IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Nos. 20-35813 and 20-35815

LINDSAY HECOX; JANE DOE,
with her next friends Jean Doe and John Doe,
Plaintiffs-Appellees

v.

BRADLEY LITTLE,
in his official capacity as Governor of the State of Idaho; et al.,
Defendants-Appellants

and

MADISON KENYON; MARY MARSHALL,
Intervenors-Appellants

On Appeal from the United States District Court
for the District of Idaho, David C. Nye

BRIEF *AMICUS CURIAE* OF THREE FORMER IDAHO ATTORNEYS GENERAL FILED IN SUPPORT OF PLAINTIFFS-APPELLEES

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I. Statement of Identity of Amici Curiae and Interest in the Case[1]

Amici Curiae—Jim Jones, Wayne Leroy Kidwell, and W. Anthony (Tony) Park—are former Attorneys General of the State of Idaho.[2] Collectively, they served as the State's chief legal representative for sixteen years. They represent decades of public service to Idaho and the United States in all three branches of government and on both sides of the political aisle. Native sons and senior statesmen of Idaho, they remain actively engaged on myriad issues affecting Idahoans today.[3] But they have never taken the extraordinary step of submitting an *amicus curiae* brief on any issue—until now. They urge this Court to affirm the decision of the district court enjoining enforcement of the "Fairness in Women's Sports Act," Idaho Code Ann. §§ 33-6203-6206 (the "Act"), as likely unconstitutional.

Justice Jim Jones was elected as a Republican in 1982 and served as Idaho's Attorney General from 1983 to 1991. He was elected to the Idaho Supreme Court

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[1] This brief is authorized to be filed under Federal Rule of Appellate Procedure 29(a)(2), because the Plaintiffs-Appellees, Defendants-Appellants, and Intervenors-Appellants consented to the filing.

[2] No counsel for any party wrote this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *Amici Curiae* or their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

[3] Former Attorney General Jim Jones, for example, regularly publishes commentary on current issues impacting Idahoans on his blog, where he describes

in 2004 and served as the Chief Justice from 2015 to 2017. He retired from the bench in January 2017. In addition to his government service, Justice Jones was an artillery officer in the United States Army and served with distinction in Vietnam, receiving the Army Commendation Medal for his civic action work with an orphanage operated by the Cao Dai Church, among other commendations. Like his fellow *Amici*, Justice Jones was born and raised in Idaho.

Justice Wayne Kidwell was elected as a Republican in 1974 and served as Idaho's Attorney General from 1975 to 1979. He was elected to the Idaho Supreme Court in 1999 and served until 2005, when he was succeeded by Justice Jones. He retired from the bench in May 2010. Justice Kidwell also served in the Idaho Senate where, from 1970 to 1972, he was the Republican Majority Leader. After his tenure as Idaho Attorney General, President Ronald Reagan appointed Justice Kidwell to the position of United States Associate Deputy Attorney General. Justice Kidwell represented the Republic of the Marshall Islands as its appointed Attorney General, and he was an officer in the United States Army. He was born in Council, Idaho, and raised in Boise.

Tony Park was elected as a Democrat in 1970 and served as Idaho's Attorney General from 1971 to 1975. He was succeeded by Justice Kidwell. Mr.

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himself as a "common guy from the potato state . . . a CommonTater." *See* https://jjcommontater.com.

Park then actively practiced law in Boise for almost four decades. He has actively engaged in civic and political activities over the many years. He served on the Board of Directors of Radio Free Europe, Radio Liberty from 1977 to 1982. Like his follow *Amici*, Mr. Park served in the United States Army. He was born in Blackfoot, Idaho, and raised in Boise. From his earliest years, he has been a dedicated sports enthusiast, first as a participant and then as a booster of youth sports. He also served as President of the Idaho Affiliate of the ACLU.

