For attorneys with 0-2 years of experience, \$225 per hour.
- f. For paralegals, \$150 per hour.

14. The requested rates are also consistent with rates recently approved by state and federal courts in Idaho. In *Redmon v. Idaho*, the court found that an hourly rate of \$315 was reasonable for attorneys in the Civil Litigation and Constitutional Defense Division, despite that case being a simple tort claim that

was resolved on statute of limitation and qualified immunity grounds. Case No. CV01-23-00379 (June 23, 2025 Memorandum Decision and Order RE: Defendant's Motion for Attorney Fees and Motion for Rule 11 Attorney Fees). That opinion is attached as Exhibit B. Other decisions from state and federal courts in Idaho have found hourly rates even higher than the ones set by the OAG to be reasonable in far less complex cases. *Crane v. Godfrey*, 2024 WL 3381811, at *13 (Idaho Ct. App. July 12, 2024) (\$325 in property boundary dispute); *Ivanov v. Fitness Elite Training Ctr., Inc.*, 2024 WL 2978627, at *4 (D. Idaho June 13, 2024) (\$400 and \$325 in employment case); *Carbajal v. Hayes Mgmt. Servs.*, 2025 WL 2418787, at *2 (D. Idaho Aug. 21, 2025) (\$360 and \$310 in employment case); *SBP LLLP v. Hoffman Constr. Co. of Am.*, 2025 WL 959517, at *4 (D. Idaho Mar. 31, 2025) (\$460, \$410, \$375, \$335, and \$230 in contract case); *Sapphire Hosp. Invs., LLC v. Oregon Mut. Ins. Co.*, 2025 WL 3187382, at *2 (D. Idaho Nov. 14, 2025) (\$500 and \$265 in insurance case).

15. The overall attorney fee award requested is also consistent with recent sums requested and awarded in this Court. *Reclaim Idaho v. Denney* involved similar work to this case, and the Petitioners requested more than \$150,000 in fees. 169 Idaho 406, 497 P.3d 160 (2021). The parties ultimately agreed to the final amount of fees by settlement agreement, which is reflected in the letter attached as Exhibit C. *Idahoans for Open Primaries v. Labrador* involved a challenge to ballot titles assigned to an initiative. 172 Idaho 466, 533 P.3d 1262 (2023). That case

was simpler than this one, but the Court still awarded \$79,968 in attorney fees and costs.

16. All the listed attorneys have reviewed their billable hours in Exhibit A and confirmed that the hourly logs are true and accurate.

17. The attorney fees sought by Respondent does not include the time spent on the matter by at least six other attorneys, many of them supervisory attorneys who do not typically track their time spent on individual cases, including the Attorney General himself, the Chief Deputy Attorney General, and myself. The time requested also does not include more than 20 hours spent preparing for potential discovery while the motion for discovery was pending—even though excluding such time was not necessary. *Burns Concrete v. Teton Cnty.*, 172 Idaho 82, 91, 529 P.3d 747, 756 (2023). Nor does it include any time spent preparing the memorandum of costs and fees.

18. Pursuant to the attached Exhibit A to my declaration, Respondent is seeking an attorney fee award of \$106,827.50.

* * *

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED: February 19, 2026

By: /s/ James E.M. Craig
JAMES E.M. CRAIG, ISB #6365
CHIEF, CIVIL LITIGATION AND
CONSTITUTIONAL DEFENSE

CERTIFICATE OF SERVICE

I certify that on February 19, 2026, I filed the foregoing electronically through the iCourt E-File system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notification of Service:

Marvin M. Smith
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Attorneys for Petitioners

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Attorneys for Intervenor-Respondent

/s/ Michael A. Zarian
Michael A. Zarian

EXHIBIT A

Date	Attorney/Paralegal	Title	Description	Hours	Rates	Totals
9/18/2025	Isaac Considine	Paralegal	Case Initialization.	1.4	\$ 150.00	\$ 210.00
		Deputy Solicitor				
9/18/2025	Michael Zarian	General	Strategy meeting to discuss steps to respond.	0.5	\$ 275.00	\$ 137.50
		Deputy Solicitor				
9/19/2025	Michael Zarian	General	Strategy meeting to discuss steps to respond.	0.5	\$ 275.00	\$ 137.50
9/22/2025	Alan Hurst	Solicitor General	Strategy meeting; identify and distribute research tasks.	1.0	\$ 315.00	\$ 315.00
		David H. Leroy				
9/22/2025	Jaden Steeves	Fellow	Review Verified Petition and Brief in Support.	2.0	\$ 225.00	\$ 450.00
9/23/2025	Alan Hurst	Solicitor General	Identify and distribute research tasks.	0.1	\$ 315.00	\$ 31.50
		Assistant Solicitor				
9/23/2025	Gader Wren	General	Draft motion for extension and revise motion for discovery.	3.2	\$ 225.00	\$ 720.00
9/26/2025	Alan Hurst	Solicitor General	Read court order and plan responsive filings; consider need for discovery and assess appropriate length for discovery period.	0.4	\$ 315.00	\$ 126.00
		Deputy Solicitor				
9/27/2025	Michael Zarian	General	Review petition.	0.7	\$ 275.00	\$ 192.50
		Deputy Solicitor				
9/27/2025	Michael Zarian	General	Revise draft of motion for extension.	0.6	\$ 275.00	\$ 165.00
9/29/2025	Alan Hurst	Solicitor General	Supervise drafting of motions for discovery and extension; review and revise.	1.3	\$ 315.00	\$ 409.50
9/29/2025	Isaac Considine	Paralegal	Document Prep - Appearance.	1.0	\$ 150.00	\$ 150.00
9/29/2025	Isaac Considine	Paralegal	Document Finalization Motions/Appearances.	1.0	\$ 150.00	\$ 150.00
9/29/2025	Isaac Considine	Paralegal	Document Filing.	0.5	\$ 150.00	\$ 75.00
9/29/2025	Jaden Steeves	David H. Leroy Fellow	Review Petitioner's Brief; review cases cited in [REDACTED] section.	2.5	\$ 225.00	\$ 562.50
		Deputy Solicitor				
9/29/2025	Michael Zarian	General	Revise draft of motion for extension and motion for discovery.	6.7	\$ 275.00	\$ 1,842.50
9/30/2025	Alan Hurst	Solicitor General	Strategy call and correspondence with [REDACTED].	0.3	\$ 315.00	\$ 94.50
9/30/2025	Alan Hurst	Solicitor General	Supervise drafting of replies supporting discovery and extension; review and revise.	0.8	\$ 315.00	\$ 252.00
9/30/2025	Jaden Steeves	David H. Leroy Fellow	Conduct further research on [REDACTED], including reading case law and [REDACTED].	3.7	\$ 225.00	\$ 832.50
		Deputy Solicitor				
9/30/2025	Michael Zarian	General	Call with [REDACTED] to discuss strategy.	0.3	\$ 275.00	\$ 82.50
9/30/2025	Michael Zarian	Deputy Solicitor General	Draft replies supporting motion for extension and motion for discovery.	6.9	\$ 275.00	\$ 1,897.50
10/1/2025	Alan Hurst	Solicitor General	Review and revise replies supporting discovery and extension.	0.2	\$ 315.00	\$ 63.00
10/1/2025	Jaden Steeves	David H. Leroy Fellow	Draft memo summarizing [REDACTED]; receive feedback on memo; begin drafting outline of [REDACTED] section of brief.	4.6	\$ 225.00	\$ 1,035.00
		Deputy Solicitor				
10/1/2025	Michael Zarian	General	Finalize replies supporting motion for extension and motion for discovery.	0.6	\$ 275.00	\$ 165.00
10/2/2025	Alan Hurst	Solicitor General	Read court orders and plan next steps.	0.3	\$ 315.00	\$ 94.50
		David H. Leroy				
10/2/2025	Jaden Steeves	Fellow	Finish drafting outline; review feedback on outline; begin drafting [REDACTED] section of response brief.	4.9	\$ 225.00	\$ 1,102.50
		Deputy Attorney				
10/3/2025	Caleb Pirc	General	Review and analyze materials related to [REDACTED].	0.9	\$ 225.00	\$ 202.50

