

**IN THE SUPREME COURT OF  
THE STATE OF IDAHO**

GEORGE Q. RICKS

Plaintiff-Appellant

vs.

STATE OF IDAHO CON-  
TRACTORS BOARD, IDAHO  
BOARD OF OCCUPA-  
TIONAL LICENSES, LAW-  
RENCE G. WASDEN, AT-  
TORNEY GENERAL

Defendants-Respondents,

**Order Denying Peti-  
tion for Review**

Docket No. 45396-2107

Kootenai County Dis-  
trict Court

CV-2016-5927

The Appellant having filed a Petition for Review on December 24, 2018, and a supporting brief on January 29, 2019, seeking review of the Published Opinion of the Court of Appeals released December 03, 2018; therefore, after due consideration,

**IT IS HEREBY ORDERED** that Appellant's Petition for Review be, and hereby is, denied.

Dated March 12, 2019. By Order of the Supreme Court

/s/ \_\_\_\_\_

Karel A. Lehrman  
Clerk of the Court

IN THE COURT OF APPEALS OF  
THE STATE OF IDAHO

Docket No. 45396

GEORGE Q. RICKS,  
Plaintiff-Appellant,

v.

STATE OF IDAHO  
CONTRACTORS BOARD,  
IDAHO BOARD OF  
OCCUPATIONAL  
LICENSES, LAWRENCE  
G. WASDEN, ATTORNEY  
GENERAL,

Defendants-Respondents.

Filed: December 3,  
2018

Karel A. Lehrman,  
Clerk

Appeal from the District Court of the First Judicial  
District, State of Idaho, Kootenai County. Hon. Lan-  
sing L. Haynes, District Judge.

Judgment, affirmed.

George Q. Ricks, [REDACTED], pro se appellant.

Hon. Lawrence G. Wasden, Attorney General; Leslie  
M. Hayes, Deputy Attorney General, Boise, for re-  
spondent.

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HUSKEY, Judge

George Q. Ricks appeals from the district court's  
judgment dismissing his complaint. He argues the dis-  
trict court erred in dismissing his claims as a matter  
of law. The district court's judgment is affirmed.

I.

**FACTUAL AND PROCEDURAL BACKGROUND**

As alleged in Ricks' complaint, in 2014, Ricks filed an application for individual contractor registration with the Idaho Bureau of Occupational Licenses (IBOL). The application required Ricks to provide various pieces of information, including his social security number. Ricks did not provide his social security number on his application because of his religious belief that social security numbers are "a form of the mark, and in substance (essence) the number of the 2-horned beast written of in the Holy Bible." A few days after Ricks filed his application, IBOL requested his social security number in order to process his application. Instead of providing his social security number, Ricks sent IBOL an affidavit describing his religious objection. A month later, Ricks received notice from IBOL that his application for contractor registration was denied because he failed to provide his social security number.

It is not clear what actions Ricks took after his application was denied because the record on appeal does not contain any documents that detail the extent, if any, of administrative review Ricks initiated after his application was denied. However, Ricks' complaint and appellate brief allege he filed a petition for review, received a "Certificate of Agency Record on Appeal," and an attorney for the State of Idaho Contractor's Board (ICB) filed a motion to dismiss Ricks' petition. None of these documents are included in the appellate record. Almost two years after this alleged administrative action, Ricks filed a complaint with the district court listing ICB, IBOL, and Lawrence Wasden, the Idaho Attorney General, as defendants. Because Ricks

failed to sign the complaint, he filed an amended complaint with his signature. The amended complaint claimed that 42 United States Code § 666(a)(13), Idaho Code § 73-122, and I.C. § 545210 violated: his right to contract; his right to the free exercise of his religion under the Idaho Constitution, Article 1, Section 4; his statutory religious freedom rights granted by the federal Religious Freedom Restoration Act (RFRA) and Idaho's Free Exercise of Religion Protected Act (FERPA); his right to equal protection; a violation of the Privacy Act of 1974; and a violation of separation of powers. The complaint also contained a claim that I.C. § 54-5210, the statute requiring contractors to provide their social security numbers on license applications is unconstitutionally vague and, therefore, is void.

The State filed a motion to dismiss the amended complaint under Idaho Rule of Civil Procedure 12(b)(6), arguing that 42 U.S.C. § 666(a)(13), the federal statute that offers a grant to states that collect professional licensees' social security numbers in order to more effectively enforce child support orders, preempted Ricks' religious objection under Idaho law. The district court granted the State's motion<sup>1</sup> and dismissed Ricks' free exercise claim under the Idaho Constitution and his claim under FERPA.<sup>2</sup> The State then

<sup>1</sup> Neither a transcript of the hearing nor the order granting the State's motion to dismiss are contained in the record.

<sup>2</sup> It is unclear from the record whether the district court dismissed other claims from Ricks' complaint during this hearing or in the district court's related order, specifically Ricks' right to contract, Privacy Act of 1974, separation of powers, Idaho Code § 54-5210 is void for vagueness, and equal protection claims. If these claims were not dismissed at this point in the proceedings, they were likely dismissed in the district court's third memorandum

filed a second motion to dismiss<sup>3</sup> arguing Ricks had no fundamental right to contract, his equal protection was not violated, the Privacy Act of 1974 was not violated, separation of powers was not violated, and that I.C. § 545210 was not void for vagueness. Before the district court ruled on the State's second motion to dismiss, the district court permitted Ricks to file a second amended complaint, which added a free exercise claim under the First Amendment to the United States Constitution. The State then filed a third motion to dismiss arguing Ricks' First Amendment rights were not violated. At a hearing on the second and third motions to dismiss, the district court asked the State to provide briefing on whether Ricks' RFRA claim should also be dismissed. At the next hearing on the motions to dismiss, the district court declined to dismiss Ricks' RFRA claim. Almost a month later, the district court issued a written order dismissing Ricks' First Amendment claim. The State then filed a fourth motion to dismiss Ricks' RFRA claim, together with a motion for reconsideration.<sup>4</sup> Ricks appealed the district court's written order. After the district court granted the State's motion for reconsideration,<sup>5</sup> the district court entered judgment and dismissed the remaining RFRA claim.

decision and order granting the defendants' motion to reconsider, as shown below. In any event, the district court's judgment definitively dismissed all Ricks' claims by dismissing his entire complaint.

<sup>3</sup> The State's second motion to dismiss is not in the record.

<sup>4</sup> The State's fourth motion to dismiss and motion for reconsideration is not in the record.

<sup>5</sup> The order granting the State's motion to reconsider the district court's written order is not in the record.

## II.

## STANDARD OF REVIEW

As an appellate court, we will affirm a trial court's grant of an I.R.C.P. 12(b)(6) motion where the record demonstrates that there are no genuine issues of material fact and the case can be decided as a matter of law. *Coghlan v. Beta Theta Pi Fraternity*, 133 Idaho 388, 398, 987 P.2d 300, 310 (1999). When reviewing an order of the district court dismissing a case pursuant to Rule 12(b)(6), the nonmoving party is entitled to have all inferences from the record and pleadings viewed in its favor, and only then may the question be asked whether a claim for relief has been stated. *Coghlan*, 133 Idaho at 398, 987 P.2d at 310. The issue is not whether the plaintiff will ultimately prevail, but whether the party is entitled to offer evidence to support the claims. *Orthman v. Idaho Power Co.*, 126 Idaho 960, 962, 895 P.2d 561, 563 (1995).

The interpretation of a statute is an issue of law over which we exercise free review. *Aguilar v. Coonrod*, 151 Idaho 642, 649-50, 262 P.3d 671, 678-79 (2011). Such interpretation must begin with the literal words of the statute; those words must be given their plain, usual, and ordinary meaning; and the statute must be construed as a whole. *Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 893, 265 P.3d 502, 506 (2011). It is well established that where statutory language is unambiguous, legislative history and other extrinsic evidence should not be consulted for the purpose of altering the clearly expressed intent of the legislature. *Id.* Only where a statute is capable of more than one conflicting construction is it said to be ambiguous and invoke the rules of statutory construction. *L & W Supply Corp. v. Chartrand Family Trust*,

136 Idaho 738, 743, 40 P.3d 96, 101 (2002). If it is necessary for this Court to interpret a statute because an ambiguity exists, then this Court will attempt to ascertain legislative intent and, in construing the statute, may examine the language used, the reasonableness of the proposed interpretations, and the policy behind the statute. *Kelso & Irwin, P.A. v. State Ins. Fund*, 134 Idaho 130, 134, 997 P.2d 591, 595 (2000). Where the language of a statute is ambiguous, constructions that lead to absurd or unreasonably harsh results are disfavored. *See Jasso v. Camas Cnty.*, 151 Idaho 790, 798, 264 P.3d 897, 905 (2011).

### III.

#### ANALYSIS

Ricks argues the district court erred by granting the State's motions to dismiss. Ricks argues the merits of several of the claims made in his complaint, namely: (1) 42 U.S.C. § 666(a)(13), I.C. § 73-122, and I.C. § 54-5210 violate Ricks' free exercise of religion as protected by FERPA, RFRA, and the United States and Idaho Constitutions; and (2) the statutes also violate Ricks' inalienable right to contract granted by the United States and Idaho Constitutions and amount to a violation of due process and an illegitimate exercise of state and federal police power.<sup>6</sup>

Before reaching these arguments, we address the matter of administrative exhaustion. Although nei-

<sup>6</sup> Although the State argues against perceived equal protection violations and unconstitutionality in its brief, likely because these arguments were raised below, the Court does not interpret Ricks' brief to contain such arguments. Thus, the Court does not address them here.

ther party raised the issue of administrative exhaustion on appeal, this Court may raise it sua sponte. “[T]he exhaustion doctrine implicates subject matter jurisdiction because a district court does not acquire subject matter jurisdiction until all the administrative remedies have been exhausted.” *Fuchs v. State, Dep’t of Idaho State Police, Bureau of Alcohol Beverage Control*, 152 Idaho 626, 629, 272 P.3d 1257, 1260 (2012) (quotations omitted).

“As a general rule, a party must exhaust administrative remedies before resorting to the courts to challenge the validity of administrative acts.” *Lochsa Falls, L.L.C. v. State*, 147 Idaho 232, 237, 207 P.3d 963, 968 (2009) (quotations omitted). Parties are subject to the administrative remedies set out in the Idaho Administrative Procedures Act (IDAPA) if “the issue at hand arose from a ‘contested case.’” *Lochsa Falls*, 147 Idaho at 237, 207 P.3d at 968 (quoting I.C. § 67-5240). The Idaho Supreme Court has recognized two exceptions to this exhaustion requirement: “(a) when the interests of justice so require, and (b) when the agency acted outside its authority.” *Lochsa Falls*, 147 Idaho at 237, 207 P.3d at 968. Additionally, “failure to exhaust administrative remedies is not a bar to litigation when there are no remedies to exhaust.” *Id.* at 239-40, 207 P.3d at 970-71. *See also* I.C. § 67-5271(2).

The issues Ricks brings before this Court are subject to IDAPA’s administrative exhaustion requirement. Idaho Code § 54-5210(3) specifically notes that “an application for registration that has been denied by the board shall be considered a contested case as provided for in [IDAPA] and shall be subject to the provisions of [IDAPA] as well as the administrative rules adopted by the board governing contested cases.”



Thus, under IDAPA, Ricks was required to seek relief through an administrative hearing. I.C. §§ 67-5240-5255. Only after receiving a final order from IBOL, does IDAPA permit Ricks to file a petition for judicial review with the district court, which must be done within twenty-eight days of the issuance of the final order. I.C. §§ 67-5270-5279.

Ricks does not argue that any of the exceptions to this exhaustion requirement apply to his case, thus we decline to consider any exceptions. It appears that Ricks sought some measure of administrative review of IBOL's decision denying his contractor's license application, although the record does not demonstrate what, if any, administrative review occurred. Thus, it is unclear whether Ricks has shown that he exhausted all administrative remedies available to him prior to seeking judicial review.

This subject matter bar applies not only to the review of IBOL's denial of Ricks' contractor's license application, but also to the review of his claims that the denial violates his constitutional rights under the United States and Idaho Constitutions. Even constitutional issues arising from an administrative action must "be exhausted before a district court has jurisdiction to decide constitutional issues," unless an exception to exhaustion applies.<sup>7</sup> *Lochsa Falls*, 147 Idaho at

<sup>7</sup> We note another exception to the administrative exhaustion rule: "where an agency is charged with implementing a statute, declaratory judgment in the district court is permissible to determine the applicability of agency rules. I.C. § 67-5278. This is so regardless of the availability of agency remedies." *Doe v. State*, 158 Idaho 778, 782, 352 P.3d 500, 504 (2015). Because Ricks did not seek a declaratory judgment in the district court, this exception does not apply here

240, 207 P.3d at 971. It is unclear if Ricks exhausted the appropriate administrative procedures; failure to do so would deprive this Court of subject matter jurisdiction. To the extent this Court has jurisdiction, Ricks' claim fails on the merits.

#### A. Statutes at Issue

We begin our analysis with a description of the statutes at issue in this case. Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Act, a cooperative endeavor with the states,<sup>8</sup> aimed, among other things, to improve child support enforcement effectiveness by collecting information from the states for the Federal Parent Locator Service, a database established to track down parents with child support obligations. *See Lewis v. State, Dep't of Transp.*, 143 Idaho 418, 422-23, 146 P.3d 684, 688-89 (Ct. App. 2006). As an exercise of Congress's spending authority, the Act offered grants to states in exchange for compliance with the Act. One requirement of the Act is that states collect the social security number of any applicant for a professional license. 42 U.S.C. § 666(a)(13).

The Idaho Legislature chose to participate in the cooperative endeavor in 1998 by passing I.C. § 73-122 to bring Idaho into compliance with 42 U.S.C. § 666(a)(13), although Idaho already requested social security numbers on professional license applications. H.B. 431, 54th Leg., 2nd Reg. Sess. (Idaho 1998)

<sup>8</sup> *See Idaho Dep't of Health & Welfare v. McCormick*, 153 Idaho 468, 471, 283 P.3d 785, 788 (2012) (detailing the system by which states enact legislation and rules in compliance with a federal statute in order to accept federal grant money).

(Statement of Purpose/Fiscal Note). Idaho Code § 73-122 states:

- (1) The social security number of an applicant shall be recorded on any application for a professional, occupational or recreational license.
- (2) The requirement that an applicant provide a social security number shall apply only to applicants who have been assigned a social security number.
- (3) An applicant who has not been assigned a social security number shall:
  - (a) Present written verification from the social security administration that the applicant has not been assigned a social security number; and
  - (b) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and
  - (c) Submit such proof as the department may require that the applicant is lawfully present in the United States.

In 2005, the Idaho Legislature passed the Idaho Contractor Registration Act because “[t]he state of Idaho has no way of stopping unscrupulous or dishonest building contractors from continuing to practice in this state. There is nothing in current law that would prohibit a contractor--even if known to be a ‘bad actor’--from acting as a building contractor.” H.B. 163, 58th Leg., 1st Reg. Sess. (Idaho 2005) (Statement of Purpose). One section of the Act requires “[a]n applicant

for registration as a contractor [to] submit an application under oath upon a form to be prescribed by the board and which shall include the following information pertaining to the applicant: . . . Social security number.” I.C. § 54-5210. ICB and IBOL administer both I.C. § 54-5210 and I.C. § 73-122 by requiring social security numbers to be listed on a contractor’s application for licensure. I.C. § 54-5207.