Amici Curiae have no interest in this case or the parties except in their capacities as former Attorneys General and concerned Idaho citizens. This brief represents their individual views, not necessarily the views of any institution with which they are or have been affiliated. *Amici Curiae* are filing this brief in support of Appellees Lindsay Hecox, and Jean and John Doe (on behalf of their minor daughter, Jane Doe), to call this Court's attention to: (1) the careful, and correct, legal analysis of the Office of the Idaho Attorney General, which foreshadowed the preliminary invalidation of the Act under the Equal Protection Clause; (2) the scarce public resources that the Idaho legislature continues to squander by hastily passing constitutionally dubious legislation; and (3) *Amici Curiae's* abiding belief that transgender and intersex Idahoans are as entitled to the equal protection and application of the laws as any other citizen of the Gem State.

II. Argument

As *Amici Curiae* know firsthand, on a limited budget and with finite resources, the Attorney General's Office performs many critical functions for the people of Idaho. The Attorney General is the State's chief law enforcement officer, represents Idaho in most legal proceedings, and is often called upon to advise on the constitutionality of proposed legislation before taxpayer money is spent on the enactment and, at times, defense of certain laws. *See* Idaho Constitution, Art. IV §§ 1, 17, 18; Idaho Code Ann. §§ 67-1401-1409.

"As a constitutional officer, and the people's elected lawyer," Idaho's current Attorney General, Lawrence Wasden, argued to the Idaho Supreme Court, the Attorney General "plays a unique role in State affairs." *Wasden v. State Bd. of Land Comm'rs*, 153 Idaho 190, 195, 280 P.3d 693, 698 (2012). The Attorney General has "a number of statutorily imposed duties that are exclusive to his office" and "a broad mandate '[t]o exercise all the common law power and authority usually appertaining to [his] office and to discharge the other duties prescribed by law.'" *Id*. (internal citations to Idaho Code omitted). And, as particularly relevant here:

> As legal counsel for Idaho's Legislature, the Attorney General is charged with defending the validity of legislative enactments. As the State's legal counsel, the Attorney General is responsible for supporting and upholding Idaho's Constitution. Indeed, like other State elected officers, the Attorney General is required by the Legislature to swear a loyalty oath to support the Idaho Constitution and faithfully discharge his duties. *Therefore, it is incumbent upon the Attorney General to safeguard the Constitution against legislative enactments that encroach upon or conflict with its provisions. Where . . . a legislative enactment appears to clash with the constitutional duties of a State board, it seems axiomatic that the Attorney General must step forward to uphold the Constitution*.

Wasden, 153 Idaho at 195 (emphasis added). Attorney General Wasden, Idaho's longest serving Attorney General, has faithfully performed those functions since 2002.

Most recently, the Attorney General's Office expressed reservations about two bills impacting transgender citizens of Idaho, one of which, House Bill 500, became the Act after minor amendments. (The other, House Bill 509, became the "Idaho Vital Statistics Act," and is discussed in Part II.C.) At the request of the Idaho House of Representatives, the Attorney General prepared a thorough and thoughtful opinion on the constitutionality of House Bill 500 before it was voted upon.[4] In the February 25, 2020, opinion letter, the Attorney General's Office

[4] Available at: https://www.idahostatesman.com/latest-news/article240619742.ece/BINARY/HB%20500%20Idaho%20AG%20response.pdf. Attorney General Wasden's February 25, 2020, opinion letter (the "AG Opinion (HB 500)") is referenced in Plaintiffs' complaint, Excerpts of Record ("ER") 785, and the district court's decision, ER 9-10. It is included in the attached Addendum as Exhibit A).

detailed "concerns about the defensibility of the proposed legislation." AG Opinion (HB 500) at 1. Unfortunately, those concerns were largely overlooked by the legislature, which passed House Bill 500 on March 16, 2020.

On March 17, 2020, *Amici Curiae* wrote to Idaho's Governor, Brad Little, and urged him to veto the bill.[5] They echoed their successor's concerns about the bill's "apparent conflict with the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution," and they reminded the Governor that Attorney General Wasden "has frequently cautioned against passage of legally suspect legislation" in the past, "and has a good record of being correct." Former AGs Letter at 1-2. The former Attorneys General also noted that disregarding Attorney General Wasden's sound advice on prior occasions "has been costly for our State," which "could well be" the case "with regard to House Bill 500." *Id.*

Despite the warnings of the State's longest serving Attorney General and several of his distinguished predecessors, the Governor signed House Bill 500 into law on March 30, 2020. As *Amici Curiae* predicted, the Act has drawn the Attorney General's Office into costly, time-consuming litigation, which, had the Attorney General's advice been heeded in the first instance, could have been

[5] Available at: https://www.idahostatesman.com/opinion/readers-opinion/article241267071.html (the "Former AGs letter"). The Former AGs letter is reference in Plaintiffs' complaint, ER 788, and the district court's decision, ER 11. It is included in the attached Addendum as Exhibit B.

avoided. Less than a month after its enactment, the Act was challenged by Appellees and, on August 17, 2020, its enforcement was preliminarily enjoined under the Equal Protection Clause by the United States District Court for the District of Idaho. ER 1-87.

