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October 2, 2025

Wendy J. Olson
101 S. Capitol Boulevard, Suite 1900
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Via email to:
wendy.olson@stoel.com

Re: Subpoenas Duces Tecum to National Right to Life Committee, Inc., and Right to Life of Idaho, Inc. - *Matsumoto et. al v. Labrador*, Case No. 1:23-cv-00323-DKG

Dear Counsel,

We are in receipt of two Subpoenas Duces Tecum dated September 12, 2025, that you directed to National Right to Life Committee, Inc. ("**NRLC**") and Right to Life of Idaho, Inc. ("**RLI**"), in the matter of *Matsumoto v. Labrador*, Civil Action No. 1:23-cv-00323-DKG. You demanded production of the following from NRLC and RLI (collectively, the "**Requests**"):

NRLC Subpoena:
"1. All documents sent to and received from Legislators concerning H.B. 242 and H.B. 98.
2. All documents relating to H.B. 242 and H.B. 98, including any meeting notes, memoranda, or minutes concerning H.B. 242 and H.B. 98.
3. All documents sent to and received from Right to Life of Idaho concerning H.B. 242 and H.B. 98.
4. All documents including drafts, relating to Abortion Trafficking Legislation.
5. All materials submitted to, received from, or exchanged with any Idaho state agency of [sic] government employee concerning H.B. 242 and H.B. 98."

RLI Supboena:
"1. All documents sent to and received from Legislators concerning H.B. 242 and H.B. 98.
2. All documents relating to H.B. 242 and H.B. 98, including any meeting notes, memoranda, or minutes concerning H.B. 242 and H.B. 98.
3. All documents sent to and received from National Right to Life concerning H.B. 242 and H.B. 98.
4. All documents, including drafts, relating to Abortion Trafficking Legislation.
5. All materials submitted to, received from, or exchanged with any Idaho state agency of [sic] government employee concerning H.B. 242 and H.B. 98."

Please be advised that NRLC and RLI object to these Requests and expressly claim any applicable privileges pursuant to Federal Rule of Civil Procedure 45(d)(2)(B) and (e)(2). Any existing documents that would be responsive to the Requests are exempted from disclosure by federal law because they are protected by First Amendment privilege and because the Requests are not relevant and are overbroad, imposing an undue burden.

I. First Amendment Privilege

Fundamentally and most importantly, compliance with the Requests would have a "deterrent effect on the exercise of [NRLC's and RLI's] First Amendment rights," and they are therefore exempted from disclosing the documents sought in the Requests. *See Perry v. Schwarzenegger*, 591 F.3d 1147, 1160 (9th Cir. 2010); *see also id.* at 1160 n.5 ("This privilege applies to discovery orders even if all of the litigants are private entities" (quotation marks and citation omitted)).

It is well-established that "[t]he compelled disclosure of political associations can have . . . a chilling effect" on protected First Amendment rights, in particular the right of association. *Id.* at 1160 (citation omitted). The compelled disclosure of both "political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Id.* (quoting *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003)). Demands for such disclosure are therefore subject to a high level of scrutiny that the Requests cannot satisfy.

Such scrutiny is plainly triggered. NRLC, the nation's oldest and largest pro-life organization, is a federation of 50 state right-to-life affiliates and more than 3,000 local chapters. NRLC works through education and legislation to restore legal protection to the most defenseless members of our society. RLI is NRLC's Idaho affiliate, has the same goals, and advances them in the same way. As advocacy organizations whose goals and core identities deeply involve them in one of today's most prevalent and extensive political issues, NRLC and RLI easily satisfy the requirements of the First Amendment privilege since compliance with the Requests would both deter participation and mute the "exchange [of] ideas and formulat[ion of] strategy and messages" in these entities. *Id.* at 1162–63. This is particularly true where an actual party (such as the Northwest Abortion Access Fund) is a "public policy opponent" of the party from whom discovery is sought. *Apple Inc. v. Match Grp.*, No. 21-mc-80184-YGR (TSH), 2021 U.S. Dist. LEXIS 161373, at *24 (N.D. Cal. Aug. 19, 2021) ("Who in their right mind would want to participate in a public advocacy organization, knowing that all their internal communications about strategy, lobbying, planning, and so on, would be turned over to their principal opponent? Once people realize that the [organization's] documents and internal communications have been turned over to [the opponent], no one will want to join or remain").

