

RAÚL R. LABRADOR
ATTORNEY GENERAL

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

BRIAN V. CHURCH, ISB #9391
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*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, *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

**DEFENDANTS' FIRST NO-
TICE OF SUPPLEMENTAL
DECLARATIONS REGARD-
ING SUBJECT MATTER JU-
RISDICTION**

The undersigned Defendants submit the attached declarations of county pros-
ecutors in connection with the Court's "independent obligation to determine whether
subject-matter jurisdiction exists, even in the absence of a challenge from any party."

Arbaugh v. Y & H Corp., 546 U.S. 500, 514 (2006); *Ex parte McCardle*, 7 Wall. 506, 514 (1868). These declarations further show, consistent with the arguments in Defendants’ briefing,¹ that this action does not present a justiciable Article III controversy.

These declarations have been executed by the following county prosecutors: Benjamin Allen, Shoshone County; Cody Brower, Oneida County; Mariah R. Dunham, Benewah County; and Louis Marshall, Bonner County. The undersigned Defendants anticipate submitting further supplemental declarations under separate cover as they become available.

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¹ See, e.g., Dkt. 42 at 4 (“[T]he Crane Letter was not law enforcement guidance sent out publicly to local prosecutors ... nor was it ever published by the Office of the Attorney General.”) (quotation omitted); Dkt. 42 at 18 (“Plaintiffs do not allege that the Attorney General sent the letter to anyone else, much less to the county prosecutors or the state licensing boards, each of which act independent of the Attorney General.”); Dkt. 85 at 5 (“They do not contend that any of the 44 county prosecutors they sued have threatened them or anyone else under the Crane Letter theory.”); Dkt. 107 at 1 (“[T]he officials who *have* prosecutorial authority have said and done nothing.”); *id.* at 6 (“[N]o county prosecutor or state licensing board has taken any action or expressed any position about the theory of prosecution in the Crane Letter. Nor do Plaintiffs allege otherwise.”); *id.* at 8 & n.4 (“Plaintiffs have not shown any relevant action by county prosecutors anywhere, but it is even more troubling for prosecutors in the 41 other counties” where Plaintiffs have no facilities).

DATED: May 3, 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 Prosecut-
ing Attorneys.²*

² Jan Bennetts, Ada County Prosecutor; Chris Boyd, Adams County Prosecutor; Alex Gross, Boise County Prosecutor; Andrakay Pluid, Boundary County Prosecutor; Jim Thomas, Camas County Prosecutor; McCord Larsen, Cassia County Prosecutor; Trevor Misseldine, Gooding County Prosecutor; Mark Taylor, Jefferson County Prosecutor; Rob Wood, Madison County Prosecutor; Lance Stevenson, Minidoka County Prosecutor; Cody Brower, Oneida County Prosecutor; Benjamin Allen, Shoshone County Prosecutor; Grant Loeb, Twin Falls County Prosecutor; and Brian Naugle, Valley County Prosecutor.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 3, 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:

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**Pro hac vice*

/s/ Lincoln Davis Wilson
LINCOLN DAVIS WILSON
Deputy Attorney General

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PLANNED PARENTHOOD GREAT NORTH-
WEST, HAWAII, ALASKA, INDIANA, KEN-
TUCKY, on behalf of itself, its staff, physi-
cians and patients, CAITLIN GUSTAFSON,
M.D., on behalf of herself and her patients,
and DARIN L. WEYHRICH, M.D., on behalf
of himself and his patients,

Plaintiffs,

v.

RAÚL LABRADOR, in his capacity as the At-
torney General of the State of Idaho; MEM-
BERS OF THE IDAHO STATE BOARD OF
MEDICINE and IDAHO STATE BOARD OF
NURSING, in their official capacities,
COUNTY PROSECUTING ATTORNEYS, in
their official capacities,

Defendants.

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

**DECLARATION OF LOUIS
MARSHALL**

I, Louis Marshall, hereby declare and state as follows:

1. I am the prosecuting attorney for Bonner County, Idaho, and am named as a Defendant in this action.

2. The Idaho Attorney General's Office never sent me a copy of the Attorney General's March 27, 2023 letter to Representative Brent Crane (the "Crane Letter").

3. I received that letter only in connection with this litigation.

4. I did not, and do not, regard the Crane Letter as any type of guidance or directive to me or to my office from the Office of the Attorney General.

5. My office has taken no position regarding the scope of enforcement under Idaho Code § 18-622.

6. My prosecutorial decisions are based on my own independent legal duty, interpretation of the law, and discretion.

7. This is true no less with respect to any prosecution under Idaho Code § 18-622.

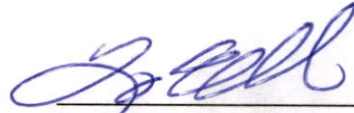
8. The Attorney General has no supervisory authority over my work as a prosecutor or the power to direct me to initiate any prosecution without my consent.

