

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

TOM LUNA, an individual; BLAIN
CONZATTI, an individual; CHRISTIAN
WELP, an individual; and VICTOR MILLER,
an individual,

Plaintiffs,

vs.

IDAHOANS UNITED FOR WOMEN AND
FAMILIES INC., a nonprofit corporation;
IDAHO STATE DEMOCRATIC PARTY, an
unincorporated political party; and TERRI
PICKENS, dba Terri for Idaho, an individual,

Defendants.

Case No. CV01-26-22066

**MEMORANDUM DECISION AND ORDER
DENYING MOTION FOR PRELIMINARY
INJUNCTION**

This matter is before the Court on Plaintiffs' motion for preliminary injunction. A hearing was held October 29, 2026. Lincoln Wilson of First & Fourteenth PLLC and Caleb Pirc and Isaac Helland of IFPC Legal Center appeared on behalf of Plaintiffs; Jennifer Schrack Dempsey of Dempsey Foster PLLC appeared on behalf of the Idaho State Democratic Party (Democratic Party); Wendy Olson of Stoel Rives LLP appeared on behalf of Defendant Terri Pickens; and Anne

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Henderson Haws of Haws Law, PLLC appeared on behalf of Idahoans United for Women and Families (IUWF).

I. Background

This action arises out of television advertising in support of a ballot initiative known as Proposition 1 in advance of the November 3, 2026 election. There is little disagreement as to the underlying facts; rather, the parties dispute whether the facts constitute a violation of the campaign disclosure and finance laws.

In mid-October, 2026, IUWF reached out to the Democratic Party to see if the Democratic Party would be interested in supporting Proposition 1 by running advertising in favor of it. The Democratic Party agreed, and IUWF then offered to contribute funds toward the effort. IUWF did not pledge a specific contribution amount for the effort, nor did it require the Democratic Party to use all, or even any, of the IUWF contributions for its Proposition 1 advertisements. Ultimately, there were no restrictions placed on these contributions and the Democratic Party was free to use the contributions as it deemed fit. IUWF also consented to allow the use of footage from its Proposition 1 advertising.

To date, IUWF has made the following contributions to the Democratic Party:

- October 16, 2026: \$245,500
- October 20, 2026: \$375,000
- October 26, 2026: \$100,000

These contributions were promptly reported by the Democratic Party, with the contributor listed as IUWF.

The Democratic Party expended nearly equivalent funds on ads. These expenditures were reported through Idaho's Sunshine Law website as independent expenditures per direction of the

Idaho Secretary of State. Expenditures by the Democratic Party that it reported as made in support of “Proposition 1: Reproductive Freedom and Privacy Act” were as follows:

- Invoice dated October 15, 2026, paid October 16, 2026: \$245,436
- October 20, 2026: \$371,246
- October 28, 2026: \$40,000

The advertisements complained of that were paid for with these expenditures are scheduled to run through November 3, 2026, and are television ads in support of Proposition 1 that include the notice, “PAID FOR BY IDAHO DEMOCRATIC PARTY. AUTHORIZED BY TERRI FOR IDAHO.” In comparison, the advertisement as used by IUWF included the notice, “PAID FOR BY IDAHOANS UNITED FOR WOMEN AND FAMILIES.”¹

At some point after meeting with IUWF, but before purchasing any ads, the Democratic Party approached Terri Pickens about supporting Proposition 1 because she was the top-of-the-ticket candidate for the Party, was a dedicated proponent of Proposition 1, and did well in front of a camera. Terri Pickens agreed to participate in Proposition 1 advertising because of her support for the measure. She authorized various messages and appeared in various advertisements related to her support of Proposition 1; however, the record does not reflect whether any of this additional messaging is planned for future advertising. Only the messaging described above is before this Court. Terri Pickens understood that the Democratic Party was paying for the advertising. At no point did she have any communications with IUWF. Terri Pickens asserts that any endorsements she has made in support of Proposition 1 are in furtherance of her campaign for governor.

¹ Hyperlinks were provided to this Court for the video and other materials in the verified Complaint and various affidavits / declarations. However, the underlying information accessible through hyperlinks is not part of the record and was therefore not considered.