All of the Requests seek information about NRLC's and RLI's political advocacy activities and communications. Indeed, not a single Request is in any way attenuated from plainly political-

advocacy subject matter: all require information about House Bills and/or other legislation. The Requests therefore plainly fall afoul of the First Amendment's protections.[1]

II. Relevance

Equally fundamental is the fact that none of the Requests seek relevant information. "As with all discovery, a party serving a Rule 45 subpoena bears the initial burden of demonstrating the requested discovery is relevant as defined by Rule 26 of the Federal Rules of Civil Procedure." *United States v. Dillon*, No. 1:17-cv-00498-BLW, 2023 U.S. Dist. LEXIS 22961, at *6 (D. Idaho Feb. 8, 2023).

This case involves claims that the abortion trafficking ban (**1**) violated due process as a result of alleged vagueness, (**2**) burdens the rights to interstate and intrastate travel, and (**3**) infringes on First Amendment rights of association and expression. But *NRLC's* views, positions, or interpretations thereof are not relevant to any of those claims. A private entity's understanding of the law does not play a part in judicial construction of the law, *see Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 253–54 (2022), so the Requests are not relevant to the vagueness claims.[2] And a private entity's views of a law certainly do not have anything to do with whether that law violates any right of travel or on the First Amendment. In short, NRLC's and RLI's documents have absolutely nothing to do with the claims and issues in the case.

III. Overbreadth and Undue Burden

Additionally, even if some responsive documents could potentially be relevant, every single Request is overbroad, seeking "all documents" relating to H.B. 242 and H.B. 98 or to the even broader subject, "Abortion Trafficking Legislation." While some Requests are limited by sender or recipient, such broad, non-tailored requests will nonetheless undoubtedly require the production of a great deal of irrelevant documents. "'Courts tend to find document requests seeking all documents related to a claim or defense as lacking particularity.'" *Salas v. Facultatieve Techs. The Ams. Inc.*, No. 1:17-cv-00335-LJO-BAM, 2018 U.S. Dist. LEXIS 72426, at *10 (E.D. Cal. Apr. 30, 2018) (quoting *See Regan-Touhy v. Walgreen Co.*, 526 F.3d 641, 650 (10th Cir. 2008)). A request for "all documents" and "all communications" concerning a topic even *more broad* than a generalized claim or defense is certainly overbroad. *E.g.*, *Goose Pond AG, Inc. v. Duarte Nursery, Inc.*, No. 2:19-cv-2631 KJM DB, 2020 U.S. Dist. LEXIS 144037, at *3 (E.D. Cal. Aug. 11, 2020) (citing various case).

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[1]In asserting this privilege, NRLC and RLI do not waive any other privilege. For example, many of the Requests would likely encompass documents protected by attorney-client privilege.

[2]To the extent the Requests seek communications from *others* in hopes of fishing up something that may be relevant, they are overbroad and unduly burdensome. A party must avoid imposing upon a non-party the burden of producing documents that may just as easily—and more directly—be produced by someone else.

Nor is this problem remedied by splitting into five demands what is actually a single demand for all documents relating to a certain overarching topic. *E.g.*, *Defreitas v. Tillinghast*, No. 2:12-CV-00235-JLR, 2013 U.S. Dist. LEXIS 7429, at *8 (W.D. Wash. Jan. 17, 2013) (finding request for "all communications" between certain individuals concerning a certain topic to be overbroad). The overbreadth doctrine prohibits a party from demanding all communications with a given party that may relate in some remote way to an actual claim or issue (and certainly from demanding "all documents" that may so relate) in hopes of then perusing the documents at its leisure in hopes of finding something relevant.

Overbreadth also results from the Requests' temporal scope, which is not appropriately limited. The Requests seek documents from "January 1, 2021 to the present," yet even the earliest version of the abortion trafficking law at issue, H.B. 98, was not even introduced until more than two years thereafter, on February 7, 2023. Accordingly, the Requests' arbitrary timeframe is yet another form of overbreadth. Because a party must seek to minimize the burden imposed by discovery requests, especially when a non-party carries that burden, this overbreadth is also fatal to the Requests.

In sum, NRLC and RLI are exempted from producing documents responsive to any of the Requests under various privileges and protections, and accordingly object to all Requests.

Sincerely,
THE BOPP LAW FIRM, PC

/s/Joseph D. Maughon

James Bopp, Jr.
Joseph D. Maughon

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October 2025, I personally served a true and correct copy of the forgoing letter of objection to subpoenas duces tecum to Plaintiffs attorney by email to:

Wendy J. Olson
Email: wendy.olson@stoel.com

/s/Joseph D. Maughon
Joseph D. Maughon