

Lori Rifkin, Esq. (CA # 244081)  
(*pro hac vice*)  
Rifkin Law Office  
3630 High St., # 18197  
Oakland, CA 94619  
Telephone: (510) 414-4132  
Email: lrifkin@rifkinlawoffice.com

Dan Stormer, Esq. (CA # 101967)  
(*pro hac vice*)  
HADSSELL STORMER RENICK & DAI LLP  
128 N. Fair Oaks Avenue  
Pasadena, California 91103  
Telephone: (626) 585-9600  
Facsimile: (626) 577-7079  
Email: dstormer@hadsellstormer.com

Craig Durham (ISB # 6428)  
Deborah Ferguson (ISB # 5333)  
FERGUSON DURHAM, PLLC  
223 N. 6th Street, Suite 325  
Boise, ID 83702  
Telephone: 208-345-5183  
Facsimile: 208-908-8663  
Emails: chd@fergusondurham.com  
daf@fergusondurham.com

Amy Whelan, Esq. (CA # 215675)  
(*pro hac vice*)  
National Center for Lesbian Rights  
870 Market Street, Suite 370  
San Francisco, CA 94102  
Telephone: 415-365-1338  
Facsimile: 415-392-8442  
Email: AWhelan@NCLRights.org

Attorneys for Plaintiff

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

ADREE EDMO (a/k/a MASON EDMO),

Plaintiff,

v.

IDAHO DEPARTMENT OF CORRECTION;  
JOSH TEWALT, in his official capacity;  
BREE DERRICK, in her official capacity; AL  
RAMIREZ, in his official capacity;  
CORIZON, LLC; and SCOTT ELIASON;  
Defendants.

Case No.: 1:17-cv-00151-BLW

**PLAINTIFF'S OPPOSITION TO IDOC  
DEFENDANTS' REQUEST FOR  
EXTENSION OF TIME**

On the evening of January 26, 2023, IDOC Defendants filed what they titled as a motion for “Extension of Time” to comply with the Court’s deadline for payment of Judgment or posting of an appeal bond. ECF 346. Defendants previously filed a motion for a stay of the Judgment and related enforcement proceedings that the Court granted in part and denied in part on December 28, 2022. ECF 345. In that Order, the Court issued a stay until the conclusion of the mediation which was set for January 12, 2023, and which was subsequently released from the mediation program on January 13, 2023. Defendants’ motion for extension of time is an attempt to re-litigate their prior motion for a longer stay, despite this Court’s denial, and despite their failure to take any actions to comply with the Court’s September 30, 2022 Judgment and December 28, 2022 Order. Defendants base their improper motion on a new argument—that IDOC Defendants have failed to comply with the State’s own administrative requirements to obtain authorization for payment—while citing to Idaho procedures that are completely inapplicable to the present situation. Not only did IDOC Defendants waive this argument by failing to raise it in their original motion, but it is also totally without merit.

First, Defendants’ motion for an extension of time is simply a renewal of their motion for a stay beyond the mediation, and the applicable legal standard is that for considering whether to grant a stay. The Court already denied Defendants’ motion for a longer stay, and the Court’s bases for that denial continue to apply. For example, the Court already rejected Defendants’ argument that Plaintiff has no interest in timely collection of her fee award, ECF 345 at 17, which they restate here, ECF 346-1 at 4. As the Court observed in denying Defendants’ request for an indeterminate and unbonded stay, further delay of the complex and time-consuming collection process will continue to extend “the already-lengthy delay in executing on the judgment.” *See* ECF 345 at 12-13. Defendants have demonstrated no changed facts or

circumstances since their original motion that would warrant reconsideration of the stay denial by the Court.

Second, Defendants waived any argument that the State's administrative procedures justify a stay of the Judgment and enforcement proceedings by failing to raise this issue in their original motion for a stay.

Even if the Court were to consider Defendants' improper motion for an additional stay or extension of time, the State law process they cite as the basis for their motion is completely inapplicable to the instant case. IDOC Defendants now claim for the first time that an administrative process involving the Idaho Board of Examiners allegedly "must occur before the state of Idaho is capable of issuing any litigation payments, a process that involves claim review by a board of examiners and which is not designed to issue litigation payments *sua sponte*." ECF 346-1 at 4. Defendants cite Idaho Code § 67-1023, which sets forth state law requirements for "persons having claims against the state" to present their claims to the State controller "to be examined, settled, and allowed by the board of examiners."<sup>1</sup> This process is completely inapplicable to the instant situation, in which Plaintiff complied with all exhaustion requirements of the claims litigated to judgment prior to bringing her suit. Moreover, state law cannot be used as a basis to refuse to pay a federal judgment resulting from federal law claims brought in federal court. *See* U.S. Const. art. VI, cl. 2 (federal law "shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding); *see also* *Washington v. Washington State Com. Passenger Fishing Vessel Ass'n*, 443 U.S. 658, 695, *modified sub nom. Washington v. United States*, 444 U.S. 816, 100 S. Ct. 34, 62 L. Ed. 2d