II. Lack of Standing

As a preliminary matter, Defendants claim Plaintiffs lack standing to bring the current motion. Idaho Code section 67-6626 specifically gives citizens of the state of Idaho the ability to bring actions for injunctive relief to halt violations of the requisite chapter. While Plaintiffs do not appear to have standing to prosecute claims for some of the relief requested such as return of money contributed, they do have standing to request injunctive relief as to the future purchase of ads and or to prevent airing of such ads. The request for injunctive relief may therefore proceed to extent it requests injunctions as to future actions of the Defendants.

III. Standard for granting a preliminary injunction

A preliminary injunction, known as the “strong arm of equity,” is an extreme remedy that “must be exercised with great restraint.” *Planned Parenthood Great Nw. v. State*, 172 Idaho 321, 325, 532 P.3d 801, 805 (2022). Idaho Rule of Civil Procedure 65 sets forth several criteria for issuing a preliminary injunction; the first two are relevant here:

A preliminary injunction may be granted in the following cases:

(1) when it appears by the complaint that the plaintiff is entitled to the relief demanded, and that relief, or any part of it, consists of restraining the commission or continuance of the acts complained of, either for a limited period or perpetually;

(2) when it appears by the complaint or affidavit that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to the plaintiff[.]

I.R.C.P. 65(e)(1)-(2). Injunctive relief is a remedy related to a cause of action and is not a cause of action itself. *See Newton v. MJK/BJK, LLC*, 167 Idaho 236, 241, 469 P.3d 23, 28 (2020). (“Injunctive relief, however, is a remedy—not a cause of action.”) . Further, as the Idaho Supreme Court recently stated:

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[A] party seeking an injunction must demonstrate at least two things under Rule 65(e)(1) and (2): first, the movant must show “a substantial likelihood of success on the merits” or a “clear right” to the ultimate relief requested in the underlying lawsuit; and second, the movant would suffer “irreparable harm” if the injunction were not issued. *Planned Parenthood Great Nw. v. State*, 172 Idaho 321, 324, 532 P.3d 801, 804 (2022). Because the movant must demonstrate both a likelihood of success on the merits *and* irreparable harm, Rule 65(e)(1) and (2) is a conjunctive standard. *Id.*; *see also Munden v. Bannock County*, 169 Idaho 818, 829, 504 P.3d 354, 365 (2022) (noting that, under Rule 65(e), a preliminary injunction “is granted only in extreme cases where the right is very clear and it appears that irreparable injury will flow from its refusal”) (citation and internal quotation marks omitted)). As a result, a district court's order granting a preliminary injunction under Rule 65(e)(1) and (2) must adequately address both requirements under this conjunctive standard.

Insure Idaho, LLC v. Horn, 175 Idaho 885, 902, 572 P.3d 183, 200, 2025 WL 1909961 (2025).

When considering the burden in this case the Court must also consider that the request is one that seeks to halt political advertisements which are considered speech under the protections of the First Amendment to the United States Constitution. Anytime that a restriction upon such speech is requested, the Court must recognize the First Amendment requires the Court to “err on the side of protecting political speech rather than suppressing it.” *Federal Election Commission v. Cruz*, 596 US 289, 308, 142 S.Ct.1638, 1653 (2022).

IV. Analysis

Giving consideration to the evidence presented and the arguments of counsel at the time of the hearing on preliminary injunction the court finds and rules as follows.

A. Claim I – Violation of Idaho Code section 67-6614

Plaintiffs first allege that IUWF funneled hundreds of thousands of dollars through the Democratic Party to conceal IUWF as the original source of the advertising funds in order to obtain reduced advertising rates for candidates by attaching Idaho gubernatorial candidate Terri Pickens’s

name to the ads. Plaintiffs contend that doing so was deceptive in nature and that the original source of the underlying funds should have been disclosed to broadcasters. Had that been done, the rate paid for the advertisements at issue would have been significantly higher, thereby creating an equal playing ground as proponents each assert either opposition or support for Proposition 1. Plaintiffs also allege that the advertisements should have indicated that the original source of funding was IUWF. The relief requested in Claim I is for Defendants to be enjoined from continuing to purchase the ads at issue and to enjoin the playing of any future ads of this nature.