Date	Attorney/Paralegal	Title	Description	Hours	Rates	Totals
10/3/2025	Jaden Steeves	David H. Leroy Fellow	Continue drafting [REDACTED] section of response brief; conduct fact research on [REDACTED].	3.5	\$ 225.00	\$ 787.50
10/6/2025	Jaden Steeves	David H. Leroy Fellow	Continue drafting [REDACTED] section of response brief.	3.0	\$ 225.00	\$ 675.00
10/7/2025	Alan Hurst	Solicitor General Deputy Attorney	Plan factual development.	0.4	\$ 315.00	\$ 126.00
10/7/2025	Caleb Pirc	General	Research and case strategy.	0.6	\$ 225.00	\$ 135.00
10/7/2025	Jaden Steeves	David H. Leroy Fellow	Finish drafting [REDACTED] section of brief; discuss section with Gader Wren; make further edits based on feedback.	5.5	\$ 225.00	\$ 1,237.50
10/7/2025	Sean Corkery	Assistant Solicitor General	Research [REDACTED] arguments and begin drafting relevant portion of response brief.	4.0	\$ 225.00	\$ 900.00
10/7/2025	Gader Wren	Assistant Solicitor General	Legal research on [REDACTED]; reviewed [REDACTED] draft and provided Jaden Steeves with feedback.	2.3	\$ 225.00	\$ 517.50
10/8/2025	Alan Hurst	Solicitor General Deputy Attorney	Factual development and strategy meeting.	0.6	\$ 315.00	\$ 189.00
10/8/2025	Caleb Pirc	General	Conduct research related to [REDACTED] and begin collecting declarations.	0.8	\$ 225.00	\$ 180.00
10/8/2025	Caleb Pirc	Deputy Attorney General	Strategy meeting to discuss fact development.	0.9	\$ 225.00	\$ 202.50
10/8/2025	Gader Wren	Assistant Solicitor General	Strategy meeting and division of labor assignments issued.	0.9	\$ 225.00	\$ 202.50
10/8/2025	Gader Wren	Assistant Solicitor General	Email correspondence with [REDACTED] about [REDACTED].	0.2	\$ 225.00	\$ 45.00
10/8/2025	Isaac Considine	Paralegal	Meeting re: Factual Development.	0.9	\$ 150.00	\$ 135.00
10/8/2025	Jaden Steeves	David H. Leroy Fellow	Strategy meeting on creating factual declarations; further research of fact issues; review Jim Craig's feedback to [REDACTED] section of brief.	4.2	\$ 225.00	\$ 945.00
10/8/2025	Michael Zarian	Deputy Solicitor General	Team meeting re fact development.	1.0	\$ 275.00	\$ 275.00
10/8/2025	Sean Corkery	Assistant Solicitor General	Preliminary research into petitioners' claims.	2.0	\$ 225.00	\$ 450.00
10/8/2025	Sean Corkery	Assistant Solicitor General	Discuss fact development with team.	1.0	\$ 225.00	\$ 225.00
10/9/2025	Caleb Pirc	Deputy Attorney General	Prepare declarations.	4.3	\$ 225.00	\$ 967.50
10/9/2025	Gader Wren	Assistant Solicitor General	Email correspondence with [REDACTED] about setting up a call to discuss [REDACTED].	0.2	\$ 225.00	\$ 45.00
10/9/2025	Jaden Steeves	David H. Leroy Fellow	Revise [REDACTED] section of brief based on Jim Craig's edits.	3.7	\$ 225.00	\$ 832.50
10/10/2025	Alan Hurst	Solicitor General	Review potential declaration supporting answer to petition.	0.1	\$ 315.00	\$ 31.50
10/10/2025	Gader Wren	Assistant Solicitor General	Legal research re [REDACTED]; legal research on [REDACTED]; legislative history research.	7.8	\$ 225.00	\$ 1,755.00

Date	Attorney/Paralegal	Title	Description	Hours	Rates	Totals
10/10/2025	Sean Corkery	Assistant Solicitor General	Research [REDACTED] argument and continue drafting corresponding section of brief.	2.0	\$ 225.00	\$ 450.00
10/10/2025	Sean Corkery	Assistant Solicitor General	Prepare declarations.	3.0	\$ 225.00	\$ 675.00
10/13/2025	Gader Wren	Assistant Solicitor General	Legal research re [REDACTED] legal research on [REDACTED]; legislative history research.	3.2	\$ 225.00	\$ 720.00
10/14/2025	Gader Wren	Assistant Solicitor General	Reviewed Petitioners' filings and reviewed cited authorities to develop counterarguments.	3.7	\$ 225.00	\$ 832.50
10/15/2025	Gader Wren	Assistant Solicitor General	Legal research re [REDACTED] legal research on [REDACTED]; legislative history research.	5.7	\$ 225.00	\$ 1,282.50
10/15/2025	Gader Wren	Assistant Solicitor General	Phone call with [REDACTED] about [REDACTED].	1.2	\$ 225.00	\$ 270.00
10/16/2025	Gader Wren	Assistant Solicitor General	Legal research re [REDACTED] legal research on [REDACTED]; legislative history research; draft outline of [REDACTED] section of brief.	4.9	\$ 225.00	\$ 1,102.50
10/16/2025	Jaden Steeves	David H. Leroy Fellow	Finish revising [REDACTED] section; draft factual declaration.	3.4	\$ 225.00	\$ 765.00
10/17/2025	Gader Wren	Assistant Solicitor General	Draft [REDACTED] section of brief.	3.6	\$ 225.00	\$ 810.00
10/17/2025	Jaden Steeves	David H. Leroy Fellow	Research school choice programs in different states; suggest edits in [REDACTED] section of brief; begin drafting [REDACTED] section.	6.0	\$ 225.00	\$ 1,350.00
10/19/2025	Gader Wren	Assistant Solicitor General	Draft [REDACTED] section of brief.	1.1	\$ 225.00	\$ 247.50
10/20/2025	Gader Wren	Assistant Solicitor General	Draft [REDACTED] section of brief.	5.3	\$ 225.00	\$ 1,192.50
10/20/2025	Michael Zarian	Deputy Solicitor General	Review opening brief and begin reading relevant case law.	6.0	\$ 275.00	\$ 1,650.00
10/21/2025	Gader Wren	Assistant Solicitor General	Revise [REDACTED] section of brief.	3.4	\$ 225.00	\$ 765.00
10/21/2025	Jaden Steeves	David H. Leroy Fellow	Review and provide feedback for Gader Wren on [REDACTED] portion of brief.	0.7	\$ 225.00	\$ 157.50
10/21/2025	Michael Zarian	Deputy Solicitor General	Revise [REDACTED] portion of the brief and conduct associated research.	7.0	\$ 275.00	\$ 1,925.00
10/22/2025	Jaden Steeves	David H. Leroy Fellow	Conduct factual research on [REDACTED] send Michael Zarian summary of research.	2.7	\$ 225.00	\$ 607.50
10/22/2025	Michael Zarian	Deputy Solicitor General	Revise [REDACTED] portion of the brief and conduct associated research.	6.5	\$ 275.00	\$ 1,787.50
10/23/2025	Jaden Steeves	David H. Leroy Fellow	Research school choice programs.	0.7	\$ 225.00	\$ 157.50
10/23/2025	Michael Zarian		Revise [REDACTED] and [REDACTED] portions of the brief and conduct associated research.	7.0	\$ 275.00	\$ 1,925.00

