

The Honorable Benjamin H. Settle

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

STATE OF WASHINGTON,  
DEPARTMENT OF HEALTH,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

No. 3:24-cv-05029-BHS

THE GEO GROUP, INC.'S MOTION TO  
STAY

NOTED FOR HEARING DATE:  
MARCH 22, 2024

# **TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION .....	1
II. BACKGROUND .....	1
A. Washington’s Sole Dedicated ICE Facility: Northwest ICE Processing Center. ....	1
B. The State’s Attempts To Ban Facilities Like NWIPC.....	2
C. The State Continues To Try To Enforce HB 1470 Before This Court Rules in GEO v. Inslee. ....	4
III. ARGUMENT .....	6
A. Legal Standard. ....	6
B. Granting a Stay Will Facilitate the Orderly Resolution of the Dispute Between the State and GEO Regarding the State’s Authority To Inspect and Enforce HB 1470.....	7
C. Plaintiffs Will Not Be Damaged by the Short Stay. ....	8
D. GEO Will Suffer Hardship and Inequity if a Stay Is Not Entered. ....	9
IV. CONCLUSION.....	10

**TABLE OF AUTHORITIES****Page(s)****Federal Cases**

<i>Ali v. Trump</i> , No. 2:17-cv-00135-JLR, 2017 WL 2222873 (W.D. Wash. May 22, 2017) .....	8
<i>Backowski v. PeopleConnect, Inc.</i> , No. 2:21-cv-00115-RAJ, 2022 WL 1092519 (W.D. Wash. Apr. 12, 2022).....	8
<i>CMAX, Inc. v. Hall</i> , 300 F.2d 265 (9th Cir. 1962) .....	6
<i>GEO Grp., Inc. v. Inslee</i> , No. 3:21-cv-05313-BHS, 2023 WL 7919947 (W.D. Wash. Nov. 16, 2023) .....	1, 2
<i>GEO Grp., Inc. v. Newsom</i> , 50 F.4th 745 (9th Cir. 2022) .....	2, 3
<i>Kinsale Ins. Co. v. Oculus One LLC</i> , No. 2:22-cv-01189-KKE, 2023 WL 7110504 (W.D. Wash. Oct. 27, 2023) .....	7
<i>Landis v. N. Am. Co.</i> , 299 U.S. 248 (1936).....	7, 8
<i>Leyva v. Certified Grocers of California, Ltd.</i> , 593 F.2d 857 (9th Cir. 1979) .....	6
<i>Lockyer v. Mirant Corp.</i> , 398 F.3d 1098 (9th Cir. 2005) .....	6
<i>Port of Seattle v. Boeing Co.</i> , No. 2:22-cv-00993-JLR, 2022 WL 17176858 (W.D. Wash. Nov. 23, 2022).....	8
<i>Puget Soundkeeper All. v. APM Terminals Tacoma, LLC</i> , No. 3:17-cv-05016-BHS, 2017 WL 11496652 (W.D. Wash. May 16, 2017) .....	9
<i>The GEO Group, Inc. v. Inslee</i> , No. 3:23-cv-05626-BHS (W.D. Wash.).....	<i>passim</i>
<i>Washington v. Trump</i> , 2:17-cv-00141-JLR, 2017 WL 1050354 (W.D. Wash. Mar. 17, 2017).....	8

*Wells Fargo Bank NA v. Cadena,*

No. 2:20-cv-00317-RAJ-BAT, 2020 WL 5118055 (W.D. Wash. May 28, 2020),  
*report and recommendation adopted*, No. 2:20-cv-00317-RAJ-BAT,  
 2020 WL 5110729 (W.D. Wash. Aug. 31, 2020) .....7