A. As Attorney General Wasden Explained, the Act Violates the Equal Protection Clause

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires Idaho to treat similarly situated individuals the same unless certain conditions are met. *See City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439-40 (1985). Laws that, on their face or in their application, treat men and women differently must satisfy "heightened" or "intermediate scrutiny." *Craig v. Boren*, 429 U.S. 190, 197 (1976). That is, they must address an "important governmental interest," must "significantly further that interest," and must be "necessary to further that interest." *Karnoski v. Trump*, 929 F.3d 1180, 1200 (9th Cir. 2019).

In his analysis of House Bill 500, Attorney General Wasden acknowledged that "the draft legislation is likely constitutional with regard to excluding men from women's sports." AG Opinion (HB 500) at 4. When applied in that manner, he opined, it likely satisfies intermediate scrutiny for the reasons explained by this Court in *Clark v. Arizona Interscholastic Association*, 695 F.2d 1126, 1127 (9th Cir. 1981). AG Opinion (HB 500) at 3-4.

The Attorney General recognized, however, that *Clark* does not end the inquiry because, in addition to excluding men from women's sports, the proposed legislation (and now the Act) excludes transgender women from women's sports. *Id*. The district court agreed, observing that "Idaho is the first and only state to categorically bar the participation of transgender women in women's student athletics." ER 78. When applied in that manner, the Attorney General warned, the legislation's constitutionality is far more tenuous. AG Opinion (HB 500) at 4. His explanation is as applicable to the Act as it was to House Bill 500.

The Attorney General's analysis begins by advising the legislature that laws that treat transgender and non-transgender individuals differently are a form of sex-based discrimination. AG Opinion (HB 500) at 2 (citing *Glenn v. Brumby*, 663 F.3d 1312, 1216-17 (11th Cir. 2011); *Evancho v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 285-86 (W.D. Pa. 2017)). Although the Attorney General did not know it at the time, the United States Supreme Court would soon confirm as much: "it is impossible to discriminate against a person for being . . . transgender without discriminating against that individual based on sex." *Bostock v. Clayton County*, 140 S. Ct. 1731, 1741 (2020). Such laws, the Attorney General reminded the legislature, must satisfy intermediate scrutiny. AG Opinion (HB 500) at 2 (citing *Karnoski*, 926 F.3d at 1199-1202; *F.V. v. Barron*, 286 F. Supp. 3d 1131, 1144-45 (D. Idaho 2018)).

The narrower and more difficult question left unanswered by *Clark*—but addressed by the Attorney General's Office before the Act's passage—is whether the categorical exclusion of transgender women from women's sports teams advances the legislature's purported interest in promoting equality of opportunity to participate in sports. The Attorney General offered "three noteworthy concerns regarding whether this legislation achieves that interest." AG Opinion (HB 500) at 4.

First, the Attorney General thoughtfully questioned whether, once categorically excluded from female sports teams, transgender females will have a meaningful opportunity to participate on any sports teams. *Id*. Some, including those who undergo treatment to reduce testosterone and experience a resulting change in athletic ability, may effectively be excluded from male sports teams, too. And coed sports teams may be insufficiently prevalent to provide a meaningful alternative. Absent evidence that transgender females will continue to have a meaningful opportunity to participate in sports, the Act is suspect.