Date	Attorney/Paralegal	Title	Description	Hours	Rates	Totals
10/24/2025	Michael Zarian	Deputy Solicitor General	Revise [REDACTED] portion of the brief and conduct associated research.	10.0	\$ 275.00	\$ 2,750.00
10/24/2025	Sean Corkery	Assistant Solicitor General	Research and draft [REDACTED] section of brief.	9.0	\$ 225.00	\$ 2,025.00
10/25/2025	Michael Zarian	Deputy Solicitor General	Revise [REDACTED] portion of the brief and conduct associated research.	7.0	\$ 275.00	\$ 1,925.00
10/25/2025	Sean Corkery	Assistant Solicitor General	Revise [REDACTED] section in response to edits by Michael Zarian.	0.5	\$ 225.00	\$ 112.50
10/26/2025	Sean Corkery	Assistant Solicitor General	Revise standing section in response to edits by Michael Zarian.	1.0	\$ 225.00	\$ 225.00
10/27/2025	Alan Hurst	Solicitor General	Review and revise respondent's brief - [REDACTED] and [REDACTED] arguments.	1.4	\$ 315.00	\$ 441.00
10/27/2025	Isaac Considine	Paralegal	Bluebooking.	1.0	\$ 150.00	\$ 150.00
10/27/2025	Jaden Steeves	David H. Leroy Fellow	Proofread and edit [REDACTED] section of brief.	1.7	\$ 225.00	\$ 382.50
10/27/2025	Michael Zarian	Deputy Solicitor General	Revise [REDACTED] section and [REDACTED] section of brief.	8.3	\$ 275.00	\$ 2,282.50
10/27/2025	Sean Corkery	Assistant Solicitor General	Research and revise [REDACTED] section of brief.	6.0	\$ 225.00	\$ 1,350.00
10/28/2025	Alan Hurst	Solicitor General	Review and revise respondent's brief - [REDACTED] and [REDACTED] arguments.	1.8	\$ 315.00	\$ 567.00
10/28/2025	Michael Zarian	Deputy Solicitor General	Conduct legal research related to [REDACTED] section and revise.	6.7	\$ 275.00	\$ 1,842.50
10/28/2025	Sean Corkery	Assistant Solicitor General	Draft answer.	5.0	\$ 225.00	\$ 1,125.00
10/28/2025	Sean Corkery	Assistant Solicitor General	Revise [REDACTED] section in response to edits from Michael Zarian.	2.0	\$ 225.00	\$ 450.00
10/29/2025	Alan Hurst	Solicitor General	Review and revise respondent's brief - [REDACTED] arguments.	1.5	\$ 315.00	\$ 472.50
10/29/2025	Michael Zarian	Deputy Solicitor General	Revise [REDACTED] section and conduct associated legal research.	9.5	\$ 275.00	\$ 2,612.50
10/29/2025	Sean Corkery	Assistant Solicitor General	Revise [REDACTED] section in response to edits from Michael Zarian.	1.0	\$ 225.00	\$ 225.00
10/30/2025	Michael Zarian	Deputy Solicitor General	Research and revise open issues throughout the draft of the brief.	10.0	\$ 275.00	\$ 2,750.00
10/30/2025	Sean Corkery	Assistant Solicitor General	Make revisions to [REDACTED] section of the brief.	7.5	\$ 225.00	\$ 1,687.50
10/31/2025	Alan Hurst	Solicitor General	Revise respondent's brief - argument distinguishing [REDACTED].	0.3	\$ 315.00	\$ 94.50
10/31/2025	Alan Hurst	Solicitor General	Revise respondent's brief - assess potential [REDACTED] argument.	0.4	\$ 315.00	\$ 126.00
10/31/2025	Jaden Steeves	David H. Leroy Fellow	Propose edits to [REDACTED] portion of brief regarding [REDACTED]; research to find additional supporting authority; draft [REDACTED] declaration.	5.7	\$ 225.00	\$ 1,282.50

Date	Attorney/Paralegal	Title	Description	Hours	Rates	Totals
10/31/2025	Michael Zarian	Deputy Solicitor General	Research and revise other open issues throughout the brief.	5.0	\$ 275.00	\$ 1,375.00
11/3/2025	Gader Wren	Assistant Solicitor General	Phone call with ██████████ re Declaration.	0.4	\$ 225.00	\$ 90.00
11/3/2025	Isaac Considine	Paralegal	Counsel Declaration + Exhibits.	4.7	\$ 150.00	\$ 705.00
11/3/2025	Sean Corkery	Assistant Solicitor General	Draft declarations.	2.0	\$ 225.00	\$ 450.00
11/4/2025	Alan Hurst	Solicitor General	Revise respondent's brief and begin drafting ██████████	2.0	\$ 315.00	\$ 630.00
11/4/2025	Gader Wren	Assistant Solicitor General	Draft ██████████ Declaration.	0.7	\$ 225.00	\$ 157.50
11/4/2025	Gader Wren	Assistant Solicitor General	Phone call with ██████████ re coordinating strategy.	0.3	\$ 225.00	\$ 67.50
11/4/2025	Sean Corkery	Assistant Solicitor General	Revise ██████████ section of brief.	3.0	\$ 225.00	\$ 675.00
11/4/2025	Sean Corkery	Assistant Solicitor General	Draft declarations.	4.0	\$ 225.00	\$ 900.00
11/5/2025	Alan Hurst	Solicitor General	Revise respondent's brief - ██████████, and polishing.	2.8	\$ 315.00	\$ 882.00
11/5/2025	Gader Wren	Assistant Solicitor General	Phone call with ██████████ regarding preparing declaration.	0.6	\$ 225.00	\$ 135.00
11/5/2025	Jaden Steeves	David H. Leroy Fellow	Cite check ██████████ and ██████████ sections of response brief; conduct additional research to supplement citations; make edits to brief to align cites with added declarations.	4.3	\$ 225.00	\$ 967.50
11/5/2025	Michael Zarian	Deputy Solicitor General	Revise brief.	2.5	\$ 275.00	\$ 687.50
11/5/2025	Sean Corkery	Assistant Solicitor General	Revise ██████████ section of brief.	1.0	\$ 225.00	\$ 225.00
11/5/2025	Sean Corkery	Assistant Solicitor General	Draft declarations.	0.5	\$ 225.00	\$ 112.50
11/6/2025	Gader Wren	Assistant Solicitor General	Edits to ██████████ Declaration.	0.3	\$ 225.00	\$ 67.50
11/6/2025	Gader Wren	Assistant Solicitor General	Revise brief.	1.6	\$ 225.00	\$ 360.00
11/6/2025	Isaac Considine	Paralegal	Exhibits Preparation.	2.1	\$ 150.00	\$ 315.00
11/6/2025	Jaden Steeves	David H. Leroy Fellow	Proofread and edit response brief.	2.4	\$ 225.00	\$ 540.00
11/6/2025	Michael Zarian	Deputy Solicitor General	Revise brief.	1.0	\$ 275.00	\$ 275.00
11/6/2025	Sean Corkery	Assistant Solicitor General	Revise ██████████ section of brief.	3.0	\$ 225.00	\$ 675.00

