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*Attorneys for the Defendant*

**IN THE DISTRICT COURT FOR THE THIRD JUDICIAL DISTRICT  
IN THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

GREGORY L. COLLETT,

Plaintiff,

v.

PATTI ANNE LODGE,

Defendant.

Case No.: CV 2014-5506

AFFIDAVIT OF PATTI ANNE  
LODGE IN RESPONSE TO  
AFFIDAVIT AND NOTICE OF  
CONTEST

**AFFIDAVIT OF PATTI ANNE LODGE IN RESPONSE  
TO "AFFIDAVIT AND NOTICE OF CONTEST"**

STATE OF IDAHO        )  
                                  ) ss.  
County of Ada         )

PATTI ANNE LODGE, being duly sworn upon oath deposes and says as follows:

1. I am an adult over the age of eighteen (18) years, I am a resident of Canyon County, Idaho and I have personal knowledge of the facts set forth in this Affidavit.
2. I currently serve as an elected Senator in the Idaho State Senate where I have served since 2000.

1. My husband of forty eight years (US District Judge Edward J. Lodge) and I have been residents of District 11 since 1966, specifically residing at **18500 Symms Rd., Caldwell, Idaho 83607**. My residence is located within the legislative District that I now serve (District 11), and is within the District from which I recently won my primary election on May 20, 2014. I have a democrat opponent in the November 4, 2014 general election.
2. The present challenge to my election in May 2014 comes from the person that I beat, Mr. Collett. As noted in this response, his claim that my "residence" (as defined in Idaho Code §34-107) is somewhere other than 18500 Symms Road ignores the undisputed facts set forth in this response, as well as ignores the respected opinions of both Canyon County Clerk Chris Yamamoto, as well as Secretary of State Ben Ysursa. These independent election officers affirmed my lawful registration as a candidate for District 11, as well as certified my candidacy.
3. I have maintained my residence at 18500 Symms Rd continuously since 1966 except for temporary absences for travel, visiting family and now for building a new home on the exact site of the old house. During any temporary absence I have always had an actual and present intention of returning after a departure or absence therefrom.
4. One such temporary absence began in late October, 2011 when my husband and I, after years of plans and consultations, determined that our old house could not be remodeled in a way that we would like to have done on our property. Given the age of our old house and the cost of bringing it up to code, along with the expense of a remodel versus new construction, we determined to build an entirely new structure at this same location rather than to attempt to undergo an extensive remodel.

5. We could not bear tearing the house down because it had been good to us so we chose to donate it to a deserving family and it was removed from 18500 Symms Road to prepare for the new construction project. The outbuildings including pool house, shop, pump house and barns with living quarters remained on the property as did our possessions, pets and livestock. At the time the house was removed we had already been working with architects and contractors to begin construction on the new house for the Symms Road property.
6. With living quarters in our barn, we intended to spend the construction time on site but during a security check by the US Marshall (a routine element of our lives in light of my husband's employment), it was determined the barn or mobile home was not a secure facility until the new home with security is complete. We then began temporarily staying at my Husband's family home which we have owned since 1997, at 703 E. Logan. While our home is being constructed at 18500 Symms Road our possessions have been kept in an 18 Wheel trailer and in the barn at the Symms Road property. My uninterrupted intention to reside at 18500 Symms Road has never wavered over the decades, and I am merely awaiting the completion of our new construction project at this location.
7. It was our intent to break ground before winter, but setbacks in required updates to the old utility systems, and the permit process took more time than we thought they would. Then, my stepfather was fatally injured in a farming accident in February leaving my brother and I and my 86 year old grieving mother with almost 300 head of sheep, 150 ewes lambing for the first time to care for during that winter and spring. It was an experience that took our full attention because we knew nothing about caring

for sheep and baby lambs. Later that September our Mother fell on the ranch and broke her hip and was not discovered for several hours. Now, we had to support her through four surgeries, rehab and moving from her home to Karcher Estates where she is now in assisted living and Hospice. Despite these family emergencies which delayed construction, we continued with updating the 48 year old stock water, electrical, irrigation and calving nursery at 18500 Symms Road preparing for full construction to begin when spring weather would allow. Earlier this year we were finally able to obtain the necessary permits allowing this large project to move forward and the home is being constructed at this time.

