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and the State of Idaho

IN THE SUPREME COURT OF THE STATE OF IDAHO

In Re: Petition for Writ of Prohibition.

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

Petitioners,

v.

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

Respondents,

and

Supreme Court Docket No. 48784-2021

**RESPONDENTS' MOTION TO
STRIKE**

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

Intervenor-Respondents.

Respondents, Lawrence Denney, in his official capacity as the Idaho Secretary of State, and the State of Idaho, hereby submit this Motion and supporting Memorandum to Strike portions of the Declarations of Ben Ysursa, Luke Mayville, Dr. Gary Moncrief, David Daley, Robin Nettinga, Karen Lansing, Linda Larson, and Jessica Mahuron attached as Exhibits 1 through 8 to the Petition for Writ of Prohibition and Application for Declaratory Judgment. The specific grounds for striking certain paragraphs in the declarations are set forth more fully in the supporting memorandum filed herewith, but in summary, Respondents request as follows:

1. Portions of paragraphs 8, 21, 23 of the Ben Ysursa Declaration; portions of paragraphs 18, 22, 45, 69, 71, 72, and 73 of the Luke Mayville Declaration; portions of paragraph 12 of the Dr. Gary Moncrief Declaration; portions of paragraph 17 of the David Daley Declaration; portions of paragraph 31 of the Robin Nettinga Declaration; portions of paragraph 10 of the Karen Lansing Declaration; portions of paragraph 7 of the Linda Larson Declaration; and portions of paragraphs 8 and 9 of the Jessica Mahuron Declaration contain speculative statements that are inadmissible under Idaho Rules of Evidence 602, 701 and 702 and should be stricken.

2. Portions of paragraphs 8, 9, 13, 21, and 24 of the Ben Ysursa Declaration; portions of paragraphs 18, 51, 69, 70 and 74 of the Luke Mayville Declaration; portions of paragraphs 4, 8 and 12 of the Dr. Gary Moncrief Declaration; portions of paragraph 11 of the David Daley Declaration; portions of paragraph 31 of the Robin Nettinga Declaration; portions of paragraph 10 of the Karen Lansing Declaration; portions of paragraph 7 of the Linda Larson Declaration; and portions of paragraph 8 of the Karen Mahuron Declaration contain impermissible conclusions of law that invade the province of this Court and should be stricken.¹

For the foregoing reasons, Respondents respectfully request this Court strike portions of paragraphs 8, 9, 13, 21, 23 and 24 of the Declaration of Ben Ysursa; portions of paragraphs 18, 22, 45, 51, 69, 70, 71, 72, 73, and 74 of the Declaration of Luke Mayville; portions of paragraphs 4, 8 and 12 of the Declaration of Dr. Gary Moncrief; portions of paragraphs 11 and 17 of the Declaration of David Daley; portions of paragraph 31 of the Declaration of Robin Nettinga; portions of paragraph 10 of the Declaration of Karen Lansing; portions of paragraph 7 of the Declaration of Linda Larson; and portions of paragraphs 8 and 9 of the Declaration of Jessica Mahuron.

¹ These portions of the declarations should also be stricken as irrelevant because the declarants opine on whether Idaho Code § 34-1805(2) and 34-1813(2)(a) place an impermissible burden on the citizens of Idaho to exercise their constitutional rights, which is the incorrect test. Rather, the question for this Court is whether the challenged provisions constitute permissible conditions and manner for the initiative process set by the legislature under Article III, § 1, that is to say, whether the challenged provisions are reasonable and workable.

DATED this 2nd day of June, 2021.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: /s/ Megan A. Larrondo
MEGAN A. LARRONDO
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on this 2nd day of June, 2021, I served 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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