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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

EMILIE JACKSON-EDNEY, *et al.*,

Plaintiffs,

v.

RAÚL LABRADOR, in his official capacity
as Attorney General of the State of Idaho, *et*
al.,

Defendants.

Case No. 1:26-cv-00261-AKB

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION [DKT. 4]**

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INTRODUCTION

A class action lawsuit is appropriate in this challenge to Idaho House Bill 752 (“H.B. 752”), which criminalizes the use of restrooms that align with transgender individuals’ gender identity. The law is void-for-vagueness, violates equal protection, and violates the class’s right to informational privacy. *See generally* Dkt. 1 (Compl.); Dkt. 3-1 (Pls.’ Mem. ISO Mot. Prelim. Inj. Provisional Class Cert (“PI Mem.”)). Plaintiffs seek class certification only for purposes of injunctive relief.

Plaintiffs request that this Court certify a class under Federal Rules of Civil Procedure 23(a) and 23(b)(2) for purposes of enjoining the enforcement of the act as to all members of the class. As noted in their motion for a preliminary injunction and provisional class certification, Plaintiffs ask that, given the July 1, 2026, effective date of the law, and the emergency nature of this requested relief, the Court begin by provisionally certifying the class for the purpose of issuing a preliminary injunction, *see* PI Mem. at 24, after which the Court may consider any outstanding questions before proceeding to full class certification.

The class would include all transgender people who seek to use a restroom in a government-owned building or place of public accommodation in Idaho consistent with their gender identity.

The class satisfies the requirements of Rule 23(a) and falls within the scope of Rule 23(b)(2). The proposed class is sufficiently numerous, including the thousands of transgender people who live in the State of Idaho as well as those who travel through the state each year. The class raises common legal questions that will generate common answers, including whether the statute violates the class’s constitutional rights. The class also raises common factual issues because Plaintiffs and class members are subject to the same threat of enforcement. Plaintiffs’

claims are typical of those whom they seek to represent—that is, other transgender people who will be barred from using the restroom that aligns with their gender identity. Plaintiffs are also adequately represented by a team of attorneys with significant experience litigating the rights of transgender people and class action cases, including before this Court, from the ACLU’s National LGBTQ & HIV Project, Lambda Legal, the ACLU of Idaho, Munger, Tolles & Olson LLP, and Alturas Law Group, PLLC.

Plaintiffs’ proposed class likewise satisfies Federal Rule of Civil Procedure 23(b)(2) because Defendants have “acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Because Defendants seek to enforce this law, they are operating in a manner that is common to all Plaintiffs. The class as a whole is therefore entitled to an injunction enjoining Defendants from enforcing H.B. 752.

BACKGROUND

I. The State Law

On March 31, 2026, Governor Brad Little signed H.B. 752 into law. H.B. 752 criminalizes the act of “knowingly and willfully enter[ing] a restroom or changing room in a government-owned building or a place of public accommodation . . . that is designated for the opposite biological sex.” Idaho Code Ann § 18-4117(1).¹ That prohibition applies to both single and multi-occupancy sex-designated restrooms. The statute does not define “biological sex.”²

For a transgender person, the law criminalizes the entry into any sex-designated restroom,

¹ All statutory code citations are to the Idaho Code Annotated, unless otherwise noted.

² For purposes of this Motion only, Plaintiffs assume that the State intended the term to mean a person’s sex assigned at birth. *See Roe v. Critchfield*, 137 F.4th 912, 920 n.2 (9th Cir. 2025) (making similar assumption as to the term “biological sex” under Idaho statute).

whether multi- or single-occupancy, aligned with their gender identity. The first offense is a misdemeanor, punishable with up to one year imprisonment. *See* § 18-4117(1). The second offense is a felony punishable with up to *five years* of imprisonment. *Id.* A second offense includes pleading or being found guilty within five years of “a similar statute in another state, or any similar local ordinance.” *Id.*

H.B. 752 applies to public accommodations “of any kind,” § 67-5902(9), including restaurants, doctor’s offices, theaters, museums, banks, gas stations, churches, and stores. It also applies to all government-owned buildings, including state courthouses, city halls, local and state parks, and Idaho’s Capitol Building. No transgender person could live, work, or travel in Idaho without encountering H.B. 752’s prohibitions on a daily basis.