Defendants assert in response to the allegations that the disclosure statements related to contributions are in compliance with Idaho law. They acknowledge that contributions were made by IUWF to the Democratic Party as designated in disclosure statements and that thereafter the Democratic Party acted within its discretion to spend the money that had been contributed in order to purchase advertisements showing that it and Terri Pickens were supporters of Proposition 1. Defendants assert that they had no continuing obligation under Idaho law to disclose IUWF as the source of the original contributions when purchasing such advertisements. They further assert that the disclosures related to the ads were appropriate as candidate related ads when a disclaimer was placed at the end of the advertisements showing that candidate Terri Pickens had endorsed the same.

In analyzing Plaintiffs' claims and the potential for success upon the merits, two issues must be independently addressed. First, whether there was a concealment of the source of the funding of the ads contrary to Idaho Code section 67-6614; and second, whether the ads are truly ads endorsing a political candidate such that reduced rates are appropriate.

1. Plaintiffs fail to establish that they are likely to succeed on their assertion that there was a concealment as to the contributor of funds used to support Proposition 1. Idaho Code section 67-6614.

As to the issue of concealment of the source of funding, the Democratic Party freely admits that is supportive of Proposition 1, IUWF, and Terri Pickens as gubernatorial candidate for Idaho. Defendants also admit that IUWF contacted the Democratic Party to see if it would be supportive of Proposition 1. IUWF acknowledges that it contributed funds to the Democratic Party with the goal of supporting Proposition 1, but in doing so, did not pledge a specific contribution or even require that the funds be used in any way to support Proposition 1. Thus, there was no *quid pro quo* requirement when the contributions were made. At or about the same time, the Democratic Party approached the Pickens campaign to see if it would be interested in Democratic Party funded advertisements to promote her candidacy for governor as well as demonstrate support for Proposition 1. Pickens agreed. There is no evidence that IUWF was involved in this coordination.

Thereafter, the Democratic Party asserts that it made the decision to utilize the monies received from IUWF for advertising in support of Proposition 1 in conjunction with the campaign for Pickens. The advertisements with various broadcasters were purchased from the coffers of the Democratic Party alone and reported on the Idaho Sunshine website run by the Secretary of State. These expenditure reports list the payor as the Idaho Democratic Party under the category of independent expenditures related to “Proposition 1: Reproductive Freedom and Privacy Act” consistent with the requirements of the Idaho Secretary of State which required the expenditures for advertisements be listed as independent expenditures.²

² See discussion in Claim III, below for a more detailed discussion.

Screen Strategies Media, the same company used by IUWF for its independent Proposition 1 ads, was utilized by the Democratic Party to prepare their ads. The original IUWF ad was changed in part to include a statement of funding by the Democratic Party, as well as an endorsement from the Terri Pickens as gubernatorial candidate which reads, “PAID FOR BY IDAHO DEMOCRATIC PARTY. AUTHORIZED BY TERRI FOR IDAHO.” Broadcasters thereafter gave the Democratic Party reduced rates for the ads presumably because they were listed as advertisements for Terri Pickens for Governor. Future advertisements utilizing this language have been purchased and will air through the date of the election.

Turning to the specific code section at issue, Idaho Code section 67-6614 concerns the identification of the source of contributions and expenditures. It reads that, “[n]o contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution.” Plaintiffs assert that this should be interpreted to mean IUWF should have been named as the funding source for the advertising at issue. However, they concede that there is no Idaho case law in support of their position. Plaintiffs rely heavily upon a nearly identical statute from the state of Washington and the case of *State v. Eyman*, 24 Wash App. 2d 795 (Wash. App. 2022).