### **B. Ricks’ Free Exercise Rights**

Ricks’ argument that requiring him to provide his social security number on his contractor’s license application amounts to a violation of his free exercise of religion is based in four separate sources of law: the First Amendment to the United States Constitution; Article 1, Section 4 of the Idaho Constitution; RFRA; and FERPA. Each operates independently of one another. We address each of these in turn below.

#### **1. The federal RFRA preempts any claims Ricks may have under Idaho’s FERPA**

Ricks argues that this Court should proceed to the merits of his FERPA argument and consider FERPA’s multi-part test, despite the State’s argument that FERPA, in its entirety, is preempted by 42 U.S.C. § 666(a)(13). We first address the State’s preemption argument.

In 2000, in reaction to the United States Supreme Court’s decision in *City of Boerne v. Flores*, which held Congress had exceeded its authority by extending RFRA to the states, 521 U.S. 507, 536 (1997), the Idaho Legislature passed its own version of RFRA--FERPA--to maintain statutory religious liberty protections for Idaho citizens, I.C. §§ 73-401-404. FERPA applies to all state laws and local ordinances unless a

state law or local ordinance explicitly states otherwise. I.C. § 73-403. FERPA provides a wider scope of protection for religious liberty than RFRA, “adopting a much broader definition of ‘substantially burdens,’” as well as codifying the phrase “exercise of religion” to mean “the ability to act or refusal to act in a manner substantially motivated by a religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.” *State v. White*, 152 Idaho 361, 364 n.2, 364, 271 P.3d 1217, 1220 n.2, 1220 (Ct. App. 2011). FERPA states that “‘Substantially burden’ means to inhibit or curtail religiously motivated practices,” I.C. § 73-401, and that “the term ‘substantially burden’ is intended solely to ensure that [FERPA] is not triggered by trivial, technical or de minimis infractions,” I.C. § 73-402(5). Otherwise, FERPA’s operative provisions are virtually identical to RFRA:

- (2) Except as provided in subsection (3) of this section, government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability.
  - (3) Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person is both:
    - (a) Essential to further a compelling governmental interest;
    - (b) The least restrictive means of furthering that compelling governmental interest.
- I.C. § 73-402.

In *Lewis*, this Court reviewed a similar FERPA claim. Lewis attempted to renew his driver’s license,

but refused to provide his social security number on the renewal application because he considered the number to be “the precursor to, or actually is, the biblical ‘mark of the beast.’” *Lewis*, 143 Idaho at 420, 146 P.3d at 686. After the Idaho Department of Transportation suspended the applicant’s license, denied his renewal application, and upheld those actions upon administrative review, the applicant appealed to the district court. *Id.* *Lewis* argued, among other things, that under FERPA he should receive an exemption from I.C. § 49-306, the statute requiring him to provide his social security number on his renewal application. *Lewis*, 143 Idaho at 422, 146 P.3d at 688. Like I.C. § 73-122, I.C. § 49-306 was enacted to comply with 42 U.S.C. § 666(a)(13). *Lewis*, 143 Idaho at 423, 146 P.3d at 689; H.B. 431, 54th Leg., 2nd Reg. Sess. (Idaho 1998) (Statement of Purpose).

This Court did not reach the merits of the applicant’s FERPA argument, instead holding FERPA was preempted by 42 U.S.C. § 666(a)(13). *Lewis*, 143 Idaho at 423, 146 P.3d at 689. The Court explained that giving the applicant a religious exemption from I.C. § 49-306 through FERPA would cause FERPA to conflict with 42 U.S.C. § 666(a)(13) because 42 U.S.C. § 666(a)(13) requires uniform compliance. *Lewis*, 143 Idaho at 423, 146 P.3d at 689. In other words, FERPA would cause the Idaho statute to operate with exceptions while the federal statute required the Idaho statute to operate without exceptions. The Court reasoned that this conflict must be resolved by the Supremacy Clause of the United States Constitution, which dictates that the laws of the United States “shall be the supreme Law of the Land; . . . any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.” *Lewis*, 143 Idaho at 422, 146 P.3d at 688

(quoting U.S. CONST. art. VI, cl. 2). Thus, in order to ensure I.C. § 49-306 did not conflict with 42 U.S.C. § 666(a)(13), the Court did not apply FERPA to I.C. § 49-306 and declined to address the merits of the applicant's FERPA argument. *Lewis*, 143 Idaho at 425, 146 P.3d at 691.

*Lewis* bears obvious resemblance with *Ricks*' case. The only relevant difference between the two is the type of license at issue. However, because the *Lewis* Court did not identify why FERPA was directly contrary to 42 U.S.C. § 666(a)(13), this Court proceeds to clarify the preemption analysis employed in *Lewis*.

“In determining whether state law is preempted, we begin with a presumption of no preemption.” *Idaho Dept. of Health & Welfare v. McCormick*, 153 Idaho 468, 471, 283 P.3d 785, 788 (2012). Federal law may preempt state law in two ways: (1) field preemption, where Congress has exhibited an intent to occupy a given field of law; and (2) conflicting laws, where Congress has not occupied a given field of law, but a state law conflicts with a federal law. *Lewis*, 143 Idaho at 422, 146 P.3d at 688. In the case of field preemption, any law a state passes in a federally-occupied area of law is preempted in its entirety. *Id.* For conflicting laws, a state law is preempted only to the extent it conflicts with federal law. *Id.*; *McCormick*, 153 Idaho at 471, 283 P.3d at 788.

Here, it cannot be said that Congress has occupied the field of child support enforcement, especially since 42 U.S.C. § 666(a)(13) invites states to engage in a cooperative endeavor with the federal government in this area. *See McCormick*, 153 Idaho at 471, 283 P.3d at 788 (“The cooperative nature of the Medicaid program shows that Congress did not intend to occupy the

entire Medicaid field, as the federal Medicaid statute calls for participating states to adopt their own legislation and regulations.”). Thus, the Court must examine FERPA to see if it conflicts with 42 U.S.C. § 666(a)(13).<sup>9</sup> In order to determine whether a state law conflicts with a federal law:

this Court must determine that the law “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” Essentially, this Court must find that a state law is directly contrary to the congressional intent behind a federal statute before state law will be preempted.

*McCormick*, 153 Idaho at 471, 283 P.3d at 788 (quoting *Christian v. Mason*, 148 Idaho 149, 152, 219 P.3d 473, 476 (2009)). In doing so, the Court interprets 42 U.S.C. § 666(a)(13) in light of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996’s overall purpose and follow well-established guidance concerning statutory interpretation:

The objective of statutory interpretation is to derive the intent of the legislative body that adopted the act. Statutory interpretation begins with the literal language of the statute. Provisions should not be read in isolation, but must

<sup>9</sup> We clarify that we are not examining whether Idaho Code § 73-122 or I.C. § 54-5210 conflict with 42 U.S.C. § 666(a)(13). Indeed, both those statutes advance the directive of 42 U.S.C. § 666(a)(13) in collecting social security numbers on professional license applications. Rather, the question here is whether FERPA, as an Idaho statute that grants exemptions from other Idaho statutes, conflicts with 42 U.S.C. § 666(a)(13) by granting an exemption from its Idaho counterparts, I.C. § 73-122 or I.C. § 54-5210.



be interpreted in the context of the entire document. The statute should be considered as a whole, and words should be given their plain, usual, and ordinary meanings. It should be noted that the Court must give effect to all the words and provisions of the statute so that none will be void, superfluous, or redundant. When the statutory language is unambiguous, the clearly expressed intent of the legislative body must be given effect, and the Court need not consider rules of statutory construction.

*McCormick*, 153 Idaho at 472, 283 P.3d at 789 (quoting *State v. Schulz*, 151 Idaho 863, 866, 264 P.3d 970, 973 (2011)).

We first turn to the literal language of 42 U.S.C. § 666(a)(13). That provision states that “each State must have in effect laws requiring the use of the following procedures,” including “[p]rocedures requiring that the social security number of . . . any applicant for a professional license, . . . occupational license . . .” 42 U.S.C. § 666(a)(13). Additionally, 42 U.S.C. § 666(a)(13) provides that “if a State allows the use of a number other than the social security number to be used on the face of the document while the social security number is kept on file at the agency, the State shall so advise any applicants.” This Court has interpreted this provision to mean that:

at the state’s discretion, the applicant’s social security number need not be recorded on the licensing document, but still must be recorded in a department file. The provision does not affect the requirement of recording the applicant’s so-

cial security number on the application or indicate the applicant cannot be required to provide the number to the department.

*Lewis*, 143 Idaho at 423 n.4, 146 P.3d at 689 n.4.

The plain text of FERPA, I.C. §73-402, does not directly conflict with the plain text of 42 U.S.C. § 666(a)(13). FERPA's text does not impose any conflicting duties or prohibitions concerning professional licensure or the reporting of social security numbers. Thus, we turn to the purposes and objectives of the two statutes and the intent of the legislative bodies behind them.

Ultimately, Congress passed 42 U.S.C. § 666(a)(13):

For the purpose of enforcing the support obligations owed by noncustodial parents to their children and the spouse (or former spouse) with whom such children are living, locating noncustodial parents, establishing paternity, obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children . . . for whom such assistance is requested.

42 U.S.C. § 651; *see also* 42 U.S.C. § 654(20) (a state "shall have in effect all of the laws to improve child support enforcement effectiveness"). This statement of purpose responds to Congress's finding that in "1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the

caseload has a collection.” H.R. 3734, 104th Cong. § 101(4) (1996).

Concerning FERPA, the Idaho Legislature set forth its rationale for adopting the statute in 2000:

The purpose of this legislation is to reestablish a test which courts must use to determine whether a person’s religious belief should be accommodated when a government action or regulation restricts his or her religious practice. The test, known as the “compelling interest test,” requires the government to prove with evidence that its regulation is (1) essential to achieve a compelling governmental interest and (2) it is the least restrictive means of achieving the government’s compelling interest.

Prior to 1990 the U.S. Supreme Court used the above test—the “compelling test”—when deciding religious claims. However, in a 1990 decision (*Employment Div. of Oregon v. Smith* [494 U.S. 872 (1990)]) the Court tipped the scales of justice in favor of government regulation by throwing out the compelling interest test, which had shielded our religious freedom from onerous government regulation for more than 30 years. The *Smith* decision reduced the standard of review in religious freedom cases to a “reasonableness standard.” While all other fundamental rights (freedom of speech, press, assembly, etc.) remain protected by the stringent “compelling interest test,” the Court singled out religious freedom by reducing its protection to the weak “reasonableness test.”

A widely recognized principle of law is that states are free to protect an individual's right with a much higher standard than the U.S. Constitution itself affords. Thus, in light of this principle in conjunction with the [*City of Boerne*, 521 U.S. 507] decision, states are free to enact their own RFRA's thereby choosing to apply the higher "compelling interest test" standard in their own religious freedoms cases.

S.B. 1394, 55th Leg., 2nd Reg. Sess. (Idaho 2000) (Statement of Purpose).

The stated purposes and objectives behind 42 U.S.C. § 666(a)(13) and FERPA do not necessarily present a direct conflict. However, the operation of FERPA, in the context of the cooperative endeavor between Congress and the Idaho Legislature, does impede 42 U.S.C. § 666(a)(13)'s objective of improving child support enforcement effectiveness by exempting individuals from I.C. § 73-122's and I.C. § 54-5210's requirement of providing social security numbers on professional license applications. In other words, an exemption granted by FERPA would make it more difficult to locate a parent who may have outstanding child support obligations through the Federal Parent Locator Service database. Because this amounts to a direct conflict with Congress's intent in passing 42 U.S.C. § 666(a)(13), 42 U.S.C. § 666(a)(13) preempts FERPA in this context. Thus, the district court did not err in dismissing Ricks' FERPA claim.<sup>10</sup>

<sup>10</sup> Even if the Court were to address the merits of Ricks' FERPA claim, it would fail. The parties do not contest that Ricks' refusal to provide his social security number on his contractor's license application is motivated by a sincerely-held religious belief. But

whether the conditioning of government benefits, like licensure, upon the provision of a social security number is a substantial burden upon the free exercise of religion is a question on which other courts have split. *See Leahy v. D.C.*, 833 F.2d 1046, 1048 (D.C. Cir. 1987) (assuming a requirement that a social security number be obtained and disclosed in order to receive a driver's license is a substantial burden for a "mark of the beast" believer); *Callahan v. Woods*, 736 F.2d 1269, 1273 (9th Cir. 1984) (holding a requirement that a social security number be obtained and disclosed in order to receive welfare is a substantial burden for a "mark of the beast" believer); *In re Turner*, 193 B.R. 548, 555 (Bankr. N.D. Cal. 1996) (holding a requirement that a bankruptcy petitioner provide his social security number on others' bankruptcy petitions was not a substantial burden for a "mark of the beast" believer). *See also Thomas v. Review Bd.*, 450 U.S. 707, 717-18 (1981) ("Where the State conditions receipt of an important benefit upon conduct proscribed by a religious faith, or where it denies such a benefit because of conduct mandated by religious belief . . . a burden upon religion exists. While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial."); *Callahan*, 736 F.2d at 1273 (same); *Miller v. Comm'r*, 114 T.C. 511, 516 (2000) (compiling substantial burden cases). However, even assuming without deciding that denying Ricks' application for a contractor's license substantially burdens his religious exercise, Ricks' FERPA claim fails because I.C. § 73-122 and I.C. § 54-5210 are supported by compelling government interests (to conform to 42 U.S.C. § 666(a)(13) to improve child support enforcement effectiveness and to ensure the quality of contractors in Idaho), and requiring a social security number on Ricks' license application is the least restrictive means of accomplishing those interests. Indeed, it is hard to imagine another uniformly used method of identification other than a social security number that is consistent across state lines; does not change when an individual obtains a new housing arrangement, a new name, or new employment; and is possessed by all individuals that could be used to locate Ricks in the event he has outstanding child support obligations. Thus, assuming for purposes of argument that Ricks' religious exercise is substantially burdened by the social security number requirement, the requirement does not violate his statutory free exercise rights under FERPA.

**2. RFRA is inapplicable to this case because Ricks does not list any federal defendants**

In response to the standard for interpreting the First Amendment announced by the United States Supreme Court in *Smith*, Congress passed RFRA, essentially restoring and codifying the Court's First Amendment jurisprudence predating *Smith*. 42 U.S.C. § 2000bb. RFRA applies to all federal law unless a federal law explicitly states otherwise. 42 U.S.C. § 2000bb-3 (declared unconstitutional as applied to the states in *City of Boerne*, 521 U.S. 507).

It provides individuals with a claim or defense that they should be exempt from federal laws that burden their exercise of religion. However, such exemptions are only granted if courts determine the individuals pass RFRA's multi-part test:

(a) In general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) Exception

Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

42 U.S.C. § 2000bb-1.

In order to assert a RFRA claim or defense, an individual's lawsuit must include federal government defendants, defined under the statute to include "a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States." 42 U.S.C. § 2000bb-2. Here, Ricks' complaint does not list any federal government defendant charged with administering 42 U.S.C. § 666(a)(13). As such, he cannot validly raise a RFRA claim, and the district court did not err in dismissing the claim.