Date	Attorney/Paralegal	Title	Description	Hours	Rates	Totals
11/6/2025	Sean Corkery	Assistant Solicitor General	Draft declarations.	3.0	\$ 225.00	\$ 675.00
11/7/2025	Alan Hurst	Solicitor General	Review potential evidence and assess value of inclusion.	0.4	\$ 315.00	\$ 126.00
11/7/2025	Alan Hurst	Solicitor General	Revise brief [REDACTED] review revisions.	0.8	\$ 315.00	\$ 252.00
11/7/2025	Gader Wren	Assistant Solicitor General	Revise brief.	2.7	\$ 225.00	\$ 607.50
11/7/2025	Jaden Steeves	David H. Leroy Fellow	Revise [REDACTED] declaration.	0.8	\$ 225.00	\$ 180.00
11/7/2025	Michael Zarian	Deputy Solicitor General	Make revisions to brief to address open comments.	2.0	\$ 275.00	\$ 550.00
11/7/2025	Sean Corkery	Assistant Solicitor General	Revise brief.	4.0	\$ 225.00	\$ 900.00
11/8/2025	Alan Hurst	Solicitor General	Review and revise answer.	1.0	\$ 315.00	\$ 315.00
11/8/2025	Alan Hurst	Solicitor General	Review and revise declaration and related parentheticals.	0.4	\$ 315.00	\$ 126.00
11/9/2025	Sean Corkery	Assistant Solicitor General	Revise answer.	1.0	\$ 225.00	\$ 225.00
11/10/2025	Alan Hurst	Solicitor General	Supervise finalizing and filing of brief.	0.8	\$ 315.00	\$ 252.00
11/10/2025	Gader Wren	Assistant Solicitor General	Full review and proofread of brief and declaration.	3.6	\$ 225.00	\$ 810.00
11/10/2025	Isaac Considine	Paralegal	Finalization and filing of all documents.	6.5	\$ 150.00	\$ 975.00
11/10/2025	Jaden Steeves	David H. Leroy Fellow	Final proofread of full response brief.	3.4	\$ 225.00	\$ 765.00
11/10/2025	Sean Corkery	Assistant Solicitor General	Draft answer and coordinate signature from client.	3.0	\$ 225.00	\$ 675.00
11/10/2025	Sean Corkery	Assistant Solicitor General	Cite check, proofread, and finalize brief.	6.0	\$ 225.00	\$ 1,350.00
11/10/2025	Michael Zarian	Deputy Solicitor General	Coordinate finalization of all documents to be filed and proofread them.	4.0	\$ 275.00	\$ 1,100.00
11/14/2025	Michael Zarian	Deputy Solicitor General	Review amicus briefs and draft analysis of them.	1.5	\$ 275.00	\$ 412.50
11/17/2025	Alan Hurst	Solicitor General	Amicus brief review.	0.2	\$ 315.00	\$ 63.00
11/26/2025	Michael Zarian	Deputy Solicitor General	Review reply and draft analysis.	2.0	\$ 275.00	\$ 550.00
12/5/2025	Michael Zarian	Deputy Solicitor General	Strategy meeting with [REDACTED] following reply brief.	0.5	\$ 275.00	\$ 137.50
1/15/2026	Michael Zarian	Deputy Solicitor General	Prepare for oral argument by reviewing case law and making prep documents.	7.0	\$ 275.00	\$ 1,925.00
1/16/2026	Jaden Steeves	David H. Leroy Fellow	Reread briefs to prepare for moot.	1.2	\$ 225.00	\$ 270.00
1/16/2026	Michael Zarian	Deputy Solicitor General	Prepare for oral argument by reviewing case law and making prep documents.	7.0	\$ 275.00	\$ 1,925.00

Date	Attorney/Paralegal	Title	Description	Hours	Rates	Totals
1/19/2026	Jaden Steeves	David H. Leroy Fellow	Reread briefs; moot oral argument with Michael Zarian.	3.7	\$ 225.00	\$ 832.50
1/19/2026	Michael Zarian	Deputy Solicitor General	Prepare for oral argument by reviewing case law, preparing materials, and participating in moot with team.	9.0	\$ 275.00	\$ 2,475.00
1/19/2026	Sean Corkery	Assistant Solicitor General	Assist in preparing for oral argument by attending moot and conducting requested research.	5.0	\$ 225.00	\$ 1,125.00
1/20/2026	Alan Hurst	Solicitor General	Review briefing and develop questions in preparation for oral argument moot.	1.5	\$ 315.00	\$ 472.50
1/20/2026	Michael Zarian	Deputy Solicitor General	Prepare for oral argument and participate in moot argument.	10.0	\$ 275.00	\$ 2,750.00
1/20/2026	Sean Corkery	Assistant Solicitor General	Assist in preparing for oral argument by attending moot and conducting requested research.	7.0	\$ 225.00	\$ 1,575.00
1/21/2026	Alan Hurst	Solicitor General	Prepare for and attend oral argument moot.	1.6	\$ 315.00	\$ 504.00
1/21/2026	Michael Zarian	Deputy Solicitor General	Prepare for oral argument and participate in moot argument.	6.5	\$ 275.00	\$ 1,787.50
1/22/2026	Michael Zarian	Deputy Solicitor General	Prepare for oral argument.	11.0	\$ 275.00	\$ 3,025.00
1/23/2026	Alan Hurst	Solicitor General	Attend oral argument and debrief.	1.6	\$ 315.00	\$ 504.00
1/23/2026	Michael Zarian	Deputy Solicitor General	Deliver oral argument and debrief.	1.5	\$ 275.00	\$ 412.50

EXHIBIT B

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RYAN S. REDMON,

Plaintiff,

vs.

STATE OF IDAHO, IDAHO
ATTORNEY GENERAL'S OFFICE;
RAÚL R. LABRADOR, in his official
capacity as the Attorney General of Idaho;
ROBERT SOLITO, in his unofficial
capacity as an employee of the Idaho
Attorney General's office, and JOHN
DOES 1-10,

Defendants.

Case No. CV01-23-00379

**MEMORANDUM DECISION AND
ORDER RE: DEFENDANTS' MOTION
FOR ATTORNEY FEES AND MOTION
FOR RULE 11 ATTORNEY FEES**

For determination is Defendants Robert Solito's, Attorney General Labrador's, and the Office of the Attorney General's (collectively, "Defendants") Motion for Attorney Fees against Plaintiff Ryan S. Redmon ("Redmon") and Motion for Rule 11 Attorney Fees. As explained below, the Court will GRANT, in part, and DENIES, in part, both Defendants Motion for Attorney Fees, and Defendants' Motion for Rule 11 Attorney Fees.

I. BACKGROUND AND PRIOR PROCEEDINGS

On March 24, 2025, the Court entered a Judgment as to Claims One, Two, and Three of the Complaint, the only remaining claims in this case. On April 7, 2025, Defendants filed a Motion for Attorney Fees and memorandum in support thereof. This was supported by declarations of counsel and paralegals for Defendants.

On April 22, 2025, Redmon filed an Opposition and Response to Defendant's [sic] Motion for Attorney Fees. Redmon supported such filing with a declaration of counsel.

A hearing was held on May 27, 2025, whereat this Court took the matter under advisement.