In 2012, Eyman sought to collect signatures for a ballot initiative and was listed as an officer of the campaign committee. The Committee thereafter hired Citizen Solutions to collect signatures to help and qualify the initiative to appear on the ballot and a fixed price per signature was set as payment. The committee reported all payments made to Citizen Solutions on requisite public disclosure forms; however, after the campaign ended, Citizen Solutions directly paid Eyman \$308,185.50. Neither the campaign or Eyman ever reported the payment to Eyman and Eyman

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actively concealed that the funding he provided would be repaid directly to him. In the same year Eyman began a second initiative. Again, Eyman was an officer on the campaign committee. Eyman paid monies to Citizens in Charge which were reported. Later, Citizens in Charge paid Eyman \$103,000.00, and again he concealed that he would receive payment in return and this amount was never reported as required. Eyman also took multiple other actions which he never reported as required by Washington law such as the collection of \$800,000 in donations for living expenses to continue working on the ballot initiatives. The Washington Court determined that Eyman had violated the reporting laws through his absolute failure to report the funds he received as well as his direct concealment when contributing funds that we would be receiving large portions of those payments directly back from the source he contributed to.

This fact pattern is distinguishable. Unlike in *Eyman*, in this case all contributions made by IUWF to the Democratic Party were disclosed and there is no concealment that contributions were received from IUWF. Additionally, all expenditures for advertising were disclosed by the Democratic Party in compliance with the requirements of the Idaho Secretary of State which required that the disclosures be listed as independent expenditures. While Plaintiffs do submit evidence showing the amounts of contributions and the amounts spent on advertisements of the Democratic Party correlate with one another, correlation does not necessarily equal causation. Ultimately, Plaintiffs' assertion that the monies from IUWF were specifically contributed for support of Proposition 1 with the intent of concealing the original donor for such advertisements requires logical leaps that are not fully supported by the evidence. The evidence before this Court reflects that at best, all monies contributed by IUWF were with the hope that the Democratic Party would support Proposition 1, but that the Democratic Party was free to utilize the contributions in any way it deemed fit and that ultimately the Democratic Party made independent decisions to

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purchase advertisements for Terri Pickens' campaign that demonstrated support of Proposition 1 by both the Democratic Party and Terri Pickens. As the United States Supreme Court recently stated in *Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n*:

[U]nder this Court's current precedents, a mere expectation or hope does not itself equate to circumvention or rise to the level of *quid pro quo* corruption or its appearance, especially given a donor's lack of control over the funds once contributed to the party. *McCutcheon*, 572 U.S. at 210–211, 134 S.Ct. 1434. The possibility that a political party *might* act in accordance with a contributor's expectations or hopes—or is even likely to do so—is not enough to override the First Amendment and justify limits on political party speech.

Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n, 609 U.S. 908, 928, 146 S. Ct. 2404, 2421, 225 L. Ed. 2d 998 (2026).³ Thus, a mere hope as to how contributions will be used is not sufficient. Rather, to be considered the source of funding, the initial contributor needs to retain control over the use of the funds, somehow earmarking those funds for a specific use.

Although not authoritative for this Court, a recent opinion of Idaho's Attorney General explains as follows:

The U.S. Supreme Court defined earmarking as any “designation, instruction, or encumbrance” directing funds to support a candidate. NRSC, 146 S. Ct. at 2421. In Idaho, it is illegal to make a contribution or expenditure “directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution.” Idaho Code § 67-6614. Further, Idaho Code § 67-6610A(6)(a) states that a contribution by a political committee (including a political party) of funds that “have all been contributed by one (1) person who exercises exclusive control over the distribution of funds ... is a contribution by the controlling person.”

Thus, if a person were to contribute money to a political party with instructions that it be used to support a specific candidate, whether through coordinated expenditures or a pass-through contribution, that contribution would be considered to be a

³ Although this case primarily addresses the contribution, this Court finds the reasoning instructive with respect to determining attribution of source.

contribution to the candidate by the person who contributed the money to the political party. An earmarked contribution such as that would need to be counted toward the contribution limit of the person who contributed the earmarked funds to the political party.

Effect on the Idaho Sunshine Law of Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n, 26-2 Op. Att'y Gen, 6 (2026). Although the opinion addresses campaign finance limitations, the Court finds persuasive the interpretation of the Attorney General that a contribution must be attributed to one that instructs how the contribution is to be used.

