

RAÚL R. LABRADOR
ATTORNEY GENERAL

LINCOLN DAVIS WILSON, ISB #11860
Chief of Civil Litigation and
Constitutional Defense

BRIAN V. CHURCH, ISB #9391
TIMOTHY J. LONGFIELD, ISB #12201
Deputy Attorneys General
Office of the Attorney General
P. O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Facsimile: (208) 854-8073
lincoln.wilson@ag.idaho.gov
brian.church@ag.idaho.gov
timothy.longfield@ag.idaho.gov
*Attorneys for Defendant Raúl Labrador
and Certain County Prosecuting Attorneys*

**UNITED STATE DISTRICT COURT
DISTRICT OF IDAHO**

PLANNED PARENTHOOD GREAT NORTH-
WEST, HAWAII, ALASKA, INDIANA, KEN-
TUCKY, on behalf of itself, its staff, physi-
cians and patients, *et al.*,

Plaintiffs,

v.

RAÚL LABRADOR, in his capacity as the At-
torney General of the State of Idaho, *et al.*,

Defendants.

Case No. 1:23-cv-00142-BLW

**OPPOSITION TO PLAIN-
TIFFS' MOTION TO STRIKE
[Dkt. 122]**

The Court should deny Plaintiffs’ motion to strike. Although the local rules require a motion for leave to file for supplemental factual material proffered in support of a party’s substantive contentions, Defendants properly proffered these declarations by notice because they relate to a matter of mandatory, rather than discretionary, consideration by the Court: the Court’s subject matter jurisdiction. *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006) (citation omitted); *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1868).

Because the Court has an “independent obligation” to determine its jurisdiction, *see Arbaugh*, 546 U.S. at 514, and that obligation applies at every stage of proceedings, *see TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2208 (2021), it is necessary for the Court to consider these declarations that cast doubt on whether this case presents a justiciable controversy. And because of that sua sponte duty, materials that call the court’s jurisdiction into question are never untimely and never waived. Nevertheless, to the extent the Court determines that the local rules apply, the Court should construe Defendants’ notices of supplemental declarations as motions for leave to file, which it should grant for the reasons above.

///

///

///

DATED: May 5, 2023.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: /s/ Lincoln Davis Wilson

LINCOLN DAVIS WILSON
Chief, Civil Litigation and
Constitutional Defense
BRIAN V. CHURCH
TIMOTHY LONGFIELD
Deputy Attorneys General

*Attorneys for Defendants Attorney
General Raúl Labrador and Certain
County Prosecuting Attorneys¹*

¹ Jan Bennetts, Ada County Prosecutor; Chris Boyd, Adams County Prosecutor; Stephen Herzog, Bannock County Prosecutor; Mariah Dunham, Benewah County Prosecutor; Paul Rogers, Bingham County Prosecutor; Matt Fredback, Blaine County Prosecutor; Alex Gross, Boise County Prosecutor; Louis Marshall, Bonner County Prosecutor; Randy Neal, Bonneville County Prosecutor; Andrakay Pluid, Boundary County Prosecutor; Jim Thomas, Camas County Prosecutor; McCord Larsen, Cassia County Prosecutor; Janna Birch, Clark County; E. Clayne, Clearwater County Prosecutor; Vic Pearson, Franklin County Prosecutor; Lindsay Blake, Fremont County Prosecutor; Erick Thomson, Gem County Prosecutor; Trevor Misseldine, Gooding County Prosecutor; Kirk MacGregor, Idaho County Prosecutor; Mark Taylor, Jefferson County Prosecutor; Brad Calbo, Jerome County Prosecutor; Stanley Mortensen, Kootenai County Prosecutor; Bill Thompson, Latah County Prosecutor; Bruce Withers, Lemhi County Prosecutor; Zachary Pall, Lewis County Prosecutor; Rob Wood, Madison County Prosecutor; Lance Stevenson, Minidoka County Prosecutor; Cody Brower, Oneida County Prosecutor; Chris Topmiller, Owyhee County Prosecutor; Mike Duke, Payette County Prosecutor; Benjamin Allen, Shoshone County Prosecutor; Bailey Smith, Teton Valley County Prosecutor; Grant Loebs, Twin Falls County Prosecutor; Brian Naugle, Valley County Prosecutor; and Delton Walker, Washington County Prosecutor.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 5, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Colleen R. Smith
csmith@stris.com

Peter G. Neiman*
peter.neiman@wilmerhale.com

Jennifer R. Sandman*
jennifer.sandman@ppfa.org

Alan E. Schoenfeld*
alan.schoenfeld@wilmerhale.com

Catherine Peyton Humphreville*
catherine.humphreville@ppfa.org

Michelle Nicole Diamond*
michelle.diamond@wilmerhale.com

Michael J. Bartlett
michael@bartlettfrench.com

Rachel E. Craft*
rachel.craft@wilmerhale.com

Dina Flores-Brewer
dfloresbrewer@acluidaho.org

Katherine V. Mackey*
katherine.mackey@wilmerhale.com

Andrew Beck*
abeck@aclu.org

Meagan Burrows*
mburrows@aclu.org

Ryan Mendías*
rmendias@aclu.org

Scarlet Kim*
scarletk@aclu.org

**Pro hac vice*

/s/ Lincoln Davis Wilson
LINCOLN DAVIS WILSON
Chief, Civil Litigation and Constitu-
tional Defense