## State Statutes

RCW 43.70.170 .....4

RCW 49.17 .....5

RCW 70.395 ..... *passim*

RCW 70.395.050(1)-(4).....3

RCW 70.395.050(4).....5

RCW 70.395.060(2)(e) .....3

RCW 70.935 .....4

## Regulations

WAC 296 .....5

## Constitutional Provisions

United States Constitution, Contracts Clause .....3

United States Constitution, Supremacy Clause .....2, 3, 4, 6

## I. INTRODUCTION

Defendants The GEO Group Inc. and GEO Secure Services, LLC (“GEO”) move the Court to stay proceedings in the State’s two newly filed cases, No. 3:24-cv-05029 and No. 3:24-cv-05095, until the resolution of GEO’s pending motion for an injunction in *The GEO Group, Inc. v. Inslee*, No. 3:23-cv-05626-BHS (W.D. Wash.) (“*GEO v. Inslee*”). In the new cases, the State sent investigators from DOH and L&I, respectively, to inspect the Northwest ICE Processing Center (“NWIPC”) pursuant to the authority vested by HB 1470 (RCW 70.395). When ICE or GEO, acting at the express direction of ICE, denied access, the State’s agencies filed two separate lawsuits against GEO in two different superior courts seeking injunctions guaranteeing access. In both cases, the State has now filed motions for a preliminary injunction and asserts statutory and regulatory authority different from and in addition to the authority (HB 1470) it asserted during its inspection attempts. In both cases, it is obvious the State is (1) attempting to conduct inspections under HB 1470 before this court rules on the constitutionality of that statute in *GEO v. Inslee* and (2) intentionally harassing GEO with unnecessary and likely moot (but still expensive) litigation. This Court should not sanction those tactics. Instead, it should enter an order staying the litigation of the two new cases until it issues a decision on GEO’s fully briefed motion seeking to enjoin the State’s enforcement of HB 1470 in *GEO v. Inslee*.

## II. BACKGROUND

### A. Washington’s Sole Dedicated ICE Facility: Northwest ICE Processing Center.

There is one dedicated federal ICE detention facility in Washington: the NWIPC in Tacoma. *GEO v. Inslee*, Dkt. 10, Amber Martin Decl. in Support of Motion for Preliminary Injunction, ¶¶ 5, 6. Defendant GEO Group Inc. provides secure residential housing and support services at the NWIPC pursuant to a contract with ICE.<sup>1</sup> No. 3:24-cv-05095-BHS, Dkt. 2, Declaration of Bruce Scott (“Scott Decl.”) ¶ 3.

---

<sup>1</sup> Plaintiff L&I incorrectly names GEO Secure Services, LLC, as a co-defendant. The GEO Group, Inc. (and not GEO Secure Services, LLC) contracts with ICE.

1 The current ICE contract for NWIPC (“HSCEDM-15-D-00015” or “Contract”) includes  
 2 numerous provisions that mandate strict adherence to various federal regulations and standards.  
 3 *See generally* No. 3:24-cv-05095-BHS, Dkt. 28-1. The Contract contains requirements that  
 4 establish ICE control over access to the NWIPC. The Contract Performance Work Statement  
 5 requires that all requests for access to the secure portions of the NWIPC, including requests by  
 6 federal, state, and GEO employees, must obtain pre-clearance approval from ICE. No. 3:24-cv-  
 7 05095-BHS, Dkt. 28-1 at 45 (“Pre-clearance approvals are required for access to ICE field staff,  
 8 facilities and information”); *see also* Scott Decl. ¶ 5. The Contract also includes a Section entitled  
 9 “BACKGROUND AND CLEARANCE PROCEDURES” which provides, *inter alia*:

10 The United States Immigration and Customs Enforcement (ICE) has determined  
 11 that performance of the tasks as described in Contract TBD at award requires that  
 12 the Contractor, subcontractor(s), vendor(s), etc. (herein known as Contractor) have  
 access to sensitive DHS information, and that the Contractor will adhere to the  
 following

\* \* \*

13 ***ICE will exercise full control over granting; denying, withholding or terminating***  
 14 ***unescorted government facility and/or sensitive Government information access***  
 for Contractor employees, based upon the results of a background investigation.

15 No. 3:24-cv-05095-BHS, Dkt. 28-1 at 69-70 (emphasis added). Consistent with the requirements  
 16 of the Contract, ICE exercises exclusive control over all access to secure portions of the NWIPC.  
 17 *See* Scott Decl. ¶ 4.