II. Class Representatives

Plaintiffs Emilie Jackson-Edney, Daniel Doe, Diego Fable, Amelia Milette, Peter Poe, and Zoey Wagner ask the court to appoint them as class representatives. Jackson-Edney Decl. ¶ 18; Doe Decl. ¶ 21; Fable Decl. ¶ 26; Milette Decl. ¶ 23; Poe Decl. ¶ 20; Wagner Decl. ¶ 18. Each proposed class representative faces the risk of arrest and prosecution under H.B. 752. The proposed class representatives are all transgender individuals. Jackson-Edney Decl. ¶ 3; Doe Decl. ¶ 3; Fable Decl. ¶ 4; Milette Decl. ¶ 4; Poe Decl. ¶ 3; Wagner Decl. ¶ 4. They all use restrooms that align with their gender identity and would be severely impacted by an inability to do so. Jackson-Edney Decl. ¶ 8, 10, 13, 15-17; Doe Decl. ¶ 8, 11, 13-15, 17; Fable Decl. ¶ 9, 13, 15-19; Milette Decl. ¶ 9, 13, 15-18, 21-22; Poe Decl. ¶ 8, 12, 14-16; Wagner Decl. ¶ 8, 12, 14-17.

All of the class members encounter gendered restrooms in their daily lives which will be affected by H.B. 752. Jackson-Edney Decl. ¶ 11; Doe Decl. ¶ 9; Fable Decl. ¶ 10-11; Milette Decl. ¶ 10-11, 19; Poe Decl. ¶ 9-10; Wagner Decl. ¶ 9-10. All of the class members are frequently unable to locate gender-neutral restrooms in their day-to-day lives. Jackson-Edney

Decl. ¶ 12; Doe Decl. ¶ 10; Fable Decl. ¶ 12; Milette Decl. ¶ 12; Poe Decl. ¶ 11; Wagner Decl. ¶ 11. As a result, all face the same risk of losing access to safe, affirming restrooms as they go about their lives. *See* Jackson-Edney Decl. ¶ 13, 15-17; Doe Decl. ¶ 11, 13-15; Fable Decl. ¶ 13, 15-19; Milette Decl. ¶ 13, 15-18, 21-22; Poe Decl. ¶ 12, 14-16; Wagner Decl. ¶ 12, 14-17.

Each class representative brings this lawsuit to protect not only their own interests, but also the interests of the class as a whole. *See* Jackson-Edney Decl. ¶ 18; Doe Decl. ¶ 21; Fable Decl. ¶ 26; Milette Decl. ¶ 23; Poe Decl. ¶ 20; Wagner Decl. ¶ 18. The class representatives bring this lawsuit to protect access to restrooms for themselves and others like them in Idaho. *See id.*

ARGUMENT

Civil rights actions such as this one are particularly amenable to class treatment. Rule 23(b)(2) was enacted to “facilitate the bringing of class actions in the civil-rights area.” 7A Wright & Miller, *Federal Practice & Procedure* § 1775 (3d ed. 2018). The decision to certify a class is reviewed under an abuse of discretion standard, with “noticeably more deference” accorded to a grant of certification than a denial. *Abdullah v. U.S. Sec. Assocs., Inc.*, 731 F.3d 952, 956 (9th Cir. 2013).

Plaintiffs must demonstrate compliance with Rule 23. *Sali v. Corona Reg’l Med. Ctr.*, 909 F.3d 996, 1003–04 (9th Cir. 2018). However, because Rule 23(c)(1)(A) instructs courts to determine certification at “an early practicable time,” the court “need only consider ‘material sufficient to form a reasonable judgment on each [Rule 23(a)] requirement.’” *Id.* at 1004–05 (quoting *Blackie v. Barrack*, 524 F.2d 891, 901 (9th Cir. 1975) (alteration in original); *see also* *Abdullah*, 731 F.3d at 956 (findings of fact will be reversed only if “(1) illogical, (2) implausible, or (3) without ‘support in inferences that may be drawn from the record.’”). The court may consider hearsay and similar evidence, such as declarations, that would be inadmissible at trial.

See, e.g., Sali, 909 F.3d at 1003 (noting that at the class certification “stage, a district court may not decline to consider evidence solely on the basis that the evidence is inadmissible at trial”).