II. LEGAL STANDARD

“In any civil action the court may award reasonable attorney fees, including paralegal fees, to the prevailing party or parties as defined in Rule 54(d)(1)(B), when provided for by any statute or contract.” Idaho R. Civ. P. 54(e)(1). “An award or denial of attorney fees is reviewed for an abuse of discretion.” *Carter Dental, P.A. v. Carter*, 174 Idaho 131, 551 P.3d 1225, 1231 (2024) (citing *Allen v. Campbell*, 169 Idaho 125, 492 P.3d 1084 (2021)). In determining whether a court has abused its discretion, an appellate court asks “[w]hether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.” *Gilbert v. Radnovich*, 171 Idaho 556, 572, 524 P.3d 397, 403 (2023) (quoting *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

III. DISCUSSION

As a preliminary matter, the Court notes that Defendants are, pursuant to Idaho Rule of Civil Procedure 54(d)(1)(B), the prevailing party in this action. *See* Idaho R. Civ. P. 54(d)(1)(B). This finding is supported by a dismissal of all claims pursued against Defendants.

Having concluded Defendants are the prevailing party in this action, the Court will address whether Defendants are entitled to attorney fees under: (1) Idaho Code § 12-117; (2) Idaho Code § 12-121; (3) Idaho Code § 12-123; and (4) 42 U.S.C. § 1988.

A. Defendants Attorney General Labrador and the Office of the Attorney General are entitled to attorney’s fees under Idaho Code § 12-117.

Defendants Attorney General Labrador and the Office of the Attorney General (collectively, “the State”) seek attorney fees under Idaho Code § 12-117, which provides:

Unless otherwise provided by statute, in any proceeding involving as adverse parties a state agency or a political subdivision and a person, the state agency, political subdivision or the court hearing the proceeding, including on appeal, shall award the prevailing party reasonable attorney’s fees, witness fees and other reasonable expenses, if it finds that the nonprevailing party acted without a reasonable basis in fact or law.

I.C. § 12-117(1).¹ “This statute is ‘the exclusive basis’ for awarding attorney fees in a case between a person and a governmental entity as adverse parties.” *Hastings v. Idaho Dep’t of Water Res.*, 173 Idaho 704, 716, 547 P.3d 1190, 1202 (2024) (quoting *Idaho for Open Primaries v. Labrador*, 172 Idaho 466, 491, 533 P.3d 1262, 1287 (2023)). Courts “examine[] the prevailing party question from an overall view, not a claim-by-claim analysis.” *Open Primaries*, 172 Idaho at 491, 533 P.3d at 1287 (quoting *Dep’t of Transp. v. Grathol*, 158 Idaho 38, 53, 343 P.3d 480, 495 (2015)).

This Court finds that the Defendants are the prevailing parties in this action. This is supported by the dismissal of all claims pursued against Defendants, which partly includes those pursued against the State. Accordingly, for purposes of a section 12-117(1) analysis, the State prevailed in this action.

¹ Because Idaho Code § 12-117 does not apply to Defendant Robert Solito (“Solito”), *see* I.C. § 12-117(6), he does not seek attorney fees under such provision.

“The standard for evaluating whether a party’s conduct was ‘without reasonable basis in fact or law’ under section 12-117 is substantially similar to the standard for evaluating whether a party pursued an action ‘frivolously, unreasonably, or without foundation’ under section 12-121.” *Open Primaries*, 172 Idaho at 491, 533 P.3d at 1287 (quoting *S Bar Ranch v. Elmore County*, 170 Idaho 282, 313, 510 P.3d 635, 666 (2022)); *Sullivan v. Blaine County*, 174 Idaho 459, ___, 556 P.3d 1282, 1292 (2024) (quoting *S Bar Ranch*, 170 Idaho at 313, 510 P.3d at 666). For the reasons identified by the Defendants, the Court concludes Plaintiff’s claims were pursued unreasonably and without foundation.

First, Defendants direct this Court to the face of the Complaint, wherein it was stated that Redmon did not learn of the alleged false statements contained in the Probable Cause Affidavit until the POST investigation. *See* Compl. ¶¶ 29-30 (referencing an email in the POST investigation where it was allegedly made “clear that Robert Solito had sworn to false/and or misleading information . . .”). Second, the State correctly points to Redmon’s response to Defendants’ motion to dismiss, wherein Redmon represented the Complaint accurately alleged a timely claim since he was unaware of the alleged false statements until the 2021 POST investigation. *See* Mem. in Opp’n to Defs.’ Mot. to Dismiss (“MTD Opp’n”) 5 (“Redmon did not know, and could not have known, until that follow up call from the POST investigator that Solito did in fact lie to the Court”); *see also* Mem. Decision and Order re: Defs.’ Mot. to Dismiss (“MTD Decision”) 3 (“Redmon argues that the date of accrual is . . . the date his attorney had a follow-up call with an Idaho POST investigator”).

The lack of foundation for Plaintiff’s arguments is clearly shown in the November 2019 declaration of Mr. Williams, filed in the underlying criminal case—the existence of

which predates the filing of the Complaint in the case at bar. The Court agreed, and reiterates its finding contained in the March 2024 Memorandum Decision and Order RE: Defendants' Motion for Summary Judgment, wherein it stated: "It is clear that [Redmon] was aware of alleged lies at least by the time the declaration of [Williams] was filed, November 10, 2019." *See* Mem. Decision & Order RE: Defs.' Mot. for Summ. J. ("MSJ Decision") 6 (filed Mar. 24, 2025).

In lieu of addressing the admission that Plaintiff was on notice of his potential claims as of the date of the 2019 declaration, Plaintiff's Opposition to the State's Motion for fees continues to suggest that the statute of limitations could have been tolled by the magistrate judge's finding of probable cause in the underlying criminal action. However, that argument is based upon case law wherein that magistrate finding was made only after **full disclosure**. As previously noted, Plaintiff's entire case is based upon the allegation that the affidavit of Solito supporting a finding of probable cause deliberately misstated evidence and was misleading. In the case at hand, Plaintiff's contention that full disclosure was not made extinguishes any tolling argument.

It appears Plaintiff hoped to stumble upon some unknown nugget to create liability. Absent such a discovery, the inescapable conclusion, based on the information available to the Court, is that Plaintiff's claims were pursued unreasonably and without foundation.

Accordingly, the State—specifically, Attorney General Labrador and the Office of the Attorney General—is entitled to attorney fees against Redmon under Idaho Code § 12-117(1).

B. Defendant Robert Solito is entitled to attorney fees under Idaho Code § 12-121.

Defendants also seek attorney fees under Idaho Code § 12-121, which permits the award of reasonable attorney fees to the “prevailing party” when the case was “brought, pursued or defended frivolously, unreasonably or without foundation.” I.C. § 12-121. While it is unclear whether Defendants seek such fees against Redmon and Williams, the Court notes that Idaho Code § 12-121 does not authorize an award of attorney fees assessed against counsel. *See Smith by & through Smith v. Treasure Valley Seed Co., LLC*, 161 Idaho 107, 111, 383 P.3d 1277, 1281 (2016) (citations omitted) (Concluding “[l]egislature intended that Idaho Code section 12-121 not authorize an award of attorney fees assessed against counsel.”).

Having already found that Redmon acted unreasonably and without foundation to support his claims for purposes of Idaho Code § 12-117, the Court finds the same conduct is applicable here. Accordingly, the Court will award attorney fees to Solito against Redmon.