Second, citing *Clark*, the Attorney General asked whether there are sufficient transgender females desirous of playing women's sports to displace non-transgender females "to a substantial extent?" AG Opinion (HB 500) at 4. Without "convincing evidence" of such substantial displacement, the Attorney General argued, citing *Clark*, the legislation may fail intermediate scrutiny. *Id.*

And third, the Attorney General questioned whether the chosen method of promoting fairness in women's sports—strict separation based on "biological sex"—was necessary, reminding the legislature that "'overbroad and unsupported generalizations regarding the relative athletic abilities of males and females will be rejected.'" AG Opinion (HB 500) at 4-5 (quoting *Haffer v. Temple Univ. of Com. Sys. Of Higher Educ.*, 678 F. Supp. 517, 524 (E.D. Pa. 1987), on reconsideration *sub nom*., *Haffer v. Temple Univ. of Com. Sys. Of Higher Educ.*, No. CIV A 80-1362, 1988 WL 3845 (E.D. Pa. Jan. 19, 1988)); *see also United States v. Virginia*, 518 U.S. 515, 533 (1992) (holding that the government's justification for a law that discriminates based on sex "must not rely on overbroad generalizations about the different talents, capacities, or preferences of males and females").

As a less categorical alternative, the Attorney General's Office suggested, "athletes could be required to compete with those with similar physical characteristics." *Id.* That is largely the solution that other organizations, including the International Olympic Committee, National Collegiate Athletic Association ("NCAA"), and Idaho High School Activities Association, have adopted. Essentially, those organizations reserve women's sports teams for athletes who have taken at least some steps to lower their natural testosterone levels and, consequently, reduce the physiological advantage upon which the legislature relied to justify the Act.

Because of the Act's disparate but avoidable categorical impact on transgender female athletes, the legislature was required to do more to justify it. Having failed to do so, this Court cannot decide that the Act is a necessary measure that substantially furthers an important State interest as opposed to an unconstitutional effort to pander to invidious political whims.

B. As Attorney General Wasden Explained, the Act Runs Afoul of Other Constitutional Protections

The District Court's decision relied exclusively on the Equal Protection Clause. But the Attorney General's opinion included additional bases to question the Act's constitutionality. AG Opinion (HB 500) at 5-8.[6] It suggested that the legislation that became the Act may also be unconstitutional under the Fourth Amendment, as an unjustified invasion of women's (but not men's) privacy, and under the Commerce Clause, as a State law infringing nationally-applicable standards of interstate athletic competition administered by organizations like the NCAA. AG Opinion (HB 500) at 7-8.

The Fourth Amendment protects Idaho citizens from unreasonable searches and seizures, which may include unwanted medical examinations. *Yin v.*

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[6] *Amici Curiae* detail these additional Constitutional questions as this Court may affirm the district court's judgment on any ground supported by the record. *See United States v. Washington*, 969 F.2d 752, 754 (9th Cir. 1992) ("We may affirm 'on any basis supported by the record even if the district court did not rely on that basis.'") (citation omitted).

California, 95 F.3d 864, 869-71 (9th Cir. 1996). When a law requires a medical examination in a non-criminal setting, the State's interest in the examination must be weighed against the individual's interest in privacy. *Id*. "It is unclear whether it would be an unconstitutional invasion of privacy to require a student to establish his or her sex through a medical examination when sex is disputed," the Attorney General concluded, "in order to protect an interest in providing non-transgender women the opportunity to compete." AG Opinion (HB 500) at 8. Despite the Attorney General's warning, and the legislature's subsequent minor revision of House Bill 500, the Act retains the medical examination provision. *See* Idaho Code Ann. § 33-6203(3) ("The health care provider may verify the student's biological sex as part of a routine sports physical examination relying only on one (1) or more of the following: the student's reproductive anatomy, genetic makeup, or normal endogenously produced testosterone levels.").[7] And that provision further calls the Act's constitutionality into question.

Separately, the Commerce Clause subjects certain State laws that have the effect of regulating activities in other states to constitutional invalidation. *See* AG Opinion (HG 500) at 8. The NCAA and similar national athletics associations regulate athletic competition nationwide. In order to "fairly regulate sports across

[7] Appellants and Intervenors dispute that the examination is required, but it is unclear how a health care provider "shall verify" a student's biological sex without conducting at least some type of examination.

the country," the Attorney General noted, they would likely "need to apply Idaho's rules of eligibility to all women's sports teams." *Id*. To redress the specific "injury" about which Intervenors complain, for example, the Act would have to be applied outside of Idaho, to a transgender female athlete in Montana. Intervenors' Opening Br. at 5-6 (complaining that because of 2011 changes to NCAA rules, Intervenors "would be competing against a biologically male athlete on the University of Montana's cross-country team who identifies as female"). The potential for such extraterritorial application of the Act further undermines its soundness. *See National Collegiate Athletic Ass'n v. Miller*, 10 F.3d 633, 639 (9th Cir. 1993).