**3. Ricks' First Amendment rights are not violated by requiring him to list his social security number on a building contractor application**

The First Amendment to the United States Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. CONST. amend. I. Generally applicable and neutral laws that incidentally burden the exercise of an individual's religion do not offend the First Amendment. *See Employment Div., Dep't of Human Res. of Oregon v. Smith*, 494 U.S. 872 (1990), *superseded by statute*, Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, 107 Stat. 1488, *as recognized in Holt v. Hobbs*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 853 (2015).<sup>11</sup> Thus, generally applicable and

<sup>11</sup> Westlaw flags *Employment Div. of Oregon v. Smith*, 494 U.S. 872 (1990), as superseded by statute, but that designation does not reflect *Smith's* continuing validity as controlling law. Westlaw points a reader of *Smith* to the United States Supreme Court's decision in *Holt v. Hobbs*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 853 (2015). The Court in *Holt* explains that *Smith* repudiated previous Free Exercise Clause analysis under the First Amendment to

neutral laws burdening the free exercise of religion face only rational basis review. *Id.*; see also *Miller v. Reed*, 176 F.3d 1202, 1206 (9th Cir. 1999). However, laws that selectively target religious exercise merit strict scrutiny review and will only survive scrutiny in rare cases. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

Here, Ricks has presented no evidence that 42 U.S.C. § 666(a)(13), I.C. § 73-122, or I.C. § 54-5210 are not generally applicable or neutral laws or that they were passed with the object to target his religious exercise. Section 666(a)(13)'s requirement of providing a social security number on all professional license applications is generally applicable to all professionals within states that have voluntarily assumed 42 U.S.C. § 666(a)(13)'s statutory obligations. The statute does not single out a class of religious people who, as an element of the exercise of their religion, object to the use of a social security number. Additionally, 42 U.S.C. § 666(a)(13)'s purpose--to improve child support enforcement effectiveness--is religiously neutral. The same can be said for I.C. § 73-122 and I.C. § 54-5210.

the United States Constitution, but that Congress's response to *Smith* was to pass RFRA, a statute protecting religious exercise by employing the Free Exercise Clause analysis the Court had just repudiated. *Holt*, \_\_\_ U.S. at \_\_\_, 135 S. Ct. at 859-60. Congress's passage of RFRA thus added another federal avenue of relief for parties whose free exercise of religion has been burdened. Parties may elect to seek relief through either: (1) the First Amendment, which does not protect against incidental burdens incurred by generally applicable and neutral laws as set forth in *Smith*; and (2) RFRA, which may protect against incidental burdens incurred by generally applicable and neutral laws, as long as RFRA's multi-prong test is met.



Both statutes apply generally to require all professionals, including contractors, to list their social security numbers on license applications. Neither single out a class of religious objectors. Rather, the purposes of I.C. § 73-122 (to conform to 42 U.S.C. § 666(a)(13) and improve child support enforcement effectiveness) and I.C. § 54-5210 (to ensure the quality of contractors in Idaho) are religiously neutral. As such, we evaluate all three statutes under rational basis review. We conclude the purposes behind these statutes show Congress and the Idaho Legislature possessed rational bases in their enactment. Thus, even if the statutes burden the free exercise of Ricks' religion, that burden does not amount to a violation of Ricks' First Amendment rights. Therefore, the district court did not err in dismissing this claim.

**4. Article I, Section 4 of the Idaho Constitution is not violated by the incidental burden of using a social security number on a building contractor application**

Article 1, Section 4 of the Idaho Constitution provides similar protections to the First Amendment of the United States Constitution. It reads:

The exercise and enjoyment of religious faith and worship shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions . . . No person shall be required to attend or support any ministry or place of worship, religious sect or denomination, or pay tithes against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

Idaho Const. art. I, § 4. This guarantee of religious liberty has been interpreted to provide more protection than the First Amendment of the United States Constitution. *Osteraas v. Osteraas*, 124 Idaho 350, 355, 859 P.2d 948, 953 (1993). This is so because “religious opinion” is “a broad term that would seem to include not only traditional religious beliefs but also one’s opinions as to religion in general.” *Id.* However, like the First Amendment, this provision does not protect against conduct that violates a neutral statute of general applicability simply because such conduct may be engaged in for religious reasons. *State v. Fluewelling*, 150 Idaho 576, 579, 249 P.3d 375, 378 (2011). As expressed above, 42 U.S.C. § 666(a)(13), I.C. § 73-122, and I.C. § 54-5210 are all generally applicable and neutral laws justified by rational purposes, and as such, the incidental burden they impose on Ricks’ free exercise of his religion does not amount to a violation of Article 1, Section 4 of the Idaho Constitution. Therefore, the district court did not err in dismissing this claim.

### **C. Ricks’ Contract Rights Are Not Violated**

Ricks argues that conditioning licensure upon the provision of a social security number violates his right to contract. “[T]he right to make contracts is embraced in the conception of liberty as guaranteed by the [Fourteenth Amendment to the] Constitution.” *Chicago, B. & Q.R. Co. v. McGuire*, 219 U.S. 549, 566 (1911). However, “that freedom of contract is a qualified, and not an absolute, right. There is no absolute freedom to do as one wills or to contract as one chooses.” *Id.* at 567. “Equally fundamental with the private right [to contract] is that of the public to regulate it in the common

interest.” *Nebbia v. People of New York*, 291 U.S. 502, 523 (1934).

Idaho Code § 73-122 and I.C. § 54-5210 serve a purpose in the common interest. By bringing Idaho law into compliance with 42 U.S.C. § 666(a)(13), I.C. § 73-122 aids Congress’s objective to improve child support enforcement effectiveness. In passing I.C. § 54-5210, the Idaho Legislature declared, “it is in the public interest to provide a mechanism to remove from practice incompetent, dishonest, or unprincipled practitioners of construction. To aid in fulfilling these purposes, this chapter provides for the registration of construction contracts within the state of Idaho.” I.C. § 54-5202. The purposes behind these two statutes motivate legitimate exercises of police power.

The requirement that a social security number be listed on an application for an Idaho contractor license does qualify Ricks’ right to contract. But because that requirement pursues legitimate state objectives, it does not violate Ricks’ contract rights, nor does it amount to a due process violation. Thus, the district court did not err in dismissing Ricks’ contract rights claim.

Relatedly, Ricks argues that 42 U.S.C. § 666(a)(16) does not grant Idaho the ability to limit his contract rights by denying him a contractor’s license for failure to provide a social security number. He contends 42 U.S.C. § 666(a)(16) only permits Idaho to deny a license to individuals with “overdue [child] support or [who have] fail[ed], after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.” Ricks raises this argument for the first time on appeal. Issues not raised below may not be considered for the first time

on appeal, thus we do not address Ricks' new argument here. *Sanchez v. Arave*, 120 Idaho 321, 322, 815 P.2d 1061, 1062 (1991).

#### IV.

### CONCLUSION

It is unclear whether Ricks has shown that he exhausted all administrative remedies available to him prior to seeking judicial review. To the extent this Court has subject matter jurisdiction to review Ricks' appeal, the merits of his claims also fail. Ricks' FERPA claim is preempted by 42 U.S.C. § 666(a)(13), his RFRA claim is not properly alleged, and neither his claim under the First Amendment of the United States Constitution nor Article I, Section 4 of the Idaho Constitution compel the conclusion that Ricks' free exercise rights have been violated. Additionally, Ricks has not shown his right to contract is violated by I.C. § 73-122 or I.C. § 545210. Thus, the district court did not err in dismissing these claims and the judgment is affirmed. Costs but not attorney fees are awarded to respondents on appeal.

Chief Judge GRATTON and Judge LORELLO  
**CONCUR.**

29a

STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED  
2017 AUGUST 25 PM 3:58  
CLERK DISTRICT COURT

/s/ \_\_\_\_\_

Deputy

**IN THE DISTRICT COURT OF THE  
FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO  
IN AND FOR THE COUNTY OF KOOTENAI**

GEORGE Q. RICKS

Plaintiff,

v.

STATE BOARD OF  
CONTRACTORS

IDAHO BOARD OF  
OCCUPATIONAL  
LICENSES

LAWRENCE WASDEN

ATTORNEY GENERAL

Defendants,

Case No. 16-5927

MEMORANDUM  
DECISION AND  
ORDER GRANTING  
DEFENDANT'S  
MOTION TO  
RECONSIDER

Defendants' Motion GRANTED

**I. BACKGROUND AND PROCEDURAL HIS-  
TORY**

Defendants challenge the Court's prior ruling that Plaintiffs Second Amended Complaint states a RFRA claim and argues that none of the defendants are appropriate parties under RFRA because they are not "government actors" as defined by RFRA.

## II. STANDARD

The district court has no discretion on whether to entertain a motion for reconsideration . . . On a motion for reconsideration, the court must consider any new admissible evidence or authority bearing on the correctness of an (2) the term “covered entity” means the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

42 U.S.C. § 2000bb-2.

### **(a) In general**

Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

### **(b) Exception**

Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive mean of furthering that compelling governmental interest.

### **(c) Judicial relief**

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a

judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

42 U.S.C. § 2000bb-1. Thus, only a branch of the federal government or a U.S. territory is a proper party pursuant to RFRA; states are not. As a matter of law, Defendants are not proper parties under RFRA, and Plaintiffs RFRA cause of action against them is therefore dismissed.

Dated Aug 23 2017 /s/ \_\_\_\_\_  
District Judge Lansing Haynes

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25 day of August, 2017, a true and correct copy of the foregoing was mailed, postage prepaid, faxed, or sent by interoffice mail to:

George Ricks



Leslie Hayes  
P.O Box 83720  
Boise, Idaho 83720-0010  
Fax: (208)854-8073

By: \_\_\_\_\_  
Susan McCoy, Deputy Clerk

32a

George Q. Ricks  
Acting Pro Se



STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED: 2017 Aug 16  
PM 4:26  
CLERK DISTRICT COURT  
/s/ \_\_\_\_\_  
Deputy Clerk

**IN THE DISTRICT COURT OF THE  
FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO,  
IN AND FOR KOOTENAI COUNTY**

CIVIL ACTION FOR VI-  
OLATION OF CONSTI-  
TUTIONAL AND STAT-  
UTORY RIGHTS  
GEORGE Q. RICKS,

Appellant,

v.

STATE OF IDAHO  
CONTRACTORS  
BOARD, IDAHO  
BOARD OF OCCUPA-  
TIONAL LICENSES,  
LAWRENCE WASDEN,  
ATTORNEY GENERAL

Respondents.

Case No. CV-2016-5927

NOTICE OF APPEAL



TO: STATE OF IDAHO CONTRACTORS BOARD,  
IDAHO BOARD OF OCCUPATIONAL LICENSES,  
LAWRENCE WASDEN, IDAHO ATTORNEY GEN-  
ERAL AND THE DEFENDANTS' ATTORNEY,  
LESLIE M. HAYES, 7995#7889 DEPUTY ATTOR-  
NEY GENERAL, 954 W. JEFFERSON STREET, 2ND  
FLOOR, P.O. BOX 83720, BOISE, ID. 83720-0010  
AND THE CLERK OF THE DISTRICT COURT OF  
THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR KOOTENAI COUNTY.

NOTICE IS HEREBY GIVEN THAT:

1. George Q. Ricks appeals against the above named respondent(s) to the Idaho Supreme Court from Memorandum Decision and Order, Granting in Part and Denying in Part Defendants' Motion to Dismiss. Entered in the above entitled action on the 5th day of July 2017, Honorable Judge, Lansing L. Haynes presiding. A copy of the judgment or order being appealed is attached to this notice.
2. Appellant has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to rule 11 (a) (3) I.A.R.
3. Preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.
  - A. Appellant contends he has stated a "hybrid" claim that requires stricter scrutiny than the rational basis test. *Employment Div. v. Smith*, 494 U.S. 872 (1990).

- B. Appellant contends that the requirement of a SSN has no rational basis as to whether an individual qualifies to register as a contractor.
  - C. Appellant contends I.C. 73-122 is discriminatory towards those who have a religious objection over disclosing their SSN in order to register as a contractor. *Bowen v. Roy*, 476 U.S. 693 (1986).
  - D. Appellant contends 42 U.S.C. 666(a) (13)(A) is germane only to those who seek the assistance of an IV-D agency.
  - E. Appellant contends his complaint should not have been dismissed under a rule 12(b)(6) motion.
- 4. No order has been entered sealing any portion of the record.
  - 5. No transcript is requested.
  - 6. Under rule 28 (a) I.A.R., Appellant by the foregoing designations requests that the clerk's record be limited to the following:
    - a. The original and any amended complaint.
    - b. Plaintiff's memorandum in opposition to Defendants' 3rd Rule 12(b)(6) motion to dismiss.
    - c. Notice of Appeal

**CERTIFICATION**

I certify:

1. That the estimated fee for preparation of the clerk's or agency's record has been paid.
2. That the appellate filing fee has been paid.
3. That service has been made upon all parties required to be served pursuant to Rule 20.

**AFFIDAVIT**

State of Idaho  
County of Kootenai

George Q. Ricks being sworn, deposes and says:

That the party is the appellant in the above-entitled appeal and that all statements in this notice of appeal are true and correct to the best of his knowledge and belief.

Subscribed and Sworn to before me this 16th, day of Aug. 2017.

/s/ \_\_\_\_\_  
Bobee Deglman  
Notary Public

36a

STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED:  
2017 JULY 5 PM 2:06  
CLERK DISTRICT COURT  
/S/ \_\_\_\_\_  
DEPUTY

**IN THE DISTRICT COURT OF THE  
FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO,  
IN AND FOR THE COUNTY OF KOOTENAI**  
GEORGE Q. RICKS,  
Plaintiff,

*v.* Case No. CV-16-5927  
STATE OF IDAHO CON- MEMORANDUM DE-  
TRACTORS BOARD CISION AND ORDER  
IDAHO BOARD OF OC- GRANTING IN PART  
CUPATIONAL LICENS- AND DENYING IN  
ES PART DEFENDANTS'  
LAWRENCE WASDEN MOTION TO DISMISS  
ATTORNEY GENERAL  
Defendants.

Defendants' Motion is granted in part and denied in part.

Plaintiff's Second Amended Complaint first lays out the facts and argues the Idaho Contractor Registration Act's "requirement to provide a SSN in order to exercise the freedom to contract violates plaintiff's First Amendment right to the Free Exercise of Religion (FER) clause of the U.S. Constitution." Plaintiff

then cites four U.S. Supreme Court cases, none of which are controlling authority on that topic. Plaintiff continues:

The State of Idaho in “Lewis” admitted that the requirement of an SSN in order to receive a driver’s license did indeed burden Lewis’ religious beliefs under I.C.73402, but that State law was allegedly pre-empted by federal law (42USC666) law to require an individual’s SSN even over a religious objection. This allegations fails for the following reasons.

1) 42 USC 666 a 13 A applies in only certain family matters. That being the collection and use of SSN FOR USE IN CHILD SUPPORT Enforcement. P.L 105-33 August 5th, 1997-111 Statute 629 Section 5536.

2) 42 USC 2000 bb 1-4 applies to all federal laws unless the particular federal law specifically states 42 USC 2000 bb 1-4 does not apply. 42USC 666 is not exempt.

3) I.C. 73-122 is discriminatory as it allows for individuals to use alternative documentation to apply for licenses; therefore the SSN is not the least restrictive means to further the state’s alleged compelling interest.

*Bowen v. Roy*, 476 U.S. 693 (1986 at 708, and cited and discussed in *Leahy v. D.C.*, 833 F.2d 1046 (1987). The State of Idaho even admits to the inequity in Federal Mandate Review dated Jan. 19, 2005 and previously submitted to the Court.