#### 18 **B. The State’s Attempts To Ban Facilities Like NWIPC.**

19 As this Court knows, the State first attempted to outright ban such facilities in April 2021.  
 20 H.B. 1090, 67th Leg., Reg. Sess. (Wash. 2021). The Legislature intended “to prohibit the use of  
 21 private, for-profit prisons and detention facilities in the state.” *Id.* §1(7). To effectuate this goal,  
 22 the Legislature sought to prevent private detention facilities like NWIPC from extending or  
 23 modifying contracts with governmental entities. *Id.* §3(2). The State has now conceded that HB  
 25 1090 was unconstitutional. *See GEO Grp., Inc. v. Inslee*, No. 3:21-cv-05313-BHS, 2023 WL  
 26 7919947, at \*2-3 (W.D. Wash. Nov. 16, 2023); *see also GEO Grp., Inc. v. Newsom*, 50 F.4th 745,  
 27 763 (9th Cir. 2022) (holding that AB 32, a California statute purporting to ban private detention  
 28

1 facilities similar to the NWIPC, likely violates the Supremacy Clause as to ICE-contracted  
2 facilities).

3         Shortly after the Ninth Circuit ruled *en banc* in *GEO Group, Inc. v. Newsom* that statutes  
4 like H.B. 1090 are likely unconstitutional, the Washington Legislature introduced House Bill 1470,  
5 which Governor Inslee signed into law on May 11, 2023. HB 1470 amends and creates various  
6 new sections of the Revised Code of Washington (primarily Chapter 70.395 RCW) all relating to  
7 “private detention facilities.” During a March 13, 2023, Public Hearing of the Washington Senate  
8 Human Services Committee, HB 1470’s primary House sponsor acknowledged that HB 1470  
9 governs just one facility in Washington, the NWIPC. Washington State Senate Ways & Means  
10 Committee hearing on 2SHB 1470 – Concerning private detention facilities (Mar. 30, 2023 12:30  
11 p.m. at 4:08:06), available at <https://tvw.org/video/senate-ways-means-2023031607/> (“I believe  
12 according to the fiscal note only one facility would be covered by this bill and it would be the  
13 Northwest Detention Facility in Tacoma that has a contract with the federal government”). HB  
14 1470 purports to grant DOH and L&I broad rulemaking, inspection, investigation, and testing  
15 powers over the NWIPC. *See* RCW 70.395.050(1)-(4). HB 1470 also purports to require various  
16 standards that directly conflict with the terms of the Contract. *See, e.g.*, RCW 70.395.060(2)(e)  
17 (“Solitary confinement is prohibited”).

18         GEO believes HB 1470, like HB 1090, is unconstitutional and promptly sought a  
19 determination from this Court that HB 1470 is invalid. *See GEO Grp., Inc. v. Inslee*, No. 3:23-cv-  
20 05626-BHS, Dkt. 1 (Complaint), Dkt. 8 (GEO’s Motion for Preliminary Injunction). GEO alleges  
21 that HB 1470 violates the Supremacy Clause of the United States Constitution by running afoul of  
22 the intergovernmental immunity doctrine, is preempted by the federal government’s regulation of  
23 and framework for immigration detention, and violates the Contracts Clause of the United States  
25 Constitution. The issues in *GEO v. Inslee* are fully briefed, and the Court is likely to issue an  
26 opinion soon.

**C. The State Continues To Try To Enforce HB 1470 Before This Court Rules in *GEO v. Inslee*.**

Rather than wait for the Court’s ruling on the constitutionality of HB 1470, the State sent two agencies to enter and inspect the NWIPC and investigate alleged violations of HB 1470.

