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ATTORNEYS FOR PETITIONERS

IN THE SUPREME COURT OF THE STATE OF IDAHO

CHIEF J. ALLAN, a registered voter of the
State of Idaho and Chairman of the Coeur
d'Alene Tribe, and DEVON BOYER, a
registered voter of the State of Idaho and
Chairman of the Shoshone-Bannock Tribes,

Petitioners,

v.

IDAHO COMMISSION FOR
REAPPORTIONMENT, and LAWRENCE
DENNEY, Secretary of State of the State of
Idaho, in his official capacity,

Respondents.

Case No. 49353-2021

**MOTION TO CONSOLIDATE
WITH DOCKET NOS. 49261-2021
AND 49267-2021**

Petitioners have filed a Verified Petition for Review of the Idaho Commission for Reapportionment's Plan L03 and for a Writ of Prohibition. They have also filed an

opening brief in support. This matter is timely, as Petitioners filed their petition and brief within 35 days of the Commission's filing of its Final Report with the Idaho Secretary of State on November 12, 2021. *See* I.A.R. 5(b),(c).

Petitioners respectfully move the Court to consolidate this action with Docket No. 49261-2021, *Branden John Durst v. Idaho Commission for Reapportionment*, and *Lawrence Denney*, and No. 49267-2021, *Ada County v. Idaho Commission for Reapportionment and Lawrence Denney*. Those cases are also original actions that challenge the Commission's final redistricting plan. The Court has already consolidated them and has set them for oral argument on January 14, 2022. Petitioners seek to join argument on that date. That would still leave a reasonable amount of time for Respondent's to file a responsive brief and for Petitioners to file their reply.

Consolidation is appropriate because these three cases involve common issues of law and fact. *See* Idaho R. Civ. P. 42(a). The cases rely on the same record and challenge the same redistricting plan. Petitioners raise legal arguments that are similar to the arguments made by petitioners in *Durst* and *Ada County*, including that Plan L03 does not comply with Article III, § 5 of the Idaho Constitution's requirement to minimize county splits. But Petitioners also assert their own unique interests, which they respectfully contend this Court should hear and consider as it reviews the Commission's decision. As federally recognized and sovereign Tribes, Petitioners should be respected as unique and compelling communities of interest in the

redistricting process. Instead, the Commission disregarded the Tribes as communities of interest and therefore violated I.C. § 72-1506(2), which provides that to the maximum extent possible, legislative districts shall preserve communities of interest.

For these reasons, Respondents respectfully request that the Court enter an order consolidating this action with Docket Nos. 49261-2021 and 49267-2021, setting a reasonable time for the Respondents to file a brief and for the Petitioners to file their reply, and to order that this matter shall also be argued on January 14, 2022.

Respectfully submitted this 16th day of December, 2021.

By: /s/ Deborah A. Ferguson
Deborah A. Ferguson
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CERTIFICATE OF SERVICE

This Motion has been served on the following on this 16th day of December, 2021, by filing through the Court's e-filing and serve system:

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A copy was also hand delivering to

Lawrence Denney
Secretary of State
Idaho Secretary of State's Office

/s/Deborah A. Ferguson
Deborah A. Ferguson