8. Since the old house was removed my husband and I have spent many hours planning and revising our plans with designers and our contractor, obtaining permits, building new infrastructure in the effort to begin the full building process. Throughout that time we have never abandoned 18500 Symms Road as our primary residence. We are active on the property daily as we care for the home site, pets, livestock, possessions and barns. This absence has been for a temporary purpose (building a new larger home on the site of the old house and with the intention of returning to the property as soon as possible.) Such an absence is specifically allowed by Idaho Code §34-107(1).
9. I have attached several exhibits as additional evidence of my continued intent to reside at 18500 Symms Road.
10. Idaho Code §34-107, in light of the preceding, does not support Mr. Collett's claim.

Idaho Code §34-107 reads as follows:

34-107. "RESIDENCE" DEFINED. (1) "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal

or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-602G, Idaho Code, is filed, and motor vehicle registration.

(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.

(4) A qualified elector shall not be considered to have gained a residence in any county or city of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state. (emphasis added)

Article III, Section 6 of the Idaho State Constitution reads as follows:

Section 6. QUALIFICATIONS OF MEMBERS. No person shall be a senator or representative who, at the time of his election, is not a citizen of the United States, and an elector of this state, nor anyone who has not been for one year next preceding his election an elector of the county or district whence he may be chosen.

11. As noted above the standard for determining what is a “principal or primary place of abode of a person” is subjective, focusing on the subjective intent of the elector. The statute offers assistance in determining what a person’s intent is. I offer the following circumstances in support of my compliance with the statute:

12. Mr. Collett’s accusation, in paragraph 2 of his Affidavit, that I “moved to 703 East Logan Street Caldwell ID 83605, located in District 10, at that time and [have] lived there to this date” is a misleading and unfair half-truth. He clearly seeks to insinuate that I have permanently changed my primary residence while completely ignoring the

context and temporary nature of my absence from my residence. Mr. Collet seeks to support his accusation by pointing out, in the third paragraph of his affidavit that, “the homeowner’s exemption for 18500 Symms Road Caldwell ID 83607 was revoked on March 1, 2012.” He ignores the difference between the statutory requirements for maintaining a Homeowner’s Exemption and the requirements for maintaining “Residency” for voting purposes. He also fails to acknowledge that we have not applied for a Homeowner’s Exemption for *any* property we own, including the house at 703 E Logan Street, and do not intend to do so until construction is complete on the new house at 18500 Symms Road.

13. Mr. Collett’s report, in paragraph 4 of his affidavit, regarding Mr. Butt’s article in the Idaho Press Tribune does not contradict my stated intention to maintain the Symms Road property as my primary residence. I did move a mobile home onto the property and make use of it until recently (early to mid-June), when it was removed, because it was in the way of the construction crews. Mr. Collet has never asked me about the mobile home or my use of it.

14. Mr. Collett’s report, in paragraph 5 of his affidavit, does support my stated intention to maintain the Symms Road property as my primary residence.

15. Mr. Collett’s statements in paragraph 6 of his affidavit, are again unfair and misleading. I chose to live in District 11 more than 48 years ago and have done so ever since. My husband and I have all the while continued to receive our mail at our Symms Road address and have kept our possessions and our animals on the property. Our vehicles are registered at the Symms Road property. We visit the property daily to collect bills and correspondence, to feed water and care for our stock and to

maintain the relationships, responsibilities, and friendships that we have established and continue to maintain as the result of decades and decades of living in District 11.

16. As to Mr. Collett's allegation, in paragraph 7 of his affidavit, I have not re-registered in District 10, because I have been a registered voter in District 11 since July 25, 1972 (attached) and have voted continuously since that time registered at my address 18500 Symms Road, Caldwell, Idaho 83607.

17. Finally, Mr. Collett's attempt to narrowly define the Idaho Code 34-107 reference to "home or place of abode" as a simple "house" goes beyond the language of the statute in a self-serving manner, and ignores the context and character of living that makes a house a home.