C. Defendant Solito is entitled to attorney fees against Redmon under Idaho Code § 12-123.

Further, Defendants seek attorney fees under Idaho Code § 12-123, which provides that “within twenty-one (21) days after the entry of judgment in a civil action, the court may award reasonable attorney’s fees to any^[2] party to that action adversely affected by frivolous conduct.” I.C. § 12-123(2)(a). Whether to award attorney fees under Idaho Code § 12-123 is discretionary. *See id.* Under this section, a court can award attorney fees in response to conduct that either (i) “obviously serves merely to harass or maliciously injure another party” or (ii) “is not supported in fact or warranted under existing law and cannot

² The Court notes that Idaho Code § 12-123 does not require the finding of a prevailing party.

be supported by a good faith argument for an extension, modification, or reversal of existing law.” I.C. § 12-123(1)(b)(i), (ii). Where either type (i) or type (ii) offending conduct causes a court to award attorney fees, the same may be awarded against a party, its counsel, or both. I.C. § 12-123(2)(d).

Defendants assert Idaho Code § 12-123 attorney fees should be awarded against both Redmon and his attorney, Williams, as well as Williams’ law firm, Williams Law P.L.L.C.,³ for at least twice partaking in type (ii) conduct—i.e., conduct “not supported in fact . . . [,]” both of which were explored by this Court when addressing attorney fees under Idaho Code § 12-117 above. Those same assertions Defendants made against Redmon are now equally asserted against Williams as well. However, while Mr. Williams may have authored the declaration at issue, there is no evidence provided to suggest that Williams was acting independently of his client. The Court is not aware of any caselaw suggesting an attorney and his/her client should be jointly liable for attorney fees every time a claim is found to be without merit or pursued unreasonably.

Accordingly, the Court finds alternative grounds for an award of attorney fees in favor of Solito exists under Idaho Code § 12-123, but declines to extend that award to counsel for Plaintiff.

D. Defendants are entitled to certain attorney fees under 42 U.S.C. § 1988.

Separately, Defendants request attorney fees for Redmon’s federal claim—i.e., 42 U.S.C. § 1983 claim—under 42 U.S.C. § 1988. Section 1988(b) provides: “In any action .

³ Initially, Defendants also sought section 12-123 attorney fees against a separate law firm—i.e., Murray, Ziel, and Johnston, PLLC—which it believed Williams was a member. However, at the May 27, 2025, hearing in the case at bar, Defendants notified the Court that it no longer sought fees against that firm for reasons which were explained on the record.

. . . to enforce a provision of section[] . . . 1983 . . . of this title, . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney’s fee as part of the costs” “According to the United States Supreme Court, section 1988 authorizes a court to award attorney fees to a defendant ‘upon a finding that the plaintiff’s action was frivolous, unreasonable, or without foundation.’” *Bray v. Idaho Dep’t of Juv. Corr.*, ___ Idaho ___, ___, 564 P.3d 377, 391 (2025) (quoting *Fox v. Vice*, 563 U.S. 826, 833, 131 S.Ct. 2205, 180 L.Ed.2d 45 (2011)).

Here, this Court dismissed Redmon’s federal § 1983 claims in ruling on Defendants’ Motion to Dismiss because such claims were either not cognizable—as against Attorney General Labrador and the Office of the Attorney General because they are immune parties—or beyond the statute of limitations—more than two years after the Probable Cause Affidavit was *available* to Redmon, not when he “discovered” the alleged falsity of its contents. MTD Decision at 5-7. First, it is without question that Redmon’s § 1983 claims against the Attorney General and the Office of the Attorney General were frivolous and lacked foundation due to the existence of qualified immunity. *See James v. City of Boise*, 160 Idaho 466, 488, 376 P.3d 33, 55 (2016) (“It was clear that [Plaintiff’s] claim would be barred by qualified immunity under the clearly established law of the Ninth Circuit, and the Plaintiff did not cite any law to the contrary.”). Second, Redmon’s § 1983 claims were untimely.

Therefore, acting within the discretion provided under § 1988, this Court finds that Defendants are entitled to an award of attorney fees against Redmon.

E. Idaho Rule of Civil Procedure 54(e) application to this Court’s award of attorney fees.

The Idaho Rules of Civil Procedure address the propriety and calculation of attorney fee awards. Rule 54(e)(1) provides that a district court “may award reasonable attorney fees, including paralegal fees, to the prevailing party or parties as defined in Rule 54(d)(1)(B), when provided for by any statute or contract.” Further, if the district court determines there is a legal basis to award attorney fees, it must consider the following factors in determining what constitutes a reasonable attorney fee:

- (A) the time and labor required;
- (B) the novelty and difficulty of the questions;
- (C) the skill requisite to perform the legal service properly and the experience and ability of the attorney in the particular field of law;
- (D) the prevailing charges for like work;
- (E) whether the fee is fixed or contingent;
- (F) the time limitations imposed by the client or the circumstances of the case;
- (G) the amount involved and the results obtained;
- (H) the undesirability of the case;
- (I) the nature and length of the professional relationship with the client;
- (J) awards in similar cases;
- (K) the reasonable cost of automated legal research (Computer Assisted Legal Research), if the court finds it was reasonably necessary in preparing a party’s case; [and,]
- (L) any other factor which the court deems appropriate in the particular case.

Idaho R. Civ. P. (“I.R.C.P.”) 54(e)(3). “Though it is not necessary for the court to address all of the I.R.C.P. 54(e)(3) factors in writing, the record must clearly indicate the court

considered all of the factors.” *H2O Envtl., Inc. v. Farm Supply Distributors, Inc.*, 164 Idaho 295, 299, 429 P.3d 183, 187 (2018) (citation omitted). “[I]t must appear that there is a reasoned application of those factors in the trial court’s decision regarding the amount of attorney’s fees to be awarded.” *Id.* at 300, 429 P.3d at 188.

As previously noted, in determining whether a court has abused its discretion, an appellate court asks “[w]hether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.” *Gilbert*, 171 Idaho at 572, 524 P.3d at 403 (quoting *Lunneborg*, 163 Idaho at 863, 421 P.3d at 194). Because the overarching legal standard in this instance is one of reasonableness, appellate courts focus their analysis on the interrelated third and fourth prongs of the abuse of discretion inquiry. *H2O Envtl., Inc.*, 164 Idaho at 300, 429 P.3d at 188 (noting third prong of abuse of discretion inquiry is closely related to the fourth prong because the applicable legal standard compels trial courts to award a reasonable attorney fee after considering the I.R.C.P. 54(e)(3) factors).

In filing its Motion, Defendants analyzed the Rule 54(e)(3) factors and submitted declarations supporting why the requested hours and rates are reasonable. *See* Defs.’ Mot. for Attorney Fees (“Fees Memo”) 10-15 (filed Apr. 7, 2025) (addressing Rule 54(e) factors); Defs.’ Mot. for Rule 11 Attorney Fees (“Rule 11 Fees Memo”) 5 (filed Apr. 7, 2025) (incorporating the analysis); *see also* Decls. of Church, Maurer, Kovacs, and Sohail (filed Apr. 7, 2025). In response, Redmon merely states that Defendants’ “requested hours are not reasonable in this matter and the requested fee rate[s] are not reasonable in this

matter.” Pl.’s Opp’n & Resp. to Def.’s [sic] Mot. for Attorney Fees (“Fee Opp’n”) 11 (filed Apr. 22, 2025).