On the evidence received, Plaintiffs fail to show a likelihood of success of proving that IUWF instructed the Democratic Party or Terri Pickens how its contributions were to be utilized and thereby concealing their source. While the record reflects that the Democratic Party and Terri Pickens were in accord with IUWF in their mutual support of Proposition 1, other than the timing of the contributions and the purchase of the ads, there is no evidence that the funds were contributed by IUWF such that it directed how those funds would be used. In response to Plaintiffs' assertions, Defendants have presented evidence that monies were contributed by IUWF with the hope of supporting Proposition 1, but that the Democratic Party had exclusive control over the funds. As such, the decision with respect to the message it would advance, whether the same or different from IUWF's, appears to have rested entirely with the Democratic Party and/or Terri Pickens. Thus, the source of the funding based upon the record available appears to be the Democratic Party and there does not appear to be any concealment by IUWF, the Democratic Party, or Terri Pickens related to the same.

The Court recognizes that the parties have had a short time to advance this lawsuit and that if there was additional time, additional facts may be developed by either party which could lend further credence to their claims or defenses. However, given the burden placed on Plaintiffs to

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show a substantial likelihood of success on the merits of a violation of section 67-6614, or a clear right to the relief, and the fact that injunctions are only to be utilized with great restraint, especially when curbing First Amendment political speech, the Court finds the evidence is insufficient to support an injunction. Because of this, the Court cannot find that Plaintiffs burden has been met. The request for injunctive relief is denied as to Count I on this basis.

2. There is insufficient evidence in the record to support a finding of a violation of campaign law related to reduced advertising rates.

Plaintiffs also assert in their briefing that the Proposition 1 ads that have aired and will air are illegal because they violate campaign finance laws that allow candidate ads to be purchased at reduced rates. Plaintiffs assert that a simple statement at the end of an advertisement “PAID FOR BY IDAHO DEMOCRATIC PARTY. AUTHORIZED BY TERRI FOR IDAHO,” is insufficient to convert an advertisement in support of a proposition to an ad that is a candidate ad under the law. Plaintiffs further assert that the Democratic Party and Pickes misrepresented these ads as candidate ads to the broadcasters, thereby garnering the reduced rates. Plaintiffs provide support for this proposition, citing to 47 U.S.C. 315(b)(1)(A) which indicates that ads for candidates be charged the lowest rate available in the forty-five days preceding an election. The only other authority cited is *Nat'l Republican Cong. Comm. v. Brown*, 2026 Daily Journal D.A.R. 7916, 31 Fla. L. Weekly Fed. S 1093, 2026 WL 2618462 (U.S. Sept. 4, 2026). *Brown* simply addresses that the Supreme Court issued a stay to allow further determination as to who is entitled to the lowest advertisement funding rates. While it does mention irreparable harm, it is not in the context of a preliminary injunction. Further, the granting of a preliminary injunction requires more than irreparable harm and, as discussed below, the Court does not reach that question here.

The Court certainly understands the arguments made by Plaintiffs and also acknowledges that questions may exist in this case as to whether the ads are an advertisement for a candidate or a proposition and whether lower rates should apply. However, without further law or authority significant questions remain as to what constitutes an appropriate advertisement under the law in order to qualify as an advertisement promoting a candidate. For example, is the endorsement proffered enough? Is an onscreen appearance by the candidate indicating, “I’m Terri Pickens candidate for governor, and I support this message,” enough? Are there minimum time requirements during which the candidate must be mentioned or appear? The function of the Court is to interpret and apply the law. While the Court recognizes the potential dearth of case law on point, Plaintiffs fail to present analogous case law that might be used for analysis by the Court to reach Plaintiff’s desired result. Given the limited information provided, Plaintiffs fail to satisfy their burden of showing a substantial likelihood of success or a clear right to relief on this question and the request must be denied.

B. CLAIM II – Violation of Idaho Code section 67-6614A

Idaho Code section 67-6614A concerns the publication or distribution of political statements. It reads:

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election, approval or defeat of a candidate, measure or person standing for election to the position of precinct committeeman through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, the person responsible for such communication shall be clearly indicated in such communication.”