18. We have been full time residents of 18500 Symms Road, Caldwell, Idaho for the past 48 years this November. We have at times been absent for visiting our Navy family, other family members, travel or now building a new home on the exact site of the former house. 18500 Symms Road has been our "principal or primary home or place of abode" and the "home or place in which [our] habitation is fixed and to which [I], whenever [I am] absent, [have] the present intention of returning after a departure or absence therefrom, regardless of the duration of absence." It has been such a home to us since 1966 and while I may not currently lay my head there to sleep, that is only due to temporary circumstances. It is now, as this building project is being completed, and always has been our intent to return to this special place we call our home. The duration of the time it has taken has been longer than we ever hoped and been very inconvenient but sometimes in life things do not always go as we plan.

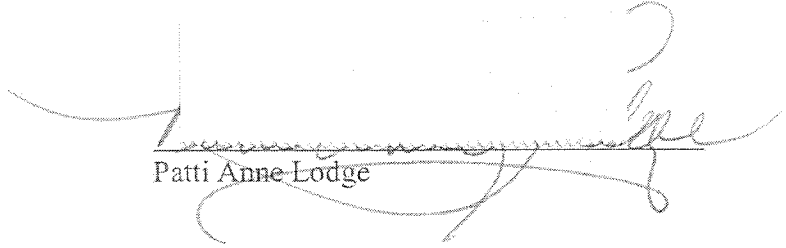
19. There is a clear mandate in Idaho Code 34-107 which is the legal analysis to test residency. The Code states residency is without regard for the “duration of the absence.” Nothing in the Idaho Code or Idaho Constitution specifically indicates that a voter should lose his or her registration if they re-model, or rebuild their house. On the contrary, the Idaho Code, specifically I.C. 34-107, anticipates that the need will arise for voters to temporarily leave the district in which they are registered. Specific allowance is given for voters, who must temporarily live elsewhere, regardless of the reason for or the duration of the absence. The purpose of the language used in Idaho Code §34-107 is clearly revealed by its focus on broadly protecting a voter’s registration and preserving it when the voter is absent, rather than stripping a voter’s registration under a strict set of rules.
20. Mr. Collett seeks to create a hard, fast rule where none exists because it might benefit him. As a side note he has never spoken to me personally about my building project nor did he understand that we have living quarters in our barns, nor did he contemplate our unique US Marshall security issues. He only thought the absence of the main house on a voter’s property is grounds for the loss of a voter’s registration. Mr. Collett is well known for his extreme political views. It is therefore no surprise that he should make such an extreme interpretation of a statute that was clearly written for more moderate purposes. He does not accept the determination of the Secretary of State and the County Clerk who are experts in election law and have ruled in favor of my election.
21. Mr. Collett’s reason for filing his Affidavit and Notice of Contest is equally clear. He did not win this election or others he has run for in the past and has resorted to trying



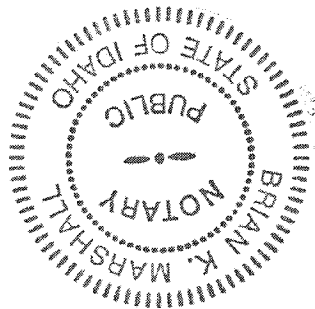
to use our opportunity to build a new home on property we have called home for 48 years as a procedural move to try to remove me from the elected position in which the District 11 Primary voters have selected me over him as their candidate. It is my intent that establishes my residence, and I believe that my intent is clear from the facts as I have presented them.

22. I respectfully request that upon this Court's receipt and review of this affidavit and supporting documents that this Court enter its order without further delay or proceedings by denying and dismissing the pending "contest". I also request that the petitioner be ordered to reimburse me for my attorney's fees and costs incurred defending this frivolous matter, as permitted by Idaho Code Sections 12-121 and/or 12-123 and that the bond posted be released to me as part of that reimbursement.

Further the Affiant Sayeth Not.

  
Patti Anne Lodge

SUBSCRIBED and SWORN to before me this 8<sup>th</sup> day of July, 2014.