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<sup>1</sup> The other state law citations Defendants include are to the Idaho Constitution Article IV, Section 18, establishing the Board of Examiners, and to Idaho Code § 67-2002, setting the schedule and procedure for Board of Examiners meetings, which are similarly inapplicable to federal judgments on federal claims brought through the federal judicial process.

24 (1979) (“State-law prohibition against compliance with the District Court’s decree cannot survive the command of the Supremacy Clause of the United States Constitution.” ) (internal citations omitted); *Spain v. Mountanos*, 690 F.2d 742, 746 (9th Cir. 1982); *Gates v. Collier*, 616 F.2d 1268, 1272 (5th Cir. 1978) (“To strike down the [federal fee] order in this case because it conflicts with the laws of Mississippi would be no different than reversing a bare judgment for attorney’s fees. In either case, we would be allowing the state, by legislative action, to recloak itself with the Eleventh Amendment immunity which Congress has chosen to remove. Such a result would be contrary to the Supremacy Clause of the United States.”). Nor do administrative requirements adopted by the State of Idaho prevent execution of the federal Writ sought by Plaintiff because it is also governed by federal law. *See* Fed. R. Civ. P. 69(a)(1) & 42 U.S.C. 1988.<sup>2</sup>

Further, to the extent that IDOC Defendants are suggesting that the process set forth in Idaho Code § 67-1023 somehow requires IDOC to present the fee Judgment to the Idaho Board of Examiners in order for it to be paid, this argument is belied by the fact that IDOC Defendants have not taken any steps to begin that process. Indeed, while IDOC Defendants vaguely cite “various procedural and administrative complexities,” as the reason they require additional time to comply, this is far from the first time a federal court has awarded a monetary judgment against the State of Idaho, and it is not credible that the State does not know how to satisfy such judgments. It is also telling that not once in any of their filings have IDOC Defendants expressed any intention to pay the Judgment, nor have Defendants or their attorneys attested to any actions taken in furtherance of obtaining payment from the State. Nor, of course, was the requirement that Defendants satisfy the fee Judgment within fourteen days after the conclusion

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<sup>2</sup> The obvious irrelevance of IDOC Defendants’ argument raises Fed. Rule of Civ. P. 11 considerations both as to improper purpose and frivolity.

of mediation “*sua sponte*,” as Defendants claim, ECF 346-1 at 4, given that the Judgment became due and owing four months ago, thirty days after it was issued on September 30, 2022. See ECF 345 at 18 (Defendants’ obligation to pay the fee award “arose when the judgment was issued on September 30.”). Defendants are asking for more time to brainstorm yet additional litigation delay and obstruction strategies, matching the Governor’s public boast that the State of Idaho will not pay one dollar to Ms. Edmo or her attorneys. This does not constitute good cause for granting an extension of time or granting another stay of this Court’s fee judgment.

In their briefing, Defendants ironically cite Federal Rule of Civil Procedure 1, emphasizing that “all Federal Rules should be ‘construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding.’” ECF 346-1 at 3. Yet, Defendants’ motion follows their well-worn pattern of delay and obstruction during the entire pendency of this case, including most markedly with respect to this Court’s injunctive relief order and subsequent orders enforcing that injunctive relief.<sup>3</sup> This litigation has now entered its seventh year. It has been four years since this Court issued its injunction, two-and-a-half years since Plaintiff succeeded in enforcing the injunction and securing relief, two years since the Supreme Court declined to exercise certiorari review, one year since Plaintiff filed her motion for attorneys’ fees and costs, and four months since the Court issued its order awarding fees and costs.

Plaintiff urges the Court to deny the extension. Plaintiff also concurrently files an application for an ex parte order issuing a Writ of Execution and directing the U.S. Marshal to move forward with executing the fee Judgment in this case. Plaintiff submits the executing

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<sup>3</sup> Defendants’ game plan is to first file a request for a stay in order to delay compliance with the order. Then, after the stay is denied and the deadline for timely compliance passes, Defendants file another request for extending time on the basis that they did not take the steps necessary to fulfill the order in a timely manner. Next, Defendants claim that they cannot comply with the order or did not understand it based on a new theory that they never mentioned in any of the prior briefing.