DOH inspectors arrived at the NWIPC on November 14, 2023, and they demanded unlimited access under HB 1470 / RCW 70.935 (and only that statute). No. 3:24-cv-05029, Dkt. 3, Aff. of Bruce Scott in Support of Notice of Removal (“Scott Aff.”), ¶ 7. At the express direction of ICE, GEO denied DOH access to the NWIPC. *Id.* ¶ 8. On November 27, 2023, DOH inspectors arrived at NWIPC and again “demanded unlimited access to the facility to investigate complaints related to Medical, Food Service and Laundry *pursuant to HB 1470 [RCW 70.395]*.” *Id.* ¶ 9 (emphasis added). Again, at the direction of ICE, GEO denied access. *Id.* ¶ 10.

DOH filed a Complaint against GEO in Thurston County Superior Court on December 18, 2023. No. 3:24-cv-05029, Dkt. 1-1 (Ex. A to The GEO Group, Inc. Notice of Removal), at 4-15. Even though during both attempted inspections the DOH inspectors cited only RCW 70.395 as their authority to enter the NWIPC, DOH now claims to seek access pursuant to a different statute: RCW 43.70.170, a public health statute. *Id.* at 12-13. RCW 43.70.170 addresses investigations of “threat[s] to public health,” including “outbreaks of communicable diseases, food poisoning, and contaminated water supplies.” Of course, once inside the facility, nothing would prevent DOH from inspecting conditions regulated by HB 1470 and issuing citations under that statute as part of the State’s ongoing (and unconstitutional) attempt to harass GEO and interfere with the federal government’s decision to contract with GEO for the provision of services at the NWIPC. GEO removed DOH’s Thurston County action to this Court, asserting federal defenses under the Supremacy Clause of the United States Constitution as well as field preemption and derivative sovereign immunity. No. 3:24-cv-05029, Dkt. 1 (Notice of Removal) at 6-12.

The facts surrounding L&I’s attempted inspection and resulting lawsuit are somewhat different. L&I inspectors arrived at the NWIPC on December 27, 2023, and demanded access to the entire facility to perform inspections under HB 1470 (and only HB 1470). Scott Decl. ¶ 9. At the direction of ICE, GEO advised L&I that ICE had denied access to the NWIPC. *Id.* ¶ 11. Two



1 days later, on December 29, 2023, inspectors from L&I returned to the NWIPC and presented a  
 2 Pierce County Superior Court inspection warrant. No. 3:24-cv-05095, Dkt. 3, Decl. of Michael  
 3 Knight in Support of Notice of Removal (“Knight Decl.”), ¶ 3. L&I obtained this warrant *ex parte*.  
 4 The warrant cited as its authority not just HB 1470 but also RCW 49.17 and WAC 296. *See id.* at  
 5 31-34. However, in the declaration submitted by L&I in support of the warrant, when listing the  
 6 “facts establishing grounds for issuance of an entry warrant” the inspector only identified the need  
 7 to conduct a “routine, unannounced inspection” pursuant to RCW 70.395 and noted “this will be  
 8 the first inspection conducted pursuant to RCW 70.395.050(4).” No. 3:24-cv-05095-BHS Dkt.  
 9 27-5, Declaration of Support for Entry Warrant. After L&I inspectors arrived at NWIPC with the  
 10 warrant, the ICE Supervisory Detention and Deportation Officer (not GEO) advised the L&I  
 11 inspectors that “ICE is denying entry into the facility and there are formal channels they may use  
 12 to request a tour and once the request has been made then the request will be reviewed.” Knight  
 13 Decl. ¶ 7; *see also* No. 3:24-cv-05095, Dkt. 13, Second Decl. of Eric Smith in Support of Plaintiff  
 14 L&I’s Motion to Remand, ¶ 5 (“Despite the warrant, Ryan Jennings, ICE Supervisory Detention  
 15 and Deportation Officer, refused us entry.”).