1. *The time and labor required.*

Included as exhibits to their Motion, Defendants provided the Court documentation detailing both counsels’ and paralegals’ hours, which they assert were reasonably expended in the litigation against the state- and federal-law claims in Redmon’s Complaint. *See* Decl. of Brian V. Church (“Church Decl.”) Exs. C-N. In total, the attorney fees Defendants seek is in the amount of \$98,743.50. In support of the award sought, Defendants direct this Court to Redmon’s failure to respond to interrogatories, requests for production, and requests for admission, which Defendants argue forced its attorneys and paralegals to “devote substantial effort to preparing the summary judgment motion, which had to back up every factual assertion in the Probable Cause Affidavit.” Fees Memo 11. Defendants also take issue with Redmon’s and Williams’ failure to respond to discovery. *Id.*

Despite Defendants’ plethora of documentation detailing its fee request, Redmon offered nothing more than to say that the amount was “not reasonable.” Fee Opp’n 11. In lieu of further exploration as to the basis for that conclusion, Redmon tries to reiterate his argument that his position was not unreasonable, a proposition already rejected by this Court. Absent specific objections, the time and labor expended by Defendants was reasonable.

2. *The novelty and difficulty of the questions.*

Defendants agree that this case did not necessarily involve complex issues, but contend the same were not simple. The Court disagrees. While the litigation itself may

have not been simple due to factual inconsistencies or the lack thereof, the legal issues surrounding the case were focused on statutes of limitation and qualified immunity. While these issues may have been time consuming, the Court does not find it reasonable to conclude that such issues are novel or difficult, as statute(s) of limitation and issues of qualified immunity often arise in litigation, especially those involving the Idaho Tort Claims Act (“ITCA”), such as this case.

3. *The skill requisite to perform the legal service properly and the experience and ability of the attorney in the particular field of law.*

The experience and skills of Defendants’ counsel is commensurate with the issues raised in the case. It does not appear there was any undue allocation of resources, and this factor supports the award as requested.

4. *The prevailing charges for like work.*

Counsel for Defendants, both Brian V. Church and Matthew L. Maurer request \$315 per hour, which is suggested is reasonable in the Boise, Idaho, market and within Idaho. Defendants have provided State court declarations from two other Boise-based civil litigation attorneys, who at the time those declarations were filed, charged \$640 per hour and \$525 per hour, respectively. *See* Church Decl. Exs. A, B. Additionally, Defendants asserts that a reasonable hourly rate for paralegals is \$150 per hour. The Court has no legal reason to disagree with these assertions and, therefore, this factor weighs in favor of Defendants’ requested fee award.

5. *Whether the fee is fixed or contingent.*

Under Idaho Code § 67-1401(1), the Attorney General provides legal services for the State of Idaho. Additionally, the legal services provided are billed through the

Statewide Cost Allocation Program for accounting purposes, but the same does not reflect the actual hourly rate billed for litigation or, in other words, a “reasonable” hourly rate. *See Inclusion, Inc. v. Idaho Dep’t of Health and Welfare*, 161 Idaho 239, 240 n.1, 385 P.3d 1, 2 n.1 (2016). The Idaho Supreme Court has inferred that a district court abuses its discretion when it bases the attorney fee award on the amount billed by the Attorney General, and not the reasonable amount of hours and a reasonable hourly rate. *Id.* at 242, 385 P.3d at 4. Accordingly, this factor has no effect on the requested attorney fee award in this case.

6. *The time limitations imposed by the client or the circumstances of the case.*

Defendants assert this factor has no effect on the Court’s award of attorney fees.

The Court agrees.

7. *The amount involved and the results obtained.*

Notwithstanding some of his claims being dismissed following Defendants’ motion to dismiss, Redmon’s other claim sought economic and non-economic damages, including attorney fees and costs stemming from the criminal trial, lost wages, other economic loss, and pain and suffering. Compl. ¶ 48. Further, a claim by Redmon sought compensatory damages, emotional distress and mental anguish damages, and damages stemming from loss of reputation. *Id.* ¶ 59. Redmon’s economic loss also included losses stemming from his asserted inability to run his business in Cascade, Idaho. *Id.* ¶¶ 25-26.

Despite Redmon’s claims, Defendants obtained dismissal of all claims in its favor. However, up and until that time, the amount involved had potential to reach the ITCA’s statutory damage cap of \$500,000. *See* I.C. § 6-926(1). Accordingly, this factor weighs in favor of Defendants’ requested attorney fee award.

8. *The undesirability of the case.*

Defendants assert this factor has no effect on the Court's award of attorney fees.

The Court agrees.

9. *The nature and length of the professional relationship with the client.*

The Attorney General is under a duty to provide legal services for the State of Idaho. *See* I.C. § 67-1401(1). This factor weighs in favor of the Court's attorney fee award.

10. *Awards in similar cases.*

Defendants assert this factor has no effect on the Court's award of attorney fees.

The Court agrees.

11. *The reasonable cost of automated legal research (Computer Assisted Legal Research), if the court finds it was reasonably necessary in preparing a party's case.*

Defendants are not seeking costs for automated legal research; thus, the Court finds that this factor bears no weight on the award of attorney fees.

12. *Any other factor which the court deems appropriate in the particular case.*

No additional factors would warrant an award less than that requested by Defendants.

F. Defendants' Motion for Rule 11 Attorney Fees is DENIED.

Lastly, Defendants seek attorney fees against Redmon and his attorney, Williams, and Williams' law firm, Williams Law, P.L.L.C., jointly and severally, under Idaho Rule of Civil Procedure 11(a). The attorney fees sought are in the amount of \$98,743.50. A district court's decision whether to impose sanctions pursuant to Idaho Rule of Civil Procedure 11 is reviewed for an abuse of discretion. *Knudsen v. J.R. Simplot Co.*, 168

Idaho 256, 265, 483 P.3d 313, 322 (2021) (citing *Med. Recovery Servs., LLC v. Lopez*, 163 Idaho 281, 282, 411 P.3d 1182, 1183 (2018)). In determining whether a court has abused its discretion, an appellate applies the four-part *Lunneborg* framework. *Gilbert v. Radnovich*, 171 Idaho 556, 572, 524 P.3d 397, 403 (2023) (quoting *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

Under Rule 11(b) an attorney who presents: “to the court a pleading, written motion, or other paper, whether by signing, filing, submitting, or later advocating it, . . . certifies that to the best of the person’s knowledge, information, and belief formed after an inquiry reasonable under the circumstances:

. . .

- (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;”

I.R.C.P. 11(b)(2).

Defendants argue—for reasons nearly identical to those asserted as just reason for an award of attorney fees under Idaho Code § 12-121—that Redmon and Williams (including Williams’ law firm) are jointly and severally liable under Rule 11(b)(1)-(2). The Idaho Supreme Court has interpreted the frivolous filing clause contained in Rule 11(b)(2) to apply under the same circumstances that warrant awards under Idaho Code § 12-121. *BrunoBuilt, Inc. v. Erstad Architects, PA*, 171 Idaho 1, 18, 528 P.3d 531, 548 (2023) (citations omitted). Inherent in this conclusion, and further supported by the framework of Idaho Code § 12-121, is that a case was maintained unreasonably or without foundation. This Court found that attorney fees against Redmon were proper under Idaho Code § 12-121 (for reasons explained at the time of addressing fees under Idaho Code §

12-117), and finds the same conduct is applicable here. However, for the reasons explained by this Court when addressing the possibility of attorney fees against Redmon and Williams, jointly and severally, under Idaho Code § 12-123, this Court concluded that no evidence exists to suggest that Williams was acting independently of his client and denied the opportunity to award attorney fees against Williams and/or his firm.

Accordingly, the Court finds that Rule 11 sanctions against Redmon are proper, as an alternative means of awarding attorney fees to Defendants. However, the Court denies Defendants' request for Rule 11 attorney fees against Williams.

CONCLUSION

For the reasons set forth herein, the Court finds that an award of attorney fees against Plaintiff and in favor of Defendants in the amount of \$98,743.50 is appropriate under Idaho Code §§ 12-118, -121, and -123. The request for an award of fees against Williams or Williams Law P.L.L.C. is denied.