The analysis on this claim is very similar to the analysis for Claim I. Similar to Claim I, Plaintiff alleges that IUWF is the person responsible for the production of and funding for the

Proposition 1 advertisements that state “PAID FOR BY IDAHO DEMOCRATIC PARTY. AUTHORIZED BY TERRI FOR IDAHO” and that IUWF should therefore have been included as the source. Plaintiffs claim they have been harmed by the omission of IUWF as the originator and original funding party of the ads.

Again, this Court finds that to establish a likelihood of success on the merits as to this claim, Plaintiffs would need to demonstrate that IUWF had contributed the funding for support of Proposition 1 such that it retained control of the funds and the Democratic Party had little or no control over whether or how to advance the funding or message. The decision of the Court is once again constrained to the record before it. While that record reflects that the Democratic Party and Terri Pickens were in accord with IUWF in their mutual support of Proposition 1, other than the timing of the contributions and the purchase of the ads, there is no evidence that the funds were contributed by IUWF such that it directed how those funds would be used. In response, Defendants have presented evidence that monies were contributed by IUWF with the hope of supporting Proposition 1, but that the Democratic Party had exclusive control over the funds. The Court again concludes that based upon the evidence presented it appears that monies were contributed by IUWF with the hope of supporting Proposition 1, but that the Democratic Party had exclusive control over the funds. As such, when it purchased ads through broadcasters, the decision with respect to the message it would advance, whether the same or different from IUWF’s, rested entirely with the Democratic Party and/or Terri Pickens and the Democratic Party was the person responsible for the communication and the source of the funding.

Again, the Court recognizes that due to the short time the parties had to advance this lawsuit that if there was additional time, additional facts may be developed by either party which could lend further credence to their claims or defenses. However, as with Claim I, given the burden

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placed on Plaintiffs to show a substantial likelihood of success on the merits of a violation of section 67-6614A or that a clear right for relief exists along with the fact that injunctions are only to be utilized with great restraint, especially when curbing First Amendment political speech, the evidence is insufficient to support an injunction. Because of this, the Court cannot find that Plaintiffs burden has been met. The request for injunctive relief is denied as to Claim II on this basis

C. Claim III – Violation of Idaho Code 67-6607 and 67-6611

Finally, Plaintiffs have alleged a cause of action asserting that as defined by Idaho Code section 67-6602 Defendants have violated various reporting requirements by indicating to the Idaho Secretary of State that expenditures for ads in support of Proposition 1 were general expenditures rather than independent expenditures. In essence, they are arguing that by reporting the purchases as independent expenditures, the Democratic Party mislead the Secretary of State and the public as to the nature of the expense and how such expense was funded. At the time of the hearing on the preliminary injunction, evidence was presented that the Idaho Secretary of State specifically directed and required that all expenditures related to Proposition 1 be characterized on the Idaho Sunshine Law forms as independent expenditures. The website indicated:

Reporting expenses related to constitutional amendments, proposition 1, or the advisory question?

Please report these expenses as independent expenditures rather than regular expenditures in order to help us provide the public with campaign information that is easier to find and understand.

In reliance upon this instruction, the Democratic Party reported the advertising expenses as independent in nature. Plaintiffs conceded at the time of the hearing that based upon this information Claim III should not proceed and it was withdrawn.

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D. Issue of Irreparable Harm does not need to be addressed.

Because the Court finds that the Plaintiffs cannot demonstrate a substantial likelihood of success on the merits, or a clear right to relief the issue of irreparable harm need not be addressed.

V. Conclusion

For the reasons set forth above, Plaintiffs' motion for a preliminary injunction is denied.

Dated: 10/30/2026



Davis VanderVelde
District Judge

CERTIFICATE OF SERVICE

STATE OF IDAHO,)
) ss
COUNTY OF ADA)

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER was forwarded to the following:

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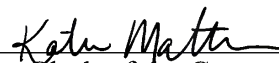
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DATED this _____ day of _____, 2026.

Trent Tripple
Clerk of the District Court


by Deputy Clerk of the Court

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