16 L&I then filed a Complaint against GEO Secure Services, LLC,<sup>2</sup> in Pierce County Superior  
 17 Court seeking to have GEO Secure Services held in contempt and alleging that GEO Secure  
 18 Services, LLC, “ignored” the Court’s warrant. No. 3:24-cv-05095, Dkt. 1-2 (Ex. A to GEO Secure  
 19 Services, LLC, Notice of Removal), at 18-29. In its Amended Complaint, L&I misleadingly  
 20 asserts that it “only pursues its authority [to enter and inspect] under RCW 49.17 and WAC 296.”  
 21 No. 3:24-cv-05095, Dkt. 15 (Amended Compl.) at 9, ¶ 13. But that is plainly not true. As noted,  
 22 when L&I first attempted to gain entry to the facility and was denied (the central facts on which  
 23 the suit is based), the inspectors only asserted authority under HB 1470; and though the warrant  
 25 they presented the second time cited both HB 1470 and RCW 49.17 and WAC 296, the only fact  
 26 offered in support of that warrant was the need for “an inspection . . . pursuant to RCW  
 27

28 <sup>2</sup> L&I amended its complaint to add The GEO Group, Inc., as a defendant. No. 3:24-cv-05095, Dkt. 15.

70.395.050(4).” No. 3:24-cv-05095-BHS, Dkt. 27-5, Declaration of Support for Entry Warrant; *see also* Dkt. 27-4, Entry Warrant Application (“This inspection is mandated by RCW 70.395.050(4). And, this is the first inspection conducted pursuant to the above statute [RCW 70.395.050(4)].”). Moreover, later in the Amended Complaint L&I expressly demands relief under RCW 70.395. *Id.* at 10, ¶ 30 and 11, ¶ 5. GEO removed L&I’s Pierce County action to this Court, asserting federal defenses under the Supremacy Clause of the United States Constitution as well as field preemption and derivative sovereign immunity. No. 3:24-cv-05095, Dkt. 1 (Notice of Removal) at 8-14.

Both DOH and L&I filed Motions for Preliminary Injunction on February 29, 2024. The factual and legal issues raised by these motions substantially overlap with the issues the Court will decide shortly in *GEO v. Inslee*. Further, how this Court rules on GEO’s motion for an injunction in that case will likely determine whether the new cases proceed and on what grounds.

### III. ARGUMENT

#### A. Legal Standard.

A district court may stay a proceeding as part of its “inherent power to control the disposition of the causes on its docket in a manner which will promote economy of time and effort for itself, for counsel, and for litigants.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). Courts frequently grant stays “pending resolution of independent proceedings which bear upon the case” because a stay is “efficient for [a court’s] own docket and the fairest course for the parties[.]” *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979). The Ninth Circuit has described the competing factors that should be considered when determining whether to grant a motion to stay:

Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed. Among those competing interests are the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.

1 *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (citing *CMAX, Inc.*, 300 F.2d at 268).  
 2 All three factors weigh in support of a stay here.

3 **B. Granting a Stay Will Facilitate the Orderly Resolution of the Dispute**  
 4 **Between the State and GEO Regarding the State's Authority To Inspect and**  
 5 **Enforce HB 1470.**

6 Granting a stay will facilitate an orderly and more efficient resolution of the dispute  
 7 underlying all three cases. The *GEO v. Inslee* decision will resolve whether the State has the  
 8 authority to enforce the requirements of HB 1470, which is what the State is obviously trying to  
 9 do in its inspection attempts, as well as the viability of GEO's defenses common to all three cases.  
 10 Without a stay, much of the briefing on the motions in the two new cases will be duplicative of the  
 11 issues in *GEO v. Inslee* and may be rendered out-of-date as soon as the *GEO v. Inslee* decision is  
 12 issued. Further, the decision in *GEO v. Inslee* will likely affect the State's willingness to continue  
 13 to litigate the new cases and, if so, on what grounds. If the Court rejects GEO's challenge and  
 14 rules that HB 1470 is constitutional, then DOH and L&I can shed their litigation strategy and  
 15 simply assert authority under HB 1470. If the Court agrees with GEO and rules that HB 1470 is  
 16 unconstitutional, then the State will have to decide whether to continue to try to gain access to  
 17 enforce an invalid statute. And even if the State decides to persist, the Court's analysis of GEO's  
 18 defenses in *GEO v. Inslee* will be instructive for the briefing in the new cases.

