

**UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO**

THE ASSOCIATED PRESS, a New York corporation; IDAHO STATESMAN PUBLISHING, LLC, a Delaware limited liability company d/b/a The Idaho Statesman; LEE ENTERPRISES, INCORPORATED, a Delaware corporation d/b/a The Times-News; THE IDAHO PRESS CLUB, INC., an Idaho corporation; PIONEER NEWSPAPERS, INC., a Nevada corporation d/b/a Idaho Press-Tribune, Idaho State Journal, Standard Journal, Teton Valley News, The New-Examiner, The Preston Citizen, and Messenger Index; TPC HOLDINGS, INC., an Idaho corporation, d/b/a Lewiston Tribune and Moscow-Pullman Daily News; BAR BAR INC., an Idaho corporation d/b/a Boise Weekly; COWLES PUBLISHING COMPANY, a Washington corporation, d/b/a The Spokesman Review; and IDAHOANS FOR OPENNESS IN GOVERNMENT, INC., an Idaho non-profit corporation,

Plaintiffs,

vs.

CL. (BUTCH) OTTER, in his official capacity as the Governor of the State of Idaho; ROBIN SANDY, HOWARD G. "J.R." VAN TASSEL, and JAY L. NIELSEN in their official capacity as the Idaho Board of Correction; BRENT D. REINKE, in his official capacity as the Director of the Idaho Department of Correction; and KEVIN KEMPF in his official capacity as Division Chief of Operations of the Idaho Department of Correction,

Defendants.

Civil No. 1:12-cv-00255-EJL

**ORDER**

On May 22, 2012, Plaintiffs filed (1) a Complaint for Declaratory Judgment and Injunctive Relief (Dkt. 1), and (2) an Expedited Motion for Preliminary Injunction (Dkt. 2). The matter was reassigned to the undersigned on May 23, 2012. After reviewing the Complaint and the motion for preliminary injunction, the Court notes that Plaintiffs do not seek to have their lawsuit delay the Defendants' scheduled execution of Mr. Richard A. Leavitt which is currently set for June 12, 2012. Rather, Plaintiffs seek an injunction requiring all phases of the execution process related to the scheduled execution and future executions by Defendants to be conducted in a full and open view of the assembled witnesses to the execution.

Based on the nature of the First Amendment claims raised, the referenced ongoing negotiations between the parties on these same issues prior to the lawsuit being filed, and the scheduled execution date in June, the Court finds that this case is appropriate for expedited review and for an expedited mediation before a United States Magistrate Judge.

IT IS ORDERED:

1. Plaintiffs' request to expedite the motion for preliminary injunction contained in Dkt. 2 is GRANTED. The Defendants shall file their response to the motion for preliminary injunction on or before **5:00 p.m. on Tuesday, May 29, 2012**. Plaintiffs may file a reply brief on or before **5:00 p.m. on Monday, June 4, 2012**.

2. This matter is referred for a court ordered mediation with Chief United States Magistrate Judge Candy W. Dale **on or before June 1, 2012**. The exact date, time and location of the mediation to be set by Judge Dale via a separate order.

3. If the matter is not resolved in mediation, the Court shall resolve the matter based on the pleadings unless the Court determines a hearing is necessary. If a hearing is necessary on the

motion, the Court will calendar and provide electronic notice of the hearing date. The parties are put on notice that if a hearing is calendared, it will occur before June 12, 2012 and the parties need to be available on short notice.

4. Since Defendants have not yet appeared, counsel for Plaintiffs is directed to immediately serve this Order on counsel for Defendants via regular mail, by email and fax.



DATED: **May 24, 2012**

A handwritten signature in black ink that reads "Edward J. Lodge". The signature is written in a cursive style and is positioned above a horizontal line.

Honorable Edward J. Lodge  
U. S. District Judge