Conclusion

I.C. 54-5210(a) violates Plaintiffs 1st Amend (FER) and does not comply with federal law and U.S. Supreme Court's decision concerning the "FER". I.C. 73-122 is discriminatory.

Plaintiff seeks relief in the forms of declaratory judgement, and also damages under 42 USC 1981, 1983, 2000e-2(b) in connection with I.C. 6-903(1), 6-910.

Plaintiff's reasons are numbered in his Amended Complaint and the Court will address them one at a time.

**1) 42 USC 666 a 13 A applies in only certain family matters. That being the collection and use of SSN FOR USE IN CHILD SUIPPORT Enforcement. P.L. 105-33 August 5th, 1997-111 Statute 629 Section 5536.**

Plaintiff misconstrues the purpose of this law and its applicability. 42 U.S.C. § 666(a)(13)(A)'s purpose is to aid in child support enforcement by requiring the collection of social security numbers on license applications:

§ 666. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

(a) Types of procedures required

In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness

of the program which the State administers under this part:

...

(13) Recording of social security numbers in certain family matters

Procedures requiring that the social security number of

- (A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;
- (B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and
- (C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

42 U.S.C. § 666. This law applies to all applications for occupational licenses and requires states to record social security numbers on license applications to aid in interstate child support collection. The Idaho Contractor Registration Act's social security number requirement is Idaho's compliance with this federal mandate. The federal mandate does not apply only in "certain family matters" despite the heading of subsection 13. It does include "certain family matters" like marriage, divorce, and paternity determinations,

but also applies to death records, and applications for drivers', professional, and other licenses.

**2) 42 USC 2000 bb 1-4 applies to all federal laws unless the particular federal law specifically states 42 USC 2000 bb 1-4 does not apply. 42 USC 666 is not exempt.**

42 USC § 2000 is the Religious Freedom Restoration Act. Here, Plaintiff is arguing R-FRA (enacted 1994 and declared unconstitutional as applied against the state laws in *City of Boerne v. Flores*, 521 U.S. 507 (1997)) trumps the federal Child Support Enforcement Act (42 U.S.C. § 666, enacted in 1984). This is a statutory RFRA claim, not a Free Exercise Clause claim.

Defendants state appears, “[it] appears, but is unclear, that Plaintiff is trying to assert that the Religious Freedom Restoration Act governs the validity of 42 U.S.C. § 666. Defendants are unable to respond to this paragraph or assert an argument for dismissal because there is no discernible claim asserted here.” There is a discernible claim asserted here, as Defendant recited it. Plaintiff is correct that RFRA “applies to all Federal law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after November 16, 1993.” 42 U.S.C. § 2000bb-3.

As Defendants are “unable to . . . assert an argument for dismissal,” the Court cannot dismiss this claim given that “every reasonable intendment will be made to sustain a complaint against a motion to dismiss for failure to state a claim.” *Owsley v. Idaho Indus. Comm’n*, 141 Idaho 129, 133, 106 P.3d 455, 459 (2005).



**3) I.C. 73-122 is discriminatory as it allows for individuals to use alternative documentation to apply for licenses; therefore the SSN is not the least restrictive means to further the state's alleged compelling interest.**

Defendants properly construe this only as part of Plaintiff's Free Exercise Clause claim<sup>1</sup> and properly responds that the rational basis test applies. Defendants argue that because the rational basis test applies, the Court does not need to decide whether there is a less restrictive means to achieve a compelling state interest. Defendants cite *Miller v. Reed*, 176 F.3d 1202, 1206 (9th Cir. 1999) for this proposition:

In *Employment Division v. Smith*, 494 U.S. 872, 110 S. Ct. 1595, 108 L. Ed. 2d 876 (1990), the Court analyzed a free exercise of religion claim under a rational basis test. Under this test, a rationally based, neutral law of general applicability does not violate the right to free exercise of religion even though the law incidentally burdens a particular religious belief or practice. *Id.* at 879, 110 S. Ct. 1595; see also *Church of the Luhtmi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993) (citing *Smith*, 494 U.S. at 879, 110 S. Ct. 1595). Applying *Smith's* rational basis test to the present case, we conclude that Miller's free exercise claim fails.

<sup>1</sup> Because RFRA was held unconstitutional as applied against state laws as a usurpation of regulatory authority properly belonging to the states in *Boerne*, and because Plaintiff is challenging a state law here, this cannot state a RFRA claim.

Defendants are correct that neutral laws of general applicability are examined under the rational basis test for Free Exercise Clause claims, as stated above in *Miller*.

I.C. § 73-122 is a neutral law of general applicability which applies to anyone applying for a professional license, and requires them to list their social security number if they have one, and allows those without social security numbers to provide alternative identification:

**73-122. SOCIAL SECURITY NUMBER.**

(1) The social security number of an applicant shall be recorded on any application for a professional, occupational or recreational license.

(2) The requirement that an applicant provide a social security number shall apply only to applicants who have been assigned a social security number.

(3) An applicant who has not been assigned a social security number shall:

(a) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(b) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(c) Submit such proof as the department may require that the applicant is lawfully present in the United States.

The law is not discriminatory. It applies to those with and without social security numbers. The same applies to the Child Support Enforcement Act, 42 U.S.C. 666, because it requires the states to ask for social security numbers on occupational licenses to aid in collecting child support. It applies to all states and all occupational licenses.

***Bowen v. Roy*, 476 U.S. 693 (1986 at 708, and cited and discussed in *Leahy v. D.C.*, 833 F.2d 1046 (1987). The State of Idaho even admits to the inequity in Federal Mandate Review dated Jan. 19, 2005 and previously submitted to the Court.**

The Court is unsure what this means. However, Plaintiff sets forth a RFRA claim against 42 U.S.C. 666 which Defendants fail to address.

Plaintiff makes other statements in his Second Amended Complaint regarding the free exercise of religion:

Idaho code (I.C. 5a-5210(a) requirement to provide a SSN in order to exercise the freedom to contract violates plaintiffs First Amendment right to the Free Exercise of Religion (FER) clause of the U.S. Constitution . . .

The state of Idaho in “Lewis” admitted that the requirement of an SSN in order to receive a driver’s license did indeed burden Lewis’ [sic] religious beliefs under I.C. 73-402, but that State law was allegedly pre-empted by federal law (42 U.S.C. 666) law to require an individual’s SSN even over a religious objection. This allegation fails for the following reasons . . .

Plaintiff's second paragraph above asks the Court to overturn an Idaho Supreme Court case, which is beyond this Court's authority. Plaintiff's first paragraph above is foreclosed by *Miller v. Reed*, where the 9<sup>th</sup> Circuit Court of Appeals applied the rational basis test to a facially neutral California law of general applicability which required the plaintiff to submit a social security number.

**In *Employment Division v. Smith*, 494 U.S. 872, 110 S. Ct. 1595, 108 L. Ed. 2d 876 (1990), the Court analyzed a free exercise of religion claim under a rational basis test. Under this test, a rationally based, neutral law of general applicability does not violate the right to free exercise of religion even though the law incidentally burdens a particular religious belief or practice. *Id.* at 879, 110 S. Ct. 1595; see also *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993) (citing *Smith*, 494 U.S. at 879, 110 S. Ct. 1595). Applying *Smith*'s rational basis test to the present case, we conclude that Miller's free exercise claim fails.**

In *Smith*, the Supreme Court held: "[T]he right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." 494 U.S. at 879, 110 S. Ct. 1595 (internal quotations and citations omitted). The Court explained: "The government's ability to enforce generally applicable prohibitions of so-

cially harmful conduct, like its ability to carry out other aspects of public policy, ‘cannot depend on measuring the effects of a governmental action on a religious objector’s spiritual development.’” *Id.* at 885, 110 S. Ct. 1595 (quoting *Lyng v. Northwest Indian Cemetery Protective Ass’n*, 485 U.S. 439, 451, 108 S. Ct. 1319, 99 L. Ed. 2d 534 (1988)).

**Miller concedes that California may regulate drivers’ licenses and that all applicants for drivers’ licenses are required to provide their social security numbers.** See *Nowlin v. Department of Motor Vehicles*, 53 Cal. App. 4th 1529, 62 Cal. Rptr. 2d 409, 412-14 (1997). He does not deny that section 1653.5 is facially neutral, nor does he allege that section 1653.5 has the object of burdening religion or has more than an incidental effect on religious practices or beliefs. Finally, he does not deny that section 1653.5 is rationally related to California’s legitimate interests in locating the whereabouts of errant parents for purposes of carrying out child support programs, collecting tax obligations, and collecting amounts overdue and unpaid for fines, penalties, assessments, bail, and vehicle parking penalties. See *id.* at 415; *Lauderback*, 41 Cal. Rptr. 2d at 436-39.

We conclude that California Vehicle Code § 1653.5 is a valid and neutral law of general applicability. Under *Smith*, the DMV’s enforcement of it does not violate Miller’s right to the free exercise of religion. *Cf. Bowen v. Roy*, 476 U.S. 693, 701-12, 106 S. Ct. 2147, 90 L. Ed.

2d 735 (1986) (Burger, C.J., plurality) (foreshadowing the *Smith* analysis in rejecting a free exercise challenge to the requirement that applicants for a federal welfare program provide social security numbers).

*Miller v. Reed*, 176 F.3d 1202, 1206-07 (9th Cir. 1999) (emphasis added) [sic].

“[I]f prohibiting the exercise of religion . . . is . . . merely the incidental effect of a generally applicable and otherwise valid provision, the First Amendment has not been offended.” *Employment Div., Dep’t of Human Res. of Oregon v. Smith*, 494 U.S. 872, 892, 110 S. Ct. 1595, 1607, 108 L. Ed. 2d 876 (1990), *overturned due to legislative action* (Nov. 16, 1993) (however, this case was overturned by RFRA, and RFRA is inapplicable as applied against state law, and therefore this case still applies to challenges to state law). “[T]he right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).” *State v. Fluewelling*, 150 Idaho 576, 579, 249 P.3d 375, 378 (2011) (internal quotations omitted, citing *Employment Div., Dep’t of Human Res. of Oregon v. Smith*). “When the exercise of religion has been burdened in an incidental way by a law of general application, it does not follow that the persons affected have been burdened any more than other citizens, let alone burdened because of their religious beliefs.” *City of Boerne v. Flores*, 521 U.S. 507, 535, 117 S. Ct. 2157, 2171, 138 L. Ed. 2d 624 (1997).

Here, I.C. § 54-5210’s requirement of providing social security numbers on contractor’s license appli-

cations is a facially neutral law of general applicability. It does not mention religion and applies to any person applying for an Idaho contractor's license. The effect on the Plaintiffs exercise of his religion is only incidental to collecting his social security number and his exercise of religion is not substantially burdened merely because he must submit his social security number on a contractor's license application. Defendants are correct that Plaintiffs free exercise claim is precluded by *Miller v. Reed*, as well as *Employment Division v. Smith*.

Plaintiff applies the incorrect level of scrutiny to his free exercise claim. Plaintiff is applying strict scrutiny in an area of law where rational basis scrutiny is applied. Plaintiff fails to set forth a free exercise claim. Plaintiff does state a RFRA claim.

### **Conclusion**

For the reasons stated above, Defendants' Motion to Dismiss is granted in part and denied in part.

Dated July 3, 2017.

/s/

\_\_\_\_\_  
District Judge Lansing Haynes

### **CERTIFICATE OF SERVICE**

I hereby certify that on 5th day of July, 2017 a true and correct copy of the foregoing was mailed, postage prepaid, faxes or sent by interoffice mail to:

George Ricks



Leslie Hayes  
P.O. Box 83720  
#601  
Boise, Idaho  
83720-0010

48a

Fax: (208) 854-8073

By: /s/\_\_\_\_\_

Susan McCoy

Deputy Clerk



<b>Description:</b>	CV 2016-5927 George Ricks vs State of Idaho Contractors Board 20170608 Motion to Dismiss Judge Haynes Clerk Suzi Sverdsten Court Reporter Val Nunemacher /s/ Suzi Sverdsten
<b>Date:</b>	6/8/2017
<b>Location:</b>	1K-CRT9

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
03:52:25 PM	J	Plaintiff is present DA-Leslie Hayes is appearing telephonically
03:54:03 PM	DA	Brief was submitted. Whether the Religious Freedom Registration Act can apply, it doesn't apply to hold state law unconstitutional.
03:54:42 PM	Plaintiff	No police power to require an SSN. Federal law applies to federal questions. Layhi v. SCA, Mr Layhi was successful
03:57:10 PM	J	Recess.
04:01:54 PM	J	Back on the record. Will rule today. Court is governed by that the Court must make every reasonable intendment to sustain the Complaint. The argument is 42 USC

Time	Speaker	Note
		2000 applies to all Federal Law unless states it doesn't apply. The child support act is exempt. RFRA is unconstitutional as applied to solely state statute actions. 42 USC 666 is intertwined with a Federal statute. Mr. Ricks is challenging the State's statute requiring him 42 USC 666. The religious freedom registration act cannot be viewed as unconstitutional.
04:05:00 PM	J	The Court denies the State's Third Motion to Dismiss. The Court will issue its own order. In that order I will issue an order addressing the First Amendment issue.
04:06:49 PM	End	

<b>Description:</b>	CV 2016-5927 George Ricks vs State of Idaho Contractors Board, et al Judge Haynes Court Reporter Val Nunemacher Clerk Tiffany Burton /s/ Tiffany Burton
<b>Date:</b>	5/1/2017
<b>Location:</b>	1K-CRT9

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
03:06:37 PM	Judge Haynes	Calls Case; Mr. Ricks present pro se; Ms. Hayes present telephonically for DF
03:08:41 PM	J	Court has read documents.
03:08:54 PM	Ms. Hayes	Third motion to dismiss. PL desired to obtain a contractor's license, did not provide SSN due to religious beliefs. Today we are talking about the second amended complaint. Parties appear to disagree over standard that should be applied by the court. Reviews case law. There is no required compliance or criminal sanction. Counsel did not find any case law where a SSN was held based on a religious. Ask the court

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
		dismiss this matter in its entirety.
03:12:17 PM	Mr. Ricks	The requirement is neither neutral, there is an exception. There are those that don't need a SSN in order to contract. Believe the Def's are showing a hostility toward religion. A SSN has no rational basis in that purpose. If someone was to put a claim against me they would use a registration number, not a SSN. State of Idaho cannot use my social as far as contracting goes. No rational basis for tracking or any use being a contractor.
03:14:41 PM	J	Position of the State, only cause of action is regarding free exercise of religion.
03:15:17 PM	Mr. Ricks	In connection of the liberty to contract.
03:15:27 PM	J	The court has already ruled on that, ruled against you. Separate cause of action? Reviews.
03:16:39 PM	Mr. Ricks	I mentioned in my memorandum, support of the 1st amendment.