19 The fact that the new cases nominally present additional issues apart from just the  
 20 constitutionality of HB 1470 does not undercut the rationale for a stay. The proceeding justifying  
 21 a stay does not need to present identical issues or control the resolution of the case at hand so long  
 22 as the court finds the cases share substantially similar issues. See *Landis v. N. Am. Co.*, 299 U.S.  
 23 248, 254 (1936). Similarly, there is no requirement the independent proceeding be an appellate  
 24 matter; indeed, the independent proceeding is often a related trial court matter. See, e.g., *Kinsale*  
 25 *Ins. Co. v. Oculus One LLC*, No. 2:22-cv-01189-KKE, 2023 WL 7110504, at \*4 (W.D. Wash.  
 26 Oct. 27, 2023) (granting a stay for the duration of the underlying lawsuit that will simplify the  
 27 coverage lawsuit); *Wells Fargo Bank NA v. Cadena*, No. 2:20-cv-00317-RAJ-BAT, 2020 WL  
 28 5118055, at \*2-3 (W.D. Wash. May 28, 2020), *report and recommendation adopted*, No. 2:20-cv-

00317-RAJ-BAT, 2020 WL 5110729 (W.D. Wash. Aug. 31, 2020) (staying interpleader action that involved the same parties and involved the same controversy as the first-filed action). Here, the issues that will be addressed in the pending motion in *GEO v. Inslee* significantly overlap the issues raised in the DOH and L&I cases, and the cases are obviously related as part of the same dispute between the State and GEO regarding the enforcement of HB 1470. The Court should grant the stay. *See Landis*, 299 U.S. at 256 (“True, a decision in the cause then pending in New York may not settle every question of fact and law in suits by other companies, but in all likelihood it will settle many and simplify them all.”); *see also Backowski v. PeopleConnect, Inc.*, No. 2:21-cv-00115-RAJ, 2022 WL 1092519, at \*3 (W.D. Wash. Apr. 12, 2022) (holding that the orderly course of justice warrants a stay where a possible Ninth Circuit decision will simplify issues and questions of law in the case).

**C. Plaintiffs Will Not Be Damaged by the Short Stay.**

GEO merely asks the Court to stay proceedings until the Court issues its ruling on the pending motion in *GEO v. Inslee*. That motion is fully briefed and noted for consideration August 11, 2023. *GEO v. Inslee*, Dkt. 8, 17. The stay, therefore, may only last a matter of weeks. This is far shorter than many delays that courts have found acceptable. *See Port of Seattle v. Boeing Co.*, No. 2:22-cv-00993-JLR, 2022 WL 17176858, at \*5 (W.D. Wash. Nov. 23, 2022) (finding a “short stay” from November 2022 to April 2023 “is unlikely to meaningfully harm the Port[.]”); *Washington v. Trump*, 2:17-cv-00141-JLR, 2017 WL 1050354, at \*4 (W.D. Wash. Mar. 17, 2017) (stating the “speed with which the Ninth Circuit proceeded in the previous appeal in this case” supported a stay).

Further, the State will suffer no harm as a result of a stay. First, there is no guarantee that a stay in these matters will cause any actual delay in the resolution of the underlying issues in the new cases. The Court’s ruling in *GEO v. Inslee* will likely narrow the scope if not resolve core issues in the cases brought by DOH and L&I, which will make the briefing in these cases more efficient for the parties and the Court. *See Ali v. Trump*, No. 2:17-cv-00135-JLR, 2017 WL 2222873, at \*3 (W.D. Wash. May 22, 2017) (stating that the proposed stay would not “necessarily

