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Attorneys for Respondents Lawrence Denney  
and the State of Idaho

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

RECLAIM IDAHO, and the COMMITTEE  
TO PROTECT AND PRESERVE THE  
IDAHO CONSTITUTION, INC.,

Petitioners,

v.

LAWRENCE DENNEY, Idaho Secretary  
of State, in his official capacity; and STATE  
OF IDAHO,

Respondents,

and

SCOTT BEDKE in his official capacity as  
Speaker of the House of Representatives of

Supreme Court Docket No. 48784-2021

**SECOND STIPULATION TO EXTEND  
TIME TO OBJECT TO  
PETITIONERS' MOTION FOR AN  
AWARD OF REASONABLE  
ATTORNEY FEES AND COSTS**

the State of Idaho; CHUCK WINDER, in  
his official capacity as President Pro  
Tempore of the Idaho State Senate; SIXTY-  
SIXTH IDAHO LEGISLATURE,

Intervenors-Respondents.

On September 3, 2021, Petitioners filed their Motion for an Award of Reasonable Attorneys' Fees and Costs ("Motion for Fees and Costs"). The Court has granted two extensions of time for Respondents and/or Intervenors-Respondents to file any objections to Petitioners' Motion for Fees and Costs to allow the parties to explore the possibility of settling the pending motion.<sup>1</sup> The current deadline to file any objections to Petitioners' Motion for Fees and Costs is October 15, 2021.<sup>2</sup> A third extension of time is necessary to allow Respondents and Intervenors-Respondents to secure the necessary approvals of the agreement between the parties as the process cannot be completed by October 15, 2021, as explained below.

The parties' agreement to settle Petitioners' Motion for Fees and Costs is subject to approval by the Board of Examiners and the Constitutional Defense Council as payment under the agreement would be made from the Constitutional Defense Fund. In order to secure the necessary approvals from the Board of Examiners and the Constitutional Defense Council, the agreement first must be presented to the Board of Examiners subcommittee for recommendation to the Board

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<sup>1</sup> See Order Approving Stipulation dated September 17, 2021 and Order Re: Stipulation to Stay Briefing dated September 24, 2021.

<sup>2</sup> This deadline was set by the Order Re: Stipulation to Stay Briefing dated September 24, 2021. Instead of staying briefing to allow the parties to obtain the necessary approvals of their tentative settlement agreement, the Court instructed Respondents and/or Intervenors-Respondents to file any objections to Petitioners' Motion for Fees and Costs within 21 days of the Order.

of Examiners. The request pertaining to the fully executed agreement is on the agenda for the Board of Examiners subcommittee meeting on October 12, 2021.<sup>3</sup> The parties have asked the Board of Examiners subcommittee to recommend the agenda item to the Board of Examiners meeting on October 19, 2021 for approval. If approved at the October 19, 2021 Board of Examiners meeting, the Constitutional Defense Council must then meet to approve the agreement. *See* Idaho Const. art. IV, § 18; Idaho Code § 67-2018; Idaho Code § 67-6301. The Constitutional Defense Council, which is comprised of the Governor, Attorney General, Speaker of the House of Representatives, and President Pro Tempore of the Senate, will likely be able to meet the week of October 25, 2021.<sup>4</sup>

Given the requirements associated with obtaining the necessary approvals of the parties' agreement, a third extension of the deadline for Respondents and/or Intervenors-Respondents to file their objections to Petitioners' Motion for Fees and Costs is necessary. It is not possible to go through the necessary steps to obtain approval of the settlement agreement by the Board of Examiners and the Constitutional Defense Council by October 15, 2021.

For these reasons, the parties request an additional 21-day extension of time for Respondents and Intervenors-Respondents to file their objections to Petitioners' Motion for Fees

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<sup>3</sup> See Agenda, State Board of Examiners Subcommittee Meeting, at ¶ 6 (<https://www.sco.idaho.gov/layouts/15/WopiFrame.aspx?sourcedoc={CC362CF7-154D-42B6-9D9C-C0055BD209DB}&file=October%2012,%202021%20Subcommittee%20Meeting%20Agenda.docx&action=default>) (last visited October 8, 2021).

<sup>4</sup> As to be expected, there is some uncertainty in coordinating the schedules of the Governor, the Attorney General, the Speaker of the House, and the Pro Tempore of the Senate. Counsel for Respondents and the Intervenors-Respondents are working closely with the various schedulers.

and Costs. This requests incorporates a window of additional time due to the difficulty of coordinating schedules of the members of the Constitutional Defense Council.

To this end, the parties agree and respectfully request entry of an order as follows:

1. The deadline to file any objections to Petitioners' Motion for Fees and Costs is hereby extended for an additional 21 days; and
2. Respondents and/or the Intervenors-Respondents shall file any objections to Petitioners' Motion for Fees and Costs on or before November 5, 2021.

Stipulated and agreed to this 12th day of October, 2021.

FERGUSON DURHAM, PLLC

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OFFICE OF THE ATTORNEY GENERAL

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## CERTIFICATE OF SERVICE

I certify that on this 12th day of October, 2021, I filed the foregoing document electronically through the iCourt E-File system, which caused the following iCourt-registered counsel to be served by electronic means, as more fully reflected on the Notification of Service.

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