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
03:17:07 PM	Ms. Hayes	Still unclear on the separate cause of actions. Court cited to the free exercise of religion. There is nothing I saw in the Bowen decision that requires the state to have a religious exception. By tracking contractors based on SSN, it's intuitive it provides the state with a tracking mechanism absent a state created number.
03:19:07 PM	J	Your cause of action is a little hard to follow. Important to get paired down exactly what you are alleging.
03:20:10 PM	Mr. Ricks	Also a claim; 2 causes of actions.
03:20:22 PM	J	Because of that, will give the DF to give more time to brief the issue of the riffraff claim.
03:20:46 PM	Ms. Hayes	Understand.
03:21:14 PM	J	There will be further briefing work done on this. DF will contact clerk to get a hearing date and will get your response, then we will have a hearing date regarding

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<b>Time</b>	<b>Speaker</b>	<b>Note</b>
		that cause of action. Had to get the issues narrowed down before I can rule on it.
03:22:14 PM	End	

<b>Description:</b>	CV 2016-5927 George Ricks vs State of Idaho 20170202 Motion to Reconsider Judge Haynes Clerk Suzi Sverdsten /s/ Suzi Sverdsten Court Reporter Val Nunemacher
<b>Date:</b>	2/2/2017
<b>Location:</b>	1K-CRT9

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
02:08:32 PM	J	Plt-George Ricks is appearing in person. DA-Leslie Haynes is appearing telephonically
02:41:06 PM	J	Court has read the submissions.
02:41:14 PM	Plt	I don't have anything further to add.
02:41:48 PM	DA	I rest on my briefing as well.
02:41:48 PM	J	The standard is the same standard the Court had at the time of the Motion to Dismiss. Issue of whether Plaintiff was timely served with Defendant's Reply Brief, this is not a basis for reconsideration. Issue of the Free Exercise Claim, in a generous reading to Count I there is a reference to a Free Exercise

Time	Speaker	Note
		<p>Claim, that claim is significantly intermixed with other claims including damages. Difficult to see as a stand along claim. The issue that the Court has to determine is whether Plt's Complaint that did have 1 facet of a Free Exercise Claim did it put the State on notice? I don't think it was such that it was properly included. The failure to address what Plt says is a free exercise religion was not clearly before the Court at the time of the Motion to Dismiss. The 3rd issue, the Federal Rifra Act and the Bowen case, no error of law or no new law or new facts are brought to the Court's attention. The 3rd arm is an insufficient one.</p>
02:48:53 PM	J	<p>Rule 115A allows amendment of Complaint once and that has already happened. Brought before the Court as permissive. Court should not grant if it appears to be futile. Court and DA</p>



<b>Time</b>	<b>Speaker</b>	<b>Note</b>
		would need to see what would that Complaint look like. Propose to allow Plaintiff to submit proposed Amended Complaint and then have a hearing whether to allow.
02:51:30 PM	DA	I would like some timelines.
02:52:38 PM	Plt	I think I could have it by the end of next week.
02:52:51 PM	J	Close of the day 2/10/17 to get a draft of a Proposed 2nd Amended Complaint and will allow you to notice up a hearing. Hearing should take place after 2/24.
02:55:30 PM	End	

<b>Description:</b>	CV 2016-5927 George Ricks vs State of Idaho Contractors Board, et al 20170105 Motion to Dismiss Judge Haynes Clerk Suzi Sverdsten /s/ Suzi Sverdsten Court Reporter Val Nunemacher
<b>Date:</b>	1/5/2017
<b>Location:</b>	1K-COURTROOM9

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
03:52:00 PM	J	Plaintiff is present. DA-Leslie Hayes is appearing telephonically
03:53:59 PM	J	Def's 2nd 12(b)(6) Motion to Dismiss
03:54:11 PM	DA	I didn't receive Plaintiff's opposition to my 2nd motion.
03:55:01 PM	J	The Court doesn't see one.
03:55:10 PM	DA	Briefing addressed what the Court didn't find n the 1st Motion to Dismiss Separation of powers, ask Plaintiff to elaborate on that. No fundamental right to contract Statute included in the Statement of Purpose There is clear intent be the legislature to address public

Time	Speaker	Note
		concern. It does not Violate Plaintiffs right to contract. Applicants shall provide their social security number. Equal protection clause reviewed Doesn't violate the equal protection clause.
03:58:32 PM	Plt	Leave the separation of Power to the court's discretion. As to the void for vagueness, I can see that that isn't the right thing. Mostly boils back down to the social security number. Don't know what regulatory purpose it serves. Under the equal protection clause, I don't give my SS#; I give my permit number.
04:00:52 PM	DA	What Plaintiff is asking the Court to do would violation the separation of powers.
04:01:28 PM	J	Court will rule today. License was denied for failure to give SS#. Plt rought the suit before this Court. This Court ruled that the Lewis case did decided the religious freedom issue, that they

Time	Speaker	Note
		were not violated. Court upheld the 1993 claim that it hadn't been addressed. Court found the Defendant didn't address the constitutionality arguments.
04:05:53 PM	J	Area #1, Plt concedes, Court finds with concession. Item #2, Court finds the Contractor's Registration Act is not discriminatory. The Defendant has a rational basis for protecting our community from a class of unscrupulous contractors. 3rd issue, Court finds it doesn't violate any separation of powers. Idaho legislature vested authority to the ICB and put in place procedures that the board my administer the duties given [sic]. Freedom to Contract issue, it is not a fundamental right. Refusal not to provide SS#, party doesn't get a contractor's license. Plaintiff's convictions are not supported. Plaintiff's 2nd Motion to Dismiss is

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<b>Time</b>	<b>Speaker</b>	<b>Note</b>
		granted. 1/25/17 Status Conference hearing is vacated.
04:16:31 PM	End	

STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED: 2016 NOV. 15  
Clerk District Court  
/s/ \_\_\_\_\_

**IN THE DISTRICT COURT OF THE  
FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO IN AND FOR THE  
COUNTY OF KOOTENAI**

GEORGE Q. RICKS,  
Plaintiff,

v.

STATE OF IDAHO  
CONTRACTORS  
BOARD, IDAHO  
BOARD OF  
OCCUPATIONAL  
LICENSES,  
LAWRENCE WASDEN,  
ATTORNEY GENERAL,  
Defendants.

Case No. CV 16-5927

MEMORANDUM DE-  
CISION AND  
ORDER GRANTING  
IN PART AND  
DENYING IN PART  
DEFENDANT'S  
MOTION TO DIS-  
MISS

**I. BACKGROUND AND PROCEDURAL HIS-  
TORY**

Plaintiff has a religious objection to providing his social security number. Plaintiff applied for an Individual Contractor Registration from the Idaho Bureau of Licenses. The application required Plaintiff to disclose his social security number. Plaintiff was told on June 19, 2014 that in order to process his application, he would need to provide his social security number. Plaintiff refused to provide his social security number and instead provided an affidavit expressing

his religious objection. Plaintiff's application was denied on August 12, 2014.

On May 30, 2015, Plaintiff filed a Notice of Tort Claim. On August 11, 2016, Plaintiff filed this suit. The suit seeks: 1) lost earnings as compensatory damages pursuant to the Idaho Free Exercise of Religion Act, specifically I.C. 73-402(4); 2) lost earnings as compensatory damages pursuant to 42 U.S.C. 1983; and 3) the Court to declare Idaho Contractor Registration Act unconstitutional based on violation of his fundamental rights<sup>1</sup>, vagueness, equal protection, and a separation of powers argument.

Defendant filed a 12(b)(6) Motion to Dismiss, arguing: I) Defendants are exempt from liability under

<sup>1</sup> The Court assumes Plaintiff meant the fundamental rights to freedom of religion and freedom of contract, although freedom of contract is not a fundamental right and subject to rational basis review:

What is this freedom? The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law. In prohibiting that deprivation, the Constitution does not recognize an absolute and uncontrollable liberty. Liberty in each of its phases has its history and connotation. But the liberty safeguarded is liberty in a social organization which requires the protection of law against the evils which menace the health, safety, morals, and welfare of the people. Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process.

*W. Coast Hotel co. v. Parrish*, 300 U.S. 379, 391, 57 S. Ct. 578, 581-82, 81 L. Ed. 703 (1937). The portion of *Hale v. Henkel*, 201 U.S. 43, 74, 26 S. Ct. 370, 379, 50 L. Ed. 652 (1906) cited by Plaintiff is dicta.

the Idaho Tort Claims Act because they were acting within the course and scope of their employment without malice or criminal intent; 2) Plaintiff did not timely file his Notice of Tort Claim; 3) Plaintiffs 1983 claim is barred by the statute of limitations; and 4) that the issue of whether requiring a plaintiff to submit his social security number violates his religious freedoms was already decided in *Lewis v. Department of Transportation*, 143 Idaho 418 (2006).

## II. STANDARD OF REVIEW

When ruling on a 12(b)(6) motion to dismiss, “the non-moving party is entitled to have all inferences from the record viewed in his favor . . . A 12(b)(6) motion looks only at the pleadings to determine whether a claim for relief has been stated.” *Young v. City of Ketchum*, 137 Idaho 102, 104, 44 P.3d 1157, 1159 (2002). “If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56.” I.R.C.P. 12(d). “[E]very reasonable intendment will be made to sustain a complaint against a motion to dismiss for failure to state a claim.” *Owsley v. Idaho Indus. Comm'n*, 141 Idaho 129, 133, 106 P.3d 455, 459 (2005).

The standard for reviewing a dismissal for failure to state a cause of action pursuant to I.R.C.P. 12(b)(6) is the same as the standard for reviewing a grant of summary judgment. The grant of a 12(b)(6) motion will be affirmed where there are no genuine issues of material fact and the case can be decided as a matter of law.



*Coghlan v. Beta Theta Pi Fraternity*, 133 Idaho 388, 398, 987 P.2d 300, 310 (1999) (internal citations omitted).

### **III. DEFENDANTS ARE NOT LIABLE UNDER THE IDAHO TORT CLAIMS ACT**

I.C. § 6-904 states in relevant part:

A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent shall not be liable for any claim which:

1. Arises out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.

I.C. § 54-5210 states in relevant part:

**APPLICATION FOR REGISTRATION.** (1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the board and which shall include the following information pertaining to the applicant:

- (a) Social security number for natural persons or employer tax identification number for other persons;

Here, Defendants were acting in the course and scope of their employment of evaluating license applications<sup>2</sup> and relied on their performance of their statutory or regulatory function when they enforced the clear requirement of I.C. § 54-5210 for an applicant to provide his social security number. Additionally, Plaintiff has not shown that the Defendants acted with any malice or criminal intent. Thus, Defendants are not liable pursuant to I.C. § 6-904.

#### **IV. THE CAUSE OF ACTION ACCRUED WHEN THE APPLICATION WAS DENIED**

Defendants argue the cause of action accrued June 19, 2014 when Plaintiff was told that in order to process his application, he would need to provide his social security number. The Court disagrees.

“[U]nder Idaho law, a cause of action generally accrues, and the statute of limitation begins to run, when a party may maintain a lawsuit against another.” *W. Corp. v. Vanek*, 144 Idaho 150, 151, 158 P.3d 313, 314 (Ct. App. 2006). However, a lawsuit cannot be maintained until the claim is ripe. “The traditional ripeness doctrine requires a petitioner or plaintiff to prove 1) that the case presents definite and concrete issues, 2) that a real and substantial controversy exists, and 3) that there is a present need for adjudication.” *Noh v. Cenarrusa*, 137 Idaho 798, 801, 53

<sup>2</sup> I.C. §§ 54-5206 and 5207 authorize the Idaho Contractor Board to administer I.C. § 54-5200 et seq. and allows the Board to “[a]ccept or reject applications for registration . . . subject to the provisions of this chapter,” delegate ministerial functions to the IBOL and contract with IBOL to provide administrative services.

P.3d 1217, 1220 (2002). “A justiciable controversy is thus distinguished from a difference or dispute of a hypothetical or abstract character.” *Id.* at 800, 1219.

Here, the claim was not ripe until the application was actually denied. Before then, when Defendant told Plaintiff of the statutory requirement for providing his social security number on his application but Plaintiff had not actually been denied a contractor's license, the dispute was hypothetical and therefore not ripe. Plaintiff is suing because he was ultimately denied a license because he did not disclose his social security number, not because he was told he needed to disclose his social security number on the application in order to obtain that license. When Plaintiff was told he would need to provide his social security number before his application would be processed, his response was to submit an affidavit setting forth his religious objection to doing so. However, it appears Defendants “processed” Plaintiff's application because the application was denied on August 12, 2014. Plaintiff could not sue for denial of a license when his license application was still pending; therefore, the claim was not ripe until the application was denied, the cause of action accrued when the application was denied, and the statute of limitations began running when the application was denied.

#### A. Notice of Tort Claim was not Timely

A Notice of Tort Claim must be “filed with the secretary of state within one hundred eighty (180) days from the date the claim arose or reasonably should have been discovered, whichever is later.” I.C. § 6-905. Here, the claim arose and was ripe on the day the application was denied, August 12, 2014. 180 days from then is February 8, 2015, but Plaintiff did not

file his Notice of Tort Claim until May 30, 2015. Thus, Plaintiffs Notice of Tort Claim was not timely. “Compliance with the Idaho Tort Claims Act's notice requirement is a mandatory condition precedent to bringing suit, the failure of which is fatal to a claim, no matter how legitimate.” *McQui11en v. City of Ammon*, 113 Idaho 719, 722, 747 P.2d 741, 744 (1987). Because Plaintiff did not timely file his Notice of Tort Claim, his tort claim cause of action must be dismissed.

B. Plaintiff's § 1983 Claim was Timely

Section 1983 does not contain its own statute of limitations. Without a federal limitations period, the federal courts apply the forum state's statute of limitations for personal injury actions, along with the forum state's law regarding tolling, including equitable tolling, except to the extent any of these laws is inconsistent with federal law.

*Butler v. Nat'l Cmty. Renaissance of California*, 766 F.3d 1191, 1198 (9th Cir. 2014) (internal quotations omitted). “In Idaho, a two year statute of limitations applies to these claims, and the limitations period begins to run on the date the cause of action accrues.” *Gibson v. Ada Cty., Idaho*, No. CV-08-203-S-BLW, 2008 WL 4889895, at \*2 (D. Idaho Nov. 12, 2008). “[T]he Ninth Circuit has made clear that a claim accrues upon awareness of the **actual injury** . . . and **not when the plaintiff suspects a legal wrong**. *Id.* (emphasis added). “The notice of claim requirements of I.c. 6—905 [the Idaho Tort Claims Act] are inapplicable to a cause of action brought under 42 U.S.C. 1983.” *Overman v. Klein*, 103 Idaho 795, 799, 654 P.2d 888, 892 (1982).

Defendants argue the claim accrued when Plaintiff received notice that the application required his social security number. However, as stated above, the actual injury was the denial of the license, not being told the application required a social security number. Here, when Defendant told Plaintiff he would need to include his social security number, Plaintiff instead submitted an affidavit stating his religious objection. Several weeks later, Plaintiffs application for the license was denied. Plaintiff could not have awareness that the license had been denied before it was actually denied. Especially here, where Plaintiff apparently believed an affidavit stating his religious objection might suffice. To conclude Plaintiffs claim accrued when he received notice that Defendants required his social security number on the application would be to conclude that the claim accrued when the plaintiff suspected a legal wrong, which is the opposite of the law as stated above in *Gibson*.

Thus, Plaintiffs cause of action accrued on August 12, 2014, and he filed his suit within the two-year statute of limitations on August 11, 2016. Plaintiffs § 1983 claim survives the Motion to Dismiss based on Defendants' statute of limitations argument.

#### **V. PLAINTIFF'S 1983 CLAIM CANNOT BE DECIDED AS A MATTER OF LAW**

Plaintiffs second claim, the 1983 claim, is based on an argument that I.C. § 54-5210 conflicts with the federal Privacy Act of 1974 (5 U.S.C. § 552a) ***and also*** violates his right to contract. Defendants seem to have missed that and their argument is based primarily on Plaintiff's religious objection. Defendants correctly argue that the Privacy Act of 1974, as codified,

applies to disclosures of certain information, not obtaining that information:

**(b) Conditions of disclosure**--No agency shall **disclose** any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains . .

5 U.S.C. § 552a(b) (emphasis added).

However, there is more to the Privacy Act of 1974 than just the codified portion. Plaintiff cites to P.L. 93-579<sup>3</sup> in support of his argument, but fails to notice the second paragraph below creates an exception

<sup>3</sup> Although never codified, this is still the law. Plaintiff cites *Schwier v. Cox* for this proposition:

The district court noted that, although section 7 was part of the Privacy Act that “was passed into law as Public Law 93—579,” the fact that section 7 “was never codified, and appears only in the ‘Historical and Statutory Notes’ section of the United States Code,” made section 7 a mere “historical footnote to the Privacy Act of 1974 [which] Congress has never reflected any intention of [codifying].” The district court apparently believed that public laws have less “weight” as laws than laws which have been codified. The reverse is true: “the Code cannot prevail over the Statutes at Large when the two are inconsistent.” *United States v. Welden*, 377 U.S. 95, 98 n. 4, 84 S.Ct. 1082, 1085 n. 4, 12 L.Ed.2d 152 (1964) (internal quotations omitted).

The district court also stated that section 7 was deleted from the Privacy Act by the Senate Government Operations Committee “before the law was codified into the official code.” The district court quotes Senate Report 1183, but the quote demonstrates that the provision that was deleted from the Act pertained only to a business

where disclosing a social security number is required by federal statute, and fails to connect that 42 U.S.C. § 666 requires disclosure of social security numbers:

SEC. 7 (A)(1) IT SHALL BE INLAWFUL FOR ANY FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY TO DENY TO ANY INDIVIDUAL ANY RIGHT, BENEFIT, OR PRIVILEGE PROVIDED BY LAW BECAUSE OF SUCH INDIVIDUAL'S REFUSAL TO DISCLOSE HIS SOCIAL SECURITY ACCOUNT NUMBER. //5 USC 552A NOTE.//

(2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION SHALL NOT APPLY WITH RESPECT TO—

(A) ANY DISCLOSURE WHICH IS REQUIRED BY FEDERAL STATUTE

(B) THE DISCLOSURE OF A SOCIAL SECURITY NUMBER TO ANY FEDERAL, STATE, OR LOCAL AGENCY MAINTAINING A SYSTEM OF RECORDS EXISTENCE AND OPERATING BEFORE JANUARY 1, 1975, IF SUCH DISCLOSURE WAS REQUIRED UNDER

entity's refusal to enter into a "business transaction or commercial relationship with an individual because of [his] refusal to disclose or furnish [his social security] number." S.Rep. No. 93—1183 (1974), *reprinted in* 1974 U.S.C.C.A.N. 6916, 6943. Thus, the court's conclusion that section 7 of the Privacy Act had been deleted was error. The best proof of this is section 7's presence in the Statutes at Large. *See* 88 Stat. at 2194; *see also Welden*, 377 U.S. at 98 n. 4, 84 S.Ct. at 1085 n. 4. We therefore conclude that the district court erred in finding that section 7 of the Privacy Act was "a dead letter."

*Schwier v. Cox*, 340 F.3d 1284, 1288-89 (11th Cir. 2003).

STATUTE OR REGULATION ADOPTED  
PRIOR TO SUCH DATE TO VERIFY THE  
IDENTITY OF INDIVIDUAL.

(B) ANY FEDERAL, STATE, OR LOCAL GOV-  
ERNMENT AGENCY WHICH REQUESTS  
AN INDIVIDUAL TO DISCLOSE HIS SO-  
CIAL SECURITY ACCOUNT NUMBER  
SHALL INFORM THAT INDIVIDUAL  
WHETHER THAT DISCLOSURE IS MANDA-  
TORY OR VOLUNTARY, BY WHAT STATU-  
TORY OR OTHER AUTHORITY SUCH NUM-  
BER IS SOLICITED, AND WHAT USES WILL  
BE MADE OF IT.

PL 93-579 (S 3418), PL 93-579, DECEMBER 31, 1974,  
88 Stat 1896.

While subsection (B) above is not subject to the ex-  
ception, it does not protect an individual from having  
to disclose their social security number. Rather, it  
merely requires the government to include certain in-  
formation when the government requires disclosure.  
Whether or not the government failed to include that  
information (which is information not before the  
Court) does not bear on the exception requiring dis-  
closure.

Because the exception in (2)(A) above still requires  
disclosure of social security numbers when required  
by federal statute, and 42 U.S.C. § 666 requires dis-  
closure of social security numbers, there is no conflict  
with I.C. § 54-5210(a).

However, Defendants did not address Plaintiffs  
second argument contained in his § 1983 claim: that  
I.C. §54-5210(a) violates Plaintiffs right to contract.  
Thus, the Court will not dismiss Plaintiffs 1983 claim



because Defendant did not address this basis for that claim.

**VI. DEFENDANTS DO NOT ADDRESS MANY  
OF THE ARGUMENTS PLAINTIFF MADE  
IN COUNT III**

Defendants only argued about the first issue raised by Plaintiff in his first argument: whether providing a social security number on a state license application violated the Idaho Free Exercise of Religion Act. Defendants correctly argue this was decided in *Lewis v. Department of Transportation*, 143 Idaho 418 (2006), and that Plaintiffs claim should be dismissed on that basis. That is correct to the extent that it applies to Plaintiffs Complaint, but Plaintiffs “Count III” is not based solely on religious objection; it is partially based on an argument that I.C. § 54-5210 is void for vagueness, that I.C. § 54-5210 violates the Equal Protection Clause of the U.S. Constitution and presents a separation of powers problem by usurping power properly belonging to the judiciary. Defendants failed to address these arguments in their Motion, Reply Brief, or during oral argument, and therefore have not met their burden of proof. For that reason, the Court will not dismiss Plaintiffs Count III in its entirety.

Dated Nov. 15, 2016

/s/ Lansing L. Haynes  
District Judge  
Lansing Haynes

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 15 day of Nov., 2016, a true and correct copy of the foregoing was mailed, postage prepaid, faxed, or sent by interoffice mail to:

George Ricks



Leslie Hayes

P.O. Box 83720

Boise, Idaho 83720-0010

Fax: (208) 854-8073

By: Susan McCoy  
Deputy Clerk

<b>Description:</b>	CV 2016-5927 George Ricks vs State of Idaho Contractors Board 20161102 Motion to Dismiss Clerk Suzi Sverdsten /s/ Suzi Sverdsten Court Reporter Val Nunemacher
<b>Date:</b>	11/2/2016
<b>Location:</b>	1K-COURTROOM9

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
03:03:02 PM	J	Plaintiff is present. Appearing telephonically DA-Leslie Hayes DA2-Mori Ellsworth
03:05:32 PM	DA2	Counsel for the Occupational Licensing.
03:06:14 PM	J	The Court has read the submissions of the parties.
03:06:24 PM	DA	These claims arose because the Plaintiff refused to provide his social security number. License was denied. No tort claims are raised. Failed to file within the statute of limitations. His claim was filed 8/11. Accrued on 6/19. He was put on notice that his application would not be processed. As the religious freedom

Time	Speaker	Note
		claim, Federal law requires social security number for all professional licenses. No religious exemption. We ask that this Court dismiss Plaintiffs claims in entirety.
03:10:06 PM	PA	This is not a tort claim. Under Idaho Code 73-401, reads 73-402. Idaho allowed a person to waive based on religious or moral grounds. IC 5244 should apply 67-52711 read. I couldn't file a petition for review until 8/14. I did file one, but dismissed for untimely filing. The Federal Claim would apply under IC 5244. Washington allows a waiver and at one time Idaho allowed to obtain license without SSNB. Doesn't apply to everyone. Bowen vs. Roy cited. Idaho Code is the prevailing law in this case.
03:20:25 PM	DA	Idaho Code § 5-244, doesn't apply to this case. Idaho has enacted a law stating they comply with the Federal Law. I cited

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<b>Time</b>	<b>Speaker</b>	<b>Note</b>
		the Bowen case in my response, I say nothing indicating it was overruled. The Privacy Act is more on the privacy of the numbers after they are collected.
03:23:20 PM	J	Court will write a memorandum. Matter is under advisement.
03:24:17	End	

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**IDAHO STATUTES**

**TITLE 54**

**PROFESSIONS, VOCATIONS, AND  
BUSINESSES**

**CHAPTER 52**

**IDAHO CONTRACTOR REGISTRATION ACT**

**54-5204. REGISTRATION REQUIRED.**

(1) On and after January 1, 2006, it shall be unlawful for any person to engage in the business of, or hold himself out as, a contractor within this state without being registered as required in this chapter.

(2) It shall be unlawful for a contractor to engage any other contractor who is required by this chapter to be registered as a contractor unless such other contractor furnishes satisfactory proof to the contractor that he is duly registered under the provisions of this chapter.

(3) Any person who engages in the business or acts in the capacity of a contractor, whether or not duly registered, has thereby submitted to the jurisdiction of the state of Idaho and to the administrative jurisdiction of the Idaho contractors board, and shall be subject to all penalties and remedies available under Idaho law for any violation of this chapter.

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**IDAHO STATUTES**

**TITLE 54**

**PROFESSIONS, VOCATIONS, AND  
BUSINESSES**

**CHAPTER 52**

**IDAHO CONTRACTOR REGISTRATION ACT**

**54-5210. APPLICATION FOR REGISTRATION.**

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the board and which shall include the following information pertaining to the applicant:

(a) Social security number for natural persons or employer tax identification number for other persons;

(b) The name and address under which the applicant conducts business;

(c) The name and address of each principal, member, partner, shareholder, or any other person claiming an ownership interest in the business entity for which registration is being applied for;

(d) A certificate issued by an insurance company authorized to do business in the state of Idaho or other satisfactory proof that the applicant has procured and has in effect worker's compensation insurance or a statement by the contractor as to why such certificate or coverage is not required for the applicant;

(e) A certificate issued by an insurance company authorized to do business in the state of Idaho that the applicant has procured and has in effect a gen-

eral liability policy, including products and completed operations insurance covering the applicant's construction operations in the sum of not less than three hundred thousand dollars (\$300,000) single limit. The name of the insurance company, the insured and policy number shall be made available only to persons or their insurers stating that they possess a claim against the contractor;

(f) A statement of the type of construction to be undertaken by the applicant, or such other information as may be required by the board pursuant to administrative rules adopted by the board; and

(g) A statement that the applicant and each principal, member, partner, shareholder or any other person claiming an ownership interest in the business entity for which registration is being applied for herein has never been denied, surrendered or had revoked a contractor's license or registration privilege in this or any other state or, if a license or registration privilege has been denied, surrendered or revoked in this or any other state, an explanation of any such denial, surrender or revocation.

(2) Along with such application, the applicant shall submit a registration fee as may be set by the board to cover its administrative and enforcement costs, not to exceed one hundred fifty dollars (\$150) per year.

(3) An application for registration that has been denied by the board shall be considered a contested case as provided for in chapter 52, title 67, Idaho Code, and shall be subject to the provisions of that chapter as well as the administrative rules adopted by the board governing contested cases.



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**IDAHO STATUTES**

**TITLE 73**

**GENERAL CODE PROVISIONS**

**CHAPTER 1**

**CONSTRUCTION OF STATUTES**

**73-122. SOCIAL SECURITY NUMBER.**

(1) The social security number of an applicant shall be recorded on any application for a professional, occupational or recreational license.

(2) The requirement that an applicant provide a social security number shall apply only to applicants who have been assigned a social security number.

(3) An applicant who has not been assigned a social security number shall:

(a) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(b) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(c) Submit such proof as the department may require that the applicant is lawfully present in the United States.

42 U.S.C. § 666(a)(13) provides:

**§ 666 Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement**

(a) Types of procedures required

In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

\* \* \* \*

(13) Recording of social security numbers in certain family matters

Procedures requiring that the social security number of—

(A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;

(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number to be used on the face of the document while

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the social security number is kept on file at the agency,  
the State shall so advise any applicants.

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STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED:  
2017 FEB 10 PM 4:53  
CLERK DISTRICT COURT  
/S/ \_\_\_\_\_  
DEPUTY

George Quinn Ricks



**In the District Court of the First  
Judicial District of the State of Idaho,  
in and for the County of Kootenai**

George Q. Ricks,

Petitioner

*v.*

State of Idaho Contractors  
Board

Idaho Board of Occupa-  
tional Licenses

Lawrence Wasden Attor-  
ney General

Respondents

Case No. CV-16-5927

Proposed Second  
Amended Complaint.

Comes now the plaintiff and submits this second amended complaint.

**Complaint**

The Idaho State Board of Contractors (ICB) acting through the Idaho Bureau of Licensing (IBOL) acting for the State of Idaho (Idaho) did-unlawfully

violate my freedom to contract, by denying plaintiff's application for an Individual Contractor Registration, because plaintiff refused to disclose a Social Security Number (SSN) based on a religious objection. Idaho Code (I.C.) 54-5210(a) requirement to provide a SSN in order to exercise the freedom to contract violates plaintiff's First Amendment right to the Free Exercise of Religion (FER) clause of the U.S. Constitution. *Employment Div. v. Smith*, 494 U.S. 872 (1990). *Wisconsin v. Yoder*, 406 U.S. 205 (1972), *Sherbert v. Verner*, 374 U.S. 398 (1963), *Hobbie v. Unemployment Appeals Comm'n*, 480 U.S. 136.

The State of Idaho in "Lewis" admitted that the requirement of an SSN in order to receive a driver's license did indeed burden Lewis' religious beliefs under I.C. 73-402, but that State law was allegedly preempted by federal law (42 U.S.C. 666) law to require an individual's SSN even over a religious objection. This allegation fails for the following reasons.

1) 42 U.S.C. 666 a 13 A applies only in certain family matters. That being the collection and use of SSN FOR USE IN CHILD SUPPORT Enforcement. P.L. 105-33 August 5th, 1997-111 629 Section 5536.

2) 42 U.S.C. 2000 bb 1-4 applies to all federal laws unless the particular federal law specifically states 42 US 2000 bb 1-4 does not apply. 42 U.S.C. 666 is not exempt.

3) I.C. 73-122 is discriminatory as it allows for individuals to use alternative documentation to apply for licenses; therefore the SSN is not the

least restrictive means to further the state's alleged compelling interest.

*Bowen v. Roy*, 476 U.S. 693 (1986) at 708, and cited and discussed in *Leahy v. D.C.*, 833 F.2d 1046 (1987). The State of Idaho even admits to the inequity in Federal Mandate Review dated Jan. 19, 2005 and previously submitted to this court.

#### Conclusion

I.C. 54-5210(a) violates Plaintiff's 1st Amend (FER) and does not comply with federal law and U.S. Supreme court's decisions concerning the "FER". I.C. 73-122 is discriminatory.

Plaintiff seeks relief in the forms of declaratory judgment, and also damages under 42 U.S.C. 1981, 1983, 2000e-2(b) in connection with I.C. 6-903(1), 6-910.

Dated this 10th day of February, 2017.

/s/ George Q. Ricks

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STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED:  
2016 AUG 11 PM 4:08  
CLERK DISTRICT COURT  
/S/ \_\_\_\_\_  
DEPUTY

Lansing L. Haynes  
District Judge

George Quinn Ricks



**In the District Court of the First Judicial  
District of the State of Idaho,  
in and for the County of Kootenai**

George Q. Ricks,  
Petitioner

*v.*

State of Idaho Contractors  
Board

Idaho Board of Occupa-  
tional Licenses

Lawrence Wasden Attor-  
ney General

Respondents

CV 16-5927

Amended Civil Action  
for Violation of  
Constitutional and  
Statutory Rights.