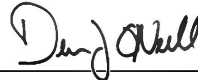
The request for sanctions under Idaho Rule 11 is granted in part as against Redmon, but denied in part as against Williams and his law firm.

Finally, the bond posted by Plaintiff as a condition of filing this action is forfeited and shall be paid to Defendants and applied to the total due hereunder.

IT IS SO ORDERED.

Dated: _____

6/23/2025 2:41:01 PM



Derrick O'Neill
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on 6/23/2025, I served a true and correct copy of the within instrument as follows:

Matthew C. Williams
WILLIAMS LAW, P.L.L.C.
839 E. Winding Creek Dr., Ste. 200
Eagle, ID 83616
Attorney for Plaintiffs

VIA E-MAIL: efile@mattwilliams.law

Brian V. Church
Lead Deputy Attorney General
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VIA E-MAIL: matthew.maurer@ag.idaho.gov



TRENT TRIPPLE
Clerk of the District Court

By: *Kely Ch*
Deputy Court Clerk

6/23/2025 2:46:13 PM

EXHIBIT C



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

October 7, 2021

Jackie McCleve
STATE CONTROLLER'S OFFICE
700 W. State Street, 5th Floor
P. O. Box 83720
Boise ID 83720-0011
jmccleve@sco.idaho.gov

Re: October 12, 2021 Board of Examiners Subcommittee Meeting and October 19, 2021 Board of Examiners Meeting: Agenda Item Related to Settlement of Attorneys' Fees and Costs Claim in *Reclaim Idaho et al. v. Denney et al.*, Docket No. 48784-2021 (Idaho).

Dear Ms. McCleve:

On behalf of the Respondents in this matter, Lawrence Denney, in his official capacity as the Idaho Secretary of State, and the State of Idaho, our Office requests that the following item be placed on the agenda of the Board of Examiners Subcommittee meeting scheduled for Tuesday, October 12, 2021, and the Board of Examiners meeting scheduled for Tuesday, October 19, 2021: Request approval for the settlement of attorneys' fees and costs claim in *Reclaim Idaho et al. v. Denney et al.*, Docket No. 48784-2021 (Idaho) ("*Reclaim Idaho*"), in the amount of \$151,866.00. It is also requested that this be submitted to the Constitutional Defense Council for payment from the fund created under Idaho Code § 67-6301.

The *Reclaim Idaho* case arose from the Petitioners Reclaim Idaho and the Committee to Protect and Preserve the Idaho Constitution, Inc.'s challenge to the constitutionality of (1) Idaho Code § 34-1805(2)'s requirement that initiative and referenda proponents obtain signatures from registered voters in all 35 of Idaho's 35 legislative districts in order to qualify a measure for the ballot and (2) Idaho Code § 34-1813(2)(a)'s requirement that laws adopted by initiative not take effect prior to July 1 of the following year. Petitioners argued that the challenged laws violated Article III, § 1 of Idaho's Constitution. This was an original action in the Idaho Supreme Court.¹

¹ The Idaho Supreme Court consolidated this matter with a separate petition filed by Petitioner Michael Gilmore against Secretary of State Denney in his official capacity, which was assigned Docket No. 48760-

On August 23, 2021, the Court issued its decision declaring that Idaho Code § 34-1805(2) violated Article III, § 1 to the extent that it required initiative and referenda proponents to obtain signatures from registered voters in all 35 of Idaho's 35 legislative districts. A copy of the decision is enclosed as Exhibit A. However, the Court refused Petitioners' request to eliminate the geographic distribution requirement entirely. The Court reinstated the previous requirement under Idaho Code § 34-1805 that initiative and referenda proponents obtain signatures from registered voters in at least 18 legislative districts. The Court also declared Idaho Code § 34-1813(2)(a)'s requirement that laws adopted by initiative not take effect before July 1 of the following year unconstitutional. The Court granted the requested writ of prohibition barring the 35 legislative district signature requirement from taking effect.

The Court further determined that the Petitioners were entitled to an award of attorney fees under the private attorney general's doctrine, and ordered that the attorney fees be apportioned equally between the Respondents and Intervenors-Respondents. On September 3, 2021, Petitioners filed their Motion for an Award of Reasonable Attorneys' Fees and Costs ("Motion for Fees and Costs"). Petitioners sought an order awarding them \$150,947.50 in attorney's fees and \$918.50 in costs, to be shared equally between the Respondents and Intervenors-Respondents. A copy of this Motion and the documents Petitioners filed in support of their Motion is enclosed as Exhibit B. Respondents and/or Intervenors-Respondents have not yet filed objections to the Motion for Fees and Costs and have sought and obtained extensions of the deadline to file any objections in order to facilitate settlement.

Our Office reviewed the Motion for Fees and Costs and supporting documents and negotiated a proposed settlement, subject to approval by the Board of Examiners and the Constitutional Defense Council, on the following terms. The State will pay \$151,866.00 in full satisfaction of Petitioners' claims for all attorney fees and costs arising from *Reclaim Idaho*. As part of this agreement, Petitioners' counsel in this matter, Ferguson Durham, PLLC, will agree to include the following sentence in any future fee petition filed within five years of entry into the settlement agreement that identifies the decision *Reclaim Idaho* as evidence in support of any fees and costs requested: "The Respondents did not agree that the total amount billed—consisting of hourly rates times hours billed—or the discretionary costs incurred, were necessary or reasonable." A copy of the fully executed agreement between the parties is enclosed as Exhibit C. If the Board of Examiners and the Constitutional Defense Council approve the agreement, the parties will jointly file a stipulation with the Court dismissing the Motion for Fees and Costs.

In our Office's view, the terms of the settlement are fair and likely represent a savings to the State. The Court has already determined that the Petitioners are entitled to an award of fees and costs. There is no question that the Petitioners prevailed on the

majority of their claims in the Idaho Supreme Court proceedings. Our Office has reviewed the Petitioners' attorneys' time records and their evidence in support of the rate requested. While there is some basis to challenge some of the billing entries and the rate requested, there is no guarantee that the Court, in its discretion, would award less than the amount the Petitioners incurred. In addition, if Respondents and/or Intervenors-Respondents filed objections to the Motion for Fees and Costs and Petitioners were required to reply in support of their motion, fees would be incurred in drafting the objections, and Petitioners could be entitled to fees for any reply filed in support of their Motion, which would increase Petitioners' total claim. Finally, settlement avoids the risk of generating precedent approving the fees and costs requested.

Given these considerations, our Office believes the settlement amount of \$151,866.00 is reasonable and in the best interests of the State.

It is important that the Board decide this matter at its October meeting. If the Board does not approve the settlement, Respondents and/or Intervenors-Respondents will likely be forced to file any objections to Petitioners' Motion for Fees and Costs, Petitioners will file a reply, and the court may issue a decision on Petitioners' Motion for Fees and Costs. The valuable considerations justifying settlement will be lost.

Secretary of State Denney and the State of Idaho request that the Board approve the settlement, authorize payment of the \$151,866.00 claim, and that the claim be submitted to the Constitutional Defense Council for payment from the fund created under Idaho Code § 67-6301. Secretary of State Denney and the State of Idaho incurred liability for this claim in their official capacities as part of defending the challenged Idaho laws governing the initiative process.

Sincerely,



MEGAN A. LARRONDO
Lead Deputy Attorney General

Enclosures

cc: Brian Kane
Steven L. Olsen
Secretary of State Denney
Jason Hancock
William Myers III
Chris McCurdy
Deborah Ferguson
Craig Durham