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July 12, 2013

**Via Facsimile to: (707) 829-0104 and
Via Email to: carl@media.org and
Via U.S. Mail, Certified, Return Receipt
Requested**

Carl Malamud, President
Public.Resource.Org, Inc.
1005 Gravenstein Hwy. N
Sebastopol, CA 95472

RE: *DMCA Notice of Copyright Infringement at Public.Resource.Org*

Dear Mr. Malamud:

We act as intellectual property counsel to the State of Idaho, its agency the Idaho Code Commission and the Secretary of State, a constitutional executive officer of the State of Idaho (collectively, “**Idaho**”) and write to you relative to acts of copyright infringement on a website that is either on your servers, in your network, or within your control. This letter is directed to you as the ostensible Digital Millennium Copyright Act (“**DMCA**”) Designated Agent for sites located under the domain name resource.org, based on filings here: <http://www.copyright.gov/onlinesp/agents/p/publicresorg.pdf> and information here: https://public.resource.org/copyright_policy.html. This is, accordingly, a Take-Down Notice issued pursuant to 17 U.S.C. Section 512(c)(3), which is part of the DMCA.

By way of background, Idaho owns the copyright in and to certain statutory compilations and the associated and accompanying analyses, summaries and reference materials (collectively, the “**Idaho Code**”). We discovered¹ that unauthorized PDFs containing scans of the Idaho Code

¹ Our discovery was admittedly aided by your May 30, 2013, letter, a copy of which is here: <https://law.resource.org/pub/us/code/id/idaho.letter.pdf>.

appear, *inter alia*, in directories located at <https://law.resource.org/pub/us/code/id/idaho.scan.2012/>. A specific example of one such scan may be found at <https://law.resource.org/pub/us/code/id/idaho.scan.2012/gov.law.id.code.07.13.s.2012.pdf>. For illustration, selected pages from that file are enclosed herewith as Exhibit One.

You will note that certain specific sections in Exhibit One are enclosed within red boxes; the rest are not. The portions within red boxes illustrate the underlying, native statutory content that Idaho acknowledges may be used under license.² The other content not within red boxes and similar content located in each corollary file contained in the directory at <https://law.resource.org/pub/us/code/id/idaho.scan.2012/> constitute the analyses, summaries and reference materials mentioned above. To be clear, Idaho claims copyright in both the native statutory content and the analyses, summaries and reference materials contained in the linked directories (defined above as the Idaho Code) and as to which Exhibit One acts as an exemplar, and both are subject to this Notice.³

Accordingly, pursuant to the DMCA, we hereby provide Resource.org as the DMCA Service Provider and you as the DMCA Designated Agent with the following notification:

- (1) Certain infringing content residing on your servers or within your network has infringed and continues to infringe copyrighted works, specifically, the above-defined Idaho Code, to which Idaho owns the exclusive right to reproduce, adapt, display and distribute;
- (2) Exact scans of the Idaho Code are currently reproduced, adapted, displayed and distributed through the public.resource.org site as set forth above, all of which are literal or substantially similar copies of works to which Idaho owns exclusive rights to reproduce, adapt, display and distribute;
- (3) We believe in good faith that: (a) the material described in subparagraph (2) above infringes the copyrights in the materials described in subparagraph (1) above, and that (b) neither your nor public.resource.org's reproduction, adaptation, display and distribution of the materials described in subparagraph (1) above is authorized by Idaho, its agents or the law;

² We understand your position to be that such is not subject to copyright protection at all.

³ To the extent similar content is contained in the .xml files located in the directories here: <https://law.resource.org/pub/us/code/id/idaho.scan.2012/> and here: <https://law.resource.org/pub/us/code/id/idaho.xml.2012/>, such content is also covered by this Notice.

Carl Malamud
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- (4) The undersigned states that the information in this notification is accurate, and under penalty of perjury, that the undersigned is authorized to act on behalf of Idaho, who owns the exclusive rights to reproduce, adapt, display and distribute the infringed material described in subparagraph (2) above; and
- (5) You may contact me at the address stated above.

Pursuant to the DMCA, your expeditious removal of or prevention of access to the Idaho Code, as defined, may result in limiting your liability for your possible direct involvement in and/or contribution to the above-described acts of copyright infringement. We look forward to your compliance herewith by expeditiously suspending or disabling access to the Idaho Code, as required by the DMCA. Please provide your response to me (if anything other than the required “expeditious” removal action) within five (5) business days of the date of this letter.