C. The Legislature's Knowing Enactment of Unconstitutional Laws Harms All Idahoans

Amici Curiae note that, aside from the Act's constitutional infirmities, it does not address any concrete problem in Idaho, much less a significant one. The legislature cited no evidence that participation by transgender females on women's sports teams is, in fact, threatening "Fairness in Women's Sports" in the State. Yet the Act categorically excludes them nonetheless.

The real purpose of the Act, in the informed estimation of *Amici Curiae*, is to further marginalize an already marginalized group of people. In addition to creating more divisiveness in the State at a time when political polarization is at a historic high, such legislation imposes real costs on Idaho taxpayers.

As an example, *Amici Curiae* refer this Court to the other bill impacting transgender citizens that was signed into law on the same day as the Act. House Bill 509, which became the Idaho Vital Statistics Act, Idaho Code Ann. §§ 39-240, 245A and 279, prohibits transgender citizens from changing the sex on their birth certificates. That law ignores entirely the District Court's decision in *Barron,* which recognized that a similarly discriminatory law violated the Equal Protection Clause. In that case, while granting an injunction that prohibited the Idaho Department of Health and Welfare from categorically denying application from transgender people to change the sex listed on their birth certificates, the district court warned the Idaho legislature against passing similar laws in the future. *Barron*, 286 F. Supp. 3d at 1141-42. The plaintiffs were subsequently awarded $75,000.00 in attorneys' fees, which was paid using public funds.[8]

On February 28, 2020, the Attorney General's Office, which did not appeal the 2018 ruling, advised that it could cost the State $1 million or more if the Attorney General had to defend a birth certificate law, again, and was unsuccessful.[9] But the legislature disregarded the warnings, and the Governor

[8] Available at: https://www.sco.idaho.gov/BOE%20Publications/AG%20Request%20for%20Attorney%20Fees.pdf, included in the attached Addendum as Exhibit C.

[9] Available at: https://bloximages.chicago2.vip.townnews.com/idahostatejournal.com/content/tncms/assets/v3/editorial/4/41/441ec91b-65a3-5121-b019-

signed House Bill 509 into law on March 30, 2020. On April 16, 2020, the *Barron* plaintiffs filed a motion to confirm the district court's 2018 ruling, and on August 7, 2020, the district court held that the Idaho Vital Statistics Act violated its prior ruling. *See F.V. v. Jeppesen*, No. 1:17-CV-00170-CWD, 2020 WL 4726274, at *1-*4 (D. Idaho Aug. 7, 2020). The district court recently extended the plaintiffs' deadline to move, again, for attorneys' fees.

Unfortunately, the legislature's resistance to the Attorney General's sound advice—and even to controlling decisions of the United States Supreme Court—extends far beyond House Bills 500 and 509. In 1995, Idaho created a special fund—the "Constitutional Defense Fund"—comprised of "appropriations, gifts, grants" and other public money. Idaho Code Ann. § 67-6301. The Fund was intended "to help Idaho navigate state sovereignty conflicts with the federal government" but has more often been used "for cases where lawmakers were warned that new laws would likely not meet Constitutional standards."[10] Between 1995 and 2015, the Constitutional Defense Fund has "paid out more than $2.1 million" on "losing legal battles." In fact, the Fund has not "paid for a winning

2b101a4b9303/5e5d4fbbbabe9.pdf.pdf, included in the attached Addendum as Exhibit D.

[10] Rebecca Boone, Associated Press, *Idaho's Constitutional Defense Fund goes toward losing cases* (Nov. 16, 2015), available at: https://media.spokesman.com/documents/2015/11/ap-confund-11-16-15.pdf.

case since 1996, when Idaho reached a settlement with the federal government over nuclear waste storage and cleanup."