Here, moreover, Plaintiffs initially seek provisional class certification for purposes of issuing preliminary relief, allowing additional time for the Court to evaluate the matter before granting full class certification. Provisional class certification depends on and is in service of the associated preliminary relief. *Fraihat v. U.S. Immigr. & Customs Enf’t*, 16 F.4th 613, 635 (9th Cir. 2021). The provisional class is tailored to the relief sought and its certification expires alongside the associated preliminary relief. *Id.*; *see also Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 966 (9th Cir. 2009) (“A district court may decertify a class at any time.”). Courts in the Ninth Circuit “routinely grant provisional class certification for purposes of entering injunctive relief.” *Carrillo v. Schneider Logistics, Inc.*, No. CV 11–8557 CAS, 2012 WL 556309, at *9 (C.D. Cal. Jan. 31, 2012), *aff’d*, 501 F. App’x 713 (9th Cir. 2012); *see also Al Otro Lado v. Wolf*, 952 F.3d 999, 1005 n.4 (9th Cir. 2020) (“We have approved provisional class certification for purposes of preliminary injunction proceedings.”); *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1036, 1041-43 (9th Cir. 2012) (“We conclude the district court . . . did not abuse its discretion by granting provisional class certification.”); *see also Davids v. Adams*, No. 1:25-CV-00334-AKB, 2025 WL 2083832, at *13 (D. Idaho July 24, 2025) (“Courts routinely grant provisional class certification for purposes of entering injunctive relief.”); *Idaho Org. of Res. Councils v. Labrador*, 780 F. Supp. 3d 1013, 1046 (D. Idaho 2025); *Robinson v. Labrador*, 747 F. Supp. 3d 1331, 1351 (D. Idaho 2024) (granting provisional class certification at the preliminary injunction stage). Plaintiffs request that the Court grant full class certification after this motion is fully briefed in the normal course.

I. The Class Satisfies Rule 23(b)(2).

Plaintiffs seek certification pursuant to Rule 23(b)(2), which requires that the party opposing certification have “acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). The requirements of Rule 23(b)(2) “are unquestionably satisfied when members of a putative class seek uniform injunctive or declaratory relief from policies or practices that are generally applicable to the class as a whole.” *Parsons v. Ryan*, 754 F.3d 657, 688 (9th Cir. 2014).

Rule 23(b)(2) certification is appropriate here because the class seeks a uniform injunction barring Defendants from enforcing H.B. 752 against the class. For purposes of provisional class certification, Plaintiffs seek the narrow relief identified in their preliminary injunction motion: that the Court enter a preliminary injunction as to the application of H.B. 752 to (1) their use of sex-designated single-user restrooms; and (2) their use of a restroom wherever a single-user restroom is not available, defined as places where, to the individual’s knowledge after inspection or inquiry, (a) no single-user restroom exists on the same floor as the multi-user facilities; or (b) all single-user restrooms on the same floor as the multi-user facilities are occupied or not in service.

The criminal prohibition of access to a restroom that aligns with one’s gender identity is generally applicable to all members of the class, and that class seeks an injunction barring enforcement as to its members. As such, the class falls within the scope of Rule 23(b)(2).

II. The Class Is So Numerous that Joinder Is Impracticable.

Joinder of every member of the class would be impossible, as the law has the potential to affect thousands of transgender individuals who seek to use a restroom in a government-owned building or place of public accommodation in Idaho consistent with their gender identity. H.B. 752 will prohibit them from doing so, with criminal penalties.