Complaint

Comes now the plaintiff and alleges as follows:

## Count I

The Idaho State Board of Contractors (ICB) acting through the Idaho Bureau of Licensing (IBOL) acting for the State of Idaho (Idaho) did-unlawfully violate my fundamental right to contract, by denying plaintiffs application for an Individual Contractor Registration, because plaintiff refused to disclose a Social Security Number (SSN) based on a religious objection. Idaho Code (I.C.) 54-5210(a) requirement to provide a SSN in order to exercise the fundamental right to contract is incompatible with Article 1 Section 4 of the Constitution of the State of Idaho and I.C. 73-401(2), I.C. 73-402 enacted by the Idaho legislature in pursuance of Art. 1 Sec. 4 of the Constitution of the State of Idaho.

On or about the 14th day of June, 2014, plaintiff filed an Application for Individual Contractor Registration in Idaho with the IBOL, under the provisions of Title 54, chapter 52, I.C. Plaintiff included supporting documents along with the state provided form. See Certification of Agency Record on Appeal (CARA).

On or about June 19th, 2014 plaintiff received a letter form Maria Brown (Tech, Records Spec. 2) of the IBOL, stating her office had received and reviewed plaintiff's application. In order for plaintiff application to be processed, the following items were required: 1) Plaintiff's SSN, per I.C. 54-5210 (a). No other items were requested. No objection or request was made concerning how plaintiff answered question 14 (felony).

On July 7th, 2014 I sent a fax of an affidavit affirming (amongst other issues) my religious objec-



tions to disclosing an SSN in order to register as a contractor.

On July 25th, 2014 The IBOL in a letter dated and signed by Carol Klassen (TRS1) acknowledged receiving my application for Contractor Registration and supporting documents.

On August 12th, 2014 the ICB Acting by and through the IBOL acting for the State of Idaho denied my application for Contractor Registration based upon an incomplete application form according to rule 150. According to ICB notes: (A) Felony question not answered (even though ICB answered it for me and no requests or challenges were ever made of me to answer question 14 different than how I answered it). Therefore plaintiff reasonably presumed his answer was sufficient based on ICB silence. (B) SSN not provided. Plaintiff did complete said application form.

On September 18th, 2014 plaintiff filed a petition for Judicial Review.

On October 30th, 2014 plaintiff received Certificate of Agency Record on Appeal. (CARA).

On November 25th, 2014 O.Ellsworth, attorney for respondent (ICB) filed memorandum in support of motion to dismiss petition for judicial review (based on petition was not timely filled.) of I.C. Title 6 Section 907, Therefore denying plaintiff administrative relief.

I.C. 73-401(2) "Exercise of religion" means the ability to act or refusal to act in a manner substantially motivated by a religious belief, whether or

not the exercise is compulsory or central to a larger system or religious belief.

Plaintiff refused to provide an SSN in a manner substantially motivated by a religious belief. It is the plaintiff's religious belief that the SSN, as it is now being imposed, is a form of the mark, and in substance (essence) the number of the 2-horned beast written of in the Holy Bible, Book of Revelation chapters 13:16-18, 14:9-11, 15:2, 16:2, 19:20, and 20:4. Chapter 13:16-18 He also forced everyone, small and great, rich and poor, free and slave, to receive a mark on his right hand or on his forehead, so that no one could buy or sell unless he had the mark, which is the name of the beast or the number of his name. This calls for wisdom. If anyone has insight, let him calculate the number of the beast, for it is man's number. His number is 666. By forcing me to disclose an SSN in order for one to buy my labor or for me to sell my labor, is in essence the number of the beast and the card is a form of the mark. (Greek: Charagma, meaning a scratch or etching. Stamp (as a badge of servitude) Strong's concordance of the Bible. Badge, a device or token, especially of membership in a society or group, Merriam Webster's Collegiate Dictionary 11<sup>th</sup> Edition. The SSA Website dealing with the history of designing SSN "understood that individuals would need to have a "token" that would provide a record of the number that had been assigned" to them. Assign: (L assignare, to mark.) 1: to transfer (property) to another esp. in trust or for the benefit of creditors.

Right to contract is a fundamental right. The U.S Supreme Court in *Hale v. Henkel*, 201 U.S. 43, 74

stated that “the individual may stand upon his constitutional rights as a citizen, He is entitled to carry on his private business in his own way. His power to contract is unlimited. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution.” See also *Coppage v. Kansas*, 236 U.S. 1, 2.

I.C. 54-5210(a) is incompatible with I.C. 73-402(3)(a). Does the State of Idaho consider it essential to further a compelling government interest to force a citizen to provide an SSN in order to exercise a fundamental right? Is the SSN “material” in determining whether plaintiff is qualified to register as a contractor? I.C. 54-5210(a) is incompatible with I.C. 73-402(3) (b) as it is not the least restrictive means of furthering a compelling government interest. I.C. 73-122 offers alternative(s) to those who have not been “assigned” an SSN. (B) IDAPA, Rule 16.03.05 Section 103.03(a) and (b) allows a good cause exception for failure to apply for an SSN, or conscientiously opposed to using a national I.D. number, as does IDAPA 16.04.08 Section 133, I.C. 49-306(2)(b) 2 and 3. This however provides no remedies to those with a religious objection, who were assigned SSN’s as infants, minors or adults, who have come to believe that the SSN as now being imposed is the number of the beast. See *Leahy v. District of Columbia* 833 F.2d 1046 (1987).

According to the House of Representatives, State of Idaho Federal Mandate Review, at one time under Idaho law, U.S. citizens were allowed to sign a waiver based on religious or moral grounds and

were able to obtain a driver's license, permit or I.D., without giving the SSN. Legal maxims and other quotes from [L]ord Coke: "A right cannot die." For such a high estimation is right in the eye of the law, as the law preserveth it from death and destruction: trodden downe it may be, but never trodden out." Section 297B.

In *Lewis v. Idaho* department of transportation decided August 17th, 2006, the Idaho Court of Appeals (ICA) concluded that the state is required by federal law to record the SSN of all drivers' license applicants. Under the federal preemption doctrine, this mandate preempts any state law including I.C. 73-402.

Plaintiff rebuts the state's claim that 42 U.S.C. 666(a)(13)(A) pre-empted state law.

42 U.S.C. 666 is not positive law, it is a federal funding bill entirely voluntary on the part of Idaho to accept or reject, as cited in *Pennhurst State Sch, and Hosp. v. Halderman*, 451 U.S. 1,17, 191 S. Ct. 1531, 67 L. Ed. 2d 694 (1981). "The legitimacy of congress' power to legislate under the spending power thus rests on whether the state voluntarily and knowingly accepts the terms of the contract." Can the state of Idaho voluntarily waive its citizen's constitutional rights? Article 1 Section 4 Idaho Constitution, Guarantee of Religious Liberty.

Plaintiff rebuts the assumption that 42 U.S.C. 666, applies to everyone.

The state in *Lewis* relies on one sentence to claim the contract generally applies to everyone, regardless of any child support obligations, "in expounding a statute, we must be not be guided by a single

sentence or member of a sentence, but took to the provisions of the whole law and to its object and policy". *Pennhurst v. Halderman*, 451 U.S. 1 at 18, citing *Philbrook v. Glodgett*, 421 U.S. 707, 421 U.S. 713 (1975), quoting *U.S. v. Heirs of Boisdore*, 8 how. 113, 49 U.S. 122 (1849), and in *Philbrook v. Glodgett* 421 U.S. 707 at 714, "It familiar rule that a thing may be within the letter of the statute and yet not within the statute, because not within its spirit nor within the intention of its markers." Quoting *Church of the Holy Trinity v. U.S.*, 143 U.S. 457, 143 U.S. 459 (1892).

It is clear and unambiguous that title 42 U.S.C. Chapter 7, Sub Chapter 4 parts A thru E apply to grants to states for Aid and Services to Needy Families with Children and for Child-Welfare Services. 42 U.S.C. 654-State plan for child and spousal support. 42 U.S.C. 654(20) provide, to the extent required by section 666 of this title, that the state(A) shall have in effect all the laws to improve child support enforcement (CSE) effectiveness which are referred to in that section, and (B) shall implement the procedures which are prescribed in or pursuant to such laws. 42 U.S.C. 666-Requirements of statutorily prescribed procedures to improve effectiveness of child support enforcement.

It is clear that congress' objective according to section 666 relate and are germane to those under CSE obligations, or orders and have nothing to with the general public. 42 U.S.C. 666(a) (13) Recording of SSN In CERTAIN FAMILY MATIERS. P.L. 105-33-August 5th, 1997-111 State. 629 Section 5536. Collection and use of Social Security Numbers FOR USE IN CHILD SUPPORT ENFORCEMENT.

Lord Coke “The reason of the law is the life of the law.” Section 1836. The reason of 42 U.S.C. 666 (a) 13(A) and (a)(16) is for the IV-D agency responsible for the administration of these prescribed procedures to have the tools (suspension of licenses) to enforce paternity or child support. These subsections have no life beyond the prescribed procedures relating to individuals dealing with an IV-D agency. 42 U.S.C. 666 is germane only to persons seeking the assistance of an IV-D agency. As stated by Justice Scalia in *Blessing v. Freestone*, 520 U.S. 329 at 349 (1997). As we explained in *Pennhurst State School and Hospital v. Halderman*, 451 U.S.1 (1981), such an agreement is “in the nature of a contract,” *id.* at 17. The State promises to provide certain services to private individuals, in exchange for which the Federal Government promises to give the State funds. In contract law, when such an arrangement is made (A promises to pay B money, in exchange for which B promises to provide services to C), the person who receives the benefit of the exchange promises between the two others (C) is called a third-party beneficiary. Until relatively recent times, the third-party beneficiary was generally regarded as a stranger to the contract, and could not sue upon it; that is to say, If in the example given above, B broke his promise and did not provide services to C, the only person who could enforce the promise in court was the other party to the contract. Plaintiff is not a party to the contract, therefore 42 U.S.C. 666 (a) 13(A) does not apply to plaintiff.

42 U.S.C. 666 (a) 13(A), If generally applied to everyone, would conflict with the first amendment of the Constitution of the U.S.A. free exercise

clause. It would also be in conflict with 42 U.S.C. 2000 (bb) 1-4 which preempts 42 U.S.C. 666. In *Leahy v. District of Columbia* 833 F.2d 1046 (1987) Circuit Judge Ruth Bador Ginsburg (U.S. Court of Appeals, D.C. Circuit) overruled the district court's less rigorous standard of scrutiny ("reasonable means of promoting a legitimate public interest") in dismissing plaintiff John C. Leahy, Jr.'s civil action. Leahy had been "assigned" an SSN in the mid-1960's, but asserted that in 1978-79 he had come to believe that "use of his SSN . . . would endanger his chances of being chosen for life after death." Justice Ginsburg stated "the District has not demonstrated that requiring a religious object or to provide his SSN in order to obtain a driver's license is the least restrictive means of achieving the concededly vital public safety objective at stake". Therefore, the requirement to provide an SSN, in order to exercise a fundamental right, (contracting), over a religious objection is repugnant to the "free exercise clause" of the 1st amendment of the U.S.A Constitution, and incompatible with 42 U.S.C. 2000 (bb) 1-4.

42 U.S.C. 2000 cc-3 (h). Nothing in this chapter shall be construed to pre-empt State law, or repeal Federal law, that is equally as protective of religious exercise, or more protective of religious exercise than this chapter. Therefore, I.C. 73-401 and 402 are the prevailing law.

Wherefore, the plaintiff requests under remedies provided in I.C. 73-402(4) appropriate compensatory damages for loss of earnings, and all appropriate relief the court may deem just.

## Count II

The Idaho State Board of Contractors (ICB) acting through the Idaho Bureau of Licensing (IBOL) acting for the State of Idaho (Idaho) did unlawfully violate my fundamental right to contract, by denying plaintiffs.

The Idaho State Board of Contractors (ICB) acting through the Idaho Bureau of Licensing (IBOL) acting for the State of Idaho (Idaho) did unlawfully violate my fundamental right to contract, by denying plaintiff's application for an Individual Contractor Registration, because plaintiff refused to disclose a Social Security Number (SSN) based on federal law. (Privacy Act).

State law, I.C. 54-5210(a), conflicts with Federal law, the Privacy Act of 1974, P.L. 93-579, section 7, (a) and (b) 88 Stat. 1901 and stands as an obstacle to the accomplishment and execution of the full purposes and objectives of congress in that it requires disclosure of an individual's SSN, in order for the individual to exercise his fundamental (Const.) right to contract. Whereas federal law declares it unlawful to deny any individual any right, benefit, or privilege provided by law because of such individuals refusal to disclose his SS account number.

Section 7(b) requires any Federal, State, or local government agency which requests an individual To disclose his SSN shall inform that individual Whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

Only Congress has the authority to create, issue, and safeguard or prescribe the uses of SSNs. Indi-



viduals have private right of action under 42 U.S.C. 1983 for deprivation of any constitutionally or statutory federal right under color of state law. The Privacy Act clearly confers a legal right on individuals: The right to refuse to disclose his order SSN without suffering the loss “of any right, benefit, or privilege provided by law.” 88 Stat. at 2194, *Schwier v. Zox*, 11th Cir. U.S.C.A #02-13214, Aug. 11, 2003.

Wherefore, the plaintiff requests under remedies provided for in 42 U.S.C. 1983, appropriate compensatory damages for loss of earnings, and all other remedies, punitive or otherwise that the court deems just.

### Count III

I.C. 54 Chap. 52 is unconstitutional. It turns a fundamental right into a crime and an arbitrary government permitted activity.

It is void for vagueness as a “police power” of the State, as there is no clear definition of what constitutes incompetent, dishonest, or unprincipled.

Its wording shines an unfavorable light on contractors in general as if only they are dishonest or unprincipled and the ones who hire are but ignorant, innocent, victims, thereby violating the “Equal protection clause” of the 14 Amend. of the U.S. Const.

It usurps the sphere of the courts (Judiciary) and grants authority to an arbitrary bureau in regards to contractual disputes.

Dated this 11th day of August, 2016

/s/ George Q. Ricks

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STATE OF IDAHO  
COUNTY OF KOOTENAI  
FILED:  
2014 NOV 3 AM 10:05  
CLERK DISTRICT COURT  
/S/ Sherry Huffman  
DEPUTY

**In the District Court of the First Judicial  
District of the State of Idaho,  
in and for the County of Kootenai**

George Quinn Ricks,

Petitioner,

vs.

Idaho State Board of Con-  
tractors,

Respondent.

Case No. CV 14-7034

Certification of Agency  
Record on Appeal

COMES NOW the Idaho State Board of Contractors, by and through the Bureau of Occupational Licenses, Tana Cory, Bureau Chief, and hereby submits the Agency Record on Appeal, pursuant to Idaho Code §§ 67-5249 and 67-5275. The undersigned hereby certifies that the enclosed documents as listed in the index attached hereto are true and correct copies of the originals filed or submitted to the agency.

Dated this 30th day of October, 2014.

