

Steven B. Andersen (ISB 2618)  
Jennifer Reinhardt-Tessmer (ISB 7432)

**KIRTON McCONKIE**  
11<sup>th</sup> & Idaho Building  
1100 W. Idaho St., Ste. 930  
Telephone: (208) 370-3325  
Facsimile: (208) 370-3324  
[sandersen@kmclaw.com](mailto:sandersen@kmclaw.com)  
[jtessmer@kmclaw.com](mailto:jtessmer@kmclaw.com)

**RAÚL R. LABRADOR**  
ATTORNEY GENERAL

**SCOTT L. CAMPBELL**  
Chief of Energy and Natural Resources Division

**GARRICK L. BAXTER, ISB No. 6301**  
**MEGHAN M. CARTER, ISB No. 8863**  
Deputy Attorneys General  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
Telephone: (208) 287-4800  
Facsimile: (208) 287-6700  
[garrick.baxter@idwr.idaho.gov](mailto:garrick.baxter@idwr.idaho.gov)  
[meghan.carter@idwr.idaho.gov](mailto:meghan.carter@idwr.idaho.gov)

*Attorneys for Defendant*

**IN THE DISTRICT COURT FOR THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STRIDER CONSTRUCTION CO., INC.,

Plaintiff,

vs.

IDAHO WATER RESOURCE BOARD,

Defendant.

Case No. CV01-22-10932

**DEFENDANT’S OPPOSITION TO  
PLAINTIFF’S MOTION TO STRIKE**

COMES NOW Defendant, Idaho Water Resource Board (“IWRB”), by and through its counsel of record, Kirton McConkie, and hereby submits this Opposition to Plaintiff’s Motion to

Strike Portions of Defendant's Memorandum and Reply. Plaintiff's Motion to Strike (the "Motion" unless otherwise specified) is an improper attempt to circumvent both the Idaho Rules of Civil Procedure and the Local Rules of the District Court and Magistrate Division for the Fourth Judicial District ("Local Rules") in an effort to submit yet another filing in opposition to Defendant's Motion for Return of Property. Defendant requests that this Court deny Plaintiff's Motion as it is procedurally improper.

Both the Idaho Rules of Civil Procedure and the Local Rules provide clear and consistent rules for motion practice. *See* I.R.C.P. 7(b) and Local Rule 8. Pursuant to I.R.C.P. 7(b)(3) and Local Rule 8, once a moving party has filed and served a motion, the non-moving party can file and serve an opposing memorandum or brief. The moving party may then submit a "reply brief." *Id.* at 7.1(b)(3). No other motion practice briefing is specified or allowed by the Local or State Rules. Plaintiff's additional substantive arguments constitute supplemental briefing not permitted by the rules, and not allowed without prior, written leave of the Court.

Plaintiff's unauthorized Motion takes another opportunity to supplement arguments already raised in its earlier Opposition, adding information it failed to previously include and addressing Defendant's reply memorandum in a thinly-veiled unauthorized surreply. Substantively, it claims that Defendant's arguments are unsupported factual assertions, but this argument is belied by the fact that the quoted language it provides is: (1) supported by Defendant's attached Exhibits and Declaration, and/or (2) reasonable argument and inference.

Without any support or justification, Plaintiff has attempted to create its own procedure to give it yet another opportunity to argue against Defendant's motion. Plaintiff's Motion highlights the problem central to Defendant's Motion to Order Return of State Property – the Plaintiff's failure to abide by the Local and State Rules, including rules applicable to both discovery and

motion practice. Plaintiff's inappropriate and unauthorized end runs around Court rules are unfair and add unnecessary time and cost to this litigation. Accordingly, Defendant requests this Court deny Plaintiff's Motion to Strike.

DATED this 9th day of June 2023.

**KIRTON MCKONKIE**

*/s/ Jennifer Reinhardt-Tessmer*

\_\_\_\_\_  
Jennifer Reinhardt-Tessmer

*Attorneys for Defendant*

## CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June 2023, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

Lindsay (Taft) Watkins  
*Pro Hae Vice* Admission Pending  
Kristina Southwell  
*Pro Hae Vice* Admission Pending  
**AHLERS CRESSMAN & SLEIGHT PLLC**  
1325 4<sup>th</sup> Ave., Suite 1850  
Seattle, WA 98101  
Telephone: (206) 287-9900  
*Attorneys for Plaintiff Strider Construction Co., Inc.*

- U.S. Mail
- Facsimile: (208) 388-1300
- Hand Delivery
- Overnight Delivery
- iCourt E-File/Serve:  
[lindsay.watkins@acslawyers.com](mailto:lindsay.watkins@acslawyers.com)  
[kristina.southwell@acslawyers.com](mailto:kristina.southwell@acslawyers.com)

John H. Guin  
**LAW OFFICE OF JOHN H. GUIN, PLLC**  
P.O. Box 31210  
Spokane, WA 99223  
Telephone: (509) 443-0709  
*Attorneys for Plaintiff Strider Construction Co., Inc.*

- U.S. Mail
- Facsimile:
- Hand Delivery
- Overnight Delivery
- iCourt E-File/Serve:  
[john@guinlaw.com](mailto:john@guinlaw.com)

Garrick L. Baxter  
Meghan M. Carter  
Deputy Attorneys General  
Idaho Water Resource Board  
P.O. Box 83720  
Boise, Idaho 83720-0098  
Telephone: (208) 287-4800  
*Attorneys for Defendant*

- U.S. Mail
- Facsimile:
- Hand Delivery
- Overnight Delivery
- iCourt E-File/Serve:  
[garrick.baxter@idwr.idaho.gov](mailto:garrick.baxter@idwr.idaho.gov)  
[meghan.carter@idwr.idaho.gov](mailto:meghan.carter@idwr.idaho.gov)

/s/ Jennifer Reinhardt-Tessmer  
Jennifer Reinhardt-Tessmer