Rule 23(a)(1) requires that the class be sufficiently numerous to make joinder of the members impracticable, but does not require a specific number of class members. *See Gen. Tel. Co. of the Nw., Inc. v. EEOC*, 446 U.S. 318, 330 (1980) (citing cases) (numerosity requirement not tied to any fixed numerical threshold but rather “requires examination of the specific facts of each case and imposes no absolute limitations”); William B. Rubenstein, *Newberg and Rubenstein on Class Actions* § 3.13 (6th ed. June 2022 Update) (“[I]t is well settled that a plaintiff need not allege the exact number or specific identity of proposed class members,” and “a good-faith estimate of the class size is sufficient when the precise number of class members is not readily ascertainable.”). Courts have granted class certification where the class size is under 25 people. *See Rannis v. Recchia*, 380 Fed. App’x. 646, 650 (9th Cir. 2010) (class of 20 satisfies the numerosity requirement); *see also Allison v. Dolich*, 815 Fed. App’x. 135 (9th Cir. 2020) (“We are not aware of any absolute bar against subclasses of this size [35-50 people].”); *Legere-Gordon v. Firstcredit Incorporated*, Civil Case No. 1:19-cv-360 WBS, 2021 WL 276695, at *3 (D. Idaho 2021) (numerosity satisfied where 40 or more); *Ark. Educ. Ass’n v. Bd. of Educ.*, 446 F.2d 763, 765–66 (8th Cir. 1971) (upholding class of 17); *Cypress v. Newport News Gen. & Nonsectarian Hosp. Ass’n*, 375 F.2d 648, 653 (4th Cir. 1967) (upholding class of 18).

The Ninth Circuit evaluates numerosity according to the standards set forth in *Jordan v. County of Los Angeles*, 669 F.2d 1311 (9th Cir. 1982), *vacated*, 459 U.S. 810 (1982), *on remand*, 713 F.2d 503 (9th Cir. 1983), *modified*, 726 F.2d 1366 (9th Cir. 1984). Class size is not the sole determining factor, and in determining the total number of class members, “Plaintiffs are not required to allege the exact number or identity of all class members.” *Hawecker v. Sorenson*, Civil Case No. 1:10-cv-00085 OWW JLT, 2011 WL 98757, at *6 (E.D. Cal. Jan. 12, 2011). Future class members are also relevant to numerosity, as the Ninth Circuit has affirmed that,

“when, as here, a class’s membership changes continually over time, that factor weighs in favor of concluding that joinder of all members is impracticable.” *A.B. v. Hawaii*, 30 F.4th 828, 838 (9th Cir. 2022); *see also Rodriguez v. Hayes*, 591 F.3d 1105, 1118 (9th Cir. 2010) (“The inclusion of future class members in a class is not itself unusual or objectionable,” because “[w]hen the future persons referenced become members of the class, their claims will necessarily be ripe.”); *Jordan*, 669 F.2d at 1320 (finding joinder impracticable where the class at issue was “composed of unnamed and unknown future black applicants who may be discriminated against by the County’s employment practices”).

The Williams Institute estimates that approximately 9,600 adults and 5,300 youth in Idaho identify as transgender. Jody L. Herman and Andrew R. Flores, *How many adults and youth identify as transgender in the United States?*, THE WILLIAMS INSTITUTE at 13 (August 2025).³ This aligns with national estimates that between 0.5-1% of adults in the United States identify as transgender. *See, e.g., id.* at 13 (estimating 0.81% of U.S. adults identify as transgender); Esther L. Meerwijk and Jae M. Sevelius, *Transgender Population Size in the United States: a Meta-Regression of Population-Based Probability Samples*, 107(2) Am. J. Pub. Health e7 (estimating 0.39% of U.S. adults identify as transgender).⁴

Further, millions of people also visit Idaho each year. *See* Longwoods International, *Travel USA Visitor Profile*, 2021 & Dean Runyan Associates, 2021 Idaho Economic Impact Report (estimating 37 million visitors to Idaho in 2021).⁵ If just 0.5% of these 37 million visitors are transgender, that would equate to another 185,000 transgender people traveling through

³ Accessible at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Aug-2025.pdf>. The article is included in Dkt. 3-3 (Groves Decl.), Exhibit 13.

⁴ Accessible at <https://pmc.ncbi.nlm.nih.gov/articles/PMC5227946/pdf/AJPH.2016.303578.pdf>.

⁵ Accessible at <https://industry.visitidaho.org/wp-content/uploads/2025/02/ITC-Longwoods-Reports-State-2022-FINAL-1.pdf>. The resource is included in Dkt. 3-3 (Groves Decl.), Exhibit 15.

Idaho each year. Any of these individuals would be impacted by H.B. 752's criminal prohibition on transgender people using restrooms aligned with their gender identity.

