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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT

<p>STATE OF IDAHO,  Plaintiff,  vs.  LORI NORENE VALLOW AKA LORI NORENE DAYBELL,  Defendant.</p>	<p><b>CASE NO. CR22-21-1624</b>  <b>RESPONSE TO DEFENDANT’S MOTION FOR A JOINT SETTLEMENT AND STRATEGY SESSION</b></p>
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The State of Idaho, by and through the Fremont County Prosecuting Attorney’s Office, submits the following Response to the Defendant’s Motion for a Joint Settlement and Strategy Session.

The State has serious reservations about allowing the Codefendants to have face-to-face, or other communication directly with each other. While the State recognizes that the Defendants may communicate through their counsel, and also may strategize together through their attorneys, which the State would not be a Party to or have input on; there is no inherent right or privilege for the Defendants to have direct communication. The State recognizes that the Defendants have agreed to not use any evidence or information they may obtain through any discussions or meetings against each other; nevertheless, the State is not willing to make a similar agreement. Any communications between each individual Defendant and his/her

attorney(s) are confidential; however, having the other Defendant and/or his/her counsel present would make them potential witnesses of statements made by the other Defendant and eliminate any claim to attorney/client privilege.

In addition, the Defendant is arguing there is a privilege pursuant to Idaho Rules of Evidence 408, 410 and 507. This is simply not the case. I.R.E. 408 deals with statements made during settlement or mediation negotiations, but without the State present, there can be no true settlement or mediation. Regarding I.R.E. 410 since there is no plea being entered, and no attorney for the prosecution proposed to be present for the discussion, this rule is not applicable. I.R.E. 507 is applicable to mediations, but the rule doesn't necessarily protect statements made by Codefendants especially to each other. In addition, the Defendant is requesting to have a Settlement Conference separate from any mediation.

Once further concern for the State is how a meeting would be facilitated which would protect the confidential privilege the Defendant is claiming and also meet the safety concerns and guidelines – especially given the nature of the charges pending against them.<sup>1</sup>

Wherefore the State respectfully requests the Court consider the concerns raised by the State.

DATED this 12th day of January, 2023.

/s/Rob H. Wood  
Rob H. Wood  
Prosecuting Attorney

/s/Lindsey A. Blake  
Lindsey A. Blake  
Prosecuting Attorney

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<sup>1</sup> The State has additional concerns for Defendant Vallow/Daybell based on the competency proceedings.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of January, 2023, that a copy of the foregoing document was served as follows:

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By: /s/ Jodi L. Thurber

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