/s/ Tana Cory  
Bureau Chief  
Bureau of Occupa-  
tional Licenses

INDEX OF RECORD ON APPEAL

1. Fax from George Q. Ricks received from Attorney General's Office date stamped 10/10/2014 from Attorney General's Office; date stamped 10/15/2014 Bureau of Occupational Licenses with Summons and Petition for Judicial Review.
2. Fax from George Q. Ricks received by Bureau of Occupational Licenses on 10/10/2014 with Petition for Judicial Review and Summons.
3. Fax from George Q Ricks received by Bureau of Occupational Licenses on 9/15/2014 with Petition for Judicial Review.
4. Idaho Contractors Board 8/12/2014 Board Meeting Minutes.
5. 8/14/2014 letter from Carol Klassen to George Quinn Ricks.
6. 8/12/2014 Board Review Application form for George Quinn Ricks.
7. 7/25/2014 letter from Carol Klassen to George Quinn Ricks.
8. 7/7/2014 fax from George Ricks with letter to Bureau of Occupational Licenses.
9. 6/19/2014 letter from Maria Brown to George Quinn Ricks.
10. 6/18/2014 Application for an Individual Contractor Registration for George Quinn Ricks.

100a



STATE OF IDAHO  
BUREAU OF OCCUPATIONAL LICENSES

700 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0063  
(208) 334-3233  
FAX (208) 334-3945  
E-Mail [bol@bol.idaho.gov](mailto:bol@bol.idaho.gov)  
Website [www.bol.idaho.gov](http://www.bol.idaho.gov)

July 25, 2014

GEORGE QUINN RICKS  
[REDACTED]

RE: APPLICATION FOR REGISTRATION

Dear Mr. Ricks:

This office has received your application for Contractor Registration and supporting documents.

The Idaho Contractors Board will be meeting on August 12, 2014, to review applications. You will be notified by mail, following the meeting, on the status of your application.

If you have any questions, please contact me via e-mail at [con@bol.idaho.gov](mailto:con@bol.idaho.gov) or by phone at (208) 577-2591.

Sincerely,

A handwritten signature in cursive script that reads "Carol Klassen".

Carol Klassen  
Technical Records Specialist I  
Bureau of Occupational Licenses

101a

07/07/14 MON 08:58 FAX 208 773 5747

UPSCALE MAIL

002

Attention: Idaho ~~Board~~<sup>Bureau</sup> of Occupational Licenses  
Regarding Application for registration as Individual Contractor.

I, George Quinn Ricks, as a freeman, grateful to God Almighty for My freedoms, AM NOT required to have a social security number. (SSN). I have NEVER applied for a SSN, NOR CAN I be compelled against My will to have one. I renounce(d) and refuse to have a SSN "assigned" to Me. It is My religious belief and opinion that the SSN has become in essence a form of the "number of the beast," especially in light of the fact you state I must have one in order for one to "buy" or for Me to "sell" (contract) My labor.

Therefore question 6 regarding the SSN is NOT applicable for the following reasons.

- 1) It is in violation of Article 1 sec. 4 of the Constitution of the State of Idaho
- 2) In violation of Idaho Statute Title 73 Chapter 4 sec. 4016
- 3) In violation of Id. Stat. Title 73 Chapter 4 sec. 402 Explain how a SSN is essential.
- 4) It is in violation of federal law to deny Me any right, benefit, or privilege because of My refusal to disclose a SSN. 31 CFR 1.32(a)

In addition the individual mandate of the Registration Act is of questionable constitutionality. In particular to the 14<sup>th</sup> Amendment of the federal Constitution, as it infringes on both personal liberty and property. *Coppage v. Kansas*, 236 U.S.1

102a

07/07/14 MON 08:59 FAX 208 773 5747

UPSCALE MAIL

003

I, George Quinn Ricks, born [REDACTED] in the year of our Lord [REDACTED] in the state of Ohio, hereby affirm under penalty of perjury that the information provided herein is true and accurate to the best of My knowledge and belief.

George B. Ricks Date: July, 7, 2014

State of Idaho  
County of Kootenai

Subscribed and sworn before me by George Ricks  
on this 7<sup>th</sup> day of July, 2014

Michael Cook  
Notary Public  
My Commission expires 4-8-19  
Residing at Upscale Mail  
208-773-5249



103a



**STATE OF IDAHO**  
BUREAU OF OCCUPATIONAL LICENSES

700 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0063  
(208) 334-3233  
FAX (208) 334-3945  
E-Mail [con@ibcl.idaho.gov](mailto:con@ibcl.idaho.gov)  
Website [www.ibcl.idaho.gov](http://www.ibcl.idaho.gov)

June 19, 2014

GEORGE QUINN RICKS  
[REDACTED]

RE: APPLICATION FOR REGISTRATION

Dear George Ricks:

This office has received and reviewed your application for contractor registration. In order for your application to be processed, please submit the following item(s):

1. Your social security number, per Idaho Code 54-5210(a).

If you have any questions, please contact me at (208) 577-2591 or at [con@ibcl.idaho.gov](mailto:con@ibcl.idaho.gov).

Sincerely,

Marla Brown  
Technical Records Specialist II  
Bureau of Occupational Licenses

104a

CONA-37661

RECEIVED  
JUN 18 2014  
OCCUPATIONAL LICENSE

STATE OF IDAHO  
BUREAU OF OCCUPATIONAL LICENSES  
700 West State Street, PO Box 83720  
Boise, Idaho 83720-0963  
Phone: (208) 334-3233 Fax: (208) 334-3945  
Website: [www.idol.idaho.gov](http://www.idol.idaho.gov) E-mail: [con@idol.idaho.gov](mailto:con@idol.idaho.gov)

59188 / 30.00

**APPLICATION FOR AN INDIVIDUAL CONTRACTOR REGISTRATION**

**USE THIS APPLICATION ONLY IF YOU ARE AN INDIVIDUAL OPERATING AS A SOLE PROPRIETOR OR WITH AN ASSUMED BUSINESS NAME (DBA)**

I hereby make application for registration as a Contractor in Idaho under the provisions of Title 54, Chapter 52, Idaho Code:

1. Name of Individual: George Quinn Ricks  
First Middle Last

DBA (if applicable): Not applicable  
THE APPLICANT NAME (above) AND THE INSURED NAME (on the certificate of insurance) MUST MATCH EXACTLY (including the DBA, if applicable).

2. Business Address: Same as mailing address  
(This is your Address of Record and is a public record) Street City State Zip

3. Mailing Address: [Redacted]  
(This address is not a public record) Street/PO Box City State Zip

4. Business Phone: ( ) Same as cell phone Cell or Other Phone: [Redacted]  
(The above phone number is a public record) (The above phone number is not a public record)

5. E-mail: Not applicable  
(The above e-mail is not a public record)

6. Date of Birth: [Redacted] Social Security Number: see attachments  
mm/dd/yyyy Idaho Code § 73-122 requires all applicants to provide a Social Security Number

7. Do you have a current Public Works or Construction Manager license in Idaho issued by the Division of Building Safety?  
 Yes  No  
If Yes, you are not required to pay the \$30.00 registration fee for this application. Please attach a copy of your Idaho Public Works or Construction Manager license and enter your license number here: \_\_\_\_\_

8. What is your primary type of construction (Ref #) 500 (Use the attached list and choose only one category that best describes your business.)

9. Have you attached your certificate of current, effective general liability insurance of not less than \$100,000.00 single limit?  
 Yes  No  
YOU MUST HOLD A CURRENT, EFFECTIVE GENERAL LIABILITY INSURANCE POLICY OF NOT LESS THAN \$100,000.00 SINGLE LIMIT. THE APPLICANT NAME (above) AND THE INSURED NAME (on your certificate) MUST MATCH EXACTLY (including the DBA, if applicable).

10. Do you hold a current, effective worker's compensation insurance policy?  Yes  No  
If Yes, you must attach the certificate.  
THE APPLICANT NAME (above) AND THE INSURED NAME (on your certificate of insurance) MUST MATCH EXACTLY (including the DBA, if applicable).

If No, provide a statement below as to why such coverage is not required under the laws governing worker's compensation (Idaho Code §§ 72-101 - 72-230) (example: no employees).  
No employees

Explanation why such coverage is not required \_\_\_\_\_  
Page 1 of 2



**APPLICATION FOR AN INDIVIDUAL CONTRACTOR REGISTRATION**

(continued)

In questions number 11, 12, 13, and 14, "you" refers to the individual owner of a contracting business or a sole proprietor doing business under an assumed business name (DBA); "you" also refers to any ownership or management interest you had or have in a contracting business engaged in by a firm, partnership, limited liability company, limited liability partnership, corporation, trust, association or other entity or organization capable of conducting business, or any combination thereof acting as a unit. See Idaho Code § 54-5203(6). Also, please note that in questions number 11, 12, 13, and 14, the phrase "any jurisdiction" refers to the federal government or any city, county or state including Idaho.

11. Have you ever been licensed or registered as a contractor in any jurisdiction?  Yes  No  
(If Yes, list below the jurisdiction and license/registration numbers.)

12. Have you ever had a contractor license or registration denied, surrendered, suspended, revoked, or otherwise disciplined in any jurisdiction?  Yes  No  
(If Yes, a copy of the charges and final order must be received by the Board directly from each issuing authority.)

13. To the best of your knowledge, are you currently the subject of a pending disciplinary action or investigation relating to engaging in the business or acting in the capacity of a contractor in any jurisdiction?  Yes  No  
(If Yes, list below the jurisdiction and license/registration numbers.)

14. Have you ever received a conviction, finding of guilt, withheld judgment or suspended sentence for any felony in any jurisdiction?  Yes  No  
*NOT APPLICABLE*  
(If Yes, you must attach: (a) your detailed statement of explanation, (b) the official court documents including a summary of the charges, the final order, and a detailed case summary sheet, (c) a status letter from your probation/parole officer, and (d) any other relevant information.)

**AFFIDAVIT**

I hereby certify under penalty of perjury that the information provided above is true and accurate to the best of my knowledge and belief. I further certify that I have reviewed and will comply with the Idaho Laws and Rules governing Contractors, and that I will maintain in effect the required worker's compensation insurance and general liability insurance. I also hereby authorize and direct any person, agency, firm, or other entity to release, upon the request of the Bureau of Occupational Licenses or its authorized representative, any information, report, record, statement, recommendation, or evidence that may have bearing on my eligibility for or maintenance of the registration for which I am applying. I also hereby authorize the Bureau to release the information provided on this application about me that may otherwise be protected or confidential to other governmental agencies upon request.

George Quinn Ricks  
Print Applicant Name  
Note: Please print and sign your full legal name

George Quinn Ricks  
Signature of Applicant

State of Idaho, County of Bozeman  
Subscribed and sworn before me this 14 day of June, 2014



Corinne M. Lamont  
Notary Public Official Signature  
My Commission Expires August 16, 2019

**ACORD** **CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/DD/YYYY) **05/13/2014**

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**  
 Dickinson Insurance  
 609 N Syringa Street  
 Post Falls, ID 83854

**INSURED**  
 George Ricks

**CONTACT NAME:** Ryan Barnes  
**PHONE:** [REDACTED] **FAX:** [REDACTED]  
**JAIL No. Exp.:** [REDACTED] **JAIL No.:** [REDACTED]  
**ADDRESS:** [REDACTED]

**INSURERS AFFORDING COVERAGE**  
 INSURER A: Security National Insurance Company  
 INSURER B:  
 INSURER C:  
 INSURER D:  
 INSURER E:  
 INSURER F:

**COVERAGES** CERTIFICATE NUMBER: 99016904-11492 REVISION NUMBER: 6

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	ADDENDUM NO. (ADD)	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
<b>A GENERAL LIABILITY</b>			05/13/2014	05/13/2015	
<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE \$ 500,000
<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					DAMAGE TO RENTED PREMISES (depreciated) \$ 100,000
					WED EXP (Net cost payment) \$ 5,000
					PERSONAL & ADV INJURY \$ 500,000
					GENERAL AGGREGATE \$ 1,000,000
					PRODUCTS-COMP/OP AGG \$ 1,000,000
<b>SOFT AGGREGATE LIMIT APPLIES PER:</b>					
<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> MIC <input type="checkbox"/> LOC					
<b>AUTOMOBILE LIABILITY</b>					
<input type="checkbox"/> ANY AUTO <input type="checkbox"/> SCHEDULED AUTOS					COMBINED SINGLE LIMIT LIABILITY \$
<input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per person) \$
<input type="checkbox"/> MIXED AUTOS <input type="checkbox"/> MIXED AUTOS					BODILY INJURY (Per occurrence) \$
					PROPERTY DAMAGE (Per occurrence) \$
					COMBINED SINGLE LIMIT LIABILITY \$
<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE					EACH OCCURRENCE \$
					AGGREGATE \$
<b>WORKERS COMPENSATION AND EMPLOYERS LIABILITY</b>					
<input type="checkbox"/> ANY PROPRIETARY PARTNER/EXECUTIVE OFFICERS/EMPLOYEES EXCLUSION (Mandatory in HI)					PER STATUTORY LIMITS \$
<input type="checkbox"/> IF YES, describe under DESCRIPTION OF OPERATIONS below					ILL. EACH ACCIDENT \$
					ILL. DISEASE-BA EMPLOYEES \$
					ILL. DISEASE-POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (File with ACORD 101, Additional Remarks Schedule, if more space is required)**  
 contractor registration

**CERTIFICATE HOLDER**  
 Idaho Contractors Board  
 Bureau of Occupational Licenses  
 1109 Main Street, Suite 220  
 Boise, ID 83702-5642

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**AUTHORIZED REPRESENTATIVE**  
 Ryan Barnes (RWB)

107a

I, George Quinn Ricks, am not required to have a social security number (SSN) to register as a contractor.

1. It is not applicable according to Title 43 Chap. 1 sec 182 (1) I am not applying for a license.

2. It applies only to applicants who have been assigned a SSN. I presume this to mean those who have willingly applied for a SSN, which I have never applied for. ~~It is~~ I have attached an Affidavit to show not only do I object to having a SSN, I reject and have renounced any "assigned" SSN.

3. Having a SSN is against my religious beliefs (opinions) It is my belief the SSN has become in essence the number of the beast. The fact the state of Idaho requires a SSN (a federally generated number) to engage in a fundamental right, the right (and duty) to "sell" (contract) one's labor, only affirms my belief.

Question 14 is not applicable according to Id. code Title 18, sec. 310. And Id. code 29-101. Nor does the Registration Act itself require such statement.

George Q. Ricks Date: June 14, 2014

## Lawful Affidavit

I, George Quinn Ricks, born December 24, 1959 in the State of Ohio, do solemnly swear that: That this is My lawful declaration that I renounce the Social Security Number [redacted] Which was applied for by My maternal Grandfather when I was seven-teen years old. I renounce any and all accounts, benefits, privileges, etc., or any liabilities associated with such number <sup>for</sup> the Social Security System or any like Federal <sup>social security</sup> government programs associated with said S.S. number.

The reason for this cause of Action is based on sincerely held religious beliefs.

Nor is it lawfully required of me to have a S.S.N. unless applying for government benefits associated with said (such) number, which as stated I renounce.

Therefore, I request a statement acknowledging the removal of stated Social Security Number from any and all associations with My Name, having to do with the Social Security Administration, or any other Federal Govt. agency within your power or ability to do.

see other side

109a

Dated and signed on the 11<sup>th</sup> day of August, 2012.  
George Quinn Ricks

Address: George Q. Ricks



State of Idaho County of Kootenai  
Subscribed and sworn before me on 08/11/12  
(Date)  
Susie Lehot  
(Notary Signature)  
Expires 07/19/14

Susie Lehot  
State of Idaho  
Notary Public