The population of the class far exceeds the sizes of previous classes deemed sufficient in this circuit. *Compare Rannis*, 380 Fed. App'x. at 650 (class of 20 satisfies the numerosity requirement). Further, the inclusion of future class members and transgender people who travel through the state points in favor of finding that joinder of all members of the class is impracticable. *See Jordan*, 669 F.2d at 1319-20 (“[T]he relatively small size of each class member’s claim and the probability that the class members may be difficult to locate combine to make it impracticable for individual class members to join in the lawsuit by instituting separate actions.”). Numerosity is thus satisfied.

III. The Class Shares Common Issues of Law and Fact.

Commonality requires that proceeding as a class has the capacity to generate common answers apt to drive the resolution of the litigation. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Plaintiffs need not show that “every question in the case, or even a preponderance of questions, is capable of class-wide resolution. So long as there is ‘even a single common question’ a would-be class can satisfy the commonality requirement of Rule 23(a)(2).” *Parsons*, 754 F.3d at 675 (quoting *Wal-Mart*, 564 U.S. at 359).

The class brings three legal challenges which can be resolved as to the whole class without the need for individualized evaluation. First, H.B. 752 is void-for-vagueness under the Due Process Clause of the Fourteenth Amendment as it does not provide affected persons with notice of what conduct is proscribed. *See* PI Mem. at 8-13. Second, H.B. 752 discriminates based on sex and transgender status and fails heightened scrutiny under the Equal Protection Clause of the Fourteenth Amendment. *Id.* at 13-19. Third, H.B. 752 violates the fundamental right to informational privacy under the Due Process Clause of the Fourteenth Amendment. *Id.* at 19-21.

These legal claims are common to all members of the class such that proceeding as a class has the capacity to generate common answers apt to drive the resolution of the litigation. Thus, commonality is satisfied.

Further, the class representatives share common facts. Each is transgender and uses the restrooms that align with their gender identity. Jackson-Edney Decl. ¶¶ 3, 8; Doe Decl. ¶¶ 3, 8; Fable Decl. ¶¶ 4, 9; Milette Decl. ¶¶ 4, 9; Poe Decl. ¶¶ 3, 8; Wagner Decl. ¶¶ 4, 8. Each will be severely harmed by an inability to access the restrooms that align with their gender identities. Jackson-Edney Decl. ¶¶ 8, 10, 13, 15-17; Doe Decl. ¶¶ 8, 11, 13-15, 17; Fable Decl. ¶¶ 9, 13, 15-19; Milette Decl. ¶¶ 9, 13, 15-18, 21-22; Poe Decl. ¶¶ 8, 12, 14-16; Wagner Decl. ¶¶ 8, 12, 14-17.

Plaintiffs and the proposed class members share a common core of facts and common legal contentions, satisfying the requirement of commonality.

IV. The Representatives' Claims Are Typical of the Class.

“The test of typicality ‘is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.’” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992) (citation omitted). “Under the rule’s permissive standards, representative claims are ‘typical’ if they are reasonably co-extensive with those of absent class members; they need not be substantially identical.” *DZ Rsrv. v. Meta Platforms, Inc.*, 96 F.4th 1223, 1238 (9th Cir. 2024) (quoting *Hanon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998), *overruled on other grounds by Wal-Mart*, 564 U.S. at 338). “A named plaintiff is not typical if ‘there is a danger that absent class members will suffer if their representative is preoccupied with defenses unique to it.’” *Id.* (quoting *Hanon*, 976 F.2d at 508). The Supreme

Court has noted that considerations underlying commonality and typicality overlap considerably such that they “tend to merge.” *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982).

As noted above, each of the named plaintiffs asserts the exact same claims as the class they represent—that enforcement of H.B. 752 by Defendants violates the constitutional rights of the class. Those claims do not include any claims or defenses unique to the class representatives. Each class representative suffers the same harm of losing access to restrooms that align with their gender identity and the associated harms, including risk of violence or harassment, violation of privacy, and reduced participation in public life. See Jackson-Edney Decl. ¶¶ 10, 13, 15-17; Doe Decl. ¶¶ 11, 13-15, 17; Fable Decl. ¶¶ 13, 15-19; Milette Decl. ¶¶ 13, 15-18, 21-22; Poe Decl. ¶¶ 12, 14-16; Wagner Decl. ¶¶ 12, 14-17. Thus, the representatives’ claims are typical of the class.