Please know that we would grant a royalty-free copyright license to Resource.org to reproduce and display the native, underlying statutory code content such as that which is found here: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm> and that which is within the red boxes in Exhibit One, and we can provide the electronic files to permit you to post that code. Having said that, the continuing reproduction and display of the Idaho Code as defined here, including the analyses, summaries and reference material, will not be tolerated, and Idaho reserves its rights to seek redress in federal court against the recipients of this letter to protect its intellectual property rights. In any such action, Idaho may seek to recover actual or statutory damages, attorney’s fees and injunctive relief.

Sincerely,
HAWLEY TROXELL ENNIS & HAWLEY LLP

/S/ BRADLEE R FRAZER ELECTRONIC
SIGNATURE FOR EMAIL PDF COPY

Bradlee R. Frazer

BRF/bf
cc: Client

Enclosures

EXHIBIT ONE

**2012
CUMULATIVE
POCKET SUPPLEMENT**

IDAHO CODE

Compiled Under the Supervision of the
Idaho Code Commission

RICHARD F. GOODSON
R. DANIEL BOWEN JEREMY P. PISCA
COMMISSIONERS

MAX M. SHEILS, JR.
EXECUTIVE SECRETARY

TITLES 7-13

**Place this supplement in the pocket of the corresponding
volume of the set**

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PUBLISHER'S NOTE

Amendments to laws and new laws enacted since the publication of the bound volume down to and including the 2012 regular session are compiled in this supplement and will be found under their appropriate section numbers.

This publication contains annotations taken from decisions of the Idaho Supreme Court and the Court of Appeals and the appropriate federal courts. These cases will be printed in the following reports:

Idaho Reports
Pacific Reporter, 3rd Series
Federal Supplement, 2nd Series
Federal Reporter, 3rd Series
United States Supreme Court Reports, Lawyers' Edition, 2nd Series

Title and chapter analyses, in these supplements, carry only laws that have been amended or new laws. Old sections that have nothing but annotations are not included in the analyses.

Following is an explanation of the abbreviations of the Court Rules used throughout the Idaho Code.

| | |
|----------|----------------------------------|
| I.R.C.P. | Idaho Rules of Civil Procedure |
| I.R.E. | Idaho Rules of Evidence |
| I.C.R. | Idaho Criminal Rules |
| M.C.R. | Misdemeanor Criminal Rules |
| I.I.R. | Idaho Infraction Rules |
| I.J.R. | Idaho Juvenile Rules |
| I.C.A.R. | Idaho Court Administrative Rules |
| I.A.R. | Idaho Appellate Rules |

If you have any questions or suggestions concerning the Idaho Code, please write or call toll free 1-800-833-9844, fax toll free at 1-800-643-1280, or email us at customer.support@bender.com.

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TITLE 7

SPECIAL PROCEEDINGS

CHAPTER.

6. CONTEMPTS, § 7-602.

CHAPTER 4

WRITS OF PROHIBITION

7-402. When and how issued.

JUDICIAL DECISIONS

Adequacy of Other Remedy.

Idaho department of land's motion to dismiss the attorney general's writ of prohibition was granted, as there was a plain, speedy, and adequate remedy in the ordinary course of law, such that an extraordinary writ of prohi-

bition would be improper. Injunctive relief would be at least as effective as issuance of the writ, if not more so. *State v. Idaho State Bd. of Land Comm'rs (In re Verified Petition)*, 150 Idaho 547, 249 P.3d 346 (2010).

CHAPTER 6

CONTEMPTS

SECTION.

7-602. Reentry of dispossessed person on real

property — Procedure upon conviction.

7-602. Reentry of dispossessed person on real property — Procedure upon conviction. — Every person dispossessed or ejected from or out of any real property by the judgment or process of any court of competent jurisdiction, and who, not having right so to do, reenters into or upon, or takes possession of, any such real property, or induces or procures any person not having right so to do, or aids or abets him therein, is guilty of a contempt of the court by which such judgment was rendered, or from which such process issued. Upon a conviction for such contempt the court shall immediately issue an alias process directed to the proper officer, and requiring him to restore the party entitled to the possession of such property under the original judgment or process, to such possession.

History.

C.C.P. 1881, § 831; R.S., R.C., & C.L.,

§ 5156; C.S., § 7384; I.C.A., § 13-602; am. 2012, ch. 20, § 2, p. 66.

STATUTORY NOTES

Amendments.