1 delay the ultimate outcome” of the case because of the possibility that proceeding without a stay  
 2 would create “out of sync” rulings with the Ninth Circuit’s controlling authority). It is also not  
 3 clear that without a stay the State could secure substantive rulings in the two new cases before a  
 4 ruling in *GEO v. Inslee*, no matter how aggressively it litigates those matters in the meantime.  
 5 Second, while the agencies claim to be harmed by GEO’s refusal to allow access to conduct  
 6 inspections, as a matter of law, there is no cognizable harm if, as GEO argues, HB 1470 is  
 7 unconstitutional, which is the central issue in the motion pending in *GEO v. Inslee*. See *Puget*  
 8 *Soundkeeper All. v. APM Terminals Tacoma, LLC*, No. 3:17-cv-05016-BHS, 2017 WL 11496652,  
 9 at \*1 (W.D. Wash. May 16, 2017) (Plaintiff did not show that it will suffer harm from a stay where  
 10 the question of whether Plaintiff is suffering harm at all is the issue before the independent  
 11 proceeding).

12 **D. GEO Will Suffer Hardship and Inequity if a Stay Is Not Entered.**

13 The hardship and inequity to GEO in the absence of a stay further warrants staying the two  
 14 new cases. GEO will be irreparably prejudiced if it is required to participate further in these  
 15 proceedings prior to the *GEO v. Inslee* ruling. Both agencies now assert statutory bases distinct  
 16 from or in addition to HB 1470, but the reality is different. First, it is patently obvious the agencies  
 17 are now citing other statutory and regulatory authority to try to gain access to the NWIPC (over  
 18 the objection of ICE) so they can exercise authority, inspect, and potentially issue citations or take  
 19 other enforcement actions under HB 1470. That is not only plain from the facts surrounding the  
 20 attempted inspections, see Scott Decl. ¶ 9; Scott Aff. ¶¶ 7-9; Second Decl. of Eric Smith ¶¶ 3-5,  
 21 but also from the materials submitted by L&I in support of its application for an entry warrant.  
 22 No. 3:24-cv-05095-BHS, Dkt. 27-5, Declaration of Support for Entry Warrant; see also Dkt. 27-  
 23 4, Application for Entry Warrant. Second, if the agencies are granted unrestricted access to the  
 25 NWIPC as they request, nothing can stop the inspectors from conducting precisely the inspection  
 26 GEO contends is unconstitutional in *GEO v. Inslee*. GEO will obviously suffer harm if the State  
 27 is allowed to inspect, potentially issue citations, encourage private actions by advocacy groups  
 28 opposed to federal immigration policy and the existence of the NWIPC, and generate negative

1 publicity based on an unconstitutional statute.

2 **IV. CONCLUSION**

3 For the foregoing reasons, the Court should stay the litigation of the two new cases filed  
4 by the State, No. 3:24-cv-05029 and No. 3:24-cv-05095. A stay pending the Court's opinion in  
5 *GEO v. Inslee* will protect GEO from continued harassment, will not prejudice Plaintiffs, and will  
6 promote judicial economy by allowing the parties and the Court to litigate those cases (if that's  
7 still necessary) with the benefit of the ruling in *GEO v. Inslee*.

8  
9 DATED this 7th day of March, 2024.

10 *I certify that this memorandum contains 3,538*  
11 *words, in compliance with the Local Civil Rules.*

12 By /s/ Harry Korrell

13 Harry J. F. Korrell, WSBA No. 23173  
14 John G. Hodges-Howell, WSBA No. 42151  
15 Davis Wright Tremaine LLP  
16 920 Fifth Avenue, Suite 3300  
17 Seattle, WA 98104-1610  
18 Phone: 206.622.3150  
19 Email: [harrykorrell@dwt.com](mailto:harrykorrell@dwt.com)  
20 Email: [jhodgeshowell@dwt.com](mailto:jhodgeshowell@dwt.com)

21 By /s/ Scott Schipma

22 Scott Allyn Schipma (Admitted *pro hac vice*)  
23 Joseph Negron, Jr. (Admitted *pro hac vice*)  
24 4955 Technology Way  
25 Boca Raton, FL 99431  
26 Phone: 561.999.7615  
27 Email: [scott.schipma@geogroup.com](mailto:scott.schipma@geogroup.com)  
28 Email: [jnegron@geogroup.com](mailto:jnegron@geogroup.com)

*Attorneys for The GEO Group, Inc.*