V. The Representatives Will Fairly and Adequately Protect the Interests of the Class.

In the Ninth Circuit, “[t]he adequacy inquiry is addressed by answering two questions: ‘(1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?’” *Kim v. Allison*, 87 F.4th 994, 1000 (9th Cir. 2023) (internal citation omitted). “Where there are multiple proposed class representatives, a court need only find that one is an adequate class representative.” *J.N. v. Oregon Dep’t of Educ.*, 338 F.R.D. 256, 273 (D. Or. 2021) (citing *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 961 (9th Cir. 2009)).

The named plaintiffs who will lose access to restrooms that align with their gender identity seek appointment as class representatives. They suffer the same severe risk of harm as every other member of the class. As such, they are strongly motivated to bring this challenge.

The proposed class representatives—Emilie Jackson-Edney, Daniel Doe, Diego Fable, Amelia Milette, Peter Poe, and Zoey Wagner—have the same interests as the rest of the class,

and they have every incentive to vigorously pursue this action on behalf of the absent class members who fear similar harms.

VI. Class Counsel Is Adequate and Should Be Appointed Under Rule 23(g).

Rule 23(a)(4)'s adequacy criterion also requires that class counsel be competent and without conflicts. *Wal-Mart*, 564 U.S. at 349 n.5. "Absent a basis for questioning the competence of counsel, the named plaintiffs' choice of counsel will not be disturbed, and plaintiffs' [sic] bear no affirmative burden to allege facts establishing the competence of counsel in the complaint." *Mateo v. M/S Kiso*, 805 F. Supp. 761, 771 (N.D. Cal. Aug. 13, 1991); *see also Wehner v. Syntex Corp.*, 117 F.R.D. 641, 644 (N.D. Cal. 1987) ("It is presumed plaintiffs' counsel is competent to litigate this case and will fairly and adequately represent the interests of the class members.").

(1) In appointing class counsel, the court: (A) must consider:

- (i) the work counsel has done in identifying or investigating potential claims in the action;
- (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (iii) counsel's knowledge of the applicable law; and
- (iv) the resources counsel will commit to representing the class.

Fed. R. Civ. P. 23(g)(1)(A). The Court may also "consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(g)(1)(B); *see also Brigiotta's Farmland Produce & Garden Ctr., Inc. v. United Potato Growers of Idaho, Inc.*, Civil Case No. 4:10-CV-307-BLW, 2010 WL 3928544, at *1 (D. Idaho Oct. 4, 2010).

The attorneys of the ACLU's National LGBTQ & HIV Project, Lambda Legal, the ACLU of Idaho, Munger, Tolles & Olson LLP, and Alturas Law Group, PLLC, possess substantial expertise litigating constitutional challenges to governmental action, including specific experience in transgender rights and class action litigation in this district. *See* Decl. of Barbara Schwabauer ("Schwabauer Decl.") *passim*; Decl. of Kell Olson ("Olson Decl.") *passim*; Decl. of

Paul Southwick (“Southwick Decl.”) *passim*; Decl. of J. Max Rosen (“Rosen Decl.”), *passim*; Decl. of Samuel Linnet (“Linnet Decl.”) *passim*.

Plaintiffs’ counsel satisfies the requirements of Fed. R. Civ. P. 23(g)(1)(A)(i-iv). It is evident from the Complaint, Plaintiffs’ motion for a preliminary injunction and provisional class certification, and this motion that counsel has done extensive work in identifying and investigating the claims in this action. *See* Fed. R. Civ. P. 23(g)(1)(A)(i). Additionally, Plaintiffs’ counsel have knowledge of the applicable law and a wealth of experience litigating similar claims. *See* Fed. R. Civ. P. 23(g)(1)(A)(ii-iii). Finally, counsel for Plaintiffs includes seventeen attorneys and five law firms—sufficient resources to represent the class. *See* Fed. R. Civ. P. 23(g)(1)(A)(iv). Consequently, the named Plaintiffs’ selection of class counsel should not be disturbed.

CONCLUSION

The Class satisfies the requirements of Rule 23. Plaintiffs request that this Court grant class certification to allow the provision of relief for the class. Given the emergency nature of this relief, Plaintiffs request that, if the court requires additional time to consider full class certification, it grant provisional class certification in connection with the requested preliminary injunction.

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Respectfully Submitted

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