The 2012 amendment, by ch. 20, substituted "the court shall immediately" for "or

justice of the peace must immediately" near the beginning of the last sentence.

7-610

SPECIAL PROCEEDINGS

2

7-610. Judgment — Penalty.

JUDICIAL DECISIONS

Inherent Power of Court.

When appellants' minor daughter was placed on probation for petit theft, the magistrate court violated appellants' Fourth Amendment rights by requiring appellants to submit to random urine testing for drugs. While the magistrate had the authority to impose a probation condition under subsec-

tion (1)(j) of § 20-520, a violation of the probation was punishable by criminal contempt under § 7-601 and the exclusionary rule applied. Requiring appellants to undergo urinalysis testing constituted a search that was presumptively invalid without a warrant. *State v. Doe*, 149 Idaho 353, 233 P.3d 1275 (2010).

CHAPTER 7

EMINENT DOMAIN

7-701. Uses for which authorized.

RESEARCH REFERENCES

A.L.R. — Validity of extraterritorial condemnation by municipality. 44 A.L.R.6th 259.

Zoning scheme, plan, or ordinance as temporary taking. 55 A.L.R.6th 635.

7-702. Estates subject to taking.

RESEARCH REFERENCES

A.L.R. — Validity of extraterritorial condemnation by municipality. 44 A.L.R.6th 259.

7-711. Assessment of damages.

RESEARCH REFERENCES

A.L.R. — Elements and measure of compensation in eminent domain proceeding for temporary taking of property. 49 A.L.R.6th 205.

Zoning scheme, plan, or ordinance as temporary taking. 55 A.L.R.6th 635.

7-717. Possession by plaintiff — Payment of damages — Appointment of commissioners.

JUDICIAL DECISIONS

Appeals.

Appellate court denied condemnee's motion to dismiss the state's appeal because the appeal was not moot even though the state tendered a check to the condemnee in satisfaction of the judgment before filing its appeal. If the appellate court determined that the jury rendered a verdict in excess of just

compensation and ordered the condemnee to refund to the state funds in excess of that amount, the appeal would not be moot because the judicial determination would have a practical effect on the outcome, in that the state would recover some of its money. *State Ex Rel. Winder v. Canyon Vista Family Ltd. P'ship*, 148 Idaho 718, 228 P.3d 985 (2010).

**TITLE 8
PROVISIONAL REMEDIES IN
CIVIL ACTIONS**

CHAPTER.

5. ATTACHMENTS AND GARNISHMENTS, § 8-507C.

CHAPTER.

7. DEPOSIT IN COURT, § 8-705.

**CHAPTER 1
ARREST AND BAIL**

8-106. Time of making and contents of order.

JUDICIAL DECISIONS

Authority of Sheriff.

County commissioners' supervisory authority to control other constitutional officers did not extend to the sheriff's bail procedures. The commissioners' statutory duties under §§ 20-622 and 31-1503 do not encompass con-

trol of bail, which is a matter within the sheriff's authority under this section and §§ 19-817 and 31-2202(6). *Allied Bail Bonds, Inc. v. County of Kootenai*, 151 Idaho 405, 258 P.3d 340 (2011).

**CHAPTER 5
ATTACHMENTS AND GARNISHMENTS**

SECTION.

8-507C. Forms.

8-507C. Forms. — The notice of exemptions, instructions to debtors and third parties, and the claim of exemption shall be in a form substantially similar to the form hereinafter provided. The forms shall be made available in English and Spanish language translations in the offices of each county sheriff. Notice, written in Spanish, of the availability of these documents in Spanish translation shall be set forth on the notice of exemptions.

IMPORTANT LEGAL NOTICE/NOTICIA LEGAL IMPORTANTE
MONEY/PERSONAL PROPERTY BELONGING TO YOU MAY HAVE
BEEN TAKEN OR HELD IN ORDER TO SATISFY A COURT JUDG-
MENT. YOU MAY BE ABLE TO GET YOUR MONEY/PROPERTY
BACK SO READ THIS NOTICE CAREFULLY.
SI SOLAMENTE HABLA ESPANOL PUEDE OBTENER UNA FORMA
EN ESPANOL EN EL DEPARTAMENTO DEL SHERIFE.

The enclosed writ of execution and/or notice of garnishment has directed the sheriff to take custody by levying on your money and/or personal property in order to satisfy a court judgment.

The sheriff has levied on your money and/or personal property. You have