In addition to wasting taxpayer dollars, the enactment of suspect laws like the Act, despite clear warning and contrary precedent, needlessly distracts Attorney General's Office attorneys and resources from the many critical tasks with which the Office is entrusted. *See, e.g.*, Idaho Code Ann. § 67-1401(16)-(18) (providing that the duties of the Attorney General include the investigation and prosecution of "internet crimes against children," the investigation of State law violations "by elected county officials," and the establishment of a "sobriety and drug monitoring program to reduce the number of people on Idaho's highways who drive under the influence of alcohol or drugs").[11]

[11] It may seem incongruous for *Amici Curiae* to praise and rely upon legal advice Attorney General Wasden provided to the legislature prior to passage of the Act, which he now finds himself duty-bound to defend before this Court. The Attorney General is both the chief legal officer of the state, obligated to provide sound legal advice to entities of state government, but also charged with the responsibility to defend the duly-enacted laws of the state. The Attorney General has faithfully executed those dual constitutional and statutory roles here and must be commended for honoring his oath of office to do so.

It should be mentioned that the provision of sound legal advice to the legislature, particularly in these highly polarized times, is much the more difficult responsibility. The Idaho Attorney General is elected on a partisan ticket and subject to political pressure by those in his party who control the executive and legislature. *Amici Curiae* appreciate that is a difficult path to tread. Standing up for the rule of law does not gain political points.

III. Conclusion

Attorney General Wasden wisely "framed his leadership of the office around two fundamental principles: The Rule of Law and calling legal 'balls and strikes' fairly and squarely."[12] House Bill 500, the Attorney General's Office correctly discerned, is well outside the strike zone established by the Equal Protection Clause and other constitutional provisions. Nevertheless, the Attorney General must now defend the Act and, in the process, needlessly waste public resources that could be employed to support, rather than discriminate against, Idahoans.

Most upsetting, however, is the message that the Act has sent to Idaho's transgender citizens and their families, friends, and allies. In purporting to level the playing field, the Act has excluded an entire group of women from meaningful participation in sports. *Amici Curiae* wish to assure those individuals that the Act represents neither the values of Idaho, as *Amici Curiae* have come to understand them throughout decades of public service, nor the views of all Idahoans.

This group of young Idaho women, along with the broader community of LGBTQ individuals, has suffered stigma, discrimination, and harassment over the years. According to a 2017 GLSEN National School Climate Survey, 71% of LGBTQ+ students in Idaho report having been harassed or assaulted in the past

[12] Available at: https://www.ag.idaho.gov/about.

year based on sexual orientation, and 60% for gender expression.[13] They experience higher rates of mental and emotional problems than their peers, including more than double the suicide ideation.[14] Affirmance of the District Court's decision will help to alleviate these undue burdens by assuring equal treatment of this segment of the population.

Date: December 21, 2020

Respectfully submitted,

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[13] The report is available of the https://www.glsen.org/sites/default/files/2019-10/GLSEN-2017-National-School-Climate-Survey-NSCS-Full-Report.pdf, included in the attached Addendum as Exhibit E. *See also* https://www.kivitv.com/news/findinghope-suicide-risk-high-among-lgbtq-youth-in-idaho.

[14] *See, e.g.,* https://www.thetrevorproject.org/survey-2019/.

CERTIFICATE OF COMPLIANCE

Pursuant to Ninth Circuit Rule 32-1, the foregoing brief amicus curiae complies with the word limit of Federal Rule of Appellate Procedure 29(a)(5). The brief is proportionately spaced in Times New Roman 14-point type. According to the word processing system used to prepare the brief, the word count of the brief is 4,066, not including the Table of Contents, the Table of Authorities, the Certificate of Service, and the Certificate of Compliance.

Dated: December 21, 2020

s/Sarah Erickson André
Sarah Erickson André

CERTIFICATE OF SERVICE

I, hereby certify that on December 21, 2020, I electronically filed the foregoing BRIEF *AMICUS CURIAE* OF THREE FORMER IDAHO ATTORNEYS GENERAL FILED IN SUPPORT OF PLAINTIFFS-APPELLEES with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system

s/Sarah Erickson André
Sarah Erickson André