9. I am aware of no prosecution, or threat of prosecution, brought by anyone in my office against Plaintiffs under Idaho Code § 18-622.

10. In fact, none of the Plaintiffs in this action have facilities in my county.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May3, 2023



Louis Marshall

CERTIFICATE OF SERVICE

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**Pro hac vice*

/s/ Lincoln Davis Wilson
LINCOLN DAVIS WILSON
Deputy Attorney General

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M.D., on behalf of herself and her patients,
and DARIN L. WEYHRICH, M.D., on behalf
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COUNTY PROSECUTING ATTORNEYS, in
their official capacities,

Defendants.

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

**DECLARATION OF MARIAH
R. DUNHAM**

I, MARIAH R. DUNHAM, hereby declare and state as follows:

1. I am the prosecuting attorney for Benewah County, Idaho, and am named as a Defendant in this action.
2. The Idaho Attorney General's Office never sent me a copy of the Attorney General's March 27, 2023 letter to Representative Brent Crane (the "Crane Letter").
3. I received that letter only in connection with this litigation.
4. I did not, and do not, regard the Crane Letter as any type of guidance or directive to me or to my office from the Office of the Attorney General.
5. My office has taken no position regarding the scope of enforcement under Idaho Code § 18-622.
6. My prosecutorial decisions are based on my own independent legal duty, interpretation of the law, and discretion.
7. This is true no less with respect to any prosecution under Idaho Code § 18-622.
8. The Attorney General has no supervisory authority over my work as a prosecutor or the power to direct me to initiate any prosecution without my consent.
9. I am aware of no prosecution, or threat of prosecution, brought by anyone in my office against Plaintiffs under Idaho Code § 18-622.
10. In fact, none of the Plaintiffs in this action have facilities in my county.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 3, 2023


MARIAH R. DUNHAM

CERTIFICATE OF SERVICE

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**Pro hac vice*

/s/ Lincoln Davis Wilson
LINCOLN DAVIS WILSON
Deputy Attorney General

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M.D., on behalf of herself and her patients,
and DARIN L. WEYHRICH, M.D., on behalf
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NURSING, in their official capacities,
COUNTY PROSECUTING ATTORNEYS, in
their official capacities,

Defendants.

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

**DECLARATION OF
BENJAMIN ALLEN,
SHOSHONE COUNTY
PROSECUTING ATTORNEY**

I, BENJAMIN ALLEN, hereby declare and state as follows:

1. I am the prosecuting attorney for Shoshone County, Idaho, and am named as a Defendant in this action.

2. The Idaho Attorney General's Office never sent me a copy of the Attorney General's March 27, 2023 letter to Representative Brent Crane (the "Crane Letter").

3. I received that letter only in connection with this litigation.

4. I did not, and do not, regard the Crane Letter as any type of guidance or directive to me or to my office from the Office of the Attorney General.

5. My office has taken no position regarding the scope of enforcement under Idaho Code § 18-622.

6. My prosecutorial decisions are based on my own independent legal duty, interpretation of the law, and discretion.

7. This is true no less with respect to any prosecution under Idaho Code § 18-622.

8. The Attorney General has no supervisory authority over my work as a prosecutor or the power to direct me to initiate any prosecution without my consent.

9. I am aware of no prosecution, or threat of prosecution, brought by anyone in my office against Plaintiffs under Idaho Code § 18-622.

10. In fact, none of the Plaintiffs in this action have facilities in my county.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 3, 2023


BENJAMIN ALLEN

CERTIFICATE OF SERVICE

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**Pro hac vice*

/s/ Lincoln Davis Wilson
LINCOLN DAVIS WILSON
Deputy Attorney General

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NURSING, in their official capacities,
COUNTY PROSECUTING ATTORNEYS, in
their official capacities,

Defendants.

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

**DECLARATION OF CODY L.
BROWER, ONEIDA COUNTY
PROSECUTING ATTORNEY**

I, Cody L. Brower, hereby declare and state as follows:

1. I am the prosecuting attorney for Oneida County, Idaho, and am named as a Defendant in this action.

2. The Idaho Attorney General's Office never sent me a copy of the Attorney General's March 27, 2023 letter to Representative Brent Crane (the "Crane Letter").

3. I received that letter only in connection with this litigation.

4. I did not, and do not, regard the Crane Letter as any type of guidance or directive to me or to my office from the Office of the Attorney General.

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8. The Attorney General has no supervisory authority over my work as a prosecutor or the power to direct me to initiate any prosecution without my consent.

9. I am aware of no prosecution, or threat of prosecution, brought by anyone in my office against Plaintiffs under Idaho Code § 18-622.

10. In fact, none of the Plaintiffs in this action have facilities in my county.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 3, 2023



CODY L. BROWER
Oneida County Prosecuting Attorney

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