Notary Public for Idaho  
Residing in Boise, Ada County, ID  
My Commission Expires: April 21, 2017

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 9<sup>th</sup> day of July, 2014, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Gregory L. Collett  
21255 Lonkey Ln  
Caldwell, Idaho 83697  
*Plaintiff*

U.S. Mail  
 Facsimile  
 Overnight Mail  
 Hand Delivery



\_\_\_\_\_  
Joe Borton

Exhibit 1. Building Permits

- a. Southwest District Health Application and Approval
- b. Canyon County Development Services Access Road Permit

Exhibit 2. Wizard Renovations, Inc. Statements (General Contractor)

Exhibit 3. Motor Vehicle Documents

- a. Certificate of Title, 2011 Vehicle
- b. Certificate of Title, 1997 Vehicle
- c. Certificate of Title, 2014 Off-Road Vehicle
- d. Farm Bureau Vehicle Insurance Policy
- e. Idaho Driver's License

Exhibit 4. 2012 Tax Returns

- a. Form 1040 Federal Return
- b. Form 40 Idaho Individual Return

Exhibit 5. Property Tax Records

- a. Canyon County Tax Bill Symms Road 2012
- b. Canyon County Tax Bill Chicken Dinner Road 2012
- c. 2012 Assessment Notice Symms Road
- d. 2012 Assessment Notice Logan Street

Exhibit 6. Utility Bills

- a. Idaho Power
- b. Verizon Wireless

Exhibit 7. Credit Card Bills

- a. American Express
- b. Visa Signature
- c. Southwest Visa

Exhibit 8. Bank Accounts

- a. Key Bank
- b. Idaho Independent Banking

Exhibit 9. Miscellaneous Billings

- a. Medical Statements
- b. Accountant Statements
- c. Insurance Statements
- d. BSU Statements
- e. Auto Maintenance Statements
- f. Retirement Statements
- g. Vehicle Warranty Statements
- h. Irrigation Statements
- i. Pest Control Statements
- j. Veterinarian Statements
- k. Motor Vehicle Repair Statements

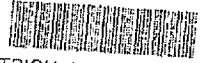
PLEASE PRINT

NAME OF ELECTOR LAST <u>LODGE</u> FIRST <u>PATRICIA</u> MIDDLE <u>ANNE</u>		SEX MALE <input type="checkbox"/> FEMALE <input checked="" type="checkbox"/>	AGE <u>29</u>
RESIDENCE ADDRESS <u>18500 SYMMS RD</u>		CITY <u>CALDWELL</u> STATE <u>IDAHO</u> ZIP CODE <u>83605</u>	DATE OF BIRTH <u>7/29/42</u>
MAILING ADDRESS IF DIFFERENT FROM ABOVE		SOCIAL SECURITY NUMBER <u>[REDACTED]</u>	
STREET OR P.O. BOX NUMBER		CITY	STATE
RESIDENCE IN IDAHO <u>25</u> YEARS <u>3</u> MONTHS		CO. & STATE WHERE PREV. REGISTERED (IF ANY)	
CITIZEN <input checked="" type="checkbox"/>	NO LEGAL DISQUALIFICATION TO VOTING RIGHT <input checked="" type="checkbox"/>	CO. _____ STATE _____	

026515  
 WARNING: ANY ELECTOR WHO SUPPLIES ANY INFORMATION, KNOWING IT TO BE FALSE, IS GUILTY OF PERJURY.  
 I DECLARE UNDER OATH OR AFFIRMATION THAT THE INFORMATION SUPPLIED HEREIN IS TRUE.

[Signature]  
 SIGNATURE OF ELECTOR

FOR OFFICIAL USE ONLY  
 SUBSCRIBED AND SWORN TO (OR AFFIRMED) THIS 25 DAY OF July, 1972  
[Signature]  
 COUNTY CLERK

BY 003603421 54  
  
 PATRICIA A LODGE  
 18500 SYMMS RD  
 CALDWELL, ID 83607-9512

OLN 22-1 JUNE 1971—AUTHORITY: TITLE 24, CHAP. 4, IDAHO  
 APPROVED BY THE SECRETARY OF STATE JUNE 1971  
 BY CANTON PRINTERS, LTD.

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# EXHIBIT 1

64 pages  
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